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ATTORNEY GENERAL A. MITCHELL PALMER ON CHARGES MADE AGAINST DEPARTMENT OF JUSTICE BY LOUIS F. POST AND OTHERS

HEARINGS

BEFORE

THE COMMITTEE ON RULES

HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

SECOND SESSION

PART 1

WASHINGTON
GOVERNMENT PRINTING OFFICE
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COMMITTEE ON RULES.

HOUSE OF REPRESENTATIVES,

SIXTY-SIXTH CONGRESS.

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CHARGES AGAINST THE DEPARTMENT OF JUSTICE.

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Tuesday, June 1, 1920.

The committee this day met, Hon. Philip P. Campbell (chairman), presiding.

The CHAIRMAN. Mr. Attorney General, we will hear you.

STATEMENT OF HON. A. MITCHELL PALMER, THE ATTORNEY GENERAL.

Mr. PALMER. Mr. Chairman and gentlemen of the committee, I am very glad of the opportunity to present to this committee, and through the committee to the Congress, not only the answer of the Department of Justice to the several charges which have been made by Assistant Secretary of Labor Post and his attorney, Mr. Ralston, but also a full and comprehensive statement of the plans, purposes, and methods of the law-enforcing department of the Government with respect to deportation proceedings. I am here particularly in answer to a letter from the distinguished chairman of this committee, who, under date of May 11, 1920, wrote me stating that during the hearings on the resolution affecting Mr. Post much had been said with respect to the manner in which the Department of Justice was conductiug affairs toward alien enemies and the Reds, and that these charges reflected both upon me personally and upon the department, and quoting from the testimony of Mr. Ralston and of Mr. Post the statements which constituted these reflections. In order that the record may show exactly to what I am addressing myself, I will ask that that letter be inserted in full at the opening of my remarks, but assuming that the committee is entirely familiar with these charges I shall not, of course, read the letter or repeat the testimony of Mr. Post and Mr. Ralston.

(The letter and testimony referred to follow.)

MAY 11, 1920.

Hon. A. MITCHELL PALMER,
Attorney General of the United States,
Washington, D. C.

MY DEAR MR. ATTORNEY GENERAL: During the hearings on the resolution affecting Mr. Post, the Assistant Secretary of Labor, much has been said with respect to the manner in which the Department of Justice is conducting affairs touching alien enemies and Reds. So much has been said that I do not feel like suggesting that the hearings be closed without giving you an opportunity to be heard, either in person or by a representative of the department. Charges have been made reflecting upon you personally as well as upon the department.

For your convenience and information I quote from the statement of Mr. Ralston, attorney of Mr. Post, on Friday, April 30, 1920:

"The CHAIRMAN. Mr. Ralston, now what do you mean by saying that the agents of the Department of Justice were stirring up this trouble?

"Mr. RALSTON. I mean exactly that, if you please.

"The CHAIRMAN. Stirring up what trouble?
"Mr. RALSTON. Stirring the people and creating Communist branches.
"The CHAIRMAN. Agents?
"Mr. RALSTON. Yes, sir.
"Mr. RODENBERG. Do I understand you to say that the agents of the Department of Justice are engaged in creating Communist parties?
"Mr. RALSTON. Exactly that way.
"Mr. RODENBERG. In what way?
"Mr. RALSTON. They are charged with obtaining the confidence of the Communists; they are charged with that duty, of going to their places and organizing branches of the Communist parties and reporting the membership of the organizations that were formed to the department.
"Mr. RODENBERG. Agents of the Department of Justice organizing branches of the Communist Party?
"Mr. RALSTON. Exactly.
"Mr. RODENBERG. I would see a justification for an agent of the Department of Justice becoming connected with the alien for the purpose of finding out what they were doing, but if the statement of Mr. Ralston is true that the agents have gone out and organized branches of the Communist Party, and by reason of their superior knowledge had induced others to join, I say it is reprehensible in the extreme.
"Mr. RALSTON. We expect to be able to show it absolutely.
"Mr. RALSTON. I don't know why this Red agitation goes on. I don't know whose ambition is served by its being kept up, but these are instances, and minor instances, if you please, of the way in which this country has been terrified. The result of all these thousands of bogus and good faith arrests—the vast majority being bogus—all over the country, the result of this taking place was that the Bureau of Immigration was over whelmed with the cases that came before it, many of them containing examinations or supposed examinations of witnesses of the accused; and in cases which we will show to the committee if we have the opportunity, where some agent apparently of the Department of Justice has absolutely committed forgery in attaching without authority the alien's signature to the supposed examination—absolute forgery, straight-out—with all these cases before the Bureau of Immigration it was, if you please, as I said, overwhelmed, because there were not enough people to examine the cases.

* * * * * * *

"Mr. RALSTON. We have already sunk, Mr. Chairman, to the level of the police government that existed under the Czar of Russia. We can not sink to a lower level than that.
"The CHAIRMAN. I would not permit that statement to stand without challenging it. We have not sunk into such a level as that, Mr. Ralston.
"Mr. RALSTON. Well, perhaps you and I have not, and the members of this committee I am sure have not, but the administration of justice in the treatment of aliens is on an exact par, if it is not below that of the administration of justice under the Czar of Russia, only within 10 years.
"Mr. BOX. I want to ask the gentleman if he is expressing the views of his client when he speaks that way?
"Mr. RALSTON. The view of my client as applied to the things that have happened within the past six months under the instigation of the Department of Justice."

Mr. Post criticised severely the attitude of the Department of Justice in the treatment of aliens arrested as alleged radicals. Efforts had been made, he intimated, to get aliens out of the country regardless of their guilt. In raids last winter, he said, the Department of Justice had resorted to police inquisitions to force the men to make admissions of guilt. Excessive bail had also been demanded, he said, to keep men in jail when they had been arrested.

In Mr. Post's statement, made on May 7, was the following:

"Mr. POST. A good deal was said in public and otherwise about the tremendous danger that we are confronting; these men with bombs were preparing to kill right and left.
"The CHAIRMAN. In the course of the development of what?
"Mr. POST. In the course of the development of the newspaper publicity the newspaper drive that was made to create a great terroristic scare in the country. But in all these sweeping raids over the country, in which men were arrested at midnight, and taken out of their beds at 3 o'clock in the morning in their homes, without warrant, in which their houses and their persons were searched without warrant—not by the Department of Labor, I do not undertake to say by whom, but that is the fact. These were the people afterwards brought to us, great raids made upon meetings and men rounded up and taken to the police stations, and a large proportion of them discharged before morning because they could not have anything against them. With all these sweeping raids all over the country, there have been three pistols, I think it is, brought to our attention in the scores of cases that have come to us. Three pistols, two of them .22 caliber. Now, I do not know whether a .22 caliber is a homeopathic pill for a bullet or a cannon ball."

I will add just one more extract from the statement of Mr. Ralston, made on Friday, April 30:

"Mr. RALSTON. But from the beginning to the end the Attorney General's office has projected itself into these affairs, has undertaken to run these things, having no legal right whatever in the premises; it has undertaken to dictate to the immigrant inspectors that some poor, friendless man should be put under a $10,000 bail, and has kept up that procedure to this day. Now, I am going a step further, and I do it with perhaps some hesitation. The Attorney General has demanded that any man whom he designated for deportation should be, because of that designation, without any delay, deported from the United States. To that extent he has gone in his absolute ignorance of American principles or of the rights of the citizens or of American law."

These statements, made by Mr. Post and his attorney before the Rules Committee, have been given very wide publicity. Newspapers have carried them from one end of the country to the other. Should you desire at a public hearing before the committee to refute the charges that have been made, I shall be glad to arrange for such a hearing at your convenience.

Yours, very truly,

P. P. CAMPBELL, *Chairman.*

I think, Mr. Chairman, it will tend to dispose of the matter promptly—though I desire to cover a very large field in this discussion—if I may be permitted to proceed with a prepared statement covering this entire business without interruption, if possible, of course, submitting myself to such questions as the committee desires to present after I have concluded with the statement.

The statements made by Mr. Post and his attorney before the Rules Committee have been given very wide publicity and they have been carried from one end of the country to the other. This is the language of the chairman of the committee, which is the reason I am taking the liberty of presenting so fully not only the answers to those discussions but the entire matter involved in the deportation proceedings and the conduct of the Department of Justice with reference to them.

The statements of Louis F. Post, Assistant Secretary of Labor, and of Jackson H. Ralston, Esq., his attorney, as set out in this letter, constitute a serious reflection upon the official integrity of the Department of Justice and the Attorney General and contain charges of so sensational a character that, as your chairman has said, they have been given wide circulation in the country. I pass by the obvious impropriety of an official of our Government of the standing of an Assistant Secretary of a great department making public accusations of this character against the head of another department without first having called them to his attention. That is the least part of Mr. Post's offense. The greater part lies in the fact, which my investigation has demonstrated beyond doubt, that these charges are outrageously false, without real foundation in fact, and designed only for the purpose of obstructing the administration of the law and of bringing into public disrepute the officials of the Government charged with law enforcement.

Of course, it is obvious that I can not have personal knowledge of all the facts with reference to the conduct of the large body of agents and other subordinates of the Department of Justice in the work done under my general supervision and direction. I accept responsibility for such conduct of my subordinates as is in line with the general instructions issued under my direction; as to conduct of the

officers of the department evidently outside of those instructions, I have caused a complete investigation to be made and it is upon the basis of such investigation that I declare these charges are outrageous and unconscionable falsehoods. I had hoped that it might never be necessary for me to indulge in any criticism of another officer of the Government and I would not do so now had Mr. Post not seen fit to publicly present, by himself and his attorney, these false and slanderous charges against me and the department of which I am the head.

It has become perfectly apparent that Mr. Post's course in all the deportation proceedings has been dictated by his own personal view that the deportation law is wrong, rather than by any desire or intention to carry out the law as enacted by the Congress. By his self-willed and autocratic substitution of his mistaken personal viewpoint for the obligation of public law; by his habitually tender solicitude for social revolutionists and perverted sympathy for the criminal anarchists of the country, he has consistently deprived the people of their day in court in the enforcement of a law of vital importance to their peace and safety. By his wholesale jail deliveries and his release of even self-confessed anarchists of the worst type he has utterly nullified the purpose of the Congress in passing the deportation statute and has set at large amongst the people the very public enemies whom it was the desire and intention of the Congress to be rid of. He has defied the rules of evidence as laid down by our most responsible courts, has canceled hundreds of legal warrants issued by his department, entirely without justification; and in face of the facts, has flouted the judgment of a committee of the Senate which has investigated one of the cases before him, has shown constant favors to violators of the law and their attorneys, refusing even common courtesy to the Department of Justice, which is charged with the duty of enforcing the laws, and in order to distract public attention from his obvious failure to perform his own duty has showered upon the Department of Justice a mass of charges of misconduct in the hope that he could put this law-enforcing department of the Government on the defensive in the place of those criminal enemies of the country from whose activities our department has sought to protect the Government and the people.

In all this it is, of course, impossible to distinguish between his own charges and those made by Mr. Ralston, his attorney, who has been speaking for him, and from the other gross imsrepresentations and abuse directed against the department from radical circles, all of which has been inspired and supported by the two gentlemen I have named. Later on I shall take up all these charges one by one and answer them in detail, both as made by Post and his attorney and as published by other sympathizers of the alien "Reds," but it seems to me that it would be neither fair to this committee nor just to my department and the work which it has tried to do if I did not approach the matter with a more comprehensive purpose than the mere answering of these false charges. Therefore I propose, with your permission, to submit to you as briefly as the circumstances permit a review of the international revolutionary movement, with especial reference to its manifestations of force and violence in various countries, including our own, a description of its international character and its world-wide designs, and its growth and progress in this country when transplanted here by the agents and propagandists of revolution,

who have come from Europe for the purpose. Having done that, you will have the background, as indeed you will see the justification, not only for the act of Congress which we have been trying to enforce, but for the method adopted by the Department of Justice in its enforcement. Having done that, I shall answer these charges seriatim, placing at your disposal at the same time any and all officers and agents of the Department of Justice who have had to do with this work in order that you may make the fullest investigation into the truth of such statements I shall make. I shall desire also to submit to you, as a part of the entire case, statements of the activities of the so-called radical division of the Department of Justice, which will indicate what the department has done during the past year or more and how it has been done in a way that has kept the peace and maintained the good order of the country to a degree that was hardly hoped for when the early forcible manifestations of the revolutionary spirit first appeared in this country in the spring and summer of 1919.

In a general way, the friends of the anarchists who have criticized the Department of Justice have sought to instill in the public mind several utterly false impressions: First, that there has been no "Red" menace in the country against which the Government ought to proceed; second, that the methods adopted by the Department of Justice have been high-handed and even unlawful and unconstitutional; and, third, that in the enforcement of this law and in its efforts to keep the peace in the country, the Department of Justice has attacked American labor. These things are so palpably false that I can not believe they have obtained lodgment in the public mind to any wide extent. A year ago, or thereabouts, when the country was ringing with reports of actual violence directed against officials of the Government in many parts of the country, and on every hand appeared the unmistakable evidence of serious plottings against our peace and safety by enemies of the Government, the public demand for prompt counteraction on the part of the Government was reflected in the action of the Congress in making generous appropriation to the Department of Justice to support the thorough reorganization of our Bureau of Investigation, which was then inaugurated, and to proceed with all the diligence and thoroughness to cope with the apparent evil. I shall further on enlarge upon the facts of the revolutionary design in this country in a way that must convince you that the fears of the Congress and of the public at that time were well founded. As to the methods adopted by the department, as I have already indicated, these will be discussed in answering the specific charges heretofore referred to.

The other widely circulated idea to which I have referred, that the work of the Department of Justice has been aimed against American labor, is not only without the slightest merit or foundation, but directly contrary to the real truth. The fact is the criminal anarchist, the ultra-radical class-war advocate, the revolutionary agent and propagandist, are the worst enemies of honest American labor. They have bitterly fought organized labor. They have sought in other countries to destroy it, and here their insidious attempts to undermine its strength have been responsible entirely for some mistaken criticism of American labor. In fighting agains the alien anarchist, we are fighting for the American workingman. We ought to have the

cooperation of American labor in unstinted degree in this work in order to free it from even the suspicion of sympathy with these enemies of our form of government. The American wageworker has many just complaints against conditions, but he is not complaining of his Government or the institutions which he has so constantly and loyally supported in the past. Improvement of conditions at which he aims will come with far greater rapidity if he and the Government which he supports join hands to oust the real disturbers of the situation—the alien anarchists and the citizen revolutionists who hold their dreams of an impossible new kind of government above their desires for better conditions for themselves and all other classes of people.

It is not surprising that Mr. Post, when the opportunity has presented itself in an official way to render a service to those who advocate force and violence, should employ it to the limit. He has always been sympathetic with that sort of thing.

In 1907 and 1908 he and his wife were the editors of a so-called "liberal" magazine, The Public, and in those days, when the anarchists of this country were especially active and their deeds fresh in the public indignation, these editors were lending their misguided sympathies toward protection and tolerance for the anarchists, just as Mr. Post in these late months, in touch with other miscalled liberals, has been lending them for probolshevism, in general admiration of the world revolutionary movement.

In this connection I can not help but remark how well the distinguished jurist and author, John H. Wigmore, has recently set such people out in his splendid article, "Freedom of speech and freedom of thuggery," published March, 1920, by the Illinois Law Review:

> But the sorry feature is that so many "good people of the village," as Confucius terms them, are led astray to condone with the disciples of violence by favoring this fetish appeal to "freedom of speech." These good people show more touchiness in this tender doctrine than they do to all the claims of all other fundamentals put together. They exalt it above the institutions which constituted their country, and many of them saw it so flaming large that they were ready to let it endanger their country's very existence. They matched the fanatical obsession of John Knox, who once exclaimed, "One mass is more fearful to me than if 10,000 armed enemies were landed in any part of the realm." In their view, one interference of the authorities with freedom to preach resistance to the war was more fearful than news of a German invasion of our National Capital. And one interference in America with the preaching of genuine Bolshevik police assassination would be more shocking than the news of Lenin and Trotsky enthroned in London and Paris.

I do not need to inform you that there has probably never been in this country a woman who accomplished as much hurt to American morals and citizenship, particularly of the young, as Emma Goldman, so long a consort of the pervert, Alexander Berkman, with whom she was lately deported. Yet, in 1908, when her misdoings and bad teachings were perhaps the most notorious and most condemned in the public mind, Mr. Post was exerting himself to print words in her favor and in his magazine was quoting with as much force as if they had been his own, Mr. Hall's touching and kindly remarks of her written for the Public.

> With many of her views I do not agree, but I have known Miss Goldman for about 10 years, and I know no one who is kinder, more unselfish, or broader minded, and withal she has an indomitable courage both in word and deed. Her home and her slender earnings are always at the disposal of the poor, the oppressed, and the unpopular.

There have been few more dangerous anarchists in America than Ludovico Caminita, editor—until he was arrested last February—of the notorious Italian anarchist paper, La Jacquerie, or, as some translate it, The Massacre. He was one of the most bitter and vulgar-tongued of contemporary writers against organized society, a disciple of Maletesta, in Italy, and a revolutionist of international ill repute. Caminita was an intimate friend of Emma Goldman and a member with her of that infamous group of "terrorists" which intensified the violence of the silk workers' strike at Paterson, and was inflaming fanactics to crime even of official assassination. Mr. Post's magazine had no harsh words to say of Caminita, but on the contrary it was vigilant to pick up and repeat his statement upon the occasion of the suppression of his anarchist paper, and I have it from The Public.

He denounced the action of the President—Roosevelt—the postal authorities, and the Paterson municipal authorities. He declared that in barring the paper from the mails and that in preventing the meeting the Federal and city authorities had been more anarchistic than the anarchists themselves.

I quote again, by way of illustration, from the editorial columns of The Public:

> Could industrial conditions possibly be worse if the professed anarchists had their way and all coercive government were abolished? Think of it.

Mr. POU. Are you still quoting?

Mr. PALMER. Yes; this is not my language.

> The law is the protection of society, say the jurists and statesmen. Protection against whom? Against those who have nothing. It is a protection to the rich against the poor, a protection of a few against the many. The rich need the law and use it without having to feel its weight; the poor support the law, but can not use it. The poor are beneath the law, while the rich are above it. Those who are above the law do not feel its burden. To them it can be no burden. They are free. Their will is not restrained by the law, nor are their acts circumscribed by it. They are beyond it and above it and have no concern with it. They are exempt from the law; they are anarchists.

And I will add, finally, an editorial comment from the pen of Mr. Post, February 25, 1905, upon the assassination of the Russian Grand Duke Sergius:

> He that loves liberty and hates oppression, whosoever or whatsoever he may be, will approve or condemn the assassination of the Russian Grand Duke Sergius (if he would be logical), according to his principles regarding forcible resistance. The Tolstoyan must condemn it. To him assassination is a form of force, as wicked and futile when resorted to by the oppressed as when inflicted upon them. But how can believers in force condemn this assassination without thereby condemning liberty and approving oppression? If the assassinations which such men as Sergius caused for the purpose of suppressing the commonest liberties may be approved or passed lightly over, how can his own assassination be condemned? It the civil war against oppression, in which armies meet in combat and thousands must die by violence, may arouse enthusiasm, why should the kind of civil war which selects assassins themselves for assassination excite terror? For this is a civil war, and if any homicide can be just at all, if it can be useful at all, then must such homicide be useful and just. The nonresistant may with propriety denounce it, but men of blood and iron can not denounce it without approving the royal crimes which have provoked it.

It was to men and women in the habit of thinking in this vein that the Bolshevik propagandists, from the beginning of their efforts even before 1917, and continually since, have addressed the set pieces of their specious literature and inveigling talk in the hope of winning if not active converts to their cause, then, at least, proselytes of passive

tolerance and encouragement of it. By their lies, they have, indeed, won many such victims and have been happy to see them planted in places of gratifying usefulness. From this point of view Mr. Post became, although I do him credit to say unconsciously, a factor in the revolutionary plan and he has demonstrated that status beyond shadow of chance for contradiction.

He has claimed that his cancellations of deportation warrants have been made only in cases where the facts warranted such action.

In the light of that claim I would like to call the committee's attention to characteristic specific instances. I will mention first the case of Paul E. Burton. Burton was arrested in the city of Detroit. He was a Russian alien and entered this country in 1909. He registered for the selective service, but failed to appear for either the physical examination or the induction call, and was reported by his district board a deserter. Among various of his known utterances are the following:

I am glad to hear of the assassination of any one elected by the capitalists.
I would fight against this country if I was where I could.
I would hang Lloyd-George and Winston Churchill and all the rest of the rulers of the country as fast as I could get them.

Burton was ejected by the police from a Detroit hall where an anti-Bolshevik meeting was in progress for endeavoring to instigate rioting. During the same evening he again encountered the police while participating in a demonstration in front of the Detroit Capital House of Correction. The warrant in Burton's case was canceled by the Assistant Secretary of Labor on April 6, 1920, over the recommendation of the immigration inspector and the Commissioner General.

Earnest Knoepfel, of St. Paul, a Swiss, admitted membership in the German branch of the Communist Party. He admitted that he was a delegate to its State convention and was elected a member of its State committee. While so serving he voted in favor of a resolution to change the name of the Socialist Party of Minnesota to the Communist Party. Notwithstanding this man's certain membership and affiliation with and active participation in the forbidden party, Mr. Post canceled his warrant and discharged him against the recommendation of the immigration inspector and the Commissioner General.

Pietro Baldeserotto, of Paterson, N. J., arrived in the United States in 1914. He was arrested September 28, 1918, and admitted in the immigration hearing that he was an anarchist. For some reason or other another warrant was issued by the Labor Department January 22, 1919, and Baldeserotto again admitted that he was an anarchist. He was ordered to be deported on June 25, 1919. In his testimony, upon which this deportation was ordered, the following statement appears:

Q. Do you believe in the overthrow by force or violence of the Government?—A. No. I am an anarchist, because I am not in favor of force or violence.
Q. What do you mean by the term "anarchist"? Explain your beliefs.—A. I believe as other philosophists talk anarchy, that everybody should be equal, that there should be equality among all men.

This is the same explanation of anarchy as given in the works of Alexander Berkman, Emma Goldman, and by Enrique Magon, yet all of these are terrorists at heart and would not hesitate to resort to force and violence.

Upon this testimony deportation was ordered, as stated, it being found that he was an alien anarchist, and that he disbelieved in all organized government and that he was an opponent of all organized government. On August 14, 1919, the following telegram was sent by the Commissioner General to Ellis Island:

Upon reconsideration, Pietro Baldesorotto case outstanding warrants, arrests, and deportation canceled by direction of Assistant Secretary. Bond also canceled.

Baldesorotto was then released and again, on February 14, 1920, he was taken into custody in Paterson, N. J., with other members of the L'Era Nuova group, a body founded by Malatesta, the Italian anarchist now leading this party in that country. To this group belonged Bresci, the assassin of King Humbert. The Assistant Secretary has again canceled the warrant of Baldesorotto and he is to-day free and at large in the city of Paterson, a dangerous public enemy.

Serafino Grandi, of Paterson, also a well-known member of the L'Era Nuova group, formerly convicted in Italy for his revolutionary activities in that country, was arrested and held for deportation. Against the recommendations of the inspector and the commissioner general the Assistant Secretary canceled his warrant.

The case of the anarchist, Franz Widmer, to which, I think, reference has been made here, is equally illuminating. Widmer was the author of an article entitled "The Execution of Hyena," which dealt with the killing, with a dynamite bomb, of Franz Steunberg, ex-governor of Idaho, at his home in Caldwell, Idaho, in 1906. I quote from him:

On our account we will add a little history which, by itself and better than anything else, will justify the energetic act of the unknown rebel, who consummated the vengeance of the people on that hyena.

And again:

The last reports had that the executed hyena survived only 25 minutes the attack with which the people's vengeance had so rightfully hit him, and those 25 minutes were too many.

The warrant for the deportation of Widmer was canceled by Mr. Post on April 13, 1920, although the record shows he was an anarchist since 1903 on his own admission.

Mr. Post has canceled the warrant of Alberto Guabello, an admitted anarchist, a member of the I. W. W., of whom also French records disclose that he was an associate of militant anarchists in that country, in Switzerland, and in Italy. He had served time at Tourain, and was twice expelled from France for anarchistic activities. Nevertheless, Mr. Post canceled his warrant.

Tom Miliouseske, of Milwaukee, Wis., a Russian, was arrested on January 2, 1920. He admitted he was a member of the Communist Party. It was shown that he was a treasurer for it. Notwithstanding, his warrant was canceled in April, 1920. After that he was taken into custody by the police authorities of Milwaukee for circulating a pamphlet, "Hail to the Soviets," it being the May day proclamation by the central executive committee of the Communist Party of America, and in which revolutionary sentiments were boldly expressed.

The warrant of Mike Kristoff, of Buffalo, N. Y., who admitted membership in the Communist Party, was canceled. Kristoff had sneaked into the country without the usual immigration inspection,

violating the immigration laws at the beginning of his entry into this country.

Frank Jaworski, of Hartford, Conn., was the secretary and organizer of the Williamantic branch of the Communist Party of America. His deportation was recommended by the immigration inspector and by the commissioner general, but the warrant was canceled by Post.

Andrecz Kramec, of Buffalo, N. Y., denied membership in the Communist Party, but his application for membership therein was introduced in evidence and shown to have been signed as of November 23, 1919. The alien was requested to write his signature at the hearing, in order that it might be compared with the signature of the application card. This he refused to do. His name was on the membership books and he was credited with dues paid. However, the Assistant Secretary canceled his warrant.

I might illustrate such instances of flagrant miscarriages of justice at considerable length. In hundreds of cases, similar to those I have cited, warrants have been canceled, despite clear evidence of membership in the Communist Party, which the Secretary had decided to be an organization of the kind covered by the statute.

I have said that Mr. Post, by his self-willed and autocratic substitution of mistaken personal viewpoint for the obligations of public law, has deprived the people of their day in court.

Upon the nature of this law I can perhaps do no better than to quote rather fully here from an article in The Nation on "The communist deportations," by Francis Fisher Kane, formerly United States attorney for the eastern district of Pennsylvania, and whose correctness of statement in the present instance is not likely to be contradicted.

Mr. Kane is one of the ten or a dozen lawyers who signed the recent protest against the conduct of the Department of Justice, which was given wide publicity in the country last Friday. He had been for several years United States attorney in Philadelphia and offered his resignation because he was out of sympathy with the department's attitude in the enforcement of the deportation statute, which resignation was very promptly and cordially accepted. He says in his article in The Nation:

> The act of October 16, 1918, under which the Government has proceeded is a different matter. It is a deportation statute. It covers those who advocate the overthrow of this Government by force or violence, but it applies only to the aliens and makes them liable to deportation. It makes them liable if they even believe in the forbidden thing—the words are: "Believe in or advocate the overthrow by force or violence of the Government of the United States." And the act also makes membership in, or affiliation with, any organization that entertains a belief in, teaches, or advocates this thing enough to send a man back "to the country whence he came."
>
> The procedure under the law is through a departmental proceeding before an inspector of the Bureau of Immigration, with the decision resting in the Secretary's hands, and in this proceeding the alien has practically only one, or possibly two, of the constitutional rights which he, like the citizen, would have, if the Government chose to proceed against him in the courts for a violation of the criminal code. He does not have the rights mentioned in the sixth amendment to the Constitution. He does not have the rights "to a speedy and public trial by an impartial jury," the rights "to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for the obtaining witnesses in his favor; and to have the assistance of counsel in his favor." He may be compelled to be a witness against himself and he may be tried with an utter disregard of the rules of evidence. The courts have said that it is entirely for Congress and the Department of Labor to say whether these rights shall be accorded aliens in the deportation cases.

It is one of the curious ironies of this investigation that Mr. Kane should now be one of the signers to a statement denouncing me for depriving a deportee of the very rights to which he says in this article a deportee is not entitled.

Nevertheless, these proceedings have in them of necessity the nature of a trial, to a degree, and you will appreciate this immediately when I state to you that the warrants directed by the Secretary of Labor against the aliens declared by affidavits of proper Federal agents to be, from their forbidden revolutionary party affiliation, unlawfully resident in the United States, the commandment is that the accused, if such can be said of a party in an administrative proceeding, shall show cause why he should not be deported. That is to say, the burden of proof in the premises is not upon the people of the United States, but upon the alien.

For that reason, it was the duty of the Department of Justice, in its assistance of the Bureau of Immigration, to provide for the initial record no more than a prima facie case.

Acting upon the strength of these, in a very great number of instances the immigration inspectors, having given the alien his opportunity of defense, and he having in their view failed to establish his immunity, forwarded their recommendations for deportation to the Secretary of Labor.

If the Secretary of Labor then deemed the alien notwithstanding entitled to release, from insufficiency of the record, a thing that except upon the grounds of the alien's successful defense he could not rightfully do in the face of the flat affidavit, it was his duty to notify the Bureau of Immigration at least and the Department of Justice by courtesy, that unless the alien's defense should be overcome by the presentation of additional evidence, a discharge must follow.

Mr. Post, acting upon his own judgment, and without consulting the solicitor of his own department, without prior notice to the Bureau of Immigration or to the Department of Justice, has released these accused aliens and cancelled their warrants by the scores and hundreds for no other reason than that he was not in sympathy with the proceedings and proposed to annihilate them.

Mr. Post evidently has taken the position that deportation warrants should not be upheld except in cases wherein the alien member of the revolutionary party concerned should be caught red-handed with the gun of warfare or knife of assassination in his hands. He has deemed that mere membership in a forbidden party is not legitimate cause for deportation. And to make this view effective, to make it the basis of his rulings and decisions, he was compelled in effect to cancel the stated terms and plain meaning of the immigration act of October 16, 1918. He did this without the advice of the solicitor of his own department. He did it without the least courtesy of prior notice or consultation with the Department of Justice, which had been cooperating in the enforcement of the statute.

THE REVOLUTIONARY BACKGROUND.

Mr. Chairman, I hope you will be patient with me while I tell you something about what I call the revolutionary background of this business in America. I do not know that I need to apologize for presenting the case fully and in this general way. Apparently, it

might be said at first that it was wandering from the matter of the charges against the department and myself, but without accurate and definite information and knowledge as to just what the purposes of these alien anarchists in the country have been I think that whatever defense the Department of Justice might make could hardly be thoroughly understood. I want, therefore, to tell you something about what I call the revolutionary background—the situation of tense and conspiring unrest which has made infinitely more difficult the already hard problem of restoring comfort, tranquility, and tolerable living conditions for the people after the strain and hardship and destruction of an unparalleled war; a war that consumed human lives by the millions and sunk the stored-up savings of the Nations' labor and wealth to an unimaginable degree.

It is only in contemplation of this background, in a lively realization of what it is and what it means as a test and menace to civilization that we can appreciate or comprehend the international revolutionary movement; get a fair notion of what its manifestations here have carried of evil augury, and make a level-headed estimate of the campaign our Government has been called upon to wage against it.

For I say to you very frankly, Mr. Chairman, that I have looked upon this deportation statute not as a mere matter of punishing, by sending out of the country a few criminals or mistaken ultraradicals who preach dangerous doctrines, but rather as a campaign against—and I have felt that was the purpose of the country—a growing revolutionary movement which sought by force and violence to undermine and injure, and possibly destroy, our Government.

To present this matter in an adequate picture is impossible for me in the limited time I can be appropriately allowed here. But if this committee will read the exhibit (No. 7) in this connection, which I am able, fortunately, to bring from the surveys of the Bureau of Investigation and leave with you for this purpose, I believe that you will be deeply interested and come naturally into the conviction of seriousness and urgency which we in the Department of Justice have come to feel.

Authoritative information is infinitely more impressive than the fabrications of the propagandists or the necessarily imperfect reports of the press.

Let me speak of some of the striking revelations in this picture.

Most disconcerting of all, I think, is the evident tremendousness, sullenness, determination and power of the class war movement toward enforcement of the aims and theories of social reconstruction on a minority class basis, on a dictatorship of the workers—as the poorer crowd of industrial wage earners peculiarly call themselves—in their exclusive interests through gaining control of the State—whether by fair means, or foul—and the expropriation of capitalistic property—which they mean to take away from its present ownership without compensation and to manage hereafter, after the Marxian precept, as a common enterprise in the workers' behalf.

This wave of ultraradical socialism, communism, or syndicalism, as it is variously called according to the phases of local condition or shades of opinion with regard to policy, was heavily under way before the war temporarily broke it up.

It began to rise with accelerated vigor immediately following the tragic revolution in Russia of March, 1917. That revolution was

but a preliminary one; it was a purposeless and planless brute convulsion of the Russian people, mad in desperation from years of betrayal, misgovernment and corruption, brought to a climax by national bankruptcy of every resource, moral or material. The story of it is infinitely pitiful.

Revolution is one thing and its philosophy another. The Reds contradict themselves when they attribute their Russian coup to the philosophy of Karl Marx. Marx would yield nothing to the reality of ideas, and believed in no potency but that of sticks and stones. The Bolsheviks are Marxians, to be sure, but they and their millions of followers in Russia were first of all a poor, hungry, ignorant, abused, demoralized and propertyless people. They wanted peace. They wanted bread, and they wanted land. With those three things they would rest and be satisfied, requiring nothing of to-morrow until to-morrow's sun. For peace they would sacrifice honor and provinces. For bread they would murder and destroy government. For land they would steal even the plate from the churches. They did all three. "To transform every coward who left the front into a privileged assassin," says Kerensky, "the State has had first to be thoroughly destroyed." The Russian proletariat did destroy it, and they would have done so under any other pretense or excuse that their plans might suggest.

But having destroyed the State, as they did progressively in the months that intervened between the advent of Kerensky and his submergence with the Korniloff rebellion, they did not know what to build in its place. And there was no Russian inspiration capable of managing them in such an enterprise.

For years, even before the war, the pillars of Russian society were being loosened and undermined. They had never been firmly set.

The foundation for stability is character. For character there must be independence. But dependence, through centuries, had been the Russian rule. Without an exception her modern institutions were built upon western credit and had never natural embedding in the native soil. The dynasty was borrowed. The State, with all its machinery for the handling of finance, industry, and social welfare, was made of pieces of foreign importation or grafted upon the decay of feudal remnants. In spite of vast resources and the possession of an almost unlimited labor supply, the capital for industrialization was not of Russian supply. Nor was its engineering or its mechanics All leaned for repair and maintenance constantly upon the western support. The war cut the prop. By March, 1917, had there existed a Russian independence capable of amputating Czarism, with all its corruptions and inefficiencies, and conserving what was left of industrial equipment, no debacle need have occurred. There might have been a saving national character and competence. But beneath the Romanoff failure stood nothing strong that was inherently Russian. Bolshevism, the only virile political organization—the only body of thought that could assume control of affairs—became the stake upon which helpless Russia was impaled.

Two principal circumstances conspired to develop this tragedy—the personal dynamics of the communist leadership and the paralysis of opposition. They are both tremendously significant. The situation enabled a small group of determined men, knowing exactly what they wanted and driving ruthlessly for it without hesitation or scruple,

to wield the whole engine of power, to crush every obstacle of resistance, and to win the most singular victory of minority dictatorship the world has ever witnessed.

Louis C. Fraina, one of the founders of the Communist Party in America, in his comment upon Lenin and Trotsky's "The proletarian revolution in Russia," says:

> The Russian revolution in its determining proletarian phase is an incomparably mightier event than any previous revolution; larger in scope and deeper in ultimate meaning than the French Revolution. Napoleon visualized Russia as a menace that might make all Europe Cossack; to-day capitalism may make Europe and the world all Socialist. Clearly the antagonisms, national and international, generated by the proletarian revolution in Russia are necessarily more intense than the antagonisms of the French Revolution. That was a bourgeois revolution, a revolution that annihilated one form of class rule and tyranny in order to establish that of the capitalist class; it was not a fundamental social revolution, but overwhelmingly political in scope. This is a proletarian revolution, the start of the international social revolution against capitalism, the purpose of which is not political reconstruction but fundamental, intensive, economic, and social reconstruction of the basis of the world. The French Revolution annihilated one form of property rights, the feudal, in order to introduce another form of property rights, the bourgeois; the proletarian revolution in Russia proposes the annihilation of bourgeois property rights, the annihilation of private property and its system of class oppression—the end of the exploitation of man by man and class by class. This is the revolution, the initial action in the social revolution of the international proletariat against capitalism and for socialism.

At any rate, the revolution has centered in Russia. It has taken its cue from the Bolshevik Soviet régime of expropriation, dictatorship of the proletariat, communization of industry, and disruption utterly of the old order of things.

With the push of Russian Communists, many millions strong, behind this emotion; by propaganda better financed and more determinedly led, more fanatacized than ever before, its spread and manifestation like the enkindling that surrounds a conflagration make it the most striking event of the times.

All over the world, and in every major tongue, bands of workers, men and women, joined already in conscious and conspiring fraternization, are singing

THE NEW INTERNATIONAL.

Stand up! Ye wretched ones who labor,
Stand up! Ye galley slaves of want.
Man's reason thunders from its crater,
'Tis the eruption none can daunt.
Of the past let us cleanse the tables,
Mass enslaved, fling back the call,
Old earth is changing her foundations,
We have been nothing, now be all!

There are no saviours e'er will help us,
Nor God, nor Caesar, nor Tribune,
'Tis ours, O workers, must the blows be
That shall win the common boon.
From the thief to wring his stolen booty,
From the pris'n to free the soul,
'Tis we ourselves must ply the bellows,
'Tis we must beat the anvil's roll.

"The socialist philosophy"—taking that phrase in the general sense—"writes an anonymous author in the International Weekly, "is probably adhered to by more people in the world than any other single belief. It reaches from Seattle to New York, to England, to Europe and Russia, to Japan and the Orient, to Australia and back again to South America. It is conceived by millions of people to be

the most vital thing in their lives." Under Bolshevik agencies it is being preached also, not only in the huts of Afghanistan, and to the mid-Asian tribes thence westward to Suez, but to the fellah in Egypt and to negroes of Africa wherever they touch the white man's labor question.

I can not tell you, gentlemen, how, after the Bolshevik coup of 1917, and even notwithstanding the terrible object lessons of want, terror, and misery in Russia that followed it; how after the seizing of Russian power by a comparative handful of Communists—a German importation in plan and direction—and the swift success of the Bolsheviks in winning through improper inducement of the peasants and demagoguery to the workers and ruthless crushing out of bourgeois resistance—in grasping and holding the rule of things—the essential Bolshevik social program caught fresh and absorbing hold upon the radically disposed elements in the remainder of Europe. The Bolshevik notion spread, literally, like wildfire. Of course it had its most immediate response, as we know, first in Germany and later in Hungary. The means of this spread I will presently dwell upon, but the celerity of it was astonishing. The Spartacan group in Germany, driven on by Liebknecht and Rosa Luxembourg, grew at one jump in 1918, from the status of a mere social nuisance to a stubbornly striving social class war party which has left Germany in an uproar of anxiety ever since and came perilously near breaking the German federation but a very few weeks ago.

In Hungary, helpless in industrial depression of deepest rigor, a powerful bolshevik insurrection occurred under Bela Kun, as you recall, crowned with a ghastly terrorism and temporary failure.

Bulgaria, Turkey, Poland, Slovakia, Austria, and Serbia have all been distressingly inoculated with the bolshevik virus—held now under restraint but threatening to break out disastrously at any moment in the last dozen months.

It may be news to you that in Denmark the ultraradical socialists are so strong, the mass organization of the workers is so complete and so close knit that the King and his Government have for some time been forced to cater to their whims.

Holland is not so much better off. It is taking a great effort of the Dutch Government and police to hold down the Reds.

You know what has but just happened in France. How the bolshevik element of French labor, grown to strength sufficient to force the hands of the great French Confederation General of Labor Unions and to drive it into such vicious general strikes that the Government has felt compelled to revoke the Federation's charter and has only by the loyalty of the peasants and the military narrowly averted out and out revolution. In England affairs are better, but distinctly unpleasant.

In the more industrialized provinces of Spain, and in Portugal and Italy, the revolutionary unrest is no less conspicuous than elsewhere on the Continent.

The evil thing exists in the Caucasus. It is inflaming native racial hatred and religious bigotry all across western Asia from the Caspian to Suez. It is even in China, Korea, Japan, and India.

It is being kindled and frequently flames in Mexico, the West Indies, and South America.

You know how it has taken hold of great numbers of laboring men in Canada. The affair at Winnepeg is still fresh in your minds. I am going to tell you presently what there has been of it in the United States. But I want to tell you now that in spite of the happy showers of the beautiful springtime, the world is on fire with this infamous Red stuff and it is going to take the united cooperated effort of international democracy under its most sane and devoted leadership to stamp this incipient conflagration out. Unless we secure the quick and firm establishment of international political peace and financial, trade, and commercial cooperation we may not be able to stamp it out.

Boris Brasol, in the introduction to a very recent and able work on Social Difficulty, does not hesitate to say:

> Modern civilization as a whole is imminently threatened with social cataclysm of unprecedented violence such as has already inflicted utter ruin and unspeakable suffering upon several European countries, particularly Russia. This danger can not be magnified and should not be minimized.

I call your attention next to the fact that the methods of spreading the social revolutionary conspiracy—and it is an international one by profession and organization—engineered now by the Communist International, the celebrated Third International, established at Moscow, of delegations from all Europe and the United States on March 6, 1919, have been everywhere the same—in Russia, in Europe, in Asia, Africa, and America.

This, as far as I know—unless it be the French Revolution—is the only revolution in the world's history which has been amply and completely financed.

Mr. FESS. Where does the money come from?

Mr. PALMER. It comes from the loot of Russia, stolen from the property-holding class of Russia.

An inexhaustible press backed by giant funds of stolen loot, has been pouring out tons upon tons of such inflammatory literature as we have, I might almost say by the bale, in the collections of our division of radical publications in the Department of Justice, and specimens of which you have frequently seen. It is savage material, but much of it infernally well written and appealing to the thoughtless, dissatisfied crowd. This literature has been printed in almost every known language by the International Revolutionary press agencies. I have a complete memorandum of it in its American manifestations which I will file with the committee.

By spreading this stuff in Russia and by their continual propagandizing and disintegrating attacks upon socially loyal groups, by their steadily and ingeniously "boring from within," they gained their necessary adhesion and by the same tactics are carrying out their program everywhere with different degrees of success in different countries.

I wish that those who have exclaimed so much about fancied invasions of "free speech" would realize all this—that those who have been opposed to any defensive measures by Government against the revolutionary conspiracy could give their sane thoughts a chance for better assertion in the light of what we know has been happening in the world.

The continual spread of the seeds of evil thought, the continual inoculation of poison virus of social sedition, poisonous to every fiber and root, to every bone and sinew, to the very heart and soul of all

that by our standards is integrity in citizenship or personal character can not help but foster frightfully the revolutionary disease. Is there no such Government policy as one that can stand effectively for social sanitation?

I believe, if I may be permitted to digress a second, that it will be one of the principal privileges of our political parties this year to frame and assert such a policy, a duty as difficult, perhaps, as it is imperative. It must aim at reforms more than at repressive measures, but it must recognize the Government's inherent right of self-protection.

In "Combat Order No. 4," a Bolshevik document issued in August, 1919, as a "message of the Communisans" to all "Federations affiliated with the Third International," occurs the following paragraph:

> The European revolution will be possible only when the criminal incapacity of the present bourgeoise régime will bring about great suffering and misery. A state of revolution will then naturally result from the misery of the people. It is the misery—the intolerableness of conditions that provides the cause of revolution. Philosophists seldom even fix the occasion, but they may guide and engineer the revolt.

I have given you that quotation in connection with the everlasting assertion of the Red Socialist: "Capitalism is bankrupt."

I want it very plainly understood that I do not have the slightest fear that any revolutionary movement can succeed in this country, even to the extent of seriously menacing our institutions. The sober judgment of the men and women of America will reject this alien philosophy and kill this alien purpose, whenever they are made to realize that plans based on such philosophy and purpose have reached serious proportions. But I am equally clear that the alien agitators who have been opening every wound they can find in our body politic, do not realize their plans will be finally rejected here and will go on in the hope of final success. Their ignorance of our institutions and the hearty American confidence in them makes it impossible for them to realize the hopelessness of a revolutionary cause here. Out of this very ignorance will come further agitation, occasional outbreaks, and sometimes systematic industrial disturbances of large proportions, all of which will threaten the peace and good order of the country, and serve to obstruct progress and delay settlenent of the many serious problems which now admittedly confront our people—problems which are social and political, as well as moral and economic, and which demand sympathetic consideration and prompt solution.

I am not an alarmist or even a pessimist. But I have my eyes open and I know what a chance of national bankruptcy and industrial paralysis the world would certainly face to-day were the evidences of precaution against it only a little less hopeful and numerous.

But, I may add, it has been the conscious and deliberate plan of the revolutionary conspiracy to labor for the creation of misery and bankruptcy—the field ground for revolution.

That is why we have so much of the sabotizing of industry, the deftly engineered slowing down of production, the constant stalling of machinery, especially transportation industry, and the crippling effect of general strikes, otherwise "political" strikes.

It is the reason, in part, at least, for the continual assault of the Reds, of their constant agitation against the morale of workmen.

It is even true that the March and April marine workers' strike at Rotterdam, when for weeks not a ship could discharge or take on a cargo, was backed by the Bolsheviks for the express purpose of bringing on deprivation and hardship in parts of Germany and Austria, dependent upon the Dutch shipping for the importation of food and raw material. Of that most deplorable and formidable strike, for some strange reason, the newspapers carried scarcely a word.

You also have read the authoritative signs of the times. You know what a period of difficulty we face here in our own hitherto seemingly prosperous country. You know what prodigious and painstaking efforts the statesmen of Europe are making to adjust the indemnity of Germany and achieve its financing in such a way as to stave off and prevent this very real bugbear of international bankruptcy. Need I dwell upon this for the purpose in hand? Need I say that the menace of revolution gains enormously in volume of reality and danger the moment we indulge the emotion of natural fear, rather than sturdy optimism in this grim business? What would not the administration of law and order in this country have been guilty of in the way of neglect and omission had it failed to carry in its mind a policy of quiet but most earnest regard for eventualities of this character? Would it not have been a serious sin of omission if we had failed to think about the difference between good times and bad, and to dread the consequences of leaving the infection of social and industrial revolutionary disease to fester and breed in the tissues of our organism against the day of the hoped-for opportunity to attack the body politic in a virulence redoubled a hundredfold amid the conditions of bread lines and mass unemployment? Can we afford to disregard that danger now?

I believe we can answer that question positively and beyond contradiction as we go over, briefly as we may, the narrative of the revolutionary action in America, generally at first and more specifically as we discuss also what the precautionary and protective campaign of the Government has been, or was until it collided with the stubborn incapacity of the Assistant Secretary of Labor, Louis F. Post.

Revolutionary action for the United States, so far as is considered in this review, begins with the organization of the Industrial Workers of the World, yet even so, the development of this fraternity of malcontent workmen had no patently deep significance in our general life until its very recent connection and affiliation with the greater revolution in Europe, when it became a part of the communist world-wide organization.

While some very interesting and cruel pages in our industrial history have had to be written on account of the place the I. W. W. had previously taken in the story of our local strikes and disturbances, in the tragedy at Ludlow and the occurrences at Lawrence and Paterson, these represented no more than prophetic incidents. They were nothing that needed to touch our emotions of real alarm and suggested inflammations and wrongs in parts of our industrial system rather than fundamental difficulties menacing the entire fabric.

The I. W. W. was organized at Chicago in 1905. By the following year it professed to have 60,000 members. It was composed of a mixture of bumptious, fanatic elements, partly ultra-radical socialist, partly anarchist, but mostly syndicalist. That is to say, the burden of the program of the I. W. W. from the beginning was to work for the ownership of industry by the workers, whom they claimed produce it, and to work for this through the means of labor unions which should strike, and sabotize, and revolt, with violence, if necessary, not merely for the increase of wages and the betterment of working conditions, but for the physical seizure of industry itself, for the ownership of the means of industry. The party, if we may call it that, or the fraternity, for that is what it more closely resembles, was international in its sympathies and in its statement of the industrial problem, but not in its plan of action. It put out its branches in Canada and Mexico, and it joined hands in communication with radical labor, and revolutionary parties abroad and at home, but the thing it was immediately trying to do was infect the labor body of America with the syndicalist idea and press toward it with all the means and opportunities that might be at hand.

In ordinary times it is not easy to find a body of American labor susceptible to revolutionary teaching. Revolution means risk and sacrifice, the chance of imprisonment, prosecution, outlawry—and in America, certain defeat. But there did exist a body which could be reached. London tells very ably of this in his book, The Class Struggle. It was a body of unkempt, homeless, ragged, dispirited, and underpaid floating labor—the "hoboes" of the American Continent. There were thousands, yes, hundreds of thousands of them, who roamed the country from east to west, north to south, and back again according to the seasons and the prospects of temporary employment. They drifted to construction jobs. They drifted into new industrial plants where workers were wanted in a hurry and the combing out process for efficiency could not yet be begun. They made up the armies of the scabs and strike breakers. They did the hard and dirty work upon ships and wharves. They harvested the hops and the grapes and the corn and the wheat, and were shipped into the freshly open mines. They were in the forests. They were in Minnesota and the cypress swamps of the Southwest. They were in California, in the vineyards and orange groves; in the orchards of Oregon, the melon ranches of Colorado and Arizona. They were in the stockyards and in the steel mills. They were on the truck farms of Florida and Texas. And they were in jail—frequently. They were everywhere—and gone again, a wandering, migratory host. And nobody loved them. Some of them climbed up out of their troubles and despairings—and as many more tumbled down. These were the people who became the I. W. W. foundation.

But, as is usual in such concerns, there were able men at the head. St. John, Ettor, Mooney, Hill, Varney, Haywood, Whitehead, and fellows of their stamp have been tremendous engines of effectiveness in their apostleship of "class warfare." And the I. W. W. has had its press and its clever writers, its pamphlets and its songsters, pushing its propaganda, moving its enthusiasm, and spreading its doctrines all these years. It has indefatigably organized, too, and shoved its groups into all manner of leverages of advantage "for the cause." An I. W. W. speaker, addressing a recent labor meeting in England, claimed an American membership then of 300,000 from Centralia to West Street. That may not be an exaggeration.

Prior to 1914 there were in the country also numerous ultra-radical socialists, Marxians, and a great many small socialists, anarchist, and communist societies formed among the aliens, for the most part, making no very great noise and doing no very great damage.

During the war these revolutionary bodies, prodded by the Germans, and often subsidized by them, turned their attention chiefly to obstructionist pacifism, sincere enough, and to the fomenting of unnecessary strikes. A great many of the reds were prosecuted and imprisoned, and justly so, because they deliberately broke the laws and deliberately tried to weaken the power of the United States in what was literally a struggle for the salvation of democracy, inviting upon themselves a "martyrdom" which Americanism can never justify. The loyalty of American labor and an overwhelming wave of public condemnation, coupled with these prosecutions, crushed this vicious revolutionary effort to earth during the war.

Then came the news of the revolution in Russia, the formation of the Third International, and the advent of more sinister and dangerous social revolutionary activity in the United States.

The I. W. W. had been bolshevik in its aspirations from the start. Harold Varney thus writes of it in The Revolutionary Age, April 19, 1919:

> Possibly the I. W. W. of all the world's movements was shaken least by bolshevism. The I. W. W. welcomed the bolshevik triumph with the joy of the unexpected. The final link in the I. W. W. theory had been forged at last. But there was naught in the new happening to compel a revision of belief. The I. W. W. had always been antiparliamentary; the I. W. W. had always sought industrialism. The I. W. W. had preached bolshevism while the Bolsheviki themselves were still groping and wobbly, and felt like one who had long since swam to an island of idealogic truth, as he watches the Russian swimmers coming into port. The naïve exuberance with which the new Left Wing American Socialists began to propogate industrialism was naturally amusing to those who had fought the industrialistic battle for nearly a generation. Bolsheviki, the new left wingers styled themselves, but well the I. W. W. knew that bolshevism was but the Russian name for I. W. W., and that after a few flights of left wingism, the socialists would learn that every road of industrial revolution leads inevitably to the Industrial Workers of the World.

In his report to the executive committee of the Third International at Moscow, Louis C. Fraina, international secretary of the Communist Party of America, said:

> The Socialist Party was organized in 1901 of a merger of two elements: (1) Seceders from the Socialist Labor Party, like Morris Hillquit, split away in 1899 largely because of the Socialist Labor Party's uncompromising endeavors to revolutionize the trades-unions; (2) the Social Democratic Party of Wisconsin, a purely middle-class liberal party tinged with socialism, of which Victor L. Berger was representative.
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> And, again:
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> During 1918 the Socialist Party was in ferment. The membership was more and more coming to think in revolutionary terms. Then came the armistice and the German revolution. The response was immediate. On November 7, 1918, a Communist propaganda league was organized in Chicago. On November 9, Local Boston, Socialist Party, started to issue an agitational paper, "The Revolutionary Age." This paper immediatly issued a call to the party for the adoption of revolutionary communist tactics, emphasizing that the emergence of the proletariat into the epoch of the world revolution made absolutely imperative the reconstruction of socialism. In New York City, in February, 1919, there was organized the left wing section of the Socialist Party. Its left wing manifesto and program was adopted by local after local of the Socialist Party, the left wing acquiring a definite expression. The left wing secured the immediate adhesion of the Lettish, Russian, Lithuanian, Polish, Ukrainian, South Slavic, Hungarian, and Esthonian federations of the party, representing about 25,000 members.
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> The official organs of the federation did splendid work for the left wing. In January, 1919, the national executive committee of the Socialist Party decided to send delegates to the Berne congress of the "Great betrayal." This action was characteristic of the social patriots and Gentrist bent of the party administration. There was an immediate protest from the membership, the left wing using the Berne congress as again emphasizing the necessity for the revolutionary reconstruction of socialism. In March we received a copy of the call issued by the Communist Party of Russia for an international congress to organize a new international. "The Revolutionary Age" was the first to print the call, yielding it immediate adherence; while the left wing section of New York City transmitted credentials to S. J. Rutgers to represent it at the congress. Local Boston initiated a motion for a referendum to affiliate the party with the third international. This was thrown out by the national administration of the party on a technicality, but after much delay another local succeeded in securing a referendum. (The vote was overwhelmingly in favor of the third international.) The left wing was now, although still without a definite organization, a formidable power in the Socialist Party. Previously, all revolts in the party were isolated or consisted purely of theoretical criticism; now there was this theoretical criticism united with a developing organization expression. There was not, as yet, any general conception of the organization of a new party; it was a struggle for power within the Socialist Party.

This struggle, however, was of short duration. By the end of August the radical revolutionary element had, according to the testimony of its own historians, won commanding control of the rank and file of the Socialist Party, but no control whatever of the party machinery. The latter held firm under the dominance of its old national executive committee. The conflict between the left wing and the right became irreconcilable. On September 1, the American bolsheviks broke away from the socialists and formed parties of their own, the communists and the Communist Labor Party. The first of these comprised practically all of the "foreign" branches of the Socialist Party. It claimed originally 58,000 members. The Communist Labor Party, which in its principles and plans does not differ materially from the other, represented a faction of the Reds with native American membership. Perhaps there were 15,000 of them. The number has since very much increased.

There already existed still another numerous and seditious Revolutionary organization, the Communist-Anarchists of the Federation of Russian Workers of the United States and Canada.

All these three parties, while separate societies and quarreling among themselves as to which should be the formal and designated standard-bearers of the Bolsheviki and the International Revolution in the United States, were united in their greater purpose and were working together for the movement. They all indorsed and stood for the manifesto of the Third International, and they recited together, in their meetings and in the propaganda of their voluminous press which reached and still reaches hundreds of thousands of the workers in our country.

I want to leave with you, Mr. Chairman—I shall not take the time to read them—some brief extracts from the most inflammatory of the literature which the Communist Party and the Communist Labor Party have printed and circulated in this country. It is very impressive. Much of it has never been presented but I am not going to take the time to read it but put it in the record, because you know, in a general way, what it is. Am I imposing upon the committee?

The CHAIRMAN. Not at all.

Mr. PALMER. I feel that this general review is important but I do not want to take up too much of the time of the committee.

The CHAIRMAN. Proceed in your own way.

Mr. FESS. May I interrupt to ask whether the I. W. W. had any connection with Russia in its genesis or is it an American organization?

Mr. PALMER. It is an American organization which took on an international phase when it joined the Third International.

Mr. FESS. It appears that a good deal of this anti-Government movement emanates from Russia and I wondered whether the I. W. W. also emanated from there?

Mr. PALMER. Well, as Mr. Fraina said in the article from which I quoted, the Bolshevik outbreak in Russia was no news to them; they were waiting for it; they accepted it and, of course, joined the movement the moment it started in Russia.

Mr. JOHNSON of Washington. May I answer Mr. Fess by saying that 10 years ago I saw letters in Russian sent to Russian members of the I. W. W. in the State of Washington.

(The literature referred to by Mr. Palmer follows:)

Spurning the half-heartedness, hypocrisy and corruption of the decadent official Socialist Parties, we, the Communists assembled in the third international, feel ourselves to be the direct successors of the heroic efforts and martyrdom of a long series of Revolutionary generations from Baboeuf to Karl Liebknecht and Rosa Luxembourg. As the first international foresaw the future development and pointed the way; as the second international gathered together and organized millions of the proletariat, so the third international is the international of open mass action of the revolutionary realization, the international of deeds. Socialist criticism has sufficiently stigmatized the bourgeois world order. The task of the International Communist Party is now to overthrow this order and to erect in its place the structure of the socialist world order. We urge the working men and women of all countries to unite under the Communist banner, the emblem under which the first great victories have already been won.

Proletarians of all lands! In the war against imperialistic barbarity, against monarchy, against the privileged classes, against the bourgeois state and bourgeois property, against all forms and varieties of social and national oppression—unite!

Under the standard of the workingmen's councils, under the banner of the third international, in the revolutionary struggle for power and the dictatorship of the proletariat, proletarians of all countries unite!

The new era has begun! The era of the downfall of capitalism—its international disintegration. The epoch of the proletarian communist revolution. In some countries, victorious proletarian revolution; increasing revolutionary ferment in other lands; uprisings in the colonies; utter incapacity of the ruling classes to control the fate of peoples any longer; that is the picture of present world conditions.

Humanity, with its entire culture now lying in ruins, faces danger of complete destruction. There is only one power which can save it—the power of the proletariat. The old capitalistic "order" can exist no longer. This ultimate result of the capitalist mode of production is chaos—a chaos to be overcome only by the great producing class, the proletariat. It is the proletariat which must establish real order, the order of communism. It must end the domination of capital, make war impossible, wipe out State boundaries, transform the whole world into one cooperative commonwealth, and bring about real human brotherhood and freedom.

World capitalism prepares itself for the final battle. Under cover of the League of Nations and a deluge of pacifist phrase-mongering, a desperate effort is being made to pull together the tumbling capitalist system and to bring its forces against the constantly growing proletarian revolt. This monstrous new conspiracy of the capitalist class must be met by the proletariat by seizure of the political power of the State, turning this power against its class enemies, and using it as a lever to set in motion the economic revolution. The final victory of free mankind.

Mr. PALMER. All of this literature and all of the pronunciamentos issued and spread broadcast throughout the country, appearing in tremendous volume in every place where there is any industrial unrest or discontent, are aimed at what is in one place described as—

THE WAY TO VICTORY.

The revolutionary era compels the proletariat to make use of the means of battle which will concentrate its energies, namely, mass action, with its logical result, direct conflict with the governmental machinery in open combat. All other methods, such as revolutionary use of bourgeois parliamentarism, will be only of secondary significance.

Down with the imperial conspiracy of capital!

Long live the international republic of the proletarian councils!

Everybody knows what that means, and it was largely upon the basis of that that the Secretary of Labor defined the Communist Party to be the sort of organization membership in which required deportation of an alien.

In addition to these revolutionary organizations we have had a great many unaffiliated individuals, social revolutionists, not only an extremely numerous group in the ranks of labor, sympathizing with and encoraging the organized revolutionaries, but among the intellectuals, those educated men and women who, from the advantage or the pinch of their position of life, have been strenuously thinking with none too commendable logic about the incongruities and injustices of the times, and, catching the revolutionary thought, have turned to it both their feelings and interests. Among them are the "parlor bolsheviki," the Philistines of our social period, who, enveloped in cigarette smoke and airs of superiority, have lost the touch of just proportion in their measurements of "the good and the bad in modernism," and lent themselves to writing and talk and financial contributions—these people seldom take the risk of doing anything—toward paddling along the revolutionary flood.

In the latter half of 1919 all these protagonists and helpers of the international revolutionary scheme, the I. W. W., the Communists, the Communist Labor Party, the anarchists, the radical associations of rebellious schools, and unaffiliated Reds, and parlor bolsheviks, fired by the enthusiasms thrown across seas by flaming Russia and the glowing torch of the third international, began to work hammer and tongs "to beat anvil blows," the revolutionary poets would say, for an actual revolution in the United States.

In Canada broke out Bolshevik strikes at Winnipeg and elsewhere, as had occurred before in Washington State, where Ole Hanson stamped out the enkindling. These strikes were an ominous foreboding. In the United States the revolutionary faction in the ranks of organized labor egged on a series of great strike demonstrations. These strikes were all of them aimed ostensibly at nothing more than wage increase or some alterations in the conditions of work, but these complaints were taken advantage of by the international inflamers, who make it a practice to rub every sore. The strike, most interesting and significant from the viewpoint we are discussing, was the coal strike, participated in by nearly a half million miners in the bituminous fields. This strike battered at the very foundations of the safety of American democracy. It threatened not only a universal hardship cruel to our own country and dangerous to the world, but it seemed to indicate defiance of law and the public welfare on the part of American labor. Confronted with this challenge of circumstance, the Government of the United States acted under the authority of the Federal statutes and enjoined the strikers. The issue was brought to immediate head. It was settled by de-

cision of the loyal majority in the labor unions, "American labor is obedient to law." No more hopefully reassuring decision than this was ever registered in the history of our republic.

Aroused finally to a realization of the growing danger of graver disturbances, under the pressure of public opinion, Congress began in turn to urge upon the executive branch of the Government the necessity and wisdom of counteraction. For this the Department of Justice had been long preparing. In November, in cooperation with and in aid of the Bureau of Immigration and the Department of Labor, it raided the anarchist parties of the country and forwarded some 380 of the worst offenders of the Russian anarchist group to Ellis Island for deportation. This had the effect of putting an end, for the time at any rate. to several of the more venomous of the revolutionary publications.

In January there were similar raids, resulting in the detention of nearly 3,000 communists, the details of which I will give in a moment.

Revolutionary tactics have, of course, been employed by others than the organized groups to which I have referred. There have been sporadic cases of open violence in recent times and the indications are plenty that these have been of an organized character, but not necessarily authorized by the chief actors in the revolutionary movement. Last summer bombs, addressed to many State and Federal officials, were deposited in the mails. Some of them reached their destination, but comparatively little injury resulted. On another occasion, the homes of 10 officials were simultaneously bombed. These acts of violence were, of course, not directed against the officials as individuals, but constituted the mistaken method by which deluded minds sought to do forcible injury to the Government itself. The ultra-radical press and pamphlets, which have been given wide distribution in the country, have become constantly bolder in their threats of immediate forcible action. Well considered attempts have been made to corrupt and debauch labor unions, to foment strikes and prevent their settlement, to incite destruction of property and cessation of industry and to bring about a general political strike. In a very few cases dangerous extremists have secured places of leadership and power in some labor organizations, but their plans have so far been consistently thwarted by the honest and patriotic efforts of the vast body of organized American wage-workers. In one instance, a leader of this type was able to have a State federation of labor convention pass a resolution calling for a State-wide strike in all trades to redress a purely political grievance.

Of course, the effort was unsuccessful because the exposure of the plan aroused public sentiment, which made its consummation impossible. These ultraradical agitators are the worst enemies of honest American labor and it is splendid evidence of not only the intelligence but the patriotism of the wageworkers of America that this is generally recognized by them and it seems to me to be amongst the first and most important duties of American citizenship to lend encouragement, aid, and support to the strong and patriotic men influential in the ranks of organized labor who are striving earnestly to purge their organizations of every revolutionary element.

Most of the individuals involved in this movement are aliens or foreign-born citizens. There are some, however, of unquestioned American extraction. Some of the leaders are idealists with distorted minds, many even insane; many are professional agitators

who are plainly self-seekers and a large number are potential or actual criminals whose baseness of character leads them to espouse the unrestrained and gross theories and tactics of these organizations. If there be any doubt of the general character of the active leaders and agitators amongst these avowed revolutionists, a visit to the Department of Justice and an examination of their photographs there collected would dispel it. Out of the sly and crafty eyes of many of them leap cupidity, cruelty, insanity, and crime; from their lopsided faces, sloping brows, and misshapen features may be recognized the unmistakable criminal type.

THE LAW AND ITS ENFORCEMENT.

Obviously, it has been impossible, under our form of government and under existing statutes, to deal with this ultra-radical movement as a whole. It has been necessary to deal with individuals, to utilize such laws as are on the statute books, and to ask the Congress for such further legislation as seems to be necessary. The only practical plan for dealing an effective blow at the movement was through the application of the deportation statute, which provides for the deportation of aliens who believe, teach, or advocate the overthrow of the Government of the United States, or all forms of law or organized government by force or violence, or the assassination of public officers, or the unlawful destruction of property, or are members or affiliated with organizations having such objects. The procedure under the deportation law is in no sense a criminal proceeding. It is part departmental, part judicial. It provides for a warrant to be issued by the Secretary of Labor, at Washington, only upon presentation of evidence sufficient to create a belief in the probable guilt of the alien under the law. The warrant must contain a full statement of the charges for the information of the alien and an opportunity is given him to furnish bail for a hearing. So far as I know, reasonable bail has never been denied by the Department of Labor in these actions. The alien is entitled to be represented by counsel, where he is confronted with the evidence against him and given full opportunity to produce evidence in his own behalf. A record of the hearings is made and certified to Washington, together with briefs and arguments of counsel, and then final action, either for or against deportation, is taken by the Secretary of Labor. The alien may, of course, at any time have the benefits of a writ of habeas corpus, upon which his case may be reviewed in court.

The ultra-radical press has been vociferous in calling these proceedings inquisitions and denouncing them as star-chamber proceedings, and much misrepresentation of the conduct of the Department of Justice and of the Department of Labor in these cases has been indulged in by sympathizers of the alien anarchists. It is one of the curious ironies of the situation that the very people who are loudest in denouncing constitutional forms of government, when arrested under this statute insist most vehemently upon all their constitutional rights. Every safeguard has been thrown about the proceedings to make certain that the lawful rights of no individual are invaded.

Of course, the Government can not be deterred by misrepresentation and slander of its officials, and yet the people ought to be warned

against accepting such accusations at any part of their face value. I recall a statement given out by Emma Goldman after her original hearing before the immigration inspector at Ellis Island. Two representatives of the Department of Justice were present at that hearing under instructions to take every possible precaution to see that she had a fair trial. At the outset of the hearing, Goldman's counsel submitted as part of the record a written "protest and objection" offered by her. This was admitted, although it had no bearing upon the facts or law involved. Thereafter, on advice of counsel, Goldman refused to answer any questions and, although given ample opportunity, submitted no evidence in her own behalf. She attempted no defense. Yet her protest and objection, filed before the hearing, contained accusations of alleged unfair inquisitorial methods used at the hearing and, of course, gained wide publicity.

The Government's first efforts were directed against individual agitators, amongst whom Emma Goldman and Alexander Berkman were perhaps the most conspicuous. Many other active and dangerous persons were apprehended and held for deportation. It was soon learned, however, that the individual agitators were so migratory in their habits and so cautious in their oral utterances that it was quite difficult, if not impossible, to pick them off one by one. In the meantime, much evidence had been accumulated against groups and organizations and it became apparent that if a particular organization was shown to be unlawful, a proper foundation could then be laid against all aliens who had signed pledges of membership in such organizations. Under this plan, simultaneous arrests of officers and leaders of the El Ariete Society, and afterwards of the Union of Russian Workers, were made in many cities, proof of membership and of alien character adduced and the anarchistic purposes of the organizations proven, which finally resulted in the deportation of 247 persons in the *Buford*—nicknamed by somebody the "Soviet Ark." The gathering of the evidence in these cases was a large and difficult task, involving immense labor on the part of the Bureau of Investigation of the Department of Justice, whose splendid work in this important undertaking I am glad to publicly commend.

In the meantime the Communist and Communist Labor parties were born. Their organization, membership, tenets, and tactics were carefully watched and noted by the Department of Justice, the active spirits amongst them were located and finally, on the 2d of January, simultaneous arrests were made in 30 or more cities, in which more than 3,000 alien members of these parties were taken into custody and delivered to the immigration authorities. Since that time hearings have been going rather slowly forward.

I am constrained to believe that these activities on the part of the Government have halted the advance of "red radicalism" in the United States, and that what once seemed like a serious menace of organized revolution has been successfully met. Peace and order have, in the main, been maintained and the public has learned to recognize the horrible face of bolshevism under the disguise of political parties; labor unions have largely purged themselves of these crafty "borers from within"; it has come to be plainly seen that this is no fight between capital and labor, as the ultraradical agitators

insist, but that it is a fight between organized government and anarchy.

But I would not give the impression that the danger is entirely passed. The vigorous enforcement of the law must be continued and the law must be strengthened in order to punish the citizen for the offenses of which the penalty for an alien is deportation. Already there are evidences of reorganization of the revolutionary groups so as to escape the operation of deportation statutes. Naturalized citizens, who as individuals are immune under the present Federal laws, are taking the lead, feeling safe by reason of the difficulty of the Government's making a case under the conspiracy statute.

Mr. FESS. Would it interrupt you to ask whether Congress could cancel the naturalization papers of people who are found to be violating the spirit of the law?

Mr. PALMER. Well, I am inclined to think so if the allegation could be supported that they were obtained by fraud. I think the naturalization papers of such persons who come here not for the purpose which actuated our fathers in coming here, that of seeking a home, but for the purpose of injuring the Government, could be canceled. But, Mr. Fess, it would not be necessary to do that.

Mr. FESS. That is what I wanted to know, whether that would be the only way.

Mr. PALMER. Not if Congress will pass a penal statute of the kind I am going to suggest in a minute.

Mr. FESS. I want to apologize; I did not know you requested not to be interrupted.

Mr. PALMER. That is all right, sir; I only thought that would save time. I do not object to interruptions as a rule.

There are only two sections of the Federal criminal code which may be invoked in dealing with "red radicalism." One is section 4, which makes it a crime to incite, set on foot, assist or engage in any revolution or insurrection against the authority of the United States and the laws thereof. It seems perfectly clear that there must be actual revolution or insurrection before a crime has been committed under this section. The other is section 6, which makes it a crime for two or more persons to conspire to overthrow, put down or destroy by force the Government of the United States, etc. This obviously does not reach individual agitators. A conspiracy in its full legal sense must exist and be proven.

The deficiencies of our present Federal laws are well illustrated by the fact that the bomb throwers, who, with intent only to injure the Government, made murderous attacks upon the homes of Government officials, committed no crime under the Federal statutes. If they had stood upon the sidewalk in front of these homes on the day of their attacks and had publicly threatened to commit the act which they did subsequently commit, the Federal laws would have been powerless to punish them for the threat. A man might walk down Pennsylvania Avenue, in the city of Washington, with a bomb in his hand, intending and publicly threatening to blow up both Houses of Congress while in session, and be immune from prosecution under any general Federal statute; and should he actually proceed to the Capitol and actually explode a bomb with that purpose and with the plain intent of doing injury to the Government, he would commit no crime under general Federal laws, except possibly that of defacing

or destroying Government property. In most instances the local laws either of the District of Columbia—which, of course, happen to be made by the Congress but which are not general laws—or of the various States and Territories might be invoked. A man would commit murder if he assassinated a public officer or be guilty of malicious mischief if he injured his home in an effort to assassinate him. But the crime is one which is not directed against the person or property of the officer, but against the Government of the United States. Officers of the Federal Government, charged with the duty of protecting the Government, plainly ought not to be required to depend upon local laws and local law enforcing officers to deal with situations of this character.

Those who perhaps lack the physical courage to commit acts of violence directed against the Government, but who nevertheless urge others to their commission by the open threat, or promise, or advocacy, written or spoken, of acts of physical force or violence, should be held equally responsible with the deluded wretch who may thus be induced to commit criminal violence. To my mind, the ignorant anarchist who shot down President McKinley was no more guilty than the more intelligent anarchist leader whose theories and teachings led him to commit his crime. Czolgosz was punished with dispatch, but it has taken nearly 20 years for justice to overtake his teacher when Emma Goldman was finally deported.

So I would, Mr. Chairman, apply to the citizen the same rule that would apply to the alien. We should not permit a man to attempt or to actually commit or threaten to commit acts of physical force or violence against persons or property for the purpose and with the intent of injuring or destroying the Government of the United States, and, to my mind, there is no possible violation of the guarantee to the right of free speech in any such proposition as that.

The CHAIRMAN. About how long will it take you to conclude?

Mr. PALMER. I would be glad if I could conclude my general remarks and then take these charges up at another session.

The CHAIRMAN. I shall have to be on the floor, and I assume that either Mr. Garrett or Mr. Pou will want to be there too, for the purpose of bringing a matter up on the floor.

Mr. PALMER. I would like to have you here, Mr. Chairman, and I am willing to go over until to-morrow morning.

The CHAIRMAN. Or would you prefer to go on this afternoon.

Mr. PALMER. I am pretty nearly down to details. Yes; I will be glad to go on this afternoon.

Thereupon the committee recessed until 2 o'clock p. m.

AFTER RECESS.

The committee met, pursuant to recess, at 2 o'clock p. m.

The CHAIRMAN. You may proceed, General.

Mr. PALMER. Perhaps there can be no better illustration of the typical way in which the Third International operates to further its revolutionary intrigue than the connection between it and the recent so-called outlaw railroad strike which began at Chicago in April of the present year. In the bulletin of the provisional bureau at Amsterdam of the Communist International, published in February, 1920, is the following characteristic statement, "Therefore we appeal to the workers of all countries to follow this example and with the

utmost energy to wage the war for their deliverance. They must attack and undermine capitalism, enfeebled already, and the bourgeois state power, by ceaseless mass action (demonstrations, strikes)." The American delegates were in attendance upon the Amsterdam conference purposely to lay plans for cooperation in this direction. The Communist Party in America was already committed to this policy, and there is in its manifesto and program a positive assertion that—

> The Communist Party must engage actively in the struggle to revolutionize the trade unions. As against the unionism of the American Federation of Labor the Communist Party propagandizes industrial unionism and industrial union organization, emphasizing their revolutionary implications. Industrial unionism is not simply a means for the everyday struggle against capitalism; its ultimate purpose is revolutionary, implying the necessity of ending the capitalist parliamentary state. Industrial unionism is a factor in the final mass action for the conquest of power, as it will constitute the basis for the industrial administration of the Communist Commonwealth.
>
> The Communist Party recognizes that the A. F. of L. is reactionary and a bulwark of capitalism.
>
> Councils of workers shall be organized in the shops as circumstances allow, for the purpose of carrying on the industrial union struggle in the old unions, uniting and mobilizing the militant elements; these councils to be unified in a central council wherever possible.
>
> It shall be a major task of the Communist Party to agitate for the construction of a general industrial union organization, embracing the I. W. W., the W. I. I. U., independent and secession unions, militant unions of the A. F. of L. and the unorganized workers, on the basis of the revolutionary class struggle.
>
> The Communist Party and the I. W. W. have been working in close connivance in the United States.
>
> In papers taken from the communist courier on his way to the United States (March, 1920), G. Zinoviev, as president of the executive committee of the Communist International, appealed to the Communist Party in America as follows:
>
> The party must take into account the everyday incidents of the class war. The stage of verbal propaganda and agitation has been left behind; the time for decisive battles has arrived. The most important task confronting the American Communists at the present moment is to draw the wide proletarian masses into the path of revolutionary struggle. The party must have for its goal the dissolution of the American Federation of Labor, and other unions associated with it, and must strive to establish the closest connection with the I. W. W., the one big union, and the W. I. I. U. The party must support the formation of factory workers' committees in factories, thus serving as basis for the everyday struggle and for training the advance crowd of labor in managing industry.
>
> The I. W. W. should take the initiative in trying to establish a basis for uniting all unions having a class conscious revolutionary character, such as the W. I. I. U., the one big union, and insurgents from the American Federation of Labor.
>
> At a meeting of the general executive board of the I. W. W. in the autumn of 1919 the following resolution was carried:
>
> "*Resolved*, The Soviet Republic of Russia in its call for the organization of the third international, including the I. W. W. as one of the bodies eligible to such new international, and,
>
> "Whereas the I. W. W. is the only revolutionary organization in the United States whose program is absolutely scientific and uncompromising and is the logical American unit of the third international; and
>
> "Whereas the proletarian revolution is world-wide and not national or local in its scope;
>
> "Therefore, the time has come for the I. W. W. to assume its proper place as the American unit of the Workers' Red International and to establish closer relations with groups of the same or similar principles in every country, such as the Communists of Russia, Hungary, Bavaria, etc., the Spartacans of Germany, the Syndicalists of France, Italy, and Great Britain, and other countries, and the International Unionists of Canada and Australia; therefore, be it
>
> "*Resolved*, That the I. W. W. shall create a committee on international relations, which shall at once establish and maintain correspondence and fraternal relations with such aforesaid revolutionary groups throughout the world and shall provide for the representation of the I. W. W. as a constituent member of the Third International."

After the collapse of the steel strike a number of the more radical men who had been leaders in that enterprise and were of I. W. W. affiliations, engaged in the endeavor to promote the railroad strike of April. Lists of all railroad men who were members of the Communist Labor and Communist parties were sought, and names of all railroad men opposed to the present management of the Brotherhoods, were also collected.

The fundamental agitation of these leaders was the destruction of the railroad brotherhoods, the removal of their leaders, and establishment of the one big union. At first it was intended that the I. W. W. should not publicly figure in the strike, but Grunau, in Chicago, deviated from the original plans and allowed the workers, who were for the most part innocent dupes in the business, to split the strikers into four separate organizations. This caused some dissention, which has resulted in the movement for the railroad workers' one big union. Several conferences were held at the I. W. W. headquarters in Chicago and at other points in that city. Grunau had gone too far with the four organizations to turn back, and the only way the one big union could be given a start was through the railroad shopmen, who would be urged to strike under the one big union banner and thus persuade Grunau's organizations to reorganize and join them.

It was realized that the I. W. W. could not make headway, because of the prejudice or fear of the three letters, and the fact that the men would not warm up to organization under those auspices. However, the railroad workers' one big union was decided upon as a cover for the I. W. W. One Bidwell, a member of the newly formed Chicago Engine Men's Association, replaced Grunau. Bidwell is confident he can swing the four organizations into the one big union idea, provided the railroad shopmen follow on his plans.

The direct connection, under cover, of the I. W. W. with other bodies of workmen in different parts of the country who engaged in the April strike, is positively established by documents in the possession of the Department of Justice.

