

WARREN'S GREAT SPEECH BEFORE FEDERAL COURT

Indictment of Capitalism and Its Despotic Institutions.

Eloquent Plea For a Free Press and Free Speech.

Epoch Making as Patrick Henry's Immortal Oration.

THE SENTENCE.
Warren was sentenced to pay a fine of \$1,500, the cost of the prosecution and to serve six months in the Fort Scott jail.

By GEORGE H. SHOAF.

No court in the history of jurisprudence ever presented a scene more replete with dramatic interest than that witnessed in the federal building at Fort Scott, Kan., Thursday afternoon, July 24, when, in response to Judge Pollock's invitation to show cause why sentence should not be pronounced, Fred D. Warren, editor of the Appeal, rose and began to speak. The last bit of uncontradicted evidence disclosing the bias and prejudice of the jurors who convicted Warren had been introduced. The last argument in behalf of justice for the defendant had been made by his attorneys. Bone and West of the prosecution had declined to reply to Darrow and Boyle. Judge Pollock had just delivered his decision overruling the motions for an arrest of judgment and a new trial. Everything that could be said and everything that could be done to reverse the processes of the court and snatch victory from defeat had been said and done.

Unconquered Client.

Tense were the feelings of the spectators as Warren faced the court. Instinctively it was realized that something was about to happen, but just what it would be no one could think or say. The benign face of Clarence Darrow, the celebrated lawyer who in a hundred courts has championed labor's cause and whose voice from a thousand platforms has been lifted in behalf of the poor and oppressed, showed concern, as did the faces of his associate attorneys, when it became evident that their defeated but unconquered client was about to initiate action in his own behalf. The government's agents and attorneys looked as if a red flag had been unexpectedly unfolded or a bomb was about to be hurled, and they cringed speechless in their chairs. Judge Pollock himself, his eyes fastened on the figure before him, his countenance plainly revealing the conflicting emotions of his mind, sat as if stricken dumb.

Voice Rang Like a Clarion.

"Yes, your honor, there are some reasons why sentence of the court should not be pronounced."

With his hands on the table before him and his eyes looking straight and fearlessly into those of the court, Warren's voice rang like a clarion as he began a speech as remarkable as it is without a parallel. The unexpectedness of the proceeding and Warren's boldness of utterance astounded Judge Pollock. Once or twice Prosecuting Attorney Bone looked appealingly at the court as if the latter dignitary ought to foreclose on the speaker's remarks, but the court was too preoccupied with amazement to except. To a silenced judge and in the presence of an audience whose very breathing could neither be felt nor heard capitalism's most prominent victim and labor's uncompromising champion proceeded with the uncovering of the causes that had led to his conviction. Never in his life had Judge Pollock listened to a speech like this; never in the history of jurisprudence was there a speech like this made in a federal court.

Situation Dramatic Beyond Words.

Warren represented in the concrete the agony and woe, the blood and tears of the working class of the world. He typified the issue between the ruling class and those who are fighting the age-long war for human emancipation. Through him were voiced the outraged sentiments of men, women and children who in the field, factories and mines do the work of the world and who in some way would protest against the methods by which the wealth their work creates is taken from them and given to those who labor not. Here in this federal court, the strongest bulwark of the system that is responsible for the agony and blood and outraged sentiments, Warren, already convicted and about to receive sentence, faced without hesitation and without a tremor the flesh and blood embodiment of capitalism's mighty power and challenged him to do his worst.

Would Vote For Him For President.

Warren's speech climaxed his defense and elicited it irrefutably in the consciences of his auditors. If there had been any doubt as to the injustice of the prosecution and the animus and origin of it, this doubt rapidly dispelled as the speech proceeded. After sentence was pronounced and the prisoner was admitted to bail pending an appeal John H. Crider, one of the most prominent Republicans in Fort Scott and probably in secret society circles the most influential man in Kansas, who had listened to Warren's address, came forward and volunteered to sign his bond. The offer was accepted. Downstairs after adjournment of court a group of men, Democrats and Republicans, united in open endorsement of the speech and unqualifiedly expressed their admiration for the man who made it.

