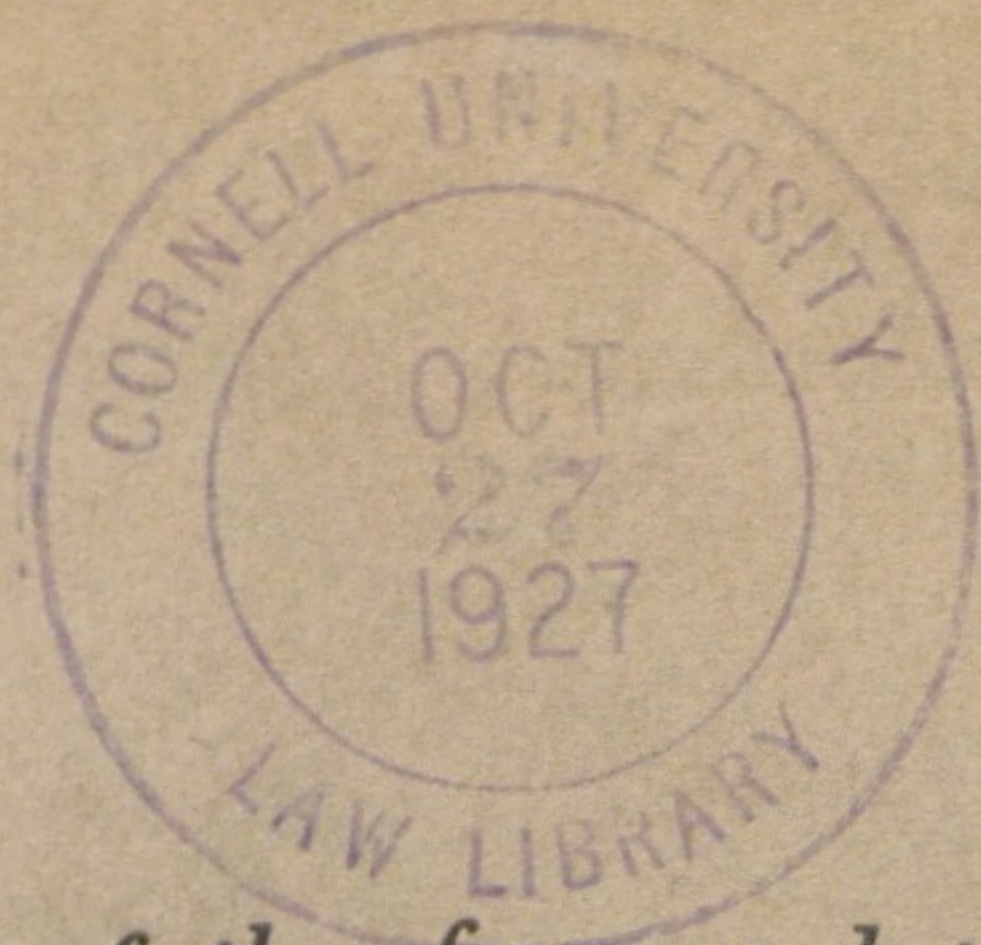


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No. 1.



"In the land of the free and the home of the brave."

The Case of

JAN JANOFF POUREN

a Political Refugee from Russia

Held over a year in an American Prison

BY DEMAND OF THE CZAR

SPECIAL EDITION

authorized by the Pouren Defense Conference

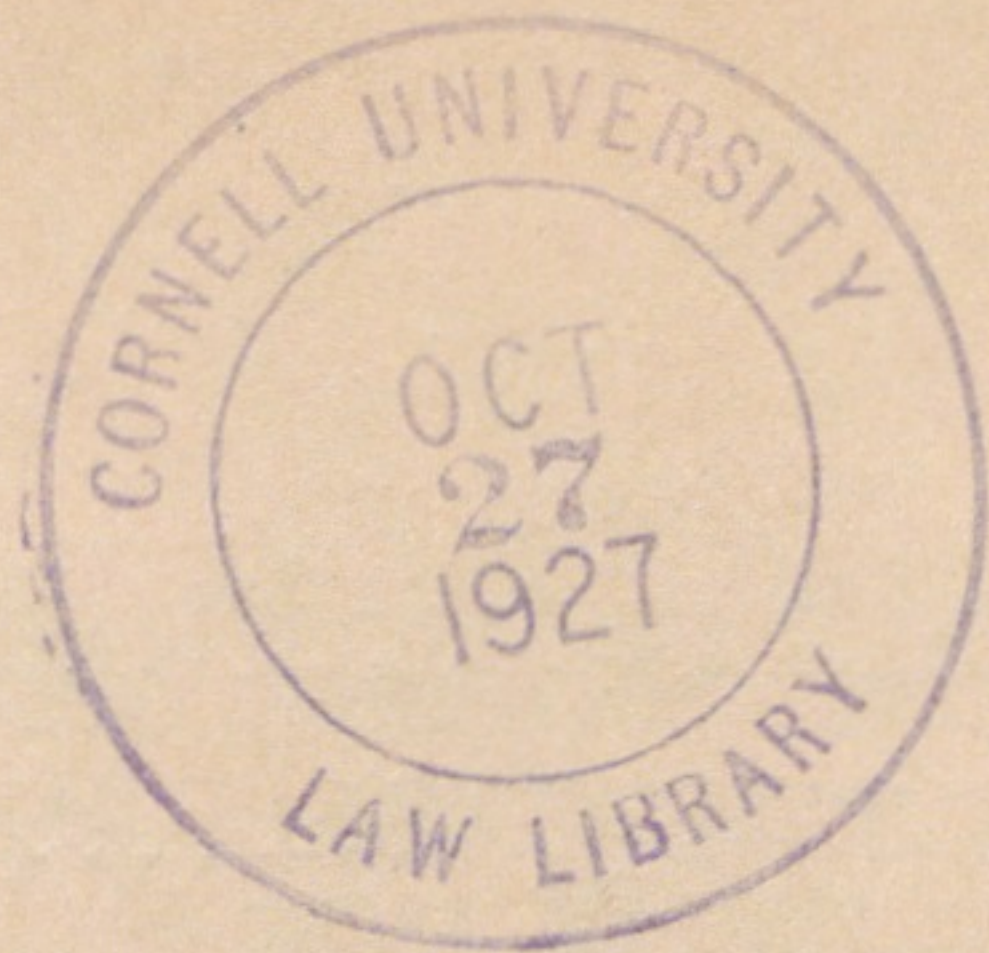
Royal Stationary Co., Publishers,

99 Nassau St., New York



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Since the publication of this book Commissioner Hitchcock has rendered a decision in this case, ordering the discharge of the accused. The text of his decision will be found at the end of the book.



PUBLISHER'S NOTE

The case of the Russian refugee, Jan Janoff Pouren, who has been held over a year in a New York jail upon the demand of the Czar, has attracted wide interest among the American people. A petition with seventy thousand signatures was presented to President Roosevelt asking him to reverse the decision of Commissioner Shields to surrender Pouren to Russia. The case was reopened by Secretary of State Elihu Root, and the prisoner's fate is now in the hands of Commissioner Hitchcock.

The proceedings against Pouren have amply demonstrated that the extradition treaty with Russia endangers, if it does not entirely destroy, the safety of political refugees from the Czar's dominions. Our judicial procedure is not adapted to dealing with political offenses which are unknown to our theory of law, built, as it is, upon the ideas of political freedom and the sovereignty of the people. It is extremely difficult for a refugee to prove by evidence, competent in a court in this country, the political character of an offense committed thousands of miles away.

A petition is, therefore, being circulated, wherein the United States Senate is asked to terminate the extradition treaty with Russia.

To acquaint the people with the principal facts in that case, which has directed the attention of the American people toward the abrogation of the treaty with Russia, the publishers have thought it timely to issue for general circulation the digest of the evidence submitted by Pouren's counsel, Congressman Herbert Parsons, Dr. Isaac A. Hourwich and Mr. Simon O. Pollock, to U. S. Commissioner Samuel M. Hitchcock.

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United States of America,

SOUTHERN DISTRICT OF NEW YORK.

IN THE MATTER

OF

The Application for the Extradiction of JAN JANOFF POUREN to Russia.

Before

S. M. Hitchcock, Esq.,

U. S. Commissioner.

DIGEST OF THE EVIDENCE

And Points for the Accused.

Statement of the Case.

The Petition of Russian Consul-General Schlippenbach charges Pouren with a number of crimes committed between July 5th (June 22, Russian style), 1906, and September 7th (August 25), 1906.

The defense on the merits is that THE OFFENSES FOR WHICH THE EXTRADITION OF THE ACCUSED IS DEMANDED, ARE OF A POLITICAL NATURE.

It is amply proved by the evidence in this case that there was a widespread revolution in the Russian Empire, extending to the Baltic provinces and covering, according to official data, a period of three years, beginning in 1904 and continuing well into 1907.

On September 6, 1906, the government stated in an official communication that the revolutionary movement had progressed "with extraordinary in-

tensity for the last two years" previous (Defendant's Exhibit 16), which brings the beginning of the revolution back to 1904.

On May 14 (27), 1907, Associate Minister of the Interior Makaroff, replying on the floor of the Douma to the interpellation on the torture of political prisoners by the police at Riga and in other parts of the Baltic provinces, conceded the truth of the charges, but excused the police by the "bloody raving, rending our country and vociferously calling itself 'Revolution'" (Defendant's Exhibit 23).

From the testimony of Witness Ohsol, a member of the second Douma, it appears that on the 4th of May, 1907, a search was made by the police at his house, in St. Petersburg while a caucus of the Social Democratic delegation in the Douma was there in session. There were about one hundred policemen on the spot, reinforced by gendarmes, detectives, and soldiers. The cause of this extraordinary proceeding was the charge against the Social Democratic representatives in the Douma of having plotted an uprising of the soldiers and the people in general. Several of the representatives of that party were indicted on those charges and sentenced to penal servitude in Siberia (Minutes, pp. 287, 288, 292).

Prof. Schiemann, the conservative historian of "The Lettish Revolution," writing in June, 1907, says that "the return of peaceable conditions is still out of the question," and that "the normal state of affairs has not yet been reached even today" (Defendant's Exhibit 25, p. 294).

The Russian revolution was an organized political movement under the leadership of the Social Democratic Party.

The existence of "revolutionary organizations" is recognized in the official communication of the government of September 6, 1906 (Defendant's Exhibit 16).

The revolution reached its climax in the general strike of October, 1905. It was a general cessation of work by all classes of the people; workmen in all branches of industry were joined by professional men, such as civil engineers, lawyers, teachers; the courts even joined in a sort of sympathetic strike, refusing to hold sessions; the banks were closed out of sympathy with the strike. The strike on the railroads was directed by the Engineering Union, which was organized all over Russia. The strike was directed not against the employers of labor, but against the government. It was a political show of force. The strikers promulgated a political platform, demanding universal suffrage, self-government, the summoning of a constitutional convention and political amnesty. As a result of this strike, the Manifesto of October 30, 1905, was issued by the Czar, which was followed by the election law of December 11, 1905, and by the Constitution of the Douma of February 20, 1906 (testimony of Ohsol, pp. 278-296).

The magnitude of the movement is recognized by the Czar's Manifesto of October 30, 1905, which recites that the "rioting" going on "in the capital and in many localities of our empire" threatens "the entirety and unity of our empire" (Foreign Relations, 1905, pp. 777-778).

Another imperial manifesto, transmitted by Charge d'Affaires Eddy on November 17, 1905, "notes that the peasants are beginning to rise and seize lands" of the nobles.

The "agrarian movement" of the peasants against the noble landlords continued to be a prominent feature of the revolution in 1906. The peasants seized and ploughed the lands of the nobles, robbed their mansions, and set them on fire. The Minister of the Interior, in an official document dated March 21, 1906, announced the appointment of a military commander for each province, with military placed

at his command, for the suppression of disorders in rural districts (Defendant's Exhibit 14).

The "agrarian disorders" are still mentioned among the manifestations of the revolutionary movement in the government communication of September 6, 1906 (Defendant's Exhibit 16). In order to allay the disaffection of the peasantry, land reforms were promised in the same communication.

In the spring of 1906 the revolutionary movement, according to the same official source, became "especially strong." "Military mutinies in Sevastopol, Sveaborg, the Reval port, and Kronstadt, assassinations of officials, attacks and robberies follow one another The police every day suffer enormous loss in killed and wounded."

During the session of the first Douma "the revolutionary circles were actively preparing an armed insurrection with the aid of the army and navy." These plans were supported by "the representatives of the extreme parties" in the Douma, who "aspired to seize the executive power and transform the Douma into a constitutional convention." The first Douma was dissolved. Military mutinies broke out in Kronstadt and Sveaborg, but they were suppressed by the government.

Nevertheless, the government did not consider this a final victory over the revolution.

All Russia was already under military rule, as stated above. In districts wherein martial law was declared the governors-general were empowered to commit every offender to a court-martial for trial and sentence "according to the laws in force in time of war" The frequency of death sentences, pronounced by courts-martial, was the subject of an interpellation in the first Douma. (See reply of Military Attorney General at the meeting of the Douma on June 14, 1906—Exhibit 18.)

But early in September, 1906, the government

found "the ordinary judicial procedure," including ordinary courts-martial, "not suited to the circumstances of the present time," because it afforded no adequate means for the swift repression of extraordinary crimes. In order to cope with revolution, extraordinary field courts-martial were created (Defendant's Exhibit 16), which could make away with any prisoner within four days at the utmost (Exhibit 17).

Such was the condition of the Empire on the day before the last of the offenses charged against Pouren is alleged to have been committed. Two of his alleged confederates who are said to have confessed to the police the commission of the crimes for which his surrender is now demanded, viz: Ackerman and Luss, were executed under sentences of just one of these field courts-martial. (Depositions, p. 54).

Coming now to the Baltic provinces, we find that the revolution there achieved a greater measure of success than elsewhere in the Empire.

The revolutionary movement of the Lettish peasantry was directed against the feudal aristocracy, which was the governing class in the Baltic provinces (Testimony, pp. 40-41).

In June and July, 1905, meetings of the peasants were held in many places, notably in the Sissegal volost (township), where means were discussed how the people could "relieve" themselves "of the oppression of the barons" (Testimony, pp. 86-87). At one of these meetings there were about a thousand persons present (pp. 11-12). The peasants would march from one manor to another and demand relief from their "oppressed conditions" (pp. 162-163).

One of the manifestations of this movement was the agitation begun in July, 1905, for the closing of the inns where liquor was sold (pp. 133-134). As an example, the closing of the Volodz inn in

July, 1905, was related by witness Osolin. A crowd of five or six hundred people assembled before the inn, the license which was hanging on the wall was taken down and the place was closed (p. 145).

This is one of the places which was a year later set on fire by the accused and his confederates.

The buildings in which these inns were kept were owned by the barons and leased by them to the liquor dealers; the sale of liquor is a government monopoly (pp. 181-182). The closing of the inns was thus a blow aimed simultaneously at the Imperial treasury and at the ruling feudal aristocracy.

At the time of the general strike, in October, 1905, the leadership was assumed by the Central Committee of the Social Democratic party at Riga. The fact is recorded in Prof. Schiemann's history of "The Lettish Revolution" (Exhibit 25, p. 214); the statement is confirmed by witness Ohsol, who was at the time a member of that committee (Testimony, pp. 188-189, 230).

On October 30, 1905, a meeting of over one thousand persons was held in Riga. At that meeting it was resolved to overthrow the administration of the towns and to replace it by a new democratic town government (Exhibit 25, p. 214).

On November 19, 1905, a Congress of representatives from the townships of Livland and Kurland was held in Riga. It was organized by the Lettish Social Democratic Party and was attended by about 1500 delegates. (Prof. Schiemann, l.c., 221).

Two of the delegates to that Congress, John Zeman and John Licit, testified in the case at bar.

The police appeared at the session and demanded that the Congress should disperse, but they were ordered to leave and had to withdraw (Testimony pp. 254-257). "The governor did not feel strong enough to disperse the Congress." (Exhibit 25, p. 221). The Congress remained in session four days.

The leadership of the Congress was in the hands

of the revolutionary committee (Exhibit 25, p. 221). It was presided over by a member of the Central Committee of the Social Democratic Party, who reported its proceedings to the Committee. The resolutions of the Congress were published in the official organ of the revolutionary committee. (Testimony, p. 230).

The Congress resolved:

1. To sever all connection with the government of the Czar.
2. To remove all local authorities and elect administrative committees on democratic lines.
3. To join hands with the revolutionary masses in other parts of Russia and fight for a constitutional convention.
4. To organize a popular militia.
5. To elect a "Central Bureau" at Riga, which should be the central government body for Livland and Kurland.
6. To close all places for the manufacture and sale of liquors.

(Exhibit 25, p. 221; Exhibit 29, pp. 1-5; Testimony pp. 254-257).

According to Prof. Schiemann, this Congress "marks the political culmination of the Lettish Revolution: the existing government was removed and a new provisional government was installed" (Exhibit 25, p. 221 and seq.). The ultimate aim of the Congress was to establish a federal Russian republic.

When the delegates returned home and reported the proceedings to their constituencies, the revolution spread throughout the Baltic provinces. (Testimony, pp. 88-91).

"In almost all villages at that time the village authorities were deposed and in their stead administrative committees were organized, consisting of persons identified with the revolutionary move-

ment.” (Statement of Associate Minister of the Interior, Makaroff, Exhibit 23).

“In November, 1905, Kurland and Southern Livonia consisted of some 360 autonomous republics under the direction of the Social Democratic Central Bureau.” (Prof. Schiemann, l. c., p. 221 and seq.).

The Russian Penal Code regards such “a rebellion of peasants against the administration of the townships” as an “insurrection.” (Testimony, pp. 232-233).

The town meetings held at this time endorsed the resolutions of the peasant Congress. Among other things they proceeded to close up all liquor shops and declared that “everyone who does not abide by the above resolutions shall be regarded a *traitor*” (Exhibit 25, p. 221 and seq.).

A popular militia was organized and armed (Testimony, pp. 27, 28, 57, 92, 125, 180) and a conflict with the barons immediately followed. The militia had its officers (Exhibit 25, p. 235) or “chiefs” (Livland Government Records, Exhibit 15, No. 20) and numbered hundreds in some districts (Testimony, p. 125). The baronial castles were besieged and demolished, a number of successful small engagements with the troops took place, in which some five to six thousand militiamen took part (Testimony, pp. 33-37, 127, 139, 175).

On December 2, 1905, “the whole of Southern Livonia was in the hands of the revolutionists” (Exhibit 25, pp. 237 and seq.). The railways were likewise in their hands. No one was permitted to travel without a passport from the revolutionary party (Ibid., p. 251).

The Imperial Government “existed now on paper only,” says Prof. Schiemann. “The government at 25 Romanow Street” (the headquarters of the Social Democratic Party at Riga) issued orders, organized a police, tried criminals, pronounced

death sentences against spies, "in short, it ruled in its own fashion. This lasted till later in December" (Exhibit 25, pp. 278-285).

The success of the insurrection in the Baltic provinces was shortlived. Troops in large numbers invaded the rural districts, captured and shot all members of the revolutionary local governments whom they could lay their hands on, burned the houses of those who escaped, searched the farms for revolutionists in hiding, beat those who were suspected of sympathizing with the revolutionists, (Testimony, pp. 263-264, 116-117, 143), giving no quarter to women and old people (Testimony, pp. 61, 320-322).

The revolutionists were forced to seek safety in flight. Many fled to the woods and formed guerilla bands which became known under the name of "Forest Friars," or "Forest Brothers" (Exhibit 25, and Exhibit 27, pp. 95-96). In the English translation of the depositions for the Russian government they are called "Brothers of the Woods;" though this is bad English, yet the term has been adopted here for purposes of identification.

That the "Brothers of the Woods" were "revolutionary bands," was unqualifiedly stated by Associate Minister of the Interior, Makaroff, on the floor of the Duma as late as May 14, 1907 (Exhibit 16). For strategical reasons they were divided into small bands, but they had an organization "with by-laws" (Prof. Schiemann l.c., p. 313, Exhibit 25). They had their own printing press, from which they issued a proclamation announcing the plan and object of their organization. To the proclamation were appended "Standard by-laws for the organization of a Forest Friars' Militia," which was subject to the supervision of the Social Democratic Central Office (Loc. cit., pp. 315 and seq.).

This proclamation was issued August 25, 1906, i.e., two months after the commission of the first

offenses charged against the accused and within a fortnight of the commission of the last offense charged against him.

Witness Ohsol, a former member of the central revolutionary committee at Riga, subsequently member of the National Committee of the Social Democratic Party and representative in the second Duma for Riga, writing in the last week of August, 1906, notes the energy with which "the guerilla war is carried on" by the Forest Brothers. (Exhibit 27, p. 95).

Three of the witnesses, besides the accused himself, who had been members of the Brothers of the Woods, gave detailed testimony on the organization and mode of operation of those guerilla bands.

Their numbers can be approximately estimated from the number of persons who conspicuously took part in the open insurrection.

Over one thousand delegates were present at the Peasant Congress in November, 1905. Revolutionary administrative committees were elected in 360 townships; each committee had a president, a secretary, a treasurer and a judge, besides other officials; this would bring the number of revolutionary officers to at least 1440. Then the revolutionary militia in some engagements mustered a few thousand men. With the approach of the troops all these men became outlawed and had to flee to the woods. Some succeeded after a while in escaping to safety. It is reasonably certain, however, that at some time the guerilla bands must have numbered a few thousand. In the Sissegal district alone there were from 200 to 300 men.

Each of the small camps or "circles" had an elected leader, who represented it on the central committee of the district, and the district committee acted under orders from the Central Committee at Riga. (Testimony, pp. 15, 22-25, 50-51, 94, 95, 113, 274).

The Brothers of the Woods were supported by the neighboring peasantry (Exhibit 27, pp. 95-96; Testimony, pp. 61 and 318).

They continued to enforce the ordinances of the revolutionary town governments prohibiting the sale of liquors and punished disobedient innkeepers. The Czar's troops would force the innkeepers to reopen the liquor shops which had been closed by the revolutionists (Testimony, pp. 326-329).

The Brothers of the Woods punished spies; they imposed fines and in extreme cases burned the houses of the enemies of the revolution and even shot them. The troops were pursuing them and at times they were forced to fight. They disbanded only as late as November, 1906. (Cf. Supplementary Depositions, pp. 2, 4).

That at the time when the acts charged against Pouren were committed, the Riga district was yet in a state of revolution, is officially proved by the statement of Associate Minister Makaroff, who says that "in August, 1906, the *revolutionaries* made an armed attack" on the house of a hostile association, "poured kerosene over the walls of this wooden house, set fire to the same and fired 200 shots into the house" (Exhibit 23).

This description resembles in every detail the armed attacks upon the inns Lobes and Volodz, for which Pouren's extradition is demanded.

That Pouren took part in the revolutionary movement is proved by deponent Mousikant for the demanding government (Depositions, p. 24). The witnesses who testified for the defense knew him as a revolutionary agitator, heard him address meetings, saw him in the ranks of the revolutionary militia, in open battle, and later in the guerilla war as a member of the Brothers of the Woods.

