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THE UNDEPORTABLES: DIPLOMATIC NONRECOGNITION AND THE PERIPHERY OF
RIGHTS IN THE UNITED STATES

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ABBREVIATIONS

<i>AHR</i>	<i>American Historical Review</i>
AR-CGI	US Department of Labor, Bureau of Immigration, Annual Report of the Commissioner General of Immigration (Washington, DC, Government Printing Office, 1894-1930).
AR-SL	US Department of Labor, Report of the Secretary of Labor and Reports of Bureaus (Washington, DC, Government Printing Office).
DF	Central Decimal File Subject 1910-1949, Central Files 1910-January 1963, US Department of State Records, RG 59, National Archives, College Park, Md.
<i>DH</i>	<i>Diplomatic History</i>
DIL	Green Haywood Hackworth, Digest of International Law Washington: Government Printing Office, 1906-1939).
DS	Diplomatic Correspondence, Central Files of the Department of State, 1778-1963, RG 59, National Archives, College Park, Md.
FRUS	U.S. Department of State, Foreign Relations of the United States (Washington, D.C.: U.S. Government Printing Office, 1886-1924).
FSP	Records of the Foreign Service Posts of the Department of State, State Department and Foreign Affairs Records, RG 84, National Archives, College Park, Md.
ILR	US Department of Labor, Bureau of Immigration, Immigration Laws and Rules (Washington, DC: US Government Printing Office, 1907-1924).
<i>JAH</i>	<i>Journal of American History</i>
INS	Records of the Immigration and Naturalization Service, RG 85, National Archives, Washington DC.
<i>NYT</i>	<i>New York Times</i>
PBC	Papers of Bainbridge Colby
PWW	Papers of Woodrow Wilson
RL	Robert Lansing Papers
<i>WP</i>	<i>Washington Post</i>

ABSTRACT

The Undeportables: Diplomatic Nonrecognition and the Periphery of Rights in the United States explores what it meant that the federal government could not deport people it had explicitly identified as undesirable, even as it enacted increasingly strict immigration protocols in the first decades of the twentieth century. I take this problem as an entry point to investigate how the processes of immigration and deportation created contradictions between sovereignty and rights and how bureaucrats in the United States and their counterparts around the world attempted to resolve those contradictions. Their attempts to reconcile this problem determined who had access to the nation-state and reimagined an increasingly interconnected world where every person had rights.

The story of undeportable migrants illustrates how American foreign policy reshaped other governmental initiatives, such as the development of an immigration and deportation apparatus to manage foreign bodies in the United States. The US nonrecognition of Russia through the 1920s offers a vibrant site to explore American conceptions of citizenship, governmental responsibility, and international rights. The peculiarities of that international dynamic remove some of the assumptions that otherwise obscure broader power structures that immigrants face. Russian immigrants were the most visible de facto stateless migrants that encountered the American government in the first decades of the twentieth century, but they were far from the only ones. During this period, the rapidly shifting borders in Eurasia rendered many other foreign-born persons in the United States unable to access diplomatic protection from their country of origin.

I argue that the absence of a diplomatic guarantor of rights forced the US government to articulate what rights a person was entitled to as a human rather than a citizen of another nation-

state. Set against the backdrop of the United States emergence as an imperial power from the turn of the century through World War II, the dissertation reconstructs the transnational networks, nation-state power dynamics, and emerging rights practices that marked a shift in rights talk. Attention to this shift reveals the mutual imbrication of transnational networks and nation-state sovereignty and repositions the United States as a participant within the rights discourse, not a bystander to it.

Understanding undeportable migrants as part of the new history of human rights reframes the history of migration as constitutive of diplomatic history. By examining the processes of migration and deportation through career officials, instead of policymakers and migrants themselves, I situate immigration management as the front line of the federal government's foreign diplomacy. The realm of migration, encompassing movement within and across national borders, is the first site where diplomatic decisions play out and thus offers a litmus test for the viability of American foreign decisions.

The people responsible for reconciling undeportables were not policymakers, individual migrants, or activists, but most often mid-level bureaucrats attempting to make sense of conflicting policies and visions of world order. That such individuals maintained the cogs of the international machine is even more notable because of how often their work remains invisible. More often than not, their success was in rendering their labor imperceptible. The dissertation uncovers their struggles and negotiations and establishes the significance of their labor in constructing and maintaining the international order. In focusing on the influence of rogue bureaucrats and opportunistic businesses in this experimental period, this dissertation explains the active role of the informal transnational realm in the making of US foreign policy and the formalization of international human rights.

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INTRODUCTION

Sitting before the House Committee on Immigration and Naturalization, the Commissioner of Immigration for Ellis Island patiently explained, he could not deport Russian migrants. When one Californian Congressman asked, yet again, why such aliens could not be deported, the Commissioner responded with his own question, "where would we send them? They are Russian." The Congressman, unpersuaded by this logic, retorted, "have you tried to send them to Russia?" He received the expected and seemingly tired answer, "Yes, we have tried that."¹

As the Committee members listened to the Commissioner, their level of bewilderment grew. The Committee Hearing was taking place only months after the passage of their new law, the Immigration Act of 1924, and the idea that a whole category of people could not be deported, as the law prescribed, was unfathomable. How could Russia, and a handful of other countries, simply refuse to receive their former nationals? Why was the Bureau of Immigration unable to secure passports for some would-be deportees? The House Committee had hoped the Commissioner and his Assistant might answer these and other questions, but each answer they received seemed to raise new ones, instead.

Bristling at the notion that certain groups of people could not be deported, the members of the Committee tried to clarify how and why deportation was not possible. They asked whether the Commissioner had *actually tried* to deport the people he labeled as undeportable. What were the results of these attempts? The Commissioner unwearingly answered their repeated question,

¹ United States Congress House Committee on Immigration and Naturalization, *Proposed Deportation Legislation*, (1925), 12.

though, at times, he revealed some degree of frustration. In an effort to illustrate their predicament, the Commissioner and his Assistant elaborated some of their failed deportation attempts for the Committee. They detailed instances when they tried to deport aliens to Russia. Still, upon arrival on the border or at the harbor, the Soviet government had refused their entry and turned the deportees away. As long as the United States refused to engage in diplomatic relations with Russia, they reiterated, there was no means for the Bureau of Immigration to communicate with the Soviet government to mitigate these problems.²

This dissertation explores the problem that baffled the House Committee: what it meant that the federal government, as it enacted increasingly strict immigration protocols in the first decades of the twentieth century, could not deport groups of people that it had explicitly identified as undesirable. I take this problem as an entry point to investigate how the processes of immigration and deportation created contradictions between sovereignty and rights and how bureaucrats in the United States and their counterparts around the world attempted to resolve those contradictions. Their attempts to reconcile this problem determined who had access to the nation-state and reimagined an increasingly interconnected world where every person had rights.

This story of undeportable migrants illustrates how American foreign policy, particularly the practice of withholding diplomatic recognition, through the 1920s, reshaped other governmental initiatives, such as the development of an immigration and deportation apparatus to manage foreign bodies in the United States. The US non-recognition of Russia in the interwar period offers a vibrant site to explore American conceptions of citizenship, governmental responsibility, and international rights. In fact, the peculiarities of that international dynamic

² House Committee on Immigration and Naturalization, *Proposed Deportation Legislation: Hearings*.

remove some of the assumptions that otherwise obscure broader power structures that immigrants face. Russian immigrants were the most visible de facto stateless migrants that encountered the American government in the first decades of the twentieth century, but they were far from the only ones. During this period, the rapidly shifting borders in Eurasia rendered many other foreign-born persons in the United States unable to access diplomatic protection from their country of origin.

I argue that the absence of a diplomatic guarantor of rights forced the US government to articulate what rights a person was entitled to as a human rather than a citizen of another nation-state. Set against the backdrop of the United States emergence as an imperial power from the turn of the century through World War II, the dissertation reconstructs the transnational networks, nation-state power dynamics, and emerging rights practices that marked a shift in rights talk. Attention to this shift reveals the mutual imbrication of transnational networks and nation-state sovereignty and repositions the United States as a participant within the rights discourse, not a bystander to it.

Understanding undeportable migrants as part of the new history of human rights reframes the history of migration as constitutive of diplomatic history. Historians of America and the World have increasingly used cultural and social lenses to create a frame of diplomatic histories that account for more than the classic top-down approach.³ By examining the processes of migration and deportation through career officials, instead of policymakers and migrants

³ Cf. Erez Manela, “International Society as a Historical Subject,” *Diplomatic History* 44, no. 2 (April 2020): 184–209. Also see the exchange between Thomas W. Zeiler and Kristin Hoganson in the *Journal of American History*: Thomas W. Zeiler, “The Diplomatic History Bandwagon: A State of the Field,” *The Journal of American History* 95, no. 4 (2009): 1053–73; Kristin Hoganson, “Hop off the Bandwagon! It’s a Mass Movement, Not a Parade,” *The Journal of American History* 95, no. 4 (2009): 1087–91.

themselves, I situate immigration management as the front line of the federal government's foreign diplomacy. The realm of migration, encompassing movement within and across national borders, is the first site where diplomatic decisions play out and thus offers a litmus test for the viability of American foreign decisions.

The people responsible for reconciling the House Committee's problem were not policymakers, individual migrants, or activists, but most often mid-level bureaucrats, like the Commissioner of Immigration and his Assistant, attempting to make sense of conflicting policies and visions of world order. That such individuals maintained the cogs of the international machine is even more notable because of how often their work remains invisible. More often than not, their success was in rendering their labor imperceptible. The dissertation uncovers their struggles and negotiations and establishes the significance of their labor in constructing and maintaining the international order. In focusing on the influence of rogue bureaucrats and opportunistic businesses in this experimental period, this dissertation explains the active role of the informal transnational realm in the making of US foreign policy and the formalization of international human rights.

Late imperial rights

The problem of the undeportable person represented the convergence of trends that took shape in the late imperial era. Indeed, the idea of being undeportable could only be conceived in an international system that imagined each person throughout the world to be a member of a particular nation-state and hold documentation to prove that membership. Furthermore, it assumed that an individual state would police its borders and control and account for the movement of its citizens. The imperial expansion and industrialization of the late nineteenth

century enabled the union of these conditions. These two features correlated with a range of tangible and imaginative changes, as well as new technologies that could enable their existence. Such changes included the expansion of European and American empires, the rise in mass migration, the codification of government bureaucracy, and the creation of a liberal internationalist system that emphasized borders and defined citizenship in terms of nationality. Together the combination of transnational factors created categories for every person to fit in and new mechanisms to determine their proper fit. Some people, however, did not fit into this new paradigm. The tension between these two poles created a liminal, transitional subject, who fell out of the previously envisioned categories of rights used to conceptualize people.

In the last decades, historians of foreign relations have embraced the transnational turn and looked beyond the nation-state to the structural changes on a broader scale. Using a transnational approach, scholars have interrogated the many internationalisms of the long twentieth century.⁴ These works have shown the relationship between the liberal international order, associated in the United States with Wilsonianism, as an outgrowth of imperial expansion that served to rationalize the morality of territorial dominion.⁵ For European nations, including England, France, Belgium, Italy, and Germany, that expansion was in pursuit of raw materials, which drove competition for dominion on the African continent. For the United States, that

⁴ Cf. Manela, “International Society as a Historical Subject”; Philippa Hetherington and Glenda Sluga, “Liberal and Illiberal Internationalisms,” *Journal of World History* 31, no. 1 (March 2020): 1–9; Glenda Sluga and Patricia Clavin, *Internationalisms: A Twentieth-Century History* (Cambridge University Press, 2017); Akira Iriye, *Cultural Internationalism and World Order* (Baltimore: Johns Hopkins University Press, 1997).

⁵ Jeremy Menchik, “Woodrow Wilson and the Spirit of Liberal Internationalism,” *Politics, Religion & Ideology* 22, no. 2 (April 3, 2021): 231–53; Lloyd E. Ambrosius, *Woodrow Wilson and American Internationalism*, Cambridge Studies in U.S. Foreign Relations (New York, NY: Cambridge University Press, 2017); Erez Manela, *The Wilsonian Moment: Self-Determination and the International Origins of Anticolonial Nationalism*, 1 edition (Oxford: Oxford University Press, 2009).

expansion primarily took the form of westward conquest and settler colonization, and then after 1898, possession of over-seas colonial holdings. In both cases, nations used the rhetoric of civilizational achievement to justify the violent conquest of land that was already inhabited.⁶

Legal codes served as a way for European and American actors to codify, rationalize, and sustain imperial dominion. The 1884-1885 Conference of Berlin, assembled by the newly instated Chancellor of the German Empire, exemplified this process. As the attending nations partitioned Africa, lawmakers invented the tradition undergirding international order, as Matthew Craven has argued.⁷ In doing so, they reasoned that different groups of people had different degrees of sovereignty. Drawing from older ideas of uncultivated land that had justified English and then American imposition of territorial sovereignty, the legal theories created a hierarchy between nations and states, often mapping closely with existing racial orders, denoting different levels of political development.⁸ The Institut de Droit International, founded the previous year in 1883 by legal theorists from Europe and the Americas, codified the ideas from the conference,

⁶ Cf. Sluga and Clavin, *Internationalisms*; Hetherington and Sluga, “Liberal and Illiberal Internationalisms”; Daniel E. Bender, *American Abyss: Savagery and Civilization in the Age of Industry* (Ithaca: Cornell University Press, 2009); Matthew Frye Jacobson, *Barbarian Virtues: The United States Encounters Foreign Peoples at Home and Abroad, 1876-1917* (New York: Hill and Wang, 2000).

⁷ Matthew Craven, “Invention of a Tradition: Westlake, the Berlin Conference and the Historicisation of International Law,” in Luigi Nuzzo and Miloš Vec, eds., *Constructing International Law: The Birth of a Discipline* (Frankfurt am Main: Vittorio Klostermann, 2012), 363–403.

⁸ Charles Maier defines territoriality as “the properties, including power, provided by the control of bordered political space.” These properties, he argues would be the features that would constitute the modern nation-state. “Consigning the Twentieth Century to History: Alternative Narratives for the Modern Era,” *The American Historical Review* 105, no. 3 (2000): 823–25. On the English, Lockean justifications for territorialization see Barbara Arneil, *John Locke and America: The Defense of English Colonialism* (Oxford, England: Clarendon Press, 1996) Ch. 6.

elaborating upon their definition of imperial sovereignty and liberal international order in their subsequent meetings.⁹

In addition to conferring different sovereign statuses, the language of nation and nationality provided justification for who was within or outside a particular empire's polity. As imperial control of new territory began to encompass the existing residents of each area of conquest, states found it increasingly important to differentiate between who was their responsibility and to what extent. Under the hierarchy between nations and states, while everyone had a nationality, not everyone had a state, and thus not everyone was a citizen.¹⁰ The development of nationality regulations allowed governments to expand their territorial control over populations that otherwise had evaded incorporation, such as the case of the Roma in Central Europe and Indigenous groups in the Americas.¹¹

⁹ On the founding of the Institut de Droit International and its relationship with moral sentiment, see Martti Koskenniemi's authoritative account, *The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870-1960* (Cambridge, UK: Cambridge University Press, 2002) esp. 47-51. Also see Andrew Fitzmaurice, "Liberalism and Empire in Nineteenth-Century International Law," *The American Historical Review* 117, no. 1 (2012): 122–40; Andrew Fitzmaurice, "The Genealogy of Terra Nullius," *Australian Historical Studies* 38, no. 129 (April 1, 2007): 1–15.

¹⁰ Mira Siegelberg notes, "the term *nation* rather than *state* was at times applied to distinguish polities that had achieved a certain level of development. And such developed political communities could not admit that anyone within their borders did not possess a nationality." Mira L. Siegelberg, *Statelessness: A Modern History* (Cambridge, Massachusetts: Harvard University Press, 2020), 30–31.

¹¹ On the importance of outsiders, and states of exception for maintaining sovereign power see Charles S. Maier, "Leviathan 2.0," Ch. 4 in Emily S. Rosenberg, ed., *A World Connecting, 1870-1945* (Cambridge: Belknap Press of Harvard University Press, 2012). On the relationship between the Roma with central European governance structures, see Tara Zahra, "'Condemned to Rootlessness and Unable to Budge': Roma, Migration Panics, and Internment in the Habsburg Empire," *The American Historical Review* 122, no. 3 (June 1, 2017): 702–26; David M. Crowe, "The International and Historical Dimensions of Romani Migration in Central and Eastern Europe," *Nationalities Papers* 31, no. 1 (March 2003): 81–94.

However, international law failed to define nationality. Consequently, there was no uniform meaning, and different countries used different markers to circumscribe nationality. When and where these markers would persist varied and became particularly relevant when attempting to determine if an individual maintained their nationality and citizenship if they chose to migrate. For example, Germany detached citizenship and nationality from residence in Germany. Instead, the German government instituted a law that defined German citizenship on the basis of a "community of descent."¹² When World War I began, this change led to mass confusion in the United States, Canada, and other countries with German enclaves, where suddenly, being a German citizen defined you as an "enemy alien."¹³

In contrast with the persistency of German citizenship, the governments of American and British women automatically denaturalized them upon marriage to a foreigner, a process that would at times render them stateless.¹⁴ Yet, the fluid definitions of nationality and citizenship also provided opportunities for groups who previously did not have access to citizenship rights. In the United States, white women were arguably the most successful petitioners, claiming their state's resources and protection.¹⁵ However, not all groups met equally fruitful outcomes, as was

¹² Rogers Brubaker, *Citizenship and Nationality in France and Germany* (Cambridge: Harvard University Press, 1992), Chapter 6 "The Citizenry as Community of Descent: Nationalization of Citizenship in Wilhelmine Germany," 114-137.

¹³ In the United States the "enemy alien" status was codified through the resuscitation of the Alien Enemy Act of 1798. "President's Proclamation of a State of War, and Regulations Governing Alien Enemies," *NYT*, April 7, 1917.

¹⁴ Linda K. Kerber, "The Stateless as the Citizen's Other: A View from the United States," *American Historical Review* 112, no. 1 (February 2007): 18-19; Nancy L. Green, "Expatriation, Expatriates, and Expats: The American Transformation of a Concept," *The American Historical Review* 114, no. 2 (2009): 318-20.

¹⁵ Cf. Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (Farrar, Straus and Giroux, 1999); Alice Kessler-Harris, *In Pursuit of Equity: Women, Men, and the Quest for Economic Citizenship in 20th-Century America* (New York: Oxford University Press, 2001).

the case for American colonial subjects in the Philippines whose status as "foreign to the United States in a domestic sense" became enshrined in their relationship to the state.¹⁶

The impulse to determine citizenship and nationality became increasingly pressing for another reason. New networks and the need for industrial labor fueled unprecedented levels of migration on both a continental and transcontinental scale. Adam McKeown has shown how a global approach to migration can not only incorporate economic changes and transfers but also show how different political and cultural systems developed in tandem. Dirk Hoeder has furthered this argument, suggesting that a global approach situated outside the nation-state helps explain the historical question of human identity across space and time.¹⁷ The dissertation uses these analytical approaches to demonstrate how, in the flux of transcontinental migration, the distinction between insider and outsider, citizen or noncitizen, began to have more consequences.

The increased importance of citizenship was also a response to the expansion of governance structures, writ large. In response to their territorial acquisitions, states expanded their governmental services to accommodate greater access to new land. For example, in the United States and British India, massive-scale transportation projects made areas newly

¹⁶ *Downes v. Bidwell* 182 U.S. 244 (1901): Page 182 U.S. 341. For context and legal analysis surrounding Insular Cases see the edited collections: Christina Duffy Burnett and Burke Marshall, *Foreign in a Domestic Sense: Puerto Rico, American Expansion, and the Constitution* (Duke University Press, 2001); Gerald L. Neuman and Tomiko Brown-Nagin, *Reconsidering the Insular Cases: The Past and Future of the American Empire* (Harvard University Press, 2015). Also see Sam Erman, *Almost Citizens: Puerto Rico, the U.S. Constitution, and Empire* (Cambridge University Press, 2018).

¹⁷ Adam McKeown has made the persuasive argument for incorporating migration within continents as part of the mass immigration of this period, and thus decentering a Eurocentric migration narrative. Adam McKeown, "Global Migration, 1846-1940," *Journal of World History* 15, no. 2 (2004): 155–89. Adam M. McKeown, *Melancholy Order: Asian Migration and the Globalization of Borders* (Columbia University Press, 2013); Dirk Hoeder, "Migrations and Belongings," in Rosenberg, *A World Connecting, 1870-1945*.

accessible for people to both come and go.¹⁸ Indeed, new systems of transportation, policing, and management fueled the expansion of government bureaucracies.

State-built structures drew from mechanisms that used the scientific method to quantify populations. The social sciences, coupled with new biometric measurements, such as fingerprinting, helped determine belonging. Technologies for surveilling the population became increasingly standard, including regularizing birth certificates, creating citizen registries, and issuing government-issued identification cards.¹⁹ Through reports like those collected in the Dillingham Commission, they also provided new means to approach questions of racial difference and immigration in the United States, building on and contributing to the Progressive Era's obsession with race science and eugenics.²⁰ For the United States government, their experience in overseas colonial management techniques, adapted from the previous Spanish control, were imported into the continental US to help manage not just colonial subjects but also US citizens.²¹ Thus, immigration and imperialism offer the dual approaches to how, as Matthew

¹⁸ Cf. Vanessa Ogle, "Whose Time Is It? The Pluralization of Time and the Global Condition, 1870s—1940s," *The American Historical Review* 118, no. 5 (2013): 1376–1402; Jonathan Eacott, *Selling Empire: India in the Making of Britain and America, 1600-1830* (UNC Press Books, 2016); Manu Karuka, *Empire's Tracks: Indigenous Nations, Chinese Workers, and the Transcontinental Railroad* (Univ of California Press, 2019).

¹⁹ John Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (Cambridge University Press, 2000); Jane Caplan and John C. Torpey, eds., *Documenting Individual Identity: The Development of State Practices in the Modern World* (Princeton University Press, 2001).

²⁰ Katherine Benton-Cohen, *Inventing the Immigration Problem: The Dillingham Commission and Its Legacy* (Cambridge: Harvard University Press, 2018); Also see: Robert F. Zeidel, *Immigrants, Progressives, and Exclusion Politics: The Dillingham Commission, 1900-1927* (Northern Illinois University Press, 2004).

²¹ Cf. Alfred W. McCoy, *Policing America's Empire: The United States, the Philippines, and the Rise of the Surveillance State* (Madison: University of Wisconsin Press, 2009); Paul A. Kramer, *The Blood of Government: Race, Empire, the United States, and the Philippines* (Chapel Hill: The University of North Carolina Press, 2006); Paul A. Kramer, "Power and Connection: Imperial Histories of the United States in the World," *The American Historical Review* 116, no. 5

Frye Jacobson has explained, "the United States encounters foreign peoples at home and abroad."²²

The management techniques that the United States developed through domestic and foreign policy were instrumental in the context of war. The First World War took the logic of imperial competition and maximalist sovereignty to its breaking point, as rights of citizens eroded on both a global and national scale. As European empires wreaked havoc on one another, the United States expanded further through the thickening of government bureaucratic structures, eventually seeking to mobilize their citizenry to join the war. American citizenship, as Christopher Capozzola has shown, took on new meaning, as did its absence. Though the war temporarily brought the era of mass migration to a halt, fledgling government agencies, in coordination with vigilante citizens, further codified and enforced categories of membership and belonging.²³

As the multi-ethnic empires in Eurasia collapsed in the aftermath of the war, the victors maintained many of their wartime powers rather than retreating to a pre-war level of sovereignty authority. Yet, the contradictions, embedded now in a state system defined by a singular national and mutually exclusive sovereignty, were never addressed. International historians have shown how the peace that resulted from the war reified the pre-war form of imperial sovereignty,

(December 1, 2011): 1348–91. Also see: Alfred W. McCoy and Francisco A. Scarano, eds., *Colonial Crucible: Empire in the Making of the Modern American State* (Madison: University of Wisconsin Press, 2009).

²² Jacobson, *Barbarian Virtues*.

²³ See: Christopher Capozzola, *Uncle Sam Wants You: World War I and the Making of the Modern American Citizen* (Oxford: Oxford University Press, 2010) Esp. Ch 6. Enemy Aliens: Loyalty and the Birth of the Surveillance State.

though under the new guise of the nation-state.²⁴ Instead, the emerging internationalism, as Mark Mazower argues, "was not the antithesis to empire, but its civilizer" that offered a vocabulary for imperialist policymakers.²⁵

The massive population displacement of the war and the renewal of migration patterns immediately posed a challenge for the internationalist order. In Eurasia, the aftermath of war, shifting diplomatic borders, and population exchanges led to the dislocation of millions of people, many of whom did not have de facto nor de jure access to a nation-state. Between 1915 and 1918, an estimated seven million people relocated as a consequence of the Russian Revolution, let alone the other regional conflicts.²⁶ The common thread uniting this diverse group of people was that their movement was, in some capacity, involuntary.²⁷

²⁴ As Sean Andrew Wempe explains, "The First World War marked an adaptation to, not a break with, the West's enunciation of liberal imperialist principles...Internationalism was not intended to destroy empires, but rather to serve as a life preserver for the imperial civilizing mission." "A League to Preserve Empires: Understanding the Mandates System and Avenues for Further Scholarly Inquiry," *American Historical Review* 124, no. 5 (December 2019): 1725; Frederick Cooper and Rogers Brubaker, *Colonialism in Question: Theory, Knowledge, History* (Berkeley: University of California Press, 2005), 156–57; Susan Pedersen, "An International Regime in an Age of Empire," *American Historical Review* 124, no. 5 (December 2019): 1676–80; Natasha Wheatley, "Spectral Legal Personality in Interwar International Law: On New Ways of Not Being a State," *Law and History Review* 35, no. 3 (2017): 753–87.

²⁵ Mark Mazower, *Governing the World: The History of an Idea, 1815 to the Present* (New York: Penguin, 2012), 167–68.

²⁶ Peter Gatrell, *A Whole Empire Walking Refugees in Russia during World War I* (Bloomington: Indiana University Press, 1999), 211–15. For coverage of refugees and displaced persons in Eurasia between World War I and World War II see, in particular, Claudena M. Skran, *Refugees in Inter-War Europe: The Emergence of a Regime* (Clarendon Press, 1995); Peter Gatrell and Lyubov Zhvanko, *Europe on the Move: Refugees in the Era of the Great War*, Cultural History of Modern War (Manchester: Manchester University Press, 2017); Michael R. Marrus, *The Unwanted: European Refugees in the Twentieth Century* (New York: Oxford University Press, 1985), 51–207.

²⁷ I use the terms choice and (in)voluntary to acknowledge access to certain resources that would enable international travel, rather than to attribute levels of relative agency to different groups of migrants. Voluntary movement and involuntary or forced movement can be helpful categories to describe relationships to government regulated travel regimes, which largely divide migrants into

As articulated by the League of Nations, the international system understood these involuntary migrants or refugees as part of a collective and approached their needs through the lens of group rights. Collective rights, as conceived of, for example, through the minority rights treaties and the Mandate System, considered an individual as significant in their part of a broader group. Their claim to status into a broader state structure was based on their ability to prove their membership in a subgroup or nation.²⁸ Thus, in Eurasia, the collectivized understanding of statelessness led to institutionalized mechanisms to handle their status. It resulted in the creation of a special passport for certain groups of refugees, the Nansen Passport, that allowed for their movement but also codified their status as stateless.²⁹

the categories of workers, refugees, and temporary visitors. Rey Koslowski, “The International Travel Regime,” in *Global Mobility Regimes*, ed. Rey Koslowski (New York: Palgrave Macmillan US, 2011), 51–72. For a discussion of the limitations of voluntary or force migration, see: Valeria Ottonelli and Tiziana Torresi, “When Is Migration Voluntary?,” *The International Migration Review* 47, no. 4 (2013): 783–813; Marta Bivand Erdal and Ceri Oeppen, “Forced to Leave? The Discursive and Analytical Significance of Describing Migration as Forced and Voluntary,” *Journal of Ethnic & Migration Studies* 44, no. 6 (May 2018): 981–98.

²⁸ The question of minority rights is covered in depth in Carole Fink, *Defending the Rights of Others: The Great Powers, the Jews, and International Minority Protection, 1878-1938* (Cambridge: Cambridge University Press, 2006). For work on the creation of the Mandate System and its implications at an international level, see Susan Pedersen, *The Guardians: The League of Nations and the Crisis of Empire* (New York, NY: Oxford University Press, 2015) especially Part I. Making the Mandates System, 17-106; Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge University Press, 2007), 115–95; Susan Pedersen, “Back to the League of Nations,” *The American Historical Review* 112, no. 4 (October 1, 2007): 1091–1117. The centennial of the Mandate System sparked renewed analyses, see the articles from “AHR Reflections: One Hundred Years of Mandates,” *American Historical Review* 124, 5 (December 2019): 1673-1731.

²⁹ As Mark Mazower comments, “the emergence of the Nansen Passport was a striking demonstration of how rising nationalism and ideological conflict could prompt more intensive internationalism.” *Governing the World*, 157. For coverage of the Nansen Passport with respect to statelessness and refugees in Europe see Siegelberg, *Statelessness*, 49–82; Marrus, *The Unwanted*, 51–121; Skran, *Refugees in Inter-War Europe*, 102–24.

In contrast, migrants on the other side of the Atlantic, though responding to the same stimuli and facing various degrees of coercion, encountered the US government on an individual basis. As immigration control grew through the first decades of the twentieth century, the American government hired increasing numbers of people to manage borders and police foreign-born persons within the United States. Deportation represented the culmination of that policing power, a set of techniques Daniel Kanstroom identifies as "a powerful government assertion of high stakes sanctions including detention, forced movement, and exclusion in low formality settings aimed at noncitizens who are often the most powerless and marginalized members of society"³⁰ As Kanstroom points out, the imbalance of power relationships, between the individual migrant and the growing American bureaucratic state, is a definitional component of the development of what would become a fundamental expression of state sovereignty.

The development of the state apparatuses to manage immigration and deport undesirable foreign-born persons further reinscribed the power of an international liberal order. Government agents in the United States presumed each body had a relationship with a state, and in turn, the state has a responsibility toward its subjects. As Nathalie Peutz and Nicholas de Genova have argued, "deportable populations do not embody the supposed absence of the state but rather become the object of its sovereign power to exclude, even while it incorporates them." The idea of "being deportable," Peutz and de Genova argue, entails already being "*within* the purview of a state's power." The individualized visibility of the deportable migrant was at times the side-effect, and at others the point of paradigms of international membership.³¹

³⁰ Daniel Kanstroom, "Deportation as a Global Phenomenon: Reflections on the ILC Draft Articles on the Expulsion of Aliens," *Harvard Human Rights Journal* 30 (Spring 2017): 50.

³¹ Nathalie Peutz and Nicholas de Genova, "Introduction," in Nicholas De Genova and Nathalie Peutz, eds., *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement* (Durham, NC: Duke University Press Books, 2010), 15. In another essay in the collection, De

Though officials sometimes allowed for caveats in their individualist approach, in the case of religious persecution, for example, the government categorized the cause of migration as voluntary.³² Furthermore, the American presumption of membership to a political entity, not a national group, invoked an idea of individual rights. The question for American immigration authorities was not what *nation* a migrant belonged to but what *nation-state*. Even if nationality could be determined, it was the political relationship of the individual to a state that the Immigration Bureau was most attentive to, particularly in cases of deportation.

The overlapping conceptual networks about what bodies belonged to what political entities informed the imaginative possibilities of what and who the liberal international system had a responsibility towards. The Treaty of Versailles enshrined group rights as the underlying category for protection. Yet, in the United States, the government articulated the rights of migrants in terms of their relationship to the state. The discussion of rights attached to individual bodies developed through comparing the American experience to the broader European refugee crisis. It functioned to transform migration and labor from a domestic concern into one of international political relations.

Genova argues that deportation constitutes a “zone of indistinction” in the sense referred to by Giorgio Agamben, in that it represents “the whole totalizing regime of citizenship and alienage, belonging and deportability, entitlement and rightlessness, is deployed against particular persons in a manner that is, in the immediate practical application, irreducibly if not irreversibly individualizing.” “The Deportation Regime: Sovereignty, Space, and the Freedom of Movement,” in Genova and Peutz, 35–36; Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford University Press, 1998), 6. Also see William Walters, “Deportation, Expulsion, and the International Police of Aliens,” and Peter Nyers, “Abject Cosmopolitanism: The Politics of Protection in the Anti-Deportation Movement” in Genova and Peutz, *The Deportation Regime*, 69–100, 412–42.

³² For the history of prototypical refugee legislation before the in the United States before the passage of the Refugee Act of 1980, see Yael Schacher, “Exceptions to Exclusion: A Prehistory of Asylum in the United States, 1880-1980” (Ph.D., Cambridge, MA, Harvard University, 2016).

Sources of illegible subjects

I explore the story of how the United States government made sense of people who did not fit within the liberal internationalist system, who, as a consequence of policy changes, became de facto stateless persons. The paradox of their identity is akin to what Mae Ngai has analyzed in her pathbreaking work, *Impossible Subjects*. The de facto stateless person's relationship to the international system is not, however, that of an impossible subject but an illegible one.³³ In his analysis of state structure and formation, James Scott writes that "legibility is a condition of manipulation. Any substantial state intervention in society," such as immigration control or deportation, "requires the invention of units that are visible."³⁴ The figure of the undeportable migrant in the United States evoked responses from diverse groups all interested in making the figure legible within their paradigm. Those groups ranged from different bureaucratic arms of the federal government to politicians and their constituents, local and

³³ Discussing the consequences of restriction in generating new identities, Ngai writes, "immigration restriction produced the illegal alien as a *new legal and political subject*, whose inclusion within the nation was simultaneously a social reality and a legal impossibility—a subject barred from citizenship and without rights. Moreover, the need of state authorities to identify and distinguish between citizens, lawfully resident immigrants, and illegal aliens posed enforcement, political, and constitutional problems for the modern state. The illegal alien is thus an 'impossible subject,' a person who cannot be and a problem that cannot be solved." *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004), 32.

³⁴ James C. Scott, *Seeing like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998), quote from 183, also see 78, 218-220. Michel Foucault's ideas of governmentality and biopolitics also useful for considering the undeportable migrant. See Michel Foucault et al., *The Foucault Effect: Studies in Governmentality: With Two Lectures by and an Interview with Michel Foucault* (Chicago: University of Chicago Press, 1991) Especially Ch. 4 Governmentality; Michel Foucault, *The History of Sexuality*, Vintage Books ed. (New York: Vintage Books, 1990), 137. Also the use of visibility in Charles Tilly, *Coercion, Capital, and European States, AD 990-1992* (Cambridge: Blackwell, 1990), 85, 89.

national newspapers, course cases and legal discourse, and international humanitarian organizations.

Each coalition looked toward the figure of the undeportable migrant from varying vistas, and as such, made different assumptions as to the correct lens for returning them to status within their purview. By tracing the different responses, this dissertation argues that the undeportable migrants presented an opportunity for experimental articulation of what each human body was entitled to within an international system where the nation-state had become the prime guarantor of rights. It examines the questions of how and why certain migrants in the United States became undeportable, or de facto stateless, in the first place.

The answer lies at the intersection of the simultaneous demands for immigration reform in domestic policy and the demonstration of maximal sovereignty in foreign policy. Immigration and foreign relations were related categories, as other scholars have shown.³⁵ My dissertation, however, argues unwanted immigrants and the governmental attempts at their deportation as not just comprising foreign relations but part of diplomacy. The dissertation exposes how the United States government produced conflicting definitions of sovereignty in their international encounters and why those contradictions became embodied in particular migrants by examining the creation and management of de facto stateless persons.

The codification of the administrative state in the first decades of the twentieth century left ample traces of government efforts and their varying levels of success. The arguments that unfold in the following chapters draw from a range of archives, document collections, and published sources. Through these documents, ranging from interdepartmental correspondence,

³⁵ See, in particular, Donna R. Gabaccia, *Foreign Relations: American Immigration in Global Perspective* (Princeton: Princeton University Press, 2012). Also see Sarah Song, *Immigration and Democracy*, Oxford Political Theory (New York: Oxford University Press, 2019).

internal memoranda to consular telegrams, the dissertation traces the internal working of government action around de facto stateless migrants.

Certain moments, such as the Red Scare of 1919 and 1920, created greater public interest in undeportable figures. Government administrators attempted to balance public demands while managing the challenges of working within the confines of the American legal system and acknowledging the premise of international order. During this moment, among others, I corroborate these internal machinations with the outward-facing accounts that I access through government press releases and newspaper interviews, congressional hearings, federal legislation and the coverage of its enforcement, and federal court cases. The tensions between these camps—the public, US politics and law, and international society and regimes—allow the dissertation to approximate where US sovereignty extended beyond the territorial boundaries of the state and where it fell short.

Due to the pandemic, I could not access archives and collections that I had planned to return to as I completed the thesis. To attempt to fill in these unavoidable absences, I rely upon published materials, such as travelogues and memoirs written by relevant government actors and their counterparts, as they reflected on their experiences during and after personally encountering statelessness. In other places, I draw from other scholars who have replicated archival material in their work, intending to visit the sources myself at a future time. In these instances, my citations show the secondary material where I encountered the sources and reproduce the scholarly citation as originally printed.

Chapter outline

In its exploration of the people caught in the liminal status between US diplomatic categories, the dissertation follows the contours of American sovereignty, and where it overlapped and intersected with international norms, standards, and rights. In doing so, illuminates fragility and contingency of that sovereignty. In my analysis of the affective, legislative, and judicial traces of migrants, I show how their contestations provide insight into how the US maintained influence by attempting to control access to citizenship rights. I suggest that such migrants highlight the simmering conflict between an American ideology based on state-building, border control, and external expression of sovereignty and the seemingly contradictory necessity to comply with diplomatic and international norms in order to obtain any of these ideological projects.

The project unfolds in four thematically organized chapters: men without countries, alien anarchists, legal bodies, and expatriates. Across each chapter, I read these figures transnationally, investigating them as individuals and imagined persons, as potential citizens, and as discordant pieces troubling the cohesion of the nation-state system. I show how the multiplicity of their identities served as intentional and unintentional challenges to the fragile but enduring concept of international sovereignty.

Chapter One explores de facto statelessness as a distinct problem of modernity, emerging due to the changes in documentation for international travel and new assumptions the universality of citizenship. Immigration control, like other progressive era policies, projected an intelligible logic onto the incoherent and constantly moving populations in the United States. It assumed that each body could be accounted for by some government, and if it were not the responsibility of one foreign government, it would be the responsibility of some other. The rise of an international system to regulate mobility and membership, as expressed in the United

States in implementing immigration and deportation policies, also created new identities for people who failed to neatly fit within government-issued categories. The first chapter takes up how American citizens imagined and defined these new identities at the turn of the century and how those ideas shifted in response to the First World War. The chapter analyzes the literary trope of the man without a country and how popular newspapers applied it to evolving sets of people.

The idea of the man without a country took on new meanings when the United States joined the First World War and passed a set of immigration reforms that would continue to be in effect after the war. Those policies formalized the idea of the anarchist alien and the attempts by different executive departments to manage the perceived problem. Chapter Two examines the approaches of the Departments of State, Labor, and the Judiciary, and how each differed in its ideological approach to American power, and its practical application in cases of alien anarchists. The chapter frames the departmental priorities against the backdrop of a longer American distrust of revolution. After World War I exposed a heightened fear of revolutionary, alien anarchists from the public and allows for a stringent government response, the executive branches then face the problem of what to do with these undesirable immigrants. The hyperbolic rhetoric surrounding the danger such alien anarchists posed to the essence of American democracy did not match the wavering, and uneven response from officials tasked with actually getting rid of said anarchists. The mechanisms used, often entirely ad hoc and unprescribed by government rules showed the disjointedness between the agendas of each Department. The precarity and improvisational nature of the bureaucratic response illuminate the different competing notions of American power.

Chapter Three continues to examine the governmental response to the idea of a predacious alien anarchist, this time from a legal perspective. It examines the few cases that, despite the limited scope of judicial review for immigrants, managed to reach the court system and the legal capacity of the US government to enforce its laws within the existing international order. The chapter explains how the court initially attached deportation directly to American sovereignty in relation to its response to Chinese Exclusion. It then looks at the legal consequences of the crackdown on alleged alien anarchists and ways in which would-be deportees could contest their removal using the language of civil liberties. It then concludes by evaluating how scholars within the legal field acknowledged and attempted to make sense of immigration law and its intersection, and at times conflict, with sovereignty and foreign relations. Together, the cases and legal scholarship show how the intersection of these different fields represents an aporia for the emerging administrative state.

The final chapter, Chapter Four, turns from men without countries, alien anarchists, and deportees to how American concern about each group reflected back on American citizens within an international context. In examining Americans in Russia, it analyzes the multifaceted experiences American citizens had and showcases the contradictory definitions of sovereignty that were simultaneously at play in American-Russo relations during the period of non-recognition. Analyzing the precarious position of Americans in Russia during the period of non-recognition, the chapter highlights the conflicting ideas and approaches of American ideologues and problem solvers.

Taken together, the chapters examine the interplay between national and foreign policy initiatives and how that impacted people's access to rights outside of their role as citizens of any state. They take up how issues of rights and sovereignty manifested in the often ad hoc process

of enacting deportations and the negotiations they required within the US government and between the US and other governments. As seen in the final chapter, the dissertation also examines how these issues reflected back onto Americans themselves, who found that foreign policy decisions could limit their access to rights while traveling abroad. I suggest that the negotiation of laws and process were shaped by a shift in the American public's imagination of an individual's relationship to the state, and a new imagination of immigrants writ large in the lead up to the first World War.

The dissertation emphasizes the importance of *process* for analyzing diplomatic, legal, and immigration history. In doing so, it shows the multidirectional, although often uneven, projections of power. I present both the moments when the United States government was successfully able to project power and the surprising moments when seemingly "weaker" nations could check that power. And finally, examining these processes provides glimpses into the experimental, early stirrings of what would emerge as a more robust rights talk after the Second World War

The questions the dissertation takes up have ongoing pertinence as we consider current events. Who has access to the nation-state? What responsibility do countries have in assisting with each other's deportations? What duty does the United States have to people, not as their citizens, but as human bodies? How can migrants, who don't have access to citizenship, protect themselves from a nation hostile to their very presence? I argue that the ongoing controversies over these questions are part of the very fabric of US immigration and foreign policy bureaucracy.

The dissertation uncovers the roots of the debates unfolding in the policy world over these and other critical questions. The attempts to reconcile such conflicting impulses determined

who had access to the nation-state. The resulting reconciliations reimagined an increasingly interconnected world where every person had rights, both in the first decades of the twentieth century and today.

CHAPTER I: MEN WITHOUT COUNTRIES

Born in Russia in about 1880, Nathen Cohen immigrated with his family to Brazil at a young age. In 1912, when he was thirty years old, Cohen moved once again, this time to the United States.¹ After living in Virginia for about a year, neighbors grew suspicious of Cohen's activities and reported him to local authorities, claiming he was insane. These authorities apparently agreed with their assessment because not long after receiving a report, immigration officials arrested Cohen for deportation. But to where should Nathan Cohen be deported?

Cohen was born in Russia, but Russia refused to recognize him as one of their own and claimed to have no records of his birth or citizenship. If not Russia, immigration officials thought, the best bet would be to send Cohen back to Brazil, considering he had spent his childhood there. However, when Cohen arrived at the port in Rio de Janeiro, Brazilian authorities would not allow him to disembark. They also claimed to have no citizenship or naturalization records for Cohen and thus had no responsibility to allow him in the country. Unwelcome in his childhood home, Cohen stayed on the steamship, making the return trip to the United States.²

All told, Nathan Cohen lived on the ship for two years, traveling back and forth between the United States and Brazil. Finally, in March of 1915, he arrived yet again at an American port, this time at Ellis Island, New York, where the ship's crew was instructed to hold him on the ship

¹ "List or Manifest of Alien Passengers for the United States Immigration Officer at Port of Arrival," S.S. Vasari sailing from Santos, April 14, 1912. Arriving at the Port of New York, May 4, 1912. *New York, U.S., Arriving Passenger and Crew Lists*, page 164.

