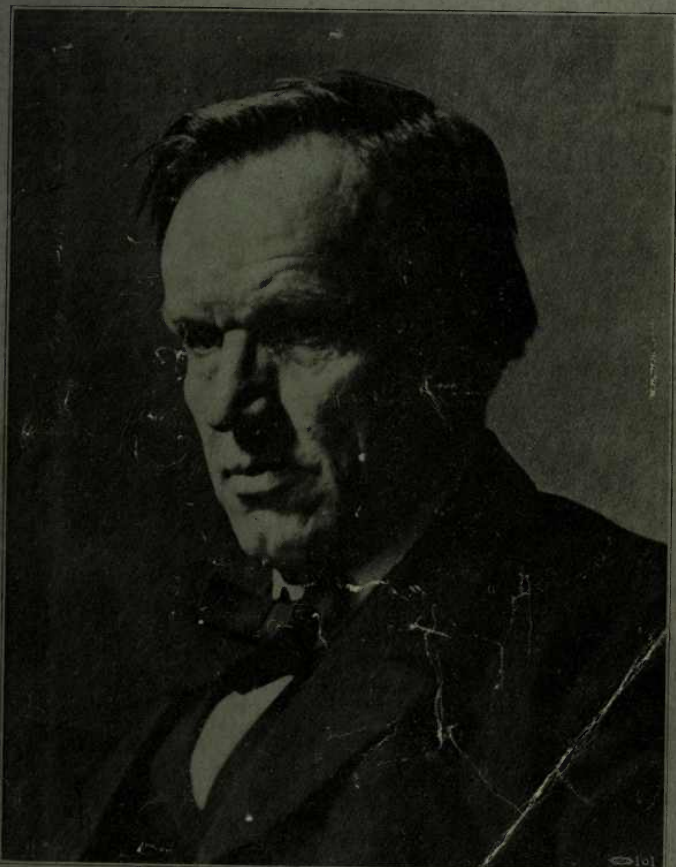


Argument in Defense of the Communists



CLARENCE DARROW

UNIVERSITY OF TORONTO



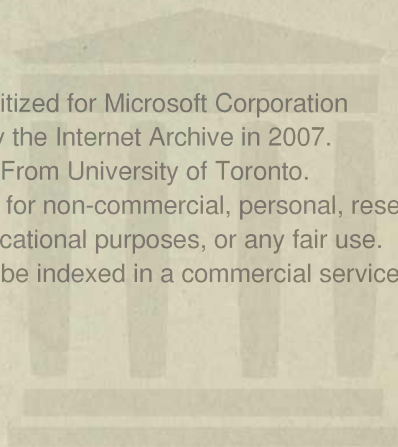
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Argument of
Clarence Darrow
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In the case of the
Communist Labor Party

In the Criminal Court, Chicago



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INTRODUCTORY NOTE

This case was tried in the Criminal Court in Chicago in June, July and August, 1920. William Bross Lloyd, Arthur Procter, Max Bedacht, Jack Carney, L. E. Katterfeld, L. K. England, Ludwig Lore, Edgar Owen, Niels Kjar, Perry Shipman, John Vogel, Samuel Hankin, Edwin Firth, James E. Meisinger, Samuel Ash, N. J. Christensen, Oscar Jesse Brown, Morris S. Stolar, Charles Krumbein and Karl F. Sandberg were indicted under a statute passed by the legislature in 1919. Similar statutes were passed at the same time in about two-thirds of the states of the Union. These statutes were passed as a part of the campaign carried on immediately after the close of the war to deport and imprison members of the Communist Labor Party and the Communist Party and others, on the theory that they advocated the overthrow of the Government by force. The defendants were all members of the Communist Labor Party and the indictment which charged conspiracy to advocate the overthrow of the Government by force rested upon their membership in this party. The statute of Illinois made it a crime for openly advocative by speech or writing the reformation or overthrow by violence or other unlawful means of the representative form of government of the United States, etc.

For publishing, issuing or distributing printed

matter which advocates crime or violence for the reform or overthrow of the constitutional representative form of government, etc.

For organizing or aiding in the organization of or becoming a member of any society or association with the same objects.

Voluntarily being present with a meeting advocating such overthrow.

Permitting premises to be used for offices or headquarters of an organization, or a meeting for such purpose.

For displaying or exhibiting at any meeting, parade, etc., of any banner or emblem symbolizing a purpose to overthrow the government, with the same objects.

There was practically no evidence in the case except the fact of membership in the Communist Labor Party. As to most of the defendants nothing else was charged and as to none of them was there any claim that a conviction could rest on anything except their "membership" in the party. A general raid was made simultaneously throughout the United States under the instructions of Attorney General Palmer on all such organizations and their members. This raid was made without complaints or process of any kind and resulted in the arrest of several thousand men and women, and the hardship that has been fully reported in the press. In many cases, as in this one, the local State authorities took part in these raids. The offices and headquarters of the various

groups were forcibly entered; their literature taken, together with all those present at these places. Likewise the homes and places of business of many were entered, the occupants arrested, letters, books and property taken and occupants put in jail.

The defendant Owen was secretary of the State organization. His home was raided by one of the attorneys representing the State, with several officers. Books, letters and papers were taken, and amongst other things a Red Flag. The policeman found both this flag and an American flag in his home; he hung the American flag on the wall and took the Red flag with him and landed Owen in jail. The defendant Procter kept a small book shop in Chicago, where he had on sale, amongst other literature, many so-called Radical books and publications. He was the secretary of a "local" that had been in the habit of meeting in his store. Procter's store was raided, the books of the local, with letters and papers taken, together with whatever else the officers wished and Procter placed in jail. This was done by one of the attorneys of the State, aided by policemen. No firearms or any other ammunition was found in any place raided and it was not claimed that any of the defendants had done anything except to conspire to advocate the overthrow of the Government by force; and this conspiracy rested on the platform of the Communist Labor Party. It was claimed that Mr.

Lloyd had made a speech in Milwaukee six months before the passage of the law and a year before the forming of the party, in which he advocated the overthrow of the Government by force. This speech was admitted in evidence as showing "intent" but not as evidence of any conspiracy.

The platform of the Communist Labor Party recounts the history of industrialism and the struggle of the "proletariat" in all ages. It declares in favor of the ownership of all property in common and acquiring it by the community without compensation. It advocates the "general strike"; the organization of "shop committees"; "mass action" by the workers; the dictatorship of the "proletariat" and the conquest of the power of the State by the workers. It declared that the ballot is only secondary to the organization of the workers and "mass action". It affirmed that capitalism was breaking down and that the workers should be prepared for the taking of industry and government when the time should come. It urged the formation of locals and the education of the workers. It cited the Seattle strike as an example of an industrial strike, verging on taking over political authority. It commended the labors and the struggle of the I. W. W. It endorsed the manifesto of the third International held at Moscow since the Russian revolution and stated that it should be a part of the principles of the Communist Labor Party so far as it were applicable to the United States. It

specified the part of the manifesto that was to apply to the United States. Like the manifesto written by Karl Marx and most others of the kind, the platform abounded with the words and terminology that have become a part of the literature of the radical movements of the world. All their meetings were open and public and attended by few people. The work to be done was essentially propaganda.

The jury returned a verdict of guilty, fixing terms of imprisonment from one to two years. The matter has been pending on a motion for a new trial and up to this time has not been decided. In case the trial judge sustains the conviction, it will be taken to the Supreme Court on appeal.

November 30, 1920.

ARGUMENT OF
CLARENCE DARROW
IN THE CASE OF THE
COMMUNIST LABOR PARTY

Gentlemen of the Jury: I have for a good many years been arguing cases in Court and in my own way as a lawyer, asking jurors to forget their prejudices and their feelings and deliver a verdict according to the evidence, uninfluenced by fear or passion or heat.

I must say that in all my experience, which now covers forty-two years, it seems to me I never saw a case where every cheap feeling has been appealed to; where every inference has been drawn; where the world has been traveled over; where false and misleading ideas of law and of fact have been stated; where everything has been urged to swing a jury from their duty that they might join the mob, as has been done in this case.

Gentlemen, from the beginning to the end there has been no attempt at fairness; there has been no effort to see that these defendants had a trial that was such a trial as should be had in an American Court, or in an Indian Court, or in a Cannibal Court; there is no mean and sordid motive, there is not one influence that could be used on

this jury, that has not been urged in this case against the liberty of my clients.

Now, gentlemen, let me be plain about it. If you want to convict these twenty men, then do it. I ask no consideration on behalf of any one of them; if you have any idea in your heads that I want you to protect them or save them, forget it. They are no better than any other twenty men; they are no better than the millions and tens of millions down through the ages who have been prosecuted—yes, and convicted, in cases like this, and if it is necessary for my clients, gentlemen, to show that America is like all the rest; if it is necessary that my clients shall go to prison to show it, then let them go; they can afford it if you gentlemen can; make no mistake about that.

If under this hue and cry of today—which I say is moved and instigated by a gang of profiteers who would strangle freedom that they might get rich; who would traffic in the blood of men; who have determined that in this Country no voice of criticism shall be raised against them; gentlemen, if it can be done, all right; perhaps it can; but there is no more reason why my clients should be saved than anybody else; although they have been called cowards for doing what not a single lawyer in this case would dare to do, to stand up against a mob. They are not cowards enough to beg, and if you want to convict them for this, then convict them; but I want to have my say first, and I shall attempt to say it honestly; and I fancy

not one of this jury, after I am done, can say that I have dodged or sidestepped or appealed to any cheap sentiment or passion to get my clients free. I am not interested in them. I will submit this case squarely to this jury to see what you are going to do in the cause of freedom of speech, and the principles for which men have shed their blood in every age and every land. Still less am I interested in winning a case. I might have been once but the best wish I could have for myself would be that I never had to enter a court house again. I have served my time, and I am only interested in one thing in this case. I am interested in the policy of this Country. I am interested in the verdict of this jury as to whether this country shall be ruled by the conscienceless men who would stifle freedom of speech when it interferes with their gold; or whether this jury will stand by the principles of the fathers and, whether so far as you can, you will stop this mad wave that threatens to engulf the liberty of the American citizens.

I am interested in that, and I am interested in nothing else in this case. I would be glad if I could submit this case to you without speaking. It is no pleasure to me to add my word to all those that have gone before; I would be glad if the responsibility was on someone else. I know you will think that this case is important; and I trust that you have got it out of your heads that anybody on our side thinks it is important for these

twenty men; it is not. Their interest goes with the interest of our common country, and if our common country demands anything, gentlemen, that you can do to them, why do it; but if it demands that you be true to yourselves and true to our institutions and true to the Constitution of the United States, as it once was written, and as it will one day again be written, I trust that for those you will do your duty.

My good friend Barnhart says, "How is it that Mr. Darrow can defend this case? Mr. Darrow did all he could toward bringing the American people to believe it was their duty to enter this World War, and how can he defend twenty men on a charge like this?"

I am surprised and just a little disappointed that my brother should ask that question. I am defending this case for two reasons, and I will put the more unimportant one first; for two reasons, first, because, when I entered the practice of my profession years ago I determined that there never should be a case, however unpopular, or whatever the feeling, that I would refuse to do my duty and defend that case; and I can honestly say to this Jury that I have kept the faith; that I have never turned my back upon any defendant no matter what the charge; when the cry is the loudest the defendant needs the lawyer most; when every other man has turned against him the law provides that he should have a lawyer; one who can not only be his lawyer, but his friend,

and I have done that. This is the second reason.

The first is this; that I have seldom known a case where I believed so heartily that I am right as in this.

I believe in this case and my duty in this case. Mr. Barnhart wonders, because I was in favor of the War. I was in favor of it. From the time Belgium was invaded, long before we got into it, I believed it to be our duty, and I believed it without any feeling against Germany of any sort; but if I had believed that this War would not have left the World freer, I would not have believed in it. If I had believed that after one autocracy had been overthrown, that here in America, where we cherish individual liberty; here in America, twenty states would pass a statute like this, which we had got along without one hundred and fifty years, so that great interests might silence every human voice while they were robbing the American people; if I had believed that this would result, perhaps I would not have believed we should have entered this War.

I believed in the War; I believed in it to make the world freer and fairer and better for all mankind; I believed that Europe would be freer; I believed that America would be freer, and I did the best I could; but there is something that I believe in more than I do in my country, and that is human freedom.

I have loved America first of all because she

stood for this. Make us a nation of slaves, and I shall love it no more.

It is not an excess of patriotism 100 per cent or 200 per cent, or a million per cent, that made me believe in this War. I believed in it two years before we ever got into it; and I would have believed in it just the same whether we had been in it or not; and if our Congress should have delivered us to the support of Germany, I could not have stood with the United States.

Gentlemen, I am always watchful of anybody when he overdoes patriotism. If I did not like the United States better than any other country, I would not stay here because I could go away; in that regard I have an advantage over some others who must stay; but I do like America; I was born here; I know its people; in the main I like its institutions. I do not like everything it does and I never shall like everything it does.

There is no Legislature that can pass a law that will make me think black is white; I know better; and there is no Court that can decide a case that will make me think black is white. I might stand it, but it would not change my opinion; and I know enough of other countries to know that we have no monopoly on the virtue of the World. I know that other countries feel as our country does; that their country is best, and it is all right that they should; but I know enough about the world to know that no country has all the good; and the wise man picks his ideas and his views

and his facts wherever he can get them; they are the common heritage of men; they belong to no land and to no country, and there are things that are higher than patriotism—love of justice, the devotion to truth, the love of freedom. These were born before national lines were made, and they will live until the last heartbeat dies in man; when they are dead no man will have a country worth protecting or a life worth saving; these are some of the things that never change, but boundaries change according to the needs and customs and habits of men.

You have been told, gentlemen of the Jury, as a threat, to a tribunal which after all is the greatest tribunal that human civilization has provided for; when I say that I do not mean to tell you twelve men that you are the greatest men who ever lived or the wisest men who ever lived; I don't know what is lurking back of your skulls. I know that mixed with every man is an infinite heritage, and I do not know what is there; but I do know this, that a jury of twelve men is the one protection between a human being and those who attack him; and I know, gentlemen of the Jury, that when that safeguard is lost then man's freedom is gone.

You twelve men have been told that if you acquit these defendants, you will leave the box despised; that you will endorse everything that these defendants believe.

If you gentlemen should find in favor of these

defendants, then the Communists might go out and take your home, your furniture, and all that you possess.

Now, gentlemen, let us see about it. I don't know how those things may affect this jury, yet I have talked to juries for many, many years.

