

WB:DEB:AK

April 24, 1942

Mr. John Herrick  
Chief, Press Division  
Office of Facts and Figures  
Washington, D. C.

Dear Sir:

This will acknowledge receipt of your letter of April 17, 1942, addressed to Mr. M. E. Gilfond, Director of Public Relations of this Department, which has been referred to us, pertaining to Dr. Ezra Pound.

We are making inquiry to determine the exact status of the citizenship of this individual in order to determine how the matter should be handled. We appreciate your courtesy in supplying us with the information enclosed with your letter.

Respectfully,

For the Attorney General

FILED  
BY  
APR 27 1942

WENDELL BERGE  
Assistant Attorney General

146 <sup>H</sup>M7-3672  
38-16-80  
DEPARTMENT OF JUSTICE  
APR 25 1942 A.M.  
DIVISION OF RECORDS  
CRIM. DIV. - RUTLER  
CRIM. DIV. - McINERNEY

5-15-42

NEW

SIGNED AND MAILED  
APR 24 1942  
DIVISION OF RECORDS

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EB: DEB: ERS

146-7-3672

W.S.S.

May 20, 1942

Mr. John Herrick  
Chief, Press Division  
Office of Facts and Figures  
Washington, D. C.

Dear Sir:

Further reference is made to your letter of April 17, 1942, addressed to Mr. M. E. Gilfond, Director of Public Relations of this Department and to our reply of April 24, 1942, pertaining to Dr. Ezra Pound.

We are in receipt of information indicating that the State Department reported on July 16, 1941 that Ezra Pound was born in Hailey, Idaho, on October 30, 1865, although he has resided outside of the United States since 1911. Accordingly, he is a native born citizen and proceedings to revoke naturalization will not be applicable. A record is being maintained of his case upon the possibility that subsequently it may be found that other action against him may be taken.

Respectfully,

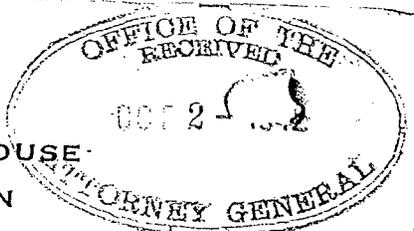
For the Attorney General

WENDELL BERGE  
Assistant Attorney General

ED  
MAY 23 1942

SIGNED AND MAILED  
MAY 21 1942  
DEPT. OF JUSTICE

*Handwritten signatures and initials:*  
A large cursive signature, possibly "W. B.", is written over the typed name.  
Other initials and scribbles are present to the left of the signature.



THE WHITE HOUSE  
WASHINGTON

October 1, 1942.

MEMORANDUM FOR THE  
ATTORNEY GENERAL:

There are a number of Americans in Europe who are aiding Hitler et al on the radio. Why should we not proceed to indict them for treason even though we might not be able to try them until after the war? I understand Ezra Pound, Best, Anderson and a few others are broadcasting for Axis microphones.

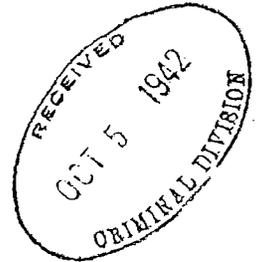
Per 146-7-3672

F.D.R.  
146-28-237-1  
146-28-0  
DEPARTMENT OF JUSTICE  
OCT 29 1942  
DIVISION OF RECORDS  
ATTORNEY GENERAL  
CRIMINAL DIVISION  
ASST. SOLICITOR GENERAL

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WB: SCE: MLV

146-7-3672

October 13, 1942

MEMORANDUM FOR THE DIRECTOR,  
FEDERAL BUREAU OF INVESTIGATION

Re: Dr. Ezra Pound

The above subject, an American citizen, has been reported to the Criminal Division to have been broadcasting enemy propaganda from a Rome, Italy radio station.

It is requested that you obtain, if possible, transcripts of his broadcasts and transmit the same to this Division, together with any information you may have regarding this subject.

Respectfully,

WENDELL BERGE  
Assistant Attorney General

Mc



October 14, 1942

RECEIVED

OCT 22 1942

CRIMINAL DIVISION EZRA POUND

Ezra Pound was born in Hailey, Idaho, on October 30, 1885. He left the United States in February, 1911, and proceeded to Rapallo, Italy, where, with the exception of a few side trips to other parts of Europe, he has remained ever since.

The British "Who's Who" indicates that Ezra Pound received his Ph.B. degree from Hamilton College, Clinton, New York, and his M.A. degree from the University of Pennsylvania. In 1914, he married Dorothy Shakespear, poet and composer. He has been a prolific writer and has contributed to the following periodicals: Rassegna Monetaria, Criterion, Action, British Union Quarterly, and Townsman. He has authored seventeen books of poems, two operas, eighteen prose treatises and eleven translations. These include "Japanese No Dames", "Chinese Drama", "Jefferson and/or Mussolini" (1935), and "Guide to Kultur" (1938). His residence in 1942 was given as via Marsallo 12/5, Rapallo, Italy, and his son's name was furnished as Omar Shakespear Pound.

It is reported that in February, 1940, Pound began airing his alien views and contempt for the United States over the Rome radio.

On July 12, 1941, the Department of State, Washington, D. C., instructed the American Embassy in Rome, Italy, to limit the issuance of a passport to Pound for the return to the United States only. Some publicity allegedly appeared in the American press indicating that Pound had expressed his desire to return to the United States in order to collect American and British royalties on his publications.

At the present time Pound is also allegedly editing a magazine entitled "Exile", presumably in Rome, Italy.

The Department of State has advised confidentially of the receipt of a dispatch dated June 4, 1941, from the American Consulate General at Genoa, Italy. This dispatch, in effect, stated that Pound is known to have been very pro-Fascist for a number of years and to have spoken over the Italian radio system against the policies of the United States. Continuing, it was stated that upon entering and leaving the Consular offices at Genoa, he was prone to give the Fascist salute.

It was also reported by the Department of State that Pound, after the outbreak of the war, had been blasting the usual propaganda over the Italian radio.

Pound refused to return home at the time the American Embassy, Consular officials and their staffs were repatriated and is reported to still be residing in Italy.

146-7-3672

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7 Nov 1942  
146-7-3672

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November 20, 1942.

146-7-3672

146-7-3672

S. H. H.

MEMORANDUM FOR THE FILE

Re: Excerpts of Broadcasts,  
by Ezra Pound.

July 2, 1942.....No excerpts.

July 6, 1942.....\* \* \* There is so much that the United States does not know. This war is fruit of such vast incomprehension, such tangled ignorance, so many strains of undoing, I'm held up in rage by the delaying needed to change a typing ribbon so much is there that ought to be put into young America's head.

\* \* \*

"Art, economics, pathology--you need to know more about all of them, need to get out of this war, need to stay out of and prevent the next one; need to change the stinking old system. \* \* \*"

\* \* \*

July 7, 1942.....No excerpts. Apparently the same as July 6 broadcast.

July 10, 1942.....\* \* \* There is now a new code in Italy. Study it. It is better than Napoleon's day of feudal underprivileged demonstration. \* \* \* You ought not be in this war and that code is a proof of it, proof of what you are fighting, but that you do not know you are fighting. \* \* \* "In the skyster you are against it, against all order, against all beauty, against all work, and you ought not to be on the side of the skyster."

July 12, 1942.....No excerpts.

July 13, 1942.....No excerpts. Apparently the same as July 14 broadcast.

July 14, 1942....."You are in black darkness and confusion, you have been bugger-mugged and scarum-shouted into a war

July 14

and you know nothing about it. You know nothing about the forces that caused it. Or you know next to nothing. I am in the agonized position of an observer who has worked twenty-five years to prevent it, but I'm not the only observer who has so striven. Apparently no man could prevent it, that is, up to the point that it was not prevented.

"But a belief in destiny does not necessarily imply a belief that we have no duty; that we should not attempt to learn; that we should sit supine before an age old evil. Given a little more knowledge, given the elimination of a small number of shysters, the war need not have happened.

\* \* \*

"Europe is fighting for the good life. The shysters are fighting to prevent it. Even British minorities are muddle-headedly getting obstinate over some phases of the amenities. The decent English fight or urge others to fight in the name of a few amenities.

"I admit that the public voice in England pretty well keeps off these topics, but there is a squashy, soft vague underlying feeling in England that something would get lost if the Axis licks them. Now that view is an error. There is more sense of the good life in Italy than in England.

"England doesn't know it; England does not know the good life in Italy. Italians are different; they even criticize one another."

\* \* \*

"Now what are you fighting for? Fighting for the congressional system? Fighting for parliamentary system? I doubt it. Democracy? Now what do you mean by democracy?"

"Men might fight for justice. Many men fight from greed; not their own greed. Fight from instinct. Well, that's O.K. up to a point. Fight for survival. That's health. Man ought to fight for survival. And for racial survival."

"But are you fighting for racial survival? I doubt it. I doubt if you've got to thinking about racial survival. Well, I could help you start thinking."

\* \* \*

" \* \* \* The English and the Americans, if they ever fight to survive, will I think, have to come to the European state of enlightenment. They will have to fight on a basis of race. Other basis have failed them. Got to organize on a basis of race."

\* \* \*

July 17, 1942.....\* \* \* "Why confuse Jewdiocracy with democracy? And why not do something about it, if you wish to survive? Now I personally am all for survival. I should like to American lives to survive. I should like to see some hundred Americans represented in Washington. I mean in the Government, and get in the things they want. \* \* \*"

July 20, 1942.....\* \* \* "You ought not to be at war against Italy. You ought not to be giving, or ever to have given the slightest or most picayune aid to any man or nation engaged in waging war against Italy. You are doing it for the sake of a false accountancy system. You ought to go down on your knees, and thank God for Italy. Thank God for an Italian possessed of Mediterranean sanity, who threw the first ray of light in the general darkness, showed a way to keep you out of hell made by false accountancy system.

\* \* \*

"\* \* \* You are at war to conceal the fact that a lot of purchasing power, a lot of capital comes from a hope. Damn the hope, but don't go out and die for just being a idiots. Of for your tolerance, of being run and ruled over by dumb-heads who are pushed on by shysters. \* \* \*"

July 26, 1942....."It is time \* \* \* for the people of England and America to understand the war profits. I repeat, to understand the war profits. To understand that they have been edged into war not to win any particular war, not pre-patriots, not for their father's land or for their nation, but for the profit of a few scoundrels and for an enemy, an enemy that desires to cast down from their \* all the mighty, and all the orderly, to cast down every nation that exists openly, every government that exists openly, pro bono publico (phon) for the people.

