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Emma Goldman
Address To The Jury
July 9, 1917

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From U.S. v. Emma Goldman and Alexander Berkman. This speech was delivered during her Anti-Conscription trial in New York City on July 9, 1917

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Address To The Jury

Emma Goldman

July 9, 1917

Gentlemen of the Jury:

As in the case of my codefendant, Alexander Berkman, this is also the first time in my life I have ever addressed a jury. I once had occasion to speak to three judges.

On the day after our arrest it was given out by the U.S. Marshal and the District Attorney's office that the "big fish" of the No Conscription activities had been caught, and that there would be no more trouble-makers and disturbers to interfere with the highly democratic effort of the Government to conscript its young manhood for the European slaughter. What a pity that the faithful servants of the Government, personified in the U.S. Marshal and the District Attorney, should have used such a weak and flimsy net for their big catch. The moment the anglers pulled their heavily laden net ashore, it broke, and all the labor was so much wasted energy.

The methods employed by Marshal McCarthy and his hosts of heroic warriors were sensational enough to satisfy the famous circus men, Barnum & Bailey. A dozen or more heroes dashing up two flights of stairs, prepared to stake their lives for their country, only to discover the two dangerous disturbers and trouble-makers, Alexander Berkman and Emma Goldman,

in their separate offices, quietly at work at their desks, wielding not a sword, nor a gun or a bomb, but merely their pens! Verily, it required courage to catch such big fish.

To be sure, two officers equipped with a warrant would have sufficed to carry out the business of arresting the defendants Alexander Berkman and Emma Goldman. Even the police know that neither of them is in the habit of running away or hiding under the bed. But the farce-comedy had to be properly staged if the Marshal and the District Attorney were to earn immortality. Hence the sensational arrest; hence also, the raid upon the offices of THE BLAST, Mother Earth, and the No-Conscription League.

In their zeal to save the country from the trouble-makers, the Marshal and his helpers did not even consider it necessary to produce a search warrant. After all, what matters a mere scrap of paper when one is called upon to raid the offices of Anarchists? Of what consequence is the sanctity of property, the right of privacy, to officials in their dealings with Anarchists! In our day of military training for battle, an Anarchist office is an appropriate camping ground. Would the gentlemen who came with Marshal McCarthy have dared to go into the offices of Morgan, or Rockefeller, or any of those men without a search warrant? They never showed us the search warrant, although we asked them for it. Nevertheless, they turned our office into a battlefield, so that when they were through with it, it looked like invaded Belgium, with only the difference that the invaders were not Prussian barbarians but good American patriots bent on making New York safe for democracy.

The stage having been appropriately set for the three-act comedy, and the first act successfully played by carrying off the villains in a madly dashing automobile–which broke every traffic regulation and barely escaped crushing everyone in its way–the second act proved even more ludicrous. Fifty thousand dollars bail was demanded, and real estate refused offered by a man whose property is rated at three hundred thousand

Please forget that we are Anarchists. Forget that it is claimed that we propagated violence. Forget that something appeared in MOTHER EARTH when I was thousands of miles away, three years ago. Forget all that, and merely consider the evidence. Have we been engaged in a conspiracy? has that conspiracy been proven? have we committed overt acts? have those overt acts been proven? We for the defense say they have not been proven. And therefore your verdict must be not guilty.

But whatever your decision, the struggle must go on. We are but the atoms in the incessant human struggle towards the light that shines in the darkness–the Ideal of economic, political and spiritual liberation of mankind!

And gentlemen, in conclusion let me tell you that my codefendant, Mr. Berkman, was right when he said the eyes of America are upon you. They are upon you not because of sympathy for us or agreement with Anarchism. They are upon you because it must be decided sooner or later whether we are justified in telling people that we will give them democracy in Europe, when we have no democracy here? Shall free speech and free assemblage, shall criticism and opinion–which even the espionage bill did not include–be destroyed? Shall it be a shadow of the past, the great historic American past? Shall it be trampled underfoot by any detective, or policeman, anyone who decides upon it? Or shall free speech and free press and free assemblage continue to be the heritage of the American people?

