
"Queen of the Lecture Platform"

Kate Richards O'Hare and North Dakota Politics, 1917-1921

Erling N. Sannes

Memorial Day, 1919, was a solemn day everywhere in the United States. Even though the November 1918 armistice had brought an end to the World War, a peace treaty had not yet been signed. In North Dakota, a state where many had been opposed to going to war in 1917, families mourned the loss of over a thousand three hundred young men. The state's newspapers focused attention on the day in various ways. One called for showing respect for "our Boys...who have left their bones in France...or in the depths of the ocean"; one featured a front-page cartoon of those who went away singing and never came back and, in an editorial, called for an end to the "reckless expenditures of the U.S. government"; and another questioned whether those who had made the supreme sacrifice had died in vain, noting that the "forces of greed and commercialism and lust for power" still live and "are seeking now to fasten their grip on the world again."¹

On that day, North Dakota Gold Star mothers, those who had lost a child in the conflict, learned of the difficulties in identifying the remains of thousands who still lay on the battlefields of Europe. Even more distressing, it had not yet been decided if the bodies of the fallen would be brought back to the United States for burial, presumably because of a lack of ships to transport the bodies and other reasons, to which the *Bismarck Tribune* responded, "it was possible to take them all over in little

more than a year...Surely it is possible to bring them all back—the living and the dead."² President Woodrow Wilson, speaking in France, called on the world to see to it that mothers would never again be called upon to sacrifice their sons.³ But mothers who had not lost their sons in the war grieved too. One mother, who had been sent to prison six months after the war had ended for speaking about the terrible burden all mothers bear in sending their sons to war, recorded some of her feelings on that day:

I heard Dick's coronet...from cell to cell a whisper ran, "Be still and listen!...One by one he played all of the dear old things...I have passed through many hard things during the last two years but nothing has ever been so hard as that hour...You know I am not given to tears...I was grieving from the sense of outrage that on that day...sacred to the memory of our dead, that we women who had paid such a price for war were denied the opportunity to pay tribute to our loved ones and were forced to slave all day at a machine making overalls for some politician's profit.

The quotation comes from a letter written by Kate Richards O'Hare to her family, sent from the Missouri State Prison at Jefferson City, Missouri.⁴ The coronet

¹ *Bismarck Tribune*, May 24, 1919, p. 1; *Fargo Forum*, May 30, 1919, p. 1; *Courier-News* (Fargo, North Dakota), May 30, 1919, p. 1.

² *Bismarck Tribune*, May 30, 1919, p. 4.

³ *Bowman Farmers Leader*, June 5, 1919, p. 2.

⁴ May 31, 1919, letter, in *Dear Sweethearts: Letters from Kate Richards O'Hare to Her Family* (Girard, Kansas: Frank P. O'Hare, 1921), hereafter, "Dear Sweethearts." These bound, mimeographed letters are in the archives of the Mudd Learning Center, Oberlin College, Oberlin,

Ohio, and are believed to be more complete than other versions of the letters, some of which have been published. The Oberlin letters' authenticity has been confirmed by O'Hare's last surviving child, Victor E. O'Hare, who has graciously granted the author permission to quote from his mother's letters. From Victor E. O'Hare interview, Pasadena, California, January 23, 1984; telephone interviews, November 20, 1983 and September 5, 1985.

⁵ Bernard J. Brommel, "Kate Richards O'Hare: A Midwestern

player was O'Hare's fourteen-year-old son, whose music came from beyond the prison walls because he had been denied permission to play inside. O'Hare was serving a five-year sentence for a conviction under the 1917 Espionage Act for a speech she had made at Bowman, North Dakota.

O'Hare has received considerable attention from historians who have dealt with various aspects of her life as a Socialist in the first decades of the twentieth century.⁵ Historian Neil Basen has described her Socialist theoretical and ideological framework as "complex and asymmetrical," neither left nor right, denying all "casual stereotypes."⁶ But other than Bernard J. Brommel's pioneering work on her speech and the trial at Bismarck, little attention has been given to the powerful forces that shaped O'Hare's role in North Dakota politics for several years. This paper considers some of the influence exerted by numerous individuals, groups, and organizations to obtain and uphold her conviction, to delay her release from prison, and even to prevent her from speaking in some cities in the state after her release—sometimes with the cooperation and assistance of officials at the highest levels of the U.S. Department of Justice as well as with influence from the federal judge who tried the case. Much of the documentation has been obtained from the U.S. Department of Justice files, which until recently have been classified and unavailable to historians.

Kate Richards O'Hare may have been the most renowned woman of the Socialist Party in the United States. Born on a Kansas farm in 1876, O'Hare became a member of the newly formed Socialist Party of America in 1901. Within the Socialist Party she held a number of high-level offices. In 1911 she was elected to both the Woman's National Committee and the National Executive committee, and in 1912 she was elected to the prestigious office of International Secretary for the International Socialist Bureau, the only American woman to have held that position in the Second International. Certainly she delivered more speeches on Socialism than almost any other member of the party with the exception of Eugene V. Debs. Dubbed "Red Kate" by her opponents, she was variously known by her supporters as the "Foremost Woman Orator in



Kate Richards O'Hare, date unknown.

—Courtesy National Archives, Washington, D.C.

America," the "Mother Jones of the Revolution," the "First Lady of American Socialism," "Little Mother," and by the North Dakota Socialists as the "Queen of the Lecture Platform." Debs referred to her as the "Voice of the Voiceless." She was popular among farmers, for she could speak their language and understand their problems. Throughout the Great Plains she was a popular speaker at Socialist encampments—outdoor Socialist meetings that lasted about a week and attracted crowds that averaged 5,000 people, mostly farmers who

Pacifist's Fight for Free Speech," *North Dakota Quarterly*, 44:1 (Winter, 1976), pp. 5-19; Hugh Lovin, "The Banishment of Kate Richards O'Hare," *Idaho Yesterdays*, 22:1 (Spring 1978), pp. 20-25; Neil K. Basen, "Kate Richards O'Hare: The 'First Lady' of American Socialism, 1901-1917," *Labor History*, 21 (Spring 1980), pp. 165-199; Sally M. Miller, "Kate Richards O'Hare: Progression Toward Feminism," *Kansas History*, 7:4 (Winter 1984/85), pp. 263-279; Stanley Mallach, "Red Kate O'Hare Comes to Madison: The Politics of Free Speech," *Wisconsin Magazine of History*, 53:3 (Spring 1970), pp. 204-222; Philip S. Foner and Sally M. Miller (editors), *Kate Richards O'Hare: Selected Writings*

and Speeches (Baton Rouge, LA: Louisiana State University Press, 1982); Erling N. Sannes, "Kate Richards O'Hare: Pioneer Socialist Agitator," *International Socialist Review* (December 1985), pp. 9-12.

⁵ Basen, "Kate Richards O'Hare: the 'First Lady' of American Socialism, 1901-1917," pp. 177, 198 (hereafter, "First Lady").

⁷ David A. Shannon, *The Socialist Party of America* (New York: The Macmillan Co., 1955), pp. 26-27.

⁸ For the text of the entire statement see Nathan Fine, *Labor and Farmer Parties in the United States, 1828-1928* (New York: Rand School of Social Science, 1928), pp. 310-337.

came to listen to speeches on history, economics, and Socialism.⁷

She was also a relentless opponent of war. She had written extensively against war and had travelled across the country speaking out against U.S. involvement. O'Hare chaired the committee that drafted the Socialist Party's highly charged anti-war statement at its April, 1917, St. Louis convention. That statement declared that the only struggle that would justify the workers taking up arms was the great struggle of the working class of the world to free itself from economic exploitation and political oppression. O'Hare insisted that the statement warn the workers "against the snare and delusion" of defensive wars because "wars of defense have always been made by the classes and fought by the masses and bring wealth and power to the ruling classes and suffering, death and demoralization to the workers."⁸

O'Hare was well-known in North Dakota and in 1917 looked forward to her fifth trip to the state—a state that historian William Pratt notes "had the strongest Socialist presence of any Northern Plains state."⁹ Although the rise of the Nonpartisan League beginning in 1915 cut deeply into the ranks of its membership, there were still several Socialist locals throughout the state in 1917 and the state party didn't fold until 1918.¹⁰ In those parts of the state where there were no longer functioning locals, the party maintained a presence with members at large, active supporters, and others who espoused the Socialist cause and who, by 1917, had reservations about joining the Nonpartisan League.¹¹ The election of John M. Baer as a Congressman from North Dakota the week before her arrival was especially encouraging to O'Hare because all during the campaign Baer's opponents had charged him with being disloyal, unpatriotic, a socialist, an anarchist, and an ally of the Industrial Workers of

the World (I.W.W.). One of the central features of Baer's platform had been "conscript profits not men."¹²

O'Hare had every reason to believe her anti-war position would be well received. There was strong opposition in the state as a whole, and most North Dakotans in 1917 were opposed to going to war.¹³ The opposition of North Dakota Senator Asle Gronna to the war is well known; the book, *War and Women*, written by Henry C. Hansbrough, a former U.S. Senator from North Dakota, had been widely read; and the Nonpartisan League stood in strong opposition to the drive toward war which began in February 1917.¹⁴ Also in February, the North Dakota legislature passed a strong resolution that demanded, if war were to be inevitable, that the President and Congress seize (without compensation) all necessary property needed for the war effort, so that the wealthy individual who dared not risk his life, should at least risk his property.¹⁵ It was not until May 1917, when the State Council of Defense was organized, that Governor Lynn J. Frazier yielded to pressure from the federal government and placed the state on a war basis.¹⁶

In May 1917, O'Hare started on a transcontinental lecture tour and had delivered her anti-war speech, "Socialism and the World War," seventy-five times before she arrived at Bowman, North Dakota.¹⁷ She had spoken for four hours to 10,000 miners at Bisbee, Arizona, and to huge gatherings at several locations in the Idaho and Washington lumber regions, amid much emotionalism over the organizing work of the I.W.W. in those states.¹⁸ It is believed she was on her way to Butte, Montana, to lend support to Frank Little, a Wobbly who was an outspoken critic of the war. But O'Hare stayed away from Butte on the advice of the strike

⁹ For examples of O'Hare's renown in North Dakota, see: *Ward County Reporter* (Minot, North Dakota), October 3, 1912, p. 1; letter, H.G. Teigan to D.I. Todd, May 8, 1914, File 764-1-20; and letter, A.C. Miller to D.I. Todd, April 2, 1916, File 764-1-21, Todd Papers, Orin G. Libby Manuscript Collection, University of North Dakota, Grand Forks, North Dakota; *Devils Lake Journal* (Devils Lake, North Dakota), July 2, 1915, p. 2. See William C. Pratt, "Socialism on the Northern Plains, 1900-1924," *South Dakota History*, 18:1-2 (Spring/Summer 1988), p. 14.

¹⁰ Perry Joel Hornbacher, "The North Dakota Socialist Party" (Master's thesis, North Dakota State University, 1982), pp. 138-139.

