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Wayland's Monthly.

Entered at Girard, Kansas, postoffice as second-class mail matter.

No. 90 Girard, Kan., October, 1907. J. A. Wayland, Publisher

# DARROW'S SPEECH
## IN THE HAYWOOD CASE

GOD AND THE GOOD MAN—A Fable—By E. B. Suthers

CLARENCE S. DARROW

Author of "An Eye for An Eye," "Resist Not Evil," "Farmington," "A Persian Pearl and Other Essays."

## PERORATION

"Don't think for a moment that if you kill Haywood you will kill the labor movement of the world or the hopes and aspirations of the poor. Haywood can die, if die he must, but there are others who will live if he dies, and they will come to take his place and carry the banner which he lets fall. I plead for the poor and the weak and the weary. The eyes of the world are on you twelve men of Idaho tonight, and wherever the English tongue is spoken and throughout the civilized world they are wondering about your verdict. If you decree his death the spiders and the vultures of Wall street will send up paeans of praise, and wherever men live who hate Haywood because he works for the poor you will receive your meed of praise."

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## NOTE.

On December 30th 1905, at about seven o'clock in the evening, Frank Steunenberg was killed in Caldwell, Idaho, by the explosion of a dynamite bomb. Steunenberg had been the Governor of Idaho, and in 1899 had called out the militia in the Coeur d'Alene district, in the northern part of the state, on account of the strike which was carried on by the Western Federation of Miners. After the militia was called out a bull-pen, or military prison, was established, and a large number of miners and their sympathizers were taken in custody and kept—many of them for several months. This military prison attracted widespread attention throughout the United States, and was the cause of an investigation by Congress. The action of Governor Steunenberg in establishing martial law and inaugurating the bull-pen was severely criticized by labor organizations and others at the time, and had been a common topic of discussion since.

Amongst the military prisoners was Jack Simpkins, then a prominent member of the Western Federation of Miners, and afterwards and at the time of the assassination of Steunenberg, one of the Executive Board of that organization.

Governor Steunenberg had been a private citizen for a number of years, and was a banker in Caldwell, Idaho—a town of some three or four thousand people—which was his native home. Immediately after his death it was found that a dynamite bomb had been placed near his gate and a fishline attached to the gate and carried to the bomb in such a way as to explode the bomb by the opening of the gate. Governor Steunenberg, on returning to his home shortly after dark, opened the gate and was almost instantly killed. His death caused the greatest excitement in Caldwell, in Idaho, and in fact throughout the country. Immediately after the explosion guards were placed around the town and every exit was patrolled and every means taken to prevent anyone escaping from the place. A day or two after Harry Orchard was arrested for the crime. Orchard had

been in Caldwell at two different times in the last few weeks, and on this occasion had been staying at a hotel for upwards of a week. He seemed to have no business in the town, and some suspicious actions attracted attention to him and caused his arrest.

Jack Simpkins lived at the time in Spokane, Washington, about three or four hundred miles away, and had been at Caldwell with Orchard several weeks before, but was not there at the time of the explosion. After Orchard had been under arrest for several weeks he was taken to Boise and put in the State Penitentiary and turned over to James McPartland, the Western manager of the Pinkerton Detective Agency. A short time later he made a "confession," in which he claimed that Charles H. Moyer, William D. Haywood and George E. Pettibone procured him to come to Idaho and commit the murder, and also that Jack Simpkins was connected with him and a party to it. At that time and since about 1901, Charles H. Moyer was President of the Western Federation of Miners—an organization covering the metal mines of the western country—and William D. Haywood was its secretary. George E. Pettibone was an old miner and a friend of the organization, but was not then connected with mining, and several years ago had been made an honorary member of the Western Federation. Jack Simpkins had for several years been a member of the Executive Board for the district in which Idaho was located.

Soon after Orchard's arrest Jack Simpkins disappeared. Moyer, Haywood and Pettibone were then living in Denver, Colorado, and it was not claimed that any one of them was present in Idaho at the time of or for a long time preceding the murder. Indictments were returned against Moyer, Haywood, Pettibone, Simpkins and Orchard.

The "confession" made by Orchard was kept secret for a number of weeks and a secret requisition was issued by the Governor of Idaho upon the Governor of Colorado. This was secretly honored and an order made by the Governor to turn the prisoners over to the authorities of Idaho. The prisoners were arrested about ten o'clock on a Saturday night, and denied access to or consultation with their friends or counsel. Along toward morning they were put on a special train which traversed the ten or twelve hundred miles between Denver and Boise at a high rate of speed, not stopping at any cities or towns, but only at way stations and obscure places. The whole proceedings were carried on in secret and by force, to prevent any appeal to the courts of Colorado to keep the men in that state. Under the laws of the country the men could be removed from one state to another only upon the theory that they were fugitives from justice from the state which demanded the prisoners for trial, and "a fugitive" has been repeatedly interpreted by the court as one who was bodily present at the commission of the crime and who ran away thereafter. This allegation was made in the affidavit of the County Attorney in Idaho as a basis for the requisition papers to be issued taking these men from Colorado. The allegation was made although everyone knew that neither Moyer, Haywood nor Pettibone had been present in Idaho for many months preceding the assassination of Steunenberg. A writ of habeas corpus was applied for in Idaho and denied, and taken to the supreme court of the United States, based upon the theory that these men were illegally kidnaped and deprived of their liberty without due process of law. The Supreme Court of the

United States held that so long as the men were being held in Idaho under indictments at the time the habeas corpus was applied for the court would not investigate the method by which they were brought into that state—that they were legally held at the time the writ was issued. To this opinion Justice McKenna filed a dissent, holding that so long as the men were deprived of any chance to appeal to any court in Colorado they had a right to make their application at the first opportunity that was given them, which was in the State of Idaho.

The case of Haywood, under the indictment for murder, was placed on the calendar first and came on for trial on the 9th day of May, 1907, and a verdict was returned in the last days of July. After twenty hours of deliberation a verdict of "Not Guilty" was reached.

The following is a stenographic report of the argument of July 24th and 25th, 1907. It contains many imperfections which are common to all verbatim reports of extended arguments. It, perhaps, should have been revised, but on the whole it was thought better to leave it with its imperfections than attempt to change it.

# DARROW'S SPEECH

## ARGUMENT.

IF THE COURT PLEASE, AND GENTLEMEN OF THE JURY: I presume I had better save the time that is ordinarily taken to apologize to a jury and proceed at once to this case. It is true you have been here a good while, but I am sure there is not one of you, gentlemen, who does not appreciate the importance of this case and how much it means to the defendant, if not to the state. And as we are nearly done anyhow, I think you will be willing to spare a few extra hours, if we should think it necessary, even though it is hot, in listening to the arguments of lawyers. I have no doubt that lawyers generally talk too much, and in that I am like all the rest of them. We are so afraid we will leave something unsaid that we say a good many things that had better not have been touched on at all and that are entirely unnecessary in the argument of a case.

In this case, gentlemen of the jury, I am perfectly well aware that however long I talk to you there will be a great many subjects I will not touch. There is no man, I believe—certainly not I—who can go over everything that has transpired in this court in the last two or three months, and the history of the whole region west of Denver, and not omit some things. Some things he will be sorry afterwards he did not refer to, and some things he will wish he had explained. I know I will be no exception to the rule. and after I am through I will think of more things I forgot than the things I remembered; but I will have to trust that to you, gentlemen of the jury. I will have to leave it to you after all is said and done to look out yourselves for the rights and the privileges and the interests of these defendants, so far as the law protects them, to see for yourselves that every argument that is made against them rests upon a sure foundation and will admit of no explanation whatever except the explanation of guilt. It is only until facts and circumstances admit of no other that a jury has a right to consider them in the gravest and most responsible affairs of their lives.

## THE PLEA TO THE JURY.

Gentlemen, I need not tell you how important this case is. How important to the man on trial and to those who still must be placed where he is today. How important to his family and his friends. How important to society. How important to a great movement which represents the hopes and the wishes and the aspirations of all men who labor to sustain their daily life. You know it! You could not have sat here day after day so long as you have without understanding it, and grasping it, and excusing us if in our haste and zeal we seemed to say things we

should not have said, and forgot things we should have spoken of to you.

And, gentlemen, we are here as aliens to you. Our client and the men who are with him down here in this jail have been brought fifteen hundred miles to be tried by a practically foreign, alien jury—a jury unfamiliar with their method of thought, a jury unfamiliar with their methods of life, a jury who has not viewed life from the standpoints of industry as these men have viewed it; I am here, two thousand miles from home, unacquainted with you, with your life, with your methods of reasoning—all of us are brought here in an alien country, before people, if not unfriendly, whom at least we do not know, and we are here met by the ablest counsel that the State of Idaho ever produced—the peer of any counsel anywhere; and, more than that, we are here in the home of the man who was killed in the most ruthless, cowardly, brutal way that any man could meet his death.

We are here, strangers, aliens, if not regarded by you as enemies, to meet an accusation of the murder of a man whom you all know, whom many of you voted for, maybe, whom one of you at least did business with, a man in whose house one juror lived for two long years. We are trying this case to a jury that is almost the family of the man who is dead. We are trying it to a community that has no community of interest with the men whom we defend. We are defending these men for what seems to you almost an assault upon your own home, and your own fireside, and we must be contented with results. We can only appeal to you, gentlemen, to lay aside those common feelings which possess the minds of all men, to not be governed by passion or feeling or prejudice, but to look at us as if we were of you, to try to find out the standpoints from which these men acted, to give us that same fair, impartial trial that should be given to a defendant if you did not know the deceased or as if you knew the defendant and stood equally between him and the law.

## MEN CONTROLLED BY ENVIRONMENTS.

More than that, gentlemen, we are all human. We have come into this court room and into this community, a community that has been deliberately poisoned for a year and a half, a community where feeling, and sentiment, and hatred have been deliberately sown against this defendant and his friends; a community where lie after lie has been sent broadcast like poison to infect the minds of men. We have come here after a year and a half of that, and must submit our case to a jury that has been fed upon this poison for all these months. We have no redress. We ask for none. You have sat here for two months, and you know the lies that have been scattered broadcast on the leaflet of every paper almost that is circulated in this community. You have heard it from the witness stand, and you know it, and they could not have failed to have influenced this jury and this court. Men cannot rise above their environments. We are all alike, and if I were to tell this jury that I believed they were great enough and wise enough and strong enough to overcome the environments in which they live, and if I were to say to this Court that he could do what no other judge in Christendom ever did, rise superior to his environments and his life, you would know I was lying to you. You would understand that, if

you did not understand anything else. We are all human, we are all influenced alike, moved by the same feelings and the same emotions, a part of the life that is around us, and it is not in the nature of things that this Court or this jury would not to some degree have been influenced by all that has gone before. But, gentlemen, as men go, as we see our neighbors and our friends, I have no doubt that you twelve men before me intend to carefully guard and protect the rights, the hopes, the interests and the life of this defendant. I have no doubt that you mean to give to him the same honest trial, the same benefit of the law, that you would expect twelve men to give you, if by some trick of Chance or by some turn of the wheel of Fate your life was hanging in the balance and twelve of your fellowmen were passing upon it.

Gentlemen, I don't believe that anywhere where the English language is spoken or where the common law prevails any intelligent lawyer would ever have dreamed of convicting defendants upon evidence like this, except they relied upon the strained, harsh circumstances of this case, and had they not know that these defendants, taken by force fifteen hundred miles away and dropped down before a hostile jury and in a community crying for their blood, would be cruelly handicapped in this, the supreme struggle of their lives. Do you consider how much it means? Suppose one of you twelve men were taken from your farm, charged with murder, not to be tried in a community where you lived, not to be tried by farmers who knew you and knew your way of life, and your method of thought—that you were to be taken to Chicago, to be taken to New York, to be dropped down into a great and unfamiliar city whose men do not think the thoughts that you think, whose people do not lead the lives that you lead, and expected there, over fifteen hundred miles from home and friends, to make your defense, and then suppose that you were charged with a crime which every member of that community regarded as a crime against the sanctity of his own state, against himself—then you could appreciate the condition in which we find ourselves today, and could understand the handicap that has been placed upon us from the beginning of this case.

## ASKS FOR NO COMPROMISE.

*Gentlemen of the jury, one thing more: William D. Haywood is charged with murder. He is charged with having killed ex-Governor Steunenberg. He was not here. He was fifteen hundred or a thousand miles away, and he had not been here for years. There might be some member of this jury who would hesitate to take away the life of a human being upon the rotten testimony that has been given to this jury to convict a fellow citizen. There might be some who still hold in their minds a lurking suspicion that this defendant had to do with this horrible murder. You might say, we will compromise; we cannot take his life upon Orchard's word, but we will send him to the penitentiary; we will find him guilty of manslaughter; we will find him guilty of murder in the second degree instead of the first.*

*Gentlemen, you have the right to do it if you want to. But, I want to say to you twelve men that whatever else you are, I trust you are not cowards, and I want to say to you, too, that William Haywood is not a coward. I would not thank this jury if they found this defendant guilty of*

*assault and battery and assessed a five-dollar fine against him. This murder was cold, deliberate, cowardly in the extreme, and if this man, sitting in his office in Denver, fifteen hundred miles away, employed this miserable assassin to come here and do this cowardly work, then, for God's sake, gentlemen, hang him by the neck until dead. Don't compromise in this case, whatever else you do. If he is guilty—if, under your conscience and before your God, you can say that you believe that man's story, and believe it beyond a reasonable doubt, then take him—take him and hang him.* He has fought many a fight—many a fight with the persecutors who are hounding him in this court. He has met them in many a battle in the open field, and he is not a coward. *If he is to die, he will die as he has lived, with his face to the foe.* This man is either innocent or guilty. If he is guilty, I have nothing to say for him.

## THE VICTIM AND THE CRIME.

Gentlemen, I am not going to apologize in any way or seek to belittle the terrible crime that was committed in Canyon county. My associate said that Governor Steunenberg was a great and a good man. I don't know anything about that, whether he was either one, and I don't care. It is just as much murder to kill a bad man as it is to kill a good man. It is just as much murder to kill the humblest man who tills the fields as it is the king upon his throne. There is no difference. I have taken no pains to study who Governor Steunenberg was, excepting he was the governor of this state. I assume he was like everybody else—like you, like me, like everybody. I assume he had his virtues and he had his failings. If he did not, he would have had no friends. It is a great mistake to think that because a man had been a governor the law should be any swifter to wreak vengeance upon some one by taking his life away than if he had been a plain ordinary man, and yet, gentlemen, it is true, if this man had not at one time been governor of the state I do not believe there is money enough in the state treasury of Idaho to hire a lawyer with a reputation to ask for another man's blood upon the evidence that has been offered in this case.

Governor Steunenberg was a man. He had a right to live, whether he was a great man or a small man, a good man or a bad man, wise or foolish, cuts no figure in this case. If any word of mine or any act of this defendant could bring back this life of which we have heard, how quickly we would say that word and do that act! But the past is settled. No result from this jury can call that man back to life. No verdict that you can give can bring back the father, or bring back the husband or in any degree lessen the pang that must have come to those near and dear for the murder of that man. All you can do, gentlemen, with your power, all you can do toward fixing up the schemes of the Almighty, is to make more widows, and more orphans on account of the death of Steunenberg, and if this jury wants to take that responsibility in this case upon this evidence, well and good. May peace be with you.

## "GUILTY" OR "NOT GUILTY."

Gentlemen, I ask, then, that each of you will vote "Guilty" or "Not Guilty." This man has been in jail for eighteen months. He has no right to

be in jail a minute longer unless, under the law and under the evidence, you believe him guilty, and then, under the law and the evidence, it is your duty to take away that life that God gave him. I would not have your responsibility. I could not. I would as soon kill a man in any other cold-blooded way as to hang him as a juror. But that is a question of feeling and sentiment, and men do not agree upon that proposition. You do not believe as I do, and therefore your duty is perfectly clear. If you think the evidence justifies it under the laws of this land, then it is death, and we have no complaint to make—none. We will have a complaint to make if you fail, gentlemen of the jury, if you do not dare to take a human life upon this testimony and if you still feel that you should keep him one week or one day in jail for fear he might be guilty.

## NOT A QUESTION OF SENTIMENT.

You have listened to the argument of Mr. Hawley in this case. He told you how honest he was. Now, I will not tell you anything about that. You will have to find out from my argument whether I am honest or not, and whether I am does not make any difference with this case, and whether Mr. Hawley is does not make any difference in this case. You are the gentlemen who are to determine this—not Mr. Hawley—not I. He said to you, gentlemen of the jury, that he would not prosecute this case unless he believed this defendant guilty. Now, why? Is he prosecuting it because he believes him guilty. Is that it? Or is he prosecuting it because he thinks he may want to put another ell on his house, and wants some more deficiency warrants with which to do it? Which is it? Has any man a right to make a statement like that? I hope there is no one here who cares a fig about what Mr. Hawley thinks about this case. He may be bughouse—and he is, if all of his statements are true—or he is worse. Let me show you what he said, and then judge for yourselves.

## INSANITY OF HAWLEY'S ARGUMENT.

He said to these twelve men—men of fair intelligence and fair learning—that you would be warranted in convicting Bill Haywood if you took Harry Orchard's evidence out of this case, and still he says he is honest. Maybe he is, but if he is honest he is crazy, and he can have his choice. There is not an intelligent man who has listened to this case who does not know that it is Orchard from beginning to end, and there is not a word of incriminating evidence in it, let alone enough to take the life of a human being, without Harry Orchard, and Mr. Hawley told you that there was enough evidence in this case to hang Bill Haywood if you left it out. Is he crazy or does he think you twelve men are daffy? One or the other. And the man who made that statement stood up here and argued that an old soldier was bughouse. Maybe he is, but on an inquest of lunacy I would trust him to creep through ahead of Hawley, if he should be judged by the statement that there is sufficient evidence in this case to warrant the taking of the life of a human being without Harry Orchard's. What is that evidence? Where is it? Why should a statement like that be made by a man who says he is honest, and that he is getting so old he does not want any more scalps of innocent people hanging at his belt?

Well, maybe he has enough. He has all he will get, if I understand what evidence means.

## FRIEND OF UNIONISM.

Mr. Hawley tells you that he is a friend of the union. There cannot be any doubt about that! He told you in his opening statement that this labor union was a criminal conspiracy from the beginning, and that Ed. Boyce, who led it in its earliest troubles, and its early triumphs, who organized this great mass of unorganized labor, that they might look up in the face of their master and demand a portion of what they earned, that he was a criminal—that he is guilty; and all you would need to do would be to go to Mr. Van Duyn and get him to sign his name, and Hawley could get him to bring Boyce in here, too, and charge him with this murder as well.

He told us how that from the beginning it was a criminal organization, and yet he organized it himself—and he admits it after we have proved it—and he organized it while the leaders of this union, or a large part of them, lived, from that day to this, down here in the jail. He organized it where for conscience sake these men were confined in the cells down below. He said to them, "You have your poor, weak individual organizations all over; you have one in Butte, you have them in Idaho, you have them in Colorado; there is nothing on earth but to get together into one great federation so you can fight together." That was good advice, wasn't it? And he went out here in the jail yard and he told them about it, and when he got through and they got out, released for a crime which the court said did not exist, after they had suffered eight months' imprisonment for a crime which was not a crime, there was no way to give them their liberty back, any more than there is a way to give Moyer, Haywood and Pettibone the eighteen months they have spent here in the Boise jail. *These are all a part of the premium that one gets, and has always received, for his services to his fellow man. For the world is the same now that it always was, and if a man is so insane that he wants to go out in the wilderness and preach and work for the poor and the oppressed and the despised, for the men who do not own the tools, the newspapers, and the courts, and the machinery, and organization of society, these are the wages that he receives today, and which he has received from the time the first foolish man commenced to agitate for the uplifting and the upbuilding of the human race.*

But Mr. Hawley took their money; he organized them; he fought their battles; he was their first attorney; and he says to this jury, "I have always been a friend of labor unions."

Yes, gentlemen, Mr. Hawley has always been a friend of labor unions—when they got their cash to his office first. But when they did not they had better hunt some other friends. Mr. Hawley is advising the state in this case—he had better stick to the state and let the labor unions be taken care of by some one of their own choice.

## HAWLEY'S HARP OF ONE STRING—HORSELEY.

Mr. Hawley talked to you for a day and a half about how guilty this defendant is. What was the burden of his talk? Was there anything in

it but Orchard—Orchard—Orchard, from beginning to end? Did he play upon any other string, or can he play upon any other string excepting Orchard—Orchard—Orchard? These men are guilty because Orchard says so. This man who comes here and testifies against him is an infamous scoundrel; a woman, however respectable appearing she might be, however she might resemble your own wife or your own sister, is a perjurer if she testifies against Orchard. Everybody lies that this scoundrel may be believed. We call the roll of thirty-five or forty witnesses—half of them, at least, with no connection whatever with this organization, half at least who give the lie straight and square to this monster—and Hawley says they are perjurers—perjurers. They have committed perjury because they have sworn against Orchard. He has got Orcharditis—or Orchard itch would be a better term for it. Too bad the old gentleman could not have closed his career before he reached this case and made this awful statement to twelve men who must live in a community where he lives for the rest of his life. Tell me that everybody is a perjurer who has sworn against Orchard?

## SOME KNOTS IN THIS STRING.

Let us see, now, gentlemen: I will just give you a specimen. When I opened this case I said to this jury that before the first witness left the stand I would convince Mr. Hawley that his precious client had lied upon one important fact. Now, I want to apologize to the jury—I did not. That is because I did not understand Mr. Hawley. I thought he had some sense. Let me tell you who was the first witness in this case—you may have forgotten it, it was so long ago; it was Mrs. King. Do you remember Mrs. King? Let us hold an inquest on Hawley's sanity for a minute, and let us see whether he is sane or insane. Now, gentlemen, Mrs. King was a matronly woman of perhaps 55 or 60 years of age; she was not a member of the Western Federation of Miners; she did not work in the mines at all. She has two sons working in the mines and they are both scabs, so she would not favor us on that account; both of them are working there now, neither one belonging to the union or having ever belonged to the union.

I submit there has not been a witness placed upon this stand in this trial who had more of the appearance of truth and candor and integrity than Mrs. King. Is there any doubt about it? Is there any man in this jury box that would not as soon doubt his own wife, except for the fact that she is his own wife, as Mrs. King? I do not believe it. Will you tell me what license this lawyer has, for a few paltry deficiency warrants, to say to this jury that Mrs. King is a perjurer to get the blood of Mr. Haywood; and yet you twelve men are expected to take that sort of talk so you can get his blood and accommodate Mr. Hawley with another scalp at his belt in his declining years!

## MRS. KING'S TESTIMONY.

Mrs. King swore that she kept a rooming house and that Mr. Sterling, the detective of the Mine Owners' association, occupied a front room, and she saw Harry Orchard come there at least six or eight times, and he came up the back stairs at any time, and she only saw him when she happened to see him. She does not stand alone, for her daughter, a bright, intelligent, comely girl, who is not a member of this organization, swears that

she saw him four or five times, and she is a perjurer, too, and it is a wonder that Mr. Hawley doesn't swear out a warrant for them before they leave the state; in these hot days and hot times—you could expect Mr. Hawley to do most anything.

I will call your attention to the three witnesses we put upon the stand and see what you say of them.

DETECTIVE STERLING AND ORCHARD.

Mrs. Fitzhugh bought Mrs. King's rooming house, and Sterling with it, and she went in about the first of January, 1904—and she swears that Orchard came there repeatedly—she swearing, to some ten or twelve times up to the time that the Independence depot was blown up. Now, gentlemen, let us look at that a minute. I do not suppose any of you are especially anxious to get another bundle of deficiency warrants for Mr. Hawley—at least, not anxious to hang my client—if you are, we are up against a very hard game. Are you going to say by your verdict that these three women are perjurers? If you do, what excuse will you make to your wives, your sisters, your daughters, your consciences—to your God? Can you say it? If there is any danger, we will just corroborate these three women for a minute. And then where do we land? Gentlemen, this was important testimony. It shows that this villain was ten times more their villain than he was ours, and Mr. Hawley cross-examined to his heart's content and then ended by calling them perjurers when he could not do anything else. Now this is important testimony.

Now, if we must get some testimony to corroborate these three honest women, let us get it. These three women swear—putting them together—that this man (Orchard) made some fifteen or eighteen visits to Sterling, in the night time, when he was caught; to the room of this human spider, who was then weaving his web around the Western Federation of Miners—not to catch Orchard, but to strangle a great labor organization, so that Carlton and his men might get their gold dug up out of the earth for less cash. She swears—each of them swears—positively that those meetings in the night time occurred with K. C. Sterling. Orchard says he was never there in his life. Now, if we leave it right there, between Orchard and these three women, I wonder what you twelve men would say about it. If you believe Orchard, you never should look your wife in the face again. But I am not going to leave it there. You know who Sterling is; you saw him; you have heard his name; he was here, and Mr. Hawley, with one of those feeble bluffs, called his name in the court room upon the forenoon of the last day when they were putting on what they called evidence, and then he got up and asked the court to adjourn because they had run dry of witnesses, and said he would put him on in the afternoon; but in the afternoon Mr. Borah was at the helm, and Mr. Borah forgot. Mr. Borah forgets lots of things; that is his strong suit—one of them, I mean—and Mr. K. C. Sterling came here and went away, went back home, and these three women have sworn that he had this infamous thing in his room at least twenty times to their knowledge, and Mr. K. C. Sterling went home without denying it, and yet Hawley says they are perjurers—perjurers! You ought to

hang these women. If you could get them—get them back into Idaho—I have no doubt Hawley would go to the legislature and try to get the law changed to hang these three women because they dared testify against Orchard.

Now, let me make a suggestion: After I have got all done, Senator Borah is going to talk to you, and then you will hear something. I want Senator Borah to tell you twelve men whether he believes that Mrs. King, Miss King and Mrs. Fitzhugh are perjurers, or whether he believes that precious gentlemen with the wings sprouting on his shoulders, Harry Orchard, is a liar. Now, I want him to say. I don't mean to insinuate for a minute that he is honester than Hawley, but I do think he is slicker. I will just lay a little wager that he won't tell you twelve men that he thinks Mrs. King and Miss King and Mrs. Fitzhugh are perjurers. I would almost say, if he tells you so, you had better believe him, but I have not known him long enough to take a chance like that. He may think he has got to brace up Hawley. God knows he needs bracing up, and he may take that position.

## DAVIS AND EASTERLY.

Now, gentlemen, I could give you a few more instances which are easy—just plain easy ones. When you talk about Bill Davis and Bill Easterly it is harder, but when you talk about Max Malich it is harder still. Now I am going to assume, gentlemen of the jury, that we have got twelve plain, honest men here, and I am going to try and treat you that way; if I don't I think I would lose by the game and maybe that is the reason I am not here telling you how honest I am, When I ask you to believe Bill Davis and Bill Easterly I have got to talk upon a little different line. They are members of this organization. I know it. I believe they are as honest and truthful men as ever lived upon the face of the earth, but I don't know what they might do for their fellow men. You heard their testimony, and you have a right to throw into the scales against them their devotion to their organization, and their devotion to their leaders, and I don't ask you not to—you can weigh it with the rest. I don't know when I have ever seen men for whom I had more regard and more respect than for Easterly and Davis. And still, in measuring their evidence, I expect this jury to consider the circumstances of the case and give it the weight it ought to have. To me they are great, big, brave, manly men. They may have stood up in fair fight and wielded great blows, great blows against their enemies; they may have done it; as I look at them I think they might, and I think they may again, in what appealed to them as a righteous cause. Long ago it was written, "That greater love hath no man than this, that he would lay down his life for his fellow man."

## BILL DAVIS TO THE RESCUE.

And Bill Davis, safe and secure in Nevada—Nevada which has held out its welcoming arms to all those exiles from Peabodyism in Colorado, and which asked these strong men and strong hearts to come into her

mines and help develop her resources—he was safe there in Nevada, but he read Harry Orchard's testimony; he knew the men that were here fighting this contest; he knew Hawley; he knew that six years ago this mill was blown up in the Coeur d'Alenes and two men killed; he knew that his enemies had laid it to him; he knew that Idaho was a hostile land; yet he came up here and put his neck in the halter and gave Mr. Hawley the other end, and testified for his friend.

You may abuse him, gentlemen; I don't care a continental whether he was at the Bunker Hill mill or not. If there is a man on this jury who in dire necessity and great stress, a man who needed a friend and adviser, a man of loyal heart and a square friend, and, above all, a conscience, who would not turn from that monster, Harry Orchard, and grasp the honest hand of Bill Davis, then I miss my guess upon every one of you twelve men.

## A PASTEL OF ORCHARD.

But let us cut out the Western Federation men for a moment. I am just going to give you a little object lesson—a little advance sketch of Harry Orchard as I know him. Not the seraph with the wings supported on one side by Hawley and upon the other by Father McPartland—not he. I don't know that Harry—nobody else does, excepting Hawley; even the senator has not become acquainted with him, and I don't think he will stand for it. Even the senator, if he honestly thought that Harry was going to heaven, would do his level best to go the other way, and would probably succeed. Let me give you just another little easy one—easy almost as these three women; we will discuss something harder pretty soon. I want to see whether I can get the right focus on this fellow before we get into the serious business. Orchard is all there is from beginning to end of this case, and two lawyers seriously propose to take away the life of a human being upon the testimony of Harry Orchard. Gentlemen, I do not believe it was ever done in any civilized land on the face of the earth, and for the very simple reason that a land could not be civilized where such a thing would be done, and it will not be done here in Idaho.

Now, did Harry Orchard lie, or did some one else? Here is the most vital point in this case, as to whether this butcher had any motive in butchering Steunenberg. Did he lie in reference to his mine? Why, Mr. Hawley says he did not, for here is the deed—here is the deed. He sold it, and of course he could not expect to have had anything afterward. I do not know whether you fellows were ever prospectors or not; I have been all my life—after one thing or another—not necessarily gold, but I never prospected when I got anything, but I always thought I was going to and I never gave one up until I had to. That is the nature of us. If it was not for that, we would go out and die, and die right away. We always think we are going to strike it right away, tomorrow. We always think it will rain more next year than this year, and the grass-hoppers and the bugs will not be so thick—we are all prospectors one way or another.

Now, Harry Orchard was prospecting; he had been digging in the Hercules mine—a little—for Harry does not dig much. He knows an easier way of getting a living than digging, and so he does not dig, he plays

poker. Of course I do not mean to criticise him for that, for we all gamble one way or another, but he does not sweat much, and he did not learn to lead an easy life after he met Pettibone—it was before that. Harry would have made a good lawyer, for he can get along without working about as easy as anybody I know of. He got interested in this prospect, but he was gambling, and while he was gambling he was getting in debt. He always did, but it did not bother him—a lot of people get bothered about a lot of little things like that, but it did not bother Harry; it did not bother Harry before he got religion—I do not know how he is now; I am going to talk about his religion after awhile. Well, he got into this mine all right, and he got to owing Dan Cordona and some other people, and he pledged this interest, as he admits, as security to another man, and then he got to owing Cordona, and Cordona did not think much of his prospect hole—nobody does excepting the man who has it—a man always thinks his property is worth more than anybody else thinks it is worth—and so he made a deed to Cordona. Orchard, of course, thought there was some value in the mine, but he made it over for little or nothing to pay his debts.

Now, what we claim is that Harry always thought that after he made a strike somewhere, presumably at the card table, he would go back and redeem the interest—as everybody always expects to—as he thought that prospect hole in the Hercules was headed straight for lead, or probably he thought it was headed for gold, but it was headed for lead. He made a deed of it. Mr. Hawley says he could not have been expecting to get it back because he made a deed, and therefore, all our contention upon that point is wrong, and that all our witnesses upon that point are perjurers. Now, I am going to discuss, after awhile, all the witnesses, of all sorts, of both sexes, of all degrees of intelligence, of all sorts of social standing, so far as you can get social standing in Idaho outside of Boise—I am going to discuss all of this, but not here; I am just going to discuss three of them, and I am going to ask you if those three are lying.

## DAN RAMEY'S TESTIMONY.

Do you remember Dan Ramey? He was the stage driver who drove the stage from Wallace to Mullan. I do not know when I have seen a man on the witness stand who had a franker face than he; if he had been called as a juror I would have taken him, for I think he is intelligent enough to be a juror. He has a good-looking face, and do you think he was a perjurer? He did not belong to the union—oh no, he did not belong to any union at all. He was a stage driver; he had a little money and he had a little land, part rancher—of course he would have to be honest or he could not be a rancher, or if he was a rancher, to put it the other way, he would have to be honest. I do not believe that anybody who saw that man would doubt his integrity, excepting Hawley; but Hawley is so anxious that he would doubt his own integrity if it was necessary to support Harry Orchard.

This man swears that a few days after the Bunker Hill explosion he met Harry Orchard riding upon a wall-eyed horse and that he asked him to buy his interest in the Hercules mine. He told the jury who owned the horse, and I take it that Mr. Hawley would have gone up there and got that wall-eyed horse if it would have corroborated Harry Orchard, because

he did get him corroborated by a dog, and if he could get him corroborated by a wall-eyed horse no twelve men could disbelieve him. He would not have hesitated a minute to go and get that wall-eyed horse, and its owner, and especially its owner, but Ramey comes here as honest an appearing man as ever took the witness stand, in this case or any other, and it would be a downright insult to these twelve men to say they would not believe him against Harry Orchard. Gentlemen, if you would not, then settle it with your own consciences; you need not settle it with me. If there is any one of you twelve who can figure out any excuse in this case why he should believe that monster—that all-around criminal—in the place of Dan Ramey, figure it out and hang my man, but it will prove he has fallen into an unfortunate place; that is all. You have no more right to disbelieve Ramey that you would have to disbelieve your own son—not a bit—before Orchard—Orchard covered with his infamy and his slime. Let me give you two more and then I am going to stop on that for the present.

## MR. AND MRS. GILL.

Do you remember Gill and Gill's wife? Gill is a civil engineer in Spokane; he never belonged to the union in his life; he never had anything to do with this organization in his life; he has been a civil engineer in the City of Spokane; he has been the commissioner of public works of that city; he has been the master mechanic in the Tiger and Poorman mine, and several other mines in the Coeur d'Alenes, and all his interests are on the other side. Gentlemen, I want to know what kind of an excuse you are going to have to believe Gill committed perjury and that Gill's wife committed perjury? Both these people came down here in the last days of the trial, like other witnesses in this case, after reading newspaper reports, and came to tell us what they know. And Mrs. Gill swears that in March—in March, 1899—in March, a year and a half after Harry Orchard's deed was made, this man Harry Orchard—who used to deliver milk and wood at her back door—he came to her and asked her to buy his interest in the Hercules mine, and she turned to her husband to have him look it up, woman like, and he made inquiries—he made inquiries of Al Hutton and of others whom the prosecution could get here by pulling a string. Trust Mr. Hawley for getting them here, when he could bring three or four witnesses from all the way between here and Salt Lake City to contradict a poor old man whom he says is bug-house.

