

the third count of the second indictment" (C. 33-688).¹⁷ This is confirmed by the endorsements made on both indictments which give Count 3 of the second indictment as the guilty count.¹⁸

The problem with this verdict is that it was against the evidence. The evidence on which the jury convicted Garvey was the evidence involving Benny Dancy, a Pennsylvania station cleaner who had purchased 53 shares of Black Star Line stock. It so happened that the so-called Dancy count was the third count in the first indictment, and this was the count that the trial judge had specifically instructed the jury in his charge, in two separate places in the charge, as having been withdrawn by the government. The only sense that one is able to make from this state of affairs is that the jury had decided that Garvey was guilty in general and then set about trying to find a count on which to pin the guilty verdict, in the process utilizing testimony from a count that it was told had been withdrawn and confusing it with a count in an altogether different indictment.

I can find no other way to make sense of the verdict that the jury returned. If the jury had simply made a slip in mistakenly citing the second for the first indictment, which was it had intended, then we have the problem of explaining how it was possible for the jury to convict Garvey and at the same time acquit the three co-defendants of conspiracy, the second of the

¹⁷Ibid., Charge, p. 2417.

¹⁸Ibid., Endorsement on [First] Indictment, p. 16; Endorsement on [Second] Indictment, p. 35.

two crimes charged in the first indictment ("Using the mails in furtherance of a scheme to defraud and conspiring to do so," Secs. 215 and 37). The only reasonable inference to be drawn from the verdict of acquittal is that the jury had in its mind the second indictment, i.e., the indictment without the conspiracy charge. But this still leaves unresolved the larger question as to how the jury could have found Garvey guilty on the basis of a count that it was twice told by the trial judge had been withdrawn.

Mr. Chairman, we are left to wonder at the rendering of so confused and contradictory a verdict. It would seem to signify nothing so much as a certain slothfulness on the part of the jurors and an indifference to the rules of evidence.

AS TO THE SENTENCE

In determining sentence, the trial judge based punishment, in his words, on "the very serious financial injury that has come, not merely to the one party named in the indictment as having been the person to whom the letter in question was mailed, because that is not the extent of the difficulty, but to the hundreds and thousands of people who, on the face of the representations that were made -- which the jury necessarily found were made -- were led to invest their money in this enterprise." As a Progressive social reformer, Judge Julian Mack determined that the maximum punishment permissible under the law (five years and \$1,000 fine) should be levelled against Garvey

due to the "financial character of the whole mass of people who suffered".¹⁹

There was another way of evaluating the matter, however. In November 1927, in recommending the commutation of Garvey's sentence to President Calvin Coolidge, Attorney General John G. Sargent wrote:

Notwithstanding the fact that the prosecution was designed for the protection of colored people, whom it was charged Garvey had been defrauding by means of exaggerated and incorrect statements circulated through the mail, none of these people apparently believe that they have been defrauded, manifestly retain their entire confidence in Garvey, and instead of the prosecution and imprisonment of the applicant being an example and warning against a violation of law, it really stands and is regarded by them as a class as an act of oppression of the race in their efforts in the direction of race progress and of discrimination against Garvey as a negro.²⁰

This way of looking at the Black Star Line enterprise and the motivation of the people who invested in it would have been grounds for an attenuated sentence. But to such a consideration the trial judge was deaf, so aroused was the compassion of the humanitarian reformer for the presumed "victims".

AS TO THE INCOME TAX CASE

While Garvey's appeal against conviction in the mail fraud case was pending, the government once more indicted Garvey, on August 4, 1924, for violation of Section 253, Internal Revenue

¹⁹Ibid., Charge, pp. 2426-2427.

²⁰National Archives, Washington, D.C., RG 60, File 42-793-6057-P, John G. Sargent, Attorney General, to President Calvin Coolidge, November 12, 1927.

Act of 1918, and Section 125 U.S.C.C. for fraud and forgery in the filing of income tax returns.

The purpose of this third federal indictment was clear. Until the judgment in the mail fraud trial was affirmed, the government was not prepared to take any chances with the possibility of Garvey's exoneration. To prepare for such a contingency, the indictment for tax fraud (C. 38-771) was instituted. In the opinion of this observer, the government's strategy had all the qualities of a political witchhunt against Garvey. We can be sure that had Garvey's appeal proved successful, he would have faced another federal trial.