¹¹ For the relationship between the Socialists and the Nonpartisan League, see Jackson Putnam, "The Role of NDSP in North Dakota History," *North Dakota Quarterly*, 24:4 (Fall 1956), pp. 115-122; Robert H. Bahmer, "The Economic and Political Background of the Nonpartisan League (unpublished Ph.D. dissertation, University of Minnesota, 1941).

¹² Robert L. Morlan, *Political Prairie Fire: The Nonpartisan League 1915-1922* (St. Paul, Minnesota: Minnesota Historical Society Press, 1985), pp. 109-112; *Grand Forks Herald*, July 8, 1917, p. 1; *Pembina Pioneer Express*, July 6, 1917, p. 3; July 13, 1917, p. 1.

¹³ H.C. Peterson and Gilbert C. Fite, *Opponents of War, 1917-1918*

(Madison: University of Wisconsin Press, 1957), p. 10; Robert Wilkins, "The Nonpartisan League and Upper Midwest Isolationism," *Agricultural History*, 39:2 (April 1965), pp. 102-109.

¹⁴ Henry Clay Hansbrough, *War and Woman* (New York: Duffield & Co., 1915). For the League's opposition to war, see: Wilkins, "The Nonpartisan League and Upper Midwest Isolationism," p. 103; Larry Remele, "The Tragedy of Idealism: The National Nonpartisan League and American Foreign Policy, 1917-1919," *North Dakota Quarterly*, 42:4 (Autumn 1974), pp. 78-95.

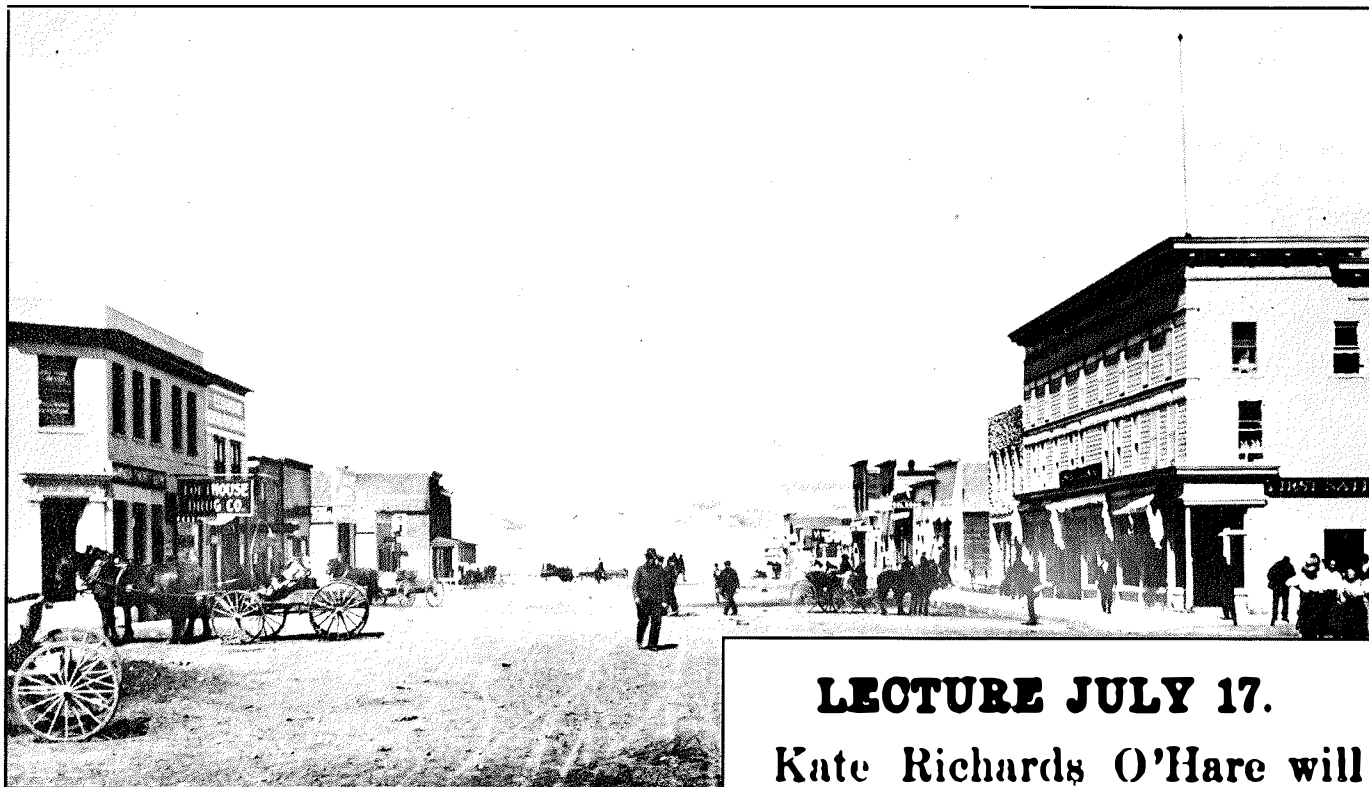
¹⁵ *Public Opinion* (Bismarck, ND), February 23, 1917, pp. 1, 4.

¹⁶ *Devils Lake Journal*, May 28, 1917, p. 1.

¹⁷ Kate Richards O'Hare, "Socialism and the World War," *The Kate Richards O'Hare Booklets*, No. 1 (St. Louis, Missouri: Frank P. O'Hare, n.d.).

¹⁸ Although separated from the I.W.W. movement ideologically, O'Hare had a fondness for the Wobblies; she understood them and had spoken at many of their gatherings. She was also well acquainted with their leader, William Haywood. See *Dear Sweethearts*, January 17, 1920; August 17, 1919, February 8, 1920.

¹⁹ Little was lynched by a vigilante Butte mob on July 31, 1917. See Melvyn Dubofsky, *We Shall Be All: A History of the Industrial Workers of the World* (New York: Quadrangle/The New York Times Book Co.,



Main Street, Bowman, North Dakota. James E. Phelan's First National Bank is located in the foreground right, while the Cozy Theater where O'Hare spoke is at the far end of Main Street, also on the right.

A modest announcement of O'Hare's Bowman speech appeared in the Bowman County Pioneer on July 12, 1917, just days before the talk that would arouse fierce antagonisms and political rivalries in the opening days of U.S. involvement in World War I.

LECTURE JULY 17.
Kate Richards O'Hare will deliver an address at the Cozy Theatre, Bowman, on Tuesday evening, July 17th, at 8 o'clock. Come out and hear this lady.

leadership who feared deportation by local vigilantes. It was the change in plans for the Butte lecture that brought her to Bowman.¹⁹ A small county seat and cattle ranching town in southwestern North Dakota, Bowman had not yet celebrated the tenth anniversary of its founding when O'Hare arrived there on July 17, 1917, to deliver a lecture. The 1910 population of the county was 4,668 with 481 residents living in Bowman. Some 147 persons turned out to hear O'Hare lecture at the Cozy Theatre—an undetermined number had to stand outside.²⁰

O'Hare was aware that there had been numerous arrests of anti-war speakers throughout the country who had not adhered to the curt command issued by U.S. Attorney General T.R. Gregory in April 1917 to "Obey the law; keep your mouth shut."²¹ O'Hare's lectures were well publicized in advance and she took the added precaution of inviting federal, state, and local law enforcement officials, many of whom did attend and made detailed reports. But there were no reports that O'Hare had made any disloyal, seditious or treasonous

utterances at the many places she had spoken before coming to North Dakota.²²

The day after making her speech, forces that would forever alter O'Hare's life were set in motion when M.S. Byrne, a young Navy man from Bowman who was on temporary recruiting duty there, sent a telegram to the Minneapolis, Minnesota, recruiting office, stating:

Kate Richards O'Hare former editor of National Rip Saw spoke here last night. Highly unpatriotic tending to discourage enlistments and resisting draft. Stated among other things that it was a good thing those who did enlist did so as they were no good for anything but fertilizer anyhow.²³

This telegram started a flurry of activity, remarkable for its swiftness, from a variety of sources during the next thirteen days and involved many individuals at the highest levels of government. From Minneapolis, the telegram made its way through channels to the Secretary



"You Can Prevent This!" was the title of this editorial cartoon drawn by John M. Baer for a November 5, 1921, Labor newspaper based in Washington, D.C.

of the Navy, who routinely sent it to the Attorney General of the United States. But the Attorney General was already aware of O'Hare's speech, because on July 23 the Insurance Federation of North Dakota had written to U.S. Senator Duncan U. Fletcher of Florida and charged that North Dakota U.S. Attorney Melvin A. Hildreth had refused to allow the Bowman County State's Attorney to arrest O'Hare. The writer of the letter questioned the loyalty and patriotism of Hildreth as well as the loyalty of many elected and appointed officials of the Nonpartisan League, and asked Senator Fletcher to have the Department of Justice send someone

to North Dakota to "kill the snakes in the prairie grasses."²⁴ Hildreth, who had been a resident of North Dakota since 1888, was a well-known progressive Democrat who had been appointed U.S. Attorney for North Dakota in 1914. He was highly esteemed as a lawyer and when in private practice had frequently defended the disadvantaged.²⁵

On July 30, A. Bruce Bielaski, Chief of the Bureau of Investigation, informed the Attorney General that the writer of the letter that Senator Fletcher had received appeared to be the "promoter type" and he (Bielaski) was unable to see that O'Hare had broken any federal

1969), pp. 356-357, 391-393.

²⁰ *Prairie Tales* (Bowman, North Dakota: Rural Area Development Committee, Bowman County, 1965), p. 3; *Blue Book* (Bismarck, North Dakota: Tribune, State Printers and Binders, 1912), pp. 400-401. *Frank P. O'Hare's Bulletin*. (St. Louis, Missouri), No. Fifty-Three, May 15, 1920, p. 1., copy in Swarthmore College Peace Collection, Swarthmore, Pennsylvania.

²¹ Letter, T.R. Gregory to Melvin A. Hildreth, undated, reprinted in *Fargo Forum*, April 9, 1917, p. 10.

²² Memorandum, P.E. Marrinan to Office of Chief of Staff, War Dept., July 15, 1917, July 21, 1917, File 10110-237, Correspondence 1917-1945,

Record Group 165, Military Intelligence Division, National Archives, Washington, D.C. (hereafter, M.I.D.).

