
America or Anarchy?

An Appeal to Red-Blooded Americans to Strike an Effective Blow for the Protection of the Country We Love from the Red Menace Which Shows Its Ugly Head on Every Hand.

by A. Mitchell Palmer

Report of Attorney-General Palmer to the United States Senate, published as a pamphlet by Martin L. Davey, Member of Congress from the 14th District of Ohio.

To the Senate of the United States:

I hereby acknowledge receipt of, and make response to, Senate Resolution No. 213 of October 14, 1919, adopted October 17, 1919, which said resolution reads as follows:

“Resolved that the Attorney General of the United States is requested to advise and inform the Senate whether or not the Department of Justice has taken legal proceedings, and if not, why not, and if so, to what extent, for the arrest and punishment of the various persons within the United States who, during recent days and weeks, and for a considerable time continuously previous thereto, it is alleged, have attempted to bring about the forcible overthrow of the Government of the United States; who, it is alleged, have preached anarchy and sedition; who, it is alleged, have advised the defiance of law and authority, both by the printing and circulation of printed newspapers, books, pamphlets, circulars, stickers, and dodgers and also by spoken word; and who, in like manner, it is alleged, have advised and openly advocated the unlawful obstruction of industry and the unlawful and violent destruction of property, in pursuance of a deliberate plan and purpose to destroy existing property rights and to impede and obstruct the conduct of business essential to the prosperity and life of the community.

“Also the Attorney General is requested to advise and inform the Senate whether or not the Department of Justice has taken legal proceedings for the arrest and deportation of aliens who, it is alleged, have, within the United States, committed the acts aforesaid, and if not, why not, and if so, to what extent.”

As I understand this Resolution, you request the history of my activities against persons who, it is alleged, have:

(1) Attempted to bring about the forcible overthrow of the Government of the United States.

- (2) Preached anarchy and sedition.
(3) Advised the defiance of law and authority:
 (a) By printing and circulating literature, etc.;
 (b) By spoken word;
(4) Advised and openly advocated the unlawful obstruction of industry and the unlawful and violent destruction of property in pursuance of a deliberate plan and purpose to destroy existing property rights, and to impede and obstruct the conduct of business essential to the prosperity and life of the community:
 (a) By printing and circulating literature, etc.;
 (b) By spoken word;
(5) Being aliens, committed the acts aforesaid.

In order that I may respond fully to your Resolution as above analyzed, I beg to discuss the subject from the standpoints, as follows:

1. The condition of our legislation.
2. The deportation of aliens.
3. General activities of the Bureau of Investigation of the Department of Justice.

The Condition of Our Legislation.

The Espionage Act.

The Espionage Act (being an Act entitled “An Act to punish acts of interference with the foreign relations, the neutrality, and the foreign commerce of the United States, to punish espionage, and better to enforce the criminal laws of the United States, and for

other purposes," approved June 15th, 1917, as amended by an Act of May 16, 1918) might possibly be invoked against seditious utterances and acts but I have felt that it was limited to acts and utterances which tended to weaken the waging of actual hostilities. This view seems to be generally accepted even by Senator Poindexter, who introduced this resolution and who in other bills, to-wit: House Bill 238, introduced by Mr. LaGuardia; Senate Bill 81, introduced by Senator LaFollette; House Bill 1697, and Senate Bill 1233, introduced by Senator France, all seeking the same repeal.

Nevertheless, I have caused to be brought several test prosecutions in order to obtain the final ruling of our courts as to the Espionage Law and its application to acts committed since the cessation of the activities of our armed forces.

Our general statutes as to treason and rebellion, in my opinion, do not apply to the present radical activities.

The only remaining existing statute possibly applicable is Section 6, Federal Penal Code of 1910, as follows:

"Sec. 6. If two or more persons in any State or Territory, or in 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 to levy war against them or to oppose by force the authority thereof, or by force to prevent, hinder or delay the execution of any law of the United States contrary to the authority thereof, they shall each be fined not more than five thousand dollars, or imprisoned not more than six years, or both."

This Act of course does not cover individual activities and it is incumbent upon the government to prove conspiracy to use force against the Government as such, and this practically destroys its usefulness in dealing with the present radical situation, even under its most favorable interpretation. However, I caused the following test case to be brought in order to obtain an interpretation of the extent of the usefulness of this statute:

The El Ariete Society was an anarchistic organization in operation in Buffalo, New York. Three of its members were indicted there under Section 6, for circulating a manifesto in Spanish, a translation of which is hereto attached and marked Exhibit 2.

