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## **"They Never Stopped Watching Us": FBI Political Surveillance, 1924-1936**

David Williams

We never knew . . . about the way that Hoover's FBI kept track of us after the 1924 reform announcements. They never stopped watching us.

--Roger Baldwin to Alan Westin, 1977<sup>1</sup>

Since 1976, when the "Church Committee" uncovered a pattern of FBI abuses dating back to the 1930s, considerable attention has focused on how the federal government can effectively control the FBI's domestic intelligence activities and prevent a resumption of widespread surveillance of lawful political activities. Legislation currently before Congress proposes to charter the FBI and spells out in considerable detail the Bureau's criminal and intelligence responsibilities. While the Justice De-

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partment and representatives of civil liberties and professional organizations are still debating the particulars, both sides share a common goal: an effective law enforcement agency which will not violate the law in pursuit of its mission.<sup>2</sup>

This is the second major attempt in the Bureau's seventy-three year history to restrict FBI political surveillance. In May 1924, Attorney General Harlan Fiske Stone, armed with a mandate from President Calvin Coolidge to clean up the scandal-ridden Justice Department, ordered the Federal Bureau of Investigation to limit its investigations to violations of federal statutes. Stone's public statement, issued on May 15, marked a watershed in the history of civil liberties. For the first time, a high-ranking government official recognized that illegal surveillance constituted a serious threat to the democratic process:

There is always the possibility that a secret police system may become a menace to free government and free institutions because it carries with it the possibility of abuses of power which are not always quickly comprehended or understood. . . . It is important that its activities be strictly limited to the performance of those functions for which it was created and that its agents themselves be not above the law or beyond its reach. . . . The [Federal] Bureau of Investigation is not concerned with political or other opinions of individuals. It is only concerned with their conduct and then only with such conduct as is forbidden by the laws of the United States. When a police system passes beyond these limits, it is dangerous to the proper administration of justice and to human liberty, which should be our first concern to cherish.<sup>3</sup>

With few exceptions, historians and contemporary policy makers have believed that the FBI did not engage in political surveillance activities until President Franklin Roosevelt formally rescinded Attorney General Stone's executive order in August 1936. Even the "Church Committee," which conducted the most thorough congressional investigation of FBI intelligence activities to date, did not question this assumption. As a result, the committee's reports provide little new insight into FBI political surveillance prior to 1936. However, FBI files obtained recently through the Freedom of Information Act confirm suspicions that FBI Director Hoover misled Attorney General Stone in 1924, and for the next twelve years used the FBI to gather information on activities of the Bureau's critics, and on labor and radical political organizations. The extent of this illegal surveillance has never been fully appreciated. These investigations allowed FBI Director Hoover to help set the Roosevelt Admin-

istration's internal security agenda.<sup>4</sup>

This essay will examine FBI surveillance of the following groups and activities: the American Civil Liberties Union, an early critic of political espionage; the Trade Union Educational League, a leftist labor organization; and mass political demonstrations. The essay will also consider the Bureau's cooperation with State Department intelligence officers who monitored the activities of United States citizens overseas, and show how such investigations were kept secret. FBI political surveillance during the first Roosevelt administration will also be examined. To fully understand the context, it is necessary to review the Bureau's initial reaction to Stone's 1924 directive.

On the surface, Hoover seemed eager to implement Stone's policy. On May 20, 1924, appearing before the Brookhart Committee investigating former Attorney General Harry Daugherty, Hoover testified that the FBI was no longer interested in political opinions. He told the committee: "[i]nstructions have been sent to officers in the field to limit their investigations in the field to violations of [federal] statutes." He announced that in the two weeks since he had assumed office, he had fired all of the notorious "dollar-a-year men" (political cronies hired by Daugherty and Hoover's predecessor, William J. Burns) and would continue to "eliminate from the forces such deadwood as has been in the [FBI]." New emphasis, Hoover stated, would be placed on future applicants' educational qualifications, rather than their political connections. Reassuring the committee of his sincerity and commitment to Stone's reforms, Hoover repeated his earlier pledge in his closing remarks. He reassured Senator Wesley Jones (Rep., Wash.) that Bureau investigations would be limited "absolutely to violations of Federal statutes, and that will be the policy followed by this bureau."<sup>5</sup>

These assurances aside, Hoover fought vigorously to maintain the scope of FBI authority. Five weeks after the Brookhart hearings, Hoover sent a long memorandum to Attorney General Stone responding to charges made by the American Civil Liberties Union (ACLU). Earlier that year, in a pamphlet entitled "The Nationwide Spy System Centering in the Department of Justice," the ACLU asserted that the FBI had "created a nation-wide system of espionage on radical and labor organizations, and on individuals connected with these movements . . . [and t]heir activities . . . constitute in affect a secret police system of a political character." In a bitter reply, Hoover advised Stone that during the past five years the Bureau had investigated only those persons and organizations that could be considered "ultra-radical," and only if "there [was] indication of a probable violation of a federal statute." Still smarting from the widespread criticism of the FBI's role in the 1920 deportation raids, Hoover defended FBI

intervention in the deportation process. "In many cases," he explained, "the aliens are charged with activities inimical to our institutions and government." "This activity of the [FBI] is perfectly proper and legal as such work has always been performed upon the request of the Secretary of Labor." Hoover denied that the FBI had ever wiretapped or used listening devices to eavesdrop on private conversations. The FBI had not, Hoover continued, as the ACLU had charged, seized evidence in violation of the Fourth Amendment, nor employed spies or undercover agents to "incite members to unlawful acts nor to get information calculated to help break strikes or to prevent labor union organization." The FBI Director concluded that "the Bureau has very rigid rules on matters of this kind," and that the ACLU's charges "cannot be proved."<sup>6</sup>

While Hoover's memo was primarily a detailed defense of the FBI's record, Hoover assured the Attorney General that the Bureau would conform to the new guidelines and that he had strictly prohibited surveillance of lawful political activities. "The agents of the [FBI] have been specifically instructed within the last month to confine their activities to investigations of matters in which there appear to have been or may probably arise a violation of a federal statute." The FBI also required all new special agents to attend a training session "at which time careful attention is given to defining the limitations of the duties of a Special Agent insofar as they apply to the rights of the public citizens at large." Consequently, "no innocent or loyal American" should have "any fear or objection to" the FBI.<sup>7</sup>

Hoover's open-ended criticism of the ACLU in this memorandum raises the possibility that Stone and his immediate successors may have been more ambivalent toward FBI political surveillance than is usually presumed. If this indeed was the case, Hoover and his superiors left no evidence that they amended Stone's order to accommodate limited political surveillance. Perhaps there was an unofficial, or verbal, understanding between Hoover, Stone, and his immediate successors that, under certain conditions, allowed the FBI to conduct internal security investigations even though no specific violation of the law was involved. While historians cannot dismiss this possibility, the available evidence militates against it.<sup>8</sup>

The heart of the issue concerned the Justice Department's position regarding American communists and the American Communist Party. The issue was particularly complex because the Party's platform called for the overthrow of the existing government and economic order. Shortly after Stone issued his order prohibiting FBI political surveillance, he asked Assistant Attorney General Earl J. Davis to review the "applicability of federal criminal statutes to Communist activities." On June 10, 1924, Davis reported that Communist Party activities did not



appear to violate any federal law. Because the FBI had been unable to prove that Party members had reached a "specific and definite agreement . . . to overthrow the government," the Justice Department could not indict Party members under section 6 of the Criminal Code (seditious conspiracy). The courts, Davis noted, had consistently ruled that section 6 required the government to "prove a conspiracy to use force against the federal government of its officers in their execution of the law." Successful prosecution of Party members was also unlikely under the Logan Act (1790), which prohibited "communication between American citizens and foreign governments when that correspondence was contrary to the best interests of the United States." While the FBI had proof that Party leaders in the United States were in close contact with the Communist International in Moscow, such communication did not violate the law because department lawyers had determined that the Soviet Union did not qualify as a *de jure* government. FBI Director Hoover ostensibly agreed with the findings in the Davis memorandum. On October 10, 1924, Hoover told Assistant Attorney General William Donovan that: "[i]t is, of course, to be remembered that the activities of the Communists and other ultra-radicals have not up to the present time constituted a violation of the federal statutes, and consequently, the Department of Justice, theoretically, has no right to investigate such activities as there has been no violation of the Federal laws."<sup>9</sup>

