

Coughlin

THE AMERICAN JEWISH COMMITTEE

MEMORANDUM

To Mr. Wallach

Date October 16, 1939

From Newman Levy

Subject COUGHLIN, vs. DETROIT FREE PRESS

I spent considerable time in Detroit with Murray and Marco, the attorneys for the Detroit Free Press. The case will appear on the pre-trial docket in December. At that time the pleadings will be settled.

I am told that ordinarily a case can be tried within three weeks after it has appeared on the pre-trial docket. Murray said that he had a feeling that the case would not be tried, but is nevertheless going right ahead with his preparation. At the present time, under some ruling they have out there, the pleadings are sealed and it is contempt of court to publish any of their contents. After the action is discontinued the pleadings at once become a public record. The plaintiff can file a discontinuance whenever he pleases, and the only penalty would be \$15.00 costs. So far, there has been no indication that Coughlin intends to do this.

I gathered that the Detroit Free Press feels bitter about it and wants the case to go on. Mr. Stair, the owner of the paper, has been attacked and vilified by Coughlin for years. Stair is a Protestant, but he has never dared to sue Coughlin for libel because of the bad reaction that suing a priest would cause, but now that Coughlin has brought him into court, Stair wants to make the most of his opportunity. He is contemplating bringing a cross-action against Coughlin for libel. He has, I believe, about a year before the statute of limitations runs.

In discussing the issues in the case and the probable course of the trial, I came to the conclusion that it would be highly desirable to have the case discontinued and whatever influence we have should be exerted in that direction.

Coughlin has demanded a jury trial and we discussed the kind of jury that we would want. I said that obviously there should be no Jews on it and they agreed to that. Pro-Coughlin Catholics should be ruled out and we all felt that even anti-Coughlin Catholics would be dangerous as jurors when the ultimate issue in the case was to brand the priest as a habitual liar. A lot of the Protestant people out there are Coughlin sympathizers and any attempt to impanel anti-Coughlin Protestants would create considerable hard feeling. All in all, the situation is a mess and the mere drawing of a jury would engender a great deal of religious antagonism even before they get down to the issues of the trial.

When they get down to trying the case, there are many elements in it, that, from our point of view, would be productive of precisely the kind of nation-wide publicity that we have always been anxious to avoid.

For example: They spoke of their intention to take the deposition of Felix Frankfurter and to ask him point blank whether or not he was a communist, or ever had been. This conceivably would open the door to rebuttal by Coughlin in which he would resume his attacks on Frankfurter. All the early attacks of Coughlin on the Jews, such as the financing of the Russian revolution by Kuhn Loeb, the domination of the First Soviet government by the Jews, and the other materials that appear in our Coughlin pamphlet are already in the pleadings. These issues would have to be aired in court and I think that the results would be highly undesirable.

I discussed the question of discontinuing the case at great length with them and Murray told me that my views were almost identical with those of Mr. Peter Monahan. He is a prominent lawyer in Detroit who represents the Fisher Body Company, and is also personal attorney to Archbishop Mooney.

It occurred to me that if we are to do anything toward having the case dropped, Monahan would be a strong ally. It should be borne in mind that unless the Detroit Free Press brings a counter-action, the discontinuance is entirely within Coughlin's control. My impression of Murray and Marco is that they are extremely bright and able young men, but thus far they have not nearly prepared their case to the extent that it required. I raised a number of questions concerning the admissibility of certain kind of evidence and they did not have the law available. I promised to dig out a lot of material for them and send it to them so that they can prepare an amended answer. At present, they have more than one hundred alleged lies in their answer and they want one hundred more if they can get them. Of course a case of this sort could easily go on for six months or so.

There is a provision of the Michigan law, I have learned, that permits counsel to call the adverse party as witness and cross-examine him and not be bound by his testimony. In other words, they can call Coughlin, as they intend to do, and put him through the mill. They asked me what I thought the effect of a verdict against Coughlin would be. That, of course, is a hard question to answer but I said that I felt that if Coughlin got even six cents against them, it might constitute a vindication in the eyes of many people and in any event, the publicity that the testimony would receive would focus attention upon many issues that are now fading from the public mind.

A man named Levin of the Anti-Defamation League was out to see Murray and Marco and promised to assist them, but so far, they told me, they did not receive any help from him. There is a man named Sam Kellman in Detroit, who occupies some sort of city position and is active in the League for Peace and Democracy. Kellman has been devoting more than a year to an investigation of Coughlin and, according to several people with whom I spoke, has more information about him than anyone out there. Kellman is assisting Murray and Marco to some extent. I mention this because if we should ever send anyone out to do an investigating job, Kellman is one of the most important people to see. Another person I spoke to is a man named Keith Sword (?). He is writing a book for Random House about Henry Ford and has spent about a year and a half on research. He told me a number of interesting things about the Ford situation, and he too would be a mine of information for anyone who went out there to investigate.

I gave Murray and Marco some of the material that I brought out there and they were extremely appreciative. The next day I spent several hours with Leo Franklin, the son of Rabbi Franklin, who is an intimate friend of Murray's. He told me that he had already spoken to Murray who seemed to be very grateful for my visit and who said that it was the first sign of any real cooperation on the part of any of the Jewish organizations.