"And the program of this enemy is known, and the actions of government \* in the hands of the enemy, shows the nature of the aim of the enemy. The whole policy of needless destruction is not military; their aim is not to win war, but to make peace impossible. Their aim is to arouse hate, because reprisals which in their turn are to be causes of hate.

\* \* \*

"\* \* \* I finally got round to seeing the war film, Italy's documentation "Two Years of War". Of course, you can't see it. It helps one to think of the difference between a nation based on its farm population, its agricultural population and governed by men of the same race, to think of the difference between them and the nation exploited by usurers, who are not racially identified with the people they govern."

WB-SCE-BGL

146-7-3672

November 24, 1942.

MEMORANDUM FOR THE DIRECTOR,  
Federal Bureau of Investigation,

Re:

DR. EZRA POUND

RECEIVED  
NOV 24 1942

Reference is made to your memorandum of November 12, 1942, with which you transmitted photostatic copies of ten of the latest transcripts of radio broadcasts by the above subject.

It is requested that you ascertain whether Dr. Pound is presently engaged in broadcasting enemy propaganda to the United States, and that you advise the Criminal Division whether the Federal Communications Commission has transcribed any of his broadcasts other than those previously furnished. If transcripts have been made of other broadcasts by him since December 8, 1941, it is requested that they be obtained.

Respectfully,

SIGNED

WENDELL BERGE,  
Assistant Attorney General.

Me

WB-SCE-RNH

146-7-3788

3672

December 12, 1942

MEMORANDUM FOR THE FILE

Re: Excerpts of Broadcasts  
by Dr. Ezra Pound

January 29, 1942.....

That is to say, the United States has been for months \* and illegally at war, through what I considered to be the criminal acts of a President whose mental condition was not, so far as I could see, all that could or should be desired of a man in so responsible a position or office.

He has, so far as the evidence to me available showed, broken his promises to his electorates. He had to my mind violated his oath of office. He had to my mind violated the oath of allegiance to the United States Constitution which even the ordinary American citizen is expected to take every time he gets a new passport. It was obviously a mere question of hours between that day and time and the time when the United States would be legally at war with the Axis.

Well, neither he, nor William J. Bryan lived to hear Henry Wallace telling the world that there would be no peace 'til the nations of the world knuckled under and bowed down to the gold standard. Bowed down like drunken and abject fools and then let gold rule humanity. To let all human exchange of goods be bottlenecked through gold. Who will ask permission from a few blood-thirsty ghouls? And before you can swap cheese for mutton or sorge for wheat, bow down and say monopoly is God over all man. And this being said by a man as a rule said to be or said to have been interested in farmers and farmers' welfare. They laugh at all the lies we have heard from the London gold ring, \* that 20 years of invasion, the \* after 20 years to conceal from the English people, that they were being asked to go out and die for gold. For the monopoly of the owners, and brokers, owners of gold mines, brokers and owners of gold.

Yes, I knew that this was what the war was about; I knew the war was about gold, usuary, and monopoly. I said as much when I was last in America. I then said, "If the war is pushed on us." So, now, the United States has got pushed out of Guam and Wake, and I suppose out of the Philippines, and a 20 years' war is in progress. Is it? Is a 30 years' war what the American citizen thinks will do most good to the United States of America?

*File  
Self*

FILED  
BY VS  
ON AUG 2 1943  
FILED  
VS  
ON JUL 30 1943

I think an alliance with Stalin's Russia is rotten. I don't think the claim of even going through the motions of invading Russia to slaughter and kill all Eastern Europe is a necessary part of the progress.

The day Hitler went into Russia, England had her chance to pull out. She had her chance to say let bygones be bygones. If you can stop this Muscovite order, we will let bygones be bygones. We will try to see at least half of your argument. Instead of which, Hank Wallace comes up saying no peace till the world accepts the gold standard, when "won't". Does look like there was a weakness of mind in some quarters. Whom God would destroy he first sends (to the bug house).

February 3, 1942.....

And a prospect of a 30 years war is not one to arouse mirth and hilarity, even in a flighty chicken hearted and irresponsible people such as the United States of America.

A way to get yourselves out might be discoverable. It might be more discoverable if you first had a faint inkling of a cureosity as to how you got yourselves in. How well you can learn anything from the disasters of England I do not know. But I would lay it down as an axiom that empires do not get knocked apart from outside until they are plumb gone to rot in the middle.

Thirty years war. Thirty years paradise for army contractors. Well that may not be what you voted for. In fact Mr. Franklin D. Roosevelt can destroy his "what is called here the other day. "The Boy That Fell Down On His Assignment." And when you think, if you do think, of the billions that have been lended by the Morgenthau treasury policy during the past nine years of peacetime, God knows what it will be during war time. And by the end, shall we say, of 30 years.

Well, you are now in. And nobody in Europe can get you out. Inspired shall we say by the principle of the self-determinations of peoples, oppressed peoples? Illustrating it--by the determination to keep Mr. Aginsaldo out of his native Manila. You have chucked away our national, cultural heritage. Politically speaking, that heritage was the determination of our fathers to set up the North American continent a Governmenta better than any other. These determinations to govern ourselves internally better than any other nation on earth and the idea of Washington, Jefferson Monroe did keep out of foreign shindes. Where you have chucked that idea for ideals, you have chucked it on to the dungheap. And you have insulted the most highly tempered people on earth.

With unspeakable vulgarity, you have insulted the most finely tempered people on earth. Threatened them with starvation, threatening them with encirclement, and telling them they were too low-down to fight. You are at war for the duration of the General's pleasure. You are at war for the duration of Japan's pleasure. Nothing in the western world, nothing in the whole of our occident can help you to dodge that. Nothing can help you dodge it.

February 10, 1942 .....

And the Nazis have worked out that feeling and wiped out bad manners in Germany. The New Europe goes on now doing what American democracy in the clean sense of that word, started doing when it made a Declaration of Independence but failed to define all the words used or compromised on the wording. Struck out Jefferson's original sentence about the abolition of slavery, and for the sake of a vote omitted to specify that equal meant equal in courts of law.

If the U. S. is to steal and embezzle, wouldn't it be wiser to stock to French, English and Dutch dependencies in the American hemisphere? And wouldn't it be honester to get the same by purchase, even if it meant few immediate profits to the tin, (lead) and armaments rackets?

This war is part of a profit. The present phase of that profit began at the end of the 17th Century. By 1750 a corrupt and avaricious government in England working for British monopolies, was shutting down on the Pennsylvania colony's issue of money, paper money, money issued against land, work and the industrious and sane nature of the Pennsylvania colonists.

Until you see this war as an incident in a series, you cannot understand it or judge it or qualify yourselves as judges of the rights and wrongs of the present act in the story.

I mean people are now trying to prevent the war from ending. People have already planned for a peace like the last, a mere parenthesis, a mere slow-up of munition sales, a mere dis-equilibrium that will keep the world on tentahooks between the end of this war and the start of the next one.

February 19, 1942 .....

To send the boys from Omaha to Singapore to die for British monopoly and brutality is not the act of an American patriot.

February 26, 1942 .....

Some of the navy is gone where I can't much help it. The army can get out all right if it stays where it ought to be, namely on the North American continent. I certainly do not want America's young blood shed in an asinine attempt to wreck all European civilization.

And the Americans, the United States, having started a fine government in 1776 couldn't take hold of it for a century and have now plumb forgotten apparently that it ever existed.

It is to be supposed that you are all running around hot and bothered like headless chickens, no man understanding another. After years of robbing the country, dipping into the treasury, years of frothing at the mouth about Mussolini and Hitler, in the middle of January, Roosevelt comes out with a discourse and every single item in it that has a trace of sanity is imitated from Mussolini or from Hitler. After twenty years of Judaic propaganda, Lenin and Trotsky stuff, crowding American history out of the schools, wild inferiority hate against Europe, dear old Delano comes out with a mixed bag in which two thirds of the program is Fascist, with, of course, the essential part missing.

Well, now what causes this? Twenty years late, just twenty years late as America is usually. Same old American time lag, leading the world from the back seat as usual, amid all which flurry there is this much that I am sure of. This war is part of a process that has been going on for some time and Roosevelt never lied with more typically Rooseveltian fluency than when he bleated out his thick blah about wanting to keep you, that is you, the American people, and your children and your grandchildren out of the war.

A clean man would have been content to keep the peace in his own time and trust his children to follow the example. By continued bosh nonsense about Europe, which his mental and ethical level is much too low to reach, he put you into war with the Asia.

Why not lay a wreath on the grave of democracy? Here lies John Jones, he is not dead but sleeping. Or Here Lies Democracy. (By God?) before you were dead, I think I'd admit it.

The question is, if two or three sane men in that fog of Rooseveltian fuddlement, can they meet anywhere and cohere and clarify their mental perceptions? They should or could, could or should begin to wonder where the country is coming out. Be you headed for a cheap ten cent type, Blumenstein, Zukor tawdry imitation of Nazism, or say for the moment of Fascism, void of all vital content, and if you mean to imitate it are you going to emulate or defy, are going to try to have as good a brand of a corporate state as is now provided in Europe? If not, why not?

Where do you go from here? Thirty years intensive production of synthetic products in order to attack the Japanese colony of Australia in 1947 or 1971. And in the interim, what of your internal government? Are you going to have any syndical organizations? Or just Russian mess and chaos. Just Soviets run by the Warburgs. Shucks, is there any American consciousness as distinct from that paper fortune and the New Yorker hysteria with any what's-his-name, Woolcott, weeping into the microphone, or the lowest common denominator, Mr. Swing, whining into the atmosphere that the Americans are humiliated.

Damn it, there must be, there must be, there must be faces left somewhere on the American continent if a race that set up the United States government. Have they lost all sense or coherence? Is American lucidity dead?

March 2, 1942.....

And now "Hank" Wallace has showed up the interest--gold--nothing else uniting the three governments of England, Russia, and the United States of America. That is the interest. Gold, usury, debt, monopoly, class interests, and possibly gross indifference and contempt for humanity. Now if you know anything whatever of modern Europe and Asia you know that Hitler stands for putting men over machines--counting men first and machines second. If you don't know that you know nothing. And beyond that you either know that you know nothing. And beyond that you either know or do not that Stalin's regime considers humanity as nothing save raw material, saying: "Deliver so many carloads of human material at consumption point" That is the logical result of materialism. If you have said that men are dirt, that humanity is merely material that is where you come out, and the old Georgian train robber Stalin is perfectly logical. If all things are merely material, man is material, and the system of anti-man treats man as matter; treats him as dirt.

