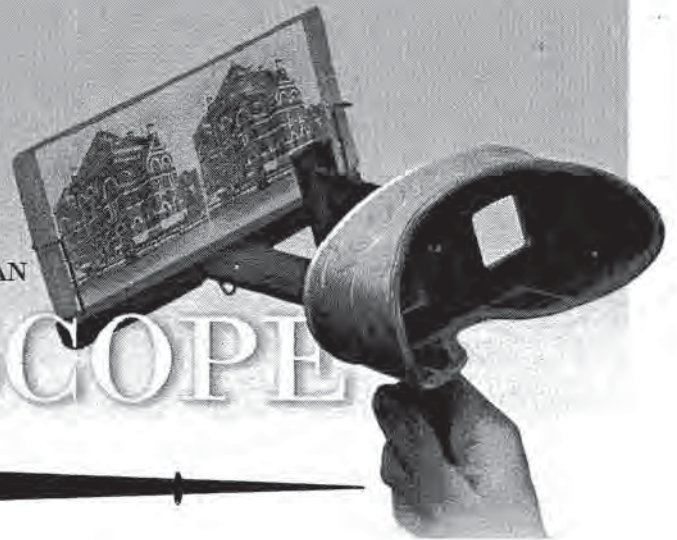


Volume 8 Issue 1

THE JOURNAL OF
THE HISTORICAL SOCIETY
OF THE UNITED STATES
DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN

STEREOSCOPE



From the Palmer Raids to the Bridgman Raid: The Trials of the Nascent American Communist Movement

by Patrick E. Mears*

"It is not William Z. Foster, Charles E. Ruthenberg, Rose Pastor Stokes and other communists who are on trial today in Michigan, but it is the state of Michigan itself that is in the dock and on trial before the nation and the world. If the idiotic and criminal 'criminal syndicalist' law enacted by political crooks to seal the lips of industrial slaves is allowed to prevail then the state of Michigan ought to be fenced off as a peonage plantation, and decent, self-respecting people warned to keep away under penalty of being gagged and locked up."

—Eugene V. Debs, *The Liberator*, May 1923

The Bridgman Raid

On Tuesday morning, August 22, 1922, on the shores of Lake Michigan, three-quarters of a mile from the village of Bridgman, George C. Bridgman, the sheriff of Berrien County and grandson of the village's founder, 20 of his deputies, and 4 federal agents converged upon the Wulfskeel Resort, otherwise known as the "Forest House," a summer resort consisting of five cottages and a main dining room built in the tree-shrouded sand dunes.¹ This group of law enforcement officers raided the resort after gaining knowledge that the leadership of The Communist Party of America ("CPUSA") was conducting an underground convention there.

This meeting had convened on August 17 without incident at the resort, which had hosted a similar convention of the CPUSA two years earlier.² The resort's owner rented his cottages to this group believing that its members were part of a "singing society."³

* Partner, Barnes & Thornburg, LLP. With special thanks to Stan Rubins, a third-year Cooley Law School student who emigrated from the collapsing Soviet Union in 1991 and who assisted me greatly in the preparation of this article.

U. S. Court Library
MAR 11 2010
Grand Raids

Officers

President

Hon. John H. Logie

Vice President

James A. Mitchell

Secretary

Michael W. Puerner

Treasurer

James H. Geary

Officers and Trustees

David C. Coey

David J. Gass

Ray B. Loeschner

Michael A. MacDonald

Patrick E. Mears

Gordon L. Olson

Hon. James Robert Redford

Webb A. Smith

Gleaves Whitney

Ex Officio Trustees

Hon. Paul L. Maloney

Hon. Wendell A. Miles, Court Historian

Hon. Hugh W. Brenneman, Jr.

Committee Chairs

Membership

John H. Logie

Oral History Project

(vacancy)

Archives

Michael A. MacDonald

Fundraising

Michael W. Puerner

Archivist

Joan Byerly

Journal Editor

Patrick E. Mears

Oral Historian

Gordon Olson

Please submit any proposed materials
for publication to:

The Historical Society for
the USDC, WD of MI

110 Michigan Street, N.W., Room 399
Grand Rapids, Michigan 49503

The Stereoscope reserves copyright to authors of signed articles. Permission to reprint a signed article should be obtained directly from the author, and *The Stereoscope* should be acknowledged in the reprint. Unsigned material may be reprinted without permission provided *The Stereoscope* is given credit.

Even though the prior convention had passed without trouble, the delegates to the 1922 event nevertheless were subject to a number of written restrictions, entitled the "Regulations of Grounds Committee." Among these rules were the following:

1. No man can leave the grounds without the permission of the grounds committee. All persons leaving the grounds must register when leaving and report when returning.

3. Persons shall go bathing only before breakfast or after supper. All persons going in bathing must wear bathing suits.
4. No persons shall mingle with strangers.
5. No person shall be allowed to send messages or mail letters.
6. No incriminating literature or document shall be kept in baggage or in rooms. All such matter shall be turned over to the committee every evening.

11. All persons are prohibited from throwing away papers or written matter of any kind. All written notes no longer desired must be handed to the committee for destruction.

12. No one shall disclose or ask for the legal name of any person present.⁴

Not only were the delegates subject to tight supervision when they arrived in Bridgman, but they also were sent on their train journeys not knowing their final destination. One delegate, Francis A. Morrow with the CPUSA alias of "Day" (of whom we will hear much more later), came from a party district encompassing Philadelphia; Washington, D.C.; and Wilmington, Delaware. He travelled from his home in Camden, New Jersey to Cleveland, then on to Detroit, from whence he rode the rails to Grand



Lake Front, Bridgman, MI

Rapids and then finally to Bridgman. It was only in Grand Rapids that Morrow discovered his ultimate destination.⁵

This convention was called by the CPUSA as a result of the decision of the Communist International or "Comintern"⁶ to send representatives to the United States in order "to help [the CPUSA] in overcoming the still existing difficulties. [The Comintern] already had to contend with even greater difficulties than yours in some countries, and learned to overcome them."⁷ The "difficulties" referred to in this March 30, 1922 letter from the Comintern to the CPUSA were the factional rivalries arising from the merger in 1921 of the two competing American Communist parties—the Communist Labor Party of America and the "old" Communist Party of America.

The Comintern representative dispatched to address the CPUSA was a professor of mathematics and a 50-something former Polish revolutionary and comrade-in-arms of Karl Radek⁸ and Rosa Luxemburg⁹ named H. Valetski whose party alias was "Brooks." He was described by Benjamin Gitlow,¹⁰ one of the founders of the CPUSA, as "a rather aristocratic Polish intellectual who, notwithstanding his origin, looked like the American cartoonist's idea of a Russian Bolshevik—hooked nose, disheveled mop of hair on his head, an unkempt and unruly beard, looking rather ridiculous in the ill-fitting white linen suit that accentuated the angularity of his frame. But you could not help liking and respecting him, once you saw his eyes, sparkling with intelligence, wisdom, wit and sheer human charm."¹¹ Two other Comintern representatives accompanied Valetski on this mission. The first was Joseph Pogany, a member of the Hungarian Federation of the CPUSA. The other representative was Joseph Reinstein, an American who had entered Russia illegally during the 1917 revolutions and had remained there for years working in the Soviet Commissariat of Foreign Affairs under Georgy Vasilyevich Chicherin¹² after Lenin's seizure of power in the October Revolution.¹³ Reinstein also represented the Red International of Labor Unions, otherwise known as the "Profintern," which had been formed in Moscow in 1921.¹⁴



Emblem from 1922

The Bridgman underground convention had a number of items on its agenda. The opening session of the conference, which was conducted in a natural amphitheatre formed in the shape of a cup in the wooded dunes, was opened by the National Secretary of the CPUSA, Jay Lovestone.¹⁵ The first order of business was the address to the 45 district delegates, members of the Central Executive Committee of the CPUSA and editors of various party publications by Professor Valetski concerning party unity, which speech was made

by him in German and translated by a delegate.¹⁶ Also on the agenda was an address by William Z. Foster of Chicago (party alias "Borden") on his work in the Trade Union Educational League ("TUEL"), which was associated with the Profintern.¹⁷ The TUEL was organized in order to encourage left-wing activists in established unions to support the militant struggle for workers' rights. Shortly before this convention, a new Central Executive Committee of the CPUSA had been elected, whose members included Charles E. Ruthenberg (party alias "Damon"), Jay Lovestone (party alias "Wheat"), and Benjamin Gitlow (party alias "Low").¹⁸

The convention was briefly interrupted by the unexpected arrival at the Wulfskeel Resort of two plain-clothes federal agents, Jacob Spolansky and Edward Shanahan from the Chicago office of the U.S. Department of Justice. Spolansky and Shanahan previously discovered that this convention would be conducted by the CPUSA and determined to take action against the attendees acting in concert with Michigan law enforcement officers.¹⁹ On the morning of Sunday, August 20, Spolansky and Shanahan walked to the Wulfskeel Resort and came upon a crowd of people there.²⁰ The two undercover agents asked Mrs. Wulfskeel whether there were any available rooms at the resort to rent.²¹ Having told them "no," Mrs. Wulfskeel permitted them to drink water from a pump, whereupon the agents returned to Bridgman.²² The delegates, however, were alerted to potential danger by this visit and, after discussion, it was decided that the delegates should depart on Monday, August 21 rather than the next day, which was the final day of meetings.²³ William Z. Foster was

the first to leave, renting a cab to drive him back to Chicago.²⁴ The order of departure thereafter was as follows: first, all foreigners and unnaturalized aliens would leave; next, all persons under indictment would depart; and last, all "citizens" could move out.²⁵ Most delegates left the resort after 11:00 p.m. on Monday, August 21, under cover of darkness.²⁶ In the morning, only 17 people remained at the resort, including Charles E. Ruthenberg, a member of the CPUSA Central Executive Committee; Francis A. Morrow; Bud Reynolds of the Carpenters Union in Detroit; Cyril Lampkin of Detroit; and Thomas O'Flaherty, a brother of the famed Irish author, Liam O'Flaherty.²⁷ Those who escaped this dragnet included the three Comintern representatives, Earl Browder,²⁸ Benjamin Gitlow, and Jay Lovestone; and three women delegates, Rose Pastor Stokes,²⁹ Ella Reeve ("Mother") Bloor,³⁰ and Rebecca Sakaroff.

