

THE GLOBAL RED SCARE AND THE ANTI-WORKER
REPRESSIVE MODEL, 1913–1927

Christopher M. Roberts[†]

TABLE OF CONTENTS

I.	INTRODUCTION.....	417
II.	LAWS	425
	A. Seditious Laws	426
	B. Anarchism and Syndicalism Laws	432
	C. Association and Strike Laws	434
	D. Migration Laws.....	438
	E. Censorship Laws.....	441
III.	INSTITUTIONS.....	442
	A. Intelligence Agencies	443
	B. Propaganda Agencies	445
	C. Legislative Investigative Committees	446
IV.	RAIDS, ARRESTS, PROSECUTIONS, AND OTHER JUDICIAL AND ADMINISTRATIVE MEASURES.....	448
	A. Raids, Arrests, and Prosecutions	448
	B. Mass Trials	459
	C. Censorship	462
	D. Deportations.....	465
	E. Other Measures.....	466
V.	STATE FORCE	468
VI.	IDEOLOGICAL FORMATIONS	473
VII.	PARASTATAL ORGANIZATIONS.....	480
VIII.	CONCLUSION.....	487

Abstract

This article considers the extensive repressive measures enacted around the world during and in the wake of the First World War. While repressive developments in the World War I and post-war periods have previously been examined in different national contexts, little scholarship has adopted a more global lens. To better organize and consider the relevant developments, this article develops a typology of six different categories of public order governance into which the majority of the repressive measures of the period may be classified: the passage of new laws; the development of new institutions; raids, arrests, prosecutions, and other judicial and administrative measures taken against suspected dissidents; direct suppression via the deployment of state force; the development of new ideological formations; and the creation and strengthening of parastatal organizations. Considering developments around the world during and in the aftermath of World War I with the help of this typology helps to make clear how extensive in both kind and scope the innovations and extensions of repressive public order governance in the period were. Global study of such developments helps to reveal, moreover, how little such measures were solely or even primarily concerned with wartime exigencies, and how much, in contrast, they were concerned with clamping down on labor unrest, socialist agitation, and anti-colonial resistance. The developments of the period are not only a historical curiosity; rather, they continue to inform key components of repressive governance in numerous states today. As such, more directly confronting and addressing the history of such laws is essential to achieving greater respect for human rights in the contemporary world.

I. INTRODUCTION

In the United States, the years after World War I saw the forceful repression of leftist and labor organizations, a wave of repression that came to be known as the “Red Scare.” Despite the deployment of the this term to describe the post-war years, however, many of the actions undertaken in 1919 and 1920 continued policies and approaches developed during the war and before its commencement.¹ In addition, the repression of workers and socialists in the period was not limited to the United States—rather, it was a global phenomenon, encompassing not only the United States but also the United Kingdom, other Anglo-settler states such as Australia, Canada, and South Africa, the British colonial world, China, and many of the states of continental Europe, where events such as the November Revolution in Germany, the Biennio Rosso in Italy, the Bolshevik Triennium in Spain, and the declaration of the Hungarian Soviet Republic were met by a wave of violent, reactionary backlash.² In contrast to previous, more nationally-focused studies, this article draws these histories together, exploring the transnational extent of the wartime and post-war Red Scare,

† The research underlying this article was partially funded by a Direct Grant for Research (Project ID 4059044) received from the Faculty of Law at the Chinese University of Hong Kong. The author also thanks the editing staff of the Cardozo International & Comparative Law Review.

¹ In addition, the “Red Scare” of the 1910s is better seen not as the first but rather as the second global red scare, the first period meriting that label having taken place in response to the strikes and protests of the 1860s and 70s. See Ernesto Screpanti, *Long Economic Cycles and Recurring Proletarian Insurgencies*, 7 REV. FERNAND BRAUDEL CTR. 509, 512–13 (1984). On the pre-war roots of new repressive measures in the United Kingdom in the early twentieth century, see Christopher M. Roberts, *Forging the National Security State: Public Order Legality in Britain, 1900–1918*, 14 UNBOUND: HARV. J. LEGAL LEFT (forthcoming 2021).

² See THE EFFECTS OF WORLD WAR ONE: THE CLASS WAR AFTER THE GREAT WAR – THE RISE OF THE COMMUNIST PARTIES IN EAST CENTRAL EUROPE, 1918–1921 (Ivo Banac ed., 1983); Béla Bodó, *Paramilitary Violence in Hungary After the First World War*, 38 EAST EUR. Q. 139 (2004); BÉLA BODÓ, PÁL PRÓNAY: PARAMILITARY VIOLENCE AND ANTI-SEMITISM IN HUNGARY, 1919–1921 (2010); Béla Bodó, *The White Terror in Hungary, 1919–1921: The Social World of the Paramilitary Groups*, 42 AUSTRIAN HIST. Y.B. 133 (2011); WAR IN PEACE: PARAMILITARY VIOLENCE IN EUROPE AFTER THE GREAT WAR (Robert Gerwarth & John Horne eds., 2012); SILVIO PONS, THE GLOBAL REVOLUTION: A HISTORY OF INTERNATIONAL COMMUNISM 1917–1991, at 16–40 (Allan Cameron trans., Oxford Univ. Press 2014) (2012); MARK JONES, FOUNDING WEIMAR: VIOLENCE AND THE GERMAN REVOLUTION OF 1918–1919 (2016); ROBERT GERWARTH, THE VANQUISHED: WHY THE FIRST WORLD WAR FAILED TO END, 1917–1923 (2016); John Newman, *Revolution and Counterrevolution in Europe 1917–1923*, in 1 THE CAMBRIDGE HISTORY OF COMMUNISM 96 (Silvio Pons ed., 2017).

and the effects of the fierce anti-worker and anti-socialist actions adopted in jurisdiction after jurisdiction around the globe in the period.

Viewing the 1910s and 1920s from a global perspective helps to render apparent several facts that might otherwise be shielded from view. First, adopting a global lens helps to make clear how widespread the repressive practices of the period were—not characteristics of one system or another alone, though local particularities impacted the shape that developments took in different locations, but rather global trends in governmentality provoked by and in reaction to the strength and successes of worker and socialist politics, including the Bolshevik Revolution.³

Second, examining the Red Scare of the period in detail helps to underscore the point, emphasized by Regan Schmidt in his magisterial account of the early development of the Bureau of Investigation, that, in implementing novel repressive measures, the authorities were not responding to mass popular hysteria or paranoia, as the Red “Scare” label suggests, but were rather firmly in the driving seat.⁴ Schmidt’s argument is lent weight not only by the fact that developments in other jurisdictions tend to confirm the account he presents of developments in the United States, but also by the very extensiveness of the developments in question—suggesting top-down, planned design rather than popularly-driven reaction.

Third, considering the post-WWI Red Scare in global context helps to make apparent the close connection between labor organization and anticolonial movements. In Europe and the settler colonial states, the primary enemy fought was the domestic working class. Throughout the imperial, colonial world, however, working class resistance was often inextricably interwoven with nationalist struggle. From time to time and place to place connections were formed, including, for example, by the transnational revolutionary Ghadarites, who forged connections with members of the Industrial Workers of the World (“IWW”), Sun Yat-sen and other Chinese republican nationalists, and Egyptian revolutionaries, among others.⁵ Even when the

³ For more on international reactions to the Bolshevik Revolution, see *THE RISE OF BOLSHEVISM AND ITS IMPACT ON THE INTERWAR INTERNATIONAL ORDER* (Valentine Lomellini ed., 2020).

⁴ See REGAN SCHMIDT, *RED SCARE: FBI AND THE ORIGINS OF ANTICOMMUNISM IN THE UNITED STATES, 1919–1943* (2004).

⁵ For more, see MAIA RAMNATH, *HAJ TO UTOPIA: HOW THE GHADAR MOVEMENT CHARTERED GLOBAL RADICALISM AND ATTEMPTED TO OVERTHROW THE BRITISH EMPIRE* 46–117 (2011). In addition, Juan Demarchi, a member of the Industrial Workers of the World (“IWW”), was responsible for helping to radicalize a

struggles in question were not themselves linked, the legal and institutional tools developed by the authorities to fight such movements were similar, and the repressive powers of the state augmented in response to both.

Finally, most simply but also perhaps most importantly, recognizing the global nature of the reactionary dynamic that took place in the years following World War I helps to reveal the extent to which contemporary reactionary laws and institutions were generated through the global struggle against organized labor. The First World War, like the Second World War after it, and perhaps wartime experience in general, is often presented as an independent cause of the development of more powerful and repressive states.⁶ A narrow focus on the war, however, misses the extent to which the repression that took place during the war was, in practice, primarily oriented toward domestic dissidents, including workers and socialists, rather than at hostile foreign belligerents.⁷ The preservation and ongoing development of some of the more restrictive measures put in place during the war, moreover, including those oriented toward the limitation of freedom of movement, association, expression, and assembly as expressed through the formation of trade unions and strike action in particular, was not a natural consequence of the war, but rather a means of responding to the growth of the organized, political power of labor in the period.

Considering developments in public order governance in the 1910s and 1920s from a global perspective is hence valuable in terms of the correctives it offers relative to several hegemonic historical narratives. Above and beyond its broader narrative implications, the study of developments in governance in the period is valuable because of what it can teach us about the nature of those developments themselves. From one perspective, the study engaged in here may be understood as forming part of the legacy of studies advanced by Rusche

young Salvador Allende in Chile in the 1920s. See CAROLA ANDREA MIRANDA, *INVESTIGACIONES SOBRE LA HISTORIA DEL MARXISMO EN AMÉRICA LATINA [RESEARCH ON THE HISTORY OF MARXISM IN LATIN AMERICA]* (2001); SALVADOR ALLENDE E LA MEMORIA OSTINATA (Feltrinelli 2006).

⁶ See, e.g., MICHAEL LINFIELD, *FREEDOM UNDER FIRE: CIVIL LIBERTIES IN TIMES OF WAR* (1999); JAMES ABRAHAMSON, *THE AMERICAN HOME FRONT: REVOLUTIONARY WAR, CIVIL WAR, WORLD WAR I, WORLD WAR II* (2001); BRUCE PORTER, *WAR AND THE RISE OF THE STATE* (2002); ROBERT HIGGS, *CRISIS AND LEVIATHAN: CRITICAL EPISODES IN THE GROWTH OF AMERICAN GOVERNMENT* (2d ed. 2012).

⁷ See Roberts, *supra* note 1.

and Kirchheimer's *Punishment and Social Structure*.⁸ There, Rusche and Kirchheimer advanced the theory that criminal law and punishment largely evolved as a means of enforcing order over society's lower classes. This theory, broadly understood, has been taken up by a great deal of literature since, which has emphasized both the direct role of the criminal law in disciplining the working classes and its more indirect means of reinforcing the dominant social order, including through the emphasis placed on the virtues of labor in the context of punishment and by the manner in which the punishment of some serves as a threat, showing the rest of the lower or working classes how much worse they could have it.⁹

Among the theorists influenced by such work was Michael Foucault, whose *Discipline and Punish* explored the transition from a more extreme, punitive, and exemplary mode of punishment to the more limited but simultaneously more extensive and intrusive disciplinary systems of the nineteenth century.¹⁰ While Foucault was resistant to explanatory claims, it is nonetheless just as clear in his theory as in the more explicitly Marxist approaches that "discipline and punishment" are enacted in the interests of the powerful in society. Later in his life, Foucault continued to broaden his interest in more immediately or directly political questions by developing a theory of "governmentality," which sought to explore the expansion over time of the modalities and techniques through which society is governed, and the hegemony of "governmentality" over other forms of structuring social and political life.¹¹

The study engaged here is closely related to such a field of studies, constituting as it does a study of certain techniques of governance, broadly understood. At the same time, many of those who have

⁸ GEORG RUSCHE & OTTO KIRCHHEIMER, *PUNISHMENT AND SOCIAL STRUCTURE* (Routledge 2003) (1939).

⁹ See, e.g., DOUGLAS HAY, *PETER LINEBAUGH, JOHN G. RULE, E. P. THOMPSON & CAL WINSLOW, ALBION'S FATAL TREE: CRIME AND SOCIETY IN EIGHTEENTH-CENTURY ENGLAND* (1976); DARIO MELOSSI & MASSIMO PAVARINI, *THE PRISON AND THE FACTORY: ORIGINS OF THE PENITENTIARY SYSTEM* (1977); MICHAEL IGNATIEFF, *A JUST MEASURE OF PAIN: THE PENITENTIARY IN THE INDUSTRIAL REVOLUTION, 1750–1850* (1978); Dario Melossi, *Gazette of Morality and Social Whip: Punishment, Hegemony and the Case of the USA, 1970-92*, 2 *SOC. & LEGAL STUD.* 259 (1993); Loïc Wacquant, *The Penalisation of Poverty and the Rise of Neo-Liberalism*, 9 *EUR. J. CRIM. POL'Y & RES.* 401 (2001).

¹⁰ MICHEL FOUCAULT, *SURVEILLER ET PUNIR: NAISSANCE DE LA PRISON [DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON]* (1975).

¹¹ See MICHEL FOUCAULT, *NAISSANCE DE LA BIOPOLITIQUE: COURS AU COLLÈGE DE FRANCE, 1978–1979 [THE BIRTH OF BIOPOLITICS: LECTURES AT THE COLLÈGE DE FRANCE, 1978–1979]* (2004).

developed work in the Rusche and Kirchheimer tradition, as well as Foucault and various subsequent Foucaultians, have tended to focus on more ideational and organizational components of social control. In contrast, this study combines an emphasis on ideological manipulation with a concern with the more direct means of enforcing the interests of the dominant classes, a necessary point of emphasis, given the extent to which such more direct means of control were abundantly apparent and relied upon across jurisdictions in the period considered.

What form did the developments in public order governance that took place in the 1910s and 1920s take? There is no single way of thinking about those developments, which may be contemplated from several perspectives. How broadly one casts one's net remains an open question, as the techniques in question could, along the lines Foucault suggests, be traced into several different aspects of social ordering. This article devotes its attention only to some of the broadest and most fundamental techniques of governance developed, however, concerning which there is more than enough material to flesh out a lengthy analysis, as the following account makes clear. For typological purposes, those developments may be understood as consisting of six different components.

First, the period saw the passage of a raft of new repressive laws.¹² Particularly prominent in this context were laws penalizing espionage, sedition, anarchism, and syndicalism, as well as restrictive association and migration laws and laws enabling new forms of censorship.¹³ Collectively, these laws gave the authorities the power to penalize individuals of whom they disapproved, to carefully control associational activities and shut down associations where deemed necessary, and to limit freedom of movement, freedom of expression, and access to information. In addition, such laws played a key role in setting the terms of social interaction, helping to define the boundaries of legitimate social and political participation and discourse, and aiding in the construction of broader ideological and rhetorical frameworks, as discussed further below.

¹² For more on the repressive legislative developments of the period, see K.D. EWING & C.A. GEARTY, *THE STRUGGLE FOR CIVIL LIBERTIES: POLITICAL FREEDOM AND THE RULE OF LAW IN BRITAIN, 1914–1945* (2000); Christopher M. Roberts, *The Age of Emergency*, 20 WASH. U. GLOB. STUD. L. REV. 99 (2021).

¹³ See, e.g., Sedition Act of 1918, Pub. L. 65–150, 40 Stat. 553 (U.S.); Anarchical and Revolutionary Crimes Act, 1919 (India); *Unlawful Associations Act 1916* (Cth) (Austl.); Criminal Code, S.C. 1919 § 98 (Can.); Immigration Act of 1917, Pub. L. 64-301, 39 Stat. 874 (U.S.).

Second, the period saw the development of new forms of repressive institutions. Front and center was the development of modern intelligence agencies, focused on both the domestic and foreign realms. Though often created in the immediate pre-war period, these organizations expanded dramatically over the course of the First World War and became entrenched after the war's end, during which period, in their British incarnations at least, they devoted extensive attention to the twin challenges of radicalism and colonial independence movements.¹⁴ Closely linked to the development of these agencies was the development of propaganda bureaus, oriented not to obtaining information but rather to the production of narratives intended for mass dissemination, with the aim of steering the population in the directions the authorities desired.¹⁵ Finally, the period also saw innovations in terms of the utilization of legislative commissions of inquiry to conduct public hearings into socialist threats—institutions designed to fuel popular paranoia and antagonism—rather than to engage in open-ended fact finding.

Third, the period saw extensive raids, arrests, and prosecutions, conducted under both recently passed laws and under repressive measures persisting from the previous period.¹⁶ Among the most prominent prosecutions were mass trials of IWW members, which took place in the United States, Canada, and Australia; trials of anti-colonial radicals, such as the mass trial of Ghadar members in the United States in 1917 and 1918; and trials of communists, conducted in England, India, and elsewhere. These trials shared numerous characteristics, including a tendency toward collective prosecution.

¹⁴ For more, see THOMAS FERGUSSON, *BRITISH MILITARY INTELLIGENCE 1870–1914: THE DEVELOPMENT OF A MODERN INTELLIGENCE ORGANIZATION* (1984); JEFFERY RICHELSON, *A CENTURY OF SPIES: INTELLIGENCE IN THE TWENTIETH CENTURY* (1995); BROCK MILLMAN, *MANAGING DOMESTIC DISSENT IN FIRST WORLD WAR BRITAIN* (2000); MARTIN THOMAS, *EMPIRES OF INTELLIGENCE: SECURITY SERVICES AND COLONIAL DISORDER AFTER 1914* (2007).

¹⁵ On the early development of British and American propaganda bureaus, see STEPHEN VAUGHN, *HOLDING FAST THE INNER LINES: DEMOCRACY, NATIONALISM, AND THE COMMITTEE ON PUBLIC INFORMATION* (1980); J. LEE THOMPSON, *POLITICIANS, THE PRESS, AND PROPAGANDA: LORD NORTHCLIFFE AND THE GREAT WAR, 1914–1919* (2000);

Nick Fischer, *The Committee on Public Information and the Birth of US State Propaganda*, 35 *AUSTRALASIAN J. AM. STUD.* 51 (2016); JOHN MAXWELL HAMILTON, *MANIPULATING THE MASSES: WOODROW WILSON AND THE BIRTH OF AMERICAN PROPAGANDA* (2021).

¹⁶ See, e.g., SCHMIDT, *supra* note 4; CHRISTOPHER FINAN, *FROM THE PALMER RAIDS TO THE PATRIOT ACT: A HISTORY OF THE FIGHT FOR FREE SPEECH IN AMERICA* (2007).

Conspiracy charges were often relied upon,¹⁷ allowing the authorities to paint the picture of the crimes of the accused with a broad brush. At the same time, such trials afforded accused individuals an opportunity to attempt to advance their political projects by utilizing the platform of the trial to challenge both the nature of the process and the existing political systems more broadly.¹⁸ The authorities utilized a number of other measures to attempt to restrict the space for workers and socialists as well, including censorship of speech, publications, and communications, deportations, targeted injunctions on strike actions, and bans on associations.¹⁹

Fourth, where other measures proved inadequate, the authorities resorted to deployment of the unmediated power of the state, typically in the form of mass killings conducted by police or military authorities, including at times by means of the new tool of “aerial policing.”²⁰ This was not a favored strategy—recourse to lethal force often provoked attention, outrage, and pushback, rendering it suboptimal in the eyes of authorities interested in securing order via the most effective means possible. Nonetheless, in crucial moments, and perhaps at times simply as a reminder of the underlying distribution of power in society, authorities on both the local and national levels were not adverse to the unmediated deployment of state power, including the use of lethal force to disperse assemblies and the summary execution of

17 See, e.g., PAUL MURPHY, *THE MEANING OF FREE SPEECH: FIRST AMENDMENT FREEDOMS FROM WILSON TO FDR 191–92* (1972); Peter Lederman, *Sedition in Winnipeg: An Examination of the Trials for Seditious Conspiracy Arising from the General Strike of 1919*, 3 *QUEENS L.J.* 3 (1976); Jack Walker, *The Great Canadian Sedition Trials: Second Edition*, 42 *MAN. L.J.* 5, 39–45 (2019).

18 For more on the mass trials of the period, see IAN TURNER, *SYDNEY’S BURNING* (1969); RAMNATH, *supra* note 5; LAURA WEINRIB, *THE TAMING OF FREE SPEECH: AMERICA’S CIVIL LIBERTIES COMPROMISE* (2016); Gajendra Singh, *Jodh Singh, The Ghadar Movement and the Anti-Colonial Deviant in the Anglo-American Imagination*, 245 *PAST & PRESENT* 187 (2019); DEAN STRANG, *KEEP THE WRETCHES IN ORDER: AMERICA’S BIGGEST MASS TRIAL, THE RISE OF THE JUSTICE DEPARTMENT, AND THE FALL OF THE IWW* (2019).

19 For more, see PAUL MURPHY, *WORLD WAR I AND THE ORIGIN OF CIVIL LIBERTIES IN THE UNITED STATES* (1979); EWING & GEARTY, *supra* note 12; REGIN SCHMIDT, *supra* note 4; Roberts, *supra* note 12.

20 On the latter approach, see Priya Satia, *Drones: A History from the British Middle East*, 5 *HUMAN.* 1, 2 (2014) (“Aerial policing was invented in British Iraq after World War I Rather than rely on expensive and unpopular troop deployments, the British employed the fledgling RAF to patrol the country, coordinating information from intelligence agents on the ground to bombard subversive villages and tribes.”).

dissidents, as most infamously occurred in the period through the extrajudicial executions of Karl Liebknecht and Rosa Luxemburg.²¹

Fifth, across the polities considered, the authorities deployed a range of strategies oriented toward constructing new ideological formations, designed to legitimize their own position of power and to delegitimize those groups they saw as in need of suppression and control. Of the many techniques that might be considered in such regard, this article focuses on one: the attempt to draw connections between various forces and actors considered hostile “others.” By connecting such groups together, the authorities were able to transfer the hostility directed toward one group to another, and to magnify the level of the perceived threat faced in general. The construction of such an interlinkage was most archetypally undertaken in the Anglo context through references to “German-Bolshevik” conspiracy;²² but was not limited to that context, with those advocating for greater workers’ rights at times connected to every other category of enemy of the state or otherwise undesirable person the authorities could envision. In addition to statements from prominent politicians and government officials, significant work was done by legislation, including immigration legislation in particular, which often provided clear, concrete lists of the categories of person deemed undesirable and/or threatening.²³

Sixth, all of the above developments were complemented by the growth of what might be termed “patriotic” or “vigilance” associations—right wing “citizens” groups that owed more to government and business community support than they did to grassroots organization.²⁴ These organizations took numerous different forms, at times engaged in outright racist vigilantism, at other times taking the form of business and employer associations.²⁵ Whatever their form, such

21 On their deaths, see MARK JONES, *FOUNDING WEIMAR: VIOLENCE AND THE GERMAN REVOLUTION OF 1918–1919*, at 233–45 (2016).

22 The title of a propaganda publication produced and disseminated by the Committee on Public Information. See SCHMIDT, *supra* note 4, at 137.

23 See Immigration Act of 1917, Pub. L. 64-301, 39 Stat. 874 (U.S.).

24 For more, see MIKE HUGHES, *SPIES AT WORK* (1995); THOMAS LINEHAN, *BRITISH FASCISM, 1918–1939: PARTIES, IDEOLOGY AND CULTURE* (2000); CHRISTOPHER CAPOZZOLA, *UNCLE SAM WANTS YOU: WORLD WAR I AND THE MAKING OF THE MODERN AMERICAN CITIZEN* (2008); MATTHEW HENDLEY, *ORGANIZED PATRIOTISM AND THE CRUCIBLE OF WAR: POPULAR IMAGINATION IN BRITAIN, 1914–1932* (2012).

25 See Edwin Layton, *The Better America Federation: A Case Study of Superpatriotism*, 30 PAC. HIST. REV. 137 (1961); SCHMIDT, *supra* note 4, at 33–36, 98–104; MURPHY, *supra* note 19, at 89–119, 185–89, 221–23; CAPOZZOLA, *supra* note 24, at 152.

groups played an important role both in enhancing the power of established interests to press back against the progressive development of workers' rights, and in extending the power of the state to suppress workers' movements, by engaging in forms of communal harassment and deterrence beyond the measures the state would have been able to undertake in an official capacity.

Particular weight is given to the United States in the context of the examples that follow. From the rest of the world, particular attention is paid to developments within Britain and the British imperial world, though similar approaches adopted elsewhere, including for instance in several continental European polities, are also considered at times. As is inevitable with a study of such scope, developments everywhere cannot be treated with the same degree of attention. Despite such limitations, the text that follows provides innumerable examples of the techniques of governance considered from across a range of jurisdictions in the period, both "free" and colonized, making clear both the global extent of the developments suggested, and how influential and forceful those developments were.

Developments in each of the six areas considered alone constituted a grave new challenge for worker and socialist movements and a new component within the broader arsenal of techniques the state might use to suppress dissent. Taken together, these developments helped form a cohesive new model of repression. Recognizing the rapid global development and/or diffusion of this model is important in terms of the light it casts on the way reactionary repressive policies develop generally, and on the dynamics that help determine how effective such repression may be. The investigation conducted in this article is not merely one of historical curiosity, however; rather, it also sheds light on contemporary realities, given the extent to which many of the techniques developed in the period remain essential to public order governance around the world today.