Now your President exceeds his powers in demand that you adhere to his politics. As commander in chief of the army he can command you to assail enemy forces. But even Congress in its most abject and servile moment has not conceded to this bloodthirsty maniac the control of your opinion. In fact, as long as any law is left whatsoever in the United States, which no Jew and no Roosevelt will like having left there, but as long as it is left there powers do not inhere in officials unless delegated to them by law. Thus when that "lying Dutchman" tells you that you have got to prefer Bolshevism to Fascism you can ask why. You can answer, "Who says so?" and if you are more than cattle, if you rate yourselves above cows and sheep you will in defense of that rating have to ask yourself whether men are more important than machinery. You can ask yourselves whether you intend to be slaves--life-long slaves, hereditary slaves to machinery, and whether you propose to sell your children and your children's children into long-lasting slavery to usurers and to machinery.

I mean you will have to make up your minds. You cannot live on cold iron. You cannot live on airplane spare parts. You cannot live well without laws which even the officials obey. And for however long your answer to me is Jim's answer "nobody here in America is interested in taking things as seriously as you do," there will nevertheless and finally come a time when at least a few of you will have to face things or die. You will have to think or die. It's hard choice for the daisy pickers, but a real choice. Roosevelt's gang has got you hitched up with Russia. Not a very good bet.

Do you believe in the abolition of all private ownership? I'll say you do not. You have colluded in the old British habit of employing the savage to wipe out the civilized rival. Your school has been hooded. You have had a "slow one" put over you.

Do you believe in the homestead? Or do you believe in communal ownership. If you believe in the homestead, why fight for the abolition of all private ownership. In taking sides in a quarrel do at least try to find out what's fighting which.

Do you stand for the obliteration of Finland? If not, why fight against Finland? Do you stand--those of you who are above the goose-gangster level--do you stand for the obliteration of all Occidental civilization? If not, why join the Anglo-Jewish clique which has been and still is out professively and openly for the obliteration of Europe. Then(maintain) your civilization and all of it that you have still got.

Do you believe in the homestead, or in communal ownership? And if you do not believe in the abolition of all private ownership and the abolition of all private initiative, watch your Nelson, who has already got a half-nelson on you. And if you got to please old Hank Wallace, and go on buying all the world's gold from now till the terminus of eternity, you've got a day's work coming with 24 hours labor and no trade union organization legally recognized. Let's put up the tombstone: "Here lies the 8-hour day".

March 6, 1942 .....

If you are going to have Fascism or Nazism in the United States, why not learn what these systems of government are? Why not ask and learn how far they are compatible with American habits, and what is good in them, and wherein their strength consists, instead of merely lying and cussing and trying to kill 'em, on the assumption, if you can call it by so mild a term, that they are something that they are not.

There is something else to lay off of, namely, a system of lending money to foreign nations in order to have a war every 19 years. I suggest that you look into that system. Your British allies were scared that a few rackets were busting. They started a war to uphold a state of things that just was not upholdable. Instead of admitting that they would have to change it, change their system, they started a war, and now they are singing the Internationale, and running up the stickle and hammer.

And there are a few points, may be three points, that I would like to get into your binnacles; First one: that America could have stayed out of this war; secondly, that if America had stayed neutral, the war would now be over, and America might have had a hand in (composing) the differences. And America might not have, and the United States might not have so many hush hush agreements to buy, purchase, absorb such a lot of (South American) stuff she don't need and can't use. Cornering the market as usual, but may be not on some articles you want to buy.

March 15, 1942 ....

Your enemy is not Germany; your enemy is money on loan, and it would be better for you to be infected with typhus, dysentary and Bright's Disease than to be infected with this blindness, which prevents you from understanding how you are undermined, how you are ruined. The big Jew is bound up with his loan capital that no one is able to unscramble the omelet. It would be better for you to retire to Darbyshire and defy New Jerusalem; better for you to retire to Gloucester and find one stop that is England, than to go on fighting for Jersey and ignoring the process.

You let in the Jew and the Jew rotted your Empire, and you yourselves are (doomed) by the Jew.

March 23, 1942 .....

Can you not see that the outrage of the bombardment of Paris is but one of a series of attempts to make real peace impossible and to prepare for the war after this one? Needless hate, sowing the seeds of hate for tomorrow. Does it mean nothing to you that by this war you have inflicted more and worse wounds on your allies? That on people you said were your enemies? Can these things go on forever without some sliver of light reaching the British mind? To show the real causes of the conflict? The real forces in conflict? Usury against peasantry, usury against farmhand, usury against every man who does a day's work, physical or with his mind, as against on the other side conscienceless, conscienceless exploitation; work against monopoly; against bank deals and swindles. These bank deals and swindles working against every race in Europe that takes the responsibility of being a nation, and administering openly as a government

in the eyes of the people. Against that open government, any open government, the drawling slime of a secret rule, a secret and irresponsible rule that takes no responsibility for the welfare of races, and a nation, but eats like a canker into the heart and soul of all nations, even that \* \* its central staff is composed.

March 26, 1942 .....

It is a privilege to fight against gentlemen, an European radio seem to have been as ready to show respect to General MacArthur as they are and rightly as to show absolute and utter contempt and loathing for the war profiteers, and the bank of unmitigated (newts) and vermin who have thrown the world into war in hope of establishing a gold and money lending monopoly. And blotting out the good life in five continents.

They have done \* this from their lust for the secret and irresponsible power. Secret and irresponsible power. And the place to fight these \* \* is not on the frontier, but in the center of your own nation.

Now the war you ought to be fighting is not 5,000 miles outside of Boston. Or 5,000 miles outside of New York or even outside of San Francisco. It is internal. And if you let them fill you with the idea that they will progress after the war is over, and a few million of you under the daisies, you will be being worse fools than you ought to be. This war, this internal war, can go on quite as well simultaneous with General MacArthur getting killed in a hopeless fight against Aguinaldo's successors, as he can after the war is over, if it ever is over. Seeing a peace for 20 years after Versailles is not conducted to a victory of the American people over the shysters.

Are you fighting for the national heritage? For the heritage of wisdom, the heritage of Washington and of Monroe, and of John Adams and Lincoln. I say you are not; You are fighting against what all those men stood for, and it will take more brains than I go to get you out of it prettily.

March 30, 1942 .....

Roosevelt and Churchill, for instance, who have pushed the Americans and English into war.

That is the first phase--throw her people into wars they cannot win. It was known in England in 1938 that England would lose. Damn it, I was told in London in November 1938, that England would lose. Military experts said to me, who am a foreigner, "We will lose India, we will lose all our Eastern possession." Well, why weren't men like that listened to? Why didn't the British people listen to them and not to the dirt off a hog's hind leg like they did listen to?

Damn it all, every man that dies in MacArthur's arms is sacrificed to Frankfurter's friend, but not to win; he is there to destroy himself, they are there to destroy any nation, one nation after another. Will you observe what the forces are that shove nations from one disaster to another.

No one for the past 100 years had dreamed of threatening the United States of America with extinction. A damn fool or a half hypnotized vacuum in our White House threatened Japan with starvation, sent silly school-girl notes to Mussolini and Hitler, threatened to starve the world, talked tosh to the Axis powers and to Japan. The world has seen that propaganda smelt the stink.

I said the cause was rotten and it was rotten, and it was known to be rotten and it was known that most of the gold in the world is in the United States, in the British Empire and in Russia. And as I was told in our national capital any attempt to diminish the powers of them that hold it will meet with very serious resistance. Well it was not honest resistance.

Whoever died at Dunkirk, died for gold. Whoever was shot at Dakar died for gold. \* \* How is it done? Who now is drawing pay for demanding vigorous prosecution of war? Vigorous prosecution of Frankfurter and that his golliwog glove the covers his fingers. Frankfurter down inside the Punch and Judy show booth, and that (gilded god,) Franklin Delano Roosevelt gesticulat<sup>ing</sup> and shrieking, up there in front to distract the children, to get the boys into the trenches, and then the papers, the hired press howling that the interventionists mustn't be allowed to take advantage of the abysmal mess made by Roosevelt and that the war must be pushed.

The place to defend the American heritage is on the American continent and no man who has any part in helping Franklin Delano Roosevelt get the United States into it has enough sense to win anything. If Roosevelt were not below the biological level at which the concept of honors enters the mind, below the Biological level at which human beings can conceive the existence of such a thing as honor, the liar would go out over the steps of the American capital and commit hari-kari, to atone for the evils he has wrought on the American people. I say he would go out and commit suicide on the capital steps to atone for the wrong he has done to the American people.

April 16, 1942 .....

For the United States to be making war on Italy and on Europe is just plain damn nonsense, and every native born American of American stock knows that it is plain down-right damn nonsense. And for this state of things, Franklin Roosevelt is more than any other one man responsible.

How long it is going to take the American people to make at least a partial return to their senses, I know not, I do not know.

At first, the American people were sane enough to see that the war was phony. Danzig, Poland, all the rest of it, cooked, and the people knew it was cooked. Second, England's offensive. Offensive against neutrals and allies. Third, The United States offensive, offensive against England, Iceland, and Venezuela at the cost of losing the Philippines. Well, damn the Philippines. We promised them independence, and the dirt in our national make-up prevented us in the promise. Our conduct as a nation, to various islands, let alone the South American republic is not our title to glory, and Aguinaldo has a good right to the Philippines, as any God-dam Jew in Roosevelt's \* \* .

Anyhow, one of the lies of this war is the lie about the anti-Axis alliances. Russia is not Britain's ally but her enemy. America is not Britain's ally, but her enemy. This is down under their skulls, down under their thick, wooly hides, they think they should not be fighting the Germans, they do not believe in Bolsheviks methods, or in Bolshevik propaganda.

Some of them, lots of \* among them will think, oh yes, I think we ought to be fighting Italy. Think they ought to fight Italy because Italy is small on the map, and the small ought to be stepped on. That is a British tradition. But they do not think they ought to be fighting the Germans, and they do not want to see geography books with England's empire reduced to \* figures.

But they do not think they ought to be fighting the Germans. Well think it over.

Believe that if the American people had been consulted in 1938, '39 and '40, 90 per cent of the American people would have been content to have the American Government stick to its best tradition to stay out of international shin-digs, and to use the United States prestige.

As for the English, nine of them out of 10 do not believe they ought to be fighting Germans. I repeat, the English, 9 out of 10 do not believe they ought to be fighting the Germans, and that goes a long way to explain why a lot of them don't seem anxious to do it. And they don't like their empire being ruined, they don't want their island invaded, but 9 out of 10 of them, do not believe they ought to be fighting Germans.

April 20, 1942 .....

Wouldn't England have done better \* into an alliance with Japan rather than \* \* \* to name \* Hong Kong and Rangoon, an alliance with Germany rather than with a paralytic Jew in France? Would England today be a brighter and happier country, instead of dropping some old naval bases and stations into Frank (Rougenstein's) pocket?

