Sacco and Vanzetti

In the years after World War I, crime statistics curved sharply upwards. Armed robberies rose at an alarming rate, and anyone handling large sums of money had reason to exercise caution. On most paydays Frederick Parmenter, paymaster for the Slater and Morrill Shoe Company of South Braintree, Massachusetts, would have used a truck to deliver his money boxes to the lower factory building. Only a few months earlier, in December 1919, a brazen gang of bandits had attempted a daylight payroll heist in nearby Bridgewater. The bandits had fled empty-handed and no one was hurt in the gunfight; still, area businesses were uneasy. On the morning of April 15, 1920, however, the robbery attempt must have been far from Parmenter’s mind. It was a mild spring day and he set out on foot for the lower factory building with his assistant, Alessandro Berardelli, walking ahead.

Halfway to their destination, a man approached Berardelli from the side of the road, spoke to him briefly, and then suddenly shot him dead. As Parmenter turned to flee, the bandits fired again, mortally wounding him. A blue Buick pulled out from its parking place. The two assailants and their lookout jumped into the car and fled toward Bridgewater. To discourage any pursuers, the bandits threw tacks onto the streets. Two miles from Braintree they abandoned the Buick and escaped in another car.

Bridgewater Police Chief Michael Stewart thought he recognized a familiar pattern in the Braintree crime. The same foreigners who bungled the December heist, he guessed, had probably pulled off the Braintree job. Stewart’s investigation put him on the trail of Mike Boda, an Italian anarchist. Unable to locate Boda, Stewart kept watch on a car Boda had left at Simon Johnson’s garage for repairs. Whoever came to get the car would, according to Stewart’s theory, become a prime suspect in both crimes.
His expectations were soon rewarded. On May 5, 1920 Boda and three other Italians called for the car. Mrs. Johnson immediately slipped next door to alert the police, but the four men did not wait for her return. Boda and his friend Orciana left on a motorcycle, while their companions walked to a nearby streetcar stop. Apparently nervous, they moved on to another stop a half mile away. There they boarded the trolley for Brockton. As the car moved down Main Street, Police Officer Michael Connolly climbed on. Having spotted the two foreigners, he arrested them. When they asked why, he replied curtly, “suspicious characters.”

Thus began the epic story of Nicola Sacco and Bartolomeo Vanzetti, two obscure Italian aliens who became the focal point of one of the most controversial episodes in American history. Within little more than a year after their arrest a jury deliberated for just five hours before convicting both men of robbery and murder. Such a quick decision came as a surprise, particularly in a trial that had lasted seven weeks, heard over 160 witnesses, and gained national attention.

Nor did the controversy end with the jury’s decision. Six years of appeals turned a simple incident of robbery and murder into a major international uproar. The Italian government indicated that it had followed the case with interest. Thousands of liberals, criminal lawyers, legal scholars, civil libertarians, radicals, labor leaders, prominent socialites, and spokesmen for immigrant groups rallied to Sacco and Vanzetti’s cause. Arrayed against them was an equally imposing collection of the nation’s legal, social, academic, and political elite.

The case climaxed on April 9, 1927. Having denied some eight appeals, trial judge Webster Thayer sentenced Sacco and Vanzetti to die in the electric chair. His action triggered months of protests and political activities. Around Charleston Prison and the State House in Boston Sacco and Vanzetti’s supporters marched, collected petitions, and walked picket lines. Occasionally violence erupted between protestors and authorities, as mounted police attacked crowds in Boston, clubbed them off the streets in New York. Final appeals were in vain: Governor Alvan Fuller would not grant clemency and the United States Supreme Court refused to stay the execution.

On August 22, the morning before Sacco and Vanzetti were scheduled to die, Governor Fuller fooled few in the gathered crowd with his false cheer as he bounded up the State House steps. All weekend two thousand heavily armed police had patrolled Boston. Planes circled overhead to spot any outbreaks of violence. Charleston Prison, where Sacco and Vanzetti waited, appeared like an embattled fortress. Ropes circled the prison grounds to keep protestors at bay as eight hundred armed guards walked the walls. That evening 15,000 people gathered in New York’s Union Square to stand in silent vigil. Similar crowds stood by in major European cities. All awaited the news of the fate of “a good shoemaker and a poor fish peddler.”

The historian confronting that extraordinary event faces some perplexing questions. How did a case of robbery and murder become an international cause célèbre? How was it that two Italian immigrants living on the fringe of American society had become the focus of a debate that brought the nation’s cherished legal institutions under attack? Or as one legal historian rhetorically posed the question:

Why all this fuss over a couple of ‘wops’, who after all years in this country had not even made application to become citizens; who had not learned to use our language even modestly well; who did not believe in our form
of government; ... who were confessed slackers and claimed to be pacifists but went armed with deadly weapons for the professed purpose of defending their individual personal property in violation of all the principles they preached?

THE LAWYERS' BRIEF: THE LEGAL SYSTEM FAILED

Lawyers reviewing the case might answer those questions by arguing that the Sacco and Vanzetti case raised fundamental doubts about the tradition of Anglo-Saxon justice so venerated in the United States. More specifically, many legal scholars have stated then and since that the trial and appeals process failed to meet the minimum standards of fairness required in a criminal case, particularly one that involved a capital crime placing human lives in jeopardy.

Indeed, it was Felix Frankfurter, an eminent Harvard Law School professor and later Supreme Court Justice, who provoked much of the controversy. In January 1927, with final appeal still pending before the Massachusetts Supreme Judicial Court, Frankfurter published a lengthy article in the Atlantic Monthly in which he questioned the proceedings in the original trial, the conduct of Judge Thayer and the prosecutor, and the state's refusal to grant either clemency or a new trial. Sacco and Vanzetti, he argued persuasively, had never been proven guilty. The weight of evidence did not sustain the jury's verdict. In fact, all the evidence indicated that a gang of professional bandits, most still at large, had committed both the bungled holdup at Bridgewater and the crimes at South Braintree.

Even a brief examination of the trial record indicates that the prosecution had a flimsy case, flawed by irregularities in procedure that arose before the trial began. The day Chief Stewart ordered officer Connolly to arrest Sacco and Vanzetti he had no evidence, other than his suspicion of foreign radicals, to associate either man with the crimes. The investigation, however, had at first sustained Stewart's theory. Both suspects carried loaded pistols and extra ammunition. Together with Boda, Orsina, and other Italian anarchists, Sacco and Vanzetti could have formed a gang. Stewart and District Attorney Frederick Katzmann, who first questioned the suspects, knew both had lied about their friends, associates, and reasons for trying to reclaim the car. Vanzetti, for example, at first denied that he knew Boda.