II. LAWS

The 1910s and 1920s saw the passage of numerous new laws designed to counter the threat posed by the growing strength of leftist organizations worldwide. These laws took numerous forms, with many purposes often fulfilled at once. Broadly speaking and for present purposes, these laws can be classified into four categories: sedition laws, which drew on a long tradition of penalizing anti-government speech and activity; anarchism and syndicalism laws, a more recent focus of legal attention; anti-association laws, which attempted

to limit the space for associations of various sorts to be created and to operate; and migration laws, which sought to limit the movement of persons and to give the authorities expanded powers to deport individuals deemed troublesome. In addition to legislation, the period saw judicial interpretations that further restricted freedoms in these areas, effectively augmenting legislative measures; relevant interpretive judicial action is hence considered below as well.

A. Seditious Laws

In the United States, wartime sedition was famously punished by the Espionage and Sedition Acts. The initial act was formally titled An Act to Punish Acts of Interference with the Foreign Relations, and the Foreign Commerce of the United States, to Punish Espionage, and Better to Enforce the Criminal Laws of the United States, and for Other Purposes; it was known as the Espionage Act.²⁶ The later Sedition Act was an amendment to that law.²⁷ These laws had two functions. On the one hand, they partook of the “espionage law” tradition. That tradition began in Britain in the late nineteenth century, in the form of the 1889 Official Secrets Act.²⁸ While framed and sold as a means of combatting foreign spies, in practice the law was motivated not by any external power but rather by the leak of sensitive documents by a government official to the press.²⁹ Sedition laws have a longer history. They can perhaps best be understood as a complement to and an outgrowth of treason laws, an inherently broad and vague means of penalizing those articulating opposition to the established system of power.³⁰

While the 1917 Espionage Act encompassed elements from both of these traditions, the latter function predominated. Initial drafts of the Espionage Act were prepared by Assistant Attorney General Charles Warren and presented to Congress in mid-1916.³¹ While some of the bill’s more repressive components were removed in subsequent

²⁶ Pub. L. 65-24, 40 Stat. 217 (1917).

²⁷ Pub. L. 65-150, 40 Stat. 553 (1918).

²⁸ Official Secrets Act 1889, 52 & 53 Vict. c. 52 (Eng.).

²⁹ See Peter White, *Official Secrets and Government Openness in Britain*, 29 AUSTRALIAN LIBR. J. 20, 20 (1980); DAVID HOOPER, OFFICIAL SECRETS: THE USE AND ABUSE OF THE ACT 17–22 (1987).

³⁰ For more on the history of sedition laws, see Christopher M. Roberts, *Experiments with Suppression: The Evolution of Repressive Legality in Britain in the Revolutionary Period*, 43 LOY. L.A. INT'L & COMP. L. REV. 125 (2020).

³¹ See MURPHY, *supra* note 19, at 54–55.

hearings, the final Espionage Act that passed in June of 1917³² remained a suppressive tool.³³ In accordance with the tradition of anti-espionage laws, the Act penalized various forms of the collection and communication of official, state, or national security information.³⁴ In addition, in accordance with the tradition of sedition laws, the Act penalized the willful making or conveying of “false reports or false statements” with “intent to interfere” with the operations of the military, as well as willfully causing or attempting to cause “insubordination, disloyalty, mutiny, or refusal of duty.”³⁵

While this latter language was used to authorize numerous prosecutions, it proved more challenging to convict under the terms of the Espionage Act than the authorities liked, thanks in part to resistance from new civil liberties organizations such as the National Civil Liberties Bureau (“NCLB”), socialist organizations, and the National Association for the Advancement of Colored People (“NAACP”).³⁶ Inspiration was taken from the state level, however, and the state of Montana in particular, a site of fierce clashes between employers and the authorities on one side and organized labor on the other. In January 1918, Ves Hall, a Montana rancher, was charged under the Espionage Act after he referred to Woodrow Wilson as a “tool, a servant of Wall Street millionaires, and the richest and crookedest ___ ever President.”³⁷ In opposition to the suppressive tendencies of the period, Hall’s conviction was overturned by the local federal judge.³⁸ The setback for the authorities was brief, however, as the Montana legislature quickly passed a new, more stringent state sedition law.³⁹

Montana’s new law immediately came to national attention, inspiring the passage of an amendment to the Espionage Act on May 16,

³² Act of June 15, 1917, Pub. L. No. 65-24, 40 Stat. 217.

³³ For more on the process, see MURPHY, *supra* note 19, at 54–55, 76–78; Harold Edgar & Benno Schmidt Jr., *The Espionage Statutes and the Publication of Defense Information*, 73 COLUM. L. REV. 929 (1973); DAVID RABBAN, *THE FIRST AMENDMENT IN ITS FORGOTTEN YEARS* 254–55 (1997); Geoffrey Stone, *Judge Learned Hand and the Espionage Act of 1917: A Mystery Unraveled*, 70 U. CHI. L. REV. 335, 346–49, 353–54 (2003).

³⁴ Pub. L. 65-24, §§ 1(a-e), 2(a), 40 Stat. 217, 217–218.

³⁵ *Id.* § 3. The penalty was a \$10,000 fine and/or up to twenty years’ imprisonment. *See id.*

³⁶ *See* CAPOZZOLA, *supra* note 24, at 158–59.

³⁷ *Id.* at 158.

³⁸ *See* *United States v. Hall*, 248 F. 150 (D. Mont. 1918).

³⁹ *See* RABBAN, *supra* note 33, at 266–67.

1918 which came to be known as the Sedition Act.⁴⁰ While there was pushback from some senators, the Sedition Act was strongly supported by others, including the Attorney General, as well as Senator Lee Overman of North Carolina, who insisted that “every Senator who votes against this conference report can have the satisfaction of knowing that he has voted for an amendment that will throw a cloak of protection around every spy in this country and every traitor and every Bolshevik and every I. W. W. that is denied to a loyal American citizen.”⁴¹ Supported by such fiery rhetoric, the bill passed.

The Sedition Act expanded the terms of Section Three of the Espionage Act. Among its more egregious terms were penalizations of “disloyal, profane, scurrilous, or abusive language” intended to bring the government, the Constitution, or the like “into contempt, scorn, contumely, or disrepute”; of “any language intended to incite, provoke, or encourage resistance to the United States, or to promote the cause of its enemies”; of calling for “any curtailment of production” that might in any way impact the war effort; and of supporting or favoring by any “word or act” an enemy of the United States, or opposing the United States’ cause.⁴²

The United States was not the only country that strengthened its ability to prosecute dissidents in this period. In Britain, the Defence of the Realm Act (“DORA”)⁴³ dramatically expanded the power of the executive branch and was used as the authority for numerous emergency regulations, including Regulation 27, which penalized the spreading of “false reports or . . . false statements or reports or statements likely to cause disaffection to His Majesty or to interfere with the success of His Majesty’s forces by land or sea or to prejudice his Majesty’s relations with foreign powers . . .”; Regulation 42, which penalized “attempts to cause mutiny, sedition, or disaffection among

⁴⁰ Pub. L. 65-150, 40 Stat. 553 (1918). Harsh as it was, the Sedition Act stopped short of the declaration of martial law some were calling for, which failed to pass the Senate. *See* 56 CONG. REC. 5401-72 (Apr. 22, 1918); MURPHY, *supra* note 19, at 216-19.

⁴¹ 56 CONG. REC. 6050 (1918).

⁴² Pub. L. 65-150, § 3, 40 Stat. 553, 553-554. The punishment for each of these acts was a \$10,000 fine and/or up to twenty years’ imprisonment. *See id.* The Act also allowed any government employees found to have used “disloyal” language to be dismissed. *See id.*

⁴³ The Act had three iterations: 4 & 5 Geo. 5 c. 29 (Aug. 7, 1914); 4 & 5 Geo. 5 c. 63 (Aug. 28, 1914); 5 Geo. 5 c. 8 (Nov. 27, 1914). For more on the Act, its background, and its global influence, see Roberts, *supra* note 1; Roberts, *supra* note 12.

any of His Majesty's forces or among the civilian population";⁴⁴ and Regulation 42A, which penalized inducing members of the armed forces "to act in a manner which such person knows to be in contravention of" orders or regulations.⁴⁵ While DORA lapsed in 1921, the government used the occasion of a coal-miners' strike in 1920 to ram through a new Emergency Powers Act ("EPA"),⁴⁶ which was used as authority to issue a raft of new emergency regulations in 1921 in response to calls by the "Triple Alliance" of miners, railway men, and transport workers that had called for a national strike.⁴⁷

In Australia, the 1920 War Time Precautions Repeal Act, passed with the IWW in mind, added new crimes to the 1914 Crimes Act, including Section 24, which made it an offense to engage in or counsel a seditious enterprise or to write, utter, or publish seditious words.⁴⁸ It also enumerated an extensive list of seditious intentions, including attempting "to excite disaffection," to produce alterations in the law "otherwise than by lawful means," or "to promote feelings of ill-will and hostility between different classes of His Majesty's subjects."⁴⁹ In Canada, the War Measures Act expanded powers to detain and prosecute those considered guilty of sedition, broadly defined.⁵⁰ Similar measures were entrenched in the law following the war as well. During the Winnipeg general strike, Canada's Solicitor General, Sir Hugh Guthrie, delivered the report of the Committee on Sedition and Seditious Propaganda, which had been convened in response to labor unrest, to the House of Commons. The Report argued that strong measures were necessary to prevent the situation in Canada from approximating that in the United States.⁵¹ The House was swayed and it introduced amendments to Canada's Criminal Code, which penalized the distribution of seditious materials, extended the scope of sedition charges, and dramatically increased the penalty for sedition.⁵²

⁴⁴ 28990 LONDON GAZETTE 10138 (Nov. 27, 1914); 28992 LONDON GAZETTE 10170 (Dec. 1, 1914).

⁴⁵ 29750 LONDON GAZETTE 9008 (Sept. 15, 1916).

⁴⁶ The Emergency Powers Act 1920, 10 & 11 Geo. 5 c. 55 (Eng.).

⁴⁷ See BARBARA WEINBERGER, *KEEPING THE PEACE? POLICING STRIKES IN BRITAIN, 1906–1926*, at 180–82 (1991).

⁴⁸ *Id.*

⁴⁹ *War Time Precautions Repeal Act 1920* (Cth) s 24 (Austl.). The new crimes were already largely criminalized under state law. See Roger Douglas, *Saving Australia from Sedition: Customs, the Attorney-General's Department and the Administration of Peacetime Political Censorship*, 30 *FED. L. REV.* 135, 136 (2002).

⁵⁰ War Measures Act 1914, 5 Geo. 5 c. 2 (Eng. & Can.).

⁵¹ See HC Deb (10 June 1919) (4) pp. 3286–87 (Can.).

⁵² See Criminal Code, S.C. 1919 § 98 (Can.).

Elsewhere around the British Empire similar laws were put in place. In wartime India, suppression of sedition was enabled by the Defence of India Act (“DOIA”),⁵³ which granted the authorities extended powers of detention without trial, reduced defendants’ procedural rights, allowed for the use of special tribunals in certain instances, and imposed restrictions on freedom of expression, including penalties for spreading false news and for engaging in any activities the government deemed prejudicial to the war effort.⁵⁴ In Britain’s East Asian colonies, the outbreak of World War I was followed by passage of a range of suppressive measures aimed at seditious writings. These included the 1914 Seditious Publications Ordinance,⁵⁵ the 1915 Seditious Publications (Possession) Ordinance,⁵⁶ and a 1916 Order in Council in Hong Kong,⁵⁷ as well as the 1915 Seditious Publications (Prohibition) Ordinance⁵⁸ in the Straits Settlements and the 1915 Printing and Books Enactment⁵⁹ in the Federated Malay States. While the war provided justification for such measures, the primary targets in both South and East Asia were anti-colonial nationalists, among whom workers’ organizations and socialists were prominent.

Similar measures continued in place and continued to be put in place in the years following the war. In response to the growth of protests in the Caribbean in the post-war years,⁶⁰ sparked by discontent

⁵³ Defence of India Act, 1915.

⁵⁴ See *id.* For more, see MARK CONDOS, *THE INSECURITY STATE: PUNJAB AND THE MAKING OF IMPERIAL POWER IN BRITISH INDIA* 210–11 (2017).

⁵⁵ Seditious Publications Ordinance, No. 6, (1914) (H.K.). The ordinance was preceded by a similar measure in 1907, which had targeted the revolutionary Chinese language press. For more, see Michael Ng, *When Silence Speaks: Press Censorship and Rule of Law in British Hong Kong, 1850s–1940s*, 29 *L. & LITERATURE* 425, 430–33 (2017).

⁵⁶ Seditious Publications (Possession) Ordinance, No. 6, (1915) (H.K.).

⁵⁷ See HONG KONG GAZ 246–51 (May 12, 1916), cited in NORMAN MINERS, *HONG KONG UNDER IMPERIAL RULE, 1912–1941*, at 50–51 (1987). See also Ng, *supra* note 55, at 435–36.

⁵⁸ Seditious Publications (Prohibition) Ordinance, No. 1, (1915).

⁵⁹ See C.F. Yong & R.B. McKenna, *The Kuomintang Movement in Malaya and Singapore, 1912–1925*, 12 *J. SE. ASIAN STUD.* 118, 127 (1981). Following the war, these measures were enhanced by the Printing Presses Ordinance, No. 5, (1920), which imposed criminal penalties for the illegal printing of “political” material. See *id.*

⁶⁰ See O.W. Phelps, *Rise of the Labour Movement in Jamaica*, 9 *SOC. & ECON. STUD.* 417, 421 (1960); Juanita De Barros, *Urban British Guiana, 1838–1924: Wharf Rats, Centipedes, and Pork Knockers*, in *MASTERS, SERVANTS, AND MAGISTRATES IN BRITAIN AND THE EMPIRE, 1562–1955*, at 329 (Douglas Hay & Paul Craven eds., 2004); Howard Johnson, *The British Caribbean from Demobilization to Constitutional Decolonization*, in 4 *THE OXFORD HISTORY OF THE BRITISH*

that developed out of the participation of Caribbean soldiers in the First World War⁶¹ and the efforts of Marcus Garvey's Universal Negro Improvement Association,⁶² the British enacted sedition laws around the region.⁶³ While Egypt was declared independent by the British on February 28, 1922, shortly after the war, Egypt's newfound sovereignty was sharply limited.⁶⁴ While a new constitution was promulgated on April 19, 1923, and Saad Zaghloul became Egypt's first popularly elected Prime Minister in 1924,⁶⁵ the new legal order included all the repressive laws the British had put in place over the preceding decades, including a law allowing five-year prison terms to be imposed on any person or paper "foment[ing] hatred or contempt against the government, propagat[ing] subversive ideas contrary to the new constitution or advocat[ing] the alteration of fundamental institutions by illegal means."⁶⁶ Following a massive general strike in Hong Kong that lasted from 1925 to 1926, the government issued a regulation banning "any organization whatever which in the opinion of the Governor

EMPIRE: THE TWENTIETH CENTURY 599–600 (Judith M. Brown & W.M. Roger Louis eds., 1999). These strikes were not without success, leading, for instance, to the establishment of several new unions, including the Jamaican Federation of Labour and the British Guiana Labour Union, the revival of the Trinidad Workingmen's Association, and the passage of a new Trade Union Ordinance in Jamaica. *See id.*

⁶¹ *See* Johnson, *supra* note 60.

⁶² The American Consul in Trinidad, for instance, deemed the associations' paper, *Negro World*, "responsible for the rapid growth of class and race feeling, and of anarchistic and Bolshevist ideas among the ignorant population here." *See* Tony Martin, *Marcus Garvey and Trinidad, 1912–1947*, in GARVEY, AFRICA, EUROPE, THE AMERICAS 55 (Rupert Lewis & Maureen Warner-Lewis eds., 1986). The paper was banned in British Honduras, British Guiana, St. Vincent, and Trinidad over the course of 1919 and 1920. *See* Johnson, *supra* note 60, at 600.

⁶³ These acts included the Seditious Publications Prohibition Act in the Bahamas (Act No. 28 of 1919), Seditious Publications Ordinances in Granada (Ordinance No. 6 of 1920), Saint Lucia (Ordinance No. 12 of 1920) and Saint Vincent (Ordinance No. 19 of 1920), the Seditious Publications (Prohibition) Act in the Leeward Islands (Act No. 9 of 1920), the Seditious Acts and Publications Ordinance in Jamaica (Ordinance No. 10 of 1920), and the Sedition Act in Trinidad and Tobago (Ordinance No. 10 of 1920). *See* HC Deb (24 Nov. 1920) (135) cols. 478–86W, <https://api.parliament.uk/historic-hansard/written-answers/1920/nov/24/crown-colonies-peace-regulations>.

⁶⁴ *See* Declaration to Egypt by His Britannic Majesty's Government (Feb. 28, 1922); M.W. Daly, *The British Occupation, 1882–1922*, in 2 THE CAMBRIDGE HISTORY OF EGYPT (M.W. Daly ed., 1999).

⁶⁵ *See* Selma Botman, *The Liberal Age, 1923–1952*, in 2 THE CAMBRIDGE HISTORY OF EGYPT (M.W. Daly ed., 1999).

⁶⁶ *See* JOEL BEININ & ZACHARY LOCKMAN, WORKERS ON THE NILE: NATIONALISM, COMMUNISM, ISLAM, AND THE EGYPTIAN WORKING CLASS, 1882–1954, at 145 (1988).

in Council is used to promote a general strike or disorder of any kind or the spread of sedition,” and making it an offence to “say anything which if reduced to writing would be seditious,”⁶⁷ as well as regulations allowing for imprisonment of dissenters upon summary conviction.⁶⁸ In South Africa, where the South African Industrial and Commercial Workers Union was growing in strength,⁶⁹ the authorities augmented the extensive web of repressive legality already in place with the 1927 Native Administration Act, which penalized, among other things, “any person who utters any words or does any other act or thing whatever with intent to promote any feeling of hostility between Natives and Europeans.”⁷⁰

As much as by any other sort of legal provision then, the 1910s and 1920s were marked by a flourishing of sedition law. These were not paper threats, moreover. As will be shown below, these laws were frequently utilized in practice. Sedition charges were valuable not only in that their broad terms made them applicable to a wide range of speech deemed oppositional; they were valuable too in that the charge of sedition carried with it a punch, suggesting to the wider community that those charged were not merely individuals who held certain beliefs—for instance, that non-whites in South Africa should be entitled to basic freedom of movement—but that they were, in fact, fundamental threats to the political community.

B. Anarchism and Syndicalism Laws

The 1910s and 1920s also saw the passage of laws targeting “anarchism” and “syndicalism.” Idaho passed a criminal syndicalism law on March 14, 1917, that defined criminal syndicalism as the “doctrine which advocates crime, sabotage, violence of unlawful methods of

⁶⁷ Regulation of 28 January 1927 (H.K.), cited in Norman Miners, *The Use and Abuse of Emergency Powers by the Hong Kong Government*, 26 Hong Kong L.J. 47, 54 (1996).

⁶⁸ See MINERS, *supra* note 57, at 54; Michael Ng, Shengyue Zhang & Max Wong, “Who But the Governor in Executive Council is the Judge?” – *Historical Use of the Emergency Regulations Ordinance*, 50 H.K.L.J. 425 (2020).

⁶⁹ See David Johnson, *Clements Kadalie, the ICU, and the Language of Freedom*, 42 ENG. AFR. 43, 45 (2015). In addition to the ICU, progressive advocacy was conducted by the South African Trade and Labour Council, formed in 1926, which advocated for the open membership of all trade unions as well as the establishment of parallel black unions where open membership was not possible. See Mpfariseni Budeli, *Trade Unionism and Politics in Africa: The South African Experience*, 45 COMPAR. & INT’L L. J. S. AFR. 454, 468 (2012).

⁷⁰ Native Administration Act of 1927 § 29 (S. Afr.).

terrorism as a means of accomplishing industrial or political reform.”⁷¹ Idaho’s law was quickly emulated in Minnesota,⁷² and in the following three years in another twenty-one states and two territories as well.⁷³ Numerous states also passed new laws penalizing anarchism, together with laws prohibiting the display of a red flag in public assemblies.⁷⁴

In India, meanwhile, following the war, a “Sedition Committee” was established under the chairmanship of Sidney Rowlatt with a mandate to assess “criminal conspiracies connected with the revolutionary movement in India” and to “advise as to the legislation, if any, necessary to enable Government to deal effectively with them.”⁷⁵ The Committee’s report found that insurrection, referred to as a “poison” and a “virus” that spread through “contagion,” was growing, and recommended the adoption of a new law extending many of DOIA’s provisions.⁷⁶ The Committee’s recommendation was followed through passage of the Anarchical and Revolutionary Crimes Act,⁷⁷ more commonly known as the Rowlatt Act, which gave the Governor General in Council power to authorize special tribunals and extended powers of search, arrest, and detention without trial where he considered that there were serious threats to public safety.⁷⁸

Anarchism, syndicalism, and red flag laws lacked the breadth of the more general sedition laws they accompanied. By criminalizing particular forms of leftist ideology and activity, however, the laws made a clear statement relative to those who might identify with such

⁷¹ Act of March 14, 1917, ch. 145, 1917 Idaho Sess. Laws 459.

⁷² Act of April 13, 1917, ch. 215, 1917 Minn. Laws 311.

⁷³ See Ahmed White, *The Crime of Economic Radicalism: Criminal Syndicalism Laws and the Industrial Workers of the World, 1917–1927*, 85 OR. L. REV. 649, 659 (2006). See also Zechariah Chafee Jr., *Legislation Against Anarchy*, NEW REPUBLIC (July 23, 1919); ELDRIDGE DOWELL, *A HISTORY OF CRIMINAL SYNDICALISM LEGISLATION IN THE UNITED STATES* (1939); Vincent Blasi, *The First Amendment and the Ideal of Civic Courage: The Brandeis Opinion in Whitney v. California*, 29 WM. & MARY L. REV. 653, 655 (1988).

⁷⁴ See SCHMIDT, *supra* note 4, at 115. The passage of such laws was heavily supported by the Bureau of Investigation (“BoI”). See *id.* at 117–19.

⁷⁵ SEDITION COMMITTEE REPORT iii (Calcutta: Superintendent Government Printing, 1918), cited in KIM WAGNER, *AMRITSAR 1919: AN EMPIRE OF FEAR AND THE MAKING OF A MASSACRE* (2019). See also Peter Robb, *THE GOVERNMENT OF INDIA AND REFORM: POLICIES TOWARDS POLITICS AND THE CONSTITUTION, 1916–1921*, at 101, 149–53 (1976); Joseph McQuade, *Terrorism, Law, and Sovereignty in India and the League of Nations, 1897–1945*, at 88–91 (2017) (Doctoral Thesis, Trinity Hall).

⁷⁶ See CHARLES TOWNSHEND, *BRITAIN’S CIVIL WARS: COUNTERINSURGENCY IN THE TWENTIETH CENTURY* 132 (1986); WAGNER, *supra* note 75, at 43.

⁷⁷ Anarchical and Revolutionary Crimes Act, 1919 (India).

⁷⁸ See *id.*

groups or consider undertaking more overt forms of socialist advocacy. They played a valuable role, in that context, of complementing the sense of anti-state threat conveyed by sedition laws with the more generalized delegitimization that came with suggesting leftist political activity was criminal.

C. Association and Strike Laws

Workers' advocacy in the period was also met by legal measures restricting freedom of association and assembly. In the United States, the Supreme Court played a key role in this context through a series of restrictive decisions in 1921 and 1922. In *Duplex Printing Press Co. v. Deering*,⁷⁹ the Court reaffirmed its earlier ruling in *Loewe v. Lawlor*,⁸⁰ finding that secondary boycotts were unlawful despite terms in the 1914 Clayton Antitrust Act expressly suggesting the opposite.⁸¹ In *Truax v. Corrigan*,⁸² the Court found Arizona's anti-injunction law unconstitutional. In *American Steel Foundries v. Tri-City Trade Council*,⁸³ the Court essentially outlawed picketing. In *United Mine Workers v. Coronado Coal Co.*,⁸⁴ the Court allowed large damages to be leveled against unions engaging in industrial action designed to prevent employers from shifting to an open shop approach. This flurry of judicial activity sharply constrained unions' power, augmenting the effects of the various criminal laws discussed above.

Novel legal restrictions on unions and strikes were common elsewhere in the period as well. In Britain, in addition to the previously mentioned regulations, DORA was used to issue regulations targeting assemblies, including Regulation 9A, issued in response to a planned pacifist demonstration, which allowed the authorities,

where there is reason to apprehend that the holding of a meeting in a public place will give rise to grave disorder . . . [,] to make an order prohibiting the holding of the meeting, and if a meeting is held, or attempted to be held, in contravention of any such prohibition . . . to take such steps as may be necessary to disperse the meeting,⁸⁵

79 *Duplex Print. Press Co. v. Deering*, 254 U.S. 443 (1921).

80 *Loewe v. Lawlor*, 208 U.S. 274 (1908).

81 *Duplex Print. Press Co.*, 254 U.S. at 487.

82 *Truax v. Corrigan*, 257 U.S. 312 (1921).

83 *Am. Steel Foundries v. Tri-City Cent. Trades Council*, 257 U.S. 184 (1921).

84 *United Mine Workers v. Coronado Coal Co.*, 259 U.S. 344 (1922).

