

A New England Mooney Case

Sacco and Vanzetti Have Been Convicted; Story of Trial Shows Unusual Effort Made to Secure a Conviction

By ELIZABETH GLENDOWER EVANS
(Contributing Editor)

La Follette's readers have long known and loved Elizabeth Glendower Evans as the champion of those principles for which our government was instituted. For many months she has been giving all her strength—soul and body—to the end that two Italian labor organizers, as she believed after careful investigation, wrongfully accused of murder, should have a fair and unprejudiced trial, such as is guaranteed by the Constitution.

There was nothing personal in her devotion to this cause. As always, she was seeking to build for lasting liberty and freedom.

Naturally the miscarriage of justice was a great shock to those who thought the defendants innocent. According to reports of more liberal journals there is strong ground to believe that Sacco and Vanzetti are the victims of a frame-up by powerful interests because of their activity in the labor movement of Massachusetts, and because of prejudice against them on account of their opposition to war.

A motion for a new trial has been filed. On November 1, a bill of exceptions alleging numerous errors in the court procedure will be submitted. The Massachusetts Supreme Court will pass upon the appeal within the next few months.

Money is needed for the long fight ahead. Can you help? Mrs. Evans has given to the limit personally, and she has borne the brunt of the campaign of raising money for the conduct of the defense. She was in attendance throughout the long trial. It is something to remember what such a friend must mean to these lonely people in their terrible ordeal.

A few days ago the papers said that Mrs. Sacco, the young wife of one of the defendants, and her two children, one a babe of nine months, had been given the privilege of living in the home of Louis D. Brandeis of the United States Supreme Court, pending the appeal of her husband's case. The Brandeis home is in Dedham, near the Norfolk county jail where Sacco is bonded and this gives her the opportunity of visiting him frequently.

Mrs. Evans is having a much needed rest with Mrs. Brandeis at Woods Hole, Massachusetts. Louis Brandeis and Glendower Evans were college chums. Since her husband's death many years ago, Mrs. Evans has counted Mr. and Mrs. Brandeis her closest friends and comforters.—Editor's Note.—B. C. L.

THE trial of Nicholas Sacco and Bartolomeo Vanzetti at Dedham, Mass., for the murders of a paymaster and guard and robbing of a \$15,000 pay roll, at South Braintree on April 15, 1920, was a record breaking affair. The trial lasted for thirty-six days and some one hundred and fifty-seven witnesses were put upon the stand. It is said to have entailed a phenomenal cost to the tax-payers of Norfolk County. However this may be, no part of the cost was incurred in behalf of the defense, as up to date not one penny has the Court provided for that purpose.

The defense fund, raised for the most part from working class Italians and referred to by the well to do public (including the judge) as somehow illegitimate, fell so far short of the necessities of the case that at one time the defense would have been unable to have put its witnesses upon the stand but that this fact becoming known, brought in new contributions.

During the trial the court house, both outside the doors, in the corridors, and in the court room itself, was heavily protected by uniformed policemen and plainclothes men. After the opening days all men who sought to enter were searched for concealed weapons. This suggestion that desperate characters might seek entry who would attempt to rescue the accused in the very presence of the court, is believed by the defense to have contributed to the extraordinary outcome of the trial.

Certain it is that every officer of the law

from the lowest to the highest, was convinced of the guilt of the accused before the trial opened, and an atmosphere of condemnation was thus created which can hardly fail to have affected the mind of the jury.

The Government was out, not simply to run down crime, but to run two men under accusation. Every resource of the Government was strained to convict. And in spite of the weakness of its case, it got what it wanted.

Case of Identification

THE case was primarily one of identifications. Altogether twenty-seven witnesses, seven for the prosecution and twenty for the defense, were introduced, who claimed to have seen the face of one or more of the bandits in the act of shooting or as they fled in an auto down the main street of the town.