² The *S.S. Vasari* stopped in Buenos Aires, Argentina on their return trip to the United States, where they unsuccessfully attempted to the Argentine government to accept Cohen.

for five days.³ At this point, as many newspapers pointed out, Cohen had traveled over thirty thousand miles on a single ticket, from Boston to Rio to Boston to Rio and, finally, to Boston again.⁴



Fig. 1.1 Drawings of Cohen originally printed in the *Pittsburgh Press*, that was reprinted in newspapers across the country. James F. Taylor, "Nathan Cohen, Now Thirty-Five Years Old, Left Russia In Early Youth, Went to Brazil and Thence to New York and Virginia as Emigrant—Expelled as Mentally Unsound, He Becomes Compulsory Ward of Steamship Company and Homeless Wanderer," *The Pittsburgh Press*, April 18, 1915. Newspapers.com distributed by ProQuest.

³ "Record of aliens held for special inquiry," *S.S. Vasari*, arrived in New York, New York, March 14, 1915, from Buenos Aires, Argentina, p. 66, also see p. 54.

⁴ "33,700 Miles on a \$45 Steerage Ticket. Man without a Country Cannot Be Landed by Steamship Company," *San Jose Mercury News*, April 10, 1915; "Travels Year on High Seas, 33,740 Miles, on Single \$45 Ticket," *Colorado Springs Gazette*, March 20, 1915; "Man without a Country May Be Deported to South America Again Unless Officials Relent.," *Evening News*, March 26, 1915, 61 edition; "Sea Wanderer Is Outcast. Nathan Cohen Completes First Year on Ocean—Again Mentally Sound," *Aberdeen Daily News*, March 30, 1915; "Rejected by Three Nations. He Still Travels the Ocean," *Fort Worth Star-Telegram*, March 19, 1915; "Excluded by America, Rejected by Brazil Demented Traveler Must Live on Ocean," *Salt Lake Telegram*, March 19, 1915; "A Man Without a Country," *Outlook*, April 7, 1915.

The role of metrics, such as sanity tests, for determining a threshold for access to the state, as was the case with Cohen, figured more prominently in the first decades of the twentieth century.⁵ Yet something about the story of Cohen's travails tugged at the heartstrings of many Americans. Newspapers across the country dubbed him the *real* "man without a country" and told their readership of his misadventures at sea. For these American readers, Cohen's true story echoed the fictional account of Philip Nolan, who too was condemned to spend his life on a ship, never landing at any port.

Nolan, the protagonist of the famous short story, *The Man Without a Country*, was familiar to many Americans at this time; American public schools regularly assigned the story as required reading. Moreover, in 1915, with World War I just beginning in Europe, the parallels between Cohen and Nolan inspired pity in the newspaper-reading public. For example, one article describes his portmanteau, and that attached to one of its straps was "a cardboard tag, inscribed with the name Nathan Cohen, under the name a dash. No address." The article continued, "there is something infinitely pathetic about that bag. It is like its owner—belongs nowhere, is wanted nowhere."⁶ Eventually, hearing of Cohen's plight, a Jewish fraternal

⁵ That threshold applied not just to foreign born persons attempting to enter the United States, but also in cases of citizens attempting to re-enter, as well as colonial subjects. See, for example, "Man without a country: Indiana Native Spends life Crossing and Recrossing Atlantic," *the State*, Feb. 1. 1914; "Man Without Country Raises Knotty Problems," *San Francisco Call*, March 24, 1912; "Trouble Over Custody of Insane Filipino Boy," *San Francisco Call*, July 29, 1905. This role of mental health in creating foreign-born "forever prisoners," has been elucidated in Elliot Young, *Forever Prisoners: How the United States Made the World's Largest Immigration Detention System* (Oxford: Oxford University Press, 2021) especially Chapter 2 Nathan Cohen, the Man without a Country. Also see Ji-Hye Shin, "Insanity on the Move: The 'Alien Insane' in Modern America, 1882-1930," (Ph.D., Rutgers The State University of New Jersey, New Brunswick, 2013).

⁶ James F. Taylor, "Nathan Cohen, Now Thirty-Five Years Old, Left Russia In Early Youth, Went to Brazil and Thence to New York and Virginia as Emigrant—Expelled as Mentally Unsound, He Becomes Compulsory Ward of Steamship Company and Homeless Wanderer," *The Pittsburgh Press*, April 18, 1915.

organization helped Cohen prove his mental stability to the immigration authorities, which finally allowed him to disembark in Boston.⁷

Men without countries, such as Nathan Cohen, revealed the limits of US deportation powers, especially in the early years of World War I. The war, and the resulting shifts in European national boundaries, rendered the plight of Cohen and his compatriots newly salient in the American imagination. And yet, such people, most often men, were not a new phenomenon. Newspapers had initially used "the man without a country" as an allegory describing confederate loyalists after the Civil War. By 1915, the first total war redefined the boundaries and responsibilities of nation-states; in the US, the "man without a country" described those caught within contradictions of a new international order.

This chapter analyzes the evolving American imagination of foreigners, focusing on global themes of citizenship and statelessness, and on national inclusion and exclusion. It traces how Americans attempted to protect, define, and control stateless migrants, such as Cohen. Through the nineteenth and into the twentieth century, the federal government had primarily used the mechanism of immigration control—exclusion, expulsion, and deportation—for the purpose of Chinese exclusion. In 1917, the new immigration law extended the Chinese Exclusion provisions to stretch across Asia (except for Japan), creating the Asiatic barred zone. Further, the Statute created newly restrictive immigration criteria, primarily through the means of a literacy test.

⁷ "Man without a Country at Last Finds One Here," *Tuscan Daily Citizen*, April 1, 1915, LXIII edition; "Sea Wanderer at End Trip. Nathan Cohen, Repeatedly Deported, Finally Finds Haven," *Aberdeen Daily News*, April 5, 1915; "The Wandering Jew Stops. after Traveling 33,000 Miles Nathan Cohen Was Landed," *Kansas City Star*, March 28, 1915, sec. 192.

Yet even with further restrictions in American law, as the example of Nathan Cohen demonstrates, national immigration control did not exist in a vacuum. In their deportation of Cohen, the federal government operated on the assumption he was a citizen of some other nation-state that had an obligation to accept him. When both Russia and Brazil denied such a relationship, the United States became incapable of deporting Cohen. Thus, even as the federal government increasingly relied on deportation as a tool of population control, it also increasingly relied upon an international system in which every human body around the world was claimed as a citizen of one or another country. This international system demanded proof of citizenship in the form of internationally accepted, government-issued forms of documentation. "Men without countries," such as Cohen, show how deportation, passports, national citizenship, and migrant rights were all part of federal government efforts to control its population.

The chapter first looks at the making of deportation policy by providing a brief overview of the novella, *the Man Without a Country*, then analyzing how educators taught the story in US public schools and how newspapers picked up and deployed the trope. It then looks at early versions of deportation policy, how its success depended on the federal bureaucracy and established how the new international order, made after the Spanish-American War, influenced the making and understanding of deportation as post-entry removal. The chapter goes on to address what happened when, due to the War, those post entry removals could not be actualized and how the contradictions and limitations in bureaucratic control of American immigration led to new frustrations with, and suspicions of, stateless migrants. Finally, it concludes by examining the passage of the 1917 Immigration Act and how legislators folded it into the American wartime state, and the resulting new reading of redefinition of the *Man Without A Country*.

At the turn of the century, the description of people as men without countries was shorthand for a status of statelessness often occurring as a consequence of expulsion or deportation. Articles covering such men expressed their peculiar status and often conferred some level of sympathy for their lack of membership. For example, in 1895, a Boise, Idaho local newspaper ran a story entitled, "A Man Without a Country." In that story, the paper asked:

If your father is a Belgian, your mother Dutch and you were born in France, where are you to live? The is the problem which presents itself to a man who was arrested at St. Dennis the other day for disobeying an order of expulsion. He has been expelled from Belgium for being a Frenchman, from Holland for being a Belgian, and now he has to leave France because, whatever he may be, he is not a Frenchman. Really, parents should be more careful.⁸

The piece offered a flippant take on a problem that countries around the world faced: if a government decided they did not want to have a person in their territory, how could they prove that it was, in fact, another government's responsibility to take that person?

The answer, or lack of answer, the newspaper offered for the problem of national belonging and responsibility can be inferred from the title of the article: The Man Without A Country. The title referred to the famous piece of historical fiction of the same name, written in 1863 by Edward Everett Hale. In the story, first published anonymously in *the Atlantic* at the height of the Civil War, the narrator recounts the fictional biography of Philip Nolan – whose surname is a near-cognate with his status of having "no land." The narrator explains how Nolan, an American Army Lieutenant in the Revolutionary War, was seduced by the corrupting influences of the traitor Aaron Burr and cursed the United States in a fit of pique. Nolan renounced his country, saying, "I wish I may never hear of the United States again." A judge granted Nolan's wish and sentenced him to spend the rest of his years transferring between Navy

⁸ "A Man without a Country," *Idaho Daily Statesman*, April 11, 1895: 2.

warships, with the order that no person should ever mention "the United States" to him again. Condemned to live at sea, Nolan was initially self-assured and unrepentant. Still, he later came to long for his country, and ultimately, in tragic irony, he learned the true meaning and value of patriotic duty in his last days at sea. The story ends when Nolan dies on the ship, and we read the epitaph he wrote for his gravestone: "He loved his country as no other man has loved her; but no man deserved less at her hands."⁹

Hale originally wrote the *Man without a Country* in support of Union forces in the Civil War, aiming to show young Americans what it meant to secede from one's country. However, after the Civil War, reprints of the story took on a life of their own. By the 1890s, the story became a commonly assigned text in American public schools.¹⁰ In later editions of the text, Hale rededicated the story to "the boys and girls who are also citizens of the United States."¹¹ For Hale, the point of the story was to teach young Americans about their national, patriotic duty. Hale portrayed Philip Nolan as a tragic hero, or perhaps a victim, but certainly not a villain or perpetrator.¹² Nolan's life and punishment could help young readers define what American citizenship might look like. "Poor Nolan," as the narrator called him, was "seduced" by the anti-patriotic whisperings embodied in the character of the infamous Aaron Burr. Teachers assigned Nolan's tragic tale to teach their students a negative definition of national belonging. They used the story as a pedagogical tool to awaken students' consciousness of civil ideals, patriotic duty,

⁹ "The Man Without a Country," *Atlantic Monthly* 12, no. 74 (December 1863): 665–79.

¹⁰ "Books Received," *The School Review*, April 1893, 261–62; "Advertisement 46--No Title," *Outlook*, August 19, 1893, 46.

¹¹ Edward Everett Hale, *The Man Without a Country*, The Young of Heart Series (Boston: Dana Estes & Co., 1899).

¹² Carrie Hyde, "Outcast Patriotism: The Dilemma of Negative Instruction in 'The Man Without a Country,'" *ELH* 77, no 4 (2010): 915-39.

and the American spirit.¹³ As one associate editor asked in the *Journal of Education*, "what American can read that book without coming away a better citizen."¹⁴

The short story and its use in public schools provide a window into the American imagination of national belonging at the turn of the century.¹⁵ The novella bridged the gap between history and civics classes, as, by 1916, American public schools moved towards a new curricular model focusing on "community civics" and "problems of democracy."¹⁶ Nolan's story helped demonstrate how the line between patriot and outsider was permeable in a way that had the potential to shape how Americans viewed the millions of immigrants arriving at US ports in the first decades of the twentieth century.

¹³ Mary McSkimmon, "The Training of Children in Civic Ideals," *The Journal of Education* 68, no. 5 (1908): 139-46; Carrie A. Cowden, "Uncle Sam's Pageant," *The Journal of Education* 79, no. 21 (1914): 579-80; Edith M. Penny, "The American Spirit," *The English Journal* 7, no. 2 (1918): 129-32; J. H. Hanford, "Relating the English Course to the World Crisis: III English Literature and the Present Crisis," *The High School Journal* 1, no. 4 (1918): 2-6; E. Dudley Parsons, "The English Teacher and Patriotism," *The English Journal* 8, no. 3 (1919): 154-63; Anthonette Durant, "A Plan For Teaching: 'The Man Without a Country,'" *The Elementary English Review* 11, no. 1 (1934): 13-30.

¹⁴ "Belding's Page," *The Journal of Education* 114, no. 9 (1931): 199.

¹⁵ As Ernest Gellner wrote in his classic argument about the role of modernization and the making of nations and nationalisms: "the general imposition of a high culture on society, where previously low cultures had taken up the lives of the majority, and in some cases the totality, of the population. It means the general diffusion of a school-mediated, academy supervised idiom, codified for the requirements of a reasonably precise bureaucratic and technological communication. It is the establishment of an anonymous impersonal society, with mutually sustainable atomized individuals, held together above all by a shared culture of this kind, in place of the previous complex structure of local groups, sustained by folk cultures reproduced locally and idiosyncratically by the micro-groups themselves." *Nations and Nationalism* (Cornell University Press, 1983), 57.

¹⁶ Thomas Scott and John J. Cogan, "Democracy at a Crossroads: Political Tensions Concerning Educating for Citizenship in the United States," in *Citizenship Curriculum in Asia and the Pacific*, ed. David L. Grossman, Wing On Lee, and Kerry J. Kennedy, vol. 22 (Dordrecht: Springer Netherlands, 2008), 166.

The use of the short story as a tool to teach Americans about their civic duty and the meaning of patriotism occurred at a moment of unprecedented levels of immigration. Between 1870 and 1900, about twelve million immigrants arrived in the United States, and between 1900 and 1915, more than fifteen million immigrants arrived.¹⁷ According to the census data, "in 1900 the foreign-born population was 13.6 percent of the population ... and in 1910, the proportion of foreign-born was 14.8 percent."¹⁸ In urban areas, the percentage of immigrants compared to the total population was even more significant. For the two biggest cities in the country, New York, New York, and Chicago, Illinois, in 1900, for example, foreign-born persons accounted for over a third of the population, 37 and 34.6 percent, respectively. In 1910, those numbers were even higher, with 40.8 percent of New York and 35.9 percent of Chicago listed as foreign-born.¹⁹

These percentages reveal the sheer visibility of foreign-born persons within American communities, which, coupled with the embedded assumption that these people were or would be naturalized as Americans, made the use of Hale's story in civic education even more critical.²⁰ Educators would use the story to teach American-born children and foreign-born, future Americans about patriotism and their civic duty in the United States. Before the US joined World War I, newspapers' references to the novella reminded readers of their shared humanity with these men without countries. Such newspaper articles referenced American citizens, some

¹⁷ "U.S. Immigration and Naturalization Service, Statistical Yearbook of the Immigration and Naturalization Service" (U.S. Government Printing Office, 2000), 18.

¹⁸ Susan J. Lapham, Patricia Montgomery, and Debra Niner, "We the American Foreign Born" (Washington, DC: U.S. Department of Commerce, Economics and Statistics Administration: Bureau of the Census, September 1993).

¹⁹ Campell J. Gibson and Emily Lennon, "Historical Census Statistics on the Foreign-Born Population of the United States: 1850 to 1990," United States Census Bureau, Working Paper Number POP-WP029, February 1, 1999.

²⁰ Hiroshi Motomura, *Americans in Waiting: The Lost Story of Immigration and Citizenship in the United States* (Oxford: Oxford University Press, 2006), 9–12.

foreign-born and some born within the country, and non-naturalized aliens using the same descriptive terms.²¹ The stories through-line suggested that anyone, American- or foreign-born, could become a man without a country. Though in Hale's short story, Nolan was exiled rather than deported, the characterization of someone as a "man with no country" was not applied to those the state punished; under law, deportation was a civil rather than criminal offense. The men were not expatriated or exiled as punishment. Instead, they were people, like Nathan Cohen, who found themselves caught in the midst of the immigration apparatus due to the inconsistencies with the developing administrative state.²²

The federal government only officially codified a broad use of deportation in the Immigration Act of 1917. However, the structural move toward a more restrictive stance toward migrants had already begun to take hold at the turn of the twentieth century. The passage of the Chinese Exclusion and Immigration Acts in 1882 represented the initial steps toward a broader

²¹ A sampling of this favorable sentiment can be seen in the following articles, for example: "Ream Man Without a Country: Topeka Man Can't Come Home Because He Has No Birth Registry.," *Boston Daily Globe (1872-1922)*; *Boston, Mass.*, January 16, 1910; "A Man Without a Country: Polish Youth Not Allowed to Stay Here and Cannot Return to His Former Home.," *Boston Daily Globe (1872-1922)*; *Boston, Mass.*, June 24, 1911; "Man Without a Country: Immigration Officials Refuse Admission to Traveler Returning Home After Visit to Saxony.," *Los Angeles Times (1886-1922)*; *Los Angeles, Calif.*, August 31, 1905.

²² Examples of articles about men without countries include: "Man Without a Country: Wan Knows Little of Origin and Cannot Be Deported.," *New York Times*, 1910; "Real Man Without a Country"; "A Man Without a Country"; "Another Man Without a Country: Stricken Insane on Ocean, Government Refuses to Admit Him.," *Boston Daily Globe (1872-1922)*; *Boston, Mass.*, April 7, 1912; "Ernest Mills Released. 'Man Without Country' out of Jail, but Must Say in State," *Oregonian*, August 2, 1915; "Seek Haven for Belgian. Here's Real Case of 'Man without a Country' Authorities in Quandry," *Aberdeen Daily News*, February 6, 1915; "Alien Spy Suspect Again Deported Frederick A. Taylor Faces Possibility of Becoming Second Man," *Duluth News-Tribune*, February 19, 1915; "Says American but Unable to Prove It F.A. Taylor Expelled from England a Man without a Country," *Idaho Statesman*, February 19, 1915; "The 'Man without a Country,'" *Philadelphia Inquirer*, November 17, 1916.

deportation policy, though the Act's drafters did not explicitly mention the word deportation. The Chinese Exclusion Act expanded the Page Act, which had forbidden certain groups of Asian laborers brought to the United States involuntarily and barred convicts and prostitutes from entry. The Act explicitly barred Chinese laborers from entry for a period of ten years (that legislators would expand in the following decades). In a precursor to broader documentary requirements, the law provided an exception for Chinese persons that could prove their legal status by producing an official government-issued document. The Immigration Act of 1882 created the notion of excludable classes, a group that comprised paupers and criminals, who port authorities would bar from entry into the United States. In the Immigration Act, the government could exclude a person upon their arrival in the country, but not after they had gained entry; the Chinese Exclusion Act, on the other hand, applied to Chinese laborers already residing in the United States, who would then be expelled. At the turn of the century, the question for the federal government was whether they could apply the provisions of post-entry removal used for the Chinese to other groups of immigrants.²³

Part of the problem in creating a broad deportation policy was a lack of bureaucratic state infrastructure. As Margot Canaday points out, though the Bureau of Immigration was among the earliest federal agencies, it remained in its "fledgling state" at the turn of the century.²⁴ The federal government only gained control of immigration in 1882, which they continued to share with state governments until 1891 when another act further consolidated the power of the federal

²³ Lucy E. Salyer, *Laws Harsh As Tigers: Chinese Immigrants and the Shaping of Modern Immigration Law*, 2nd edition (Chapel Hill: The University of North Carolina Press, 1995), 1–32.

²⁴ Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton, N.J.: Princeton University Press, 2011), 21.

government to control immigration.²⁵ Through that law, any person found to be in an excludable class within one year of their arrival in the country could be subject to removal.²⁶ More often than not, the possibility for deportation fell under the purview of the public charge clause, a part of the law that rejected immigrants judged likely to require public support or assistance. The public charge clause imposed a low evidentiary burden on immigration officials; Canaday writes, "it required no evidence that a crime had been committed, but only that a person *seem to be something* (likely to be poor)" also aligning with "the Progressive era's ideological melding of moral deficiency and economic dependency."²⁷

Once identified as possible public charges, the immigrants awaiting deportation had little means to combat their charge. In three Supreme Court cases in the late nineteenth century the court established that there did not have to be equality between citizens and noncitizens: noncitizens could not raise constitutional challenges, whether on deportation or exclusion grounds and procedure.²⁸ Under the legal doctrine of plenary power that resulted from these cases, immigrants would not have access to the courts for judicial review.²⁹ Explaining plenary

²⁵ For an extensive account on the state use of deportation and exclusion prior to its incorporation into federal immigration legislation, see: Hidetaka Hirota, *Expelling the Poor: Atlantic Seaboard States and the Nineteenth-Century Origins of American Immigration Policy* (Oxford: Oxford University Press, 2017).

²⁶ By 1903, the period of deportability was extended to three years. Edward P. Hutchinson, *Legislative History of American Immigration Policy, 1798-1965* (Philadelphia: University of Pennsylvania Press, 1981), 449.

²⁷ Canaday, *The Straight State*, 25.

²⁸ *Chae Chan Ping v. United States*, 130 U.S. 581 (1889); *Nishimura Ekiu v. United States*, 142 U.S. 651 (1892); *Fong Yue Ting v. United States*, 149 U.S. 698 (1893).

²⁹ For in-depth discussion of plenary power, see: Stephen H. Legomsky, "Immigration Law and the Principle of Plenary Congressional Power," *The Supreme Court Review* 1984 (1984): 255–307; Hiroshi Motomura, "Immigration Law after a Century of Plenary Power: Phantom Constitutional Norms and Statutory Interpretation," *The Yale Law Journal* 100, no. 3 (1990):

power doctrine, legal scholar Hiroshi Motomura comments that noncitizens could "demand no more than notice of the conditions of their admission," and thus, "lawful immigrants were treated as mere holders of revocable licenses who agreed to abide by the terms of admission."³⁰ Due to the small size of the Bureau of Immigration relative to the number of migrants entering and residing in the country, the flexible use of the public charge clause, and the immigrant's lack of access to the courts allowed at least one aspect of the deportation process to be marginally streamlined.

But deportation, more than exclusion or expulsion, involved a longer, more complicated process. In cases of exclusion, a person was immediately proximate to the ship they had arrived on; immigration officials could quickly identify the country from which they came. The burden of removal lay on the shipping company.³¹ For expulsion, a person could be physically put on a ship, any ship; the expeller had no obligation that the person arrive in a specific, predetermined destination.³² Deportation entailed not just a removal of a foreign individual from one country but also the return of that individual to another country, generally their country of origin.³³ That

545–613; Adam B. Cox, "Citizenship, Standing, and Immigration Law," *California Law Review* 92, no. 2 (2004): 373–423.

³⁰ Motomura, *Americans in Waiting*, 36–37, also see: 26–37.

³¹ The Immigration Act of 1891 provides the first elaboration of responsibility for excluded aliens. It notes: "That all aliens who may unlawfully come to the United States shall, if practicable, be immediately send back on the vessel which they were brought in. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessel on which such aliens came," Sess. II Chap. 551; 26 Stat. 1084. 51st Congress; March 3, 1891.

³² Benjamin Z. Kedar, "Expulsion as an Issue of World History," *Journal of World History* 7, no. 2 (1996): 165–80. Regarding extradition, see Yael Schacher, "Exceptions to Exclusion: A Prehistory of Asylum in the United States, 1880-1980" (Ph.D., Cambridge, MA, Harvard University, 2016) Ch. 2.

³³ In the Immigration Act of 1882, the law states that foreign convicts "shall be sent back to the nation to which they belong and from whence they came" later using the phrase return of the

process would involve, at a minimum, three groups of government entities. The first group would comprise government officials who could identify foreigners who could be deported. The second group would comprise government officials who could liaise with other countries to make sure they were sending the unwanted foreigner to their country of origin, or at minimum, the port from which they originally sailed. The final group would comprise government persons who engaged in ongoing relationships with shipping companies to facilitate the physical removal of the unwanted foreigner from the United States and to their country of origin.

Further complicating enacting a broad deportation policy, at the turn of the century, the question of who would be responsible for migrants and deportees continued to be unsettled. The increased documentary requirements for travel interacted with the burden of responsibility for upholding those requirements. The inconsistent requirements and enforcement at each port, let alone each nation-state, created men without countries as an accidental byproduct. Was the sending country responsible for upholding immigration requirements? Was it the responsibility of the steamship who conveyed the migrant from one country to another? Was it the responsibility of the receiving country for the migrant? Alternatively, was it some combination of these categories? The different arrangements of power and responsibility reflected different understandings of the American relationship with the international system.

By the turn of the century, the US relationship with the international system had undergone a dramatic change. The United States was not only a continental empire but, through the Spanish-American War, had obtained overseas territories. Policymakers and government

person “to the country from whence they came.” 1882 Immigration Act. Sess. I Chap. 3761 22 Stat. 214. 47th Congress; August 3, 1882.

officials learned new techniques of racialization, as well as bureaucracy and management from the Spanish in the Philippines, importing those technologies to the United States.³⁴ The American justification for colonial rule stemmed from the theory that the people of their newly acquired territories were not yet fit to govern.³⁵ As Matthew Frye Jacobson notes, the image of the colonial subject abroad and the immigrant within the United States overlapped with one another, reinforcing American nativism toward the alien other. He writes, "Immigration and expansion constituted two sides of the same coin," informing how Americans, in the moment of imperial expansion and interventions abroad, viewed foreigners already in the United States.³⁶

American progressive ideas codifying social relations further entrenched the link between immigration and imperial expansion. The Immigration Act of 1907 authorized the creation of a commission to "make a full inquiry, examination, and investigation ... into the subject of immigration." The result of their inquiry, the Dillingham Report, exemplified the Progressive interest in using social sciences to understand immigrants and their impact on the nation.³⁷ In her work on the Commission, Katherine Benton-Cohen has shown how it melded colonial administration with immigration policy. The Dillingham Commission's experts, she notes, "brought bureaucratic knowledge from studying or administering the economies, educational systems, and immigration policies of the Philippines, Puerto Rico, Hawaii, and Panama,"

³⁴ Alfred W. McCoy, *Policing America's Empire: The United States, the Philippines, and the Rise of the Surveillance State*, (Madison: University of Wisconsin Press, 2009), 33; Paul A. Kramer, *The Blood of Government: Race, Empire, the United States, and the Philippines*, (Chapel Hill: The University of North Carolina Press, 2006), especially Chapter 1: Blood Compacts: Spanish Colonialism and the Invention of the Filipino.

³⁵ Kramer, *The Blood of Government*, 191, 197, 206.

³⁶ Matthew Frye Jacobson, *Barbarian Virtues: The United States Encounters Foreign Peoples at Home and Abroad, 1876-1917*, (New York: Hill and Wang, 2000), 4.

³⁷ Section 39 of "Immigration Act of 1907," Pub. L. No. No. 96, S 4403 898 (1907), 909.

experiences that "colored how they saw migrants."³⁸ Thus, the resulting report replicated a racialized and pathologized understanding of immigrants in the United States, an understanding that policymakers would incorporate into immigration laws for the next fifty years.

In addition to commissioning the Dillingham Report, the Immigration Act of 1907 extended the exclusionary authority created in previous statutes beyond new arrivals at the American border. The Act represented the first attempt by the federal government to use exclusion and expulsion policies to control the character of the country's population. In keeping with the Progressive interest in regulating crime, the Statute held provisions for the deportation of women or girls found to be affiliated with prostitutes, and any alien who was "in violation of law, and such as become public charges from causes existing prior to landing."³⁹ The provisions extended the time limit for deportation such that the government could only deport these aliens if they were found out within the first three years of their residence in the United States. Only a few years later, in 1910, lawmakers refined the Act to remove that time limit.⁴⁰

Such increasingly stringent and punitive immigration reforms would be further substantiated by the Dillingham Commission when they released their findings on "the subject of immigration" in a forty-two-volume report in 1911. In the four years the Commission had conducted research, the nine-person team, led by Senator William P. Dillingham, had obtained

³⁸ Katherine Benton-Cohen, *Inventing the Immigration Problem: The Dillingham Commission and Its Legacy* (Cambridge: Harvard University Press, 2018), 9; Also see: Robert F. Zeidel, *Immigrants, Progressives, and Exclusion Politics: The Dillingham Commission, 1900-1927* (Northern Illinois University Press, 2004).

³⁹ Section 20 Immigration Act of 1907, 904–5; For an in-depth account of how the Immigrant Act of 1907 was deployed against women, see: Ariela R. Dubler, "Immoral Purposes: Marriage and the Genus of Illicit Sex," *Dukeminier Awards: Best Sexual Orientation and Gender Identity Law Review*, 2007, 122.

⁴⁰ Dan Kanstroom, *Deportation Nation: Outsiders in American History* (Cambridge: Harvard University Press, 2007), 125–26.

original data from over three million individuals.⁴¹ Their research subjects included both foreign-born people in the United States and people still in sending nations. Having obtained so much data, the bulk of the forty-two volumes was a compilation of statistics and demographic data. The Commission left a number of much smaller but arguably more critical sections of the report to discuss their analytical findings and future recommendations.

The analytical findings of the Commission described a fundamental difference in character between "old" and "new" immigrants. The Commission defined new immigrants as people largely from southern and eastern Europe, who were generally of lower intelligence and less assimilable than their Anglo-Saxon predecessors. In his characterization of the reports and their subsequent effect on immigrant legislation, political scientist Desmond King notes that the conclusions "plainly distinguished new immigrants from old and appeared unequivocally to demonstrate the unsuitability, as potential citizens, of the new arrivals."⁴² Using their racialized differentiation between old and new stock, the Commission recommended that Congress restrict immigration, considering both the "quality and quantity" of immigrants.⁴³ The Commission suggested that Congress could do this by taking a number of proactive measures. Suggestions included: imposing a literacy test on all immigrants; establishing a fixed quota system to maintain the racial makeup of the country; excluding single, unskilled male workers; capping the number of immigrants that could be admitted at each port; requiring each migrant to have a

⁴¹ Desmond S. King, *Making Americans: Immigration, Race, and the Origins of the Diverse Democracy* (Cambridge: Harvard University Press, 2000), 59.

⁴² King, 73–74.

⁴³ Dillingham Commission, "Abstracts of Reports of the Immigration Commission: With Conclusions and Recommendations, and Views of the Minority (in Two Volumes)" (Washington: G.P.O., 1911), 45.

minimum amount of money; increasing the head tax.⁴⁴ Congress would adopt almost all of these recommendations in the next two decades.

Together, the release of the Dillingham Report and the revision of the immigration law sanctioned a newly permissive view of deportation. Consequently, despite a decline in the total number of immigrants arriving in the country, the number of deportations grew. The total number of deportations steadily increased: in 1912, the Bureau of Immigration arrested and deported about 2,500 aliens; in 1913, the Bureau arrested and deported about 3,500 aliens.⁴⁵ The number continued to rise in the next year, reaching about 4,600 deportations in 1914, a figure that did not include the thousands of others whom immigration officials excluded from entry upon their arrival at an American port.⁴⁶

Even with these increased deportations and the Dillingham Commission's endorsement of more exclusionary measures, American immigration policy remained relatively open by the beginning of the war in Europe. As a general rule, the vast majority of European migrants continued to be able to immigrate to the United States, and deportation remained an exception to that rule, a relatively uncommon measure in the US⁴⁷ Moreover, while the number of migrants

⁴⁴ King, *Making Americans*, 76.

⁴⁵ *AR-CGI* (1913), 7.

⁴⁶ *AR-CGI* (1914), 27.

⁴⁷ Immigrants excluded or deported comprised only 1.4 percent of applicants in 1913, rising to only 2.3 percent in 1914. Of the total number of people turned away from the United States in 1914, deportees made up only 14 percent of the total number. *AR-CGI* (1914), 27.

precipitously declined in light of the war in Europe, immigration did not come to a standstill.⁴⁸ The war did, however, bring deportation into the mainstream of American public discourse.

As early as August of 1914, trans-Atlantic deportations to Europe did halt, pending developments in the Great War.⁴⁹ As the war showed no signs of abating for the next year, the hazard of Atlantic submarine warfare bound the hands of deportation officials who were newly empowered to identify undesirable persons and yet newly unable to ship them away.⁵⁰ Caught in the contradictions, many migrants stayed in legal limbo, and some lived in federal prisons for years; as one newspaper put it glibly: "unwelcome aliens get all comforts Uncle Sam provides for many because of the submarine fear."⁵¹

The Bureau of Immigration was keenly aware of the problem submarine warfare posed to their deportation regime. In an annual report of 1914, the supervisor to the Commissioner-General of Immigration reported to President Woodrow Wilson that everything was *not* going according to plan. He noted that the war in Europe had created an embarrassing situation for the Bureau of Immigration "in the case of non-admissible." He then laid out the problems the Bureau encountered, forcing them to choose between three unpleasant possibilities. "To deport," he wrote,

was to subject them [the deportees] to the dangers of destruction or capture by belligerents on the high seas; to admit them outright would have been indefensible; and detention without limit would have involved unusual expense and hardship.

⁴⁸ In the fiscal years 1914/15, 1915/16, and 1916/17 there were, respectively, 326,700, 298,826, and 295,403 immigrants per year. Even after the U.S. joined the war, in the 1917/1918 fiscal year, 110,618 aliens entered the country. *AR-CGI* (1917), xiii; *AR-CGI* (1918), 22.

⁴⁹ *AR-SL* (1915), 68–69.

⁵⁰ *AR-CGI* (1915), 9.

⁵¹ "Unwelcome Aliens Get All Comforts Uncle Sam Provides for Many Because of Submarine Fear," *Boston Journal*, July 16, 1915.

Due to these circumstances, the Bureau decided to suspend all deportations across the Atlantic and release the aliens that would otherwise indefinitely await deportation temporarily under bond.⁵²

While immigration authorities released most would-be deportees on bond, to be expected on their recognizance to return for deportation when conditions for crossing the Atlantic became safer, some of those arrested continued to be held in government custody. The irony that the majority of those aliens arrested for deportations had been classified as deportable due to their poverty, and those same people were then asked to pay the government to allow for their temporary freedom seemed lost on the immigration officials.

Unable to pay their bond, and with conditions quickly deteriorating at the limited immigration facilities across the country, some would-be deportees argued that they would prefer to risk the war zone or potential death at sea rather than being held indefinitely. Though the supervisor to Commissioner of Immigration assured President Wilson that "every reasonable effort is made by the department, within the limits of appropriations, to minimize all the necessary hardships of their detentions," the detained immigrants felt otherwise.⁵³ In some instances, the immigration stations were, "according to some experts ... more dangerous than the war zone," pointing to the threat of disease from those "germ-laden quarters."⁵⁴

Due to the circumstances of the war and the growing but still limited infrastructure of the federal immigration stations, the government's failures to deport undesirable aliens increasingly made headlines. Though the deportations had grown since the passage of the Immigration Act of

⁵² *AR-SL (1914)*, 68–69.

⁵³ *Reports of the Department of Labor, 1914: Report of the Secretary of Labor and Reports of Bureaus*, 70.

⁵⁴ "They Prefer the War Zone," *Boston Journal*, July 21, 1915.

1907, the total numbers remained relatively small and might have escaped the American newspaper readerships' notice. The increasing coverage of failed deportations brought the idea of deportation as a technology of social control into the lexicon of the American people. By suggesting that these failed deportations undermined the power of the United States, newspapers linked the state's capacity to enforce immigration control directly with American sovereignty.

The war had broader effects on immigration than blocking the physical removal of unwanted immigrants. The shifting requirements of travel documentation further exacerbated the Federal government's problems enacting their deportation laws. The reports on men without countries linked *de facto* statelessness and national belonging with an ability to prove identity through documentation. Due to the rapidly changing citizenship laws and passport requirements in the United States and Europe, the government would have had a hard time accounting for the citizenship status of many immigrants. For example, in 1910, immigrants from Germany would retain their German citizenship upon emigration. In contrast, the United Kingdom revoked their citizenship at a certain point after their departure for British immigrants.⁵⁵ Whereas in the past, people could have friends and neighbors, or even government entities testify to the validity of their claims, as official, government-issued identity documents grew in prevalence, authorities seemed increasingly unlikely to accept such personal testimony.

The rapidly changing need for an official document can most obviously be traced in European and American legislation regarding passports at the beginning of the War. Working

⁵⁵ Andreas Fahrmeir, "From Economics to Ethnicity and Back: Reflections on Emigration Control in Germany, 1800-2000." François Weil and Nancy L. Green, *Citizenship and Those Who Leave: The Politics of Emigration and Expatriation*, Studies of World Migrations (Urbana: University of Illinois Press, 2007), 183–85.

independently from one another, France, the United Kingdom, Germany, and Italy all imposed new wartime passport requirements for their citizens and subjects. As the historical sociologist John Torpey notes, "the fact that each government felt the need to state such requirements also reflected the incoherence of the passport system of the time and the uncertain status of these documents in international law."⁵⁶ Without explicit international coordination, official rules in the United States regarding passports also shifted in concert with the new European legislation. The changing laws left broad ambiguities, both for American citizens and foreign-born residents, about when and whether a passport would be necessary. For example, according to American law, if the Bureau of Immigration deported a person in 1914 from the United States, the deportee would not have needed a passport. However, by December of 1915, President Wilson issued an Executive Order, requiring all those departing the United States to have a passport, visaed by American officials before their departure. A person who had left prior to the executive order and who returned after it had passed relied on the personal generosity of the immigration official meeting them at the port of entry.⁵⁷

After the US joined the World War in 1917, Congress adopted an Act authorizing the President to "impose specific restriction on aliens wishing to enter or leave the country."⁵⁸ By the following year, in May of 1918, Congress sanctioned another wartime measure, "an act to prevent in time of war departure from or entry into the United States contrary to public safety," through which further enabling the President to control the entry into and departure from the

⁵⁶ John Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (Cambridge University Press, 2000), 112–15.

⁵⁷ Executive Order No. 2285, 15 December 1915

⁵⁸ 39 Stat. 874 (1917)

United States.⁵⁹ President Wilson enacted these authorizations and mandated that "hostile aliens must obtain permits for all departure from, and entry into the United States."⁶⁰ These wartime passport measures for noncitizen foreign residents of the US remained in place even after the War, and in 1919 Congress revised their Act to eliminate war as a precondition for federal authority.⁶¹

But even when there was no formal passport requirement, American government officials asked for some documentation. Though federal authorities needed documents in some cases, they did not enforce their policy with uniformity. Proof of resident and citizenship via naturalization papers acted as official travel documents for those assessed to be aliens reentering the United States. Whether official passports issued by the Department of State, naturalization papers, or birth certificates, the need for travel documents reflected the increased interest in more encompassing regulatory powers over the American population. Thus, without that capacity to verify their legal status, such men without countries found themselves to live in a state of exception.

While the people reported on as "men without countries" in newspapers were the exception, their lack of papers was quite the norm, at the time, for most immigrants in the United States. According to the 1910 census, of the seven million foreign-born people in the United

⁵⁹ 1918 Wartime Measure (An act to prevent in time of war departure from or entry into the United States contrary to the public safety). H.R. 10274; Pub.L. 65-154; 40 Stat. 559. 65th Congress; May 22, 1918.

⁶⁰ Executive Order No. 2932, 8 August 1918

⁶¹ Public Law #79, "An Act to regulate further the entry of aliens into the United States," 10 November 1919, *US Statutes at Large*, vol. 41, Part I: 353

States, about a third were without papers, and about 11 percent had unknown citizenship status.⁶² The census data implied that, by government estimates, over 40 percent of new Americans could not prove their national belonging through formal paperwork. International standards of citizenship, passports, and naturalization were very much in flux through the First World War.

In the climate of the first years of the World War and with the American government unable to successfully deport people across the Atlantic Ocean further complicated by inconsistent document requirements, Congress made repeated attempts to pass a new immigration policy. The government's incapacity to deport unwanted aliens further exacerbated American hysteria toward radicalism and the accompanying determination to rid the country of all dissidents, regardless of how long they resided in the United States. After multiple attempts to pass a new immigration bill, Congress was finally successful in January of 1917. In this law, Congress extended deportation to be applicable beyond those who had become public charges in the three years since their arrival or women suspected to be prostitutes. The law instead sanctioned the deportation of an alien at any point after their arrival to "be found advocating or teaching unlawful destruction of property ... anarchy or the overthrow by force or violence of the Government of the United States or all forms of law or the assassination of public officials." Such an expansive vision of who could be legally removed from the United States gave new power to the discretion of immigration officials. Policymakers had based the law on the recommendations of the Dillingham Commission.

⁶² Series C. 181-194 Citizenship Status of Population: 1890-1970. "Historical Statistics of the United States, Colonial Times to 1970" (Washington, D.C.: U.S. Department of Commerce: Bureau of the Census, September 1975).

The Congress had but little time to revel in their legislative success because Wilson began to take deliberate steps toward joining the war in Europe within the same month. The immigration act became folded into the making of a wartime state. By the beginning of April, constituted a further confirmation of, in words of President Theodore Roosevelt the year before, an "America for Americans."⁶³

Agitation against "hyphenated Americans" took on new meaning after the United States joined the war, and new legislation bolstered pre-existing anti-immigrant sentiment.⁶⁴ The Espionage Act of 1917 passed only two months after the United States joined the war. Its legislative amendments passed the following year, known as the Sedition Act, aimed to suppress anti-war efforts. It primarily identified those efforts as stemming from unpatriotic foreigners within the United States.⁶⁵ Together the acts suppressed any dissidents from voicing opinions contrary to the American war effort and expanded federal authority over, and sanctioned vigilante action toward noncitizen residents within the United States.⁶⁶ The threat "enemy aliens" posed to the war effort was further codified by the Alien Anarchist Act of 1918, empowering the government to deport an alien, "irrespective of the time of their entry into the United States," believed to support "the overthrow by force or violence of the Government of the United

⁶³ Theodore Roosevelt, *America for Americans [Afternoon] Speech at St. Louis, Missouri, May 31st, 1916*. (New York, 1916).

⁶⁴ Cf. Ian Tyrell, *American Exceptionalism: A New History of an Old Idea* (Chicago: University of Chicago Press, 2021), Esp. Chapter 9 Two Isms: Americanism and Socialism

⁶⁵ Espionage Act of 1917. Pub.L. 65-24, 40 Stat. 217, June 15, 1917; Sedition Act of 1918. Pub.L. 65-150, 40 Stat. 553, May 16, 1918.

⁶⁶ "Responsible Speech: Rights in a Culture of Obligation." Christopher Capozzola, *Uncle Sam Wants You: World War I and the Making of the Modern American Citizen*, (Oxford: Oxford University Press, 2010), 144–72; Also see: Daniel G. Donalson, *The Espionage and Sedition Acts of World War I: Using Wartime Loyalty Laws for Revenge and Profit*, Law and Society (El Paso: LFB Scholarly Pub., 2012).

States."⁶⁷ The new deportation act created an umbrella definition for anarchism, failing to differentiate between thought and action, which gave the government broader discretionary power to remove undesirable foreign-born persons from the United States.⁶⁸

With new wartime measures designed to target foreign-born persons in the United States, the citizenship status of every resident in the United States became newly consequential. The Selective Service Act of 1917 made the stakes of American citizenship a matter of life or death. The draft created a culture of what Christopher Capozzola has termed "coercive voluntarism," a blend of new obligations to the American state, with local vigilantism to enforce those duties. In this climate, the loyalties of any foreign-born person were suspect, and the line between alien and patriot grew further apart. Capozzola notes, "tension over how the obligation of loyalty would be enforced—of how the very borders of citizenship would be defended—prompted a remaking of the political culture of obligation and laid the foundation for the state that emerged from the war."⁶⁹ American public schools ably took up the project of actively reaffirming the definition of good citizenship.