For the next sixteen years, Hoover publically maintained this position. For example, on May 14, 1925, FBI Director Hoover informed Stone that "from time to time information concerning communist activities in the U.S. is *voluntarily* furnished to . . . the Bureau. However, the Bureau is making no investigations of such activities inasmuch as *there is no violation of a Federal Penal Statute involved* [emphasis added]." Attorneys General John Sargent (1925-1929) and William Mitchell (1929-1933) demonstrated no desire to resurrect the Bureau's anti-radical division, nor was it likely that Hoover tried to persuade his superiors to initiate investigations of activities he thought to be subversive, given the failure of past efforts of this sort. In fact, as will be seen, Hoover went to considerable trouble to convince department officials that the Bureau was strictly following Stone's policy.<sup>10</sup>

Beneath the facade of cooperation and obedience, the FBI persisted in old ways. Even as Acting Director Hoover announced the dramatic break from past policies and publically pledged FBI cooperation and support for the Stone directive, the FBI field office in Los Angeles forwarded to Washington headquarters hundreds of pages of reports on the activities of the local ACLU chapter. Captioned "Attention Mr. Hoover," these investigative reports carefully summarized the minutes of the organization's weekly meetings, executive board meetings, the ACLU's plans for fu-

ture demonstrations and litigation, the group's financial resources and the names of important contributors. On May 23, 1924, special agent Arthur Hopkins informed the Bureau that "[t]here were about four hundred people at the [weekly] meeting of the ACLU. . . . Dr. [Clinton] Taft asked that the collection be larger than usual as there was rent to pay and the cost of the programs [sic]."<sup>11</sup>

Official infiltration also continued. An FBI informer was a member of the group's executive board and provided the Bureau with inside information about the ACLU's policy and administrative and financial decisions. On September 26, 1924, special agent Hopkins outlined the executive board's plans to challenge compulsory military training at the University of California, labor injunctions, and California's criminal syndicalist laws. Hopkins reported that the ACLU, in cooperation with the IWW, decided to "start a fight for civil liberties in Los Angeles harbor [sic]," and to sue former L.A. Police Chief August Volmer for arresting and jailing peaceful picketers. "Upton Sinclair . . . promised to get for Mr. [Robert] Whitaker his list of prominent people in all the nearby towns," Hopkins concluded, "so that he could visit them to solicit their aid in his work. Informant will also get a copy of this list."<sup>12</sup>

At the same executive board meeting, Reverend Taft announced that he had invited Federal District Court Judge Benjamin Bledsoe to address an open forum meeting scheduled for October 26, 1924. On October 3, Hopkins informed FBI chief Hoover that Special Agent-in-Charge (SAC) L.C. Wheeler had "confidentially informed Judge Bledsoe [that the ACLU sponsored the open forum] and also to the character of the organization which had issued the invitation." The briefing achieved satisfactory results, and on October 9, Bledsoe decided not to address the meeting. The ACLU, the judge told Reverend Taft, is "an institution with whose plans, purposes and methods I have no sympathy at all. . . . I must withdraw the acceptance I made to speak." At the judge's request, the FBI agreed "to furnish [Bledsoe] with a confidential summary of the history, activities and personnel of the ACLU."<sup>13</sup>

Although Hoover assured Attorney General Stone that the Bureau would no longer cooperate with local "red squads," the FBI actively solicited information from police intelligence units about radical activities. On March 28, 1925, special agent Hopkins forwarded to Washington headquarters "confidential reports covering the activities [of the ACLU and the IWW]" compiled by the Los Angeles police department. "This office and this agent work in very close cooperation [with the LAPD's radical section]. . . . [T]his agent knows, and assists in directing, all the operatives furnishing the data upon which these reports are based." The field office's contact with the L.A. "red squad" presumably continued well into the

1930s even though Hopkins closed the office's investigation of the ACLU in November 1925.<sup>14</sup>

Hoover ordered two ad hoc investigations of the New York ACLU after regular coverage ended in late 1925. On February 27, 1929, responding to a personal request from the Director, New York SAC C.D. McKean conducted "a confidential undercover inquiry . . . at the main office of the ACLU." Apparently, Hoover had heard that the New York chapter had described "white slave traffic," once the mainstay of FBI investigative work and still an important part of the annual budget request, as a "minor offense." The investigation, reflecting Hoover's prurient interests, uncovered nothing. "A search of the ACLU's files from January 5, 1928 to February 21, 1929," McKean noted, "failed to develop any such circular as the one described by you."<sup>15</sup>

In March 1931, Hoover requested FBI clerks to compile a history of the ACLU and a list of the organization's leaders. On March 19, C.G. Schenken completed the report. Following a concise summary of the ACLU's positions on such issues as free speech, conscientious objection to military service, and civil rights, the memo provided biographical information, gleaned from more comprehensive dossiers, on many prominent jurists, educators, and community leaders. The list included Jane Addams, Clarence Darrow, John Dewey, Ernst Freund, Charles Amidon, and Felix Frankfurter. Schenken's portrait of Frankfurter demonstrates the Bureau's ideological biases, its extremely narrow focus, and its inability to distinguish between a reformer and a radical. Schenken referred to a letter in which Theodore Roosevelt accused Frankfurter of excusing anarchists who "threaten democracy and civilization." In 1917, as counsel to the President's Mediation Commission, Frankfurter had found that Tom Mooney and Warren Billings had not received a fair trial. In his report, Schenken maintained that Frankfurter "accepted [Roosevelt's] characterizations as more complimentary than defamatory." Frankfurter, Schenken continued, had enthusiastically engaged in "Communitistic and Workers Party movements" and had also "supported and cooperated with the Socialist Party, Socialist Labor Party Workmen's Defense Conference, Labor Defense League and Communist Party." While it could be argued that this exercise did not overtly violate the Stone directive (no field investigations were conducted), it certainly demonstrates that the Bureau considered itself a political police.<sup>16</sup>

The monthly reports on radical activities filed by FBI field offices further support this conclusion. The summaries provided the FBI with a useful overview and improved the accessibility of information in its possession. Using these summaries, FBI clerks could compile dossiers, organizational histories, and special reports in a fraction of the time it would have taken to page through case



files and other records.<sup>17</sup>

The report submitted by special agent John Haas on radical activities in the New York area during May 1925 reflected these priorities. General categories included "Radical Activities," "Individuals," "Radical Meetings," "Negro Activities," "Japanese Activities," "Russian Affairs Abroad," and "General." The "Radical Activities" section described a May Day rally sponsored by the International Ladies Garment Workers Union and a celebration honoring the twenty-fifth anniversary of the Workman's Circle held at Madison Square Garden. "The Public Speaker was Eugene V. Debs," Haas reported, "declaring that he spoke for all classes . . . when he called on the people to agitate for the release of Sacco and Vanzetti . . . and that when the working men throughout the world clasped hands they would be able to 'put an end to capitalism [sic] system, wipe it from the face of the earth and establish a working class republic throughout the world.'"<sup>18</sup>

FBI intimidation and harassment of the American labor movement also continued despite Attorney General Stone's opposition. Unlike his predecessors, Stone believed that the rights of workers to organize, demonstrate peacefully, picket, and strike were constitutionally protected. Hence, a primary goal of his 1924 directive was to insure strict government neutrality in industrial relations. FBI Director Hoover, however, shared none of Stone's predilections. In 1919, as head of the Bureau's General Intelligence Division (GID), Hoover claimed that communists had inspired seventy-five percent of the strikes in the United States. Unable to separate political rhetoric from basic issues such as wages, working conditions, and job security, Hoover equated labor militancy and strikes with treason. As a consequence, between 1924 and 1936, the FBI collected and analyzed information about the activities of radical labor organizations.<sup>19</sup>

