

Cornell Notes

Name Ms. Check	Date October 31
Topic 5th Amendment & due process	Class/ Subject Government

Period 2

<p>On Board: Warm-up: due process Col #22 - The Palmer "Red Raids" → discussion & writing</p>	<p>What is due process? • means that the govt. cannot deprive people of life, liberty, or property w/o - legal justification - a fair process by which a person can challenge the government's justification.</p>	<p>9:00 AM</p>
<p>! HMWK: Read ch. 9 in Rights Matter</p>	<p>How does due process protect people from abuse? • procedural process and • substantive due process - protects basic substantive rights. ex: speech.</p>	
<p>• What is fair process?</p>	<p>Packet (Reading)</p>	<p>9:20 AM</p>
<p>Where is due process found in the US constitution? - 5th and 14th Amendments</p>	<p>Reading 5th Amendment:</p>	<p>9:50</p>
<p>Packet constitution: 13th Amendment</p>	<p>14th Amendment (packet constitution)</p>	

Taking a look at the 5th amendment and the judicial due process analyzing what is allowed and how this affects the people.

Name _____ Date October 31, 2011 GOL # 22

The Palmer "Red Raids"

*For they're shippin' Bolshe Viki, you can hear the engines purr,
They are weighin' of the anchor, an' the decks are all astir,
They've pinned a number on him an' they've branded him a cur,
An' they're shippin' Bolshe Viki in the mornin'!*

-from "Bolshe Viki" By Faith Baldwin

Faith Baldwin made up the name "Bolshe Viki" from the word Bolshevik. The Bolsheviks, a Russian revolutionary group, had established the world's first communist nation in 1917. The communist revolution in Russia greatly disturbed many Americans who feared that Bolshevik sympathizers would try the same thing in the United States. This fear would soon lead to a series of events that placed the Fifth Amendment guarantee of due process of law in serious danger.

In the spring of 1919, A. Mitchell Palmer became attorney general of the United States under President Woodrow Wilson. Shortly after his appointment, Palmer's house was damaged by a bomb. More bombs exploded in a number of American cities. Palmer blamed these bombings on communists, anarchists, and other political radicals. Many Americans called these people "reds," after the color of the Russian communist flag.

Working with Bureau of Immigration officials, Palmer decided to launch a massive round-up of aliens (non-U.S. citizens) suspected of having revolutionary views. The purpose of these "Red Raids" was to arrest and deport so-called dangerous foreigners before they could bring about a violent revolution in America. However, during and after the raids, government agents violated virtually every element of "due process of law" mentioned in the Constitution.

The Palmer "Red Raids"

Building on earlier immigration laws, Congress passed the Deportation Act of 1918 with three purposes in mind. This law authorized the deportation of any alien who: [1] opposed all organized government (anarchism); [2] advocated the overthrow of the government "by force or violence"; or [3] belonged to any organization teaching these views. For example, the Secretary of Labor eventually ruled that the Communist Party advocated violent revolution. Therefore, any alien who was a member of that organization could be deported. The Bureau of Immigration (then part of the Department of Labor) often decided who would be deported under this law.

Even though deportation matters were not normally the concern of the Department of Justice, Attorney General Palmer soon created an alliance with officials in the Bureau of Immigration to find and deport alien "reds." J. Edgar Hoover, Palmer's chief investigating officer, ordered Justice Department agents to go undercover and join suspected radical organizations.

By December 1919, Palmer, Hoover, and their allies in the Bureau of Immigration had decided to arrest alien members of the Communist Party and other foreign radicals. Hoover issued the

instructions to Department of Justice agents which called for the arrests to take place during a series of raids planned for the evening of January 2, 1920.

The Palmer "Red Raids" took place on schedule in more than 30 cities, located mainly in eastern states. Between six and ten thousand people were arrested. In many cases, arrest warrants had not been issued until *after* individuals found themselves in custody. Moreover, Department of Justice agents rarely carried search warrants during the raids. Nevertheless, the raiders seized political literature, membership cards and lists, organization records, and other papers. Very little evidence of revolutionary or criminal activity actually turned up. Days after the raids, thousands of aliens were still being held without formal charge, without bail, without the assistance of a lawyer and in many cases, without family or friends knowing where they were.

violation of due process →

↪
violation of 4th Amendment

The Deportation Hearings

The arrested aliens were not charged with any crime. Only one question mattered: did they believe in radical ideas or belong to any organization that did. If this could be established in the case of an individual alien, he or she could be deported. Due process rights did not apply to these criminal arrests. Instead, the judgment to deport or not deport an alien was made by an immigration inspector in a secret hearing.

During a typical deportation hearing at this time, the immigration inspector acted as arresting officer, prosecutor, judge, jury, and recording clerk. A defense lawyer was not permitted to attend while the immigration inspector questioned the alien (many of whom understood little English). The interrogation focused not only on what the alien had done and said, but also on his or her beliefs and thoughts.

In one well-documented case, Gaspare Cannone was arrested without charge or warrant by Department of Justice agents in New York City. Cannone, who spoke limited English, was beaten and kicked when he refused to give evidence against other people. After being held in secret for 72 hours, agents took him to Ellis Island and turned over to Bureau of Immigration officials. Following questioning by an immigration inspector, Cannone refused to sign a statement admitting he was an anarchist. But someone forged his signature to the statement anyway.

