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Immigration and Internal Security: Political Deportations During the McCarthy Era

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ABSTRACT: Immigrants have often been targets of political repression in the United States. The McCarthy period was no exception. During the late 1940s and early 1950s thousands of aliens and naturalized citizens were threatened with deportation and otherwise punished because of their left-wing connections (or, in many cases, former connections). Immigrant leftists provided the federal government with popular and relatively noncontroversial opportunities for action against domestic communism during the Cold War era. But bureaucratic disputes among government agencies and prolonged litigation carried out by immigrant defense groups diminished the efficacy of such repression. Despite a lack of formal constitutional protection, many political undesirables managed to avoid deportation, but at the considerable personal and political costs of damaged lives and destroyed organizations.

> "Security is like liberty in that many are the crimes committed in its name." — Justice Robert Jackson, dissent in *U.S. ex rel. Knauff v. Shaughnessy* (1950)

THE HISTORY OF AMERICAN REPRESSION is strewn with the bodies of the foreign-born. Like a reflex, at moments of political stress, the demand arises for the expulsion of political undesirables and no one seems easier to send back to Moscow than someone who was born there. The McCarthy period was no exception. The federal government sought to deport thousands of

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foreign-born Americans, who were, it was claimed, a danger to the nation's security. The government was aided in this mission by the fact that aliens facing deportation had many fewer rights than ordinary citizens. A 1893 Supreme Court decision, *Fong Yue Ting v. United States*, 149 U. S. 689 (1893), ruled that the federal government had an "absolute" right to deport aliens and did not have to grant them the procedural guarantees required by the Constitution because deportation was an administrative not a criminal proceeding.[1] Though the anti-Asian prejudices that prompted *Fong Yue Ting* receded after World War II, the decision remained on the books. The almost unlimited discretion that it bestowed upon federal officials tempted them to use immigration proceedings to punish political radicals whom they could reach in no other way.

In addition, of course, aliens have always attracted suspicion. Xenophobia has a long, if not honorable, history.[2] From the Alien and Sedition Acts of the 1790s to the anti-terrorism campaigns of today, the supposed connections between foreigners and dangerous politics created a traditionally American pattern of repression that often begins with attacks on the foreign-born and then spreads to ordinary citizens. Because of the ambivalence about immigrants, they have fewer rights than other Americans. Because they have fewer rights, they are more inviting targets for repression. As a result, aliens have often been the first victims of political repression. They serve as canaries in a coal mine; increased pressures on foreign-born Americans are a good sign that further repression may follow.

During the early 20th century, when both xenophobia and anti-radicalism flourished, the federal government relied heavily on anti-alien measures to suppress the left. The red scare and Palmer raids of 1919–20 are well known. Thousands of people were rounded up during the middle of the night, marched through the streets in chains, and held incommunicado for days. Some 850 non-citizens were ultimately shipped back to Europe, including such notorious characters as Emma Goldman and Alexander Berkman. William Preston's definitive *Aliens and Dissenters* (1963)[3] charts the intensification of the federal government's repression and shows how it

1 For discussion of the import of the *Fong Yue Ting* case see Konvitz, 1953, 96–98; Legomsky, 1987, 179–196.

2 The classic study of the history of American xenophobia is Higham, 1955.

3 In addition to Preston, 1963, 1994, see also Murray, 1955, and Ray, 1995.

progressed from anti-alien measures to anti-radical ones. Preston's work ends when the New Deal begins, but the special relationship he reveals between the foreign-born and political repression, though relatively unstudied by historians, continues to the present day.[4]

Actually, although the pressure to expel foreign-born leftists diminished after the 1920s, it never entirely went away. Conservative politicians, in Congress and elsewhere, continued to call for the exclusion and deportation of foreign-born dissenters, now increasingly identified as members of the Communist Party. Martin Dies was only the most persistent member of Congress who tried to obtain legislation that would specifically target Communist aliens. Dies' proposals had some success in the House, but languished in the Senate. By 1940, however, in the feverish atmosphere that accompanied the Nazi–Soviet pact and the outbreak of World War II in Europe, the measures sped through Congress. Incorporated into the Alien Registration Act of 1940, which also contained the anti-sedition legislation known as the Smith Act, were provisions that expanded the grounds for deportation to include teaching, advocating, or joining an organization that taught or advocated the "overthrow by force and violence of the Government of the United States." Though not specifically citing the Communist Party, this language aimed at making membership in the Party grounds for deportation (Hutchinson, 1981, 251–256; Belknap, 1977, 21–27).

President Roosevelt did not want to encourage another wave of unthinking xenophobia, but he was hardly solicitous about foreign-born radicals and he was under pressure from Congress. The 1940 transfer of the Immigration and Naturalization Service from the supposedly "soft" Labor Department to the presumably tougher Justice Department was an early indication of the administration's willingness to placate the increasing demands for a crackdown on foreign-born reds. More than public relations was involved here. In his reluctant authorization for J. Edgar Hoover to wiretap potential

4 Most of the scholarship on immigration focuses on the social and economic rather than the political aspects of immigration policy and looks primarily at national origins and assimilation. There are a few general studies of immigration policy, but even these are narrow: Hutchinson, 1981, fails to place immigration laws within any broader political context and Bennett, 1963, is marred by a restrictionist bias. With regard to political deportations after the 1920 red scare, the only general surveys are Caute, 1978, which has a sketchy chapter on the issue, and Smith, 1959, which is essentially the official history of the American Committee for Protection of the Foreign Born.

subversives in 1940, Roosevelt warned Hoover "to limit these investigations so conducted to a minimum and to limit them insofar as possible to aliens" (Kutler, 1982, 134; Roosevelt, 1940). Wartime relaxations of civil liberties further encouraged FDR to enlarge the government's power over the immigration process by issuing a proclamation enabling the Attorney General, with the approval of the Secretary of State, to exclude undesirable aliens without a hearing on the grounds that revealing the charges against them might be prejudicial to national security (Konvitz, 1953, 144–145).

The Roosevelt administration's most notorious use of immigration sanctions against a radical was its attempt to denaturalize and deport the West Coast Longshoremen's Union leader Harry Bridges (Kutler, 1982, 118ff). Bridges' nearly 20-year struggle to remain in the United States is well known, but his was by no means the only such case. The government took similar action against other left-wing labor leaders. In December 1942, for example, the Roosevelt administration initiated denaturalization proceedings against Stanley Nowak of Detroit, a United Automobile Workers organizer active in the Polish community. Since Nowak was also a Michigan State Senator, his case aroused considerable opposition and was dropped fairly soon (Zurbrick, 1940; Winnings, 1948; International Labor Defense, 1943; Lamb, 1942; ACPFB, Minutes, 1948). Nonetheless, it is clear that had the American alliance with the Soviet Union during the Second World War not inaugurated a domestic political truce, the government might well have begun its intensive deportation campaign against the U. S. left much earlier.

