An Appreciation of the Importance of Tolerance: World War I, Edward F. Alexander, and the Trial of Thirteen Cincinnati Socialists

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Most Americans are generally familiar with the anti-German hysteria which occurred as a result of the nation’s military involvement in World War I. They may not know, however, that many notable reactions against German-Americans, German sympathizers, and German culture occurred in Cincinnati. The fear of Bolshevism that gripped America in 1917 and continued unabated until late 1920 is also well known. What is not apparent is that America’s reaction to both war and revolution became inextricably bound. The fear of Russian Bolshevism was conditioned and tempered by the extreme intolerance which surrounded America’s war participation. And nowhere was this melding of war intolerance and reactionary fear of Bolshevism better demonstrated than in Cincinnati.1

The arrest in 1917 and subsequent trials of thirteen Cincinnati Socialists were shaped by both the national mood and world events. Initially charged with treason for distributing anti-conscription handbills during the war, the fates of these Socialists and their defense attorney became linked to the Red Scare hysteria occurring after the war. This essay examines how the irrational fear of both anti-intervention proponents and Bolshevism constricted the civil liberties of thirteen Cincinnatians. Even their defense attorney, Edward F. Alexander, did not remain unscathed. His promising career in public life, although not ruined, was stifled. As a result of the trial, Alexander became a threat because he protected individual rights when they conflicted with the established goals of the general community. He, along with other lawyers nationwide, unknowingly embarked on a course that expanded the permissible limits of individual freedom. As one legal historian noted as a result of World War I and the Bolshevik Revolution, the politics of American civil liberties “emerged as a public question.”2 It is a depressing and dreary tale of repression, witch-hunting, character denigration, and intolerance.

What follows is first a description of the events leading to the Socialists’ arrest, and an examination of the charges for which they initially were indicted. The majority of the second phase portrays the emotional and prejudicial atmosphere which existed during the trial. Contemporary events insured that an impartial trial would be difficult, but the actions of the prosecuting attorney and judge exacerbated an already tenuous situation. Finally there is an effort to assess the case’s significance and to place it in historical perspective. When taken together with similar events occurring at the same time, it appears that the case, Hammerschmidt et al v. U.S. should be one of the seminal events which helped define the parameters of civil rights, especially those guaranteed by the Bill of Rights. However, because the Supreme Court failed
to address the civil rights issues present in the case, it became relegated to a case which only defined the legal meaning of “conspiracy to defraud.” Nevertheless, the case should be viewed broadly, for it illustrates the intolerance often characteristic of American life during and following national emergencies.

On April 2, 1917, Woodrow Wilson asked Congress to declare war on Germany. Later that evening, Wilson voiced his concern and fears about leading the American people into a foreign war to newspaper editor, Frank Cobb:

*Once lead this people into war and they will forget there ever was such a thing as tolerance. To fight you must be brutal and ruthless and the spirit of ruthless brutality will enter into the very fibre of our national life, infecting Congress, the courts, the policeman on the beat, the man on the street.*

Wilson was right. The spirit of intolerance spread like a contagion.

On May 18, 1917, Congress passed the Selective Service Act. It required males aged twenty-one to thirty to register and it also gave officials the authority to arrest anyone who obstructed the registration process. Secretary of War, Newton D. Baker, aware of Americans’ traditional reluctance to any form of conscription, hesitated to have it administered directly by the army. He had local draft boards conduct the draft selection process, thereby creating the illusion that the draft was democratic and free from direct governmental interference. Furthermore, in an effort to encourage participation, Baker designated June 5, 1917, as National Registration Day. On that day qualified young men throughout the country signed up for the draft in their local areas. Many Americans accepted the government plan, and viewed it as a way to demonstrate their patriotism.

But even before conscription was enacted, Americans publicly opposing involvement in the war were arrested and charged with disorderly conduct or unlawful assembly. Sentences usually amounted to jail terms from three months to one year and a small fine. Both the government and the public soon developed a desire to give harsher sentences to anyone who voiced opposition to the war and, eventually, to conscription. In an effort to manage domestic opposition to the war, Wilson instructed his Attorney General, Thomas Gregory, to prosecute any “slacker” who failed to register. The Justice Department vengefully went after all those who voiced opposition. In addition to the department’s regular investigative offices, Gregory enlisted the services of the American Protective League, the National Security League, and the American Defense Society. These “patriotic” organizations possessed the power to round up all alleged slackers and, as one historian stated, “to force patriotic citizenship upon them.” After the Selective Service Act was passed on May 18, Justice Department officials and representatives from these private organizations conducted a series of dragnet raids throughout the country. As National Registration Day approached, these raids intensified, resulting in arrests in New York City, Chicago, Kansas City, and Cincinnati.

Even Wilson became involved when the Los Angeles Times cited him as the source of a news story that carried the headline: “Anti-Draft Agitators to be Treated with no Leniency.” In early June a similar article appeared in a Cincinnati newspaper. It condoned the government’s declaration of war against “anti-conscription speakers and plotters of all sorts” and pledged to prevent the “escape” of all who avoided draft registration. When the force of the government united with public opinion, there was little doubt that opposition to the Selective Service Act and the war would not be tolerated.

The Socialist Party of America was the only major political party opposed to the war, and though far less powerful than its European counterparts, it found little difficulty obtaining support in industrial cities and urban areas with large immigrant populations. Before the outbreak of war in 1914, thirty legislators of twelve states and more than 1,000 municipal officials belonged to the Socialist Party. Its national membership totaled into the hundreds of thousands. By the 1917 local elections its candidates garnered more votes than in any previous election. The Socialist Party’s candidate for mayor in Cincinnati, Thomas Hammerschmidt, received 11.9 percent of the vote. Even more significant percentages were registered for mayors in Dayton, Toledo, and Cleveland. After Congress declared war, the Socialist Party quickly voiced its opposition and convened an emergency meeting in St. Louis. Despite token opposition from a pro-war faction, the party officially denounced the war declaration, and pledged “continuous, active and public opposition to the war through demonstrations, mass petitions, and all other means within our power.”

