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American Committee for Anti-Nazi Literature, 1938-1939.

MEMORANDUM ON LEGISLATION INTENDED
TO CURB FASCIST ACTIVITIES
ADOPTED BY THE BOARD OF DIRECTORS
OF THE CIVIL LIBERTIES UNION
JANUARY 24, 1938,
AND PRESENTED BY A SPECIAL COMMITTEE
TO THE MEMBERS OF THE BOARD

The undersigned members of a special committee appointed by the Board to recommend legislation to curb Fascist activities in the United States have considered all the available proposals in the light of the experience of European democracies.

We are confronted at once by the problem of how far so-called Fascist activities can be controlled without doing violence to the principles of civil liberty.

Standing on its historic interpretation of civil liberties, the American Civil Liberties Union could not sponsor legislation which penalizes opinion or activities not associated with violence, coercion, or preparation for violence. In dealing with Fascist activities the line should sharply be drawn at that point. Legislation which aims at controlling violence or preparations for it is legitimate. Legislation which would violate the civil rights of Fascists and all others in a democracy would be indefensible. If such legislation were aimed at a specific group it could easily become a weapon against other groups, as experience under the so-called Anti-Nazi Law in New Jersey has shown.

The argument is also made that some legal distinction can be successfully drawn between propaganda by American citizens and Fascist propaganda from abroad by its agents here. No such line can be successfully drawn, as all experience shows. Foreign propagandists are readily disguised under the cloak of commercial and professional activities.

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Their subsidies are so paid as not to be traceable. Any legal restrictions on their imported printed propaganda would have to be couched in such terms as to affect other foreign propaganda as well, and to violate freedom of publication and distribution.

The Fascist activities apparent in the United States, against which legislation is urged are:

1. The organization of camps in rural districts, particularly by pro-Nazi German Americans, where military training is said to be organized.
2. Parades in cities by German-American groups wearing brown shirts and carrying Swastika flags, sometimes provocatively conducted in districts inhabited by Nazi opponents.
3. Collaboration between German-American propaganda agencies allegedly financed by the German government and such native organizations of Fascist tendency as the Silver Shirts, the Ku Klux Klan and the like.
4. Propaganda by pro-Nazi elements arousing hatred of Jews and other racial minorities.
5. Boycott or intimidation by representatives of Fascist governments of business and professional men in Italian and German and other communities who are known to be anti-Fascist.
6. Secret societies such as the Silver Shirts and the Ku Klux Klan which aim to usurp governmental functions or to exercise private violence.

It will be seen that of the above forms of so-called Fascist activities, most of them affect communities of the foreign-born and their immediate descendants where loyalty is divided between the

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United States and countries of their origin. This type of Fascist activities is therefore confined to the large foreign-born communities, particularly along the Atlantic Seaboard and especially in and around New York City. The native movements which may be properly described as Fascist in tendency are more widely distributed, particularly in the middle west and south. Strong in the heyday of the Ku Klux Klan, they are obviously weak and unimportant today.

The problem of dealing with the native movements of Fascist character by law has taken the form, first, of prosecutions for acts of violence, second, of prohibiting masked parades in public. The laws adopted in a number of states during the greatest activity of the Klan, particularly in the north and middle west prohibiting masked parades on the ground of their intimidating character, were effective. The Civil Liberties Union supported them, although it has always upheld the right of the Ku Klux Klan as of any other group, to parade without masks.

As regards the foreign Fascist movements, the only special legislation adopted is, as has been said, the so-called New Jersey anti-Nazi statute, which punishes the distribution of any written or printed material, "which advocates hatred, violence or hostility" against any group of persons by reason of their "race, color, religion or manner of worship." The statute is practically a dead letter. The only prosecution under it was against Jehovahs Witnesses for anti-Catholic propaganda. The prosecutions were dropped when the convictions were appealed.

Both state and federal law already deal effectively with all forms of forcible resistance to law and with violence. Federal statutes control the sale and shipment of small fire-arms. In many states the law prohibits the formation of military companies other
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than those publicly authorized. Federal law prohibits the wearing of military uniforms so similar to the armed forces of the U.S. that they may be confused with them. Many state laws, as has been noted, prohibit masked assemblages or parades.

It will thus be seen that practically all forms of violence or preparations for violence are covered by federal or state laws; and in many states there are prohibitions upon other forms of activities associated with Fascism.

