

Justice, Administration of

Claremont Colleges Library  
Claremont, California

LOS ANGELES, - CALIF.

24

# Massachusetts REPUTATION at Stake!!!

¶ Danzetti states the case for himself and Sacco with clear logic and beauty to Governor Fuller of Massachusetts.

¶ Judge Webster Thayer revealed. Appalling affidavits expose his gross prejudice.

Price 10 Cents

Published by  
SACCO-VANZETTI DEFENSE COMMITTEE  
BOSTON, MASS.

**T**HE cogent and eloquent request of Bartolomeo Vanzetti for justice, filed with Governor Fuller of Massachusetts on behalf of himself and Nicola Sacco, is a document unparalleled in American court history. Coupled with the affidavits showing the gross prejudice of Judge Webster Thayer against the doomed radicals and all other people holding unstandardized ideals of social organization, this request should be read by every American citizen who is concerned with the integrity of American justice.

The petition, the affidavits, and editorial comments on them are printed in this pamphlet for wide distribution so that Americans may know the issue. The faith of intelligent people the world over in American courts will be permanently upset if this Massachusetts trial is allowed to stand. Sacco and Vanzetti have never had a fair trial. Judge Thayer's sentence upon them, condemning them to burn in the electric chair July 10th, approaches realization. Will Americans, prosperous as no other people in the world are, and surrounded with devices of comfort and pleasure, shrug their shoulders at this tragic mockery of justice? Will justice compete successfully with trade and pleasure? Will it be murdered by the indifference of people engrossed in bankbooks?

03  
C. H.  
C. H.  
C. H.  
C. H.  
C. H.

---

---

## VANZETTI'S PETITION TO GOVERNOR FULLER

Dedham Jail, May 3, 1927.

To the Governor and Council of Massachusetts:

We, Bartolomeo Vanzetti and Nicola Sacco, confined in the jail at Dedham under sentence of death after conviction of the crime of murder in the first degree, hereby pray you to exercise the power conferred upon you by the Constitution of Massachusetts publicly to investigate all the facts of our cases and set us free from that sentence, if the findings will so dictate to your understanding and conscience. We deem the faculty of compassion to be one of the highest of the human attributes, but here we are asking not for mercy but for justice, and this is the reason why we have not used the printed form provided for petitions of this nature. It contains the word "pardon", which we are unwilling to use, although our counsel has assured us that it does not necessarily mean forgiveness or convey the idea of a confession of guilt. But we wish the utmost possible clearness and precision on this point and are unwilling to risk being misunderstood.

We are not sufficiently familiar with your language to express clearly the ideas we want to express. For that reason we have asked our counsel to help us with our English; but it should be remembered that the thoughts are our own.

Our counsel has warned us that what we have to say may deepen the prejudice against us; but we are foremostly concerned to save what no human power except ourselves can deprive us of, our faith and our dignity, since we have already been deprived of almost all of what men can deprive men.

We have been told that Your Excellency stands, and has always stood, for honesty in public and private life as you understand it, and that you have a mind free and not in legalistic bonds. So, since the nature of each human being is common with the fundamental nature of mankind, and consequently the sentiment of justice is fundamentally common to all men, we can safely speak to you as man to man, notwithstanding deep differences of opinion which divide us.

Our present request is made first and foremost on the ground of our innocence. We had nothing whatever to do with the South Braintree crime. Our instincts make us abhor and our principles condemn such a crime.

We understand that it would be most improper for us to argue our case here at length; we know that your burden is heavy; yet we pray you to forgive us the necessity of stating the fundamental facts and reasons upon which our prayer must be based. It is not our fault if they are many, grave, and strong.

We call your attention to the undisputed facts that at the time of the crime, after it, and ever since we had come to this country, we had earned our own living with hard work; that one of us was able to make large wages and to accumulate a substantial savings bank deposit; that the other could easily have done the same were it not that being single and of a well-to-do family he thought more to give than to save; and that both of us could have had an independent position in Italy regardless of our earnings here. We find that Americans know little of Italian social conditions. For that reason you will forgive us if we say that one of us, Vanzetti, comes of an old,

respected, and well-to-do family in Piedmont, northern Italy; and that the other, Sacco, comes of a family in Torre Maggiore, central Italy, near the Adriatic, which has been prominent in local affairs of government for many years, his brother having been mayor of Torre Maggiore, and several uncles members of the Town Council. The family is in comfortable circumstances. There was no economic necessity for either of us to come to this country. We came because we had heard that it was a land of freedom—freedom not merely to gain wealth, for which we cared little, but freedom of the mind and of ideas. We always think that a natural right, and in that is our happiness.

We pray you to consider also that robbers make away with their booty and do not linger about the scene of the crime in order to address public meetings in behalf of persecuted radicals, which is exactly what we were preparing to do at the time of our arrest; that when the motive claimed for murder is robbery, some evidence is usually offered that the accused were found in possession of some of the stolen money, or that their condition in life had changed after the robbery. Not the least evidence of that sort was offered against us, and there is no such evidence.

It must be considered that in this case the eyewitnesses who had greater opportunity in time and location to see the crime and the criminals have testified that we were not the men, and that they greatly outnumbered those who testified that we were the men, that some of the witnesses called by the prosecutor to identify us had immediately after the murder identified photographs of other persons as the murderers; that some witnesses who were unable to identify us at the police station identified us more than a year later at the trial, doing it with such a particular description (wrong in its would-be most important particular) that a scientist said it would be impossible for a human being to observe so many things in such a short lapse of time, several seconds. Moreover, some of the witnesses who identified us at the trial had not only not come to see us after our arrest, but had at that very time confessed to credible persons that they would be unable to identify any of the criminals. Goodridge, a professional criminal granted probation, and Lola Andrews, worthy of pity and star witness, are of them. Besides all this, each of us showed by reputable witnesses that he was elsewhere at the time of the murder.

It was claimed that one of us after the murder was found in possession of Berardelli's revolver. The claim was not true, and the careful analysis that has been made of the evidence upon which the Government relied shows that instead of proving that the revolver was Berardelli's revolver, it proves that it could not have been Berardelli's revolver. The claim that the bullet that killed Berardelli passed through Sacco's pistol was in dispute between the experts at the trial, and was brought into more serious doubt by the careful experiments made by the expert employed by our counsel after the trial. That the evidence did not prove any such fact is conclusively shown by the sworn statement of Captain Proctor after the trial that,

*"At no time was I able to find any evidence whatever which tended to convince me that the particular model bullet found in Berardelli's body, which came from a Colt automatic pistol, which I think was numbered c and had some other exhibit number, came from Sacco's pistol, and so I informed the District Attorney and his assistant before the trial. . . . Although I repeatedly talked over with Captain Van Amburgh the scratch or scratches which he claimed tended to identify this bullet as one that must have gone through Sacco's pistol, his statements concerning the identifying marks seemed to me entirely unconvincing."*

Now, about this Proctor matter, we want to call your attention to a fact which has always been ignored by those who have tried to explain away the device used by the District Attorney to make Proctor seem to testify to the exact opposite of what he really believed. The whole testimony was as follows:

*Q.—Have you an opinion as to whether bullet No. 3 (Exhibit 18) was fired from the Colt automatic which is in evidence? A.—I have.*

*Q.—And what is your opinion? A.—My opinion is that it is consistent with being fired from that pistol.*

*Q.—Is there anything different in the appearance of the other five bullets to which I have just referred, which would indicate to you that they were not fired from more than one weapon? A.—There is not.*

*Q.—Are the appearance of those bullets consistent with being fired with the same weapon? A.—As far as I can see.*

*Q.—Captain, did you understand my question when I asked you if you had an opinion as to whether the five bullets which you say were fired from an automatic type of pistol were fired from the same gun? A.—I would not say positively.*