In fact, by the time the United States joined the war effort, *the Man Without a Country* had surged in popularity, and the meaning of the epitaph shifted. Publishers reprinted various versions of Hale's original story and translated it into different languages. Newspapers and citizen organizations gave away copies of the story to soldiers and their readership, unable to go to war. The story took on increased pedagogical importance in the classroom as teachers adapted

⁶⁷ Act of Oct. 16, 1918, ch. 186, 40 Stat. 1012 (excluding and expelling from the United States aliens considered to be anarchists or identified with similar ideologies).

⁶⁸ For an excellent discussion of anti-anarchism provision in American deportation law, see: Julia Rose Kraut, "Global Anti-Anarchism: The Origins of Ideological Deportation and the Suppression of Expression," *Indiana Journal of Global Legal Studies* 19, no. 1 (2012): 169–93.

⁶⁹ Capozzola, *Uncle Sam Wants You*, 183.

it into plays. *The Man Without a Country* became a means to rally Americans behind the war effort, much like Hale originally intended the story to be used. In the preface of one school play, the teachers emphasized the need for inspiration in this hour of crisis" and the "steadfast courage, true perspective of events and fresh consecration to national ideals which only a study of our history can give us." The war transformed the story from an allegorical tale into a historical account of true events.⁷⁰

Notably, the myth of Philip Nolan was flexible enough to be adapted for different purposes. In one of the silent film adaptations of the story, the "poor Nolan" of the short story disappeared and was replaced by the effeminate disgrace, "John Alton." The Thanhouser Film Corporation's adaptation of Hale's story mirrored the plot but took place during the First World War. The plot followed the protagonist, John Alton, as he declared he was a dedicated pacifist and the consequences of his declaration. His unwillingness to participate in war makes Alton seem feminine and anti-American, losing first his friends and eventually his fiancée due to his disloyalty to the country.

⁷⁰ Moral philosopher Bernard Williams discusses "how fictions can help" in his discussion of imaginary genealogies. He explains that such an imaginary genealogy can be "explanatory, because it represents as functional a concept, reason, motivation, or other aspect of human thought and behaviour, where that item was perhaps not previously seen as functional." He goes on to note that "the fiction is uniquely useful because--so far from confusing genuine history and fiction--it enables us to keep count of what is history and what is abstraction, and it helps us avoid" a distortion of "our understanding of our own cultural situation" and the problem of constructing "pictures of very early societies on the basis of functional ideas and suppose that this was actual hominid prehistory. Genealogy keeps historical fact and functionalist abstraction in their places." *Truth & Truthfulness: An Essay in Genealogy* (Princeton, N.J.: Princeton University Press, 2002), 30–31.

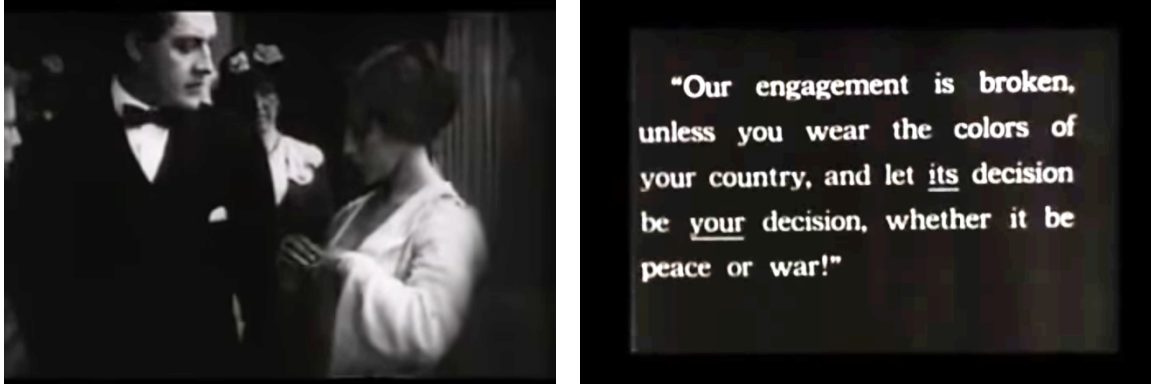


Fig 1.2 In the film Barbara takes off her ring and returns it to Alton, saying, “Our engagement is broken unless you wear the colors of your country, and let its decision be your decision, whether it be peace or war!” Stills from “The Man Without a Country,” directed by Ernest C. Warde, Thanhouser Film Corporation, 1917. Public Domain.

Finally, a friend of Alton's father, attempting to save Alton from his unpatriotic ways, gave him a copy of Hale's *The Man Without a Country*. Alton and the viewer are taken through the story of Philip Nolan, and Alton, at last, understands the error of his way. He responds with new vigor, immediately enlisting and winning back his fiancée.⁷¹

In the film, the director did not represent Alton as sympathetic but rather showed how his pacifism resulted in Alton's public shaming and revealed him to be an inadequate male and an inadequate American. Theaters screened the film around the country, and some received record attendance.⁷² In a New York Tribune article about the film, they suggested that "any pacifists left in this country ... better keep away from 'The Man Without a Country,'" suggesting that those pacifists who chose to attend might encounter a violent response to their presence.

With the silent film and other renderings of the story as guidance, the description of someone as a "man with no country" came to mean a person who was anti-American. When the United States officially joined the war, newspapers and their readers used the phrase to deride

⁷¹ “The Man Without a Country,” Featuring Florcence LaBadie and H.E. Herbert, Thanhouser Film Corporation, 1917.

⁷² “Moving Picture News,” *Oregonian*, January 16, 1918.

pacifists or any person against the war. Those "dangerous pacifists," as described in one account to be "among the ignoble, unpatriotic, and the spiritless, selfish doctrinaires of ease, comfort and supineness at any cost," going on to describe them as men without countries.⁷³ Another article argued that imprisonment for conscientious objectors was, "if anything, too mild and honorable a sentence of the grave offense committed," suggesting the officials take a line out of Edward Everett Hale's store and banish them from the country. "Surely," the author commented, "the American who today refuses to lift a finger for his nation in peril ... has earned no less punishment" than Nolan.⁷⁴ The spectral punishment of denaturalization or exile seemed apt for slackers and even more so for alien slackers.

American involvement in the war in Europe, and the accompanying wartime measures on the home front, marked the creation of an increasingly capable federal state. The aspirational ideas regarding immigration restriction, put forward by the Dillingham Commission, became newly feasible. Even after the Allied and Central Powers reached an armistice, many of the wartime measures remained in place. The passport became a regular feature of international travel. Certain classes of foreign-born residents in the United States became deportable, regardless of the length of their residence in the country. Citizenship as a category of belonging emerged as paramount to other group identities. American citizenship became defined via patriotism. Foreign-ness, let alone statelessness, became associated with anti-government sentiment.

⁷³ "Dangerous Pacifists.," *Los Angeles Times (1886-1922)*; *Los Angeles, Calif.*, March 5, 1917.

⁷⁴ Katharine Bartlett, "Real Men Without A Country: They Will Not Go Back to Fight For Their Native Lands and Are Trying by Hook or By Crook to Escape the Draft Here--English, Canadians, Irish and French Are Ready to Fight, But Most Other Aliens Are Pestering the Legal Advisory Boards with Manifold Excuses," *Boston Daily Globe*, January 13, 1918.

Nevertheless, the expanded federal infrastructure to regulate the American population occurred only with the forging of diplomatic relations. Indeed, with the expansion of deportation, the US increasingly relied on other nation-states to ensure the success of its domestic programs, effectively spreading immigration control among multiple countries. The following decade, Roger Nash Baldwin, one of the founders of the American Civil Liberties Union, published an article also evoking Hale's story. In his article, Baldwin praised Paris as the "Capital of the Men without a Country," lamenting that other places did not follow closer in its model.⁷⁵ Yet, whether used as an epithet or an accolade, cases of "men without countries" and the responses they evoked provide insight into new assertions of national sovereignty via immigration and deportation controls and the rise of a new international order.

⁷⁵ Roger Baldwin, "The capital of the men without a Country," *Survey* 58 (August 1, 1927), 460-67.

CHAPTER II: ALIEN ANARCHISTS

On January 20, 1920, the American Commissioner in Finland sent a telegram to the Secretary of State. The telegram was short and straight to the point; it stated: “Deported crossed and welcomed into Russia January 19th, 4 pm.”¹ American newspapers had meticulously covered the journey of the deportees to which the commissioner referred, on the *Buford*, often referred to as the “Soviet Ark” or the “Red Ark.” The Associated Press provided more details about the successful deportations. It described the deportees in high spirits as they trekked across the snow and ice and were greeted by “hearty cheers” on the Russian side of the border.²

The Justice Department had arrested the deportees aboard the *Buford* in the first iteration of the Palmer Raids in November of 1919. Since the steamship had set sail for Russia on December 23, the Justice Department had completed its second, much broader set of raids at the beginning of January, resulting in the arrests of thousands of suspected foreign-born anarchists and communists. While the Department of Labor released many arrested during the January raids, those who remained in government custody faced the threat of deportation.

The fate of the suspected anarchists and communists was determined not long after the deportees on *Buford* successfully disembarked. On January 25, Secretary of Labor William B. Wilson decided on a different deportation case that would have repercussions for the deportees who remained in government custody. He held that the Communist Party of America was not

¹ *FRUS* 1920, Russia, Vol. III, 697.

² “Cheer US Deportees: Bolsheviki Welcome Goldman and Berkman Wildly. Reds enter Russia singing. Soviet Band Plays as Undesirable Aliens Cross River From Finland. ‘Greatest Moment of My Life,’ Says Emma---Provisions Landed on Russians by Party. Band Plays Led Anthems. Is Her Greatest Moment.,” *WP*, January 20, 1920.

“merely a political party seeking the control of State affairs, but a revolutionary party seeking to conquer and destroy the state in open combat.” He concluded that the Communist party believed in, taught, and advocated for the overthrow of the American government.³ In effect, his ruling made membership in the American Communist Party equivalent to advocating for anarchy, a deportable offense. His decision, coupled with the success of the *Buford*, suggested that many other “Soviet Arks” would soon follow.

Yet, the massive deportation of Russian-born anarchists and communists living in the United States never came to pass. Even the journey of the *Buford* was fraught with uncertainty, and until the telegram from the American Commissioner reached the State Department, its success remained far from inevitable. Those 249 deportees on the *Buford* were the only party of its kind deported in 1920. The Bureau of Immigration completed only seven deportations to Russia the following year, with another 120 cases remaining in the docket. In 1922, despite the lingering caseload, there were no deportations to Russia at all.

The Bureau of Immigration’s failure to enact the deportation of more Russians was not for want of trying; in fact, the Bureau explored every possible option that might allow for other deportation parties. Nor was it from a lack of public will; in the aftermath of World War I, antipathy toward radicalism reached new heights, reflected in both US domestic and foreign policy initiatives. Instead, the shifting international climate and growing internal ambivalence about the practices of the Palmer Raids complicated and eventually forestalled the deportations.

³ Ruling of Secretary William B. Wilson on re Engelbert Preis, as quoted in: “Rules Communists Must Be Deported: Sec Wilson’s Decision Settles Fate Of Thousands of Reds Now Being Held Provisions of the Law,” *Boston Daily Globe*, January 25, 1920.

This chapter traces how, in the moment after World War I, the imagined threat anarchism posed in the United States allowed legislators to couple the Immigration Act of 1917 with wartime measures. The combination of the Espionage and Sedition Acts with the Alien Anarchist Act with existing immigration legislation created an environment where foreigners could be targeted for deportation due to their political beliefs, let alone actions. The chapter shows the success of the Bolsheviks in the Russian Revolution, and increased agitation among the working class around the world further fueled an anti-foreign sentiment. The circulation of new foreign ideas seemed to pose an ideological threat to the American style of governance and thus also validated newly invasive deportation practices.

The chapter establishes how the presumed threat the foreigners and foreign ideology posed to the integrity of the United States expressed itself in two ways. First, in the cessation of diplomatic relations with revolutionary regimes, such as Bolshevik Russia. Second, in calls for the deportation of people espousing revolutionary ideals, such as Russian migrants in the United States. It shows how these linked initiatives, both enacted because of similar impulses, undermined the American capacity to fully realize either goal by analyzing the conditions placing the legislative mandate to deport anarchistic foreigners in direct tension with the ability of the Departments of State, Justice, and Labor to enact the law. The three Departments were responsible for making the top-line anti-foreigner and anti-radical vision a reality. Still, they had different ideas about maintaining the ideological notion of American power and its practical application. Their distinctive approaches made explicit the performative function of maintaining sovereign power.⁴

⁴ Wendy Brown comments, “if the legitimacy of liberal democracy depends on certain narratives and foundational presuppositions, including progress, rights, and sovereignty, what happens when these narratives and assumptions are challenged, or indeed simply exposed in their

The chapter first looks at the deep-seated American distrust of revolutions. It shows how the most visible response to a foreign revolutionary threat, the Palmer Raids, was imagined and carried out by the Department of Justice in 1919 and 1920. It then turns to the deportations that resulted from those raids and how the so-called “Soviet ark” captured national attention.

The *Buford* represented the successful removal of two hundred Russians the Department of Justice had dubbed anarchists from the United States. These public successes, however, obscured the difficulty that the Department of Labor and State had in ensuring that the deportations came to fruition. Examining such uneven results, the chapter then turns to the other migrants whom the Department of Justice had arrested in the Palmer Raids and the bureaucratic maneuverings of the Department of Labor and State. The two Departments, sometimes in a coordinated effort, but more often independently, experimented with different ways to follow through with the remaining deportations. It concludes by examining how, in attempting to enact the remaining deportations, the Departments of Labor and State revealed their conflicting notions of the defining features of American power and ideology.

The diplomatic position of nonrecognition emerged, by the 1920s, as a central factor that inhibited US government officials' attempts to enact deportation. Yet, the nonrecognition of Soviet Russia, which would last between 1917 and 1933, represented an outgrowth of foreign policy experiments that started when Woodrow Wilson took the presidency in 1913.

Prior to Wilson, US principles of recognition emphasized their difference from those previously held principles in Europe; the United States would grant diplomatic recognition if the

legitimizing function?” Wendy Brown, *Politics Out of History* (Princeton University Press, 2001), 14.

state in question had achieved de facto sovereignty. The de facto principle encompassed the control over the territorial and governance structures of the state. In theory, the American government could withhold the act of recognition as their sovereign right; in practice, the government treated recognition as a matter of expediency, rather than of sovereignty. Though administrations applied the idea of de facto recognition differently, and with the exception of the American Civil War, the President and the State Department continued to advocate for its use in American foreign relations.⁵

Upon taking the presidency in 1913, President Wilson diverged from this practice and framed the withholding of recognition as essential to ensuring the popular sovereignty of a new state and government.⁶ After the overthrow of the Mexican government through a coup d'état in 1913, he refused to recognize the new regime, contravening international diplomatic, legal norms.⁷ Previously, the law of recognition was divided roughly into three categories. The first, regarding the recognition of states, addressed whether a state could exist for the purpose of applying international law. The second, regarding the recognition of belligerency, addressed whether a rebellion against a government controlled by the state could be granted legal

⁵ During the Civil War, the Secretary of State justified the Union's nonrecognition of the Confederacy by formally distinguishing between de facto and de jure principles. The first acknowledged the existence of the government, while the second implied accepting that government under law. After the Civil War, the State Department continued to use the de facto - de jure distinction, but rhetorically returned to a formal position grounded in de facto recognition. Henderson, "Woodrow Wilson, Victoriano Huerta, and the Recognition Issue in Mexico," *The Americas* 41, no. 2 (1984): 155. For the broader history of US practices of recognition see Mikulas Fabry, *Recognizing States: international Society and the Establishment of New States Since 1776* (New York: Oxford University Press, 2010).

⁶ "President Woodrow Wilson's Statement of March 11, 1913." In *DIL*, 181.

⁷ The consequences of non-recognition mostly manifested in financial matters, particularly through the absence of any legal remedy for the unrecognized government. Peter V. N. Henderson, "Woodrow Wilson, Victoriano Huerta, and the Recognition Issue in Mexico," 151–52.

legitimacy. The last, regarding the recognition of governments, addressed whether the government of a successor state could be treated as an internationally legitimate body in the aftermath of a successful rebellion.⁸ It was through this final category that Wilson took issue with the legitimacy of the new Mexican regime.

The President's approach to the Huerta regime that had violently taken leadership in Mexico in 1913 added a new condition in addition to the *de facto* principle, by introducing the necessity of moral legitimacy, what President Wilson referred to as "constitutionalism," to the equation.⁹ Beyond a moral indictment of a new regime, Wilson and his State Department's use of nonrecognition had the effect of destabilizing economic interests and thus promoted regime change itself. By withholding recognition from the Mexican government, Wilson prevented the new regime from securing loans in American markets. When, among other things, Victoriano Huerta refused to hold democratic elections, Wilson had the pretext to order the occupation of Veracruz, Mexico, holding up the ideal of democratic constitutionality as a criterion for recognition.¹⁰ Less than a year and a half into his leadership, the Mexican federal army collapsed under military and economic pressure, forcing Huerta to step down. A different revolutionary

⁸ See *DIL*, 161, 166–67.

⁹ Henderson, "Woodrow Wilson, Victoriano Huerta, and the Recognition Issue in Mexico," 155–59; Also see: L. Thomas. Galloway, *Recognizing Foreign Governments: The Practice of the United States*; 180 (Washington: American Enterprise Institute, 1977), 13–42.

¹⁰ In an address that positioned US-Mexico relations as part of broader relations with Latin America, President Wilson noted, "We can have no sympathy with those who seek to seize the power of government to advance their own personal interests or ambition." He continued to emphasize the importance of the people, and that a "just government rests always upon the consent of the governed ... We shall look to make these principles the basis of mutual intercourse, respect, and helpfulness between our sister republics and ourselves." Woodrow Wilson, "A Statement on Relations with Latin America," 12 March, 1913, *Papers of Woodrow Wilson* 27: 172-173.

faction that was more favorable to American foreign policy aims took his place.¹¹ As Paul V. N. Henderson notes, “nonrecognition proved to be a preliminary step which weakened the administration and which paved the way for military intervention.”¹²

The Wilson administration used the newly formulated standard of “constitutionalism” to determine their recognition policies toward the revolutionary regimes emerging in Central and South America. The United States would deny diplomatic recognition to the Dominican Republic (from 1913-1916), Ecuador (in 1913), Haiti (in 1914), and Cuba (in 1917).¹³ In Eurasia, as the First World War dragged to a close, the fall of the Austro-Hungarian, Russian, Ottoman, and German empires and the rise in calls for self-determination created an international moment for political and ideological change. Despite his championing of self-determination, President Woodrow Wilson viewed the revolutionary fervor with suspicion. In President

¹¹ In his work, Friedrich Katz has shown how diplomatic relations between in the US and Mexico in the 1910s reflected international imperialist politics. In it he argues that the imperialism stemmed from both the United States end as well as Mexico, and while acknowledging the uneven power relations, shows the way in which different Mexican regimes also exhibited agency. See Friedrich. Katz, *The Secret War in Mexico: Europe, the United States, and the Mexican Revolution*, Paperback ed. (Chicago: University of Chicago Press, 1983); Friedrich Katz, *The Life and Times of Pancho Villa*, 1 edition (Stanford, Calif: Stanford University Press, 1998). For other histories of US-Mexican relations during the Mexican Revolution see P.E. Haley, *Revolution and Intervention: The Diplomacy of Taft and Wilson with Mexico, 19010-1917* (Cambridge: M.I.T. Press, 1970); Robert Freeman Smith, *The United States and Revolutionary Nationalism in Mexico, 1916-1932* (Chicago: University of Chicago press, 1972; Mark Gilderhus, *Diplomacy and Revolution: U.S.-Mexican Relations under Wilson and Carranza* (Tucson: University of Arizona Press, 1977); Mark Benbow, *Leading Them to the Promised Land: Woodrow Wilson, Covenant Theology, and the Mexican Revolution, 1913-1915* (Ken, Ohio: Kent State University Press, 2010), 25-44.

¹² Henderson, “Woodrow Wilson, Victoriano Huerta, and the Recognition Issue in Mexico,” 175.

¹³ *DIL*, 181–85; Wilson, “An Address on Latin American Policy in Mobile, Alabama,” 27 October 1913, *Papers of Woodrow Wilson* 28: 448-453; Benjamin Allen Coates, *Legalist Empire: International Law and American Foreign Relations in the Early Twentieth Century* (Oxford University Press, 2016), 128–32.

Wilson's view, a revolution could only be legitimate if it aimed to establish liberty and self-government.

At least initially, the Russian Revolution seemed to be the exception to a general denouncement of revolutionary regime changes. Though the overthrow of the Russian Czar in February of 1917 met President Wilson's conditions for a legitimate revolution, the Bolshevik ousting of the Provisional Government in October of the same year failed to reach that threshold. After the October Uprising, President Wilson refrained from entering into any diplomatic contact with the new Bolshevik regime.

In January of 1918, in Wilson's famous Fourteen Points address, Russia played a central role, his sixth point talking directly about Russia. However, responding to Wilson's points, Special Representative to the Secretary of State, Edward House, called into question what Wilson meant by self-determination in the case of Russia. He particularly noted the complication that the Russian Empire was a multiethnic empire, and thus self-determination would lead to the recognition of many de facto governments. House particularly emphasized the problem that Wilson's thirteenth point referred to an independent Poland, which had previously been part of that Empire. This problem, he continued, seemed to indicate that the only solution was to recognize the de facto governments that represented the Finns, Estonians, Lithuanians, and Ukrainians. House noted, "the essence of the Russian problem than in the immediate future would seem to be:

- (1) the recognition of provisional governments;

(2) assistance extended to and through these governments.”¹⁴

The worry of how to attribute recognition, if and when that were to happen, would have particularly immediate consequences for how the Department of Labor would handle deportation from those areas.

Like the American attitude toward Mexico in the first years of the Wilson administration, the nonrecognition of the Soviet government escalated to an American armed intervention of Russia.¹⁵ In the summer of 1918, Wilson, acting counter to the advice of the experts at the Department of War, sent thirteen thousand troops to the Arkhangelsk and Vladivostok regions. The stated purpose of the American intervention was to support British, French, and Japanese soldiers, to ensure that military arms and provisions remained in Allied control and that Allied troops could safely leave Russia. President Wilson remained committed to his vision of constitutional democracy and framed American intervention as helping Russians restore self-government. The idea of restoring Russian self-government revealed another goal for American intervention: to destabilize the Bolshevik regime.¹⁶

¹⁴ “The Special Representative (House) to the Secretary of State,” London, October 29, 1918, *FRUS* 1918, Supplement 1, *The World War*, Vol. 1, 405-413, esp. 407-409. House also noted some of the same problems for the self-determination of peoples in Austria-Hungary.

¹⁵ Lloyd C. Gardner, *Safe for Democracy: The Anglo-American Response to Revolution, 1913-1923* (New York: Oxford University Press, 1984), 135; Lloyd C. Gardner, “Woodrow Wilson and the Mexican Revolution” in Arthur S. Link, ed. *Woodrow Wilson and a Revolutionary World, 1913-1921* (Chapel Hill: University of North Carolina Press, 1982)

¹⁶ In particular, see Richard Polenberg, *Fighting Faiths: The Abrams Case, the Supreme Court, and Free Speech* (New York: Viking Penguin, 1987), 36-42; David S. Foglesong, *America’s Secret War against Bolshevism: U.S. Intervention in the Russian Civil War, 1917-1920*, 2nd edition (Chapel Hill: The University of North Carolina Press, 1995); Gardner, *Safe for Democracy*; Also see: David S. Foglesong, *The American Mission and the “Evil Empire”: The Crusade for a “Free Russia” Since 1881* (Cambridge University Press, 2007); Norman E. Saul, *War and Revolution: The United States and Russia, 1914-1921* (Lawrence :, c2001.); George Schild, *Between Ideology and Realpolitik: Woodrow Wilson and the Russian Revolution, 1917-1921* (Westport, Conn.: Greenwood Press, 1995); Donald E. Davis and Eugene P. Trani, *The First Cold War: The Legacy of Woodrow Wilson in U.S.-Soviet Relations* (Columbia: University

After the war, the American approach to Russia was not only a result of the President's ideological ideas about legitimacy but increasingly became the determination of the State Department, as it gained greater discretion along with new administrative capabilities through the 1920s. Robert Lansing, the Secretary of State in 1918, was among the most ardent advocates for withholding recognition from Russia. In his capacity within the Department, he played an essential role in shaping the American stance to the new Bolshevik regime. He advocated for a more active stance than the President was willing to take, arguing the United States should officially denounce the Bolshevik regime.

While Secretary Lansing was unsuccessful in convincing the President to approve an explicit statement of nonrecognition, he could make sure there were some tangible factors to an otherwise ideological position. The Secretary of State ensured that American diplomats would not enter into relations with the Bolsheviks. Though the United States had issued no formal announcement, the State Department had systematically ignored the presence of a new Bolshevik regime governing Russia. In fact, in Washington, DC, the American government actively acknowledged a different regime as having legitimate sovereign control over Russia, despite having limited to no territorial control. When the Soviet government sent an emissary to the United States to present himself as a representative of his government's interests, the State Department refused to acknowledge his position.¹⁷

American intervention in Russia continued through the summer of 1919, both in a political and humanitarian capacity: the Bolshevik regime showed no signs of collapsing, and food shortages had grown to a level of crisis. By the beginning of 1920, Secretary Lansing had

of Missouri Press, 2002); For the classic account, see: George F. Kennan, *Soviet-American Relations, 1917-1920* (Princeton: Princeton University Press, 1956).

¹⁷ *FRUS* 1919, Russia (Washington, DC: Government Printing Office, 1937), 133.

fallen out of favor with the President and resigned from his post.¹⁸ Yet, rather than disturbing the ideology of the Department, if anything, his resignation had the effect of solidifying American efforts to not recognize Russia. Before leaving his post, Secretary Lansing created a policy memorandum for President Wilson. In it, he maintained his previous position and argued for a concrete policy, formalizing the American stance against the Bolshevik-controlled Russian government.¹⁹

By the end of February 1920, President Wilson nominated Bainbridge Colby to succeed Secretary Lansing. Colby, a New York Bar and Shipping Board member, had wide-ranging political affiliations: he had previously been a Republican, a Progressive, and only in 1916, joined President Wilson's party and became a Democrat.²⁰ Despite his lack of experience in international law and questions about his political leanings, Colby was sworn in as Secretary of State by the end of March.²¹

Secretary Colby inherited a State Department still in the process of covertly supporting the Russian anti-Bolshevik forces, led by General Pyotr Nikolayevich Wrangel in the Russian Civil War. Though in April, the new Secretary of State offered de facto recognition to the Armenian Republic, by the summer of 1920, the Bolshevik victory over General Wrangel should

¹⁸ Joyce G. Williams, "The Resignation of Secretary of State Robert Lansing," *Diplomatic History* 3, no. 3 (1979): 337–43.

¹⁹ "Secretary of State Lansing to President Wilson," December 3, 1919. *FRUS* 1920, Russia, Volume III, 436–44. Lansing would later point to his memorandum as a key step to inspire the new Secretary of State to offer an official condemnation of the Soviet regime. Robert Lansing, *War Memoir of Robert Lansing, Secretary of State* (New York: Bobbs-Merill Company, 1925) 343–45.

²⁰ "Mr. Colby as Secretary of State," *NYT*, 1920.

²¹ "Washington astonished by nomination of Bainbridge Colby to succeed Lansing," *NYT*, 1920.

have eliminated any remaining doubts about Soviet Russia's permanence.²² Until that defeat, the United States could cling to the hope that the White Russian army might prevail, but their stunning retreat made it apparent that this would not be the case.²³ As American troops slowly withdrew from Russia, the United States refused to grant Soviet Russia recognition. Though the State Department condemned the Japanese occupation of northern Russia in July and August, the US would not acknowledge the sovereignty and legitimacy of the new government.²⁴ This

²² "Letter from Secretary of State Bainbridge Colby to Representative of the Armenian Republic, Dr. G. Rasdermadjian," April 23, 1920, printed in "Armenia received our recognition: Secretary Colby Sends formal Announcement to Her Representative Here. Limits Not Predetermined Supreme Council Will Ask Us to Help New Republic With A Load," *NYT*, April 25, 1920. For more information about the United States' involvement and intervention in the Russia Revolution and Russia Civil War, see Foglesong, *America's Secret War against Bolshevism*.

²³ For a discussion of the Soviet Russian fall offensive in South Russia see: Peter Kenez, *Civil War in South Russia, 1919-1920: The Defeat of the Whites* (University of California Press, 1977).

²⁴ Earlier in the summer, however, Colby had posited that the US would join France, Great Britain and Italy in their de facto recognition of Russia. Noting, however, "this action is taken with the understanding that this recognition in no way predetermines the territorial frontiers, which, it is understood are matters for later delimitation." John Spargo, "Bainbridge Colby," in Samuel Flagg Bemis, ed., *The American Secretaries of State and Their Diplomacy* Vol. 10, (New York: Alfred A. Knopf, 1929) 200. Though *NYT* dispatches from Tokyo during July and August of 1920, Colby was noted protesting the Japanese occupation. See "Our note to Japan given out in Tokio [sic]: Washington Fails to Understand Why Japan Occupies Saghalin for Nikolaievsk Tourble," *NYT*, August 4, 1920; "British confer on Japan here: Ambassadors and Minister to China Meet with Colby and Morris. Common Ground is Found. Anti-Japanese Agitation in California as well as in British Possessions is Discussed. Important Results seen these bear on our policy in California discussions and Japanese Action in China. Congressional Inquiry Going On. Japanese "Monroe Doctrine" Questions," *NYT*, July 28, 1920; "Asks Tokio [sic] to tell aims in Saghalin and East Siberia: 'Certain Country,' Understood to be United States, Has Made Inquiry." *NYT*, July 29, 1920; "Relations with Japan," *NYT*, July 29, 1920. John Lewis Gaddis, *Russia, The Soviet Union, and The United States: An Interpretive History*, 2 edition (New York: McGraw-Hill Humanities/Social Sciences/Languages, 1990), 93; Julius Goebel, *The Recognition Policy of the United States* (New York: Columbia University, 1915); For a discussion of American relations during the period of nonrecognition see: Norman E. Saul, *Friends or Foes?: The United States and Soviet Russia, 1921-1941* (Lawrence: University Press of Kansas, 2006).

stubbornness demanded a new articulation, a rationalization for a formal stance of nonrecognition.

The American rationale on nonrecognition came in the form of an open letter from the new Secretary of State to the Italian ambassador. Responding to a request from the Italian Ambassador to clarify the American policy regarding the Polish-Soviet War arbitration, Secretary Colby articulated the charges against the Soviet government that prevented the American government from providing recognition.²⁵ Among other concerns, he argued that because the Soviets were not a popularly elected government, they violated the very structure of international law. Echoing the sentiment depicted in a political cartoon from the summer of 1918 (Figure 2.1), he attempted to differentiate between the Russian people and the Russian government. Unless the international community could be sure that the Russian government heard the voices of its people, the American refusal to recognize it was a matter of principle.²⁶ Recognition, argued Colby, represented more than a neutral acknowledgment of sovereignty; instead, recognition implied a tacit approval of another nation and its ideology.²⁷

²⁵ President Wilson had received increasing pressure to issue an explicit articulation of American support for Poland. See, for example. "Would tell world we support Poland: Memorial to Wilson Presented to Colby by Governor and Group of Citizens of Maryland," *NYT*, August 7, 1920; "Wilson confers on Polish crisis: President and Colby Believed to Have considered way to help Warsaw. Advices are more helpful, but grave view is still taken by Washington of the Possible Results of the Red Sweep," *NYT*, August 7, 1920.

²⁶ Colby Bainbridge, "Open Letter to Italian Ambassador," August 10, 1920.

²⁷ Mikulas Fabry, *Recognizing States: International Society and the Establishment of New States Since 1776* (Oxford ; New York: Oxford University Press, 2010), 135–37.



Fig. 2.1 Clifford Kennedy Berryman, “Diplomatic relations severed between US & Bolshevist govt,” August 1918. Library of Congress Prints and Photographs Online Catalog. <https://lccn.loc.gov/2016678754>

In earlier drafts of the note, Colby, in consultation with President Wilson and the Assistant Secretary of State, Norman Davis, had used even more robust language. In a portion that had been crossed out, Colby initially expressed nonrecognition as an unequivocal condemnation of the Russian regime. He wrote that recognition or

in order to help at all, we must consent to become practically agents of the Bolsheviki, and must discriminate against those elements that are devoted to our own ideals of government based upon the consent of the governed.²⁸

His final draft still maintained these general principles but used less absolute language.

In an earlier draft, he also expressed interest in opening trade relations with Russia again, a

²⁸ “Original Memorandum of the Russia Note,” August 10, 1920, BCP. Also see “Soviet Russia and the United States: Secretary Colby’s Note Refusing to Recognize the Bolshevist Government—The Month in Russia,” *Current History* (1916-1940) 12, no. 6 (1920): 925–32.

section also crossed out, as seemingly undermining the ideological position of the correspondence.²⁹

The ideological grounding of the American stance towards Russia made the manifestation of nonrecognition different from the nonrecognition of other entities. The nonrecognition of the Baltic states, for example, adhered to a more traditional understanding of diplomatic relations. Each of the Baltic States had declared independence following the fall of Czarist Russia. Still, the newly established governments had not, from the perspective of the American State Department, adequately established their sovereignty from Soviet Russia. But despite a lack of diplomatic relations with these countries, the State Department was happy to use existing consular offices as informal intermediaries between the provisional governments and the American governments.³⁰ The possibility of direct but unofficial communication thus remained viable. This was not the case for the American relationship with Russia; there would be no possibility of any direct contact that the Bolshevik regime or other international entities might misconstrue as official recognition.

²⁹ “Original Memorandum of the Russia Note,” August 10, 1920, BCP. Also see Norman Davis, “Memoranda,” June 30 and August 24, 1920, *FRUS* 1920, Vol. 3, 161-78. The degree to which President Wilson participated in edits remains up for debate. Though Herbert Hoover said the changes by Wilson as being non-substantive, he recalls Colby telling him that the President “had gone over the draft of the message paragraph by paragraph,” and suggesting “some of the expressions were introduced by the President.” Herbert Hoover, *The Ordeal of Woodrow Wilson* (New York: McGraw Hill Book Co., Inc., 1958) 150.

³⁰ Daniel Malloy Smith, “Aftermath of War: Bainbridge Colby and Wilsonian Diplomacy, 1920-1921,” *Memoirs of the American Philosophical Society* 80 (Philadelphia: American Philosophical Society, 1970), 55–56.

Diplomatic Nonrecognition	Kind of government	Examples
Traditional	New or provisional governments	Armenia, Lithuania, Estonia, Latvia
Ideological	Established governments	Soviet Russia

Figure 2.2 Difference in application between traditional and newly formulated ideological forms of recognition.

Though the traditional and ideologically based nonrecognition overlapped in many of its implications, the critical difference was how the US government could communicate with the unrecognized government. The traditional application of nonrecognition allowed the possibility for direct, albeit unofficial, communication. In contrast, the ideological version had a much stricter approach, banishing the possibility of any communications, whether formal or informal. Thus, the strict stance of ideological nonrecognition made problems for the American relationship with Russia that did not exist for the American relationship with other unrecognized governments.

The absence of communication as a consequence of nonrecognition extended beyond the lofty realms of international law and into whether a nation-state could safeguard the rights of its citizens. After the First World War, the Paris Peace Conference relegated the protection of rights to the domain of the nation-state.³¹ The Versailles Treaty inexorably tied the rights of man to the responsibilities of their government. The corollary of this conclusion meant that a person lacking citizenship status was outside the bounds of rights protection. By constructing rights as contingent on citizenship to a nation-state, the sovereign right of the United States to not recognize Russia subsequently could deny protection to Russian citizens. Consequently, Russian

³¹ Roger Brubaker notes: “the post-World War I settlements, though ostensibly based on the principle of national self-determination, in fact assigned tens of millions of people to nation-states other than ‘their own’ at the same time that they focused unprecedented attention on the national or putatively national quality of both persons and territories.” *Nationalism Reframed: Nationhood and the National Question in the New Europe* (Cambridge University Press, 1996), 6.

immigrants residing in the United States lacked diplomatic protection, making them particularly vulnerable to rights abuses.

Furthermore, even though the Russian encroachment on Polish territory provided grounds for Secretary Colby's articulation of nonrecognition, sovereignty for Poland remained far from secure. In the week after his letter to the Italian ambassador, Secretary Colby addressed a Polish-American audience and seemed to reaffirm the support he offered in his earlier letter but hesitated to offer concrete specifics. He hedged by claiming he could not know when Poland would gain self-determination because it was a political matter. Considering it was a political issue, he said, "the view prevails in this country that we have no concern with anything beyond our national borders."³² Separating ideology from politics, Secretary Colby could condemn Russian action which avoiding addressing the Polish question directly. The Italian press noted this potential incongruity, saying that "besides the abstract theological America represented by Wilson, another, more real, exists, of natural, enthusiastic, simple plutocracy, which has nothing to do with the democratic politics of world conciliation." Another Italian publication said "the energetic, precise note unveils those international political deceivers who preach the gospel of peace while waving the bloody sword over Europe's head. The note, while it cannot interrupt the

³² "Remarks by Bainbridge Colby Upon the Occasion of the Presentation of Resolution Adopted by American Citizens of Polish Birth at 800 Meetings in the United States," August 15, 1920, BCP. Also quoted in, "Our help limited, Colby Tells Poles: Many Here Look upon Crisis in Eastern Europe with Satisfaction, He Says. Flout Treaty Machinery. He Repeats government's pledge to do all it can to preserve Polish independence. Situation "grave and critical." Our Help limited, Colby tells poles political question involved. Lodge replies to Poles. Says President Has power to take action short of war," *NYT*, August 19, 1920. Also see: "Moral help only here: Washington not expected to supply munitions or extend credit," *NYT*, August 12, 1920.

policy of approach to Russia, can at least moderate the too great haste of the Italian political authorities.”³³

Whether a symbolic gesture or not, the foreign policy agenda of official nonrecognition mirrored the existing hostility toward new immigrant labor, from Eastern Europe and Mexico, in domestic policies. In particular, American industrial leaders directly linked foreigners with the labor activists who plagued factory management around the country, and communism. The Federal government agreed, and the overlap between union membership and the Socialist Labor party seemed to confirm any lingering doubts. After the passage of the Espionage Act, the federal government acted, arresting leaders of the International Workers of the World (I.W.W.), raiding their offices around the country, and confiscating scores of documents from their headquarters.³⁴

In the aftermath of the war, the anti-labor, -immigrant, -communist, -anarchist, and -revolutionary fervor melded together, creating national hysteria towards these groups and new mechanisms in the Immigration Act and wartime measures to target working immigrants in the United States. The Attorney General, A. Mitchell Palmer, and his eponymous raids represent the most visible manifestation of anti-alien sentiment. In reality, however, they were only part of the

³³ “Italians criticize note: American ‘Plutocracy’ dictates attitude toward Russia, paper says,” *NYT*, August 18, 1920. Also see “Japan’s reply here on Saghalin case: correspondence to be published will emphasize our stand for Russian rights, note is being studied,” *New York Times*, August 15, 1920.

³⁴ See: Alfred W. McCoy, *Policing America’s Empire: The United States, the Philippines, and the Rise of the Surveillance State*, 1 edition (Madison, Wis: University of Wisconsin Press, 2009), 293–346; William Preston, *Aliens and Dissenters: Federal Suppression of Radicals, 1903-1933*, 2 Sub edition (Urbana: University of Illinois Press, 1994), 99–103.

expansion of policing initiatives, mainly at the state and local level, to target the immigrant population.³⁵

During the War, President Wilson appointed Palmer as the Alien Property Custodian, where he was in charge of the seizure and general administration of alien enemy property in the United States. In that role and then as the Attorney General, Palmer led a robust anti-radical campaign. His anti-radical sentiment grew even more potent when his home was among those targeted by the “Anarchist Fighters” in May and June of 1919. Using the bombings as justification, Palmer led the Department of Justice to systematically identify people who might be foreign anarchists in the United States. Due to the new immigration laws, such foreign-born anarchists could be subject to deportation even if they did not advocate for violence, and regardless of how long they had resided in the country.³⁶

However, the Department of Justice did not administer immigration laws; a subdivision of the Department of Labor, the Bureau of Immigration, had sole jurisdiction over deportations. The Bureau, however, was more than happy to assist with Palmer’s anti-radical mission and coordinate their efforts to identify suspected alien radicals and then arrest them for deportation. By late July of 1919, the Commissioner-General of Immigration, Anthony Caminetti, formalized this coordination. Speaking to the House Committee on Appropriations, Commissioner General

³⁵ As Ernest Freeberg notes, “state police and city governments, in fact, led this war on communism. State police arrested many of the party leaders ... for violating freshly minted laws against sedition or criminal conspiracy.” Ernest Freeberg, *Democracy’s Prisoner: Eugene V. Debs, the Great War, and the Right to Dissent* (Cambridge: Harvard University Press, 2008), 216.

³⁶ Act of Feb. 5, 1917, Sec. 19, 39 Stat. 874 (1917). The law passed the next year made foreign-born persons deportable if they espoused views in support of anarchism at any time, even if they no longer held those beliefs. AR-CGI (1919), 33; Act of Oct. 15, 1918, Sec. 1, 40 Stat. 1012 (1918); Louis Freeland Post, *The Deportations Delirium of Nineteen-Twenty* (Chicago, 1923), 61–62.

Caminetti said that the Bureau would conduct a “dragnet inquiry” into “suspected anarchists and radicals of all kinds.” Using this technique, he did not doubt that many of those discovered through this process would prove to be foreign-born and that the Justice Department would turn over such people to the Bureau of Immigration for deportation.³⁷ The approach for discovering alien anarchists and radicals would exponentially increase the number of possible deportations.