One of the things I do not care to state as a fact but which has come to me from so many sources through my agents, or through the agents of the Department of Justice, that I have come to believe it to be a fact is that the outlaw railroad strike was, and is, chiefly financed through the Communist Party organizations. I say "was and is" because, gentlemen, the railroad strike is not over by any manner of means. In many of the large railroad centers transportation is going on only under great difficulties by the use of volunteers in switching locomotives and cars, clerks, and other employees not accustomed to the work being drafted into the service for which switchmen are ordinarily employed.

Agents of the Department of Justice have furnished evidence that the Communist defense fund stamp, which is being sold all over the country, raises a fund, a part of which is diverted for the purpose of supporting this strike. There is not any question about the money being raised by the use of this 25-cent Communist defense fund stamp. The stamp, of course, is a mere receipt for a donation intended for the defense of the communists who are arrested for deportation. The allegation of the communist is that this money goes to a committee of the civil liberties union, I think the name is, of which Mr. Roger

Baldwin is secretary in New York, for that purpose; but repeated statements of men who sell these stamps and thus raise the money lead me to believe that a portion of it, at least, is being used to support this strike.

I have hurriedly reviewed the revolutionary movement elsewhere in the world, shown its international plan, scope, and purpose, and have tried to give you some idea of the progress it has made in this country. I have also touched briefly upon the efforts of the Department of Justice in the enforcement of such meager laws to meet the situation as we found upon the statute books. For it must be remembered at all times that, practically speaking, the deportation statute is the one law which affords any adequate remedy for revolutionary efforts by way of force and violence or the threat or promise thereof. A citizen, of course, can not be deported. As far as the Federal laws go, he can not be punished for a threat or attempt to injure or destroy the Government by physical force or violence, unless the Government is able to prove conspiracy, always a difficult, frequently an impossible thing to do.

To adequately cope with the Red menace, to keep the peace and maintain order in the country in the way the American people expect it to be done, two things were necessary: First, the rigorous, unflinching and expeditious enforcement of the deportation law, and second, the passage of a simple statute, carefully guarding the right of free speech, but providing punishment for the use of force or the threat of violence to injure the Government or destroy its institutions.

I am firmly convinced that the preponderance of American public opinion supports both these things. I am firmly convinced our people want to send back to his own country the plotter who seeks to transplant the chaos of unhappy Russia upon our shores; I am equally convinced that our people want to mete out severe punishment to the citizen, native or naturalized, who joins forces with the alien anarchist in his wicked attempts to injure the Government whose policy of protection to the weak and oppressed alone makes his presence here possible.

CRITICAL OPPOSITION.

But there has been from the beginning an element of loud and critical opposition to this thoroughly American policy of law enforcement for America's self-protection.

The Department of Justice is encountering now the opposition not of an individual, but of a viewpoint and of a class, a class which has seen fit to subject the department and the Attorney General to misrepresentation, abuse, vilification, and ridicule.

This, I am glad to say, has not emanated from organs of partisan politics, proverbially hostile under the American tradition, and usually innocous because so understood, but from the ultra-radicals themselves, and from elements of our people and of our press professing a superior, "advanced" point of view, contemptious of the existing order in all fields, and devoted to critical agitation for constant change in our institutions, our laws, and all our processes of government.

These elements are never sincerely sympathetic with the administration of law and order, which they, in their elevated philosophy,

have regarded as the cruel instrument of injustice rather than the only safe instrument of progress. They are never heartily loyal to the national ideals, since their own notions of perfection seem to them infinitely more worthy of respect. They will point to more defects in our institutions in an hour than to their merits in a lifetime. They find nothing so beautiful in the past as its mistakes, nothing so interesting in the present as its symptoms of trouble, and no prospect so fearful for the future as the possibility that national contentment may remain.

People of this sort, especially in the columns of our so-called "liberal" press, have showered and bedaubed the Department of Justice with their muddy complaints from the moment when, in connection with the other proper Federal authorities, last November and in January, it proceeded to move against alien revolutionary parties. They rushed into the breach of alien Bolshevik defense. They were against the law in this matter and against the policy. They were of the opinion that Bolshevism should be allowed to plot and propagate here without the least discouragement or hindrance. They hailed the advent of Bolshevik revolution, not as, what normal men have known it to be, the most brutal, the most corrupt, the most wickedly fatuous insurrection of mob ignorance in all history, but as an event of triumphant social virtue, led by sublime genius and consecrated to the uplift of the toiling masses. They were deluded. They shut their eyes deliberately upon the true aspects of the Communists bloody and unprincipled dictatorship, its criminalties of assasination and terror, its robberies of expropriation, its unspeakable tyrannies of minority control, its suppression of the press, free thought and voluntary industry, its treasons to national honor, its wreckage of property, its barbarities upon women and children, its persecution of religion, its thousand and one iniquities of incompetence and filth, while they swallowed greedily the propaganda of revolutionary literature and appointed themselves to act the part here of sponsors and apologists and helpers of a set of people and of a program, which, in right American opinion, must remain forever condemned as inherently wrong and impossible. Every active man must have a feeling toward opposition of this character very much like that which a soldier must feel in the trenches when he is annoyed and distressed by mosquitoes and flies, and vermin and mud and pelting rain and similar necessary hardships which a soldier at the front accepts without complaining.

As a personal concern, I would make no attempt to answer. But I wish you to understand that the body of these people is the favorable culture into which the revolutionary agitators place their germs of social treason, and that it is here they grow most rapidly and from here that they are able to do a great deal of damage.

They do it in the press constantly by misrepresentation and deliberate distortion of the news according to their sympathies and predilection.

They do it in the churches by departing from the proper offices of religion and substituting elaborate excursions of intellectualism into fields of sociology and of political science concerning which they have but imperfect knowledge and a very poor understanding.

They do it in the circles of the labor organizations. By their loose talk and mistaken ideas they strive to delude and inflame more conscientious and more practical leaders of laboring men.

They do it in politics by the old cry of "holier than thou" and by forgetting the necessary limitations of human nature and trying to install Utopian institutions in an age of frailty. They become demagogues and professional reformers, and they obstruct real progress.

They do it in the schools by perverting the minds of the young.

They are unrealizing in all this, for most of them are sincere and well meaning enough and do not appreciate the dangers into which their teachings may lead persons less capable of discrimination between philosophy and action. Words of theory are often the triggers which explode acts of violence.

With this class of people, Mr. Chairman and gentlemen of the committee, all good Americanism must take flat issue. We are not living in an ordinary time when it is safe to try out fantastic theories whose successful operation implies forcible changes in our form of government. We are living in a time which compels from us all the loyalty and effort we can muster toward the praise, support, and maintenance of American democracy and its manifold triumphs of accomplishment; its magnificent traditions and its heroic examples; its splendid and appropriate institutions. I have in mind an expression which Robert Louis Stevenson used in one of his novels: "Well, sir, the great thing for the good of one's country is, first of all, to be a good man. All springs from there."

To be a good man to-day for an American is to be a loyal and confident believer in the American method of making progress through the institutions of law and order and in constant accord with the plan of the fathers, whose wisdom, vision, and sacrifice gave to us a priceless heritage of civil liberty, happiness, and prosperity, the fullest, the truest, the richest in all the world.

REPLY TO CHARGES.

Now, Mr. Chairman, to come down to the particular criticisms or charges that have been made against the Attorney General and the Department of Justice by witnesses before you and others; charges which have been brought to your attention by witnesses, I had thought at first that it would be so apparent to any committee of Congress and to the country that these criticisms and charges were a part of the studied propaganda of the ultra-radical revolutionists in America that they hardly deserved an answer; but I was reluctantly convinced that that thought came from my too close touch with the situation and my being apt therefore to forget that others would not see it in the same light. So far as criticism is concerned in this business, Mr. Chairman, I have become accustomed, if not reconciled, to it, for from the first day of our announcement in the Department of Justice that this law and other laws, so far as we could find them which would have the effect of stopping this outbreak of force and violence in America, would be enforced vigorously and without flinching, we in the department have been the subjects of not only bitter criticism, outrageously false and slanderous charges, vituperation, villification, and abuse, but of all kind and manner of threats. My own life is threatened daily. Our mails are choked with communications from men too cowardly to sign their names to them, describing in great and grewsome detail the things they are going to do to the Attorney General and those who are near and dear to him. Knowing how

best to reach any man, they make the same kind of threats against our wives and children, and those who are dearer to us than life itself.

All that has been underground, under cover, but of a kind that frightens no official of the Government, scares nobody, but proves satisfactorily that there is in the country the very danger and menace we have been describing. But out in the open, friends of these criminals become less bold in speech but equally bold in purpose in the kind of criticism and charges that they have directed against the law enforcing department of the Government.

CHARGE THAT THE DEPARTMENT OF JUSTICE HAS DEMANDED EXCESSIVE BAIL.

One of the things that was said here the other day and which has been constantly repeated by these people is that excessive bail has been demanded by the Department of Justice, in violation of the constitutional guaranty.

In the cases of Emma Goldman and Alexander Berkman, the Department of Justice insisted upon not less than $15,000 bail. I believe that the committee can well appreciate the necessity for such bail in the cases of two such notorious anarchists.

It is submitted that the purpose of bail is, in the last analysis, the securing of the attendance of the person concerned. In determining the amount necessary to attain this object the Department of Justice has used as its guide the experience of the Government in previous similar cases.

There have been cases of alien anarchists, against whom deportation proceedings were instituted, wherein the aliens were subsequently released on bail fixed in the usual sum of $1,000 and the Immigration Service was unable to execute the warrant of deportation when issued because of the disappearance of the aliens between the time of release and the issuance of the orders for deportation.

A notable instance is that of Rugero Baccini, a follower of the notorious "Galliani," of "Cronaca Soversiva" fame. Baccini was located and apprehended by Agent Drew, of this department, in Paterson, N. J., on May 16, 1918. Baccini was removed to Ellis Island, given a hearing under the immigration act and released on $1,000 bail. (See photostat copy of letter from the Acting Secretary of Labor, No. 54379/49, dated July 2, 1919, attached. Exhibit 1.)

After his release he took an active part in the bomb plot of June 2, 1919. Without disclosing the nature or source of our information at this time—to do so would be highly detrimental to the Government's interests—it may be stated that he engineered the explosion of the bomb on that date at the home of the president of the Suanaha Silk Co., in Paterson, N. J., Mr. Klotz; just previously several men had been discharged therefrom for agitation, two of them being members of the Era Nuova group of anarchists, one acting as spokesman for the disaffected employees. Subsequent to this dastardly attempt to murder Mr. Klotz and his family, which also would have involved the family in the adjoining house, the bomb having been exploded between the two houses (photos of the effect of the explosion being attached as Exhibit 2) Baccini departed for Italy, where he is at present, according to our information, assisting Galliani in the publication of "Cronaca Soversiva," at Genoa, Italy. The result is that the order of deportation has never been executed.

As a result of the investigations of the Department of Justice, there were recently apprehended some of Baccini's associates and the investigation is still proceeding. Meantime the Department of Justice has requested the Secretary of Labor to institute deportation proceedings with respect of said associates.

Of course, it may be said that if this man escaped or jumped his $1,000 bail and went back to Italy, where he would have gone if he had been deported, that no harm was done by allowing a small amount of bail; but, of course, it will be immediately apparent to the committee that his status as a voluntary exile is very different from his status as a deported alien. Where he returns to the country as a deported alien he makes himself subject to the criminal laws of the country.

Another instance is that of Robert Parsons, an alien anarchist, who was apprehended in Paterson, N. J., through the investigations of the agents of the Department of Justice in Paterson, N. J., and against whom deportation proceedings were instituted at the initiation of said agents. Parsons was taken into custody on an immigration warrant on May 1, 1919, and subsequently released under $1,000 bail. Under date of November 18, 1919, the Assistant Commissioner of Immigration, in his letter No. 54,616/163, advised this department that the Department of Labor had on that day, November 18, issued its warrant directing the deportation of Parsons to Canada. This warrant has never been executed, and our information is that Parsons went to Canada, and from last reports was in Toronto. (Photostat copy of above mentioned letter is attached as Exhibit 3.) It may be stated that at the time of Parson's arrest he had a large supply of the issues of the Anarchist Soviet Bulletin, which he was distributing.

While Parsons was at large, and before the issuance of the order of deportation, the Department of Justice requested that the bail be increased, and the Assistant Commissioner of Immigration, in his letter No. 54616/163, dated August 25, 1919, stated as follows:

> You will note that our Ellis Island office is of the opinion that their present bonds are safe guarantees of surrender upon the basis of evidence now in their possession.

(Photostat copy of above-mentioned letter attached as Exhibit 4.)

It would be interesting to know upon what premises the Ellis Island office predicated its opinion that the "present bonds" were a safe guarantee of the surrender of the alien when desired, for as it turned out he jumped his bail.

Mention has been made before this committee of the question of excessive bail in the case of John Dudinsky and in which the Department of Justice recommended that the bond in this case be not less than $10,000, and which recommendation the Assistant Secretary of Labor overruled and fixed the same at $1,000. In the recommendation made, the grounds for the increase in bond was based upon the fact that Dudinsky had been a delegate to the Communist Party convention in Chicago, at which time its manifesto was adopted, and that he was an organizer in the State of New Jersey for the Communist Party and had actively participated in its councils.

He is well known to the State authorities of New Jersey, as well as to the Federal authorities, and in view of his particularly aggressive and pernicious activities the recommendation for $10,000 bail was deemed warranted. The Assistant Secretary of Labor, I believe, has maintained that the facts set forth in the recommendation were not

sustained in the record. At this time I desire to call the committee's attention to a fact which I believe has been entirely ignored, namely, that under the ruling of the Assistant Secretary of Labor the function of the Department of Justice ceases as soon as the warrant of arrest is issued. The Department of Justice is not accorded the privilege at the hearing to examine witnesses, to cross-examine witnesses, nor to review the record when completed. I fail to find in the files of the Department of Justice any request from the Department of Labor to the Department of Justice to substantiate the facts set forth in its letter recommending an increase of bond in the Dudinsky case. It occurs to me that had the Assistant Secretary been desirous of enforcing the law that he would have called the attention of the Department of Justice to the fact that the statements set forth in the letter of recommendation were not borne out in the record, and that he would appreciate it if the Department of Justice would submit the necessary evidence. Such was not done, and the first knowledge we had of the fact that the record in the Labor Department was defective was when the Assistant Secretary appeared before this committee and made the statement to that effect. In his statement the Assistant Secretary said the inspector is not a prosecutor. If such be the case, then it surely should follow that at least some branch of the Government should perform the functions of counsel for the people. I might say in closing with the Dudinsky case that on the night of May 11, 1920, after Dudinsky had been released by the Assistant Secretary of Labor, a meeting was held at No. 57 Beacon Street, Newark, N. J., composed of members of the Union of Russian Workers, Communist Labor Party, and Communist Party of America, for the purpose of reorganizing all radical groups. At this meeting the following-named persons were present:

Sam La Gransky, secretary of the Communist Party, and in which case the Department of Justice recommended that his bond be fixed at not less than $10,000.

John Koltzoff, arrested on January 3, 1920, under immigration warrant.

George Arlov, member of the organizing committee of the Communist Party, and arrested on January 3 under an immigration warrant.

Roman Kunsiga, arrested on January 3 under an immigration warrant and in which case recommendation was made by this department that bail be fixed at not less than $10,000.

John Dudinsky, the subject's case now under discussion.

Demian Vlasoff, member of the Union of Russian Workers and an anarchist.

This group, all of whom had been released by the Department of Labor, met but two weeks ago, after the ruling of the Department of Labor upon the Communist Labor Party, for the purpose of endeavoring to join together again for revolutionary activities. At the meeting on May 11 Koltzoff, who claims to be in close touch with Martens, stated to the group that he had been informed by a member of the Martens staff that the decision of the Department of Labor upon the Communist Labor Party would be upheld and that the Communist Labor Party will have the best opportunity to organize all of the working classes of America to seize industries and when that is accomplished the overthrow of the present Government will be a minor thing. It will thus be seen that the recommendation of the

Department of Justice for bond of $10,000 in these cases was not so wholly unwarranted. These men had been arrested on January 2 for revolutionary activities, after careful investigation by the Department of Justice. In view of the meeting of May 11, it would appear that that recommendation was well warranted. I can not concede the point that the Government should go to the expense of arresting a willful violator of the laws of this country and release that violator upon an insignificant bond which in no ways deters him from again committing his act nor insures his presence when desired.

Another instance which may be well for the committee to consider, wherein this department witnessed the result of fixing a low bond in the case of a pernicious agitator, was the case of Alexander Stocklitzky, an alien arrested upon a warrant of the Secretary of Labor in August, 1919. This alien was arrested for his communistic activities, as well as for his threats of force and violence. He was accorded a hearing in September, 1919, and released upon $1,000 bond over the objection of the Department of Justice. He proceeded to Gary, Ind., during the course of the steel strike and there openly urged the workers to seize the guns and turn them on the soldiers—the soldiers of the United States—who were there to preserve the laws of this country. Again the Department of Justice urged that bond be increased to $10,000 and again its recommendation was ignored. Stocklitzky was directly instrumental for the formation of the Communist Party in the United States; he was a typical, vicious Russian agitator. Four times the Department of Justice recommended that this man be taken into custody and released upon not less than $10,000 and not once was its recommendation acted upon, until December 15, 1919, when the Department of Labor did order Stocklitzky to surrender himself, and to date they have been unable to find him. This is an instance wherein $1,000 bond was fixed and an active agitator has worked to the detriment of the interests of the United States. After experiencing such instances, I have consistently recommended $10,000 bonds in all cases of aliens who have been actively identified or actively responsible for the revolutionary movement in the United States, and I maintain that my recommendation has been well warranted and based upon the facts ascertained by the Department of Justice, for in many instances where the agitators have been released upon small bonds, they but go back reinforced in their determination to agitate against the Government, as is shown by the meeting in Newark, N. J., on the night of May 11.

Another instance which it may be well for the committee to know of is that of Matthew Furshtman, an alien and a member of the Union of Russian Workers, who was arrested on the night of November 7, 1919, in the city of Philadelphia, while delivering a lecture at a meeting of the Union of Russian Workers. Spread out upon the table before Furshtman while he was addressing the meeting was a notebook of notes made by him, as well as a copy of Novimirsky's Manifesto upon Anarchism, which was published by the Union of Russian Workers and in which open advocacy of force and violence appears. Both of these books were open, and it was apparent that Furshtman was basing his lecture upon the contents of his notebook, as well as "Novimirsky's Treatise upon Anarchy." Furshtman was taken into custody and finally ordered to be deported after many representations made by the Department of Justice in this case. In addition,

there was obtained against Furshtman on the night of his arrest other correspondence showing that Furshtman had been actively identified with the Union of Russian Workers, an anarchistic organization, and in view of the fact that he was taken into custody in the act of delivering a speech, the department maintained then and maintains now that it had a perfect case against the individual which was sufficient to warrant deportation. Deportation was ordered, but his attorneys made representations to the Department of Labor to the effect that if Furshtman was deported to Russia, such deportation would be disastrous to him physically, as it was claimed that he had but one lung and was suffering from tuberculosis. I am not aware as to the actual physical conditions of this subject as found by the medical examiners, but I do know that even though he had but one lung it was sufficiently strong for him to deliver to a group of Russians, noncitizens of the United States, a lecture on anarchism. I recommended that he be among those to sail on the *Buford*, but my recommendation was ignored, and to-day Furshtman is at large upon $1,000 bond.

The claim has been made that the Department of Justice has recommended excessive bail in order that the alien may not be permitted to be at large. Such is not true. The purpose of the Department of Justice for asking bail in $10,000 or $15,000 amounts is not based upon the desire of preventing the subject from obtaining bail, but is based upon the fact that a person who is an active and pernicious agitator should be required to furnish bail in sufficient amount to guaranty his production, which was not done in the case of Alexander Stocklitzky. It might be of interest for the committee to know some of the facts in the case of Martens, the so-called bolshevik ambassador in the United States. I do not believe that anyone will maintain that Mr. Martens is financially embarrassed, for it is a well-known fact that he has ample funds. The Department of Justice prepared the case for deportation against Martens, clearly showing that Martens was a member of an organization which had for its purpose the overthrow of the Government of the United States by force and violence. A warrant of arrest for Martens was requested by the Department of Justice, with recommendation that bail be fixed at not less than $10,000. Mr. Abercrombie, then Acting Secretary of Labor, issued the warrant of arrest and fixed the bail at $10,000. Subsequent thereto, however, Mr. Post canceled the bail and released him into custody of his attorney. I can not see the justification of this act. Martens, it was well known, was well supplied, as I have stated, with funds and could have met the obligation of furnishing $10,000 bond. A member of his staff, Gregory Weinstein, was arrested and bond fixed at $10,000 in his case and promptly furnished. Certainly it could be not claimed that the reason for the cancellation of bond in the Martens case was based upon the fact that to have fixed bond at $10,000 would have resulted in Martens's detention, so the argument made upon that point by officials of the Department of Labor, I do not believe, would stand examination.

Reference has been made before this committee to the case of Paul Bosco, an alien whose bond was reduced to $1,000 by the Secretary of Labor, it being claimed that to have held him at a higher bond would have resulted in his detention, since he was financially unable to furnish that amount. It might be incidentally stated that the

Department of Justice made no recommendation in regard to the bond in the Bosco case, but it has been inferred that the Department of Justice would have approved a bond of $10,000. I, without any hesitation, will state that the Department of Justice does feel that Paul Bosco should have been held in custody until bond of $10,000 was furnished, in view of the pernicious character of this individual. Upon completion of his sentence at the penitentiary, he specifically said he would like to have seen the red flag waving over the American flag. My idea of Americanism and the preservation of its institutions would never lead me to believe that such a remark was made in a facetious mood. Examination of the character of Paul Bosco is clearly indicative of the nature of that individual, and that statement plainly shows his ultimate desire and purpose. Any alien giving expression to such sentiment after having been convicted and served sentence, to my opinion, should not have been released upon less than $10,000 bond.

Considerable comment has been made in the daily papers and certain correspondence has been published by the Department of Labor upon the case of Roberto Elia, an alien taken into custody in the city of New York.

I think it is referred to in these recent charges which are either filed here or have been published throughout the country by a committee of lawyers.

The CHAIRMAN. I will state a copy has been sent here. I do not think they have been formally filed, but my attention has been called to them.

Mr. PALMER. In that case a warrant of arrest was issued by the Department of Labor in March, 1920, upon the request of the Department of Justice. I might state for the information of the committee that in February, 1920, a raid was made upon a group of anarchists in the city of Paterson, N. J., and from the evidence obtained at that time certain investigations were started in New York City which resulted in the apprehension of two Italians, namely, Andrea Salsedo and Roberto Elia. Both of these men frankly admitted that they were anarchists. Subsequent to the issuance and before service of the warrants could have been effected, Salsedo and Elia disclosed some very important information in connection with the bomb plot of June 2, 1919, and with their consent and the consent of their attorneys they remained in the Department of Justice Building in New York City until the information furnished by them could be verified and other persons interested in the bomb plot could be located.

Salsedo admitted that he had printed Plain Words, a pink circular found at the various residences bombed on the night of June 2, and Elia admitted that he was in the print shop when the circular was printed; that he was there when it was delivered to Carlo Recchi, and that he [Elia] had been connected with the notorious anarchist Galliani, who has now been deported; that he [Elia] had participated in the printing of the "Cronaca Soversivia," one of the most vicious anarchist papers in the United States; that he [Elia] was interested in the printing of the "L'Era Nuova" and "Domani," and was well acquainted with many notorious terrorists in the United States. As stated, Elia remained voluntarily with the consent of his attorney at the Park Row Building of the Department of Justice,

and his presence there was unknown to the general public until Salsedo committed suicide this month. Then, of course, the fact of the presence of Elia in the Park Row Building became known and the Department of Labor took occasion at that time by implication and inuendo to claim that the Department of Justice had been exceeding its authority in holding Elia, and I believe the Assistant Secretary directed an investigation of the matter at Ellis Island, to ascertain whether or not the warrant had ever been served and to endeavor to prove that the Department of Justice was holding Elia without warrant. He did not inquire of the Department of Justice as to the facts in the case. He did not know that Roberto Elia had willingly stayed in the office of the Department of Justice and his attorney Donato had consented to his presence there. Elia was never questioned except when his attorney was present. The death of Salsedo handicapped to a certain extent the investigation being made by the Department of Justice, for the individuals who were under surveillance naturally became more cautious in their movements and some of them have disappeared entirely. In view of the attitude of the Department of Labor, Elia was immediately turned over to the authorities at Ellis Island. When he was transferred to the Labor Department, request was made by the Department for bond to be fixed at not less than $15,000, in view of the fact that Elia was actively identified with the bomb plot of June 2.

I submit to the committee the proposition that any alien who has admitted that he is an anarchist and has been one for many years; that he was an intimate associate of Galliani, one of the most notorious anarchists in the United States; that he participated in the printing of Cronaca Sovversivia, a vicious anarchist newspaper; that he was interested in the printing of the L'Era Nuova, an anarchist newspaper; that he was interested in the printing of Domani, a vicious Italian newspaper, published in the city of New York; that he was present when Carlo Recchi came to his print shop and conferred with him and Salsedo for the printing of "Plain Words," the circular in which open advocacy of murder appears; that he was present when this circular was printed; that he was present when the circular was delivered to Recchi; and that he was on intimate terms with the leading terrorists in this country. I submit to the committee that when these facts appear against a man the Department of Labor would be well warranted in fixing his bond at $15,000 and more.

The statement has been made that if Roberto Elia was in fact actively identified with the bomb plot that he should not be deported but that he should be criminally prosecuted. It seems to me that it would be folly for the Government to prosecute its own witness. All anarchists live in fear and terror of their own associates and comrades, and if Roberto Elia was released upon a nominal bond it is but natural that he would disappear entirely, in order that he might not be compelled to testify in a criminal court against his associates. I do not find in the letter addressed to the Department of Labor, in which bail was requested at $15,000, that the Department of Justice specifically asked that Elia be deported at once. Even after deportation is ordered the carrying out of the order is often suspended pending the outcome of other proceedings. It is customary in many cases to have warrants of arrest issued by the Labor Department and the same stand in abeyance until the charges in the State or Federal courts have been disposed of. I cite the case of Mollie Stimer, in which case a warrant was issued by the Department of Labor, and now Miss Stimer is confined in the Jefferson City Penitentiary, serving a term of 15 years for a violation of the espionage act. Prior to her incarceration in the Jefferson City Penitentiary she was at Blackwell's Island, serving a term of six months for the violation of the New York laws. So there is nothing novel in the Elia case, which would subject it to criticism by anyone who is fully conversant with the facts.

It has been particularly exasperating to the Department of Justice to find, after a man has been arrested and the pernicious nature of his activities clearly established, that he should be released upon a minimum bond which in no way is sufficient guarantee for his production when desired and is far from a guarantee for the best interests of the United States. In connection with this particular phase of the bond question, it might be well to make mention of the attitude of the Department of Labor in its delay in deportation after the same has been ordered. I do not believe that the Assistant Secretary of Labor is in favor of the same method of deporting aliens as was followed in the *Buford* case. That matter was effected without his assistance. At the present time there is no deportation going forward toward Russia, though the War Department and the Department of Justice has been ready to make the necessary arrangements.

THE CASE OF GEORGIAN.

A notorious case which has been the subject of considerable comment, both in and out of official circles, is the case of Alexis Georgian, a case which I believe it would be well for this committee to inquire thoroughly into, if it has not already been done by the Committee on Immigration. I understand that a large portion of the file in the Alexis Georgian case has disappeared, and it may be this portion of the file that would prove of most interest to the committee. The Alexis Georgian case has been pending for over a year. In his behalf, strong influences have been brought to bear and requests have been made by the Department of Justice frequently for his deportation. On May 28, 1919, nearly a year ago, the Acting Secretary, Mr. Abercrombie, stated that it had been found that Alexis Georgian had advocated the overthrow by force or violence of the Government of the United States; that he had been found to have been advocating the unlawful destruction of property, and that a warrant of deportation had been issued by the Department of Labor. Subsequent thereto the file in the Georgian case was opened for inspection to the Minneapolis Labor Review, and this act in itself was sufficient to have exposed to assassination men in the secret service of the State who had gathered the evidence against Georgian. After many communications had passed between the governor of the State and officials of the Government, and after frequent requests from the Department of Justice, Alexis Georgian was finally moved to Ellis Island in December, 1919. He had owned in the city of St. Paul a book shop at which radical literature of all nature was sold.

His reputation in the State of Minnesota had been most odious, incensing the public opinion to such an extent that representations

were made to members of the United States Senate and to the President himself, urging that the warrant of deportation be carried out. Upon his removal to Ellis Island a writ of habeas corpus was sued out in the United States District Court for the Southern District of New York, and when Judge Knox, who presided in the case, called for the evidence in the case, it was found that one-half of the exhibits in the case upon which the warrant of deportation had been issued had disappeared in a most mysterious manner. The Department of Justice again came to the rescue and obtained duplicate copies of the missing evidence where it was possible. I have the decision of Judge Knox, which I believe should be made a part of this record, in which he reviewed the evidence upon which Georgian was ordered to be deported and in which he came to the following conclusion:

> His purpose was to aid in fanning the fires of discontent and while within limits, this may be entirely lawful, the purpose he had in mind was, I think, the forcible overthrow when convenient of this Government.

The attitude of Georgian himself may be appreciated by the following statement made by the subject:

> Here I will put President Wilson on the bum; I don't give a damn for the President of the United States or anybody else. Russia is the only place. They don't dare to do anything to me. I am not an American citizen.

Judge Knox dismissed the writ of habeas corpus and remanded the alien into the custody of the Acting Commissioner of Immigration at Ellis Island. To date Alexis Georgian has not been deported, but he is at present at large in this country on a bond of, I believe, $3,000. I submit to the committee for its earnest consideration whether such a man should be permitted to remain in the United States indefinitely and be permitted to continue to carry on his agitation, for even subsequent to his warrant of deportation in May, 1919, Georgian continued to sell at his bookstore in St. Paul copies of unlawful publications and defying even then the authority of the United States. Deportation to Russia can be effected and I but desire that the Department of Labor request me to make the arrangements for an early deportation to that country, and those arrangements will be made within a period of two weeks. There is no reason for delay in such mattersw,hen the preservation of the institutions of this Government are at stake. I trust that this committee or the Immigration Committee will see fit to inquire into the case of Alexis Georgian and, if possible, to find out where the missing files have gone.

Another case of interest is that of Timofey Sawchenko, of Pittsburgh, Pa., who was arrested in January, 1920, charged with membership in the Communist Party and released upon $1,000 bond. On May 17, 1920, he was again arrested, having brought into Pittsburgh from New York two suit cases filled with thousands of Communist leaflets for distribution.

Under date of May 20, 1920, the superintendent of police of Waterbury, Conn., speaking of the critical situation existing in that city, stated that the released aliens could be counted upon to make trouble and that he assumed that the Department of Justice would be powerless to act in case of trouble in Waterbury, due to the attitude of the Labor Department.

It is submitted that experiences such as those described above not only justify the insistence on the part of this department of sufficient bail, but actually necessitates the fixing in the first instance of

adequate security, and the Department of Justice maintains that $1,000 bail is insufficient in the cases of alien anarchists actively engaged in agitation work in these proceedings.

In this connection I am not unmindful of the observations of Mr. Cooley (Constitutional Limitations, 7th ed., p. 439) that—

> * * * In determining this (that is, the amount of bail), some regard should be had to the prisoner's pecuniary circumstances; that which is reasonable bail to a man of wealth being equivalent to a denial of right if exacted of a poor man charged with the life offense. * * *

because it is well known that in these cases the bail is raised not by the alien himself but by the organization or group with which he is affiliated, or as in the case of anarchists of the individualist or terrorist type, their comrades, acting not as an organization or group, but as individuals working to a common purpose, viz, preventing the deportation of their associates with the consequent penalty that they would be unable to return to the United Stateas after deportation without subjecting themselves ipso facto to a criminal action in this country and the chance of being turned over to the authorities abroad in the event of deportation.

In this connection consider the cases of Fred Fedetoff and Tony Taizhin, two alien anarchists from New York, who were arrested in Bayonne, N. J., on March 7, 1918, where they made a speech, saying, among other things:

> Arm yourselves. Go out and kill everybody * * * Wilson is sending the boys over on the other side for the big men with the money. * * *

They were both convicted and sentenced to terms of from 5 to 10 years and 3 to 5 years imprisonment, respectively. An appeal was taken and they were released under $20,000 bail each, which was later reduced to $10,000 each. The decision was affirmed in the New Jersey Supreme Court, and then appealed to the New Jersey Court of Errors and Appeals, where the decision was recently upheld. When the sureties were called upon to produce these two defendants, it was found that they had disappeared. The Surety companies have offered a $1,000 reward for each alien and requested this department to endeavor to effect their apprehension, which, to this date, it has been unable to accomplish.

These two aliens were active members of the Communist Party, and, according to our information, Fedetoff was a general organizer on the staff of Mr. Martens, self-styled Soviet ambassador. Surely the bail was not provided by these aliens themselves. Undoubtedly, it was raised either by the Communist Party or through Mr. Martens. Even $10,000 was not sufficient to secure their presence when required.

It is to be noted that in connection with the Elia case mentioned above, wherein the Department of Justice recommended an increase of bond to $15,000, that the Assistant Secretary, while increasing the bond to that amount, saw fit to give out for publication the entire correspondence between the Department of Justice and the Department of Labor, but the Assistant Secretary has not yet officially advised the Department of Justice that bond in the case was increased and the only information which the Department of Justice has upon the subject is that obtained from the daily papers.

The Assistant Secretary has seen fit to create in the city of Detroit a committee known as the "Advisory committee of Detroit citizens," who are composed of persons in no way officially connected with any

Government department, but who have access to all of the Government records and upon whose recommendation the Assistant Secretary acts in regard to release upon bond. A telegram sent to the inspector in charge of the Detroit immigration station under date of May 14, is illuminating:

P. L. PRENTISS,
Inspector in Charge, Detroit, Mich.:

Upon recommendation of the advisory committee of Detroit citizens, bail in the following cases is reduced to $500 (then follows the names of 10 cases). Should the committee so elect, the alien may be paroled in lieu of bail to the committee or to such member thereof as the committee may designate.

LOUIS F. POST, *Assistant Secretary.*

Thus, we see that the duly authorized representative of the Department of Labor at Detroit has been supplanted by a so-called "advisory committee of Detroit citizens," who recommend upon cases of bond and upon cases of release. I fail to find any provision in the immigration law for such a body.

We see, Mr. Chairman, that although the recommendations of the Department of Justice, which has made recommendations and presented the facts about these men, are constantly ignored, the Assistant Secretary acts upon the advice and recommendations, in releasing these people upon bail, of an unofficial committee of persons selected by himself. I know of no law which permits such a thing.

CHARGE THAT ARRESTS WERE MADE OF PERSONS IN IGNORANCE OF ORGANIZATION.

The charge has been made that many aliens taken into custody and against whom technical membership had been proven were in ignorance as to the character of the organization, and I am assuming in view of that charge, although I do not know that that specific reason has been alleged for release, has it, Mr. Hoover?

Mr. HOOVER. No, sir; it has not.

Mr. PALMER. However, the charge is made.

I call the committee's attention to section 2 of the constitution of the Communist Party of America, which is as follows:

Applicants for membership shall sign an application reading as follows: "The undersigned after reading the constitution and program of the Communist Party declares his adherence to the principles and tactics of the party and the Communist International; agrees to submit to the discipline of the party as stated in its constitution and pledges himself to engage actively in its work."

This is the provision in the constitution of the Communist Party and it must be assumed that an organization having a constitution enforces the provisions thereof; I believe that this is a reasonable assumption. In other words, an organic law must govern. Such has been the ruling of the Labor Department when the organic law does not contain in their opinion open advocacy of force and violence, as shown by their ruling upon the Communist Labor Party. In that case the Labor Department refused to consider any evidence other than that contained in the organic law. If the alien signs such an application for membership, should his mere allegation of ignorance, when arrested, overturn his written declaration, made when there was no necessity for evading the consequence of his act?

The immigration act of October, 1918, provides for the exclusion and deportation of aliens who at any time subsequent to entry have become "members of or affiliated with an organization that entertains a belief in, teaches, or advocates the overthrow by force or violence of the Government of the United States, etc." Therefore, mere membership or affiliation ipso facto brings an alien within the act. It is submitted, in this connection, that a knowledge of the program, constitution, and other outlines of the purpose of the organization has no bearing in the cases in so far as that particular clause is concerned.

But assuming that many of the members of these organizations are not fully conversant with all of the subtle and complicated doctrines and philosophy of the programs of these organizations, it is a fact that they do know the fundamental and major principles, viz., the overthrow of the so-called bourgeoise or capitalist state, the expropriation of property and industry and the setting up of the dictatorship of the proletariat, and it follows that they subscribe to these doctrines, else they would not affiliate, accept membership, or attend the meetings of these organizations.

It may be pointed out that the law makes it mandatory upon the Secretary to deport when he is satisfied that an alien falls within the proscribed classes. The law provides that he shall deport, not that he may or can, etc.

The Secretary of Labor has definitely held that the Communist Party of America is one which is proscribed by the immigration act, hence mere affiliation with it, per se, is a cause for deportation; and it is outside the province of the Assistant Secretary to consider extraneous matters, such, for instance, as the sufficiency of knowledge on the part of the alien of the philosophy, teachings, doctrines, etc., of these proscribed organizations. The sole question is whether the alien is in fact a member of or affiliated with, and there being "some" evidence proving such membership or affiliation, he is justified in issuing an order for deportation and where, as in many of these cases, the evidence is persuasive and conclusive then it is his duty to deport, and in this connection the question as to how the evidence was obtained is not before him, and the proceedings being of a strictly administrative nature, not criminal or quasi criminal, he has no concern in the methods of obtaining the evidence.

CHARGE THAT ONLY THREE PISTOLS FOUND IN RAIDS.

The charge has been made that in the sweeping raids made by the Department of Justice there have been but three pistols found.

In a letter from the chairman of the committee it is stated that Mr. Post testified before this committee as follows:

With all these sweeping raids all over the country there have been three pistols, I think it is, brought to our attention in the scores of cases that have come to us. Three pistols, two of them 22 caliber. Now, I do not know whether a 22-caliber pistol is a homeopathic pill for a bullet or a cannon ball.

I should imagine that the Assistant Secretary of Labor would have informed himself both as to the dangerous character of a 22-caliber revolver and as to the actual number of guns and dangerous weapons obtained in the raids.

A 22-caliber revolver when used at close proximity is far from a small boy's play toy.

It might be interesting for the committee to see a picture of the results of the raids in Newark, N. J., on the night of January 2

(Exhibit 5). This picture will show the committee that a number of rifles—in fact, 12 in number—were obtained at the meeting place of the Communist Party, and that in addition to those 12 rifles there were also found two revolvers and four bombs.

Mr. VAILE. Those rifles being Army rifles, General, with bayonets?

Mr. PALMER. Yes; the committee must bear in mind that this was in the city of Newark alone.

On the night of November 7 in the city of Newark, when arrests were made of Union of Russian Workers, three revolvers and two automatics were found, three of them being of large caliber. On the night of February 14, 1920, when arrests were made of members of the L'Era Nuova group, 24 in number, and in whose cases the Assistant Secretary of Labor has canceled warrants of all but four, five revolvers and two automatics were found, four of them being of large caliber. This is the story of the guns found in the city of Newark alone.

In the city of Providence three guns were found; in the city of Philadelphia three guns were found; in the city of Hartford three revolvers, one shotgun, one pair of brass knuckles, and one bomb were found; in the city of Cleveland five guns were found; in the city of Chicago five guns were found; in the city of Toledo one gun was found; in the city of Buffalo many guns were found, the exact number not given; likewise in the city of Los Angeles. These are the reports from only a portion of the country, but it clearly shows that the Assistant Secretary of Labor was absolutely in error when he made the somewhat facetious remark before this committee that but three revolvers were found in the entire country, two of which he did not know but that they "might be homeopathic pills for a bullet."

Of course, that is immaterial. The number of revolvers found can in no sense be an element in a determination of the potential danger of these aliens.

CHARGE THAT THE DEPARTMENT OF JUSTICE HAS IN ITS SERVICE PROVOCATEUR AGENTS.

Mr. Ralston, attorney for Mr. Post, stated that the agents of the Department of Justice were stirring up the unrest in this country and were creating communist branches.

It can be emphatically stated that the statement of Mr. Ralston is a deliberate and unwarranted falsehood. It is to be noted that his statement is not sustained by any citation of facts, but is characterized by generality, in which he has been pleased to indulge during the entire course of the hearings before the Rules Committee.

Considerable publicity has been given to statement attributed to Judge Anderson, of the Federal Court in Boston, Mass., which was to the effect that the Government owned and operated a part of the Communist Party, and similar publicity has been given to a statement of Swinburne Hale, who before the Secretary of Labor charged the Department of Justice with the employment of provocateur agents and with the employment of one Louis C. Fraina, secretary of the Communist Party of America. In regard to this statement by Mr. Hale it is sufficient to note that his statement was made on April 24, and Mr. Hoover, representing the Department of Justice at

the hearing, challenged him to substantiate the statement and Mr. Hale stated that he would be glad to do so within 10 days. To date one month has elapsed and nothing has been heard from Mr. Hale.

The statements of Judge Anderson are apparently based upon a letter of instructions issued by the Bureau of Investigation under date of December 27, 1919, being the instructions preliminary to the arrests of January 2, 1920, when a large number of communists were arrested simultaneously in 33 cities in the United States. These instructions, among other things, contained the following statement:

> If possible, you should arrange with your undercover informants to have meetings of the Communist Party and the Communist Labor Party held on the night set.

This letter was introduced at the hearing before Judge Anderson in Boston and apparently the presiding judge jumped at the conclusion that such a statement was indicative of operation of the Communist Party and that the agents of the Department of Justice were engaged in the creating of the unrest prevalent in the United States at that time for ulterior motives. There is not a single employee of the Department of Justice at this time or at any time under my administration who has in any way actively participated in the councils of the Communist Party, the Communist Labor Party, or any other revolutionary organization under investigation in a manner which would stamp him as an agent provocateur. To be sure, there are employed in the Bureau of Investigation confidential employees whose duty it is to obtain information upon the activities of the radicals in this country and in pursuit of that duty they have joined organizations of an illegal character for the purpose of obtaining such information. There is certainly justification for agents becoming connected with aliens for the purpose of finding out what they are doing, but I challenge anyone to show that a single employee of the Department of Justice has ever organized a branch of the Communist Party or the Communist Labor Party or been instrumental in the carrying out of its principles and program.

Let me say, Mr. Chairman, in passing, that I have taken personal pains to inquire and satisfy myself as to the character, ability, and general worth of every one of the so-called under-cover agents of the Department of Justice. Of course, there are nothing like as many of them as the friends of the ultraradicals in the country would have the country believe; but it is a fact that we do have in the Department of Justice some men of splendid character, of unusual intellectual attainments and of a wonderfully high order of physical courage, who take their lives in their hands daily in association with the criminal classes.

The appointment of such persons has been at all times carefully guarded by the fullest investigation as to their character and reliability and other qualifications, and I am satisfied from everything I can learn that these men, although few in number, constitute a splendid brigade for the enforcement of the law in the United States.

In connection with the letter of December 27 and the misinterpretation placed thereon by the court in Boston, a communication was forwarded to the Division Superintendent of the Bureau of Investigation on April 21, 1920, by the Chief of the Bureau of Investigation in which an explanation is given of the meaning of the sentence referred to in the letter of December 27. The court at Boston, how-

ever, while keen and over-anxious to see the confidential letter of instructions of December 27, 1919, flatly refused to permit the letter of instructions of April 21, 1920, to be introduced which was an explanation of the sentence considered so obnoxious by the court. There is attached hereto a copy of a letter of April 21 which I would be pleased to have made a part of the record. (Exhibit 6.)

This letter explains in detail the purpose and the only sensible construction that could be drawn from the letter of December 27. It is sufficient to state that the meeting night for the Communists was set for January 2, 1920, which was the regular meeting night in all parts of the country. In a few instances the the Communists had postponed or planned to postpone their meetings from the second to some other night in the week for various reasons, and it was in these cases that the confidential employees of the bureau were instructed to endeavor to have the meeting held on the regular meeting night. It was not a case of having a special meeting called for the purpose of making arrests, it was not a case of taking aggressive action against the Government, but it was merely a case of insisting that the meeting should be held upon the regular night. There was to be a meeting on some night during the week, and I could see no objection why the effort should not be made to have the meeting held on the scheduled night. I might state for the information of the committee that to my knowledge there were only two instances where such postponement had occurred, so the impression which has gone broadcast to the effect that hundreds of meetings were scheduled for that night through the instrumentality of the agents of the Department of Justice is wholly erroneous and no one, unless maliciously inclined, can claim that a single agent of the Department of Justice has ever actively engaged in revolutionary activities in any of the organizations of which they may be members.

Evidently the reason for those instructions was based upon the confident belief on the part of the Department of Justice that if this statute would be enforced in good faith these arrests ought to be made simultaneously in the country. They were simultaneous arrests, called raids, a process common among the police forces of every city and State and country in the world, and made simultaneously for the obvious reason that if we would enforce the statute we had to take them all at once; that if we had arrested a dozen, for instance, in the city of Newark and Paterson or some other town in the East we would never have been able to gather in the rest, because the news of that arrest would have been carried on rapid wings everywhere throughout the country.

We have been condemned for making what were called wholesale raids. If there be any fault in that, I accept the responsibility for it. We made simultaneous arrests, because we wanted in good faith to carry out the purpose of the Congress.

An effort has also been made by certain individuals to compare the investigating agency of the Department of Justice with private detective organizations. No one with a deliberate and calm mind and desiring to be fair and just in his conclusions could come to such an erroneous and wholly unfounded and illogical conclusion. A private detective agency renders its services for compensation, and it may be claimed that where a condition is improving that the agency may lose financially thereby and for that reason might be

desirous of continuing the agitation. There have been one or two isolated cases of unethical action upon the part of detective agencies, but it is by no means general. However, the Department of Justice renders its services for the protection of the laws, the Constitution, and institutions of the United States and to stir up unrest would be to defeat the very purpose for which it is operated and the insinuations and innuendo which has been cast against the Attorney General that he has made capital out of red agitation is a deliberate and base falsehood, and in no instance can facts sustain such charges. These charges generally eminate from the pale-pink parlor bolsheviks and from the mouths of the friends of the radicals.

A request has been made of this committee for the Department of Justice to submit the instructions and reports of Herman Bernhard, whom counsel for Mr. Post states was an undercover agent of the Department of Justice in becoming recording secretary of the Communist Party local at Buffalo, N. Y., and in securing adherents to the Communist Party at Buffalo.

I desire to advise the committee that Mr. Herman Bernhard was appointed as a special agent and not as a confidential informant of the Department of Justice on January 20, 1920, 20 days after the raids on January 2. His employment by the Department of Justice in January, 1920, was his first employment in the service of our department. Prior to that time he had been employed by the Lusk Committee and what his work was with that organization is entirely unknown to this department. It is sufficient to state that Mr. Bernhard is not a confidential employee and has at no time while employed in the service of the Department of Justice been an officer in or agitator for the Communist Party.

Thus does one agent provocateur fall to the ground.

The attorney for Mr. Post in the letter to the committee of May 13, 1920, desires that the Department of Justice furnish the instructions and reports of one Cameron, representing the department in attending the meetings of the Communist Labor Party at Chicago, August 30, to September 5, 1919. There is no employee, special agent, or confidential informant employed by the name of Cameron in the service of the Department of Justice.

CHARGE THAT LOUIS C. FRAINA AN AGENT OF THE DEPARTMENT OF JUSTICE.

The charge that Louis C. Fraina was an agent of the Department of Justice has been circulated quite frequently through the instrumentality of Mr. Martens and his associates in this country and as I above stated was openly charged by Swinburne Hale. I had ignored the charge that had previously been made which emanated probably from the soviet bureau in this country, due to the fact that I considered the source from whence it came, but when an attorney appearing in argument before another Cabinet officer directly charged that Fraina was an agent of the Department of Justice, I deem it only proper that a denial should be made of it. I also deem it proper that this committee know the facts in connection with the Louis C. Fraina case, which may prove illuminating to them and to the general public.

Louis C. Fraina is an alien who was actively identified with the left wing movement in the Socialist Party prior to its crystallization in the Communist Party. Fraina was in a large measure responsible for the contents of the manifesto of the Communist Party which has been ruled by the Secretary of Labor to be a document which advocates the overthrow of the Government of the United States by force and violence. Fraina actively engaged in the organization work of the Communist Party and was the secretary and editor of that organization.

There was in the employ of the Department of Justice during the months of September, October and November, 1919, a confidential employee by the name of Ferdinand Petersen. Petersen had come to the attention of the Department of Justice as being one well acquainted with Russian activities and had applied for a position with the Department in New York, claiming that he was intimate with Santeri Nuorteva and Ludwig C. A. K. Martens and other persons actively identified with the soviet movement. Desirous of ascertaining whether or not Petersen could be of any value to the Department he was employed probationally for the time above stated and rendered reports containing information upon the movements of Nuorteva and Martens, against the latter whom a deportation case is now pending before the Secretary of Labor. Petersen's work, however, was not entirely satisfactory, in that he was obtaining no information of great value and he withdrew from the service in November, 1919. Subsequent thereto, it was ascertained that at the same time he was in the employ of the Department of Justice, he had also been in close communication with Santeri Nuorteva and had told Nuorteva in order to be in his confidence that Fraina was an agent of the Department of Justice.

The reason for this statement can best be learned when one understands the intricacies of the communist movement in the United States. The Communist Party and the Communist Labor Party are identical in principle and action, not according to my statement, but according to the statements of their own leaders, and the reason for the formation of two organizations was due to the differences of individuals in regard to leadership. The group composing the Communist Party had insisted that Martens should take his orders direct from the Communist Party in this country, rather than from Moscow, and it was of this group that Fraina was the leader and therefore openly antagonistic to Martens. The Communist Labor Party, however, supported Martens's contention to the effect that he should take his orders from Moscow. It was desired on the part of Martens's bureau to discredit Fraina in the communist movement, as he was the principal opponent in regard to party discipline in this country. Nuorteva welcomed the statement that Fraina was an agent of the Department of Justice to such an extent that he saw fit to offer Petersen $1,000 to get certain papers from the Department of Justice, proving Fraina's connection therewith. He actually paid Petersen $160 for which he expected to be reimbursed later by Martens. This man, Santeri Nuorteva is the secretary to Martens, the so-called bolshevik ambassador. When Petersen reported the fact to Nuorteva that Fraina was an agent of the Department of Justice, Martens thought the matter was grave enough to be investigated, according to his own statement, and threatened to send the

charges to Moscow unless Fraina was able to disprove them. Reports rendered by Petersen to the Department of Justice were later found out to have been reviewed by Nuorteva and Petersen revealed to Nuorteva the names of certain representatives of the Department of Justice for his information.

In other words, all this was a plot hatched within the narrow circle of Martens's ambassadorial court in this country and nobody ever knew that Fraina was charged with being an agent of the Department of Justice, except this very group, until Mr. Swinburne Hale, a lawyer in New York, made the charge in open public hearing against the Department of Justice that it had employed this man Fraina. Where he got that information, I do not know.

So serious were the charges considered by Nuorteva and Martens that in the city of Brooklyn a secret trial was held in 1919 at which the following persons were present to pass judgment upon the fact whether or not Fraina was an agent of the Department of Justice: Gregory Weinstein, Harry Nosovitzky, J. Lovestone, Ludwig C. A. K. Martens, Santeri Nuorteva, Dr. Isaac Hourvich, Houdin, Hartman, and Bittleman.

At this trial Petersen and Fraina were subjected to examinations and Fraina apparently satisfactorily explained away the charges made by Petersen. The soviet bureau headed by Martens has so persistently maintained that they were taking no interest or activity whatsoever in communistic affairs in this country, that I am unable to understand this statement, when I read the report of the meeting in Brooklyn, and find they were trying a member of the Communist Party of America as being a traitor to the communist cause.

A portion of the same group who sat at this trial are now in the Lafayette Hotel of this city, awaiting the action of the Department of Labor upon the case of Martens. I might state that it was the intention of the Department of Justice to take Martens into custody when he completed his testimony before the Senate committee as we would any other violator of the laws of the United States. I could not see why he should be handled differently from any other case, but the Assistant Secretary saw fit to have him brought to his office and turned over to the custody of his attorney—Senator Hardwick, is it not?

Mr. HOOVER. Yes.

Mr. PALMER. Without any knowledge on the part of anyone—saving the humiliation of a public arrest.

It is rather disconcerting to a man actively engaged in the enforcement of the law trying to protect the country against violent outbreaks of the character which have taken place in the United States in recent years, to have members of the American bar securing half facts from public enemies of the Government of the United States and then publishing them to the world as charges against the law officers of the Government. As I said before, the charge against Fraina is a charge in the Communist Party, that he was a traitor to that cause and had joined the Government of the United States and was an agent of our department.

Mr. POU. How much attention do you imagine decent Americans pay to a thing of that kind?

Mr. PALMER. I do not know how much attention they pay to it, Mr. Pou, but they publish the things broadcast.

Mr. VAILE. A great many of them are duped by it.

Mr. PALMER. Yes. Louis C. Fraina to-day is somewhere in Europe. He, through some means, escaped from this country, with the connivance of some forces unknown to the Department of Justice; he attended the meeting of the propaganda bureau of the third international at Amsterdam, February, 1920, and represented the communist groups in America at that conference. It might be interesting for the committee to know a little more in detail concerning the propaganda meeting of the bureau in Amsterdam. I have the stenographic report taken of this meeting, together with their official bulletin, and it appears from their own statements that they are determined upon the establishment of a communist commonwealth in the United States, centering its bureau in the Western Hemisphere in Mexico. I have also a copy of an article written by Fraina in the Tribune, published in the Netherlands, entitled "The American Revolution" and published under date of March 4, 1920, which is particularly illuminating as to the conditions in the United States and as to the purpose of the Communist Parties in this country. The following statement appears in this amazing document:

> These great strikes were used by the Communist Party as a means for intensive revolutionary agitation. Leaflets were issued concerning the mine workers' and steel workers' strike and 2,000,000 of these were distributed. Our agitation openly encouraged the establishment of Soviets. Our agitation was particularly strong at Gary, the steel town that was governed by Maj. Gen. Wood under martial law. Besides agitation in the workshops the Communist Party conducted a great propaganda in the factories for the control of the workers in industry and a national campaign was begun for the raising of the blockade of Soviet Russia. Persecuted and slandered, kicked and beaten, the Communist Party will pursue its agitation—publicly if it can, secretly if it must.

That is from Fraina's report.

This is a very brief statement upon the case of Louis C. Fraina. Fraina is desired by the State authorities of Illinois for prosecution under the State syndicalism law, and I assume that he would be desired by the Department of Labor, if he ever returned to this country, for deportation, most certainly so if they followed my recommendation. I have asked that the authorities of a foreign Government in whose custody he now is return him to the United States. I challenge anyone to present a scintilla of evidence to show that this individual was at any time in the employ of the Department of Justice or furnished it any information whatsoever. I might state in this connection that Mr. Petersen became so agitated over the result of his falsehood that he was planning to leave this section of the country at the time of the hearing before the Senate committee inquiring into Bolshevik propaganda, and I requested Senator Moses, chairman of the committee, to subpœna him to remain in this country, and said subpœna was issued.

CHARGE THAT THE DEPARTMENT OF JUSTICE WAS DESIROUS OF CHANGING RULE 22 OF THE IMMIGRATION REGULATIONS SO AS TO PREVENT ALIENS FROM HAVING COUNSEL.

The charge has been made that rule 22 of the immigration regulations, which until December 29, 1919, had required aliens to be advised upon apprehension that they were entitled to counsel, was changed through the efforts of the Department of Justice, and that in so doing, certain constitutional rights were violated.

It might be of interest to the committee to know that the immigration regulations originally provided that aliens were only to be accorded counsel by the inspector at such stage in the proceedings as was deemed for the best interest of the United States.

This regulation was changed, I am informed, some time in the latter part of 1918 or the first part of 1919, to read to the effect that aliens were to have counsel from the beginning of the proceedings. Instances beyond number came to the attention of the immigration authorities, I am told, where the operation of the ruling resulted detrimentally to the interests of the United States. Many radical publications contained advice to the aliens to refuse to answer any and all questions upon apprehension. It is to be borne in mind that the Government must prove not only the unlawful activities of the alien, but must also prove his place of birth, the ship upon which he entered the United States, the port of entry, and the fact that he had never become a naturalized citizen subsequent to his entry. A number of these facts it is difficult to obtain unless the alien will testify to them.

The Government of the United States always stands ready to prove the unlawful activities of the alien, but it is unreasonable to place upon the Government the burden of proving the ramification of the individual after he entered the United States, in so far as his citizenship status is concerned. It is to be further noted that deportation is not a crime and that the proceedings are administrative in nature for the purpose of ascertaining whether or not the alien is within the class of persons who might properly remain in the United States.

This has been made the subject of editorial comment. That this is believed is shown by the fact that this charge, absolutely unfounded in fact and in law, was made the subject of editorial comment at great length by some of the most respectable newspapers in the country, one of which, honestly mistaken, no doubt, was so great a newspaper as the Springfield Republican.

It is perfectly proper to subject an alien to examination. Under the advice of counsel it was found that this got us nowhere.

The United States Supreme Court has held that the proceeding is not criminal in nature. In the case of Lou Wah Suey *v.* Bachus (225 U. S., 469–470), which were the proceedings brought under the deportation rules of the immigration act of February 20, 1907, the United States Supreme Court held that the fact that the alien was under examination before the inspection officer without counsel at first was within the authority of the statute, and as long as it had not denied the alien at a subsequent stage of the proceeding to have counsel there was nothing irregular in the proceeding. This case, incidentally, is cited by the Assistant Secretary in his letter to me of March 30, 1920, in answer to the court in Montana that the alien was not permitted to have counsel at the outset of the hearing. My point is that the change in December, 1919, was not novel and that the rule authorized by Mr. Abercrombie was in accordance with the rulings of the Supreme Court and in accordance with the original regulations of the Immigration Service, and it was for the purpose of obtaining the facts in the cases. A concrete example of the operation of rule 22 as it now stands was observed by the Committee on Immigration of the House of Representatives which visited Ellis Island in 1919, subsequent to the Union of Russian Workers raid, when for many

days proceedings against the aliens held there were at a standstill because the aliens refused to even respond to their names and refused to answer any questions, costing the Government a considerable expenditure of money; and this attitude could be traced directly to counsel for the aliens. It is to be noted further that the warrant of arrest and the hearing subsequently accorded is for the purpose of enabling the alien to show cause why he should not be deported, and not for the purpose of the Government showing cause why he should be deported.

Irrespective of the foregoing, when the raids of January 2 were made, the immigration rule stood to the effect that the alien was not to have counsel until such stage of the proceeding as would be for the best interests of the United States. Therefore the statements taken on the night of January 2 were not taken in violation of rule 22, as it would be made to appear by the Assistant Secretary, but they were taken in strict compliance with that rule. The ruling was not changed until January 27, 1920, 26 days after the arrests had been made, and by which time all examinations had been completed. The ruling as it stood on January 2 was based upon a ruling of the United States Supreme Court.

Before passing it is worthy of note that the immigration rules do not permit an alien entering the country to have counsel, and I submit to the committee that if there is any time in the immigration proceedings when an alien needs counsel more it is when he arrives at Ellis Island without knowledge of our laws and without any knowledge whatsoever of the procedure. The alien on this occasion is permitted to have only his next friend, who it is specifically provided, shall not be a lawyer. After the alien has been admitted and has lived in the United States for periods of 3, 4, 5, and, yes, even 10 and 15 years, it seems to me that he should not be given the privilege over the ignorant immigrant who has entered the country and who is being inspected at the Island. My point is that there is little or no consistency in these rulings.

It is submitted that the time when an alien derives the most benefit from counsel is when he applies for admission, not after he is admitted. In any event, as was held in the Turner *v.* Williams case (194 U. S., 279), his rights are no greater under the expelling features than they would be under the excluding provision.

The prime and all the pervading object of these hearings is to elicit the facts, and, it is submitted, the presence of counsel does not aid in this direction, rather such presence tends otherwise.

Mr. Post makes a point, page 179, that "they were not advised of their right to refuse to answer." Upon what premise does Mr. Post base such a right?

They refused to answer, making a charge against us that we were conducting some kind of inquisition proceedings, not allowing the deportee to be advised as to what his rights might or might not be.

The Supreme Court, in the Sing Tuck case (194 U. S., 161), speaking through Mr. Justice Holmes, held that:

> The whole scheme is intended to give as fair a chance to prove a right to enter the country as the necessarily summary character of the proceedings will permit * * * Now, when these Chinese, having that opportunity saw fit to refuse it, we think an additional reason was given for not allowing a habeas corpus at that stage. * * * They were offered a way to prove their alleged citizenship and be set at large, which would be sufficient for most people who had a case and which would relieve the courts. If they saw fit to refuse that way, they properly were held down strictly to their technical rights.

This case, it will be noted, arose through an alien refusing to testify in a Chinese exclusion proceeding, characterized by the courts as a quasi-civil proceeding where the rules of evidence apply, hence affording the alien much greater latitude than is allowed in administrative proceedings. The hearing, as has been held under the decision of the Supreme Court, is designed solely to afford the alien "an opportunity to show cause" why he shall not be deported. If he elects to stand mute then he has failed to show cause, and a prima facie case having been made before the warrant of arrest if issued, a case is made out and deportation should follow in such cases as a matter of course.

Mr. Post, before the committee, made the statement to the effect that as the aliens had no redress in the courts that "we ought to be all the more careful to protect their rights." Such a statement is wholly erroneous, for the aliens do have redress in the courts of the United States, as has been plainly shown in many cases. As for example the Emma Goldman and Alexander Berkman cases. So numerous are their appeals to the courts that it requires the entire time of one assistant United States attorney in the city of New York alone to handle the cases arising from Ellis Island.

CHARGE THAT AN EFFORT HAS BEEN MADE TO DEPORT ALIENS REGARDLESS OF THEIR GUILT.

Mr. Post said that efforts had been made to get aliens out of the country, regardless of their guilt. I am not sure whether Mr. Ralston said it or not, but one of the witnesses said the Attorney General demanded that these aliens should be deported upon his mere command, without regard to the facts. Of course, that kind of a general charge is on a par with Victor Berger's statement which always comes back to my mind when I think of ridiculous charges, that the bomb exploded at my own house was built under my own direction. I always felt that it was the quintessence of nerve to make that kind of a charge.

I know of no case where an effort has ever been made by the Department of Justice to deport aliens when they did not fall within the spirit and the letter of the act of October 16, 1918, but I have persistently insisted that this act be administered in accordance with its language and with the reasonable construction thereof intended by the Congress of the United States. To be sure, in simultaneous arrests of a large number there are always to be found a few cases when the evidence is not sufficient to convict or to warrant the charge and in all such cases the Department of Justice was willing that the warrants of arrest should be canceled. This was evidenced by the action of the Boston office of the Bureau of Investigation when it concurred with the immigration inspector at that port for the cancellation of 38 warrants. There has not been an attitude on the part of any officers of the Department fo Justice to insist on deportation merely because an arrest had been made, but when an arrest had been made and membership established in an unlawful organization they have insisted that deportation be carried out.

CHARGE THAT THE DEPARTMENT OF JUSTICE HAS RESORTED TO POLICE INQUISITIONS TO FORCE MEN TO MAKE ADMISSIONS OF GUILT.

Mr. Post has said that the Department of Justice had resorted to police inquisitions by forcing men to make admissions of guilt. I challenge Mr. Post to prove a single case of police inquisition invoked by the Department of Justice. The arrests that were made on the night of January 2 were made in large numbers, and examinations were immediately had, and counsel was not accorded in compliance with rule 22 of the immigration laws, which on December 30, 1919, was changed to provide that the alien was to be entitled to counsel after preliminary examination had been made. I recall but three instances in which the Assistant Secretary of Labor has called to my attention the fact that the alien in the testimony before the immigration inspector claimed that he had been subjected to duress during examination by agents of the Department of Justice. Three cases only out of 3,000, and it might be stated that I replied to the Assistant Secretary in these cases and inquired of him as to whether or not the aliens making the allegations against the Department of Justice had been required to corroborate such allegations by other persons present, by identifying the agent who is alleged to have committed the act, and whether the agent of the Department of Justice was called to affirm or deny the charge preferred against him. I have never been informed as to whether or not these three elements were observed. It occurs to me that when a person makes a serious charge that he should be required to substantiate the same by corroborating testimony or by identification of the agent, and certainly the man charged with such an act should be given an opportunity of making his statement, but such was not accorded in the immigration hearings.

Much space is taken up over the statement of 12 distinguished lawyers who filed charges against the Department of Justice in reference to the alleged brutal conduct of our agents, and I will answer those charges in detail when I come to the lawyers' brief.

To be sure we have read generally in the radically inclined magazines and papers in this country that great brutality was resorted to, but a sample of the falsity of these charges is to be found in the case of Oscar Tyverowsky. It might be illuminating for the committee to know the facts in this case. Briefly, Tyverowsky was arrested in January, 1920, and brought to the New York office of the Bureau of Investigation for examination. It was alleged by a newspaper reporter that Tyverowsky was kicked and beaten and otherwise maltreated. Investigation made by a representative of my office, in no way connected with the New York office of the Bureau of Investigation, reveals the fact that the reporter making the report, in addition to being generally discredited by his coworkers in the newspaper world, had not been in the room during the examination of Tyverowsky and that five of the other reporters present on the occasion, some of whom were in the room during the examination of Tyverowsky, have made sworn statements that he was not mistreated in any manner whatsoever. These gentlemen of the press have had no occasion to make false affidavits. The falsity of the Tyverowsky charge is typical of the falsehoods prevailing in other cases. No alien has presented to the Department of

Justice a single charge that has not been thoroughly investigated impartially. I might state that the only charges of brutality brought to the attention of the department were the charges in the Tyverowsky case. It seems to me that if brutality had been resorted to in wholesale measures that it is the duty and function of the attorneys for the aliens and of the aliens themselves to bring the same to my attention, but such has net been done, other than the generalties indulged in by the uninformed.

These aliens are not subjected to a police inquisition while imprisoned, nor in fact imprisoned. In the New Jersey district, which is fairly representative of the general procedure, immediately upon their being taken into custody they were examined (in the presence of an immigrant inspector and through an immigrant interpreter). In no instance was violence used toward an alien in that district, nor were the statements in that district taken under duress of any character. The questions and answers were recorded stenographically. As is well stated, these are strictly administrative proceedings, and the rules of evidence do not apply, as regards imprisonment, even the detention of the alien at the immigration detention quarters between the time of his arrest and the determination of the status of the alien by the Secretary; that detention does not constitute imprisonment, nor even deprivation of liberty without "due process" of law.

Mr. Post frequently uses the word "guilty." It is submitted that there is no question of guilt in these proceedings. That word implies a crime under a criminal statute. There arises a pure question of fact as to whether an alien is or is not subject to deportation. The hearing, as has been pointed out, is designed not to try out the issues, as is done in an action at law, or to determine the guilt of the alien, as there is no question of crime involved. The hearing is designed simply to afford the alien an opportunity to show cause, in his own behalf, why he shall not be deported.

Mr. Post makes frequent use of the expression "conspiracy," an alien's conspiring against the law. No question of conspiracy is involved in these cases, and if there were they would be subject to criminal prosecution, and none of them have been prosecuted under the criminal section of the Penal Code.

CHARGE THAT TWO SALARIED MEN HAVE AIDED IN CREATION OF RED HYSTERIA.

You will remember, Mr. Chairman, a charge of the Assistant Secretary of Labor made before the committee that a considerable amount of hysteria in the country over radicalism had been caused by what he terms "two-salaried men," and I believe that the inference which can reasonably be drawn from his remarks is to the effect that there is in the Department of Justice some of the so-called "two-salaried men," though the direct statement was not made.

I can emphatically state that there has never been employed in the Department of Justice during my administration any person who would fall in the category named by the Assistant Secretary. The gentlemen of the press have frequently called at the Department of Justice for information and have had free access to the same, and statements appearing in the press have been statements drawn by

the representatives of the press from actual documents seen and examined. When pressed for an instance of the character named, the Assistant Secretary seemed to be at a loss to specifically name an individual. However, I assume that this committee is well cognizant of the fact that the secretary to the Assistant Secretary of Labor might be termed a two-salaried man, in that he not only performs the duties of the secretary to the Assistant Secretary, but that he also occupies the position of an editor of a magazine entitled "The Knot-Hole," which, according to its own statements, is "conceived in sin and brought forth in Washington," and the pages of which seem to be dedicated to slanderous attacks upon Members of both Houses of Congress, members of the Cabinet, and other public servants.

I invite your attention to that magazine published by Mr. Post's secretary, because it includes you gentlemen in that criticism.

CONDITIONS EXISTING IN THE CITY OF DETROIT FOLLOWING THE ARRESTS MADE IN JANUARY, 1920.

Through a well-planned and diligently carried out propaganda the radicals and their sympathizers have drawn particular attention to the conditions existing in the city of Detroit resulting from the arrests made in that city on the night of January 2, 1920.

It might be well for this committee to know some of the facts pertaining to the conditions in this city, in order that they may draw their conclusion as to whether or not the propaganda that has been formulated is sincere or false.

On the night of January 2, 28 halls and meeting places of the Communist Party were raided and several hundred aliens taken into custody. These person were taken to the Federal Building and cared for on the fourth floor of that building. The reason that they were not taken to the police stations or to the county jail was due to the fact that there were crowded conditions in these places. The Federal Building was warm and comfortable, and the fourth floor, where the aliens were cared for, was well lighted and well ventilated. There were toilet facilities on the fourth floor, and there was not a single complaint made by any alien detained there as to the eating, sleeping, or similar conditions in the Federal Building. It is of interest to note that the complaints were made by the sympathizers of the radicals and a few misinformed but apparently well-intentioned persons who were misled through the statements of Miss Helen Todd, of New York City.

The relatives of the aliens were permitted to visit the persons detained in the Federal building and brought quantities of food to them. Arrangements had already been made for the feeding of these individuals, but there was no objection made by the authorities to the relatives bringing delicacies to the aliens detained. It is to be noted that when the aliens were removed from the Federal building large quantities of food were left which had been supplied by the relatives. As soon as the aliens were removed from the Federal building the examinations started and the agents of the Department of Justice worked for 18 hours daily until these examinations were completed. The last examination was completed at 12.10 midnight on January 7, 1920. Upon the completion of the examinations the aliens were transferred to the local police stations, from which other prisoners

had been removed, in order to provide adequate accommodations for the aliens arrested.

It appears that the statements made by Miss Helen Todd, of New York City, in respect to brutality used by the agents of the Department of Justice in Detroit were based entirely upon hearsay. She made no attempt to verify any of these statements at the bureau office at Detroit or at any other office. She came to Detroit for the express purpose of assembling a group of women in that city to protest against the actions of the Government in the arrest and deportation of dangerous aliens. She was successful in securing the assistance and cooperation of many of the parlor Bolshevists, and these women in turn were successful in securing almost unlimited amount of space in the daily press in Detroit. Some of the women, however, who associated themselves with her in the beginning have since ascertained the real truth concerning the fact that the Government is doing all possible to speed up the deportation of these aliens who should be deported and to alleviate any suffering upon the part of the women and children of the aliens, and these women are no longer associated with Miss Helen Todd's so-called committees.

One instance of note is a statement which appeared in the public press in Detroit from Walter A. Nelson, an attorney in Detroit whose entire business is the defense of Government prisoners, that the wife of one man held in Fort Wayne said she had been unable to locate her husband for 10 days. This statement is absolutely untrue, for at the conclusion of the examinations of the men in the Federal building an alphabetical list was made of all the men held and an order issued that the wives, families, and friends of these men should be allowed to see them at the police stations where they were held. Any inquirers at the bureau office at Detroit relative to the location of aliens were immediately furnished with the desired information. The difficulty experienced in locating the various aliens by their families appears to have been caused by the fact that several aliens have assumed names when taken into custody, thus it was impossible for their families to locate them.

Another instance similar to the statement made by Mr. Nelson was that attributed to Attorney Harry L. Diehl, who stated that one of the aliens found his wife all alone dying from pneumonia when he was finally released. When Mr. Diehl was interviewed by a representative of the Department of Justice, Mr Diehl informed the agent that he did not know the name of the alien and that the incident had been told to him by some one whose name he could not remember. This case is an instance of the flimsy foundation of many of the rumors concerning the conditions in Detroit. And it is upon his statement now that charges about the conditions in Detroit are made.

There appeared in the Detroit News under date of February 21, 1920, an article entitled "Women plead of hardships," in which reference is made to the case of Mrs. Francis Bukovitsky, the wife of Alexander Bukovitsky. Bukovitsky is one of the dangerous organizers of the Union of Russian Workers and has been ordered to be deported by the Department of Labor, but is at present at large, having been released without bond. It might be of interest for this committee to know that while detained at the Wayne County jail Bukovitsky stated to another inmate in that jail that "he was an

anarchist and proud of it and that there was going to be a revolution in the United States and that there would be no more laws in this country as the 'big fellows' would all be put in prison or put to death." He further stated that some one would kill Attorney General Palmer and that it was a shame that the fellow who shot Attorney Content did not kill him, but that "we anarchists will get him later." He stated that he had been offered a parole, but that he would not accept it, as the Government wanted him to sign certain papers which would compel him to observe the peace. He stated that should he get out on parole he would leave the city and travel from town to town, making speeches and organizing for the revolutionists. This is a type of the alien who is permitted to walk the streets in Detroit at the present time, though there is a clear case in the estimation of the Department of Justice established against this pernicious anarchist. So, we see that when the charges have been analyzed there are few, if any, facts to substantiate the statements made by the radicals and their sympathizers.

The CHAIRMAN. Has that party been released?

Mr. PALMER. Yes, sir; without bond.

The CHAIRMAN. By order of the Assistant Secretary of Labor?

Mr. PALMER. Yes, sir; I assume upon the recommendation of the volunteer committee. He has a volunteer committee of friends in Detroit running the Department of Labor in that section.

The conditions existing at Fort Wayne, where the aliens were detained pending the hearings by the immigration inspectors, have also been criticized, but an inquiry into the statements made concerning these conditions shows that none of the aliens at Fort Wayne have of their own volition complained of the treatment or conditions in the prison, but that the complaints which have been made have been due to the inspiration of certain interested persons on the outside. Passes to Fort Wayne were issued very freely by the immigration authorities. Aliens themselves when released on bail were given passes to visit Fort Wayne, where they abused the privilege by constant agitation and attempts to stir up trouble amongst those in custody. It is not claimed that everything was ideal, for confinement of any sort is not ideal, but it is asserted that there was no brutality or unnecessary harshness tolerated toward the prisoners themselves or their relatives who were allowed to visit them freely. The food was provided by one of the first-class hotels of the city, and members of their families brought other food to the prisoners. The best summing up of the situation is that which was made voluntarily by Benjamin Repsys, who was confined at Fort Wayne for a few days and afterwards released on bail. He stated that the conditions at the Federal building and at Fort Wayne were far better than those at the police stations; that the food was very good, but that it would have been hard to provide just exactly the kind of food that the men of different nationalities were accustomed to use, and that most of the complaints came from the Russians who were kicking about something all the time at Fort Wayne.

In regard to the charge that the families of the aliens in Detroit were not properly cared for, it can be stated that as soon as the arrests were made special attention was given to the families of the aliens who had dependents. Mr. Brondyke, who has been in charge of the division barracks at Fort Wayne, states that there has been

absolutely no complaint made to him by any alien held in Fort Wayne regarding needy families; that a board of commerce investigators has been at the fort daily in an attempt to secure from the aliens information concerning any needs of their families; that the aliens have told the investigator that they did not need any help and have absolutely refused to give any information which would bring any assistance to anyone from any charitable organization.

In closing upon the particular conditions in Detroit, reference should be made to the committee appointed by the Assistant Secretary of Labor consisting of four private citizens of Detroit, into whose custody the radicals held at Fort Wayne are being paroled. The inspector in charge of the local immigration service at Detroit has received instructions from the Assistant Secretary to turn over the official records of all men still confined to the citizens' committee for their examination, so that they may determine who and how many of these aliens should be paroled. It is further understood that this committee has been given the authority to have in their possession the official records of the cases of aliens who have been ordered deported and that where this committee deems it advisable the Assistant Secretary will reopen those cases and cancel the deportation orders already issued.

An evidence of this is shown in the cases of a number of aliens ordered deported who were transferred from Detroit to Ellis Island and whose cases upon their arrival at Ellis Island have been reopened upon recommendation of the so-called citizens' committee—a committee which has no status so far as I have been able to determine under the immigration laws and which has superseded the functions of the immigration inspector at Detroit. It is worthy to note that the official records of the aliens held at Fort Wayne were removed from the office of the immigration inspector in charge and taken by this "citizens' committee" and examined in private offices. One of the individuals released, after ordered deported, without bond of any sort was Alexander Bukovitsky, previously mentioned, and who, while being held, made threats against the Government of the United States and against officers thereof. Likewise August Herrmann, another alien released without bond, after being ordered to be deported, stated while in custody that "all the Government officers would either be put to death or exiled when the revolution came." These are samples of the type of individuals being released after ordered to be deported, without being required to furnish bond of any sort. Other cases could be named to the committee, but I believe that the above is sufficient for the committee to draw its own conclusion as to the irregular, if not illegal practices being followed by the Assistant Secretary of Labor in dealing with the cases of alien radicals in the city of Detroit.

It seems to me an anomalous situation that in a great industrial city like Detroit, in which there are a very large number of aliens, the processes devised by the law for the protection of the country should be ignored and the administration of the law placed in the hands of a purely volunteer committee of friends of the Assistant Secretary of Labor.

I will not be able to conclude my statement this afternoon, Mr. Chairman.

The CHAIRMAN. Then we will continue the hearing to-morrow morning at 10 o'clock.

(Thereupon, the committee adjourned to meet to-morrow, Wednesday, June 2, 1920, at 10 o'clock.)

COMMITTEE ON RULES,
HOUSE OF REPRESENTATIVES,
Wednesday, June 2, 1920.

The committee this day met, Hon. Phillip P. Campbell (chairman) presiding.

The CHAIRMAN. General, are you ready to proceed?

SUPPLEMENTAL STATEMENT UPON CHARGE THAT RULE 22 WAS CHANGE AT INSTIGATION OF DEPARTMENT OF JUSTICE.

Mr. PALMER. Yes, sir. Mr. Chairman, I desire, first, to mention two matters which I referred to briefly yesterday. The first is concerning rule 22 of the immigration law, which refers to the right of an alien to have counsel. I desire to introduce into the records of the committee a copy of a letter written by the commissioner at Ellis Island under date of June 20, 1912, concerning this rule, and wherein he recommends that the rule permitting an alien to have counsel at only such stage of the proceedings as the immigration inspector deemed advisable be adopted, as, after two and one-half years of experience as commissioner of immigration at Ellis Island, he observed that the primary purpose of counsel for aliens was to obstruct the Government's endeavor to ascertain the facts. This letter is particularly interesting in that it comes from a seasoned immigration officer. This letter was written by William Williams, then commissioner at Ellis Island, and is throughout an interesting and significant contribution to the law and practice in these cases.