*Well, have you an opinion? A.—I have.*

*Q.—Well, that is what I asked you before. I thought possibly you didn't understand. What is your opinion as to the gun from which those five were fired? A.—My opinion is, all five were fired from the same pistol."*

You will see that the questions about the other five bullets which came from the pistol of one of the unidentified bandits, and nobody claimed came from Sacco's pistol, were put not because they had any bearing on the case against us, but merely to work in a definition of the word "consistent" as used by Captain Proctor about the fatal bullet as meaning an opinion that it did pass through Sacco's pistol. The District Attorney in the first question about these five bullets picked up the word "consistent" used by Captain Proctor about the fatal bullet, and got him to define it as meaning that "My opinion is all five were fired from the same pistol." Of course everybody would understand by that that when he used the word "consistent" about the fatal bullet he used it in the same sense. That is what our counsel understood. And that is what Judge Thayer understood when he charged the jury that if the fatal bullet went through Sacco's pistol, Sacco must have been at the scene of the crime,

*"and it was his pistol that fired the bullet that caused the death of Berardelli.*

*To this effect the Commonwealth introduced the testimony of two witnesses,*

*Messrs. Proctor and Van Amburgh.*

We mention this to show the great cleverness of the District Attorney in turning a hostile witness into a favorable witness in such a way that we and our counsel would not see what he was doing. What we have just said really belongs under our second ground, that our trial was unfair; but it also shows that we are innocent, and so we mention it here.

The attempt to prove that the cap of one of us was found near the scene of the murder utterly broke down. Sacco's employer, Kelly, who was the only witness for the Government on that point, said that the cap found resembled Sacco's cap "in color only . . . general appearance, that is all I can say"; and said that another cap used as a store sample was "the nearest thing" he had seen to Sacco's cap. And he testified positively that he had not intended to identify the cap picked up at the scene of the murder as Sacco's cap. Mr. Katzman, taking advantage of the fact that there were four caps in court, one of which was taken from Sacco's house, told the jury that Sacco denied his own cap, when Sacco's answer about a cap that he had not seen for a year (the one taken by the police from his house) was, "It looks like my cap" and "I think it is my cap, yes."

The breakdown of all this evidence left nothing against us but what the Judge called "consciousness of guilt," which he says is what convicted us. His words were:

*"For these verdicts did not rest, in my judgment, upon the testimony of the eye-witnesses, for the defendants, as it was, called more witnesses than the Commonwealth who testified that neither of the defendants were in the bandit car. The evidence that convicted these defendants was circumstantial, and was evidence that is known in law as 'consciousness of guilt.' This evidence, corroborated as it was by the eye-witnesses, was responsible for these verdicts of guilty."*

To this evidence of consciousness of guilt we will refer in a moment, only saying now that the only guilt we were conscious of was the guilt of being Radicals in danger of arrest, detention, and torture or death, as had happened to our friend Salsedo and other friends at the hands of Mitchell Palmer's agents.

The second ground of our prayer is that our trial was unfair, unworthy of the name of justice, and certainly unworthy of the tradition of even-handed justice which your race and your country profess to respect. No argument, no explanation, no excuse, can ever blot out the facts that the testimony of Captain Proctor, who believed us innocent, was deliberately perverted by the prosecuting officer; or that our cross-examination, and especially the cross-examination of Sacco, as to Radical views, friends, and publications, was designed to excite the utmost prejudice and hostility against us at a time when the public mind was most abnormally excited against such men as we are; or that it was admitted by the Judge on the false ground stated by the District

Attorney that he desired to ascertain whether we were really sincere Radicals, or only pretending to be Radicals. Proof has been furnished and never contradicted that at the very time when the District Attorney was offering this reason to justify that cross-examination, he had received full information from agents of the Federal Department of Justice about our views and associates, and that we were on the list of men to be watched as Radicals. In overruling the objections made by our counsel to this cross-examination the Judge made statements in the presence of the jury which were uncalled for by anything that had occurred, and must have operated to deepen the prejudice against us. It seems to us little short of mockery to suggest that the effect of such occurrences could have been removed by mere general admonitions to the jury to treat us fairly.

Further facts which cannot be explained away were the suppression by the District Attorney of the testimony of the important eye-witnesses Mrs. Kelly, Mrs. Kennedy, Gould, and others who would have given testimony favorable to us, and were suppressed not because the District Attorney distrusted them, but simply because their testimony would have contradicted what he was trying to prove. These facts were undisputed by affidavit or otherwise when our motions were argued. And so was the fact that the District Attorney called as a witness to discredit one of our witnesses a detective named Hellyer, who had with him a notebook in which the incidents of his investigation immediately after the crime were all set out, including the refusal of Mrs. Kelly and Mrs. Kennedy to identify either of us, the identification by some of the Government witnesses or other persons as the murderers in Captain Proctor's office, and the general weakness of the Government's case against us. All this was unknown to our counsel, and the District Attorney asked no question that would disclose it. Nor did the District Attorney disclose at the trial the fact that one of the witnesses upon whom he relied to show that Berardelli's revolver was subsequently in the possession of one of us, had himself been a local agent of the Federal Department of Justice at the time of the Red agitation when we and our friends were being investigated, persecuted, and murdered by some of those agents.

There is one other matter that ought to be mentioned here. The District Attorney used as an Italian interpreter a man named Ross, who is now serving a sentence in the House of Correction for having attempted to sell to ignorant people his supposed influence with judges. You will find that our lawyers several times objected to Ross's translations of our cross-examination, and at one time had to get another Italian interpreter to protect us. Ross, who was in close relations with the District Attorney, took Judge Thayer to and from Dedham in his automobile almost every day during the trial. What he said to Judge Thayer we do not know; but as the affidavits show beyond a doubt that Judge Thayer was in the habit of talking about us and our case outside of court, and of allowing other people to talk to him about it, and as Ross was evidently doing what he could to help the District Attorney, you will excuse us for having great fears as to what he said to Judge Thayer on those automobile rides. Mrs. Rantoul in her affidavit says that Judge Thayer talked to her about what a witness had said outside of court, and it seems to us something besides the evidence in the case is necessary to account for Judge Thayer's persistent belief in our guilt. It seems strange that a judge should be allowed to form opinions about guilt or innocence from what is said to him outside of court, when the jury is forbidden to listen to anything except what they hear in open court. The District Attorney cannot say that he did not know what kind of a man Ross was because Ross had before that been in trouble with several district judges.

Much has been said in praise of the fairness of the Judge who tried us. But we have learned to our sorrow that professions of fairness do not necessarily mean real fairness, and may cover an intention to use the great judicial power to secure a conviction which under the forms of law will stand. We understand that this power is called "discretion", and that the judge who uses his discretion to convict is beyond the reach of any other tribunal unless it can be proved that he was corrupt or irrational. We do not intend to enter here a criticism of your system of law. We simply point out what it means to men of our hated class when brought before one of your tribunals. Consider the nature of some of these discretionary acts—the refusal of the Judge to check the District Attorney's unfair cross-examination of both of us, especially Sacco; the refusal to interfere with the methods employed by the deputy sheriffs to secure additional jurors; the refusal to separate the two cases so that Sacco might not be injured by association with a man who, before the same Judge and by methods equally reprehensible, had been previously convicted of another crime of which he was inno-

cent; the constant suggestions to the jury of patriotic duty as contrasted with our pacifism, cosmopolitanism, and refusal to be drafted to fight; the contemptuous manner and tones of voice shown by the Judge to Sacco's counsel, Mr. Moore; the repeated decisions of discretionary questions without the presence of a stenographer (to which our counsel objected) so that the record would not show all that occurred.