William Z. Foster's Trade Union Educational League (TUEL) was a primary target of FBI surveillance during this period. Founded in 1921, the TUEL supported the formation of a labor party, recognition of the Soviet Union, and full equality for women, minority, and younger workers. While many of its leaders were avowed Marxists, the TUEL initially represented a broad coalition of communist and non-communist trade union members. Not a union itself, the TUEL required members to belong to an established union, and advocated labor organization along industrial rather than trade lines. To finance its work, the TUEL relied primarily on initiation fees, membership dues, and assistance from the Workers Party, but also received some support from the Red International Labor Unions (Profintern). Assistance from Profintern led the FBI to believe that TUEL was a "subversive" organization which served the interests of a foreign master and, therefore,

precluded it from "indulging or participating sincerely in any American movement."20

In early 1922 the FBI opened an offensive against the TUEL in an effort to smash the organization before it gained any influence in the labor movement. During the campaign, the FBI hired informers, regularly disrupted TUEL meetings, and compiled lengthy synopses on League activities, intentions, and strategy. In August 1922 FBI agents in cooperation with local officials raided a TUEL/ Communist Party strategy meeting in Bridgman, Michigan and arrested Foster and fifteen other League officers under the Michigan syndicalist law. A September 1922 report attested to the effect of the FBI's tenacious efforts. The FBI agent concluded that constant surveillance had demoralized League members, "badly shaken up" League Secretary Foster, and because of "talk about there being a 'traitor' high up in the [TUEL], . . . [a]ll the reds are in favor of cleaning house."21

Following the Stone reform, the FBI found it necessary to cover TUEL affairs more discreetly. Emphasis shifted from crude, overt intimidation to an exclusive reliance on the work of paid informers. Whether for ideological or financial reasons, several TUEL officials regularly furnished the FBI with confidential information. In February 1927 an FBI informer attended a secret Communist Party/TUEL meeting in Chicago. Disturbed by a recent decline in active Party membership, from eleven thousand to seven thousand active members, fifty Party and TUEL leaders decided to emphasize the recruitment of minority and younger workers. "[I]t was decided," the informer advised the FBI, "that the Communist Party [and TUEL] from now on must devote at least seventy-five percent of its activities to trade union work." In January 1928 a confidential informer attended a TUEL conference in New York and reported that it was "most revolutionary." The delegates discussed "plans for breaking into the ranks of the American Federation of Labor," the basic strategy of the TUEL since its founding seven years earlier. Strikes led by TUEL in 1927, the informer learned, cost the League approximately \$250,000, \$100,000 of which was paid by Prof-intern. In a conversation with the informer, Foster optimistically claimed that "he expected real work on a bigger scale to result from the conference."22

FBI surveillance extended well beyond the TUEL to include the monitoring of political meetings and public rallies sponsored by liberal and radical organizations. Prior to Stone's 1924 order, some Bureau agents, assisted by local police, disrupted these meetings. But generally, FBI agents (or their hired informers) went only to jot down the names of the speakers and the main points of their addresses, and to estimate the size of the audience and its reaction to speeches. While Justice Department policy prohibited surveillance of this kind after Stone

took office, the FBI collected information about various protest meetings after 1924. The Bureau's investigations of the Sacco-Vanzetti Defense Committee is a case in point.<sup>23</sup>

In the spring of 1927, the Sacco-Vanzetti Defense Committee hoped to mobilize public opinion to persuade responsible government officials to stay the execution of the two convicted anarchists. Mass demonstrations, the committee thought, might succeed where legal appeals had not. On April 16 and July 7, the committee sponsored rallies in New York's Union Square which drew approximately twenty thousand persons. At the July 7 demonstration, Fiorello LaGuardia, Scott Nearing, Sidney Hillman, and Carlo Tresca addressed the crowd before New York City police broke it up with clubs and gas. FBI agent John Haas attended both events, noted the speakers' names, and summarized their speeches.<sup>24</sup>

FBI coverage of the Sacco-Vanzetti Defense Committee's activities intensified as the scheduled date of execution drew near. On August 6, FBI Director Hoover instructed all agents-in-charge to "make every effort to keep fully informed as to the [activities of the defense committee] in your district, . . . see that every secrecy is maintained [and] keep me advised by wire of developments." Although Hoover later explained to Attorney General Sargent that these investigations were conducted to protect federal property and the lives of federal officers, several field offices indulged in general intelligence investigations wholly unrelated to potential violence or disorder.<sup>25</sup>

In the San Francisco Bay area, FBI agents contacted local "red squads" and assigned agents to work "under cover" to gather information concerning "radical activities." The St. Louis field office transmitted the names of individuals who participated in a peaceful protest a month earlier. On August 16, special agent E.J. Connelly submitted summaries of several meetings held at the Italian Fraternal Hall and clippings from the *St. Louis Post-Dispatch* which called for a stay of execution until new evidence could be thoroughly reviewed. From Butte, Montana, special agent D.H. Dickerson reported that a "confidential informant" planned to attend a meeting protesting the execution. The Atlanta SAC suspected that communists had infiltrated the defense committee and informed the Director he was "making a discreet and confidential investigation" of the matter.<sup>26</sup>

The Depression intensified Hoover's antipathy toward communism. As the United States slid slowly into its greatest economic crisis, and despair and public dissatisfaction with President Herbert Hoover's policies increased, many Americans took to the streets to protest unemployment and increasing poverty. The demonstrations

became known as "Hunger Marches." FBI Director Hoover wildly overexaggerated the Communist Party's appeal to the unemployed, fearing that it would exploit the Hunger Marches in an effort to drive a wedge between the American people and their government. Hence, the FBI closely monitored attempts to organize protests against the Hoover administration's economic policies.<sup>27</sup>

Veterans' marches were a prime investigative target. In May 1930 word reached FBI Director Hoover that the Communist Party had shown considerable interest in organizing ex-servicemen who had not received government pensions. I. Weiss, secretary of the Workers Ex-Servicemen League (WESL), contacted Charles Gwynne of the New York Chamber of Commerce and offered to sell Gwynne information concerning communist activities in the WESL. Gwynne, a former army intelligence officer, informed the FBI of Weiss's offer. On May 28 special agent C.D. McKean advised Hoover that, having conferred with "our own confidential informant [in the Communist Party]" and other intelligence officers in the New York area, Weiss "is a fraud and merely seeking a position," and should not be hired as an FBI informer.<sup>28</sup>

While the New York office chose not to employ Weiss, other paid informants in the Communist Party kept the FBI up to date on the WESL's plans. On January 20, 1931, in a letter to the State Department, Hoover concluded that the WESL was an "active Communist unit . . . and is at present trying to organize an impressive number of ex-servicemen for the purpose of a 'Hunger March' to Washington. The campaign is conducted by the league under the direction of the Central Committee of the Communist Party."<sup>29</sup>

In the spring of 1932, when the Bonus Army started to assemble on Anascotia Flats in Washington, D.C., FBI Director Hoover joined the chorus of officials who advised the President that the demonstration was a communist-inspired plot. By mid-summer over twenty thousand unemployed veterans had set up a make-shift camp which swiftly became a major political liability to the administration, symbolizing its inability to address social and economic problems effectively. In late July, exasperated by the refusal of the Bonus Army to leave the capital peacefully and convinced that "subversive influence obtained control" of the demonstration, President Hoover instructed the army "to restore order." On July 28, regular army units, using cavalry, tanks, and tear gas, routed the veterans, burned their temporary shelters, and, in the process, killed four and wounded hundreds.<sup>30</sup>

Following the riot, the press roundly criticized the President for failing to deal with the veterans more compassionately. On August 1, in an effort to allay this criticism, the President called the heads of several investigative agencies, including FBI chief Hoover, to the



White House and asked them to initiate investigations of communist infiltration of the Bonus Army. FBI field agents attended meetings protesting the administration's brutal treatment of the Bonus marchers and, assisted by railroad police, carefully monitored the movement of Bonus marchers through important rail yards. Chicago SAC W.A. McSwain assigned several agents to attend rallies and contacted H.A. Kline of the Hargrave Detective Agency and Lieutenant M. Mills of Chicago's "red squad" to solicit information about communist influence in veterans' organizations. New York SAC C.A. Appel informed the Bureau that at a rally held in Union Square the "WESL and the Communist Party openly accepted responsibility for the bonus march." "I instructed [special agent] Quinn to have his agents prepare affidavits of what took place last night" and to make general inquiries at banks used by the WESL "in order to prove that the source of [their] money was the Communist Party, or other Communist organizations or individuals." The FBI investigation, however, did not turn up any evidence, admissible in court, to prove that the Bonus march was "a red plot" and the federal grand jury investigating the riot indicted only three men, none of whom were communists.<sup>31</sup>