But suspicious behavior was one thing; proof that Sacco and Vanzetti had committed the Braintree murders was another. The district attorney's office and the police had to build a stronger case. In 1920 the conduct of such an investigation permitted far greater latitude than the law does today. The Supreme Court decisions in Miranda (1966) and Escobedo (1964) established that criminal suspects have the right to maintain silence, to know their rights, and to stand in an impartial lineup for identification. None of those guarantees existed in 1920. All the same, Katzmann and Stewart showed unusual zeal in constructing a case against Sacco and Vanzetti. At no time during the first two days of questioning did they tell either suspect why they had been arrested. Chief Stewart repeatedly asked them not about the robbery, but about their political beliefs. The district attorney did obliquely inquire about their activities on April 15, though he never mentioned the Braintree crimes. Furthermore, when the police asked witnesses to identify the suspects, they did not use a lineup. Instead, they forced Sacco and Vanzetti to stand alone in the middle of a room posing as bandits.

As the investigation continued, the case against Sacco and Vanzetti came close to collapsing for lack of incriminating evidence. Of the five suspected gang members all but Vanzetti could prove they had not been in Bridgewater during the December holdup attempt. Despite an intensive search of the suspects' belongings, including a trunk sent to Italy, Katzmann was never able to trace the money, even among groups with whom they were associated. Nor could he establish that Sacco or Vanzetti had in any way changed lifestyles since the crime. Fingerprint experts found no matches between prints lifted from the abandoned Buick and those taken from the suspects.

Faced with all those gaps in the evidence, Katzmann still decided, first, to prosecute Vanzetti for the December Bridgewater holdup and, second, to charge both Sacco and Vanzetti with the Braintree murders in April. Arguing the Bridgewater case in June 1920 before Judge Webster Thayer, Katzmann presented a weak case against Vanzetti on the charge of assault with intent to rob. Still, he did manage to make the jury aware of Vanzetti's anarchist views and persuade them to convict. Judge Thayer then meted out an unusually severe sentence (twelve to fifteen years) to a defendant with no criminal record for a crime in which no one was hurt and nothing was stolen.

That conviction allowed Katzmann to proceed with the second trial, to be held in the suburban town of Dedham. Since this would be a special session of the superior court, a judge had to be appointed to hear the case. Judge Thayer asked his old college friend, Chief Justice John Aiken, for the assignment, even though he had presided over Vanzetti's
earlier trial and could scarcely consider himself impartial. Thus, the
second trial opened with a judge who already believed unequivocally in
the defendants' guilt.

At Dedham, District Attorney Katzmann built his case around three
major categories of evidence: (1) eyewitness identification of Sacco and
Vanzetti at the scene; (2) expert ballistics testimony establishing Sacco's
gun as the weapon that fired the fatal shot at Berardelli and Vanzetti's
gun as one taken from Berardelli during the robbery; (3) the defendants'
evasive behavior both before and after arrest as evidence of what is
legally termed "consciousness of guilt."

Anyone who examines the trial record cannot escape Frankfurter's conclusion that the prosecution never proved either man guilty.
In the matter of eyewitness identification the defense successfully
impugned the testimony placing Sacco and Vanzetti at the scene. One
witness, Mary Splaine, claimed to have observed the shooting from a
window in the Slater and Morrill factory for no longer than 3 seconds
at a distance of about 60 feet. In that time she watched an unknown man
in a car travelling about 18 mph. Immediately after the crime Splaine had
difficulty describing any of the bandits, but one year later she picked out
Sacco, vividly recalling such details as his "good-sized" left hand. She
refused to ratify her testimony even after the defense demonstrated that
Sacco had relatively small hands.

Louis Pelzer testified for the prosecution that upon hearing shots he
had stood for at least a minute at a window from which he observed the
crime. He pointed to Sacco as the "dead image" of the man who shot
Berardelli. Two defense witnesses completely controverted Pelzer's
story. Upon hearing the shots, they recalled, Pelzer had immediately
hidden under his workbench—hardly a vantage point from which to
make a clear identification. Rather than condemn Pelzer for perjury on
this and other points, Katzmann praised him for explaining away his lies.

Lola Andrews, a third witness, claimed that on the morning of the
crime she had stopped near the factory to ask directions from a dark-
haired man working under a car. She later identified Sacco as that man.
Defense lawyers challenged both her testimony and character. A com-
panion, Mrs. Julia Campbell, denied that Andrews had ever spoken to
the man under the car. Instead, she had approached a pale, sickly young
man who was standing nearby. Other witnesses had recalled the same
pale person. A second friend swore that he had heard Andrews say after
she returned from police headquarters that "the government took me
down and wanted me to recognize those men and I don't know a thing
about them." Nor did Andrews's reputation as a streetwalker enhance
her credibility. The prosecutor had clearly tampered with this witness.
Yet in his summation he told the jury that in eleven years as district
attorney he had not "ever before ... laid eye or given ear to so
convincing a witness as Lola Andrews."

Against Katzmann's dubious cast the defense produced seventeen of
its own witnesses who provided the defendants with alibis for the day
or who had seen the crime, but not Sacco or Vanzetti. One, an official
of the Italian Consulate in Boston, confirmed Sacco's claim that he had
been in Boston on April 15 acquiring a passport. The official remembered
Sacco because he had tried to use a picture over ten inches square for
his passport photo. "Since such a large photograph had never been
presented before . . . ," the official recalled, "I took it in and showed
it to the Secretary of the Consulate. We laughed and talked over the
incident. I remember observing the date . . . on a large pad calendar."
Others said they had met Sacco at a luncheon banquet that day. Wit-
tesses for Vanzetti claimed to have bought fish from him. Katzmann
could only try to persuade the jury that the witnesses had little reason
to connect such a mundane event with a specific date.

In the face of contradictory eyewitness testimony, the ballistics ev-
eidence should have decided the case. To prove murder, Katzmann had
to show that the fatal shot striking Berardelli had come from Sacco's gun.
Ballistics specialists can often identify the gun that fired a bullet by
characteristic marks, as distinct as fingerprints, that the barrel and ham-
mer make on the projectile and casing. Katzmann brought to the stand
Captains William Proctor and Charles Van Amburgh, two experts
experienced in police work. Both connected the fatal bullet to a Colt pistol
similar to and possibly the same as Sacco's. But neither made a definitive
statement: "It is consistent with being fired by that pistol," Proctor
replied to Katzmann. Van Amburgh also indicated some ambiguity: "I am
inclined to believe that it was fired . . . from this pistol."

