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A REPORT to... RCC
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OF

HARRIS WEINSTOCK,

COMMISSIONER TO INVESTIGATE THE RECENT

DISTURBANCES IN THE CITY OF SAN DIEGO AND THE COUNTY OF SAN DIEGO, CALIFORNIA

TO

HIS EXCELLENCY HIRAM W. JOHNSON
GOVERNOR OF CALIFORNIA

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A REPORT

TO HIS EXCELLENCY HIRAM W. JOHNSON, GOVERNOR OF CALIFORNIA, AS COMMISSIONER APPOINTED ON APRIL 15, 1912, TO INVESTIGATE CHARGES OF CRUELTY AND ALL MATTERS PERTAINING TO THE RECENT DISTURBANCES IN THE CITY OF SAN DIEGO AND THE COUNTY OF SAN DIEGO, INCLUDING THE CAUSES THEREOF AND THE CAUSES CONTRIBUTING THERETO.

EXCELLENCY :

Accompanying the commission with which you honored me as a representative of the State, was handed me a communication from you setting forth that from various sources there had come to you of late appeals for investigations of alleged acts of cruelty practiced by officials and others in the city of San Diego and the county of San Diego and, generally, demands for information respecting the situation at San Diego and the events which recently have occurred. In some instances, the requests made of you had come from an organization describing itself the "I. W. W.," Industrial Workers of the World, and in other instances they had been made of you by men and women of San Diego, and in these appeals statements had occurred of cruelties practiced by the officials, of the practical abrogation of the law, and of tyrannies to which innocent people had been subjected. You set forth that you were desirous to learn the true condition of affairs, the causes that led to the difficulties occurring in San Diego, and generally the situation there with respect to the organization named and all other individuals.

You, therefore, asked me to investigate :

(1) Specific instances of cruelty alleged to have been practiced by the officials of San Diego city and county.

(2) The abrogation of law in that city and the denial of constitutional rights to any persons, if such denial has occurred.

(3) The causes that led to the difficulties and whether or not any particular organization or band of men invaded San Diego with any specific purpose and also herein if they were developed, then the purposes of the I. W. W. in San Diego and what they were seeking to do, and the character of their utterances generally.

(4) Generally, all matter pertaining to the subject matter, and anything pertaining to the local situation at San Diego.

Preliminary Arrangements.

In accordance with the foregoing commission and instructions I hastened to San Diego, arriving there early Tuesday evening, April 16, 1912. Immediately upon arrival I placed myself in telephonic communication with District Attorney H. S. Utley, of the county of San Diego, informing him of the purpose of my visit to San Diego as the State representative, appointed by your Excellency to investigate all matters pertaining to the recent disturbances in San Diego, and asked for a conference. This he declined to grant, informing me that if I wished to present any matter to him I must do so by calling at his office the following morning at 9 o'clock.

Police Officials Respond.

Failing to obtain a conference with the district attorney, I placed myself in telephonic communication with Police Commissioner J. L. Schon, who responded most promptly and cheerfully and who did me the honor to call upon me, accompanied by Chief of Police J. Keno Wilson and Captain of Detectives Joseph Myers. These officials remained in conference with me for several hours during the evening and gave me the fullest possible information concerning existing conditions with reference to the recent disturbances in San Diego.

A Public Inquiry.

I reached the district attorney's office the following morning (Wednesday) at 9:20 o'clock, but the district attorney had not yet put in an appearance. After waiting about ten minutes and having no further time to lose, I was obliged to take my departure, leaving my card. Having decided to conduct a public inquiry, so that an opportunity might be afforded all citizens to submit such information as would throw light upon the subject, I gladly accepted the tender of the grand jury room in the court house, made by a member of the board of supervisors, in which to conduct such public inquiry. An announcement was made through the press that public sessions would be held in the grand jury room beginning with the following morning (Thursday), and that all citizens were invited to present whatever information at their command bearing upon the recent disturbances.

Jails Are Visited.

The county jail and the city jail were visited on that day (Wednesday), April 17, and twelve prisoners and officials were examined. For details of their examination see pages 2 to 110 of the stenographic report of proceedings.

Beginning with Thursday morning, open sessions were held in the grand jury room, these sessions continuing from 9 a. m. to 6 p. m., with noon recess. Reconvening Friday at 9 a. m., until 5:30 p. m., with intervening noon recess, an evening session being held from 7:30 until 10:30 in the court room of Justice Bryan.

The final sessions of the public inquiry were held Saturday, April 20th, in the court room of Department Three, by the courtesy of Judge W. A. Sloane, from 9 a. m. until 12 m. and in the court room of Justice Bryan from 1:30 p. m. to 5:30 p. m., when the public inquiry adjourned *sine die*. During these seven sessions, a large number of witnesses were examined at the fullest possible length and a mass of documentary evidence was submitted, all of which, together with a transcript of the stenographic report of these examinations, I have the honor to submit under separate covers.

Investigation of Causes, Etc.

In compliance with your request embodied in section three of your letter of instructions, asking that the causes that led to the recent San Diego disturbances be investigated, and whether any particular organization or band of men invaded San Diego with any specific purpose, and whether such purpose was developed, and also as to the purposes of the I. W. W. in San Diego, what they were seeking to do, and the character of the utterances generally, I find as the result of my investigations the following.

From a collection of literature submitted by the duly authorized representative of the I. W. W., which sets forth the origin, the aims and the purposes of the I. W. W. (Industrial Workers of the World), I find that this is a labor organization composed of so-called radical Socialists. These Socialists, in common with other Socialists, have for their end the abolition of the wage system, which would carry with it the ownership, on the part of all the people, of the machinery for production and distribution. The I. W. W. part company with the Socialists pure and simple when it comes to the methods to be pursued in attaining the desired ends.

The Socialist pure and simple advocates attaining his objective through political action, using the ballot as the medium. The I. W. W. regards political action as ineffective and advocates, as a more efficient method, direct action through the medium of general strikes.

The Charge of Anarchism.

Its opponents charge the I. W. W. with being anarchistic and revolutionary in its preachments, not hesitating to advocate the use of force to carry out its aims. A careful reading of its literature, together with an examination of many of its members, professed leaders and representatives, has failed, except in sporadic cases, to lead me to believe that the I. W. W. have anything in common with anarchists. Anarchism, as I comprehend it, stands for extreme individualism, whereas the I. W. W. stands for the cooperative commonwealth, which is the broadest collectivism. Therefore, I find the charge of anarchism against the I. W. W. falls.

