



WILLIAM B. WILSON. (*Courtesy of the Library of Congress*).

## SECRETARY OF LABOR WILLIAM B. WILSON AND THE RED SCARE, 1919-1920\*

THE ROLE played by Pennsylvania politician and labor leader William B. Wilson during the Red Scare of 1919-1920 has received scant attention in contrast to the infamous performance of another Pennsylvania native son, A. Mitchell Palmer. Yet, Wilson was secretary of labor during the Scare and had sole responsibility for the administration of laws directly affecting the large, unassimilated alien population. He therefore played an important part in the massive government raids against radical aliens undertaken in November 1919 and January 1920. Wilson has become a shadowy figure for historians, because he so often chose to delegate his authority rather than to exercise it directly. First, alarmed by the public outcry for action against radical subversives, he allowed the Justice Department, under Attorney General Palmer and General Intelligence head J. Edgar Hoover, to usurp Labor Department prerogatives in carrying out the coast-to-coast dragnet operations. When it became evident that violations of due process were rampant, Wilson again stepped aside, this time in favor of Assistant Secretary of Labor Louis F. Post, who rectified the pernicious situation by restoring lawful procedures and fair-minded practices to the deportation process. Wilson then did a 180 degree turn. He supported Post's courageous endeavors, disassociated himself and his department from the ambitious Palmer and Hoover, and finally took steps on his own to curtail the mass arrest and deportation of alien radicals.<sup>1</sup> What kind of a person was William B. Wilson? Why did he engage in such contradictory behavior during the Red Scare?

\* I am especially grateful for the kind and helpful assistance provided by Mr. Charles McIsaac (Director of Library Services, North Adams State College) during the writing of this essay.

1. For general accounts of Wilson's role during the Red Scare see Stanley Coben, *A. Mitchell Palmer: Politician* (New York: Da Capo Press, 1972), Chaps. 11-12;

At the age of nine William Bauchop Wilson went to work in the coal mines near Williamsport, Pennsylvania, where his immigrant mother and father had settled in 1870. By the mid-1880s Wilson had become active in the district miners' union and later helped form the United Mine Workers, which he served as secretary-treasurer from 1900 to 1908. In 1907 he was elected to Congress where he had a brief but distinguished career—as head of the House Committee on Labor he promoted a series of progressive reforms before becoming the nation's first secretary of labor in 1913.<sup>2</sup> This personal success story apparently convinced Wilson that the democratic process was the workingman's best vehicle in his endeavors to overcome the inequities of a capitalist system.

On this point Wilson remained constant throughout his tenure as labor secretary. Like AFL chief Samuel Gompers (who knew and admired Wilson), he was adamant in counseling workers to eschew the "false gods" of socialism and communism. Wilson also embraced the AFL program of pork chop unionism, where wages, hours, and working conditions—incremental goals—were foremost and political mobilization only selective and not class-oriented. He had unbounded faith in the power of the ballot and felt that the franchise was one of the workers' most important blessings. He was therefore patient with majoritarian evolution, whereby a just cause gradually gained public support, and was, conversely, impatient with those who countenanced revolution to achieve a so-called instant justice for the workingman. "The use of force to overthrow a democracy," Wilson told the AFL convention at Atlantic City in 1919, "is treason to the masses of the people." Even in the face of intransigence from leading capitalists and indifference from government officials during the many industrial disputes following the war, Wilson clung to the principle of negotiated settlement. It was through the spirit of bargaining and compromise, Wilson believed, that both sides in the conflict between labor and industry would eventually "give to each other all that he is entitled to."<sup>3</sup>

John Higham, *Strangers in the Land: Patterns of American Nativism 1860-1925* (New York: Atheneum, 1968), pp. 222-223; Donald Johnson, *The Challenge to American Freedom: World War I and the Rise of the American Civil Liberties Union* (Lexington, Ky.: University of Kentucky Press, 1963), Chaps. 5-6; Louis F. Post, *The Deportations Delirium of Nineteen-Twenty: A Personal Narrative of an Historic Official Experience* (New York: Da Capo Press, 1970); William Preston, Jr., *Aliens and Dissenters: Federal Suppression of Radicals, 1903-1933* (New York: Harper and Row, Harper Torchbooks, 1963), Chaps. 7-8.

2. *Dictionary of American Biography*, s.v. "Wilson, William Bauchop."

3. William B. Wilson, "The Ballot Is The Revolutionary Method in Democracy,"

A firm believer in evolutionary democracy and a conservative on labor-related issues, Wilson was not prepared to deal with the deportation of alien radicals which he was obliged to administer. The deportation issue was socially and politically based, and Wilson neither understood the irrational undercurrent which conditioned the country's virulent nativism toward the immigrant population, nor was he fully cognizant of the real and, most often, innocuous implications surrounding the ideologies and slogans put forward by numerous radical factions. This flaw nearly proved fatal since, under the rules, Wilson had ultimate authority in deportation proceedings.