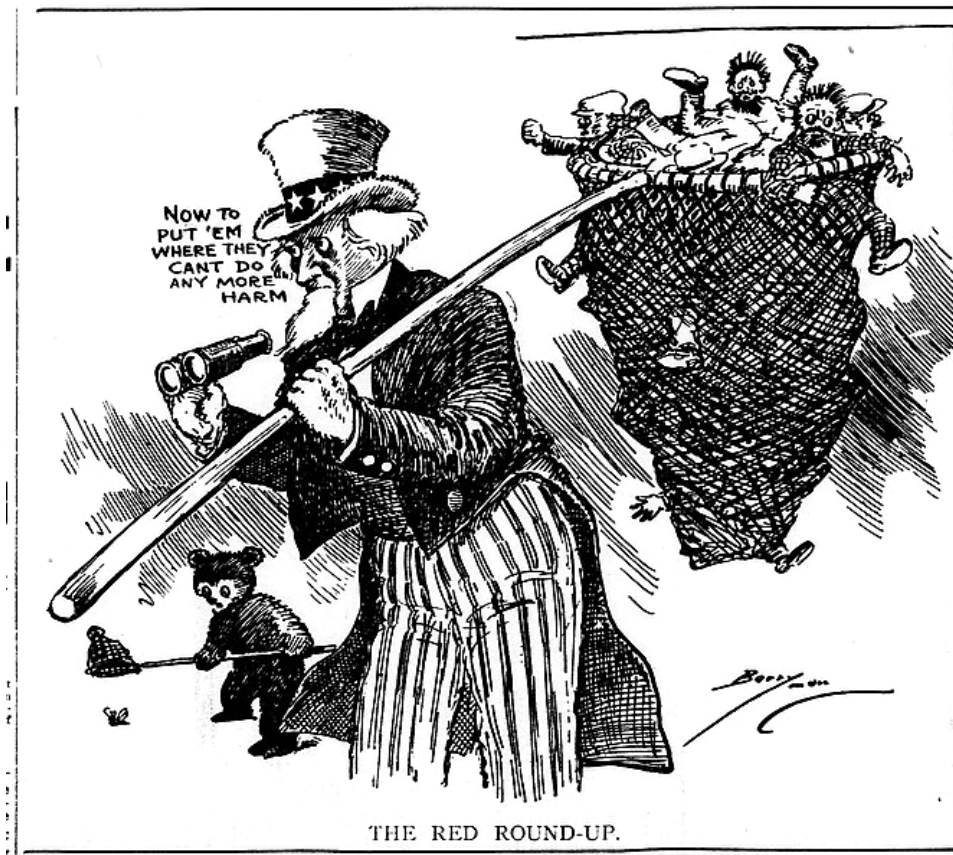


Fig. 2.3 Clifford Kennedy Berryman, “The Red Round-Up,” *Washington Evening Star*, November 8, 1919. Chronicling America, the Library of Congress. <https://lccn.loc.gov/sn83045462>

Though the House Committee refused to advance additional funds to the Bureau of Immigration to aid the “dragnet” search for alien radicals and anarchists, Bureau continued

³⁷ Memo of Conference with Honorary James W. Good, Chairman, Committee on Appropriations, House of Representatives, August 19, 1919, *INS 54568/General*.

coordinating with Palmer's Department of Justice. Aided by the Bureau of Investigation, Palmer and Caminetti prepared their plan to target potential hotbeds for foreign-born radicalism.³⁸ After conducting a comparatively small raid in November of 1919 on the Union of Russian Workers, on January 2 and 6, 1920, the Department of Justice agents directed a broad sweeping, and indiscriminate campaign targeting all potential members of radical organizations. On those two days in January, the Department of Justice arrested more than ten thousand people.³⁹ Though the next month, Palmer assured the public that "the evidence was examined with the utmost care, with a personal leaning toward freedom of thought and word on all questions," the January raids quickly fell under attack for their blatant misuse of government power.⁴⁰

In contrast, the smaller November test run, through which the Department of Justice and the Bureau of Investigation successfully arrested and detained about three hundred members of the Union of Russian Workers, fell out of view. Though these raids laid the groundwork for the ones that would occur in January, as elaborated upon in Congressional Hearings, their smaller scale made expedited deportations feasible.⁴¹ At the time the January raids had taken place, the Bureau of Immigration had already dealt with those arrested for deportation in the November over the Christmas holidays (Figure 2.4 and Figure 2.5).

³⁸ Most notably, the Bureau of Investigation agents who helped were under the leadership of Frank Burke and his protégée J. Edgar Hoover.

³⁹ Preston, *Aliens and Dissenters*, 208–37

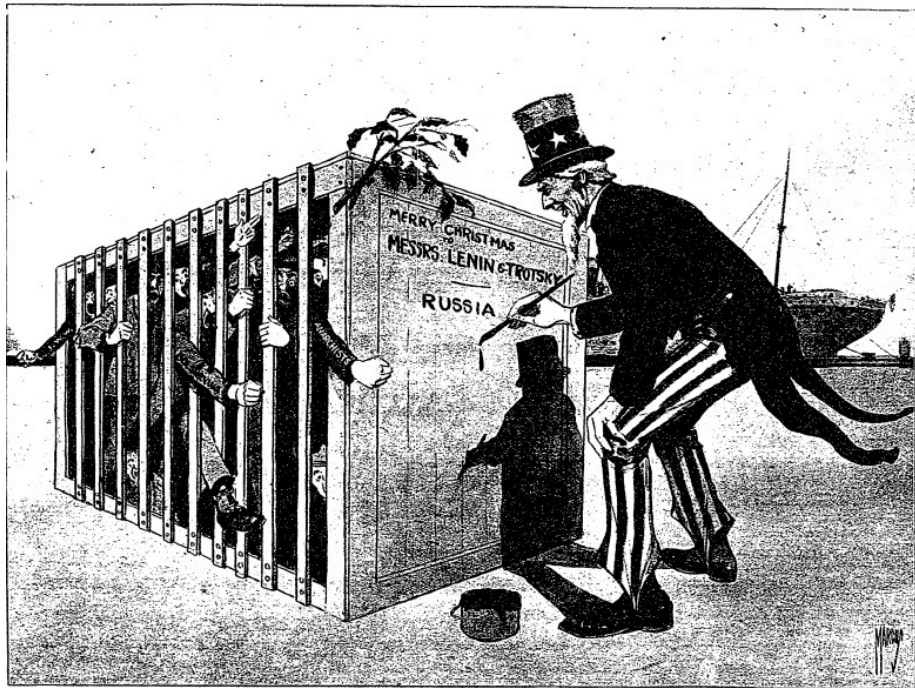
⁴⁰ The Attorney General continued, "the whole mass of evidence, accumulated from all parts of the country, was scrupulously scanned, not merely for the written or spoken differences of viewpoint as to the Government of the United States, but, in spite of these things, to see if the hostile declarations might not be sincere in their announced motive to improve our social order. There is no hope of such a thing." A. Mitchell Palmer, "The Case Against the 'Reds', *Forum* 63 (Feb. 1920): 173-185, quote from 175.

⁴¹ See *Attorney General A. Mitchell Palmer on Charges Made Against Department of Justice by Louis F. Post and Others, Before the Committee on Rules, 67th Cong. 2 sess. (1920).*

THE CHRISTMAS SPIRIT



Fig. 2.4 Clifford Kennedy Berryman, "The Christmas Spirit," *Washington Evening Star*, December 22, 1919. Chronicling America, the Library of Congress. <https://lccn.loc.gov/sn83045462>



The Cheerful Giver—Or, Do Your Christmas Shipping Early

Fig. 2.5 "The Cheerful Giver—Or, Do Your Christmas Shipping Early," *New York Times*, December 21, 1919. ProQuest Historical Newspapers: The New York Times.

By the end of December of 1919, those deportees embarked on the *Buford* from Ellis Island, New York to Soviet Russia. The vast majority of those arrested in the earlier raid were born in the Russian Empire, an area that comprised Soviet Russia, Poland, Ukraine, Finland, and the Baltic States. Though their place of origin might have become a different nation-state, the Bureau of Immigration marked the deportees as coming from Russia, which was where, under law, they had to be deported.

Many passengers on the *Buford* were longtime residents of the United States, had little to no way of knowing how the process of deportation was supposed to work.⁴² As deportees, the government placed them on the steamship for their country of origin or the place “from whence they came”: Russia. For those who had departed before the October Revolution in 1917, the Russia they had left had radically changed in their absence, as had Russian foreign relations with the United States.

As a consequence of the Wilsonian foreign policy of recognition, American-Russian relations were, at the moment of the *Buford's* sailing, non-existent. But, how then could the Bureau of Immigration deport people to Russia? Deportation was a process deeply embedded in foreign relations, but in Soviet Russia, the United States refused to engage in those very relations. The Department of Labor, so long as the Department of State's policy of nonrecognition continued, could not deport people directly to Soviet Russia itself; direct deportation entailed diplomatic communication between the two countries.

⁴² For example. Emma Goldman was among those deported on the *Buford*. Goldman had spent her adult life in the United States, having left the Russian Empire, in what would become Lithuania, in 1885.

Due to heightened regulation of state borders and citizenship status, immigration officials needed to acquire travel documentation for each alien before deportation could occur. In 1919 almost all nations required passports for aliens deported from the United States. According to the Bureau of Immigration, they would obtain those passports from “diplomatic or consular representatives of which the alien happened to be a citizen or subject.”⁴³ The impetus to deport Soviet anarchists via a third country stemmed from the rationale that the third-party country could not retain them.

Entangled in international constructions of sovereignty and citizenship, the Departments of Labor and Justice attempted to walk the precarious line of guaranteeing international understandings of rights attached to the nation-state while simultaneously exerting its sovereign right of nonrecognition. The problem posed by nonrecognition was a matter for the Department of State; thus, with hundreds of Russian anarchists detained by the Department of Justice in the Palmer Raids, and no straightforward method to deport them, the Department of Labor was obliged to ask the State Department for assistance.

Under the charge of the anti-Bolshevik Secretary Robert Lansing, the State Department seemed to think the most feasible idea would be to transport the deportees to a neighboring country to Soviet Russia and then, with the help of that neighboring country, transport the deportees across the border. Countries with port access and a land border with Soviet Russia included Finland and Baltic countries, Lithuania, Latvia, and Estonia. These countries were formally part of the Russian Empire and had only gained independence after Russia’s withdrawal from World War I and cession of territory through the Brest-Litovsk treaty. Of the four possible countries, Secretary Lansing settled upon Latvia and relayed their problem to the de facto

⁴³ *AR-CGI* (1920), 15.

Latvian consulate, which took the message to the Latvia government. Though the State Department did not formally recognize Latvia as a sovereign nation, the United States maintained its American consulates and consular representatives in the Latvian capital, Riga.

Using the American consulate as an intermediary, in his communication with the Latvian government, Secretary Lansing asked that they first receive Russian deportees from the US and assist in transporting them to the Soviet border.⁴⁴ After some negotiation, the Latvian representatives agreed, though local support for the Russian Revolution made it risky to be seen helping American deportations.⁴⁵ Though the Latvian government accepted Secretary Lansing's terms, the possibility that they could deny the transfer of the deportees reveals the ongoing instability of the American power to deport. The deportations could only occur with the mutual consent of both sending and receiving nations.

With confirmation from the State Department that the deportees would be allowed to go through Latvia to Soviet Russia, the Department of Labor set into motion an elaborate plan to ensure their successful deportation. The Departments of Labor would use the *Buford* to deport the anarchist Russians. The ship was an Army combination cargo and passenger ship, which the Navy had recently used to repatriate American troops after World War I.⁴⁶ The "Soviet Arc," as newspapers called the steamer, would first travel to Libau, Latvia. The deportees would be transported by train to the Soviet border from that city, escorted by Latvia officials subsidized by the American government. The US government would also provide some foodstuff and provisions and other compensation to the Latvian government for their assistance. With this plan

⁴⁴ "The Secretary of State to the Commissioner at Riga (Gade). December 11, 1919. *FRUS*, 690.

⁴⁵ "The Commissioner at Riga (Gade) to the Secretary of State." December 17, 1919. *FRUS*, 691.

⁴⁶ Benedict Crowell and Robert Forrest Wilson, *Demobilization: Our Industrial and Military Demobilization After the Armistice, 1918-1920* (Yale University Press, 1921), 35.

ready to go, on December 21, 1919, with the consent of Latvia authorities, 249 Russian deportees boarded the *Buford*, departing from New York for Libau.

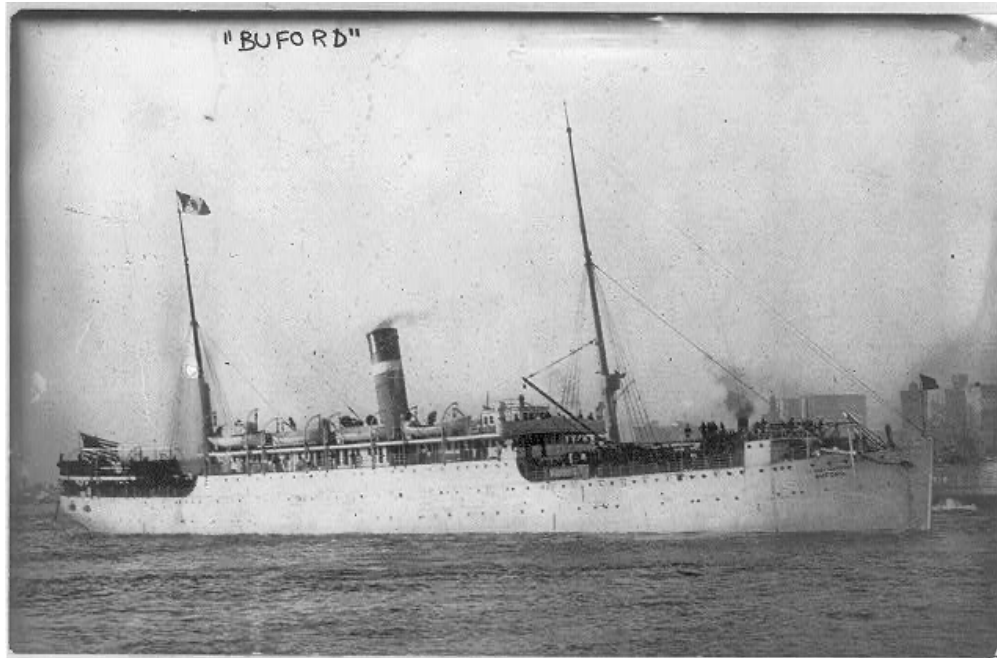


Figure 2.6 Photograph of the US Army transport, the *Buford*, ca.1907. Photograph. George Grantham Bain Collection, Library of Congress. <https://lccn.loc.gov/2001704475>.

But while the Latvian government officials had agreed to the deportation plan, the Latvian people had not. Upon hearing that Libau would be used to transfer the deportees, Latvian supporters of the Bolshevik party adamantly protested. In fact, after the *Buford* had set sail, the political conditions in Latvia deteriorated to such an extent that they could not aid the American deportations.⁴⁷ In a telegram, Secretary of State Lansing noted that the “situation is developing in Latvia in such a way as to make it unlikely that deported aliens can be transferred to Bolshevik

⁴⁷ “The Commissioner at Riga (Gade) to the Secretary of State.” January 5, 1920. *FRUS*, 693.

Russia through Libau.” Secretary Lansing continued that perhaps the deportation could still occur and that it might “be possible to arrange for their transfer through Hangö,” Finland.⁴⁸

Changing the itinerary to reflect Finland as the most promising country for transfer, the American Diplomatic Commissioner in Finland's capital worked as fast as possible to obtain permission from the Finnish government to make this change. Finally, after two days had passed, he received confirmation from the Finns.⁴⁹ More than two weeks after its departure from New York, the State Department and the Department of Labor diverted the *Buford* to Finland.⁵⁰

With Latvia now out of the picture, the Finnish government conditionally agreed to help the American Departments of State and Labor. Commissioner Haynes personally arranged and negotiated the Finnish governmental terms. However, the State Department resisted one of their requests, that the Untitled States negotiate with the Estonians, at the time within Russian territory, to secure transfer of the deportees to the Russian border.⁵¹

The Secretary of State explained that the Americans refused because “it is felt that the transfer of aliens across [the] front should not be made the subject of negotiation.”⁵² The US government would not negotiate with a government it did not recognize. Instead, the plan was to escort the deportees to the Soviet border without directly informing Soviet authorities of the

⁴⁸ “The Secretary of State to the Commissioner at Helsingfors (Haynes),” January 7, 1920. *FRUS*, 694.

⁴⁹ Haynes, “Paraphrase to Secretary of State from Haynes”,” January 9, 1920, FSP Vol. 065.

⁵⁰ “The Commissioner at Helingsfors (Haynes) to the Secretary of State,” January 9, 1920. *FRUS*, 694.

⁵¹ “Letter from Minister to Foreign Affairs, Helsingfors, to Thornwell Haynes, American Diplomatic Commissioner, Helsingfors,” January 10, 1920, FSP Vol. 065; “The Commissioner at Helsingfors (Haynes) to the Secretary of State,” January 10, 1920. *FRUS* 1920, 695.

⁵² “The Secretary of State to the Commissioner at Helsingfors (Haynes),” January 13, 1920. “Letter from Minister of Foreign Affairs, Helsingfors, to Thornwell Haynes, American Diplomatic Commissioner, Helsingfors,” *FRUS* 1920, 696.

precise time and place, but merely that they should expect such an event to occur. The success of this plan was entirely contingent on the Finnish government's agreement to escort the deportees and the acceptance of Soviet border authorities of their former nationals. Commissioner Haynes, however, remained worried about possible problems that could arise in the border crossing. Though he deemed it unlikely, he nevertheless cautioned the Secretary of State that

If the Department received no assurance that Russian forces would allow the deportees to cross the border without hindrance, it remained possible the Bolsheviks could shoot the deported aliens on sight as they would do anyone else, and on the ground that they are undesirable in a country having a legal and anti-anarchistic government, and also in order to arouse indignation against the United States as the cause of the murder.⁵³

Commissioner Haynes continued, saying that he could help arrange for the “Finnish government to take the responsibility of asking the Estonian representatives ... to advise the Soviet that it was expected the crossing would be unmolested.” Due to the problem nonrecognition posed for direct communication, the deportation plan transformed into a game of telephone, where the Finnish government would inform the Estonian authorities to tell the Bolsheviks that “some people” would cross the Finnish-Russian border in about a week.⁵⁴

Separate from their terms of negotiation, the Finnish government requested to retain ten Bolsheviks as hostages hoping that the Soviet government would return Finnish captives held in Russia. Supporting this request, Commissioner Haynes remarked to the Secretary of State that

⁵³ Haynes, “Paraphrase to Secretary of State,” January 13, 1920, FSP Vol. 065.

⁵⁴ “Confidential Note from the Finnish Government for Estonian Authorities,” January 16, 1920, FSP Vol 065.

the Finnish government had been “very accommodating” and had “given full cooperation.” He voiced his hope that it “be possible to grant their requests regarding the ten anarchists.”⁵⁵

Considering the lengths that the State Department was willing to go to secure the deportation of the Russians, the cost of ten anarchists to ensure the removal of over two hundred was not an unreasonable price to pay. But despite the commissioner’s support for the provision, Secretary Lansing refused the Finnish request, appealing to immigration and deportation legislation to justify his refusal.⁵⁶ Because those aboard the *Buford* were being deported from the United States, said Lansing, they were under an international obligation to return them to their country of origin. He argued, “there is no authority for delivering them into the hands of a third country except for the purposes of immediate transit to the country of their origin whence they came.”⁵⁷

The laws through which the US could deport these Russian anarchists stated that the deportation would be “to the country whence they came.” The regulations also stipulated that deportees might be sent to the foreign port that they arrived in the United States or in contiguous foreign territory, their place of previous residence, or, if blocked from a return to any of the above, the country the deportee had citizenship or subjecthood. In fact, the Secretary of Labor would decide the destination of deportation.⁵⁸ In keeping with other tactical deployments of American and international law, the Secretary of State used the legalistic moral argument against

⁵⁵ Haynes, “Paraphrase to Secretary of State.”

⁵⁶ Robert Lansing, “Paraphrase to Haynes,” January 13, 1920, FSP Vol 065.

⁵⁷ “The Secretary of State to Commissioner at Helsingfors (Haynes),” January 13, 1920, *FRUS*, 696.

⁵⁸ Immigration Act of 1917. 39 Stat. 890 1910-1917, Sec 20, pp. 890.

allowing their deportees to be used as bargaining chips.⁵⁹ Considering the many ways in which the American Departments of State and Labor had bent those same laws, the invocation of the sanctity of law seemed to provide other aspects of the deportation scheme with greater legitimacy.

Secretary Lansing's legalist rationale proved to be adequate. Despite the absence of any guarantee, the Finnish government acquiesced to Lansing's argument. Finnish officials allowed the *Buford* to dock when the State Department had completed the other terms, such as providing the Finns with a list of the ship's passengers. Once at the port, a military officer of the General Staff of Finland, accompanied by a Finnish Foreign Office representative, boarded the *Buford*, explaining to the Americans that they would take the deportees across the Russian frontier. To this end, Finnish officials shepherded the deportees across the border, protected by the internationally accepted flag of truce, transferring them from the military authorities of Finland to the military officers of Soviet Russia. After departing from New York almost three weeks before, the deportees finally arrived at their final destination.⁶⁰

The entire *Buford* deportation scheme was fraught with uncertainty. Yet, as depicted by both the government and the public record, the successful result immediately overshadowed the precarious process entailed in deporting the Russian anarchists. An American at the time would likely describe the deportations on the 'Soviet Arc' as a national victory, a triumph for the United States. The public version of the story was a heroic defeat of the alien anarchists. Even

⁵⁹ Here I use Judith N. Shklar's definition of legalism as "the ethical attitude that holds moral conduct to be a matter of rule following." *Legalism: Law, Morals, and Political Trials*, Revised ed. edition (Cambridge, Mass: Harvard University Press, 1986), 1. This definition, in the context of American imperial expansion has astutely explicated in Coates, *Legalist Empire*. Coates takes up its deployment in the interwar period in Ch. 7 World War, Collective Security, and International Law, 1914-1941.

⁶⁰ Louis Freeland Post, *The Deportations Delirium of Nineteen-Twenty* (Chicago, 1923), 11.

the official summary in the Annual Report on Immigration, destined not for public eyes but for the Secretary of Labor, described the journey of the *Buford* without alluding to the numerous complications. The account depicted the trip as a success, noting that the *Buford* arrived at Hangö, Finland, from whence “the aliens were transferred to the care of the American vice-consul at that port, whence they were conveyed under escort furnished by the military authorities of Finland to the frontiers of Soviet Russia, over which they passed” two days later.⁶¹

However, nowhere in the report did the Commissioner-General of Immigration describe why the deportees needed to be sent first to Finland (or Latvia, as initially planned) rather than directly to Soviet Russia. Even the Secretary of Labor, entrusted with managing the deportation, appeared to be unclear as to the rationale behind the switch from Latvia to Finland. Assistant Secretary of Labor Louis F. Post speculated, “These altered orders were probably due to the disturbed conditions in the vicinity of Libau—possibly to demands by the Latvian government to which the American States Department was reluctant to accede.”⁶² As depicted in the Federal government reports, deportation obscured the process of removal itself instead of focusing on the favorable, albeit uncertain, outcome.

But the circuitous deportation did catch the attention of some people. Though no one publicly questioned the reasons for the detour, they did question the economics behind it. Rather than considering the absence of a direct means of deportation as a threat to an American ability to deport, the Commissioner-General commented on the expense of the indirect removal. To deport through a proxy nation, the federal government had to not only cover the cost of the

⁶¹ *AR-CGI* (1920), 32.

⁶² Post, *The Deportations Delirium of Nineteen-Twenty*, 10.

deportees and their transport but also had to compensate the foreign government, helping with the transfer of the deportees to their country of origin.

The financial burden, the Commissioner-General acknowledged, was an externality of the American policy of nonrecognition. This policy, he noted, “continues to be a stumbling block to deportation, and unlike the first effort, no signs of encouragement have been visible, but information supposedly authoritative indicated the futility of attempting to transport to the borders of Soviet Russia under great expense aliens ordered deported there, as above set forth.”⁶³ The Bureau of Immigration discussed the problem of nonrecognition, not of a legal or diplomatic nature, but as an issue of financing the deportation procedures, administrative fees for complications in the process. Part of the disconnect between diplomacy and deportation stemmed from the separation of responsibilities within the federal government between the State Department and the Department of Labor.

After the deportations on the *Buford*, Labor Department attempted to find viable routes to deport other foreign-born residents rounded up by the Palmer Raids of January 1920. While the Assistant Secretary of Labor, Louis Freeland Post, canceled about half of the deportation orders, more than a thousand people remained in government custody for the Bureau of Immigration to deport their country of origin. Within the following year, the Department enacted the deportation of the vast majority of those alleged anarchists, that is “with the exception of the Russians,” for whom “an objection [was] raised in every foreign country to the transit of these Russians through any of these countries.”⁶⁴ Because of the now formalized absence of diplomatic relations

⁶³ *AR-CGI* (1920), 33.

⁶⁴ “Memorandum from Immigrant Inspector in Charge of Transportation and Deportation, Leo B. Russell, for the Commissioner General of Immigration,” April 9, 1921, INS 55110-gen.

between the United States and Russia, the Department of Labor found that obtaining a safe route of passage for their would-be deportees involved the receiving country and an owner of a ship that would agree to enable their transportation. The Bureau of Immigration tasked Inspector Leo B. Russell to sort out the logistical challenges of this undertaking.

Inspector Russell, Chief of the Organization of Deportation and Transportation Section, worked with shipping countries, international consular representatives, and the Department of Labor to systematize and coordinate deportation procedures. His primary concern was the execution of the warrants for deportation. He was, perhaps, less attentive to the more extensive geopolitical relationship between the United States and other countries, only how those geopolitical concerns manifested in concrete policies that obstructed his capacity to do his job.

To find the best route for the aliens facing deportation warrants, Inspector Russell consulted with the steamship companies operating out of Ellis Island to “ascertain whether passengers could be carried to some port near Russia.”⁶⁵ The need for passports and visas for international travel rendered some of the routes impractical. For example, while the Baltic Steamship Corporation might have been able to transport deportees to the Free City of Danzig, all people traveling on this route would need to secure Polish visas. Similarly, even if the Baltic-American Line could deport aliens to Libau, Latvia, Inspector Russell would need to obtain travel permits that had been authorized by the unofficial Latvian representative in New York, John J. Kalnin.⁶⁶

⁶⁵ “Memo from Leo B. Russell to Assistant Secretary of Labor, ‘Deportation of Aliens under Anarchistic Provisions of the Immigration Laws,’” December 16, 1920, INS 55110-gen.

⁶⁶ “Memo from Leo B. Russell to Assistant Secretary of Labor, ‘Deportation of Aliens under Anarchistic Provisions of the Immigration Laws.’”

Indeed, a handful of steamship companies operated routes to Libau, from where the deportees could cross into Russia, but all of the courses necessitated that the Department of Labor secure permits to travel visaed by the unofficial Latvian representative. Mr. Kalnin remained in the United States in a quasi-diplomatic capacity, sanctioned by his government as their representative, but without official status because the State Department continued to withhold recognition from the Latvian regime. As was the case during the *Buford* deportations, though there were no diplomatic relations between the two countries, American consuls continued to operate in Latvia, allowing the State Department, in theory, to sidestep the problem of Mr. Kalnin in New York. The American consul could not, at least, in a timely way, secure passport visas for travel to Latvia.

Seeing no way around the problem of travel permits and visas, on December 1, 1920, Inspector Russell consulted with Mr. Kalnin in New York to see whether he would authorize permits to travel to Latvia. Acting in his officially unofficial capacity, Mr. Kalnin agreed to visa permits to travel, so long as he had evidence that the deportees had tickets and would only stop in Latvia, with their final destination being Russia. He noted that treaty “between Soviet Russia and Latvia which allows Russian subjects to proceed through Latvia at the discretion of the Latvian government.”⁶⁷ Soviet Russia tacitly abided by this arrangement for deportations from the United States, accepting deportees as they arrived on the border to Soviet territory and allowing them to cross.

By the end of December 1920, Inspector Russell could, at last, see a reward for his efforts. On December 23, the Bureau of Immigration deported a party of twenty-four Russian

⁶⁷ “Memo from Leo B. Russell to Assistant Secretary of Labor, ‘Deportation of Aliens under Anarchistic Provisions of the Immigration Laws.’”

aliens on the British-owned Cunard Line's the *Imperator*. The route was far from direct. The party traveled from New York to Southampton, England, Southampton to Hull, England, and finally from Hull to Libau, Latvia. Once in Libau, the party was transferred by train to Riga, Latvia, where a Soviet representative “passed judgment as to whether all of them could proceed into Russia.”⁶⁸ Inspector Russell could ensure that the deportees reached the Russian border but could not ensure the completion of the deportation process; that part relied on Russian cooperation.

In the weeks between the initial conversation between Inspector Russell and Mr. Kalnin and the *Imperator's* departure, the twenty-four Russians needed to obtain proper documentation to leave the United States. Even with the visa situation solved with the tentative approval of Mr. Kalnin, the procedure for such deportations involved other bureaucratic hurdles to jump through. First, the Bureau of Immigration would apply to the State Department for a permit to depart from the United States. Because all deportees fell under the anarchistic provision of the immigration law, the Bureau could provide the necessary information to secure these permits directly from the State Department.⁶⁹

Under ideal circumstances, the Bureau of Immigration would have the requisite information on each alien charged with deportation. However, the Department of Justice had

⁶⁸ “Memorandum from Immigrant Inspector in Charge of Transportation and Deportation, Leo B. Russell, for the Commissioner General of Immigration,” April 9, 1921.

⁶⁹ Normally to get this permit, the alien wishing to leave the country would need to provide “his name, date of birth, place of birth, whether he has any relatives abroad or in the United States, the date of his landing in the United States, where he has been residing since coming to the United States,” and the statement would need to be sworn to before a Notary Public. Furthermore, the application to depart would need to include three photographs attached to each permit. “Memorandum from Leo B. Russell for the Acting Commissioner General. ‘Regarding Deportation of Russians Who Have Been Ordered Deported under the Anarchistic Provisions of the Immigration Law, Procedural Notes,’” December 31, 1920, INS 55110-gen.

issued the warrants for deportation resulting from the Palmer raids with less attention to information. In fact, the Department of Justice had indiscriminately arrested many of the aliens awaiting deportation. Though the Immigration Bureau was likely unable to provide such information, they successfully secured permits to depart. Their success showcased the inconsistent flexibility of bureaucratic norms when it came to this group of aliens. The Bureau could depart from the official procedure at certain moments to expedite internal proceedings, but seemingly not when it would involve international relations.

Having secured a permit to depart the United States for each deportee, the Bureau would then have to take the permit to be visaed by the Latvian Representative in New York. To enable Mr. Kalnin to visa the necessary permits to depart, the Acting Commissioner General of Immigration authorized Inspector Russell to pay him as the unofficial consular representative “for the services rendered in visaing Permits to depart.”⁷⁰ The elaborate procedure for enabling the aliens, already arrested for deportation, to actually leave the country and the flexibility and coordination with which the different Departments enabled the Bureau to succeed was in sharp contrast with other aspects of the deportation process.

Having gone forward with the plan to deport Russians on the *Imperator* and already planning future, undetermined deportation parties, Secretary of Labor William B. Wilson wrote to the Secretary of State to inform the latter’s department of the developments made regarding deporting Russians. Despite the seeming coordination between the Department of Labor and Department of State, insofar as the former securing exit permits from the latter, the State

⁷⁰ “Letter from Acting Commissioner General to Mr. Leo B. Hill, Immigrant Inspector in Charge of Transportation and Deportation,” January 7, 1921, INS 55110-gen.

Department received Secretary Wilson's letter with surprise. Unlike in the negotiations for the *Buford*, where the Secretary of State himself and American consular representatives in both Latvia and Finland negotiated the terms of the deportation journey, Inspector Russell, who organized this route of deportation, had worked independently from State Department representatives both in the United States and abroad. The inspector had negotiated his plan in one-on-one communications with the unofficial Latvian representative and the various shipping companies that he requested to transport the deportees between the United States and Latvia and eventually to Russia.

The State Department bristled at the notion Inspector Russell had excluded them from his negotiations. Responding to Secretary Wilson's letter ten days later and after the first group of deportees has left from the New York Harbor, Secretary of State Colby chided the Bureau for not having consulted with his Department directly. He criticized the Department of Labor for making "informal arrangements" with a person who Secretary Colby referred to as the "so-called Latvian in New York."⁷¹ The Department of Labor's encroachment on what might be publicly viewed as the territory of the Department of State seemed to visibly offend Secretary Colby. Yet, while perhaps untoward, the Department of Labor's Bureau has no obligation to consult with any other agency.

Attempting to re-establish their control over all foreign relations, the State Department noted that they had forwarded the deportation arrangements to the American Commissioner at Riga. It was essential to loop in the commissioner to ensure that he had all the necessary

⁷¹ "Correspondence from the Secretary of State to the Secretary of Labor," January 20, 1921, INS 55110-gen.

information in the case that “any complications might arise through his ignorance of the action taken.”

Though the State Department had technical control over American interactions with government entities, it had less control over official American business with non-government entities. So far as the shipping companies were concerned, the Department of Labor was the primary negotiator, and they had to pay no formal attention to the Department of State. The awkward separation between private and public foreign relations allowed for a third space of government interaction with the private sector outside the bounds of diplomatic ties.

In fact, Inspector Russell, working for the Bureau of Immigration that was housed within the Department of Labor, was able to ascertain they might deport Russian anarchists via Latvia, in part because he was not an official diplomatic representative. Not bound by the internal State Department protocol, he could directly engage with transatlantic shipping companies, acting as unofficial international representatives. Using a network of different interests worldwide, he could move beyond international relations and into a separate, transnational territory, incorporating commercial and state interests in one frame.

The Secretary of State noted that upon alerted the American Commissioner at Riga of deportation plans, the American commissioner had suggested that “further deportation should not be made until he reports to the Department of State.” Secretary Colby, emphasizing the need for trained diplomats, indicated that the commissioner would need to report to the “Department of State regarding complications which have arisen,” but which the consular official believed he could “satisfactorily adjust.” Secretary Colby concluded his letter observing that while the Latvian authorities had “no objection to further deportations,” they did, however, “desire before

such deportations are made sufficient time to effect the necessary arrangement and agreements.”⁷²

The letter Secretary Colby wrote to Secretary Wilson showcased the tension between their respective Departments, State and Labor. The inter-agency conflict mirrored a struggle over who could define “America” and where their definition mattered. It also signaled a competing vision of the United States as a nation bound to a larger community of governments and international laws, for the State Department, or a nation bound to its citizens and domestic legislation, for the Labor Department. The two visions of the nation rarely came into contact. But, the case of deportation to Russia forced the two sides into contact with one another. In his letter, Secretary Colby revealed his understanding of those sides as hierarchical – international diplomacy was of more importance than the execution of domestic laws.

However, the explicit diplomatic interests of the United States government walked the precarious line of maintaining informal, not diplomatically recognized relations with the Latvian government. Despite the capacity to conduct everyday communications, the official position of the State Department toward Latvia was one of nonrecognition. Yet, unlike its position toward Russia, the maintenance of an informal channel of communication could allow practical matters, such as deportations, to proceed in a more or less regular fashion.

By the end of February, the State Department encountered an unintended consequence for the Department of Labor’s use of the unofficial Latvian representative to visa permits to leave the United States. Mr. Kalnin had interpreted “certain correspondence which he claim[ed] passed between him and Departments of [the US] Government as recognizing ‘his position and powers’” as an official diplomatic representative of Latvia. Mr. Kalnin claimed that the

⁷² “Correspondence from the Secretary of State to the Secretary of Labor.”

American governmental officials had been “continually addressing him and treating him as the fully accredited Consular representative” of Latvia. This account contradicted the formal position of the United States of nonrecognition toward all Baltic States.⁷³

Alarmed by Mr. Kalnin’s misinterpretation of his relationship with the United States, Secretary of State Colby again wrote to his counterpart in the Department of Labor to clarify the situation. In a tone of mild condescension, Secretary Colby offered employees of the Department of Labor a provisional benefit of the doubt; he wrote saying,

Mr. Kalnin’s interpretation of correspondence which may have passed between him and the Department of Labor concerning the deportation of aliens, or other subjects, is no doubt unjustified, inasmuch as the Commissioner-General of Immigration has long been aware of the fact that this government has not recognized Latvia.⁷⁴

Secretary Colby, however, asked that Mr. Kalnin’s “position in America should be clearly and officially defined by the proper Department of this government.”⁷⁵ The Secretary of State's assertion about which Department could properly define international relations left no doubt that the Department of Labor was out of line in even negotiating with a representative from another country.

Assistant Secretary of Labor Louis Post responded to the Secretary of State’s veiled accusations. In his response, he wrote that it was actually due to the policy of the Department of State that they needed to interact with Mr. Kalnin. Assistant Secretary Post pointed out that to deport the Russians arrested under the anarchistic provision of the Immigration Law, “it was

⁷³ “Correspondence from Secretary of State Colby and Secretary of Labor, Regarding Latvian Representative,” February 25, 1921, INS 55110-gen.

⁷⁴ “Correspondence from Secretary of State Colby and Secretary of Labor, Regarding Latvian Representative.”

⁷⁵ “Correspondence from Secretary of State Colby and Secretary of Labor, Regarding Latvian Representative.”

necessary to obtain the vise of Mr. Kalnin on Permits to Depart issued by your Department before the aliens could pass through Latvia to Russia.” Assistant Secretary Post continued, noting the necessity to “send vouchers to Mr. Kalnin for signatures in order that a check might be issued to him in payment of his services for viseing [sic] the Permits to Depart.”⁷⁶

To the unofficial Latvian representative, any American government official interacting with him was operating on behalf of the American government. The misunderstanding about Mr. Kalnin’s official position does more than show inter-agency tensions. It also suggests the largely performative quality of offering official diplomatic recognition.

Despite the problem of the official status of the Latvian representative, the Bureau of Immigration continued to successfully remove deportees from the country to Soviet Russia via Latvia. At the end of February, the Bureau of Immigration had successfully deported another group of about seventy persons on the *Esthonia* via Riga.⁷⁷

Though the Bureau had succeeded in creating a usable route for Russian deportations, the problem of nonrecognition grew increasingly conspicuous as Russian officials placed increasing pressure on the United States to recognize the integrity and sovereignty of the Soviet Republic. Using American deportation policy as leverage, Russian officials suggested that if the United States wished to continue to deport people to Russia, they would need to enter into diplomatic relations with Russia. Even with this pressure, neither governmental nor private sector entities explicitly connected the nonrecognition of Russia and the idea of the American right to deport

⁷⁶ “Correspondence from Assistant Secretary of Labor Post to Secretary of State Colby, Regarding Latvian Representative,” February 28, 1921, INS 55110-gen.

⁷⁷ “Correspondence from the Under Secretary of State to the Secretary of Labor,” February 28, 1921, INS 55110-gen.

alien residents. One issue was a matter of international affairs; the other was a domestic matter. As such, the political and legal formalization of Russian nonrecognition, as articulated by the State Department, did not deter the Bureau of Immigration from identifying Russian anarchists to deport, nor from attempting to enact those deportations.

Yet the American consul at Riga had reason to believe that “present disturbances in Russia, would, in their opinion, tend to affect the present deportation arrangement,” particularly referring to the party of seventy-five Russians that would take the *Mongolia* on March 17, 1921.⁷⁸ Writing to the State Department on March 9, The American consul had heard from Latvian authorities that at least “some of the next shipment of deportees may not be accepted” by the Bolshevik representative at the border. He opined that “the Bolsheviks desire to refuse to admit deportees, but fear the impression it would create among Communists in the United States.”⁷⁹ Even after the height of the Red Scare had passed, the specter of communist mass organization, both in Europe and in the United States, added urgency to the consul’s report.

As the month progressed, the State Department continued to hear from their consuls regarding the status of the remaining deportation parties on their way to Russia. At the end of March, the fear of an unsuccessful deportation party came to pass. The steamship company facilitating the deportations had informed the American consulate in London that “seven deportees were refused permission to disembark from the *Zeeland* for Riga.” The steamship

⁷⁸ “Correspondence from Hughes, State Department, to Secretary of Labor. ‘Urgent.’” March 11, 1921, INS 55110-gen.

⁷⁹ “Correspondence from Hughes, State Department, to Secretary of Labor. ‘Urgent.’”

company and the remaining deportees were now awaiting instructions at Danzig as to how to proceed.⁸⁰

The following month, a Labor Department representative that oversaw the *Mongolia* sent a telegram to the State Department to communicate a similar message. The representative “was notified by so-called Soviet consul at Libau that in future deportees would not be permitted to enter Soviet Russia prior to receipt of official notice of deportation from the Government of the United States by [the] Soviet Government.”⁸¹ The Labor and State Departments had long feared the Soviet Government might make such a declaration yet remained unprepared to deal with the consequences for those already amid the deportation process.

In the meantime, The Russian Socialist Federated Soviet Republic contracted a lawyer on the New York Bureau of Legal Advice (BLA), “an organization that provided counsel to a wide variety of American citizens and resident aliens who came in conflict with the government’s wartime policies.”⁸² By the end of April, the lawyer, Charles Recht, wrote to Commissioner General of Immigration to “make public to all parties whom it may concern, the establishment of a policy by the Soviet Government relative to emigration from the United States.” This new policy stated that “in view of the absence of a representative of Soviet Russia in America, no emigration to Russia will be permitted.” He went on to tell the State Department to warn

⁸⁰ “Correspondence from Assistant Secretary of State, FM Dearing to the Secretary of Labor. ‘Attention, Commissioner General of Immigration,’” March 26, 1921, INS 55110-gen.

⁸¹ “Correspondence from Hughes, State Department, to Secretary of Labor,” April 11, 1921, INS 55110-gen.

⁸² Seth S. Tannenbaum, “Activism without ‘Radicalism’: American Activism on Behalf of Conscientious Objectors during World War I,” *Peace & Change* 42, no. 1 (January 2017): 32–63.

American consulates of states bordering Russia that the Soviet government would no longer admit visas from those states.⁸³

On May 20, 1921, a circular letter the Commissioner-General of Immigration sent a circular letter to its district offices. The circular advised that “until further notice no aliens of Russian nationality [could] be deported to Russia, as the Soviet authorities have entirely closed their borders.”⁸⁴ According to the Annual Report from that year, the “Soviet regime closed the borders of Russia to all Russian deportees from the United States.” In April of 1921, the Soviet government barred about two hundred and fifty Russian deportees from entry.⁸⁵

In an interview with the *New York Times*, one American law office described the Soviet position as a reaction to American policy. He commented that “since our [the American] government did not recognize any Soviet representatives here with passport issuing powers, it was unwilling to receive Russians deported from this country.”⁸⁶ Soviet officials indicated that this policy would continue until the United States agreed to recognize the legitimacy and sovereignty of Soviet Russia.⁸⁷ While Russia made the explicit connection between deportation and diplomacy, the Commissioner-General of Immigration did not formally acknowledge the policy change by the Soviet government as stemming from American nonrecognition.

⁸³ “Letter from Charles Recht, Counselor at Law to Commissioner W.W. Husband, Commissioner General of Immigration, Washington, D.C.,” April 21, 1921, INS 55110-gen.

⁸⁴ “Circular Letter No. 55110/Fen’1 from the Commissioner General of Immigration to Immigration District Offices,” May 20, 1921, INS 55110-gen.

⁸⁵ *AR-CGI* (1921), 14.

⁸⁶ “Soviet order halts deportation of 35: Russian and Latvian Governments Notify America That Radicals Won’t Be Admitted.,” *NYT*, 1921.

⁸⁷ *AR-CGI* (1921), 14.

Nevertheless, subsequent Annual reports on immigration reflected the effects of the new policy.⁸⁸

As the closing of the Russian border took effect, Inspector Russell, who had organized the initial process for deportation, to begin with, wrote a memorandum for the Commissioner-General of Immigration. In his memo, he summarized his various attempts to execute warrants for deportation for Russians. By April of 1921, seven parties in total, including the *Buford*, had successfully been deported to Russia. Taking stock of the Russians still awaiting deportation in the United States, Inspector Russell estimated that 120 cases remained to be processed.⁸⁹ Some of those cases, he noted, were in the Boston district, where recent court decisions could render deportations unfeasible. Still, Inspector Russell remained hopeful that he could help actualize more deportations. He hoped that by May, another steamship might sail that could “clear up all cases with the exception of those in the Boston district, and if decision is rendered and is favorable to the government,” he believed he would “be able to effect the deportation of those people also.”⁹⁰ The Inspector was likely unwilling to acknowledge that all his negotiations and maneuvering could so abruptly be invalidated.

Despite his work, the circuitous method of deportation that Inspector Russell enabled for the past few years was no longer viable; the United States government could no longer deport

⁸⁸ In correspondences, State Department officials acknowledged the change in Russian policy in regards to recognition in the context of negotiating to exchange Americans in Russia, for Russians in the United States. Dr. Fridtjof Nansen, on behalf of the League of Nations and High Commissioner for Refugees, negotiated between the two parties, the United States unwilling to budge on their stance of non-recognition. *FRUS* 1921, 790–804.

