



Published Essays and Pamphlets

Trial and Speeches of Alexander Berkman and Emma Goldman

Address of Harold A. Content, Assistant United States Attorney, to the Jury July 9, 1917



GENTLEMEN OF THE JURY:

Unfortunately I am sadly lacking in that eloquence of words that has distinguished Miss Goldman's oration. I am paid to talk for a living, but I am sure that if Miss Goldman wanted to accept a position in the Government service she could secure the finest kind of position by reason of her oratorical gifts. But perhaps I have something in the nature of a confession to make to you, because there was a time in my youthful career when I offered myself as a candidate for the State legislature, and I told with all my sincerity the voters in my district why they should vote for me, and you can judge the degree of success I had, when I tell you that I failed to be elected. But I feel in this case, that whereas the Government forces may not be able to place before you that eloquence, that impassioned oratory, that use of words that has so distinguished Miss Goldman during the past twenty or thirty years, still on the other hand the Government has brought before you an eloquence of facts that cannot be disregarded by any juror who is conscientiously trying to decide a question of fact upon the evidence submitted to him and upon nothing else. Now, gentlemen of the jury, you were told somewhat in the opening speech of the jury just what the law in question was.

(The Prosecutor here again defined the charge of conspiracy, the meaning of overt acts and reviewed the evidence.)

And now, gentlemen of the jury, before I pass to the other witnesses I just want to refer to a few things that were brought out in the summation of the defendants, that I haven't really thought of specially when I prepared these few remarks that I am giving you. Mr. Berkman among other things tried to give you a definition of an Anarchist. You, gentlemen, I assume, don't speak Greek. But he gave you an incorrect translation of the word "Anarche." The word "arche" means government. It does not mean violence. That is not the interpretation. So that the word "Anarchy" instead of meaning "without violence," means "absence, abolition of government," or "chaos," every man to do as he feels like, without regard to the rights of his neighbor, without regard to law and order. That's the true translation of the Greek word "anarche." So, don't be deluded by their contention that government is violence, and that any effort to do away with government is not violence but is something that is done to destroy violence. That is their

philosophy. And you had a very excellent sample of it when Mr. Abbott was on the stand and was inquired of as to the tenets of the Ferrer School in New York City. I didn't bring that out. You gentlemen recall, all this talk about Mr. Francisco Ferrer was brought out over my objection. I had nothing to do with that. I didn't bring out that they were Anarchists. They brought that out themselves when they were examining talesmen. So that Mr. Abbott told you that this school of which he is the noble head, and of which these two defendants have the honor to be founders, teaches young people--think of it!--that they are above the law; teaches them what they call "self-reliance," that is to say, if you feel strong enough to defy a law of your country, why go ahead and defy it; only--be sure that you can get away with it. That is the doctrine of the Ferrer School. I didn't bring that out. They brought it out. And it is perhaps just as well for you, gentlemen, who doubtless have relatives in the public schools of this country, to know that and to consider how this country would succeed if doctrines of that sort were permitted to be promulgated among the young in this society.

Now, gentlemen of the jury, it is part of your province to pass upon the credibility of witnesses and I do not propose to take up your time by referring to each witness. But I shall do somewhat like my adversary. I shall break them off into groups. We first had Miss Fitzgerald who was called as a hostile witness. Miss Fitzgerald told you what the No-Conscription League was. She would not say in so many words that Mr. Berkman and Miss Goldman were prominent members of the league; she would only say that they were the ablest speakers. But what did we elicit from her? We elicited from her that the money with which the so-called league of Emma Goldman, Berkman & Company was run, was supplied by voluntary contributions, some of these contributions being taken up, as you can tell from the minutes read to you, at meetings where poor deluded people put in coppers and nickels and dimes, some as high as a dollar. And this money was taken, and what was done with it? It was placed to Alexander Berkman's credit in the account in his name. And you have in evidence a letter to the bank telling them to do it, and you have the further fact that on the bottom of the form letters, contributors are asked to send the money to Berkman and Goldman for obvious reasons, not to the No-Conscription League. So what have you got? You have got the money that is taken for the avowed objects of this movement, put into the personal bank account of Alexander Berkman, mingled with other funds, funds from THE BLAST perhaps, funds perhaps from his writings, if there are any; and checks drawn in common on this fund, no accounting to anybody. If a trustee of any society in the State of New York handled accounts in that way he would be indicted for grand larceny and convicted. So as you examine Government's Exhibits 18 and 19 you have certain Graphic Press bills and you have certain other payments, you have some money sent to Robert Minor for the San Francisco defense; and to be sure, they paid \$25 deposit for the Hunts' Point Palace, and some other alleged bills. But you also have such significant items as a bill from a doctor who treated Mr. Berkman's foot.