Fearful of alien subversives, Congress had passed two laws in 1917 and 1918 which set the stage for the postwar deportations operations. The Act of 1917 made "advocating or teaching the unlawful destruction of property . . . anarchy . . . or the overthrow by force or violence of the government of the United States" a deportable offense. The 1918 amendment to this statute declared that membership in an organization that "teaches, or advocates the overthrow by force, or violence of the government of the United States or all forms of law . . . or that advocates or teaches the unlawful destruction of property" was likewise grounds for expulsion.<sup>4</sup>

These deportation laws were enforced by an administrative process which was quasi-judicial and, in effect, extralegal. Sole authority in deportation cases resided in the secretary of labor or a designated official acting in his stead. The secretary issued warrants of arrest and made the final determination concerning the fate of an alien. Under the 1918 law, he also decided which radical organizations were proscribed and which were not. Since deportation was considered nonpunitive, the regular procedures of criminal law—standard rights of legal due process—did not apply. The courts would intervene only if evidence was lacking upon which a deportation judgment was based. The methods used to obtain evidence and the treatment of alien suspects were not subject to court review.<sup>5</sup>

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*American Federationist* 26 (September 1919): 797. William B. Wilson, "How Democracy Grows," *American Federationist* 26 (July 1919): 622-627.

4. *An Act to Regulate the Immigration of Aliens to, and the Residence of Aliens in, the United States, Statutes At Large* 39: 889 (1917). *An Act to Exclude and Expel from the United States Aliens Who Are Members of the Anarchistic and Similar Classes, Statutes At Large* 40: 1012 (1918).

5. Constantine M. Panunzio, *The Deportation Cases of 1919-1920* (New York: Federal Council of the Churches of Christ in America, 1921), pp. 13-14. Francis Fisher Kane, "The Communist Deportations," *Survey*, (24 April 1920), pp. 142-143.

The Immigration Bureau, under Labor Department auspices, administered deportation cases in the field. If a local immigration commissioner, for instance, had evidence that an alien was in the country illegally, he applied to the secretary of labor or his representative for a warrant of arrest. When apprehended, the suspect alien was given a preliminary hearing at which counsel for his defense might or might not be present and at which the local commissioner acted as stenographer, informer, prosecutor and judge. At the conclusion of the local hearing, a report was filed with the commissioner general of immigration, who appended his recommendation and forwarded the material to the secretary of labor for final determination. After issuance of a deportation warrant, only a re-evaluation by the secretary or a writ of habeas corpus could prevent the alien's departure. Any provisions for due process were the creation of the Labor Department and were used at the discretion of Immigration Bureau officials. The system was arbitrary, void of legal checks, and subject to manipulation.<sup>6</sup>

Assistant Labor Secretary Post perceived the arbitrary nature of this administrative process, when he commented in a 1916 article that "nothing more is needed for realization of . . . possibilities (for repression) than the touch of an executive hand capable of grossly abusing lawful authority." Yet, Post was confident that equitable practices and lawful procedures would prevail, because Secretary Wilson was "too humane and wise" to overlook human rights.<sup>7</sup> Post's estimate was mostly correct, for until the fall of 1919 the labor secretary's approach to alien deportation had been deliberate and lawful.

In cases involving alien members of the IWW, for instance, Wilson had insisted on some form of personal advocacy as the basis for deportation and repeatedly rejected the guilt by association implications of the 1918 law. In fact, Wilson tried to apply the test of personal advocacy to all accused aliens. In a memorandum, 20 March 1919, he declared: "every alien taken into custody under this act [1918 law] shall have his case considered on its own merits before it is finally

6. Panunzio, pp. 14-15. "The Deportations," *Survey*, (22 February 1919), p. 724. Zechariah Chafee, Jr., *Freedom of Speech* (New York: Harcourt, Brace and Howe, 1920), pp. 231-240.

7. Louis F. Post, "Administrative Decisions in Connection with Immigration," *American Political Science Review* 11 (May 1916): 251-261.



LOUIS F. POST. (*Courtesy of the Library of Congress*).

disposed of.”<sup>8</sup> Furthermore, Wilson had instituted lawful procedures within the deportation process, especially with respect to the alien’s right to counsel and the posting of reasonable bail. Heeding the advice of his progressive Commissioner of Immigration for Ellis Island Frederic C. Howe, Wilson had even held up the deportation of twenty radical aliens during the spring of 1919 on the grounds that evidence of personal advocacy was lacking and that suspects had not had the opportunity for a proper appeal to the federal courts.<sup>9</sup>

However, at the height of the Red Scare fever, reactionary pressure on his administration combined with his own reservations about political radicalism to push Wilson into an unholy alliance with the Justice Department which set in motion administrative forces “capable of grossly abusing lawful authority.”

Red mania—the widespread fear of left-wing ideologies sown by the Bolshevik revolution—had germinated quickly in the volatile atmosphere of postwar America. Reinforced by the press, business groups, and superpatriotic societies, the Red Scare by fall 1919 had created a popular groundswell which pressured the federal government for decisive action against domestic agents of a supposed worldwide communist upheaval. Numerous sedition bills were introduced into both houses of Congress, where clamorous voices were heard for vigorous administrative action.<sup>10</sup> Congressman Albert Johnson’s Committee on Immigration and Naturalization launched a probe into the deportations operation. The Washington State Congressman was especially concerned about the Labor Department’s spring adjudications. His committee called Commissioner Howe on the carpet for “coddling reds” and demanded strict accountability from the secretary of labor. Johnson sponsored a 31 October House resolution directed to William B. Wilson requesting “a statement

8. William B. Wilson to Anthony Caminetti, 20 March 1919, file 167-255, Record Group 174, “Records of the United States Labor Department,” National Archives and Records Service, Washington, D.C. See also: William B. Wilson to Joseph H. Wild, 17 February 1919, file 167-255, Labor Department.

