

Ten Questions

*that have never
been answered!*



To

ALVAN A. FULLER,

Governor of Massachusetts

and

A. LAWRENCE LOWELL,

President of Harvard University

Who have so many times expressed high sentiments and lofty ideals, this pamphlet is inscribed.

TEN QUESTIONS

*that have never
been answered!*

"We have a right to beat against tight minds with our fists and shout a word into the ears of the old men 'We want to know, we will know—WHY?'"

Heywood Broun—New York World

ON May 5, 1920, eight years ago this month, two Italian idealists, arrested by chance by police looking for another man, started the most famous case the world has ever seen. As those eight years went by that elapsed between the arrest and the execution of Sacco and Vanzetti, thousands of well-meaning people in America became more and more bewildered. So many disturbing events came up and passed away unexplained.

The confusion of these people increased as year after year slipped by leaving all the disturbing issues still unsolved. But they were trusting people with faith in the inherent goodness of man. They continued to believe there must be some just, some fair way to solve the mystery of this disturbing case. They had found this country had treated them generously enough. It must be generous to others too, if they had done no wrong.

So when it was given to four of the most renowned men in the State of Massachusetts to find a way out of this strange dilemma, these well-meaning people were vastly relieved. They sighed and sat back to wait while justice was done, secure in their belief that these four men with their high positions and flawless reputations for integrity would settle this harassing affair once and for ever, and convince the world that in spite of all there was nothing wrong with America's sense of justice.

THEY WAITED—FOR THIS!

Aside from those who were more or less frankly shouting for the blood of Sacco and Vanzetti regardless, the mass of people who waited for the decision of Governor Fuller's committee with varying degrees of intensity were divided into two main groups—those who had implicit faith in the innocence of Sacco and Vanzetti, and those who were convinced that President Lowell, Judge Grant and President Stratton had open minds and high intentions.

When the report was made public, this latter group split into two divisions. A large part took for granted that Sacco and Vanzetti were actually guilty if the Lowell Report said so, and the matter for them was finished, with perhaps some slight expression of regret that it had been necessary to torture the two prisoners for seven years before killing them. Others who had taken the trouble to follow the case and read the report in full found themselves sadly disillusioned.

Instead of being ended, the case became more terrible for them. Many who had been in doubt until now, became convinced with the issuance of the report that things were worse than they had

dared believe before. Another wave of protest rolled over the earth, less violent and vociferous but with the great tragic sound of despair and rebellious pain in it of the many whose earnest pleas for justice and mercy have been brushed aside by the few.

When this protest too had died away and was followed by that seeming apathy and indifference which must inevitably follow any great emotional upheaval of masses of the people, there were left only a few voices here and there still protesting and deploring the decision of Governor Fuller's advisory committee.

WHY? WHY? WHY?

Embarrassing questions began to be asked. The great storm of protest that swept the earth was caused by the belief that these two men were convicted not for the crime of which they were accused, but because they were radicals. The main purpose of the Committee, it was understood, was to make a thorough examination and analysis of all the circumstances surrounding this phase of the case. Why were the most important facts that dealt with Sacco and Vanzetti as radicals omitted?

Why were pertinent facts favorable to the defendants not mentioned and very trivial and exceedingly doubtful points, if they cast an unfavorable light upon the two prisoners, dealt with at length and set forth as positively conclusive of guilt?

The following ten specific questions arise from the general charges that the members of the Lowell Committee were not open-minded as the three esteemed gentlemen on it claimed, but were filled with hatred and prejudice.

1. Why Was Salsedo's Death Not Mentioned?

Why was the terrible death of Salsedo, a member of the same radical group as Sacco and Vanzetti, who was killed a few days before their arrest, not mentioned by the Lowell Report?

Andrea Salsedo was the Brooklyn printer whose body was found dashed to pieces on the sidewalk outside the building where he was being held with Robert Elia by agents of the Dept. of Justice, presumably awaiting deportation. Sacco and Vanzetti were helping to arrange a meeting of protest for which they were preparing to distribute circulars when they were arrested. The police questioned them only about their radical activities at the time of their arrest. With the horror of their comrade Salsedo's death fresh in their minds, what would be more reasonable for an open-minded person to understand than that they should lie to the police arresting them and try to conceal their activities?

