
What is Attorney General Palmer Doing? Letter to an Unnamed NYC Magazine Editor, January 27, 1920

Unsigned article, published as "What is Attorney General Palmer Doing?"
in *The Nation* [New York], v. 110, whole no. 2850 (Feb. 14, 1920), pp. 190-191.

The following remarkable letter, bearing the signature of Mr. A. Mitchell Palmer, Attorney General of the United States, was addressed to the editors of a magazine of large and general circulation and is published by *The Nation* with their consent. The editorial policy of the magazine in question is non-partisan and non-controversial. The letter was accompanied by photostatic copies of the various exhibits referred to. Save for the correction of an obvious typographical error in the spelling of the name of Justice Story, the letter is here reproduced as written.

**OFFICE OF THE ATTORNEY GENERAL
WASHINGTON, D.C.**

January 27, 1920.

----- and Associates,
Editor, ----- Magazine,
New York City.

Dear -----:—

In order that as one of the leaders of thought in this country you may have before you an authentic source of information as to the significance of the present situation I am taking the liberty of sending to you photostatic copies of original documents published by various branches of the Communist Press in Russia and in the United States. These furnish the purpose, history, and character of the Red Radical Movement, not by hearsay, but under the authoritative sanction of its own progenitors.

Exhibit No. 1 is the Report of Louis C. Fraina, International Secretary of the Communist Party of America, describing fully its antecedents, birth and projects, and follows the form of an application of the Communist Party of America to be accepted in the Bureau of the Communist International as a "major party."

Exhibit No. 2 is the manifesto of the Third Communist International adopted at Moscow, March 2-6, 1919, and signed by Comrades C. Rakovsky, N. Lenin, M. Zinerzen, L. Trotsky and Fritz Platten. It is an exhaustive statement of the rationale, principles and program of Russian Bolshevism

and its ambition for worldwide domination.

Exhibit No. 3 is the responsive and cooperating Manifesto, Constitution and Program of the Communist Party of America.

Exhibit No. 4 represents the form of application for membership in this party, containing the pledge to active enlistment in its seditious work.

Exhibit No. 5 gives the Novomirski Manifesto of the Anarchist-Communists organized in the Federation of Unions of Russian Workers of the United States and Canada, similar in purpose to the manifestoes of previously numbered exhibits and containing particularly the 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 there is one means — an armed insurrection and forcible seizure of all instruments and all products of toil. "Woe to the enemies of the laboring class."

Exhibit No. 6. "Your Shop" is an evidence of the sabo-tizing of labor and labor enemies prescribed on the communist program.

Exhibit No. 7. "The State — Strike-Breaker," of like use but aimed at the defamation of government and the employing class.

Exhibit No. 8. A proclamation of the Communist International against the Versailles Peace, designed to exert influence toward its failure of ratification.

Exhibit No. 9. An example of the Russian Bolshevik propaganda among our soldiers in Siberia.

Striking passages in these exhibits are marked for convenience.

The whole is submitted for the furtherance of a more realizing popular appreciation of the menace involved in the unrestrained spread of criminal Communism's unspeakable social treason among the masses.

It is the contention of the Department of Justice that these documents standing alone demonstrate:

(1) That the present aim of the Russian Government and its officers is to foment and incite discontent, aiming toward a revolution in this country.

(2) That the entire movement is a dishonest and criminal one, in other words, an organized campaign to acquire the wealth and power of all countries for the few agitators and their criminal associates.

The Red Movement does not mean an attitude of protest against alleged defects in our present political and

economic organization of society. It does not represent the radicalism of progress. It is not a movement of liberty-loving persons. Lenin himself made the statement, at the Third Soviet Conference, "Among 100 so-called Bolsheviks there is 1 real Bolshevik, 39 criminals, and 60 fools." It advocates the destruction of all ownership of property, the destruction of all religion and belief in God. It is a movement organized against Democracy, and in favor of the power of the few built by force. Bolshevism, syndicalism, the Soviet Government, sabotage, etc., are only names for old theories of violence and criminality.

Having lived at the expense of the Russian people for 2 years, these speculators in human lives and other people's earnings are trying to move to new fields to the East and the West, hoping to take advantage of the economic distress and confusion of mind in which humanity finds itself after the terrific strain of 5 years of war.

Its sympathizers in this country are composed chiefly of criminals, mistaken idealists, social bigots, and many unfortunate men and women suffering from various forms of hyperesthesia.

This Department, as far as existing laws allow, intends to keep up an unflinching war against this movement no matter how cloaked or dissembled. We are determined that this movement will not be permitted to go far enough in this country to disturb our peace or create any widespread distrust of the people's government.

Our actions have been and will be continuously met with criticism. In so far as that it is founded upon an understanding of these documents and upon the situation which they disclose, we welcome it, but the sabotizing of public thought is an essential of this movement, and we are asking you, after reading these documents, to aid in seeing that the American people are not misled. The natural sympathy of our people for distress in all forms is now being used by the friends of Bolshevism in discussing the number of women and children alleged to have been left dependent by our deportations. We can assure you that the condition of the family of each and every person arrested has been personally examined into by the Agents of this Department, and that wherever there are dependents of these men they are being individually looked after by the most prominent charitable organizations of their own creed in their locality. It is no part of the Attorney General's duty to look after the families of violators of our laws. Hundreds of thousands of men are in prisons throughout our country without it ever having been urged by anyone that the Government is under any proper charge to look after the families brought into distress through criminal acts of their own members.

But in order that the issue may remain clear, we have determined to see to it that no woman or child be allowed to suffer for the conduct of their supporters.