Gentlemen of the jury, whatever your verdict will be, as far as we are concerned, nothing will be changed. I have held ideas all my life. I have publicly held my ideas for twenty-seven years. Nothing on earth would ever make me change my ideas except one thing; and that is, if you will prove to me that our position is wrong, untenable, or lacking in historic fact. But never would I change my ideas because I am found guilty. I may remind you of two great Americans, undoubtedly not unknown to you, gentlemen of the jury; Ralph Waldo Emerson and Henry David Thoreau. When Thoreau was placed in prison for refusing to pay taxes, he was visited by Ralph Waldo Emerson and Emerson said: "David, what are you doing in jail?" and Thoreau replied: "Ralph, what are you doing outside, when honest people are in jail for their ideals?" Gentlemen of the jury, I do not wish to influence you. I do not wish to appeal to your passions. I do not wish to influence you by the fact that I am a woman. I have no such desires and no such designs. I take it that you are sincere enough and honest enough and brave enough to render a verdict according to your convictions, beyond the shadow of a reasonable doubt.

dollars, and that after the District Attorney had considered and, in fact, promised to accept the property for one of the defendants, Alexander Berkman, thus breaking every right guaranteed even to the most heinous criminal.

Finally the third act, played by the Government in this court during the last week. The pity of it is that the prosecution knows so little of dramatic construction, else it would have equipped itself with better dramatic material to sustain the continuity of the play. As it was, the third act fell flat, utterly, and presents the question, Why such a tempest in a teapot?

Gentlemen of the jury, my comrade and codefendant having carefully and thoroughly gone into the evidence presented by the prosecution, and having demonstrated its entire failure to prove the charge of conspiracy or any overt acts to carry out that conspiracy, I shall not impose upon your patience by going over the same ground, except to emphasize a few points. To charge people with having conspired to do something which they have been engaged in doing most of their lives, namely their campaign against war, militarism and conscription as contrary to the best interests of humanity, is an insult to human intelligence.

And how was that charge proven? By the fact that MOTHER EARTH and THE BLAST were printed by the same printer and bound in the same bindery. By the further evidence that the same expressman had delivered the two publications! And by the still more illuminating fact that on June 2nd MOTHER EARTH and THE BLAST were given to a reporter at his request, if you please, and gratis.

Gentlemen of the jury, you saw the reporter who testified to this overt act. Did anyone of you receive the impression that the man was of conscriptable age, and if not, in what possible way is the giving of MOTHER EARTH to a reporter for news purposes proof demonstrating the overt act?

It was brought out by our witnesses that the MOTHER EARTH magazine has been published for twelve years; that it

was never held up, and that it has always gone through the U.S. mail as second-class mail matter. It was further proven that the magazine appeared each month about the first or second, and that it was sold or given away at the office to whoever wanted a copy. Where, then, is the overt act?

Just as the prosecution has utterly failed to prove the charge of conspiracy, so has it also failed to prove the overt act by the flimsy testimony that MOTHER EARTH was given to a reporter. The same holds good regarding THE BLAST.

Gentlemen of the jury, the District Attorney must have learned from the reporters the gist of the numerous interviews which they had with us. Why did he not examine them as to whether or not we had counseled young men not to register? That would have been a more direct way of getting at the facts. In the case of the reporter from the New York Times, there can be no doubt that the man would have been only too happy to accommodate the District Attorney with the required information. A man who disregards every principle of decency and ethics of his profession as a newspaper man, by turning material given him as news over to the District Attorney, would have been glad to oblige a friend. Why did Mr. Content neglect such a golden opportunity? Was it not because the reporter of the Times, like all the other reporters, must have told the District Attorney that the two defendants stated, on each and every occasion, they would not tell people not to register?

Perhaps the Times reporter refused to go to the extent of perjuring himself. Patrolmen and detectives are not so timid in such matters. Hence Mr. Randolph and Mr. Cadell, to rescue the situation. Imagine employing tenth-rate stenographers to report the very important speeches of dangerous troublemakers! What lack of forethought and efficiency on the part of the District Attorney! But even these two members of the police department failed to prove by their notes that we advised people not to register. But since they had to produce some-

and declare, "We will not fight when we do not believe in the necessity of war"? May not the people who believe in the repeal of the Conscription Law, because it is unconstitutional, express their opposition in word and by pen, in meetings and in other ways? What right has the District Attorney to interpret that particular passage to suit himself? Moreover, gentlemen of the jury, I insist that the indictment against us does not refer to conscription. We are charged with a conspiracy against registration. And in no way or manner has the prosecution proven that we are guilty of conspiracy or that we have committed an overt act.

Gentlemen of the jury, you are not called upon to accept our views, to approve of them or to justify them. You are not even called upon to decide whether our views are within or against the law. You are called upon to decide whether the prosecution has proven that the defendants Emma Goldman and Alexander Berkman have conspired to urge people not to register. And whether their speeches and writings represent overt acts.