After arresting the 17 men, the deputy sheriffs searched the grounds for evidence, first finding at the amphitheatre a tin washtub in which a number of papers had been recently burned.³¹ Further searches uncovered two wooden sugar barrels buried in the sand and covered with roofing tiles and leaves, which barrels contained the individual portfolios of all of the attendees.³² These papers were taken as evidence, along with Ruthenberg's personal copy of the Program and Constitution of the CPUSA confiscated from his suitcase.³³ The sheriff, his deputies, and the federal agents then drove back to the city of St. Joseph with the prisoners in order to book them.³⁴ The State of Michigan, with federal assistance, would thereafter try first William Z. Foster and then Charles E. Ruthenberg under the State's recently enacted criminal syndicalism law.



August 1922 Bridgman Communist Convention arrestees

The Establishment and Growth of Marxist Political Organizations in Michigan:

1874-1922

The theoretical bases of communism were developed by two nineteenth century German political philosophers of bourgeois origin, Karl Marx³⁵ and Friedrich Engels.³⁶ Marx and Engels collaborated on numerous works, the most important of which were *The Communist Manifesto* and *Das Kapital*. Marxism, as communism³⁷ came to be called, was a philosophy of history and action. According to this theory, often labeled as "dialectical materialism," world history is essentially a series of class struggles which, through a mutation of Hegelian theory,³⁸ create a new synthesis from the clash of the "thesis" and "antithesis." In the nineteenth century, Marx and Engels posited the current struggle in industrialized Western Europe as between the bourgeoisie, *viz.*, the owners of capital, and the proletariat, the industrial workers. This struggle would ultimately result in the victory of the proletariat, who, after an intervening period of dictatorship, would establish a workers' state where the means of production, *i.e.*, capital, would be owned by all citizens and that wealth would be created and distributed according to the axiom, "from each according to his abilities, to each according to his needs."³⁹

The first American political party that was avowedly Marxist was the Workingmen's Party of the United States founded in 1876.⁴⁰ This party, which changed its name in 1877 to the Socialist Labor Party, recruited members throughout the United States, including some members from Grand Rapids, Michigan. The Socialist Labor Party ("SLP") ran candidates in a number of municipal elections throughout the country, including elections in Detroit. The two leaders of the SLP in Michigan in the early days were Joseph Labadie⁴¹ of Detroit and Judson Grenell⁴² of Ann Arbor. The SLP in Michigan was described by Oakley Johnson, a Marxist agitator and historian, in 1966 as holding "a strategic place in Socialist leadership, with Detroit as the national publishing center."⁴³ During these early years, the SLP published in Detroit the weekly newspaper, *The Detroit Socialist*.

In 1901, the Socialist Party of America ("SPA") was formed by the union of the Social Democratic Party formed by Eugene V. Debs⁴⁴ and "a large group of

dissidents from the Socialist Labor Party known as the 'Kangaroos.'⁴⁵ The high tide of the SPA's electoral successes took place in the first two decades of the twentieth century. Eugene V. Debs, running for president of the United States on its ticket in 1912, captured 6 percent of the popular vote. In 1910, Victor Berger, another founding member of the SPA, became the first socialist elected to the United States House of Representatives representing Wisconsin's 5th Congressional District that encompassed Milwaukee. That same year, Milwaukee elected its first socialist mayor, Emil Seidel.⁴⁶ In 1912, the SPA held 1,200 elected offices in 340 municipalities.⁴⁷

In Michigan during these two decades, SPA candidates also enjoyed electoral successes, electing mayors in 1911 in Flint, Kalamazoo, Greenville, South Frankfort, and Wilson.⁴⁸ The SPA also fielded candidates for mayor of Ann Arbor (1913) and Muskegon (1914). The leader of the Socialist Party in Grand Rapids during this period was Ben Blumberg, a cigar-maker, who was described by a contemporary as "a thin, whimsical little man with a cast in one eye, but sharp-eyed for all that. He was a union member, and there is no doubt he knew his scientific socialism."⁴⁹ Other prominent Michigan socialists after the turn of the twentieth century were John Keracher of Detroit, a Scottish-born shoe merchant who joined the SPA in 1910 and founded the "Proletarian University of Detroit," where he taught a course on *Das Kapital* at night to workers. Keracher was elected the state secretary of the Michigan branch of the SPA in 1917.⁵⁰ Joseph Warnock of Harbor Springs was another shoe merchant who was elected village president of Harbor Springs in 1912 and ran for governor of Michigan in 1910, garnering 9,992 votes.⁵¹ A number of SPA periodicals appeared in Michigan during this time, including *Tyomes*, a Finnish paper published in Hancock, the *Progressive Worker* of Holland, *Poe's Paper* of Kalamazoo, and the *Michigan Socialist*, published in Detroit.⁵²

The Russian Revolution and the Creation of The Communist Party of America

The abdication of Russian Tsar Nicholas II in March 1917 and the Bolshevik-inspired October Revolution in October of that year not only changed the political and geographic landscape of Europe but also had a profound impact upon American politics. A group of SPA leaders sympathetic to the Soviet Union and the Bolsheviks,



which group included John Reed,⁵³ Louis Frania, and Charles Ruthenberg, split off from the Socialist Party in 1919 and founded what eventually became the CPUSA.⁵⁴ In 1919, there were two competing "Bolshevik" parties, the Communist Party of America and the Communist Labor Party, both of whom petitioned the Comintern in Moscow for official recognition.⁵⁵ In 1921, both of these parties, under pressure from Moscow, merged to form the CPUSA.⁵⁶ In the meantime, the much-feared world Communist revolution threatened by Lenin and Trotsky after 1918 created a backlash in Western Europe and the United States, eventually resulting in the "Palmer Raids" in early January 1920, when federal agents in a massive operation arrested thousands of alleged Communists and socialists throughout the United States.⁵⁷ After these raids, the CPUSA elected to "go underground" to avoid further arrests and prosecution.⁵⁸ It was in this climate of fear and repression that the secret meeting of the CPUSA leadership was held in August 1922 in Bridgman, Michigan.

The Convicted Defendant: Charles E. Ruthenberg of Ohio

Charles Emil Ruthenberg, the son of German immigrants, was born on July 9, 1882, in Cleveland, Ohio. Ruthenberg graduated from school in June 1896 and later attended Berkey and Dyke's Business College of Cleveland for a 10-month course in bookkeeping. After being attracted to the reform politics of the mayor of Cleveland, Tom Johnson, Ruthenberg joined the SPA in 1909. Ruthenberg immersed himself in politics thereafter,



Charles E. Ruthenberg

being appointed secretary of the Cuyahoga County branch of the SPA and later, in 1911, as a member of the Ohio State Executive Committee of the SPA. In 1915, Ruthenberg was elected to the SPA's National Committee.⁵⁹

In addition to his role as a political organizer and insider, Ruthenberg was the SPA's candidate for election as Ohio's state treasurer (1910), state Senate (1916), mayor of Cleveland (1917), and United States congressman (1918).⁶⁰ Ruthenberg protested against America's participation in World War I and was arrested for making anti-war and anti-draft speeches during May 1917, therefore being charged with two other SPA defendants for violating the Espionage Act of 1917.⁶¹ After trial before Federal District Judge D.C. Westenhaver in Cleveland, Ruthenberg and his co-defendants were convicted and sentenced to a one-year term of imprisonment in the Ohio State Penitentiary. This verdict was upheld on appeal by the United States Supreme Court in *Ruthenberg v. United States*, 245 U.S. 480 (1918).⁶² After serving 11 months of his sentence, Ruthenberg was released on December 8, 1918.⁶³



Eugene V. Debs

The SPA planned a large rally for May Day, 1919, in downtown Cleveland in support of freedom for Eugene V. Debs, convicted for making an anti-war and anti-draft speech in Canton, Ohio, and

Thomas J. Mooney, a union organizer and socialist, who was convicted of bombing a 1916 patriotic rally in San Francisco. The May Day rally turned into a riot when the police attempted to halt the planned speeches, one of which was to be made by Ruthenberg. Although subsequently charged with incitement to murder as a result of the riot, Ruthenberg was not convicted. Even though Ruthenberg's case was scheduled for trial, no jury was impaneled or court proceeding held. The prosecution simply moved to dismiss the case, which motion was granted.⁶⁴

Later in 1919, Ruthenberg, as a member of the "Left Wing Section" of the SPA, became involved in the

split in the party's ranks that resulted in the creation of the Communist Party of America and the Communist Labor Party of America ("CLP").⁶⁵ After this schism, Ruthenberg and a group of other members of the Communist Party of America, including Jay Lovestone and Chicago attorney Isaac Ferguson, resigned and joined the CLP, which thereafter became the United Communist Party at a convention held at the Wulfskeel Resort in Bridgman, Michigan from May 26-31, 1920.⁶⁶