Now, are you going to believe Mrs. Gill?—or that she came here to commit perjury? Why, sure, believe it. Otherwise something is wrong with Harry Orchard since his conversion. That would be the rub in this case. You must not find anything wrong with him since his conversion. He might lie and steal and burglarize; he might commit arson and bigamy and murder; he might commit all the crimes in the calendar, and all the things forbidden by the laws of God and man—that was before he got religion, and you must draw a line there; he has been a good fellow since and you ought to hang a man on his testimony because he has got religion.

## ORCHARD'S RELIGION.

*Well, gentlemen, I am going to discuss this religious question further on, but I am like Brother Hawley, I am long on that subject. I do not know whether the senator can beat Brother Hawley and me upon that or not. Of course Hawley told you—now you people know better than I do about Mr. Hawley, because I never saw him until he was in this case, and I would not judge him by anything here—but he says when a man gets religion he it all right, and he will not lie, he cannot lie; he has seen this great light, and he is led from above, and the jury must believe he cannot because he has got religion. Well, if Hawley has not got it, he ought to have it. The best I could do would be to advise him to go right off and get it, if there is any left after what Orchard has taken.*

*Now, I am not going to testify as an expert, as he did, upon that question, but it would take a good large dose of religion, I take it, to make twelve men—even Christian men—believe that this fellow, with his past, was to be believed against these three women, against Ramey, against Gill, against Mrs. Gill, even if there was nothing else.* But pretty soon we will put him against his own kind—I do not mean that, there is only one, and he did not testify—I mean that we will put him against himself, and against some of the witnesses that they brought here.

Gentlemen, I sometimes think I am dreaming in this case. I sometimes wonder whether this is a case, whether here in Idaho or anywhere in the country, broad and free, a man can be placed on trial and lawyers seriously ask to take away the life of a human being upon the testimony of Harry Orchard. Lawyers come here and ask you, upon the word of that sort of a man, to send this man to the gallows; to make his wife a widow, and his children orphans—on his word. For God's sake what sort of a community exists up here in the State of Idaho that sane men should ask it? Need I come here from Chicago to defend the honor of your state? A juror who would take away the life of a human being upon testimony like that would place a stain upon the state of his nativity—a stain that all the waters of the great seas could never wash away, and yet they ask it. You had better let a thousand men go unwhipped of justice, you had better let all the criminals that come to Idaho escape scott free, than to have it said that twelve men of Idaho would take away the life of a human being upon testimony like that.

## THE JURY ASKED TO EXCEED ORCHARD.

Let me illustrate a minute. Here is a man who was depraved enough until he got religion. Hawley will concede that. If I were to get out of here and Orchard were to get out, I would feel uncomfortable. I would feel sort of squeamish if I thought he was anywhere in the same country. I would feel, if I had to go out of my house, I ought to go out through the sewer or up through the chimney, so that if I opened the door I would not run onto a dynamite bomb. It is a pretty fierce game. But that is easy. I will tell you one that is fiercer than that. That is not much of a game. I will tell you the game that Mr. Hawley wishes to stamp with the approval of twelve jurors and play on the American people, and if he can do it, gentlemen, do it, and may God be with you; you will need Him.

## "HANG HIM; SAVE ME."

If a man may commit every crime known to man; if he may be a perjurer, a thief, a bigamist, a burglar, a murderer; if he may kill man after man, and then, when he is caught with the blood dripping from his fingers, if he can turn to you and say, here now, you told me to do it; I was down to your house last night, in your parlor, and you told me to plunge the dagger into that man's heart; then if twelve jurors can turn from that assassin, with his hands dripping with blood, and swear it upon you, and take your life, it is the fiercest game that was ever put up in the American republic, and that is what is asked for here.

It is not enough for a plain, simple, honest man to tell his simple story and denounce it as a lie. It is not enough to bring witness after witness to disprove it. This man, taken in his infamy and crime, turns to his neighbor and says, "You are the man," and he says to the jury, "Hang him and save me." Gentlemen, I do not know—I sometimes think it is an insult to argue a case like this to twelve jurors, and I do not believe that twelve men anywhere would do it. If one of you had seen the act, if one of you knew it was true, you would not have a right to convict upon testimony like that. If you can hang Bill Haywood because this criminal says he is guilty, then, gentlemen, no other criminal need suffer in Idaho. There is no doubt about it. Tell me why any man needs to go to the gallows or the prison when he can turn and accuse his neighbor, and twelve men believe him and take his blood? Gentlemen, I am serious about this. I am either right or Hawley has gone crazy over it. And I have wondered and wondered and wondered whether I could be wrong and whether they could find anywhere on the face of the earth twelve men who would do a deed like this. I do not believe it. If twelve jurors could take away the life of a human being because a man like that pointed his finger at him to save his own life, then I would say that human life would be safer in the hands of Harry Orchard than in the hands of a jury who would do it. Would any jury dream of it? What are our teachings, our instincts, what have we learned from the past that we should ever dream of giving credit or countenance to a monster like that?

## MURDERER AND LIAR.

Let us take a short view of this fellow. Who is he? And is he converted? We will find out whom we have got to deal with before we deal with him. I have sometimes thought I had a fair command of language, but it fails when I get to describing Harry Orchard, so I will just call him Orchard, and let it go at that. Who is this fellow upon whose testimony you gentlemen are asked to shift this crime to Haywood. Let us see: He is unique in history. If he is not the biggest murderer who ever lived, he is the biggest liar, at least, who ever lived, and I undertake to say that the record of the English and American courts can not show a single man who has been impeached by as many witnesses as Harry Orchard. Why, gentlemen, if Harry Orchard were George Washington, who had come into a court of justice with his great name behind him, and if he was impeached and contradicted by as many as Harry Orchard has been, George Washington would go out of it disgraced and counted

the Ananias of the age. No man living could stand up against it excepting a phenomenal murderer like Orchard. If you had a lawsuit about a horse or a cow and you would go on the stand and thirty men would dispute you, what would you expect? Would you expect any jury to believe you? Why, your own lawyer would not believe you, unless you hired Hawley. And yet when you take an infamous wretch like Orchard and contradict him by thirty or forty witnesses, a large number in every way disconnected with this case, lawyers tell you to believe him and take away a man's life on his testimony—all right, gentlemen, if you can afford to do it go ahead and do it.

Let me say this, gentlemen: I may be wrong, but I certainly never felt in my life as strongly upon any question as I do upon this; I never before felt as strongly the impossibility of any American jury giving credit to evidence as I feel it here. I may mistake you twelve men. I have sat with you for nearly three months, and I have been trying to read you day after day. Yet I may mistake all of you; when I look into your eyes I may not see your souls as I think I do; there may be deep down some hideous plan or some method that I cannot understand, or I may have gone daffy myself. But while I have thought of this subject, and lost my sleep thinking of it, I have never felt there could be any danger that any American jury could take the word of a perjured monster like this and with that word deprive a fellow being of his life. Gentlemen, if I am wrong, if this jury, upon its oath and its consience and before its God, can say it demands a sacrifice, well and good. We will furnish you the victim and do it with a glad and cheerful heart.

## THE BACKSLIDING CONVERT.

Who is this fellow? Pettibone did not make him bad. He may have something to answer for, but, thank God, he does not have to answer for that. It was not Pettibone's dope that made him the depraved monster that he is. He seems to have taken that dope with the milk from his mother's breast. Who is he? We have not been favored with anything but his own story, and being such a monstrous liar he has not probably given us the best evidence of himself—the worst evidence. But take his own story. A man who was bred to cheat and to lie; a man who, as a young man, in the first blush of his manhood, gave his soul to Christ—I do not know about these second conversions, whether they are any solider than the first or not. Do you, Senator?

Mr. Borah—I have not had the first.

Mr. Darrow—He belonged to the church. He was superintendent of a Sunday School. He was a Christian Endeavorer. He is not endeavoring any more, he has got there. That was when he was a young man. But that did not help him then. Now, maybe he has got religion for keeps this time. If I was the governor and I thought he had I would kill him quick, before he got a chance to get over it, and thus make sure of his soul. I do not think Harry ought to trust himself. But he had it before, and he commenced to cheat and he commenced to steal and burned down his own cheese factory to get the insurance, and he must have made out a false affidavit in order to get it. It shows that he could lie under oath, too, at that

time. And he ran away with his neighbor's wife, and he left his wife and his little child without a penny, and they never heard of him since until recently, and he went out into the world, not to work—oh, no, not for Harry, not to work. He knew a better game than that and he commenced a better game still. He came West to grow up with the country. The limited field of Ontario was too small for him. He must have a name and he had to have room to move around in—this man, this wonder who is so great in the eyes of Hawley that the whole world is perjured when placed beside him. Then what? I do not know what he did next. The woman he took away with him left him, which shows that she had some sense, even if she did go away with him. He went to the Cœur d'Alenes. He says that, although he had been in the union but a month, he touched off one of the fuses that blew up the Bunker Hill mill and killed two men. He wandered around, gambling and doing nothing for several years, and then he says he killed two men in the Vindicator mine, fourteen at the Independence depot, murdered Lyte Gregory in cold blood, tried to kill Peabody, Goddard, Gabbert, and a number of others; tried to kill two hundred men in the Vindicator mine; tried to blow up the Idanha hotel and kill three or four hundred more; intended to blow up Max Malich's boarding house and kill five or six hundred more. All of his intentions were away ahead of his achievement. He tried to kill Bradley and did kill Steunenberg. But all this time he was a liar, an unstinted liar, burned a saloon, made a false affidavit to get the insurance; told that he had killed his brother when he had not; told that he had killed John Neville when he had not, got his picture taken as a criminal committing murder—lied and lied and lied—violating, as I have said, every commandment of God and man, and then caught red-handed.

## THE GRILLING OF ORCHARD.

Now you are asked to believe him. For what? Now, let us see about it. Gentlemen, if he had stopped there, do you think you would have taken a chance on Bill Haywood's life? Suppose he had not got religion, then what? Now, if I laid much stress upon the religious end of this case I think I would want to have it proven. So far we have not anything but Orchard's word for it, and a little corroboration on a vital and material point would not hurt his word. It seems to me we have nothing but that. Father McPartland has not come here and told about the laying on of hands. If I was going to take a chance on Bill Haywood's body, on the character of this man's soul, I would want some little bit of a scrap of evidence outside of him. Now, he may be the most religious man who has ever lived. Even then you can not always trust religious men. I am sorry to say it, but it is true, because religious men have killed now and then, they have lied now and then. It is not a sure thing. If it was, we would have hard work with the evidence in this case, because we have had several religious witnesses ourselves, and it would be a hard job to tell which religious man was truthful. You would have to say Orchard was, of course. But has he got it?

He was captured red-handed at Caldwell. Mark the peculiarities of the fellow. He never did a courageous thing in his life, not one. Can you show me one act of his life that had any courage? If his story is

true, he was with a thousand men when he touched off the fuse at the Bunker Hill mill. If his story is true, he sneaked through the dark passages of the mine and fixed a box of powder when he blew up the Vindicator. If his story is true, he sneaked back in the darkness and put the box of powder under the station and ran away in the night when he killed fourteen men. If his story is true, he laid a bomb at Goddard's gate that he might open it and be killed. If his story is true, he met a man coming out of a saloon, drunken, at midnight, and killed him without a chance for a word, for an act. If he has told the truth, he sneaked up the back stairs and poured arsenic or strychnine in milk to poison a man and his wife and little babe. If his story is true, he planted a bomb outside of Bradley's door to kill, not Bradley, but the first human being who might open that door.

If it is true, he went up in the night and laid a bomb at Steunenberg's gate, and then he ran back in the darkness and got almost to the hotel before Steunenberg was dead. Will you show me the act that was not the act of a sneaking, craven, coward in this man's life? Will you show me where he has ever met bravely a man or beast? Has he ever taken a chance in his miserable life? Has he ever met a foeman where that foeman had a chance to shoot or a chance to strike? Has he ever gone into a court of justice and stood his ground, and is not his action in this case on a par with every act of that monstrous life, and yet you are asked to believe him. And Hawley tells you to say that he is truthful and that our men and our women are perjurers because Harry Orchard, this creature Orchard, has told the truth. All right, gentlemen. Hawley may know you better than I do. He may; I trust he does not. Now, what does Orchard do after he is caught? Did he not do just what he always did?

Why did not Orchard place the bomb under Steunenberg's bed at the Idanha hotel? What does he say? Not that he thought it would blow up a lot of innocent people; oh, no, not that he thought it would kill some women and some little non-combatant children, oh, no, but he was afraid maybe he could not get away. Are you going to believe him? You better leave him to Hawley—he needs a pet in his old age. Afraid he could not get away, and he was caught then at Caldwell, and the first thing he did was to try to get away. Tried to get away—how?

## ORCHARD'S PAY FOR KILLING HAYWOOD.

Now, gentlemen, let us have a little common sense about this case, seeing Mr. Hawley has got through with his argument. Suppose I was to go to this jury and try to demonstrate to you that Harry Orchard would kill a man for $50. Would you believe me? You would think he would kill two for $50, wouldn't you? Now, gentlemen, would there be any doubt about it? Could there be one of you twelve men that would hesitate a moment to believe me if I came to you to demonstrate that Harry Orchard would kill a man for $50? Now, suppose I come here and say to you that he would kill a man to save his own neck, then what? Did he ever get as much for any act in his life as he is getting for this? Why, if you rolled together all the money that he ever claims he got from burning cheese factories and killing men and from the gaming table it would all sink into nothing compared with the bribe that is offered

here for Haywood's life. Tell me that you would believe that this man would kill a man for $50 and you would not believe that he would deliver over three men to death to save his neck? Any need to talk about that? But what did Hawley say? Let us see what Hawley said. He says, "We have not promised him anything." Well, now, gentlemen, again is he crazy, or is he just deceiving you? Which? How do you know they have not promised him anything? Has McPartland said so? Has Gooding said so? Has Van Duyn said so? The strong man at the back of this prosecution whose orders all the rest obey to the last letter, has he said so? I do not suppose he knows. Hawley has not said so, except in his argument. Lawyers, like everybody else, have to be sworn before you will believe them, and you have to watch a little then, sometimes. Has anybody said so but Harry Orchard? What do you think about a little corroboration on that?

Mr. Richardson—He did not say so, either.

Mr. Darrow—Well, I do not know as he did, no. He did not say he was not promised anything, but he practically said he thought he might have his life saved. But I do not want to say anything like that. What do you think? Has he been promised anything? I hope the senator has made a note about this, and maybe he will tell us. Is Orchard to get anything? Or has he got anything, for delivering these three enemies of the Mine Owners' Association into the lion's den? Let us see. I do not know whether he has been promised exactly, but he has been paid. You cannot fool Harry. He got his money in advance.

## THE PROOF OF THE PAY.

Let me show you, gentlemen: The Court will instruct you that you have a right to take your common sense into the jury box with you. Instead of Mr. Hawley's argument you may take that in there. A lawyer is not presumed to have any, but a jury is.

Harry Orchard was captured on the first of January, 1906, about eighteen months ago. He is living, isn't he? No doubt about that. He looks fat and sleek and healthy and not in danger of any sudden death. If to save his miserable carcass he had not lied to kill three men the grass would have been growing above his grave for twelve months past. Is there any doubt about that? You cannot beat him out of the year and a half that he has already had, and if it is worth only a dollar a day to him he would kill these three men for that a good many times over. You cannot beat him out of that. But what else? Why, so long as he is doing this great service for the state would anybody think of killing Harry Orchard? You might as well kill the avenging angel and get done with the whole scheme. They need him in their business. While Harry Orchard is living, and society is safe, I take it nobody intends to kill him until we get through with Haywood, with Moyer, with Pettibone; until the last trial has been had; until the last appeal to the supreme court has been taken; until they shall be hanged and their bodies laid away in the earth or eaten up with quicklime. They will take care of Harry up to that time, won't they? So he has got a fair lease of life, and I think an insurance company

might carry a policy on him—at least one of the kind that he used to work for.

But Jack Simpkins is still at large. Jack has been evading the Pinkerton detectives, who, for the time being, have been so busy hunting up this wonderful mass of evidence against Moyer, Haywood and Pettibone that they have not had time to get Jack. Well, I do not know when they will get him. They never ask me about him. I have no idea when this great magician, McPartland, will reach out his hands and grasp him. McPartland is getting pretty old himself, and if he does not get him before he dies there will never be any other man that will get him, because when he dies all the acuteness of the detective association will die with him. He is the only detective that I ever heard of that could quote scripture, and it would be too bad to have anything happen to him. Jack is at large, and they surely wouldn't hang Harry Orchard until Jack was caught and prosecuted and the jury had finally passed on him, and the courts had passed on him and his body was laid away. Then, there is a lot more of them. Bill Davis is living; Billy Easterly is at large; there are 40,000 members of the Western Federation of Miners, all criminals, and Orchard knows them all, and so long as there is a neck to hang, why kill this man? You might just as well do away with the gallows so you couldn't hang any more, as to kill him.

Nonsense! Is there any man on earth who believes that anyone has any purpose of hanging this man? And if so, when? And he would have been dead a year only for this. A year! Thank God, we have had a year of his society on the earth anyhow. We have shown what a wonderful thing the Christian religion is, when it can make over Harry. Now let us see:

## ORCHARD'S MOCKERY OF RELIGION.

I speak under disadvantages with Hawley when I talk about the Christian religion, for at least he talks as if he knew. Now if I make some slip here is the senator to come along and pick me up afterwards and show me where I am wrong. If he doesn't know himself, Hawley will tell him tonight after I get through, so he will take no chances. But I am going to take a chance to talk a little about that subject, for of all the miserable claptrap that has been thrown into a jury for the sake of getting it to give some excuse for taking the life of a man, this is the worst. I wonder, gentlemen of the jury, if Hawley would ask you to believe Orchard if he had not got religion? Do you suppose he would? Do you suppose he would, when Orchard admitted that he had not only committed every crime in the calendar, crimes without number, but that lying was always one of his long suits? He could do a lot of things pretty well but he could do that the best of all. Now do you suppose Hawley would ask you to believe him and hang Bill Haywood, without giving him religion? So they had to get religion and throw it into this case, and they have gotten it from nobody but Harry Orchard. McPartland hasn't told you anything about it. Nobody who is supposed to be any judge of it has told you anything about it. Nobody has said anything about it excepting Harry Orchard and Hawley. Well,

let us see what he has. I want to say a few words for the benefit, not of this jury, but of those sickly slobbering idiots who talk about Harry Orchard's religion. If I could think of any stronger term to apply to them I would apply that term. The English language falls down on Orchard and likewise upon all those idiots who talk about Orchard's regeneration. Now I am going to take a chance and talk about that for a few minutes.

There is one thing that is well for them to remember right at the beginning, and that is that at least a month before Dean Hincks persuaded him to lay his sins on Jesus, Father McPartland had persuaded him to lay his crimes on Moyer, Haywood and Pettibone. You might remember that in starting. It is on a par with the character of a characterless man—I am referring to Orchard now, so there will be no mistake. It is a smooth game of shifty Harry. You are asked to give him immunity and to give immunity to everyone of his kind. You are asked to say to the old and to say to the youth, you may kill, you may burn, you may lie, you may steal, you may commit any crime or any act forbidden by God or forbidden by man, and then you can turn and throw your crimes on somebody else, and throw your sins on God, and the lawyers will sing your praises. All right, gentlemen. If in your judgment public policy demands it, go ahead and do it. Don't stop for a little matter like Bill Haywood's neck.

Shifty Harry meets McPartland. He has lived a life of crime and been taken in his deeds, and what does he do? Why, he saves his soul by throwing the burden on Jesus, and he saves his life by dumping it onto Moyer, Haywood and Pettibone. How can you beat that game, gentlemen? Can you beat it? And you twelve men are asked to set your seal of approval on it and to make that contract good so it may go out to every youth in the land. You may need to do it, but it should be a mighty strong necessity that would lead you to do it, should it not?

## AN ELOQUENT TRIBUTE TO RELIGION.

Now, gentlemen, like Brother Hawley and I know like Senator Borah, I, too, have a profound regard for religion. Mine may be broader than Brother Hawley's. I don't want to say to these twelve men that I think the Christian religion is the only religion that the world has ever known. I do not believe it for a moment. I have the greatest respect for any religion or any code of ethics that would do anything to help man, whatever that religion may be. And for the poor black man who looks into the black face of his wooden idol and who prays to that wooden idol to make him a better man and a stronger man, I have the profoundest respect. I know that there is in him, when he addresses his prayers to his wooden idol, the same holy sentiment, and the same feeling that there is in the breast of a Christian when he raises his prayer to the Christian's God. It is all one. It is all a piece of ethics and a higher life, and no man could have more respect for it than I have. In the ways of the world and in the language of the world I am not a professed Christian. I do not pretend to be. I have had my doubts, my doubts about things which to other men's minds seem plain. I look out on the great universe around

me, at the millions and millions of stars that dot the firmament of Heaven in the night time; I look out on all the mysteries of Nature, and the mysteries of life, and I ask myself the solution of the riddle, and I bow my head in the presence of the infinite mystery and say, "I do not know." Neither do I. I cannot tell. But for that man who understands it all and sees in it the work of a Supreme Being, who prays to what he honestly believes to be this higher power, I have the profoundest regard; and any communion with him, any communion of that poor, weak mortal with that higher power, that power which permeates the universe and which makes for good, any communion that lifts a man higher and higher and makes him better, I have regard for that. And, if Orchard has that religion, well and good. I am willing that he should have it. I hope that he has it. I would not deny that consolation and that solace to him, not for a moment. But I ask you whether he has it, and what it means to him? I have no desire to injure Harry Orchard. I am not made that way. I might have once when the blood in me was warmer and my feelings were stronger. But I, like Hawley, have been tempered by years, and I have no desire to hurt even Harry Orchard, despicable as I think he is. I have no desire to take his life. I am not responsible for his being. I cannot understand the purposes of the infinite God who fashioned his head as he saw fit to fashion it. I cannot understand the purpose of that mysterious power who molded Harry Orchard's brain as he pleased. I am willing to leave it to him to judge, to him who alone knows.

## A PLEA FOR ORCHARD, THE UNFORTUNATE.

I never asked for a human being's life and I hope that I may never ask for human life to the end of my days. I do not ask for his. And if the time should ever come that somebody pronounces against him the decree of death and nobody else asks to save his life, my petition will be there to save it, for I do not believe in it. I do not believe in man tinkering with the work of God. I do not believe in man taking away the life of his fellow man. I do not believe that I understand, I do not believe that you understand, I do not believe that you and I can say in the light of Heaven that if we had been born as he was born, if our brain had been moulded as his was moulded, if we had been surrounded as he has been surrounded, we could say that we might not have been like him.

## A DISCUSSION OF ORCHARD'S EVIDENCE.

It is not for me to pass condemnation upon him, but simply to discuss his evidence and to discuss him as he and his evidence affect this case. Then, gentlemen, let us see whether he is changed. I do believe that there is something in the heart of man which, if rightly appealed to, may make him better. But I do not believe in miracles. I do not believe you could change in a minute a man's very nature. I do not believe it was ever done or ever can be done. You can't take Harry Orchard's face or his form and make it over again in a second, and you can't take his crooked brain and his crooked, dwarfed soul, and make it new in a minute, and if you, gentlemen, are going to bank on that in this case, then you are taking a serious responsibility with Bill Haywood's life. I might have a

little more confidence in this if he had not confessed to the Pinkertons before confessing to the Savior. You might have a little more confidence in this if he had not sought to save his life before he turned to save his soul. But there are certain things, gentlemen—I will not say they are indications of a Christian spirit: I know that there are Christians on this jury, because we have studied the personnel of this jury as carefully as we can; but I do not propose to make my statement more nor less because of that.

## THE WAY MEN GET RELIGION.

To my mind these religious instincts permeate all systems of life. One may be higher, better, further developed than another; but deep in the heart of the primitive man is that religious instinct which makes him look up to some higher power, as he wonders about the mystery of his being, the mysteries of life and the mysteries of the great universe around him. He forms his prayers, and whether they are to the same God or not, whether the same name or not, and the same substance or not, I have faith to believe that, if they are the honest and sincere expressions of his soul, they reach the same God at last, no matter how men think they disagree. I have tried in my way, and have failed oftener than I have succeeded. I have sworn off on the first day of January, and begun again on the second, sometimes even held out till the third or fourth. I have tried many and many a thing and failed, and sometimes succeeded, indifferently, and I know the weakness of the flesh, the strength of human nature, the struggles it takes to make a new man. Gentlemen, Hawley doesn't know half as much about religion as I do. If he knew anything whatever about religion, he never would tell twelve men that something could be sprinkled upon the head of Harry Orchard and his nature would change in the twinkling of an eye. He is as crazy on religion as he is on other things. You can't do it. He might get a glimpse, he might get an insight, and he may struggle on and on and on for something higher and better, and fall while he reaches, and reach while he falls, and in this way men get religion like they get other things that are good.

Let us see what he has got, and then we will see whether it is religion. There are certain qualities which are primal with religion. I undertake to say, gentlemen, that if Harry Orchard has religion now, that I hope I may never get it. I want to say to this jury that before Harry Orchard got religion he was bad enough, but it remained to religion to make him totally depraved. Now, I am measuring my words, and I am going to show it to this jury, and I am going to show it to you so plainly, gentlemen, that I believe nobody can doubt it. I say that there was some spark of honor and integrity and manhood about that depraved man before he got religion, but that after he went into McPartland's hands he became totally depraved. We will mention a few things. What does religion mean? It means love, it means charity, it means kindliness, it means forgiveness to a man whose life has been covered with slime and filth. If he had got religion it ought to be kindness and charity and forgiveness to other men whose lives are like his. Would you have any confidence in religion if it didn't mean that? Would you have

any confidence in religion if a man was as cruel, as heartless as he was before? Take Orchard. Take his story. He was acquainted with Moyer. He was acquainted with Haywood. He was acquainted with Pettibone. He had worked himself into the confidence of Pettibone at least. He had been invited to his house. He had met his wife. He had eaten at his table. He had slept in his bed. He was his friend. Gentlemen of the jury, I ask you, who watched him, who saw this monster on the witness stand, I ask you whether there was the least look of pity, the least sign of regret, the least feeling of sorrow when this man sought to hand over his friends to the executioner? Did he look any different? Was there any different gleam in his eye or different cast in his countenance or a single flutter of his iron nerve that wasn't there when he met a reeling, staggering, drunken man and shot him three times before he could raise his hand? If there is any pity in his soul, if there is any of the heavenly mercy, if there is any of the Christlike forgiveness it hasn't gone out to Pettibone at whose table he had eaten. But let us take a case that is plainer than that, gentlemen of the jury. You are not emotional men. Here are twelve men who are mainly farmers; you haven't read fairy stories. You work with your hands. Most of you, perhaps, never heard a fairy story until you heard Orchard's. I am not going to appeal to you on any fantastic basis. I am going to put a proposition to twelve hard-handed and hard-headed men of Idaho, and I want you to say, gentlemen of the jury, whether religion has changed the nature of this wretch, and I should expect if any of you were interested in religion you would say that he hadn't got it. You would have to say it to keep from giving up your own.

## PICTURES THAT WILL COME.

Let us see how it appeals to twelve men. When you are through with this case and have gone back to your homes and think of it, as you will, over and over and over again (for it is a historical case—it is seldom in the lifetime of any man that he is a juror on a case as historical as this), pictures will come back to you, of this lawyer, that lawyer, of this court, of this witness, of this defendant—you will see them while you are waking, you will see them while you are sleeping, you will dream of it and you will think of it, and you will wonder whether your poor, weak, human judgment erred, or whether you did right, or whether, after all is said and done, you might not have done otherwise. Pictures will come of the figures in this case, and amongst the rest Harry Orchard's. It may not come to all of you alike. It may not come to me as it comes to others. One of you may picture Harry Orchard as he is meeting this drunken man realing out of the saloon and shooting him to death in the darkness of the night. Another man may picture him as he places the fagot under Neville's saloon and runs away. Another may picture him as he plants a box of powder under the station and hurries off in the darkness to save his life, while he sends fourteen souls unshriven into the great beyond. Another may picture him placing a bomb at Steunenberg's gate. Hawley will picture him as a cherubim with wings growing out from his shoulders and with a halo just above his head and singing songs, with a lawyer on one side of him and McPartland on the other. I don't

know yet how Borah will picture him, but everybody will picture him according to how they see him. My picture is none of these—none of these. I see what to me is the crowning act of infamy in Harry Orchard's life, an act which throws into darkness every other deed that he ever committed as long as he has lived, and he didn't do this until he had got Christianity or McPartlandism, whatever that is; until he had confessed and been forgiven by Father McPartland, he had some spark of manhood still in his breast. There have been other criminals in this world, great criminals. Our penitentiaries are full of criminals whose names are unknown. Men have mounted the scaffold, they have fallen through the trap door, they have been strangled to death, their bodies have been eaten up with quicklime inside of the prison walls, and they protected their names. Their name is the only thing sacred that was left to the criminal. Look at this fellow, you twelve men, and tell me what you think of him, and whether you will take away a life on account of him. Who was he? He left Ontario a young man. His record was bad. It wasn't infamously bad. His name was not Harry Orchard; his name was Albert Horseley when he left. He went to Detroit with another man's wife. When he reached Detroit his name was Harry Orchard. He lied, he stole, he burglarized, he committed arson and became a murderer and his name was Harry Orchard. His best friend never knew any name but that. The name of Horseley was buried deep in this criminal's heart and he protected it as the one spark of goodness that bound him back to his childhood days. He was not totally depraved. He protected his name. He had gone away from Ontario. He had taken the name of Orchard and he had covered it with infamy and slime, but he had left the name of Horseley comparatively pure in the little Ontario town. Now, gentlemen, this is the picture of Harry Orchard that comes to me. You may picture him a saint if you want to or if you can, and, if you can, you may take away the life of a fellow being on his testimony, and I will say to you as the judge does to the condemned murderer, "May God have mercy on your souls." You may picture him as you think he should be pictured. But here is this picture; here is a little rural town off in Canada; here is a country graveyard with a white fence around it and a church by its side. Here are two old-fashioned Quaker people who read their Bible and who love their God and who live, in the sight and the fear of their God, a quiet, peaceful, honest life, and who reared their family hoping they would follow in the footsteps of that Quaker couple. They died and are buried in that old graveyard in the country town; the names on the marble headstone are never heard of beyond the limits of the little town where they lived and where they died; but they lived an honest life, an upright, God-fearing life, and they laid down their burden when it was done and sleep the peaceful sleep of the just, and their names were respected and their names were honored. They bore two sons and six daughters. One son went out into the world. He married. He had a child. Temptation overcame him. He left his wife to toil for herself. He left his child, a baby girl, unprotected and unaided to grow up alone without a dollar or a penny, or a father's love; and he went out into the world and covered himself with mud and dirt and crime until he was revolting in the sight of God and man. The brother

stayed at home, a quiet, peaceful, honest man, having children to bear the Horseley name to generations yet unborn. The sisters married. They had children in whose veins flowed the Horseley blood. They are quiet, peaceful, honest citizens. The little girl, growing up neglected, uncared for, has been struggling alone until she is nine years old. The Horseley name is all she has. The honor of the grandfather and the grandmother sleeping in their Quaker graves, that is all she has. She has nothing from the father who deserted her. Suddenly there comes back a story that the monumental criminal of the ages was Albert Horseley; that this man, who went out from this quiet town, covered himself with crime and with infamy, so that every neighbor who goes through that quiet yard can point to the grave of this old Quaker couple and say, "There lies the father and the mother of the greatest criminal of modern times;" and the brother and the sisters, living and toiling as best they can, with the burden of the world upon them, the world now can point to them, "There is the brother, there are the sisters, these are the nieces and these are the nephews of that monster who has challenged the civilized world with his iniquities and his crimes," and the deserted wife and, above all, the little girl, flesh of his flesh and bone of his bone. Gentlemen, I want to know what any one of you think of this miserable wretch who blighted the life of this deserted girl to save his miserable neck? Am I still crazy? Are the men of Idaho different from other men? Does not the same sort of blood flow through your veins as flows through the veins of all men who ever lived? Can anybody look upon this act with anything but horror, and yet Hawley says every human being is to be condemned who has dared to run counter to his perjured word. Think of that girl! Gentlemen, every act of this villian's life pales into insignificance compared to the crime committed against that child. The blowing up of the Independence depot was a sacrament compared with running that poisoned dagger into the heart of a nine-year-old babe, a dagger that could not kill, gentlemen. If it could kill, well and good. But this was a dagger that would fester and corrode and leave its pain and sting and leave the fingers of the world pointed at her and the voice of the world raised against her as long as her offspring remain upon the earth. And why did he do it? You know why he did it. He had protected this one thing through all his crimes; until he spoke his name upon this witness stand nobody knew it excepting that "inner circle" to whom he confided it. He had kept it through all his crime and through all his wandering, and the character of his dead father and the name of his brother and sisters and the helpless babe and the honor of his wife, these at least were unassailed. It was left for McPartland to help him commit the crowning infamy of his infamous career. And why did he do it? Not to give any glory or any luster to his family name. Ah, no, he wasn't so proud of his name that he wanted some of the reflection to reach to this child and to these brothers and to these sisters. Not for glory, not for honor.

## THE CRIME OF FATHER McPARTLAND.

He did it, gentlemen of the jury, because the miserable, contemptible Pinkerton detective had persuaded him that his story would gain more

credit with the jury if he gave his real name; because McPartland had persuaded him if he would give his name it would help to tie the rope around Bill Haywood's neck. That is why he did it. He gave it to wreak vengeance upon an organization which they have been dragging and hounding to the grave. Gentlemen, am I wrong? Is there any man that can ever think of Harry Orchard—any man but Hawley—is there any sane man, I will say, who can ever think of Harry Orchard except in loathing and disgust? You have seen him here. You have heard his story. You have seen him sleek and fat and well fed, facing this jury day by day asking for this man's blood. Do you ever want to see him again? Do you ever want to hear his name again? In the future when you are trying to find the most infamous word that the English language has given us can you think of anything but Orchard? Do you want to read a paper again with his name in it? And yet, gentlemen, upon the testimony of this brute, this man who would assassinate his own nine-year-old girl with a dagger a thousand times more malicious and deadly than one that kills, upon his testimony you are asked to get rid of Bill Haywood. For what? Does anybody else attack his name? Anybody else swear anything against him? Has any other voice been raised to accuse him? Oh, no. You are asked to take his life because down in Colorado and up in the Coeur d'Alenes he has been against the Mine Owners' Association, and because he has been organizing the weak, the poor, the toilers—has been welding together in one great brotherhood those men—has been calling them to fight under one banner for a common cause; and for that reason he has raised up against him the power of this body of men, and you are asked to kill Bill Haywood.