(Said letter follows:)

UNITED STATES DEPARTMENT OF LABOR,
IMMIGRATION SERVICE,
Ellis Island, N. Y., June 20, 1912.

COMMISSIONER GENERAL OF IMMIGRATION,
Washington, D. C.

SIR: See your file 52423/5, more particularly your letter of November 9, 1909. I replied thereto November 10. Both relate to the question whether or not in warrant proceedings an alien should be granted the right of counsel at the outset. After some discussion the department agreed to a rule which as the result of renumbering became subdivision 4 of present rule 22. I refer particularly to the following extract from paragraph (*b*) of subdivision 4:

"During the course of the hearing the alien shall be allowed to inspect the warrant of arrest and all the evidence on which it was issued; and at such stage thereof as the officer before whom the hearing is held shall deem proper, he shall be apprised that he may thereafter be represented by counsel and shall be required then and there to state whether he desires counsel or waives the same, and his reply shall be entered on the record."

After two years and a half of experience I desire to record my very distinct approval of the right which the authorities have reserved under the rule to hold a preliminary examination without the presence of counsel. In my letter of November 10 I spoke of the Freeman case, in which the alien Freeman was advised by counsel to remain mute and thereby block the Government's endeavors to ascertain the facts. The same thing happened in the case of Isidor Klein just closed (your file 53293/123–A). Attorney Levinson declined to permit his client to answer any question. Since warrant proceedings are executive proceedings, not for the purpose of administering the criminal law but to determine whether or not aliens may remain in the country, it is eminently proper that the Government should secure from them any admissions or information they are willing voluntarily to give, and there is no reason why aliens should be permitted to have counsel before the Government has endeavored to elicit such information from them.

Some attorneys are in the habit of claiming that by refusing counsel we judge the alien without due process of law. That position was first disposed of some time ago in the Can Pen case, 168 Federal Reporter 479, 483, where the Circuit Court of

Appeals said that an alien under arrest is not entitled "of right to be present in person or by counsel at the taking of testimony." A very recent Supreme Court decision, sustaining in terms the correctness of the rule above referred to as now written, is that of Low Wah Suey and Li A. Sim *v.* Backus (June 7, 1912). Opinion by Mr. Justice Day. Here are some of the extracts bearing on this point which I take this opportunity to record for the sake of convenient future reference:

"It is further alleged that Li A. Sim was refused the right to be represented by counsel during all stages of the preliminary proceedings, and was examined without the presence of her counsel and against her will by the immigration officer at the port of San Francisco, and before she had been advised of her right to counsel and before she was given an opportunity of securing bail, and that afterwards an examination was conducted by the immigration officer, acting under the orders of the Commissioner of Immigration, at which she was questioned by the immigration inspector against her will and without the presence of counsel, who was refused permission to be present, and that at certain stages of the proceedings she was refused the right to consult with counsel. This objection, in substance, is that under examination before the inspection officer at first she had no counsel. Such an examination is within the authority of the statute, and it is not denied that at subsequent stages of the proceedings and before the hearing was closed or the orders were made she had the assistance and advice of counsel.

"It is alleged that the rules of the Secretary of Commerce and Labor are arbitrary and illegal, particularly certain sections of rule 35 (new rule 22). From these rules it appears that, while provision is made for an examination in the absence of counsel, it is provided that a hearing shall be had at which the alien shall have full opportunity to show cause why he should not be deported, and that, at such stage of the proceedings as the person before whom the hearing is held shall deem proper, the alien shall be apprised that he may thereafter be represented by counsel, who shall be permitted to be present at the further conduct of the hearing, to inspect and make a copy of the record of the hearing so far as it has proceeded and to meet any evidence that theretofore has been or may thereafter be presented by the Government, and it is further provided that all the papers, including the minutes and any written argument submitted by counsel, together with the recommendations, upon the merits, of the examining officer and the officer in charge shall be forwarded to the department as the record on which to determine whether or not a warrant for deportation shall issue. Considering the summary character of the hearing provided by statute and the rights given to counsel in the rules prescribed, we are not prepared to say that the rules are so arbitrary and so manifestly intended to deprive the alien of a fair, thorough summary hearing as to be beyond the power of the Secretary of Commerce and Labor under the authority of the statute."

If Justice Day were as familiar with warrant proceedings and the attempts of attorneys to treat them as if they were criminal proceedings and block the Government's endeavors to ascertain the facts, he would, I am sure, have spoken of our rule in even more favorable terms than he does.

Respectfully,

WM. WILLIAMS, *Commissioner.*

CASE OF PAUL BOSCO (SUPPLEMENTAL).

The other case that I want to again refer to is the case of Paul Bosco. This case is covered in detail in that portion of the Immigration Committee hearings which cover April 21 to 24, commencing at page 87. Bosco is the man who wanted to see the red flag flying above the American flag, and was sentenced under the Espionage act. He made that declaration at the penitentiary, where he had served two years, on a commutation of his original sentence of 10 years.

When examined by the immigrant inspector he said that after reading up on anarchy he had no objection to their principles; that if the Congress of the United States passed a law against the interests of the people, they were justified in resisting the enforcement of such a law in any way they can. He explained his remark about the red flag waving over the American flag by saying the red flag is the international emblem. After the first hearing before the immigrant

inspector, in which the above admissions were made, certain lawyers became interested in the case and finally one of them "demanded" fixing certain bail and a transfer was made from New Orleans to New York, where Mr. Post had the case reopened in order to permit his friends to put him on the stand to retract the statements made previously. All this is in the immigration hearings—a fair indication of the loose way in which all these cases were handled and the tender solicitude constantly shown for the alien anarchists. Mr. Post preferred to accept the second hearing and the contradictions contained therein as overriding the free admissions in the first hearing, and yesterday, while you gentlemen were interested in this case, Mr. Post canceled the warrant against Bosco. I offer here for the record a copy of a letter addressed to his draft board by Bosco, interesting portions of which are underscored. He has said not only that he has no desire to procure final citizenship papers here, but that he wants to return to "free" Russia.

Now, of course, if we are always going to accept the plea of these aliens, when confronted with the possibility of deportation, as evidence of their entire innocence of any offending under the act, we will never deport anybody for, with very few exceptions, while they preach loudly about their preference for "free Russia," as they call it, and all that sort of thing, they sturdily resist deportation when it approaches; they hate it worse than they hate confinement in a penitentiary, and the statements which they make, when there is no possibility of arrest and when they are entirely free agents, it seems to me are to be accepted as having very much greater force in determining the facts than subsequent statements when they realize the position into which their earlier statements have gotten them. Everybody knows what this man meant when he said he hoped, and still hopes, that the red flag will float above the Stars and Stripes, and if there was any doubt about what he meant such doubt would be removed by delving a little into the character and antecedents of this man. For instance, I have here a letter which he wrote to the district exemption board of Clarksburg, W. Va., during the war, claiming exemption. You will remember that Mr. Post concludes his opinion by the statement that this young man desired to be a citizen of the United States, had taken out his first papers and all that, but in this letter he says:

To the DISTRICT EXEMPTION BOARD, *Clarksburg, W. Va.*

GENTLEMEN: In view of the fact that my claim for exemption upon grounds of conscientious as well as political reasons, filed with the local board of Monongalia County on August 17, 1917, has been denied and as the local board has apparently refused to even consider the justness of my claim, I therefore appeal to your board in compliance with an act passed by Congress May 18, 1917, in the hope and expectation of receiving due justice, and I hereby set forth the following reasons for your good judgment and consideration.

1. I am not now nor do I ever intend to become a citizen of the United States of America, although I did declare my intention of becoming a citizen of the United States, but in view of the fact that the high ideals of democracy as laid down in the Constitution of the United States upon which this Republic was founded, have been perverted so that the powers of government have become a club in the hands of bureaucrats, politicians, industrial kings, and professional gamblers, who traffic in the misfortunes of the people and ruthlessly destroy the safeguards of the Nation, I was compelled to change my intentions.

2. I am opposed to war in any and all forms, as set forth in my claim, filed with the local board of Monongalia County, W. Va., August 17, 1917, and in further explanation, as a conscientious objector, I beg to state that I have a perfect abhorrence for war, because it is a relic of the dark and barbaric ages, to which I, as a true follower of the teachings of the scripture, can not subscribe. Furthermore, I am a firm believer in the Ten Commandments, and particularly the Sixth, which emphatically states: "Thou shalt not kill."

3. I am the only single son of an aged mother now living in Russia and entirely dependent upon me for support. To support one's mother is the first duty of a child toward his parent, and as the United States does not share in the responsibility of supporting the destitute parents in Russia of their sons called for military service in the United States Army my claim for exemption should be granted.

4. The tyrannical methods and autocratic procedure employed by the Government are out of harmony with democracy, in as much as I am being forced to take up arms against a people with whom I have no quarrel. Not being a citizen of the United States, I had no voice in the making of this war for commercial supremacy, and to try to force me to fight is a repetition of the old Russian tyranny, from which I sought to escape. However, the adoption of tyranny and autocracy, the virtual abolition of the constitutional rights of free speech, free press, and free assemblage by the Government of the United States have wiped out my fondest dreams. Furthermore, it has created in me a longing desire to go back to free Russia.

Thanking you for your earnest consideration and favorable decision, I am,

Sincerely yours,

PAUL BOSCO.

STATE OF WEST VIRGINIA, *County of Monongalia, to wit:*

Personally appeared before the undersigned authority, Paul Bosko, affiant, who upon his oath says that the statements made in the foregoing writing are sincere, true, and correct, and that he makes them from conscientious motives and scruples as above set forth.

PAUL BOSCO.

Taken, sworn to, and subscribed before me this 29th day of August, 1917.

C. C. ROSE, *Notary Public.*

My commission expires October 16, 1917.

And when his desire to go back to free Russia seems about to be accommodated he very sturdily resists. Is it not amazing that men who can write letters of that sort to Government officials, without being held responsible, will declaim against the abolition, as he says, of the right of free speech and the free press in America? Well, Bosco is all right now; he is free and he will not be able to go back to his free Russia.

I desire that there should go into the record a copy of Mr. Post's decision in this case and I want you to notice particularly the entire disregard of Mr. Post for the free admissions at the first hearing and his acceptance in their entirety of the statements made after the lawyers had secured a rehearing for him.

(Said decision follows:)

JUNE 1, 1920.

From: Assistant Secretary.
To: Commissioner General of Immigration.
Subject: Paul Bosco.

This alien was arrested (1) as an anarchist, (2) as believing in the overthrow by force or violence of the Government of the United States, (3) as believing in, and(4) advocating the overthrow by force or violence of all forms of law, and (5) as disbelieving in all organized government.

He was examined by an immigrant inspector while in a penitentiary serving a sentence (reduced from 10 years to 2) upon conviction under the Espionage Act for having during the war distibuted a Socialist leaflet entitled "The Price We Pay." At that examination he had no counsel. When asked if he wished one, he replied in the negative. Considering, however, that he was at the time in a prison far distant from his home, I opened his case for rehearing in order to make the offer of right to counsel a substantial instead of a perfunctory offer. The record of both hearings is now before me.

At the first hearing the alien testified that he was not an anarchist; that he did not know what an anarchist was until accused of being one, whereupon he had read about it and saw no objections to anarchists or their principles; that he was never identified with an an anarchistic organization; that he had publicly said, when sentenced

under the espionage law, that he hoped when released from the penitentiary he would find the red flag waving over the American flag, and that he still hoped so, but that he would not call that anarchy because the red flag is an international emblem.

At his second examination the alien testified that he was not an anarchist nor a believer in the principles of anarchy; that he was not acquainted with the subject and knew nothing about it; that he was a Socialist; that for the past eight years he had been and still was a member in good standing in the Socialist Party; that he is a believer in socialism; that he believes government is necessary for the conduct of human affairs; that it is his economic belief that society should be formed on the basis of the principles of socialism; that he is not opposed to the Government of the United States; that he is not in favor of the overthrow of the Government of the United States; that his expression of a wish to see the red flag wave over the United States flag was, in his own language, for these reasons: "I am an internationalist, the red flag is the national emblem" (evidently a slip of the tongue or a stenographer's error for "international emblem"). I didn't think it any more wrong to be an Internationalist than was the United States in connection with the League of Nations; that in saying the world should be organized on an international basis he didn't mean that the Government of the United States should be done away with, but that the people of the world should organize a world brotherhood; that as to flags, the American flag should be for the American people and the red flag for the international people; and that the only activities he has ever taken part in have been those of the Socialist Party.

Those statements of the alien are the only evidence in the case. There is nothing in the record by way of direct statement or inference, to contradict them. It follows that if alien is to be deported it must be because those statements directly prove or indicate his guilt on one or more of the charges set out in the warrant of arrest. That they neither prove nor indicate that alien is an anarchist, which is one charge in the warrant, is too obvious for discussion. He can not be both an anarchist and a socialist, since the former term denotes an antigovernmentalist and the latter a governmentalist, two directly opposite states of mind. The same observation applies to the warrant charge that alien disbelieves in all organized government. Also to the warrant charge that he advocates the overthrow of all forms of law. Likewise to the warrant charge that he believes in the overthrow of all forms of law. The only remaining warrant charge is that he believes in the overthrow by force or violence of the Government of the United States. This is not proved by his membership in the Socialist Party, nor by his activities in that party, nor by the war-time offense of which he was convicted and for which he has served the sentence imposed. The only possible basis for a conclusion that alien believes in overthrowing the Government of the United States by force and violence, which is the sole remaining warrant charge, is his declaration about the red flag and the American flag when he was sentenced. If his statement of what he meant by that declaration be true, the declaration implies nothing hostile to the Government of the United States. While the alien's utterance might excite popular denunciation, it is not enough, even without his explanatory statement, to justify a deliberate conclusion by any tribunal that he believes in the overthrow of the Government of the United States by force or violence.

The alien came to the United States in 1911 when he was 19 years old. He applied for naturalization in 1914. He has been a glass cutter since he was 14 years old. Until his arrest under the espionage act he was a dues-paying member of the American Flint Glass Workers' Union, and of the American Federation of Labor as well as of the Socialist Party. Apart from his conviction under the espionage act, he appears to have been always a law-abiding resident.

The evidence does not sustain the charges in the warrant of arrest, and the warrant of arrest is therefore hereby canceled.

LOUIS F. POST,
Assistant Secretary.

CHARGE OF ARREST AND SEARCH WITHOUT WARRANT.

Now, Mr. Chairman, I wish to refer to the charge made by Mr. Post that men were arrested at midnight and taken out of their beds without warrants and their homes and their houses searched without warrants—not by the Department of Labor. He further states that he did not undertake to say by whom, but that it was a fact. I wish that the Assistant Secretary of Labor would endeavor to be more specific in his statements and be more definite in charges

which are so general in nature. I do not maintain that in nation-wide arrests there are not certain instances which occur in which persons may be taken into custody without warrants, but such have in no sense been general. Warrants of arrest for the aliens taken into custody on the night of January 2 were obtained in advance, where membership in the organization of individuals had been established by a previous investigation. In round numbers there were approximately 3,000 warrants issued before the arrests were made. The majority of arrests made on the night of January 2 were made at meeting places of the organizations, and the few arrests that were made at the homes of aliens were not made in the melodramatic manner which the Assistant Secretary of Labor is prone to picture. Where the aliens were assembled at their meeting places and an actual meeting of the Communist Party was in progress the agents of the Department of Justice did take into custody all aliens attending that meeting. It is quite likely that warrants had not been obtained for all such persons, but it is sufficient, it seems to me, that when an alien is apprehended in the commission of the unlawful act that the action of the Government officer taking him into custody is warranted. Certainly it could be claimed that if the Government officers had visited a meeting place and had permitted aliens found there for whom warrants had not been previously obtained to depart, that they had been derelict in their duty. It is the same situation that is faced by a police officer when he witnesses the commission of a misdemeanor or of a crime. Certainly it is not claimed that the officer should return to the station house and obtain a warrant for the person committing the act; for, if such were to be the case, when the officer returned to serve the warrant the miscreant would have disappeared and could not be found.

That is all there is to this business of arrests without warrants. So far as the Department of Justice was able it did secure warrants for active, prominent and influential persons associated with the Communist Party, which we conceived to be an organization of the kind that membership therein required deportation. We took out this large number of warrants and sent our officers to the meeting places of this organization. In some cases—all of them being aliens or practically all being aliens—it was impossible for an officer to identify the persons whose names were upon his warrant, as all in the room were participating in the very work which indicated that they were all equally guilty of a violation of this law, and in view of the frequently impossible task of identifying those whose names were in the warrants the officer did the safe thing, a thing which any policeman, any law officer, or any process server would do in like circumstances—he took all of them, and during the night, as quickly as it was possible to examine all of the persons, discharged those against whom there seemed to be no evidence of membership.

It would be thought from the expressions of Mr. Post regarding wholesale arrests, that the action of the agents of the Department of Justice in taking into custody some aliens before the issuance of the warrants, was without precedent, but Mr. Post overlooked the fact that that method of procedure is quite general in his own department. On the Mexican and Canadian borders hundreds of aliens have been taken into custody without warrants of arrest.

This department did earnestly strive before requesting the institution of deportation proceedings in the radical cases to obtain its evidence, and ascertain the name and address of the members whose arrest it sought to consummate. In the cases of those apprehended without warrants, it was the exception rather than the rule to make the arrest. Large batches of warrants were issued and served. The aliens who were taken into custody without warrants, in the majority of cases, were found in the meeting places of the radical organizations, which is at least prima facie evidence of affiliation therewith. Many of them had membership cards in their possession or stated on questioning that they were members.

The warrants were handed to the agents of the Department of Justice for service, and in most instances these agents were accompanied by immigrant inspectors. These inspectors have as much latitude in effecting the apprehension of radicals as classes of aliens found in the United States in violation of the immigration law (particularly those given surreptitious entry into the United States at points on the Canadian and Mexican borders). No one would seriously contend that when an inspector finds such an alien that he should permit the alien to proceed to the interior of the country pending the receipt of a warrant of arrest from the Secretary of Labor in Washington. There have been instances of wholesale raids made by the inspectors of the Immigration Service in restricted ("red light") districts where numerous alien women of ill fame have been taken into custody without warrants of arrest. Chinese aliens are frequently arrested without warrants and subsequently deported under the immigration law rather than the Chinese exclusion acts.

I might state that in the letter of instructions issued to the agents of the Department of Justice, which will be made a part of the records of this committee in connection with the charge that agents of the Department of Justice have engaged in provocateur work, the agents were instructed to obtain search warrants wherever necessary. It has been claimed that the words "wherever necessary" meant that they should only obtain them where they could not get by without them. Such language was not used. It meant that when there was no public meeting being held into which the agents of the Department of Justice might have access that they should obtain search warrants to permit their entry, and in many places search warrants were obtained where it was necessary. The Assistant Secretary of Labor has laid great stress upon the applicability of the Silverthorne case and the Jackson case. The Silverthorne case was a case arising in New York City and was appealed to the United States Supreme Court and involved the taking of certain papers belonging to the Silverthorne Lumber Co. without warrant, and the court held that papers so taken could not be used against an American citizen in a criminal charge.. The Jackson case arose in Montana and was the case of an alien arrested on a warrant of deportation, in which certain evidence was obtained without search warrant, and the court held that such evidence could not be properly used against the alien. Upon these two cases the Assistant Secretary has ruled out considerable evidence obtained by the Department of Justice on the night of January 2, with the result that warrants in these cases have been canceled. It is worthy to note in this connection, however, that a communication was received from the Assistant Secretary of Labor under date of

March 30, 1920, in which he requested the Department of Justice to appeal the Jackson case, because, as he pointed out, he felt that the court in the Jackson case had erroneously based its decision upon the Silverthorne case. The Assistant Secretary took pains to point out that the Silverthorne case dealt with criminal proceedings, while the Jackson case was purely administrative, and pointed out the case of Fong Yue Ting *v.* United States (149 U. S., 730), in which the United States Supreme Court held that the provisions of the Constitution securing the right of trial by jury and prohibiting unreasonable searches and seizures, cruel and unusual punishment, have no application in deportation proceedings. In view of this attitude of the Assistant Secretary of Labor to the effect that he considered the Silverthorne case inapplicable in deportation proceedings, I am somewhat at a loss to understand his application of that case to the hundreds of cases of persons arrested on the night of January 2, and in which he has seen fit to cancel warrants.

I ought to call your attention, however, to the fact that a communication was received from the Assistant Secretary of Labor under date of March 30, 1920, in which he requests that the Department of Justice carry the Jackson case to the Supreme Court for an authoritative decision affecting the whole country, and I ask that that letter be made a part of the record.

The CHAIRMAN. That may be done.

(Said letter follows.)

DEPARTMENT OF LABOR,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, March 30, 1920.

The ATTORNEY GENERAL.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th ultimo (RPS–HSR, No. 202600–67–1) with which was transmitted a copy of an opinion handed down by Judge Bourquin in the district of Montana, ordering the release, in habeas corpus proceedings, of one John Jackson, who was ordered to be deported on warrant of the Secretary of Labor. You ask that the department furnish you with an expression of its views as to the desirability of appealing from the decision.

At the time your letter was received the department's record covering the case in question was before the district court, district of Montana. In order that all of the facts, as disclosed by the said record, might be before the department for its consideration, the local immigration official in charge was requested to secure its withdrawal from the files of the court and to forward it. I inclose this record herewith for your consideration, and request its return when you have finished with it.

Notwithstanding some unfavorable features of this case, which relate to the manner in which it was handled before the alien came into the custody of the immigration officials by service upon him of a warrant of arrest issued by the Acting Secretary of Labor, the department is of the opinion that the case should be appealed. It is the department's understanding that it is also the desire of some of the officials of your department that appeal be taken, since one of the points involved in the case is the right of the Secretary of Labor to consider, as evidence in immigration deportation proceedings, documents and literature seized from a person or his premises by Government representatives who failed to first secure a search warrant. This same point appears to be involved in many cases now pending before this department involving aliens apprehended by Department of Justice agents and turned over to the immigration authorities for arrest in deportation proceedings under the act of October 16, 1918, commonly referred to as the "anarchy act." Simultaneously, it is understood, with the apprehension of some of these men their homes and meeting places were searched by the Department of Justice agents, or local peace officers working under their direction, and documents and literature of supposed value as indicative of the beliefs, disbeliefs, etc., of the subject, either as an individual or as a member of an organization, seized and turned over to the immigration authorities. District Judge Bourquin holds, you will note from his decision in the Jackson case, that evidence so obtained may not be considered by the Secretary of Labor in determining the right of an alien to be and remain here. Although the text of

the decision does not so show, it is assumed that Judge Bourquin felt that he was to be governed by the recent decision of the Supreme Court in the Silverthorne case. This was a proceeding brought under the criminal statutes, however, whereas the Jackson case was purely an administrative proceeding, brought for the purpose of testing the fitness of an alien to be and remain in the United States under the laws Congress has seen fit to enact. The courts have, of course, stated time and again that deportation is not a punishment for crime, but is merely the exercise by the Government, through its administrative machinery, of one of its sovereign powers. The following particularly apt language was employed by the Supreme Court in the case of Fong Yue Ting *v.* United States (149 R. S., at p. 730):

"The order of deportation is not a punishment for crime. It is not a banishment, in the sense in which that word is often applied to the expulsion of a citizen from his country by way of punishment. It is but a method of enforcing the return to his own country of an alien who has not complied with the conditions upon the performance of which the government of the nation, acting within its constitutional authority and through the proper departments, has determined that his continuing to reside here shall depend. He has not, therefore, been deprived of life, liberty, or property, without due process of law; and the provisions of the Constitution, securing the right of trial by jury, and prohibiting unreasonable searches and seizures, and cruel and unusual punishment, have no application."

Judge Bourquin held the proceedings had in the case of the alien to have been unfair for two further reasons, namely: (1) The exclusion of counsel for alien from the hearing when certain testimony was taken preliminary to application being made for a warrant for his arrest (although alien was thereafter represented by counsel at all stages of his case); and (2) "failure to produce Ambord (one of the Government's witnesses) for cross-examination" by alien's counsel.

It is believed that the first point may be disposed of shortly. The same point was raised in the case of Low Wah Suey *v.* Backus, which was a proceeding brought under the deportation clause of the immigration act of February 20, 1907. In that case the Supreme Court stated (225 U. S., at pp. 469–470) as follows:

"It is further alleged that Li A. Sim (wife of the respondent) was refused the right to be represented by counsel during all stages of the preliminary proceedings, and was examined without the presence of her counsel and against her will by the immigration officer at the port of San Francisco, and before she had been advised of her right to counsel and before she was given an opportunity of securing bail, and that afterwards an examination was conducted by the immigration officer, acting under the orders of the Commissioner of Immigration, at which she was questioned by the immigration inspector against her will and without the presence of counsel, who was refused permission to be present, and that at certain stages of the proceedings she was refused the right to consult with counsel. This objection, in substance, is that under examination before the inspection officer at first she had no counsel. Such an examination is within the authority of the statute, and it is not denied that at subsequent stages of the proceedings and before the hearing was closed or the orders were made she had the assistance and advice of counsel."

While the proceedings in the Jackson case were brought under the act of February 5, 1917, as added to by the act of October 16, 1918, the provisions of statute involved are identical. Also, the departmental regulation governing the appearance of counsel in deportation hearings in force at the time the hearing complained of in the Jackson case was held was identical with that which was in force at the time the hearing was conducted in Low Wah Suey case.

With reference to the second point, it will be noted that the inspector in charge at Helena, Mont., reports, in his letter of February 14, 1920, that witness Ambord was not only willing to testify without the service of a subpoena, but was "actually present upon a number of occasions and requested that he be advised whether or not his testimony would be required, in response to which Attorney Nolan advised both Sergt. Ambord and Inspector Baldwin (the examining inspector in the case) that the testimony of the former was not desired." This fact was, furthermore, testified to in open court by Inspector Baldwin.

In connection with cases of this class the point has been raised that decisions such as are cited above in support of the criticized departmental proceedings were made with reference to aliens from countries whose people are not invited by us to migrate to this country and who are permitted to enter only under very narrowly drawn restrictions. The contention is that decisions made in such cases are not applicable to domiciled aliens from countries whose people in general are, by our national policy, invited to settle here, and that in the latter cases deportation proceedings for an offense against our laws are so far in the nature of criminal proceedings, even though administrative in form, as to entitle domiciled aliens to the protection of our bill of rights in respect of their personal liberty and their property.

In view of the foregoing, the Department of Labor is of opinion that this case should be carried to the Supreme Court for an authoritative decision affecting the whole country. It is therefore respectfully requested that the case be appealed with a view to securing a Supreme Court decision.

Very truly, yours,

LOUIS F. POST, *Assistant Secretary.*

Mr. PALMER. It can thus be seen that in the case of Fong Yue Ting, the United States Supreme Court has intimated what its attitude would be upon this question, and in my opinion and in the opinion of the Assistant Secretary of Labor, I believe, if his letter of March 30, 1920, stands for anything, that the Silverthorne case is wholly inapplicable and that the Jackson case is erroneously decided. Also considerable comment has been made before this committee upon the case of Whitfield *v.* Hanges, and I believe the Assistant Secretary has intimated that he would stand or fall upon this case. I shall later discuss the merits of the argument in the Whitfield case. It is to be borne in mind that this case did not go to the United States Supreme Court, and it is also to be borne in mind that many of the questions passed upon in the Whitfield case have been passed upon by the Supreme Court and passed upon contrary to the idea of the presiding judges in the Whitfield case. The ruling in the Fong Yue Ting case should have governed in the Whitfield case.

Considerable comment has arisen over the methods followed in the Boston district in effecting the arrests of alien communists. In no instance was any search of premises made over the protest of the person involved. At the first protest meeting after the January raids held in Boston February 23, 1920, it was openly stated by the communists that the Department of Justice men acted the part of gentlemen and treated the aliens with every consideration. Frequent mention has been made by Judge Anderson of the red hysteria, but if one may judge from his instructions to the United States marshal the judge did not possess such peace of mind as he was prone to profess, for he instructed the marshal to use extra precautions and exercise extraordinary vigilance and protective measures during the habeas corpus proceedings in his court.

So he was a little hysterical himself for a day or two, all of which shows that men in the back of their heads and in their hearts know pretty well—men who have senses and brains—that there is a serious situation which we must confront.

CHARGES OF NATIONAL POPULAR GOVERNMENT LEAGUE AGAINST THE DEPARTMENT OF JUSTICE.

Now, Mr. Chairman, I come to the remarkable address made to the American people by 12 lawyers—12 gentlemen said to be lawyers—in a pamphlet entitled "Report upon the illegal practices of the United States Department of Justice." They say they have viewed with growing apprehension the continued violation of the Constitution and the breaking of the laws by the Department of Justice, and express their apprehension at considerable length and in much black type. They attach to the report the evidence which led them to make these very remarkable statements. I do not know all of these gentlemen. Such of them as I do know I am not much impressed by, but I am entirely satisfied that if they be reputable lawyers they have either been woefully deceived or have delib-

erately declared their political convictions rather than their judgment as reasoning men upon the facts presented. Practically all of the testimony which they offer and attach to this document by way of exhibits comprises affidavits made by aliens who were arrested under warrants issued by the Department of Labor or by their attorneys. I have caused all of these complaints to be thoroughly investigated by my department. I put in charge of this investigation the most trusted men in the Bureau of Investigation, men whom I personally know and in whom I have the utmost confidence.

I am able to produce to you, Mr. Chairman, this morning the evidence which refutes all but two of the charges contained in this document, and as to those my investigation is not yet completed. When received, I shall be glad to give the facts to you in relation to those things. I first saw this paper last Friday, I think, or Saturday, and gave immediate directions to have everything in it thoroughly and completely investigated. Of course, Mr. Chairman, when we come to the matter of proof as to charges of this character you have on the one side the testimony of the alien himself, and you have on the other the testimony of the sworn agents of the Bureau of Investigation of the Department of Justice; sworn officers of the law and officers of the Government. The facts are capable of no other kind of proof except the statements of these men, the alien making charges that he is beaten up or that his treatment in jail has been rough, or things of that kind. I have no personal knowledge of the facts. The only excursion I can enter into in order to discover the truth is to ask the sworn agents in my department what the facts are. Now, as far as I am concerned, I should prefer to take the word, certainly the sworn testimony, of these splendid men, these real Americans, who, after the most careful investigation of their character and qualifications and training, have been brought into the Secret Service of the Department of Justice, rather than the statements of these aliens facing the punishment that they fear most in life—deportation to the country from which they came.

The gentlemen who signed this address to the American people accepting at full value every statement made by these ignorant aliens, of course, say that the Department of Justice agents are liars when they deny the allegations made by the aliens, and that is all a part of the same kind of attack against the Government and all its officers and its agencies which has been going on so long by these people.

I want to add one word to what I said yesterday about these special agents of the Department of Justice. I think I am safely within the mark, Mr. Chairman, when I say that it is harder to get into the Bureau of Investigation than it is into any Government service in Washington. The examination which is made of every applicant, of his past life, his record, his training, his qualifications, his character, his point of view, his habits of thought and action, is the most thorough applied in any department of the Government. Fortunately, through the generosity of the Congress last year, we were able to pay liberal salaries to these men, and as a consequence we have gotten extremely high-class men. The applicant is required to sign a long, formal application blank which sets forth his entire life history over his own signature. That is then sent out to the Bureau of Investigation head in the city nearest the residence of the applicant and an independent investigation made through our own agents of

this man, and those reports are filed. This examination includes a a personal examination of the applicant and an examination of every reference that the applicant makes. It is one place, Mr. Chairman, which I am satisfied is absolutely free from any political influence of any kind or character. Certainly it has been so since I have been there and we have reorganized the bureau from top to bottom. We have discharged ruthlessly any man who gives the slightest indication of playing politics or of falling down in his work in any way. I have given instructions, and I know they have been carried out, of a kind that have made the personnel that organization of an extremely high character. Most of them, a large number of them, are college men, university men. Many of them are expert linguists. Some of them speak many languages. Most of them are trained lawyers; not all, but a large number of them are trained lawyers; and this whole business comes down to this—this whole address of these lawyers can be considered simply by answering this question: Will you believe the statements of these men of the kind I have described who are in the Government service, who have no other motive than the performance of their duty, who have no other desire than to execute the orders of the Department of Justice in the enforcement of the law, will you believe their statements or will you believe the statements of these alien anarchists, facing, as I said, the punishment they fear most in the world. My mind finds no difficulty in accepting the statements of the Government men.

These gentlemen declare in their statements that they make no argument in favor of any radical doctrine as such, whether socialist, communist, or anarchist, but they appear here simply as sworn counselors at law, sworn to defend the Constitution itself, and yet three or four of them have appeared as counsel for the Communist Labor Party at the hearings before the Secretary of Labor, apparently, although we find the Communist Labor Party repudiating their appearance and declaring that they did not represent the party as counsel, which indicates pretty clearly that they were there because they believed in the communist ideas and desired to defend them everywhere.

HARTFORD JAIL CONDITIONS.

Let me now take up one or two of these statements seriatim. On page 11 of this document they say:

> In Bridgeport, Conn., on November 8, 1919, various workingmen had come together to discuss ways and means for buying an automobile to be employed for instruction purposes. The meeting was raided.

Well, it is a very serious thing for the Department of Justice to raid such a peaceful meeting as that, and it sounds pretty rough, but if these investigators had undertaken to ascertain the real facts they would have found that the so-called automobile school was in fact a camouflage for the Union of Russian Workers, and that before a man could become a member of the school he must become a member of the union. Here I wish to call your attention to the Union of Russian Workers very briefly by giving you some interesting excerpts from their platform and manifesto, reminding you that this was one of the first organizations ruled upon by the Department of Labor and determined by them to be proscribed by the statute, although very little has been said to you about this particular organi-

zation, most of the hearings having covered Communist and Communist Labor Party cases. In paragraph 3 of their declaration of principles and referring to the struggle between the capitalists and workers, it is claimed that this struggle will end "only when the toiling masses, organized as a class, will understand their true interests and will make themselves masters of all the riches of this world by means of a violent social revolution."

This is the organization which published and distributed the famous manifesto of anarchists communists with which you are acquainted because of its wide publicity, and which contains many important points. One, for instance, is:

The State kills human personality and therefore tears up the noble roots of intellectual and moral life. There are no free people in the state—they are all officials and subjects. Its ideal is to make subjects even of its officials, in order that all may be bound to its infamous chariot and to extricate every possibility of a social revolution. * * * The state is unnecessary, because with the extermination of classes its principle function will cease.

The tactics to be used are familiar to you because of the wide publicity at the time of the Union of Russian Workers matter. You will remember the familiar phrase "We are atheists; we are communists; we are anarchists," the last phrase being the conclusion of the paragraph which contains the statement:

We hate authority that external preserver of slavery and foe of freedom. The lords, having been destroyed, why leave the whip of the lords; the power of capital having been destroyed, why allow its safeguard, the state, to remain.

So much for the organization of which Nakhwat and his friends involved in the Bridgeport affair were members.

So far as the men being held for three days is concerned, it should be stated that the agents who were engaged in the examination of these men worked through three days and two nights without sleep or refreshment in order to expedite the hearing.

That they slept on iron bunks without cover or mattresses and were fed little or nothing.

As fast as the men were examined they were placed in the usual and regulation cell used for all persons detained, and were treated in the same manner and by the same persons as prisoners held under local and State charges. The "investigators" surely know that in no police station is there any mattress or place to sleep other than the regulation "iron bunk," which is used throughout the country in all first-class detention places as the only practical and sanitary means.

That the men were arrested without warrant.

This is not entirely true as there were warrants for some of the men and the others were taken into custody because of their presence in the meeting place, which would establish prima facie their connection with the proscribed organization.

That persons who applied to the Hartford Jail to see their friends were also taken up and confined in the jail.

This is practically the same as a person found in an active meeting of the organization where, after an examination by casual questions, there is a prima facie membership or affiliation established.

That some of the men were beaten and threatened with hanging or suffocation in order to obtain answers from them.

To this I make an unqualified and absolute denial, on the strength of the statements made by the agents who took these men, whose statements I am prepared to believe rather than the statements of the aliens.

That most of the men remained confined for five months until they were transferred by authority of Mr. Post to Deer Island.

This is true, and it is very probable that some are still in confinement. So far as their transfer to Deer Island is concerned, there was absolutely no improvement in the confinement conditions because of the transfer, as the Hartford Jail is in every respect just as desirable a place of confinement as Deer Island.

If the Department of Justice had had its way in these deportation cases there would have been no confinement for five months anywhere, but deportation would have been very much more prompt.

That the prisoners were allowed no reading matter, were kept alone in their cells except for visits of agents of the Department of Justice or hearings before inspectors, were refused knowledge of the charges against them or the amount of bail, were allowed only two to five minutes a day to wash their faces and hands and only five minutes once a month to wash their bodies, were given practically no exercise, and were fed with foul and insufficient food.

This I also deny, regardless of the allegations made by the "12 prominent lawyers." So far as reading matter and visitors are concerned, the prisoners were subjected to the same routine discipline as any persons confined in any part of the institution. I can not see the objection to being confined alone, as one of the most general objections voiced by these people for some time past has been that they were crowded in great numbers into small spaces. I do not agree that in any instance any man was held or confined without a knowledge of the charge against him, either by being definitely and fully advised when taken into custody or indirectly from the questions put to him.

If any man was refused knowledge of the amount of bail under which he was held, it was due very probably to the fact that the Department of Justice itself did not know the amount of bail due to the vaccilating and uncertain instructions of Mr. Post, who many times changed the amount of bail in particular cases. That the men were allowed only five minutes to perform their ablutions is an exaggeration. I will not attempt to say definitely to the minute how long it takes a Bolshevik to wash his face and hands. I am satisfied that the guard gave the men as much time as he could and as much time as would be effectively used in both this matter and that of exercise. The food was supplied by a restaurant under contract, and was the same as is furnished city and State prisoners. The Government can not afford and would not be justified in supplying a six-course meal and cigars. I know that the food that was given to these people in the average case was at least of equal quality to that which the average was accustomed to. I am satisfied, however, that even with these things there would have been objection.

Page 11: The four punishment rooms, the steam pipes.

This myth has gone the breadth of the country. When the reverend gentleman of the Interchurch World Movement appeared before the Immigration Committee, he told them that after making examination of the Hartford jail, he had been unable to locate any such

rooms, and after an examination I am thoroughly satisfied that this ridiculous charge is a creature of fertile imaginations. In addition I have had a careful investigation made and have an affidavit from Mr. Hickey to the effect that not only were there no such rooms or arrangements anywhere in the Hartford jail, but to his personal knowledge no practices were indulged in which could by any fair mind be considered cruel and harsh treatment.

This serious charge of punishment rooms, steam rooms, and that sort of thing, as I say, has gone about the country generally, and these distinguished lawyers who present this address declare in large type on page 11 of their book that there exist four punishment rooms, "all alike, unventilated and utterly dark, size 4 feet 3 inches by 8 feet 10 inches, with solid concrete floors, no furniture of any kind, and placed over the pump room of the boiler, so that the temperature in them becomes unbearably high. A number of the supposed anarchist or cummunist prisoners, probably 10 to 15, were confined in these rooms for periods of 36 to 60 hours;" and then they attach to this an affidavit by one of them, Anton Dimitroff, to prove the facts which they there state, but after the affidavit, in very small type, these gentlemen add this:

NOTE.—The hot cells in which these men and others were punished became known as the "steam room." A belief grew up among the prisoners that in some way steam could b turned on and off at will. We have found no apparatus for such a purpose and ascribe the belief to excessive unventilated heat, etc.

In other words, they take back in small type what they say in large type. It may be possible that there are some unventilated rooms in the jail and that some of these people got in them, but to charge the agents of the Department of Justice with deliberately putting them in steam rooms——

Mr. RALSTON. May I be permitted to interrupt the Attorney General long enough to call his attention to the fact that we have never said——

Mr. GARRETT. We have heard——

Mr. PALMER. I have no objection.

Mr. RALSTON. I would like to say that the statement is not made in this pamphlet and has never been made, so far as I know, by any of its signers that there was such a thing as a steam room; but I want to add this fact, if I may at this time——

Mr. PALMER. You call them punishment rooms.

Mr. RALSTON (continuing). That one of the agents of the Department of Immigration, of the highest personal character, has examined these rooms and I know would come before this committee or any other committee and describe them exactly as they are described in this affidavit.

Mr. PALMER. He would not describe them as they are described in the affidavit because you take that back yourselves.

Mr. RALSTON. They do not call them steam rooms.

Mr. PALMER. On page 11 they allege that these people were "denied the privilege of seeing their relatives or friends "

This general charge is untrue and I refer to my previous statement relative to the discipline of the institution.

Page 12: That there were no substantial charges against at least ten of them, is shown by the fact that after being held for two months and a half on $10,000 bail they were released without bail January 24.

The fact that a man was released without bail does not establish the absence of substantial charges. This, of course, in view of the attitude of Mr. Post and the practice generally, as I have shown many cases in which there was conclusive evidence against the man and they have been released by the cancellation of the warrant.

Page 12: The foregoing statement, with many details is evidence by the statements of Isaac Shorr of the New York bar who represented this man. * * *

Mr. Shorr is well known to the department because of his activities as attorney for these people. He many times has appeared as attorney for aliens who had never seen him until the hearing and disclaimed any knowledge of his retainer. Mr. Shorr is one of the most active leaders of these people in the United States, and at the present time his office is the address at which persons in this country receive incendiary correspondence from persons deported on the *Buford*.

On page 12 these gentlemen present as Exhibit 1–A the case of Semeon Nakhwat, and it was Semeon Nakhwat that led the New Republic recently into such flaming editorial effusion. Coming over on the train from Baltimore a week or so ago I casually picked up a copy of the magazine entitled "The New Republic," and saw on the outside of the cover in flaming black and red letters, "Is Palmer guilty of high crimes?" Naturally being curious to discover the answer to that question, I bought the magazine and found that I was decidedly guilty according to Mr. Hard who wrote the article, which left no provision of the Constitution unviolated by the present Attorney General, and to prove it all he produced the story of Semeon Nakhwat, who suffered grievously in the Hartford jail.

This man admitted his membership in the Union of Russian Workers of Ansonia, Conn., and his membership card, No. 36, was in the possession of this department and was turned over to the immigrant inspector at the time of his hearing. He denies that he is an anarchist, socialist, or bolshevik. In my view this is immaterial, as under the terms of the statute the membership is sufficient. He claims that on November 8, 1919, he was attending a meeting of the Russians at Bridgeport, which had come together for the purpose of discussing ways and means of buying an automobile for instruction purposes. As I have already shown, the so-called automobile school was a camouflage for the Union of Russian Workers—and incidentally I might say this fact has been conclusively shown by the statement of organization officers in their testimony.

Nakhwat, in his affidavit, alleges that he was arrested by Edward J. Hickey, a special agent of the Department of Justice; that no warrant of arrest was shown him; that he was taken to a police station, asked many questions, held there six weeks, and that Hickey "struck me twice with his fist, once in the forehead and once in the jaw, whereupon I fell. He then kicked me and I became unconscious. Hickey is a big man, weighing 200 pounds. For three weeks after this I suffered severe pain where I was kicked in the back."

Nakhwat was not arrested by Agent Hickey, as stated in his affidavit, nor was Agent Hickey in the same section of the State when the affair opened. In addition I have an affidavit from Mr. Hickey, who is an entirely responsible agent of the Department of Justice, in which he states he has never entered the cell occupied by Nakhwat and never struck, kicked, or otherwise

abused Nakhwat. Before anyone could enter the cell the door must be opened by the guard.

The affidavits from the men confined at Hartford specifically complain about not being permitted to have reading matter or visitors. The rules of the institution prohibit daily newspapers to everyone—State and Federal prisoners alike—but permit magazines and books. The only magazines or books available which the aliens could have read or understood would have been the radical publications in their own language, and those were prohibited by the rules of the institution, and properly so.

So many visitors came to see the men that it was necessary to keep a book. So far as exercise was concerned they were given half an hour a day with a ball. There is no yard or other inclosure in the Hartford jail, so that it was impossible to take the men outside for airing. Most of the cases which were handled with counsel, were handled by Mr. Isaac Shorr, of New York, and Mr. Harry Edlin, of New Haven, and these attorneys were afforded every opportunity to confer with their clients. As to medical aid, there is at the institution a physician—Dr. Arthur M. Emmett, whose duty it is to care for persons confined and his records show that he rendered services to the aliens. Incidentally, the witness to these affidavits—one A. Manko, is well known to the department on account of his activities. Musek was examined in the presence of two other agents and it is denied that such tactics as are alleged in his affidavit were used. His statement that he was not allowed to speak to the man in the next cell also is untrue, for the men not only talked to their immediate neighbors but shouted to men in distant cells and all through the day and night the men sang. Musek requested Mr. Hickey to advise his nearest relative of his whereabouts and his request was complied with promptly. So far as money and property taken from these men is concerned—as each man was brought into the cell room he was searched—as all persons confined are searched—by or in the presence of three men—two immigration men and at least one from my department. Nearly all of them now say we stole their money. Money was counted and the total amount called out to the alien for his verification. The amount of money as well as a description of other property was written in ink on the outside of a large envelope, into which the property was placed and which was deposited in the safe after an entry was made in a record book. Money and valuables to the amount of $30,000 were satisfactorily accounted for in this way at the Hartford jail.

I know that a number of men after being released have charged that money was taken from them when they never had any and I have every reason to believe the records made under the circumstances recited. Musek, by his own statement, is a thief, for he stole silverware which was later identified in part.

I wish to impress upon you that the Hartford jail situation has been investigated not only by the minister who appeared before the Immigration Committee and this committee of 12 attorneys—if they did investigate it, although I think probably not, but somebody for them may have done so—but I have seen to it that the persons charged with improper actions in these affidavits have come to Washington and have been subjected to personal examination on the charges against them.

I desire to insert in the record the affidavit made by Mr. Hickey, sworn to on the 29th of May, 1920:

DISTRICT OF COLUMBIA, *City of Washington, ss:*

Edward J. Hickey, being duly sworn according to law, deposes and says:

1. That he is a special agent of the Department of Justice, Bureau of Investigation, assigned to official duty in the district of Connecticut.

2. That he has read carefully the alleged affidavit of one Semeon Nakhwat as printed on page 12 of a "Report upon the illegal practices of the United States Department of Justice," published at Washington, D. C., by the so-called National Popular Government League, in which affidavit the said Semeon Nakhwat charges that on November 8, 1919, at Bridgeport, Conn., he was arrested by the said Edward J. Hickey; and further that about 13 weeks thereafter, while the said Semeon Nakhwat was confined in the Hartford County jail at Hartford, Conn., the said Edward J. Hickey, while in the cell occupied by the said Nakhwat, did strike the said Nakhwat twice with his fist, once in the forehead and once in the jaw, whereupon he fell and was kicked by the said Edward J. Hickey until he became unconscious.

3. Deponent further states that he was not in the city of Bridgeport, Conn., on the date given (Nov. 8, 1919), and did not participate in and had no knowledge of either the said Semeon Nakhwat or his arrest; that deponent never even visited the meeting place referred to and had no knowledge of its character or location.

4. Deponent further states that at no time has he entered the cell in the Hartford jail occupied by the said Semeon Nakhwat, and that he has never struck or otherwise abused him.

EDWARD J. HICKEY.

Sworn to and subscribed before me at Washington, D. C., this 29th day of May, 1920.

[SEAL.] J. ARTHUR RUSSELL,
Notary Public.

Of course, as I said a moment ago, believe this anarchist if you want to. He says our agent beat him up, tried to kill him, and all that kind of thing, and he gives the name of the agent who did it; but the agent says he has lied, and I believe the agent.

CASES OF BARTHOLOMEW ISCHENKA AND SEMEON E. KRAVCHUCK.

I want, while I am on the subject of these fellows who claim they were beaten up so badly, to refer to the case of Bartholomew Ischenko. On page 19 of the report that I am discussing appears an affidavit made by one Bartholomew Ischenko alleging that he was struck on the head with a blackjack and thrown downstairs. I desire to insert in the record the affidavit of Special Agent Valjavec, who examined Ischenko and who states that he showed no evidence whatever of having been abused or mistreated, nor did he make any statement to the special agent that he had been abused.

Not satisfied with that, however, Mr. Chairman, I directed that an agent in New York whom I personally know and have known for a long time of the highest character and reputation, John L. Haas, should examine this man Ischenko himself and get his statement direct as to what actually happened, and I will insert in the record an affidavit he made. In the affidavit he states that he interviewed Ischenko in the presence of another agent and that Ischenko stated that he was at the Russian People's House on the night of November 7, 1919, but that he had not been struck or assaulted by anyone and that he had not been hit by a blackjack. Apparently, of course, he swore at some time to these lawyers that he had been, but the agent who arrested him says that there is nothing to it, that he made no complaint at the time, and that there was nothing in his appearance

that showed he had been injured. Mr. Haas went to great lengths to get him to tell the story again, and he denies that anything of the kind ever happened to him. I am reluctantly obliged to believe that somebody has planted something on these distinguished lawyers.

(The affidavits of Special Agent Valjavec and Special Agent Haas follow:)

STATE OF NEW YORK,
County of New York, ss:

Victor J. Valjavec, of lawful age, being duly sworn, deposes and says:

That he is a special agent of the Bureau of Investigation, U. S. Department of Justice, attached to the New York office of the said bureau; that on the evening of November 7, 1919, he was engaged at the office of the said bureau examining and questioning various persons supposed to be members of the Union of Russian Workers, who had been brought to this office by special agents of the Department of Justice and members of the New York Police Department; that as these persons were brought to the office of the said bureau in groups they were placed in a certain room to await examination, and it is therefore not within the knowledge of deponent to state the names of agents or officers who brought them to the office; that during said evening deponent questioned Bartholomew Ischenko, and that he, Ischenko, showed no evidence whatever of having been abused or mistreated, nor did he at that time make any statement to the effect that he had been abused or mistreated by anyone, either at the office of the bureau or elsewhere.

VICTOR J. VALJAVEC.

Subscribed and sworn to before me this 29th day of May, A. D. 1920.

[SEAL.] GRAHAM S. RICE,
Notary Public, New York County, No. 82.

Term expires March 30, 1922.

STATE OF NEW YORK,
County of New York, ss:

John L. Haas, of lawful age, being duly sworn, deposes and says:

I am an agent of the Department of Justice, assigned to the Bureau of Investigation at New York City. Under instructions from Agent Scully, I proceeded this day to the house at 94 East Seventh Street, New York City, to investigate a charge said to have been made by one Semeone Kravchuk that on the night of November 7, 1919, while he was at 133 East Fifteenth Street, New York City, know as the "Russian Peoples House," he was assaulted by an agent or agents of the Department of Justice; was struck on the head and had some teeth knocked out.

Kravchuk formerly boarded with an aged Jewish couple named Rosenfeld who have an apartment on the top floor rear of 94 East Seventh Street. When we were admitted to the apartment and inquired for Kravchuk we were informed by Mrs. Rosenfeld that Kravchuk had lived in her apartment only one week; that he had moved away some time ago, and she had no knowledge whatever of his present whereabouts. A man who was lying on a sofa arose to a sitting position as we entered the room. I suspected that he might be Kravchuk and asked him his name, which he stated was Ishenko. There were present in the room at this time Mr. and Mrs. Rosenfeld, Ishenko, Agent Anderson, and myself.

We left the apartment and telephoned Agent Scully, telling him that Kravchuk no longer lived at the address given but that there was a man there named Ishenko. Agent Scully then informed us that Ishenko had also been reported as having charged that on the night of November 7, while at the "Russian Peoples House," 133 East Fifteenth Street, he was struck over the head with a blackjack and thrown downstairs, and directed that we return immediately to the house at 94 East Seventh Street and take a statement from Ishenko relative to the alleged assault.

We returned to the Rosenfeld apartment and were admitted by Mrs. Rosenfeld. Another couple arrived immediately after our arrival, whom I believe to be related to the Rosenfelds, as the woman said: "Please excuse us for interrupting you, we have come to visit my aunt and uncle (meaning the Rosenfelds); we come from the Bronx."

Ishenko apparently understood no English nor did the Rosenfelds speak any. I asked the couple who arrived with us if they could speak Ishenko's language. The woman said that they could. I then asked them if they would act as interpreters, which they agreed to do. I asked Ishenko, through the female interpreter, if he had been present at the "Russian Peoples House," 133 East Fifteenth Street on the night of November 7, 1919. He replied that he had been there on that evening. I then asked him if he had been struck or assaulted by anybody on that occasion. He replied that he had not. I asked him specifically if he had been struck on the head by anybody on that occasion with a club or other blunt instrument and he again replied that he had not. I then described to the interpreter what a blackjack looked like, at which she and her husband both informed me that they knew what a blackjack was. The interpreter then explained to Ishenko what a blackjack looked like and at my request asked him if he had been struck on the head with a blackjack on the night of November 7. He then stated that he had not been struck by anybody with anything on that occasion. I asked the interpreter to ask Mr. and Mrs. Rosenfeld if they had heard and understood the questions put to Ishenko and the answers he had made to those questions. Both of the Rosenfelds replied that they heard and understood both the questions put to Ishenko and the replies made by him.

On the occasion of my first visit to the Rosenfeld apartment I found that neither of the Rosenfelds spoke any English. I asked Mrs. Rosenfeld if she spoke German to which she replied that she understood it. I then asked her in German about Kravchuk and her replies were made in a kind of German-Yiddish dialect, which I understood but not very clearly. Because of this lack of clearness in the replies of Mrs. Rosenfeld I asked the woman who had interpreted for Ishenke to put to Mrs. Rosenfeld in the Russian language, the question about Kravchuk which I had asked her in German. This was done and she made the same replies that she had made on the first question.

I asked the woman who had acted as interpreter the name of her husband and herself and their residence but she absolutely refused to give either their names or residence, stating that she did not want to be mixed up in court proceedings. We reassured her on this point but she persisted in her refusal to give us the information. I did not think it wise to press this point further as I believe we can secure the desired information from the Rosenfelds, through an agent who can speak Russian.

JOHN L. HAAS.

Subscribed and sworn to before me this 30th day of May, A. D., 1920.

[SEAL.] GRAHAM L. RICE,
Notary Public, New York County No. 82.

Term expires March 30, 1922.

STATE OF NEW YORK,
County of New York, ss:

I, Edward Anderson, an agent of the Department of Justice, do hereby state that I accompanied Agent John L. Haas to No. 94 East Seventh Street, New York City, and that I was present during the questioning both of Mrs. Rosenfeld and of Mr. Ishenko. That the statement made above by Agent Haas is a true and correct recital of what took place on that occasion.

EDWARD ANDERSON.

Subscribed and sworn to before me this 30th day of May, A. D., 1920.

[SEAL.] GRAHAM L. RICE,
Notary Public, New York County No. 82.

Term expires March 30, 1922.

Here is another case, that of Semion Kravchuk. On page 19 of the report is an affidavit of Semion E. Kravchuk, who states that he was brutally beaten on the night of November 7, 1919, and was taken to the Department of Justice Building and questioned. I am filing the affidavit of special Agent Charles J. Scully, in charge of the radical division of the New York office of the Bureau of Investigation, who states that there is no record in the New York office of Semion Kravchuk being brought to that office at any time on the night of November 7. He was beaten up by somebody else, because he was not even taken by the Department of Justice people.

(Said affidavit follows:)

STATE OF NEW YORK,
County of New York, City of New York, ss.

I, Charles J. Scully, of lawful age, being duly sworn, doth depose and say:

I am a special agent of the Bureau of Investigation of the Department of Justice.

That according to information received from the Washington office of bureau, one Semion Kravchuk, of 94 East Seventh Street, is reported as having made an affidavit

that he was hit on the head and that his teeth were knocked out on the night of November 7, 1919, at the Peoples House, and that he was taken to the office of bureau and immediately released.

I have cause inquiries to be made among the various agents employed in the Radical Division, and fail to find any agent who can recall having seen any person calling himself Semion Kravchuk, either at the Peoples House or at the New York office of the bureau, nor is there any record in the files of this office that would tend to show that any person named Semion Kravchuk was ever under investigation.

CHARLES J. SCULLY.

Subscribed and sworn to before me this 30th day of May, 1920.

[SEAL.] GRAHAM L. RICE,
Notary Public.

New York County No. 82; New York County Register's No. 2083; term expires March 30 , 1922.

CASE OF PETER KARAS.

Here is the case of Peter Karas. On page 20 of the report of the National Popular Government League appears an affidavit of one Peter Karas, who states that he was arrested by Department of Justice agents and brutally beaten. I am filing the affidavit of special agent Joseph G. Tucker, of the New York office of the Bureau of Investigation, who questioned Peter Karas upon the night of November 7 and who states that during the course of the examination Karas made no statement to the effect that he was abused or mistreated, nor did he show any evidence of having been so treated. When the examination of Karas was completed he was in good humor and left the office smiling, shaking hands with the special agent.

(Said affidavit follows:)

STATE OF NEW YORK,
County of New York, ss:

Joseph G. Tucker, of lawful age, being duly sworn, deposes and says:

I am a special agent of the Bureau of Investigation of the United States Department of Justice, attached to the New York office of the said bureau.

On the afternoon and evening of November 7, 1919, I was engaged at the New York office of said bureau, examining and questioning various persons supposed to be members of the Union of Russian Workers who had been brought to the office by special agents of the Department of Justice and members of the New York police department. As these persons were brought to the office in groups they were placed in a large room awaiting examination, and it is therefore not within my knowledge to state the names of the particular agents or officers who brought them to the office.

During the said evening I questioned one Peter Karas, residence 624 East Eleventh Street, New York City, who denied membership in the Union of Russian Workers and was therefore released. In the course of the conversation I had with Karas, he made no statement whatever to the effect that he had been abused or mistreated by anyone, either at the office of this bureau or elsewhere, nor did he show any mark or evidence of having been abused or ill-treated in any way. In the course of the evening I had occasion to see most of the persons brought to the office, and at no time saw any agent of the Department of Justice or police officer abuse or attempt to abuse anyone, nor did I hear any foul language used toward them.

After having completed the examination of Karas, who answered all questions without hesitation and was smiling throughout the examination, I informed him that there was no necessity for him to remain any longer, and he bade me good night, at the same time shaking hands with me.

JOSEPH G. TUCKER.

Subscribed and sworn to before me this 30th day of May, A. D. 1920.

[SEAL.] GRAHAM L. RICE,
Notary Public.

New York County No. 82; New York County Register's No. 2088; term expires March 30, 1922.

CASE OF GASPARE CANNONE.

Considerable space is given in the report of the National Popular Government League to an affidavit signed by one Walter Nelles, concerning the case of one Gaspare Cannone. This is a case in which it is charged that the agent forged the name of Cannone to a statement. In view of the seriousness of the charges made in this affidavit I have directed a very thorough and searching inquiry to be made into this case in order to ascertain the real facts concerning Gaspare Cannone. I have not yet completed that investigation, Mr. Chairman, and I will ask leave to file a statement of the facts as made by my investigators as soon as it is returned.

Of course, it ought to be unnecessary for me to say that if any agent of the Department of Justice has been guilty of forgery that he will not only be discharged from the service but he will be punished. It ought not to be necessary for the head of any department of the Government to make a statement like that about his own office. I would not permit it and no other man, who has the responsibility of directing a great department of the Government, would condone an offense of that character.

To charge the Department of Justice with the violation of law because a certain agent may be a crook or a criminal, exhibits a narrowness of mind which shows some other purpose than eliciting the truth. I do not say that this name was forged; I do not know; I have only the record made by these gentlemen, and only because we have not been able to get in touch with all the agents concerned have we been unable to complete the investigation so as to make a positive statement in the case to you.

DE SILVER AFFIDAVIT.

On pages 20 and 21 of the report appears an affidavit of one Albert de Silver, concerning the raid made upon the office of the Novy Mir on January 6, 1920. Mr. de Silver states that Mr. Mortimer R. Davis, special agent of the Bureau of Investigation, who was in charge of the raiding party, as he puts it, told him that if he went inside he might get hit over the head. Mr. Davis has been communicated with by long distance, he now being located in the city of St. Louis, and he denies emphatically that he made any such statement to Mr. de Silver, and further states that there was no undue destruction of property in the offices of the Novy Mir by agents of the Department of Justice on the night of January 6.

DETROIT CONDITIONS.

A word further about conditions in Detroit. Pages 22 to 29, inclusive, of the report, are given over to a lurid description of the conditions in the city of Detroit, resulting from the arrests made of alien communists in that town. The principal phases of the arrests in Detroit I have already covered, and my statement had been prepared before my attention was called to the report of this league. I note, however, that considerable space is given to affidavits of one Alex Bukovitsky and that in the said affidavit mention is made of a Mr. August Hermann. I desire to file with your committee an affidavit made by one Josh Venable, to whom August Hermann and Alex

Bukovitsky made the statements that this Government would be overthrown and that the Government officers would be either placed in jail or killed and that it was a shame that the Attorney General had not been killed but that the anarchists would eventually get him yet. These are the statements made by Alex Bukovitsky, whose affidavit is given a space of four and one-half pages in the report of the National Government League. I believe there is no further need to commend upon the credibility of this individual nor to take up the time of this committee with an analysis of the charges made by one who has as his sole purpose the assassination of Government officers.

I am in receipt of a telegram from the Detroit office of the Bureau of Investigation stating that Bukovitsky at no time was shot. It was alleged in the affidavit of this individual that he was shot in the head. Likewise the other allegations contained in the affidavit of Bukovitsky are absolutely and emphatically denied by the Federal authorities in the city of Detroit.

STATE OF MICHIGAN,
County of Wayne, ss:

I, Josh Venable, being duly sworn, do depose and say: That between April 10, 1920, and May 17, 1920, I was held at the Wayne County jail pending the order of the United States court and have since been discharged from custody by order of Judge Tuttle.

That during the time I was at the Wayne County jail I saw and became acquainted with one Alex Bukovitsky who was also held there.

During the first night he was there Bukovitsky stated that he was an anarchist and that he was proud of it; that there was going to be a revolution in the United States and that there would be no more laws in this country and that all the small fellows would be alike and the big fellows would all be put in prison or put to death.

During other conversations he stated to me that all churches would be made into machine shops and prisons would be made into blacksmith shops, except Siberia where they would put all the American capitalists, and that the coming revolution would overthrow the Government of the United States and would down it.

Bukovitsky also stated to me that some time later some one would kill Attorney General Palmer, and that it was a shame that the fellow who shot at Attorney Content did not kill him, but that "we anarchists will get him later."

He also stated that he had been offered a parol, but that he would not accept it as they wanted him to sign papers to take his parole and that he would not do it because he had been told that if he got out on parol he would have to keep his mouth shut and this he would not do. He stated that if he did get out on parol he would leave this city at once and travel from one town to another and make speeches all the time. He also stated that the Government would never stop him from talking unless they killed him, because he was paid for talking by the revolutionists.

All the time that Bukovitsky was at the jail he attempted to convert every person who he met to a belief in anarchy.

JOSHUA VENABLE.

Subscribed and sworn to before me this 18th day of May, 1920.

[SEAL.] THOMAS C. WILCOX,
Notary Public, Wayne County, Mich.

My commission expires December 15, 1920.

STATE OF MICHIGAN,
County of Wayne, ss:

I, Josh Venable, being duly sworn, do depose and say: That between April 10,1920, and May 17, 1920, I was held at the Wayne County jail pending the order of the United States court and have since been discharged by order of Judge Tuttle.

That during the time I was at the Wayne County jail I saw and became acquainted with one August Herrmann, who was also held there.

During the first night he was there Herrmann stated to me and to others present there that he was an anarchist and revolutionist and explained that that meant that he was one of those who were going to overthrow the capitalists and the Government of the United States by means of a revolution and war. He asked me whether I ever had been in the United States Army, and when I replied that I had served in the United States Marines, he asked me further if I would help the revolutionists in the event a revolution should break out in this country, to which I replied: "That I would fight for the United States only." Upon this statement from me he called me crazy and a fool, saying: "You are fighting for the capitalists who are taking your money away."

He stated further: "No laws are necessary in this country, and that after the revolution, which would overthrow this Government, there would be no laws. All the Government officers would either be put to death or exiled and then all men would be equal."

Herrmann stated further that when he got out of jail he would continue his work against the Government and that he would start all over and they never would be stopped.

Herrmann, during the entire time that he was confined at the jail attempted by all means to convert every person with whom he came in contact to a belief in anarchy.

JOSHUA VENABLE.

Subscribed and sworn to before me this 18th of May, 1920.

[SEAL.] THOMAS C. WILCOX,
Notary Public, Wayne County, Mich.

My commission expires December 15, 1923.

I have no doubt whatever that Bukovitsky is something of a liar, even to the extent of saying that he is going to get me yet, but he is not.

CASE OF JULIA PRATT.

On page 29 of this pamphlet, prepared by the 12 learned attorneys, is a statement concerning the case of Julia Pratt, and it is stated that Mr. Herman Bernhard appeared as a witness against Miss Pratt and testified that he was a secret agent of the Department of Justice, and as such he had joined the Communist Party of Buffalo, N. Y., and had become the recording secretary of that branch. This statement is a deliberate and unwarrented falsehood. I have at hand a transcript of the testimony taken before the board of education in the City of Buffalo, in the Pratt case, and it will be observed that Mr. Bernhard made no such allegation. I pointed out to the committee yesterday that Mr. Bernhard was employed as a special agent of the Department of Justice on January 20, 1920, after the arrest had been made of members of the Communist Party, and that at no time, while in the service of the Department of Justice, has he ever been an undercover employee. Mr. Bernhard was connected with the Lusk Committee prior to his employment by this department, but that committee in no official way is connected with the activities of the Department of Justice.

I would like to file, as proof of the falsity of that statement, the actual testimony taken in the Pratt case.

(Said testimony follows:)

[Before the Board of Education of the city of Buffalo. In the matter of the charges preferred by Supt. E. C. Hartwell against Julia D. Pratt.]

Hearing before the board, held at Room 1401, New York Telephone Building, commencing Monday, February 9, 1920, at 2 p. m.

Present: Edwards D. Emerson, Esq. (chairman); Louis E. Desbecker, Esq.; George J. Zimmerman, Esq.; Raymond Bissell, Esq.; Mrs. John W. Wickser, comprising the board; E. C. Hartwell, Esq., superintendent of education.

Appearances: William S. Rann, Esq., corporation counsel, by Andrew P. Ronan, assistant city attorney, for Board of education.

Hon. Adelbert Moot, counsel for Miss Pratt.

HERMAN E. M. BERNARD, called by the board and sworn, testified as follows:

Mr. ALTMAN. I would like my appearance noted here. I appear for one of the witnesses.

Examined by Mr. RONAN:

Q. What is your name?—A. H. E. M. Bernhard.

Q. Where do you live at the present time?—A. At the present time at the Lafayette Hotel.

Q. Where are you working—have been?—A. New Jersey, in Newark.

Q. Out of what headquarters?—A. Department of Justice of the United States.

Q. You are a special gaent of the Department of Justice, are you?—A. Yes.

Q. Was there a time in the course of your professional duties that you saw fit to become a member of the Communist Party of the city of Buffalo?—A. Yes.

Q. I show you a pamphlet marked "Manifesto and program," and I ask you if that is the manifesto and program of the Communist Party of America?—A. Yes.

Mr. RONAN. I offer that in evidence.

Chairman EMERSON. Received.

(Pamphlet No. 1, manifesto and program and constitution—report of the Communist Party International, marked "Exhibit No. 1," of this date.)

Q. Were you present at a meeting of the Central Branch of the Communist Party in the city of Buffalo on the 23d day of November, when this manifesto and program was adopted by the central body or Central Branch?—A. That meeting on the 23d of November was not a meeting of the Central Branch; it was an emergency convention of local Buffalo for the purpose of adopting the program manifesto of the Communist Party of America.

Mr. RONAN. Do you wish me to read any excerpts from that?

Mr. DESBECKER. Suit yourself.

Q. You were present at that meeting of November 23, 1919, when the program was adopted?—A. Yes.

Q. Was Miss Julia D. Pratt, the defendant or respondent herein, present at that meeting?—A. Yes.

Q. Did she vote upon the question?—A. Yes.

Q. Did she vote in favor of or against the adoption of this manifesto and program?—A. In favor.

Q. Are you familiar with the minute book of the central branch?—A. Very much so. I used to keep it.

Q. Were you one of the officers at one time of the central body?—A. Yes; recording secretary.

Q. I show you a book, page 13, of the minute book under date October 1, 1919, Will you kindly read the resolution?—A. [Reading:] "The minutes of the last meeting were read and approved. The following applications were received and ordered to take the usual course: Peter Simeone, 239 Seventh Street; James Zeamer, 10 Pierson Street; Mrs. Mary Duelsch, 372 Hickory Street; Merritt Hershantz, 266 William Street; M. J. Horn, 363 Connecticut Street; John H. Marshall, 28 Mesmer Street; William Finlayson, 42 School Street; Julia D. Pratt, 945 West Ferry Street; Max Weinberg, 475 Jefferson Street."

Q. Is that all?—A. That is all I had, yes.

Q. That is the only part in which Miss Pratt's name is mentioned at that meeting?—A. Yes.

Q. It says her application there took "the usual course." Explain what that meant at that time.—A. In the other part of the organization of the Communist Party of America the procedure was a rather quick one. When I joined, when they first organized, all you had to do was pay a quarter, present an application indorsed by a few members, and within the next 10 days you would receive your membership card. Later on, after the adoption of the program manifesto, it was necessary that the application be "laid on the table," as the expression was, and take its regular course.

Q. Was that prior to or after this meeting?—A. That was after November 23, after the actual convention.

Q. But prior to November 23?—A. Prior to that, in some parts of the country they called it "being a charter member." They did not term it such here. The regular course was to file the application and receive the money and, in about 5 or 10 days, as soon as the secretary could find time, they would send out the card.

Q. Before a name was presented in the meeting as having made an application, it was customary and it was the rule—or was it customary and the rule—that they make out an application card?—A. Yes.

Q. Is this the form of the card that the constitution of the Communist Party called for [handing witness card, who examines name]? If you wish to refresh your recollection by looking at the constitution and comparing them, you may do so.—A. No; this is the later form of application.

Q. There was one prior to that?—A. Yes; there was an entirely different card.

Q. Is this the form [handing to witness]?—A. Yes.

Q. Was that the form of application that was made out at the time of October 1 or prior thereto?—A. Prior to November 23.

Q. Prior to the 23d of November?—A. Yes; because I was not quite sure whether it was the 23d of November or a few days ahead.

Q. Before a name was put on the minutes as having filed an application a card had to be made out?—A. An application card had to be made out; yes.

Q. And Miss Pratt, before her name was in there, undoubtedly made out an application card?—A. She must have. I personally don't know that she made out the application.

Q. You never saw her application card?—A. I never did; no.

Q. At that time it was customary to pay some money at the time the application was made, was it?—A. Yes; it was 25 cents around that time. Later on it was raised to 50 cents initiation fee.

Q. I show you a book and ask you if you recognize this book?—A. (Examining same) Yes.

Q. What book was that?—A. Well, I really couldn't tell you, frankly, what they called that book—but I have seen it up to the party headquarters. It seems an account book. I really don't know what they called it up there.

Q. It was one of the books of the organization?—A. Yes—I went through it repeatedly and extracted from it.

Q. Looking at page 2, what is the heading?—A. "Application."

Q. Then different dates are given?—A. Yes.

Q. Under date September 28, 1919, what is shown?—A. There were four applications.

Q. Read the four applications as of the 28th.—A. "Nathen Yosvitz, Max Weinberg, Julia D. Pratt, William Findayson,"—and 25 cents is received for every one of them.

By Mr. DESBECKER:

Q. What date is that?—A. September 28, 1919.

By Mr. RONAN:

Q. When a person became a member of the Communist Party was there issued to them a membership card?—A. Yes.

Q. I show you a form of card entitled "Membership card," and ask you if that was the form that was issued to the members of the organization?—A. In the early part of the organization they had different cards, what they called——

Q. "Temporary Membership"?—A. "Temporary Membership" cards.

Q. I show you one of these. That was the form that was used in the early part?—A. Yes. [Referring to red card.]

Q. Was that the form used in 1919?—A. That has been used in the very early stage of the organization. I joined before October, and I never had this card here [referring to red card]; I always had this here card [referring to red membership card].

Mr. RONAN. I offer in evidence this membership card of the Communist Party of America, form card.

Chairman EMERSON. Received.

(Red membership card, Communist party of America, marked "Exhibit No. 2" of this date.)

Mr. RONAN. I offer in evidence the form of the application in so far as it is a form, without the wording put in of the person whose name is on there.

Chairman EMERSON. Received.

(Form of application for membership in the Communist Party of America, marked "Exhibit No. 3" of this date.)

Q. There came a time in the history of the central council when application was made to the headquarters at Chicago for a charter?—A. Yes.

Q. Have you seen the charter?—A. Yes.

Q. I show you a photograph stating "Communist Party of America charter. To the comrades of the local Buffalo branch, greeting: Your application for a charter as a branch of the Communist Party of America has been approved and the charter granted. The name of your branch is entered upon the rolls of the party as stated above. We welcome you to the comradeship of the workers who are pledged to the struggle to abolish the capitalist system and establish the Communist Society. Dated Chicago this 8th day of October, 1919. Central executive committee, Communist Party of America, C. E. Ruthenberg, executive secretary; (signed) J. E. Ferguson, member of executive council." Is that a photograph or photostat of the charter of the local Buffalo?—A. Yes.

Q. Was the original of that in the rooms of the Communist Party local body at Buffalo?—A. The original of this charter was in the top drawer of the financial secretary's desk. It was never exposed to the eye of anybody who might come in.

Mr. RONAN. I offer that photostat or photographic charter in evidence.

Chairman EMERSON. Received.

(Photostat or photograph of Communist Party of America charter to local Buffalo branch, marked "Exhibit No. 4," of this date.)

Q. It was accepted, however, by the local Buffalo branch?—A. Yes, and they made various motions to have it framed, but they apparently did not have the money to have it framed.

Q. I show you a photograph or photostat of the charter of the Communist Party of America, reading as follows: "To the Comrades of the Central Branch, Buffalo City ——— County, New York State, Greetings: Your application for a charter as a branch of the Communist Party of America has been approved and the charter granted. The name of your branch is entered upon the rolls of the party as stated above. We welcome you to the comradeship of the workers who are pledged to the struggle to abolish the capitalist system and establish the Communist Society. Dated, Chicago, this 22d day of October, 1919. Central Executive Committee, Communist Party; (signed) C. E. Ruthenberg, executive secretary; (signed) H. M. Wicks, member executive council." I ask you is that a photograph of the charter of the Central Branch of the Communist Party of America, Buffalo, N. Y.?—A. Yes.

Mr. RONAN. I offer that in evidence.

Chairman EMERSON. Received.

(Photograph of charter of Central Branch of Communist Party of America, Buffalo, N. Y., marked "Exhibit No. 5" of this date.)

Q. For the information of the board, please explain the difference between "Local Buffalo" and the "branch," the two charters.—A. "Local Buffalo" is the city of Buffalo and surrounding territories, like Tonawanda, Depew, and close to the city; divided into various branches: We had the Lithuanian branch, the East Side, Western, Hungarian, German, Polish branch, and various branches. Every one of the branches was subordinate to the laws of the Local Buffalo branch, which was the head of the organization as far as Buffalo was concerned. Furthermore, the various branches elected delegates to the executive council, which met every Monday night, and the membership to this council was elected according to the number of the members of the various branches. If I am not mistaken, there were two members for the first 20, and then one to every additional 10 members of the party.

Q. The branch that Miss Pratt made the application to was the central branch, was it not?—A. So I understood it to be.

Q. That was the English-speaking branch of the society?—A. English-speaking.

Q. Have you seen Miss Pratt at some of the open forums of the party?—A. I have seen Miss Pratt evenings, Sunday evenings, when there was some out-of-town speakers present; and I have seen Miss Pratt up in the headquarters, on November 23, the general emergency convention.

Q. Just forget the general emergency convention, temporarily. Have you heard her addressed by the chairmen of meetings in the open forum?—A. Yes.

Q. What form of salutation was used in introducing Miss Pratt?—A. I do remember very clearly one instance——

Q. You do or don't?—A. I do—when, I think it was, James Campbell, who acted as chairman of that meeting, addressed the audience and said: "I now introduce Comrade Julia Pratt, who will entertain us with two solos on the harp."

Q. Was that subsequent to October 1, 1919?—A. You mean was it during October?

Q. Was it during October, after the 1st?—A. It was in the month of October, yes.

Q. And subsequent to the 1st of October?—A. Yes.

Q. The 1st of October being the date when her application was signed?—A. Yes.

Q. Are you acquainted with the signature of Miss Pratt?—A. Yes.

Q. Just for the purpose of identification, I show you a book called "The Ripsaw Mother Goose," and ask you if that is Miss Pratt's signature upon it?—A. Yes.

Q. What does it say?—A. "Julia D. Pratt—please return."

Mr. RONAN. Just mark that for identification.

Q. You are not personally familiar with what that is?—A. No, not at all.

(Booklet "The Ripsaw Mother Goose," with alleged signature of defendant upon it, marked "Exhibit No. 6" for identification.)

Q. Are you familiar in any way with the leanings, tendencies, and habits of thought of Julia Pratt in regard to communism?—A. Yes, I am.

Q. Prior to the 1st of October, 1919, did you have any occasion, in the performance of your professional duties, to attend at any private meetings at which Miss Pratt was present?—A. I attended several private meetings held at Miss Edith Harris's home in Kenmore.

Q. Among other people at that time Miss Pratt was present?—A. Yes.

Q. Were there two meetings?—A. Well, I have only a record in my report of two meetings—or three; I don't remember exactly. I know there have been more than that, but I only kept record of two specific meetings, I believe.

Q. The first meeting was on what date?—A. Eighteenth of July, 1919.

Q. Will you tell us the discussions that took place at that time—in the first place, the meeting was at Miss Harris's home in Kenmore?—A. Yes.

Q. There were other people present besides Miss Pratt?—A. There were; yes—some friends of mine.

Q. And yourself?—A. And myself and others.

Q. If you wish to, you may refer to your notes to assist your recollection. Will you give us the topics that were discussed and concurred in and advocated at that time by Miss Pratt?

Mr. DESBECKER. Hadn't he better tell you just what was said and what she did, rather than conclusions?

Mr. RONAN. Well, all right.

Q. Just give your recollection—I don't wish you to use any other names except Miss Pratt and your own, if you can possibly avoid it.—A. I can not fairly give the thing verbatim because it is too long ago and I have considerable other matters in my mind; but the general conversation was discussion between the "Left Wing" and the "Right Wing" movement, the forming of a communist party, the struggle between the proletariat and the capitalist; the tactics and methods to be applied to change the present economic conditions of the working class; it was spoken of using tactics of direct action, tactics of overthrowing the present form of government by violence, etc. This is the sum and substance of the conversation held, while at the same time also intellectual topics, as literature and art, etc., were contributed along; but the main topic was along those lines, of changing the present form of government.

Q. Did all those present, and Miss Pratt included among them, at that time say that she was a Bolshevist?—A. Yes; almost everybody, except Bob Hoffman didn't claim to be a Bolshevist.