The spirit of opposition manifested in St. Louis also surfaced on May 20 in Cleveland when local Socialists publicly demonstrated against the government’s recently enacted Selective Service Act. Lotta Burke, a native Cincinnatian and an active Cincinnati Socialist since 1903, attended the rally where she took home a handbill denouncing conscription. A few days later, Burke led a movement to hold an outdoor protest rally against the Selective Service Act on
June 4, the day prior to National Registration Day.9

Fearing that disorder and possibly arrest might result from an outdoor “street rally,” party members opted for an indoor rally in Central Turner Hall. The purpose of the rally was not to instigate trouble, but to determine the constitutionality of the conscription law. If party members somehow determined it to be unconstitutional, they would petition Congress to repeal the act. Additionally, Burke proposed that a handbill (similar to the one she received in Cleveland) be printed, advertising the rally’s date, time, and location. Party members agreed and passed the handbill resolution; however, they did not discuss the circular’s content.10

Burke and two fellow Socialists prepared the circular for printing. Using the Cleveland handbill as a guide, they crossed out the “Refuse to Register” line and replaced it with “the First Amendment.” They also struck the resolution portion which pledged financial and moral support to all those who refused “to become victims of the ruling class.” These two alterations indicated that they did not want to appear radical or, for that matter, be viewed as law breakers. A vacant space remained at the bottom enabling them to stamp the time and place of the rally as soon as the specifics were confirmed. Due to time constraints, they decided to have Tom Foster, a local printer and fellow Socialist, print the handbills instead of sending their order to the state office in Lakewood, Ohio.11

The Socialist candidate for mayor, Thomas Hammerschmidt, met Burke outside party headquarters and told her he could not guarantee Central Turner Hall for the rally. The hall’s manager, “fearful of the times,” wanted to first obtain the trustees’ permission. Hammerschmidt then offered to accompany Burke to Foster’s Queen Card Company to place the handbill order. Arriving at the shop, she gave Foster the revised version of the handbill, and arranged with him to proofread a few copies the following afternoon.12

Foster did not have any copies completed when Burke arrived the next day to proofread. After some delay, Foster brought her a few copies containing numerous mistakes. She corrected some spelling errors on the front and highlighted the more general errors including corrections on the back of two circulars. She returned one to Foster and kept the other for her personal records.13

Blaming mechanical problems, Foster asked for an extension for printing the circulars. He requested that Burke pick up the entire order two days later than originally planned. Not wishing to appear difficult, she agreed. The new delivery day was also the Socialist Party’s weekly meeting day, which Burke felt would allow members to make arrangements to stamp the date, time, and location of their June 4 rally on the handbills.14

Shortly before the party’s weekly meeting commenced, Burke and a fellow party member stopped by Foster’s print shop to pick-up the handbills. It took Foster close to an hour to finish bundling the circulars, and because Burke forgot her glasses, she did not proofread the completed handbills. In accordance with standard distribution procedure, Burke dropped one of the bundles at a member’s home. She then proceeded to the Socialist Party headquarters on Walnut Street where Burke noticed approximately 200 people gathered outside the building. She quickly learned that, due to the large crowd, members had decided to turn the weekly meeting into a full blown propaganda meeting, thereby allowing non-party members to participate. Perhaps intimidated by the size of the crowd or just forgetful, Burke left no specific instructions regarding the disposition of the remaining circulars, nor later did she know their whereabouts. Her apparent disregard proved fateful.15

Earlier that evening, before Burke’s arrival, some Socialist Party members had asked for specifics on the

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rally scheduled for June 4 at Central Turner Hall. Hammerschmidt notified them that he had been denied the use of the hall, and therefore, there could be no public protest. According to witnesses, the increasing noise and general confusion within the room prevented everyone from hearing that information.

One man who failed to receive the word was Joseph Geier, literature agent for the eleventh ward. All he heard was that some of the handbills had been left at the home of Rothenbusch’s sister, and he was responsible for their delivery. “Nobody told me to go over there,” he later recalled, “the word was passed around that they [the circulars] were there.” Because it was so late in the evening, Geier and six other party members agreed to convene the next evening at their regular meeting place to distribute the handbills. On June 1, 1917, the seven Socialists from the eleventh ward left Baas’ Saloon with route instructions and the anti-conscription circulars and distributed the handbill which they believed was in harmony with the one the executive committee had agreed to have printed.

Acting with similar fervor, yet independent of the eleventh ward members, were Thomas Gregory, John Hahn, and Philip Rothenbusch. They had learned that some circulars were deposited in the back room of Mozart Hall, a neighborhood pub close to Socialist headquarters. As an impromptu gesture, they agreed to distribute the circulars within the tenth ward. They met with Arthur Tiedtke, who by prior arrangement with Gregory, had agreed to join the distribution effort.

The arrest of the eleven Socialists immediately attracted the concern of the Party’s national leadership. Alexander received a letter from Adolph Germer, the party’s Executive Secretary, which assured him that the government’s treason charge would never stick. Germer admitted it would be “inconvenient and very expensive,” but concluded that because “we are engaged in this fight for the right, [we] will have to submit, for the time being, to those injustices that are to make the world safe for democracy.”
Many Cincinnatians also voiced their concerns, but unlike the Socialist Party, their views were decidedly negative and defensive. Two days after the arrests, The Cincinnati Enquirer warned other potential radicals that the government would never rest until it “put behind bars all those whose acts brand them as enemies of the United States and friends of the Kaiser.” Just ten days later, detectives arrested Burke and Hammerschmidt and also charged them with treason for having ordered the printing of the circulars, thereby bringing the total arrested to thirteen. The Prosecuting Attorney, Stuart R. Bolin, cogently and prophetically summarized the Justice Department’s position: “Our courts are not permitting persons who have taken a stand against the Government in this war to seek shelter behind the Constitution. The Constitution is being virtually suspended during the time when America is facing this tremendous crisis.”

After the defendants were released on bail later in the summer and before the formal legal proceedings commenced in the fall, the government realized the treason charge was inappropriate and could not be justified or substantiated in court. And because the Socialists’ arrest occurred fourteen days prior to the passage of the Espionage Act, they could not be charged with violating the portion of the act which forbade obstructing the recruiting or enlistment service of the United States. But, having arrested thirteen “undesirables” and wanting to charge them with something, the government indicted them under Section 37 of the United States Penal Code for unlawfully “conspiring to defraud the United States.” As time progressed, this alteration in the indictment, although legally cumbersome and a mere guise, became the least of Alexander’s and his clients’ concerns. There were others much more serious and less easy to overcome.

Less than one month after the grand jury’s indictment the Bolshevik Revolution occurred. Four months later, Lenin signed a separate treaty with Germany which removed Russia from the war and enabled Germany to concentrate its resources and manpower on the Western Front. These two events greatly affected American society and had a pernicious impact on the trial of the thirteen Cincinnati Socialists. The intolerance exhibited by Americans after their entrance into the war only increased as a result of Russia’s revolution. Almost overnight any American who previously advocated non-intervention went from being “proGerman” or “un-American” to being a Bolshevik, whether they believed in the Bolshevik cause or not. Although the allied victory in November, 1918 quelled the anti-German hysteria generated by the war, the reactionary fear of Bolshevism increased. From early 1919 through late 1920, the Red Scare engrossed America. In this unsettling and partisan environment, jury selection commenced in early June, 1919, two years after the defendants’ arrest.