Among the witnesses for the defense there were discrepancies such as will occur whenever two persons view the same object, and which went to show that their testimony was not fixed up. The majority were agreed upon all the main points, and all were certain that they had seen neither Sacco nor Vanzetti. Several were in a position to get a capital view, notably Burke, some ten feet from the fleeing bandit who snapped a pistol in his face, and Barbara Liscomb, looking down upon the murderer as he stood over his victim and pointed the pistol at the open factory window, who testified impressively: "I shall remember that face all my life, neither of the men in the cage is that man, I AM POSITIVE." The testimony of no one of the twelve defense witnesses was discredited.

For the prosecution, seven witnesses testified as follows: Wade had recently seen a man so like Sacco that, although he had formerly been fairly positive, he now refused to make an identification. DeBerandini, who stood within a few feet of the fleeing car and had a pistol snapped in his face, was certain that neither one of the defendants was the man he had seen.

"Does the prosecution abandon this witness?" asked the defense counsel. Pelser, who claims to have seen the murderer standing over his victim and then pointing a pistol at him as he looked down from the open window, testified: "I wouldn't be sure that he (Sacco) is the man, but he is the dead image of him." Four of Pelser's fellow shoe cutters, however, testified that it was McCALLUM, not Pelser, who threw up the sash and looked out, and he had previously stated, both to the prosecution and to the defense, that he had not seen what in court he testified to have seen; fourteen months had elapsed from the date of the shooting to the date when Pelser made his identification at Dedham and in the interval, being out of a job, he had been reinstated at the factory and he had thereupon volunteered to be a witness. Two other identification witnesses, Levangie and Goodridge, had earlier denied repeatedly that they were able to identify anyone. (A few weeks after the crime the latter absconded with money belonging to his employer, but he could not be discredited for this as a witness, as he had been put on probation.) This leaves just two witnesses, Miss Devlin and Miss Splaine, who were positive in their identifications. The former of these expressed herself upon the witness stand more positively than she had done a year ago, while the latter, entirely positive at the trial, had formerly testified, "I am not sure—my position did not allow me to be certain." Both of these women viewed the fleeing auto from a point of great disadvantage; both of them had looked Sacco and Vanzetti over several times before making their final identification at Dedham court room. It may be inferred that, as a result of repeated observations, the picture in their minds had grown more vivid and more explicit. Only Levangie of the above witnesses claimed to have seen Vanzetti, and described him as driving the auto, which even the prosecution agreed that he did not drive.

Some of the Testimony

BESIDES the above twenty-seven persons who saw or claimed to have seen the deed in the doing, seven other witnesses were produced by the prosecution who claimed to have seen either Sacco or Vanzetti in South Braintree or elsewhere earlier or later, upon the day

of the crime or the preceding evening. No one of these persons, however, had occasion at the time to associate them with any unusual occurrence.

A sample of the testimony offered as serious, is that of Harry Dolbear, drawn as a jury man, and discharged when he claimed to have noticed a dark moustached man drive past him some hours before the crime occurred, and whom he positively identified as Vanzetti—a period of almost fourteen months having elapsed in the interval! His testimony was highly praised by the district attorney in his closing argument.

Such were the "identifications" on which the guilt of the defendants hinged. "Not proven," would seem the most that could be deduced from this testimony by any candid mind.

In this brief review it is impossible to discuss all the other evidence offered. The testimony of gun experts, for instance, was voluminous and highly technical. On the whole the testimony of one set of experts was contradicted by that of the other. Indeed, the assertion in behalf of the Government that a certain bullet, extracted from the body of one of the murdered men could have been fired only from the pistol said to have been carried by Sacco when arrested, was to some degree cancelled by testimony by the same expert that similar markings might occur upon any bullet fired from a carelessly clean barrel. It is hard to regard testimony of this character as serious.