Q. In so far as you can, I wish you would refrain from mentioning any names except Miss Pratt's and your own, because the other people are not in here on charges. At that time did the people present, including Miss Pratt, also state that they were I. W. W.?—A. They all favored the idea of being I. W. W.'s and are in sympathy with the organization, while none of them claimed to have any affiliation whatsoever—and as a matter of fact I did not know none of them were members of the I. W. W.

Q. That was a meeting of July 18, 1919?—A. July 18 and 25.

Q. On the meeting of the 25th was the following topic discussed: That the time was ripe now for a revolution; that there was great dissatisfaction among the laboring class; that on account of the soldiers returning, they were all sore, and that a revolution at this time would be a success and the overthrow of the Government a certainty?—A. Yes, that was spoken of.

Q. You may refresh your recollection, if you wish, by looking at your reports.—A. I know it is verbatim.

By Mr. DESBECKER:

Q. Was Miss Pratt present then?—A. Very much so.

Q. She participated in the discussions?—A. Decidedly.

By Mr. RONAN:

Q. At that time also was the following matter discussed: That "the main step to be taken is to get as big as possible an organization in the Communist Party in order to spread the necessary propaganda, and then when the party is formed and all in the party, strike when the iron is hot"?—A. Yes.

Q. Was it also discussed at that meeting of July 25, 1919, that the plan should be "to organize all the unions and other radical organizations into one party, and then at the opportune time overturn the Government"?—A. Yes.

Q. And Miss Pratt participated in that discussion?—A. Yes.

Q. And was one of the parties to it?—A. Yes.

By Mr. DESBECKER:

Q. Do you remember anything that Miss Pratt said on any of those occasions?—A. Anything verbatim that she said?

Q. No. Did she talk herself?—A. Oh, yes; she is very talkative; very much so. It is a continuous ramble. At those meetings held at Kenmore everybody spoke at the same time.

By Mr. RONAN:

Q. Do you remember any particular conversation or any statements that Miss Pratt herself made at that time?—A. I couldn't really give, honestly, anything else verbatim. All those conversations were so much to the effect of the overthrow of the present Government and control of the proletariats, that to remember anything specifically—if I say, generally speaking, that was the topic of the conversation, I hit the nail right on the head.

By Mr. DESBECKER:

Q. Did she voice those sentiments?—A. Decidedly so.

Mr. DESBECKER. That is the first time we have had that.

By Mr. RONAN:

Q. This was prior to the time that the books show that her application was made to the Communist Party?—A. Oh, yes.

Q. And prior to the time that the 25 cents was paid by her at the time her application was made?—A. Well, of course, I personally don't know anything of the money having been paid. I only know what is in the record.

Q. So far as the books show?—A. Yes—it happened in July, 1919, and August, 1919, at the various meetings.

Mr. RONAN. I offer this account book in evidence that has been referred to.

Chairman EMERSON. Received.

(Account book, before referred to, page 2, marked "Exhibit No. 7," of this date.)

Q. At that time 25 cents was the proper amount to pay to accompany an application.—A. Yes. That was the initiation fee. I paid 25 cents.

By Mr. ZIMMERMAN:

Q. Were there any honorary members?—A. Not to my knowledge. They all had to pay a quarter.

By Mr. RONAN:

Q. Was the party in such financial shape that they could afford an honorary membership?—A. No; not at all.

By Mr. DESBECKER:

Q. Do you know whether a card was ever issued to her or not?—A. That I couldn't tell you. But I can answer definitely yes, because she was present at the emergency convention, that no one could enter the hall or remain seated in the hall or vote that did not hold a membership card, because everybody was examined.

By Mr. RONAN:

Q. That was the emergency convention of November 23?—A. Yes.

By Mr. DESBECKER:

Q. Was that by some rule that they have, or some rule adopted by them?—A. When the meeting was opened the chairman requested that a sergeant at arms be appointed, and requested of everyone present to show his membership card—and they had to be in good standing before they could be seated and vote.

By Mr. RONAN:

Q. At that time Miss Pratt participated?—A. She was present November 23, and she voted.

Q. That was Sunday afternoon, November 23?—A. Yes.

Q. She was present also that evening at the open forum?—A. Yes—well, at the lecture, they called it.

Q. There came a time, about the 25th of November, 1919, when you were in the office of Mr. Sheppard in this city. Will you tell what you saw in the office on that day, anything pertaining to Miss Pratt?—A. That day, I believe it was, that the Express carried the accusation by Mr. Price of Julia Pratt—the "Four-Minute man."

Q. Mr. Price?—A. Yes, I think it was. I had just been speaking to Mr. Sheppard about the matter——

Q. Mr. Sheppard was also a member of the Communist Party?—A. Yes.

Q. And you, yourself, were a member?—A. Yes—when a letter arrived from Miss Julia Pratt. The letter was opened in my presence, and Mr. Sheppard read it, and turned it over to me to read.

Q. Did you read it?—A. I read the letter and I can give you the sum and substance of the contents of the letter, which was to the effect that Fred Sheppard was requested to communicate with the Communist headquarters and take steps to have her application card and any record that may prove her to be a member of the party destroyed.

Q. That you read?—A. Yes.

By Mr. DESBECKER:

Q. Did you make every effort to get that letter?—A. Yes; and have the men after it now.

Mr. DESBECKER. That letter should be in evidence.

By Mr. RONAN:

Q. Have you made any efforts, in connection with myself, to obtain this original letter?—A. Yes.

Q. Will you tell the court what we have searched through and what efforts we have made to obtain the letter, if it is in existence now?—A. I went through a large wooden box of the personal effects of Mr. Fred Sheppard, consisting mostly of letters received, dating back as far as 1914. I felt that there was a possibility that the letter was still in existence. I did not find it there. I called at his brother's home on Main Street.

Mr. DESBECKER. Where is he, Fred Sheppard?

Mr. RONAN. He is in Pensacola, Fla.

Mr. DESBECKER. He is not where he can be subpœnaed?

Mr. RONAN. No.

The WITNESS. It is impossible to subpœna him. He is a fugitive from justice and is now under arrest.

Mr. RONAN. He is now under arrest at Pensacola, Fla.

Q. Now, you may give the contents of the letter as you recall.—A. As I stated before, to the effect that Miss Julia Pratt requested Fred Sheppard to go to the headquarters of the Communist Party and make arrangements with some one there that her application card be destroyed, as well as any other record that proved her to be a member of the party.

By Chairman EMERSON:

Q. Was there a signature to the letter?—A. Yes.

Q. What was the signature?—A. "Julia."

By Mr. RONAN:

Q. Just the word "Julia?"—A. Yes.

Q. Did it make any reference in the letter to the charge having been made against her by Mr. Price?—A. Yes; it was touched upon. She called on the phone a few minutes afterwards—that was the next thing that happened.

By Mr. DESBECKER:

Q. Do you know that writing to have been hers; did you recognize the writing of the letter signed "Julia"?—A. Yes; I recognized the letter because I used to receive letters from her occasionally.

Q. Who wrote the letter signed "Julia"?—A. Miss Pratt.

By Mr. RONAN:

Q. Was there a telephone conversation following that?—A. Yes.

Q. Was the conversation alleged to have been between Mr. Sheppard and Miss Pratt?—A. It was between Mr. Sheppard and Miss Pratt.

Q. You don't know whether it was Miss Pratt at the other end, only from what Mr. Sheppard said?—A. I can only testify as to what she said she told him over the telephone.

Mr. DESBECKER. I don't think that is admissible here.

Mr. RONAN. I don't wish to offer that.

Q. There came a time after that when there was another letter sent by Miss Pratt to Mr. Sheppard?—A. Yes.

Q. Who was Mr. Fred Sheppard at that time in the organization?—A. I think at the time he was financial secretary.

Q. Did he have access to the books?—A. Yes; he held the bank books and those books were in his immediate command, because he was a member of the party and very much acquainted with the leaders of the organization.

Q. There came a time when there was another letter, purporting to come from Miss Pratt sent to Mr. Sheppard?—A. Yes.

Q. Have we made any efforts to recover that letter?—A. Very much so.

Q. We have made the same efforts that we made to recover the original of the first letter?—A. Yes.

Q. And we did not find it?—A. No.

Q. You might tell the board what the contents of the letter was—in the first place, was it a letter from Julia Pratt?—A. Yes.

Q. How do you know that?—A. It was signed "Julia."

Q. Do you know her handwriting?—A. Yes.
Q. What were the contents of that letter?—A. The letter was very brief, and to the effect that "The inclosed letter"—I think it was three or four receipts made out, and requesting Mr. Sheppard to take them up to the headquarters of the Communist Party. Those receipts were for money that she received for the entertainment given at the Communist Party.
Q. Do you know whether she received any money for those entertainments?—A. I do not. As I understand from hearsay or conversation I had about the matter, or as I have been told by the organizer, that she never received any pay. As a matter of fact, I tried to ascertain——
Mr. DESBECKER. I don't think that is admissable.
Mr. RONAN. Let us strike that out as hearsay.
Q. She did not say anything to you herself?—A. No.
Q. Did it say anything in either one of those two letters about a plan to put those receipts in the files of the party?—A. Yes; that is what they were sent for.
Q. Was this part of the plan to show that she was not a member of the party, as shown by the letter?—A. Yes.
Mr. DESBECKER. Just a minute. I think you should tell what is in it. That is a conclusion.
Q. Tell what was in the letter, if anything was in the letter, in regard to the plan, or if there was a plan.
Mr. DESBECKER. Tell what was in the letter.
Mr. RONAN. All right.
A. I have stated the substance of the letter. There was no plan discussed as to just how the thing should be framed up. The letter was just "Enclosed find the receipts. Please take them up to the Communist headquarters and have them placed on file." That was the substance of the letter, tending to bear out the "frame-up."
Q. Don't use that word "frame-up."—A. That is what it is.
Q. Subsequently to November 25, 1919, did you see Miss Pratt up at the headquarters of the Communist party at the Teck Building?—A. The last I saw her at the Communist headquarters was November 23.
Q. That was the date when the manifesto and program of the organization was ratified?—A. Yes.
Mr. BISSELL. What date did this article come out in the Express, referred to a minute ago?
Mr. RONAN. The charges?
Mr. BISSELL. Yes.
The WITNESS. Right after, I think it was the 24th or 25th of November.

By Mr. BISSELL:

Q. What is the last day you say you saw her up there?—A. The 23d. I saw her at the headquarters. I have seen her afterwards.
Mr. RONAN. Mr. Miller, do you wish to ask the witness any questions?
Mr. MILLER. I don't represent the defendant. I am only here to secure an adjournment. I am not in a position to intelligently put any questions to anybody.

By Mr. BISSELL:

Q. At the meetings at the Teck Theater did Miss Pratt used to join in discussion there; did she have something to say?—A. Miss Pratt—the only time I saw her at the Communist headquarters was at lectures, when some one was present from out of town, speakers. Here is the list [showing card]. I have never seen her any other time at the headquarters. There were questions and answers after the lecture, and she asked questions of the speaker. Does that answer your question?
Q. She never entered into any discussion herself?—A. She did not have the floor. The speaker had the floor.
Q. At any of the meetings you never heard her express any opinions?—A. Not at the Communist headquarters.

By Mr. ZIMMERMAN:

Q. Not on the night of November 23?—A. Yes, she did, on the afternoon, at the emergency convention—pardon me.

By Mr. RONAN:

Q. What did she say at that time?—A. There were various questions raised in regard to the adoption of the manifesto and program, and I am unable to say just what it was.

By Mr. ZIMMERMAN:

Q. Did she seem to be in accord with the genersl sentiment?—A. She seemed to be with the ruling power.

By Mr. RONAN:

Q. She voted in accordance with the manifesto?—A. Yes.

By Chairman EMERSON:

Q. How many times, altogether, did you see Miss Pratt?—A. I have seen her many times.
Q. A dozen?—A. More than that, undoubtedly.
Mr. DESBECKER. Any other questions?
Mr. RONAN. No.
Chairman EMERSON. Next witness.

STATE OF NEW YORK,
County of Erie, ss:

Arthur R. Jenkins, being duly sworn, deposes and says that he is a duly certified stenographer for the courts of New York; that he took the minutes of the trial of Julia Pratt before the board of education of the city of Buffalo, February 9, 1920, and took the testimony of Herman E. M. Bernhard, a witness examined in said trial, and hereby certifies that the foregoing is a full, true and correct transcript of his minutes taken on such trial.
Sworn to before me this 29th day of May, 1920.
[SEAL.]

GEO. E. CADY,
Notary Public, Erie County, New York.

Commission expires March 30, 1921.

CASE OF HENRY PETZOLD.

Upon page 30, of the pamphlet, is a statement concerning the case of Henry Petzold, and it is stated that evidence against this individual was given by two undercover agents of this department, one of them being Herman Bernhard, and the other one being George F. Cummerow.

It will be noted that Mr. Bernhard did not testify that he had been appointed by the Department of Justice to watch the radical movement, and as an agent of the department, became the recording secretary of the Communist Party at Buffalo. In point of fact he has never been assigned by the Department of Justice to watch the radical movement. His duty at the time of his testimony in the Pratt and Petzold cases, was that of investigation, as any other agent in the department. He has never performed any undercover work for the Department of Justice.

In connection with the charge of Cummerow, I desire to have made a part of the record, an affidavit of Cummerow's, which shows that he at no time was a confidential employee of the Department of Justice, and that his attendance at the Communist Labor Party was for the purpose of observation as to the proceedings of this party and that he gained entrance thereto by no fraudulent means and at no time has he been a member of or affiliated with the Communist Labor Party.

His testimony in the Petzold case was based upon his observation in the Communist Labor Party, which could have been witnessed by anyone desiring to do so.

It will thus be seen that the Pratt and Petzold cases are wholly without foundation when you examine the records.

STATE OF ILLINOIS,
County of Cook, ss:

George F. R. Cummerow, of the city of Chicago, county of Cook and State of Illinois, being first duly sworn, on oath deposes and says that he is a special agent of the Bureau of Investigation, United States Department of Justice, with headquarters at Chicago, Ill.; that his immediate superior officer in said department at Chicago, Ill., is Edward J. Brennan, whose official title is division superintendent, Bureau of Investigation, United States Department of Justice, for Chicago and surrounding territory.

Affiant further says that he is not a member of the Communist Labor Party or any other party or organization with radical tendencies, nor has he ever been at any time a member of such organizations.

Affiant further says that on the 1st day of September, 1919, he was instructed by Edward J. Brennan, heretofore mentioned, to attend a convention of the Communist Labor Party, then being held in the city of Chicago; that this affiant was instructed by said Edward J. Brennan to attend each and every session of said convention and make a report of the proceedings of the same; that this affiant was also instructed by said Edward J. Brennan to take no part in the proceedings of said convention, but merely to attend the same for the purpose of making a report; that in attending said convention this affiant took particular pains to observe the personnel of the delegates.

Affiant further states that Henry Petzold, of New Jersey, attended said convention as a delegate from said State of New Jersey; that said Petzold attended said convention from September 1 to September 5, 1919, inclusive, on which day said convention adjourned.

That said Petzold was a member of the constitution committee of said convention, took part in the proceedings of said convention, and was in full accord and approved the adoption of the constitution, platform, and program of said Communist Labor Party.

This affiant further says that said convention was an open convention that affiant did not attend "under cover" and was at no time questioned as to his identity.

Affiant further states in the case of People *v.* Petzold, tried at Jersey City, Hudson County, N. J., in March, 1920, he appeared as a witness for the prosecution; that the said prosecution was a State prosecution; that the affiant was informed on his arrival at Jersey City by Col. Vickers, assistant prosecuting attorney of said county, who had charge of said prosecution that he had made a request at Washington asking if a witness could be furnished him who could testify to the adoption of the platform and program at the convention of the Communist Labor Party held in Chicago September 1 to 5, 1919.

This affiant further says that he was instructed by said Edward J. Brennan on March 5, 1920, to proceed to Newark, N. J., and there report to Agent Stone, in charge of the Newark bureau office of the Bureau of Investigation, Department of Justice; that on arriving in said city of Newark, N. J., this affiant was informed by Agent Stone that he was wanted to testify in a case pending and on trial at that time at Jersey City; that when this affiant arrived at Jersey City this affiant was asked by the prosecutor of Hudson County, N. J., if this affiant had attended the Chicago convention of the Communist Labor Party and could identify the platform and program of said party for the purpose of introducing the same in evidence. To this this affiant replied in the affirmative and without further questioning took the witness stand and testified as stated heretofore. This affiant identified said Petzold immediately on entering court room as being at said convention; also identified defendant Petzold's counsel Boudin, of New York, who also attended said convention as a delegate and was a member of the organization committee at said convention.

Affiant further says that said Boudin appeared as a witness on behalf of defendant Petzold and admitted that the testimony given by this affiant in said case was true.

And further affiant sayeth not.

GEORGE F. R. CUMMEROW.

STATE OF ILLINOIS,
County of Cook, ss:

Subscribed and sworn to before me at Chicago, Ill., this 28th day of May, A. D. 1920.

[SEAL.] AUGUST H. LOULA,
Notary Public.

STATE OF ILLINOIS,
County of Cook, ss:

Edward J. Brennan, of the city of Chicago, county of Cook and State of Illinois, being duly sworn, on oath deposes and says that he is the division superintendent of the Bureau of Investigation, United States Department of Justice, for Chicago and the surrounding territory, that he has read the affidavit of George F. R. Cummerow attached hereto, that the matters contained in the said affidavit relative to this affiant are true.

And further affiant saith not.

EDWARD J. BRENNAN.

STATE OF ILLINOIS,
County of Cook, ss:

Subscribed and sworn to before me at Chicago, Ill., this 28th day of May, A. D. 1920.

[SEAL.] AUGUST H. LOULA,
Notary Public.

Herman E. M. Bernhard, sworn on behalf of the State, testified as follows:

Direct examination by Mr. DREWEN:

Q. What is your full name?—A. Herman E. M. Bernhard.

Mr. BOUDIN. I would call your honor's attention to the testimony of the witness, Lawrence.

The COURT. The court will strike that question and answer from the record and charge the jury to disregard as to what Lawrence said as to Wolf; that is, as to what his duty as secretary and treasurer of the Communist Labor Party was. Now, I think, we can proceed.

Q. What is your occupation?—A. Special agent, Department of Justice.

Q. How long have you been in the employ of the Government?—A. Well, you mean altogether?

Q. Yes.—A. I left the department for a while and then came back in January.

Q. When did you first come with the department?—A. 1918.

Q. How long were you employed with the department the first time?—A. 1917 and 1918.

The COURT. That is October 11, 1918, to be accurate?

The WITNESS. Yes.

Q. And you went back when?—A. January, 1919.

Q. And are you still employed by the department?—A. Yes; as an investigator.

Q. And as such investigator what have been your duties from the period of your employment?—A. Well, I have been requested——

Q. Never mind what you have been requested to do.—A. Investigate radical movements.

Q. By that you mean you have investigated the activities and constitutions of various radical movements and groups in the United States?—A. Yes, sir.

Q. And do you know from your work whether there is such a party in the United States as the Communist Labor Party?

Mr. BOUDIN. I object to that as calling for conclusion.

The COURT. I will allow it.

(Exception.)

A. Yes, sir.

Q. You say there is such a party?—A. Yes, sir.

Q. You are a member of the Communist Labor Party?—A. Yes, sir.

Q. How long have you been a member of the Communist Labor Party.—A. Since June, 1919.

Q. Do you know of a convention held by the Communist Labor Party in the city of Chicago——A. Yes, I am——

Mr. DREWEN. One minute; that question has not been finished yet.

Mr. BOUDIN. I would like to have a chance to object.

The COURT. Don't answer, Mr. Witness, until the question has been fully asked you.

Q. On or about the 29th of August, 1919——

Mr. BOUDIN. I object——

Mr. DREWEN. I have not finished the question yet.

Q. And continuing until about the 5th day of September, 1919?

Mr. BOUDIN. I object on the ground that this is calling for a conclusion of the witness.

The COURT. I am rather inclined to think that it is; I will allow him to answer yes or no.

Mr. BOUDIN. May I ask for an exception?

The COURT. You may have an exception.

A. Yes, sir.

Q. And was there such a convention?

Mr. BOUDIN. I object to that on the ground that it calls for a conclusion.

The COURT. I will permit you now to cross-examine him on the question of his knowledge.

Mr. BOUDIN. I should say it would be in place for them to bring out the facts; I don't like to open the door. If I ask the man how he knew, he is entitled to say anything he wants to say.

The COURT. Not if it turns out to be simply hearsay.

Mr. BOUDIN. With that understanding——

The COURT. Oh, yes; this court is here to protect both you and the State.

Cross-examination by Mr. BOUDIN:

Q. Now, Mr. Bernhard, you say you have been a member of the Communist Labor Party since June, 1919?—A. Well——

Q. Just answer it, you was or was not?—A. I don't have to answer that question yes or no; I am going to give an explanation.

The COURT. No; just answer it.
A. Yes, sir.
Q. Now, where was the Communist Party to be formed?—A. In Chicago.
Q. When?
Mr. DREWEN. I don't think that is a material question or necessary in view of the fact that this man said he was a member of it.
Mr. BOUDIN. I say he was not a member since June; I know there was no such party.
Q. When was that party formed, Mr. Bernhard?—A. It was formed in Chicago at the convention.
Q. When was that convention held—the Communist Party of which you claim to be a member?—A. August 31, I believe.
Q. Now, how have you been a member of it since June if it was only formed in Chicago August 31; I suppose you are speaking of 1919?—A. Decidedly. Very simple; I consider myself a member of the Communist Party of America because I made out my application in June.
Q. How could you have made out your application in June before it was ever formed?—A. I made application to the Socialist Party which later called themselves the Communist Party. Will you allow me to state the business of that convention——
The COURT. I understand.
Q. Now, Mr. Bernhard, did you ever see a call issued for calling a convention of the Communist Labor Party?—A. No; I have not.
Q. Were you a delegate in such convention?—A. No, sir.
Q. You were a delegate?—A. No, sir.
Q. You were not. Were you in Chicago in September or August or October of 1919?—A. I was not.
Q. And all you know about the alleged organization of the Communist Labor Party there was what you read in newspapers?—A. No.
Q. Or what somebody told you?—A. A delegate told me.
Mr. BOUDIN. I move to strike that out, the word "delegate."
The COURT. No; I will not strike out the word "delegate," but it's apparent that this man knew that such a convention was to be held by hearsay evidence. You make that apparent; that is the purpose of your cross-examination.

Further direct examination by Mr. DREWEN:

Q. Mr. Bernhard, you——
The COURT. You better withdraw that question, so that there will be no mistake. I will strike out both questions and answer of this witness as to his knowledge of the Communist Labor Party convention in August, 1919; I will strike that out and direct the jury to disregard it.
Q. Mr. Bernhard, when did this rupture between the Socialist and Communist Party which you have described take place?
Mr. BOUDIN. I object to that as calling for a conclusion.
The COURT. I will allow it.
Mr. BOUDIN. May I have an exception?
The COURT. Yes; you may have an exception.
A. The Communist Party or Communist Labor Party?
Mr. BOUDIN. There is no evidence that it was the Communist Labor Party.
The COURT. His answer regarding his knowledge of the convention was stricken out.
Q. Mr. Bernhard, when did this rupture between the Socialist and Communist Party which you have described take place?
Mr. BOUDIN. I object to that.
The COURT. I will allow it and you may have an exception.
A. Well, to my knowledge of the split, it was begun between the Communist Party and the Socialist Party, and only dates back as far, I would say, as June, 1919. There was at that time—I want to elaborate on that because your question is very hard to answer——
Q. Answer it in your own way.—A. There was a split in the Socialist Party, I understand, the latter part of 1917; my knowledge of it was when I was in Buffalo in the year 1919. That's where I was actually interested in radical movement, and there was no Communist Party up to that time, but there was a split in the camp of the Socialist Party.
Q. Do you know whether any party such as the Communist Party ever came in existence?
Mr. BOUDIN. I object to that as having no ground in this case.
The COURT. He is asked if he knows.
Q. Do you know whether any party such as the Communist Party ever came in existence?—A. Yes, sir.

The COURT. How do you know that?
The WITNESS. I happen to be an officer of the party, your honor.
Q. Officer of the Communist Party?—A. Yes, sir.
Q. And that was at Buffalo, N. Y?—A. Yes, sir.
Q. And what was your business?—A. Recording secretary.
Q. Now, have you ever known members of the Communist Labor Party?
Mr. BOUDIN. I object. That is calling for a conclusion and is also irrelevent.
The COURT. I will allow him to answer yes or no.
A. Yes, sir.
Q. In what State and over what territory have you known members of the Communist Labor Party?
Mr. BOUDIN. Same objection.
Q. I mean to speak to and associate with these members.—A. I have known members from Detroit and Syracuse.
Q. Were they members of that party in Buffalo?—A. No; one was organized over in Syracuse and others were——
Mr. BOUDIN. That I move to strike out; I assume it is referring to the Communist Labor Party.
The COURT. I will allow it.
Mr. BOUDIN. May I have an exception?
The COURT. Yes.
Q. Do you know any members of that party in the city of Chicago?—A. No, I am not acquainted in Chicago.
Q. Do you know any members in Buffalo?—A. We did not have the Communist Labor Party there at all.
Q. How about New York City?—A. Not acquainted in New York City.
Q. Now, have you ever discussed with these men with whom you associated, whom you know to be members of the Communist Labor Party, the constitution and progress of that party?
The COURT. Yes or no.
A. Yes, sir.
Q. How often have you done that, and with how many different members would you say?—A. Well, I have seen approximately 100 of the Communist Labor Party.
Mr. BOUDIN. I would like to enter an objection for the same reason. If what counsel really means is people purporting to be members of the party and if it were put in that form, I would have no objection; but in the form it is put, I think there is objection.
The COURT. You are on very tender ground, I admit. I will allow it.
(Previous question and answer read by stenographer.)
Q. Now, I didn't ask how many you saw; I asked how many you met to speak to and discuss the progress of the party. Will you answer that please?—A. Well, I believe that I talked with almost every one of the members about the constitution or general management of the party.
Q. Did these men ever exhibit what purported to be the constitution of the Communist Labor Party?—A. Yes, sir.
Q. Would you know that constitution if you saw it?—A. Very much so.
Q. Your speak and read German, do you not?—A. Yes, sir.
Q. I show you a paper pamphlet "Marked S–1" for identification, and ask you if you can state whether or not that is the constitution of the Communist Labor Party?
Mr. BOUDIN. I object. It is not competent and not binding upon the defendant.
The COURT. I will sustain the objection.
Mr. BREWIN. Of course, the theory of the State is that this point, if the court please, to prove this paper and its contents and meaning by members and persons claiming to be members of the Communist Labor Party so as to give this paper a standing as such, at least until it is contradicted by anyone seeking to upset it.
The COURT. Is that the way to prove this? First you lay the foundation by a question asking this man whether he knew any members of the Communist Labor Party of America and whether or not he had discussed with them what purported to be the constitution and principles of this organization, and he says yes. You then offer him a paper and say, "Is that the constitution and principles of the Communist Labor Party of America"?
Mr. DREWIN. If that is the point, I will reframe it.
Q. Have you discussed with these men whom you knew to be members of the Communist Labor Party the constitution and program of that party?
Mr. BOUDIN. I object.
The COURT. Objection sustained.
Mr. DREWIN. That is all.
(No cross-examination.)

The charge of the use of undercover agents in entering the Communist Party and stimulating its action in violation of the law has gone throughout the country and it is based upon cases of that character. Cummerow is evidently the same man that Mr. Ralston was inquiring about when he asked, in his letter to the chairman, that I should be told to describe Mr. Cameron, an undercover agent. There is no undercover agent, there is no agent of any kind, and there is no employee of the Department of Justice by the name of Cameron, and I suppose Cummerow was meant. Cummerow testified in the case as to the proceedings of the Communist Labor Party which he had entered as you or I or anybody could have entered, because it was an open convention. He went in with a notebook, sat in the convention, took down the proceedings, and turned them over to the Department of Justice. I make no apology for that; I did not direct that it should be done, but I knew that sort of thing was being done by the Bureau of Investigation. I know it has to be done; we must have information about these things and we propose to continue it.

CASE OF THE RUSSIAN PEOPLE'S HOUSE.

Now, as to the raid on the Russian People's House, New York, referred to on page 16 of the report. I have had a thorough investigation made of this so-called raid and have in my possession affidavits from a number of individuals. Agent Francisco, who was in charge of the affair, with Sergt. Geegan, of the New York bomb squad, had entered the building and made known their identity. The two left one of the rooms to procure assistance, and as they left several bottles were thrown at them. Agent Edward Anderson, who participated, was on the third floor, where there were about 25 men in one room. After stating the purpose of his visit, and it appearing that the aliens involved were willing to accompany him, Anderson led the way. Upon reaching the head of the steps he was violently pushed and fell down the entire flight, causing bruises on his arm and leg. These two instances started a general disorder of the persons in the house, and it was necessary to call additional assistance in order to handle the men, who openly declared they were ready to fight. Under these conditions it was necessary to take all of the parties involved in the affair to the offices of the department, where they could be examined with some order.

The destruction of property in the building was caused chiefly by boys in the neighborhood who entered the building some time after the officers had left the place.

STATE OF NEW YORK,
County of New York, City of New York, ss:

Frank Francisco, of lawful age, being duly sworn, deposes and says that he is a special agent of the Department of Justice of the United States; that on the night of November 7, 1919, he was in charge of a squad of special agents, and, accompanied by Sergt. James Gegan, of the New York bomb squad of the police department, city of New York, the latter commanding about 25 detectives, proceeded to and entered a house known as the People's House, at 133 East Fifteenth Street, the door of which was wide open, and upon entering the first floor Sergt. Gegan and myself showed our shields and told the occupants who we were. When Sergt. Gegan and myself left the room to secure the help of other detectives, and our backs being turned, several pop bottles were thrown at us, same coming from the rear of the room. While Sergt. Gegan was obtaining assistance, agent informed these men that there was to be no violence or resistance; that we were there to make an investigation, and we wanted their cooperation; that we did not want to apprehend anybody that was innocent.

After I had finished talking, I heard several voices in the rear call the Department of Justice and the police "sons of b——" and other vile names, and one individual shouted: "'We are ready to fight." At this time there was a commotion upstairs, and Sergt. Gegan left the ground floor to investigate the matter upstairs, and in his absence several detectives, whose names are unknown to me, came to my assistance, probably saving me from assault, and it was necessary for the police to resist about a dozen men who were in the rear pushing and crowding others in front of them to attack the police and myself. No violence was used on the men in the front of the room, but we forced our way to the rear, where we found the disturbers, and they were immediately taken out of the room, placed in a patrol wagon, and sent to the office of the bureau of investigation, at 15 Park Row, this city.

After these disturbers had been sent to the office of the Department of Justice there was no more trouble on this floor. Investigation showed that a number of these men were prepared for trouble as various parts of the room contained various instruments, such as blackjacks and small "billies."

Deponent then went to the third floor, which was being used as a school, and found in the front part of the building a class of about 25 men together with a teacher. They were guarded by either police officers or special agents of this department, and I informed them they were to be taken to the office of the Department of Justice where they would be questioned as to their identity. When conveyances were ready, these men were passed out in single file, marched down the stairs, being counted as they left the room, also being counted at the door up to a number as high as 22, as the patrol wagons would not accommodate more than 22 persons. It was necessary to take these precautions in order to get the number of prisoners apprehended, and great caution was taken so as not to cause confusion or a miscount. The staris used were very narrow and steep, and I recall that I mentioned this fact to Sergt. Gegan, and he had one of his men light a gas jet that had not been lighted, so the prisoners could see where they were going. There was no confusion in removing these 22 men.

As near as I can recall the school teacher was not sent away with these men, but was held downstairs and was brought to the office in a separate cab, accompanied by several women, including Ethel Bernstein and several others.

Deponent then went to the fourth floor and to the best of my recollection there were about four men on this floor, and they were sent downstairs unaccompanied to the ground floor, I notifying Sergt. Gegan and the rest of his men that four men were coming down unaccompanied.

Deponent was instructed by Agent Charles J. Scully to obtain evidence, such as books, records, and cards of the organization known as the Union of Russian Workers, and in a small room on the top floor I found a quantity of books, cards which were confiscated and brought to the office. In this room were two typewriters with Russian keyboards. The typewriters not being evidence, same were left behind. I was one of the last persons to leave this building, and as I was leaving there was a crowd of about 100 people on the outside and I was asked if any objection would be made to their entering the building. I saw at least 25 people enter the building including two reporters of the New York Call, the latter information being obtained from the two men themselves, but none of their credentials were shown to deponent.

After all the prisoners had been sent away I returned to the office of the Department of Justice. On the following day, November 8, 1919, en route to the office of the Workmen and Peasent, a newspaper, at 241 West Thirteenth Street, I stopped at the People's House, found the door open and there saw two men sitting in the room who had been brought to the office on the night before and questioned and later released. I asked these men what they were doing there and they stated they had chased some boys out of the place after they had found them destroying the property. They said the boys had been kicking pictures, cooking utensils, etc., around the floors of the different rooms, and also had broken a number of windows in the rear of the house. I then went upstairs where I had secured the organization records and found the typewriters above mentioned, had been destroyed. Upon my arrival I noticed that the gas had never been turned out, but had remained lighted all night, making it possible for anyone to enter the building at any time they so chose, especially as the house was mainly a place of curiosity for the people in the neighborhood, especially the children.

In several bookcases where we had removed books, the same had been thrown on the floor, thereby breaking same.

FRANK FRANCISCO.

Subscribed and sworn to before me this 28th day of May, 1920.

[SEAL.] GRAHAM L. RICE,
Notary Public.

Term expires March 30, 1922.

STATE OF NEW YORK,
County of New York, City of New York, ss:

Edward Anderson, of lawful age, being duly sworn, deposes and says:

That he is a special agent of the Bureau of Investigation of the Department of Justice.

That on the night of November 7, 1919, pursuant to instructions received, he, with other agents of the New York office of bureau, proceeded to 133 East Fifteenth Street, New York City, which number designates a building known as the Russian People's House, which building was known to me as being the headquarters of the Union of Russina Workers; that upon arriving at the aforementioned People's House I was directed by Agent Francisco to proceed to the third floor of this house, where there were collected some 25 men, said men being together in a large room; that in order to ascertain the identity of these men to determine whether or not they were members of the Union of Russian Workers, I requested all of them to follow me downstairs.

Deponent further states that upon noticing the willingness of the aforementioned persons to follow him downstairs, he led the way, and upon reaching the head of the stairs was violently pushed and thrown down the entire flight, causing bruises on his arm and leg; that about this time some person lighted a light and the men then came down the stairs in a single file and in an orderly manner, which showed that deponent was deliberately pushed down the stairs.

Deponent further sets forth that neither at the People's House, located at 133 East Fifteenth Street, nor at the bureau office, located at 15 Park Row, did he see any assault committed on any person.

EDWARD ANDERSON.

Subscribed and sworn to before me this 28th day of May, 1920.

[SEAL.] GRAHAM L. RICE,
Notary Public.

Term expires March 30, 1922.

STATE OF NEW YORK,
County of New York, City of New York, ss:

Harry C. Leslie, of lawful age, being duly sworn, deposes and says:

That he is a special agent of the Bureau of Investigation of the Department of Justice.

That on the night of November 7, 1919, he reported to Agent Francisco at the People's House, 133 East Fifteenth Street, New York City, and was assigned to the front door to count prisoners as they were about to enter automobiles to be brought to the Department of Justice office. I was accompanied by several police officers, whose names I do not know, and remained at this post until Agent Francisco left, we being the last of the Department of Justice agents to leave. I saw every prisoner leave the People's House, but did not see any acts of violence.

On November 8, 1919, the following morning, I accompanied Agent Francisco to the People's House, and from the condition of the house it appeared as if some persons had been there after the agents and police had left the place on the night of November 7, as papers and books were strewn all about the floor.

HARRY C. LESLIE.

Subscribed and sworn to before me this 28th day of May, 1920.

[SEAL.] GRAHAM L. RICE, *Notary Public.*

Term expires March 30, 1922.

STATE OF NEW YORK,
County of New York, City of New York, ss:

John L. Haas, of lawful age, being duly sworn ,doth depose and say:

I am a special agent of the Bureau of Investigation of the Department of Justice that on the night of November 7, 1919, pursuant to instructions from Special Agent Scully of this bureau, I proceeded to 133 East Fifteenth Street, known as the People's House, of the Union of Russian Workers, accompanied by other agents of the Department of Justice, and members of the New York police department, at about 9 p. m. I entered this house together with these officers and proceeded to the top floor, where a number of men and women were congregated, and assisted in the search of the men for weapons. I then proceeded to the floor below, still accompanied by officers and other agents, where a similar search was made of the persons on this floor. I then proceeded to the lower, or parlor, floor, and while standing in the hallway, saw a group of men coming down the stairs in what appeared to be an effort to escape by the front door,

which was guarded by two police officers, who held them back and caused a crowding on the stairs, some of them climbed over and jumped over the banisters, landing in the lower hall; some of them fell to the floor and others landed on top of them. They were all finally put into the large rooms on the parlor floor; this crowding caused the banisters to break. One of these men struck me on the chest and attempted to get down the basement stairs, but I held him until one of the officers assisted in putting him into the parlor-floor room.

I did not strike or assault any person during the proceedings on the night of November 7, nor did I see any other agent of the Department of Justice strike or assault any person, either at the People's House, or while en route to the bureau office, or after arrival at the bureau office; nor did I see any agent of the Department of Justice break any furniture or equipment at the People's House. I was the last man to leave this place, carrying the papers and seized literature to the office of the bureau.

JOHN L. HAAS.

Sworn to and subscribed before me this 30th day of May, 1920.

[SEAL.] GRAHAM L. RICE,
Notary Public.

Term expires March 30, 1922.

CASE OF NICOLAI MELIKOFF.

Page 19, exhibit 2c, Nicolai Melikoff: I have the affidavits from individuals present at the time, all of which state unqualifiedly that at no time were any moneys taken from Melikoff, nor was he, either at the time of arrest, en route to the office, at the office, or thereafter in any manner assaulted.

STATE OF NEW YORK,
County of New York, City of New York, ss:

Frank Francisco, of lawful age, being duly sworn, deposes and says:

That he is a special agent of the Bureau of Investigation of the Department of Justice, and attached to the New York Division;

That on March 3, 1920, in company with Mr. James A. Kennedy, a special agent of this bureau, and in the presence of James W. Dillon and Miss Eva Brice, stenographers, a statement was taken from one Nick Melnikoff, residence 342 East Thirteenth Street, New York City;

That at no time were any moneys whatsoever taken from said Melnikoff, neither was Melnikoff assaulted by any person, either prior to coming to this office, at the office of bureau, or until the time of his delivery to Ellis Island; that to the contrary Melnikoff was treated in a very courteous manner. He readily answered all questions asked of him, admitted membershiy in the Union of Russian Workers; also that he was an organizer; that he apparently welcomed the fact that he would probably be deported to Russia.

FRANK FRANCISCO.

Subscribed and sworn to before me this 26th day of May, 1920.

[SEAL.] GRAHAM L. RICE,
Notary Public.

Term expires March 30, 1922.

STATE OF NEW YORK,
County of New York, City of New York, ss:

Harry C. Leslie, of lawful age, being duly sworn, deposes and says:

That he is a special agent of the Bureau of Investigation of the Department of Justice, attached to the New York Division:

That on March 3, 1920, in company with Special Agent James A. Kennedy, he proceeded to Greenpoint, Brooklyn, where he located one Nick Melnikoff, and with Agent Kennedy brought said Melnikoff to the New York office of the bureau, where Melnikoff was questioned by Agent Francisco; that neither at the time of arrest, en route to the office, nor at the office, was any assault made upon the person of said Melnikoff, nor at no time was any moneys taken from Melnikoff.

HARRY C. LESLIE.

Subscribed and sworn to before me this 28th day of May, 1920.

[SEAL.] GRAHAM L. RICE,
Notary Public.

Term expires March 30, 1922.

STATE OF NEW YORK,
County of New York, City of New York, ss:

James A. Kennedy, of lawful age, being duly sworn, deposes and says:

That he is a special agent of the Bureau of Investigation of the Department of Justice and attached to the New York Office.

That on March 3, 1920, in company with Agent Harry C. Leslie, he brought to the office of bureau, one Nick Melnikoff, residence 342 East Thirteenth Street, New York City; that at the office of bureau said Melnikoff was questioned in deponent's presence, by Agent Frank Francisco, and his statement was taken in shorthand notes by James W. Dillon and Miss Eva Brice, stenographers.

Deponent further states that at no time were any moneys taken from Melnikoff, nor was he assaulted, either at the time of arrest, en route to the office, at the office, nor at any other time to the best of deponent's knowledge and belief.

JAMES A. KENNEDY.

Subscribed and sworn to before me this 28th day of May, 1920.

[SEAL.] GRAHAM L. RICE,
Notary Puvlic.

Term expires March 30, 1922.

STATE OF NEW YORK,
County of New York, City of New York, ss:

Charles J. Scully, of lawful age, being duly sworn, deposes and says:

That he is an agent of the New York office of the Bureau of Investigation, of the Department of Justice; that on March 3, 1920, he was in the office of bureau at the time Nick Melnikoff, residence 342 East Thirteenth Street, New York City, was being questioned by agents Francisco and Kennedy, and that at no time was said Melnikoff threatened or assaulted, nor was any money whatsoever taken from said Melnikoff.

Deponent further states that Melnikoff advised that he was pleased with the possibility of an early return to Russia, and the only question he asked of the agents of this bureau was the means whereby his hiding place was known.

Deponent further states that a copy of the statement made by said Melnikoff under date of March 3, 1920, was forwarded to the Washington office of bureau, for the attention of Mr. J. E. Hoover.

CHARLES J. SCULLY.

Sworn to and subscribed before me this 28th day of May, 1920.

[SEAL.] GRAHAM L. RICE,
Notary Public.

Term expires March 30, 1922.

CHARGE OF BRUTALITY IN NEW YORK.

A large portion of the contents of the report of the 12 self-constituted guardians of the American liberties issued by the National Popular Government League, is given over to a discription of the conditions existing in New York City, following the arrests of members of the anarchistic organization, the union of Russian workers, and members of the Communist Parties of America.

I have at hand affidavits made by the division superintendent, George F. Lamb, of the New York City office of the Bureau of Investigation and by special agent Charles A. Scully, in charge of the radical division of the New York office of the Bureau of Investigation. It will be noted from these affidavits, made by men whose reputation for integrity I do not believe can be questioned by the radicals themselves, state that their attention had been called to the charges of certain persons that brutality had been indulged in by agents of that office, and as a result of these charges thorough inquiries were made and that there has not been disclosed up to the present time any foundation for such charges.

It is further stated that both of these officers of the Department of Justice were present in the New York office during the entire course of the examinations on the nights stated and that at no time was any brutality witnessed nor observation made of the use of improper language.

Likewise considerable space is given in this report of the National Popular Government League, to the conditions existing at the People's House on the night of the raid and statements made that the Department of Justice agents brutally beat up persons found in that place. It will be seen from the affidavits that none of the agents of the Department of Justice committed any assault upon any person found at the People's House or was any assault committed en route to the Department of Justice office or at the office.

Cases of individual aliens mentioned in this report of the 12 learned attorneys I shall deal with in detail and it will be seen from the affidavits referred to in each of these cases that there is no foundation for the statements.

STATE OF NEW YORK,
County of New York, City of New York, ss:

George F. Lamb, being duly sworn, states as follows:

I am division superintendent in the Department of Justice, assigned to the Bureau of Investigation at New York City; that on November 7, 1919, numerous arrests on deportation warrants were made of members of the organization known as the Union of Russian Workers. These arrests were made with the aid of the local police, supervised by agents of the Department of Justice. The parties arrested were conveyed by automobiles to the bureau office at 15 Park Row, where the examination took place.

My attention has been called to charges made that various persons so arrested were assaulted by agents of the Department of Justice either at the place where the arrest was made or after being brought to the office of the Bureau of Investigation. These charges were made in various forms shortly after November 7, and were investigated by me at that time. I questioned all of the agents who had taken part in the arrests, and they denied having struck or otherwise assaulted any person on that occasion. The examination conducted at the bureau was under my immediate supervision. I was present throughout the whole period of the examination, which did not terminate until about 4.30 a. m., November 8.

A number of agents had been designated as examiners, the examinations taking place in the various rooms of the bureau. All of these rooms are connecting, and it would be practically impossible to make a noise or create a disturbance in one room which would not be heard in several of the adjacent rooms.

Mr. William J. Flynn, director of the Bureau of Investigation, was also present during the entire period of examination, and frequently walked through the offices to see how the examiners were progressing.

Being in charge of the bureau, I felt that I was personally responsible for the proper conduct of the examinations, and all through the night visited each examiner in turn to see how he was progressing. At no time did I see or hear of anyone being assaulted, nor did I hear any improper language applied to any of the persons being examined. I have inquired of every agent who was connected in any way with the Union of Russian Workers matter on November 7, if he struck or assaulted, or encouraged anybody else to strike or assault any of the parties arrested on that occasion, either in the rooms of the Bureau of Investigation at 15 Park Row or at any place outside of said bureau, and each agent has denied having struck or assaulted anyone on that occasion or having subjected a prisoner to improper treatment of any kind.

GEORGE F. LAMB,
Division Superintendent.

Subscribed and sworn to before me this 2d day of June, 1920.

[SEAL.] JOS. P. RUDY,
Notary Public, District of Columbia.

STATE OF NEW YORK,
County of New York, City of New York, ss:

Charles J. Scully, of lawful age, being duly sworn, doth depose and say:

I am a special agent of the Bureau of Investigation of the Department of Justice, and that during the past year I have been engaged as special agent in charge of the Radical Division; that in answer to charges made by an organization known as the National Popular Government League in a recent publication issued by said league, to the effect that certain persons and members of an organization known as the Union of Russian Workers were assaulted at the time of arrest at a so-called raid at the Peoples House, located at 133 East Fifteenth Street, New York City, N. Y., and also that said persons and members of the Union of Russian Workers when brought to the office of bureau were subjected to what the aforementioned publication characterizes "Third degree of inquisition," I hereby state that I have made inquiries of various agents acting under my direction, who were present at the aforementioned Peoples House on the evening of November 7, 1919, and that I have been informed by said agents that they did not commit any assault upon any person found at said Peoples House, or was any person assaulted by them en route from the aforesaid Peoples House to the office of bureau located at 21 Park Row, New York City, nor did they witness any assault made on any person at the office of bureau during or after the examination of the persons brought to said office.

That as agent in charge of the Radical Division, acting under the supervision of Director William J. Flynn and Division Superintendent George F. Lamb, I directed the examinations of the various persons brought to the office of bureau on the night of November 7, 1919, and on succeeding days, and that at no time did I witness an assault made on any person at the office of bureau, in the street, or elsewhere, either by an agent of the Department of Justice or by any police officer, nor was I informed by an agent of the Department of Justice or police officer that any person had been assaulted at the New York office of bureau, nor was there any complaint registered with me by any person or member of the Union of Russian Workers that said person or member had been assaulted at the office of bureau.

I have also made inquiries to ascertain if threats or abusive language was used against any person or member of the Union of Russian Workers, and I have been advised that neither threats nor abusive language was used.

I further state that prior to the visit of the agents engaged under my direction, to the Peoples House at 133 East Fifteenth Street, New York, I cautioned against resorting to violence when taking into custody those persons for whom warrants of deportation had been issued, which warrants had been furnished me by the officials of the Department of Labor.

I further state that several days following November 7, in company with Agents Leslie and Davis, I visited Ellis Island to return to those members of the Union of Russian Workers who were held for deportation proceedings, such property as had been taken from them prior to their being held, and while on Ellis Island I saw the various persons held as Union of Russian Workers leave the rooms in which they were confined to visit the dining room, and I failed to see any person bearing marks or bruises indicating that they had been assaulted.

CHARLES J. SCULLY.

Subscribed and sworn to before me this 30th day of May, 1920.

[SEAL.] GRAHAM L. RICE, *Notary Public.*

Mr. Lamb, who is the head of the New York Bureau of Investigation and who makes this affidavit, is—as I think even these ultra-radical gentlemen themselves will say—a man of high character, great ability, and large experience as an investigator; he has been in various branches of the Government service for a great many years, first in the Treasury Department and finally in the Department of Justice, and my remark about my willingness to accept the statement of a sworn agent of the Government in a matter of this kind has peculiar force with reference to Mr. Lamb, whose statements, in my judgment, are entitled to the fullest weight.

BOSTON CONDITIONS.

Pages 54 to 56, inclusive, of this pamphlet are given over to a discussion of the individual cases in the Boston territory. I do not think I will take the time to read the reports of our agents in reference to these matters and the affidavits I have collected which effectively, completely, and thoroughly refute the charges of the aliens which have been turned over to your committee by this committee of lawyers but will have them go in the record.

The CHAIRMAN. You desire that they shall go in the record?

Mr. PALMER. Yes.

The CHAIRMAN. That may be done.

(Reports and affidavits referred to follow:)

[Case of Mrs. Stanislas Vasiliweska.]

This woman was secretary of the Chelsea branch (Russian) of the Communist Party No guns were displayed and no handcuffs were placed upon anyone in this party until the men were taken from the police station to the immigration station the following morning. When the daughter was sent home at about midnight, an offer was made to Mrs. Vasiliewska, to have an officer accompany the child but the mother insisted it was needless on account of the very short distance the girl would have to go. So far as conditions of her confinement after being delivered to the immigration authorities at the dock, where she claims she was locked in a certain place, this department was not at that time responsible for her, but I have had this matter looked into also and have affidavits from at least two of the agents who participated in the case, which deny the charges.

[Case of Charles Michaelson.]

The hall referred to was a well-known meeting place for the local branch of the Communist Party and contained all the usual appurtenances, including the library and records. Those men taken were asked to go to the police station, five of them who preferred to ride were taken in an auto, and the others walked. They were "booked" as suspicious persons under the local statute as referred to above. The following morning they were released. While detained, none of the men were denied food or water, and they were permitted to use the telephone to communicate with relatives or friends. I have here affidavits substantiating this.

[Case of Minnie Federman.]

Minnie Federman, an American citizen; arrested 6 a. m. January 3, in her bedroom by six or seven men. No warrant shown. Was refused permission to dress in the next room; dressed in the closet while officer held the handle of the door. Room searched, mattress ripped up; witness detained several hours at the police station and city prison, and then released.

She was one of the most prominent members of the I. W. W. in the Boston district; was taken into custody upon United States immigration warrant No. 54810/137, dated December 29, 1919, from the Department of Labor, duly shown to her. She was given ample and appropriate opportunity to dress, following which she was conveyed to the nearest police station, where shortly afterwards, and upon verification of her naturalization, she was released from custody. All property taken from her was returned at the time of her release, excepting certain Communist literature. I have affidavits supporting the above.

[Case of Annie Valinskas.]

The next case cited on page 55, of the printed report, was an active member of the Lithuanian branch of the Communist Party. Her husband was an organizer. None of the persons taken into custody at the hall were handcuffed until they were leaving the police station for the train on which the trip was made from Nashua to Boston, and during the trip the handcuffs were removed. Oral permission was given by Annie Valinskas for the search of her room, and she admitted ownership of the suitcase referred to. With regard to the rooms in which the women were confined, I have to say that commodious quarters had been provided for them, but were shamefully abused by the occupants, who also indulged in indecent language. I also have affidavits covering this case.

[Case of Frank Mack.]

Also, on page 55, there are charges from one Frank Mack to the effect that an unsigned warrant which did not name him was served, and certain other features which appear in the text. The arrest warrant for this man was numbered 54810-71, and was duly signed at Washington, and contained the name of Frank Mack. It was served by a deputy United States marshal. There was no coercion or violence in any form. Mack answered questions freely, and later openly commended the conduct of the representatives of the Department of Justice. As to conditions on Deer Island, Mack testified he received three blankets on the night of his first day there, and on the following day three additional ones, and a cot and mattress. Attention here is called to the fact that the Department of Justice has no control over sanitary or other conditions at Deer Island, as that is a station under the jurisdiction of the Department of Labor. However, both Commissioner O'Brien and his assistant, George W. Holden, in direct charge at Deer Island, testified under oath that ample provision for sanitary arrangements, food, and bedding, was made in advance. I offer the affidavit of the officer who served the warrant upon Mack.

[Case of Ernest Liberman.]

The next case, on page 55, is that of Ernest Liberman, the only charge not answered in another part of my reply being his objection to being photographed while in chains. In the habeas corpus proceedings before Judge Anderson it was shown that representatives of the Department of Justice were not responsible for these photographs, which were made after the aliens had been turned over to the Department of Labor. Some of the newspaper photographers who made the photographs have also made affidavits which explain the matter satisfactorily.

[Case of Oluf L. Root.]

The case of Oluf L. Root does not differ materially from those just discussed. However, I have an affidavit covering this case thoroughly, and offer the same.

EXHIBIT 1.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

I, the undersigned, Fred J. Weyand, a resident of the city of Boston and the State of Massachusetts, on oath depose and say:

That I am a special agent of the Bureau of Investigation of the United States Department of Justice, and, under instructions, was assigned during the Communist raids, so-called, on the night of January 2, 1920, to the city of Chelsea, Mass.

That I was accompanied at that time by special agent Ernest Irish of the Washington, D. C., office of the bureau.

That, in accordance with instructions issued, I visited the hall of the Chelsea, Mass., Russian branch of the Communist Party of America, situated at Loew's Hall, in said Chelsea, where I took into custody Stella Wesolowska, alias Vasiliewska, the secretary of that local.

That at the time of visiting the above hall about 20 persons found therein were questioned by me and those found to be aliens and who admitted being members of the Communist Party were removed to the police station.

That approximately 13 such persons were taken to the police station and their names given to the bureau office for telegrahpic warrants of arrest in cases in which warrants did not exist.

That the persons taken from the hall were not handcuffed and that no handcuffs were placed on any men until they were conveyed from there to the immigration station next morning.

That there were no guns displayed and that I did not carry a gun.

That I offered to send an officer home with the daughter of Mrs. Wesolowska but was informed by Mrs. Wesolowska there was no need of so doing as she had but a short distance to go, and the child was permitted to go home unaccompanied for that reason.

That I saw no woman at the police station who was in a pregnant condition and that the only other woman taken with Mrs. Wesolowska was permitted to go with her husband, who had also been found at the hall, at about 11.30 p. m.

That the next morning, January 3, I took Mrs. Wesolowska to the boat landing of the Deer Island boat, at Boston, and delivered her at the wharf into the custody of the officials of the United States Immigration Service, to Inspector of Immigration

M. C. Macomber in charge there, and I at no time saw her placed in any so-called toilet but understood she was taken in charge by the matron from Deer Island and placed in the women's detention room.

And I further, on oath, depose and say that I conducted myself in a gentlemanly manner, used violence toward no person, and did everything I could do to assist and to make easy the burdens of those arrested.

FRED J. WEYAND, *Special Agent.*

Personally appeared before me at Boston, Mass., this 28th day of May, 1920, the above-named Fred J. Weyand, who made oath and subscribed to the above statements.

[SEAL.] JOHN M. CARNEY, *Notary Public.*

EXHIBIT 2.

CITY OF WASHINGTON,
District of Columbia, ss:

I, the undersigned, Ernest O. Irish, a resident of the city of Washington, D. C., on oath depose and say:

That I am a special agent of the Bureau of Investigation of the United States Department of Justice, and under instructions was assigned to the Communist raids, so called, on the night of January 2, 1920, to Chelsea, Mass., to assist Special Agent Fred J. Weyand, of the Boston (Mass.) office of the bureau.

That the Chelsea, Mass., Russian branch of the Communist Party of America at Loew's Hall was visited, where Stella Wesolowska, alias Vasiliewska, the secretary of the Chelsea local branch, was taken into custody.

That no one of those taken into custody at this time was handcuffed during the period between the arrest and lodgment at the police station.

That there were no guns displayed at any time during the period from the visit to the hall at Chelsea (Mass.) and confinement at the police station.

That I personally know that an offer was made through Special Agent Weyand to Mrs. Wesolowska to have a police officer accompany the daughter of Mrs. Wesolowska to her home, but that this offer was declined as the latter declared that there would be no necessity to have anyone accompany her.

And it is also my impression that friends of the Wesolowskas were present who accompanied the daughter from the police station upon her departure.

That I had no further participation in the Chelsea matter after the night of January 2 and therefore am uninformed as to the possible basis for any of the charges made in connection with Mrs. Wesolowska other than that I have never heard anything which would give me the slightest reason to believe that there is any basis for any of the charges made.

ERNEST O. IRISH, *Special Agent.*

Personally appeared before me at Washington, D. C., this 29th day of May, 1920, the above-named Ernest O. Irish, who made oath and subscribed to the above statements.

[SEAL.] J. ARTHUR RUSSELL, *Notary Public.*

EXHIBIT 3.

I, Clarence D. McKean, of Portland, in the county of Cumberland, and State of Maine, on oath depose and say:

That I am a special agent of the Bureau of Investigation, Department of Justice, and on January 2, 1920, was in charge of the Communists raids at Lynn, Mass.

I further depose and say that the hall located at 120 Market Street, Lynn, Mass., is the headquarters of the Lynn branch of the Communist Party of America and a well known meeting place of members of this party; that on January 2, prior to the raid, I received information that a meeting of the Lynn local of the Communist Party was being held at 120 Market Street; that acting upon this information, Martin T. Tevlin, special agent of this bureau, proceeded, at my direction, to the hall at 120 Market Street, accompanied by several officers of the Lynn police department, where a mass of Communist literature was uncovered and 39 men found assembled; that these persons, together with the literature, were taken to the Lynn police station and the men regularly booked on the police blotter as "suspects" pursuant to a statute of the Commonwealth of Massachusetts, authorizing the arrest of suspicious persons.

I further depose and say that on the following morning, January 3, it having been ascertained that these men had met for lawful purposes, to wit, to discuss the organization of a corporation to engage in the baking business, and that only one of them was member of the Communist Party, the remaining persons, 38 in all, were taken before the judge of the municipal court for the city of Lynn and discharged according to law.

I further depose and say that to my knowledge, food and water were not denied them and that no requests came to my attention from persons arrested, to use the telephone; that no guns, handcuffs, or clubs were displayed or violence of any kind used.

CLARENCE D. MCKEAN.

STATE OF MAINE,
County of Cumberland, ss:

MAY 28, 1920.

Personally appeared the above-named Clarence D. McKean and made oath to the truth of the foregoing declaration by him subscribed before me.

[SEAL.] EDMUND P. MAHONEY, *Notary Public.*

EXHIBIT 4.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

BOSTON, MASS., *May 28, 1920.*

I, the undersigned, Martin T. Tevlin, on oath, depose and say:

That I am a special agent of the Bureau of Investigation of the United States Department of Justice, assigned to duty at the Boston divisional office of the said bureau.

That on the night of January 2, 1920, in pursuance of my duties, I was assigned to the city of Lynn, Mass.

That while there it was ascertained that a meeting was in progress at the hall situated at 120 Market Street in said Lynn, which hall has been well-known as the meeting place of a local of the Communist Party of America.

That, pursuant to instructions, I, in company with about five police officers from the city of Lynn, visited the said hall where 39 persons were found conducting a meeting.

That in this hall were found several hundred applications for membership in the Communist Party of America, a library of Communist literature, and other papers and publications bearing the mark of being the property of the Lynn branch of the Communist Party.

That in view of the fact that the records of the meeting then in progress were in a foreign tongue with which I was unacquainted, the persons there assembled were taken to the Lynn poice station, five who signified their desire to ride being taken in a Ford touring car, while the remainder walked to the police station with myself and two officers.

That at the police station these men, in accordance with the Massachusetts statute, were booked as suspicious persons, and the next morning, in accordance with the same statute, taken before the police court and all but one discharged.

That these men were at no time denied food nor water.

That they were during the night permitted the freedom of the cell room and were not locked in the cells; and that at no time during the night did anyone of these men request me for permission to use the telephone to speak to his wife, nor did any one of these men, at any time during the night, request me to notify his wife.

And I further, on oath, depose and say:

That at the time of visiting the hall at 120 Market Street there was no gun display, nor did I even have a gun on my person, nor did I, myself, nor anybody else to my knowledge, use any violence toward any person taken into custody.

MARTIN T. TEVLIN,

Subscribed and sworn to before me this 28th day of May, 1920.

[SEAL.] JOHN M. CARNEY, *Notary Public.*

EXHIBIT 5.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

I, the undersigned, William J. West, assistant division superintendent of the Bureau of Investigation of the United States Department of Justice, at Boston, Mass., on oath, depose and say:

That, under supervision of my chief, Division Superintendent George E. Kelleher, I was in charge of the arrests made in this district.

That on January 2, 1920, immigration warrant No. 54810/71, issued at Washington, D. C., on December 29, 1919, for the arrest of one Frank Mack, was handed to then Deputy United States Marshal Backus for execution; that I saw this warrant, saw that it contained the name of the alien Mack, and, from 10 years' experience in the United States Immigration Service, recognized it as an immigration warrant properly issued, and that when Mr. Mack states the warrant was unsigned and did not include his name, he is at least laboring under a misapprehension.

That I was present throughout the entire proceedings in the habeas corpus petitions brought before Judge George W. Anderson, in April, 1919, and heard Mr. Mack testify under oath that on the first day of his confinement at Deer Island immigrant station he received three blankets but did not receive them until about 11 that night, and that the next day he received three more, making a total of six blankets which he had in his cell, and also heard him state he had a mattress on his cot.

That during the above habeas corpus proceedings I talked with Mr. Mack, who informed me that the agents "were all real men," that they were all gentlemanly, and that absolutely no fault could be found with the agents of the Department of Justice, and his only objection to anything in the whole affair was the appearance of photographs in the newspapers.

That at a protest meeting held in Convention Hall, Boston, Mass., February 23, 1920, one Charles Bauman, an alien who had been arrested, although finding fault with the immigration proceedings, openly lauded the agents of the Department of Justice and testified to the good treatment received while in their custody.

That during the above-mentioned habeas corpus proceedings, the undersigned talked with Morris Katzeff, counsel for the alien Communists, and was informed by Mr. Katzeff that while the proceedings in general were objected to he had no criticism to make of the agents of the Department of Justice, which was confirmed by his statement to this effect in open court and also by the statement of Lawrence G. Brooks, who assisted him during these proceedings.

That, with reference to the case of Miss Minnie Federman, a member of the Communist Party and known to the affiant as one of the most prominent members of the I. W. W. in this district, and a person concerning whose activities we have received complaints again within the last few days, an immigration warrant, No. 54810/137, bearing date of December 29, 1919, was issued by Acting Secretary of Labor John W. Abercrombie for her arrest and by the affiant delivered to Agent R. W. Valkenburgh for execution; that Miss Federman was taken into custody at her home, 173 Braddock Park, Boston, Mass., on January 3, 1920, conveyed to the nearest police station, No. 5, and shortly afterwards when her naturalization was verified, was released from custody; and that I, of my own knowledge, saw Miss Federman later at the bureau office receive from Agent Valkenburgh the papers taken from her, or at least such papers belonging to her as were at the bureau office.

And I further depose and say that instructions issued by me to the agents operating in this district were to conduct themselves in a manner becoming officers of the department, to take into custody under no consideration any American citizens, and if any through mistake should be taken to release them immediately, and at no time has there come to my attention any complaint relative to any harsh treatment or violence of any degree toward those taken into custody on January 2, but, to the contrary, as enumerated above, in talks with persons arrested I have been informed they had no criticism to make concerning the conduct of the agents of this bureau.

WILLIAM J. WEST.

Then personally appeared before me, at Boston, Mass., this 28th day of May, 1920, the above-named William J. West, who made oath and subscribed to the above statements.

[SEAL.] JOHN M. CARNEY, *Notary Public.*

EXHIBIT C.

MAY 28, 1920.

STATE OF NEW HAMPSHIRE,
County of Cheshire, ss:

I, the undersigned, M. Robert Valkenburgh, special agent, Bureau of Investigation, United States Department of Justice, attached to the Boston office of that bureau, on oath depose and say:

That on January 3, 1920, having in my possession warrant No. 54810–173, issued at Washington, D. C., December 29, 1919, by Acting Secretary of Labor John W. Abercrombie, for the arrest of one Minnie Federman, I took into custody at 6.20 a. m. January 3, 1920, at 173 Braddock Park, Boston, Mass., the said Minnie Federman.

That at the time I showed her the warrant and took her to police station No. 5, Boston, Mass., and upon her informing me that she was a citizen, I verified the same from the naturalization record, and immediately discharged her.

That at the time of her arrest I took certain Communist literature and correspondence and have since returned to her all of the same with the exception of one bundle of Communist literature.

That at the time of locating her at her boarding place I was accompanied by a lieutenant of police and two police officers, and every opportunity was afforded her to dress decently, and every request of hers was granted.

M. ROBERT VALKENBURGH.

Personally appeared the above-named M. Robert Valkenburgh, and made oath that the above certificate, by him subscribed, is true. Before me,

[SEAL.] GEORGE H. DUNCAN, *Notary Public.*

EXHIBIT 7.

AFFIDAVIT.

CITY OF WASHINGTON,
Disrtict of Columbia, ss:

I, the undersigned, Edward L. McLaren, on oath depose and say:

That I am a special agent of the Bureau of Investigation of the United States Department of Justice, and under instructions was assigned to the Communist raids, so called, on the night of January 2, 1920 at Nashua, N. H.

That the Nashua (N. H.) Lithuanian branch of the Communist Party of America, which held a meeting at St. John the Baptist's Hall on the night of January 2, 1920, was visited, where, among others, Annie Valinskas was taken into custody.

That no one taken into custody at this time was handcuffed during the period between the arrest and arrival at the police station at Nashua, N. H., the only handcuffing having been done when the prisoners were taken from the police station to the train and from the train upon its arrival in Boston to the immigration wharf, the handcuffs having been meanwhile removed during the period of travel from Nashua to Boston.

That permission for the search of the premises occupied by Annie Valinskas was permitted orally, at which time a suit case containing Communist literature was taken, the ownership of which she first denied, despite the presence of her name and other means of identification within the suit case, which later led to her admission of ownership.

That the prayer books referred to were not written in the English language, but inasmuch as they resembled prayer books and were found among Communist literature a question as to ownership was predicated thereon.

That the police search warrant had been issued and used at the time of the search in addition to the fact that the search had been permitted orally.

That commodious quarters were furnished for the women arrestees at Nashua, N. H., including Annie Valinskas, which were, however, shamefully abused by the occupants, who gave themselves over also to indecent and abusive language.

E. L. MCLAREN, *Special Agent.*

Personally appeared before me at Washington, D. C., this 28th day of May, 1920, the above-named Edward L. McLaren, who made oath and subscribed to the above statements.

———— ————, *Notary Public.*

EXHIBIT 8.

I, Florian Christy, of Nashua, N. H., do on oath depose and say that I acted as interpreter at the police station on the night of January 2, 1920, when a raid was made by the police department at a meeting of the Communist Party at St. John the Baptist Hall in said city of Nashua, that I assisted at the examination given Anna Valiniskas; that I personally know said Anna Valiniskas to be one of the very active members of the Communist Party and that a large amount of radical literature was taken from the home of said Anna Valiniskas in dress-suit cases belonging to said Anna Valiniskas and her husband, Stanilous Valiniskas; that I know that said Stanilous Valiniskas was the local organizer of the Communist Party in said Nashua.

FLORIAN CHRISTY.

MAY 28, 1920.

Personally appeared before me, Florian Christy and made oath before me that the foregoing statement is true to the best of his knowledge and belief.

GEORGE H. CAMPBELL,
Justice of the Peace.

EXHIBIT 9.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

I, the undersigned, John H. Backus, assistant United States attorney, at Boston, Mass., on oath, depose and says:

That on January 2, 1920, while I then had the position of deputy United States marshal in this district, assisted the Bureau of Investigation of the United States Department of Justice in arrests made on that date.

That in the pursuance of my duties that night, I was given a warrant of the United States Immigration Service, numbered 54810/71, issued at Washington, D. C., December 29, 1919, for the arrest of an alien named Frank Mack;

That I, in company with another officer of the above-mentioned bureau, visited the residence of Frank Mack at 10 Hartwell Street, in the Roxbury district, of said Boston, for the purpose of arresting said Mack and not finding him at home left the warrant of arrest with the officer who remained at the Mack home and continued the search for him at other places in the vicinity.

That a search was made of his room, wherein was found his membership card in the Communist Party of America and Communist and other radical literature.

That subsequently I met Mr. Mack at police station No. 9 at Roxbury district of Boston and was present while the questions contained in the usual questionnaire prepared for that purpose were answered by Mr. Mack and saw him affix his signature to the same.

That absolutely no coercion or force of any kind was used in the questioning of Mr. Mack and that he answered all questions asked of him freely and without objection and that he was not put through any so-called "third degree."

JOHN H. BACKUS.

Sworn and subscribed to before me at Boston, Mass., this 28th day of May, 1920.

[SEAL.] JOHN M. CARNEY, *Notary Public.*

EXHIBIT 10.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss:

I, Matthew L. McGrath, on oath depose and say:

That I am a duly accredited special agent of the Bureau of Investigation of the United States Department of Justice assigned to duty at the Boston divisional office of the said bureau.

That on the night of January 2, 1920, in pursuance of my duties, I was assigned in charge of arrests made of alien members of the Communist Party and of the Communist Labor Party in the city of Worcester, Mass.

That I was assisted at Worcester by Special Agent William E. Hill, of the Boston office, and by United States Immigration Inspector J. G. Hagberg, of the Boston office of the United States Immigration Service.

That we were provided with immigration warrants for the arrest of certain persons in Worcester, which warrants were duly executed.

That I also secured from the United States commissioner search warrants properly issued for the search of premises entered by me.

That I visited, with the police of the city of Worcester, one hall in which there was in progress at the time a meeting of the Communist Labor Party and upon entering that hall questioned various persons as to whether they were aliens or citizens and as to whether they were members of the Communist Party or of the Cummunist Labor Party, and those who admitted being alien members of either of the above organizations were asked to step aside and were later removed to the police station and taken into custody.

That there was absolutely no semblance of force or coercion in the above procedure and the few persons removed to the police station were escorted there without being handcuffed or bound in any way.

And I further depose and say that at no time, either while in Worcester, or in conveying such aliens to Boston, did I pose any such aliens for the purpose of being photographed.

MATTHEW L. MCGRATH.

Then personally appeared before me at Boston, Mass., this 29th day of May, 1920, the above-named Matthew L. McGrath, who made oath and subscribed to the above.

[SEAL.] JOHN M. CARNEY, *Notary Public.*

EXHIBIT 11.

COMMONWEALTH OF MASSACHUSETTS,
Suffolk, ss.:

I, the undersigned, Raymond A. Kierman, of No. 3 Bird Street, Dorchester, district of Boston, Mass., on oath depose and say:

That I am employed as a reporter for the Boston Traveler and have been with that paper since leaving the United States Marine Corps, in September of 1919.

That on the morning of January 3, 1920, in pursuance of instructions received from my paper, I visited the office of the Bureau of Investigation of the United States Department of Justice and the office of the commissioner of immigration, both located at Boston, Mass., for the purpose of securing information relative to the raids made on the Communist Party members.

That I commenced work that morning at 6 o'clock, which was my usual hour of commencing work, and continued at work until 2 p. m., which was my usual hour of being relieved, and was relieved at that time by another reporter.

That, first calling at the Bureau of Investigation of the Department of Justice, I found I could secure no information, in view of which I proceeded to the immigration station, where I met reporters from other newspapers and learned that the persons arrested were to be sent to Deer Island, Boston Harbor.

That, knowing then they were to be sent to Deer Island, I, of my own knowledge, knew they would have to be transported there on the usual city department boat which leaves from the Eastern Avenue Wharf.

That I then secured the services of our photographer and went to the Eastern Avenue Wharf, where the photographer and the photographer who relieved him snapped pictures from the roof of the ferryboat landing.

That the taking of photographs from the roof of the ferry building was something over which none of the officials had any jurisdiction, nor could they remove us therefrom nor in any way prevent us taking photographs from that point of vantage, which was on a public highway.

That I emphatically state no official of the Department of Justice or of the Department of Labor at any time posed or requested any person to pose for a photograph, and that the only instance in which anything approaching such occurred was once when a city police officer in uniform with about four to six persons stopped for a short interval while the photographers snapped the picture.

And I further, on oath, depose and say that none of the Federal officials in any way, directly or indirectly, had anything to do with the posing of persons for photographs, nor could they do anything to prevent the taking of the photographs which were taken.

And that a personal inspection of the wharf, street, and ferry landing would convince any person that the newspapers could take such photographs without posing people, and could not be prevented from taking such photographs as were taken by the newspapers.

RAYMOND A. KIERMAN.

Personally appeared before me, at Boston, Mass., this 28th day of May, 1920, the above-named Raymond A. Kierman, who made oath and subscribed to the above statements.

[SEAL.] JOHN M. CARNEY, *Notary Public.*

The same is true of the Colyer case, in which, to put it midly, the facts are greatly distorted.

(Statement in the Colyer case follows:)

THE COLYER CASE.

[Pp. 42-52 of printed report of National Popular Government League.]

This portion of the publication is grossly unfair, to put it mildly, and the facts are distorted. Not only are the methods of the department attacked, but also the type of men in the service and their Americanism. Here I might add that the Boston division of the department is under the supervision of university-trained men—attorneys, and the men in the smaller cities in the division, not only in charge of the office, but members of the staff, are university graduates and some of them attorneys of long standing. The criticisms of Judge Anderson as published on page 43 are not interesting because at the time they were not material to the case and certainly can not be established in fact.

Concerning the suffering of the families, the Boston office immediately instituted an investigation into the financial condition of the families and advised the proper charitable authorities. In numerous cases the aliens after being released stated they had been fairly treated and that the agents of the Department of Justice had given them every possible consideration.

On page 45 reference is made to the testimony of one Ivan T. Hrynchuk, which, incidentally, is not a "typical" case at all. As soon as a complete list of names of persons who were not identified with the warrants was made up, telegraphic request was made by the Boston office to the department at Washington for the issuance of the warrants by telegraph and at the same time a similar list and similar request was made on the immigration authorities at Boston to permit them to take up the matter with their own department direct.

Regarding searches and seizures, in every instance where practicable search warrants were procured from either city authorities or the United States commissioner. In no instance can it be shown that any person or place was searched over the objection of the individual. Mr. and Mrs. Colyer admitted at the hearing that they had permitted the search.

As to handcuffing; this was done only where the guard was insufficient. The instruments used were those at present being used throughout the country and the "chains" were nothing more than the usual light chain which police run through the cuffs where they have a large number of men to handle.

I remind you that nowhere in the entire Boston division is there a single charge of brutality or abuse.

So far as the criticism of the judge on the use of under-cover agents or informants, I have covered that matter generally in another portion of my reply. His statements to the effect that the Government owns and operates some part of the Communist Party are without foundation in any manner, shape, or form, so far as they may refer to the Department of Justice. His statement on Americanism was addressed directly at a man who is a war veteran, a man who wore the uniform, the badge of honorable distinction, and went away and offered his very life to prove his Americanism. It is unfortunate that I am compelled to criticize the statements or action of a justice on the bench but when such statements as these are made in the spirit which is too evident from their wording and, in addition, are not true. I insist the truth be stated. I invite you to read the record in the Colyer case and to consider the many unusual and striking features of the entire affair: How certain of these same "12 prominent attorneys" became identified with the case; such tactics as the open coaching of a witness on the stand by a person not a witness or party but merely "interested;" the reasons for the many immaterial, unwarranted, and untrue statements. All these I think would be of interest if known. I really do not believe it is worth the time to go into detail about the Colyer case, as it involves generally those matters which I have covered previously. If you are interested in this particular case I will be glad to have a thorough, complete, and painfully true statement of the entire matter prepared for you.

I think, Mr. Chairman, those affidavits will cover all of the details in this report of alleged illegal practices filed by the lawyers with the exception of the charge of forgery and one other case which we are still investigating. We will later file the evidence with respect to that case.

I would like to put into the record a memorandum concerning the Communist Labor Party, together with a copy of "Communist Labor," the official organ of that party, showing that since the Secretary of Labor held that the Communist Labor Party is not covered by the

statute a reorganization of all these communist parties is to take place under the name of the Communist Labor Party. They propose to take advantage of that ruling to the limit.

Mr. VAILE. Is that the one which states there is no difference between the two?

Mr. PALMER. Yes; they repudiate the idea that there is any difference between the Communist Party and the Communist Labor Party, and they say they know more what they believe in than the Department of Labor.

(The memorandum referred to follows:)

COMMUNIST LABOR PARTY.

Considerable comment has been made in the various papers in the country as to the ruling of the Department of Labor upon the status of the Communist Labor Party. It will be recalled that the Secretary of Labor ruled that this was an organization which did not advocate the use of force and violence for the accomplishment of its revolutionary purposes. I have at hand a brief prepared in the Department of Justice upon the various documents which have been collected, dealing with this organization as well as a brief of evidence prepared by the Chicago office of the Bureau of Investigation, in which city this organization had its inception. I believe that both of these documents should be made a part of your records for your information.

I do want to call the committee's attention to the fact that all of the outlawed revolutionary organizations in the United States are now intent upon the merger of their organizations into the Communist Labor Party. The memorandums prepared in the Department of Justice, I believe, will lead the committee to but one conclusion, that is, that this organization, the Communist Labor Party, has for its sole purpose, the overthrow of the Government of the United States by force and violence. It in the issue of Communist Labor for May 15, 1920, announces the call of a convention to be held on or before June 15 with the Communist Party, and agrees upon the call for the joint convention upon the basis of the manifesto and program of the Communist Party, a document which the Secretary of Labor has ruled advocates the use of force and violence. In the same issue there is also a repudiation of the attorneys who appeared on behalf of the Communist Labor Party in argument before the Secretary of Labor and a statement that any assertions made by these attorneys before the Secretary of Labor contrary to the principles of communism were repudiated, as the attorneys had been appearing without any authority from the Communist Labor Party. It is this same organization, the Communist Labor Party, which has been ruled by three State courts and one Federal court as being an organization which has for its purpose the overthrow of our Government by force and violence. Yet, under the ruling of the Department of Labor, its organization is a lawful body and can carry on its pernicious and insidious activities, aiming directly at the vitals of our Constitution.

(The documents referred to follow:)

STATEMENT OF FACTS SHOWING THAT THE COMMUNIST LABOR PARTY OF AMERICA IS AN UNLAWFUL ORGANIZATION.

The Communist Labor Party of America, as well as the Communist Party of America, grew out of the radical faction of the Socialist Party, commonly known as the left-wing movement.

In furtherance of this left-wing movement, the Communist Propaganda League of Chicago was organized on November 7, 1918. Its sole purpose was to issue and circulate revolutionary propaganda. The editorial board of said league comprised prominent members of the Socialist left wing, who later became the organizers and leaders of both the Communist Labor Party and the Communist Party of America.

The reason for the creation of two Communist parties was found in the personal jealousy and not in the principle, as it will be seen that both organizations are built and based on the same theory and reasoning.

This brief will be confined to the unlawful standing of the Communist Labor Party and will therefore eliminate all matter pertaining to the activity of the Communist Party, excepting such matter which applied to both organizations alike.