9. Howe to Wilson, 17 March 1919, series 16, folder 14A, William B. Wilson Collection, Pennsylvania Historical Society, Philadelphia, Pa. U.S., Congress, House, Committee on Immigration and Naturalization, *I.W.W. Deportation Cases*, 66th Cong., 2nd sess., 27-30 April 1920, pp. 4-80 (hereafter cited as *I.W.W. Deportation Cases*). Frederic C. Howe, *The Confessions of a Reformer* (Chicago: Quadrangle Books, 1967), pp. 274-275. Preston, Chaps. 6-7.

10. Robert K. Murray, *Red Scare: A Study in National Hysteria, 1919-1920* (New York: McGraw-Hill Book Company, 1964), Chaps. 1-6. Kate Holladay Claghorn, “Alien and Sedition Bills Up-to-Date,” *Survey* (19 July 1919), pp. 590-592.

showing . . . the number of cases in which deportation was defeated, and the causes or grounds upon which deportation proceedings were undertaken".<sup>11</sup> The press amplified these endeavors by damning Howe for making "a 'Red' paradise out of the government's asylum for immigrants and emigrants" and charging that many Labor Department officials were "themselves thoroughly in sympathy with Bolshevism."<sup>12</sup>

Along with this direct pressure on his own administration, Wilson had to be equally sensitive to the nation's pejorative feelings toward organized labor. As Murray points out in his account of the Red Scare, labor was caught in a crossfire during 1919. The escalating cost of living made numerous strikes inevitable; yet, with each strike an exasperated public became more receptive to the charge from prestigious corporations like U.S. Steel that the labor movement's actions were greatly exaggerated and communist inspired.<sup>13</sup> Both Congress and the administrative departments reflected the popular disquietude. In November 1919, the United Mine Workers were bludgeoned back to work with a federal injunction, an action undertaken by the Justice Department with full congressional approval and over the threatened resignation of Labor Secretary Wilson.<sup>14</sup>

Faced with the necessity of defending both his administration and the loyalty of organized labor, Wilson was ready, by November 1919, to pursue a hard line against alien radicals. The secretary's distaste for political extremists, whom he viewed in a much less sympathetic light than labor radicals,<sup>15</sup> was also a factor in his

11. U.S., Congress, House, Committee on Immigration and Naturalization, *Conditions at Ellis Island*, 66th Cong., 1st sess., November 1919, pp. 50-90. U.S., Congress, House, H. Res. no. 365, *Congressional Record*, 66th Cong., 1st sess., 30 October 1919, 58: 7822.

12. "Ellis Island's Gates Ajar," *Literary Digest*, 63 (13 December 1919): 17-18.

13. Murray, Chaps. 7-10. See also: Frank L. Grubbs, Jr., *The Struggle for Labor Loyalty: Gompers, the A.F. of L., and the Pacifists, 1917-1920* (Durham, N.C.: Duke University Press, 1968), Chap. 9; Bernard Mandel, *Samuel Gompers* (Yellow Springs, Ohio: Antioch Press, 1963), pp. 476-478; Philip Taft, *The A.F. of L. in the Time of Gompers* (New York: Harper and Brothers, 1957), Chap. 25.

14. Taft, Chap. 26. U.S., Congress, Senate, S. Res. no. 15, *Congressional Record*, 66th Cong., 1st sess., 30 October 1919, 58: 7761. William B. Wilson, "Memorandum re Coal Strike," 14 November 1919; Wilson, "Memorandum re Proposed Resignation to President Wilson," 12 December 1919, William B. Wilson Collection. Coben, pp. 171-188.

15. Wilson was especially solicitous for the rank and file workers of the IWW, and he resolutely refused to proscribe alien membership in that radical labor organization. See: Wilson, "How Democracy Grows," pp. 623-624; Preston, pp. 101, 105, 168-169.



determination to move forcefully. As early as April, Wilson had told a conference of mayors that "any alien who . . . advocates the overthrow of our Government by force is an invading enemy, who is treated with leniency when he is simply deported to the country from which he comes."<sup>16</sup> Wilson was therefore ready to listen to his former political ally from Pennsylvania, A. Mitchell Palmer, when the attorney general suggested in late October that the Justice and Labor departments pool resources to launch a determined effort against radical aliens.

Attorney General Palmer was, at this time, also under popular and congressional pressure for some kind of forceful action against the nation's "subversive element." Yet, without a peacetime sedition law, the Justice Department had no convenient means whereby it could dramatically prosecute the 60,000 radical agitators who had already been identified and listed by J. Edgar Hoover.<sup>17</sup> With the Labor Department's cooperation, however, the Justice Department might undertake a spectacular show of government power against the suspect alien population.

Although receptive to Palmer, Wilson was unaware of this planned use of his department, nor was he alert to the attitudes and ambitions of his own subordinates in the Immigration Bureau. Commissioner General of Immigration Anthony Caminetti, for instance, had been conducting a private war against alien radicals since 1917. It was Caminetti who had been foiled by Howe and Wilson in the attempt during early 1919 to railroad some forty alien radicals out of the country.<sup>18</sup> Delighted by the turn of events in late 1919, the commissioner general was more than eager to cooperate with the impatient Hoover, who had been designated Justice Department representative in the matter of alien deportations.