Now as to the alibi evidence which the defense offered: ten witnesses testified for Sacco to have seen him either in Boston or in Stoughton at some one or another hour on the day on which the crime was committed. Five of these were Americans, one of them an advertising agent named Williams, who located the day by reference to his business books; two were editors of Italian newspapers; one was the manager of the department of Foreign Exchange in the Haymarket National Bank.

Alibi of the Men

ONE alibi witness who was brought forward late in the trial and by the merest chance, offered testimony which in itself would seem should have been conclusive. It appeared that at the court room which arrested his attention, "Where have I seen that face?" he asked himself. Then he sent for his counsel who called the man indicated into the lobby and inquired if he could ascertain whether he had traveled from Sacco one day had noticed a face in the audience Boston to Stoughton late in the afternoon of April 15, 1920. "I don't know," answered the stranger, "but I will see if I can find out." It developed that he was a contractor who kept his own time in his business books, by the hour; and from his books, put in evidence, and from a memorandum of supplies bought in Boston upon the date in question, he was able to locate himself on that very train. He did not know Sacco and had no recollection of having ever seen him until he dropped in one day as a spectator at the trial. His name is James M. Hayes; residence and place of business, Stoughton, Mass.

Vanzetti's alibi was not so strong as that of Sacco, but it was strong. Eleven witnesses, five of them Americans, testified to his movements in Plymouth on the day of the murder. Most convincing of the witnesses was a Jewish peddler named Rosen, who visits Plymouth only two or three times a year and who identified the day on which he had sold a piece of damaged cloth to Vanzetti by the fact that on his return for the night to Whitman, the whole town was talking about the Braintree murder. Also he helped fix the date by his poll tax bill which before leaving home he had directed his wife to pay and which was produced in court bearing the date of April 15, 1920.

Men Are Convicted

AGAINST this testimony to clear Vanzetti, barely a shred of evidence was produced by the prosecution. Really nothing other than the elusive identifications described above, only one of which, be it noted, attempted to connect him directly with the scene of the murder.

In the face of such evidence, how, it will be

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asked, was it possible that these men should be found guilty? That's what I am asking. "It won't take the jurymen five minutes to decide this case," I said to myself, as the judge dismissed them to consider their verdict. All along it had perplexed me why the judge saw fit to continue what seemed to me like a solemn farce. And when the jury returned with the verdict of "murder in the first degree" for both of the defendants, I could scarcely credit my senses. It took the wild weeping of Sacco's lovely young wife as they clung together over the edge of the "cage," to convince me that it was real.

But men don't commit their fellows to the electric chair without SOME reason. And ever since that awful night in the court room, I have been conjuring my imagination to find that reason.

1. The unwonted show of force in guarding the court house and the prisoners may have predisposed the jurors to believe the accused to be desperate characters capable of any crime.

2. As draft evaders, they were objects of opprobrium, and the judge made strong appeal to the patriotic motive.

3. The testimony of the gun experts may have weighed with a juror desirous of convicting and hard pressed for evidence.

3. The testimony of every Italian witness was apparently discredited on general principles—a fact of sinister implications.

4. It undoubtedly weighed heavily in the scales that at the time of their arrest both men were armed, in accord with a far too common habit among Italians. But this is not evidence of red-handed murder.

5. The testimony of Connelly and Spear that the men attempted to draw upon them when arrested, although denied by the accused, and uncorroborated by any witness, was argued by the judge as evidence of "conscious guilt," if the testimony of the policemen were accepted.

6. Finally, it undoubtedly counted heavily against the defendants that they lied consistently and inconsistently, both to the police and to the district attorney. But is this evidence that they are guilty of murder?

Doings of Vanzetti

BOTH Sacco and Vanzetti had good reason to conceal from the police the names of their comrades and the activities that had brought them into the neighborhood of the Braintree crime. Months previous Sacco had been warned that he was under observation by the Department of Justice. He and Vanzetti had come to Brockton, among other reasons to arrange a meeting for the following Sunday—called to denounce the illegal incarceration of their comrade Salsedo, held for two months in the New York offices of the Department of Justice and killed two days before by a fall from the 14th story of the building, tortured to the verge of insanity, there is reason to believe, in the effort to extract confessions.