It is contended by the Government that the Communist Labor Party is an organization that entertains a belief in the overthrow by force or violence of the Government of the United States; that this organization advocates the overthrow by force or violence of all forms of law; that this organization teaches the overthrow by force or violence of the Government of the United States; that this organization teaches opposition to all organized government; that this organization entertains opposition to all organized government.

The evidence in support of the foregoing contention consists:

First. In official basic documents such as the Platform—Party and labor program—constitution of the Communist Labor Party—and also the manifesto of the Communist Internationale.

Second. In official publications issued by and under the direct supervision of the authorized officials of said Communist Labor Party—which publications discuss the tactics of the organization as well as give instructions to locals, branches, and members, and also serve to interpret the meaning of the above-named basic documents.

Third. Speeches made and correspondence emanating from the members of said organization in the regular course of party affairs and business.

Fourth. In quotations from so-called textbooks and lectures used and employed in furtherance of the communist movement, explanatory in nature, by which confusion as to the exact meaning of technical terms employed by said party, such as revolution and dictatorship of the proletariat, is to be avoided.

(*a*) The Government contends that the Communist Labor Party by force and violence intends to deprive the citizens of the United States of private property lawfully in their possession in violation of section 1, article 5, of the Constitution of the United States of Amercia:

"That no person shall be deprived of life, liberty, or property without due process of law."

(*b*) The Government further contends that the Communist Labor Party directly repudiates parliamentary action for the purpose of obtaining control of the Government but to all intents and purposes believes in, teaches, and advocates the use of force and violence for the purpose of accomplishing the end desired in direct violation of the preamble of the Constitution of the United States of America:

"That we, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare and secure the blessings of liberty to ourselves and our posterity do ordain, and establish this, the Constitution of the United States of America."

And section 1, Article I:

"That all legislative powers herein granted shall be vested in a Congress of the United States which shall consist of a Senate and a House of Representatives."

And clause 18, section 8, Article I:

"That the Congress shall have power to make all laws which shall be necessary and proper for the carrying into execution the foregoing powers and all powers vested by this Constitution in the Government of the United States, or any department or official thereof."

And section 2, Article VI:

"That this Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

And section 1, article 2:

"That the executive power shall be vested in a President of the United States of America."

And also in violation of section 6 of the Criminal Code of the United States:

"That if two or more persons in any State or Territory, or any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or levy war against them, or to oppose by force authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States, contrary to authority thereof, etc."

For the purpose of showing the fundamental principles on which the Communist Labor Party was founded, excerpts from The Communist, under date of Chicago, April 1, 1919, published and circulated by the Communist Propaganda League of Chicago—referred to above—are hereby quoted. On page 1, column 1, paragraph 4, the following appears:

"The Communist League is a response to world socialism in revolutionary action—a response impelled by the urge of the masses for decisive action against brutal oppres-

sion, and of the 'rank and file' against Socialist Party officialdom which is halting in performance and hesitant in giving voice to the mass revolutionary proletariat finds inspiration in the slogans of bolshevism and of Spartacism, because these are true to the mass impulses inherent in the heroic temper of revolt. Where the revolution has yet to advance to the stage of crisis, as in America, the mass protest seeks its expression in a socialism which brings us into oneness of spirit and understanding with the fighting and bleeding proletariat of Germany and Russia."

On page 3, under the heading "Program of Communist Propaganda League," appears the following:

"The Communist Propaganda League of Chicago came into existence on November 7, 1918, first anniversary of the Russian Soviet Socialist Republic, and the very day of the German Revolution.

"A group of Socialist party officials and active party members came together for consultation as to ways and means for giving the American Socialist movement a revolutionary character in harmony with all the significance of November 7, the most glorious date in all history. At the hour of that little meeting bedlam reigned in the streets of Chicago by premature celebration of peace. The calling of this meeting during the mass tumult of November 7 is prophetic of the revolutionary vision which brought these comrades together. On that day the seething proletariat ruled Chicago by sheer force of numbers. One thing alone was needed to give this mass expression identity with the proletarian uprisings of Europe—one thing: The revolutionary idea.

"The Communist Propaganda League is an organization for the propagation of the revolutionary idea. The civilization of to-morrow is with unorganized masses who greeted the news of peace and revolution in Germany with what may safely be described as the greatest spontaneous expression of mass sentiment ever witnessed in America. To give direction and inspiration to the advancing and irresistible army of the proletariat is the mission to which this league is dedicated.

"PROGRAM.

"We speak as members of the Socialist Party to other Socialists, primarily in the interests of the party itself; fundamentally in the interest of a truly revolutionary proletarian movement in the United States.

"There are certain well-defined lines of criticism of Socialist Party tactics and principles which have long been familiar to all thoughtful American Socialists; that the party proceeds on a too narrow understanding of political action for a party of revolution; that its programs and platforms have been reformist and petty bourgeois in character, instead of being definitely directed toward the goal of social revolution; that the party has failed to achieve unity with the revolutionary movement on the industrial field; that the party organization of itself is too cumbersome for quick response to new situations and opportunities for propaganda; that the stand against proletarian participation in imperialistic wars has not gone the full length of its own logic; that there has been compromising reservation in accepting the international leadership of the Bolsheviki of Russia; and, generally, that the modes of socialist functioning have not taken sufficiently into account the mass action of the proletariat which alone can bring revolution, but instead there has been blind reliance on balloting and pure parliamentarism as the weapons of revolution—a reliance which the experience of the past two years makes particularly empty.

"Converting these different ctiticisms into affirmative proposition, we present the following program as the immediate basis of our activities:

"'1. Alliance and cooperation only with revolutionary socialist and labor elements in international affairs, such as the Communist Party (Bolsheviki) of Russia.

"'2. Socialist propaganda only as the basis of the revolutionary class struggle; a socialist movement built only on revolutionary proletarian adherents. An end of petty bourgeois reformism as the basis of the Socialist Party activity.

"'3. Party policies and platforms free from hypocrisies and "planks" to catch votes; platforms only as statements of revolutionary aims.

"'4. Furtherance of such changes in political forms as are in line with the needs of proletarian-controlled industry, not of political changes based on bourgeois "democracy."

"'5. Identification of the Socialist Party with class-conscious industrial unionism.

"'6. Unity of all kinds of proletarian action and protest forming part of the revolutionary class struggle. Political action, to include political strikes and demonstrations, and to be in cooperation with industrial mass action.

"'7. No compromising with any groups not inherently committed to the revolutionary class struggle, such as labor parties, people's councils, non partisan leagues, municipal ownership leagues, and the like.

"'8. The proletariat to be organized to oppose all wars of imperalism, though declared for "defense of country" or for "democracy" and to carry this opposition to the extent of refusal of service under conscription, and to general strikes. The workers to engage only in wars of proletarian revolution and in wars to repel attacks against proletarian governments.

"'9. A sense of realism as to the limited possibilities of the ballot as a weapon of revolution, or fights for "justice" in capitalist courts and dependence primarily on mass power and mass action of the proletariat.

"'10. Centralized party organization, corresponding to the highly centralized imperialist control to be overthrown.'"

To lay the foundation of the affiliation of the Communist Labor Party with the so-called Third International of Moscow, section 1 of the platform and program of the Communist Labor Party is quoted, which reads:

"The Communist Labor Party of the United States of America declares itself in full harmony with the revolutionary working-class parties of all countries and stands by the principles stated by the Third International formed at Moscow."

Further, part 1 of the party labor program reads as follows:

"The Communist Labor Party of America declares itself in complete accord with the principles of communism as laid down in the manifesto of the Third International formed at Moscow."

Section 3, clause 2, of said party and labor program reads as follows (in a sense these principles are as follows):

"Communist society is not like the present fraudulent capitalist democracy—which, with all its pretensions to equality, is merely a disguise for the rule of the financial oligarchy—but it is a proletarian democracy based on the control of industry and the State by the workers, who are thereby free to work out their own destiny. It does not mean capitalist institutions of government which are controlled by the great financial and industrial interests, but organs of administration created and controlled by the masses themselves; such as, for example, the soviets of Russia."

Section 5 of the party and labor program reads as follows:

"The present world situation demands that the revolutionary working-class movements of all countries shall closely unite."

Further, section 1 of the program reads as follows:

"We favor international alliance of the Communist Labor Party only with the communist groups of other countries—those which have affiliated with the Communist International."

"For the purpose of conveying a clear meaning of technical terms used and employed by the Communist Labor Party, such as revolution, "proletariat dictatorship," "political action," and "capitalistic state," the following is quoted from The Communist, official organ of the Communist Propaganda League of Chicago, under date of April 1, 1919, on page 5, under the heading "Force and Evolution" is quoted:

"The antisocialist propaganda now goes almost entirely on the method of revolution. Apparently there is hardly anyone, even of the subsidized press or in the museum of mental mummery known as the American Congress, willing to come out in open and direct defense of capitalism. But these agents of murderous Mommonism realize that the world is already sickened with the thought of bloodshed; that the horor of four and a half years of imperialist slaughter has resulted in a sort of universal near insanity. They seek to capitalize against the aspirations of the working class the danger of violence—a tiny speck of the violence which yesterday they proclaimed as the highest glory of mankind.

"All these 'investigations' of bolshevism, all these laws against 'violence' as a means of ending the life-crushing tributes of capitalism, go right in the face of the fact that the Government of the United States has busied itself to send thousands of socialists to jail for their antimilitarism whereas every person who thinks at all knows that the first and last principle of capitalist government is violence—police, military, and judicial violence. When, for that matter, have these legislators and editors ever protested against lynchings and mob violence when the victims were spokesmen of the working class—even with all the 'legal' methods of violence at their service?

"The workers of the United States become a menace to capitalism, a menace to 'law and order,' or to 'civilization,' the moment their minds grasp the truth of their industrial enslavement and of their power to end it. That is bolshevism—and there is no question about it being a menace to something. But these workers have only their bare hands and the might of their arms. Violence, nowadays, expresses itself in terms of machine guns, hand grenades, cannon, or the dropping of bombs from airships. It is the professional specialty of soldiers and police; or, of the judges who order imprisonment and deportations. Nine and ninety per cent of the class war violence in this country has necessarily been capitalist violence; the odd per cent is

allowed for the possible stray case where the workingman gets hold of some weapon more deadly than bare hands. Or, in Europe, where the violence has come also from the working class side of the fight, that has meant a voluntary change of service by soldiers, sailors, and police. In other words, it has been the violence of mutiny, the servants of capitalistic government turning against their masters.

"But it is quite obvious that the military and police do not turn against their 'legal' masters short of a time when that control or government is thoroughly and quite universally discredited. That happens at the hour of the last gasp of a decrepit system; it is the death throttle of a 'law and order' which benefits a few at terrible cost to the many. It comes with an extreme revelation of incompetence and destructiveness of the old order combined with a fairly clear general consciousness of the direction of change. Never has any system of exploitation by a few of the labor of the many let go the reins of government and social control without using the 'legal' instrumentalities of force to the last ditch.

"In short, violence is an almost exclusive monopoly of the privileged few who are in control of 'law and order.' In most countries there is compulsory military service, armies of the national government. Under the soviets there is universal armament. The difference is this: Monopoly of the means of violence, available for the controllers of government against the people on the one hand and on the other all the people armed against the possibility of minority control through the coercive powers of government. Our forefathers were highly conscious of this difference when they provided against standing armies and in favor of universal bearing of arms by the people. But the Constitution in which this is plainly recorded is subject to a curious process of interpretation which makes it an evermore secure intrenchment of finance oligarchy, which accounts for the recent enthusiasm in the capitalist press for change of our Government by the process set forth in the Constitution, a process absolutely prohibitive of fundamental change in less than 10,000 years. It is not 'unconstituseems to carry the tradition of Americanism better than anything else yet produced tional' to call for an entire new deal; also that interesting document of July 4, 1776, on this continent, and this document gives free leave to the people to make over their Government at their sweet will in their own peculiar way, no matter what the Constitution says about the method of change. But when it comes to the seditious Declaration of Independence that is where our 'violence' comes in, the violence of the idea that capitalism and its methods of government have not eternal sanctity."

Also, in addition to this, the following appears in the same issue, same page:

"The politics of the working class are comprised within the confines of the class struggle, and conversely the class struggle is necessarily waged on the political field."

This was further explained with the following statement:

"By this statement we do not imply that the political action of the working class is always confined within the bounds of parliamentary procedure, nor that the means employed in waging the class struggle must everywhere be the same. Political action we define as any action taken by the exploited against their exploiters to obtain control of the powers of state, or by the master class to retain control, using these powers to secure the means of life."

"This definition of political action is well worthy of careful study. It is perhaps not sufficiently explanatory, but it at least lifts us out of the rut of 'pure political action.'"

Special attention is called to the above definition of political action

Further, the following is an excerpt of a speech made by William Bross Lloyd, an organizer and member of the Communist Labor Party as well as the Communist Propaganda League, and now indicted in the State courts in the county of Cook, State of Illinois, for criminal syndicalism, which speech was made at 1248 West Fifty-ninth Street, Chicago, Ill., under date of March 21, 1919, as follows:

"That there is but one ruler in the world and that is force."

Speaking about revolutionary preparedness Lloyd stated:

"That there should be plenty of guns and dynamite to capture and blow up the banks to procure money for the revolution—and more dynamite to blow in the armory doors to obtain guns for the workers and to disarm the capitalists—that the Bolsheviki in Russia were too kind to their rulers—that when they were captured they were turned loose and were then able to find arms and again became counter-revolutionists—that the perfect revolutionist organization would mean less bloodshed."

He then urged the audience:

"To perfect this organization so that the revolution would be a matter not of time, but of one moment."

He further stated:

"That on the 11th day of November, when peace was declared, all men were of one mind in this country, and they had one idea of wanting to celebrate the peace celebration, and with one mind they walked out through the streets without the permission of their bosses, and this you can do when you make up your mind to overthrow the Government."

One H. O. Bliven and R. R. Hilliard, the latter formerly special agent of the Bureau of Investigation, Department of Justice, and now Assistant Attorney General of the United States, were present at this meeting.

Further, on January 12, 1919, said William Bross Lloyd at a meeting held at the Auditorium at Milwaukee, Wis., while addressing what is supposed to have been a radical audience stated:

"The Czar of Russia made the Socialist Party an illegal party, and who governs Russia now? Your brothers. Now, they, our rulers, mean to keep this espionage law up. It has been growing ever since I was a boy. They mean to keep in jail those they have in jail; those they have convicted. They mean to send a lot more of working class representatives and champions to jail to keep those fellows company. They mean to bless you with imperialism, militarism, conscription, and a democracy whose adherents refer to the real democracy of the world the soviet republic of Russia, as mob rule, anarchy, chaos, and a reign of terror. Now, on this proposition meetings, resolutions, speeches, begging, pleading, are not going to do you a bit of good. Force rules the world. The answer to this is preparedness. Now we have heard all about preparedness in this country.

"We know that the readier we are to fight, the bigger Army we have got, the bigger Navy, the more ammunition, the less chance there is for us to have to fight. So what we want is revolutionary preparedness. We want to organize so if we want to put a piece of propaganda in the hands of everybody in Milwaukee you can do it in three or four hours. If you want every Socialist in Milwaukee at a certain place at a certain time with a rifle in his hand, or a bad egg, he will be there. You want to get rifles, machine guns, field artillery, and the ammunition for it. You want to get dynamite. You want to tell of the men for the revolution when it starts here. You want to tell of the men who are to take the dynamite to the armory doors and blow them in and the guns and ammunition there, so that the capitalists won't have any. You want to tell of the men to dynamite the doors of the banks to get the money to finance the revolution. You want to have all this ready, because the capitalist propaganda on preparedness teaches that if you have it ready you won't need it, and you won't because you have that sort of an organization when you get a political victory, and you can get it, the other side will lay down. If they don't, you go take their laws, their police, and their military and use it against them. Let's see how they will like that. It is bourgeoise to conspire to commit treason on every crime under the sun. A Bolshevik is a man that don't care whether school keeps or not, so long as the revolution goes on."

Further, the following quotation is made from a communist book entitled, "The Proletarian Revolution in Russia," by N. Lenin and Leon Trotski, on page 233, paragraph 3, under the heading, "Lessons on the revolution":

"The lesson of the Russian revolution is this: There is for the toiling masses no way out of the iron ring of war, of hunger, of enslavement to the landholders and capitalists, except in a complete break with the parties of the Social-Revolutionists and Mensheviki, in a clear understanding of the treacherous rôle they have played, in the renunciation of every kind of coalition with the bourgeoisie, in a decisive stand by the side of the revolutionary workers. The revolutionary workers alone, if they are supported by the poorest peasants, will be in a position to break the resistance of the capitalists, lead the people to a seizure of the land without compensation, to full liberty, to a victory over hunger and over war, and to a just and permanent peace. Lenin."

Take into consideration this, said William Bross Lloyd, as a very prominent member of the revolutionary movement and Lenin being the leader of the Russian revolution, the foregoing statements must be accepted as authentic on the meaning of revolution as used by the Communist Labor Party.

To explain the phrase, "proletarian dictatorship," the following is quoted from the "Proletarian revolution in Russia, by N. Lenin and Leon Trotsky"—referred to above—on page 393, under the heading "Democracy and proletarian dictatorship"—and pages 394, 395, and 397:

"Those who have not learned even from the course of the Russian revolution of 1917–18 that middle courses are impossible, must be given up as hopeless.

"On the other hand, it is not hard to see that during any transition from capitalism to socialism, a dictatorship is necessary for two main reasons or in two main directions. In the first place, it is impossible to conquer and destroy capitalism without the merciless suppression of the resistance of the exploiters, who can not be at once deprived of their wealth, of their advantages in organization and knowledge, and

who will, therefore, during a quite long period, inevitably attempt to overthrow the hateful (to them) authority of the poor. Secondly, every great revolution, and especially a Socialist revolution, even if there was no external war, is inconceivable without an internal war, thousands and millions in cases of wavering and of desertion from one side to the other and a state of the greatest uncertainty, instability, and chaos. And, of course, all the decadent elements of the old order, inevitably very numerous and connected largely with the petty bourgeoisie (for the petty bourgeoisie is the first victim of every war and every crisis) can not fail to 'show up', during such a profound transformation. And these elements of decay can not 'show up' otherwise than through the increase of crimes, hooliganism, bribery, speculation, and other indecencies. It takes time and an iron hand to get rid of this.

"This historical experience of all revolutions, this universal historical—economic, and political—lesson was summed up by Marx in his brief, sharp, exact, and vivid formula: the dictatorship of the proletariat. And that the Russian revolution correctly approached this universal historical problem has been proven by the victorious march of the Soviet organization among all peoples and tongues of Russia. For the Soviet rule is nothing else than the organized form of the dictatorship of the proletariat, the dictatorship of the class conscious proletariat, rousing to a new democracy, to independent participation in the administration of the State, tens and tens of millions of exploited toilers, who, through their experience, are discovering that the disciplined and class-conscious vanguard of the proletariat is their most reliable leader.

"But 'dictatorship' is a great word. And great words must not be used lightly. A dictatorship is an iron rule, with revolutionary daring, and swift and merciless in the suppression of the exploiters as well as of the hooligans."

For the purpose of explaining the meaning of the word capitalism, section 2 of platform of the Communist Labor Party is quoted, which reads as follows:

"With them it thoroughly appreciates the complete development of capitalism into its present form of capitalist imperialism with its dictatorship of the capitalist class and its absolute suppression of the working class."

And further extract published in the "Communist Labor," official organ of the Communist Labor Party of America, under date of February 25, 1920, under the heading "The Red Ruby" which is supposed to be an address by one Benjamin Gitlow—member of the labor committee of the Communist Labor Party—while being on trial for criminal anarchy in the State of New York stated:

"The Socialists have always maintained and the manifesto that has been printed in the revolutionary age maintains that capitalism as it developed, would be unable to solve the contradictions that spring up in the body politic of capitalism. What is capitalism? Capitalism is that system of society in which the means of production and distribution are owned by a few individuals for their own profit."

This clearly shows that by capitalism as used by the Communist Labor Party is meant the Government and the laws on which the Government was founded, therefore the term capitalism as used by said party means the Government and all laws on which the Government is founded.

Excerpts from the constitution—and the platform and program of the Communist Labor Party read as follows:

Under the heading Main Points in the New Constitution, section 4, as follows:

"An official national weekly paper, which shall go to each member, to be paid for out of his dues.

"This paper shall publish not only organization news, and instructions to locals, branches, and members, but also discussions of tactics, news of the latest developments of Communist movements the world over, the changes in tactics dictated by revolutionary experience abroad, and other matters needed to make our membership well-informed, intelligent, and capable of acting as a unit in crises."

Excerpts from the Constitution:

"ARTICLE II.

"SECTION 1. Any person, 18 years of age or over, who has severed his connection with all other political parties and political organizations and who subscribes to the principles of the Communist Labor Party, shall be eligible to membership in the party.

"SEC. 2. No member of the party shall accept or hold any appointive public office, honorary or remunerative (civil-service positions excepted) without the consent of his State organization, nor be a candidate for public office without the consent of his city, county, or State organization, according to the nature of the office.

"SEC. 4. All persons joining the Communist Labor Party shall sign the following pledge.

"Application for membership in the Communist Labor Party:

"I, the undersigned, recognizing the class struggle between the capitalist class and the working class, and the necessity of the working class organizing itself politically and industrially for the establishment of communism, do hereby apply for membership in the Communist Labor Party.

"I am opposed to all political organizations that support the present capitalist profit system and am opposed to any form trading or fusing with any such organizations.

"In all my political actions while a member of the Communist Labor Party I agree to be guided by the constitution and platform of that party.'

"III.

"NATIONAL EXECUTIVE COMMITTEE.

"SECTION 1. The policies of the Communist Labor Party shall be carried out by the national executive committee.

"V.

"SEC. 3. The national executive secretary shall publish a weekly official organ of the party, in which shall appear all important official reports and announcements.

VI.

"REPRESENTATIVE IN CONGRESS.

"SEC. 3. In all legislative bodies, as Congress, State legislatures, boards of supervisors, or town council, Communist Labor Party members shall organize into a group separate and apart from all other parties. They shall elect a chairman and in the support of all measures definitely declared for in the platforms of the party they shall vote as a unit.

"VIII.

"STATE ORGANIZATIONS.

"SEC. 3. (*a*) The platform of the Communist Labor Party shall be the supreme declaration of the party, and all State and municipal platforms shall conform thereto.

"PLATFORM.

"1. The Communist Labor Party of the United States of America declares itself in full harmony with the revolutionary working class parties of all countries and stands by the principles stated by the Third International formed at Moscow.

"2. With them it thoroughly appreciates the complete development of capitalism into its present form of capitalist imperialism with its dictatorship of the capitalist class and its absolute suppression of the working class.

"3. With them it also fully realizes the crying need for an immediate change in the social system; it realizes that the time for parleying and compromise has passed; and that now it is only the question whether all power remains in the hands of the capitalist or is taken by the working class.

"4. The Communist Labor Party proposes the organization of the workers as a class, the overthrow of capitalist rule, and the conquest of political power by the workers. The workers, organized as the ruling class, shall through their government make and enforce the laws; they shall own and control land, factories, mills, mines, transportation systems, and financial institutions. All power to the workers.

"5. The Communist Labor Party has as its ultimate aim: The abolition of the present system of production, in which the working class is mercilessly exploited, and the creation of an industrial republic, wherein the machinery of production shall be socialized so as to guarantee to the workers the full social value of the product of their toil.

"6. To this end we ask the workers to unite with the Communist Labor Party for the conquest of political power to establish a government adapted to the communist transformation.

"PARTY AND LABOR PROGRAM (PART 1).

"The Communist Labor Party of America declares itself in complete accordance with the principles of communism, as laid down in the manifesto of the third international formed at Moscow.

"2. The working class must organize and train itself for the capture of State power. This capture means the establishment of the new working class government machinery, in place of the state machinery of the capitalists.

"3. This new working class government—the dictatorship of the proletariat—will reorganize society on the basis of communism, and accomplish the transition from capitalism to the communist commonwealth.

"6. The most important means of capturing state power for the workers is the action of the masses, proceeding from the place where the workers are gathered together—in the shops and factories. The use of the political machinery of the capitalist state for this purpose is only secondary.

"7. In those countries in which there is a possibility for the workers to use this machinery in the class struggle, they have, in the past, made effective use of it as a means of propaganda, and of defense. In all countries where the conditions for a working-class revolution are not ripe the same process must go on.

"8. We must rally all groups and proletarian organizations which have manifested and developed tendencies leading in the direction above indicated, and support and encourage the working class in every phase of its struggle against capitalism.

"PART II.

"1. The economic conditions in every country determine the form of organization and method of propaganda to be adopted. In order efficiently to organize our movement here, we must clearly understand the political and economic structure of the United States.

"2. Although the United States is called a political democracy there is no opportunity whatever for the working class through the regular political machinery to effectively oppose the will of the capitalist class.

"3. The years of Socialist activity of the political field have brought no increase of power to the workers. Even the million votes piled up by the Socialist Party in 1912, left the party without any proportionate representation. The Supreme Court, which is the only body in any Government in the world with the power to review legislation passed by the popular representative assembly, would be able to obstruct the will of the working class even if Congress registered it, which it does not. The Constitution, framed by the capitalist class for the benefit of the capitalist class, can not be amended in the workers' interest, no matter how large a majority may desire it.

"6. Not one of the great teachers of scientific Socialism has ever said that it is possible to achieve the Social Revolution by the ballot.

"7. However, we do not ignore the value of voting, or of electing candidates to public office—so long as these are of assistance to the workers in their economic struggle. Political campaigns, and the election of public officials, provide opportunities for showing up capitalist democracy, educating the workers to a realization of their class position, and of demonstrating the necessity for the overthrow of the capitalist system. But it must be clearly emphasized that the chance of winning even advanced reforms of the present capitalist system at the polls is extremely remote; and even if it were possible, these reforms would not weaken the capitalist system.

"PART III.

"1. In America the capitalist class has never had a feudal aristocracy to combat, but has always been free to concentrate its power against the working class. This has resulted in the development of the American capitalist class wholly out of proportion to the corresponding development in other countries. By their absolute control of the agencies of publicity and education the capitalists have gained a control over the political machinery which is impossible to break by resorting to this machinery.

"3. The economic conditions of society, as Marx foretold, are pushing the workers toward forms of organization which are, by the very nature of things, forced into activity on the industrial field with a political aim—the overthrow of capitalism.

"5. It is our duty as Communists to help this process, to hasten it, by supporting all efforts of the workers to create a centralized revolutionary industrial organization. It is our duty as Communists, who understand class struggle, to point out to the workers that upon the workers alone depends their own emancipation, and that it is impossible to accomplish this through capitalist political machinery, but only by the exercise of their united economic power.

"PROGRAM.

"1. We favor international alliance of the Communist Labor Party only with th communist groups of other countries, those which have affiliated with the Com munist International.

"2. We are opposed to association with other groups not committed to the revolutionary class struggle.

"3. We maintain that the class struggle is essentially a political struggle; that is, a struggle by the proletariat to conquer the capitalist state, whether its form be monarchical or democratic-republican, and to replace it by a governmental structure adapted to the Communist transformation.

"4. Communist platforms, being based on the class struggle, and recognizing that this is the historical period of the social revolution, can contain only one demand: The establishment of the dictatorship of the proletariat.

"5. We favor organized party activity and cooperation with class-conscious industrial unions, in order to unify industrial and political class-conscious propaganda and action. Locals and branches shall organize shop branches to conduct the communist propaganda and organization in the shops and to encourage the workers to organize in one big union.

"6. The party shall propagandize industrial unionism and industrial union organization, pointing out their revolutionary nature and possibilities.

"7. The party shall make the great industrial battles its major campaigns, to show the value of the strike as a political weapon.

"9. In order that the party shall be a centralized organization, capable of united action, no autonomous groups of federations independent of the will of the entire party shall be permitted.

"10. All party papers and publications indorsed by the party; and all educational and propaganda institutions indorsed by the party shall be owned and controlled by the regular party organization.

"SPECIAL REPORT ON LABOR ORGANIZATION.

"The purpose of the party is to create a unified revolutionary working-class movement in America. In this crisis the American working class is facing an alternative. Either the workers will be unprepared, in which case they will be reduced to abject slavery, or they will be sufficiently conscious and sufficiently organized to save society by reconstructing it in accordance with the principles of communism.

"II.

"By the term 'revolutionary industrial unionism' is meant the organization of the workers into unions by industries with a revolutionary aim and purpose; that is to say, a purpose not merely to defend or strengthen the status of the workers as wage earners, but to gain control of industry.

"In any mention of revolutionary industrial unionism in this country, there must be recognized the immense effect upon the American labor movenemt of the propaganda and example of the Industrial Workers or the World, whose long and valiant struggles and heroic sacrifices in the class war have earned the respect and affection of all workers everywhere. We greet the revolutionary industrial proletariat of America, and pledge them our wholehearted support and cooperation in their struggles against the capitalist class. Elsewhere in the organized-labor movement a new tendency has recently manifested itself, as illustrated by the Seattle and Winnipeg strikes, the one big union and shop committee movements in Canada and the West, and the numerous strikes all over the country of the rank and file, which are proceeding without the authority of the old reactionary trade-union officials, and even against their orders. This tendency, an impulse of the workers toward unity for common action across the lines of craft divisions, if carried to its logical conclusion, would inevitably lead to workers' control of industry.

"This revolt of the rank and file must not be allowed to end in the disorganization of the ranks of organized labor. We must help to keep the workers together, and through rank and file control of the unions, assist the process of uniting all workers in one big union. With this purpose in view, the Communist Labor Party welcomes and supports, in whatever labor organization found, any tendency toward revolutionary industrial unionism. We urge all our members to join industrial unions. Where the job-control of the reactionary craft-unions compels them to become members of these craft-unions, they shall also join an industrial organization, if one exists. In districts where there are no industrial unions, our members shall take steps to organize one.

"III.

"4. We suggest that some plan of labor organization be inaugurated along the lines of the shop stewart and shop committee movements. These committees can serve as a spur or check upon the officials of the unions; they will necessarily reflect the spirit and wishes of the rank and file, and will educate the workers on the job in preparation for the taking over of industry.

"RECOMMENDATIONS.

"We recommend the following measures:

"(*a*) To initiate or support the creation of shop committees in every industry in their district, the uniting of these committees in industrial councils, district councils, and the central councils of all industries.

"(*b*) To propagandize and assist in the combining of craft unions, by industries, in one big union.

"(*c*) To bring together in the centers of party activity—locals and branches—delegates from factories and shops to discuss tactics and policies of conducting the class struggle.

"(*d*) To propagandize directly among the workers on the job the principles of Communism and educate them to a realization of their class position.

"(*e*) To find a common basis for the uniting of all existing economic and political organizations based on the class struggle.

"(*g*) To direct the activities of local party organizations in assisting the workers whole-heartedly in their industrial battles and making use of these battles as opportunities for educating the workers.

"2. That a national committee on labor organization be elected by this convention which shall cooperate with the local committees above mentioned. In addition, the national committee shall be charged with the task of mobilizing national support for strikes of national importance and shall endeavor to give these a political character.

"(*a*) It shall collect information concerning the revolutionary labor movement from the different sections of the country and from other countries, and through a press service to labor and Socialist papers shall spread this information to all parts of the country.

"(*b*) It shall mobilize on a national scale all members who can serve as propagandists and organizers, who can not only teach, but actually help, to put into practice the principles of revolutionary industrial unionism and Communism."

In support of proposition A of the Government's contention, section 4 of the platform of the Communist Labor Party is quoted:

"The Communist Labor Party proposes the organization of the workers as a class, the overthrow of capitalist rule, and the conquest of political power by the workers. The workers organized as the ruling class, shall, through their government, make and enforce the laws; they shall own and control land, factories, mills, mines, transportation systems, and financial institutions. All power to the workers."

And further, section 4 of party and labor program, part 1, stated:

"The dictatorship of the proletariat shall transfer private property in the means of production and distribution to the working-class government, to be administered by the workers themselves. It shall nationalize the great trusts and financial institutions. It shall abolish capitalist agricultural production."

In further support of this contention, the following is quoted from "The manifesto and governing rules of the communist international," under the heading "Expropriation of the bourgeoisie and socialization of production:"

"In order to raise the standards of productivity, in order to crush the opposition on the part of the bourgeoisie (which only prolongs the death struggle of the old regime and thereby invites danger of total ruin), the proletarian dictatorship must carry out the exportation of the greater bourgeoisie and junkerdom and convert the means of production and distribution into the common property of the proletarian State.

"As the first steps toward socialization of the entire economic system may be mentioned: The socialization of the great banks which now control production; the taking over by the State power of the proletariat of all Government-controlled economic utilities; the transferring of all communal enterprises; the socializing of the syndicated and trustified units of production, as well as all other branches of production in which the degree of concentration and centralization of capital makes this technically practicable; the socializing of agricultural estates and their conversion into cooperative establishments.

"As far as the smaller enterprises are concerned, the proletariat must gradually unite them, according to the degree of their importance.

"Besides expropriating the factories, mines, estates, etc., the proletariat must also abolish the exploitation of the people by capitalistic landlords, transfer the large mansions to the local workers councils, and move the working people into the bourgeois dwellings. During this great transition period the power of the councils must constantly build up the entire administrative organization into a more centralized structure, but on the other hand constantly draws ever increasing elements of the working people into the immediate control of the government."

In further support of the Government's contention (A) excerpts from the "Constitution of the Russian Soviet"—clauses C, D, and E—chapter 2 of article 1, are quoted:

"C. As a first step toward complete transfer of ownership to the Soviet Republic of all factories, mills, mines, railways, and other means of production and transportation, the Soviet law for the country by workmen and the establishment of the supreme Soviet of national economy is hereby confirmed, so as to assure the power of the workers over the exploiters.

"D. With reference to international banking and finance, the third Congress of Soviets is discussing the Soviet decree regarding the annulment of loans made by the Government of the Czar, by landowners and the bourgeoisie, and it trusts that the Soviet Government will firmly follow this course until the final victory of the international workers revolt against the oppression of capital.

"E. The transfer of all banks into the ownership of the workers' and peasants' government, as one of the conditions of the liberation of the toiling masses from the yoke of capital, is confirmed."

In support of the Government's contention (B) when the question as to the name of said party came before the convention on September 2, 1919, discussion was raised as to the word "communist," when Delegate Zimmerman, of Indiana, and Budin, of New York, stated that the name communist had no magic power at the present time. It signifies terror and it should not be adopted, but that when the revolution is on it may serve as a magnet—but while the revolution is in the making it should not be used. Said delegates further contended:

"That the dictatorship of the proletariat at the present time is a farce; it worked in Russia where the masses were prepared. The first thing to do here is to organize—educate and prepare the masses."

Delegates Tichenor and Carney favored the name "Communist Labor Party," saying:

"That the word socialism is going to be omitted from the next dictionary. That the officers of the Socialist Party had done such disgraceful work, and that the masses are too disgusted to use that name. That communism embodies the revolutionary movement and the Third International, and it is the only name for the future revolutionary party."

On September 3, 1919, when the platform of the Communist Labor Party was discussed, it appeared that some of the delegates did not understand the term "political action," as understood by the Communist Labor Party, and therefore opposed the term to be used in the platform, believing that it may mislead the workers, and conveying to them the impression that the Communist Labor Party was a political organization. To make this phrase clear Delegates M. Prevey, J. Zimmerman, J. Clifford and Benjamin Gitlow, and other leading communists, explained the term political action, stating:

"That it does not necessarily mean action by ballot, but may take in any action that has as its aim the overthrow of the present system of society."

The foregoing debates were had in the presence of Special Agent G. F. R. Cummerow, Bureau of Investigation, Department of Justice.

In further support of the Government's contention—proposition B—excerpts from a speech of one Charles Baker, of Cleveland, Ohio, Chief organizer of the Communist Labor Party, on September 28, 1919, at 119 South Throop Street, Chicago, at the Cook County convention of the Communist Labor Party, are quoted—saying among other things:

"That the Communist Labor Party is growing very rapidly and that he expected the party would have about 3,000,000 members in about 18 months, which would be sufficient to overthrow the capitalist society and establish the communist commonwealth."

Further, the Communist Labor Party, through its organization committee of the Cook County local, with headquarters at 204 North Clark Street, Chicago, Ill., issued a leaflet addressed to "revolutionary comrades in the Socialist Party and to all class conscious workers," which stated in part as follows:

"Comrades: It is time to get out. Let us abandon all the miserable compromisers to their fate. Let us continue the great task so earnestly begun by Karl Marx and his valiant colleagues, and so heroically carried out by Lenin, Trotski, Leibknecht,

and Luxembourg. Away with the compromise; on with the revolutionary class struggle."

Further, in support of this contention an excerpt from a mimeographed statement of the Illinois delegates who withdrew from the emergency convention and participated in the formation of the Communist Labor Party, which statement was addressed to the secretaries and comrades, reading as follows:

"For several months a controversy has been raging within the Socialist Party over matters of fundamental importance. It was hoped that at the national emergency convention in Chicago beginning August 30, that the matters of the controversy would be turned out and that the Socialist Party would follow your mandates as expressed in the referenda, a revolutionary policy affiliated with the Third International and repudiate the counter-revolutionary elements with the party. Recent referenda made it mandatory that the party here in the United States should align itself with the Bolsheviki of Russia, the Sparticides of Germany, and the communist groups in other parts of Europe. The membership had spoken and we have withdrawn from the convention, and proposed that the mandates of the membership should be carried out.

"Comrade Alfred Wagenknecht called us to order and we immediately got down to business. The Communist Labor Party was organized to carry out your mandates. It is affiliated with the Third International. It has repudiated the Scheidemans of all countries, including our own. It is aligned with the Bolsheviki of Russia, the Sparticides of Germany, and the communist groups of the rest of Europe.

"It has done this because such was your mandate in the recent referenda. By a vote of more than 10 to 1 the Communist Labor Party has adopted a program based on the fact that we are living in a period of world revolution. It points out that if we would gain the support of the class-conscious workers of this country we must adopt our propaganda, education, and organization to the needs of the revolutionary proletariat.

"It not only indorses industrial unionism but proposes measures whereby one big union will become an accomplished fact."

This statement was circulated at Fleiner's Hall, at 1638 North Halsted Street, Chicago, Ill., while a meeting of all secretaries of the German branches of Cook County of the Socialist Party was held for the purpose of affiliating with either the Communist Labor Party or the Communist Party of America, and an original statement was obtained at said meeting by Special Agent M. F. Burger, of the Bureau of Investigation, Department of Justice, who was present to observe the conduct of said meeting.

This statement was signed by the following:

DR. CARL SANDBERG, *Chairman*,
SAMUEL F. HANKIN, *Secretary Cook County*,
EDGAR OWENS, *Secretary Down State*,
L. K. ENGLAND,
PERRY SHIPMAN,
WILLIAM LUGGE,
DR. O. J. BROWN,
O. A. OLSON,
WILLIAM BROSS LLOYD,
N. J. CHRISTENSEN,
CHARLES KRUMBINE, and
H. E. GREENWOOD.

In further support of the Government's contention—proposition B—extracts from the "Call for a mass membership convention for the purpose of organizing local Cook County of the Communist Labor Party of America" are quoted:

"In this, the most momentous period of the world's history, capitalism is tottering to its ruin. The working class is straining at the chains that bind it. A revolutionary spirit is spreading throughout the world. The workers are rising to answer the clarion call of the Third International.

"Only one socialism is possible in this crisis: A socialism that will express in action the needs of the working class. The time has passed for temporizing and hesitating. We must act. The communist call of the Third International, the echo of the communist manifesto of 1848, must be answered.

"2. The working class must organize and train itself for the capture of State power. This capture means the establishment of the new working-class government machinery in place of the State machinery of the capitalists.

"3. The new working class government—the dictatorship of the proletariat—will reorganize society on the basis of communism and accomplish the transition from capitalism to the communist commonwealth. Communist society is not the present fraudulent capitalist democracy, which, with all its pretensions to equality, is merely

a disguise for the rule of the financial oligarchy, but proletarian democracy, based on the control of industry and the state by the workers, who are thereby free to work out their own salvation. It does not mean capitalist institutions of government, which are controlled by the great financial and industrial interests, but organs of administration created and controlled by the masses themselves; such as, for example, the soviets of Russia.

"4. The dictatorship of the proletariat shall transfer private property in the means of production and distribution to the working-class government, to be administered by the workers themselves. It shall nationalize the great trusts and financial institutions. It shall abolish capitalist agricultural production.

"5. The present world situation demands that the revolutionary working-class movement of all countries shall closely unite.

"6. The most important means of capturing state power for the workers is the direct action of the masses, proceeding from the place where the workers are gathered together in the shops and factories. The use of the political machinery of the capitalist state for this purpose is only secondary."

In further support of Government's contention—proposition B—excerpts from the official organ of the Communist Labor Party of America entitled "Communist Labor" under date of December 6, 1919, under the heading "Revolution or evolution" by J. Loriot are quoted:

"I am very certain that I am expressing the thoughts of some of these when I assert that the revolution is not that slow development at all that ends in the establishment of a new order, but that the old system can not be overthrown without the use of more or less violence, according to the strength of the opposition it meets and the degree of the conviction of its necessity on the part of the masses.

"Doubtlessly the development of society affords a striking analogy with the phenomena of the reproduction of species. Like the human embryo, so, too, the social embryo at first finds in its milieu the conditions and the material for its development. But just as the birth of the little human shakes the foundations of the life and health of the mother, so the birth of this new social being can take place only with severest shocks to the old body, so severe that the old body is ruined by it."

Further, on page 2, under the heading of "One of the incidents of the class struggle," appears the following:

"No doubt that the Louisiana lumber merchants have also attempted to sidetrack the struggle started against them by the workers into the channels of race hatred. Their hirelings intended to lynch a Negro, a labor agitator, and thus to impose upon them the wild notion that the Negro, calling upon them to fight against capital, is the alleged cause of their misery. But their provocation failed. The union leaders have responded to it in the only manner worthy of proletarians, who understand that the workers of all races and nationalities are their allies and brothers; that they are all equally suffering under the yoke of capitalism, and that only by uniting their forces can they put an end to this oppression.

"And realizing this, they could not stand by indifferently while the mercenaries of the capitalists attacked one of them under the pretext that their victim was a worker of another race, attempting to snatch him out of their midst, and thus cause confusion in their ranks. They had to take up the defense of their brother, the Negro, and they did.

"They did not hesitate to give their lives. They fell in an unequal fight.

"They have set a good example; and the more self-sacrificing workers of all nationalities we have ever ready to give their lives for the cause of the proletariat, the fewer victims we shall have and the sooner will the working class win its final victory over its enemies."

And on page 4 of the same issue, under the heading "To the proletariat of the world," the following excerpt is quoted:

"The imperialist pillagers, Clemenceau and Wilson at their head, have lost all their modesty. Their ultimatum was thus conceived: Overthrow the government of the soviets, and we will let you live in peace, and thus is revealed all the baseness of which the former Socialist Democratic Party was capable. It had given its oath of fidelity to the proletariat dictatorship. It had signed an agreement with the Communist Party of Hungary; more than that, it had amalgamated with that party. At solemn assemblies, at the congress of soviets, at the congress of the party, it had declared that it would fight for communism and the revolution to the last drop of blood. It had, after having amalgamated with the communists, adhered to the third communist international; now it carries the brand of Cain on its forehead."

Further, the following in the form of an editorial on page 4 of the same issue appears:

"What is the duty of the revolutionary proletariat in this crisis? Is it to recognize the existing state of revolution and clear the decks for action—or is it to continue the

sweet dream of socialism, content with the thought of it, wasting valuable time in scholastical hair-splitting, and exhausting its energies in the expensive but fruitless sport of reforming capitalism?

"On this decision depends victory or defeat.

"The revolutionary proletariat of the world realizes this. It realizes that the time for action has come. Not to merely talk about revolution, but to fight for it, has become the task of the socialist movement. It expresses this awakening in the communist movement the world over.

"As communism in the time of Marx stood for the socialism of science, so communism to-day stands for the socialism of action.

"The socialists of the second international expressed its condemnation of capitalism by the power of words, programs, and manifestos.

"The third international, born in the midst of revolutionary battles in Moscow, prepares for the destruction of capitalism by the revolutionary activity of the working class. It will not merely talk about revolution—it will fight for it.

"The Communist Labor Party of America together with communists the world over, realizes the necessity of revolutionary action by the working class.

"It realizes that this action must be by the masses of the workers.

"It realizes that the strength of the worker does not rest in his quality as a citizen of the capitalist state but in his social position as a worker.

"It realizes that this social position, that of the producer of all necessities of society, which makes society dependent upon the working class, is common to all workers and can be used by them in a mass, as a class, for the revolutionary purposes of the proletariat.

"It also realizes that the roots of a revolutionary organization of the workers must be where they can draw upon the strength and the revolutionary activity of the masses.

"It, therefore, proposes to create the contact between its organization and the toiling masses by means of shop and factory committees until it not only represents the revolutionary struggles and aspirations of the proletariat, but is the fighting working class itself.

"This is the program of Communist Labor, the national organ of the Communist Labor Party.

"Not from the pedestal of phrase mongering, but as a worker among the workers, it will endeavor to interpret current events in the light of communist understanding. It will further that understanding with the masses so that not only revolutionary action will be placed in the hands of these masses but also intelligence of decision as to when and how to act.

"The real fundamental basis of the Communist Labor Party conception of communism is also that of the Communist Labor, an uncompromising and unwavering onward march toward communism over the ruins of capitalism and over the bridge of a proletarian dictatorship.

"A compromise is a concession to the enemy, an acknowledgment of weakness. A victory gained by such a concession is, in the last analysis, a victory for the enemy.

"Though it realizes that the duty of the working class of America is to carry on its struggle upon the local fields of battle of class warfare, communist labor, nevertheless recognizes the international character of that struggle and will be guided in its educational and propaganda work by the needs of the international revolutionary movement. The third international will be the general staff directing its activities; our duty will be in the adaptation of its orders to the local needs of the revolutionary class struggle. These local needs are in all instances the strengthening of the position of the working class until that class can set up its own will and power as the governing force of society, using that power for the destruction of capitalism and the building of communism.

"The class struggle for us will be not an abstract theory but a live issue, the issue confronting the proletariat everywhere. To fight in it is our purpose; to end it is our aim."

Further, in the same issue, on page 7, under the heading of "Capitalism and Communism," the following appears:

"The Bolshevist revolution, almost overnight, threw into the foreground of party life questions of fundamental significance, that had hitherto received practically no attention from the rank and file of the membership. It showed that the social revolution, when once it comes, will be accomplished neither by pure and simple bourgeoise parliamentarism, nor by the sort of promiscuous bomb throwing that figures in the American press whenever the word Bolshevik is mentioned, but that the overthrow of capitalist society can and will be accomplished by the action of a determined, class conscious, and united socialist proletariat. It showed the difference between mass

action which is the manifestation of power by large groups of the organized proletariat and the actions of individuals or small secret groups goaded to madness by oppression. The German revolution and its tragic fate at the hands of the German Social Democracy under the leadership of the superparliamentarians has but served to strengthen the impression the Russian revolution created.

"But in their blindness they fail to see that two heads are growing where there was one before; that every arrest will only add to the popular appeal of our cause, for in the Communist Labor Party capital opposes not an idea, but a living, breathing, vital fact; not a political program, but a revolution, the revolution that is taking possession of the proletariat, a revolution that will come not as a gift from the leaders in the parliaments of the land, but out of the mills and shops, the mines and the railroads, with the hearts and the hands of the working class."

In further support of contention B, under the heading "Capitalism, your days are numbered," the Communist Labor, official organ of the Communist Labor Party of America, under date of February 25, 1920, publishes the following:

"We know that traitorous labor leaders still hang onto your apron strings. We know that members of the working class still betray the workers to serve you.

"But we also know that labor sees a new light.

"It may be midnight in the United State, but dawn in the East tinges the world with crimson. Labor is also looking eastward. Labor is learning how.

"Capitalism—your 'hope for quiet days, fair issue, and a long life' is a hope you'll never realize.

"Your retainers will soon number but a handful. An army of millions will oppose you. The millions will establish their dictatorship.

"That will settle you, capitalism. You and your crimes, and lies and plunder and rape. Your exit will mean warmth, food, and smiles to millions and security to all. It will mean everything to the working class.

"To disregard your leadership down the crooked alleys of decrepit parliamentarism—that's the lesson we've been taught. To battle with our own weapons, fashioned to meet your criminal onslaughts—that's what we have learned to do. Through the dictatorship of the working class to everything—that's the way we shall proceed.

"Capitalism, we are onto you.

"Your days are numbered."

Further, in the same issue, under the heading "Tactics of the Communists," by Nicolai Lenin, the following is quoted:

"Only knaves and fools can believe that the proletariat must win the majority in elections taking place under the pressure of the bourgeois, under the pressure of wage slavery, and only then seize the power. This is the height of narrowness and hypocrisy. It is the attempt to substitute for the class struggle and the revolution, elections under the old social order, under the old government. The proletariat conducts its class struggle without waiting for a vote for the beginning of the strike, although for the full success of the strike the sympathy of the majority of the workers—and consequently also of the majority of the population, is necessary. The proletariat carried on its fight and overthrows the bourgeoisie without waiting for any preliminary vote (in which the bourgeoisie itself participates and which takes place under its pressure)-although at the same time the proletariat knows full well that for the success of its revolution, for the successful downing of the bourgeoisie, there is absolute necessity of the sympathy of the majority of the workers—and consequently also of the majority of the population.

"Parliamentary centrism and the modern Louis Blancs insist on the vote, and that a vote carried out by the bourgeoisie determines the sympathy of the majority. But that is the view of pedants, of political corpses, of cunning deceivers.

"Actual life, the history of the real revolution, shows that the 'sympathy of the majority of the workers' may often be proved without any vote (aside from such votes as are taken on a basis of 'equality' of the exploiter with the exploited). Very often the sympathy of the majority of the workers is revealed not through votes but through the growth of one of the parties in the number of members in the councils, through the success of a single strike which for some reason has gained great significance, through success in civil war, etc.

"The fight against the betrayers of Socialism, the Scheidemans and Kautskyans must be a ruthless one, but it must not be fought on the basis of participation in bourgeois parliaments, reactionary unions, etc., or boycotting of these organs. That would be an absolute mistake. A still greater one would be deviate from the ideas of Marxism and its practical line (a strong centralixed party) in favor of the ideas and pratice that demands as a matter of principle participation in the bourgeois parliament, in the reactionary labor unions, in the factory councils organized and castrated by the Scheidemans. Such a party must function wherever there are workers, wher-

ever workers may be spoken to, wherever the working class may be influenced. One must absolutely unite the illegal with the legal, systematically and without deviation establishing a strict party and its workers' organization. This is not easy. But there is not and can not be any "easy" task, any "easy"struggle for the proletarian revolution. But this problem must be solved at all costs.

"We differ from the Scheidemans and Kautskyans not only—and not chiefly—in that they, unlike us, do not recognize the armed uprising; the most important and fundamental difference is that they in every field—in the bourgeois parliament, in the unions, in the press, etc.—carry on an inconsistent opportunistic and actually traitorous policy."

Further, in the same issue, under the heading "from Ellis Island," on page 3:

"Advice to all comrades," and signed by the "Lettish group of communists, Ellis Island, N. Y.," the following is quoted:

"It is your duty to do everything you can to reach a unity of Communist parties in the nearest future. We here on the island, regardless of which of the two parties we belong to, are only Communists. If there are leaders who stand against unity, push them aside. Who still and knowingly propogates this unnecessary split, he is not worthy to be called a Communist.

"Spare no energies to spread the communist principles. Let the day soon come when the United States plutocracy will be overthrown and its hirelings swept aside.

"Down with capitalism. Long live the third internationals."

And further, under the heading "The white terror and communism," on page 6, in the same issue, the following is quoted:

"Old Berger in the sweat of his brow is trying to show that the Constitution exists, and that the workers have the right as citizens to be deprived of their rights on the basis of the same Constitution. Some of the 'mild reservationists' being afraid that their colleagues' madness may create a desertion of many and even 'loyal' workers to the camp of communists, are admitting the necessity for a new 'declaration of independence' and are ready to write one for the working class of their country.

"The class war is on. The communists are aware of it. The only declaration of independence the working class is going to write is already written in the manifesto of the third international: 'All power to the workers.'"

In further support of the Government's contention, proposition B, the following is quoted from the Communist Labor, official organ of the Communist Labor Party of America under date of March 25, 1920, under the heading "Caesar, beware of the ides of March," on pages 2 and 3, reading as follows:

"A working-class government not only derives its powers from the workers but places the functions of government into the hands of the workers themselves. The control of the government by the workers through the ballot box is not sufficient. The capturing of the State power by the revolutionary working class means the destruction of the capitalist character of this State, means the building up of a working class state, giving dictatorial powers to the workers. The purpose of this dictatorship is its own destruction, is the abolishment of class rule.

"But, behold, the workers do rise; they do go on strike! To save their friends Ebert and Noske? Oh, no. They strike to set up a dictatorship of the working class. They strike to conquer the political power of the state by destroying the political state machinery of capitalism and by placing the function of government into the hands of the working class itself, into the hands of workers' committees, into the hands of soviets.

"But it again teaches something to the workers of the world: The class solidarity of the capitalists. There is only one force to combat that and combat it successfully—class solidarity of the workers."

And further in the same issue, on page 8, under the heading, "A call to action," the following appears:

"Comrades: The revolution marches forward in spite of Mitchell Palmer and all that. The spirit of revolution will march on until the prison doors burst open and the class-war prisoners march out, joining their victorious brothers in a triumphant revolution.

"But that day must find us prepared. The revolutionary power of the workers, when set in motion by the elementary forces of economic evolution must find a guide in a well-developed communist movement which consciously and knowingly leads the revolution along the path to communism.

"Comrades: We, the national executive committee of the Communist Labor Party call upon you to double your efforts for our cause in the same ration as the efforts of capitalism double to escape its destiny.

"We call upon you to rally under the banners of the Communist Labor Party.

"Comrades: Is the cause of communism, is the cause of soviet Russia, is the cause of the working class worth a day's wage to you every three months?

"The workers of Russia give their blood for it. Those unable to bring this supreme sacrifice in Russia, work. Half starving, they work every Saturday, without wages, for their government. They call it Communist Saturday.

"Comrades: This is your fight. Do your duty. Translate your enthusiasm into action so you need not keep on wishing to be in Russia to be in a free country."

In further support of the Government's contention proposition B, extracts from a letter dated April 21, 1919, at Chicago, Ill., and addressed to Mr. C. Feichtmeir at Wausau, Wis., and signed by William Bross Lloyd, are quoted:

"The one compelling force in the workers' interest is working-class power and the Socialist Party executives with the world in tumult—with the American proletariat saturated with unrest has done absolutely nothing to organize working-class power to compel the capitalists to give up hope and enable the workers to take over the government and industry of the world. It is time we tried a new deal and put in a bunch of men who would stick to their business—which is to organize working-class power to take over the Government and industry * * * peacefully if the rulers choose to give up—by force if they do not make that wise choice."

In further support of the Government contention B, the following is quoted from The Toiler, official organ of the Communist Labor Party of Ohio, at Cleveland, Ohio, under date of March 12, 1920, on page 3, under the heading "A communist—Almost," which article clearly shows that the Communist Labor Party, for the purpose of seizing the power of State, does not intend to use the ballot:

"While we have had no intentions of carrying on a week-to-week argument with the Miami Valley Socialist, we can not refrain from complimenting its editor upon his arrival at another milestone on the way to advocacy of communist principles and tactics. And while he continues to resort to comics we will have to smile in reply. In the last issue the editor says in reply to us:

"'If we (the Socialist Party) aimed merely at putting socialists in legislatures to introduce reforms or to "talk revolution," the Berger and Albany incidents might be an argument against political action. But what socialists seek by political action is not to have a vote and voice in carrying on the capitalist state; on the contrary, it is to rally a majority for the abolition of the capitalist state.'

"The editor of the Miami is perfectly aware that the Communist Labor Party has not dispensed with political action, so the intimation to that effect is without force. The editor goes on to give a reason for the Socialist Party's advocacy of political action in these words:

"'Now, so long as the capitalist class can pose as the forces of "law and order" the great inert American masses will cling blindly to them. And so long as the capitalist can hold out the ballot to them they will not believe the capitalists have deprived them of "liberty." But by political action, by insisting upon the ballot as the means of accomplishing the transition from capitalism to industrial democracy, socialists force the hand of the capitalist class'—

"to prove, he should have added, that political action by the working class is but of secondary value as a weapon to abolish the capitalist state. His statement amounts to this: That the use of the ballot to the workers is of more value as a propaganda weapon than as an actual political pry with which it may hope to gain power over the state. It is also in contradiction to his first statement quoted above. He does not expect to ever 'rally a majority' of votes with which to overthrow capitalism, but will use the ballot to 'force the hand of capitalism.'

"The above statement comprises a near declaration of harmony with the position of the Communist Labor Party in regard to the uses and value of working-class political action. We had hardly hoped Comrade Sharts to ever make it. And therein lies our reason for smiling. Has not the logic of the 'Berger and Albany incidents' gotten a bit the best of Comrade Sharts's faith in the power of the ballot to abolish the capitalist State?

"It looks very much like it. To prove just how much, we quote from the platform of the Communist Labor Party and ask that you compare the above statement with what follows:

"'The most important means of capturing State power for the workers is the action of the masses, proceeding from the place where the workers are gathered together—in the shops and factories. The use of the political machinery of the capitalist State for this purpose is only secondary.'

"However, we do not ignore the value of voting, or of electing candidates to public office—so long as these are of assistance to the workers in their economic struggle. Political campaigns, and the election of public officials, provide opportunities for showing up capitalist democracy, educating the workers to a realization of their class position, and of demonstrating the necessity for the overthrow of the capitalist system. But it must be clearly emphasized that the chance of winning even ad-

vanced reforms of the present capitalist system at the polls is extremely remote; and even if it were possible these reforms would not weaken the capitalist system.

"That the Socialist Party advocates use of the ballot for the purpose of 'forcing the capitalist class' to prove the ballot's precise value is a new one. We really thought it took the ballot seriously, and can hardly accept Comrade Sharts's definition. It is much easier to believe that Comrade Sharts is somewhat out of sympathy with the present day attitude of the Socialist Party on this matter.

"Will we have to believe him a communist—almost?"

In further support of Government contention B, the following is quoted from The Toiler, official organ of the Communist Labor Party of the State of Ohio, published at Cleveland, Ohio, under date of May 14, 1920, under the heading "Trade-unionism, industrial unionism, and workers' committees," subheading, "Issued by the bureau of the third international":

"(c) By the formation of organization such as shop stewards, workers' committees, economic workers' councils, and direct branches of the Communist parties in the shops, mills, and mines, which are not alone means for moving the masses and the unions to more revolutionary action but which at the moment of the crisis may develop the soviets.

"14. The conquest of the power of the State is the objective of the revolutionars proletariat. Neither the parliaments nor the industrial unions are the means for this conquest of power, but mass action and the soviets—mass action to rally the workers, organized and unorganized, in the open revolutionary struggle for power; the soviets to constitute the mechanism of the revolutionary proletarian State, the dictatorship of the proletariat. At the moment of active revolution the struggle becomes not a struggle for industrial unions, but for the construction of soviets.

"15. After the conquest of political power and under the protection of the soviet dictatorship, industrial unionism comes actually to function in the economic reconstruction of society on a communist basis; and the stronger the industrial unions the easier the process of reconstruction. The government of soviets, of proletarian dictatorship, is political and transitory in character, the necessary agency of repression to expropriate and crush capitalism. While industrial in its constituents and representation, the government of soviets functions geographically and politically; but alongside of itself it constructs a central administration of industry, wholly economic in character, equality in representation and functions, perfecting the organism proletarian control and management of industry on the basis of the industrially organized producers."

In further support of Government's contention B, the following is quoted from the Voice of Labor, published twice monthly by the Communist Labor Party of America, in its issue of April 20, 1920, under the subheading "Strike for peace with Russia May 1," on pages 2 and 3:

"Third, to strive in other countries toward Soviet Republics as the organs of dictatorship of the proletariat. This inspiring aim we must always have in mind in all our deeds, all our actions. We must fill our heads with revolutionary thoughts; we must dare to hope in the midst of our misery; we must understand more and more that the break-down of capitalism is in full process; we must be willing to destroy the weapons of our enemies; we must have confidence in our constructive power. All this we can only achieve in a constant fight with our exploiters by giving this fight a general revolutionary character. It means a complete break with bourgeois civilization bourgeois morals, bourgeois supremacy; it means labor as the basic principle of social and moral life. Therefore, under all circumstances, the action to support Soviet Russia must be uppermost in our minds, must form part of all our important proletarian action. And to make it clear to the world, that this is a paramount international issue, the idea of an international demonstrative strike must be propagated and prepared in all countries.

"The Amsterdam bureau of the Communist International considers it its main task to further international unity not only of thought but of action as well. It, therefore, submits for consideration to all Communist groups and revolutionary organizations, workers' committees, etc., the possibility of a demonstrative strike in favor of peace with Soviet Russia on an international scale.

"The third international has to perform the historical task which the second international only planned, must realize the vision which its predecessor only talked about. It is bound to realize the international internal and external unity of the world-proletariat, its unity of doctrine, of organization and of tactics. It must teach the workers to form a world front against the world front that imperialism is already developing, despite its internal deviations and dissensions.

"In suggesting that in 1920 the 1st of May be used for an International strike demonstration in favor of Soviet Russia (no matter whether at that time the imperialists talk peace and plan war), we want to avail ourselves of the traditions of working class solidarity and action in favor of peace already attached to May day and to use those traditions as a means of bringing on a new vigorous effort in the directions of international unity of action. We think the times are ripe for an effort of this kind. The idea of new forms of human life, of general comradeship and culture for all, and the common ownership of the means of production presents itself as an approaching reality for the first time since society was divided into a dominating and a dominated class, for the first time it takes hold of the masses. The outward façade of the bourgeois state and society still exists, but it may fall to pieces at any moment, although a long and severe struggle will doubtless still be necessary as much to finally crush the bourgeoisie as to effectuate in the mass of the people the moral and intellectual transformation that will make them able to institute the communist commonwealth and render them fit to live in it."

And further, in the same issue, on page 9:

"You strike against the boss. The boss strikes back at you through his government. What now becomes your duty? This—to give your mass action political significance by striking against the government."

In further support of government contention B, the following quotations are from the Manifesto of the Communist International, on pages 15, 16, 17, 20, and 22, under the heading "The Capture of Political Power"; 23 under the heading "Democracy and Dictatorship"; and 30 under the heading "The Way to Victory":

"Whenever the masses are awakened to consciousness, workers, soldiers, and peasant councils will be formed. To fortify these councils, to increase their authority, to oppose them to the State apparatus of the bourgeoisie, is now the chief task of the class-conscious and honest workers of all countries. By means of these councils the working class can counteract that disorganization which has been brought into it by the infernal anguish of the war, by hunger, by the violent deeds of the possessing classes, and by the betrayal of their former leaders. By means of these councils the working class will gain power in all countries most readily and most certainly when these councils gain the support of the majority of the laboring population. By means of these councils the working class, once attending power, will control all the fields of economic and cultural life, as in the case of Russia at the present time.

"Civil war is forced upon the laboring classes by their archenemies. The working class must answer blow for blow, if it will not renounce its own object and its own future which is at the same time the future of all humanity.

"The Communist parties, far from conjuring up civil war artifically, rather strive to shorten its duration as much as possible—in case it has become as iron necessity—to minimize the number of its victims, and above all to secure victory for the proletariat. This makes necessary the disarming of the bourgeoisie at the proper times, the arming of the laborers, and the formation of a communist army as the protector of the rule of the proletariat and the inviolability of the social structure. Such is the Red army of Soviet Russia which arose to protect the achievements of the working class against every assault from within or without. The soviet army is inseparable from the Soviet State.

"Proletarians of all lands! In the war against imperialistic barbarity, against monarchy, against the privileged classes, against the bourgeois State and bourgeois property against all forms and varieties of social and national oppression—unite!

"Under the standard of the Workingmen's Councils, under the banner of the Third International, in the revolutionary struggle for power and the dictatorship of the proletariat, proletarians of all countries, unite.

"THE CAPTURE OF THE POLITICAL POWER.

"Seizure of political power by the proletariat means destruction of the political power of the bourgeoisie. The organized power of the bourgeoisie is in the civil State, with its capitalistic army under control of bourgois-junker officers, its police and gendarmes, jailers, and judges, its priests, government officials, etc. Conquest of the political power means not merely a change of the personnel of ministries, but annihilation of the enemy's apparatus of government; disarmament of the bourgeoise, of the counterrevolutionary officers of the White Guard; arming of the proletariat, the revolutionary soldiers, the Red Guard of Workingmen; displacement of all bourgeois judges and organization of proletarian courts; elimination of control by reactionary government officials and substitution of new organs of management of the proletariat. Victory of the proletariat consists in shattering the enemy's organization and organizing the proletarian power; in the destruction of the bourgeois and upbuilding of the proletarian State apparatus. Not until the proletariat has achieved this victory and broken the resistance of the bourgeoisie can the former enemies of the new order be made useful, by bringing them under control of the communistic structure and gradually bringing them into accord with its work.

"DEMOCRACY AND DICTATORSHIP.

"The proletarian State, like every State, is an organ of suppression, but it arrays itself against the enemies of the working class. It aims to break the opposition of the despoilers of labor, who are using every means in a desperate effort to stifle the revolution in blood, and to make impossible further opposition. The dictatorship of the proletariat, which gives it the favored position in the community, is only a provisional institution. As the opposition of the bourgeoisie is broken, as it is expropriated and gradually absorbed into the working groups, the proleatiarian dictatorship disappears, until finally the State dies and there is no more class distinction.

THE WAY TO VICTORY.

"The revolutionary era compels the proletariat to make use of the means of battle which will concentrate its entire energies, namely, mass action, with its logical resultant, direct conflict with the governmental machinery in open combat. All other methods, such as revolutionary use of bourgeois parliamentarism, will be of only secondary significance.

"The indispensable condition for successful struggle is separation not only from the direct servitors of capitalism and enemies of the communist revolution, in which rôle the Social Democrats of the right appear, but also from the party of the center (Kautskians), who desert the proletariat at the critical moment in order to come to terms with its open antagonists. On the other hand, there are essential elements of the proletariat, heretofore not within the Socialist Party, who stand now completely and absolutely on the platform of the dictatorship of the proletariat in the form of council rule, for example, the corresponding elements among the Syndicalists."

In further support of Government's contention B, of clearly explaining the meaning of dictatorship of the proletariat, the following is quoted from a monthly publication entitled "The Class Struggle," edited by Eugene V. Debs, Louis C. Fraina, and Ludwig Lore, the latter a member of the Communist Labor Party—and Louis C. Fraina, the international delegate for the Communist Party of America—which publication is sold and circulated by Arthur Proctor—who is the local secretary for the Communist Labor Party—in the issue of August, 1919, under the heading Dictatorship of the proletariat appears the following:

"What does dictatorship mean? Dictatorship is the form of government by which one class forces its will ruthlessly on the other class. During the period of social evolution, in which one class is preparing itself for the struggle for power, it foregoes the use of force because it is too weak to use force. It is only gathering together, concentrating its powers, and on this account it is not necessary for the ruling class to use open force against it. The ruling class only holds its forces in readiness, but it gives the class which is striving upward a certain room for development, as long as it does not consider this class dangerous. From the moment when the ruling class lays burdens on the oppressed class, which are so heavy that the ruling class fears a possible uprising of the oppressed, it puts into play the machinery of force. The war laid burdens such as these on the masses of the workers, and on that account it brought with it the suspension of the few scanty rights enjoyed by the working class in the time of peace; that is, it brought the dictatorship of imperialism, which cost the workers millions of lives. In order to break the dictatorship of imperialism the working class must employ force; force brings about the revolution. But no hitherto existing ruling class can be conquered at one blow. Beaten once, it attempts to rise again, and it can do so because the victory of revolution is by no means able to alter the economic system of society in an instant, to tear out by the roots the power of the deposed class. The social revolution is a lengthy process, which begins with the dethronement of the capitalist class, but ends only with the transformation of the capitalist system into a workers' community. This process will require at least a generation in every country, and this space of time is precisely the period of the proletarian dictatorship, the period during which the proletariat must keep the capitalist in subjection with the one hand, while it can use only the other for the work of socialist construction.

"Everything that is being said, on the ground of principle, against the rule by force of the Russian working class, means nothing else than the disavowal not only of the teachings of Marx, but of the plainest facts of the past. When a Renner does not blush to assert the scientific mien that the political revolution, that is, the employment of brute forces, contradicts the character of the Socialist revolution, because the Socialist revolution demands the organization of a new economic system and not force, that only means, that this former Marxist, with the Lassallean enthusiasm for the state, is not a worshipper of the state idea after the manner of Lassalle, as he has been characterized, but an ordinary capitalistic sophist. Just because the social revolution must transform the entire economic system of capitalism which gave to one class unheard of privileges, it must necessarily arouse the strongest opposition of this class, an opposition which can only be broken by the use of guns. And the stronger capitalism is developed in a country, just so much more ruthless, just so much wilder will the defensive struggle be, just so much bloodier the proletarian revolution, and just so much more ruthless the measures, by means or which the victorious working class will hold down the defeated capitalist class."

For the purpose of attaining the end desired, namely, the capture of the power of state by means of a general strike, the Communist Labor Party committed the overt acts by sending one Charles Baker, official organizer of the Communist Labor Party, into the coal fields of the State of Illinois—while a strike of the coal miners was on—for the purpose of inciting the striking coal miners to remain idle—and at the opportune time seize the mines from the possession and control of their lawful owners and operate them under the principles of communism.

A further overt act was committed in sending one L. E. Katterfeld, official organizer for said Communist Labor Party, into the coal fields of Kansas, with the same intent and purpose as said Charles Baker was sent into the coal fields of Illinois—the strike of the coal miners having been by presidential proclamation declared to be illegal, wherefore the Communist Labor Party in its official tactics conspired to support an unlawful strike with the intent to commit a further unlawful act, to wit: The seizure of private property with the ultimate aim of capturing the power of state by usurping Government powers and authority contrary to the Constitution of the United States and laws thereunder made.

The Communist Labor Party committed a further overt act by causing to be printed, published, and circulated with the intent of said publication reaching the striking railroad workers under date of April 20, 1920, a pamphlet entitled "The Voice of Labor," published twice monthly by the Communist Labor Party of America, on page 16, under the heading "Railroad Workers—Fight on," reading as follows:

"YOU ARE OUT ON STRIKE.

"For a long time you were promised redress of your grievances, and you waited—you waited until this great truth dawned upon you: That the only power to force redress of your grievances is your own strength and not the 'good will' of Mr. Wilson, Mr. Hines, or Mr. Railroad President.

"All the powers of darkness have joined hands to combat you, because they realize full well that your present revolt threatens them with disaster. These vultures understand that such a strike as yours, a strike that paralyzes the railroads, the main artery of production, a strike against the will of the union 'leaders,' who are considered lawful because they are the servants of your capitalist masters—such a strike deals a powerful blow to their domination."

Fight on then—you railroad workers! Keep up the battle! Avoid compromise.

Remember that the meaning and purpose of your struggle is not merely a slight betterment of your slave conditions. These slight betterments were occasionally secured for you by your union "leaders." Have these crumbs helped you any?

Do not content yourself with crumbs from the sumptuous table of your masters. Fight on for more than crumbs. Fight on for the seizure of all the means of production, all the factories and mills, all the mines and railroads. All of these belong to you. All of these are the product of your labor. But all of them were grabbed by your exploiters, the capitalists, who maintain their grip upon you with the aid of the Government.

To own the industries you must unite your forces with those of other workers into one big union. Abandon your old, rottening, conservative unions with their treacherous leaders who sell you out to your enemies.

"Create a new organization, a real working class revolutionary organization, with which you can lay hold of the governmental powers, which at present are being used by the capitalist class to enslave you and bleed you to death.

"All power and all industries to the workers! The Communist Labor Party" thereby conspiring and attempting to incite and induce said railroad workers to violate the act of Congress of October 22, 1919, commonly known as the Lever Act.

The evidence clearly shows that this is the aim of the Communist Party of the United States in conjunction with all revolutionary working class parties to capture the bourgeois parliamentary state by mass action or economic power in the form of strikes. While it is conceded that some strikes are lawful, but strikes or combinations to incite employees without any dissatisfaction with the terms of their employment for the sole purpose of seizing political power is an unlawful conspiracy by reason of its purpose—whether such purpose is effected by means usually lawful or otherwise.

A strike directed and aimed at the powers of the Government by the employment of general strikes is unlawful and contrary to public policy.

"It is the motive for quitting and the end sought thereby that makes the injury inflicted unlawful and the combination by which it is effected an unlawful conspiracy.

"The gigantic character of the conspiracy of the American Railway Union staggers the imagination. The railroads have become as necessary to life, health, and comfort of the people of this country as are the arteries of the human body—and they—Debs and Phelan—and their associates proposed by inciting the employees of all the railroads in the country to suddenly quit their service without any dissatisfaction with the terms of their employment—and to paralyze utterly all the traffic by which the people live. The purpose shortly stated was to starve the railroad companies and the public into compelling Pullman to do something which they had no lawful right to compel him to do. Certainly the starvation of a nation can not be a lawful purpose of a combination and it is utterly immaterial whether the purpose is effected by means usually lawful or otherwise.

"Something has been said about the right of assembly and free speech secured by the constitution of Ohio—it would be strange indeed if that right could be used to sustain the carrying out of such an unlawful and criminal conspiracy as we have seen this to be. It never has been supposed to protect one from prosecution or suits of slander or for any of the many malicious and tortious injuries which the agency of the tongue has been so often employed to inflict.

"If the obstruction of the operation of a road by the receiver was unlawful and malicious, it is not less than a contempt because the instrument which he used to effect it was his tongue rather than his hand."

Thomas *v.* Cincinnati, N. O. & T. P. Ry. Co., in re Phelan Federal 62–803.

"The Government of the Union, then, is emphatically and truly a government of the people in form and in substance; it emanates from them; its powers are granted by them, and are to be exercised directly on them and for their benefit. We hold it to be an incontrovertible principle that the Government of the United States, made by means of physical force, exercises through its official agents executed on every foot of American soil the powers and functions that belong to it. This necessarily involves the power to command obedience to its laws and hence the power to keep peace to that extent. This power to enforce its laws and to exceute its functions in all places does not derogate from the power of the State to execute its laws at the same time and in the same places. The one does not exclude the other except where both can not be executed at the same time. In that case the words of the Constitution show which is to yield. * * * This Constitution and all laws which shall be made in pursuance thereof shall be the supreme law of the land. Mr. Justice Bradley in ex parte Siebold, 100 U. S., 371, 395.

"It is obvious from these decisions that while it is not the province of the Government to interfere in any mere matter of private controversy between individuals or to use its great powers to enforce the rights of one against another, yet whenever the wrongs complained of are such as take the public at large and are in respect of matters which by the Constitution are intrusted to the care of the nation and concerning which the nation owes the duty to all the citizens of securing it for their common rights, then the mere fact that the Government has no pecuniary interest in the controversy is not sufficient to exclude it from the courts or prevent it from taking measures therein to fully discharge its constitutional duties.

"A most earnest and eloquent plea was made to us in the eulogy of the heroic spirit of those who threw up their employment and gave up their means of earning a livelihood not in defense of their own rights but in sympathy for and to assist others who they believe to be wronged.

"We yield to none in our admiration of any act of heroism or self-sacrifice but we may be permitted to add that it is a lesson which can not be learned too soon or too thoroughly—that under this government of and by the people the means of redress of all wrongs are through the courts and at the ballot box—and that no wrong, real or fancied, carries with it legal warrant to invite as means of redress the cooperation of a mob with its accompanying acts of violence.

"We have given to this case the most careful and anxious attention for we realize that it touches closely questions of supreme importance to the people of this country—summing up our conclusions, we hold that the Government of the United States is one having jurisdiction of every foot of soil within its territory and acting directly upon each citizen—while it is a government of enumerated powers it has within the limits of those powers all the attributes of sovereignty." In re Debs petition U. S. Rep. 158–364.

"An organization of workmen is in line with good government when it is intended as a legitimate instrumentality to promote the common good of its members. If it militate against the general public interests—if its powers be directed toward the repression of individuals' freedom—then it is unlawful." 152 New York 33.

"A strike by a combination of railroad employees is in itself unlawful—if the concerted action be knowingly and willfully directed by the parties to it for the purpose of obstructing and retarding the passage of the mails or in restraint of trade and commerce among the States." 67 Fed. Rep. 698–63 Fed. Rep. 436.

The fact that government strength rests on its military power—industry becomes potential thereto. This fact was recognized by Congress during the war with Germany when it enacted the so-called sabotage act—Public No. 135, Sixty-fifth Congress, approved April 20, 1918.

Defining "war utilities" in said act it included all railroads, railways, electric lines, roads of whatever description, railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, structure, engine machine, mechanical contrivance, car, vehicle, boat, or aircraft, or any other means of transportation whatsoever, whereon or whereby such war material or any troops of the United States, or of any associate nation, are being or may be transported either within the limits of the United States or upon the high seas; and all dams, reservoirs, acqueducts, water and gas mains and pipes, structures and buildings, whereby or in connection with which water or gas is being furnished, or may be furnished, to any war premises or to the military or naval forces of the United States, or any associate nation, and all electric light and power, steam or pneumatic power, etc.

The word "war premises" is defined to include all buildings, grounds, mines, or other places wherein such war material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisoner, or other military or naval stations of the United States, or any associate nation, etc.

The scheme, therefore, contemplated by the Communist Labor Party aims at the control of recognized fundamental military power, which power (industry) if not accessible to the government would render it impotent and annul its ability of enforcing the laws and supporting the Constitution which is its duty as representatives of the people, for the the people, and by the people. It is contrary to the Constitution to overthrow the Government and its laws by any other means than the ballot. It is immaterial what other means are employed—the method by which the control of the United States Government can be lawfully obtained in clearly set out in the Constitution.

"A State can have no existence politically outside and independently of the Consitution of the United States. Thompson *v.* Mankin, 26 Ark. 586–7 am. rep. 628.

"Republican form of government, within this section is a government in which the supreme power resides in the whole body of the people and is exercised by representatives elected by them. Downes *v.* Bidwell, 21 sup. ct. 770, 784, 182 U. S. 244.

"In the exercise of the power conferred by the guaranty clause, as in the exercise of every other constitutional power a discretion in the choice of means is necessarily allowed. It is essential only that the means must be necessary and proper for carrying into execution the power conferred through the restoration of the State to its constitutional relations, under a republican form of government and that no acts be done, and no authority exerted, which is either prohibited or unsanctioned by the Constitution. Texas *v.* White, 74 U. S. (7 Wall)."

The foregoing decisions clearly show that the dictatorship of the proletariat as advocated by the Communist Labor Party is directly opposed to the Constitution and laws of the United States, and that the ballot is not secondary in our form of Government, but is the primary factor essential to a constitutional democracy, wherefore the means which the Communist Labor Party teaches and advocates to be employed for the purpose of seizing the power of State (general strike and mass action) is contrary to the Constitution, therefore unlawful.