²³ Telegram, M.S. Bryne to James D. Willison, July 18, 1917, File 9-19-603, Classified Subject Files, Record Group 60, Department of Justice, National Archives, Washington, D.C. (hereafter, D.O.J.). Because of the Navy's difficulty in getting volunteers from North Dakota, Bryne was placed on recruiting duty at Bowman at the time of his enlistment on May 10, 1917. See *Bowman County Pioneer* (Bowman, North Dakota), May 10, 1917, p. 1; *Official Register of North Dakota Soldiers, Sailors and Marines, WWI, 1917-1918, Volume 1* (Bismarck, North Dakota: Bismarck Tribune Co., 1931), p. 476.

law. As for the Nonpartisan League, Bielaski said, "if the people of North Dakota want to elect the class of people to represent them that this man describes, I presume they have this privilege."²⁶ But Bielaski did not know that other forces with different thoughts on the matter were already at work under the direction of James E. Phelan, a wealthy Bowman banker and leader of the Bowman County Republican Party. Phelan had had a long career with the Northern Pacific Railroad as a fireman, engineer and master mechanic while the railroad was extended westward from Minnesota into Dakota Territory. He was promoted to Superintendent of the Missouri Division in 1889, and after leaving the railroad, he settled in Bowman where he acquired considerable interests in ranching and banking.²⁷

On July 18, Phelan wrote to North Dakota U.S. Senator Porter J. McCumber, asking for help in suppressing sedition and disloyalty toward the government. He complained that O'Hare had spoken at Bowman and quoted her as saying, "It was a good thing those who enlisted did so, as they were no good and only fit for fertilizer anyhow," and that the "American women who did not oppose the war and resist the Government in taking young men for the purpose of war were no better than the American brood sow." But the thrust of Phelan's letter was not directed at O'Hare as much as it was against Edward P. Totten and his wife Lillian, the postmistress. Phelan charged that Edward P. Totten was well known for being in sympathy "with speakers and principles of this kind" and said Totten was one of the leaders in the distribution of anti-draft propoganda in Bowman. As a postscript, he noted that Lillian Totten and O'Hare had dinner, visited and "hobnobbed together."²⁸

There were two Totten brothers in Bowman: Edward P. and George A. Totten, Sr. Edward P. Totten was a Democrat and had formerly been the Bowman County State's Attorney. He had been elected County Judge in 1914, but the Phelan forces successfully challenged the election. He was also the publisher of the *Bowman Citizen*, a newspaper known for its progressive views and frequent attacks against Phelan and others of the

Bowman "gang" who reportedly profitted from graft and corruption in the county. The other Bowman paper, the *Bowman Pioneer* under the control of Phelan, vigorously fought Totten.²⁹

George A. Totten, Sr., was a minister of the Congregational Church. Though a Republican, he was noted for his liberal views and often gave sermons on such topics as "How the Devil Works in Bowman." He eventually found himself in conflict with Phelan and his sympathizers and resigned from the ministry to take over publication of his brother's paper. The paper continued to attack Phelan, who responded with one libel suit after another. Phelan also induced local merchants who depended on his bank for financing to withdraw their advertising from Totten's paper, a move which brought George Totten to financial ruin. He turned the paper over to his son, George A. Totten Jr., and returned to college to study law.³⁰

In March 1916, the Phelan-Totten feud shifted to the post office, when Edward P. Totten's wife, Lillian was appointed Postmistress. The loss of this political patronage position, which for years had been controlled by Phelan, marked the beginning of Phelan's fall from a position of power and influence in the community. A blow of greater consequences struck a few months later in that year when the recently organized Farmers' Nonpartisan League gained control of the Republican Party and went on to capture every elective state office except one, with a "real dirt farmer," Lynn J. Frazier, elected as Governor.³¹

Senator McCumber, a vigorous opponent of the Nonpartisan League and close ally of Phelan, lost no time in coming to Phelan's defense. On the floor of the Senate, McCumber levelled charges that "copperheads and traitors in Bowman were seeking to undermine the government" and challenged the President and the Postmaster General to be as active in "putting traitors out of the post office" as they had been in getting Republicans out. Senator McCumber's speech was carried on the front page of newspapers across the nation. The *St. Louis Globe-Democrat* headlined the story: "POSTMISTRESS ACCUSED, ON FLOOR OF SENATE

²⁴ Letter, July 23, 1917, File 186701-25-1, Straight Numerical File, Record Group 60, D.O.J.

²⁵ W.B. Hennessy, *History of North Dakota* (Bismarck: The Bismarck Tribune Company, 1910) pp. 56-57; *Fargo Forum*, June 8, 1904, p. 7; June 15, 1904, p. 8; May 8, 1912, p. 1; October 27, 1937, p. 14.

²⁶ File 186701-25-1, D.O.J.

²⁷ *Prairie Tales*, pp. 271-272; W.B. Hennessy, *History of North Dakota*, pp. 519-520; *Bismarck Tribune*, July 10, 1927, p. 1; *Dickinson Press*, December 6, 1913, p. 1; *Locomotive Engineers' Monthly Journal*, XXIII, (Nr. 10, October 1889), p. 1001.

²⁸ *Congressional Record, First Session of the Sixty-Fifth Congress, U.S. Senate, Volume IV* (Washington, D.C.: Government Printing Office, 1917), pp. 5388-89.

²⁹ *Bowman Citizen*, March 4, 1915, p. 1; March 9, 1916, p. 4; June 22, 1916, p. 1; November 9, 1916, p. 1.

³⁰ *Prairie Tales*, p. 276; *Dickinson Press*, January 3, 1914, p. 4.

³¹ Phelan was dealt another defeat in February 1917, when his long-time adversary, George A. Totten, Sr., was named by Governor Frazier to the North Dakota Board of Regents, replacing Emil Scow, a Bowman attorney and director of Phelan's Bowman bank. M.S. Byrne had worked for Scow as a stenographer prior to his enlistment in the Navy. *Public Opinion* (Bismarck, North Dakota), February 9, 1917, p. 1; March 23, 1917, p. 1.

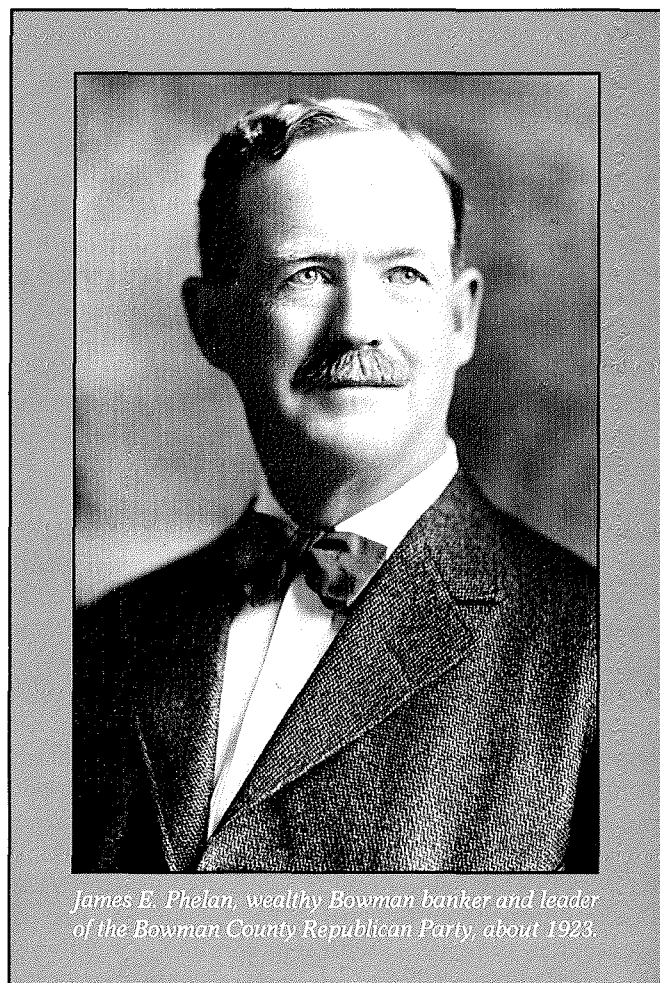
³² Reprinted in W.E. Zeuch, *The Truth About the O'Hare Case* (St. Louis, Missouri: Frank P. O'Hare, n.d.), pp. 8-9.

³³ *Fargo Forum*, July 24, 1917, p. 8; *Devils Lake Daily Journal*, July

OF BEING TRAITOR TO U.S."³² By July 24, North Dakota newspapers were reporting that the Postmaster General had ordered an immediate investigation of Senator McCumber's charges of disloyalty in the Bowman Post Office.³³ In Fargo, on July 26, Governor Frazier defended the Tottens and sent a telegram to the Postmaster General, asking that Lillian Totten not be removed before a careful investigation, saying the matter was "purely political."³⁴ In a telegram to Fargo's *Courier-News*, Edward P. Totten charged that Senator McCumber and Phelan's attack on them stemmed from "political and personal animosity" over their support for the Farmers' Nonpartisan League. "The familiar epigram, 'Patriotism is the Last Refuge of a Scoundrel,' could not be more aptly made," Totten wrote.³⁵

Phelan did not wait for the Postmaster General to investigate the matter. On July 25 he appeared before a federal grand jury in session in Fargo, and demanded to be heard. When the grand jury did not issue an indictment, he returned to Fargo a second time, with one witness who had attended O'Hare's lecture. This time, the grand jury returned an indictment; not against Lillian Totten, but against O'Hare.³⁶

At the time the indictment was served, O'Hare was at Devils Lake, where she was to deliver a lecture on Sunday, July 29. Following her lecture in Bowman, her tour had taken her to Garrison where on July 25 she spoke to a crowd of about 125 persons. Other than the *McLean County Independent*, a newspaper that gave the Socialists good coverage, her Garrison speech attracted no attention in the press.³⁷ The Devils Lake Socialists were particularly pleased that O'Hare had included their city on her lecture tour. The advertisement for O'Hare's lecture said, "She will fire your blood and stir your soul with a clarion call."³⁸ O'Hare had much admiration for the Devils Lake Socialists, many of whom she had met on earlier visits there. Writing from prison, she recalled that in 1915 she had been in Devils Lake for a lecture at the same time a long-time acquaintance, A.C. Townley, and two associates in "two battered flivvers" were organizing the Nonpartisan League there. "Through all the years of the rise and struggles of the Nonpartisan League, I have had an abiding faith that it was a lasting and vital movement" ...and... "I always dimly felt that somehow those sun-tanned, windburned farmers had laid hold of the very roots of the social problems," she wrote.³⁹



James E. Phelan, wealthy Bowman banker and leader of the Bowman County Republican Party, about 1923.

O'Hare did not give her lecture at Devils Lake because she was arrested there on the morning of July 29. The Deputy U.S. Marshall who made the arrest said that when he was dispatched to Devils Lake he expected to find "a militant suffragette, armed with hairpins and other ugly articles of warfare with which to attack him," but instead found a woman who was very calm and who invited him to have lunch before they boarded the train for Fargo.⁴⁰ She appeared before North Dakota's only federal judge, Charles F. Amidon, a Democrat and an individual widely known for his progressive views on numerous social, economic and political matters.⁴¹ Judge Amidon set bond at \$1,000 but released her on her own recognizance to secure the bond supplied by Dr. Ed-

25, 1917, p. 1.

³⁴ *Courier-News*, July 27, 1917, p. 1; *Fargo Forum*, July 30, 1917, p. 1.