For the next two years, the spectre of a second Bonus Army haunted FBI Director Hoover. Field offices remained on constant alert and were instructed to report any attempt to organize a similar demonstration. On November 23, 1932, St. Louis SAC D.M. Ladd summarized informers' reports on Communist Party involvement in the proposed National Hunger March on Washington. Scheduled for December 5, the march drew about 3500 demonstrators who camped in a secluded park in the Northwest section of the city. On December 6, the marchers presented Congress a petition urging it to adopt a comprehensive unemployment insurance act, and then peacefully disbanded. On May 2, 1934, Hoover ordered FBI field offices to survey "all of the principle [sic] cities of the U.S. to determine the number of Bonus Marchers reported to be en route to Washington." In Salt Lake City, special agent Louis Wine conducted "an under-cover investigation of the WESL" and concluded that the "organization was engaged in communistic activities and probably the dissemination of communistic propaganda." On May 8 the New York office reported that fifteen hundred "Bonus advocates," who were "affiliated with [the] Communist Party of America" had left the city for Washington. On May 18, 650 "roughly clad men, a handful of women, a small boy and a dog," marched past the White House and the Capitol building, stopping only to pay their respects to those who had died in the 1932 riot.<sup>32</sup>

During the early postwar years federal officials had been quick to blame the Soviet Union for inspiring widespread domestic unrest. Believing that radical organizations were controlled and financed by the Bolsheviks, the FBI shared general intelligence information with the State



Department. At the Bureau's request the State Department monitored the activities of American citizens travelling abroad. Subjects of State Department surveillance included labor leaders, academics, and such prominent critics of the Justice Department as Felix Frankfurter and Swinburne Hale. An amendment to the 1916 Appropriations Act allowed the Secretary of State to request FBI investigations in special instances, such as the dynamiting of a consulate or the suspicious movements of a diplomatic attaché. But the informal exchange of intelligence information could not be justified under this law. Thus, FBI cooperation with the State Department was predicated upon the assumption that an individual "who advocates Marxism-Leninism might just as well be working as an agent of a foreign power because he is aiding his cause." The problem, of course, was that Hoover lumped together all advocates of change.<sup>33</sup>

Though it was not explicitly stated, the intent of Stone's 1924 directive was to preclude the FBI from sharing information about lawful political activities with the State Department or other federal agencies. Hoover addressed this subject in his July 21, 1924, memorandum to Stone, assuring the Attorney General that investigations conducted for the State Department were limited to violations of the passport laws. "The system, in fact, was based upon the apprehension of fugitives applying for passports to leave the country," Hoover explained, "and is still operated for that purpose." In December 1924 the Attorney General asked Hoover "whether the Bureau would have the authority to investigate Soviet and Communist activities within the United States for the State Department in connection with the question of the recognition of the Soviet Government." Hoover informed the Attorney General of the provisions of the 1916 Appropriations law, adding that the FBI could conduct such investigations only "upon formal request by the Secretary of State and approval of the Attorney General [emphasis added]." <sup>34</sup>

Despite these assurances, Hoover independently solicited information from, and provided data to, the State Department from 1924 through 1936. On October 5, 1927, Hoover informed Robert F. Kelley, chief of the State Department's Division of Eastern European Affairs, that the executive board of the TUEL would meet in December 1927 to discuss "the organization of Industrial Unions, a Labor Party," and a strategy to affiliate with "workers of other countries for the joint defense of common interests and establishing World Trade Union Unity." A month later, Hoover reported to Kelley that the "TUEL now controls the entire membership of all New York unions." The TUEL was about to implement plans, Hoover concluded, "to take over the executive power of the unions in this country."<sup>35</sup>

Through his confidential informants in the British labor movement, Kelley occasionally obtained TUEL docu-

ments which the FBI had been unable to secure. On October 4, 1929, Kelley sent Hoover a copy of the minutes of the TUEL's executive board meeting held in Cleveland in September. Prepared for exclusive use by the executive board, the minutes detailed TUEL finances and expenditures and its strategy for organizing workers in large American industries. Through these same channels, Kelley was able to obtain information concerning other labor union activities. In October 1929 Kelley sent Hoover a copy of a letter from the southern organizer of the National Textile Workers appealing for money to assist in the defense of workers charged with offenses stemming from the Gastonia, North Carolina, strike. Two and a half years later, in January 1932, Kelley forwarded Hoover a copy of the National Miners Union constitution, noting that the organization "is the most active of all communist unions in the United States at the present time."<sup>36</sup>

Hoover, then, had the best of both worlds: a clean public image based upon efficient conduct of the FBI's legitimate business, and the advantages of surreptitiously continuing illegal practices. But it was a delicately maintained world. While the FBI engaged in political surveillance in violation of Department policy, Director Hoover actively opposed legislation which would have required the Bureau to investigate subversive activities if Congress did not first make these activities illegal. In 1930 Representative Hamilton Fish, Jr., chairman of the special committee investigating communist activities in the United States, sponsored a bill requiring the FBI "to investigate 'communist and revolutionary activity.'" In his appearance before the committee, Director Hoover argued that while communist doctrine posed a serious threat to the nation's security, the Bureau should not be required to investigate communists until Congress adopted a peacetime sedition law which clearly prohibited communist activities. "If the Bureau is given the power to investigate [subversive activities]" in the absence of such a law, Hoover insisted, "it would be in a position of having a mass of material with which nothing could be done." In January 1932 Hoover explained to Attorney General Sargent that Congressional authorization of political surveillance would jeopardize the Bureau's effectiveness because the legislation would lead to allegations that the FBI was a political police whose very existence threatened Constitutional rights: "The Department and the Bureau would undoubtedly be subject to charges in the matter of alleged secret and undesirable methods in connection with investigative activities, as well as to allegations involving charges of the use of 'Agents Provocateurs.'"<sup>37</sup>

Hoover's fervently anti-communist convictions best explain why he took risks to collect ostensibly useless information. His political views had been forged in the heat of the postwar Red Scare. He believed that communist conspirators had infiltrated every important government,

educational, and religious institution and "threaten the happiness of the community, the safety of every individual, and the continuance of every home and fireside. They would destroy the peace of the country and thrust it into a condition of anarchy and lawlessness and immorality beyond imagination." From 1919 through 1924, under GID chief Hoover's direction, the FBI had successfully disrupted the activities of radical political and labor organizations. Although Stone's order stayed similar aggressive intelligence activities after 1924, Hoover believed that it would be irresponsible for the Bureau to ignore the activities of individuals and organizations "antagonistic to the conception of American principles." Despite his testimony before the Fish Committee, Hoover presumed that any information gathered clandestinely was "intrinsically valuable" and would be useful in some future emergency. Thus, when the FBI drew up a 1943 custodial detention list, Bureau employees relied, in part, on information about an individual's participation in a 1932 hunger march to justify placing that person on the detention index.<sup>38</sup>

In view of the high stakes, the Bureau had to keep its political intelligence operations absolutely secret. To achieve this goal, FBI Director Hoover consciously sacrificed volume for confidentiality. The Bureau assigned only a limited number of agents to full-time internal security work and took the additional precaution of replacing these agents on a regular basis. Hoover realized that a disgruntled agent who knew too much could undermine the entire program by leaking important documents to a powerful congressman or a respected journalist. If unauthorized agents requested permission to initiate an investigation of political activities, the Director would personally quash the request and explain the "misunderstanding." On September 18, 1926, Detroit SAC H.W. Kage informed Hoover that he anticipated the TUEL to "spread propaganda" at an American Federation of Labor convention to be held the following week in that city. Kage, noting that special agent Haas of the New York field office "is expecting an investigation and report by this office," asked the Director if the Bureau "desired that this matter be covered." On September 25, Hoover notified Kage that "[n]o investigation of so-called radical activities should be undertaken by your office unless there is a violation of a Federal statute involved," adding that Haas's report had been "transmitted to you merely as information, not for any investigative attention by your office." Two years later, in an effort to tighten security, Hoover relieved the New York field office of its internal security responsibilities and ordered that informers in the TUEL and other communist organizations report directly to Washington headquarters.<sup>39</sup>