The Secretary of Labor, W. B. Wilson, held that the Communist Party of America was an organization which believed in the overthrow of the Government by force and violence. The honorable Secretary contended that a difference existed between the Communist Party of America and the Communist Labor Party of America, which difference was of such a nature that the Communist Labor Party of America does not come within the scope of the act of October 18, 1918. This contention of the Secretary of Labor is directly repudiated by the Communist Labor Party as well as the Communist Party who both publicly agree that they are founded and based on the same principle.

In support of this contention, the following is quoted from the Toiler, published at Cleveland, Ohio, under date of May 14, 1920—entered as second-class matter under the heading of the Ohio Socialist, February 21, 1917, at the post office at Cleveland

under act of March 3, 1879, and published weekly by the Communist Labor Party of Ohio, under the heading "Secretary Wilson's Ruling:"

"Since the January raids upon radicals of all hues the exact legal status of the Communist Labor Party has been in doubt. Soon after the raids were instituted, Secretary Wilson ruled that membership in the Communist Party constituted sufficient grounds for deportation of alien members and some were deported and others indicted. It was only natural considering the similarity of the principles of the two parties that a like fate awaited the alien members of the Communist Labor Party. That the adherents of Attorney General Palmer and his methods should sharply disagree with the conclusions of the Secretary of Labor would be expected since it is known that there have developed radical differences of policy between them. Naturally enough the Palmerites are peeved at the ruling. Apparently Palmer and his fellows are slated for the scrap heap.

"What is beneath and behind the ruling of Secretary Wilson is not just now apparent. Communists have too much sense and knowledge of capitalism and capitalist governments to assume that the decision, however, favorable to them, is based either upon a sense of justice residing within the Secretary's breast or upon a liberal conception of the fundamentals of American law and constitutional guaranties. Communists and Communist laborites have stoutly disclaimed any fundamental differences in principle between them the readily admitting differences in tactics and internal organization. If Secretary Wilson has discovered vital differences perhaps he is to be congratulated upon his diligent researches. It is said that the Almighty moves in mysterious ways his wonders to perform. So it is with politicians. We must leave the future to reveal why Mr. Wilson discovers what all Communists have claimed—that we are legal and within the law in the statements of our platform and program, methods, and tactics."

In further support of this contention, the following appears in the official organ of the Communist Labor Party of America, under date of February 25, 1920, entitled, "Communist Labor," on page 7, under the heading "The question of unity with the Communist Party":

"This meeting took place January 17. Ferguson could not be present. The secretary of the Communist Party, Lettish Federation, and C. E. Ruthenberg were present for the Communist Party, and L. F. Katterfeld and Edward Lingren and A. Wagenknecht were present for the Communist Labor Party. Ruthenberg suggested that unity might be achieved if the Communist Labor Party would agree to adopt the Communist Party manifesto, program, and constitution, and a merging of the two national executive committees. The Communist Labor Party subcommittee suggested as a counter proposal that the Communist Labor Party platform be the platform of both parties, as well as the Communist Party manifesto and program; that new governing rules were necessary to meet the new situation; that a resolution be adopted which admitted that unity was being effected between two parties the same principle. It was understood, mutually, that the meeting was not official. Upon adjournment of this conference, the Communist Labor Party subcommittee was given to understand that word would be sent it as soon as the national executive committee of the Communist Party considered the question of unity unofficially at its meeting.

"The Communist Labor Party subcommittee then proposed the following counter proposition:

" '1. We recognize that there is no fundamental difference of principle between the Communist Labor Party and the Communist Party, and we agree to send out a call for a joint convention on the basis of the Communist Party manifesto and program and to elect a convention committee for this purpose.' "

The platform and program of the Communist Labor Party in unqualified language expressly declares that the party is in full harmony with the revolutionary working class parties of all countries and stands by the principle stated by the Third International formed at Moscow—and that it is in complete accord with the principles of communism as laid down in the manifesto of the Third International.

The manifesto of the Third International becomes part of the platform and program of the Communist Labor Party by express reference thereto, and is therefore necessarily incorporated therein. Therefore, any person subscribing to the principles of the Communist Labor Party and agreeing to be guided by the constitution and platform of that party expressly and without reservation accepts the tactics of the Communist International.

The Honorable Secretary of Labor W. B. Wilson, therefore, was clearly in error when he held that an agreement and pledge to be guided in all actions as a member of the Communist Labor Party by the constitution and platform of that party was not an intimation that the member was or is required to accept the tactics of the Communist International or the tactics of the Communist Labor Party.

In conclusion it may be said that from the evidence set forth above, the contention that the Communist Labor Party of America is an unlawful organization, organized for all intents and purposes to overthrow the Government of the United States by force and violence.

Respectfully submitted.

M. F. BURGER.

STATUS OF THE COMMUNIST LABOR PARTY UNDER THE ACT OF CONGRESS APPROVED OCTOBER 16, 1918.

A. INTRODUCTION.

Federal statute applicable to the Communist Labor Party: The act of Congress approved October 16, 1918, amending the immigration laws of the United States provides, among other things, that (1) aliens who disbelieve in or advocate or teach the overthrow by force or violence of the Government of the United States shall be deported; (2) aliens who are members or affiliated with any organization that entertains a belief in, teaches, or advocates the overthrow by force or violence of the Government of the United States shall be deported.

The provisions of the statute named above are the ones under which aliens who are members of or affiliated with the Communist Labor Party should be proceeded against. It is noted that the provisions quoted do not set forth that the aliens charged with the offense disbelieve in all forms of organized government or that they are anarchists. Hence it is not to be assumed that the members of the Communist Labor Party are anarchists or are disbelievers in all forms of organized government. They may believe in some form of government. It is sufficient in this brief to merely prove their belief in the overthrow by force and violence of the Government of the United States or their membership in an organization advocating such belief to bring them within the provisions of the act of October 16, 1918.

The enforcement of the provisions of the act of October 16, 1918, falls under the jurisdiction of the Secretary of Labor. It is his function to interpret the law. The fact that an alien is a member of the Communist Labor Party is sufficient to warrant his deportation by the Secretary of Labor. The provision of the statute applicable to membership in the Communist Labor Party does not, in addition to requiring the proof of membership in an unlawful organization, require that the alien against whom membership is proven, personally believe in the doctrines of the organization to which he belongs. Congress assumed that an alien belonging to such an organization knows the purposes of that organization. It does not, therefore, lie within the province of any administrative officer to decide upon the propriety or impropriety of deporting an alien upon the membership charged, when the alien claims that he does not know the purposes of the organization. Congress has decided that such membership upon the part of an alien shall be followed by his deportation and it is mandatory upon the Secretary of Labor to deport any alien against whom the act set forth in the statutes are proven.

There will later be pointed out in this brief the fact that any member of the Communist Labor Party can not claim that he did not know the purposes of the organization to which he belonged, thus eliminating the contention which might be raised that aliens joined this organization without knowledge of its purposes.

B. PROPOSITION.

The sole question for discussion in this brief is as follows:

"Is the Communist Labor Party such an organization as is described in the act of Congress approved October 16, 1918, membership in which makes an alien subject to deportation?"

It will, therefore, be necessary to prove (1) that the Communist Labor Party advocates the overthrow of the Government of the United States and (2) that such overhrow is to be accomplished by the use of force and violence.

C. RISE OF COMMUNISM.

In order that the principles of the Communist Labor Party, which are based upon the doctrines of communism, might be fully understood it is necessary to review briefly the rights of communism. We find in the platform and program of the Communist Labor Party, part 2, section 6, the following statement:

"Not one of the great teachers of scientific socialism has ever said that it is possible to achieve the social revolution by the ballot."

This is the fundamental doctrine running throughout communism ever since its enunciation by the founder thereof, Karl Marx. From the days of Marx, when there was first enunciated in concrete form a Communist manifesto, there has been from time to time certain communistic movements appearing in the political life of Europe. These movements have usually been short lived and have been sponsored by a few intellectual perverts blinded by the thought of achievement of a Utopian political commonwealth.

The present organized world-wide class struggle threatens the foundations of society and civilization itself, and is distinctly a modern development, although attempts to overthrow constituted authority are probably as old as humanity itself. The first expression of the International Socialists movement was in "The International Workingmen's Association," or, as it is usually termed, the First International.

London, in the middle of the last century, had become the headquarters of radical thought and activity for middle Europe and numerous radical societies werein existence. One of these, known as the Communist League, in order to make clear its principles, decided to issue a manifesto in which its principles and program should be set forth. The commission to draw up this manifesto was given to Karl Marx and to his friend Frederick Engels, and from this point on the principles and doctrines of Marx absolutely dominated the Socialist movement.

The manifesto was published in 1848, and has since become one of the great classics of the international socialism.

The keynote of the manifesto is the universal class struggle, which must be realized at all times as a necessary phase of Socialist evolution; the classes were reduced to two; the proletarian on the one hand and the ruling class represented by the bourgeoisie on the other. The class struggle was to overthrow the bourgeoisie and create a Communist society on class distinction and private property rights would be abolished

The Communist Leage survived but a few years, and the last great step in the movement was the organization of the International Workingmen's Association in London in 1864 by representatives of the workingmen of England, France, Germany, Italy, Poland, and Switzerland. Marx was again the leading spirit in this the First International, which adopted as its motto: "Proletarians in all lands unite; you have nothing but your chains to lose; you have a world to gain."

The influences of the International spread rapidly and in a few years it had branches in practically every European country, as well as the United States and several South American countries. Due to internal dissension and the consequent loss of influence it was finally dissolved in 1876.

In 1889 a second international was organized at Paris. This new international in contradistinction to the first, admitted only parties recognizing the political struggle and especially participating in legislative and other elections as one of the means for liberating the working class. The Second International held regular congresses, from its foundation in 1889 until the outbreak of the war in 1914. At the congress in 1907 of the Second International it was agreed that if any war should break out in any country that such war should be opposed by the Communist hosts. This principle, however, was shattered by the outbreak of the World War. The German Social Democrats voted for a war credit and allied themselves with the policies of their government, as did also the French, the British, the Austrian, and the Belgian Social Democrats. With this action, the Second International came to an abrupt end. During the period of the World War several conferences were held in European countries by the Social Democrats for the purpose of forming a Third International, but owing to the diversity of views nothing definite was accomplished until March, 1919, when the Russian Communist Party, in conjunction with the Spartacus group of Germany, called the Third International at Moscow.

Simultaneously with the growth of the Communistic groups, which called the Third International, there arose in the Socialist Party in the United States considerable amount of dissension between the conservative and extreme elements. In February, 1919, there was organized in the city of New York the left-wing section of the Socialist Party. On February 16 of that year the foreign language branches and a few of the English branches of the left-wing section issued a manifesto to the members of the Socialist Party.

Attached hereto and marked as Exhibit 1 is a copy of the manifesto of the left-wing section of the Socialist Party. Examination of the manifesto throws considerable light upon the purposes of this organization, which later grew into the Communist Parties. This manifesto adopted the principles of Marx setting forth that the class struggle was essentially a political struggle in that its end was the destruction of the political state and that the means of accomplishing such an end was not to be accomplished through political means but through mass action.

In June of 1919, a program and manifesto of the left wing of the Socialist Party was prepared in New York, and a national convention was called for Chicago in September, 1919. The convention in New York lasted from June 21 to June 24, the principal discussion being whether a Communist Party should be organized at once or whether it would be more advisable to agitate in the Socialist Party until the special convention and then withdraw. It was finally decided to wage a storm in the Socialist Party until September in order to release all of the revolutionary elements for a Communist Party, meanwhile organizing temporarily as the left-wing section of the Socialist Party. At this conference, as stated, a manifesto and program was adopted. The predecessor of the left wing of the Socialist Party was the Finnish branch of the Socialist Party which had previously adopted a manifesto and which closed with the following statement: "To hell with the theory of a peaceful revolution." These words the left wing of the Socialist Party eliminated from their manifesto, but the spirit was just as clearly shown in its manifesto as when it was stated in those words in the Finnish manifesto.

Throughout the summer of 1919 the agitation in the Socialist ranks became acute, with the result that in August, 1919, the national executive committee of the Socialist Party called an emergency convention of that party in Chicago for the purpose to endeavor to settle the dissension within its ranks. The convention met in Chicago and there immediately seceded from the same, the left-wing branch of the Socialist Party which bolted the convention because of the fact that they were unable to gain control of the assembly. The left-wing section broke into two groups, one known as the Communist Party of America and the other as the Communist Labor Party, both identical in principles and tactics and differing only in the leadership and organization of the communist groups. The Communist Labor Party led by John Reed met at the headquarters of the recruiting union of the I. W. W. on September 3, 1919, and held their first convention. The delegates proceeded to adopt a platform and program which will later be discussed in detail in this brief.

In the platform and program the following statement appears:

"The Communist Labor Party of America declares itself in complete accordance with the principles of communism, as laid down in the manifesto of the Third International formed at Moscow."

Thus we see that this organization adopted as its framework the manifesto and program of the conference assembled in Moscow. It adopted it as its organic law, it printed it officially, and its leaders both in word and print flaunted its phrases throughout the length and breadth of the land.

So it is, therefore, necessary since the manifesto and program of the Third International has been accepted by the Communist Labor Party that we analyze it and examine the influences surrounding the assembly in Moscow and the result of the work performed at that conference.

D. THE RUSSIAN COMMUNIST PARTY.

In 1917 after the overthrow of the Kerensky régime, the Bolsheviki Party in Russia crystalized into what is now known as the Russian Communist Party. Joining hands with the Spartacus group of Germany it symbolized the Communist movement in Europe, which resulted in the calling of the Third International. On November 7, 1917, by propaganda, by urging disobedience by the soldiers, by urging workers to arm, by the same tactics urged by the Communists in the United States, to-day, the Russian Socialist Federated Soviet Republic came into being. It was the realization of the commonwealth proposed by the Russian Communist Party. Its leaders, its officials, and its speakers were all members of the Russian Communist Party and its policies have been dictated and directed by that party. The following are several quotations taken from the program of the Russian Communist Party which shows the purposes of that organization as enunciated later in the Third International:

"The growth of the revolutionary movement of the proletariat in all progressive countries and the simultaneous appearance and development of the soviet form of this movement, * * *.

"All this inevitably leads to the starting of civil war within separate states by revolutionary soldiers, both those defending proletarian countries and also the oppressed peoples against the yoke of imperialistic powers.

"Under these conditions the slogan of pacifism of international disarmament in the presence of capitalism, of recourse to arbitration and such are not only reactionary Utopias but a direct deception of the toilers with the aim of disarming the proletariat and distracting it from the task of disarming the exploiters."

Attached hereto and marked as Exhibit 2 there is a translation of a portion of the program of the Russian Communist Party, published in the Severnaya Kommuna for

February 28, 1919, which program was adopted at the eighth congress of the Russian Communist Party.

The leaders of the Russian Soviet Government realize that the only hope of its long continued safety in power was to upturn all other civilized countries into the same seething ruin of anarchy. Other communistic groups arose in various parts of Europe and the world and on February 24, 1919, a proclamation was issued called the Third International. Attached hereto and marked as "Exhibit 3" is a copy of this proclamation. Examination of the contents of the same clearly show what its principles were to be. It was to be an embarkation upon the period of destruction of the governmental apparatus; of the establishment of the dictatorship of the proletariat by means of force and not by parliamentary methods. These are the words that run throughout the call for the Third International. It was signed by Lenin and Trotski. It was addressed to the Communist Party in all parts of the world and specifically invited the left wing elements of the Socialist Party of America and the Industrial Workers of the World to be represented at the Moscow conference. It enunciated as its purpose the establishment of a world-wide revolution for the accomplishment of the overthrow of Governments like our own by force and violence.

E. MANIFESTO OF THE THIRD INTERNATIONAL.

Answering the call issued on February 24, 1919, the communist hosts gathered in Moscow on March 2, 1919. At this congress there were representatives from all parts of Europe, as well as from the United States. It proceeded to draw up a manifesto known as the manifesto of the Communist International. Attached hereto and marked as "Exhibit 4" is a copy of the manifesto of the Comminist International printed in the Severnaya Kommuna for March 8, 1919. It might be stated that the Severnaya Kommuna is published in Petrograd and is the official organ of the executive committee of soviets and peasants and workmen's and red army deputies of the northern region. Its authenticity, therefore, can not be denied.

Turning to the manifesto of the Communist International, we note that throughout its contents specific mention is made of the United States, "The Government of Wilson," and "The Government of Washington." It will thus be seen that this document was not merely addressed to the proletarians of Russia, or of Europe, but was addressed specifically to the people of the United States, and, therefore, the principles and tactics enunciated in it must be taken as applicable to this country.

In its contents we find the statement that there will be no recognition of property rights, that labor is to be subservient to and a serf of the proletarian dictatorship; that the principles of destruction are to govern, and that no rules of ethics or morals are to prevail in the class warfare; that the working men of the United States should endeavor to imitate the governmental apparatus of Russia; that to do so they must arm themselves and that they must answer blow for blow.

F. PLATFORM OF THE THIRD INTERNATIONAL.

At the same time that the manifesto was drawn up at Moscow, there was also prepared and unanimously adopted a platform setting forth in greater detail the principles and tactics to be followed than were expressed in the manifesto. Attached hereto and marked as Exhibit 6 is a translation of the platform of the Communist International as printed in the Izvestia for March 6, 1919. The Izvestia is the official organ of the "All Russian central executive committee of soviets," which is the central legislature of soviet Russia.

In this document under the heading "Conquest of Political Power" we find the statement made that such conquest means the destruction of political power of the bourgeoisie, that it means not only the conquest of that power but the destruction of the State apparatus consisting of its judges, its preachers, and its civil officers. That to accomplish such destruction the workmen must be armed, and that they must enter into direct conflict with governmental authority. It states that there will be an expropriation of property without compensation, that the houses of the landowners will be turned over to the workmen, and that in order that all of these things might be accomplished that the workmen must enter into direct conflict in open battle with the governmental machinery. The platform closes with this significant statement: "Arms against arms, force against force."

Throughout the manifesto and platform of the Third International, which has to-day been printed in nearly every language spoken in United States and circulated by the Communist Labor Party among their members, there runs but one thought, namely, the seizure of political power is to be accomplished by not merely the conquest but also the destruction of the governmental apparatus, by the elimination of restraint,

by the creation of the red army, and by the expropriation of property. All these purposes are to be accomplished not by parliamentary action but by mass action and by resorting to the use of force and violence. Such are the words of the Third International itself.

In order that there might be an intelligent conception of the influences at work in the Third International, it is interesting to note some of the leaders responsible for its convening and directing it after it had formed. Presiding over the Third International was Lenin, the master mind. Lenin stated as follows:

"In America, the strongest and youngest capitalistic country, the workingmen are showing an enormous sympathy for soviets. The establishment of the Third Communist International represents the vestibule of an International Republic of Soviets of the world truimph of communism."

Trotsky also was present at the Third International and closed his remarks with the following statement:

"For the universal dictatorship of the proletarian by the remorseless use of fire and sword."

Thus we learn the purposes in the minds of the persons responsible for the drafting of the manifesto and platform of the Third International, which has now become the so-called bible of the Communists in the entire world.

G. COMMUNIST LABOR PARTY.

As previously pointed out, the Communist Labor Party came into being in Chicago in September, 1919, as a twin of the Communist Party, differing only in leadership. It embarked upon a concerted and strenuous campaign of organization and propaganda. Its platform was printed and circulated throughout all sections of the country, its leaflets appeared whenever there was any national industrial disturbance, endeavoring to inject into such economic sores as existing additional virus.

Its campaign of membership grew in leaps and bounds.

H. MEMBERSHIP IN COMMUNIST LABOR PARTY.

Every person joining the Communist Labor Party is required to sign an application for membership in that party. Attached hereto and marked as Exhibit 7 is a copy of the application for membership in the Communist Labor Party. I will quote the following pledge:

"I, the undersigned, recognizing the class struggle between the capitalist class and the working class, and the necessity of the working class organizing itself politically and industrially for the purpose of establishing Communist socialism, hereby apply for membership in the Communist Labor Party. I have no relations (as member or supporter) with any other political party. I am opposed to all political organizations that support the present capitalist profit system, and I am opposed to any form of trading or fusing with any such organizations. In all my actions while a member of the Communist Labor Party I agree to be guided by the constitution and platform of that party."

It will be noted from the above pledge that the signer of the application states that he will be bound and guided by the constitution and platform of the Communist Labor Party. This constitution and platform, as will later be pointed out, accepts the Third International, that document which enunciated the principles of force and violence to be used in the successful achievement of the class struggle. It is stated in the application for membership that the signer will organize himself politically and industrially. It might be claimed that by the insertion of the word "political" into the pledge precludes the use of force and violence. Such, however, is not the case, for, as I shall later point out, a member of the Communist Labor Party uses the word "political" in the sense in which it is used by the Communist Labor Party, namely, that the political method will be used secondarily and only for the purpose of propaganda in the efforts to achieve the purposes of that party.

Attached hereto and marked as Exhibit 8 is a copy of the affiliation certificate of the Communist Labor Party in which the signers of the same certify that they "indorse the platform, program, and constitution of the Communist Labor Party." This certificate is signed before the charter is issued by the party. This is pointed out to show that any organization applying for a charter of the Communist Labor Party must, if the statement of the certificate is to stand for anything have indorsed the platform and program of the Communist Labor Party. Each and every member, according to the constitution of the Communist Labor Party itself, must have signed an application blank, pledging himself to be guided by the platform of that party. Hence, a

subsequent statement by a member, in good standing of this party to the effect that he knows nothing of its purposes, is certainly contradictory of the provisions in the organic law of the party itself, which requires each member to have pledged himself to support the platform and to be guided by it. It is certainly a reasonable assumption that a member of the party must have read the platform if he has signed a pledge to be guided by it in the future.

I. PLATFORM OF THE COMMUNIST LABOR PARTY.

Attached hereto and marked as Exhibit 9 is the platform and program of the Communist Labor Party. It is necessary to analyze this platform in sections in order that there might be obtained an intelligent understanding of its contents.

The first words of the platform are as follows:

"The Communist Labor Party of the United States of America stands by the principles stated by the Third International formed at Moscow."

Under the heading "Party and labor program" the statement appears as follows:

"The Communist Labor Party of America declares itself in complete accordance with the principles of communism as laid down in the manifesto of the Third International formed at Moscow."

Among the principles named specifically by the Communist Labor Party, which it is in accordance, is the capture of the State power. The following is a statement found in their organic law:

"The most important means of capturing State power for the workers is the action of the masses. The use of the political machinery of the capitalistic State for this purpose is only secondary. In those countries in which there is a possibility for the workers to use this machinery in the class struggle they have in the past made effective use of it as a means of propaganda and of defense. In all countries where the conditions for a working class revolution are not ripe the same process must go on."

In other words we find the clear enunciation of the principles that parliamentary action, the use of the ballot, is to be used temporarily but that when the time comes for the realization of the revolution that parliamentary action and the methods incident thereto are to be wiped aside and that mass action will take its place.

Under the second division of the party and labor program, in paragraph 2, we find the following statement:

"Although the United States is called a political democracy, there is no opportunity whatever for the working class through the regular political machinery to effectively oppose the will of the capitalist class."

Section 6 of the same subdivision is as follows:

"Not one of the great teachers of scientific socialism has ever said that it is possible to achieve the social revolution by the ballot."

Closely following this significant statement is the following:

"However, we do not ignore the value of voting, or of electing candidates to public office—so long as these are of assistance to the workers in their economic struggle. Political campaigns, and the election of public officials, provide opportunities for showing up capitalist democracy, educating the workers to a realization of their class position, and of demonstrating the necessity for the overthrow of the capitalist system. But it must be clearly emphasized that the chance of winning even advanced reforms of the present capitalist system at the polls is extremely remote; and even if it were possible, these reforms would not weaken the capitalist system."

Under the heading "Program" appears the following statement:

"We maintain that the class struggle is essentially a political struggle, that is, a struggle by the proletariat to conquer the capitalist state, whether its form be monarchial or democratic-republican, and to replace it by a governmental structure adapted to the communist transformation."

Later in the same section appears the following statement:

"The party shall propagandize industrial unionism and industrial union organization, pointing out their revolutionary nature and possibilities."

Later in the document under the heading "Special Report of Labor Organization," section 2, paragraph 1, we find the following statement:

"By the term 'revolutionary industrial unionism' is meant the organization of the workers into unions by industries with a revolutionary aim and purpose; that is to say, a purpose not merely to defend or strengthen the status of the workers as wage earners, but to gain control of industry."

We see here that revolutionary industrial unionism is to have as its purpose a revolutionary aim. In other words, the mass action or the mass strike is to have revolutionary implications. It might be pertinent right at this point to quote the words of Justice Francis A. McCloskey, of New York City, in rendering judgment in a recent case:

"There is, of course, no dispute of the right to strike; concededly the strike is a quite legitimate economic weapon of labor—if lawfully used; that is, if it be not accompanied by violence, disorder or coercion. But the mass strike, with its 'revolutionary implications,' is a wholly different matter. That, in my judgment, is economically and legally indefensible."

Later in the document the Communist Labor Party gives its views as to the reactionary policy of the American Federation of Labor, and urges the workers to become members of the same in order that they may bore from within. They praise the achievements in the Seattle and Winnepeg, strikes. They emphasize the example set forth by the Industrial Workers of the World and deplore and belittle the achievements and influences of the American Federation of Labor.

At the time that this platform was adopted at the convention in Chicago there was a lengthy debate upon the advisability of inserting in the platform the statement as to the meaning of political action used in the literature of the Communist Party. The following was the proposed definition of the term "political action." "The political action of the working class means any action taken by the workers to overthrow the capitalist state." In the same section there was contained the statement that the ballot box was not the remedy for the workers. This section as stated received lengthy consideration by the convention but was not included in its organic laws for obvious reasons.

It is not necessary to comment upon any of the quotations set forth above, taken from the platform of the Communist Labor Party for the meanings of the same are only too clear. It is, however, significant to note that in no section of the Communist Labor platform, at no time in public utterances, has the statement ever been made by Communist laborites that they will not use force and violence. If such was not their intention, why then have they not specifically stated the fact that force and violence was no part of their doctrine?

J. MASS ACTION.

Throughout the literature of the Communist Labor Party we find the statement that their purposes are to be achieved by "mass action." Attached hereto and marked as Exhibit 10 is a quotation taken from the work of Louis C. Fraina, leading exponent of communism. The quotation is taken from pages 199 to 203 of Revolutionary Socialism. The following is a particularly significant statement of Fraina upon the subject of mass action:

"Revolutions march from action to action; action, more action, again action, supplemented by an audacity that shrinks at nothing—these are the tactics of the proletarian revolution.

"Mass action is the dynamic impulse of the revolutionary proletarian struggle, whatever the specific form it may assume; in the actual revolutionary period mass action unites all forms of struggle in one sweeping action against capitalism, each contributing its share as integral phases of the general mass action—as in the proletarian revolution in Russia. * * *

"Mass action is equally a process of revolution and the revolution itself in operation."

In other words, mass action as understood by the communists and as expressed by them means the doing of anything that the mob wants to do to obtain possession of industry and government. The mass strike they advocate is not for the purpose of improving the industrial conditions or the increasing of wages, but is to be used as a lever against the Government in aiding its overthrow. As previously pointed out in the quotation of the utterance of Justice McCloskey, the right to strike is conceded provided it is not accompanied by force and violence, but when there is a mass strike with revolutionary implications, then a different situation is faced, and the justification of the same has no place in the economic or industrial life of any well-organized or legally constituted Republic.

K. DICTATORSHIP OF PROLETARIAT.

Running throughout the Communist Labor Party literature, we find the phrase "dictatorship of the proletariat." It is well to have a conception of the meaning of this phrase as held by the leading writers upon Communism. Attached hereto and marked as Exhibit 11 is a quotation taken from a work by Karl Radek, entitled, "Development of Socialism from Science to Action," page 20. It is stated specifically by this writer that dictatorship is the form of government by which one class forces its will ruthlessly on the other class. Fraina, in his work on "Revolutionary Socialism," states that the "proletariat alone counts; no other class has any rights."

In other words, Communism is the theory of the condition for the victory of the working class. Its phrases are full of meaning when that meaning is understood and

taken from the writers upon this subject. The interpretation placed upon such terms as "mass action" and "the dictatorship of the proletariat" is not the interpretation of the Federal authorities, but is the interpretation of the writers of such phrases in their own works. Consequently, there is no better definition or no better understanding obtainable.

L. POLITICAL ACTION.

I have previously made some mention as to the meaning of "political action" when used in the Communist Labor sense. A Communist, as stated, is not an anarchist, and he believes, at least at the present time, in some government, as opposed to the Utopia of the anarchists. "Political action" is the objective of the Communist. It is his objective in that it is for the overthrow of the political state. It is not political in the sense that political methods will be used for the accomplishment of his purposes. We have but to refer to the platform of the Communist Labor Party to learn that the use of parliamentary methods, of the ballot box, is to be but of secondary purpose. Their entire process for the achievement of their purposes is to be extra-parliamentary. As stated by them time and again, the remedy of the worker does not lie in the ballot box. This is necessary, because Communism is a movement of the minority, and hence can only be achieved by the use of force and violence. We have but to look at Russia to-day to observe that that country is dominated by an insignificant minority which retains its control of the mass by ruthless enforcement of its will.

No better discussion of the participation by Communists in elections has ever been made than that which appears in the words of Lenin published in The Truth, a weekly Communist paper issued at Duluth, Minn. The following is the statement referred to:

"Only knaves and fools can believe that the proletariat must win the majority in elections taking place under the pressure of the bourgeoisie, under the pressure of wage slavery, and only then seize the power. This is the height of narrowness and hypocrisy. It is the attempt to substitute for the class struggle and the revolution elections under the old social order, under the old government. The proletariat conducts its class struggle without waiting for a vote for the beginning of the strike, although for the full success of the strike the sympathy of the majority of the workers—and consequently also of a majority of the population—is necessary. The proletariat carries on its fight and overthrows the bourgeoisie without waiting for any preliminary vote (in which the bourgeoisie itself participated and which takes place under its pressure), although at the same time the proletariat knows full well that for the success of its revolution, for the successful downing of the bourgeoisie there is absolute necessity of the sympathy of the majority of the workers—and consequently also of the majority of the population.

"Parliamentary criticism and the modern Louis Blancs insist on the vote, and that a vote carried out by the bourgeoisie, to determine the sympathy of the majority. But that is the view of pedants, of political corpses, or of cunning deceivers."

In the above quotation, we see that the master mind of the Communists frankly admits that only knaves and fools can believe that the proletariat may accomplish their purposes in elections.

In an issue of "Class Struggle" for May, 1919, which has since become one of the official organs of the Communist Labor Party, on page 214 we find the following significant statement as to "political action."

"Political action, revolutionary and emphasizing the implacable character of the class struggle, is a valuable means of propaganda. It must at all times struggle to arouse the revolutionary mass action of the proletariat—its use is both agitational and obstructive. It must on all issues wage war upon capitalism and the State. Revolutionary Socialism uses the forum of parliament for agitation; but it does not intend to and can not use the bourgeois state as a means of introducing Socialism; this bourgeois state must be destroyed by the mass action of the revolutionary proletariat. The proletarian dictatorship in the form of a soviet state is the immediate objective of the class struggle."

In the issue of Class Struggle for November, 1919, after it had become the official organ of the Communist Labor Party of the United States, on pages 440–441, we find the following statement, which plainly shows that the Communist Labor Party has no illusion as to the use of the bourgeois state machinery for the achievement of their political end:

"We have already touched upon another vital difference between the S. P. and the C. L. P.; the different attitude toward political action. The political action of the S. P. is pure and simple parliementarism, identical in character with that of the capitalist parties. Both use the machinery of the bourgeois state for the achievement of their political end. The C. L. P. has no such illusions. It knows that the ballot will never open the door to socialism and that the petty reforms which may be attained by many long and weary struggles and compromises with corrupt politicians of the old parties can be of no considerable benefit to the workers. We, therefore, will use

the parliamentary platform for propaganda purposes only. The representatives elected upon the C. L. P. ticket will go to the legislative halls not to 'legislate,' not as 'statesman,' to fritter away their time with dickering and bargaining. They will be charged with the important task of showing up the forces of law and order, the society of godliness and morality, in all their ugly nakedness and hypocrisy. They go there as educators of the masses, as teachers of the working class, and for no other purpose."

M. PROPAGANDA OF COMMUNIST LABOR PARTY.

The Communist Labor Party has indulged in extensive propaganda work, circulating in the principal industrial centers of the country many leaflets and books upon the principles of communism as enunciated at the Moscow conference and as adopted by the Communist Labor Party in this country.

Attached hereto, and marked as Exhibit 12, is a translation taken from a Russian leaflet distributed by the Communist Labor Party, which contains an appeal for membership to the alien workers in this country. It states that the Communist Labor Party was organized after the failure to induce the old party to adopt the revolutionary Communist platform. It states that the delegates of the left wing established the Communist Labor Party of America; that it adopted the platform of the Third International, brought forth in Moscow, March 6, 1919. It is this platform that contains the statement that the workers must arm themselves for the purpose of not only capturing the parliamentary state, but of destroying it with its governmental apparatus, the judges, and the civil officials. In this circular there is again given enunciation to the fact that mass action is to be primary, as contra to political action; that political action is to be merely a convenience for the use of propaganda. It contains seductive words which play upon the ears of sympathetic, and, many times, uninformed persons, leading them astray from what is their sincere purpose.

Attached hereto, and marked as Exhibit 13, is a copy of the Communist Labor Party News, No. 3, November, 1919, which analyzes the differences existing between the Communist Labor Party, the Communist Party, and the Socialist Party. Under the heading, "Communist Labor Party," it is stated that the Communist Labor Party accepts the principles of Communism, affiliates with the Third International, considers the existing political state a ruling-class instrument whose sham democracies are useless to the working class, teaches the workers that they must develop their own power and abolish the existing political state, deems the ballot box campaigns for this purpose of secondary importance, and urges that the workers participate in political campaigns for the sole purpose of propaganda.

At the convention in Chicago of the Communist Labor Party, the following recolution was passed and adopted unanimously:

"That the national executive committee of the Communist Labor Party is hereby instructed to at the earliest convenience possible enter into correspondence with the Communist and revolutionary parties of North and South America for the purpose of formulating a plan for holding a conference to discuss closer relationship and the laying of the foundation for a future Communist Republic of the Western Hemisphere."

Closely following the adoption of this resolution, a report was made to the convention by the committee on international relations, which was as follows:

"Report of the committee on international relation.

"1. International affiliation: The Communist Labor Party of the United States of America declares that its purpose of organizing the workers for the conquest of the state for their class can only be accomplished in unity with such national parts of the international labor movement as have never lost sight of nor ever betrayed the great historic struggle for communism against capitalism.

"It further declares that such unity must be one of principle and action rather than one of organization only.

"The great war of the capitalist powers for imperialism has thrown the nations of the earth into the final struggle between the working class and the capitalist class. The revolutionary workers organizations the world over have suddenly been driven out of a period of revolutionary theory and propaganda into a period of revolutionary action. The success of such action, though agreed upon to fit national conditions and though applied by the workers of each nation nationally, depends upon the united action of all the workers of all the countries, fused into one great revolutionary force by the all uniting spirit of international class solidarity.

"We hereby declare ourselves one in principle and action with all the parties and organizations already affiliated with the Third International formed at Moscow, and send them our heartiest greetings.

"We pledge ourselves to work upon the lines and according to the program determined upon by the first congress of the Third International, and hereby instruct our national executive committee to immediately take steps for the affiliation of the

Communist Labor Party of the United States of America with the Third International."

In the above resolution we find that it is stated that the Communist Labor Party adopts not only in principle, but also in action, the communistic theories enunciated at Moscow and expressed in the Third International.

Some comment has previously been made that the Communist Labor Party adopted merely the principles of the Third International. Certainly an argument claiming that an organization might adopt the principles enunciated in the principles and platform of the Third International, and not the tactics, would be specious. The principles and tactics of the Third International are so closely interwoven that it is impossible to dissect the one from the other. The communists themselves frankly admit that they are so interwoven that in accepting the Third International they accept the entire body of its manifesto and platform. However, notwithstanding that statement, when we refer to the report of the committee on international relations, we find there a plain statement that it adopts the Third International in principles and action.

The report referred to above appears in the official organ of the Communist Labor Party, the Communist Labor News, for September, 1919.

In the Ohio Socialist for September 17, 1919, the official proceedings of the Communist Labor Party convention are set forth in full, and it appears that the report of the committee on international relations was adopted unanimously, thereby binding officially the Communist Labor Party to the contents of that report.

Attached hereto, and marked as Exhibit 14, is a copy of the Communist Labor Party News for September, 1919, and a copy of the Ohio Socialist for September, 17, 1919.

It is also worthy of note that the Communist Labor Party has given material assistance to the individuals directly responsible for a considerable amount of the unrest in the industrial centers of the country. Attached hereto, and marked as Exhibit 15, is a copy of a circular letter issued by the defence committee of the Communist Labor Party, calling for funds for the defense of James Larkin and Benjamin Gitlow, two notorious trouble makers, who are at present serving terms in the New York State prison for violation of the State anarchy statute.

Attached hereto, and marked as Exhibit 16, is a copy of a circular entitled, "Railroad Workers, Fight On." This circular appeared in every railroad center during the recent outlaw railroad strike. It endeavors to belittle the Government in its power to protect the people from the paralyzed condition which would result from a railroad strike. It urges mass action, and also endeavors to point out to the workers the failure of the American Federation of Labor to meet the situation adequately. The circulars, it is stated, were distributed in large numbers, together with many other circulars, showing that this organization had as its sole purpose the causing of a paralysis of the main lines of transportation to act as a lever for the ultimate overthrow of the Government of the United States.

Attached hereto, and marked as Exhibit 17, is a copy of a circular entitled, "Red Raids," in which we find the following significant statement:

"It is not to be assumed that the communists entertain the foolish pretensions that the socialists do about the ballot box and parliamentary action."

This circular was distributed broadcast by the Communist Labor Party.

Attached hereto, and marked as Exhibit 18, is a copy of the manifesto and governing rules of the Communist International, published by the Communist Labor Party and distributed by it. The following is a significant statement taken from the introduction to this book, containing the manifesto and platform of the Communist International: "Coment on this manifesto would be useless—superfluous. Its magnificent language speaks a message a suffering world is eagerly waiting to hear. It speaks the plain, clear language of the revolutionary communistic proletariat."

These are the sentiments expressed in the words of the Communist Labor Party of the contents of the manifesto and platform of the Third International.

This book contains on the cover an advertisement of certain books printed by the Communist Labor Party, among which is a so-called program of the Communist Party of Russia.

Attached hereto, and marked as Exhibit 19, is a copy of the program of the communists as enunciated by Boukharin. Attention will not be called to any particular statements in this most unusual program, but it is sufficient to state that it contains the very essence of the principles of immorality, of lawlessness, and of ruthless government, as has nowhere else been found at any time in the history of the world.

N. THE IDENTITY IN PRINCIPLE OF THE COMMUNIST LABOR PARTY WITH THE COMMUNIST PARTY.

It has been claimed by some that the Communist Labor Party differs in principle and tactics from the Communist Party of America. A mere cursory reading of the history of the formation of the Communist Labor Party would show that such a statement could not be based upon facts. Both were the outgrowth of the left wing of the Socialist Party. The elements contained in both assisted in the drafting of the manifesto and platform of the left wing of the Socialist Party. Both were conceived at the same time in Chicago, and were separated in their twinlike relation only by the desire of certain of their leaders to dominate and to lead. Spokesmen of both parties maintain that they are identical in principle and tactics with each other, and differ only in form of organization.

In the issue of Class Struggle, one of the official publications of the Communist Labor Party, for the month of November, 1919, on page 443, we find the following statement:

"The Communist Labor Party is convinced that eventually there must and will be only one communist political organization in this country and it did everything in its power during and after the Chicago conventions to bring about the needed unity of forces; but without avail. The latest attempt of the Communist Labor Party, a plea for an informal meeting of the two national executive committees for the discussion of the basis for unity, has also been refused by the national executive committee (the central committee) of the Communist Party. The Communist Party demands unconditional surrender, and surrender is impossible. Thus, in spite of unity of purpose and principles, the struggle for supremacy between the Communist organizations must continue until the membership forces the end of this suicidal warfare."

This, we see, was the first effort of the Communist Party to combine with the Communist Labor Party.

On September 6, 1919, a resolution was adopted by the Communist Labor Party at its convention, and a communication drafted by the national executive committee of the Communist Labor Party addressed to the Communist Party, in which an appeal is made for the combining of the two organizations. In this appeal appears the following statement:

"As far as we can discover, there is no fundamental difference of opinion between us. The platform, program, and resolutions at our convention adopted are uncompromisingly revolutionary. They conform to the left wing program and are in strict accord with the principles laid down by the Communist International at Moscow. We are affiliating with the Third International."

Attached hereto, and marked as Exhibit 20, is a copy of the Ohio Socialist for October 8, 1919, in which appears this communication:

When the Secretary of Labor accorded opportunity for argument to the attorneys for the Communist Party, a letter was addressed to the Secretary of Labor by Mr. Swinburne Hale, attorney for the Communist Party of America, in which the following statement was made:

"If you see fit, in addition, to reopen the evidence in the cases selected, we will undertake to produce before you, to be examined upon oath with waiver of immunity, the general counsel of the Communist Party, its general secretary, and leading members of its executive committee. They may then be interrogated as fully as you or the Department of Justice may desire as to the formation, language, and intent of the Communist Party and its platform, so that it may be decided whether there is anything more criminal in the organization of this party and its pronouncements than in the well-known Communist manifesto of Karl Marx of 1848, which has been freely circulated in this country in translation since 1872.

"I have no doubt that if this procedure is satisfactory I can arrange to have similar officials of the Communist Labor Party produced for examination at the same time. You may not, however, feel that this is necessary, since the language of the Communist Labor platform is substantially the same, and the number arrested is smaller.

"I therefore respectfully ask on behalf of the committee of lawyers representing the Communist Party an early hearing at such time as may meet your pleasure for the disposition of this underlying and all-important question. We are prepared to go forward at any date set.

"Respectfully submitted.

"SWINBURNE HALE,

"*Room 931, 41 Union Square, New York City, N. Y.*"

In the above letter we see that the official spokesman for the Communist Labor Party stated that the language of the Communist Labor Party platform was substantially the same as the Communist Party. The Secretary of Labor ruled that the Communist Party of America was an organization which advocated the overthrow of the Government of the United States by force and violence and that any alien who was a member thereof was to be deported.

Later, when the Secretary of Labor accorded the opportunity to attorneys for the Communist Labor Party to present arguments upon the character of that organization, Mr. Swinburne Hale again appeared, that time as the attorney for the Communist Labor Party, and endeavored to point out to the secretary that the Communist Labor

Party was an organization which did not have for its purpose the overthrow of the Government of the United States by force and violence. In other words, the attorney for the Communist Labor Party admitted that if the Communist Party was an organization which advocated the overthrow of the Government of the United States by force and violence, then the Communist Labor Party was such an organization. The Secretary of Labor, however, reached a different opinion.

In a leaflet distributed by the Communist Labor Party, containing its constitution, platform, and program, the Communist Labor Party states as follows:

"If there is any fundamental difference in principle between the Communist Party and the Communist Labor Party, then we would not favor unity of the two, for a lasting unity can be achieved only on the basis of agreement of fundamental principles.

"That such agreement on principles is a fact will be evident to anyone that compares the platforms, programs, and manifestos of the two parties. Both conventions based their pronouncement squarely upon that of the Third International. Both are in accord with the Left Wing program of New York. Both are worthy expressions of the principles of International Communism."

Attached hereto, and marked as "Exhibit 21," is the document from which this statement is taken.

The Secretary of Labor, as has previously been pointed out, ruled that the Communist Labor Party was an organization which did not advocate the overthrow of the Government of the United States by force and violence, and that it was materially different from the Communist Party, which he ruled was such an organization.

Attached hereto, and marked as "Exhibit 22," is a copy of Communist Labor, the official organ of the Communist Labor Party for May 1, 1920, which warrants close examination. Upon the first page of this issue appears the following article: "Down Tools May 1, 1920," which is an advice to the workers as to what their actions should be upon May day. Among the contents of this issue there are articles upon the outlaw railroad strike, instructions from the Third International to the Communist Labor Party in America, and an article upon communist unity. The article upon communist unity is exceedingly interesting. It is a dispatch obtained from the person of a courier who was carrying letters to the American communist parties, advising them to unite. These letters came from the governing bureau of the Third International, and set forth what are to be the basis of the unity of the Communist Party of America and the Communist Labor Party. Among some of the significant statements are the following:

"The stage of verbal propaganda has passed, and the time for decisive battles has arrived. Revolutionary mass action must be organized as a first essential."

It states that it is ready and willing to unite with all elements in the United States on the basis of the nine instructions received, which include the seizure of power through workers' councils, the establishment of proletarian dictatorship, revolutionary mass action, dissolution of all craft unions, and the supporting of the industrial unions in their every-day strikes, and the deepening and widening of the struggle for final revolutionary aims.

Attached hereto, and marked as Exhibit 23, is a letter written by the president of the executive committee of the Communist International to the American Communist Party, and Communist Labor Party, urging them to unite and pointing out that there is no difference between them other than in the principle of organization. This letter states the anarchists and syndicalists should recognize the necessity of seizing power and establishing the dictatorship of the proletariat, and must not split over differences, for such should be relegated as of secondary importance in the period of revolution. This letter from Moscow urges the Communist and Communist Labor Parties of America to hasten the process of dissolution of the American Federation of Labor, and urges the American comrades to establish an underground organization even though it is possible for them to function legally.

This amazing document emanates from Moscow, as stated, and it is that group in Moscow which directs and governs the communistic movement in the United States, a movement wholly foreign and repugnant to the institutions of the Government of the United States.

Attached hereto, and marked as Exhibit 24, is an agreement signed in Moscow on January 13, 1920, for the unification of the American Communist Party and the American Communist Labor Party, which shows their ultimate aim for combining their two forces.

Attached hereto, and marked as Exhibit 25, is the latest issue of Communist Labor, the official organ of the Communist Labor Party, dated May 15, 1920. In this issue there is printed the entire correspondence passing between the Communist Party and the Communist Labor Party for the purpose of unity. It will be seen from this correspondence that both parties have at last found a common ground for the calling of a joint convention and that this joint convention is to be held on or before June 15, 1920. I

will quote a portion of the call issued by the Communist Labor Party for this convention:

"The Communist Party of America and the Communist Labor Party, through their respective executive committees, agree to unite the two parties in a joint convention called upon the following basis:

"1. The Communist Labor Party accepts as a basis for this joint call the manifesto and program of the Communist Party."

It is thus seen that the Communist Labor Party as it stands to-day is willing to unite with the Communist Party upon the manifesto and program of the Communist Party of America which the Secretary of Labor ruled was unlawful and which he ruled advocates the overthrow of our Government by the use of force and violence. In other words, the organization which the Secretary of Labor stated did not advocate such doctrines and such tactics is to-day willing to unite and is about to enter into a convention with the Communist Party upon the manifesto and program of that party, which contains the doctrines of force and violence.

In the same issue of Communist Labor, on page 8, appears a most interesting statement by the Communist Labor Party upon the hearing held before the Secretary of Labor upon the status of their organization.

"*To the press and all communists:*

"Through newspaper dispatches from Washington, D. C., we learn that several lawyers appeared before the Department of Labor Saturday, April 24, to defend deportees belonging to the Communist Labor Party. We understand that Mr. Post, of the Department of Labor, informed several attorneys, among them Mr. Recht, that the question as to whether membership in the Communist Labor Party was sufficient ground for deportation, would come before that department last Saturday.

"The national executive committee of the Communist Labor Party, upon hearing from Mr. Recht in the matter, immediately informed him by written statement that we had decided not to send an attorney to Washington to appear in our behalf, and that submission of our platform and program was the only defense we intended to make. This decision we reached because we fully understood that no attorney, except he be a confirmed communist, could make a defense of our principles.

"We therefore declare that the attorneys who appeared before the Department of Labor did not appear in the name of nor with the consent of the Communist Labor Party. None of them had a mandate from our party to defend us. None of them were engaged to do so.

"We are not responsible therefore in any way for the statements made at this hearing or the conclusions reached, and we repudiate such as are not in harmony with communist principles.

"COMMUNIST LABOR PARTY."

In the above quotation we note that the Communist Labor Party repudiates the statements made before the Secretary of Labor inconsistent with the principles of communism. The attorneys appearing before the Secretary of Labor in argument on behalf of the Communist Labor Party endeavored to impress upon the Secretary the fact that the organization did not advocate the use of force and violence. Apparently, the statement above quoted repudiates these assertions, if we might judge from their other statements contained in their organic law and in their numerous leaflets.

O. FREEDOM OF SPEECH AS APPLIED TO DOCTRINES OF COMMUNIST LABOR PARTY.

In considering the legal status of an organization which is charged with unlawful activity and utterance it is proper to consider whether such doctrines and the teaching and advocating of the same are permissible under freedom of speech and freedom of the press as understood in the United States. The best exposition of the limitations of freedom of speech and of the press are expressed by Judge Wigmore, in the Illinois Law Review for March, 1920, copy of which is attached and marked as "Exhibit 26."

Freedom of speech is always a liberty, but never a license. As has been very aptly stated by a judge recently: "Words are the triggers of action." Daniel Webster once said: "The Constitution does not proceed on the ground of revolution; it does not proceed on any right of revolution; but it does go on the idea that within and under the Constitution no new form of government can be established in any State without the authority of the existing government."

The communists do not intend, if we accept the meaning of their own language, to achieve the revolution with the authority of the existing government, by use of the ballot; but intend to achieve the social revolution by ruthless infliction of the ideas of a small minority upon the will of a majority, to be accomplished be force and violence. This is literally, "eternal anarchy amidst the noise of endless wars," and if it be not a doctrine that organized government should be overthrown by force or violence or by unlawful means, then language has lost its force and words are meaningless. The igno-

rant primarily, but also the vicious, criminal element, which in Russia has murdered all who stood in their way and has robbed all who had any wealth, have accepted the doctrines of communism. No right-minded person can countenance such revolutionary propaganda as the communists are spreading. It is not their sincere purpose to better the condition of the workingman or to improve the economic or social life of this country; but their purpose is political, as stated; political in that their objective is the overthrow of the political state.

P. LEGAL OPINIONS UPON STATUS OF COMMUNIST LABOR PARTY.

The State courts have had up for consideration in several cases the legal status of the Communist Labor Party. In the State of Oregon, in the case of the State *v.* Oster, a member of the Communist Labor Party, the jury found that Oster was a member of an organization which had for its purpose the overthrow of the Government of the United States by force and violence.

In the State of California, in the case of The People *v.* Charlotte A. Whitney, a like decision was reached.

In the State of New Jersey, in the case of The State *v.* Henry Petzoldt, the jury reached a similar decision.

In the State of New York, James Larkin and Benjamin Gitlow, members of the Communist Labor Party, have been sentenced to the State penitentiary for violation of the State anarchy law for their activities in the Communist Labor Party.

In the State of Illinois, 24 members of the Communist Labor Party have been indicted under the State anarchy statute.

In the eastern judicial district of Missouri, the Federal Court, in passing upon the application of an alien for naturalization who was proven to have been a member of the Communist Labor Party, ruled that, as he was a member of an organization which had for its purpose the overthrow of the Government of the United States by force and violence, he was not a fit subject for citizenship in the United States.

Thus we see that where the status of the Communist Labor Party has been brought to the attention of the judiciary that, without exception, they have ruled that the organization is one which advocates the overthrow of the Government of the United States by force and violence.

Q. CONCLUSIONS.

From the preceding examination of the various documents, including the Third International manifesto and program, the platform and program of the Communist Labor Party of America, and the numerous leaflets issued by the Communist Labor Party, we find that throughout the entire lot there runs the general idea of the principles of destruction versus construction, of conquest, of annihilation of the governmental apparatus, of mass action, and of political action in so far only as its objective is concerned. The principles of Communism, as enunciated by the leaders of the European movement, find expression in toto in the doctrines of the Communist Labor Party of America. These doctrines threaten the happiness of the community the safety of every individual, and the continuance of every home and fireside. They would destroy the peace of the country and thrust it into a condition of anarchy and lawlessness and immorality that pass imagination.

The Communist Labor Party activities in the coal and railroad strikes are evidences of its insidious purposes. Its reorganization along the line of underground Russian methods is antagonistic to the conception of American principles. Its participation in international congresses of communists, anarchists, and syndicalists is an evidence of its lack of patriotism. The fact that it is governed and directed in its actions and activities by a foreign group assembled in Moscow precludes it from indulging or participating sincerely in any American movement. Its advocacy of mass action as against political action indicates its purpose of force and violence. Its failure to frankly state that it does not believe in force and violence can lead to but one conclusion, namely, that in conjunction with its avowed statements force and violence are its ultimate aim.

If the state is to be destroyed by mass action, industrial action, or direct action, and these actions are endorsed and propagated by the Communist Labor Party, all of the actions being the essence of force and violence, then the Communist Labor Party does believe in, teach, and advocate the overthrow of the Government of the United States by force and violence, and any alien found to be a member thereof, or affiliated therewith, is subject to deportation under the act of Congress approved October 16, 1918.

Respectfully,

J. EDGAR HOOVER,
Special Assistant to the Attorney General.

Mr. PALMER. Now, Mr. Chairman, I think, to make this record complete, I ought to file with you a report which has been prepared under my direction of the radical publications in New York City, prepared by the Division on Radical Publications of the Bureau of Investigation of the Department of Justice.

This contains a list of the radical, revolutionary newspapers and magazines, chiefly foreign-language papers, in the metropolis, and a large number of editorial utterances of an inflammatory, incendiary and revolutionary character, which indicate very plainly the general purpose of the publicity of these ultraradical organizations. I am not entirely satisfied in my own mind as to the wisdom of publishing this collection and giving publicity to this "dope," which has become so familiar to us, and I propose to leave it with the committee, with the understanding that you may at your leisure look into it, and if you want it made a part of the report in order to make this record complete I have no objection. If you think it wise that it should be simply used for your confidential information I am satisfied with that.

The CHAIRMAN. The committee will take the matter under advisement.

Mr. PALMER. It is highly interesting, significant, and entertaining, but it is not good reading late at night when you are at home in your own house. It gives you the creeps a little.

I want to file also, in order to make this record complete, Mr. Chairman, a record of the activities of the Radical Division of the Bureau of Investigation of the Department of Justice for the last year or more, showing in detail what the Department of Justice has done and how it has done it in the enforcement of the laws to meet such manifestations of the revolutionary spirit and intent as seemed to be violative of those laws. This record I shall not read because it would take up too much time, but it reviews our investigations of the El Ariete Society, of the Union of Russian Workers, of the Furshtman case, of the Goldman case, of the Berkman case, the steel strike of 1919, the coal strike of 1919, the Mollie Stimer case, the Buford case, the dependent family propaganda, the Third Internationale, the communist movement in the United States, the Communist Party of America, the Communist Labor Party, the arrests of January 2, 1920, the Martens case, the Amsterdam conference, the l'Era Nuova group of anarchists, the Francisco Ferrer Association, the Industrial Workers of the World, the railroad strike of 1920, the May Day plans of 1920, the negro agitation, the State cases, and the radicals' attitude toward the American Federation of Labor.

In this record is told for the first time the complete story, for instance, of the bomb plot which broke out in a dozen cities a year ago to-day and of the work of the Department of Justice in running it down. It is a story which might well beguile an hour or so, but I will not read it but leave it in the record, where it may be seen by the committee or by anybody else. Suffice it to say that I think the Bureau of Investigation, under the direction of Mr. Flynn, has done a splendid piece of work and all that is possible to be done in running down that crime. They know who some of the perpetrators were. They know where and by whom the incendiary

documents that were distributed with the bombs were printed. They have the names of aliens who were mixed up in various capacities, all of which it shown there.

The Radical Division of the Department of Justice.

In the latter part of 1918, following the signing of the armistice, it became evident that there was at work in the United States certain forces determined to handicap the Government in its work of reconstruction and to embarrass the Congress of the United States and the public officials charged with the administering of the law in every way possible. These forces were the same which were at work in 1917 and 1918 to hinder the successful prosecution of the war and it was only through the energetic action of the Government at that time through the medium of the espinage law that the efforts were fustrated. As soon as the armistice was signed some of these same pacifists and pro-German forces appeared in another rôle, namely, that of sympathizer with the Communist movement in Russia. As soon as the Communist forces abroad gained in numbers there arose in the United States a similar movement numbering in its fold the anarchists, Communists, the militant labor elements, and the parlor Bolshevists, who were only too willing and anxious of the opportunities arising in the aftermath of the great war to exemplify their ideas by deeds and to resort to mass action, and when the Government in the latter part of 1919 took drastic action against these insidious influences the pacifists and pro-Germans of the war days burst forth in vindictive criticism of the Federal Government in its policy of deportation, and we find at the present time that not only have the "borers from within" been able to grain headway in the American Federation of Labor but they are likewise to be noted in the church, on the bench, and even in high Government offices.

The first indication of a concerted movement upon the part of the radicals appeared in the early part of 1919, when there was disclosed to the public the plot for the assassination of the President, formulated by the "Groupa Pro Prenza," which consisted of 14 Spaniards, located in the city of Philadelphia. On the day prior to the President's landing in Boston, on February 22, 1919, two representatives of the Pro Prenza Group in Philadelphia, namely, Florian Bertaer and Elario Corostiza, proceeded to New York for the purpose of conferring with 14 anarchists in that city relative to completing plans for the assassination of President Wilson. The information concerning this plot was submited to the Secret Service Division of the Treasury Department, which effected the arrest of these individuals.

Evidence secured by the Department of Justice covering the activities of the leaders of this organization, namely, Genaro Pazos, Eduardo Parades, and A. Sopelano, was submitted to the Labor Department, with the recommendation for deportation. The Labor Department took cognizance of the recommendations in the case of Parades and Sopelano.

This organization has not only been active in the assassination to kill public officials as shown above, but we find them very active among the marine transport workers, and they are constantly influencing the marine workers to strike.

The activities of the Groupa Pro Prenza are to be noted in and around the principal maritime sections in the eastern part of the country.

Another instance of the result of radical agitation in the early part of 1919 was the Naugatauck Valley strike in Connecticut.

The Naugatauck Valley is one of the most thickly populated industrial centers in the country so far as aliens are concerned, several of the towns having an actual majority of foreigners in the population. The military authorities estimate that approximately 60 per cent of the small arms and ammunition for the entire country during the war was made in Connecticut. For some time prior to June, 1919, agitation and propaganda had been active in New Haven, Ansonia, Waterbury, and Bridgeport. On June 8 a strike started in the Ansonia mill of the American Brass Co., being instigated entirely by the foreigners through the organization of Russians, although several radical Americans participated. The demands were unreasonable and within a week the strike had spread to other cities, and in Waterbury there was considerable violence and an expressed intention on the part of the strikers to take over the city government. It was necessary to adopt drastic

methods by the State and city authorities, the department working in close cooperation. A number of the most active leaders at Ansonia were arrested on deportation warrants; some were included in the passenger list of the *Buford*. A black anarchist flag among other things was recovered. The meetings in Ansonia and Waterbury were held in the club rooms of the Russian organization.

However, a number of prominent agitators who were citizens continued their efforts. The strike failed after the Federal and State prosecutions.

BOMB PLOTS OF 1919.

May 1, 1919, as you will doubtless remember, was the time of a series of disturbances throughout the world. It was the date set for the celebration of the birth of the Communist Internationale, proclamations whereof were sent by wireless from Soviet Russia and reprinted in Bolshevik newspapers in all countries, including the United States. Serious disturbances by the internationalists occurred in Buenos Aires and in Paris, in which latter city the rioting lasted for days and hundreds of gendarmes were injured. In London and Berlin there were huge, but peaceful demonstrations. In the United States a general strike as a political protest had been called. There was serious rioting, particularly in New York, Boston, and Cleveland. Many arrests were made and many imprisonments followed.

The most serious of the May day disturbances in the United States in 1919 was an attempted wholesale slaughter of Federal and State officials by the use of infernal machines sent through the United States mail.

It also became apparent from the mailing dates of these bombs that the conspirators had attempted to arrange that delivery thereof would all be made on May 1, the date set for celebration of the Communist Internationale. As a matter of fact, the first bomb exploded on April 28 at the home of Senator Hardwick, of Georgia, severely injuring a servant; one was delivered to Ole Hansen, of Seattle, on that date, and others were not discovered until after May 1. It was the premature delivery of the bombs directed to Senator Hardwick and Mayor Ole Hansen and the quick action and vigilance of the postal authorities that none of the other bombs resulted in injury to the persons for whom they were intended.

The 29 addresses of this series of bombs, together with skeleton summary of their several offices, occupations, and activities, is shown here following:

1. Attorney General A. Mitchell Palmer, who had taken a stand in favor of deportation of alien agitators and punishment of conspirators, and who had refused to recommend the pardon for Debs and other so-called political prisoners held in Federal prisons for violation of the espionage act.
2. Postmaster General Albert S. Burleson, who in his official capacity had refused mailing privileges to the radical press and furnished information on bolshevism to congressional investigating committees.
3. William H. Lamar, solicitor of the Post Office Department, who had submitted to the Senate committee investigating bolshevism a memorandum charging the I. W. W., anarchists, and radical socialists with an attempt to overthrow the Government of the United States by force and establish Bolshevism in this country.
4. Associate Justice Oliver Wendell Holmes of the Supreme Court of the United States, who had spoken for that court in sustaining convictions in a number of cases involving radical agitators.
5. Secretary of Labor William B. Wilson.
6. Commissioner General of Immigration Anthony Caminetti.
7. Commissioner of Immigration at Ellis Island Frederick C. Howe.

The last three in their official capacities were concerned in the deportation of alien radicals.

8. United States Senator Lee S. Overman, chairman of the Overman Committee which investigated Bolshevism in this country.
9. United States Senator William King of Utah, very active as an antiradical Senator, and sponsor of a number of antiradical bills.
10. United State Senator Reed Smoot of Utah, likewise active in the Senate against radicalism.
11. United States Senator Thomas W. Hardwick from Georgia, who had sponsored an immigration restriction bill in Congress.
12. Representative John L. Burnett, chairman of the Immigration Committee of the House of Representatives of the United States.

13. United States District Judge K. M. Landis, of Chicago; and
14. Special Assistant to the Attorney General Frank K. Nebeker.

The two being, respectively, the presiding judge and special prosecutor in the I. W. W. cases at Chicago.

15. Charles Fickert; and
16. Edward Cuhna.

Being district attorney and assistant who prosecuted the I. W. W. cases in San Francisco.

17. John F. Hylan, mayor of the city of New York, representing chief governmental authority in that city.

18. Richard W. Enright, police commissioner of New York, who in his official capacity had maintained order at anarchist and other radical meetings in the city of New York.

19. W. H. Finch of the Bureau of Investigation of the Department of Justice in New York City, who was specializing on radical matters and furnishing information to the Department of Labor and to the New York State authorities.

20. Ole Hansen, Mayor of Seattle, Wash., whose activities in suppressing I. W. W.-ism and other labor troubles in Seattle during the war were spectacular.

21. Gov. William C. Sproul, of Pennsylvania, and
22. William I. Schaffer, Attorney General of the State of Pennsylvania.

Both officially and in private actively engaged in suppressing radicalism in that State.

23. John D. Rockefeller; and
24. J. P. Morgan.

Both of New York City and prominent capitalists.

25. William M. Wood, of Boston, Mass., President of the American Woolen Company, capitalist, and who had many labor troubles.

26. T. Lary Dyer, State senator of Pennsylvania, no motive assignable.

27. Theodor G. Bilbo, governor of Mississippi.

28. Walter A. Scott, mayor of Jackson, Miss., and
29. Frederick Bullmers, editor of the Daily News of Jackson, Miss.

No motive known unless it be antagonism of negro radicals.

The bombs were all done up in similar packages bearing the label of Gimbel Bros. of New York. The containers in the packages were all alike, being of turned wood. The mailing dates were scheduled to cause simultaneous delivery throughout the United States.

An analysis of the list of intended victims shows clearly that the plot was directed primarily at the Government of the United States, although the list included some individuals who were not connected with that Government. In each of which cases, however, these individuals represented State authority or counter-radical activities of some nature. The analysis, furthermore, indicates to me that the plotters were under the influence not only of anarchistic but of communistic (Bolshevistic) and I. W. W. ideas. This theory likewise fits in with the date of May 1, being the chief point in the demonstration.

The various chiefs of police in the cities in which these outrages were supposed to occur, the post-office inspectors, the United States Secret Service, and the Bureau of Investigation of the Department of Justice all met in conference and outlined plans for investigation of the conspiracy. The matter being primarily a violation of the postal laws, the direction of the investigation was left in the hands of the post-office inspectors, and the Bureau of Investigation made no definite attempt to investigate these outrages, investigating only such features as was requested by the post-office inspectors or police chiefs, and voluntarily giving the post-office inspectors or police chiefs such pieces of information coming to the attention of the bureau as might have a bearing on the case. In due time it was discovered where the boxes and containers of the infernal machines were made, but that information led to nothing. No other clues than those furnished by the infernal machines themselves existed and the conspiracy to-day remains unsolved, although the best efforts of the best police departments and detective services of the United States were expended upon its solution.

The public had just about recovered from the shock of May 1, when on June 2 a second series of bomb outrages occurred. These were different from the May 1 outrages in that the bombs were much more powerful and the plan apparently was to explode them at the places of residence of the intended victims. Bombs were actually exploded approximately at the same hour in nine places in the United States, as follows:

1. At the home of Attorney General Palmer, Washington, D. C.

2. At the home of Justice Robert F. Hayden, municipal judge of Boston, well-known foe of Bolshevism in that community and the judge who sentenced William C. Sidas and 11 others to prison for assaulting policemen during May day radical demonstrations in Roxboro, Mass.

3. At the home of Mayor Harry L. Davis of Cleveland, Ohio, who had been active in the prosecution of Ella Sagata and Carlo Lodi, anarchists of the Galliani group, and in urging legislation to curb radical activities.

4. At the home of Justice Charles C. Notts, jr., of general sessions of New York City, who sentenced two men in connection with the plot to blow up St. Patricks Cathedral in New York.

5. At the home of Judge W. P. Thompson of Pittsburgh, Pa., who presided at a prosecution of Carlo Tresca years ago for some offense under the State laws.

6. At the home of Representative Leland W. Powers, Newtonville, Mass., motive not known.

7. At the home of Max Gold, Paterson, N. J., silk manufacturer, who has had numerous strike troubles with anarchists at Paterson.

8 and 9. Two bombs at the Church of Our Lady of Victory, Philadelphia, Pa. No motive except the anarchist doctrine of atheism.

The explosions resulted in great property damage and two deaths. The watchman at Judge Notts's home was killed and the plotter who placed the bomb at the home of the Attorney General was blown to bits. None of the intended victims received physical injury.

At the time of the explosions there was found at every place where the bombs were exploded, a leaflet printed on pink paper, entitled "Plain Words" and signed "The Anarchist Fighters," copy of which circular is attached hereto and marked Exhibit A. A significant part thereof is as follows:

"There will have to be bloodshed; we will not dodge; there will have to be murder; we will kill because it is necessary; there will have to be destruction; we will destroy to rid the world of your tyrannical institutions."

The Bureau of Investigation of the Department of Justice undertook the chief burden of the investigation of the bomb conspiracy of June 2, and W. J. Flynn, the foremost criminal investigator in the United States, was made Director of the Bureau of Investigation of the Department of Justice and was given free rein in the investigation of this plot. He commenced by calling a conference of all Government agencies, the chiefs of police, and detective chiefs of all the cities where bombs were exploded, and entered into cooperative arrangements.

As above stated, at the home of the Attorney General in Washington, the perpetrator of the outrage met his own death in the explosion of the bomb intended for the Attorney General. The pieces of the body, clothes, and equipment which were collected at that time, together with the printed circular "Plain Words," were the only clues to the identity of any member of the conspiracy.

The plan of immediate action decided upon by Director Flynn after his conference was twofold—first, to investigate and watch such known organizations of anarchists as might have been implicated in the plot, and, second, to run out such physical clues as were available, with a view of identifying some one of the perpetrators and through such identification locate the conspiracy.

It was thought that there were two or three groups of anarchists who might have been implicated. While it must be remembered that anarchy embraces individualism, which places upon individual adherents the duty of acting independently of any organized effort, but it did not necessarily follow that it was the act of a group as a whole. The four anarchist groups, members of which would be most likely to engage in such a plot, were the L'Era Nouva group, with headquarters at Paterson, N. J.; the Galliani group, with headquarters at Lynn and Boston, Mass., and Barre, Vt.; and the Pro Penza group, with headquarters at Philadelphia, Pa.; and the individual followers of Berkman and Goldman. Accordingly, arrangements were made to investigate these groups and their membership, with a view of finding if possible a missing member whose whereabouts could not be explained. In this manner the dead man might be identified, such identification leading to a disclosure of his connections.

The physical clues were the printed circular, "Plain Words," many copies of which were found at the places of the explosions; parts of the body, the

clothing and equipment of the anarchist who was blown up at the home of the Attorney General in Washington.

Collar: A portion of the collar (Contour brand), worn by the anarchist killed at Washington, containing the laundry mark "K. B.," was photographed and the picture published in all the laundry journals, resulting in a great many letters containing information which when followed out proved valueless. All laundries, including steam, hand, and Chinese, in all the districts in which the plot developed were visited and the only clue obtained was from a laundry known as "The Montauk," on Willoughby Street, in Brooklyn, N. Y., indicating that the customer at one time resided on Lawrence Street, Brooklyn. A house-to-house canvass on Lawrence Street and other neighboring streets and a careful canvass of the entire city and suburbs of Brooklyn failed to produce any results. The post-office inspectors also circularized a photograph of the collar, but without results.

Necktie: A portion of a blue polka-dot necktie was found near the scene of the explosion in Washington having the label "Silver Rose Shop, 86 Bowery." The label was disfigured and could not be deciphered at first but was finally identified by a label manufacturer, Henry A. Jacobs, 37 East Twenty-first Street, New York City, after a canvass of all manufacturers of this sort of labed. The Silver Rose Shop was thereupon visited and Proprietor Rosen stated that on May 17 he had received from Friedman & Friedman, wholesale necktie manufacturers, a consignment of neckties, among which were 12 similar blue ties with white polka dots, which ties retailed at the sum of $1.35. An immediate inventory was made of Mr. Rosen's stock, and it was found that only one of the ties had been disposed of. Rosen stated that he had a recollection of a man who purchased the tie in question, but was unable to furnish any description of him.

The clerks in Mr. Rosen's store were interviewed, and one of whom, Mr. Abe Schak, on the occasion of the first interview stated that he thought the purchaser of the tie in question was a Slovak, a description of whom he was unable to furnish. Later Schak advised that he thought the purchaser of the tie was an Italian whom he had met while he, Schak, operated a store located in the vicinity of Duffield and Fulton Streets, Brooklyn, N. Y., and that the purchaser had called at Rosen's store during the latter part of May and while making the purchase of the polka-dot tie stated that he was going away, that he was tired of America. Schak furnished a description of the man and thereafter each man arrested in connection with the case was exhibited to Schak and Rosen, but was not identified as the purchaser of the tie. Schak further thought the purchaser might have been connected with an Italian theatrical company, whereupon an investigation was made of all Italian theatrical companies operating in New York City, including the various persons supply costumes, music, members of chorus, etc., but with no results.

Shoe: Part of a sandal shoe with a rubber heel was found near the explosion in Washington. Investigation was made at various manufacturing plants in and about New York and Boston and all cobblers who might have affixed the rubber heel. The manufacturer of the shoe was located, but this led to nothing definite. Thereafter a cobbler was located in New York City at 314 Avenue B, who upon being interrogated claimed that he had affixed a similar rubber heel to a similar sandal shoe for a foreigner a short time prior to June 2. This cobbler shop was in the neighborhood of the shop whereat the polka-dot necktie was purchased. The cobbler gave a description of his customer, which was painstakingly investigated and the customer located and found to be alive and a loyal citizen of Polish descent. No other results were obtained from the shoe clue.

Clothing: A small piece of torn cloth, apparently being a part of the suit of clothes worn by the anarchist killed at the explosion in Washington, was traced throughout the entire United States, with the result that the manufacturer thereof was found, and it was learned that this cloth was disposed of in large quantities in various places, particularly in Philadelphia and Boston, and was sold by dealers in many instances without records being made of the sales. For example, the clothing establishment of Titilio & Campanella, in Philadelphia, sold 7 yards over the counter without any record having been made thereof. This clue likewise led to nothing.

Italian dictionary: A flyleaf of an Italian dictionary was found in the vicinity of the explosion at the Attorney General's home, and inquiries at the Societa Libraria Italiana, 145 Mulberry Street, New York City, developed the

fact that this was a 1913 edition; had not been distributed during the last two years, and that at least 10,000 c pies had been sold throughout the United States. In Philadelphia an Italian bookshop was found in the neighborhood of Titilio & Campanella's tailor shop that had distributed this book, but no description of a purchaser could be furnished. Therefore, this clue led to nothing.

Hat: A black derby hat, undamaged, was found in the vicinity of the explosion at Washington, and in Philadelphia it was ascertained that the hat was repaired in an Italian hat-repair shop which is in close proximity to the tailoring establishment of Titilio & Campanella. But no description could be obtained of the customer. A thorough canvas was made of New York City with reference to this hat by Sergt. Gegan's bomb squad, but with no results.

Firearms: One Smith & Wesson automatic pistol wrecked by the explosion and one Smith & Wesson revolver intact were found near the scene of the explosion in Washington. The numbers from these revolvers show that they were purchased under fictitious names with fictitious addresses. No description could be furnished as to the purchasers.

Plain Words: A leaflet printed on pink paper and containing in English the declaration shown by Exhibit A was found in numbers at the scenes of the various explosions. A complete investigation of the manufacturers of papers and ink houses produced no results, and no paper was found similar to that used in printing the circular until a short time ago. The investigation spread throughout the entire United States. On or about February 28 information came to the New York office through Agent Stone, of the New Jersey division, that one Roberto Elia was engaged in the publication of anarchist literature and that Elia was employed at 255 Fifth Avenue, Brooklyn, N. Y., that being the printing shop of one Canzani. Agents, accompanied by Brooklyn police, went to Elia's room to apprehend him and found that he had in his possession a revolver, in violation of the Sullivan law of New York State. He was arrested on that charge, arraigned before a judge in Brooklyn, and held on $10,000 bail. This action was taken solely by the police, but was acquiesced in by the agents of the Department of Justice, inasmuch as there was no Federal warrant upon which Elia might be arrested. Elia pleaded guilty to the charge of having firearms in his possession and the judge, who was about to impose sentence, upon being informed by the agents of the Department of Justice that Elia might have information valuable to the Government, suspended sentence pending investigations. Thereupon, Elia accompanied the agents of the Department of Justice to the Bureau of Investigation office at 15 Park Row, New York City, for interrogation. The first interrogation of Elia produced very little in the way of informaion other than that he worked in Canzani's shop and had been engaged independently in printing anarchistic literature. Elia was given comfortable quarters at 15 Park Row and remained under surveillance by the agents of the bureau for possibly six weeks, the details of which will be discussed later in this memorandum.

In the meantime, from information received from questioning other anarchists taken into custody during raids in Paterson, N. J., it was ascertained that Canzani's printing shop was the most likely place in which the leaflet Plain Words might have been printed, and that Elia could give valuable information in this regard if disposed so to do. Canzani's shop was thereupon searched twice, and in it was found some blank pink printing paper similar to that upon which Plain Words was printed. It also developed that one Andrea Salsedo was engaged as a typesetter and printer in Canzani's printing shop. Both Elia and Salsedo for some time past had been affiliated with the Galliani group at Lynn, Mass., and both had worked as printers in the publication of the Galliani anarchistic sheet, the Cronaca Sovversiva. In this connection it must be remembered that Galliani had been ordered deported by the Department of Labor for his anarchistic activities, and that one Carlo Tresca has assumed leadership of this group after Galliani's deportation. Galliani is now in Italy and is one of the recognized leaders in the revolution which is impending in that country.

With this in hand, it seemed likely that either Elia or Salsedo, or both, could give information assisting in the location of the bomb conspirators. Thereupon Salsedo was brought to the bureau of investigation office at 15 Park Row, New York City, for interrogation. He was likewise given comfortable quarters at 15 Park Row, and the next morning after his arrest an attorney, one Narcissus Donato, with offices on the eleventh floor of the Park Row building, 15 Park

Row, appeared on his behalf, although it was understood that neither Salsedo or Elia had employed Donato for that purpose. Donato was introduced to Mr. Flynn, who explained the fact that both Elia and Salsedo had probably violated the anarchy act of the State of New York, and, further, that deportation warrants had been issued for both of them, but had not yet been served. The situation was likewise explained to Elia and Salsedo by Mr. Flynn, as well as by their attorney. Mr. Flynn stated to Donato that he desired his cooperation in obtaining information in solving the bomb plot, and Donato replied that he would do whatever was consistent with his professional ethics and with his clients' interests. And thereupon it was agreed that both Elia and Salsedo should remain in the office of the department at 15 Park Row; that their whereabouts should remain unknown to all except their families, their attorney, and certain of their friends; and, further, that neither one should be subjected to interrogation or examination without the presence of their attorney.

On March 11 both Salsedo and Elia were interrogated by Mr. Flynn in the presence of their attorney, Mr. Donato, their questions and answers being taken down by a stenographer, which were afterwards transcribed and are now in the possession of the bureau. Both Elia and Salsedo admitted their connection with Canzani's printing shop, their former connection with the Galliani group and the Galliani publications, and that they were and for a long time had been anarchists. Salsedo admitted that he had received from one Nicoli Recchi, a member of the Galliani group, an order to print a large number of copies of a leaflet in English manuscript, copy of which Recchi furnished Salsedo. This manuscript was the copy from which Plain Words was printed and the leaflets which Salsedo printed were the leaflets Plain Words. Salsedo was shown a copy of Plain Words and admitted this to be a fact and confessed his own participation. Elia confirmed the fact that Salsedo had delivered a package of these leaflets to Recchi, who took away with him the original manuscript. Salsedo spoke some English, but not well. Elia speaks English fairly well.

Canzani's daughter has made the statement that Salsedo asked her to proof read the original setting of Plain Words, which, however, Salsedo denied. Neither of the Canzanis are thought to be anarchists.

From time to time both Elia and Salsedo recognized and identified photographs of various members of the Galliani group and other anarchists which were submitted to them for identification.

Realizing that he was unable to get further information voluntarily from these men and suspecting that Donato was playing false in the matter, Mr. Flynn had watch kept of Mr. Donato's movements and of the visitors at his office. It was discovered that Donato was receiving a mysterious visitor, of Italian nationality, with a heavy beard, and who answered to the description of Carlo Tresca, which was afterwards ascertained as being the fact. Carlo Tresca, it will be remembered, is the notorious anarchist who assumed the place of Galliani after his deportation. The situation thus presented might be analyzed as follows: The Department of Justice had in its offices a man who had printed the circular which was distributed with the bombs and the man who could identify the paper upon which the leaflet was printed and could identify the man who received the package of leaflets after their printing. Both these witnesses and Recchi were members of a dangerous group of anarchists originally led by Galliani and now led by Carlo Tresca. As above said the Galliani had motives for perpetration of the outrages. Galliani had been ordered deported and was awaiting deportation at Boston. Ella Sagata, of the Galliani group, had been sent to prison for eight years. The two plotters to destroy St. Patrick's Cathedral were affiliated with the Galliani group. Tresca had been prosecuted under Judge Thompson.