For unknown reasons defense attorneys never pursued the equivoca-
tion of those testimonies. Instead, the defense called its own ballistics
specialists who stated with absolute certainty that the fatal bullet could
not have come from Sacco's gun. In addition they controverted the
prosecutor's claim that Vanzetti had taken Berardelli's gun during the
holdup. Shortly before his murder Berardelli had left his pistol at a repair
shop to have the hammer fixed. Shop records, though imprecise, in-
dicated that the gun was .32 caliber, not a .38 as Vanzetti was
carrying. The records also supported Mrs. Berardelli's sworn testimony
that her husband had never reclaimed his pistol. The defense then ar-
gued that the hammer on Vanzetti's gun had never been repaired.
Since the defense had weakened the ballistics evidence, Katzmann based his case primarily on "consciousness of guilt." He had to persuade the jury that Sacco and Vanzetti, in their behavior before and after arrest, had acted like men guilty of a crime. Evidence in such arguments is generally circumstantial, based on interpretations of individual behavior rather than on facts. Most often prosecutors use "consciousness of guilt" to corroborate other facets of their case, since circumstantial evidence alone does not adequately prove guilt. In the Dedham trial Katzmann used this dimension of his case with telling effect. Both men had been armed when arrested. They had lied about their movements that day, about their associates, and about places they had visited. Neither could deny their strange behavior during the visit to Johnson's garage.

To explain that behavior the defense was forced to introduce the inflammatory issue of the defendants political radicalism. Both had adopted an anarchist philosophy and played active roles in the labor unrest of the era. As a result they had been greatly alarmed by the severe government crackdown on radicals that began in 1919. When officer Connolly arrested them, Sacco and Vanzetti assumed that they, too, had been snared in the government's dragnet. Of course they felt guilty, not as criminals, but as alien radicals. Constant questioning about their political beliefs merely confirmed their fears. They lied to protect friends, relatives, and political associates, the defense argued, not to cover up any crime.

Similar fears accounted for their peculiar actions at Johnson's garage. Shortly before his arrest, Vanzetti had conferred with the Italian Defense Committee of New York, then inquiring into the fate of fellow anarchist Andrea Salsedo. The committee knew only that Salsedo was being held by Justice Department agents in a New York jail, and members warned Vanzetti that he and his friends might be in similar danger. Prudence dictated that they dispose of all potentially incriminating political literature. Vanzetti soon discovered the urgency of their advice when he learned that Salsedo had "mysteriously" fallen to his death from a twelfth-floor window. That was when the defendants and their friends had gone to retrieve Boda's car in order to carry away the pamphlets stored in their homes. Wary of police surveillance, they had reason to behave suspiciously.

Sacco and Vanzetti had plausible, though far from persuasive, explanations for being armed. They testified that on the morning of their arrest they had planned to hunt in some nearby woods. Once they had decided to go for the car, they forgot to leave the weapons at home. Both were accustomed to carrying guns. Sacco carried his whenever he worked as a night watchman. Vanzetti explained that in his business he often had to handle large sums of cash, and, therefore, he used a gun for self-protection. In any case, it was not unusual in the 1920s for Americans of any background to carry guns.

The undue importance placed on "consciousness of guilt" became painfully apparent in Katzmann's summation and Judge Thayer's charge to the jury. Katzmann brushed over the weaknesses in eyewitness testimony and implied that his ballistics experts had actually identified Sacco's gun as the murder weapon. He emphasized "consciousness of guilt" as the crux of his case by dwelling on those actions that seemed most damaging to the defendants.

Katzmann might not have swayed the jury so readily had Judge Thayer properly performed his duties. In theory, a judge's charge guides the jury as it interprets conflicting evidence, in separating the relevant from the irrelevant, and in establishing the grounds for an objective verdict. As Felix Frankfurter remarked, "in drawing together the threads of evidence and marshaling the claims on both sides he must exercise a scrupulous regard for relevance and proportion. Misplaced emphasis here and omission there may work more damage than any outspoken comment."

Judge Thayer used his charge to reinforce the prosecution's case. Half his opening remarks were vague legal generalities with no real bearing on the evidence. He dispatched the ballistics testimony in a few brief comments that never addressed the substance of the conflict between the experts. But like Katzmann, he made the erroneous assertion that Proctor and Van Amburgh had actually claimed that Sacco's gun fired the fatal shot. On the issue of eyewitness identification Thayer became evasive. He never mentioned witnesses by name nor discussed inconsistencies in testimony. And he virtually ignored the vital alibi witnesses called by the defense.

Not until he reached "consciousness of guilt" did Thayer become expansive and specific. He lingered over the evidence offered by the police and garage owner, while omitting reference to Sacco and Vanzetti's explanations of their behavior. As Justice Frankfurter commented, "The disproportionate consideration which Judge Thayer gave this issue ... must have left the impression on the jury that the case turned on 'consciousness of guilt.'"

Frankfurter and other legal critics of the trial have raised many other telling criticisms—excesses in the trial procedures, prejudice on the part of both judge and prosecutor, bungling by defense lawyers, and the injustice inherent in the jury's guilty verdict. And inevitably, the law-
yers' perspective and the analysis of legal scholars have influenced the way historians have treated the case. Since the performance of the legal system has been the focus of most debate, the questions many critics raise are those which the law is equipped to answer and predisposed to concentrate on. Thus historians must constantly remind themselves that, from their point of view, those questions, no matter how important, are still relatively narrow ones. They deal largely with the issue of guilt and innocence—or, rather, the issue of proof of guilt.

Contrary to much popular opinion, the courts do not determine whether a person is guilty or innocent of a crime. They decide merely whether the prosecutor has assembled sufficient evidence to establish guilt. The judge may even suspect a defendant is guilty, but if the evidence does not meet minimum standards of legal proof, the court must set the accused free. As one court concluded, "the commonwealth demands no victims...and it is as much the duty of the district attorney to see that no innocent man suffers, as it is to see that no guilty man escapes."

Thus lawyers tend to focus on narrow, yet admittedly important, questions. They are all the more crucial when human lives are at stake, as was the case with Sacco and Vanzetti. Believing that the legal system maintains vital safeguards of individual rights, lawyers in general seek to ensure that proper legal procedures have been followed, that evidence is submitted according to established rules, and, in accordance with those procedures, that guilt has been adequately determined. A lawyer answering the question, "Why all the fuss?" over the Sacco and Vanzetti case would most likely reply, "Because the trial, by failing to prove guilt beyond reasonable doubt, perpetrated a serious miscarriage of justice." The inability of the defendants to rectify the original injustice through the appeals process only made matters worse. By sentencing Sacco and Vanzetti to death, the system honored the rule of law without similar regard for the spirit of justice.

THE HISTORIANS' BRIEF: BEYOND GUILT OR INNOCENCE

So far in these essays we have considered enough historical methods to understand that history affords far more latitude in weighing and collecting evidence than the legal system. The law attempts to limit the flow of evidence in a trial to what can reasonably be construed as fact. A judge will generally exclude hearsay testimony, speculation about states of mind or motives, conjecture, and vague questions leading witnesses to conclusions. But those are areas of information upon which historians can and do draw in their research. They can afford to speculate more freely, because their conclusions will not send innocent people to jail or let the guilty go free. In one instance, for example, appeals judges refused to act upon defense assertions that Judge Thayer had allowed his prejudices against Sacco and Vanzetti to influence his conduct of the trial. They ruled that remarks made outside the courtroom, no matter how inappropriate, had no bearing on what occurred inside. By contrast, the historian can accept the fact of Judge Thayer's prejudice regardless of where he revealed it.

