



Published Essays and Pamphlets

"The Trial and Conviction of Emma Goldman and Alexander Berkman" by Leonard D. Abbott



When Emma Goldman and Alexander Berkman, charged with conspiracy to defeat military registration under the conscription law, were sentenced by Judge Julius M. Mayer, on July 9, 1917, to serve two years in prison, to pay fines of \$10,000 each, and to be probably deported to Russia at the expiration of their prison terms, United States Marshal McCarthy said: "This marks the beginning of the end of Anarchism in New York." But Mr. McCarthy is mistaken. The end of Anarchism will only be in sight when Liberty itself is dead or dying, and Liberty, as Walt Whitman wrote in one of his greatest poems, is not the first to go, nor the second or third to go,--"it waits for all the rest to go, it is the last."

When there are no more memories of heroes and martyrs,

And when all life and all the souls of men and women are discharged from any part of the earth,

Then only shall liberty or the idea of liberty be discharged from that part of the earth,

And the infidel come into full possession.

THE ARREST

Emma Goldman and Alexander Berkman were arrested on June 15, at 20 East 125th Street, New York. At the time of the arrival of the Marshal and of his minions, late in the afternoon, Miss Goldman was in the room which served as the office of the No-Conscription League and of MOTHER EARTH. Berkman was upstairs in the office of THE BLAST. A number of helpers were in the building at the time, including M. Eleanor Fitzgerald, Carl Newlander, Walter Merchant and W. P. Bales. Mr. Bales, a young man, was arrested without a warrant. The raiding party included, besides Marshal McCarthy, Assistant United States District Attorney E. M. Stanton, Lieutenant Barnitz, of the so-called "Bomb Squad," Deputy Marshals Doran, Hearne and Meade, and Detectives Murphy and Kiely, of the Police Department.

"I have a warrant for your arrest," Marshal McCarthy said to Emma Goldman.

"I am not surprised, yet I would like to know what the warrant is based on," Emma Goldman replied.

Marshal McCarthy answered by producing a copy of MOTHER EARTH containing an article on the No-Conscription League signed "Emma Goldman."

"Did you write that?" asked the Marshal.

Miss Goldman replied that she had written the article, and in answer to another question said she stood for everything in MOTHER EARTH, because, she added, she was the sole owner of the publication.

A few minutes later, the officers mounted the stairs and arrested Alexander Berkman.

In the meantime, policemen were busy searching both offices. They found books and pamphlets written by Kropotkin, Malatesta, Voltairine de Cleyre, Max Stirner, Frank Harris, C. E. S. Wood, Charles T. Sprading, Gorky, Andreyev, Strindberg, William Morris, George Bernard Shaw, and many other writers. They seized everything they could lay their hands on, including a card index, bank and check books, and thousands of copies of MOTHER EARTH and THE BLAST, held up by the Post Office. THE BLAST, which was solemnly pronounced by the newspapers "one of the vilest things ever sent through the United States mails," contained, in addition to Berkman's writings, quotations from Victor Hugo and Edward Carpenter, and articles written by Leonard Abbott and Robert Minor.

After the police had rifled the contents of both offices, the three prisoners were taken down to the street and rushed in automobiles to the Federal Building. They were joined by their attorney, Harry Weinberger. There was no opportunity for arraignment that evening, and the prisoners were locked up in The Tombs.

THE ARRAIGNMENT

On the morning of June 16, Emma Goldman and Alexander Berkman were brought before the United States Commissioner Hitchcock. Assistant United States District Attorney Harold A. Content appeared as prosecutor. "These two Anarchists," he said, "are the leading spirits in this country in a countrywide conspiracy to spread anti-registration propaganda." Mr. Weinberger, attorney for the defendants, made a motion for dismissal on the ground that advising anybody not to register is not a violation of law. "Failing to register, no doubt, is a crime," said Weinberger, "but telling people not to do so is certainly not a violation of the law." The Commissioner is old and gray; he looked like a relic of the Dark Ages. He held the prisoners in \$25,000 bail each. Weinberger protested against the bail as excessive, but was not able to change the decision. Later, when Weinberger and Leonard Abbott approached Marshal McCarthy and when Abbott protested against the holding of the young man Bales without warrant or charge, the Marshal became violently abusive and ordered the ejection of Abbott from the Federal Building.

THE GRAND JURY INDICTS

The prisoners were held in the Tombs practically incommunicado; it was only with the greatest difficulty that they were able to communicate with any of their friends. Gross unfairness was shown in the matter of the bail. When more than enough property was offered to cover the necessary sum, it was refused by Attorney Content on the ground of petty technicalities. Many friends offered money. By June 21, Emma Goldman was free. Four days later, Berkman was released. In the meantime, the Federal Grand Jury had framed a formal indictment.