85 29554 LONDON GAZETTE 4117 (Apr. 19, 1916); 29556 LONDON GAZETTE 4129 (Apr. 21, 1916).

and Regulation 51B, which allowed security officials to attend “meeting[s] or assembl[ies] . . . of such a character that an offence against these regulations may be committed thereat.”⁸⁶ Following the massive general strike in 1926, the 1927 Trade Disputes and Trade Unions Act outlawed strikes aimed at “coercing” the government and secondary strikes, provided a much broader and vaguer definition of intimidation than that which had previously been in effect, and prohibited mass picketing and picketing at workers’ homes.⁸⁷

Elsewhere, restrictive laws were often quite specifically targeted, including against the IWW. In Australia in 1916, fearful of a general strike, the government introduced the Unlawful Associations Bill, which declared both the IWW and any other “association which incited men to the taking of life or the destruction of property” unlawful and “made it a summary offence . . . to belong to such an association.”⁸⁸ The bill passed in five days.⁸⁹ The Unlawful Associations Act was amended in 1917, granting the government enhanced ability to declare associations illegal and penalizing support for such organizations.⁹⁰ These provisions were augmented by 1926 amendments to the Crimes Act,⁹¹ which extended the grounds on which associations could be deemed unlawful.⁹² The amendments also gave the Governor-General power to issue a “Proclamation” where, in his opinion, there was “a serious industrial disturbance prejudicing or threatening trade or commerce.”⁹³ Anyone continuing to take part in a “lock-out or strike” following such a proclamation would be guilty of an offense.⁹⁴ Boycotts or threats of boycotts pertaining to the provision of public services or “the transport of goods or the conveyance of passengers in trade or commerce” were similarly punishable.⁹⁵

⁸⁶ See 29931 LONDON GAZETTE 1262 (Feb. 6, 1917).

⁸⁷ Trade Disputes and Trade Unions Act 1927, 17 & 18 Geo. 5 c. 22 (Eng.).

⁸⁸ TURNER, *supra* note 18, at 69–70.

⁸⁹ *Unlawful Associations Act 1916* (Cth) No. 41 (Austl.). See TURNER, *supra* note 18, at 70 (New South Wales augmented this step by passing the Crimes Prevention Act, facilitating prosecution for incitement).

⁹⁰ See *id.* at 86.

⁹¹ See *An Act to Amend the Crime Act 1914–1915, 1926* (Cth) No. 9 (Austl.).

⁹² See *id.* § 30A(1). Soliciting support or publishing any document for such an organization was also penalized, the publications of such organizations were banned from the post, and any goods they possessed were considered “forfeit[ed] to the King.” See *id.* § 30D-G.

⁹³ *Id.* § 30J(1).

⁹⁴ *Id.* § 30J(2).

⁹⁵ *Id.* § 30K.

In Canada, toward the war's end, Orders in Council outlawed strikes and lockouts⁹⁶ and declared several pro-worker organizations illegal, including the IWW and any other association aimed at bringing about "any government, political, social, industrial, or economic change within Canada."⁹⁷ In addition to expanding the penalties for sedition, the 1919 amendments to Canada's Penal Code criminalized associations which had the "professed purpose," or which taught, advocated, or defended, or "by any means persecute[d] or pursue[d]" the aims of "governmental, industrial or economic change within Canada by use of force, violence or physical injury to person or property, or by threats of such injury."⁹⁸

Elsewhere around the British Empire a range of measures were put in place limiting the freedoms of association and assembly as well. In the East Africa Protectorate, a series of amendments to labor law were passed during the war allowing for forced labor, tightening the constraints on employees under the Master and Servant law, and enhancing punishments for breaking contracts.⁹⁹ In addition, the 1915 Registration of Natives Ordinance imposed a system of identity certificates, known as *kipande*, which were used to control the labor and movement of African workers.¹⁰⁰ In Egypt, the legal system inherited by the Wafd after formal independence included laws requiring the police to be notified in order for a public assembly to be held and giving them the power to dissolve that assembly if they saw fit to do so, and prohibiting strikes by workers in transportation or at public utilities—the two sectors with the most organized workers in Egypt—

⁹⁶ No-Strike Order-in-Council 1918, SI 1918/1743 (Can.).

⁹⁷ Order-in-Council 1918, SI 1918/2384 (Can.). For more, see Brad St. Croix, *Labour Movements, Trade Unions and Strikes (Canada)*, in 1914–1918 ONLINE: INTERNATIONAL ENCYCLOPEDIA OF THE FIRST WORLD WAR (2018), https://encyclopedia.1914-1918-online.net/article/labour_movements_trade_unions_and_strikes_canada.

⁹⁸ See An Act to Amend the Criminal Code, S.C. 1919, § 98.

⁹⁹ See David Anderson, *Kenya, 1895–1939: Registration and Rough Justice*, in MASTERS, SERVANTS, AND MAGISTRATES IN BRITAIN AND THE EMPIRE, 1562–1955, *supra* note 60, at 505.

¹⁰⁰ See David Anderson, *Master and Servant in Colonial Kenya, 1895–1939*, 41 J. AF. HIST. 459, 464 (2000). By 1931, over a million passes had been issued in Kenya. See Anderson, *supra* note 97, at 505-06. A similar system was implemented in 1920 in Tanganyika. See M.K. Banton, *The Colonial Office, 1820–1955: Constantly the Subject of Small Struggles*, in MASTERS, SERVANTS, AND MAGISTRATES IN BRITAIN AND THE EMPIRE, 1562–1955, *supra* note 60. In 1923 by the Master and Native Servants Ordinance and the Destitute Persons Ordinance. In 1930, a new penal code was introduced, which banned associations and assemblies. See *id.*

unless they provided fifteen days' prior notice.¹⁰¹ In South Africa, the 1923 Urban Areas Act strengthened the government's control over African men's ability to reside in or travel to or through urban areas.¹⁰² New labor legislation in 1924, meanwhile, limited the ability of white workers to strike and excluded members of the native population from joining unions and accessing newly established wage dispute mediation institutions.¹⁰³ In Hong Kong, following the 1925–1926 general strike, the government issued regulations authorizing the police to disperse processions, prohibit meetings, proscribe labor unions, and seize and confiscate printing machinery.¹⁰⁴

In other polities, laws were passed officially recognizing a certain space for unions or strikes while sharply restricting workers' ability to effectively utilize their rights in practice. In India, the 1920s saw numerous major strikes, including hundreds of strikes in Ahmedabad's textile mills and Bengal's jute mills, large strikes in Bombay's cotton mills in 1924, strikes on the North Western Railway in 1925, and strikes in Kharagpur in 1927.¹⁰⁵ The government responded with the 1926 Trade Unions Act.¹⁰⁶ While the Act allowed trade unions to be legally registered, it also restricted the activities unions could engage in and the uses to which unions could put their funds, sharply distinguished registered from unregistered unions, and refrained from imposing limitations on workers' civil and criminal liability for trade union activities.¹⁰⁷ In Palestine, meanwhile, a new labor ordinance, the Prevention of Intimidation Ordinance, took effect in 1927. The new

¹⁰¹ See BEININ & LOCKMAN, *supra* note 66, at 145.

¹⁰² See Martin Chanock, *South Africa, 1841–1924: Race, Contract, and Coercion*, in MASTERS, SERVANTS, AND MAGISTRATES IN BRITAIN AND THE EMPIRE, 1562–1955, *supra* note 60, at 344–45.

¹⁰³ Industrial Conciliation Act of 1924 (S. Afr.); Shula Marks, *Southern Africa*, in 4 THE OXFORD HISTORY OF THE BRITISH EMPIRE 556 (Judith M. Brown & W.M. Roger Louis eds., 1999).

¹⁰⁴ See Ng, Zhang & Wong, *supra* note 68.

¹⁰⁵ See Abani Mukherji, *Indian Labour Movement: A Review of the Situation*, 3 COMMUNIST REV. (1922); SUKOMAL SEN, WORKING CLASS OF INDIA: HISTORY OF EMERGENCY AND MOVEMENT 1830–1970, at 211–59 (1977); Georges Lieten, *Strikers and Strike-Breakers: Bombay Textile Mills Strike, 1929*, 17 ECON. & POL'Y WKLY. 697 (1982).

¹⁰⁶ Trade Union Act 16, 1926 (India).

¹⁰⁷ See SEN, *supra* note 105, at 237–38. As Sen notes, Section 120B of the Indian Penal Code allowed for criminal penalties to be imposed on those participating in unregistered union activities. See *id.*

ordinance officially allowed pickets but forbade strikers from influencing others and made intimidation subject to heavy penalty.¹⁰⁸

Anti-association and strike laws took many forms, including both the targeting of particular associations as well as more general bans, and were at times mixed with more permissive provisions, testifying to the fact that labor power could not always be completely denied. While legal limitations on association and assembly were, from one point of view, less draconian than penalizations of sedition and the like, which typically carried lengthy sentences, in practice they were potentially even more effective, targeting and limiting precisely those forms of collective endeavor necessary to enable the development of more egalitarian policies.

D. Migration Laws

The 1910s and 1920s also saw the passage of several restrictive migration laws around the world. While such laws had multiple purposes, one consistent motivating factor was the desire to limit the mobility of labor agitators. A new Immigration Act was passed in the United States on February 5, 1917.¹⁰⁹ The Act had been debated since 1912 as a means of responding to the agitation carried out by the IWW, which was thought to have many foreign members.¹¹⁰ It made any alien deportable on the grounds of their having “advocat[ed] or t[ought] the unlawful destruction of property, or . . . anarchy, or the overthrow by force or violence of the Government of the United States or of all forms of law or the assassination of public officials”¹¹¹ The law also required that immigrants pass a literacy test, increased the admission tax, and excluded an extensive set of individuals barred from admission, discussed in the section on ideological formations below.¹¹²

Not long before the end of the war, the Immigration Act of 1918,¹¹³ also known as the Alien Anarchists Exclusion Act, was passed. The Act allowed the federal government to exclude and deport any aliens who were “anarchists,” who “believe[d] in or advocate[d] the overthrow by force or violence of the Government . . . or of all forms of law,” who “disbelieve[d] in or [were] opposed to all

¹⁰⁸ See DAVID DE VRIES, *STRIKE ACTION AND NATION BUILDING: LABOR UNREST IN PALESTINE/ISRAEL, 1899–1951*, at 38 (2015).

¹⁰⁹ Immigration Act of 1917, Pub. L. No. 64-301, 39 Stat. 874 (1917).

¹¹⁰ See SCHMIDT, *supra* note 4, at 55.

¹¹¹ Immigration Act of 1917 §§ 3, 19, 39 Stat. at 876, 889.

¹¹² See *id.*

¹¹³ Immigration Act of 1918, Pub. L. No. 65-221, 40 Stat. 1012 (1918).

organized government,” who “advocate[d] or t[ought] the assassination of public officials,” who “advocate[d] or t[ought] the unlawful destruction of property,” or who were “members of or affiliated with any organization that entertain[ed] a belief in, t[ought], or advocate[d]” one of the above ends.¹¹⁴

The post-war years saw several measures following up on the Alien Anarchists Exclusion Act. The Immigration Act of 1921,¹¹⁵ also known as the Emergency Quota Act, imposed quotas on immigrants on the basis of place of origin. In 1923, the Department of Justice commenced denaturalization proceedings against all Indians under the Act, motivated by the recent radical activity of the Ghadarites.¹¹⁶ The following year, the 1924 Immigration Act,¹¹⁷ also known as the National Origins Act, essentially banned Asian immigration. As Attorney General John Preston put it, “[t]his country is now learning that we must teach the non-assimilable, parasitic organizations in our midst that . . . this is a land of liberty . . . not a country of mere license.”¹¹⁸

Migration laws motivated by the desire to limit the movement of radicals were enacted in other polities too. In Britain, DORA authorized emergency Regulation 14, which allowed for persons “suspected of acting, or of having acted, or of being about to act in a manner prejudicial to the public safety or the defence of the Realm” to be removed from particular parts of the country, and Regulation 14B, which allowed for persons of “hostile origin or associations” to have their movements restricted, to be required to relocate, or to be interned.¹¹⁹

In Australia, in addition to its other provisions, the 1916 Unlawful Associations Act allowed for the deportation of non-Australian-born members of such associations.¹²⁰ In 1920, the Australian government amended the Immigration Act of 1901 to allow for the deportation of aliens found to have advocated the violent overthrow or abolition of the government, or who were members of organizations considered to have entertained such ideas.¹²¹ Following a major seamen’s strike in

¹¹⁴ *Id.* §§ 1–2.

¹¹⁵ Immigration Act of 1921, Pub. L No. 67-65, 42 Stat. 5 (1921).

¹¹⁶ See RAMNATH, *supra* note 5, at 127.

¹¹⁷ Immigration Act of 1924, Pub. L No. 68-139, 43 Stat. 153 (May 26, 1924).

¹¹⁸ See RAMNATH, *supra* note 5, at 128.

¹¹⁹ 28990 LONDON GAZETTE 10135 (Nov. 27, 1914); see 28992 LONDON GAZETTE 10155 (Dec. 1, 1914); EWING & GEARTY, *supra* note 12, at 55.

¹²⁰ *Unlawful Associations Act 1916* (Cth) No. 41 (Austl.). See also TURNER, *supra* note 17, at 69–70.

¹²¹ See Roger Douglas, *Keeping the Revolution at Bay: The Unlawful Associations Provisions of the Commonwealth Crimes Act*, 22 ADELAIDE L. REV. 259, 260 (2000).

1925, the government introduced new amendments to the Immigration Act, granting the minister power to deport any person “not born in Australia” where the minister was satisfied that that person was involved in hindering the transportation, trade, commerce, or provision of public services.¹²² In introducing the Act, Prime Minister Bruce emphasized that this power was needed on the ground that industrial disturbances in Australia in recent years had “not [been] caused by the Australian-born, but [rather] were due to the doctrines and atmosphere introduced by aliens.”¹²³

In Canada, the War Measures Act granted expanded powers of exclusion and deportation.¹²⁴ On June 6, 1919, during and in reaction to the Winnipeg general strike, Canadian immigration policies were amended to allow for the deportation of any person, other than Canadian citizens born in Canada, convicted of certain offenses of sedition.¹²⁵ Following the strike, the government introduced new amendments to the law allowing for the deportation of those who defended the unlawful destruction of property or who assumed without lawful authority powers of the government in Canada or any part thereof.¹²⁶

Labor agitator-inspired migration restricting measures were put in place elsewhere around the British Empire as well. Following the commencement of the First World War, several thousand Ghadarites began returning to India.¹²⁷ Aware of the movement’s revolutionary aims, the British began to view “every Indian returning from America or Canada, whether labourer, artisan or student . . . with the greatest suspicion as a probable active revolutionary, or at any rate a sympathizer with the revolutionary party.”¹²⁸ Accordingly, the government passed the Ingress into India Ordinance,¹²⁹ which included the instruction that every returning Indian “was to be regarded with the greatest suspicion and even as a potential revolutionary,” with those who were “reasonably suspected to be of revolutionary affiliations” to be

¹²² See S. Ricketson, *Liberal Law in a Repressive Age: Communism and the Law 1920–1950*, 3 MONASH U.L. REV. 101, 104–05 (1976).

¹²³ See *id.* at 105 (citing 110 *Commonwealth Parliamentary Debates* 460–61 (June 25, 1925)).

¹²⁴ The War Measures Act, 1914, 5 Geo. 5 c 2 (U.K.).

¹²⁵ See Walker, *supra* note 17, at 34; Leslie Katz, *Some Legal Consequences of the Winnipeg General Strike of 1919*, 4 MAN. L.J. 39, 47 (1970); Lederman, *supra* note 17, at 4–5.

¹²⁶ See Katz, *supra* note 125, at 49.

¹²⁷ See RAMNATH, *supra* note 5, at 50–1; CONDOS, *supra* note 54, at 198–212.

¹²⁸ F.C. ISEMONGER & J. SLATTERY, AN ACCOUNT OF THE GHADR CONSPIRACY, 1913–1915, at 53 (1998) (cited in RAMNATH, *supra* note 5, at 51).

¹²⁹ Ingress into India Ordinance 1914, 24 & 25 Vict. c. 67 (Eng.).

detained.¹³⁰ During the war, DOIA was used as authority for a March 1917 notification requiring a passport for entry or exit from India by sea.¹³¹ Following the war, the authorities rendered the new passport regime permanent through the 1920 Indian Passport Act.¹³² Elsewhere, more limited measures were put into effect, albeit within the same broader constellation of concerns. In Hong Kong, the 1916 Order in Council discussed above expanded the government's powers relative to exclusion and deportation.¹³³ In Egypt, the legal system inherited by the Wafd included a law permitting the expulsion of "vagrants" from cities.¹³⁴

Migration laws are often contemplated in a vacuum, separate from the history of core civil and political rights. Clearly, however, increasingly strict migration regulations in the 1910s and 1920s were influenced in substantial part by the transnational radicalism of the period, as demonstrated by the frequent attention to anarchists, the IWW, and the like within migration laws. These laws constituted another key component of the broader architecture of suppression that developed in the period.

E. Censorship Laws

The 1910s and 1920s saw a number of laws authorizing censorship as well. Censorship authorizations were often attached to the measures discussed above, particularly sedition laws. In addition to its other provisions for instance, the Espionage Act required that any material in violation of the Act, together with all materials "advocating or urging treason, insurrection, or forcible resistance" should be declared "nonmailable" matter and removed from the post.¹³⁵ These censorship powers were further expanded by the Trading with the Enemy Act, passed on October 6, 1917.¹³⁶ In addition to granting the President

¹³⁰ See RAMNATH, *supra* note 5, at 89.

¹³¹ See Radhika Singha, *The Great War and a 'Proper' Passport for the Colony: Border-Crossing in British India, c. 1882–1922*, 50 INDIAN ECON. & SOC. HIST. REV. 289, 292 (2013).

¹³² The Passport (Entry into India) Act, 1920, Act No. 34 of 1920 (Ind.).

¹³³ See HONG KONG GAZ 246-51 (May 12, 1916) (cited in MINERS, *supra* note 57, at 50–51).

¹³⁴ See BEININ & LOCKMAN, *supra* note 66, at 145.

¹³⁵ 40 Stat. 217 § 2 (1917). In granting this power, the Act built on and expanded the powers given to the United States Post Office by the 1873 Comstock Act, 17 Stat. 598, which allowed the Post Office to censor "obscene" and "indecent" materials. See RABBAN, *supra* note 33, at 251–52.

¹³⁶ Trading with the Enemy Act, Pub. L. 65-91, 40 Stat. 411 (1917).

the power to restrict trade between the United States and its enemies, the Act gave the Postmaster General broad powers to censor the foreign-language press.¹³⁷ The powers granted by the Espionage Act were increased by the Sedition Act, which gave the Postmaster General the power to return mail considered to be in violation of the Act.¹³⁸

In Britain, DORA was also used as authority for what may be understood as censorship provisions, including Regulation 27A, which penalized sharing information pertaining to secret sessions of Parliament,¹³⁹ and Regulation 27C, which required that leaflets and pamphlets bear the names and addresses of their authors and printers and that prior approval be obtained before their publication.¹⁴⁰ In Hong Kong, the 1916 Order in Council previously mentioned further expanded the government's powers relative to censorship and its control over communications.¹⁴¹

III. INSTITUTIONS

Restrictive new laws formed a first component of the public order regime established in response to the rising power of labor agitators. Another key piece of the response that developed in the period was the construction of new institutions. For present purposes, these can be divided into institutions of three forms. First, and most significantly, the early twentieth century was the period in which modern intelligence agencies were born. While these agencies had a range of responsibilities, including responsibility for both domestic and foreign intelligence, one key component of their work would come to be focused on the surveillance and harassment of groups considered domestic political dissidents. In addition to intelligence agencies as such, the period also saw the rise of propaganda agencies, oriented not at surveillance and disruption but rather at the generation and dissemination of narratives understood to accord with the government's broader interests. Finally, while the period was not the origin of legislative investigative committees, it saw the pioneering use of such committees to publicly investigate "red" and other dissident activity.

¹³⁷ See MURPHY, *supra* note 19, at 80–81.

¹³⁸ 40 Stat. 553 § 4 (May 16, 1918).

¹³⁹ See 29557 LONDON GAZETTE 4189 (Apr. 22, 1916); 29558 LONDON GAZETTE 4191 (Apr. 25, 1916).

¹⁴⁰ See EWING & GEARTY, *supra* note 12, at 68.

¹⁴¹ See HONG KONG GAZ 246-51 (May 12, 1916) (cited in MINERS, *supra* note 57, at 50–51).

A. Intelligence Agencies

In the nineteenth century, the primary federal political police service in the United States was the Treasury Department.¹⁴² In 1908, the political policing role was taken over by the Bureau of Investigation (“BoI”), newly established within the Justice Department under the leadership of Charles Bonaparte. Over the subsequent decade, the BoI continuously expanded in size, soon becoming the federal government’s principal law enforcement agency.¹⁴³ In April, May, and June of 1919, letter bombs accompanied by anarchist fliers declaring war on capital were sent to the homes of several prominent government officials, including the Attorney General A. Mitchell Palmer.¹⁴⁴ In response, Palmer appointed J. Edgar Hoover to head the new General Intelligence Division, also known as the Radical Division, within the BoI, which was established in August.¹⁴⁵ Though small, the Radical Division was dynamic, assembling hundreds of thousands of files on Americans deemed suspicious over the next several months.¹⁴⁶ The principal preoccupations of the BoI as a whole meanwhile are indicated by a report it produced in July of 1919, titled “Radicalism and Seditious Among the Negroes as Reflected in Their Publications,” which observed the “dangerous influences” and the “concerted effort, abetted by certain prominent white publicists, to arouse in the negro a well-defined class-consciousness, sympathetic only with the most malignant radical movements.”¹⁴⁷ Over the following five years, the Justice Department “repeatedly claimed to have uncovered evidence of Communist or radical influence behind black political activities.”¹⁴⁸

In Britain, two organizations played a role similar to the BoI: the Special Branch, a political policing organization created in the 1880s to combat Irish nationalists, which was soon given responsibility for the policing of Indian and Egyptian anti-colonial insurgents together with anarchists, socialists, and suffragettes;¹⁴⁹ and the Secret Service

¹⁴² MURPHY, *supra* note 19, at 92. See also SCHMIDT, *supra* note 4, at 43.

¹⁴³ See SCHMIDT, *supra* note 4, at 43.

¹⁴⁴ See DAVID PIETRUSZA, 1920: THE YEAR OF SIX PRESIDENTS 146 (2007).

¹⁴⁵ See SCHMIDT, *supra* note 4, at 158; CAPOZZOLA, *supra* note 24, at 202. On Hoover, see RICHARD GID POWERS, *SECRECY AND POWER: THE LIFE OF J. EDGAR HOOVER* (1987); ATHAN THEOHARIS & JOHN COX, *THE BOSS: J. EDGAR HOOVER AND THE GREAT AMERICAN INQUISITION* (1988).

¹⁴⁶ See SCHMIDT, *supra* note 4, at 159–66.

¹⁴⁷ See *id.* at 182, 192.

¹⁴⁸ *Id.* at 195.

¹⁴⁹ See KENNETH SHORT, *THE DYNAMITE WAR* (1979); BERNARD PORTER, *THE ORIGINS OF THE VIGILANT STATE* (1987); BERNARD PORTER, *PLOTS AND PARANOIA:*

Bureau, created in 1909, a subcomponent of which in time became the British intelligence agency known as MI5.¹⁵⁰ While both the Special Branch and the proto-MI5 preceded the First World War, both expanded dramatically over the course of the war and remained active in its aftermath, in which context they devoted substantial attention to the surveillance of union organizers.¹⁵¹

Elsewhere around the British Empire too, increasing emphasis was placed on the development of intelligence agencies during and in the wake of the war. In India, increasing attention to intelligence was motivated in significant part by the rise of the Ghadarite movement.¹⁵² As the British Director of Criminal Intelligence in India during the war put it, “the combination of politico-criminal plots with enemy intrigue and aims enabled the police and executive authorities to use the special war powers with the most telling effect against plotters, and our system of intelligence, prevention and punishment improved tremendously.”¹⁵³ In Hong Kong, following a 1922 seamen’s strike, the British increased military presence and intelligence operations in the colony.¹⁵⁴ In response to a massive general strike in 1925, the authorities further strengthened Hong Kong’s intelligence services, including by augmenting mail and telephone surveillance teams in particular.¹⁵⁵ In South Africa, a new intelligence organization, focused on communists, trade unionists, and “other agitators,” developed over the late 1920s.¹⁵⁶ In Egypt, following a series of attacks on British subjects in the post-war years, the authorities created a new “comprehensive intelligence organization,” with a mandate “to collect information on the political situation, to investigate cases of political crime, and to discover the individuals, or societies, responsible for these crimes, or

A HISTORY OF POLITICAL ESPIONAGE IN BRITAIN 1790–1988 (1989); HAIA SHPAYER-MAKOV, *THE ASCENT OF THE DETECTIVE: POLICE SLEUTHS IN EDWARDIAN AND VICTORIAN ENGLAND* (2011).

¹⁵⁰ See CHRISTOPHER ANDREW, *SECRET SERVICE: THE MAKING OF THE BRITISH INTELLIGENCE COMMUNITY* 53–58 (1985); JEFFERY RICHELSON, *A CENTURY OF SPIES: INTELLIGENCE IN THE TWENTIETH CENTURY* 10–11 (1995).

¹⁵¹ See KEITH JEFFREY & PETER HENNESSY, *STATES OF EMERGENCY: BRITISH GOVERNMENTS AND STRIKEBREAKING SINCE 1919*, at 1 (1987); WEINBERGER, *supra* note 47, at 176. Among other techniques, Special Branch sent officers to meetings, paid informants, tapped telephone lines, planted bugs in homes and offices, and intercepted correspondence. See EWING & GEARTY, *supra* note 12, at 112–18.

¹⁵² See RAMNATH, *supra* note 5.

¹⁵³ See *id.* at 89.