AS TO THE APPEAL AGAINST CONVICTION

Garvey was convicted on the count charging the mailing of a circular letter to one Benny Dancy "in furtherance of the scheme to defraud." The main burden of Garvey's appeal rested on the insufficiency of the evidence with regard to the contents of the Dancy letter.

The envelope of the Dancy letter was introduced in evidence as Government Exhibit 112. It bore the postmark of the College Station Post Office in Harlem showing that it had been mailed and bearing the address of Dancy at 345 West 131st Street. The back of the envelope bore the stamp of the Black Star Line. But whereas the envelope was given in evidence, the content itself was not produced at the trial. On this ground, it was argued by Garvey that the verdict was based upon mere "inference" and that

it should therefore be set aside.

The U.S. Circuit Court of Appeals, in dealing with this point, declared that the circumstantial evidence of the contents of the letter was ample to justify a conviction. It held that the mere fact that the mails were used was sufficient and that the contents of the letters alleged to have been sent need not have been set out in the indictment. In dealing with this point, the Circuit Court of Appeals said:

It is a reasonable inference that men regularly sending our circulars in envelopes do not send out empty envelopes; also that one who received an empty envelope would remember the emptiness, and further and finally that when Dancy identified the envelope and testified to letters and circulars so numerous that he could not remember all of them, the inference was justifiable that some one of those documents came in the envelope. Which one was of no importance. The nature of the matter sent by mail is immaterial; it is the purpose inspiring the sending that brings the scheme deviser under national law, not the language of his communication.

Thus the circumstantial evidence justified the jury in finding that the envelope did not come empty to Dancy. We note that it is the language of the count that requires the envelope to have contained a letter or the like; so far as the statute goes, it would be quite possible so to use an empty envelope or a postal card blank except for address, as to satisfy the statute.²¹

This line of reasoning which was the basis of affirming the original judgment of conviction against Garvey overlooked the following material points:

- (1) that the nature of the circulars mailed by the Black

²¹ *Marcus Garvey v. United States*, Circuit Court of Appeals, Second Circuit, 4 *Federal Reporter*, 2d Series 974, February 2, 1925, folio 2807-2817.

Star Line were treated as indiscriminately fraudulent, whether or not they were mailed before or after the date of the Dancy letter;

(2) that the deduction was made by the court that the circular mailed to Dancy was of this fraudulent nature;

(3) that the actual contents of the circulars did not prove fraudulent intent on the part of the defendants, despite the hyped up nature of their appeals for subscribers to purchase stock in the Black Star Line;

(4) and that where "the purpose inspiring the sending" of the circular was honestly motivated the basis of fraud was not present.

This takes us back to the beginning of the government's case resting on the premise that the Black Star Line was a scheme devised to defraud investors. In my view, this was not proven by the evidence; the evidence produced suggests to the contrary. So the question of fraud came down to the matter of the worth of Black Star Line stock and Garvey's knowledge and understanding of the financial exigency of the corporation. According to the trial judge in sentencing Garvey, this is what established the fraudulent nature of his activities, not the scheme as originally devised which is what the indictment alleged. He stated:

... It is necessarily, and I think in a judicial capacity improper for me to pass judgment upon the motives that actuated the defendant in starting this steamship company. They have been of the very highest. They may have been aimed solely at the betterment of his race and not for any personal profit or for any personal aggrandizement. I say I do not determine and I do not intimate a view on that

question. As a charge to the jury it is utterly immaterial in the determination of this case, and in my judgment it is likewise immaterial to the punishment to be inflicted, what these original motives may have been.

The view that the jury took of the evidence they were abundantly justified in taking that view. When this company was in a hopeless condition, representations were made and authorized by this defendant that continued to induce thousands of people to put their money into what must have been known to all concerned as an absolutely losing business enterprise, even though they might have dreamed that in some way, somehow, by some miracle, it might have been pulled out of the hole and might redound eventually to the credit of the race.²²

According to the original charge in the government indictment, the defendants had contemplated fraud at the inception of the scheme and in the execution of the fraud scheme utilized the mails of the United States.