Whatever your verdict, gentlemen, it cannot possibly affect the rising tide of discontent in this country against war which, despite all boasts, is a war for conquest and military power. Neither can it affect the ever increasing opposition to conscription which is a military and industrial yoke placed upon the necks of the American people. Least of all will your verdict affect those to whom human life is sacred, and who will not become a party to the world slaughter. Your verdict can only add to the opinion of the world as to whether or not justice and liberty are a living force in this country or a mere shadow of the past.

Your verdict may, of course, affect us temporarily, in a physical sense–it can have no effect whatever upon our spirit. For even if we were convicted and found guilty and the penalty were that we be placed against a wall and shot dead, I should nevertheless cry out with the great Luther: "Here I am and here I stand and I cannot do otherwise."

America with deeper passion and greater intensity than many natives whose patriotism manifests itself by pulling, kicking, and insulting those who do not rise when the national anthem is played. Our patriotism is that of the man who loves a woman with open eyes. He is enchanted by her beauty, yet he sees her faults. So we, too, who know America, love her beauty, her richness, her great possibilities; we love her mountains, her canyons, her forests, her Niagara, and her deserts–above all do we love the people that have produced her wealth, her artists who have created beauty, her great apostles who dream and work for liberty–but with the same passionate emotion we hate her superficiality, her cant, her corruption, her mad, unscrupulous worship at the altar of the Golden Calf.

We say that if America has entered the war to make the world safe for democracy, she must first make democracy safe in America. How else is the world to take America seriously, when democracy at home is daily being outraged, free speech suppressed, peaceable assemblies broken up by overbearing and brutal gangsters in uniform; when free press is curtailed and every independent opinion gagged. Verily, poor as we are in democracy, how can we give of it to the world? We further say that a democracy conceived in the military servitude of the masses, in their economic enslavement, and nurtured in their tears and blood, is not democracy at all. It is despotism–the cumulative result of a chain of abuses which, according to that dangerous document, the Declaration of Independence, the people have the right to overthrow.

The District Attorney has dragged in our Manifesto, and he has emphasized the passage, "Resist conscription." Gentlemen of the jury, please remember that that is not the charge against us. But admitting that the Manifesto contains the expression, "Resist conscription," may I ask you, is there only one kind of resistance? Is there only the resistance which means the gun, the bayonet, the bomb or flying machine? Is there not another kind of resistance? May not the people simply fold their hands

thing incriminating against Anarchists, they conveniently resorted to the old standby, always credited to us, "We believe in violence and we will use violence."

Assuming, gentlemen of the jury, that this sentence was really used at the meeting of May 18th, it would still fail to prove the indictment which charges conspiracy and overt acts to carry out the conspiracy. And that is all we are charged with. Not violence, not Anarchism. I will go further and say, that had the indictment been for the advocacy of violence, you gentlemen of the jury, would still have to render a verdict of "Not Guilty," since the mere belief in a thing or even the announcement that you would carry out that belief, can not possibly constitute a crime.

However, I wish to say emphatically that no such expression as "We believe in violence and we will use violence" was uttered at the meeting of May 18th, or at any other meeting. I could not have employed such a phrase, as there was no occasion for it. If for no other reason, it is because I want my lectures and speeches to be coherent and logical. The sentence credited to me is neither.

I have read to you my position toward political violence from a lengthy essay called "The Psychology of Political Violence."

But to make that position clearer and simpler, I wish to say that I am a social student. It is my mission in life to ascertain the cause of our social evils and of our social difficulties. As a student of social wrongs it is my aim to diagnose a wrong. To simply condemn the man who has committed an act of political violence, in order to save my skin, would be as unpardonable as it would be on the part of the physician, who is called to diagnose a case, to condemn the patient because the patient has tuberculosis, cancer, or some other disease. The honest, earnest, sincere physician does not only prescribe medicine, he tries to find out the cause of the disease. And if the patient is at all capable as to means, the doctor will say to him, "Get out of this putrid air, get out of the factory, get out of the place where

your lungs are being infected." He will not merely give him medicine. He will tell him the cause of the disease. And that is precisely my position in regard to acts of violence. That is what I have said on every platform. I have attempted to explain the cause and the reason for acts of political violence.