³⁵ *Courier-News*, July 27, 1917, p. 1.

³⁶ *Ibid.*, July 28, 1917, p. 1; July 31, 1917, p. 1; W.E. Zeuch, *The Truth About the O'Hare Case*, pp. 15-16.

³⁷ *McLean County Independent* (Garrison, North Dakota), August 2, 1917, p. 1.

³⁸ *Devils Lake Journal*, July 27, 1917, p. 3.

³⁹ *Dear Sweethearts*, September 7, 1919; January 17, 1920.

⁴⁰ *Fargo Forum*, July 31, 1917, p. 2.

⁴¹ Kenneth Smemo, *Against the Tide: The Life and Times of Federal Judge Charles F. Amidon, North Dakota Progressive* (New York: Garland Publishing, Inc., 1986).

⁴² Transcript of Minutes of a Conference between U.S. Attorney General and others, May 14, 1920, File 197009, Central Files, RG 60, Department of Justice, hereafter referred to as "Transcript."

⁴³ *Compendium of History and Biography of North Dakota* (Chicago: Geo. A. Ogle & Co., 1900); *Fargo Forum*, February 12, 1936, p. 1.



Judge Martin J. Wade, of Davenport, Iowa.
—Courtesy State Historical Society of
Iowa Special Collections

mund C. Stucke, a long-time Socialist friend from Garrison. Judge Amidon assured her there was nothing to the charge because the indictment was faulty and that it would be dismissed.⁴² Judge Amidon helped her secure the services of Attorney Verner R. Lovoll, a Democrat and an individual highly respected in the legal community.⁴³ Before leaving Fargo, O'Hare gave an interview to the *Fargo Forum*, in which she described the political situation in Bowman as being a battle between the Nonpartisans and the "stalwarts," which conveyed so much bitterness that she was severely censored when she went to the wrong place of business for a soft drink. She also explained how she came to be entertained by the Tottens. On the day after her lecture, O'Hare was sitting on the porch of the hotel where she was staying showing pictures of her husband and children to a group

of Bowman residents, one of whom was Lillian Totten. At the time, the O'Hares were associated with the Ruskin, Florida, cooperative colony. The Tottens also had an interest in cooperative colonies and Lillian Totten asked O'Hare to come to her home that evening to talk about colony living. "We spent a pleasant evening talking about educational affairs and taking care of children not realizing such a domestic scene would be a seditious gathering," O'Hare later told the *Forum*.⁴⁴

O'Hare's case came before the December term of the federal court at Bismarck. When O'Hare arrived in North Dakota she found that Judge Amidon would not be hearing her case. Another Judge, Martin J. Wade of Davenport, Iowa, had been assigned to that term of the court because a writ of prejudice had been filed against Judge Amidon in connection with another case to be heard that term. Judge Wade had been appointed federal judge of the Southern District of Iowa in 1915. He was well known throughout Iowa as a lecturer and writer on Americanism, patriotism, and the Constitution. A devout Roman Catholic and an outspoken critic of Socialism, he was author of a 1918 pamphlet, "What Socialism Breeds in Davenport," written for the Scott County Council of National Defense.⁴⁵

No records have been found to indicate O'Hare knew anything about Judge Wade before the trial. Federal court procedures permitted the filing of a writ of prejudice against a federal judge for any reason, but the filing had to be made ten days before the start of the trial. The deadline for filing the writ of prejudice had passed before O'Hare became aware that Judge Amidon would not be hearing her case.

Wade's dislike of the North Dakota Nonpartisan League was almost as great as his animosity toward the Socialists. As the Nonpartisan League began to direct its organizational efforts to other states after its initial 1916 successes in North Dakota, some of the most vigorous opposition came from Iowa under the direction of the Greater Iowa Association and through its monthly publication, *The Iowa Magazine*. The *Magazine* offered its readers a steady barrage of anti-Socialist, anti-Nonpartisan League material in articles written by Judge Wade and others.⁴⁶

The details of O'Hare's trial have been covered by other historians and particularly by Brommel, who is regarded as the standard authority on the trial.⁴⁷ The government was able to obtain only two witnesses who had attended the lecture, one of whom was J.E. James, who defended Phelan's "brood sow"/"fertilizer" allega-

⁴⁴ *Fargo Forum*, July 31, 1917, p. 2. For Ruskin Colony, see *The Progressive Woman*, V (April, 1912), p. 6. O'Hare's explanation of colony life must have impressed the Tottens because in May 1920 they moved to Fairhope, Alabama, where Judge Totten became a lecturer in history and sociology at the School of Organic Education, at the Fairhope Single Tax Colony. For background on Fairhope, see *Labor* (Washington,

D.C.), January 3, 1925, p. 3; *Farmers Leader*, May 6, 1920, p. 1.

⁴⁵ *Davenport Democrat* (Davenport, Iowa), April 17, 1931, p. 1; *Des Moines Register* (Des Moines, Iowa), April 17, 1931, p. 1; Iowa Clippings File, Number 2, Lawyers and Judges, State Historical Society of Iowa, Des Moines, Iowa.

⁴⁶ *The Iowa Magazine* (Davenport, Iowa), 4:1 (February 5, 1920),

tions and who was later to play a prominent role in the 1919 investigation of the case. O'Hare denied the allegations of the government witnesses and consistently maintained that what she had actually said pertained to European motherhood:

When the governments of Europe and the clergy of Europe demanded of the women of the warring countries that they give themselves, in marriage or out, in order that the men might 'breed before they die'—that was not a crime of maddened passion—it was the crime of cold-blooded, brutal selfishness—and by that crime the women of Europe were reduced to the status of breeding animals on a stock farm.

And as for her attitude toward enlistment, she claimed she said:

Our enemies tell you that we Socialists are hindering enlistment. This is not true! Please understand me now, and do not misquote what I say, "If any young man feels that it is his duty to enlist, then with all my heart I say: Go! and God Bless you! His blood may enrich the soil of France, but that may be for for the best."⁴⁸

Significantly, M.S. Byrne, who had sent the telegram to the Minneapolis recruiting station, was not called before either the grand jury or the trial. The fact that he even sent the telegram seems to have gone unnoticed by all concerned with the case. Whether Byrne sent the telegram on his own initiative is not known, but the evidence available suggests that he was in some way associated with Phelan. On the other hand, because of the criticism raised against him in not allowing the Bowman County State's Attorney to prosecute such cases, U.S. Attorney Hildreth may not have wanted to pursue the matter too aggressively. Hildreth may even have expected the defense to call for a dismissal of the charges because of the defective indictment.

After two and one-half days of testimony, the jury deliberated for thirty minutes and found O'Hare guilty. Judge Wade delayed sentencing because he wanted time to learn more about O'Hare and her life as a Socialist. His search for information included a contact with the

Bureau of Investigation office in St. Louis. That office informed him that "we have been unable to secure anything specific on her that would be a violation of the federal law in this District, but have placed her in a class that we are morally certain includes those whose hearts and souls are for Germany and against our country. Nothing would please this office more than to hear that she got life."⁴⁹ S.J. Doyle, U.S. Marshall for North Dakota, supplied Judge Wade with material that included a number of books, pamphlets and articles she had written over the many years she had been a Socialist.⁵⁰

Returning to court for sentencing on December 14, O'Hare made a one-hour speech, noting there was nothing in the Bowman audience that was unusual except that it was a small audience—it was a "solid, substantial, stolid type of farmer crowd." She told the court she was pleased the Nonpartisan League had emerged victorious and referred to the political feud in Bowman. She also told the court she was not asking for clemency, for doing so would be "an admission of some sense of guilt on my part, and there is absolutely none."⁵¹ Before pronouncing sentence, Judge Wade said, "Every sane man and woman knows that there is only one way war can be won, and this is by having men and money and spirit," and that, "Congress absolutely had to pass the Espionage Law to reach out and take hold of those who are trying to kill the spirit of the American people." The judge denounced O'Hare as an "apostle of despair who carried only a message of hate and defiance" and she was accused of breeding anarchy and inspiring class hatred. She was sentenced to serve a period of five years in the Jefferson City, Missouri, prison.⁵²

O'Hare gave notice of appeal, posted the necessary bond, and set out on another nation-wide lecture tour. While seeking to raise money for the appeal, she continued her opposition to the war, often speaking out on the injustice of the trial and referring to the bias and prejudice of Judge Wade. She was always under the watchful eye of agents of the Bureau of Investigation and the Military Intelligence Service, who reported she had a "stock lecture," "just about within the law" and as printed in her St. Louis newspaper, *Social Revolution*.⁵³

p. 1; Robert L. Moran, *Political Prairie Fire: The Nonpartisan League 1915-1922*, p. 177.

⁴⁷ Bernard J. Brommel, "Kate Richards O'Hare: A Midwestern Pacifist's Fight for Free Speech," pp. 5-19.

⁴⁸ W.E. Zeuch, *The Truth About the O'Hare Case*, p. 15.

⁴⁹ *Free Your Fellow Workers* (New York: Workers Defense Union, n.d.) n.p., copy in John Reed Collection, file bMS AM 1091, part 8-104, Houghton Library, Harvard University, Cambridge, Massachusetts; Letter to Elizabeth Gurley Flynn from Frank P. O'Hare, October 18, 1919, Frank P. O'Hare Papers, Biographical File 1856.A28, Folder 60-0078, 1920, Missouri Historical Society, St. Louis, Missouri.

⁵⁰ S.J. Doyle to Attorney General, March 23, 1919, File 9-19-603, Classified Subject Files, RG 60, D.O.J.

⁵¹ W.E. Zeuch, "The Truth About the O'Hare Case," pp. 20-31.