It is not to be presumed that the anarchists who perpetrated the bomb outrages would have selected to print their leaflet a man in whom they did not have the utmost confidence and who was not a tried and true comrade in their past endeavors. Elia and Salsedo had been permitted to see their attorney daily and their attorney was in the embarrassing position of having clients on the fourteenth floor who had given some evidence at least against the perpetrators of the outrages and having to entertain on the eleventh floor Carlo Tresca who represented one group of anarchists who were probably implicated in the plot itself. On May 4 Salsedo put an end to his part of the arrangement by jumping from the fourteenth floor of the Park Row Building upon the street, committing suicide.

It has now been ascertained that while Elia and Salsedo were staying at the Park Row Building, and probably through the efforts of Tresca, a large number of anarchists have been leaving the country as stowaways, sailors, and under false passports and in other manners have disappeared. The names of many of these are known to the department. Recchi has disappeared and according to the latest reports is supposed to be in Mexico. Galliani, before mentioned, is in Italy, where he is engaged as one of the leaders in the impending revolution in that country. Other members of the group are in Italy and other parts of Europe. Others have scattered and are working in out of the way places in the United States.

Although every possible lead as to a missing member of these groups was checked out it was found in each instance the missing member had either left the country or was working somewhere else, with the exception of one, said individual being Carlo Valdinucci, who during 1917–18 was a trusted lieutenant of Galliani while the latter was printing Cronaca Sovversiva. The only information obtained regarding him was that while Galliani was awaiting deportation and about the time of the explosions he disappeared and was believed to be in Mexico. In many details his description answered that of the anarchist who was killed by the explosion at the Attorney General's home in Washington, as near as the same could be ascertained from parts of the body pieced together and measured.

The net results of the investigations of the bomb plot of June 2, therefore, are that every physical clue has been run out to the last possible extreme, resulting in the discovery of the man that printed the circular Plain Words, the probable discovery of the man who was killed at the house of the Attorney General, the inference that the plot originated with members of the Galliani group, and that the perpetrators of the crime have succeeded in leaving the country, with the possible exception of one or two, and that the principal source of information is now closed by virtue of the suicide of Salsedo. Nevertheless there are several avenues of information yet to be explored and which hold out fairly substantial hopes that ultimately the plot will be solved. Such matters I will embody in a separate memorandum for your confidential information.

With particular reference to certain charges which were made against the Department of Justice for the alleged detention of Elia and Salsedo at 15 Park Row, New York City. John T. Creighton, special assistant to the Attorney General, went immediately to New York City and thoroughly investigated all the surrounding circumstances. As above stated, these men were held voluntarily by their own choice and with the knowledge and consent of their attorney, without any warrant having been served upon them. They were well treated, regularly fed in public restaurants, taken out for exercise, permitted to occupy separate clean beds at night in a clean room, were given ample opportunity to wash and bathe and change linen, and were never examined or interrogated except in the presence of their attorney. Flynn hoped to, and actually did, obtain information. Salsedo was suffering from tuberculosis and it was noted that he steadily gained physical health while he was in the Park Row Building.

He was never mistreated at any time and never was struck, intimidated, or threatened or ever examined or interrogated except the first time, without the presence of his attorney. Shortly prior to his death he told Elia he feared Recci would have him done away with. It is my judgment that he was in terror of the results of having given information to the Government, that his knowledge of other facts which he had not disclosed were preying upon his mind, that he knew Tresca was informed of his whereabouts and probably of his disclosures and these things, together with his ill health, caused him to commit suicide.

Mr. Creighton interviewed Elia at Ellis Island in the presence of Acting Commissioner Uhl, Division Superintendent George Lamb, and two agents of the department. Elia was interrogated and replied in English. He stated the facts regarding his and Salsedo's detention and treatment substantially as I have done with two exceptions. He said that upon his first interrogation he was told to take off his glasses and that he did so, thinking that such action was preliminary to being given a third degree; that thereafter another agent told him to put his glasses on again, which he did, but that he was never threatened or struck during this or any other time. The investigation into this phase of the question disclosed that Elia pretended not to be able to speak English and that

this was a ruse adopted by Agents Barbero and Greene to discover whether in fact he could speak English, Barbero telling him in Italian to take his glasses off and Greene telling him in English to put them back on.

Elia also said that Salsedo had remarked the day after his arrest that he had received "a punch" and Elia noted that he had one red spot on each cheek, which Elia assumed were the results of having been struck on the cheeks. The most careful interrogation of all agents concerned in the matter shows that Salsedo was not struck or otherwise mistreated. A large number of people at the department saw the prisoners as soon after the preliminary interrogation as Elia did, including men of such undoubted integrity as Mr. Flynn and Mr. Lamb and Agent Palmero, and Mr. Lamb's secretary, Miss Brice, and they observed him carefully and saw no marks or indications of mistreatment. Furthermore, he never complained to anyone at the department of any mistreatment.

As a further check upon this, Agent Palmero was instructed to interview Salsedo's wife with a witness, and she stated that Salsedo had been well treated, and that he remained there of his own volition and consent, and that she was permitted and did visit him and see him privately as often as she desired, that he saw his lawyer frequently and in private, and that he had never complained to her of having received any threats or intimidation or ill treatment whatever at the hands of the agents of the Department of Justice.

Attorney Donato has made a number of conflicting statements, in some of which he says that Salsedo had been mistreaed and ohers in which he says he had been treated well, and also others concerning the terms under which the two men were held. Attorney Donato talked rather freely with Mr. Creighton on general matters when interviewed, but refused to make any statement, written or oral, along these points. It seems to me that Attorney Donato is in an inconsistent position. If it be a fact and if he did permit these prisoners to remain there with his knowledge and consent, as all the evidence shows he did, the inference arises that they were to turn States' evidence for the Federal Government, in which case he might be placed in very great physical danger from the Galliani group of anarchists. If, on the contrary, the prisoners were kept without his consent, he is in the position of an attorney not knowing his rights, for he might have walked across the street and have had them released on a writ of habeas corpus, inasmuch as they were not held on warrant, of which fact he was aware. In fact, he stated to Mr. Creighton that he did not like to be put in a position of consenting to their detention for this last reason, namely, that his Italian clients would think he was not a good lawyer and he would lose business.

In order to get at the truth of what Donato had really agreed to Mr. Creighton questioned Mr. Robert Pierson, of the New York Telegram, and Mr. Bruce Ray, of the New York Times, the newspaper reporters who had interviewed Donato a few hours after Salsedo's death and before Donato had time to consider his statements. To these reporters he stated in substance, as I have heretofore set forth, the agreement that he had seen his clients every day, that they were well treated, that they had never been threatened, intimidated, ill treated, or given the third degree, and had never been examined except when he was present, and that they remained voluntarily with his knowledge and consent in order to keep them from being subjected to the penalties of the State laws and with the hope that they might be deported and not be confined at Ellis Island pending hearings.

These newspaper reporters appeared voluntarily and the questions and answers were taken down stenographically and reports signed and are hereto attached.

A very interesting episode took place during the interview of Donato by the newspaper reporters. Robert Pierson, of the Telegram, first went into Donato's office and interviewed him with the above results. The matter seemed so important that he wanted a witness to the interview, so he went back up to the fourteenth floor and asked Bruce Rae of the New York Times to accompany him for a second interview. During the first interview Pierson was interrupted by the entrance of an Italian with a thick black beard who kept interrupting Donato in Italian at various points in the interview. After each interruption Donato would become more and more evasive. When Pierson and Rae came down for the second interview they were told that Donato had left the office, but not believing the clerk that told them this, Pierson and Rae remained and when the clerk opened the door leading into Donato's room saw the visitor with the black whiskers speaking with Donato. They again took up the interview, but the strange Italian continued to interrupt them. It

was apparent to both of them that the stranger was dominating the interview, although Donato's answers were in substance those which he had first given. Later on both of the reporters identified the stranger as Carlo Tresca from a photograph of Tresca in the possession of the bureau.

"PLAIN WORDS.

The powers that be make no secret of their will to stop, here in America, the world-wide spread of revolution. The powers that be must reckon that they will have to accept the fight they have provoked.

A time has come when the social question's solution can be delayed no longer; class war is on and can not cease but with a complete victory for the international proletariat.

The challenge is an old one, oh "democratic" lords of the autocratic republic. We have been dreaming of freedom, we have talked of liberty, we have aspired to a better world, and you jailed us, you clubbed us, you deported us, you murdered us whenever you could.

Now that the great war, waged to replenish your purses, and build a pedestal to your saints, is over, nothing better can you do to protect your stolen millions, and your usurped fame, than to direct all the power of the murderous institutions you created for your exclusive defense, against the working multitudes rising to a more human conception of life.

The jails, the dungeons you reared to bury all protesting voices, are now replenished with languishing consciencious workers, and never satisfied, you increase their number every day.

It is history of yesterday that your gunmen were shooting and murdering unarmed masses by the wholesale; it has been the history of every day in your regime; and now all prospects are even worse.

Do not expect us to sit down and pray and cry. We accept your challenge and mean to stick to our war duties. We know that all you do is for your defense as a class; we know also that the proletariat has the same right to protect itself, since their press has been suffocated, their mouths muzzled; we mean to speak for them the voice of dynamite, through the mouth of guns.

Do not say we are acting cowardly because we keep in hiding, do not say it is abominable; it is war, class war, and you were the first to wage it under cover of the powerful institutions you call order, in the darkness of your laws, behind the guns of your bone-headed slave.

No liberty do you accept but yours; the working people also have a right to freedom, and their rights, our own rights, we have set our minds to protect at any price.

We are not many, perhaps more than you dream of, though but are all determined to fight to the last, till a man remains buried in your bastiles, till a hostage of the working class is left to the tortures of your police system, and will never rest till your fall is complete, and the laboring masses have taken possession of all that rightly belongs to them.

There will have to be bloodshed; we will not dodge; there will have to be murder; we will kill, because it is necessary; there will have to be destruction; we will destroy to rid the world of your tyrranical institutions.

We are ready to do anything and everything to suppress the capitalist class; just as you are doing anything and everything to suppress the proletarian revolution.

Our mutual position is pretty clear. What has been done by us so far is only a warning that there are friends of popular liberties still living. Only now we are getting into the fight; and you will have a chance to see what liberty-loving people can do.

Do not seek to believe that we are the Germans' or the devil's paid agents; you know well we are class-conscious men with strong determination, and no vulgar liability. And never hope that your cops, and your hounds will ever succeed in ridding the country of the anarchistic germ that pulses in our veins.

We know how we stand with you and know how to take care of ourselves.

Besides, you will never get all of us * * * and we multipy nowadays.

Just wait and resign to your fate, since privilege and riches have turned your heads!

Long live social revolution! Down with tyranny!

THE ANARCHIST FIGHTERS."

ORGANIZATION OF RADICAL DIVISION.

Following the mailing of bombs to prominent Government officers in May, 1919, and the bomb outrages of June 2, 1919, it became quite apparent that there must be established a systematic and thorough handling of the unlawful elements in the United States, whose sole purpose it was to commit acts of terrorism and circulate literature advocating the overthrow of the Government of the United States by force and violence.

As soon as the necessary appropriation was provided for by Congress, the radical division was organized as a part of the Department of Justice to handle the investigations connected with the radical activities in the United States. The dvsion was formed with the purpose in view of collecting together evidence and data upon the revolutionary and radical movements not only in the United States, but in the world, in order that there might be an intelligent handling of the radical situation. There was first established in the division a card-index system in August, 1919, which has now grown to number over 100,000 cards, giving detailed data not only upon individual agitators connected with the radical movement, but also upon organizations, associations, societies, publications, and special conditions existing in certain localities. This card index makes it feasible to determine and ascertain in a few moments the numerous ramifications of individuals and their activities in the United States, thus facilitating the investigations considerably.

The card index is so classified that a card for a particular city may be called for and will show the various organizations existing in that city, together with their members and the names of the officers thereof. In view of the numerous inquiries received by telegraph and also in view of the fact that one of the main characteristics of the radicals in the United States is found in their migratory nature, make necessary the carrying out of such an index system, as prompt answer must be made to such inquiries.

There was also established in the Radical Division a careful reviewing system of reports of the special agents upon radical investigations, which has resulted in a close and intimate touch between the department in Washington and the field offices of the bureau in any part of the country, so that no step in the investigation can be taken without the knowledge of the Washington office being called to the same promptly.

The results of the investigations conducted by the Bureau of Investigation of radical activities showed that the predominating cause of the radical agitation in the United States was the alien population in this country. There were existing at the time of the establishment of the Radical Division practically six organizations, namely—

1. The El Ariete Society, with a membership of approximately 12.
2. The Communist Party of America, with a membership estimated then at 40,000.
3. The Communist Labor Party, with a membership estimated then at 10,000.
4. The Union of Russian Workers, with a membership estimated at 4,000.
5. The I. W. W., with a membership estimated at 300,000.
6. The L'era Nuova Group, with membership estimated at 25.

Appreciating that the criminal laws of the United States were not adequate to properly handle the radical situation, the Department of Justice held several conferences with the officials of the Department of Labor and came to an agreeable arrangement for the carrying out of the provisions of the act of October 16, 1918, familiarly known as the "deportation statute." The radical division was called upon to make inquiry in September into the activities of the organizations which had been recently formed in the United States of a revolutionary character.

The El Ariete Society, consisting of a group of Spanish anarchists, existed in the city of Buffalo. Three of its members have been indicted under section 6 of the Criminal Code for circulating a manifesto in Spanish which contained an appeal to the proletariat to arise and destroy the Government of the United States by force and violence and substitute bolshevism or anarchy in place thereof. It called for "the proletariat of all countries to unite and precipitate the revolution, * * * for all of us who suffer the evils of servitude join in the conflict * * * to attack the State directly and assail it without hesitation or compunction."

It threatened the officers of the Government as follows:

"Cannibals, your hour of reckoning has arrived. You have fattened before having your throats cut like hogs. You haven't lived, and consequently can not

die decently, like men. You are at your wits' end at the prospect of millions of human beings everywhere rising and not only asking but demanding and executing vengeance for the promotion of your usurped interests. Yes; they will overwhelm you. We are convinced that rebellion is the noble vindication of slaves; that from generation to generation the shameful reproach of slavery has now come. Make way for bolshevism, for the department of labor, mines, railways, fields, factories, and shops. Let the soviets be organized promptly. The ideal is not converted into fact until it has come to consciousness, after having been acquired by the sacrifice of innumerable voluntary victims. Dear reader, man or woman, whoever you may be, the era of social vindication has arrived; do not remain passive; rout out, once for all, superstition; forward, forward, at once, for the time for parleying with wolves of the chamber and the amphibious creatures of the swamps has passed.

"Proclaim yourself openly an anarchist. Let the revolution come. Hail to the immaculate and redeeming anarchy."

Judge Hazel, presiding as the judge in this case held that section 6 of the Criminal Code was inapplicable to such a case, and in rendering his opinion used the following language:

"I do not believe that the acts and deeds set forth in the indictment and the evidence given in support of it establish an offense such as this section which I have just read contemplates.

"This provision of the law was proposed in 1861, when this country was in strife with the Southern States, and when it was sought to put down conspiracies in various States of the Union to overthrow the Government and put it down by force—it was then this statute was passed, and Congress in passing it did not have in mind, in my judgment, the overthrowing of the Government, putting it down, or destroying by force by the use of propaganda such as we have been considering here.

"The manifesto in evidence contains many objectionable phrases—phrases of disloyalty, phrases which are seditious—but it also contains much reading matter prefatory to the objectionable passages, which are not in violation of any statute to which my attention has been called.

"The manifesto contains a dissertation on historical wrongs asserted to have been committed by kings, monarchs, and other potentates against the workingman, first, in the pagan period, and later under the guise of Christianity, and seems to dwell upon revolutions in the field of labor brought about by inventions in the arts and sciences; in sarcastic terms and scornful allusions belittle our democracy and form of government; claims that capital in this country oppresses labor; is abusive of the officials of the Government; advocating a soviet government; that is, a government by class, commonly known as the workers or proletariat of the country as distinguished from middle or property-owning class, and at the end of the document, and other places, it advocates anarchy, and advocates the destruction of the institutions of society, but there is nothing contained in it that advocates the destruction of society by the use of violence, and it is open to the construction that it was designed to be sent out for the purpose of bringing about a change in the Government by propaganda—by written documents.

"Of course, the manifesto is to be highly condemned. In this country we believe in democracy, we have been successful under it, and we are thoroughly satisfied with it; we are opposed to anarchy—and by that term is mean a government without a ruler—no government at all.

"In the Century Dictionary we find the definition of anarchy to be 'the state of society in which there is no capable supreme power, and in which the several functions of the State are performed badly, or not at all; social and political confusion.'

"An anarchist is defined to be 'one who advocates anarchy, or absence of government as a political ideal; a believer in anarchic theory of society.'

"In the popular use—that is, the manner in which the term was used in this case—it is meant 'one who seeks to overthrow by violence or external force the institutions of society and government, all law and order, and seize property with the purpose of establishing another system of government in the place of that destroyed.'

"Huxley defines the term and says: 'Anarchy is a term of political philosophy and must be taken in the proper sense, which has nothing to do with disorder or crime.'

"In this case we have to deal with anarchy that has to do with disorder and crime, and my view is that this provision of the statutes under which indictment

was found does not make it an offense to circulate or distribute literature of this kind.

"A penal statute ordinarily is to be strictly construed. The rule of the law on that subject is that a strict construction is required, except where it can be fairly ascertained what the intent of Congress was in enacting the law.

"I do not think that Congress, when it enacted this law, had in mind such situation as that—had in mind the circulation of literature such as this; I do not think, giving the provisions a fair interpretation, that it embraces any such offense as this at all. There may be a statute of the United States which makes it a crime for any person to conspire for the circulation of literature of this character, but my attention has not been called to it."

With the ruling of Judge Hazel facing the Department of Justice, the only other avenue through which we could proceed against this anarchistic group was the "deportation statute" of the immigration law, and immigration warrants were obtained for these individuals. They have not yet been deported, though recommendation was made by this department four months ago for it.

The next organization coming within the observation of the radical division and which warranted immediate attention was the organization known as the Union of Russian Workers. Investigations made by this department soon led it to the conclusion that this organization was formed for the sole purpose of destroying all institutions of government and society. It was necessary, however, in order to prove the anarchistical nature of this organization to secure copies of its constitution, as well as copies of literature published and circulated by it. Copies of the fundamental principles of this organization were obtained and a quotation from but a portion of them will leave no doubt in the mind as to the nature and character of this group of anarchists.

"The struggle between these classes continues at the present time and will cease only when the toiling masses organized as a class recognize their true interests, and by means of a socialistic revolution by force gain control of all of the wealth of the world.

"Having wrought such a change, and having destroyed at the same time all institutions of government and power, the unfortunate class who have been deprived of their rights should proclaim a society of free producers, working to satisfy the needs with every individual person giving in their turn all of their toil and their knowledge to society.

"In order to attain our goal we place in our plan first of all the necessity of creating a broad class revolutionary organization of toilers which, carrying on a struggle directly with all institutions of capital and power, must train the working class to initiative and self-dependent activity in all of their undertakings, thus developing in them a realization of the necessity and the inevitability of a universal strike—social revolution."

With the possession of these documents, it was conclusive that the organization of the Union of Russian Workers was such as brought it within the purview of the act of October 16, 1918, and the Secretary of Labor so held. On November 7, 1919, there were arrests made simultaneously in 11 cities in the principal industrial sections of the country of the secretaries, organizers, and agitators of this organization. Incidentally, it might be said that the membership card of the Union of Russian Workers contained the preamble which has just been quoted, written in Russian. At the time of the arrests there was taken into possession a tremendous amount of anarchistic literature, among which was found a document entitled "The Manifesto of the Anarchists-Communists," by Novimirsky, printed by the Union of Russian Workers, and which contains the following declaration:

"We are atheists; we are communists; we are anarchists."

"You all have one task—to destroy the world of gain and create a world of freedom; for all there is one means—an armed insurrection and forcible seizure of all instruments and of production of toil."

It is to be particularly noted that this document was issued by the organization of the Union of Russian Workers but that the expressions are not found in the so-called organic law of the organization. However, at Philadelphia, an arrest was made of Matthew Furshtman at a meeting of the Union of Russian Workers. Furshtman was delivering a lecture from the platform in Russian and upon being taken into custody it was found that on the table before him was lying a notebook of notes made by him, as well as a copy of Novimirsky's Manifesto open and with notations in his own handwriting thereon. I might state that Furshtman admitted that he had formerly been a member of the Union

of Russian Workers and withdrew his membership because it was forbidden by the Government and he did not want to be arrested, but that he continued to attend the meetings and participated in the discussions there carried on. In addition to this evidence obtained against Furshtman, certain correspondence was also obtained showing that Furshtman had been actively identified with members of the Union of Russian Workers, and in view of the fact that he was taken into custody at a metting of that organization and in the act of delivering a speech during which from the evidence at hand it appeared that he had been quoting from Novimirsky's book on "anarchism," the Department of Justice maintained then and maintains now that it had a perfect case against this individual. However, immediately following his arrest, certain influences were brought to work in his behalf, it being claimed that he had tuberculosis and that he had but one lung and that a deportation to Russia would result disastrously for him. The merit in his case so far as his physical condition is concerned is unknown to me, but I do know that even though he had but one lung it was sufficiently strong enough for him to deliver to a group of Russians, noncitizens of the United States, a lecture upon anarchy. I recommended that his deportation be effected upon the *Buford* which sailed in December, but my recommendation was not carried out and to-day he is still in the United States at large though a Federal court refused to rule in his behalf.

Concurrently with the investigations being made into the activity of the Union of Russian Workers, the cases of individual anarchists who were more or less prominent in activities in the United States were receiving the attention of the department. Among them were the cases of Emma Goldman and Alexander Berkman, two anarchists who had for over a score and a half of years been circulating their pernicious doctrines of not only anarchism, but also of atheism, free love, birth control, and other immoral teachings throughout the length and breadth of the land. Immediately upon the release of these individuals from the penitentiaries where they had been confined for a violation of the espionage act, they were taken into custody upon warrants issued by the Department of Labor at my request. The briefs upon the evidence prepared in each of these cases is to be found in the Senate publication submitted in reply to the Poindexter resolution. Suffice it to say that both of these individuals claimed that they were anarchists, but that they were opposed to violence and therefore opposed to government, for, as they put it, government was based on violence. This was their contention when faced with deportation, but it was not the contention of Emma Goldman, when in 1901, in the issue of Free Society for February 17, she stated as follows:

"I have never opposed force or propaganda by deed either publicly or privately."

In the article appearing in that issue of Free Society, she was on record as advocating the use of force and violence; and yet in 1920, when it became evident that the Government was sincere and serious in its effort to deport her, she denied that she advocated force and violence. I know nothing of Emma Goldman's record for "truth" and "veracity," other than she stated that she did not believe in force and violence when she had previously written that she did. Few, if any, anarchists will admit the fact that they believe in force and violence, and if we are compelled to accept in addition to the statement that they are anarchists, that they do not believe in force and violence, then it is doubtful if any deportations for anarchists could be effected.

It is true that Emma Goldman refused to answer any questions at her deportation hearing and for that reason it appears in the record in the case that she was an anarchist and nothing else, but she repeatedly in her articles in Mother Earth and to Government officers stated that she was opposed to violence.

As the fact remains that Emma Goldman had been arrested many times in her anarchistic career in the United States for inciting to riot and indulging in other unlawful acts, her declamations just prior to her deportation in which she deplored violence did not agree with the previous sentiments expressed by her at the time of the McKinley assassination and her subsequent acts. Had the ruling in the Magon case been followed in the Emma Goldman case, it is possible that the Labor Department would have canceled her warrant and we would have had her among us to-day.

The cases of Emma Goldman and Alexander Berkman are particularly important to consider, in view of the fact that both of these subjects resorted to every technicality of the law which they so strenuously defied to protect them

from deportation. It is significant to further note in the case of Emma Goldman that she issued a statement declaiming the "star-chamber proceedings" at Ellis Island before she had ever entered the hearing at Ellis Island. Her statement was handed out to newspaper men for publication before the hearing had been completed, thus showing the fact that she was determined to circulate propaganda against the Government. Upon the completion of her hearing at Ellis Island and upon the final order issued for deportation by the Secretary of Labor, she, together with her associate, Alexander Berkman, sued out a writ of habeas corpus in the southern district of New York, and from there it was carried to the Supreme Court of the United States, which finally passed calm and deliberate judgment upon the cases of these two anarchists. Thus showing that they were able to and did, in fact, avail themselves of the opportunity of resorting to the judicial processes of this country to protect themselves and to prevent their deportation to Russia.

It is proper to mention at this point the two great economic disturbances that occurred in September and November, 1919. For many weeks prior to September, 1919, there had been a considerable amount of agitation among the steel workers of the United States in which later investigations showed were traceable to former I. W. W. men who had wormed their way into the ranks of the American Federation of Labor, unsuspected by the leaders of that organization of their insidious purposes.

Hereto are attached and marked copies of the circulars distributed during the steel strike and bearing directly upon it.

THE STEEL STRIKE OF 1919.

This strike was really the culmination of the efforts of its leader, W. Z. Foster, author of "Syndicalism," to organize the steel workers ostensibly for the American Federation of Labor, but in reality for effecting his "boring from within" methods.

In order to understand clearly the above statements, reference is made to the following, which illustrate Foster's views on this subject, namely, "boring from within":

Solidarity for March 19, 1910. Article No. 1, "Free-speech fight ended."
Solidarity for July 30, 1910. Article No. 1, "A. F. of L. protecting itself."
Solidarity for October 29, 1910. Article No. 1, "C. G. T. Congress."
Solidarity for November 5, 1910. Article No. 1, "First days of strike."
Solidarity for November 12, 1910. Article No. 1, "Railroad strike."
Solidarity for November 19, 1910. Article No. 1, "France an undeveloped country."
Solidarity for December 31, 1910. Article No. 1, "Stirring events in France."
Solidarity for January 7, 1911. Article No. 1, "'Pearled' sabotage."
Solidarity for March 11, 1911. Article No. 1, "Special article by Foster."
Solidarity for March 18, 1911. Article No. 1, "Greetings from Paris."
Solidarity for March 25, 1911. Article No. 1, "C. G. T. and S. P., or Syndicalists versus Socialists."
Solidarity for April 22, 1911. Article No. 1, "Observations in Germany."
Solidarity for June 3, 1911. Article No. 1, "May Day in Germany."
Solidarity for September 2, 1911. Article No. 1, "German socialists unions."
Solidarity for September 16, 1911. Article No. 1, "Civic federation at the Budapest conference."
American Federation of Labor for August 10, 1911.
Solidarity for September 9, 1911. Article No. 1, "Labor Day in New York."
Solidarity for September 30, 1911. Article No. 1, "Sixth I. W. W. convention." Article No. 2, "Get into the labor movement." Article No. 3, "The socialist labor movement in Germany."
Solidarity for October 7, 1911. Article No. 1, "Convention report." Article No. 2, "The socialist labor movement in Germany."
Solidarity for October 14, 1911. Article No. 1, "The socialist movement in Germany."
Solidarity for October 21, 1911. Article No. 1, "A German replies to Foster."

Foster became so pronounced in his views of "boring from within" that the editor of Solidarity decided that it was impossible to change his (Foster's) views, so refused to publish any more of his articles in Solidarity.

Solidarity for November 18, 1911. Article No. 1, "Boring from within."
Solidarity for December 2, 1911. Article No. 1, "Wyoming rebel on fusion." Article No. 2, "This one wants fusion."

Solidarity, article No. 1 (Dec. 9, 1911), "Bore into the masses." Article No. 2, "Foster answered from France." Article No. 3, "Why not both bore and build." Article No. 4, "Touches question in spots."

This was the end of Foster in the I. W. W. and his future efforts were in the American Federation of Labor.

Solidarity for December 16, 1911. Article No. 1, "Discussion closed."

After Foster terminated his connection and association with the I. W. W., in 1911, he became openly active in anarchist syndicalism, and wrote his well-known pamphlet, Syndicalism, which is attached hereto. In this book Foster far surpasses anything that he had ever written in Solidarity or any other revolutionary publication. In those articles he wrote principally on his impressions gained in Europe, and only in a mild way did he advise "boring from within," but in his book he came out openly and advocated these doctrines.

Foster made great strides toward accomplishing his aims in a convention of the American Federation of Labor, held in St. Paul, 1918, where he was elected secretary and treasurer of a committee for organizing "iron and steel workers."

When this committee was formed and the campaign launched the revolutionary movement realized that at last they were on their way to the realization of their ambitions to capture the American Federation of Labor, as their most ardent exponent of anarchist syndicalism, W. Z. Foster, was in a position as secretary and treasurer to direct this movement from within, and that with a reasonable amount of discretion, W. Z. Foster and his followers would be able, "with the membership to be acquired from the steel industry," to rid the American Federation of Labor of it so-called conservative leadership and form the greatest revolutionary labor movement the world has ever seen.

After this organizing committee was formed Foster and his followers started their campaign in and around Chicago. It was a noticeable feature of this campaign that they laid more stress on organizing the foreign and unskilled workers than they did the skilled workers, Foster explaining that as soon as they got the hundreds of thousands of unskilled workers they would be able to force the skilled workers into the organization, as the skilled workers could do nothing without the unskilled workers. Furthermore, the unskilled workers were in the majority and would give him a large nucleus to force the others in. He followed out this program and met with considerable success, but realized that unless the workers in the Pittsburgh district were organized he would be unable to do anything toward realizing his dream to become a power in the American Federation of Labor. Hence, in the fall of 1918 Foster opened offices in Pittsburgh.

About the time of the arrival of Foster in Pittsburgh, the I. W. W. conceived the idea of organizing the steel workers. Finding that Foster was now in a position to carry out plans he had formulated years previously, the I. W. W. decided to discontinue in the open and assist Foster in every way possible, but keep their operations from the public eye.

About the middle of July, 1919, Vincent St. John, general secretary of the I. W. W. and author of "The I. W. W., Its History, Structure, and Methods," interviewed Foster. During this conference Foster requested St. John to arrange for the assistance of all "Reds" in the United States. St. John agreed to use his influence in securing this assistance for Foster, but in return requested Foster to do his utmost to secure Liberty bonds to be used for bail for the I. W. W. members in prison at Leavenworth. St. John's efforts in Foster's behalf soon became apparent, so the "Reds" and members of the I. W. W. commenced to work in Foster's behalf.

In correspondence between St. John and Jake Margolis, St. John requested Margolis to warn Foster to be careful of the international officers and frustrate any treacherous action on their part.

For the information of the laymen, the exact meaning of this statement is that St. John had in mind that the international officers might attempt to divide Foster's organization by instituting a craft division, thus destroying Foster's chance for a syndicalist organization.

After various maneuvers of the American Federation of Labor, and with the assistance of various radical organizations Foster was successful in bringing about a general strike of the steel workers, in September, 1919, but through the action of the Department of Justice in exposing the plan of W. Z. Foster to destroy the American Federation of Labor, by his subtle "Boring from within" methods, this strike was terminated with, in reality, a complete victory for the American Federation of Labor.

Following closely upon the steel strike the country faced a strike of the bituminous-coal miners. This strike may well be termed a contest in the American Federation of Labor and between the patriotic elements therein and the radical forces. Attached hereto are samples of the literature circulated at this time directly traceable to the Communist Party of America.

Quantities of literature appealing to the coal miners was distributed by various radical organizations during this strike. The following is a quotation from a leaflet issued by the Communist Party of America entitled "The State—Strike Breaker":

"The workers can not win their freedom, they can not win even a living wage and a little more sunshine and fresh air, while the capitalists control the power of the State.

"The workers must conquer that power. They must make themselves the ruling class. They must establish in the place of the dictatorship of the capitalists the dictatorship of the proletariat.

"Workers, rally to the support of the miners. Make their strike general Unite for the struggle against industrial slavery. Take from the capitalists the power through which they seek to increase your slavery."

As an illustration of the manner in which the communists endeavored to antagonize the miners against their leaders, the following is an excerpt from a circular distributed by the Communist Party of America entitled "You Must Unite, Workmen!"

"The conservative and reactionary union officials who stand in the way and betray the workers, as the railroad men's union officials are now doing by endeavoring to prevent the strike, must be swept aside. Strike councils with delegates from every industry, whether the workers are organized or unorganized, must be created in each city. The councils in each industrial district must be united in a district council, and the district councils in a national council."

Among other literature distributed during this strike was a leaflet entitled "The Russian Soviet Republic of Workers and Peasants," published by the national executive committee, Socialist Labor Party. Attention is directed to the following from his leaflet:

"Workingmen and working women of America! Keep your eyes on Russia. Watch what is going on there and what the capitalist plunderbund will try to do. Do not be misled by the lies and slanders that are daily dished up to you. Bear in mind that those who tell you these yarns have an interest to mislead you. They want to use you as a makeweight in their game of wresting from the Russian workers their dearly won liberty. It is of no use to enumerate the lies that have already been punctured because they will invent new ones faster than one can write and print. Let your reason guide you. Think yourselves into the shoes of your Russian fellow workers. Think how you would act if placed in the same position, then draw the conclusion that they act about the same way that you would, because they are, like you, moved by the same emotions, the same desires, the same aspirations. You, too, would like to keep for yourselves the fruits of your toil, if you only knew how to go about it, if you had the organization that would make it possible. But as yet you do not know and you have not that organization. In politics you still vote against one another in the Republican or Democratic camp. Some of you waste your votes on a so-called Socialist Party which has ever since it was formed stood in the way and helped to prevent the real organization of the working class—the Industrial Union. In your trade-unions you still scab against each other, fritter away your energy in jurisdiction fights growing out of your false form of craft-union organization. And then, at best, you have only a small part of the working class organized even in this faulty way. So you see, you don't know yet how to act together, and, therefore, you don't know how and you have not the means to free yourselves. You will have to wait until you do know and until you do have the means—the industrial unions of the entire working class that will be able to take and hold and administer industry for the reason that it will have the might, the power to do so. And when you have expressed through the ballot your will for the new society, which will guarantee to you the full fruits of your labor, remember the slogan of revolutionary Russia: 'All power to the Soviets,' and let your slogan then be: 'All power to the industrial unions.'"

The Department of Justice, appreciating the efforts which the red element were making in influencing the miners, had an injunction issued before Judge Anderson at Indianapolis, preventing further activities on the part of the miners. After the serving of this injunction the question then arose in all

of the locals of the United Mine Workers throughout the country whether or not they should obey the court's order, and, thanks to the loyal miners, the law was obeyed, and this country was saved from a severe coal famine.

There were flagrant cases where alien members of the Union of Russian Workers and the Communist Party of America continued to influence the miners, as in the State of West Virginia, but through the efforts of the Department of Justice these individuals were thoroughly investigated and their cases submitted to the Labor Department, with a recommendation for deportation, thus clarifying the situation in this locality.

Through the prompt action of the Federal Government and the loyal support of the true Americans in the American Federation of Labor the strike was broken and the country saved from famine of fuel when about to embark upon the eve of the bitter winter.

At the time of the investigation being conducted into the activities of Emma Goldman and Alexander Berkman, the department's attention was also called to certain other leaders who were actively associated with the Union of Russian Workers; namely, Adolph Schnabel, Mollie Stimer, and Peter Bianki. Schnabel and Bianki were both men of keen intellect who had been the heads of the Union of Russian Workers and had directed its activities, which activities led into every great industrial center in the United States and investigation showed in the coal strike of 1919, particularly in the States of West Virginia and Pennsylvania, that members of the Union of Russian Workers were directly responsible for the unrest existing in those sections of the country.

The case of Mollie Stimer was one which had drawn to it not only the attention of the Federal authorities, but also the attention of the State authorities. This girl of 18 years had gathered around her in New oYrk City a group of young anarchists who were led by her in all their movements. She had been arrested in 1917 for circulating bulletins for the obstructing of the selective-service act, and had been convicted by the courts upon this charge and sentenced to 15 years in the penitentiary. She appealed her case, together with Jacob Abrams, Hyman Lackowsky, and Samuel Lipman, to the United States Supreme Court and pending the appeal this group of criminals were released upon bond. Undeterred in their agitation, they resorted to the distribution of additional literature.

Mollie Stimer became actively identified with the circulation of what is known as the "American Anarchist Federated Commune Soviet" publications. These were put out by a secret group existing in this country which periodically circulates throughout the eastern section of the country bulletins and pamphlets. It appears always in the case of great national economic disturbances, and its columns are given over to the advocation of the assassination of public officers and to the use of force and violence. Mollie Stimer was the medium through which these publications were distributed in New York City, and in one of the pamphlets distributed by her open threats were made upon the lives of several of the New York prosecutors. She was arrested for the circulation of this leaflet and released upon a bond by the New York State authorities. She immediately distributed additional lots of this literature and was taken into custody by the Department of Labor upon a warrant for deportation, issued upon the recommendation of the Department of Justice. It might be illuminating to quote the following excerpts taken from several of the circulars distributed by Mollie Stimer:

"Workers, Russian emigrants, you who had the least belief in the honesty of our Government, must now throw away all confidence, must spit in the face of the false hypocrite, military propaganda * * * and from now on all of you workers who intend to go out marching on your streets will know that you shall never go out again unless you will be armed—to repulse those that dare to attack you. Workers of America, begin to arm yourselves—fight back in the same manner as you are being attacked.

"As far as we, the workers, are concerned, the National Security League, their press, church, and Government, together with their holy Constitution, can go straight to hell. Down with all constitutions, governments, capitalism, churches, and synagogues."

The above pamphlets, distributed by Mollie Stimer, were acknowledged by her as being the expression of her views, and she admitted that she was an anarchist and was endeavoring to carry out the teachings of anarchism. Deportation hearing was not held in her case, however, due to the fact that she was turned over to the State authorities of New York to serve her sentence of

six months, and she is now at the Jefferson City Penitentiary, having been sentenced to 15 years. I make mention of the Mollie Stimer case in view of the propaganda being conducted in her behalf by certain well-intended persons, namely, Roscoe Pound, Belmont, Mass.; Edward B. Adams, Cambridge, Mass.; Felix Frankfurter, Cambridge, Mass.; Francis B. Sayre, Cambridge, Mass. These gentlemen, all of the Harvard faculty, have placed their names to a petition in behalf of the release of Mollie Stimer and have petitioned the President for political amnesty.

There is attached hereto a copy of the petition being circulated on behalf of Mollie Stimer to which the names of the members of the Harvard faculty are attached. In passing it may be well to state that Mollie Stimer in an interview given by her to the editor of the Volkzeitung, appearing in its issue of May 1, 1920, states that "If she had to do it over again she would do the very thing for which she must go to prison." We still see thus the defiance of this girl even in face of her prison sentence.

In the great bulk of material taken in the raids of November 7, 1919, when members of the Union of Russian Workers were apprehended, 99 per cent of the same was wholly anarchistic in tendency. There could be submitted dozens of copies of literature typical of the anarchistic propaganda, but all of it is similar in contents to the end that it is atheistic in tendency and immoral and vicious in purpose. When the arrests were made in the city of Baltimore a significant piece of evidence obtained was a social war bond. On the face of the bond appear the following statement:

"To help crush the capital system. Interest on this bond will be paid the day after the social revolution. Issued by the revolutionary propaganda group."

Attached hereto is a copy of the war bond referred to which shows the really serious purpose of the radical elements in the United States.

These bonds had been sold broadcast and many aliens had expended their money for the purpose of the same. It is to be noted particularly that in the arrests made on November 7 of members of the Union of Russian Workers that all persons taken into custody were alien Russians, the majority of whom had come to this country in 1914, and prior to arrest had taken not even the first step toward becoming American citizens. In conversation with Peter Bianki, the leader of the Union of Russian Workers, it was learned that they were anxious to return to Russia which they looked upon as the nearest ideal to the Anarchist Utopia. While anarchists in general believed in no restraint and no Government, yet the Union of Russian Workers were willing to support the soviet government of Russia until the opportune moment arrived, when they would rise against it and establish the anarchist commonwealth.

Until this time the radicals in the United States had been openly aggressive in their verbal attacks upon the Government of the United States, due to the fact that even though when arrested for deportation they were released upon bond, and they felt assured of the fact that deportation could not be carried out, owing to the supposed impossibility of deporting to Russia at that time. However, in order that this attitude might be cured, this department, in conjunction with the War Department, and Mr. Caminetti, of the Department of Labor, held several conferences for the purpose of coming to an agreement whereby deportation could actually be carried out. The result of these conferences was the obtaining of the United States Army transport *Buford*, which sailed from New York on the morning of December 22, 1919, for Russia. The arrangements concerning the sailing of the *Buford* were necessarily kept quiet and secret, due to the fact that it was well known that the radicals, while on the surface desirous of returning to Russia, were not sincere in this proclaimed view. The sailing of the *Buford* carried out of the United States 249 of the leading anarchists; 246 of this number were men, and the remainder women. Emma Goldman, Alexander Berkman, Adolph Schnabel, Peter Bianki, and, in fact, all of the leaders and organizers of the Union of Russian Workers were included in the lot deported upon the *Buford*. It might incidentally be stated that the anarchists sailing on the *Buford* were well provided for and that the accommodations afforded were far superior to those accorded our troops when they sailed to France. Warm clothing was supplied to all, and it is also significant to note that the majority of them were well supplied with funds. It may be of interest to know that many of the anarchists requested that their checks for $2,000 or $3,000 be cashed by officers. When told that the checks could not be cashed, but that they would be mailed to their relatives or attorneys, who could get them cashed, they scoffed at the idea, stating that they would not trust a Government officer to mail a check for them. In view of this attitude, they took these checks to Russia, with the ultimate aim of having them cashed by Trotski and Lenin, and with what success I am not informed.

Immediately upon the sailing of the *Buford*, there arose in this country a certain amount of agitation in behalf of the families of these deported aliens. Certain misinformed but apparently well-intentioned persons organized societies to protest against such deportations on the ground that it was inhuman and their families were left in misery. I might state that when the *Buford* sailed directions were issued to the agents of the Department of Justice that they should immediately inquire into each and every case of aliens deported and arrested for anarchistic activities and where it was found that certain hardships existed these cases should be called to the attention of the local charitable organizations who stood willing and ready to render any and all assistance in such cases. I was told by representatives of the families, however, that they did not desire charity, but only desired the opportunity of returning to Russia. It might be pointed out that in cases investigated by this department instances were found where the alien arrested had advised his wife to refuse to pay the rent, in order that she might be thrown out of her home and thereby arouse public sympathy. In some cases it was found that the alien had in bank $2,500 and sometimes as much as $3,000. In one instance in New York City, it was claimed that a woman was driven insane, due to the deportation of her husband. Inquiring into this case, it was found that no such case had been reported to the Bellevue Hospital, and it is to be further noted that under the law of New York a person can not be committed to an insane asylum until they have received observation at the Bellevue Hospital.

Another instance of the same sort in which an effort has been made to arouse public sympathy was the case of a girl arrested for communistic activities, and it was claimed by her attorney that her mother was pregnant. The attorney even went to the extent to bring the case to the attention of the court, but investigation showed that the statements were entirely unfounded and to be a willful falsehood. I could cite any number of cases of a similar nature, but those cited are typical of the false propaganda created on behalf of these aliens. It occurred to me that it would be far better for the families to remain in the United States until the conditions in Russia improved, rather than to send them back to a country in which it was well known there was a scarcity of food and untold hardships to be experienced. However, in view of the insistence of the attorneys for the aliens, conferences were held with the State Department and arrangements speedily effected whereby alien Russians might depart for Russia and join their relatives in that country so that to-day any Russian desiring to leave the United States has but to make application to the State Department for such permission.

While arrangements were made for Russians to return to Russia, upon making application to the State Department, there have been comparatively few requests by the alien Russians to return to Soviet Russia. This is another instance of the false propaganda conducted on behalf of the radicals, for when arrangements were made they showed no desire then to take advantage of same.

Following the sailing of the *Buford* plans were then laid by the Department of Justice for the apprehension of members of the Communist Party of America and the Communist Labor Party. These two organizations had grown out of the dissatisfied elements of the Socialist Party. For many months prior to September, 1919, there had existed within the ranks of the Socialists in the United States, a certain amount of dissension based upon the desire of what was called the left-wing element to resort to direct action tactics in the obtaining of their aims. In March of 1919 there assembled in the city of Moscow, Russia, a conference composed of Communists from all over the world including the United States. At this conference there was adopted a manifesto and program known as the Communist manifesto and program of the Third Internationale. It is significant to note that the name of the presiding officer of same was Lenine, the president of the Soviet Republic, and that the prime movers in this conference were the representatives of the Soviet Republic. The conference was called by members of the Russian Communist Party and by the Spartacus group of Germany. A few references to the manifesto and platform of the Third Internationale are illuminating.

The contents of the same are addressed to the proletarians of the world and throughout the documents we find frequent mention of the United States. There is the ennunciation of the principle of seizure of property without com-

pensation, of the introduction of universal labor service, together with a strict labor discipline, of the fact that "When the principle of destruction govern, then the proletariat is pledged to create its own apparatus which will serve first of all to protect the internal bonds of the working class." The Workers of the World are urged to imitate the governmental apparatus of Russia and to create soviets and to arm themselves and to disarm the bourgeoise or what is familiarly known as the governmental class.

In the platform of the Communist Internationale we find the following significant statement: "The conquest of political power by the proletariat means the destruction of the political power of the bourgeoise." It is openly advocated that the judges, preachers, and the civil officials of the Government should be done away with and that the soviet will turn over to the people the best palaces, houses, and stores of paper. The following statement appears under the section entitled "The road to victory":

"The revolutionary epoch demands of the proletarian the application of such methods of struggle as will concentrate all its energies first of all melting of mass struggle with its logical conclusions—direct conflict in open battle with the bourgeoise governmental machinery."

The documents close with the significant phrase: "Arms against arms; force against force."

Copies of the manifesto and program of the Third Internationale are attached hereto, and the reading of same can lead to only one conclusion, namely, that any organization adopting the principles set forth in the manifesto and program, thereby pledge themselves to the overthrow by force and violence of all forms of recognized government as we understand them to-day. They pledge themselves to the expropriation of property and the annililation of the church and the judiciary, and, in fact, to every principle of immorality and lawlessness. This document had been popularly termed by the Communists the world over as the Communist bible.

Upon the conclusion of the conference at Moscow the delegates there assembled dispersed and went back to their various countries to carry on propaganda for the establishment of the dictatorship of the proletariat. In the United States between March, 1919, and August, 1919, there arose a marked amount of disturbance within the ranks of the Socialist Party, headed by the foreign federations of that party, with the result that numerous manifestos were drawn up by the Left Wing of that party urging mass action and defiance of party discipline as well as of law. So serious became the dissension that the executive committee of the Socialist Party called an emergency convention of that party to be held in the city of Chicago in August, 1919, for the purpose of endeavoring to arbitrate the various differences that had arisen.

In August, 1919, the convention assembled in Chicago with the result that there broke away from the Socialist Party the Left Wing element, which formed itself into the Communist Party of America and the Communist Labor Party. The only difference existing between these two Communist parties existed in the leadership and not in tactics. Such is the statement of their own leaders in their official publications. The group of the Communist Party supporting Martens in this country is to be found in the Communist Labor Party, while the group opposing Martens is found in the Communist Party. Both of these organizations immediately started a very energetic program of propaganda. Both of them drew up platforms and manifestos, copies of which are attached hereto. There is also attached a brief prepared upon the Communist Party of America, setting forth the contention of the Department of Justice that it is an organization openly advocating the use of force and violence for the overthrow of the Government of the United States. There is likewise attached a brief setting forth the contention of the Department of Justice that the Communist Labor Party is likewise an organization pledged to force and violence. It is significant to note that in the manifesto and program of both these organizations they pledge themselves to the Third Internationale, the so-called Communist bible. Both of these organizations have criticized in vicious language the American Federation of Labor, calling it reactionary and the bulwark of capitalism. It is worthy to note that at the Third Internationale the American delegate representing the Communist groups in the United States delivered the most vindictive oration against Samuel Gompers, president of the American Federation of Labor. Both of these parties support the I. W. W. and the militant unions existing in the United States, and both of them specifically state that parliamentary action shall be but secondary in the achievement of their aims.

It might be stated further that the alien membership in these organizations dominate them entirely and therefore parliamentary action for the achievement of their aims in this country is entirely out of the question, for the aliens have not the right to vote. Their primary action is a general strike, with revolutionary implications, which, according to Magistrate McCloskey, means the use of force and violence. Not a general strike alone, but a general strike with revolutionary aspects. Mass action is frequently mentioned in the literature of these parties and the only definition that can properly be accepted of mass action is that given by the leaders of the movement, namely, that mass action is the very essence of force and violence.

Evidence of the activities of these two organizations are to be found in the steel and coal strikes of 1919, and Louis C. Fraina, secretary of the Communist Labor Party, while in Amsterdam in February, 1920, spoke as follows:

"These great strikes were used by the Communist Party as a means for the intensive revolutionary agitation. Leaflets were issued concerning the mine workers' and steel workers' strike and 2,000,000 of these were distributed."

There is incorporated in this memorandum under the headings "Coal and steel strikes" samples of the literature distributed by these two organizations.

Realizing the pernicious effect of their agitation and the ultimate aim, the Department of Justice made further inquiry into the ramifications of these two organizations and in December, 1919, submitted to the Labor Department briefs prepared upon each of these organizations, together wih 3,000 affidavits sworn to by agents of the Department of Justice, setting forth the names of the individuals actively connected with the Communist Labor and Communist Parties.

Through close cooperation with Mr. Caminetti, commissioner general, and Mr. Abercrombie, Acting Secretary of the Department of Labor, the leaders of the communist movements were taken into custody simultaneously in over 33 towns in the United States on the night of January 2, 1920, by the Department of Justice. Tons of revolutionary documents were secured which clearly sustained the contention of the Department of Justice that these organizations were pledged to the tactics of force and violence. The Department of Justice obtained as evidence against these individuals in the majority of cases, membership cards and pledge cards. Stenographic statements were taken on the night of January 2, in which many of the aliens admitted membership in the organizations. A point to be noted is that the constitution of the organization required that the individual joining the same must sign a pledge in which he gives voice to the fact that he has read and understands the principles of not only the Communist Party but also of the third internationale. The person joining the Communist Labor Party pledges himself to the fact that he will be guided by the constitution and platform of that party. So there is no force to the contention that a person joining these organizations is in ignorance of the contents of the constitution, platform, and manifesto of the party. In such cases the organic law should govern and the organic law is very clear on these points.

The result of the arrests of January 2, 1920, was that there was a marked cessation of revolutionary activities in the United States. For many weeks following the arrests the rarical press had nearly gone out of existence in so far as its communistic tendencies were concerned. Meetings were not held of the organizations and an examination of their subsequent literature shows that they had been completely broken by the activities of the Department of Justice. Such was the statement of Louis C. Fraina at the Amsterdam conference of communists in February, 1920, and such have been the statements of the spokesmen of the communist and communist labor parties in this country.

An immediate agitation commenced throughout the country following the arrests of the Communists, based upon the fact that many of the families of the men arrested were suffering hardships. Again the Department of Justice had taken pains to provide for such an emergency, and the charitable organizations of the country immediately offered every assistance in meritorious cases. There is no reason why there has been a single case of hardship facing any of the families if they would have accepted the assistance offered. It is worthy of note that a great proportion of the families were well supplied with funds, so that there were only isolated cases where there really was any hardship, and these cases were taken care of.

There also arose a certain amount of propaganda based upon the grounds that men were being deported for ideas. This would best be answered by the excellent statement enunciated by a Federal judge recently to the effect that

"words are the triggers of action." These men arrested were most prolific in the use of words, and as long as there was not any national disturbance they confined themselves merely to words, but the results of their words have been evidenced in the disastrous results noted in the steel strike and in the coal strike, when the country was faced with a famine of fuel upon the eve of a bitter winter; the recent railroad strike in which both the Communist and the Communist Labor Parties pleaded with the members of the American Federation of Labor to join the outlawed unions.

The radicals in the United States are not preaching for the right of free speech, but are preaching for the right to advocate sedition, which can never be granted as long as the institutions of this country are to be preserved.

Counsel for the Communists, determined to prevent their deportation, were able to obtain a hearing before the Secretary of Labor to argue the merits of the Communist Party. The Secretary of Labor listened for one entire day to the arguments of the attorneys for this organization. The evidence submitted though was sufficiently clear to show that the sole purpose of the Communist Party of America was to use force and violence to overthrow the Government of the United States, and to endeavor to bore from within the American Federation of Labor so as to use that patriotic organization as a camouflage for their insidious methods. The Secretary of Labor ruled that the Communist Party of America was an unlawful organization, and at the argument before the Secretary of Labor counsel for the Communist Party admitted that both the Communist and Communist Labor Party were identical in principle.

The ruling of the Secretary of Labor put to an end, practically, the activities of the Communist Party, and then the attorneys for the Communist Labor Party, groping for something to still enable their organization to continue its unlawful activities, were able to induce the Secretary of Labor to hear the arguments upon the Communist Labor Party. This argument was heard by the Secretary of Labor, and there was submitted to him not only the organic law of the Communist Labor Party, in which it is specifically pledged to the principles of the Third International, but also in which it is stated that the social revolution can not be achieved by the ballot and that the use of the political machinery of the capitalist State for the capture of State power is to be only secondary and that the same is to be only used for propaganda, and that when the time is ripe other methods will be used.

The following language appears in the manifesto:

"But it must be clearly emphasized that the chance of winning even advanced reforms of the present capitalist system at the polls is extremely remote."

Later in the program of the party were found the following statements:

"We maintain that the class struggle is essentially a political struggle; that is, a struggle by the proletariat to conquer the capitalist state, whether its form be monarchial or Democrat-Republican and to replace it by a governmental structure adapted to the communist transformation."

Following in the same platform we find the statement that all public officials of the Communist Labor Party who refuse to accept the decisions of the party shall be immediately expelled. Open sponsorship of the Industrial Workers of the World is contained in its labor platform and sarcastic references to the craft unionism of the American Federation of Labor appears in this document. In addition to the organic law submitted to the Secretary, there was also called to his attention a resolution unanimously passed at the convention of the Communist Labor Party in Chicago, which specifically stated that the Communist Labor Party adopted not only the principles of the Third International but also the tactics of the same. It also appeared that among the tactics of the Third International is an open statement that it is to be a period of destruction and that not only must the governmental apparatus be done away with but that with it must be destroyed the church, the judiciary, and public officials.

The pledge card of the Communist Labor Party, as has been previously pointed out, states that the individual member will be governed by the constitution and platform of that party. In circulars and books issued by the Communist Labor Party the workers are urged to emulate the governmental apparatus of Russia and to set up the dictatorship of the proletariat. Political action is given as of secondary significance, and at a debate in Chicago at the convention of the Communist Labor Party after a heated argument the definition of political action was eliminated, but it is significant to note that the definition proposed provided as follows: "The political action of the working class means any action taken by the workers to overthrow the capitalist state."

This resolution apparently was considered by some of the more cautious members of the organization as too broad to insert into their organic law and for that reason it was eliminated, but suffice it to say that subsequent activities of the party show that any action is considered by them legitimate. There was also called to the attention of the Secretary of Labor the rulings of several State courts in which the Communist Labor Party has been specifically held to advocate the overthrow of the Government of the United States by force and violence. Such has been the ruling of the State courts in Oregon, in California, in New Jersey, and by the Federal court in the eastern district of Missouri.

There was also a copy of the Communist Labor, the official organ, for May 1, 1920, in which the subject of party unity is discussed, and in which is made mention of instructions received direct from Moscow for the unification of the two Communist Parties in America. In the issue of Communist Labor the following appears:

"In so far as both parties stand on the platform of the Communist International—and of this we have not the slightest doubt—a united party is not only possible but absolutely necessary, and the executive committee insists on this being immediately brought about. As a basis for unity," the report continues, "the Communist International and the orders of its executive committee should be taken. These orders, together with the fundamental principle of the Third International, are summed up in the following nine points:

"1. The communists should strive to unite all elements which recognize the seizure of power by the working class through workers' councils and the establishment of a proletarian dictatorship.

"3. The stage of verbal propaganda has passed, and the time for decisive battles has arrived. Revolutionary mass action must be organized as a first essential.

"4. Cooperating to hasten the process of dissolution of all craft unions, the party must strive to establish the closest connecions with the one big union movemen. Supporting the industrial unions in their everyday strikes for direct demands, the party should strive to deepen and widen the struggle and convert it into a struggle for final revolutionary aims.

"5. Supporting the formation of factory committees, which are to serve as the nucleus for soviet management when the revolution is achieved.

"7. During the revolution the absolute control over the affairs must be secured for the working class by an unlimited dictatorship of the proletariat.

"9. Establish underground organizations, even though it may be possible to function legally, for the purpose to carry on direct revolutionary propaganda among the masses.

"The united parties should be known as the United Communist Party of America.

"The Communist Labor Party stands ready to unite upon the above basis with all communist elements in the United States."

In the same issue it is set forth that both parties are pledged to the same principles and tactics and that there should be no reason why there should exist two separate parties. These are the words of their own leaders in their own official publication, they claiming that the Communist Party is the same as theirs in principles and tactics. The Communist International has sent direct to the Communist Labor Party instructions for unification with the Communist Party and it might be stated that at the present time meetings have been held in many portions of the United States for the merging into the Communist Labor Party the members of the Communist Party, and the Union of Russian Workers. These are organizations that have been ruled unlawful by the Secretary of Labor. There are attached, marked "Exhibit 10," copies of letters sent out by the executive committee of the Communist Labor Party under date of April 20, 1920, in which the following appear; these letters being sent to the individual members:

"There is nothing more needed at this moment than propaganda and organization for action." Inclosed in this letter was a communication from the Amsterdam Bureau of the Third International in which the following statement appears: "Strive in other countries towards soviet republics as organs of the dictatorship of the proletariat. We must fill our heads with revolutionary thoughts, we must understand more and more that the breakdown of capitalism is in full process. We must be willing to destroy the weapons of our enemies. All this we can only achieve in a constant fight without exploiters by giving this fight a general revolutionary character."

Attached hereto is the letter of instructions issued by the Third International to the Communist parties of America upon the question of unity. Attached hereto is a copy of the "agreement for unity of the communist parties in the United States."

Thus we see that the Communist Labor Party is pledged to the tactics and principles of communists, is pledged to the tactics of the Third International, is pledged to mass action and the use of political machinery only for propaganda and for secondary purposes, using the action of the masses as the primary purpose. It threatens the happiness of the community, the safety of every individual, and the continuance of every home and fireside. It would destroy the hope of the country and throw us into a condition of lawlessness and immorality that passes imagination. If the State is to be destroyed by mass action, industrial action, or direct action and these actions are indorsed and directed by the Communist Labor Party, and all of the actions being the essence of force and violence, then it is the contention of the Department of Justice that the Communist Labor Party is an advocate of and teaches the overthrow of the Government of the United States by force and violence. Communism would result literally "in eternal anarchy amidst the noise of endless wars." And if it be not also their doctrine that organized government should be overthrown by force or violence or by any unlawful means, then language has lost its force and words are meaningless. This was the evidence that was submitted to the Labor Department against an organization the leaders of which had openly stated that it was identical in principle with the Communist Party, an organization which the Secretary of Labor ruled was unlawful.

This evidence clearly showed that it was pledged to mass action and to the principles and tactics of the Third International, and it is the contention of the Department of Justice that any organization that is pledged to the manifesto and platform of the Third International in principle and tactics can teach or advocate no doctrine other than that of force and violence and the principles of lawlessness.

After the argument was held before the Secretary of Labor upon the merits of the Communist Labor Party and before a decision was rendered, plans had been made by the organization for the amalgamation into it of the Communist Party and the Union of Russian Workers, and when the most unfortunate decision was reached by the Department of Larbor that this organization was lawful, a renewed activity both in meetings as well as in publications was observed in the radical movement.

We now have a ruling of the Secretary of Labor to the effect that this organization is lawful, while on the other hand we have the damning evidence that it is pledged to force and violence, and three State courts and one Federal court have so held. There is no doubt but that it will now prove to be a haven for all the radical and lawless elements in the United States and its folds will include anarchists, I. W. W.'s, Union of Russian Workers, communists, and every other diseased and dissatisfied force at work for the ultimate overthrow of the Government of the United States by force and violence.

Coincident with the investigations into the activities of the Communist Parties in the United States, the Department of Justice gave particular attention to the work of Ludwig C. A. K. Martens, the so-called representative of the Soviet government in the United States. Carefully tracing the history of Martens abroad, the Department of Justice was led to but one conclusion and that was through his antecedents abroad and his revolutionary activities in Russia and Switzerland made his activities a fit subject of investigation by the Department of Justice It is worthy to note that Martens is not a Russian, but is a German alien and that in Great Britain he registered as a German alien enemy. Shortly after his arrival in the United States, it was found that he was in close communication with radicals who had preceded him in this country. When the Kerensky régime was overthrown and the Soviet government called upon in their opinion to designate some one in this country to represent its interest Martens was chosen; chosen not because of any particular fitness as a diplomat, but chosen because he stood as an exemplification of the doctrines of communism. As evidence of this, there is attached hereto and marked as "Exhibit 14" a copy of a letter addressed to Martens by Rutgers, representative of the Third International, gathering at Amsterdam, and in which Rutgers plainly states the reasons for Martens' appointment and in which there is clear evidence that Martens has actively participated in activities in this country. In addition to this particular evidence, attention is also called

to the trial of Louis C. Fraina by Martens and his followers, when it was alleged that Fraina was an agent of the Department of Justice. Martens appeared at this trial and cross-examined the persons testifying.

This trial was a secret trial, held in the city of Brooklyn and to which only communists were admitted. There is attached hereto a copy of the Martens brief prepared by the Department of Justice which sets forth in detail the legal grounds upon which Martens' deportation is based. The Department of Justice requested the Department of Labor in December, 1919, that a warrant for the arrest of Martens be issued and Mr. Abercrombie, then acting secretary, issued the warrant, fixing the bond at $10,000. Martens, however, was not taken into custody by the Department of Labor until March, 1920, and was released then into the custody of his attorney without being compelled to furnish any bond. The assistant secretary of labor, Mr. Post, took this action and also took subsequent action which has precluded the Department of Justice from asking any questions direct from Martens in his deportation hearing.

In February, 1920, there assembled in the city of Amsterdam, Holland, a group of persons, representatives of the various countries in which communism exists, including a representative from the United States, for the purpose of establishing a propaganda bureau of the Third International to extend and propagate in various countries of the world the doctrines of communism with the ultimate aim of establishing the dictatorship of the proletariat.

Attached hereto is a copy of the bulletin of the propaganda bureau of the Amsterdam conference, together with a stenographic report of what transpired at that meeting. A reading of these two documents will remove any doubt whatsoever as to what the ultimate purpose of communism is in the United States. They seethe with the advocation of violence for the accomplishment of the dictatorship of the proletariat. There was proposed at the Amsterdam conference the establishment of a bureau of propaganda in the Western Hemisphere, to be located in Mexico, from which the activities of communists in the United States would be directed, it being concluded by the representatives at Amsterdam that through the efforts of the Department of Justice it was not safe for such a bureau to exist in the United States. We are thus faced with a foreign movement directing the workers, or at least attempting to direct the workers of the United States as to what they should accomplish in this country. A movement directed, not by American citizens, but directed by the foreign horde ruling Russia to-day, and which follow only the principles of immorality and lawlessness. Attached hereto and marked as Exhibit 17 is a copy of the program of the communists by Boukharin, being an enunciation of the principles of communism as understood by the Russian communists, the leaders of the world-wide communistic movement. In this we obtained enlightenment upon the abridgment of the rights of free speech and freedom of the press, as well as the attitude toward the rules of marriage and the church. This insidious document is the official publication of the communist group in Russia, and it is to this group that Martens belongs, and it is through this group that the propaganda in this country against the Government of the United States is being carried out.

In the month of February, 1920, there was brought to an end the investigation of anarchistic activities in the State of New Jersey, at Paterson, which had for many years been a sore spot in the United States and a gathering point for Italian anarchists. It was at Paterson that Malatesta and Bresci, the latter the assassin of King Humbert, lived.

Investigtions have been made into anarchistic groups in Paterson for many years, and it was not until the latter part of 1919 that these investigations began to crystallize into direct evidence against the individual members in that city. The l'Era Nuova group was a group existing in the city of Paterson the latter part of 1919. It had been founded by Bresci, the assassin of King Humbert, and it had been publishing at various times anarchistic papers in which open assassination was sponsored. Many of its members had criminal records abroad and were compelled to leave Italy and France in order to escape imprisonment in those countries. Several members of the group were involved with Emma Goldman, Alexander Berkman, and others in the violence incident to the silk dyers' strike in Paterson in 1902. Several of the leaders, notably Caminito and Franz Widmer, were active in the dissemination of written propaganda; Wilmer even going to the point of justifying the use of a bomb in the assassination of the former governor of Idaho.

In connection with the L'Era Nuova group there was an organization known as the Francisco Ferrer Association, to which the children of the members of

the L'Era Nuova group belonged. There was a close connection between these two groups and members of the L'Era Nuova group lectured to the members of the Francisco Ferrer Association. On the night of February 14, 1920, there were taken into custody the leaders of the L'Era Nuova group and the Francisco Ferror Association and at the time of their arrests there were found three guns, five revolvers, and two automatics upon but 25 men taken into custody. Three of the most complete libraries on anarchy were seized at the time of these arrests. Numerous copies of publications in which the open advocation of anarchy and the assassination of Government officials were found. This evidence was turned over to the immigration authorities and it might be stated in passing that not a single house was searched and not a single man was arrested without a warrant. Search warrants and warrants of deportation having been obtained several days in advance. Attached hereto is a memorandum upon the history of the L'Era Nuova group and the Francisco Ferrer Association, together with mention of the Stelton Colony of anarchists, located at Stelton, N. J., which is the summering place for the anarchists of New York. It was the contention of the Department of Justice that perfect cases had been established against the majority of those sent to Ellis Island and an examination of the records in these cases plainly showed that these men either admitted that they were anarchists or that membership in the L'Era Nuova group was clearly proven. Thirteen of the 18 warrants have to-day been canceled by the Assistant Secretary of Labor and among these that were canceled are the warrants in the cases of four of the most active anarchists in the United States, namely, Franz Widmer, who sponsored the assassination of the governor of Idaho, Alberto Guabello, Pietro Baldeserotto and Serafino Grandi.

The records obtained by the Newark office of the Bureau of Investigation in the Paterson raid were submitted to the Labor Department and yet cancellations of the warrants in these cases had been made without conferring with the Department of Justice, and without asking whether or not they had any additional evidence in their possession. It is worthy of note that the Department of Justice is not permitted to introduce evidence in the deportation cases except upon the courtesy of the presiding inspector, and that the Department of Justice is not afforded the opportunity of examining the records in the cases after they reach the Labor Department, and that cancellations in the cases are made, and the carrying out of the order of cancellation effected before the Department of Justice is ever advised of the same.

Throughout the entire period of the latter part of 1919, and the first part of 1920, there was a considerable amount of agitation in the far West and in the vicinity of Chicago, caused by the Industrial Workers of the World. William Z. Foster, who has been mentioned in connection with the steel strike, was an I. W. W., and realizing that he could not achieve his ends from without the American Federation of Labor decided to join the same and to bore from within with marked success. The Centralia, Wash., outrage was an evidence of the I. W. W. agitation. Thousands upon thousands of dollars have been lost west of the Mississippi in agriculture and in business through the efforts of these preachers of sabotage and lawlessness. The culmination of their work is shown in the railroad strike of 1920, which was headed by an outlawed organization under the leadership of one Grunau. Grunau, in collaboration with I. W. W. leaders was able to agitate among the railroad brotherhoods to such an extent that in April, 1920, the railroad strike took effect. This was an evidence of the work of the I. W. W., and the following is a brief statement of the general activity of this organization.

INDUSTRIAL WORKERS OF THE WORLD ("I. W. W.").

Also known as the "One Big Union." Composed of both citizen and alien members. The best known of radical organizations in the United States and by far the most active and substantial so far as organization and management are concerned. Publishes newspapers in ten or more languages, also has published and distributed a great mass of incendiary and revolutionary literature, the principle works being:

"I. W. W. Songs to Fan the Flames of Discontent." (Particularly the editions of 1916 and 1917.)
"Sabotage." (By Elizabeth Gurley Flynn.)
"The I. W. W., Its History, Structure and Method." (By Vincent St. John.)
"Sabotage." (By Emile Pouget.)

"The New Unionism." (By Andre Triden.)
"The Evolution of Industrial Democracy." (By Abner E. Woodruff.)
"The Revolutionary I. W. W." (By Grover H. Perry.)
"Sabotage, Its History, Philosophy, and Function." (By Walter C. Smith.)

Elizabeth Gurley Flynn, in her work says: "I am not going to attempt to justify sabotage on any moral ground. If the workers consider that sabotage is necessary, that in itself makes sabotage moral. Its necessity is its excuse for existence." * * * "If you use this thing called sabotage, you are going to develop in yourself a spirit of hostility, a spirit of antagonism to everybody else in society, you are going to become sneaking, you are going to become cowardly. It is an underhanded thing to do." But the individual who uses sabotage is not benefiting himself alone. * * * It requires courage, it requires individuality, it creates in that workingman some self-respect for and self-reliance upon himself as a producer. I contend that sabotage instead of being sneaking and cowardly is a courageous thing, is an open thing."

In "Sabotage," by Walter C. Smith: "Sabotage is a direct application of the idea that property has no rights, that its creators are bound to respect;" and further, "Sabotage will put a stop to war when resolutions, parliamentary appeals and even a call for general refusal to serve are impotent. But, as stated before, sabotage is but one phase of the question. Antimilitary and antipatriotic agitation must also be carried on. * * *

"No analysis of the labor movement is complete where sabotage is not accepted as a weapon." * * *

"Sabotage is the most logical weapon to force a discontinuance of the practice of arresting strike leaders."

In Vincent St. John's "I. W. W., Its History, Structure, and Methods," page 15: "As a revolutionary organization, the Industrial Workers of the World aims to use any and all tactics that will get the results sought with the least expenditure of time and energy. The tactics used are determined solely by the power of the organization to make good in their use. The question of 'right' and 'wrong' does not concern us.

"No terms made with an employer are final. All peace so long as the wage system lasts, is but an armed truce. At any favorable opportunity the struggle for more control of industry is renewed. * * *

"In short, the I. W. W. advocates the use of militant 'direct action' tactics to the full extent of our power to make good."

In "The Evolution of Industrial Democracy," page 40, speaking of government after the I. W. W. gets into power, it is stated: "Government as now understood, will disappear—there being no servile class to be held in subjection—but in its place will be an 'administration of affairs' based upon universal economic and social equality."

The Department of Labor has ruled that the I. W. W. as an organization does not fall within the proscription of the act of October 16, 1918, although in certain individual cases the distribution of the above works by an alien will be considered as a basis for deportation proceedings. William D. Haywood and a number of other officers of the I. W. W. were indicted for violation of the espionage act, and the brief and argument as printed for the Circuit Court of Appeals for the Seventh Circuit, October term, 1919, No. 2721, contains over 100 pages of exhibits involving that case.

There was an active propaganda against the selective draft, and particularly giving instructions to aliens as to how they can prepare their papers to avoid service. A number of men who entered the military service voluntarily were actually expelled from membership for their action.

Another propaganda which has been very energetic has been among the Negroes. Reference is made to that portion of this paper under the subject "Agitation among the Negroes."

For several years, in addition to inaugurating strikes of its own, the policy of the I. W. W. has been to participate in regular strikes with a view to deepening and widening the same, if possible, into a general strike, which is their method of bringing about "the revolution." An account of their activities in such affairs as Seattle, Wash.; Lawrence, Mass., and others, which have become a part of our history, is deemed unnecessary. The participation of the organization in the steel strike, the coal strike, and the swtichmen's strike is referred to in detail under those subjects.

A week or so ago Butte, Mont., was an armed camp, there being approximately 11,000 employees in the copper mines who were not permitted to work because of the I. W. W., which in that city numbers nearly 1,000. This movement was

brought about entirely from the Butte Daily Bulletin, I. W. W. newspaper, and is being directed by several aliens. There was extreme violation and the members attended their meetings with rifles. There were open expressions to the effect that this is the last stand of the I. W. W., and they intend it to be the beginning of the revolution. Wholesale raids were made by mobs and there was firing from concealed points.

The most recent agitation of the I. W. W. is an effort to create a panic through runs on various banks. The One Big Union Monthly for April contains a photograph of the interior of a bank in which a steel turret has been erected for protection against robbery. (See exhibit attached.) Under the picture appears the statement, "The banker robs the depositor with impunity through the depreciation of a dollar, but that is business."

Handbills entitled "Panic!" which contains the statement, "The country is now entering on the first few days of the worst panic the country has ever seen," and the statement, "Go to the banks, demand your money; do not intrust these thieves any longer with the country's finances." (See exhibit.)

In United States *v.* Swelgin (254 Fed., 884), on a suit to cancel a naturalization certificate issued to defendant, the court held that the I. W. W. advocated anarchy and the overthrow of established order, and this was sufficient to warrant annulment of the naturalization certificate. The opinion deals with the literature of the I. W. W., its preamble, and pledge.

In State of Washington *v.* Lowery (177 Pac., 365), the court specifically held that membership in the I. W. W. was sufficient to convict under the criminal syndicalist act of the State.

In a very able argument addressed to Mr. Post, December 18, 1919, the attorney general of the State of Washington insisted that the I. W. W. did fall within the proscription of the act of October 16, 1918, in spite of the "policy" which Mr. Post stated to him had been adopted by the Department of Labor; also, that so far as the law was directory, and that the Department of Labor had no legislative powers, he could not see that there was any policy for the Department of Labor to adopt.

The above is merely a supplement to the great mass of evidence, against both the organization and its officers, which shows its character, principles, and tactics. Mr. Post is willing to consider cases against individual members who are aliens, but because the extreme tactics or doctrines contained in the propaganda of the officers of the organization, published and distributed through their official channels and the returns on which are applied to the organization purposes, would not be sufficient to place the organization within the proscription of the act of October 16, 1918, because the objectionable features are not incorporated in what he calls the "organic law" of the organization.

Attached hereto are pamphlets and publications issued by the I. W. W. which clearly show the nature of this organization and its un-American character.

RAILROAD STRIKE OF 1920.

The railroad strike, from which this country has not yet entirely emerged, became a serious element in our national life in April, 1920. It was, again, a strike between the radical elements of the American Federation of Labor and the conservative and loyal American forces at work within that organization.

The basic causes behind the agitation of Carl Pierson, author of the "Lizzard's trail," A. E. Reese, secretary treasurer R. R. W. I. U. No. 600, I. W. W., and Elmer Bidwell, the leaders in the recent railroad strike, were:

1. The destruction of the railroad brotherhoods.
2. The removal of their leaders.
3. The formation of the Railroad Workers One Big Union.

These individuals, who were and are prominent members in the Industrial Workers of the World, knew that they could not effectively handle the railroad workers with their organization, namely, the Industrial Workers of the World. It was in view of this fact that they decided to organize a Railroad Workers One Big Union and call a general strike, thus bringing about the destruction of the railroad brotherhoods and their leaders.

A circular entitled "Strike while the iron is hot," which was distributed by this new organization during the recent strike, contains the following:

"It is a glorious chance of a kind that comes only once in a century. We stand at the parting of the ways. One road leads to continued slavery under employers and labor politicians, to increasing poverty, misery, and degradation. The other road leads to freedom, self-determination, abundance, peace, and happiness. How can we hesitate?

"Yours for immediate action,

"RAILROAD WORKERS' ONE BIG UNION."

This strike, which was known in a popular sense as "The outlaw strike," was not in existence long before its leaders came to the conclusion that it was not as successful as they had aspired. They therefore decided to direct their attention to the railroad shopmen. A leaflet entitled "Attention, Railroad Shopmen," distributed by the Railroad Workers' One Big Union, of Chicago, Ill., contains the following:

"The labor politicians—the brotherhood officials, whom we have so insanely depended upon to secure our rights—have joined hands with the detective agencies, the sluggers, and the railroad managers to drive us back on the job and into immediate starvation. We are weary of the betrayal by our false prophets in Washington (the official family) and can no longer live on promises. Our representatives and leaders in Washington could not have led us into bondage ay better if they had received a price for so doing. Already are the fences built that will reduce us to little better than slavery if we do not act at once. We believe that men in the railroad industry have intelligence enough to realize that another month will disrupt our organization."

Shortly after the beginning of this railroad strike literature of all descriptions was distributed in the railroad centers by various radical organizations. The following is a quotation from an article entitled "The 'outlaw' strike," which appeared in the Communist Labor, the official organ of the Communist Labor Party of America, May 1, 1920:

* * * "The workers will realize their struggle to be part of the class struggle, which can only be fought successfully by the workers organizing as a class, fighting as a class and not as a trade, and by making the struggle consciously a political one, not for immediate improvement, but for the ultimate establishment of a political dictatorship of the proletariat as a means to free the working class and the world from the bondage of wage slavery."

The following is a quotation from circular entitled "Railwaymen and port workers," distributed by the Central Revolutionary Council of America:

"Strike to put an end to the whole capitalist system! Strike to take over the industries and the country for the benefit of the workers and the workers alone!"

During this entire outlaw strike literature issued by the American Anarchist Federated Commune Soviets was distributed in all the leading railroad centers in the country. The following is a quotation from one of these circulars by the American Anarchist Federated Commune Soviets entitled "Workers! This is the Way":

"We call upon all the passengers, railroad workers to cease working at once!

"We call upon the workers of all industries to go out on a sympathetic general strike!

"Workers! Wherever you are, organize workers' committees to take over all warehouses and food stores—so that no worker will need to starve! Then start taking over every industry in the country and reorganize into "Anarchist Communes," based on the principle: From each according to his ability and to each according to his needs!"

"The following is a quotation from leaflet distributed by the American Anarchist Federated Commune Soviets entitled, "The Great R. R. Strike."

"* * * We workers who are not railroad workers, and therefore not in this strike, must show our sympathy and do all we possibly can to help our fellow-workers win! We must help them by every one of us going out on a sympathetic strike, until the entire country is tied up, and the nation-wide general strike is a fact! Then we must not let our good work be lost, we must not retrace our steps. We should go and take from all storage and warehouses whatever is necessary to our welfare, for we the workers have been filling them up for years and years, and it is time that at last we get what we had produced, and what is therefore rightfully ours."

A circular entitled "Strike," which was distributed by the "Central Revolutionary Council of America" during the recent railroad strike, contains the following:

"* * * Form shop committees and workers' councils, for agitating and organizing. Establish industrial unions in the different industries and join

them into one big revolutionary union of all the workers to fight the bosses and their government!