He admitted on the stand the commission of some of the acts which are charged against him by the demanding government, but he said that they were

all done in pursuance of orders from revolutionary authority and for revolutionary purposes. The money collected by him and his confederates as "fines" from liquor dealers and spies was in due course transmitted to the central revolutionary committee at Riga. His testimony on this point is corroborated by other witnesses for the defense. The deponents for the demanding government or members of their households deposed before the Acting Judicial Inquisitor that they had been attacked for acting as spies for the government.

The evidence offered by the demanding government in rebuttal is hearsay or mere conclusions. Not a single fact pertinent to the issue is stated by any of the deponents of their own knowledge. They go into great lengths denying the connection of the accused at any time with the revolutionary movement. This is an attempt of the demanding government to contradict its own witness Mousikant, who says concerning Pouren: "*At the time of the revolutionary movement he has taken part in the same.*" The deponents do not allege a single fact contradicting the statement of Mousikant, but merely say that Pouren was not *heard of* as a revolutionist and that his moral character and intellectual attainments did not qualify him, in their opinion, to play a part in the revolutionary movement.

On the other hand, the original depositions accompanying the application for the extradition of the accused show that his confederates were tried by field courts-martial and executed for the crimes which are recited in the petition of the Russian Imperial Consul-General. As these special tribunals were created in the heat of the revolution for the express purpose of dealing with revolutionists, it is clear that *surrender of the accused is demanded for offenses of a political nature.*

Digest of the Evidence.

I. Russian Official Documents.

1. COMMUNICATION OF THE GOVERNMENT ON THE REVOLUTION.

On the 24th day of August (September 6), 1906, i.e., the day before the last crime charged against Pouren is alleged to have been committed, an official communication appeared in the "Government Messenger," wherein the government announced its plans for combating the revolution. The communication reads as follows (Defendant's Exhibit 16) :

"For the last two years the revolutionary movement manifests itself with extraordinary intensity. From the Spring of this year it has become especially strong. Hardly a day passes without a new crime. Military mutinies in Sevastopol, Sveaborg and in the Reval port and Kronstadt, assassinations of officials and police officers, attacks and robberies follow one another. During the current summer, among the highest functionaries there have been assassinated: the commander of the Black Sea fleet, Chuchnin; the Samara Governor, Blok; the temporary Warsaw Governor-General, General of the Cavalry, Vonliarliarsky; Assistant to the Governor-General, in the police division, General Markgrafsky, and the commander of the Semenofsky Regiment of the Imperial Life Guards, Major-General Min. Independently therefrom a series of outrageous attempts upon officials have been committed, attended by numerous victims, for instance, the attempt on the Commander of the Fortress Nep-luev, in Sevastopol, and upon the President of the Council of Ministers on the Apothecary Island. Finally the police every day suffer enormous loss in killed and wounded.

"These crimes clearly prove that the revolu-

ionary organizations have strained all their efforts in order to prevent peaceable work of the Government, to destroy its ranks, and by application of brute force to stop every effort of thought and every possibility of the creative life of the state. The population and the social groups disturbed by it look up to the Government and await an authoritative declaration about the causes of the crimes which oppress the public conscience, as well as about the attitude of the government power towards them.

“In view thereof, the Government deems it necessary to declare that even prior to the dissolution of the first Imperial Douma, *the revolutionary circles were actively preparing* on the one hand *an armed insurrection*, which according to their plans was to materialize *with the aid of the army and navy*, on the other hand *a general agrarian movement* which allegedly promised to carry the entire country. The *revolutionary* pressure was to be supported by the representatives of the extreme parties, who had penetrated into the Douma and aspired to seize the executive power and transform the Douma into a constitutional convention. The success of this cause among the people was assured in the opinion of the *revolutionaries*, by tours through the rural districts, and oral preaching by the inviolable members of the Douma among those who sympathized with their doctrine. At the same time it was intended to stop by a *general strike* the whole economic life of the country.

“After the dissolution of the Imperial Douma, the prompt suppression of the Kronstadt and Sveaborg mutinies, the failure of the planned *general strike*, and the adoption of decisive measures against the agrarian disorders, the extreme *revolutionary* groups, desirous to weaken the impression caused by the failure of their plans and to prevent the creative work of the Government, decided by the assassination of the highest functionaries to create an impression in the country and throw the Government into panic. Although such single terroristic acts indicate rather the weakness of *the revolution* in the matter of realizing a general movement, than its success, yet

all the circumstances of such crimes by their cruelty dispose the community to disturbance and alarm much more than a continued revolutionary movement."

Further in the same communication the Government says that it "will meet force by force," deeming it "the duty of the Government to stem the rising wave of wild license, which aims to make destructive anti-social elements the masters of the situation." "The ordinary judicial procedure," including ordinary courts-martial, is found by the government "not suited to the circumstances of the present time," in that "it affords no possibility of sufficiently prompt repression of crimes which are out of the ordinary." For that reason special *field courts-martial* have been created "for the trial of persons accused of the gravest crimes in localities where martial law has been declared."

"Independently thereof, in view of the spread in recent time of a new and gravest species of crime—the propaganda in the army—temporary rules concerning increase of penalties for such crimes have been issued."

"*The revolution is fighting, not for reforms*"—reads the same document further on,—but "*for the downfall of the Monarchy.*"

In conclusion the Government announces its determination to prevent the use of the press and public meetings for the dissemination of "revolutionary ideas."

2. THE FIELD COURTS-MARTIAL.

The summary procedure before field courts-martial, is governed by the "recommendation of the Council of Ministers affirmed by the Sovereign power, and published in No. 206 of the Collection of Enactments and Orders of the Government of the 23d day of August (American date: September 5), 1906, No. 1,361." (Defendant's Exhibit 17).

The main features of that act are the following:

1. Any military commander from Governor-General down to an officer in command of a detachment of troops may commit a civilian for trial before a field court-martial under the laws of war.

2. The court consists of five officers of the army or navy.

3. The commitment must take place within 24 hours after the commission of the crime.

4. The trial immediately follows the commitment and must be concluded not later than within two days.

5. The trial is conducted behind closed doors.

6. The sentence takes legal effect immediately, and must be executed not later than within a day.

3. AGRARIAN TROUBLES PART OF THE REVOLUTION IN THE RURAL DISTRICTS.

The Government in its declaration of August 24, 1906, quoted above, includes the "agrarian movement" among the manifestations of the "revolutionary movement," which has led to the creation of drumhead courts-martial. As appears from a special "announcement of the Minister of the Interior," under date of March 8 (21), 1906, dealing with that subject, (Defendant's Exhibit, 14), these agrarian disorders resembled the conflicts between the landlords and tenants in Ireland, and assumed such proportions that the Government was forced to call out the military for the suppression of attacks upon the property of the landlords. The Czar himself, on receiving a delegation of peasants, deemed it necessary "to reaffirm to the delegates"—what would normally seem too self-evident to require an affirmation from the Monarch—"that the right of ownership is inviolable and must be preserved by all means." The announcement then proceeds as follows:

The preservation of the inviolability of property, to wit: land, *buildings* and personal prop-

erty, from attacks, wrongful seizure and *robberies* rests with the Minister of the Interior, who herewith announces to the peasant population that all necessary preparations for such object have been made. *In each province a military commander is appointed and military placed under his command for the immediate suppression of all efforts to disturb the peace in the village localities.* The Minister of the Interior well knows that the peasants unerringly distinguish their own property from other people's property and the Minister therefore warns that every violence against the landowners or their laborers, the seizure and ploughing of other people's land, as well as the destruction or the *burning of other people's buildings* will invariably and immediately be *stopped by force of arms.*"

4. STATE OF REBELLION IN RIGA ADMITTED BY THE MILITARY ATTORNEY-GENERAL.

On June 1 (American date: June 14), 1906, i. e. three weeks before the alleged commission of the first offense charged against Pouren, Military Attorney-General Pavlov, replying on the floor of the Douma to inquiries addressed by the Douma to the Government in reference to death sentences imposed by courts-martial upon civilians, said in part:

"The first (meaning: interpellation), dated May 12, is in reference to the *Riga* case of Meyer *et al.*, sentenced for the murder of police officers, while in performance of their official duties. It is that case in which *the rebels* attacked from ambush a pristav (a police captain) and police officers, disarmed them, led them to the railroad tracks and shot them."

"Relative to the death sentences pronounced by courts-martial, I must state to the Imperial Douma that as long as there is a law, imposing the death penalty for certain crimes, courts-martial must be guided by the exact law and cannot help imposing that penalty in cases determined by law. As for the confirmation of death

sentences and the denial of appeals from death sentences, on errors of law, I must state to the Imperial Douma that the existing statutes and rules applying to districts wherein *martial law* or the act of increased security has been declared, empower the Governor-General to commit to courts-martial, sentencing the offenders according to the laws in force in time of war. All cases of any crime contemplated by the ordinary law, empower the Governor-General to deny an appeal, on error of law, and to confirm death sentences."

(Defendant's Exhibit 18: Stenographic Report. Imperial Douma, Session I. Meeting Nineteenth. June 1, 1906. Page 900—English Translation, Exhibit 21, pp. 1-2).

It appears from this statement that in the months of May and June, 1906, the district of Riga was under martial law; that the Governor-General had the power to commit any person accused of an ordinary crime for trial by a court-martial; that from a death sentence imposed by a court-martial there was no appeal; and that certain "rebels" were thus committed, tried and sentenced.

5. STATEMENT OF ASSOCIATE MINISTER OF THE INTERIOR MAKAROFF ON THE REVOLUTION IN THE BALTIC PROVINCES.

In reply to an official inquiry of the Second Douma in relation to the tortures practiced by the police at Riga and other places in the Baltic provinces upon political prisoners, Associate Minister of the Interior Makaroff made a statement which appears in the stenographic report of the fortieth meeting of the Douma held on May 14, 1907 (Defendant's Exhibit 23). He said in part:

"I am far from the thought of asserting that in conducting examinations in the Baltic region the police did not inflict beatings in some cases. * * * * However, for the correct illumination of the actions of the police it is doubtless necessary to reckon with those exceptional conditions, amid

which it had to proceed with their detective work. Daily, ubiquitous attempts on army and police officers and other officials—striking by their audacity, cruelty, nay—blood-thirstiness, increasing murders, *robberies and armed attacks, attended with arson*, explosions, senseless destruction of public and private property and devastations of the country, must undoubtedly have affected the police officers, who at any moment had perfect reason to fear for their lives, who very often sacrificed their lives for the good of the service, and, possessing imperfect and insufficient means of detection, perishing almost daily—could lose that cool-headedness which perhaps was required of them in order that their actions might keep strictly within the law. In this regard I shall refer to the fact that in the Livland and Kurland governments there were committed within that time 1,148 terroristic acts. In Livland 367 persons were the victims of attacks, of whom 153 were killed and 214 wounded; more than half of the injured were contributed by the troops and the police. In the Government of Kurland, 321 persons were killed and wounded; of them—171 were killed and 150 wounded. It is under such conditions that the Baltic police had to act. To show how bloodthirsty, how cruel have been these attacks, I shall take the liberty to cite just a few cases. In Riga, on Dec. 12, 1905, from 15 to 20 armed criminals attacked a detachment of dragoons of the Ninth Yelisavetgrad Regiment, stationed in the premises of the works of the “Provodnik Company,” while the dragoons were still asleep. Having first killed the policeman Maler, standing on his post at the gates and also the sentry watching in the quarters of the dragoons, the criminals having effected an entrance into the dragoons’ quarters, seized the rifles which were standing in pyramids and began firing from revolvers at the sleeping dragoons, striking them besides with daggers; on that occasion 12 men were killed and 10 wounded. On Jan. 17, 1906, in Riga, while a patrol of six policemen were riding through the street, a band of criminals standing at various corners of the street, having first let the policemen pass by, simul-

aneously opened fire on them from Mauser rifles, wounded the policemen Petkus, Ryedka and Mishkin, and three horses, and also killed one of the horses. Officer Mishkin died at the hospital on the next day. *In August, 1906, incensed at the Gangesberg Association of Regular Hunting and Sport, the revolutionaries made an armed attack on this Association's house, poured kerosene over the walls of this wooden house, set fire to the same and then fired 200 shots into the house. At that time there were people in that house. In the same month of August, when a certain Anna Zaune was arrested, 20 shots were fired at the police from the apartment where she was keeping herself. The police made four attempts to get into that apartment and was steadily met with revolver and Mauser shots from there and then a bomb too was thrown at the police. * * * **

** * Thus did the revolutionaries act towards police officers. But even private persons were not exempted from terror. * * * * Of private people beside the landed proprietors, chiefly those were assassinated, who lent or even only could lend the authorities any aid in pacifying the country. According to reports of local authorities, all witnesses in political cases were assassinated who were not in sympathy with the cause of the revolution. The revolutionaries had a strict rule in case of capture to give no explanations whatever to the authorities, and they mercilessly beat and shot their accomplices, who had testified against them. In Kurland there were damaged by the revolutionaries: the telephone—79 times, the telegraph—20 times, and the railroad bed—11 times. In the woods, whole revolutionary bands were hiding, calling themselves "Forest Friars" ("Brothers of the Woods"). They made armed attacks on all who rode by and even on railway trains. At Tukum, on Dec. 1, the revolutionaries, having treacherously armed themselves, killed Colonel Miller and 16 dragoons, wounded two commissioned officers and 16 dragoons, 40 horses also being killed. The stable, wherein the dragoons defended themselves, was set on fire, and in the treet wire fencings were placed in order to*

prevent the dragoons from getting out. During the *revolutionary* days in Kurland alone over 300 *incendiary fires* and over 800 *robberies* were committed; of that number the government stores were robbed in 60 cases; the volost (township) boards and volost houses—in 93 cases; the post-office in 16 cases; in 230 cases, the robberies had for their object the capture of arms. Arms were openly stolen from private people, chiefly from landed nobles, while their country houses were raided and burned; and also from foresters, watchmen and police officers. The (township) “elders” and their assistants as well as volost clerks, were also assaulted in the latter half of 1905. *In almost all villages at that time the village authorities were deposed and in their stead administrative committees were organized, consisting of persons identified with the revolutionary movement.* The archives and all papers in the volost boards were destroyed, money, seals, passports, books and passport blanks were stolen; *portraits of His Imperial Majesty were destroyed, burned and even shot at; ikons were also destroyed; pastors were persecuted equally with landed nobles; often they were subjected to violence and assaults in the very church at service, particularly at the hours when they uttered the prescribed prayers for the reigning Emperor, and the revolutionaries remaining in their stead would deliver anti-governmental and frequently blasphemous addresses.* * * * * We must recognize that the unlawful acts of the police in the Baltic region were not due merely to the fact that these officers had no idea of their duty to abide by the law, but that the principal cause of their irregular acts was the combination of those absolutely exceptional conditions, which taken all in all present over again the same revolting, bloody raving, rending our country and vociferously calling itself ‘*revolution.*’”

6. RUSSIAN LAW ON REBELLION.

The Russian Penal Code, under Title 4, “On felonies and misdemeanors against the form of gov-

ernment," includes Section 267, which reads as follows:

"By *insurrection* against the authorities established by the Government is meant also a *rebellion of the peasants against the administration of the Volost* and township." (Testimony pp. 232 and 233).

Thus the acts of the Baltic peasants by whom, according to the declaration of the Associate Minister of the Interior, "the village authorities were deposed and administrative committees were organized," were under the Russian law, clearly "an insurrection against the authorities established by the government."

7. OFFENSES REGARDED BY THE RUSSIAN GOVERNMENT AS INCIDENTAL TO THE REVOLUTIONARY MOVEMENT.

That such offenses as are charged against Pouren are regarded by the Russian Government as political crimes is proved by the official publication in No. 59 of the "Livland Governmental Records" (Defendant's Exhibit 15), containing a list of fugitives "accused of the revolutionary movement." Among the offenses under the caption, "What he is accused of," particular attention is called to the following:

"2. Participating in the murder of the von Aderkases.

"4. Participating in the assassination of a forest-watchman.

"25. Accused of raiding government wine-shops."

The whole exhibit is such effective proof of the identification of Pouren's alleged crimes with what the government regarded as political offenses that it is here set forth verbatim.

DEFENDANT'S EXHIBIT 15.
LIVLAND
GOVERNMENTAL RECORDS.
RIGA.

No. 59

Wednesday, May 31st, 1906.

Articles of the official part of the Governmental Records and supplements thereto are, for all public offices and officials of the government, whom they may concern, and also for all other governmental and provincial boards, of equal power with ukases and communications of the governmental board; therefore, in case of dereliction, none of said institutions or officials can plead ignorance of what has been announced officially through the Governmental Records. (Section 543, Vol. II, part I, Compiled laws, Edition 1892).

OFFICIAL PART.

Pp. 380-382.

List of Fugitive Persons, Accused of the Revolutionary Movement, Who Are To Be Searched for :

Number in order.	Surname, Name, Patronymic and Place of Registration.	What he is accused of.
1.		Raiding manors, seizing arms and attempt to murder cossacks.
2.		Seizing arms and participating in the murder of the Von Aderkasses.
3.		Was elected chairman of an unlawful administrative committee.
4.		Participated in the assassination of the Tirzen Forest Watchman Zazan.
6.		Chief agitator and was elected member of an unlawful administrative committee.

Number in order.	Surname, Name Patronymic and Place of Registration.	What he is accused of.
7.		Of the revolutionary move- ment.
8—18		Do.
19.		Delivered inciting addresses and participated every- where in the seizure of arms and telephone appa- ratus.
20		Ordered himself elected chief of the militia, seized arms and telephone appa- ratus.
21.		Appeared as chief agitator against the government and its orders.
22.		Of the revolutionary move- ment.
23.		Was the first ringleader at a disturbance November 6, 1906.
24.		Traveled about the manors and participated in the seizure of arms and tele- phone apparatus.
25.		Accused of raiding Govern- ment wine-shops, etc.
26.		Appeared as chief insti- gator against the govern- ment.
27.		Of the revolutionary move- ment.
28—113		Do.

II. Report of the Secretary of State of the United States on Foreign Relations.

That revolutionary conditions existed in Russia, is confirmed by our own United States official publications, of which the court may take judicial notice. At the time the case for the defense was closed, the report of the Secretary of State on For-

eign Relations for the year 1906 was not yet out. Two communications of our diplomatic officers, contained in the report of the Secretary of State on the Foreign Relations for the year 1905, were offered in evidence by the defense and the following is quoted therefrom.

On October 31, 1905, Charge Eddy wrote to the Secretary of State, enclosing translation of an Imperial Manifesto of the Russian Emperor, in which occurs the following language:

“The *rioting* and agitation in the capitals and in many localities of our Empire has filled our heart with great and deep affliction. * * * * The agitation which has broken out may bring confusion among the people and *threaten the entirety and unity of our Empire.*”

The Imperial Manifesto concludes with an appeal to “all true sons of Russia” to assist the Czar “in establishing quietness and peace in their country.” (Foreign Relations, 1905, pp. 777-778).

In another despatch from Chargé Eddy, dated November 17, 1905, he encloses a translation of an Imperial Manifesto, summarized as follows:

“In a manifesto the Emperor expresses his deep grief at the troubles under which the country is laboring and notes that now *the peasants are beginning to rise* and seize lands and commit other crimes.”

III. Authorities on the History of the Lettish Revolution.

Two connected stories of the revolution in the Baltic provinces have been introduced in evidence, one written in German (Exhibits 25 and 26) by Prof. Schiemann of the Berlin University, who is outspoken in his hostility to the revolution, the other in English (Exhibit 27) by Johann Gottfried Ohsol, late Member of the Second Douma for Riga, who was identified with the revolution both in Riga and in the Empire at large.

The former authority mainly will be here perused, for the reason that he is free from all suspicion of bias in favor of the revolution: in his "Foreword" he speaks of the revolution as "the red peril, that political plague which * * * begets raving madness and blood frenzy" (Exhibit 25, "Die Lettische Revolution," p VIII; English translation, Exhibit 26); in another place he calls the Lettish Republic—"vile abortion of filth and fire" (Ex. 25, p. 294). The revolutionary events are portrayed by him as seen by the feudal barons against whom the uprising of the Lettish peasantry was directed.

1. PREPARATIONS FOR AN INSURRECTION.

"At Riga the Social Democratic Central Committee was *preparing* everything for an *open insurrection*.

"In the Lettish Union, *on October 30th* a meeting of over one thousand persons took place, which was conducted by the most notorious Lettish Nationalists and *Revolutionaries*. * * * *The meeting decided upon a "peaceful" overthrow of the town administration which was to be replaced by a democratic one.*" (Ex. 25, p. 214).

"On November 10th the Governor issued a proclamation to the peasants in which he pointed out that the Manifesto of Oct. 17, 1905, could not be so interpreted as if thenceforth everybody could do what he pleased. He warned against the *installation of new self-governing bodies* and other arbitrary acts." (Ibidem, p. 221).

2. CONGRESS OF DELEGATES FROM THE TOWNSHIPS.

"The answer to this decree was a *Congress of delegates of the united communities of Livonia and Courland*, which gathered *in Riga* on Nov. 19. Although the Governor had declared that it was not within his power to authorize a Congress of that kind, especially the participation of the Courland delegates, the Congress did nevertheless

less meet at the New Lettish Union (25 Romanowstrasse). It was attended by 1500 persons and lasted till November 23. Naturally the real leadership was in the hands of the Lettish *Revolutionaries* Arvid Borg, A. Deglan, J. and N. Assar, Pastor I. Rosens, etc., who were also the chief speakers.

"The Governor did not feel strong enough to disperse the Congress.

"The most important resolutions of the Congress were as follows:

"1. *All relations with the government authorities were to be broken off.*

"2. The payment of all state and communal taxes was to be refused until the new adjustment of relations.

"3. Connections with Russia's peasant organizations (Peasant Unions) were to be established.

"4. Wherever they had not as yet taken place, meetings of all adult members (of both sexes) of the communities were to be called in order to carry out the following objects:

"a. *To remove the hitherto existing parish-authorities.*

"b. *To install Executive Committees.*

"c. *To install new parish judges, who will have to administer justice according to the best of their knowledge and conscience and disregarding the existing laws.*

"d. To issue instructions for the Executive Committees and parish judges.

"e. To publish the names of delegates for the meeting of the delegates of the *Universal Lettish Self-Government.*

"For the purposes of conducting the joint affairs of the Lettish communities of Livonia and Courland, a *Central Bureau, consisting of five persons was established in Riga.*" (Ibid., p. 221).

The proceedings of that Congress were reported in the daily press from which the resolutions are condensed by Prof. Schiemann. The resolutions were published verbatim in a German weekly, "Die Neue Zeit," which has been introduced in evidence with an English translation (Exhibits 28 and 29).