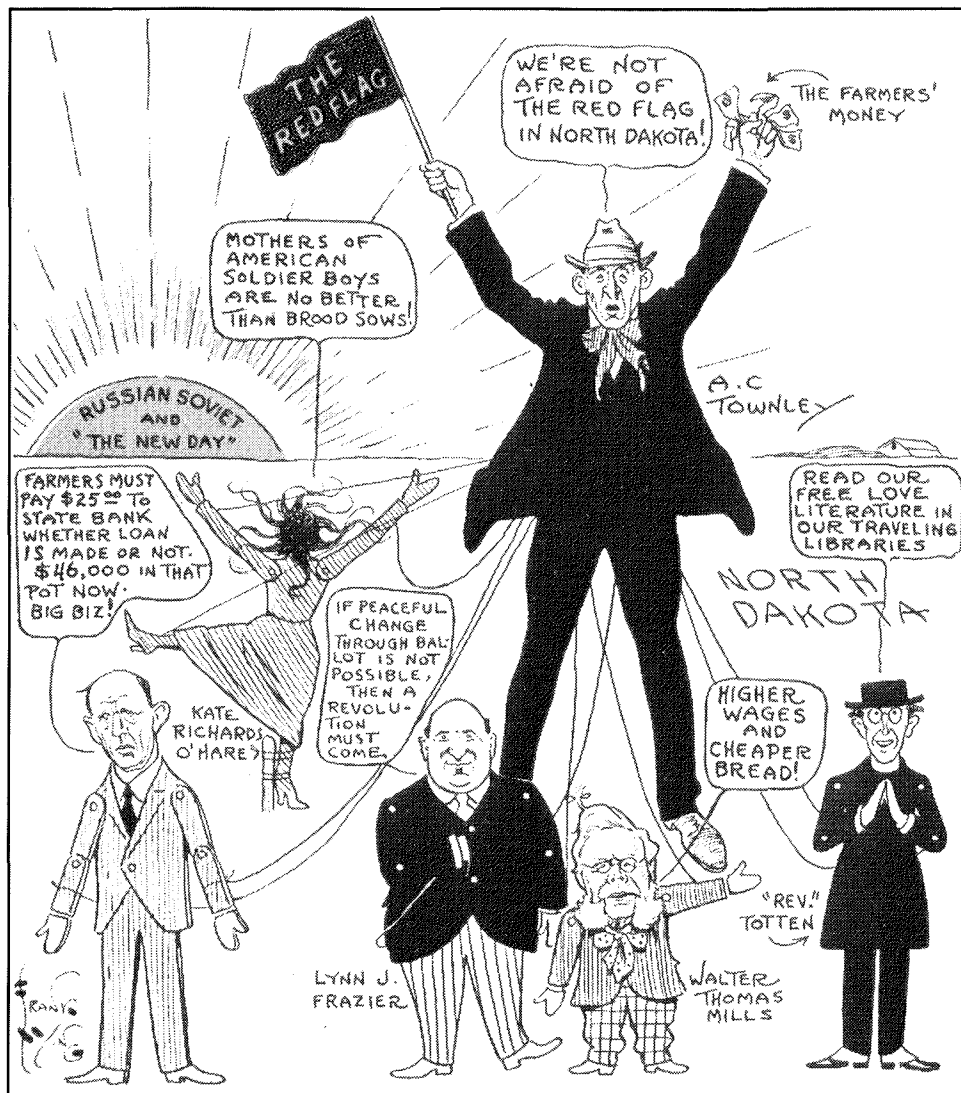
⁵² *Bismarck Tribune*, December 14, 1917, p. 1.

⁵³ There are numerous, detailed reports from agents all over the country in the 10110 file series, RG 165, M.I.D.; in the 207200 file series, RG 1084, Bureau of Investigation; RG 60 and RG 204 of D.O.J.

⁵⁴ Letter, Martin J. Wade to Melvin H. Hildreth, February 12, 1919, File 9-19-603, Classified Subject File, RG 60, D.O.J.

⁵⁵ Letter, E.S. Elliott to Attorney General, December 21, 1917, with clipping from *Courier-News*. File 9-19-603, Classified Subject File,

Cover illustration of "Sovietians—Wreckers of Americanism," published in 1920, was highly critical of the Nonpartisan League and Kate Richards O'Hare.



Her activities were also under the careful watch of Judge Wade, who on February 12, 1919, wrote Hildreth that O'Hare

is a menace to the government in times of peace as well as in times of war. In my judgement she had done more to plant the seeds of anarchy in the ranks of the laboring people since her conviction, than any other individual in the U.S. She has gone about from one end of the country to the other, delivering speeches...denouncing the court and the law...She was in Davenport...spoke to an audience of 2,000, took me as a tyrant...My present feeling is that the only error the court made...was in not giving her 20 years.⁵⁴

Another storm of protest developed in North Dakota when the *Courier-News* reported that Seymour Stedman, an attorney for the National Socialist Party, was joining Verner Lovoll in the appeal.⁵⁵ Senator McCumber became alarmed over the time the appeal might take and

wrote to Attorney General Gregory that he believed the interests of the country could be best served "if undue delays through legal subterfuge" were not allowed.⁵⁶ O'Hare, who was aware of the progressive prison reform philosophy of Judge Amidon, Governor Frazier, and others in the state, made a trip to North Dakota to confer with Governor Frazier in an effort to have her place of confinement changed from Jefferson City to the North Dakota penitentiary, where she wanted to do research on North Dakota prisoners. When this became known, a member of the North Dakota legislature sent a strong letter of protest to the Department of Justice, saying, "O'Hare is associated with Townley, Mills and other radical socialists who have control of the state" and that the prison has within its walls "bootleggers, rapists, murderers and other criminals, but we hope its walls will not be disgraced by the presence of this woman."⁵⁷

U.S. Marshall S.J. Doyle also protested directly to the U.S. Attorney General.⁵⁸ Doyle was a well-known Carrington farmer and businessman who was appointed U.S. Marshall by the Wilson administration in 1914. His

appointment caused deep divisions within the North Dakota Democratic Party, where he was generally accepted as leader of the "gang Democrats." He perceived himself as a strong supporter of law and order and patriotism, and, not surprisingly, was a staunch foe of the Socialists and the Nonpartisan League. Ever since O'Hare's conviction, Doyle had hounded Socialists and members of the Nonpartisan League on the so-called loyalty issue and he was successful in getting a number of individuals brought before a grand jury for alleged Espionage Act violations. In 1918, in an unsuccessful bid for Governor, he vigorously denounced O'Hare and made repeated references to her association with members of the League. He continued his attacks against the League and O'Hare in the 1921 recall of Governor Frazier and other state officials. An investigation leading to his removal for neglect and misuse of his office began under the Wilson Administration, and he was finally removed by President Harding in 1922.⁵⁹

O'Hare, Judge Amidon, and others had consistently maintained from the time of her arraignment that the indictment itself was faulty because it was couched in general terms and did not charge O'Hare with committing a specific offense under the Espionage Act. Why Lovoll did not file a motion to quash the charges on this basis will forever remain one of the mysteries of this case. Judge Wade was also concerned with the defective indictment. In a letter to the Department of Justice, he expressed concern that the Circuit of Appeals might reverse the decision. "If the matter had been presented upon a demurrer or motion to quash, I do not know what I would have done with it," Wade wrote. The judge also asked the Justice Department to assist Hildreth with the appeal because he was convinced Hildreth did not realize the gravity of the matter.⁶⁰ In a letter to Hildreth, Judge Wade wrote, "If this were an ordinary case I would say nothing about it, but it is a case in which I am interested as a citizen as well as officially, and am anxious to have it sustained."⁶¹

Not being certain that these "sleight of hand" measures would be effective, Judge Wade took the added precaution of prevailing upon Hildreth to obtain a secret grand jury indictment against O'Hare in connection with



"Choking Off Free Speech," drawn for Labor by John Baer, January 24, 1920, expressed opposition to efforts of the Justice Department to have Congress enact peacetime laws restricting freedom of speech.

her Garrison speech. This speech had apparently escaped the attention of everyone except S.J. Doyle. A Garrison businessman and opponent of the League and Socialism had given Doyle an affidavit in November 1917, alleging that O'Hare, in the Garrison speech, had spoken out against the war profiteers and that she had said mothers who raise children for the armies were not above the animals on a good North Dakota stock farm. Between November 1917 and May 1918, when this individual appeared before the grand jury, his recollection had become more specific, and the grand jury issued an indictment based on his testimony which was exactly, word for word, as used in the indictment for the Bowman speech. Other parts of the indictment cleared

RG 60, D.O.J.

⁵⁶ Letter, Porter J. McCumber, to Attorney General Gregory, December 28, 1917.

⁵⁷ *Public Opinion*, February 16, 1917, p. 4; Letter, Edward W. Herbert, to Department of Justice, March 22, 1919, File 186233-225, RG 60, D.O.J.

⁵⁸ Letter, S.J. Doyle, to Attorney General, March 23, 1919, Classified Subject Files, 9-19-603, RG 60, D.O.J.

⁵⁹ W.B. Hennessy, *History of North Dakota*, p. 626; *Bowman County Pioneer*, March 26, 1914, p. 4; *North Dakota Leader*, August 10, 1918, June 22, 1918, p. 1; *Courier-News*, March 16, 1922, p. 1; S.J. Doyle to Attorney General, April 11, 1918, File 9-5-409-31, Straight Numerical, RG 60, D.O.J. On Doyle's removal, see File 180275, Central Files,

RG 60, Department of Justice, National Archives.

⁶⁰ Letter, Martin J. Wade to Julius O'Brian, April 28, 1918, File 9-19-603, Classified Subject File, RG 60, D.O.J.

⁶¹ Letter, Martin J. Wade to Melvin A. Hildreth, January 21, 1918. The author is indebted to former North Dakota Supreme Court Justice Robert Vogel for providing a copy of this letter.

⁶² Affidavit, J.E. Sullivan, Garrison, North Dakota, November 13, 1917, copy in U.S. vs. Kate Richards O'Hare, U.S. Attorney file RG 118, Federal Records Center, Kansas City, Missouri; copy of indictment in file 9-19-603, Classified Subject File, RG 60, D.O.J.; For decision on appeal see *Interpretation of War Statutes*, Bulletin Number 165, Department of Justice (Washington: Government Printing Office, 1918), n.p.

up questions about the specificity lacking in the first indictment. Judge Wade did not have to use this indictment though, because the Circuit Court of Appeals affirmed her conviction on October 28, 1918, and an appeal to the U.S. Supreme Court was denied on March 3, 1919.⁶²

On March 25, O'Hare began a farewell tour that took her to thirteen cities, ending at Fargo where she was to surrender to the U.S. Marshall for transportation to Jefferson City. Wherever she spoke, she was greeted by huge crowds numbering into the thousands and as she made her way to the train, hundreds would crowd around her, many in tears, saying goodbye to their beloved comrade, now a convict on her way to prison.⁶³ At Fargo, O'Hare called on Judge Amidon. It was an emotional meeting for both, because only a few days before signing O'Hare's commitment order, Judge Amidon had directed the jury to find Socialist Walter Thomas Mills not guilty for a 1918 anti-war speech delivered in Fargo. O'Hare was a former student of Mills and it was from Mills that she received her first training as a speaker, organizer, and writer for the Socialist movement. Mills had also officiated at her marriage to Frank O'Hare on January 1, 1902. Judge Wade's earlier characterization of O'Hare as an apostle of despair and as one who inspired class hatred was in sharp contrast to Judge Amidon's views on agitators in another North Dakota espionage case, in which the Judge explained to the jury that all great reform movements in 3,500 years of recorded history have aligned "class against class," which was no crime in the U.S. "and that he would move out if it was."⁶⁴ But Judge Amidon was under criticism from others in North Dakota; the North Dakota Bar Association attacked him vigorously for "preaching politics from the bench."⁶⁵ Judge Amidon found support through at least one North Dakota grand jury that after examining some 300 witnesses felt compelled to advise the Judge that many of the cases (espionage) submitted are the "result of bias, prejudice and in some instances

business competition." This grand jury also noted that many of the witnesses had committed perjury.⁶⁶

