

THE “TRIAL” OF FERRER

A CLERICAL-JUDICIAL MURDER

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(Editorial from the New York *Daily People*, January 22, 1911.)

With this issue we start the publication of a review made by Jaime de Angulo, a member of Section Baltimore, Socialist Labor Party, of the distinguished Madrid professor of psychology L. Simarro’s two-volumed work on *The Trial of Ferrer and European Public Opinion*.

The exhaustive and conscientious work, done by the reviewer of Prof. Simarro’s eminently critical, and equally exhaustive and conscientious production, is a service of prime magnitude rendered to the English speaking world on a great contemporaneous event, of interest the world over.

The Dark Affair of Ferrer’s death is generally known only by scraps of information. The scraps are in many instances luminous; yet their very scrappiness, furnishes the world-over political machine which encompassed Ferrer’s assassination with opportunities to double and twist, and to seek to acquit itself.

Prof. Simarro’s production is the first attempt at a critical and historic unveiling of the latest tragedy of the many that have come down the Ages—historic tragedies enacting on a world-wide stage the world-wide conflict between Light and Darkness. Even so Prof. Simarro’s work is accessible only to those blessed with leisure enough to, read a book, and gifted with the Spanish language.

De Angulo, by reviewing, condenses Prof. Simarro’s book, and at once places its contents within reach of the English reading public.

Like all Knowledge, History imparts foresight. What is not known does not exist to him who knows not. He who does not know history is doubly blind—blind as to the Past; hence, still blinder as to the Present; and blinder still as to the Future.

While a knowledge of the Ferrer tragedy may well impel a cry of agony—“Are we still in the days of Poe’s ‘The Pit and the Pendulum’; or, worse yet, in the Dark Ages!”—nevertheless, the fact that this latest felony against the Human Mind, differently from those of the Ages of Mental Slavery, was quickly followed, and on the spot, by its bold exposure, is cause for joy. The fact measures the distance Man has traveled since—and it gilds the Future, a Future that is at hand.

TRANSLATOR'S INTRODUCTION

When I was at the last International Socialist Congress in Copenhagen, August, 1910, I asked Pablo Iglesias how I could get at the facts concerning the Ferrer Trial. "Over there in America," I said, "we have read a great deal about it in the newspapers and magazines, but they are all incomplete, mixed-up accounts of what has happened, obtained at second hand. I want to get at the facts of the case, sift it to the bottom and learn the truth about it."

"The best thing for you to do," Iglesias answered, "is to read a book which has just been published. I can answer for its veracity and accuracy of statement. You will find there a complete account of everything that has happened." And he promised to send me the book.

It came to me the other day, a large volume of more than six hundred pages written in Spanish by L. Simarro,¹ professor of psychology in the University of Madrid. This is the first of two volumes, the second of which, treating of the movement of protest caused in Europe by the trial, is not yet published. I found the book to be all that Iglesias had promised it to be in regard to completeness and accuracy of statement. In fact, as to the second of the two qualities just mentioned, it is a good example of what the editor of our own Party paper in America (the *Daily People*) has been preaching to us for a long time:—the author never quotes from a paper without giving the date of the issue, or from a book without giving the page or from a document without stating expressly whether official or otherwise, and how obtained; whenever he cites a man's words or an official's speech, he always indicates the source of information. There results for the reader a feeling of security as to the veracity of such accurate statements, and as to their completeness; it forms a close network which leaves no room for any sterile argumentation about the facts, the interpretation of which is, of course, left to the careful student.

Such a line of treatment was all the more necessary in this case, since the complete and official account of the, conduct of the trial, the "summary" as it is called, has not yet been given out and probably never will be, since it would establish certain responsibilities that the Spanish government would rather keep in the dark. The consequence of this is that the author has had to reconstruct the case from semi-official statements given out in the clerical press, and from the accounts

¹ *El Proceso Ferrer y la Opinion Europea* por L. Simarro, Madrid, 1910. Published by the Administration of *El Socialista*, Espiritu Santo, 18, Madrid.

of the reporters present at the trial. Besides, the whole thing being a political affair, it belong to history, and like all historical questions, the facts are scattered over a large area; they are to be found mainly in the newspapers, the chief depositories of modern history. But as the majority of newspapers publish such a mass of useless stories, of vague reports, of incorrect., often purposely untruthful statements, it takes a man with a highly developed critical sense and discriminating judgment to sift the mass and bring out what is apparently the correct story. Such a man the author of the book in question has proved himself to be. As for impartiality, he announces in the preface that his aim was to place before the reader the materials out of which to form his own opinion and he adds: “The author has exerted the greatest care in studying with sincerity all the problems, without renouncing, as is natural, his own point of view.”²

I thought it would be useful to give the readers of the *Daily People* a review of Simarro’s work, as clearly and Succinctly as possible, but furnishing them with all the necessary data to meet an adversary in a discussion of this now historic question. To avoid overloading the text, I have placed much of these data in footnotes. I have preserved the titles of the five chapters in which the original book is divided.

JAIME DE ANGULO

December, 1910

² Some people seem to think that to judge a question impartially one must bring to its study a mind free from any opinion on the subject. Such a state of mind, especially in a political case like this is evidently impossible to any but a hypothetical man who would not only know absolutely nothing about the case in question and have no interest whatever in it, but would be devoid of all political opinions. All that to necessary to an impartial judgment is to bring to it a mind free from prejudice. In this sense It may be said that although the author’s opinion was in favor of Ferrer while he wrote the book, he wrote it without any prejudice.

1. THE EVENTS IN BARCELONA.

Since Francisco Ferrer Guardia was accused of, and tried for, having led the insurrection which took place in Barcelona³ during the week of July 26th–30th, 1909, it is important first to form an opinion of what happened during that week.⁴ The trouble hinged on the war which the government of Spain was waging in Morocco at the time. It was started on the pretext of avenging the killing of four Spanish soldiers at Melilla, in reality to enable a society of Spanish and French capitalists successfully to operate mines in that district. The people of Spain knew this, and the war became unpopular in spite of the patriotic drum-beating of the capitalist press. The discontent was especially marked in the province of Catalonia, which has always been a hot-bed of anarchists, Socialists, republicans, separatists,⁵ and in general, of people ever ready to start a revolution against the present government. As naturally enough always happens in regions with marked progressive tendencies, there is also a reactionary party, characterized by uncompromising attachment to the established government and a Catholicism which verges on fanaticism.

The popular discontent, which had been brewing since the beginning of the war, reached its acme when the reserves were called to depart for Morocco. This last step aroused general indignation in Barcelona and it was decided at several popular meetings to declare a general strike to protest against the war.⁶ A Strike

³ Barcelona is the capital of the province of Catalonia, and the first industrial center in Spain.

⁴ The reader will find a complete account of the events in the *Daily People* of January 23, 1910.

⁵ The “Separatists” want an autonomous government for Catalonia. They are the Irish of Spain, in that respect.

⁶ The steps in the declaration of the general strike are worth while studying:

The first was taken at the annual Congress of the Socialist Federation of Catalonia, held in Barcelona on the 17th and 18th of July, where a resolution was voted to recommend to the party sections to hold meetings and organize manifestations, in order to prepare the proletariat for united action in case the general strike should be necessary.

A few days later, the Labor Federation of Tarrasa held a meeting with more than 6,000 workmen present, where a similar motion was adopted.

Three days later, on the 23rd, *La Internacional*, organ of the Socialist party in Catalonia, published a vigorous protest against the war and called upon the workmen to organize a Congress in Madrid in which to prepare a general strike, to oblige the Government to desist from the war.

At this point the Government forbade the holding of any more meetings to protest against the war, and especially of a meeting of the syndicates of Soldaridad Obrera, an association affiliated with the Confederation Generale du Travail (of France), which was to take place that same night (23rd of July).