The following resolutions are quoted from that source:

1. "As the hitherto existing bureaucratic Government has aimed only at oppressing the people and also after the Manifesto of October 30, has continued to trample upon the people's rights and to maintain the reinforced safety and martial law, to prohibit meetings, to arrest peaceful people, *to support the power of the German nobility*, to place obstacles in the way of the revival of local life, and as it has been growing more violent every day, therefore *the assembled Representatives of the Lettish self-government* institutions recognize that the introduction of political franchises through the present Government is not to be expected and that *the Lettish peasants must introduce self-government by their own force and fight for the convocation of a National Assembly of the whole Empire*, and that thereby they go hand in hand with the revolutionary masses of people of all Russia."

2. "In consideration of the fact that the hitherto existing township boards and township courts have been elected by only one part of the population and hence could not represent the interests of the whole population and secondly, as until now they have been a blind instrument of force in the Government's hands and, at that, often just as demoralized as the Czar's Autocracy itself and have in no wise enjoyed the confidence of the community, therefore, *the representatives of the Lettish self-government institutions* recognize that the hitherto existing local administrations are not in a position to lead the fight against the bureaucratic Government and to bring about a new economic life, and that the same *must therefore be abolished without delay and in their place new self-governments installed on strictly democratic lines.*"

3. "The Congress of the Lettish self-government resolves, that in every township, where it has not yet taken place, general meetings should be called, in which may participate all adult inhabitants of the township, men and women who have reached the twentieth year of age, and are active in the township. The General meeting

must: (1) *propose to the hitherto existing township boards to retire and, in case these do not agree, to remove them*; (2) *to elect new committees of local administration, to consist of at least five members of the township elected at the general meeting*; (3) *should the general meeting elect a new local court, it is enjoined upon it to render judgments not according to the old administrative ordinances, but according to its best conviction*; (4) *should the general meeting issue to the townships ordinances and instructions to be carried out, they should serve as guidance for the self-government committees and the court*; (5) *the next general meeting may elect the self-government committee and the court anew*; (6) *the general meeting elects delegates to the Congress of the Pan-Lettish self-government.*"

The jurisdiction of the new self-government committees was regulated as follows:

"The new Self-Government must:

"1. Stand in no kind of relations with the Government and its officials (as well as with the old local boards), *must not comply with their orders*, particularly with reference to the transportation and maintenance of soldiers, cossacks, dragoons and police-officers;

"2. They should not recognize the passport system;

"3. They should take possession of the township's moneys and property, now with the old local administrations (the old local administrations must be requested in the very nearest time to draw the funds of the township out of the bank, especially the Noblemen's Banks;)

"4. *The Self-government Committees should assess the township taxes according to the population's incomes and take care they should be paid*;

"5. They should pay the teachers, township clerks and the members of the Self-Government Committees;

"6. They should take care of the poor;

"7. They should control the schools, where instruction is to be imparted according to the new program;

"8. They should take care that the local

woods should not be cut down and uprooted by the nobility;

“9. Let them watch that the *ale-houses, rum-shops, monopoly-shops, breweries and brandy distilleries*, which are closed by order of the *General assemblies*, should remain closed in reality as well, wherewith the meeting of the self-government representatives resolve that *all ale-houses in the country are to be closed at once* and the traffic should be admissible every time only with the permission of the township’s general assembly;

“10. Let them convoke the general assemblies and adopt the reports and proposals of the township-inhabitants, in connection with which the subjects of the debates are to be presented beforehand;

“11. The self-government Committees are to take care that the position of domestic and *manorial* men-servants should be improved, and that the nobility and the peasants fulfill the well-founded demands of the men-servants;

“12. In case a great landowner should dismiss his servants and leave the manor uncultivated, the servants must occupy, cultivate and manage such manorial land, in connection with which the self-government committees are to support, guide and have them supplied with seed;

“13. In case the Administration make an attack on the township-inhabitants, e. g. arrest them, the self-government committee, with the aid of all township-inhabitants, must repel such attacks and free those arrested;

“14. As long as the manors do not share in the township burdens and township-taxes, so that the taxes must be paid only by the peasants—neither rent, nor other taxes, such as *gentry-, tithe-, and credit-money*, church tributes, etc. should be paid to the nobility; the nobility’s privileges, such as fishing and hunting rights, should not be recognized; the landlord and tenant relations between the peasants and the nobility should be fixed through the medium of the self-government committees;

“15. The self-government committees are instructed to organize the “*self-defence,*” especially

against the administrations and hooligans (thieves, robbers, etc.); to this end the self-government committees maintain mutual relations not only among themselves, but also with the *CENTRAL BUREAU AT RIGA*, elected by the assembly of the representatives of self-government.

“It is the task of the Central Bureau to enter into relations with the self-government Committees, to follow up the course of the peasant movement in Russia and, in case it deems it necessary, to enter into connection with the Russian Peasants’ Union; the Central Bureau further has to work out an additional program of action for the township self-governments, to take care of the means of the people’s self-defense and to convoke the assembly of the township delegates, in case of need.” (Exhibit 28, p. 761; Exhibit 29, pp. 1-5).

The work of the Congress is thus summed up by Prof. Schiemann:

“*This Congress of the ‘Representatives of the Lettish People,’ as the delegates were called, marks the political culmination of the Lettish Revolution. The existing government was removed, a new provisional government was installed until a general Lettish Self-Government might come into being. This matter was conceived in accordance with the Social Democratic program as a democratic republic which would form a part of the federative Russian republic.*” (Exhibit 25, p. 221 and seq.—English Transl., Exhibit 26).

3. THE REVOLUTIONARY TOWN GOVERNMENTS.

Prof. Schiemann continues:

“The Congress was gotten up by the Social Democratic Party in order to have the project of a *Lettish Democratic Republic* legalized after a fashion by the people. When it took place, in many parishes revolutionary Governments had already been set up bearing the title of “*Executive Committees.*” In the Riga district executive committees were first organized in the parishes of

Ascheraden on November 1st, Ringmundshof and Allasch on November 7th, Sunzel on November 13th, Segewold on November 14. The remaining parishes followed suit. *In 40 out of the 48 parishes of the Riga district executive committees were active * * * under the leadership of Social Democratic emissaries, in the first days of November meetings of the parish members took place everywhere, which voted upon *defection from the existing government.**

“As a type we quote here in extenso, according to the official minutes, the resolutions of the meeting of November 2, 1905, of the Lennewarden parish:

“1. *To sever all relations with the Government until the convocation of a constituent assembly of the Empire on the basis of universal, equal, direct and secret suffrage.*

“2. On the same democratic basis to call at Riga a Baltic Conference to settle the Baltic economic questions.

“3. To set at liberty all political convicts.

“4. To remove the states of war and siege.

“5. *To disband the police and army and introduce universal arming of the people instead.*

“6. To suspend payment of rents to the estateholders and debts to the agrarian bank (Loan Society).

“7. Likewise to abolish the highway taxes until further notice and not to pay the parish imposts. A council of 11 persons (the names followed) to care for the support of the local schools and poor.

“8. The parishes to take charge of the local (i. e. manorial) forests.

“9. *To close up all local drinking establishments as long as the right of opening them is not transferred to the parish.*

“10. To introduce instruction in the mother tongue in all local schools, religious instruction being made optional.

“11. Everyone who does not abide by the above resolutions *shall be regarded a traitor to the rights of the people.*

“Alike ran the resolutions of the remaining

parishes which coincided with the program of the Social Democratic Party in all essential points.

“From the reports at hand of the various “Country Committees” and “Centres” of the Lettish Social Democratic Party at the 3rd Party-Congress in July, 1906, we gather that the great meetings and election of the Executive Committees were conducted by the Social Democrats and that “the greater part of the members of the Executive Committees worked in unison with the Social Democratic Organizations.” According to the official reports *there were in activity 190 Executive Committees in Courland and 156 in Southern Livonia.* But the reports of the Wenden district are so scant that, at the lowest, 14 more Committees must be added, making the total number for Livonia about 170.

“Thus then, in the middle of November, 1905, Courland and Southern Livonia consisted of a great many—some 360—*autonomous democratic republics, which stood in federative relations to one another under the direction of the Social Democratic Central Bureau.* The Central Bureau, created at the People’s Congress, self-evidently found itself in most complete dependence upon the Federative Committee in Riga, the more so as it consisted of Social Democrats and partly probably of members of the Federative Committee.

“Under the law of the “Comrades” *the small republics now developed an imposing political activity.* In most of the Committees, from the very opposition to the former order of things, there were also women.” (Ibid, p. 221 and Seq.)

4. WAR UPON THE BARONS.

“However, the Committees laid much greater stress upon the destructive activity than upon this constructive activity. As yet they were not complete masters in the land, not all “nests of tyranny” had been abandoned by the “blood-vampires.” In various places *the estate-owners and other Germans had united and placed a castle in a state of self-defense according to their powers.* In most cases a small detachment of dragoons or Cossacks under the command of an honorary German police-officer formed the staff of the garrison. * * * * *

“* * * Shocked, shaken up to the inmost and embittered, *everybody that could bear arms, from the 13 year old herds-lad to the 70 year old greyhead, now rushes hither. The picked troops of the militia were already under arms, among others arms were distributed as far as the supply went.*

“* * * * On November 16th, in the parish Sesswegen (Wenden district) a mobilization of the militia took place. The leaders declared that it was necessary to take possession of the store of arms hidden in the Sesswegen Castle.” (Exhibit 25, pp. 221-233; Exhibit 26).

Prof. Schiemann further dwells at length upon the attack of the insurgents upon the garrison, which guarded the estate of the Barons Aderkas, in the course of which one of the barons was killed. He then proceeds with the history of the armed uprising.

5. THE ARMED UPRISING.

“The assassination in Sesswegen on the night of November 16-17 was the signal for a *general armed uprising in all Southern Livonia. The news of it spread over the land with the rapidity of the wind. The few troops and German noblemen who still remained scattered on separate estates drew into still closer communion, the women and children still remaining behind were placed in security with all possible speed, not infrequently amid the vehement exchange of bullets between the gentlemen conveying them and the revolutionaries. These latter now overran in swarms the whole countryside. All militiamen were on foot equipped with food bags for three days. The numerous “officers” of the militia wore cockades on their caps, some scraps of fir-trees. Mostly they were young fellows between eighteen and twenty years of age. Many messengers on horseback as well could be observed in the streets. On November 18th the manorial estate Selsau, contiguous with Sesswegen, was attacked, where the tenant, Herr S., had for weeks kept himself in a kind of state of*

siege. As *the revolutionaries* could no longer find him *they demolished the castle and administration building*. Thence they marched on to the castle Alt-Schwanenburg some 30 kilometres away. Matters did not come to a clash with the garrison which consisted of 14 men of the Krasnoyarsk Infantry Regiment under the command of lieutenant Bashanoff and a few German noblemen of the "Self-defense,"—for in the rear of the militia there appeared 24 Cossacks from Tirsén who surprised and disarmed a band of from fifty to a hundred men in an ale-house about three kilometres from Alt-Schwanenburg. Meanwhile the lieutenant, a youth who had graduated from the Cadet school in the Spring of 1905, had entered into negotiations with the *revolutionaries*. He let himself be "convinced" by the local rural gendarme, a socialist, that the militiamen were really quite peaceful and loyal citizens who wished to do no harm to the soldiers but were forced to arm themselves against the "Black Hundred." The unbelievable now happened: the lieutenant left his soldiers alone in the besieged manor and betook himself, in the company of the rural gendarme and certain *revolutionaries* to the ale-house where the Cossacks with their prisoners were. Here he ordered the Cossacks (who had no officer) to return the arms to the militiamen, nay more, to search the baggage cart of the Cossacks for concealed arms, whereupon, with a most friendly pressure of the hand, he took his leave of *the leader of the militia*." (Ibid., p. 235).

6. SIEGE OF BARONIAL CASTLES.

"The castle, which obtained from the revolutionaries the dignified nickname of "Port Arthur Stomersee," held out till *December 2nd*, when the *whole of Southern Livonia was already in the hands of the revolutionaries*. In their eyes it seemed to be a task of honor to storm the castle. The militiamen of far away localities were summoned thither. According to the statements of the leaders there were gathered around Stomersee on *December 2nd*, some 5000 *men*, of whom some 2000 *were armed with various kinds of fire-*

arms, among them 300 breech-loaders at the most. On the night of December 1-2 no less than 7 *railroad trains with revolutionists* arrived at the Stomersee terminal on the *Livonia Railroad*, which, *like the Riga-Dunaburg Government railway*, was just then in the hands of the revolutionaries. Since the besieged did not want to surrender or capitulate, the whole estate was set on fire little by little on the night of December 1-2. On the next day *the Cossack officer determined to withdraw with his Cossacks as he feared lack of provisions*. With heavy hearts the German gentlemen had to join him. Behind them, the fine castle, the home of the famous songstress Baroness Alice Wolff, nee Barbi, went up in flames, along with all its magnificent works of art.

“Another strong point was the castle Alt-Kalzenen (in the Wenden district). All summer through this had been the seat of the honorary assistant of the District Chief, von Brummer, under whose command had been placed between one and two squads of Cossacks and one officer. From here he endeavored, according to his powers, to keep down the disturbances. Already on November 14th, after a *bloody clash of the revolutionaries with the troops* near Marzen, when two Cossacks fell dead and Baron von Brummer and his younger brother were wounded, had *the siege of Alt-Kalzenan begun*, and that, too, *according to all rules of military art*. As it appears from the report at the Third Party Congress, the Social Democratic Central Office had heretofore sent “technicists” to install approaches. From November 19th on refugees arrived at Alt-Kalzenan daily from the neighborhood. On November 24th all Germans left Kalzenan amid great perils, for the threatening railroad strike would have cut off all of their means of withdrawing to Riga. Fortunately at Stockmannshof they caught the last train, which was still running previous to the general strike, and thus reached Riga. At Stockmannshof the train was violently shot up by the *revolutionaries*. *The Cossacks*, whom others from the neighboring strongholds and Friedrichswalde joined, held out in Alt-Kalzenan till December 1st. Then they *had to evacuate*

their position, as all the out-houses around the manor-house had been burned one by one. On December 1st under energetic skirmishing *the Cossacks retired* to the North. Immediately upon its surrender, the manor-house was sacked and the buildings that were still up (32 in all) were burned down, while the bells were tolled in the nearby church as indication of victory.

The Cossacks, 94 men and 2 officers strong, picked up on their way the infantry garrisons of Modohn and Alt-Pebalg (91 men, 4 officers), the remaining Germans of the neighborhood also joining them, and proceeded toward Wenden. Right beyond Pebalg matters came to a conflict with the insurgents who had entrenched themselves in the massive Lettish Clubhouse. As the military troops had no explosives at their command and their attempts to set the building on fire miscarried, *the regulars*, who had lost 8 men—4 of them dead—*had to withdraw* with empty hands and reached Wenden amid *continued skirmishes with the insurgents* and the ringing of alarm bells all around.

“Events exactly similar to those in South Eastern Livonia took place also in South Western Livonia and Courland.” (Exhibit 25, pp. 237 & seq.)

7. REVOLUTIONARY PASSPORTS.

Prof. Schiemann further tells of the passport system established by the revolutionary party: the railways being in the hands of the revolutionists, no one was permitted to travel without a passport from the revolutionary party. (Ibid., p. 251).

8. SPREAD OF THE REVOLUTION

The Revolution soon spread to Polish Livonia.

“In December, great masses of Letts from the Wenden district actually broke across the border. The “army of occupation” must have been many *thousands strong*. No exact data are at hand. A line of villages was taken possession of, in which the red flag was hoisted up. *Whoever did*

not renounce the Government was threatened with death. The parish administrative offices were plundered and burned down. Small troops of dragoons had to retire before the superior force at Warklan."

"While open insurrection raged in the rural districts, all town authorities were dismissed, the estate owners, preachers and pastors were driven out with fire and sword, the little Lettish republics flourished."

"Thus while in the beginning of December the whole rural country and most small cities of Courland were in the hands of Revolutionaries,—a remarkable state of affairs prevailed in the larger cities, particularly in Riga.

"The State Government existed now on paper only. The Governor and the military kept as calm as possible and awaited the events that were to come. The Government at 25 Romanowstrasse issued compulsory orders which were made known through street placards. It forbade the payment of rent pending the general strike, got up collections, organized a sort of security police, which without a moment's hesitation shot down the rabble (not belonging to the Social Democracy) which robbed and murdered in ideal competition with the "Comrades" and was comprised under the collective name of "Hooligans," it dragged prisoners before its tribunal; decreed "capital punishment" of policemen, "Spies" and members of the Black Hundred, i. e. Germans,—through its fighting organizations; conducted the strike movement of workmen and post-office and railroad employees,—in short, it ruled in its own fashion. This lasted till late in December." (Exhibit 25, pp. 278-285; Exhibit 26.)

9. GUERRILLA WAR.

The open uprising was soon put down by the superior military force of the Czar's government, but it was succeeded by guerilla warfare, which lasted until 1907. Prof. Schiemann, writing in June, 1907, (See Foreword, p. VIII) says:

"To be sure the return of peaceable conditions

is still out of question, except in the reports of Governor General Sologub. *The normal state of affairs has not yet been reached even to-day and no human being knows when it will be reached.*" (Exhibit 25, p. 294.)

"In March 1906 there was a General Conference of the Lettish Social Democratic Labor Party. Of especial importance is the stand taken by the Conference with regard to *armed uprising* and the question of the *fighting organization*. * * * * According to the by-laws approved by the Federal Committee, the Fighting Organization of the Lettish Social Democratic Labor Party was to consist of a Central Bureau, on the one hand, and conspirative groups, on the other. The Fighting Organization is subject to the orders and control of the Federal Committee. In connection with this the Conference passed a resolution by all means to take care of the arming of the wide mass of the people, *"as an armed uprising is a necessity."* (Exhibit 25, p. 298.)

"For that purpose the Central Committee organized a "Technical Executive Commission," subject to the orders of the Central Committee; the Technical Commission was to have charge of the arms belonging to the revolutionary party. The Central Committee further established three special funds: (1) *an arms fund*; (2) *a relief fund for the militia*; and (3) *a relief fund for the Fighting Organization*. (Exhibit 25, p. 302.)

10. THE "BROTHERS OF THE WOODS."

"The changes in the tactics as well as in the aims of the revolutionary camp were conditioned by the strengthening of the troops and police, and then through the counterterror brought about by the punitive expeditions. The great mass of people was discouraged and disappointed. The faith in Social Democracy's victory was blasted. Fear of punishment possessed all minds. The people themselves many times betrayed; for the really guilty escaped and those who ran along incurred the penalty. Fear and vengeance loosened the tongues. *Socialists in hiding were told on, hiding-places of arms were betrayed.* There

was apprehension that the Social Democracy would lose all ground in the rural districts. It was therefore important to fight the counter-terror by strengthening the Red Terror. The so-called partisan warfare was resorted to. Still even here the tactics had to be changed. *It was impossible to send armed bands over land by railroad and special mail* (as had been practicable in the Spring and Summer of 1905) in order to make a demonstration or carry on an attack at a place of destination. This would now lead to the capture or annihilation of the expeditionary corps. On the contrary one had to act now most cautiously. *The bands had to be organized locally, keep in concealment and consist of as few as possible, but therefore the more determined members.* From these considerations everywhere in the country land now sprang up fighting organizations of Social Democrats, which assumed the name of *Forest Friars* ("Brothers of the Woods") from their principal place of abode. The principal object of these bands being to call forth fear and procure rolling-stock for the Social Democracy through expropriations and confiscations of private property, *their official activity consisted in continued robbery, attacks, assassination and incendiarism.*" (Ibid., p. 313).

"The *Forest Friars*, in the course of the Spring and Summer 1906, gained such "popularity" that they officially assumed their nick-name "Forest Friars" and constituted themselves as *a formal guild with by-laws.* On August 25, 1906, from the "press of the Organization of the Forest Friars" was issued in 10,000 copies a proclamation which we reproduce herewith *verbatim* :

"A large portion of those who in the past had taken an active part in the revolution as militiamen, agitators, or members of the Executive Committee, emigrated with the advent of the Reaction (went abroad or into the interior governments of Russia) ; a large portion were crippled in a beastly manner by the punitive expeditions and then killed, and the rest, who found their place of refuge in their native forests, when the rapacious hordes of soldiery overran the Baltic land,—

these have gained the name of "Forest Friars" in the people's mouth.

"Everyone will well understand that it is impossible to live on the fresh air and beauty of Nature alone, nor does kindly God throw anything down to us from heaven and therefore we are obliged to tread the path of confiscation as long as we cannot earn a livelihood by productive work. Neither from St. Petersburg, nor from Moscow have the punitive expeditions brought with them lists of us; neither the Strazhniks (guard) nor the pristav (police) know us by appearance. Were there no spies and traitors here in our beloved home, we could just as well pace behind our ploughs as last year and formely. It is owing to the *spies* and *traitors*, from among both the peasants and proprietors, that we are forced to keep in hiding.

"And most naturally, therefore, our *confiscation must be directed at the property of the proprietors and traitors, as well as at the property of all ale-houses—for in a state of drunkenness even a plain man of honor can become a traitor without knowing it, out of sheer folly.*

"In several places (*Sissegal, Dondangen*) the Forest Friars have already formed separate organizations. We request all others to do likewise. The aims of these organizations are: first, to provide themselves with means of livelihood, and *arms*; second, *to carry on organized partisan warfare*; third, to take care that hooligans and policemen should not perpetrate all manner of villainy in the name of the Forest Friars and particularly of the Socialists." (Ibid., p. 315).

To this proclamation were appended "Standard By-Laws for the Organization of a Forest Friars' Militia," of which the most important provisions were the following:

"(1) A special fund for the treasury is to be established. The fund is made up: (a) of voluntary contributions; (b) through confiscation of

the property of the crown and land-owners; (c) through the *confiscation of the property of the spies* and members of the Black Hundred specified by name in proclamations (*money-fines*); and (d) *through fine-moneys which are collected from disobedient tavern-keepers, salesmen in government rum-shops, and pastors because they do not close up their shops and open them afresh.*"

"(2) *All sums are in charge of elected treasurers by whom the wages stipulated at the general meeting are paid out monthly to the members.*

"(3) *The formation of groups of not more than from 10 to 15 members is recommended.*

"(4) *The Forest Friars inform the local Social Democratic Central Office of each accession to the ranks.*

"(5) *Those are excluded from the Forest Friars' organization, who begin to earn their sustenance openly and live an open (legal) life.*"
(Ibid., pp. 315 & seq.)

The last provision of the By-Laws must be read in conjunction with the rest of the document. The Brothers of the Woods were small bands of men who were forced to keep in hiding and had very precarious means of subsistence; it was quite reasonable that those who were no longer in need of hiding from the police and could earn their living should not be permitted to remain a drain upon the meagre commissary of the organization.