These are but samples of the "discretion" exercised by the Judge. Among the worst is the manner and substance of his decision on our last motion, in which he betrays his real animosity toward us; makes numerous statements of fact agreed by the District Attorney himself to be untrue; confines attention to the confession of Madeiros, which was but the starting point in the proof our counsel offered that the crime was committed by the Morelli gang, and passes over in silence almost all of the sixty affidavits which corroborate Madeiros; making a finding of fact against us which, since it could not be shown to be corrupt or irrational, was final. And yet we are informed that the leader of the Morellis, a robber by profession, easily obtained his parole, and now roams the countryside in an expensive automobile with a private chauffeur.

From the very beginning of the trial the Judge stirred up the political, social, religious, and economic hatred of the jurors, and their fears and antagonism against us, but covered himself by admonitions to the jury from time to time to treat us fairly and impartially; so that we were really tried not for murder, but for being Radicals, draft evaders, and pacifists. Of course the Judge has many times denied this, but that that was his real attitude is conclusively shown by the affidavits which we are sending you with this request. They are the affidavits of Frank P. Sibley, Elizabeth R. Bernkopf, Robert Benchley, John Nicholas Bessel, Mrs. Lois B. Rantoul, and an original unsigned statement prepared and sent to our counsel by George U. Crocker, in which he states that he will at any time verify the same by appearing personally before you in the presence of Judge Thayer. Our worst enemies will hardly be able to make an argument against us because we did not first seek to obtain the discretionary judgment of the Judge himself upon these affidavits. These affidavits should be read in connection with the unsolicited letter of Professor James P. Richardson of Dartmouth College. If all those who know the facts were brave enough to disclose them, the number of such affidavits could be multiplied indefinitely. If it is proper for us to do so in this paper, we now appeal in the name of humanity to all men who know the facts about Judge Thayer's constant remarks against us outside of court, to come forward and disclose those facts to you.

Can anyone bring himself honestly to believe that such persistent prejudice, hostility, and despicement as are disclosed in these affidavits did not affect the discretionary rulings of the Judge? Is it to be believed that the operation of such prejudice was interrupted at the moment of each discretionary ruling? In the light of these affidavits, and of the facts which you can read in the record in this case, we ask your Excellency, were we given a judge as "impartial and independent as the lot of humanity will admit?"

We pray to be allowed to return to the question of a so-called "consciousness of guilt." According to the Judge, this rests upon the fact that we were armed at the time of our arrest, that we told lies in the police station about our friends and purposes, and where we got our weapons, and that we showed fear of something at the Johnson house. Also the policeman said that when he arrested us we made a motion as if to reach for a weapon, which is untrue. We told the truth at the trial about where, when, and from whom we got our weapons, and why we were carrying them. Sacco had his when he was a watchman at Mr. Kelly's factory, and Mr. Kelly said he expected him to have a weapon. Vanzetti carried his because he was a peddler, and sometimes carried money with him. And it is not uncommon for Italians to carry weapons. But look at another side than this. Can you wonder that men like us, by reason of our opinions outside the protection of law, and thus exposed not only to private violence but also to the cruelty of the agents of the Federal Department of Justice, should have taken some steps to protect themselves? No doubt it was a fatal mistake for us to carry weapons. Had we not done so we would not be where we are today. It is true that the foreman of our jury in a discussion of the case with one of his friends who believed us innocent, said before the trial, "Damn they, they ought to hang anyway." Yet we wonder if he would have succeeded in convincing all of the other eleven jurors to convict us were it not that we were armed. That foreman had never seen or heard of us until our arrest, so that at that time he could have had no other reason to "hang them" except his knowledge that we were Italians and Radicals,

and he thought it right to hang us on those grounds. Madeiros obtained a new trial by proving that the Judge had omitted to tell the jury that the defendant must be considered innocent until proved guilty by the trial. We proved that before the beginning of our trial the foreman was predisposed to hang us for reasons entirely extraneous to the case, yet we were denied a new trial. By casting aside the indirect considerations on this matter, the fact that we carried weapons has no tendency to show that we intended robbery. That we had good ground to expect cruelties in the so-called "deportation" proceedings against us, the fate of our comrade Salsedo, of comrade Marucco, of comrade Cannone, and of many others, is sufficient evidence. If more is needed we refer to the affidavits of Weyand and Letherman, and to the raids in January, 1920, in which thousands of so-called "Reds" all over the country, including nearly twelve hundred in Massachusetts, were arrested at night, taken sometimes half clad from their homes, and many of them beaten and tortured to extort confessions of imaginary crimes and plots. Some were driven to insanity and others to suicide by terror and tortures; and not few of these victims were even innocent of the word "Red". These are facts of history, denounced by some of your leading citizens, by the United States Court of your own district, and by the victims to the whole world. These are the facts and the visions that the word "deportation" conveyed to our minds. In the face of such truths, both the Judge and the prosecutor argued to the jurors, ignorant of most of those happenings, that "we should not have been afraid of radicalism, for it would only imply deportation, and that we should not have been afraid of deportation, for we were about to go to Italy of our own will" (quoted from memory). We refrain from comment on such words, and only submit them to your consideration.

The prosecution claimed that we told lies on account of consciousness of guilt of the South Braintree crime. We cannot here go into a lengthy analysis of the evidence, but we pray that this point be carefully studied. Permit us to declare to you what we have declared to the world on this matter. We told lies about our revolvers and the places where we had recently been because the truth would have led the police to our friends' homes. Then there would have been a perquisition; a proletarian picture on the kitchen wall, a cheap revolver, as most of the Italians have, an innocent letter from a suspected or a deported "Red", a Radical booklet or periodical, would have been enough to cause arrest, detention, splitting of families, deportation, and worse. It was to avoid such happenings that we told lies. We are not men who seek to avoid trouble by cowardice or by ruining others.

A little before our arrest we had been told by usually well-informed friends in New York to beware and clear our homes of Radical literature because the Federal agents were about to initiate other "raids" for the first of May, 1920, or soon after. It was the consciousness of the danger of such suffering and cruelty that suggested to us the expedition on which we were engaged at the time of our arrest, in order that we might, if possible, collect and hide or otherwise destroy the Radical periodicals and literature which we and others had been distributing, and thus save our friends and ourselves. Please read the first questions that were put to us at the police station. They were about radicalism, and not about the South Braintree murders. It was these facts and these fears that we were compelled to disclose as the only way of meeting the evidence of suspicious conduct introduced by the prosecutor. It was this that opened the door to our fatal cross-examination. It was this and this only that was our "consciousness of guilt"; and our guilt was the guilt of thinking and not of doing, of opinions and not of acts. That is the guilt for which in this free country our lives are to be taken.

We have referred to the Plymouth trial and the Bridgewater crime, for which one of us was previously convicted. At that trial Vanzetti did not testify because he was advised by his counsel that if he did, his radicalism would be brought out and would convict him. So he remained silent, and was convicted just the same. It seems that if a Radical, when accused of crime, does not testify, that is enough to convict him; and if he does testify, his radicalism will convict him anyway, and also he is blamed for opening up the subject of radicalism. What is a Radical to do under these circumstances? Our friends have tried in vain to obtain from the District Attorney the first fifteen pages of the charge of the Judge in that case, which our former counsel had lost from his copy, and which contained matter injurious to us. When, however, you consider the fact that after our arrest for the South Braintree crime we were kept in jail a year before our trial; that during that time Federal agents in Boston were actively engaged in a campaign against all our friends and had our own names

upon their list; that the uncontradicted affidavits of Letherman and Weyand show that the Federal agents actively cooperated with the District Attorney in securing our conviction for the South Braintree crime, believing us innocent of that crime, but justifying their action, in the language of one of them, on the ground that a conviction for murder "would be one way of disposing of these two men"; that they admittedly used in their campaign against us and against our friends, criminals and spies of the lowest order, and showed themselves wholly indifferent to the most elementary principles of justice; when you consider the manner in which the Plymouth trial was conducted, the devices employed by the District Attorney to discredit our Italian witnesses, the slight character of the identification testimony (one of the witnesses was a half blind woman, and all of them changed their testimony at the trial from the description they gave of the bandit at the preliminary hearing in order to fit a little better Vanzetti's appearance), and the utter unreliability of all identification testimony based upon a hasty glance at strangers and foreigners; and then if you reflect upon the purpose that could be served in the Dedham trial by the previous conviction of one of us of crime, you will, we think, be inclined to regard the Plymouth trial as an aggravation of the unfairness shown us rather than as the basis for any legitimate argument against us.