Vanzetti had recently been to New York to take steps for Salsedo's rescue; in his pocket was the receipt for a money order of \$50.00 sent on April 30th to the Salsedo Defense Committee. In Sacco's pocket was a draft of a "manifest," phrased in eloquent Socialist rhetoric, announcing the meeting which Vanzetti was to address.

Is it surprising that under these circumstances they should have tried to throw dust in the eyes of the police? Does it argue "conscious guilt" that when questioned they should have failed to associate their arrest with the Braintree murder? And is it credible that men should get up a meeting in the vicinity of this murder, perpetrated in the light of open day and in the presence of scores of spectators, had they been guilty of the crime? On the contrary, this fact, apart from all other evidence, should demonstrate their innocence to any candid mind.

Perhaps it was the daring challenge to the Department of Justice whose lawless practices and whose far-flung system of officials and "under cover men" was at that moment being laid bare in the hearing before Judge Anderson at Boston, which accounts for the determined effort to fasten upon them an atrocious crime.

Another Mooney Case

EVERY day brings its record of hold-ups and murders in a country where lawlessness is becoming the order of the day. If evidence such as was accepted against Sacco and Vanzetti will

serve to convict, how handy to fasten such crimes on a "Red."

During the trial, the judge allowed only the most meagre reference to Salsedo and none at all to the outrages done him, nor to the then recent "raids" to discover radical literature which carried terror to the heart of the foreign born, yet these were the facts which furnish the clue to Sacco and Vanzetti's state of mind when arrested, and which furnish the clue to the activities in which they were engaged.

Lacking this clue, all the piled up evidence relative to meetings and radical literature, put in by the defense to explain the goings and comings of the accused, may well have seemed to the jury like a far fetched make-believe. It was the lack of this clew which opened the way for the imputations of "conscious guilt" on which the judge laid stress in his charge and which came not far short of a charge to convict.

The court was summoned in the evening of July 14th to receive the verdict. The public was excluded—was this again on the theory of anticipated violence? A few of us got in with the reporters. When all was over, we went out together, dazed at an outcome which seemed to be beyond credence. "This means the class struggle," was one comment. Certain it is that members of the radical movement throughout the country will take the Sacco-Vanzetti trial as serving notice that for them and their kind there is no justice in the United States.

Of course there will be a struggle to reopen the case, and to keep it open until justice is done. An appeal for a further defense fund has gone out to cover the further legal proceedings and to send out the story of the evidence on which two radicals were found guilty of murder. Meanwhile, Massachusetts has acquired the evil fame of possessing its own Mooney Case.

Menace Seen in County Jail System

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that the good that is done the Nation through the men who are trained in its military services is much more than counteracted by the harm that is done by the county jail.

Systems in Contradiction

"OUR State and county penal systems have been a contradiction of each other since the acceptance by leading authorities of the principle that reformation, not punishment, constitutes the proper aim of prison management. Our county jail system and the legal system supporting it breathe only the spirit of punishment, basing classification upon crime proved rather than upon the individual character of offenders. No effort to effect reformation can be successful when a person's period of imprisonment has no relation to his behavior in prison nor to the possibility of his assuming in the future the responsibilities of a decent citizen. On the other hand, we may have a person of confirmed criminal tendencies sentenced to thirty days because the only crime proved against him is petty theft. Nothing can be done to make a decent citizen of such a man in thirty days, and after his sentence is served he is released to prey upon society again. On the other hand, we may have a young man of good character sentenced for three months because of a local ordinance. Association with criminals in the jail may really inflict lasting injury upon his character and his health, especially when no distinction is made among criminally insane, moral perverts, ordinary vagrants and the first offenders. Our jail sentences are illogical from any standpoint of reformation, because any change will be fruitless unless the system is replaced by misdemeanor prisons with enough inmates to justify scientific State supervision. Prison legislation, including the indeterminate sentence, probationary measures and vocational education, will then be entirely in order, replacing the present lack of understanding of men of their needs."