Ignorant of the forces moving beneath him but convinced that some form of harsh action had to be undertaken against alien radicals, Wilson instituted collaboration with the Justice Department and then withdrew from the picture leaving department Solicitor J. W. Abercrombie in charge. Abercrombie, who also had a foot in the Justice Department, immediately deferred to Caminetti and Hoover. The result was an inversion of authority

16. William B. Wilson, "Deportation of Aliens," *American City* 20 (April 1919): 319.

17. Coben, pp. 207-214. Max Lowenthal, *The Federal Bureau of Investigation* (New York: William Sloane Associates, Inc., 1950), pp. 90-91, 104. U.S., Congress, Senate, S. Res. no. 213, *Congressional Record*, 66th Cong., 1st sess., 14 October 1919, 58: 7063.

18. Preston, Chap. 7.

which led directly to extralegal, wholesale raids on the immigrant population.<sup>19</sup>

First, Abercrombie and Caminetti rubber-stamped Hoover's plan for a coast-to-coast raid against the Union of Russian Workers, an immigrant organization noted more for its inflamed rhetoric than actual revolutionary intent. Next, Abercrombie agreed to alterations in deportation procedure which denied arrested aliens counsel during their preliminary hearing and set exorbitantly high bail in alien cases so that government agents might detain suspects indefinitely for extensive questioning. Finally, Hoover and Caminetti persuaded Wilson to approve a massive assault on alien members of the American Communist and Communist Labor Parties.<sup>20</sup> These arrangements bore bitter fruit 7 November when Justice Department agents bagged some 700 suspects in a dramatic nationwide dragnet operation directed at the Union of Russian Workers; then again, on 2 January 1920, when another coast-to-coast endeavor corralled some 3,000 people on charges of illegal affiliation with the two American communist parties. During these operations, scant attention was paid to legal procedure: suspects were indiscriminately arrested and roughly treated; their homes were unlawfully invaded and their property arbitrarily seized for evidence.<sup>21</sup>

Behind the banner headlines ("2000 Reds Arrested in 56 Cities . . .") which brought satisfaction to hard-line advocates and boosted A. Mitchell Palmer's political stock, one atrocity after another was perpetrated on the unfortunate quarry gathered up during the dragnet operations. Once citizen was sorted from alien, General Intelligence Division agents began their vigorous, "third degree" interrogations while arrest warrants, usually lacking, were hastily requested from Washington. It might be days before a suspect alien was permitted access to counsel or friends, and it was often weeks before his case was decided. Meanwhile he languished in jail unable to raise bond which ranged close to \$10,000. Immigration Bureau officials, busy running errands and rubber-stamping

19. Coben, p. 218. Kate Holladay Claghorn, *The Immigrant's Day in Court* (New York: Harper and Brothers, 1923), pp. 262-273.

20. *I.W.W. Deportation Cases*, p. 79. Claghorn, *Immigrant's Day in Court*, pp. 367-373. Coben, pp. 223-226. Post, *Deportations Delirium*, pp. 68-69, 85-87. Preston, pp. 208-220.

21. Murray, pp. 196-197. Coben, pp. 219-228. Robert D. Warth, "The Palmer Raids," *South Atlantic Quarterly* 48 (January 1949): 1-23. Frederick R. Barkley, "Jailing Radicals in Detroit," *Nation* 110 (31 January 1920): 136-137.

GID activities, were impervious to the plight of alien families suffering extreme privation.<sup>22</sup>

During this period—7 November–10 January—Labor Secretary Wilson was largely unaware of the extent to which his authority had been usurped and his guidelines ignored.<sup>23</sup> Wilson's ignorance was partly due to his general lack of contact with the preliminary stages of the deportation process. Equally important, perhaps, Wilson was genuinely naive concerning the extent to which his subordinates were willing to go in suppressing the alien population. Essentially a fair-minded person, Wilson assumed that the dragnet operations would be carried out in accordance with the tenets of due process he had established for his department. A letter to Attorney General Palmer, 30 December 1919, reflects this ingenuous perspective:

. . . the Department of Labor . . . will issue the warrants requested (3000) and will proceed to consider the cases developed by the arrests as rapidly as its meagre facilities will permit. . . .

. . . we cannot . . . assume the responsibility for the injury to innocent parties which would probably result from hasty and imperfect examination of these cases through any attempt to pass upon them without giving full consideration to the law and the facts in each case. . . .

I feel that it would be unjust to exact a \$10,000 bail, except in unusual and extraordinary cases. Such bail would be prohibitive. It would be in violation of the 8th Amendment to the Constitution that prohibits excessive bail. It would mean that we would have to hold the parties in custody until their cases had been finally disposed of. Such a circumstance would . . . be an undue hardship to the persons involved, particularly if it was later discovered that they were not deportable.

. . . I have therefore directed that the bail be fixed at \$1000 each, except in unusual and extraordinary cases.<sup>24</sup>

22. Post, *Deportation Delirium*, pp. 72–73, 91–92. Panunzio, Chaps. 3–4, 7–9.

23. Post, *Deportations Delirium*, pp. 86–87.

24. Wilson to Palmer, 30 December 1919, William B. Wilson Collection (parentheses my own).

These well-intentioned admonitions already had been and would continue to be disregarded by Abercrombie, Caminetti, and Hoover. However much Wilson's ignorance and naivete might explain and even excuse his complicity with the events that occurred, it would now require energy and resolve to rectify a situation which he had allowed to get so far out of hand.