Why did the Lowell report not mention the Salsedo incident when it went into Judge Thayer's "consciousness of guilt" theory?

2. What About Berardelli's Gun?

Vanzetti was charged with carrying off the gun of the paymaster's guard, Berardelli, after the murder, and with having it in his possession at the time he was arrested. Is it even remotely probable that a robber would carry around with him for weeks after the crime, the revolver of the man killed in the crime he took part in? If the members of the committee were unbiased as they claimed, why did they not at least comment upon this very significant point? Could it have been because it was a point favorable to Vanzetti?

3. Why Did the Report Not Mention the Prisoners' Excellent Reputations?

Neither Sacco nor Vanzetti had ever been arrested before May 5, 1920. No evidence of any kind against their characters was ever brought up at the trial. Why did The Lowell Committee not mention this?

Between the time of the Braintree murder and robbery in April and the time of the arrest of Sacco and Vanzetti in May, no evidence was ever produced to show that they had changed their mode of living in the slightest, or shown any indication of having come into any extra money. Yet the murderers made off with \$15,000.

4. Why Was Madeiros' Confession Held Worthless?

Why did the Lowell Committee Report reject Madeiro's confession so contemptuously?—"it does not seem to the Committee that these affidavits to corroborate a worthless confession are of such weight as to deserve serious attention."

There are a number of well known lawyers of high standing, not connected with either side who thought the story Madeiros told of being in the bandit car with the Morelli gang when they committed the Braintree crime contained some statements well worth serious consideration. The Morelli gang is famous for the crimes it has committed. It is known by the police throughout New England. The Braintree robbery was just such an affair as this gang would undertake. And some of the gang were then out on bail charged with a crime for which they were later convicted.

Furthermore there was a startling resemblance between Sacco and Morelli. A newspaper reporter who had copies of the full face and profile

views of Sacco and Morelli asked a number of persons to pick out which two pictures went together, and in most cases the persons guessed wrong—selecting a profile of Morelli to go with a full face of Sacco. Yet the witnesses who claimed to indentify Sacco saw the bandits from the windows of a building many feet away, or from a quickly moving automobile.

5. Was President Lowell's Apology "Too Trivial" To Mention?

Why was there no account in the stenographic hearings of the Lowell Committee of the apology President Lowell was forced to make for his mistake in accusing Mr. Albert Bosco, editor of the Italian paper, *La Notizia*, and Professor Guadagni of lying? Mr. Bosco and Prof. Guadagni, alibi witnesses for Sacco, told the Lowell Committee that they had lunched with Sacco on the day of the Braintree robbery and murder, April 15, 1920, and that they remembered the date distinctly because they talked about the banquet given by a group of Italians that day to Mr. James T. Williams, then editor of the *Boston Transcript*.

President Lowell told the men abruptly he "happened by accident" to look up the files of the *Transcript* ten days before, and found that it contained no notice of a banquet to the editor on April 15th. Thirty-two pages of the record of the hearings are taken up with the attempt of the Committee to discredit Mr. Bosco and Prof. Guadagni. They were further given to understand that the committee had communicated with Mr. Williams, then in Washington, and asked him if a banquet for him had taken place on that date, and Mr. Williams had replied that the Banquet took place not on April 15th but on May 13th.

The next day Mr. Bosco and Prof. Guadagni appeared again before the Lowell Committee

bringing with them files of the Italian newspaper, *La Notizia*, and pointed out an account of the banquet for Mr. Williams held on April 15th, 1920. Mr. Williams was then called by long-distance and again questioned about the matter. He replied that he remembered now that there had been a banquet on April 15th as well as May 13th. President Lowell thereupon shook hands with Mr. Bosco and Prof. Guadagni and apologized.

When the stenographic record of the minutes of the proceedings were issued later, it was discovered that although 32 pages of the proceedings were taken up with the Committee's attempt to discredit the two Italian alibi witnesses, there was no record of the apology made by President Lowell nor the conversation vindicating Mr. Bosco and Prof. Guadagni. The proceedings merely record that the files of *La Notizia* were produced and looked at by the Committee.