Hoover's fears that one of his agents might blow the whistle and expose illegal FBI surveillance were not en-



tirely groundless. On January 21, 1927, Franklin Dodge, a former FBI agent from Grand Rapids, Michigan, met with Senator Thomas Walsh, for years one of the Justice Department's harshest critics. Dodge privately told Walsh that the Bureau had continued to investigate radical activities after 1924 and had shared that information with the State Department's Eastern European Division. Dodge also informed Walsh that since at least 1920 the FBI had supplied "friendly" journalists with information from its extensive files in return for favorable publicity. He later sent Walsh a photostatic copy of a letter to prove this allegation. Dodge further alleged that Hoover had misused Bureau funds, spending them for private vacation and travel expenses. Nothing came of the meeting, except a promise from Walsh that when the Democrats took power once again he would see to it that Bureau policies would be fully reviewed and Hoover fired.<sup>40</sup>

Consistent with his public statements, Hoover refused private requests to investigate political activities. On January 10, 1927, Earl Hauck, a former FBI agent and attorney to the United Mine Workers, informed the Bureau's Indianapolis office that he expected "many of the active and most resourceful Communists" to attend the upcoming UMW convention. Hauck invited the Bureau to assign undercover agents "to watch the movements of the Communists at the convention." If the Bureau cooperated, he offered to exchange information gathered by his own undercover operatives. If necessary, Hauck offered to travel to Washington personally to brief FBI chief Hoover and finalize arrangements with him. On January 18, Hoover told Indianapolis SAC T.E. Bayliss to "advise Mr. Hauck that this Bureau is unable to take any investigative action except in cases where there is reason to believe that the existing Federal laws . . . have been violated." On January 15, 1935, Representative Louis Ludlow of Indiana phoned the Bureau to find out if the TUEL was a "communist organization." After consulting Assistant Director E.C. Tamm, special agent R.L. Fagan returned Ludlow's call and informed him that the FBI "had made no investigation of the TUEL." It was his personal opinion, Fagan continued, that the TUEL "was generally thought of as a Communistic organization," but that the FBI "could make no official statement regarding this organization inasmuch as we had not conducted any investigation in connection therewith."<sup>41</sup>

In an imaginative strategy, FBI chief Hoover used unsolicited requests to demonstrate to his superiors that the Bureau strictly followed Department regulations. Upon receiving a request for an FBI investigation of political activities, Hoover would forward the letter to the Attorney General, reminding him that the Bureau lacked jurisdiction. On August 21, 1929, Curtis Bush, a businessman from the midwest, informed the Justice Department that the TUEL was "very busy in trying to get recruits and organize some industries" in the area. "If it is at all possible,"

Bush declared, "I think the Government should send in a trained investigator to keep track of the activities of these Communists." In an August 26 memorandum, FBI Director Hoover advised Assistant Attorney General Oscar Lühring that the FBI could not investigate Bush's charges. "This Bureau, as you know, does not investigate any matters unless [a federal law has been violated]." "Communist activities, including the activities of the TUEL, are not matters which have received . . . the investigative attention of this Bureau."<sup>42</sup>

Although Stone's order was not officially revised until August 1936, FBI surveillance policy changed substantially during the second year of the Roosevelt administration. With the exception of the investigation of the Bonus Army, Presidents Coolidge and Hoover did not find it necessary to use the FBI to collect general intelligence information. It would be a mistake to conclude that this stemmed from a genuine commitment to free expression and association. Coolidge and Hoover, for example, had no fundamental objection to state suppression of radicals, the use of labor injunctions to break strikes, blacklisting, and other corporate union-busting activities. Rather, Stone's reforms fit the Republican model of federalism which emphasized decentralization of power. Franklin Roosevelt brought to the Presidency a more spacious view of federal and executive authority than either of his two predecessors. On May 18, 1934, with great fanfare, Roosevelt signed into law a series of bills which greatly increased the scope of FBI jurisdiction over criminal offenses. Ten days earlier, Roosevelt had quietly and unilaterally extended the FBI's authority to investigate political activity, and by the end of the year, Stone's order had been reduced to a dead letter. FBI chief Hoover relished his new role as the President's intelligence valet and oversaw these investigations with great enthusiasm.<sup>43</sup>

A little less than two months before Roosevelt's inauguration, Adolph Hitler took power in Germany. Almost immediately the spread of fascism threatened the future of European and world peace. Ultra-rightists in the United States, many of whom openly sympathized with the Nazis, complained that President Roosevelt and his administration were, among other things, tools of the international communist conspiracy. While much of the right-wing rhetoric was innocuous, ties between the German government and several rightist splinter groups, including the German-American Bund, led to suspicions that Bundists were "Fifth Columnists," ready to undermine American faith in democratic institutions. Many important federal officials, including the President himself, shared these suspicions and on May 8, 1934, Roosevelt convened a conference at the White House to discuss the problem. At the meeting, attended by Attorney General Homer Cummings, Secretary of the Treasury Henry J. Morgenthau, Secretary of Labor Frances Perkins,



Secret Service chief W.H. Moran, and FBI chief Hoover, Roosevelt instructed the FBI to gather general intelligence information on the activities of the Nazi movement in the United States and determine if the German embassy or consulate "may have any connection with the [group]." In their search for a jurisdictional basis for the investigation, the conferees decided that the FBI should cooperate with the Immigration Bureau, then still a part of the Labor Department, "since the only federal law that might be applicable to [the investigation] at the present time would be the Immigration law." Two days later, Hoover ordered the Bureau's field offices "to initiate an intensive investigation of activities of the Nazi group . . . [and this] should be considered as a so-called intelligence investigation."<sup>44</sup>

In a further extension of the Bureau's authority, Roosevelt asked Hoover to investigate a domestic labor crisis. Unlike the investigation of American Nazis, the President made no attempt to justify the jurisdictional basis of the inquiry. On September 1, 1934, Francis J. Gorman, vice-president of the United Textile Workers (UTW) called for a general strike against mills from Maine to Georgia. Throughout the summer mill owners had failed to bargain in good faith, refusing to raise wages, improve working conditions, or comply with section 7(a) of the National Recovery Act. By September 4, over 175,000 workers had joined the picket lines and within several days, another 200,000 persons walked off their jobs. "The general strike in the textile industry," Robert R. Brooks writes, "was unquestionably the greatest single industrial conflict in the history of American organized labor."<sup>45</sup>

In Rhode Island, where the industry employed fifty thousand workers, members of the UTW picketed every mill. Governor T.H. Green, claiming that the Communist Party had inspired the walkout, called out the National Guard to suppress the strike. The display of force "triggered violence." Rioting spread from Saylesville to Woonsocket and threatened several nearby towns. The state legislature refused Governor Green's request to ask for federal assistance to suppress the strike and, even though federal law required the legislature's approval, Green appealed to the President to dispatch federal troops.<sup>46</sup>

Upon receiving a telegram from Governor Green which maintained that the "'Communist party and the lawless element' were 'destroying cities and towns,'" Roosevelt asked the FBI to investigate the "actual conditions existing in the strike area." On September 14 Hoover reported that following initial confrontations, conditions had stabilized and that his agents had "observed nothing which could possibly justify the use of Federal troops." Although the memo accurately reported important information concerning a potentially serious crisis, Hoover inferred that the violence was politically motivated. "Numerous

Communists from New York and Connecticut have been arrested throughout the state," Hoover claimed, adding that "[c]onsiderable Communistic literature has been found in the Communist headquarters in Providence."<sup>47</sup>