¹⁵⁴ See MINERS, *supra* note 57, at 14.

¹⁵⁵ See Richard Klein, *The Empire Strikes Back: Britain’s Use of the Law to Suppress Political Dissent in Hong Kong*, 15 B.U. INT’L L.J. 1, 6–7 (1997).

¹⁵⁶ JOHN BREWER, *BLACK AND BLUE: POLICING IN SOUTH AFRICA* (1994).

for the disturbance of public order in the country.”¹⁵⁷ Intelligence agencies were also integral to British and French colonization of former Ottoman territories across the Middle East, as Thomas has shown.¹⁵⁸

B. Propaganda Agencies

The early twentieth century also saw the formation of propaganda bureaus. In the United States, the central entity was the Committee on Public Information (“CPI”), created on April 14, 1917, by executive order.¹⁵⁹ Supporters of the Agency argued that it would allow for “[c]ensorship and publicity [to] be joined in honesty and with profit.”¹⁶⁰ The Agency became “the official ministry of propaganda for the United States,” and by the war’s end, it had distributed 6,000 press releases, 75,000,000 pamphlets, and 14,000 posters while coordinating 75,000 public speakers and employing 3,000 historians “as writers and fact-checkers.”¹⁶¹ One example of the CPI’s work was the *War Cyclopaedia*, which gave officially-sanctioned definitions to matters such as freedom of expression, espionage, and sedition, while giving the “clear impression that those who disagreed with such interpretations . . . were either unreasonable or disloyal.”¹⁶²

In the United Kingdom, the approach to propaganda evolved significantly over the course of the war, as the Propaganda Bureau, which was considered “too literary and rational,” was replaced in 1917 by the Department of Information, soon renamed the Ministry of Information, which was encouraged to produce “a more vigorous and strident propaganda aimed at the masses,” and not to be afraid of “outright

¹⁵⁷ MALAK BADRAWI, POLITICAL VIOLENCE IN EGYPT 1910–1925: SECRET SOCIETIES, PLOTS AND ASSASSINATIONS 140–44 (2000) (citing G. Clayton, Adviser for the Interior, Secret and Confidential Memorandum on Establishment in Egypt of a Comprehensive Intelligence Organization, F.O. 141/793/10633/13 (Feb. 17, 1920)).

¹⁵⁸ See FERGUSSON, *supra* note 14.

¹⁵⁹ See *Records of the Committee on Public Information (RG 63)*, Nat’l Archives, [https://www.archives.gov/research/foreign-policy/related-records/rg-63#:~:text=The%20Committee%20on%20Public%20Information%20\(CPI\)%20was%20established%20by%20Executive,Navy%20as%20executive%20office%20members](https://www.archives.gov/research/foreign-policy/related-records/rg-63#:~:text=The%20Committee%20on%20Public%20Information%20(CPI)%20was%20established%20by%20Executive,Navy%20as%20executive%20office%20members) [https://perma.cc/T756-HET4] (Sept. 15, 2021).

¹⁶⁰ See RAY BAKER, 7 WOODROW WILSON: LIFE AND LETTERS 20 (1939).

¹⁶¹ Donald Fishman, *George Creel: Freedom of Speech, the Film Industry, and Censorship During World War I*, 39 FREE SPEECH Y.B. 34, 35 (2001).

¹⁶² MURPHY, *supra* note 19, at 110.

fabrication.”¹⁶³ Lord Beaverbrook was put in charge of the Ministry in 1918, overseeing a department in which “[s]oldiers and civilians were . . . organized into a publicity machine for the government’s war policies.”¹⁶⁴

While the propaganda bureaus in the United States and United Kingdom did not long outlive the war, the approaches they pioneered had an enduring influence.¹⁶⁵ This influence can be seen in the use of propaganda techniques in the following decade, including, for example, after the outbreak of the 1925 strike in Hong Kong, in reaction to which the government established a new counter-propaganda bureau, which distributed anti-strike posters and leaflets, put out a daily newspaper, recruited members to the “thug-like Labour Protection Bureau, a secret bureau established . . . to protect labourers from pro-strike intimidators and to launch a counter-attack against these intimidators,” and created an imaginary “Peace and Order Preservation Society” to give the impression of greater popular support for the government.¹⁶⁶ Following the strike, the government sponsored a new anti-strike newspaper, the *Gongshang Ribao*.¹⁶⁷

C. Legislative Investigative Committees

In addition to these more novel institutions, the period saw the utilization of an old institution, the legislative commission of inquiry, for a new purpose—public investigation of leftist organizations and advocacy. This approach was pioneered by the Overman Committee, a subcommittee of the U.S. Senate Judiciary Committee headed by Lee Slater Overman, established in September of 1918 with a mandate to investigate pro-German sentiment in the liquor industry.¹⁶⁸ Following the war’s end, the Committee’s attention turned to Bolshevism,

¹⁶³ GEORGE ROBB, *BRITISH CULTURE & THE FIRST WORLD WAR* 143 (2d ed. 2015).

¹⁶⁴ Deian Hopkin, *Domestic Censorship in the First World War*, 5 J. CONTEMP. HIST. 151, 168 (1970). See also THOMPSON, *supra* note 15, at 206.

¹⁶⁵ See SCOTT CUTLIP, *THE UNSEEN POWER: PUBLIC RELATIONS—A HISTORY* (1994); LARRY TYE, *THE FATHER OF SPIN: EDWARD BERNAYS* (1998); JACQUIE L’ETANG, *PUBLIC RELATIONS IN BRITAIN: A HISTORY OF PROFESSIONAL PRACTICE IN THE TWENTIETH CENTURY* (2004); Ira Basen, *World War I and the Birth of Public Relations*, 4 J. PRO. COMM’N 15 (2015).

¹⁶⁶ John Carroll, *Colonialism, Nationalism, and Bourgeois Identity in Colonial Hong Kong*, 39 J. ORIENTAL STUD. 146, 161 (2005). See also Klein, *supra* note 155, at 8.

¹⁶⁷ See STEVE TSANG, *A MODERN HISTORY OF HONG KONG: 1841–1997*, at 97 (2003).

¹⁶⁸ S. REP. NO. 65-62 (1919).

and in February of 1919 the Committee's mandate was broadened to allow it to investigate "any efforts being made to propagate in this country the principles of any party exercising or claiming to exercise authority in Russia" and "any effort to incite the overthrow of the Government of this country or all government by force, or by the destruction of life or property, or the general cessation of industry."¹⁶⁹ The tenor of the Overman Committee hearings is discussed further below; here, it is only necessary to observe that committee hearings served to drum up popular antipathy toward Bolshevik Russia and leftist activism, aims demonstrated by the Committee's final report, which described Bolshevik advances in Russia as having inaugurated "a reign of terror unparalleled in the history of modern civilization."¹⁷⁰ The Committee also condemned the radical movement in America for appealing to "the hatred and the lowest instincts of the more ignorant elements of the population, reinforced by the criminally inclined" and for aiming at "the overthrow of existing governmental institutions and the complete demoralization of modern society."¹⁷¹

The Overman Committee had a state analogue in the form of the Joint Legislative Committee to Investigate Seditious Activities, also known as the Lusk Committee for its leader Senator Clayton Lusk, which was established by the New York State Legislature on March 26, 1919, with a mandate to "investigate individuals and organizations in the State who were suspected of promoting the overthrow of the American government in violation of the criminal anarchy articles of the State's Penal Code."¹⁷² Over the following year, the Committee, supported by private detectives, state police, and the BoI, raided offices, infiltrated meetings, collected documents, and subpoenaed witnesses, gathering information on numerous organizations, including the Russian Soviet Bureau, the Rand School of Social Science, the Socialist Party, the Communist Party, the IWW, and the NCLB.¹⁷³ The

¹⁶⁹ SCHMIDT, *supra* note 4, at 140.

¹⁷⁰ S. REP. NO. 65-62, at 31 (1919).

¹⁷¹ *Id.* at 145-46.

¹⁷² N.Y. STATE ARCHIVES, THE LUSK COMMITTEE: A GUIDE TO THE RECORDS OF THE JOINT LEGISLATIVE COMMITTEE TO INVESTIGATE SEDITIOUS ACTIVITIES 4 (1992), http://www.archives.nysed.gov/common/archives/files/res_topics_bus_lusk.pdf. Those articles were passed following the assassination of President McKinley in Buffalo. *See id.*

¹⁷³ *See id.* at 4-5; SCHMIDT, *supra* note 4, at 123-25. The NCLB was investigated on the grounds that it had undermined the nation's efforts during the war, and it was accused, *inter alia*, of "issuing propaganda for radical organizations" and of "furnishing attorneys for those objecting to military service and for those being prosecuted for violating the Federal Espionage Act." N.Y. STATE ARCHIVES, *supra* note

Lusk Committee submitted its report, entitled “Revolutionary Radicalism: Its History, Purpose, and Tactics,” to the New York State Senate on April 24, 1920.¹⁷⁴ Following the Committee’s denunciation, five socialists were expelled from the State Assembly.¹⁷⁵ Thousands were arrested, though only a few were charged, and even fewer convicted or deported, testifying to the scarcity of concrete evidence uncovered by the Committee.¹⁷⁶

IV. RAIDS, ARRESTS, PROSECUTIONS, AND OTHER JUDICIAL AND ADMINISTRATIVE MEASURES

In addition to the legal and institutional measures discussed above, the suppression of radical activity in the 1910s and 1920s was undertaken through a range of executive and judicial measures, including numerous raids, arrests, prosecutions, trials, impositions of censorship, deportations, injunctions, bans, and other measures. In addition to the costs imposed on those targeted, every measure taken in such regards cast a chilling shadow, demonstrating the consequences individuals and organizations might face if they chose to confront the established order.

A. Raids, Arrests, and Prosecutions

Prosecution of labor activists was already underway in the United States before the First World War. In 1913, a disorderly conduct charge was levied against the IWW leader Bill Haywood, though it was set aside by the Supreme Court of New Jersey.¹⁷⁷ The following year, Alexander Scott, editor of a socialist newspaper, was convicted of “advocat[ing] the subversion and destruction by force of any and all government” under a New Jersey statute, due to an article he had written condemning police violence against peaceful protesters.¹⁷⁸

172, at 11. In the course of investigating the NCLB, the Committee examined in detail correspondence between the organization’s headquarters and associated attorneys, as well as correspondence with various clients and potential clients. *See* N.Y. STATE ARCHIVES, *supra* note 172, at 11–12.

¹⁷⁴ *See* N.Y. STATE ARCHIVES, *supra* note 172, at 5.

¹⁷⁵ *See id.* at 6.

¹⁷⁶ *See id.*

¹⁷⁷ *See* RABBAN, *supra* note 33, at 117–18; *Haywood v. Ryan*, 88 A. 820 (N.J. 1913).

¹⁷⁸ *See* RABBAN, *supra* note 33, at 119.

Scott was ultimately released, however, after his conviction was overturned on appeal.¹⁷⁹

Other defendants were not so lucky. Almost five thousand strikers were arrested in the Paterson silk workers' strike, of whom approximately 1,300 were sent to prison.¹⁸⁰ In California, Upton Sinclair was arrested and charged for leading a protest in front of the Standard Oil Company building and convicted under a state statute prohibiting disorderly conduct.¹⁸¹ Sinclair's conviction was upheld on appeal, on the ground that, while the protest had been peaceful, Sinclair's words *might* have provoked a breach of the peace.¹⁸² Similar convictions were common around the country, especially against labor agitators, who formed a consistent target of "[p]rosecutors at every level," who "proceeded against [them] under whatever theories they could muster, regularly invoking criminal libel, seditious libel, and obscenity laws, among other statutory and common-law provisions."¹⁸³

Prosecutions continued over the course of the war, leading to the imprisonment of the editor of the *San Antonio Inquirer*;¹⁸⁴ the arrest of the editors of the *Messenger*, A. Philip Randolph and Chandler Owen;¹⁸⁵ a June 1917 raid on the offices of *Mother Earth*, which led to charges being brought against Emma Goldman and Alexander Berkman, leading anarchists, under both Civil War era statutes and the May 1917 Draft Act, on the grounds that they had formed a conspiracy to induce persons not to register;¹⁸⁶ and the prosecution of Eastman and other editors of *The Masses* on the grounds that they had obstructed the draft.¹⁸⁷ In addition to prosecutions, "radicals," including African American organizers in particular, were harassed by the BoI. After the war started, rumors began circulating that Germans were attempting to recruit Blacks in the South to fight against the white population.¹⁸⁸ In response, the BoI picked up its surveillance of African

¹⁷⁹ See *id.* at 119–20; *State v. Scott*, 90 A. 235 (N.J. 1914).

¹⁸⁰ See RALPH DARLINGTON, *SYNDICALISM AND THE TRANSITION TO COMMUNISM: AN INTERNATIONAL COMPARATIVE ANALYSIS* 62–63 (2008).

¹⁸¹ See RABBAN, *supra* note 33, at 71–72, 117; *People v. Sinclair*, 86 Misc. 426, (Ct. Gen. Sess. 1914), *aff'd*, 151 N.Y.S. 1136 (1915).

¹⁸² See RABBAN, *supra* note 33, at 71–72, 117.

¹⁸³ WEINRIB, *supra* note 18, at 29.

¹⁸⁴ See *Bouldin v. United States*, 261 F. 674 (1st Cir. 1919).

¹⁸⁵ See MURPHY, *supra* note 19, at 65–67.

¹⁸⁶ MURPHY, *supra* note 17, at 191–92. The case was appealed to the Supreme Court, which unanimously upheld Goldman's and Berkman's convictions. See *Goldman v. United States*, 245 U.S. 474 (1918).

¹⁸⁷ See CAPOZZOLA, *supra* note 24, at 155.

¹⁸⁸ See MURPHY, *supra* note 19, at 63–64.

American organizations and individuals, though it was unable to substantiate the accounts of a German connection.¹⁸⁹ African American socialist and labor organizers were also subjected to particularly intense surveillance, including investigations into leftist periodicals such as *Crisis* and the *Chicago Defender*.¹⁹⁰ On the state level, a combination of laws, including “vagrancy statutes, disorderly conduct charges, and nuisance laws,” as well as laws targeting “seditious remarks,” were used by local authorities to penalize and silence all forms of oppositional speakers.¹⁹¹

Federal prosecutions picked up pace following passage of the Sedition Act; in fact, the Act was so successful at facilitating prosecutions that in October of 1918, the Justice Department had to order U.S. attorneys to hold off on further indictments.¹⁹² Over the course of the war, the Espionage Act was invoked to prosecute more than two thousand individuals for one form of “seditious” speech or another, of whom about one thousand were convicted.¹⁹³ Among those convicted were Victor Berger and four other Socialist party leaders who were indicted in February of 1918 and sentenced to twenty years in prison shortly after the war’s end.¹⁹⁴ Defendants convicted included a Socialist lecturer who suggested that enlisted soldiers would be “used for fertilizer”;¹⁹⁵ public speakers who suggested that the government was corrupt and the Select Service Act was unconstitutional,¹⁹⁶ and that draft-dodgers were “victims of a damnable system of government”;¹⁹⁷ Rose Pastor Stokes, a Russian immigrant, who was sentenced to ten-years imprisonment for saying “I am for the people and the government is for the profiteers” to the Kansas City Women’s Dining

¹⁸⁹ See *id.*

¹⁹⁰ See *id.* at 65–67.

¹⁹¹ See CAPOZZOLA, *supra* note 24, at 150.

¹⁹² See *id.* at 160.

¹⁹³ See RABBAN, *supra* note 33, at 256; MURPHY, *supra* note 19, at 80.

¹⁹⁴ See ENCYCLOPEDIA MILWAUKEE, *Victor L. Berger* (2016), <https://emke.uwm.edu/entry/victor-l-berger>. The defendants appealed the judgments. Un November of 1919, while out on bail, Berger, who had won a seat in Congress, travelled to Washington to take it, but was denied the ability to do so. A special election followed, which Berger again won; once again, however, Congress refused to seat him. See *id.* The conviction was ultimately overturned by the Supreme Court. See *Berger v. United States*, 255 U.S. 22 (1921).

¹⁹⁵ *O’Hare v. United States*, 253 F. 538, 539 (8th Cir. 1918).

¹⁹⁶ See *Kirchner v. United States*, 255 F. 301 (4th Cir. 1918).

¹⁹⁷ *Coldwell v. United States*, 256 F. 805, 807 (1st Cir. 1919).

Club;¹⁹⁸ and D. T. Blodgett, who was sentenced to twenty-years imprisonment for circulating a leaflet arguing that the war served the interests of capital.¹⁹⁹ In addition, Espionage Act charges were levied against several Ghadarite leaders, including on the basis that they had been preparing to send a letter to the Russian government, urging Soviet support of their cause.²⁰⁰

State laws were also used to conduct political prosecutions over the course of the war. Frank Lowery, for instance, was convicted under criminal anarchy laws in Washington State on the basis of his membership in the IWW.²⁰¹ While Lowery argued he was not personally responsible for the opinions contained in numerous IWW pamphlets submitted as evidence against him, the Washington Supreme Court refused to accept such a distinction, reasoning that “the defendant made these doctrines his own by accepting membership in the organization by which they were promulgated, and an exposition of whose principles they represent.”²⁰² Hundreds of others were prosecuted on the state level under state sedition, anarchism, and criminal syndicalism in the period as well.²⁰³

Surveillance, harassment, raids, arrests, and prosecutions continued after the war. On January 21, 1919, between 25,000 and 30,000 shipyard workers went on strike in Seattle. In February, the shipyard strike became a general strike.²⁰⁴ In response, the BoI opened files on the presumed strike leaders and arrested numerous IWW members, the nationals among whom it turned over to state authorities for prosecution under Washington’s anarchism law.²⁰⁵ Numerous further prosecutions of workers came in the following months, as 1919 was a year marked by serious labor unrest in the United States with more than

¹⁹⁸ See *United States v. Stokes*, (unreported) (W.D. Mo. 1918). The decision was reversed by *Stokes v. United States*, 264 F. 18 (8th Cir. 1920). For more, see ZECHARIAH CHAFEE, JR., *FREE SPEECH IN THE UNITED STATES* 52–53 (1948).

¹⁹⁹ See *Stone*, *supra* note 33, at 335, 339–40 (citing *United States v. Blodgett*, (unreported) (S.D. Iowa 1918)).

²⁰⁰ See *RAMNATH*, *supra* note 5, at 130.

²⁰¹ Those criminal anarchy laws penalized, *inter alia*, anyone “advocat[ing], advis[ing] or teach[ing] the duty, necessity or propriety of overthrowing or overturning organized government by force or violence, or by assassination of the executive head or of any of the executive officials of government, or by any unlawful means” and “organiz[ing] or help[ing] to organize or becom[ing] a member of or voluntarily assembl[ing] with any society, group or assembly of persons formed to teach or advocate such doctrine.” *State v. Lowery*, 104 Wash. 520, 523 (1918).

²⁰² *Id.* at 525.

²⁰³ See *White*, *supra* note 73, at 710–47; *SCHMIDT*, *supra* note 4, at 27.

²⁰⁴ See *SCHMIDT*, *supra* note 4, at 130.

²⁰⁵ See *id.* at 133–34.

3,600 strikes across the country, participated in by over 4,000,000 workers, almost a quarter of the total work force.²⁰⁶ On September 22, a nationwide steel strike involving approximately 365,000 workers began.²⁰⁷ In early October, authorities responded to the local manifestation of this strike in Gary, Indiana through declaration of martial law and the arrest of about 120 suspected revolutionaries.²⁰⁸ The same month, close to one hundred African Americans faced trial following violent attacks on the African American community in Arkansas. The defendants were forbidden counsel, denied the ability to call witnesses, and had their cases heard by all-white juries, who returned guilty verdicts against all of the defendants, leading to death sentences for twelve and long prison terms for the rest.²⁰⁹

Shortly thereafter, the authorities conducted the first round of the infamous Palmer Raids. The raids began on November 7, 1919—the second anniversary of the Bolshevik Revolution—with a raid on the headquarters of the Union of Russian Workers in New York. Over the course of the November raids, around one thousand persons were assaulted and arrested in a dozen or more cities, several hundred of whom were detained for longer spells on the grounds that they constituted dangerous aliens.²¹⁰ While the raids produced confessions, they were largely manufactured: as Schmidt observes, “the official record is filled with affidavits by aliens, relating how they were mistreated during the raids and interrogations and forced to confess to their

²⁰⁶ See *id.* at 213. The extent of the strikes was enabled by the fact that trade union membership had doubled between 1915 and 1920, including through the addition of unskilled and immigrant workers, thanks to the work of organizations like the IWW. See David Montgomery, *New Tendencies in Union Struggles and Strategies in Europe and the United States, 1916–1922*, in *WORK, COMMUNITY AND POWER: THE EXERCISE OF LABOR IN EUROPE AND AMERICA, 1900–1925*, at 89 (James Cronin & Carmen Sirianni eds., 1983).

²⁰⁷ Allen Pusey, *Sept. 22, 1919: The Great Steel Strike of 1919*, ABA J. (Sept. 1, 2012), https://www.abajournal.com/magazine/article/sept._22_1919_the_great_steel_strike_of_1919.

²⁰⁸ See SCHMIDT, *supra* note 4, at 221.

²⁰⁹ On the trial process, see GRIF STOCKLEY, *BLOOD IN THEIR EYES: THE ELAINE RACE MASSACRES OF 1919*, at 109–37 (2001). The convictions were ultimately overturned on appeal, but only after the defendants spent many years in jail. See CAPOZZOLA, *supra* note 24, at 138–39. In a 6-2 ruling in 1923, the Supreme Court found the due process violations involved would have violated the Fourteenth Amendment, if they had in fact occurred, and sent the case back to the federal district court to determine if they had. See *Moore v. Dempsey*, 261 U.S. 86 (1923). For more on the broader implications of the case, see MEGAN MING FRANCIS, *CIVIL RIGHTS AND THE MAKING OF THE MODERN AMERICAN STATE* (2014).

²¹⁰ See SCHMIDT, *supra* note 4, at 268; CAPOZZOLA, *supra* note 24, at 202.

radical activities.”²¹¹ To the extent the intent of raids was to spread fear, they were effective: in the words of one informer, following the raids, members of the Union of Russian Workers “appear[ed] to be afraid of everything Their general view is that they must be prepared for unexpected raids and assaults because the Government has decided to persecute without rest, all radicals in general,” while another informer apparently reported that members of the Union were destroying their remaining literature, in order not to be caught with it.²¹²

Further, the Palmer Raids commenced on January 2, 1920, in which between 5,000 and 10,000 people were arrested in thirty-three cities across the United States, often violently and without warrants.²¹³ This time, the Communist Party and Communist Labor Party were the primary targets.²¹⁴ Once again, those detained were given little due process, with the BoI employing “three methods” to obtain confessions: “the preliminary examination, the denial of counsel[,] and indefinite confinement.”²¹⁵ In this context, the agents were instructed to make “‘every effort’ . . . to prove the aliens’ membership and . . . [to] ‘endeavor to obtain from them, if possible, admissions that they are members of either [Communist party], together with any statement concerning their citizenship status.’”²¹⁶ In the wake of the raids, the Justice Department did everything it could to further their propaganda value, including conducting innumerable perp walks, leaking information and planting stories in the press, writing to “magazine editors, conservative groups[,] and other ‘leaders of the thought of this country’ about the nature of the radical menace and [the Justice D]epartment’s counter-measures,” and putting out its own publications concerning the radical threat and the measures it had taken against it.²¹⁷

As the 1920s went on, the authorities continued to devote attention to leftist advocates, including striking workers generally, the IWW, and communists. On August 22, 1922, the BoI raided the secret national convention of the Communist Party, held in Bridgman, Michigan.²¹⁸ Sixteen party leaders were taken into custody and turned over to local authorities for prosecution under Michigan’s criminal

²¹¹ SCHMIDT, *supra* note 4, at 269.

²¹² *See id.* at 271.

²¹³ *See id.* at 27, 260–62; CAPOZZOLA, *supra* note 24, at 202.

²¹⁴ *See* SCHMIDT, *supra* note 4, at 278.

²¹⁵ *Id.* at 286.

²¹⁶ *Id.*

²¹⁷ *Id.* at 295.

²¹⁸ *Id.*

syndicalism law.²¹⁹ In April of 1923, the police responded to a long-shoremen's strike with force, banning public meetings by the IWW, raiding IWW meeting places and seizing literature, and arresting and detaining hundreds of IWW members on charges of vagrancy, traffic violations, and criminal syndicalism.²²⁰ Upton Sinclair organized a small protest of these measures; in response, the police detained Sinclair and several others, holding them incommunicado for the first eighteen or so hours.²²¹ In April and May of 1923, the BoI conducted a series of raids of the premises of the Workers' Party in Pittsburgh, in which twenty-seven people were arrested and turned over to state authorities for prosecution under Pennsylvania's syndicalism law.²²² In 1924, silk workers in Paterson, New Jersey, went out on strike with the support of the ACLU.²²³ In response, courts issued a series of injunctions against their ability to picket or assemble, while the police arrested protesters *en masse* on the basis of nuisance and unlawful assembly charges.²²⁴

Radicals were subject to surveillance, harassment, and prosecution elsewhere around the world as well. In Britain, pacifists, union organizers, and socialists were surveilled, arrested, imprisoned, and banned from certain areas over the course of the war.²²⁵ In April of 1917, a strike involving 200,000 workers took place after the government attempted to revoke union exemptions from the military draft.²²⁶ In response, the government took twenty-two shop stewards into custody, a move which promptly brought the strike to an end.²²⁷ After the war's end, in response to 1921 calls for a national strike, the government arrested and charged workers with sedition as well as with various violations of both DORA and the EPA.²²⁸ The authorities also used the occasion to raid the Communist Party's offices and arrest and charge Albert Inkpin, the Party's general secretary.²²⁹ In the following

²¹⁹ See *id.* at 103.