If you are the right kind of jurors, and I fancy that most men are that, you would sacrifice your home or your furniture or even your reputations with the mob, to do your duty in this case; and you would not have been jurors if we had not thought you would; because we know how easy it is to appeal to the mob. I have nothing to promise you. The Communist state is so far away that I cannot promise you a home on the Lake Shore Drive if you find these defendants not guilty; you would all be dead long before you ever saw it. I can not even promise you a reward in Heaven, for that I know nothing about; I have no promise to offset what you will lose if our wicked clients invade your homes and take your towels and napkins and linen; it is left for the State to do that.

Gentlemen, I can only ask you to decide this case upon the facts as you have heard them, in the light of the law as you understand it; in the light of the history of the country, whose institutions you and I are bound to protect.

I shall not argue to you whether the defendants' ideas are right or wrong. I am not bound to believe them right in order to take their case,

and you are not bound to believe them right, in order to find them not guilty. I don't know whether they are right or wrong and you don't know whether they are right or wrong; but I do know this—I know that the humblest and the meanest man who lives, I know that the idlest and the silliest man who lives, should have his say, I know he ought to speak his mind; and I know that the Constitution is a delusion and a snare if the weakest and the humblest man in the land can not be defended in his right to speak and his right to think as much as the greatest and the strongest in the land. I am not here to defend their opinions. I am here to defend their rights to express their opinions. One of the greatest philosophers who ever lived, Nietzsche, said this, that he was not sure that he would die for his opinions, but he was sure that he would die for the right to express his opinions.

I don't know whether your ideas are right or wrong. No one knows except these attorneys for the State, and the fewer ideas that men have the surer they are that they are right.

How do you settle whether your opinions are right or wrong? There is nothing to measure them by; I have done the best I could through many years to search for truth. Sometimes I have thought I had a gleam of truth; sometimes I felt that I had in my hands the truth, a truth that could not be disputed, but that would be true forever. Sometimes I thought

I had found it; and then again I thought I had lost it; and the truth I so fondly held in my hands was only an empty dream, and not the truth at all; and I have searched again and again, and here I find it and there I lose it; and I expect it will be this way until the end. It is not given to man to be sure of the truth; there are no standards, there are no measures, everything is dumped in on his imperfect brain and he weighs it the best he can and finds out the best way he can whether it is true or false; and he never knows; and, therefore, gentlemen, above everything else on earth, men should cling fast to their right to examine every question; to listen to everyone, no matter who he is; to hear the spoken words and read the written words; because if you shut men's mouths and paralyze their minds then the greatest truth that is necessary for the welfare of the human race may die. Gentlemen, nature works in a mysterious way. When a new truth comes upon the Earth, or a great idea necessary for mankind is born, where does it come from? Not from the police force or the prosecuting attorneys or the judges or the lawyers or the doctors; not there. It comes from the despised, and the outcast; it comes perhaps from jails and prisons; it comes from men who have dared to be rebels and think their thoughts; and their fate has been the fate of rebels. This generation gives them graves while another builds their monuments; and there is no exception to it; it has been

true since the world began, and it will be true no doubt forever. It has been true in America, it has been true in every other country in the world; it may be true again; and what I say is, what every man on this jury knows; you worship dead heroes who died for truth; they were despised and called cowards by prosecutors who were earning a salary, and they were put to death; but future generations have uncovered their graves from the slime that prosecutors have thrown over them, and they have shown to the world the great thoughts and ideas of these martyrs who died that you and I might be saved. It is true the world over. It may be that the human race can never do better; I can not tell; perhaps there is not much to expect from it; but all the same we are obliged to do the best we can, and appeal over and over and over again to the consideration and enlightenment and the feeling of men against the things that have gone before; and that is what I am asking here.

It has been many a day since any body of men have been dogged and hounded, with every right violated to get them into prison, as these twenty men have been.

Gentlemen, Mr. Barnhart says, "They do not believe in the Constitution" and "they have dared to criticise the Constitution." They are not on trial for that, gentlemen. If Mr. Barnhart was more familiar with history, and probably if he was not prosecuting this case he would be more familiar

with history without knowing anything more about it than he knows now; he would know that from the beginning of the Government, down to the present time many of the ablest men, from Thomas Jefferson and Patrick Henry down, have never believed in our Federal Constitution; they have believed that it was the work of men who had personal interests to serve.

When you get through with this case and my clients are safely housed away in Joliet, and the State is satisfied—and the world is saved—you might pick up Professor Beard, Professor of the University of Pennsylvania, and read his book on *The Constitution*. He is a professor and still he has not been convicted.

Are they trying this case like any other? Here is my client, Owens. Has he right to the protection of the law? And yet the cheap policeman who Mr. Barnhart says is a cleancut, fine, right living man—how does he know it? And if he knows it, how do you know it, and if it is true, what of it?

I repeat it, put it down again—a cheap policeman twice violated the Constitution, the Federal Constitution and the State Constitution, outraged every right the defendant had while a prosecuting attorney was standing by his side down in Moline.

They entered his home, they had no search warrant. They overhauled his papers. They found a flag, a red one, which he had the same right to have in his house that you have to keep a green

one, or a yellow one, or any other color, and he impudently rolled it up and put another flag on the wall, nailed it there. What right did he have to do that, gentlemen?

What about this kind of patriotism that violates your right and mine, that violates the Constitution to get you and to get me? They overhauled his papers, they went through his desk, they rifled everything he had, they went through his room, and they brag of it, in a court of justice.

Gentlemen, this officer should be impeached and would be impeached if the Constitution was in force in Illinois.

What right had a State's Attorney, who ought to support the Constitution of the United States and the State of Illinois, what right had he to violate the law in this way?

Has it come to that pass in this country, that because you want to get a man, officers of the law can trample on human rights and Constitutional rights and red handed violate every principle of justice and then excuse it in a Court of Justice?

From the beginning to the end, this case has been marked by the most flagrant violation of law, by every effort to magnify, to create passion and prejudice, that you gentlemen might forget those things that are dear to the heart of every real American; that are more essential than any other; that you gentlemen might forget what America once stood for; that you might do your ignoble part toward bridling the tongue of man,

toward paralyzing his mind, toward stifling his thought, toward uprooting and destroying forever that freedom of speech which has been the corner stone of American institutions. You are really asked to make America the home of the tyrant, the informer and the usurer, who is willing to trample laws and constitutions and human rights beneath his feet, that he may plunder undisturbed.

Most that has been used to this jury to stir up feeling in your souls has been the separate acts of individuals; mostly before this law was passed; not one of these has the slightest bearing to prove conspiracy in this case. We can only ask you that no frenzy of the mob, whether from the mouth of the district attorney, or any other source, shall drive you from the plain law and the facts that have been proven in this case. Lloyd's speech in Milwaukee has nothing to do with a conspiracy. Whether that speech was a joke or was serious, I will not attempt to discuss; Mr. Forrest has done that, but I will say this in passing, that if it was serious it was as mild as a summer's shower compared with many of the statements of these guardians of the law who are responsible for the conditions that exist in the United States. We have heard the statement of men in high places, that certain people who dared to express their opinion should be stood up against the wall and shot. Such a furore was created by the press of the country against Senator LaFol-

lette that it was suggested that he be stood up against the wall and shot. We have heard men of position and standing in America declare that people who have dared to criticize the actions of those who are getting rich should be put in a cement ship with leaden sails and sent out to sea. Every violent appeal that could be conceived by the brain of man has been used by the powerful and the strong. If there is anything that would provoke individuals who do not see questions as the property interests have seen fit to put them, it is the wild fanatical statements of these men who are responsible for these acts. Mr. Lloyd's letter and Mr. Lloyd's speech is nothing but the reaction against the tyranny and oppression, the cruel statements of those people who would seal the lips of every man who disagrees with all they say and do.

What about this letter of Owens? Owens says, "My son is a musician, and my highest ambition for him is that he will be a rebel, and that he will be the musician of the revolution." That is what Owens says, and although it is a personal letter which had no connection with any human being in this case; although it could throw no light on this case; it is paraded to this jury that you might say that Owens should be sent to prison because he wrote that letter.

Now, gentlemen, I am not going to apologize for that letter. I understand Mr. Owens; he has a high ambition for his boy. None of the cring-

ing, cowardly, time-servers will ever reach that height. If the son succeeds in his father's ambition, he may fill a felon's grave, and the time-serving cowards who always stand for the things that pay because they pay, may help send him there; but it is the rebels to whom monuments have been built. All through the ages, from Moses down, the men who have never followed the opinions and ideas of the people around them, are the men who have been building for the future. They have hewn steps out of the solid rock; they have worked in thorns and brambles and hard places that a stairway might be built for you and for me. They are like Moses, who, defying custom and habit and giving up ease and security, and having that faith which great mortals have, could see far off something better than the world had known; they have led their people through long years of sacrifice to the Promised Land; but these poor rebels have never seen that land, for when they reached that spot their eyes were too dim to see, or they were laid in a felon's grave while the time-servers walked over their bodies to the goal.

What do you suppose would happen to the world except for these rebels? I wish there were more of them. What do you suppose would have happened to the working men except for the rebels all the way down through history? Think of the complaisant, cowardly people who never raise their voices against the powers that be? If there had been only these you gentlemen would be hew-

ers of wood and drawers of water. You gentlemen would have been slaves. You gentlemen owe whatever you have and whatever you hope for to those brave rebels who dared to think and dared to speak and dared to act; and if this jury should make it harder for any man to be a rebel, you would be doing the most you could for the damnation of the human race. It is easier to believe something because somebody tells you it is true. It is easy to run with the hounds and bay to death those who may be better than yourself; it was easy for the people of New England to join in the mad rush and hang old women for witchcraft; it was easy for the people who lived in the days of the Inquisition to light the fires around men who dared to think; but it is those same rebels whose burning bodies have been the flame that has lighted the human race to something better than the world has ever known.

I sympathize with Mr. Owens in his high ambition that his boy shall be a rebel, and that he may furnish the music for the revolution; whether the revolution ever comes, or not, his voice will be joined with the voices of almost every man whose name is immortal, and his music will be the music of almost every man who ever wrote a strain that stirred the hearts of men. If he should meet this high ambition, I am glad for man, but sorry for him. It means a stony road, a rocky path; it means want, contumely, abuse and sacrifice; sorrow and a neglected grave. No matter

how brave we are, no matter how determined we may be; no matter how these fantastic lights dazzle and beckon us with the promise of some far off dream; no matter what we see, what we hope, or what we feel, to all of us who have been more or less rebels in this world the thought often comes, after all, is it worth the while? After all, should not I have closed my eyes on the dreams and the visions and the hopes, should not I have left the world where the world seems proud to be, and lived in luxury and ease with the good people of the earth? If you find him guilty for this letter you will not condemn him, you will condemn yourselves.

Much has been said about the red flag. I say gentlemen, that I have as much right to have a red flag as you have to own a green one, or a yellow one, or one of any other color. I have a right to one flag or a dozen flags, and the jury has never yet been found who could deny it. Let me tell you something about this red flag. I will tell you why every tyrant on earth has hated it; I will tell you why every man with stolen money in his pocket has hated it; I will tell you why the men back of this law hated it; although they have no wit and no imagination. Their wit and their imagination, if they ever had any, has been traded for dollars. What is this red flag? Gentlemen, the Communist Labor Party did not invent the red flag. The Socialists did not invent the red flag. The Democrats did not invent the red flag.

It is older than that. It is older than any of those parties. Christopher Columbus did not. It is older than that. It was not invented at Bunker Hill, although it was present. It was invented long before that. No man can tell you when it was first used. We can come pretty near it, though. Since the workingman has grown enough to have the wit to think, and since he has found a voice for himself, although that voice is weak and feeble, the red flag has been the flag of the common man. It was the flag of the workingman long before Greece, and in Greece it was the flag of the workingman; in the Roman Empire it was the flag of the workingman; in ancient France, in Germany, in Russia, in Switzerland, in England, in Spain and in the United States; and yet these fool legislators think they can stamp out the institutions and the customs and the habits of a people. Let us see where it came from. As near as we can find out, the rulers and kings and aristocrats who get their power from the Almighty—nobody ever saw the Almighty hand it down or even read the credentials of the aristocrats or kings—they had a white flag, or a blue flag; a blue flag, representing their blue blood which was pure and unsoiled, and the white flag, representing no color whatever and could not be soiled; only working people could be soiled, because you could only soil your hands with work. The common people had a red flag. It came from the god of the sun, the red rays of the sun, as far back as you can read in history; when

it took a more definite meaning, it meant the common red blood which courses through the veins of all men alike; it represents the brotherhood of man. That is where it came from. In the early days of the Romans the workingman did not fight. It would not do for the workingman to learn to fight; he might fight the ruler. He had no arms, and you remember the noise that is raised here by the counsel in this case because the Russians propose to arm the proletariat? No, they should not. The other fellow should have the guns. They always did have them. Not the proletariat. These should have hoes and pick axes and spades and scythes. That is their job. The other fellows should carry the guns because they do not use pick axes. While the poor man is working, they will do their part by shooting him, especially if he does not work. Finally the Romans did take the poor man into their armies and legions to fight. Of course, they found out long ago that the workingman's red blood would do just as well to fight with as any other kind, and when they took him he carried the red banner. He carried the red banner alongside of the blue banner of the blue bloods; and the rulers, with the well known tricks on the psychology of the mind, threw these red banners far out into the line of the enemy and the workingmen, who loved their red flag, would rush madly into the opposing ranks for their beloved flag that it should not be polluted by their enemy. It represented their dreams, their

hopes and their ambitions and they defended it with their lives. It was present in the battles of the Romans. When the skilled workmen in the Middle Ages began to establish their trades unions, in France and in Germany, their trades union flag was a flag of red, because it is the flag of the common man, who understood that the blood which courses through his veins was the same color as the blood that courses through the veins of every human being that ever lived. It was the flag used in Germany and in England, and is the flag today of a large part of the trades unions of the world, and it will be their flag when you get through with this infamous prosecution. It will be their flag whether this jury shall say innocent or guilty.

This flag was the flag of the first colonists in the United States. It flew proudly at the battle of Bunker Hill with other flags of all kinds. This flag flew where Washington had command. It flew at the Battle of Brandywine. The Nuns of Bethlehem embroidered one with the greatest care and sent it to the Commander that he might rally his men under that banner to fight for America against Great Britain; and this story has been commemorated by America's best known poet, Henry W. Longfellow, in the following stirring and beautiful words:

When the dying flame of day
Through the chancel shot its ray,
Far the glimmering tapers shed
Faint light on the cowed head;

And the censer burning swung,
Where, before the altar, hung
The crimson banner, that with prayer
Has been consecrated there.
And the nuns' sweet prayer was heard the while,
Sung low, in the dim, mysterious aisle.