It was mid-January before Wilson learned from civil liberties attorneys Charles Recht and Harry Weinberger that aliens had been denied counsel and were being held at exorbitantly high bail. In their letters of 12 and 15 January, Recht and Weinberger also challenged the secretary's assumption concerning the revolutionary danger from the two communist parties.<sup>25</sup> These personal appeals on behalf of arrested aliens were reinforced by articles like "The Buford Widows," which appeared in the 10 January edition of *Survey* magazine. This piece of investigative reporting by Winthrop D. Lane expressed doubts about the violent, revolutionary intent of the Union of Russian Workers and detailed the hardships inflicted on alien families from summary deportations.<sup>26</sup>

Wilson reacted to this and other criticism with a combination of denial and halfhearted attempts to correct the problem. In response to one of his detractors, he disputed the charge that the deportations were as "brutal as you have characterized them." Replying to another, he blamed the Justice Department for any indecencies which had occurred.<sup>27</sup> On 26 January the secretary did order that aliens be allowed immediate access to counsel and that bail "shall not exceed \$1000." But such decrees were next to useless, because Wilson took no steps to regain control of the deportations operation and left matters in the hands of Abercrombie and Caminetti. At the end of February, Wilson was therefore still trying to enforce his directive concerning bail and had not as yet made any decisions on some 2,000 alien cases, most of which had been held up at Caminetti's desk so that the commissioner general might review them and make what he assumed would be definitive recommendations.<sup>28</sup>

25. Recht to Wilson, 12 January 1920, William B. Wilson Collection. Weinberger to Wilson, 15 January 1920, Harry Weinberger Papers, Yale University Library, New Haven, Connecticut.

26. Winthrop D. Lane, "The Buford Widows," *Survey* (10 January 1920), pp. 391-392.

27. Wilson to Hector Holmes, 19 January 1920; Wilson to George Coe, 2 February 1920, William B. Wilson Collection.

28. Memorandum, Wilson to Caminetti, 26 January 1920, file 167-255, Labor

The one determination that Wilson did render during this time involved a test case brought forward by attorneys representing Englebert Preis, an alien member of the American Communist Party. Wilson, though, remained in the hardline camp when he declared, 26 January, that Preis was deportable under the 1918 law, because he belonged to an organization whose platform embodied the "belief in, teaching or advocacy of, force or violence" to accomplish its stated purpose.<sup>29</sup>

The reason Wilson continued to tolerate a process replete with disregard for his own just and humane guidelines may be found in the composite of fear and guilt which evidently afflicted the labor secretary and sapped any inclination toward decisive action to reestablish a lawful deportations policy.

Without assuming the capability of knowing what was going on inside the labor secretary's head, one can observe that Wilson continued to demonstrate apprehensiveness over the radical issue. He disavowed political extremists and remained sensitive to the changes of radicalism then being directed more forcefully than ever at organized labor. In a public reply to one of his liberal critics, John E. Milholland, which was published in the 13 March *Nation*, Wilson reiterated, "I look upon any alien who comes to this country and advocates the use of force for the overthrow of our Government as being in exactly the same position as an invading enemy, and that it is no undue hardship to send him back to the country whence he came." When Attorney General Palmer wrote 27 January congratulating Wilson for the *Preis* adjudication and suggested that the decision be circulated among labor unions as a necessary warning, Wilson was stung and protested that labor's demonstrated patriotism required no such action.<sup>30</sup> The labor secretary was obviously still defensive on the radical question and disquieted by insinuations from the hard-line advocates now applauding his actions.

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Department. Confidential Memorandum, Anthony Caminetti to All Immigration Commissioners, 27 January 1920, Felix Frankfurter Collection, Library of Congress, Washington, D.C. Wilson to Caminetti, 21 February 1920, William B. Wilson Collection. Post, *Deportations Delirium*, pp. 162-163.

29. "Washington Opens Hearing on 'Reds'," *New York Times*, 22 January 1920, pp. 1:6, 2:5-6. In re *Englebert Preis*, 24 January 1920, in "The Documents in the Case," *Survey* (31 January 1920), p. 500.

30. William B. Wilson to John E. Milholland, 28 February 1920, in "Martens and Our Foreign Policy," by Lincoln Colcord, *Nation* 110 (13 March 1920): 326-327. Palmer to Wilson, 27 January 1920; Wilson to Palmer, 2 February 1920, William B. Wilson Collection.

Wilson was further rankled by an inability to face up to his liberal critics, many of whom were former friends and associates. On 23 January, Francis Fisher Kane, Federal Attorney for the Eastern District of Pennsylvania and an upstanding member of Wilson's home state party, resigned from the Justice Department. In his letter of resignation, published in *Survey* magazine, Kane told Attorney General Palmer:

It seems to me that the policy of raids against large numbers of individuals is generally unwise and very apt to result in injustice . . . It is one thing to debar an alien coming into this country by administrative methods, but it is quite another thing to deprive a man who has been in this country a long time, and who perhaps has a wife and children here of what we are accustomed to think of as constitutional rights, irrespective of a man's citizenship . . . This is going much too far—much farther than any policy of "law and order" at the present time requires.<sup>31</sup>

In a 14 February article for the *Nation*, Frederic Howe blasted Labor Department policy with respect to alien deportations.<sup>32</sup> Having retired in September 1919, Howe, once Wilson's principal advisor on immigration matters, was now a member of the American Civil Liberties Union and engaged in active combat against the Red Scare. Such comment must have been a painful reminder for Wilson concerning what he had unwittingly allowed to happen and evidently felt unable to rectify. Wilson's discomfort was demonstrated by a continued disavowal of the administrative process he was obligated to enforce. In a letter to Hector Holmes, the labor secretary lamented that deportations were not in the hands of the judiciary and confessed that it was "inevitable that aliens should suffer while their cases are being processed through administrative channels."<sup>33</sup> Bemoaning his fate, Wilson was torn with guilt and constrained by fear. As a result, he clung to a cautious defensiveness unable to face the thousands of cases looming before him.