Given their broader canons of evidence, historians might be tempted to go the lawyers one step further by establishing whether Sacco and Vanzetti did commit the robbery and murders at Braintree. To succeed in such an investigation would at least lay the controversy to its final rest. Yet that approach does not take us beyond the lawyers' questions. We are still dealing with only two men—Sacco and Vanzetti—and one central question—guilty or innocent? In that endeavor we would only be acting more rashly in assuming that the historian can answer a "yes or no" question more persuasively.

We must remember, however, that when historians confront "either/or" questions, they do not have to answer them in just that way. Their overriding obligation is the construction of a hypothesis or interpretation that gives full play to all aspects of the subject being investigated, not just the question of guilt or innocence. They must look beyond Sacco and Vanzetti at the actions of the people and society around them. What political currents led the prosecutor to bring those two men to trial? How much were Judge Thayer, District Attorney Katzmann, and the men in the jury box representative of Massachusetts or of American society in general? Of just what crime did the jury actually convict the defendants? In answering those questions, historians must lift their drama out of the Dedham courtroom and establish it in a larger theater of action. In short, we cannot answer our original question, "Why all the fuss?" merely by proving the defendants guilty or innocent. Historians want to know why this case has provoked such sharp controversy for so many years.

Any historian who studies the climate of opinion in the early 1920s cannot help suspecting that those who persecuted Sacco and Vanzetti were far more concerned with who the defendants were and what they believed than with what they might have done. Throughout the nation's history, Americans have periodically expressed vehement hostility toward immigrants and foreign political ideas which were perceived
as a threat to the "American way of life." Nativism, as such defensive nationalism has been called, has been a problem at least since the first waves of Irish immigrants came ashore in the first half of the nineteenth century. Until then, the United States had been a largely homogeneous society dominated by white Protestants with a common English heritage. The influx of the Catholic Irish and then political refugees from the 1848 German revolution diversified the nation's population. Native-born Americans became alarmed that immigration threatened their cherished institutions. Successive waves of newcomers from Asia, Mediterranean countries, and eastern Europe deepened their fears.

In analyzing nativist ideology, historian John Higham has identified three major attitudes: anti-Catholicism, antiradicalism, and Anglo-Saxon nationalism. Anti-Catholicism reflected northern European Protestants' preoccupation with the corruption of the Catholic Church, rejection of its hierarchical and undemocratic structure, and image of the Pope as a religious despot. Nativists often viewed Catholic immigrants as papal agents sent to bring the United States under the tyranny of Rome. Antiradicalism stemmed in part from an increasing rejection of America's own revolutionary tradition and in part from the American tendency to associate violence and criminal subversion with Europe's radical political creeds such as Marxism, socialism, and anarchism. Anglo-Saxon nationalism was a more amorphous blend of notions about the racial superiority of the northern European people and pride in the Anglo-Saxon heritage of legal, political, and economic institutions. One of the most cherished has always been the Anglo-Saxon tradition of justice.

The tides of nativism tend to rise and fall with the fortunes of the nation. During periods of prosperity, Americans often welcome immigrants as a vital source of new labor. In the 1860s, for example, many Californians cheered the arrival of the strange Chinese coolies without whom the transcontinental railroad could not have been so quickly completed. In the 1870s, as the nation struggled through a severe industrial depression, nativism became a virulent social disease. The same Californians who once welcomed the Chinese now organized vigilante groups to harass them and clamored for laws to restrict the number of Asian immigrants.

The period following World War I, which Higham labelled the "Tribal Twenties," marked the high tide of nativism. No group more fully embodied the nativist impulse than the reborn Ku Klux Klan. By 1924 it claimed large chapters not only in its traditional southern strongholds but also in major cities, in Oregon, and in the states of the upper middle west—Indiana, Ohio, and Illinois in particular. The Klan's constitution unabashedly advertised the organization's commitment to all three nativist traditions:

to unite white, male persons, native born gentile citizens of the United States of America, who owe no allegiance of any nature to any foreign government, nation, institution, sect, ruler, person or people; whose morals are good, whose reputations and vocations are exemplary . . .; to shield the sanctity of white womanhood; to maintain forever white supremacy. . . .
Loyalty to the Church, the pope, a motherland, old world culture, or any other tie outside the United States eliminated almost all immigrants from possible Klan membership.

Several factors accounted for the resurgence of nativism in the 1920s. World War I had temporarily interrupted the flow of immigrants who, since the 1880s, had increasingly included a preponderance of Catholics and Jews from countries with strong radical traditions. In 1914 alone, over 1.2 million Jews came to the United States. By 1918 the number fell to just 110,000 but then rose to 805,000 in 1921, the last year of unrestricted immigration. A similar pattern occurred among Italians. In the entire decade of the 1870s only 50,000 Italians came to the United States. In the first fifteen years of the twentieth century almost 2.5 million

made the crossing. That torrent, which slowed to a trickle during the war years, became swollen again with the return of peace. More than ever, nativists protested that those strange people would destroy cherished institutions, weaken the genetic pool, or in other ways undermine the American way of life.

The Wilson Administration's failure to plan the transition from a wartime to a peacetime economy only aggravated the resentment toward immigrants. Returning veterans expected jobs from a grateful nation; instead, they found crowds of unemployed workers around factory gates. The army had discharged millions of soldiers almost overnight. The government dismissed hundreds of thousands of temporary wartime employees and canceled millions of dollars' worth of contracts with private businesses. As the economy plunged downward, native-born Americans once again looked on new immigrants as a threat to their livelihoods. Organized labor joined other traditional nativist groups in demanding new restriction laws.

Union leaders called for relief on another front. During the war they had cooperated with the government to control inflation by minimizing wage increases. At the same time, high wartime employment had attracted millions of new recruits to the union movement. The government had orchestrated labor-management harmony to ensure uninterrupted production schedules. Once the war ended, labor set out to consolidate its recent gains. Union leaders asked for higher wages, improved working conditions, and the recognition of collective bargaining.

Most businessmen were in no mood to compromise. They had actively resented the assistance the government had given organized labor. In the years after the war, they not only rejected even the mildest union demands but also sought to cripple the labor movement. The Wilson Administration swung its support behind the employer groups. Conservative businessmen launched a national campaign to brand all organized labor as Bolsheviks, Reds, and anarchists. They called strikes "crimes against society," "conspiracies against the government," and "plots to establish communism." As the market for manufactures declined, employers had little reason to avoid a showdown. Strikes saved them the problem of laying off unneeded workers.

In 1919 American industry lost more manhours to strikes than ever before in history. March brought 175 significant strikes, followed by 248 in April, 388 in May, 303 in June, 360 in July, and 373 in August. By September, strikes in the coal and steel industries alone had idled over 700,000 workers and led to repeated violence. The average strike lasted thirty-four days, while some exceeded four months. Even employers
who made minor concessions on wages or hours refused to yield on the question of collective bargaining.