It was then that the representatives of the Socialist party, of the workmen’s syndicates and of the Anarchist groups decided together to name a Strike Committee, composed of three men, each of

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Committee was formed and the strike declared for the 26th of July. On the 26th the general strike began in Barcelona, giving rise to several collisions with the police in which several persons were hurt and killed. The authorities of the city then held a meeting in which Senor Ossorio, the civil Governor, resigned his power into the hands of the Captain General of the province. The latter at once proceeded to publish a proclamation declaring the town under martial law. On the same day that the strike began similar events occurred in several neighboring towns. On the 27th, the trouble increased; barricades were erected all over the town, and the troops which had been brought in took a passive attitude, while the people cheered the soldiers but observed an icy silence towards the officers. Most of the troops remained in the barracks, the officers not daring to come out. It was at this time that the burning of the convents began. This was not in the program of the strike, but came as an explosion of popular feeling against the religious orders who were living at the expense of the poorer classes.⁷ It seems that the striking elements did not take any part in the looting of the churches and convents,⁸ but, on the contrary, prevented it whenever they could; however, such occasions are always festival days for the criminal elements of the slums and they could not be prevented everywhere from looting and pillaging. On the 28th the situation remained about the same, but from that day on the revolutionists began to lose ground, due to the arrival of new troops from other parts of Spain, but especially due to the lack of direction and leadership among the revolutionary elements. The insurrection had been an explosion of popular discontent against the policy pursued by the Government, but the movement had not been properly organized beforehand, and when the crisis arrived there were no chiefs to take the situation in hand. By the first of August, quiet was completely re-established.⁹ Immediately, the authorities proceeded to

whom had a lieutenant, himself in contact with four delegates, each of those four delegates with four more, etc. The movement, once organized in Barcelona, was extended to the most important towns in Catalonia, and then to other cities in Spain; and the 26th of July was the day agreed upon to declare the general strike.

⁷ The reader is referred to the letter of a Spanish correspondent published in the *Daily People* of Sept. 5, 1909, in which the causes of the Insurrection, and particularly of the popular outburst against the religious communities, are very clearly exposed.

⁸ Forty-nine is the total number of churches and convents burned on that day, as given by *L'Humanite* (August 12–16, 1909), from which paper most of the details here given are taken.

⁹ One can form an idea of the extent of the insurrection by the following approximate list of dead and wounded (for Barcelona alone):

Among the police, 1 dead and 43 wounded.

Among the military, 3 dead and 27 wounded.

Among the civil elements, 82 dead and 126 wounded.

make arrests en masse, about three thousand being arrested. It is interesting at this point to note the declarations of some of the authorities who were interviewed at that time by newspaper reporters.

Senor Ossorio, Civil Governor of Barcelona, declared that the strike was prepared by elements of “Solidaridad Obrera,”¹⁰ by the group “Progreso,” and by a few disorderly persons.

Senor Enciso, Civil Governor in the interim, declared that the movement was started to prevent the calling of reservists for the war.

Senor Arrow, Chief of Police, declared that in the beginning the people of Barcelona wanted above all, and only, to protest against the sending of reservists to the war. Senor Sol y Ortega, Senator, declared that the movement was an explosion of popular feeling, caused by the sending of the reservists to the war. He thinks that the strike, at first peaceful, was converted into a rebellion by the provocations of the police. As to the leaders he does not know who they are, but doubts the existence of any; it was, he thinks, a spontaneous explosion.

Especially interesting is a manifesto published by the “Comite de Defensa Social,” a rabid Catholic and reactionary organization. In this manifesto it is said that the authors of the revolution must be sought among the enemies of the church, whose most formidable organization is the free masonry. The real cause, this manifesto says, is to be found in the anti-religious propaganda and especially in the *education given in the lay schools*.

Among the Red Cross, 4 dead and 17 wounded.

¹⁰ “Solidaridad Obrera,” “Progreso,” workingmen’s associations.

II. FERRER IN BARCELONA.¹¹

Ferrer has been broadly accused of being an Anarchist and a dangerous person (especially by people who know nothing about the subject). In his youth Ferrer was an ardent republican and a follower of Zorilla, the republican leader and revolutionist. He associated with all the advanced elements which in Catalonia form a characteristic mixture of Anarchists, republicans, Socialists, and, in general, anti-clericals, who always join hands in the frequent revolutions which have taken place since time immemorial in that agitated province.

It would be very difficult, if not impossible, to establish whether at that time Ferrer was an anarchist or not. He did have many anarchist friends, but that does not prove anything, especially in a feudal country, where all the advanced elements make common cause against oppression. Neither can we decide the point by investigating his ideas at that time, because they were not yet mature nor did he clearly express them; he may have said or written things during that period which could be interpreted as Anarchistic, but such an interpretation is always easy when it is the question of a man with revolutionary opinions.

All that can positively be said is that, at that time, Ferrer was an ardent believer in violent revolutions. As a matter of fact, he took active part in several of them, especially in one which took place in 1885. To escape persecution, he had then to leave Spain, and went to France, where he remained in Paris during fifteen years. During those fifteen years of voluntary exile, his ideas underwent great modification. He became convinced that a beneficent change could not be brought about by violent revolutions, but had to be the result of education.

From that moment on, education became his hobby; he turned his dreams towards a reform of the whole system of education, and little by little lost all the connections with the political movement in Spain, which he had kept up during the first period of his exile. To quote his own words:¹² “When Zorilla died, I lost all my faith, which was already weakened enough, in the results of a revolution carried through by superficial revolutionists, themselves victims of the same prejudices as the monarchists whom they pretend to unsaddle. From that time on, I applied all my activities to the foundation of a school which, in my humble opinion, could serve

¹¹ We leave out of account Ferrer's private life, which has nothing to do with the pre-eminently political affair we are now treating. If the reader is interested, he will find some details in an article in *McClure's Magazine* for November, 1910.

¹² From a declaration published in *Fructidor*, a republican weekly of Barcelona, February 8, 1901.

as a model for an those, which some advanced societies were trying to establish, with the aim of safeguarding the children from the treacherous teaching of the official schools. Such was the origin of the Modern School.”

But Ferrer, poor and unknown, could never have put his projects into execution had it not been for a stroke of good fortune. While in Paris he made the acquaintance of a French lady, Mlle. Meunier, to whom he communicated his enthusiasm and who, at her death, left him a piece of property in Paris estimated at \$120,000. Ferrer then returned to Barcelona, determined to use this money for the sole purpose of putting his educational projects into execution. Although it was donated to him, personally, and without any conditions as to its use, he refused to spend any of it on his children,¹³ and he himself continued to live very modestly. He even incurred the displeasure of many of his old friends with whom he would have liked to remain on good terms, because he refused to put any of the money to political purposes.

Let us now study the work of Ferrer, the establishment of the Modern School. Ferrer first solicited the co-operation of some of the foremost scientists¹⁴ of Spain and France. The school was soon in possession of a series of scientific text-books without parallel in any system of elementary schools in the world. The education given in the school was *rationalistic*, and in matters of religion, agnostic. It was a perfectly explicit program: there was nothing secret nor insidious about it, in spite of what the Jesuits said. The children who went to that school came from the families of rationalist workingmen who wanted just such an education for their children, whom, unless they wanted to see them remain ignorant, they had theretofore been forced to send to the clerical schools, where they were taught to be slaves. There was no anarchism taught in the school, and it is interesting to note here that Malato, a well known anarchist who was asked by Ferrer to compile some books for the school, said¹⁵ that Ferrer had explicitly warned him not to speak of Anarchism in those books. Ferrer’s main principle in education can be gathered from the following extract from one of his letters:

“As is well known, the child is born without any preconceived ideas,

¹³ With the exception of a small income for his eldest daughter who was struggling for a living.

¹⁴ Such as Dr. Odon do Buen, senator and distinguished scientist, Dr. Martinez Vargas, professor of medicine in Barcelona, Prof. Ramon y Cajal, of international reputation an a neurologist, Prof. Reclus, the geographer, and Prof. Letourneau, both the latter from Paris.

¹⁵ In a conversation with J. McCabe, the author of *The Martyrdom of Ferrer*, from which narrative most of the details here given are taken.

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and during the development of his life he goes along imbibing the ideas of those who surround him, modifying them later on according to his culture and observation, and putting them into harmony with circumstances. From this it is to be clearly deduced that if the child has been educated with true and positive notions on all things, and if he be taught that to avoid error he must accept nothing on faith, but accept only what science can prove, the child will grow, sharpening his powers of observation, and with aptitudes for all sorts of studies....To educate the children, free from all prejudice, and to publish the works necessary to such an aim...such is the object of the Modern School. The whole value of education hinges on the respect given to the physical, intellectual and moral will of the child. The true teacher will be the one who abstains from imposing on the child his own will, his own ideas, and appeals, in growing measure, to the energies of the child himself.”

In 1906, Ferrer was accused of complicity in the throwing of a bomb at the King and Queen of Spain by the Anarchist Morral. This man was a friend of Ferrer and had been librarian in the School. That was all the participation of Ferrer in the outrage. Nevertheless, he was arrested and indicted. His school was closed and he was kept in jail for a year. The reactionary forces did all they could to have him tried before a military tribunal¹⁶ but failed. Ferrer was judged by a civil tribunal and acquitted, it being clearly impossible to establish any proof of his guilt. Ferrer was set free, but not being allowed, however, to reopen his school, he set up a new institution; it was a publishing concern which put out books on education at a small price and disseminated literature through Catalonia. Ferrer intended to transform this institution gradually, and with time, into a “popular university;” he started in connection with it a new publication called *L’Ecole Renovee*.¹⁷ As we see, Ferrer was bent upon carrying out his ideal on education, in spite of all obstacles. It was at this time that his friends co-operated in founding the “International League” for the rational education of children, of which Ferrer was elected president. Its object was, according to the by-laws: “to help the ideas of science, liberty and solidarity effectively to penetrate education in all countries,” and besides, “to search for and develop the methods most appropriate to the psychology of the child and which make it possible to obtain the best results with the least effort.”¹⁸

¹⁶ The importance of this step will be seen later on, when studying the trial itself.