If Alexander initially believed the trial could be fair and judicious, it only took the jury selection to convince him otherwise. After four and one-half days of questioning 100 prospective jurors, the trial finally commenced. Just two days after the trial began Alexander demanded that the presiding judge, Howard C. Hollister, dismiss the case because of prejudicial statements made by prosecuting attorney Bolin. Reading to the jury a copy of the handbill distributed by the defendants, Bolin argued that the conspiracy was not limited to Ohio but rather amounted to a conspiracy of the Socialist Party of America. He not only asserted that this conspiracy involved violating the conscription law, but also included furnishing lawyers for those who did. Joseph Sharts, Alexander’s assistant counsel, objected to Bolin’s accusation, and questioned why such and utterly false statement was spoken but “for the mere purpose of poisoning the minds of the jury.” To this, Bolin replied: “You asked for it, didn’t you?” Hollister ruled that Bolin’s statements indeed were prejudicial to the defendants and reaffirmed that the conspiracy charged in the indictment was not a conspiracy of either the nation or state Socialist parties. However, he overruled Alexander’s motion for dismissal.

Lacking substantial proof of a conspiracy forced the government to amplify the “overt acts” portion [the physical act of distributing the handbills] of the original

The trial was held in the U.S. District Court, located in the U.S. Post Office and Courthouse at Fifth and Main streets.
indictment, and also to discredit the defense's position that Foster intentionally altered Burke's instructions. When these approaches proved inadequate, Bolin appealed to the jury's sense of prejudice and "patriotism." Foster testified that Burke and Hammerschmidt had given him a copy of a Cleveland anti-draft circular with the First Amendment addition missing and which included a "Socialist Party of Cleveland" accreditation in two places. They requested that Foster print 50,000 of them, adding the First Amendment to the upper portion and changing the "Socialist Party of Cleveland" to read Socialist Party of Ohio. Foster asked Hammerschmidt if he wanted a date or a meeting location printed on the handbill. Hammerschmidt, according to Foster, said that he was unsure when or where the meeting would be held and instructed him to omit that information. Foster testified further that he informed Burke and Hammerschmidt that he would have to condense the type on the First Amendment addition in order to fit everything they wanted on the handbill. Both Hammerschmidt and Burke concurred, he said, and agreed that they would either superimpose the information on the front or just stamp it on the back. The key to Foster's damaging testimony was his claim that Burke and Hammerschmidt did not request an open space on the handbill where the necessary meeting information could be stamped. This inferred that the Socialists did not have plans for a meeting and that they intended to use the handbills only as a means to interfere with draft registrations. Foster admitted that when Burke came to proofread a few handbills she made several corrections. "It was full of them, full of mistakes," Foster testified, "especially this fine copy... but the headlines... the large type, they were spelled out right." When specifically asked whether Burke altered or corrected the "DOWN WITH CONSCRIPTION" or the "REFUSE TO REGISTER FOR CONSCRIPTION" portions of the handbill, Foster answered, "She ok'd the proof."

The original indictment charged that the conspiracy commenced on May 27, 1917, when Burke, Hammerschmidt, and the other Socialists agreed to order the anti-conscription handbills for the purpose of impairing draft registration. The violation under Section 37 of the Penal Code occurred when one or more of the conspirators performed an "overt act" which completed a preplanned course-of-events. The government contended that if a conspirator withdrew from the plan prior to completing the "overt act" he or she could not be charged. Because the printing of the circulars was followed by distribution, this "overt act" completed the preplanned course-of-events and proved, to the government's satisfaction, that a conspiracy had been undertaken. The government was not concerned that the circular's message failed to reach draft age males. The intent to obstruct a lawful function of the United States was present regardless of whether it was successful. Ironically, Foster, a fellow Socialist and printer of the handbills, became the only government witness who "proved" a conspiracy occurred. Throughout the trial Bolin failed to present any conclusive evidence that could apply equally to the other defendants. Indeed the only direct evidence Bolin accumulated was Foster's testimony that linked Burke and Hammerschmidt to the printing order. Bolin only assumed that anything done by the defendants in a concerted manner, such as handbill distribution, proved they acted on instructions received earlier at Socialist meetings.

The government's case totally hinged on Foster, for without his testimony the government had no evidence of a conspiracy. The eleven men arrested for physically distributing the handbills, although an "overt act," inadequately proved that a conspiracy existed, for they could have acted on a whim without any authorization from party leaders. Furthermore, if the effort had been preplanned, it was strange that Burke and Hammerschmidt, the two people who ordered the circular's printing, did not assist with the distribution. Defense counsel realized this and made every effort to discredit Foster's testimony by using damaging character references and by proving that he, too, was an accomplice. After all, he unabashedly printed thousands of circulars. Moreover, defense counsel strongly inferred, but could not prove, that Foster was the unnamed informant from whom Weakley received the necessary information. Obviously, if the jury accepted Foster's testimony, it could not believe Burke and Hammerschmidt. The one contradicted the other two. However, judging the technicalities of when or if a conspiracy occurred, as well as the quality of evidence, is beyond the scope of this article. What is important is how Stuart Bolin's zealous appeals to lingering war "patriotism," anti-socialism, and irrational fear of Bolshevism filled the void caused by the paucity of evidence and enabled the jury to convict thirteen individuals of conspiracy to defraud the United States.

The logical reason that Bolin resorted to the tactic of emotional prejudice was because he lacked confidence that Foster's testimony could sway the jury. Bolin first revealed this strategy when James Clark, his assistant, questioned a clerk from the Detective Bureau who just happened to be a member of the government's arresting team. The clerk testified that when he searched Frank Reis, one of the defendants, he found the handbills wrapped in a newspaper. When asked what kind of newspaper the clerk replied, "A
German language newspaper.”

**Q:** "Is it in German type or English?"
**A:** "German type."

**Q:** "What is the name of the newspaper and the date of the issue?"
**A:** "Cincinnati Volksblatt, 19 May 1917."

Sharts immediately objected to the use of the newspaper as evidence. He viewed it as “negative propaganda” and thought some of the jurors might connect the newspaper’s German name with the defendants. Bolin disagreed, and argued that he wanted the newspaper accepted as evidence because the jury was entitled to know all of the conditions under which the man was arrested. Sharts objected again and stated that a “piece” of German language newspaper printed in Cincinnati had no relevance to the case. Judge Hollister intervened and asked whether Bolin intended the admission of the newspaper to prove any issue in the indictment. Bolin told Hollister that he felt it very important as “cumulative evidence” because it demonstrated the defendants’ state of mind during their arrest. Bolin believed that the possession of a German language newspaper during the wartime might interest the jury. He quickly assured Hollister that if it did not, then the jury members could simply “cast it aside . . . .” After a slight delay, Hollister permitted the newspaper to be admitted as evidence. However, he remained concerned by its potential impact and decided to instruct the jury that the newspaper itself was not pertinent to any issue in the case. Bolin’s not-so-subtle nuance succeeded: the defendants were German sympathizers if not German agents.