In the matter of being revolutionary in its preachments and in not hesitating to advocate the use of force to carry out its aims I find the following:

The Use of Force.

A careful reading of the preamble and constitution of the Industrial Workers of the World (see Exhibit 5-2), fails to show any statements advocating the use of force in the carrying out of its aims or the violation of any law. The commentary literature on the preamble and constitution of the I. W. W., as furnished me by its official representatives, makes plain, however, that it teaches militant action whenever such action may be deemed necessary. In a pamphlet published by the I. W. W. publishing bureau, of Newcastle, Pa., entitled "The I. W. W., Its History, Structure and Methods," written by the I. W. W. national secretary-treasurer, Vincent St. John (see Exhibit 5-7, page 17), the following statement appears: "AS A REVOLUTIONARY ORGANIZATION THE INDUSTRIAL WORKERS OF THE WORLD AIMS TO USE ANY AND ALL TACTICS THAT WILL GET THE RESULTS SOUGHT WITH THE LEAST EXPENDITURE OF TIME AND ENERGY. THE TACTICS USED ARE DETERMINED SOLELY BY THE POWER OF THE ORGANIZATION TO MAKE GOOD IN THEIR USE. THE QUESTION OF 'RIGHT' AND 'WRONG' DOES NOT CONCERN US."

In a pamphlet published by the Spokane local I. W. W., Spokane, Wash., entitled "Industrial Workers of the World, Songs to Fan the Flames of Discontent" (see Exhibit 5-3, page 6), there appears the following:

Chorus: "To arms! To arms! ye brave!
"The avenging sword unsheath!
"March on, march on, all hearts resolved
"On victory or death."

In a pamphlet written by Arnold Roller, apparently an I. W. W. leader, under the title, "The Social General Strike" (see Exhibit 1-2, page 17), there appears the following statement: "In this manner the crisis of over-production is the best guarantee for the success of a social general strike, because the products on hand permit the satisfaction of all needs, before the complete reorganization; namely, by a general 'help yourself' on the part of the workers."

In another pamphlet, entitled "Industrial Union Methods," by William E. Troutman, which appeared originally in the Industrial Workers' Bulletin (see Exhibit 1-6, page 16), is found the following: "The industrial unionist, however, holds that there can be no agreement with the employers of labor, which the workers have to consider sacred and inviolable.

"Industrial unionists will therefore sign any pledge, and renounce even their organization, at times when they are not well prepared to give battle, or when market conditions render it advisable to lay low; but they will do just the reverse of what they had to agree to under duress, when occasion arises to gain advantages to the worker."

"Sabotage."

Under the head of "Sabotage," the same writer says (page 24): "Inferior goods are turned out by silent understanding of all workers in one shop or plant; time is taken up with getting tools repaired and repair work attended to" (page 25). "These and similar methods are known under the compound name, Sabotage."

In a pamphlet entitled, "The General Strike," by William D. Haywood, in which is published a speech delivered by him in New York, March 16, 1911 (see Exhibit 1-7, page 15), the following appears: "I hope to see the day when the man who goes out of the factory will be the one who will be called a scab; when the good union man will stay in the factory, whether the capitalists like it or not; when we lock the bosses out and run the factories to suit ourselves. That is our program. We will do it."

In a pamphlet published by the J. H. Kerr & Co., Co-Operative, Chicago, entitled "How Capitalism Has Hypnotized Society," by William Thurston Brown, an I. W. W. writer and lecturer (see Exhibit 5-10, page 22), appears the following: "Would it be wrong for the united working class of America to say to-day, to-morrow, any time: 'Not a wheel shall move on any railroad, not a bit of machinery shall be run in any mill, factory or smelter, from the Atlantic to the Pacific, from the lakes to the gulf, unless it is understood distinctly by the people of America that these tools of industry belong of right to the workers of the nation? And, meanwhile, since hungry men and women and children must be fed, and since your charity organizations have recognized the fact and your churches have preached it, we shall take the food necessary for our sustenance until it is understood that this system of robbery is to stop forever.'"

Violation of Injunctions.

In a leaflet issued by the I. W. W. publishing bureau, Newcastle, Pa., entitled, "Appeal to Wage Workers, Men and Women," by E. S. Nelson (see Exhibit 5-4), the following appears (paragraph 8): "In case of a capitalist injunction against strikers, violate it; disobey it; let the

strikers and others go to jail, if necessary. That would cost so much that the injunction would be dispensed with. (9) Final universal strike, that is, to remain within the industrial institutions, lock the employers out for good as owners and parasites, and give them a chance to become toilers."

In a pamphlet entitled "The Crack of Doom; or the Fall of Capitalism," by Laura Payne Emerson, a resident of San Diego, and a recognized representative and lecturer of the I. W. W. (see Exhibit 5-16, page 21), appears the following: "Industrial unionism, the capitalist well knows, spells the abolition of the wage system. The I. W. W. recognizes no craft autonomy and no contract system. All workers in all departments of any industry are organized in one union. No worker or set of workers in any craft or branch of an industry can make a contract with an employer which he must consider sacred while later his fellow workers in the same industry are on a strike, thus enabling him to scab on his fellows while he carries a union card and cusses scabs" (page 27). "When the workers who make these great industries possible get ready for action they will no longer beg for some master to give them enough to live on, but take what belongs to them."

Organization Approval.

As already stated, the foregoing quotations are taken from writings placed in my hands by the acknowledged representatives of the I. W. W. each document either bearing the I. W. W. stamp and most of them issued by the I. W. W. publishing concerns. We have, therefore, every right to assume that these sentiments meet with the approval of the I. W. W. as an organization.

Summary.

Summing it up we find that they teach and preach the following:

- (a) That workmen are to use any and all tactics that will get the results sought with the least possible expenditure of time and energy.
- (b) The question of right or wrong is not to be considered.
- (c) The avenging sword is to be unsheathed with all hearts resolved on victory or death.
- (d) The workman is to help himself when the proper time comes.
- (e) No agreement with an employer of labor is to be considered by the worker as sacred or inviolable.
- (f) The worker is to produce inferior goods and kill time in getting tools repaired and in attending to repair work; all by a silent understanding.
- (g) The worker is to look forward to the day when he will confiscate the factories and drive out the owners.
- (h) The worker is to get ready to cause national industrial paralysis with a view of confiscating all industries, meanwhile taking forcible possession of all things that he may need.
- (i) Strikers are to disobey and to treat with contempt all judicial injunctions.