The Fruits of the Bridgman Raid: Trials of Foster and Ruthenberg

William Z. Foster's Trial and Hung Jury

The Bridgman Raid was reported in the *St. Joseph Herald Press* on August 22, 1922, listing the names of those arrested and announcing that 60 other attendees "including William Z. Foster, chief of all radicals of America, and two personal representatives of Nicolai [sic] Lenin, Bolshevik premier, escaped in automobiles early this morning while the raid was being planned."⁶⁷ The article stated that the raid had been planned by William J. Burns, chief of the United States Secret Service.⁶⁸ Four agents of the "Bureau of Investigation of the Department of Justice," *viz.* Jacob Spolansky, E.C. Shanahan, Maurice Wolff, and Louis Loebel, were accompanied by Berrien County Sheriff George C. Bridgman and 21 deputies in the raid.⁶⁹

Two persons arrested in the raid, Norman H. Tallenfire and Alex Ball, were foreign citizens and thereafter deported.⁷⁰ William Z. Foster was arrested in Chicago on August 23, 1922. Among all the attendees of the Bridgman Convention, Foster was clearly "the Big Enchilada." He had organized and coordinated a national strike by steelworkers from August 1919 through January 1920, when it was called off. In 1921, at the invitation of Earl Browder and as head of TUEL, Foster attended a conference in Moscow of the Profintern. Upon returning to the United States, Foster joined the CPUSA.⁷¹ Foster was the first of the Bridgman convention attendees to be tried by the State of Michigan in Berrien County Circuit Court, with trial scheduled to begin on March 12, 1923.

Foster was charged by the state of Michigan for violating its recently enacted Criminal Syndicalism Law, Act No. 255, Public Acts 1919. This statute made it

a felony punishable by imprisonment for a maximum of ten years or a \$5,000 fine, or both, to take certain actions involving “criminal syndicalism,” which was defined in Section 1 of the act as “the doctrine which advocates crime, sabotage, violence or other unlawful methods of terrorism as a means of accomplishing industrial or political reform.” Among the acts prohibited by the statute was the voluntary assembly with “any society, group or assemblage of persons formed to teach or advocate the doctrines of criminal syndicalism.”

William Z. Foster’s legal defense team consisted of three lawyers: Francis P. Walsh of San Francisco, Humphrey S. Gray of Benton Harbor, Michigan, and Isaac E. Ferguson of Chicago. Walsh was born in St. Louis, Missouri in 1864 and in 1913 was nominated by President Woodrow Wilson to chair the Commission on Industrial Relations; he held that position through 1918. Also that same year, Walsh was named co-chairperson with former President William Howard Taft of the National War Labor Board.⁷² Humphrey S. Gray was a prominent attorney in Berrien County with offices in Benton Harbor and was described by Foster as “one of the richest men in the entire community, a banker, a capitalist, a prominent churchman and an able lawyer.”⁷³ Finally, Isaac E. Ferguson, a Chicago lawyer and close associate of Charles Ruthenberg, rounded out Foster’s legal team.

The prosecution consisted also of three lawyers: Assistant Attorney General Ora Lynn Smith,⁷⁴ Berrien County Prosecutor Charles W. Gore, and Assistant United States Attorney Max F. Berger. The judge assigned to try the case was Circuit Court Judge Charles



Judge C.F. White



Jury in the Foster Trial—Standing (L to R): Dwight Babcock, Clement H. Ritzler, Theodore Katzbach,* Minerva Olson,* Russel Durm,* A.M. Birday,* Theodore Drier. Seated (L to R): Patsy T. Healy,* A.J. Jackson, Calvin Bachman, foreman, Vivian G. Ingalls, Arthur Barker. (Those marked * voted for acquittal, the others to convict.)*

E. White, who had been raised on a farm in Cass County, Michigan, had graduated from The University of Michigan Law School in 1897, had been a Republican member of the Michigan State Senate from Berrien County from 1909 to 1912, and was selected as a delegate to the Republican National Convention in 1912. Judge White served as Circuit Judge in Berrien County from 1918 to 1935, when he was defeated for reelection.

The first skirmish in Foster’s trial took place over the defendant’s motion to change venue of the trial filed on March 2, 1923.⁷⁵ The motion asserted that the climate in Berrien County was highly prejudiced against Foster on account of “widespread and sensational publicity” such that Foster could not be granted a fair trial.⁷⁶ The motion was supported by the affidavits of Foster; Humphrey Gray, a local Presbyterian pastor; a former Berrien County sheriff; and other citizens.⁷⁷ The prosecution countered with its own affidavits disputing Foster’s claims and after a hearing, Judge White denied the motion.⁷⁸

Jury selection for Foster’s trial was, like the trial to come, a contest between political ideologies. The selection procedure began on March 12, 1923, and was completed three days later. Foster described the process as follows:

Attorneys Walsh and Gray did yeoman educational work in the selection of the jury. Their questions to the prospective jurors constituted a liberal



The Courthouse

course in civil rights, political history, economics, governmental structure, and a host of other vital matters. By a careful probing the jurors were instructed in the nature of the dictatorship of the proletariat, clearly explained as the rule of the workers and farmers, and made to understand its workings. The Soviet form of government came in for detailed exposition, care being used to bring out the fact that under it only producers, hand and brain, are allowed to vote. To dissipate prejudice against the Communist program for abolishing private property in public necessities, the questioning brought forth the fact that even under capitalism the right of private ownership is restricted, the Government having the power to tax property even to the point of actual confiscation. The steady drift to public ownership of various industries was duly indicated. Likewise, the inevitability of the workers building up international political and industrial organizations, because of the international character of capitalism. Our attorneys laid especial stress upon the right of revolution always inherent in every people, calling to their aid the Declaration of Independence to make the proposition clear.⁷⁹

William Z. Foster's trial opened on March 15, 1923, in the old Berrien County Courthouse, now demolished, in St. Joseph. The jury that was selected consisted of nine farmers, one grocery clerk, one railroad flagman, and the wife of a factory superintendent, Mrs. Minerva

Olson of St. Joseph. In his opening statement to the jury, Assistant Attorney General O.L. Smith argued that "Foster was a paid organizer in the ranks of the Communists and that the Communist Party [was] committed to violent and incendiary doctrines."⁸⁰ In contrast, Frank Walsh advised the jury that

Foster attended the [Bridgman] convention, not as a Communist, but as a fraternal delegate from Illinois. He charged that a secret service operative in the employ of the United States had succeeded in joining the Communist organization and was responsible for any violent statements attributed to the defendants. The party convention, on which the raid was made . . . was called for the purpose of abolishing underground tactics in favor of coming out into the open as a legal group.⁸¹

The "secret service operative" mentioned by Walsh was Francis A. Morrow, "a short, slight man of nondescript appearance. Not quite forty years old, he seemed prematurely middle-aged, chiefly because of his gray hair."⁸² Morrow resided in Camden, New Jersey and worked as a ship fitter there.⁸³ Francis Morrow was a member of the CPUSA whose *nom de guerre* was "Day," but he was, in reality, a double agent for the United States government charged with infiltrating the Communists' ranks.⁸⁴ Morrow had been selected by his CPUSA district to attend the Bridgman Convention. Foster had some choice words for Morrow after his trial:

Morrow is a typical specimen of the spies that are infesting every branch of the labor movement. He is a little ferret-eyed sneak of a man some 39 years old. He began his detective career by spying upon his fellow workers in the Delaware River shipyards during the war, for which service he received the munificent pay of \$1.00 per day. In 1919 he became a 'dick,' joining the Socialist Party at \$60.00 per month to spy on them. In 1920, he joined the Communist Party, still being paid \$60.00. After the raid on the convention, he was promoted to regular service and is now paid the standard rate of \$5.00 per day. Thus diligent sneakery is recognized and rewarded.⁸⁵

The star witness for the prosecution was the double agent Francis Morrow, who, upon being sworn in, described his occupation as a “federal employee.”⁸⁶ Morrow testified that he had seen Foster at the convention. Morrow identified a number of documents seized in the raid for admission into evidence.⁸⁷ Morrow testified that Foster told the convention that the SPA

...had failed because it had not developed a sound trade union policy. That the Communists were not making this mistake but had adopted the policy of working within the trade unions to strengthen them and develop them into militant working class organization.⁸⁸

On March 24, 1923, Walsh called Charles Ruthenberg to stand as the defense’s first witness. Ruthenberg identified himself as the executive Secretary of the Communist Party of America. Ruthenberg’s testimony primarily consisted of the principles of Marxism-Leninism and how they would apply to the United States of America in the 1920s. He stated that the use of force in America

...would be nonsense. In the United States the Communist International is urging the formation of a Labor Party by the great masses of workers and farmers to fight their political battles and the amalgamation of the craft unions into industrial unions.⁸⁹

On March 28, 1923, Ruthenberg concluded his testimony in a lively exchange with County Prosecutor Gore over the extent of power that capitalism has in a court of law:

‘You believe this is a capitalist jury, do you not?’ asked Prosecution attorney Gore of C.E. Ruthenberg.... [T]he Prosecutor was surprised when Ruthenberg answered, ‘The Jury? That is a different matter.’ [Ruthenberg explained] how it was possible for a jury, even in a capitalist court, to return verdicts in the interests of the workers instead of the capitalists, if the jury contained workers or working farmers who were not dominated by capitalist ideas or capitalist authority.⁹⁰

On March 29, 1923, the defense called its second and last witness, William Z. Foster, to testify on his own



Defense Attorneys Humphrey S. Gray and Frank P. Walsh.

behalf. He testified about how he was invited to attend the Bridgman convention two days before it began by Earl Browder, that he was not a member of any political party, and that TUEL was not affiliated with any party—that it was “an autonomous body, comprising trade unionists of all parties and no parties.”⁹¹ Foster also testified that he had “urged the Communists to join [TUEL] and become active members in it.”⁹² On March 31, Foster completed his testimony by affirming on cross examination that there could never be “harmony between Capital and Labor until the workers own the capital and the capitalists go to work and do useful labor.”⁹³ With this testimony, both sides rested, and the court was adjourned.