After O'Hare was sentenced, Professor W.E. Zeuch, former fellow in sociology at Clark University, went to Bowman and spent two weeks making a complete and thorough examination of the case. Zeuch interviewed thirty-seven individuals who had attended O'Hare's lecture and others, concluding that it would have been impossible for her to get justice because of the bitter political feud between Phelan and the Tottens. Zeuch, it should be mentioned, was a friend of O'Hare's, dating from their Ruskin Colony experience. The results were published and sold wherever O'Hare spoke.⁶⁷ In August 1919, the Zeuch investigation came to the attention of the Bowman *Farmers Leader*, which conducted its own investigation of the case. The paper not only corroborated all of Zeuch's findings, but established that J.E. James, the government's star witness at both the grand jury and trial, had stated to others in Bowman on the day after the lecture, that "while Mrs. O'Hare might be a little off about some things," he "more or less agreed with most of what she said" and "thought on the whole her lecture was alright." The *Farmers Leader* printed these new findings along with Zeuch's investigation and concluded that Zeuch had "laid bare the double dealing, the insidious cunning and the brutal and crass ambitions of the gang at Bowman." The *Farmers Leader* was convinced of O'Hare's innocence. North Dakota's Third District Congressman, J.H. Sinclair, agreed and joined with the *Farmers Leader* in calling for a federal investigation.⁶⁸ The *St. Louis Post-Dispatch* called the political conspiracy "startling" and an "intolerable outrage with far-reaching evil consequences."⁶⁹

The Kate Richards O'Hare National Defense Committee announced plans to obtain the signatures of one million women to petition President Wilson to re-open the case. Another organization, the Political Action Committee of the Chicago Church Federation, sent a letter and questionnaire to every individual who had been present at O'Hare's Bowman lecture—of the approx-

⁶³ O'Hare's farewell speech was published as: Kate Richards O'Hare, "Americanism and Bolshevism," *The Kate Richards O'Hare Booklets*, No. 3 (St. Louis, Missouri: Frank P. O'Hare, March 31, 1919). It should be noted that O'Hare was not always permitted to speak. For example, at St. Paul, the City Council refused to allow her to speak in the auditorium. For an interesting account of her stop at St. Paul and how her eleven-year-old daughter, Kathleen, was recruited to read her mother's prepared speech, see J. Louis Engdahl, *Debs and O'Hare in Prison* (Chicago: Literature Department, Socialist Party, n.d.), pp. 40-42, copy in File 144, Series 40, Correspondence Relating to Transmittal of Mail Violations of Espionage Act, 1917, RG 28, Records of the Post Office Department, National Archives.

⁶⁴ *North Dakota Leader*, August 3, 1918, p. 1; *Bismarck Tribune*, August 9, 1918, p. 4.

⁶⁵ *Courier-News*, April 2, 1919, p. 1.

⁶⁶ A copy of this remarkable grand jury document was located in Appointment Files, U.S. Attorney, North Dakota, RG 60, D.O.J. For

a detailed account of Judge Amidon's experiences under the Espionage Act and particularly the Mills case, see his letters to Zechariah Chafee, Jr., August 29, 1919, and December 8, 1920, Charles F. Amidon Collection, Orin J. Libby Manuscript Collection, University of North Dakota.

⁶⁷ W.E. Zeuch, "The Truth About the O'Hare Case," pp. 1-32.

⁶⁸ *Farmers Leader*, August 28, 1919, p. 1; *Bowman County Pioneer and Bowman Citizen* (Bowman, North Dakota), September 25, 1919, p. 4.

⁶⁹ *St. Louis Post-Dispatch*, September 5, 1919, pp. 1, 4.

⁷⁰ *Ibid.*; *Dear Sweethearts*, September 7, 1919; July 6, 1919; November 9, 1919; letter, Lena B. Mathes to Assistant Attorney General Finch, December 23, 1925, File 43-653 for Kate Richards O'Hare, RG 204, Office of the Pardon Attorney, National Archives.; the results of the investigation of the Chicago Church Federation and the findings of the Federal Council of Churches were published by the *Courier-News*, October 22, 1920, p. 2.

⁷¹ For good biographical information on O'Brian and Bettman and

imately 150 responses received, all but one or two stated that O'Hare "absolutely did not use the words for which she had been condemned"—and referred the case to the Federal Council of Churches.⁷⁰

Within the Justice Department's War Emergency Division, two individuals—John Lord O'Brian, head of the Division, and his assistant, Alfred Bettman—both of whom regarded themselves as sensitive to questions of individual liberty, became interested in the case.⁷¹ A few days after the Supreme Court decided not to hear O'Hare's appeal, Bettman wrote to O'Brian that even if she had made the "brood sow/fertilizer" statements there was no proof (as Judge Wade had earlier concluded) of any of the intents required by the law as it was then written. On another occasion, Bettman wrote to O'Brian that he was very skeptical as to the justification of sending O'Hare to the penitentiary. Bettman found that it was "by no means certain" that O'Hare was wrong in her contention that her conviction was the result of perjured testimony and he also found that there may have been some truth in her assertion that Judge Wade was prejudiced against her for being a Socialist. O'Brian agreed with Bettman and asked for the concurrence of the Solicitor General in commuting her sentence to eight months.⁷² Petitions and letters from supporters all over the country were being sent to President Wilson and the Attorney General. Governor Frazier wrote that no one who had not been in North Dakota could possibly understand the bitter political fight and how vicious the opposition had been, saying he had "always felt that O'Hare's arrest and conviction was a political frame-up."⁷³ When the case reached Attorney General Palmer on May 26, Palmer wrote, "I would reduce this sentence to 6-months—might be reduced further." On May 28, the Pardon Attorney was instructed to commute the sentence to six months, with a further commutation of several weeks for good behavior.⁷⁴

The commutation order was prepared for the signature of President Wilson but before it was sent to the President, Palmer received a telegram from Judge Wade asking that action be withheld, pending receipt of a letter

Wade was sending to the Attorney General. In a sharply worded letter, Judge Wade denounced O'Hare as:

one of the most dangerous characters in the United States. She has no equal...in the matter of poisoning the minds of the struggling masses unless it be Debs...I think she is more dangerous than Debs, because she is more subtle...She can convince her hearers, especially her ignorant hearers, that they are slaves, 'wage slaves,' that every employer in the country is a tyrant, that the laws are made by the tools of the interests... A reduction of her sentence at this time would raise Cain especially in North Dakota, Minnesota, Iowa, Nebraska and Missouri...I regard this matter as very serious.⁷⁵

Judge Wade's letter was enough for Attorney General Palmer to hold up commuting O'Hare's sentence. Palmer sent the case to C.W. Ames in Minnesota, asking that Ames give his candid opinion of the matter. O'Hare's fate was sealed by the referral to Ames, who had conducted investigative hearings on the Nonpartisan League for the Minnesota Public Safety Commission in an effort to discredit the League not only in Minnesota but in North Dakota as well. Although earlier rebuffed by the Justice Department in his efforts to get federal intervention in the affairs of the League in North Dakota, S.J. Doyle had found other ways to bring various allegations against League officials, O'Hare, and others to the attention of the federal government; Judge N.C. Young, of Fargo, served as a conduit from Doyle to Ames, who in turn kept the Justice Department informed.⁷⁶ It should therefore come as no surprise that Ames recommended no leniency for O'Hare; he agreed with Judge Wade that commutation of her sentence would "raise Cain" in North Dakota.⁷⁷

But Palmer soon had another reason for delaying O'Hare's release, with the appearance of other groups on the North Dakota scene, including the American War Mothers, and the American Legion and its Women's Auxiliary. When the American War Mothers heard

their work on other Espionage and Sedition Act cases, see Richard Polenber, *Fighting Faiths: The Abrams Case, The Supreme Court, and Free Speech* (New York: Penguin Books, 1989), pp. 29-36; Paul L. Murphy, in *The Meaning of Freedom of Speech* (Westport, Connecticut: Greenwood Publishing Company, 1972), p. 134, notes that in 1919, O'Brian and Bettman were successful in getting drastic reductions in the sentences of some two hundred Espionage Act prisoners.

⁷² Memorandum, Alfred Bettman to O'Brian, March 6, 1919, Case File 35-30 for Kate Richards O'Hare, RG 204, Office of the Pardon Attorney, National Archives (hereafter, "File 35-30").

⁷³ Letter, Lynn J. Frazier to Frank P. O'Hare, April 8, 1919, File 186233-255-69, RG 60, D.O.J.

⁷⁴ There are numerous memoranda between O'Brian, Bettman, and Alex C. King, Solicitor General, as well as the unsigned commutation order prepared for the signature of the President in Case File for Kate

Richards O'Hare, "File 35-30."

⁷⁵ Letter, Martin J. Wade to Attorney General, June 11, 1919, File 9-19-603, Correspondence, RG 60, D.O.J.

⁷⁶ Memorandum, A. Mitchell Palmer to Judge Ames, June 20, 1919, File 9-19-603, Correspondence, RG 60, D.O.J. Many communications from Judge Young to Ames can be found in File 9-5-409, Classified Subject Files, RG 60, D.O.J. Transcripts of several hearings Ames conducted for the Minnesota Public Safety Commission on Nonpartisan League matters are also included in File 9-5-409.

⁷⁷ Memorandum, C.W. Ames to Attorney General, June 26, 1919, File 186233-255, Central Files, RG 60, D.O.J.