We were arrested on May 5, 1920. In June, 1920, Vanzetti was tried for the Bridgewater attempted robbery and found guilty on July 1, 1920. It was not until September 14, 1920, that we were indicted for the South Braintree crime; and it was not until May 31, 1921, that our trial for that crime began. Although we were being held in jail for murder all this time, the usual practice of trying the more serious crime first was reversed so as to get a conviction of some crime against Vanzetti, and thus make sure of holding Sacco by reason of his association with a convicted criminal. Also neither of us had ever been accused of any crime before our arrest on May 5, 1920.

What are these views and opinions that have brought us to death's door? We are compelled to state them here because they are so different from what the jurors supposed they were. All the jurors knew before the trial that we were Italian anarchists because the papers had said it, and every American reads the paper. Katzmans also was careful enough to ask in the cross-examination of a defense witness who denied that the men he saw on the sidewalk before the murder were us, "Have you not said before that they (the men on the sidewalk) looked like regular Wops," and again that they were "low (if not lowest) types of Italians" (quoted from memory). If we had been high types of Americans and conservatives, as the jurors were, such questions would not have been put. Katzmans did it because aliens, "the lowest type of Italians," and "regular Wops," are to most American people synonymous with and personification of crime and criminals. He did it because he knows that to our jurors the word "anarchist" is a compendium of all that is bad and wrong in man, and means a potentiality of wrong and of crime. The jurors are sincere, genuine in their wrong exploited beliefs. We cannot explain here why they believe so, nor explain the conduct of our people in this country, nor why we are proud to be Italians, even if we were of a low type, nor why we are not ashamed to be anarchists, nor why the jurors' opinions on these things are utterly wrong. But we point out, and we invoke the testimony of men of science, of good sense and understanding, that men supposed by jurors to be the kind of men we were, cannot obtain justice. Jurors, and even judges, believing anarchists to be wholly bad people, cannot do them justice even though they want to. They must be subconsciously or unconsciously influenced against us, and incapable of normal objective discrimination in such a case.

But now we are here in spirit before you, a man of conservative principles, supreme authority of a great state in its ethnic human meaning, to ask you justice. Should we try to hide from you our beliefs and faith; to sneak before you in order to avoid contrast and antagonism, and so to propitiate you in our behalf — and thus be cowards and unfair before you, mankind, and ourselves? We refer you to our words to Judge Thayer when we were sentenced, words that sprang extemporaneously from our very heart. And permit us to say that we believe that you yourself would disapprove if we now said anything else.

We are anarchists, believers in anarchy, which is neither a sect nor a party, but a philosophy that, like all the philosophies, aims to human progress and happiness. Our goal is the ultimate elimination of every form of violence and the utmost freedom to each and all actuated by the elimination of every form of oppression and exploitation of the man by the man. Our sense and ideal of justice is based on the principle of man's self-respect and dignity; of the equality of men in their fundamental nature and in their rights and duties.

We call ourselves Libertarians, which means briefly that we believe that human perfectibility is to be obtained by the largest amount of freedom, and not by coercion, and that the bad in human nature and conduct can only be eliminated by the elimination of its causes, and not by coercion or imposition, which cause greater evil by adding bad to bad.

We are not so foolish as to believe or to advocate that human institutions be changed in a day. The change must be gradual. But we do believe that there ought to be a change, and that it should be in the direction of more freedom and not more coercion. That is where we are opposed to every theory of authoritarian communism and socialism; for they would rivet more or less firmly the chains of coercion on human spirit, just as we are opposed to the present system, which is based upon coercion.

Such being our beliefs and goal, our policy is to ever stand against anything that is coercion, for we believe that only by freedom and by struggle for freedom does man acquire the capacity of freedom; and to ever stand against everything that is privilege, because privilege means masters and slaves, liberty to none, injustice, strife, and fratricide among men. It is for these beliefs that we are outlawed and made outcasts from the society of so many of our fellow men, with whom we might cooperate, and whom we do not want to hate.

Our ideas are not new. In one form or another they have influenced human thought in the western world, and therefore history, for at least two thousand years. Among their modern champions are men such as William Godwin, Shelly, Carlo Pisacane, Proudhon, Reclus, Kropotkin, Bakunin, Tolstoi (in a sense), Flammarion, Malatesta, Galleani, and in your country Tucker, and other great intellects and hearts. The great philosopher Ernest Renan said that Christ was a "political anarchist."

The term "anarchy," as your Excellency knows, means literally the absence of government, and "anarchist" a disbeliever in government, and eventually in actual law. We admit it before the supreme authority of a great state, (ethnically) even though it may cause us to appear monstrous to you; certainly to appear to most men dangerous criminals. Forgive us an explanation, which we could make entirely in the words of Thomas Jefferson, Thomas Paine, Ralph Waldo Emerson, Abraham Lincoln, Benjamin Franklin, and other great Americans. We know that to be free, man must be capable of freedom. But we also know that suddenly to eliminate every means of public defence would be to fall into chaos and destruction; that the actual laws are better than certain ones of the past because of the people's will. And, what is more, we do not intend to eliminate public and private defence, public legislation, etc., but to improve them and put them on a basis superior to the present. Nor do we intend to deface from human spirits the notion of rights and duties, but to make their full application possible. We cannot, in consideration of you, enter into details, or even attempt a synthetical explanation of our Credo. Just a quotation from Jefferson, which we make from memory, "*I am not yet prepared to say that where there is no written law, no regulated tribunal, there is not a law in our hearts and a power in our hands given for righteousness, employment in maintaining right and redressing wrong.*"

Consider, please, the positive side of that negation. How creative it is. If you care for a full bibliography of our Credo we submit to you the article in the Encyclopedia Britannica by Petre Kropotkin; and if you wish to know the possibilities and criterions of our faith, we refer to the essays "Politics" and "The State" by Ralph Waldo Emerson.

If we would stop here, hundreds would say to you, "These two men are here for an atrocious crime of violence. They are trying to be magniloquent and to take a Messianic attitude while silent as to the acts of violence and robberies committed by some 'comrades' of their own." But do not believe them. Men like that can say what they please without correction; for we are in prison, and this is our only chance to speak. We cannot deny that acts of violence have been committed by men calling themselves anarchists, and sometimes by men who had a right to call themselves that. But they were impelled by persecution and self-defence, or provoked by violence, oppression, and intolerance on the part of persons in power. They were moved by sincere intentions caused by their deep sensibility to the spectacle of human suffering, and by their feeling of helplessness to right in any other way the injustices inflicted upon them, their friends, and the people. In a word, it has been the violence of tyranny that has provoked the violence of the oppressed for self-defence.

On principle we abhor violence, deeming it the worst form of coercion and authority. We are with Garibaldi, "*Only the slaves have the right to violence to free themselves; only the violence that frees is legitimate and holy.*" We lived in this

country twelve years before our arrest, industriously, honestly, and without any act of violence. The only violence that has been committed is the violence practiced against us and not by us. For many theories and acts that we deem wrong, which are justified in the name of our faith, we are not responsible. But we love and venerate our Cause, our Martyrs, our Heroes, our Masters. For this cause we are willing to suffer and to die, but not for the low and sordid South Braintree crime.