"The partisan warfare conducted by the Forest Friars,"—says Prof. Schiemann in conclusion—"consisted of a long chain of *robbery, attacks, incendiary fires and assassinations* * * * * The expropriation activity of the Forest Friars was directed mainly *against the ale-shops (saloons) and the well-to-do inn-keepers.*"

Further evidence on the "Brothers of the Woods" is found in Ohsol's historical monograph, "The Revolution in the Baltic Provinces" (Defendant's Exhibit 27). The book was published in London with a preface by Mr. J. Ramsay McDonald, M. P., dated 4th June, 1907, (p. XI). The book contains a de-

tailed history of the events of 1905 and 1906. The pages on "The Brothers of the Woods" were written during the week beginning August 20th, 1906, (p. 94) i. e., within a fortnight of the time when the last of the offenses charged against Pouren are alleged to have been committed. Says the writer on pp. 95-96 :

"The Guerilla war in the Baltic Provinces is carried on with an energy that no one expected. The ruined and outlawed peasants have formed themselves into bands, or as they call themselves, "The Forest Brothers," and from time to time make surprise attacks upon the Cossacks and other troops distributed all over the Baltic Provinces.

A correspondent of "The Evening Standard and St. James' Gazette" writes the following about the Lettish "Forest Brothers" :

"They are the peasants who took part in the armed rising last year, and who escaped first the bullets of General Orloff's Cossacks and dragoons, and then the courts-martial. They know every inch of land in the forests and marshes, and speak only the Lettish tongue.

"They are all well armed and excellent shots. It is rare that any of their bullets misses its aim.

"Not until I mixed with them did I suspect that they were so numerous.

"The peasants in the neighbouring villages give them food when they cannot get it by looting estates. This they hide in the forest caves with secret entrances.

"They are not afraid of discovery. Some time ago a certain baron found one of their hiding places. A few days later he was found dead.

"When their expeditions became too numerous in the vicinity of Mitau, the authorities drove the peasants of three districts to the forests, and made them surround the wood-dwellers' retreat, but not a single one of them was caught. The peasants, more-

over, left part of their provisions in the forest, so that the dreaded raid resulted in a feast."

IV. Oral Testimony.

Several witnesses were called before Commissioner Shields to give testimony on the general revolutionary condition of the district of Riga.

One of them was *JOHANN GITTFRIED OHSOL*, member of the Second Douma from Riga and author of a book in English, entitled "The Revolution in the Baltic Provinces." (Defendant's Exhibit 27). He is a graduate of the Politechnic Institute of Riga, he was a member of the Central Committee of the Lettish Social Democratic Party, which led in the revolution in the Baltic provinces, and was in the Summer of 1906 elected to the National Committee of the Russian Social Democratic Party.

Another witness was *JOHN ZEMAN*, a school teacher in the district of Riga. He was a member of the revolutionary committee of his township, he attended revolutionary town meetings in the fall of 1905 and was delegate to the Peasant Congress in Riga on November 19, 1905.

A farm girl, *ANNA LASDIN*, testified that in October, 1905, she took part and voted in the town meeting at which the revolutionary town administration was elected; that after the troops had driven the revolutionists to cover, and as late as August, 1906, she sheltered and fed the guerilla bands who were hiding in the woods.

WALDEMTR KROSTIN lived in the district of Riga until 1907. He was employed at an inn and was present at the closing of the same by a band of men who said they acted as a committee of the revolutionary party.

These four witnesses were examined before the decision to hold Pouren for extradition was ren-

dered by Commissioner Shields. When the case was reopened by order of the Secretary of State a number of witnesses testified in regard to the part Pouren had taken in the revolution and to the particular acts charged against him. These witnesses were all identified with the revolutionary disturbances in the *Sissegal district*, which is mentioned in Prof. Schiemann's "History of the Lettish Revolution" (Exhibit 25, p. 315). They were all neighbors of the accused; some had heard him address revolutionary meetings, some had seen him in the ranks of the revolutionary militia in the days of open fighting, or later in the guerilla bands which are described in the Russian government's papers as "Brothers of the Woods."

One of these witnesses was *JOHN LICIT*, who was present as a delegate at the Peasant Congress in Riga in November, 1905, was upon his return from the congress elected by the people of his township to the revolutionary town administration, and after the town had been taken by the troops sought safety in the woods and became a member of the Brothers of the Woods.

JAN JANOFF OSOLIN, a bookseller, was a member of the local committee of the revolutionary party and was elected by the people to the revolutionary administration of his township.

ANDREW LASDIN, another member of the local committee of the revolutionary party, fought in the ranks of the revolutionary militia, and when routed in open field, became a member of the organization of the Brothers of the Woods and represented his group in the council of his company.

EDWARD SERMONS was a member of the revolutionary militia, fought in its battles with the government forces, fled to the woods and joined the same band of guerillas to which Pouren also belonged.

TRINA SCHEFTE was active in the revolution.

When the revolutionary administration of her town was forced to flee before the approaching troops, she was made the custodian of the records of the revolutionary government. She subsequently gave aid to the Brothers of the Woods and saw Pouren as late as September 2, 1906.

(A) THE REVOLUTION IN GENERAL.

1. THE FEUDAL PRIVILEGES OF THE BARONS.

One of the grievances of the peasantry was the judicial prerogative of the barons. On this point witness *ANDREW LASDIN* testified as follows:

“Q. Was there any such thing as the Baronical police? A. Yes, sir, they were given the right to arrest and to act as the police would.

“Q. The barons themselves? A. Yes, sir, the barons.” (p. 46).

“Q. In your affidavit you swear as follows: “The barons had also controlled the judicial offices and for these reasons had become powerful.” Do you know of your own knowledge in 1905 the barons controlled the judicial offices? A. Yes, sir, I do.

“Q. What do you mean by controlled? A. They would follow all decisions of the volost officials and they would reverse every decision that would not suit them—that would not please them.

“Q. Who would reverse the decision? A. It was the Commissioner who was a baron.

“Q. What was the title of his office? A. He was supervising the Volost administration.

“Q. What was his name? A. Count Palen.

“Q. Did he hold Court? A. The Commissioner would not preside at the Court—didn't hold Court.

“Q. How then did he reverse decision of other Courts? A. The Commissioner would

only revise or review rather the decisions of the Volost administration. The judicial decisions would be reviewed by another baron or by a higher Court, also barons.

“Q. When you swore that the barons also controlled the judicial offices didn't you mean that the barons owned the judicial offices? A. Yes, sir, they had them in their hands, the right of patronage.” (pp. 40-41).

2. AGITATION LEADING TO THE CZAR'S MANIFESTO OF OCTOBER 30, 1905.

Meetings of peasants took place in the Sissegal district as early as June, 1905.

Witness *JOHN LICIT* testified as follows:

“Q. What took place—when was the first of these meetings? A. In the month of June.

“Q. What year? A. 1905.

“Q. What took place at that meeting? A. It was considered and informed to us what we should do to relieve ourselves of the oppression of the barons.

“Q. Where was that meeting, June 1905, held? A. In the month of June and July there were several meetings held in different places.” (pp. 86 and 87).

Witness *ANDREW LASDIN* gave the following testimony in regard to the meetings held in June, 1905, at the Madlin parish, Sissegal volost, in front of the church:

“Q. What was the date of this meeting? A. I don't know the exact date; I believe it was on a holiday, beginning of June; the Trinity, Pentecost.

“Q. What year? A. 1905.

“Q. How many attended that meeting? A. I cannot give the exact figures, but there may have been 1,000 or more or less.”

“Q. Can you tell any other political meeting at which you saw Pouren, giving the date of the meeting and the place where it was held? A. In those days demonstrations.

had been taking place in various places in the vicinity, and I cannot remember all those demonstrations, but I saw him at a number of those political demonstrations.

“Q. Where, at what places? A. We first would have a demonstration—a march—a parade—all 'round the estates on the big highways.” (pp. 11-12).

Witness *JAN JANOFF OSOLIN* also testified about meetings held “about in the month of June, or July, 1905” (p. 120). Upon his cross-examination he said. one meeting was held in the month of June and “in the month of July there were demonstrations also.”

“Q. What were these demonstrations? A. Demonstrations were held to go to real estate owners or the barons and ask for higher wages and betterment of their oppressed conditions.

“Q. By the barons you mean the men who owned the different estates in the vicinity of Sissegal, do you not? A. Yes, sir.

“Q. And by whom most of the men in that vicinity were employed? A. Yes, sir.

“Q. And you complained about the wages you were receiving and the treatment you were receiving? A. Yes, sir.

“Q. How many demonstrations were there prior to the 15th of October, 1907? A. I don't know by the number, but there was a good many.

“Q. Were those demonstrations held in any particular building? A. Demonstrations started from one estate and proceeded to another.

“Q. You mean they were held in the open air? A. Yes, sir.

“Q. What do you mean by demonstration; do you mean a delegation that called upon the barons to state their grievances? A. By demonstration I mean that such a movement that went to claim and demand better conditions for our oppressed condition.”

Witness *EDWARD SERMONS* also mentions “a

demonstration that commenced from Madlin, Sissegal," "in the month of July, 1905" (P. 178).

Witness *TRINA SCHEFTE* also testified that she took part in demonstrations in July and August, 1905. (P. 56).

3. THE GENERAL STRIKE IN OCTOBER, 1905.

Witness *JOHANN G. OHSOL* testified in regard to the general strike of October, 1905, as follows:

Cross-examined by Mr. Murray:

"Q. What do you mean by general strikes? A. There were strikes with political demands, self-government and general suffrage, and in all of those strikes took part the railroads and the officers of the courts." (pp. 278-279).

"Q. (BY MR. HOURWICH) You say there were strikes of another character in 1906; what was the character of the strikes or so-called general strikes in 1905? A. Political demands, general suffrage, amnesty and the eight hour labor day in some places, not in all, and there were demands for self-government and the constitutional convention for all Russia.

"Q. Could the employers of labor grant you self-government or universal suffrage? A. I suppose not because it—

"Q. That is enough. Now then, so that the strike was really not directed against employers, was it?

"A. *It was not directed against the employers but more against the government.*

"Q. You then expected that these strikes would induce the government to grant certain political reforms? A. Yes—

"A. (Continuing) That certain political reforms could be granted.

"Q. Did you succeed in obtaining any reforms as the result of any of those strikes? A. The manifesto of October 30, 1905, and the Douma constitution of February 20,

1906, and the suffrage of December 11, 1905.

“Q. And when the manifesto of October 30th was granted was the strike continued or was it discontinued? A. The strike was continued for a few days and then it was closed.

“Q. Were any demands of the workingmen acceded to by the employers before that strike was closed?

“A. Yes, sir, there were some.

“Q. You mentioned that there was a strike of the courts? A. Yes.

“Q. What do you mean by a strike of the courts? A. I know that the courts in Petersburg and Riga refused to continue their sessions and interrupted them.

“Q. So that the courts joined in a sympathetic strike? A. Yes.

“Q. What do you mean by the courts; do you mean the judges or what, or the clerks, or who was it? A. Especially the judges and the attorneys and the counsellors at law; all those men refused to continue the sessions (pp. 282-283).

“Q. (BY MR. HOURWICH) You were speaking of the first general strike; you said that aside from the workingmen there were judges and clerks and others who took part in that general strike? A. Yes.

“Q. What other professions took part in the general strike?

“A. Railroad men, engineering and teachers and telegraphers.

“Q. Did the men in the postal service take part?

“A. They did not take part in the first general strike, but they did take part in the second one.

“Q. (BY MR. HOURWICH) You said engineering; what do you mean by engineering? A. I mean a special organization. It was organized all over Russia, an engineering union so-called. It means that all the men employed as mechanics, like in factories and government establishments, in the postal

offices and others; they took part in the general strike too.

“Q. Were there any civil engineers that strike too? A. Yes, there were.

“Q. Were there any chief engineers, railroad engineers participating in the general strike? A. Yes, there were some.

“Q. (BY MR. PARSONS) What professions did not take part in either of those strikes?

“A. The police establishments and the governmental offices were open, so I suppose they did not take part; the offices of the governor and the police offices, they were open through general strikes.

“Q. Were the banks participating in that general strike? A. Yes, banks were closed during the general strikes.

“Q. Were there any other professions, other than what you have enumerated in answer to my question, that did not take part in those strikes?

“A. I cannot find any more professions that did not take part in these general strikes.

“Q. Was any platform promulgated by the Social Democratic Party setting forth its principles and demands?

“A. Yes, there were promulgated some platforms in all general strikes.” (pp. 293-296).

4. THE CENTRAL REVOLUTIONARY COMMITTEE AT RIGA.

Witness *OHSOL* testified as follows:

“Q. Mr. Ohsol, was there to your own knowledge a revolutionary committee in the City of Riga in the latter part of the year 1905? A. Yes, sir.

“Q. Were you a member of that committee? A. Yes, I was a member of the Central Committee of the Social Democratic Party.” (pp. 188-189).

“Q. Now I want to ask you, you were a member of the Central Revolutionary

Committee you testified in Riga? A. Yes, sir, in 1905." (p. 230).

"Q. (BY MR. HOURWICH) In the month of November, 1905, did the Central Committee of the Lettish Social Democratic Party have any part in the revolution? A. Yes." (P. 342.)

5. A PEASANT CONGRESS ORGANIZED BY THE REVOLUTIONARY CENTRAL COMMITTEE.

The Congress of peasant delegates from the townships was organized by the Central Committee of the Lettish Social Democratic Party and presided over by one of its members.

Witness *OHSOL* testified on this subject as follows:

"Q. Were there any reports made to the Central Committee of a convention of representatives of the townships which was held at that time by order of your committee in the city of Riga? A. Of course, the members, some members of the Central Committee were there present at this Convention of the towns and villages of Kurland and Livland, of those provinces. There was a Convention organized by the Central Committee and supported by the bureaus of several associations and unions; and there were present some representatives who made reports to the Central Committee about the resolutions carried out in the convention of the delegates of the villages and communities of Kurland and Livland." (pp. 192-193).

"Q. Now after the congress of the delegates of the villages or townships had been held was a report made from that congress to the Executive Committee? A. Yes; all resolutions and the minutes of this congress were reported to us by a member of the Central Committee who was present and was the chairman in this congress.

"Q. What was his name? A. John As-sar.

“Q. Did he present to you the resolutions adopted at that congress? A. Yes, sir.

“Q. What did you do with those resolutions? A. They were laid before the committee and printed in all papers in Riga; especially one paper which was the organ of the Revolutionary Committee at that time. “Deenas Lapa” is the name of the paper.” (p. 230).

6. PROCEEDINGS OF THE PEASANT CONGRESS AT RIGA IN NOVEMBER, 1905.

Witness *JOHN ZEMAN*, who attended that Congress as a delegate from his township, testified as follows:

“Q. (BY MR. HOURWICH) Were you in Riga on November 19th, 1905? A. I was.

“Q. What did you do there on that day? A. I was in the congress which was held there on the 19th and 20th of November, 1905, according to the old style, which would make it the 2nd and 3rd of December, 1905.

* * * * *

“Q. Where was that congress held? A. The congress was held in the house of the New Lettish Society, house No. 25, street known as Romanovsky.

“Q. Were there many people present at that congress? A. More than 1,000.

“Q. In what capacity were you there? A. As a delegate from my village.

* * * * *

“Q. What happened there at that congress? A. At this congress it had been decided to abolish or depose the old village administrations and judges.

* * * * *

“Q. Continue your answer as to what was done there? A. We decided to elect instead of the deposed administrations and judges, executive committees, and new judges.

“Q. What other resolutions were adopted there? A. We also decided to close up all

governmental liquor shops, liquor factories and all establishments where liquor was sold or manufactured.

“Q. Were any other resolutions adopted? A. Yes, sir, we also decided not to pay taxes and not to give recruits into the army.

“Q. Anything more? A. We also decided to elect a popular militia.

“Q. Was there anything decided or any action taken or any decision made as to how the congress would act toward those who disobeyed the resolutions to close up the liquor shops?

“A. We passed a resolution to that effect.

“Q. What was that resolution? A. We decided to notify the managers of the governmental vodka shops to discontinue the business within a certain time—immediately—otherwise strict measures would be adopted against them.

“Q. Were the police present at the deliberations of your congress? A. After we assembled the police master and a few officers came to the meeting, but the delegates demanded that they retire, and they retired.

“Q. Did the police say what they came for? A. The police demanded that we disperse and we told them to go and they did go. We did not.

“Q. Do you know the chairman of that congress? A. The chairman of that congress was John Assar.

“Q. Do you know him personally? A. I do.” (p. 254-257).

Witness *JOHANN G. OHSOL* testified as follows:

“Q. (BY MR. PARSONS) In regard to the resolutions of that congress do you recollect whether or not one of them was that all relations with the government authorities were to be broken off? A. Yes, sir, I remember that.

“Q. That was one of the resolutions? A. That was one of the resolutions.

“Q. Do you recall whether or not another of the resolutions was that the pay-

ment of all state and communal taxes was to be refused until the new adjustment of conditions? A. Yes, sir, it was.

“Q. Now I want to know whether there were at that congress resolutions passed of which the following are the substance: That connections with Russia’s peasant organizations or peasant unions were to be established. Whether wherever those had not taken as yet place meetings of all adult members of both sexes of the communities were to be called in order to carry out the following tasks, namely: A. To discharge or remove the hitherto existing parish authorities. B. To install executive committees. C. To install new Parish judges who would have to administer justice according to the best of their knowledge and conscience and disregarding the existing laws. D. To issue instructions for the Executive committees and Parish judges. E. To publish names of delegates for the meetings of the delegates of the Universal Lettish Self-government. Were the resolutions passed in substance those? A. Yes, sir, it was.” (p. 238-240).

7. REVOLUTIONARY GOVERNMENTS ELECTED IN THE TOWNSHIPS.

After the proclamation of the Czar’s Manifesto of October 30, 1905, town meetings were held, at which delegates were elected to the Peasant Congress. Upon the return of the delegates town meetings were held again at which the resolutions of the Congress were reported by the delegates. Thereupon the old local officers were deposed and new judges and administrative bodies were elected in their places. This appears from the testimony of the following witnesses.

JOHN LICIT:

“Q. What was the first meeting at which you were present after the manifesto of the

17th of October, 1905? A. The first meeting was in Madlin, Sissegal.

“Q. When was that? A. In the month of October, about the 20th of October—I cannot tell the exact date.

“Q. What took place at that meeting? A. In that meeting they informed us about the manifesto that was issued and we considered general business matters.

“Q. When was the next meeting at which you were present, as well as you can recollect? A. The next meeting was held in the court house at Kastran, in the month of October, but the date I cannot recall.

“Q. Were you present at any other meetings in the month of October 1905? A. Yes, I was.

“Q. What were they? A. They were ordinary social democratic meetings.

“Q. Where were they held? A. In the court house—in the court houses of the various volosts.

“Q. What did you do in Riga? A. I was sent there as a representative to hear what was done in that Congress.

“Q. Where were you sent from? A. I was sent from Kastran.

“Q. At what meeting were you elected? A. I was elected in the meeting of the officials in Kastran court house.

“Q. Who elected you? A. I was elected by all the people assembled.

“Q. What was the name of the Congress in Riga? A. It was called general school teachers' and volost-Justices' Congress.

“Q. When did you return from Riga? A. After three days.

“Q. What did you do after you returned? A. After I returned I reported all that took place and what was adopted.

“Q. To whom did you report it and how? A. I reported all in a meeting of the assembly.

“Q. Where was that meeting held? A. The meeting was held in Kastran and also in Madlin.

* * * * *

“Q. Were you elected an official of the Kastran volost? A. Yes.

“Q. What position were you elected to? A. I was elected on the Committee of Arrangements.

“Q. When did that election take place? A. It took place in the month of November, but the date I cannot recall.

“Q. Was that after you returned from Riga, or before you went there? A. It took place after I came back, when I was elected on the Committee of Arrangements.

“Q. Who else were elected at that meeting to different offices? A. There was elected quite a few. Frieberg, Graudin, and about six or seven in number.

“Q. What positions were they elected to? A. Frieberg and Graudin were elected on the Committee of Arrangements but the others were elected to take positions as Justices of the Courts and Secretaries, etc.

“Q. Was Andrew Martinson elected to anything in that meeting? A. Yes, sir.

“Q. What was he elected to? A. He was elected as a Justice.

“Q. Was Frieberg elected to anything except on the Committee of Arrangements? A. He was elected as President of the Committee of Arrangements.” (P. 88-91).

JOHN ZEMAN:

“Q. After you returned from the Congress where did you go? A. I went back into my village.

“Q. What did you do there? A. I made a report of the sessions of our congress.

“Q. To whom did you make that report? A. To the members of the Lelask Township.

“Q. Where did you make that report to them? A. In the Town Hall.

“Q. Who was present there? who was assembled there? A. All adult members, female and male of that town.

“Q. What was done there after you had made your report? A. We elected a new administration committee, new judges and

we demanded from the old administration and judges that they surrender to us the town keys and the seal.

“Q. Did they do it? A. Yes, sir.

“Q. Did they resist your demand? A. They have not resisted, but one of the elder of the township judges resisted and he left the keys in his house and went away. We sent two men and they brought us the keys from his house.” (P. 258).

JAN JANOFF OSOLIN:

“Q. Did any election take place in Sissegal after the Manifesto? A. Yes, sir.

“Q. When? A. Soon after giving out the Manifesto.

THE COMMISSIONER: Let him fix the date.

“Q. Can you fix the date more accurately than that—was it October or November? A. In the month of October.

“Q. What were those elections? A. The elections were held to elect a committee that would represent the wishes of the people as regards higher wages and the oppression that was imposed by conditions at that time.

“Q. Were you elected a member of that committee? A. Yes, sir. (P. 124).

“Q. What other officials were elected at that meeting? A. The committee was appointed to take the place of the various posts in the government, and the committee appointed the militia to execute the business whatever it was given to them. (P. 125).

“Q. Referring back now to the executive committee of which he was elected at Sissegal, I want to know whether—I want to know what party the town officials then belonged to?

MR. MURRAY: Was that before the election?

MR. PARSONS: I mean after the election. A. What meeting?

“Q. I am referring to the meeting that took place at Sissegal after the Manifesto, when he says he was elected a member of the committee, and I want to know what

party the people belonged to or the town officials after that day? A. After that there was the Social Democratic Party.

“Q. Were all new officials elected at that meeting? A. Yes, sir.

“Q. Did they hold all the town offices? A. Yes, sir, all.

“Q. What were the duties of the committee of which you were a member? A. The duty of the committee was to see that the workmen got their wages paid and to see that monopolies or liquor stores should be closed and in their places schools established and to look after the order of things.

“Q. What do you mean by monopolies? A. Places established by the government to sell liquor.

“Q. Were the liquor stores closed? A. Yes, sir. (pp. 128-129).

EDWARD SERMONS:

“Q. What took place at the meetings, at the public meetings that you attended after the Manifesto of October 17, 1905? A. In those meetings was elected a new Government. (P.p. 180-181).

TRINA SHEFTE:

“Q. Was there any election of officers of the township in the year 1905 at which you were present? A. Yes, sir, there were elections in that district and I was present. (P. 53).

“Q. What took place at that election? A. They elected new officers for the court of that volost—eligible from 20 to 60—.

“Q. Who was elected? A. Elected there my uncle, Martinson, Otto Frieberg, John Licit, Colegrowden.

“Q. Was Frieberg any relation of yours? A. Yes, sir.

“Q. What? A. My cousin.

“Q. And what relation to you was John Licit? A. He is my brother.” (P. 54).

“Q. Were you present at the election in your volost? A. I was present at that time.

