HISTORY THROUGH PRIMARY SOURCES:
The "Smith Act" of 1940 ("Alien Registration Act") and the Effects of a Law

The "Smith Act" was enacted by the 76th United States Congress on June 28, 1940.

Here is its official (long!) title: "The Civilian and Military Organizations License Act: An Act to prohibit certain subversive activities; to amend certain provisions of law with respect to the admission and deportation of aliens; to require the fingerprinting and registration of aliens; and for other purposes."

QUESTIONS: What are "subversive activities"?
What are "aliens"?
What words in the Act's title make it hard to tell exactly what this law covers? Circle those words and phrases!

What did the Smith Act do?

Part 1. One section of the Smith Act changed an earlier law. That law ("The Act of October 16, 1918") had contained a long list of ideas that the government thought were dangerous, and said that anyone currently holding such ideas "shall be excluded from admission into the United States"--and could be "expelled" from the United States if they had already entered. Here's what the original 1918 Act said:

QUESTIONS: What are "anarchists"?
What's the difference between being a "member" of a group and being "affiliated" with a group?
There are many scary ideas in this list. Do some of them seem more or less "dangerous" to you than others? Why?
The Smith Act of 1940 added 31 words to the beginning of the 1918 law:

Sec. 23. (a) The first paragraph of section 1 of the Act entitled “An Act to exclude and expel from the United States aliens who are members of the anarchistic and similar classes”, approved October 16, 1918, as amended, is amended to read as follows:

"That any alien who, at any time, shall be or shall have been a member of any one of the following classes shall be excluded from admission into the United States:"

What do these 31 words change? Let’s figure that out.

Go back and look at the verbs used in the old 1918 law: "Aliens who are anarchists; aliens who believe in or advocate the overthrow by force or violence of the Government...."

What tense are those verbs in?

What difference does that verb tense make?

Verbs sometimes make a very big difference! In the 1930s and early 1940s the U. S. Government wanted to deport a labor organizer named Harry Bridges. He was officially an "alien," because he was an Australian citizen. The U. S. Government said he had been in the past a member of an organization it considered dangerous, and so they wanted to use the 1918 law to force Harry Bridges out of the country.

But the U. S. Supreme Court said NO. The Court said that the 1918 law applied only to people who currently held those dangerous ideas or currently belonged to groups considered dangerous—not to people who might have held those ideas in the past.

And that’s why the Smith Act of 1940 changed the wording of the 1918 law: "That any alien who, at any time, shall be or shall have been a member of any one of the following classes shall be excluded from admission into the United States:"

Now someone could be denied entrance to the United States—or deported from the United States—on the basis of ideas they had held in the past, or groups they had been members of in the past.

FROM HISTORY TO FICTION:

How does this part of the Smith Act affect the story in The Orphan Band of Springdale?

Which character is most worried about this part of the Smith Act? Why?

What does that fear make him do?
Part 2. LOCAL EFFECTS OF A NATIONAL LAW. It was another section of the Smith Act of June 26, 1940, that affected the most people, however. The Smith Act was also called "The Alien Registration Act" because of the new requirement that "aliens" register and be fingerprinted:

\[\text{Sec. 31. (a) It shall be the duty of every alien now or hereafter in the United States, who (1) is fourteen years of age or older, (2) has not been registered and fingerprinted under section 30, and (3) remains in the United States for thirty days or longer, to apply for registration and to be fingerprinted before the expiration of such thirty days.}
\]
\[\text{(b) It shall be the duty of every parent or legal guardian of any alien now or hereafter in the United States, who (1) is less than fourteen years of age, (2) has not been registered under section 30, and (3) remains in the United States for thirty days or longer, to apply for the registration of such alien before the expiration of such thirty days. Whenever any alien attains his fourteenth birthday in the United States he shall, within thirty days thereafter, apply in person for registration and to be fingerprinted.}
\]
\[\text{Sec. 32. Notwithstanding the provisions of sections 30 and 31—}
\]
\[\text{(a) The application for the registration and fingerprinting, or for the registration, of any alien who is in the United States on the effective date of such sections may be made at any time within four months after such date.}
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LOCAL EFFECTS OF A NATIONAL LAW

In local newspapers from 1940-1941, we can see evidence that this new law was being put into practice. On the next page, you'll see an article from the Sanford Tribune (a newspaper from southern Maine) from January 2, 1941.