The voluminous transcript of the trial does not disclose that the subscribers purchased stock in the Black Star Line on the basis of the representations made by Garvey regarding the actual financial standing of the company. To the extent that we can extract anything from Benny Dancy's brief testimony, what stands out is the political appeal that underlay his motivation to purchase shares in the Black Star Line. The exchange between the prosecutor and Dancy on this point went as follows:

Q. Cannot you think what you were spending your money for, what they said?

A. Yes, they said in some of the letters about investing this money to help me and the rest and make

²²Marcus Garvey v. United States, no. 8317, Ct. App., 2d Cir., 2 February 1925, Charge, pp. 2426-2427.

bigger progress.²³

Dancy believed that the Black Star Line was really an organization of racial uplift to strengthen the race and not merely a scheme, as the government claimed it was, to defraud poor "victims," as the indictment refers to Black Star Line stockholders, of their hard-earned money. Subscribers were "tired," in the words of Fenton Johnson's poem of the same name, "tired of building up somebody/else's civilization."²⁴

The belief in the redemptive quality of the Black Star Line on the part of its subscribers was poignantly borne out in the song written by Hattie Edwards McVey, entitled "Yo Fatherland." Described by its author as "the only African 'Mammy' song written," the song highlighted the urge that motivated Black Star Line subscribers:

When the steamer "Phyllis Wheatley"

Made her first great African run,

It landed a Southern mammy

With her little dark brown skin son,

With eyes uplifted to Heaven -- she

Thanked God for what Garvey had

done;

Then to her little son these words did

²³*Ibid.*, p. 863.

²⁴Fenton Johnson, "Tired," quoted in Stanley Edgar Hyman, "American Negro Literature and the Folk Tradition," in The Promised End: Essays and Reviews, 1942-1962 (New York: The World Publishing Co., 1963).

say:

Dis is yo Fatherland -- Dis is yo Fatherland

Yo can go any place dat yo wants

to go,

Be anything dat yo wants to be.

Dis is yo Fatherland -- so fertile, rich

and grand.

Don't mind wad de white chile used

to do!!

Wid dat segregated country, honey,

yo is thru!!!

Climb up and be president -- its up

to you --

Dis is yo FA-THER-LAND.²⁵

Millions of black folk revered Garvey, and continue to revere him, as a redeemer -- as a Black Moses. It is not an exaggeration to say that blacks regard Garvey today with the same veneration that Americans reserve for George Washington. The purpose behind the government's prosecution, however, was to discredit Garvey -- to make him into a Black Ponzi. The verdict of history has vindicated Garvey, not his prosecutors. As Garvey himself told the court when he was about to be sentenced:

²⁵Hattie Edwards McVey, "Yo Fatherland," Negro World, August 27, 1921.

I must state that I have absolutely no regret; I am satisfied to bear any punishment imposed upon me by the Court for the service I have rendered to the race, and which I intended to render in the future in any way I possibly can. And I feel that Negroes that will live hereafter and my children and [future] generations will be satisfied that I have made a sacrifice for them, so that they, too, may take a place in the government in the great operations of the world.²⁶

Thank you, Mr. Chairman and members of the Committee, for the opportunity that you have extended to me to place this testimony before you.

Professor Robert A. Hill

July 28, 1987

²⁶Marcus Garvey v. United States, op. cit., p. 2423.

Mr. CONYERS. Thank you. Dr. Tony Martin from Wellesley.

Dr. MARTIN. Thank you very much, Mr. Chairman.

I also, like the other panelists, consider it a great privilege and an honor to be part of this historic event concerning the exoneration of one of our greatest leaders, the Honorable Marcus Mosiah Garvey.

There are few major black leaders who have not at some point been harassed and even imprisoned. In many ways, one might argue that there is really nothing unusual about being in prison if one is a leader of the mass of black people. It may be argued, and some have argued, why single out Marcus Garvey for this type of hearing? Other leaders as different as Elijah Muhammad, Malcolm X, Martin Luther King and Stokeley Carmichael have all at some point in their careers been unjustly imprisoned for essentially political reasons.

It is my contention, however, that there are many aspects of the Garvey case which make Garvey unique and which justify this type of a hearing concerning the exoneration of Marcus Garvey. Marcus Garvey is in many ways unparalleled among our leaders. He is unparalleled insofar as the size of his following was concerned. He built by far the largest mass movement among our people, both in this country and internationally, in history. He touched the minds and the hearts and the souls of our people in a way that few leaders have done, and our people responded to Garvey in a way which is, in many ways, unmatched.

