
Search Warrants and Prosecutions: The Activities of the New York “Lusk Committee.”

[From the NY State Senate Report filed April 24, 1920]

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Published in Stevenson, et al. (eds.), *Revolutionary Radicalism: Its History, Purpose and Tactics: With an Exposition and Discussion of the Steps Being Taken and Required to Curb It: Being the Report of the Joint Legislative Committee Investigating Seditious Activities, Filed April 24, 1920, in the Senate of the State of New York: Part I: Revolutionary and Subversive Movements Abroad and At Home, Vol. 1.* (New York: J.B. Lyon Co, 1920), pp. 20-28

Soon after this Committee was organized it became apparent that the Criminal Anarchy statute of this State was being constantly and flagrantly violated. The reasons for this have already been pointed out in the preliminary report of this Committee.

In order to assist the prosecuting officers in the preparation and the presentation of cases involving a violation of this law, this Committee procured a number of search warrants against various organizations that were found to be the centers and sources of radical revolutionary propaganda.

The first search warrant was obtained on June 12, 1919, from Hon. Alexander Brough, city magistrate, and was directed against the office of the Russian Soviet Bureau at 110 W 40th Street, New York City. The activities of this bureau have been described in another part of this report. This search warrant was executed on the day it was issued by special agents of the Committee assisted by the members of the State Constabulary, and large quantities of printed and written matter referred to in the search warrant were removed from 110 W 40th Street to the headquarters of this Committee.

Counsel for the Soviet Bureau and for Ludwig C.A.K. Martens, the alleged representative of the Soviet government, endeavored to vacate the search warrant, but, after exhaustive argument, in which Attorney-General Charles D. Newton personally represented the Committee, the application for the vacating of the search warrant was denied, and the Committee permitted to retain possession of the papers and documents seized under and by virtue of the search war-

rant. Certain papers that were not deemed relevant or pertinent were voluntarily returned to the Soviet Bureau by representatives of the Committee.

On June 21, 1919, Hon. William McAdoo, Chief City Magistrate, issued three search warrants which were directed respectively against the Rand School of Social Science, situated at 7 E 15th Street, in the borough of Manhattan, city of New York; the headquarters of the Left Wing Section of the Socialist Party, situated at 43 W 29th Street, in the borough of Manhattan, city of New York; and the New York city headquarters of the IWW, situated at 27 E 4th Street, in the borough of Manhattan, city of New York.

The three search warrants were executed simultaneously at 3 o'clock in the afternoon of June 21, 1919, by representatives of the Committee, members of the New York city police, members of the State constabulary, and volunteers from the American Protective League.

Large quantities of revolutionary, incendiary, and seditious written and printed matter were seized in each of these three places under and by virtue of the search warrants that had been issued against them. Court proceedings were instituted in behalf of the Left Wing Section of the Socialist Party to vacate the search warrant that had been issued against it, but the application was denied by the court, and the validity of the search warrant sustained.

An application was made by counsel for the Rand School of Social Science for the vacating of the search warrant that had been issued against it but the attorney for the Rand School abandoned these proceed-

ings. No application was made on behalf of the IWW headquarters for a vacating of the search warrant directed against it.

In all of these places large quantities of written and printed matter of the character aforementioned were obtained, and in addition thereto much valuable information was had concerning the identity of the leaders of the radical revolutionary movement in America as well as the names and addresses of thousands of members of these various organizations, with a result that numerous indictments have been found in various counties of this State as a direct result of the information thus obtained. No arrests were made at the time of the execution of the search warrants against the Rand School, the IWW headquarters, and the headquarters of the Left Wing of the Socialist Party, the purpose being not to make arrests, but to obtain evidence which was turned over to the prosecuting officers, as provided for by law.