²²⁰ See FINAN, *supra* note 16, at 49–50.

²²¹ See *id.* at 50–51.

²²² See SCHMIDT, *supra* note 4, at 89–121.

²²³ WEINRIB, *supra* note 18, at 111.

²²⁴ See *id.* at 133–34.

²²⁵ See Nicholas Hiley, *Counter-Espionage and Security in Great Britain During the First World War*, 101 ENGL. HIST. REV. 635, 650 (1986); EWING & GEARTY, *supra* note 12, at 64, 75–79; MILLMAN, *supra* note 14, at 186–87, 254; ROBB, *supra* note 163, at 140.

²²⁶ MILLMAN, *supra* note 14, at 170.

²²⁷ See *id.*

²²⁸ See EWING & GEARTY, *supra* note 12, at 107–09.

²²⁹ *Id.*

years, the authorities continued to surveille, raid, censor, and bring charges against Communist Party members.²³⁰ This suppression reached its height in 1925, when the government arrested twelve leaders of the Communist Party under various charges and declared the Communist Party illegal.²³¹ On May 3, 1926, following many months of dispute, a general strike, agreed to by close to one thousand delegates of 137 unions, representing 3,600,000 persons, began.²³² The government responded by invoking the EPA, deploying the military and a huge new force of special constables (the Civil Constabulary Reserve) around the country, forcefully dispersing strikes and protests, and putting out propaganda to support the official cause.²³³ By May 12, the general strike was defeated. The government did not relent, however; it maintained the state of emergency, banned more than one hundred assemblies, and charged some eight thousand violations²³⁴ of the EPA and common law over the following months, before partisan magistrates and utilizing summary procedures.²³⁵

In Australia, the IWW was a frequent target of prosecutions over the period in question. In 1915, Tom Barker, Secretary of the Sydney IWW, prepared a poster suggesting that capitalists, politicians, and other members of the elite were hypocrites for calling for workers to enter the war while staying home themselves.²³⁶ Shortly thereafter, Barker was arrested, charged, and convicted under the New South Wales War Precautions Regulations, on the basis that he had published a poster prejudicial to recruiting.²³⁷ A year later, Barker received another sentence of one year's imprisonment due to his position as printer and publisher of *Direct Action*, the IWW publication.²³⁸ The authorities raided the IWW's headquarters in July of 1917, shortly after which they declared the Workers' Defence and Release Committee—the name the IWW had assumed after the 1916 Unlawful Associations Act declared the IWW illegal—an illegal association, after

²³⁰ See *id.* at 105–35.

²³¹ See *id.* at 138–49.

²³² See WEINBERGER, *supra* note 47, at 194–96; EWING & GEARTY, *supra* note 12, at 156–57.

²³³ The miners held out until November before calling off their strike.

²³⁴ See WEINBERGER, *supra* note 47, at 205. See also EWING & GEARTY, *supra* note 12, at 174–200.

²³⁵ See WEINBERGER, *supra* note 47, at 205. See also EWING & GEARTY, *supra* note 12, at 174–200.

²³⁶ See TURNER, *supra* note 17, at 15.

²³⁷ See *id.* at 16–17.

²³⁸ See *id.* at 18–19.

which the police again raided the IWW hall and hastily charged, convicted, and imprisoned several IWW members.²³⁹

In Canada, numerous sedition prosecutions were brought against individuals deemed to have criticized the war effort over the course of the First World War.²⁴⁰ Despite such restrictive measures, trade union membership grew in Canada over the course of the war, rising from approximately 165,000 in 1914 to 250,000 in early 1919.²⁴¹ In March of 1919, socialists, radicals, and trade unionists in Western Canada organized a meeting in Calgary, where they denounced Samuel Gompers and “the tradition of moderation [he] represented,” and passed a resolution approving “the formation of the One Big Union (OBU) and its weapon of choice – the national general strike.”²⁴² On May 15, 1919, the Winnipeg general strike began.²⁴³ After several weeks, the authorities began to implement a more forceful response. Among other measures, the authorities arrested twelve people, including eight strike leaders, who they subsequently charged with seditious conspiracy under Section 133 of the Criminal Code.²⁴⁴

Following the end of the strike, one strike leader, R.B. Russell, was tried separately from the rest. Russell was charged and convicted on six counts of seditious conspiracy, including conspiracy to bring on “unlawful general strikes,” to cause “workers to break [their] contracts and desert from their service and duties,” and on the basis that the strike was intended “to be a step in a revolution against the constituted form of government in Canada.”²⁴⁵ His trial was, in the words of one later commentator, “a long and grueling contest . . . marked by many acrimonious exchanges”²⁴⁶ Any hope Russell had of receiving relief after his conviction was dashed by the Manitoba Court of Appeal, which unanimously refused Russell’s appeal against his sentence.²⁴⁷ Along the way, the court made clear its antipathy to the

²³⁹ *Id.* at 85–89.

²⁴⁰ See Lederman, *supra* note 17, at 18–20 (citing *R. v. Felton* (1915), 25 C.C.C. 207 (Alta. S.C. Can.), *R. v. Cohen* (1916), 25 C.C.C. 302 (Can.), *R. v. Manshrick* (1916), 27 C.C.C. 17 (Can.), and *R. v. Barron* (1919), 44 D.L.R. 332 (Can.)).

²⁴¹ See Katz, *supra* note 125, at 39.

²⁴² Walker, *supra* note 17, at 23–24.

²⁴³ See *The Winnipeg General Strike*, CAN. MUSEUM HUM. RTS., <https://human-rights.ca/story/the-winnipeg-general-strike> (last visited Oct. 17, 2021).

²⁴⁴ Walker, *supra* note 17, at 39–45.

²⁴⁵ Desmond Brown, *The Craftsmanship of Bias: Sedition and the Winnipeg Strike Trial 1919*, 14 MAN. L.J. 1, 1 (1984) (citing Indictment at counts 2–4, *R. v. Russell*, [1919] 2 S.C.R. 804 (Can. Ont.)).

²⁴⁶ *Id.*

²⁴⁷ See *R. v. Russell*, [1920] 51 D.L.R. 1 (Can.).

general strike that had taken place at Winnipeg, opining that the “‘Reds’ aimed at . . . the overthrow of the existing form of government in Canada and the introduction of a form of Socialist or Soviet rule in its place,” an aim they intended to accomplish through “general strikes, force[,] . . . terror[,] and, if necessary, by bloodshed,”²⁴⁸ and referring to the general strike as “an insurrectionary attempt to subvert the authority of our Governments” and “a bold attempt to usurp the powers of the duly constituted authorities and to force the public into submission through financial loss, starvation, want[,] and by every possible means that an autocratic junta deemed advisable.”²⁴⁹

Similar approaches were employed around the British Empire. In India, hundreds of alleged Ghadarites were tried under DOIA over the course of the war.²⁵⁰ Following the war, several trials of Indian Communist Party members were conducted, including in Peshawar and Kanpur.²⁵¹ In South Africa, W.H. Andrews, a member of the Communist Party of South Africa (“CPSA”) and editor of *The International*, was arrested and charged with incitement to violence on the basis of articles in the paper urging an expansion of the strikes.²⁵² The government also raided the CPSA’s offices, destroyed their press, confiscated such literature as they found, and suppressed *The International* for ten weeks.²⁵³ In Kenya, Harry Thuku, a founder and leader of the East African Association, which campaigned against the *kipande* system and forced labor, was arrested for his pro-worker advocacy.²⁵⁴ In Egypt, shortly after Zaghoul became Prime Minister in January of 1924, Muhammad Kamil Husayn, a nationalist lawyer and leader of the Cairo Tramway Workers’ Union, attempted to organize a strike.²⁵⁵ Husayn and other members of the union were arrested and charged with violating public order and insulting the Prime

²⁴⁸ *Id.* at 12.

²⁴⁹ *Id.* at 19–20.

²⁵⁰ See RAMNATH, *supra* note 5, at 56–60.

²⁵¹ See Suchetana Chattopadhyay, *Towards Communism*, 47 SOC. SCIENTIST 3, 21–25 (2019).

²⁵² See Wessel P. Visser, “To Fight the Battles of the Workers”: *The Emergence of Pro-strike Publications in Early Twentieth-Century South Africa*, 49 INT’L REV. SOC. HIST. 401, 429–30 (2004).

²⁵³ See *id.* at 430.

²⁵⁴ See HARRY THUKU, HARRY THUKU: AN AUTOBIOGRAPHY (1970); K.J. King, *The Nationalism of Harry Thuku: A Study in the Beginnings of African Politics in Kenya*, 1 TRANSAFRICAN J. HIST. 39 (1971); Anderson, *supra* note 99, at 464.

²⁵⁵ See BEININ & LOCKMAN, *supra* note 66, at 134.

Minister.²⁵⁶ Shortly thereafter, the communist-led Confédération Générale du Travail led a series of strikes in Alexandria.²⁵⁷ In response, the Wafd cracked down harshly, breaking the strikes and jailing Communist Party members.²⁵⁸ Eleven detained communist leaders were tried in September of 1924, charged with “conspiracy to overthrow the government and establish a communist regime,” sentenced to prison terms of six to thirty-six months, and the non-Egyptians among their ranks were deported.²⁵⁹ Attempts to revive the Communist Party in Egypt in the following years were quickly suppressed through similar means.²⁶⁰

Elsewhere too strike organizers and Communist Party members faced trial. In May of 1920, the French government broke a large-scale strike of railway workers, metalworkers, and others by arresting strike leaders.²⁶¹ In China, meanwhile, after being formed in 1921, the Communist Party gradually grew, though its ability to attract workers was initially limited.²⁶² Both Communist Party and other worker organizers’ efforts in Shanghai were surveilled and targeted by the International Settlement police, who arrested Li Qihan, a leading member of the Communist Party, in June of 1922 on charges of having “incit[ed] strikes” and of having published articles “likely to cause a breach of the peace.”²⁶³ On December 4, 1924, Shanghai University, which had become “the chief centre of revolutionary activity in the city between spring 1924 and the May Thirtieth Movement,” was raided by those same police, who seized hundreds of books, and temporarily arrested the acting president of the university.²⁶⁴ On the British authorities’ own assessment, at least such measures were effective, with the British

²⁵⁶ An indication, as Beinín puts it, that “Sa’d Zaghlul was unwilling to countenance anything that might discredit the Wafd government or his claim to lead the nation.” Joel Beinín, *Egypt: Society and Economy, 1923–1952*, in THE CAMBRIDGE HISTORY OF EGYPT 317 (M.W. Daly ed., 1998).

²⁵⁷ BEINÍN & LOCKMAN, *supra* note 66, at 144.

²⁵⁸ See Beinín, *supra* note 256, at 318; BEINÍN & LOCKMAN, *supra* note 66, at 148.

²⁵⁹ BEINÍN & LOCKMAN, *supra* note 66, at 151.

²⁶⁰ See *id.* at 151.

²⁶¹ See Thomas Beaumont, FELLOW TRAVELLERS: COMMUNIST TRADE UNIONISM AND INDUSTRIAL RELATIONS ON THE FRENCH RAILWAYS, 1914–1939, at 79–82 (2019).

²⁶² See ANTHONY JOES, VICTORIOUS INSURGENCIES: FOUR REBELLIONS THAT SHAPED OUR WORLD 8 (2010); STEVE A. SMITH, A ROAD IS MADE: COMMUNISM IN SHANGHAI 1920–1927, at 97–112 (2000).

²⁶³ See SMITH, *supra* note 262, at 44. After three months imprisonment, Li was handed over to the Chinese Garrison Commissioner, under whose power he was detained for a further twenty-eight months. See *id.*

²⁶⁴ *Id.* at 68–69.

Municipal Council observing that, together with more forceful repressive measures, discussed below, prosecutions for “rioting, intimidation, distribution of literature and kindred offences” had helped contribute to the suppression of the workers’ movement over the course of the decade.²⁶⁵

B. Mass Trials

Within the broader ambit of prosecutions, it is worth singling out one particular sort of prosecution frequently deployed in the period against labor activists—the “mass trial.” These trials were characterized by the fact they were advanced against several individuals collectively, enabling the more extensive submission of evidence, the generation of a diffuse sense of guilt by association, a more powerful public spectacle of punishment, and greater impact on the organizations in question, due to the greater numbers of individuals detained.

The IWW was a frequent subject of mass trials. In the United States, Attorney General Thomas Gregory, with the support of eight western governors, decided to take action against the IWW early in 1917.²⁶⁶ In July, Gregory wrote to Warren that the IWW constituted “a grave menace to the nation,” a menace financed by “some hostile organization.”²⁶⁷ As Weinrib puts it, “less than half a year after its declaration of war on Germany, the United States government launched a less celebrated internal attack . . . [on] the IWW, a labor organization that officials deemed just as threatening to American democracy as any international power.”²⁶⁸ That the purpose of such efforts was to destroy the IWW was openly acknowledged by the Justice Department.²⁶⁹ In early September, the BoI raided IWW offices and homes across the nation. On September 26, 1917, 166 IWW leaders were charged with having violated the Espionage Act, on the basis that

²⁶⁵ See *id.* at 210–20.

²⁶⁶ See MURPHY, *supra* note 19, at 104. The Western governors were in fact calling for even harsher measures, including the internment of all suspected members of the IWW and a ban on the reporting of that internment. See SCHMIDT, *supra* note 4, at 71.

²⁶⁷ MURPHY, *supra* note 19, at 104 (citing Letter from Thomas Gregory, Att’y Gen., to Charles Warren, Assistant Att’y Gen. (July 11, 1917) (U.S. Dep’t of Just. File No. 186701:1)). Shortly thereafter, an investigation was commenced to determine whether the IWW was financed by the Germans. See SCHMIDT, *supra* note 4, at 71.

²⁶⁸ WEINRIB, *supra* note 18, at 82.

²⁶⁹ Philip Foner, United States of America vs. Wm. D. Haywood, et al.: *The I.W.W. Indictment*, 11 LAB. HIST. 500, 501 (1970).

they had made false statements with the aim of disrupting the war effort, and they were tried in various collective trials around the country.²⁷⁰ The Chicago subcomponent of the trial, which included Haywood among its defendants, lasted nearly nine months and produced a record thought to have been the largest ever filed at the time.²⁷¹ Among other features, the trial involved hundreds of defendants being marched from the jail to the courthouse every day, “enduring verbal abuse and physical violence along the way.”²⁷²

The authorities charged the IWW members with having undermined the war effort. In response, the IWW members used the trial to attempt to advance their own advocacy goals by, for instance,

[r]ecount[ing] the living conditions in the mines and the lumber camps: the inadequate food and water, the lack of access to bathing facilities, the hard straw-covered bunks on which they slept . . . [and] the methods used to suppress labor organizing, from blacklisting to lynching. The stated goal of the IWW’s defense was to put the industrial system on trial.²⁷³

The government was determined to ensure this strategy would not succeed, however, and accordingly implemented a range of measures designed to maximize their chances of success and the propaganda value of the trial, including preventing monetary support for the IWW’s legal defense, suppressing publication of a pamphlet put out in the IWW’s defense by the NCLB, and pressuring newspapers not to accept IWW advertisements.²⁷⁴ Nearly 100 people were hastily

²⁷⁰ See MURPHY, *supra* note 19, at 172; SCHMIDT, *supra* note 4, at 72.

²⁷¹ See WEINRIB, *supra* note 18, at 82–83.

²⁷² *Id.*

²⁷³ *Id.* at 83.

²⁷⁴ See MURPHY, *supra* note 19, at 172. The trial had effects within the developing world of civil liberties associations as well, as support for the IWW ultimately led to the separation of Baldwin and the NCLB from the American Union Against Militarism and the formation of the ACLU. See RABBAN, *supra* note 33, at 306. Baldwin had known that defending the IWW would be controversial—indeed, in his own words, the point of doing so had been to “put the whole industrial system on trial,” to, as Murphy puts it, “point[] out the way that private capital was exploiting workers and using the federal government as a willing agent in that process.” DONALD JOHNSON, *THE CHALLENGE TO AMERICAN FREEDOMS: WORLD WAR I AND THE RISE OF THE AMERICAN CIVIL LIBERTIES UNION* 92 (1963); MURPHY, *supra* note 19, at 157. Baldwin’s defense of the IWW led to a BoI raid on the NCLB’s offices, in which the agents were “under orders to find anything that ‘either directly or indirectly, consciously or unconsciously, might tend to hinder winning the war, especially letters to or from anarchists, socialists, IWW’s or any other God-damn fools.’” FINAN, *supra* note 16, at 24.

convicted of 400 counts concerning more than 10,000 individual criminal acts when the Chicago trial concluded in April the following year, and they were sentenced to lengthy jail sentences.²⁷⁵

In Australia too, members of the IWW faced mass trials, albeit of a smaller order of magnitude. The IWW established its first official presence in Australia in October of 1907, when a club was opened in Sydney in cooperation with the Socialist Labour Party.²⁷⁶ In 1916, twelve IWW defendants were arrested on accusations of having set several fires in Sydney; they were jointly convicted of seditious conspiracy, some on other counts as well, despite thin evidence.²⁷⁷ Another twelve members of the IWW were arrested and charged with seditious conspiracy in Western Australia around the same time, on the grounds that they had sought “to carry into execution an enterprise having for its object to raise discontent and disaffection . . . [and] to promote feelings of ill-will and enmity between different classes of . . . subjects . . . ,” due to their membership in the IWW, which was deemed an organization that “advocated sedition, sabotage, and other ‘lawless acts.’”²⁷⁸ In that case, as Turner puts it, “it was the organisation rather than the individual which was on trial,” with scarcely any “evidence . . . offered of particular acts.”²⁷⁹ Relative to the case, the judge observed:

The propaganda of the I.W.W. appeared to be an exotic of foreign growth, totally inapplicable to the conditions of Australia, to which it rather bore the relation of a noxious weed introduced among the wheat-fields Could anyone say that the working class in Australia was not free? . . . No worker, seeing that the laws of the land provided the machinery for improving his industrial condition, had the right by a subterfuge to pretend to do that which he was not in reality doing²⁸⁰

Nine defendants were convicted.²⁸¹

In Canada, the Winnipeg general strike was followed by the trial of several other strike leaders in addition to Russell. Official sentiment

²⁷⁵ See Philip Taft, *The Federal Trials of the IWW*, 3 LAB. HIST. 57 (1962); WEINRIB, *supra* note 18, at 83–100.

²⁷⁶ See *The Wobblies*, SYDNEY LIVING MUSEUMS, <https://sydneylivingmuseums.com.au/ww1/wobblies> (last visited Oct. 17, 2021).

²⁷⁷ See TURNER, *supra* note 18, at 28–140.

²⁷⁸ *Id.* at 45.

²⁷⁹ *Id.* at 46.

²⁸⁰ *Id.* at 73–74.

²⁸¹ See *id.* at 74–76.

was from the beginning set against the detainees.²⁸² In the trial, the government argued that the Winnipeg general strike was not protected by the provisions of law authorizing strikes, on the grounds that the strike had not aimed at the workers' "reasonable protection," but rather at the offences of criminal breach of contract, committed by cutting off vital public services and thereby creating a situation dangerous to human life and property, and of intimidation in the form of picketing, or, in the words of the law, "besetting or watching."²⁸³ Six defendants were ultimately convicted.²⁸⁴

Another mass trial in the period was brought against Ghadarite revolutionaries and took place in San Francisco between 1917 and 1918. The trial involved 105 indictments, lasted for six months, and cost close to \$3 million, the majority paid by the British, making it the longest and most expensive trial held in the United States up to that time.²⁸⁵ Over the course of the trial, sixteen defendants accepted deals to provide evidence for the government, and the ordinary rules on hearsay were relaxed to enable the production of a more detailed record.²⁸⁶ The trial was extensively and sensationally reported in the press, where it was referred to as the "Hindu-German Conspiracy Trial," and as involving "[a] world-wide conspiracy, which involved hundreds, including the famous poet Tagore, Japanese statesmen and Chinese mandarins, Russian [B]olsheviks and American reds, in plans for an uprising in Tibet, bomb explosions in New York and California, and an armed expedition to India from our Pacific coast."²⁸⁷

C. Censorship

The authorities also responded to the rising strength of workers and socialists with censorship. Censorship took various forms in different times and places, including prior bans on the publication of

²⁸² See Walker, *supra* note 17, at 57.

²⁸³ See Lederman, *supra* note 17, at 14–15.

²⁸⁴ See *id.* at 15.

²⁸⁵ See RAMNATH, *supra* note 5, at 91–92; Singh, *supra* note 18, at 188.

²⁸⁶ See RAMNATH, *supra* note 5, at 92.

²⁸⁷ See Singh, *supra* note 18, at 188. In response to the authorities' plan to deport several Ghadar members following the trial, the Friends of Freedom for India, which included on its executive committee and board of directors figures such as Roger Baldwin, Margaret Sanger, W.E.B. Du Bois, and Upton Sinclair, was formed to fight back, in which cause the detainees also had the support of the *World*, an Oakland-based socialist paper, the American Federation of Labor, and several local unions. See RAMNATH, *supra* note 5, at 131–35.

certain materials, post-publication criminal and monetary penalties, and the prevention of certain materials from circulation in the post.

In the United States, the new censorship power granted to the Post Office by the Espionage Act was immediately put into effect, as the Postmaster General, Albert Burleson, sent out a secret memorandum ordering postmasters to keep “close watch on . . . matter[s] . . . calculated to interfere with the success of . . . the Government in conducting the war.”²⁸⁸ In practice, local postmasters had a great deal of discretion that they could use to harass groups they deemed disloyal or oppositional, or simply to pursue personal vendettas.²⁸⁹ The IWW was particularly heavily targeted.²⁹⁰ The unfettered approach adopted by the Post Office was given voice by William Lamar, the Post Office’s solicitor, who observed that it would have been “criminal” for the officials of the Post Office “to permit an exaggerated sentimentalism, a misapplied reverence for legal axioms which our courts have held have no true application to the questions involved to restrain us.”²⁹¹ Within a month of the United States’ entry into the war, fifteen publications had been excluded from the mail.²⁹² Following further enhancement of the Post Office’s censorship powers by the Trading with the Enemy Act, Burleson began to lay out prescriptions as well, indicated that a mail ban would be imposed on any paper saying “that the Government is controlled by Wall Street or munitions manufacturers, or any other special interests,” attacking “conscription, enlistments, sale of securities [Liberty Bonds] or revenue collections,” or in any other way “hampering the war’s prosecution or attacking improperly our allies.”²⁹³

A brief challenge to wartime censorship came via the case of *Masses Publishing Co. v. Patten*,²⁹⁴ which concerned New York Postmaster Thomas Patten’s July 3, 1917 determination that *The Masses*, a popular leftist periodical, was in violation of the Espionage Act,

²⁸⁸ See Donald Johnson, *Wilson, Burleson, and Censorship in the First World War*, 28 J.S. HIST. 48 (1962). In addition to his aggressive approach to censorship, Burleson was an overt racist who instituted racial segregation in the post office. See John Blum, *Albert Sidney Burleson*, in *DICTIONARY OF AMERICAN BIOGRAPHY* 74–75 (1958).

²⁸⁹ See MURPHY, *supra* note 19, at 101.

²⁹⁰ See *id.*

²⁹¹ See CAPOZZOLA, *supra* note 24, at 152.

²⁹² See MURPHY, *supra* note 19, at 99. Among the papers banned was the *Messenger*. See *id.* at 65–67.

²⁹³ See FINAN, *supra* note 16, at 10.

²⁹⁴ *Masses Pub. Co. v. Patten*, 244 F. 535 (S.D.N.Y. 1917), *rev’d*, 246 F. 24 (2d Cir. 1917).

preventing its distribution through the mail. In response, Max Eastman, the journal's principal editor, convened a "Free Press Conference," with the support of the American Union Against Militarism's Civil Liberties Bureau,²⁹⁵ and shortly thereafter challenged the ban in court. In his judgment, Learned Hand observed that while the text in question did constitute "a virulent attack upon the war and those laws which have been enacted to assist its prosecution, [that might] interfere with the success of the military forces of the United States,"²⁹⁶ this did not bring that text within the terms of the law allowing for the censorship of "willfully false statement[s]."²⁹⁷ Rather, in Hand's view, the representations made should be deemed to "fall within the scope of that right to criticise either by temperate reasoning, or by immoderate and indecent invective, which is normally the privilege of the individual in countries dependent upon the free expression of opinion as the ultimate source of authority."²⁹⁸ The victory for freedom of expression delivered by Hand's decision was short-lived, however, as the decision was promptly reversed by the Second Circuit.²⁹⁹

Censorship was frequently relied upon elsewhere around the world as well. In Britain, numerous dissenting publications and associations had their offices raided and were suppressed over the course of the war, including the National Labour Press, the No-Conscription Fellowship, and the National Council Against Conscription.³⁰⁰ In addition to the measures mentioned above, moreover, the government responded to the 1926 general strike by raiding newspaper premises and bringing charges against editors, publishers, and distributors.³⁰¹

In Australia, the New South Wales government banned the sale of the IWW paper in June of 1914.³⁰² When IWW members resisted the ban, they were detained.³⁰³ In 1916, motivated by fear of a general strike, the local police sought to limit the IWW's ability to distribute

²⁹⁵ See CAPOZZOLA, *supra* note 24, at 154.