Both in Garvey's own lifetime and since his death, there has been a tendency almost to apotheosize him, to build him up to the level of a prophet, a God. This is one way in which the masses of our people have sought to suggest both to their own generations and their posterity the way that Garvey touched them, that very personal, intimate and deep way in which Marcus Garvey touched them.

Political figures since Garvey's, time covering a variety of tendencies, have seen in Garvey a person who motivated them, who inspired them in a very intimate way. In Afro-America, you have people as different as Elijah Muhammad, leader of the Nation of Islam, who was actually a member of Garvey's movement in his youth. You have someone out of mainstream politics like ex-Congresswoman Shirley Chisholm, who tells us in her autobiography that her first experience of anything political was going to meetings of Garvey's organization in Brooklyn, New York, because her father was an ardent member of Garvey's Universal Negro Improvement Association.

You have people like Malcolm X whose father also was an organizer for Garvey's association. You have people like ex-Congressman Charles Diggs whose father was involved with the Garvey movement in Detroit, Michigan. And the list can be extended.

On the African continent also, you have people like Kwame Nkrumah who tells us in his autobiography that Garvey's famous *Philosophy and Opinions* was the book which had the greatest impact on his early political development as a student here in the United States of America.

The very first Governor General of independent Nigeria, Nnamdi Azikiwe, tells us in his autobiography that he dates the beginnings

of his political interest to the day that he saw a battered copy of Garvey's newspaper, the *Negro World*. Jomo Kenyatta of Kenya tells us that he considered himself a Garveyite in his early days. Almost the whole generation of political activists who came to prominence from the 1930s on in the Caribbean were people who were involved in Garvey's movement directly or indirectly, one way or another. The late Errol Barrow, Prime Minister of Barbados, who died a few weeks ago is a case in point. His father was actually one of the early members of the Garvey movement. Errol Barrow told us that he himself as a boy listened to Marcus Garvey in 1937 and was greatly inspired. Something that Errol Barrow heard Garvey say was indelibly maintained in his mind, and he actually considered it sort of a watchword and a motto.

In South Africa, the African National Congress was thoroughly organized by the Garvey movement in the 1920s and the 1930s.

So for these and for so many other reasons, Garvey's case is unique. There is no other leader of African people, at least in the 20th century, perhaps at any time, who touched the lives of Africans on an international basis as intimately as Garvey did. This is the reason I believe for the desire to see Garvey's name exonerated. This is the reason why that desire has never ever been quenched over the years. It is a desire which has come to the fore time and time again.

The bare bones of Garvey's trial can be stated very succinctly. He was arrested and indicted early in 1922. He was charged, as we have already heard, with using the mails to defraud. He was actually tried over a year later in 1923. He was convicted. He was sent to jail in the Tombs in New York City without bail for three months. He was released on bail. His appeal came up in early 1925. He lost his appeal. He went to the Atlanta Federal penitentiary. He remained in Atlanta until late in 1927 when his sentence was commuted and he was deported from this country back to Jamaica.

Those are the bare bones of his trial.

Garvey's trial took place in a political climate which made it very, very difficult for him to obtain a fair hearing. His trial was in many ways, as has been alluded to before, the culmination of a concerted effort at entrapment.

Garvey was preaching a philosophy of race uplift. He told black people three things primarily: First, he told them to be about the business of race first. He told them that black people should put their racial self-interest first, not to the detriment of anybody else but for their own upliftment.

Garvey also told black people that they should be self-reliant. He said that oppressed people had a duty to themselves to help themselves. They should not rely primarily on assistance from any external sources.

Garvey told his people, third, that they should be about the business of Nationhood; that is, political empowerment. That was essentially Garvey's program.

This program, as innocuous as it may seem, was nevertheless considered to be somewhat threatening to the status quo in Garvey's time. There was a tendency on the part of those in power to see any movement of black liberation as ipso facto threatening. And so you had law and order officials, who would actually admit

that what Garvey was about was quite legitimate, that the grievances which he articulated were quite correct, but who nevertheless, refused to deal with the root causes of those grievances. The attitude of officialdom was always one of law and order. Garvey was seen as a problem of law and order. This explains the political climate that Garvey had to deal with.

From very early in this country, Garvey was subjected to an incredible amount of harassment. He was under surveillance from a variety of intelligence operations, both in the Government and also from quasi-governmental organizations like the National Civic Federation. There was a heavy police presence, both uniformed and secret, at his meetings. Infiltrators were placed in his organization to try to stir up trouble and to report back on what was happening.

