

Sacco and Vanzetti: Martyrs or Murderers?¹

1. This chapter draws heavily from the transcript of the record of the trial of Nicola Sacco and Bartolomeo Vanzetti in the courts of Massachusetts and subsequent proceedings, Name of Compiler or equivalent, comp., Official Name of Transcript, Volumes I through V (New York: Henry Holt & Co., 1928), hereafter referred to as “Transcript”. The description of the case also relies on secondary sources including in particular Felix Frankfurter, *The Case of Sacco and Vanzetti: A Critical Analysis for Lawyers and Laymen* (Little Brown and Co., editions 1927, 1955, 1961) which is a republication of Justice Frankfurter’s article in *The Atlantic Monthly*, March 1, 1927, available in four parts at <<http://www.theatlanticmonthly.com/magazine/archiv...03/the-case-of-sacco-and-vanzetti/306625/>>; Brian Jackson, *The Black Flag: A Look Back at the Strange Case of Nicola Sacco and Bartolomeo Vanzetti* (Routledge and Keegan Paul Ltd., 1981); Francis Russell, *Sacco and Vanzetti: The Case Resolved* (Harper and Row, 1986); Francis Russell, *Tragedy in Dedham: The Story of the Sacco-Vanzetti Case* (McGraw Hill Book Co., 1961, 1971); Bruce Watson, *Sacco and Vanzetti: The Men, the Murders, and the Judgment of Mankind* (Penguin Books, 2007); Susan Tejada, *In Search of Sacco and Vanzetti: Double Lives, Troubled Times, and the Massachusetts Murder Case That Shook the World* (Northwestern University Press, 2012); G. Louis Joughin and Edmund M. Morgan, *The Legacy of Sacco and Vanzetti* (Harcourt Brace and Company, 1948); Alan M. Dershowitz, *America on Trial: Inside the Legal Battles That Transformed Our Nation* (Warner Books, 2004); Francis X. Busch, *Prisoners at the Bar* (Bobbs-Merrill Company Inc., 1952); Robert Grant and Joseph Katz, *The Great Trials of the Twenties, The Watershed Decade in America’s Courtrooms* (Sarpedon 1998); William Young and David E. Kaiser, *Postmortem: New Evidence in the Case of Sacco and Vanzetti* (University of Massachusetts Press, Amherst 1985); Douglas Linder, “Famous American Trials: The Trial of Sacco and Vanzetti,” <http://law2.umkc.edu/faculty/projects/ftrials/SaccoV/s&vaccount.html>. This chapter is a revised and expanded version of an article written by coauthor Professor Faust Rossi entitled “Sacco and Vanzetti: Martyrs or Murderers?,” published in the *Cornell Law Forum* (July 2000).

IN 1921, IN THE MASSACHUSETTS State Court, Nicola Sacco and Bartolomeo Vanzetti were convicted of murder and robbery. They were Italian immigrants and radical anarchists. Six years later, still protesting their innocence, they were sentenced to death and executed. Vanzetti's words were recorded in an interview shortly before his death:

If it had not been for this, I might have lived out my life, talking at street corners to scorning 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 can we hope to do such work for tolerance, for justice, for man's understanding of man, as we now do by accident.

Our words, our lives, our pains; nothing. The taking of our lives, lives of a good shoemaker and a poor fish peddler; all. That last moment belongs to us; that agony is our triumph²

His words were prophetic. In 1977, on the fifty-year anniversary of their execution, the state of Massachusetts apologized. Massachusetts governor Michael Dukakis proclaimed August 23rd as Nicola Sacco and Bartolomeo Vanzetti Memorial Day. He declared that any stigma and disgrace should be forever removed from their names. Speaking for the state, he called upon its citizens to reflect upon these tragic events, to draw from their historic lessons the resolve to prevent forces of intolerance, fear, and hatred from uniting to overcome the rationality, wisdom, and fairness to which our legal system aspires.³

In 1997, Mayor Thomas Menino of Boston, the city's first Italian-American mayor, dedicated a bronze sculpture memorial of Sacco and Vanzetti. The sculpture depicted the two men facing distorted scales of justice. At the ceremony, the mayor said, "The city's acceptance of this piece of artwork is not intended to reopen the debate

2. The quotation is from "The Letters of Sacco and Vanzetti"; Russell, *The Case Resolved*, 222; Jackson, *The Black Flag*, 168–9; Russell, *Tragedy in Dedham*, 387.