OPENING OF THE TRIAL

The trial began before Judge Mayer on June 27. Judge Mayer is a German, and he has the Prussian type of face. It occurred to more than one spectator that the defendants, charged with the "crime" of fighting Prussianism in America, were being tried before a Prussian judge. They announced, at the outset, that they had decided to conduct their own cases. They made it clear that this decision was not in any way to be construed as a reflection upon their lawyer. Mr. Weinberger, indeed, had consecrated himself to this case with conspicuous idealism, and was still giving advice and suggestions. But they had decided that, as Anarchists, it would be more consistent to go into court without a lawyer.

The defendants asked for a postponement on the ground that they had so recently been released from prison that they had had no opportunity to summon witnesses and to familiarize themselves with their case. They also asked for a postponement on the ground of Berkman's physical condition. He had sprained his leg, prior to his arrest, and appeared in court on crutches. Both of these requests were denied by the Judge. He insisted upon an immediate trial. Emma Goldman and Berkman were at first so incensed by the injustice of this decision that they declined to take part in the proceedings. The trial, as Emma Goldman put it, was a farce. Later, however, the defendants consented to examine the talesmen.

For three days the examination proceeded. It is certain that never before in a court of "justice" had there been such a questioning of talesmen, and it is to be hoped that some of those who listened, or answered, learned something about *real* justice and social ideals. Alexander Berkman, who took the lead in the questioning, created an atmosphere that was libertarian and anti-militarist. Among the questions asked were:

"Do you believe in free speech?"

"Do you believe in the right to criticize laws?"

"Do you believe that the majority in a community is necessarily right?"

"Would you be biased against the defendants because they had been active in the labor movement?"

"Would you be biased because they had fought conscription?"

"Do you feel that you would be unable to render a just verdict because the defendants are anti-militarists, or Anarchists?"

"Do you know what Socialism and Anarchism mean?"

"Have you read any Socialist or Anarchist books?"

"Have you attended any Socialist or Anarchist meetings?"

Incidentally, Emma Goldman and Berkman managed to convey a great deal of information bearing on the libertarian struggle in many countries. Robert Emmet was mentioned, and George Washington. The birth control movement came in for discussion.

The court-room was packed with friends of the prosecution, but many friends of the defendants were excluded. Some were roughly handled. June 27, it happened, was Emma Goldman's birthday, and, during the lunch hour, some comrades presented her with a bouquet of red roses.

On June 29, just as the jury was selected, a number of telegrams were received by the defendants from their friends, among them the following from Charles Erskine Scott Wood, of Portland, Oregon. Mr. Wood is a Single-Taxer, poet and art connoisseur, and was at one time colonel in the United States army.

"I have wired the judge and attorney general and prosecuting attorney, and please say to Emma I can be quoted as believing with her that conscription utterly belies democracy, and punishment for criticising the government marks an autocracy in spirit, no matter what the form. Thousands here share this view."

THE CASE OF THE PROSECUTION

On Monday morning, July 2, Prosecutor Content opened his case. He said he would show that the two defendants, whom he characterized as "disturbers of law and order," had both tried in their writings and in their public addresses to influence the ignorant amongst the men of military age not to register. The first witness that he put on the stand was Miss Fitzgerald. He questioned her regarding the No-Conscription League and the "profits" of THE BLAST. She answered him that she and her colleagues had worked for the sake of principle and not for profits. Mr. Content went to the trouble of presenting newspaper reporters, printers, binders, etc., to testify as to the contents, printing and binding of MOTHER EARTH, THE BLAST and No-Conscription literature; but all this, as the defendants pointed out, was superfluous. They admitted the authorship of the writings which were the basis of the Government's case. Berkman looked the student, the intellectual, with his black-rimmed eye-glasses. Emma Goldman was constantly on her feet, parrying unfair questions, elucidating doubtful points.

One of the witnesses that Mr. Content put on the stand was a police stenographer who testified that in her speech at Harlem River Casino on May 18, Emma Goldman used the words, "We believe in violence, and we will use violence." But Emma Goldman denied ever having used any such words, and she was able to call many witnesses who corroborated her statement. This led to lengthy discussion of the entire question of violence and of violent methods as a means of advancing Anarchist propaganda. Emma Goldman and Berkman read to the jury extracts from articles on this subject, appearing in MOTHER EARTH. The stenographer who reported the Harlem River Casino meeting was shown to be untrustworthy. Another stenographer testified, incidentally, that Emma Goldman was the best speaker he had ever heard. The proprietor of the Harlem River Casino, called by the prosecution, gave testimony favorable to the defendants. He said that the meeting of May 18 had been perfectly orderly, in spite of the fact that a group of soldiers, carrying a flag, had tried to make trouble. A Sergeant of the Coast Guard, appearing on the witness-stand in uniform, confirmed this testimony.