"Take thy banner! May it wave
Proudly o'er the good and brave
When the battle's distant wail
Breaks the Sabbath of our veil.
When the clarion's music thrills
To the hearts of these lone hills,
When the spear in conflict shakes,
And the strong lance shivering breaks.

Take thy banner; and, beneath
The battle-cloud's encircling wreath,
Guard it, till our homes are free!
Guard it! God will prosper thee!
In the dark and trying hour,
In the breaking forth of power,
In the rush of steeds and men,
His right hand will shield thee then.

Take thy banner! But when night
Closes round the ghastly fight,
If the vanquished warrior bow,
Spare him, by our holy vow,
By our prayers and many tears,
By the mercy that endears,
Spare him; he our love hath shared;
Spare him! as thou wouldst be spared.

Take thy banner! and if e'er
Thou shouldst press the soldier's bier,
And the muffled drum should beat
To the tread of mournful feet,
Then this crimson flag shall be
Martial cloak and shroud for thee.
The warrior took that banner proud,
And it was his martial cloak and shroud.

Gentlemen, you have started on a mad career
to make this world safe for Hypocrisy. I would

suggest that after you get through with this case you emulate the example of Charles the Second of England in his treatment of Oliver Cromwell, and that you go down to Cambridge, in the shadow of Harvard College, and dig up the bones of Longfellow, who wrote these lines, and burn him in quick lime as a warning to all people who dare to raise their voice for their fellow man. Why not? Why not? Do you want to tell me that you, with your puny strength, can take away from the people of this world their age-long devotion to a banner which has represented their trials and tribulations through all the past?

Every idea has its flag. There is something about a flag which catches the eye, and through the eye the imagination. There are flags which represent Temperance. There are flags which represent each nation of the world, and all the ideas of the world; some ideas perhaps bad, and some ideas good. There are flags that represent people. There are flags that represent a class. This red flag, as far back as you can go in the history of the world, has been labor's flag. It will be labor's flag, gentlemen, whatever you may do. The man who thinks that you can change the customs and habits of a country by passing a law is a shallow man, who knows nothing of history and still less of philosophy. The red flag has been the emblem of the workers as far back as history can go, gentlemen, and I want to say further that this emblem has stood after long tribulation through

the ages. It has waved when the workingman was enslaved; when he was bought and sold; and later when he formed his unions and met in caves and waste places, under the ban of the law; when he was sent to prison because he dared to haggle over his wages. When he was enslaved in France and his life was in the hands of the king; when capitalists, even in America, would make him a slave. It has represented the sufferings of workmen throughout all these years. It is his banner, and you cannot take it from him by a verdict in this case. It will be his banner so long as red is the color of the blood that runs through the veins of men; and so long as the breaking clouds of dawn are crimsoned by the glorious rays of the rising sun.

I do not know why the common man should not rule if he can. Maybe he cannot. All this may be a dream. It may be that fixed in the constituency of life is the status of their power; that there must always be rich and always be poor. I do not know. I used to think that perhaps there need not always be poor and need not always be rich. I may have been wrong.

Gentlemen, when I was young and enthusiastic; when I believed in things; when I dreamed dreams and saw visions, I thought that some time this everlasting war between the rich and the poor would end; and that by some sort of change in the social system there would be peace and happiness and order on the earth. When I was young

I found Henry George and I read his "Progress and Poverty," and it is probably the greatest book on political economy that the last century produced. It has been sold into the millions and millions of copies, and no man who claims to be intellectual could afford to say that he did not know the book; and yet the prime teaching of Henry George is that the land should be common property; that no man should own it; it is the gift of nature; that no man has the right to own it or monopolize it, or buy it or sell it. He might as well traffic in the air you breathe. As well might he sell your life, for without land there can be no life, and Henry George was hailed as the new prophet of a new world. Men read him with amazement and wonder and admiration. They read him with new hope. Even rich people stopped to read him. Chauncey Depew was chairman of a dinner in the east given by respectable people to welcome Henry George. He ran for Mayor of New York and just failed of election. One of his books has been published by the congress of the United States and sent broadcast to all the voters of the United States; and his doctrine was that no man had the right to own the earth; that it should be taken without compensation, for no man could get title to the earth, and yet he lay down on his bed and died a peaceful death; and monuments have been reared to him, and poems written to him, and his son has been sent to congress, and still you are told you must convict my

clients because they believe that no one should own the earth, and that land should be taken without compensation. It is in your power to convict these men if you want to. Are you people mad? Have you forgotten all about the psychology of man? Do you think that you can mark for slaughter a few people, and can weave a web of hate and bitterness around them and convict them, whether there is any evidence or not?

There have been great souls ever since men began to think who have believed in public ownership of land; and there are very few people who believe in unqualified private ownership today. Counsel know very well, if they have common observation, that this doctrine has been preached openly for more than forty years in the United States, and fairly well for more than one hundred and fifty years in the world.

Mr. Forrest read here yesterday from the New Testament to show that Christ was a Communist, and that his Disciples were Communists; and Mr. Comerford shouted, "Do you compare your people with him, are they lineal descendants of him?" Let me answer, yes. They are lineal descendants, and you would have sent Christ to jail just the same as you would these defendants, just the same as the prosecutor in his day did it; just the same as there have always been prosecutors to send to jail every man who had a dream beyond the narrow vision of his fellow man. The doctrines of these defendants are just

the same; and they are lineal descendants of the Communists of the early Christian days; Communists have been in the world since man was born. It was not new when Christ came upon the earth. Men have not only professed it, but they have lived it. Now, it may be replied that these were primitive people and that civilized man got over it. I do not know whether that is true or not, and neither do I care. That communism has been a well known doctrine for ages, every intelligent man knows, although the Wall Street gentlemen have just found it out; these I do not count intelligent; every intelligent man knows it. The prophets and the teachers and the seers all down through the ages have taught it. When it came to the early Christian times all the disciples and apostles were Communists who owned all their property together and who taught that private property was wrong. Their doctrine came from Christ, and Christ got it from somewhere else. It has always been in the world. It was the principle all through the Middle Ages. It is the doctrine of Karl Marx, who has left a greater impress upon this world than any other political economist who ever lived. It was the doctrine of Robert Dale Owen, who sacrificed his whole life for his fellow man. It has been the doctrine of most of the great idealists and dreamers of the world. I do not know whether it will come or not.

I will tell you where it comes from, gentlemen. It is in you. It is in every juror in this box to

a limited degree. It is in every State's Attorney who is prosecuting in this case, in a very limited degree. It is in every man who has sympathy for his fellows. It is in every man whose sympathy goes out to his fellow man. It is in every man who hates poverty, not because he is poor, but because other men are poor. It is born of sympathy; it is born of love; it is born of the feeling of common brotherhood in man; it will live so long as mothers love their children; so long as idealists love the human race; so long as men hope and strive and dream. Whether we shall ever accomplish it, I do not know. No man can tell. I do not know whether communism would work. I do not know whether we can ever get a state of society where men are good enough, ideal enough, kindly enough and human enough to say, "Here is mine, I will throw it in with yours, and we will work together for the common good." Perhaps that cannot be. I shudder to think that we cannot; I have cherished that dream and that hope and that illusion even when I knew that it could not come. I do not know whether it is scientific. Of course, some of these scientific gentlemen can tell; but there is something higher than science. I do not know whether you can work it out in cold mathematics or not. Man is one-fourth unselfish and three-fourths selfish. Scientists would probably say, tell me some way to get the one-quarter to overcome the three-quarters. I don't know in mathematics, but just

in proportion as a man is an idealist, just in proportion as he cares for his fellow man, just in that proportion he will cling to these dreams, whether he believes that they can ever come true or not. I have had my dreams. I do not know whether Socialism or Communism will work or not. I do know that Capitalism does not work. I do know that our present system of industry is a crazy quilt that allows no man to be really honest, that allows no man to be unselfish, that allows no man to live without sacrificing his fellow man.

I know that the present system does not work. I know that it makes men greedy and selfish and mean. I know it stifles every good motive in man. I know that under the present system no one on earth can be as good as he would be. I know that capitalism does not work and never can work. None of these devout lovers of the capitalistic state, all of whom are sure they are going to Heaven—not one of them would want to go to Heaven if it was run on the same scheme as the earth. Not one of them that believes that this system could live anywhere except upon the earth. My clients believe that a system fit for Heaven is fit for earth. They are dreamers. Their principles were formed by all the ages. They did not make them. These have come down to them in a direct line from most of the idealists of the world. Karl Marx voiced it better than any one else. They are dreamers. It is

true counsel has slurred them. But why, gentlemen? Why? One of the commonest and cheapest things that the representatives of the State can do in criminal cases is to slur the defendants. It is easy because they are helpless, and the attorneys have ample chance. They are under indictment. They cannot rise to reply and neither can they hit them over the head with an axe. They have to stand it. The men who hold these opinions hold them because they are idealists. That is the reason. Gentlemen, I cannot tell whether this scheme will work, but it is what they believe. They have the same right to their belief under the laws of this country as you have to yours; and all of you told me over and over again that you would protect the right of another man the same as you would protect your own rights.

Gentlemen, somebody is interested in this case. We have a statute with the word unlawful in it, which we insist means nothing. They insist it may mean strikes, and so it may if they can get the judges to so interpret it. Today they are after these men. Tomorrow they will be after Gompers and the trade unions and everybody who dares defy their power. They know perfectly well that these men are reformers; but the men who are responsible for this law would be glad to get the three or four million trade unionist who are banded together for the protection of each other's rights, and not only for

the protection of each other's rights but for the protection of the right of every other man to express his opinion. They know that in the next year or two mills will close, railway employes will be discharged. Then will be a good time to send trade unionists to prison. Do you suppose they care for these men on trial? Oh, no. They have got too much brains for that, although I would not accuse the backers of this law with being overly intelligent. They are out to rule the world. They are out to make money. They are out to destroy whatever is between them and their prey. Today it is these twenty men. Tomorrow it will be somebody else. You can only protect your liberties in this world by protecting the other man's freedom. You can only be free if I am free. The same thing that would get me may be used to get you, and the government that is not strong enough to protect all its citizens ought not to live upon the face of this earth.

These men are dreamers. They are idealists. They believe that somewhere in the future there can come a condition of society where property will be owned in common, and they do not believe in paying for it, either. They have a perfectly good legal right to take it without paying for it, provided an amendment is made to the Constitution of the United States, which I venture we can do before we can get that far.

Taking property without compensation is only

a technical point to send people to jail. They believe in praying, "Thy Kingdom come, Thy will be done on earth as it is done in Heaven." Still nobody wants it done on earth. That is, nobody who has much, and who wants something more. But, gentlemen, we ought to be careful of our dreamers and our idealists. If a man can have a dream and an ideal in this sordid world, he ought to have it, for the world is hard enough; it is cruel enough; it is selfish enough. There is enough greed, there is enough envy and there is enough hate in this world, and if now and then a man can have a vision that there will be a system, where all men will be brothers, where there will be no more haggling and bickering; where there will be no poverty; no rich and poor; where man will live in love and brotherhood—if they have that dream, that ideal ought to be saved to the human race, whether it shall ever come true or not.

Gentlemen of the jury, I have been trying to point out some of the things that have been emphasized in this case. They told you about the proletariat and bourgeois. Mr. Barnhart says you are all bourgeois. Well, now, I don't know what difference it makes to you whether you are or not, but I don't think there are more than two bourgeois on this jury, and I am not going to mention their names.

Mr. Barnhart gave you the definition of a proletariat, and he says it is a man who works for

wages, who has no property and so forth. He says there are definitions which show a good deal worse than that, that it is the meanest working-man.

That is right, Mr. Barnhart, that was the definition of the proletariat for long ages.

For long years to be a working man was to be mean, was to be bought and sold, was to be flogged and killed, was to be the property of the master, body and soul. In France before the Revolution the workingman meant men without property, and they were; but it does not mean that today, and the "proletariat" does not mean that today. It means simply this, those who do not make their money by employing other people, that is all it means. It means a man who works for wages, either with his hand or his brain, as against a "bourgeois" who employs men to work.

Almost all the people belong to the proletariat class—almost all is a little too strong, but much more than half, and it would be out of the question to have the "bourgeois without the proletariat," because as long as there are big industries owned by somebody there must be a number of men to work in those industries.

My clients believe in a time when the owners of the industries should be workers, that is all. They believe in a time to be reached by a different organization of society, when these industries shall all be owned by the men who work in them, that is what they mean.

Is there anything wrong about that, gentlemen of the jury?

It may never come, but I fancy that no man who has sympathy for the human race does not wish that some time those who labor should have the whole product of their toil. Probably it will never come, but I wish that the time might come when the men who work in the industries would own the industries. I would take a chance, although I know that under that system I would have to go to work myself.

Most all of you men on this jury work for others. Is there any reason why the proletariat should not control the State? Through all the long, cruel years the men who have worked have had no voice in the State. Gentlemen, how much have they got now? How much has the working-man to say about the laws of his country? You were not born yesterday. How much have you to say as to who will be president or mayor or senator or anything else? Every man knows that the common man has practically nothing to say about it.

I might go to the polls in November and vote for Cox or for Harding, but what had I to say about the forces that came together and put me in a position where I must vote for one or the other; and I would not vote for either if I could help it; and almost no one else would.

Who of you, gentlemen of the jury, had anything to say about who was to be mayor last

spring? You might have had a chance to vote for one of two men, neither of whom you wanted, and that is the most, it amounts to nothing.

I would like to see the proletariat rule for a while, but I have few delusions left; they might not do any better than the others. I have seen working men that were not saints, lots of them. I am not trying to uphold the workingman or his opinion on the ground that he is a saint; he is not; he is human. But I know that through all the past this world has been ruled by property, and if there can ever come a time when the workingman can rule it, I will say he ought to have that chance to see what he can do; and yet to tell you that is to believe in the "dictatorship of the proletariat"—well, why not?

I would like to see the proletariat have a chance to rule; the others have had it long enough, and these never have. The proletariat may lose their idealism as they get a better chance in the world; that often happens, too, but if it was nothing excepting for a change, I would like to see it tried. I would like to see those who have been a burden on the world for all these ages give some of the others a chance, to see what they could do.

We have been told by the gentlemen here, "Why, your men do not even believe in the labor unions."

Well, suppose they do not, gentlemen? I presume that statement is made for some of the jurors here who belong to labor unions.

Suppose my clients do not believe in them? I have always believed in them; they may be wrong, and they may be right. The labor unions have no guarantee that they are right. These men believe there should be a change in the labor unions, that is what they think. They think long use of power has made them conservative. So it has. Perhaps they are better for being conservative, or maybe they would be better if they were more radical.

My clients have a right to their opinion. No man can tell whether their opinion is best or not until you try it out. We are told that they do not believe in socialism. Whence comes all this sympathy of my friends, the prosecutors, for unionism and socialism? Wonders will never cease.