“Q. Did you vote at that election? A. I

did vote because women had the right of voting." (P. 56).

"Q. Were you a member of the revolutionary party before the Manifesto in October 1905? A. Yes, I was a member before that.

"Q. How long did you continue to be a member of the revolutionary party? A. I remained until I left Russia.

'Q. What did you—what part did you perform as a member of the revolutionary party? A. I was assigned to distribute literature about our movement and tried to explain to others what we are after.

"Q. What positions did Andrew Martinson, Otto Frieberg and John Licit hold in the revolutionary party? A. Frieberg was President of the revolutionary society; Martinson was Justice, and Licit acted as assistant to them.

"Q. As such did they act as officers of the town? A. Yes, sir, they did select officers of the town and look after the order of things so that nothing should go wrong in the community.

"Q. What town was that? A. Kastran Manor.

"Q. Were they elected at a meeting of the Kastran volost alone, or were they elected at the meeting of the people of more than one volost? A. There were present from other volosts people but they did not give their votes; only those that did belong to Kastran volost voted to elect them." (P. 58-59).

"Q. During the month while there was quiet were there any other town officials other than those of the revolutionary party? A. They were all new officers of that volost, and all went willingly—stepped back and gave place to the new ones." (p. 59).

8. THE CLOSING OF THE INNS.

The agitation against the liquor traffic began as early as July, 1905, previous to the organization of the revolutionary local governments.

On this subject witness *JAN JANOFF OSOLIN* testified as follows:

"Q. Did your committee do anything in regard to Ballod? A. He was the keeper of a liquor shop and we ordered him to close the liquor shop.

"Q. Did he close? A. He closed and then opened again.

"Q. Did you do anything else in regard to him? A. Then we forbade him once more and told him to close up.

"Q. What did he do then? A. He did not close." (P. 133).

"Q. What did you do about him? Don't state any conclusions, but just state what you did?

THE INTERPRETER: The witness states he was present when they took the license away and after that they closed the place.

* * * * *

"Q. I want to know what he means by saying that he took away the license. Did he physically take away something and, if so, what was it? A. Licenses were hanging on the wall and we took it from the wall and carried it outside." (P. 134).

Cross-examined by Mr. Murray:

"Q. You have testified to taking a license down from the wall of the Ballod inn; when was that done? A. It was taken away in the month of July 1905.

"Q. Were you present at the time it was taken down? A. I was present all along with 500 or 600 people.

"Q. What was the name of this inn? A. Volodz.

"Q. When was it that this inn was first closed? A. On the day of the demonstration it was ordered to be closed up.

"Q. What day was that? A. Month of July 1905.

"Q. And you say it was also in July 1905 that the license was taken down from the wall? A. Yes, sir.

"Q. Did you know by whom that license

had been issued? A. Yes, sir. I believe, it was issued by the Government." (P. 145).

As shown above, the peasant Congress at Riga declared for strict prohibition. This policy was enforced by the revolutionary town governments.

The same witness, who was a member of the revolutionary government of his township, testified that one of the duties of the administrative committee was to keep the liquor shops closed. Those which were re-opened contrary to the ordinance of the revolutionary town government were burned. The following is quoted from his testimony:

"Q. Did you see any of them burning?

A. Yes, sir, I saw the one in Madlin burning.

"Q. Did your committee give orders to anybody to do the burning? A. Yes, sir.

"Q. To whom? A. To the militia." (pp. 130, 131).

Witness *TRINA SHEFTE* testified that at the meetings held in the Sissegal volost after the Manifesto of October 17 resolutions were passed to close up "these road-side inns and the liquor shops—all those shops that sold liquors and were to the detriment of the people." (P. 57).

Witness *EDWARD SERMONS* testified as follows:

"Q. At any of those meetings was there any discussion about the liquor traffic? A. Yes, sir.

"Q. What were they? A. We passed resolutions that these liquor shops or monopol should be closed up.

THE COMMISSIONER: I want to ask does he mean by "monopol" monopoly?

"Q. Do you mean by "monopol" monopolies? A. I mean by "monopols" liquor shops that are monopolized by the Government.

"Q. Well, are there any liquor shops that are not owned by the Government? A. Yes, sir.

"Q. Who owns them? A. They are

leased as others are leased, to anyone who put in a higher bid.

“Q. Leased by whom? A. The house as a rule belongs to the barons and they lease the house to sell liquors in, but the man who leases the house, he has got to pay the Government for a license to sell the liquor.” (P. 181-182).

JOHN LICIT testified on p. 95:

“Q. Was anything done at any meeting of the Kastran volost at which you were present with regard to the selling of liquor? A. Yes, sir, it was decided that it should be forbidden to sell intoxicating liquors.

“Q. And after that was intoxicating liquors sold? A. There were no liquors sold until the month of January.”

9. THE REVOLUTIONARY MILITIA.

At the meetings which deposed the local authorities and elected revolutionary local governments, a militia was elected. This is shown by the following witnesses.

JAN JANOFF OSOLIN, who was himself elected member of the revolutionary government of his township, testified that “in Madlin district were elected to the militia about 500.” (p. 125).

JOHN LICIT testified as follows:

“Q. Were any militia elected in the Kastran Volost? A. Yes, sir.

“Q. When? A. In 1906.

“Q. What month? A. In the month of November.

“Q. Were you elected a member of the militia? A. Yes, sir.” (p. 92).

EDWARD SERMONS also testified that he had been a member of the militia. (p. 180).

TRINA SHEFTE took part in a meeting of her town where a militia was organized. (p. 57).

10. HOW ARMS WERE PROCURED.

Witness *WALDEMAR KROSTIN*, speaking of the revolutionary militia, testified as follows:

“Q. Did you ever see them armed? A. The nation (people) gave them weapons.

“Q. What do you mean by the nation (people) gave them weapons; who gave them weapons? A. The nation collected the money and bought them to protect themselves.

“Q. Were you present when the money was collected? Not in every meeting, but in some meetings I was present.” (p. 327).

Witness *ANDREW LASDIN*, himself some time a member of the militia, testified as follows:

“Q. Where did the members of the revolutionary militia get their arms?

A. Some bought it on their own money and some received it from the party.

THE COMMISSIONER: Received it from where?

THE WITNESS: From the party. It was a matter for everybody's conscience to buy arms on his own money, unless he did not have the money; if he didn't the party would supply the arms.” (pp. 27-28).

11. FIGHTING AGAINST THE TROOPS.

Witness *EDWARD SERMONS* testified that in the latter part of November, 1905, he took part in an engagement which commenced at Skriwers and continued at Lennewarden.

“Q. On your direct examination you testified that you took part in some fight during November, 1905. Please state where this fighting occurred and how many were engaged on each side? A. It took place at Leelwahrde and Skriwers; on the side of the Social Democratic Party there was about 3,000 and on the opposition about 130 or 140 dragoons and about 20 barons and police.”

* * * * *

“The battle commenced in Skriwers and finished in Leelwahrde.”

* * * * *

“Q. You say the battle commenced at Skriwers and continued to Leelwahrde; were you fighting all the way? A. It continued on our way from Skriwers to Leelwahrde; we

were on the train; they attacked us on the train and we answered the attack by shooting.”

* * * * *

“Q. Was the attack commenced by an attempt on the part of the police to arrest some of your party? A. They arrested two of our comrades and they tormented them and killed one of them and after that they killed the other one also, but he was left still alive, so we went to demand the release of those comrades and then we found out that they shot one of them and they would not release the other one neither, so we had to force them to do so and we wanted to take them by force.”

* * * * *

“Q. What was the occasion of you and your comrades going from Skriwers to Leelwahrde? A. The police, dragoons and barons started from Skriwers on the way to Leelwahrde and we went after them, not knowing where our comrades were, and when we got to Leelwahrde we found out that they were there and there we made the request to release them.”

“Q. Well, what was the occasion for your assembling at Skriwers? A. Because the police, dragoons and barons assembled themselves at Skriwers in a castle there.”

* * * * *

“Q. Well, what took place then when the request was not answered? A. After they refused to answer our request the people from our side surrounded the castle and just kept them there until they would release our comrades, but instead of releasing them they started to shoot at us, so we had to protect ourselves and the fight commenced.”

* * * * *

“Q. After all this shooting what did you do, go to your homes? A. We went home.”

* * * * *

“Q. Why did you all return to your home after all the shooting at Leelwahrde; did the police direct you to do so? A. Because we

took prisoners of some of the dragoons, barons and police and there were watchmen to watch the place and our presence was not there needed any longer so we went home."

"Q. How many did you take prisoners?

A. About eight dragoons, 25 barons and two circassians.

"Q. Were they in a castle at Leelwahrde?

A. Yes, sir, they went in hiding in a castle."

"Q. And did you and your associates break into the castle and seize them? A. They surrendered to us and said they would be willing to go with us prisoners and so some of us were sent in and they were taken prisoners."

* * * * *

"Q. Well, the barons were prisoners—while the barons were prisoners do you know if the grievances were presented to them? A. Yes, sir; requests were made to them and they promised to grant all the requests and therefore they were released." (Pp. 199-209).

The testimony of the preceeding witness is corroborated by *JOHN LICIT*, who testified as follows:

"Q. Did you take any part, as a member of the revolutionary militia—did you take any part in any battle? A. Yes, sir."

"Q. What was it? A. It was in Leelwahrde."

"Q. Where did that battle take place?

A. It took place in November 1905, the date I cannot exactly recall, but about the 29th or so."

"Q. How many were there on the revolutionary side? A. About six—about five or six thousand—I could not tell exactly."

"Q. How many were there on the Baronial side? A. About 28 barons and about 200 dragoons."

"Q. What happened as a result of the battle? A. We took prisoners, the barons, and the dragoons escaped,—about 11 dragoons also were amongst those taken as prisoners.

“Q. What was done with them? A. They were taken and put into prison in Kokenhausen.”

* * * * *

“Q. Who made up the 5 or 6000 that you say took part on the Revolutionary side—where did those people come from? A. They came from all over Livonia, from all volosts.” (Pp. 96, 97).

Witnesses *ANDREW LASDIN* and *JAN JAN-OFF OSOLIN* also corroborate the testimony of the former two, and tell of minor skirmishes with the dragoons and the barons (pp. 33-37, 127, 139, 175).

12. THE PUNITIVE EXPEDITIONS.

To suppress the revolution in the Baltic provinces, punitive expeditions were sent by the government.

On that subject witness *JOHN ZEMAN* gave the following testimony:

“Q. Why did you leave Riga in January, 1906? A. Because a punitive regiment with an estate holder at the head of it were marching through the country and shooting all those who were the members of the executive committees, the members of the new courts and those delegates who were elected from the volosts to the Congress we spoke about before.

“Q. Am I to understand then that in January 1906 the Russian troops marched through Riga and either shot the revolutionists or forced them out of the province? A. The troops began to come in into the district of Riga from other governments by means of the railroad at that time. At first all the railroads were taken possession of by the troops, and when they closed in upon the city of Riga then they penetrated into the volosts and began to seize the various members of the executive committees, new courts and of the revolutionists.” (pp. 263-264).

“The punitive regiment with the Baron at its head were traversing the country searching houses and homesteads for the members of the executive committee of the new courts.” (p. 274).

Witness *ANDREW LASDIN* testified as follows:

“Q. What were punitive expeditions—you mentioned punitive expeditions awhile ago? A. It was—they were soldiers under the command of the barons and the officers of the reserve.” (P. 46).

Witness *JAN JANOFF OSOLIN* testified that his own house “was burned by the soldiers.” (p. 143).

Witness *ANNA LASDIN* testified that her parents were among the victims of the punitive expedition. They were arrested and sent to Siberia:

“Q. Did any soldiers come to take your parents? A. Yes.

“Q. Did they arrest you too? A. Not at that time, but before that.

“Q. Did you see your parents after they had been arrested? A. Yes; I saw them after they were let go; they were tortured awfully.

“Q. In what condition did you see your parents after they had been let go by the troops? A. My father and brother were being beaten awfully; all their clothing was dried up with blood.

* * * * *

“Q. In what condition did you find your mother when you saw her? A. Mother was very sick, but she had no sores.

“Q. Were you there when your parents were led away from the village? A. Yes.

“Q. By whom were they led away finally? A. By the soldiers.”

“Q. After the soldiers had taken away your parents do you know where they took them to? A. They were taken to Juntil castle, where they were beaten.

“Q. Did you follow them there to the castle of Juntil? A. No. The third day they asked me to go and bring them clean

clothing, and I did so and brought back the bloody clothing." (pp. 320-322).

The testimony of the preceding witness is corroborated by *JOHN LICIT*, who saw his relatives shot by the troupes (pp. 116-117).

Witness *TRINA SHEFTE* testified that the soldiers searched her house for Pouren and failing to find him "gave me, my mother and sister a good beating." (p. 61).

13. THE BROTHERS OF THE WOODS.

The punitive expeditions drove the revolutionists to the woods, where they for nearly a year kept up a guerilla war. They organized under the name of "Brothers of the woods."

The character of that organization is fully described in the testimony of the witnesses for the defense.

(a) As to the number of persons who hid in the woods, witness *JOHN ZEMAN* furnished the following information:

"Q. (BY MR. MURRAY) When you hid in the woods how many were with you? A. The exact number I cannot recall.

* * * * *

"Q. About how many? A. The members of the executive committees of the new courts and the delegates to the Congress had all to be in hiding, and therefore the number of those in the woods would correspond with the number of those various representations." (p. 274).

Witness *JOHN LICIT* corroborates the former witness on p. 94:

"Q. Were those who were Brothers of the Woods generally people who had been members of the revolutionary militia? A. Yes, sir."

Witness *ANDREW LASDIN* testified as follows:

"A great many that didn't belong to the party and a mass of people had to hide. Hundreds of peasants' farms had been de-

stroyed by the soldiers and hundreds had been hung at the time." (pp. 50-51).

The number in his own neighborhood is estimated by him from 200 to 300 (p. 15).

(b) The guerillas were scattered in the woods in small bands known as "circles" varying in numbers from 7 to 18. See Testimony of *ANDREW LASDIN*, p. 15; *JOHN LICIT*, pp. 95, 113.

(c) Each of those circles had an elected leader who represented it on the Central Committee of the district. Witness *ANDREW LASDIN* was the representative of his circle (p. 15).

(d) The circles and the Central Committee at Sissegal acted under orders from the Central Committee located at Riga. The testimony of *ANDREW LASDIN* is very explicit to that effect. (pp. 22-25).

(e) The Brothers of the Woods were fed and sheltered by their neighbors. Witnesses *ANNA LASDIN* and *TRINA SHEFTE* were farm girls who befriended them (pp. 61 and 318).

(f) The Brothers of the Woods disbanded as late as November, 1906. See testimony of *ANDREW LASDIN*, p. 25.

14. RAIDING THE INNS.

The Brothers of the Woods continued to enforce the resolutions of the Peasant Congress and of the revolutionary town governments against the sale of intoxicating liquors. The troops, on the other hand, ordered the inn-keepers to keep the bar open.

One incident of this campaign is described by witness *WALDEMAR KROSTIN*, who lived near Riga and was employed in an inn in the Leels volost. The following is quoted from his testimony on pp. 326-329:

"Q. Did anything unusual happen while you were there? A. The woodmen came in sent by the revolutionary central committee.

“Q. To what place did they come? A. To the inn.

“Q. You say the woodmen, what do you mean by woodmen? A. The woodmen were men elected by the executive committee who were in Congress and therefore the police were pressing them and they had no place to hide themselves but in the woods.

“Q. Did you know any of those men who came there to the inn? A. Yes.

“Q. Were they your neighbors? A. Yes, not far from us.

“Q. You say you know those men; did you ever see them before? A. I knew them before.

* * * * *

“Q. You say that several of your neighbors once came to the inn where you were employed; did you say that? A. Yes.

“Q. When they came there what did they do? A. They gave orders strictly to close

“Q. Did you follow the orders? A. Yes. the inn and nothing to be sold.

May, 1906.

“Q. When they came what did they call themselves? A. Sent from the revolutionary party to do their bidding.

“Q. Were you present when they said that? A. Yes.

“Q. Did you thereafter open again the inn? A. A few days later the militia came and gave orders to open up again besides beating the inn-keepers.

“Q. Who did? A. The soldiers.

“Q. Was it the soldiers of the government or the soldiers of the revolution? A. The soldiers of the government.

“Q. You say the government troops came and told you to open the inn? A. Yes, sir.

“Q. And did you open? A. When they gave him a beating with the knout the saloon-keeper had to open it.”

Witness *ANDREW LASDIN*, who was a member of the organization of the Brothers of the Woods and the delegate from his circle at the committee

of his company, testified that the local committee ordered the groups to burn certain inns. He named the inns Volodz and Lobess, which are described in the charges of the Russian Government against Pouren. (p. 23).

15. PUNISHMENT OF SPIES.

The revolutionary organizations proceeded rigorously against spies and traitors who betrayed the revolutionists into the hands of the punitive expeditions.

The examination of *EDWARD SERMONS* has gone into this subject at length. He testified that at one of the meetings in the fall of 1905 "we (they) passed a resolution to boycott all the spies" (p. 182). Who the spies were and what they were doing, is thus explained in his testimony:

"Q. On your cross-examination you testified that you were in the woods and left—when you left the woods the police were searching the woods. Now, I ask you were there any other people besides the police who were searching the woods? A. The police and the dragoons were assisted by the barons and were searching after us and the spies.

* * * * *

"Q. (BY THE COMMISSIONER) In one place you testified that while you were in the woods you were afraid of the police and in another place you were afraid of the dragoons. Now, explain the condition of which you were afraid? A. It was very seldom that the police came alone after us, always was accompanied by the dragoons and the barons and spies; the police were always there, but the dragoons and spies they came quite frequently with them.

* * * * *

"Q. (BY THE COMMISSIONER) What do you mean by spies? A. I mean by spies that men who were employed and paid by

the barons to report all about our movements and proceedings secretly—betrayals.

* * * * *

“Q. (BY THE COMMISSIONER) Were there in these parties searching the woods other people besides the police, dragoons and barons? A. Yes, sir, there were spies also.

* * * * *

Q. (BY THE COMMISSIONER) And these people—these other people who accompanied the barons, police and dragoons, the people whom you call spies? A. Yes, sir, we called those spies that came accompanied with barons, dragoons and police.” (pp. 214-218).

The manner in which spies were proceeded against is further described by witness *ANDREW LASDIN*:

“Q. Were any instructions given in regard to spies? A. Yes, sir, they were.

“Q. What were the instructions? A. At first the spies would receive a quiet warning, then they would be proclaimed or announced and boycotted by the people and if they would not listen sentences would be pronounced.

“Q. How would they pronounce the sentence? A. Matter would first come up at a meeting of the local company and discussed and then sent to the central committees—to the local committee—then the central committee, then the matter would be sent to the local group where the guilty party resided.

“Q. Were any punishments inflicted upon those who were considered spies, punishments or penalties? A. Yes, some have been; in some cases many fines had been imposed.

“Q. Were those fines collected by the groups? A. Yes, sir.

“Q. What was done with the money collected? A. The money would be transmitted to the local central committee and the local committee would send it to the general committee in Riga.” (pp. 23-24).

The testimony of the preceding witness is sup-

plemented by *TRINA SHEFTE* :

“Q. At any of the meetings of the town were there resolutions in regard to what should be done with people who were considered to be spies? A. Yes, sir; we had decisions made to warn them and imposed fines on them. If they would not listen and it would keep on going against the movements of the Social Democratic Party they would punish them with capital punishment.” (p. 60).

16. THE REVOLUTION CONTINUED IN 1906.

The following is quoted from the testimony of *JOHANN G. OHSOL* (pp. 284, 285, 287, 288, 291, 292) :

“Q. After the first Duma was dissolved there was a strike? A. Yes.

“Q. What was the date of it, do you remember? A. The first Duma was dissolved on the 8th of July, 1906.

“Q. What is it, old style or new style? A. Old style.

“Q. That would be twenty-first of July of our style? A. Yes.

“Q. And there was a general strike then after that? A. Yes, in the big towns.”

* * * * *

“Q. Were any demands made at that time by the strikers?

“A. There was a protest against the dissolution of the Douma and a demand for calling of the Constitutional Convention.

“Q. Were there any outbreaks or rebellions subsequent to the dissolution of the first Duma.

“A. There were some rebellions in Kronstadt and Sweaborg.”

* * * * *

“Q. Did the Lettish Social Democratic Party or the Russian Social Democratic Party take part in any political campaign? A. Yes.

“A. (Continuing) They took part in the campaign for the election of the members of the second Duma all over the country.

“Q. Were any candidates of that party elected to the Douma? A. Yes, there were 55 of the Social Democratic Party candidates elected in the second Duma.

“Q. You were one of the 55 Social Democratic members of the Duma? A. Yes.

“Q. And you were elected from what district? A. From the City of Riga.”

* * * * *

“A. Some of them were sentenced to hard labor in Siberia for five and four years, and some of them were sentenced to be expelled to Siberia for all life.

“Q. What were the charges against those members of the Duma?

A. Article 102 of the Russian Penal Code says that they have made a propaganda for an uprising amongst the soldiers in the army, and not only soldiers, but among the soldiers, peasants and working men.”

* * * * *

“Q. Was the Social Democratic Party permitted by the Government to hold meetings, committee meetings? A. No.

“A. (Continuing) It is regarded as an illegal party.”

* * * * *

“Q. Can you tell anything about your own experience while you were a member of the Duma with meetings of the Social Democratic Party Duma members held at your own house? A. Yes, I have some experience.

“Q. Tell us that experience.”

“THE WITNESS: * * * That on the 4th of May, 1907, there was a meeting of the Duma members of the Social Democratic Party in St. Petersburg in my own house, Nevski Prospekt 97, and the police came in and the meeting was suspended and all the members were searched and the correspondents of the newspapers and the delegates from the cities who came, the deputies, with some resolutions were there arrested and some of the official minutes of the deputies were arrested too. There were about 100 policemen and two chief policemen and gendarmes and

detectives and some soldiers, and the searching was continued during the whole night. Afterward the Duma deputies were discharged, but the others were imprisoned, and this was a regular session of the Duma deputies."

(B) POUREN'S CONNECTION WITH THE REVOLUTION.

1. THE ACCUSED IN HIS OWN BEHALF.

JAN JANOFF POUREN, testifying in his own behalf, said that since the Summer of 1905 he was a member of the Social Democratic Party.

The party had a political platform including labor legislation and land reform planks. Questioned, "What were the demands of that party?", he answered as follows:

"Our demands were for better conditions for working classes, for the working class people, shorter hours and higher wages; to close up the liquor shops and see that better dwelling places were erected for the people, and further that our women should not be forced to work six weeks before they became mothers, and sometimes afterwards. Further also our demand was for a free press and free public meetings and freedom in everything that was for free citizens; the right to elect our own officers; and further, we made demands for those farmers that were paying rents to the barons to have their houses repaired and put in a good condition for human beings decently to live in; or if we should demand of the barons and of the Government they should revoke their rights to elect our officers and rulers in our community. Our demand was for free Government in our own District and community. The demand was made also to abolish the passport restrictions so that people could travel without a passport, the same as in this country." (p. 245).