On April 3, 1923, the prosecution and the defense gave their closing arguments to the jury, and Judge White instructed the jury on the law of the case.⁹⁴ The jury deliberated for 31 hours and took 36 ballots but remained deadlocked at six votes to acquit and six votes to convict.⁹⁵ Upon being so advised, Judge White discharged the jury, and Foster was freed. It was later discovered that the only woman juror, Mrs. Minerva Olson, had led the forces urging acquittal. She explained the deadlock in the *St. Joseph Herald Press* the day after the trial ended:

Too much evidence, and yet not enough evidence I would say, was the reason for the jury disagreeing in the Foster trial. We were just swamped with words, words, words. We were lectured and read to for hours on Communism. We learned from the prosecution’s side what Communism has been from 1847 down to the present day.

But we seemed to get little evidence having a direct bearing on the case. That, coupled with the fact that the stage setting of the prosecution seemed overplayed with such display of detectives and undercover men that it appeared more like a case of trying to 'railroad' Foster than prosecute him. I could look away from the courtroom as the trial went on and see conflicting forces fighting for mastery of human rights. This trial was far bigger for me than merely determining whether Mr. Foster were [sic] guilty or not guilty of taking part in the Bridgman Communist convention.⁹⁶

Both Frank Walsh and Humphrey Gray were magnanimous in their victory, complimenting their adversaries, the judge, and the jury. Gray stated that he was "eminently pleased with the fairness displayed by the court. Foster had a fair trial."⁹⁷ The *Benton Harbor News-Palladium*, in the same story, heaped praise upon Walsh:

Attorney Walsh is a nationally known figure. During the war he served on the labor board with Ex-President Taft. He has appeared in many notable court actions, criminal and civil, and right now is at the peak of a great career. He's an Irishman with all the eloquence and brilliance of mind that makes men of attainment of that race. He was one of the American commission that investigated conditions in Ireland two years ago and in his argument to the Foster jury he touched upon Ireland's wrongs in a fashion that gripped all who heard him.⁹⁸

Charles E. Ruthenberg's Trial and Conviction

Charles Ruthenberg's trial began on April 16, 1923, shortly after the jury in William Z. Foster's prosecution was dismissed by Judge White.⁹⁹ Ruthenberg pleaded not guilty to the one count of the indictment alleging a criminal violation of the Michigan Criminal Syndicalism Act by voluntarily assembling "with a certain society, group and assemblage of persons, to-wit, the [CPUSA], formed to teach and advocate the doctrines of criminal syndicalism."¹⁰⁰ The jury was selected between April 16 and April 18 and the opening statements

and witness testimony began on April 19, 1923. The jury consisted of 12 men (no women this time), nine of whom were farmers, with the remainder consisting of a shoe merchant, an oil salesman, and an employee of Standard Oil.¹⁰¹

Judge Charles E. White presided over Ruthenberg's trial. Lawyers for the prosecution were Ora Lynn Smith, Charles W. Gore, Max F. Burger, and George H. Bookwalter. Defending Ruthenberg were Frank P. Walsh and Humphrey S. Gray, as before. The prosecution called Berrien County Sheriff George C. Bridgman as its first witness who testified about the raid on Wulfskeel's Resort, the discovery of the buried Communist documents, the arrest of Ruthenberg, and his incarceration in Berrien County jail.¹⁰² Edward Shanahan, a federal agent, testified next about the layout of the resort, his visit there prior to the raid, Ruthenberg's presence at the resort at that time, and the raid itself.¹⁰³ The two sheriff's deputies who unearthed the buried documents testified next,¹⁰⁴ followed by another federal agent, Louis Lobel, who was also present during the raid.¹⁰⁵ Jacob Spolansky, a special agent of the United States Department of Justice and a Russian immigrant, testified that he recognized Ruthenberg and Foster when he visited Wulfskeel's before the raid; Spolansky had seen both men before in Chicago at the CPUSA's headquarters there.¹⁰⁶ Other witnesses for the prosecution were Ethel Mielke, a maid at the resort, and Maurice Wolf, another federal agent who identified for the record some of the buried documents.¹⁰⁷

All of this testimony was but a prelude to that of the State's star witness, Francis Morrow, the double agent. Morrow discussed his admission to membership of the CPUSA and his work as a mole there on behalf of the United States Department of Justice. Morrow then mentioned his election as a delegate to the Bridgman Convention and his mysterious rail journey to Bridgman in August 1922. He identified a number of convention attendees, including Ruthenberg and Foster, and described in detail the convention proceedings. Finally, during his testimony, a number of the seized documents were read into the record. At the conclusion of Morrow's testimony, the prosecution rested.¹⁰⁸

At this point in the trial, the defense moved for Ruthenberg's acquittal on the grounds that 1) the Criminal Syndicalism Act violated the defendant's due process

rights guaranteed by the United States and Michigan Constitutions; 2) Ruthenberg's prosecution and his conviction and punishment

violated those due process rights; and 3) his conviction and punishment would violate his constitutional rights to personal liberty, free speech, and freedom of assembly. After this motion was made, it was overruled by Judge White without explanation.¹⁰⁹

The first defense witness was Ruthenberg himself. He first testified as to his parentage, youth, education, and employment. He then discussed his joining the SPA and his political activities in that party until the formation of the two rival American Communist parties in 1919. Ruthenberg recalled the Palmer Raids of January 1-2, 1920, during which thousands of suspected Communists were arrested by federal agents, and the direct result of those raids—to force the American Communist parties to go underground. Ruthenberg testified at length on the teachings and philosophy of the Communist Party of America, expounding upon the Marxist doctrines of class struggle and the “materialist conception of history.”

Ruthenberg denied that he was a delegate to the Bridgman Convention, explaining that he attended it as a member of the CPUSA's Central Executive Committee. Ruthenberg then described the *raison d'être* for the Bridgman Convention: to decide whether the CPUSA should proceed with an “above-ground” Workers' Party to function as a legitimate American political organization in the electoral arena. Ruthenberg announced that the CPUSA's Central Executive Committee decided this question in the affirmative earlier in August 1922, and took the program of the “Workers' Party” to the Bridgman Convention for adoption by the delegates.¹¹⁰

The defense's second and last witness was Jay Lovestone, who was the secretary of the CPUSA's Central Executive Committee at the time of the Bridgman Convention and was present there in that capacity. Love-



Wm. Z. FOSTER

FRANK P. WALSH

C. E. RUTHENBERG

P. & A. Photo

stone testified first that he was born in Lithuania when it was part of the Russian Empire and immigrated to America with his

parents at the age of 10. He graduated from the College of the City of New York and attended New York University Law School for one year. Lovestone was one of the founders of the “old” Communist Party of America in 1919. In January 1922, he was appointed secretary of the CPUSA Central Executive Committee and acted as secretary to the Bridgman Convention.¹¹¹

Lovestone then identified the program of the Workers' Party and confirmed that it had been adopted by the Central Executive Committee on August 6, 1922, for reporting to the Bridgman Convention later that month. Humphrey Gray then read this program into the record. The remainder of Lovestone's testimony concerned the events that took place in Bridgman, his prior arrests for political activities, and identification of other CPUSA documents.¹¹²

At the close of the proofs submitted by the defense, Frank Walsh moved for a directed verdict in Ruthenberg's favor on the same constitutional grounds as were described in his earlier motion for acquittal. This motion was again denied by Judge White without elucidation.¹¹³ On May 2, 1923, Judge White instructed the jury on Michigan's Criminal Syndicalism Act and its application to the facts of the case.¹¹⁴ Three hours and 50 minutes after the jury began its deliberations, it returned a unanimous verdict of guilty as charged.¹¹⁵ Three ballots were taken with the results of 9-3 and 11-1 to convict before the third and final ballot.¹¹⁶

After the Ruthenberg verdict was rendered, William Z. Foster charged that the federal agents who testified at the trial were “perjurers” and that the Criminal Syndicalism Act was “the rawest attack ever made on the liberties of the people.”¹¹⁷ In stark contrast, State Assistant Attorney General Ora L. Smith made the following statement to the press at the close of the trial:

It is a righteous verdict by an all-American jury. I want to give full credit to the department of justice men who worked up this case and obtained the evidence and to Prosecutor Gore. Had Ruthenberg, a draft evader and a war obstructor, gone free after the evidence presented, it would have been a blot on the country. The jury showed its Americanism with the quick verdict and a decision after only three ballots. We will convict the rest of the defendants just as Ruthenberg was convicted, for they are equally guilty.¹¹⁸

Ruthenberg's Unsuccessful Appeal to the Michigan Supreme Court

Charles Ruthenberg, through his attorneys, Frank Walsh, Humphrey Gray, and Isaac Ferguson, appealed from the trial court's decision to the Michigan Supreme Court. The appeal was argued by Assistant Attorney General Ora Lynn Smith for the appellee and attorneys Walsh and Ferguson for the appellant on October 17, 1924. Almost two months later, the Michigan Supreme Court, in a unanimous decision and pursuant to an opinion authored by Justice Howard Wiest, affirmed the result below.