Radicals played at most a minor role in the postwar labor unrest. Most union leaders were as archly conservative as the employers they confronted. Still, the constant barrage of anti-red propaganda turned public opinion against the unions.

American radicals fed that hostility by adopting highly visible tactics. The success of a small band of Bolsheviks in capturing Russia's tottering government in October 1917 had rekindled their waning hopes, at the same time startling most Americans. The Bolsheviks had further shocked the Allies when they concluded a separate peace with Germany and made Moscow the center of a worker-dominated state dedicated to the cause of worldwide revolution. In 1919 they organized the Third Communist International to carry the revolution to other countries. Communist-led worker risings in Hungary and Germany increased conservative anxiety that a similar revolutionary fever might soon infect American workers. Those conservatives shuddered when a Comintern official bragged that the money spent in Germany "was as nothing compared to the funds transmitted to New York for the purpose of spreading Bolshevism in the United States."

Out of the combination of unvented war fervor, economic distress, labor unrest, and renewed immigration from southern and eastern Europe blossomed the first major "Red Scare." In response to the growing clamor for government action, Attorney General A. Mitchell Palmer created an antiradical division in the Justice Department. At its head he placed a resourceful young bureaucrat, J. Edgar Hoover, who turned his anticommunist crusade into a lifelong obsession and his division into the vaunted F.B.I.

For over a year Palmer, Hoover, and their agents raided homes, offices, union halls, and alien organizations. Seldom did the raiders pay even passing attention to civil liberties or constitutional prohibitions against illegal search and seizure. One particularly spectacular outing netted over 4,000 alleged subversives in some thirty-three cities. Most of those arrested, though innocent of any crime, were detained illegally by state authorities either for trial or Labor Department deportation hearings. Police jammed suspects in cramped rooms with inadequate food and sanitation. They refused to honor the suspects' rights to post bail or obtain a writ of habeas corpus.

The public quickly wearied of Palmer and the exaggerated stories of grand revolutionary conspiracies. Not one incident had produced any evidence of a serious plot. Palmer predicted that on May 1, 1920 radicals would launch a massive attempt to overthrow the government. Alerted by the Justice Department, local police and militia girded for the assault. But May Day passed without incident. The heightened surveillance did, however, have profound consequences for Nicola Sacco and Bartolomeo Vanzetti. Both men were on a list of suspects the Justice Department had sent to District Attorney Katzmann and Chief Stewart. Just four days after the May Day scare, Officer Connolly arrested the two aliens.

Sacco and Vanzetti closely fit the stereotypes nativists held of foreigners. Sacco arrived in the United States in 1908 at the age of seventeen. Like so many other Italians he had fled the oppressive poverty of his homeland with no intention of making a permanent home in America. Most of the young men planned to stay only until they had saved enough money to return home and improve their family fortunes. Though born into a modestly well-to-do family, Sacco was no stranger to hard labor. Shortly after his arrival he found steady work in the shoe factories around Milford, Massachusetts.

Sacco's resourcefulness and industry marked him as the kind of foreign worker whose competition American labor feared. Though he lacked formal schooling, Sacco understood that skilled labor commanded steady work and higher wages and he paid $50 out of his earnings to learn the specialized trade of edge trimming. His wages soon reached as high as $80 per week. By 1917 he had a wife and child, his own home, and $1,500 in savings. His employer at the "3 K" shoe factory described him as an excellent worker and recalled that Sacco often found time, despite his long work days, to put in a few hours each morning and evening in his vegetable garden.

Vanzetti conformed more to the nativist stereotype of shiftless foreigners. After arriving in the United States in 1908, he drifted from job to job around New England before finally settling near Plymouth. There, he sold fish from a cart. Along the way he found time to read and acquire something of a homespun education. Vanzetti was always more sensitive and studious than Sacco. Born in 1888 in the northern Italian village of Villafalletto, he had left home by the age of thirteen to apprentice in a pastry shop. Ninety-hour weeks at hard labor eventually broke his health. He returned home only to find his mother dying of cancer. That tragedy inspired his decision to leave for the United States.

Vanzetti's first years in America tell a grim story of the immigrants' experience. He began work as a dishwasher in hot, stinking kitchens. "We worked twelve hours one day and fourteen the next, with five hours off every other Sunday," he recalled. "Damp food hardly fit for a dog
Nativism undoubtedly influenced the jury’s reaction to the eyewitness testimony. Almost all those people who identified Sacco and Vanzetti were native-born Americans. That they saw a resemblance between the Italian suspects and the foreign-looking criminals proved only, as Felix Frankfurter remarked, that there was much truth in the popular old song, “All Coons Look Alike to Me.” On the other hand, almost all the witnesses substantiating the defendants’ alibis were Italians who answered through an interpreter. The jury, also all native-born Americans, would likely accept Katzmann’s imputation that foreigners stuck together to protect each other from the authorities.

The choice of Fred Moore as chief defense counsel guaranteed that radicalism would become a central issue in the trial. In his earlier trial, Vanzetti had been defended by a conservative criminal lawyer, George Vahey. His conviction persuaded Vanzetti that Vahey had not done all he could. When Vahey entered into a law partnership with Katzmann shortly after the trial, Vanzetti believed his worst suspicions had been confirmed. For the Dedham trial, friends, local labor leaders, and anarchists created a defense fund to see that no similar betrayal by counsel occurred. The committee concluded that radical defendants could be adequately represented only by a lawyer sympathetic to his clients’ beliefs. From Elizabeth Gurley Flynn, an International Workers of the World agitator and wife of anarchist publisher Carlo Tresca, the committee learned of Moore, who had participated in the trials of numerous radicals, including two Italian anarchists charged with murder during the Lawrence strike. Only later did the committee learn that Moore had contributed little to the acquittal of the Lawrence defendants.

Moore’s participation must have reinforced the impression that Sacco and Vanzetti were dangerous radicals. Moore spent the bulk of defense funds to orchestrate a propaganda campaign dramatizing the plight of his clients and the persecution of radicals. He gave far less attention to planning defense strategy. That was left largely in the hands of two local co-counsels, Thomas and Jeremiah McAnarney.

Yet in the courtroom Moore insisted on playing the major role. The McAnarneys soon despaired of making a favorable impression on the jury; they were convinced that Moore’s presence and conduct would lead to a miscarriage of justice against their clients. Most attorneys recognize that judges and juries alike sympathize more with local lawyers than with an interloper; and Moore hailed from California.