The witness further said he was a party agitator and, as such, he attended about 20 or 30 political meetings held in the Summer and Fall of 1905, in Madlin and vicinity. He was one of the speakers at those meetings. On the day of the promulgation of the October manifesto he was in Riga and attended public meetings, which were called to discuss questions affecting the welfare of the people and to demand free press and other reforms. He went again to Riga on the 19th of November, when, as he says, a "Congress was held in Riga to consider how to obtain *a new form of government*, and to do away with all government that was not good for the people." (p. 248).

He immediately joined the revolutionary militia and fought against the government troops in the battles at Lennewarden and Skriwers, on or about the 29th of November, 1905. (p. 248).

In January, 1906, he fled to the woods where he joined a guerilla band of about 20 men, which formed a part of the organization known as the "Brothers of the Woods." There he remained until November, 1906. (p. 249).

The "Brothers of the Woods" had a regular organization with a head of each band or "circle," with a local committee made up of delegates of several bands and located at Madlin, and with a general central committee located at Riga. The circle to which the accused belonged was in regular communication with and received orders from the central committee in Riga. (pp. 249, 252, 253). The following is quoted from his testimony on pp. 249-250:

"Q. State how that communication took place? A. Members who were delegates from our circle communicated with the central committee in Madlin, and delegates from Madlin from the central committee went to Riga to report to the general committee."

Some orders were printed, others were oral; they were delivered to the head of the band.

“Q. (BY MR. PARSONS) How did you as a member of the circle come to see an order that was handed to a representative of the circle? A. I was present when the delegate brought the orders from the central committee and delivered them to the head of the ‘circle.’”

“Q. Did you read the orders? A. Yes, sir, I did read them, and others read also, all of us read.

“Q. (BY THE COMMISSIONER) Now you have spoken of orders received by word of mouth. What do you know about those orders? A. The orders were on the same character as those that were delivered in writing.

“Q. How do you know that? A. When the delegate came around he told us what the orders were in the presence of all.” (p. 256).

The contents of those orders are thus summarized by the witness:

“A. We had an order from the central committee to see that the liquor shops were closed and if they were disobeyed we would have to burn them—burn them; we were ordered to fine the spies and we did fine them, and those that would not pay we were ordered to shoot them, and we did shoot some of them.” (p. 253).

The orders were specific, naming in each case the person and the place which was to be attacked. The moneys collected as “fines” were in every case transmitted in regular course to the central committee in Riga. (pp. 264-265). The manner in which it was done is stated by the witness as follows:

“Q. How do you know that was sent to the central committee? A. We paid the money over to the delegate.

“Q. Well, when you paid the money to the delegate, what was said to the delegate?

A. He was elected for that purpose and so we gave him the money to deliver to the central committee.

“Q. Did you say anything to him at the time? A. There was nothing said to him, because we understood that he was going to deliver the money to the central committee.

“Q. What central committee—where was this central committee? A. First the money was paid to the committee of the Brothers of the Woods, and the delegate from the committee of the Brothers of the Woods delivered the money to the Sissegal local committee and from the Sissegal local committee to the central committee in Riga.” (p. 264).

The central committee at Riga kept the guerilla bands informed on the progress of the campaign by means of printed proclamations. From this source the accused learned of a number of attacks which were made upon spies and liquor shops by other circles than his own. (pp. 260-263).

The guerilla bands, to which the accused belonged, were fed and supported by the farmers of the vicinity and were furnished with arms and ammunition by the local committees of Madlin and the central committee of Riga. (pp. 249-250).

They had several skirmishes with the soldiers, in which the accused participated. (pp. 250-251).

2. CORROBORATING TESTIMONY.

JOHN LICIT testified that he first saw Pouren at a demonstration in June, 1905, and heard him address the meeting; next he saw Pouren at a political meeting held after the promulgation of the Manifesto of October 30, 1905 (p. 93). At that meeting Pouren spoke again and collected money for literature (p. 90). Later he was present at the meeting in Madlin at which Pouren was elected to the revolutionary militia (p. 113). He then saw Pouren at the head of his company of the militia on the way to the battle of Lennewarden (p. 97).

JAN JANOFF OSOLIN testified that he saw Pouren at a demonstration in June or July, 1905, that Pouren addressed the meeting (pp. 120-121); that thereafter he attended the meeting at which a revolutionary militia was elected at Sissegal and that Pouren was elected to the militia (p. 126); next he saw Pouren on the way to the battle of Lennewarden and also in the battle (p. 128).

EDWARD SERMONS testified that he saw the accused at meetings in July and in the fall of 1906; that after that he saw Pouren quite frequently at public meetings; that he saw Pouren fight as a member of the militia at Skriwers and Rembat (pp. 177-183).

ANDREW LASDIN testified that he had known Pouren as an active revolutionist; that he saw Pouren at a demonstration in Sissegal, about June 5, 1905, and at other political meetings, where he was collecting money; that Pouren spoke at those demonstrations, and that his speeches were of a revolutionary character (pp. 19-21, 10, 12).

The witness met Pouren in the woods at a meeting of the organization of the Brothers of the Woods, where "the tactics of the Brothers of the Woods" were discussed. Pouren took part in the meeting "as a member of the Social Democratic party and as a member of the Brothers of the Woods." (pp. 25-26).

TRINA SCHEFTE testified that she had known Pouren as a revolutionist for 2 years (p. 64); that she met him at various meetings and demonstrations in Sissegal and vicinity. As to his part in those meetings she testified as follows:

"Q. What part, if any, did he take in any of those meetings where you saw him? A. He was the representative and gave information about proceedings that took place in other districts and organizations—at least branches of organizations.

"Q. Did he make any public speech at

any of them? A. He made those declarations and informations publicly about other districts.

“Q. Did you know whether he was a member of the revolutionary militia? A. Yes, I know he was a member of the revolutionary militia.” (pp. 57-58).

The last time she saw him was September 2, 1906; under what circumstances, is thus told in her testimony:

“Q. Did you do anything for him? A. He was in my house for three hours and I gave him something to eat and while he was there eating the soldiers came and he escaped.

“Q. Did the soldiers search the house for Pouren? A. They did search the house and gave me, my mother and sister a good beating.

“Q. What do you mean by a beating? A. They beat us with a whip and demanded of us to tell where Mr. Pouren is and if we would not tell they would shoot us.

“Q. At the time he had escaped and you told them that he was not there; is that right? A. He escaped and we told them that he was not here.”

* * * * *

“Q. When did you first go into hiding? A. After the soldiers came to search after Pouren, I had to go in hiding.” (pp. 61-63, 66).

3. EVIDENCE FOR THE DEMANDING GOVERNMENT.

The original depositions for the demanding government corroborate the testimony of the witnesses and the documentary evidence for the accused.

The following facts appear from the papers submitted by the demanding Government:

1. The bands known as "Brothers of the Woods" were operating in the forests of Livland as late as November 5th (October 23) 1906. (Supplementary Depositions Eng. Trans. p. 5).

2. Two peasants, Ackermann and Luss, who were accused of having been Pouren's accomplices in some of the crimes for which his extradition is demanded were court-martialed and shot by the troops. (Depositions, Eng. Trans. pp. 38, 49, 54, 60).

3. "At the time of the revolutionary movement Pouren took part in it." (Ibidem, p. 24).

He was hiding in the woods; troops were "searching for him." Neighbors suspected of sheltering him were whipped by the troops. (Ibid. p. 24; Supp. Depositions, pp. 3, 4, 5).

4. Pouren is to be tried under Section 1459 of the Russian Penal Code, for offenses incidental to "rising against the established authorities." (Papers of the demanding Government, Eng. Trans. p. 65).

5. Pouren charged the persons alleged to have been attacked by him with having acted as guides for the troops and spies. (Ibidem, pp. 17, 18, 19, 34, 46, 48, 50, 51).

THE SPECIFIC CHARGES AGAINST POUREN.

1. THE ALLEGED ATTEMPT TO MURDER DOMBROWSKY.

The petition of the Russian Consul General charges the accused with attempting to kill one YUOFF DOMBROWSKY.

The evidence for the demanding government makes out only a case of assault. The accused, denying the charge of attempted murder, testified

that in the orders of the revolutionary committee Dombrowsky was proclaimed a spy (p. 257).

“Q. You testified that Dombrowsky was the name of one of the spies mentioned in one of the orders that your circle received; now what did that order say in regard to Dombrowsky? A. About Dombrowsky I testified that he was a spy. We received orders to fine him and if he had not paid the fine we might have been instructed to do something else, but he paid the fine and nothing was done to him.

“Q. When did you first go to see Dombrowsky? A. I cannot recall exactly the date, but I think it was in August or the beginning of September; several of us went over to have him prepare to pay the fine.

“Q. Is that the first time you had been to his place? A. Yes, sir, that was the first time.

“Q. Did you go there a second time? A. Yes, sir, I went a second time, not myself, alone, about ten of us.

“Q. What happened the second time? A. Then he paid the fine that he promised to pay and which was demanded; it was demanded through the central committee to pay a fine, and he promised to pay it and he paid it.” (p. 258).

The testimony of the accused is corroborated by ANDREW LASDIN, who testified that Dombrowsky was reported to be a spy (p. 27).

JAN JANOFF OSOLIN, being questioned, “Can you recall the names of any persons in regard to whom you received orders, they being accused of being spies?” mentioned the name of Dombrowsky (pp. 138-139).

There is absolutely nothing in the depositions for the demanding government to contradict this testimony.

2. THE BURNING OF THE LOBES INN.

The accused, denying the charge of arson, testi-

fied that the proprietor of the inn was reported to be a spy (p. 257).

“Q. In your testimony you mention the inn Lobes and Plaudis, the proprietor of that inn, as a spy, and as mentioned in the orders you received. What did the orders direct in regard to Plaudis and the inn, if anything?

A. The orders as regards Plaudis was to demand a fine from him and if he would not pay the fine, to close his liquor shop by force.

“Q. What did you do? A. We destroyed all the balance of the liquors, and the bottles and everything that was there, against our orders, and we closed the place.

“Q. Who were present—how many were present on that occasion? A. About 15 there were.

“Q. Any outsiders? A. About 200 outsiders.

“Q. Who were they? A. It was on a holiday and there was a lot of people gathered together, 24th of June.” (pp. 258-259).

The testimony of the accused is corroborated by JAN JANOFF OSOLIN, who testified as follows:

“Q. Did you know a man named Plaudis?

A. I know that he was proclaimed to be a traitor in proclamations.

“Q. Did your committee make any order in regard to a man named Plaudis? A. The local committee received information officially from headquarters in Riga that this Mr. Plaudis was a traitor and requested to treat him as such.

“Q. Did your committee receive any information in regard to a man named Plaudis and, if so, what was it? A. Yes, sir.

“Q. What was it? A. It was information from the Central Committee.

“Q. Did the central committee make any request of the local committee in regard to Plaudis? A. Yes, sir.

“Q. Did you receive instructions from the central committee? A. Yes, sir.” (pp. 134-136).

The depositions for the demanding government are thus summarized in the findings of the Acting Judicial Inquisitor on p. 6:

“After having entered the inn, (they) broke the windows, the wares and the furniture and throwing all that into a heap, they set fire to it and * * * * drove away to the inn Valodz.”

Although the raiders of the inn were armed and met with no resistance, no property was touched, which sustains the explanation of the accused and his witnesses that the burning of the inn was a political act.

3. THE BURNING OF THE VOLODZ INN AND THE ASSAULT UPON THE INNKEEPER BALLOD.

The accused admits the facts alleged in the petition, but justifies his acts by charging Ballod with being a spy (p. 257).

“Q. In your testimony you said that the inn Walodz had been mentioned in one of the orders, and that the name Ballod as a spy you mentioned. What were the orders in regard to the inn Walodz and the spy Ballod? A. We received orders from the central committee in Madlin, and also in Riga, to demand a fine from Ballod; if he refused to pay a fine, we received further orders to burn the inn and shoot Ballod.

“Q. What did you do? A. We burned the inn, but Ballod remained alive.

“A. (continuing) He shoot against us—back at us.

“Q. At that time? A. Yes, sir; it was the second time after we went to demand that he pay the fine, and this happened.

“Q. Had you known Ballod before that? A. I had seen him several times. I went in his place several times on my way to Riga; his place was situated on the roadside; I didn't know him personally and closer.”
(PP. 259-260.)

The testimony of the accused is corroborated by JAN JANOFF OSOLIN, who described an early

episode in the hostilities between the revolutionary committee and the innkeeper:

“Q. Did you know a man named Ballod?
A. Yes, sir.

* * * *

“Q. Did your committee do anything in regard to Ballod? A. He was the keeper of the liquor shop and we ordered him to close the liquor shop.

“Q. Did he close? A. He closed and then opened again.

“Q. Did you do anything else in regard to him? A. Then we forbade him once more and told him to close up.

“Q. What did he do then? A. He didn't close.

“Q. What did you do about him? A. *Then we took his license so that he could not continue selling liquors.* * * *

“Licenses were hanging on the wall and we took it from the wall and carried it outside” (pp. 133-134).

Witness ANDREW LASDIN also recalled the name of Ballod as one of the persons who were considered spies and whom the local committee ordered punished (p. 27).

The depositions for the demanding government do not contradict the testimony of the accused and his witnesses.

What happened at Walodz, is thus told by the driver Jan Mousikant:

“The inn * * * * was found locked, but one of the malefactors found an axe somewhere and commenced to batter the door with it; then the landlord Ballod opened the door. Then the malefactors began to break the furniture and the crockery in the inn * * * * After that they ordered me and assistant innkeeper Jacob Rinks to carry out of the room the effects of Wanague, the father-in-law of Rinks. We did it with the help of Wanague and the women. In the meantime I heard shots and later on I found out that they wounded the innkeeper Ballod

* * * * When we carried out the effects of Wanague, Pouren said that it is necessary to set fire to the inn * * * * On looking back I saw that the fire started on the garret of the inn." (pp. 25-26).

While the attacking party were ready with their guns upon the least attempt at resistance, they very carefully removed the property of an apparently disinterested outsider, the father-in-law of the innkeeper's assistant, before they set fire to the inn. No property was touched, it was a case of sheer destruction.

The driver Mousikant, who was with the raiders, testifying before the Acting Judicial Inquisitor thought it quite pertinent to mention in connection with his story that "*at the time of the revolutionary movement he (meaning Pouren) has taken a part in the same and now the rumor is he hides himself in the woods,*" and that another of the raiders, Graudin "*also hides himself in the woods, his brother has been shot by the troops.*" (p. 24). The examining official, evidently, considered this statement relevant to the charges of assault and arson, or else he would not have entered it in his "protocol."

The burning of Ballod's inn is the only specific act in relation to which evidence in rebuttal was offered by the demanding government. Ballod in his deposition of November 29, 1908, admits that the attack upon his inn during the night of June 24, 1908, was made by the "Brothers of the Wood." He does not deny that he was ordered by the revolutionary committee to close his liquor shop, that he originally obeyed the order, but subsequently reopened his liquor shop; that his license was removed from the wall by the revolutionists; that Pouren and his confederates twice called upon him and demanded from him a "fine." The rest of the deposition is hearsay and conclusions.

4. THE BURGLARY ON THE FARM OF PETER SMALKAIS.

The accused did not deny that he with a number

of other armed men entered the farmhouse of Smalkais and demanded money, but in justification of his acts he stated that Smalkais was reputed to be a *spy* (p. 257) and was *fin*ed by order of the central revolutionary committee. The following is quoted from his testimony:

“Q. (BY MR. PARSONS) You mentioned in your testimony Smalkais as a spy—Smalkais from the farm Jaujan, mentioned as a spy in one of the orders that you received. What were the orders in regard to Smalkais? A. We received orders for the man to be fined; we went over, about ten of us, to demand this fine.

“Q. Did you get it? A. We went a second time and received the fine; he paid.

“Q. Did you go there on any other occasion than those two that you have mentioned? A. No, sir; I didn't go beside those two times” (p. 261).

The political character of the offense is corroborated by the deposition of the Junior Assistant District Chief Froloff, who said that an alleged confederate of Pouren, Karl Andreeff Ackerman, who had confessed the commission of that and other offenses charged against Pouren, was *executed by the troops under a sentence of a field court-martial*. (Depositions, pp. 38 and 54.) Ackerman was not a soldier; he is described as a “peasant.” In no civilized country are civilians subject to the jurisdiction of “field courts-martial,” nor are, under normal conditions, sentences of a court against civilians executed by the troops. These are elementary propositions of the common law of nations. The trial of civilians by a field court-martial shows that the district was under martial law, and that the offenses tried by that court were incidental to a state of insurrection.

5. THE BURNING OF THE HOUSE OF ANDREAS SNEDZE.

The accused, denying the charge made against

him, testified that he "read in printed proclamations (meaning, of the revolutionary central committee) that this Snedze was a spy" (p. 261).

The only positive evidence connecting Pouren with this charge is summarized in the findings of the Acting Judicial Inquisitor as follows:

"According to the deposition of the junior assistant chief of the district of Riga, Froloff, Michel Janoff Bittin, *examined by Froloff and later on shot by the troops*, has deposed before Froloff, that the farm Vetz-Touja has been burnt by Jan Pouren and a certain Tekoul." (p. 9).

It is yet another case of one of Pouren's alleged confederates being shot by the troops for alleged common law crimes.

Needless to say that the evidence in itself is purely hearsay.

The burning of the farm on August 6th, 1906, followed an attack made upon the same farm two weeks previous, on July 23, 1906. The two acts are closely connected.

6. THE BREAKING INTO THE HOUSE OF ANNA LEIT.

The accused admits the facts, but says in justification that the owner of the house was a spy and was fined by order of the revolutionary central committee (p. 257). The following is quoted from his testimony:

"Q. In your testimony you stated that Leit from the farm of Ruzei was mentioned as a spy. What was the order in regard to him and his farm? A. We were ordered to demand payment of the fine?

"Q. What happened? A. The first time we made the demand to pay the fine.

"Q. Was it paid? A. No, sir; the first time it was not paid, but the second.

Q. Was it paid the second time? A. The second time it was paid.

“Q. Did you make any other visit to that farm, or to Leit? A. No, sir, I didn't go.”
(PP. 261-262.)

This testimony is fully corroborated by the depositions of Anna Leit herself, as well as of her daughter and their workman.

Anna Martinova Leit deposes:

“They began to beat my workman Andreas Salit, telling him that they *beat him for his not knowing how to hold his tongue*. After that they demanded of me to have ready for them 250 roubles for my having often received in my house the village policemen.”
(p. 46).

Alvina Yanova Leit deposes:

“The persons who entered began to *reproach me for my relations with the police*. Then they declared to me and to my mother they *impose a fine* on us of 250 roubles.”
(p. 47) And further on the same page: “After that the wife of Pouren declared to us that the attack was directed against the workman Salit, whom the malefactors wished to *beat for his disrespectful talk about the Socialists*.”

The above named workman, Andreas Martinoff Salit deposes:

“Pouren demanded of the hostess Anna Leit 250 roubles *fine for the alleged offense of being a spy*. Immediately after Pouren began to strike me with a whip he had in the hands. Akkerman *struck* me also with a whip *calling me a spy* and a hooligan.”

These depositions point to the existence, at the time described, of some organization, which assumed the power to punish those who were in communication with the police, and imposed “fines” on those guilty of the “offense of being a spy.” The punishment of spies is characteristic of a state of civil war.

7. THE CHARGES OF MURDER.

The accused denies his guilt on the three charges

of murder contained in Sections XI, XII and XIII of the petition of Baron Schlippenbach.

THERE IS ABSOLUTELY NO EVIDENCE WHATSOEVER CONNECTING JAN JANOFF POUREN WITH THOSE CRIMES.

The gravity of the charge commands a careful scrutiny of the evidence offered in support thereof. It appears, however, that the demanding government has nothing to offer except hearsay, incapable of corroboration on the trial.

The only eye-witness of the murder of Martin Poutnine was his widow, who upon examination testified as follows:

“I do not know the malefactors and I would not have recognized them if they were presented to me. I do not know Pouren, Luss, Ackerman and Edward Poutnine” (p. 52).

She repeats the same testimony, on p. 53, upon her “supplemental” examination on the 24th day of May, 1907:

“I do not know the man represented on the portrait presented to me (there was presented the photo of Jan Janoff Pouren). I cannot say whether he was one of the number of the malefactors who killed my husband, Martin Poutnine, on the 25th day of August, 1906.”

From the language of the answers it is evident that the Acting Judicial Inquisitor had his suspicions against Pouren, Ackerman, Luss, &c., and was seeking corroboration from the witness. Failing in that, he calls as a witness the junior assistant chief of the Third Precinct of the District of Riga, Froloff, who deposes that Luss (subsequently executed) confessed to him that he, the said Luss, together with Jan Pouren, had murdered Poutnine. There is no record of this alleged confession; it was not reduced to writing at the time it is alleged to have been made. The junior assistant chief trusts entirely to his memory and concludes with

the words, "I do not remember any other details about this case" (p. 53). This is at best nothing but hearsay. Luss is dead and cannot be called to the stand to corroborate his alleged "confession." Moreover, the confession of a confederate, especially one facing a summary trial by a field court-martial, with the death penalty almost a certainty, is too unreliable to be accepted without further corroboration.

The evidence on the second charge of murder is of like character. The only eye-witnesses are the children of the victims. The boy Alfred Janoff Knaguiss, having related the story of the murder, says:

"I do not know who the malefactors were. I do not know if they have been known to my father and mother. They did not call the robbers by the name * * * I would not be able to recognize any of the robbers who killed mamma and papa. I cannot recognize any of the robbers by the portrait presented to me" (pp. 55 and 56).

The little girl Vera Yanova Knaguiss says on p. 57:

"I would not be able to recognize any of the robbers who killed papa and mamma if they were presented to me now. I cannot recognize any of the robbers by the portrait presented to me."

The testimony of the children exonerates Pouren. But Froloff, the ever present junior assistant chief, is a ready witness. Of course, as on the previous occasion, he is not an eye witness. He only furnishes another confession. He says on p. 54:

"The peasants Karl Andreeff Ackerman and Karl Micheleff Luss, examined by me, who are now shot by the troops in accordance to the sentence of the field court-martial, have both deposed that the evening of August 25, 1906, they, together with Jan Pouren, Edward Poutnine and an unknown workman, by the name Martin, killed the

teacher of the Kastran Volost, Knaguiss, and his wife."

Again nothing but hearsay, no record of the alleged confession, no corroboration.

The same is true of the third charge of murder. The widow Youla Reinova Apman testifies:

"I do not know who they were, but I think I could recognize the tall and the short malefactors who shot at my husband if they were presented to me. I do not know at all Pouren, Poutnine, Ackerman and Luss" (p. 58).

Witness Anna Indrikova Oundul says, on p. 59:

"Two *unknown to me* and armed persons entered my room * * * I did not know the malefactors and I cannot recognize any of them. I *have known Jan Pouren* before that, and one of the malefactors, the one who has been called from the room, before the shooting seemed to resemble him."