3. Jackson, *The Black Flag*, 88–90.

about guilt or innocence. It is intended to remind us of the dangers of miscarried justice, and the right we all have to a fair trial.⁴

The case of Sacco and Vanzetti ranks as one of most significant of the twentieth century. The trial and its aftermath was an international sensation. It inspired bombings, demonstrations, songs, films, and thousands of pages of written material. It is worthy of study for three reasons. First, like the *Dreyfus* case in France in the late nineteenth century, it bared the soul of a nation. It forced America into a debate about its identity. Who do we define as “outsiders”? How should they be treated? The case also raised a host of political, cultural and legal issues; the dangers of xenophobia and prejudice, the immigration debate, the ethical and legal responsibilities of judges and prosecutors, and the advisability of capital punishment.⁵

Second, the sheer mystery at the heart of the case continues to fascinate. Did Sacco and Vanzetti do it? Did they rob and cold-bloodedly kill a paymaster and his armed guard? The trial was tainted and the process may not have been fair, but the question of their guilt remains. There have been dozens of books and articles written in support of Sacco and Vanzetti, but almost none of them venture a firm opinion on this factual question. Literature tells of a historian who was once asked by a philosopher, “Is immortality desirable?” The historian answered, “I almost think it is, if only to get at the truth of the Sacco-Vanzetti case.”⁶

Third, the case exposes defects in the criminal justice system of the 1920s, and reveals how and why the law has changed. We cannot definitively answer the hard question: Were Sacco and Vanzetti innocent? Instead, we offer two opinions. The first is almost indisputable: under today’s standards of criminal procedure, Sacco and Vanzetti could not have been convicted. The second is debatable: their trial was unfair even under the rules existing in the 1920s.

4. Author Name, “Article Title,” *Boston Globe*, November 23, 2014, <http://www.bostonglobe.com/ideas/2014/11/23/menimo-mayor-who-welcomed-sacco-and-vanzetti/ovdxh5W4N-vAXDbDaRvhMD1/story.html>.

5. Richard Kreitner, “Menino, The Mayor Who Welcomed Sacco and Vanzetti,” *Boston Globe*, November 23, 2014.

6. Russell, *The Case Resolved*, 138. The question was posed and answered by historian Ferris Greenslet.

One could argue that Sacco and Vanzetti were afforded not just due process, but undue process. They had a six-week trial, and the jury of twelve that convicted them had been culled from a panel of some 750 citizens. The attorneys representing the defendants were paid from a substantial defense fund raised by political allies. The defense was heard repeatedly and at great length on six separate applications for a new trial. They had two appellate hearings before the Supreme Judicial Court of Massachusetts. There were applications to and rulings by several federal judges. The governor of Massachusetts appointed a special advisory committee headed by the then president of Harvard University, Abbott Lawrence Lowell, to make an impartial review of the trial record.

All that is true, but as the well-known evidence scholar Professor Edmund Morgan of Harvard Law School indicated years ago: “The defendants had a trial according to all the forms of law but it was not a fair trial. The machinery of justice as it then existed was fully available and fully utilized; but it malfunctioned.”⁷ To understand why Sacco and Vanzetti could not have been convicted today, and should not have been convicted in 1921, we must look first at the political and social climate in the year leading up to the trial, and then at the facts: the proof presented at the trial and in particular the three pieces of evidence that formed the crux of the prosecution case.

In the aftermath of World War I, the nation entered a period of upheaval, dislocation, and fear. In 1919, there was rampant inflation. As many as one out of every five workers was involved in a labor strike. Race riots erupted in dozens of cities. It was also the time of the “Red Scare.” The Russian royal family had been overthrown and murdered, and the Bolsheviks had taken power. Lurid press headlines reported on the Bolshevik mission to conquer America and on the pervasiveness of “Reds” in New England. The American Communist Party was formed that same year, and 90 percent of its members were immigrants from Eastern Europe. Anarchist groups were committed to the notion that government is the root of all evil and must be eliminated, through violence if necessary—for only then

7. Joughin and Morgan, *The Legacy of Sacco and Vanzetti*, 157,

could every individual be free. The anarchists were predominantly Italian, Spanish, or Slavic immigrants. In April and June of that year, explosions were reported in a number of cities on a single day. Many of these mail bombs were sent to public officials with leaflets that read, "Class war is on . . . we have aspired to make a better world, and you jailed us, you clubbed us, you deported us, you murdered us . . . we mean to speak for the proletariat with the voice of dynamite, through the mouth of guns."⁸