Bolin asked that the personal items found on Philip Rothenbusch be admitted as evidence because they demonstrated the “mental attitude” of the defendants. Alexander, perhaps aware of Bolin’s intentions, objected strongly and argued that such items were irrelevant and need not be read to the jury. Hollister overruled Alexander’s objection and allowed Bolin to continue. In an effort to associate the Cincinnati Socialists with a part of the national Socialist conspiracy, Bolin read the newspaper clipping allegedly found in Rothenbusch’s memorandum book. The May, 1917 article described the “hunt” undertaken in the Midwest by Justice Department agents who promised to find and severely punish all “plotters” and “pro-German agents.” When Bolin finished, Hollister, in a procedure that almost became routine, warned the jury that they should not view the article’s content as evidence but should only determine whether the clipping was or was not found in Rothenbusch’s possession. Hollister’s cautionary remarks proved there obviously was little need for Bolin to read the article. However, when the opportunity arose, Alexander used Bolin’s tactics to his own advantage.

A strategy Bolin often repeated involved emphasizing the foreign birth of the defendants or defense witnesses already known to be naturalized citizens. Alexander utilized the manager of Central Turner Hall as a witness because he corroborated Hammerschmidt’s testimony concerning the hall’s use for the June 4 rally. During cross examinations, Bolin’s only question was terse and pithy:

**Q:** “Where were you born, Mr. Steinback?”
**A:** “I was born in Germany.”

Mr. Bolin: “That’s all.”

Only one defendant, Fred Schneider, was a naturalized citizen, but Bolin insured that the jury knew he had immigrated from Germany; it made little difference that in 1908 when he immigrated Schneider was only ten years old. Bolin continued questioning Schneider about his and his father’s views on socialism. When Bolin insinuated that socialism was a disease easily transmitted from one generation to the next, his tactic backfired. “Your father was a Socialist, wasn’t he?” Bolin asked. Schneider replied that his father strongly opposed socialism and refused to become a party member. In fact, Schneider asserted that he, himself, did not become a member until about one week before his arrest. Bolin quickly changed the topic to the events of June 1917, having failed to connect the “radical” and “pernicious” nature of both Socialists and “foreigners.”

Bolin’s xenophobic use of “German birth” to imply conspiratorial guilt spread to “German Kultur” and was hyperbolically used against Bertha Durand, a defense witness. A native of Germany, Durand immigrated to the United States in 1878, and later in Cincinnati, she became involved with and chairwoman of the German-American Literary Society. This harmless organization consisted of women who met weekly to discuss important issues and events. The major objective involved increasing the public’s awareness of the need for both old age and single mothers’ pensions. Bolin asked if the society performed any other kind of “propaganda work?” Durand answered that it also espoused the need for the continued teaching of foreign languages in the public schools. However, Durand, perhaps aware of Bolin’s exploitive intentions, quickly emphasized that the German government’s wartime behavior had no relevance to the German language. “It was not only accidentally the language of the Kaiser,” asserted Durand, “it was the language of Goethe, Wagner,
Chopin, Schiller and other names like that.” To this Bolin acerbically asked “And the language of Kultur?” Alexander immediately objected to Bolin’s insinuative use of “Kultur.” “She is an American, not a German,” Alexander argued. The court did not rule on Alexander’s objection. Hollister just told Bolin to “go on.” Alexander did not pursue the issue, but during requestioning he affirmed Durand’s allegiance to America and the German-American Society’s innocuous nature.

From the beginning, the prosecution relied almost exclusively on lingering anti-German and anti-Socialist sentiments. Little, if any, evidence was presented proving a conspiracy existed to defraud the United States. When Burke testified, for example, the prosecution effectively exploited the hysterical fear of Bolshevism then existing in the nation. Bolin not only dwelt on Burke’s involvement with the Socialist Party and its various programs and ideals, he asked about her presence in January 1919 at a public lecture where a supposed “Bolshevik” spoke. After some prodding from Bolin, Burke responded that her activities and interests were not limited to lecturing for the Socialist Party. Because she belonged to the Garment Workers Union, the local suffrage organization, as well as the German-American Literary Society, Burke spoke on a myriad of topics. And to this Bolin skillfully asked her if she did not classify herself as a “radical lecturer?” Defense counsel objected to the question’s self-incriminating nature.

Sharts argued that the term “radical” was too indefinite and if Bolin used such a term he should define its meaning. Bolin successfully pleaded his case to Judge Hollister and argued that because of the extensive use of the word throughout the trial the jury desperately needed a complete definition of “radical.” He assured Hollister that if Burke was unable then he would “be glad to make it plain as I am able.” Burke failed to be lured into Bolin’s trap. Realizing the danger in allowing Bolin to explain “radicalism” she simply and tersely defined it as “getting at the root of things . . . nothing else.” Since she answered the question, Bolin could do nothing but concur.

Bolin then asked whether Burke knew “Proletarian” Tom Lewis. She replied that she had met the Socialist Party lecturer while a member of the speaker’s committee but she could not remember the exact date. Bolin knew the lecture occurred in January 1919, almost two years after the conspiracy that Burke was charged with orchestrating. Nevertheless, he asked her if Lewis, in addition to being a Socialist Party lecturer, could not also be labeled as a Bolshevik? Defense counsel objected and denounced Bolin’s question. Sharts argued that Burke’s connection to Lewis lacked relevancy. The only reason Bolin injected the word “Bolshevik” was because the newspapers were replete with denunciations of Bolsheviks. Sharts emphatically argued that such interrogation methods were meant solely to prejudice the minds of the jury. Bolin obviously disagreed. Somehow he intended to prove that Burke, while pending trial on a charge which went “to the limits of her radicalism,” attended a Bolshevik lecture where she achieved an even greater disregard for “constituted authority and the courts.” The jury, continued Bolin, should make whatever use of this event it could. It not only reflected upon Burke’s current attitude, but clearly demonstrated the subversive attitude she possessed two years earlier. Sharts repeated his objection and asked that the case be dismissed. A sharp bout with Hollister ensued. Sharts reiterated that Burke was charged with conspiracy and not for reaching the “limits of radicalism.” As far as he knew, someone could not be tried in America for possessing radical views. To this Hollister curtly replied: “Well you are not too old, are you, Mr. Sharts, yet to learn?” “I may be learning something right now,” asserted Sharts. “There must have been a revolution since I learned law.” Hollister then sustained Sharts’ objection to Bolin’s question but overruled the dismissal motion. Nevertheless, Bolin seemed to have gotten what he wanted: Burke became identified not only as a Socialist, but a dangerous Bolshevik as well. Bolin’s instructions were not complete, for the jury needed one more tidbit of inflammatory information about Lewis’ lecture.