Their next move has been to agitate criticism of the Government's activity as directed against the right of free speech. I yield to no one in my anxiety that that right be preserved unclouded and unquestioned, but nothing so endangers the exercise of a right as the abuse thereof, and a clear definition of the right of free speech and of a free press sufficiently answers any criticism of the necessity which the Government finds itself under in combating this movement. I ask you to consider the following definitions of this right, taken from our courts and from the great leaders in the battle of the centuries for that right.

Erskine (known the world over as the father of free speech) says (Rex vs. Paine, 22 St. Tr. 357): "He who wishes to avoid sedition must not excite individuals to withdraw from their subjection to the law, by which the whole nation consents to be governed."

Mr. Justice Story in his commentaries on the Constitution, paragraph 1874, defined the phrase to mean, "that every man shall have the right to speak, write and print his opinions upon any subject whatsoever, without prior restraint, so always that he does not injure any other person in his rights, person, property or reputation; and so always, that he does not thereby disturb the public peace, or attempt to subvert the government."

Mr. Justice Vann (People v. Herr Most, Vol. 171, NY Court of Appeals Reports) states: "The punishment of those who publish articles which tend to corrupt morals, induce crime or destroy organized society, is essentially to the security of freedom and the stability of the state.... It does not deprive the state of the primary right of self-preservation. It does not sanction unbridled license, nor authorizes the publication of articles prompting the commission of murder or the overthrow of the government by force. All courts and commentators contrast the liberty of the press with its licentiousness, and condemn as not sanctioned by the constitution of any state, appeals designed to destroy the reputation of the citizen, the peace or society or the existence of the government."

Judge Learned Hand, of the United States District Court for the Southern District of New York, recently said in a case involving the publishers of *The Masses*, "Words are not only the keys of persuasion but the triggers of action, and those who have no purport but to counsel the violation of the law cannot by any latitude of interpretation be a part of that public opinion which is the final source of government in a public state."

It is often stated that England is more lenient to utterances of the character of those here now complained of, but I call your attention to the fact that under the present law of England, and under the law as it has existed for a century, these utterances have been pronounced seditious and made punishable by imprisonment.

It is the position of the Government that the willful dissemination of such documents as I am asking you to examine, far from being an exercise of the right of free speech guaranteed to us in our Constitution, is a step tending towards the absolute destruction of that right. Does anyone contend that the right of free speech exists in Russia today, or that its exercise in Russia is not punishable by death? Other propaganda will undoubtedly be started, and I recognize that there can be no real effectiveness or saving in our legal prosecutions of sedition unless these prosecutions are backed by the sympathetic and hearty efforts of all elements of good citizenship. There is a menace in this country. It may not be the menace of immediate revolution. No harm, however, can come to the American people from intelligent contemplation of the situation in Russia and the woe that has been brought upon 300 millions of people; of the situation in Bulgaria and of the loss of life and property entailed in the activity of the Russian Bolsheviks there; of the recent riots in Berlin with their loss of life, and similar incidents throughout the world.

Edmund Burke has said: "It is right that there should be a clamour whenever there is an abuse. The firebell at

midnight disturbs your sleep, but it keeps you from being burned in your bed. The hue and cry alarms the country, but it preserves all the property of the province. But a clamour made for the purpose of rendering the people discontented with their situation, without an endeavor to give them a practical remedy, is, indeed, one of the worst acts of sedition.

The Department of Justice has a vast amount of other information regarding the radical movement in this country, which is at your disposal. It will give me much pleasure to have one of your representatives call at this office so that you may obtain the information firsthand. If you are unable to send a representative, I will be glad to furnish you with any details, either general or in specific cases. My one desire is to acquaint people like you with the real menace of evil-thinking which is the foundation of the Red movement.

Respectfully,

A. Mitchell Palmer.

If we read the foregoing letter aright, it is nothing less than a deliberate misuse of the office of the Attorney General for purposes of propaganda. The communication is obviously intended to prejudice the editors, and through them the readers, of the magazine to which it is addressed against the views of a group of radicals with whom the Attorney General has no official concern whatever save to prosecute them in the courts if he believes them guilty of violating Federal law. Mr. Palmer's letter amounts to an attempt to convict such persons in the press on *ex parte* evidence in advance of the proper legal method of a trial in open court. In its statement of the alleged aims and character of the Russian Soviet Republic it usurps the functions of the Department of State, whose business it is, in conjunction with the President, to determine the political status of a foreign government. Whether or not the letter stands alone, or is part of a widespread

effort to influence all such magazines as the Attorney General thinks he can reach, we do not know; but the fact that the particular publication to which this letter was sent offers its readers information rather than opinions makes the action peculiarly objectionable because dangerously subtle.

The Nation presents this letter to its readers more for their information than for the purpose of commenting upon it. We would remind them and Mr. Palmer, however, that the legal functions of the Attorney General are two: to advise the Government on questions of law, and to prosecute persons who are believed to have violated Federal statutes. Mr. Palmer charges the radicals against whom he complains with "the sabotizing of public thought." What else, pray, is he himself attempting with the present unblushing effort at propaganda? When he declares, further, that he is determined not to allow "this government" to "create any widespread distrust of the people's government," is it fair to assume that "the people's government" which he is thinking of is not only the American commonwealth, but also the Wilson Administration, which latter was repudiated at the polls in the Congressional election of 1918, and one of whose chief drags has been the autocratic administration of the Department of Justice by Mr. Palmer and his predecessor?

What is Mr. Palmer trying to do? Is he setting himself up in opposition to Mr. Burleson as the thought regulator of the country? Is he trying to attain the Presidency by using for propaganda purposes the public office which he has sworn to administer? One thing he is certainly not doing. In sending out this letter, he is not exercising any of the legitimate functions of an Attorney General of the United States.

Edited by Tim Davenport.

Published by 1000 Flowers Publishing, Corvallis, OR, 2011. • Non-commercial reproduction permitted.