Cold War Deportations

Once the war ended, that campaign began. The deterioration of the relationship with the Soviet Union increased pressures for action against American communism. The federal government responded by launching a tenacious, if not totally successful, drive to rid the United States of all foreign-born Communists and sympathizers. The slackening of immigration after the 1920s meant that deportations would not be quite as central to the government's anti-radical activities as they had been in earlier red scares. Nonetheless, immigration proceedings were a popular and convenient weapon. A systematic look at the as-yet-unstudied anti-alien elements of the

anticommunist furor of the late 1940s and 1950s should show us how the traditional relationship between anti-foreign and anti-radical measures contributed to the anti-communist political repression that scholars often refer to as McCarthyism (on questions of terminology, see Schrecker, 1988, 197; Schrecker, 1994, 2). It should also help us understand how that repression worked.

Recent scholarship on McCarthyism has revealed it as a complicated phenomenon, the product of the interaction among many official and unofficial organizations and individuals, all dedicated to the general goal of eliminating communism as an influence in American life. The work of Michael Paul Rogin, Robert Griffith, Earl Latham, Richard Freeland, Athan Theoharis, Don Carleton, Ellen Schrecker, and Kenneth O'Reilly among others has destroyed the original view of McCarthyism as a kind of populist aberration and located it much more firmly as an essentially elite phenomenon that operated within traditional partisan politics. While not discounting the popularity of McCarthy and McCarthyism within certain constituencies, these scholars found that the impetus for much of what went on came from within established centers of power and was sustained by the willingness of reputable leaders throughout the public and private sectors to participate in the anticommunist campaign.[5]

The federal government emerges as the key player here, for the campaign first took shape in Washington, D. C. Recently released records from the Federal Bureau of Investigation (FBI) under the Freedom of Information Act (FOIA) have highlighted the central

5 Some of the early scholarship on McCarthyism — especially the monographs produced under Rockefeller Foundation and Fund for the Republic auspices like Bontecou, 1953, Gellhorn, ed., 1952, and Stouffer, 1955 — is still useful. However, the most influential interpretation of that period, the essays by Richard Hofstadter and others in Bell, 1955, had little empirical base, as the key study by Rogin, 1967, was to show. Other studies in the late 1960s and early 1970s which reinforced the view that McCarthyism was primarily the product of regular partisan politics were: Latham, 1966; Harper, 1969; Griffith, 1970; Freeland, 1971; Theoharis, 1971; Fried, 1976.

A new wave of scholarship in the late 1970s and 1980s focused on the impact of McCarthyism on the private sector and on the different groups that collaborated with or were affected by it. Among the more important of these studies are: Caute, 1978; Griffith and Theoharis, eds., 1974; McAuliffe, 1978; Ceplair and Englund, 1979; Levenstein, 1981; Cochran, 1977; Carleton, 1985; Schrecker, 1986.

With the broadening of the Freedom of Information Act in the 1970s, the government again became the subject of inquiry. Here the focus was primarily on the FBI, with the most important work being that of Athan Theoharis, his students and collaborators: Theoharis, 1981, 1982, 1988; O'Reilly, 1983. See also Kutler, 1982; Powers, 1987. There is also a growing literature on individual cases as well as some important work on the Communist Party during this period, not to mention dozens of memoirs and biographies.

role that J. Edgar Hoover played in the government's internal security program. Yet Hoover, though arguably the most important, was not the only player in the anticommunist game; all three branches of the government were involved. And it was the interactions among them — and later between official agencies and private employers — that made the political repression of the McCarthy era as effective as it was (Schrecker, 1994, Part I). Though the drive to denaturalize and deport foreign-born Communists was only one element in this broader campaign to eliminate communist influence, because it was an early and relatively uncontroversial aspect of that campaign, studying it offers an excellent way to observe the patterns of repression that shaped the federal government's contribution to McCarthyism.

From the start, there was remarkably little debate about the advisability of deporting foreign-born radicals. Since even the American Civil Liberties Union (ACLU) believed that "membership in the Communist Party justifies deportation," it is easy to understand why such a policy became a standard element of the internal security programs of both the Truman and Eisenhower administrations (Soll, 1950b). In 1948, for example, when the newly formed National Security Council (NSC) turned its attention to the problem of domestic communism, it stressed the importance of anti-alien measures. In its main report on the subject, NSC-17, a document written by J. Patrick Coyne, a former FBI agent who was to become the NSC's main adviser on internal security affairs, the NSC discussed the "noteworthy acceleration in the program of initiating deportation proceedings against aliens affiliated with subversive entities" and recommended that the program "be additionally expedited and implemented."[6]

Within the Justice Department, there was considerable enthusiasm for the vigorous employment of deportations and denaturalizations. Such measures, Alexander M. Campbell — a midwestern U. S. Attorney soon to become Assistant Attorney General — noted in August 1947, would be "a great implement to the now well-established Truman Doctrine" (Campbell, 1947). Throughout the late 1940s and

6 NSC-17, 1948. The significance of this document, both as a reflection of official thinking about the problem of internal security and of the influence of Hoover's FBI over the formulation of Truman administration policy in that area, needs further study. It may well be that the key to understanding the oft-repeated but meagerly documented relationship between McCarthyism and foreign policy lies in exploration of the relationship between foreign and domestic security policies.

1950s, Attorneys General routinely boasted of the numbers of deportations and denaturalizations they were planning to effect (Department of Justice, 1952, 1954; Brownell, 1956). Besides being popular, sending the "commies" back to Moscow would be efficacious as well. In 1947 Attorney General Tom Clark conducted a survey of the Party's 5,000 top leaders and discovered, so he claimed, that 91.4% of them were "either foreign stock or were married to persons of foreign stock" (Konvitz, 1953, 155; Bennett, 1963, 128). Thus, deportation, far from being a token gesture, might well eradicate the cancer that seemed to be threatening the nation's security. And, as early as 1950, the FBI was already claiming a "steady and substantial decline" in the membership of the Communist Party due to "the vigorous action which the Administration has taken in prosecuting Communist subversives and Party leaders, and in deporting alien communists" (Spingarn, 1950c).