¹⁷ The first number of “*L’Ecole Renovee*” (The Renovated School) appeared on April 15, 1908.

¹⁸ It is interesting to see who were some of the most prominent members of the “League,” and who were called “Anarchists” and “intellectual scoundrels,” by the enemies of Ferrer: Anatole France,

In the spring of 1909, at the time just previous to the events in Barcelona, Ferrer went to England to rest, to see some of his friends, and to study the results obtained by the “League of Moral Education,” which had been recently founded in that country. His intention was to remain some time in England and study a series of English works on education which had been recommended to him by a friend. (This was the time when he was supposed to be preparing the revolution in Barcelona.) However, he received alarming news of the health of his sister-in-law and his niece, sick with typhoid fever near Barcelona., and he had to hurry back to Spain. He arrived at Barcelona on the 16th of June, and until the middle of July, when he had the sorrow of losing his niece, he spent his time between nursing his patients and working for his publishing concern.

During all that time he remained in correspondence with some of his friends abroad, who were interested or took active part in his educational work. Those letters which have been published show conclusively that during that period when the insurrection in Barcelona must evidently have been prepared, Ferrer’s only occupation was the educational work¹⁹ in which he was so much engrossed that he was blissfully ignorant²⁰ of the agitation which was being carried on all around him. These letters, form an extremely important factor in the defense of Ferrer, as they show conclusively that far from being the leader of the insurrection,²¹ he did not even take any part in its preparation. Their authenticity cannot be doubted, since they were accompanied by envelopes bearing the dated stamp of the post office. Having been written at a time when nobody thought of accusing Ferrer, they cannot be supposed to have been written with the purpose of being used as proofs. However, the tribunal did not allow them to be produced by the defense at the trial, for the following reason: “These testimonials come from witnesses abroad; now,

William Heaford, Ernst Haeckel, Joseph Sergi, Luzien Descaves, Eugene Fourniere, Sebastien Faure, Mr. and Mrs. Maeterlinck, etc., etc., all of them authors or scientists of international fame.

¹⁹ In these letters Ferrer is constantly speaking of his work, of his projects, of subjects pertaining to the business of his publishing concern and of his publication, *L’Ecole Renovee*, showing that he was giving all his time and attention to it.

²⁰ In all these letters Ferrer does not say a word about the agitation. Later on, in a letter dated August 14, to his friend Malato, he writes: “The 26th surprised me, like everybody else, with the announcement of the general strike. Before then I did know a word of it. . . .” This was written before Ferrer was indicted.

²¹ On the 26th of July, the day when the Insurrection was started, Ferrer wrote to that same Malato a postal card in which he speaks, as a witness, “of the heroism shown by the women, of the lack of definite purpose on the part of the people and also of the complete eclipse of its chiefs.” Such an affirmation, on the part of Ferrer, would be absurd if he were the leader, and the revolution were his work.

since those witnesses reside abroad and they do not say that they have been here at the time of the events, they could not clarify these events, which is the object of this prosecution.”²²

²² From the dictamen of the Assessor of the Council of War who judged Ferrer. It is to be noted that the friends of Ferrer, residing abroad, never pretended to “clarify the events” of Barcelona. It is to be noted also that the Supreme Public Prosecutor, Senor Ugarte, upon whose accusation the prosecution was based, was not present at the events either.

III. THE SNOW BALL.

In this chapter the author studies the genesis of the accusation against Ferrer. He compares it to a snow ball, which, starting from the merest nothing, increases in size as it rolls along. At first nobody thought of accusing Ferrer. As a matter of fact, public opinion seemed for a time to point to the followers of Lerroux, the republican leader. But the clerical elements had sworn for a long time to rid themselves of Ferrer at the earliest opportunity; he had already escaped them once, the occasion was too good now not to make the best of it. They proceeded to prepare, through the clerical press, public opinion for a formal accusation against Ferrer.

At first they made vague hints in his direction; the revolution is the moral fruit of Ferrer's teachings, they said. From this they passed on to insinuation such as, "It was believed in Barcelona that the infamous Francisco Ferrer had spent a month in Barcelona with Soledad Villafranca,²³ and that he had brought much money."²⁴ The next day the same paper would publish a letter from a correspondent in Barcelona saying mysteriously, "Someone came here with money—some suppose that he is the infamous Ferrer, who, it is now certain, has spent a month in Barcelona—and according to information which I regard as trustworthy, a cheque for 50,000 pesetas was cashed at the Credit Lyonnais, on a day just previous to the trouble, and during the night that money was distributed at the Labor Temple." From these hypocritical insinuations they went on to formal, though yet timid and cautious, accusations: "During the week Ferrer was seen several times in the streets, and once I saw him captaining a group in front of the Lyceum."²⁵

So speaks Senor Coldefrons, the special correspondent of another clerical newspaper of Madrid. However, the Spanish Government was showing itself too slow and sluggish in its repression to suit the fervent Catholics of Catalonia. They decided to wake it up and for that purpose the "Comite de Defensa Social," already

²³ Ferrer's wife.

²⁴ From the *Epoca* of March 3, 1910. This accusation, or rather insinuation to speak correctly, is both hypocritical and absurd; hypocritical, because it lends an air of secrecy to Ferrer's appearance in Barcelona, when in fact he went to Barcelona on business errands almost every day and everybody knew it; absurd, because if Ferrer, a rich man, had distributed money so lavishly to the revolutionists, how could it be that some of the working men of "Solidaridad Obrera," that Barcelonese workers' association, who were delegated to Madrid to meet Garcia Cortes, the secretary of the Spanish Socialist party, could not go because they were unable to find enough money for the trip?

²⁵ From *Sigio Futuro*, March 3, 1910. This testimonial of an actual eye-witness (?) is important, as will be seen later on.

mentioned in this article, sent two representatives to Madrid to see Premier Maura. One of these,²⁶ in an interview with a reporter of the *Universo*, another clerical paper in Madrid, declared: “Ferrer, the most nefarious Ferrer, did not spend in vain in Barcelona the week preceding, and the first days of the impious revolution; when he opens his mouth he opens the hand, and the purse of international Freemasonry and Anarchism; the books of the Modern School had to produce their deleterious fruits and they produced them.” Note that so far not a word has yet been said about Ferrer being the leader of the insurrection. No, the clerical papers still accuse Lerroux and give Ferrer only a secondary role, that of mere participator in the trouble. It is also curious to note how these clerical papers lay all the blame of the insurrection, which as we have seen was a purely economic consequence of the war, on the spirit of irreligion.

They do this, says the author, in accordance with the simplistic theory of the Catholics who, without taking any account of the complicated structure of human societies, without giving any heed to the economic, political and cultural conditions of the historic moment, attribute all evils, disorders and social revolutions, purely and simply to heterodoxy. Thereupon they proceed in approved theological-dogmatic style to establish the evidence of Ferrer’s guilt: the insurrection was caused by the spirit of irreligion; Ferrer was a disseminator of irreligion, therefore Ferrer must be the cause of the insurrection. And this theological thesis was of course religiously accepted by the good believers who are still in the majority in Spain, and who are always ready to believe in the absurd (*Credo quia absurdum*). The author, with professional sagacity, points out the “legendary” character of the accusation which, as in all myths, starts with the turning of a well-known person into the symbol of a certain quality, and then attributing to that person all sorts of adventures well chosen to throw that quality into relief. Ferrer had become the symbol of hatred against the Catholic Church, therefore (in the minds of the Catholics) he must be the instigator of the burning of convents, the killing of priests, etc. Such was the genesis of the accusation against Ferrer.