Certain European democracies have gone much further. Some of them designate by law unlawful societies, covering groups preparing to usurp governmental functions. Others restrict propaganda aimed against democratic institutions or punish incitement to hatred of other sections of the population. In England and a few other democracies laws have been passed in recent years prohibiting the wearing of political uniforms in public.

In our judgment all of these restraints in European democracies violate democratic rights and are dangerous in the hands of administrative officials who may apply them not only to Fascists but to labor and progressive groups as well. Certainly none of the above proposals except possibly prohibiting the wearing of political uniforms can be defended within the framework of democracy. But even that raises such serious questions as to be objectionable. What is a political uniform? How can it be distinguished from an arm band, a shirt, a cap of a particular color, a flag? European laws do not define uniforms. We venture to say that it is impossible to define them in law. Even if a definition could be successfully made it obviously would strike at all parades and groups with a political purpose. It would affect

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Republican or Democratic Party parades with arm bands, banners or caps just as it would a Fascist demonstration and might affect parades of Masons & Knights Templar.

Furthermore, there is not yet in the United States any Fascist political movement of such consequence as to call for such legislation. The only Fascist political uniforms worn in public are those of the Italian and German organizations and those in a very restricted area and rarely.

The Civil Liberties Union has long opposed any prohibition upon carrying flags in public as a symbol of a political movement. The Supreme Court of the United States has pretty well knocked out the anti-red-flag laws. No distinction can be made between carrying a flag which is the symbol of a native or international movement and a flag which represents a foreign government. The Irish flag is carried in St. Patrick's Day parades. The flags of other nations are carried in parades by sons and daughters living in America. Any prohibition aimed at a Fascist symbol would reach them as well.

The problem of parades in brown shirts with Swastikas, which has aroused so much discussion, cannot in our judgment be attacked except as a police regulation. The right to parade should never be denied, but it may be regulated in accordance with conditions of traffic. Where a parade obviously aims at intimidation and violence, and where violence can be plainly demonstrated to have resulted beyond police power to control, as in the case of Klan demonstrations in Negro districts, police regulation in routing such parades into safe districts may be warranted. Certainly the problem justifies no legislation today.

The Nazi training camps which prompted the Department of Justice to an investigation apparently offer no problem for legislation. The

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report of the Department of Justice makes clear that no illegal activities take place. No arms are used. There is no preparation for the use of arms.

Concerning boycott or intimidation by representatives of Fascist governments of anti-Fascists, all that can be done is to protest to the State Department against improper activities by consular or other foreign officials, when directed against American citizens. No exceptions can be taken unfortunately to boycotts or intimidation of their own countrymen unless some law concerning violence or coercion is violated.

In accordance with the principle that Fascist activities like others should be restrained only when they partake of the nature of violence or the preparation for it, the Civil Liberties Union will seek federal legislation prohibiting the formation of private military forces and the prohibition of private military training. By this is meant of course military training and military forces not authorized by the government. Military training in schools is today everywhere under the supervision of the War Department. There is little evidence of any other military training or the organization of private military forces, but the tendencies of a Fascist movement are always to develop it. Such tendencies would justify the enactment of such legislation.

None of the other proposals for restraining Fascist activities justifies our support; indeed most of them would merit opposition.

(Signed) Arthur Garfield Hays
Roger William Riis
Lee Hazen
Lucille B. Milner
Oswald Garrison Villard
Roger N. Baldwin

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NEW YORK CITY
CIVIL LIBERTIES COMMITTEE

(Affiliated with the American Civil Liberties Union)

31 UNION SQUARE, WEST
NEW YORK, N. Y.

GRamercy 7-4330

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MRS. C. D. WILLIAMS

Secretary
MARJORIE F. GOLDSTEIN

February 9, 1938

Dr. Abba Hillel Silver
The Temple
East 105th street and Ansel Road
Cleveland, Ohio

Dear Dr. Silver:

Enclosed is a copy of a letter sent to Mr. Leonard S. Beller, Executive Secretary of the American Committee for Anti-Nazi Literature in reference to his proposed attempt to stop the meeting of the German-American Bund at Madison Square Garden February 20th, expressing our point of view.

We hope that you will join with us in expressing a similar opinion in a letter to Mr. Beller.

Sincerely yours,

Florina Lasker
Florina Lasker
Chairman

FL:GB
enc.

(Copy)

February 8, 1939

Mr. Leonard S. Beller
American Committee for Anti-Nazi Literature
20 Vesey Street,
New York, N.Y.

Dear Mr. Beller:

Your letter of January 27, 1939, to members of the American Committee for Anti-Nazi Literature suggesting stopping the German-American Bund meeting at Madison Square Garden on February 20th has been brought to our attention.