On August 14, 1919, a search warrant was obtained by representatives of the Committee from Magistrate William Sweetser, directed against the headquarters of the Union of Russian Workers, situated at 133 E 15th Street, in the borough of Manhattan, city of New York. These premises consist of an old private house in process of rather rapid decay. On the entrance or parlor floor was found a large room used as a school-room, containing a blackboard and crude desks and benches. Inquiry among the persons found therein disclosed the fact that many of them were led to gather in the premises on the supposition that they would there be taught both English and the reading and writing of their native tongue, Russian. As a matter of fact, this was but a blind, the real purpose being to gain recruits to the cause of revolution and anarchy. In the rear room, at the top floor of this building, were found the directors of this institution, and editors of an anarchistic sheet called *Khleb i Volia* [Bread and Freedom], the guiding spirits of which were one Peter Bianki, Naum Stepanuk, and Peter Krawchuk. Large quantities of anarchistic literature were found secreted in various portions of the premises and were seized under the search warrant.

The three men above named were indicted by the extraordinary grand jury of New York County charged with criminal anarchy. They have since been deported to Russia on the "Soviet Ark" Buford.

This search warrant was executed by representatives of the Committee, together with Inspector (Now Deputy Commissioner) Joseph Faurot of the New York police department, who is best known as the Bertillon expert of the New York police department; Sergeant James Gegan, head of the bomb squad of the New York police department; and Officers Cornelius Brown, Charles J. Newman, and other members of the bomb squad.

Shortly before this, representatives of the Committee had caused the arrest of two Finnish anarchist leaders named Carl Paivio and Gust Alonen, who were the editors and publishers of a rabid anarchist sheet called *Luokkataistelu*. These two men, Paivio and Alonen, on complaint of the Committee, were indicted in New York County on the charge of criminal anarchy. They were tried and convicted before Mr. Justice Bartow S. Weeks in the Extraordinary Criminal Trial Term of the Supreme Court, and were sentenced to Sing Sing prison at hard labor, for a period of not less than four years and not more than eight years; and they are now in that prison serving their sentences.

On November 8, 1919, search warrants were issued by Chief Magistrate William McAdoo at the request of the Committee, and directed against the 71 headquarters of the Communist Party of America in the various boroughs of the city. At 9 o'clock in the evening of that day all of these headquarters were simultaneously entered by representatives of the Committee, by members of the State constabulary, and by upward of 700 members of the New York police force under the leadership of Inspector Faurot, Detective Sergeant Gegan, and other members of the bomb squad.

Many tons of seditious and anarchistic literature were seized in the execution of these search warrants and a large number of prisoners taken. Those concerning whom there was not absolutely positive proof of membership in the Communist Party of America were released, and those concerning whom indubitable proof was possessed were held for the action of the grand jury, and later indicted. Among those arrested on that date were Benjamin Gitlow, a former Socialist Assemblyman of the State of New York, and one of the editors of *The Revolutionary Age*, and James J. Larkin, also one of the editors of *The Revolutionary Age*.

Gitlow was recently tried on the charge of criminal anarchy before Mr. Justice Bartow S. Weeks, sitting in the Extraordinary Criminal Trial Term of the Supreme Court. He was convicted and sentenced to hard labor in Sing Sing Prison for a term of not less than five years, nor more than ten years.

Shortly afterward Harry M. Winitsky, Secretary of the Communist Party of America, Local Greater New York, was arrested and indicted on the charge of criminal anarchy. He also was recently tried before Mr. Justice Bartow S. Weeks, and convicted. He was sentenced to Sing Sing Prison at hard labor for a term of not less than five years nor more than ten years.

At the time of the preparation of this report James J. Larkin is being tried on the charge of criminal anarchy.

In the meantime, 18 persons charged with criminal anarchy were arrested in Cortland County on complaint of the Committee, and the local headquarters of that organization entered and large quantities of seditious literature removed.