The Roosevelt White House also used the FBI to screen organizations that had criticized administration policies. On December 5, 1934, Wilma Meredith, secretary to White House aide Stephen Early, phoned Hoover to solicit information about the ACLU. The ACLU's executive board had requested a meeting with the President and invited him to prepare a message outlining the administration's positions on such politically sensitive issues as the rights of labor to organize, and the proposed federal anti-lynching law, for an upcoming conference on the New Deal and civil liberties. FBI Director Hoover agreed to "prepare" a background memorandum for Early's use, but advised Meredith that "this organization does not bear a particularly good reputation . . . [and] that a message from the President might dignify an organization which should not be dignified." In the recent past, Hoover continued, the ACLU had sponsored "vigorous and vicious campaigns for what they call 'civil liberties'" and, for that reason, a statement by the President "might offend many who hold to conservatism and law enforcement." The White House apparently agreed with Hoover that Presidential recognition of the ACLU would have serious political consequences, and Roosevelt neither met with ACLU representatives to discuss civil liberties issues nor sent a message to the conference.<sup>48</sup>

By 1936, then, Roosevelt and Hoover had developed an "understanding" unique in the relationship between the President and agency heads, who normally are responsible to the relevant cabinet officers. Roosevelt knew that Hoover was not overly concerned with formality and would ignore jurisdictional problems that would have otherwise barred FBI intelligence investigations. Hoover, in turn, understood that the President, like himself, was given to "a natural affinity for the intelligence process, a gossip and voyeuristic delight in the insider's role, and a callousness to the claims alike of privacy and free expression." Thus, as his fears of "subversive activities" mounted, Roosevelt consulted with Hoover, and not his superior, Attorney General Cummings, nor Congress. During his August 1936 meeting with Roosevelt, Hoover was able to persuade him that labor militancy and domestic radicalism, not simply Nazism, constituted a serious threat to the nation's security. Following this discussion, Roosevelt officially (if secretly) rescinded the Department ban on non-criminal investigations, issuing the FBI an open-ended mandate to scrutinize political and labor activities.<sup>49</sup>

One of the most striking and disturbing characteristics of FBI political surveillance between 1924 and 1936 is the lackadaisical attitude of Congress and the Execu-

tive. In 1924, when Stone announced his reform, he took no positive steps to prevent the FBI from simply continuing political investigations under a new guise. He did not, for example, force the FBI to turn over to him documents which would have proven the political nature of many FBI investigations and that Hoover, despite his disclaimers, directed many of these illegal investigations. Congress did little better. Following its investigation of former Attorney General Daugherty and the politicization of the FBI under William Burns, Congress allowed the executive to clean its own house and did not seriously consider legislation to prevent illegal FBI surveillance. This abdication of authority would have serious consequences when, on the eve of the second World War, the FBI intensified its surveillance of lawful political activities and, on its own initiative, developed a custodial detention plan to hold "subversives" in case of an emergency.<sup>50</sup>

FBI abuses during the Cold War such as the Bureau's Counterintelligence Program (COINTELPRO), it should be noted, were more of a variation on a familiar theme than an original composition. While FBI harassment of dissidents following the second World War was much broader and more intensive than in the early 1920s, the methods employed by the Bureau (e.g., physical surveillance, the use of informers and agents provocateurs, planted stories, and cooperation with state and local "red squads") to intimidate left-wingers were essentially the same. Yet the eerie similarities between the FBI's campaign against the TUEL and other organizations in the 1920s and latter-day COINTELPRO's are not simply evidence of the Bureau's unyielding hostility to dissent; they are also dramatic manifestations of a cultural and political chauvinism deeply rooted in American history. It is unlikely that the FBI could have indulged in intensive political espionage and waged war on radicalism without public assent and official acquiescence. In this sense, Attorney General Stone's declaration was out of step with a public opinion lacking genuine tolerance of minority rights, opinion more adequately reflected by FBI Director Hoover's hysterical incantations.<sup>51</sup>

Nevertheless, Hoover felt obliged to give at least lip service to Stone's reforms. The fact that he had to repudiate the Bureau's anti-radical policies in 1924 in order to win Stone's confidence, his awareness that FBI surveillance had to be conducted secretly, and the cessation of aggressive intelligence activities all indicate that Hoover believed that many conscientious Americans were less than willing to sacrifice "due process" at the altar of national security. Even Franklin Roosevelt, at the height of his power and popularity, was reluctant to announce a unilateral resumption of FBI political surveillance. Only after Germany had shattered the fragile world peace in September 1939 did the President publicly author-

ize a limited FBI role in the investigation of "subversive activities."52

This respect for law, however transparent, does suggest how individual rights might be protected from official interference. Federal legislation alone cannot change the popular prejudices and myths nor prevent the national emergencies that give sanction to official vigilantism. Congress can, however, adopt an FBI charter which strictly prohibits political surveillance and aggressive intelligence and insures accountability through independent inspection of FBI files and its intelligence activities. Given this mandate, it is less likely that the President or his subordinates would violate the law in security's name.53

#### NOTES

1. "'They Never Stopped Watching Us': A Conversation Between Roger Baldwin and Alan F. Westin," *Civil Liberties Review* 4 (Nov./Dec. 1977): 25.
2. The Association of the Bar of the City of New York. Committee on Federal Legislation. *A Charter for the FBI* (New York: Association of the Bar of the City of New York, 1980); John Elliff, *Reform of FBI Intelligence Operations* (Princeton: Princeton University Press, 1979).
3. American Civil Liberties Union, *The Nationwide Spy System Centering in the United States Department of Justice* (New York: American Civil Liberties Union, 1924), p. 3.
4. A partial list of historians reaching this conclusion includes Frank J. Donner, *The Age of Surveillance: The Aims and Methods of America's Political Intelligence System* (New York: Knopf: distrib. by Random House, 1980); Athan Theoharis, *Spying on Americans: From Hoover to the Huston Plan* (Philadelphia: Temple University Press, 1978); David Wise, *The American Police State* (New York: Random House, 1976); Morton Halperin, et al., *The Lawless State* (New York: Penguin Books, 1976); Sanford Ungar, *FBI* (Boston: Little, Brown, 1976); Fred J. Cook, *The FBI Nobody Knows* (London: Macmillan, 1964); William Preston, Jr., *Aliens and Dissenters: Federal Suppression of Radicals, 1903-1933* (Cambridge: Harvard University Press, 1963); Donald Johnson, *The Challenge to American Freedoms: World War I and the Rise of the American Civil Liberties Union* (Lexington: University of Kentucky Press, 1963); Paul L. Murphy, *The Meaning of Freedom of Speech: First Amendment Freedoms From Wilson to FDR* (Westport, Conn.: Greenwood, 1972); Don Whitehead, *The FBI Story: A Report to the American People* (New York: Random House, 1956); Max Lowenthal, *The Federal Bureau of Investigation* (New York: Sloane, 1950). Several authors have noted in their footnotes that the FBI investigated political activities between 1924 and 1936, but none offers a sustained analysis of these investigations. See especially, Theoharis, *Spying on Americans*, pp. 255-256; Preston, *Aliens and Dissenters*, p. 336; Jerold Auerbach, *Labor and Liberty: The LaPollette Committee and the New Deal* (Indianapolis: Bobbs-Merrill Co., 1966), p. 30. Senate Select Committee to Study Governmental Operations With Respect to Intelligence Activities, Final Report, *Intelligence Activities and the Rights of Americans*, Book II, 94th Cong., 2d sess. (1976), and Final Report, *Supplementary and Detailed Staff Reports on Intelligence Activities and the Rights of Americans*, Book III, 94th Cong., 2d sess. (1976). Freedom of Information Act, 5 U.S.C. 552. Because of the pressing fees involved in my more extensive FOIA request, this essay will be based on FBI files released by the Bureau prior to May 1981. A fee waiver request and appeals are pending, and if granted, files compiled on more than twenty organizations and thirty-six individuals will be forthcoming. Files on the following organizations have been released as a result of my own and others' FOIA requests: Workers' Ex-Servicemens League, Trade Union Educational League (re-named the Trade Union Unity League in the late 1920s), United Mine Workers, United Textile Workers, Unemployed Citizens Council, American Civil Liberties Union, and the Sacco-Vanzetti Defense Committee. FBI files on the ACLU are located at the ACLU's New York offices and can be seen upon request. The files on the Sacco-Vanzetti Defense Committee are in the possession of the Boston Public Library and also can be seen upon request. The remainder are in the author's possession.
5. Senate Select Committee on the Investigation of the Attorney General,



Hearings, 68th Cong., 1st sess. (1924), pp. 3251-3263.