The Immigration and Naturalization Service (INS), which oversaw the enforcement of the nation's immigration laws, rose to the occasion. "The internal security and enforcement programs have taken precedence over all other programs," the INS noted in its 1952 annual report. "Investigators, border patrolmen, immigrant inspectors, and security officers used every means at their command to ferret out, apprehend, and deport subversive aliens in the United States, or to exclude from the United States any such aliens seeking entry" (Eckerson, 1953, 34). In these efforts, the INS worked closely with the FBI. Though Hoover believed that the INS was cursed with "poor leadership, poor morale, and poor personnel," the Bureau, nonetheless, assigned a liaison officer to the INS and routinely sent over investigative reports on foreign-born radicals (Rosenfield, 1952; Hoover, 1952; FBI, 1948; Swing, 1967, 62, 64). The two organizations conducted joint investigations and operations, and, on at least one occasion, the FBI apparently made use of the INS' immunity from constitutional restraints to enter and search the home of a suspected Soviet spy without a warrant (Swing, 1967, 62).

Though major policy decisions about deportations were made in the higher echelons of the Justice Department, the arbitrary manner in which the INS enforced those decisions certainly contributed to the punitive nature of the anticommunist deportation drive. The bureaucratic subculture of the INS was important here. Many INS officials got their start in the Border Patrol and the bulk of their

duties traditionally consisted of deporting Mexicans and rounding up foreign seamen who jumped ship. The INS hearing officers who both investigated and judged most deportation cases had little if any legal training. In addition, they shared the Service's traditional distrust of its immigrant clientele, sometimes going beyond their ostensible instructions to behave in a far more repressive manner than their superiors in Washington had intended. A particularly striking example of INS insubordination occurred in 1954 when a Taiwanese gunboat captured a Polish freighter off the coast of mainland China. Several of the Polish seamen defected. But the INS refused to grant visas to them, even though the Justice Department had specifically agreed to waive immigration restrictions so that the Eisenhower administration could bring the freedom-loving Poles to the UN in New York to counter Soviet bloc charges of piracy against the Chiang Kai-shek regime (Garcia, 1980, 109–121; Swing, 1967, 4–15, 29; Jackson, 1954).

Ideologically as well as procedurally, the INS took a hard line. Though the politics of lower-level Service officials can only be guessed at, its leaders were dedicated anti-communists who had little tolerance for dissent. Watson Miller, the INS Commissioner during the late 1940s, was an important figure in the American Legion, perhaps the most active organizational advocate of political restrictions on immigration. In 1947, the INS refused to issue an unrestricted visa to Michael Scott, a white South African clergyman who was planning a series of lectures about the racial situation in his country. In response to an ACLU protest, Commissioner Miller explained that, though he could support Scott's position in the abstract, he feared that his lecture tour might be "disruptive" and he did not want to admit anyone "who might cause trouble, or arouse public debate or excitement" (Hutchinson, 1981, 217; Vaughn, 1950; Foster, 1947). Miller's successor, Argyle R. Mackey, a career INS official with close ties to the Byrd machine in Virginia, had similar views, as did the next Commissioner, Joseph Swing, a former general and West Point classmate of Eisenhower (Anderson, 1950; V[aughn], n.d.). Civil liberties, in other words, was hardly a major concern for the Immigration and Naturalization Service. On the contrary, INS bureaucrats at every level enforced restrictive policies toward subversive aliens in a way that would create precedents for the broadest application of the INS' power.

INS Procedures and Immigrants' Rights

Within a year after the end of World War II, the INS had begun to round up foreign-born radicals for deportation. By February 1947, the Justice Department had already initiated deportation proceedings against more than 100 people (ACPFB, 1947). Stimulated by J. Edgar Hoover's desire for some kind of action, the INS had moved first against left-wing labor leaders and then against Communist Party officials (Steinberg, 1984, 47, 89–95; Freeland, 1974, 216–219; Nowack, n.d., 1947). Many of these same people were soon to be prosecuted under the Smith Act, hauled before congressional committees, dismissed from their jobs, or harassed in other ways.[7] Immigration proceedings were an early, but important, feature of this multifaceted campaign. Many of its other elements did not take their final form for several years, since they first had to be tested in the courts and be accepted by the public. Deportations, because they were immune from most constitutional restraints, offered a convenient way to attack individual Communists while the other mechanisms of repression were being developed.

Despite the lack of constitutional protections surrounding immigration proceedings, the men and women involved were not completely defenseless. They did have a few rights; deportation was not an automatic process. First, there were formal hearings before an INS examiner. Then, there were several layers of appeals within the INS, culminating with the Board of Immigration Appeals and the Attorney General. Once the people facing deportation exhausted

7 Because so many of the leading members of the Communist Party's hierarchy were first-generation Jewish immigrants from Eastern Europe, dozens of Smith Act defendants or, in some cases, their wives, had to face deportation proceedings. Three of the Dennis case defendants, Irving Potash, Jack Stachel and John Williamson, faced deportation and Potash and Williamson were actually deported. Among the other Smith Act defendants or their wives also facing deportation were William Albertson, William Allan, Isidore Begun, Alexander Bittelman, Frank Carlson, George Charney, Rose Chernin, Ernest Fox, Betty Gannett, Sophie Gerson, V. J. Jerome, Claudia Jones, Anthony Krchmarek, Jacob Mindel, Al Richmond, William Schneiderman, Antonia Sentner, Frank Spector, Sidney Steinberg, Alexander Trachtenberg, Louis Weinstock, William Weinstone, Peggy Wellman. For a list of INS and Justice Department actions against most of these people, see the McGranery papers, Library of Congress, Box 85.

Steve Nelson, the former political commissar of the Abraham Lincoln brigade and a Party leader in Pittsburgh at the time of his deportation case, may well have accumulated the McCarthy era's biggest collection of indictments which included the Smith Act, contempt of Congress, and sedition under a Pennsylvania statute as well as deportation. See Nelson, 1981, 305–379.

these administrative remedies, they could go to court. In addition, since the INS often incarcerated people without bail, they could apply for writs of habeas corpus. As a result, the record of political deportations during the 1940s and 50s is dense with litigation.

Although the federal judiciary usually supported the INS, even in cases that seem in retrospect to have been blatant violations of human rights, it turned out that most of the Communists and other radicals targeted for expulsion in the 1940s and 1950s were never deported. They were saved by an INS regulation that did not allow it to send undesirable aliens back to their home countries if those countries refused to accept them. Many of the prospective deportees were Jews from Eastern Europe; and neither the Soviet Union nor the other Eastern Bloc countries would agree to take them back. As a result, most of the people actually deported were natives of countries friendly to the United States like Great Britain and Canada (Bennett, 1963, 126; ACPFB, Minutes, 1949).