Worse still, Moore refused to accommodate local mores. He wore his hair long and sometimes shocked the court by parading around in his shirtsleeves and socks. Rumors abounded about his unorthodox sex life.
And at critical moments he sometimes disappeared for several days. Judge Thayer once became so outraged at Moore that he told a friend, "I'll show them that no long-haired anarchist from California can run this court." Legal scholars have been almost unanimous in characterizing Moore's conduct of the defense as inept. Not until 1924 did he finally withdraw in favor of William Thompson, a respected Massachusetts criminal lawyer.*

Nativism, particularly antiradicalism, obviously prejudiced Judge Thayer and District Attorney Katzmann. We have already seen how Thayer used his charge to the jury to underscore Katzmann's construction of the evidence in the trial. But the two men also collaborated to make the trial a confrontation between patriotism and loyalty on the one side and alien radicalism on the other. Thayer consistently violated the canons of judicial discretion by discussing his views of the case outside the courtroom. George Crocker, who sometimes lunched with Thayer, testified that on many occasions the judge "conveyed to me by his words and manner that he was bound to convict these men because they were 'reds.'" Veteran court reporter Frank Silvey had been forced to stop lunching at the Dedham Inn to avoid Thayer and his indiscreet remarks. Silvey later recalled, "In my thirty-five years I never saw anything like it. . . . His whole attitude seemed to be that the jurors were there to convict these men."

From the moment the trial opened, Thayer and Katzmann missed few opportunities to strike a patriotic pose or to remind the jury that both defendants were draft dodgers. Thayer told the prospective jurors at the outset, "I call upon you to render this service . . . with the same patriotism as was exhibited by our soldier boys across the sea." Katzmann opened his cross-examination of Vanzetti with a cutting statement dressed up as a question: "So you left Plymouth, Mr. Vanzetti, in May 1917 to dodge the draft did you?" Since Vanzetti was charged with murder, not draft evasion, the question served obviously to arouse the jury's patriotic indignation.

Katzmann struck hardest in his questioning of Sacco, whose poor command of English often left him confused or under a misapprehension. Judge Thayer never intervened to restrain the overzealous prosecutor even when it became clear that Sacco could neither follow a question nor express his thoughts clearly. Playing once again upon the residual patriotic war fervor, Katzmann hammered away at the defendant's evident disloyalty. A brief sample of the testimony suggests the devastating impact:

KATZMANN: And in order to show your love for this United States of America when she was about to call upon you to become a soldier you ran away to Mexico. Did you run away to Mexico to avoid being a soldier for the country that you loved?

SACCO: Yes.

KATZMANN: And would it be your idea of showing love for your wife that when she needed you, you ran away from her?

SACCO: I did not run away from her.

When the defense objected, Thayer ruled that this line of questioning would help establish Sacco's character. But instead of showing Sacco's philosophical opposition to war, Katzmann made the defendant appear, as one critic expressed it, "an ingrate and a slacker" who invited the jury's contempt. With such skillful cross-examination Katzmann twisted Sacco's professed love of "a free country" into a preference for high wages, pleasant work, and good food.

The prosecutor summed up his strategy in his final appeal to the jury: "Men of Norfolk do your duty. Do it like men. Stand together you men of Norfolk." There was the case in a nutshell—native American solidarity against alien people and their values. Whether he convicted Sacco and Vanzetti of murder mattered little, for he had proven them guilty of disloyalty. And in case the point was lost, Judge Thayer reiterated it in his charge:

Although you knew such service would be arduous, painful, and tiresome, yet you, like the true soldier, responded to the call in the spirit of supreme American loyalty. There is no better word in the English language than "loyalty."

And just who were those "men of Norfolk" to whom the judge and prosecutor appealed? Could they put aside inflammatory rhetoric and render a just verdict? As legal scholar Edmund M. Morgan observed, it was unlikely in the backwash of wartime patriotic fever that two Italian aliens could receive justice anywhere in America. Dedham was no exception. Not a single foreign name, much less an Italian one, appeared on the juror's list. Because Fred Moore had rejected any "capitalists" dur-

*It is by no means clear that any other lawyer could have won acquittal. Through repeated innuendos, Katzmann had managed to introduce Vanzetti's radicalism into the earlier trial, despite the presence of George Vahey, a conservative criminal lawyer.
ing jury selection, a few prospective jurors whom the McAnarneys knew to be fair-minded were kept off the jury. Those jurors selected were
drawn from the tradesmen and other respectable Protestants of the town.
None would share the defendants' antipathy to capitalism. Few among
them could have had any compassion for the plight of Italian immigrants or union men.

In fact the jury foreman, Harry Ripley, revealed such prejudice to-
toward Sacco and Vanzetti that the defense made him the subject of its first
appeal. Ripley was a former police chief. Every defense lawyer knows
that law enforcement officers make the worst jurors because they tend
to assume automatically that the defendant is guilty. Ripley, however,
outdid himself in persuading his fellow jurors to convict. He violated
basic rules of evidence in a capital case by bringing into the juryroom
cartridges similar to those placed in evidence. A short time before, he
had told his friend William Daly that he would be on the jury in "the
case of the two 'ginneys' charged with murder at South Braintree."
When Daly suggested that they might be innocent, Ripley replied,
"Damn them, they ought to hang anyway."

By using the concept of nativism to gain a broader perspective, the
historian has come to understand the answer to a question lawyers need
not even ask: What factors accounted for the conviction of Sacco and
Vanzetti where legitimate evidence was so clearly lacking? Nativism
explains many prejudices exhibited in the trial record. It also explains
why those attitudes were so widespread in 1920-1921. We must accept
the truth of Professor Morgan's assertion that it was "almost impossible
to secure a verdict which runs counter to the settled convictions of the
community." Sacco and Vanzetti symbolized for a majority of Americans
and the "men of Norfolk" alien forces that threatened their way of life.

Yet, having answered one important question, the historian still faces
another. Granted that a jury convicted two alien radicals of robbery and
murder in 1921; "why all the fuss," as we asked earlier, in the years that
followed? After all, Sacco and Vanzetti were not sentenced until 1927,
long after the virulent nativist mood had passed. Corruption and scandal
had by then killed the Klan. Prohibition had closed that infernal den of
immigrant iniquity, the saloon. The Immigration Acts of 1921 and 1924
had severely curbed the flow of newcomers from Italy and eastern
Europe. The damage from unsuccessful strikes, management opposition,
and government hostility had sent organized labor into a decline from
which it would not recover until the New Deal years. The historian
must still explain how a local case extended its impact beyond Nor-
folk County to the nation and even the international community.

No single answer, even one so broad as nativism, can account for the
notoriety. Certainly, from the beginning the case had sent ripples across
the nation. Socially prominent individuals, intellectuals, the American
Federation of Labor, immigrant groups, and radicals had all contributed
to the defense fund for the Dedham trial. Those people represented a
small minority without great political influence. But by tracing out the
appeals process, much as we followed the judicial history of the Meat
Inspection Act, the historian discovers a series of events that enlarged
the significance of the case, heightened the public's awareness of the
crucial issues involved, and raised the stakes many groups risked on the
judicial outcome.
A GOOD SHOEMAKER AND A POOR FISH PEDDLER
STIR A NATION

Most Americans assume that the right to appeal protects defendants against a miscarriage of justice in the court of original jurisdiction. But in 1920 that was not the case in Massachusetts, where the appeals process contained a provision that ultimately proved fatal to Sacco and Vanzetti. Any motion for a retrial based on new evidence had to be granted by the original trial judge. On each of eight motions made by the defense, including substantial evidence of prejudice on the part of the judge, the person who heard that appeal was none other than Webster Thayer! Thayer did not have to determine whether new information proved the men innocent; only if another jury might reasonably reach a different verdict.