31. "Letter of Resignation from Francis Fisher Kane, United States Attorney for the Eastern District of Pennsylvania, to A. Mitchell Palmer, Attorney General," in "The Documents in the Case," *Survey* (31 January 1920), p. 501.

32. Frederic C. Howe, "Lynch Law and the Immigrant Alien," *Nation* 110 (14 February 1920): 194–195.

33. Wilson to Holmes, 19 January 1920; Wilson to George Coe, 2 February 1920, William B. Wilson Collection. Wilson to John E. Milholland, 28 February 1920, in "Martens and Our Foreign Policy," p. 326.

By March, Wilson confronted a tragic dilemma. If he acted to correct what were now manifest abuses of lawful authority, he risked inviting the wrath of a nation concerned, as he was, that a serious radical threat lurked within the alien population. If he failed to act, many innocent people would continue to suffer. Then, on 6 March, the labor secretary took a personal leave of absence, ostensibly to care for his ailing wife and mother. Even though this explanation for the secretary's departure has a hollow ring, no factual data has been uncovered to categorically refute it. Yet, the evidence leading up to Wilson's exit certainly indicates that his leave at this time had something to do with his inability to confront the odious question of alien deportations. The chain of circumstances received another interesting twist when Solicitor J. W. Abercrombie, at virtually the same moment, abruptly resigned to campaign for political office elsewhere. Abercrombie, too, must have recognized his own unfortunate role in the deportation process and quickly retreated along with his chief. For whatever reasons, these precipitous departures left Assistant Secretary Louis F. Post in charge of the Labor Department, a position he held until Wilson's return on 14 April.<sup>34</sup>

Post was shaped by a different mold than Wilson. With a background in law and journalism, he had been a disciple of Henry George, editing the *Standard*, a single-tax weekly, until 1898 when he founded the *Public*, a progressive journal he continued to publish through 1920. Consequently, Post knew and understood the left-wing rhetoric of his time, viewing most of it as harmless.<sup>35</sup> He was thus convinced that the government's assault on the immigrant

34. Wilson to James Duncan, 22 April 1920, William B. Wilson Collection. Post, *Deportations Delirium*, pp. 148-149.

Were Wilson and Post in collusion at this point? How did they relate to one another throughout the Red Scare period? These questions will most likely remain unanswered. Paul W. Pritchard, who was compiling material for a biography of Louis F. Post during the 1930's, received this letter from Post's wife:

You asked about the Post diary referred to in connection with the papers he prepared for Mr. Wilson. After Mr. Wilson died and there seemed to be no one sympathetic to the work of the two men, it seemed to me advisable to destroy his diaries previous to 1923. After that date they would not interest you. I am sorry if this will make your work more difficult.

(Alice Thatcher Post to Paul W. Pritchard, 21 November 1936, container 7, "Pritchard Study, 1936-1938," Louis F. Post Collection, Library of Congress, Washington, D.C.).

35. *Dictionary of American Biography*, s.v. "Post, Louis Freeland." Louis F. Post, "Living a Long Life Over Again," container 4, Louis F. Post Collection.

population was an unnecessary suppression of basically innocent and hard-working Americans. Post's diary entry for 1 January 1920 reads: "At present . . . there are signs of an overthrow of our government. It is going on under the cover of a vigorous drive against 'anarchists,' an 'anarchist' being anybody who objects to government of the people by Tories and for financial interests."<sup>36</sup> Certain that the country was overreacting to a miniscule radical threat and that the red raids were outrages perpetrated by reactionary politicians and bureaucrats, Post was determined to rectify the situation. Unlike Wilson, the seventy-three-year-old Post was full of righteous vigor and had no qualms about confronting his own rebellious subordinates or, for that matter, the Department of Justice and eventually the United States Congress.

During his tenure of little more than a month, Post decided 1,600 cases. He ordered deported 460 aliens and cancelled 1,140 deportation warrants. The acting secretary accomplished this dramatic turnaround efficiently and systematically. After carefully investigating the circumstances under which aliens were being held and their cases processed, Post ordered reasonable bail set immediately and reiterated Secretary Wilson's 26 January order to provide counsel for accused aliens. More significantly, he made sure these orders were carried out.<sup>37</sup> Furthermore, Post took away Caminetti's free reign in deportation matters and gathered the decision-making process within the purview of the labor secretary's office. Working with his own staff and sometimes averaging 100 decisions a day, Post called up the many cases cluttering the desk of the commissioner general.<sup>38</sup>

So that he and his staff could render decisions fairly and quickly, Post developed criteria for evaluation grounded in legal principles and previous departmental policy. Evidence of illegal affiliation garnered by arbitrary search and seizure was disallowed, as was information elicited from an alien who had been denied access to

36. Post, *Deportations Delirium*, p. 90.

37. Memorandum, Post to Wilson, 14 April 1920, William B. Wilson Collection. Memorandum, Post to Commissioner General of Immigration, 22 March 1920, file 167-642, Labor Department. Memorandum, Caminetti to the Assistant Secretary of Labor, 23 March 1920, file 167-642, Labor Department. Coben, p. 233.