We have no doubt that at the present time many will be found who secretly and behind closed doors will be willing to state as facts unverified rumors; to assure you that the evidence that might have been produced would have been conclusive against us; to furnish plausible explanations of the suppression and perversion of testimony and the other acts of unfairness to which we have called your attention; to offer you selected documents; to urge upon you that the prestige of your courts is more important than our lives; to whisper calumnies of ourselves and of our friends; and, in general, to do whatever can be done without fear of detection to injure us. Yet we are not aware that either the prosecuting officers or any of the persons who profess to desire our death solely in the interest of public justice have ever made any attempt to identify, apprehend, or punish our three supposed associates in this crime. We know that they gave our counsel no help or sympathy in their effort to show who really did commit the crime. To all such persons we say the time to produce your documents and your testimony, and to test your unverified rumors, was in open court, where they would have been subject to cross-examination and the scrutiny of our counsel. Your institutions are said to be based upon open and even-handed justice. That claim cannot be made good if secret communications are now permitted to take the place of public testimony. Nor can the prestige of your courts long survive the loss of respect which will be the certain result of unredressed injustice.

For these reasons, and because we realize how much time and labor will be required to deal adequately with the matters to which we have called your attention, we respectfully urge you, if you doubt our statements, to cause a preliminary public investigation of our case to be made by able and disinterested men. The result cannot be convincing unless the investigation is public so that all may know what is said against us. But in saying this we would not have you believe that we are asking for mercy or for anything but justice; or that we would purchase our lives by the surrender of our principles or of our self-respect. Men condemned to die may be forgiven for plain speaking. We would not urge upon you anything that might seem disrespectful or incredible; but in the long run the victims of public injustice suffer less than the government that inflicts the penalty. We can die but once, and the pang of death will be but momentary; but the facts which show injustice cannot be obliterated. They will not be forgotten; and through the long years to follow they will trouble the conscience of those whose intolerance has brought us to our death, and of generations of their descendants. A mistake of justice is a tragedy. Deliberate injustice is an infamy.

Governor Alvan T. Fuller, we have been in prison seven years charged with a crime we did not commit, awaiting the fate that every day came nearer and nearer. Perhaps you can imagine what this has meant to us. And do you realize what this has meant to Sacco's wife and children, and to Vanzetti's father and mother and family at home in Italy? It is the thought not of our approaching death, but of the suffering of those near and dear to us in the seven years that have passed, and of the greater suffering to come, that is the cause of our bitter grief. And yet we ask you not for mercy but for justice. We will not impose their sufferings or our own upon you. You cannot justly consider their suffering or ours as a ground for your official action, except that that suffering may seem to you a reason for giving the most careful and unprejudiced consideration to the two grounds of our prayer—that we are innocent and that our trial was unfair.

\* \* \* \* \*

## THE PREJUDICE OF JUDGE THAYER

The affidavits which are attached to Vanzetti's appeal simply cannot be ignored by the Governor of Massachusetts. They contain such weighty, detailed and disinterested impeachment of Judge Thayer's conduct at the trial that if these two men are now put to death without a rehearing of the evidence the Commonwealth of Massachusetts will be disgraced. The accusations are so severe that Judge Thayer himself, if he cares for his honor as a man and his dignity as a judge, cannot sit quiet under them.

But whatever Judge Thayer may do about this challenge to his judicial integrity the Governor of Massachusetts, as the custodian of the good name of his State, cannot let it be recorded in history that he sent two men to their death without answering somehow such damning charges against the character of a court in Massachusetts.

There, for example, is the statement of George U. Crocker, a member of the University Club, where Judge Thayer lived during the trial:

*At this time I did not know that I had ever met Judge Thayer. He approached me one evening, however, called me by name and began to talk to me about the Sacco-Vanzetti case, and I soon was able to gather that he was the Presiding Judge, but even then I did not know his name. \* \* \* One morning at breakfast I particularly remember because it seemed to me that Judge Thayer at that time exhibited his prejudice and bias in the most notable manner. On this morning he either came to the table where I was sitting and asked if he could have breakfast with me, or he called me to his table and asked me to have breakfast with him. He immediately began to talk again about the case and pulled out of his pocket a portion of the charge which he was to deliver, as I understood it, on that day. He read parts of it to me with comments like this: "Counsel for defense said so and so yesterday, and this is my reply." He then read a part of the charge and said, "I think that will hold him, don't you?"*

Mr. Crocker's final comment on Judge Thayer is rather cruel:

*I tried my best to avoid these conversations and I told the head waiter at the club to see to it that I was not put with him again at meals.*

The affidavit of Lois B. Rantoul, who attended the trial as an observer for the Greater Boston Federation of Churches, again shows Judge Thayer in the act of buttonholing outsiders during the trial to tell them how guilty the two defendants were. Frank Sibley, the distinguished reporter of the Boston Globe, adds even more damaging testimony about the propaganda which Judge Thayer conducted outside the court room, including references to the defendants' lawyers as "those damn fools" and boasts like "Just wait until you hear my charge." Mrs. Bernkopf, who covered the case for the International News, describes how Judge Thayer used to come and sit beside her in the train on the way to Dedham during the trial, how unsolicited he presented her with an autographed picture of himself and how he used to refer to the defense attorney as "that long-haired anarchist."

What comes out of all of these statements is a picture not of a judge but of an agitated little man looking for publicity and utterly impervious to the ethical standards one has a right to expect of a man presiding in a capital case. If these accusations are not disproved, it is no longer possible for any one to maintain that Sacco and Vanzetti had the benefit of a fair trial; the theory that justice has taken its course according to Massachusetts standards becomes an exploded fiction.

No further proof is needed to make it absolutely essential for the Governor to reopen this case. There is no civilized state in the world which can permit such charges as these to stand against the character of one of its courts.—THE NEW YORK WORLD.

\* \* \* \* \*

### CROCKER DENIES JUDGE WAS IMPARTIAL IN CASE

The statement of George U. Crocker follows:

"A statement of what my opinion has been for the past five or six years about the Sacco-Vanzetti case.

"I have never known enough about the evidence which was presented to the jury to have any valuable opinion as to the guilt or innocence of the defendants, and I believe that it is neither wise or proper for persons who have had no responsibility in the trial of causes to express their opinions either in favor or against the verdicts of juries, or for such persons to say that the law was, or was not, properly interpreted. We have a judiciary system, which should be supported, and setting up one's own opinion contrary to the court is folly. If the general public is to re-try cases, we shall only to proceed toward chaos.

"My firm belief, however, is that the defendants, Sacco and Vanzetti, did not have a trial under the conditions which our law and custom accords to them, namely, with a presiding judge who was impartial and free from bias.

"I know that Judge Thayer was not an impartial judge in this case.

"My knowledge is based not on Judge Thayer's conduct in the courtroom, but from my personal experience with him outside of the courtroom and during the trial of the case.

"This experience was as follows:

"During the trial of the case Judge Thayer lived at the University Club in Boston. At this time I did not know that I had ever met Judge Thayer.

"He approached me one evening, however, called me by name, and began to talk to me about the Sacco-Vanzetti case, and I soon was able to gather that he was the presiding judge, but even then I did not know his name. It was in the first conversation, I think, that he volunteered the information, among other things, that all the talk about these men being anarchists, etc., and that the Government was prosecuting them for that reason, was utter nonsense, and further went on to tell me why he thought so. As I knew nothing about the case, and had not read the newspapers about it, and as the conversation made me uncomfortable because of what seemed to me to be its manifest impropriety, I got away from him as soon as I could.

"One morning at breakfast I particularly remember because it seemed to me that Judge Thayer at that time exhibited his prejudice and bias in the most notable manner.