## THE KILLING OF THE HEROES.

To kill him, gentlemen! I want to speak to you plainly. Mr. Haywood is not my greatest concern. Other men have died before him. Other men have been martyrs to a holy cause since the world began. Wherever men have looked upward and onward, forgotten their selfishness, struggled for humanity, worked for the poor and the weak, they have been sacrificed. They have been sacrificed in the prison, on the scaffold, in the flame. They have met their death, and he can meet his, if you twelve men say he must. *But, gentlemen, you short-sighted men of the prosecution, you men of the Mine Owners' association, you people who would cure hatred with hate, you who think you can crush out the feelings and the hopes and the aspirations of men by tying a noose around his neck, you who are seeking to kill him, not because it is Haywood, but because he represents a class, don't be so blind, don't be so foolish as to believe you can strangle the Western Federation of Miners when you tie a rope around his neck. Don't be so blind in your madness as to believe that when you make three fresh new graves you will kill the labor movement of the world.* I want to say to you, gentlemen. Bill Haywood can't die unless you kill him. You must tie the rope. You twelve men of Idaho, the burden will be on you. If at the behest of this mob you should kill Bill Haywood, he is mortal, he will die, but I want to say that a million men will grab up the banner of labor at the open grave where Haywood lays it down, and in spite of prisons or scaffolds or fire, in spite of prosecution or jury,

or courts, these men of willing hands will carry it on to victory in the end.

## A BOQUET FOR McPARTLAND.

Gentlemen of the jury: I think when I closed last night I was saying something about Harry Orchard. I want to apologize for saying too much about Harry Orchard. I have always been just a little careful of my conversation and the topics that I discuss, especially in public, and I feel that I owe you an apology for using his name so often. But I can't help it. Eminent lawyers up here in Idaho have seriously proposed to hang a man, take him out and kill him, on the testimony of Harry Orchard, and that is my excuse for talking about it. I hope after I am done with this case I will never have to use his name again or see it again or hear of it again. I have tried to give you a short sketch of this man upon whose testimony they hope to take away the life of one of your fellow citizens. If we find who he is, I do not think there is any danger of my overstating it. When I make little references to Bill Haywood or Brother Borah, I might possibly overstate, but I am safe when I am talking about Harry Orchard. I can't overstate that. You would have to make the English language all over again to do justice to that subject, but I have tried to sketch him so that where his evidence appears in this case, and it is all that does appear in condemnation of these men, you would know who he is, and what he is and whether he has been miraculously made into an honest man, and whether a jury would be safe in whipping a dog on his testimony, leave alone hanging a human being on his testimony. Mr. Hawley tells us that McPartland has converted him. He is a wonderful detective, isn't he? But here is a piece of work, gentlemen of the jury, that will last as long as the ages last—McPartland's conversion of Orchard! Don't you think this detective is wasting his time down in the Pinkerton office in the city of Denver? From the beginning of the world was ever any miracle like this performed before? Lo, and behold! A man who has spent his life as a Pinkerton—isn't a preacher—he has never been ordained except in the Pinkerton office—but here is a man who has challenged the world—Harry Orchard—who has lived his life up to this time, and he has gotten over what religion he ever had, and he meets this Pinkerton detective who never did anything in his life but lie and cheat and scheme, for the life of a detective is a living lie, that is his business; he lives one from the time he gets up in the morning until he goes to bed; he is deceiving people, and trapping people and lying to people and imposing on people: that is his trade, and Harry Orchard is caught, and he meets this famous detective, who speaks to him familiarly about David and St. Paul and Kelly the Bum, and a few more of his acquaintances, and he speaks of them in the most familiar way. And then he holds out the hope of life and all that life could offer to Harry Orchard, and lo and behold, he soon becomes a Christian. Now, gentlemen, Savonarola, who was a great preacher, and a mighty man in his day, is dead. He went up in flames long ago, and he cannot convert the world. John Wesley is dead. Cranmer is dead. Moody is dead. Pretty much all of them are gone. What is the matter with McPartland changing the sign on his office, and going into the business of saving souls instead of snaring bodies? If he could convert

a man like Orchard in the twinkling of an eye, I submit he is too valuable a man to waste his time in a Pinkerton detective office trying to catch men. He had better go out in the vineyard and go to work and bring in souls. A man who could wash Harry Orchard's soul as white as wool need not hesitate at tackling any sort of a job that came his way. He is a wonderful detective, but his fame as a detective would be eclipsed in a moment if he would go into the business of saving souls instead of catching men. But I might suggest to this good man, who talks of St. Paul and David as if they had been shadows that he had used in his office, I might suggest to Mr. McPartland, the wise and the good, who quotes the Bible in one moment and then tries to impose upon some victim in the next, who quotes Scripture in one sentence and then lies in the next, who utters blessings with one word and curses with the next, I might suggest to this good man that William Haywood has a soul, Moyer has a soul, Pettibone has a soul. Why not go to Moyer, Haywood and Pettibone and tell them some of your stories of St. Paul and David, and offer to wash their sins away? Why not give some attention to the souls of the men whose bodies they are trying to consign to the tomb? Do you suppose McPartland is interested in Haywood's soul? Do you suppose he is interested in Moyer's? Do you suppose he is interested in Harry Orchard's? Do you suppose he is interested in his own? Do you suppose he is interested in anything except weaving a web around these men so that he may be able to hang them by the neck until dead? And to do it, like the devil, he quotes Scripture. To do it, there isn't a scheme or a plan or a device of his wily, crooked brain that he won't bring into action, whether it is the Bible or detective yarns—there is none too good for McPartland. And then he will have a lawyer to say: "Here, behold McPartland's work. Here is Harry Orchard, with a pure soul and a clean heart, and he told you twelve men a story by which you can afford to take away the lives of three men." Well, all right, perhaps you will do it, but I don't think so.

## ORCHARD, THE LITERARY CHARACTER.

Now I want to take another view of this man Orchard. It seems that I never can get away from him. He has told you a great story. The fairy tales that we used to read are not in it with this story. Baron Munchausen and all the rest of them have to go away back and sit down since Harry Orchard entered literature. He had to tell McPartland his real name, and almost the first question that Hawley asked was as to his real name, where he was born and who he was, and he told us it was Horseley. Of course, he had to tell it, because he had already written his biography, written this wonderful story of a wonderful life, and he had spread his infamy throughout the land to damn all the people whose blood made them kin to him. He had done that beforehand. Is he a romancer, is he a liar, or is he honest? Now let me call your attention to a few things in the light of what he is. First, he had written a story before he ever got here. Before you men heard him from the witness stand he had woven the story and sold it to a magazine. Well, now I know that you have to look out for a story teller. I have had a little experience in that line myself, and when the imagination gets active it is a little difficult to tell whether we are telling the truth, or just think it is the truth. He had fixed this up

to sell—to sell to McClure's Magazine—and in the spare moments waiting every minute for the halter to dangle above his head, he is putting in his time writing this story which is being published now.

Commencing from his earliest youth he has been a liar, that he confesses, and a liar of a singular kind—telling of meaner things than even Harry Orchard ever did, telling of more things than even Harry Orchard ever did. He admits that he told of killing his brother when his brother wasn't killed. He admits that he said he had killed Neville, hired a man to go and poison him, when Neville was never poisoned and never killed. If he can admit that he told the story that he poisoned Neville when it was a lie, is there any reason that he couldn't tell the story that he put strychnine into Bradley's milk when that, too, was a lie? Time after time he has shown that he is a liar, given to this kind of wierd romancing; *that* tells what an infamous mortal he is. Not man enough to lie in his words and his letters, he goes into a photograph gallery and poses himself with two other men, he standing with a smoking revolver in his hand and one man shot dead before him with the cards in his hand, and another man standing by his side, Harry Orchard of course being the real hero. He never would take a pose and let the other fellow be holding the revolver and he appear to be dead. Oh, no, never. You can't get a truer picture of the type of this liar than the picture that he posed for and which has been presented to this jury.

## COLONEL SELLERS OF CRIME.

Now, gentlemen, while he has perhaps told some things that are true, and many things that are not true, he has told this jury of an infinitely greater number of people that he intended to kill than the number of people that he did kill, which is a circumstance worth considering when you are sizing up a man like that. He told you that he came pretty near blowing up the Idanha hotel, which would kill from two hundred to four hundred people. He told you that he was going to blow up Max Malich's boarding house, which would kill from three hundred to six hundred more. He told you that he wanted to touch off a carload of powder in the Vindicator mine, that would kill a third of the men, one whole shift; and that there were about six hundred or eight hundred men employed in the mine and that he would kill a third of them. He told you that he was ready to blow up some institution in the Coeur d' Alenes, that would kill two or three hundred more. The poor fellow has really never had a chance in the world. He has never been where his talents would be recognized. It is unfortunate, from his standpoint, that he has never been able to kill five hundred or six hundred at a time. All of his big schemes seem to have failed, like the big schemes of all the rest of us. But he had them in his head, every one of them. He was going to put a bomb under Governor Steunenberg's seat in the car and blow up the train. He was going to do infinitely more than he ever did do; and in order to make himself a bigger man than he really is, and God knows he is big enough, he boasted of crimes that he never committed, and told you of attempting to commit crimes bigger than he ever did commit. Now I want to know whether there is any chance for a jury to go astray upon a character like his, whether it could be possi-

ble that anywhere on the face of the earth you could bring together twelve men who would ever look at the testimony of a monster of this sort? Of a man who, perhaps, is a phenomenal murderer, but who at least is the biggest liar that this generation has known. This is the character of the man upon whose testimony you are to be asked to take away these men's lives.

## THE BUNKER HILL EXPLOSION.

Now what did he say he did? Let us look into the first effort to connect Mr. Haywood with the murder of ex-Governor Steunenberg. The first time Harry Orchard comes upon the scene he had left Canada and had taken another man's wife with him. She had left him and he came to the Coeur d'Alenes, and he worked thirty days as a miner and joined the miners' union. So far he had never killed anybody. He had boasted of killing his brother, but he failed there and he never did kill him. So far he hasn't committed murder. But here was a man that nobody knew, a man who had only been in the union thirty days, a man who had been in the Coeur d'Alenes only a short time, and they got up an excursion of miners and others to go down to the Bunker Hill mill, and Harry Orchard jumps in and goes, and he swears that, although he was an unknown man—he had never been an officer, he had never taken an active part in the union—still he took the part of lighting a fuse to blow up the Bunker Hill and Sullivan mill. Now, gentlemen, whether he did it or not is, perhaps, not so very important in this case. But it is very strange indeed that a man of this character, a man perfectly unknown, a man only connected in the most casual way with this organization, should have been assigned any such position, if there was any method in it at all—which there was not. Let us assume that he did it. The State gets a starting point from here. Some large number of men went to the Bunker Hill and Sullivan mill. They undoubtedly went there for a demonstration. It isn't at all likely that one man out of a hundred who was there ever dreamed of anything that was going to happen. It is likely that there were men there who thought something was going to happen!

Now, gentlemen, you are not much acquainted with miners, but you know something about human nature. What is claimed by the State in this case? It is claimed the town of Gem, the town of Burke, the other towns on the road, were practically depopulated when that train went through. Everybody got aboard, at least all the miners. Do you think they are all criminals? Suppose there was some excitement here and the band wagon should come around and gather up every rancher in the community—if their heads were turned by something and they would all get together and something would happen, and some man would tell the jury here that everyone of those men are criminals and murderers, do you suppose anybody would believe it? Mr. Hawley might, possibly. But you can't tell me, gentlemen, that the great mass of the men who go down into the earth with their lives in their hands to dig up gold for other men are criminals. If for any reason a thousand men deliberately determined to go and blow up the Bunker Hill mill then it needed blowing up. It needed it, just as much as if you go into a town and persuade everyone of the citizens to join in the civil war to liberate the slaves. You can't get great masses

of men to act from anything but good motives. You may get a great mass of men together upon one purpose and amongst them may be a few men who secretly have another and a criminal one, which was doubtless the occasion here. But if you tell me that everyone of these miners who work with their pick and their shovel, who support their families and are the brawn and sinew of the land—that if everyone of these joined in an excursion like that, you prove that the condition existed which called for it. You need not tell me that a thousand Idaho citizens, the brawn and sinew of Idaho, were criminals and murderers. Men don't act that way. They act that way only upon great provocation or upon sudden impulse or without reflection, and so undoubtedly in this case they got together to go there and make a demonstration, a few reckless or evil-disposed men got amongst them, and perhaps all of them did more than they ever intended or expected to do or that they would have done in cold blood. But let us see. Orchard said he was there and after the mill was blown up he ran away, and Mr. Hawley asks, Why did he run away if he didn't help blow up the mill? Well, Mr. Hawley ought to know. He has read Orchard's book. He has heard Orchard's testimony. He was familiar with that case. Orchard told you upon the witness stand that they arrested every union man in the district whether he was at the mill or not; they put every one of them in a bull-pen. They ran out their net and they gathered the guilty and the innocent alike, and he ran away to get rid of going to the bull-pen, just as hundreds of others did in the Coeur d'Alenes at that time when Governor Steunenberg established his bull-pen.

## THE BULL-PEN OF THE COEUR D'ALENES.

Now, gentlemen, I am not going to discuss to this jury whether his method was right or wrong. I believe it was wrong. I don't believe any lawyer can defend the right of any human being to indiscriminately take his fellow man without any criminal charge whatever, without any trial or any hearing, and shut him up in a pen, as was done in the Coeur d'Alenes in '99; and whatever Governor Steunenberg might have thought, and however honest and sincere his motives were at the time (and I am not here to impugn them) when he established the bull-pen in the Coeur d'Alenes he sowed the seed of more strife and contention than was ever sown by any governor from the days that this nation was founded to the present time. There was nothing to justify it. If the arm of the law was not strong enough, if the civil authorities were not strong enough, then the military authorities should have been called in to assist. But when you say that a governor or a general may reach out indiscriminately and take whom he will, without warrant, without charge, without a hearing of any kind, and lock them up as he sees fit, then you say that all government should be submerged and the only law be the law of might, and I don't think the man lives who can defend it. Doubtless Governor Steunenberg felt at the time of this crisis that there was nothing else to do—I don't propose to discuss him for a moment on that account—but I believe that large numbers of right-minded people, in labor organizations and out, have always denounced that act and always will denounce that act so long as we pretend to have a government by law in these

United States. It is not strange that at that time large numbers of miners and workingmen, that honest lawyers, ministers, congressmen and all classes of people protested against this as being an outrage, a crime against the liberties of man. But what had Moyer, Haywood and Pettibone to do with it? Orchard was doubtless there and he ran away.

## HAYWOOD NOT CONNECTED WITH THE TROUBLE.

The state says that this is the foundation of the case, because Steunenberg established martial law in the Coeur d'Alenes in 1899. At that time Bill Haywood was an obscure miner—an officer of a local union in Silver City. He had no more to do with that than one of us. He lost nothing by it. He was not taken to the bull-pen. He had not been driven out of the country. He was working, and working in a union camp, and he never became a conspicuous officer of the organization until two years later. And yet, gentlemen, in order to reach out and get Haywood, in order to reach out and get Moyer and Pettibone, they are forced to bring in this act, which occurred two years before Haywood had any connection with the Western Federation of Miners—except a local union—and charge him up with things that he did not see and could not see, things that he did not do and could not do.

Now, let me illustrate: The Western Federation in 1900 established "The Miners' Magazine." Edward Boyce was then the president of the Western Federation. Haywood was digging gold over here in Silver City. "The Miners' Magazine" printed a number of articles about Steunenberg and about the Coeur d'Alenes. These articles condemned Governor Steunenberg, as others did publicly over the length and breadth of this land. What had Haywood to do with it? What had Moyer to do with it? What had Pettibone to do with it? Yet, gentlemen, they are brought into this case that they may help to furnish a motive for this man's act. You are asked to judge Haywood, not by what he said, not by what he wrote, not by what he did, but for the words that Ed Boyce wrote, words that he wrote in condemnation of Steunenberg. Does that appeal to you, gentlemen, as being fair, as being honest or being just to this defendant in this fight for his life—that you should take the words of a president of an organization a year before he had anything to do with it and which he never saw or cold see, and condemn him for that? I take it that no jury on earth would do it.

But what about these articles? Why, you can pick up newspapers every day in the week and find stronger articles than those. True, gentlemen, they were not written as classically as Brother Borah would write them. They are not in the most orthodox newspaper or literary style, but Ed Boyce was not a literary man. He was a miner. He worked for a living. A man cannot be expected to use good English if he works. He has no time to sort out his words. He has some idea and he uses the first word he gets hold of. Ed Boyce did not graduate at a college. He graduated out of a smelter. That is where he got his literary training. He is one of those criminals that feed the smelters so that the Guggenheims may get rich and go to the United States senate. He is one of those criminals who gives his life and his health and his strength to build up the fortunes of other men, and then these men turn around and ask you to

hang them in addition to all the rest. Ed Boyce took "The Miners' Magazine" and entered the office of editor direct from the smelter. I don't suppose he hardly had a common school education. He never went to college. What business have workingmen going to college? If he could go to college he wouldn't need to work, he would know how to do something easier than to work. He could not get a college man to run "The Miners' Magazine." What does a college man know about a mine or a smelter? And take all of our editors and newspaper men, what do they know about anything except to use fairly good words, to say sometimes fairly good things and generally exceedingly untruthful things, because somebody pays them to do it. True, they graduate out of colleges; true, they have good educations; but if they had graduated from a smelter they might not write so good English but they would write a mighty sight better sense and there would be a good deal more heart in it than there is. Ed Boyce had worked in the smelter until his arms were twisted, and perhaps his English, too. If it was I, I would get my English twisted a long ways ahead of my arms. Ed Boyce worked in a smelter until his joints were knotted, until his teeth had fallen out, until his jaw bones were decaying, until he was a wreck—one of Guggenheim's wrecks thrown out on the dump, one of them—one of the thousands whom he has worked up into coin to buy a seat in the United States senate—a part of the blood and the nerve and the muscle of the American people that he has used for a short time and thrown away, thrown away upon the dump and left to starve. He would be in this indictment here, too, excepting for one thing. There is only one thing that keeps Mr. Hawley from declaring that Ed Boyce is one of the monumental criminals of the age, that he is black as compared with his saint, Harry Orchard, and what is that one thing? Why, he has money. They happened to point the prospect hole in the Hercules mine in the right direction and they struck it, and now Ed Boyce is respectable and his name is left off of this indictment. That is the only reason. And they base this crime from that, and they take the language of this man who has got money and is therefore immune—nothing makes you immune so soon—they take his language, they don't try to hang him with it, but they try to hang Bill Haywood. It is a wonderfully honest prosecution from beginning to end, is it not? Ed Boyce wrote those articles. As articles go there is nothing wrong with them. Was there any reason why the Western Federation of Miners should not speak up with ringing words in behalf of a thousand brothers locked in the foulest pen that man could build? In behalf of a thousand men placed there without charge, held without trial, denied the common necessities of life, covered with filth and dirt and mire, surrounded with lice, Pinkerton detectives and other vermin and left to rot? Was there any reason why they should not condemn it? If they had not condemned it they wouldn't be men. They would'nt be men from whom you could build a great nation. They wouldn't be men who would be fit to take the liberties that our fathers have decreed to us through blood and toil, peril and struggle—to take those liberties and defend them with their honor and their strength and their life, if need be, and to pass them on to the generations that are yet to come. Behold, the smelterman—a man could only live about three or four years in a smelter before he would be thrown out onto a scrap

heap—and he got into the editor's chair and he wrote with a smelterman's pen. I wish there were more blacksmiths writing for newspapers, and I wish there were more newspaper men doing honest blacksmiths' work. It would be a good thing for the press of our country, it would be a good thing for the progress of our land, it would be a good thing for somebody not a time-server, but who works for a principle, to take his pen in hand and say what he believes. And I am glad "The Miners' Magazine" has said it, even though half they say may not be good sense and the other half may be in very bad English. I don't think this jury is going to hang a man on what Ed Boyce wrote or what O'Neil wrote or what anybody else wrote. If they were, if we would get busy we would clean out all of these newspaper offices while our hand was in. But one excuse is as good as another when you want a man, and they want Haywood. Somebody blew up the Bunker Hill and Sullivan mill. At that time Governor Steunenberg was governor. Haywood wasn't known. It may be that Governor Steunenberg was misjudged by the miners. It may be if any one of you gentlemen had been governor and surrounded by the influences that surrounded him you would have felt that you could not have acted any differently than he acted. I do not know. It is a hard thing to take a position of responsibility like that. I have no doubt but Governor Steunenberg disliked to send the militia to the Coeur d'Alenes. He might have uttered his protest against catching the innocent and the guilty alike and penning them there like cattle without a trial or without a charge, but still with that he might have done the best he could. And they take this incident and make it the basis of a criminal charge against a man who had nothing on earth to do with it.

## HUNTED BY MANY, BAYED BY ONLY ONE.

Afterward Bill Haywood becomes the secretary-treasurer of the Western Federation of Miners, and, mark you, the next thing they have against him, the very next act, does not occur until 1903, four years after the Bunker Hill and Sullivan mill has been blown up, four years after the time when he was an obscure miner over here at Silver City. In the meantime he had been one of the officers of the Western Federation of Miners for three years, and all was peaceful and serene, and they have not brought to this jury one single act up to 1903, and then they gather up another act of Harry Orchard's to charge to him. It is a strange thing, is it not, gentlemen. Here is Mr. Haywood, the secretary-treasurer of the Western Federation of Miners. Here is Mr. Moyer, the president. They have been leading a strenuous life, God knows. Their organization is a militant organization and has been from the beginning, from the time Mr. Hawley advised them how to construct it, when its officers were lying in the county jail, until now, when the hand of the powerful and the great has been raised against it. They have had to fight every inch of their way, and fight it, gentlemen, in the face of courts, in the face of jails, in the face of scaffolds, in the face of newspapers, in the face of every man who could get together a body of stolen gold to spend to fight this organization. Moyer and Haywood were connected with it for several years. Haywood has not been in Idaho since 1900 until he was brought to this state in 1906. Will you tell me where any voice has been raised against Haywood excepting Harry Orchard's? Will you tell me—

where the Pinkertons, with their million eyes focused upon him, with their million ears trained to catch every sound that could come from his voice: can you tell me while the public was poisoned against him and where its captains of industry poured out their gold to compass his death—can you tell me—why it is that there hasn't been one word, one look, one letter, one circumstance that does not come from this foul creature upon whose testimony I undertake to say there is not one of you farmers but would blush with shame if you should kill a sheep-stealing dog! A man who would not give a dog a show for his life against Orchard would not be a man. Who else has said anything against him—the world of wealth, the world of power, the world of influence, the world of officialdom—and they have produced Harry Orchard and they have not produced another line or another letter or another word or another look or another thing. Gentlemen, another thing: In all of their unions everywhere were the Pinkerton detectives, ready to report every act, every word, every letter. They were present with them in all their trials and in all that took place. The Pinkertons were with Moyer in the bull-pen and stuck to him as close as a bull-pen tick. Why didn't they get a word out of him in the days of his unlawful imprisonment and his tribulation? Why haven't they found something somewhere that would give twelve men a reason, if they wanted it, for taking away the life of their fellow man? Why haven't they found it? And these men have been conspiring, they have been talking, they have been writing, they have been working—this Pinkerton and all his cohorts—with the money of all the mines and all the mills behind them, and have produced nothing except the paltry story which you have heard upon this witness stand.

## IF ORCHARD WAS AT BUNKER HILL.

Now I don't care whether Orchard had to do with blowing up the Bunker Hill and Sullivan mill or not. Nobody has answered McHale, Dominick Flynn and Dr. McGee, all three of whom swear that he was present in Wallace on that day, playing cards. Now, gentlemen, as between a chance to go and explode some dynamite and a chance to gamble I don't know which chance Harry Orchard would take, so I can't argue anything from that. I do not know. There is no reason why this jury should disbelieve these witnesses. True, it is a long time ago, but it was a day to be remembered. What have they proved against it? They brought a man here from Walla Walla, which is a suspicious place on its face to bring a man from. Some time about that time he went to Dominick Flynn and asked him where Harry Orchard was, and he said he hadn't seen him for two or three weeks. Does that prove anything? Is it not rather strange that this man from Walla Walla should remember it at this time and tell it at this time—a circumstance that could not possibly affect him in any way? And they brought a druggist here, whom I think to look at would be to condemn, and he says he saw Harry Orchard going up the street that night after the train got in, and he did not see him around town that day, and that is all. Well, now, there it is, gentlemen; so far as the evidence is concerned, the men who swore he was present at that time have entirely the best of it. But I don't care whether he was there or not. What of it? He says he was there and he saw Bill Davis, and Bill Davis

swears he was not there. Now, Senator Borah thinks Bill Davis did not tell the truth—you know how it is—because Hawley argued he did not, and he will have to follow as near as he dare in Mr. Hawley's footsteps. Now let us see a moment about Bill Davis. There are two people who said he was there, if you can call them people. One is Harry Orchard, but I don't exactly like—I haven't anything against dogs and things of that sort, and I wouldn't call him that, so I will call him Orchard; he is one. There is another named Dewey. Do you remember Dewey? If you do not, I can call him to your mind. He is another. Now let us look at Dewey for a moment, for we will never see another man like him. If we had called Dewey and you had not found our men guilty because we put him on the stand, I should be surprised. I will tell you how you can remember Dewey. I used to be a farmer myself. I once hired out for $20 a month; I think I worked a week—I mean I stayed a week; and the fellow I hired out to didn't find any fault with my leaving. But I remember this, I remember one morning, when I got up rather early to milk—pretty early, along about sunrise—the farmer or some other alarm clock called me—and when I got out to the pasture to get the cows I saw a dog. You have seen them, one of those sheep-stealing dogs. If you have ever gotten up early enough in the morning you have seen them running along by the side of the fence with tail and head drooping on the ground. These sheep-killing dogs are different from any other dogs. You will never mistake one as long as you live. You people know all about it the same as I do. I knew that dog had been killing sheep. Any man who saw him would know it. But if he hadn't been killing sheep he would have been doing something else just as bad. A sheep-killing dog! Now, whenever I think of Dewey I will know exactly how to classify him; exactly. You remember him. Did anybody see his eyes? He didn't look up. He didn't speak. He held his head down, and I suppose for the first time in thirty-odd years I remembered my work on the farm away back in Ohio and that sheep-killing dog. You remember Hawley told him to take the toothpick out of his mouth. He ought to have taken a crowbar and pried it out. What kind of a story did he tell? Now let me show you, gentlemen, what sort of a story this fellow told and see whether you believe him. I wouldn't believe him if I knew he was telling the truth. I don't think anybody else would. I wouldn't believe such a fellow as a matter of principle. I would hate to get in the habit of believing such people. You couldn't tell what it would lead to. Hawley might make an argument before me at some time asking me to hang a man. What did he swear to? This fellow swears that he was a miner in the Coeur d'Alenes. He got in a box car and rode down to Wardner to help blow up the Bunker Hill and Sullivan mine. He swears he saw Bill Davis. Orchard swears Bill Davis wore a mask, but this fellow swears he did not. Now, I don't suppose the fellow would know, for he probably wouldn't look up. He might have told whether he wore boots or shoes, but he certainly could not tell whether he wore a collar or whether he wore a mask. It is a strange and unfortunate thing that the State should bring these two illustrious citizens and then find them contradicting each other. As between the two I don't know which I would believe. When I listen to Orchard I think the fellow's face was bare, and when I listen to Dewey I think he must have worn a mask. If

you can harmonize it some way to find they both lied, all right; but I haven't been able to do it. And that is the greatest mystery in this case, because I am bound to believe that if Bill Davis was there one of those fellows must have told the truth, and I won't believe that, anyhow. So the only escape from that is to believe that Bill Davis told the truth and he was not there. Now, this fellow came up here from Colorado, from Victor, and this man Dewey said he had been marshal of Victor. Well, now, if Dewey was marshal of Victor I should hope you twelve gentlemen would forgive us for anything the fellows did down in Victor except for leaving him alive; you couldn't forgive us for that. He swears he was once marshal of Victor and he quit that job and went to work in a mine, and he is there now. The superintendent called him into his office and asked him to come here to Boise to testify. Now, just think of it, gentlemen. I wonder who is interested in this case! I wonder what powers are back of this prosecution which demands this man's blood! I wonder what subtle forces have gotten hold of this county attorney, the man with the iron mask and the iron will, who is the backbone of all of it and the guiding star of the whole scheme! I wonder where the pull is, when you bring Dewey from Colorado to Boise! For what? To confess that he is a murderer—for Mr. Hawley has told this jury that every one of that thousand men were guilty of murder—every one of them—and here is Dewey, who had been an officer of the law—God save the mark—who had been engaged in pulling in people who had robbed chicken roosts and who had been drunk and been disorderly—he had been protecting the lives and the liberty and the property of his citizens down there as an officer, and lo and behold Dewey isn't that! He is a murderer! His hands are red with the blood of two of his fellow men; but he had escaped and would escape any time unless he was caught out somewhere on the prairie when the game law wasn't working, and then he would be in danger. He had escaped and been a respectable citizen, elected to office, holding a place in a mine, and the superintendent comes and calls out, "Dewey, I want you." And Dewey comes with his cap in his hand to the superintendent of a great mine controlled by the officers of the Mine Owners' Association, to find what little job the superintendent wants, and he says: "Come into my office; I want you."

"Well, what do you want?"

"I want you to go up to Idaho and swear to a jury that you are a murderer."

And he comes. He comes, gentlemen, by the first train, and he takes the witness stand and tells the jury that, although he has been a respected citizen for seven long years, although he has been elevated to an official position, still he is a red-handed murderer. But that is not the strange part. This man with the iron nerve and the iron will, the brain and the courage and the backbone and the guiding spirit of this prosecution sees Dewey get down off the witness stand after he confesses that he has committed murder in the State of Idaho—confesses that he had committed murder—and he gets down off the stand in the presence of the State's attorney and he goes home as peacefully and as innocently as a lamb! Were you sleeping? Were you, gentlemen, who are charged with protecting the honor and the good name of this state; you, gentlemen, who

are making a bluff before this jury of upholding law and order, you who pretend to be prosecuting crime, were you sleeping or are you lying? Were you sleeping when you let this murderer go back unscathed, or is this prosecution from the beginning to the end a wicked, damnable conspiracy to pick up the president and the secretary of the Western Federation of Miners and hang them by the neck for the benefit of the mine owners of Colorado? What is Idaho getting out of it?

AS TO KIDNAPING.

I don't want to forget anything. You will remember Orchard's testimony in reference to a child-stealing expedition that he was going into with Dave Coates, the former lieutenant governor of Colorado. Of course, Coates asked *him into it.* Orchard is always asked in. He never starts anything. He just does it. And Orchard says, yes, that will be a good scheme, and he says to Coates, What will you do? Coates says, I will take the money. Now, that is about the game they have got on Idaho, only it works the other way. It works the other way for the State of Idaho. Let us assume for a moment that Orchard tells the truth, which he does not. He has charged Haywood with the murder of some seventeen or eighteen men in Colorado, has he not? Haywood lived there. His whole official life was there. All the evidence was there. The witnesses couldn't run away. They could be brought into court and be made to testify. If he is guilty of one murder in Idaho he is guilty of twenty in the State of Colorado, and they have all the evidence of those that they have of this, and a good deal more, because he was on the ground and part and parcel of all of it. And if Orchard is telling the truth here, he could tell the truth there, and he could be hanged in Colorado twenty times easier than he could be hanged in the State of Idaho. The Mine Owners' Association gets busy, the Pinkertons get busy, they have Orchard's confession, Haywood is in Denver in the State of Colorado, where these crimes have been committed, the Mine Owners' Association is there, the banks are there, the wealth is there, the organization is there, and his official life has been spent there. Why didn't they keep him there? Why didn't they keep him there to try him if they wanted to try him for crime? They had the entire power. The evidence was all in their possession. They had infinitely more, so far as his connection with affairs was concerned, there than they could have here. The evidence of Orchard was the same there that it is here, except that in this case the murders were done under their very eyes and here they were done fifteen hundred miles away. But the Mine Owners' Association, the real strong iron hand back of this prosecution, the real men by whom it has been turned over to these officials, the real men who are pulling the wires to make you dance like puppets, these men saw fit to take them from the State of Colorado and send them up here so that Idaho could hold the bag. Idaho has a high privilege in this prosecution. You are permitted to pay for it. You will have the pleasure of working to pay up the deficiency warrants, and the mine owners will be grateful, indeed, if you do their work. If Colorado proposes to hang these men anyhow, if the mine owners are bound to destroy them, better take them back there and give them a chance and let them pay the bills. If this jury

acquits them they won't get outside of the door. Mr. Bulkeley Wells will be there with the epaulets on his shoulders and the Harvard accent in his speech—he is a cultured man and of course a tyrant—that is what culture is for, to get rid of all the humanity there is in a man—he will be there waiting to receive them and carry them back and be handed over to the mine owners on the ground.

## THE STRIKE OF 1902.

Now, gentlemen, I don't propose to spend any more time upon the question whether Orchard had anything to do with the Coeur d'Alenes or not. He wanted to get in. The first time he heard that anybody was killed he wanted to get the credit and the glory of it, just as he has done all his life. The next time we hear of anything is in 1903. In the meantime Orchard has been almost lost. There is a great gap in the history of America between 1899 and 1902. One of the chief characters in the history of the world has dropped out of sight. Nobody can trace Harry Orchard. He lands in Cripple Creek in 1902. He leaves the Coeur d'Alenes in 1899. Where he is in the meantime—whom he has killed, whom he has married, what houses he has burned and what deeds he has done are left for us to discover. But he comes to Cripple Creek in 1902. One thing is certain. He cannot tell you where he ever worked more than three months at a time, and only once that long. He would go out and do a little work, and then he would go back to the gambling table. He says he generally won—or generally lost—and he probably sometimes won. I never knew a fellow to follow gambling as long as he has who did not win now and then, and could not make an honest turn if he could get a sucker who was green enough, and he was always looking for that kind. He went out west; he went to California, he went to Nevada, he went to Utah, he went to Arizona—everywhere. He has been a famous traveler from the day of his birth down to the present time, and now he has a steady job that will probably last as long as this administration, and then he may go on his travels again.