6. Hoover to Stone, 7/31/24, FBI files, ACLU. The ACLU, Hoover claimed, was "consistently and continually advocating . . . the attempt on the part of the communistic element to paralyze labor unions." The ACLU's existence, Hoover continued, "depends largely upon its continued agitation and the fostering of the confusion in a defense of the terms 'liberty' and 'license.'" Hoover to Stone, 7/31/24, FBI files, ACLU. Recent research demonstrates that contrary to Hoover's denials in the 7/31/24 memorandum, the FBI regularly eavesdropped, wiretapped, broke into houses, meeting halls, and offices to gather evidence, hired informers who became agents provocateurs, and spied on a wide variety of lawful political activities. See especially, David Williams, "'Sowing the Wind': The Deportation Raids of 1920 in New Hampshire," *Historical New Hampshire* 34 (Spring 1979): 13-18; "'They Never Stopped Watching Us': A Conversation Between Roger Baldwin and Alan Westin," *Civil Liberties Review*, p. 20; Donald Johnson, *Challenge to American Freedoms*, pp. 75-78. Also see, National Popular Government League, *To the American People: Report Upon the Illegal Practices of the United States Justice Department* (Washington, D.C.: National Popular Government League, 1920), pp. 29-30.

7. Hoover to Stone, 7/31/24, FBI files, ACLU.

8. Athan Theoharis, in *Spying on Americans*, raises the possibility that Cold War Presidents might have given similar verbal authorization to the FBI to initiate custodial detention programs; see pp. 40-64. There is at least one example, however, of Hoover attempting to persuade an Attorney General that there was something insidious about an organization like the ACLU. On September 9, 1924, Hoover sent Stone a copy of a letter written by ACLU Director Roger Baldwin to Clinton Taft of the California ACLU which outlined the organization's official policy on defending the right of communists to free speech and association. The letter was stolen sometime in August 1924 by one of the Bureau's undercover agents still operating within the group. Hoover told Stone that the letter indicates "very clearly what the views of the American Civil Liberties Union are with regard to the right of freedom of speech and freedom of press." There is no indication in the departmental records that Stone ever read the memo, or if he did, what he replied. Hoover to Stone, 9/9/24, Justice Department file 202600-823, Record Group 60, National Archives, Washington, D.C.

9. William Preston, *Aliens and Dissenters*, pp. 241-243; Senate Select Committee, *Supplementary and Detailed Staff Reports on Intelligence Activities and the Rights of Americans*, p. 389.

10. Senate Select Committee, *Hearings*, p. 553. Little is known about Hoover's relationship with Attorneys General Sargent and Mitchell. Nothing in the record, however, suggests that Hoover ever broached the subject of political surveillance with either man.

11. Hopkins to Hoover, 8/23/24, FBI files, ACLU.

12. Hopkins to Hoover, 9/26/24, FBI files, ACLU.

13. Hopkins to Hoover, 9/26/24; Hopkins to Hoover, 10/3/24; Bledsoe to Taft, 10/9/24; FBI files, ACLU.

14. Hopkins to Hoover, 3/28/25; "American Civil Liberties Union. Southern California Branch. Activities. L.A., California. Jan./Feb./March 1925"; FBI files, ACLU. "This case," Hopkins reported, "is being closed for the reason that no special investigations of the activities in questions are being made . . . Case will be re-opened in the event anything of importance develops." The San Francisco, Chicago, New York, New Haven, and Pittsburgh field offices also maintained close ties with local "red squads" throughout the period. See Sacco-Vanzetti Defense Committee, FBI files, Boston Public Library; WESL FBI files, author's possession.

15. McKean to Hoover, 2/27/29, FBI files, ACLU.

16. Schenken to Hoover, 3/19/31, FBI files, ACLU.

17. United States Department of Justice, *Annual Report of the Attorney General, 1920* (Washington, D.C.: U.S. Government Printing Office, 1921), pp. 172-179 and *Annual Report of the Attorney General, 1921* (Washington, D.C.: U.S. Government Printing Office, 1922), pp. 128-131; Skully to Hoover, 8/15/21, FBI file BS 202600-33-302, FBI Investigative Files, 1908-1922, National Archives, Washington, D.C.; Dodge to Walsh, 2/2/27; GID Bulletin, 6/25/21, Box 278, Thomas Walsh Papers, Library of Congress, Washington, D.C.

18. Haas Report, 5/31/25, FBI files, ACLU.

19. See Alpheus Mason, *Harlan Fiske Stone: Pillar of the Law* (New York: Viking, 1956), pp. 255-260, 550-555. Irving Bernstein, *The Turbulent Years: A History of the American Worker, 1933-1941* (Boston: Houghton-Mifflin, 1970), pp. 635-681; Williams, "'Sowing the Wind,'" p. 17. Under the direction of GID chief Hoover, the FBI infiltrated every major labor organization from 1919-1924. See General Index, FBI Investigative Files, 1908-1922, National Archives, Washington, D.C. See also, J. Edgar Hoover, *Masters of Deceit* (New York: Holt, 1958), pp. 67-71. In 1927 FBI agent John Haas labeled an investigation of the TUEL under the caption "Treason."

20. William Z. Foster, *History of the Communist Party of the United States* (New York: International Publishers, 1952), pp. 196-210; Daniel Bell, *Marxian Socialism in the United States* (Princeton: Princeton University Press, 1967),