J. Edgar Hoover, as a lawyer in the Department of Justice in 1919, actually expressed regret that Garvey had not yet committed any crime which would serve as a pretext for deporting him. This is 1919. This is a mere 3 years after Garvey arrived in this country, and this is something like eight years before Garvey was finally deported.

Here we had a major law enforcement official, supposed to be upholding law and order, expressing regret. He said he was sorry that Garvey had not committed any crime because he was already trying to find a pretext by which he could deport Garvey.

There were attempts to put Garvey in jail on all kinds of pretexts. There were times when the officials considered arresting him under the Mann Act, the so-called "White Slavery" Act, because he traveled across State lines with his fiancée. They wanted somehow to see this in the same light as transporting a woman across State lines for immoral purposes, which is what the Mann Act was intended to make illegal.

Garvey was subjected to an assassination attempt in 1919, and there is evidence that there may have been some collusion between a district attorney in New York City and the would-be assassin. Garvey came within an inch of his life when four shots were fired at him.

There were court cases aplenty against Garvey, most of them trumped up. He was charged with all kinds of things. Every year he had an international convention, and in the midst of his international convention every single year he would be arrested on one charge or another. One year it was income tax; another year it was something else. But they would always find some reason to arrest him in the middle of his convention when it would cause him the maximum embarrassment. His Liberty Halls, the meeting places of the organization, were attacked by police parties on more than one occasion.

This kind of harassment extended internationally. U.S. consular and diplomatic officials around the world colluded with authorities in various places to ban Garvey's newspaper, to deport Garveyites, to refuse visas to Garveyites entering foreign countries and so on.

So this is the context in which Garvey came to trial. The odds already stacked against him. Garvey was first indicted singly and then later jointly when it was realized that he was part of a Board of Directors of a properly constituted corporation. Despite the fact that there were co-defendants, the emphasis throughout the trial

was on Garvey. The other defendants were eventually released; they were found not guilty.

The emphasis was on Garvey throughout. There was no shirking the fact that Garvey was the object of all this attention. In fact, the prosecutor in a famous statement said to the jury, "Gentlemen, will you let the tiger loose?" This is how he referred to Garvey in the midst of what was supposed to be a fair trial. He characterized Garvey as a tiger. "Gentlemen, will you let the tiger loose?"

There were bits and pieces of evidence—in fact, crucial evidence—in the trial which left much to be desired. Some of the crucial evidence upon which the whole conviction turned seems, in retrospect, to have been somewhat inadequate. As has been heard already, Garvey was actually being tried for mail fraud. It was suggested that he caused circulars or letters to be sent through the mails, encouraging people to invest in the Black Star Line when he allegedly knew full well that the Line was bound to fail.

As Garvey said, businesses fail in the United States every day. It is no big thing for a business to fail in the United States. The mere fact that the business fails, of course, is not evidence of fraud.

In terms of concrete legal evidence, the kind of evidence upon which one could convict someone, the real evidence which was brought forward by the prosecution consisted of an envelope with the Black Star Line stamp on the outside. The envelope was empty. There was nothing in it. The prosecution never really adequately proved A, that Garvey had mailed the envelope; or, B, that he had caused the envelope to be mailed. In addition there was never introduced into evidence any particular circular which was supposed to be in that envelope. The person who this envelope was supposedly mailed to, one Benny Dancy, a porter at the Pennsylvania Station in New York City, actually said that Federal agents had come to see him and had coached him on the kind of evidence to give and so on.

So after all is said and done, this is the evidence upon which Garvey was actually convicted. I would like to quote here from Garvey's lawyer in dealing with this piece of evidence. He very clearly summed up the inadequacy of this piece of evidence:

"And when we seek to understand how it was that the jury, by some inexplicable, absurd process found that Garvey was guilty of mailing a circular or letter to Dancy, when there was not in the evidence any such circular or letter, and when there was not in the evidence any means by which the circular or letter could be identified, and when the sole exhibit consisted of an envelope that did not even appear to have been addressed by Garvey, or through his procurement, then we feel fully justified in stating that the verdict was unjust, that it was the result of speculation, if not of passion or prejudice."