Conclusion.

The evidence before me forces the conclusion that it is the organized and deliberate purpose of the I. W. W. to teach and preach and to burn into the hearts and minds of its followers that they are justified in

lying, in stealing, in trampling under foot their own agreements, in confiscating the property of others, in disobeying the mandates of the courts and in paralyzing the industries of the nation. If all men and women in the nation were to accept and to follow these teachings, it would make society impossible. It would simply mean a nation of thieves, liars and scoundrels.

Causes of Difficulties in San Diego.

Taking up the causes that led to the difficulties in San Diego, I have the statement made at the public hearing by Captain of Detectives Myers, of San Diego. This statement has been corroborated, in substance, by other witnesses. (See stenographic report, pages 644-55.) Captain Myers stated that the I. W. W. began to hold public meetings on the streets of the city of San Diego about a year and a half ago. At that time it appeared to be their aim to break up the trade unions. They endeavored to bring about labor troubles in San Diego, but seemingly without results. But finally a strike was called on one of the city streets which, however, was adjusted after some of the workmen had been assaulted by strikers. Meanwhile, they went on holding public meetings, which were conducted in the city on E street, between Fourth and Fifth, and part of the time on E street, between Fifth and Sixth. There would be two or three different meetings at this spot at the same time. The utterances of some of the I. W. W. speakers, he went on to say, regarding the present form of government aroused the indignation of citizens, who protested, until finally the common council of the city of San Diego passed an ordinance defining certain narrow limits within the city within which public speaking was prohibited. This ordinance was so drawn as to prohibit such speaking within a limit of six blocks in the congested district of the city.

"Free Speech."

Immediately upon the passage of this ordinance, according to a communication sent to your commissioner by Chief of Police J. Kenó Wilson, of the city of San Diego (see Exhibit 6-6b), "a howl was sent up to the effect that the council had assailed the rights of the people to free speech in San Diego, which was heralded to all parts of the United States, wherever they could find listeners to these false statements.

"So-called 'free speech' meetings were called in San Diego, which were attended by people who advocated the open violation of the said ordinance, and, although they were advised by the city attorney that they had all the rest of the city to speak in outside of the said congested district, they continued to declaim against the so-called invasion of their rights, and a large number of them entered into a conspiracy to violate this said ordinance, in such numbers as to make it impossible for the constituted authorities of the city to enforce said ordinance or to maintain law and order within the city limits of the said city. That there was such a conspiracy, and that it was generally entered into by these people, is evidenced by the indictments of the grand jury of a large number of these people, on a charge of conspiracy to violate the ordinance.

"When the time came to enforce the ordinance, its violation was wilful and deliberate and made for the purpose, as they said, of thronging the city and county jails, and thus glutting the business of the

courts, so as to make it impossible, for the time being, to dispose of the usual business of the courts in an orderly and expeditious manner. The first arrest for the violation of this ordinance was made on the ninth day of February. The persons arrested uniformly demanded a trial by jury, knowing at the time that it would be impossible for the police court to afford more than two or three trials by a jury, during the course of a week. However, there has been more or less litigation in the superior courts and a number of trials in police court, in which ample opportunity has been afforded to test the validity of the ordinance, and not in a single instance has it been suggested by the attorneys for any of the defendants that the ordinance is not fully within the power of the council to adopt. But they have rather preferred to pursue a campaign of falsehood and law-defiance, and to pour upon the police of the city, as a department, and upon the individual members a stream of invective and falsehood, which, I venture, is without parallel in the whole history of the State."

The Invading Army.

In a telegram addressed to the mayor of the city of San Diego, dated Chicago, Ill., March 9, 1912, and signed "Industrial Workers of the World, Vincent St. John, general secretary" (see stenographic report, page 649), it says: "This fight will be continued until free speech is established in San Diego if it takes 20,000 members and twenty years to do so."

The foregoing makes plain that it was the deliberate intention of the national organization of the I. W. W. to send an invading army to the city of San Diego for the purpose of continuing the battle already in progress. The evidence submitted further shows that in accordance with the above well-defined policy on the part of the I. W. W., bands of men began to invade the city of San Diego. According to the testimony of Captain of Detectives Myers, given at the public inquiry (see stenographic report, page 650), he claimed to have information, "from a reliable source, that at this very time there are 150 men between Los Angeles and San Diego now on the road for the purpose * * * of overthrowing the present city ordinance." He stated he also was informed, through a communication received the evening previous from the I. W. W., "that there are bodies of men leaving all parts of the country for San Diego for the same purpose."

Its Purposes.

The testimony of members of the I. W. W., as well as of other witnesses (see stenographic report, pages 26, 55, 57, 160), shows plainly that it was the purpose of the invading I. W. W. incidentally to test the validity of the so-called anti-free speech ordinance, but primarily to clog the machinery of and to overwhelm the city and county government of San Diego and to put upon the taxpayers of the city and county the greatest possible burden. While a citizen may be justified in violating a law and in taking the consequence of such violation in order in good faith to test its validity, there can be no excuse for men, collectively, to conspire, needlessly, to hamper the machinery of government and to impose heavy burdens upon its people. However heroic such conduct may seem to members of the I. W. W., it cannot but merit the severest condemnation on the part of good citizenship and invites the most extreme punishment within the law.

Constitutionality of Ordinance.

The contention has been made by the I. W. W. and sympathizers, including the Free Speech League, that free speech has been denied them by virtue of an "unconstitutional" ordinance, enacted by the common council of the city of San Diego. Your commissioner has invited the legal opinion on this subject of Attorney Edgar A. Luce, of San Diego (see Exhibit 2-1), in which he points out that the San Diego ordinance "is practically a copy of an ordinance, covering the same subject, now in force in the city of Los Angeles, and that that ordinance was adjudicated by the district court of appeals of the second appellate district on the tenth day of April, 1909, in the case of *In re May Thomas*, found in the tenth Cal. App. Reports, at page 375. The court in that case upheld the constitutionality of such an ordinance, held it to be within the police powers of the city, and held that nothing had been presented to show the ordinance to be unreasonable, or to show abuse of discretion on the part of the council, and in the absence of such a showing the court presumed that the council had acted wisely and that there was no unreasonableness in fixing the exterior boundaries of the specified district. In view of that decision, the above ordinance is undoubtedly constitutional.