These gentlemen are standing here and condemning my clients because they are not for labor unions and they are not for socialism.

They will tell a different story when it has socialism on the rack, as it was on the rack in Albany.

You will hear a different story when this law catches you, and they are really after the labor organizations of the United States.

And I will tell you why they say it—because, forsooth, somebody on this jury might say, “Well, if they do not believe in socialism they must be bad; if they do not believe in trades unionism they must be bad; if they do not be-

lieve in this thing or that thing or the other thing they must be bad.”

These men have a right to their own opinions, just the same right that you have and the same right that I have and the same right that every man should have, and that opinion may be good or bad. And they tell us another thing, gentlemen. They say the communist labor party has endorsed Lenin and Trotzky, and that they believe in them. They say that my clients are sympathetic with Lenin and Trotzky; and they are, gentlemen; they are. And what are you going to do about it? I will tell you what I think about it, not because it is my thought, but because it is my position in this case. I am willing to stand with them upon that question, without the slightest fear as to any intelligent jury in the United States.

I don't know whether Lenin's government and Trotzky's government are the best or not. I have no chance to know. I have read the ordinary lies of the ordinary papers. I have read about Lenin and Trotzky being defeated one day and the next day carrying their banner through the lines of the opposing army. I have been fed on all these stories and I know not what to think of them, and I confess I do not care. I have no chance to know, neither has any other man a chance to know. Every man's idea of Russia is clouded, more or less, by his own feelings. I can

say for myself that whatever the government of Russia is I wish it well.

I know this, that every American with the least drop of red blood in his veins hates the past of Russia. I know that you can not find a human American—a human American who does not hate the Czar and all his works. I know that any man who loves liberty, any man who loves humanity, would not be willing to get rid of the new and replace it with the old; and I know you can not overthrow the new unless you replace it with the old.

I know something of Russia; I have been a student of her literature for years; I have read much of her history. I know that she has been the last word of tyranny in Europe for more than a thousand years. I know that she has had a government of arbitrary power; a government of despotism, tempered by assassination; a government where all the good and all the brave and all the liberty-loving people of Russia have been killed or sent to Siberia and left to rot their life away because they loved their fellow man. I know that you can not get an American citizen who values his reputation who dares say a word for the past, not one.

And yet, gentlemen, that government which has been the government of Russia for ages, that government could not be overcome unless something was put in its place, and the despotism of all the

years could not be washed away except in tears and blood.

I remember years ago reading Victor Hugo's wonderful masterpiece, "Les Miserables," and he told the story of the old revolutionist living in the hills; no human being had seen him for years; he was the last citizen of the old revolution which swept from power the last shred of the despotism that France had known; when the monarch came back he was a hunted man, so he retired to the mountains and lived a hermit's life. A rumor reached the valley that he was dying. An old priest heard the rumor and he asked himself the question whether after all, though he had been called an Atheist, though he was a Revolutionist, whether it was not his duty to visit the old man in his last days that he might give him consolation, and help him on his dark journey to the great unknown. So the priest made the trip to the old Revolutionist who was sitting in his chair outside his hut; as the sunlight was fading away the old man told the priest about himself. "Yes, I am dying." He says, "The malady is passing slowly to my heart. You see the sun, how low it is in the west; by the time it sets I will be dead."

The priest asked him about his soul. The revolutionist said, "Have you come here to tell me about my soul?"

The priest said, "No, but what of the cruelty of the revolution?"

The old man was dying, but told the priest about the glories of the rebellion.

The priest said, "What about the men they guillotined; what about the blood that was shed; how do you excuse all that?"

The old man roused and said, "Yes, blood was shed, the guillotine had many victims, it was a revolution." The old system was passing away and the new one coming on. It came with tears and blood. A storm had been gathering for a thousand years; it burst; you blame the thunder-bolt.

This is the poor logic of today, the world always blames the thunder-bolt, it forgets the storm that had been gathering through the years.

Here is Russia. There is scarcely a man in America that has not read of Russia. You have read the story of her patriots and her devoted ones, her martyrs banished to Siberian mines because they dared to speak for the common man.

You have read about the Russian heroes walking in chained gangs over hundreds of miles across the weary road, often in the winter's snow; you have read of them dying on the way; you have read of the long lines of human bones that marked the pathway of these devoted ones, and these men died because they loved their fellow man; they were victims of the minions of the Czar.

A cloud had been gathering for a thousand years; in the storm and tempest of the great

European war; that cloud burst and the throne of the Czar crashed, crumbling to the earth.

I am glad for one that the throne tottered to the ground. If no other good came out of the unspeakable misery of this great war, the fall of the Czar and his cruel dynasty was some compensation for all the blood that was poured out.

This at least was of great value to the human race; and I say this, even though revolution after revolution may follow the downfall of the Czar.

I do not know whether the government of Lenin and Trotzky can stand or not; I do not know, neither do I care. I know it is there today and I know what was there before; I know it was time for the old to die and time for the new to be ushered in; and if it takes another revolution and another and a hundred others, I am glad at least that the government of the Czar no longer soaks the earth with blood.

I can not tell what is in store for Russia. I hope good for her, as well as I do for all the other weary sons of man. I hope for her as I do for Austria, borne down by disaster and by want. I hope for her as I hope for all the people of the earth.

Some time when the clouds are lifted and the night is over we may know. It is given to no man to see the future. Back of the heavy curtain which hides the present Russia from the future, back of that curtain no human eye can see. Still we know that the fates are weaving, that they are

throwing the shuttle back and forth to fashion the future pattern of the human race. What the pattern shall be neither you nor I can tell. We can only meet the future of Russia and the world as we meet the future in our lives. We can meet it with fortitude, hope and trust.

I know that no decent man wants the past to come to Russia again. I know that no man would ask for it except for cash. To attempt to predict the future of a government born in the throes of a great world war, born in the anguish and poverty of a great people, to do that, gentlemen, is to attempt to do something that is beyond the ken of man. Some time we will know. I hope at least that the present will last until the old is dead, beyond recall.

When I hear about a Russian princess waiting on a table in a restaurant in Constantinople it does not bother me; the only question that bothers me is whether she will make a good waitress, that is all. I don't know what right she had to be a princess. The newspapers can print these stories, but they will draw no tears from me. As long as somebody waits on the table I would just as soon it would be a princess as any one else, provided she knows how to do the job. There were many, many weary ages when royalty was served by serfs, but their turn has come; their turn has come.

Gentlemen, I believe I speak for my clients, I know I speak for myself and I believe I speak

for every man who loves freedom and fairness and justice, when I say that I wish Russia well; that I hope the past has gone forever; when I say that I believe that no American soldiers should be in Russia today; when I say that I believe that it is an unspeakable crime that they should be there; when I say that I believe that no other land on earth should stand against their right of self-government; and their right to work out their own destiny as the fates shall will; and yet, gentlemen of the jury, everything has been said that the wit of man could devise, to get you in such a frame of mind that you will have no sense of justice and fairness, that you will throw aside your judgment and yield to your passion in this case because my clients welcome the dawn of revolution in Russia.

Why, in this they believe what Wilson did; what Wilson did when he learned that the old regime was overthrown and that a new power had taken its place; when he issued his message to the American people, congratulating them on the fact that Russia had awakened, and that the people, after the long, long night of the past, were claiming the right to liberty, the right to self-government, the right to freedom; and that Russia had taken her place among the other nations of the world standing for the liberty of man.

I don't suppose the end has come for Russia. The truth is, the end never comes for anything. There is no way to fix this weary world so it will

stay and still be right. As long as the world shall last there will be wrongs, and if no man objected and no man rebelled, those wrongs would last forever. The objector and the rebel who raises his voice against what he believes to be the injustice of the present and the wrongs of the past is the one who hunches the world along.

Now, let me tell you another little incident here to show the prejudice of these gentlemen:

When they burglarized my client's house in the daytime, in violation of the State Constitution and in violation of the provisions of the Federal Constitution, they took from him a circular, gentlemen, you remember it; Mr. Barnhart read it, with tears in his voice, and said, "My God, can it be."

What was it? Now, let me show you what they are trying to do to you. That circular said that on the 14th day of November—my client Kjar, I had almost forgotten his name. You gentlemen could not repeat the names of these defendants, much less tell what they had done. I will show you after a while just what they have done. It would bring a blush to the face of any man who tried to be fair, to be asked to convict a human being upon the evidence. Now, it was Kjar who had a circular announcing that on the 14th day of November there was to be a picnic. It was on the same date as the one that the Bolsheviks came into power in Russia; the anniversary of the over-

throw of the Russian government; they were celebrating it; there were to be pictures of street scenes of Russia on the day, when the old regime had fallen, and the people with high hopes and fine dreams, dreams that perhaps will never be realized, were ushering in the new.

All right, gentlemen, the world is full of those pictures. "The king is dead; long live the king."

There never was a king who died but what the deluded people thanked God that the king was dead and looked forward with joy and hope because a new king was to rule. The old was dead, and in their imagination they dreamed of plenty of prosperity, of food for the people, of not too much work, but plenty of wages, of good things to come because there was a new king; and when his turn came to die they thanked God that he was dead and another king had come.

Gentlemen, the poor old human race has been doing that forever, thanking God for the things they have got rid of, dreaming their dreams and smoking their pipes, and living and dying in the delusion that some time the kingdom of heaven was to come to earth.

All right, gentlemen; I am glad after all the long and weary ages, that Russia had hers; I am glad and I hope that they were happy for a time. I hope they rejoiced over the death of the old, I hope they rejoiced at the passing of that night which had hung over Russia for long, weary years. On the 7th day of November, 1917, the old

was overthrown and the new was born, and on the 7th day of November, 1919, two years later, my clients—

Mr. Comerford: You are mistaken, Mr. Darrow.

Mr. Darrow: What is that?

Mr. Comerford: You are mistaken, if you will pardon me. That was the overthrow of the Kerensky government, not the overthrow of the Czar.

Mr. Darrow: Oh, pshaw.

Mr. Comerford: I simply interrupt, thinking you want to be accurate.

Mr. Darrow: Of all the little, foolish, insignificant things that men pick out, it is that the overthrow of the Kerensky government was not the real overthrow of the Czar.

Every man who knows anything about Kerensky never had the slightest faith in him and counsel knows it. He has been driven out of most of the important countries of Europe. He left Russia and his country. He was the first that followed the Czar, and he left without stopping to take the government with him or doing anything except make speeches, a typical oratorical word peddler, in no way fitted for the job; if his place had not been taken by Lenin then the old tyrants, whom you love and whom you would bring back to power to complete the destruction of that unhappy people, would have come back. There was nothing between the Russian people and the monarchy but Lenin, good or bad, and he has held

that country for three years, and I am glad he has.

As I say, gentlemen, I am glad of it, and when something better shall come I will be infinitely glad of that; but the man who wishes Lenin's power destroyed, that man is working for the whip and the lash, and the dungeon, which made slaves of Russians for a thousand years.

Now don't make any mistake about that, gentlemen; there can be no mistake about it.

Now, my deluded clients, if they had come to me and asked whether they should celebrate the overthrow of the Czar, I would have said, "No, you are crazy; the people don't want it; let them alone; you may not belong in the penitentiary because you think you can help the world, but you belong in the insane asylum, for the world doesn't want to be helped." That is what I would have said, then I would probably have gone and tried to help. That is the difference between reason and impulse.

My clients held a celebration on November 7th, 1919, two years after Lenin assumed the government in Russia, to keep the old regime out of power; and Jack Carney I supposed made a speech. Well, I hope he enjoyed making it and had a good time; they showed pictures of the celebration in Moscow, where the people came together in mad acclaim, because the old was dead and the new was born.

How I do like to look at those pictures of those

enthusiasts who had a dream of what was coming true. I do not like to look at the picture after it has come true. They are like the pictures of the troops in Berlin marching proudly to the front; and the troops in Vienna marching proudly to the front, and the troops in France marching proudly to the front; and the troops everywhere marching proudly to the front; and now the glory is over for the war is done.

They had this celebration on the 7th of November, two years after Lenin came into power.

Well, now, gentlemen, let me tell you a little story. It won't take me very long to tell it and it is applicable to this case.

I got a card on the 14th day of June, I think it was, just a little while ago. Some aristocratic gentlemen, who believe in jails for Chicago, were holding a celebration over the fall of the Bastille in Paris a hundred and fifty odd years ago.

Of course they believed in jails here; but the French people, in 1779 or thereabouts, destroyed the Bastille in Paris by a mob, and we could celebrate that unconstitutional event in Chicago.

Isn't it marvelous how a Chicago man does like liberty in some other country?

I can get together all the bankers in Chicago for a feast in commemoration of the French revolution, and after they get quieted down a little about their money and over their fear of Bolshevism we could get them all together in com-

memoration of the Russian revolution and the triumph of Lenin.

You can get men to be patriotic over freedom for any country on earth except their own; and that is a misfortune, that is all. That is what my clients here did not know. They thought that men could be just as patriotic over liberty at home as they could over liberty abroad.

No, it can not be done. It just can not be done. But I got that invitation. I had accepted it a few years before. This time I did not because I was busy trying to find twelve good men and true in this case, like Diogenes going out with his lantern to hunt an honest man; I don't suppose he knew whether he had found him, and I don't know whether I did, but still we all keep on trying.

Well, our people got together to celebrate the fall of the Bastille in France. I approved, although I did not celebrate; I approve of any bastille falling now and then. It was high time that tumbled; in my mind's eye I saw this picture.

I saw a land that had been fair and great; a land where the rulers, through their worthless lives, their reckless waste and their disregard of human rights, had destroyed freedom and made brutes of men; where they had driven the people to beggary that they might be rich and profligate; where they had taken all for the king and left nothing for the poor; where if the poor disobeyed their masters they were killed; where the serf

was a slave; I saw that land suffering under centuries of cruelty, injustice and wrong. Almost in a night I saw her slaves arise against the French laws and constitution; I saw them rise against the institutions that the strong had made; against the church and the state, and in one mad frenzy sweep these from the earth. I saw that long line from Versailles marching on Paris, a line led by an old woman in the front, with a butcher knife in her hand and a great apron filled with human heads; I heard them singing the Marseillaise, the song of freedom, as they went out to wreak vengeance and death upon the rulers for the long night of cruelty and injustice that had drenched the fair land of France with blood and tears; I saw them moving like the mad waves, a nation aroused to action against the tyranny of the ages; I saw this mob led by the inspiring martial strains of the Marseillaise; I saw them surround the Bastille and pound it into dust; I saw coming from its grimy dungeons men who had been so long confined that there were no records of the time they were shut in, or the charge on which they came; men whose eyes were dazzled by the light of day when they left their gloomy cells; I saw the pent-up feeling born of the oppression of all the ages turned loose in Paris; I saw the mad holiday of an oppressed and outraged people drunk with power.