Now gentlemen of the jury, you may say perhaps they had a right to support themselves because they were engaged in the work and didn't take any specific salary. But I call your attention to the fact that if Anarchy means that you can take poor people's money and mingle it with your own and give no accounting for it and use it for what you please including hotel checks, then I think a lot of us will be turning into Anarchists.

You had a lot of the gentlemen called who testified that they had known Mr. Berkman and Miss Goldman for a long while, that they were very ideal people and had never believed in violence and had always expressed themselves as opposed to violence. You had Mr. John Reed who got 30 days and doesn't know what for in Paterson, who told you in a very calm manner that God knows he was opposed to violence. And then you had Mr. Lincoln Steffens, and you had a psychological lady named Miss Boardman, if I recollect. And you had an Italian gentleman named Mr. Pietro Allegra who spoke at many meetings, and you had Mrs. Sloan, who had a very distinct recollection that Miss Goldman was unalterably opposed to violence. And you had a gentleman who formerly was a lawyer, but doesn't practice any more, Mr. Bolton

Hall, who believes in free speech, whether it comes in conflict with the law or not, and he was sure that Miss Goldman was opposed to violence, although he once heard that she served time for unlawful assembly and inciting to riot. Now the theory of all these gentlemen was this: that she could not have used these words. The important part of that May 18th speech is not "We believe in violence and will use violence." The important part is "We will support all those who refuse to be conscripted."

Gentlemen of the jury, the scene in this court has been a quiet one. It has been the aim of the defendants to convey to your mind the impression that it would have been absolutely inconsistent that they should even have advocated such terrible things as they are charged with. Gentlemen of the jury, you have not been at the different mass meetings that I have been compelled to attend. But I think you have a pretty fair picture in your mind. You have at those mass meetings a very different Emma Goldman, for example, than the Emma Goldman who in this court says "Thank you" to witnesses. You have there the emotional Emma Goldman, something as you heard to-day, with all that fiery oratory that makes her so dangerous to the peace and security of the United States. Anybody who underestimates Emma Goldman's oratory, anybody who underestimates Emma Goldman's intellectual qualities is a fool. She is the best speaker that you perhaps ever heard. And that is why her influence is so pernicious.

And the Alexander Berkman you have seen here--how he controlled himself in court! But you got a taste once of his other self: once he lost control of himself and protested against something that was "a damned outrage," as he termed it, but which was really a perfectly proper piece of legal procedure, the offer of something in Miss Goldman's handwriting, and His Honor admitted it. That is the Berkman who speaks at the meetings. Those are the people who are plotting from day to day against the peace and security of the United States and who impose their personalities upon the weak minds of ignorant foreigners who come to this country, come from persecution in Russia, and instead of being taught that they should give credit to this country for freedom of worship, freedom of education, they are taught that they ought to bring about a rebellion against this country, the same as they were taught in Russia to bring about rebellions against the tyrannous rule of the Czar.

Now, gentlemen of the jury, there is another element in this case injected by the defense. It really has nothing to do with the case, but it really calls for some explanation. You have been told by numerous witnesses that the soldiers and the police and the detectives tried to break up the meetings. Now, gentlemen of the jury, that has nothing to do with the question of fact as to whether these people conspired to cause people not to register, to aid and abet those who did not register. But it does show the psychology of the minds of these defendants, and I think it will interest you to bear this point in mind. But before I want to call it to your attention that these people came on the platforms and used expressions and indulged in attacks that they know are calculated to bring about a breach of the peace. They indulged in language that of itself constitutes disorderly conduct because it tends toward a breach of the peace.

Gentlemen of the jury, can you blame these young men in uniform who have enlisted in their country's service, who are ready to lay down their lives in defense of the principles upon which this Government is founded and for which it stands, who have to sit there and listen to people of this kind insult the President of the United States, defy the laws of the United States, desecrate the national emblem and heap ridicule upon the national anthem? Is it any wonder that the bonds of restraint must break when the people of this sort will presume beyond the endurance of a normal, free American citizen?