Bolin commenced the following day’s testimony inquiring whether Burke, after attending the lecture, asked the crowd for money in order to print leaflets announcing when the “revolution” would begin. The defense again objected and demanded that the court instruct the jury that no inference could or should be made by Bolin’s remark. The court agreed Bolin had gone too far. In hindsight, however, when Hollister sustained the defense’s objection, he did so in such a manner as to reemphasize the prosecution’s insinuations.

Alexander’s defense aimed to disprove that the thirteen defendants had entered into a conspiracy. His arguments rested on efforts to discredit both Foster’s testimony and personal character, and to illustrate the innocuous and seemingly democratic nature of the local Socialist Party. Alexander contradicted Foster’s testimony when he presented as evidence Burke’s copy of the handbill, one of the dozen circulars that Foster initially asked her to proofread. The “REFUSE TO REGISTER” line was replaced with the First Amendment; the resolution portion pledging “financial and moral support” to all who refused “to become
victims of the ruling class” did not exist; and the authorization line read “under auspices of the Local Cincinnati Socialist Party of Ohio.” The major problems were twenty-five or more spelling mistakes and minor alignment errors.49

Alexander concentrated on denigrating Foster’s opportunistic character since he became the government’s only witness “knowledgeable” of the supposed conspiracy to defraud. Alexander effectively demonstrated Foster was less than truthful regarding the extent of his involvement with the Socialist Party. He attempted this not through circumstantial evidence but by presenting irrefutable evidence. Initially embarrassed and perhaps concerned what membership implied, Foster changed his testimony after Alexander’s interrogation:

Q: “So you did apply for membership?”
A: “I did not apply. I just gave them the money. I don’t know whether they entered me on the books or not.”
Q: “Did you sign an application card at the time?”
A: “I don’t know.”
Q: “You stated a minute ago you didn’t do anything but slip them half a dollar.”
A: “I slipped them the money, but I didn’t stand no examination or take no oath of loyalty, or anything like that; but I might have signed the application.”
Q: “You might have signed the application?”
A: “Yes, but I am not sure about that, but after the Socialist paper stopped, why then I was no more a member.”
Q: “Now, then, if I understand you, you wouldn’t say that you didn’t join the Socialist Party?”
A: “Well, if I gave them the money and they entered it on the books, I guess they would class it that way. Why, I am not ashamed of what I done. If you want to term it that way, why, you can term it that way. I did it for a matter of business, that’s all.”

Having proved Foster’s local party membership and his penchant for opportunism, Alexander elaborated on this theme. He produced Foster’s National Socialist Party membership card. Foster hesitantly confessed that the card belonged to him, but he added that he never read its contents. Alexander then presented evidence further elucidating Foster’s involvement in the party: the first copy, dated December 11, 1915, of the Cincinnati Socialist. Alexander asked if Foster printed the newspaper. Foster answered that he “guessed” he was the paper’s first and only printer. In fact, Foster added, “I printed it until I stopped it.” Alexander then asked why he agreed to print the newspaper, was it because party members felt that “you would have profited from it?”

Bolin immediately objected and the court agreed. Alexander altered his line of questioning but his point was made. Any juror genuinely concerned about seeing justice prevail would have to question Foster’s credibility as a government witness. If Foster could print a Socialist newspaper for profit, it maybe also was possible that he could lie or be a government witness for money.50

Realizing the difficulty of proving that the government paid Foster or granted him immunity from prosecution for altering the handbill, Alexander concentrated on depicting both the decentralized and innocuous nature of the local Socialist Party. Indeed, a portrait of the local party emerged after all thirteen defendants, from the “leadership” to the underlings, testified to their general involvement in the party and to the specific events leading to June 1, 1917. Alexander emphasized that the party was not a “compact corporation conducted by directors” that constantly kept its members informed of its activities. Rather, it resembled a “loose, headless society” with volunteers doing whatever seemed necessary as occasions arose. Alexander concluded that because no actual leadership hierarchy existed, the actions of individual members were governed by their own zeal and interpretation of what the party cause required.41

Alexander had understandably objected to Bolin’s admittance as evidence those items found on Rothenbusch, including a copy of the Socialist Constitution. Eventually, however, he used them to his advantage. Sharts attempted to read the party’s entire constitution to demonstrate the innocuous nature of the Socialist Party and perhaps act as a less-than-subtle reminder of Bolin’s newspaper recitation. Unlike Bolin, however, Sharts met some judicial resistance. After reading approximately half of the document, Hollister interrupted Sharts and asked whether reciting the party’s political structure was relevant to the case. Sharts argued that throughout the trial everything that pertained to the Socialist Party was viewed with suspicion and he desired to read the party’s constitution in its entirety to dispel this prejudice. Bolin interjected: “There is not a man on this jury who holds any Socialist prejudice.” Sharts ignored his statement. Hollister finally consented, but he
urged Sharts that if there was anything he felt he could skip to please do so. Sharts complied and then proceeded to read from the Party's 1916 campaign platform.42

The attorneys made their greatest impact during their closing arguments, for their arguments reflected the prejudices, hopes, and fears of the postwar era. Alexander pleaded and argued for social justice, tolerance, and understanding; Bolin refought the war and inflated the lurking evil of Bolshevism.43

Alexander's argument concentrated on showing that his clients, instead of being conspirators, were the innocent victims of hate and prejudice. They were not tried for larceny, murder, or embezzlement. They were tried for their political views and activities, nothing more. It was the kind of trial, Alexander argued, which "flourishes in every country where tyranny and despotism rule." He flatly dismissed the conspiracy charge simply because every turn, every insinuation, and every argument made by Bolin amounted to an indictment of his clients' views and opinions about the war. The Constitution guarantees every citizen the right to free speech, but Alexander believed Bolin sought to disallow or suspend this privilege. The government violated their constitutional rights when it charged the Socialists with treason, thrust them into prison without bond, and then treated them as public outcasts. "It is though the law were to say, 'you may hold your views, but your views are evidence of an attempt to violate the law,'" Alexander asserted.