No Short Session

SENATOR ASHURST has proposed a very sensible amendment to the Constitution. It provides that each new administration shall begin in January, rather than March, and that newly-elected Congressmen and Senators shall take office the first Monday in January after the election.

What the Census Tells

THE figures of population of the United States in the year 1920 have been made public and a comparison with the figures of 1910 will furnish as many kinds of useless but interesting information as could be gleaned from the answers to Edison's questions. The following facts may not help us any in our business but they are worth knowing, namely:

That there are two million more men than women in this country

That the smallest state in the Union (Nevada) is the one where the largest proportion of men to women is to be found, and that it is growing smaller;

That three states have decreased in population since 1910, namely, Nevada (by 4,418), Mississippi (by 6,496), Vermont (by 3,528), the percentage of loss being respectively: 0.45 per cent., 0.30 per cent., and 0.96 per cent.;

That Nevada, with 77,407 population, has as much voting power in the U. S. Senate as New York with 10,385,227, or 134 times as much population, and will continue to have as much power if it continues to grow small and New York continues to grow larger;

That, however, no one is worrying over this fact, nor over the further fact that 25 states, with a total population of less than 20 millions, can outvote, in the Senate, 23 states with a population of more than 85 millions;

That in 10 states there are more Indians than negroes;

That in two states (South Carolina and Mississippi) there are more negroes than whites;

That there are Chinese in every state and Japanese in every state but one;

That the figures show a decrease of 22,724 in the number of Indians in ten years, but that these figures are deceptive, inasmuch as whites with a small fraction of Indian blood were classed as whites in 1920;

That the negroes have increased in 10 years by 635,250, the ratio of increase (6.5 per cent) being the lowest on record;

That in six southern states—Florida, Kentucky, Tennessee, Alabama, Mississippi and Louisiana—the negro population has decreased in 10 years by 51,780, and in six northern states—New York, New Jersey, Pennsylvania, Ohio, Illinois and Michigan—there has been an increase of 373,092;

That the Japanese in California are outnumbered by the whites by 45 to 1, according to the census figures; in Oregon by 185 to 1; in Washington, by 75 to 1; but

That Californians assert that the census enumerators got only about two out every three Japanese down on their lists;

That the state that has had the largest increase of population is New York, and that that increase—1,271,613—is larger than the total population in any one of 18 states, and is larger than the combined population of the five smallest states—Nevada, Wyoming, Delaware, Arizona, Vermont;

That California has had a larger increase of population (1,049,312) than any other state except New York and Pennsylvania, and the latter exceeded it by only 5,594;

That we number, all together, in the continental United States (not counting Porto Rico, the Canal Zone, Alaska, Hawaii, Guam and the Philippines), 105,710,620; and

That that is more, by 13,738,354, than our population was ten years ago.—Current Opinion.

War at An End

WHOLLY overshadowed by the accounts of the prize-fight, there appeared on Sunday, July 3, the momentous news that at last a state of peace with Germany had been legally restored. In the presence of a family group at Senator Frelinghuysen's home at Raritan, the joint resolution of Congress was duly signed by President Harding, and the state of war, begun in April, 1917, finally ended. The armistice, which was welcomed so deliriously on November 11, 1918, has been superseded after just two years, seven months, and twenty-odd days, by an official affirmation of the peace conditions in which we have actually been living. It was an absurd state of affairs, under which, although technically still at war, Americans traveled freely in Germany and did business there to the extent that they could obtain it, while Germans came over here on similar errands, but it was characteristic of the topsy-turvy universe and of the fictitious war-world in which we have been living.—The Nation.