What bloody chance has the stray men, the English, in old-style so-called democratic organization in comparison to what he has in the corporate system embodied system? Every peasant in Italy knows why he can go and kick if something (state) doesn't suit him and why Gaud they do kick, sometimes in the most silly manner. \* \* \* Italian individualism, development of the personality, reads to the point of exaggeration, but it enlightened the world.

Nothing less than the Fascist system would keep these people together. Some of the kicking is aimless, but the best of it keeps the thing moving forward, the mass of it keeps the thing moving forward.

The American system was good for 80 years, after which it was betrayed and defiled at the center and the outlying parts grew steadily less efficient, and still less efficient. I would like to see a little blood or oxygen infused back into her. \* \* \* Anyhow, whatever kind of a mess you are in, in America, with your farms mortgaged (to milk trusts!), England is in a worse mess.

April 30, 1942 .....

Sometimes, the Anglo-Saxons may awake to the fact that the Jewish (cows), the secret forces concentrated or brought to focus in the unappetizing (carcass) of Franklin D. Roosevelt, do not shove Aryan or non-Yiddish nations into war in order that those said nations may win the war. The non-Jew nations are shoved into war, in order to destroy themselves, to break up their structure, to destroy their social order, to destroy their population.

May 4, 1942 .....

The kike is all out for all power. The kike and the mitigated evil that has been centered in London since the British Government set on the Red Indians to murder the American frontier. Settlers, and hurled the \*. the mongols, the tartar openly against Germany and Poland and Finland and secretly against all that is decent in America; against the total American heritage.

May 10, 1942.....

He says that England's position at the peace conference will be precarious. I'll say it will be precarious, just as precarious as Germany was at Versailles, with this difference. That the next peace will not be made by a pair of kikes, one on each side of the table, or standing behind the stuffed shirts who represent them in front of the public. And the basic aim of the peace will not be Versailles' basic aim: namely, to prepare the next war.

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That's what Versailles was aimed at, with its daggers and cross lines, its (Skodans) its synthetic state, its gun factories (stuck) positions of danger, run with Jew money, run on loans, based on money sweated out of Ayran people, sweated out of the farm laborers and industrial working men. The next peace will not be based on international lending. Get that for one. The next peace will not be based on international lending, and England will certainly have nothing whatever to say about what its terms are. Neither, I think, will simple-hearted Joe Stalin, not wholly trusted by the kikery which is his master.

Why have you got where you are, and where are you? You are down, down, down, down, down, down. Filth and dung of humanity. You are down under Maisky and Litvinov, and if human degradation can show anything lower, go let it. Look at your masters' faces. How did they get there?

May 18, 1942 .....

Not having read the English version of Mein Kampf, I will not discuss it. This book was translated into Italian and printed in 1933 and \* \* \* published the second half first so that Italian public had a chance to get the program clear and at the start. And I affirm that there has been for years, has been the most goddamned ignorance and misapprehension of that program in England and America. I, myself, had only a vague idea. I was not intent on Germany, I had my job with my writing and my recording in Italy, trying to get things straight. I could see it was good here in Italy, I said it was the one inch of solid ground where a man could see straight and write it, could buck the international money swine and not disappear altogether.

Hitler in 1942, said that Germany ought to see Italy, see Italy Fascist Italy as the one ray of light, in a world that was going to sunset, sinking. Just as I saw it as one inch of solid space. Well, the Fuehrer, Adolph Hitler, he did something (about) it, while I was listening and looking. There are different degrees of efficiency. Now what, where and are the three planks of the Hitler program as set forth in the opening of La Mia Battaglia, the Italian translation of the second half of Mein Kampf. Well the first one is \* , health of a race. Now every American or Englander of my generation or that before or after my generation knew and knows that we were up against a problem of be slave or go free. Any man not born rich in our time, he had to mate late, breed late and breed few or else go into slavery.

That is point one of the Nazi program. Breed good and preserve the race, the breed thorough, that is for thoroughbreds, conserve the best of the race, conserve the best elements, that means eugenics as

opposed to race suicide and it did not and does not please the narrow minded Jews who want to kill off all other races whom they cannot substitute and drive down the race into wage slavery or Soviet slavery under the goddamned kikes. Kikes to be staffed by a bevy of Churchills and Edens and Stafford Crippses,

Secondly, what is the second point of the Hitler program? Personal responsibility, a political system in which he can't pass the buck very unpleasant for hired member of parliament, \* Jews, butter and eggs men, (fakers) like Wendell Willkie and M. P.'s, and congressmen financed by Jews put into the legislature to defraud the people in (lieu) of interest and get there by bank money.

And the third point was the study of history. Well, now what program, what program did that contradict? I ask you. If you are such low down and goldarned suckers or such British blockheads or such unfathomable irredeemable ignoramoi as to now know what program this contradicts, then there is not a great deal of hope for your posterity. I may tell you some day where the opposing program is found, if you are too weak-kneed and puny to trace it and when you or if you do trace it, you may see why the smokescreen was erected and why people began to see evil in Hitler. As to who says thinks evil against Hitler, we may some day go into that also.

May 21, 1942 .....

You don't yet know what Hitler has written, or what Mussolini has written. You won't read the works of the men who made the American nation. You don't read Horace's Two Nations. Well, damn you, read Cummings if you won't read Brooks Adams, or better read both of them, and try to find out what has been done to you, and what is being done to youm conducive to material spiritual, and intellectual ruin.

May 24, 1942 .....

You have cursed, sworn, lied about Fascism and now in the moments of trial you boast and the few things you say with a clear voice and conviction are Fascist.

All on this line you take over one Fascist measure after another. Then you pretend that your quarrel with Europe is only with regimes, and not with the total population of Europe. You are intellectually dishonest in your refusal to recognize the great gifts which Rome for centuries has given, and which Germany since the days of (Hovine) has given to England.

You call in the bloody Russian savages to smash the whole of European civilization, and you get out the pig end and laced it and boasted of how much Europe is to be included in the smashing.

The very name trust, meaning in current terms monopoly, is an unconscious assertion of imbecility and pretentiousness. You probably think you have a monopoly. You most certainly have not. You are so purse proud, and what is worse head proud, that you see no intellect outside the circles of your own interest, and you will pay for it. You will pay for your high horse assumption, as there is justice or as in the physical world there is a law of reaction in the nation's action. You have overreached.

Your German, anti-German propaganda is mostly mean innuendo. Italy has had so much of that from you that this conduct of yours rather strengthens the Axis bonds. Too many nations have had the same treatment from England not to recognize the symptoms.

But a veritable frie panning of races are needed, to make you English understand that there is, yes, is a place called Europe, a continent, and that you owe something to European civilization, vastly more than you owe to the Warbugs, and other holders of England's Israel's I.O.U's.

And that debt, that intellectual debt you have no intention to recognize. In fact, you have called in the bloody baboons from Urals to beat up and if possible to kill off your creditors, and the creditor is objective and has a bloody good right to object, and no amount of freely spoken objections on your part, freely opened into and most skillfully and on 20 wave lengths thunderously omitted all the known languages of the five continents are going to break down the basic case against England.

You set up a Jew government in Germany and the Germans had to get rid of it or die. You behaved with crass injustice to Italy and the Italians woke up and reacted, until I hear it from my best tempered friend on a tennis court.

I take it that the Duce has seen more rough stuff in his time than I have, but I think one thing in his later life has surprised him, and that was the sheer selfishness and meanness of England. \* \* \* Not one syllable has come out of England during the past two years or three years to show that England has one iota of consciousness, and that human beings can be other than English, that there are human beings in Europe, endowed by nature with rights equal to those of sane human beings.

England helped protract the civil war in America until the south was crushed and the United States never recovered, except on the plane of material products. The United States never got back to the level of economic justice, she had kept on fighting for up until the Civil War. The documents were mislaid or hidden. It is only recently

that we have begun to get the facts...Facts of the great betrayal, a sett-out to London Jewry. And if you think you are paying for your sins, look to the contraversal government now in function. As the United States was sold to your Jews, you are now in the process of being auctioned, to heirs of the same business houses or of the same usury system. Offices are now in New York.

May 26, 1942 ....

And every hour that you go on with this war is an hour lost to you and your children. And every sane act you commit is committed in homage to Mussolini and Hitler. Every reform, every lurch towards the just price, toward the control of a market is an act of homage to Mussolini and Hitler. They are your leaders, however much you think you are conducted by Roosevelt or (told) up by Churchill. You follow Mussolini and Hitler in every constructive act of your government.

May 31, 1942.....

You possibly cannot breed human beings like cattle, but you can or could at least spend as much human intelligence on the problems of human breeding as you do on breeding cattle or whippets. And on that basis, Hitler is also your leader. Two basic facts wer announced in Europe on the continent.

Mussolini has summed up in the consigner of recent yearly orders of the Fascist Party for the year 11 of the present regime or era, as follows: Discipline the economic forces and equip them to the needs of the nation. That you are learning. Hitler's basic text you are still dodging.

I may be late in telling you all this now, but I at least saw something about the time Hitler saw it along 1923-24. Hitler put it in Mein Kampf that there was one way of light in the world moving towards sunset, and that was Mussolini's regime in Italy.

And that being som you with your cheating and with your Geneva and sanctions set out to crush it in the service of Jewry. Though you do not even yet know this, and you have not digested the proposals or instructions of Jewry, and you have not understood Fascism or Nazism for that matter.

Instead of concentrating on the breeding of better race, you waded in the filth masters and the dirtier portions of Freudism, with banners flying. All your wit and wisdom was spent on monopolizing, spend on avoiding the basic issues. And if Mussolini stands for

social justice, for breaking the usurers bondage, the Nazi revolutions was based on breed. Based on sane breeding, and on this basis Germany arose from her sepulchre.

But one thing I'll tell you. Believe you me, Europe will not go back down under the usury system, the debt system, and neither will the people of England once they find out that it is and once the Jew center shifts out of London into the New York or New Jerusalem family.

And the melting pot in America may have been a noble experiment, though I very much doubt it. At any rate, it is lost.

June 4, 1942.....

You ought not to be in this war; the United States ought not to be in this war.

June 8, 1942. . . . .

If I go on pounding from day to day every day and in every way, I will finally teach you kids why you got dragged into this war, if you survive it. And when you know that you will know more than your fathers did by the end of the last one, that is more than most of them ever discovered. I've got to go back and go over and over the same little table of facts, the same little table put in the <sup>2</sup> clearly. This war started in 1596 (1494) when Mr. Peterson got the idea for the Bank of England.

You boys will have to live a long time and fight like hell and fight something nearer home than the Philippines to get it. You will have to fight in your home and \*\*\* to get that blessing and I suggest you start right in tomorrow morning if not now at once when I get to the end of this discourse. The greatest blessing they ever had; their own people to pay their own debts.