⁷⁸ *Bismarck Tribune*, January 26, 1920, p. 1; January 24, 1920, p. 1; January 27, 1920, p. 4. Telegram, Mrs. W.C. Cashman and Henrietta Ried, both of Bismarck, to Department of Justice, December 15, 1919; Letter, R.T. Scott to Mrs. W.C. Cashman, December 23, 1919; Letter,

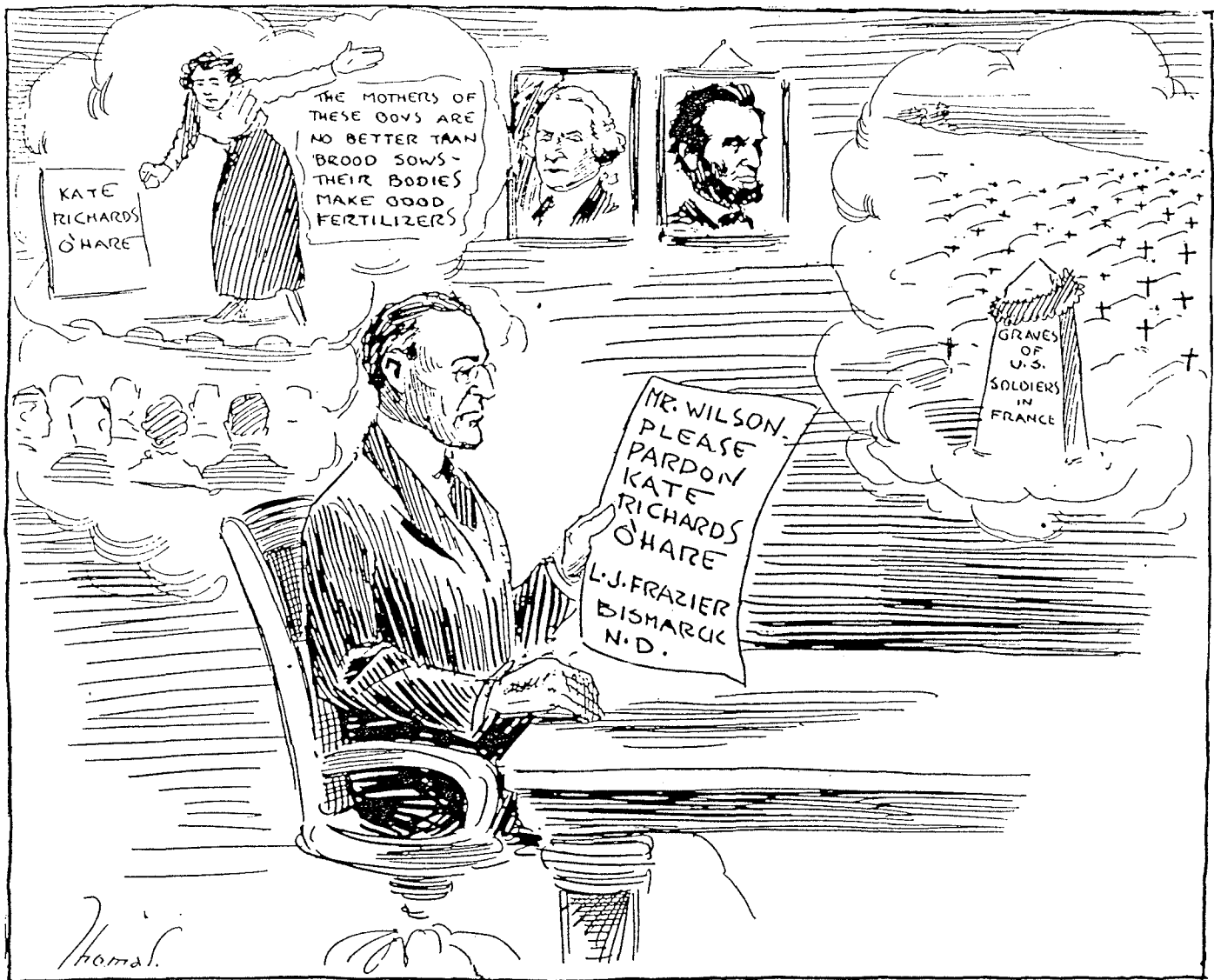


Illustration from the Red Flame, February 1920.

rumors that a well-known Norwegian musician and ardent Socialist, Madame Signe Lund, had been hired as a professor of music at the Mayville State Normal School and was discussing O'Hare's published letters, *Dear Sweethearts*, at faculty meetings, the group asked the Justice Department for the names of those individuals at North Dakota institutions who had signed petitions for O'Hare's release. Much to the surprise of the War Mothers, there was no record that Lund or anyone else at Mayville has signed such a petition, but the Justice Department did provide a copy of a petition signed by sixteen Bowman supporters of O'Hare, which had been sent to President Wilson with a letter from Governor Frazier, in which the Governor wrote that he was "very confident that politics and spite work played a major part in O'Hare's conviction."⁷⁸

With this unexpected windfall, the American Legion and the Legion Auxiliary joined the War Mothers in persuading the local units of these organizations throughout

the state to pass resolutions condemning Governor Frazier and the Bowman supporters for asking for O'Hare's release. These groups also enlisted the support of Judge Wade, who, obviously pleased with these developments, encouraged them to continue to oppose O'Hare's release. The *Bismarck Tribune*, no friend of Governor Frazier and the League, took up their cause and printed Governor Frazier's letter to President Wilson, the names of the Bowman petitioners, and Judge Wade's letter, in an attempt to discredit the Governor and the League. The *Red Flame*, published by opponents of the League, attacked O'Hare, the Governor, and the sixteen Bowman residents who had signed the petition. When the Women's Auxiliary started circulating petitions in Bowman, the *Farmers Leader* vigorously responded by noting that an "old maid among the Codfish aristocracy" was circulating the petition and said that "neither the old maid nor the meddling society hens who signed it attended O'Hare's lecture, yet believe

they are doing the right thing by keeping her in jail." Further, the *Leader* established, "everyone has a right to believe what they will, but we have to tell you that she (O'Hare) has more brains, more womanliness, more culture, refinement and mental courage than the whole harping pack of Bowman's sniveling one cylinder, short circuited, pretenders of goodness."⁷⁹

Governor Frazier, undaunted by the criticism he was receiving and no doubt encouraged that many took the position that he was acting as would be expected of any governor, continued to forward petitions to President Wilson that were received from O'Hare's supporters in North Dakota.⁸⁰ The "Bowman sixteen" were spurred to a more militant form of action when they sent a delegation to Chicago to meet with the Executive Committee of the Socialist Party there in March 1920, and demanded that the Socialist Party investigate the case. The Party appointed a committee to conduct an investigation and named George E. Roewer, Jr., a Boston attorney, to go to Bowman.

Armed with the results of the Zeuch and Chicago Church Federation investigations, Roewer went to Bowman where, during a ten-day investigation, he verified and substantiated all the findings of the two earlier investigations. In addition, a significant development occurred when he was able to obtain a sworn affidavit from the individual who had been told by J.E. James, that he (James) thought O'Hare's lecture was "alright."⁸¹ With this new evidence, voices were raised calling for a new trial, but O'Hare rejected this move because she believed only the "miserable tools of the real offenders would be caught" and she did not want to add any more to all the "hate, bitterness and rancor" that already existed.⁸² Roewer also obtained affidavits from eleven Bowman residents who had attended O'Hare's lecture—all attested she did not make the statements used to convict her—which he turned over to the Boston Inter Church Committee on Social Justice. Mrs. Charles Edward Russell delivered the affidavits to Palmer. After two weeks without hearing from Palmer, a five-person committee of the Socialist Party called on him.⁸³

But Palmer remained unmoved, and it was not until May 21, when he was responding to a letter written by a woman of the Boston Inter Church Committee, that he was moved to act; she had written inquiring about

the affidavits Mrs. Russell had given him and at the end of her letter pleaded for O'Hare's release, saying she had been deprived of her liberty for two years and was the mother of four children.⁸⁴ It is clearly evident from the hundreds of documents in the Justice Department files that in order to please Judge Wade and to save face for the government, Palmer had finally found a reason for releasing O'Hare that few could argue with—motherhood. In a hand-written note he said: "O'Hare's sentence should be commuted to expire at once...on the ground that she is a wife and mother, that her young children need her at home."⁸⁵ As if with the sweep of the pen, all of the old arguments both pro and con and all the legal issues, numbering into the thousands of pages, were brushed aside and the motherhood issue raised by the Boston woman was all that counted—nothing more was said about "raising Cain" in North Dakota, and even more significantly there were no further consultations with C.W. Ames or Judge Wade. Palmer's message to the President is masterful in its eloquence. In a brief review of the case he explained that it arose very shortly after the passage of the Espionage Act and before any authoritative interpretation of the meaning of the law had been rendered; that earlier a warrant for her release had been prepared but withheld because of strong protests from the North Dakota War Mothers; that Mrs. O'Hare is the mother of four children and to whom imprisonment of any duration is far greater punishment than the imprisonment of a man ordinarily would be... and aside from her distorted views...she is doubtless a sincere, earnest and worthy woman.⁸⁶ The order for O'Hare's commutation was signed by President Wilson on May 28, the same day it was presented to him by Palmer, with the President's handwritten notation, "Sentence commuted to expire at once."⁸⁷

Before leaving prison, O'Hare was provided one final opportunity to let Judge Wade know what she had meant in earlier speeches when she had said she "would get him yet." When she learned that the Socialists in Davenport had captured virtually all of the city offices and city council positions in an April 1920 election, she wrote to Judge Wade: "You and I played a game for heavy stakes—for life and liberty. You used loaded dice, and I lost. But this is my game, and we play it on the square,

Lynn F. Frazier to Woodrow Wilson, September 13, 1919, all in "File 35-30." Numerous petitions, telegrams, and letters from various local units of the American War Mothers, Woman's Auxiliary and Legion posts from around the state are also in File 35-30.

⁷⁹ *The Red Flame*, 1:4 (February 1920), p. 20; *Farmers Leader*, February 5, 1920, p. 1.

⁸⁰ Numerous petitions from North Dakota residents residing in Ryder, Douglas, Garrison, Bergen and other places are in File 33-422, Classified Subject Files, RG 60, D.O.J.

⁸¹ Affidavit of Homer S. Ballard, March 16, 1920, copy in File 33-422,

Political Prisoners, Records of the Pardon Attorney, RG 204, National Archives.

⁸² *Dear Sweethearts*, July 6, 1919.

⁸³ "Transcript of Minutes."

⁸⁴ Letter, Elizabeth Glendower Evans to Attorney General, May 14, 1920, "File 35-30."

⁸⁵ Memorandum, A. Mitchell Palmer to Mr. Finch (Pardon Attorney), May 21, 1920, "File 35-30."

⁸⁶ Memorandum, A. Mitchell Palmer to The President, May 28, 1920, "35-30."

with ballots, and you have lost."⁸⁸

But another round of stiff protest developed in North Dakota as soon as O'Hare was released, this time closely allied with a fast growing anti-League movement that included North Dakota Attorney General William Langer, who had split from the League and who was determined to rid the state of "reds" and to drive the leaders of the League from power. Governor Frazier was assailed as having insulted every mother and ex-serviceman for coming to the aid of "a notorious criminal and enemy," and not only was President Wilson denounced for releasing her but Governor Frazier was held responsible for the President's action.⁸⁹ The American Legion, with a goal adopted at its organizational meeting in the fall of 1919 to take prompt action in attacking any political organization that was not "simon pure unadulterated American," joined the Langer anti-League forces and vigorously fought against O'Hare's release.⁹⁰

On May 31, the state commander of the Legion, in a sharply worded telegram to the Attorney General, accused Palmer of insulting every mother and ex-serviceman in releasing O'Hare. Several of Palmer's close associates in the Justice Department believed the telegram did not deserve a reply, but Palmer ignored their advice and did respond, saying, "I cannot believe that the commutation of her sentence can be construed as an insult to former servicemen in any way. Indeed, I think the brave men who represented America in the World War and exhibited such magnificent chivalry toward women and children of Europe will be the first to have a feeling of mercy toward a woman and mother, however mistaken she may have been."⁹¹ Ironically, O'Hare now found that the Attorney General of the United States had come to her defense on some of the very issues for which the Department of Justice had sent her to prison. For irrespective of the more earthy words she may have used in her Bowman speech, the message was the same—respect for the dignity and rights of women.⁹²

The Bowman *Farmers Leader* hailed O'Hare's release with a front-page headline, "WOMAN JAILED BY BOWMAN JINGOES GIVEN HER FREEDOM," and declared that it would "be highly inconsistent with American ideals to have fought a war for Democracy, and to preserve the United States Constitution...if we

should have permitted an innocent person to have served out a sentence for a deed of which she was innocent." Further, "Whether one believes as Mrs. O'Hare does or not, is not the question...She was an innocent person...railroaded to prison for political expediency. That is un-American," the *Leader* wrote.⁹³

But protests from Legion posts continued, augmented by the Auxiliary, the War Mothers, commercial clubs, city councils and mayors from around the state. M.S. Byrne returned to Bowman after his statewide service during the war and was actively involved in organizing a Legion post there. He was elected Post Adjutant; but interestingly, there is no record of the Bowman post taking any action against O'Hare's release.⁹⁴ In an emotion-laden front page editorial, the *Farmers Leader* pleaded with Phelan to have the manly courage to come forward and acknowledge that it was his hatred for the Tottens that had obsessed his whole mental outlook.⁹⁵ There is no record of Phelan's response.