In many respects, the threat of deportation, with the prospect of years of litigation and uncertainty, was probably as damaging to the psyches and livelihoods of the individuals involved as deportation itself would have been. Even worse was the Justice Department's practice of detaining foreign-born radicals without bail on Ellis Island or its West Coast counterparts for months and even years at a time. The Department admitted that it was punishing people without a trial. However, because *Fong Yue Ting* still held, the INS felt justified in denying the aliens it wanted to deport the constitutional protections of due process and reasonable bail. Moreover, leading officials in the Justice Department believed that the alien radicals involved were at least guilty of breaking the immigration laws and should, in any event, remain in custody for security reasons (Ford, 1948).

The indefinite detention of people under deportation orders was such a powerful weapon in the anticommunist arsenal that the Justice Department fought hard to keep it intact and even strengthen it. Besides refusing to release its prisoners on bail, the Justice Department went even further and claimed that the INS was exempt from the Administrative Procedures Act of 1946. That measure, designed to regularize the government's administrative practices, spelled out the minimal provisions for administrative due process with which all federal officials were expected to comply — essentially, hearings on formal charges and the production of some kind

of evidence. Unwilling to surrender any of its power over the physical detention of aliens, the INS often ignored these rules (Hogan, 1947; Konvitz, 1953, 106).

The INS' procedural abuses did not go unchallenged. Among the first group of aliens held without bail were five leading Communists and left-wing union officials, who were picked up in February 1948 and detained on Ellis Island. They went on a hunger strike and after six days a District Judge granted them bail (Doyle, *et al.*, 1948). Two months later another District Court judge supported that decision and ruled that the provisions of the Administrative Procedures Act applied to deportations. Other judges in other jurisdictions, however, supported the INS and the procedural uncertainty simply exacerbated problems on all sides. It was not until February 20, 1950 that the Supreme Court in the *Wong Yang Sung* case ruled that the Administrative Procedures Act applied to the INS. At that point, the INS dropped all the cases it was pursuing and decided to begin them all over under the new procedures (Legomsky, 1987, 202; Bennett, 1963, 93; ACPFB, Minutes, 1950; *Wong Yang Sung v. McGrath*, 339 U. S. 33 [1950]).

From the Justice Department's perspective, the solution, of course, was legislation, specifically a law that would exempt the INS from the Administrative Procedures Act and enable it to hold foreign-born radicals indefinitely without bail. As Attorney General Tom Clark explained, "I was trying to deport 3400 undesirable aliens, of whom 2100 were natives of countries behind the Iron Curtain and . . . they were walking the streets of America — not underground, but on the avenues — because there was no law that permitted me, your Attorney General, to keep them in jail pending receipt of travel papers." Beginning in 1948, the Justice Department began to push for a law to enable it to incarcerate all the dangerous aliens who were "walking the streets" (Clark, 1948; *The Lamp*, 1948). J. Patrick Coyne, the NSC's staff member in charge of internal security, also urged remedial action, asserting in a November 16, 1948 memorandum that among the "Outstanding Problems in the Field of Internal Security" was the need "to effect the deportation or detention of undesirable aliens whose countries of origin refuse to receive them" (NSC 17/3, 1948).

The legislation that the Justice Department desired came to be incorporated in a measure known as H. R. 10 or the Hobbs Bill, which the INS sent to Congress early in 1948. It granted the Attor-

ney General increased authority over the whole deportation process and specifically exempted the INS from the Administrative Procedures Act. It also confirmed the Attorney General's power to retain in custody those foreign-born radicals whose countries of origin would not take them. There was opposition to H. R. 10. A coalition of liberal organizations criticized the measure for granting the Attorney General "discretion to imprison for life without trial persons who have committed no crime and, indeed, may be guilty of no wrongdoing of any sort" (Bennett, 1963, 126–127; Hutchinson, 1981, 284–285, 294–297; Baldwin, *et al.*, 1949).

President Truman also opposed the bill. But his failure to do so in public enabled the Justice Department to continue its campaign for H. R. 10. It is hard to avoid the suspicion that this disobedience was intentional. Though Attorney General J. Howard McGrath apparently believed that Truman supported the bill, Deputy Attorney General Peyton Ford knew better, but felt that it was such an important measure that "if it were fully explained to the President . . . he might change his mind." Ford ignored several messages from the White House and did not let the congressmen who were handling the bill know Truman opposed it. Assuming that the President must have approved H. R. 10, the congressmen okayed it as well. Many of them, of course, were eager for passage. In its long-awaited report on immigration, in the spring of 1950, the Senate Judiciary Committee stated that the "situation whereby the United States finds itself helpless to rid itself of undesirable aliens is a threat to our sovereignty." Even so, it was not until the summer of 1950 that the measure finally passed (Bennett, 1963, 127; Spingarn, 1950a; Ford, 1950; McGrath, 1950).

In the meantime, the Justice Department continued to incarcerate undesirable aliens and, when it could, deny those in its custody the due process of law (ACPFB, Press Release, 1950). No doubt the mixed signals that it was receiving from the federal judiciary encouraged the INS to behave in many cases as if H. R. 10 had already been passed and the Service had complete discretion with regard to the detention of aliens.

Cases: Ellen Knauff, Kwong Hai Chew, Gerhart Eisler

Thus it was that the INS got involved in what was to become perhaps the most notorious immigration case of the 1950s, that of

the German war bride, Ellen Knauff. Married to an American soldier in Germany, Knauff came to the United States in the summer of 1948 to establish residency and begin the process of becoming a citizen. But Knauff did not get past Ellis Island. The INS not only detained her without bail, but, citing the wartime regulations that enabled the Attorney General to exclude an alien without a hearing "on the basis of information of a confidential nature, the disclosure of which would be prejudicial to the public interest," refused to tell her why she was being held. Knauff applied for a writ of habeas corpus to stay her deportation and find out why she was being held (Decision of the Board of Immigration Appeals, Aug. 29, 1951; in Knauff, 1952, appendix). Unlike most of the people the INS was then trying to deport, Knauff was not a Communist, not even an ex-Communist, nor was she, as the Service was later to imply, a spy. Somehow she had gotten on the wrong list and the INS struggled for nearly three years to keep from having to rectify its mistake. At one point, the Justice Department even asked Truman to issue a proclamation supporting the Attorney General's authority to exclude aliens without a hearing in order to bolster the case against Knauff that by then had reached the Supreme Court (Spingarn, 1949b; Spingarn, 1950e).