On December 28, 1919, search warrants were obtained by the Committee in the cities of Utica, Rochester, and Buffalo, and simultaneously, at 9 o'clock in the evening of that day the headquarters of the Communist Party of America, the Union of Russian Workers, and of other revolutionary organizations were entered by representatives of the Committee, together with representatives of the local police force in each of these three cities, and of representatives of the local

district attorneys of these cities. Again, large quantities of seditious and revolutionary literature was seized under these search warrants, and formed the basis of numerous indictments found against the ringleaders of the revolutionary organizations in the cities mentioned.

In the city of Rochester the headquarters of the Communist Party were in a building commonly known as "Dynamite Hall." Here was found a large circulating library containing books on anarchistic subjects, and a mass of literature urging the overthrow of organized government by unlawful means. There were also found in these premises a number of immoral books, and judging from the well-thumbed appearance of books of this character, and of anarchistic character, it seemed that this type of literature particularly appealed to the patrons of this library. In this "Dynamite Hall" was also found evidence of the fact that meetings had been held in public schools of the city of Rochester at which documents were circulated advising the propriety and the necessity of overthrowing organized government by force and violence, and in one instance a resolution had been passed in one of the public schools in the city of Rochester, at a meeting held by the Socialist local of that city, proposing that 10,000 copies of Nikolai Lenin's revolutionary appeal to the working men of America be printed and circulated.

We give below a table showing the number of indictments procured, the number of trials had, and convictions resulting therefrom.

Table of Cases Showing Prosecutions on the Charge of Criminal Anarchy Instituted Through the Cooperation of this Committee with the District Attorneys of the Counties Named

<i>Name of Defendant</i>	<i>County</i>	<i>Present Status</i>	<i>Sentence Upon Conviction</i>
James J. Larkin	New York	Convicted.	State Prison, 5 to 10 years.
Benjamin Gitlow	New York	Convicted.	State Prison, 5 to 10 years.
Isaac E. Ferguson	New York	Convicted.	State Prison, 5 to 10 years.
Charles E. Ruthenberg	New York	Convicted.	State Prison, 5 to 10 years.
Gust Alonen	New York	Convicted.	State Prison, 4 to 8 years.
Carl Paivio	New York	Convicted.	State Prison, 4 to 8 years.
Peter Bianki	New York		Deported on USS Buford to Russia.
Naum Stepanuk	New York		Deported on USS Buford to Russia.
Michael Krawchuk	New York		Deported on USS Buford to Russia.
Harry Israel	New York	Awaiting Trial.	
Isidore Cohen	New York	Awaiting Trial.	