In its opinion, the Michigan Supreme Court first gave short shrift to Ruthenberg's constitutional challenges to the Criminal Syndicalism Act, citing prior decisions of the United States Supreme Court, including *Debs v United States*, 249 U.S. 211 (1919), and decisions rendered by appellate courts of other states.¹¹⁹ Specifically, the Court found that the statute did not violate the freedom of speech and freedom of assembly rights granted to Ruthenberg in the Fourteenth Amendment to the United States Constitution. In addition, the Michigan Supreme Court rejected defendant's due process argument that the statute failed "to fix an ascertainable standard of guilt" and was "not adequate to inform persons, accused of violation thereof, of the nature and cause of accusation against them."¹²⁰

The Michigan Supreme Court also rejected appellant's arguments that the trial court improperly overruled the defense's challenge for cause to a juror who had an opinion of Ruthenberg's guilt or innocence but believed that he could nonetheless

properly perform his duties as a juror.¹²¹ The Supreme Court also affirmed the trial court's ruling denying Ruthenberg's motion to compel the prosecution to supply a bill of particulars.¹²² Similarly, the trial court's denial of Ruthenberg's pretrial motion to suppress evidence found in his suitcase that was seized by the sheriff as evidence was found not to have been an unreasonable "search and seizure;" the suitcase was in "plain view," and its seizure was "a lawful incident of the arrest."¹²³

At this point in its opinion, the Court reviewed the program of the Workers' Party that was to have been voted on by the Bridgman Convention delegates but which vote was interrupted by the raid. According to the justices, this program, and other Communist documents admitted as evidence, "proposed to destroy the government" of the United States.¹²⁴ The Court, after reviewing these documents and the trial testimony of Jay Lovestone, concluded that Ruthenberg was guided by "orders from Moscow" and

...urged an open party to carry on [legal] activities, but his purpose, under orders of the Third International [i.e. Comintern], was to further the ends of the underground or illegal party, and that purpose and such ends center upon the destruction of republican or parliamentary form of government by direct action and criminal force.¹²⁵

The Court then proceeded to find that the program and constitution of the CPUSA seized at the Bridgman Convention constituted

...competent evidence upon the question of whether the assemblage of persons at Bridgman was formed to teach or advocate crime, sabotage, violence or other unlawful means of terrorism as a means of accomplishing industrial or political reform, even though distribution thereof was discontinued in October, 1921.¹²⁶

The foregoing was the guts of the Court's decision to affirm Ruthenberg's conviction for violating the Criminal Syndicalism Act. The remainder of the opinion rejected appellant's arguments that the admission into evidence of other Communist literature constituted reversible error.¹²⁷ Thus, on December 10, 1924, the

Michigan Supreme Court issued its judgment certifying to the Berrien County Circuit Court “that there is no error in the rulings and proceedings therein” and that the Circuit Court should “forthwith enter judgment on the verdict rendered herein.”¹²⁸

Ruthenberg’s Appeal to the United States Supreme Court and Justice Brandeis’ Unpublished Dissenting Opinion

On remand of the case to the Berrien County Circuit Court on January 5, 1925, Judge White overruled Ruthenberg’s Motion in Arrest of Judgment and sentenced the defendant to be imprisoned in Jackson Prison “for a period of not less than three years nor more than ten years” and fined him the sum of \$5,000.00.¹²⁹ The Michigan Supreme Court, by its opinion and judgment filed on January 15, 1925, overruled Ruthenberg’s writ of error to review his judgment of conviction.¹³⁰ That same day, Ruthenberg’s counsel filed a Petition for Writ of Error with the United States Supreme Court, which was allowed four days later by Supreme Court Justice Louis D. Brandeis.¹³¹ Brandeis’ Order Allowing Writ of Error permitted Ruthenberg to stay the execution of the Berrien County Circuit Court’s judgment upon his submission of a supersedeas bond of \$7,500.00. This bond was provided and approved on January 26, 1925.¹³² On February 16, 1925, the Michigan Supreme Court clerk certified the record on appeal and transmitted it to the United States Supreme Court.¹³³

Oral argument in this case was held in Washington, D.C. on April 29, 1926, with Isaac E. Ferguson appearing for Ruthenberg and Ora Lynn Smith for the State of Michigan. The issue on appeal to the United States Supreme Court was whether Michigan’s Criminal Syndicalism Law that made it a crime to defend, advocate, or establish an organization committed to violent change violated the First Amendment to the United States Constitution. After oral argument, the Court arrived at a decision affirming Ruthenberg’s conviction in an opinion written by Justice Edward T. Sanford. Dissenting were Brandeis and Oliver Wendell Holmes, with Brandeis authoring a dissenting opinion. However, the Court’s decision was never announced, and these two opinions were never published on account of Charles



Justice Brandeis

Ruthenberg’s untimely death due to complications from a ruptured appendix on March 2, 1927, at age 44. His death rendered this appeal moot, and the Supreme Court promptly dismissed his appeal.

After oral argument but prior to Ruthenberg’s death, Brandeis determined to write a dissenting opinion intended to establish “a jurisprudential framework for deciding First Amendment cases.”¹³⁴ According to Brandeis’ biographer, Melvin I. Urofsky, Brandeis

...and his law clerk, James Landis, worked for weeks on the dissent [in *Ruthenberg v Michigan*], and then on 3 March 1927, they opened the morning newspaper to discover that Ruthenberg had died the day before in a Chicago hospital of acute peritonitis. Within days the writ of error had been dismissed, and Brandeis consigned his draft to the files. Soon after he pulled it out, as the case of Charlotte Anita Whitney returned to the high court.¹³⁵

Brandeis’ unpublished dissent begins by describing the Michigan statute as creating

...the new felony of voluntarily assembling.... Its criminal quality does not arise from immediate danger of breach of the peace incident to a gathering at a particular time and place under particular circumstances. It inheres, as the statute

is construed by the Supreme Court of Michigan, in every gathering of a society, formed to advocate the obnoxious doctrine of criminal syndicalism.... The felony is complete at the moment the accused becomes part of the particular assemblage, whatever the time, place or circumstance, however remote the danger apprehended and however improbable that serious evil will eventually befall.¹³⁶

Brandeis continued by analyzing the purpose of the statute and its lack of a nexus with the events of the Bridgman Convention:

The novelty in the prohibition introduced is that the statute aims not directly at the practice of criminal syndicalism, but at the preaching of it.... The convention was held in a remote and secluded spot supposed to be known to only a few trusted delegates who attended it. There was not even danger that the obnoxious doctrine would be taught at the convention. All the delegates were familiar with it.¹³⁷

Brandeis referred to prior decisions of the United States Supreme Court that invalidated on due process grounds statutes enacted under the states' police power "which imposed merely absolute prohibition, as distinguished from regulation," concluding that the Supreme Court's "power and duty...are no less where the liberty involved is that of free speech and assembly."¹³⁸ In support of this conclusion, Brandeis reviewed the evidence in light of the statute's prohibitions and found them wanting:

The Party propagation of the criminal state of mind by its teaching, and its program of violence as a means of preparation, bring the danger incident to formation of the society nearer than it would be, if the only violence to be apprehended were that involved in the predicted final struggle. Every denunciation of existing law tends in some measure to increase the probability that there will be some violation of it. Condonation of a breach enhances the probability. Expressions of approval add to the probability. Advocacy heightens is still further. But even advocacy of violation, however reprehensible morally,

is not a justification for denying free speech, where, as here, the advocacy falls short of incitement. Here, there is nothing to indicate that the advocacy would be immediately acted on. To support a finding of such danger it would have to be shown either that immediate violence was, in fact, advocated, or that the past conduct of Ruthenberg, or other delegates furnished reason to believe that such advocacy was then contemplated. The documents introduced showed little more than what sort of people were gathered at the convention, their beliefs and their hopes.¹³⁹

Epilogue: The Death of Charles Ruthenberg and His Burial in the Kremlin Wall

Ruthenberg entered Jackson Prison on January 5, 1925, to serve his sentence but was released 21 days later when his supersedeas bond was posted.¹⁴⁰ His early release enabled him to address a memorial service held in New York City one year after the death of Vladimir Lenin.¹⁴¹ Ruthenberg continued with his political and organizing activities after his release, protesting, among other things, American "gunboat diplomacy" in Nicaragua.¹⁴²

In late February, 1927, Ruthenberg suffered an attack of appendicitis in Chicago. On February 27, while attending a meeting of the CPUSA's Political Committee, he collapsed and was taken to a hospital. Three days later, Ruthenberg was dead.¹⁴³ His body lay in state at the Ashland Boulevard in Chicago, where William Z. Foster and other party comrades spoke at a memorial service.¹⁴⁴ His body was thereafter cremated and his ashes deposited in a bronze urn.¹⁴⁵

On March 9, 1927, memorial services were held in New York City, where separate events were held at Carnegie Hall, Central Opera House, and the New Star Casino.¹⁴⁶ Memorial services for Ruthenberg were also held throughout the country in cities like Cleveland, Detroit, Milwaukee, Boston, Washington, D.C., and even Grand Rapids.¹⁴⁷ Thereafter, Ruthenberg's remains were transported to the Soviet Union, where they were interred in the Kremlin Wall near those of John Reed and Big Bill Haywood.¹⁴⁸