But wherever he was he was following his true character; you never could find him but for a few months at a time in any place, anywhere, since he left Ontario with a crime floating about his head. He has been on the go, and he probably had to go fast a good many times. He finally landed up in Cripple Creek in 1902, this cherubim, that is paraded to this jury by Mr. Hawley as a paragon of virtue since he got religion. He came to Cripple Creek in 1902. Nothing happened then, that we know of, for some time. He joined the union, just as many another man has joined the union. He might have believed in it or he might not have believed in it. I have an idea that he never believed in anything or in anybody, and that no human being ever believed in him excepting Hawley, and he seems to believe in him now, and believes in him so strong that while he may not be willing to do it himself, he is willing to ask a jury to kill some man upon his word.

There came a strike in Colorado City, and another one in Denver; and now Mr. Hawley begins to talk once more about the wicked unions. He says you have got to destroy the Western Federation of Miners. Wherever they are there is trouble. Wherever they are they are calling

strikes without reason. You have got to destroy them. They are the greatest enemies to liberty; they are the greatest enemies to the prosperity of the State of Idaho. What does he know about the prosperity of the State of Idaho? If his theory of this case is true, then I can believe rumor—that they have brought him most of the prosperity he has had within the last year and a half, and I don't see why he is finding any fault. They are the enemies to prosperity—we have got to kill them—they strike without cause. Let us see, gentlemen, let us see. Let us see whether Mr. Hawley's vision is warped since his retainer ran out. There was a strike in Denver and in Colorado City. What were they about? The evidence shows that the Western Federation of Miners were making trouble. What about? There was a strike in Denver, I think, in the year 1902. This was what it was about—this band of conspirators who Mr. Hawley calls criminals, who are constantly stirring up trouble, called a strike for this: They had worked long and hard for an eight-hour day in the State of Colorado; they believed that eight hours was as long as a man ought to twist his muscles and twist his bones in a smelter—and I do, and I think you do, gentlemen of the jury. It does not make any difference whether it was long enough or not; I never saw a time yet when the employer did not think the hours of labor were too short, and I never saw a time, to be fair about it, when the workingman did not think they were too long—I think so. In that week when I was a workingman I thought so, and I hope I never will see the time when the workingman won't believe his hours of labor are too long and his wages are too low, because you can never get any prosperity or progress or liberty or what the world has been striving for and reaching for and hoping for, until we elevate the poor and weak and give them wages and liberty, and give them life, and release them from their toil so that they may have time to read the newspapers and make themselves wise.

The State of Colorado passed an eight-hour law in 1899—under the evidence in this case, 1899 is right, isn't it? And the Guggenheims fought it, and they took it before the supreme court—and the courts are always the last to move, and the higher they are the slower—and they took it before the supreme court and of course the supreme court declared it unconstitutional. It is unconstitutional to pass a law which won't permit Guggenheim to take ten hours out of the hide of his men instead of eight.

Mr. Richardson—It was twelve hours in the smelter.

Mr. Darrow—Well, a man that will work in a smelter ought to be worked twelve hours a day.

The courts declared it unconstitutional. Of course they would. What is the constitution for except to use for the rich to destroy the laws that are made for the poor? That is the main purpose in these latter days. Then what did the workers do? They said, If the constitution is wrong, let us change it. And they appealed once more to the state—to the people. The people are blind and stupid, but still more generally right upon an issue like this—and they put it to a vote of the people, and the people voted six to one to change the constitution which was in their way, and the new constitution provided that the next legislature should enact an eight-hour law. This was the strike which Hawley says

was unconstitutional—was unwarranted. They appealed to the people, and by six to one they changed the constitution of the state and then the legislature came in in 1902, and was asked to pass that law which the constitution commanded them to pass, and what did they do? Why, the constitution is only meant to be obeyed by the poor. What is the law for if a rich man has to obey it? Why should they make it if it can reach them? Why should they have the constitution if it could be used against them? The constitution said that they must change the law—must pass an eight-hour law, and Mr. Guggenheim and Mr. Moffat and the Union Pacific railroad and the Mine Owners' Association and all the good people in Colorado who lived by the sweat and blood of their fellow men—all of these invaded the chamber of the house and the senate and said, "No, you must not pass an eight-hour law; true, the constitution requires it; but here is our gold which is stronger than the constitution." The legislature met and discussed the matter, and these miners were there. The evidence in this case has shown you who they were. Haywood was there; the labor organizations were there, and they were there pleading then, as they have always pleaded, for the poor, for the weak, for the oppressed. I don't mean to tell this jury that labor organizations do no wrong. I know them too well for that. They do wrong often, and sometimes brutally; they are sometimes cruel; they are often unjust; they are frequently corrupt; they will be as long as human nature is human nature, and there is no remedy for it. But I am here to say that in a great cause these labor organizations—despised and weak and outlawed as they generally are—have stood for the poor, they have stood for the weak, they have stood for every humane law that was ever placed upon the statute books. They have stood for human life. They have stood for the father who was bound down with his task; they have stood for the wife threatened with being taken from the home to work by his side, and they have stood by the little child, who has also been taken to work in their places, that the rich could grow richer still, and they have fought for the right of the little one to have a little of life, a little of comfort while he is young. I don't care how many wrongs they have committed—I don't care how many crimes—these weak, rough, rugged, unlettered men, who often know no other power but the brute force of their strong right arm, who find themselves bound and confined and impaired whichever way they turn, and who look up and worship the God of might as the only God that they know; I don't care how often they fail—how many brutalities they are guilty of. I know their cause is just. I know that trouble and strife and contention have been invoked, yet through brutality and bloodshed and crime has come the progress of the human race. I know they may be wrong in this battle or that, but in the great long struggle they are right, and they are eternally right, and they are working for the poor and the weak, they are working to give more liberty to the man, and I want to say to you, gentlemen of the jury, you Idaho farmers, removed from the trades unions, removed from the men who work in industrial affairs, I want to say, had it not been for the trades unions of the world—for the trades unions of England, for the trades unions of Europe, the trades unions of America—you today would be serfs instead of free men sitting upon

a jury to try one of your peers. The cause of these men is right.

If they make a mistake, gentlemen, as they often do, it is not for you and me to judge them—to judge them too narrowly—too critically. It is not for you and me to judge them as we judge the man of leisure and opportunity and learning. They are reaching out in the darkness, they are moving toward the light, they are raising the whole world upon those shoulders which have borne the burdens of the human race. These fellows worked for an eight-hour law. It was submitted to the people and it passed. The mine owners sent their men to the legislature and they blocked the command of the constitution with their gold, and the legislature adjourned without obeying the constitution that the people had carried by six to one, and then the miners struck for an eight-hour day. They struck for what the constitution gave them. They struck for what the legislature had denied them at the behest of the rich, and they struck for what they had a legal right to, and a moral right to, by every law of morals known to man.

Gentlemen, I want to know whether you twelve men condemn that strike. Mr. Hawley says they have made trouble and you ought to get rid of them, and a good way to begin is to hang the secretary-treasurer. That is the way to begin to get rid of the Western Federation of Miners, because they have made trouble. Yes, they have made trouble, thank God, and more power to them. Nothing good in this world ever came excepting through trouble and tribulation and toil. Were they to blame because they had trouble in Denver? Were they to blame for calling a strike to provide for a legal day? If you say so, all right, gentlemen, you are more hopeless than I think you are.

That strike was settled and they got their eight-hour day. Do you want them to give it up? Is there a man on this jury who would want to send those men back to the smelters for twelve hours a day? Hawley says you want to kill this union. Do you, gentlemen? Think of it. These men have doubtless done some brutal things: these men have likely done some criminal things, and these men have likely done some cruel things, and some that were not wise, and some that were not just. That is admitted. I know they did. I am not going to tell you any lies upon that subject, for I think too much of them, but, admitting that, would you destroy the Western Federation of Miners and send back these forty thousand workmen, with their wives and children to deal single-handed with the Mine Owners' Association of Colorado? Ah, gentlemen, if you would, I think you would be traitors to that country in which you live. Would you dissolve this union and force every poor man to go to Guggenheim with his hat in his hand and individually beg for a job? Let me tell you, gentlemen, if you destroy the labor unions in this country, you destroy liberty when you strike the blow, you would leave the poor bound and shackled and helpless to do the bidding of the rich. It would not reach you today, for you are far away from the centers of trade and industry, but it would reach you tomorrow. It would take this country back—back to the time when there were masters and slaves. You have not lived in an industrial country; you have not studied trade unionism as some of us have studied it—and I hope I have studied it—but I don't believe, gentlemen, that you can gather up any twelve men—any twelve

men even if they have had no more enlightenment than the newspapers—even if they have read nothing but poison—I don't believe you can gather up twelve men anywhere in America, if you take them by chance, who do not know and understand that in some way these labor unions have stood for the rights and the liberties of the human race, and that to destroy them would send the human race back once more toward slavery.

## THE STRIKE IN COLORADO CITY.

The strike in Denver was for an eight-hour day. Then came the strike at Colorado City, and what was that for? Oh, everything we do is unholy. The best way is to kill us and get rid of us because we are making trouble. Now, gentlemen, I don't want to make any mistake about this—I don't want to mislead you, not for a minute. If you turn Haywood loose, the chances are he will make more trouble. So long as there are Guggenheims, so long as there is a Morgan, so long as there are Rockefellers, and so long as there is anybody who has the spirit of independence and justice in their hearts there will be trouble, and if these men can live, and live without trouble, then we are slaves and we will have to begin all over again.

If you, gentlemen, by your verdict want to do your part in this direction, I cannot help it; you will have to go ahead and do it, but I don't think you do. I don't think anybody does who is in his right mind and who loves his country. They had a strike in Colorado City for a matter just as simple. What was it? Why, the Guggenheims down there were turning off their union men—nothing new about that—they were turning off their disturbers and their agitators to break up the union, and so they struck. They had to, or else give up the union. They had to strike or give up every hope they had for the betterment of themselves and their fellow men, and they struck. The strike dragged its weary way along for days and weeks and months. I don't know whether you, gentlemen, understand just what it means to strike. Did any of you ever do it? I did not. I don't suppose I would be brave enough. If the lawyers got up and struck for an eight-hour day and wages of three dollars and a half a day, I don't believe I would be brave enough to go out with Senator Borah and Mr. Hawley and the rest. And then it would be unreasonable for us fellows to demand three dollars a day and public sentiment would not support us. When I speak of public sentiment, I mean the newspapers. That is the only way we know what public sentiment is, and the only way we can know about it is to read what they say and then guess the other way. It is a serious thing to call a strike. You never heard of a case where the outsiders did not say that the walking delegate, and the president and the secretaries called the strike. Now, I have known their affairs for a long while and I want to say what all history shows, that they are always the most conservative men in the union, because responsibility brings conservatism. Even if Mr. Hawley was put on this jury I am not sure that he would hang this man without Orchard's testimony. He might get responsibility, and conservatism with responsibility. And they are, gentlemen, conservative, and they hate to call a strike because a strike is a serious thing to the workingman. If some of us who have saved a little, or who have a ranch where we can

get chickens and potatoes and one thing and another, and live—we could go on a strike. But for the man who has a family, and is living from day to day and consuming all he earns, as all workingmen are—probably if they were not consuming all they earn they would cut down the wages so they would—if a man is in that position, a strike is a serious thing. To ask a man to lay down the tools of his trade, to lose his job, and face starvation for himself, his wife and children is a serious responsibility, and working men hate to take it, and they only take it with the direst necessity.

How many bankers do you suppose you have in Boise who would risk starvation for a cause? Well, I think they are few. How many lawyers would run the chance of starvation for the sake of a cause? How many business men would close their stores and face starvation for themselves, their wives and their children, for a cause? Mighty few. That is what the workingmen do. It is what they are bound to do when they bind themselves together in a great organization, each fighting for himself and his fellowmen. They are bound, not to take their lives in their hand, but to place their lives in the hands of their fellow men.

So these fellows went out on a strike in Colorado City. They failed, and pretty soon they found the smelters were running all right, and were smelting the ore that was mined by their brothers up at Cripple Creek, and the Cripple Creek miners said. We will no longer go down in the mines and dig up the ore to be smelted by the men who are fighting our brothers at Colorado City. So the Cripple Creek miners struck, and their camp, where 60,000 men lived, was at once deprived of all its resources. The men, women and children were almost turned into the streets; they were left to depend on the alms they could get that were distributed from the unions, and they fought it out for months and months, and the strike had scarcely begun before they called in the militia.

## VIOLENCE IN THE STRIKE.

They called in the militia because old man Stewart got beaten up. Now, I am sorry old man Stewart was beaten up. I am sorry for him, just the same as I would be for any other man who got injured, but all my sympathy does not go out to old man Stewart, who waked so much sorrow and grief in the heart of my friend Hawley. He forgot all the miseries of the world in looking at old man Stewart; they were all nothing to him in contemplation of the horrible fact that Stewart got beaten up. For what was Stewart beaten? I will tell you. It was a union camp; they had established the eight-hour day; they had fought for it, gentlemen, and they had fought for it as men have always fought for everything that is good since the world began. Do you think any progress ever came without it? Did we ever make progress without struggle and fighting and sometimes bloodshed? And these men had struggled for an eight-hour day. They had built up their unions and the eight-hour day was established, and they found it necessary, in their judgment, to call a strike, to ask all their men to go out until the strike was settled. And old man Stewart who swears he was working eight hours a day—just eight—enjoying the fruits of all the struggles, of all the victory, of all the men who had risked their jobs and their lives to gain an eight-hour day. He was willing to take the

short hours which these blunt, rugged, brave men had won; he was willing to take the high wages that had been won by those rugged men; and then he went to work to cut these men's throats. That is what Stewart did.

## BULKELEY WELLS.

They had no right to beat him, but when you consider how bad men are, I want you to consider the provocation. Could you compare that, gentlemen, with the conditions they had in Colorado—with Bulkeley Wells, who swells around with his epaulettes, and his English accent from the Back Bay of Boston; can you compare that with this contemptible parasite who never did an honest day's work in his life, but who has been fed by the toil of honest men, and who stood a man up, in a cold February day, chained to a telegraph pole because he was not, forsooth, getting out of his carcass as many golden guineas as he would like to spend in Boston or in England?

Gentlemen, you may take all the deeds of violence and all the unlawful acts of all the men in Colorado connected with the Western Federation of Miners, and they could not reach my contempt for this contemptible man. You might think of this when you think of old man Stewart. You might think of Bulkeley Wells and the other men of his ilk—the other idlers whose families are clothed in silk that is spun from the lives of workingmen—and give them some share in the responsibilities of the events in Colorado.

## THE SENDING OF THE TROOPS.

Was there any trouble about arresting the man that beat up old man Stewart? Do you suppose if it had been Bill Easterly that was beaten up the governor would have called out the troops? Not in a thousand years. And do you believe if their thugs and assassins had killed every union man in the district that Peabody would have raised his hand? Not in a thousand years. But when something befell old man Stewart, although the authorities of the law were in full authority and were all powerful to apprehend the man if they could find him, this furnished an excuse for sending in the militia and turning loose in the Cripple Creek district every thug and plug and criminal which the contemptible members of the Mine Owners' Association could hire. I take it there can be no doubt about the evidence in this case upon that point.

Then what happened? They must have some trouble, and so they planned a railroad wreck—a railroad wreck to swear on to the Western Federation of Miners. Gentlemen, is there any doubt about who is responsible for that railroad wreck—that never happened? Why, they have not dared to bring evidence in this case to show it. They have not dared to dispute it. A couple of detectives went to the engineer and asked him where would be a good place to wreck a train. Think of it. Mr. Scott, the special detective of the Florence & Cripple Creek railroad, and Mr. Sterling, his running mate, the detective of the Mine Owners' Association, go to Rush, the engineer, and say to him: "Where would be a good place for us to wreck a train?" and he tells them, and they ride on the train down to this good place, and these two detectives get off and the train goes

on about its business. It comes back in two or three hours, and Scott and Sterling stand on the track, and they tell the engineer it is all over—the train has been wrecked, or will be unless he stops it. Think of it, gentlemen. They have pulled out eleven spikes, out of forty in one rail, where no harm could possibly be done, and then they signal the engineer to stop the train. Then they charge it broadcast throughout the United States that the wicked Western Federation of Miners tried to plunge four or five hundred men over the precipice into eternity.

Now, gentlemen, this story is not even disputed; and Scott was here, and Sterling was here, and the resources were here—unless the money has all been spent—and it has not been disputed, and they tell you in these last days that they don't claim anything on account of it. Well, we do. We claim it was the first act in the Cripple Creek district to bring discredit and infamy upon this organization, that was being fought to its death by the mine owners, who wanted to destroy it then as they want to destroy it now; that they have fought it every day and every night from then until today, and now they are pleading to this jury through the man with the iron will to have you complete the job by hanging the officers by the neck until dead.

## THE VINDICATOR EXPLOSION.

Then what happened? Orchard shows up. And who is Orchard? He says he went into the Vindicator mine and he took in twenty-five, or thereabouts, pounds of powder and he laid it down on the sixth level, thinking it was the seventh, and he rigged up a revolver with a wire so that when you raised the safety bar you would shoot into the powder and it would explode and blow up the mine. Let us see about that, gentlemen; let us see about that. Is that another story to cast discredit upon this organization, or is it true?

I take it, gentlemen, after you are all done with this case and go back to your homes and think over the 150 or 200 witnesses who have appeared here from day to day, that there are a few men whose names and faces will stand out clearly before you; that there are a few men who bore the stamp of candor upon their faces, and whose story showed in every line that it was true, and one of those few men is Thomas Wood, and another is Rush, the engineer of the train.

Now, gentlemen, Thomas Wood might be mistaken; an honest man may swear to something that is not true. He may think it is true, but he may be deceived. Thomas Wood may be mistaken, but you have got to give me good, straight evidence to show me that Thomas Wood is a perjurer or a liar. I don't believe it. And yet we have got to believe it in order to believe Orchard. Let me see. In the first place, the only person, of course, who directly swears to this is Harry Orchard. He swears that he and Bill Aikman went down in there and fixed this powder and this revolver. They thought they fixed it on another level, although Harry Orchard was thoroughly familiar with the mine, and it did not go off for a week after, when he learned there was an explosion on the sixth level, and he, of course, supposed it was an explosion. Nothing could happen that was not his.

Now, Billy Aikman swears that no such thing ever occurred. Now, let us see about it. Mr. Hawley, on a certain occasion, says: "Why didn't

you get Floyd Miller here to prove that he did not sell powder to Billy Aikman—not in this matter, but in another? Why didn't you get Floyd Miller? He was a member of your organization." Why should we get Floyd Miller. Will you tell me? Would I have made Mr. Hawley happy if I had got Floyd Miller? Would you be glad to see him? I suppose, gentlemen, if we had brought Floyd Miller this defense would have been complete, but why? What do we get when we bring a man? You remember Mr. Hawley's argument. When we bring Davis, when we bring Easterly, when we bring Aikman and Mahalich (who went into the smelter at nineteen years of age, and who, though he may be a liar and a perjurer, being a union man, still was good enough to slave by night and day for Guggenheim at nineteen years of age), when we bring all these men here, Mr. Hawley says: "Oh, what did they amount to? I don't doubt but that you could get ten thousand of them; you could get all the members of the Western Federation of Miners to come here to Boise to commit perjury if you gave the command." That is what Hawley says. Then, gentlemen, I do not see how we would have helped ourselves any with Floyd Miller. Would Hawley have given him credit? Has he given any credit to any man—to any human being in this case, but Orchard? Has he found any good anywhere on the face of the earth except in the cowardly brain of that contemptible man? Would it have done us any good to have called here into this state and into this city of Boise 40,000 members of the Western Federation of Miners to raise up their hands and swear to their confidence in their devoted leaders? Why, Hawley would have called out the troops. Undoubtedly he debated it in his own mind, anyhow, whether he would call them out and drive these women witnesses away.

I wonder if we did not get enough for him, and if we could have done any better if we had got more. Let me tell you, gentlemen, I think when you take this case to your jury room and have a chance to say something yourselves, you will say that we have done pretty well on that line.

## DEVOTION AND ITS REWARD.

When you consider that Cripple Creek had a membership of some 10,000 men, and that when the mine owners commenced their crusade of crime and destruction they drove these men off the face of the earth; they starved their wives and their children, and swept it as clear as if the hot winds of the desert had blown across it, and they had been scattered to the four corners of the earth; and we have had to bring them here. The State of Idaho has not paid for it; the 40,000 devoted men working down deep in the bowels of the earth have sent of their earnings and undergone their toil that these comrades of theirs might be defended in this court. We have brought most of them here. They were scattered like the leaves of the forest. They were scattered like the twelve tribes, and we have followed them all over the earth. We have paid for them to come. Some were digging down in the mines of Nevada, which was an asylum for the outcast and the despised, where the men driven out by the riff-raff of the Mine Owners' association and by the connivance of their tool in the governor's chair, had found work, and hope, and bread. They have come here from Nevada, they have come from California, they have come from far-off British America, they have come from Kansas, they have come from Colorado,

from northern Idaho, from Washington, from Montana—from everywhere these men have gathered. They have come, gentlemen, even taking their lives in their hands, to face prosecution by the iron man who conducts this case. They have come here to tell their story and to help us in our defense, and what do we get?

Mr. Hawley says: "You are a gang of perjurers—you are a gang of liars—you are a gang of assassins—back to the mines." That is what we get. Men whose hearts are as true as any which ever beat in the breast of any man since the world began; men whose faces are as open and as frank and as fair as the face of any man whom you have met since you have been upon this jury, men as courageous, and strong, and devoted as any band of fanatics who ever offered up their lives for a cause—and they have been called perjurers and murderers and liars. We are told, "It is no wonder; you could have got 40,000 more." And then we are asked why we did not get Floyd Miller, so that he might be called a perjurer and a liar! And now it is claimed that Harry Orchard stole some powder from him. Well, all right, gentlemen, if you folks want to condemn us because we did not bring more of them, while Hawley condemns us because we brought so many, it places us in an embarrassing position. I don't exactly know what to do. We won't know how to turn when they go for their next victim to continue the sacrifice.

We brought Billy Aikman here and he says that Orchard lied when he told the story that Orchard and he went down and blew up the Vindicator mine. Now, gentlemen, let us look at it honestly and candidly for a few moments. Are you going to believe that Billy Aikman is a liar or that Orchard is a liar? Billy Aikman is a member of the Western Federation of Miners. He is not as good looking as some men; he does not wear as good clothes as some people—he does not need them in his business, the way I do, for instance—but he works—he works with his hands; he does not know how to get a living any other way. He has been sick; he suffered; he has been boycotted; he has been without a job; he has been driven from his home; he has starved; he has gone to work again in that land of promise—in Nevada—and he is working down there in the mines. He is a poor, uncouth man. There are a thousand men that you could meet every day that know more than Billy Aikman. There are a thousand better looking than he is, and plenty of them that wear better clothes, but show me a man that works harder; show me a man whose devotion has been greater; show me a man who, to the extent of his ability and intelligence, has been willing and able to do more. He was examined, and cross-examined. It is not exactly an even battle when you match Senator Borah against Billy Aikman. The senator has had advantages which Billy never had. Fellows like Billy Aikman have to work in the mines so that Senator Borah may be senator and I may practice law. If it were not for them we would have to work in the mines and that would be a calamity. That would be——

Mr. Borah—It would be for the mine owners.

Mr. Darrow—You mean by that that you would raise trouble?

Will you tell me any really good reason why you are going to believe this infamous wretch, Harry Orchard, against Billy Aikman? Hawley says you must. Aikman has never confessed to a crime. If he has com-

mitted one he has been a man. He has stood by his fellows and he has stood by himself; he has looked the world in the face, and looked his God in the face and kept a proud heart and a proud spirit through all his troubles. Are you going to believe this cringing, cowardly cur in the place of Billy Aikman? I don't think so, gentlemen. I don't think you would believe him if you knew he was telling the truth. I would not. I would not have it on my conscience to think that for one moment I ever gave one word of credit or one thought of credit to an abortion like him, and I don't believe you would have it on yours.

Now, how does this case stand with Billy Aikman on the one side and Harry Orchard on the other? I am not particularly anxious to protect Harry Orchard and I don't think he would want it. Orchard heard about the Vindicator explosion just as he heard about the Bunker Hill and Sullivan mill, just as he heard about the Bradley matter, just as he heard about the killing of Walley, just as he heard about the killing of Gregory, and he says, "I am the man; I will weave you a story that will be a terror to gods and men: I will tell you a story that will make every particular hair to stand on end;" and he did. There was not very much happening that was horrible that Harry Orchard did not do—after he came under the holy loving influence of Father McPartland.

## TESTIMONY OF THE PROSECUTION.

But we don't have to stop here, gentlemen. They called a witness whose testimony was only circumstantial, and was as much our way as theirs. They called Holman, who swore that he went down into the mine first, from the top upon another cage, and he says that there was no safety bar at that time. They called Naylor, who swears that he went afterwards and there was a safety bar there and he took a wire off of it, and Naylor swears that both Beck and McCormick were blown to pieces below their body—the legs of both of them practically destroyed—and they were blown in opposite directions, which entirely corroborates our theory of this case—that it was an accident. Nobody ever dreamed it was anything else until McPartland, busy with the weaving of rope to hang Haywood, put it into the cowardly brain of that cowardly cur who says he sneaked into the mine and did the act himself.

Now, gentlemen, we have one witness in this case outside of them. I never saw this man until he came to Boise. I don't want you to think that I know anything about him, whether he is honest or dishonest. I never saw Thomas Wood until I saw him here; I don't know anything more about him than you twelve men know. But I have spent time studying human nature—I have been doing that while these poor chumps have been digging in the mines, and you people have been ploughing corn—it is not so clean a job, but it is pleasanter and more profitable; and I think you, gentlemen, in your journey through the world have learned something about human nature, and, somehow or other—not always—the Lord stamps upon the face of a man His stamp, if he is genuine, just as much as the minter puts the stamp upon the coin; if he is a hang-dog fellow like Dewey, the Lord has put that upon his face, and he is bound to carry it through life with him unfortunately. I am sorry that Dewey has got that sort of a face. Maybe he could not help it, but it is not a face to

hang a man on unless that man should be Dewey. Now, you saw Thomas Wood. To me Thomas Wood's face shows that he is an honest man. I believe if none of you ever saw him before in your lives, when you looked upon him you thought you looked into the face of an honest man, a man whom you could trust and depend on, and believe in, and I believe that when you heard his story you thought you were hearing the story of an honest man; and for anybody to say that this story should be set aside for a moment to give credit to Orchard is a thing too monstrous for me to consider or to talk about. If I thought there was one man on this jury that would set aside the story of Thomas Wood to give credit to that thing, then I would never want to undertake another jury trial in my life. I would feel that my usefulness was over and that they better get somebody who knew juries better than I do.

Now, as I said, a man may be honest and mistaken, but in this case I will show you, gentlemen, and conclusively, unless this was an accident, Thomas Wood was not mistaken. He is a perjurer pure, plain and simple, just as Mr. Hawley said he was—with no chance to be mistaken. Before we come to that, we might say that Thomas Wood at that time was a scab. Now, I never expected to find myself passing a eulogy on scabs, and, to be honest, I don't know as I would, excepting in this case, for I don't like them, and I don't believe in them, but there are plenty of honest men who do—plenty of them—men who think they are fighting for human liberty when they are fighting against a union, and when they think so I respect them for their honest opinions. Thomas Wood was working while his fellows were on a strike. He has worked in Cripple Creek all the time since, and he laid down his pick and shovel to come to Boise to testify. He not only did not belong to the union, but he has given his life to fight against unions and he was on the other side; so you cannot accuse him of swearing to a lie with the rest of the bunch to help us. Of course, he committed perjury—Mr. Hawley says so. Now, gentlemen, I want to read you just a little of Thomas Wood's testimony. I read from page 2653. Thomas Wood, you remember, says this was the second day of his work there; they were just starting with new men to take the place of the old ones on a strike:

TESTIMONY OF WOOD.

"Q. What did you do with reference to any powder on the day before the explosion? A. I carried a box—a half box of powder—for a machine man that could not use the powder, back of the shaft, for accommodation to the machine men; that was the day before. I carried a half a box of powder back to the shaft.

"Q. Where did you put it? A. I put it on top of the water barrel at the shaft."

Now, let me intersperse a word here: They brought a young man—Ramsey—whose step-father was killed. I have nothing to say against the boy. He says himself that his judgment was of no value at that time; that he could not tell a thing straight or see things straight. Ramsey says there was no water barrel on that level, but he says there was an oil barrel there—there were oil barrels on all the levels. Now, it is entirely

possible that Ramsey may be telling the truth about it, and that Thomas Wood set it upon an oil barrel instead of a water barrel.

"Q. Where did you put it? A. I put it on top of a water barrel in the shaft.

"Q. At the shaft on the eighth level? A. Yes.

"Q. Do you know what the rule was permitting any powder to stay in the level? A. Yes, I understood from the man stoping that day that McCormick was very careful in keeping the powder out of the mine and took it back to the powder magazine the night before or at any time.

"Q. How much powder was there? A. A little less than half a box —fifty pounds in a box.

"Q. That would be about twenty-five pounds? A. Yes.

"Q. Did you see that powder on the 21st? A. Yes, sir. (That was the day of the accident.)

"Q. What did you do during the 20th, during the day? A. I timbered all I could until quitting time.

"Q. Did you go back the 21st? A. I did.

"Q. Did you see the powder? A. I did.

"Q. Where was it? A. The same place I had left it the night before—on the water barrel.

"Q. How far do you say you were working from the shaft? A. I should judge about four hundred feet; I never measured it though; I don't know, I guess at that.

"Q. How far past it did you go to get to the stope? A. Four hundred feet.

"Q. Was the powder at the end near the shaft? A. The powder was at the shaft in the morning when I went to work.

"Q. Whereabouts was the powder on the shaft—the level? A. At the shaft on the top of a water barrel.

"Q. The water barrel was right at the shaft? A. Right at the shaft.

"Q. Did you see Beck and McCormick? A. No, sir, I saw Beck and McCormick something about ten o'clock—a little after ten.

"Q. How long before the accident, the explosion, or whatever it was? A. As near to the time as I could guess—I did not hear the explosion, it was up on the sixth and I was on the eighth a long way from it—it was around near twenty minutes past ten or twenty minutes to eleven, as near as I could tell—about twenty minutes to eleven, I should judge.

"Q. The explosion? A. Yes.

"Q. And you saw them what time? A. I saw them shortly after ten. I met them above and got instructions what to do.

"Q. Where did you meet them? A. I met them on the stope.

"Q. And was instructions given you by them? A. Yes.

"Q. And then where did they go? A. They went down the ladder and I went on from there up the shaft.

"Q. That is, they went down to the eighth level? A. Yes.

"Q. And you supposed went on out? A. Yes.

"Q. When did you hear there was an explosion—how soon after you met them? A. Not long; I should judge from twenty to thirty minutes.

"Q. Where did you go? A. I made for the shaft.

"Q. Did you meet other people going there? A. I met men in all directions, yes.

"Q. Where did you go? A. To the shaft.

"Q. Did you see that rain barrel, or that water barrel? A. I saw the barrel, yes.

"Q. Was the powder there? A. No, sir, the powder was gone.

"Q. How long before you went there and found the powder gone was it that you had seen it there? A. The last time I left the shaft it was about five minutes past ten, I believe, with the second load of timber, which was the last time I saw the powder.

"Q. Was it there then? A. It was there then, yes.

"Q. And between that and half-past, or whatever time it was, it was gone? A. It was gone, yes. ?

"Q. In the meantime, had you met Beck and McCormick. A. Yes, I met them on the stope when I left for the second load of timber.

"Q. And they had gone out of that place at that time? A. They had gone out of the place, yes."

Now, gentlemen again he says that while Beck was there leaning over he saw a gun in his pocket, that came near falling out, and he called his attention to it. I don't mean that he was leaning over the powder—I mean that he was leaning over and he saw that Beck had a pistol and he called his attention to it, and he saw the powder, and the men went away. Now, let us see, gentlemen. There is just one way to answer this and that is the way Mr. Hawley answered it, and it is an easy way. He is a liar. He has come up here from Colorado and committed perjury. That is the only way to answer it. This man swears that he saw Beck with a revolver. You will remember that the young man said that both the others had revolvers but they did not carry them down in the mine, but you remember that O'Hara says that a few weeks before that he had been shot at in the mine, down on one of those levels. I wonder if it is strange that this boss carried revolvers down there, when you consider the strike and what happened. Do you believe Wood's story? Any reason why you are going to disbelieve it? If you believe his story, Wood took this powder down there on the 20th; he placed it on the water barrel; he went back on the 21st and it was there when he went in. He came out after a load of timber, about ten o'clock, and it was there when he came out. He met Beck and McCormick, who were going back out of the mine, out of that level, and he saw that one of them at least had a revolver. The explosion occurred in a few minutes. He groped his way back to the shaft to get out of the burning mine, in the way he described so graphically to this jury. He reached that water barrel and he looked at it, and the powder that had been there thirty minutes before was gone. Nobody had been there but Beck and McCormick, and Beck at least had this revolver, and in some way these men had gone from the eighth level to the sixth, where, Wood said, they were to commence work the next day. The evidence is perfectly plain from the story of Wood that these two men took that powder with them to the sixth level. They may have taken it out of the cage and set it down at the sixth level, and at the time they set it down this revolver may have fallen out of the pocket of Beck and exploded. It did not explode in his pocket. It was not in his pocket when

this powder exploded. He was careless with it. He likely was not accustomed to it. It doubtless fell out of his pocket, and, Beck, standing on one side and McCormick on the other, they were blown in opposite directions, and this story is brought here and yet Harry Orchard says, "Oh, I did it—I did it."

Gentlemen of the jury, I take it that for the purpose of accommodating Mr. Hawley and the Mine Owners' association you will have no right nor license to say that Wood is a perjured scoundrel. There is no evidence upon which to base it, and if he told the truth, then this was an accident pure and simple, and Harry Orchard, as in other instances, has taken credit for committing a crime which he never committed in the world or had anything to do with. If he did commit it, it is not claimed in this case that these defendants had anything to do with him. He had never spoken to them; he had never even seen them; he acted without any instructions or any authority from them whatever, and he did not know them.