O'Hare lost little time in getting back to work after her release. Her weekly column appeared in the first issue of *The New Day*, a Socialist Party weekly. Based upon her period of incarceration, she wrote and published two books, *In Prison* and *American's Prison Hells*, and she contributed as well to a number of newspapers and magazines.⁹⁶ She also returned to the lecture circuit, appearing in one hundred and twenty cities throughout the U.S. in the year following her release.

Five North Dakota cities—Bowman, Coleharbor, Kenmare, Williston and Wing—were included in the ten days she spent in the state from June 9 to 19, 1921. Minot had been included, but when the American Legion, Rotary and Kiwanis clubs vowed "to take any action necessary" to prevent her from speaking there, the local Socialists withdrew their invitation, fearing violence.⁹⁷ At Williston, the American Legion made an all-out effort to keep her from speaking there, getting support from numerous civic groups and churches. But the local Socialists under the leadership of D.I. (Dwight) Todd defied the pressure and scheduled her for two speaking engagements. On the afternoon of June 16 she spoke for two hours to over 700 at Dahl's Grove, just outside Williston. That evening she spoke to a crowd that numbered into the thousands on the streets of Williston,

⁸⁷ Application for Executive Clemency, "File 35-30."

⁸⁸ *The Iowa Magazine*, 4:3 (April 5, 1920), p. 9; *St. Louis Post-Dispatch*, June 11, 1920, p. 1.; William H. Cumberland, "The Davenport Socialists of 1920," *The Annals of Iowa*, 47 (Summer, 1984), pp. 451-474.

⁸⁹ *Bismarck Tribune*, May 13, 1920, p. 1; May 29, 1920, p. 1; May 31, 1920, p. 4.

⁹⁰ *Bismarck Tribune*, October 16, 1919, p. 1.

⁹¹ Telegram, C.L. Dawson, State Commander, North Dakota American Legion, to Attorney General, May 31, 1920, and reply from Palmer to Dawson, June 3, 1920, "File 35-30."

⁹² Palmer, who became Attorney General on March 5, 1919, soon established a record of widespread arrests of radicals, breaking unions, and rounding up aliens for deportation. See Paul L. Murphy, *World War I and the Origin of Civil Liberties in the United States* (New York: W.W. Norton & Company, 1979); Robert K. Murray, *Red Scare: A Study in National Hysteria, 1919-1920* (Minneapolis: University of Minnesota Press, 1955). While it might appear as though Palmer showed some compassion to O'Hare, to keep the matter in proper perspective the reader must not forget that he refused the advice of top officials in his department and kept O'Hare in jail for fourteen months under a

where she stood on the hood of a car for a speech that lasted several hours. Although there was no violence, local businessmen sounded false fire alarms and the crowd had to make way for the screaming sirens and fire trucks. These antics had little effect on O'Hare, who never spoke with amplification and who has been described as having a "voice like a bugle."⁹⁸

The alternate locations for her Minot speech drew crowds much larger than if she had spoken in Minot. Over one thousand enjoyed her two-hour lecture in the shade of Kirchner's Grove, near Kenmare. At Cole-harbor, the weather threatened a planned outside lecture, but hundreds packed into the second story loft of a huge cattle barn and hundreds more stood outside. O'Hare used the outside door opening to the loft for a platform; standing sideways, she would alternately turn her head to speak to those inside as well as to those standing on the ground on the outside, some ten feet below the door opening where she stood.⁹⁹

It was at Bowman where O'Hare received a triumphant emotion-laden royal welcome such as "the West gives only to one it loves and honors," the *Farmers Leader* noted. All day, dusty cars and horse-drawn wagons loaded to capacity drove in from distant ranches. More than six hundred packed the hall where O'Hare spoke and more than four hundred stood outside. It was one of the largest gatherings in the history of Bowman and hundreds who did not hear her three-hour afternoon speech came for the gala dance and celebration given in her honor that evening. The audience was tremendously moved by her address—even men were shedding tears—as they listened to her relate her experiences of the four previous years.¹⁰⁰ O'Hare later wrote that if she

ever said anything to insult Bowman mothers, they must have liked it because they were out in full force to greet her. As to the ex-servicemen, she wrote, they were there by the hundreds to be "insulted again and to express their resentment by making me dance until my feet were blistered."¹⁰¹

O'Hare's last known appearance in North Dakota was in 1925 when she addressed the North Dakota American Federation of Labor Convention in Fargo.¹⁰² At that time she was on a leave of absence from her position as Dean of Women at Commonwealth College in Mena, Arkansas, and was again on the lecture circuit, promoting the Union Label for the United Garment Workers of America and the Union Made Garment Manufacturers Association.¹⁰³ Her speech at the A.F.L. Convention was like a breath of fresh air. She was still "queen of the Lecture Platform," Henry Martinson recalled.¹⁰⁴ Indeed, even the *Fargo Forum* noted that she gave one of the most vigorous talks of the convention.¹⁰⁵ She was no longer front-page news in North Dakota, however. The demise of the Nonpartisan League had commenced; the Socialist Party was becoming not much more than a memory for many; and the open shop movement was in full swing, crushing the few meager gains North Dakota organized labor had made during the World War.

The effects of her Bowman speech and subsequent conviction still haunted her. The treatment she received by the American Legion, churches, and other organizations in North Dakota was mild compared to what she had to face elsewhere. She was kidnapped in Idaho and deported to Nevada; in South Dakota and Kansas she was not permitted to speak. In Arkansas, the American Legion led the opposition to her involvement with the establishment of Commonwealth College in 1923.

specious pretext that her release might "raise Cain" in the Midwest.

⁹⁸ *Farmers Leader*, June 3, 1920, p. 1.

⁹⁹ *Bowman County Pioneer and Bowman Citizen*, July 31, 1919, p. 4; August 28, 1919, p. 1; June 10, 1920, pp. 1-3; June 24, 1920, p. 4; July 1, 1920, copy in File 33-422, Political Prisoners, Records of the Pardon Attorney, RG 204, National Archives.

⁹⁵ *Farmers Leader*, August 21, 1919, p. 1.

⁹⁶ Kate Richards O'Hare, "Crime and Criminals," *The Kate Richards O'Hare Booklets*, No. 4 (Girard, Kansas: Frank P. O'Hare, n.d.), p. 29.

⁹⁷ *Minot Daily News*, June 1, 1921, p. 1; June 2, 1921, p. 1; June 3, 1921, p. 1; June 11, 1921, p. 2; June 16, 1921, p. 1; June 18, 1921, p. 1.

⁹⁸ *Williston Herald*, June 9, 1921, p. 1; June 16, 1921, p. 1; June 23, 1921, p. 1; *Williston Williams County Farmers Press*, June 9, 1921, p. 1; June 16, 1921, p. 1; June 23, 1921, pp. 1-2; Victor E. O'Hare interview, January 23, 1984.

⁹⁹ O'Hare had a unique ability of being able to captivate an audience with the resonant, vibrant qualities of her voice. Her son, Victor E. O'Hare said O'Hare was able to make herself heard before large audiences because of a vigorous chest expansion exercise regimen that she went through on a daily basis weeks before going on the lecture circuit. *Garrison McLean County Independent*, June 9, 1921, p. 1; June 16, 1921, p. 1; *Kenmare Ward County Farmers Press and Kenmare Journal*, June 9, 1921, p. 1; June 16, 1921, p. 8.

¹⁰⁰ *Farmers Leader* June 2, 1921, p. 1; June 16, 1921, p. 1; *Bismarck Farm Labor State Record*, June 16, 1921, p. 1.

¹⁰¹ Philip S. Foner and Sally M. Miller, *Kate Richards O'Hare: Selected Writings and Speeches*, pp. 328-329.

¹⁰² Typescript of address in North Dakota AFL-CIO Collection, A-38, Series I, Box 1, State Historical Society of North Dakota, Bismarck, North Dakota.

¹⁰³ Kate Richards O'Hare, *Kuzbasing in Dixie* (Newllano, Louisiana: The Llano Publications, 1926), pp. 2-24, copy in the I.W.W. Collection, Box 166, Collections of the Archives of Labor History and Urban Affairs, Wayne State University, Detroit, Michigan; William H. Cobb, "Commonwealth College Comes to Arkansas, 1923-1925," *Arkansas Historical Quarterly*, 23:2 (1964), pp. 99-122.

¹⁰⁴ Henry Martinson interview, Fargo, North Dakota, September 10, 1980.

¹⁰⁵ *Fargo Forum*, June 16, 1925, p. 2.

¹⁰⁶ Edward T. James, Editor, *Notable American Women: a Biographical Dictionary, Volume I*, (Cambridge: Belknap Press of Harvard University Press, 1971), pp. 417-420; Victor O'Hare interview, January 23, 1984.

¹⁰⁷ Wilkins, "The Nonpartisan League and Upper Midwest Isolationism," p. 103.



Kate Richards O'Hare accompanied by her four children, taken about 1920 following her prison term.
—Photo courtesy of the author

Agents of the Department of Justice continued to follow her and report on her every activity. The commutation of her sentence was only a partial victory because she was still denied many civil rights, including the right to vote and to hold office. It was not until 1926 that her civil rights were restored by President Calvin Coolidge—over the staunch objections of Judge Wade. Even so, her North Dakota felony conviction prevented California Governor Cuthbert L. Olson from appointing her as Director of the California Department of Penology in 1939.¹⁰⁶

Throughout her lifetime, O'Hare contributed to and promoted many long-lasting reforms. As for North Dakota, her legacy can be summarized in two areas: 1) she increased public consciousness as to the importance of civil rights and 2) her 1917 anti-war record has spoken for all generations to the present day, when the public attitude toward war is probably no different than it was in 1917 when Governor Frazier announced that North Dakota was not in favor of war.¹⁰⁷ ND

Note:

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