

AFFIRMS SENTENCE ON EMMA GOLDMAN

Supreme Court Decision Sends Berkman Also to Prison for Two Years.

ALL DRAFT APPEALS LOST

Aliens Subject to Military Duty, According to Final Ruling in an Ohio Case.

Special to The New York Times.

WASHINGTON, Jan. 14.—Decisions were announced today by the Supreme Court of the United States in cases involving conspiracy to resist the selective draft law. In all of them the judgments of the courts below were affirmed.

In these cases were those of Emma Goldman and Alexander Berkman, whose offense was making street speeches in New York and issuing literature opposed to compliance with the draft law. Miss Goldman and Berkman were convicted in New York and sentenced to serve two years in prison and a fine of \$10,000 each. Both contended the act was unconstitutional, but the Supreme Court last Monday upheld the law, although the Court at that time rendered no opinion in the cases involving conspiracy charges.

Perhaps the most important consideration in the decision of these cases, opinions in all of which were prepared by Chief Justice White, was the declaration in an Ohio case that aliens, by the terms of the law, are subject to military service and the operation of the Selective Draft act.

In the Ohio case the defense was made that Charles E. Ruthenburg, Alfred Wagenknecht, and Charles Baker, who advised Alphons J. Schue not to register had been deprived of a statutory constitutional right by the fact that they, being Socialists, members of other political parties on the Grand and trial juries, were prejudiced against them. The court held that the same question had been decided in the case of negroes before white juries, and the contention was "without merit." The same question arose because the lower court ruled out question to see if jury men distinguished between Socialists and anarchists. The Supreme Court also regarded this contention as without merit.

The technical contention that the defendants were not tried by a jury from the State and district where the crime was committed and that the jury was drawn from a part or a division of the district was dismissed as squarely at variance with the Constitution in the Sixty-eighth Amendment and the Judiciary act of 1789.

The defense was made for Schue that the indictment did not allege that he was an alien. The court held that this was not necessary, that he was within the draft age, and therefore liable to be selected.

"The persons described," said the Chief Justice, "were subject to military duty. Under the terms of the act of Section 5, 'all male persons between between the ages of 21 and 30, both inclusive,' were required to register."

Ruthenburg and the others who advised Schue are held as equally responsible with him under the Federal stat-

ute that makes the accessory liable with the principal in criminal responsibility. The three defendants were sentenced to one year's imprisonment each.

The Goldman and Berkman cases were held to be decided by the Arvir case last week, in which the entire scope of the draft law and its constitutionality were discussed. The defense that there was no conspiracy because the acts complained of were overt and there was no proof that they caused any one to disobey the law was swept aside as being absolutely without merit. The court held that "the overt act is in and of itself inherently and substantially a crime punishable as such irrespective of whether the result of the conspiracy has been to accomplish its illegal end."

Conviction of Louis Kramer and Morris Becker on charges of conspiracy to prevent persons of draft ages from registering in New York was also affirmed. Kramer was sentenced to two years' imprisonment and a \$10,000 fine, and Becker to twenty months' imprisonment.