⁸⁹ “Memorandum from Immigrant Inspector in Charge of Transportation and Deportation, Leo B. Russell, for the Commissioner General of Immigration,” April 9, 1921.

⁹⁰ “Memorandum from Immigrant Inspector in Charge of Transportation and Deportation, Leo B. Russell, for the Commissioner General of Immigration.”

Russians. Consequently, the Russians who had been previously approved for deportation, under deportation law at the time, could not be deported anywhere.⁹¹ The Immigration legislation of 1918 and 1919 directed that anarchists should be “taken into custody and deported” but did not consider the possibility that such deportation could be impossible.⁹² Because the “statute was silent on what to do,” those detained for removal “faced indefinite detention.”⁹³ Charges of anarchy, primarily applied to Russian aliens, were no longer an effective way of controlling the foreign population.

The 1922 Annual Report on Immigration noted that there were, in fact, no deportations of alien anarchists in that year. The report attributed this to the “inability to deport aliens to Russia at the present time, although a number of the subjects of that country of established radical tendencies have been placed under orders of deportation during the year.”⁹⁴ The American performance of sovereignty was exposed as contingent upon transnational cooperation and mutually constituted recognition.⁹⁵ Rather than being located in any population or physical territory, sovereignty revealed itself as practice and relied on its effective performativity.

⁹¹ *AR-CGI* (1921), 15.

⁹² H.R. 12402. “An act to exclude and expel from the United States aliens who are members of the anarchist and similar classes.” October 16, 1918.

⁹³ Daniel Wilsher, *Immigration Detention: Law, History, Politics* (Cambridge University Press, 2011), 33.

⁹⁴ *AR-CGI* (1922), 13.

⁹⁵ Cynthia Weber describes sovereignty as performing as “a referent for statehood,” and something evoking process or practice: “a characteristic way in which being or sovereign statehood may be inferred from doing or practice.” *Simulating Sovereignty: Intervention, the State and Symbolic Exchange* (Cambridge University Press, 1995), 1, 3; Also see: Cynthia Weber, “Performative States,” *Millennium - Journal of International Studies* 27, no. 1 (March 1, 1998): 77–95; Thomas J. Biersteker and Cynthia Weber, *State Sovereignty as Social Construct* (Cambridge University Press, 1996); For a discussion of the connectedness between performance and sovereignty see: Danilyn Rutherford, *Laughing at Leviathan: Sovereignty and Audience in West Papua* (University of Chicago Press, 2012).

The Boston District that Inspector Russell mentioned in his memo had scrutinized the legality of the Red Raids for the past year. Government officials intimately involved with the arrests were brought before a Federal investigation to ascertain the legitimacy of the raids. Furthermore, the former Secretary of Labor and his assistant denounced the Red Raids as illegal and outside the bounds of the American legal tradition. In this climate of suspicion, some of those arrested in the raids brought charges against the Commissioner of Immigration and demanded release. Facing an increasingly hostile rebuke from both the political and public spheres, the Justice Department was rumored to try to bring a case to a sympathetic judge that would uphold the measures Attorney General Palmer took during the 1919 raids. Thus, even as the Secretary of Labor was signing warrants of deportation and Inspector Russell coordinated their route of travel, the Judicial Branch of the American government assessed the legal grounds upon which these deportations could or could not be enacted.

CHAPTER III: LEGAL BODIES

Jack Matthews was born within Austro-Hungarian Empire in Ukraine, likely under a less anglicized name, and migrated to the United States in 1917. After he lived in the country for four years, the Bureau of Immigration determined that Jack Matthews "was deportable," and because he was born in Ukraine, should be deported there. But, after being held in the Seattle county jail for months on end, Matthews was not deported. He could not be deported because the American government had no diplomatic relations with Ukraine.

From the perspective of the Bureau of Immigration, their most significant problem was securing a passport for Matthews. Rather than remain in jail, with no immediate prospect of release or removal, Matthews turned to the court system for assistance. Matthews petitioned for his release on the basis that the State Department would need to enter into diplomatic relations with Ukraine to verify his place of birth and would, by dint of American foreign policy, find themselves unable to do so. Through his lawyer, he thus contended he was "unlawfully and unreasonably restrained of his liberty in the county jail" because the American government had no means to execute its warrant for deportation.¹

The Bureau of Immigration, however, would not go down without a fight. The Bureau argued that though Jack Matthews was born in Ukraine, his specific place of birth was no longer located in that country. The region from which he hailed, Eastern Galicia, straddled the Ukrainian-Polish border, and through a renegotiation of borders, was now located in Polish territory. A local newspaper reporting on the case commented sympathetically that Matthews had

¹ Ex parte Matthews (F. 857 1921).

lost his country by war and remarked that his village had "bobbed across the boundaries" of the two countries and was in "temporary exile" in the republic of Galicia.²



Fig. 3.1 Political maps drawn in October 1918 proposing the change in Poland borders before and after World War I. Left: "The Political subdivisions of Polish territory before the war and its linguistic areas," 1918, President Woodrow Wilson Papers, Woodrow Wilson Map Collection, Library of Congress, Geography and Map Division. <https://lccn.loc.gov/80695246>. Right: "The Proposed frontiers of Poland," 1918, President Woodrow Wilson Papers, Woodrow Wilson Map Collection, Library of Congress, Geography and Map Division. <https://lccn.loc.gov/80695245>.

² "Country Lost by War. Deportation of Native of Ukrania Huge Task," *Morning Oregonian*, October 4, 1921. For context on the shifts in border in Eastern Galicia see Andrew J. Drummond and Jacek Lubecki, "Reconstructing Galicia: Mapping the Cultural and Civic Traditions of the Former Austrian Galicia in Poland and Ukraine," *Europe-Asia Studies* 62, no. 8 (2010): 1311–38.



Sketch map of the Ukraine, showing present boundaries of this semi-independent Russian State. A portion of the territory inhabited by Ukrainians in the west now belongs to Poland under the Treaty of Versailles

Fig. 3.2 Map of Ukraine in A. Margolin, "The New Map of Europe and Ukraine," *Current History* 16, No. 2 (May 1922): 309-316, map from p. 310. JStor.

As the maps in Figures 3.1 and 3.2 indicate, the American and international imagination of Polish and Ukrainian borders did not precisely follow pre-war linguistic areas or political subdivisions. Indeed, in Figure 3.1 and other regional maps of political borders from this period, mapmakers had not included Ukraine. Despite its absence from political mappings of the region, at the beginning of the world war, Galicia would have been in Ukrainian territory within the Austria-Hungarian empire; however, by the war's end, the region would be divided between Poland, Ukraine, and Romania.³

³ Timothy Snyder, *The Reconstruction of Nations: Poland, Ukraine, Lithuania, Belarus, 1569-1999* (Yale University Press, 2002) Ch. 7 Galicia and Volhynia at the Margin (1914-1939). The idea of phantom borders, as vestiges different historio-political assemblages has been usefully applied to Ukraine and Eastern Europe in particular. See Sabine von Löwis and Emmanuelle Maisonnave, "Phantom Borders and Ambivalent Spaces of Identification in Ukraine," *LEspace Geographique* Volume 46, no. 2 (September 26, 2017): 126-42; Béatrice von Hirschhausen et al., "Phantom Borders in Eastern Europe: A New Concept for Regional Research," *Slavic Review* 78, no. 2 (2019): 368-89.

The shifting boundaries in Europe complicated what it meant to be a national of a country. World War I had made it possible to have citizenship in one country but belong by "ethnic nationality" to a different region. The Bureau knew that the State Department could communicate with Poland and thus could obtain necessary travel documentation for Matthews. With this in mind, the Commissioner of Immigration amended his warrant, directing the deportation of Matthews to Eastern Galicia rather than Ukraine. The fact that Matthews hailed from a town now located in the republic of Galicia, an entity that itself was in Poland, although he had been born within Ukrainian borders, created a loophole allowing for the renewed possibility of his deportation.

Unfortunately for the immigration officials, the District Judge that presided over *Matthews* disagreed with their assessment. The judge drew attention to the previous testimony that the Bureau of Immigration brought forth when he opined they had "determined as fact that the petitioner was a native of Ukrainia." He continued, pointing out that under law, a person could only be deported to his country of origin. The judge noted that it would not be possible to deport someone to "any country other than that of his nativity or his allegiance."

While the Bureau of Immigration hoped to deport Matthews to the Republic of Galicia, its status and relationship to either Poland or Ukraine were far from settled. Under those conditions, the Bureau of Immigration could hardly treat it as a sovereign entity. And, seeing as Matthews was not Polish, the Judge declared it would be unlawful to deport him to Poland. Thus, because Matthews, as determined by the Bureau of Immigration, was a Ukrainian national, the Bureau of Immigration bore the legal obligation to deport him there, even if it was by 1921 a separate political entity from his exact place of birth.

Because of this diplomatic technicality, the Judge found that the Bureau of Immigration could not deport the petitioner at all. With the obligation to deport Matthews to Ukraine, the Bureau could not proceed with their deportation case. Therefore, by holding him in the county jail, the Commissioner was, in the judge's words, "confining him as a prisoner," thus violating his rights under the American Constitution. The Judge ordered Matthews to pay one thousand dollars and provide "sufficient sureties" to secure his release.⁴

Jack Matthew's case represented a relative anomaly. Few people facing deportation charges were able to secure their release using habeas corpus. Deportation cases rarely reached the courts at all due to the plenary power doctrine. Congress, not the judiciary, had "plenary power" over immigration and thus could reject constitutional challenges. The United States could expel the vast majority of unwanted aliens with relative ease. The Commissioner-General of Immigration noted in his 1930 annual report that deportations have increased "fairly steadily in the past decade," concluding that "the task of housecleaning has practically only just begun."⁵ He reflected on the expulsion of unwanted aliens with satisfaction and foresaw an even "cleaner," ethnically pure America in the future.

Even so, the American deportation policy needed to align with international law for the Bureau of Immigration to implement it, and the Bureau carried the burden of proof to verify the nationality and citizenship of each person they wished to deport. Without cooperation from the receiving nation, the US deportation policy was null.

⁴ Ex parte Matthews, 277.

⁵ *AG-CGI* (1930).

This chapter explores the would-be deportees that the Bureau of Immigration could not remove and the challenges they posed to the sovereignty of the United States. It argues that such would-be-deportees, like Jack Matthews, contested the US conception of its new status as a global power. Tracing the contours of diplomacy and its complex and shifting relationship with immigration control through practices such as non-recognition and denaturalization, the chapter shows how the figure of the "undeportable" destabilized the idea that the ability to control a population necessarily implied increased sovereignty.

The chapter examines some of the legal challenges posed by this aporia in the law: looking where American assumptions of citizenship and belonging contradicted what other governments viewed as their own responsibility. The contradictions within American policy and its execution not only posed a challenge for bureaucrats, legislators, and courts in the interwar period, they also raised important questions for historians of the US and the World. Historians of US immigration and the administrative state look to the 1920s as a moment where the American government experimented with and tested new forms of bureaucratic power that would be entrenched as norms by the end of World War II.⁶ Similarly, historians of US diplomacy and foreign relations have shown the extent to which the United States continued to be involved in international affairs through the interwar period. These decades, far from being a time of isolation, helped Americans develop formal and informal foreign relations through private initiatives and government expansion.⁷ In both cases, such histories often emphasize the growing

⁶ Cf. Margot Canaday, *The Straight State: Sexuality and Citizenship in Twentieth-Century America* (Princeton: Princeton University Press, 2011); Mae M. Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton: Princeton University Press, 2004); Eithne Luibheid, *Entry Denied: Controlling Sexuality At The Border*, (Minneapolis: Univ Of Minnesota Press, 2002).

⁷ Cf. Adam Tooze, *The Deluge: The Great War, America and the Remaking of the Global Order, 1916-1931*, 2nd Printing edition (New York: Viking, 2014); Emily Rosenberg, *Spreading the*

ability of a multiplicity of actors in the United States to successfully project power within the US and abroad. Yet, as *Matthews* shows, this expansion was often uneven and contested.

Undeportable aliens were exceptions to the increasing power of the American government to control its population.

As an exception to the increasing power of the American government to deport people, *Matthews* exposed the fragility and contingency of the new administrative state. Had the government, for example, somehow secured a Ukrainian passport for Matthews, they would have been able to deport him. But without that passport, the case revealed their hands were tied. The US government did not have the right to force another sovereign-state to accept someone they could not prove to be that country's citizen or subject. Such cases reveal the linkages between historians of immigration and diplomacy by focusing on how these fields became entangled through the often invisible, mid-level bureaucratic negotiations. The chapter examines how each branch of the American government endeavored to make sense of undeportable people and how they attempted to align American immigration policy with international law to successfully execute deportations.

In examining these tensions, this chapter argues that the conflict between recognition and deportation was neither exclusively a legal, regulatory problem nor one of international relations. It was always already both, but more importantly, it became a site that forced American actors to think about a states' responsibility to all humans, regardless of their relationship to a government.

The chapter unfolds in three parts. First, it establishes why deportation and exclusion had such a close relationship with the concept of sovereignty and how that was undergirded in late

American Dream: American Economic and Cultural Expansion, 1890-1945 (New York: Hill and Wang, 1982).

nineteenth-century Supreme Court decisions. It then examines different executive departments, particularly the Bureau of Immigration – within Labor and the State Department. And how they conceptualized and contested denaturalization when it conflicted with enacting their immigration agenda. Next, the chapter looks at how the lawmakers themselves attempted to address problems within their policies. It scrutinizes the legislature, which, in enacting new immigration laws, overestimated the Bureau of immigration's ability to actualize those laws within the existing domestic and international legal terrain. And finally, the chapter will return to the courts and see how another use of habeas corpus could make the conflicting visions of sovereign rights explicit.

By examining each of these sub-topics, the chapter will question the assumption at the root of habeas corpus proceedings: the idea that there is a sovereign entity empowered to have the body brought forth. The Latin phrase translates to "you shall" or "you may" have the body. Rather than taking this "you" as a given, the chapter asks the question of who. Who, under these conflicting visions of national and international rights, shall have the body?⁸

The governmental approach to the undeportable person represented a flashpoint of controversy for both national and foreign policy. In the early 1920s, regional newspapers around the country raised the alarm about the failed attempts at deportation. Their headlines suggested that the interplay of diplomatic relations, immigration policy, and constitutionally guaranteed rights impeded the federal government's ability to carry out its deportation policy.⁹ In part, this was a question of differing definitions of sovereignty.

⁸ Thanks to Jeremy Hartnett for helping explain the Latin roots, Common Law adoption, and subsequent translations and mistranslations of habeas corpus.

⁹ For example, see the following of stories published between 1919 and 1925: "The Undeportable: 'Deport us to Russia; there we shall be free.' So read a banner displayed in Washington Square on Wednesday," *NYT*, October 10, 1919; "Harder to Deport Reds," *Kansas*

On the one hand, sovereignty was, and continues to be, frequently defined by a nation-state's capacity to engage in or refuse to engage in diplomatic relations with other sovereign entities. Using this criterion, it was an exercise of sovereign authority that the United States refused to grant recognition to individual new European States and Soviet Russia during the interwar period. At the same time, sovereignty is also defined by a nation-states' capacity to control the population within its territory. Under this logic, the American federal government ought to have complete control over its residents, whether citizens or not. If a person, like Matthews, was declared undesirable, it was the sovereign right of the United States to remove him from their territory.

By the late 19th century, US Supreme Court had spelled out these two critical attributes concerning immigration, exclusion, and deportation. Yet, as World War I came to an end, these different definitional qualities of sovereignty were at loggerheads in the matter of deporting a subset of the foreign-born population in the United States. Yes, the United States *should* be able to deport anyone it chose from its territory; and yes, the United States *should* be able to refuse recognition to another nation-state. But in reality, and operating within the constraints of both national and international policies, it was impossible to actualize the deportation of persons from a state that the United States had refused to engage within diplomatic relations.

City Star, January 29, 1920; "Lack of Transportation to Deport Aliens Excuse," *Bellingham Herald*, July 16, 1920; "Need More Funds to Deport Insane," *Olympia Daily Recorder*, August 26, 1920; "Plans to Deport Russians Halted," *Fort Worth Star-Telegram*, August 26, 1920; "Soviet Government Wants no More Exiled Brethren: States U.S. Will Be No Longer Able to Deport Undesirables Without Soviet Consent," *Fort Wayne News Sentinel*, April 20, 1921 "Can't Deport Russians without Soviet Permit," *Miami Herald*, April 21, 1921; "Habeas Corpus Blocks Deportation of Woman," *Boston Daily Globe*, April 8, 1923; "U.S. Deportation of Russians is Difficult Task: Cannot be Made to Leave—Soviet Government Not Recognized," *Indianapolis Times*, September 10, 1924; "Palmer Raid Victim Deported After Five Year Court Process," *The Daily Worker*, May 28, 1925.

The association between the ability to deport, and the sovereignty of a nation-state, was a relatively recent development in American jurisprudence. The intersection of the concepts had its roots in the late nineteenth century, in the Supreme Court interpretation of the rights of a sovereign in relation to Chinese Exclusion Cases. In those cases, where Chinese migrants contested the validity of their exclusion under the US Constitution and the existing treaty between the United States and Qing China, the decision established the principles supporting the right of the United States to exclude whomever it may choose in order to protect its national security, even if that would mean violating the terms of the international agreement. As discussed in Chapter One, the development of deportation laws was a consequence of the enactment and enforcement of these exclusion provisions.¹⁰

However, the grounding of that Supreme Court decision was not based on the Constitution but instead on international jurisprudence. The lawyers representing the defense argued that there was a hierarchical relationship between international law and national legislation: international treaties should take precedence in the case that the legislator enacted a law that violated its terms. In responding to the argument, Justice Stephen Field disagreed. Instead, he likened the Congressional right to control immigration to their right to protect the nation from any threat.¹¹ By defining immigration control as an integral part of maintaining

¹⁰ Torrie Hester, “‘Protection, Not Punishment’: Legislative and Judicial Formation of U.S. Deportation Policy, 1882-1904,” *Journal of American Ethnic History* 30, no. 1 (Fall 2010): 11.

¹¹ The Judge opined: “The powers to declare war, make treaties, suppress, insurrection, repel invasion, regulate foreign commerce, secure republic governments to the states, and admit subjects of other nations to citizenship, are all sovereign powers, restricted in their exercise only by the constitution itself and considerations of public policy and justice which control, more or less, the conduct of all civilized nations.” *Chae Chan Ping v. United States*, No. 130 U.S. 581 (9 S.Ct. 623 May 13, 1889).

national security rooted in sovereignty, Justice Field defended and upheld the application of the law.

The following year, in 1892, the Court upheld a decision to exclude under different immigration provisions, also explaining the validity of the decision as encompassed within a nation's sovereign right to regulate those within its borders.¹² With this decision reinforced, the sovereign's right to deport was also a consequence of their participation in an international system. Writing the opinion for the court, Justice Horace Gray drew on what he referred to as an "accepted maxim of international law," formulated by Emer de Vattel, to support the decision. Justice Gray, however, only offered a selective reading of the international legal theorist.

Vattel, writing in the previous century, balanced the rights of a sovereign state and the rights of an individual. He claimed citizens have the right to emigrate from their place of origin. He also outlined the right of a sovereign to forbid entrance into their territory, both for broader groups as well as particular individuals, so long as such ruling was to the advantage of their state.¹³ Yet, the argument Vattel presented was not for the unilateral power of the sovereign. In fact, he took pains to note that a sovereign must ensure "free passage through, and a residence in,

¹² Judge Gray wrote: "It is an accepted maxim of international law, that every sovereign nation has the power, as inherent in sovereignty, and essential to self-preservation, to forbid the entrance of foreigners within its dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe." *Nishimura Ekiu v. United States et al.*, No. 142 US 651 (January 18, 1892).

¹³ The particular passage Justice Gray referenced was: "[t]he sovereign may forbid the entrance of his territory either to foreigners in general, or in particular cases, or to certain persons, or for certain particular purposes, according as he may think it advantageous to the state. There is nothing in all this, that does not flow from the rights of domain and sovereignty." Emer de Vattel, *The Law of Nations: Or, Principles of the Law of Nature, Applied to the Conduct and Affairs of Nations and Sovereigns* (Philadelphia: T. & J. W. Johnson, 1760), Book II, Ch VII, Sec. 94, 169-170.

his state."¹⁴ To resolve the inherent contradiction between the sovereign right and the right of innocent passage, Vattel emphasized the importance of necessity. He balanced the boundaries of territorial sovereignty with the right of necessity.¹⁵ Rather than providing a straightforward defense of sovereignty, free passage, or the right of necessity, he applied each principle on a case-by-case basis. Vattel moved between cases deliberating about what would be appropriate to do and who would be the appropriate judge of that action.

However, the incomplete reading Justice Gray used to justify the linkage of territorial sovereignty to the right to exclude aliens became precedent in American case law and stood to uphold the exclusion of aliens for this and subsequent cases.¹⁶ The Supreme Court made the right to deport integral to maintaining the sovereignty of the country, likening it, as Justice Field noted, to the power to declare war. By this account, each person who violated the United States immigration laws violated the sovereignty of the country. Taken to its logical conclusion, this meant that if the Bureau of Immigration officially determined that a foreign-born person should

¹⁴ Vattel, *The Law of Nations* Book II, Ch. VIII, Sec. 100, pp. 171.

¹⁵ Vattel noted, "When a real necessity obliges you to enter into the territory of others, -- for instance, if you cannot otherwise escape from imminent danger, or if you have no other passage for procuring the means of subsistence, or those of satisfying some other indispensable obligation, -- you may force a passage when it is unjustly refused." Book II, Ch IX, Section 123, 179.

¹⁶ Cf. Vincent Chetail, "Sovereignty and Migration in the Doctrine of the Law of Nations: An Intellectual History of Hospitality from Vitoria to Vattel," *European Journal of International Law* 27, no. 4 (November 2016): 901–22 esp. 914-921. Also see David. Sloss, Michael D. Ramsey, and William S. Dodge, *International Law in the U.S. Supreme Court: Continuity and Change* (New York: Cambridge University Press, 2011) especially "International Law as an Interpretive Tool in the Supreme Court, 1861-1900" by Thomas H. Lee and David L Sloss, p 124-165, and "A Social History of International Law: Historical Commentary, 1861-1900" by John Fabian Witt, pp. 164-187. Brian Richardson, "The Use of Vattel in the American Law of Nations," *The American Journal of International Law* 106, no. 3 (2012): 547–71.

not be in the country, they needed to remove that person; if that person were to stay in the country, it would undermine American sovereignty.¹⁷

In the context of war, the possibility that foreigners posing as immigrants might infiltrate the United States regularized the link the Supreme Court made between deportation, national security, and sovereignty. During World War I, naturalization and denaturalization practices of other countries had sparked a deep interest in American lawmakers and, at times, the general public. Deportation and denaturalization were linked practices. Deportation involved the physical removal of an alien from the territorial nation-state. Denaturalization was the legal removal of a citizen from the polity. Both procedures involved imagining what qualities a member of the American population should possess, be they citizen or alien.

The alterations to German nationality laws in 1913 became a central lens through which Americans would judge German-American loyalty. It inspired US government agencies to coordinate with interest citizenry to levy the threat of denaturalization against ethnically German

¹⁷ Torrie Hester has discussed how the precedent established in *Chae Chan Ping* and *Nishimura Ekiu* would be extended to the government's authority to deport immigrants in *Fong Yue Ting v. US* (1893). Hester notes, "The Court did not invent the rationale that deportation was a power inherent in sovereignty, nor did it claim the power was uniquely American. In upholding the Geary Act's deportation provision, the Court endorsed the rationale that Congress had written into the act. The Court also cited scholars of international law such as Vattel, Phillimore, and Wharton. In the late nineteenth century, European governments asserted a similar power to remove immigrants." Hester write that the Supreme Court's decision in *Fong Yue Ting* "dealt with the validity of the process of deportation under the Geary Act. The Court legitimated the administrative and judicial structures of deportation under Chinese exclusion, dismissing claims that the hearings and appeals process violated Fourth, Fifth, and Sixteenth Amendment rights." "Protection, Not Punishment," 18–19; Referring to *Fong Yue Ting v. United States*, 149 U.S. 698 (1893); *Yamataya v. Fisher* 189 U.S. 86, 23 S. Ct. 611 (1903).

American citizens. Indeed, the predominant anti-German sentiment gave rise to a range of new procedures to manage the immigrant population.¹⁸

The German nationality law allowed Germans living abroad to retain their citizenship indefinitely and transmit German citizenship to their descendants. This would mean both a recently naturalized German immigrant or a second- or third-generation German American would continue to be part of the German polity.¹⁹ The possibility that naturalized Americans who had emigrated from Germany and their descendants might retain citizenship to the motherland raised the American public's suspicion. Government bureaucracy and vigilant citizens policed the loyalty of German-Americans during World War I, who faced denunciations of disloyalty for any behavior that a casual observer might deem suspicious or unpatriotic.²⁰

¹⁸ Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Harvard University Press, 2009) Ch. 6 The Citizenry as Community of Descent, esp. 115-119. As Christopher Capozzola, the possibility of German loyalty sparked what he has termed “vigilant citizenship.” Christopher Capozzola, *Uncle Sam Wants You: World War I and the Making of the Modern American Citizen* (Oxford, New York: Oxford University Press, 2010), 119–23, 173–205. Also see Patrick Weil, *The Sovereign Citizen: Denaturalization and the Origins of the American Republic* (University of Pennsylvania Press, 2012), 68–74.

¹⁹ “American Woman with German Name Arrested. Charged as Enemy Alien Traveling More than Five Miles from Address without Permit,” *Idaho Daily Statesman*, July 27, 1916; “Baroness Von Hutten Fined,” *Fielding Star*, September 26, 1916; “German Baroness is Under Arrest. Woman of American Birth is Held for Disobeying British Rules,” *The Spokane Chronicle*, July 26, 1916. This was among many cases of general anti-German sentiment that was covered in great detail in local and regional newspapers. See, for example, “No Longer Americans: United States Citizens Enlisted in Europe Are Expatriates; Probably Few Know of It,” *WP*, May 26, 1915; “Enemy Alien Rule Made: Residents of Country May File Citizenship Declarations,” *Oregonian*, April 8, 1917; “Enemy Alien is Responsible for Explosion: Eddystone Catastrophe Caused by ‘Demon in Human Guise,’ Who Probably Perished,” *The Montgomery Adviser*, April 12, 1917; “Aliens Forced to Kiss Flag: Pro-German in Eastern Communities Threatened byirate Throngs,” *San Francisco Chronicle*, March 26, 1918; “Disloyal Germans’ Citizenship in Danger: Uncle Sam Will Denaturalize All Teutons Guilty of Sedition,” *Pawtucket Times*, May 31, 1918; “First Denaturalized Citizen is Interned: Seattle Man Imprisoned and Similar Disloyalty Cases to Be Treated Likewise,” *New York Tribune*, June 14, 1918.

²⁰ Christopher Capozzola, “Legacies for Citizenship: Pinpointing Americans during and after World War I,” *DH* 38, no. 4 (September 2014): 713–26. Also see: Zachary Smith, *Age of Fear:*

The public perception of potentially un-American German Americans mostly resulted in their public shaming rather than legal action. However, in the cases where German-Americans faced legal action, the stripping of their citizenship status raised the possibility of denaturalization as a tool the state could use to discipline its citizens. The government also used other bureaucratic techniques, such as internment, denaturalization, and deportation. In doing so, they also built administrative structures, which formalized state interest in information gathering about all people within American territory. Both the makers and enforcers of the law could rationalize its application; the people they stripped of citizenship status had been naturalized, not native-born Americans.²¹ The case of American-born women marrying foreigners and thus losing their citizenship status was a different matter.

In one such case, an American-born woman with German citizenship and a German married name was arrested in London as an enemy alien after she traveled five miles from her "registered place of residence" without obtaining a permit in advance. The woman's German surname was her married name, and though that marriage resulted in divorce, it still qualified her

Othring and American Identity during World War I (Baltimore: Johns Hopkins University Press, 2019); Petra DeWitt, *Degrees of Allegiance : Harassment and Loyalty in Missouri's German-American Community During World War I*, Ohio University Press Series on Law, Society, and Politics in the Midwest (Athens: Ohio University Press, 2012).

²¹ Local, regional, and national newspapers covered instances of anti-German sentiment, at times reinforcing and at other times questioning the validity of such treatment. See, for example, "No Longer Americans: United States Citizens Enlisted in Europe Are Expatriates; Probably Few Know of It," *WP*, May 26, 1915; "Enemy Alien Rule Made: Residents of Country May File Citizenship Declarations," *Oregonian*, April 8, 1917; "Enemy Alien is Responsible for Explosion: Eddystone Catastrophe Caused by 'Demon in Human Guise,' Who Probably Perished," *The Montgomery Adviser*, April 12, 1917; "Aliens Forced to Kiss Flag: Pro-German in Eastern Communities Threatened by Irate Throngs," *San Francisco Chronicle*, March 26, 1918; "Disloyal Germans' Citizenship in Danger: Uncle Sam Will Denaturalize All Teutons Guilty of Sedition," *Pawtucket Times*, May 31, 1918; "First Denaturalized Citizen is Interned: Seattle Man Imprisoned and Similar Disloyalty Cases to Be Treated Likewise," *New York Tribune*, June 14, 1918

in England as an enemy alien. Her arrest shows the precarious relationship even native-born women had with their American citizenship. Indeed, her status as an American citizen would have been unclear; under laws in the United States, she would have been denaturalized upon marrying a foreigner and not automatically regain her American citizenship in the case of a divorce. Her claim to the newspaper that she would "regain all of her rights of her American citizenship when she returned to America" was likely because of her status as a known author, but for people without those connections would hardly be inevitable.²²

The 1907 Denaturalization Act formally linked citizenship for American women to that of their husbands. Thus, if an American woman married a foreign person, she would lose her citizenship status. If that woman was not naturalized by another government, she would be a de-facto stateless person. A woman's statelessness would become a problem if she were to leave the country, and Congress enacted the quota system, attempt to reenter. The citizenship of native-born American women could also become a problem they became single, whether through death or divorce.

After the war, in 1922, the House Committee on Immigration and Naturalization drafted the Cable Act as an attempt to resolve this problem for American women. On its face, the Act resolved the issue for American women who became stateless by marriage: citizenship for women would no longer be derived from their husbands. The law, however, contained an important caveat: citizenship would continue to be derivative for any American woman who married an "alien ineligible for citizenship." In 1922, a person ineligible for citizenship would

²² "American Woman with German Name Arrested. Charged as Enemy Alien Traveling More than Five Miles from Address without Permit," *Idaho Daily Statesman*, July 27, 1916; "Baroness Von Hutten Fined," *Fielding Star*, September 26, 1916; "German Baroness is Under Arrest. Woman of American Birth is Held for Disobeying British Rules," *The Spokane Chronicle*, July 26, 1916.

include anyone from China or Japan.²³ In the subsequent years, “Hindus” and Filipinos would be added to the list of those barred from being naturalized.²⁴ The consequence of this caveat meant that the Bureau of Naturalization would denaturalize any American-born woman who married a foreign-born person in one of these groups. The Act thus created a version of citizenship that became more inclusive of women while preserving a racialized notion of what American citizenship entailed.²⁵ The maintenance of some elements of derivative citizenship status for American women indicates Congress understood the power of denaturalization and the flexibility of its usage.

The uses of naturalization and denaturalization practices were particularly important in their application for foreign-born American residents. Furthermore, the wartime suspicion of enemy aliens was carried over into the peacetime policies of immigration controls. Questioning the loyalty of German citizens during the war informed the government's treatment of undesirable aliens in the next decade. When immigration levels began to rise in the 1920s, the government harnessed new bureaucratic systems to control the migrant population.

Immigration officials had predicted that the number of people seeking to immigrate to the United States would rebound to the pre-war heights as soon as the warring powers reached an

²³ *Takao Ozawa v U.S.*, 260 U.S. (1922)

²⁴ *U.S. v. Thind*, 261 U.S. 204 (1923); and *Toyota v U.S.*, 268 U.S. 402 (1925).

²⁵ “An Act Relative to the naturalization and citizenship of married women,” H.R. 12022, Public, No. 346. September 22, 1922. Sixty-Seventh Congress, Session II, Chapter 411. 1021-1022. Also see: Linda K. Kerber, “The Stateless as the Citizen’s Other: A View from the United States,” *AHR* 112, no. 1 (February 2007): 22–24.

armistice.²⁶ It took almost two years, however, for this prediction to become a reality. In the year following the armistice, immigration to the US remained limited, likely as a result of the number of people who had been unable to leave the country during the years of war and the ongoing use of ships for returning veterans.

By 1921, immigration rates dramatically rose. Congress anxiously discussed what to do about the perceived immigration crisis; the literacy test Congress enacted in 1917 seemed not to be an adequate deterrent to would-be immigrants, so representatives sought to brainstorm alternative solutions. Eventually, led by Representative Albert Johnson from Washington, Congress reached an overwhelming consensus in favor of immigration restriction.²⁷ In May of 1921, President Warren Harding signed that solution into law, a new means of determining who could immigrate, the Emergency Quota Act. Jack Matthews was among the many immigrants arrested for deportation after the new immigration reform, which introduced the immigrant quota system's first iteration.

Though the 1921 Emergency Quota Act did not create new procedures with regard to deportation, it did make more robust support for immigration enforcement across the board. The Act broadened the people whom the Bureau of Immigration could exclude at ports and other places of entry. It developed a new way of limiting immigration to the United States: it established a nation-based quota system that determined the number of immigrants that could enter the country on the ethnic composition of the US according to historical census records. The quota limited immigration via nationality to three percent of the "number of foreign-born persons

²⁶ Daniel J. Tichenor, *Dividing Lines: The Politics of Immigration Control in America* (Princeton: Princeton University Press, 2002), 138; Donna R. Gabaccia, *Foreign Relations: American Immigration in Global Perspective* (Princeton: Princeton University Press, 2012), 141.

²⁷ Aristide R. Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America* (New York: Harvard University Press, 2008), 255; Ngai, *Impossible Subjects*, 20.

of such nationality resident in the United States as determined by the United States census of 1920."²⁸ Perhaps most importantly, the act enabled the Bureau of Immigration to slowly expand its ranks. It invested its agents with the power to act as gatekeepers for US territorial sovereignty and citizenship.

Even without policy changes, the expansion of administrative personnel enabled the heightened enforcement of already existing deportation legislation, and in so doing, created new forms of statelessness. The immigration laws passed in 1917 had created categories of undesirable people that the Bureau could deport regardless of the length of their residence in the United States. By changing the law to allow deportation to be applicable to those who had lived in the US for any amount of time, it created a conflict with existing laws determining citizenship in other countries. The Bureau of Immigration soon found that certain countries denaturalized their citizens after a prolonged stay abroad. Immigrants could thus lose their citizenship from their country of origin before they sought it in the United States. Their loss of membership, whether as a citizen or subject, would mean that a person whom the United States wished to deport would not long have membership in, let alone a passport from, their country of origin. These people became de facto stateless by denaturalization.

Throughout the 1920s, the Department of Labor increasingly encountered people who fell outside of the parameters of citizenship. Most of this group were immigrants who resided in the US for such a length of time that disqualified them from citizenship in their nation of origin but had not become naturalized citizens in the United States.

²⁸ Quota Act of May 19, 1921 (42 Stat. 5). As Ngai notes that “not all supporters were 100-percent Americanists, but few could resist the combination of nativism, job scarcity, and anti-Bolshevism that fueled the politics of restriction.” Ngai, *Impossible Subjects*, 20.

The Assistant Secretary of Labor complained to the Secretary of State that the Bureau of Immigration experienced particular challenges with Norway, Sweden, and Germany. The Bureau could not enact deportations because the would-be deportee had "expatriated himself and [was] therefore no longer a citizen thereof" when they emigrated. The Bureau of Immigration was baffled by the incongruence between American laws and the laws of other countries and asked that the State Department bring the matter up with "the proper foreign officials with a view to having some understanding regarding this matter."²⁹

The Office of the Solicitor in the State Department tried to address the query but struggled to find any existing national or international laws that might assist in the deportation of people who had become stateless due to denationalization. After searching international treaties and conventions, the solicitor found few texts that addressed the issue at hand. Only the "International Rules for the Admission and Expulsion of Foreigners," proposed and adopted by the Institut de Droit International in 1892, contained some acknowledgment that a country bore an obligation to its former nationals. In its first article, the law provided a sweeping definition for aliens. It defined "aliens as all those who do not have a current right of nationality in the State without distinguishing as to whether they are simply visitors, or are residents domiciled in it or whether they are refugees or have entered the country voluntarily."³⁰ Whether they adopted this

²⁹ Letter from Assistant Secretary of Labor to Secretary of State, March 22, 1922, DS 150.06/162.

³⁰ The original reads, "Sont étrangers, dans le sens du présent Règlement, tous ceux qui n'ont pas un droit actuel de nationalité dans l'Etat, sans distinguer ni s'ils sont simplement de passage ou s'ils sont résidents ou domiciliés, ni s'ils sont des réfugiés ou s'ils sont entrés dans le pays de leur plein gré." "Regles internationales sur l'admission et l'expulsion des étrangers," L'Institut de Droit international, Art. 1, *Justica et Pace*, Institut de Droit International. https://www.idi-il.org/app/uploads/2017/06/1892_gen_01_fr.pdf

definition of alien or not, the Office of the Solicitor was more interested in the second article, which stated, "In principle, a state ought not to prohibit the access of the sojourner on its territory either to its subjects or to those who, having lost their nationality in the said state, have not acquired another."³¹ The caveats embedded in the rule itself seemed to acknowledge the futility of forcing any state to take action regarding a former subject that it did not wish to pursue.

In the 1892 Conference, the international jurists had discussed the scope of the second article. Its original text for the article stated that not allowing access to a state was antithetical to the idea of international law. It explained that "international law is contrary to any act which prohibits access to or stay in the territory of a State, or to subjects of it, or to persons who, having lost their nationality in that state, have not acquired another nationality." When one jurist found "the formula a little ambitious," he suggested the statement should be written as an affirmation, rather than a negation. Thus, international law was taken out and replaced by the principle that a state should not prohibit access to its territory.³²

Considering the international law was of limited value for their problem, the Office of the Solicitor also looked at US case law that might assist the Department of Labor. They found Jack

³¹ Article 2 of the International Rules for the Admission and Expulsion of Foreigners, as quoted in (letter from the Richard Flournoy, Jr. to Fred Neilson, Office of the Solicitor, April 22, 1922, 150.06/162. The original French reads: "En principe, un État ne doit pas interdire l'accès ou le séjour sur son territoire soit à ses sujets, soit à ceux qui, après avoir perdu leur nationalité dans ledit État, n'en ont point acquis une autre." For the discussion during the conference see: Règles internationales sur l'admission et l'expulsion des étrangers, 9 September 1892 (1882-1894) 12 *Annuaire, Institut de droit international*, pp. 188, 184-218.

³² In its first iteration the article read: "Le droit international est contraire à tout acte qui interdit aux nationaux l'accès ou le séjour sur le territoire de l'État auquel ils appartiennent. Il c'est de même des personnes qui, après avoir perdu leur nationalité, n'en ont pas acquis une autre." In its second iteration, it read: Le droit international est contraire à tout acte qui interdit l'accès ou le séjour sur le territoire d'un État, soit aux sujets de celui-ci, soit aux personnes qui, après avoir été privées de leur nationalité dans cet État, n'en ont pas acquis une autre." Règles internationales sur l'admission et l'expulsion des étrangers, 9 September 1892 (1882-1894) 12 *Annuaire Institut de droit international*, pp. 187-188.

Matthews' case to be the closest, but, the solicitor acknowledged, it was not a case of denationalization, per se, so it would not fit the criteria set forth by the Bureau of Immigration. The problem, acknowledged within the Office, was that "Congress, in passing the law, did not seem to have in view cases of expatriated persons having no nationality."³³ Nevertheless, elected officials still tasked the Bureau of Immigration with executing that law to the best of their ability. Rather than seeing their incapacity to deport as a problem in law, the Bureau shifted the responsibility squarely on the would-be receiving state. They believed one's country of origin should always have the body.

The Bureau of Immigration was particularly baffled by the behavior of the Norwegian government, complaining in a letter to the Department of State that consuls of Norway would not issue passports for deportees, even if they had "the very best evidence that they are nationals of that country." The inability to get passports made it necessary for the Bureau to communicate directly with Norway, which, the Secretary of Labor remarked, "only goes to show that this government [Norway] is trying to put off the receiving of those undesirables."³⁴

Even more puzzling to the Department of Labor was the rule of certain countries to "not allow one of its native-born citizens to enter after an absence of ten years." Relaying his problem to the Secretary of State, the Secretary of Labor, who was ultimately in charge of the Bureau of Immigration, revealed his unfamiliarity with the issue. He wrote: "This Department is unable to understand the attitude of these governments," who do not accept their nationals after an absence of ten years. He continued by noting,

³³ Letter from the Richard Flournoy, Jr. to Fred Neilson, Office of the Solicitor, April 22, 1922, DS 150.06/162

³⁴ Letter to the Secretary of State from the Secretary of Labor, May 3, 1922, DS 150.06/166

it is the custom of the United States to always receive its nationals who have become undesirables abroad no matter how long they may have been out of the United States, provided of course they have not sworn allegiance to some other country.³⁵

The Secretary of Labor's note betrayed the double standard in play. He condemned other countries for their expatriation policies while maintaining the validity of the American policy. Though the executive claimed the power to denaturalize its citizens' bodies under certain conditions, it rejected that other governments might do the same. Instead, the Secretary of Labor maintained other nations should be responsible for the bodies of their citizens or former citizens on an indefinite basis.

In contrast to the disbelief of the Department of Labor, the Solicitor's Office immediately recognized this issue as a potential problem. The Office noted the incongruity of a policy: the United States expected other countries to accept their expatriated deportees if they had obtained no new nationality but was unwilling to accept expatriated Americans in the same situation.³⁶ Thus, different departments within the executive branch made different claims of who should have these stateless bodies. The Department of Labor suggested the government had the power to denaturalize its citizens' bodies under certain conditions but rejected that other governments might do the same. Instead, the Secretary of Labor maintained that other nations should be responsible for the bodies of both their citizens and former citizens indefinitely. On the other hand, the State Department understood the diplomatic inconsistency of the Department of Labor's double standard but remained paralyzed in their action by the domestic politics of immigration. Unless the legislature passed a law ensuring the US would receive their former

³⁵ Letter to the Secretary of State from the Secretary of Labor, May 3, 1922, DS 150.06/166

³⁶ Letter from the Richard Flournoy, Jr. to Fred Neilson, Office of the Solicitor, April 22, 1922, DS 150.06/162

citizens without exceptions, the Secretary of State had no additional leverage to persuade other governments.

The Emergency Quota Act of 1921 failed to help administrators of deportation law handle cases of denaturalized aliens, but this was not because lawmakers failed to consider its possibility. In fact, as seen in the case of German-Americans, lawmakers did think through the matter of which bodies they would claim as their own and which bodies they would disavow. Discussions about denaturalization reflect an American understanding of international sovereignty that was unidirectional. The idea that the US would need to account for other countries' laws seemed to counter the idea that Congress had the right to determine who could and could not be in American territory. While other countries could construct norms within their sovereign jurisdiction, those laws should not interfere with American policy.

