

TO THE AMERICAN PEOPLE:

For more than six months we, the undersigned lawyers, whose sworn duty it is to uphold the Constitution and Laws of the United States, have seen with growing apprehension the continued violation of that Constitution and breaking of those Laws by the Department of Justice of the United States government.

Under the guise of a campaign for the suppression of radical activities, the office of the Attorney General, acting by its local agents throughout the country, and giving express instructions from Washington, has committed continual illegal acts. Wholesale arrests both of aliens and citizens have been made without warrant or any process of law; men and women have been jailed and held *incomunicado* without access of friends or counsel; homes have been entered without search-warrant and property seized and removed; other property has been wantonly destroyed; workingmen and workingwomen suspected of radical views have been shamefully abused and maltreated. Agents of the Department of Justice have been introduced into radical organizations for the purpose of informing upon their members or inciting them to activities; these agents have even been instructed from Washington to arrange meetings upon certain dates for the express object of facilitating wholesale raids and arrests. In support of these illegal acts, and to create sentiment in its favor, the Department of Justice has also constituted itself a propaganda bureau, and has sent to newspapers and magazines of this country quantities of material designed to excite public opinion against radicals, all at the expense of the government and outside the scope of the Attorney General's duties.

We make no argument in favor of any radical doctrine as such, whether Socialist, Communist or Anarchist. No

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one of us belongs to any of these schools of thought. Nor do we now raise any question as to the Constitutional protection of free speech and a free press. We are concerned solely with bringing to the attention of the American people the utterly illegal acts which have been committed by those charged with the highest duty of enforcing the laws—acts which have caused widespread suffering and unrest, have struck at the foundation of American free institutions, and have brought the name of our country into disrepute.

These acts may be grouped under the following heads:

(1) *Cruel and Unusual Punishments:*

The Eighth Amendment to the United States Constitution provides:

“Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishments inflicted.”

Punishments of the utmost cruelty, and heretofore unthinkable in America, have become usual. Great numbers of persons arrested, both aliens and citizens, have been threatened, beaten with blackjacks, struck with fists, jailed under abominable conditions, or actually tortured. Annexed hereto as Exhibits 1-1c, 2-2f, 5a, 5b, and 9 are affidavits and evidence of these practices.

(2) *Arrests without Warrant:*

The Fourth Amendment to the Constitution provides:

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

Many hundreds of citizens and aliens alike have been arrested in wholesale raids, without warrants or pretense of warrants. They have then either been released, or

have been detained in police stations or jails for indefinite lengths of time while warrants were being applied for. This practice of making mass raids and mass arrests without warrant has resulted directly from the instructions, both written and oral, issued by the Department of Justice at Washington. The cases are far too numerous to catalogue, but typical instances may be found in Exhibits 1-1b, 2-2f, 5 and 13. The secret instructions of the Department also appear as Exhibits 11 and 12.

(3) *Unreasonable Searches and Seizures:*

The Fourth Amendment has been quoted above.

In countless cases agents of the Department of Justice have entered the homes, offices, or gathering places of persons suspected of radical affiliations, and, without pretense of any search warrant, have seized and removed property belonging to them for use by the Department of Justice. In many of these raids property which could not be removed or was not useful to the Department, was intentionally smashed and destroyed. Exhibit 2a is a photograph of the interior of a house raided by the Department of Justice. Exhibit 14 gives a recent opinion of the U. S. Supreme Court in a non-radical case, condemning seizure without warrant by the Department of Justice, and Exhibit 15 the opinion of the U. S. District Court in Montana in a more flagrant radical case. Other Exhibits bearing on this point are 2, 2a, 3 and 13.