But to come back to the historical events; it was at this juncture that the Supreme Public Prosecutor, Senor Ugarte, was sent to Barcelona by the Government to investigate the recent troubles. It is noteworthy that Senor Ugarte was a well-known fervent clerical member of many clerical associations which helped him to power, and a protege of General Azcarraga, of pious fame. As won as

²⁶ The Count of Santa Maria de Pomes.

he came, he made it known through the Catholic papers that he would hear with pleasure all the citizens who had any information to impart or declarations to make. But it seems that the only ones to answer the invitation were the priests, monks, Carlists, Integrists and, in one word, all the different sorts of clericals. The people of different opinion either did not want to impart any information to Senor Ugarte, or did not believe he was disposed to hear them in good faith. Among the informants was conspicuous a delegation of the “Diocesan Assembly” composed of 72 Catholic associations. Senor Ugarte then returned to Madrid, after declaring to the press that he was perfectly satisfied with the result of his investigations. What this result was we do not know, as the memoir in which the government ought to have exposed the fruit of his labor has never been published. All we know is that ten days later an edict was published citing Francisco Ferrer to appear before the District Attorney.²⁷

²⁷ The judicial procedure followed by the tribunals in Latin countries is very different from that in England and America. The indictment instead of proceeding from a grand jury which renders a true bill to the State Attorney, is rendered directly by the “Judge Instructor” or Examining Magistrate, who renders the indictment, examines the accused and prosecutes him before the court. In military courts such as the one before which Ferrer was tried, the tribunal is composed of army officers taken at random; they are not necessarily experts in law, and as a matter of fact never are; they act at the same time as jury and judges; the points of law are explained to them by the “Assessor,” an officer who is supposed to be versed in jurisprudence, and especially in military law.

IV. THE PERSECUTION.

Meanwhile the Government was carrying on a policy of severe repression. The prisons were filled and when there was no more room the people arrested were exiled to other provinces where the spirit of Catholicism was strong. More than two hundred persons were thus sent to the province of Aragon. Among them were several friends of Ferrer, his wife and several employes of his publishing house. All these people were prevented from testifying at the trial,—we shall see later on by what artifice of law. A fact which shows clearly the clerical spirit of the repression is that the government closed the lay schools in Valencia, Irun, La Coruna and several other towns in Spain far removed from Barcelona. This was done without any apparent reason, of justice or public order. Naturally they proceeded to search the offices of the Modern School and the house of Ferrer, Mas Germinal.²⁸

As this is an important point, we must look into it carefully. In the first place, the law provides for searches in a private domicile in the following way: The search must not be began before obtaining permission from the owner, or making note of his refusal; it must not be made at night, unless express consent from the owner or his representative be obtained; the search must be made in the presence of the owner or of the person who represents him legitimately, or of an individual of his family who must be of age, or of at least two witnesses belonging to the same town; it must be done, if possible, in the presence of the interested party; useless inspections must be avoided; the authorities must also avoid causing injury or annoyance to the interested party more than is necessary.²⁹

Ferrer's house was searched four times. The first time, all the provisions of the law were enforced and no incriminating piece of evidence was found against Ferrer. That was on the tenth day of August, seven days before the signing of the edict against Ferrer. On the 20th, the police came to Mas Germinal and arrested Soledad Villafranca,³⁰ Jose Ferrer³¹ and his wife; they were conducted under escort to Barcelona, where they were joined by the secretary and employes of the Modern School, who had also been arrested; and then all together were deported under guard to the town of Alcaniz in Aragon, and later to the town of Teruel in the same

²⁸ Ferrer lived in the suburb of Barcelona. His house was called Mas Germinal.

²⁹ Art. 566, 570, 569 of the Law of Criminal Procedure of 1882, Section VIII. Art. 501, 502, 503, 511, 516 of the Code of Military Law.

³⁰ Ferrer's wife.

³¹ Ferrer's brother.

province.

Five days later, on the 25th of August, the second search was made in the following manner: one inspector with five police agents and four civil guards came to search the house; they established themselves and remained in it *four days and three nights*. Evidently under these conditions it was impossible to obey either the spirit or the letter of the law; for it would be impossible that the “interested party” or his representative³² should spend three days without sleep; the same is true of the two witnesses;³³ they must have gone to sleep some time, leaving the police free to find whatever they pleased, leaving the “interested party” without any of the guarantees demanded by the law. It has been supposed by some people that the famous proclamations and circulars which, as we shall see later, form an important basis of accusation against Ferrer, were found during this search; but as the official summary of the preliminary examination has not yet been published³⁴ this point cannot be established.

The third search took place ten days later. The Inspector of police³⁵ with two agents and four guards remained in the house from six o'clock in the morning until six o'clock the following evening, and spent the night in the house.

The fourth much, four or five days later, was made by the “Judge Instructor”³⁶ accompanied by a captain, a lieutenant, and twelve soldiers. They remained in the house two days, spending the night there, and during that time “they removed the earth, searched the cellar, sounded the cisterns, opened a hole in the portal, stripped the ceiling of the rooms, uncovered the sewers, and emptied the wine cellar,”³⁷ no doubt to obey Article 512 of the Code, quoted above, which says that the owner must not be annoyed unnecessarily. No proclamation of any sort was mentioned among the findings in the official act signed by the witnesses. It is to be noted that Ferrer was in jail at the time of the two last searches; therefore it was not “possible” for him to be present, as the law demands.

What was Ferrer doing during the outbreak? On the 26th, the first day of the troubles, he had gone to Barcelona on errands; that night he returned to Mas

³² Who in this case, was Dona Josefa Los Arcos, the mother of Ferrer's wife who took care of the house after the arrest of its occupants.

³³ Who in this case were the Alcalde and a civil guard.

³⁴ See above.

³⁵ Senor Ferreiro.

³⁶ Don Valerio Raso Negrini.

³⁷ Quoted from *Espana Nueva*, 9th and 10th of November, 1909.

Germinal. There his family, fearing new persecutions, prevailed upon him to hide. Nobody saw him any more for some time, until on the first of September, hearing of the edict against him, Ferrer came out of hiding to present himself voluntarily before the judge. He was met on the road to Barcelona by volunteer policemen who recognized and arrested him. Hearing of his arrest, the whole of Europe began to protest. The enemies of Ferrer began to fear that their prey was going to escape them again. They started to inflame public opinion by giving a free rein to the clerical papers and their campaign of slander,³⁸ and by muzzling the liberal press through censorship.³⁹ Finally they hurried the trial through at top speed, after having it transferred to military jurisdiction; we shall see later by what distortion of the letter of the law. It was a race between their mortal hatred of Ferrer and the storm of indignation brewing all over the civilized world. They got Ferrer condemned and immediately had him executed. They had won the race. The storm then broke out, bringing about the fall of Premier Maura. It was too late to save Ferrer, but not to rehabilitate his memory.

Having formed a conception of the events in Barcelona, of Ferrer's work, of the campaign of defamation carried on against him by his adversaries, and finally of the way in which his indictment was brought about, we are now ready to go into the study of the trial proper.

³⁸ The clerical papers were given access to the "summary" of the preliminary examination, although the law orders it to be kept secret.

³⁹ All the press at that time was put under censorship. The liberal papers, of course, did not dare publish anything in favor of Ferrer as this might have led to their suppression.

V. THE TRIAL.

The trial of Ferrer constitutes a separate piece of the general trial entered upon during the first days of August, 1909, against the instigators, directors and organizers of the insurrection. This trial came up for judgment in March of the next year.⁴⁰ This was fortunate for the other prisoners, as they had to be tried before a civil tribunal. There being no sufficient proofs against them, they were released.⁴¹ It was from this trial that the separate piece against Ferrer was detached, in the first days of September.⁴²

From what official quarter did the order emanate to proceed against Ferrer apart from the others, making a separate case of his trial? That is one of the many obscure points of this trial which will come to light only when the Spanish government shall consent to publish the "summary," if that has not already been destroyed. On what legal grounds did the prosecuting authorities base themselves, when they ordered the separation of this trial from the rest? The Code of Military Justice provides⁴³ that: "Separate pieces will be formed only; 1st, when there come up incidents which must be resolved without paralyzing the course of the principal action; 2nd, when some of the accused are present and others absent; 3rd, when the proofs of culpability of all the accused are not equal and the importance of the offense demands a prompt and exemplary punishment." It could not be on account of the first or second provisions, since no incident came up and all of the accused were present. Neither could it be on account of the third, since, as was seen six months later at the hearings in the main trial, the proofs of culpability adduced against the rest of the accused were of exactly the same nature as those brought against Ferrer. And as all of them, Ferrer included, were indicted for the same offense, viz., for being the instigators, directors and organizers of the rebellion, the

⁴⁰ This trial was prepared by Judge Don Vicente Lilvina, of whom Ferrer wrote in a letter from his jail, after he had been examined by him: "He seemed to me a man desirous above all to know the truth, nothing but the truth, and I could not discover in him any prejudice." Ferrer's defender at the trial referred to him as "A model judge and scholarly man, licensed in law, as just a man as there ever was, and minutious to the point of being meticulous."