It was a seriously divided Court that agreed to hear Knauff's appeal. During the late 1940s and early 1950s the Court's majority tended to sustain the government in cases involving Communism and national security even when such decisions violated individual rights.[8] The Court, therefore, did not support Knauff's appeal; and in a 4–3 decision on January 16, 1950, the majority deferred to the executive branch's authority to exclude aliens "on any grounds it sees fit." To do otherwise, explained Associate Justice Sherman Minton who wrote the decision, "would be for us [the Supreme Court] to exercise legislative power which we do not possess." It was not a question of rights, for, as Minton noted in the handwritten marginal comment he scribbled on Justice Robert Jackson's eloquent dissent, "She was alien" and, in any case, a "soldier may not bring in a spy as a wife" (Minton, 1950; Minton, n.d.). By then Knauff's ordeal had gotten so much publicity that several congressmen introduced measures designed to give all arriving aliens a hearing and Congress-

8 For a general discussion of the Supreme Court's willingness to override individual rights in cases involving communism, see McCloskey, 1972, 64–89, 118–121, 135–40.

man Francis Walter, hardly a friend to immigrants, sponsored a private bill on Knauff's behalf. On May 2, 1950, the House voted unanimously to cancel her exclusion order. However, before the Senate could act and before the Supreme Court could take up Knauff's second appeal, the INS tried to spirit the poor woman back to Europe. Furious at the INS' attempt to escape the Court's jurisdiction, Justice Jackson issued a last-minute stay and Knauff was returned to Ellis Island (Hutchinson, 1981, 297–300; Justice Robert Jackson's stay-of-deportation order, May 17, 1950, in Knauff, 1952, 153).

A year later, perhaps because of the support Knauff was getting from Congress, the Attorney General let her leave Ellis Island on parole. But she was still facing deportation without knowing why. When the Supreme Court agreed to rule on her appeal for a stay pending congressional action, the Justice Department finally granted her a hearing. The proceedings revealed the weakness of the government's case. All the evidence was hearsay and the espionage activities that Knauff had supposedly engaged in were probably the routine bureaucratic transactions necessary for her to get a passport. Furthermore, the INS did not seem to have contacted its main witness until after Knauff had been at Ellis Island for several months and it first approached another witness a month before the hearing (Knauff, 1955, 206, appendix; Spingarn, 1950g). Even so, the INS examiners who presided over Knauff's hearing ruled against her. Once the case reached the Board of Immigration Appeals, however, Knauff was vindicated. The Attorney General ratified that Board's decision and, some three years after her arrival on Ellis Island, Knauff finally received permission to remain in the United States (Decision, U. S. Department of Justice, Board of Immigration Appeals, Aug. 29, 1951, in Knauff, 1952, appendix).

Knauff's case became notorious largely because she was so obviously not a radical. The treatment she received — incarceration on Ellis Island, denial of bail, secret charges, tainted witnesses, and the continued unwillingness of administrators and judges to question the Justice Department's absolute discretion in immigration matters — was, nonetheless, typical of that meted out to other aliens. The Justice Department's unwillingness to drop its charges against Knauff probably stemmed from a desire not to set a precedent that could diminish its authority over the Communists and other radicals who were the real targets of its deportation drive. Certainly, the

pattern of behavior that characterizes similar cases as well as the few INS and Justice Department files that I have been able to see indicate that the INS took advantage of every opportunity to expand its power and place foreign-born radicals in detention. In doing so, the INS not only stretched its legitimate authority as far as it would go, but sometimes also acted in blatant disregard of laws already on the books.

This is what it did, for example, in the case of Kwong Hai (Harry) Chew, a Chinese merchant seaman whom the Service detained on Ellis Island for over two and a half years. It refused to grant him a hearing because it claimed that, like Knauff, Chew was an alien seeking admission to the United States and thus had no right to such a procedure. That was not the case, for Chew was a resident alien whose status had been protected by the Naturalization Law of 1940, which specifically allowed merchant seamen to pursue their calling without losing their status as legal immigrants (*Kwong Hai Chew v. Colding*, 344 U. S. 590 [1953]). Even the Supreme Court could not stomach that blatant a denial of due process, though, cautious as ever, the Court did not grant Chew bail or rule on the issue of his deportability. It only demanded that the INS give Chew a hearing and a "reasonable notice of the charges against him." Nonetheless, limited as the Court's ruling was, the INS still flouted it and began its hearings against Chew without letting him know why it was trying to deport him. After a day and a half of testimony, Chew's lawyer stormed out of the hearing and went back to court to make the INS inform Chew of the charges against him (Gollobin, 1953b; Gollobin, 1953a).

It turned out that the Justice Department's case against Chew was not much stronger than its case against Knauff. Chew had already been cleared twice by the government, once when the INS approved his application for permanent residence in 1948 and again when the Coast Guard cleared him in 1950 for active duty as a merchant seaman. While Knauff's case seems to have originated as a bureaucratic bungle, Chew's seems to have been a spin-off of the political conflicts within the American Chinese community following the Communist victory in China. Chew had been moderately active in New York's Chinatown politics during the 1940s. He had been president of the Kang Jai Association, a benevolent organization for seamen from the island of Hainan, and had also served as

a minor official in the National Maritime Union. In 1948, Chew ran again for office in the NMU, this time on a slate identified with the Union's communist elements, though he himself may not have been a Party member. In January 1951, when the Kang Jai Association refused to subscribe to the anticommunist loyalty oath which the powerful Chinese Consolidated Benevolent Association was trying to impose on all the voluntary organizations in Chinatown, the INS raided its headquarters and rounded up 42 aliens for deportation. Chew was at sea at the time; he was detained as soon as he returned to the United States in March.[9]

As in the Knauff case, the INS relied on testimony from recently recruited witnesses, several of whom were ex-communist seamen who themselves needed Coast Guard clearance in order to retain their jobs and who would, thus, be vulnerable to official pressure (Goldberg testimony, 1953; Blalock testimony, 1953; Santa Lucia testimony, 1953; Gollobin, n.d.). Again, as in the Knauff case, the INS examiners decided against Chew and ordered his expulsion. Chew appealed, a process that was ultimately to last until 1967. While the appeals ground through the INS bureaucracy and federal courts, the government continued to subject Chew to a variety of harassments, including repeated incarcerations and a perjury indictment. The latter occurred after two federal judges ordered Chew's release on bail. The charge, that Chew had lied about not belonging to the Communist Party, was brought by an immigration inspector and seems designed primarily as a way to continue the pressure on Chew. The government delayed the perjury trial until just before the statute of limitations ran out; and the INS offered to drop the case if Chew would agree to leave the country. Chew refused and the jury

9 Chew's files in the ACPFB and the INS contain hundreds of documents, most of them legal papers dealing with one or another proceeding that characterized his 16-year battle to remain in the United States. There are many duplicates and both files contain the transcripts of Chew's hearings before the INS. Among the most useful of these documents are: Chew Naturalization Proceedings, n.d.; Chew, 1959; Chew, 1964; Chew, 1965; Gollobin, 1953c; Gollobin, 1967; "83 Chinese Aliens Arrested in Raids," *New York Times*, February 1, 1951.