Another prosecution witness, one Schuyler Cargill, claimed to have worked for Garvey. He claimed to have been the person who used to mail these circulars, and yet under cross-examination he could not identify the post office where he used to mail these circulars for months on end. He could not identify any fellow employee who worked with him for all these months in Garvey's employ. He could not identify the timekeeper who he supposedly checked in with every day. Eventually, this witness admitted under cross-ex-

amination that he also had been coached in his evidence by one of the prosecution team.

Garvey discharged his lawyer. Garvey was of the opinion from evidence that was given to him that his lawyer was about to make a deal, a deal which Garvey thought would have been against his interests. He therefore fired his lawyer, but he did hire legal counsel to advise him behind the scenes from that point on. He did have competent legal advice, even though he did defend himself.

One of the most astounding aspects of this case was that the evidence seems to suggest that the persons who were really guilty were some of Garvey's co-defendants. Garvey was forcibly kept out of the United States for several months in 1921. It was during this time that a lot of the strange dealing that took place within the Black Star Line happened. In fact, in retrospect, it almost looks like a conspiracy. It looks as though Garvey was being forcibly kept out of the country by the Government in order to allow these other persons to get the Black Star Line into financial difficulty.

When Garvey was arrested and indicted, he was in the process of trying to bring a case against these co-defendants. But the Government made it impossible for him to bring these co-defendants to justice by seizing the record of the Black Star Line record which Garvey would have utilized for his case against the defendants—in particular, one of the co-defendants by the name of Orlando Thompson. In fact, one of the members of the executive of the Black Star Line in 1927 or '28 actually swore to an affidavit in which he was able to show that this Orlando Thompson was a man who had actually taken a lot of money illegally from the Black Star Line.

The trial judge, one Julian Mack, was a member of the NAACP. There is nothing particularly unusual about being a member of the NAACP except that at that time the NAACP was spearheading one of the most vitriolic attacks—in fact, it was more than an attack; it was a campaign—to discredit Marcus Garvey. So here you had a trial judge sitting in judgment over Marcus Garvey who was a member of the organization that was in the forefront of the attempt to discredit Marcus Garvey.

Between the time that Garvey was indicted and when the actual trial took place, while the matter was *sub judice*, the NAACP was highly involved in something known as the "Marcus Garvey Must Go" campaign. They campaigned up and down the country. They went so far, together with other individuals, as to write the Attorney General of these United States telling him that Garvey was a criminal, that he should be jailed, that he should be deported.

Well, here was Garvey's case *sub judice*, and here was the NAACP at this sensitive period writing the Attorney General of the United States of America, telling him that Garvey was a criminal. And then a member of that same organization placed himself in judgment over Marcus Garvey.

Now, Garvey called upon the judge to disqualify himself at the beginning of the case, and the judge refused. The judge admitted in court that he was a member of the NAACP. He admitted that he contributed financially to the NAACP. Yet, despite all this, he refused to disqualify himself. If for no other reason, on this point alone, it seems to me that Garvey's conviction really ought never

to have taken place, ought to have been crushed from the beginning. On this point alone, if for no other reason.

About three weeks into the trial, the very same judge, Julian Mack, called together counsel and informed them that he had a Jewish convention to go to in Chicago, and he wanted them to hurry the case up. Garvey's reaction was to jump up and say, "What? And jeopardize the rights and liberties of Marcus Garvey? What is more important? The liberty of Marcus Garvey or your convention in Chicago?" And it is because of this incident, possibly, that the judge may have been so harsh in his sentence. Everybody is agreed that the sentence was much too harsh. He threw the book at Garvey; he gave him the maximum sentence, 5 years in jail, a thousand dollar fine and also imposed the costs of the trial on Marcus Garvey, followed by 3 months in jail for no good reason, followed by excessively high bail when bail was finally granted. The man was piqued because he had to go to a convention in Chicago.

More than this, throughout the trial Garvey was subjected to the most incredible onslaught by a very hostile press who made all kinds of outrageous claims. They claimed that he was storing guns in Liberty Hall in Harlem and so on. This type of harassment continued even after the trial. When Garvey was finally taken into custody in 1925, when his appeal failed, the appeal was inexplicably brought forward from the appointed date, and it caught Garvey unawares in Detroit. When he heard of the appeal having been brought forward, he hurried back to New York. His lawyer informed the authorities that he would surrender as soon as he got back to New York, and yet he was unjustly arrested. Everything was done to maximize his embarrassment.

