

WPA 'Red' Purge Victims Stay Purged Though Criminal Charges Collapse

'Administrative Determinations' Disregard Findings of Courts and Justice Dept.

By VICTOR H. BERNSTEIN

The following series of documents reveals how charges of Communism against 127 of 130 persons dismissed by WPA have been found to be insupportable as a basis for criminal action by the Dept. of Justice and the Federal courts.

The judicial rulings do not pass upon the legal validity of the dismissals one way or the other. Their legal import is that the WPA's evidence of Communism against the dismissed workers is not good enough for a criminal court case. But considering that neither the U. S. courts nor the Dept. of Justice has ever been accused of pandering to Communists, the moral import is clear.

The WPA has not seen fit to act, however, on these implications. The purged workers are still purged.

Despite the findings, none of the fired workers has been given back his job.

The story would be worth the telling if for no other reason than it affects the livelihood of 130 American men and women. Actually, it is a microcosm of the whole witch-hunt front, and as such the principles involved affect not alone 130 Americans, but 130,000,000.

Here is the documentation.

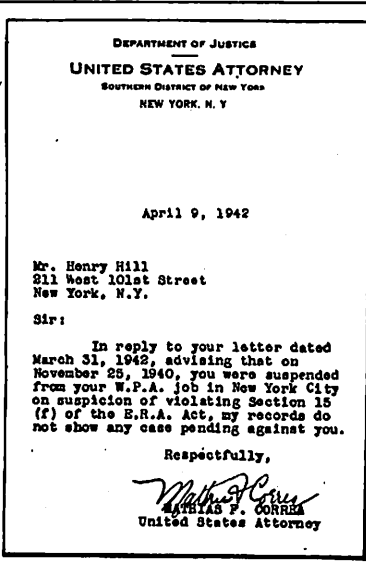
1. From Section 15 (f), Emergency Relief Appropriation Act: "No alien, no Communist, and no member of any Nazi Bund Organization shall be given employment or continued in employment on any work project prosecuted under the appropriations contained in this joint resolution and no part of the money appropriated in this joint resolution shall be available to pay any person who has not made . . . affidavit as to United States citizenship and to the effect that he is not a Communist and not a member of any Bund organization. . . ."

2. From Title 18 U.S.C.A. Section 80 (U. S. Criminal Code, Section 35): ". . . whoever shall make or cause to be made or used any false claim, certificate, affidavit or deposition . . . in any matter within the jurisdiction of any department or agency of the United States . . . shall be fined not more than \$10,000, or imprisonment not more than ten years, or both."

3. From statement of William Lecner, president of the WPA Teachers Union, dated July 13, 1942: "On Feb. 26, 1942, a delegation including Ronald Shilen, Executive Secretary of the Committee to Defend WPA workers; Herman Rosenfeld, the union attorney, and the undersigned met with Victor Rotnam, Director of the Civil Liberties Division and representing the Hon. Francis Biddle, U. S. Attorney General.

"During the course of the meeting, Mr. Rotnam informed us that WPA had referred 130 cases of workers who had been dismissed under Section 15 (f) (see above) to the Department of Justice for prosecution under the laws making it a criminal offense to make false statements to the Government.

"Mr. Rotnam also informed us that after sifting the evidence the Department decided that about 123 of the cases had no



WPA fires people on charges of Communism too flimsy for the Department of Justice to take criminal action against them.

merit and could not be presented to a jury for indictment."

4. From letter to Henry Hill, 211 W. 101 St., this city, from Malcolm J. Miller, Assistant Commissioner WPA: "This will acknowledge the receipt of your letter . . . in which you state that the United States Attorney for the New York District, Mr. Mathias F. Correa, notified you by letter (see photostat) that 'my records do not show any case pending against you.' On the basis of this advice you further state that this letter 'will convince you that your subordinates have made an error in my case and that my suspension from employment was not justified.'"

"I fear that you are mistaken in this assumption. The Department of Justice and the Works Progress Administration have different responsibilities with respect to cases such as yours. This Administration is under obligation to make administrative determinations in such cases, whereas the Department of Justice must make a determination with respect to possible criminal prosecution.

"Because the Department of Justice finds it inadvisable to prosecute your case, from the standpoint of possible criminal violation, has no bearing upon what administrative action this Administration may be required to take."

Up to this point we have discovered that the charges of communism against 123 of 130 persons dismissed from WPA were so thin that the Department of Justice would have nothing to do with them.

We now proceed to the seven of the 130 cases which the Department of Justice thought had sufficient merit to warrant criminal action. Indictment and trial of the seven were planned. Following are the results.