Endnotes

- 1 Record in *Ruthenberg v State of Michigan* on appeal to the United States Supreme Court, pp. 5-6 (hereinafter cited as "Record"); *N.Y. Times*, August 23, 1922, p. 1, col. 7.
- 2 Theodore Draper, *The Roots of American Communism*, p. 369, The Viking Press, Inc., New York, New York (1954) (hereinafter cited as "Draper").
- 3 Id.
- 4 Record, pp. 38-39.
- 5 Record at p. 36; Draper at p. 368.
- 6 The Comintern otherwise known as the "Communist International" or "Third International," was founded by the Bolshevik Party in Moscow in March 1919. This was an international communist organization controlled in large part by the Soviet Union, whose member parties were scattered throughout the world. Its first chairman was Grigory Zinoviev, who held that post from 1919 to 1926. The Comintern was dissolved in 1943 in the midst of World War II. Wikipedia, <http://en.wikipedia.org/wiki/Comintern>.
- 7 Draper at p. 363.
- 8 Karl Radek, whose birth name was Karol Sobelsohn, was born on October 31, 1885, in Lviv, in the province of Galicia in the Austrian Hungarian Empire. He became involved in the Polish Social Democratic movement in 1904. He met Lenin in Switzerland before the October Revolution and was a passenger on the sealed train that transported Lenin through the German Empire in 1917 ultimately to the Finland Station in Petrograd. In 1920 he was appointed as a secretary of the Comintern. During Stalin's Great Purge in the 1930s, Radek was convicted of treason and was executed by the NKVD while in prison. Wikipedia, http://en.wikipedia.org/wiki/Karl_Radek.
- 9 Rosa Luxemburg was a Polish revolutionary who was born in 1871 in the city of Zamosc in Russian-controlled Poland. She was a co-founder of the Social Democratic Party of the Kingdom of Poland and for most of her adult life was its principal theoretician. In 1898, she moved to Berlin, where she became active in the left wing of the German Social Democratic Party. During World War I, she, Karl Liebknecht, and others founded the left wing Spartacist League. After Kaiser Wilhelm II abdicated his throne in November 1918, the League plotted to seize political power in Germany. In January 1919, the League, along with other leftist parties, took armed action to seize power, but the uprising failed after much bloodshed. She and Liebknecht were captured and killed by the Freikorps on January 15, 1919. Her mutilated body was thrown into the Landwehr Canal, from which it was recovered a few months later. German Communists have since commemorated their deaths every January 15. Wikipedia, http://en.wikipedia.org/wiki/Rosa_Luxemburg; Stephen E. Bronner, *Rosa Luxemburg: A Revolutionary for Our Times*, Columbia University Press, New York, New York (1987).
- 10 Benjamin Gitlow was a founder of the CPUSA who, in later life, metamorphasized into a militant anti-Communist. Born in 1891 in New Jersey, Gitlow was the son of a Jewish mother and father who had emigrated to America from Russia to escape religious and ethnic discrimination there. At age 18, Gitlow joined the Socialist Party of America, and in 1917 he was elected to the New York State Assembly representing a district in the Bronx. In November 1919, Gitlow was arrested, along with Charles E. Ruthenberg, Isaac E. Ferguson, and James Larkin by the New York State authorities and charged with violating New York's Criminal Anarchy Law of 1902. After a trial, Gitlow was convicted in 1920 and spent two years in Sing Sing. Released from prison in spring of 1922, he was employed by the CPUSA as a union organizer on the East Coast. In June 1925, the United States Supreme Court upheld the guilty verdict rendered in 1920 against him for violating New York's Criminal Anarchy Law. *Gitlow v. New York*, 268 U.S. 652 (1925). Gitlow thereafter ran for vice president of the United States as the nominee of the Workers' Party in 1924 and 1928. In both races, William Z. Foster headed the national ticket. In the 1930s, Gitlow rejected radicalism and became a voluble anti-Communist. Later, in 1940, he published his autobiography entitled *I Confess: The Truth About American Communism*. In July 1965, Gitlow passed away in Crompond, New York. Wikipedia, http://en.wikipedia.org/wiki/Benjamin_Gitlow.
- 11 Draper, pp. 363-364.
- 12 Georgy Chicherin was a distant relative of Alexander Pushkin, the great Russian poet. He was born in 1872 into an aristocratic family; his father was a diplomat in the Tsar's foreign service. After graduating from St. Petersburg University with a degree in history and languages, he gradually became radicalized. During the 1905 revolution he was forced to flee Russia because of his anti-government activities and lived abroad until 1918. That year, he returned to Soviet Russia to work in the foreign office as Leon Trotsky's deputy. On May 30, 1918, after Trotsky resigned, Chicherin was appointed commissar for foreign affairs, a post he held until 1930. Chicherin signed the Treaty of Rapallo with Weimar Germany and negotiated with Cardinal Eugenio Pacelli, the future Pope Pius XII, on the relationship of the Roman Catholic Church with the USSR. Chicherin was replaced as commissar of foreign affairs by Maxim Litvinov in 1930 and passed away in 1936.
- 13 Boris Reinstein was described as "one of the chief mentors and guides of virtually every American Communist who came to Moscow" in the 1920s. Draper, p. 149. British journalist Arthur Ransome wrote that Reinstein appeared as

- “a little old grandfather” who was “a prodigy of knowledge about the revolution” and tireless in helping Americans. *Id.*
- 14 The Profintern was formed in Moscow in July, 1921 as an international body to coordinate Communist activities within trade unions. It was dissolved in 1937. Wikipedia, <https://en.wikipedia.org/wiki/Profintern>.
 - 15 Jay Lovestone, born Jacob Liebstein in December 1897, in Lithuania (then a part of the Russian Empire), emigrated with his parents to the United States in 1907, settling in Manhattan's Lower East Side. Lovestone was a founder of the “old” Communist Party of America in 1919 and, in 1921, was appointed editor of the CPUSA newspaper, *The Communist*. In 1929, Lovestone was expelled from the CPUSA because of his support for Trotsky in his power struggle with Stalin over leadership of the USSR, a struggle that Trotsky lost. Gradually, Lovestone redirected his energies into union activity and, like Gitlow before him, adopted the anti-Communist mantle. Lovestone died in 1990 at the ripe old age of 92. Wikipedia, http://en.wikipedia.org/wiki/Jay_Lovestone.
 - 16 Record, pp. 44-45.
 - 17 The Trade Union Educational League (“TUEL”) was established in Chicago in 1920 by William Z. Foster and other left-wing union activists. TUEL was utilized by the CPUSA and funded by the Comintern to infiltrate and control the American Federation of Labor and other labor unions. TUEL was disbanded in the 1930s. www.answers.com/topic/trade-union-educational-league.
 - 18 Record, p. 37.
 - 19 Record, pp. 19-20
 - 20 Record, pp. 19-20.
 - 21 Record, pp. 12-13.
 - 22 Record, pp. 12-13.
 - 23 Record, pp. 45-46.
 - 24 Record, p. 51.
 - 25 Record, p. 51.
 - 26 Record, p. 51.
 - 27 Liam O’Flaherty was born in County Galway, Ireland, on the largest of the Aran Islands, Irishmore, in the remote village of Gort na gCapall on August 28, 1896. He was a prolific author, his most memorable work being his novel, *The Informer*, written in 1925 and made into a film in 1935 by his cousin and American film director, John Ford. Liam was a member of the Irish Communist Party for most of his life. He died on September 7, 1984 in Dublin at the age of 88. Wikipedia, http://en.wikipedia.org/wiki/Liam_O%27Flaherty.
 - 28 Earl Russell Browder was born in Wichita, Kansas on May 20, 1891 and became a member of the Socialist Party of America in 1907. Browder opposed America’s entry into World War I and was arrested in 1917 and thereafter convicted for conspiring to defeat the operation of the draft law. In 1920, Browder joined TUEL and was employed as the managing editor of its monthly magazine, *The Labor Herald*. In 1928, Browder moved to Shanghai as a member of the Pan-Pacific Trade Union Secretariat, a Comintern labor organization. In 1932, Browder assumed the position of general secretary of the CPUSA when William Z. Foster suffered a heart attack. He was the CPUSA candidate for president of the United States in 1936. In 1944, Browder, sensing the coming split between the erstwhile allies, America and the Soviet Union, began to distance the CPUSA from its Soviet parent organization. These moves created a backlash by the party faithful and, in 1945, Foster replaced Browder as general secretary. In 1946, he was expelled from the CPUSA. Browder died on June 27, 1973 in Princeton, New Jersey. Wikipedia, https://en.wikipedia.org/wiki/Earl_Russell_Browder. See also Joseph R. Starobin, *American Communism in Crisis: 1943-1957*, Harvard University Press, Cambridge, Massachusetts (1972).
 - 29 Rose Pastor Stokes was born in the small Jewish shtetl of Augustava Suvolk in Russian-controlled Poland in July 1879. In 1882, her mother, who had separated from Rose’s father, emigrated to England with Rose. Nine years later they moved again, this time to Cleveland, Ohio. In 1903, Rose married James Graham Phelps Stokes, a prominent and wealthy New York businessman who, in 1905, founded the Intercollegiate Socialist Society with Upton Sinclair, Jack London, and Clarence Darrow to encourage the study and discussion of socialism in colleges. Rose Pastor Stokes thereafter, along with her husband, became members of the Socialist Party of America. She became a leader of the Socialist Party, an outspoken feminist, and militant labor organizer. In 1920, Rose joined the “old” Communist Party of America. In 1933, Rose died in Frankfurt, Germany from complications caused by breast cancer. Her unfinished biography, *The Unfinished Autobiography of Rose Pastor-Stokes*, University of Georgia Press, Athens, Georgia (1992), was published after her death. Wikipedia, http://en.wikipedia.org/wiki/Rose_Pastor_Stokes.
 - 30 Ella Reeve Bloor, more commonly known as “Mother” Bloor, was born in 1862 on Staten Island, New York. An early women’s rights activist, she was a co-founder of the Social Democratic Party in 1897 with Eugene V. Debs and Victor Berger. In 1902, Bloor joined the Socialist Party of America, running for governor of Pennsylvania and lieutenant governor of New York on the Socialist Party ticket. In the early 1920s, she became a member of the CPUSA and was a member of its Central Committee from 1932 to 1948. Mother Bloor died in August, 1951, in Richlandtown, Pennsylvania.