We vigorously protest this attempt. The right of any group to hold a meeting, no matter how repugnant this group's principles are to you, is a fundamental part of the Bill of Rights. UnAmericanism cannot be fought with further UnAmericanism.

Your letter states: "Sentiment against this meeting has risen so high among the people of New York, disastrous results may take place were this meeting held as per schedule." This is the language of Mayor Hague. It should be clear to you that to urge banning a meeting because there is a possibility of "disastrous results" sets a dangerous precedent. Such a doctrine could result in banning all meetings of a controversial nature. The United States Circuit Court of Appeals, discussing this doctrine in the case of Hague v. the Committee for Industrial Organization and the American Civil Liberties Union recently said: "Applying the appellants doctrine literally, political speakers might not stump a city in an election if their opponents objected to what they had to say and threatened disorder. The strict application of such a rule would result eventually in the existence of but one political party as is now the case under totalitarian governments."

Your committee, or any group disapproving of this meeting, has the right to express its disapproval by other democratic methods such as picketing, boycotting

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2- Mr. Leonard S. Beller

and counter-meetings.

Any attempt to restrain the German-American Bund from the free exercise of its constitutional rights will be fought by us. We shall use our best efforts to see that the meeting is adequately protected by the police and that any counter-meeting or picketing is also adequately protected.

We earnestly urge upon you the wisdom of desisting from further attempts to interfere with this assemblage, and confine your opposition to legitimate methods of protest. Only as the rights of your enemies are fully assured are your own rights safe.

Sincerely yours,

Florina Lasker
Chairman

Osmond K. Fraenkel
Counsel

FL:GB

PARKWAY POST No. 61
Jewish War Veterans of the United States



FOUNDED IN 1894

VICTOR SCHILLER, Commander
302 Glenmore Ave.
Brooklyn, N. Y.
WOOrth 2-8955 AFTERNOONS

ARCHIE H. GREENBERG
Senior Vice Commander

M. L. MECKENBERG
Junior Vice Commander

IRVING GOLDBERG
Adjutant
719 East N. Y. Ave. Bklyn

SAUL FARBER
Quartermaster
328 Ocean Parkway, Bklyn
WIndsor 8-6626

ALBERT A. LEWIS
Chairman
Membership Committee
500 Montgomery St., Bklyn
PResident 3-3388

EDGAR H. BURMAN
Chairman
Public Relations Committee
INGersoll 2-9296

ISIDOR BOOKBINDER
Officer of the Day

PHILLIP ROSENBLUM
Chaplain

DR. HARRY H. FRIEDMAN
Surgeon

HERBERT BERMAN
Judge Advocate

SAM LIPPMAN
Welfare Officer

TRUSTEES
M. EDWIN LEVY
WM. A. MAYERS
AL. A. LEWIS

November 3, 1938

Dear Dr. Silver,

One of the members of our Post has referred a letter appealing for contributions which he had received from an organization called "American Committee for Anti-Nazi Literature" which has as its chairman William E. Dodd. Jr. and you, Dr. Abba Hillel Silver as one of its many sponsors. Its lists as its activities:

1. To give financial aid to the opposition movement within Germany.
2. To expose Nazi inroads in America.
3. To distribute literature in the United States setting forth the true state of affairs in Germany.

I should like to bring it before Parkway Post #61, Jewish War Veterans of the U.S. for action but only upon the verifications of its authenticity by you.

Until I hear from you which I hope will be before next Wednesday, our regular meeting night, I am for the good of our American ideals and the safety and security of our people.

Dr. Harry H. Friedman
Very respectfully yours,

HHF:EM

310 Kingston Ave., Bklyn, N.Y.

November 7, 1938

Dr. Harry H. Friedman
310 Kingston Ave.
Brooklyn, N.Y.

My dear Dr. Friedman:

In reply to your kind letter of November 3, permit me to say that that "American Committee for Anti-Nazi Literature" is doing valuable work in fighting Naziism within Germany as well as elsewhere. Whatever assistance you can give the organization is well worthwhile.

With all good wishes, I remain

Most cordially yours,

AHS:BK

AMERICAN COMMITTEE for ANTI-NAZI LITERATURE

SUITE 302 - 20 VESEY STREET

NEW YORK CITY

REctor 2-5867

January 27, 1939

Chairman: WILLIAM E. DODD, JR.