During the examination of several of these witnesses, a military band was playing beneath the open windows, and patriotic speeches, punctuated by applause, could be heard. In the street below, a recruiting station had been established. By a curious irony of fate, militarism and anti-militarism, each in its most dramatic phase, had been set in juxtaposition.

BERKMAN OUTLINES THE CASE OF THE DEFENDANTS

Alexander Berkman, when he came to present to the jury the line of argument on which he proposed to build his case, said in substance: "We admit that we are opposed to militarism and to conscription. We have been carrying on an anti-militarist propaganda for twenty-five or thirty years. But we did not conspire, and we did not advise people not to register. The No-Conscription League refused to commit

itself to a policy of definitely advising young men not to register. We decided to leave the matter to the conscience of each individual." All this was substantiated by the testimony of a conscientious objector who declared that he had gone to the office of the League for definite counsel and had been unable to get such counsel. It was further confirmed by a letter of Emma Goldman, referred to by Miss Fitzgerald. In this letter Miss Goldman said that so long as she was not in danger of arrest under the registration law, she would not advise young men not to register; she added that, as a matter of principle, she would not tell a man to do a thing or not to do a thing, "because if I would have to tell him what to do, he would have no strength of character and courage to stand by what he is doing." The position of Emma Goldman and of others connected with the League was: "Each man must decide the issue for himself. As a conscientious objector, he has to decide for himself." Anna Sloan, Helen Boardman, Rebecca Shelly and Minna Lederman all testified that they had never heard Miss Goldman urge violence or non-registration.

THE MYSTERIOUS \$3,000

When the offices of the No-Conscription League were raided by the police, a newspaper published an account of a mysterious bank deposit of \$3,000. It was hinted that the money had come from pro-German sources. On July 5, James Hallbeck, eighty years old and a native of Sweden, testified that he had given Emma Goldman a check for \$3,000 as a contribution to her work. So the "pro-German" bubble was pricked.

REED, STEFFENS, HALL

John Reed and Lincoln Steffens, magazine writers, testified that they had known Emma Goldman and Berkman for many years, and that they did not regard either as "violent." Bolton Hall, Single-Taxer and writer, said that he was a member of the Free Speech League. Asked by the Judge what the principles of the League are, he said:

"It believes in activities tending to promote liberty, and particularly free speech. We have long fought for free speech. We do not believe in putting any restraint on it. We hold that limiting free expression of opinion is the best way to foster insurrection. We are never afraid to listen to any expression, even if we believe it wrong, but we have decided that the individual must bear the consequences for anything he utters."

"Does that mean that you permit free speech even when it is opposed to law?" queried Judge Mayer.

"We believe the constitutional guarantee of free speech makes free speech of every kind permissible," said Hall.

"In other words, the League permits free speech though it may be contrary to existing statutes," the Judge again asked.

"I think that is free speech," Hall retorted.

Hall asserted he had always known Emma Goldman believed in educational work, and in benefiting people through educational activities. He said he had never known her to advocate violence, or to deny any principle which she preached.

LEONARD D. ABBOTT TESTIFIES

Leonard Abbott, Chairman of the Ferrer Association and President of the Free Speech League, was sure that Emma Goldman had not urged violence at the Harlem River Casino meeting. He said that he had expected she would take a more extreme attitude than she did take. Questioned by Berkman in relation to the educational work of the Ferrer Association, in which both Emma Goldman and Berkman had had a share, Abbott spoke at some length of the Children's School in Stelton, New Jersey, created as a memorial to the Spanish martyr, Francisco Ferrer.

"Does the Ferrer School teach children to disobey the laws of the country?" Mr. Abbott was asked.

"It teaches them," he replied, "to criticise all laws and to prepare themselves for a Free Society."

"When you speak of criticising laws, do you include the laws of this Government?" Judge Mayer asked the witness.

"Yes," was the reply.

"Why was Francisco Ferrer executed by the Spanish Government?" the Judge asked the witness.

"He was executed because he loved liberty and human rights," said Abbott.

"Wasn't he executed upon false testimony?" asked Miss Goldman, springing to her feet.

"Yes," was the reply.

MARTIAL MUSIC GIVES COLOR TO THE TRIAL

Revolutionary and patriotic music clashed toward the end of the trial. At one moment the clear strains of the Marseillaise floated in through the open windows from bands accompanying the Russian Commission, which was marching past City Hall with its streaming red banners. This happened just as Miss Goldman read from her writings passages to the effect that war was only in the interests of the working class when it aimed at the overthrow of the capitalist system. When she read her "New Declaration of Independence," setting forth the right of the masses to overthrow a tyrannous and iniquitous government, the band suddenly burst forth with the "Marche Militaire," France's new song of revolution and freedom.