"If ever that man runs for president he will get my vote," declared one of those who participated in the discussion.

Tribute From a Juror.

"Darrow's argument and Warren's speech put this case in a different light," said R. J. Finley, one of the jurors who voted to convict and who sat through the proceedings of the day. "There is no question as to Warren's ability and sincerity. I am not a Socialist, but as far as I am able to determine I believe Warren is honest and free from criminal intent," Finley declared.

It is difficult to interpret the impression that was made on the mind of the court. Ordinarily convicted prisoners accept sentence in silence. Warren's course petrified with astonishment the court, to whom his remarks were addressed. An age seemed to have elapsed before Pollock recovered sufficiently to proceed. It was very evident that he did not know what to say. Undoubtedly he had made up his mind as to the severity of the sentence, but this speech from the prisoner apparently upset his plans. Now he vibrated between doubt and despair. Warren, possibly with a note of defiance, had announced that he did not ask or expect clemency or mercy; that he was not guilty and was not conscious of having committed an offense. The United States district attorney had demanded that the full penalty of the law, five years in the penitentiary and a \$5,000 fine, be inflicted.

The Court in Doubt, but Pronounces Sentence.

With halting tones and in a manner plainly denoting the confused condition of his mind, Pollock began the pronouncement of the sentence with an apology in part and an attempt at argument in reply to Warren's speech.

According to the Fort Scott Tribune, Warren's impassioned address made a most profound impression.

"The fact that Judge Pollock stated he had given the case weeks and weeks of deliberation and had hardly known what to do shows that Warren may have had some merit in his claim that the government had sanctioned kidnapping. The speech Mr. Warren delivered will be kept as a treasure by many who are with him in this case," declared the Tribune.

Warren's Great Speech.

The speech, which is destined to become immortal in revolutionary literature, is as follows:

I wish to call the attention of the court to the fact that this case is the outgrowth of the kidnapping of three workmen by the agents of the great mining corporations, with the connivance of the state officials of Idaho and Colorado. The kidnapping of these workmen was acquiesced in by the president and sanctioned by the supreme court of the United States.

In referring to the manner in which these workmen were taken from their homes as kidnapping I wish it understood that no less distinguished a personage than Justice McKenna of the supreme court of the United States used this term in dissenting from the opinion of his associates. Justice McKenna, after reviewing the facts laid before the supreme court, said:

In the case at bar the states, through their officers, are the offenders. They by an illegal exertion of power deprived the accused of a constitutional right. * * * Kidnaping is a crime, pure and simple. * * * All of the officers of the law are supposed to be on guard against this. * * * But how is it when the law becomes the kidnaper—when the officers of the law, using the forms and exerting its power, become abductors? This is not a distinction without a difference, another form of the crime of kidnapping, distinguished only from that committed by an individual by circumstances. If a state may say to one within her borders and upon whom her process is served, "I will not inquire how you came here; I must execute my laws and remit you to proceedings against those who have wronged you," may she so plead against her offenses? May she claim that by mere physical presence within her borders an accused person is within her jurisdiction denied of his constitutional rights, though he has been brought there by her violence? And constitutional rights she accused (the three workmen I have alluded to) in this case certainly did have, and valuable ones.

Justice McKenna voiced my views and the views of every law abiding citizen on this important matter touching the rights of the individual. But the supreme court declared otherwise and refused to grant the relief asked for by these workmen and guaranteed to them by the constitution of the United States and by every consideration of fair play and justice.

To Test the Supreme Court.

It was during the heat of this struggle between the Western Federation of Miners and the wealthy Mine Owners' association of the west that I conceived the idea of offering a reward for ex-Governor Taylor, who, as was generally known, was a fugitive from justice from his home state of Kentucky and in hiding in Indiana, protected from the service of requisition by the governor of Indiana, whose position was endorsed by Governor Roosevelt of New York and every prominent Republican politician and newspaper in the United States.