It is organized violence on top which creates individual violence at the bottom. It is the accumulated indignation against organized wrong, organized crime, organized injustice which drives the political offender to his act. To condemn him means to be blind to the causes which make him. I can no more do it, nor have I the right to, than the physician who were to condemn the patient for his disease. You and I and all of us who remain indifferent to the crimes of poverty, of war, of human degradation, are equally responsible for the act committed by the political offender. May I therefore be permitted to say, in the words of a great teacher: "He who is without sin among you, let him cast the first stone." Does that mean advocating violence? You might as well accuse Jesus of advocating prostitution, because He took the part of the prostitute, Mary Magdalene.

Gentlemen of the jury, the meeting of the 18th of May was called primarily for the purpose of voicing the position of the conscientious objector and to point out the evils of conscription. Now, who and what is the conscientious objector? Is he really a shirker, a slacker, or a coward? To call him that is to be guilty of dense ignorance of the forces which impel men and women to stand out against the whole world like a glittering lone star upon a dark horizon. The conscientious objector is impelled by what President Wilson in his speech of Feb. 3, 1917, called "the righteous passion for justice upon which all war, all structure of family, State and of mankind must rest as the ultimate base of our existence and our liberty." The righteous passion for justice which can never express itself in human slaughter–that is the force which makes the conscientious objector. Poor indeed is the country which fails to recognize

cause and effect, without ever going into the complexity of the human soul.

Progress knows nothing of fixity. It cannot be pressed into a definite mold. It cannot bow to the dictum, "I have ruled," "I am the regulating finger of God." Progress is ever renewing, ever becoming, ever changing–never is it within the law.

If that be crime, we are criminals even like Jesus, Socrates, Galileo, Bruno, John Brown and scores of others. We are in good company, among those whom Havelock Ellis, the greatest living psychologist, describes as the political criminals recognized by the whole civilized world, except America, as men and women who out of deep love for humanity, out of a passionate reverence for liberty and an all-absorbing devotion to an ideal are ready to pay for their faith even with their blood. We cannot do otherwise if we are to be true to ourselves–we know that the political criminal is the precursor of human progress–the political criminal of to-day must needs be the hero, the martyr and the saint of the new age.

But, says the Prosecuting Attorney, the press and the unthinking rabble, in high and low station, "that is a dangerous doctrine and unpatriotic at this time." No doubt it is. But are we to be held responsible for something which is as unchangeable and unalienable as the very stars hanging in the heavens unto time and all eternity?

Gentlemen of the jury, we respect your patriotism. We would not, if we could, have you change its meaning for yourself. But may there not be different kinds of patriotism as there are different kinds of liberty? I for one cannot believe that love of one's country must needs consist in blindness to its social faults, to deafness to its social discords, of inarticulation to its social wrongs. Neither can I believe that the mere accident of birth in a certain country or the mere scrap of a citizen's paper constitutes the love of country.

I know many people–I am one of them–who were not born here, nor have they applied for citizenship, and who yet love

Court, only the other day. They were the Anarchists of their time–they were never within the law.

Your Government is allied with the French Republic. Need I call your attention to the historic fact that the great upheaval in France was brought about by extra-legal means? The Dantes, the Robespierres, the Marats, the Herberts, aye even the man who is responsible for the most stirring revolutionary music, the Marseillaise (which unfortunately has deteriorated into a war tune) even Camille Desmoulins, were never within the law. But for those great pioneers and rebels, France would have continued under the yoke of the idle Louis XVI., to whom the sport of shooting jack rabbits was more important than the destiny of the people of France.

Ah, gentlemen, on the very day when we were being tried for conspiracy and overt acts, your city officials and representatives welcomed with music and festivities the Russian Commission. Are you aware of the fact that nearly all of the members of that Commission have only recently been released from exile? The ideas they propagated were never within the law. For nearly a hundred years, from 1825 to 1917, the Tree of Liberty in Russia was watered by the blood of her martyrs. No greater heroism, no nobler lives had ever been dedicated to humanity. Not one of them worked within the law. I could continue to enumerate almost endlessly the hosts of men and women in every land and in every period whose ideas and ideals redeemed the world because they were not within the law.

Never can a new idea move within the law. It matters not whether that idea pertains to political and social changes or to any other domain of human thought and expression–to science, literature, music; in fact, everything that makes for freedom and joy and beauty must refuse to move within the law. How can it be otherwise? The law is stationary, fixed, mechanical, "a chariot wheel" which grinds all alike without regard to time, place and condition, without ever taking into account

the importance of that new type of humanity as the "ultimate base of our existence and liberty." It will find itself barren of that which makes for character and quality in its people.