"In regard to whether or not it is a reasonable exercise of the police power, which is a subject of inquiry by the courts; it is well to note that the ordinance as adopted provided for a very small restricted area and prohibited public speaking in only six of the city blocks of the city of San Diego. Unquestionably, the courts would hold such an ordinance reasonable. Although the ordinance contains what is known as the emergency measure, and was drawn with the purpose of having the ordinance take effect immediately upon its adoption, the city attorney, in view of the decisions in the case of *In re Huffman*, 155 Cal. 114, advised the police department not to enforce the ordinance until the expiration of thirty days from its adoption. The police department acted upon this advice and did not attempt to enforce the ordinance until after the expiration of thirty days from its passage. Meanwhile, no referendum petition was presented to the common council."

Public Meetings.

It is presumed that public speaking is permitted in the city of San Diego beyond the restricted district in the congested part of the city. According to the testimony of Captain Myers, however (see Transcript, page 658), public meetings are not now permitted in any part of the city of San Diego unless a permit is granted by the chief of police. This, despite the fact that there is no law requiring the granting of such permits. As a consequence, while certain religious bodies have been permitted by the police department to hold street meetings, the I. W. W. make the charge that they have not been permitted in recent weeks to conduct such street meetings. The explanation offered for this by Captain Myers (see Transcript, page 659), is that the police department does not feel warranted, under existing circumstances, in granting such permits, and also because of the slanderous and offensive language heretofore used by I. W. W. speakers in their street meetings.

It would seem to your commissioner that no body of men should be deprived of their constitutional right of free speech beyond the legally

restricted district, and that since there is a law on the statute books providing a penalty for slanderous and improper language used in public places, the I. W. W., or any other speakers violating such law, should be arrested for such violation and punished by due process of law.

Right of Free Speech.

Your commissioner feels that the right of free speech should be inviolable and that it should not be left to the police, in their discretion, to prevent men from exercising this constitutional right on the ground of anticipating an improper use thereof. No more than the police are warranted in imprisoning a man indefinitely in anticipation of possible wrongdoing because he had committed some other crime.

It is every man's right, under the constitution, to speak his mind freely in unforbidden places. The state constitution confers upon municipalities the power to enact, whenever necessary, regulative measures. It is the duty of the police to arrest, and to seek the conviction of, those who violate these regulative measures, or, who in the exercise of free speech in unforbidden places, violate the law by the use of improper, unfit or incendiary language.

In the absence of any ordinance or statutory measure; and from the state of facts as above set forth, your commissioner finds that the police department of the city of San Diego has gone beyond its legal limitations in forbidding and preventing men and women from holding street meetings beyond the confines of the restricted city district.

In reference to section one of your letter of instruction asking for an investigation as to specific instances of cruelty alleged to have been practiced by the officials of San Diego city and county, this is to say that there is a mass of evidence on the part of those arrested to the effect that they were subjected at the hands of the police, while being taken to the jail and after incarceration, to abuse; to rough treatment; to overcrowding in the cells; to being underfed; to being obliged to sleep on successive nights on the cold, concrete floor without covering, and of a lack of proper medical attendance. (See Transcript, pages 34, 35, 57-9, 63, 71, 77, 110, 117, 121, 140, 144, 145, 146.)

These complaints were made on the part of the witnesses as against the treatment received by them at the hands of the police in the earlier part of these disturbances. Those still incarcerated in the city and county jails had no complaints to make of their present or their more recent treatment. (See Transcript, pages 2, 6, 18, 19, 35, 76, 85.)

Charges Are Denied.

In answer, the police officials make strenuous denial to these charges. (See Transcript, pages 19, 65, 72, 103, 108, 109.)

J. Kenno Wilson, chief of police, in a letter to your commissioner, under date of April 20 (see Exhibit 6-6b), says: "In no instance has any police officer of this city assaulted, abused or maltreated in any way, any person whom he has taken in charge, either as an I. W. W. or otherwise. In this entire time, it has been the aim of this department to treat these persons in a humane manner and not to do anything to them more than was necessary to detain them, when it was proper to do so, or otherwise to let them go, without ever in a single instance imposing upon them any indignity or personal violence."

The opinion of your commissioner as a result of his investigation along these lines is, that doubtless there was unusual suffering and privation and a lack of proper accommodation at the local jails, but it is his opinion that it was not the deliberate intention of the police officers to inflict needless suffering upon those under arrest. The city jail, which is comparatively new and clean and equipped with the most modern sanitary provisions, was built to accommodate not to exceed sixty inmates. When the offenders invited arrest in numbers out of all proportion to the jail accommodations by deliberately breaking the law in holding street meetings in the restricted districts, they at the same time invited the unavoidable overcrowding and the consequent discomfort inseparable from such conditions. As a matter of fact, members of the I. W. W. testified, as referred to on page 11 of this report, that it was their deliberate intention to fill the jails to overflowing in order to hamper and to harass the officials and to inflict the heaviest burdens upon the city taxpayers, to say nothing of clogging the municipal machinery of justice.

Such police officials as I met in San Diego impressed me as being above the average in intelligence, in character and in personality.

Conflict of Evidence.

The conflict of evidence, however, between the police and those who claimed to have been subjected to abusive language and brutal treatment while under arrest is such that your commissioner is unable to determine to his own satisfaction in how far such charges of brutality and mistreatment are justified so far as it relates to the treatment of men while in jail.

There is much testimony, however (see Transcript, pages 34, 57, 65, 76, 77, 86, 89, 90, 91, 101, 104 to 109; 109 and 110, 117, 136 to 142, 145 to 149), not only from members of the I. W. W., but from citizens in no way affiliated with the Free Speech League, that would go to show that there had been needless brutality on the part of police officers on the public streets at various times while meetings in the forbidden districts were being dispersed and speakers were being arrested. The most aggravated case of such police brutality was that of Kilcullen. (See Transcript, pages 319, 382, 617.) The testimony of numerous seemingly disinterested witnesses would go to show that this person had been assaulted by a group of policemen and, not only roughly, but brutally handled. It would seem that he was not arrested, but was picked up on the streets unconscious and was carried to the office of a near-by physician, Dr. Smith, who treated his wounds. (See Transcript, pages 326-7.)