Would the supreme court hold to its opinion that kidnapping was not a crime if the victim was a member of the Republican party and a repre-

sentative of the capitalist class? I did not believe that the \$1,000 offered by the Appeal would induce any man to undertake the abduction of Mr. Taylor, as for seven years the state of Kentucky had a standing reward of \$100,000 for the capture of the murderers of Governor Goebel, for which crime Taylor had been indicted by the Franklin county grand jury in January, 1900.

Similar to Other Rewards.

But I did expect that the offer of this reward in the manner and with the language used would attract public attention to the kidnapping decision of the supreme court. I felt that if this decision, sanctioning the kidnapping of poor and defenseless workmen by rich and powerful capitalists, was understood by the American people a wave of protest would sweep the country and force the supreme court to recede from its position, as had been done before, notably in the famous Dred Scott decision, and will undoubtedly be done again.

This Taylor reward was circulated through the mails in a manner in daily use by banks, private detective agencies, anti horse thief associations, sheriffs and marshals. I have here three postal cards mailed by national and state banks offering rewards for the arrest of men whom these banks allege to have committed crime. The card which I offer for the inspection of the court, it will be noted, bears upon the back or outside of the card, in large letters, figures and characters, the following language: "B. B. Bond, produce dealer, wanted for issuing forged bills of lading; \$250 reward will be paid by the First National Bank, Nashville, Tenn., for his arrest and delivery to Nashville authorities."

First Instance on Record.

It will be observed that this language, to quote this court's decision on our demurrer to the indictment, "is calculated to impress the readers of the language with the thought that Bond was guilty of the commission of some crime for which he would be prosecuted by the Tennessee authorities if captured and returned to them." It can further be said, following the court's line of reasoning, that this language was obviously intended by the First National bank to reflect injuriously upon the character of B. B. Bond and from its terms and the manner and style in which it was displayed on the postal card is calculated to have that effect.

The other cards contain similar language and display. This is characteristic of thousands of cards which daily pass through the mails of the United States, and yet in not a single instance has any effort been made by the government to rid the mails of this objectionable matter and protect those of its citizens who are fugitives from justice.

My arrest and conviction is the first instance on record where a man was prosecuted for attempting to bring to the bar of justice an indicted fugitive charged with the crime of murder.

The Reason Not Hard to Find.

There must be some reason why I alone of the thousands of men who, according to the rule of this court and the opinion of the district attorney and his assistant, have committed substantially the same act should be singled out and marked for prosecution.

The reason is not hard to find. Society today is divided into two classes. On the one side we find the work people—men, women and children who have no means of obtaining a livelihood but by their hard labor. On the other hand we find a relatively small group of men who own the land and the tools which these people must have access to if they are to live. It is the primary if not the sole purpose of the men who own this productive property to obtain as large profits as possible, while on the other hand the work people strive constantly to increase their wages. This creates a class conflict.

The Conflict Began With Civilization.

This conflict began with civilization and has come down under varying forms to this day and will continue with increasing intensity so long as a small group of rich men are permitted to lay upon the masses, to quote from Pope Leo, "a yoke little better than slavery." Discussing the ever present problem of labor and its compensation, John Adams in 1776 observed:

It is of no consequence by what name you call your people, whether by that of freemen or slaves. In some countries the laboring poor men were called freemen. In others slaves, but the difference was imaginary only. What matters it whether a landlord employing ten laborers on his farm gives them annually as much as will buy the necessities of life or gives them those necessities at first hand?

Coming down to the civil war period, we find that the Charlestown Baptist association in presenting a memorial to the Georgia legislature in 1835 discussing this ever with us problem of labor gave expression to the following conclusion:

It amounts in effect to this—whether the operatives of a country shall be bought and sold and themselves become property, as in this state, or whether they shall become hirelings and their labor only become property, as in some other states.

Slavery of the Working Class.

It will be seen from these two quotations, clearly reflecting the opinion

of the Revolutionary and civil war periods, that the master class recognized no difference between the chattel slave and the wage hireling. In 1835 Karl Marx, the founder of scientific socialism, summed up the labor problem in the following striking sentence:

In point of fact, however, whether a man works three days of the week for himself on his own field and three days for nothing on the estate of his lord or whether he works in the factory or workshop six hours daily for himself and six hours daily for his employer, it comes to the same thing.