Treasurer: S. D. DOUGLIS

Executive Secretary: LEONARD S. BELLER

Dr. Abba Hillel Silver

Temple Emanuel

105 St. & Ansel Road

Cleveland, Ohio

Cable Address:

LITCOM

Advisers on Anti-Nazi Literature
PRINCE HUBERTUS ZU LOEWENSTEIN
(German Catholic Leader)

DR. KURT ROSENFELD
(Former Minister of Justice in Prussia)

Sponsors:

CARLETON BEALS
T. A. BISSON
HARRIET STANTON BLATCH
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DR. BARRETT H. CLARK
PROF. THOMAS C. COCHRAN
MALCOLM COWLEY
KATE CRANE-GARTZ
DR. WALTER DAMROSCH
PROF. JOHN DEWEY
DR. JOHN LOVEJOY ELLIOTT
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MARTHA GRAHAM
PROF. ALBERT GUERARD
PROF. ALICE HAMILTON
MOSS HART
I. A. HIRSCHMANN
ROCKWELL KENT
DOROTHY KENYON
PROF. WM. H. KILPATRICK
FREDA KIRCHWEY
JUSTICE ANNA M. KROSS
JUDGE S. D. LEVY
PROF. EDUARD C. LINDEMAN
PROF. R. M. MACIVER
ANNIE NATHAN MEYER
LEWIS MUMFORD
DR. HENRY NEUMANN
PROF. FREDERICK L. SCHUMAN
ROSIKA SCHWIMMER
DR. ABBA HILLEL SILVER
LEE SIMONSON
CARL VAN DOREN
LILLIAN D. WALD

Dear Dr. Silver:

May we call your attention to the amazing fact that the German-American Bund, the organization of which Fritz Kuhn is the notorious leader, has leased Madison Square Garden for a Bund meeting?

This meeting - misleadingly called "A Pro-American Rally and George Washington Birthday Exercises for 'True Americanism'" - is scheduled to be held at the Garden on February 20th. The accompanying composite illustrates what the Nazis mean by "True Americanism."

We are sure you realize that this meeting - anti-democratic, anti-semitic and an attempt at a show of strength for the American Nazis - should be stopped, if we are to conduct a successful fight against Nazi encroachments in the United States.

It is only when the voices of the American people are raised in protest against such displays of un-American activities can we effectively defend the American principles of democracy.

WE BELIEVE - AS YOU DO - IN CIVIL LIBERTIES - BUT
NOT IN TREASON!!

We therefore respectfully call upon you, as one who is fully aware of the dangers of Nazism, to send us a statement in which you make clear your objections to this meeting, permitting us to forward your protest to the press for publication and to the Board of Directors of Madison Square Garden for consideration.

Sentiment against this meeting has risen so high among the people of New York, disastrous results may take place were this meeting held as per schedule.

May we hear from you at your earliest convenience?

Sincerely,

Leonard S. Beller

Leonard S. Beller
Executive Secretary

February 12, 1939

Mr. Leonard S. Beller, Executive Secretary
American Committee for Anti-Nazi Literature
20 Vesey Street
New York, N.Y.

My dear Mr. Beller:

I received your letter but I am afraid that I cannot subscribe to the activity which you have undertaken to bring about the suspension of the meeting of the German American Bund which is scheduled to be held in the Madison Square Garden on February 20. I do not think that it comes within the program of the American Committee for Anti-Nazi Literature to undertake such activities, and if it were, I would seriously question the wisdom of it.

Very cordially yours,

AHS:BK

AMERICAN COMMITTEE for ANTI-NAZI LITERATURE

SUITE 302 - 20 VESEY STREET

NEW YORK CITY

REctor 2-5867

Cable Address:
LITCOM

February 14, 1939

Chairman: WILLIAM E. DODD, JR.

Treasurer: S. D. DOUGLIS

Executive Secretary: LEONARD S. BELLER

Advisers on Anti-Nazi Literature
PRINCE HUBERTUS ZU LOEWENSTEIN
(German Catholic Leader)

DR. KURT ROSENFELD
(Former Minister of Justice in Prussia)

Dr. Abba Hillel Silver
East 105th Street at Ansel Road
Cleveland, Ohio

Dear Dr. Silver:

Sponsors:

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T. A. BISSON
HARRIET STANTON BLATCH
ANITA BLOCK
S. JOHN BLOCK
PROF. FRANZ BOAS
DR. BARRETT H. CLARK
PROF. THOMAS C. COCHRAN
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DR. JOHN LOVEJOY ELLIOTT
DR. H. C. ENGELBRECHT
MARTHA GRAHAM
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DOROTHY KENYON
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FREDA KIRCHWEY
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LEWIS MUMFORD
DR. HENRY NEUMANN
PROF. FREDERICK L. SCHUMAN
ROSIKA SCHWIMMER
DR. ABBA HILLEL SILVER
LEE SIMONSON
CARL VAN DOREN
LILLIAN D. WALD

In reply to your letter of the 12th, in regard to the Bund meeting, please understand that the letter sent out by our Committee was sent at the express instruction of our Membership for the purpose of obtaining a consensus of opinion of the people of this city.