⁴¹ Of the four accused three were released, and one sentenced to life-imprisonment. It is worthy of notice, that the character of the evidence against them was exactly the same as that against Ferrer.

⁴² Jude Lilvina then passed the instruction (preparation) of this separate piece against Ferrer to Judge Raso Negrini, of whom Ferrer wrote: "A man very correct, very distinguished, with the air of a good person, but so possessed of his role, so desirous of finding culprits, that ins spite of himself, he forgot his function as Judge, whose duty it is to seek truth through all roads and not only through one."

⁴³ Art. 403.

“importance of the offense” was the same in all the cases.

The forming of a separate piece of the prosecution against Ferrer, who had been indicted with other men and for the same causes, and, who consequently ought to have been tried along with them, was therefore an unwarranted discrimination carried on in defiance of the spirit of the law. But Ferrer’s enemies knew that if he were to be tried along with the others, six months later, it would have given time to Spanish public opinion to recover from the campaign of slander carried through by the clerical press against Ferrer; the trial would have had to be performed in a formal, serious manner, without any distortions of the letter of the law being allowed to pass unnoticed and unchallenged; besides, the protest coming from all over Europe was assuming enormous proportions and threatened at any time to oblige the Spanish Government to release Ferrer. It was therefore of urgent necessity to hurry the trial through, cost what it might, and it was *hurried through*, indeed before the bewildered public came to itself and understood the trick that had been played upon it.

But the prosecutors of Ferrer did not rest content with having Ferrer tried separately as they knew that an ordinary civil tribunal would not have allowed such a speedy trial, and, above all, it would never have condemned Ferrer on such insufficient evidence as was brought in. So they had him transferred from the civil to the military courts. The military law is much more severe than the civil law; its penalties much more drastic and its mode of procedure at trials affords much fewer guarantees to the accused. However, they had to find some pretext to proceed to such an important step, and this they found by declaring that the sedition which Ferrer was accused of having organized, had been a *military rebellion*. But the Military Penal Code defines very explicitly what constitutes a *military* rebellion. Article 437 says that there must be a taking up of arms shared in by *bands organized militarily*.⁴⁴ Now the armed groups of strikers which went through the streets of Barcelona could hardly be compared to the bands of insurgents which are formed during political insurrections; however, this is a controvertible point, but the indisputable fact remains that they were not organized militarily. The prosecution passed over that and Ferrer was tried by a military tribunal. The “Council of War,”

⁴⁴ How necessary to the existence of a military rebellion this condition is, is shown by three different sentences pronounced by the Spanish Supreme Court on diverse occasions. One of these recognizes the competence of the military court in the case of a band of Carlists consisting of more than ten men, with titles of Brigadier-General, of Etat Major, two commandments {commanders?} and three degrees of officers. (January 7, 1901.)

as this tribunal is called in the Latin countries convened on October 9, 1907, under the presidency of Lieutenant-Colonel Eduardo de Aguirre Lacalle. The public was admitted. After the hearing of several technical proceedings, the tribunal passed to the examination of the evidence the witnesses were not called to the stand, their declarations to the Judge Instructor being read aloud.

For the sake of clearness, we have here divided the evidence into four separate classes:

1st. Senor Diaz Guijarro, Chief of Police: he believes Ferrer to be an Anarchist—his conduct during the troubles was suspicious.⁴⁵

Manuel Jimenez Moya: in his opinion the insurrection was prepared by Solidaridad Obrera, of which Ferrer is one of the directors.

Narciso Verdaguer: according to information he has no means of verifying, but which he believes is exact, the events are due to some Anarchists led by Ferrer.

Alfredo Garcia: says that a newspaper man told him that it seemed to him from what he had heard that the events were due to Solidaridad Obrera, under the direction of Ferrer.

Juan Puig Venture: believes that Ferrer moved the whole thing.

Domingo Casas: formed the opinion that Ferrer was the directing element of the violences.

Jose Alvarez: believes Ferrer is the red instigator and of the events.

2nd. Lorenzo Ardid, a radical from Barcelona, declared that on the 26th he was met by Ferrer in the “People’s House” where he was taking coffee. Ferrer asked him: “What do you think of the events of the day?” “It is all over,” the witness answered, “It is only a sort of protest which cannot go any further.” “Do you think it cannot go any further?” “I think so, at least for the Republican party, which has nothing to do with this affair; now as for those who have the direction of it, they will see what they must do.” Ferrer, seeing the emphasis of his words, remained silent and left the place.⁴⁶

A barber from the village of Masnou, Francisco Domenech, makes the following declaration: On the evening of the 26th, he happened to be in Barcelona, and saw

⁴⁵ It would have been easy for the Chief of Police to bring actual facts against Ferrer, had the latter really committed any act of violence, since, according to the police’s admission, Ferrer was being constantly shadowed by plainclothes men ever since he came back to Barcelona.

⁴⁶ This was first denied by Ferrer, who later on corrected himself and said when he was confronted with Ardid, that he remembered having seen that gentleman on the 26th, but could not say whether or not it was in the “People’s House,” since he may very likely have gone there when he was looking for Litran.

Ferrer taking coffee in front of the Labor Lyceum, and Ferrer invited him to join to take coffee.⁴⁷ From there they went to the offices of *El Progreso* to see what the comrades had decided to do, according to what Ferrer told him; after that they went to the Cafe Aribau where they met Ponte, Tuban and Litran⁴⁸ and his wife; he does not know what they spoke about, but they asked him to go to the offices of “Solidaridad Obrera” to see if he could find there any of Ferrer’s partisans; he refused to do this, pretending he was tired. Then Ferrer asked Litran to go; the latter came back saying that the offices of the society were closed. Later on they went to the offices of *El Progreso*, Ferrer saying that he had not found what he wanted; he spoke there to some men who were in the place, and when they went out Ferrer told him that Iglesias⁴⁹ and the others had refused to sign a document in which the Government was asked to stop the sending of troops to Morocco. On the street they were stopped by two men, one of whom., callefl Moreno,⁵⁰ asked Ferrer where he came from. Ferrer answered from the offices of *El Progreso*, where were several delegates of “Soldaridad Obrera,” to see if they could come to an agreement with the delegates of the radical party. He asked Moreno to go, but the latter answered they were engaged. Nothing more took place on that evening and he (the barber) took the road for his village of Masnou, where on the 28th Ferrer came to his barber-shop at ten o’clock in the morning, and asked him to go and call the president of the Republican committee, named Juan Puig, and the two spoke of going to the town hall in order to proclaim there the Republic. They left for Premia de Mar (a neighboring village) and came back about one o’clock. The people of the village, fearing lest the fact of their having been seen with Ferrer would compromise them, then left him. On the 29th Ferrer disappeared from his house,

⁴⁷ If Ferrer had been the leader of the insurgents it would have been absurd for him to seek the company of an outsider, thus furnishing himself with a witness of hi manoeuvres.

⁴⁸ The secretary of the Barcelona branch of the “League for the Rational Education of Children,” the same who are arrested and deported to Alcaniz along with Ferrer’s wife and brother. It is to be noted that he was not called to be cross-examined at the trial, in order to verify the accuracy of the witness’ statements, although this should have been done according to the Code of Military Justice (Art. 436). The trial was full of such irregularities.

⁴⁹ One of the leaders of the Republican party.

⁵⁰ This Moreno was one of the three members of the Central Committee who declared the strike. He afterwards took refuge in Paris and from there wrote a letter to the *Pais* in which he said he met Ferrer at the station that morning, but did not say anything about seeing him in the evening. That same Moreno, who ought to know, being one of the three membes of the Central Committee of the strike, wrote: “Ferrer has taken no direct part of any sort in the events at Barcelona.”

and nobody saw him after that.⁵¹

Two soldiers of a regiment of dragoons declared that on the 26th, while engaged in dissolving groups in the street, their attention was engaged by a man who asked them whether he could not be allowed to read the proclamation on the wall. This man was dressed in a different manner from the rest of the workingmen; he wore a blue serge suit and a straw hat,⁵² that is what called their attention to him.⁵³ One of the soldiers later on picked out Ferrer from among the prisoners, on three occasions, recognizing him as the same man; that was *two months* after he had seen him.⁵⁴

3rd. Juan Puig, the President of the Republican committee of Masnou, spoken of in the declaration of the barber, said he had no relations with Ferrer. The latter, on the morning of the 28th, sent for him to come to the barber shop. Ferrer told him they must help the movement in Barcelona and begin by inciting the inhabitants to burn the convents and churches. He believes that all was due to Ferrer who told him he had presented a manifesto to Iglesias and others, menacing the Government.⁵⁵

A lieutenant of the Civil Guards, Leoncio Ponti, declares that he know through *private confidences* that Ferrer took active part in the revolutionary troubles of Masnou and Premià de Mar.