QUESTIONS:

What word is used here to describe people who are not United States citizens? What effect does that word have, do you think?

If you came from a French-Canadian family and had been living in the Sanford area for a long time (generations, perhaps), but had not switched your official citizenship to "United States," what did the new law make you do?

What words in this article might worry you, if you were a non-citizen in 1941?

What would the effect of this article be on someone who WAS a citizen in 1941? What new thoughts about their non-citizen neighbors might the article make them have?
Front page of the Sanford Tribune, January 2, 1941:

REGISTER 1,456 ALIENS LOCALLY, 4-MONTH PERIOD

1,191 Register At Sanford, 265 In Springvale—Seventeen Fingerprinted On Two Last Days In Sanford

The task of registering and fingerprinting Sanford and Springvale’s alien population ended last Thursday evening with a total of 1,456 registered in the four-month period. Postmaster Linwood J. Emery reported 1,191 registered in Sanford, and Postmaster Louis S. Marquis reported 265 in Springvale.

Six aliens registered in Sanford Dec. 26 on the closing day; 11 were registered on the 24th. Postmaster Emery reported that 1,085 aliens had registered up to December.

In Springvale 246 aliens registered up to Dec. 1 and 19 registered during December.

From Friday on an alien who applies for registration must have a good excuse for not reporting within the time limit. He will be registered and fingerprinted and the forms forwarded to the Department of Justice in Washington in the usual manner, but he will be required to fill out a special form stating reasons for his delinquency and must answer other pertinent questions. If his excuses are deemed insufficient, he will be liable to prosecution.

Any alien found to have deliberately failed to register will be subject to a $1,000 fine and six months’ imprisonment.
The "Smith Act" in Fiction: *The Orphan Band of Springdale*

The Smith Act is mentioned by name on pp. 246-247 of *The Orphan Band of Springdale*, when the union organizer up from New York mentions the new law being used to deport radical union organizers. Gusta remembers her father being upset because the Smith Act might be used to send him "right back into the gnashing teeth of Germany":

> She remembered her father's voice, the tension in his shoulders, the way he punched one tense fist into the tense palm of his other hand. "There it is! They're coming after us for sure. [...] Alien Registration Act! Smith Act! Ha! They can call it whatever they want, but they're not really worried about Nazi spies—they're worried that people might start organizing in their factories. They'll do anything they can to deport us organizers. That's all that Smith Act is really about: it's about how much they want us gone."

They were going to charge August Neubronner [Gusta's father] with being an *alien* and a *Communist*, that's what he had said, and they changed the laws so that they could deport you, if you had ever been in some too-revolutionary group.... (*The Orphan Band of Springdale*, 246-7)

The effects of the Smith Act show up at a number of different points in the novel. Can you find places in the story where people are talking about "aliens" or "registration" or "deportation"?

Here's one moment to get you started (it comes from near the end of the book, pp. 394-395):
QUESTIONS:

What penalty does Mr. Bertmann face for not registering? (See the article in the Sanford Tribune.)

Why doesn't Mr. Bertmann want to register? (He gives some reasons here--and then explains some more on the following pages. Why did Mr. Bertmann leave Germany?)

In Chapter 33 Molly Gowen, one of Gusta's classmates, argues that registering "aliens" is "just trying to be careful" (p. 277). What is she frightened of, and why?

Here's how Gusta responds to Molly (pp. 277-278):

"Even if my papa came here from Germany, haven't you ever thought for one minute that some people might leave Germany because they don't agree with what the Nazis are doing? Haven't you thought for a moment how dangerous it would be, to be someone who disagrees with what the Nazis think? If someone like my father put his foot into Germany, you know what they would do? They would lock him up! And then they would probably kill him."

What is Gusta frightened of, and why?

Fear can make us do hurtful things--but it can also make us cautious (which isn't always bad)--and it can even inspire us to be brave, despite our fear. Almost every character in the book is a little bit afraid of something! Can you find examples of different reactions to fear (hurtful actions, cautious actions, brave actions) in The Orphan Band of Springdale?