Said manifesto, as a whole, clearly constitutes an appeal to the proletariat to arise and destroy the government of the United States by force and substitute Bolshevism or anarchy in place thereof. It calls for "the proletariat of all countries to unite to precipitate the revolution, for all of us who suffer the evils of servitude to join in the conflict." "To attack the State directly and assail it without hesitation or compunction." It threatens 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 cannot die decently like men." "You are at your wits' ends 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 sacrifices of innumerable voluntary victims." "Dear reader, man or woman, whoever you may be, the era of social vindication has arrived; do not remain passible, root 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."

On July 24th, 1919, the case came before Judge Hazel of the Western District of New York on motion to dismiss the indictment. After hearing counsel, the court dismissed the case and discharged the defendant. A copy of the court's opinion is hereto attached and marked Exhibit 3.

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 litera-

ture of this character, but my attention has not been called to it.

I might state, however, that upon the failure of the prosecution under this decision, the entire record was placed by me before the Commissioner of Immigration and that deportation of the individuals involved therein, who happened to be aliens, was recommended.

Taking up and considering the different classes of alleged radical activities as set forth in the resolution in light of existing criminal statutes (exclusive of the Espionage Act) I beg to advise you:

(1) Those who have attempted to bring about the forcible overthrow of the Government of the United States have committed no crimes, unless their acts amount to "treason, rebellion or seditious conspiracy." This is defined in Sections 1, 4, and 6 of the Criminal Code above quoted.

(2) The preaching of anarchy and sedition is not a crime under the general criminal statutes of the United States.

(3) Advising the defiance of law is not a crime under the general criminal laws, whether the same be done by printing and circulating literature or by the spoken word.

(4) Nor is the advising and openly advocating the unlawful obstruction of industry and unlawful and violent destruction of property a crime under the United State general statutes.

I might state that this opinion has been formed by me only after consultation with and advice from the leading criminal lawyers of the country.

In his opinion the court, after citing Section 6, said:

"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 it by force by the use of propaganda such as we have been considering here.

"The Manifesto in evidence contains many objectionable 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 working man — 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 belittles 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 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 meant 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 the 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."

On June 14, 1919, I appeared before the Judiciary or sub-committee thereof, at its request, and outlined the conditions that confronted us. I then recommended that legislation be passed which would make sedition and seditious utterances and publications a crime, whether committed by an individual or by two or more in conspiracy. Such legislation has never been enacted by Congress.

I felt, however, that Congress was fully aware of the condition in this country, and that this was shown by the introduction of some seventy bills bearing upon the situation which are now pending undisposed of by Congress. They are as follows:

Senate Bills 33, 156, 1216, 1327, 3206, 3090, 2896, 2604, 2549, 2524, 2430, 2321, 2099, 2098, 2097, 2096, 1720, 1686, 1567, 1515, 1472, 1444, 1443, 34, 69, 81, 106, 159, 28, 204, 3222, 3233, 3297.

House Bills 9782, 9779, 9623, 9594, 9416, 8572, 7877, 6750, 6557, 6545, 6514, 5642, 5645, 5644, 5643, 5640, 5212, 4643, 3473, 1440, 1106, 1240, 1347, 1107, 563, 405, 61, 9949, 9975, 10010, 10066, 10210, 10234, 10235, 10379, 10155.

House Resolution 365.

I hesitate to add to the number of these bills, but your resolution seems to imply a request that I submit a proposed draft of a bill which in my judgment is adequate to cover the situation without infringing upon the constitutional rights of freedom of speech and freedom of the press.

I, therefore, submit for your consideration a proposed bill to be entitled "A bill defining sedition; the promotion thereof; providing punishment therefor, and for other purposes," a copy of which is hereto attached, marked Exhibit 1.†

I venture to suggest that Congress of the United States recommend to the several States the enactment of similar statutes so that the services of the law enforcing machinery of the several States may be availed of to meet the present intolerable situation. Many States, however, have already passed such acts, namely: California, Indiana, Michigan, New York, Ohio, Pennsylvania, Washington, West Virginia.

The several States through their law-enforcing machinery have at their command infinitely greater

forces than the United States Government for detecting and punishing these sedition acts. For example, New York City alone has over 12,000 policemen, all of whom are charged with the duty of investigation, and the District Attorney of New York County has a force of over fifty prosecuting attorneys, while under the appropriation granted by Congress to the Department of Justice, the maximum number of men engaged in prevention of the violation of all United States laws by the Department of Justice is limited to about 500 for the entire United States.

Deportation.

In the second paragraph of your resolution of October 14, 1919, I am requested to advise and inform you whether or not this Department has taken any legal proceeding as for the arrest and deportation of aliens who it is alleged have within the United States committed the acts set forth in the first paragraph of your resolution.