Re-examined at a "supplemental" hearing on the 25th day of May, 1907, she persisted in her inability to identify Pouren. Says she:

"The malefactor seemed to me to resemble Jan Pouren; however, I cannot say with certainty that it was he. I cannot also assert that on the portrait presented to me said Pouren is depicted, yet this portrait resembles Pouren very much, only I have never seen Pouren dressed so well as on the picture" (p. 61).

Then follows the usual statement by the junior assistant chief Froloff, relating the confession of accomplices, who were at the time when his testimony was given lying in their graves.

It is characteristic of the methods of administration of justice in the Russian Empire that such "evidence" is deemed sufficient by the Acting Judicial Inquisitor, the Prosecuting Attorney, and the Ministry of Justice, to warrant an application for extradition.

The only thing that clearly appears from the Russian Government's depositions in relation to

these murders is that they were of a political nature.

Valerian Alexeevitch Froloff, Junior Assistant Chief of the Third Precinct of the District of Riga, says that he examined two peasants, Ackerman and Luss, "*who are now shot by the troops in accordance with the sentence of the field court-martial,*" (Depositions Engl. transl. p. 54), and that they "confessed" to him that those crimes had been committed by them "together with Jan Janoff Pouren."

It is thus shown by the Demanding Government that two of Pouren's alleged confederates in those crimes, who are said to have confessed their guilt, have been tried by a field court-martial, sentenced to death and shot by the troops. Neither of the executed men was a soldier in the army, they are both described as "peasants."

The widow of the murdered Poutnine, who could identify no one of the murderers, deposed:

"I remained in the hall and heard how the malefactors *called my husband "a spy" and demanded of him money.*" (p. 52).

There is, in addition to the foregoing, the deposition of the widow of the murdered Apman that she could not identify any of the murderers, but that she heard them shout "that they came to collect the *fine* amounting to 50 roubles" (p. 58).

The accused denies the charge of participation in those murders.

8. THE BREAKING INTO THE FARM BRIG.

(Petition of Baron Schlippenbach, Section II.)

The accused denies the charge of having broken into that farm or attacked its occupants. He has no motive in denying it, since he has admitted his complicity in other "burglaries," every one of which is sufficient to cause his surrender, unless it is of a political nature. His denial may, therefore, be given greater weight than the depositions of the witnesses,

who on their first examination failed to identify him and did so only upon their reexamination, after the lapse of nearly a year. But waiving the question whether Pouren did or did not take part in the attack, the depositions of the witnesses for the demanding government show the political character of the offense.

Witness Minna Yanova Kalnin, on p. 17, says:

“They * * * beat me with whips saying that they *beat me for having indicated to the soldiers where they hide themselves.*”

The same witness being re-examined at a later date testifies on p. 19:

“Later on I received two postal cards from Ligguer, (one of Pouren’s alleged confederates) in which he ridiculed me, said that he had beaten me and that *he will beat me again if I shall talk too much before the soldiers.*”

The mother of the preceding witness, Eva Kalnin, testified that seven weeks after the first attack three persons among whom also *POUREN*, knocked at their door at midnight, and when admitted into the house, “they asked *who dared to call for the soldiers.*” (p. 18).

It should be borne in mind that at that time the Baltic provinces were overrun with soldiers who were searching for the revolutionists. Whoever gave aid or information to the soldiers was regarded by the revolutionists as a traitor, or spy, and was treated accordingly.

9. THE ATTEMPTED MURDER OF ANDREAS ROUMPE.

This charge is contained in Section VI of the petition. The accused denies the charge. The political character of the offense is clearly apparent from the depositions for the demanding government.

“He (meaning the driver Mousikant) told me afterwards that *POUREN*, on going away from my farm, told him that they *killed me*

for having shown the way to the troops. The malefactors touched nothing in my house."

The fact that the band that attacked him touched nothing in his house indicates that it was not a marauding gang. The motive is revenge "for having shown the way to the troupes," which is clearly political.

To sum up, every one of the offenses was incidental to the political disturbances going on at the time in the Baltic provinces, and was accordingly "of a political character."

(D) THE EVIDENCE IN REBUTTAL.

To rebut the testimony of the witnesses for the accused, the demanding government has offered a few unsworn statements, which could not be admitted in evidence had they come from a neighboring state and which can have no weight in the courts of this state and nation.

Conceding even that the demanding government was not required by law to produce its witnesses in court (to which construction of the law the accused has excepted), yet it certainly had ample time if it chose to do so, and it would thereby have been put to no greater hardship than the accused, who, though a poor man, had to bring his witnesses from Massachusetts and New Hampshire.

One of the deponents, Jilinsky, is the Police Chief of the Riga District; another, Baldgail, is town clerk within the same district; being government officials, they could be detailed by their government to New York to give oral testimony. Still another deponent, Ballod, is one of the persons whom the accused and his confederates assaulted and whose inn was burned down by them.

A civilized government must be presumed to have sufficient moral influence over its private citizens to induce them to appear as witnesses in court against a notorious thief, a leader of a gang of highway rob-

bers, who are alleged to have terrorized for a time the population of the vicinity; a murderer whose brutality was abhorrent even to his pals, such as the accused is painted in the depositions. And yet, while he has been able to produce witnesses from distant states who could not be compelled by law to appear in this Court in response to a subpoena, the demanding government has preferred to keep its witnesses out of the court room, where not alone the Assisting Prosecuting Attorney for the Russian Government could be present at their examination, but the accused would likewise have the opportunity to cross-examine them.

Evidently, the demanding government would not have them cross-examined.

Some intimation of the reasons for this reluctance is found in the statement of District Chief Jilinsky, who speaks of the leaders of the revolution having been "partly shot to death by the punitive companies of soldiers, partly arrested," and of his own "personal conversations with the revolutionists whom I (he) happened to examine."

Some pertinent questions as to the "personal conversations" of the Chief of Police with the revolutionists whom he "happened to examine" are suggested by the statement of ex-Elder Ledin to the effect that "the agitators and the leaders of the movement were eagerly sought after" by the police and the troops. The report of the Pergament committee of the Second Douma, which is in evidence (Exhibit No. 22), concerning the torturing of political prisoners by the Riga police, should be read in this connection. The demanding government could not afford to have the methods of examination of witnesses in the chambers of the Judicial Inquisitors brought to light under the fire of cross-examination in an American Court.

Coming to the substance of the quasi-depositions offered in rebuttal, they are absolutely without

merit as evidence. The following from the mouth of the Chief of Police is a typical specimen :

“I remember very well that I was told by persons, whom at the present time to my regret I cannot recollect, that one of the Lettish revolutionary papers contained an announcement in the name of the revolutionary party, in which the crimes of Pouren were sharply condemned and the party declared that it had nothing in common with him.”

Nearly every page of the testimony in this case abounds with objections by counsel for the demanding government to the effect that there is no proof of a revolution in Russia, and moreover, that no proof of a revolution is admissible in this case. The evidence in rebuttal concedes at last that there has been a revolution in Russia. Says the Riga District Chief, Platon Platonovitch Jilinsky :

“The revolutionary movement commenced in the Riga district in the summer of 1905. The most acute forms, which expressed themselves in the setting of fires to the estates of landowners, in the attacks and murders of police officials and representatives of authorities it assumed in the fall of 1905 from the beginning of October.”

He further says that “troops” were “sent for the struggle with the revolution.”

Deponents Ledin and Baldgail, both local officials, likewise speak of “the recent revolution.” They all claim, however, that the revolution was suppressed in January, 1906, and that the bands which were called “Brothers of the Woods” and operated in the summer and fall of 1906 were merely “bands of robbers.” The District Chief concedes that those bands “were joined by the persons, who, during the revolutionary movement, . . . appeared in the hands of the revolutionists as instruments, which performed their orders as regards the murders and attacks,” that is to say, by persons in one way or another assisting the revolu-

tionary movement. But he contends that they "at this time acted already not in favor of the suppressed revolution, but in their own interests."

In this he contradicts Associate Minister of the Interior Makaroff, who stated on the floor of the second Douma, in reply to an interpellation, that "in the woods *revolutionary bands* were hiding *calling themselves 'Brothers of the Woods.'*"

Which statement should be given greater weight, the official declaration of the executive branch of the demanding government in response to an inquiry by the legislative branch, or the unsworn statement of a local official who states no facts, but merely expresses his opinion, needs no argument.

Nor does the evidence in rebuttal impeach the authenticity of the official declaration published by the Russian Government in September, 1906, that a state of revolution then existed throughout the land. The date is thus officially fixed beyond contradiction by mere general statements of witnesses who were not sworn to tell the truth.

Where the witnesses in rebuttal seek to disprove the connection of the accused with the revolution, the demanding government attempts to rebut the deposition of its own witness Mousikant, who says expressly that Pouren has taken part in the revolutionary movement. (Depositions, p. 24.)

Yet the witnesses in rebuttal themselves, who personally know the accused, let a few words slip that tend to corroborate rather than rebut the testimony for the accused. Thus witness Ledin says: "During the agrarian disorders in the Riga District I resided in my volost, and many times I happened to be a witness of gatherings and meetings. At these I saw Pouren several times." And Witness Schilling, a former town clerk and town elder, who claims that the accused "did not play any part in the revolution," qualifies his statement by saying: "I ad-

mit the possibility of his having been used as a simple instrument of execution. At some time he collected money in the neighboring volosts" (meaning, collected money for the revolutionary movement).

The evidence in rebuttal does not impeach any of the witnesses who testified for the accused; their sworn testimony stands wholly uncontradicted. They state facts showing the accused to have taken part in the revolution, and his acts to have been committed by order of revolutionary authority and in furtherance of revolutionary aims.

An attempt is made to impeach the character of the accused even prior to the commission of the crimes for which his extradition is sought.

Aside from the irrelevancy of this back yard gossip, the best proof of his conviction for sheep stealing would be a copy of the sentence of the court. This, however, the demanding government has failed to produce. The accused himself, testifying under oath, said that he had never been convicted of any crime. His testimony stands uncontradicted.

Assuming, however, that the accused was a bad character, would that alone stamp any act of his as a common crime, all evidence of its political character notwithstanding? The District Chief himself claims that persons of a "low moral level appeared in the hands of the revolutionists as instruments, which performed their *orders* as regards the murders and attacks." A crime committed in pursuance of orders from a revolutionary authority is a political crime.

As concerns the accused, the evidence in rebuttal might safely be allowed to stay in the record, because it rebuts nothing.

The Law.

FIRST POINT.

A Strike is in Russia a Political Crime.

The drift of the cross-examination of the witnesses for the defense indicated the intention of counsel for the demanding government to make the strikes of the peasants against the barons appear as mere industrial disturbances, similar to the conflicts which occur between employers and employes in this country and devoid of all political character. This interpretation, however, is controverted by the official declarations of the Russian government itself, which enumerates strikes and agrarian troubles among the incidents of the revolutionary movement (see supra), as well as by witness Ohsol, who testified that the strikes were called for political objects.

It must be borne in mind that strikes are treated by the Russian law as crimes "against the form of government." (Testimony p. 224).

Title 4 of the Russian Penal Code, dealing with "felonies and misdemeanors against the form of government," contains "Chapter 6: On unlawful confederacies," which begins with Section 318, reading as follows:

"Persons guilty of affiliation with a confederacy having for its object to resist the orders of Government or to incite disobedience to the authorities established by it (Title 4, Chapter 1 of this Code) or to destroy the foundations of social life: religion, the family union and property; or to incite hostility between classes in general, between separate parts or classes of the population *or between employers and workmen*, or to incite the calling out of strikes, in case thereat

no crimes were committed which involve a more severe punishment, are subject, according to the degree of their participation in the confederacy and other circumstances of the case, to forfeiture of all special rights and privileges and banishment for residence in Siberia, or imprisonment in a house of correction under one of the degrees of section 31 of this code, or to forfeiture of certain special rights and privileges, personal and those of status, and to imprisonment in a fortress for the period of from one year and four months to four years, or to imprisonment in a fortress for the time of from eight months to one year and four months."

A mere "strike among workmen of some works, factory or mill with the object of ceasing work * * * in order to coerce the employer to increase their wages" is treated in Section 1358 of the Penal Code, as a breach of the "public peace," under general Title 8 "on felonies and misdemeanors against the public welfare and public peace." (Testimony, pp. 224 and 229).

To repress the revolutionary movement in the rural districts, which was manifesting itself in strikes of farm laborers against the landed nobility, the government in 1906, deemed it necessary to enact the following two amendments, which are directed particularly against strikes of farm laborers:

(1) "A person guilty of inciting in order to cause financial damage to another person's farming undertaking; in inciting farm laborers to unauthorized cessation and stoppage of farm labor or refusal to renew the same upon an agreement by themselves or among themselves, the performance of which labor the said workmen obligated themselves to by an agreement of employment, in case such incitement has been done by a person who is not employed by the proprietor of the manor, and if such cessation or stoppage or refusal to renew the work has actually taken place, is liable to imprisonment in a jail for

the time of from 2 to 8 months. If, moreover, such incitement was attended by threats of violence or refusal to deal, the guilty person is liable to imprisonment in a jail for the time of from four months to one year and four months. If, however, as a result of such incitement the cessation, stoppage or refusal to renew the work has not ensued—the guilty person is liable to imprisonment for the term of from 2 to 4 months.” (p. 231).

(2) “A person guilty of participation in a confederacy which has directed its activity towards inciting farm laborers to unlawfully cease or stop farm labor or to refuse to renew the same upon an agreement among themselves, to the performance of which labor they had obligated themselves by an agreement of employment, is punished by imprisonment in a fortress for the time of from one year and four months to four years, with forfeiture under section 50 of the penal code of certain special rights and privileges, personal as well as those of status.” (p. 232).

It must be remembered that under the English common law strikes were treated as criminal conspiracies. It was only by statutory enactment that the workers of this country secured legal recognition of the right to cease work by concerted action.

To-day the general accepted rules of law in this country, as laid down in the decision of Judge Taft, in the case of *Thomas vs. Cincinnati, N. O. & T. P. Ry. Co.*, 62 Fed., 803, decided in 1894, concede to employees

“the right to organize into or join a labor union which should take joint action as to their terms of employment. It is of benefit to them and to the public that laborers should unite in their common interest and for lawful purposes. They have labor to sell. If they stand together they are often able, all of them, to command better prices for their labor than when dealing singly with rich employers, because the necessities of the

single employe may compel him to accept any terms offered him."

This difference between the American and the Russian law in its view of the rights of labor furnishes an explanation why in this country a labor strike is a mere industrial dispute, whereas in Russia it is regarded both by the government and by the strikers themselves as an incident of the revolutionary movement.

SECOND POINT.

The Killing of a Spy is a Political Offense.

In re *EZETA* (62 Fed. Rep. 972) where one of the acts charged was the killing of one Henriquez, who "was charged with being a spy," Judge Morrow held the crime to have been "of a political character." (p. 1002).

Commenting on the same case, Professor J. B. Moore, makes the following statement:

"When, * * * it is remembered that Henriquez was charged, at least by public clamor, with being a spy, it may be said that the court exercised a sound judgment in holding the offense to have been of a political character." (Am. Law Rev., XXIX, 18).

The identical point was decided by the Department of State in the recent case of Christian Ansoff Rudowitz, whose extradition was demanded by the Russian government upon the charges of murder, arson and burglary. The evidence showed that Rudowitz was an accessory before the fact to the murder of three persons in the Baltic provinces, who were accused by the revolutionists of acting as spies for the government of the Czar. Hon. Elihu Root, Secretary of State, refused to surrender Rudowitz on the ground that his offenses were political. A thorough analysis of the facts and the law in the case from the pen of Dean Wigmore, author

of the standard book on Evidence, will be found in the Appendix II.

The precedents established in the Ezeta and the Rudowitz case cover every charge of murder and of attempted murder in the case at bar, the witnesses for the demanding government declaring in accord that the victims were charged by the accused with being spies and showing the way to the troops, who were searching the woods for the revolutionists.

THIRD POINT.

“The committing magistrate has jurisdiction, and it is his duty, to determine whether the offense charged is political, and not subject to extradition.”

In re Ezeta, 62 Fed. Rep., 972 (Syllabus).

The Extradition Treaty between the United States and Russia makes no provision in respect of the procedure in extradition matters.

Article VII of the Treaty authorizing the arrest of a person claimed by the Russian Government as a fugitive from justice, reads as follows:

“It shall be lawful for any competent judicial authority of the United States, upon production of a certificate issued by the Secretary of State, stating that request has been made by the Imperial Government of Russia for the provisional arrest of a person convicted or accused of the commission therein of a crime or offense extraditable under this Convention, and upon complaint, duly made, that such crime or offense has been committed, to issue his warrant for the apprehension of such person.”

There are no other rules in the Treaty governing the procedure before the judicial authority of the United States. This matter is wholly regulated by

the Rev. Statutes. Sec. 5270 contains the following provisions :

“Whenever there is a treaty or convention for extradition between the government of the United States and any foreign government, any justice of the Supreme Court, circuit judge, district judge, commissioner, authorized so to do by any of the courts of the United States, or judge of a court of record of general jurisdiction of any State, may, upon complaint made under oath, charging any person found within the limits of any State, district, or Territory, with having committed within the jurisdiction of any such foreign government any of the crimes provided for by such treaty or convention, issue his warrant for the apprehension of the person so charged, that he may be brought before such justice, judge or Commissioner, *to the end that the evidence of criminality may be heard and considered.* If, on such hearing, he deems the evidence sufficient to sustain the charge under the provisions of the proper treaty or convention, he shall certify the same, together with a copy of all the testimony taken before him, to the Secretary of State, that a warrant may issue upon the requisition of the proper authorities of such foreign government, for the *surrender* of such person, *according to the stipulations of the treaty or convention;* and he shall issue his warrant for the commitment of the person so charged to the proper jail, there to remain until such surrender shall be made.”

It is plain that the duties of the Commissioner in extradition proceedings are not merely those of a person to whom a commission is issued to take testimony, which is to be considered by the Court. The Commissioner himself is required to “consider” the testimony. He can certify the case to the Secretary of State only when “*he deems the evidence sufficient to sustain the demand under the provisions of the proper treaty or convention,*” in order “that a war-

rant may issue for the *surrender* of such person *according to the stipulations of the treaty or convention*" (Sec. 5270).

The immunity of political offenders is one of the provisions of every extradition treaty between the United States and foreign countries.

If the evidence shows that the fugitive is a political offender, it is clearly not "sufficient to sustain the demand under the provisions of the treaty," and the statute requires the Commissioner to pass upon the sufficiency of the evidence. The object of his certification is declared by the statute to be the issuance of a warrant for the surrender of the fugitive "according to the stipulations of the treaty." Inasmuch, however, as the stipulations of every treaty of the United States exempt from surrender a fugitive whose offense is political, the certifying of his case to the Secretary of State would be without purpose.

The meaning of this section has been judicially construed in *re. Ezeta*, 62 Fed. Rep. 972.

In that case, which is the leading authority in the United States on the question of political offenses, the jurisdiction of a committing magistrate to pass upon the political character of the offenses in extradition proceedings was questioned by the demanding government.

Judge Morrow, sitting "as a committing magistrate" (p. 976), gave the following interpretation of the law:

"It is claimed by counsel for the defendants * * * that the crimes or offenses were * * * of a political character, and, under the treaty, not subject to extradition. Counsel for the present government of Salvador contend, on the other hand, that it is not part of my duty to determine this question; that my jurisdiction is limited to the examination of the criminality of the accused, as charged in the complaints, and, if

it appears from this examination that the evidence is sufficient to warrant me in the belief that the persons accused are guilty of the offenses charged, then I must so certify that fact to the executive department of the United States, where it may properly be determined whether the offenses are of a political character or not."

It was argued by counsel for the demanding government precisely as in the present case, that the committing magistrate has no authority to inquire into the political character of the offense, for the reason that under our laws there can be no crime of a political character.

"That when he has received and considered the evidence of the criminality of the accused as to the crime charged in the complaint the examination is at an end. If the evidence is not sufficient the defendant is discharged. If it is he is required by this same section "to certify the same, together with a copy of all the testimony taken before him, to the secretary of state, that a warrant may issue, upon the requisition of the proper authorities of such foreign government for the surrender of such person, according to the stipulations of the treaty or convention;" the requirement that the testimony shall be certified to the secretary of state being for the purpose of enabling the executive department to determine whether the fugitive should be surrendered according to the stipulations of the treaty, and this inquiry would include in the present case the question whether upon the evidence contained in the record, or found in the files of the department, the crimes charged are of a political character."

This contention was based upon the authority of the President to decline to surrender the accused, even after his commitment by a magistrate.

"But"—continues the learned judge—"does this authority deprive the committing magistrate of the jurisdiction to determine preliminarily whether the offense proven is

of a political character or not? He is to take all the testimony, and determine its sufficiency with respect to the offense charged. Does not that jurisdiction properly and necessarily include all the elements of law as well as fact? The constitution of the United States declares that treaties are part of the supreme law of the land. * * * Plainly, the duty of the judicial authority is to decide whether extradition is due, according to law and the evidence, and pursuant to the treaty. The whole case must be considered by the magistrate, whether the questions involved arise out of law, the evidence, or the treaty. There is no limitation in this respect as to his jurisdiction, and his duty is fully and accurately stated * * * Having jurisdiction to determine whether the charges against the accused are of a political character or not, I proceed to the consideration of that question."

After considering the facts in the case the District Judge discharged three of the defendants.

The same contention was repeated in the matter of James Lynchehaun before Commissioner Charles W. Moores, in the United States District Court, District of Indiana. The Commissioner, in discharging the accused, delivered a very elaborate opinion, in which he said:

It has been argued with some force that the magistrate has no power to decide whether the offense on account of which extradition is sought is political, but that he is bound to leave this question to the president of the United States and the secretary of state. I am convinced that, having been designated by the statute and authorized and commanded by the court to hear and consider the question of criminality under the treaty, I am in duty bound to decide whether this was a political offense. The authorities all seem to support this view (*Re Ezeta*, 62 Fed. Rep., 872, 996; *Re Castioni*, L. R. (1891) Q. B. 149; Hansard, Vol.

202, page 300), and I shall take the responsibility of exercising the power which the law has conferred upon me.

We must consider all the facts and then as a question of law determine whether the offense was an ordinary crime or whether in the light of the circumstances leading up to it it was political in its character.

In the Rudowitz case, which was heard before Commissioner Mark A. Foote in Chicago in November and December, 1908, counsel for the Russian Government sought to distinguish the Ezeta case from those arising under the treaty with Russia on the ground of the difference in the language used in our treaties with Russia and Salvador with regard to the exemption of political offenses. The English case of *Castioni* (1891) 1 Q.B. 149, was cited in support of that distinction.

The English Statute, like our treaty with Russia, provides that a fugitive criminal "shall not be surrendered," if the offense in respect to which his surrender is demanded is one of a political character, whereas the prohibition in the treaty with Salvador "is not that there shall be no surrender, but that the provisions of this treaty shall not apply to any crime or offense of a political character." The distinction, it is contended, is that, under the Salvador treaty, the jurisdiction of the committing magistrate "terminates when the political character of the crime or offense is established, in other words, he has no authority to certify such a case to the executive department for any action whatever," whereas the Russian treaty defers the consideration of the political character of the offense to the moment when the accused is to be surrendered, which can take place only after the commissioner has certified the case to the Secretary of State.