6. Why was the Photograph Incident Omitted?

At his trial Sacco had claimed that he had gone to the office of the Italian consul on the day of the Braintree affair to inquire about getting a passport, and gave as an alibi the deposition of a former employee that he remembered Sacco's visit because he brought with him to the amusement of the employee, a big crayon enlargement of a family photograph, for a passport photograph.

Why did Governor Fuller in mentioning this alibi omit reference to the unusual incident of the photograph? He said in his report, "The only confirmation of this claim is the memory of a former employee of the Consulate who made a

deposition in Italy that Sacco among forty others was in the office that day. This employee had no memorandum to assist his memory."

7. Was Proctor's Affidavit Really Incredible?

Captain Proctor was the police officer who made an affidavit after the trial that the district attorney arranged with him as to the form in which he was to cast his question regarding the fatal bullet which it was charged was fired from Sacco's gun. The curiously worded answer, "It was consistent with being fired from that pistol," would seem to arouse suspicion in itself. With the very plausible explanation given by Captain Proctor later that he meant by that, not that it had actually been fired from Sacco's gun, but that it *might have been* fired from that gun, the attempt at deliberately making the wording ambiguous seems clear enough.

Why did the Lowell Committee decide that "it must be assumed that the jury understood the meaning of plain English words, that if Captain Proctor was of opinion that the bullet had been fired through Sacco's pistol he would have said so instead of using language which meant that it might have been fired through that pistol."

The Committee noted that the district attorney told them, incidentally, that he had refused to approve a bill for \$500 presented to him by Captain Proctor before he made this affidavit. Rather than discrediting the affidavit, does this not shed more light upon why Captain Proctor deemed it necessary at the trial, if he was to get his fee, to word his answer as he did?

8. Why Did the Committee Say Sacco's Cap Fitted?

Near the end of the report, the Lowell Committee bring up the matter of Sacco's cap. The prosecution had contended at the trial that the hole in the cap found on the ground after the murder was made by Sacco as he hung it up daily on a nail at the factory. The defense brought a statement from the former chief of police of Braintree that he himself had made this hole when looking for a name under the lining of the cap after the murder. The Committee admitted they believed the chief of police.

Why does the Lowell Report dismiss this as "trifling," and then on the next page give this same cap as one of the chief reasons for belief in the guilt of Sacco? Why does the Report say that this cap which "bears a *resemblance* in color and general appearance to those he was in the habit of wearing," fitted when it was tried on in court? There is positively no evidence in the minutes of the trial to show that this cap fitted Sacco. On the other hand it was reported in the press that a laugh went up in the courtroom when Sacco tried the cap on.

Was it that indeniably true evidence was "trifling" when it pointed toward innocence, while doubtful evidence that at best showed "resemblance" was conclusive if it could be used as a sign of guilt?

9. Why Was Gould's Evidence Suppressed Originally?

Gould was the bystander, in the words of the Report, "through the lapel of whose coat a bullet was fired by the bandits, and who was questioned by the police. He was not called as a witness by the prosecution, but he was certainly close to the car, and has since made an affidavit to the effect

that the men he saw were not the defendants." The lawyers for the defense did not know of this man's existence at the time of the trial. The prosecution did, but they did not call him because he said at that time that Sacco and Vanzetti were not the men he saw in the murder car. The district attorney did not see fit to inform the defense lawyers about Gould. Yet to the Lowell Committee there "seems to be nothing in the nature of a concealment by the prosecution of evidence that it believed valuable for the defense." Gould's testimony, the members of the Committee believe is not worth considering as it is only "cumulative."

10. Why Was Lottie Packard Believed "In This Case?"

But about the testimony of Lottie Packard, the poor crack-brained woman famous for creating a scene wherever she went, who had already changed her testimony back and forth several times, now in favor of one side, now the other, the report said, "the Committee believe that in this case her testimony is well worth consideration," although "the woman is eccentric, not unimpeachable in conduct." Doubtless the reason the Committee believed her "in this case" was because this time she chose to testify against Sacco, although she went to the office of the Boston Post the next morning and denied there that she had identified him to the Committee. The Post printed an account of her denial.