We fully realize, of course, the implications of the privilege of civil liberties which might so easily lead to the so-called "martyrdom" of the Bund. We also realize that civil liberties can be maliciously misused by those whose sole purpose is the destruction of democracy so that civil liberties might easily become a travesty and the Bill of Rights a scrap of paper.

The letter sent out met with two opinions - namely, that which pointed out the danger of depriving people, even the Bund with its alien doctrines, of their civil liberties, and that which strongly maintained that the question of civil liberties does not even remotely enter into this matter.

May we quote from a letter received from Prof. Franz Boas, of the Department of Anthropology, Columbia U.:

"...I hope that your Committee...will see to it that the public is forewarned."

T. A. Bisson, of the Foreign Policy Association writes:

"...The unashamed use of anti-Semitism in the circulars advertising the Bund meeting is a travesty on the 'true Americanism' which this group professes to advocate... I strongly urge that the Board of Directors of the Madison Square Garden reconsider its decision to lease the Garden to the German-American Bund."

AMERICAN COMMITTEE FOR ANTI-NAZI LITERATURE

TO: Dr. Abba Hillel Silver

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Maurice P. Davidson, Esq., of the Fusion Party writes:

"...The proposed mass demonstration... is a clear attempt to rally elements opposed to American institutions. The time has arrived when America must defend itself not only from enemies abroad but from subversive forces in our midst... Our democracy can rightly be charged with weakness if...we should allow the German-American Bund to continue to pursue its treasonable activity by propaganda and mass meetings."

Councilman Albert D. Schanzer writes:

"...The Bund meeting asks for 'proportionate representation' in the conduct of the nation. That means that the Nazis in America are getting ready to ask for representation for themselves as Nazis. This would be the first blow...it must be prevented."

The major portion of the letters received in this office as a result of our original communication have been overwhelmingly in favor of preventing this meeting from being held.

However, since we sent our original letter, we have abided by the wishes of those of our correspondents who expressed the view that the question of civil liberties and free speech is involved.

Our Committee is now directing its efforts towards an educational expose of the German-American Bund and its threat to American democracy, in cooperation with and under the leadership of the Descendants of the American Revolution. Enclosed herewith you will find a brochure issued in this connection.

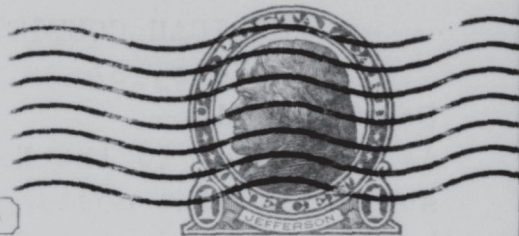
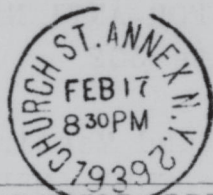
Trusting this explanation meets with your approval, we are

Sincerely yours,

Leonard S. Beller

Leonard S. Beller
Executive Secretary

LB:EL



THIS SIDE OF CARD IS FOR ADDRESS

WRHS



Dr. Abba Hillel Silver,
THE TEMPLE
E. 105 St. & Ansel Road,
Cleveland, Ohio.

AMERICAN COMMITTEE FOR ANTI NAZI LITERATURE
20 Vesey St. Suite 302 Rector 2-5867

Dear Friend:

As an answer to the Nazi Bund Meeting, our Committee is supporting the meeting for TRUE AMERICANISM sponsored by the Descendants of the American Revolution and the East End Council for Democracy, to be held at:

JULIA RICHMAN HIGH SCHOOL AUDITORIUM
67th Street & 2nd Avenue - Monday - Feb. 20 - 8 o'clock
SPEAKERS: George Gordon Battle - Dr. David Efron -
George Hamilton Combs - Hon. Newbold Morris

Hon. Anna Kross

You and your friends are cordially invited to attend.

Leonard S. Beller
Executive Secretary