When I think of the interest you boys will be asked to pay on a 1000 billion dollars of debts, if you don't get busy and bust the big system--Jew system, Rothschild, Morgenthau anti-Lincoln system, well my heart does not bleed for my country I would rather have my head work for my country. If you can't or won't think of the cause of your misery. If this condecement to slavery of your children for ten generation--if you won't think of it--God help you.

You are in for billions of debts and you have not got your own people to pay it. And most of you have not the groggiest idea of Lincoln \* you don't know what he meant by it. Here are ignorance of coin, credit and circulation, said John Adams 80 years before Lincoln. Ignorance and of course greed --- greed is your ruin.

June 25, 1942 . . . . .

Same old story--grand dukes betraying Russia; French nobles selling out France. British nobility utterly worm-beaten by greed. And now the old United States dying off 80 years after the sell-out to Rothschild. Eighty years of usury taken; 80 years of groveling before wealth; being ready to accept pay without ever thinking what causes it. Damn all, I seem to be getting moral. Well, what about it? Be scientific. How much poison can the national body stand? That question can be put scientifically, just as well as putting it in an (auditory) form or asking what is nice and what ought a decent man do? No one will do anything worth doing until some sense of \* enters his system. Profit motive is silly, in the sense that it ultimately kills the good life, makes the mare go, yes, makes the mare go, money makes the mare go, and then some day somebody wakes up crazy. And that takes just a long enough so nobody notices what is going on; suddenly wake up and find American abundance has been chucked out of the window; the billion here, ten billion there, and that ease has departed. And (sailors) don't care.

My time is about up for this session. And of course, you ought not be in this war, even to cover up the gross failure of the administration to govern the United States, let alone fixing up the affairs of Europe and Asia.

June 28, 1942 . . . . .

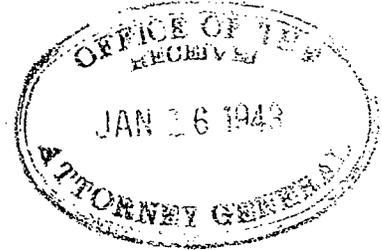
You are not going to win this war. None of our best minds ever thought you could win it. You have never had a chance in this war. You had a chance possibly or at least it might at some time have appeared, and in fact it appeared that you had a chance for a Beau Gest, for a vindication of national honor by going through a set of bellicose motions and sacrificing a reasonable number of men. (Emulation) of victims as at onement not for a crime of your empire, but for the imbecilities of a ruling gang.

An elderly English colonel of my acquaintance volunteered to participate in the defense of \* by air for example. But that was not in the plans of your owners, nothing but a procrasted war with and maximum of profits on debt and gun sales suited your rulers. I don't mean your acknowledged rulers; I mean the creditors of your bullies and puppet (jays), the men back of the puppet show. And nothing has contended them, save the most ignominious \* of a great empire which history throws up on the screen of my memory. Too many of these ignominious aims. My studies have not been sufficiently extensive to enable me to recall them. Never have so many allies been let down by any one empire? Never have attacks on late allies been so notorious and never has the play of a half wit been more flagrant than the acts of your astensible government.

The sheer imbecility, as sheer imbecility burst the policy against Italy. Than that in entering a war on Japan. \* \* \* You and the American people have indeed an enemy, but the enemy wasn't on board that torpedo boat. The enemy is greed, avarice, usury, falsification incarnate in the group of unpleasant persons. \* \* \* For twenty-five years it has been apparent, and I dare say plenty of Europeans saw it before then. It has been apparent that the world could only be saved by a conspiracy of intelligent men, and that they would have to conspire against the thieves, Normans and the Goldschmidts, together with the minor lice over in Paris, the Lavals, the Mandels and the rest of them. And your tolerated writers, your half-witted socialists, your publicists, your Garvins, Beaverbrooks and the rest of them did not join such a conspiracy. You are barking up the wrong tree and your (bite) has not proved very juicy not if measured by Axis and Tri-partite standards.

Department of Justice  
Washington

January 15, 1943



MEMORANDUM FOR THE ATTORNEY GENERAL

Re: Proposed Indictments for Treason of  
the Following American Citizens  
Broadcasting Enemy Propaganda from  
Axis Countries to the United States

Fred W. Kaltenbach  
(146-28-237)

Edward Leo Delaney, with aliases  
(146-28-240)

Constance Drexel  
(146-28-229)

Jane Anderson, with aliases  
(146-28-233)

Robert H. Best  
(146-28-248)

Dr. Ezra Pound  
(146-7-3672)

Douglas Chandler  
(146-28-232)

The above persons have for some time been broadcasting enemy propaganda to the United States from Berlin, Germany, and Rome, Italy. A study of the transcripts of their broadcasts, together with surrounding circumstances, leads to the conclusion that if their activities are considered of sufficient importance to warrant action by this Department, they may properly be deemed treason within the meaning of Title 18, U.S.C., Section 1. But custody of these individuals cannot be obtained at the present time, and probably not until after the war. Whether or not indictment at this time would be an idle gesture will depend upon the outcome of the war.

If the utterances in question, seditious though they appear to be, were divorced from the context of circumstances under which they were broadcast, there would be a real question whether they constituted overt acts of adherence to the enemy and giving him aid and comfort of the kind and to the extent required by our law of treason. But these individuals have chosen to remain in Germany and Italy during the present hostilities, and to work as willing



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hired hands for and under the supervision of those enemy governments. The work involved is the dissemination of officially sponsored propaganda generally understood to be regarded by the enemy as a weapon of primary importance in waging total war. New concepts and practices in the waging of war must be taken into account in weighing the meaning of adherence to the enemy and giving him aid and comfort. Here the adherence, aid and comfort, consist in joining in person, and working for, not the enemy army, but another branch of the enemy government which is utilized as an instrument of warfare. The aid consists not in bearing arms, nor in supplying military needs or information, but in supplying propaganda scripts and broadcasting services. On these facts the activities of the individuals in question may thus be distinguished from the precedents dealing with "mere utterances" and from that class of cases customarily dealt with under sedition and espionage acts, if at all.

For the purpose of facilitating proof, the District of Maryland would be the most appropriate venue, but indictments could validly be obtained in any district where the broadcasts were received.

The background of the individuals and the character of their broadcasts are summarized in the Appendix to this memorandum. It is enough at this point for purposes of the legal discussion to say that their utterances are extremely seditious in character, and are broadcast from Berlin and Rome for reception in this country.

Several questions of law which occur in connection with the contemplated treason indictment are discussed below.

1. Application of the Clause "Adhering to their Enemies, Giving Them Aid and Comfort."

The theory of a treason prosecution, of course, would be that the persons named have committed treason in adhering to the enemy, giving him aid and comfort. Among the acts which have been regarded as adherence is joining the enemy, which has been deemed "the most flagrant instance of the crime of treason, and nothing except the fear of death can excuse it." (Warren, What is Giving Aid and Comfort to the Enemy? (1918) 27 Yale L. J. 331, 336). This has been held to mean enlisting in the armed forces of the enemy (Respublica v. McCarty, 2 Dall. 86 (U.S. 1781)), though adherence "is capable of, and in general has received a broad interpretation" (May's Criminal Law (4th Ed. 1938) 98). The doctrine suffers no distortion if "actually joining the enemy in person" (Chafee, Free Speech in the United States (1941) 260) is construed to include the acts of joining and rendering service to a branch of an enemy government other than its army. (See Warren, supra at 336; Medway v. U.S., 6 Ct. Cl. 421 (1870)). There is authority for the proposition that merely going abroad with intent to adhere to the enemy

renders him aid and comfort, and is itself a treasonable act; (McKinney, Treason under the Constitution of the United States (1918) 12 Ill. L. Rev. 381, and cases cited at 395 et seq.).

There is some confusion in the authorities as to whether utterances can ever constitute treason. A reading of the transcripts of the broadcasts indicates that the aid rendered to the enemy is indirect, intangible and intended to create a body of opinion opposed to the continuance of the war. Chafee makes the point that words may in certain cases amount to such acts as will "aid or comfort" the enemy, but these are limited to such instances as communicating military information to the enemy. It is pointed out that telling citizens that they should stop fighting can be at most sedition, if the words in fact create disaffection. The oral communication of military information to the enemy is language which "has all the qualities of action because it furnishes the enemy with something which he can use," and it is treason equally to give the enemy a gun with which to batter a fort, or a description of that fort. Giving aid or comfort has always had, according to Chafee, and the cases seem to bear him out, a restricted and technical meaning which has never been regarded as synonymous with guilt under the sedition or espionage acts (Chafee, Free Speech in the United States, 1941, pp. 259, 260).

Our courts have often said that adherence to the enemy by words only is an offense quite distinct from treason (United States v. Wimmer, 264 Fed. 11 (C.C.A. 6th, 1920)). This position, however, is challenged in two articles which claim that words may constitute treason. In one, McKinney holds that the often stated rule, that mere words are not treason is an outgrowth of the harsh cases under the doctrine of encompassing the death of the King under the Treason Act of 1351 (25 Edward III). (McKinney, supra.) In the other, Warren holds that treason encompasses advising and persuading others to give aid and comfort to the enemy. This statement he supports with the case of Rex v. Casement, (1917) 1 K.R. 98.\* Warren also lists as overt acts of treason those which tend or are designed to defeat, obstruct or weaken our own arms. (Warren, supra.)

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\* In Rex v. Casement, the defendant, a British subject, was convicted of treason. Among the overt acts alleged were (1) soliciting, inciting and endeavoring to persuade British prisoners of war interned in Germany to join the German Army; (2) circulating a leaflet among Irish prisoners in Germany persuading them either to join the German army or to form an Irish brigade to secure Ireland's freedom, and (3) setting forth from Germany as a member of an expedition equipped by the enemy to land arms and ammunition in Ireland to be used against the King. All of these acts

Such a definition of "aid and comfort" is found also in United States v. Fricke, 259 Fed. 673 (S.D.N.Y., 1919); Charge to the Grand Jury, 30 Fed. Cas. 18, 270 (C.C.E.D.N.Y., 1861). Certainly these broadcasts can be regarded as acts which strengthen the enemy or tend to weaken our power to prosecute the war. Surely acts necessary to constitute treason may vary with changing conditions, and "giving aid and comfort" cannot be confined to such traditional acts as furnishing money, troops or arms to the enemy. Obviously a changing world and new conditions involved in the waging of the war will give rise to new forms of treasonable activity undreamed of by the founding fathers.