38. Memorandum, Post to Caminetti, 27 March 1920, file 53244-1D, Record Group 85, "Records of the Immigration and Naturalization Bureau," National Archives and Records Service, Washington, D.C. Post, *Deportations Delirium*, pp. 188-189.



counsel. Membership in a proscribed organization had to be definitive. If an alien was listed with a communist local whose charter had not as yet been confirmed by the parent organization or had antedated the party's founding in September 1919, the government's case was dropped.<sup>39</sup>

On 10 April Post went public, revealing his procedures and opinions regarding alien deportations. He released to the press his adjudication in a case involving a Polish clothes presser, Thomas Truss. Post declared that illegal affiliation in this case was nonexistent, because the record showed that Truss was not a communist or an anarchist, but "the opposite of an anarchist; namely, a socialist." Truss had been victimized by a situation involving bogus membership in a defunct branch of the American Communist Party. After thus dismissing the government's charge, Post delineated his principles of evaluation and commented at length on the summary procedures which had attended the several hundred cases he had determined over the past month:

As a rule, the hearings show the aliens arrested to be workmen of good character who had never been arrested before, who are not anarchists or revolutionaries, nor politically or otherwise dangerous in any sense. Many of them, as in this case, have American-born children. It is pitiful to consider the hardships to which they and their families have been subjected . . . by arbitrary arrest, long detention in default of bail beyond the means of hard-working wage earners to give, for nothing more dangerous than affiliating with friends of their own race, country, and language, and without the slightest indication of sinister motive or any unlawful act within their knowledge or intention. To permit aliens to violate the hospitality of this country by conspiring against it is something which no American can contemplate with patience. Equally impatient, however, must any patriotic American be with drastic proceedings on flimsy proof to deport aliens who are not conspiring against our laws and do not intend to.<sup>40</sup>

39. U.S., Congress, House, Committee on Rules, *Investigation of Administration of Louis F. Post Assistant Secretary of Labor, in the Matter of Deportation of Aliens*, 66th Cong., 2nd sess., 1920, pp. 74-81, 222-227 (hereafter cited as *Investigation of Louis F. Post*). Post, *Deportations Delirium*, pp. 166-209.

40. *In re Thomas Truss*, 6 April 1920, in U.S., Congress, House, *Congressional Record*, 66th Cong., 2nd sess., 12 April 1920, 59: 5559-5561.

Post had reversed the deportations operation in perception as well as in fact. Reaction from hard-line advocates was quick and predictable. Congressman Albert Johnson attacked Post on the House floor, 12 April, accusing the assistant secretary of usurpation of authority and left-wing sympathies. On 15 April a resolution of impeachment was introduced and referred to the House Rules Committee.<sup>41</sup> When Secretary Wilson returned, 14 April, and found a memorandum detailing Post's interim actions, he was faced with an awesome decision. Would he support the courageous initiatives of his assistant secretary in the face of hostile criticism leveled not only at Post, but at his own department?

Wilson immediately extended Post his unqualified support. In a 17 April letter to Felix Frankfurter, he identified himself with the position of his assistant secretary. Frankfurter had written Post offering him free legal counsel in the upcoming impeachment battle. Answering for Post, the labor secretary declared: "Mr. Post has been conscientiously 'carrying out the policies outlined by myself. Consequently, if he is impeachable, I am more so as being the responsible head of the department formulating the policies.'" <sup>42</sup> Having confirmed Post's deliberations, Wilson then took an initiative of his own, and on 24 April he reopened the cases of several hundred alien members of the Communist Labor Party. Post had recognized that technically *Preis* applied only to the American Communist Party and had held over the CLP cases with the hope that Wilson might make a separate determination upon his return. On 5 May the labor secretary declared *in re Carl Miller* that "the Communist Labor Party platform and program, . . . do not bring the organization within the purview of the (1918) act." Thus, some 300 additional deportation cases were decided in favor of alien radicals.<sup>43</sup>

This remarkable turnaround can be traced to several factors which altered the labor secretary's perception of the radical threat and urged him into a confrontation with those whom he had refused to contravene a few months before.

Post's actions, of course, were the primary factors. The assistant secretary discredited Wilson's Justice Department allies when he

41. U.S., Congress, House, *Congressional Record*, 66th Cong., 2nd sess., 12, 14, 15 April 1920, 59: 5552, 5556, 5558, 5670-5671, 5711. Post, *Deportations Delirium*, pp. 229, 232-234.

42. Wilson to Frankfurter, 17 April 1920, file 159, Felix Frankfurter Collection.

43. *In re Carl Miller*, 5 May 1920, in *Investigation of Louis F. Post*, pp. 152-155. Post, *Deportations Delirium*, pp. 154-157.

confirmed the fact that Labor Department directives had been ignored and that aliens were being unjustly persecuted. Well grounded in law and administrative precedent, Post's deliberations were solid and unequivocal. Furthermore, his wholesale cancellations dispelled the notion that large numbers of dangerous radicals lurked within the alien population. Wilson, his trepidations thus assuaged, was free to recognize that violations of lawful procedure were more of a threat to democratic institutions than any radical danger which might be lurking in the essentially harmless alien population.