⁵¹ This barber disappeared from Masnou after his declarations in the Ferrer trial, *The Pais* (of the ninth of December, 1909), said he had gone to America with money paid him by the "Defensa Social," the Catholic association.

⁵² This description recalls that famous man of Salamanca, who once sent his little boy to look for a certain student who wore a black mantle!

⁵³ It is remarkable that the Judge Instructor should not have tried to find out whether or not Ferrer actually wore such a suit and hat on the 26th, as he could easily have done by interrogating all the men who saw him on that day.

⁵⁴ That is the version given by the reporters present at the trial. Later on, during his speech of accusation, the Public Prosecutor said, when quoting this testimonial, that both soldiers recognized him. Did the reporters make a slip? Did the official reader make a slip? Did he make it intentionally or unintentionally? There is no way of finding out, as the "summary" has not yet been published. However, the Prosecutor must have known that according to a well-known maxim of evidence, one single witness is no witness. That would cast a suspicion on his slip, if the slip was his.

⁵⁵ The X Law, XVI Title, provides that a man indicted in a trial may not testify against another man indicted in the same case, because there would be great danger of his bearing false testimony, in order to gain his own discharge. This old law has now been abolished and replaced by the present codes which establish similar guarantees. However, it expresses a rule of common sense which ought to be regarded as always in vigor. In the present case this man Juan Puig had been arrested and indicted, but after his declaration in the Ferrer trial, his prosecution was abandoned, and he was released. These are facts, and they speak for themselves.

Domingo Casas,⁵⁶ mayor of the village of Premia de Mar, declares that a man, named Ferrer, came to him, told him what was happening in Barcelona, and asked his help. He refused and Ferrer left much annoyed.

Vincente Puig, municipal Judge in Premia de Mar, says that on the 28th, at twelve o'clock, Ferrer held a meeting with the mayor (Domingo Cam), the adjutant-Mayor and the secretary-clerk, and towards two o'clock the rebels began to throw down a wall of the railroad and set fire to the building which serves as a warehouse, and that a rumor circulated that Ferrer had ordered a group of men armed with dynamite to destroy the convent of the Brothers of the Christian Doctrine. Several witnesses from Premia de Mar declared that on the 28th they saw coming up the road two men, one of whom they knew as Juan Paig, and the other, they were told, was Ferrer; two other men joined them and the four together began to loot and start fires.⁵⁷ A sergeant of the Civil Guard, Manuel Velasquez, says that on the 28th Ferrer came to Masnou and spoke to several people of advanced ideas, inciting them to go to Barcelona and defend their brothers who were being assassinated by the police.

4. Francisco Colldefrons on the 27th between seven and half past eight in the evening, saw a group in front of the Lyceum captained by an individual who seemed to him to be Ferrer Guardia, whom he knew only from his picture, but of whose identity he made certain by asking the passersby, who told him it was Ferrer, indeed.

If we study now these four classes of testimony we see that those of the first class, which are the most numerous, are all of them general testimonies of public opinion and references, of “hear say,” which imply no specific accusation.⁵⁸ Not one of them refers to a concrete fact. Besides, they are extremely weak; one says he “believes”; another that “a newspaper man told him that it seemed to him from what he had heard”; another “has formed the opinion,” etc. It is astonishing that the Prosecution who refused the evidence of the letters written by Ferrer to his friends

⁵⁶ This man was also arrested and indicted, and later on released. See above note (55).

⁵⁷ These people were not cross-examined, although the Code of Military Justice (Art. 436) calls for it in such cases.

⁵⁸ According to authorities on law and evidence such as Mittermaier, Bonnier, Ricci, etc., the evidence of public voice does not constitute a proof, it only shows an indication in special cases, as for instance, in civil and criminal cases to demonstrate the immemorial possession of a pasture, or the evil reputation of a person who committed adultery, or the bad relations of a murderer with his victim. But it is evident that in a political case, public opinion based on party prejudices and arbitrary beliefs cannot have any value.

abroad on the pretext of their not throwing any light on the ewe, who also practically prevented the relatives of Ferrer and his employes, banished to Teruel, from testifying—it is astonishing that the Prosecution accepted such vague and second-hand declarations. But had they not accepted them, then nothing would have remained; so they had to accept them.

Let us now examine the evidence gathered in the second class. Here we have three declarations which contain actual facts. But are these facts in the least incriminating? The declaration of Ardid is only the report of a banal conversation, such as any two peaceful citizens would very likely hold on the evening of an incipient revolution. The declaration of the two dragoons, even if we accepted it in spite of all the circumstances which render its value almost worthless, does not imply that the man in a “blue serge suit and straw hat” who was peacefully reading a proclamation was doing anything illegal. As to the declaration of the barber Domenech, which was used as a corner stone by the prosecution, if we examine it carefully we will see that instead of implicating Ferrer in the leadership of the insurrection it proves that he was not such a leader.

Ferrer went, according to Domenech, to the office of *Il Progreso* to see what the comrades had decided to do, not to give them orders as a leader would. The declaration would tend to show, admitting its veracity, that Ferrer had taken part in the movement, but not that he was one of its leaders. Indeed it would depict him as a very non-influential man and possessed with very little information about the inside workings since he went from place to place asking what was being decided. If Ferrer had really been one of the leaders, it is incredible that he should have spent the evening of the first day of the strike in such a futile manner.

The declarations gathered in the third class, refer to a special episode, the troubles which took place in the villages of Masnou and Premia. They accuse Ferrer of having taken part in those troubles, not in the troubles of Barcelona. The student careful to find out for himself whether Ferrer was justly or unjustly sentenced to death for being one of the “instigators, directors and organizers” of the insurrection of Barcelona, must therefore not confound the two, a confusion that the Prosecution endeavored and evidently succeeded in producing in the minds of the jury-men-judges. Even had Ferrer been convicted of taking part in the troubles of Masnou and Premia, he could only have been sentenced for this offense to temporary imprisonment, not to death. But let us see if the evidence is sufficient even on that score. The declarations of Juan Puig and of Domingo Casas are worthless for the

reason given in note 52. That of Leoncio Ponti, who “knows through private confidences” is insufficient. The first part of Vincente Puig’s declaration is merely the record of a coincidence which by itself proves nothing; the second, part, which would tend to demonstrate Ferrer’s leadership at least in the troubles of Masnou and Premia, is insufficient because it reports only a “rumor.” The declaration of the group of several witnesses from Premia is insufficient because they did not know Ferrer but merely “were told” it was he.

The declaration of Velasquez is the only one in which a witness declares *he saw* Ferrer do anything, namely, incite people to join the revolution in Barcelona. Aside from this there is not one single solid accusation of Ferrer’s participation in the troubles of Masnou and Premia.

Now, this is the way in which Ferrer explains his alleged conduct in Masnou and Premia de Mar, upon which most of the accusation is based, in a letter he wrote from his jail to his friend Malato:

“On the 28th I went to Masnou , a little village two kilometers from Mas Germinal, to get shaved, as was my custom twice a week. As soon as I entered the barber shop, it filled up with people who wanted to see and speak to me, because there had circulated a rumor, of which I was ignorant, that I was the director of the movement in Barcelona. I soon made them understand that I had no part in it at all, that, on the contrary, I was looking for news from Barcelona to know if the shops were open, because I wished to go and see my publisher as soon as the strike ended. I then asked a certain Puig, who had just said he had succeeded in calming some people who wanted to commit excesses . . . if he wanted to come with me to Premia, to find out in what state Barcelona was from the people who had just arrived from there. He accepted and we went to Premia, but the people who came from Barcelona had not been allowed to land yet; seeing which we returned, he to Masnou, I to Montgat. Of course, during the five or ten minutes we stayed in Premia, a lot of people surrounded us asking for news, while we were asking them for the same, as is logical in such circumstances.”

The only testimony, therefore, by an eye witness (?) of the leadership of Ferrer in the troubles of Barcelona, rests on the declaration of Colldefrons, which I have put in class 4. As we have seen, this gentleman first published as correspondent a letter in the *Siglo Futuro*, (see note 25) in which he said, “and once I saw him captaining a group.” Later on this Colldefrons declared that “on the 27th, between seven and half

past eight in the evening, he saw a group in front of the Lyceum captained by an individual who seemed to him to be Ferrer Guardia, whom he knew only from his picture, but of whose identity he made certain by asking the passersby.” It does not seem that the witness was confronted with the accused and recognized him. And it would have been easy to find out whether Ferrer was actually in front of the Lyceum between seven and half past eight, since he was constantly followed by plain clothes men (see note 45), or by asking the persons with whom Ferrer said he had been on that day. But no such thing was done.