Chew's case bears tangentially on some of the most fascinating and least studied aspects of the McCarthy-era political repression: its impact on the Chinese-American community. The special vulnerability of Chinese immigrants, who could not become citizens until 1943, combined with the passions arising from the Communist revolution in China and the political clout of the Kuomintang in the United States, ensured considerable repression within American Chinatowns. For a preliminary look at what went on see Kwong, 1979, 143–147; Nee, 1973, 210–227. Ying Chan, Amy Chen, and the author are presently working on a study of McCarthyism in Chinatown for a forthcoming documentary film.

that heard the case acquitted him (Chew complaint, 1953; Mack decision, 1965).

There was nothing unique about what happened to Chew. The files of the American Committee for Protection of the Foreign Born (ACPFB), the much beleaguered organization that defended Chew and most of the other political deportees, contain hundreds of similar cases. Until the INS releases the relevant records, it is hard to *prove* that the Justice Department designed the deportation process to punish undesirable aliens. Certainly, the thrust of the process was punitive; and, as the case of Gerhart Eisler indicates, the INS sometimes seemed more interested in punishing people than expelling them.

Eisler, a well-known German Communist, wanted to be deported. He had entered the United States in 1941 en route to asylum in Mexico but had been prevented from leaving the country. After the war, Eisler again tried to depart, but instead was arrested as an enemy alien at the urging of the FBI and held for two months without bail. The following year, 1948, he was again incarcerated, this time in connection with a deportation proceeding. Released from detention after participating in the Ellis Island hunger strike, Eisler continued his futile battle to win the right to leave the United States. But, since he was also facing a contempt citation stemming from an unfriendly session with the House Un-American Activities Committee (HUAC) as well as a perjury charge for "false statements" in his 1945 application to depart, further detention seemed in the offing (Cooley memos, 1947; Eisler memo, n.d.). As a result, he finally left illegally, sneaking onto a Polish liner while it was docked in New York and concealing himself until after it had sailed.

Eisler's escape had serious consequences. Even his supporters on the left were upset. According to the ACPFB's executive director, Abner Green, Eisler's defection "has hurt our Committee more than any one other thing that has ever happened in the 16 years of our existence." Green was "simply shocked" by Eisler's action and worried about "the effect this entire episode may have on the status of civil rights in this country" especially "in regards to bail, 'anti-alien' legislation, etc." (Green, 1949). Green was right. Within a few weeks, Congress received three separate measures designed to facilitate the detention and deportation of aliens. In addition, Eisler's flight gave the INS the excuse it needed to crack down on other radical aliens

and reincarcerate many of its previous prisoners (Hutchinson, 1981, 289; Holmes, 1949; Harisiades affidavit, 1949; King Report, 1949). Though none of them shared Eisler's desire to leave the country, the INS claimed that Eisler's escape proved the necessity for continued detention. It also helped bolster the Justice Department's arguments for the passage of H. R. 10 (ACLU *Weekly Bulletin*, 1949: Baldwin, *et al.*, 1949).

The INS Gets Its Law

Even so, it was not until a year later with the outbreak of the Korean War and the frenzy of anticommunism that accompanied it that the Justice Department finally obtained the legislation it wanted. After years of opposing the Department's demand for the unlimited detention of undeportable aliens, Truman had to relent; and, in an ill-fated attempt to ward off the even more unacceptable measures that the conservatives in Congress were pushing, he recommended legislation that would "permit the Attorney General in certain cases to detain such aliens in his custody for indefinite periods of time."[10] Truman's run around right end, like the more well-known attempt of Hubert Humphrey and the Senate liberals to replace the impending McCarran Act with their own "concentration camp" bill, failed, and many of the provisions of H. R. 10 were simply added to the rest of the McCarran Internal Security Act, to be passed over Truman's veto.[11] A few days later, Congress enacted another law specifically overriding the Supreme Court's *Wong Yang Sung* decision that immigration proceedings had to be in accord with the Administrative Procedures Act (Bennett, 1963, 82; 64 U. S. Statutes, 1044).

Once the McCarran Act passed, the Justice Department hastened to enforce it. The INS put together a list of aliens who were currently active in the Communist Party and on the day the Act came into force rounded up 48 people for deportation (U. S. Court of Appeals, 1951; Midwest Deportation Cases, 1952; Soll, 1950b). With the Attorney General's discretionary authority over immigration matters finally enacted into law, the INS resumed its earlier pattern of denying bail. And the Supreme Court resumed *its* earlier pattern

10 Truman, message, 1950. Much of the immigration legislation that was being pushed by Senator McCarran had also originated with the INS. See Spingarn, 1949.

11 On the liberals and the McCarran Act see Tanner and Griffith, 1974.

of letting the Justice Department exercise almost unlimited authority over foreign-born Americans. The Court's majority was particularly reluctant to overrule Congress in the sensitive area of communism and national security. And, as Associate Justice Harold Burton noted in a memorandum on the Knauff case in 1951, "the new act indicates that Congress upholds the Attorney General's procedures."

The Court's official verdict on the McCarran Act came on March 10, 1952. The case was that of West Coast Party leader Frank Carlson and three other aliens held without bail in the INS' Los Angeles facilities on Terminal Island. In a 5–2 decision, the Court ruled that the Attorney General could exercise almost complete discretion over the incarceration of non-citizens facing deportation (Smith, 1951; Konvitz, 1953, 98–100; Burton, 1950). The INS, as expected, responded to the Carlson decision by rounding up several aliens whom it had previously let out on bail and returning them to custody (Habeus Corpus, 1952).

Outside of the far left, there was little opposition to the Carlson decision and the all but unlimited powers that the Supreme Court allowed to the Attorney General. Congress confirmed those powers two years later, when it incorporated most of the immigration provisions of the McCarran Act unchanged into the McCarran–Walter Act of 1952 (Bennett, 1963, 148–50). Ostensibly a long-awaited revision of the nation's immigration laws, McCarran–Walter aroused enormous opposition, in large part because it retained the older regime's discriminatory system of quotas based on national origin. There was, however, no protest against the political discrimination the law contained. In fact, the most important liberal attempt to revise McCarran–Walter, a bill introduced in the late 1950s by Emanuel Celler and Herbert H. Lehman of New York, made only minor changes in the political sections of the law. Though it added a long-sought statute of limitations, it continued to permit indefinite detention and even introduced a new criterion for deportation, that of membership in an organization which espoused "subversive doctrine" ("Comparison of Provision," 1960; National Lawyers Guild, 1955). Meanwhile, of course, the INS continued its deportation campaign and, as usual, took advantage of the new law to round up a new group of political undesirables for deportation, actually carrying out several arrests on Christmas Eve just as the law came into effect (Nowak Newsletter, 1953).