In 1920, the government began a brutal campaign to crack down on these dissident groups. These acts of oppression were led by the attorney general of the United States, A. Mitchell Palmer, assisted by a young J. Edgar Hoover, who headed up an antiradical organization in the Department of Justice. From November 1919 to January 1920, Palmer launched a series of raids to rid the country of what he called "Reds" and "Alien filth."⁹ Throughout the United States, local police and federal officials rounded up many people based merely on their affiliation with what were deemed "subversive" political groups. Homes were entered, property was confiscated, and mass arrests were made without warrants. The possession of radical literature alone was considered an act of sedition. Aliens who had never been charged or convicted of any crime were deported. On New Year's Day in 1920, 6,000 alleged communists were arrested and thrown in prison. Complaints by civil libertarians were met by Palmer's statement that "Each and every adherent of this movement is a potential murderer or potential thief, and deserves no consideration."¹⁰

There was little public outcry. The feeling against immigrants from southern Europe was strong. The words "alien," "radical," and "terrorist" were often used interchangeably. Walter Lippmann called it a time when, "Right thinking men were scared out of their wits." The fear of foreign radicals was especially strong in Massachusetts, where many white Protestants resented the influx of Irish and Italian Catholic immigrants.

8. Tejada, *In Search of Sacco and Vanzetti*, 111.

9. Tejada, *In Search of Sacco and Vanzetti*, 117.

10. Tejada, *In Search of Sacco and Vanzetti*, 4.

On April 15, 1920, there was a payroll robbery and two murders at the Slater and Morrill shoe factory in South Braintree, Massachusetts. Frederick Parmenter, the paymaster, and his guard, Alessandro Berardelli, were carrying a factory payroll of \$15,770 in two metal boxes. As they walked along the main street going from the company offices to the separate factory building, two strangers were leaning casually against a fence. A third man was stretched out lazily near a pile of bricks. As Parmenter and Berardelli neared the shelter of the factory, the strangers leaped forward, pulled out guns and fired. Berardelli was shot and fell to his knees. One of the assailants straddled him and fired four more shots into his back. Parmenter dropped his payroll box and bolted for safety. He didn't make it. Two shots dumped him in the middle of the road. A large, dark Buick touring car, bearing two other men, arrived on the scene. Joined by the third man from the brick pile, the assailants snatched up the boxes, threw them into the getaway car, jumped in the Buick and roared off. Berardelli died at the scene and Parmenter expired 15 hours later. The bandit car was later found abandoned in the woods, the stolen money having been transferred to another automobile.

Three weeks later, on May 5, 1920, Sacco and Vanzetti, two Italian immigrants with no criminal record, were arrested while riding on a streetcar. They were arrested almost by accident.

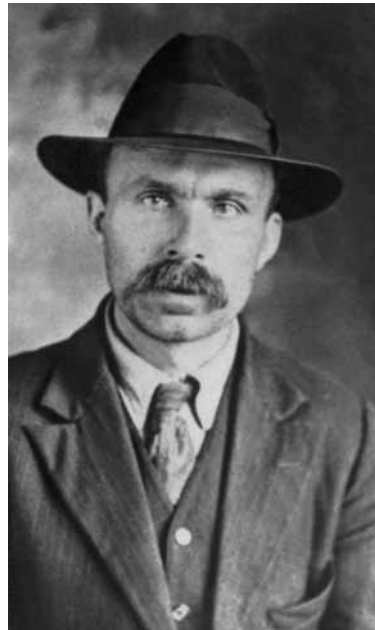
Some months before the South Braintree robbery, there had been a similar but unsuccessful robbery attempt in the neighboring town of Bridgewater. The police chief there, Michael Stewart, had become convinced that both robberies were the work of a gang of Italian anarchists. He suspected a man named Boda. Having determined that Boda's car was being kept at the garage of Simon Johnson for repairs, Chief Stewart arranged for Johnson to call the police when someone came to pick up the car. On the evening of May 5, four Italians—Boda; his friend, Orciani; Sacco; and Vanzetti—came to the Johnson garage to pick up the car. Mrs. Johnson called the Bridgewater police. The car did not have license plates for 1920 and so the Italian group had to leave without it. Boda and Orciani, who were never arrested for any crime, left on a motorcycle. Sacco and Vanzetti walked some distance and boarded a trolley for Brockton.

At a certain point, police officer Connolly boarded the streetcar and arrested them.

Sacco and Vanzetti were not told that they were suspects in the South Braintree crimes. The police told them they had been charged as “suspicious characters.”

When they were arrested, both men were armed. Sacco had a fully loaded 10-shot .32-caliber Colt automatic tucked into his belt. In his pocket, he had twenty-three loose bullets. Vanzetti had a 5-shot .38 caliber—also loaded. In his pocket, Vanzetti had four 12-gauge shotgun shells.

When questioned by the police, Sacco and Vanzetti lied about where they had been, where they were going, where they had gotten the guns and how long they had known each other. The trial judge said their lies proved to be the most potent incriminating evidence, which ultimately doomed them.



Nicola Sacco (left) and Bartolomeo Vanzetti (right).

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