For a time at least these despised ones were rulers, for the old was dead and the new was

born; I saw their banners and read thereon liberty, equality, fraternity, and on the 14th day of July we celebrated the madness of that righteous mob; we rejoiced over the destruction of the old and the birth of the new; all this was in Chicago, where live the comfortable people who are prosecuting this case, the comfortable people who love justice when it is far away, the comfortable people who take a rebel to their hearts if he is a long way off, these smug men celebrated it; and the respectables of America have been celebrating it for fifty years because the event was in France, and long ago.

And yet we are condemned because our dreamers went mad with joy over the same kind of a revolution in Russia two years ago.

Wait fifty years and you will find another prosecutor—you will find another prosecutor trying to send men to jail in Chicago while his employers are having a dinner to celebrate the revolution in Russia, that overthrew the Czar.

Are any of you sorry for the French revolution? I wonder if these prosecutors are sorry for it.

Liberty was enthroned, the old was destroyed and a new France was born. Today we are celebrating it. The new rulers of France, kept their place by the guillotine and the sword; they killed the king and they killed the queen, but the people lived.

I remember a striking passage in Carlyle, the

great Scotch philosopher; he told of the cruelties of France in this mad debauch of liberty. Carlyle said, "Yes, the guillotine was busy; yes, blood flowed and men were killed, the nobles raved and cursed and cried aloud, but this was the difference: through all the long ages it had been the poor who were killed; it had been the poor who died in a thousand ways; now the rich were killed, the guillotine was busy with the thousands who made the most noise; the heads of those who were chopped off were the heads of those who cried the loudest and who could make their complaints heard by the world, while the poor, the common man, who, for years, had died in a thousand different ways, had met his end in the dumb silence of despair; he was silent with no one to listen to his wrongs until one day he arose in his wrath and swept the powerful from the earth."

The people had their way in Paris until the man on horse-back came and all the civilized world has been wishing that Napoleon were still alive that he might have commanded in this last great war. Still Napoleon was hated more than any man the world had known; England feared him, Germany hated him, all the world despised him; they feared and hated the revolution then, that revolution which Victor Hugo called the greatest event in history, that revolution which we all approve today.

Gentlemen, we forget. If the people of Chicago can celebrate the fall of the Bastille, why should

not my clients celebrate the fall of Nicholas, old Nick?

I wish they could have got along without killing him or shedding any royal blood, but with all the crimes of all the Czars on his head nothing else could have been written in the book of fate.

Long ago it was written down that "without the shedding of blood there can be no remission of sins;" and it would be strange, indeed, if the blood that had been shed in France; it would be strange, indeed, if the sufferings that Russia has undergone could be paid for in any other coin but blood.

Gentlemen, we have had another example of the outside influences which I want to refer to, because these are the real things in this most extraordinary case.

Why will you gentlemen find my clients guilty if you shall return such a verdict? I can discuss in an hour all the real things that there are in this case. Now let us see what else they say.

Here is my friend, Procter. He keeps a book store on Clark street; and like anybody who keeps a book store, it makes no difference what he sells, you can find something worth while in almost any book. He has a little book store, where he keeps "radical literature," whatever "radical literature" may be. Of course, fashions in books change like fashions in clothes. It was once the Bible that was radical. Again it was John Wesley who was radical, and people were sent to prison

because they believed in him. Again to oppose witchcraft was radical.

Everything is radical in its turn. The only way I can tell what is radical is to find out how your belief differs from mine.

Procter had a radical book store. They took my friend Heth down there. Now Heth is a lawyer, a good one, too, and, as I have already remarked to the jury, I like Mr. Heth, and if he was not in this job he would be all right.

But what does he do, gentlemen? Why, he went over there with a policeman and without any warrant, and without any excuse, he raided the store; he violated the Constitution of the State that he is bound to support; he violated the provisions of the Federal Constitution, and he did an utterly lawless act, and for what, gentlemen of the jury, do you suppose he did it?

Why, he thought that if he rushed in there and took Procter like a thief in the night he would find something, didn't he?

He thought he would find something, he thought he would find some evidence on him and he thought he would give him no chance to get rid of it?

Now, gentlemen, he had no authority to take it. He went in there and he took out his books and his records and Procter said, "There are my books and my records, take them," the records of the small transactions of a group of men who met in his back room looking for the kingdom of God

in the distant future; he got these radical books, books that Procter had for sale, some were bound with red covers.

Great God, gentlemen, red covers.

If they have good luck with this jury, they will doubtless pass a law that wherever red appears on a flag or on a book or in the Aurora Borealis, it must be painted black.

They took away his books. There were some copies of the "Revolutionary Age" of July 5th. Now mind, this raid was made on the first day of January, or the second, six months after July 5th, and after the Communist Labor Party had been organized in September and after the Communist Labor Party had adopted its platform. Every person who joined it, and every one affiliated with it, was bound by the convention of the Communist Labor Party; but on January 2nd, they raided his store and they find a copy of the "Revolutionary Age" of July 5th, which published the "Left Wing Manifesto" adopted in New York.

Now, let me say that while I know little about you twelve men, we are bound to take a chance in this world, and I have got to take a chance on you, and here it is. While this looks easy to me, perhaps it is not.

You know, and every ordinary lawyer knows, that a thing does not always go because it is sensible. We know that it goes because it goes.

That paper of July 5th contained a published

copy of the Left Wing Manifesto which was passed in New York about July first.

Now, if Mr. Procter had that paper as an agent for all of my wicked clients, and he was selling the Left Wing Manifesto, in January, 1919, because he was the agent of my wicked clients, then they are bound by that platform; but if he had it just as he had all the rest of the literature for sale, his individual act, a paper for sale published three months before the party was born then it was Procter's act, and they are in no way bound by it. Now, what do you think about it? Why did they take it? I will tell you why they took it, gentlemen. They took it because this platform of July 5th, the Left Wing Platform, which was adopted by a committee in New York two months before these Communists made their platform, has something in it that is stronger than the Communist Labor platform in Chicago.

Now, gentlemen, I trust you won't forget it. That is why that paper with the Left Wing Platform, which the Chicago Communist Labor Party utterly repudiated, was offered in this case. The Communist Labor platform adopted in Chicago in September provided that no one could join the party or organize a local unless they were bound by the Chicago plan.

Gentlemen, that was the platform adopted by my clients, and if they ever conspired in the world, they conspired when they got together on September 5th and adopted this platform.

Yet, gentlemen, they want you to believe, contrary to your common sense, that Procter, who is a book seller selling radical literature, had, on sale the "Left Wing Manifesto," not because he was a book seller selling radical literature, but because he was an agent of the Communist Labor Party; that he distributed this Left Wing Manifesto as their agent when they had explicitly turned it down and made a platform of their own. own.

Gentlemen, if my clients were charged with murder, with robbery or with burglary, no lawyer in the world would argue under circumstances like these, that a jury should say that he did not have this literature as a book dealer, but that he did have it as the agent of a political party, when that political party had utterly repudiated it and made a platform of its own. They know it and it is little less than infamous to send them to prison upon evidence like that; and yet the whole force of this case is made up of two things, gentlemen.

Every word of evidence in this case is in that Left Wing Manifesto and in the Moscow Manifesto, and our clients explicitly declared in their platform what part of the Moscow Manifesto they endorsed.

It is on these things, gentlemen, these guesses and surmises and insinuations and falsehoods and schemes and traps and cobwebs that these prosecutors are trying to send to the penitentiary

twenty men, and incidentally, gentlemen of the jury, seeking to violate the Constitution of the United States and of the State of Illinois; seeking to place freedom of thought and freedom of speech under such a ban that no man will ever dare to think or ever dare to speak again in a land which once was free.

Inferences have been thrown out here that a sympathetic strike is an illegal strike.

I do not know what these gentlemen will say and I do not care. If they want to argue to this jury that a sympathetic strike is an illegal strike, all right, gentlemen; it will not be the only absurd thing that you have argued to this jury. I have respect for a man who strikes because he himself needs, or thinks he needs, more to take care of his family or himself, or for any other purpose of the kind.

I have respect for the men who lay down their tools and take a chance to better conditions for themselves; but, gentlemen, when a man who has a job and is making no claim for himself, when a man who has a job will lay down his tools and quit his job out of sympathy for his fellow man, whom he believes is not treated right, I have infinitely more respect for him; it shows a higher idealism, it shows a greater sense of justice when a man does this for some one else, than when he does it for himself.

Long ago it was written that "greater love hath no man than this that he would give his life for

his friend." Greater love has no organization than that it will lay down its tools in sympathy with its fellow man.

I may do something for myself and I am entitled to no credit for it; but when I will risk privation and want and financial loss and ostracism from my fellow men, for the sake of bettering the conditions of the rest, whom I feel are suffering injustice, then I am entitled to credit; and I care not how many lawyers argue that a sympathetic strike is illegal, and I care not how many legislatures declare it, or how often judges say it, so long as men have human hearts and human feelings and human sympathies and kindly emotions, men will know that it is not. They will know that the man who fights for his fellow man is a better man than the one who fights for himself.

There are some things higher than the laws. There is an innate sense of justice; there is a human sympathy on which the race lives, which is its preservation, and these have persisted, while laws have come and gone; and woe be to the law that gets in front of it, for no prosecutor is strong enough to defend it.

You can not do it, gentlemen; it will not be tried in this case. I wish it would, I wish counsel would insist on what they started out to do, instead of coming into this court at the eleventh hour, after all this array before this jury, and after every effort that has been made to fasten the Seattle strike on these defendants.

Let us see about the Seattle strike which it is claimed the defendants endorsed. This began with the shipyards strike, did it not in January, 1919?

The shipyards, as we gather from this testimony, were financed and owned by the people in the East. Of course they were; everything is financed and owned by people in the East. These sedition statutes were financed and passed in more than twenty states after the war had closed, by people in the East.

It is perfectly plain that twenty states passing these same laws immediately after the close of the war, were moved by a common purpose, and were influenced by a common organization, and that those statutes are there because someone wanted them. And that, too, after we had lived for a hundred and fifty years without them.

That is what I say about it. You can think of it, do as you will, but some time, when reason has regained its throne, if it ever does; or what is more probable, when the human race has taken some new frenzy and forgotten the old, America will repent in sack cloth and ashes for the injustice that has been done to men under these panic laws.

Now, they called the Seattle strike, and they called it in sympathy with the ship builders, and how was it?

Mr. Comerford, in examining our witnesses,

said, "Well, how many restaurants did you open?"

"Twelve or fifteen, I don't know how many."

"How big were they?"

"Well, I don't know how big, some of them as big as this room and some of them twice as big as this room."

"Q. How many people were there in Seattle?"

"400,000."

"How many milk shops did you open?"

"Oh, I don't member, twenty."

"How many people?"

"400,000."

And these wicked strikers, gentlemen of the jury, these wicked strikers, because they did not open more eating houses, and more milk shops; these trade unions, gentlemen, these trades unions are guilty and their guilt reflects back on my clients.

Now, let me call your attention to something else.

They have brought Ole Hanson, former Mayor of Seattle, here and they had another person here, and with the means at their disposal they could have brought all they wanted here.

Let me ask you if there is any evidence in this case that a single person went hungry, that a single person failed to get food and milk? Not one. The strikers were not bound to open a single restaurant in Seattle, not one. A week's

notice had been served. Ole Hanson, Seattle's Mayor, could have done that if he had wanted to, the strikers were not bound to do it. They were striking in sympathy with the shipyards strikers and all they needed to do was to strike. If Ole Hanson wanted restaurants let him get busy instead of writing foolish and criminal proclamations to make money out of the American people.

What did they do when they commenced this strike? They did what no strikers ever did in Chicago in my experience; they did what I don't recall any other committee ever doing, although they may have done it. They went clear beyond any duty that rested upon them, and they showed their sympathy and their common feeling, is there any doubt about that, gentlemen of the jury?

Before they ever called this strike, they made arrangements so that everyone could be fed, whether he was a striker or not.

Of course, there were some people who ate at home, I suppose they did not all eat in restaurants, they never do in any community that I know anything about.

The unions themselves made those arrangements, and I have heard them criticized because they furnished tickets to their members at twenty-five cents apiece where they charged the ordinary public thirty-five cents. Well, why not, gentlemen? Why not? And yet this is urged

before this jury as a reason why you should convict these men who have done nothing; against whom there is not a breath except these prejudices which have been gathered from the four corners of the earth.

The unions were not bound to furnish food for Seattle. Men who are engaged in an industrial struggle, have the right to carry on their struggle, and if the other side can not live, let them make terms, that is all.

But these men in Seattle went further than men generally go. The first thing they did was to provide places to eat and places to buy milk, and provided that the lights should not be turned off.

Gas was left flowing, electricity was left running, telephones were running and everybody was fed; the only man who was creating any disturbance was Mayor Ole Hanson.

Now, they brought two witnesses here, one of them Wilson. Now, gentlemen, I want to speak to you about Wilson, and I am going to speak about him and take the chance of Mr. Comerford's waving the Starry Banner in front of you, which I know he will do anyway, and talking about everything except the case. Mr. Wilson was wounded in the wrist, and he was gassed, and he says that he was shipwrecked coming home from the war.

I want to be absolutely on the square with this jury. No man believed that the United States'

duty was to enter thi swar more than I did; and so far as I could, I helped to the best of my ability and strength as Mr. Barnhart has told you.

No man has more respect for the soldiers dead and the soldiers living, who did their part in the allied cause than I. There probably are men who are more patriotic. I never made a dollar out of patriotism in my life, and I never expect to; so I know that there are men who are more patriotic because they are getting more out of it than I ever wanted to get. I prefer my own country to any other, and I am willing to stand by it in most things it usually does. I do not think it has always been right; I do not think any country always right; and I reserve my right as an individual to criticize it when I think it is wrong; and I always shall reserve it unless I shall have a change of heart; and if no man did criticize our liberties would soon be lost.

I believe that my country was right in this war. I was for it with all my heart and strength. I believe in the group feeling which binds people to their country, but I do not believe in the superstition which says that whatever my country does is right, and I certainly do not believe in making money out of my devotion to my native land.

Now let us see about Wilson. Lawyers are funny fellows. I think Wilson, in all of his early life, was little less than a tramp. Mr. Barnhart, Counsel for the State, testified in this case, and I do not

object to his testifying, he is a nice fellow, but if what he says is true, he has got the most curious mind I ever knew.