The next higher court, the Supreme Judicial Court, had only narrow grounds on which to reverse Thayer's decisions. It could review the law in each case, but not the facts. That meant it could determine only if the procedure conformed to the criteria of a fair trial established under state and federal constitutions. Though it found some irregularities in procedure, the Supreme Judicial Court ruled that they did not prejudice the verdict against the defendants. At no time did that court review the weight of evidence presented at the trial or on appeal. It determined, instead, that a reasonable judge might have acted as Thayer did.

And what of the U.S. Supreme Court, the ultimate safeguard of our civil liberties? On three separate occasions the defense attempted to move the case into the federal courts. Defense attorneys argued that Sacco and Vanzetti had been the victims of a sham trial, particularly given Judge Thayer's overwhelming prejudice. Justice Oliver Wendell Holmes, Jr., long a champion of civil liberties, wrote that the court could rule only on the grounds of constitutional defects in Massachusetts law. Since none existed, he refused in 1927 to grant a writ of certiorari allowing the Supreme Court to review the weight of evidence. Thus the appeals procedure created a formidable barrier to rectifying the injustice done at Dedham.

Despite such inequities, the defense spent six years in an effort to overturn the conviction. Between July 1921 and October 1924 it presented five motions for a new trial. The first, as we have seen, involved the behavior of jury foreman Harry Ripley. In response, Thayer completely ignored the affidavit from Ripley's friend William Daly and ruled that Ripley's tampering with evidence had not materially affected the verdict.

Eighteen months later the defense uncovered an important new witness, Roy Gould, who had been shot at, at point blank range, by the fleeing bandits. Gould had told his story to police immediately afterwards, but Katzmann never called him to testify. Eventually defense lawyers uncovered Gould and realized why he had been kept off the stand. Gould had been so close to the escape car that one shot passed through his overcoat; yet he swore that Sacco was not one of the men. Incredibly, Judge Thayer rejected that appeal on the grounds that since Gould's testimony did no more than add to the cumulative weight of evidence, it did not justify a new trial.

On the third and fourth motions, Moore attempted to substantiate the prosecutor's tampering with two key witnesses. Both recanted their courtroom statements and then recanted their recantations. Rather than find Katzmann guilty of impropriety, Thayer condemned Moore for his "bold and cruel attempt to sandbag" witnesses. The fifth motion came after Captain Proctor impeached his own expert ballistics testimony. Proctor signed an affidavit in which he swore that on many occasions he had told Katzmann there was no evidence proving Sacco's gun had fired the fatal shot. He warned the prosecutor that if asked a direct question, he would answer "no." Katzmann had, therefore, examined Proctor with studied ambiguity. By the time Thayer ruled on this motion, Proctor had died. The judge ruled that the jury had understood perfectly what Proctor meant and that Katzmann had not tried to be evasive.

After that setback, the defense embarked on a new course. Moore finally withdrew in favor of William Thompson, a distinguished trial lawyer who devoted the rest of his career to Sacco and Vanzetti's cause. Thompson made the first appeal to the Supreme Judicial Court. He argued that the accumulated weight of exculpatory evidence and the repeated rejection of appeals demonstrated that Thayer had been so moved by his hostility to Moore and the defendants that he had abused his discretionary authority. Unlike historians, who would render judgment on the basis of the totality of evidence, the appeals judges turned down the defense arguments case-by-case, point-by-point. That is, the court never considered the cumulative weight of evidence. Judge Thayer, they found in each separate instance, had acted within his proper authority.

Throughout this drawn-out process, public interest in the case had steadily dwindled. But after November 18, 1925 controversy exploded
once again. Sacco received a note from a fellow inmate which read, “I hear by [sic] confess to being in the South Braintree shoe company crime and Sacco and Vanzetti was not in said crime. Celestino F. Medeiros.” Medeiros was a young prisoner then facing execution for a murder conviction under appeal.

The defense soon connected Medeiros to the Morelli gang of Providence, Rhode Island. In the spring of 1921, the Morellis badly needed money to fight a pending indictment, and so had ample reason to commit a desperate payroll robbery. All the available details fit them into the prosecutor’s case: Joe Morelli carried a .32 Colt pistol and bore a striking resemblance to Sacco. Another gang member carried an automatic pistol, which could account for spent cartridges found at the scene. Mike Morelli had been driving a new Buick, which disappeared after April 15. Another member fit the description of the pale, sickly driver. A number of defense and prosecution witnesses identified Joe Morelli when shown his picture. The New Bedford police had even suspected the Morellis of the Braintree crime.

Here surely was the basis for a new investigation and trial. How then did the legal system react? The District Attorney’s office refused to reopen the case. The defense then appealed to Thayer to order a new trial. Once again, Thayer did not have to determine if the evidence conclusively demonstrated Medeiros’s guilt or Sacco and Vanzetti’s innocence. He had only to decide that a new jury might now reach a different verdict. It took Thayer some 25,000 words to deny this motion.

That decision, more than any other, unleashed the torrent of outrage that surrounded the last months of the Sacco and Vanzetti case. It provoked Professor Frankfurter to publish his attack. “I assert with deep regret but without the slightest fear of disproof,” he wrote, “that certainly in modern times Judge Thayer’s opinion [on the Medeiros motion] stands unmatched, happily, for discrepancies between what the record discloses and what the opinion conveys.” Frankfurter described the document as “a farrago of misquotations, misrepresentations, suppressions, and mutilations.” The Boston Herald rebuked Thayer for adopting “the tone of the advocate rather than the arbiter.” Once a staunch supporter of the prosecution, the Herald now called on the Supreme Judicial Court to overturn this ruling. Once again, the court refused to weigh the evidence. It ruled in rejecting the appeal that the defense motion involved questions of fact lying totally within the purview of the trial judge.

That decision, in combination with Frankfurter’s blistering attack, shifted public sympathy to Sacco and Vanzetti. A mounting body of evidence seemed to indicate that the two men were innocent. Yet, as the courts remained deaf to the defense appeals, more and more reasonable people came to suspect that, indeed, powerful men and institutions were conspiring to destroy two people perceived as a threat to the social order. Such a notion rocked popular faith in the judicial system as a guardian of individual liberties. Thayer’s sentence of death by electrocution
seemed but a final thread in a web of legal intrigue to commit an injustice.