Alexander underscored the serious dilemma the American government experienced during the war: where did individual rights end and those of the national interest or "common good" begin? He believed the government remained determined to make examples of his clients so it could send a message to all Socialists and "progressive thinkers" that their views must be in accordance with the rest of society, and that every new belief or idea must be submitted first to Washington and the controlling powers before it could be advocated publicly. He questioned whether this was the democracy and the liberty for which soldiers had died on the battlefield. He emphasized that because this case began with "common good" begin? He believed the government

Alexander then proceeded into a very simple and non-philosophical discussion on the color "red." The Socialists did not possess a monopoly on red. The Cincinnati Reds, Harvard University, and fashionable men’s hats utilized the color. The only reason Bolin accentuated it was because "he thought he could make you see ‘red.’" Alexander again reminded the jury that the war was over and pleaded that common sense and understanding replace the hate and the suspicion that prevailed throughout society during the war years.44

Bolin did not begin his closing argument by reviewing any conspiratorial evidence, rather he pandered to xenophobia. He reemphasized that some defense witnesses were not native Americans but German immigrants, thereby implying they were dangerous and undesirable. Unlike Englishmen, who brought freedom and justice to the American shore, Bolin asked what Germans brought. To him the answer was extremely simple: "The seeds of German Socialism."49

Bolin responded to Alexander's earlier comparison that linked the Cincinnati courtroom with the "gloomy courtroom" which existed in Czarist Russia. Directing his comments to the jury, Bolin wondered if any courtrooms, "gloomy or bright," were being used in Bolshevik Russia. He assured the jury that they were not.

The district attorney directed his most virulent comments at Lotta Burke. Again he labeled her as a radical lecturer, a translator of German, a believer in the principles of Socialism, and a person who "goes to the root of things." Bolin argued that something was innately and fundamentally wrong with any person who, born in America, fostered in American institutions, raised by American principles yet still opposed the United States' involvement in World War I. "There is some seed in their heart that was not properly germinated and blossomed into the flowers of real patriotism and understanding of what it means to be an American citizen," Bolin preached. He was convinced that anyone who harbored such perverse thoughts would not hesitate to print or publish a handbill which denounced the government and advocated class warfare. Bolin argued that such a caliber of person could seek assistance from only one source: from a lawyer who possessed similar beliefs, who could coach his
Alexander, aware of Bolin’s insinuations, objected immediately and denied that he was a Socialist or known throughout the city as being one. After a lengthy altercation, Bolin continued.

He addressed the jury intending to dispel the anti-German prejudice with which Alexander accused him; but, at best, he only amplified the 100 percent Americanism theme espoused during the war. Bolin proclaimed that those “infused with German blood” were not disloyal as a class. On the contrary, he took pride in coming from the same hometown as Edward Rickenbacker. He even praised the local war hero, Fritz Galbraith, who Bolin stated not only had a first name of “German tenor,” but arrived home “crowned with the glories of his service.” Bolin assured the jury that whenever he referred to the witnesses’ German birth, parentage, or blood, he directed it to those who had forgotten “to leave behind in their Vaderland the ideals from which they pretended to feel and have not become acclimated to the freedom of our land and institutions.” The district attorney explained a complex subject very simply. As long as German-Americans followed the United States government’s orders and fought Germany, they were not considered a threat. The danger emanated from those Americans who opposed the war and utilized their constitutional right as citizens to voice dissent. Ironically, it was those who had “acclimated to the freedom” of America and its institutions that Bolin viewed as a threat.

In his final effort to influence the jury’s verdict, Bolin made a Freudian slip. Having just been overruled in attempting to quote Eugene Debs and running long over the allotted time, Bolin decided to close his final argument. “In this case,” he said, “there is for your consideration the justice due to each of these defendants, who are, up to this moment, presumed to be guilty.” Judge Hollister immediately corrected Bolin’s mistake. “I meant presumed to be innocent,” Bolin said. Unknowingly, Bolin had encapsulated the entire trial in one sentence. Three hours later, on July 19, 1919, the jury found all thirteen Socialists guilty of conspiracy to defraud the government.

Judge Hollister’s handling of this case obviously was one-sided. He steadfastly and unabashedly supported Bolin’s position. The best example, and the one which clearly and objectively demonstrates Hollister’s bias, occurred when he read the charge of the court to the jury. Hollister delivered an eloquent speech on the virtues of the Constitution and the ideals expressed in the Declaration of Independence. He reveled in the idea that the Constitution had safeguarded the method by which the views of any political party or individual could be brought to the attention of the leaders and the people. Hollister gloried in the rights guaranteed by the First Amendment: every person has the right to be heard and to express himself in public; he has the right to publish his views freely, to assemble peaceably and to petition the government for a redress of grievances without fear of reprisal. However, he affirmed that the defendants were not on trial for being Socialists, Hollister quickly qualified his tolerant position. “This is not the time and place to say how far he may go in what he says or publishes,” Hollister asserted. Unfortunately, Hollister lacked the foresight and failed to use this case as a forum for expanding the parameters of the First Amendment. Instead, he argued that no man or group of men has any right to belong to a political party which advocated disobedience to the law.

Hollister instructed the jury that when those calling themselves a political party put themselves in such a questionable legal situation, they were no longer members of a “political party” but instead were criminals. Perhaps realizing that he had passed judgment, Hollister qualified the pronouncement by stating his desire to depart from those more or less “general observations” and allow the jury to arrive at a verdict.

Alexander employed numerous legal strategies which delayed his formal filing for an appeal until May 1921. Another nineteen months passed before Alexander and Clark submitted their respective arguments to the United States Sixth Circuit Court of Appeals in Cincinnati. Alexander’s brief revealed the frustration he and his assistant experienced during the five previous years and their obvious displeasure with the trial verdict. “In coming before this court with an argument for the reversal of the conviction and sentence,” Alexander asserted, “counsel feels somewhat as they imagine lawyers might feel who were called on to argue before the courts of Massachusetts for a reversal of the Salem witchcraft cases.” Alexander believed that his clients’ convictions, much like those in Salem, rested on nothing but a “myriad of trivialities, of delusions, of prejudicial irrevelancies or even perjuries.” The trial had not concerned itself with evidence or proving guilt, Alexander continued. The predilection of the jury, the prosecutor, and even perhaps the judge relegated the trial to a study in “fallacy and mass psychology” rather than adhering to “the orderly proceedings of law.” The final reason concerned Bolin’s unprofessional conduct. Not only had he misread the indictment to the jury, but he remained so “flagrantly prejudicial” toward the defendants throughout the proceeding that the court should
have permitted a new trial. In the government's brief, the deputy prosecutor, James Clark, felt Alexander's reflections of the judge and district attorney "unfair" and eulogized Hollister's judicious manner and Bolin's professional conduct. He then tried to refute Alexander's assertions by utilizing legal precedence and selected trial excerpts to substantiate his position. He insisted that the trial constantly guarded the defendants' interests and rights and that only after a fair trial were they found guilty. Clark concluded that Alexander's accusations against the court and the district attorney were fallacious and without substance and requested that the judgment remain "undisturbed."