This surplus value over and above that which is required by the slave, the serf and the wageworker to maintain his physical existence is the portion which the master, the feudal lord and the capitalist have taken by force of arms in the first case, by ownership of land in the second and by ownership of tools and cunningly devised laws and court decisions in the last instance.

The slave master built up a civil and political system which protected his right of property in the bodies of his slaves and the wealth they produced. One does not have to go very far back in the history of this country to find confirmation of this statement. Prior to 1860 the laws enacted by congress and by most of the several states, backed by the decisions of federal and state courts, had for their object the protection of the slave master in his right of ownership of men, women and children. The man who dared raise his voice in protest against the exploitation of the black man was branded as a traitor to his country. If he attempted to speak he was thrown into jail, and if he attempted to print a newspaper voicing his sentiments his press was destroyed and he was mobbed and murdered.

What was true in the two revolutionary periods which marked the disappearance of a political system based on kingcraft and a political system based on chattel slavery is true today.

Marked For Persecution.

The men and the newspapers that have espoused the cause of men, women and children who work in the fields, factories and mines of this nation are marked for persecution, as were the Revolutionary and abolition editors before them. For ten years as editor of the Appeal to Reason I have been in constant conflict with the ruling class and the men who hope to pick up the crumbs which drop from the tables of the great captains of industry, on whose will employment depends, not alone in the industries, but in the government and municipal service.

Postoffice and Courts Versus Appeal.

The postoffice department was first employed to hamper and harass the Appeal to Reason in its work of education and enlightenment. The most absurd rules and regulations were specially formulated to apply, as Third Assistant Postmaster General Madden wired to the Girard postmaster, "to the Appeal to Reason." In every instance where our right to the mails was questioned the Appeal won a signal victory, because we strictly obeyed the spirit and the letter of the law.

Then the aid of the courts was invoked to accomplish what the postoffice department had failed to do. The courts today, as prior to 1860, are with the owning and ruling class. Daily this fact is becoming more apparent. One has only to refer to the long list of decisions in which the interests of labor and capital are opposed to verify this statement. The blacklist has been legalized and the boycott outlawed. The injunction has been used with telling effect in labor controversies to terrorize and crush the men who work, while it has proved ineffective and of no avail when directed against great capitalist interests, as President Roosevelt pointed out when he was engaged in his battle with the great packing industry.

The people of Missouri in their capacity as sovereign voters recently elected a governor and legislature on a platform demanding relief from railroad extortion. A two cent fare bill was enacted into law. This law was upheld by the state supreme court. The railroads went to the federal courts, which with the stroke of a pen nullified the will of 3,000,000 people. So closely allied has become the federal judiciary of this country to the great corporations that even now there is pending in congress a resolution demanding an investigation of the acts and conduct of the federal judges who have prostituted their high office to the profit of these corporations, three-fourths of which, according to a statement made by Governor Hadley, are either illegally organized or unlawfully conducted.

Fighting Industrial Despotism.

For years the Appeal to Reason has been waging almost single handed a fight against the oppressive and intolerable industrial and political conditions which confront this country. We frankly admit having been unsparring in our criticism of the acts of public officials and the courts of this land. We have dared to tell the truth, and it is because of this that I face this court today a convicted felon in the eyes of thousands of men and women whose respect I covet.

Whence came this prosecution? The Kansas City Journal in November, 1907, editorially stated that the department of justice at the instance of the president of the United States had been instructed to commence proceedings against a Socialist sheet at Girard, Kan. I do not know the Journal's source of information, but am inclined to believe from facts now in my possession that this prosecution of the Appeal to Reason has been directed from the attorney general's office in Washington.