Fire Hose Episode.

Then there is that incident known as the "fire hose episode." (See Exhibits 2-11 to 17d.) In this case, a street meeting, held in front of the city jail, was dispersed by the police by means of a fire hose. As a consequence, scores of persons, some of them innocent onlookers, were given a drenching. The means was effective.

The act was denounced by the I. W. W. and sympathizers, and by many other citizens, as high-handed, uncalled for and without the authority of law. Incidentally, it may be said that no serious consequences followed in the way of illness or injuries, so far as the evidence indicates.

In Justification.

On the other hand, police officials say in justification of the act, that a demonstration was attempted by the I. W. W. in the street for the express purpose of inciting a similar disturbance within the city jail, where a considerable number of their fellows were incarcerated, and this claim is corroborated, in part at least, by the testimony of witnesses. In further justification of the act, a somewhat antiquated ordinance is cited, which prohibits public meetings in front of public buildings. (See Transcript, pages 654-663.)

Then comes the case of Michael Hoey, a member of the I. W. W., who was arrested and jailed by the police. Hoey was alleged to have been a man of about 65. Several inmates of the jail testified that he had made the statement that he had been kicked in the groin by a policeman and seriously ruptured, and that he had been unable to obtain proper medical treatment while he was in jail. Subsequently, he was transferred by the authorities to the hospital where, after a few days' interval, he died. A coroner's inquest was held over the body and the coroner's jury rendered a verdict that death was caused by tuberculosis of the lungs and valvular disease of the heart. (See Exhibit 2-33.)

Bertillon Measurements.

Several witnesses testified, including one young woman, that after their arrest and before they were charged or tried or convicted of any crime, or the violation of any city ordinance or of any law, they were subjected to the Bertillon measurements, the taking of finger prints and photographs for the rogues' gallery. As a layman, your commissioner is unable to determine whether such action on the part of the authorities is illegal or unwarranted by the law.

Other witnesses testified that they were arrested by the police and held in unlawful detention because found selling on the streets of San Diego copies of the San Francisco Bulletin, the San Diego Herald, the Labor Leader, Solidarity and the Industrial Worker, all of which, your commissioner is informed, are regularly published, are daily or weekly newspapers, some being the official organs of labor bodies and all of them entitled to pass through and are actually passing through the public mails of the United States.

The District Attorney.

Mr. Frederick H. Moore, the attorney for the Free Speech League, testified before the commissioner (see Transcript, pages 155 to 157, inclusive), that the attitude of the district attorney had been at all stages such that it would be practically impossible to obtain his cooperation, in his official capacity, to prosecute persons who, under the guise of a vigilance committee, had, in the name of law and order, beaten and shamefully abused members of the I. W. W. and others and deported them beyond the county line. In reference to the district attorney, H. S. Utley, your commissioner desires to state that he was the only city or county official, called upon to cooperate in the conduct of this public inquiry, who failed to respond. His attitude was one of indifference and such as to lead your commissioner to feel that Mr. Utley regarded the sending of a state representative to make the investigation as an unwarranted act on the part of your Excellency. If your commissioner had been obliged to depend upon the district attorney for information

to transmit to you, the investigation, in all likelihood, would have been an utter failure. Looking upon Mr. Utley as a state official, whose duty, it would seem, would be to render every aid to the Chief Magistrate in the performance of his duty, Mr. Utley's attitude in this investigation, therefore, was not what the commissioner could rightly expect of him.

Sheriff Jennings.

Sheriff Jennings, of San Diego County, testified before the commissioner that he was called to the district attorney's office and informed that there were 150 I. W. W. coming down to San Diego, and requested him to swear in a number of deputies and to go to the boundary line of the county and stop them, and that he refused to do this. Attorney Fred H. Moore and Marcus W. Robbins testified that an armed body of men, under the orders of Harry Place, a constable of San Diego township, under the instructions of District Attorney H. S. Utley, of San Diego County, had maintained a guard on the northern boundary of San Diego County, interfering with the passage of pedestrians and all vehicles on the public highways and wherever they might appear traveling along or across the northern boundary of said county. (See Exhibit 2-34.)

This evidence is further corroborated by the written testimony of Arthur B. Bennett. (See Exhibit 6-7.)

Vigilance Committee.

Much evidence was submitted at the public inquiry relative to a so-called vigilance committee, which is alleged to be a large body of men living in and about the city of San Diego, who are said to have organized themselves into a so-called law and order organization, or citizens' committee, ostensibly for the purpose of aiding the duly constituted local authorities in the maintenance of law and order, in deporting so-called undesirables and in preventing their returning to the county or city.

A great mass of evidence was submitted to your commissioner, including forty-three sworn affidavits (see Exhibits 4-1 to 4-43), to the effect that members of the I. W. W., their sympathizers and others, had, within the last thirty days, been arrested by the city police, either on the streets or in the headquarters of the I. W. W., and without being charged with a violation of law, and many of them without being guilty of a violation of the law, had been taken out of the city, either by autos, auto trucks or railroad trains, for a distance of 22 miles and there subjected to an inhuman, brutal beating by a body of men, part of whom were police officers, part constables and part private citizens.

Many of these alleged victims appeared in person before your commissioner, some of them having been brought back from Los Angeles whence they were driven, and related horrifying tales of the indignities, the brutalities and the inhumanities to which they were subjected. Among the worst cases testified to were those of Julium Tum (see Transcript, page 516), Thomas Kilcullen (see Transcript, page 326-7), Joseph Marco (see Transcript, page 388), John Wallace (see Transcript, page 293½), and others.

John Wallace's Experience.

The experience of John Wallace (see Transcript, page 293½), with the so-called vigilantes is characteristic of most of the stories, depicting as it does a tale of the vigilantes of a half a century ago.

Wallace, among others, was arrested in the I. W. W. headquarters, where he had gone in the afternoon, about 3 o'clock, to spend a leisure hour in reading. The place was raided by three plain-clothes men. He, in common with the others in the hall, was taken to police headquarters, searched and questioned at length, but no charge was placed against him. That same night, according to his statement, between 9 and 10 o'clock, he, with fourteen others, was taken out of the jail (by whom he does not say) and loaded on to an auto truck, driven about eighteen miles to Sorrento, at the city limits. One police officer, he declares, accompanied the auto truck. He was in plain clothes.