"On this morning he either came to the table where I was sitting, and asked if he could have breakfast with me, or he called me to his table and asked me to have breakfast with him. He immediately began to talk again about the case, and pulled out of his pocket a portion of the charge which he was to deliver, as I understood it, on that day. He read parts of it to me with comments like this: 'Counsel for the defense said so and so yesterday, and this is my reply.' He then read a part of the charge and said, 'I think that will hold him, don't you?'

"I do not remember how many times Judge Thayer talked to me about the case during the trial, but it was, I think, three or four times, and each time showing what appeared to me clearly to be bias against the defendants. I tried my best to avoid these conversations, and I told the head waiter at the club to see to it that I was not put with him again at meals.

"The points which Judge Thayer talked to me about, and which I remember, were the failure of the defendants to establish an alibi, the fact that they were draft dodgers and anarchists and entitled to no consideration, although he said that the matter of their being anarchists, etc., was lugged in by the defendants and not by the Government, and some evidence about their identification.

"He talked to me at considerable length several times, but my memory is not vivid as to details, because I was much annoyed at what seemed to me to be the impropriety of the whole thing.

"This statement is recorded by me for preserving my memory of the facts. I do not wish it published or given any general publicity.

"If I knew of any facts in the nature of new evidence I would feel it was my duty to come forward and volunteer to state them, but what I know about the case has only to do with the personal bias of Judge Thayer, and came to my knowledge not in the courtroom but in a club, and from Judge Thayer himself. For this reason it does not seem to me that I should volunteer any public statement.

"I am, however, willing, if at any time requested to do so by the Governor, the Attorney General, or the district attorney, to state what I know to them, and preferably in the presence of Judge Thayer, for the reason that the matter affects him personally.

"I would not go as far as this, except for the fact that the lives of two men are in question.

"I have made statements to William G. Thompson confidentially which cover in substance what is included above."

\* \* \* \* \*

### MRS. RANTOUL REPORTS TWO TALKS WITH JUDGE

Mrs. Lois B. Rantoul's affidavit was accompanied by a long analysis of the evidence, point by point, throughout the trial. It was summarized much as Prof. Felix Frankfurter's later report was summarized, and was made to the Federation of Churches. It was too long for reprinting, especially as it was largely repetition of what has been many times printed. Her affidavit was as follows:

"My name is Lois B. Rantoul. I live in Jamaica Plain. I have for some years been engaged in various philanthropic works, among other things in representing the Greater Boston Federation of Churches. As representing that organization I attended the trial of Sacco and Vanzetti before Judge Webster Thayer in Dedham. During the trial I had two conversations with Judge Thayer, each one at his request. Each occurred in the lobby.

"The first occasion was at the end of the case of the prosecution. Judge Thayer sent a court officer to me and asked me to step into the lobby. I did so. No third person was present. He asked me how I thought the trial was going and what I thought of the Government's case.

"I told him that I had not yet heard sufficient evidence to convince me that the defendants were guilty. He expressed dissatisfaction with this statement, both by words, gestures, tone of voice and manner. He said that after hearing both arguments and his charge I would certainly feel differently. I told him that I hoped to keep my mind open until the end of the trial. This was a short interview.

"The second interview occurred while the case of the defense was going in, and was after the testimony given by George Kelley, the employer of Sacco, in which Kelley had praised Sacco's steady character while in his employ. I have a less clear recollection of the beginning of this interview than I have of the first interview; but my best recollection is that Judge Thayer asked me what I now thought of the case. I answered that I thought that Kelley's statement as to Sacco's character was important.

"I well remember Judge Thayer's reply and the manner in which he gave it. He expressed scorn and contempt for my view, and told me that Kelley did not mean what he said because he (Judge Thayer) had heard that on the outside Kelley had said that Sacco was an anarchist and that he couldn't do anything with him. I told Judge Thayer that I had never before realized that it was fair to judge a case by what the witnesses said outside of court, and that I had supposed that the only proper way to judge a case was by what the witnesses said in open court.

"Judge Thayer's manner and expression of face expressed dissent from this view, but he made no definite statement of dissent. No third person was present at the interview."

\* \* \* \* \*

### BENCHLEY RECALLS BOAST OF JUDGE THAYER

The affidavit of Robert Benchley of LIFE follows:

"My name is Robert Benchley. I reside in the city of New York. I am dramatic editor of LIFE. I was brought up in the city of Worcester, Mass., and am acquainted with many people there, among others with Mr. Loring Coes, with whom I have been on friendly terms for many years.

"In the year 1921, during the trial of Sacco and Vanzetti before Judge Webster Thayer in the Superior Court at Dedham, Mrs. Benchley and I were visiting Mr. and Mrs. Loring Coes in Worcester. During this visit, on a day which I think must have been a Saturday or Sunday, I was sitting in an automobile with Mrs. Benchley and Mrs. Coes outside the Worcester Golf Club waiting for Mr. Coes to come out. When Mr. Coes came out and got into the automobile he told us what Judge Thayer, who was in the club, had just said in his presence and in the presence of several others about Sacco and Vanzetti.

"The account by Mr. Coes of these remarks of Judge Thayer made a vivid impression upon my mind, and I remember them with considerable distinctness. Mr. Coes told me that Judge Thayer, whom he referred to as 'Web,' had just been telling what he (Judge Thayer) intended to do to Sacco and Vanzetti, whom Judge Thayer referred to as 'those bastards down there.' Mr. Coes said that Judge Thayer had referred to Sacco and Vanzetti as Bolsheviks, who were 'trying to intimidate him' and had said that 'he would get them good and proper.'

"Mr. Coes said that Judge Thayer had told him and the other men that a 'bunch of parlor radicals were trying to get these guys off and trying to bring pressure to bear on the bench,' and that he 'would show them and would get these guys hanged,' and that he (Judge Thayer) 'would also like to hang a few dozen of the radicals.' Mr. Coes said that Judge Thayer added that 'no Bolsheviks could intimidate "Web" Thayer,' and that he added in substance that Worcester would be proud of having such a defender as Judge Thayer.

"I am informed and believe and therefore allege that Mr. Coes has within a few days been requested by Mr. Thompson, counsel for Sacco and Vanzetti, to make an affidavit as to the remarks of Judge Thayer which I have mentioned and has refused to do so on the ground that it is difficult for him to remember what happened so long ago, and that he is disinclined to make the effort because Judge Thayer is an old friend of himself and his family. I am also informed and believe and therefore allege that in October, 1926, Mr. Coes was thrown from his horse and sustained an injury from which he has not yet entirely recovered."

\* \* \* \* \*

### NEWSPAPER WOMAN TELLS OF JUDGE'S PREJUDICE

The affidavit of Elizabeth Bernkopf, a reporter:

"My name is Elizabeth R. Bernkopf; I am married and live at my home in Boston.

"In 1923 and the early part of 1924 I was a reporter for the International News Service and in this connection I covered the hearings on the motions for a new trial in the cases of Commonwealth vs. Sacco and Vanzetti, which, as I recall, lasted for several weeks, and also some of the hearings relating to Sacco's sanity.

"In going to Dedham to report these hearings I invariably took the train in the morning with other reporters at the Back Bay Station. The other reporters were men and all of them would go into the smoking car. Judge Webster Thayer, who presided at these hearings, would take the same train as the reporters from the Back Bay Station and generally asked me if he might sit with me, which he frequently did. After this happened a few times Judge Thayer would often join me in the station before the train arrived, conduct me to a vacant seat, and we would ride together between the Back Bay Station and Dedham. Once, on his own initiative, he presented me with an autographed picture of himself.

"Judge Thayer talked a great deal about the Sacco-Vanzetti cases. Judge Thayer's conversation about the Sacco-Vanzetti cases was wholly voluntary on his part as I was careful to say nothing by way of question or comment to evoke such a discussion. I could not, however, decline to listen without being grossly discourteous.