(4) *Provocative Agents:*

We do not question the right of the Department of Justice to use its agents in the Bureau of Investigation to ascertain when the law is being violated. But the American people has never tolerated the use of undercover provocative agents or "agents provocateurs," such as have been familiar in old Russia or Spain. Such agents have been introduced by the Department of Justice into the radical movements, have reached positions

of influence therein, have occupied themselves with informing upon or instigating acts which might be declared criminal, and at the express direction of Washington have brought about meetings of radicals in order to make possible wholesale arrests at such meetings. Attention is specially called to Exhibits 10 and 11, which are the secret instructions issued from Washington, Exhibit 13 containing an abstract of the testimony in the Colyer case in this regard, and to Exhibits 6, 7 and 8.

(5) *Compelling Persons to be Witnesses against Themselves:*

The Fifth Amendment provides as follows:

“No person * * * shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law.”

It has been the practice of the Department of Justice and its agents, after making illegal arrests without warrant, to question the accused person and to force admissions from him by terrorism, which admissions were subsequently to be used against him in deportation proceedings. Instances of this sort appear in various Exhibits numbers 1, 1b, and 2b-2f. Attention is also called to the Cannone case, Exhibit 9, in which Department agents committed assault, forgery and perjury.

(6) *Propaganda by the Department of Justice:*

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. 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 entrusted to him by Congress. Annexed as Exhibit 17 is a copy of a form letter sent out by the Attorney General under date of January 27, 1920, to many magazines and editors throughout the

country, deliberately intended to prejudice them in favor of his actions. Exhibit 18 is a description of an illustrated page offered free to country newspapers at the expense of the Department of Justice, patently designed to affect public opinion in advance of court decision and prepared in the manner of an advertising campaign in favor of repression. These documents speak for themselves.

The Exhibits attached are only a small part of the evidence which may be presented of the continued violation of law by the Attorney General's Department. These Exhibits are, to the best of our knowledge and belief (based upon careful investigation) truthful both in substance and detail. Drawn mainly from the four centers of New York City, Boston, Mass., Detroit, Mich., and Hartford, Conn., we know them to be typical of conditions which have prevailed in many parts of the country.

Since these illegal acts have been committed by the highest legal powers in the United States, there is no final appeal from them except to the conscience and condemnation of the American people. American institutions have not in fact been protected by the Attorney General's ruthless suppression. On the contrary those institutions have been seriously undermined, and revolutionary unrest has been vastly intensified. No organizations of radicals acting through propaganda over the last six months could have created as much revolutionary sentiment in America as has been created by the acts of the Department of Justice itself.

Even were one to admit that there existed any serious "Red menace" before the Attorney General started his "unflinching war" against it, his campaign has been singularly fruitless. Out of the many thousands suspected by the Attorney General (he had already listed 60,000 by name and history on Nov. 14, 1919, aliens and citizens) what do the figures show of net results? Prior to January 1, 1920, there were actually deported 263 persons.

Since January 1 there have been actually deported 18 persons. Since January 1 there have been ordered deported an additional 529 persons, and warrants for 1,547 have been cancelled (after full hearings and consideration of the evidence) by Assistant Secretary of Labor Louis F. Post, to whose courageous reestablishment of American Constitutional Law in deportation proceedings (see Exhibit 16) are due the attacks that have been made upon him. The Attorney General has consequently got rid of 810 alien suspects, which, on his own showing, leaves him at least 59,160 persons (aliens and citizens) still to cope with.

It has always been the proud boast of America that this is a government of laws and not of men. Our Constitution and laws have been based on the simple elements of human nature. Free men cannot be driven and repressed; they must be led. Free men respect justice and follow truth, but arbitrary power they will oppose until the end of time. There is no danger of revolution so great as that created by suppression, by ruthlessness, and by deliberate violation of the simple rules of American law and American decency.

It is a fallacy to suppose that, any more than in the past, any servant of the people can safely arrogate to himself unlimited authority. To proceed upon such a supposition is to deny the fundamental American theory of the consent of the governed. Here is no question of a vague and threatened menace, but a present assault upon the most sacred principles of our Constitutional liberty.

Source: National Popular Government League. *To the American People. Report Upon the Illegal Practices of the United States Department of Justice.* Washington, DC, 1920.