Arriving at Sorrento, 15 or 16 autos were found lined up along the road, with lights burning low. There were between 60 and 75 men there, some with lanterns, while others openly displayed revolvers, knives, night sticks, black jacks and black snakes. None wore disguises. The insignia of the order, or band, was a white handkerchief, tied at the elbow of the right arm, probably worn for the purpose of distinguishing the so-called vigilante from the I. W. W.

In front of a small building a flagpole had been erected, while at its base were arranged dry goods boxes in the form of a platform. Wallace was compelled to mount the platform, and kneel and kiss the flag. As an incentive to quicken action he was "slapped" over the head and that, he says, was the signal for the general clubbing of his companions. Ten minutes that continued, Wallace declared, and then the I. W. W. were formed in single file and told to march. As they marched ahead, now and then one would make a break for liberty, and Wallace, as he testified, was fired at four times. Being captured, he was told to sing the American-national anthem, and when, as he says, he forgot the tune, he was pounded until he remembered it, which he did. After that the so-called vigilantes again loaded the men into autos and transported them to San Onofre, near the county line, placed them in a cattle pen with three armed guards set over them, where again, according to Wallace, they were repeatedly slugged and beaten.

Between 7 and 8 o'clock of the following morning, without having tasted food or drink for over eighteen hours, they were taken out in groups of five and compelled to run the gantlet. As they ran between a double line of the so-called vigilantes, the story runs, they were belabored with clubs and black snakes. Then the flag-kissing episode was repeated, after which they were told to "hike" up the track for Los Angeles and never come back. They reached Los Angeles after a tramp of several days, sore, hungry, practically penniless and in deplorable physical condition.

Story of Julius Tum.

I desire to call the especial attention of your Excellency to the detailed story of Julius Tum, a young German tailor. (See Transcript, page 516.) This is a peculiarly pathetic case and deserves special consideration. Tum is not a member of the I. W. W.; is not a Socialist. He is a member of the tailors' union, and in this wise is affiliated with

the American Federation of Labor. According to his statement, made in person before me, he came to San Diego some time ago in search of employment at his trade. He finally succeeded in getting work at a prominent tailoring establishment in San Diego city. To verify this statement made by him, I sent the following communication to his former employer:

SAN DIEGO, April 20, 1912.

Mr. J. W. Brem, D street, San Diego, Merchant Tailor.

DEAR SIR: Mr. Julius Tum informs me that he was in your employ as a tailor from March 26th until April 4, 1912, when he was deported from San Diego.

Will you be good enough to verify this statement and to inform me whether during the time that he was in your service he proved himself an efficient workman, and whether he committed any act that would subject him to unfavorable criticism. A written reply to this letter, handed to my secretary, who brings this communication to you, will be appreciated by

Yours truly,

H. WEINSTOCK,

Commissioner appointed by Governor Johnson for the investigation of the I. W. W. troubles in San Diego.

To which the following reply was received:

DEAR SIR: In replying to your letter I will say that Mr. Tum was employed by me and worked during the time stated. His work was satisfactory.

Yours truly,

J. W. BREM.

This poor, inoffensive and harmless young man, if but half the story he tells be true, for having committed no offense other than out of curiosity, dropping in to the I. W. W. headquarters to get for his information some of its literature, was taken in charge by the police and put under duress. He underwent the almost unbelievable experience hereinbefore related by John Wallace, only in a more extreme degree. In addition to all of which he suffered the added indignity of being subjected at the hands of the police to handcuffs as if he were a convicted felon.

Your commissioner, after seeing and talking with this man, listening to his story, giving him an exhaustive cross-examination, verifying his statement as to having been employed in the city, as shown by the foregoing correspondence, became thoroughly satisfied that he spoke the truth without any attempt at exaggeration on his part.

In common with his fellow victims, his sacred rights of life, liberty and the pursuit of happiness, guaranteed under the Constitution, were trampled under foot by men who, in the name of law and order, as an alleged vigilance committee, proved themselves to be the bitterest enemies of law and order.

"Home of the Brave."

Your commissioner has visited Russia and, while there, has heard many horrible tales of high-handed proceedings and outrageous treatment of innocent people at the hands of despotic and tyrannic Russian authorities.

Your commissioner is frank to confess that when he became satisfied of the truth of the stories, as related by these unfortunate men, it was hard for him to believe that he still was not sojourning in Russia, conducting his investigation there, instead of in this alleged "land of the free and home of the brave." Surely, these American men who, as the

overwhelming evidence shows, in large numbers assaulted with weapons in a most cowardly and brutal manner their helpless and defenseless fellows, were certainly far from "brave" and their victims far from "free."

This poor German lad, Julius Tum, during his brutal experience, could far more easily imagine himself in the hands of Russian Cossacks than in the hands of supposedly liberty-loving, law-abiding, God-fearing American citizens. Local newspaper editorials, to which I shall refer later in this report, and resolutions adopted by local commercial bodies, have encouraged and applauded the acts of these so-called vigilantes. For example, the San Diego Building Exchange, in resolutions unanimously adopted April 16, 1912 (see Exhibit 2-27), among other things says: That the members pledge their unqualified support to the council, the police department and the citizens' organization while engaged in the work of upholding the laws and protecting the good name of the city. The Merchants' Association of San Diego, under the date of April 16, 1912 (see Exhibit 2-28), likewise passed a unanimous resolution commending the authorities and the citizens' committee on ridding the city of all lawless and undesirable people, who have apparently been doing, it says, their utmost to discredit the city in the eyes of the world. The Chamber of Commerce of San Diego County also passed resolutions (see Exhibit 2-24), heartily approving of the acts of the city council, the police department and of the citizens' committee, and pledged to them their support and assistance.

Acts Are Endorsed.