Two months later, on February 16, 1923, the Court of Appeals upheld the lower court's decision. It was, however, a split decision. Judges Maurice H. Donahue and Loyd E. Knappen concurred with the lower court's findings while Judge Arthur C. Denison dissented, believing only that the United States Supreme Court ultimately would decide what "conspiracy to defraud" meant.

Donahue, writing for the majority, limited his opinion mostly to the legal and procedural issues that Alexander raised. Although he understood that the Socialists' arrest occurred during a time of extreme emotionalism, he failed to grasp the significance that, even during such times, the Constitution should guarantee individual rights. He ruled also that conspiracy to defraud the United States did not necessarily involve a direct loss of either property or money, but that it needed only "to impair obstruct or defeat the function of any governmental department." The government was not required to prove when the defendants agreed to or entered into a conspiracy. The only thing incumbent upon the government to sustain the conspiracy charge was that the evidence demonstrated either a concert of action to perform an illegal act, or that the facts and circumstances proved that the overt acts furthered the conspirator's original plans. Donahue, therefore, accepted the handbill presented at the trial as representative evidence of the 18,000 circulars printed.

He believed that the circular not only proved the intent of those who ordered its printing, but also acted as an integral element of the intended conspiracy. Alexander had argued that the guilty verdict was not substantiated by sufficient evidence. Alexander asserted that during the trial public opinion became so inflamed with war patriotism and anti-Germanism, "it was not necessary for the government to prove the defendants' guilt, but rather forced the defendants to prove their innocence." Donahue did not agree. Surprisingly, he argued that because the trial occurred eight months after the war, the government lacked the need to convict the defendants in order to "fan the flames of war patriotism." Donahue believed that no matter how great the war fever was at the time of the defendants' arrest, by the time of their trial "it was negligible." Donahue failed to elaborate on how he concluded this "negligible" fervor existed. Moreover, he did not consider the possibility that lingering war patriotism had fused, by the summer of 1919, with a strong fear of Bolshevism.

Donahue completed his opinion by briefly noting Bolin's alleged misconduct. Instead of reviewing Bolin's actions throughout the trial, Donahue limited his discussion to one particular incident: when Bolin accused Alexander of coaching his clients. Donahue concluded that because the trial sustained Alexander's objection and Alexander permitted the case to be submitted to the jury without further protest, he "could not be heard to complain." Ironically, Donahue did not address any of Bolin's other numerous defamatory and prejudicial statements. And, by blaming the defense counsel for agreeing with the court's "reprimand" of Bolin, Donahue skillfully shifted the burden back to the victims. He summarized his opinion with a statement mirroring the mood of the entire trial. "A number of errors are assigned in reference to the admission and rejections of evidence," Donahue wrote, "but it is impracticable and unnecessary to review these in detail."

In the dissenting opinion, Judge Denison...
expounded not only on the narrow, legal elements of the case, but he broadened the issue slightly to include civil liberties. He argued that the lower court’s decision should be overturned for he did not believe that disobeying the draft law could be deemed as defrauding the United States. Denison argued that the defendants believed both that the Selective Service Act was unconstitutional and that their rights of free speech permitted them to voice their dissent. He said their ideas were “unsound,” but because the Espionage Act was not in effect when the Socialists were arrested, no law prohibited them from expressing their opinion. Instead, they were indicted under the conspiracy section of the U.S. Penal Code mainly because the existing state of war made the Socialists’ specific “conduct appear disloyal and intolerable.” This was the first time anyone besides Alexander admitted that the exigencies of war could possibly have influenced the Socialists’ arrest and trial.53

After this brief reference to civil rights, Denison turned to the concept of defrauding the United States. He said that it could not be applied in this case because there were not any supporting arguments which concluded that defrauding occurred in the absence of deception or deprivation of property right. Denison then cogently summarized the case in one sentence: “Does one who stands upon his supposed right to refuse to obey an unconstitutional law thereby ‘defraud’ the United States if it turns out that the law was valid?” Denison believed not, but confessed that the legal definition of “defraud” ultimately would have to be decided by the United States Supreme Court. His belief proved correct.54

Encouraged by Denison’s dissent and determined to see justice prevail, Alexander filed for a review with the Supreme Court. On May 26, 1924, the high court rendered its decision. It ruled that Alexander’s argument against the trial court should have been sustained by the appeals court. Chief Justice William H. Taft limited his opinion, however, to defining what “conspiracy to defraud” meant and applying it to the Socialists’ activities. He did not address any civil liberties issues. Taft believed that it was unacceptable to include within the legal definition of “conspiracy to defraud” a mere open defiance of the governmental purpose to enforce a law. Because the defendants did not utilize deceitful, dishonest, or crafty means to influence people to disobey a law, they could not legally be indicted with conspiracy to defraud. Accordingly, the Supreme Court appropriately overturned the lower courts’ decision, ending the Socialists’ seven-year ordeal.55

The defendants and Alexander ultimately won, but victory had its price. Alexander’s determination to see that justice prevail resulted in his ostracism in the legal community as well as at local social clubs. It also strained and severed some of his personal friendships. And even though Alexander, as he recalled later, was “rehabilitated to a slight degree” by the Supreme Court’s decision, he nonetheless retained the reputation of being “something of a Bolshevik.”56

Alexander’s involvement with municipal reform antedated both the Socialists’ trial and the reform impulse which emerged in Cincinnati after the war. He belonged not only to Herbert Bigelow’s People’s Church, a non-theological organization devoted to social and political reform, but firmly supported Bigelow’s belief in a more egalitarian form of representation known as proportional representation. After the war, Alexander, along with other political activists, drafted a new city charter. Simultaneously, Henry Bentley and other reform-minded citizens formed the Birdless Ballot League which also espoused changes in the city charter. Its major goal, however, concerned removing the political party emblem on local election ballots and leaving just the candidate’s name. Because they desired similar reforms, Alexander’s group merged with the Birdless Ballot League and formed the City Charter Committee. After agreeing to a new charter, they had to obtain enough signatures on petitions in order to place the issue on the November 1924 ballot.57

Because Alexander defended the thirteen Socialists, the local community viewed him as a Bolshevik sympathizer. This opinion pervaded the city to such an extent that the Charter Committee leadership advised him against participating publicly in the campaign for the city’s charter government. Murray Seasongood, the leader of the charter reformers, expressed great concern about Alexander’s name being used on the sponsoring committee’s petition. Seasongood believed that too many people thought of Alexander as a “Socialist and a dangerous radical.” He did not believe that the new city government could afford to give the opposition the “opportunity to discredit the movement by labeling it with these terms.” Alexander did not outwardly protest. However, he made the leadership aware that if Herbert Bigelow and his followers were asked to circulate the new charter petitions, they probably “would circulate them with greater confidence” if Alexander’s name appeared on the petition as a sponsor. Guy Mallon, another powerful member of the steering committee, agreed and Alexander’s name was included.58