²⁹⁶ *Masses Pub. Co.*, 244 F. at 539.

²⁹⁷ *Id.*

²⁹⁸ *Id.*

²⁹⁹ See *Masses Pub. Co.*, 244 F. 535 (S.D.N.Y. 1917), *rev'd*, 246 F. 24 (2d Cir. 1917).

³⁰⁰ See Hopkin, *supra* note 164, at 160–63; Colin Lovelace, *British Press Censorship During the First World War*, in *NEWSPAPER HISTORY FROM THE SEVENTEENTH CENTURY TO THE PRESENT DAY* 313 (George Boyce, James Curran & Pauline Wingate eds., 1978); Hiley, *supra* note 225, at 651; EWING & GEARTY, *supra* note 12, at 65–67, 73–75; MILLMAN, *supra* note 14, at 217.

³⁰¹ See EWING & GEARTY, *supra* note 12, at 158–204.

³⁰² TURNER, *supra* note 18, at 14.

³⁰³ See *id.*

leaflets.³⁰⁴ In 1917, the authorities prohibited the distribution of *Direct Action* by post and raided the IWW hall, in the course of which they seized copies of *Direct Action* together with the IWW's printing press.³⁰⁵ In 1921, the government banned the importation of seditious literature.³⁰⁶

In Canada, the War Measures Act granted extensive censorship powers.³⁰⁷ As elsewhere, labor activists found themselves frequent targets, as over the course of the war papers supportive of strikes and lockouts were subjected to seizure and banned.³⁰⁸ During the Winnipeg general strike, the *Strike Bulletin* was closed down on the basis of its reporting of state suppression and two men were subsequently criminally charged on the basis of articles they published in the *Western Labor News* that were critical of the suppression.³⁰⁹ Canada's courts also imposed censorship: when Ivens, a detained strike leader, criticized Russell's conviction by asserting that Russell had been "tried by a poisoned jury, by a poisoned Judge, and he is in jail tonight because of a poisoned sentence," and observed that his own trial was certain to be unfair as well, he was convicted of contempt.³¹⁰

Similar approaches were adopted elsewhere around the British Empire as well. Following passage of the Rowlatt Act, the Indian government-imposed controls on numerous publications, including Gandhi's *Hind Swaraj*.³¹¹ After the outbreak of the massive strike in Hong Kong in 1925, meanwhile, the authorities censored numerous publications.³¹² In short, while censorship never provided the sole avenue of official action against dissidents, it inevitably constituted one instrument within the broader toolbox.

D. Deportations

Powers of prosecution and censorship were complemented, where possible, by deportations. In the United States, following the arrest of IWW members involved in the Seattle general strike in 1919,

³⁰⁴ *See id.* at 69.

³⁰⁵ *Id.* at 85–89.

³⁰⁶ *See* Douglas, *supra* note 49, at 141.

³⁰⁷ War Measures Act, R.S.C. 1927, c 206 (Can.).

³⁰⁸ *See* St. Croix, *supra* note 97.

³⁰⁹ *See* Walker, *supra* note 17, at 51–54.

³¹⁰ Katz, *supra* note 125, at 45 (citing *R. v. Ivens*, [1920] 51 D.L.R. 38, 40–41).

³¹¹ *See* TALAT AHMED, MOHANDAS GANDHI: EXPERIMENTS IN CIVIL DISOBEDIENCE 75 (2019).

³¹² *See* Klein, *supra* note 155, at 6–7.

the BoI turned the non-nationals among the detained over to the immigration authorities, so that they could be deported if possible.³¹³ After the first Palmer Raids, 249 immigrants, including leading anarchists Emma Goldman and Alexander Berkman, were deported on the USS Buford on December 21 after summary proceedings—on Schmidt's account “the only mass deportation of political dissidents in US history.”³¹⁴ In Britain, the government registered, surveilled, interned, and at times deported enemy foreigners over the course of the war.³¹⁵ In addition, after the 1926 general strike, the government deported several of the foreigners who had been detained.³¹⁶ In Canada, following the Winnipeg general strike, five prominent strike leaders were deported to the United Kingdom.³¹⁷ In Kenya, Harry Thuku was exiled after his arrest, prosecution, and detention.³¹⁸

Sometimes deportations were more localized, involving not national but rather urban boundaries. In Egypt, after the removal of the Wafd from power and the dissolution of parliament in 1924, the authorities deported several union leaders back to their home villages in order to weaken union resistance.³¹⁹ Following the 1925–1926 general strike in Hong Kong, the authorities deported “strikers and idlers.”³²⁰ While the nature of each of these deportations was slightly different, collectively they testify to a recognition that separating movement leaders from the movements they led constituted a powerful means of weakening labor's power.

E. Other Measures

The authorities deployed a range of other measures to limit union organizing and strike action as well. Central in the United States were

³¹³ See SCHMIDT, *supra* note 4, at 133–34.

³¹⁴ *Id.* at 275.

³¹⁵ See PORTER, PLOTS AND PARANOIA, *supra* note 149, at 137; Panikos Panayi, *The Destruction of the German Communities in Britain During the First World War*, in *GERMANS IN BRITAIN SINCE 1500* (Panikos Panayi ed., 1996); Rachel Vorspan, *Law and War: Individual Rights, Executive Authority, and Judicial Power in England During World War I*, 38 VAND. J. TRANSNAT'L L. 261 (2005).

³¹⁶ See PORTER, *supra* note 149, at 198–209. The expulsions were conducted under the authority of the 1920 Aliens Order, an amendment to the 1919 Aliens Restriction (Amendment) Act, 9 & 10 Geo. 5 c. 92 (Gr. Brit.), which made any act by an alien causing sedition or disaffection among the armed forces or the civilian population an offence.

³¹⁷ See Walker, *supra* note 17, at 55.

³¹⁸ See Anderson, *supra* note 100, at 464.

³¹⁹ See BEININ & LOCKMAN, *supra* note 66, at 174.

³²⁰ See Klein, *supra* note 155, at 7.

injunctions aimed at preventing workers from engaging in pickets and other industrial actions, a point recognized at the time by Theodore Schroeder, the head of the Free Speech League, in his testimony before the Commission on Industrial Relations in 1915.³²¹ This approach was deployed, for example, in November of 1919, when the federal government responded to a nationwide coal strike by issuing an injunction forbidding the leaders of the United Mine Workers from giving strike orders, taking part in the strike, publicly supporting it, or distributing strike pay.³²² Similarly, in July of 1922, the Attorney General responded to a strike by 400,000 railway employees by obtaining an injunction prohibiting the workers from interfering with railroad operations, from picketing, from persuading other workers to leave their jobs, from engaging in any strike activity “by letters, telegrams, telephones, [or] word of mouth,” and from “‘encourag[ing]’ any person to ‘abandon’ or ‘refrain from entering’ the employment of a railroad, by picketing, in the press, or in private communications—indeed ‘in any manner whatsoever’—through ‘suggestion’ or ‘persuasion.’”³²³ With the support of these blanket injunctions, the BoI took 1,200 striking workers into custody.³²⁴ A couple of journalists who reported on the strikes were also charged, the first for denouncing strikebreakers, the second for supporting the first’s right to free speech.³²⁵ Between 1880 and 1930, labor injunctions were issued on more than 4,300 occasions.³²⁶ On other occasions executive orders were used instead. In response to miners’ strikes in West Virginia in 1921, for instance, the governor prohibited union meetings and publications, thereafter arresting union leaders who convened demonstrations on charges of unlawful assembly.³²⁷

Elsewhere around the world, bans on particular unions, associations, and meetings were frequently deployed. During the First World War, Canadian, Finnish, Ukrainian, and Russian meetings—considered particularly likely to involve individuals with socialist

³²¹ See U.S. INDUS. REL. COMM’N, INDUSTRIAL RELATIONS: FINAL REPORT AND TESTIMONY, S. DOC. NO. 64-415, at 10841–94 (1915).

³²² See SCHMIDT *supra* note 4, at 214–16, 227–33.

³²³ WEINRIB, *supra* note 18, at 131.

³²⁴ See SCHMIDT, *supra* note 4, at 178. The head of the BoI at the time was William Burns, who maintained his previous role as head of the private investigator company Burns National Detective Agency while director of the BoI. See *id.* at 54.

³²⁵ See FINAN, *supra* note 16, at 44.

³²⁶ See William Forbath, *The Shaping of the American Labor Movement*, 102 HARV. L. REV. 1109, 1151 (1989); WILLIAM FORBATH, *Government by Injunction*, in LAW AND THE SHAPING OF THE AMERICAN LABOR MOVEMENT 59 (1989).

³²⁷ *The Shaping of the American Labor Movement*, *supra* note 326, at 1193.

sympathies—were banned.³²⁸ Following the large seaman's strike in 1922,³²⁹ the Hong Kong government issued a new Emergency Regulations Ordinance,³³⁰ under which it outlawed the Seamen's Union and closed down its headquarters.³³¹ Following the arrest of Harry Thuku in Kenya in 1922, the East African Association was banned.³³² Following strikes at the Japanese factories in Shanghai in February of 1925, the Japanese Millowners' Association imposed a ban on trade union membership in its mills and published a list of "seditious unions."³³³ Following large-scale anti-British protests across the Chinese world in 1925, authorities in the Straits Settlements and the Federated States of Malay banned the Kuomintang.³³⁴ While injunctions and bans were, like censorship and deportations, not as central or effective as prosecutions in deterring worker and socialist organizing, they nonetheless helped facilitate the authorities' broader aims in such regards, while also imposing additional obstacles and penalties on the individuals and associations targeted.

V. STATE FORCE

The preceding sections discussed several more sophisticated means through which state repression was advanced in the period considered. The development of such approaches did not preclude recourse to simpler, traditional methods, however. Rather, the use of state force to violently repress dissents remained an underlying option called upon when other means failed or when the target population

³²⁸ See St. Croix, *supra* note 97.

³²⁹ See TSANG, *supra* note 167, at 88–89.

³³⁰ Emergency Regulations Ordinance, No. 5, (1922) Cap. 241 (H.K.).

³³¹ See Klein, *supra* note 155, at 4. The Seamen's Union, established in 1909, was one of the most established and radical in the region.

³³² See Anderson, *supra* note 100, at 464.

³³³ See SMITH, *supra* note 262, at 216.

³³⁴ See Yong & McKenna, *supra* note 59, at 129. The Colonial Office was influenced by intelligence reports suggesting that Sun Yat-sen, the Russians, and other anti-colonial forces were working in league to undermine the British Empire. As Laurence Guillemard, Governor of the Straits Settlements and High Commissioner for the Federated Malay States, put it,

I cannot deny the force of the argument which tends to show that behind all this concentrated attack on the British position in Asia lies a vast Soviet organisation with a distributing centre in Berlin; that this organisation is in the closest touch with 'M.N. Roy', with Javanese Communists, Sneevliet, with Chinese in Java, with Shanghai and Sun Yat-sen (that is, with Kuo Min Tang).

See *id.*

was deemed insufficiently politically significant or powerful to prevent its application.

The United States saw several such applications of direct state force against workers over the period considered. On April 20, 1914, forty-five striking men, women, and children were killed by state militia in Ludlow, Colorado.³³⁵ In 1915, after his trial and conviction for murder, on the basis of extremely thin evidence, IWW songwriter Joe Hill was executed by firing squad.³³⁶ In Everett, Washington, in 1916, five or more members of the IWW were shot and killed by deputized businessmen.³³⁷ In the summer of 1917 in Arizona, a local sheriff, backed up by more than 2,000 deputized members of the Citizen's Protective League and the Workmen's Loyalty League, hundreds of hired detectives, and the president of the Phelps-Dodge Corporation, indiscriminately detained men, women, and children understood to be part of a local workers' strike under armed guard before forcing about 1,200 of them onto trains, which deposited them in the desert town of Hermanas, New Mexico.³³⁸ In the spring of 1921, the governor of West Virginia declared martial law in response to violence between mine workers and mine companies' militias.³³⁹ In August, the federal government sent in troops to suppress the workers.³⁴⁰ Alongside such measures, as White puts it, "the military began a practice of taking control of western railroads, utilities, and other production facilities under the guise of forestalling enemy sabotage and espionage," leading to "a state of localized martial law."³⁴¹

The United States was not the only place where direct suppression was implemented. In Canada, during the Winnipeg general strike, the police force was replaced by a force of special constables, employed not for their technical training and capacity but rather for their greater loyalty, while mounted police and military units were placed

³³⁵ See MURPHY, *supra* note 19, at 49; Scott Martelle, *BLOOD PASSION: THE LUDLOW MASSACRE AND CLASS WAR IN THE AMERICAN WEST* (2007); THOMAS ANDREWS, *KILLING FOR COAL: AMERICA'S DEADLIEST LABOR WAR* (2010).

³³⁶ See DARLINGTON, *supra* note 180, at 62–63.

³³⁷ See Donald Barnes, *The Everett Massacre: A Turning Point in I.W.W. History*, 1 ORGANON 35 (1969); MELVYN DUBOFSKY, *WE SHALL BE ALL: A HISTORY OF THE INDUSTRIAL WORKERS OF THE WORLD 196–97* (2000).

³³⁸ See CAPOZZOLA, *supra* note 24, at 126–27.

³³⁹ See LON SAVAGE, *THUNDER IN THE MOUNTAINS: THE WEST VIRGINIA MINE WAR 1920–21* (1990); DAVID CORBIN, *GUN THUGS, REDNECKS, AND RADICALS: A DOCUMENTARY HISTORY OF THE WEST VIRGINIA MINE WARS* (2011).

³⁴⁰ See FINAN, *supra* note 16, at 38–40.

³⁴¹ White, *supra* note 73, at 689.

on standby.³⁴² On June 21, 1919, a large assembly was forcefully suppressed by the special constables together with members of the military.³⁴³ Elsewhere around the British Empire similar approaches were deployed. The post-war years saw large scale strikes across India—including in Assam, Bengal, Bombay, Delhi, Jamshepur, Madras, and Punjab—which were consistently met with forceful suppression.³⁴⁴ In East Africa, meanwhile, when large demonstrations were convened following the arrest of Harry Thuku, the police responded with live fire, killing around twenty individuals.³⁴⁵ In Egypt, following the end of the First World War, Sa'ad Zaghloul and the Wafd Party began a campaign in favor of full independence.³⁴⁶ In response, the British arrested Zaghloul and other party leaders and exiled him to Malta.³⁴⁷ The arrest led to mass protests and strikes by the Cairo tramway workers, national railway workers, utility industry workers, and various government employees, forming “a wave of strikes and industrial unrest . . . unprecedented in Egyptian history.”³⁴⁸ The British responded by arresting Muhammad Kamil Husayn, a nationalist lawyer and leader of the Cairo Tramway Workers' Union, declaring martial law, and attempting to stamp out resistance, including through the use of lethal force and collective punishment.³⁴⁹

The most extreme approaches were deployed elsewhere, including in post-war central Europe and China. In Berlin, sixteen people were killed when soldiers opened fire on protesting Spartacists on December 6, 1918.³⁵⁰ On January 11, 1919, following a month of clashes, pro-government soldiers used artillery and machine guns to seize the

³⁴² See Lederman, *supra* note 17, at 5.

³⁴³ See *id.* at 5.

³⁴⁴ See Mukherji, *supra* note 105; SEN, *supra* note 105, at 137–211; KANCHI VENUGOPAL REDDY, WORKING CLASS AND FREEDOM STRUGGLE: MADRAS PRESIDENCY, 1918–1922 (2005); Susan Wolcott, *Strikes in Colonial India, 1921–1938*, 61 ILR REV. 460 (2008); Ankur Shukla, *Employment, Supply of Labour and Industrial Relations in Delhi*, 78 PROC. INDIAN HIST. CONG. 516, 521 (2017).

³⁴⁵ See Anderson, *supra* note 100, at 464.

³⁴⁶ See *Egyptians Campaign for Independence, 1919–1922*, Glob. Nonviolent Action Database (Oct. 23, 2011), <https://nvdatabase.swarthmore.edu/content/egyptians-campaign-independence-1919-1922> [<https://perma.cc/DQ4J-T4RQ>].

³⁴⁷ See BEININ & LOCKMAN, *supra* note 66, at 89.

³⁴⁸ *Id.* at 99.

³⁴⁹ See *id.* at 115; Simeon Shoul, *Soldiers, Riots, and Aid to the Civil Power, in India, Egypt and Palestine, 1919–1939* 71 (2006) (Ph.D. Thesis, University College London); James Kitchen, *Violence in Defence of Empire*, 13 J. MOD. EUR. HIST. 249, 259–62 (2015).

³⁵⁰ See MARK JONES, *FOUNDING WEIMAR: VIOLENCE AND THE GERMAN REVOLUTION OF 1918–1919*, at 104–06 (2016).

revolutionary-held *Vorwärts* newspaper building, bringing Berlin's January uprising to an end.³⁵¹ In the course of the assault, seven Spartacist prisoners who had tried to negotiate the surrender of the building were executed.³⁵² On the night of January 15, 1919, Karl Liebknecht and Rosa Luxemburg were extrajudicially executed as well.³⁵³ By the time government forces had finished, 2,000 people were dead.³⁵⁴ Forceful re-occupations of numerous other cities and towns followed.³⁵⁵ A general strike and accompanying acts of violence in Berlin in March of 1919 were met with the declaration of a state of siege and the application of extreme force, including the use of artillery, machine guns, and airplane attacks, leading to over 1,000 deaths, including over 100 executed after capture under an execution order.³⁵⁶ The government also responded to the Bavarian Soviet Republic with force, leading to several hundred deaths, including over 100 summary executions.³⁵⁷

Extreme force was also utilized in China. The Northern Chinese warlord Wu Peifu, for instance, mobilized tens of thousands of soldiers and police to forcefully break a mass strike by the Beijing-Hankou labor union on February 1, 1923.³⁵⁸ In February of 1925, thousands of workers at the Japanese Mills in Shanghai went on strike, calling for an end to beatings, a wage rise, prompt payment of wages, an end to dismissal without cause, reinstatement of dismissed workers, a release of those in detention, and payment for the period of the strike.³⁵⁹ In response, the International Settlement authorities declared martial law and sentenced fifty-six people to prison terms for breach of the peace.³⁶⁰ Subsequent confrontations between mill managers and workers led to one worker, Gu Zhenghong, being shot and killed.³⁶¹ On May 23 and 24, 1925, six students were arrested in Shanghai's International Settlement while collecting funds for Gu Zhenghong's

³⁵¹ *Id.* at 210.

³⁵² *See id.* at 136–233.

³⁵³ *See id.* at 233–45.

³⁵⁴ *See id.* at 211.

³⁵⁵ *See id.* at 245–46.

³⁵⁶ *See id.* at 251–85.

³⁵⁷ *See id.* at 286–323.

³⁵⁸ *See SMITH, supra* note 262, at 119, 140.

³⁵⁹ *See id.* at 196–209.

³⁶⁰ *See id.* at 209–10. The local cotton workers' union telegraphed the British Labour Party, asking it to protest the detentions; the Labour Party did not respond. *See id.* at 210–11.

³⁶¹ *See id.* at 218.

family, and they were charged with disturbing the peace.³⁶² In the face of a Communist Party-supported mass protest sparked by the detentions, the International Settlement authorities opened fire with live ammunition, leading to twelve deaths.³⁶³ News of the British killing of protestors in Shanghai spread quickly around East Asia, prompting numerous demonstrations. In the face of a large protest in Canton on June 23, 1925, the British once again responded with lethal force, killing more than fifty persons.³⁶⁴

In Shanghai, the Communist Party called a general strike and launched a General Labour Union, and it supported the broader May Thirtieth Movement that developed, which advanced various demands, including the cancellation of the state of emergency, accountability for the killings, respect for the rights to freedom of expression and association, respect for workers' rights to strike and form unions, the abolition of extraterritoriality, and full Chinese representation on the Municipal Council.³⁶⁵ The strike was broken by General Xing, the warlord in control of the Chinese portion of the City, who dissolved all unregistered labor unions and banned demonstrations.³⁶⁶ Shortly thereafter, Xing was displaced by Sun Chuanfang.

The new military regime was even more brutal, however, summarily executing hundreds of activists.³⁶⁷ This was only a prelude to what was to come. In the wake of the successful advance of Kuomintang ("KMT") forces north in 1926, unrest in Shanghai grew, leading to two abortive "uprisings" in October of 1926 and February of 1927.³⁶⁸ Both were forcefully suppressed, the second with extreme violence.³⁶⁹ In March of 1927 a third uprising was launched, which successfully defeated Sun Chuanfang's forces and took control of Shanghai.³⁷⁰ Shortly thereafter, the National Revolutionary Army arrived.³⁷¹ Finding too much power in leftist hands for its liking, the KMT declared martial law, after which, on April 12, 1927, the Shanghai

³⁶² *See id.* at 222.

³⁶³ *See id.* at 223–25.

³⁶⁴ *Id.* at 93.

³⁶⁵ *See id.* at 225–30.

³⁶⁶ *See id.* at 259–60.

³⁶⁷ *See id.* at 264–66, 349.

³⁶⁸ *See id.* at 145–167.

³⁶⁹ *See id.* at 363–403.

³⁷⁰ *See id.* at 423–66.

³⁷¹ *See* DONALD JORDAN, *THE NORTHERN EXPEDITION: CHINA'S NATIONAL REVOLUTION OF 1926–1928*, at 132–34 (1976).

Massacre took place, in which thousands of workers and members of the Chinese Communist Party were killed by KMT forces.³⁷²

VI. IDEOLOGICAL FORMATIONS

The above sections have considered various more material components of the repressive system put in place around the world in the 1910s and 1920s in response to the rising power of workers and socialists. Effective repression never rests on institutional, legal, and practical powers alone. Rather, such measures are inevitably complemented by the generation of broader ideological frames designed to support and normalize the established system of power and to delegitimize dissenters.

Constraints of space will not allow the full contours of such endeavors to be explored here. Nonetheless, it is worth highlighting at least one key facet of this ideological work: the constant endeavor by the authorities, across polities, to weave together various categories of “enemy.” This was facilitated in many contexts by World War I, which provided the tailor-made image of the German as the stereotypical hostile actor, at least for those states opposed to Germany. The authorities’ aim, therefore, was to connect internal dissenters, of whatever sort, to the Germans—to construct, in short, the category of the enemy within. Above and beyond attempts to link progressive forces to hostile foreign powers, the authorities also often attempted to combine as many troubling categories as they could, with the apparent aim of ensuring that the distain they imagined would be attached relative to any particular category of other might be shared around and augmented by the popular animus toward the other delimited categories as well.

In the United States, important groundwork was laid by President Wilson. In late 1915, Wilson gave an address to the Daughters of the American Revolution in which he suggested “I am in a hurry for an opportunity to have a line-up and let the men who are thinking first of other countries stand on one side and all those that are for America first, last, and all the time on the other side.”³⁷³ In his 1915 State of the Union Address, Wilson observed that, “the gravest threats against our national peace and safety have been uttered within our own borders,” suggested that “citizens of the United States . . . born under other flags

³⁷² See SMITH, *supra* note 262, at 467–504.

³⁷³ Woodrow Wilson, 28th President of the United States, Address to the Daughters of the American Revolution, AM. PRESIDENCY PROJECT (Oct. 11, 1915), <https://www.presidency.ucsb.edu/documents/address-the-daughters-the-american-revolution-0> [<https://perma.cc/346H-TN6Y>] (last visited Jan. 22, 2022).

but welcomed under our generous naturalization laws to the full freedom and opportunity of America . . . have poured the poison of disloyalty into the very arteries of our national life,” and called for America to be “purged of [such] corrupt distempers.”³⁷⁴ Wilson continued:

They are not many, but they are infinitely malignant, and the hand of our power should close over them at once. They have formed plots to destroy property, they have entered into conspiracies against the neutrality of the Government, they have sought to pry into every confidential transaction of the Government in order to serve interests alien to our own. It is possible to deal with these things very effectually. I need not suggest the terms in which they may be dealt with.³⁷⁵

The April 6, 1917 Proclamation of War developed similar themes. The declaration invoked the 1798 Alien Enemy Act’s provisions stipulating that in the context of war, “all natives, citizens, denizens, or subjects of a hostile nation or government, being males of the age of fourteen years and upwards, who shall be within the United States, and not actually naturalized, shall be liable to be apprehended, restrained, secured, and removed as alien enemies,” and indicated that the President might, in such a context:

direct the conduct to be observed . . . toward the aliens who become so liable; the manner and degree of the restraint to which they shall be subject, and in what cases, and upon what security their residence shall be permitted, and to provide for the removal of those who, not being permitted to reside within the United States, refuse or neglect to depart therefrom; and to establish any such regulations which are found necessary in the premises and for the public safety.³⁷⁶

Pursuant to this power, Wilson ordered:

[a]ll alien enemies . . . to preserve the peace . . . and to refrain from crime against the public safety, and from violating the

³⁷⁴ Woodrow Wilson, 28th President of the United States, Third Annual Message (Dec. 7, 1915). This was not only a general call for vigilance but also an attempt to secure the passage of more forceful legislation, as Wilson also used the opportunity to urge Congress to “enact . . . laws at the earliest possible moment” in order to address the “creatures of passion, disloyalty, and anarchy” that were on the loose and to “crus[h]” them. *See id.* Behind the scenes, administration officials increasingly expressed concern that they lacked “laws adequate to deal with the insidious methods of internal hostile activities.” John Lord O’Brian, *New Encroachments on Individual Freedom*, 66 HARV. L. REV. 1, 8 (1952). *See also* RABBAN, *supra* note 33, at 249–50.