"I can not now recall the exact language or the particulars mentioned by Judge Thayer in his discussion of the Sacco-Vanzetti cases. The substance of his talk was, however, generally the same, namely: that he could not be intimidated by anybody or anything; that the defense would find that they could not hoodwink him; that nobody could 'put anything over on him'; that he represented the integrity of the courts of Massachusetts and would see to it that that integrity was maintained; that he distrusted and had no sympathy for the kind of people who were supporting the defense financially and otherwise; that he disliked and was suspicious of Attorney Moore, whom he generally referred to as 'that long-haired anarchist.'

"Attorney Moore was frequently the subject of his discussions and he presented his views in language to the effect that he regarded Moore and himself as antagonists in these cases. Judge Thayer invariably stated in substance that if Moore thought that he could outwit the courts of Massachusetts he was going to see to it that Moore would be disillusioned and that perhaps Moore could successfully play that game in California, but that he would find that in Massachusetts it was an entirely different matter. He (Judge Thayer) did not propose to allow the Massachusetts courts to be imposed upon by Moore, no tricks would deceive him and no threats would intimidate him.

The only viewpoint which he ever expressed on the motions pending before him was that he was the guardian of the integrity of the administration of justice in Massachusetts and that he would protect this integrity if any assaults were made upon it by Moore, 'that long-haired anarchist from California.'

"He also stated that if 'they (meaning the defendants and their attorneys) appealed from his decisions to the Supreme Judicial Court they would see how far they would get.'

"The above statements are true to the best of my knowledge and belief."

\* \* \* \* \*

### BEFFEL TELLS OF JUDGE THAYER'S ANTAGONISM

The affidavit of John Nicholas Beffel, another reporter:

"My name is John Nicholas Beffel. I am now a resident of New York City. In 1921 I resided in Boston, Mass., and in May, June and July of that year I attended the trial of Nicola Sacco and Bartolomeo Vanzetti at Dedham in my capacity as correspondent for the Federated Press.



"On or about the fourth morning of the trial Marquis A. Ferrante, Italian consul at Boston, was present in court as a spectator. At the close of that session I talked with him. He asked me to take down a brief statement which he wished to give out to the press, and requested me to pass it on to all the reporters. The statement was this:

"The Italian authorities are deeply interested in the case of Sacco and Vanzetti, and this trial will be closely followed by them. They have complete confidence that the trial will be conducted solely as a criminal proceeding, without reference to the political or social beliefs of any one involved."

"Immediately afterward I typed this statement, making several carbon copies. Then I walked down to the Dedham Inn and entered the private dining room in which Judge Thayer and the reporters usually ate their lunches. I sat down with several of the other newspaper men and gave them copies of the consul's utterance. Judge Thayer was sitting in another corner of the room, at his own table.

"When the judge got up to leave the room Jack English of the Boston American showed him Marquis Ferrante's statement and asked him what he thought of it. Judge Thayer made a gesture of anger. 'Why,' he said, 'that fellow came clear out to my home in Worcester and assured me that the Italian Government had no interest in this case.'

"This was uttered in the presence of several newspaper men, including Jack English, Frank P. Sibley of the Boston Globe, Jack Harding of the Associated Press and, I think, Charles Folsom of the Boston Herald.

"Other questions were then asked by the reporters. One of the questions had to do with Fred H. Moore of counsel for the defense. Mention of Moore's name aroused signs of hostility from Judge Thayer. (This was on the day when the special venire of 175 extra talesmen had been gathered in, and all morning the defense had strenuously opposed the use of any of these talesmen as jurors, on the ground that they had been summoned not from the highways and byways as required by law, but from special places, such as a Masonic meeting.)

"Referring to Attorney Moore's objections to his special venire, Judge Thayer said, 'And what do you suppose that fellow wanted me to ask those veniremen? "Are you a member of a labor union? Are you opposed to union labor? Are you a member of a secret society?"'

"The judge made another gesture of anger and went on, addressing the newspapermen in general: 'Did you ever see a case in which so many leaflets and circulars have been spread broadcast saying that people couldn't get a fair trial in the State of Massachusetts?'

"There was no mistaking that Judge Thayer was thoroughly angry. His remarks were uttered in a high voice and his face was flushed.

"He was now near the doorway leading out into the hall of the inn. At this point I stepped forward and tried to explain to him that I had given the other reporters Consul Ferrante's statement at the Consul's express request. Put the judge would not listen to my explanation. He brushed me aside, and as he turned to leave the room he shook his fist and said to the other newspapermen: 'You wait till I give my charge to the jury. I'll show 'em.'

Immediately after Judge Thayer left there was a consultation among the newspapermen as to what they ought to write about the incident. This discussion lasted until we were all back in the courtroom. Harding of the Associated Press looked upon the occurrence as controversial matter, quite apart from the issues involved in the trial, and the policy of his organization was to keep clear of controversies. Sibley of the Boston Globe was of like opinion, and said, 'Let's all agree that we won't say anything about it.' This was agreed to, and none of the newspapers nor press associations mentioned the incident. It has never yet been made public.

"On July 13, 1921, the day preceding that on which Judge Thayer was to deliver his charge to the jury, he gave out two advance copies of that charge—one to Jack Harding of the Associated Press and one to a Boston Transcript reporter. At the court's request, Harding agreed to make a digest of the charge and to give out copies of the digest to all the other newspapermen.

"But the court's charge as delivered to the jury differed from the advance copy given to the newspapermen, in that several paragraphs were omitted. One of the omitted passages called upon the jurors to 'seek courage in your deliberation such as was typified by the American soldier boy as he fought and gave up his life on the battlefields of France.' The other omitted paragraphs were kindred in substance.

"Both the Boston Evening Globe of July 14, 1921, and the New York Times of the following day (3-star edition, page 6, column 2) include in their dispatches outlining Judge Thayer's charge the above admonition concerning the American soldier boy in France.

"Many times during the selection of jurors in the Sacco-Vanzetti trial, I heard Judge Thayer address the talesmen with regard to 'the courage of American soldier boys in France.' He exhorted them to 'render this service here . . . with the same spirit of patriotism, courage and devotion to duty as was exhibited by our soldier boys across the seas.' And frequently, in my hearing, he reminded the talesmen of 'the blessings of Government' and urged them to be loyal to their Government."

## SIBLEY TELLS OF REQUEST JUDGE MADE OF THE PRESS

The affidavit of Frank P. Sibley, who reported the trial for the Boston Globe, follows:

"My name is Frank P. Sibley and I reside in Boston, Mass. I am, and for many years have been, a reporter for the Boston Globe, one of the daily newspapers published in Boston. In 1921 I was assigned to cover the trial of the cases of Commonwealth vs. Sacco and Vanzetti. I was in attendance at Dedham every day during the trial of these cases and reported the proceedings for the daily paper which I represented.

"The reporters who attended the trial, including myself, usually had lunch during the noon recess at the Dedham Inn, and Judge Webster Thayer, who presided at the trial, generally had lunch at the same place. Sometimes Judge Thayer would invite one of the reporters to have lunch with him and if the invitation was accepted the occasion was marked, as I know of my own knowledge and upon information and belief, by comment on the part of Judge Thayer about the trial and its progress.

"It also often happened that Judge Thayer would walk with one or more of the reporters from the Dedham Inn to the courthouse, and to my own knowledge and upon information and belief would comment upon the case during such walks. The reporters did not seek these interviews and, in fact, sought to avoid them.

"Another subject frequently discussed by Judge Thayer on these occasions was his conduct of former trials and compliments which he had received. I cannot now recall all of the statements made by Judge Thayer to me concerning this case, but shortly after the trial I embodied some of these remarks in a letter to J. Weston Allen, the Attorney-General, to which I received no reply. I have not kept a copy of this letter.