The gist of this fine distinction is thus that the Senate of the United States has established a special

mode of procedure for applications made by the Russian government, which is distinct from the practice adopted with regard to other foreign nations.

Is there any authority to show that our Department of State and the United States Senate, when negotiating the Treaty with Russia, ever intended such a distinction?

Absolutely none. On the contrary, the language of Sec. 5270 Rev. Stat. admits of no exception; it applies "whenever there is a treaty or convention for extradition between the government of the United States and any foreign government."

This fine-spun technical distinction is out of harmony with the spirit of recent judicial interpretation of international treaties. Technical objections are no longer favored by the courts (*In re Neely*, 103 Fed. Rep., 626).

The plain intent of the exemption of political offenses is in every extradition treaty the same, whatever the language of the particular treaty.

The authority of the Commissioner, under the extradition treaty with Russia, is very lucidly analyzed by Judge Morrow in the matter of Grin (112 Fed. 793).

It is the same judge whose opinion in the *Ezeta* case has been recognized as an authority on the question of political offenses. Said the Judge:

"The Statute does not declare in mandatory terms that any special method of procedure shall be pursued after the issuance of the warrant upon the complaint. *It is clear that neither the Statute nor the treaty intended that other than the usual method of procedure in the preliminary examination of criminal charges should be followed.*

By section 724 of the Revised Statutes, Commissioners of the circuit courts were vested with authority 'to hold to security of

the peace and for good behavior in cases arising under the constitution and laws of the United States, as may be lawfully exercised by any judge or justice of the peace of the respective states, in cases cognizable before them.' By section 1014, commissioners of the circuit court were vested with the power to arrest, imprison or bail offenders for any crime against the United States, agreeably to the usual mode of process against offender in such state; that is, the state wherein the offender may be found. The powers here given to commissioners of the circuit court, and which have been succeeded to by the commissioners of the district court, practically comprehend all preliminary examination in criminal cases; the commissioner acting as an arresting, examining, and committing magistrate under the jurisdiction of the United States district court.

This was said with respect to proceedings against persons accused of offenses under the laws of the United States, but this statement of the relation of the commissioner to the court is even more *applicable to proceedings relating to the extradition of fugitives from justice under section 5270 of the Revised Statutes*. This section gives jurisdiction to certain judicial officers of the United States *to hear and consider* the evidence in extradition proceedings, and among the officers so mentioned are 'Commissioners' authorized so to do by any of the courts of the United States."

Where the defense is that the crime is political and therefore not extraditable, an issue of fact is raised. In *Ornelas v. Ruiz*, 161 U. S. 502, the Supreme Court held that upon this as upon other questions of fact, the decision rests with the Commissioner and is not reviewable by the Courts. Secretary John Sherman, commenting upon this case in his correspondence with the Mexican Minister, said that the Supreme Court had decided "that there was evidence *calling for the decision of the commis-*

sioner one way or another." Moore's Digest of International Law (p. 340).

In the present case Secretary of State Hon. Elihu Root replying to a letter and memorandum in behalf of Pouren which had been addressed by Messrs. Samuel Gompers, John Mitchell and others to the President of the United States and referred by him for consideration and report to the State Department, wrote under date of January 16, 1909:

"The treaties and statutes of the United States contain adequate provisions for safeguarding the right of asylum for political refugees. . . . In each specific case where a demand for extradition is made by a foreign country and the person demanded claims to be a political refugee, there is always a question of fact raised as to *whether the assertion of political character is true or not*. This question under the laws of the United States *is to be decided judicially in the first instance by a United States Commissioner acting as a magistrate and proceeding upon evidence taken under oath, and in the second instace, by the Secretary of State, reviewing the decision of the Commissioner upon the evidence.*" (Affidavit of Simon O. Pollock in opposition to the motion for an extension of time.—See Appendix I).

Conclusion.

A clear indication that the acts charged against the accused were not common depredations, but political offenses, was contained in that fact alone that a number of revolutionary refugees from the Baltic provinces consented to come from Massachusetts and New Hampshire to testify in his behalf. They could not have been compelled to appear in a New York court, if they had declined. Nor is it credible that a gentleman like Mr. Ohsol, who had served in the Imperial Douma as representative from Riga, would have aided a common highwayman, who had terrorized the people of that district.

The following facts have been established by the accused:

1. At the time when his offenses are alleged to have been committed and for some time prior and subsequent thereto the Russian Empire and particularly the Province of Livland were in a state of revolution.

2. The accused was identified with the revolutionary party.

3. The offenses alleged to have been committed by him were incidental to political disturbances in Livland.

It appears from the papers of the demanding government that if extradited, the accused is to be tried under section 1459 of the Russian Penal Code, which comprehends offenses incidental to "rising against the established authorities."

In the language of Article III of the Extradition Treaty with Russia, it is "made to appear that extradition is sought" in this case "with a view to try or punish the person demanded for offenses of a political character" which are not extraditable.

The questions of fact raised by the defense are to be decided judicially by the United States Commissioner acting as a magistrate.

It is therefore respectfully submitted that the Petition of the Imperial Russian Consul General should be denied and that the accused Jan Janoff Pouren should be discharged from custody.

HERBERT PARSONS,
Counsel for the Accused.

ISAAC A. HOURWICH,
SIMON O. POLLOCK,

of Counsel.

Appendix I.

LETTER OF SECRETARY OF STATE ELIHU ROOT TO PRESIDENT ROOSEVELT.

DEPARTMENT OF STATE,

Washington, January 16, 1909.

Mr. President:

I have to acknowledge the receipt of a letter dated Jan. 14, 1909, addressed to you as President of the United States, signed by Messrs. Samuel Gompers, James Duncan, John Mitchell and others, and enclosing a memorandum on the subject of the right of asylum in the United States for political refugees, and upon certain specific cases supposed to involve that right, and expressing a hope that you may safeguard such right of asylum. These papers are referred under date of January 15th, by your direction, for consideration and report.

The treaties and statutes of the United States contain adequate provisions for safeguarding the right of asylum for political refugees. Every specific case mentioned in the memorandum is covered by such provisions of treaty and statute. In each specific case where a demand for extradition is made by a foreign country and the person demanded claims to be a political refugee, there is always a question of fact raised as to whether the assertion of political character is true or not. This question under the laws of the United States is to be decided judicially in the first instance by a United States Commissioner acting as a magistrate and proceeding upon evidence taken under oath, and in the second instance, by the Secretary of State, reviewing the decision of the Commissioner upon the evidence. If the question of fact is determined in favor of the

person demanded, the law forbids his extradition and protects him in his right of asylum. If the question of fact is decided against the person demanded, his extradition is required by law because there is no right of asylum in his case.

Under these circumstances there would appear to be no occasion for the interposition of the authority of the President, and no opportunity for such interposition unless it were to interfere in the performance of judicial duties or to recommend to Congress changes in the law which are not, and are not alleged to be, necessary.

Faithfully yours,

ELIHU ROOT.

Appendix II.

In the matter of the demand of the *Imperial Russian Government* for the extradition of *Christian Rudowitz*.

OPINION OF JOHN H. WIGMORE, LL. D., DEAN
OF NORTHWESTERN UNIVERSITY
LAW SCHOOL.

Having been requested by Judge Mack and Hon. Wm. J. Calhoun, to peruse the record in the extradition case of Rudowitz, recently decided by United States Commissioner Foote, and to express my opinion on the facts as shown by the evidence in the record, I have made a careful study of the testimony, and will now state my opinion.

STATEMENT OF FACTS.

"I take it that the issue is separable into four questions. I will state these with my answer, and will then add the data upon which my answers are based.

"Question 1. What criminal acts, if any, were done in Russia at the time and place in question, viz., Jan. 3, 1906, in Benen, Courland?

"Answer. There were committed (1) Three homicides in one family and home; namely (a) the mother, Mrs. Trina Leshinsky; (b) the father, Christian Leshinsky; (c) the daughter, Mrs. Wilhelmina Leshinsky-Kinze.

'(2) The arson of a building, being the dwelling house in which was the mother above named.

“(3) The robbery of 30 roubles, gold ornaments, and a watch, from the house of T. A. Kinze, husband of Mrs. Kinze.

“Question 2. Which, if any, of these acts did Rudowitz do or take part in?

“Answer. The killings were done by a band of twelve or fifteen men. It does not appear that Rudowitz was one of this band or was present. What little evidence there is in the affirmative connects him personally with (1) the killing of the mother, Trina Leshinsky, but not of the two others; (2) the arson; (3) but not the robbery.

EVIDENCE NOT SUFFICIENT TO CREATE EVEN PROBABLE BELIEF.

“If present at all he would be legally chargeable with the acts of the others done under the common purpose, namely, the killings. But the evidence identifying him as present (which he denies) is too slight to produce even probable belief. He did, however, attend and approve the prior meeting at which the killings were voted, and thus would probably be legally chargeable with the killings though absent from the acts.

CRIMES PURELY POLITICAL.

“Question 3. Which, if any, of these crminating acts were political?

“All were purely political.

KILLED FOR TREACHERY.

“(1) The killing of all three persons was done solely for the purpose of punishing them as informers who had furnished to the military authorities the names of active members of the revolutionary parties and the means of political repression, and were done by a band of members of one of those parties, acting under a vote, or sentence of condemnation against those specific persons, passed by a local and a superior council of the party; the party being engaged throughout this and other provinces both before and after the date in issue, in open, forcible, united and systematic attempts to change the form of government and institute new political officials throughout the region.

“(2) The arson was done as a part of this punishment, and was in pursuance of a similar custom of the existing government's military authorities in punishing members of this revolutionary party.

“(3) The robbery was the act of a part of the band separate from that part with which the identifying evidence purports to connect

Rudowitz; furthermore, it was (b) not an act chargeable to him as part of the band's common purpose, because the vote and order to execute the informers and burn the house did not order any taking of goods or money; (c) in any case, the probability is that the money was taken with the object of providing funds for the purchase of arms, as done in other cases at the time; (d) in any case, it was merely incidental to the killing, and thus was not separable from the political character of the latter; to consider it separable would be as unreasonable as to argue that Paul Revere, before starting his midnight ride to Concord in 1775, took a horse from the stable of a Tory neighbor, he was therefore a common robber in that act, though a political hero in making his ride.

THE EVIDENCE.

"Answer 1. These details are in accord with what all parties agree.

"Answer 2. (1) The killing. The name of Rudowitz is not mentioned by any witness as connected with any part except the killing of the mother Leshinsky. The son Christof was in that house; he testified to two men only doing the killing and burning, in his first deposition, taken January 29, 1906, and said that one of them wore blue glasses and a handkerchief covering his face; the other was uncovered and had a mustache, and was about twenty years old, and in his fright he could not observe his looks, and does not identify them. But in his second deposition, given June 27, 1907, seventeen months later, he said that five persons entered; one of these, wearing blue glasses and a face handkerchief, he recognized as Urban; another, whose face was smeared and covered with a handkerchief, he recognized as Rudowitz, by stature, voice and clothes. These descriptions in his two depositions are totally inconsistent as to the person identified as Rudowitz; moreover, Rudowitz is 35 years old and not 20. It is fairly plain that in the lapse of time between the two depositions, the witness' memory had been supplied by suggestion from others as to Rudowitz.

"The only other identifying evidence is that of one Kugren, in whose yard the band stopped when retiring from Benen. This witness, in great fear, looked out of the window at 12.30 P. M., and among eight persons recognized Rudowitz as he passed in the yard. The witness says that it was moonlight; but against this is (1) the weather record, which shows that the moon was about half full, 20 degrees high, and the sky 2 to 4-10ths covered; (2) the testimony of witness Vitol, that 'on account of the darkness of the night it was impossible to see very well' the persons who did the acts.

"The identifying evidence is, therefore, too slight to be of any value.

"As to Rudowitz's denial, it need not be taken into account in reaching this conclusion, because he obviously has a motive to refrain from admitting in these proceedings his presense there. But as corroborative inference may be drawn from the fact, which both he and Christof Leshinsky (the son) assert, that Rudowitz's wife and children were at the time in the house of Mother Leshinsky, where Christof was, and which was burned. Because (1) Christof has nothing to say about having questioned Rudowitz's wife next day; and, if he had at the time even suspected Rudowitz, he would, of course, have questioned her; (2) Christof says nothing about seeing Rudowitz and his wife together at the time of the house burning, but says (in his second deposition) that the alleged Rudowitz man came out of the burning house and went to the other house where the others had killed Wilhelmina Kinze; now it is entirely improbable that Rudowitz would thus have left his wife and children in the burning house. The testimony of Christof is evidently wrong in details; but so far as it goes it corroborates the conclusion that Rudowitz was not there.

"Second. (2) The arson. If the identifying evidence could be believed, Rudowitz took part in the arson.

"Second. (3) The Robbery. There is no evidence at all that the person identified as Rudowitz had any part in the robbery. Moreover, whoever took the money from Theodore Kinze did it as his personal act, or that of the group he was with.

THEIR POLITICAL CHARACTER.

"Third. *The political character of the acts.*

"This appears from the following series of facts:

"(a) There was a violent political upheaval, involving the entire form, methods and personel of the national and local government. In the Baltic provinces generally this upheaval reached the magnitude of hundreds of thousands in the persons affected. In the province of Courland, where the village of Benen is, Mitau being the capital city, there was a widespread substitution of new officers in the various towns and villages; the old officers who were favorable to the existing government were deposed, and a new form and personel of government was substituted by committees representing the organized revolutionary party. The object was to redress long standing political grievances.

STATE OF CIVIL WAR—REVOLUTION ESTABLISHED.

“(b) The popular revolutionary party was openly, widely, and systematically using arms to produce the desired changes. In numerous districts the removal of officers was made by force. In anticipation of forcible repression by the existing national government, arms were collected in large numbers, in many instances the government soldiers gave to the revolutionists their own guns and ammunition, commonly taken from the extra supplies at the barracks. In other cases the revolutionists took the arms by force from the houses of the barons or landholders, the hitherto dominant class. The revolutionist party had an organized militia within the party, substantially similar to the ‘Minute men’ of the American revolution. The total armed force of the revolutionists was divided by districts and amounted to some scores of thousands.

MEASURES OF REPRESSION.

“(c) The government military forces were actively repressing these revolutionists by force. One of the measures was to garrison the houses of the landlords in different districts. Another was to send armed expeditions from time to time into various districts, and destroy the revolutionists’ armed forces in small detachments and individually, before they would unite—much as in the operations around Boston in 1775 before the American Colonists’ military organization was perfected at Philadelphia. In one instance, at least, a large city, containing a force of regular soldiers, was besieged by the revolutionists’ forces, and the besiegers were then themselves surrounded by a large force of regular soldiers and beaten off, thus relieving the city. One estimate of the total killed in the campaign is 12,000 on the national government side and 50,000 upon the revolutionists’ side.

“(d) This condition of things was most active at the district in question two months before. In November, 1905, the district in which Benen lies was raided by a so-called “punitive expedition,” consisting of soldiers and Cossacks, and as many of the bodies and individuals as were found with arms or pointed out as having taken part, were shot and their houses burned. One of the first acts of the second Duma on assembling in 1907 was to demand an explanation of these acts from the government. The young brother of the witness Juraw, a leader of the revolutionists, was taken from his bed at night and shot immediately in front of the house for not telling his brother’s whereabouts. Summary killing of the revolutionists, or persons suspected of being such, appears to have been usual. Often their houses were summarily burned, and cruel tortures applied to obtain information.

MARTIAL LAW IN FORCE.

“During the month of January, 1906, in which occurred the killing in issue, this state of revolutionary armed force continued. Martial law had been proclaimed in August, 1905, and in November, 1905, the area under martial law was enlarged. The district in which Benen lay was still and for some time after January, 1906, under the jurisdiction of martial law. This gave the military forces of the national government under their system certain rights of summary execution, and correspondingly gave such rights to the revolutionists, so as to fix upon their acts of summary force, if duly authorized by their officers, a political character as revolutionary acts of force.

“(e) After temporary suppression of public force, the revolutionists continued their organization and acted by punishing those opponents who by giving information had led to the killing of the revolutionary leaders, so as to prepare for a renewal of open force. At the period in question it was still both possible and probable that the revolution would be successful in completely overturning the national government. The fact developing in 1907, that the revolution was ultimately suppressed, is immaterial, in judging the status of the parties in January, 1906. If, for example, in 1776, at the first battle after the Declaration of Independence, the American revolution had failed, the status of the parties in 1775 would not have been affected.

EXECUTION OF SPIES IS A CONCEDED FEATURE OF WAR.

“(f) Among these informers, a mass of reports agreed in naming Wilhelmina Kinze and her mother and father, the Leshinskys. The testimony is universal that the temporary success of the punitive expedition of November, 1905, in the Benen district, had been due to the betrayal of the revolutionary leaders by these specific persons giving information to the military authorities, and thus allying themselves with the government military. The summary execution of spies is a conceded feature of a state of war; and the existence of martial law was a state of war so far as affects the acts of the revolutionists.

DEATH FORMALLY ORDERED.

“(g) Their death was ordered late in December, 1905, by the sub-committee at Zhergan, the district in which Benen belonged, and by the superior council at Mitau, the capital of the larger district of

Courland, including Zhergan. The sub-committee of Zhergan sent a delegate to the Mitau council, and at the meeting of the Mitau council his report and that of delegates from other districts to the same effect were the basis of the vote. The correctness of the information is immaterial; but it was in fact correct, as appears from the testimony of Theodore Kinze. The Mitau council vote gave express authority to the Zhergan committee to do the act.

“(h) The three killings were done specifically for this purpose, and for no other. This is plainly evidenced by the testimony of Theodore Kinze (husband of Wilhelmina Kinze) and of Christof Leshinsky (son of Trina and Christian Leshinsky, the parents), for the prosecution. The band stated to them that they came for the purpose of killing those spies. The killing followed in less than thirty (30) days after the votes had been passed.

PROSECUTION HAS NO BASIS.

“(i) The death of the two other members of the family, Theodore Kinze and Christof Leshinsky, was not ordered, and no attempt was made to kill them, except incidentally to prevent resistance; thus showing the case not to be merely a family feud or an unprincipled marauding. The suggestion of the prosecution that the killing party were a marauding band, has not the slightest support in any of the evidence, even in that of the prosecution. There is no evidence of marauding or neighborhood feuds or common depredation on the part of this or any other band in any part of the evidence for the prosecution. The exemption of Theodore Kinze and Christof Leshinsky, with the other evidence, combines to convince beyond a doubt that the sole purpose was to execute the three informers in pursuance of the orders of the revolutionary authorities.

**OPINION OF U. S. COMMISSIONER
S. M. HITCHCOCK,
Delivered March 30, 1909.**

*IN THE MATTER OF THE APPLICATION FOR THE
EXTRADITION OF JAN JANOFF POUREN.*

S. M. HITCHCOCK, COMMISSIONER.

Having come to a conclusion in the matter, it seems proper that it should be expressed without any unnecessary formality, and without any unnecessary delay, and without an elaborate opinion.

Upon the first hearing in the matter, the Commissioner held the accused upon the several charges of burglary, arson and attempted murder.

All of the evidence upon that hearing was stipulated into this case, and no further evidence has been presented that lessens the effect of the earlier evidence as to the commission by the accused of the offences with which he is charged. Indeed, the accused admits participation in the acts which in themselves are extraditable offences, under the Treaty. There is no reason, therefore, for disturbing the conclusion reached by the Commissioner upon the first hearing, that these offences were actually committed by the accused, and it is only necessary for me to determine whether the accused has established his defence, that the offences with which he is charged, were committed incidentally to, and as part of, a political disturbance or revolutionary movement.

This defence raises a question of fact, upon which it is my duty to pass, and under the provisions of the Treaty if this question is determined in the affirmative, surrender of the accused should not be made and his discharge must be ordered.

Counsel for the demanding Government, while admitting that a state of revolution existed in the Riga District in 1905, submit that there is no evidence that the movement was in existence at the time when the offences were committed, the last of which was on August 25th, 1906.

I am unable to agree with this contention, for it appears that the Russian Government itself recognized the movement as in existence throughout the Empire as late as August 24th, 1906, and it is clear that the Riga District was not an excepted locality, for Associate Minister of the Interior, Makaroff, in a statement to the Russian Douma, made in 1907, declared that in August, 1906, in this District, the "Revolutionaries" (so denominated by him) were carrying on a persistent conflict with the soldiers and police, the inn-keepers and others who were active supporters of the existing government. It is established that the district was under military rule during this period, and that parties to the revolutionary movement who were captured, were tried by courts-martial, and not by the regularly constituted civil courts.

There is no doubt that the disturbances in the Riga District were political in their nature.

The accused was a member of the Social Democratic Party, and had been since the summer of 1905. He was an active speaker and agitator in behalf of this party, the demands of which were essentially revolutionary, and are admitted by the demanding Government to have been such. It held public meetings, organized municipalities, elected municipal officers, and actually operated the affairs of municipalities through such officers, who took the place of the officers appointed by the Government.

In November, 1905, a revolutionary militia was organized, to combat the government troops sent to suppress the movement. The accused was an elected member of this militia and as such took part in the conflicts with the government troops. These conflicts were not mere riots, but though comparatively unimportant, in point of numbers and mortality, were actually battles waged against the Government forces, in support of political principles. In January, 1906, the Government had obtained control of the principal places in the District. The conflict, however, was not abandoned by the Revolutionaries, but was thereafter carried on in a different manner, nevertheless, as an organized movement. They were driven to the woods where they organized under the name of "Brothers of the Woods," and the accused was a member of this organization. In the Riga District, the "Brothers of the Woods" consisted of between two hundred and three hundred men, who were divided into bands called "circles," composed of from seven to eighteen men, each "circle" under the command of an elected leader. These several bands acted under orders from a central committee of the party, located in Riga. They were fed and sheltered by people in the neighborhood who were in sympathy with the movement and who also warned them of the approach of police and soldiery. This organization of "Brothers of the Woods" was in existence as late as November, 1906,—more than two months after the last offence with which the accused is charged was committed.

The offences were committed against the very elements of society which the Social Democratic Party was organized to combat, and in not one instance does it appear that the offence was committed against any other class,—nor for any other reason than that of procuring the precise relief which the party was organized to procure. In not one instance does it appear that the offences were committed to satisfy a personal grievance, or for personal gain. In fact, it does appear that all acts were committed pursuant to orders received from the central committee, and that where property was taken, it was turned over to the central committee for the general purposes of the movement, and was not retained as private plunder.. However revolting the acts appear, considered in themselves, they do not differ from those which usually have accompanied revolutionary movements.

I find the following facts to have been established:

(1) At the time when the offences were committed, the Russian Empire, including the District in which the offences were committed, was in a state of revolution.

(2) That the accused was identified with, and a part of the Revolutionary Party; that the offences committed by him were committed under the direction of the leaders of that party, and were incidental to the political disturbances existing in the District.

His discharge must be ordered.