## ORCHARD'S INTRODUCTION TO HAYWOOD.

*Who was he, and what was he doing at that time? Let us see about this fellow. Harry Orchard swears that he tried first to explode a carload of gunpowder and failed, and he did not get any money for it, and then Bill Davis told him he was going to have plenty of money when they wrecked this train and it made Harry Orchard jealous because something was going on and he was not in it; to feel that anybody should explode a mine or tear up a railroad track, or kill any human being and Harry Orchard not considered. He said: Here is the union putting out their good money for a comparatively easy job; why don't they hire me? And he went to Scott. Now, do you suppose that was the reason? I don't know how anybody can tell. If you can tell, you are wiser than I, but there is one thing he did and that is sure—he did go to Scott. He went to Scott, the chief detective of the Florence and Cripple Creek railroad, and he had a conference with him, and, strange to say, the first time he ever saw Moyer or Haywood in the world he went up to Denver with a pass furnished by this detective and twelve or fifteen dollars in his pocket which this detective had given to him. Now think of it. And you are asked to believe that we are responsible for him. Before Haywood ever saw him or had heard of him, he had Scott's money in his pocket. He was sent to Haywood with a pass and cash to get next to the officers of the Western Federation of Miners. Whose hired man was he? Now, let me be plain about this matter.*

I don't believe that this man was ever really in the employ of anybody. I don't believe he ever had any allegiance to the Mine Owners' assosiation, to the Pinkertons, to the Western Federation of Miners, to his family, to his kindred, to his God, or to anything human or divine. I don't believe he bears any relation to anything that a mysterious and inscrutable Providence has ever created. I don't think the mine owners hired him to kill anybody; I don't think the Pinkertons hired him to kill anybody; I don't think those things are done even by mine owners or by working men. I would as soon think it of one as of the other, but I don't think it of anybody when there is anything else to think, and there

is plenty else to think in this case. What I think of this contemptible man is this: He was a soldier of fortune, ready to pick up a penny or a dollar or any other sum in any way that was easy, that did not cause him any sweat—ready to do anything for cash except to work—ready to serve Scott, to serve Sterling, to serve the mine owners, to serve the Western Federation, to serve the devil if he got his price, and his price was cheap. He never did get a good price for trying to kill a man until McPartland got hold of him, and got him in this union, and told him the value of killing a man; and now he demands his life—his life for Haywood's. That is not such a bad bargain, either, because Haywood's life is worth two or three millions of his, no matter what Haywood might be.

Orchard went up to Denver with Scott's money and Scott's pass, and there he says he saw Moyer and Haywood. Now, Scott and he do not agree. I asked Scott how much money he ever gave him, and he said forty-five dollars at the most. I asked Orchard how much money he ever got of Scott, and he says he got either twelve or fifteen dollars once, and five dollars afterward, and that is all. They don't agree. Perhaps neither of them tells the truth. I don't care which, or whether either of them does.

## ALLER'S EVIDENCE.

We have brought a railroad man here, Aller, who Mr. Hawley, of course, says is a liar because he swore against Orchard. He swore that he saw Scott and Orchard together three different times; that the last time was about two weeks before the Independence depot was blown up, and at that time, on a Sunday evening, they were in Scott's office—Scott, Sterling and Orchard—and were there two or three hours; that Scott was going to take his dinner with him, but he was detained so long by Orchard that he could not get it. Now, is that story true? Let us see about it, gentlemen. They have been pretty free with Mr. Aller's name—let it be said to their everlasting shame—but is there any reason why you should disbelieve him? What reason? He swore that Scott was with this man three times. What does Scott say? He says he was with him seven times—certainly six, and probably seven. That is what Scott says, and yet Aller is a liar. What else does he say? He says that on one evening—a Sunday evening—he stayed at least an hour, and that on another evening he had an engagement with Aller, but could not keep it; and yet they say that Aller is a liar. Do you?

What else? I will tell you what else. Aller says that Scott and Sterling and Orchard were there. What is the matter with Sterling denying it? Why doesn't he pipe up in this case? He must be the prosecuting attorney of Canyon county, by the profound silence he keeps, while everybody else is working. If Scott and Sterling and Orchard were not together for an hour or two on that Sunday evening, pray tell me why has not Sterling's voice been heard denying it? Why, gentlemen, it is the merest child's play. The idea that a lawyer would tell this jury that Aller, a railroad man, in no way interested in this case, came here to commit perjury, and he did not swear to half as much as Scott! Do you suppose it makes any difference whether he was there in April, or May, or the first of June? There might be some desire on our part to get the time as near the Independence depot explosion as we could, but it was before that time,

and that is enough for any practical purpose, and it is enough for us, and here we have this man swearing that he met him those three times; we have Scott admitting seven times, and we have proved in this case that the first time Orchard ever saw these defendants he went there with Scott's money. Now, are you going to charge him to us. I want to know, gentlemen, what is right. I want to know, in spite of what Hawley says, if you believe it is fair and honest and decent to charge this man up to us when we had never seen him—when those men had held conference after conference with him and had hired him and paid him and given him the transportation to come, and he comes to Denver, and, strangely enough, Scott comes with him. Now, gentlemen—just think of it; is there one man on this jury who has any question in his own mind but what he and Scott came to Denver so that he might get next to Moyer and Haywood? Scott gives him a pass and gives him money and they go together, and Scott goes to the Adams house and waits for a report from Harry Orchard, and Orchard goes over and sees this man and comes back and makes a report. True, he says, gentlemen, he went to see Billy Easterly, but he was not there, but he found he was in Pueblo; and if Billy Easterly was in Pueblo, he could have found it out in Cripple Creek as well as in Denver, because Cripple Creek is nearer Pueblo than Denver. He comes up and he meets Moyer and Haywood and he has his conference with them and he then goes back and reports to headquarters. And he sees them day after day. And what does he say about his first meeting?

## ORCHARD'S INTRODUCTION TO HAYWOOD.

Now, gentlemen, let me think of that a minute. Do you remember the first time Harry Orchard says he saw Moyer and Haywood? He came up on this pass, with Scott waiting at the hotel, and he went into the room. He did not know them and they did not know him. He says that he was told by them that Billy Easterly had told them about him. Billy Easterly denies it, they deny it, and it is unreasonable on its face. He did not have an identification card; he did not have a letter of introduction; he had nothing. He walked into Moyer and Haywood's office—the president and secretary of a great labor organization—"My name is Orchard; I have just blown up the Vindicator mine and have killed McCormick and Beck, the superintendent and the boss." And Moyer and Haywood slap him on the back, and say, "You are a good fellow; and you done noble," or words to that effect. And Moyer reached in his pocket and pulled out twenty dollars and gave it to him, and the next day he went back and Haywood gave him two hundred and eighty dollars more for that job!

Now, gentlemen, do you think that story is true? Of course, if one of you had lived an upright life, had looked after your family, had earned your living in the sweat of your brow, had fought for the poor and the weak and the disheartened, had taken a hand in every good movement that came within your reach,—if you had fought the strong and the powerful, and the great, and had given your life to this work—and some murdering scoundrel should be caught in his crime and turned and accused you to save his life, you would think it was pretty hard if twelve jurors would not take your word, unsupported, against his, would you not? Of what use

is character—of what use is life—of what use are good deeds and a good name—of what use is the hope and the aspiration and the desire to serve your fellow man, if a scoundrel like this—a scoundrel like this—to save his own neck, can come into a court of justice and take your character and your name and your life to save his own? You would not expect that you had to do much except to give your plain, simple word, and you would expect your words and your deeds and your life would stand as a shield to protect you against all such scoundrels as Harry Orchard. And yet you are asked to hang Bill Haywood on that kind of testimony. He has been more fortunate than you might be. You might be caught by such a scoundrel and no one near to support you; you might be caught with your uncorroborated word, and you might be taken so far away and be so poor that you could not get the witnesses, and you could not hire the lawyers to come and defend you. And even then you would expect the word of an honest man who has lived an upright life to be your shield and your protection and that it would be ample for your cause. But no, not here—not here.

I want to say that these things were always good in any case where labor unions are not involved; any case where it is not the case of labor, but if it is a labor union—if it is a president or secretary or a walking delegate or some man who has devoted his life to the cause of the poor, then such excuses do not go, and they are presumed to be guilty until proven innocent, and the jury is crazy if you can prove his innocence. As Mr. Hawley remarked, this jury would be crazy if it did not believe these defendants guilty in this case.

## A SUPPOSITITIOUS CASE.

Well, now, let us look at that story a little further. Does it look reasonable? Let us assume that this man is a cut-throat; let us assume that Bill Haywood is a cut-throat. Nobody ever said he was a fool. His worst enemies have not made that claim. Let us assume that he is like all the rest of us—a Doctor Jekyl and Mr. Hyde, and that the Mr. Hyde preponderates the Doctor Jekyl; that he would be willing to slay and to kill; and let him be a criminal as bad as Harry Orchard pictures him; he is weaving a net to catch every man who is unfriendly to him; he is making bombs for governors and judges and the strong and the powerful who hate him. He is a plain assassin, and the head of a great labor organization. Is he a fool? Do you suppose a man could carry on those deeds and take no measure to protect himself? Do you think he could leave his doors open to every tramp and every criminal that might enter them, and when this criminal should say to him, I sent two men to eternity, and I blew up a mine, that he could turn to the man, without introduction and without acquaintance, and, slapping him on the back, say, "Well done; here is $300 for your work and we will need more of it in the future." Now do you believe it? Does that look reasonable?

Gentlemen, let me say this: If this jury believes that Haywood and Moyer met Harry Orchard in their room, and without any introduction of any sort, they let Harry Orchard tell them of this murder, and that they then turned and gave him $300—if you believe that story, for God's sake take them out and hang them—they deserve to die. They have not got

brains enough to lead any labor movement in the world; they are misfits, and I don't see why they have been alive so long.

NOT THAT KIND.

*Gentlemen, it is not men of that character that could build up a great organization like the Western Federation of Miners; it is not men of that mold that could plant hospitals in all your hills and all your mountains; it is not men of that kind that could dispense a million and a half dollars to widows and orphans in ten years.. It is not those men that could take the English and the Irish, the Dutch and the Bohemians and the Italians, and mold this incongruous mass into one great and mighty power so as to make the cause of labor one in the land. It takes brains. It takes courage. It takes devotion. It does not take a man such as Orchard describes. It takes goodness, too, and you cannot make me believe it of Bill Haywood, or of Charley Moyer, or of any other labor leader in the United States.*

I don't claim that this man in an angel. The Western Federation of Miners could not afford to put an angel at their head. Do you want to hire an angel to fight the Mine Owners' Association and the Pinkerton detectives, and the power of wealth? Oh, no, gentlemen; you better get a first-class fighting man who has physical courage, who has mental courage, who has strong devotion, who loves the poor, who loves the weak, who hates iniquity and hates it more when it is with the powerful and the great; and you cannot win without it, and I believe that down in your hearts there is not one of you would wish him to be an angel. You know an angel would not be fitted for that place, and I make no claim of that, but he is not a demon. If he were a demon or a bad man he would never be working in this cause, for the prizes of the world are somewhere else. The man who enters the labor movement, either as an organizer, a member, or a lawyer, and who enters it in the hope of reward, is a foolish man indeed. The rewards are on the other side—unless you look for your reward to your conscience and to your consciousness of a duty well done. I presume that this big, strong man is a man, a man that has strength and has power, and has weakness; a man of love and affection, a man of strong nature, of strong purposes—I don't know about that, and I don't care about it; I don't look for anything else in man; I want the man of courage and brains and devotion and strength.

Harry Orchard says he went to Haywood's house. He did. He says he knew his children. He went to his room and Bill Haywood knew it. You may believe what you will, but you can never make me believe that this strong, rugged, devoted man would grasp the blood-stained hand of this murderous villian when he knew that his hand was dripping with his fellow mortal's blood, and then turn and stroke the golden locks of his little girl. Men are not of that sort. It don't believe so. He is a man of strength, of courage, of devotion to a principle, and he is being prosecuted and persecuted in this case, not because he is weak, but because he is powerful and strong and brave, and because his heart beats for the manhood which he knows and sees and feels and loves.

THE ABSENCE OF JACK SIMPKINS.

Gentlemen of the jury: Before I overlook it I want to refer to

few suggestions made by Mr. Hawley as to Jack Simpkins and why he is not here. I suppose the reason he is not here is because he is afraid to be here. That is the best reason I can give. I do not propose to go around the question or get up any fantastic reason. That is the reason. But Mr. Hawley says to you that the fact that he ran away proves that he is guilty beyond a reasonable doubt. With that statement I take serious issue. If the fact that Jack Simpkins ran away proves that he is guilty, then the fact that Haywood and Moyer did not run away, but waited in their offices and stayed to face whatever might come, proves that they are innocent. Neither statement is true. One is as true as the other, but neither one is true. I used to think that I could tell something about whether a man was innocent or guilty by the way he acted. But I have gotten over it. Sometimes the guiltiest wretch on earth is the coolest man. Accuse a guilty man of crime, one who has known it and has lived in it and is accustomed to it, and he is often the coolest man you can imagine. Accuse an innocent man of crime, a man who has lived an upright life, and he may drop dead with fear, or he may tremble with confusion, or he may run away. No man can tell what any individual is going to do under circumstances like that. When you undertake to judge a man's guilt or his innocence by his conduct when he is accused, you are on very dangerous ground. Mr. Hawley says that because Jack Simpkins ran and hid himself therefore he is guilty beyond a reasonable doubt. Now, Mr. Hawley is an expert on the subject of conversion and what it does for a sinful man. I don't know whether he is a student of the Bible or not. But I can call his attention to one historical illustration of what an innocent man will do; and if he is as well posted on the acts that prove guilt, as he is upon conversion, he is making a pretty dangerous statement when he says that if a man hides or runs away that is conclusive evidence of his guilt. There was once a great reformer and agitator who lived on the earth and walked with men and who was a disturber in his day and generation, one of the kind of men that Mr. Hawley describes who always makes trouble wherever he is, because if a man stands for truth and justice and righteousness he is bound to make trouble no matter when he lives or where. There was a man nineteen hundred years ago who stood for truth and justice and righteousness as he understood them, as our men stand for truth and justice and righteousness as they understand it. And this man offended the Jerusalem Daily Advertiser and the other fake newspapers which published the ads. of the Pharisees of that time, and he offended the great and the strong and the mighty and they raised a mob in Jerusalem, just as they raised a mob at Cripple Creek and Victor, and they went out after this disturber and this outcast. What did he do? Why, he ran away and hid. Was he guilty? He ran away and hid to save his life from the mob, from the righteous mob that believed in order and law, especially order so long as they made it. And he hid himself securely, until one of his friends and disciples, Judas, betrayed him for thirty dollars. I believe it was. I wonder if he was guilty! I wonder if he was a criminal because he hid himself because he did not wish to throw himself into the hands of the mob of that time!

Why, the first instinct of any man who is in danger is to flee for

his life, to protect himself, to care for his family, to look out for his friends, and, above all, to look out for his own life. Let us see about that, gentlemen. I don't know whether Jack Simpkins is innocent or guilty. Is there any way I can tell? I ask this jury is there any way I can tell whether Jack Simpkins is innocent or guilty. I have not seen him. He ran away. He was in Caldwell about that time; he was in the presence and the company of this infamous man; he was his friend; he had been with him in Wallace for a month just before Orchard left; he had been with him up in northern Idaho on a ranch a short time before; he came to Caldwell and Orchard wrote the name of Simmons down in the register for Jack Simpkins, and he stayed there for a few days with Orchard. More than that, gentlemen of the jury, he had been in the bull-pen in 1899 in the Coeur d'Alenes. He had been there at that time when all sorts of indignities were heaped upon laboring men because they loved the union and because they stood by their principles. He had been made to stand up by a post while a darky soldier held a bayonet in front of his breast, and to stand up for six hours in the blazing sun until he dropped down in a dead faint, with a darky soldier in front of him and prodding the bayonet into his breast when it was necessary. He had been confined in Governor Steunenberg's bull-pen to be eaten by lice and vermin of all sorts. He lived in the filth and the dirt and the mire for five long months, and he dug a tunnel to get out and had been caught in the attempt. He suffered every indignity that a workingman could suffer at the hands of the mob, and no doubt that burned in his heart—it will burn forever and is there today. Jack Simpkins had some reason to harbor hatred and bitterness against Governor Steunenberg. Harry Orchard had some reason, good or bad, to have his feelings of hatred against Governor Steunenberg. Were these two men there together in Wallace for a month plotting Steunenberg's death? I don't know. There is nothing upon which I can guess whether Jack Simpkins had anything to do with that affair or not. I do know this, that if he came to Caldwell for that purpose he went away without doing it. He at least never raised his hand against him. For my part I prefer to believe that Jack Simpkins came to this section for the purposes for which we claim, that he got off there with Harry Orchard, that he went to Silver City, that he went to Hailey, that he went to Denver, and he never had such a purpose. Mr. Hawley blames us because we re-elected him to the board. Well, now, gentlemen, I don't know but it might have been better to leave his name off. This is an awful cowardly world. It might have been better for the 40,000 members of the Western Federation of Miners to turn their back on Jack Simpkins because he is accused, and we might stand better before this jury. But I presume if we had done that, Mr. Hawley would call the attention of the jury to it and have told you that since this happened they dropped Jack Simpkins like a hot potato because they knew he was guilty. I take it that it would be pretty hard for us to do anything to please Mr. Hawley—we couldn't please him unless we had hired him first, and we didn't do that. It might have been better to have dropped his name. But that is not the kind of men that the Western Federation of Miners is made up of. They will drop his name when he is proven guilty. They will drop his name when he is brought to trial and convicted, but until

that time, I take it, every member will stand by him and give him their defense and give him their support, and not judge him until he has his day in court.

Suppose Jack Simpkins was a friend of anyone on this jury. Suppose you believed him innocent. Suppose he was up in Spokane at the time Governor Steunenberg was killed and you knew the fierce wave of passion that swept over the whole United States, and especially over the State of Idaho. Suppose you had been living here in Boise and been the friend of Jack Simpkins and believed him innocent. Would you have advised him to come back? There isn't a man of you that would have dreamed of advising him to come. You would have said to him, preserve your liberty while you have it. Go away until the passions of men have cooled, until you can come back home and appeal to an unprejudiced jury, a jury that will listen without passion to your case and who will try you upon the law and the evidence unswayed and unmoved by public clamor and public feeing. That is what you would have done. Wouldn't you have done that for your brother? Wouldn't you have done it for your neighbor? Wouldn't you have done it for your friend? I ask you, gentlemen, who have lived here in the neighborhood of Boise for eighteen months, aren't these defendants safer today than they were eighteen months ago? Will not Jack Simpkins get a fairer trial before a jury of Ada county today than he would a week after Steunenberg was killed? Men's passions cool. They lose their personal feeling, and then they look at a matter calmly and dispassionately and say, After all, is this man innocent or guilty? There is not one of you, gentlemen, who does not know perfectly well that these men can naturally have a fairer trial today than they could have had twelve months ago or eighteen months ago, and are getting a fairer trial today than any court or any jury could possibly have given them in those days of passion and of white heat. When another year has passed away or another eighteen months have gone and the judgment and reason of man can again assert themselves once more, then every man who has not been hanged can get a fair trial in Boise. The men who would have tried them eighteen months ago may have intended to give them a fair trial, but they could not do it. The white fever of hate was upon them. It was impossible. Would you advise Jack Simpkins to return? If you believed him innocent, wouldn't you say, Stay where you are until such time as the reason of men has once more gained sway and then come back and face your trial like a man? Suppose you were a member of the Western Federation of Miners, and you knew nothing except the word of Orchard. Simpkins was one of the executive board. He had suffered in their cause. He had bared his breast to the bayonets of the foe. He had suffered every indignity that workingmen can suffer and he had stood by them in the days of their darkness and their sore tribulation. You twelve men, if you had been running the Western Federation of Miners, would you have turned your back on him and dropped him when he went away? Maybe you would, but I don't think that is the kind of stuff that settled up the barren wastes of Idaho and made a garden out of the desert. Mr. Hawley may know you better than I know you, but I don't think there is a man on this jury who would ever have dreamed of desert-

ing this comrade because an infamous wretch like Orchard had said something against him, however suspicious the circumstances might be, until he had been tried and convicted of a crime.

AS TO STEVE ADAMS.

Again, while I am on the question, Mr. Hawley asked, Why didn't you put Steve Adams on the stand? Now, I hope I am not like that bird that, pursued by his enemy, goes and runs his head in the sand and thinks his enemy can't see him because he can't see his enemy while his whole body is exposed. I know very well that a legitimate argument and a strong argument can be made because we did not put Steve Adams on the stand. And when I objected to Mr. Hawley's statement I did not object, as this jury know, because he had no right to make the argument that we did not put Steve Adams on the stand, but I objected to his statement that they had brought him here for us. It was not true. They have done mighty little for us except try and kill us. They brought him here because they thought that in some way they might possibly use him, or they would bring him in here before this jury to show this jury that Steve Adams was in town, so we could call him if we wanted to. Now, I don't complain of that. Any little trick that Brother Borah can turn in this case I don't blame him for. I brought Sterling into court to show you he was here, for exactly the same purpose, so I could turn to you and say, why didn't you put Sterling on the stand? I don't object to those things. They are all fair in war and in lawsuits. And this jury has the right to ask us the question. Senator Borah has the right to ask us the question again. Why didn't you put Steve Adams on the stand? Now, let me tell you why we did not put Steve Adams on the stand. I don't suppose there is any doubt in the mind of any juror here but that Steve Adams would have testified for us if we had put him on the stand. True, Senator Borah, with his ability and his smoothness, might have so twisted him that we could not have recognized him by the time he got off the stand; but, so far as his story is concerned, he would have testified for us. If he would have testified for them, of course they would have put him on the stand. But the Senator knows he would not. And Mr. Hawley was arguing logically when he said to this jury, he is your client, you are defending him. We are. You could not expect us to put your client on the stand. No, we could not. There is no use of trying to deceive anybody. We could not. I could no more expect them to put my client on the stand than they could expect me to put Sterling on the stand, not a bit. They might be glad if we put him on the stand, in the hopes that the Senator, with his keenness and his shrewdness, could tangle him up. I would have been very glad if they had put Sterling on the stand, and very confident that without any special ability in that direction we would have been able to fix him. We did not put Adams on the stand. They did not put Sterling on the stand. But there is more than that to this question. Steve Adams, it is shown by this evidence, is under indictment for murder. He has been tried once without a result. He is still under indictment for killing two men up in the Coeur d'Alenes, and he is charged with crimes in Colorado. Now, Steve is not a great man at all. You have seen him here. He is a plain, common workingman.

He is not a smart man. You couldn't make a lawyer out of him any more than you could make a miner out of Senator Borah or me. He is good for mining purposes. He is fit for that. He is a good, useful man in his business, but he doesn't amount to much. He will do to work while we eat. He is all right in his place, but he has to keep his place. He is a plain, common workingman, and he has got to be tried for murder. He has been tried once; he has got to be tried again, if Orchard's health keeps good—and he looks fairly healthy now—if he dies he will die from apoplexy or gout, and if he doesn't die from that, why, Steve may have to be tried for murder down in Colorado. Now, I am his attorney, together with the other counsel in this case. I want to ask you, gentlemen, much or little as you may know about the law, whether you think I would have had any right on earth to put Steve Adams on the stand for the purpose of helping Bill Haywood in this case. Would you have done it if you had been in my place? I couldn't do it. Do you suppose I could submit him to a cross-examination by Senator Borah that this evidence might be used when he himself should be placed on trial on the charge of murder? There isn't one lawyer out of ten thousand who would ever have dreamed of doing it, and a lawyer who did do it ought to be disbarred and never permitted to appear in a court room again. I could not have done it, excepting a special attorney had been employed for Steve Adams, and that special attorney had advised him himself, and Steve Adams had under such circumstances consented to have gone on the stand.

Now, so much for that, gentlemen. Now, you are men of affairs. You have knocked around the world a good deal before you came to Idaho. You would not have come out here on these barren plains unless you had knocked around pretty much everywhere else. You would have waited, as we did, until the country grew up. You have seen something of life and had some experience in the court room. Did you ever hear of a case where a man was on trial for his life where he submitted to an examination until his case was called? Haywood has made a good witness in this case, yet should he ever need to be tried again for this crime his testimony in this case would be a very serious impediment in his next trial. Why? There isn't one of you men who can go upon the witness stand for two days and tell all the details of your life and do the best you can to keep back some little matters which you have always been holding out from your neighbors and your friends, tell all the details of your life, and submit to a cross-examination for two days, and then go on in a year again and tell it the same way. You couldn't do it to save your life, and you know it. And any man who goes upon the witness stand and submits himself to cross-examination and knows that he has got to go upon the witness stand again takes a very grave and serious responsibility, which a man should not be permitted to take, and which I would no sooner permit Steve Adams to take than I would cut off my right hand. Steve Adams is not so great a man as Haywood. He is not so wise a man. He hasn't so high an official position in this organization. But he is a man just the same. He may have done things that were wrong now and then, like most other men, but he is a man with a body that can work, with a heart that can feel, with red blood in his veins. I am defending him, but I would not give his life to save this man's life. I am

not afraid of what he would say about Bill Haywood, but I am afraid to let him turn himself inside out at the questioning of this cunning lawyer, then to be confronted six months or a year from this time with what he said in this court to be explained over and over again. And I want to tell you that no lawyer who knows his business would permit it with a man like Adams. Some of you, gentlemen, know something about men who are charged with murder who have a preliminary examination before a justice of the peace or a probate judge. Did you ever hear one of them testify? However innocent they may be they never go upon the witness stand. A lawyer who would permit them to go upon the witness stand never ought to be allowed to enter a court room again. Whether they are innocent or guilty makes no difference with the case. Now, what I say about Adams applies equally to Pettibone.

## EACH MUST STAND FOR HIMSELF.

Pettibone is waiting down here in his cell until the State gets through with this case and leads out another victim. He is going to be tried for killing Governor Steunenberg. I would like to have Haywood acquitted. I never wanted anything so badly in my life, and I have wanted lots of things pretty badly. I would like to have him acquitted. But I don't desire to have him acquitted so strongly that I would imperil the life of Steve Adams or the life of George Pettibone to get his neck out of the noose. He has got to stand by himself and they have got to stand by themselves until the end. That is one of the misfortunes under which we labor in this case, and it is one that we cannot avoid, no matter what we do. George Pettibone, a plain, companionable, generous, sympathetic man, is acquainted with Orchard—just the kind of a man into whose life and whose affection Orchard would worm his way, as he wormed his way into George Pettibone's house. His personal connection with Pettibone was very much closer and more frequent than it was with Haywood, and George Pettibone would be on trial today instead of Haywood except that the Mine Owners' Association would give ten dollars to get Haywood's scalp, as Brother Hawley puts it, where they wouldn't give ten cents to get George Pettibone's scalp. And it is just possible that even the Mine Owners' Association might feel that if they can have one feast of blood, that is about all the country would stand for in a case like this, and while they are getting that feast they had better get Haywood, whom they hate the worst of all. But if they were seeking to take the man who was the most closely connected with Orchard, who had met him the oftenest, I submit to you, gentlemen, George Pettibone would be on trial today instead of Haywood. But George Pettibone is not the secretary-treasurer of the Western Federation of Miners. I suppose the intelligent Mine Owners' Association think if they can hang the treasurer they can hang the treasury, too, and so get rid of them, and get rid of them forever. Now, is it plain why I did not put George Pettibone on the stand? He has got to run the gauntlet of a jury of his fellow men. He has got to be tried for murder, for killing ex-Governor Steunenberg. And I don't propose to turn him over to Senator Borah for examination and cross-examination upon every fact and every detail of his life and then come into this court room six months from now and be confronted with that testimony to explain again.

There isn't any man on earth, gentlemen, who could tell his story twice exactly alike, and there isn't anyone on earth but what will make mistakes, and the mistakes you make in a case on trial are always enough, without being obliged to confront the mistakes that you made in some other case. And no lawyer who had any regard for his client would ever think of consenting that he should be placed upon the witness stand in the defense of someone else in a case like this.

Well, now, Senator Borah is a fairly reasonably good lawyer, as lawyers go. He is all right for up here. If he was down in Chicago he would soon be at the head. There is a little story I might tell the Senator for his own benefit. When I commenced practicing law I commenced in a town of about five or six hundred, where I was well acquainted. Everybody knew me. Anybody who didn't know me thought they did, which may be sometimes worse and sometimes better. I made up my mind to go to the city, and everybody told me no, I had better stay there where I was acquainted, and I run onto a banker and he says to me, "You had better go to the city," he says, "the city is the best place in the world for a poor lawyer." Now this was on me, Senator, not on you. A man who could get along in Boise or in a small town can get along in the city—only a question of time. Now, the Senator knows perfectly well that you cannot, except in extraordinary circumstances, place a man upon the witness stand when he is to be tried for murder. You haven't got any right to do it, excepting, as I say, under the most extraordinary circumstances, and he wouldn't do it. No lawyer who understands his job will think of doing it. But I know what he will say. He can't deny that. Here are twelve men of the world who have been in court before, who have been in the justice court, who have read newspapers, and you all know that it is a very, very rare thing when a man charged with murder will go upon the witness stand until the day of his trial. But this is what he will say: He will say if you did not dare put Pettibone on the witness stand, did not dare put Adams on the witness stand, because they are charged with murder, why did you put Moyer on the stand? Why did you take the chance of putting Moyer upon the stand when Moyer was to be tried for murder?

## THE CHANCE WITH MOYER.

Well, now, let me tell you. We did take a chance. It was a matter of very serious doubt with myself and with my colleagues whether we had any right to put Moyer on the stand. It is a matter of very serious doubt with me at this time whether we had any right to put him on the stand. True, he made a good witness. True, gentlemen. I don't believe there is a member of this jury who could look into the face of Charley Moyer and hear him testify and who would doubt but what he is an honest man. I don't believe there is a man on the face of the earth who would look at Charley Moyer and compare him with Harry Orchard and who would hesitate one moment to say that Moyer was honest and that Orchard was the greatest scoundrel unhung. A man who would believe Orchard against Moyer would strike a blow against his own manhood and against the manhood of all men. You won't do it. Nobody will do it. This is the reason we put Charley Moyer on the stand—there are

two reasons: First, there isn't a breath against him excepting the testimony of this perjured wretch. Nobody has testified against Charley Moyer. Orchard scarcely knew him excepting the time that he went to Ouray with him as a guard. He never was in his house. He had no connection or association with him of any sort. I don't believe even Mr. Hawley is insane enough to ever think he would try Moyer upon this evidence. When you have got done with this case and we get done with Pettibone's case, I undertake to say that Charley Moyer will walk out of this court room without any trial. I don't think there is anybody up here in Idaho who is so lost to reason and so blind in his passions and his feelings that he would place a man on trial for his life whose record is so clean, whose purpose is so plain, and against whom as little of suspicious circumstance existed as against Charley Moyer. I am not afraid of that. Again, it is not Haywood alone who is on trial. It is the Western Federation of Miners that is on trial. They are here to get officers. Why take Moyer and Haywood, pray tell! Why not take Davis and try him in Colorado? Why not take Aikman and try him in Colorado? Why not take Max Malich and try him there? Why not take anyone of a dozen men who Orchard explicitly says has been guilty of these crimes? Why take Moyer, against whom there is no breath except the breath of Orchard? You know why. Moyer is here because he is the president. He is the president and they can't execute the Western Federation of Miners unless you execute the president, and the Mine Owners' Association want Moyer because he is the president and he is brought here for that alone. Moyer was not content and not willing and would not permit this case to go to the jury unless the president testified. He was willing to take the chance of a halter, and a man always does take a chance when he testifies in advance of his own case. He was willing to do that for his devotion to the Western Federation of Miners. In his opinion and in mine, and I believe in yours, the organization was on trial and the president took the stand to testify for that organization, just as the secretary-treasurer takes the stand to testify in his own case and for that organization.

## WHY OTHERS DO NOT TESTIFY.

Now, gentlemen, so much for that. There are other witnesses in this case. McPartland is not under indictment. Mac is too slick. He has been here. He is the head and the front of this prosecution. He is the father confessor of the greatest criminal of modern times. He is the man who has brought every witness into this court room. He is the man who knows whether Harry Orchard was promised immunity from his sins. He is the man who knows whether he promised him temporal salvation or somebody else promised him eternal salvation. He was not indicted. He has been connected with this case from a time long before the case arose. He has been connected with every feature of it. Why didn't you bring him? Why does he sit around the lobbies of the hotels, come into this court room and weave his webs everywhere between here and Colorado? Why is he busy herding these witnesses and bringing them here from the four corners of the earth—and he did not dare to come on the witness stand? He isn't indicted, although he ought to be.

How about K. C. Sterling? We have brought some of these things home to the door of K. C. Sterling. He is the most important witness there could be in the case to dispute those three women who gave the lie to Harry Orchard. He was the man more acquainted with it—under our theory of this case—the explosion of the Independence depot—than anyone else. He is not under indictment. He was here. Why didn't you put him on the stand?

Then this young Neville, who came in and out of this court room and was watched with the tenderest care; he couldn't get three feet away from a Pinkerton detective to save his life; he was taken care of as if he was the greatest gem on the face of the earth—Neville at least must not be lost; if he is lost the day is lost; and you couldn't get a chance to look at Neville, you couldn't under any circumstances ask Neville a question and find out what he was going to testify to. Why did'nt you put him on the stand? Nothing has been guarded so carefuly in this case as young Neville. Neville was with Harry Orchard on his famous ride from Cripple Creek to Cheyenne. Neville knew whether Harry Orchard blew up the Independence depot or not. Neville knew whether Pat Moran came down to Denver after $500 while they waited in Cheyenne or not. Neville knew every fact and every circumstance connected with the flight, or whatever it was, from Cripple Creek to Cheyenne. Neville knew whether Moyer told you the truth when he said that the father came into the office and asked for $250 to make him good when Orchard told you that he came into the office and demanded $1,250 as blood money for keeping his mouth shut. Charley Neville was there. Moyer says he was there. Why didn't you put him on the stand? You might explain that. Neville is not under indictment. He has been watched and guarded as carefully as could be in this case and the reason why you did not put him on is probably because if he were put on there was great danger that he would corroborate us instead of them.

## CORROBORATION (?) OF ORCHARD.

Again, we have been told, and we will be told again, that Harry Orchard has been corroborated in almost everything by our own witnesses. Well, now, think of it! It is a wonderful statement, is it not? We are told that he is corroborated by our own witnesses in everything excepting their criminal connection with him. Now, that might be food for babes and imbeciles, but I don't think it would be food for grown men. And yet I have read newspapers whose correspondents did not know any better than to dish up such rot to the American people, or if they did know better they were willing to sell their consciences with their pens. Let us look at it. If Harry Orchard was at Pettibone's house, or if Harry Orchard was at the headquarters, or if Harry Orchard was at Cripple Creek when Moyer was there, or if Harry Orchard was at Ouray when Moyer was there, Moyer said yes, Haywood said yes, he was there. But when he says that while he was at Cripple Creek, while he was attending that trial and Moyer was present, that Moyer gave him a hundred dollars for his criminal act, Moyer says no. And these people, who either have no brains or no conscience, would tell you that because Moyer admitted he was at Cripple Creek he corroborated this infamous monster, when

he denied every single particle of criminal connection. He is corroborated again when Pat Moran admitted that he was at Cheyenne. Oh, wonderful thing—look at the attorneys for the defense corroborating Harry Orchard! Here comes Pat Moran who says he was at Cheyenne. Yes, but he says, "I did not get $500; I did not go to Pettibone's store; I did not come back and hand him $500," and there is no connection, but he is corroborated as being in Cheyenne. Now, then, I have no doubt but what nine-tenths of all that this monster said is true—nine-tenths of it. He has told the story of his life, given his connection with other men, but his life, or that portion of his story where he says that these defendants had any criminal connection with him is not true. Isn't it plain enough? I trust it is plain enough for this jury, but there are people who think the American people are such infernal fools that they can feed them this slop.