Twice the bands played "The Star-Spangled Banner." Everybody was ordered to rise. The first time, a young girl refused to do so, and was ejected by court attendants. The second time Stephen Kerr and another man were led from the room for refusal to stand, whereupon the Judge said: "Any man who refuses to stand will be taken from the room, and will not be permitted to come back." Emma Goldman and Alexander Berkman remained seated.

CLOSING SCENES OF THE TRIAL

The trial occupied eight days and came to an end on Monday, July 9. Alexander Berkman spoke for two hours. Emma Goldman then spoke for something over an hour. Mr. Content summed up for the Government in a speech not quite an hour long.

THE VERDICT OF THE JURY

After listening to the speeches, the members of the jury filed out of the court-room. They deliberated for thirty-nine minutes. It was late in the afternoon. Judge Mayer came into the court-room at 6 o'clock. The Clerk called the roll of the jury, and then turned to Frank M. White, the foreman, and asked him if a verdict had been agreed upon. Mr. White replied that the jury had agreed.

"What is your verdict?" the Clerk asked.

"Guilty," the foreman replied, in a voice that could be heard in the corridors.

Emma Goldman was immediately on her feet.

"I move," she said, "that this verdict be set aside as absolutely contrary to the evidence."

"Denied," replied Judge Mayer.

"I then ask that sentence be deferred for a few days, and that bail be continued in the sum already fixed in our case," Miss Goldman added.

"Motion denied," said the Judge.

The clerk then took the pedigrees of the defendants. Berkman said he was born in Petrograd about forty-seven years ago, that he was single, and not a citizen of the United States. Miss Goldman said she was born in Kovno, Russia, in 1869, was single, and that she was not a citizen by application, although, she added, her father had died an American citizen.

THE PRISONERS SENTENCED

Judge Mayer announced that he was about to impose sentence and asked the defendants if they knew of any reason why sentence should be deferred.

"I think it only fair to suspend sentence and give us a chance to clear up our affairs," Berkman said. "We have been convicted simply because we are Anarchists, and the proceeding has been very unjust." Emma Goldman also protested against the way in which they were being railroaded to prison.

Then came the sentence. Judge Mayer stood, while the defendants remained seated.

"In the conduct of this case," said Judge Mayer, "the defendants have shown remarkable ability, an ability which might have been utilized for the great benefit of this country had they seen fit to employ themselves in behalf of this country rather than against it. In this country of ours, we regard as enemies those who advocate the abolition of our Government, and those who counsel disobedience of our laws by those of minds less strong. American liberty was won by the forefathers, it was maintained by the civil war, and to-day there are the thousands who have already gone, or are getting ready to go, to foreign lands to represent their country in the battle for liberty. For such people as these, who would destroy our Government and nullify its laws, we have no place in our country. In the United States law is an imperishable thing, and in a case such as this I can but inflict the maximum sentence which is permitted by our laws."

The Judge imposed a penalty of two years in prison, with a fine of \$10,000 in each case. He instructed Mr. Content to communicate the record of the conviction to the immigration authorities for such action as

those authorities might see fit to take when the prisoners had served their terms. Under a new Federal law an alien, twice convicted of a crime, may be deported by the Government to the country from whence he came.

As the Judge finished pronouncing sentence, he declared the court adjourned and started to leave the bench. Emma Goldman at once arose.

"One moment, please." Judge Mayer turned and faced her.

"Are we to be spirited away in a speedy manner? If so, we want to know now, right now," she said.

"You have ninety days in which to file an appeal," replied the Judge.

"Well, how about the next hour or so?" Miss Goldman demanded.

"The prisoners are in the custody of the United States Marshal," Judge Mayer answered, and for the second time he started to leave the room.

"One more word," Miss Goldman said, "I want to thank your Honor for refusing us the two days which are given even to the most heinous of criminals."

RUSHED TO PRISON

The prisoners were spirited away, by midnight trains and with indecent haste. Emma Goldman was taken to Jefferson City, Mo.; Alexander Berkman to Atlanta, Ga.

The vindictive sentences inflicted upon them and the injustice of the entire trial can only have the effect of strengthening the libertarian and Anarchist movement in America.

Their imprisonment is likely to accomplish even more for the no-conscription movement and for anti-militarism than their agitation. The very fact that they are behind the bars ought to make clear to even the dullest mind that the Prussianism that America has set out to combat, by force of arms, is already enthroned in this country.

The crime of Emma Goldman and Alexander Berkman was that they fought for liberty.

Their heroism consists in their willingness to make what even the militarists admit is the supreme sacrifice--the sacrifice of their own bodies and of their own freedom.

It is marvelous to think that Alexander Berkman, after serving fourteen years in a Pennsylvania prison with spirit unbroken, is still willing to go to jail again in behalf of the liberties of the people.

The example of Emma Goldman and Alexander Berkman is inspiring, and will serve as a beacon light for many a year to come.

LEONARD D. ABBOTT