"We, the workers, who do all the work, are going to cut out the capitalist, who does nothing in life but grind out profits from our work. We are going to take over the capitalist government and change it into a workers' government, for the benefit of only the workers."

Attached hereto are copies of the literature circulated during the railroad strike, showing the various types of propaganda resorted to by the I. W. W., the Communists, and the American Anarchist Federated Soviet Commune.

Attached hereto is a copy of a résumé upon the evidence collected by the Chicago office of the Bureau of Investigation upon the activities of these outlawed unions which were endeavoring to spike the American Federation of Labor and thereby deal to that organization its death blow.

Closely following the railroad strike, which occurred in the middle of April, 1920, the attention of the Department of Justice was called to the preparations being made by the radical element for the celebration of May Day. It was well known that the May Day celebration is of international scope and the international conference at Moscow sent specific instructions to all anarchistic groups in the world for the celebration of the international holiday. Many weeks previous to the May Day celebration the Department of Justice was advised that there had been a secret meeting held in Paterson, N. J., at which it was planned that the following three men were to be assassinated: Sergt. Geegan, of the New York bomb squad, who had been particularly active in the enforcement of the New York State syndicalism act; Mr. Archibald Stevenson, of the Lusk committee, which is conducting extensive investigations into the radical conditions in New York State; and the director of the steel corporation at Gary, Ind. This information which came to the Department of Justice came from a very reliable source and due precautions were taken to prevent an attack upon the lives of these three men. Numerous threats were received to the effect that on May Day something drastic would occur and many circulars were distributed upon this proposed celebration.

MAY DAY, 1920.

There has been considerable criticism in the press and elsewhere that preparations made by radical organizations and anarchists for action on May 1, 1920, were creatures of the imagination of the Attorney General. While May Day for some time past has been an international holiday and has been celebrated in the past chiefly by demonstrations in the forms of meetings or parades or one-day strikes, from the information received by the department, special efforts were made to make May 1, 1920, the beginning of a series of actual violences or direct action. It has never been contended officially that all of the organizations which observe May Day were involved in this movement, and it is not intended to go into detail on the plans and arrangements made by certain groups or individuals, as the disclosure of all of the information is deemed both unnecessary and improper from the standpoint of policy. It is deemed proper, however, to call attention to a few matters which will satisfy the criticism with particular regard to May 1, 1920.

"The Awakener" is a two-page paper issued by the anarchist groups of Canada and is distributed free. Volume 1, No. 1, was issued in preparation of May Day, 1920, and the following excerpts are noted particularly; the entire publication appearing below as an exhibit:

"Greetings! * * *

"Capitalism and business stand for the workers' exploitation. Governments, church, and press help to uphold and continue its existence. We are out to destroy them all.

"Before we can build a new society based on real freedom, the present one must be destroyed.

"This is our mission. To prove by facts how you are exploited and fooled. To call upon you at every opportunity to revolt and at the same time give you enlightening thoughts as to what kind of a society we strive for, instead of the present one.

"We have come to awaken to rebellion everyone who is enslaved."

A heading on page 2 is "The destructive spirit is the creative spirit." * * *

"Most of the workers chose to listen to the new cry of constitutional methods. * * *

"We brought these facts to show that the workers of the world by choosing the easier road, the constitutional methods and ideas of socialism, have paid a price in millions of lives killed in the recent war, thousands of lives killed in strikes, and by the continuation of the capitalist system; and, secondly, we can show that at the same time, within the last two years the socialists themselves, as the bolsheviks in Russia and the spartacans in Germany, have adopted the revolutionary methods always preached by the anarchists.

"We ask you, who can reason and think, would the workers of the world have had to pay such a terrible price in blood if they would have followed the road of revolutionary action?"

"Celebrating the 1st of May by hearing socialists and labor politicians will not free you from the present slavery.

"Instead of participating in elections, start general strikes, uprisings, and revolutions!

"The 1st of May was intended to be the signaling day of the social revolution. It has been turned into 'celebration' mass meetings of 'lawful' protests by the political misleaders, the socialists. It is to become again what it was and it should be, the day of the workers' awakening, the day of revolt!"

Another one-page sheet issued by the American Anarchist Federated Commune Soviets and entitled "Workers, Begin to Think and Act" (see exhibit) contains the following:

"They have for generations worked and succeeded in establishing a thing which they call government, but which is nothing else but a murderous thug institution! They have legalized every murder and act of violence committed against us. They have legalized their robbing and exploitation upon us and are jailing us whenever we dare rise against it. It is up to us workers to awake to true conditions. Arise, throw off our shackles of slavery, unite in groups, secret and conspirative, then start to fight them, with the same weapons with which they attack us. Remember! They are few and we, all the workers united, are many!

"We call upon you, all the workers of America, to arm yourselves!

"We have paid the price in streams of blood for generations, now it is time to put a stop to it, and this we can do only by arming ourselves, learning how to shoot, organizing secretly, educating ourselves, forming reading groups, etc., and then we can answer and attack the white terror until we are either victors or the vanquished!

"* * * * Now, before it is too late, you, the exploited and persecuted workers, foreign or native born, must arise in a mighty revolution with the aim of destroying in this entire white terror of capitalism, made up of exploiters, government thugs, religious hypocrites, and press cowards, and in its place establish freedom and equality. Not only on paper, but in reality.

"To prove to them this, we can do it only in one way, by going out on a general strike—which should at once be turned into a social revolution by taking possession of food stores and factories which you alone have created! Then begin the building of the new society."

The Anarchist Soviet Bulletin (see exhibit) contains the following:

"The figures prove who the real dangerous thieves and murderers are who endanger the worker's safety. They are the profiteering robbers and officials of the law such as Palmer, and are only the disease of the present rotten structure of society which exists and is based upon legalized profiteering, upon robbery protected by the law, and upon officials obedient to the orders of their robbing masters. To abolish them all, we workers must arise in a great rebellion, seize every factory and food store in the country. Replace the ———. * * *

"Turn all governmental offices into classrooms, so as to spread real education. Burn and tear down all the jails, so that we may forget as soon as possible the dark days of inequality, robbery, injustice, property, disease, and all the other degradations and horrors of the present society."

All of the above publications were distributed widely throughout the country in addition to the great mass of less important radical literaure.

Attention is called to the situation in Butte, Mont., brought about by the I. W. W., the first of their 10 demands being the freedom of all political and industrial prisoners, which demand is not a proper strike demand, being entirely beyond the control of the employers.

There were broadly circulated two handbills, one entitled "Strike No. 2," and the other a list of the demands; in an effort to bring about concerted action on May 1 in sympathy for the strikers at Butte. (See exhibit —.)

A special edition of the Anarchist Soviet Bulletin for May 1, 1920 (see exhibit —), insists that May Day instead of being a day of celebration in the attendance of meetings be made the beginning of the revolution.

Another one-page circular issued by the American Anarchist Federated Commune Soviets and entitled "To-day is the Day!" (see exhibit —) contains the paragraph, "When we march or hold our meetings we must never forget to be armed to repel those misguided soldiers or policemen who will dare to attack us as they have done until now." Another one-paged circular, entitled "Workers, this is the way; at least you, the railroad workers, have started to revolt!" (See exhibit —.)

The most widely distributed circular this year was one issued by the Communist Party of America and entitled "Hail to the Soviets" (see exhibit —).

The Communist Labor Party issued a mimeograph circular in two pages, covered in exhibits — —, one, a letter of transmittal and the other a copy of a communication from the Amsterdam Bureau of the Communist International, calling upon the workers in all countries to strive toward soviet republics, as the organ of dictatorship of the proletariat. The Amsterdam Bureau of Communist International calls upon the workers for a general strike May 1 in favor of Soviet Russia.

There is included in the exhibits, the first page of the official organ of the Communist Labor Party of America, entitled "Communist Labor" (see exhibit —), and referring to May 1, 1920. This is the issue which contains the nine rules issued from Russia referred to in the hearing before the Committee on Rules as being agreed to by the Communist Labor Party by their tactics and advocating force and violence.

Numerous stickers and pasters were distributed (see exhibit —), particularly one issued by the Communist Labor Party entitled "May Day is Supreme in Soviet Russia—Follow Suit."

The Communist Labor Party issued a one-paged circular in Russian entitled the "First of May" (for photo of original see exhibit —, translation immediately thereafter). This leaflet concludes, "Hurrah for Workers' May First Holiday! Hurrah Communist International! Hurrah Working Socialist revolutionists! Central Committee Federation Russian Local Communist Working Party of America." "The Voice of Labor," a semi-monthly magazine issued by the Communist Labor Party, is included in the exhibits. (See exhibit —.) Attention is called to one article entitled, "Strike for Peace with Russia May First," wherein it is stated:

"We must fill our heads with revolutionary thoughts * * *.

"We must be willing to destroy the weapons of our enemies * * * giving this fight a general revolutionary character * * *."

such article being signed by the Amsterdam Bureau of the Communist International. There is also an article entitled "Justice," and referring to the Department of Justice. Also, on the same page, a legend to a cartoon, "Patriotism as a diet fattens some and thins others. Its effect upon you depends entirely upon whether you are in the 'some' or 'others'' class." And on page 9 the following:

"These lying criers want to develop a reverence for constituted Government and want to make you believe it is a crime for you to want to overthrow it at an afternoon luncheon or in any other way. 'The king can do no wrong' spirit is to be oozed into the brains of the population."

On page 12 it is stated:

"Workingmen who beg lose what they have; workingmen who demand and support their demands by revolutionary mass action conquer the world."

Page 13, in a statement of principles, includes the following:

"14. The conquest of the power of the state is the objective of the revolutionary proletarians. Neither the parliament nor the industrial unions are the means for this industrial power, but mass action of the soviets; mass action to rally the world in the open revolutionary struggle for power, the soviets to constitute the organism of the revolutionary proletarian state, the dictatorship of the proletariat. At the moment of active revolution the struggle becomes not a struggle for industrial unions, but for the construction of soviets."

The handbill referred to in Exhibit —, covering I. W. W. meeting at Ohio, is a sample of similar bills from different parts of the country.

There is a four-page circular also issued by the I. W. W. and addressed to the workers in the mines. (See Exhibit —.) Also one addressed to the workers generally. (See Exhibit —.)

The Socialist Labor Party issued a four-paged pamphlet (see Exhibit —), quoting Daniel de Leon and Lenin.

The Amalgamated Clothing Workers of America issued a circular covering the significance of May Day to its organization (see exhibit —).

In Detroit, Mich., a four-paged circular entitled "Deport or release" (see exhibit —), was distributed widely and refers to aliens who are confined awaiting deportation decision.

A circular entitled "May 1, Workers' International Holiday," (see exhibit —), announcing a mass meeting with Irwin St. John Tucker at Buffalo, was issued by the Socialist Party. It claims that the United States has accomplished practices which would not have been dared either in Dark Russia or in Germany.

A 28-page magazine entitled "First of May," and issued by the W. I. I. U. as a centennial volume in 1918, commemorating the 100th anniversary of the birth of Carl Marx, appeared again this year. Interesting pages taken from this volume are included in exhibit —.

In addition a great mass of miscellaneous literature was distributed which is not considered of sufficient interest, after the above, to include in this statement.

Attached hereto and marked are copies of circulars issued by the radical organizations in this country dealing with the May Day celebration and referred to above.

AGITATION AMONG THE NEGROES.

Another phase of the investigation touched upon by the Department of Justice is that pertaining to the negro agitation in the United States. The Communist Party in its Manifesto and Program states as follows:

"The Communist Party will carry on agitation among the negro workers to unite them with all class-conscious workers."

This the Communist Party has deliberately and effectively accomplished. While the numerous race riots which arose in the United States the latter part of 1919, generally had as their primary reason some local condition, yet secondary, there has always appeared the stirring up of the racial hatred upon the part of radical publications. The negro agitators located in New York and who voiced their sentiments through such publications as the "Messenger" and "The Negro World" had been able to effectively fan the flames of discontent.

Toward the close of the European War, the Department of Justice was confronted with considerable agitation and unrest among the negroes. After nation-wide investigation, it developed that such organizations as the Industrial Workers of the World and the Universal Negro Improvement Association, were circulating and distributing a quantity of leaflets and periodicals which would appeal to the negroes of this country. The following quotation from a circular entitled "Justice for the Negro," exemplifies the appeal which is made to the Negroes by radical organizations:

"THE MASTER CLASS FEARS THE ORGANIZED WORKER.

"He has, however, one weapon that the master class fears—the power to fold his arms and refuse to work for the community until he is guaranteed fair treatment. Remember how alarmed the South became over the emigration of colored workers two years ago, and what desperate means were used to try to keep them from leaving the mills and cotton fields? The only power of the Negro is his power as a worker; his one weapon is the strike."

The following is a short editorial from the May–June issue of the Messenger, a periodical of wide circulation among the negroes on the progress of sovietism, entitled "The March of the Soviet Government:"

"Still it continues: The cosmic tread of the soviet government with ceaseless step claims another nation. Russia and Germany have yielded to its human touch, and now Hungary joins the people's form of rule. Italy is standing upon a solid volcano. France is seething with social unrest. The triple alliance of Great Britain—the railroad, transport, and mine workers—threatens to overthrow the economic and political Bourvivism of 'Merry Old England.' The red tide of socialism sweeps on in America. South America is in the throes of revolution.

"Soviet government proceed apace: It bids fair to sweep over the whole world. The sooner the better. On with the dance."

To date the department has not found any concerted movement on the part of the Negroes to cause a general uprising throughout the country. In principal instances Negro difficulties have been in Washington, D. C.; Chicago, Ill.; Helena, Ark.; and Omaha, Nebr. After a thorough investigation in each of these localities it has developed that in each case the outbreak was purely local. In the Washington race riots the cause appears to have been due to certain clashes between white and Negro troops; also to numerous assaults by the Negroes upon white women; in Chicago the riots seem to have been caused by a strife which had been existing between the whites and Negroes for some time; in Helena, Ark., difficulty appears to have emanated from a Negro lodge; the Omaha, Nebr., riots were due to an attack upon a white woman.

As stated above, the primary cause of these outbreaks was purely local, but there is no doubt a secondary cause, namely, propaganda of a radical nature, which has been disseminated among the colored people.

The following quotation from the Chicago Whip, an independent colored weekly of Chicago, is an enlightenment on this phase of negro activities:

"The colored people of America must rise up against all conditions that militate against their progress and solidarity. They must relieve themselves of all sleeping potions and soothing syrups and awake and arouse themselves to the fullness of their powers and inherent rights."

During the Washington race riots, a very vicious leaflet was distributed in this city, entitled, "Be Ye Also Ready for We Know Not When They Will Return." The following is a quotation from this leaflet:

"Lest we forget the democracy for which our men fought and died; lest we forget to strike our enemies the death blow when the lives of our mothers, fathers, wives, sweethearts, sisters, and brothers are sought by the white intruder; lest we forget the vile, insidious propaganda directed against us in this the Nation's capital by infamous Pseudo-Americans and the press; lest we forget vows and oaths made and taken to right our wrongs without fear and without compromise after the war; we do solemnly declare to lash ourselves to our gallant tars, and expire together in one common cause, fighting for a safe and decent place to live in."

Attached hereto is a collection of the literature dealing with the negro agitation.

Coincident with the work of the Department of Justice in dealing with the deportation matters there has been some inquiry arising as to why these individuals have not been prosecuted under the Federal laws and why American citizens have been permitted to run amuck and the sole attention has been directed to aliens. The reason for this is best explained in the Attorney General's reply to the Poindexter resolution which shows that it is impossible under the rulings of the Federal court to proceed against individuals in the United States under the criminal law, and the Attorney General has personally appeared before the House Committee on Judiciary, and has submitted his views as to what legislation should be best in order to preserve free speech in this country, and the institutions of free government. Therefore, the Department of Justice has had to resort entirely to the deportation statute to curb in what little way it may the radical movement, and it might be stated that this radical movement was materially curbed until February, 1920, when hundreds of cancellations occurred of deportation warrants based not upon the weakness of evidence but upon the ability of the Assistant Secretary of Labor to read into the deportation statute certain provisions which were not there and which Congress never intended should be there. The radical activities in this country took another lease upon life when the ruling of the Secretary of Labor, favorable to communist labor, was issued and which ruling was neither based upon fact nor upon law. However, the Department of Justice has materially assisted the various State authorities in obtaining convictions in their jurisdiction of American citizens and aliens. Particular attention can be made of the work of the Department of Justice in the State of California, in the case of the State *v.* Anita Whitney; in the State of Oregon, and in the State of Washington, where prosecutions have been made of the I. W. W. under State syndicalism acts; in New Jersey and in New York in the case of Ben Gitlow, Harry Winitsky, and James Larkin. In these States and in many others adequate laws have been passed by the State legislatures which have been put into good effect by conscientious prosecutors and have resulted in the purging from those communities of the obnoxious elements at work for the overthrow of the Government of the United States by force and violence.

One of the most important features of the radical agitation in the United States is the determination of the radicals to break up the American Federation of Labor. An examination of the voluminous number of publications issued by the Industrial Workers of the World, the communists, and the anarchists, will show that they contain vicious attacks upon not only Mr. Gompers, the president of the American Federation of Labor, but also upon the rank and file of that organization. It is a well-known fact that the proponents of communism realize that in order to successfully bring about the realization of their ideals that they must inject the same into some large and well-organized body, and it therefore logically follows that their attention must be given to the American Federation of Labor, which organization is in its prime, and by appealing to the vicious and to the ignorant, which are to be found in all organizations, they hope to thereby successfully bring about the boring-from-within process.

Even at the first congress of communists held in Moscow, we find that alien assemblage discussing in detail the labor situation in the United States and referring to the American Federation as "the chief defender of capitalism in the United States." On the floor of the convention in Moscow, the name of Samuel Gompers came in for bitter ridicule, as is reported in the official organ of the Russian Soviet Republic, the Izvestia, for March 6, 1919.

When the agitation in the radical ranks became so open, in 1919, we see the American communistic movement giving attention to the American Federation of Labor in its attacks. In the manifesto and program adopted by the Communist Party of America, we find the following statement: "The Communist Party recognizes that the American Federation of Labor is reactionary and a bulwark of capitalism. It shall be a major task of the Communist Party to agitate for the construction of a general industrial union organization embracing the I. W. W., the W. I. I. U., independent, and the session unions, militant unions of the American Federation of Labor, and the unorganized workers, on the basis of the revolutionary class struggle. Turning to the platform and program of the Communist Labor Party, an organization declared by the Secretary of Labor to be lawful in its principles and tactics, we find that there is contained therein an attack upon craft unionism as against industrial unionism. It is a well-known fact in labor circles that the two forces diametrically opposite to each other in labor circles are the craft-unionism forces of the American Federation of Labor and the industrial-unionism forces of the Industrial Workers of the World and the communists.

In the platform of the Communist Labor Party we find the following statement: "In any mention of revolutionary industrial unionism in this country there must be recognition of the immense effect upon the American labor movement of the propaganda and example of the Industrial Workers of the World, whose long and valiant struggles and heroic sacrifices in the class war have earned the respect and affection of all workers everywhere.

"Elsewhere in the organized movement a new tendency has recently manifested itself, as illustrated by the Seattle and Winnipeg strikes, the one big union and shop committee movements in Canada and in the West, and the numerous strikes all over the country of the rank and file which are proceeding without the authority of the old reactionary trade-union officials and even against their orders. Where the job control of the reactionary craft unions compels them to become members of these craft unions, they shall also join an industrial organization, if one exists. The need of the hour is that labor recognize the necessity of organization and education. This can not be achieved by attempting to influence the leaders of the American Federation of Labor. Other unions have refused to take any steps to meet the grave problems of to-day."

We thus see that in this organization, considered by the Secretary of Labor as legitimate in principle and tactics, a deliberate enunciation of the policy to be followed in regard to the boring from within process until they can make of the American Federation of Labor a shell which will easily crumble when the opportune moment for the mass action of the proletariat arrives. Opposed to patriotism, opposed to nationalism, opposed to law, oposed to morality, opposed to God—these are the influences at work and which are to be used as their stepping stones to the achievement of their aims. The American Federation of Labor is an organization opposite in all its principles and tactics from those emanating from the lips of Lenin and Trotski and preached in this country by an alien horde directly antagonistic to the institutions of our country.

We have but to refer to literature circulated by the radical press to bring before our eyes a realization of the radicals as regards their attitude toward the

American Federation of Labor. Attached hereto and marked as "Exhibit No. 24" is a copy of the Rebel Worker for April 15, 1919, and on the front page of this issue there appears a cartoon headed "Gompers—friend of labor." This cartoon paints the American Federation of Labor leader in the act of stabbing the worker in the back with a dagger.

Attached here to and marked as "Exhibit No. 25" is a circular issued by the I. W. W. entitled "Warning." In parallel columns there appears the declaration of the Industrial Workers of the World and the pledge given by the American Federation of Labor. In the former there is a specific statement, as follows: "We openly declare ourselves determined opponents of all patriotism." In the pledge of the American Federation of Labor is found the following statement: "We offer our services to our country in every field of activity to defend, safeguard, and preserve the Republic of the United States of America against its enemies."

These two statements speak the truth of the sentiments adhered to by each of these organizations, namely, that of patriotism versus treachery.

Attached hereto and marked "Exhibit No. 26" is a copy of the Rebel Worker for August 1, 1919, upon the front page of which appears a cartoon showing Samuel Gompers with his hand upon a machine into which are being poured the bodies of the workers and from which is being ground out coin.

Attached hereto and marked as "Exhibit No. 27" is a copy of a circular entitled "To the working people of America." In this circular, addressed to the workers of this country, we find the following statement: "Not by ballots but by arming yourselves, as it is your only means. You alone do not budge. Are you afraid to follow their example (referring to the workers of Russia)? Are you afraid to take by force what rightly belongs to you?"

In a circular issued by the I. W. W. entitled "An Appeal to Furniture Workers," we find a dissertation indulged in by the I. W. W. upon the issue that the American Federation of Labor has fulfilled its mission, and that with its craft unionism and its old tactics it is completely ineffective in coping with the present situation. This circular sets forth in glowing phrases the idealistic organization of the I. W. W. and the principles for the accomplishment of the workers' ends to be found in the membership of that organization. In a pamphlet entitled "Why the A. F. of L. can not become an industrial union," by Vincent St. John, former secretary of the I. W. W., and now one of its most prolific writers, an effort is made to show the fallacy of the principles of unionism as enunciated by the American Federation of Labor, and draws the conclusion that the American Federation of Labor will not ever be able to become an industrial revolutionary union. This circular has received wide circulation. It is attached hereto and marked as Exhibit 28.

In the circular, issued by the Communist Party of America, entitled "To the Striking Longshoremen," circulated in New York City during the longshoremen strike of October and November, 1919, the following are some of the statements contained in it:

"You are striking against the scab unionism of the American Federation of Labor. You have repudiated your scab form of A. F. of L. unionism."

This circular closes with the statement that—

"The workers must capture the powers of the State."

In the recent railroad strike there appeared in the New York Volkszeitung, a German radical newspaper, published in the city of New York, in its issue of April 14, 1920, the following paragraph:

"Gompers and Lee, president of the conductors, already feel themselves obliged to visit the meetings of the strikers and beg them to resume work, and that, too, in spite of previous assurances by Lee, swollen with his sense of power, that negotiations with the strikers were impossible."

"The railroad employees, and with them labor in general, learned from these occurrences that they are irresistible when they once learn to run their organized power in industrial conditions."

The New Yorker Volkszeitung has been most vindictive in its attack upon the president of the American Federation of Labor. When the president of the A. F. of L. issued the declaration of war against the radical labor element and stated that it was his intention to eliminate the undesirable and radical leaders from the labor-union movement this German daily burst forth in an attack upon the A. F. of L. and its determination to purge itself from the influences of bolshevism appearing in its ranks.

In the official organ of the I. W. W., the One Big Union, a monthly issued by that organization, there have appeared from time to time slanderous at-

tacks upon the theory of craft unionism and upon the efforts of the A. F. of L. to support the Government in the past war and in the present period of reconstruction.

The above is but a sample of some of the attacks upon the American Federation of Labor, and many dozens of exhibits could be introduced containing such epithets against the American Federation of Labor as "the great fakir and the weeper of crocodile tears." It is sufficient, however, to note that there is a concerted effort upon the part of the anarchists, the communists, and of anti-American elements to inject their insidious and pernicious propaganda into the rank and file of the American Federation of Labor. Added to the influences of these particular elements, we find the pro-German, the pacifists, and some persons who claim to be friends of labor directly assisting in the ulterior purposes of the unlawful elements in this country by claiming that the forces of the Government which are engaged upon the elimination of the elements antagonistic to our institutions are doing so merely to crush the American labor movement. There is no greater danger to-day than the "boring from within" process, not only prevalent in the American Federation of Labor but also in the judiciary, and even in high Government offices. The efforts of such agitators and their cohorts can only be successfully defeated by an intelligent and comprehensive understanding upon the part of labor and the great American public of the true menace of communism, anarchism, and other kindred doctrines to not only the Government of the United States but to the church, to the property rights, and the family ties of each and every individual claiming protection of the American flag.

Mr. KREIDER. Mr. Palmer, in your investigations of the persons who were interested or responsible for these raids, what percentage were aliens and what percentage Americans, approximately?

Mr. PALMER. Our conclusion is that a very large preponderance of the criminal, ultraradicals in the country are aliens. I do not know whether we could figure out the percentages or not.

Mr. KREIDER. That answers my question.

Mr. PALMER. I now want to put in the record, Mr. Chairman, a memorandum prepared under my direction on anarchists, in answer to much that has been said before this committee in relation to anarchists and the attempts which have been made to read into the act of October 16, 1918, phrases qualifying the term "anarchist."

ANARCHISTS.

Considerable has been said before this committee upon the subject of anarchists and an effort made to read into the act of October 16, 1918, phrases qualifying the term anarchists that I think it only proper that this committee should understand fully the interpretation the word anarchist in both its popular and legal meanings.

Speaking broadly there are two classes of anarchists, namely, the "philosophic" and the "individualist." Both seek the same ends, i. e., the abolishment of the State, law, and property, only differing as to methods to be applied.

The philosophic type operate in groups and undertake the inculcation of their ideas through propaganda disseminated through books, periodicals, and miscellaneous literature, and in schools, clubs, and mutual discussion; whereas the individualists aim to achieve their end by quicker and, what they believe to be, more potent methods, viz., by the use of engines of destruction, bombs, etc., finding expression in the assassination of public officials and others (sometimes large employers of labor). These methods they consider as terroristic; hence, the term "terroist" oftentimes being used synonymously with individualist. In fine, they seek to create a reign of terror and thereby prevent the Government, through fear on the part of its agents, from functioning.

The "philosophic" cult are essentially pacifists, are opposed to direct or physical action, and especially opposed to warfare or bloodshed.

A very apt illustration of the operations of these types may be found in the "L' Era Nuova" group of Paterson, N. J., the members of which were appre-

hended by the agents of this department under immigration warrants, and their papers as well as those of the organization seized under search warrants under date of February 14, 1920, a historical sketch of the same being attached hereto as an exhibit.

An offspring of this group will be found in the Francisco Ferrer Association, located in Paterson, and the Ferrer Modern School at Stelton, N. J. The association is made up of the sons of the members of the "L' Era Nuova" group, and the members of the group give lectures at the association. The subjects in which they are interested will be disclosed by a catalogue of its library, which is attached hereto, said library being in possesison of this department at present, having been seized by search warrant; and likewise the so-called "modern library" of one of the members of the "L' Era Nuova" group, a catalogue of which is also attached, the same being in point of fact a bookstore conducted by one Fermino Gallo, a member of the group, who obtains by various secret methods supplies of this literature and disseminates it through similar methods throughout the country.

"La Jacquerie," published under cover in Paterson, was the organ of the Era Nuova group, it having taken the place of the "L' Era Nuova," which was formerly the organ of the group.

At the modern school at Stelton the children of the colony, made up of philosophic anarchists, are taught a curriculum which scrupulously eliminates subjects such as religion, history, political economy, and, above all, patriotism or the love of one's country. The natural subjects, such as astrology, mathematics, physics, botany, are taught, as well as philosophy, English, etc., the object being to inculcate in the minds of the young the proper mental tendency toward the realization of the ideals of anarchy.

At the Ferrer colony the men and women live together without having entered into the bonds of matrimony, either legal or church; the children are illegitimate. In fine, it is a free-love colony, and one of the concepts of anarchy finds practical expression there, viz, the complete absence of legal restraint in the matter of matrimony.

There is a complete absence of religious training, as there are no churches. Citizenship, involving as it does the recognition of the sovereignty of the State, is strictly avoided by the members who, unless they acquire it by birth in this country—over which they had no control—do not avail themselves of the opportunity to become naturalized. Accordingly, the alien-born members are still aliens, notwithstanding protracted periods of residence in the United States. Hence, there are three things you can find prevalent in these colonies: (1) Atheists, (2) meretricious relationships with the natural consequence of illegitimacy in the status of the offspring, and (3) alienage. The American flag is never displayed; in its place a red flag, symbolizing the brotherhood of man, is displayed.

The pacifist doctrines were given practical demonstration in the recent war, when the younger members of the "L' Era Nuova" group of draft age willfully avoided registry and departed in some cases for foreign countries to avoid military service, returning here after the armistice, and in several instances arrested and convicted for their action. In this respect a good example is Spartico Guabello, the son of one of the leading members of the group, who at the time of his examination cynically and contemptuously flouted his disloyalty in admitting a failure to register and subsequent escape to Cuba to avoid military service in the country of his birth, to the fact that he was opposed to a "capitalistic" war.

The operations of the individualists may best be exemplified by the bomb plot of June 2, in both aspects, namely, as directed against the instruments of the Government and employers of labor. In the first instance the case of the Attorney General, in the second that of a Mr. Klotz, the president of a silk mill in Paterson, who had discharged several men, among whom were two members of the "L' Era Nuova" group. A bomb was exploded between his home and that of the adjoining private residence on the night of June 2, and were it not for a fortunate circumstance (the absence of both families, they having gone to a theater) both families would have been wiped out.

In the case United States ex rel. John Turner *v.* Williams (194 U. S.), (a photostat copy of the decision is attached), Chief Justice Fuller, speaking for the court, observed:

"The argument seems to be that, conceding that Congress has the power to shut out any alien, the power nevertheless does not extend to some aliens, and that if the act includes all alien anarchists, it is unconstitutional, because some

anarchists are merely political philosophers, whose teachings are beneficial rather than otherwise. * * * The language of the act is 'anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States or of all forms of law, or the assassination of public officials.' If this should be construed as defining the word 'anarchists' by the words which follow, or as used in the popular sense above given, it would seem that when an alien arrives in this country, who avows himself to be an anarchist, without more, he accepts the definition. * * * Even if Turner, though he did not so state to the board, only regarded the absence of government as a political ideal, yet when he sought to attain it by advocating, not simply for the benefit of workingmen * * * the universal strike to which he referred * * * we can not say that the inference was unjustifiable either that he contemplated the ultimate realization of his ideal by the use of force. * * * If the word 'anarchists' should be interpreted as including aliens whose anarchistic views are professed as those of political philosophers innocent of evil intent, it would follow that Congress was of the opinion that the tendency of the general exploitation of such views is so dangerous to the public weal that aliens who hold and advocate them would be undesirable additions to our population, whether permanently or temporarily, whether many or few, and, in the light of previous decisions, the act, even in this aspect, would not be unconstitutional, or as applicable to any alien who is opposed to all organized government."

In the case of Turner *v.* Williams, supra, the alien was applying for admission and the court was passing on the excluding decision of the administrative officers. In a subsequent case in the Second Circuit Court of Appeals (New York), for the Second Circuit, Frank R. Lopez *v.* Frederic C. Howe, an anarchist whose expulsion from the United States was being undertaken, it was observed that "the fact that he is alone a philosophical anarchist and not an advocate of a resort to force and revolution, make him, in the opinion of Congress, none the less a dangerous presence. His theories, if they could be put in practice, would end the Government of the United States, and to that Government he recognizes no allegiance, having never become a citizen of the United States. If the Government considers his presence undesirable because of his advocacy of a doctrine which it regards as inimical to civilization, it must have the power to send him out of the country. * * * Whether it is wise or unwise for such as he to be sent out of the United States is not a question which courts may express in any opinion. That is a question for the Congress and not for the judiciary."

A great deal was said at the argument of the distinction between philosophical anarchists and anarchist communists. The two represent very different schools of thought. There is a class of honest and law-abiding visionaries who are convinced that the interests of society would be promoted by the abolition of all government whatsoever. Their propaganda is purely educational in character and violence does not enter into it. They do not believe in force or in war or in the taking of human life. The relator evidently belongs to that class. But while the student of social science may discriminate between philosophical anarchists and other kinds of anarchists, the act of Congress now under consideration does not. And no such discrimination is necessary, for the constitutional power to exclude or deport does not depend upon whether the alien is or is not a criminal or the advocate of lawless ideas. The appeal is dismissed.

FRANK R. STONE.

As I said, I have here mailing lists of these radical papers showing who is reading this stuff mostly, now, and I have here the bibliography of anarchy in the shape of a catalogue of the greatest library in the country which contains anarchistic books and nothing else; but I am inclined to think that that would encumber the record too much. I simply state that the Department of Justice has it and it is at the disposal of any proper agency of the Government.

I will file for the record a statement prepared for me by my assistants in reference to the case of Thomas Truss, an alien arrested in Baltimore in January, 1920. Unless you want to hear it, I will not read it through. It is a statement of all the facts.

The CHAIRMAN. We have had much of the Truss case here, and you may read it or simply insert it in the record, just as you like.

Mr. PALMER. I will put it in the record without reading it.

THE TRUSS CASE.

Considerable comment has been made by Mr. Post upon the case of Thomas Truss, an alien arrested in Baltimore in January, 1920, and the statement has been made by the Assistant Secretary that the Truss case is typical of a thousand other cases passed upon by him.

It might be worth the while of the committee to know some of the facts incident to the case of Thomas Truss. There is attached a detailed analysis of the comment made by Mr. Post upon the Truss case, together with certain interesting information which would be of interest, I assume, both to the committee and to the public.

Sufficient to say that Truss was sponsored by Rev. Paul Fox, who is stated to be a minister. Irrespective of his ecclesiastical calling, the Rev. Paul Fox's reputation in the community of Baltimore is worthy of note. He has been known as a radical and as a pro-German and has been associated with many of the undesirable elements at work in the city of Baltimore, so the vouching of Rev. Paul Fox for the character of Thomas Truss does not add any great weight to the good character of Truss, but, on the other hand, would work to his detriment.

Certain reference has been made to the manner in which Mr. Truss was arrested, it being inferred that he was taken into custody and that his wife left in mental anguish for many days. The facts in the arrest of Mr. Truss are that the policeman called at his house and advised him to come along with him to the station. The visit of the policeman was made in the evening and Mr. Truss requested to be allowed to eat his supper. This request was granted and during the course of the evening the policeman got into conversation with Mrs. Truss, who replied that she had always advised her husband not to join the Communist Party, stating that he would get into difficulty if he did. So, we see that Mrs. Truss was present and was fully advised as to the charges for which he was taken.

The membership of Truss in the Communist Party, I believe, can be well sustained by the evidence that was obtained at the time, it being clearly proven that he was in the Communist Party after its organization and was looked upon by some members of the radical following in Baltimore as an organizer for the same. The police of Baltimore and representatives of the Department of Justice have been cognizant for some time of Truss's activities and I feel that a fair and impartial reading of the testimony will show that there is little or no doubt as to his affiliation with the Communist Party.

Mention has been made by the Assistant Secretary to his connection with the Amalgamated Clothing Workers, an organization which this committee would be led to believe is a perfectly proper and law-abiding organization. To be sure, it has not been ruled unlawful by the Labor Department, but that means nothing. Its principles advocate the establishment of the soviet form of ownership of industry. Its members have been arrested in various parts of the country for unlawful activities. It has been sued several times for the use of unlawful tactics in the strike and information on file in the Department of Justice clearly shows that it is engaged upon activities detrimental to the best interests of the country and detrimental to the best interests of labor. It has been a strong and vicous opponent to the American Federation of Labor; so strong in fact that it is not a part of that organization and its tactics have been those of requiring persons who do belong to the American Federation of Labor to withdraw from the same, if they desire to work in the textile industry.

So we see that the glowing colors in which the case of Thomas Truss was painted by the Assistant Secretary when analyzed and inquired into show that this individual is in fact a most undesirable alien in this country, he having been here since 1907 and never having taken any steps to become an American citizen. Also that his associates and affiliations clearly connect him with the Communist Party of America.

THE TRUSS CASE DECISION BY MR. POST.

1. Mr. Post: "His character well attested by highly responsible witnesses. * * *"

Rev. Paul Fox, the witness in this case, has been a subject of many reports submitted to the Department of Justice during the war on account of his pro-German and other activities. Fox is a Pole and was active in a movement to effect the return to Russia of numerous Russians in this country. At the time an effort was being made to overthrow the Kerensky régime. He was associated with one Dr. A. Sienkiewicz; who was an anarchist, as shown by letters written by himself. Sienkiewicz became a citizen of the United States, but after having been called before the department on account of his activities, he left for Russia. Another close friend and associate of Fox was Boslevw Rutkowski, an Austrian alien enemy who at one time was held on a presidential warrant. This man stated definitely that Fox was not only pro-German but was actively engaged in the interests of Germany in the United States. Fox was active also with Julius Ryniewicz (who was interned for the duration of the war) and with Czeslaw Lukaszkiewicz also an Austrian alien who was detained for three months at Ellis Island. All of these men were engaged in the plan to send Russians back to Poland in the interests of Germany and the organization with which they were connected was never included in the authority issued by the United States Government for the formation of the Polish legion.

A number of men did go back. "Postep," a Polish periodical with which Fox is connected, was at one time held up by the Post Office Department on account of its pro-German tendencies. Both Fox and Truss originally were reported to the Government by a number of loyal Poles in the Polish section of Baltimore, and in that section they are both considered radical and unreliable. A number of the men who were engaged in the movement instituted by Fox and his friends were members of the Union of Russian Workers, and when warrants were issued for their arrest could not be located, and up to the present time their whereabouts can not be ascertained.

At one time the United States attorney at Baltimore was compelled to order Fox out of his office on account of his utter unreliability and disloyalty. Mr. Post considers Fox a highly responsible witness.

2. Mr. Post says that Truss would make a good citizen of the United States and that he is or recently was president of the Amalgamated Clothing Workers of Baltimore. It is interesting in this connection to know some of the tactics of the Amalgamated Clothing Workers' Union from reliable information in the possession of the department. This union was organized about 1915 with the avowed purpose to destroy the United Garment Workers of America and to dominate the garment industry in the United States. It advocates industrial unionism as against craft unionism and is not in any way affiliated with the American Federation of Labor, but in many instances, in New York, Boston, Chicago, the workers have been compelled to withdraw from the American Federation of Labor, and when they refused, members of the Amalgamated Clothing Workers have been withdrawn until the demands were complied with.

The membership is made up of Russian Jews, Slavs, Italians, Germans, and other aliens to the number of about 150,000. The tendency has been of an extreme radical order, the majority being in favor of the soviet. The announced aim of the organization is to establish a council basis in the workshops along recognized Russian lines. It has been openly stated in their meetings that the clothing workers are getting higher wages than ever before, but will demand more and more. Their present plan is to start cooperative factories and stores. and as soon as this is accomplished they will boost labor cost to bring the employer to a point where he can not compete with the cooperatives, and will be forced out of business. As soon as the cooperatives are well organized, a strike will be called and maintained until labor is put at a prohibitive figure. The preamble to the constitution shows striking resemblance to that of the I. W. W., and, in fact, many of the members of the Amalgamated also belong to the I. W. W. The following is taken from the preamble:

"The economic organization of labor has been called into existence by the capitalist system of production under which division between the ruling class and the ruled class is based upon the ownership of the means of production.

The class owning these means is the one that is ruling, the class that possesses nothing but its labor power, which is always on the market as a commodity, is the one that is being ruled. A constant and unceasing struggle is being between these two classes. * * * The history of the class struggles of this country for the past two decades testifies to the ineffectiveness of the form, methods, and spirit of craft unionism. It also shows how dearly the working class has paid for its failure to keep apace with industrial developments. The working class must accept the principles of industrial unionism or it is doomed to impotence. * * * The industrial and interindustrial organization built upon the solid rock of real knowledge and class consciousness will put the original working class in actual control of the system of production and the working class will then be ready to take possession of it."

They have set as a goal the 40-hour week and 50 per cent increase in wages. Where they already have contracts with clothing shops, the organization is planning to abrogate them and then present demands for increase and strike if necessary. They are perfecting a system by which they will be able to force clothing workers to the wall and take over the industry and operate it for their own benefit. One of the officers of this organization who was questioned recently, stated that at the present time his wages amount to $56 per week, and when asked why this was not enough, replied it was not and nothing would be enough until all of the factories had been taken over by the organization. He was asked why, in view of the large wages received, a large number of the men did not club together and buy the plants, but he replied that this is not what they want, that they intended to take over the industries without paying for them. They have a large fund at their command and could raise approximately $2,000,000 by assessment. The organization has been represented in a certain Russian organization closely identified with the bolshevik movement in the United States. The president of the Baltimore branch of this organization, whose character is vouched for by witnesses of the class of Fox, Mr. Post considers would make a good American citizen. Another fact which must not be overlooked is that Truss has been in the country since 1907 and has not yet taken out first papers.

3. Mr. Post says that until the day following his detention his wife and friends were ignorant of his whereabouts. The facts are, that two officers went to the home of Truss at 6 o'clock in the evening and found him at supper with his wife and family. The officers sat down and remained fully 30 minutes, until they had finished the meal, in the meantime talking over the subject with Truss and his wife, one of the officers speaking their language, although part of the conversation was in English. The entire matter was explained to the wife, where he was going to be taken, the reason, and that an opportunity would be given him to defend himself. The wife stated that she had frequently remonstrated with her husband on account of his communist connections and had endeavored to influence him to sever them. The following morning one of the officers again talked over the matter with Mrs. Truss and at noon she appeared at the office, so that Mr. Post misstated the facts. Attention is called to the fact here that Truss was not taken to the police station until the night of January 7 and the warrant was applied for by the immigrant inspector at Baltimore the following day. There is certainly no unreasonable delay in this instance, particularly when it is remembered that immigrant inspectors in many cases, notably on Mexican border, take into custody and detain, sometimes for days, aliens who are picked up in cities, before the warrant is issued.

4. That Truss is not a communist nor is he an anarchist, the argument being that the only evidence was that of his application for membership in the Communist Party in June, July, or August, 1919. (*a*) Reference here is made to the wording of the statute, which covers membership at any time subsequent to entry; (*b*) to the fact that the Communist Party, even prior to its organization at Chicago, issued what were known as temporary membership cards and due stamps for the months June, July, and August, 1919, and the money received from the sale of such due stamps was applied to the expenses of organization and propaganda; (*c*) Truss denied that he had signed application for membership, but admitted he had authorized a friend to sign for him, also that he had been a member of the First Russian Branch of the Communist Party for one or two months; that he had received a membership card, but it was lost. He identified his name on the book of the organizer of the Communist Party, one Pinski. Andrew Marosz, an officer of the Communist Branch, during the examination of him, admitted that in October he received $5 from Truss as

receipts for the sale of badges, and when asked how many members of the Communist Party he knew by name, gave the name of Truss. When asked whether he believed Truss to be an agitator, Marosz answered, "Yes, I do." * * * The membership book found in the possession of Marosz shows that Truss had paid his dues for September, 50 cents; October, 40 cents; and November, 40 cents. Not only the membership card but the pledge card of the Communist Party for Truss was turned over to the immigrant inspector.

The application for charter by the Communist Party was approved by the national headquarters and the charter forwarded to the Baltimore branch, of which Truss was a member at the time. So that there is a duly authorized application for membership, a pledge card, activity in the sale of badges, an admission of membership, application for charter from the national headquarters of the Communist Party, and receipt of the charter by the organization. The fact that the charter was returned by the organization at a later period is the fact on which Mr. Post seems to rely, although the charter does not state any of the principles of the Communist Party and is only the ordinary certificate that the branch is duly authorized.

I want also to put in the record—and I am not going to weary the committee with either the written statement or making an argument upon it—a complete discussion of the procedure under the immigration laws and the law with relation thereto, as shown by the decisions of all the courts in all the cases. It is a complete brief which effectually and completely annihilates, as I view it, the legal position which Mr. Post has insisted upon in the disposition of these cases. You are all lawyers. It is not necessary for me to present it orally, it seems to me, but I would like to have this go into the record in a complete fashion.

The Supreme Court years ago approved the use of confidential informants and has ruled several times that such a person is not an accomplice. (Grimm *v.* U. S., 156 U. S., 604, March 4, 1895, which contains several citations; also Goode *v.* U. S. 159 U. S., 663; U. S. *v.* White, 38 Fed. Rep., 36; U. S. *v.* Moore, 19 Fed. Repl., 39. See also, People *v.* Noelke, 94 N. Y., 136 decided in November, 1883, and Commonwealth *v.* Baker 155 Mass. 287, January 6, 1892.)

These are criminal cases and cover Federal and State officers who procured the evidence on which the cases were based by "decoy" letters. In the Grimm case, the opinion being written by Mr. Justice Brewer, it is stated: "The law was actually violated by the defendant, * * * and the fact that the person who wrote under these assumed names and received his letters was a Government detective in no manner detracts from his (the defendant's) guilt."

The Baker case is particularly interesting in that it arose in Massachusetts where there has been such severe criticism on account of the statements of Judge Anderson. In that case it was contended by the defendant, under a violation of the gambling laws, that the police officer who procured the evidence by playing at the "resort" of the defendant for the specific purpose of procuring the evidence on which the prosecution was based, is an accomplice. The lower court refused to so rule and the Supreme Court upheld the refusal, citing Commonwealth *v.* Willard, (22 Pick., 476), and Commonwealth *v.* Downing (4 Gray, 29).

In the Noelke case, the Supreme Court of New York said: "We agree that Mattocks (the detective) was not an accomplice, since he purchased the ticket to detect and punish a crime and not to aid in committing one. From the point of view of the prosecution he was a detective; form that of the defendant, a spy or informer; but in no sense a party to the criminal act or intent so as to become an accomplice."

AUTHORITY FOR THE EMPLOYMENT OF CONFIDENTIAL INFORMANTS.

A number of cases before the United States Supreme Court have approved the use of "detectives" and detective methods in the procuring of evidence of crimes against the United States, particularly postal matters. In Grimm *v.* U. S. (156 U. S. 604), a post-office inspector had written the defendant, who was believed to be in a business which was prohibited by the laws, and in response to his letter, which contained a fictitious name, received through

the mails the matter on which the case was based. It was contended by the defendant that the inspector was an accomplice. After citing several cases against the contention, Mr. Justice Brewer, for the court, concluded the opinion: "But it is unnecessary to multiply authorities. The law was actually violated by the defendant * * * and the fact that the person who wrote under these assumed names and received his letters was a Government detective in no manner detracts from his (the defendant's) guilt."

This case was decided March 4, 1895, and the authorities cited are: Bates *v.* U. S. (10 Fed. Rep., 92), Wharton (note on p. 97), U. S. *v.* Moore (19 Fed. Rep., 39), U. S. *v.* Wight (38 Fed. Rep., 106), U. S. *v.* Dorsey (40 Fed. Rep., 752), Commonwealth *v. Baker* (155 Mass., 287), People *v* Noelke (94 N. Y., 137), State *v.* Jansen (22 Kans., 498), State *v.* Stickney (53 Kan., 308).

Goode *v.* U. S. (159 U. S., 663), November 25, 1895, involved embezzlement of a letter by a mail carrier, the letter having been written by a post-office inspector, addressed to a fictitious person and address. Mr. Justice Brown, for the court, said: "* * * The fact the letter was a decoy is no defense is too well settled by the modern authorities to be now open to contention. (King *v.* Egginton, 2 Bos. & Pull., 508; U. S. *v.* Foye, 1 Curtis, 364; U. S. *v.* Cottingham, 2 Blatch., 470; Bates *v.* U. S., 10 Fed., 92; U. S. *v.* Whittier, 5 Dillon, 35; U. S. *v.* Moore, 19 Fed., 39; U. S. *v.* Wight, 38 Fed., 106; U. S. *v.* Matthews, 35 Fed., 890; U. S. *v.* Dorsey, 40 Fed, 752; Grimm *v.* U. S., 156 U. S., 604) * * *."

U. S. *v.* Moore (19 Fed. Rep., 39) was a lottery case involving a decoy letter to the defendant, which letter was the beginning of the case. U. S. *v.* Wight (38 Fed. Rep.) was similar to the Goode case, supra, embezzlement by post-office employee. In this case the mail was not only addressed to a fictitious person and address but the envelope was made up so as to attract attention and indicate that it contained money—almost an invitation.

People *v.* Noelke (94 New York, 136), November 20, 1883, was a lottery case under the State law, which declared that a conviction could not be had upon the uncorroborated testimony of an accomplice. The court said:

"* * * We agree that Mattocks (the detective) was not an accomplice, since he purchased the ticket to detect and punish a crime and not to aid in committing one. From the point of view of the prosecution he was a detective; from that of the defendants, a spy or informer; but in no sense a party to the criminal act or intent so as to become an accomplice."

In Commonwealth *v.* Baker (155 Mass., 287, Jan. 6, 1892) it was contended by the defendant, under violation of the gambling laws, that the police officer who procured the evidence on which the prosecution was based, by playing several times at the gambling resort, was an accomplice. The lower court declined to so rule and was sustained by the Supreme Court of Massachusetts. (Commonwealth *v.* Willard, 22 Pick., 476; Commonwealth *v.* Downing, 4 Gray, 29).

GENERAL DISCUSSION OF THE PROCEDURE UNDER THE IMMIGRATION LAWS.

The immigration laws are designed to effect the exclusion (denial of entry into the United States) of aliens who for one statutory reason or another are deemed undesirable, and to expel (remove from after entry into the United States) aliens who were of the excluded classes at the time of entry or who by acts committed after entry bring them within the vice of the immigration laws.

In addition to the immigration laws there are a series of laws known as the Chinese exclusion laws, the first of which dates back to the administration of President Garfield predicated upon a treaty entered into with China in 1880. The expelling provisions of the Chinese exclusion laws were exclusively administered by United States commissioners and Federal judges under a proceeding which has been characterized by the Supreme Court as quasi judicial, and under which procedure the rules of evidence are followed. The United States Supreme Court in the case United States *v.* Wong You (223 U. S., 67) approved of the practice of subjecting Chinese to the provisions of the immigration act as well as those of the Chinese exclusion law, the effect of this being to subject the Chinese to strictly administrative proceedings where they lose the benefit of the structures incident to the rules of evidence.

It may be stated at the outset that the United States courts have consistently held that the powers of the Government to exclude or expel are coterminous.

The proceedings under the expelling provisions of the immigration laws are from first to last before the Secretary of Labor, an administrative or executive officer of the Government.

There has been more or less loose talk recently about trials and rules of evidence, etc., in these cases; and, in this connection, the observations of the Supreme Court in Fong Yue Ting *v.* United States (149 U. S., 698), will be interesting, "that the proceedings here provided for is in no proper sense a trial and sentence for crime, nor is the order of departation a banishment in the technical sense; but the whole proceeding is merely a method of forcing a return to his own country of an alien who fails to comply with the conditions for his continued residence here," and later the same court, in the Low Wah Suey case (225 U. S., 460), in passing upon not the law, but rather the regulations of the Secretary of Labor laying down the procedure to be followed by the inspectors holding the hearings, commented thus "It is provided that a hearing shall be had at which the alien shall have a full opportunity to show cause why he should not be deported * * * we are not prepared to say that the rules are so arbitrary and so manifesly intended to deprive the alien of a fair, though summary, hearing as to be beyond the power of the Secretary of Commerce and Labor under the authority of the statute."

In sum, the trend of the decisions of the supreme and inferior courts of the United States have been that in proceedings looking to the expulsion of an alien that there must be "some" evidence before the administrative officer to justify the issuance of an order of deportation, and on questions of fact the decision of the administrative officer is final and not subject to review by the courts. However, it has been held that the hearing must be appropriate to the nature of the case upon which the executive officers are to act, and the alien must be given all opportunity to be heard upon the question invilving his right to remain in the United States (Yamataya *v.* Fisher, 189 U. S., 86, often referred to as the Japanese immigration case.) In that case Mr. Justice Harlan, speaking for the court, observed:

"This court has never held, nor must we now be understood as holding, that an administrative officer, when executing the provisions of a statute involving the liberty of persons, may disregard the fundamental principles that inhere in 'due process of law' * * * It is not competent for * * * any executive officer, * * * to cause an alien to be * * * deported without giving him all opportunity to be heard upon the questions involving his right to be and remain in the United States. No such arbitrary power can exist where the principles involved in due process of law are recognized."

In practice, before the Secretary issues his warrant for the arrest of an alien at least a prima facie case must have been made, and that accordingly there is "some" evidence before him on which to base the institution of the deportation proceedings.

The object of the hearing as pointed out in the foregoing decisions is to afford the alien an opportunity to show cause why he should not be deported. These hearings have been repeatedly characterized by the courts as "administrative" and "summary" and that the rules of evidence do not apply, and the rule is probably best stated in a decision by Judge Learned Hand in the case of Maria Munafo Catralfano *v.* Uhl, in a succinct but comprehensive brief opinion from which the following is quoted:

"The evidence is not such as would be admitted in an action at law, but need not be. Any evidence rationally prohibitive may be taken in these cases, regardless of whether it falls within the rules of evidence or not. Nothing would more greatly embarrass the work of the officers than to introduce rules of evidence into their hearings."

In view of the foregoing it is submitted that these hearings can in no sense be termed trials. They are summary and conducted before an administrative officer of the Government, they do not involve imprisonment nor fine, or, as has been frequently asserted, even punishment; there is no crime involved nor is the case heard by a judicial officer or by a jury.

LEGISLATIVE HISTORY.

The first immigration act of Congress to take cognizance of radicals was that of March 3, 1903, wherein "anarchists" were included among the list of persons excluded from entry into the United States.

The act of February 20, 1907, contained a provision as to anarchists, which in effect was a reenactment of the corresponding provision of the act of 1903, which had in the meantime been held constitutional by the Supreme Court of the United States in the case Turner *v.* Williams (194 U. S., 279). In the act of May 1, 1917 (passed over the President's veto), section 19 contained a provision for the expulsion of anarchists as well as their exclusion, and removing the statutory period contained in the previous acts, making it possible to deport persons of that class at any time rather than within three or five years of their entry. The act of May 1, 1917, as amended by the act of October, 1918, amplified the previous acts and made provision for the exclusion as well as expulsion of not only anarchists but alien members of organizations entertaining belief in, teaching, or advocating the overthrow by force or violence of the Government of the United States; and removing the statutory limitation within which deportation could be effected.

A detailed list of those affected by this provision is set forth below:

(1) Aliens who fall within any of the following classes are subject to deportation (sec. 1, act of Oct. 16, 1918): (*a*) Anarchists; (*b*) those found advocating or teaching anarchy; (*c*) those who believe in, or advocate, or teach, the overthrow by force or violence of the Government of the United States; (*d*) those who believe in, or advocate, or teach, the overthrow by force or violence of all forms of law; (*e*) those who disbelieve in, or are opposed to, all organized government; (*f*) those who advocate, or teach, the assassination of public officials; (*g*) those who advocate, or teach the unlawful destruction of property; (*h*) those who are members of, or affiliated with, any organization that entertains a belief in, teaches, or advocates the overthrow by force or violence of the Government of the United States; (*i*) those who are members of, or affiliated with, any organization that entertains a belief in, teaches, or advocates, the overthrow by force or violence of all forms of law; (*j*) those who are members of, or affiliated with, an organization that entertains or teaches disbelief in, or opposition to all organized government; (*k*) those who are members of, or affiliated with, an organization that teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals, or of officers generally of the Government of the United States, or of any other organized government, because of his or their official character; (*l*) those who are members of, or affiliated with, an organization that advocates or teaches the unlawful destruction of property.

Mr. Post at one point in his testimony before this committee is reported as stating as follows:

"Has the alien resident in this country the same right as a citizen under the Constitution of the United States. Now, mark the distinction; an alien appearing at the port and asking to be admitted, concededly has no rights under our Constitution; but an alien once lawfully admitted and resident in this country—our contention has been, the Secretary's, and that is what I have followed, that he has the same constitutional rights, except as to voting and purely citizenship rights."

In the Whitfield case, which Mr. Post relies on in his above argument, in his letter to this department asking for its appeal, he took a position diametrically opposite to his present attitude.

In the Turner *v.* Williams decision (194 U. S., 292), Chief Justice Fuller, speaking for the court, observed:

"It is, of course, true that if an alien is not permitted to enter this country, or having entered contrary to law, is expelled, he is in fact cut off from worshipping or speaking or publishing or petitioning in the country. * * * He does not become one of the people to whom these (constitutional rights) are secured by our Constitution."

As to the "deprivation of life, liberty, or property," there is no such question involved in these proceedings. Turner *v.* Williams (194 U. S., 290, supra):

"That the deportation of an alien who is found to be here in violation of law is not a deprivation of liberty without due process of law and that the provisions of the Constitution securing the right of trial by jury have no application. * * * Detention or temporary confinement, as part of the means necessary to give effect to the exclusion or expulsion was held valid."

It will be interesting to note that Congress on one occasion attempted through a Chinese exclusion law to provide for the trial, without a jury, of a Chinese person found here illegally and on conviction before a United States commissioner (hence without a jury) given a prison sentence. The Supreme Court promptly held that section of the act unconstitutional, Wong Wing *v.* U. S. (163 U. S., 228), permitting the balance of the law to remain unaffected. This case is adverted to for the purpose of showing that the proceedings under the immigration act are in no sense criminal. There being no provision made for a "trial" in the legal sense of the word, the provisions do not come in conflict with the "deprivation of liberty" and "due process" clauses of the Constitution. Mr. Post seems to overlook the fact that in these proceedings he sits not as a judge or jury; that he can ascribe no judicial or quasi-judicial status to his functions; that it is an administrative hearing pure and simple, and that he is confined to passing upon questions of fact; that in the last analysis the alien is deprived of nothing but a continued residence in the United States, and that the rules of evidence, as observed in criminal or civil procedure do not apply.

Mr. Post, in his testimony, elects to stand or fall on the "Whitfield" decision, which is in direct contravention of the decisions of the Supreme Court of the United States.

THE WHITFIELD CASE (222 FED., 745).

The decision of the circuit court of appeals for the eighth circuit was adverse to the Government, but is resorted to by Mr. Post as a correct enunciation of the law, notwithstanding the decisions of the United States Supreme Court are in apparent contradiction of this previous opinion as set forth in his letter No 53678–484 of July 14, 1915, reading as follows:

"The ATTORNEY GENERAL.

"SIR: I have the honor to acknowledge the receipt of your letter of the 9th instant (WWJr–HSR 169527–23), in which you state that you have concluded not to ask the Supreme Court for a writ of certiorari in the case of Whitfield *v.* Hanges. It is noted that you regard the decision of the circuit court of appeals in said case as erroneous, but that you think the chances of the Government's obtaining a writ of certiorari will be much better if that decision is allowed to take its course, the case reheard before the District Court, and then appealed to the circuit court of appeals and then by that court again decided adversely to the Government; that the Supreme Court is not usually disposed to grant such a writ unless there has been a final decision below.

"Respectfully,

"LOUIS F. POST,
"*Assistant Secretary.*"

In the Whitfield case the court intervened through habeas corpus proceedings before the administratve officer had rendered a decision in the case, and in this connection there is quoted an excerpt from the brief of the Secretary of Labor.

"This department (Labor) is seriously embarrassed by Judge Reed's decision, which it believes to be erroneous, not only because, as already shown, the writ was granted prematurely, but also because experience in the administration of the immigration law has long since demonstrated that the procedure for the arrest and deportation of aliens can not be modeled on court procedure, nor the rules that obtain in a court of law regarding practice or evidence applied to this summary administrative proceeding. No doubt it was a realization of this which led Congress to make the proceeding a strictly administrative one. If the orderly conduct of the department's business is to be interfered with by the premature granting of writs of habeas corpus, or if the department is to be tied down in these proceedings to an observance of the methods of taking evidence that obtain in courts of law, the administration of the immigration law, already sufficiently difficult, will become almost impossible."

Aside from the question of jurisdiction the matter of the unfairness of the hearing is also out of consonance with the decision of the supreme court. For instance, the right of the alien to have counsel present at all stages of the hearing. That question was raised in the case of Low Wah Suey (225 U. S., 460), wherein the supreme court held as follows:

"It is alleged that the rules of the Secretary of Commerce and Labor are arbitrary and illegal, particularly certain sections of rule 35. From these rules, it appears, that, while provision is made for an examination in the absence of counsel, it is provided that a hearing shall be had at which the alien shall have full opportunity to show cause why he should not be deported, and that at such stage of the proceedings as the person before whom the hearing is held shall deem proper the alien shall be apprised that he may thereafter be represented by counsel, who shall be permitted to be present at the further

conduct of the hearing, to inspect and make a copy of the record of the hearing so far as it has proceeded, and to meet any evidence that theretofore has been or may thereafter be presented by the Government, and it is further provided that all the papers, including the minutes and any written argument submitted by counsel, together with the recommendations upon the merits of the examining officer, and the officer in charge shall be forwarded to the department as the record on which to determine whether or not a warrant for deportation shall issue. Considering the summary character of the hearing provided by statute and the rights given to counsel in the rules prescribed we are not prepared to say that the rules are so arbitrary and so manifestly intended to deprive the alien of a fair, though summary, hearing as to be beyond the power of the Secretary of Commerce and Labor under the authority of the statute."

Even in criminal proceedings, which immigration proceedings are not, confessions obtained from defendants after advising them that it may be used against them, etc., are admissible in evidence, as are admissions of the defendants, without being placed on their guard; and, in practice, counsel is not present when statements are taken from defendants at time of arrest. The wording of the immigration act of May, 1917, is significant, section 17 of which provides as follows:

"All hearings before such boards shall be separate and apart from the public, but the immigrant may have one friend or relative present."

And in the regulations of the Secretary of Labor it is provided:

"First, that such friend or relative is not and will not be employed by him as counsel or attorney."

Query: Is an alien, after a residence in the United States, with the consequent opportunity to learn his rights and thereby conserve them entitled to more consideration than the immigrant just landing in this country entirely ignorant of its laws or institutions? It is unnecessary to discuss this in any detail, as the question was settled in the best and most conclusive way that a question of law can be settled by the United States Supreme Court in its decision in the Low Wah Suey case, and this not by way of dicta, as it was one of the main questions involved in the case. Several points in this decision are discussed subsequently in dealing with Mr. Post's ruling upon admissibility of evidence in these proceedings.

Mr. Post maintains that the admissions of the alien to the Government officers before he has been accorded the opportunity of securing counsel are inadmissible.

It is a settled principle of law that admissions on the part of a defendant can be used against him, and the question of the presence of counsel does not enter. This being the situation in criminal cases, how can there possibly arise such a situation in purely administratve hearings where the rules of evidence are not applicable?

We need go no further than the district and Federal circuit courts of New York to find decisions directly contrary to Mr. Post's views. Judge Hough, the present presiding judge of the Second Circuit Court of Appeals, then acting as district judge, significantly remarked in the case United States *v.* Lem You (224 Fed., 519):

"A point of law is raised by this appeal which to me is novel. When Lem You was arrested, instead of being taken for examination * * * he was haled directly before Commissioner Houghton and there asked certain questions and made certain answers. This examination was offered in evidence by the Government, and objected to on the ground, substantially, that such an examination carried on without counsel was unlawful. In my opinion, proceedings in the matter of Chinese exclusion are summary; they are not to be compared with the trial of either a civil or criminal suit, nor do they resemble hearings before a committing magistrate. The statute contains no prohibition upon asking a Chinaman questions regarding his right to remain in this country at any time or place, or by any officer or official, and what the statute does not forbid it is not in the interests of justice to read into the act, because (as I have said in other Chinese cases) it is highly conducive to ascertaining the truth to find out what the Chinaman will say when suddenly asked as to his right to remain."

This decision was shortly followed by another, United States *v.* Moy Toom (224 Fed., 521), in which Judge Lacombe, then presiding judge of the Second Circuit Court of Appeals, acting in the case as a circuit judge in the district court, held "as to the technical point raised that on his first examination defendant was instructed to answer any questions as truthfully as he could, although he had stated that he did not want to answer any question till he saw a lawyer. I fully concur with Judge Hough's ruling in United States *v.* Lem Youn (224 Fed., 519). It would seem to make little difference whether this preliminary inquisition is had before inspector or commissioner, so long as thereafter the Chinese person is given opportunty to appear with counsel, to be examined (this defendant did not take the stand on the formal examination), to call witnesses, and to have counsel, if he chooses, to cross-examine witnesses called by the Government. All these privileges he had. An offer to hear further testimony in this court was declined. Examination of very many records in these cases has induced the conviction that it tends greatly to elucidate the truth to hear what the Chinese person has to say about such simple facts as his age, parentage, relationship, occupation, and localities where he had lived, and the circumstances attending his latest entry into this country, 'before' his lawyer appears."

The emphasis of "before" is Judge Lacombe's.

Judge Learned Hand in the case United States *v.* Too Toy (185 Fed., 838) makes the following remarks:

"I do not think I ought to discredit the testimony of the inspector, who was present at the time (of the arrest), and whose contemporaneous notes are an undoubted record of what the defendant * * * said. * * * I do not think that such an admission should be discredited. It is taken at once without preparation, and is the most likely expression of the truth."

So that the decisions of the courts, where Ellis Island cases would necessarily come before in the event of habeas corpus proceedings, are in consonance as to the use of admissions without counsel, even in these Chinese-exclusion cases, which are quasi civil and hence subject to the rules of evidence. If there were any question as to the legality or propriety of the procedure whereby aliens are examined without counsel in immigration proceedings, that has been definitely and for all time settled by the United States Supreme Court in the Low Wah Suey *v.* Backus case (225 U. S., 460) when it was held:

"It is further alleged that Li A. Sim was refused the right to be represented by counsel during all stages of the preliminary proceedings, and was examined without the presence of her counsel and against her will by the immigration officer at the port of San Francisco, and before she had been advised of her right to counsel and before she was given an opportunity of securing bail, and that afterwards an examination was conducted by the immigration officer, acting under the orders of the commissioner of immigration, at which she was questioned by the immigration inspector against her will and without the presence of counsel, who was refused permission to be present, and that at certain stages of the proceedings she was refused the right to consult with counsel. This objection, in substance, is that under xamination before the inspection officer at first she had no counsel. Such an examination is within the authority of the statute, and it is not denied that at subsequent stages of the proceedings and before the hearing was closed or the orders were made she had the assistance and advice of counsel."

As regards the objection to examination wherein the answers were put down on form papers, what objection can be had to that method provided it is conducted fairly and reported verbatim. Mr. Post overlooks the many hundreds of these examples which were not undertaken through form papers, but wherein the questions and answers were taken through stenographers who reported the same verbatim.

Mr. Post has stated that "automatic membership does not constitute membership within the act of October 16, 1918, unless supported by proof of individual activities or declarations tending to show knowledge of the character of the organization."

The law cited by Mr. Post makes no discrimination as to "automatic" or other forms of membership, nor does it make any mention of activities or declarations, so far as the particular status of membership or affiliation with the prescribed organizations is concerned. The observations of Judge Hough, the present presiding judge of the Second Court of Appeals (New York) in United States *v.* Lem You (224 Fed., 519), are significant:

"The statute contains no prohibition upon asking a Chinaman questions regarding his right to remain in this country at any time or place, or by any officer or official, and what the statute does not forbid it is not in the interests of justice to read into the act."

An apt illustration of the incorrectness and unsoundness of Mr. Post's view will be found in the conviction in the case of Walter Gabriel, the secretary of the Communist Party for the State of New Jersey, a native-born citizen, who was apprehended with his comrades on January 2, 1920, and made the subject of a criminal action under the State antianarchy statute by the State's prosecuting attorney. This man was, within a period of a little over a month, indicted, convicted, and sentenced, and this in a criminal proceeding not supposed to be summary as are the immigration (administrative) proceedings, and a big feature in that case was the admissions made by the defendant at the time of his arrest, which was undertaken without a warrant, and without the presence of counsel and this in the face of a flat request made by the defendant for a lawyer of the person questioning him, which request was declined. Here you have a sad commentary on the work "summary" as applied in the immigration proceedings. Nearly six months have elapsed and the aliens arrested at the time that Gabriel was have not been disposed of and not an order of deportation executed as yet.

It would seem that the admonition of Judge Hough that "what the statute does not forbid, it is not in the interest of justice to read into the act," applies with some force to the rulings of Mr. Post in these cases. It is, indeed, novel to find an executive officer of the Government grappling for adverse decisions and ignoring favorable decisions of courts. Mr. Post has ruled that:

"When the accused alien appears to be a person of good general character, fit for American citizenship, except for the activities in hand, and there is reasonable doubt for his membership, the warrant of arrest will be canceled."

The question of "reasonable doubt" pertains to criminal law, and has not place in administrative proceedings. In these administrative deportation proceedings there is no "trial" in any sense of the term. They are conducted from first to last before the Secretary of Labor, an executive officer of the Government—without judge or jury—a strictly administrative hearing. There is no indictment, criminal information, accusation, or any other instrumentality of the criminal law; hence the term "accusation" is inept to say the least.

Testimony of character witnesses is gratuitous and can have no application to the case so far as it concerns the alien's status as that of a member of the Communist Party; and, in this connection, testimony as to his fitness for American citizenship is irrevelant as there are no naturalization proceedings which are had before a judge after an administrative investigation by the Commissioner General of Naturalization. There is no question of citizenship involved in these proceedings except as to the determination of the noncitizenship or the alienage of the person made the subject of deportation proceedings. Alienage is a question of fact and is a part of the administrative proceedings. The sole questions under this heading resolve down to those: (*a*) is the person an alien; (*b*)is he a bona fide member of the Communist Party? These two questions being resolved in the affirmative, then the duty of the executive officer is plain and mandatory—he must issue his order of deportation in the premises.

Mr. Post has ruled that "statements of the 'accused' alien, whether oral or in writing, made while he is in custody and without opportunity fairly afforded him from the beginning to be represented by counsel, and without clear warning that anything he says may be used against him will be disregarded," and that "exhibits seized upon the premises or the persons of the accused alien without lawful process will be disregarded."

This rule Mr. Post seeks to justify by the Silverthorne and Jackson decisions. It is submitted that neither of these decisions stand for such a "principle." The "Silverthorne" decision is based on a criminal proceeding concerning the application of the fourth amendment of the Constitution as regards unlawful search.

The Supreme Court passed on this question of the alien's right to be represented by counsel in the deportation proceedings in the Low Wah Suey case (225 U. S., pp. 460–470), and held directly contrary views to these of Mr. Post.

It might be well now to discuss the much-referred-to cases of In re Jackson and Silverthorne *v.* United States.

There are two questions involved in these cases, first, whether an alien can invoke the constitutional guaranties, and, second, whether the decision would apply to these strictly administrative proceedings, wherein no crime is involved.

Prof. Willoughby, in his treatises on the principles of the "Constitutional Law of the United States," in discussing the fourth amendment, observed that:

"The question as to the right of the Government to compel the production of books and papers is closely connected with the provision of the fourth amendment with reference to unreasonable searches and seizures. This provision has received comparatively little direct interpretation and application at the hands of the Supreme Court."

Since the publication of Prof. Willoughby's treatises the Supreme Court has passed directly on the fourth amendment; first in the Al Adams case (192 U. S., 585), later in the Weeks case (232 U. S., 383), and recently in the Silverthorne case, which decision was handed down January 26, 1920 (358, not yet reported). These decisions related to the rights of citizens under the Constitution and all of them arose out of criminal proceedings.

Regarding the right of an alien to invoke the constitutional guaranties, the Supreme Court of the United States, in the case of Turner *v.* Williams (194 U. S., 279, 292), held that—

"It is, of course, true that an alien is not permitted to enter this country, or, having entered contrary to law, is expelled. He does not become one of the people to whom these things (rights under the Constitution) are secured by our Constitution by an attempt to enter forbidden by law. To appeal to Constitution is to concede that this is a land governed by that supreme law, and, as under it the power to exclude has been determined to exist, those who are excluded can not exert the rights in general obtaining in a land to which they do not belong as citizens or otherwise."

In the case of Ex parte Lampui (217 Fed., 462) it was remarked:

"While the petitioner is not entitled to demand the constitutional guaranties accorded to our citizen of birth and adoption, he is entitled to demand that he be accorded a fair hearing as near as may be in accordance with elementary rules of procedure obtaining in all nations having organized government, securing the liberty of its own citizens and those of other nations within its borders by invitation or permission."

Much has been said about the right of an alien to invoke "the due process" clause of the Constitution. In this connection the United States Supreme Court, speaking through Mr. Justice Hughes in the case Tang Tun *v.* Edsell (223 U. S., 681), observed:

"The record fails to show that their authorty was not fairly exercised, that is, consistently with the fundamental principles of justice embraced within the conception of due process of law. And, this being so, the merits of the case were not open to judicial examination."

It will be thus noted that the pharse "due process" is not used in the constitutional sense.

One case has come up since the Silverthorne decision, that of John Jackson, who was ordered deported by the Secretary of Labor and who obtained a hearing before Judge Bourquin in the district of Montana on habeas corpus proceedings. In that case the court sustained the writ holding the evidence, inadmissable having been obtained without a search warrant. Mr. Post in his letter 54616/77 of March 30, 1920 (photostat copy of which is attached), gave it as his opinion that the case should be appealed to the Supreme Court. It is submitted that the observation of Mr. Post as expressed on March 30 is a correct enunciation of the law, the opinion in the Jackson case, notwithstanding. As previously pointed out it is definitely settled that these deportation proceedings before the Secretary are strictly administrative, not criminal nor quasi criminal. The Supreme Court in the Fong Ting case (149 U. S., 698) held—

"That the proceedings here provided for is in no proper sense a trial and sentence for crime, nor is the order of deportation a banishment in the technical sense; but the whole proceeding is merely a method of forcing a return to his own country of an alien who fails to comply with the conditions for his continued residence here."

The result is that Mr. Post is basing his grounds for the cancellation of warrants and release of aliens on the Jackson and Silverthorne cases and his opinion as to the inapplicability of these decisions to deportation proceedings, which he contends, and rightly so, are administrative whereas the decisions referred to are confined to criminal proceedings, places himself in an inconsistent position.

There is a significant situation involved, in this connection, in the release of the members of the Era Nuova Group and Francesco Ferrer Association. In

every one of these cases the evidence was secured through the instrumentality of search warrants, obtained before the apprehension of the alien involved. Moreover, in every instance, a warrant had been issued for the arrest of the alien and he was apprehended pursuant to that warrant and the testimony of the alien at the time of the arrest was taken in the presence of an immigrant inspector. Those facts seem to have had no influence on Mr. Post's action, as in nearly all of those cases, he canceled the warrant, notwithstanding overwhelming evidence in some of the cases, particularly that of Franz Widmer, in whose case it was conculsively shown that he was an anarchist before his arrival in the United States, an anarchist at the time of his arrival in the United States, and that he has been an anarchist ever since he arrived in the United States and that he is an anarchist at the present time.

Now, Mr. Chairman, there is only one thing more I want to say. The 12 attorneys who filed this statement, after accusing us of violating the fifth amendment to the Constitution, which provides that: "No person shall be compelled in any criminal case to be a witness against himself," after sending broadcast throughout the country over their signatures as lawyers, the statement that that amendment to the Constitution had been violated by the Attorney General, although they know perfectly well that these are not criminal cases and that the fifth amendment does not apply, as one of the signers of this very statement, Mr. Kane, declared in his article in the Nation, they wind up their criticism with the allegation that the legal functions of the Attorney General are to advise the Government on questions of law, and to prosecute persons who have violated Federal statutes. Of course, everybody knows that the legal functions of the Attorney General are very much broader than that; everybody but these gentlemen know that, and then there is added this statement:

"For the Attorney General to go into the field of propaganda against radicals is a deliberate misuse of his office and a deliberate squandering of funds intrusted to him by Congress."

I think that nothing we have done seems to have so greatly embittered all of the friends of these ultraradical persons as our sending out last January to many magazines and editors throughout the country copies of the documents which showed the history of the communist and communist-labor movements in America, and the presence of criminal anarchists in our country. I make no apology for that. I was not engaged in propoganda work. We had inquiry after inquiry, after the bombings and during the preparation for the raids of January 2, and after that, from newspapers and magazines for the documentary evidence to show what these people were doing, what they believed in and all that, and I conceived the notion, for the sake of convenience of the newspapers and magazines of the country, that I would issue a pamphlet containing all of these papers, and using the money which was appropriated which covered that purpose. I published a pamphlet entitled, "Red Radicalism," and had it sent to all the magazines and newspapers in the United States everywhere for the information of editors and for such use as they might see fit whenever they wanted to make use of it.

These gentlemen think it not improper to address the American people, with charges of illegal practices against the Attorney General of the United States. They think it not improper to put those charges out through the newspaper associations and through the

newspapers of the country in advance, including bitter, vicious, slanderous, and unlawful attacks upon Government officials. They have not hesitated to give the widest publicity to their defenses of all of these communist and criminal anarchists and to their charges that these people have been outrageously treated. They seem to insist that the alien shall have the fullest right to the ear of the people and deny that the Government itself shall be heard by the people. I think, Mr. Chairman, that the people's case is as much entitled to presentation to the people in this matter as the case of the public enemies against the Government. I think the public is entitled to know what is going on in the country. I have tried to tell them. I have told them the truth. I have received for it vilification, abuse, and ridicule, but I propose to continue.

Mr. VAILE. And so do I.

Mr. PALMER. To the end, without fear or favor, and without pain or prejudice.

Mr. RALSTON. Mr. Chairman——

Mr. POU. I think the people of the United States would be interested in knowing who financed that pamphlet there and who put up the money for its wide publication.

Mr. RALSTON. That information can be at the service of the committee at any moment.

Mr. POU. It would be very, very glad to know that, I think.

Mr. RALSTON. If you will call Mr. Kane, he will give you a list of all the subscribers.

Mr. POU. Perhaps you know. You seem to know a great deal about this.

Mr. RALSTON. I do know some of them; at least, I think I do.

Mr. POU. There is a great deal of money behind that thing in order to poison the minds of the people and a little publicity on it would not hurt.

Mr. RALSTON. It is absolutely at the service of the committee. Mr. Chairman, I think before the Attorney General goes I ought to make one brief observation. It will take only three or four minutes, I think. On May 13——

Mr. POU. I move an executive session.

The CHAIRMAN. I have promised an executive session——

Mr. KINKAID. Mr. Chairman, I want just a word——

The CHAIRMAN. We are going into executive session on your matter and on other matters here that must have action by this committee in order to complete the work of the Congress.

Mr. RALSTON. I do not want to disturb the plans of the committee. I assume, then, that as soon as this evidence is printed I will have an opportunity to go over it and make suitable reply.

The CHAIRMAN. Oh, undoubtedly.

Mr. GARRETT. You will have an opportunity to go over it, but I do not know about the other.

(The committee thereupon proceeded to the consideration of executive business.)

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