These endorsements of the acts of the so-called vigilance committee were emphasized by some of the leading local daily newspapers, as follows: On March 5, 1912, the San Diego Tribune, in an editorial headed "Lawbreakers Who are Protected by the Laws" (see Exhibit 3-4), among other things, says:

"Why are the taxpayers of San Diego compelled to endure this imposition? Simply because the law which these lawbreakers flout prevents the citizens of San Diego from taking the impudent outlaws away from the police and hanging them or shooting them. This method of dealing with the evil that has fastened itself on San Diego would end the trouble in half an hour. * * *

"Possibly when the 'move on' ordinance is enforced there will be no necessity to jail the Industrial Workers of the World; and when these resort to crimes of violence, as is obviously their intention when enough of them have 'arrived,' as their orators have threatened, the citizens will be permitted to take the law into their own hands — which will be bad for the Industrial Workers of the World and permanently good for San Diego."

On Saturday, April 6, 1912, the Evening Tribune, in an editorial (see Exhibit 3-5), entitled "A Plain Statement of San Diego's Purpose," among other things, says:

"There is an unwritten law that permits a citizen to avenge his outraged honor. There is an unwritten law that permits a community to defend itself by any means in its power, lawful

or unlawful, against any evil which the operation of the written law is inadequate to oppose or must oppose by slow, tedious and unnecessarily expensive processes.

"The citizens of San Diego are prepared to appeal to this unwritten law in this existing emergency, menaced as the city is by the threat that thousands of avowed lawbreakers are intending to invade the city.

"If there are any citizens of San Diego who sympathize with these anarchists, they should rid the city of their presence. They are not wanted here, and if they go so far as to insist upon the 'free speech' of anarchy and disloyalty, they will not be tolerated.

"This is San Diego's ultimatum.

"We claim the right to defend ourselves against the confessed outlaws, and we claim the right to choose our weapons of defense. If the sword of our own law is turned against us we claim the right, under the unwritten law, to resort to the law of nature."

In an editorial in the San Diego Union, April 7, 1912 (see Exhibit 3-6), entitled "San Diego's Right to Protect Itself," is found, among other things, the following:

"The critics (of San Diego) are presumably not aware that in the organic law of the State of California is found warrant for precisely what has been done to safeguard this city; and second, that the censure is bestowed in utter ignorance of the conditions here which created that dire necessity that renders self-protection the supreme law * * *. In the absence of legal machinery for dealing with so an anomalous a situation, citizens of San Diego fell back upon their 'inalienable rights' under the State constitution to protect themselves. They have deported many an anarchist from the city and turned back many who sought to come here. There is every reason to believe that this plan of averting a deadly menace will be continued as long as may be deemed necessary for the safety of the community. If this action be lawlessness, make the most of it."

In an editorial in the San Diego Tribune of March 4, 1912 (see Exhibit 3-24), under the title, "Raising Vagrants to the Dignity of Great Criminals," appears among other things the following:

"Hanging is none too good for them (meaning the I. W. W.) and they would be much better dead; for they are absolutely useless in the human economy; they are the waste material of creation and should be drained off into the sewer of oblivion there to rot in cold obstruction like any other excrement."

In the San Diego Union of April 12, 1912, there appears an article signed, "The Vigilantes" (see Exhibit 3-37), in which, among other things, is said:

"The constitution of the State of California guarantees the right of free speech and public assembly * * * but it denies

that right to all those who have no respect for law or order, or of the officials who are charged with the execution of the laws. " * * * We propose to keep up the deportation of these undesirable citizens (meaning the I. W. W.) as fast as we can catch them, and that hereafter they will not only be carried to the county line and dumped there, but we intend to leave our mark on them in the shape of tar well rubbed into their hair, so that a shave will be necessary to remove it, and this is what these agitators (all of them) may expect from now on, that the outside world may know that they have been to San Diego."

Powerful Influences.

The foregoing utterances from commercial bodies and leading daily San Diego newspapers, written in the best vein of some of San Diego's best journalistic minds, were enough to stir men's blood to action. The young, the thoughtless, and the adventurous among the respectable element of the community could not but be powerfully influenced by such preachments. Men, such as these, backed by the support and the approval of the commercial bodies and the leading daily newspapers, representing, as they do, much of the intelligence, the wealth, the conservatism, the enterprise, and presumably also the good citizenship, of the community, felt impelled to play the part, as they believed, of patriotic heroes and, in the name of law and order, ended in committing the very crimes against law and order with which the alleged invading offenders were charged.

From the facts presented in the earlier part of this report, it must be evident that the citizens of San Diego were sorely tried. A horde of outside foot-loose invaders, who had drifted into their hitherto orderly and peaceable city, were deliberately defying a legal ordinance, enacted in the interest of the peace and welfare of the community; were purposely and with malice endeavoring to clog the machinery of local government; in order to annoy, to harass, to hamper its officers, to abuse its police and to impose upon the community the greatest possible burdens in the way of taxes for the support and maintenance of its overcrowded jails, to say nothing of the additional burdens of the greatly increased cost of conducting the business forced upon its courts.

No Overt Acts.

It must be said, however, despite all this, as testified to at the public inquiry by Captain of Detectives Myers (see Transcript, page 656), that although there had been about 200 arrests made, there had been solely for violating the street-speaking ordinance; that there had been no acts of violence committed that could be directly charged to the I. W. W.; that there had been no I. W. W. arrests for drunkenness, nor for resisting an officer (see Transcript, page 656, lines 13 and 14), and that in no instance had any of these men when arrested and searched any weapons in their possession. Their plan was purely one of passive resistance: annoying, aggravating, burdensome, but not inimical to life or property.

Problem Without Precedent.

It was a new and serious problem for the people of San Diego; one without precedent and one for which they were not in any way prepared. It had not been contemplated in local or state legislative provisions that such a condition likely would arise, and, therefore, it made the problem a doubly difficult one to meet and properly to handle. But it cannot now be said, nor will its good citizens say, when a normal condition shall be restored and sanity returns to the community, that there was any justification whatever on the part of men professing to be law-abiding citizens themselves to become lawbreakers and to violate the most sacred provisions of the constitution; to preach with their mouths the sacredness of the constitution and its inviolability, and to break with their hands the most sacred provision of this same constitution by robbing men of their liberty; by assaulting them with weapons, by degrading and humiliating them, by endeavoring to thrust patriotism down their throats in compelling them with a weapon held over their heads to kiss the American flag, to sing the American national anthem and then to deport them.

Section 5508, U. S. Revised Statutes, provides that, "If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same, they shall be fined not more than \$5,000 and imprisoned not more than ten years; and shall, moreover, be thereafter ineligible to any office, or place of honor, profit or trust created by the Constitution or laws of the United States."