³⁷⁵ Wilson, *supra* note 373.

³⁷⁶ Proclamation No. 1364 (Apr. 6, 1917).

laws . . . and . . . from actual hostility or giving information, aid or comfort to the enemies of the United States, and to comply strictly with [official] regulations.³⁷⁷

Should they do so, they would, the proclamation assured, “be undisturbed in the peaceful pursuit of their lives and occupations and be accorded the consideration due to all peaceful and law-abiding persons”—except, that is, “so far as restrictions may be necessary for their own protection and for the safety of the United States.”³⁷⁸ Despite its thin assurances otherwise, the primary intent of the Proclamation’s language on aliens was clear: to reverse the burden of proof relative to enemy aliens, on whom an aura of suspicion would fall for the duration of hostilities.

Once the war had begun, ideological work was carried on both by the CPI and by various prominent politicians and citizens. Among the CPI’s products was the Red, White, and Blue Series, a set of pamphlets issued to schools to explain to children why the United States was at war.³⁷⁹ Among other things, the pamphlets emphasized that there was extensive disloyalty in the United States, that the government’s restrictions on expression were proper and necessary, and that Germans were behind labor dissent in the United States.³⁸⁰ Among the most virulent speakers heard by the generally anti-red Overton Committee was Archibald E. Stevenson, a staunch anti-Communist New York lawyer with connections to several federal and state intelligence agencies, who contended there was a close German-Bolshevik connection and argued that Bolshevism was “the gravest menace to the country today,” and called, in Schmidt’s recounting, for “the deportation of all alien agitators, the exclusion of seditious literature . . . the enactment of a peacetime sedition law to punish radical citizens, the introduction of a comprehensive campaign of counter-propaganda beginning in the schools and US intervention in Russia to topple Lenin’s government.”³⁸¹ In its subsequent hearings, as Schmidt puts it, the Committee:

[g]ave a sympathetic listening to and accepted at face value the often undocumented rumors and allegations made by a long line of witnesses, most of whom had visited Soviet Russia during or after the revolution . . . and almost all of whom

³⁷⁷ *Id.*

³⁷⁸ *Id.*

³⁷⁹ See MURPHY, *supra* note 19, at 109.

³⁸⁰ *See id.*

³⁸¹ SCHMIDT, *supra* note 4, at 139–40.

were openly hostile to the Bolsheviks It was taken for granted . . . that the Bolsheviks were controlled by the Germans. Another common theme was that Russian Bolshevism was heavily influenced by Jews, some of whom came from New York's Lower East Side Accounts of the alleged socialization of women, the practice of free love, the nationalization of children, and the luxurious living of the Bolshevik leaders went unopposed into the public record.³⁸²

On other occasions, "pro-German" accusations were levied against "almost anyone whose actions or statements hindered the war effort," including "[s]triking workers, radical suffragists, and African-American migrants."³⁸³

While charges of pro-German sentiment took precedence during the war itself, with the end of the war a new enemy had to be found. This new enemy presented itself in the form of the Bolsheviks. Transition from one enemy to the other was facilitated by dissemination of the idea "that Germany had deliberately fomented the Bolshevik Revolution to undermine the Russian war effort,"³⁸⁴ drawing a tight connection between the Germans and the Bolsheviks, an idea advanced by a publication, titled *The German-Bolshevik Conspiracy*, put out by Creel's CPI in October of 1918, which purported to prove that Lenin and Trotsky were German agents.³⁸⁵ The Bolshevik threat was hence able to replace the German threat as the justification for the ongoing forceful suppression of workers.

The anti-communist sentiment generated by the authorities provided the justification for the American Red Scare, as most infamously illustrated by the Palmer Raids, discussed above. Sentiment was soon rallied against Palmer's more draconian approach. Opposition members included Louis F. Post, head of the Labor Department,³⁸⁶ and the American Civil Liberties Union ("ACLU"), recently created in significant part in response to the raids.³⁸⁷ This opposition led to Congressional hearings in January of 1921.³⁸⁸ In front of this less than

³⁸² *Id.* at 144.

³⁸³ CAPOZZOLA, *supra* note 24, at 201.

³⁸⁴ *Id.* at 202.

³⁸⁵ SCHMIDT, *supra* note 4, at 137.

³⁸⁶ *See id.* at 301.

³⁸⁷ *ACLU History*, ACLU <https://www.aclu.org/about/aclu-history> [https://perma.cc/9U9D-VHSK] (last visited Jan. 22, 2022).

³⁸⁸ *See Palmer Gets a Call Down by Able Lawyers*, *LABOUR J.* (Feb. 4, 1921), <https://chroniclingamerica.loc.gov/lccn/sn88085620/1921-02-04/ed-1/seq-1/#words=PALMER+Palmer+raids+raiding> [https://perma.cc/9CQ7-WXZ2]; CAPOZZOLA, *supra* note 24, at 203.

sympathetic audience, Palmer made clear the extent to which he had internalized the image of the enemy that he and other top government officials had been involved in propagating, suggesting that he had been fighting against “poisonous theories” and “alien filth” which had “infected . . . [the] body of labor . . . [like] the presence of diseased tissue in the human body.”³⁸⁹ Palmer expressed his fear that “the continual inoculation of poison virus of social sedition, poisonous to every fiber and root, to every bone and sinew, to the very heart and soul” would lead to “the revolutionary disease,” and opined that the role of the BoI was “social sanitation.”³⁹⁰ He described the radicals against which the BoI acted as consisting of “idealists with distorted minds,” saying “many [are] even insane.”³⁹¹ He also criticized the BoI as “professional agitators who are plainly self-seekers” and “potential or actual criminals whose baseness of character leads them to espouse the unrestrained and gross theories and tactics of these organizations.”³⁹² His critiques led to him inviting Congress to investigate the photos of the revolutionaries, observing, “[o]ut of the sly and crafty eyes of many of them leap cupidity, cruelty, insanity, and crime; from their lopsided faces, sloping brows, and misshapen features may be recognized the unmistakable criminal type.”³⁹³ Palmer defended his agents by observing that any excess violence against those detained was due to the fact they were “overzealous or perhaps outraged as patriotic American citizens . . . by the conduct of these aliens,” and should be excused accordingly.³⁹⁴

³⁸⁹ See SCHMIDT, *supra* note 4, at 89–90 (citing *Attorney General A. Mitchell Palmer Makes “The Case Against the Reds”*, HIST. MATTERS (1920), <http://history-matters.gmu.edu/d/4993/> [<https://perma.cc/X763-CBBU>] (last visited Jan. 22, 2022)).

³⁹⁰ *Id.*

³⁹¹ *Id.*

³⁹² *Id.* at 89.

³⁹³ See SCHMIDT, *supra* note 4, at 89–90 (citing *Charges Against the Department of Justice: Hearings Before the H. Comm. on Rules*, 66th Cong. 26–27 (1920) (statement of A. Mitchell Palmer, Att’y Gen. of the United States)). The terms were reminiscent of Lombroso’s phrenological theory, recently popularized in the United States. For more on that theory and its impact on the developing field of criminology in the period, see Charles Ellwood, *Lombroso’s Theory of Crime*, 2 J. CRIM. L. & CRIMINOLOGY 716 (1912); David Garland, PUNISHMENT AND WELFARE: A HISTORY OF PENAL STRATEGIES 77 (1985); CRIMINALS AND THEIR SCIENTISTS: THE HISTORY OF CRIMINOLOGY IN INTERNATIONAL PERSPECTIVE (Peter Becker & Richard Wetzel eds., 2006); THE HANDBOOK OF THE HISTORY AND PHILOSOPHY OF CRIMINOLOGY (Ruth Ann Triplett ed., 2017).

³⁹⁴ CAPOZZOLA, *supra* note 24, at 203.

The world view belied by Palmer's statements can be detected elsewhere as well. Before the United States entered the war, a report on the IWW prepared at the insistence of several western governors observed that the IWW was made up of "agitators, men without homes, mostly foreigners, and the discontented and unemployed who are not anxious to work, and men of a very low order of intelligence and morals."³⁹⁵ A particularly clear illustration of the interlinkage of leftist political activists, foreigners, the migratory, the unemployed, the immoral, and the criminal was provided by the 1917 Immigration Act. The Act specifically excluded, among others, alcoholics, anarchists, criminals, epileptics, feebleminded persons, idiots, illiterates, imbeciles, insane persons, paupers, persons with contagious diseases, mentally or physically defective persons, persons with constitutional psychopathic inferiority, political radicals, polygamists, prostitutes, vagrants, and persons from most Asian countries.³⁹⁶

Similar ideological efforts were underway elsewhere as well. In Britain, one MI5 official observed that the professed values of war skeptics and pacifists constituted "a dangerous weapon whereby the loyalty of the people is being prostituted and the discipline of the army interfered with," before concluding "[i]f they are not for the success of our country it is not unreasonable if they are classed as pro-German."³⁹⁷ The Special Branch, meanwhile, was urged to find "a German connection behind dissident propaganda or strike actions," in order to provide grounds on which "to clamp down on anti-war agitations."³⁹⁸ Government planners, meanwhile, under the guise of preparing for eventualities such as a German occupation, prepared contingency plans that seemed far more geared to the context of "a social revolution or general strike," under which "subversives"—meaning leftists of various sorts—were to be detained, and the communication network militarized.³⁹⁹ Following the war, senior members of government expressed their grave concerns about the potential for imminent revolution or the possible establishment of a Soviet Republic in Britain.⁴⁰⁰

³⁹⁵ SCHMIDT, *supra* note 4, at 71.

³⁹⁶ See Immigration Act of 1917, Pub. L. 64–301, 39 Stat. 874.

³⁹⁷ Hiley, *supra* note 225, at 651.

³⁹⁸ WEINBERGER, *supra* note 47, at 141.

³⁹⁹ MILLMAN, *supra* note 14, at 291.

⁴⁰⁰ See Arthur McIvor, 'A Crusade for Capitalism': *The Economic League, 1919–39*, 23 J. CONTEMP. HIST. 631, 632 (1988).

In Australia, numerous officials in positions of authority attempted to paint the IWW in the worst possible light. Major strikes took in January of 1916, causing Australian Prime Minister William Hughes to blame the IWW, whom he denounced as “foul parasites who have attached themselves to the vitals of Labour,” and against whom he urged an “attac[k] with the ferocity of a Bengal tiger.”⁴⁰¹ Following the conviction of twelve IWW members in Sydney in 1916, the judge referred to the IWW as “an association of criminals of the very worst type, and a hotbed of crime,” and called for “very strong and drastic steps [to] be taken to uproot that association.”⁴⁰² In justifying passage of Australia’s 1916 Unlawful Associations Act, the Prime Minister emphasized that “a large number of the members of this association are foreigners . . . and . . . a fair number of names in the list of membership are German,” and suggested that therefore the IWW was “being used for a purpose against the Allies in this war” and that it constituted “a dagger” aimed “at the heart of society,” to which the only reasonable response was to “in self defence destroy it.”⁴⁰³ In introducing the 1925 Immigration Act, meanwhile, Prime Minister Stanley Bruce emphasized that the power was needed on the ground that industrial disturbances in Australia had “not [been] caused by the Australian-born, but [rather] were due to the doctrines and atmosphere introduced by aliens.”⁴⁰⁴

Elsewhere around the British Empire, similar attitudes could be detected. In India, the passage of the 1920 Passport Act was justified in similar terms.⁴⁰⁵

In Hong Kong, in reaction to the 1925–1926 general strike, Governor Reginald Stubbs observed:

[t]he present movement cannot be called a ‘Strike’ . . . the movement is nothing else than an attack . . . on existing standards of civilization as represented by Hongkong . . . [w]e have to realize that we are faced with a deliberate attempt to destroy, in the interests of anarchy, the prosperity and the very existence of [the] community.⁴⁰⁶

401 See TURNER, *supra* note 18, at 20.

402 See *id.* at 58.

403 See *id.* at 70.

404 110 *Commonwealth Parliamentary Debates*, House of Representatives, 25 June 1925, 460–61 (Austl.) (cited in Ricketson, *supra* note 122, at 105).

405 See Singha, *supra* note 131, at 309.

406 Reports of the Meetings of the Legislative Council of Hong Kong, H.K. LEGIS. COUNCIL (July 9, 1925), at 45–46,

Across polities, in short, there was an attempt to link anarchists, syndicalist, socialists, communists, and other radical labor organizers with hostile wartime powers, criminality, aliens in general, anti-colonial freedom fighters, and general dissenters, to create in vague outline at least a sort of fused, holistic image of the “enemy other.” At times, more particular “others” were added to the mix as well, including “alcoholics,” “paupers,” “prostitutes,” and “vagrants.”⁴⁰⁷ While, like all ideological work, these connections were forged in loose and fluid ways, they were nonetheless powerful, helping to reinforce the self-image of those in established positions of power and authority within society as the righteous opponents of all such forces while working to delegitimize the groups in question in the eyes of the broader population by casting them in as unsavory a light as possible.

VII. PARASTATAL ORGANIZATIONS

The preceding sections have analyzed several components of the repressive architecture that grew up over the 1910s and 1920s in response to the rising strength of workers and socialist organizations. A final component within this architecture must be stressed as well: in addition to more direct state action, the period saw the widespread formation of what might be referred to as “citizens,” “patriotic,” or “vigilance” associations.

Prominent citizens’ vigilance associations in the United States included the National Security League (“NSL”), the National Civic Federation (“NCF”), the American Defense Society (“ADS”), the American Protective League (“APL”), the Committee for Immigrants in America, the Home Defense League, the Liberty League, the American Rights League, the Sedition Slammers, the Terrible Threateners, and the Boy Spies of America.⁴⁰⁸ In many instances these groups were little more than “‘the mouthpieces of single leaders or small cabals,’ which were subsidized by corporations and businessmen to propagandize against organized labor.”⁴⁰⁹ The NSL and the NCF, for instance, “were both financed by leading businessmen and corporations such as

<https://sunzi.lib.hku.hk/hkgro/view/h1925/2857.pdf> (cited in Klein, *supra* note 155, at 8).

⁴⁰⁷ 1917 Immigration Act, Pub. L. No. 64-301, 39 Stat. 874 (Feb. 5, 1917).

⁴⁰⁸ See H.C. PETERSON & GILBERT C. FITE, *OPPONENTS OF WAR, 1917–1918*, at 18 (1957); FREDERICK LUEBKE, *BONDS OF LOYALTY 215–18* (1974); MURPHY, *supra* note 19, at 54–55; CAPOZZOLA, *supra* note 24, at 122 (“The work of these vigilant citizens uncovered not a single German spy, and much of what they did was ineffectual or even absurd.”).

⁴⁰⁹ SCHMIDT, *supra* note 4, at 35.

J. P. Morgan, John D. Rockefeller, T. Coleman DuPont, William K. Vanderbilt, US Steel, Carnegie Steel Company and Standard Oil.”⁴¹⁰ Such associations’ actions were variously directed against labor groups, those understood as pro-German, and others perceived as outsiders or opposed to the status quo. In Birmingham, Alabama, for instance, a citizens’ group forcibly broke up meetings of railway workers attempting to organize a union, declaring:

We, the Patriotic Committee, understand that you have allowed the I.W.W or German agitators to hold meetings in your hall We . . . feel that you did not know some things that we did and . . . if you allow these meetings to continue you may loose [*sic*] your hall some how or something may happen. We can’t tell you except be loyal to your country & State.⁴¹¹

In May of 1917, Beryl Felver, an organizer for the Nonpartisan League—an organization Nebraska Governor Keith Neville had referred to as a “circulat[or] of seditious literature, calculated to arouse anti-American sentiment, class hatred, and in general interfere with the successful prosecution of the war”—was almost lynched in Merrick County, Nebraska.⁴¹² In August, Frank Little, a leading IWW organizer, was hung in Butte, Montana.⁴¹³ In October in Cincinnati, Herbert Bigelow, a progressive minister, was kidnapped, whipped, and told to leave town.⁴¹⁴ In Oklahoma, the Knights of Liberty took various actions against labor groups and the local German-language press.⁴¹⁵ On April 5, 1918, a group of men lynched Robert Prager, a German-American coal miner, in Illinois.⁴¹⁶ These actions were widely reported in the press; from the war’s beginning to its end, newspaper pages were filled with accounts of the harassment of and reporting on Americans deemed insufficiently patriotic.⁴¹⁷ The newspapers

⁴¹⁰ *Id.* As Schmidt further observes, “Other organizations were established by local and often ultraconservative economic interests. The American Constitutional Association was operated by the largest coal and utility companies in West Virginia, while the Better America Federation in California was run by a small group of extreme right-wing businessmen in Los Angeles.” *Id.*

⁴¹¹ CAPOZZOLA, *supra* note 24, at 150.

⁴¹² *See id.* at 160.

⁴¹³ *See* Arnon Gurfeld, *The Murder of Frank Little: Radical Labor Agitation in Butte, Montana, 1917*, 10 LAB. HIST. 177 (1969).

⁴¹⁴ *See* FINAN, *supra* note 16, at 22.

⁴¹⁵ *See* CAPOZZOLA, *supra* note 24, at 126–27.

⁴¹⁶ *See id.* at 117.

⁴¹⁷ *See id.* at 10.

also provided advice to Americans as to how to conduct themselves. As one newspaper put it:

If you ever, on the street or in a trolley car, should hear some soft-shell pacifist or hard-boiled but poorly camouflaged pro-German, make seditious or unpatriotic remarks about your Uncle Sam you have the right and privilege of taking that person by the collar, hand him over to the nearest policeman or else take him yourself before the magistrate.

You do not require any official authority to do this and the only badge needed is your patriotic fervor. The same thing applies to women. Every American, under provisions of the code of civil procedure, has the authority to arrest any person making a remark or utterance which "outrages public decency."⁴¹⁸

In addition to encouragement from Wilson's statements, detailed in the previous section, these groups received other forms of more official state support. Following the United States' entry into the war, Attorney General Gregory asked loyal Americans to act as "volunteer detective[s]," urged them to "bring their suspicions and information to the . . . Department of Justice,"⁴¹⁹ and emphasized that, as far as complaints were concerned, matters "of even the most informal or confidential nature [were] always welcome."⁴²⁰ Thanks to the support of advertisements in the *Saturday Evening Post*, the Justice Department was soon receiving one thousand letters a day.⁴²¹ State governments meanwhile established committees and councils of defense that complemented the work of citizens' vigilance associations by sending out threatening messages to those suspected of harboring antiwar sentiments or who refused to buy liberty bonds in sufficient quantities.⁴²²

The connection between the authorities and some of the vigilance associations was even closer. The APL was created on the initiative of Albert Briggs, a Chicago businessman, and had a membership drawn from the business elite.⁴²³ Its purpose from the beginning was to aid the BoI. As such, the APL was not so much "an expression of a grass-roots hysteria" as "an instrument used by the business elite to impose conformity . . . and suppress radical unions and other opponents."⁴²⁴

⁴¹⁸ *Id.* at 122.

⁴¹⁹ MURPHY, *supra* note 19, at 94–95.

⁴²⁰ CAPOZZOLA, *supra* note 24, at 152.

⁴²¹ *See id.*

⁴²² *See* MURPHY, *supra* note 19, at 117–19.

⁴²³ SCHMIDT, *supra* note 4, at 98.

⁴²⁴ *Id.* *See also* JOAN JENSEN, *THE PRICE OF VIGILANCE* 17–28, 140–56 (1968).

Bruce Bielaski, the head of the BoI, convinced Gregory that close coordination with the APL would be constructive for the government, leading Gregory to authorize the organization to state on its letterhead that it was “Organized with the Approval, and Operating under the Direction of the United States Department of Justice, [BoI].”⁴²⁵ Members were able to acquire a badge stating “Secret Service Division,” later changed, following protests from the Treasury Department, to “Auxiliary to the U.S. Department of Justice,” and had access to Justice Department stationary.⁴²⁶ As Murphy observes, despite the fact that they lacked statutory authority to make arrests,

operatives of the league engaged in a variety of investigations probing the loyalty of citizens, the actions of the draft exemption board, the actual status of conscientious objectors, and the monitoring, in thousands of cases, of suspicious activities reported by people throughout the country in response to appeals for vigilance⁴²⁷

Those monitored included suspected members of the IWW, “enemy aliens,” and pacifists.⁴²⁸ In total, some eighty percent of the BoI’s work was conducted by the APL, leading the Justice Department to approvingly remark, “[i]t is safe to say that never in its history has this country been so thoroughly policed as at the present time.”⁴²⁹ Beginning in March and peaking in September of 1918, members of the APL began conducting “slacker raids,” in which, together with a small contingent of BoI agents and larger contingents of soldiers and policemen, they rounded up men suspected of avoiding the draft and detained them in local jails, an action defended in court by U.S. attorneys.⁴³⁰

Citizens’ vigilance groups were particularly active against African Americans, continuing a tradition of “private” suppression stemming back to the first English settlements in the Americas. Violence against African Americans was particularly intense in the summer of 1919.⁴³¹ In Chicago, attacks on the Black population led to clashes that left some thirty-eight persons dead.⁴³² In response, the Justice Department and the Lusk Committee investigated whether or not the IWW, with Soviet Russian financing, had been behind the clashes, ultimately

⁴²⁵ MURPHY, *supra* note 19, at 89–90.

⁴²⁶ *See id.* at 90.

⁴²⁷ *Id.*

⁴²⁸ *See* SCHMIDT, *supra* note 4, at 99.

⁴²⁹ *Id.*

⁴³⁰ *See* MURPHY, *supra* note 19, at 221–23.

⁴³¹ *See* CAPOZZOLA, *supra* note 24, at 136.

⁴³² SCHMIDT, *supra* note 4, at 186.

concluding that radical propaganda was at least in part responsible, despite clear evidence that the attacks had been driven by the white population and had been racially motivated.⁴³³ In Washington, D.C., attacks on African Americans led to days of conflicts which left six dead and one hundred injured, after which the BoI once again turned its attention to the victims rather than the aggressors, launching an inquiry into Black radicalism.⁴³⁴ In Omaha, Nebraska, Will Brown, an African American, was lynched and his body burned, and the mayor was almost lynched when he attempted to intervene.⁴³⁵ This unrest was only quelled by the arrival of the army.⁴³⁶ Altogether, seventy-six African Americans were lynched in the year following the war.⁴³⁷ In October of 1919, white vigilance groups and federal troops attacked African Americans, including members of the Progressive Farmers and Household Union of America, in Arkansas, leading to scores of extrajudicial killings, torture, and property destruction.⁴³⁸

The more extreme work of vigilance associations was complemented by other forms of anti-worker “civil society” as well. In the late 1910s, employers and affiliated groups—such as the U.S. Chamber of Commerce, the National Founders Association, the National Metal Trades Association, the National Association of Manufacturers, and others—developed an “open shop” campaign, also referred to as the “American Plan,” which was active in 240 cities by 1920, and which aimed to “undermine the position of the unions by a policy of non-recognition and the denial of employment to and the discharge of union members.”⁴³⁹ Through their publication, the *Open Shop Review*, the members of the American Plan referred to unions as “the greatest crime left in the world.”⁴⁴⁰ Corporations employed several other strategies designed to undermine the power of labor as well, including “blacklists of union members and ‘agitators’ who were fired or refused employment,” “‘yellow dog’ contract[s], in which [workers] pledged not to join a union,” “appeal[s] to the courts to issue labor injunctions

⁴³³ *See id.* at 186–89.

⁴³⁴ *Id.* at 185–86.

⁴³⁵ *Id.*

⁴³⁶ *See* CAPOZZOLA, *supra* note 24, at 136.

⁴³⁷ *See id.*

⁴³⁸ *See* STOCKLEY, *supra* note 209.

⁴³⁹ SCHMIDT, *supra* note 4, at 33. *See also* Allen M. Wakstein, *The Origins of the Open-Shop Movement, 1919–1920*, 51 J. AM. HIST. (1964); IRVING BERNSTEIN, *THE LEAN YEARS: A HISTORY OF THE AMERICAN WORKER, 1920–1933*, at 147–57 (1960).

⁴⁴⁰ SCHMIDT, *supra* note 4, at 33.

to break strikes,” “[p]rivate detectives . . . employed to infiltrate, spy on and create internal dissension within unions – and in some cases to act as agents provocateur and provoke labor unrest,” “[s]trikebreakers[,] . . . often with armed guards,” “private police system[s,] . . . which w[ere] used as a private army against strikers,” and “complete control of the labor force . . . [in] company towns, which isolated workers from the outside and subjected them to constant surveillance.”⁴⁴¹ By the late 1920s, there were an estimated 200,000 labor spies at work, many of whom turned out to be among the most extreme agitators.⁴⁴²

The patriotic associations that were created or rose to prominence during the war continued to play a supporting role in the repression of African Americans, workers, and socialists following the war’s end. Among other things, such associations “warned that a gigantic conspiracy threatened the US and that a revolutionary uprising was imminent,” and “demanded that the educational system and government be purged of radicals and that aliens be Americanized.”⁴⁴³ Some, such as the Better American Federation, founded in Los Angeles in May of 1920 by railway developer Eli Clark and other businessmen, went even further, “attack[ing] all forms of government regulation, social legislation and public ownership for being seditious and un-American and . . . demand[ing] that free speech and the right to vote . . . be restricted.”⁴⁴⁴ Other organizations continued to assist government prosecutions and campaigns of demonization and delegitimization. Following the raid on the Communist Party convention in 1922, the BoI provided the ADS access to copies of seized documents, together with desk space within the Department of Justice, resulting in the publication of a series of articles describing the “red” threat,⁴⁴⁵ while the NCF helped to secure funding for the prosecution.⁴⁴⁶ The NSL engaged in an anti-union campaign that was broadly effective, resulting in a decline in union membership from over 5 million in 1920 to 3.5 million by 1923.⁴⁴⁷

⁴⁴¹ *Id.* at 34.