Now, as it has been established that Ferrer left for Montgat in the early morning of the 27th, without having gone to bed that night, that he arrived at his house at five o'clock in the morning, that the next day he was at the barber shop in Masnou, he would, in order to be in front of the Lyceum in Barcelona, between half past seven and eight, according to the witness Colldefrons, have had to walk three times in one day over the distance from Montgat to Barcelona, that is 45 kilometers in all (about 18 miles). It seems very improbable, if not impossible, that a man over 50 years of age, who had not slept the night before, should have done that on a hot day in July. And he would have had to do it on foot, since the trains were stopped on account of the strike; to ride he would have had to order a carriage from Masnou, a fact which would have been known to Juan Puig or the barber Domenech. Besides, the boulevard in front of the Lyceum was swept that morning by a column of infantry and remained under military occupation the rest of the day. No group of insurgents would have been allowed to pass. Now Colldefrons declares that he knew it was Ferrer because the passers-by told him so, although it is well known that there were no passers-by on that day since the posting of the proclamation declaring Barcelona under martial law, whereby it was announced by the Captain General that groups intercepting the public way would be shot down without warning. All the people who had to go out on some urgent need carried a white handkerchief and were careful to walk alone and stop to speak to nobody.

Finally, this witness volunteered his official declaration the last day before the closing of the summary, although his first denunciation appeared in his special correspondence a month and a half before. This throws a dubious light on it. When we compare the assured tone of his first accusation in a newspaper, “I saw him,” and the reticent tone of his second accusation, deposited before the law, we cannot help wonder. It looks as if Colldefrons had first carelessly told a lie, making himself the echo of what he heard around him, with all the chivalrous courage of the man

who thinks nobody will challenge him. But the Prosecution, at its wits ends to find some positive proof of an actual fact, probably discovered this gratuitous assertion and pounced upon the man, menacing him, if he did not repeat his declaration before the judge, with the laws against slander. We do not say this is so, we merely wonder.

We have examined the evidence against Ferrer (all of which, be it noted, was denied by the accused). Let us now consider the evidence in his favor, without forgetting the principle, so often repeated by the Editor of our party paper, the *Daily People*, in regard to the detractors of the Socialist Labor Party, that it belongs to the accusers to prove their accusations, not to the accused to disprove them.

This is how Ferrer accounted for his time on the day he was in Barcelona, the 26th of July, the first day of the strike. He left Mongat at eight o'clock in the morning for Barcelona, where he went on some errands, one of which was to find out how much would be the cost of printing a new book; he then went to his domicile where he found the engraver who was waiting for him; he then went out on foot to the "Swiss Cafe," where he wanted to lunch, but did not, because the waiter received him badly; he then went to the "Maison Doree," where he ate alone; he gave orders to send to the station a box with a lady's dress, before the six o'clock train, on which he meant to leave; he could not do this, because the trains were stopped; he decided then to return to Mongat on foot after taking supper; he arrived at the village at five in the morning. This declaration was made by Ferrer to the Judge Instructor who prepared the case, as soon as Ferrer was arrested. At that time he knew nothing of the specific charges against him nor the declarations of the witnesses, which, according to the military code, must not be read to the accused until the trial begins. This is probably the reason why he doesn't mention his meeting the barber Domenech, provided the barber's story be not entirely a falsehood. This account given by Ferrer of his time is corroborated by the declarations of the following witnesses, also to the Judge Instructor:

Camile Sole, owner of the Hotel Internacional, declares that Ferrer took supper in his place on the 26th of July, and being asked whether he would stay for the night, he answered that he did not know yet as he was waiting for a certain individual to treat of something relating to printing, which individual did not come.

Fernando Mestres, printer, declares that Ferrer saw him on the morning of the 26th to order a piece of work; he does not know whether Ferrer took part in the events.

Luis Comas, employed in the printing house of Vilaseca, declares that Ferrer was there.

Senor Granada, editor, also declares that Ferrer went to the printing shop.

Agustin Figarol says that on the afternoon of the 26th Ferrer ate in the restaurant of the "Maison. Doree," and gave him instructions to keep a box containing a lady's dress; he does not know that Ferrer took any part in the events; he knows Ferrer only as a customer of the place.

These five declarations, be it noted, were not mentioned by the Prosecutor in his speech of accusation. Indeed, throughout the whole trial, the tribunal tried to find all possible proofs against Ferrer, and make the best of the poorest ones, but never gave any evidence of the least effort to find anything in his favor, although there was plenty of it.

As an instance of this we may cite the rejection of the letter already mentioned; we will now show by what trick they prevented Ferrer's relatives, and the employes of his publishing house from testifying.

We have seen how Ferrer's relatives and the employes of his publishing house were banished to Teruel, without any reason being given (just as they were released several months after without any reason given for it either). This of course is a curtailment of individual freedom forbidden by the constitution, but it must be remembered that when Barcelona was put under martial law, the constitutional guarantees were suspended. This may surprise an American, but it does not surprise any one born in a semi-feudal country. Now, Art. 430 of the Code of Military Justice says: "The Judge will receive the declaration of all persons who can impart knowledge or proofs for the establishment of the offenses and the conviction of the culprits." The Code therefore does not discriminate against anybody. Why did the Judge omit to receive the declarations of these people, who were the first ones who should have been called upon to testify? The fact of their being absent is no excuse, since the authorities were well aware of the place of their banishment; besides, Art. 436 of the same code provides for the declaration of absent witnesses.

Meanwhile these people, taking it for granted that they would be called to testify in due time, were waiting anxiously day after day, until finally they began to fear a trick war, being played upon them. Then they decided to write to the Judge who answered them he was very sorry but could not accede to their demand since the examination had been closed on the very day when he received their letter, and he added (hypocritically?) that he was astonished that they should not have

declared before what they had to say, in the twenty-eight days elapsed since the opening of the hearings. More than ever alarmed, they wrote to Ferrer’s counsel, Captain Galceran, who answered them to hurry and write up a declaration signed by all, and to send it by the next mail; he added, however, that there was very little chance of its being accepted now, although he would try his best to have it presented to the President of the Tribunal. Soledad Villafranca, Meseguer Batlori and Litran wrote their declarations and sent them to Captain Galceran in a registered letter, for which they received a receipt. That was the last heard of these important declarations. They never appeared before the tribunal.

After the declarations of the witnesses came the enumeration of the convicting evidence found in Ferrer’s house during the searches already described. These consisted in Masonic insignia, old private letters, and several other documents without importance. The important pieces were two circulars, and as the prosecutor put much weight on them, when he asked for the infliction of the death penalty, we must study them. They are too long to be reproduced here; they are merely long tirades, of the usual Anarchistic type. But, on studying them a little carefully, the following points come out of themselves: In the first place they are written by a man who calls himself a “companion of misery and degradation;” it would have been absurd for Ferrer, a rich man, to speak of himself in those terms. They were written in the neighborhood of 1900, as is clearly shown by allusions to political events of that period. The revolutionary program which they propose does not at all correspond to the one executed by the insurgents of 1909. They were written for general propaganda, and not for the preparation and organization of a revolt upon a fixed date. The whole context, but especially two passages, suggests very strongly that they were products of an agent provocateur of the police, who as usual, show their ear-marks by some stupid blunder.

For instance, the second circular ends with this sentence: “Follows the recipe for the preparation of plancastite.” (The recipe was not found with the circulars.) Now plancastite⁵⁹ is an explosive, the preparation of which is extremely delicate, highly dangerous and very costly; it can be successfully tried only by chemical experts in a laboratory. It is unlikely that anyone should seriously furnish the recipe to poor and uneducated workingmen. It is probable that the sentence above quoted was added merely to give an appearance of genuineness to the document, by naming an explosive the frightful strength of which had been spoken of in all the

⁵⁹ Incorrectly spelled plancastite in the circular.

newspapers at the time of its discovery in 1882. In another passage of the circular it says: "Do not pay any heed to those who will tell you that this is a work of the government, of the police or of the enemies of the proletariat." The author of this circular seem to be very much afraid that they will take him for an agent provocateur; such a fear would not likely have occurred to him unless there was some foundation for it.

Those two circulars were typewritten, they bore no date nor signature. Even if the police had actually found them in the house of Ferrer in those searches which they made under the illegal conditions already described, even then, what would they prove? Ferrer, like all men interested in radical ideas, used to receive all sorts of circulars and manifestoes. But, let us see how they "proved" that the authors of those two typewritten undated, unsigned documents was Ferrer himself. There were in the text two hand-written corrections: one a letter "t" and the other the syllable "ba"; the experts declared that, without positively affirming anything, these two corrections might have been written by the same hand which wrote the writing submitted to them for comparison. There was once a malicious judge who prided himself on being able to condemn any man on six lines of his handwriting, but even he did not go as far as three letters! It is remarkable also, that no other circular was found in the hands of any of the three thousand people who were indicted and arrested in and around Barcelona!