These are only a few of the most glaring evidences of bias in the report of the Lowell Committee. There are many others just as damaging to the claim of open-mindedness set up by the Committee. Perhaps the most obvious evidence that The Committee had their minds made up before they staged their farcical "investigation" is shown in the language of the Report itself. A

careful reader will not have to get down his psychology text-books to help him test out evidences of the state of mind that brought forth the use of certain expressions, when discussing the prosecution's contentions and other entirely different expressions when mentioning the defense. In the words of the Report, the district attorney "informs the Committee, or "states" to them, but the defense can only "allege."

Nor does it take a very discerning person to notice that while the district attorney, Mr. Katzman, is referred to often by name with a very respectful consideration for his arguments, the attorney for the defense, Mr. Thompson, is mentioned by name only on one page and then for the purpose of casting a slur at him—"The case of the defendants must be rather desperate on its merits when counsel felt it necessary to resort to a charge of this kind."

Was not Heywood Broun right when he said—"Governor Alvan T. Fuller never had any intention in all his investigation but to put a new and higher polish upon the proceedings. The justice of the business was not his concern. He hoped to make it respectable. He called old men from high places to stand behind his chair so that he might seem to speak with all the authority of a high priest or a Pilate.

"What more can these immigrants from Italy expect? It is not every prisoner who has a President of Harvard University throw on the switch for him. And Robert Grant is not only a former Judge but one of the most popular dinner guests in Boston. If this is a lynching, at least the fish peddler and his friend the factory hand may take unction to their souls that they will die at the hands of men in dinner coats or academic gowns."

The Sacco-Vanzetti National League

The Sacco-Vanzetti National League was formed by a group of individuals who want to see the memory of Sacco and Vanzetti kept alive and their names cleared. They believe that the case offers an opportunity to expose an unsocial state of mind on the part of high officials of government that has been and will still be productive of much evil. They feel that if the thousands who have now seen the ugly forces that may at any time break out at the very roots of our government had fully comprehended the evil which was getting more and more powerful as the years went on, they might have been able to make their efforts in protest count for more.

The Sacco-Vanzetti National League believes the report of the Lowell Committee is one of the most vicious documents that ever has been offered to America. It regards the Report as an infamous decision that has been presented to an unsuspecting public in the name of justice and fairness. It considers therefore, that one of its primary purposes is to expose the unconscious hypocrisy, the black prejudice that made the Lowell Report possible.

Under the editorship of Professor Karl Llewellyn, of the Columbia University Law School, a book analysing the Lowell Report will be sponsored by the Sacco-Vanzetti National League. This book will be a collection of articles by well-known writers in science, law and letters, who will show how and why such a report could be written

by men in high positions and why so many thousands could take it for genuine. Looking upon the report as one of the phenomena of the Twentieth Century, they will make a scientific study of it in the light of the social forces that made it possible.

It is planned to have the volume ready for the public by August. Members of the Sacco-Vanzetti National League will be informed when it is issued.

May, 1928

[The charges of the Sacco Vanzetti National League are based upon the text of the Fuller-Lowell Report and the facts which were ignored by that Report. Therefore it asks nothing better than to be permitted to send to all who will read it, a copy of this Report, with the suggestion that answers to the questions asked in this leaflet be looked up there. A copy will be sent to all new members joining the League who ask for it. Or send us your name and address and 12 cents in stamps and we will mail you a copy of the Lowell Report.]

HAVE YOU READ—

The Life and Death of Sacco and Vanzetti

By Eugene Lyons; International Publishers,
New York. Price \$1.50.

The Case of Sacco and Vanzetti

By Felix Frankfurter; Little, Brown & Co.,
New York. Price \$1.00.

(The Sacco-Vanzetti National League recommends these two books for those who want a thorough and comprehensive account of this world-famous case. The books may be ordered direct from the publishers or through the Sacco-Vanzetti National League, 104 Fifth Avenue, New York.)

“If it had not been for this thing, I might have lived out my life talking at street corners to scornful men. I might have died, unmarked, unknown, a failure. Now we are not a failure. This is our career, and our triumph. Never in our full life could we hope to do such work for tolerance, for justice, for man’s understanding of men as now we do by accident. Our words—our lives—our pains—nothing! The taking of our lives—lives of a good shoemaker and a poor fish-pedler—all! That last moment belongs to us—that agony is our triumph.”

BARTOLOMEO VANZETTI
to
JUDGE WEBSTER THAYER.

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