⁴⁴² *See id.*

⁴⁴³ *Id.* at 36.

⁴⁴⁴ *Id.*; *see also* Layton, *supra* note 25.

⁴⁴⁵ *See* SCHMIDT, *supra* note 4, at 103.

⁴⁴⁶ *See id.* at 104.

⁴⁴⁷ *See Collective Bargaining and Civil Liberties*, ACLU, <https://www.aclu.org/other/collective-bargaining-and-civil-liberties> [<https://perma.cc/VM6M-JJ7U>] (last visited Jan. 22, 2022).

Elsewhere around the world, similar developments were underway, at times in even darker forms. In Britain, the government together with business interests encouraged the formation of patriotic citizens' groups opposed to the interests of labor, including, for instance, the British Empire Union and the British Commonwealth Union, and encouraged them to attack dissidents' meetings.⁴⁴⁸ Following the war, new employers' organizations such as the Middle Class Union, the Liberty League, and the Economic League were formed to push back against the growing political power of organized labor.⁴⁴⁹ Following the 1922 seamen's strike in Hong Kong, the British supported the creation of an employers' federation.⁴⁵⁰ Following the massive 1925 strike, the government encouraged private cooperation with state security authorities by issuing rewards for any information on "agitators" and "evil-disposed persons."⁴⁵¹ Even after the strike ended, the government continued to employ a network of informal counter-strikers.⁴⁵²

It was in central and southern Europe that the most violent and effective parastatal groups emerged, however. In Italy, the turbulent protests of the Biennio Rosso were followed by the emergence and rapid growth of the Fascist Party over the course of the early 1920s.⁴⁵³ Hundreds of socialists and labor organizers were murdered before Mussolini took power in 1922, at which point the fascist militias became a semi-officialized arm of the state.⁴⁵⁴ In Germany, state suppression of revolutionary uprisings after the war was assisted by veterans groups known as Freikorps.⁴⁵⁵ In Hungary, Béla Kun's brief period in power was followed by the white terror, in which right-wing

⁴⁴⁸ See Hopkin, *supra* note 164, at 165; PORTER, PLOTS AND PARANOIA, *supra* note 149, at 144–45; EWING & GEARTY, *supra* note 12, at 70; MILLMAN, *supra* note 14, at 52, 86–88, 138–63, 229–48; LINEHAN, *supra* note 24, at 43. For more, see HUGHES, *supra* note 24. Hughes observes that the British Empire Union "was associated not only with general anti-German agitation but specifically with . . . anti-Semitic agitation and conspiracy theories . . ." that it frequently engaged in violence, and that it helped instigate anti-Jewish riots in Leeds in 1917. *Id.* at 28.

⁴⁴⁹ See Stephen White, *Ideological Hegemony and Political Control: The Sociology of Anti-Bolshevism in Britain 1918–20*, 9 SCOT. LAB. HIST. SOC. 3 (1975); McIvor, *supra* note 400, at 633–34; HUGHES, *supra* note 24.

⁴⁵⁰ See MINERS, *supra* note 57, at 14.

⁴⁵¹ See Klein, *supra* note 155, at 6–7.

⁴⁵² See TSANG, *supra* note 167, at 97.

⁴⁵³ See Emilio Gentile, *Paramilitary Violence in Italy: The Rationale of Fascism and the Origins of Totalitarianism*, in THE VANQUISHED: WHY THE FIRST WORLD WAR FAILED TO END 1917-1923 (2016).

⁴⁵⁴ See *id.*

⁴⁵⁵ See CARLOS CABALLERO JURADO, THE GERMAN FREIKORPS 1918–23 (2001).

paramilitaries tortured, summarily executed, and arbitrarily detained thousands of suspected socialists, Jews, and other enemies of the right.⁴⁵⁶

Parastatal patriotic and vigilance associations formed a key part of the anti-worker repressive model that developed during the 1910s and 1920s. These organizations took various forms, some more heavily supported by members, others essentially empty shells; some more distant from the state, others closely interwoven with state power; some more organically composed, others organized, financed, and maintained by business interests. As violent as such organizations could be, they were ironically perhaps checked to the extent that the other modalities of suppression detailed above were most effective. Where other means of suppression were less available, however, as in several European states, these organizations took on an even more troubling aspect, coming in Italy, for example, to subsume the state itself, prefiguring the rising strength of fascism in the years to come.

VIII. CONCLUSION

The period before, during, and after the First World War brought about fundamental changes in the structure of public order governance globally. These changes were not so much due to the war itself, significant though it was as an enabling factor, as to underlying social dynamics. This was particularly true for the conflict between the forces of labor and capital that played out in polities around the world over the period. That conflict took various forms and was marked by different players, parties, and perspectives in its different incarnations.

On the workers' side, the period saw large scale labor organization and strike action in numerous polities. Major labor actions of the period included: general strikes in Winnipeg and in Trinidad and Tobago, steel and coal miners' strikes in the United States, and a large cotton mill worker strike in Bombay in 1919;⁴⁵⁷ coal miners' strikes

⁴⁵⁶ See Bodó, *Paramilitary Violence*, *supra* note 2; BODÓ, *supra* note 2; Bodó, *White Terror*, *supra* note 2; Robert Gerwarth, *Fighting the Red Beast: Counter-Revolutionary Violence in the Defeated States of Central Europe*, in *WAR IN PEACE: PARAMILITARY VIOLENCE IN EUROPE AFTER THE GREAT WAR* (Robert Gerwarth & John Horne eds. 2012).

⁴⁵⁷ See Katz, *supra* note 125; Brinsley Samaroo, *The Trinidad Workingmen's Association and the Origins of Popular Protest in a Crown Colony*, 21 *SOC. & ECON. STUD.* 205 (1972); Tony Martin, *Revolutionary Upheaval in Trinidad, 1919: Views from British and American Sources*, 58 *J. AFRICAN AM. HIST.* 313 (1973); Lederman, *supra* note 17; Johnson, *supra* note 60, at 599–600; Walker, *supra* note 17; Ravinder Kumar, *The Bombay Textile Strike, 1919*, 8 *INDIAN ECON. & SOC. HIST.*

in West Virginia and in the United Kingdom in 1921;⁴⁵⁸ railway and coal miners' strikes in the United States and a large seamen's strike in Hong Kong in 1922;⁴⁵⁹ a large cotton mill worker strike in Bombay in 1924;⁴⁶⁰ a seamen's strike in Australia, the North Western Railway strike in India, and general strikes in Shanghai and in Hong Kong in 1925;⁴⁶¹ and a general strike in the United Kingdom in 1926.⁴⁶² The pressure for more egalitarian political orders and enhanced civil, political, and workers' rights exerted by these strikes was met by a range of new repressive measures, including: the passage of new laws; the development of new institutions; surveillance, harassment, raids, arrests, prosecutions, and other judicial and administrative measures; direct state force; the development of new ideological formations; and the growth of parastatal organizations. Here, in conclusion, some broader lessons that may be extracted from developments in each area will be considered.

On the legal level, five types of laws developed in the period: laws targeting sedition, laws penalizing anarchy and syndicalism, laws restricting association and assembly, laws governing migration, and laws imposing censorship. New sedition laws adopted in the period included the United States' well-known Sedition Act,⁴⁶³ as well as the anti-sedition measures implemented around the Caribbean.⁴⁶⁴ Numerous "anarchist" and "syndicalist" laws were also enacted, both in the United States and elsewhere, including, for instance, in the form of

REV. 1 (1971); Melvyn Dubofsky & Foster Rhea Dulles, *LABOR IN AMERICA: A HISTORY* (6th ed., 1999); SCHMIDT, *supra* note 4, at 214–33; Wolcott, *supra* note 344.

⁴⁵⁸ See G.D.H. COLE, *LABOUR IN THE COAL-MING INDUSTRY (1914–1921)* (1923); SAVAGE, *supra* note 339; CORBIN, *supra* note 339; WEINBERGER, *supra* note 47, at 180–82.

⁴⁵⁹ See MURPHY, *supra* note 19, at 160; MINERS, *supra* note 57, at 14; TSANG, *supra* note 167, at 88–89.

⁴⁶⁰ See Dick Kooiman, *Bombay Communists and the 1924 Textile Strike*, 15 *ECON. & POL'Y WKLY.* 1223 (1980); see generally Susan Wolcott, *Strikes in Colonial India, 1921–1938*, 61 *INDUS. & LAB. REL. REV.* 460 (2008).

⁴⁶¹ See Ricketson, *supra* note 122, at 104–05; MINERS, *supra* note 57, at 54; TSANG, *supra* note 167, at 97; Ng, Zhang & Wong, *supra* note 68; Mukherji, *supra* note 105; SMITH, *supra* note 262, at 196–225; Yong & McKenna, *supra* note 59, at 129; SEN, *supra* note 105, at 211–59.

⁴⁶² See KEITH LEYBOURN, *THE GENERAL STRIKE OF 1926* (1993); CHARLES FERRALL & DOUGAL McNEILL, *WRITING THE 1926 GENERAL STRIKE: LITERATURE, CULTURE, POLITICS* (2015).

⁴⁶³ Sedition Act, Pub. L. 65-150, 40 Stat. 553 (1918).

⁴⁶⁴ See HC Deb (24 Nov. 1920) (135) cols. 478-86W.

India's Anarchical and Revolutionary Crimes Act.⁴⁶⁵ New laws restricting associations included Australia's 1916 Unlawful Associations Act⁴⁶⁶ and amendments to the Crimes Act in 1926,⁴⁶⁷ and the 1919 amendments to the Canadian Criminal Code.⁴⁶⁸ The 1926 amendments to Australia's Crimes Act also limited the right to strike, as did the United Kingdom's Trade Disputes and Trade Unions Act of 1927.⁴⁶⁹ Another component of this repressive legal architecture came in the form of new migration laws that restricted immigration and expanded powers of deportation, including the 1917,⁴⁷⁰ 1918,⁴⁷¹ 1921,⁴⁷² and 1924⁴⁷³ Immigration Acts in the United States, amendments to immigration law adopted in Australia and Canada in response to IWW activities,⁴⁷⁴ and the 1920 Indian Passport Act.⁴⁷⁵ Censorship provisions included in laws such as the Espionage and Sedition Acts further limited public freedom, including by granting new powers of control over communications to postal authorities.

On the institutional level, the period was crucial to the formation of two new sorts of institutions: modern intelligence agencies, such as the FBI, Special Branch, and MI5, and various local intelligence hubs at the colonial level, for instance in India, Hong Kong, and Egypt; and propaganda bureaus, such as the CRI and the Ministry of Information. While modern intelligence agencies began to develop before the war, they grew by leaps and bounds over the course of the war and subsequent years. In addition, the period saw the novel use of the legislative commission of inquiry as a means of attempting to generate negative public sentiment relative to radical and leftist movements, a use exemplified by the Overman and Lusk committees.

⁴⁶⁵ Act No. 11, 1919 (India).

⁴⁶⁶ *Unlawful Associations Act 1916* (Cth) No. 41 (Austl.).

⁴⁶⁷ *An Act to Amend the Crime Act 1914–1915, 1926* (Cth) No. 9 (Austl.).

⁴⁶⁸ An Act to Amend the Criminal Code, the Youth Criminal Justice Act and Other Acts and to Make Consequential Amendments to Other Acts, S.C. 1919, c 25, § 98 (Can.).

⁴⁶⁹ 17 & 18 Geo. 5 c. 22 (Gr. Brit.).

⁴⁷⁰ 1917 Immigration Act, Pub. L. No. 64-301, 39 Stat. 874 (Feb. 5, 1917).

⁴⁷¹ An Act to Exclude and Expel from the United States Aliens Who are Members of the Anarchistic and Similar Classes, Pub. L. 65-221, 40 Stat. 1012 (1918).

⁴⁷² An Act to Limit the Immigration of Aliens into the United States, Pub. L. 67-5, 42 Stat. 5 (1921).

⁴⁷³ An Act to Limit the Immigration of Aliens into the United States, and for Other Purposes, Pub. L. 68-139, 43 Stat. 153 (1924).

⁴⁷⁴ See Katz, *supra* note 125; Douglas, *supra* note 49.

⁴⁷⁵ Act No. 34, 1920 (India).

In addition to legal and institutional developments, workers' movements were met by surveillance, harassment, raids, arrests, prosecutions, and other judicial and administrative measures. Numerous individuals were prosecuted around the world under the new laws, as well as under repressive laws already on the books, often for no more than the crime of peaceful assembly or daring to demand greater rights. At times, these prosecutions took the form of mass trials, including the mass trials of IWW members in the United States, Australia, and Canada, as well as the United States-based mass trials of Ghadar party members. Once the communist threat arrived fully on the scene, communists too were prosecuted, including in the United States, the United Kingdom, India, and Egypt. On innumerable other occasions, communists, syndicalists, and others were tried via one form of summary procedure or another, with the outcome of those trials generally a foregone conclusion. In addition to these measures, censorship limited the dissemination of socialists' and workers' perspectives and opinions; deportations separated movement leaders from the mass bases they worked to build; and injunctions and bans of particular organizations threw a wrench into some of the most successful campaigns, while expanding the scope of labor union activity that could be criminally punished.

Such legal, institutional, and administrative developments provided the backbone of the system of governance developed in the period. Where possible, control of workers by these means was preferable, preventing the need for more overt but potentially destabilizing techniques. Where legal rules, surveillance, censorship, arrests, and prosecutions failed to exert a sufficiently chilling aura, the authorities had one more tool they could utilize as well: the tried and tested approach of outright, forceful suppression, be it in the form of the dispersal of protestors through the use of live ammunition, or, in more extreme cases, extrajudicial execution. In some parts of the world, the violence deployed took on particularly severe forms, including in China and Germany, foreshadowing further violence to come.

All such techniques of governance were supplemented by efforts on the ideological level. One of the primary approaches pursued by the authorities was to attempt to draw a connection between various different groups and individuals they perceived as enemies of the state and of respectable society. The figures of the hostile wartime opponent, the leftist agitator, the foreigner, the colonial independence fighter, and the criminal constituted the categories that received the most regular attention. Still, alternative "others" were at times thrown into the mix as well, as illustrated by the 1917 Immigration Act in the

United States, with its extensive list of undesirables that included anarchists and radicals, paupers, vagrants, and contract laborers, prostitutes and polygamists, criminals, alcoholics, idiots, imbeciles, and the insane.⁴⁷⁶ The statement by a member of the Indian government that the 1920 Passport Act was designed to prevent criminals, pimps, prostitutes, and those of a radical political persuasion from entering the country,⁴⁷⁷ and the proceedings of the Overman Committee, which painted Germans, Bolsheviks, and poor Jewish migrants in New York's Lower East Side in the same hostile colors,⁴⁷⁸ are also illustrative.

Finally, on the parastatal level, the period was marked by the formation and increasing strength of numerous citizens' vigilance and patriotic associations. Such groups included the NSL, the ADS, and the APL in the United States; the British Empire Union, the British Commonwealth Union, and the Economic League in the United Kingdom; employers in places like Bombay, Calcutta, Shanghai, and Hong Kong; as well as the fascist organizations that developed most quickly and extensively in continental Europe. The significance of these organizations in mobilizing against progressive forces varied depending on the entity in question. At times, they were little more than talk shops, or even largely imaginary entities, as in the case of the Peace and Order Preservation Society in Hong Kong. On other occasions, they constituted a key part of the overall architecture of suppression, as seen in the extensive and effective repression undertaken by such groups in the United States and the United Kingdom during the war and in the post-war years. On yet further occasions, they metastasized so rapidly and effectively that they swallowed the state itself, as with the rapid descent of Italy into fascist rule.

In short and in sum, the 1910s and 1920s saw extensive developments in repressive governance globally. While the First World War accelerated several of these developments, their ongoing motivation was provided not by the war itself but rather by authorities' perceived need to respond to and suppress the growing strength of leftist, labor, and socialist organizing and advocacy, as well as, across the imperial world, the distinct but often interlinked growth of anti-colonial movements. Understanding these developments is of broader socio-historical interest insofar as it testifies to the manner in which techniques of

⁴⁷⁶ Act to Regulate the Immigration of Aliens to, and the Residence of Aliens in, the United States, Pub. L. 64-301, 39 Stat. 874 (1917).

⁴⁷⁷ See Singha, *supra* note 131, at 309.

⁴⁷⁸ See SCHMIDT, *supra* note 4, at 137-44.

governance evolve in response to changing social circumstances, as well as to the extent to which, by the 1910s at least, new techniques of governance were quick to spread across borders. Understanding these developments is also crucial for the simple reason that the forms of governance that evolved in the period remain deeply entrenched within contemporary orders. The intelligence and propaganda agencies developed in the period are even more normalized and powerful today. The same might be said in terms of the sorts of parastatal organizations that developed by leaps and bound in the period. The fluidity with which one “enemy other” was linked to another in the period also remains a key part of state and reactionary strategy across polities, one that is so deeply established by now that it often appears to take place with little conscious effort.

On the legal plane, some laws from the period remain in effect and continue to be put to the sort of suppressive use for which they were initially intended, as for instance in the case of the Espionage Act in the United States. In other instances, while new measures have been adopted, they clearly partake of the same language and intent as the measures they have drawn from, including, for example, the case of Hong Kong’s 2020 National Security Law. From the moment they were first enacted until the present, such measures have contributed to the diminishing strength of the radical visions of rights and equality employed by the social movements of the early twentieth century. Wherever one looks across the terrain of contemporary public order governance, in short, the Red Scare legacy continues to condition the possibilities for progressive change.

ANNEX 1: KEY RED SCARE LAWS, ORDINANCES, ORDERS IN COUNCIL, AND REGULATIONS, 1913–1927

The following table summarizes key legislative acts, ordinances, orders in council, and regulations discussed in the previous text. The summaries provided are brief, simplified, and only address certain aspects of the laws in question. Please rely on the text above, and of course the laws themselves, for further details.

Act	Polity	Summary
Sedition laws		
DORA Regulation 27	United Kingdom	Penalized the spreading of “false reports”/”false statements”/”reports or statements likely to cause disaffection”
DORA Regulation 42	United Kingdom	Penalized “attempts to cause mutiny, sedition, or disaffection”
DORA Regulation 42A	United Kingdom	Penalized inducing members of the armed forces to act contravention of orders or regulations
War Measures Act 1914	Canada	Expanded powers to detain and prosecute those considered guilty of sedition
Seditious Publications Ordinance 1914	Hong Kong	Penalized seditious publications
Defence of India Act 1915	India	Granted the authorities extended powers of detention without trial; reduced defendants’ procedural rights; allowed for the use of special tribunals; imposed restrictions on freedom of expression, including penalties for spreading false news and for engaging in activities prejudicial to the war effort
Seditious Publications (Possession) Ordinance	Hong Kong	Penalized the possession of seditious publications

1915		
Seditious Publications (Possession) Ordinance 1915	Straits Settlements	Penalized the possession of seditious publications
Printing and Books Enactment 1915	Federated Malay States	Imposed tight controls on printers
Order in Council 1916	Hong Kong	Expanded the government's powers to arrest and detain dissidents
Espionage Act 1917	United States	Penalized false reports and statements and attempts to disloyalty, mutiny, or refusal of duty
Sedition Act 1918	Montana, United States	Penalized disloyal and abusive language critical of the government, the Constitution, or the like
Sedition Act 1918	United States	Penalized disloyal and abusive language critical of the government, the Constitution, or the like, encouraging resistance to the United States or encouragement of its enemies, and calling for a curtailment of production
Act to Amend the Criminal Code 1919	Canada	Penalized the distribution of seditious materials; extended the scope of sedition charges; increased the penalty for sedition
Seditious Publications Prohibition Act 1919	Bahamas	Penalized seditious publications
War Time Precautions Repeal Act 1920	Australia	Made it an offence to engage in or counsel a seditious enterprise or to write or to utter or publish seditious words
Seditious Publications	Granada, Saint Lucia,	Penalized seditious publications

Ordinances 1920	& Saint Vincent	
Seditious Publications (Prohibition) Act 1920	Leeward Islands	Penalized seditious publications
Seditious Acts and Publications Ordinance 1920	Jamaica	Penalized seditious acts and publications
Sedition Act 1920	Trinidad and Tobago	Penalized seditious acts and statements
Emergency Powers Act 1920	United Kingdom	Authorized the use of emergency powers in peacetime
Emergency Regulations 1926	Hong Kong	Banning organizations promoting a general strike, or disorder of sedition; penalized seditious statements; allowed for the summary conviction of dissenters
Native Administration Act 1927	South Africa	Penalized any action deemed to promote feelings of hostility between Natives and Europeans
Anarchism and syndicalism laws		
Criminal syndicalism laws c.1919	Numerous states in the United States	Penalized the advocacy of unlawful acts oriented towards industrial or political ends
Red flag laws c.1919	Numerous states in the United States	Penalized the display of a red flag
Anarchical and Revolutionary Crimes Act 1919	India	Granted the Governor General in Council power to authorize special tribunals and extended powers of search, arrest, and detention without trial where he considered there were serious threats to public safety
Association and strike laws		
DORA Regulation 9A	United Kingdom	Allowed the authorities to prohibit and disperse assemblies
DORA Regulation	United Kingdom	Allowed security officials to attend suspect assemblies

51B		
Registration of Natives Ordinance 1915	East Africa Protectorate	Imposed controls on the labor and movement of African workers
Unlawful Associations Act 1916	Australia	Outlawed the IWW and other associations oriented toward the destruction of property
Amendments to the Unlawful Associations Act 1917	Australia	Extended the government's ability to declare associations illegal; penalized providing support to such organizations
Order in Council 1743 1918	Canada	Outlawed strikes and lockouts
Order in Council 2384 1918	Canada	Declared the IWW and other workers' organizations illegal
Act to Amend the Criminal Code 1919	Canada	Criminalized associations which advocated governmental, industrial, or economic change by force; allowed the police to seize materials from persons suspected of belonging to illegal organizations
Urban Areas Act 1923	South Africa	Strengthened the government's control over African males' ability to reside in or move through urban areas
Industrial Conciliation Act 1924	South Africa	Limited white workers' ability to strike; prohibited Africans' participation in unions
Amendments to the Crimes Act 1926	Australia	Extended the grounds on which association could be found unlawful; allowed for "proclamations" to be issued relative to serious industrial disturbances, rendering those participating in lock-outs or strikes guilty of an offence; penalized boycotts of public services and the conveyance of

		goods or passengers
Trade Unions Act 1926	India	Allowed trade unions to be legally registered; restricted the activities unions could engage in; distinguished registered from unregistered unions; allowed liability for workers' trade union activities
Trade Disputes and Trade Unions Act 1927	United Kingdom	Outlawed strikes aimed at "coercing" the government; outlawed secondary strikes; provided a broad and vague definition of intimidation; prohibited mass picketing and picketing at workers' homes
Various emergency regulations 1927	Hong Kong	Authorized the police to disperse processions, prohibit meetings, proscribe labor unions, and confiscate printing machinery
Prevention of Intimidation Ordinance 1927	Palestine	Allowed pickets, but forbade strikers from influencing others, and made intimidation subject to heavy penalty
Migration laws		
DORA Regulation 14	United Kingdom	Allowed for persons to be removed from particular parts of the country
DORA Regulation 14B	United Kingdom	Allowed the government to restrict the movements of, relocate, and intern persons of hostile origin or associations
War Measures Act 1914	Canada	Granted extended powers of exclusion and deportation
Ingress into India Ordinance 1914	India	Indicated that returning Indians suspected to be revolutionaries should be detained
Unlawful Associations Act 1916	Australia	Allowed for the deportation of foreign-born members of unlawful associations
Order in Council 1916	Hong Kong	Expanded the government's powers relative to exclusion and deportation

Immigration Act 1917	United States	Restricted entry of a large group of undesirables; allowed for the deportation of those involved in the unlawful destruction of property
Immigration Act 1918	United States	Allowed for the deportation and exclusion of anarchists
Immigration Regulations 1919	Canada	Allowed for the deportation of foreigners convicted of sedition; allowed for the deportation of those who defended the unlawful destruction of property or who assumed without lawful authority powers of the government in Canada or any part thereof
Amendments to the Immigration Act 1920	Australia	Allowed for the deportation of aliens found to have advocated the violent overthrow or abolition of the government
Indian Passport Act 1920	India	Required passports for entry into and exit from India
Immigration Act 1921	United States	Imposed quotas on immigration based on place of origin
Immigration Act 1924	United States	Banned Asian immigration
Amendments to the Immigration Act 1925	Australia	Granted the minister power to deport foreigner-born persons where the minister was satisfied that that person was involved in hindering transportation, trade, commerce, or the provision of public services
Censorship laws		
DORA Regulation 27A	United Kingdom	Penalized the sharing information pertaining to secret sessions of Parliament
DORA Regulation 27C	United Kingdom	Required that leaflets bear the names and addresses of their authors and printers, and that prior approval be obtained for publication
Order in	Hong Kong	Expanded the government's

Council 1916		powers of censorship and to control communications
Espionage Act 1917	United States	Authorized the removal of certain materials from the mail
Trading with the Enemy Act 1917	United States	Gave the Postmaster General power to censor the foreign-language press
Sedition Act 1918	United States	Allowed the Postmaster General to return mail considered in violation of the act