Palmer on the Defensive

Under attack by a growing number of critics, including members of Congress, Attorney General Palmer issued a letter directed to the nation's press. "My one desire," he wrote, "is to acquaint people like you with the real menace of evil-thinking which is the foundation of the Red movement." He then described the movement as calling for "the destruction of all ownership of property, the destruction of all religion and belief in God."

Despite Palmer's letter, the controversy continued. Four months after the raids, a prominent group of lawyers and judges published a report documenting dozens of cases of due process violations. It concluded that, "There is no danger of revolution so great as that created by ... deliberate violations of the simple rules of American law and American decency."

A division developed within the federal government between Attorney General Palmer and Assistant Secretary of Labor Louis F. Post. Post personally reviewed the records of the deportation hearings that had been conducted by Bureau of Immigration inspectors under his authority. Refusing to cooperate with Palmer's plan to deport large numbers of aliens, Post overruled more than 1500 deportation orders. He concluded:

the hearings show the aliens arrested to be working men of good character who have never been arrested before, who are not anarchists or revolutionists, nor politically or otherwise dangerous in any sense.

As a result, Palmer's supporters in Congress soon attacked Post. They introduced a resolution in the House of Representatives to impeach him and a House committee summoned Post to testify. Post used this occasion to condemn the violations of due process of law that had occurred during the whole affair. Post further took the position that even aliens "are entitled to the protection of our Constitution."

Louis Post's aggressive testimony before the House committee put a quick end to the impeachment campaign against him. Later, in a book giving his account of the Palmer "Red Raids," Post wrote that "the public mind was under the influence of what must always be regarded as a monstrous social delirium."

Attorney General A. Mitchell Palmer never gave in to his critics. Testifying in 1921 before a Senate committee investigating the raids, Palmer made this statement:

I apologize for nothing that the Department of Justice has done.... I glory in it. I point with pride and enthusiasm to the results of that work; and if ... agents of the Department of Labor were a little rough and unkind ... with these alien agitators,... I think it might well be overlooked in the general good to the country.

For Discussion and Writing (answer in Cornell note format – include a summary)

1. Do you agree or disagree with the 1918 law that required the deportation of aliens if they believed in certain radical ideas or joined organizations that argued for the violent overthrow of the government? Why is there a difference between a person's beliefs and a person's actions?
2. Read the Fifth Amendment of the Bill of Rights. Do you think this amendment should protect only American citizens, or should it also protect aliens living in the United States?
3. Read again the statement by Attorney General A. Mitchell Palmer quoted at the end of the article. Do you agree or disagree with his views?
4. Can you imagine any modern circumstances in the United States where a group of people are so dangerous to society that it would be justifiable to jail or deport them without due process of law? Describe these circumstances as specifically as possible. What are the arguments against arresting them without due process of law?

ACTIVITY

In The Matter of Thomas Truss

On a case-by-case basis, Assistant Secretary of Labor Louis F. Post made the final decision whether to deport the aliens who had been arrested and held as a result of the Palmer "Red Raids." As related in the article, Post released many of the aliens because of lack of evidence or because of due process of law violations. In about 500 cases, however, Post did order aliens to be deported. After reading the facts in the following case, meet in small groups to discuss what you think he should have done in the matter of Thomas Truss.

Facts

Thomas Truss, age 33, was born in Poland. He legally entered the United States in 1907. Five years later, he was married and subsequently became the father of three children, all native-born American citizens. Truss, however, remained a citizen of Poland.

Truss was employed as a coat presser in Baltimore, Maryland. He became the president of the clothing workers' union of that city. For a time he also was a member of a workers' organization made up mainly of Russian immigrants.

On January 7, 1920, police officers came to Truss' home and arrested him without a warrant. He was taken to a local police station and told that he was wanted by the Department of Justice. But he was not informed why he was wanted. Truss was locked up for the night without being allowed to tell his family or friends where he was.

The following day an agent of the Department of Justice questioned Truss and wrote down all of his statements. Truss was not permitted to have a lawyer present during this interrogation.

On January 9, two days after Truss' arrest, an immigration inspector secured an arrest warrant and took him into federal custody. Truss was held an additional six days until he was released on \$1,000 bail.

Thomas Truss appeared for a deportation hearing before an immigration inspector on January 20. As a result of this hearing and the earlier interrogation, Truss was ordered to leave the United States. The record of this hearing revealed that Truss, along with a number of other Baltimore workers applied for membership in the Communist Party sometime in the summer of 1919. However, he did this before the Communist Party was officially organized in Chicago on September 5, 1919. Shortly after this date, the Communist Party sent membership cards to Truss and other Baltimore workers. Truss had previously paid a membership fee and two month's dues. The Communist Party then sent the Baltimore group a charter in order to form a branch organization. At this point the group requested the Communist Party to send a copy of its constitution and someone to explain the purposes of the organization. When this had not been done by October 1919, the group of Baltimore workers including Thomas Truss decided to send the charter back and not hold any more meetings.