The sections of the immigration law applicable to the deportation of aliens committing acts enumerated in paragraph one of your resolution are to be found in the Act of Congress approved October 16, 1918, amending the immigration laws of the United States.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

"That aliens who are anarchists; aliens who believe in or advocate the overthrow by force or violence of the Government of the United States or of all forms of law; aliens who disbelieve in or are opposed to all organized government; aliens who advocate or teach the unlawful destruction of property; aliens 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 or of all forms of law, or that entertains or teaches disbelief in or opposition to all organized government, or that advocates 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, or that advocates or teaches the unlawful destruction of property shall be excluded from admission

†- No Exhibits were included in the pamphlet edition of this speech from which this text was extracted. —*T.D.*

into the United States.

“Sec. 2. That any alien who, at any time after entering the United States, is found to have been at the time of entry, or to have become thereafter, a member of any one of the classes of aliens enumerated in Section 1 of this act, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported in the manner provided in the Immigration Act of February 5th, 1917. The provisions of this section shall be applicable to the classes of aliens mentioned in this Act irrespective of the time of their entry into the United States.”

The administration of this law is entirely within the jurisdiction of the Department of Labor.

However, under the existing conditions of our laws, it seemed to be the only means at my disposal of attacking the radical movement and, as Congress has seen fit to refuse appropriations to the Department of Labor for its enforcement, I have cooperated with the immigration officials to the fullest extent.

My appropriation became available July 19, 1919.

Detailed instructions were immediately issued to all agents of my Department, setting forth the requirements necessary to satisfy the Immigration Bureau in a deportation case, and much has been accomplished under such instructions.

I annex hereto a copy of these instructions, marked Exhibit 5, in order that you may understand that under the immigration law each deportation case must be established and proved as in any criminal prosecution.

The accused is entitled to hearings, to be admitted to bail, writs of habeas corpus, and to appeals even to our highest courts; so that it may well be a matter of months before any specific case can be completed.

As examples of the detailed preparation necessary in these cases, I am attaching hereto copies of the evidence prepared by the Department of Justice in the Emma Goldman and Alexander Berkman cases.

Since the organization of the Radical Division, a more or less complete history of over 60,000 radically-inclined individuals has been gathered together and classified, and a foundation for action laid either under the deportation statutes or legislation to be enacted by Congress. I should, of course, communicate to you but little of this information. However, it is at

the disposal of Congress for proper and confidential use. The record in the Emma Goldman and Alexander Berkman cases is marked Exhibit 6 and Exhibit 7.

One of the first matters receiving the attention of the Radical Division after its organization was the various societies in the United States adhering to anarchistic doctrines. Principal among these was the organization known as the FEDERATION OF THE UNION OF RUSSIAN WORKERS. The 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 anarchistic nature of this organization, to secure copies of its constitution, as well as copies of documents and literature published and circulated by it. It is impossible for me to set forth the methods by which same were secured, owing to the extremely confidential nature of these investigations. After definitely establishing the fact that this organization was anarchistic in tendency and in teachings, it then became necessary to locate the officers of each of the locals and to establish their membership to this society. Again this Department experienced great difficulty in establishing membership, as the members had been advised to carefully guard against information connecting them with the organization.

After thorough investigation in this matter, the cases of Russian Workers were submitted to the Department of Labor, and that Department issued warrants for the arrest of these persons. On November 7, 1919, simultaneous arrests of over 250 officers and members were made in twelve different cities of the United States upon the warrants issued by the Secretary of Labor charging these persons with advocating the overthrow of the Government of the United States by force and violence.

I am attaching hereto, marked as Exhibits 8 and 9, two translations of publications issued by the Federation of the Union of Russian Workers, one entitled “Manifesto of Anarchists-Communists,” and the second, “Fundamental Principles,” which clearly indicate the purpose of this organization and which justify the drastic action taken by this Department in the matter.

Publications.

One of the most potent and far-reaching influences in stirring up discontent, race prejudice, and class hatred in this country is the large number of radical newspapers and other publications which are given wide circulation. Many of these publications frankly urge the overthrow of the Government. The editors of these papers and the writers of these books have a subtle way of placing this propaganda before their readers. But the reader understands what is meant.