Sacco and Vanzetti played an important part in winning broad popular support for their cause. Steadfastly, in the face of repeated disappointments, they maintained their innocence with an air of dignity. Sacco, the more simple and direct of the two, suffered deeply as a result of separation from his family. During the first trying years, he went on a hunger strike and suffered a nervous breakdown. From that point on, he stoically awaited the end, more preoccupied with saving his wife further anguish than in saving himself. To assist the defense effort, however, he had begun in 1923 to study English, though with little success. A letter written to his teacher in 1926 best conveys his warm, simple idealism. Sacco had wanted to explain to his teacher why he had been unable to master the language:

No, it isn't, because I have try with all my passion for the success of this beautiful language, not only for the sake of my family and the promise I have made to you—but for my own individual satisfaction, to know and to be able to read and write correct English. But woe is me! It wasn't so; no, because the sadness of these close and cold walls, the idea to be away from my dear family, for all the beauty and joy of liberty—had more than once exhaust my passion.

Vanzetti was far more intellectual in temperament. His articulate, often eloquent, speeches and letters won him the respect of fellow prisoners, defenders, and the literary figures drawn to the case. A few particularly devoted followers compared Vanzetti to Jesus Christ. Perhaps the best sense of the man was revealed in his speech before Judge Thayer on the day he was sentenced. More than reiterating his innocence, Vanzetti made a passionate defense of human liberty, dignity, and justice:

Now, I should say that I am not only innocent of all these things, not only have I never committed a real crime in my life—though some sins but not crimes—not only have I struggled all my life to eliminate crimes, the crimes official law and official moral condemns, but also the crime that the official moral and official law sanctions and sanctifies—the exploitation and the oppression of man by man, and if there is reason why you in a few minutes can doom me, it is this reason and nothing else... I would not wish to a dog or to a snake, to the most low and misfortunate creature of the earth—I would not wish to any of them what I have had to suffer for things that I am not guilty of. But my conviction is that I have suffered for things I am guilty of. I am suffering because I am a radical and indeed I am a radical; I have suffered because I was an Italian, and indeed I am an Italian; I have suffered more for my family and beloved than for myself; but I am so convinced to be right that if you could execute me two times, and if I could be reborn two other times, I would live again to do what I have done already.

Such eloquence stirred much of the nation. The political leadership of Massachusetts saw public support for execution rapidly eroding. Frankfurter's article had undermined the state's credibility. Yet an equally vociferous segment of popular opinion cheered Thayer's sentence as an example to "reds" that they could not subvert the Commonwealth. Governor Alvan Fuller, a successful car dealer, amateur politician, and White House aspirant, thus faced a difficult decision when he received Vanzetti's plea for executive clemency.*

To help him decide, Fuller appointed a blue-ribbon panel to conduct an "impartial" review of the evidence and judicial proceedings. If the creation of a committee showed some official preoccupation with justice, the selection of its members did not. The three men Fuller chose were symbols of the Commonwealth's social and educational elite. Retired Judge Robert Grant proved the worst choice, a socialite often more preoccupied with black-tie parties than public affairs. Samuel Stratton, President of the Massachusetts Institute of Technology, was clearly overshadowed by the committee's designated chairman, A. Lawrence Lowell, pillar of Boston society, a lawyer by training, and the president of Harvard. Lowell had already demonstrated his capacity for ethnocentrism when he introduced formal quotas to limit the number of Jewish students admitted to Harvard. The avowedly liberal New Republic remarked of the committee, "the life of an Italian anarchist was as foreign to them as life on Mars."

No more than judge, jury, or prosecutor did those guardians of establishment respectability rise above their inherent prejudices to render an impartial verdict. For over ten days they heard testimony on the evidence—much of it new. On July 23, 1927 the defense submitted a lengthy brief. Four days later, the committee filed its final report, without taking the time necessary to sort out the complex issues. The report upheld both the verdict and sentence against Sacco and Vanzetti. Sympathizers reacted with a mixture of despair and disgust. "What more can

*Sacco refused to sign. Though he agreed with Vanzetti's arguments, he did not want to violate his principles by appealing to government authorities—or to give his wife further vain hopes.
immigrants from Italy expect?” asked editorial writer Haywood Broun.
“It’s not every prisoner who has the President of Harvard throw the
switch for him.”
Governor Fuller’s evident need to involve the educational and social
elite in what had become a politically onerous responsibility indicates to
the historian the degree to which the Sacco and Vanzetti case had polarized
the nation. It brought to the forefront not only issues of guilt and
innocence, justice and injustice but also more fundamental tensions in
American society. On one side were arrayed immigrants, workers, and
the poor for whom Sacco and Vanzetti stood as powerful symbols. On
the other side stood Thayer, the “men of Norfolk,” the Protestant
establishment, and all those who believed that America should tolerate
only certain peoples and ideas.

On the night of August 22, 1927, John Dos Passos, a young writer,
stood with the crowd outside Charleston Prison waiting for news of
Sacco and Vanzetti’s fate. Shortly after midnight word came—the “good
shoemaker and poor fish peddler” were dead. Grief and anger raked the
crowd. Some wept, others cried out in the name of justice, and many tore
their clothes in anguish. The scene outside the prison was repeated in
New York and other cities around the world. Years later, Dos Passos
expressed the outrage he felt against those who had persecuted Sacco
and Vanzetti:

they have clubbed us off the streets they are stronger they are rich they
hire and fire the politicians the newspaper editors the old judges the small
men with reputations the college presidents the ward heelers (listen col-
lege presidents judges America will not forget her betrayers). . . .
all right you have won you will kill the brave men our friends tonight
there is nothing left to do we are beaten . . .
America our nation has been beaten by strangers who have turned our
language inside out who have taken the clean words our Fathers spoke and
made them slimy and foul . . .
they have built the electric chair and hired the executioner to throw the
switch
all right we are two nations
Two nations—that was the reason for “all the fuss.”
So long as America remains an open, heterogeneous society, fear will
nourish bigotry with depressing regularity. The victims may be “new
immigrants, or political dissenters, or racial minorities, or social outcasts,
or simply those who flaunt their differences. It is not surprising, there-
fore, to find that passion and controversy still surround the case of Sacco
and Vanzetti. When Massachusetts Governor Michael Dukakis issued a
public apology on the fiftieth anniversary of their execution, many citi-
zens and politicians condemned his action. Their response confirmed
critic Malcolm Cowley’s observation that “the effects of the case con-
tinued to operate in a subterranean way, and after a few years they would
once again appear on the surface.”

All the “fuss” was not just over two Italian aliens, nor a sense of
“justice crucified,” though both provoked much of the controversy. The
historian must suspect that Americans were fighting over the meaning
of those “clean words our Fathers spoke.” Sacco and Vanzetti forced
the nation to ask who in the society of the 1920s best embodied the spiritual
legacy of 1776. Neither historians nor lawyers can resolve that question
to the satisfaction of a divided nation.