When the Pierson envelope, on which this action is based, was sent to the postoffice inspector of this dis-

trict from Los Angeles that gentleman turned it over to the district attorney. The district attorney returned the envelope to the postoffice inspector with the opinion that there was no ground for action. The inspector in making report to the department at Washington "marked the case 'Closed.'" He later explained to me that this meant that so far as the district of Kansas was concerned no further action would be taken. But soon thereafter word was received from Washington, so the assistant district attorney announced in the presence of this court, that there had been a violation of the law and that the case must be reopened and vigorously prosecuted.

"We Are After the Appeal."

The district attorney's office at Topeka, however, revised its decision after hearing from Washington that there was no ground for action against me. One of my attorneys journeyed to Washington and laid before the department thousands of reward cards similar to the Taylor reward which had been mailed from nearly every city in the Union. When my attorney inquired why the Appeal was singled out for prosecution on this flimsy charge, while all the senders of these other cards, who were equally culpable, were not molested, the representative of the government opened a drawer in his desk and produced an armload of marked copies of the Appeal.

Blue pencil marks designating certain articles in the Appeal indicated that this paper is pretty closely read by high government officials. The government official shrugged his shoulders in reply to Darrow's question and remarked, "We are after the Appeal."

This case has dragged its weary way through this court for over two years, continued from time to time at the instance of the government. I submit from these facts that I am not prosecuted for having violated any federal law, but purely because of my political opinions and my work in behalf of the working class of this nation.

This prosecution is not unexpected to us. As plainly stated by the government official to whom our attorney talked while in Washington, it is evident that secret service agents of the government have been camping on the trail of the Appeal for, lo, these many years.

Is it not pretty conclusive evidence that we have observed religiously the laws and regulations governing the conduct of a newspaper when after ten years of effort the government is able to find only this lone and paltry alleged violation?

Personally I feel proud of this record. I feel no sense of guilt, nor will the world approve this conviction when the truth prevails and the facts are known.

Submitted Copy to Postmaster.

The government's witnesses testified here on the stand that I submitted to them copy of the matter I expected to mail and asked whether in the postmaster's judgment it constituted a violation of the federal law. That official after looking the matter up said it did not, and I want to say here that during the ten years of my connection with the Appeal to Reason I have had frequent occasion to consult with the postmaster at Girard on matters relating to the postal laws, and in no instance was his judgment ever at fault. He assured me that in his judgment the matter I proposed mailing was identical in character with the thousands of postal cards mailed at his office by the sheriff, the marshal and the officers of the Anti Horse Thief association.

In submitting to this court these postal cards mailed by bankers it is not my intention that the government should proceed against these men on the evidence furnished by me. I know these gentlemen are immune from prosecution because they represent the dominant class in society today. The rewards which they offer are for men who have committed crimes against property, and in the prevailing social system the property of the rich is of vastly more consequence than the life and liberty of the poor.

Is Criticism a Crime?

On the other hand, the editor who has espoused the cause of the wage slave today has in the eyes of the ruling class committed a crime against existing institutions for daring to offer a reward for the apprehension of an influential member of the dominant political party.

I have also dared to criticize a decision of the highest judicial tribunal in the United States. Judge West, the assistant district attorney who assisted in my prosecution, in his argument a year ago last November, after presenting his reasons why the demurrer in this action should be overruled, closed his argument in a burst of passion with the statement that "as a matter of fact this literature was sent out for the purpose of bringing into contempt and discredit the supreme court of the United States." Is criticism a crime? And is it for this I am being prosecuted?

Our Colonist Forefathers.

Smarting under the vicious attempt of the English king to prevent the circulation of Revolutionary newspapers during the period preceding the signing of the Declaration of Independence, the first amendment to the new constitution was made to provide for a free press and free speech, always and everywhere recognized as the sustaining pillars of free institutions.

Our colonist forefathers, imbued with the high ideals embodied in their immortal Declaration, shouldered their guns and shot to death the divine right of kings, and then the cunning enemies of democracy raised in its stead the supreme court, with its many federal arms reaching out into all the states of the Union.

The supreme court has become in fact the reigning monarch of the American people. No measure of relief demanded by the voters of this nation enacted into law by their elected representatives and signed by the president may become operative without its judicial sanction. At the command of the lords of privilege any obnoxious law is promptly declared unconstitutional.