Barnhart said he lay awake the other night thinking, seeing if he could remember what happened to him when he was a boy. He has the queerest mind I ever saw. Of course, it is different from mine, but my memory of my early life is distinct and clear. I have talked to a great many people and Mr. Barnhart's psychology is different from any man's that I ever knew.

Now here is Wilson, who, at the age of about thirty-five, went to war, enlisting in the Canadian army.

He spent his life before going to war, all the way from New Jersey to—well, to the Klondike or close to the Klondike, he has been a perpetual traveler. If he had walked to all of these places he would never have done anything but walk all of his life, for thirty-five years. He never stopped anywhere long enough to catch his breath or to do a day's work, and he could scarcely tell who employed him for any length of time, except he does think he worked for somebody twice, altogether six months, putting the two times together, and then he prospected. Well, he is a prospector for fair, that is what he was doing in Seattle after he got back from the war.

Now, gentlemen, you heard him. In all his thirty-five years he could scarcely mention the name of a man that he worked for. He did give

you two or three names, and he gave them to you in such a way as to make you think that he was making them out of his head. I don't know where he lived or who he is, and I was more doubtful after he spoke about it than I was before.

Let me ask you, I don't want you to be influenced by Mr. Barnhart's mind or by my mind. You would go wrong, probably, if you did; at least if you took his mind; but I fancy the ordinary mind can go back to its childhood, at least until he is five years old, and he can tell the names of all the boys that he played with and all the men who were his neighbors and all places he went through and all the work he did. Of course, he will magnify the work more or less, but he remembers it, and he can trace his life and he can tell just where he spent his time and just what he has done, and the names of all the people that he has met, until he gets along—well, at my time or along about Mr. Forrest's time, although he is younger than I am, and then we are apt to forget the names of the people that we meet and forget other things as well. We look at a man and say, "Well, I know your face but I don't know your name;" but in all your childhood, in all your youth, and in all the time of your young manhood you know all of them; and I undertake to say that the life of every man on this jury is just the same as mine. It is no trouble for me to go back to five years of age and tell who lived across the street and who lived down the lane, and who lived across the

field, and what they did, the first names and the last names and all about them and myself. It might be some trouble for me to remember the names of those I knew since I was sixty, because the brain, you know, is born perfectly plastic, just like putty. The impressions of youth and childhood are made upon plastic substance, and the impressions are deep and set. As it hardens they stay forever, but as it hardens the new impressions are not as deep as they once were.

The impressions on an old brain are faint, if any, and they pass away, but your brain and my brain, recalls the early things; you know all about them, and Wilson knew all about them, but he didn't tell, and I fancy Mr. Barnhart knows all about his. Now, if he does not he is different from anybody else. He might have a case of aphasia, or whatever it is, or he might have made the best of it for this jury, but there is no man on this jury who does not know that his statements were not true. This man Wilson knew everything that he had done, and if his story is true, he had been a tramp and nothing else.

I am glad he went to war, I am glad of it; but gentlemen let us make no mistake about that war business.

And right here, gentlemen, let me say that I appreciate full well that I am travelling where ordinarily a man would say that he had to watch his step; I know the connection that members of this jury had with the war, and I know there is

not a thing that I will say in my argument that can be twisted or made misleading that will not be done for the benefit of this jury.

I have said that I respected the men who went to war for what they did; whether they were drafted or went voluntarily; but gentlemen, men are not made over just because they go to war. A man who was a crook and an adventurer before he went to war will probably be one when he gets back, and you may talk all the pyrotechnics that you please, but that is true.

There is one soldier over here in the County jail under sentence of death today for killing his wife. There is another over here in jail to be placed on trial next week for killing his wife.

Almost every day they come into these courts just the same as every other man, and there is just as many of them in the penitentiary and just as many of them going wrong as there are of other people, and no more. You know it and counsel knows it, whatever he says to you he knows it.

Now, gentlemen, if a boy had within him the instincts of manhood when he went to war, he had them when he came back home.

I will go further than that, there are boys who never had been developed, and who have been made men by the infinite trials and sufferings of this great war; but as a rule they are the same afterwards as they were before.

I give them credit for all they did, for all they

suffered, and I give this witness credit for all he suffered, that is all right; but I can not forget what he was, and still is; nor can I forget this, gentlemen of the jury, that he has not reformed.

Now what did he do? Let us take his story for it. If you want to blame him all right, blame him. Let us take his story.

He said he was gassed. He took two months' pay from the government while he was recovering. All right. I am glad he got it. I want to see everybody who was injured and everybody who suffered loss fully paid.

But then he went up into Canada, and what did he do? He began detective work and began at once, and then he comes down to Seattle, gentlemen.

He comes down to Seattle within two or three months, and what did he do?

He joined the organization of Soldiers and Sailors and Workingmen, did he not, as a secretary of some sort, at \$5.00 a day?

But does he join it as secretary?

No, he did not join it as the secretary, he only pretended to be the secretary. He joined it as a detective, didn't he?

The first thing he did when he got out, and he did almost nothing before he got in, was to take a job at \$5.00 a day as detective; and on the side, according to his own story, he raked off some money from Swayne who thought he was his friend, that was what he did.

Now what was he doing there? You know what he was doing, he told you. This crooked, sinuating spy, this crooked man in a crooked trade, went to the carpenters, he went to the engineers, he went to the Labor Temple, pretending to be one of them, and their friend, holding his ear open and carrying reports to his employer, didn't he?

He was there, just as for the last hundred years, this same class of sneaks have infested every labor organization in the United States and in England—to trick and beguile and spy while claiming to be honest men.

I don't care if his blood crimsoned the whole ocean, he is a detective and a spy and nothing on earth can change him.

I say, gentlemen, no right thinking man has any kind of regard for that sort of fellow. Nobody, even the man who hires him. You can not tell which side he is on. He will hire out on one side and then work for the other side. An honest man can not do that. The man who does it will make any kind of reports and tell any kind of a story that fits his case, because lying is his trade. To pretend to a man that he is one thing when he is another is a lie, out of which he lives.

And what about him? What did he do in this case?

He said he was secretary, although he was not a secretary in good faith. He said he was secretary of the Soldiers, Sailors and Workingmen. The Soldiers, Sailors and Workingmen, had noth-

ing to do with the strike. Their organization was not represented in the Metal trades or in the Central Union. There might have been men connected with the Soldiers, Sailors and Workingmen who were, but they came from some other organization and had no connection directly with the Central Labor body. They were not connected with it in any way.

Mr. Wilson, if he tells the truth—which perhaps he does and perhaps he does not—spent his time distributing money. He did not tell you what for, he did not tell you where it went, and probably it is just as well for him that he did not. He did not tell you that; he spent his time trying to get evidence against the men whose friend he pretended to be.

He says that one day he went up to the Labor Temple—not the Labor Temple, but the Collins Building—or maybe twice, and he saw baskets there, and he saw two or three baskets opened and there were revolvers in those baskets.

Well now, gentlemen, let us see about it. I think he is lying. Let me tell you why I think so.

In the first place I think so because it is impossible for that kind of a man to tell the truth and because he did not tell the truth to this jury about where he had been and what he had done.

I think it is impossible because every witness in this case, including Ole Hanson, every witness said that this strike was absolutely peaceable;

not a gun shot; not an assault and battery; not a single show of arms; not a particle of force; even the guards on the streets who were furnished by the unions to see that no violence took place, even these were armed only with a white ribbon which they wore upon their coat.

Is there one man who can say that he ever saw a gun, except this slimy detective?

If I had been a member of that organization I would have felt myself justified in having guns in there to defend the organization against the people who might be stirred up by the vaporings of Ole Hanson. They had a right to have them there. They had as much right to have them there as a man has in his own home or any other organization, but I don't believe they had them.

Was there one upon the street? Was there one in a public place? Was there one anywhere in sight in the whole city?

And yet this piece of perjury, and if not perjury, utterly irrelevant stuff is brought into this case, not to convict the Seattle strikers, whom they say are all right, but to convict the defendants, to convict my clients.

Gentlemen, you have been men of affairs in every walk of life and know the world and its purposes; you know the feelings and the passions of men; did you ever hear or ever dream of any case where the State tried to place men in prison upon evidence with which they were in no wise connected, upon prejudice, upon feeling, upon

passion, upon hate, upon direct promises and threats to the twelve men in the jury box, as they have in this case?

If a jury upon this evidence could take away the liberty of any human being, then in this land in times of stress and tribulations and trials, in this land any man may be jobbed by the very jury that history has shown to be the last refuge between the defendant and his accusers.

Gentlemen of the jury, there is not a scrap of evidence in this case that is in keeping with the testimony of Wilson; there is not a fact about Seattle in keeping with it, not one. It is practically disputed by their own witness, Ole Hanson.

Now let me say a little about Ole Hanson, gentlemen.

He was the Mayor of Seattle, a man who, like everybody else, is just the kind of a fellow that the Lord makes him. You can not add to him or take away from him. At least it would be dangerous to take much away from him, and I am afraid you can not add to him.

He was Mayor. This strike came on the town; very likely he could not help it. His town is not the first one where a strike has occurred; we have had them here in Chicago; we have had them in New York; we have had them in practically every big city in the country; and we will probably have them for years to come; there is nothing strange or remarkable about it; the only strange and remarkable thing about this is that it was

such a general strike. There was peace and order, and the citizens were well protected, which shows exactly what the strikers tried to do and what they did do.

Ole Hanson, evidently figuring with the Chamber of Commerce, or with some of the other people of wealth and influence in the community, allowed himself to be influenced by them. That is almost always the case. He was the mayor of this city. He has not shown, in a single instance, that there was any trouble, any riot, any assault or any fear of trouble. No one in this case has shown where, in a single instance, there was any effort to take hold of the business of the city or any interference in any way with any of the municipal departments, and yet they started here with a flourish to prove to you that Seattle was an illustration of what was meant in this Manifesto, of taking possession of political power.

Where did anybody try it, where was it done? Where was it suggested, where did this thing come from, anyhow?

Ole Hanson had no such thought, at least not before he left Seattle; he had no such thought while he was acting as mayor; he had no such thought while he was dealing with the organization.

Every proclamation issued by the workers, every statement issued in connection with this strike; showed that they were engaged simply in a sympathetic strike, to help the ship workers. They called on the business men by proclamation

saying, "That your interests lie with us as against these non-resident ship owners; if wages are raised there will be more money to spend with you."

This certainly does not indicate any intention of taking over the city; taking over the industries; or doing anything except using their power to get more wages for their fellows, who no doubt deserved them, but whether they deserved them or not they thought they did and that was enough.

Hanson had several interviews, most of them flatly contradicted by Duncan, many of them utterly inconsistent with his own statement made at other times and shown in this case.

Where does he show that anybody ever undertook to take his job or any other job or perform any of the functions that he or the city administrations were performing or take anybody's industry or anybody's business?

And yet, gentlemen, they come here and carry that inference to this jury.

Now let me show you something which proves that no one ever dreamed of such a thing until Counsel thought it was necessary to make a case.

Notice of this strike was given, as I recall it, on Sunday, the 2nd of February, that the strike was to take place on Thursday, the 6th. It did take place on Thursday, the 6th. On Wednesday, the 5th, Ole Hanson had a conference with the labor men in charge of this strike. He had a right to take every precaution necessary for the city during the time of the strike.

He had another conference the 6th and another one the 7th, and on the 7th, as he says, a committee of working men came in headed by Duncan; came to his office, and he boastfully says he kept them waiting from ten o'clock in the morning until three o'clock in the afternoon. They came there at his request, to see what could be done to call off this strike, which was just a day old; a strike which was never meant for anything except to gain the point by the workers of the shipyards; he kept them waiting there he says, all the afternoon.

Duncan denies this. He says Hanson called in his friends from the Chamber of Commerce and they had a conference, but Ole Hanson says that while he was keeping these men waiting in his outside office, he got busy and gave to the evening papers what he called his proclamation, and here it is, gentlemen, Ole Hanson's proclamation. I fancy this is the first proclamation that he ever issued, and it probably will be the last.

I want to call your attention, gentlemen, to what is in it, and to what is not in it, as showing the falsity of these witnesses; to show you that nobody ever had the remotest thought of taking possession of the City of Seattle or doing anything except winning this strike. As shown to you, the strike was conducted for perfectly lawful purposes by a body of patriotic workingmen, and the only bad thing about it was that Hanson thought it was bad.

Now what did Ole think on the 7th day of February, 1919, when he issued his proclamation?

Here it is:

“To the People of Seattle: By virtue of the authority vested in me as Mayor I hereby guarantee to all of the people of Seattle absolute and complete protection.”

And yet, from the beginning to the end, not a man was interfered with in any way.

“They should go about their daily work and business in perfect security.”

Why not?

“We have fifteen hundred policemen, fifteen hundred regular soldiers from Camp Lewis, and can and will secure, if necessary, every soldier in the northwest to protect life, business and property.”

All of which were safer in that four or five days of strike than before or since, in the history of Seattle.

“The time has come for every person in Seattle to show their Americanism.”

To show their Americanism?

“Go about your daily duties without fear. We will see to it”—

We will see to it?

“—that you have food, transportation, water, light, gas and all necessities. The anarchists in this community shall not rule its affairs.”

The anarchists in this community shall not rule its affairs?

“All persons violating the law will be dealt with summarily.”

It is signed “Ole Hanson, Mayor.”

Now, gentlemen, up to that time and after that time not a single voice had been raised against business and good order, not a single thing had happened in Seattle, as peaceable as on a Sunday morning, and everybody says so including their witnesses.

Property and life were properly secured, and yet they have carried the inference here, and Hanson has said that he heard a wild speech at the corner of Fourth Avenue and some other street, that the strikers were going to assume the control of the city, and Wilson had been reporting to his employers these statements that he had gained as a spy; reporting that they were going to get control of the city and usurp the functions of the city.

Now, gentlemen, pray tell me why, on the 7th day of February, after this strike had been brewing for a week; after repeated conferences by the Mayor with the strike committee; after this sleuth had been going in and out and making his reports; after every effort had been made to stir up violence by these agents; after all this time, pray tell me why Ole Hanson issued his proclamation and never in any way referred to any effort of these strikers to take control of the city; to interfere with property; to usurp the functions of the State; or to do a single unlawful thing?

Think you, gentlemen, that if there had been any effort to do any of these things, Ole would not have spoken of it?

Think you the proclamations would not have come so thick and fast that he would never need another line of advertising as long as he lived?

Think you that this cheap, advertising, money-mad man would have overlooked an opportunity to bring to the world what they were doing? Do you think that he would have overlooked an opportunity to be advertised on all the fences and all the sign boards all over the United States, so that he might make money for the heroism he showed in this battle?

Why didn't he say something about it? Why didn't he call the attention of the City of Seattle to it? Why didn't he call the attention of the Government of the United States to this fact, if it had been a fact? Why did he never raise his voice or raise his hand to protect the administration of the city, if the city was in any danger?