- 31 Record, p. 7.
- 32 Record, p. 7.
- 33 Record, p. 14.
- 34 Record, p. 6.
- 35 Karl Marx was born on May 5, 1818, in Trier which was then in the Kingdom of Prussia's province of the Lower Rhine. Marx's father was a lawyer, although many of his ancestors had been Jewish rabbis. Karl Marx attended university in Bonn and Berlin, receiving a doctorate in 1841. Marx became a journalist in Köln, was stripped of his Prussian citizenship, and was deported. Marx and his wife, Jenny von Westphalen, thereafter moved to Paris and then Brussels before finally settling in London, where he expired on March 14, 1883. He is buried in London's Highgate Cemetery, and the desk at which he wrote in the British Library most of his political works is preserved at the British Museum in London. For recent biographies of Karl Marx, see David McLellan, *Karl Marx: A Biography*, Palgrave Macmillan, New York (2006) and Francis Wheen, *Karl Marx: A Life*, WW Norton & Company, New York (2001).
- 36 Friedrich Engels was born on November 28, 1820 in the city of Bälmen near Düsseldorf in the Kingdom of Prussia as the son of a textile manufacturer. Engels never received a university degree and in 1842 moved to Manchester, England, to work in his father's business. That same year, Engels first met Karl Marx. In 1849, Engels participated in an armed rebellion against Prussian rule and, after the uprising was crushed, he fled to England. From 1844 until Marx's death in 1883, Engels and Marx jointly authored numerous works. Engels passed away in London on August 5, 1894. For a recent biography of Friedrich Engels, see Tristram Hunt, *Marx's General: The Revolutionary Life of Friedrich Engels*, Henry Holt & Company, LLC, New York (2009).
- 37 The historical antecedents of Marxism are discussed in detail in Edmund Wilson, *To the Finland Station*, Harcourt Brace & Co., Inc., New York (1940). See also Archie Brown, *The Rise and Fall of Communism*, Harper Collins Publishers, New York (2009).
- 38 Georg Wilhelm Friedrich Hegel was a German philosopher born on August 27, 1770, in the City of Stuttgart, in which was then the Duchy of Württemberg. In 1793, Hegel received his theological certificate from the Tübingen Stift, a Protestant seminary attached to the University of Tübingen. In 1801, Hegel began his teaching career at the University of Jena, where he published his first philosophical work. From 1808 to 1816, Hegel acted as the headmaster of a Nuremberg gymnasium, moving that year to Heidelberg to assume a professorship there. In 1818, he was appointed to the chair of philosophy at the University of Berlin (now Humboldt University) and in 1830 rose to the position of rector there. Hegel died in Berlin on November 14, 1831 and was interred in Dorotheenstadt Cemetery.
- 39 Karl Marx, *Critique of the Gotha Program* (1875).
- 40 Oakley C. Johnson, *Marxism in United States History Before the Russian Revolution (1876-1917)*, pp. 18-19, Humanities Press, New York (1974) (hereinafter cited as "*Marxism in United States History*").
- 41 Joseph Labadie (1850-1933) was described by Oakley Johnson as "goateed and handsome, with a slight paunch [who had a] platform personality, [and was a] pleasant, genial, eloquent, smiling man." Oakley C. Johnson, *The Early Socialist Party of Michigan: An Assignment in Autobiography*, The Centennial Review, p. 161, Volume 10, Number 2, Ann Arbor, Michigan (Spring 1966) (hereinafter cited as "*Assignment in Autobiography*"). In 1911, Labadie transferred his massive collection of printed materials on anarchism, socialism, and early labor history to The University of Michigan in Ann Arbor. The Labadie Collection, as it is now known, now forms a part of the University's Special Collections Library and is described by that university as "the premier collection of its kind in the country." See also Labadie's biography written by his granddaughter, Carlotta R. Anderson, *All-American Anarchist: Joseph A. Labadie and the Labor Movement*, Wayne State University Press, Detroit (1998).
- 42 Judson Grenell (1855-1930) was the co-editor of *The Detroit Socialist* with Joseph Labadie and was described by Oakley Johnson as a "printer and pamphleteer... a square figure of a man, quiet, almost diffident, friendly, wore glasses.... He was clearly a desk man, a man who set type, reflected and wrote." *Assignment in Autobiography*, p. 161. In 1913, Grenell was appointed by the governor of Michigan to chair the State Commission of Inquiry into the Wages and the Conditions of Labor for Women and the Advisability of Establishing a Minimum Wage. In 1915, this Commission published its written report finding that a large percentage of women wage-earners in Michigan were receiving "less than a living wage" and recommended "immediate provision for vocational training in public schools" and "the enactment of a minimum wage law for women." *Report of the State Commission of Inquiry into the Wages and the Conditions of Labor for Women and the Advisability of Establishing a Minimum Wage*, pp. 22-24, Wynkoop Hallenbeck Crawford Co., Lansing, Michigan (1915). Grenell was a prolific author whose books are still published and sold today.
- 43 *Assignment in Autobiography*, p. 162. See also Richard Jules Oestreicher, *Solidarity and Fragmentation: Working People and Class Consciousness in Detroit: 1875-1900*, pp. 76-102, University of Illinois Press, Urbana and Chicago, Illinois (1989).

- 44 Eugene V. Debs (1855-1926) was born in Terre Haute, Indiana and came to national prominence as the president of the American Railway Union during the Pullman strike of 1894. In 1905, Debs, William D. ("Big Bill") Haywood, and other labor leaders founded the Industrial Workers of the World ("IWW"), a radical trade union that still exists. Debs also ran for president of the United States in 1900 on the Social Democratic Party ticket and in 1904, 1908, 1912, and 1920 as the SPA's standard-bearer. In the 1912 election, Debs received 901,551 votes (6 percent of the total vote) and in 1920, running from prison, he garnered 913,693 votes, the highest total ever achieved by a SPA presidential candidate. In 1918, Debs was arrested by federal marshals for violating the Espionage Act of 1917 as a result of an anti-war, anti-draft speech he made earlier that year in Canton, Ohio. On November 18, 1918, he was convicted in the United States District Court for the Northern District of Ohio, which conviction was later affirmed in an unanimous decision by the United States Supreme Court. *Debs v. United States*, 249 U.S. 211 (1919). In 1921, President Warren G. Harding commuted Debs' 10-year sentence to time already served, and he was released from federal prison in Atlanta on Christmas Eve that year. After his release, Debs' health failed, and he passed away five years later. Debs' home in Terre Haute is now a National Historical Landmark operated by the Eugene V. Debs Foundation whose website address is www.eugenevdebs.com. See also Nick Salvatore, *Eugene V. Debs: Citizen and Socialist*, University of Illinois Press, Urbana and Chicago, Illinois (2007).
- 45 David A. Shannon, *The Socialist Party of America*, p. 3, Quadrangle Books, Chicago (1967).
- 46 Carl Sandburg, the poet and Lincoln biographer, served as Seidel's official secretary from 1910 to 1912. Milwaukeee subsequently elected two SPA mayors: Daniel W. Hoan, who served from 1916 to 1940, and Frank P. Zeidler, who served three mayoral terms from 1948 to 1960. See generally Richard W. Judd, *Socialist Cities: Municipal Politics and the Grass Roots of American Socialism*, State University of New York Press, Albany, New York (1989).
- 47 *Marxism in United States History*, p. 32.
- 48 In 1911, the city of Flint, Michigan, elected a Socialist mayor, John A.C. Menton, who ran on a platform calling for the "collective ownership of all means of production and distribution" and consideration of "all municipal questions . . . from the standpoint of the working class, and not from the standpoint of the Capitalist class." Richard W. Judd, *Socialist Cities: Municipal Politics and the Grass Roots of American Socialism*, p. 95, State University of New York Press, Albany, New York (1989). In the election of 1912, however, Menton was defeated in his bid for reelection by the industrialist Charles Stewart Mott. *Id.*, pp. 106-117.
- 49 *Assignment in Autobiography*, p. 149.
- 50 *Assignment in Autobiography*, p. 147-162.
- 51 Joseph Warnock was described by Oakley Johnson as the "owner of a fairly prosperous shoe store, and was a fascinating personality with his out-thrust jaw, high forehead, narrow bony face, genial attitude and elegant manners." *An Assignment in Autobiography*, p. 149.
- 52 *Marxism in United States History*, p. 32.
- 53 John Reed of Portland, Oregon (1887-1920) was a left-wing journalist and Socialist politician whose best known work is the classic, first-hand reporting on the October Revolution in Russia, *Ten Days that Shook the World*, published in 1919. Reed also reported on the Mexican Revolution of 1910 and the Eastern Front during World War I. His life is the subject of the 1981 film, "Reds," starring Warren Beatty as Reed and Diane Keaton as Louise Bryant. Reed died in 1920 in the Soviet Union from typhus and was buried as a hero of the Soviet Union in the Kremlin Wall.
- 54 David A. Shannon, *The Socialist Party of America*, pp. 126-149, Quadrangle Books, Chicago (1967); Theodore Draper, *The Roots of American Communism*, pp. 148-209, Viking Books, New York (1957).
- 55 Draper, pp. 246-266.
- 56 *Id.* at pp. 267-281; Albert Fried, *Communism in America: A History in Documents*, pp. 35-39, Columbia University Press, New York (1997).
- 57 For an excellent history of the impact of the October Revolution on the Western democracies, see Anthony Read, *The World on Fire: 1919 and the Battle With Bolshevism*, W.W. Norton & Company, New York and London (2008).
- 58 *Id.*
- 59 Oakley C. Johnson, *The Day is Coming: Life and Work of Charles E. Ruthenberg*, pp. 7-90, International Publishers Co., Inc., New York (1957) (hereinafter, "The Day is Coming").
- 60 Wikipedia, http://en.wikipedia.org/wiki/Charles_Ruthenberg.
- 61 The Day is Coming, pp. 118-120.
- 62 The Day is Coming, pp. 121-122.
- 63 The Day is Coming, pp. 136-138.
- 64 The Day is Coming, pp. 141-144.
- 65 The Day is Coming, pp. 145-147.
- 66 Draper, pp. 218-222, 369.
- 67 St. Joseph *Herald Press*, p. 1, col. 1, August 22, 1922.
- 68 *Id.*
- 69 *Id.*