"During the early stages of the trial when the talesmen were being examined and during one of the walks from the Dedham Inn to the courthouse, Judge Thayer proceeded to discuss Attorney Moore, one of the lawyers representing the defendant Sacco. This subject seemed to excite him considerably and, among other remarks, he exclaimed, 'I'll show them that no long-haired anarchist from California can run this court.' During the progress of the trial he frequently referred to the counsel for the defense as 'those damned fools.' On several occasions he said, 'Just wait until they hear my charge.'

"On one occasion Judge Thayer approached the table at which the reporters were having lunch and made the following statement: 'I think I am entitled to have a statement printed in the Boston papers that this trial is being conducted in a fair and impartial manner.'

"This declaration caused considerable embarrassment to myself and to the other reporters. No one answered Judge Thayer. He then turned to me with the remark, 'Sibley, you're the oldest. What do you think?'

"I replied, 'Your honor, I have never seen anything like it.'

"Judge Thayer then walked away from the table.

"On another occasion, a conference between the judge and attorneys was about to begin at the bench and I started to leave the courtroom, passing rather close to the bench as I did so. A stenographer was just at that time moving around with his book and pencil to take notes at the bench and Judge Thayer turned sharply to the stenographer and said in a low voice, 'You get the hell out of here.'

"During the cross-examination of Sacco, Judge Thayer, to an objection by Mr. McAnarney, said 'Are you going to claim that your client, in collecting this literature, was acting in the interest of the United States?' This statement coming from the bench seemed so remarkable in view of Sacco's testimony that I used it in my next morning's story of the day's trial.

"During the next morning recess I received word that Judge Thayer desired to see me in chambers and I went into his room. He opened by referring to the statement attributed to him in my story in regard to Sacco's gathering literature for the benefit of the United States. He stated that he had made no such remark and said he had verified this by sending for a transcript of his remarks.

"The question which I had printed in my story did not appear on the typewritten sheet. I then told him that my hearing might have played me false and was about to ask Judge Thayer if he desired a retraction when the bailiff entered, announced the arrival of the jury and Judge Thayer departed.

"On consulting the actual record of the case I found that Judge Thayer had asked this question not once, but many times, in the presence of the jury.

"The above statements are true to my personal knowledge except such as are based upon information and belief and those I believe to be true."

In addition to the affidavits there should be considered the unsolicited letter of Prof. L. P. RICHARDSON of Dartmouth College to Governor Fuller in which Prof. Richardson says that he knows of his own personal knowledge through conversations with Judge Thayer (a Dartmouth graduate) that the judge views Sacco and Vanzetti with "abhorrence."

In an editorial entitled, "Judge Thayer Revealed," THE NATION of May 18, 1927, states in part:

*Ever since the conviction of Sacco and Vanzetti in Dedham, Massachusetts, six years ago, there have been disturbing stories in circulation in regard to the biased and improper conduct of Judge Webster Thayer, who presided at the trial. Most of these stories were told privately by reporters of Boston newspapers in attendance at the trial—men who had no use for the defendants or their beliefs but were amazed, and in some cases disgusted, by the judge's animus. A little of this judicial partisanship is to be found in the record of the case, but for the most part it consisted in words and acts of the trial judge when not on the bench. The Sacco-Vanzetti defense has been well aware of this conduct, but has not dared to stress it because under the curious judicial procedure of Massachusetts Judge Thayer is practically the court of appeals which reviews his own acts, and the counsel for the defense did not wish further to excite his hostility while praying to him for a new trial.*

*Now that the case is finally out of Judge Thayer's hands, six affidavits have been obtained, any one of which should be sufficient to establish his unfairness. Taken together they blast completely his reputation as a judge and a man; they shrivel him into a contemptible mixture of vanity and vulgarity who was not only guilty of grossly unjudicial conduct but who seized what was probably his first widely reported trial to curry public favor by pandering to the worst mob instincts then prevalent.*

*The affidavits are contained in a statement submitted to Governor Fuller of Massachusetts in behalf of Vanzetti. Sacco did not sign the statement. Depressed and broken in spirit by seven years of prison and unsuccessful appeal, Sacco seems to want to die; he almost courts martyrdom and absolutely refuses to ask for mercy. Vanzetti is equally set against any plea for mercy but still demands justice. Vanzetti, in his own part of the statement, brings out some damaging evidence against Judge Thayer:*

"The District Attorney used as an Italian interpreter a man named Ross, who is now serving a sentence in the House of Correction for having attempted to sell to ignorant people his supposed influence with judges. You will find that our lawyer several times objected to Ross's translations of our cross-examination, and at one time had to get another Italian interpreter to protect us.

Ross, who was in close relation with the District Attorney, took Judge Thayer to and from Dedham in his automobile almost every day during the trial. What he said to Judge Thayer we do not know; but as the affidavits show beyond a doubt that Judge Thayer was in the habit of talking about us and our case outside of court, and allowing other people to talk to him about it, and as Ross was evidently doing what he could to help the District Attorney, you will excuse us for having great fears as to what he said to Judge Thayer on those automobile rides." \* \* \*

*The six affidavits in the hands of Governor Fuller strip Judge Thayer naked of decency and justice. They ought to force his immediate resignation or lead to his speedy impeachment. A comparison between Webster Thayer and Pontius Pilate is all in the latter's favor."*

These are strong words of THE NATION, but they are justified by the evidence. In one particular, at least, the case has been understated. That is the reference in Vanzetti's own plea to the Italian interpreter, Ross, the daily associate of Judge Thayer during the Dedham trial. Vanzetti does not state that Ross had been denied access to the Suffolk County Court House in Boston in his capacity as Italian interpreter because of his utter unreliability.

This ban was placed upon Ross's activities in the Boston court house some time before the Dedham trial and was well known to everyone familiar with Suffolk County legal affairs. It seems incredible that Judge Thayer did not know of it.

As a matter of human interest, such as most newspapers are generally so eager to publish (but not in this case) Ross's baby, a boy born during the Dedham trial, was named by his proud father, Webster Thayer Ross.

The weight of these combined documents is so great that thoughtful and feeling people everywhere must revolt at the prospect of two men being killed by the virtual order of this Judge whose mind has been disclosed to be so full of vicious prejudice. Judge Thayer, in passing sentence on Sacco and Vanzetti, said, as he has so often said before, that he is solely the servant of the law and that he must do as the law commands.

In a specific instance that may be all right, but as a general principle it is fallacious and evil. The doctrine that ours is "a government of laws and not of men" is the nourishment on which Judge Thayer's type of mind flourishes. Are these laws of ours not man-made? Are they divine? And, more important, are they not interpreted and administered by men? Especially are these questions to the point in Massachusetts and in this case where the presiding judge in a capital case is checked up on the facts by no court of appeals. A government is great only as its leaders are great—great in heart and intellect.

Is there anyone who will say, after reading the affidavits attached to Vanzetti's plea, that Judge Thayer's mind was capable of fairly conducting the trial of Sacco and Vanzetti?

The final and fundamental questions are, "Will Massachusetts and America be content to have this trial stand as a sample of this country's court procedure, and is the court system so insecure that it cannot withstand another trial which, if Judge Thayer and the prosecuting officers are right, will simply vindicate the findings of the original trial?"

Sacco and Vanzetti ask only for justice. They are eager for another trial, but failing that, they want a full public investigation of the case. They have nothing to conceal. They do not want star chamber justice or star chamber conviction. Justice, in fact, does not normally grow behind closed doors. The nearest approach to perfect human justice comes ordinarily through open questioning and open cross-questioning. Such a course in this case, in and out of court, is what Sacco and Vanzetti desire. And with them in this desire are millions of individuals throughout the world.