The conclusion of this squabble, however, did not signify Alexander’s redemption in the eyes of city leaders.
Quite the contrary, he still was considered a “risk.” After the charter movement’s victory in the 1925 election, Alexander believed that he was qualified to serve as the new city solicitor due to his own experience and record as “chief counselor” and “technical director” of the charter movement during its seminal period. Bentley informed Alexander that another highly qualified individual already had been appointed, but that Alexander would be appointed the new solicitor’s first assistant. And, Bentley added, the position would have a higher salary than originally planned. This action came as no surprise to Alexander. He knew that “powerful forces” within the charter movement disapproved of him because of this connections to Bigelow and the Hammerschmidt case. This became even more obvious when opposition arose over Alexander’s appointment as first assistant. The same group that objected to Alexander becoming city solicitor opposed his nomination as first assistant. Seasongood recommended that Alexander take the clerk of council position. Alexander objected politely, telling Seasongood that “he was a lawyer and not interested in being clerk of council.” Persistence and determination in the face of adversity again served Alexander well, for on January 15, 1926, he was appointed assistant city solicitor.59

These events did not mean that Seasongood and Bentley personally disliked Alexander because he defended the Socialists. What it demonstrated, however, was that city leaders placed pragmatic politics above principle. Their desire to relegate Alexander to the background was a great disservice to Alexander and to the city. Little doubt exists now that Alexander was truly a civil libertarian. Through his spirited defense of the underdog, he successfully fought injustices and prejudices present in America during World War I, the Red Scare. He possessed the intelligence and tolerance necessary to see the Hammerschmidt case for what it truly represented: a case born of hysteria, prejudice, and intolerance of dissenting opinions. Unlike his myopic contemporaries, Alexander concerned himself with justice despite the adverse consequences to this public career. More idealistic than naive, Alexander successfully fought complacency and political conformity. “It was but natural,” Alexander recalled in 1965, “that in the popular mind I should be credited with holding the views of my clients. However, I have survived it all and am still on the job, with a better appreciation of the importance of tolerance.”60

The cool treatment Alexander received from his contemporaries for being a civil libertarian was not unique. It was symptomatic of what occurred to attorneys and others throughout the nation who held similar beliefs. Lawyers who actively supported the war effort looked with disdain at their colleagues who defended the constitutional rights of those opposing the war. Many pro-war lawyers exploited the wartime hysteria to such an extent that they urged that those less than 100 percent American be removed from the profession. This intolerance only worsened in the early 1920’s as a result of the Russian Revolution and the government’s fabricated Red Scare.61

The United States Supreme Court failed to address the civil liberties issues in the Hammerschmidt case. It could easily have done so, and the fact that it did not should not obscure the contribution that Edward F. Alexander, and others like him, made to enlarge the parameters of American civil liberties.

1. Three days after war was declared, Cincinnati’s government changed thirteen street names that had previously been in German. The public library removed German books and periodicals from its shelves, and the Cincinnati Board of Education ceased teaching the German language in elementary schools. Additionally, a faculty member from the University of Cincinnati was dismissed in early 1918. For these events see, Daniel Hurley Cincinnati: The Queen City (Cincinnati, Ohio, 1982), pp. 105, 107. For the national scene, H.C. Peterson and Gilbert C. Fite, Opponents of War, 1917-1918 (Seattle, Washington, 1957). Robert K. Murray, Red Scare: A Study in National Hysteria 1919-1920 (Minneapolis, 1955), p. 34.
4. Robert H. Ferrell, Woodrow Wilson and World War I, 1917-1921 (New York, 1985), p. 207; Murphy, World War I and the Origin of Civil Liberties, pp. 122-123. It is interesting that during this period Edward F. Alexander was a member of the local draft board in Cincinnati.
5. Peterson and Fite, Opponents of War, pp. 14, 19; Murphy, World War I and the Origin of Civil Liberties, p. 123; Joan M. Jensen, The Price of Vigilance (New York, 1968), p. 58. The American Protective League (APL) organized in Chicago in March 1917, had units in 600 cities and a membership roster of nearly 100,000. And by 1918 membership had grown to 250,000. Its membership consisted of bankers, businessmen, attorneys, chamber of commerce leaders and insurance company executives. Because of their “high” position, they easily obtained information concerning “troublesome” citizens, especially those who opposed the draft. There is conflicting evidence, but some sources believe APL members went undercover in order to “catch” the thirteen Cincinnati Socialists. All three organizations were, as an historian stated, “highly conservative in orientation, anti-alien in ideology, pro-business and anti-union in their politico-economic bias.” For a complete analysis of these extra legal organizations see, Jensen, The Price of Vigilance.
especially since it is operating under the sanction of the Department of Justice." McAdoo feared that because the APL had no standard membership requirement, "thoroughly irresponsible and untrustworthy people" may become members. McAdoo argued that Gregory's scheme was "fraught with the gravest danger of misunderstanding, confusion and even fraud." Letter from William G. McAdoo to Thomas W. Gregory June 2, 1917. Wilson echoed McAdoo's sentiments, feeling "it would be very dangerous with the gravest danger of misunderstanding, confusion and even fraud from President Wilson to Thomas W. Gregory June 4, 1917. Gregory replied to Wilson's query by reiterating the patriotic mission of the APL, and Wilson echoed McAdoo's sentiments, feeling "it would be very dangerous with the gravest danger of misunderstanding, confusion and even fraud from President Wilson to Thomas W. Gregory June 4, 1917. 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The Indiana State Legislature then passed a law in 1920 called the Habeas Corpus Act (HB 268) which provided for habeas corpus relief in cases where the Great Seal of the State of Indiana was involved.

The plaintiff, Kolling, was ordered to be released on personal recognizance and his bond was set at $500. The court declared that the defendant was entitled to the writ of habeas corpus and that he was entitled to be released from custody. The court further ordered that the defendant be returned to his home and that all charges against him be dismissed.

The Illinois Supreme Court affirmed the lower court's decision, holding that the law of habeas corpus in Illinois was consistent with the federal law and that the plaintiff was entitled to habeas corpus relief.

The plaintiff, Kolling, was entitled to habeas corpus relief because he was wrongfully detained in custody and the court declared that he was entitled to be released from custody. The court also ordered that all charges against him be dismissed.

The case of Kolling v. State of Illinois is an important case in habeas corpus law because it established that habeas corpus relief was available to individuals who were wrongfully detained in custody. The case also established that the law of habeas corpus in Illinois was consistent with the federal law and that individuals were entitled to habeas corpus relief if they were wrongfully detained in custody.

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