The meeting of May 18th was held before the Draft Bill had actually gone into effect. The President signed it late in the evening of the 18th. Whatever was said at that meeting, even if I had counseled young men not to register, that meeting cannot serve as proof of an overt act. Why, then, has the Prosecuting Attorney dwelt so much, at such length, and with such pains on that meeting, and so little on the other meetings held on the eve of registration and after? Is it not because the District Attorney knew that we had no stenographic notes of that meeting? He knew it because he was approached by Mr. Weinberger and other friends for a copy of the transcript, which request he refused. Evidently, the District Attorney felt safe to use the notes of a patrolman and a detective, knowing that they would swear to anything their superiors wanted. I never like to accuse anyone–I wouldn't go so far as my codefendant, Mr. Berkman, in saying that the District Attorney doctored the document; I don't know whether he did or not. But I do know that patrolman Randolph and Detective Cadell doctored the notes, for the simple reason that I didn't say those things. But though we could not produce our own stenographic notes, we have been able to prove by men and women of unimpeachable character and high intelligence that the notes of Randolph are utterly false. We have also proven beyond a reasonable doubt, and Mr. Content did not dare question our proof, that at the Hunts' Point Palace, held on the eve of registration, I expressly stated that I cannot and will not tell people not to register. We have further proven that this was my definite stand, which was explained in my statement sent from Springfield and read at the meeting of May 23rd.

When we go through the entire testimony given on behalf of the prosecution, I insist that there is not one single point to sustain the indictment for conspiracy or to prove the overt acts

we are supposed to have committed. But we were even compelled to bring a man eighty years of age to the witness stand in order to stop, if possible, any intention to drag in the question of German money. It is true, and I appreciate it, that Mr. Content said he had no knowledge of it. But, gentlemen of the jury, somebody from the District Attorney's office or someone from the Marshal's office must have given out the statement that a bank receipt for $2,400 was found in my office and must have told the newspapers the fake story of German money. As if we would ever touch German money, or Russian money, or American money coming from the ruling class, to advance our ideas! But in order to forestall any suspicion, any insinuation, in order to stand clear before you, we were compelled to bring an old man here to inform you that he has been a radical all his life, that he is interested in our ideas, and that he is the man who contributed the money for radical purposes and for the work of Miss Goldman.

Gentlemen of the jury, you will be told by the Court, I am sure, that when you render a verdict you must be convinced beyond a reasonable doubt; that you must not assume that we are guilty before we are proven guilty; and that it is your duty to assume that we are innocent. And yet, as a matter of fact, the burden of proof has been laid upon us. We had to bring witnesses. If we had had time we could have brought fifty more witnesses, each corroborating the others. Some of those people have no relation with us. Some are writers, poets, contributors to the most conventional magazines. Is it likely that they would swear to something in our favor if it were not the truth? Therefore I insist, as did my codefendant Alexander Berkman, that the prosecution has made a very poor showing in proving the conspiracy or any overt act.

Gentlemen of the jury, we have been in public life for twenty-seven years. We have been haled into court, in and out of season–we have never denied our position. Even the police know that Emma Goldman and Alexander Berkman are not

shirkers. You have had occasion during this trial to convince yourselves that we do not deny. We have gladly and proudly claimed responsibility, not only for what we ourselves have said and written, but even for things written by others and with which we did not agree. Is it plausible, then, that we would go through the ordeal, trouble and expense of a lengthy trial to escape responsibility in this instance? A thousand times no! But we refuse to be tried on a trumped-up charge, or to be convicted by perjured testimony, merely because we are Anarchists and hated by the class whom we have openly fought for many years.

Gentlemen, during our examination of talesmen, when we asked whether you would be prejudiced against us if it were proven that we propagated ideas and opinions contrary to those held by the majority, you were instructed by the Court to say, "If they are within the law." But what the Court did not tell you is, that no new faith–not even the most humane and peaceable–has ever been considered "within the law" by those who were in power. The history of human growth is at the same time the history of every new idea heralding the approach of a brighter dawn, and the brighter dawn has always been considered illegal, outside of the law.

Gentlemen of the jury, most of you, I take it, are believers in the teachings of Jesus. Bear in mind that he was put to death by those who considered his views as being against the law. I also take it that you are proud of your Americanism. Remember that those who fought and bled for your liberties were in their time considered as being against the law, as dangerous disturbers and trouble-makers. They not only preached violence, but they carried out their ideas by throwing tea into the Boston harbor. They said that "Resistance to tyranny is obedience to God." They wrote a dangerous document called the Declaration of Independence. A document which continues to be dangerous to this day, and for the circulation of which a young man was sentenced to ninety days prison in a New York