- 70 St. Joseph *Herald Press*, p. 1, col. 1, August 23, 1922.
- 71 http://en.wikipedia.org/wiki/William_Z._Foster
- 72 http://wapedia.mobi/en/Frank_P_Walsh. Walsh was also an Irish Nationalist who chaired the American Commission on Irish Independence, advocating early American recognition of the newly proclaimed Irish Republic. Id., Dave Hannigan, *DeValera in America: The Rebel President and the Making of Irish Independence*, Palgrave MacMillan, New York (2010); Julie E. Manning, Frank P. Walsh and the Irish Question, <http://www.openlibrary.org/b/OL2213985M>. Walsh was also active in providing legal aid to the American labor movement. Maria E. Meehan, Frank P. Walsh and the American Labor Movement, <http://www.librarything.com/work/3862195>. Walsh passed away in New York City on May 2, 1939.
- 73 William Z. Foster, "On Trial in Michigan," *The Labor Herald*, Volume 2, Number 3 at pp. 2-3 (May 1923) (hereinafter, "On Trial in Michigan").
- 74 Ora Lynn Smith was born in Union City, Branch County, Michigan on October 8, 1879. Smith was prosecutor of Gratiot County from 1914 to 1921 and was United States Attorney for the Eastern District of Michigan from 1927 to 1928. Smith died on November 27, 1942 and is buried in, of all places, Moscow, Michigan. The O.L. Smith Middle School in Dearborn is named after him. A reporter for *The New York Times* covering the Foster trial compared and contrasted Smith with his adversary, Frank Walsh:
- "They are both tall, heavily built, powerful men. Walsh, the man from the city, has a ruddy complexion, a rugged countenance, while the country-bred Smith, paradoxically, is pale with a rounded face. Both men are clean shaven. Mr. Smith has an angry forelock of hair which hangs over his forehead, while Mr. Walsh has a close-cropped head and wears tortoise shell spectacles."
- "The contrast between their careers is the difference between the men. Whereas Mr. Walsh is known all over the country for his frequent appearance as counsel to radicals, his advocacy of the Irish Republic here and at the Peace Conference and his work on the Industrial Relations Committee and the War Labor Board. Mr. Smith's fame as the star prosecutor in the Michigan Attorney General's office has not spread outside the State. He is a self-made man who, orphaned at the age of ten, worked his way through school and college, taught Latin, English, history, mathematics and science in public schools in Indiana to put himself through the University of Michigan Law School
- and then began his career in a little interior town in Michigan."
- The New York Times*, April 4, 1923, p. 2, col. 1.
- 75 St. Joseph *Herald Press*, March 2, 1923, p.1, col. 2.
- 76 *Id.*
- 77 *Id.*
- 78 Benton Harbor *News-Palladium*, March 6, 1923, p. 1, col. 8; Benton Harbor *News-Palladium*, March 10, 1923, p. 1, col. 8.
- 79 *On Trial in Michigan*, p. 6; Robert Minor, "The Trial of William Z. Foster," *The Liberator*, Volume 6, Number 4, pp. 8-12 (April 1923); Benton Harbor *News-Palladium*, March 13, 1923, p. 10, col. 1.
- 80 *Time* magazine, "Radicals: Militant Communists," May 23, 1923, <http://www.time.com/time/magazine/article/0,9171,726961,00.html>; *New York Times*, March 16, 1923, p. 1, col. 1.
- 81 *Id.*
- 82 Draper, p. 366.
- 83 *Id.*
- 84 *Id.*
- 85 *On Trial in Michigan*, p. 6.
- 86 *WPA Press Reports*, p. 4. The descriptions of the day-to-day events of the Foster trial are contained in WPA Press Service reports edited by Tim Davenport, 1000 Flowers Publishing of Cowallis, Oregon, a copy of which is in possession of the author. This summary is hereinafter referred to as the "WPA Press Reports."
- 87 *WPA Press Reports*, pp. 5-7.
- 88 *Id.* at p. 6.
- 89 *Id.* at p. 9.
- 90 *Id.* at pp. 12-13.
- 91 *Id.* at p. 13.
- 92 *Id.* at p. 14.
- 93 *Id.* at p. 15.
- 94 *Id.* at p. 18; *On Trial in Michigan*, p. 25; *New York Times*, April 4, 1923, p. 2, col. 1
- 95 *New York Times*, April 5, 1923, p. 1, col. 7
- 96 *On Trial in Michigan*, p. 27; *New York Times*, April 6, 1923, p. 1, col. 6.
- 97 Benton Harbor *News-Palladium*, April 6, 1923, p. 1, col. 6.
- 98 *Id.*
- 99 St. Joseph *Herald Press*, April 16, 1923, p. 1, col. 8.
- 100 Record, p.2; St. Joseph *Herald Press*, April 13, 1923, p.1, col. 1.



*****AUTO**SCH 5-DIGIT 49501

LIBRARIAN
US COURTS LIBRARY
110 MICHIGAN ST NW STE 340
GRAND RAPIDS MI 49503-2300

-
- | | |
|---|---|
| <p>101 Benton Harbor <i>News-Palladium</i>, April 19, 1923, p.1, col. 1; St. Joseph <i>Herald Press</i>, April 19, 1923, p.1, col.8.</p> <p>102 Record, pp. 5-12; St. Joseph <i>Herald Press</i>, April 20, 1923, p.1, col.8.</p> <p>103 Record, pp.12-16.</p> <p>104 Record, pp. 16-18.</p> <p>105 Record, pp. 18-19.</p> <p>106 Record, pp. 19-23.</p> <p>107 Record, pp. 23-32, 33-34.</p> <p>108 Record, pp. 34-115.</p> <p>109 Record, pp. 115-116.</p> <p>110 Record, pp. 117-133; St. Joseph <i>Herald Press</i>, April 26, 1923, p.1, col. 3.</p> <p>111 Record, pp. 133-134; St. Joseph <i>Herald Press</i>, April 27, 1923, p.1, col. 8; St. Joseph <i>Herald Press</i>, April 28, 1923, p.1, col.1.</p> <p>112 Record, pp. 134-187; St. Joseph <i>Herald Press</i>, April 30, 1923, p.1, col.1.</p> <p>113 Record, pp. 187-188; St. Joseph <i>Herald Press</i>, May 2, 1923, p.1, col.1.</p> <p>114 Record, pp. 188-198.</p> <p>115 Record, p. 200; St. Joseph <i>Herald Press</i>, May 2, 1923, p.1, col.1; <i>New York Times</i>, May 3, 1923, p. 1, col. 2.</p> <p>116 St. Joseph <i>Herald Press</i>, May 2, 1923, p.1, col.1.</p> <p>117 St. Joseph <i>Herald Press</i>, May 5, 1923, p.1, col.1.</p> <p>118 St. Joseph <i>Herald Press</i>, May 2, 1923, p.1, col.1.</p> <p>119 <i>People v Ruthenberg</i>, 229 Mich 315, 322-325 (1924)</p> <p>120 <i>Id.</i> at p. 325.</p> <p>121 <i>Id.</i> at pp. 3267-328.</p> <p>122 <i>Id.</i> at pp. 329-330.</p> | <p>123 <i>Id.</i> at pp. 330-331.</p> <p>124 <i>Id.</i> at p. 334.</p> <p>125 <i>Id.</i> at p. 340.</p> <p>126 <i>Id.</i> at p. 341.</p> <p>127 <i>Id.</i> at pp. 348-357.</p> <p>128 Record, p. 229</p> <p>129 Record, pp. 230-232.</p> <p>130 Record, p 234.</p> <p>131 Record, pp. 234-241.</p> <p>132 Record, p.241.</p> <p>133 Record, p.245.</p> <p>134 Melvin I. Urofsky, <i>Louis D. Brandeis: A Life</i>, p. 634, Pantheon Books, New York (2009).</p> <p>135 <i>Id.</i></p> <p>136 <i>The Louis Brandeis Papers: Part I, 1916-1931</i> (Harvard Legal Manuscripts, Harvard Law School Library), microfilm reel 34, frames 00351-00360.</p> <p>137 <i>Id.</i></p> <p>138 <i>Id.</i></p> <p>139 <i>Id.</i></p> <p>140 <i>The Day is Coming</i>, pp. 164-165.</p> <p>141 <i>Id.</i> at p. 165.</p> <p>142 <i>Id.</i> at pp. 174-177.</p> <p>143 <i>Id.</i> at pp. 177-178.</p> <p>144 <i>Id.</i> at p. 178.</p> <p>145 <i>Id.</i></p> <p>146 <i>Id.</i></p> <p>147 <i>Id.</i> at p. 179.</p> <p>148 <i>Id.</i></p> |
|---|---|