Orchard is corroborated again; he is corroborated when he says he was in the Coeur d'Alenes; and Paulson corroborates him and Dave Coates corroborates him. Mr. Hawley says he is corroborated all around. Yes, he is corroborated. He went to the Coeur d'Alenes, and he went to Dave Coates and asked him something about stealing Paulson's child, and when Dave Coates comes in here and tells you that Orchard made the proposition to him and he spurned it and drove him from his office, they say that Dave Coates corroborates Orchard because Dave Coates says he was there. Well, all right, gentlemen. We have got to trust the jury for something, and if the jury does not understand a matter as plain and simple and as easy as this, then it will be all day with us anyhow, and we might just as well be worrying about some other matter. Speaking of Dave Coates and this scoundrel—now let me call your attention, gentlemen, as honest men, to that matter.

## COATES' TESTIMONY.

Who are you going to believe? Are you going to believe Orchard against Coates. Will you tell me why you are going to believe Orchard against him? Here is Dave Coates, who, so far as the evidence in this case is concerned, never did a dishonest act in his life. He never stole anything, he never killed anybody, he never lied, as far as the evidence in this case is concerned. The only thing against him that we have been able to find out is that he was once elected to a high and important office. The Senator won't hold that against him, I know. But aside from that, his life has been pure. He has been a printer, a newspaper man, earning his living, supporting his family and with an unblemished name. And now comes Mr. Hawley and tells you to believe that Orchard tells the truth against Dave Coates; that Dave Coates formed a plan to steal his neighbor's child, and that you are to believe this monster against a man whose character is unblemished and who has not the slightest interest in this case. Now, gentlemen, if you do a thing like that you can imagine what sort of a game we are up against in this case, can't you? Can any of you form any excuse in your own mind for believing Harry Orchard against Dave Coates? And unless you do this man has been an infamous liar since his conversion. He has given perjured testimony upon this witness stand for the sake of tying a halter around Moyer's, Haywood's

and Pettibone's necks. I would like to know what excuse you could make to your conscience and to your God for believing Harry Orchard against Dave Coates, any more than you could for believing Harry Orchard against Miss King, Mrs. King and Mrs. Fitzhugh, or any more than you could for believing Harry Orchard against Raymer, Mr. Gill, Mrs. Gill and against the world.

The senator may say, as Hawley said, that it is not a matter of very great importance whether Harry Orchard visited Sterling in Sterling's room or not. What of it, he may say. If there was nothing else of it, there was this of it—Harry Orchard swore he was never in those rooms in his life, he did not know where they were, and he was never there; and he perjured himself on this witness stand for the sake of convicting these men, and you can't argue, gentlemen, that he has got a right to perjure himself on immaterial matters, but that he tells the truth on other matters. Are you going to leave it to Harry Orchard to say what is material and what is immaterial? If you admit that he has come into this court and committed perjury—and we have nearly forty witnesses who contradict him, many of them that no sane man could disbelieve for a single moment—what becomes of his story, even if his record was good, if it was not covered with infamy and slime? Now, gentlemen, I want to go to the next act with which they tried to connect Moyer, Haywood and Pettibone—the blowing up of the Independence depot.

## THE INDEPENDENCE DEPOT.

Let us see about it. I shall attempt to show that even the Western Federation of Miners had nothing to do with it, let alone Moyer, Haywood and Pettibone; that it was a scheme and a plan to agitate the people, to get them to that white heat which would impel them to drive the Western Federation of Miners from Cripple Creek. Now, I don't believe that the Mine Owners' Association and the Pinkertons ever intended to kill fourteen men at the Independence depot. The reason I don't believe it is that it is hard for me to believe such things of men. I do believe that they intended to do as they did in the train-wrecking case, to put up a job to lay it to the Western Federation of Miners, that these worshipers of law and order might take the law in their own hands, might defy courts, might turn out officials, and with the strong arm of force kill and maim and beat and drive out forever from the Cripple Creek district every man that belonged to the Western Federation of Miners and every man, woman and child who dared to sympathize with them in their plight. What is the Independence story? Let us take Orchard's story. He swears that he started to Cheyenne; that he was with the old man Neville and Charley Neville; that the three of them went together in a wagon on Sunday afternoon and they got down eight or ten miles beyond Independence, and they camped for the night, and then he got up in the night, and got on his horse and rode back to within a mile of this place and tied his horse in the underbrush, and he met Steve Adams, and he put a box of powder or two boxes of powder under the depot; that they fastened a wire to it; that they went down and pulled the wire by the aid of a chair round fastened to the other end; that the depot was blown up, and he went away in the night and off on

this journey. And he swears that after he got up to Denver, Moyer, Haywood and Pettibone gave him their blessing, put their seal of approval on it, gave him the $300 that he asked for, but, not content with that, gave him $500 more a few days later. Now, let us see who is Harry Orchard. We find that in the three months preceding the blowing up of the Independence depot he had been seen at least eighteen or twenty times, entering, by night and by stealth, the rooms of one K. C. Sterling. We find him there almost to the very night before the powder was placed under the Independence depot. Mrs. Fitzhugh says she never saw him afterward, but she saw him almost immediately before. I take it, gentlemen, that there can't be an honest man with an unprejudiced mind on earth who won't believe the story of these three women. Here was this man who had eighteen or twenty meetings with K. C. Sterling, who was managing the strike, so far as the detective association was concerned, for the mine owners. In addition to that, we find he had held at least seven meetings with Scott, the detective of the Florence and Cripple Creek railroad, who was working with Mr. Sterling. We put Aller on the stand and he puts them together for two or three hours on a Sunday night one or two weeks previous to the blowing up of this depot. Scott, Sterling, Orchard! Sterling never disputes it and Scott admits that he was there with him, although he puts the date farther back. We put a woman on the stand who swears that she saw these people together at the switch house—Scott, Sterling, Orchard and the switchman—on a night or two before what is claimed to have been the derailing in this case. We have proven at least twenty or twenty-five times inside of three months, when this miserable, sneaking coward was present with the detectives of the other side. Do you suppose that is all? He wasn't living out in the broad light of day. He wasn't going where his companions and his friends could see him. He was sneaking up the back stairs at night. He was meeting them in the office at the depot where no human eye could see them. He was working with these sleuths and giving or selling them anything he had to sell—selling his soul with all the rest, and if they gave him $45 for that they paid too much. This was the situation up to the night when the Independence depot exploded. He was ten times more their man, from all the evidence in this case, than he was ours—willing to pick up a penny from anybody who would give it to him, willing to work for anybody in any way that didn't call for sweat, willing to do any scheme that wasn't honest or fair or just or where he took no chance, willing to do any cowardly act for pay for the first man who came along. That was the condition up to the time he blew up the depot. Now, let us assume that Orchard did it. Who did he do it for? If we cannot show, gentlemen, beyond a reasonable doubt who he did it for, then I will just give it up right here. You know his connection with Sterling. There can't be any doubt about that. I thought Hawley would believe it, but it seems he did not. Everybody does but Hawley. On the night this depot exploded Orchard met Steve Adams alone long after dark and they put this powder under the station and blew it up at two o'clock in the morning, and then Adams went back to his home, according to Orchard, and he ran away and down the road and out of the country, and has never been there since.

Now, it is fair to presume that only a day or two before this time he had held conferences with Sterling. Whether on this matter the evidence does not show. You will have to use your best judgment upon this matter. He had held conferences and they could not have been upon anything excepting this strike and excepting to betray the men of the union to which he belonged and the people with whom he pretended to associate. And this station was blown up.

The next morning the crowd gathered around it. They are moved by all sorts of emotions. They swear dire vengeance against every member of the Federation, the feelings of the beast are unchained, the tiger in the man is uncaged, and a wave of wrath sweeps over the Cripple Creek district such as has seldom swept over any district in the history of the world. The crowd gathers around this depot and Mr. Hawley says they went up to the wire and they tramped over the whole spot, but the evidence shows that a rope was fastened around where this wire and this chair round were placed, and they were guarded carefully all day, nobody being allowed to approach. They bring the bloodhounds there toward evening. Twice the bloodhounds go directly from the chair round to Al Bemore's door. Now, I do not know whether Al Bemore had anything to do with the Mine Owners' Association or not, and I do not like to accuse a man whom I do not know and never have seen. He may be a poor man, a workingman. I do not like to accuse him of that. But the fact that the hounds had been sent from that spot and went twice to that door, and the fact that this man was a deputy sheriff and was working for the mine owners, is a strong suspicious circumstance in this case. It is enough to raise a reasonable doubt, it seems to me, in the mind of any honest, unprejudiced man, that somebody else besides these men had to do with it; and if these dogs traced somebody to Al Bemore's door, then it must be that Harry Orchard's story is not true. But they put other dogs on the track, and the other dogs took the scent of the chair round, and they followed straight down the road a mile, straight down the road which Harry Orchard said he took toward Colorado Springs, straight down the road where his horse was hitched in the bushes. They followed it down a mile to the pumping station. There the man in charge of the dogs telephoned to the Mine Owners' Association, and got Sterling on the telephone, and tells him they have got a fresh trail, to send him some money and a team so that they may follow the dogs, and Sterling answers back, "No, they are on the wrong scent; we know who did it." And they call off the dogs and bring them back, and the next day Ira Blizard sees Sterling and says, "Why did you call me off? The dogs were on the scent, were going the right way; why did you call me off?" And Sterling says, "I did it because we know who did that. It was Steve Adams."

## STERLING AT THE BOTTOM OF THE CRIME.

Now, gentlemen, Orchard says he and Steve Adams did it. Will you tell me how Sterling knew it? Can you answer that in the light of this evidence? There were only two human beings who knew it—one was Orchard and the other was Steve Adams. Steve Adams went back to his house and about three o'clock in the afternoon went from the house to

Denver, fleeing for his life and his liberty, fleeing like every union man in the district, to save his life and his union card. He could not have got the story from Steve Adams, and if he had gotten it from Steve Adams it was up to Sterling to come and tell you, and it was up to Sterling to come before this jury of twelve men and give you some reason, some clew as to how he got that information. Where did he get it? There is just one place. He must have got it from the man who haunted his door by night and day, from the man who went almost directly from Sterling's room out upon his journey, from the man whom he had known and been intimate with, and to whom he and Scott had given money for three months past. He must have got it from him. And let me call your attention to this fact. Orchard never could have seen Sterling after the depot was blown up. That is plain. After it was blown up he rode down toward Colorado City and then off to Wyoming, and never came back since. If Sterling got it from Orchard, and there is nowhere else that he could have gotten it, he must have got it before it happened. He must have got it at one of those many conferences when Sterling and Orchard were together—together planning ways and methods to catch the Western Federation in a trap, to weave a rope that should hang Haywood and Moyer and Pettibone, planning some scheme or some way that infuriated people would rise in their wrath and drive the last man over the mountains and the hills. He could only have gotten it there, and there is where he did get it. It is as clear as the noonday sun. Talk about a reasonable doubt! If you were trying Sterling I want to know what a jury would say. What would they say with his mouth closed, as it was closed here in Idaho? What would they say without a word of explanation, as no word of explanation was offered in this case? They would say he was guilty, guilty beyond a reasonable doubt. And yet, upon the word of a miserable scoundrel, you are asked not only to charge up this atrocious deed to us, but you are to say Moyer and Haywood and Pettibone paid for that job. Gentlemen, I take it that this jury wants to arrive at the truth. There is no great public need to kill my client. If there was, gentlemen, I would take it under your oaths and under your consciences and in the light of your God you would not kill him without evidence. It is not enough that you want to get rid of some man. The evidence must show his guilt beyond any reasonable doubt. Now, I do not believe that Sterling intended to kill fourteen men. I do not know him very well, but I do not believe it. Here was a depot that was not worth anything, a depot that had been abandoned, the windows boarded up and the doors boarded up, the platform used when these trains came along, but still it was worth so little that they never fixed it up afterwards, and have taken it away entirely since. If they could put the keg of powder under the platform a few seconds or a few minutes ahead of the men coming down and explode it, then what? Then all the lawyers and all the populace and all the good people would cry out against the Western Federation of Miners; then indeed they might get rid of these disturbers. Can there by any doubt about that? What followed? Let us see. Very few pages of history have ever been written more important than the history of what followed the explosion at the Independence depot. Some day when men get the right angle on this case and they look back clearly and dispassionately and

try to know what it means; when men look at this great labor war in Colorado—as important as the war of the revolution—when they look at this mighty contest between the powers of greed and the 40,000 devoted miners who were fighting for their lives and for yours, gentlemen of the jury, who were fighting for their liberties and for yours, gentlemen; who were fighting for their freedom and the freedom of every man who toils, and they look back upon that scene they will read one of the most stirring and one of the most important and one of the most pregnant chapters in the history of the United States.

## AFTER THE EXPLOSION.

After this depot was exploded the crowd began to gather. In the early morning hours they stood around the depot, they stood around the scene of this great crime. They had gathered up the dead, taken them away, and the surging mass came there uttering curses and imprecations and dire threats upon the Western Federation of Miners, which, it was assumed, had committed this horrible crime. Then some one got out handbills that there would be a meeting at Victor. They were scattered all over the country, and men gathered there from Goldfield, from Cripple Creek—everywhere—to the meeting at Victor, and lawyers got up on a wagon and orated to the crowd, and somebody fired a shot. Somebody else fired a shot and there was a general skirmish. The mob gathered, a mob of respectables and of disreputables—the lawyers, the bankers, the miners, the mine men. Our friends gathered and were driven into the union hall; they were driven up the hills. Bill Easterly told us his story as well as anybody. They gathered there from all parts of the county. They assembled around the wagon. The mine owners were the ones who uttered the incendiary language. They were the ones who called down the threats and the imprecations upon the Western Federation of Miners, whose blood they had shed and whose lives they had taken for ends of their own. They were the ones. A shot was fired. Men forgot they were men. They jumped for each other's throats. They jumped for their guns. Some men were killed, others were driven off. Easterly tells you that he was in the crowd; that he went back to his cabin to get his gun. As he went back he met Steve Adams and told him what was transpiring at Victor and that they would all have to leave, and Steve Adams left. And Easterly gathered with him some thirty-five men, and they went down in the midst of that seething, boiling mob; they saw the town hall at Goldfield, and that looked to them as if it might be a spot where they could defend themselves, and they got there, thirty-five strong, with their guns and their ammunition, prepared to defend it with their lives. The troops rode down the street firing as they came, and one by one these men went out the back door, until Easterly and two others stood there alone—alone against the mob; and then they ran up the hill, these three men, together, scrambled up the mountainside with the shots of the soldiers, of the mine owners and of the gun men, falling thickly around them; up through the quaking ash trees, into a prospect hole, and in that way he managed to get off, and finally got to a railroad and escaped to Denver. And I asked Bill Easterly whether he shot back. He said, "No." I said, "Why didn't you shoot back." He did not answer that it was because

he was law-abiding, a Christian, and did not want to kill; but he did not shoot back because he thought his gun would not carry far enough. He only had a shotgun. This was Bill Easterly.

THE ACT OF EASTERLY.

Gentlemen, our men have been called traitors and murderers and perjurers and assassins. We have brought them here and Mr. Hawley, in referring to them with a sneer and a jeer, says they are bad, bad through and through, and that you could not believe them. Let me call your attention to Bill Easterly. Do you think he is bad? I do not know but Bill Easterly might stand up in open conflict and fight for his life. I rather think he would. I rather think he would fight a regiment of soldiers in a fair contest and die fighting. I believe he would go out, as he went out to that mob, with his gun in his hand, and meet the largest body that could be brought against him in fair conflict. Let me tell you this, gentlemen, a man who would do this is not a man who would go and put a bag of dynamite on your front door and then run away in the night. He is not a cowardly sneak who would shoot you down while you were staggering drunk with no chance to defend yourself. Orchard was not there. From the time his mother gave him birth until the last look you have seen of Orchard on the witness stand, I will defy you to show one act that was not the act of the coward and the sneak, one act from the beginning to the end of his whole career where he would not sacrifice anybody, even down to his little girl, to save his life.

THE ORDER OF THE DISORDERLY.

I do not care to go into all that followed if I could. Talk about law and order! Talk about respect for law! Will you tell me where in the civilized world law and order were trampled in the mire, were destroyed and defied as they were in the Cripple Creek district by the Mine Owners' Association? Where they took a boy who had delivered an oration at college and received a medal from his professors—a proud young man—and he goes back to his home where he should be met with applause and approbation, and they throw him into the bull-pen because he has talked too much at school; because he has delivered an oration. And then they talk of law and order! And you remember this contemptible, this most contemptible county official that rotten politics ever spawned out upon any American community, Sheriff Rutan, whom they brought there—this man who is a reproach to the county in which he lived—talk about our electing Simpkins, a brave man accused of crime! Will you tell me what you think of a community that would elect a spineless nothing like Rutan, who stood, while he was sheriff, and saw men beaten and abused and killed and never raised his paltry, corrupt hand except to get more gold? And Sackett! Talk of law and talk of order! Sackett comes here, called by them, not by us. He is from Telluride, and he took a hand in all of this work and murder and crime and killing, and he says it was the law of self-defense. "We could not trust the courts, we could not trust honest old Judge Stevens." They could not trust the courts and so they took the law into their own hands, and still they talk of law and order! Listen to these men who have stolen everything of value on the face of the earth, who

have taken the mines and the land and all the implements of trade and stolen the American flag and appropriated it to their own use, a flag of righteousness when they wave it and a flag of dishonor when we hold it!

## AGAIN ON ORCHARD'S TRAIL.

Gentlemen, Harry Orchard left. He came to Denver. Neville and Neville's son came with him. Harry Orchard says he got $300. Nobody corroborates him. Moyer and Haywood explicitly deny it. I want to know if you have any license to believe him against Moyer and Haywood? Charley Neville was there. He does not swear to it. He does not swear to a single fact that could in any way corroborate it. He comes and he goes away without uttering a single word to in any way support the claim of his traveling companion. Orchard goes from Denver to Cheyenne, and what does he do? Now, let us look at that. He says when he got to Denver he told the boys he wanted $300 and they gave it to him. And he was paid for his work of crime $300! Three hundred dollars for fourteen men! And then he goes away to Cheyenne, and when he got to Cheyenne he went to Pat Moran's saloon and he gave Moran a ten-dollar bill and asked him to go down to Denver and get $500 more. There was not any money coming to him. He had been paid all they agreed to give him. There was no reason why he should expect $500 more. But he says he gave Pat Moran $10 and told him to go down and get $500 more. Now let us see whether he did it or not.

Pat Moran comes here and says it is a lie; it is one of Orchard's dreams. He must have had $300 before, and a hundred or two more, a hundred that he got from Neville, and he had all of Neville's resources to draw on besides, when he drove away, and you need not tell me that Harry Orchard would lie down by the side of a man who had a thousand dollars and something would not happen to the thousand in the night. He is not that kind of a fellow. He certainly was not before he got religion, whatever he may be since. If he had any such amount of money, where is it? He says he gambled and lost it. Have they brought anybody here to show it? Has anybody identified Harry Orchard? He must have lost some five or eight hundred dollars in a single night. Did anybody he met on his trip come here and give you one single word of corroboration to that story? It rests upon Harry Orchard alone—where all the sins and all the burden and all the iniquities and all the testimony in this case must rest—upon the shoulders of Harry Orchard. It is rather strange that if this cherub should lose $800 in a night there would not be somebody somewhere whom McPartland could get next to, whom this wonderful detective could find, that could identify a man that was flush with his money and who spent some seven or eight hundred dollars in a night at a gaming table.

## PAT MORAN'S EVIDENCE.

Again, Pat Moran swears it is a lie. I would like to know, gentlemen, what license any of you have to disbelieve Pat Moran for the sake of Harry Orchard? Is there any reason for it? Can you excuse your conscience for saying that he is a liar and Harry Orchard a truthful man? Oh, but, they say, a fellow in the business of fixing gasoline stoves says

that he saw Pat Moran on the 16th or 17th of July, 1904, in Denver. Well, now, what do you think about that yarn, gentlemen? What do you think about that yarn? In the first place, this man's face and his appearance were such as I think would condemn him with any honest man. His face looked better than Dewey's—anbody's face looks better than Dewey's. I would not exactly say this man's face looks better, but I would say Dewey's looks worse; that would be more correct. But he did not have that appearance of character and integrity which I take it would stamp itself upon the mind of an unprejudiced man. Next, do you think this fellow remembers that on the 16th or 17th day of June, 1904, more than three years ago, on a certain date when he was out fixing a gasoline stove, he got on a street car in Denver and saw Pat Moran? I think it is a lie out of whole cloth, manufactured by the chief perjury manufacturer in this case, Mr. James McPartland, and manufactured in his perjury office down in Denver. He swears that he saw Pat Moran once before, and that he saw Pat Moran once after. To save his life he could not tell the month in which he saw him and he could not tell the year. And yet he swears that this man got on a street car—this man—and it was on the 16th or 17th day of June, and he knows it because he had been fixing a gasoline stove. And I will venture the opinion that if this man ever did any honest work it was nothing but fixing gasoline stoves, and he probably fixed them every day of his life. How did he pick out the 16th or 17th day of June? I will tell you how he picked it out—perfectly simple how he picked it out. Orchard left Cripple Creek on the 6th; it took him about three days to get to Denver, according to his story; he spent about three days there; it took him about four more days to get to Cheyenne. McPartland knew it, and he figured up sixteen or seventeen days, and then told this fellow to swear it was on the 16th or 17th day of June, and there you have it—a piece of testimony which is as worthless, as crooked, as valueless as any figment that ever went before a jury.

Let me tell you what else there is about that matter. Orchard, Neville and Charley Neville went to Cheyenne. They went to Pat Moran's saloon and Pat Moran's eating-house. Orchard was advertised and pursued. Pat Moran says they sort of hid themselves. They did not go around town much. They stayed in his saloon. They stayed back there where they would not be seen. If Pat Moran went away he must have been away at least one whole day. He must have left Cheyenne in the morning and got back not earlier than eight or nine o'clock at night, and they were there only two or three days at the outside—probably not more than two. Will you tell me that Pat Moran could have gone down to Denver and been absent the whole day while these three men were hiding in that saloon and that Charley would not have known that he had gone away? Was that one of the reasons that they had Charley Neville here? Did they have him here to prove that Pat Moran was a liar and that Pat Moran went to Denver, or at least was absent for a day? If they did, they sent him home without doing it. Pat Moran swears he was not in Denver for six months. Would it not be likely that someone in Cheyenne would have known of his going? Would it not be likely that somebody in Denver would see him? Would it not be likely that Charley Ne-

ville would have known it? And yet they had him here, and upon the testimony of a man who on his face and the face of his testimony is shown to be unworthy of any credit or belief, they would ask you to impeach Pat Moran. All right, gentlemen. There is the story, you will have to settle it for yourselves.

## ORCHARD IN HIDING.

Now, what happened after that? Orchard swears that when he sent back for the money he intended to go to California from Cheyenne. He knew he was suspected. The newspapers were full of it. He had taken another name. He was in hiding. He knew of the blowing up of the station, whether he did it or not, and he was in hiding; like most of the other men who were driven out of the Cripple Creek district at that time, he took another name. He was looking out for himself the best he could. He swears he got a letter from Pettibone, and Pettibone told him they were looking for him, and he had better take to the tall timber, and then he turned around, and, instead of taking to the tall timber, as he intended to do when he says he sent for that money to Haywood, instead of going to California, as he intended from Cheyenne, when he got direct notice that they were looking for him and he ought to take to the tall timber, he turns around and comes back to Denver. Do you believe it? All right, believe it if you want to. Who sees him in Denver? Who sees this man Orchard? Another witness, whose appearance upon the stand and whose testimony in this case was such as to make him doubted by every intelligent man—a shifting, uncertain, inconsequential former keeper of a rooming house. He has not got a book, he has not got a date, he has not got a scrap of paper, he has not got anything except a shifting remembrance and a shifting trade and a shifting character, and he is the only human being who ever saw Orchard in Denver, the only one in a great city full of people. He had roomers in his house—he meant rumors instead of roomers—his house was full of them. He could not tell the name of one excepting the woman he afterwards married. He could not tell the name of another human being who was there at the time. He knows nothing about it except what he got from McPartland, and it is strange that in all Denver they could not get a better looking man and a better appearing man, and a man of some sort of business standing or character, who could have seen Harry Orchard on the street. That is the only man they have got. Now, I wonder if you believe it! Could he go back to Denver and stay there a month—a month mixing with people—sitting at the gaming table, going to the saloons, going up to the cheap theatres—could he go there and be Harry Orchard, and nobody but this fellow see him, and this fellow with not a scratch of a pen on the face of the earth to show the time. Impossible!

## DR. McGEE'S TESTIMONY.

What is there to dispute that? Dr. McGee comes here from the Coeur d'Alenes. This man was always turning for the Coeur d'Alenes, the place where he pretty nearly got rich. He turned to the Coeur d'Alenes in 1894. He first went to the Coeur d'Alenes in 1892, stayed there longer than anywhere else in his life, and turned back to them again in 1904,

and he turns back again in the fall of 1905—always turning his face to the Coeur d'Alenes. We traced him to Cody, Wyo. I take it he could get from there very comfortably to the Northern Pacific railway. The last we see of him he is there. The next we see of him is at the hospital of Dr. McGee in Wallace, Ida. Is Dr. McGee a liar? He has been an officer of Shoshone county, he has been the coroner, he is a physician, he owns a hospital, he is not a miner, he doesn't have to work; he can do better—a man of position and influence and standing. I wonder if he is a perjurer, too? He swears Orchard came there and told him he was working as a spotter and wanted to know whether there was any easy money. That sounds something like Harry, doesn't it? I never knew him to go after any hard money. Easy money was his long suit. He came there in July or in August, at the Coeur d'Alenes; and, mark you, gentlemen, in August he was down to San Francisco! I did not think there would be any doubt about that story. Whether he went back to Denver or not is only important for one thing, and that is to show how big a liar he is; and one lie more or less will not hurt him. If you would not disbelieve him without that you would not with it.

What does he say? He got this letter telling him to go to the tall timber. He turns around and goes to Denver, and he goes and sees Pettibone and Haywood, and he goes out in the back yard and sits out there on a Sunday afternoon, planning conspiracy and murder. Is the reason plain? I will tell you the reason. He started from Wyoming to California. He went by the Coeur d'Alenes, his old stamping ground. He got to California when this accident happened at Bradley's house, and in order to convert this accident into food for McPartland to hang these men with, he would have to be sent down to Denver to get a fresh start to California. Now that is all there is to that. He has deliberately gone from Wyoming to Denver without any reason or any excuse on earth except to make Moyer, Haywood and Pettibone responsible for a gas explosion.

## THE EXPLOSION IN SAN FRANCISCO.

And now, let me call your attention to that. What happened there? He did go to San Francisco. He doubtless went by the Coeur d'Alenes. He could not miss the Coeur d'Alenes, wherever he went. He might manage to get his property back—or somebody else's; and so he went that way; and then he went on to San Francisco. It was about time for him to visit San Francisco again. It had been two or three years since he was there, and the city would probably be changed—short changed, I mean. So he went back to do it. And he says he blew up Bradley's house. Now, did he? If he didn't, if he is lying, I want to know what credit this jury could give him even if he had been a George Washington. If he is lying about that, if he is lying about anything in this case, what credit can you give him? And everybody knows he has lied about some things in this case—everybody but Mr. Hawley knows that. The Senator knows it, and I do not think he would tell you he does not. If he has lied about the Bradley explosion, then what?

Now, let us see. Was he lying? They ask to know how Orchard knew it. How did it happen that this Bradley explosion occurred while Harry

Orchard was there? Well, how did it happen? There is some wonderful corroboration, gentlemen. The Bradley explosion occurred while Harry Orchard was there, therefore Harry Orchard must have done it. If the earthquake had occurred while he was there, therefore Harry Orchard must have exploded the earthquake. If anything happened while Harry Orchard was there, therefore Harry Orchard must have done it—and Pettibone must have told him to. Now, I will tell you how it was. This fellow was there just as he had been there before. He was there pursuing his regular calling, to get somebody's change without working. He had gotten acquainted with Giubbiny. He was alone. There were some girls living over in Bradley's flat and he got acquainted with the girls. There might be some time when he could not be playing poker, and so he did the best he could to get acquainted with them. He swears he took Mrs. Crowe out to the theatre, and she denies it. She says he did not. Now, there is one witness in this case that we have called whom I might suspect committed perjury—that is, if Orchard did take her out to the theatre I should hope she would commit perjury about it and say he did not. If she would not I would not think much of Mrs. Crowe. Would you? Gentlemen, I will not argue very strongly on Mrs. Crowe's testimony. She is married. She might have a child some time, and she would hate to have it go down in history that the mother of this child once went to a theatre with Harry Orchard.

Well, what did happen there? Orchard was hanging around. There was an explosion. The newspapers were full of it. Giubbiny's store was full of it. Everybody in the whole neighborhood knew of it. It was the same way when something was found in the milk. The jar was standing on Giubbiny's counter and Orchard came in there and talked with Giubbiny about it. He heard of it; he read of it; it was there. McPartland got hold of it. He talked religion to him. He told him about St. Paul and Kelly the Bum, and how Kelly the Bum's life had been saved, and St. Paul's soul had been saved, and so this fellow started out to do the stunts of St. Paul and Kelly the Bum both in one. He knew of the Bradley explosion. He was there at the time. If he could say that he was responsible for the Bradley explosion and that Moyer and Haywood and Pettibone were responsible for him, it would be another link in the evidence that might tie a rope around these men's necks, and so he adopted that just as he has adopted everything evil from the days of his childhood until the last moment that he appeared before you on the witness stand. He adopted the Bradley explosion. Now, how did it occur? Let us see.

## BRADLEY ON THE EXPLOSION.

These gas companies are not easy marks. Did one of you people ever get anything out of a gas company or a street railway company or a steam railway company or any other company? Do you think the San Francisco Gas Company gives up $10,000 on the theory that a lighted cigar caused an explosion when a lighted cigar could not cause an explosion? All right, gentlemen, if you think so; all right. This case was tried. They had experts in San Francisco. It went before the jury. The gas company themselves conceded it was a gas explosion, and the expert

they have put upon the stand here does not help their case a bit. He says that when you are puffing a cigar there will be a flame at the end, that he would not allow any smoking in any gas room where the gas was not closely confined and the room well ventilated, and it was easy enough to cause this explosion just as it was caused. Now, what does Bradley say? Everybody is a perjurer in this case, everybody is a liar in this case, and when it is all done with the one man that will emerge pure and white and spotless from the wreck and ruin of this case will be Harry Orchard. The witnesses lied, the lawyers will be blackened, the jury will be mighty lucky if they get off, and the only pure object that will arise from the ruins will be this spotless cherubim, Harry Orchard. Bradley is a liar. He is not a member of the Western Federation. He has always been on the other side. Orchard expressed his hatred of him. He would have had a motive in regard to him quite independent of Moyer, Haywood and Pettibone. He was in the Coeur d'Alenes in 1899. He was the manager of the Bunker Hill and Sullivan mill. He had incurred the enmity of Orchard and others. There is no reason on earth why this man should come here and help us, is there? I presume, down deep in his heart, this man Bradley would be glad, if in some way this jury could find an excuse for hanging Haywood.

Now, what are you going to do with that, gentlemen? You are not interested in hanging Haywood. If you were it might be different. You might say, "Away with Bradley! Away with everybody! Let us get at Haywood, and the quicked the better." But you are here as twelve jurors, not to kill somebody for killing ex-Governor Steunenberg, but to ascertain whether somebody did kill Governor Steunenberg. I submit, gentlemen, it must be perfectly plain that it cannot help Steunenberg, it cannot help justice, it cannot help anything to kill a man for the murder of Steunenberg, unless that man is guilty. Why should we presume he is guilty? Is there any necessity to connect him with it, any reason for it? You are asked to disbelieve Bradley and to disbelieve everybody, and by disbelieving everything to do the things that are most revolting to your consciences and your minds that you may kill him. Bradley was the man whom Orchard sought to kill. He takes the stand and swears explicitly that as he came downstairs that morning and put his hand on the doorknob that he saw a flash at the end of his cigar; that he is thoroughly familiar with the smell of dynamite and powder and that there was no dynamite or powder there; that he is sure it was a gas explosion and could have been nothing else.

Now, what else is there about this Bradley explosion? We called the carpenter and we called the contractor, both of whom have made affidavits in this case, and the depositions were read to you, and what do they say? They went there immediately after and they examined the walls and they say the explosion was caused by some substance between the walls. And how do they know it? Like taking the six walls of this room, and that wall bulged out, and this wall bulged out, and that wall bulged out, and this wall bulged out, and the ceiling was raised, and the floor was pressed down. Was it a dynamite bomb? Is the carpenter a liar? Is he in this conspiracy, this conspiracy to save Bill Haywood's life? How are they interested with us? What right have you twelve

men to pronounce that contractor and that carpenter perjurers to please Mr. Hawley? What can you say to your consciences, what can you say to your peace of mind? When you hear their story it is plain, simple, straight. They describe it. They tell you it must have been some substance inside, and where is there a man who has disputed it? Harry Orchard! Harry Orchard, the one thing pure and undefiled which the Idaho courts have discovered.

And what else? Was there any gas there? Why, Linforth swears there was, Bradley swears there was, half a dozen other people who lived in the house, the doctor, the lawyer, all the people who lived there, everyone of them, swear that they had smelled gas there for a week, right there in the hall, right there above the gas room, and this hall was just three feet from it and directly above it. They had smelled it for a week. But that is not enough. We called the plumber and he made an examination. He went down and examined that meter and he found where there was a little hole running into that meter and the gas was leaking a steady stream out of that hole, and yet you are asked to believe this miserable story of Harry Orchard's. They swear that gas was there. Bradley swears it was a gas explosion and there was no dynamite about it. No human being smelled dynamite. It had been cooped up there for weeks, and was there afterwards. The floors and the ceiling and the wall all showed the explosion from the inside. They got a judgment of $10,000 against the gas company to pay for it. The gas company itself never disputed it was a gas explosion, but claimed it came from the grate; and yet you are asked to believe that this miserable sinner is telling the truth against all these witnesses and all these plain inferences, so you can hang Bill Haywood.