## 2. Allegiance of the Proposed Defendants.

As the discussion in the Appendix will show, all of the proposed parties defendant were citizens of the United States and owed the allegiance of citizenship at the time they left this country. All of them except Constance Drexel were born in this country. Constance Drexel obtained derivative citizenship at the age of fourteen, when her father was naturalized in Boston, Massachusetts. Douglas Chandler moved to Europe in 1931. Fred W. Kaltenbach first went to Germany in 1937, but returned to the United States in 1939 for a short period. Robert H. Best has been in Europe for about twenty years. Edward Leo Delaney traveled in Europe from time to time for a New York company between 1935 and 1939, but apparently has only lived in Europe continuously since 1939, or the early part of 1940. Jane Anderson has resided in Europe since 1922. Constance Drexel went to Germany in May 1939. Dr. Ezra Pound has resided in Europe practically continuously since 1911.

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took place in Germany and it was held that under the Treason Act of 1351, Casement could be tried in England for his adherence outside the realm.

The important holding in this respect was that of Lord Reading, C.J., defining the giving of aid and comfort. This he disposed of in the following paragraph:

"If a British subject does an act which strengthens or tends to strengthen the enemies of the King in the conduct of a war against the King that is in law the giving of aid and comfort to the King's enemies. Again, if a British subject commits an act which weakens or tends to weaken the power of the King and of the country to resist or to attack the enemies of the King and the country, that is in law the giving of aid and comfort to the King's enemies."

It is entirely possible, of course, that some of these prospective defendants may have become naturalized citizens of Germany, Italy or some other country, and may have renounced their American citizenship. Whether such acts as they may have taken to expatriate themselves are such as would be recognized under our law, is, of course, a question which we are unable to settle without having knowledge of facts which it is impossible at this time to obtain. However, we can prove as to six of them that they are native-born American citizens, and as to the seventh, that she obtained derivative citizenship. In the absence of knowledge of facts establishing the contrary, I think we could safely allege, for purposes of an indictment, that each of the persons concerned is an American citizen owing allegiance to this country.

### 3. Jurisdiction and Venue

There can be no doubt that our constitutional provision as to treason, and the statute, create jurisdiction to punish persons owing allegiance who commit acts of treason, irrespective of where in the world those acts are committed. Our treason law undoubtedly has an extraterritorial application, and this is clearly justified under international law since treason is not an ordinary crime, but is a crime directed against the safety and security of the government itself. If jurisdiction of the person can be obtained, there is no doubt of the power of our government to punish for acts committed outside our territorial confines.

Moreover, the acts here in question, while committed by persons physically abroad, have their direct effects here. That is, although the words were spoken in foreign countries, they were heard here, as was intended. On these facts, it is believed that an argument could be made that for jurisdictional purposes the acts (as distinguished from the persons of the actors) were here. True, such an argument would be highly fictional, but it has often been resorted to in the law as in the numerous cases sustaining jurisdiction over murder at the place where the missile or other dangerous force had its deadly effect. However, it would be quite unnecessary to resort to this alternate argument to sustain jurisdiction inasmuch as the present statute clearly has an extraterritorial application.

As for venue, it would seem that indictments could be found in any district in which the broadcasts are heard. Assuming that the facts viewed as a whole constituted treason, it would not be necessary in order to establish venue that the language heard by radio, standing alone, should constitute treason. The broadcasts heard in this country might well constitute overt acts of the total treasonable conduct, even though the broadcasts, standing alone, might not constitute treason if divorced from the other facts surrounding the prospective defendants' actions. Any act which is related to the design and tends to effectuate it, furnishes not only the venue of the crime but the final fact necessary to consummate and

complete it, though success of the treasonable act is immaterial. (See McKinney, supra, and cases cited at 395-396; Willoughby, Constitution of the United States, (1929) 1127). "The overt act may be innocent in itself, but it must be in some manner in furtherance of the crime." (2 Brill, Cyc, Crim. Law (1923) 1508, where the U. S. cases are collected.) Analogy is readily found in those cases in which an offender is held liable to prosecution in any district where the crime is to some degree consummated by the mailing of a letter, a telephone conversation, and the like. (See Horwitz v. U.S., 63 F. (2d) 706 (C.C.A., 5th, 1933); U. S. v. Fricke, 259 F. 673 (S.D.N.Y. 1919).

Title 28, U.S.C., Sec. 102, relating to venue of offenses committed outside the territorial limits of the United States, would not bar indictments at the present time, since it is clear that the statute refers only to offenses completely committed outside the country. In the instant cases, the reception of broadcasts in the United States constitutes a part of the offense, and seems a sufficient basis to confer jurisdiction on a grand jury in any district in which the words are heard.

It is suggested that proof would be facilitated if indictments were sought in the District of Maryland, since recordings of these broadcasts have been made at the Federal Communications Commission monitoring station, located in Maryland.

#### 4. The Broad Policy Question.

The principal question really is one of policy. Indictments at this time would serve the purpose of bringing together and preserving so far as possible the evidence in each case. They might serve notice on persons having similar designs, if any there are, that the government will not tolerate such treasonable conduct on the part of its citizens. They might have a reassuring effect generally upon the country. On the other hand, it is possible that such indictments would be regarded as merely a futile gesture, and that the public would feel that we ought not to be taking up the time of courts and grand juries to obtain indictments against persons who are now outside our reach. Possibly it would be felt that there are more urgent and important matters upon which we should be working, and that such indictments are just stage play.

I think that these policy questions ought only to be decided after the views of the morale divisions of the Army and Navy, the Office of War Information, and other similar agencies have been sought out. It occurred to me that this is a question on which you might like to consult personally with the appropriate Cabinet officers, Mr. Elmer Davis, and

perhaps others. My own inclination is to go forward by presenting the facts to a grand jury and seeking indictments.

Respectfully submitted,

A handwritten signature in cursive script that reads "Wendell Berge". The signature is written in dark ink and is positioned above the typed name.

WENDELL BERGE  
Assistant Attorney General

## APPENDIX

### The Individuals and Their Broadcasts

#### DOUGLAS CHANDLER

Douglas Chandler was born in 1889 at Chicago, Illinois. He married the former Laura Wurts, of a socially prominent family in Pittsburgh, in 1924. They lived in Baltimore for some time, where Chandler contributed inconsequential articles to the Sunday American. His attempts at short story writing were failures, and in 1931, he, with his wife and two children, moved to Europe. They travelled in various countries, including France and Italy and eventually settled in Yugoslavia, where he was reported to have acted as a Nazi propaganda agent. For that reason he was requested to leave and apparently moved directly to Germany. He was broadcasting news reports from Berlin in July, 1941, and it is possible that he began such activity sometime prior to that date. He contributed articles to the National Geographic Magazine between 1937 and 1940.

Chandler broadcasts under the pseudonym of Paul Revere. In addition to news reports of the war favorable to Germany, the general theme of his broadcasts is that International Jewry caused the present war. He contends that President Roosevelt brought about our entry into the conflict by his foreign policies and in his effort to aid the Jews. He condemns England and Winston Churchill, and makes no secret of his pro-Naziism.

Typical statements in Chandler's broadcasts, indicative of the propaganda lines used by him, are set out below:

. . . Roosevelt and his Cabinet . . . are willing to let their own people pay and die for a war on the side of England and the Jews and to uphold and increase their power. At the expense of their own country, they are trying to help the criminal British Empire and to help it even against their country's own interests. (Jan. 3, 1941)

. . . Oh, it's a sad, sad story, the story of the Roosevelt liquidation of America. The end of it will be a lost war, a shattered prosperity and the irrevocable destruction of the American way of life. . . . (April 18, 1942)

. . . Neither Germany, Italy nor Japan wanted war with America. The Axis countries did everything humanly possible to prevent war. But the Jews, acting through the medium of that psychopathic criminal, Roosevelt, forced the issue. . . . (May 23, 1942)

. . . When my fellow countrymen in America have once become fully aware of the degree to which they are being deceived, by their government spokesmen, it will not take long to stop Roosevelt's war for the Jews and bring about an era of lasting peace and industry. . . the Axis defenders of civilization, Germany and her brave allies. (June 6, 1942)

. . . Franklin Delano Roosevelt promised peace but brought you war! . . . (Dec. 27, 1941)

FRED W. KALTENBACH

Fred W. Kaltenbach was born at Dubuque, Iowa, in 1895. He went to Germany in 1937, and returned to the United States in 1939. While here he gave several lectures presenting and upholding Germany's political and economic theories. After returning to Germany, he expressed his desire to the State Department to remain there for the duration of the war, in order to complete a book he was writing. In 1940 he was apparently engaged in some free-lance writing and was acting as a translator for the German short wave radio station. It appears that he began broadcasting pro-German propaganda in 1940.

Kaltenbach devotes the greater part of his broadcasts to comments on the war news favorable to Germany and to sarcastic and derogatory references to the war efforts of the United States and our military leaders. He contends that President Roosevelt intentionally forced Japan to attack the United States in order to bring about a state of war. He points out that the United States cannot be victorious, and his broadcasts are directed toward undermining the morale of his listeners in the United States. He continually reminds them that the United States is fighting solely to preserve the British Empire and for no other reason.

Statements such as the following are found in Kaltenbach's broadcasts!

. . . Therefore, America cannot win the war, but if America cannot win the war, what's the use of continuing it? Why all the sacrifices? . . . (March 25, 1942)

. . . The present uncalled-for-war, has, therefore, been from first to last, Roosevelt's war. . . . (March 25, 1942)

. . . The German people, at last, are assuming the place on the continent in Europe to which their initiative, their thrift and their

enterprise entitles them. And the best guarantee of that is the German sword. . . (April 20, 1942)

. . . The pity of it all is, however, that the millions of Americans of German descent, are compelled to fight in a foreign war; one which America is in no way threatened by attack; for the sole purpose of helping the British destroy the land of their fathers. The land where their German cousins live. I am really surprised that you millions of Americans of German blood let Roosevelt and his pro-British clique get away with it. . . . (August 5, 1942)

ROBERT H. BEST

He is a native of Sumter, South Carolina, and a graduate of Columbia University. He has been in Europe for about 20 years, and is a former foreign correspondent for an American Press Association. Best was first announced as "Guess Who?", but later identified himself and broadcasts under his true name.

Best's broadcasts follow the general trend of those previously mentioned. He vehemently criticizes President Roosevelt and the present Administration, and the Jews, and the Communists, all of whom, he states, are conspiring to set up a Communistic form of government in the United States. He advocates the impeachment of President Roosevelt. The war, according to his broadcasts, is a crusade for civilization by Germany. He devotes part of his broadcast period to news reports of German successes in the war.