There was injected into the evidence something of a personal nature that I am sorry crept in--of course it doesn't make any difference--because it puts my personality in the case, where it doesn't belong. Miss Fitzgerald told you that at the meeting at the Royal Lyceum, on June 11th, Miss Goldman came out of the hall and told me they were holding up registration cards of men over the conscriptable age; and I told her I had nothing to do with it, that I wasn't the marshal nor a policeman. She did say to me, according to the

conceded testimony, "Well, you act like a policeman." Then I replied, "Well, if I were I might lock you up," or something of that sort. Now, that has nothing to do with the case, but it is perfectly apparent that Miss Goldman was trying to get into an argument--because that is their stock in trade, to get the other fellow's goat. And I am sorry to confess that one day they did get my goat and I had to apologize to the Court, because I fell a victim to the snare they had been laying for twenty-five years. They want you to fall for their snare, and then they blame it on you.

Gentlemen of the jury, in conclusion I want to say that this is a representative government. Before a law becomes the final law of the land every citizen through his chosen representative in Congress has the undoubted right to write to his Congressman, to see his Congressman and to take a definite stand on any piece of proposed legislation. Further than that, after a law is passed, if it appears to be a pernicious law every citizen has the undoubted right to urge the repeal of that law. But will you please tell me where in all the literature that has been offered in evidence, in all the speeches that have been offered in evidence, is there one word about proposed repeal of the conscription law? If these meetings were held merely to bring about the repeal of the conscription law, then why don't they say so? Can't you see that these people's object was willfully to violate a law that was passed? If you don't believe in capital punishment, as you have a right not to believe in it, you have a right to agitate in the State of New York, if you will, for a repeal of the death penalty. If you do believe in the abolition of capital punishment, does that entitle you to go out and tell John Jones to murder somebody? That's a poor way to have a law repealed. That's precisely what these people have done. They don't like the conscription law. They don't like any law. But they are banded together, not to secure the repeal of that law, not to petition Congress in an orderly fashion, but to set themselves and their cohorts above the law of the United States. You were asked, gentlemen of the jury, if you believed in democracy. And every one of you believes in democracy. So does everyone in this country believe in democracy. On the field of Gettysburg the immortal Lincoln said, "This is a government of the people, by the people and for the people." And so it is. The shadow of the great conflict at Gettysburg has passed off, but to-day this country stands north and south alike united in the defense of our common liberties. It is a government of the people, by the people and for the people. But an orderly government, a government of decent men and organized society, founded upon order and not upon chaos and Anarchy. And I say to you, gentlemen of the jury, that the sort of democracy for which Washington and Jefferson and Madison and Jackson and Lincoln fought and bled, that great democracy, that great orderly republican government must not succumb to and shall not be destroyed by the attacks of people like these two defendants who seek to abolish that very democracy that our forefathers have laid down their lives in defense of. That is the point. Of course we believe in democracy; but we don't propose to have that glorious democracy destroyed by Anarchy and bloodshed and violence.

Now, gentlemen of the jury, this case is an important case. That's doubtless why you have been so patient. It's an important case from the point of view of the defense. Nobody wants to underestimate the importance. But, gentlemen of the jury, this case is very important to the United States of America. As I said before, the Government of the United States is the district in which you participate through your duly constituted representatives. And this case is of prime importance to that Government. Will you by your verdict say that people like these can go forth again, defy our laws, desecrate the Stars and Stripes, make fun of the national anthem and do that with impunity? Urge people willfully to set themselves above the provisions of a definite law? Aid and abet people who will not register for conscription? Are you by your verdict going to say that to them?

Or rather, gentlemen of the jury, are you going to say this: It has been shown that you two people got together in a common unlawful plan; that the object of your plan was to bring about that young men of conscriptable age should willfully refuse to register as provided by law, and that you aided and abetted them in their unlawful activities, and that in pursuance of that conspiracy you did many outward acts looking toward the accomplishment of your wicked designs? Are you not rather going to say by your

verdict, in these times when men are willing to give their treasure in behalf of those principles for which we all stand, and are willing to lay down their lives in behalf of the nation we love:

Strike til the last armed foe expires!

Strike for your altars and your fires!

Strike for the green graves of your sires!

God and your native land!