Never once did he refer to this until he began to coin his notoriety into money, then this great patriot talked about something that never happened.

Now let me say one other thing about Ole Hanson.

I told you that I did not believe his testimony, and I do not.

Now, there is one particular spot in this case where Ole lies or Duncan lies, and if it is any-

thing of importance to you, that is, if it is of any importance to you, you can determine which it was; I think I know which it was. It is important to me only as showing the kind of man he was and the effort that he has made in this case to convict twenty men who are in no way responsible for it, if it had been true.

After this case was finished, and the last word had been spoken on both sides, the State called Ole Hanson, for his second engagement, and they pulled out a book which had not been offered in evidence in this case; no juror has any chance to know what its contents are, and it probably would have nothing to do with it if they did, and they passed the book to Ole and asked him where he got it.

When Mr. Duncan was on the witness stand after Ole had told his story, which was meant to link up these defendants with an attempt to usurp the powers of government, when all they could link them up with was the quietest, the most orderly, the most carefully conducted, and the worthiest strike that America has ever seen, according to the evidence in this case.

They pulled out this little book, "Soviets at Work," and they said, "Mr. Duncan, did you give this to Ole Hanson," and he answered it promptly and said "Yes, I did."

"How did you happen to give it to him?"

"Why, Ole said he wanted one and asked me

if I could get it. I told him yes, and went out and bought it, and I gave it to him."

He answered without a moment's hesitation, he told the story plainly and truthfully; and then after Ole had testified, and they had never asked him a word about it, they called him back on the witness stand, in rebuttal, as they call it, and asked him where he got this book, and Ole says this:

He says, "At one time about the beginning of the strike, he says to Duncan, what do you fellows want to do," and Duncan pulled out a book and says, "You might read this and then you will know."

And then Ole says, "The further you keep away from Russia the better."

Now, gentlemen, I want to know who is lying. I don't want to know—I do know, but I want you to know, that is all; not that it makes any difference in this case, but just for the fun of it, that is all.

If Ole's statement is true, he came down here to Chicago with this book in his pocket. He knew all about it when he took the witness stand the first time.

When he took the witness stand the first time he related all the conversations that he had with Duncan and the strikers, he told the whole story, and he would have told this story if it had been true.

In relating the conversations with these strik-

ers and with their agents when he went on the witness stand in the first instance he would have said to this jury that in the early stages of this strike, or before the strike was called, Duncan came to his office and passed him this book and he says, "If you want to know what we want, read this book."

Then I, Ole, said, "The further you keep away from Russia the better."

Wouldn't he have said it? You know he would have said it, but he did not. He told his story and related the incidents of every meeting and left the witness stand.

They passed this book to Duncan, thinking in some way that they might catch the man off his guard, that he might forget his story as he told it, then they put this miserable, contemptible false story into his mouth, and he repudiates it and Ole gets up here and swears to it. Gentlemen, it is upon this kind of testimony that they have built up this case.

Is Ole Hanson hard to understand? Is he? Doesn't he show, all over him, the marks of a cheap poser? Doesn't he show all over him evidence of a lightheaded, notoriety hunter? Think of it, gentlemen? Imagine one of you. Suppose you had been the hero of this bloody strike. Suppose you had preserved civilization and Americanism, because you were such a great and such a brave and such a noble Mayor? Suppose that you had bared your breast to this mob, that opens

up milk stations and eating houses and carefully guards the peace of the city? Suppose that you had earned the plaudits of your fellowmen and the enconiums of the press? Suppose that you had done that and suppose that you had been heralded by State's Attorneys as the great savior of the world, what would you have done?

Well, I fancy you would have stuck to your job? I fancy you would have stayed right there and run the job. But not Ole, oh no, not Ole. When he was advertised from one end of America to another for his fool proclamation because he was the jumping jack Mayor of Seattle, when his advertising was worth thousands in lecture courses, he forthwith lays down his job and leaves Seattle to go to the dogs, or to the workingmen, as the case might be.

The captain deserts the army, and the pilot gets off the ship and lets Seattle go to the devil while he rakes in the shekels.

Now, that is Ole; that is Ole Hanson, the cheap, vaudeville performer.

If there was a museum down here on Clark Street that is where you would find him this afternoon, with the stuffed white horse that figured in the Cronin case.

He left the Mayoralty of Seattle to make seventy thousand dollars a year lecturing. We asked him why he did it. What did he say?

Why, he said he needed the money.

That is a fine excuse for a patriot, and pretty

near all of the professional patriots need the money; that is the reason they are professional patriots, they need the money.

And that shocked even Frank Comerford. This great patriot left the city in the hands of a mob, because he needed the money; so Frank tried to help him out by asking him how many children he had, and he said he had nine children and three grand children.

Well, of course, if a man has nine children and three grand children, he might do anything to get a living, even come down here and lie, and I suppose that is the theory of his examination.

Nine children and three grand children, and yet he probably had almost all of them when he got the people to elect him Mayor, and as quick as he got some fame and some notoriety that he could work into cash he left his job and took the cash.

Now, gentlemen, you can take his story if you want to, but I will undertake to say that in any ordinary case, where the feelings and passions of men are not involved a story like this would not be looked at, for a single minute.

And what did we show about that strike?

Why, we even converted the counsel on the other side, which was some job, gentlemen.

I don't think we converted their reason; we just put them in a position where they thought it would be foolish to tell you anything else, that is all.

Mr. Duncan told this story. He was present at all of it, he was a part of it. He told you that this strike was conducted by the Central Labor Council; that they picked out three hundred men to run the strike; that every single man of them was a delegate to the Central Labor Council representing some union; that it was a trades union strike from beginning to end; that they took every precaution to see that safety and peace prevailed in Seattle; that they took every precaution to feed the people and care for their needs; and that it was peaceable from beginning to end; that he never once heard anybody suggest violence or taking control of the government; that the strike was for one purpose and one purpose only, that is what he said.

Now, gentlemen, is there any doubt about that in your minds?

We called a business man, he has been long connected with the unions, he was present during that strike. There never was a word of violence, he says, there never was a single unlawful act, perfect peace, and everybody was provided for.

Then we called a woman who for years has been president of a Woman's Club of Seattle. I suppose she is lying too?

No interest in this strike, except that at this particular time she was the chairman of the committee on civics, whose business it was to investigate this strike, she had a daughter working dur-

ing the whole time, she spent her whole time investigating this strike.

Was this woman lying?

Is there any one of you gentlemen that would think that she was lying any more than that your wife or your mother was lying.

A plain woman, she held as important a position as anyone in the City of Seattle; no way connected with this strike, her interests would be all against it; but she investigated it to find out the facts, and she went up and down the streets and saw the guards that had been specially placed to help in the protection of the city; she knew there was no violence; she knew there was no bloodshed; she knew the city was fed; she knew the telephone system was working; she knew the city was lighted; that it had milk; that it had all that was needed for its people.

Yet this strike is paraded before this jury, in order that in some mysterious way it might play upon the minds and the prejudices and the passions of you twelve men, to get a verdict of guilty in this case.

Counsel says, "What about a strike that would not permit a store to run in Seattle and that would place an exemption sign upon a hearse?"

Well now, gentlemen, I fancy you people know something about strikes. You do if you have lived long in Chicago or in any civilized community. There will be strikes until the industrial

system is changed, if it ever is changed, which it probably never will be.

Counsel insists that the Communist Labor Party is seeking control of industry. Is there any reason on earth why the poor should not control industry if they can? I submit there is none. If I thought they could do with it what many of these dreamers think they can do, I would say, speed the day. But whether they can or not, they have a right to try.

But my clients despise the ballot. Gentlemen, you would be slaves today if you had depended on voting. Men might never vote and they might get their rights, and they might vote forever, and be slaves. Men may take their choice of methods; so long as we have the semblance of freedom in the world, they may do either, they may do both, and they may do neither. If you gentlemen only got what you voted for, you would get mighty little. Voting is a habit, sometimes wise, and sometimes unwise. I generally vote when there is something important. I sometimes vote, but for the life of me, I do not know where my vote ever brought results. Of course you cannot be a professional patriot unless you are terribly strong for voting. Voting came directly from God Almighty. The man who gets something he does not vote for, is a sinner. Of course, it is all right to vote for something you do not get; but you must never get anything you do not vote for.

I say again, that a strike, a general strike or a special strike, is perfectly lawful. If a general strike results in violence, you may punish the violence, and that is all. It may be violence will result from a strike. Violence often comes where the feelings of men are deeply roused on questions that affect large masses of men. We are made that way, but you cannot stop the progress of the world because something is liable to happen, any more than you can stop the building of a skyscraper because somebody is sure to get killed while it is building. That is incidental to it; and if there has to be bloodshed because of changes, that is no reason why the changes should not come. If you take out of the history of the world all the progress that has come through violence, you would not have enough State's Attorneys left to send men to jail for striking. Men would still be using clubs and living in caves. The world moves in wonderfully mysterious ways and the logic of lawyers never was the logic of the universe. A lawyer might want to make the Mississippi Valley fertile and rich and productive, and he would pass a law; but Nature sixty, seventy, one hundred thousand years ago sent a glacier down through the valley which ground and pulverized the soil to make it ready for the homes of men. Nature works one way and lawyers work another. Lawyers sometimes think they are the bosses, but Nature is the boss; and if lawyers had sense enough to conform their

endeavors to natural lines they would not make such fools of themselves. They would not be everlastingly flying in the face of what must be.

Now, what about a general strike and what about changing the conditions of industry and forms of institutions in any way except by pushing a ballot into a box? Now, gentlemen, I insist that you have a perfect right to change any law or custom or institution by a strike the same as by a ballot. Let us see. It seems to be the theory of counsel that strikes must be confined to raising the pay or shortening the hours or changing the conditions of working men. That is not the law and never was the law. I have the right to go out and urge the people of the United States never to do another day's work until the 18th Amendment was repealed, and I would do it if I thought I could get them to stop; but I don't think I could—but I have a perfect right to do it. I have the right to urge men not to work until any law is changed. It has been done over and over and over in the history of the world, and it will be done more and more.

Does man live by the ballot alone? How many of you men are members of unions? Most of you have the eight-hour law. Did you wait to vote to get it? Did you get it by any vote you ever cast? I say no. How did they get the eight-hour day in this country? I have read the history of it. I was present with some of it. I know how

it came about. I know it came by workingmen laying down their tools and saying, we will no longer work until we get an eight-hour day. Not only did they get an eight-hour day in this manner; but that is the way they got the fifteen-hour day; that is the way they got the 12-hour day; that is the way they got the ten-hour day and then the eight-hour day; not by voting, but by laying down their tools; and then let me tell you what happened. After that was over and after the victory was won, then these time-servers, these politicians who make up the legislatures of most of the States in the Union, in order to get the union vote, passed laws making an eight-hour workday. No law was passed until after the victory was won.

I remember the great railroad strikes in this country led by Arthur years ago; he was called a fool and a traitor, as he was later called conservative and reactionary. In the early days of the railroad organizations he led the strikers for shorter hours and for higher pay; and you will find written in law reports cases against him and his organization because they violated the law in the strikes. Sometimes they were sent to jail, but they did not stop. They won their point; they shortened their hours; they raised their pay; they made it safer for the men who drive the engines, and those who ride on the cars. They got more for themselves and more for their fellow men; and then the lawyers and legislators came in and made

legal what they had already done. That is what happened, and that is what will happen again and again.

We have now pretty generally an eight-hour working day in America; sometime we will have a shorter one. I don't know when. Personally I do not care when, but we will have a shorter one, but none of those eight-hour working days ever came by legislation. Men used to toil ten, twelve and fifteen hours for the smallest amount that would keep body and soul together. Gentlemen, we had an illustration of it on this jury. Half of the men excused from jury service were men who had been only to the fourth grade in school; in this great city, in this great land, where you can vote four or five times a year if you want—half of them, almost half of them had not passed the fourth grade, and not one out of ten had ever had a chance to read or study since they had left the common school. I want to know whether any of you people who work for wages, which is most of you, and who have a better chance than your ancestors had, whether you are thanking God for the politicians who gave it to you. If you do you are silly. I want to know whether you ever voted these wages to yourself, or did you go out and get them. Did you get your friends to stand together and say, we will not go down in the mine and dig coal for men unless we have enough for ourselves and our families, and unless we have reasonable hours to work and reasonable

conditions of life. We will not risk our lives on engines unless we have reasonable appliances; unless we have reasonable wages; unless we have reasonable hours. And you got it by fighting for it. You could not get it by voting. There are too many law makers. There is Congress; the Senate and the President and the Supreme Court and the State Legislature and another Supreme Court and Lawyers and everybody else to be satisfied before you get it, and you would die before you could vote it to yourself.

That is the way you have got it in the past, and that is the way you will get it in the future, and you gentlemen can make the most of it. Now, I don't need to tell you gentlemen that it has been gained that way, you all know it. I don't object to voting. I seldom miss a chance, but there are many things in this world besides voting; many many things, and voting is a very small part of a man's life, and very, very few are the things he gets from it, but the way these gentlemen talk one would think that all you had to do was to go out and vote. You do not even need to be educated, or to study. You do not even need to understand political questions. The education of voters is much more important than the voting. The actions of men are much more important than voting.

Now, gentlemen, strikes have often been called in industrial matters, and everybody knows it. They have been called to affect political matters

just the same. Belgium had two recent strikes. I cannot tell you the second time, but as I recall it about five or six years ago the last one and the other one a few years before. Only a very small fraction of the Belgium people could vote. Of course, those were the blue bloods who were extremely patriotic; workingmen did not vote. They worked. They did not even vote for a change of law because they could not vote. It might have made a difference or might not, if they had. What did they do? They struck. They said, we will work no longer until we get a chance to vote. We will strike. Just as our ancestors struck at Boston Harbor. We said we would send no more taxes to England until we were represented in England, and we struck by force and violence and "unlawful" means.

The Belgians went out as a man and parliament was called together and gave them limited suffrage, just as limited as they dared, but of course, limited; two years passed and they struck again. About two years before the war, they struck for complete suffrage and refused to work until they got it; and parliament was called together and they got it because they struck. A political strike, and not a drop of blood was shed, not a drop. If men had died, none the less the strike would have been legal; none the less it would have been just; none the less it would have worked.