Best uses statements such as the following in his effort to cause dissension in the United States:

. . . We are in the midst of a war which will decide whether the future of the human race will survive the hand of gangster Jews and the Jewed-up henchmen of these crooks, or in the hands of you and me and other honest hard working, straight forward non-Jewish, Christian, gentile. We are, in the midst of Franklin D. Roosevelt's vain war for the survival of the world domination of the international Jew. . . . (April 21, 1942)

. . . Adolph Hitler, Fuehrer of Germany, a shining example for the political leaders of all nations and the most maligned of living men. Some day I shall tell you some extremely interesting things about this man; by far the greatest economic, military, political and social genius of our generation; and one of the greatest of all times. . . (April 21, 1942)

. . . To be eaten by their comrades has already been the fate of many of their soldiers and it can easily be also the fate of any American who happens to fall into the hands of the barbarians who make up such a large proportion of Stalin's front line army. . . . (April 30, 1942)

. . . Think it over friends, \* \* \* Is it to be Canterbury and Churchill, and Roosevelt and Stalin, or is it to be a civilization's crusade? . . . . (July 9, 1942)

. . . Here we are again at the old hitching post, I at the microphone here in Berlin saying what I please when I please and almost as I please and you back there in America hounded around by a miserable minion of a gang of crooked kikes and facing a court-martial or a concentration camp if you dare give voice in public to what most real Americans are now thinking of Franklin D. Roosevelt and the war phases of Roosevelt's New Deal. . . (Sept. 3, 1942)

EDWARD LEO DELANEY with aliases

Edward L. Delaney was born in Olney, Illinois, in 1885. He has been described as a former Broadway press agent, an actor and a writer of fiction. From 1935 to 1939 he was employed by the Trans-Oceanic Film Export Company of New York City, for whom he travelled in various European countries. He apparently began broadcasting pro-German propoganda from Berlin in the early part of 1940. He broadcasts under the pseudonym of E. D. Ward.

Delaney confines his broadcasts almost entirely to news of the war favorable to Germany and the Axis. He attempts to discredit all news reports other than those emanating from the Axis countries, and makes every effort to cause dissension among the American people. He blames the war upon President Roosevelt.

The following and similar statements are contained in Delaney's broadcasts:

. . . 'Roosevelt has his war'. . . . (Dec. 9, 1941)

. . . Can there be any greater hypocrisy than for England to repeat that they are waging a war for small nations? A war against agressors, a war to save democracies and civilization, and the principles of Christianity? . . . (Dec. 9, 1941)

. . . Now the nation is at war. The seven or eight years of international meddling and muddling by the administration has borne fruit, bitter fruit, which the people of the nation, and not the politicians must taste. . . . (December 9, 1941)

#### JANE ANDERSON

Jane Anderson was born in Atlanta, Georgia, in 1895. She lived for some time in Washington, D. C. and New York City, but it is believed that she has resided in Europe since 1922. According to announcements which precede her broadcasts, she is a world famous Catholic writer and orator who was tortured and twice condemned to death by the Communists in Spain. She is the divorced wife of Deems Taylor and the present wife of Alvarez de Cienfuegos, a Spanish marquis.

In her broadcasts, Jane Anderson dwells upon the brutality of the Russians and the dangers of Communism to the world. It is her contention that President Roosevelt is a representative of the Communist Party. The content of her broadcasts leaves no doubt that her sympathies are entirely with Germany. Her broadcasts contain statements such as the following:

. . . And the financial crash of the American commonwealth is now a mathematical certainty and communism may strike at its will. . . (Jan. 11, 1942)

. . . The Nipponese forces, fighting Communism in Asia, as a Christian crusader bearing a loft of banners of the consolidated nations of Europe glowing down upon the Red beast in the blood-stained lair of the Soviet. . . . (Jan. 25, 1942)

. . . Adolf Hitler. . . has broken the power of the international bankers. . . these capitalistic overlords are the . . . blood relations of Roosevelt. . . . (Feb. 6, 1942)

. . . The simple fact that Germany is invincible. . . (Feb. 12, 1942)

. . . Jews have gained the secret control of the world because the jew takes advantage of the principles like honor and decency and fair play of the christian. That's why Roosevelt smashed the principle of the American Constitution and was fraudulently elected to a third term. That's why the brain trusts sold America and the United States in fighting Germany. Not because the American people evidently knew social justice of the Third Reich but because American soldiers have to be massacred to satisfy Jewish hatred of Adolf Hitler. . . . (March 5, 1942)

### CONSTANCE DREXEL

Constance Drexel was born in Germany in 1884. When her father, a citizen of Germany, was naturalized in Boston, Massachusetts, in 1898, she obtained derivative citizenship. She went to Germany in May, 1939, and is known to have been broadcasting German propaganda since July, 1940.

Constance Drexel's broadcasts deal entirely with social conditions and cultural life in Germany. She attempts to show that the war has not lowered the morale of the German people in an effort to thereby discourage the American people in their war effort. Her statements might also have the probably intended effect of convincing her listeners that Germany's "New Order" is conducive of the best social and economic conditions.

Her examples of statements contained in the broadcasts are:

. . . Old man depression cannot blot cultural life in Germany as it did in the United States. Her cultural life is considered as necessary and even more necessary than \* advantage and artists are valued and esteemed on a par with other exponents of professional, military and civil life. . . . (Feb. 10, 1942)

. . . Indeed, I have yet to see signs of poverty in Germany, such as we see in my own country. . . (Jan. 14, 1942)

. . . I think that I can truly say that my observations in Germany have led me to the opinion that so called democracies as we have experienced it in the New World can learn much from National Socialists. . . . (Jan. 14, 1942)

### DR. EZRA POUND

Ezra Loomis Pound was born in Hailey, Idaho, on October 30, 1885. He received his Ph. D. degree from Hamilton College, Clinton, N. Y. and his M. A. degree from the University of Pennsylvania. He went to Italy in February, 1911, and with the exception of a few trips to other parts of Europe, has resided there continuously since that date. He is the author of 17 books of poems, two operas, 18 prose treatises and 11 translations. He began airing his contempt for the United States over the Rome, Italy radio in February 1940. He is also allegedly editing a magazine entitled "Exile".

Pound's broadcasts are disjointed and vague. It is rather difficult to follow the trend of his propaganda. It can be ascertained, however, that he is an ardent Fascist and his broadcasts, for the most part, consist of criticism of the forms of government in the United

States and England and the unfavorable comparison of these Governments and their advantages with Italy. He criticizes the American and English people for being so totally blind and ignorant that they would allow their present forms of government to exist, and attempts to create dissatisfaction in every way possible.

The following are some of the statements found in Pound's broadcasts:

. . . If you are going to have Fascism or Naziism in the United States, why not learn what these systems of government are? Why not ask and learn how far they are compatible with American habits, and what is good in them, and wherein their strength consists, instead of merely lying and cussing and trying to kill 'em, on the assumption, if you can call it by so mild a term, that they are something that they are not. . . . (March 6, 1942)

. . . For the United States to be making War on Italy and on Europe is just plain damn nonsense, and every native born American of American stock knows that it is plain down-right damn nonsense. And for this state of things, Franklin Roosevelt is more than any other one man responsible. . . . (April 16, 1942)

. . . And every hour that you go on with this war is an hour lost to you and your children. And every sane act you commit is committed in homage to Mussolini and Hitler. Every reform, every lurch towards the just price, toward the control of a market is an act of homage to Mussolini and Hitler. They are your leaders, however much you think you are conducted by Roosevelt or (told) up by Churchill. You follow Mussolini and Hitler in every constructive act of your government. . . . (March 28, 1942)

. . . You are not going to win this war. . . . None of your best minds ever thought you could win it. . . . You have never had a chance in this war. You had a chance possibly or at least it might at some time have appeared, and in fact it appeared that you had a chance for a Beau Geste, for a vindication of national honor by going through a set of bellicose motions and sacrificing a reasonable number of men. (Emulation) of victims as atonement not for a crime of your empire but for the imbecilities of a ruling gang. . . . (June 28, 1942)

. . . Europe is fighting for the good life. The shysters are fighting to prevent it. . . . (July 14, 1942)

. . . You ought not to be at war against Italy. You ought not to be giving, or ever to have given the slightest or most picayune aid to any man or nation engaged in waging war against Italy. You are

doing it for the sake of a false accountancy system. You ought to go down on your knees, and thank God for Italy. Thank God for an Italian possessed of Mediterranean sanity, who threw the first ray of light in the general darkness, showed a way to keep you out of hell made by false accountancy system. . . .  
(July 20, 1942)

EMANUEL CELLER  
10TH DISTRICT NEW YORK

MEMBER OF  
COMMITTEE ON THE JUDICIARY

WASHINGTON SECRETARIES:  
BESSIE EFFRAT MARGARET BROOKS

Congress of the United States  
House of Representatives  
Washington, D. C.

NEW YORK OFFICE:  
1450 BROADWAY  
NEW YORK CITY

1524 NEW HOUSE OFFICE BUILDING  
WASHINGTON

NEW YORK SECRETARIES:  
JACOB GRALLA MARY DOUGHERTY

January 26, 1943

*Gen. Tolson*

Honorable Franklin Delano Roosevelt  
President of the United States  
Washington, D. C.

Dear Franklin:

I hesitate to intrude upon you, but there is embodied in the enclosed bill which I have offered, H. Res. 57, an idea which you might at least toy with.

There emanate nightly from Germany and Italy short wave broadcasts by Nazi and Fascist radio broadcasters who, unfortunately, are Americans. These traitors are Constance Drexel, Fred Kaltenbach, Douglas Chandler, Jane Anderson, Ezra Pound and Robert H. Best. Douglas Chandler broadcasts under the pseudonym of Paul Revere, Fred Kaltenbach broadcasts under the salutation of "Dear Harry." Constance Drexel entitles her traitorous utterances as "News from Germany". Robert H. Best uses the alias "Guess Who". He also urges Americans to write to their Congressmen to impeach you. Jane Anderson apparently broadcasts from Italy and is introduced usually as a famous orator. Ezra Pound opens his damnable talk with a sort of verbal Fascist salute.

Were they to make their treacherous observations in Constitution Hall or Madison Square Garden, they would, undoubtedly, be guilty of treason and the necessary witnesses could be used to convict them.

Modern invention as embodied in the radio enables these scoundrels to reach a far greater audience than could assemble in any of our largest halls. The damage they do, therefore, is all the greater. We should not be helpless.

I, therefore, have offered this House Resolution 57 to amend Article 38 of the Articles of War whereby you will be empowered to set up military tribunals, or commissions, to try these culprits, even in absentia. The Bill of Rights, which requires trial by jury, is not applicable to the Articles of War. If Congress so provides, persons tried before a military tribunal cannot demand trial by jury nor confrontation of witnesses. The Articles of War, by Article 38, may even now give you the right to set up these military commissions,

2 - Honorable Franklin Delano Roosevelt

but I believe it is proper for Congress to give you the specific power, so as to remove any doubt.

Furthermore, the developement of this idea of trials now, although in absentia, may have a deterrent affect.

Furthermore, the idea may be a nucleus for punishment of those followers of the Nazi, Fascist, Nippon theories of waging a war of horrors and atrocities.