Then came the speech of the Public Prosecutor. He, of course, had been given access to the "summary" from the beginning. He had ample time to study all the charges, it contained and make the most of them.

After this, Ferrer's counsel made his speech. It has been said that he was not allowed to present his defense, or was not given time to do it. This erroneous impression springs from a basis of truth: Ferrer's counsel was given all the time he wanted to present his defense, but was not given time enough to prepare it. As this is an important point, we will study it in detail.

According to the procedure followed in military trials, Ferrer chose his defender from among the names on a list of officers all unknown to him, and he chose Don Francisco Galceran Guardia because his first and last name were the same as his own, and this Ferrer hoped would be a good omen. This officer did his duty nobly and presented as good a defense as the short time allowed him for its preparation permitted. In this respect the procedure at military trials is extremely narrow. The defender thus chosen by the accused is apprised of the charges for the first time at

the appearance of the accused before the Judge Instructor (when the latter informs the accused of the charges against him) and only then through the references to the evidence collected in the “summary,” which the judge may see fit to make. The defender has then to improvise on the spot his demands for testing of the evidence and particularly for the hearing of new witnesses. After that, aside from what his client may tell him, he does not know what the “summary” contains until he receives the roll containing all the official documents.

He is then given twenty-four hours to prepare his defense, although Art. 563 of the code provides that this time may be extended to the limit of ten days if the volume of the roll is very great. In this case the volume was extraordinarily great: 586 folios, forming 1,172 pages—yet no extension of time was allowed the defense. If we take one minute as the average time needed to read a page and digest its contents (some pages may have been read in a few seconds, while others would take a long time to study), it would have taken the counsel 1,172 minutes, i.e., 20 hours to read it. It would need a man with a head harder than diamond to do that! And yet Senor La Cierva, mouthpiece of the Spanish Government, declared in an interview with a correspondent of the London *Times*, at the time when the press of Europe was protesting against the transfer of the trial to a military tribunal: “In regard to guarantees, the ordinary procedure is followed; the military law offers the same guarantees as the Penal Code for an adequate defense of the accused; the rules regarding the testing of the evidence are observed in a similar fashion”!!!

After hearing the defense the judges retired to deliberate before pronouncing sentence. They first had to listen to the Assessor, whose office is to instruct the judges in the points of law, explaining to them especially the meaning of the legal texts applicable to the case. Instead of doing this, the Assessor, Don Enrique Gesta y Garcia, delivered a new accusation, in order, as he himself said, “to rebate the defense,” which was entirely out of his functions and against the spirit of legal procedure, since the judges had retired to deliberate and the counsel for the defense was absent. During his speech he made several points against Ferrer which are important to note, as they in reality acquit him. He made a great point, for instance, of the fact (true or untrue) that Ferrer was disavowed by the advanced elements, that he was expelled from the People’s House by Ardid; that his proposals were ignored by Iglesias and his followers, and even by the Mayor and the President of the Republican Committee of the little village of Masnou. Does that square with the accusation that Ferrer was the leader of the revolution which was mistress of

Barcelona and half of Catalonia during a whole week?

He admitted in his own words that “in regard to the principal point in debate, the leadership of the rebellion,” there is only “one single witness,” Colldefrons. And he tries vainly with poor reasons to prove that “not because it comes from one single witness, does this testimonial fail to constitute a proof . . . as the veracity of the witness is deduced from his own words.” The Assessor, a man supposedly versed in jurisprudence, whose duty it is to enlighten the officers acting as judges, forgot to tell them that according to a well-known maxim of law, “testis unus, testis nullus,” one single witness is no witness. If this immemorial principle has been left out of modern legislation, it is because this new legislation has abolished as being unnecessary the antiquated system of exceptions and invalidations which protected the accused against the arbitrary character of the old system of inquisitive procedure, written and secret; but this old system has been kept in the Spanish Code of Military Justice. As for the evident veracity of the witness, we will let the reader judge for himself.

After listening to the Assessor the judges had about four hours to deliberate. In those four hours they were supposed to study the written secret “summary,” the decree of the Auditor elevating the trial to the grade of plenary, the resume of the Judge Instructor, the accusations of the Public Prosecutor, the defense, and the instructions of the Assessor—more than 1,200 pages; they were supposed to read all that and deliberate on it in four hours! Then they pronounced the sentence. The sentence, as is usual in the “War Councils,” does not contain any enumeration of the facts which are considered as proofs, nor any allusions to the legal precepts which have been followed. Therefore we do not know on what ground the judges based their sentence, although it reproduces point for point the advice of the Assessor.

The sentence condemned Ferrer to the *death penalty* and the *loss of his property*.

One fact points the careful student to the direction of the wind in this affair. The Prosecution demanded that the accused be sentenced, besides the death penalty, to indemnify “all the injuries and losses occasioned by the fires, the looting, etc....and all his property will remain attached until the complete extinction of this civil responsibility,” and it was so decreed by the tribunal. The Church wanted to get rid, not only of Ferrer’s person, but also of the means which he could have left to his followers. The step taken in the sentence amounted to nothing less than a confiscation of Ferrer’s property, an act expressly forbidden by Art. 10 of the

Spanish Constitution, "the penalty of confiscation of property shall *never* be imposed."

It is very curious to see how the tribunal, obeying of course orders from above, was led to thus defy the Constitution. The enemies of Ferrer, of course, wanted to see him made civilly responsible for the losses sustained by the victims of the insurrection so as to deprive his heirs and followers of his fortune; but here came the hitch; Art. 742 of the Penal Code establishes that "all the questions relative to civil responsibility must be resolved in the sentence." But how were the judges going to resolve such responsibility in this case, before the damages and casualties were established, and before the responsibility of the other men indicted in the same case was established? Evidently they would have had to suspend judgment until then; but that would not do at all, for, as we have already seen, the trial, sentence and execution, had to be hurried posthaste. What to do to remain within the legal text?

This is the somersault that the Assessor, veritable juggler-at-law, proposed to the judges to turn: "We must remember what is provided by Art. 6 of the Civil Code: 'The tribunal which will refuse to decide on pretext of silence, obscurity or insufficiency of the law, will share responsibility. When there is no law exactly applicable to the point, the custom of the place will be applied, and if there be none, the general principles of the law,' and," continued the Assessor, "a general principle of law is that the author of a damage must indemnify for the damage caused, therefore you must accept the solution I propose, that is, to condemn him to pay all the losses and damages occasioned by the fires, looting and destruction of means of communication, *all his property* remaining attached to pay the amounts as they will be established each in its day."

This is a fair sample of the casuistry shown by the prosecution throughout the trial. The application which he makes of the Civil to the Penal Code is such an innovation in matters juridical that had such a thesis been presented by a student before the tribunal of examiners, instead of by the Assessor before a tribunal composed of officers ignorant of jurisprudence, it would have caused a sensation, to say the least.⁶⁰

To summarize: We see that the trial was conducted within the strict letter of the law, but patently against the spirit of the law, and in many cases by doing violence to the letter and distorting the meaning of the text. We see also that

⁶⁰ In regard to this "restoring of the feudal principle of 'corruption of blood,'" read the editorial, "Porfirio Diaz," in the *Daily People* of November 26, 1910.

Francisco Ferrer was convicted on evidence which would have been rejected as insufficient by any ordinary tribunal in a civilized country. In one word, and to use a vulgar expression, the Ferrer trial was *railroaded through*.

After carefully studying the Ferrer trial, one does not know whether to be more saddened by the human tragedy or the legal comedy it presents. It makes one reflect upon what a farce justice may be turned into, under clerical bourgeois rule.

Simarro concludes his work, saying, “Only children, lacking experience, ignore that time discovers in the end all things, even the most hidden, and their ignorance they show by the innocent tricks with which they pretend to cover their misdeeds. But the members of the Cabinet were all adults, mature men some of them; it is incomprehensible how they did not see that the accusation of a recognized leader of a popular rebellion, upon which was based the sentence of the director of the Modern School, could not resist the free atmosphere of criticism as soon as the true authors and actors of the sedition would speak; and that the opinion of the whole world to-day, of history tomorrow, would necessarily execrate the hasty sentence decreed by patently ignoring the facts, in a moment of confusion of spirit, and under the oppression of governmental terror. How blind is he who cannot see through a sieve.”

Transcribed and edited by Robert Bills for the official Web site of the Socialist Labor Party of America.

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