Stanley Nowak, the Michigan labor leader and former state Senator who had been the subject of a denaturalization attempt in the early 1940s, was one of the people arrested in the wake of the McCarran–Walter Act. The INS had been under pressure from a Detroit congressman to deport Nowak since 1947, but had decided not to reopen the case because its legal staff doubted that they could win it. Nowak's refusal to cooperate with HUAC in the spring of 1952 increased the pressure on the INS, and by the end of 1952 the Service's general counsel had decided that in the light of the Supreme Court's recent decisions in the Carlson and other cases, the INS should again try to denaturalize Nowak. Ironically, because of the wording of the McCarran–Walter Act, the INS felt it would stand a better chance of success by prosecuting Nowak under the earlier immigration law. So, on December 23, 1952, the day before McCarran–Walter went into effect, the INS arrested Nowak (Lovett memo, 1948; Butterfield, 1952; INS General Counsel, 1952).

The INS rounded up dozens of other people the next day. Most of them, however, were not radicals. It is important to put the McCarran–Walter Act into perspective. In its first year of operation, almost 900,000 people were deported, but only 37 of them were classified as "subversives." The Communists and other left-wingers who fell afoul of the new law's provisions were well educated and politically sophisticated men and women who were able to mount a relatively effective campaign to remain in the United States. Few of them, for all their travails, were ultimately forced to leave the country. Thousands of other aliens, however, were forced to leave. Most of these people were Mexicans, impoverished and uneducated agricultural workers and menial laborers who lacked the resources of the political radicals for any kind of resistance to deportation. They were the victims of the INS' main deportation activities of the 1950s, including the highly publicized "Operation Wetback" of 1954 (Mackey, 1954). To what extent the general political atmosphere of the period and the prevailing lack of sympathy for civil liberties contributed to the abuses of "Operation Wetback" is unclear. The INS claimed, for example, that illegal immigrants were "susceptible to communist influence"; and the ACPFB, which protested vehemently if ineffectively against the mass expulsions, noted the connection between the INS' anti-Mexican and anti-subversive activities. In any event, what

is clear is that the INS handled neither radicals nor Mexicans with leniency or due process (Garcia, 1980, 122, 167– 171, 194–199, 231; Bennett, 1963, 98; "America's 'Misplaced Millions'," n.d.; Green, 1954).

Litigation remained the left's main recourse against deportation. But it was delay rather than judicial favor that offered protection. Until the late 1950s the federal judiciary continued to support the government. Since the only limits the bitterly divided Supreme Court was able to place on the anticommunist measures of the McCarthy period were procedural, its approval of INS procedures in deportation cases can give some indication of its even stronger reluctance to intervene in substantive issues. Throughout the McCarthy years, judicial restraint and concern about national security ostensibly determined the majority's reluctance to challenge the government's grounds for deportations. The most important case here was that of Peter Harisiades, a Greek-American newspaperman who had left the Communist Party in 1939. On the same day in March 1952 that the Court handed down the Carlson decision, it ruled that Harisiades' past membership constituted adequate grounds for deportation. Noting that "judicially we must tolerate what personally we may regard as a legislative mistake," Justice Jackson, who wrote the majority opinion, decreed that "the First Amendment does not prevent the deportation of these aliens" (Legomsky, 1987, 203–204; *Harisiades v. Shaughnessy*, 342 U. S. 580 [1952]). It was not until almost five years later, in December 1957, that the still sharply divided Court finally began to hold the INS to a more exacting standard that allowed deportation only after it was proved that the alien had a "meaningful association" with the CP (*Rowoldt v. Perfetto*, 355 U. S. 115 [1957]).

By then, however, INS procedures at least had begun to change. In large part because of the Eisenhower administration's desire to save money, the Service closed down its detention centers and began to grant the people it was trying to deport supervisory parole instead of keeping them in custody. As we have seen, most of these people were undeportable because their countries of origin refused to accept them. Though they went through the motions of applying for visas, both they and the INS knew it was a sham. The Poles and Czechs never answered their mail; and the Soviet Union claimed that it was technically unable to accept the deportees because they had

been born under the tsarist regime (Bennett, 1963; Dmytryshyn, n.d.; Bittelman affidavit, 1967). There was some consideration of solving the problem by sending those undeportables who were Jewish — by far the largest group — to Israel. But the involuntary *aliyah* never came off and the undeportables faced years of parole instead (Unsigned memo, n.d.).

These were not easy years. At least in the beginning, the parole provisions were onerous and seemed to have been designed as much for harassment as for surveillance. They included weekly visits to the INS — which in New York City meant a four-hour trip to and from Ellis Island — a provision that made it especially hard for many of the people involved to keep their jobs. Kwong Hai Chew, for example, had to give up his career as a merchant seaman and worked as a counterman at Lindy's (Gollobin, 1987; Gollobin, 1953; Nukk questionnaire, n.d.). These visits were hardly *pro forma*, for the INS often used them to question the aliens about their political activities and associates. There were also travel restrictions and the deportees were ordered to "refrain from associating with any person knowing or having reasonable ground to believe that such person" is a Communist, a condition which, theoretically at least, could prevent many of the undeportable aliens from consorting with their husbands or wives (Hulbert decision, 1949; ACPFB press release, 1953; "Order of Supervision," 1953; Douglas opinion, 1953).

Understandably, the parolees sought to regain their freedom — and with some success. Much to the disgust of the INS and its congressional supporters, the federal judiciary slowly began to whittle away at the INS' authority. The Supreme Court's civil libertarians had long opposed the provisions for supervisory parole. In 1953 Justice Hugo Black noted privately that the "steps taken by the Attorney General to supervise the daily life of" undeportable aliens "on the basis that no court can review that supervision shows how far . . . we are on the way toward the kind of government they appear to have in Russia, Spain, Argentina, and a number of other places in the world." Within a few years, the majority of Justices agreed with him (Bennett, 1963, 244–248; Black, 1953). Thus, by the early 1960s the supervisory parole provisions had become less onerous. Weekly check-ins were replaced by quarterly ones and then by annual ones. But the undeportable aliens still had to notify the INS before they

left the Immigration District for more than a few days. As late as 1968, Betty Gannett, a Communist Party functionary who had served a three-year sentence under the Smith Act in the mid-1950s, still had to let the INS know whenever she wanted to leave New York City for longer than 72 hours (Bittelman affidavit, 1967; Abt and Gollobin, 1968).