## THE STORY OF THE POISONED MILK.

That is not all of the Bradley episode. Let me tell you some more of it. Is not this fellow a miserable liar with all the rest? Is it not an insult to the jury to have to listen to his testimony? Is it not an insult to any man to ask him to be influenced or moved by what such a man would say? Orchard tells you that he not only tried to blow up Bradley, but he tried to poison him. He crept up the back stairs in the early morning hour—up the back stairs—and he found three or four bottles of cream, and he got some strychnine and put it in the cream. He did not know whether it would kill Bradley; he did not know whether it would kill Bradley's wife; he did not know whether it would kill the girl whom he said he had taken to the theatre; he did not know whether it would kill one of the other maids in the house; he did not know whether it would kill Bradley's little child. And this is the story and this is the Orchard that Hawley fixes up with a brand new halo and a brand new heart to send him to his God to sing hallelujahs forever. All right, he and Hawley and McPartland can go. I will take my chances going the other way.

Is this story true? Let us see. This is a lie out of whole cloth, and Harry has got in it so fair and square that even Hawley cannot figure a way out. Let me show you. He was asked how he got up there. He went up the back stairs. Did you wait and see the milkman leave the milk and then go up? No, that would not do, because that would be at a time

in the morning when it might seem reasonable to a jury that someone would see him, or that he would not have time, or the milk would be taken in first, and it would not look reasonable. No, I went up there first and I stayed on the flat roof until the milkman had gone, and then I got down and put the stuff in the milk. Now, first, gentlemen, this was the first time in all Harry Orchard's life that he had ever used strychnine. If he ever uses it again I hope he will use it on himself, but he will not. That kind of fellow never does. It is the first time he had ever thought of such a thing. It is unreasonable on the face of it. Where he got the story is perfectly plain. The evidence shows that something was wrong with the milk one morning and they took a bottle of milk and sent it to the chemist, and they took another bottle and sent it to Giubbiny's store, and it stood on the counter, and Giubbiny says that he and Harry Orchard talked about it, and talked it over, and that is where he got the story.

## WASTING THE PEOPLE'S MONEY.

I think I might go back for a moment to a subject that I left without completing. Where did he get the story of the explosion? Let us see. This spotless one—he could get it out of the newspapers, but he did not get it entirely out of the newspapers. Harry Orchard swears that he placed that bomb, that he then went to the street car, that he got on the car and that he went away and did not come back for a week. Giubbiny swears that he went over there half an hour after the explosion and that Harry Orchard was there. He was there half an hour after the explosion. Is Giubbiny telling the truth or is Orchard telling the truth? We did not bring Giubbiny. They brought him. They brought him twice. They liked him so well the first time that they brought him back again and brought his wife and his child with him. Is he telling the truth when he says he went back there half an hour after and Harry Orchard was there? Gentlemen, if he blew up this flat he was not there, was he? Do you think he would stay there if he did it? I think not. He swears he went away. That is what he would have done if he had blown it up. But Giubbiny swears he was there in half an hour. If Giubbiny is telling the truth, then Orchard is a liar, and he never did it.

There is another piece of evidence that makes it more conclusive still, and that is that man who lived in the flat and went to Giubbiny's to take his morning drink. Mr. Hawley says that man has been contradicted, and he has brought Giubbiny clear back here, and he has brought his wife clear back here, to say that at the time Giubbiny had not gotten up and dressed and he could not have given this man his morning drink. Well, well! Now, do you think that was worth $600 of Idaho's money? I have seen a bit of easy money in my time, but I have never seen anything so easy as Idaho's money floating around here at this trial. If Harry Orchard was only out now he could be satisfied with easy money to his heart's content. Any old fake or any old scheme is enough to get a deficiency warrant on—a deficiency warrant from the State of Idaho, to be paid after we have gotten through. And when they cannot find enough fool witnesses to bring here and testify to use up your money, they bring thirty or forty more and send them back to Colorado without putting

them on the stand at all. Sure it is easy money. But I do not think it was worth even $600 of the money of the Idaho taxpayers to bring Giubbiny back the second time.

## THE MILK STORY.

What did he swear to? He swore he hadn't got up, that his wife hadn't got up. His wife swore to it, too. Now, this man was in the habit of taking a drink every morning. I do not know how it is with many of you, gentlemen. I cannot testify upon the subject myself; I skip a morning now and then. But he swears he took one every morning and he always went over to Giubbiny's, and Giubbiny no doubt generally waited on him, and generally had some conversation with him. Now, his place was open at six o'clock in the morning. Giubbiny's saloon was open to catch the early bird or the early worm, which is it? It was open anyway at six o'clock in the morning. The clerk was there. It is a matter of no importance whether this man who went for his early morning drink got it of Giubbiny or got it of the clerk. The drink is the matter of importance, and he got that. But let us see what he testifies to. He swears that when he went to the saloon he saw the Jap cleaning the steps, does he not, right around where Harry Orchard's bomb was, and when he went back from the saloon he saw the Jap picking up his pails and his brushes right there, and he walked 250 feet to his house, and he opened his gate, and as he opened his gate he heard this explosion. Now, I wonder Harry did not say that opening this fellow's gate would cause an explosion. He would, if it had been necessary in this case. And he walked that distance and it took him thirty-six seconds, so that at least within thirty-six seconds from the time this explosion occurred the Jap was there. And a neighbor next door swears he came running into the flat, that he had just barely escaped with his life—escaped from the explosion. Now, are you to believe that Harry Orchard went up the step and fixed the bomb, and back to the street car, and was away so far that he could not hear the bomb? He could not get on a car in a minute. If one came along immediately it would naturally have to stop, and then get away so far that he could not have heard it at all. And yet you are to believe all of these people liars in order to give credit to this story of Harry Orchard's and to convict this client of ours! Well, all right, gentlemen; I do not have to convict him. That is your job. If you can do it on that testimony, well and good.

Now, let us see about the back stairs. Is he lying? In the first place, I think there is some doubt about that whole milk matter. They cross-examined Bradley further. They tried to get him to admit that he might possibly have been mistaken about the gas, and to say at that time he did not know about Harry Orchard and his testimony and the bomb. But he made the affidavit after he knew about it. But he had said that he might be a little shaken since he had heard about the milk story, and he said at that time he knew nothing whatever about the milk. Until Harry Orchard's confession was reeled off to this court Bradley had never heard that his milk was poisoned.

Well, now, gentlemen, what do you think about it? Do you think that milk was poisoned and Bradley never knew it? Can you conceive

that Bradley's wife and Bradley's girl found some strychnine had been placed in his milk and never told Bradley about it and no investigation was ever made? I haven't any doubt, if we could get at all the facts in this case, that you would find it was a lie, that the milk was doubtless bitter, but that in some way the chemist had got a bottle switched or else the strychnine had been put in after, or something or other. At least I do not believe it was there then, or Bradley would have known it, and not waited two years for Orchard to tell him. Now, let us see whether Orchard did it. And here I say we have got him where there is no possible escape even for Orchard. He swears that he went up on the flat roof, not the flat roof of the adjoining house, gentlemen, oh, no; but the flat roof of Bradley's house, and he waited there until the milkman had come and gone, and then he stepped off the flat roof and sprinkled the strychnine into the milk. Now, let us see. First, let me give you the exact words of this wonderful truth-teller, Harry Orchard. Mr. Hawley, with a forgetfulness that does him credit—because there are some things you had better forget if you are going to make a reasonable argument to convict a man—he says he went on that flat roof of the next house. He says it is immaterial, anyway. That is the first immaterial thing that Hawley has struck in this case. It is immaterial whether he went on the flat roof or not. He says we do not lay any stress on it. Sure they do not. They don't lay any stress on anything but Orchard. He says we were not able to contradict it by anything but Giubbiny, whom I will speak of later. But he says it must have been the flat roof of an adjoining house, because, when he reads Bradley's testimony he knows it must have been a lie. I do not care so much about one lie more or less of Harry Orchard's, except I want to show what kind of a lie this one was. I want to trap bigger game than Harry Orchard in this particular lie. First, what does he say?

"Q. How long had the milkman been gone when you got there? A. I was there when he came. There was a flat roof on his back story and I got over on there before daylight." (The back story of the Bradley house.)

"Q. And you laid on a flat roof there somewhere? A. I laid on a flat roof there four or five feet above the roof on the back part."

Now, not the flat roof of the adjoining house. Oh, no! The flat roof of Bradley's place. Now, let us see about that. What is the testimony? The testimony is that the roof was twelve feet above the porch. The testimony is there was only one way to get on it and that was through the window upstairs. The testimony is that there was no other chance except to build a scaffolding or climb up a rain-pipe. Harry Orchard did not climb. You do not catch Harry Orchard shinning up a pipe. He might fall down and hurt his finger. No such chance as that for Harry. If he hurt his finger he could not play on a harp in the kingdom come. Oh, no! He swears he stepped over on the roof, not that he crawled up somewhere. But the contractor says in answer to Mr. Van Duyn's question—by the way, Van Duyn was in California when he did the heavy work on this case that Mr. Hawley tells us about. That is the reason none of us have known it; it was so far beyond the jurisdiction of the court. In answering this question he says that nobody could climb up these leader pipes, that they would not hold a man, and if they would there was a three-

foot overhang to the roof and you could not climb over that. Do you suppose Harry would risk that overhang? What does Mr. Hawley say? He gives up. A mighty strong statement when Mr. Hawley will give up, gentlemen. He says, now, that is an immaterial matter, anyway, and that he must have stepped on the roof the next door.

## STEPPED ON TO A PICTURED PORCH.

He must? Now, let us see about that. In the first place, he says he stepped upon this roof. Now, here is the infamy of it all. You have seen the picture. The picture was made more than a year ago. And that picture shows a flat roof, level with Bradley's porch, so that he could step from the porch over on to the flat roof without taking a chance in the world. The flat roof is there. But, gentlemen, Mr. Linforth swears that that building was not constructed until six months after the explosion occurred, and that at the time of the explosion there was not a roof anywhere within twenty feet, and he could not do it. Will you tell me where he got his flat roof? I will tell you where he got it. He got it from these myriad eyes of the Pinkerton detectives. He got it from these men who, from San Francisco to Chicago, and who, from British America to Mexico, have been straining their eyes and straining their ears to catch a word, to catch a look, that would seal Bill Haywood's fate. He got it from those detectives who haunted Mrs. Seward, who visited her twenty times, before she would come here and tell about finding a cork in Orchard's room. He got it from these detectives who had been his constant companions from the day they caught him in Canyon county until they left him in this witness chair. They could not get it anywhere else and these detectives got it from the photograph. Of course, anybody but a Pinkerton detective would have taken pains to find out when that photograph was made. But a detective never thinks of anything excepting St. Paul and Kelly the Bum, and with them there are about ten Kelly the Bums to one St. Paul. They had that photograph which this jury has today, and there they saw a flat roof level with Bradley's floor—and that flat roof had not been constructed for six months later, and McPartland did not know it—so these detectives helped fix up that choice bit of perjured testimony to hang Bill Haywood, and it is plain, plain as anything in this world can be. Is there any other flat roof in that vicinity? They saw the position they were in. They had heard Linforth's testimony that you could not possibly get upon his flat roof. They had heard the contractor's and the builder's testimony that it was impossible for any man to get up there. They heard the testimony that this back roof was not made for six months later. They had heard all of this, and they sent back for the Dago, Giubbiny; they thought he might help. Gentlemen, if they had wanted specific evidence they would have got somebody else—somebody who knew. But Giubbiny says that before that time there was a big house in a big yard, the Wise house, which everybody has told about in this case, and he said you could not get from that roof over to the roof of the Bradley flats, but there was a place where the corner came rather close to the back stairs, so if you would climb over the railing you might climb out on to that Wise roof. Now, that is what he says, but he had never done it. He had never measured. He had never observed

it. He did not know, and at the most he could not reach the roof, but he could only reach the back stairs, where this man never went and never claimed to go.

## THE OWNER KNOWS HIS HOUSE.

But this testimony is not through. Who do you think knows the most about it, Linforth, who owned the flats and built them, or Giubbiny, who could not tell whether that house was red or white or brown or yellow? He could not tell how many windows or how many doors there were in it.

You remember that after Orchard came back from San Francisco he came to Denver and he went to live in two or three rooms with Steve Adams and his wife, and part of the time with Billy Aikman, and there was hatched some wonderful schemes, according to this prosecution—some wonderful schemes in the six months, and in the three months preceding that, before he went to San Francisco. There he was trying to get Judge Gabbert and Judge Goddard and Peabody and Sherman Bell, and Moffat and Bulkeley Wells, and the world knows who—pretty nearly everybody with whom the Western Federation had ever had any trouble in Colorado from the beginning—pretty nearly all of them, and there was Peabody living in his house, and his ways were known, and his methods were known; and there were Goddard and Gabbert living in their houses and sitting at their open windows, and there was Sherman Bell living up beside the park, and there was Moffat and there was Hearne, all together in one little bunch, and all under the eyes of the officers of the Western Federation of Miners.

If Orchard is to be believed, and McPartland, who has put together the testimony in this case—if he is to be believed, they took some six or eight months for the purpose of killing these men, all of whom lived there, and all of whom were the enemies of Moyer and Haywood, and they had done everything in their power to destroy them, and yet, gentlemen, in all that time—in all the time that those three men were on their track, and all the time that the officers were there, these men escaped uninjured. Not one person did they ever harm. Not one thing did they ever do which is corroborated by any witness outside of Harry Orchard. Peabody was left alive, Goddard and Gabbert were uninjured. Nothing happened to Moffat, nothing happened to Hearne, nothing happened to Sherman Bell, nothing happened to Bulkley Wells, and the only people that were killed in Colorado that are charged to us are some workingmen and Beck and McCormick down at Cripple Creek, and they were killed when these defendants certainly knew nothing about it. All their enemies escaped.

Then Orchard came out here to Idaho to kill Governor Steunenberg, a man who had not been governor for several years, and who was dead politically. Now, it is a strange circumstance that with all the men they wished to get in Colorado, all the men who had laid unlawful hands upon them in Colorado, their lives were saved.

When you consider the trip of Charles Moyer from Denver to Ouray, and from there to Cripple Creek and back to Denver, you would not wonder if he had murder in his heart against some of the men who were responsible for the wrongs inflicted upon him, and yet Peabody was unin-

jured—everybody was uninjured in Colorado who had anything to do with those unlawful acts.

Let me speak for a moment about Moyer. Did you ever hear a story like that? They are trying to kill Moyer here. They are asking an Idaho jury to take away his life when they took every means, fair and foul, to kill him while he was in Colorado, when Governor Peabody tried to murder him and the Mine Owners' Association brought false charges against him, and tried to send him to death, and failed, and now they ask an Idaho jury—an Idaho jury—to kill him when they could not. He went from Denver to Ouray. He went on a holy mission. He went to provide food for the wives and children, those whose husbands and fathers had been driven by force and violence and murder, driven from their homes and made to flee. He went to take care of the families of those deported men, and he wired to Governor Peabody if these deported men could come back, and Governor Peabody sent him a lie by telegraph. He wired him a lie. He said they might go back, and Moyer started to bring them back, and they got half way, and they were met by Governor Peabody's militia and were made to walk back from whence they came and told that they never could return.

He went down there to look after them, and what happened? There was no military law when he started. The civil law was in operation in that county, and this miserable, contemptible, slimy tool, this Sheriff Rutan, who disgraces even Colorado and the Mine Owners' Association, when he found Moyer was coming, telephoned to the other tool up at the state capitol to send the troops, and he sent them, and they declared military law because they knew there was no judge and no jury who could be made to murder Moyer; and they met him with military law and threw him in the bull-pen. For what? As they had Ed. Boyce a few years before, "for safe keeping"—for desecrating the American flag, when the lines written upon the American flag were every one true—when it was printd in Denver and written in Denver, and that county had no jurisdiction over it any more than Idaho has. And they threw him in the bull-pen for that, and, of course, they got him out for that, and then the militia took him and held him without any process whatever, and they put him into the bull-pen with Pinkerton detectives and vermin crawling all around him, and they kept him there for days and he appealed to the supreme court of Colorado and that court turned a deaf ear to him and said, "No, we cannot help you out of the bull-pen." That was not what the supreme court was for. And then he appealed to the United States circuit court in St. Louis, and that court issued a writ, showing that there was a court to which a workingman might appeal—there was a court left open that the Mine Owners' Association did not own; and he appealed there, and the United States circuit court issued that writ. And then what did they do? The governor sent down word to release him. Why? To release him so that the United States circuit court could never render an opinion in that case—so they could never put to shame the supreme court of Colorado, which sanctioned the most unholy kidnaping that has been told of in this case—so that the United States district court could never condemn Governor Peabody. And then what did they do?

They then arrested Moyer on a criminal warrant for murdering a man down in San Miguel county, a man whose name they did not know; they did not know who was killed, and it afterward transpired that nobody had been killed in that year in San Miguel county, and at the time—that very time—Moyer was several hundred miles away; but, of course, that does not make any difference, and they held him a while on that charge of murder preferred on account of some man who never existed. They held him without trial, and when they had held him as long as they could, they discharged him.

Then what did they do? They sent over from Teller county—over from Cripple Creek—and they arrested Moyer for killing Beck and McCormick, but he was not there and he knew nothing about it and they found it out and they discharged him, and then they did not want to let him go and they turned and arrested him for killing Roxy McGee at the Victor riot. And where was Moyer then? He had been in the bull-pen at Telluride for sixty days, and he could not have killed Roxy McGee if he had the intent and purpose to kill him. But they took him for killing Roxy McGee and shut him up in jail without bail, and finally, day after day and week after week dragged along, they prepared an information against him, but he finally gave the sheriff a tip of a hundred dollars to take him to Denver and allow him to fix a bond, and there he gave the bond and nobody ever heard of that case since.

Gentlemen, workingmen are held to very strict accountability—very. When a man like Stewart, who has taken union wages and is enjoying union hours, is taken out in the heat of the moment and beaten the world stands aghast, and every newspaper prints columns about what an unholy crowd are the Western Federation of Miners and the laboring men. But when the governor of a great state, when judges, when the military authorities—when the men in charge of the administration of justice—when they make out affidavit after affidavit which is a perjury and a lie, when they violate the liberties of men, when they set aside the laws, when they attempt to assassinate a labor leader under the forms of law, then there is nobody to denounce it—nobody—excepting some nobody.

I would like to have this jury compare the lawlessness of the Western Federation of Miners in Colorado with the lawlessness of the Mine Owners' Association and the people in charge of affairs in the state of Colorado.

Now, to go back a moment to Denver. Harry Orchard said that he tried to kill Governor Peabody and that he made a bomb which has been introduced here and has been christened by God-father Hawley as the Peabody bomb. The words are not blown in the bottle, but he has called it the Peabody bomb—for what purpose I don't know, but that is as good a name as any, and I don't care what you call it. The evidence is that he went over across from Pettibone's store, although Pettibone did not tell him to go—he went over there and asked to have this lead arrangement made—made to put a cactus plant in—and it was made for him and he took that bomb up to Peabody's house and he got Billy Aikman and he got Max Malich and he got Joe Mahalich in various ways to help about that bomb—to steal powder to load up this wonderful bomb, and they

go and hire a livery rig to haul around this wonderful bomb which he carried under his arm through the streets of Denver. Of course, all three of these men say he lies—Joe Mahalich, Max Malich, Billy Aikman—they all say he lies, but Hawley says they are perjurers, that they belong to the Western Federation of Miners. Can you, gentlemen, figure out any excuse why you are going to disbelieve these three men to suit Harry Orchard's story? Here is Max Malich, a man of some standing and influence, and of some property—just think of his property, and then tell us whether his testimony is not good. A man with property would not lie. And here is Max Malich with money—money! What about Joe Mahalich? You heard his testimony. A poor boy who came over here from Austria and who went to work in the smelter at nineteen years of age—a boy who gave his youth and his young manhood and strength toward building up the fortunes of the Guggenheims—a boy who never did anything but work. He worked for himself, he worked for his family, he worked for his union, and working for his union was working for himself and his wife and his children. Is there any reason in this case to believe that Joe Mahalich is a liar? Certainly he looked like an honest man. Certainly he has been living an honest life. Certainly he is one of those men who come from foreign lands inspired with the dream and the hope of liberty, and he came here in order to work in a smelter at three dollars a day, and he joined the union to better his own condition—he joined it for the sake of himself, his wife, and his children, and he has been a workingman all his life, and are you going to lay his testimony to one side and say he is a liar? Are you going to lay that aside for this man who has left his wife and his child to be brought up by charity, and left them without aid or comfort or hope—who committed bigamy, arson, larceny, burglary and murder—are you going to do this because Mr. Hawley suggests it to you and because it will help convict Moyer, Haywood and Pettibone? If there is any excuse, gentlemen, for it, I cannot find out what that excuse is.

## THE PINKERTONS.

And what are the circumstances? They went to find out Peabody's habits—what time he left home in the morning. They could have gotten him any time they wished. They laid the bomb down once by the sidewalk; they fixed a wire so they could pull it, and Harry Orchard says that about the time they wanted to pull it a couple of coal wagons drove along and they did not dare do it, and so they gave it up, and they never went back any more. They followed him with shotguns and bombs two or three months, and gave it up when the coal wagons came along. But they started again as soon as Harry Orchard got back from San Francisco. What did they do then? In the meantime, Goddard, who was elected as a democrat, had outraged the whole state by unseating a governor who had been elected by 10,000 majority, as he testifies himself, and he had aroused against himself the wrath of every democrat, and every honest man who is not so hide-bound that he is not willing to have a majority rule—he had done all this—he had been elected as a democrat, but had become a republican, and did the outrageous job with another man who had been elected as a demo-

crat—Judge Gabbert. He had become a republican, and these two—these two gentlemen—had called down upon them the wrath of the whole state and the whole nation, as Judge Goddard testified himself, and during the time that had happened Denver was ablaze. People were talking about it; the newspapers were printing articles about it.

Harry Orchard got back to Denver. Many men were interested in Goddard and in Gabbert. The only interest that has been shown in this case that these defendants had in either one was the eight-hour law. What does that amount to? What does that amount to in comparison with all the political difficulties that existed in Colorado in 1904 and 1905? Yet that is all—that is all they claim. He came back and then he started after Peabody again, and how did he do it? Why, he picked up this old Peabody bomb. In the meantime Peabody had been defeated; he had been declared elected, but the democratic governor was seated and he had taken his seat under the agreement that he would resign inside of thirty minutes, and had filed his resignation in advance because they could not trust him to carry out the agreement after it was made, and before his time expired, he, a republican, had appointed this democrat, Judge Goddard, to the supreme court bench.

Well, Peabody finished his job, or rather his job finished him, and he went to Canon City, and Orchard started for Canon City. Now, that was a great exhibition, was it not? He was going down there to kill Peabody, and he took into his company a man named Vaughn, with whom he had not been acquainted, who was not a Western Federation man at all, who was going down there with him to canvass for life insurance. Orchard says it was a blind. I do not know whether it was or not, but he went down to Peabody's town. He saw his house and he learned that Peabody sat at the window night after night and he knew that he could get him by placing this bomb under Peabody's window, but he did not do it. There was no difficulty in it whatever. He had every chance in the world to get him if he wanted to get him. Then what did he do? Why, he had an alarm clock in his valise with the bomb—I suppose an alarm clock to wake up the bomb with. He put these two in his valise, and one day Vaughn heard it ticking and asked him what it was, and he said it was a bomb and that he brought it down there for Peabody, in a joking way. Now, they have brought Vaughn here from Minnesota to corroborate it, and Vaughn says Orchard told him it was a bubble, and he did not say anything about Peabody. Well, it is a little strange that without a moment's notice he should have told Vaughn, who up to that time had been a stranger, and who, I suppose, is not a murderer, or else they would not have brought him here, that he brought a bomb there to kill Peabody with. But, stranger still, what did he do? He stayed around there without doing anything except canvass for insurance, and then he went down to Rocky Ford to canvass insurance, and there he made some money; and while he was gone he left this bomb and alarm clock in his valise in the boarding house.

Now, what do you think of that story, gentlemen? Did you ever hear such a story as that before? Was any ever made like it before? A man with a deadly bomb in his valise, which he intended to use to kill an ex-governor of the state, and he deliberately goes away for several

months and leaves that bomb in an unknown boarding house, open and free so that anybody might see it. Now, if you want to believe it, all right. It has got the best authority on the face of the earth—it has got Harry Orchard, and if you start out to believe Harry Orchard you might as well believe everything he says, even if you don't believe it.

He went away, and three or four months later he sent down to Canon City for this valise and this bomb, and they brought it back, and, strange enough, the bomb had not been disturbed, and there it was—forty pounds of lead pipe and powder with an alarm clock attachment—ready to go off. There it was for three months in the room of a boarding house—three months knocking around in a strange city, something that would send him to the gallows, perhaps, excepting he could make a quick dodge and swear it onto someone else.

Then what did he do? Then he says he tried to kill Judge Gabbert and Judge Goddard. There are two matters in this case I have not time to discuss; one is the murder of Gregory and the other is the killing of Walley by what he says was a bomb which was loaded and laid for Judge Gabbert. No human being but Orchard in any way corroborates either one of those stories. No human being but Orchard comes here to say that Walley was ever killed, and he did not see him. All there is to that story, as far as we can get it, is that some man was killed out on the prairie, and Orchard comes here and says he was killed with one of his bombs; I am going to pass that. So far as Gregory was concerned, he was a man coming out of a saloon in Denver and he was shot. He was a man who had previously offended John Mitchell's organization, the United Mine Workers of America, had offended all the workingmen in the State of Colorado, but there is not a scrap of evidence in this case to connect Orchard with it except Orchard's word. There is no evidence to show that he ever had anything to do with it except that here was another criminal act out on the street and Orchard and McPartland charged it up to Orchard. That is all there was to that.

Now, a few words about the Goddard bomb. That bomb was dug up by a party of men who went from the Pinkerton office—three Pinkerton men and Bulkeley Wells. The fact that the Pinkertons took Bulkeley Wells with them shows they are not proud. They started out to dig up this bomb, and the Pinkerton fellows went right to the spot where the bomb had been buried for almost a year. Now, I don't know when it was put there. Do any of you gentlemen know? The information was obtained from the Pinkertons. It was discovered by the Pinkertons. It was dug up and it was taken by the Pinkertons to the Pinkerton office. The exhibits were put together by thePinkertons; everything was signed and sealed by the Pinkertons in the Pinkerton office. It is suspicious to say the least—mighty suspicious.

Let me look at the other side of the question. Orchard says he planted it in June; he dug up a square place in the turf near the judge's gate. The turf has been watered and tended carefully; it had been irrigated in the summer and mowed with a lawn mower regularly. Orchard says he went back there after it did not explode and saw a yellow grass plot in the midst of the green. It lay there all summer, a little yellow plot in the midst of the green plot, and Judge Goddard went in and out

and his family went in and out, and the children played around it, and nobody discovered this little yellow grave in the midst of the yard. Now, you can believe it if the evidence justifies you in believing it, but that is not the strangest part of it. He planted it in June. He says that Pettibone knew all about it. He knew that the bomb did not go off. He knew something was wrong with it and Orchard stayed there until August 26th, two months and a half or three months. He knew that that bomb was planted outside of Judge Goddard's gate and he and Pettibone knew that it was there, and yet, gentlemen, he packed his trunk with a dynamite bomb and possibly a few other personal effects and comes up here to Idaho and leaves that yellow grass plot and that dynamite bomb slumbering peaceably beside Judge Goddard's gate. And he knows it, and Pettibone knows it, and Haywood knows it, and Moyer knows it, if Orchard's testimony is true. Now, I wonder if you believe it. But that is not the most wonderful part of the story; here is another for you: I don't know whether there is anything in logic or in facts to make a man doubt Harry Orchard. You could not make Hawley doubt him even though one should rise from the dead. But Harry Orchard comes up here and is arrested the first day of January. It develops on the second or third day of January that Tom Hogan is Harry Orchard, the Harry Orchard that Pettibone knew, the Harry Orchard that Bill Haywood knew, and that Charlie Moyer knew; the Harry Orchard that had been planting bombs wherever these men told him, and these men were not arrested until the 19th day of February, seven weeks, gentlemen of the jury, after Harry Orchard was in the hands of the state—seven weeks. Pettibone knew where this bomb was in front of Judge Goddard's gate just as well as he knew where his own cellar was. Harry Orchard says so. Haywood and Moyer and the whole of them, if Orchard's story is true, knew that up there in front of Judge Goddard's gate was a bomb which had not been working. Now, what do you suppose they would have done? Are these men fools? Do you suppose Harry Orchard would have gone away and left it there? Do you suppose that these men, seven weeks after Hogan's arrest, would have left it lying there? Why, what kind of men do you suppose they are? Don't you think if they were in such a conspiracy as this they would have worked by day and by night to destroy any evidence that might possibly bring them to the gallows, and yet you have got to believe this story with all the rest, and you have simply got to believe it because Harry Orchard says it is true. It would never do to cast a doubt upon a cherubim like him.

Then what happened? Orchard took another trip. Moyer came home one day and said he was not feeling well and he could not stand it to have any more murders happen in Denver. There had not been any—not one. That is, there had been no murders of anybody that Orchard says these men were interested in getting, at least not since the killing of Gregory. Moyer comes home and says his health is so bad that he could not stand any more imprisonment; it might hurt his health, that is, if he killed Governor Peabody and they would arrest him and hold him a month or two in those damp jails down there in Denver—it would be bad on his health. If they did not catch him it would not hurt his health, and if they did the dampness would not matter, but anyhow, he makes this excuse and I suppose that this is as good as any, and he says that

Moyer came back and told him that he could not possibly stand it to have anybody killed there, that he must go off and kill Neville—Neville who had walked into his office and asked him for $250 to pay his expenses for being brought back on a charge of blowing up the Independence depot—Neville, for whom Orchard had submitted a claim to the board of the Western Federation of Miners that had been turned down, and he never heard of him since. And yet he says that Moyer wanted him to go and kill Neville out in Goldfield, and Neville was nothing but a common miner, and Haywood stepped up and said, yes, and he would like to get Steunenberg, too, and for him to make the circuit and kill them both; and he packed his trunk and was away the next day—the very next day, gentlemen.

THEY HAD TO GET EX-GOVERNOR STEUNENBERG.

When this man had anything to do he did not stop. Now, where was he going? Let us look at this evidence and see whether he is a liar or not. Did he come up here to kill Steunenberg, or did he come for something else? It was about time for him to move again. Mark you, all this time, from the time of the blowing up of the Independence depot, he had gone under an assumed name, he had hidden himself, as he states in his own story. He was wanted, and it was not safe for him to give his own name; it was not safe for anybody to write to him by his own name; it was not safe for anybody to be connected with him; he had been living in stealth, and he packed his trunk and skipped. Where was he going? He bought a ticket to Portland. He was going to see the Portland exposition. He might have been going to see the show up at Portland and kill a few people on the way. Anyhow, he went to Portland.

If these men down in Denver had sent him out to kill Steunenberg the chances are they would have wanted him to kill him as quickly as possible. By this time they knew Orchard's habits, and it would be better for him to kill Steunenberg and get through with it while the $150 was still in his pocket, or some part of it. He packs the Peabody bomb in a trunk; he does not stop to unload it, so he says. Now, I don't believe that story. I haven't any doubt but that he packed the lead case in his trunk, but I don't believe that even Orchard would send this bomb bumping up and down over the road from Denver to Portland and back to Wallace and down here again, packed in a trunk and kept in the baggage car. It does not look reasonable. He doubtless did pack this case in the trunk, taking it along, thinking it might come handy sometime and somewhere—it is not much different where or when. Anyhow, Orchard did not want to be caught away from home without a bomb as he might not have the tools with him to make another, so he packed the case. Was he coming after Governor Steunenberg at that time? Let us look a minute. He went to Caldwell; he came to Boise—he says he came to Boise—thinking he would kill Governor Steunenberg in Boise; and he knew he was here, and, yet, strange as it may seem, he left his bomb in Nampa—never brought it to Boise at all—never took it out of his trunk at any time, and when he did make bombs down there he made new ones, and did not use the Peabody bomb at all.

Well, he came up here to Boise and saw Governor Steunenberg at one

time. He thought he would shoot him at one time—he thought he would crawl under is bed and plant a bomb, but he did not have a bomb, and he did not think it would be safe and so did not do it, and he got through here at Boise and went away. Where? In the early days of September he went on to the Portland fair, gentlemen—went on a junketing trip to the Portland fair—and he took in the Portland fair, or probably thought he would find some easy marks somewhere around the Portland fair, and he went up there. He went to the place he started for at first, and the place he bought a ticket for at first. He went to the fair and then he went to Seattle, and then he went out to look for a ranch that he had been dreaming of—that he and Pettibone had been talking of—this ranch we have heard of from all the witnesses in the case—but he did not find one that just suited him, and then his mind turned back to his old love, the Coeur d'Alenes, the place where he had got a fortune—pretty near—and where he had lost it entirely.

Now, he did not go to the Coeur d'Alenes to see Jack Simpkins—he does not say that himself. When he left Denver there was no arrangement that he should go and get Jack Simpkins. Nobody sent him there at headquarters; nothing was done in reference to getting Jack Simpkins, and he hadn't any thought of getting him when he went to the Coeur d' Alenes, but he got to Wallace, and there he found his old friends, and among the rest he found Jack Simpkins, and he stayed around there a while playing poker and loafing and drinking, doing anything that was easy to him, and he saw Jack Simpkins and he saw his old friend Paulson, and he went to dinner at Paulson's home and he conceived the plan of stealing Paulson's child, and Jack Simpkins said to him that if they got Paulson's child they could get $60,000 for it and could hire somebody to go down and kill Steunenberg. That would be cheaper and easier than to do it himself. He went back there and found Paulson rich, and Hutton rich, and the barber rich, and everybody that he had ever known was rich, and they had grown rich out of this mine of which he once owned the sixteenth part, and he found Dan Cordona rich. Everybody, as he said, had plenty of money, and he was a poor tramp out upon the world, and he says he went to Simpkins—I don't know whether he did or not, and the fact that he says so makes me think he did not, but he says he did at any rate: he stayed around Wallace a month and then he went from there and stayed with Jack Simpkins up on his tree claim for a time, but he stayed a month in Wallace.

Now, gentlemen, there are some things in this case which cannot be harmonized with Harry Orchard's testimony, and among those things the matters which stand out the clearest and most distinctly are Harry Orchard's movements in Wallace during that month.