Despite its inadequate handling of denaturalization, Congress thought that the Emergency Quota Act had achieved what they hoped: the quota system had proven to be an effective way to limit immigrant flows into the United States on a large scale. Congress subsequently renewed it the following year while they attempted to create a permanent solution. At the end of 1923, as the expiration of the Act grew closer, newly sworn-in President Calvin Coolidge directly addressed the issue of immigration during his first annual message to Congress in December of 1923. President Coolidge commented, "American institutions rest solely on good citizenship. They were created by people who had a background of self-government. New arrivals should be limited to our capacity to absorb them into the ranks of good citizenship." Echoing the words of Theodore Roosevelt almost a decade before, the President continued, "America must be kept American. For this purpose, it is necessary to continue a policy of immigration restriction. Those

who do not want to be partakers of the American spirit," he concluded, "ought not to settle in America."³⁷

The legislature codified the unidirectional flow of American power with the immigration Act of 1924. The new law made quotas a permanent feature of the law rather than a temporary emergency action.³⁸ It also provided additional mechanisms for the Bureau to screen immigrants before they departed, rather than when they entered the US, what Aristide Zolberg has referred to as "remote control."³⁹ The system would thus reduce the need to return immigrants to their place of origin after they had already made the trans-oceanic journey. It also placed the burden of proof on the would-be immigrant to show that they would be admissible under immigration law, rather than on the United States, as it had been in the past, to show that the immigrant was not admissible.⁴⁰

The new legislation also further broadened who could be subject to deportation by removing a previous time limit. Before 1924, a person could only be deported (for general reasons) within their first two years of residence in the US, but afterward, any immigrant to the United States who had not been naturalized could be subject to deportation, even if they had established a longstanding residence. The 1924 enactment of quotas limited the number of immigrants to the same ratio that emigrated from Europe in 1890. Quotas were effective in

³⁷ Calvin Coolidge, "First Annual Message to Congress," December 4, 1923.

³⁸ Because of the difficulty establishing what such a quota system would look like in the long term, the full and final version of the system would only become operational in 1927, while in the intervening period the U.S. would reduce admissions to 2 percent of the population of each nationality mentioned in the 1890 Census. Zolberg, *A Nation by Design*, 262–63.

³⁹ Zolberg, *A Nation by Design*, 9, 264–267.

⁴⁰ See, in particular, Section 2, Immigration Visas; Section 7, Application for Immigration Visas; and Section 23, Burden of Proof in "Immigration Act of 1924," Pub. L. No. 68-139 (1924).

curtailing the number of immigrants, but they were not without problems. The quota system failed to take into account how radically World War I had reconfigured Europe. It also failed to reflect the current diplomatic relationships between the United States and the newly configured nation-states.

This was particularly perplexing in the case of Russia. While the number of Russians allowed entry had drastically decreased from the 1921 Emergency Quota, it still allowed over two thousand Russian to emigrate annually. The Department of Labor estimated that between 1925 and 1929, over ten thousand Russians immigrated to the United States. Russians were allotted a quota for immigration though they could not be deported from the United States. That number would not include the non-quota immigrants, nor the people on short-term visas classified as 'non-immigrants.' When the quotas were set in their final form in 1929, the Act allowed 2,784 Russians into the country annually.⁴¹

However, the quota did not remedy the problem of denaturalization nor diplomatic non-recognition. Furthermore, there was no attempt to limit further immigration from countries that would denationalize their citizens after a certain number of years abroad.⁴² Even as the regulatory arm of the US federal government reached new lengths in its efforts to deport "undesirables," it remained unable to address diplomatic peculiarities and exceptions.

Within the year it was passed, the House Committee on Immigration and Naturalization noticed a problem enacting the law. The Committee convened to deliberate about what they could do about the fact that the Bureau of Immigration struggled to get passports for some

⁴¹ AR-CGI, 1929, 190; Ngai, *Impossible Subjects*, pp. 28-29

⁴² For example, the annual quotas for Norway was 2377, for Sweden was 3314, and for Germany was 25957 persons per year. "Immigration Quotas Based on National Origin (annual quota for each fiscal year beginning July 1, 1929)," cited in Ngai, *Impossible Subjects*, pp. 28-29

would-be deportees, and without those passports, they could not actualize deportations. In December of 1924, the Committee gathered to hear some of the current problems. They hoped to resolve them through the Deportation Act of 1925.⁴³

The committee solicited advice from the Commissioner of Immigration for Ellis Island and his assistant commissioner. They hoped the Commissioner could help them extend or stiffen the deportation provision of the immigration law.⁴⁴ Perhaps unsurprisingly, there was no talk of easing any existing restrictions. The Commissioner and his assistant were undoubtedly frustrated by the difficulty they had in many deportation proceedings and obliged the Committee. Soviet Russia quickly emerged as their central problem, which was partly exacerbated because the new legislation continued to accept Russian immigrants.

The problem New York immigration officials faced was how to handle Russian aliens who were admitted and then found to be deportable. The Commissioner of Immigration was not sure whether his office had the authority to complete the deportation.⁴⁵ The Commissioner and his assistant elaborated on another fear regarding newly arrived Russians. The Commissioner worried that they would destroy their Russian passport to prevent their return before clearing inspection as soon as they arrived in the US. He commented: "if they destroy their passport, we are stuck." While he acknowledged that such instances happened rarely, but there were "enough of them to make us afraid."⁴⁶

⁴³ Letter from Albert Johnson, Chair of the Committee on Immigration and Naturalization to Hon. Wilbur Carr, Assistant Secretary, US Department of State, December 13, 1924, DS 150.06/260

⁴⁴ The commissioner, Henry H. Curran and his assistant, Byron H. Uhl came from New York, Ellis Island. United States Congress House Committee on Immigration and Naturalization, *Proposed Deportation Legislation: Hearings. Dec. 10, 12, and 16, 1924, 1925*, pp. 1.

⁴⁵ *Proposed Deportation Legislation*, 1925, 9-10.

⁴⁶ *Proposed Deportation Legislation*, 1925, pp. 14.

Another problem the Bureau faced for newly arrived Russian immigrants was they had traveled on passports that would not allow for their return. For example, the Commission complained that the Polish government would "issue passports, or a certificate in lieu of passports, to people living in Poland who are not Poles, thereby enabling them to obtain the United States visa" to immigrate. Those documents, continued the Commissioner, in cases of rejection or arrest of the immigrant would "not permit those people to be sent back to Poland on the ground that they are not Polish citizens, which they are not, but which they knew in advance when they give them their original document."⁴⁷ Outraged, one committee member exclaimed, "I want to do everything possible to stop incoming Russians traveling on Polish passports."⁴⁸

Only one committee member, Representative John Raker from California, seemed to have anticipated this category of problem and attempted to create a solution in the 1924 Immigration Act the Committee passed to the Senate for approval. In that process, the Senate removed the wording that Representative Raker added to forestall immigration from any country that the United States did not recognize.⁴⁹ While its inclusion in the 1924 Act would not have

⁴⁷ *Proposed Deportation Legislation: Hearings*, pp. 36.

⁴⁸ *Proposed Deportation Legislation: Hearings*, pp. 39

⁴⁹ By April 19, 1924, the original language in the House bill had been eliminated. The original language, crossed out in the updated document, had specified the specific quotas for each country, noting, "In case of changes in political boundaries in foreign countries occurring subsequent to 1890 and resulting (1) in the creation of new countries, the Governments of which are recognized by the United States, or in the establishment of self-governing dominions, or (2) in the transfer of territory from one country to another, such transfer being recognized by the United States, (3) in the surrender by one country of territory, the transfer of which to another country has not been recognized by the United States, or (4) in the administration of territories under mandates, such officials, jointly, shall estimate the number of individuals resident in the United States in 1890 who were born within the area included in such new countries or self-governing dominions or in such territory so transferred or surrendered or administered under a mandate, and revise the population basis as to each country involved in such change of political boundary." 68 H.R. 7995, 68-1, April 19, 1924.

solved the problem of existing people in the United States from unrecognized governments, it would have prevented it from applying to any additional people.⁵⁰

For all of the other committee members, even when provided with specific examples, they remained determinedly blind to the effects of non-recognition. The relatively short amount of time that had elapsed since the Red Scare made it untenable to consider recognizing Soviet Russia or claiming undesirable Russian bodies. The committee members broadly categorized non-recognition as a matter of international law and foreign relations, whereas immigration control and deportation were of national interest. By separating the processes, the notion that one could impinge upon the other seemed difficult for them to comprehend. The two matters simply belonged to different analytical categories.

The Commissioner and his Assistant put forward other suggestions that would allow them to better execute deportations. Throughout his testimony to the Committee, the Commissioner of Immigration indicated that even if they might be theoretically able to execute more deportations, his office did not have the sufficient funds, staff, and workforce to do it.⁵¹ Principally, they suggested the House provided regional immigration authorities with more discretion and allocated more funds so regional bureaus could hire necessary staff. Other testimony confirmed this problem, the statement of a doctor from the State of New York Hospital Commission bluntly attributed the lack of deportations to the lack of resources and

⁵⁰ When Representative Raker learned that Russians were coming to the U.S. under their national quota, he protested, saying “Is it not affirmatively the other way? We have no recognized Russia. Does it not say, ‘Any country recognized by the United States’? It was that way when it left us. If it is otherwise it must have been taken out when we were sleeping. It was in the bill that Russians could not come to this country until their government was recognized.” The Commission of Immigration from Ellis Island replied: “This is not in the law; it may have been in the bill, but it is not in the law.” *Proposed Deportation Legislation: Hearings, 1925*, pp. 10.

⁵¹ *Proposed Deportation Legislation: Hearings, 1925*, pp. 12-13.

personnel: "the fault is with the Congress of the United States. It is your own fault, gentlemen. You do not give the Department of Labor adequate money to do business properly."⁵²

But with no additional budgetary flexibility and no hope of recognizing Soviet Russia in the near future, a memo submitted to the House Committee offered another solution: Exclude all Russian immigrants from that point on, and incorporate those undeportable aliens already residing in the United States. Under this provision, Russian migrants, specifically sailors, should just be legalized. The memo argued that because deportation was a legal impossibility, not incorporating the aliens would only, "augment the number of aliens who remained outside of authorities control." Giving this group of aliens a permanent status would increase the number of, "legal, useful, and reliable citizens and abolish existing illegal thousands."⁵³

The suggestion, though practical, fell on deaf ears. If the representatives refused to curtail all migration from Russia, then the United States would be unable to deport a subset of immigrants, contradicting the notion of the sovereign right of the government to control people within its border. If representatives found it distasteful to incorporate all Russian migrants into the United States as citizens, they would be forced to acknowledge a breach in the ability to regulate the immigrant population. Neither option satisfactorily addressed the central issue that Commissioner highlighted. If the United States followed its procedures, it could not expel aliens from an unrecognized country.

The Congressional Hearings began to problematize the idea and practical reality that the Bureau of Immigration could not deport certain groups of aliens. The anxieties of representatives reveal these aliens' perceived connection to the bounds of American sovereignty. In the politics

⁵² *Proposed Deportation Legislation: Hearings, 1925*, pp. 20.

⁵³ *Proposed Deportation Legislation: Hearings, 1925*, pp. 50.

of the interwar period, elected officials needed to project strength through immigration controls and patriotism through anti-communism. Legislators were also growing into America's new status as a world power after World War I. Their newfound bravado created a particular intransigence around non-recognition. From their perspective, other nations must have the bodies of deportees when the United States demanded it.

The discussion of undeportable aliens in Congressional Hearing laid bare several contradictory principles in American deportation policy. In the end, the hearings could not resolve the problem of non-recognition posed for the Bureau of Immigration, and there was no new legislation broached the following year. Despite identifying and fully articulating the problem, the House Committee on Immigration and Naturalization never introduced a bill to remedy the situation.

Without any legislative fix for the problem of actualizing certain deportations, it continued to arise in different iterations throughout the 1920s. Researchers and practitioners commonly acknowledged the lack of diplomatic relations between the United States and Soviet Russia, and the other Eastern and Northern countries. They spoke of the US “Russia problem,” rhetoric that positioned the United States as a victim and undermined American practice of sovereignty and rights; that problem embodied itself in the non-citizen Russian aliens in the United States. Russian aliens were the material manifestation of notions of the universality of rights and the physical reminders of diplomatic shortcomings. Rather than examine non-

recognition as a problem that curtailed American governmental authority, legal scholars looked at cases where non-recognition curtailed the rights of individuals in the United States.⁵⁴

One of the foremost American scholars studying recognition at this time was Edwin Dickinson, a Professor of Law at the University of Michigan.⁵⁵ He published his first article of a series on recognition cases in 1925, noting the American position of non-recognition "produced some unusually interesting problems with respect to the appropriate judicial attitude toward an unrecognized *de facto* foreign government."⁵⁶ In a subsequent article, Dickinson went even further to refer to the situation as "wholly anomalous, in United States experience and practice."⁵⁷

Dickinson's argument situated non-recognition as occupying a state of exception. Yet, by reading his description as constituting American legal practice, the policy of non-recognition created what Mary Dudziak and Leti Volpp have referred to as "spaces of ideological ambiguity that can open up new possibilities of repression and liberation."⁵⁸ Furthermore, the issue of non-recognition forced courts to address what legal obligations an American court bore to a non-

⁵⁴ For contemporary studies on U.S. recognition policy and diplomacy in the 1920s see: Baty, "So-Called 'De Facto' Recognition"; Edwin D. Dickinson, "The Unrecognized Government or State in English and American Law," *Michigan Law Review*, 1923, 118–34; Edwin D. Dickinson, "The United States and World Organization," *The American Political Science Review* 16, no. 2 (May 1922): 183; Edwin D. Dickinson, "Recent Recognition Cases," *American Journal of International Law*, 1925, 263–72; Frederick Lewis Schuman, *American Policy Toward Russia Since 1917: A Study of Diplomatic History, International Law & Public Opinion* (New York, International, 1928).

⁵⁵ Dickinson received his B.A. from Carleton College in 1909, his M.A. in history from Dartmouth College in 1911, his Ph.D. in government and international law from Harvard University in 1918, and his J.D. the next year from the University of Michigan where he subsequently became a professor.

⁵⁶ Dickinson, "Recent Recognition Cases," 263.

⁵⁷ Edwin D. Dickinson, "Recognition of Russia," *Mich. L. Rev.* 30 (1931): 181.

⁵⁸ Dudziak and Volpp, "Introduction Legal Borderlands," 596.

recognized government, as well as to its nationals. Who bore the responsibility to "protect and conserve the interests of a foreign state," and from where did that authority come in the case of an unrecognized government?⁵⁹ Dickinson noted, "Unrecognized governments have been denied for their public instrumentalities the immunities which would have been freely conceded to a recognized government."⁶⁰ His analysis of the current principles of recognition implied that the unrecognized government had no protection in domestic law and could not turn to international law. Dickinson contended that "until recognition [was] granted, for example, there can be no assurance of diplomatic protection for the persons or property of nationals of either state who may travel, reside, or trade in the other."⁶¹ The international agreements of diplomacy are withheld not only from the unrecognized government but also from the nation not granting recognition.

If non-recognition left governments unprotected in national and international law, non-recognition similarly stripped those governments' individual subjects of their rights and entitlements, which international law otherwise protected. Dickinson argued that the principle matter at hand was one regarding private rights. Jurists could interpret these matters of private rights through cases of workmen's compensation and property. Through his analysis, Dickinson grounds his critique of non-recognition, not the field of civil liberties, which was slowly gaining traction through the 1920s, but in the more robustly protected realm of property rights. A grounding in individual property rights would become a compelling legal argument by avoiding the intractable conflict non-recognition posed to national sovereignty and international

⁵⁹ Dickinson, "Recent Recognition Cases," 264.

⁶⁰ Dickinson, "Recent Recognition Cases," 265.

⁶¹ Dickinson, "Recognition of Russia," 193.

diplomacy. Without resolving the issues of non-recognition, the language of individual property rights gave later American legal thinkers a basis to consider the rights of stateless persons and others living in a state of exception.

Due to the precedent set by *Matthews* in 1921, courts upheld the notion that the Bureau of Immigration could not indefinitely detain a deportee. In doing so, the courts acknowledged but did not discuss the implications of the American non-recognition policy. Dickinson's analysis of recognition cases explained the outcomes of the different cases, as far as the law was concerned, but did not focus on what those outcomes allowed the different judges to elide, even as they protected the rights of aliens. Following *Matthew*, the cases of undeportable aliens had resulted in their release, allowing the court to evade explicitly discussing matters of sovereignty. If the court released the alien, that alien could remain in the United States, shielded by the court. If the court had reached the opposite conclusion, it might have to face the real possibility that the United States did not have the power to deport certain groups of people.

In his presentation to the House Committee on Immigration and Naturalization, the Commissioner of Immigration from Ellis Island discussed the problem habeas corpus suits posed for the Bureau. The Commission indicated that in 1924 alone, there were about 350 habeas corpus cases, resulting in the release of about ten percent of the petitioners.⁶² In subsequent years, various other courts explicitly articulated the alien's right to release if the government could not secure their deportation. Aliens arrested for deportation could use the writ of habeas corpus to prevent their removal. By adopting a similar argument as *Matthews*, their petitions

⁶² *Proposed Deportation Legislation: Hearings*, 1925, pp. 47

argued they must be released because the Department of Labor did not have the power to deport due to an absence of diplomatic relations.

However, in a space where the sovereign authority over territory had more visible consequences, such as in the US Alaskan Territory, the idea that a person could not be deported posed a more significant ideological threat. The proximity of other potential sovereigns vying for control, as felt central-western parts of the Alaskan territory closest to Russia, created a different environment than the security felt in the continental mainland.⁶³ Indeed, some maps of the state simply referred to the Alaskan territory that had been bought from Russia in 1867 as “Russian America.”

⁶³ Particularly as it applied to resources that indigenous groups, such as the Yupik and Chukchi, the Russians, and the Americans could access. Bathsheba Demuth, “The Walrus and the Bureaucrat: Energy, Ecology, and Making the State in the Russian and American Arctic, 1870–1950,” *AHR* 124, no. 2 (April 2019): 483–510, <https://doi.org/10.1093/ahr/rhz239> especially pp. 494-502.

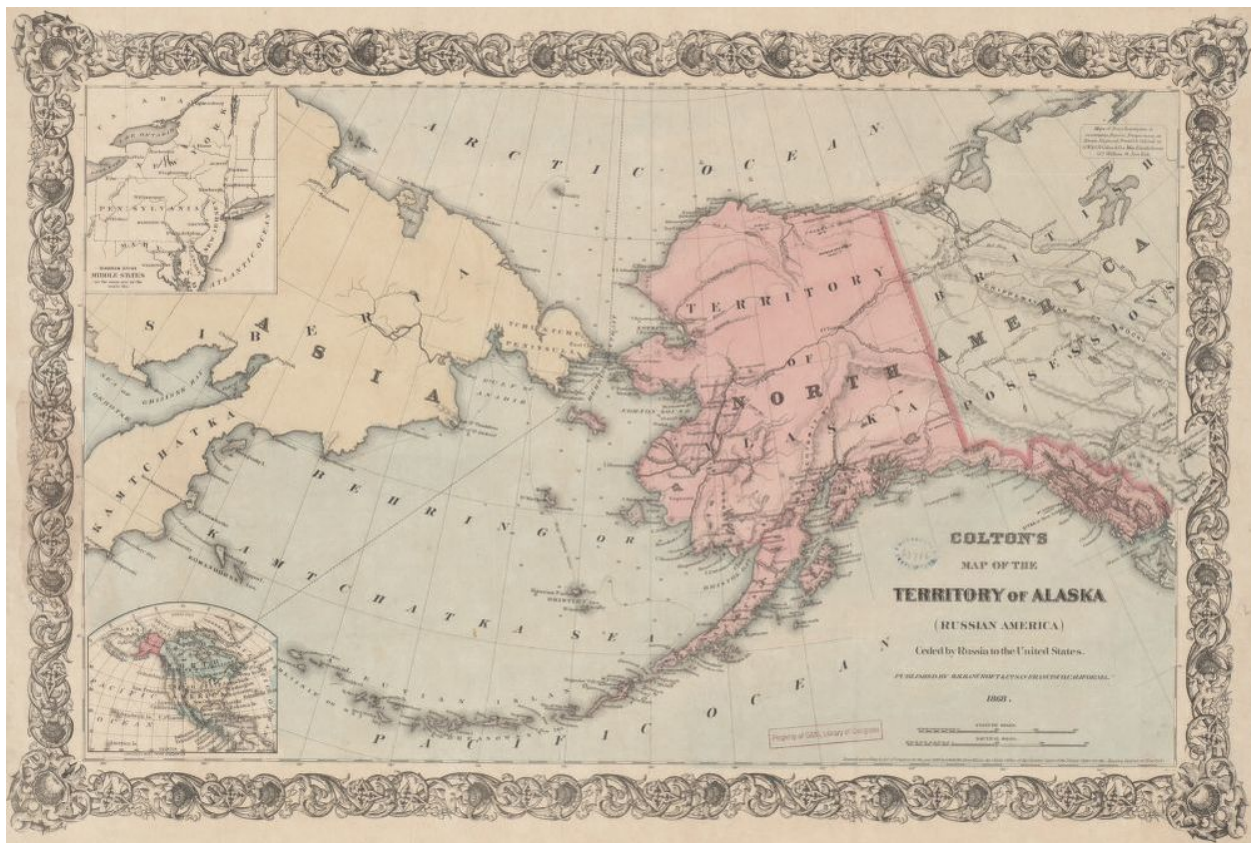


Fig. 3.3 "Colton's Map of Territory of Alaska: Russian Alaska: ceded by Russia to the United States," G.W. & C.B. Colton & Co., 1868. American Geographical Society Library Digital Map Collection, University of Wisconsin-Milwaukee Libraries.

The particularities of sovereignty within a US territory, rather than a US state, were brought to bear when, in the late summer of 1927, a party of nine Russians sailed to Cape Prince of Wales in Alaska, from whence they began to make their way to Nome, the "official United States port of entry for that part" of the American territory. The United States Marshal at Nome detained the party and brought them to the immigration inspector only eight miles from their destination. The inspector reported the Russians' arrival and detention and subsequently convened a Board of Special inquiry to "ascertain the status and disposition" of the aliens.⁶⁴

⁶⁴ Pestereff v. Reed, 7 Alaska 644 (1927)

Upon being informed of their right to appeal, one man in the group, Stephen Pestereff, expressed a desire to challenge the charges against him, which he subsequently withdrew. But after being held for almost one month, Pestereff petitioned the District Court in the Territory of Alaska for a writ of habeas corpus, alleging he "was being illegally restrained of his liberty." Pestereff's legal representatives "strenuously contended" the illegality of detaining their client.⁶⁵ They argued that the lack of diplomatic relations between the United States and Russia would mean that he could be held "in custody indefinitely and until the time arrives when he might be deported" he would be deprived of his constitutional rights.

Pestereff's lawyers cited and reiterated claims that had been successful in other cases. In particular, they supported their claims using the two decisions by a district judge in Massachusetts, George Anderson: *Colyer v. Skeffington* and *Petition of Brooks*. *Colyer v. Skeffington* involved twenty people who the Department of Justice detained in the Palmer Raids in January of 1921. Those people, like Pestereff, used the writ of habeas corpus to petition for their release. The lawyers, Morris Katzeff and Lawrence G. Brooks, who represented the group, used a British couple as their lead plaintiffs, hoping they would appear more sympathetic and intelligent than their non-English speaking, eastern European cellmates.⁶⁶ To further bolster the credibility of the case, Brooks asked two prominent Harvard Law School Professors, Zechariah Chaffee and Felix Frankfurter, both known for their defense of legal rights claims, for assistance.

⁶⁵ Pestereff v. Reed, 7 Alaska 644 (1927)

⁶⁶ The Immigrant Inspector noted in his respective Memoranda to the Commissioner of Immigration, that Amy Colyer "well educated woman, and during the testimony it is very evident that she takes particular pride in stating that she is familiar with the teachings and manifesto of the Communist Party," and that William Thomas Colyer was also "a very well educated man, and during his testimony it is very evident that he takes particular pride in staking that he is familiar with the teachings and manifesto of the Communist Party, and he unhesitatingly supports them." In "Deportation Cases of William T. and Amy Colyer," the House Committee on Immigration and Naturalization, June 5, 1920, p 35, 36.

Chaffee and Frankfurter consented and together wrote an amicus brief on behalf of the rights of the petitioners. In their brief, Chaffee and Frankfurter argued that the petitioners were not given due process under the law, among other violations of their civil liberties.⁶⁷

When the case reached the courtroom, the inclusion of the two prominent legal minds had its intended effect: Judge Anderson agreed with Chafee and Frankfurter's logic and expressed his appreciation for "their unselfish and highly professional endeavors to assist in the proper determination" of the case.⁶⁸ After listening to fifteen days of testimony, Judge Anderson went so far as to criticize the legality of the arrests and thanked the lawyers for bringing such an important issue to the table. In his sixty-three-page-long opinion, the judge commented that the issue at stake was one of the "fundamental rights of a large number of aliens" who were "poorly equipped with the means or knowledge to protect their rights." He noted, because of the implication the case had for legal rights, it was of "far-reaching and general importance to all, whether citizens or aliens."⁶⁹

In his opinion, Judge Anderson acknowledged the sovereign right to decide who could be deported as established in the Chinese Exclusion Cases and that courts generally had no authority in matters relating to immigration. However, there were, the judge noted, cases where these principles of noninterference would not hold true. Pointing to other cases that had established the judicial right to review, he noted, "while deportation proceedings are not criminal proceedings, aliens who are thereby deprived of their liberty may have their legal right to liberty tested on

⁶⁷ Michael E. Parrish, *Felix Frankfurter and His Times: The Reform Years*, First Edition edition (New York : London: Free Pr, 1982), 72–75, 81–128; Donald L. Smith, *Zechariah Chafee, Jr., Defender of Liberty and Law* (Cambridge: Harvard University Press, 1986), 45–46.

⁶⁸ *Colyer v. Skeffington*, No. 265 F. 17 (D. Mass. 1920).

⁶⁹ *Colyer v. Skeffington* at 20.

habeas corpus proceedings." He continued, stating bluntly, "Aliens have constitutional rights." Judge Anderson opined, certain amendments, such as the Fourth, Fifth, Sixth, and Fourteenth Amendments, applied to all people within the jurisdiction of the United States. The case before him now violated the constitutional protection the petitioners had against unreasonable search and seizure and from arrest without due process.⁷⁰

Yet Judge Anderson did not discharge the aliens who came before him. Instead, he referred their cases back to the Department of Labor and the Bureau of Immigration to be heard anew, and in doing so, continued to respect plenary power. His lengthy opinion vocalized the maladministration of power in the deportation process but could not directly remedy the problem. The Bureau of Immigration and the Department of Labor, the people responsible for overseeing deportations, not the Department of Justice nor the court, would review the cases under the regular procedure and determine the outcome.⁷¹

In their petition for Pestereff, his lawyer also cited a different case before Judge Anderson. The petitioner, in this case, on behalf of an individual who had been arrested and then released after the Palmer Raids, only to be rearrested for deportation in 1925. Lawrence G. Brooks, who had represented the petitioners on the 1921 case, again represented the would-be-deportee. Like in the previous case, he petitioned for the writ of habeas corpus on behalf of his client. Reiterating the argument that Jack Matthews's lawyers made in 1921, Brooks said that his

⁷⁰ Colyer v. Skeffington at 22–24.

⁷¹ When the Colyer was reheard in the First Circuit Court, the court ruled in favor of the government and determined that the couple was deportable. The court noted: "Deportation, when ordered by the proper executive officer of the Government, is not visited upon the alien for any crime; and the fact that the reason assigned for his deportation may constitute a crime under the local law does not make the hearing upon deportation a trial in a criminal case to be conducted under the rules of evidence that apply to such a trial." Skeffington v. Katzeff, (C.C.A. 1st Cir. 1922) 277 Fed 129. Also see Deirdre M. Moloney, *National Insecurities: Immigrants and U.S. Deportation Policy since 1882* (Univ of North Carolina Press, 2012), 180–81.

client had to be released because the Bureau of Immigration was unable to deport him. In fact, the immigration authorities admitted "their utter inability to deport Bonder to Russia, but venture[d] the suggestion that the United States [would] shortly resume diplomatic relations with Russia, and that therefore this alien should be kept in imprisonment pending recognition."⁷²

Responding to the Bureau of Immigration's argument in favor of deportation, Judge Anderson opined it was outside the Department of Labor's power to hold "any sane citizen or alien in imprisonment, except as a punishment for a crime," citing *Matthews* as precedent. Deportees were not criminals under US nor international law.⁷³ Judge Anderson stated the Commissioner of Immigration had two options: to deport an alien or release him from custody.⁷⁴ The Judge elaborated on his decision and held that in cases of non-recognition, when "the government admits it cannot deport, he is entitled to be set free." Anderson explicitly reiterated his previous findings: the court could not indefinitely detain a non-criminal alien. Judge Anderson's decision solidified an alien's right to protection as bound in an expansive application of constitutional law.⁷⁵

Using these two cases, among others, Pestereff's legal representatives petitioned for his release.⁷⁶ Using the same rationale that had been successful in other courts, they argued that

⁷² Petition of Brooks, 5 F. 2d 238 (Dist. Court 1925).

⁷³ As elaborated in Article 17 of 1892 resolution, "L'expulsion, n'étant pas une peine, doit être exécutée avec tous les ménagements possibles, en tenant compte de la situation particulière de la personne." "Regles internationaux sur l'admission et l'expulsion des étrangers," L'Institut de Droit international, Art. 17, *Justica et Pace*, Institut de Droit International, Session de Genève, 1892.

⁷⁴ Petition of Brooks, 5 F. 2d.

⁷⁵ Petition of Brooks, 5 F. 2d.

⁷⁶ Re Petition of Brooks; Ex. parte Matthews; Colyer v. Skeffington; U.S. ex rel. Ross v. Wallis (C.C.A.) 229 F. 401

without recognizing Soviet Russia, the United States was powerless to deport their client, and he should thus be released. Echoing Judge Anderson's decision, Pestereff's lawyers argued for an expansive application of constitutional rights and the ability of international law to supersede domestic legal matters, even in US territory. In 1927 they presented this case to Judge Gudbrand J. Lomen.

Unlike Judge Anderson, Judge Lomen dismissed the petition and discredited the validity of Pestereff's claims against his detention. In doing so, he made explicit what was at stake in this and other recognition cases. Lomen argued that despite an absence of diplomatic relations, it would be "an unwarrantable interference" to grant the writ and that there was no indication that "deportation cannot be made, with or without diplomatic relations. If that department [of Labor] cannot deport, its duty must be found in some other direction. It is not for the court to instruct it."

Lomen concluded his argument, saying, "We cannot admit that the United States is powerless." Unlike the other judges who accepted the terms of similar petitioners, he opined that allowing the deportees to remain in the US was equivalent to admitting to the limits (or even the failure) of sovereign power.

In his opinion, Judge Lomen cited the famous Chinese Exclusion Case, further couching the one before him in terms of American sovereignty.⁷⁷ He cited the Supreme Court Justice's opinion, noting, "the power of exclusion of foreigners being an incident of sovereignty belonging to the government of the United States, as a part of those sovereign powers delegated by the Constitution, the right to its exercise at any time when, in the judgment of the government, the

⁷⁷ *Chae Chan Ping*, known as the Chinese Exclusion Case, was decided in 1889. The decision, which unanimously upheld the decision of the lower court, held that Congress had the sovereign to exclude any groups from immigration, and reaffirmed congressional discretion to abrogate or modify treaties. See: *Chae Chan Ping. v. United States*. 130 U.S. 581 (9 S.Ct. 623, 32 L.Ed. 1068).

interests of the country require it, cannot be granted away or restrained on half of anyone." He concluded his opinion, noting that,

This court is not yet ready to believe that the United States will surrender its right of sovereignty to any person or country, but is able at all times to properly regulate and control all those who are in the country or attempt to come into it.⁷⁸

Judge Lomen's opinion cast deportation as a right of a sovereign, which if denied would, in turn, delegitimize that nation-state. His opinion brought international relations into the question of deportation in a way that previous cases that granted respective writs did not. In a sense, by denying the writ, the Judge did the opposite of his proclaimed intention and brought the judiciary into matters of politics.

Prior to Judge Lomen's opinion, there had not been an explicit acknowledgment that recognizing the undeportability of the party from Russia would be tantamount to relinquishing some degree of sovereignty. Lomen's opinion raised the stakes of recognition cases. Instead of being limited to a question of what rights and responsibilities the American government was obliged to provide to both its citizens and aliens, the cases became embedded in the integrity of American sovereignty. Lomen's opinion reveals the previously implicit yet deeply guarded insecurity of American sovereignty in its explicit attempt to protect American legitimacy and power. The court shall not have the body of a would-be deportee lest it interfere with the rights of the government.

Judge Lomen's decision in the Pestereff case demonstrates the ambiguities surrounding what sovereign entity would be entitled to the body. In denying the writ of habeas corpus, Lomen reckoned with the consequences of cases like *Matthews* that had allowed the writ and sanctioned the would-be deportees' release. Thus courts, the legislature, and legal scholars all

⁷⁸ *Pestereff v. Reed*

simultaneously attempted to make sense of the 1924 legislation and create solutions to the challenges of non-recognition.

The invocation of a legal argument grounded in constitutional and international law demonstrated that while jurists imagined them to be distinct, the two bodies of law were contingent upon one another. Though the cases had mixed outcomes, the use of this hybrid mode of legal argumentation reveals the salience of the rhetoric of hybrid rights at the time. The fact that the American government was at times obliged to release a group of people they deemed deportable undermined American sovereignty without acknowledging its ability to do so. The converse also resulted in a legal impasse, with no actual ability to remove the aliens under international law, and the stakes of removing that alien tied explicitly to proof of sovereign power.

The bureaucrats, representatives, and courts that attempted to reconcile national immigration policy with the foreign relations decision of non-recognition had previously tried to skirt around the issue: that any action would undermine one kind of sovereignty or another. Increasing immigration and deportation controls do not always increase American sovereignty. In certain exceptional moments, at specific sticking points, they reveal contradictions and failures of sovereignty. When the executive, legislative, or judicial branches could not resolve these contradictions, they opened new discussions of individual rights separate from sovereign power. If the United States did not recognize Soviet Russia, then no state guaranteed the legal, social, and individual rights of those Russians in the United States. As the United States government would also find, however, the same thing would be true of Americans in Soviet Russia. For both groups of people no one would have these bodies.

CHAPTER IV: AMERICANS IN RUSSIA

Writing for *The Atlantic* in 1922, Lewis S. Gannett commented that the American journalist could move unencumbered in his international travel. "Passports," he posited, were "merely a convenient way of annoying people who insist upon traveling respectably." The one place where this pattern did not hold, however, was in Soviet Russia. There, the power of the American passport held no authority. In fact, he noted jovially, coming from the United States hindered rather than helped entry into Russia. The Russians, he quipped, "seemed to think it probable that any American journalist who wanted to go into Russia was a spy and a counter-revolutionary." Unlike other countries, where he might enter without hindrance or pay someone to secure his passage, in Russia, the journalist bore the burden of proving their benevolent intent. This would mean either waiting in a "border capital for a month or two while they looked you over and watched you" or having "some friend in Moscow plead your case." In fact, Gannett joked, "in the matter of sifting would be immigrants, the Russian Socialist Federated Soviet Government has all bourgeois governments beaten to a frazzle."¹

Though written in a humorous tone, the obstacles that Americans faced in their travels were very real. As Gannett alluded to, the problem they encountered was not dissimilar to the one facing Russian immigrants coming to the United States during this period. As the federal government developed new ways to monitor the American border to prevent would-be-anarchists and communists from entering the country, the Russian government seemingly had beaten them at their own game. The futility of attempts to counter the Russian bureaucracy in matters of

¹ Lewis S. Gannett, "That Passport Game," *The Atlantic*, January 18, 1922.

legitimate travel revealed the Achilles' heel of American diplomatic and immigration law. The same policy of nonrecognition the Department of State used to flex their diplomatic muscles could also hamper American citizens in their pursuits abroad.

The trouble Americans faced in gaining entry into Russia was partly due to the absence of American consulates who could represent the interests of their citizens abroad. Without access to consular advocates, American sojourners were left to the whims of the Soviet government or the largesse of kindly third-party consulates who might agree to take up their interests. Individuals who chose to travel abroad, such as American journalists, were not doing so at the behest of the United States government. Nevertheless, as American citizens, their safe passage was a matter of diplomatic concern.

In this chapter, the experiences of Americans traveling abroad during the time of the nonrecognition of Soviet Russia take center stage. The chapter explores the unintended consequences of American diplomatic policy as it refracted, not on its targets but on American citizens. By the mid-1920s, Americans in need of assistance while abroad could bring their claims to the nearest consulate. Through the decade, the availability of consuls expanded rapidly in keeping with the general growth of the Department of State. The absence of the newly available amenity and the resulting tribulations illuminate the precarity with which American diplomats balanced demonstrations of international authority and deference.²

The diplomatic protection of American citizens abroad mirrored the overarching economic concerns in immigration law. Whereas the federal government assessed potential immigrants via their capacity as laborers, it viewed American emigres as potential entry points

² See Matthew Connelly, "Seeing beyond the State: population Control Movement and the Problem of Sovereignty," *Past and Present* 193, no. 1 (2006): 197-233, which echoes James C. Scott's claims in *Seeing Like a State* (New Haven: Yale University Press, 1999).

into new markets abroad. Thus, by protecting the Americans in another country, the government regarded the citizen as a commercial arm of the state. According to this logic, to harm an American abroad would be to harm American capital, property, or perhaps most importantly, capacity for future earnings. It is not surprising, then, that the records accounting for American diplomatic protection largely reflect the interests of American businesspeople.³

In her discussion of the diplomatic relations between the US and the Hapsburg Empire, Nicole Phelps charts how the central function of consular service shifted from facilitating and promoting trade to the protection of citizens abroad. Phelps argues that the capacity for consulates to protect citizens outside their nation-state developed due to changing meanings of international sovereignty. She suggests that the mass migrations during the first decades of the twentieth century undermined previous notions of territorial sovereignty, which "had been sufficient for delineating the subjects of state authority in the past." After World War I, nation-states articulated sovereignty not only as denoting territorial control but also as "jurisdiction over their citizens anywhere in the world" and expecting "claims to sovereignty over the bodies of their citizens to trump territorially based claims to jurisdiction."⁴

The rise of consulates through the 1920s tethered the otherwise theoretical idea of sovereignty to a physical space. They provided the American citizens with a new experience of their government's extraterritorial presence, recognition, and capacity to serve them abroad.

³ Cf. Noel Maurer, *The Empire Trap: The Rise and Fall of the U.S. Intervention to Protect American Property Overseas, 1893-2013* (Princeton, N.J.: Princeton University Press, 2013); Jason M. Colby, *The Business of Empire: United Fruit, Race, and U.S. Expansion in Central America*, *The United States in the World* (Ithaca, NY: Cornell University Press, 2011); Carl P. Parrini, *Heir to Empire: United States Economic Diplomacy, 1916-1923* (Pittsburgh: University of Pittsburgh Press, 1969).

⁴ Nicole M. Phelps, *U.S.-Habsburg Relations from 1815 to the Paris Peace Conference: Sovereignty Transformed* (Cambridge University Press, 2013), 107.

Phelps contends that "they were vital in furthering claims to sovereignty over citizens abroad," to "sorting out competing claims, and, by the end of World War I, they were ready to implement changes in the international legal order that would clearly define a person as a citizen of only one country and limit his or her ability to cross international boundaries."⁵ Consulates gave governments new footholds in the sphere of messy international borders and contradictory notions of citizenship.

Furthermore, the expansion of government services abroad occurred in tandem with the resumption of tourist travel in the 1920s. Before the war brought recreational travel to a halt, Americans had increasingly ventured across the Atlantic Ocean to explore the Old World they had previously eschewed.⁶ After the war, American interest in international tourism resumed, as amply recorded in the burgeoning travel literature published during the subsequent decade.

⁵ Phelps, *U.S.-Habsburg Relations*, 107. In her chapter examining extraterritoriality in early Modern Europe, Maïa Pal uses Western European consuls in the Mediterranean to analyze the possibilities for both collaboration and conflict, as consuls assumed new jurisdictional spaces of authority. "Consuls," in *Jurisdictional Accumulation: An Early Modern History of Law, Empires, and Capital* (Cambridge: Cambridge UP, 2020), 194-236.

⁶ In particular, see Christopher Endy, "Travel and World Power: Americans in Europe, 1890–1917," *DH* 22, no. 4 (1998): 565–94; Paul Kramer, "Is the World Our Campus? International Students and U.S. Global Power in the Long Twentieth Century," *DH* 33, no. 5 (2009): 781. For broader analyses of tourism as a mechanism of state power see Shelley Baranowski et al. "Tourism and Empire," *Journal of Tourism History* 7, no. 1–2 (2015): 100–130; Robert Hunter, "Tourism and Empire: The Thomas Cook & Son Enterprise on the Nile, 1868–1914," *Middle Eastern Studies* 40, no. 5 (2004): 28–54; Michael David-Fox, *Showcasing the Great Experiment: Cultural Diplomacy and Western Visitors to the Soviet Union, 1921–1941* (Oxford, 2014); Sandie Holguin, "'National Spain Invites You': Battlefield Tourism during the Spanish Civil War," *AHR* 110, no. 5 (2005): 1399–1426; Christopher Endy, *Cold War Holidays: American Tourism in France* (Chapel Hill, NC, 2004); R.J.B. Bosworth, "Tourist Planning in Fascist Italy and the Limits of a Totalitarian Culture," *Contemporary European History* 6, no. 1 (1997): 1–25; Neal Rosendorf, "Be El Caudillo's Guest: The Franco Regime's Quest for Rehabilitation and Dollars after World War II via the Promotion of U.S. Tourism to Spain," *DH* 30, no. 3 (2006): 367–407.

The assumption of extraterritorial sovereignty, located on the body of every American citizen abroad, coexisted with the idea that the American government had complete territorial sovereignty and control over any person, regardless of their citizenship status, within its physical borders.⁷ America's conflicting outward projections and inward expectations of sovereign authority went unchallenged by most other nations in the interwar period. Soviet Russia's singular ability to impede the realization of this all-encompassing sovereignty was the fault of the State Department of the United States.

Strangely, the revulsion of American politicians toward the Bolshevik regime, resulting in the nonrecognition of Russia, was the act that prevented the presence of American consuls in Russia. The political purpose of nonrecognition was the denunciation of the Bolshevik government, and the removal of diplomatic officials from the country was part of that message. However, for the Americans who wished to travel to Russia, regardless of its diplomatic recognition, the absence of consular representatives did not make the political power of the Bolshevik government less real. If anything, it made such Americans more vulnerable to Russian authority.

The chapter juxtaposes the uneven experience of Americans in Russia by examining two kinds of sojourners. The first group comprised the Americans traveling to Russia to see what the Soviet experiment in governance looked like in person, both for themselves and their government. They encompassed journalists, writers, and spies and include one individual who blurred the boundaries between these categories. The second group would comprise American

⁷ In her work analyzing Americans in Nineteenth-Century Fiji, Nancy Shoemaker's emphasizes the importance of such Americans abroad, who she refers to as extraterritorial Americans, a term which I will use in my analysis. *Pursing Respect in the Cannibal Isles: Americans in Nineteenth-Century Fiji* (Ithaca: Cornell UP, 2019), 4-9; "The Extraterritorial United States to 1860," *DH* 42, no. 1 (January 1, 2018): 36-54.

humanitarians traveling to Russia, both on behalf of the American Relief Administration and outside its auspices. Though part of a larger collective of travelers, both the curious tourist and the humanitarian worker faced the Soviet government as individuals. Without the support of a diplomatic relationship, these American citizens faced a much higher risk and had less negotiating power when they encountered Russian bureaucracy. The risk they faced, though at the hands of the Soviet government, was as much a consequence of American governmental actions as it was Russian state power.