In 1904, after the Russian-Japanese War, the

Russians struck for a constitutional form of government, and the strike involved a territory of more than three thousand miles in length, and as I recall it, about two thousand miles wide, covering about one-fifth or one-sixth of the territory of the world, and they laid down their tools and work stopped; railroads stopped; farm hands stopped work; all Russia struck. Struck for a constitutional form of government where the poor would be represented in the government, and they refused to work. They were indicted; they were tried and many of them fled to America and American officers even tried to send them back to death; Mr. Root was then Secretary of State and not one of them was returned. He was a lawyer and an honest man, but we have fallen to an Attorney-General now named Palmer. Not one of them was returned, and they refused to work, gentlemen, every one of these poor peasants who had felt the lash upon their bare backs, and whose fathers and grandfathers for twenty generations had felt the same, who had been bought and sold, killed like dogs for the blue bloods and the rich; they all stayed out until finally the Czar surrendered and the people established the Duma, and they sent their representatives to the Duma, the Russian parliament. They sent Socialists and working people, and trades unionists and communists, and all kinds of men who represented the poor of Russia; until in a night, contrary to law and contrary to

humanity, the Czar revoked this law and dissolved this parliament and sent these men back home, helpless, with their rights destroyed, to live the life their fathers and their grandfathers and their great great grandfathers had lived before. The Russian Czar revoked the power he had given to the people and once more put his heel upon their necks, and it rested there until near the end of this great war in the last throes of Russia's despair her people arose again and swept from power forever the last of the Romanoff family that ever lived to curse the earth.

Sweden had a general strike a few years ago to establish woman's suffrage. Purely a political strike, nothing else. These things are just as old as the efforts of men to better their condition. The people had a political strike since the war in Germany. Some man, Kopp, I believe, undertook to overthrow the present government and bring back into power that ancient regime that had caused the world war and brought so much blood and sorrow. What did they do? The German workingmen laid down their tools and said, we will not work until that usurper has abdicated. They struck, not for something new, but for the government already in existence, and they won. The German workingman had the intelligence and the courage to lay down his tools; and by that means, this usurper, seeking to bring back the old government and overthrow the new, lost his power, lost it with-

out the shedding of blood. They won because they refused to work, and that is about the simplest thing a man can do, and about the most unusual—he is so used to work.

I could call attention to strike after strike. The French strike, one of the last strikes threatened. The strike of the English miners and railroad men, where they refused to mine coal or haul cars if they were to be used to send troops to Russia. These men had political power. They were voters and they said to Lloyd George, “if you want to send soldiers to Russia, that is trying, after long ages of tyranny, to breathe the free air of men, that is fighting the age-long battles of freedom—if you undertake to send an Englishman, or a pound of coal, we who work deep down in the earth, who dig this coal for the use of men, will refuse longer to work or to run the trains.” They did not wait for another election, when they might be swindled or juggled out of something, but they struck and won their fight. They are threatening the same thing in Ireland. How it will come out, I do not know. They are doing it the most effective way and using the most effective power that was ever placed in the hands of a workman when he wants to use it, and it is about the only power he has.

I will call your attention to one thing more, and then I will pass to something else.

You have heard of the Adamson Bill. The railroad employes of this country, just before

the war, said they were willing to work, but could not work while the profiteers were getting rich, unless they had higher wages. War had not yet broken upon America, but the reflex of it had caused the high prices in America, and they said, we will strike and strike together unless our wages are raised. This was just before the presidential election of 1916. President Wilson called together Congress in great haste; he called the leaders of the railroads together; he urged everybody he could urge and he gave his promise that if they would remain at work, the question would be settled and a Board would be appointed to settle it. They held up the strike until the Adamson Bill was passed, a political bill to take care of their wages, which was won by their organization and their power to strike. The bill was passed and Wilson went before the country and urged it, and the powerful interests of this country condemned him, because he had been awed by the great organization of labor who threatened to strike because they could not live on their wages with the high prices of the day. It was threshed out before the people of the United States and he was elected, as you all know. This is nothing new. In many of the civilized countries of the world, often in the United States, purely political strikes have been called. One has just been threatened with the railroad workers until a commission was appointed to settle their grievances again; and they called off their strike until the com-

mission was appointed. They waited faithfully until they had the time to settle it, and it was settled by a political commission appointed to prevent it. Why, gentlemen, the idea that human progress rests on the ballot is so absurd that no thinking man ever conceived it. Men lived in this world long before they voted. Men tilled the soil and dug in the mines and felled the trees, raised families and built up a civilization without the ballot; and they can build up a civilization and keep what they have and hold it even in spite of it. Nothing takes the place of work, of energy, of devotion, of standing for your rights, of individual action. When this country or any people sees fit to give up all the things which have brought America the wealth and power she has, and which has brought our individual workmen what power they have; when they see fit to give it up and trust only to the ballot, they are lost and every intelligent man knows that they are lost. It is good in its place, but its place is secondary to the efforts of men; its place comes after education; its place comes after organization; it comes after all the forces that have made us great and that have made us free. These are the things that count. Gentlemen, my clients are condemned here because they said in their platform that while they voted, they believed the ballot was secondary to education and organization. All right, gentlemen, you have your views about it, but my clients

are right, and you jurors through your daily life, and daily conduct, and in your relations to society know it well. Education, organization with your fellow man, for your industries and your institutions, these are the things that you rely upon for your life and your progress and the progress of the society in which you live, and everybody knows it who has tried to think of it or who cares to think.

A question was asked by the prosecutors of you jurors as to whether you believed in "legal freedom". For God's sake, tell me what is "legal freedom". It is a tricky catchphrase that has ever been used to enslave men. What is "legal freedom?" Everybody always had "legal freedom." The men who were roasted to death by the Spanish Inquisition had "legal freedom." That is, they had all the freedom that the law gave them. The old men and the old women of America who were hung for witchcraft, enjoyed "legal freedom." No man who ever knew the meaning of that word "Freedom" ever attached to it the word "legal." "Freedom" is "freedom," and nothing is done by a government that is not legal. If it is not legal, they make it legal, and men in the past who had their tongues pulled out, who were pierced with red hot irons, who were boiled in oil, who were tied to stakes, who were bent on the rack and tortured until they died, who had every limb torn from them, who had their nails pulled out and splinters

run into their flesh, all were enjoying "legal freedom" while they were tortured and killed. That is what you will enjoy if in this country of ours the evil forces back of this prosecution can have their way and provide their kind of "freedom." The time will come very soon when America will be ashamed of her cowardly attempt to send men to jail under laws of this kind; ashamed of the suppression of freedom of thought and freedom of speech which is making a mad house of a once free land.

My clients are abused because the Communist Labor Party expressed sympathy for the I. W. W. I have read more or less about the Industrial Workers of the World. I know where the newspapers have placed them. They have been so often prosecuted and condemned that most men in America hesitate to sympathise with them; and yet, gentlemen, they have done a work for a class of workers that no other labor organizations could do or ever did do, and if you have read the stories in the Atlantic Monthly, or even in our daily papers, you have seen that these men have organized the transient laborers, the men who were taking a temporary job at this, that and the other kind of work, and could not be members of the old organizations because they did not stay long enough in a place; men with no support who were imposed on in a thousand different ways. They have brought this transient labor together. Only recently an investigation has been made by

the American Loyal Legion, and it reported that they had done a much needed work in providing decent places where men could live and decent conditions for people who had no chance.

Now, about shop committees and mass action in the shops: What is a labor union for except to connect up for the mass action of its members? Why, gentlemen, you must have lived in the dark ages. Do you not know about shop committees? Do you not know that in most lines of industry that have shown the greatest progress, every organization has its shop committee? And almost every question is put up to that shop committee and unless that shop committee can agree with the employer it is submitted to arbitration. These men are dealing openly with their employers in this way, and many, many of them have their shop committees all over the United States. Mass action by shop committees, when did this become wicked? When did it transpire that because somebody advocated mass action by shop committees that we will send him to jail? All right, gentlemen, there they are. If you think it would help matters, why, it is all in your hands.

And, gentlemen, the conquest of the state, what of it? Why should not the workingman make a conquest of the power of the state? That is what they have been talking about trying to do; it is what everybody has tried to do. I fancy in this general mix-up the workingman has never had a chance at the power of the state; no organization

could believe in the conquest of the power of the state unless it believed in the state. Unless it wanted to use that organization and believed in it. Is there any more reason why the workman should not make the conquest of the state than any other part of society; why should these men be sent to jail because they wanted to make the conquest of the power of the state? Every political party in America is trying to do it, and are doing it. The Republican party is now very busy making the conquest of the power of the state, and doing everything it can think of that they may make the conquest of power. The Socialist party has always done it; the Democrats have done it when they were out and tried to keep it when they were in. My clients' policy is just like the policy of everyone else, excepting this, they think they would use it for the benefit of the workman. Perhaps even if these men did make the conquest of the power of the state their dreams would not come true, I cannot tell, but they have a right to try; they have a right to think, they have a right to proselyte, they have the right to their opinion and to make their opinion heard. This is what I plead for, and I am not interested in whether their opinions are right or wrong. If they are wrong, the American people under free discussion can find the wrong; and if by any chance these opinions shall convert the United States, then the United States needs converting. The prosecution have taken these

phrases, which are innocent; which are in common use; which are used by every political party, which are used in all campaigns, which are absolutely harmless, and have twisted them into damning phrases that this jury might send these men to jail.

Now, gentlemen, this platform and program and constitution that they have read to you, I will not read again. You may read it when you go to your jury room and give it any weight that you think it ought to have. This platform and program is simply a statement of the political and industrial history of the world as these men saw it. It is nothing but a statement of fact, and a prophecy of the future, and there is in it, I undertake to say, not one word that calls on any human being for force or violence. I might prophesy that the world will change one way or another. I might prophesy that good will shall sometimes abide with man to such an extent that we shall all dwell together in unity and peace. I might prophesy that sometime on healing wings the dove would descend upon the earth and there would be no more wars nor rumors of wars; that every man would love his fellow man and the whole world seek the highest good of all; where want shall be forever banished; where there shall be no more ignorance and no more greed; where there shall be no children working in industries that great institutions may get rich; where there shall be no poverty; where disease will be conquer-

ed; where there will be that peace and good will on earth that the religious have always said prevailed in heaven. I might prophesy. I don't know whether it is coming or not. I rather suspect it is not; if it does come, I fancy, gentlemen, I will be too dead to know anything about it. At least I will be so blind I cannot see it, but I might prophesy it. I can make another prophesy. It has been made by sociologists, by captains of industry, by bankers, by preachers, by politicians, by labor leaders,—I can make a prophecy that even this country which I love more than any other, in spite of the faults which I believe she has, that even this country, through the greed of wealth, ever seeking and reaching and grabbing more and more, taking from you and from me; from the hungry children that toil in mills; taking from the consumers of the world until nothing is left; taking as they would be taking now except for the rebels who oppose them. I can prophesy that they will do here what they did in Russia; will crush the workingman in darkness and night, until some day America will see the greatest and bloodiest revolution that the world has ever known. I can prophesy that, and it has been prophesied again and again in America, and I would be well within my rights if I announce this dream. It may come and it may not. Any dream or every dream may be true or false. I would be simply saying that I see the danger that this may come. This is not urging you gentlemen to go

and get your gun and get it quick and go out to-night and take the City Hall. It is not urging anyone to force and violence. It is giving my opinion, and I still have the right of an American citizen to express my opinion, at least if no spy or prosecutor is looking,—I still have that right. I do not know what the future holds in store for us. Life is not all a summer's dream, whether it is the individual life or national life. We are born. We are tossed on the sea of fate. We are driven here and we are driven there. We have our joys and our pains. We have our pleasure and our distress. We die and no man knows where he is bound, or whether there is a port. We live on faith and we live on hope and we nerve ourselves to stand the hard rebuffs of life; we take it as it is, and nations are only aggregations of men. I have always loved this country. I love its broad prairies; its great mountains; its noble rivers; its dense forests; its wealth of mine hidden in the earth; I love the freedom that has come from new ideas, from a constitution made by rebels and protected by rebels; from a constitution born in strife and tempest and rebellion. I love it for what it has been, materially and spiritually; I love it because over its vast areas one can find a free breath of pure air; because of its intellectual freedom; here one may live; he may speak the thought that is in him; he may develop and grow; if he will he may be free; and without freedom nothing is of value. I love it for these and for these I will

fight. I know the danger of security and ease and power. I know that freedom produces wealth and then wealth destroys freedom. I know that the nation that is not watchful of its liberty will lose it. I know that the individual that will not stand for his rights will have no rights; and I believe the first duty of every American citizen is to protect himself and his country in all the liberties we have and all that we can get.

I want to say to you that all through the ages the blood of the martyrs stains the pathway of the human race. Every step in progress has been marked by blood and tears. Nothing ever came to the old world that was worth the while that did not cost life and blood and anguish of body and of soul. Martyrs have filled the world with graves. They have died for what they thought and spoke, but the monuments of the world have been built to them. Little detectives, and prosecutors and courts and juries have condemned them to death. Still, the human race has moved forward over their mangled forms, and its path has been lighted by the burning bodies of these devoted ones.

I do not know what will befall freedom now, but I know that the future is ours. I know that history makes clear the injustice of the past. I know that the dead have risen triumphant over the judgment of juries and courts.

Now, gentlemen, no man can speak freely what is in him if he fears the jail. You cannot write freely with manacles on your hands. You cannot

Speak or write or think freely with detectives on your track. You can only be yourself in the open, clear light of day; giving what the infinite says through you; giving it freely as it comes. There can be no free thought without free speech. Of what avail to think if I may not write or speak?

Gentlemen, I do not pretend to know the future that is in store for America. I know that nations like individuals are born and live their time and die. We are young. Our life should be long. While we live we should preserve all the freedom that we have and strive for more. We should protect our constitution as our fathers gave it. Protect it not in the letter but in the soul. I do not know what the future holds in store for America or the human race. I am willing to take my chance, and I want to take my chances by leaving every man free to bring his contribution to the world; by leaving every man free to express his thought; by leaving every man free to throw his opinions into the great crucible that we may work it out. This is freedom. It is the freedom we have believed in. It is the freedom we have worked for, and gentlemen it is the freedom I urge you to protect and save. I do not urge it for myself or for my clients—they are the smallest concern to me; but I urge you for the sake of your common country, for the sake of what is even nearer and dearer than that, the liberty of men, the freedom of the human soul, which alone makes life worth the living; I ask you to say that

men shall be free, and if in the open discussions between free men my clients triumph, well and good; they ought to triumph; and if they are wrong their theories must go down. I urge you to stand for the right of men to think; for the right to speak boldly and unafraid; the right to be master of their souls; the right to live free and to die free. There is no other cause that is so much worth while. There is no other sentiment or emotion that ever moved the human soul as priceless as this.

Gentlemen, I submit this case, assuring you that my clients are my last concern; I ask you to do your part in the great cause of human freedom, for which men have ever fought and died.

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Darrow, Clarence Seward
Argument... in the case of the Communist
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