It must be evident, from what thus far has been shown in this report, that every blinded member of the so-called vigilance committee, who may have been roused to violate the law by the San Diego newspaper utterances, hereinbefore quoted, and by the moral support given by the San Diego commercial bodies to this so-called citizens' movement, has laid himself liable to criminal charges under section 5508, U. S. Revised Statutes, quoted above. He has, in the eyes of the law, made of himself a criminal—a far greater criminal than those whom he brands as "anarchists," "revolutionists," "dynamiters" and "the scum of the earth."

The penalty for the crime committed by these alleged outcasts is not to exceed \$100 fine or thirty days in the city jail or by both; whereas the crimes committed by the members of the so-called vigilance committee are punishable, not only by a fine of \$5,000 and by possible imprisonment for ten years, but under the law they are declared unfit and ineligible to any office, or place of honor, profit or trust created by the Constitution or laws of the United States.

The question naturally arises, therefore, who are the greater criminals; who are the real anarchists; who are the real violators of the constitution; who are the real undesirables — these so-called unfortunate members of "the scum of the earth," or these presumably respectable members of society?

In this connection, your commissioner desires to quote from a recent public address delivered in the city of San Diego by one of its most honored and respected superior court judges, W. A. Sloane. He said:

"In this day and land of the initiative, referendum and recall, there is no excuse for organized disobedience and defiance of the enforcement of law; no justification, but the right of revolution, and no one should attempt revolution who is not ready to accept the penalty of outlawry, which attaches to unsuccessful revolution.

"* * * but another thing I would urge with equal earnestness is the duty of those who enforce the law, to act within the law. No graver crime against society can be committed than a lawless act committed in the name of law, against a lawbreaker. It is an act which lends justification to the very offense it is directed against. * * * Society owes itself the duty of consistency—the duty to enforce the law at whatever cost, to observe the law at whatever sacrifice."

The Sauer Incident.

Emboldened by the support and approval of some of the leading San Diego daily newspapers and its leading commercial bodies, members of the so-called vigilance committee became so reckless in their contempt of the law and for the provisions of the constitution that, antagonized by his bold and, to them, distasteful, utterances, A. R. Sauer, editor of the San Diego Herald, was kidnaped by the so-called vigilantes. Sauer, who was on the way home from his office in the evening, before darkness really had fallen, was accosted by a number of men, placed in an auto and hurried out of town. Arrived at the outskirts, the editor was compelled to descend, followed by his captors, who placed a rope about his neck. The other end of the rope was flung over the limb of a tree, and Sauer was hauled clear of the ground. In view of which treatment he was constrained to promise that he would leave San Diego and never return. The threat was made, according to Sauer's story, that if he divulged the names of his captors he would suffer the penalty of death.

Sauer made his way to Los Angeles and a short time later returned to San Diego. At the time of this inquiry he was engaged in his usual pursuit, although he claimed to have been threatened a number of times since returning. He contemplates legal action.

District Attorney.

In view of the strained conditions existing at this time in the county of San Diego and, in view of the utter lack of confidence on the part of the victims of the so-called vigilance committee in their being able to obtain justice and redress at the hands of District Attorney H. S. Utley, of San Diego County, because of his pronounced hostilities to them and to their causes of complaint, your commissioner would suggest that you give due consideration to the advisability of instructing the Attorney General of the State of California to consider such evidence as may be submitted to him by the attorneys of the victims of these outrages, with a view of taking an active part in or charge of such criminal proceedings in San Diego County.

In Conclusion—Legislation.

In conclusion, your commissioner calls the attention of your Excellency to the new industrial and economic condition that has arisen in this country; a condition seemingly imported from the continent of Europe and brought about by the organization and growth of what is known as the Industrial Workers of the World.

Because of its unholy and reckless methods to attain its ends, as shown by the quotations in this report from its literature, should the organization reach large proportions, it is likely seriously to menace the industrial peace and welfare of the country.

The scenes enacted in Spokane, Fresno, San Diego, and elsewhere, where multitudes of more or less irresponsible men make it a point to concentrate, with the direct object in view of fomenting industrial strife; of harassing public officials; of glutting jails and becoming parasites on the taxpayers of the community, are likely to be reenacted on a larger and larger scale, until a crisis will be reached and civil war threatened.

This conclusion is forced upon me by the reading of the abundant, attractive, but incendiary literature sent broadcast by this industrial organization, tending more especially to influence the minds of youth.

The methods pursued by the I. W. W. are strongly condemned by the great body of conservative wage-earners affiliated with the American Federation of Labor and by the thoughtful and law-abiding Socialistic bodies of the country who, I feel, may be counted upon to earnestly cooperate with the rest of the good citizenship of the country to hold in restraint this threatening element.

It would seem to your commissioner that the best legislative minds in the commonwealth should be invited to devise legislation, if such a thing is possible, that will meet this new and menacing condition, and that efforts should be made to enlist congress likewise to devise interstate legislation along similar lines.

Respectfully submitted,

HARRIS WEINSTOCK,
Commissioner.

INDEX.

PAGE.

Preliminary Arrangements -----	3
Police Officials Respond -----	4
A Public Inquiry -----	4
Jails Are Visited -----	4
Investigation of Causes, Etc. -----	4
The Charge of Anarchism -----	5
The Use of Force -----	5
"Sabotage" -----	6
Violation of Injunctions -----	6
Organization Approval -----	7
Summary -----	7
Conclusion -----	7
Causes of Difficulties in San Diego -----	8
"Free Speech" -----	8
The Invading Army -----	9
Its Purposes -----	9
Constitutionality of Ordinance -----	10
Public Meetings -----	10
Right of Free Speech -----	11
Charges Are Denied -----	11
Conflict of Evidence -----	12
Fire Hose Episode -----	12
In Justification -----	13
Bertillon Measurements -----	13
The District Attorney -----	13
Sheriff Jennings -----	14
Vigilance Committee -----	14
John Wallace's Experience -----	15
Story of Julius Tum -----	15
"Home of the Brave" -----	16
Acts Are Endorsed -----	17
Powerful Influences -----	19
No Overt Acts -----	19
Problem Without Precedent -----	20
The Sauer Incident -----	21
District Attorney -----	21
In Conclusion—Legislation -----	22