Russia has set up an Extraordinary State Commission to trace the crimes of the Nazis and to mark down the criminals for punishment. This is being done now. The Polish Government in Exile has followed Russia's example.

You may recall that at the end of the last war 900 Huns were slated for indictment and punishment. The Kaiser headed the list. After two years of bickering, pettifoggig and claptrap, only twelve were brought to trial. The Judges of those so tried were the Huns themselves. The tribunal was the High Court at Leipzig and was composed of seven Hun judges. It was like the Nazi fiends being tried by the members of their own Gestapo. Of the twelve tried, six were convicted. The heaviest sentences imposed were two four-year imprisonments accorded to two naval lieutenants (who contrived to escape) and the other four received six months jail sentences for each. The sum and substance of the entire proceedings were six months in jail for four culprits. It was, indeed, a Comedy of Errors, a mere international wink of the eye.

I have searched the records at the Library of Congress and find that periodicals, papers and books of 1917-18 called for the punishment of the Huns and for the setting up of all sorts of courts for that purpose. You would imagine you are reading the periodicals and newspapers published today. We had the will then as we have the will now, but then the mountain labored and brought forth a mouse.

Perhaps the idea embodied in my bill might set forth in your mind a train of thought that might give us an adequate remedy.

With all good wishes, and someday when you can spare five minutes I would love to see you again and press your hand and tell you how happy I am on the Hill to support you to the hilt.

Very sincerely yours,

*Manuel*  
EMANUEL CELLER

Enc;

WB-SCE-BGL

146-28-237

AAV] February 4, 1943.

R. V. CORE

MEMORANDUM FOR THE DIRECTOR,  
Federal Bureau of Investigation,

Re: Fred W. Kaltenbach (146-28-237)	Edward Leo Delaney, with aliases (146-28-240)
Constance Drexel (146-28-229)	Jane Anderson, with aliases (146-28-233)
Robert H. Best (146-28-248)	Dr. Ezra Pound (146-7-3672)
Douglas Chandler (146-28-232)	

FILED  
VS  
BY  
FEB 12 1943

It is desired that in each of the above cases all persons who are personally acquainted with the subject and who have never heard his or her broadcasts, but who believe they can identify his or her voice, be given an opportunity to listen to recordings of his or her broadcasts in order to ascertain whether they can in fact recognize the voice of the broadcaster as that of the subject. It is suggested that the identification will be more positive if you have such persons listen to similar recordings by other persons also in order that they may select that which they believe is the subject's voice.

It has been informally reported to the Criminal Division that the broadcasts of the above-named subjects are received by the Federal Communications Commission by means of a radio receiving set at Silver Hill, Maryland, at which place recordings are made. The broadcast, however, is transmitted by extension wire into the District of Columbia where it is audibly received by monitors, recorded and transcribed. No one at the Silver Hill Station hears the broadcasts. It is requested that this report be verified, and, if true, that the exact facts be ascertained.

By memorandum dated November 20, 1942, you were requested to ascertain whether recordings of all of the subjects's broadcasts had been preserved. By memorandum dated January 11, 1943, you

Memo. for the Director --2--

transmitted a copy of a communication received by you from the Federal Communications Commission stating that all broadcasts by the subjects had been recorded except during periods of seriously disturbed atmospheric conditions. You will note that it is not stated whether such recordings have been preserved, and it is desired that you again request this specific information from the Federal Communications Commission.

Respectfully,

**SIGNED**

WENDELL BERGE,  
Assistant Attorney General.

ADDRESS REPLY TO  
"THE ATTORNEY GENERAL"  
AND REFER TO  
INITIALS AND NUMBER

DEPARTMENT OF JUSTICE  
WASHINGTON, D. C.

February 9, 1943

MEMORANDUM

TO: Mr. Oscar Cox

FROM: Boris I. Bittker

SUBJECT: Trial in absentia of Robert Best, Jane Anderson, Ezra Pound,  
et al.

SUMMARY

1. I believe that some, and possibly all, of the American citizens broadcasting from Axis countries have committed treason. Their acceptance of the role of propagandists for the enemy, as well as their utterances, demonstrate that they have "adhered" to the enemy, and their broadcasts, in promoting the enemy's self-announced intent to destroy our unity by creating internal dissension, have given "aid and comfort" to our enemies. The only obstacle to indictment for prosecution is the statement in several cases that "words" cannot constitute treason. Properly construed, however, such statements bar only prosecutions based upon expressions of opinion; they do not mean that an enemy agent can immunize himself from the charge of treason by confining his activities to the written or spoken word, especially when this is the role in which he can best serve the enemy.

2. There appears to be no legal obstacle to indictment in absentia. Grand jury proceedings are always ex parte, and not only is the offender's presence unnecessary, but he may not even appear before the grand jury without its permission.

3. Trial in absentia is impossible because of the defendant's privilege, conferred by the Sixth Amendment, to confront the witnesses against him, as well as because of the due process clause of the Fifth Amendment. Moreover, a defendant in a capital case may not waive this privilege, so it would be useless to argue that absence from the country constituted a waiver. If indictments were obtained, therefore, trial would have to be postponed until the offenders are apprehended.

4. My reasons for these conclusions are set out below. I



RECORD

H. C. T.

CRIM. DIV. - MCINERNEY

have made use of legal and factual memoranda prepared by or under the direction of members of the Criminal Division, which has been considering these cases for some time. I understand that the Criminal Division and the Special War Policies Unit are now discussing jointly what action should be taken.

5. As you know, Congressman Celler has introduced a bill to authorize trial in absentia of these persons by military commission. I believe that this would be much less desirable than civil indictment, even though trial must be postponed until the offenders are caught. My reasons for this conclusion are set out in a separate memorandum.

#### MEMORANDUM

An examination of typical broadcasts from Germany and Italy by certain American citizens indicates that they are engaged in a deliberate attempt to undermine civilian and military morale in this country, by spreading falsehoods about our military accomplishments, by blaming the war on the President, on our Allies, or on racial groups, by denouncing democracy and representative government, by urging that the United States abandon her Allies and make immediate peace with the Axis, and by stimulating race hatred. These broadcasts are part of the Axis' well-developed program of psychological warfare, and the American participants must have full knowledge of the purpose they are subserving.

Treason. The treason statute, 18 U.S.C. 1, provides:

"Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason."

These American citizens have adhered to the enemies of the United States in a very real sense. Not only do their broadcasts evince a complete acceptance of the enemy's philosophy, but in making them, they are cooperating with the enemy as fully as though they were volunteers in his armies. They could hardly take steps to establish their adherence more firmly, except by an open renunciation of American citizenship and an acceptance of Axis citizenship. Curiously enough, it is the very fact that they have not taken this final step which makes them so useful to the Axis.

The other element of treason is the giving of aid and comfort to the enemies of the United States. It has been said that:

"\* \* \* In general, when war exists, any act clearly indicating a want of loyalty to the government, and sympathy with its enemies, and which, by fair construction, is directly in furtherance of their hostile designs, gives them aid and comfort. Or, if this be the natural effect of the act, though prompted solely by the expectation of pecuniary gain, it is treasonable in its character. \* \* \*" (30 Fed. Cas. 1037)

These broadcasts certainly indicate a want of loyalty to the United States, and a sympathy with Germany and Italy. Nor could it be disputed that they are in direct furtherance of the enemy's hostile designs. The Axis has always laid great stress upon psychological warfare and has relied heavily on renegades to soften up its opponents by creating domestic dissension. The Rome and Berlin radio is not given to conducting town meetings of the air, and it must be assumed that the Axis regards itself as adequately recompensed for the valuable air time devoted to these broadcasts. Presumably these broadcasters would be interned like other Americans if their services were not considered valuable by the Axis. There is no reason why we should place a lower value on their services than does the enemy itself.

There are a few statements in the legal literature to the effect that words--or "mere" words--cannot constitute treason. Perhaps the best known is the following, from Judge Nelson's charge to a grand jury, on November 4, 1861:

"Words oral, written or printed, however treasonable, seditious or criminal of themselves, do not constitute an overt act of treason, within the definition of the crime. When spoken, written or printed in relation to an act or acts which, if committed with a treasonable design, might constitute such overt act, they are admissible as evidence tending to characterize it, and to show the intent with which the act was committed." (30 Fed. Cas. 1035)

A contemporaneous statement is:

"\* \* \* Hence, it will be obvious that however strong may be the grounds of suspicion or belief, that an individual is disloyal to his country or his government, until his disloyalty is developed by some open and provable

act, he is not legally guilty of the crime of treason. And it follows, also, that mere expressions of opinion indicative of sympathy with the public enemy, will not ordinarily involve the legal guilt of that crime. They may well justify a strong feeling of indignation against the individual, and the suspicion that he is, at heart, a traitor, but will not be a sufficient basis for his conviction in a court of law." (30 Fed. Cas. 1037)

In at least this second case, however, it is clear that the court was not so much holding that utterances could never constitute treason, as insisting that conviction should not be based "upon proof of facts which were only treasonable by construction or inference, or which have no better foundation than mere suspicion."

In neither of these cases are enough facts given to indicate the nature of the utterances or of the publications to which the judges had reference. It is entirely possible that the words thought inadequate to establish treason were merely private statements of sympathy for the Confederate cause, and it seems unlikely that they could have had any substantial resemblance to the conduct of the American broadcasters with whom we are concerned. Thus, the second case was cited during the first World War as authority that expressions of sympathy for Germany in personal letters are not treason. United States v. Herberger, 272 Fed. 278, 290 (dictum). In a second World War case, the court upheld a conviction under the Espionage Act, saying that since "one cannot, by mere words, be guilty of treason," a prosecution for seditious utterances need not be established by two witnesses to the overt act. Wimmer v. United States, 264 Fed. 11. While the circumstances of this defendant's statements are not set out, it seems quite unlikely that he was an enemy agent or that his statements were part of an enemy propaganda campaign.

In excluding "mere" words as a basis of treason, these opinions appear to be emphasizing the fact that an expression of opinion does not constitute "adherence" to the enemy nor "aid and comfort" within the meaning of the statute. They can hardly be construed to mean that a person who works for the enemy can protect himself against prosecution for treason by confining his activities to the written or spoken word. Thus, it has never been doubted that the oral transmission of military intelligence is treason. Likewise, an American citizen who spreads disaffection in the armed forces by speech or publication under directions from Berlin would also seem to be guilty of treason. See Charles Warren, "What is Giving Aid and Comfort to the Enemy?" (27 Yale L.J. (1918) 331, 340). Cf. Rex v. Casement, (1917) 1 K.B. 98, where one of the overt acts in a prosecution for treason was the distribution of a leaflet among English prisoners of war in Germany urging them to join an "Irish Brigade" and to fight for Ireland's freedom.