The aftermath of Garvey's trial, again, must be unprecedented in our history. Literally, quite literally millions of people from around the world—literally millions—appended their names to petitions of all sorts that poured into various agencies of Government. Many of these signatures can still be seen. They are lodged in the files of the National Archives today. There were dozens, maybe scores, maybe hundreds of petitions, each of them containing hundreds and thousands of signatures. As far away as South Africa, you had people celebrating Marcus Garvey Sunday in church every Sunday to pray for Garvey's release and so on. A hundred and fifty thousand people turned out in Harlem in 1926 to parade and march, calling for Garvey's release.

Throughout it all, the jurors, even the jurors who had sent Garvey to jail, eventually had a change of heart. Nine of the 12 jurors—and it was an all white jury that sent Garvey to jail—nine of the twelve jurors who sent Garvey to jail eventually signed a statement saying that an injustice had been done, that Garvey should be released. I think this is crucial. The very jurors themselves had a change of heart later on, nine out of the twelve. Of the remaining three, two could not be located, and only one refused to sign that statement. This was a couple years after Garvey went to jail.

President Calvin Coolidge commuted Garvey's sentence in November of 1927, and even at the level of deportation, the irregularities of Garvey's trial could still be seen. The warrant of commuta-

tion said that Garvey should be released forthwith. There was nothing in the warrant concerning deportation. The evidence suggests that the deportation may actually have been the work of over-zealous officials, but not of the President himself.

So at every level of this case, from the surveillance before the case to the actual case itself, to the question of deportation after the case, at every level, we had irregularity. I still feel, nevertheless, that President Coolidge's commutation is very important because it can be seen as a first step, the culmination of which this committee can now accomplish today; because by commuting Garvey's sentence, at the very least President Coolidge was tacitly saying that clearly something was wrong here, something had gone wrong with the administration of justice. That was a tacit acceptance of the fact that justice had not been done to Marcus Garvey.

I see this committee here today as having a historic opportunity now to complete, in a sense, the work of President Coolidge.

I will end by a paraphrasing Garvey's lawyer again, when he said that in his 25 years as an attorney practicing in New York City he had never in his experience been part of a case in which there was such a palpable effort to convict someone unjustly.

Thank you very much.

[The statement of Dr. Tony Martin follows:]

TESTIMONY

OF

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Why Marcus Garvey?

Going to jail is not an unusual occurrence for major leaders in the struggle for Black equality. Elijah Muhammad, Malcolm X, Martin Luther King and Stokeley Carmichael are among the many whose activism has brought them jail sentences. It may conceivably be argued that Garvey's jail sentence was an occupational hazard and not worth unusual concern.

Yet Garvey's case is special in many ways. Garvey's conviction for mail fraud in 1923 and his subsequent imprisonment (1925 to 1927) has rankled in the consciousness of a race, on an international scale, to a degree unparalleled in the history of African peoples. There are several possible reasons for this. Garvey's movement (the Universal Negro Improvement Association) was the largest Pan-African movement in history, with branches in over forty countries and millions of followers. Probably no other leader has touched the hearts of African peoples so profoundly and on so wide a geographical scale. The impact of Garvey can be seen in a persistent tendency to apotheosize him, both during his lifetime and afterwards. Major political figures of varying tendencies have paid homage to Marcus Garvey as a factor in their development. The list includes Kwame Nkrumah, Nnamdi Azikiwe and Jomo Kenyatta in Africa; Shirley Chisholm, Elijah Muhammad and Malcolm X in the United States; Errol Barrow, T. Albert Marryshow and a host of others in the

West Indies. Garvey had a major impact on the development of the African National Congress in South Africa in the 1920s and 1930s. He was Jamaica's first (and currently most popular) national hero.

Trial -- The Bare Facts

Marcus Garvey was indicted in January 1922 on a Federal charge of using the mails to defraud in connection with his promotion of the Black Star Line Shipping Corporation. He was found guilty in 1923 and incarcerated, after losing his appeal, from 1925 to 1927. His sentence was commuted by President Calvin Coolidge in November 1927 and he was deported to Jamaica in December 1927.

Political Context of Garvey's Trial

Garvey's movement has built on the effort to uplift the mass of Black people, in the United States and the world. In the process, Garvey put forward three major ideas --

1. Race first - People of African descent should be proud of their heritage and interpret their own reality in the realm of history, literature, religion and so on.