



Published Essays and Pamphlets

Trial and Speeches of Alexander Berkman and Emma Goldman

Opening Session



PROSECUTOR H. A. CONTENT: Where is your attorney, Mr. Weinberger?

ALEXANDER BERKMAN: We will conduct our own case. I move an adjournment on the following grounds: We have had absolutely no chance to familiarize ourselves with the case, or with the charges brought by the prosecution against us. We have been unable to see or to subpoena witnesses, many of them being out of town. We have been released from jail only a very short time ago, owing to the fact that it was most difficult to secure for the defendant Emma Goldman the excessive \$25,000 cash bail demanded by the District Attorney; owing, further, to the fact that the prosecution placed many obstacles in the way of releasing the defendant Alexander Berkman on bail. Emma Goldman has been out only since Thursday evening. Every moment of her time until Monday night was devoted to securing bail for the defendant Alexander Berkman. As a result of this we have had no time for a consultation, nor any opportunity to familiarize ourselves with the indictment. For these reasons we ask for a reasonable adjournment to prepare our defense.

MR. CONTENT: Your Honor will understand that whereas it is always the defendant's right to defend himself or herself, on the other hand up until this moment Mr. Weinberger was the attorney of record. This is a form of indictment Mr. Weinberger ought to know and knows. He was furnished with a copy of the indictment the day it was filed. He has had ample opportunity to look it over, and it is not very different from other indictments in which he has been counsel.

EMMA GOLDMAN: I wish to state it is not true, as claimed by Mr. Content, that Mr. Weinberger has charge of our case. He is not in charge of our case, not because he would not have been willing or glad to appear, but because we decided to conduct our own case. We wish to conduct our own case, and we feel we ought to have a reasonable adjournment to prepare our defense. We are asking for a reasonable adjournment.

ALEXANDER BERKMAN: I should like to add to the reasons given by Miss Goldman that I have been out of jail only since Monday evening. Today is Wednesday morning. It was a physical impossibility for me to do anything to become familiar with the indictment, look up witnesses, or to give the matter much

thought. I was held twelve days in jail, suffering great pain because of the accident to my foot, and I am now physically and mentally not in a condition to go ahead with the trial.

THE COURT: When this case first came up, I stated that the case would proceed today. The statute of May 18, 1917, provides that violations thereof shall have precedence on the criminal docket. That is the mandate of Congress, approved by the President of the United States. You have concluded to conduct your own case, which is your absolute right; and every effort will be made to give you the fullest opportunity to conduct your own case in accordance with law. But I deem it my duty to deny the motion, and the case will proceed.

ALEXANDER BERKMAN: May I say something with regard to the Act under which we are indicted? I am not familiar with it, but I take it that that statute does not intend to deprive us of the opportunity to prepare our case.

THE COURT: I have ruled, Mr. Berkman.

EMMA GOLDMAN: May I also say, your Honor, that I presume that it is not the intention of the Court to persecute us--that as long as we are not familiar with the indictment, or with the various phases of the law, have we not the right to ask you to reconsider your denial of the motion, and grant us a reasonable adjournment for the purpose of familiarizing ourselves with the indictment and preparing an adequate defense? That is a thing which was granted prisoners even in Russia under the Czar. Surely we ought to have this right in the United States.

The Court again denies the motion for adjournment, and jury is called.

MR. CONTENT: Do you want to examine the jurors?

EMMA GOLDMAN: I don't wish to participate in this farce.

MR. CONTENT: Then you don't want to examine any jurors?

EMMA GOLDMAN: No, I don't.

MR. CONTENT: Mr. Berkman, do you desire to examine any of the jurors in this proceeding?

ALEXANDER BERKMAN: I should like to find out first how we are going to be tried, since we are not prepared. I have stated that I got out of jail Monday, five o'clock in the evening. *I am out of prison only one day*, and it was humanly impossible to get ready. I have not even read the indictment yet.

THE COURT: I have answered all that. I have ruled that you have had plenty of time.

ALEXANDER BERKMAN: But I have not had.

THE COURT: I have so ruled and you have an exception, and you say you will conduct your case, each of you.

EMMA GOLDMAN: Since we realize that the trial will be a still greater farce if we allow ourselves to be tried without an examination, we will examine the jurors *under protest*. We want it to go into the record that we protest against any procedure which makes it impossible for the defendants to study their case, or

familiarize themselves with certain technicalities which we, as lay people, certainly cannot do in forty-eight hours or even in three or four days. We will examine the jurors under protest.

Examination of the jury was carried on under the greatest difficulty, the District Attorney and the Judge constantly interfering. The Judge and District Attorney took it upon themselves to instruct the jurymen to answer that they "would not be prejudiced against the defendants if their activities were within the law."