5. From memorandum handed down by Judge G. L. Fake, U. S. District Court, District of New Jersey, Feb. 20, 1942: "The issues here arise on demurrer to an indictment against one William Hau-

tau. The substance of the indictment reads as follows: 'That on or about the 12th day of July in the year 1940, one William Hautau . . . a person employed under the Work Projects Administration . . . did knowingly and wilfully make a certain false affidavit . . . that he, the said William Hautau, was not a Communist, whereas in truth and in fact, as the said William Hautau then and there well knew . . . he was a Communist.'

"It is obvious that before we are able to deal with the question as to the truth or falsity of the allegation relating to the affidavit, there must be a degree of certainty as to what the word Communist connotes. . . . In the absence of such certainty . . . the indictment must fall because of its vagueness and consequent repugnance to the Fourteenth Amendment.

"In endeavoring to ascertain whether there is now any unity of thought bearing on the word Communist, I have made inquiries of men of reasonable intelligence. I asked whether those who believe in and advocate government ownership of irrigation projects and government dams erected for the sale of water power by the government could reasonably be classified as Communists. In some instances the answer was No, in others, Yes, and in others, Yes, they are Communistic to the extent that they believe in such ownership and operation, but not

to the extent that they might be classified as all-out Communists.

"It is my own view that the word has that vagueness and uncertainty in it which Case expounds in his book, and that the minds of men do not meet in a general acceptance of its import. Therefore the defendant in this indictment is found in a position of doubt as to what the charge against him is and cannot be called upon to defend himself. Moreover, the Court also finds itself in a position where it can not give a reasonably certain inclusive and exclusive definition of the word.

"The demurrer to the indictment is therefore sustained. Let an order be entered in conformity herewith."

6. From the New York Times, Feb. 21, 1942, on the Judge Fake decision: "The effect of the decision was to nullify similar indictments against John Sulkowski and Harry Lipschultz, both of this city, who also had been suspended [by the WPA]."

A fourth indictment, against a man named Barth, was quashed a few weeks ago by the Federal courts in Oklahoma. That accounts for 127 of the 130 discharged by WPA as Communists. We're sorry, but we don't know what happened to the other three. Indictments against them may yet be brought.

What's the conclusion to be drawn from all this? Well, one obvious conclusion is that 127 people are still out of jobs on charges which the Department of Justice wouldn't touch for criminal prosecution or judges have laughed out of court.

The other conclusion is that Martin Dies and his ideological team-mates are finding their Communists not in law but in their prejudices.

Discrimination Charged In Library of Congress

PM's Bureau

WASHINGTON, July 21—The Library of Congress is demonstrating that anti-Negro discrimination, which is rampant throughout much of the Federal Government, can be curbed by the creation of proper grievance machinery and an aggressive union.

In the Library, like in many other Government agencies, Negroes have had tough going. Regardless of education or background, they were rarely promoted. The custom of addressing them by their last names, rather than as Mr., Miss or Mrs. was evidence of the feeling which developed more important discriminations.

But last Fall FDR issued an order prohibiting all discriminatory practice in Government agencies. Archibald MacLeish, Librarian of Congress, followed it up with a similar order to the Library staff.

Subsequently, Seth Major, a Negro clerk, began insisting on his rights. If fellow employees addressed him as Major, he responded by calling them by their first or last names. It resulted in a threat of personal violence from a white employee.

At Major's request, his union, the United Federal Workers of America, intervened. The man who had made the threat was reprimanded. But the incident wasn't over. A little later, Major's immediate superior, a white woman, filed a 15-page report listing errors he was supposed to have made over a period of several months, and asking for his dismissal. He was suspended.

Again the union intervened and an appeals board was set up to study the charges, under procedure established by MacLeish for such cases. It recommended

his reinstatement with back pay after hearing all the evidence. Library officials accepted the findings.

But a little later Major received his annual efficiency rating and found that he was rated "unsatisfactory," which meant that he would have to be fired. The union protested that his inefficiency had already been proved false by the appeals board investigation and asked for a revision.

The appeals board took the case again. After hearing Major's superiors defend their rating, the board recommended that the rating be changed to "good," which not only reinstated the Negro employe but made him eligible for promotion. This recommendation is now being considered by higher officials of the Library.

Meanwhile, there have been a series of Negro promotions in the Library and union officials are hopeful that the discriminations in this Government agency are about over.

Rep. Vito Marcantonio (ALP, N. Y.), introduced a bill in the House yesterday to give the President's Committee on Fair Employment Practice broad power to stop discrimination in war industries.

Marcantonio's bill would write into every Government contract a prohibition against discrimination in employment because of race, color, creed, religion, national origin or citizenship. The President's Committee would have power to issue complaints, and orders to cease and desist wherever it found evidence of discrimination.

The Committee's power under the bill would be similar to the power of the National Labor Relations Board in cases of discrimination against union members.