<i>Name of Defendant</i>	<i>County</i>	<i>Present Status</i>	<i>Sentence Upon Conviction</i>
Nicholas Turkevitch	New York	Awaiting Trial.	
Abe Schaffer	New York	Awaiting Trial.	
Joseph Sezwecuk	New York	Awaiting Trial.	
Jay Lovestone	New York	Awaiting Trial.	
Elias Marks	New York	Awaiting Trial.	
John Holland	New York	Awaiting Trial.	
Nathan Schechter	New York	Awaiting Trial.	
Moses Zimmerman	New York	Awaiting Trial.	
Hyman Bleiweiss	New York	Awaiting Trial.	
Mike Stechner	New York	Awaiting Trial.	
Hyman Feffer	New York	Awaiting Trial.	
Benjamin J. Toback	New York	Awaiting Trial.	
John Solsky	New York	Awaiting Trial.	
Abraham Weinberg	New York	Awaiting Trial.	
Louis Shapiro	New York	Awaiting Trial.	
Harry M. Winitsky	New York	Convicted.	State Prison, 5 to 10 years.
Irving Potash	Kings	Pleded Guilty to Unlawful Assembly,	Awaiting Sentence.
Michael Zwarich	Kings	Pleded Guilty to Unlawful Assembly,	Awaiting Sentence.
Robert E. Fried	Kings	Pleded Guilty to Unlawful Assembly,	Awaiting Sentence.
John Janschuky	Kings	Pleded Guilty to Unlawful Assembly,	Awaiting Sentence.
Taft Novick	Kings	Pleded Guilty to Unlawful Assembly,	Awaiting Sentence.
Meyer Graubarid	Kings	Awaiting Trial.	
Hyman Bleiwess	Bronx	Awaiting Trial.	
Jay Lovestone	Bronx	Awaiting Trial.	
Charles M. O'Brien	Monroe (Rochester)	Awaiting Trial.	
Ignatz Mizher	Cortland	Convicted.	State Prison, 5 to 10 years.
John Urchenko	Cortland	Awaiting Trial.	
Corney Britt	Cortland	Awaiting Trial.	
Nikita Zamry	Cortland	Awaiting Trial.	
Louis Litonovitch	Cortland	Awaiting Trial.	
Efim Capasin	Cortland	Awaiting Trial.	
Aksenty Makovetsky	Cortland	Awaiting Trial.	
Pimon Polonsky	Cortland	Awaiting Trial.	
Steve Kostenko	Cortland	Awaiting Trial.	
Jacob Hrikorash	Cortland	Awaiting Trial.	
Sam Karpenko	Cortland	Awaiting Trial.	
Valerian Makovetsky	Cortland	Awaiting Trial.	
Efim Pavlenko	Cortland	Awaiting Trial.	
Ivan Kebanuk	Cortland	Awaiting Trial.	
Dymtro Pastuck	Oneida (Utica)	Awaiting Trial.	
Joseph Grigas	Oneida (Utica)	Awaiting Trial.	
Michael Zlepko	Oneida (Utica)	Awaiting Trial.	
Peter Kraus	Oneida (Utica)	Awaiting Trial.	
Sewaren Skulski	Oneida (Utica)	Awaiting Trial.	
John Korolenok	Oneida (Utica)	Awaiting Trial.	
Alex Krucka	Oneida (Utica)	Awaiting Trial.	

<i>Name of Defendant</i>	<i>County</i>	<i>Present Status</i>	<i>Sentence Upon Conviction</i>
Fred Woznay	Oneida (Utica)	Awaiting Trial.	
Dymtro Choptiany	Oneida (Utica)	Awaiting Trial.	
Zygmund Aiminski	Erie	Awaiting Trial.	
Wm. J. Schwannekamp	Erie	Awaiting Trial.	
Benjamin Keleman	Erie	Awaiting Trial.	
Darcy Millikan	Erie	Awaiting Trial.	
Anna M. Reinstein	Erie	Awaiting Trial.	
Harry J. O'Neill	Erie	Awaiting Trial.	
Crist Keegan	Erie	Awaiting Trial.	
George A. Till	Erie	Awaiting Trial.	
Oscar A. Peterson	Erie	Awaiting Trial.	
William Bradley	Erie	Awaiting Trial.	
Anthony Gruensweig	Erie	Awaiting Trial.	
Franklin P. Brill	Erie	Awaiting Trial.	
Abraham Robioff	Erie	Awaiting Trial.	
Frank Rosenblatt	Erie	Awaiting Trial.	
Paul Streamer	Erie	Awaiting Trial.	
Kyzma Orlinko	Erie	Awaiting Trial.	
George H. Rosenberg	Erie	Awaiting Trial.	

One defendant indicted but not yet arrested. Therefore his name is not here given.

In addition to the defendants above named six persons were indicted in New York County charged with criminal anarchy but have not been arrested, having fled the jurisdiction, and for obvious reasons their names are not given in this report.

The Committee desires to express its appreciation to the public service rendered by the district attorneys who procured the above indictments, who are: Hon.. Edward Swann, of New York County; Hon. Harry E. Lewis, of Kings County; Hon. Francis M. Martin, of Bronx County; Hon. William F. Love, of Monroe County; Hon. W.R. Lee, of Oneida County; Hon. James Tobin, of Cortland County; and Hon. Guy Moore, of Erie County.