Just as the political repression of the McCarthy era came earlier to the foreign born, so, too, it lingered longer. Perhaps because they relied so heavily on litigation, the men and women threatened with deportation found that their cases often dragged on for 10 to 15 years (ACPFB press release, 1966). To the INS and to congressional anti-communists like James Eastland and Francis Walter, these delays were, of course, all part of the devious plot "for thwarting the administration of our immigration laws" by those who "skillfully use the American legal system for the very purpose of destroying it." Though McCarthyism had supposedly receded, Walter and Eastland still wielded enough power in 1961 to obtain the passage of a bill designed to prevent such outrages by limiting the right of judicial review in deportation cases (Swing, 1957; Swing, 1959a; Swing, 1959b; Bennett, 1963, 213, 244–248; Hutchinson, 1981, 337–350).[12]

Moreover, because the Kennedy administration did not eliminate all the bureaucratic vestiges of the anticommunist apparatus, attempts to deport politically suspect aliens continued. There was, for example, the case of Anthony Bimba. On December 17, 1963, the Justice Department began proceedings to denaturalize and deport Bimba, an elderly Lithuanian-born journalist, on the grounds that he had perjured himself in his naturalization hearings in 1927. Bimba had not, so the INS claimed, mentioned that he had been arrested, though never prosecuted, for blasphemy in 1926. Bimba's real crime had occurred in 1957 when he had refused to cooperate with HUAC, which then demanded his deportation. It is unclear why it took the Justice Department six years to begin proceedings. Bimba fought back and, in July 1967, the Justice Department, by then under Ramsey Clark, dropped the case (ACPFB, press release, 1964; ACPFB, press release, 1967).

12 On the alliance between bureaucrats and conservative congressmen during the Kennedy administration, see Schwartz, 1980, 179–195.

Retrospective and Conclusion

By the late 1960s, the deportation drive had all but ended. Kwong Hai Chew became a U. S. citizen and the government had stopped prosecuting foreign-born radicals. Yet, the laws that allowed such abuses of justice remained on the books. When the Johnson administration got around to revising the McCarran–Walter Act in 1965, it concentrated on eliminating the system of national quotas and did not try to change the political sections of the law. There was little pressure to do so; and Johnson did not want to irritate the conservative Republicans and Southern congressmen whose reluctant votes he needed to abolish national quotas by pressing for political reform as well (Hutchinson, 1981, 377–79; Schwartz, 1980, 125–26). As a result, the anti-communist provisions of the McCarran–Walter Act were in effect until the early 1990s. Moreover, *Fong Yue Ting* has never been overruled. And, as recent administrations' attempts to deport Palestinians and other politically unpopular immigrants indicate, as long as the nation's immigration laws allow the exclusion or deportation of aliens on political grounds, the federal government can use its considerable power over the foreign-born to persecute people it dislikes.

It is important, however, to place the political deportations of the McCarthy era in perspective. The American legal system did offer considerable protection. Most of the men and women slated for expulsion because of their communist ties never left the United States. Between 1946 and 1966 only 253 aliens were officially deported as political subversives (INS, *Annual Reports*, 1956–1966). The figure is low and does not include, for example, those people whom the INS was able to expel on other pretexts. Nor does it include the foreign-born radicals who voluntarily exiled themselves in response to the pressures of McCarthyism. Actual deportations were only the most drastic outcomes of INS initiatives. Incarceration, unemployment, and the financial and psychological toll of fighting deportation were the more common and often equally punitive byproducts of the process; and here the number of people affected seems to have been about 15,000. Simply being investigated for deportation as a subversive could easily cost someone a job. In 1956, for example, the INS investigated 8,226 supposed subversives (INS, *Annual Report*, 1956, 11; INS, *Annual Report*, 1957, 12). In trying to ascertain whether

such figures are large or small, it may be useful to recall the debate over the treatment of whippings in Robert Fogel and Stanley Engerman's 1974 study of slavery, *Time on the Cross.* The actual number of whippings the two men found seemed to be low, but, as Herbert Gutman among others has noted, that may just have indicated how effective the practice was (Gutman and Sutch, 1946, 58).

Such a relationship between the relative leniency of the sanctions and their apparent efficacy characterizes much of the political repression of the McCarthy era (Schrecker, 1994, Part I). In this and in other respects, the attempted deportations of the 1950s, though especially inequitable because of the INS' denial of due process, differed little from the other anticommunist prosecutions of the period. They involved the same people: Communist Party officials, Fifth Amendment witnesses, left-wing labor leaders, and rank-and-file Communists and ex-Communists or their wives. They also involved the same prosecutorial techniques. INS examiners tried to link the aliens in question with Communist groups and activities and even copied the Smith Act prosecutors by introducing Marxist classics to show that the CP supported "force and violence" (Balint INS decision, 1947; Midwest press release, 1956; Smotherman, 1949). The same professional witnesses appeared. In fact, for many of the nation's star informers like Louis Budenz, Harvey Matusow, Matthew Cvetic, Zack Kornfeder, William Odell Nowell, Paul Crouch, and Maurice Malkin, deportation and denaturalization proceedings provided a steady source of income (Budenz examination, 1953; Nowell affidavit, 1950; Caughlan notes. n.d.; Schlesinger, 1955; Goodman and Crockett, 1957).[13]

In other ways as well, the INS followed the McCarthy-era scenario. It refused to let the people facing deportation confront their anonymous accusers. It also tried to make witnesses at deportation hearings name names and, on several occasions, initiated contempt proceedings against those who would not. In addition, the INS punished people who used the Fifth Amendment whether at their own deportation hearings or before a congressional committee (Carleton, 1985, 55–59; Douglas memo, 1950). It denied them naturalization on the grounds that by taking the Fifth they had failed to prove the good character necessary for citizenship. As late as 1960, the Su-

13 For other such informers as Joseph Zack Kornfeder, Matthew Cvetic, Manning Johnson, Sylvia and Paul Crouch, and what they testified to, see Dmytryshn, 1950; Gannett, 1950.

preme Court even upheld a deportation on those grounds (ACPFB, press release, 1960).

Characterized, as we have seen, by greater procedural abuses, the immigration proceedings of the McCarthy era were, nonetheless, an integral component of that larger web of anticommunist repression that dominated U. S. politics during the late 1940s and 1950s. The effort to deport Communists reveals the patterns of collaboration within the federal government that facilitated that repression. It would not have been possible for the INS to have mounted such an intensive campaign against foreign-born radicals had it not received support from the rest of the Justice Department, the FBI, Congress, and the courts. This collaboration was crucial. And, it was crucial to the rest of the political repression of the McCarthy era as well. Identifying that repression with only one of its many elements, whether it be the FBI, HUAC, Joe McCarthy, or the right wing of the Republican party, trivializes it and impedes our understanding of how it worked. It was a web of interrelated political, judicial, and administrative actions whose very complexity diffused responsibility and enabled it to operate so effectively. We should not be surprised. In a modern state, political repression is a collective process.

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