The multiplicity of experiences included in these two groups helps illustrate the contradictory definitions of sovereignty at play in American-Russian relations at the time. The American government put forward varying degrees of effort to protect different citizens abroad based upon their perceived value to the state. However, the US often found its extraterritorial reach delimited, even for its most valued citizens. The State Department's fumbling attempts to minimize risk and protect Americans in Russia reveal the unintended, debilitating consequences of its nonrecognition policy. The American aspiration to exercise sovereignty over its citizens' bodies in Russia was, as Gannett put it, "beaten to a frazzle."

Hearing of the Russian Revolution from thousands of miles away, many Americans were interested in traveling to Russia out of sheer curiosity; they wanted to see what the new Soviet experiment looked like. Before the Revolution and through its duration, scores of Americans commented on the Russian situation, each taking their turn at providing analysis of the political and social changes as they unfolded.⁸ These travelogues came from sources that openly

⁸ Journalists such as Louise Bryant and John Reed meticulously documented the Revolution as it unfolded. Among their most famous works on the topic include Louise Bryant, *Six months in Russia, an observer's account of Russia before and during the proletarian dictatorship* (New

sympathized with the Revolutionary agenda, particularly regarding racial and gender equality, and critiqued American economic and foreign policy.⁹ When the Bolsheviks took power, such commentary subsided, and thus as the regime took root, mainstream American interest in the subject remained increasingly unsatisfied. Accounts that continued to emerge were from what the Anglo-Saxon, Protestant American newspaper readers deemed riveting but unreliable. Some of these authors remained in Russia even after March of 1918 when the Bolshevik government expelled most foreign journalists. Thus, with the exception of the more leftist and radical voices, as Robert W. Desmond notes, few journalists who remained between 1918 and 1921 could continue to work professionally.¹⁰

Marguerite Harrison, a widowed socialite, and journalist for the *Baltimore Sun*, was among those few who officially reported from Russia during that period. She did so while

York: George H. Horan Company, 1918); John Reed, *Ten days that shook the world* (New York: Boni & Liveright, 1919). Soviet government officials also played into the idea of the Russian Revolution as a draw for visitors, as elaborated by Diane P. Koenker, “The Russian Revolution As a Tourist Attraction,” *Slavic Review*, The Russian Revolution a Hundred Years Later, 76, no. 3 (Fall 2017): 753–62.

⁹ African American travelogue writers occupied a particular place of both intrigue and suspicion for a white, Protestant American public. For a historical assessment of Black Americans experiences in Russia and a leftist international milieu during the interwar years, see Katherine Anne Baldwin, *Beyond the color line and the Iron Curtain: reading encounters between Black and Red, 1922-1963* (Durham: Duke UP, 2002); Minkah Makalani, *In the cause of freedom: radical black internationalism from Harlem to London, 1917-1939* (Chapel hill: University of North Carolina Press, 2011). For the experience of American women sojourners in Russia, see Julia L. Mickenberg, *American girls in red Russia: chasing the Soviet dream* (Chicago: University of Chicago Press, 2017); Julia L. Mickenberg, “Suffragettes and Soviets: American Feminists and the Specter of Revolutionary Russia,” *JAH* 100, no. 4 (2014): 1021–51; Erik S. McDuffie, *Sojourning for freedom: Black women, American communism, and the making of Black left feminism* (Durham: Duke UP, 2011).

¹⁰ Robert W. Desmond, *Crisis and Conflict: World News Reporting between Two Wars, 1920-1940* (Iowa City: University of Iowa Press, 1982), 30; Marguerite Harrison, *There’s Always Tomorrow: The Story of a Checkered Life* (New York: Farrar & Rinehart Inc., 1935), 288.

covertly working for the Military Intelligence Division (MID) for the US army.¹¹ Her occupation as a journalist and undercover spy made her a particularly significant individual for the American government, notably when her activities led the Russian government to surveil her with increasing scrutiny and eventually detain her. For the Russian government, her existence bore proof that American journalists should be treated with suspicion and were likely acting as spies for the United States.¹²

After Harrison returned to the United States, she wrote extensively about her time in Russia. She charted in vivid detail her unsanctioned entry into the country, her subsequent arrests and imprisonment, and her eventual freedom. She published a travelogue in 1921, *Marooned in Moscow*, immediately after her first trip and released other short essays throughout the 1920s.¹³ In these pieces, Harrison framed her experiences as an individual American journalist. In her memoir published the following decade in 1935, she revised some of her accounts, this time acknowledging her work as a spy. Even as the earlier books omit essential details about her activities in Russia, they provide insight into the more expansive American experience of Russia in the absence of diplomatic relations. Furthermore, though her encounter with the Russian

¹¹ For an overview of Harrison's career, see M. H. Mahoney, *Women in Espionage: A Biographical Dictionary* (Santa Barbara: ABC-CLIO, 1993), 109–12; Elizabeth Atwood, *The Liberation of Marguerite Harrison: America's First Female Foreign Intelligence Agent* (Annapolis, Maryland: Naval Institute Press, 2020).

¹² See Peter Holquist, "'Information Is the Alpha and Omega of Our Work': Bolshevik Surveillance in Its Pan-European Context," *The Journal of Modern History* 69, no. 3 (1997): 415–50; Daniel Larsen, "Creating An American Culture Of Secrecy: Cryptography In Wilson-Era Diplomacy," *DH* 44, no. 1 (January 2020): 102–32.

¹³ Marguerite Harrison, *Marooned in Moscow: The Story of an American Woman Imprisoned in Russia* (New York: George H. Doran Company, 1921); *Unfinished Tales from a Russian Prison*, (New York: George H. Coran Company, 1923); "Russia under the Bolsheviks," *The Annals of the American Academy of Political and Social Science* 100 (1922): 1–4; *Asia Reborn* (New York: Harper & Bros., 1928).

government was in no way what an "ordinary citizen" could expect, the disparities between her earlier and later writing reveal what Harrison thought an American citizen should expect in their interactions with a foreign government.

Harrison began her dual role as journalist and spy in December of 1918 when she reported the on-the-ground conditions in post-war Germany, first to MID and then after returning from Europe to the American reading public.¹⁴ Harrison's directive was to compile something akin to a national character study for Germany. She was to learn about "German internal affairs, how food and other supplies were holding out, what was the condition of the public morale, how far revolutionary and pacifist activities were weakening the army and the government—just how strong was the desire for peace at any price."¹⁵ During her time in Germany, Harrison's success made her an asset that the Army was eager to use again.

Returning to Baltimore in July 1919, Harrison published a series of articles on postwar Germany. Only a month after her return, she pitched the idea to "go to Russia as a newspaper correspondent, and at the same time to collect information for the Military intelligence."¹⁶ MID officials enthusiastically agreed, rehiring Harrison under a new commission, this time aimed at Russia. In her memoir, Harrison framed her work to help the government form a more definite

¹⁴ Harrison's status as a woman played a remarkably small role in her time at MID. She was able to pursue this career path due to well placed family connections that could offer her introductions in the government.

¹⁵ Harrison, *There's Always Tomorrow*, 91. For a broader coverage of U.S. intelligence on Germany during the interwar years, see: Robert Lester, *U.S. Military Intelligence Reports, Germany 1919-1941* (Maryland: University Publications of America, 1983).

¹⁶ Harrison, *There's Always Tomorrow*, 212.

policy with the Bolshevik regime. Moreover, like so many others, she was interested in seeing how the new experiments in governance operated in everyday Russian life.¹⁷

In the height of American panic about Bolshevism, and only a month before Attorney General Palmer led raids on the Union of Russian Workers, military intelligence wanted to learn the extent to which communism was entrenched in Russia.¹⁸ Thus, similar to her task in Germany, Harrison was to provide an on-the-ground assessment of the permanency of the new regime, the social conditions, and any other culturally relevant information she could glean. Perhaps some of the American government's paranoia toward immigrants potentially infiltrating the US was based on assumptions of comparable espionage coming from Russia. If the American government hired individuals like Harrison, sent to infiltrate other countries, surely her Russian corollary must exist somewhere in the United States.

Initially, Harrison attempted to get her trip approved on the Soviet side using regular channels. She particularly emphasized her attempt as a legitimate entrance in her book from 1921, framing her request to "the Martens Bureau," without referring to the moment's diplomatic circumstances.¹⁹ In her later account, she acknowledged that there were no official Russian diplomats in the United States as a consequence of the American policy of nonrecognition. Still, Ludwig Martens acted as an "unofficial representative of the Soviet Government in America."

¹⁷ Harrison wrote, "I was not a Marxist, or even a Socialist, but I felt that all existing forms of government were inadequate to cope with the general unrest, social, political and economic. I foresaw that my generation would live through an era of change and experiment. Bolshevism was one of these experiments, and I wanted to see it in operation." *There's Always Tomorrow*, 211.

¹⁸ In her memoir, Harrison noted "reports of internal conditions in Russia came chiefly from the exiled monarchists and supporters of the short-lived Kerensky regime, who circulated the most fantastic tales of the horrors taking place behind the iron ring of the blockade." Harrison, *There's Always Tomorrow*, 211.

¹⁹ Harrison, *Marooned in Moscow*, 11–12.

Harrison appealed to Martens, asking for a letter of recommendation from him that would enable her to "procure a visa to enter Russia from the Soviet representative in Sweden."²⁰ Citing the ongoing state of revolution, Martens declined her appeal, saying that Russia "was not ready to welcome correspondents from capitalist countries."²¹ She elaborated that "the refusal of the Martens Bureau closed the only legitimate routes through Estonia, Finland and the Soviet courier service via Murmansk," also barring her "from applying to the only other agency" with the capacity to give permission "Litvinov's bureau at Copenhagen."²²

At the time of her request to Martens, the Russian government had been alerted by their intelligence network of Harrison's connection to MID, and, in Harrison's words, "had been warned against [her] as a suspicious person before [she] ever set foot on Russian soil." In her memoir she attested that had she been aware of their knowledge, she would never have applied to Martens for permission, having "not a ghost of a chance of getting into Russia through any legitimate channels."²³

Without that information, she remained undeterred by the Bureau's refusal and sought alternative methods to enter Russia. While in Germany, Harrison had heard of people reaching Russia through the Polish border and determined that would also be her route.²⁴ Harrison had already shown her capacity to work both with and around the international system. For example, during her mission to Germany, she traveled first to Bordeaux, France, where she made her "own

²⁰ Harrison, *There's Always Tomorrow*, 213.

²¹ Harrison, *There's Always Tomorrow*, 213.

²² Harrison, *Marooned in Moscow*, 12.

²³ Harrison, *There's Always Tomorrow*, 213.

²⁴ Harrison, *There's Always Tomorrow*, 214.

arrangement to get into Germany," rather than using official channels that the war had disabled.²⁵ In her memoir, she noted believing "that, once in Russia, [she] could persuade the Soviet Foreign Office to allow [her] to stay as [she] had persuaded the Foreign Office in Germany."²⁶ After the war, the position of the United States gave Americans a certain degree of entitlement to travel through the defeated nations. Russia, however, occupied a different role in relation to the war and the United States. Russia, unlike Germany, had supported the allied effort during the World War, that is, until their abrupt withdrawal after the Brest-Litvinov treaty. The treaty and the global panic about the possible contagion of communist ideology subjected all American relations with Russia to increased scrutiny, though without the declaration of war, they remained formally amicable.

Aside from the diplomatic reasons, MID tasked Harrison to make her own arrangements to enter Russia because their networks were relatively underdeveloped. The US Intelligence service of the interwar years was only loosely organized, particularly compared to its European counterparts.²⁷ In her memoir, Harrison acknowledged the difference between American and European intelligence, saying, "We were like children compared with the British and the Europeans who for generations had been used to the game of intrigue and counterintrigue, espionage and counterespionage."²⁸ Without the established avenues for transport in Europe,

²⁵ Harrison, *There's Always Tomorrow*, 94, 210.

²⁶ Harrison, *There's Always Tomorrow*, 214.

²⁷ Nathan Miller, *Spying for America: The Hidden History of U.S. Intelligence*, 1st ed. (New York: Paragon House, 1989), 209. Also see Bruce W. Bidwell, "Peacetime Problems (1919-7 December 1941)," in *History of the Military Intelligence Division, Department of Army General Staff, 1775-1941* (Maryland: University Publications of America, 1986), 247-420; James L. Gilbert, *World War I and the Origins of U.S. Military Intelligence* (Lanham: Scarecrow Press, 2012).

²⁸ Harrison, *There's Always Tomorrow*, 214.

MID could not independently ensure their agents' safe passage. Thus, Harrison had to make her way into the country, forge her own contacts, and establish a system for transmitting information back to MID.

MID did assist in providing some degree of cover for Harrison, helping her gain journalistic credentials with the Associated Press, in addition to her existing relationship with the *Baltimore Sun* and *New York Post*. Traveling with these credentials, Harrison arrived in Poland, where she received one of her few direct communications from MID. In a telegram forwarded from the American embassy in Switzerland to its counterpart in Poland, MID instructed Harrison to delay her entrance into "territory under Bolshevist control until [she received] further orders."²⁹ As a result of her new directives, Harrison deferred her departure for about two months. Remaining in Poland, she used the time to learn rudimentary Russian and look for a translator and companion for her journey.

In February of 1920, MID cleared Harrison to enter Russia, even though a resurgence of the ongoing military conflict between the Poles and Russians seemed imminent.³⁰ Harrison stuck with her plan to enter without Russian sanction through the Polish border. Recounting her border crossing, she emphasized the ease with which she made her way into Russia. She noted that

to get into any country by the back door, after having been refused permission to come in by the front way, does not sound like a simple thing to do, yet as a matter of fact, I

²⁹ File PF-39205, RG 165 (War Department General Staff), MID, Box 607, NA, quoted in Catherine Mary Griggs, "Beyond Boundaries: The Adventurous Life of Marguerite Harrison" (Ph.D., United States -- District of Columbia, The George Washington University, 1996), 163; Harrison, *There's Always Tomorrow*, 228–29.

³⁰ It on the subject of the Polish-Russo conflict that the Secretary of State Bainbridge Colby had the occasion to provide the official American stance on nonrecognition towards Russia. Colby to Avezzana, August 10, 1920, *FRUS*, 1920, III, 463-468.

accomplished the feat without any great difficulty in February, 1920, when I entered Soviet Russia from Poland while a state of war existed between the two nations.³¹

Harrison was taken by sleigh from Polish territory to "No Man's Land" and then crossed on foot into Russian territory, giving herself up to the first Red Army patrol she encountered.

Harrison's crossing was itself indicative of the rapidly shifting borders of Central and Eastern Europe. After the Russians signed the Treaty of Brest-Litovsk in 1918, they ceded hegemony of the Baltic states, Poland, Finland, and Ukraine. Only that previous summer had Poland, as a recognized nation-state, resumed its international existence as decreed by the Treaty of Versailles. Minsk, the city through which Harrison traveled to the border's edge, only remained in Polish hands for the next two years, and under the Peace of Riga was reabsorbed as Russian territory, becoming the capital of the Belorussian Soviet Social Republic. Of course, there were other places where Harrison might have made the crossing, as she acknowledged in her 1921 travelogue. The continually shifting border created opportunities for travel that would have been more difficult at other, more peaceful times. Lacking sanction from the Russian government, Harrison's trip was possible because of the neutral zones between warring states.³²

³¹ Harrison recounted her journey, leaving the Polish city of Borísov "for the front in a sleigh early on the morning," having convinced the Polish military to assist her in her journey. Her party "along a rough highway rutted by heavy motor lorries, through a winding drack in a dense forest." Once in the thick of the forest, Harrison and her companions met another officer at the Polish dugout who led "the way through a network of barbed wire entanglements" to emerge from the woods in No Man's Land "a wide-open expanse of snow-covered fields dotted here and there with peasant villages." Harrison, *Marooned in Moscow*, 11, 16-17; Harrison, *There's Always Tomorrow*, 273-277

³² Harrison acknowledged using the ongoing conflict to cross the Russo-Polish border, writing that she had "taken advantage of the tacit armistice on the Meresina sector to secure a laissez-passer through Polish lines, in order to get to Moscow." *There's Always Tomorrow*, 261. Also see Friedrich Kratochwil, "Of Systems, Boundaries, and Territoriality: An Inquiry into the Formation of the State System," *World Politics* 39, no. 1 (1986): 27-52.

Upon turning herself in to the Red Army, Harrison's travels proceeded as planned, at least in the beginning. The Army eventually took her to Moscow, where she presented her credentials to the Foreign Office, legitimizing her stay as a journalist. Despite the fact that she had entered Russian territory through illicit means, Harrison was allowed to move freely around Moscow during her first few months. Even as migration restrictions and border control grew stricter in the 1920s, foreign travelers could still assume their right to free movement.

By April, however, the Soviet police force, the Cheka, arrested Harrison, but not for her means of entering the country, as she had initially described. Later, she acknowledged that they presented her with copious evidence that they knew of her work for MID. Rather than removing her from the country, either by deportation or execution, the Cheka allowed Harrison to stay on the condition that she would provide information for them about foreigners in Moscow.³³ She agreed to the Cheka's terms, though she stated emphatically in her memoir that she planned not to give them any valuable information.

Harrison's writing on the Cheka cast the government's suspicion and interrogation of immigrants as a standard practice of due diligence. In her 1921 account, Harrison explains her release as a result of successfully proving she "had taken no part in any party activities or plots against the Soviet Government, and convinced the praesidium that [she] was not a Polish spy." She then explained that they would allow her to continue working as a journalist, although "permission to leave the country could not be given [her] for any definite period, certainly not until the Polish situation cleared up." Harrison justified their behavior as a "measure of ordinary prudence" on the part of the Russian government.³⁴ By framing the Cheka's action as reasonable

³³ Harrison, *There's Always Tomorrow*, 309.

³⁴ Harrison, *Marooned in Moscow*, 108.

in her account, Harrison normalized the idea that it would be prudent to officially surveil foreigners within a country, a practice that, until the 1920s, governments had relegated for wartime usage.

Under these terms set by her arrest, the Cheka allowed Harrison to move about the city but required she meet with a Russian supervisor on a weekly basis. After spending the summer providing what she framed as insignificant information, the Cheka rearrested and imprisoned Harrison. Before she acknowledged her work as a spy, she attested that her second arrest resulted from not avoiding "certain places and people" and not doing "certain things."³⁵ In fact, she had continued to inform MID of the general political situation in Moscow well after her first arrest.³⁶

In her writing, Harrison repeatedly claimed she was not for or against the Bolshevik government and said she would offer her readers impartial observations.³⁷ Her objective prose nevertheless smuggled in assumptions on the criminality of clandestine border-crossing. In 1921, Harrison accounted for both of her arrests due to her illegal entry into Russian territory. Arrest on such terms, though not yet ubiquitous in the United States, would be legible to American readers as a reason for detention. Later, she acknowledged her arrests were a consequence of her

³⁵ Harrison, *Marooned in Moscow*, 108.

³⁶ In a telegram dated April 14, 1920, Colonel Davis in Berlin informed the Office of the Chief of Staff, MID: "A political and economic report on Russia, consisting of five pages and covering conditions up to the end of March was received by me today. It was sent by 'B'....the full report forwarded by mail. It begins as follows: / 'General political situation is absolutely controlled by Communist party. All of their meetings are packed and independent political activity is impossible...A majority of skilled workers in the factories are communists.'" File PF-39205, RG 165 (War Department General Staff), MID, Box 607, NA. Quoted in Griggs, "Beyond Boundaries," 178.

³⁷ Throughout her writing, Harrison reiterated her impartiality. For example, in *There's Always Tomorrow* she wrote, "I think I can honestly say that *Marooned in Moscow* had at least this to comment it: it was written without any preconceived bias or any attempt at propaganda, White or Red," 434.

work as a spy and that the Soviet government had known of her relationship with MID even while she was in Germany. She justified omitting these facts as a cautionary measure to protect those who continued to work at MID after her departure. Whether intentionally or not, Harrison's insistence that her illegal entry into Soviet Russia resulted in her arrest played into a broader governmental narrative that conflated unsanctioned border-crossing with illegal activity inside a nation-state.

Harrison both acknowledged the imagined quality of a border and inscribed it with meaning. She wrote that "the passage of any frontier is a dramatic moment." Commenting on the artifice of borders, she continued,

The landscape on both sides of the invisible barrier looks much the same, but you cross it and – presto! – you are among people of another race, speaking another language, with different aims, ideals and ambitions from those of their neighbors on the other side of an arbitrary line.³⁸

In describing her wonder upon crossing such an imaginary line, Harrison seemed to question the placement of that "invisible barrier," but not that one existed. Similarly, she naturalized the difference in populations, echoing the idea enshrined by the League of Nations that states were, by their definition, populated by nationals.³⁹

More than unsanctioned border crossing, Harrison's imprisonment was entangled with and prolonged by Russian assertion of sovereign authority and American insistence on nonrecognition. As Harrison described it, the border crossing constitutes an example of Giorgio Agamben's zone of indistinction: an unmediated contact point between a sovereign and bare life.

³⁸ Harrison, *There's Always Tomorrow*, 223.

³⁹ Here, I use Susan Jefford's definition of national identity, constituted by "the narratives and symbols through which the people of a nation see themselves as a nation and in terms of which they elaborate how they want the people of other nations to see them." "Commentary: Culture and National Identity in U.S. Foreign Policy," *DH* (1994): 93.

Such inscriptions of power on an "arbitrary line" bolstered the reality of Russian sovereign authority over states of exception such as a no man's land.⁴⁰

The tug of war between nonrecognition and the reality of *de facto* sovereignty also manifested in Harrison's access to citizenship rights. After her second arrest, Harrison recounted trying to use her nationality to protect her from an improper search. The searcher responded, "Much good being an American will do you here, citizenness," alluding to the terms of nonrecognition between the United States and Russia.⁴¹ Recognizing the absence of diplomatic protections in Moscow, Harrison acknowledged that it would be a "waiting game on both sides" before she could expect to be released.⁴² While in jail, Soviet officials in prison urged Harrison to write to the State Department essentially, in her words, "transmitting an unofficial proposal from the Soviet Government for [her] release, conditional upon the release of Communists then in prison in the United States, or the opening of the resumption of trade with Russia." Harrison refused to deliver this message, but the request itself signals the imagined possibilities for negotiating the policy of nonrecognition.⁴³ The proposal to Harrison was not unique; in several

⁴⁰ Giorgio Agamben writes, "the state of nature and the state of exception are nothing but two sides of a single topological process in which what was presupposed as external (the state of nature) now reappears, as in a Möbius strip or a Leyden jar, in the inside (as state of exception), and the sovereign power is this very impossibility of distinguishing between outside and inside, nature and exception, *physis* and *nomos*. The state of exception is thus not so much a spatiotemporal suspension as a complex topological figure in which not only the exception and the rule but also the state of nature and law, outside and inside, pass through one another." *Homo Sacer: Sovereign Power and Bare Life* (Stanford University Press, 1998), 37 Also see: 64-65, 87; For the application of the "zone of indistinction" or borders, see: Ezgi Tuncer Gürkaş, "Border as 'Zone of Indistinction': The State of Exception and the Spectacle of Terror Along Turkey's Border With Syria," *Space and Culture* 21, no. 3 (August 1, 2018): 322–35.

⁴¹ Harrison, *Marooned in Moscow*, 228; Harrison, *There's Always Tomorrow*, 357.

⁴² Harrison, *Marooned in Moscow*, 233–34.

⁴³ Harrison, *Marooned in Moscow*, 264–65.

cases, the Soviet government attempted to leverage the detention of Americans to receive recognition from the US.⁴⁴

Hearing of her second arrest, Harrison's friends in the US lobbied various government agencies to secure her release. Because of their prominence, they managed to maintain interest in her plight, keeping her story in newspapers around the country.⁴⁵ Regardless, the State Department and other governmental entities could take no official action on Harrison's behalf due to the absence of diplomatic relations.⁴⁶ But, unlike the State Department, nongovernmental

⁴⁴ Harold Carlson, the recognized 'delegate of the American colony in Moscow,' wrote of the 'keenly felt disappointment' of the Americans that their government had done nothing to rescue them: 'An American passport does not seem to afford the same protection and consideration as for instance a British or a Swedish one.'" Letter from Harold Carlson, dated August 18, 1920. RG 165 (War Department General Staff), MID, Box 607, NA. "Of an incomplete list showing thirty-eight Americans stranded in Moscow in August 1920, only fifteen, including five children, had not been imprisoned for some period of time, generally several weeks to two months. Six had been in prison for more than two years." Report of information gathered by American Young Men's Christian Association in Estonia, August 19, 1920. File 811.91261, RG 165 (War Department General Staff), MID, Box 607, NA.

⁴⁵ See, for example: "Woman Writer Held by Reds: Mrs. M. E. Harrison, of Baltimore, Imprisoned by Soviet." *New-York Tribune*, Nov 28, 1920; "No Trade Until Reds Set Free U. S. Prisoners: Moscow Warned that this Nation Will Not. Recognize Soviet while Americans Remain Captive," *New-York Tribune*, May 18, 1921; "Reds withhold food sent Mrs. Harrison: frequent shipments have been made to her from Baltimore. Her friends are amazed State Department making efforts for release of Americans held in Russia," *NYT*, Apr 19, 1921; "U. S. Food to all but Americans in Soviet Jails," *New - York Tribune*, Apr 18, 1921; "Jail for foes, Lenin's policy in Red Russia," *Chicago Daily Tribune*, Apr 08, 1921. Commenting on the American prisoners, historian of the American humanitarian aid during the 1921 famine, Bertrand M. Patenaude, writes, "these Americans had been a subject of warm feeling in Washington for nearly a year, with the temperature occasionally turned up by newspaper stories about their alleged mistreatment in Soviet 'dungeons.'" *The Big Show in Bololand: The American Relief Expedition to Soviet Russia in the Famine of 1921* (Palo Alto: Stanford University Press, 2002), 38.

⁴⁶ On January 3, 1920, Joseph Ames, on Johns Hopkins stationary informed MID of the private measures taken to secure Harrison's release. Governor Ritchie, Frank Kend, Dr. Ames, and the Secretary of State, Mr. Perlman, traveled to NY to intercede with the Soviet trade representative, Ludwig Martins (Fischer, Soviet Russia and the West, 26-27). While in New York "they called on the Norwegian explorer Fridtjof Nansen, who was charged with responsibility for prisoners in

entities had greater leniency in communicating with Soviet Russia. The American Relief Administration (ARA), operating under Herbert Hoover's leadership, negotiated directly with the Soviet government. Eventually, the two sides agreed that the ARA provided famine relief to Russia in exchange for the release of American prisoners, including Harrison.

In total, Harrison spent ten months in Russian prisons before famine conditions worsened to the extent that the Soviet government was obliged to accept Hoover's terms of negotiation. Reflecting on her arrests more than a decade later, Harrison said that before she began her journey the worst fate that she and her superiors at MID imagined befalling her in Russia was "expulsion as an undesirable alien."⁴⁷ They viewed deportation as justifiable punishment for their espionage. However, they did not anticipate the extent to which America's nonrecognition policy worsened Harrison's situation. The policy prevented Harrison from receiving food aid, which she noted was available for her British compatriots, and delayed her release from detention. Indeed, for other nation-states, the inconvenience of nonrecognition had outweighed the ideological threat of Bolshevism. Though the US remained resolute in its policy of nonrecognition, all other world powers had accepted the permanence of the Soviet Government. Even Great Britain, France, and Japan, who had long stood by the US, recognized the Bolshevik government by the winter of 1920.⁴⁸

Russia by the League of Nations. Through the *New York World*, they brought pressure on the Soviet envoy in Berlin." Griggs, "Beyond Boundaries," 222–23.

⁴⁷ Harrison, *There's Always Tomorrow*, 212.

⁴⁸ "Three Allies Agree to Recognise Reds," *The New York Herald*, European Edition, February 23, 1920.

Neither the nonrecognition policy nor news of Harrison's imprisonment hampered the American interest in Russia through the 1920s. After relaxing the strictest Revolutionary reforms in March of 1921, Russia increasingly opened its borders to most foreign travelers.⁴⁹ Moreover, despite terms of nonrecognition, by 1924, that group would routinely encompass Americans.⁵⁰ By that time, the US State Department had established itself as the ultimate arbiter of legitimate and illegitimate travel for American citizens.

After traveling to Russia, many American travelers contributed to a burgeoning number of books that had proliferated before and during the Revolution, documenting their individual experiences in the country. The story of Marguerite Harrison, as covered through her writing and newspaper articles, had not scared potential travelers. It seemed to contribute to the opposite effect.

The explicit purpose of many such travelogues was to discredit popular notions of the hostility and discomfort Americans would face in Russia.⁵¹ Some accounts made fun of the

⁴⁹ See Christian Noack, "A Mighty Weapon in the Class War': Proletarian Values, Tourism and Mass Mobilisation in Stalin's Time," *Journal of Modern European History* 10, no. 2 (2012): 233–36. For implications of the reforms included in the 1921 New Economic Policy (NEP) see Alan M. Ball, *Russia's Last Capitalists: The Nepmen, 1921-1929* (Berkeley: University of California Press, 1987); Sheila Fitzpatrick, Alexander Rabinowitch, and Richard Stites, *Russia in the Era of NEP: Explorations in Soviet Society and Culture* (Bloomington: Indiana University Press, 1991).

⁵⁰ By April 1924, all passports issued by the State Department could be used to travel to any country, including Russia. FSP 6200 American Citizens Traveling to Soviet Union, Passport Restrictions, 1919-1921, Contents Summary.

⁵¹ For example, one author spends what he had entitled "not a preface" saying not much had changed and not much was new between the old and new regimes in Russia. Morris Gordin, *Utopia in Chains: An American's Experiences in Red Russia* (Boston and New York: Houghton Mifflin Company, The Riverside Press Cambridge, 1926), xi–xvii. In a different account, the author catalogued the warnings she received before leaving for Russia, and wrote, she had "no dangerous adventures, no hair-breadth escapes of which to boast." Anna Porter, *A Moscow Diary* (Chicago: Charles H. Kerr & Company, 1926), 10.

American obsession with the Bolshevik government. One author, for example, assured his reader that though he initially shared some of the American discomforts with Russia, he could "now go back to rest in peaceful assurance of safety." He concluded by noting that if his book might serve "to quiet some of the hysterical fears of others" as it did his own, "it will have served a good purpose."⁵²

The printed writings of Americans during the time of nonrecognition seemed hopeful that they contributed to a broader conversation about American foreign relations. Such hopes were outsized to the actual impact of such accounts, but the flow of perspectives did help shape the formal diplomatic conversation.⁵³ Though written for various purposes, the accounts nevertheless reveal certain similarities in how a lack of diplomatic ties with Russia mediated their experience in the newly formed republic.

As travel to Europe increased to prewar levels, the Americans who made the journey to Russia presented implicit and explicit understandings for an internationalist United States, as they had before the war. As Christopher Endy discusses, a majority of such travel commentators before the War "drew on transatlantic travel experiences to promote a more active, and often imperial, role for the United States in Europe and global affairs." Travel, Endy convincingly argues, "thus formed a cultural or ideological foundation for imperialism and increasing US

⁵² Jay N. Darling, *Ding Goes to Russia* (New York: Whittlesey House, 1932), v, vii.

⁵³ Writing on state formation in early modern Europe, Mark Netzloff argues that "far from inhabiting distinct social spheres, the diplomat and traveler are brought together through the circulation of news and intelligence. In this information economy, the state relies on not only its own official representatives but also more shadowy figures possessing a tangential connection to state authority. The social and geographic distance on these informants from centers of power is what renders their information valuable, and by acquiring their intelligence the state is able to extent its control beyond its territorial and administrative boundaries." *Agents Beyond the State: The Writings of English Travelers, Soldiers, and Diplomats in Early Modern Europe* (New York: Oxford University Press, 2020), 40. Also see Pal, *Jurisdictional Accumulation*, 25-47.

engagement in world affairs around the turn of the century."⁵⁴ In the interwar years, American sojourners built upon that foundation, assessing in writing their country's relationship with Russia, even during a time of official nonrecognition.

Even as American writers attempted to use their impartiality to bolster their claims about Russia, they drew from the pre-World War I conceptions of the American international role.⁵⁵ Authors placed declarations of open-mindedness in contrast with the force that obscured analysis of the Russian situation. In one account, an author explained that he had traveled to Russia to "penetrate the enchanting veil which hides the real Russia from the eyes of the Western world."⁵⁶ In his and other writings, authors juxtaposed the threat in the American imagination with the much more mundane reality they encountered on the ground in Russia. The claims of authorial objectivity and individual authenticity incorporated notions of American and Western European power and Russian Orientalism that had taken root before the Revolution and impacted their analyses of Russia, its citizens, and their government.⁵⁷

⁵⁴ Christopher Endy, "Travel and World Power: Americans in Europe, 1890–1917," *DH* 22, no. 4 (1998): 565.

⁵⁵ For example, one author wrote that "most of the books which have been published about Russia have been written by persons who sought to prove something. Some sought to prove that Russia under the Soviet is a land of despair and failure; others that it is a land of hope and success." This author, on the other hand, writes he "went to Russia with no preconceived notion of what I was to find and with no desire to prove anything." Ray Long, *An Editor Looks at Russia: One Unprejudiced View of the Land of the Soviets* (New York: Ray Long & Richard R. Smith, Inc., 1931), vii. Different accounts also went through pains to establish their impartiality, even making note of it in their title Emile Joseph Dillon, *Russia To-Day and Yesterday: An Impartial View of Soviet Russia* (Garden City, N.Y.: Doubleday, Doran & Co., 1930); Archibald Lyall, *Russian Roundabout: A Non-Political Pilgrimage* (London: D. Harmsworth, 1933).

⁵⁶ Richard Eaton, *Under the Red Flag* (New York: Brentano's, Inc., 1924), 1.

⁵⁷ The idea of Russia as "Oriental," and placed in a tug of war between Asia and Europe became a particularly present trope toward the end of the 19th century with the advent of Russian Studies in American universities. After the Bolshevik regime took power, prominent Russian émigrés in the US and Europe helped transpose these understandings of difference onto communism. These ideas were replicated in different travelogues. See David C. Engerman, *Modernization from the*

British travelogues also found circulation in the United States. In one such volume, a British author compares his experience of traveling in Russia before and after World War I. He described the simple process of getting a visa for his passport at the Russian Consulate before the war. In contrast to that straightforward approach, he complained that to "visit the same territory for which that single *visa* served, I had to make a pilgrimage around the Consulates of Soviet Russia, Finland, Estonia, Latvia, Lithuania, and Poland." He noted that not only the fee for these services had increased, but he also had to "distribute a dozen copies of [his] photograph."⁵⁸ He continued that the inconveniences he faced to secure the appropriate passport and visas resulted from Russia's right to self-determination. The passport, he remarked, symbolized

the separate political systems, separate foreign policies, separate military organizations, separate national ideals and ambitions, separate tariff walls, and other obstructions to trade and communication. North-eastern Europe has been Balkanized. This was the price which had to be paid for escape from the Russian maelstrom.⁵⁹

Though complaining of the changes, the account reaffirmed the interwar conviction that nations were full of nationals and that people and systems radically changed from one side of the border to the other. The naturalization of difference not only posed an inconvenience but also allowed for increased hostility to international travelers, non-nationals, within a territory.

Even in travelogues that sought to discredit notions of Russian interference or the oft pointed to bureaucratic hoops, writers rooted new assumptions of the reach of state power. One

Other Shore: American Intellectuals and the Romance of Russian Development (Harvard University Press, 2009); Donald E. Davis and Eugene P. Trani, *Distorted Mirrors: Americans and Their Relations with Russia and China in the Twentieth Century* (Columbia: University of Missouri Press, 2009), 29–33. Also see Ronald Grigor Suny and Terry Martin, eds., *A State of Nations: Empire and Nation-Making in the Age of Lenin and Stalin* (Oxford: Oxford University Press, 2001).

⁵⁸ A. Maccallum Scott, *Beyond the Baltic*, (New York: George H. Doran Company, 1926), 8.

⁵⁹ Scott, 8–9.

author pointed out that his "travels in Russia were attended with none of the oft-quoted interferences on the part of the Soviet government." He explained that "Once assured that [he] was not a destructive agent," his days and travels "were absolutely free from any sign of guidance except that of my own hired non-communist interpreter."⁶⁰ Like Harrison, his remarks embedded assumptions of government authority over movement, framing the Russian government's surveillance of him to ascertain whether he was a "destructive agent," as quotidian, though they would have been unheard of a decade before.

Over the 1920s, the Soviet government also took pains to seem more welcoming to would-be tourists. By the late 1920s, the Soviet government had founded a travel agency to promote Russia as a vacation destination.⁶¹ The Intourist Agency helped facilitate Americans' acquisition of the appropriate documents for travel to Russia and curated their experience as tourists once within the country. However, while encouraging travel, Intourist did not offer more robust protections for Americans while in Russia. One traveler recounted that the agency's employees had withheld their passports upon their entry into the country. Intourist explained that their documents "would be returned" when that person "required it, but when and how [he] was to get it back was not explained." Comparing their experience to that of a newly arrived immigrant in the United States, the traveler complained that the passport inspection in Russia was seemingly unending. He noted that he had "often heard complaints at the lengthy examination of passengers upon entry into the United States, but it was nothing to the cross-examination to which we were subjected by these burly Bolsheviks."⁶²

⁶⁰ Darling, *Ding Goes to Russia*, v, vii.

⁶¹ See Noack, "A Mighty Weapon in the Class War."

⁶² Carveth Wells, *Kapoot: The Narrative of a Journey from Leningrad to Mount Ararat in Search of Noah's Ark* (New York: Robert M. McBride & Company, 1933), 10–12.

Though many travelers took pains to emphasize in their writing that accounts of Russian governmental surveillance were overblown, and they experienced no interference from government officials, the importance of the appropriate documents recurred in almost every account. One book noted that "in Russia a person without 'documents' had no official existence. He cannot get a room; he cannot get work; he is likely to be pounced upon at any moment by the police as a suspicious character."⁶³ The ubiquity of travel documents had reached new levels in the United States, as well. The passport and visa system could provide the Russian and the American government additional control of not just foreign travelers but also their citizens.

The US State Department was reluctant to let Americans travel to Soviet Russia at all. Until the ARA began their work in Russia in the mission that secured the release of Marguerite Harrison, the State Department had refused to sanction any travel into that country from the time the Bolshevik party had taken power in Russia. Though the State Department could not physically block interested Americans from going into Russian territory, it could withhold their American passport. Without a passport, travelers would be denied admittance at official entry points, where, as the travel writers bemoaned, they required not only a passport but an appropriate visa. Indeed, wartime passport restrictions for travel to Russia remained in place for all Americans until June of 1920, after which passports could be obtained for trips to the Baltic States (Lithuania, Latvia, and Estonia) but not to Russia. This American government claimed a new peacetime power to exercise control over the international travel of its citizens.

The Secretary of State instructed the Diplomatic and Consular Officers to remove a citizen's passport if they suspected the person would enter Soviet Russia. Furthermore, according

⁶³ Wilson and Mitchel, 36-37.

to the Secretary, the officer should only return the passport upon receiving a promise that its holder no longer intended to travel to Russia. He reminded his officers, "the Department wishes to prevent its passports from in any way coming into the possession of the representatives of Soviet Russia."⁶⁴ The new passport system made it so that passports would be a requirement for anyone entering or leaving the United States, as well as most other countries, but the passports themselves had yet to be systematized or centralized in their distribution.

As the use of passports became ubiquitous for all international travel, the threat of passport forgery or theft, though largely imagined, informed the State Department's approach toward not only immigrants coming to the United States but also Americans traveling abroad.⁶⁵ The risk of an American passport falling into the hands of a person from an enemy government threatened to undermine national security. In the few cases of actual passport fraud during and after World War I, news and government reports alike raised Soviet Russia as a possible entity that might forge American passports for illicit purposes.

⁶⁴ American Citizens Traveling to the Soviet Union – Passport Restrictions, 1919-1921. Confidential Memo from Secretary of State Bainbridge Colby to American Diplomatic and Consular Officers in Europe and Asia. June 15, 1920, FSP 6200.

⁶⁵ In the *New York Times*, for example, "Passports for Real Workers Only: State Department Insists That All Grandstand War Spectators Shall Return from France at Once -A Ban on Pretenders in Relief Units" May 5, 1918, *NTY*, 78; "German Red Agent Caught in Chicago; Editor of Der Klassen Kampf Arrested After Three Years' Search by Authorities. Wanted as draft dodger also on charges of passport forgery – circulated German Communist Propaganda Here," August 6, 1920, *NYT*, 11; "Reed Using Forged Papers; State Department Tells of American Bolshevik's Activities Abroad," September 12, 1920, *NYT*, 12; "Fear Great Invasion of Undesirables: State Department Agents Confirm Report of Vast System of Passport Forgeries," January 19, 1921, *NYT*, 6; "Australian Archduke Jailed: Rainer Salvator Arrested at Laibach on Passport Forgery Charge," August 23, 1921, *NYT*, 4. Also see: "Traveling Syrians, Immovable Turks: Passport Fraud and Migrant Smuggling at the Close of Empire, 1918-1920," in *Between the Ottomans and the Entente: The First World War in the Syrian and Lebanese Diaspora, 1908-1925* (Oxford: Oxford UP, 2019), 112-136.

Given this suspicion, all State Department agents operating in the adjacent territory to Soviet Russia began confiscating passports of any Americans who expressed an intention to enter Bolshevik Russia. Further, agents attempted to deter travelers by warning them of "the absence of accredited American diplomatic and consular officials." The implication of this warning was that entry into Russia would be the responsibility of the individual, not the United States government. According to official State Department policy, the failure of any American to relinquish their passport would result in the "cancellation of his passport and the issuance to him of an emergency passport valid only for immediate return to the United States." The directive further determined that such a person would "be refused a new passport to enable him again to proceed abroad until the Department [was] satisfied with his explanation of the willful violation of the warning given to him."

American humanitarian groups, however, continued traveling to Russia to offer aid where they were able. While the State Department acknowledged that the purpose of these trips was "legitimate and necessary," they refused to assist these humanitarian workers in their travel across the Soviet border. Under official direction, no consular or diplomatic officials should facilitate humanitarian workers' entry into Russia. The Secretary of State instructed such officials to warn American humanitarian workers that they should "not expect to receive the protection" of the American government after they entered Soviet Russia and that "they [took] the journey at their own risk and responsibility."⁶⁶

During the next year and a half, the State Department refined its travel policy. In November of 1921, as ARA staff traveled to Russia to assist with famine relief efforts, the State

⁶⁶ American Citizens Traveling to the Soviet Union – Passport Restrictions, 1919-1921. Confidential Memo from Secretary of State Bainbridge Colby to American Diplomatic and Consular Officers in Europe and Asia. June 15, 1920, FSP 6200.

Department eventually resumed issuing and amending passports for Russia, so long as the sojourner showed the purpose of their travel to meet the standard of "legitimate and necessary." Americans, however, would continue to be traveling at their own risk. The fears of passport forgery seemed to have abated because consular officials would no longer be tasked with confiscating American passports for the duration of their holder's trip to Russia.⁶⁷

However, even with American passports, the ARA employees lacked the appropriate visas for entry into Russia. Obtaining the appropriate travel documents to enable their travel required some gymnastics. Indeed, like Hoover, the head of the ARA, reflected later, "Passports provided a real grief. The need to get visas from every country for every pass over frontiers—with all the red tape, investigations, and inspections by officials on each side of all frontiers—caused long delays and discomforts" for the ARA staff. To facilitate their travel, ARA officials attempted to create a different category of internationally recognized membership.