The supreme court of the United States has today more real power over the people than is vested in any monarch of the old world.

The late Senator Hanna boasted that the courts are maintained to buttress property rights. Ex-President Roosevelt denounced a federal judge for his interpretation of the law in the government's prosecution of the beef trust.

President Taft in his Hot Springs (Va.) speech expressed a decided opinion upon the same question in referring to the inability of the poor to cope in the courts with men of wealth. With expressions like these from men of prominence, do you wonder that there is a growing distrust on the part of the poor people of this nation that the courts are against them?

The Courts Ruled by Property.

In the western district of New York of thirty cases decided in favor of injured employees twenty-eight were reversed in favor of the master class by the higher courts. United States District Attorney Sims of Chicago was waging a vigorous fight against the white slave drivers, and when Victory was almost within his grasp his hand was paralyzed by a decision of the supreme court, which virtually put an end to the prosecution of that unspeakable infamy. There are property interests involved in the wholesale debauchery of young girls, and these property interests must be safeguarded at whatever cost. As for the girls, they are the daughters of the working class and in point of value are not to be compared to property.

Our modern system of jurisprudence is a survival of mediaeval times, when judges presided by right of ownership of lands and castles, and it will require another political revolution similar to that of 1776 and that of 1860 to abolish this bulwark of special privilege and capitalist exploitation.

Convicted by Jury of Republicans.

I was convicted by a jury composed of partisan Republicans. It was shown by competent evidence introduced in this court today that two of the jurors had expressed hostile and prejudicial sentiments against me. Affidavits herewith filed show that one of the jurors, Mr. Nelson, became deathly sick in the jury room, and he affirms that it was because of this sickness and his fear of death unless medical attention could be secured that he was forced into voting for a conviction. Again it is shown by competent evidence introduced at this hearing that the principal witness for the government, ex-Governor Taylor, made statements which were untrue. He stated that at the time the reward which I offered was circulated through the mails he was not a fugitive from justice nor was there any charge pending against him of a criminal nature in Kentucky. Affidavits, state records and letters signed by Taylor himself, all on file in this court, show that Taylor had been indicted and that for seven years prior to the offer of our reward he had been a fugitive from justice with a price on his head. It is the common practice in all courts that where the defendant can show that a juror in qualifying perjures himself a new trial is granted. Perjured testimony on the part of the prosecuting witness is also ground for a new trial in ordinary cases. Of course I understand that this is not an ordinary case. The whole history of these proceedings shows conclusively that it is not an attempt to secure the ends of justice, but an effort to punish me because of my political views.

No Mercy or Leniency Asked.

In conclusion permit me to say that I am not asking the mercy or leniency of this court. I have committed no crime, and there is festering in my conscience no accusation of guilt, but if my conviction and punishment will serve to rivet public attention upon the abuses which I have tried to point out then I shall feel that I have not suffered this humiliation in vain.

After all, this is the price of human progress. Why should I expect immunity? The courts have ever been and are today the bulwarks of the ruling class. Why should they not punish offenders against that class?

In feudal slavery the courts sustained the feudal lords, in chattel-slavery they protected the slave owners, and in wage slavery they defend the industrial masters.

Whoever protests for the sake of justice or in the name of the future is an enemy of society and is persecuted or put to death.

In one of the most eloquent characterizations of history Charles Sumner, tracing the march of the centuries, pointed out that the most infamous crimes against the liberty and progress of the human race had been sanctioned by the so called courts of justice.

Truth Will Triumph in the End.

This case is a mere incident in the mighty struggle of the masses for emancipation. Slowly, painfully, proceeds the struggle of man against the power of Mammon. The past is written in tears and blood. The future is dim and unknown, but the final outcome of this worldwide struggle is not in doubt. Freedom will conquer slavery, truth will prevail, over error, justice will triumph over injustice, the light will vanquish the darkness, and humanity, disenthralled, will rise resplendent in the glory of universal brotherhood.