There have thus far been four trials[†] under indictments charging Criminal Anarchy, and all four trials have resulted in convictions. The prosecution of these four cases was conducted by Assistant District Attorney Alexander I. Rouke, who worked with the Committee for many months, and whose fidelity and

ability merit the highest commendation from this Committee.

In the course of the public hearings held by the Committee, Ludwig C.A.K. Martens was summoned as a witness to attend before the Committee. He failed to obey the subpoena which had been duly served upon him, and an attachment was issued against him by Mr. Justice Leonard A. Giegerich of the Supreme Court. Martens was brought before the Committee at the City Hall, New York, on November 14, 1919, by Deputy Sheriff Murray, and upon his appearance was released under bond in the sum of \$1,000. He appeared afterward before the Committee and was subjected to a careful examination. In the course of this inquiry Martens testified that he had received from Soviet Russia some \$90,000 in money for the purposes of carrying on the work of his Bureau. Pressed as to the identity of the persons who brought to him this money, he declined to answer, and the Chairman of the Committee declared him in contempt.

[†] The cases thus referred being those of Gitlow, Alonen, Paivio, and Winitsky. Four additional convictions were gained as the Lusk Report went to press, noted as footnotes in the original report but inserted in the table above here. —T.D.

Just before this he had made application through his attorney, Dudley Field Malone, for the vacating of the subpoena that had theretofore been duly served upon him. This application was heard by Mr. Justice Samuel Greenbaum of the Supreme Court. Mr. Malone advanced the argument that his client was clothed with diplomatic privileges and immunities. In his decision denying the application for the vacating of this subpoena, Judge Greenbaum brushed aside this alleged claim of diplomatic immunity, and decided that there was no legal provision for the granting of such a motion, and Martens was compelled to answer the questions that were put to him. He declined, however, to divulge the identity of the couriers who had brought this money to him, and declined also to answer various other pertinent questions. He was declared in contempt of the Committee by the Chairman, and an application was made by the Attorney-General for an order requiring Martens to show cause why he should not be committed to the County Jail of New York County until he should answer the questions that had been propounded to him by the Committee.

The order to show cause was issued by Mr. Justice Greenbaum of the Supreme Court, but before it could be served upon him, Martens left the jurisdiction, and it was later learned he had gone to Washington, DC, where he has since been.

Another contumacious witness who appeared before the Committee was Santeri Nuorteva, Martens' secretary, who also declined to answer pertinent and relevant questions, and was duly declared in contempt by the Committee. An order was issued by Mr. Justice Greenbaum directed to Santeri Nuorteva, requiring him to show cause why he should not be committed to the County Jail until he answer the said questions. Before this order could be served upon him he left the

jurisdiction, went to Washington, DC, with his chief, Martens, and is there at the time of the writing of this report.

Michael Misligh, a confrere of Martens and Nuorteva and the treasurer of the Russian Socialist Federation, who, as we have reason to believe, is a member of the Communist Party of America, followed the example of Martens and declined to answer material and relevant questions propounded to him by the Committee. He too was declared in contempt. A Supreme Court order was obtained by the Attorney-General requiring Misligh to show cause why he should not be committed to the County Jail until he answered the questions that had been thus properly propounded to him. Argument on this application for Misligh, which was vigorously contested by counsel, was had before Mr. Justice Vernon M. Davis of the Supreme Court. A final order was granted adjudging Misligh in contempt, and directing that he be confined in the County Jail until he should answer the questions that had thus been propounded to him by the Committee. Before this final order could be served upon him, Misligh too fled the jurisdiction, and though many months have elapsed, he is still out of the jurisdiction of the Supreme Court of the State of New York.

This Committee and its counsel have cooperated with the prosecuting attorneys of various states in the investigation of seditious activities and with criminal prosecutions arising therefrom, as well as with the Department of Justice of the United States, and with the immigration authorities. Much valuable information has been placed at the disposal of these various prosecuting and investigating bodies by this Committee, resulting in prosecutions and deportations in large numbers.

Edited by Tim Davenport.

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