There are 222 radical newspapers published in foreign languages in this country at the present time, and 105 radical newspapers published in the English language. In addition, 144 radical newspapers published in foreign countries are received and distributed to subscribers here. This number does not include the hundreds of books, pamphlets, and other publications which also receive wide circulation, many of them published in foreign languages. The number of these radical publications and the language in which they are printed follows:

Armenian	1
Bohemian [Czech]	2
Bulgarian	3
Croatian	4
Danish	4
Estonian	1
Finnish	11
German	21
Greek	2
Hungarian	23
Italian	27
Jewish	20
Lettish [Latvian]	11
Lithuanian	15
Polish	7
Portuguese	1
Romanian	16
Slovenian	8
Spanish	8
Swedish	6
Ukrainian	8
Yiddish	15

TOTAL	222

Papers published in foreign countries	144
English papers in the US	106

GRAND TOTAL	471

All of these radical publications are read and translated by the Department of Justice in cooperation with the Post Office Department. A force of forty translators, readers, and assistants is employed for this purpose, and daily reports are received on the radical articles that appear. **It may be interesting to point out here that the IWW now circulates thirteen papers printed in the English language and nineteen papers printed in foreign languages.**

These newspapers and publications more than any other one thing, perhaps, are responsible for the spread of the Bolshevik, revolutionary, and extreme radical doctrines in this country. Every effort is made to get them into the hands of persons who it is believed will be swayed by their teachings. The reader or subscriber of a radical newspaper uses his paper not only for his own information, but as a means of propaganda to educate his fellow workmen and inoculate him with the doctrine of anarchism, communism, and radical socialism and thus enlist his services in the revolution.

The radical foreign language press during the war was kept in check by means of the Espionage Act, approved June 15, 1917, and amended May 16, 1918, the purpose of which was to protect the interests of the United States in prosecution of the war. While the Post Office Department through a rigid enforcement of this Act was able to prevent the dissemination of propaganda directed against the Government through the mails, the publishers of these newspapers and publications found other ways to get this propaganda into the hands of their readers.

This Act, however, was essentially war legislation and was not drawn with the present radical movement in contemplation, nor is there any existing law today which provides an effective means to prevent the dissemination of radical publications by means of which it is sought to create a social and industrial revolution and forcibly overthrow the Government of the United States and establish, if possible, a so-called "Dictatorship of the Proletariat."

The radical press has adopted the expedient of

using the express companies for the transmission of their papers. These papers are being sent in bulk to cities all over the United States to be distributed by hand. From the date of the signing of the armistice, a wave of radicalism appears to have swept over the country, which is best evidenced by the fact that since that date approximately fifty radical newspapers have commenced publication. A large number of these papers openly advocate the destruction of the United States Government and encourage and advise their readers to prepare for the coming revolution. **It is also a noticeable fact that a great many of these publications are practically devoid of advertising matter, which indicates that they are receiving money from outside sources to further their propaganda.**

Section 19 of the Trading with the Enemy Act, approved October 6, 1917, provided that

"it shall be unlawful for any person, firm, corporation, or association, to print, publish, or circulate, or cause to be printed, published, or circulated in any foreign language, any news item, editorial or other printed matter, respecting the Government of the United States, or of any nation engaged in the present war, its policies, international relations, the state or conduct of the war, or any matter relating thereto;

"Provided, that this section shall not apply to any print, newspaper, or publication where the publisher or distributor thereof, on or before offering the same for mailing, or in any manner distributing it to the public, has filed with the postmaster at the place of publication, in the form of an affidavit, a true and complete translation of the entire article containing such matter proposed to be published in such print, newspaper, or publication, and has caused to be printed, in plain type in the English language, at the head of each item, editorial, or other matter, on each copy of such print, newspaper, or publication, the words "True translation filed with the postmaster, etc."

This section of the law was rigidly enforced. This act is also wartime legislation and expires upon the termination of the war. It has given an insight into the character of the foreign language press that could not

possibly have been obtained by any other means.

Upon the expiration of this Act the foreign language press will no longer be put to the necessity of filing translations and will be given the long-sought opportunity to publish radical propaganda of a more violent character, without being held accountable for its publication or distribution. The Government of the United States will therefore be confronted with an extremely difficult and serious problem in dealing with this propaganda upon the expiration of these laws unless some effective means are found to prevent the publication and distribution of matter of this character aimed at the destruction of the Government itself.

Practically all the radical organizations in this country have looked upon the negroes as particularly fertile ground for the spreading of their doctrines. These radical organizations have endeavored to enlist negroes on their side, and in many respects have been successful. Attached will be found a report recently made to me by my Bureau of Investigation upon this branch of radical activity. The report is marked Exhibit 10.

A few copies of radical and negro newspapers taken from our files with cartoons and articles marked are appended, in order that you may understand their general trend. They are marked Exhibit 11.

I have caused a number of other lines of activities to be pursued by my Department which, from the confidential nature thereof, I cannot disclose at this time.

Respectfully submitted,

A. Mitchell Palmer
Attorney General

November 14, 1919

Edited by Tim Davenport.

Published by 1000 Flowers Publishing, Corvallis, OR, 2005. • Free reproduction permitted.