Inspired by Post's example, Wilson was reinforced in his opposition by numerous efforts on behalf of civil liberties which had been gathering steam since January. Frankfurter and other liberal advocates had successfully lobbied against sedition legislation in February and by late April were organizing an effort to decry the attorney general's actions.<sup>44</sup> Proponents of harsh repressive measures were on the defensive, and libertarian advocates were moving forward to generate and encourage opposition to the Scare. Especially encouraging must have been a letter from Francis Fisher Kane, 8 May, congratulating Wilson for the Miller adjudication.<sup>45</sup> These efforts relieved somewhat Wilson's concern about reactionary pressure on organized labor and on his own department.

Once his apprehension over the radical threat had been dispelled and his fear of hard-line judgment diminished, Wilson's outraged sense of justice overpowered his disinclination to act. The nagging guilt derived from liberal criticism of his previous quiescence now served to goad him into action. As if to atone for previous compliance with that which he had come to deplore, Wilson was determined to set the record straight. In a letter to his friend James Duncan, 22 April, Wilson displayed his disdain for the Justice Department's unauthorized maneuvers, and in the *Miller* case, the labor secretary stretched a point or two in exonerating the Communist Labor Party. The platforms of the two communist parties were virtually identical. In *Preis*, Wilson had been anxious to confirm his approval of the original decision to move against alien radicals

44. Frankfurter and several other legal spokesmen published a devastating condemnation of the attorney general on 28 May 1920, *To the American People—Report Upon the Illegal Practices of the United States Department of Justice* (Washington, D.C.: National Popular Government League, 1920).

45. Kane to Wilson, 8 May 1920, William B. Wilson Collection.

and had found cause to proscribe the American Communist Party. In *Miller*, his intention—and, subsequently, the result—was just the opposite.<sup>46</sup>

By the time Louis Post testified before the House Rules Committee (7 May), Wilson had repudiated his alliance with the Justice Department and officially confirmed the actions of his assistant secretary. Post, with these decisions behind him, convincingly put forward the legal and administrative basis for his actions. Once on firm ground, the assistant secretary went on to launch a spirited critique of the Justice Department's precipitous actions. When Post had finished, the committee, remarked the *New Republic*, "had very much the aspect of a group of gentlemen who had picked up a very hot poker and were looking for some place to cool it."<sup>47</sup> Subsequently, Rules Committee Chairman Philip Campbell suspended the hearings and sent a curt note to Palmer inviting the attorney general to appear before his committee "should you desire. . . to refute the charges that have been made. . . reflecting on you personally as well as the department."<sup>48</sup>

Thanks to Post's courageous initiatives and to Wilson's timely conversion, just procedures were reestablished in deportation matters, and, by the end of June, the mass exodus of alien radicals had been contained. Unable to reverse this development, Justice Department officials could only gnash their teeth and scurry to defend themselves from Congressional investigation.<sup>49</sup>

Wilson's aberrant behavior during 1919–1920 has left, at best, a record of administrative indecision and, at worst, one of compliance with some of the most extreme manifestations of the Red Scare. Yet,

46. Wilson to Duncan, 22 April 1920, William B. Wilson Collection. Johnson, pp. 155–157.

47. *Investigation of Louis F. Post*, pp. 55–255. "The Louis Post Case," *New Republic*, 22 (26 May 1920): 413.

48. U.S., Congress, House, Committee on Rules, *Attorney General A. Mitchell Palmer on Charges Made Against Department of Justice by Louis F. Post and Others* 66th Cong., 2nd sess., June 1920, pp. 3–5 (hereafter cited as *Palmer on Charges Against Department of Justice*).

49. "Communist Labor Party Is Cleared," *New York Times*, 6 May 1920, in Box 4, Folder 13, Weinberger Papers.

Palmer's administration was investigated twice: once by the House Rules Committee in June 1920; then by the Senate Judiciary Committee (January–March 1921). See: *Palmer on Charges Against Department of Justice*; U.S., Congress, Senate, Subcommittee of the Committee on the Judiciary, *Charges of Illegal Practices of the Department of Justice*, 66th Cong., 3rd sess., 19 January–3 March 1921.

the Labor Secretary was in respectable company. Many other Progressives, including Attorney General Palmer and President Woodrow Wilson, supported or tolerated the government's repressions throughout. William Wilson, to his credit, altered his position and—unlike Palmer, who remained an energetic hysteria promoter, and the president, who stayed ambivalent—made a forthright effort to rectify the situation once his vision had been clarified and his personal anxieties allayed. And, in contrast to organized labor, Wilson eventually assumed a more liberal position toward immigration. In 1921, when the AFL backed a discriminatory immigration restriction act, the labor secretary adamantly opposed it.<sup>50</sup> Wilson, then, appears to have grown from his temporary lapse, and his final belated actions have served to balance somewhat his earlier vascillating behavior. If we are tempted to judge too harshly, it might be wise to remember Louis F. Post's humble admonition in late May 1920 after the smoke had begun to clear: "there is nothing like a panic to make fools of us all."<sup>51</sup>

50. Murray, pp. 201–202. Coben, pp. 210–211, 236; Higham, pp. 305–306, 311.

51. Post to Otto Thum, 26 May 1920, file 167–255, Labor Department.