With American passports in hand, Hoover negotiated exceptions with other foreign governments for ARA staff. His solution was to issue additional passports for their American employees to attach to their United States passports. The ARA passport would be in lieu of getting visas from countries on an individual basis. With the exception of France and the United Kingdom, most countries accepted Hoover's ARA passports as substitutes for visas. As Hoover commented in retrospect, the ARA passports "became a token of confidence that no other organization in history has ever possessed."⁶⁸

⁶⁷ American Citizens Traveling to the Soviet Union – Passport Restrictions, 1919-1921. Memo from Charles E Hughes to American Diplomatic and Consular officers. November 2, 1921, FSP 5200.

⁶⁸ Herbert Hoover, *An American Epic: Famine in Forty-Five Nations Organization Behind the Front 1914-1923*, vol. 2 (Chicago: Henry Regnery Co., 1960), 375. The ARA's predecessor organization, the Commission for Relief in Belgium (CRB), also under Hoover's control, had established a system for wartime they used as model for not war, but rather, conditions of

The ARA's ability to grant its American personnel special passports represented the singular position the organization occupied in relationship with official governmental structures. From the perspective of the State Department, the ARA passport allowed the United States to provide aid in a way that would not weaken their official position of nonrecognition. It would also allow the State Department, through the ARA, to resume certain consular functions in Russia that were otherwise not possible due to the American nonrecognition policy.⁶⁹

Prior to the ARA's involvement in Russia, the absence of formal communication channels made the situation difficult to assess definitively. The limited flow of information between Russia and the United States concealed the severity of the growing famine conditions in Soviet Russia. Marguerite Harrison's need to conduct an intelligence mission focused on the cultural and social state of affairs in Russia represented the dearth of information the United States had on the country. The absence of regular communication made otherwise harmless information such as ethnographic descriptions into sensitive data.

nonrecognition. Patenaude writes that like the ARA, the CRB worked as a neutral organization to feed the people in Belgium “across the British blockade and numerous political and diplomatic minefields. Before long the CRB acquired the attributes of an independent state: it flew its own flag, issued its own passports, and operated its own fleet of cargo ships under an immunity agreed to by all the belligerent powers. Hoover’s own American agents distributed CRB food within Belgium until the United States entered the war, at which point operations on the ground were handed over to a neutral Spanish-Dutch committee.” *The Big Show in Bololand*, 28-29.

⁶⁹ For example, Secretary of State Hughes asked Hoover, on behalf of the Secretary of Labor, whether he could “force the Soviet government to accept, as a condition of receiving American assistance about seventy-five Russian citizens who had been arrested during the Palmer raids? The Soviet authorities had consistently refused to repatriate Russians who did not have passports that had been approved by their own official agencies.” While sympathizing with the Secretary of Labor, Hoover declined to add the condition to the aid, worrying that it would jeopardize negotiations. Benjamin M. Weissman, *Herbert Hoover and Famine Relief to Soviet Russia, 1921-1923* (Palo Alto: Stanford University Press, 1974), 55–56.

The information's value was its ability to determine whether the new governmental structure and its collectivization policies were successful and to what degree. The Soviet government had an interest in limiting any negative coverage of what was happening in Russia to avoid, where at all possible, allowing other governments to use that information to discredit the new governance structure. The United States, on the other hand, was interested in that information to not only assess the viability and longevity of Soviet Russia but also to discourage any similar kinds of social experiments from taking root in the United States.⁷⁰

For a time, Russian officials successfully minimized knowledge of the scarcity of food in their cities and towns alike. However, the lack of information would later complicate Russian calls for international aid and the responses of humanitarian organizations. In general terms, western government officials and humanitarian organizations knew that Russia was experiencing

⁷⁰ The scale of the Russian Famine from 1921-23 has largely been overshadowed in literature by the Belgian and Western European food crisis during and after the First World War, on the one hand, and the Russian famine from 1932-33, on the other. The exclusion of this crisis from general literature is also due to treating the ARA aid as a direct continuation of other relief efforts in Europe, which obscures the significance of the event as particular to the Russian experience of Revolution, economic reorganization, Western blockade, and civil war. A notable exception to this omission is Bruno Cabanes chapter, "The hungry and the sick: Herbert Hoover, the Russian famine, and the professionalization of humanitarian aid," in his book *The Great War and the Origins of Humanitarianism, 1918-1924* (Cambridge: Cambridge University Press, 2014), 189-247. Other analyses of the 1921-23 famine in Russia include: Charles M. Edmondson, "The politics of hunger: the Soviet response to famine, 1921," *Soviet Studies*, 29: 4 (1977): 506-18; Roman Serbyn, "The famine of 1921-1923: a model for 1932-1933?" in Roman Serbyn and Bowdan Krawchenko, *Famine in Ukraine, 1932-1933* (Edmonton: Canadian Institute of Ukrainian Studies, University of Alberta, 1986). For a demographic analysis of the famine, see: Sergueï Adamets, *Guerre civile et famine en Russie: le pouvoir bolchevique et la population face à la catastrophe démographique, 1917-1923* (Paris: Institut d'études slaves, 2003). The famine is also covered at length in the official institutional history of the ARA written in 1927: Harold H. Fisher, *The Famine in Soviet Russia, 1919-1923* (New York: Macmillan, 1927). For a further analysis of American humanitarian aid at the beginning of the 1921-23 famine see Patenaude, *The Big Show in Bololand*.

food shortages like most of Europe.⁷¹ The degree to which deficiency constituted a crisis, however, was less evident.

The Soviet adoption of the New Economic Policy (NEP) in March of 1921 marked the first retreat from agricultural collectivization put in place by Lenin in an attempt to increase local food supplies. The NEP allowed for some private farms and businesses and put a structured tax system to replace the haphazard seizure of farm surpluses from peasants.⁷² The policy shift represented in the NEP provided some economic relief for Soviet Russia, particularly in the resumption of regular economic, if not diplomatic, relations with Western Europe. Still, the reforms were insufficient to ameliorate the food crisis.⁷³

In the summer of 1921, as a drought further diminished the already inadequate food reserves, the famine crisis overtook the political benefit of limiting the outflow of information.⁷⁴ By the end of June, *Pravda*, the official voice of the Soviet community and the Central Committee of the Communist Party, began to acknowledge the extent of the disaster. Their first report noted that 25 million people across multiple provinces were already experiencing famine conditions.⁷⁵ A few days later, another article said the famine was "the beginning of a real

⁷¹ Humanitarian relief workers in Europe began to have a sense of the crisis in 1919. In the spring of that year, Herbert Hoover, who oversaw famine relief in Belgium with the American Relief Administration, offered aid with the conditions that, among other things, Bolshevik forces cease fighting. While Soviet officials welcomed aid, they saw the outlined terms of the agreement as imposing political conditions, and thus undermining the sovereignty of Soviet Russia. Fischer, *The Famine in Soviet Russia*, 22-24.

⁷² Benson Lee Grayson, *The American Image of Russia, 1917-1977* (New York: Ungar, 1978), 7.

⁷³ Cabanes, *The Great War and the Origins of Humanitarianism*, 200-204.

⁷⁴ Charles M. Edmondson, "The Politics of Hunger: The Soviet Response to Famine, 1921," *Soviet Studies* 29, no. 4 (1977): 506-18; Roman Serbyn, "The Famine of 1921-1923: A Model for 1932-1933?" Bohdan Krawchenko and Roman. Serbyn, eds., *Famine in Ukraine, 1932-1933* (Ontario: Canadian Institute of Ukrainian Studies, University of Alberta, 1986), 147-78.

⁷⁵ Edmondson, "The Politics of Hunger," 515.

disaster which will certainly embrace the entire country if the most resolute measures are not taken immediately."⁷⁶

The following month, on July 13, Maxim Gorky, speaking for the All-Russia Famine Relief Commission, issued a request for international aid.⁷⁷ In a telegram to Fridtjof Nansen, an internationally renowned humanitarian, that Nansen subsequently shared with the State Department and the ARA, Gorky appealed particularly to the "North American Nation through the Archbishop of New York."⁷⁸ The telegram asked its reader to restore their faith in humanity that had been shaken by World War I and suggested the famine in Russia could offer "humanitarians a splendid opportunity to demonstrate the vitality of humanitarianism."⁷⁹ Gorky's appeal concluded by personally asking "all honest European and American people for prompt aid to Russian people. Give bread and medicines."⁸⁰

The humanitarian appeal drew from the language of collectivity that American and European politicians had deployed during World War I. The affective qualities Gorky drew on pulled at the moral sentiments of its American audience.⁸¹ The telegram represented an unusual

⁷⁶ Pravda, 30 June 1921, translated in Edmondson, 515.

⁷⁷ Gorky's telegram was one of two directed at the international community. The other was signed by Tikhon, the leader of the Russian Orthodox Church, and sent via Nansen to the British. Cabanes, *The Great War and the Origins of Humanitarianism*, 204.

⁷⁸ *FRUS 1921, Russia*, vol. 2, 804-805

⁷⁹ "Maxim Gorky's Appeal to the American People," *American Relief Administration Bulletin* Series 2, no. 16 (September 1, 1921): 2.

⁸⁰ *FRUS, 1921, Russia*, vol. 2, p. 805

⁸¹ Didier Fassin defines humanitarianism in terms of its temporality, the legitimacy of its object, and the driving spirit of its action. The spirit of its action, he argues, "derives from moral sentiments: it operates in both the emotional register and the register of values, what people feel and what they believe." Didier Fassin, *Humanitarian Reason: A Moral History of the Present* (Berkeley: University of California Press, 2011), 189. For a broader conversation on the impact of moral sentiment during the 1921 famine, see: "United States Famine Relief to Soviet Russia,

appeal for aid as it was not addressed to heads of state but instead to "all honest people."

Additionally, the sender, Gorky, was not a government official but rather an internationally celebrated writer, something which American government leaders noticed.⁸²

The Americans who negotiated relief terms through unofficial channels met Gorky's lofty prose with political demands. In his reply to Gorky, Nansen indicated the expedience of releasing American citizens from Russian prisons.⁸³ In his subsequent communications with Gorky, Hoover reiterated this sentiment, writing, "the absolute *sine qua non* of any assistance must be the release of Americans now held prisoner in Russia and an adequate provision for administration." While setting the terms that the American government could not, Hoover emphasized that the American Relief Administration was a "purely voluntary association and an entirely unofficial organization" that cooperated with other "charitable American organizations supported wholly through the generosity of the American people."⁸⁴ Though, as Michael Barnett notes, the organization bore "an official imprint," it was principally dependent on private relief agencies for its funding.⁸⁵ The communications between Hoover and Gorky, as certified yet

1921," Chapter 3 in Robert W. McElroy, *Morality and American Foreign Policy: The Role of Ethics in International Affairs* (Princeton: Princeton University Press, 1992), 57–87.

⁸² Hoover commented on this matter to Secretary of State Hughes, noting, "You may have also noticed the appeals being sent out by prominent Russians including Maxim Gorky for help and the curious statements of the Bolshevik government giving these appeals the color of being unauthorized but that the world is wicked in refusing them." *FRUS*, 1921, Russia, Vol. 2, p. 806

⁸³ "Copy of telegram sent by Doctor Nansen [to Maxim Gorky]," July 14, 1921, *FRUS*, 1921, Russia, vol. 2, p. 805

⁸⁴ "The Chairman of the American Relief Administration (Hoover) to the London Office of the American Relief Administration," June 23, 1921, *FRUS*, 1921, *Russia* vol. 2, 807-808.

⁸⁵ Michael Barnett, *Empire of Humanity: A History of Humanitarianism* (Ithaca: Cornell University Press, 2011), 87. Oliver Zunz elaborates this point, arguing Hoover used a hybrid approach to secure funding for the ARA, sparking the "enduring debate on the role that philanthropy should play in affairs of state." The experiment in humanitarianism, as seen through Hoover's philanthropical work turned "institutions of civil society, from philanthropic foundations to community organizations, into instruments of the executive branch while calling

unofficial proxies for their respective governments, were particularly apparent in Gorky's response, where he acknowledged that only the Soviet government could handle the matter of freeing political prisoners. So, he forwarded Hoover's request to the appropriate official.

The precise terms for aid were set in Riga through negotiations between Walter Lyman Brown, representing the ARA, and Maxim Litvinov, representing the Council of People's Commissars of the Russian Socialist Federative Soviet Republic. Both Brown and Litvinov had the difficult job of both securing a deal and maintaining their ideological commitments.⁸⁶ To open negotiations with a demonstration of good faith, Russia released seven American prisoners, including Marguerite Harrison. By the time negotiations began, the newly emancipated Americans had already left Russia.⁸⁷

The Riga negotiations were another unofficial venue for American-Russian contestations of state sovereignty. The conversation echoed the more extended history of American actors

on them for voluntary action.” Olivier Zunz, *Philanthropy in America: A History* (Princeton: Princeton University Press, 2011), 94. The Near East Relief (NER) represented another model of humanitarian relief, but based entirely in private funding. See “‘America’s Wards’: Near East Relief and American Humanitarian Exceptionalism, 1919-1923,” Chapter 4 in Keith David Watenpugh, *Bread from Stones: The Middle East and the Making of Modern Humanitarianism* (Oakland, California: University of California Press, 2015), 91–123. The Society of Friends and the Red Cross provide two other organizational models with varying degrees of relationship to the American and British governments. See David W. McFadden, “The Politics of Relief: American Quakers and Russian Bolsheviks, 1917-1921,” *Quaker History* 86, no. 1 (1997): 1–21; David McFadden, Claire Gorfinkel, and Sergei Nikitin, *Constructive Spirit: Quakers in Revolutionary Russia* (Pasadena, Calif: Intentional Productions, 2004); Shai M. Dromi, *Above the Fray: The Red Cross and the Making of the Humanitarian NGO Sector* (Chicago: University of Chicago Press, 2020).

⁸⁶ As Barnett comments, the operation required “considerable diplomatic and logistical skill to avoid giving the appearance of either strengthening the Bolshevik government, and thus falling afoul of American public opinion, or attempting to use relief as a way of destabilizing the Bolsheviks, and thus being evicted by the new Soviet regime.” *Empire of Humanity*, 87.

⁸⁷ Benjamin M. Weissman, “Herbert Hoover’s ‘Treaty’ with Soviet Russia: August 20, 1921,” *Slavic Review* 28, no. 2 (1969): 280–81.

straddling the line between official and unofficial as they secured favorable terms with Asian countries.⁸⁸ A major point of contention through the negotiations between the ARA and Soviet officials was who would have authority over the American humanitarian workers. The ARA insisted that it have complete control over its employees and that they should not be subject to the local jurisdiction or be arrested by the Russian government. The ARA had included this provision in the previous agreements it made with other countries. However, this would not be the case in Russia. Litvinov argued that his government would have full authority to control those people within their territory as a matter of sovereignty.⁸⁹ After the negotiations had concluded, Brown suggested that the Soviet leadership was concerned the ARA would establish a "state within a state" to undermine Bolshevik legitimacy using humanitarianism as a pretext and "food as weapons."⁹⁰

⁸⁸ Through the 19th century, in particular, the U.S. negotiations with China particularly created spaces where Americans could have the right to impose an extraterritorial legal order. See, in particular Teemu Ruskola, *Legal Orientalism* (Cambridge: Harvard University Press, 2013); Eileen P. Scully, *Bargaining with the State from Afar: American Citizenship in Treaty Port China, 1844-1942* (New York: Columbia University Press, 2001). The US government, in enacting extraterritorial legal regimes was in many ways following the example of the British, and other European colonial powers. See Douglas Howland, "The Foreign and the Sovereign: Extraterritoriality in East Asia," Chapter 3 in *States of Sovereignty*, 35-55; Turan Kayaoğlu, *Legal imperialism: sovereignty and extraterritoriality in Japan, the Ottoman Empire, and China* (New York: Cambridge UP, 2010); Cole Koskam, *Improvised City: Architecture and Governance in Shanghai, 1843-1937* (Seattle: University of Washington Press, 2019); James L. Hevia, *English Lessons: The Pedagogy of Imperialism in the Nineteenth-Century China* (Durham: Duke University Press, 2003), 1-48. Extraterritorial negotiations also represented the nexus between legal pluralism and state building, as examined by Lauren A. Benton in *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (Cambridge: Cambridge University Press, 2002), 210-252.

⁸⁹ Brown to Hoover, Aug. 18, 1921, HHA 17-7 as cited in Weissman, 286. For other examples of American citizens asserting extraterritorial rights, see Scully, *Bargaining with the State from Afar* particularly the chapter "Extraterritorial Americans, before the rush to empire," 49-80.

⁹⁰ Brown to Hoover, Aug. 27, 1921, HHA 243-7 as cited in Weissman, 287. Such fears were also stoked when Hoover's ARA lieutenant, T.T.C. Gregory, published a series of articles entitled "Stemming the Tide of Bolshevism," explicitly calling for humanitarian aid to be used to dismantle the Soviet regime. T.T.C. Gregory, "Stemming the Red Tide: A Narrative of Hoover's

Concerns over the weaponization of food reflected the increased quantification of humanitarian aid through metrics like the calorie. It gave humanitarians a vocabulary to quantify their aid and allowed commentators to compare different societies and their development. As Nick Cullather observes, the creation of the calorie "popularized and factualized a set of assumptions that allowed Americans to see food as an instrument of power."⁹¹ Cullather identifies Hoover as a particular champion of this mode of international scientific management, which he deployed as "an American ideological response to Leninism."⁹² Having witnessed the effects of food shortages in Belgium, Hoover saw famines as both a "core vulnerability in the international order" and food aid "an instrument of US influence."⁹³ Brown's Russian counterparts had correctly surmised that the ARA viewed their aid as a way to stymie the spread of Bolshevism.

While Brown attempted to assuage Litvinov's concerns in Riga, Hoover remained resolute in his demand to have ultimate jurisdiction over his workers. In his final message to Brown before signing the Riga Agreement, Hoover emphasized his initial position that "any

Economic Victory in Europe," *The World's Work* 41 (April 1921): 608–13. T.T.C. Gregory, "Stemming the Red Tide: How Americans Struggled to Save Central Europe," *The World's Work* 42 (May 1921): 95–99. T.T.C. Gregory, "Overthrowing a Red Regime: What a San Francisco Lawyer Did to Bela Kun," *The World's Work* 42 (June 1921): 153–64.

⁹¹ Nick Cullather, "The Foreign Policy of the Calorie," *AHR* 112, no. 2 (2007): 339.

⁹² Cullather, 350–51; Julia Irwin, *Making the World Safe: The American Red Cross and a Nation's Humanitarian Awakening* (New York: Oxford University Press, 2013), 141–48.

⁹³ Cullather, "The Foreign Policy of the Calorie," 349. Barnett reiterates this idea, writing that the ARA showed US officials how "they could harness the humanitarians spirit for their broader foreign policy goals." Barnett, *Empire of Humanity*, 87. For the economic potential embedded in American food aid in Russia see: Emily Rosenberg, *Spreading the American Dream: American Economic and Cultural Expansion, 1890-1945* (New York, NY: Hill and Wang, 1982), 75–77, 117–18.

Americans now in Russia will be given full facilities to leave."⁹⁴ Despite the fundamental divergence in whom they thought ARA workers should ultimately respond, Brown and Litvinov eventually reached an agreement that each party found adequate.

Bending language to accommodate both the ARA and the Soviet interests, the Riga Agreement stipulated that American ARA officials, but not their foreign counterparts, would not be subject to searches without evidence presented to the ARA itself and similarly would be shielded from arrest. The ARA agreed to remove any personnel that could be proven to have violated the Administration's pledge to not interfere in local politics. The terms allowed both parties to cede some degree of control while outwardly saving face through the vagueness of what would constitute "proof" or sufficient evidence.⁹⁵

Though the agreement was between a private organization and the government of Russia, the terms amounted to what one ARA official referred to as a "virtual treaty," through which the ARA could "carry on its work, if not with ease, at least with efficiency and comparative safety." The agreement represented a means through which ARA officials could

⁹⁴ Hoover to Brown, Aug. 18, 1921, HHA 17-7, in Weissman, "Herbert Hoover's 'Treaty' with Soviet Russia," 286.

⁹⁵ As Bertrand M. Patenaude writes in his book on the American famine relief mission, "the deadlock of the privileged status Brown sought for the American relief workers had been brokered by means of some artfully ambiguous prose. The ARA men would enjoy immunity from personal search and arrest, though anyone engaging in political or commercial activity would be withdrawn from the mission at the request of the 'Central Soviet Authorities,' after they had submitted the reasons and the evidence to the appropriate ARA chief, who presumably would have an opportunity to pass judgement on the veracity of the charges As well, the Soviet authorities would have the right to search ARA premises if they had definite proof of foul play and if they conducted their search in the presence of an official of the ARA. If such an investigation failed to turn up anything incriminating and was thus proved to have been unwarranted, the Soviet official who had instigated the search was to be punished." *The Big Show in Bololand: The American Relief Expedition to Soviet Russia in the Famine of 1921* (Stanford, Calif.: Stanford University Press, 2002), 45.

"feel assured of a reasonable amount of protection" for their "personnel and freedom from interference" with their work.⁹⁶

Though the ARA went to great lengths to protect its American workers and those working for other humanitarian organizations under its purview, their scope of control was limited once those workers were actually in Russia. A woman working for a Quaker organization affiliated with the ARA recounted her surprise to learn that she would not be able to exit Russia at her discretion. Upon briefly entertaining the idea of visiting China, she was astonished when the person she discussed it with said the trip would not be allowed, saying, "they will not permit you to go. It is impossible for you to leave your work." The humanitarian described protesting that she was not Russian, but as an American citizen and she could return to the United States if she wished, adding that "surely they cannot keep an American citizen here against her will." Her conversation partner countered, saying that, in fact, "they say that you are here and as long as you are here, you are not an American, but a Russian. Hence, you must work as the Russians work."

The humanitarian was stunned to hear that she had been mobilized, like a soldier in the Russian army, to fight the famine. The person she was talking to warned, "Do as they say or die. You came here and now you are the same as a Russian. Everyone is mobilized and no one can do what they want to do." She described her conversation partner lamenting,

do you think I want to stay in this dirty office and work? I do not. If I could I'd leave tomorrow. I would go to European Russia. That's my home. But I can't go. I've got to stay here and work – work and starve until I die. That's the only open door – to die and leave it all.⁹⁷

⁹⁶ Harold Jefferson Coolidge and Robert Howard Lord, *Archibald Cary Coolidge: His Life and Letters* (Boston: Houghton Mifflin, 1932), 273–74.

⁹⁷ Elisabeth R. Shapleigh, *The Specter: An American Woman in Soviet Russia* (Boston: The Four Seas Company, 1924), 149–50.

Even after the extensive negotiations between Brown and Litvinov, the ARA's limited influence left American humanitarians trapped in these bleak circumstances.

In another conversation, the same humanitarian received the same response upon telling a different person she would leave Russia. She described that person responding, "you cannot do it. You may want to leave, but you can't. We want to go, but we can't go."⁹⁸ Again, the humanitarian attempted to argue that her American citizenship should allow her departure, saying they could not keep her there. She recounted her shock when the person she was talking to replied, "it does not make any difference you are an American. They have mobilized you here, the same as we Russians, and they will not let you go. You must work here till you die; so you may as well accept your fate, first as last, and keep quiet about it." She thought the man she was talking to seemed to laugh about that fate, and he felt a "certain satisfaction that an American was obliged to suffer the same as the Russians."⁹⁹

Throughout her time in Russia, the humanitarian worker recalled the many ways her status as an American bore no meaning. Without diplomatic or consular protection, her government could not guarantee her rights. Emblematic of the general difficulty that Americans faced in Russia, the humanitarian recalled meeting an American nurse who could not leave Russia despite the stipulations in the Riga Agreement. The nurse explained that she could not return to the United States because she "had lost her American passport; hence could not prove her American citizenship."¹⁰⁰

⁹⁸ Shapleigh, 192.

⁹⁹ Shapleigh, 152–53, 155, 192.

¹⁰⁰ Shapleigh, 165.

Even for the Americans who would prove their citizenship, their capacity to leave Russia was limited. The ARA was well aware of problems like that of the American nurse. The Riga Agreement included terms beyond freeing the American prisoners in Russia and attempted to "free" all Americans in Russia. It stipulated that all Americans in Russia, many of whom lacked exit permits, would be allowed to leave if they desired. To facilitate their exit, the ARA would act as an intermediary between these people and the American consulate in Riga, who could secure them the appropriate documents to leave Russia.

For this job, Hoover called upon Archibald C. Coolidge of Harvard University, Russian historian and father of Slavic studies in the US¹⁰¹ In addition to his academic accolades, Coolidge had direct ties with the State Department; in previous years, he assisted the Wilson administration in reporting on the situation in Austria-Hungary and neighboring countries and advised the American delegation on participation in the Paris Peace Conference.¹⁰² In early August, Hoover approached Coolidge before final terms had been set in Riga to assist in the humanitarian effort, and Coolidge readily acquiesced, sailing for Russia on September 3.

When Coolidge arrived in Russia in late September, he was surprised by the work laid out for him. While some American citizens in Russia had been born in the United States or naturalized directly by the US government, many people claiming citizenship had never set foot in the United States. Their estrangement from the continental US did not disqualify them from being citizens. Many were the wives of Russian immigrants to the United States, who had subsequently been naturalized. By the citizenship laws at the time, conferring citizenship on any

¹⁰¹ Coolidge and Lord, *Archibald Cary Coolidge*, 273. After he returned from Russia, Coolidge would be one of the founders for the Council on Foreign Relations, and a founding member and first editor-in-chief of its publication, *Foreign Affairs*.

¹⁰² See the Coolidge Mission, *FRUS*, Paris Peace Conference, Vol 2 (1919): 218-237; Archibald Cary Coolidge, "A Plea for the Study of History of Norther Europe," *AHR* 2 (1896) 34-39.

husband would automatically confer citizenship on their wife. Thus, the Russian wives whose husbands had migrated to the United States sought to exercise their citizenship rights and secure exit from Soviet Russia to the US Other people seeking to leave Russia were those who returned to Russia before World War I and had been "unable to get back or to communicate with their families," and even when they had "been lucky enough to obtain permission to leave the country [had] not the money to take them to Riga where there [was] a representative of the US Government who [had] some funds to aid them."¹⁰³

Without consulates in the country, Coolidge and the ARA offices represented the sole possibility of exit for those who could not sufficiently prove to Soviet authorities that they were American. In a letter to his father, Coolidge noted the importance of the ARA in this capacity, saying that only ARA could make good on the promise of exit held within the Riga Agreement.¹⁰⁴ Coolidge's task was not only to establish the citizenship status of these people for the American government but also for the Soviet government, which he noted were "by no means the same thing."¹⁰⁵ Even when these groundline facts had been established, how the people or persons were to actually leave Russia remained an ongoing question, as many people lacked the resources to pay for their departure from Russia to Riga, let alone from Latvia to the United States.

Put together, the dearth of adequate information and the exceptional diplomatic obstacles around proving American citizenship strained Coolidge's ability to complete the work, never mind his capacity for success. Nevertheless, Coolidge's office still represented the best possible

¹⁰³ Coolidge and Lord, *Archibald Cary Coolidge*, 277.

¹⁰⁴ Coolidge and Lord, 276.

¹⁰⁵ Coolidge and Lord, 277.

hope for assistance for many American citizens, whether native-born or naturalized, who would otherwise have no opportunity to leave Russia.

The policy of nonrecognition not only posed an inconvenience but had the effect of nullifying their rights as American citizens while inside Russian territory. Even as instructions to diplomatic and consular officials emphasized the danger that Americans faced in traveling to Russia due to their lack of diplomatic protection, the State Department handled issues that arose on an ad hoc basis, if at all. Implicit in their attempts to dissuade Americans from traveling to Russia, regardless of the individual's rationale, was the limited scope of American citizenship. It forced individual citizens, rather than their government, to negotiate for themselves. Ultimately, only through the work of the ARA could the American government communicate indirectly with their Russian counterparts to establish functional relationships to handle travel and humanitarianism.

In the face of the range of obstacles that faced American citizens while in Russia, the State Department held fast to its policy of nonrecognition. The foreign policy position was of more consequence than the relatively few American citizens that found themselves caught in the diplomatic crossfire. However, the tangible benefits of a stance of nonrecognition are challenging to identify. In many ways, the ideological consistency of the American position came at the expense of the traditional metrics of international and Westphalian sovereignty. Time and again, the policy forced the American federal government to reveal its powerlessness in the absence of diplomatic relations.

Acting as an intermediary between the Soviet and American governments, the ARA provided a means of ameliorating the otherwise unsustainable position. It allowed the State

Department to project some of its authority on nongovernmental entities and thus maintain a technical stance of nonrecognition while increasingly receiving the benefits of more accessible communication. Through the decade, commercial and industrial projects replaced the ARA and the humanitarian efforts. Companies could use a different kind of expertise, not in food aid but in engineering plans, to leverage American power. By the late 1920s and early 1930s, American businesspeople, scientists, and engineers joined the other sojourners from the United States.¹⁰⁶ Nevertheless, through the period, even with powerful commercial interests to help protect their American employees, travelers remained illegible to an international system interested in categorizing persons through their nationality and citizenship.

¹⁰⁶ See, in particular, Maurice Hindus, "American Engineers in Russia," *American Magazine* (April, 1932); Maurice Hindus, "Henry Ford Conquers Russia," *Outlook* 146 (29 June 1927): 280-283; Walter Arnold Rukeyser, *Working for the Soviets: An American Engineer in Russia* (New York: Van Rees Press, 1932); Zara Witkin and Michael Gelb, *An American Engineer in Stalin's Russia: The Memoirs of Zara Witkin, 1932-1934* (Berkeley: University of California Press, 1991). For analysis of American business and science in Russia see, for example, Katherine A. S. Siegel, *Loans and Legitimacy: The Evolution of Soviet-American Relations, 1919-1933* (Lexington: The University Press of Kentucky, 1996), 110-32; David E. Greenstein, "Assembling 'Fordizm': The Production of Automobiles, Americans, and Bolsheviks in Detroit and Early Soviet Russia," *Comparative Studies in Society and History* 56, no. 2 (2014): 259-89; Kendalle E. Bailes, "The American Connection: Ideology and the Transfer of American Technology to the Soviet Union, 1917-1941," *Comparative Studies in Society and History* 23, no. 3 (1981): 421-48. Floyd James Fithian, "Soviet-American Economic Relations, 1918-1933: American Business in Russia during the Period of Non-Recognition" (Ph.D. diss., University of Nebraska, 1964), 34-35.

EPILOGUE

In November of 1933, after the United States had pursued the policy of non-recognition for more than a decade, President Franklin D. Roosevelt signed an agreement with the Soviet Commissar of Foreign Affairs, Maxim Litvinov, that established diplomatic relations with the Soviet regime.¹⁰⁷ The reopening of relations between the United States and the Soviet Union would, in theory, ameliorate some of the problems the Department of Labor faced in actualizing their deportations. The Bureau of Immigration, which had combined into a singular organization with the Bureau of Naturalization earlier that summer, could at last directly communicate with Russian officials.¹⁰⁸ Renewed diplomatic contact, however, failed to address other confounding

¹⁰⁷ In making the decision to enter into diplomatic relations with Russia, the Roosevelt administration went against the previous decade of intelligence, particularly produced by the Division of Eastern European affairs in the State Department, that had mounted concerted evidence against the impossibility of such a relationship. Cf. "Press Release Issued by the Department of State, March 21, 1923," *FRUS*, vol. II, 755-68; "The Secretary of State to the Chairman of the Republican National Committee (Butler)," 23 Feb 1928, in *FRUS*, 1928, Vol. III, 822, 824; F.W.B. Coleman (Latvia) to the Secretary of State, 31 July 1930, 761.00/186, DF; Coleman (Latvia) to the Secretary of State, 4 September 1931, 761.00/213, DF; and "Success or failure of the Russian Experiment" from Skinner (Latvia) to the Secretary of State, 19 August 1932, 861.00/11396, DF. Furthermore, at the moment of recognition, Stalin had created a new policy of collectivization that created famine conditions in Soviet Ukraine that resulted in millions of deaths. The reality of this crisis, however, was skillfully avoided by the Roosevelt administration in order to secure the public sentiment necessary for going forward with renewing the diplomatic relationship. Cf. Anne Applebaum, *Red Famine: Stalin's War on Ukraine* (Toronto: McClelland and Stewart, 2017); Natalya Naumenko, "The Political Economy of Famine: The Ukrainian Famine of 1933," *The Journal of Economic History* 81 (March 2021) 1, pp. 156-197; Sarah Cameron, *The Hungry Steppe: Famine Violence, and the Making of Soviet Kazakhstan* (Ithaca: Cornell University Press, 2018); Robert Conquest, *Harvest of Sorrow: Soviet Collectivization and the Terror-Famine* (New York: Oxford University Press, 1986); Robert C Tucker, *Stalin in Power: The Revolution From Above, 1929-1941* (New York: W.W. Norton, 1990), 189-195.

¹⁰⁸ Franklin D. Roosevelt, "White House Statement Summarizing Executive Order 6166, Organization of Executive Agencies," June 10, 1933, The American Presidency Project, Gerhard Peters and John T. Woolley.

conditions that prevented the successful enactment of deportation policy. Even with direct communication, other countries could refuse to issue the necessary travel documentation.

Indeed, the Commissioner of Immigration and Naturalization alluded to their problems obtaining passports from certain foreign governments. Between 1932 and 1933, he noted that “requests for passports were denied in 369 cases.”¹⁰⁹ The following year, the Commissioner again recounted the “deportation problems” the Bureau had faced in attempting to enact policy. He reported that “much of the odium which has attached to the Service had been due to the policies and methods followed in connection with deportations and removals.”¹¹⁰ The report reiterated the difficulty the Bureau had in securing passports, which resulted in, at times, the would-be deportee being “held in jail for months, often for a year or longer, while awaiting the completion of deportation proceedings.”¹¹¹

In the aftermath of the consolidation between immigration and naturalization, the inconsistencies within the system were of even more significant concern. Upon reviewing procedures for naturalization, the Bureau found there to be no consistent standard applied to the naturalization of people born outside of the country.¹¹² Though aware of the discord within the American naturalization system, the Department still expected other governments to have a streamlined process. The following year, the Bureau complained that for the United States, deportation was “no longer the simple procedure which obtained in earlier days.” The Commissioner commented that “various countries to which deportation are made have adopted more stringent rules relative to the acceptance of their subjects or alleged subjects, with the result

¹⁰⁹ AR-SL, 1933, p. 54

¹¹⁰ AR-SL, 1934, p. 50.

¹¹¹ AR-SL, 1934, p. 51

¹¹² AR-SL, 1934, p. 53-54

that it has become necessary in most instances to present virtually absolute proof that an alien held for deportation is a citizen or subject of the country to which removal is directed.”¹¹³

Through the 1920s, other countries put in place similar if not more stringent procedures for requiring the US to verify a citizen or subject’s relationship with, but by the mid-1930s, it was ubiquitous.

The Commissioner of Immigration and Naturalization specifically identified that subjects of the former Russian empire were a particular problem for enacting deportations. The Bureau encountered problems with this particular group because of the “large number of citizens who refuse to furnish information from which citizenship can be established or are held by the government of which they were subjects to have expatriated themselves in one way or another.”¹¹⁴ People who had migrated from the former Russian empire were a “most conspicuous example” because they had failed to comply “with the requirements necessary to preserve their citizenship, and therefore will not be accepted under deportation order by the government established in their native lands.”¹¹⁵ In that way, the sovereignty of the US depended on the very people the government had identified as undesirable, and wanted to deport.

Shifting European borders and naturalization requirements resulted in “an accumulation” of more than one thousand unserved deportations from the beginning of World War I, “when deportations to many European countries were necessarily suspended,” and through the next decade where there were no diplomatic relations between the US and Soviet governments.¹¹⁶

¹¹³ AR-SL, 1935, p. 80.

¹¹⁴ AR-SL, 1935, p. 81

¹¹⁵ AR-SL, 1935, p. 81

¹¹⁶ The Commissioner of Immigration and Naturalization elaborated that “During the period of nonrecognition Soviet Union passports, essential to deportation, could not be applied for, and therefore cases were necessarily held in abeyance. Due to the refusal of the newly formed

Even after the Roosevelt-Litvinov agreements reestablished relations between the two countries, however, the Bureau discovered that in their efforts to secure the necessary travel documents and passports for such would-be deportees, the representatives of the Soviet Union in the US were “not authorized to issue the needed documents.”¹¹⁷ Though the US and the Soviet Union had resolved their diplomatic peculiarities of non-recognition, the conflicting bureaucratic processes between the two governments continued to impede the capacity of US officials to regulate the people within its borders.

Thus, even upon the resumption of diplomatic relations with Russia, the Bureau of Immigration and Naturalization faced a problem in enacting the backlog of would-be-deportees. After a Soviet Governmental Decree was instituted on December 15, 1921, Russian emigres faced the threat of denaturalization unless they proactively maintained their relationship with the Soviet government. Until that point, Russian papers and documents that had been issued by the Tsarist Government and the Provisional Government could constitute sufficient evidence of Russian citizenship.¹¹⁸ In a circular issued by the People’s Commissariat for Foreign Affairs on August 11, 1921, the Soviet government authorized its representatives abroad to issue provisional identification to persons who declared themselves Russian nationals. Subsequently, the government enacted laws and decrees that had the effect of “virtually denationaliz[ing] all

countries to accept deportees who were born within their borders, it has become necessary to direct the deportation of all subjects of old Russia to the Soviet Union and there is now an accumulation of approximately 1,100 cases in which deportation has been so directed.” AR-SL, 1935, p. 81

¹¹⁷ AL-SR, 1935, p. 81

¹¹⁸ Cf. Charles De Visscher, *Théories et Réalités en Droit International Public* (2nd ed., Paris, 1955): “Inaugurée par l’U.R.S.S. dès 1921 ... cette pratique a fait de l’apatridie autrefois considérée comme un accident et une anomalie, la condition de millions d’individus.”

Russian refugees.”¹¹⁹ In the decree issued in December, the Council of the People’s Commissars detailed the conditions for the “Forfeiture of Soviet Citizenship by Certain Categories of Persons Residing Abroad.” According to the decree, Russian citizens who failed to take out passports or identity to be taken out by Russian citizens by June of the following year would automatically sever their relationship with their country of origin.¹²⁰

In 1924 as the Soviet Union adopted its new constitution, the government reaffirmed and extended the conditions for the loss of Soviet citizenship.¹²¹ And indeed, by the late 1920s, as Eric Lohr argues, the Soviet state “developed unprecedented capacity to control its borders and population movement across them” and in doing so “created one of the hardest, most rigorously enforced citizenship boundaries the world has ever seen.”¹²²

Through all of these changes, the US had no official diplomatic contact with Soviet Russia nor the Soviet Union. Indeed, wanting to minimize immigration from that area of the world, the US disallowed the Russian representative from continuing his residence in New York City, eventually deporting him to Russia. The paradoxical effect of this move made it so that the Russians residing in the US, even those who may have wanted to eventually return to their homeland, had no means to do so by 1924. The absence of US-Russian relations contributed to the denaturalization of those Russians residing in the US. Thus, for those that had been arrested in the Palmer Raids in 1919 and 1920, had there been relations between the US and Russia, their deportations might have been actualized without the need for extensive documentation of their

¹¹⁹ W. Adams, “Refugees in Europe,” *The Annals*, May 1939, p. 43.

¹²⁰ See Eric Lohr, *Russian Citizenship from Empire to Soviet Union* (Cambridge: Harvard University Press, 2012), 147-8.

¹²¹ Lohr, *Russian Citizenship from Empire to Soviet Union*, 148, 201-203.

¹²² Lohr, *Russian Citizenship from Empire to Soviet Union*, 133.

relationship with Russia. By 1933, unless the deportee explicitly atoned for their absence for having not sought Soviet citizenship sooner, they would be ineligible to enter the Soviet Union.

For the Russian nationals who had become stateless during their time in the US while awaiting deportation, who was responsible for their illegibility in the international system? Was their denaturalization the responsibility of the Soviet government, for enacting the policies, or of the United States government, for preventing even interested Russian nationals from contacting their government of origin, at least, while in the United States? In Europe, the many displaced persons from the former Russian Empire also constituted a crisis, but western European nations discussed the problem of what to do with these people using the language of the stateless person or refugee. The League of Nations responded to the crisis by placing Dr. Fridtjof Nansen as the League's High Commissioner for Refugees, through which he established a travel certificate for stateless persons.¹²³ However, in the US, the reality of the stateless Russian national had been imposed upon the undeportables due to nonrecognition. At the time of their arrest for deportation, what may have been their de facto statelessness transformed into de jure statelessness by the time the US government chose to re-enter relations with the Soviet government.

Following the European example of the interwar period, the US would increasingly use the language of "refugee" to refer to specific groups of stateless persons within their borders. In the 1930s, there was no discrete category within US Immigration Policy for the refugee. Rather, refugee was generally used colloquially and applied to principally Christians facing religious

¹²³ Cf. Claudena Skran, *Refugees in interwar Europe: the emergence of a regime* (Oxford: Oxford University Press, 1995).

persecution. World War II imbued the refugee with greater political significance in the US, and introduced it into the American vocabulary to apply to all persons facing persecution. Yet, even as it came to be within the American vernacular, policy makers did not use it to designate a particular status for certain immigrants.¹²⁴

Though newspapers began to apply the term refugee to certain groups of migrants, the US government steadfastly refused to sign the international documents validating the United Nations definition of the refugee. In fact, the US only developed a non-event specific definition of refugee in 1980. Until the Refugee Act of 1980, the status of refugee was largely applied to people the government categorized as “parolees,” who the President could specifically identify and create an exception for their immigration.¹²⁵

The government strategically used the executive action of parole authority and the language of refugee status to create mechanisms through which entire categories of people, who might otherwise be ineligible as immigrants, could enter and continue to reside in the US. Thus, after World War II, though US-Russian relations reached new levels of hostility, the US Government did not renew its policy of non-recognition, as it would do with the People’s Republic of China. Instead, the immigration officials, now under the helm of the Department of Justice and in coordination with the State Department and Office of the President, would use the immigrants from Russia and the area now under “the Iron Curtain” as political and cultural

¹²⁴ Mark Philip Bradley, “American Vernaculars: The United States and the Global Human Rights Imagination,” *Diplomatic History* 38, no. 1 (January 2014): 1–21.

¹²⁵ Cf. Adam B. Cox and Cristina M. Rodríguez, *The President and Immigration Law* (New York: Oxford University Press, 2020); Carl Bon Tempo, *Americans at the Gate: United States and Refugees during the Cold War* (Princeton: Princeton University Press, 2008); Stephen R. Porter, *Benevolent empire: US power, humanitarianism, and the world’s dispossessed* (Philadelphia: University of Pennsylvania Press, 2017); Amanda Demmer, *After Saigon’s fall: refugees and US-Vietnamese relations, 1975-2000* (Cambridge: Cambridge University Press, 2021).

leverage.¹²⁶ The use of the political refugee would, in certain ways, stand in for the earlier policy of non-recognition, and serve to telegraph the diplomatic disapproval towards a particular foreign entity.

¹²⁶ For example, see the case of Hungarian refugees: Anita Casavantes Bradford, “ ‘With the Utmost Practical Speed’: Eisenhower, Hungarian Parolees, and the ‘Hidden Hand’ Behind US Immigration and Refugee Policy, 1956-1957,” *Journal of American Ethnic History* 39, Issue 2 (Winter 2020): 5-35. In contrast, see the treatment of Salvadorian and Haitian refugees: Susan Bibler Coutin, *Legalizing moves: Salvadorian immigrants’ struggle for U.S. Residency* (Ann Arbor: University of Michigan Press, 2000); Carl Lindskoog, *Detain and punish: Haitian refugees and the rise of the world’s largest immigration detention center* (Gainesville, University of Florida Press: 2018).

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