- pp. 341-345; Irving Howe and Lewis Coser, *The American Communist Party* (New York: Praeger, 1962), pp. 236-239; "Attorney General Palmer on Charges Made against the Justice Department by Louis F. Post and Others," House Rules Committee, *Hearings*, 66th Cong., 2d sess. (1920), p. 154.
21. Michael Belknap, "The Mechanics of Repression: J. Edgar Hoover, the Bureau of Investigation and the Radicals, 1917-1925," *Crime and Social Justice* 7 (Spring/Summer 1977): 52-53; Morton to Hoover, 9/5/22, FBI files, TUEL, author's possession.
22. Peyronnin to Hoover, 2/18/27; Haas to Hoover, 1/30/28; FBI files, TUEL.
23. Paul Murphy, *World War I and the Origins of Civil Liberties in the United States* (New York: Norton, 1979), pp. 71-132; Thomas Lawrence, "Eclipse of Liberty: Civil Liberties in the U.S. During the First World War," *Wayne Law Review* 21 (1974): 33-112; H.C. Peterson and Gilbert Pite, *Opponents of the War: The Story of the Persecution of Anti-War Groups* (Madison: University of Wisconsin Press, 1957); FBI Investigative Files, 1908-1922, National Archives, Washington, D.C.
24. G. Louis Joughin and Edmund M. Morgan, *The Legacy of Sacco and Vanzetti* (Princeton: Princeton University Press, 1978), pp. 254-255; Haas Report, 4/20/27, 7/11/27, FBI files, Sacco-Vanzetti Defense Committee.
25. Hoover to SAC's, 8/6/27; Hoover to Sargent, 10/10/27, FBI files, Sacco-Vanzetti Defense Committee.
26. Wine to Hoover, 8/15/27; Connolly to Hoover, 8/11/27; DeNett to Hoover, 8/23/27; Dickerson to Hoover, 8/15/27; FBI files, Sacco-Vanzetti Defense Committee.
27. Irving Bernstein, *The Lean Years: A History of the American Worker, 1920-1933* (Boston: Houghton-Mifflin, 1970), pp. 415-455; Arthur Schlesinger, Jr., *Crisis of the Old Order, 1919-1933* (Boston: Houghton-Mifflin, 1957), pp. 166-176, 248-269.
28. McKean to Hoover, 5/28/30; Weiss to Gwynne, undated; FBI files, WESL, author's possession.
29. Hoover to Kelley, 1/20/31, FBI files, WESL.
30. Sanford Ungar, FBI, p. 59; Donald J. Lisio, *The President and Protest: Hoover, Conspiracy and the Bonus Riot* (Columbia: University of Missouri, 1974), pp. 229-230, 245-247.
31. Fay to Hoover, 7/2/33; Appell to Hoover, 7/31/33; McSwain to Hoover, 8/1/32; Nalls to Hoover, 8/8/32; Quinn to Hoover, 8/1/32, 11/23/32; Dunn to Hoover, 8/8/32, 8/31/32; Connolly to Hoover, 8/1/32, FBI files, WESL.
32. Ladd to Hoover, 11/23/32; *New York Times*, 12/7/32, p. 3; 12/5/32, p. 1; Hoover to Howe, 8/2/34; Reinecke to Hoover, 5/3/33; Dowd to Hoover, 5/9/34; Little to Nathan, 5/9/34; Fay to Hoover, 5/9/34, FBI files, WESL; *New York Times*, 5/4/34, p. 10; 5/12/34, p. 2; 5/19/34, p. 14.
33. United States Department of Justice, *Annual Report of the Attorney General, 1920* (Washington, D.C.: U.S. Government Printing Office, 1921), pp. 178-179, and *Annual Report of the Attorney General, 1921* (Washington, D.C.: U.S. Government Printing Office, 1922), pp. 130-131; Donner, *Age of Surveillance*, pp. 17-20. See also, David Caute, *The Great Fear* (New York: Simon & Schuster, 1978), p. 115; Joan Jensen, *Price of Vigilance* (Chicago: Rand McNally, 1969), pp. 14-16.
34. Hoover to Stone, 7/21/24, ACLU files; Senate Select Committee, *Supplementary and Detailed Staff Reports on Intelligence Activities and the Rights of Americans*, pp. 389-390.
35. Hoover to Kelley, 10/5/27, 11/22/27, FBI files, TUEL, author's possession.
36. Kelley to Hoover, 10/4/29, 1/12/32, FBI files, TUEL.
37. Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities, *Hearings*, FBI, VI, 94th Cong., 1st sess. (1976), pp. 555-557; Donner, *Age of Surveillance*, pp. 47-51.
38. "Attorney General A. Mitchell Palmer on Charges Made against the Justice Department by Louis F. Post and Others," House Rules Committee, *Hearings*, 66th Cong., 2d sess. (1920), p. 154; Donner, *Age of Surveillance*, p. 154. "[P]olitical surveillance," Donner writes, "is a continuous process of people-watching conducted in many cases for years, in order to develop information for use at some time in the future . . . [and] information derived from clandestine sources is assumed to be intrinsically valuable--else why go after it." *Ibid.*, pp. 24-25. The FBI's custodial detention plan is discussed in considerable detail by Athan Theoharis in *Spying on Americans*, pp. 40-64; Athan Theoharis, "The Truman Administration and the Decline of Civil Liberties: The FBI's Success in Securing Authorization for a Preventive Detention Program," *Journal of American History* 64 (Spring 1978): 1010-1030; Robert Goldstein, "The FBI's Forty-Year Plot," *The Nation* 227 (July 1, 1978): 10-15. Seattle field office to Washington, 7/8/43, FBI files, UCC, author's possession. The name of the individual was withheld by the FBI under section b(7)c, Freedom of Information Act, 5 U.S.C. 552.
39. Kage to Hoover, 9/18/26; Hoover to McKean, 2/25/26, FBI files, TUEL.
40. Dodge to Walsh, 2/2/27; Brennan to Dodge, 11/22/20; Walsh to Baker, 2/9/26; Walsh to Messervy, 3/5/26; Walsh to Durborow, 3/25/26, box 278, Walsh

MSS, Library of Congress, Washington, D.C. In early 1933 President-elect Roosevelt nominated Walsh to head the Justice Department. Since Walsh's contempt for Hoover and the FBI was no secret, it appeared that Hoover's days at the Bureau were numbered. On March 2, 1933, however, Walsh died en route to the inauguration and Hoover survived the scare. *Philadelphia Inquirer*, 3/3/33; FBI file 62-28331, author's possession.

41. Bayliss to Hoover, 9/5/28; FBI files, UMW, author's possession; Haas to Hoover, 9/5/28; Fagan to Tamm, 1/15/35, FBI files, TUEL, author's possession.

42. Bush to Attorney General, 8/21/29; Luhring to Hoover, 8/26/29; Hoover to Luhring, 8/26/29, FBI files, TUEL, author's possession; Hoover to Dodds, 12/19/31, FBI files, WESL, author's possession. In an October 1975 analysis of FBI jurisdiction over domestic security investigations, the Bureau cited one of Hoover's denials as evidence that the FBI "followed [Stone's] policy from its inception." On October 7, 1925, Hoover told Colonel James H. Reeves, General Staff, War Department, that "general investigations into radical activities by our various field offices were discontinued some time ago by reason of certain changes in policy, program procedure, etc." Senate Select Committee to Study Governmental Operations with Respect to Intelligence Operations, *Hearings*, FBI, VI, p. 554.

43. Samuel Walker, *Popular Justice: A History of American Criminal Justice* (New York: Oxford University Press, 1980), pp. 184-185; Ungar, *FBI*, pp. 76-77; Arthur Millspaugh, *Crime Control by the National Government* (Washington, D.C.: The Brookings Institute, 1937), pp. 48-53. See generally Irving Bernstein, *The Lean Years*. Roosevelt, it should be noted, had never been a supporter of the rights of dissidents. In 1920, while campaigning for the Vice-Presidency, he claimed that the 1919 takeover of the IWW headquarters by a mob led by members of the American Legion was "a form of red-blooded patriotism." Donner, *Age of Surveillance*, p. 54.

44. Senate Select Committee to Study Governmental Operations with Respect to Intelligence Operations, *Hearings*, FBI, VI, pp. 559-560. Richard W. Steele, "Franklin D. Roosevelt and His Foreign Policy Critics," *Political Science Quarterly* 94 (Spring 1979): 15-32.

45. Quoted in Bernstein, *Turbulent Years*, p. 309.

46. Bernstein, *Turbulent Years*, pp. 310-312.

47. Hoover to Stephens, 9/14/34; Hoover to Cummings, 9/14/34; McKean to Hoover, 9/14/34, FBI files, UTW, author's possession. In *Turbulent Years*, Bernstein concludes that "the Communists had nothing to do with the strike. Communist headquarters in nearby New Bedford was shut down and the party's 'flame,' Ann Burlak, was driven out of Fall River." *Turbulent Years*, p. 312.

48. Hoover to Tamm, 12/5/34; Hoover to Early, 12/5/34. The report the FBI provided the White House was prepared by special agent C.G. Schenken in March 1931. See note 15, above. Wilma Meredith memorandum, 12/5/34, quoted in Auerbach, *Labor and Liberty*, p. 30; ACLU, *Liberty under the New Deal: The Record for 1933-1934* (New York: American Civil Liberties Union, 1934), p. 3; Jonathan Mitchell, "Civil Liberties Under Roosevelt," *The New Republic* 83 (Dec. 26, 1934): 188-189.

49. Donner, *Age of Surveillance*, pp. 54, 56-59; Theoharis, *Spying on Americans*, pp. 73-77.

50. See David Williams, "The Bureau of Investigation and Its Critics, 1919-1921: The Origins of Federal Political Surveillance," *Journal of American History*, forthcoming, December 1981. Theoharis, *Spying on Americans*, pp. 40-64.

51. See Theoharis, *Spying on Americans*, pp. 229-244, for an explanation of the effects of the Cold War on FBI internal security policies. Also see, William Preston, Jr., *Aliens and Dissenters: Federal Suppression of Radicals, 1903-1933* (Cambridge: Harvard University Press, 1963); and John Higham, *Strangers in the Land: Patterns of American Nativism, 1880-1925* (New Brunswick, N.J.: Rutgers University Press, 1955).

52. Theoharis, *Spying on Americans*, pp. 73-77; Donner, *Age of Surveillance*, pp. 56-59.

53. See generally, Elliff, *Reform of FBI Intelligence Operations*, and Association of the Bar of the City of New York, *A Charter for the FBI*.