Now, he started out to kill Steunenberg for the officers of the Western Federation. He had a contract with them that he could get money from them whenever he wanted. All he needed to do was to tap the wires and it would come in bucketfuls. He went to the Coeur d'Alenes. He lingered around there for more than a month. He did not have a cent and he pawned his watch, he pawned his railroad ticket, showing that he had no purpose of coming back. He had got rid of everything that he could put up at the pawnbroker's shop. He borrowed five and

ten dollars wherever he could; he burglarized the cash drawer; he stole from his friend who was keeping a saloon, and broke into the depot and burglarized that and attempted to steal the child—all of these things to get a little ready cash in the Coeur d'Alenes—and down here in Denver were Moyer, Haywood and Pettibone, all anxious to send him money if he tapped the wire—anxious to send him money if he should make his needs known, and yet he was a pauper, and a burglar and an attempted kidnaper all in that short space of thirty days, when he could not get enough money on which to live.

Gentlemen, is it possible? Can you understand it or believe it? It is of a piece with that other story that they sent a hundred dollars to Jack Simpkins for the purpose of getting it to Harry Orchard, and I might refer to that in this connection. Mr. Haywood has explained that hundred-dollar draft, a draft that was sent from Denver on the 21st, and sent to Jack Simpkins in Spokane. Now, Jack Simpkins came to Denver direct from Harry Orchard from Caldwell, Steunenberg's home. If Harry Orchard had been wanting any money he would have sent by Jack to Denver to get that hundred dollars, and Jack Simpkins left Denver on the 14th day of December, and he was in Salt Lake City on the 16th, and Harry Orchard was there on the same day, although it is not shown that they saw each other; he passed through Caldwell on the 17th or 18th, and if there had been any need of money or any thought of money or any arrangements about money, would not he have taken it in his pocket to him, or would he have left it to send a draft to him three or four days later and trusted to luck that the draft would be sent again to Harry Orchard wherever he might be? To me it is ridiculous upon the face of it, and yet as much fuss is made about this draft as any other portion of the case.

Now, what else did he do? He stayed there in the Coeur d'Alenes. He did everything he could to get a little change; he tried to coax Coates to help steal Paulson's child and Coates told him if he ever did such a thing he would denounce him and drive him out of the country. Is there any reason to doubt that—any reason why this jury should believe that Coates said anything else, except that Harry Orchard said so? And if a man believes Harry Orchard against Dave Coates it is because he is bound to believe him regardless of any experience or any facts. He and Jack Simpkins left Wallace. They went over to Spokane. They came down to Caldwell. They came down to Caldwell, where, as a matter of fact, Harry Orchard did kill ex-Governor Steunenberg.

Now, let us see about his motive, and why he did it, gentlemen. Let us see who has the best of this side of the argument. The position of the defendant in this case is this, that Orchard killed him deliberately, out of pure personal malice; that he killed him to satisfy an old grudge; that he killed him on his own account; that no human being had anything whatever to do with it, unless, possibly, Jack Simpkins, and we know nothing about him, but as to him we don't believe it. Jack Simpkins did have some personal motive and he was there about that time, and that is a suspicious circumstance which Jack Simpkins must some time explain, but outside of that I believe that he killed this man to satisfy an old standing grudge. I believe that he went back to the Coeur d'

Alenes and found all of his friends and companions were rich, that they were millionaires—Cardona had his interest in the Hercules mine—and he looked back at the time he had an opportunity to be rich too, and he always believed it was because Governor Steunenberg sent the troops to the Coeur d'Alenes and he had been driven out, and that if the troops had not been sent to the Coeur d'Alenes he would have been rich—he would have been like Al Hutton, and Paulson, and Cordona, and Ed. Boyce, and all the rest; and instead of that he was a homeless wanderer.

Now, Mr. Hawley said he never made any threats. Didn't he, gentlemen? Mr. Hawley has to say this. There is no escape for it, because if we show his personal motive to commit this crime it goes a long ways towards making a reasonable jury believe he did it on his own account, and so Hawley says all our men are liars—from first to last they lie.

Orchard had sold his interest in the mine; he claimed nothing there; Steunenberg had done nothing to him; they are liars, one and all. And Orchard comes in here with the brazen effrontery which characterizes this brand of criminals—he comes in here and says, yes, you are all liars, every one of you are liars. I did not go into Sterling's room; Mrs. King and her daughter, and Mrs. Fitzhugh are liars. I did not go into Scott's office; Aller is a liar. I did not see McGee in the Coeur d'Alenes; Dr. McGee is a liar. I did not go to the section house as described by Mrs. Joyce; Mrs. Joyce is a liar. I did not go to Kid Waters' house at any time; Mrs. Fallon, Kid Waters and his wife are liars—they are all liars. I did not make any threats against Governor Steunenberg; I did not offer to sell my interest in the mine; I did not tell Mr. Ramey, the stage driver, that I wanted to sell my interest; Ramey is a liar. I did not try to sell it to Mrs. Gill or talk with her and Gill; they are liars. Mrs. Lottie Day is a liar; Huff, who met him in the Coeur d'Alenes, is a liar; Eugene Engley, who had been an attorney general of the State of Colorado about the same time that Hawley and Borah were supporting Bryan, is a liar; Coates is a liar; Elliott, Redd, Sullivan, Max Malich, Joe Mahalich and Barnes, Davis, and William Easterly are liars; D. C. Copley lies, Flynn lies, Boyce lies, Pat Moran lies, Tom Wood lies, John O'Neil lies—they are all liars—every one of them.

You are not asking much of this jury, are you? You are not asking much when you ask the jury to take away the life of a human being upon the testimony of a man like Orchard, and you are not asking anything more when this same Orchard, covered with all the guilt that could attach to one slimy mortal, is contradicted by thirty or forty men and women? Oh, no, gentlemen, you men of Idaho, that is a small matter. It is a small thing to take away Bill Haywood's life. It will only mean a few moments of pain to him: it will only mean a few years of pain to his mother and his wife and his children. It will only mean a serious injury to the great organization of which he is one of the heads. It will only mean one more man killed. And Harry Orchard ought to be enough to justify any jury in doing it. And, gentlemen, Mr. Hawley and Mr. Borah ought to know you better than I do; I have been here with you for three months, and I may be mistaken, but I don't think it—I don't think it.

I would not be afraid to place these lawyers in the jury box in this case. I would not be afraid to place the bitterest man who ever denounced these men in the jury box in their place. It is one thing to denounce a defendant; it is one thing to believe that he is bad; it is one thing to have suspicions of his guilt, but it is another thing, gentlemen, under your oath, and your consciences, with the best judgment that the Lord has given you—it is another thing to take away his life. That is your responsibility. I have no thought that there is one man on this jury that would take that responsibility lightly; not one. I have no thought that there is one man on this jury that would not protect William Haywood's life as carefully as he would protect the life of his own brother if it was passed into his charge, and it is for that reason that I have been confident, and shall be confident to the end, that not here, not only not here in Idaho, but that nowhere on earth could you find twelve men charged with this grave responsibility who would dare to face their consciences and their God with Bill Haywood's blood on their hands under the testimony in this case.

But let me see, did this man have any personal feeling against Governor Steunenberg? Again I hope Senator Borah will make a note, for I want to have him tell this jury whether he believes that Ramey is a liar, that Mrs. Gill is a liar, that Mr. Gill is a liar, that Mrs. Day is a liar, and that Frank Huff is a liar, and David Coates is a liar, and we will leave out the Western Federation men for I don't want to embarrass him. Hawley says that all those men are liars.

Now, let us look at it. Hawley says this man had parted with his mine, and had parted with it forever. Ramey, the stage driver, swears he met him on a wall-eyed horse about three days after the Bunker Hill and Sullivan mill was blown up and he tried to sell it to him. I want to hear Senator Borah say that Ramey lied. He looked as good as any of us. Is there any reason to say that he lied because Orchard says so? Mrs. Gill swears that she saw him in March of 1899, which was thirty days before the Bunker Hill and Sullivan mill was blown up, and a year and a half after he had made a deed of the mine. What do you think? Did Mrs. Gill come down here from Spokane—she is not a miner—she is not interested in the Western Federation of Miners—did she come down here to commit perjury for our benefit? Gentlemen, I wonder if you are going to guess that way. What right have you to guess that way? Can you satisfy your reason—can you satisfy your conscience? If you say Mrs. Gill lied the only reason you can give is because Harry Orchard said it was not true, and even he did not take the pains to come in here and deny it. Mr. Gill, her husband, swears he looked it up at that time, and he did not know whether she could buy this interest in view of the fact that they were paying off for something else, but he looked it up at that time, in March, 1899, and he concluded not to buy it. And he met Jack Simpkins and Harry Orchard in Spokane when Harry Orchard was on his way down to kill Steunenberg in 1905; he met them in Spokane, and Gill said to him, "It is too bad that I did not buy that interest in the Hercules; I would have been rich;" and Harry Orchard said, "Yes, if that — — — — Steunenberg had not run me out of the Coeur d'Alenes I would have money in all my pockets." Now, is he a liar? He was on his was to kill Steunenberg, and he made that statement then about him, and if this

jury can believe that is a lie I would like to know the reason why.

Then comes Mrs. Day. Now, Mr. Hawley would like to have you believe a part of her story and disbelieve a part, and so would I. There is one place where Mr. Hawley and I wholly agree. It may be difficult for you twelve men to do it to accommodate either one of us. Let us see who Mrs. Day is. Mr. Hawley says she lies when she tells about the conversation with Orchard. Let us see about that. Well, now, I never met Mrs. Day until she came to Boise, but I know this much about her, gentlemen—I know that the state—the great State of Idaho, represented by Senator Borah and Mr. Hawley and the man with the iron mask—they sent to Denver and brought her here, didn't they? Now, gentlemen, you would not have me believe that they would send to Denver and bring a witness here who is untruthful to swear away the life of a human being. Surely they would not do that. Why, Mr. Hawley, I am surprised that you called Mrs. Day a liar. I suppose he would have you believe that they found out she was a liar and sent her home. I don't know how else they could explain it. They brought her here and they gave her some of this easy money that has been floating around Boise. They paid her and then they found out what she knew and they sent her back home quick, didn't they? They are the ones who set the stamp of approval on the truthfulness of this woman. They have no right to dispute her word for a single moment. Why should she lie about it? The story looked reasonable; just the kind of a story that this man Orchard would be apt to tell to a woman. Let us see what he said. Mr. Hawley's memory is somewhat at fault, too, about some of the more recent features of this trial; he said that we put her on the stand and he drew out on cross-examination that she had seen Orchard and Haywood go together to Orchard's room. I proved that. I did not wait for Hawley to bring it out on cross-examination—she told that with the rest of her story. I was willing to take it all—take it just as it was—and she told, on direct examination, that Orchard was sitting there on the sofa with her and Haywood came in and he and Orchard walked to the back part of the hotel and went into Orchard's room. We will discuss that in a moment. What did she say about Harry Orchard? She said she met him in the Belmont hotel, where he had been in the habit of stopping, and he began to tell her the story of his life. Well, that does not sound unreasonable so far, does it? Many a man has told a woman the story of his life—with slight variations here and there; many a man has told many a woman the story of his life in the same sort of way. He started out to tell Mrs. Day the story of his life, and he said he would have been a rich man only for one thing—"I would have been a rich man except for Steunenberg; I had plenty of money; I was an owner of the Hercules mine and Steunenberg sent the soldiers in there," or, as Lottie Day put it, "according to Steunenberg's decision"; she did not know whether he was judge, or a high admiralty officer, or governor, or what he was, but anyhow it was on account of Steunenberg he was forced to leave and he had to lose his property and he would kill him if it was the last act of his life. I wonder if that is a lie. Why, if you believe that is a lie, then the rest of it you know is true, and she says what? "Don't think about that, go out and get another mine." And then this tender-

hearted, susceptible man, in the presence of a beautiful woman, says, "But that is not the worst of the story; when I lost that mine I lost the only woman I ever truly loved." Now, that is something that Mrs. Day never could forget. He lost the only woman that he ever truly loved. Never any of us forget incidents like that. We may lose those that we partly love, but Orchard never could forget the only one he ever truly loved. Now, does that sound reasonable? Does it sound as though he told it and told it to Mrs. Day? He probably would not have told it to Max Malich in the turkish bath, but he would tell it to Mrs. Day in the Belmont hotel, and with all the sincerity with which men have always whispered those things to women since the world began.

There is a little bit of corroboration of this story. It would be a strange thing if the defense could find any corroboration, but here it is: Orchard left Canada with a woman, doubtless the only one he ever truly loved, and the reason he truly loved her was because she went away and left him. He left Canada with her and took her to British Columbia and brought her back to Spokane, and she finally concluded he could not support her in the way she was entitled to live, being the near-wife of a great man, and she packed up her duds and left him, and was going to come back if he got rich, according to Mrs. Day.

Now, Orchard corroborates most of this himself. He left his home with this woman, he took her clear across the continent and brought her part way back, and then she left him and went back to her husband; and if he got the Hercules mine he could perhaps have got the woman, too, because then he could have bought her clothes and jewelry and trinkets any everything that she loved. Now, is there any doubt but what he told this to Mrs. Day? I wonder what excuse anybody could give for doubting that story. As to the rest of Mrs. Day's story, she did say that while they were sitting there talking on the lounge Haywood came in and he and Orchard went back to Orchard's room, to the back part of the house. Now, Mr. Haywood says that this is not true. There is a great deal more chance that she could be mistaken in that than that Haywood could, and that Haywood went to that part of the building for the purpose he says, and the location of the room as he described it has not been disputed in this case, and there is a great deal more chance that she could be mistaken in that part of the story than in this story that she tells; although I don't care whether he went back to Orchard's room or not. It does not follow that because he went back to Orchard's room that they were engaged in crime. And that was not all that this man whispered into the ear of Mrs. Day. She told him he had better quit gambling. She gave him some good advice, as all women are always doing to all men. She says, "Quit gambling, I never say a man that did not go broke in the end;" and he says, "Oh, I won't go broke; whenever I get any money I give it to Pettibone to take care of, and then I call on him whenever I want it." Now, gentlemen, if that is not true, then it is a plain piece of perjury. Either that story is true or, in some way and for some reason we have been able to get Mrs. Day to come here and perjure herself; we have been able to get this woman they brought here, whom they gave credit to—we have been able to buy her and get her to lie, and the fact that they sent her home would show that they believed at least that she would do us more good than them, and I take

it, gentlemen, there is not a man on this jury who has got the slightest reason or the slightest right to disbelieve her story, which is corroborated by fifteen or twenty other witnesses in this case.

Gentlemen, do you suppose there was ever a case in the history of the world where a man's motives were more clearly shown than this? Did you ever hear of a case where a criminal who had committed his deed was shown more clearly to have had cause for the consummation of that act than in this case of Harry Orchard? And still men will argue to you that there is no evidence of any design or any motive upon the part of Harry Orchard, and Mr. Hawley in making his opening statement in this case told this jury that Harry Orchard had nothing against Steunenberg—no reason to kill him, and that he killed him for cash and for nothing else.

Who else is there? Owen Barnes, who comes here on his two wooden pins, a man who has offered up his two legs to the mine owners of Colorado, and is stumping up here on his two wooden legs to tell his story for the defense of his chief. Is he a liar? Why do you believe he is a liar? Why, excepting that Harry Orchard says he lies? There is no other reason from beginning to end.

Davis, Easterly, Copley, Max Malich, and the man in California who gave his deposition—all these witnesses who gave testimony—I have not time to examine and comment upon them, but every one of these seventeen—half of them at least having no connection with our organization in any way whatever—half of them at least detailed this conversation so plainly that no one could doubt it, and all of these come here and tell this story of Orchard's long-nursed hate.

Gentlemen, let us mix with this a little common sense. You believe, do you not, that Orchard would have gone down and killed Steunenberg for $200 or for $100; that this man who has been metamorphosed in a night from a red-handed demon to a seraph, he would have gone out for a hundred and killed Steunenberg, would he not? If he would, have you any doubt but that he would have gone down there and killed him to satisfy this long-settled hate? Would he have gone down there and killed him because he believed in his soul, and repeated day after day through all those long years, up until he met his prey, because he believed in his soul that Steunenberg was the cause of his losing a million, and you would not hesitate to believe that he would have gone down there for a dollar, and yet you are told that it is strange and impossible and unbelievable that he went down there to satisfy this hellish hate that he had fostered and nourished, cultivated and thought of from the day he left the Coeur d'Alenes until he fastened the bomb at Steunenberg's gate.

Another man who makes that story plainer than any of the rest is Dave Coates. Orchard went into his office when he was in Wallace, just a few days before he went down to kill Steunenberg, and he says, "My old friends and companions are rich and they are all millionaires and I am a pauper. I was driven out of here by Steunenberg." He made threats against Steunenberg. He was a pauper whilst the rest were rich. That was the feeling that came over this man—this man whose breast was filled with gall and wormwood; this man of the evil thoughts and evil acts; this man filled with enmity and spite and hatred that had been gathering those six long years. There he came to visit with his old friends, with the men

whom he had known when they were poor together, and he an outcast and a tramp; and he borrowed the money of his old friend Paulson to go down there and kill Steunenberg—to kill him and satisfy his hate—and he said to his friend there, Jack Simpkins—or Jack to him—that if they could steal that child and get $60,000 they could hire some one to do the job.

Gentlemen, another thing: Orchard admits that there was no plan in Denver for him to go to Simpkins. If Simpkins had anything to do with this it was not from the Denver office. It was because Orchard had gone there—had gone there independently—and together they had nursed their wrath and hatred for thirty days; together they had suffered poverty and they talked it over out there; had nursed their hate until they went out to plant this deadly bomb. I wonder, gentlemen, if this is a hard case to understand. Is it difficult to explain Orchard's motives? Is it difficult to explain the reason for his acts? Nobody would ever dream of imputing other motives excepting the desire to kill some one. Nobody would ever dream of going behind the dark brain and the black heart of this wretch, of looking for some one else, excepting they were reaching out to kill some one that they might get rid of them forever.

Orchard came down here to kill Steunenberg. In the meantime, for a moment we will go back to Denver. Jack Simpkins left Caldwell to go to Denver. He went to attend the meeting of the executive board.

Mr. Borah: Jack went to Spokane and then to Denver, didn't he?

Mr. Richardson: Yes, he went down on the Burlington.

Mr. Darrow: He went back first to Spokane, and from Spokane to Denver, to attend the meeting of the executive board. Orchard knew where he was going; he says so himself. If he needed any money he would have sent for it, under his own theory of this case. If he had needed any money he would have wired for it from Spokane—but he did not. Jack Simpkins went to Denver. I told you in the opening that he went on Harry Orchard's ticket. I have not proven it, and I hope you will forgive me for that. I have not proven it. I am not permitted to tell you why, but I have a right to say that we showed in evidence here that a certain member of the executive board started for Boise and was killed at the Denver depot in the night time as he was leaving—Frank Schmelzer. Now, whether we would have proven it by him, or could not prove it, or whether it was a statement carved out of the air, you cannot say. I told you this was true in the opening statement, but I have not proven it; but I think a large share of the other statements I have made—almost all of them—we have proven clearly, conclusively and without a doubt. Jack Simpkins came to Denver. He got there the last of November. His mileage and his expenses regularly counted up about $226. This was paid him early in December; it was drawn in the regular way by the secretary-treasurer giving him a draft, which he took and went to the bank and got cashed, and that draft has been offered in evidence to this jury. He drew two hundred and twenty-six dollars.

They tell us that on the 21st a hundred dollars more was sent to him at Spokane, and that is true. They have given you that draft as well. This hundred dollars was not taken from the funds of the Western Federation of Miners. It is not in the books in any way, and was not paid by them. It was sent by Haywood, and he tells you the reason, and it is left entirely

upon Haywood's statement, and it cannot rest anywhere else in the absence of Jack Simpkins. He tells you that when Jack Simpkins brought this two hundred and twenty-odd dollars back to the office Simpkins told him he was not going directly home and he wanted to leave a hundred dollars with him, and for him to send it along about the holidays, and he took the hundred dollars and put it in the safe, where he was in the habit of placing money for other people at any time, and on the 21st of December he either went himself, or sent somebody, to buy a draft and sent it to Jack Simpkins. Now, I wonder if there is anything unreasonable about that.

And, mark this: You may have ten thousand suspicions in this case; there may be ten thousand suspicious circumstances surrounding it in the years in which these men were acquainted. I will undertake to say that no man could live around Harry Orchard very long but what some suspicious circumstances would arise—it is improbable that a suspicious circumstance could not be made out of anything. To illustrate one suspicious circumstance: Bill Haywood had a horse that belonged to the Federation and Pettibone wanted to trade another horse and buggy for that horse, and a darky and Orchard drove down to Haywood's office and Haywood got into the buggy and went out with them to try the horse, to see whether he would trade, and Haywood told him he would not; and what do they make out of that? They come here with a story that Haywood was going to buy a horse and buggy—for what? To help kill people. He was going to buy a horse and buggy that Orchard could better trail around after Sherman Bell and the rest in the City of Denver. Now, this story has always seemed to me so horribly absurd that I have not thought it worth while to pay any attention to it. The idea that a man was going to buy a horse and buggy to use in the City of Denver to hunt down people is something I believe was never heard of in any other case in the world. I wonder why they did not buy him an automobile and let him ride around Denver in the same magnificence and style that he rides around here in Boise. An automobile would have been better than a horse and buggy. I don't know that Orchard had got so proud that the street cars were not good enough for him, or that he coud not walk. That seems to me about the most absurd story of it all.

But I was speaking about this draft. Is there anything unreasonable in that story of Haywood that Simpkins left the hundred dollars there and that he (Haywood) sent it to him on the 21st in that draft? It did not come out of the Federation money—it was bought with cash. If it had been going to Orchard, why would not Simpkins have taken it with him? That is the theory of this case—that this hundred dollars was going to Harry Orchard, and yet Simpkins was going right to him and if it was going to Harry Orchard I wonder why he did not put that money in his pocket. You have got to find that out.

Another thing: They say that on the 30th a letter was written by George Pettibone to Harry Orchard and addressed to Caldwell, which reads as follows: "That was sent to Jack for you on the 21st, and you ought to have it by this time." Well, now, gentlemen, there might be any amount of suspicious circumstances. There are any amount of suspicious circumstances connected with the lives and the acts of every man, and these cut little figure in a criminal case. You must have facts and cir-

cumstances from which guilt, and guilt only, can be inferred; theories, facts and circumstances which can carry no other inference than the inference of guilt. Now, let us look at their side of the case. Their theory of this case is that Haywood told Pettibone that a hundred dollars had been sent to Jack Simpkins to send to Harry Orchard, and then Pettibone wrote a letter, without signing it, to Harry Orchard at Caldwell, that this hundred dollars had been sent. All of that to prove that a hundred dollars was sent to Harry Orchard on the 21st. Now, let us see: Suppose Haywood had written a letter and sent a draft for a hundred dollars to Harry Orchard at Caldwell on the 21st; what of it? Is that incriminating? It may be suspicious, but is it incriminating. Can any jury presume that because a man sent money to a murderer that he sent that money to pay him for his crime? Somebody had to feed this man Orchard; somebody had to keep a roof over his head; some one—he had acquaintances and he had friends; the fact that somebody sent him money cannot in any way be an incriminating fact in this case. At the most it could only be a suspicious circumstance in this case even if their theory of this case was true.

Let us take another one: Harry Orchard went to Paulson. He borrowed $300 of Paulson. He gave Paulson his note. He took this $300 and he bought a ticket to Caldwell, and he came to Caldwell with Paulson's money. He paid his hotel bills with Paulson's money, and he used Paulson's money to kill Frank Steunenberg with. Is Paulson guilty? It is a suspicious circumstance, and if Orchard, instead of turning upon these men, had turned upon Paulson and said to him, "You furnished the money," it would have been a suspicious circumstance—nothing else in the world. Not one of this jury would ever dream for a single moment that Paulson ever did anything but a kind, neighborly act when he gave Harry Orchard the money with which to go down to Caldwell to kill Steunenberg. At the most, it could be nothing but suspicious from beginning to end.

But, do we know whether Pettibone wrote the letter? So far as the direct evidence of that is concerned, there is nothing to show it except Orchard's word, which is not worth anything, but there are some circumstances which might tend to show it. It was a letter written on the 30th; it was mailed on the 30th; if it referred to a hundred-dollar draft it must have been written by somebody who knew of it, and the theory will be that Pettibone was the man who knew of it. It is entirely possible that Haywood might have told him that he sent the draft; it is entirely possible that his clerk might have bought it and given the information that he sent the draft; it is entirely possible that Harry Orchard may have written down to find out if the draft was sent, but if that was all true it would prove nothing whatever in this case. Is there any connection between that and hiring a man to kill another? Harry Orchard does not claim, and nobody has ever claimed in this case, that this money was ever sent to him for that purpose. The most that is claimed is that from time to time he could send to Pettibone for money and could get it.

Gentlemen, whether that was Pettibone's letter—whether the Jack referred to was Jack Simpkins—can only be developed when Pettibone's case is tried or when Jack Simpkins' case is tried. We cannot tell; there

is no evidence before this jury upon that point, and I insist that you have no right under the law and under your consciences to jump to any such conclusion. You will find in the evidence in this case that Harry Orchard was in business with Jack Hulligan; that he roomed with Jack Hulligan in the Belmont hotel; that they had sold a rooming-house together and that they had commenced a suit for a hundred or two hundred dollars, and there is no more reason in this case why you should say that this plain word "Jack" had any more reference to Jack Simpkins than to Jack Hulligan or any one of ten thousand Jacks, and if it had reference to the former it was for money that was due to Simpkins; it was sent as a part of the money that was owed to him, and it was sent for a perfectly legal purpose.

Again, Simpkins might have been owing Harry Orchard; he might have given him some part of the Paulson money with which to go to Denver; he might have got his ticket from Orchard to go to Denver; he might have been expecting that when this hundred dollars came that this hundred dollars should be sent to Harry Orchard; but will you tell me what was the need of money down there? Why would Orchard have occasion to write from Caldwell for money? According to his story, he got a hundred dollars from Jack Simpkins; according to the fact he got three hundred dollars of Paulson immediately before he left. He came to Caldwell with what was left of four hundred dollars which he had received only a few days before he left. If he had any reason to send for a hundred more he would have sent by Jack Simpkins and had it delivered to him in person. He had no reason to send for more, and there is no evidence in this case from which a jury could jump to the conclusion that he did.

One other circumstance in this case that I have overlooked. We are told that Pettibone signed the name of Pat Bowen and sent $150 in two different telegrams to San Francisco to Harry Orchard under some other name. Now, what are the facts about that? First, Harry Orchard says that Pettibone sent him some money in a registered letter under the name of Wolff. Wolff comes in here and says that Pettibone got a letter asking him to send a union card and a badge and that he asked him (Wolff) to go down and register that, which he did. Later than that, Harry Orchard sent two telegrams asking to have $150 sent to San Francisco by telegraph, and to send it and waive identification so that he could draw it. Now, if Harry Orchard asked to have this done he must have told Pettibone whom to send it to and whose name to sign to the telegram. Harry Orchard had left Denver on his way to Cheyenne; he left it under cover, as he swears himself; he left it to prevent being arrested by the officers of the law. He had gone to San Francisco using another name, and was not corresponding with anybody in Denver any more than he could help for fear he would be traced. If he sent for this money, as he doubtless did, he must have told Pettibone whose name to send it in, and who was to be the sender. He must have told Pettibone to wire that money to Harry Green and to send it in the name of Pat Bowen, which was a nickname that had been applied to Pettibone. Now, what is there to that? Is there anything even suspicious about it? Is there anything strange that Pettibone sent him that money at San Francisco?

Orchard did not kill anybody. I insist that under this evidence he was not there to kill anybody. If he had been, it would not affect this case; it could only be used as a circumstance to show the connection of these two men and nothing else.

Gentlemen, they talk about evidence in this case not connected with Orchard. There is not a scrap that would even be competent, with the possible exception of the letter that was sent to Caldwell, and there is no incriminating circumstance in that. A mere suspicious circumstance that might show that this man was on friendly terms with Pettibone—that, gentlemen of the jury, is all. Think of saying that this evidence is such certain incriminating evidence as would warrant you in taking away the life of a fellow man. Do you think there could be no other explanation excepting that the money was sent there to hire Orchard to kill Steunenberg? Even Orchard does not claim it, and there is no claim for it in this case.

Another circumstance down here at Caldwell. Orchard goes there. Simpkins would not stay, showing that Simpkins did not want to go into any such scheme, and he would not stay and help. Orchard learned that William Easterly was over here at Silver City, and he writes Easterly two letters asking him to come, and he refused to come; he then calls him up by telephone on two separate occasions and asks him to come, and he refuses to come. Will you tell me why he was telephoning and writing to William Easterly if Easterly was in this conspiracy—in this scheme and plan? Then why didn't he come? The fact that he did not come shows plainly that he was not connected in any way with it. And what does Easterly say? He says Orchard wrote him and asked him to come over here and go into the insurance business with him, that he could make plenty of money in the insurance business, and that he telephoned him asking him to come and go into the insurance business; and he refused to come. Is there any reason why you should disbelieve him, gentlemen of the jury? What was the fact? He was bringing Bill Easterly over here so that if he murdered Steunenberg and if anybody happened to be caught, Bill Easterly would be the man and not Orchard. He was bringing him over here that he might shift this crime upon someone else. Bill Easterly told him that he did not want to come. Bill refused to come and stayed away. If he had come, gentlemen of the jury, Bill Easterly would have been here on trial for the act of Harry Orchard.

There is another letter in this case that counsel have made mention of. It is a letter written by Haywood to Mrs. Orchard. Is there anything in that letter? What are the facts of that? Orchard had lived long enough with this woman; he had managed to get a winter's shelter under her roof and a winter's board in her house, and he had lived with her long enough, and had gone away and had left her as he had done before. He had been in Denver and he neither wrote to her or went to see her or sent her any money. He dated some letters in San Francisco in March and April and sent them to her so that she might think he was in San Francisco, and then along in August he wrote a letter and dated it at Nome, Alaska, and he sent that to her after sending it up to Nome by Mr. Moore. This letter tried to make her believe that he was in Alaska, and in November, two months after that, and two months

after Orchard had disappeared—and on November 17th, two months after that letter, Mr. Haywood got a letter from Mrs. Orchard asking where Harry Orchard was, and he sat down and wrote her a letter saying that the last time he heard of him he was in Alaska. Now, what of it, gentlemen, what of it? Haywood swears that Orchard talked with him about going to Alaska. He had disappeared two months and a half before. He had never heard of him in Idaho or anywhere else in the meantime. He had gone up north, as he supposed, on his way to Alaska, and Haywood gave her all the information he had. It was not up to him to tell her that her husband had deserted her, even if he knew it. At the most, the most that could be thought of this letter would be that he might have been helping to deceive Mrs. Orchard as to Orchard's whereabouts, but it is absurd and ridiculous in the extreme that circumstances like these—mere baseless circumstances that could not prove anything if true—should be brought into this case to corroborate the evidence of the greatest liar of modern times.

Gentlemen, from beginning to end this is a case of Orchard. He was caught and he turned to shift his crime upon these men. They tell us it was suspicious that these men rushed to his defense Was it, gentlemen? It seems strange to me that a lawyer can argue a proposition like that. These men have been pursued and hunted for years. Every means, fair and foul, had been used to bring them to the scaffold. Every means had been adopted to crush out the union. The mine owners had made arrest after arrest. Violence of all sorts, and every other effort was made to destroy them. A man—an ex-governor of the State of Idaho—was killed in Idaho. At once the newspapers and the mine owners and the Pinkertons took up the cry that the Western Federation was guilty. At once this was laid to the door of Moyer, Haywood and Pettibone. At once they were pronounced murderers, and their time had at last come. What would you have done? What would anybody have done? Is there any human being on earth who would not use every means in his power to defend himself, and everybody connected with him, when accused of this crime? If I should make any criticism of this, I would say they acted too slowly instead of too hastily.

Jack Simpkins was up in Spokane. He had been in Caldwell with Orchard, and he went to the office of Robertson & Miller and employed Miller to come down and defend this man. What of it? Suppose he started down and concluded to go back unless he got direct word from his client? He started down and did go back and then he got a telegram calling him to Caldwell and he went. And when the clouds began to thicken and the mine owners and the lawyers started up here to Idaho and commenced to weave their meshes around the Western Federation, then Moyer and Haywood began to write and wire to Silver City, to the secretary of the union there, to have a lawyer come here and look after this case and after their interests. Is there anything strange about it? The strange thing is that they did not send a lawyer from Denver at the very first. Remember their former experiences. Remember what the mine owners had resorted to. Remember all the plans and the schemes to catch these men. Remember that at this time rewards were offered and the newspapers were talking about it—the Pinkertons were active—the mine owners were busy, and all were after the blood of these men. There is not a man

on earth who would have done anything else. There is not a man on earth who would have slept quietly in his bed, whether connected with the crime or not. But one thing, gentlemen, remember this: They did not run away. They stayed right there in Denver, where they were found when they were kidnaped and brought to Idaho.

Now, gentlemen of the jury, there are many things more I would like to say, but I have not the strength to say them. Perhaps it is lucky for you that I have not, and I must leave the case here and hand it over to you. Under the laws of the State of Idaho the State has the last word, and when my voice is silent, and when Moyer and Haywood cannot speak, their accusers can be heard pleading against their lives. I know the ability of the eminent gentleman who will close this case. I know the appeal he will make to this jury. I know that he will talk of law and order and the flag which the mine owners have desecrated time and time again. I know the suspicious circumstances which will be woven into that appeal and handled by a skillful tongue and a skillful brain, and I must sit still and listen to it without any chance to reply. I can only ask you, gentlemen of the jury, to weigh with care and consideration every word that is spoken. I can only ask you to answer when I cannot speak, if there are any facts and any circumstances which will justify an answer. I only ask you to remember that you are to explain every fact and circumstance in this case consistent with this man's innocence, if you can, and I shall ask you to try, and if you try it will not be difficult to accomplish, for there is nothing in this case but Harry Orchard—Harry Orchard, an unspeakable scoundrel; Harry Orchard, a perjured villain; Harry Orchard, bigamist and murderer and coward; Harry Orchard, shifting the burdens of his sins upon these men to save his life. If you men can kill my client on his testimony, then, peace be with you.

Gentlemen, Mr. Hawley has told you that he believes in this case, that he would not ask you to convict unless he believed Haywood was guilty. I tell you I believe in my case. I believe in it as I believe in my very life, and my belief does not amount, nor his belief does not amount to anything, or count. I am not an unprejudiced witness in this case. Nobody knows it better than I. My mind is not unbiased in this great struggle. I am a partisan, and a strong partisan at that. For nearly thirty years I have been working to the best of my ability in the cause in which these men have given their toil and risked their lives. For nearly thirty years I have given this cause the best ability that God has given me. I have given my time, my reputation, my chances—all this in the cause of the poor. I may have been unwise—I may have been extravagant in my statements, but this cause has inspired the strongest devotion of my life, and I want to say to you that never in my life did I feel about a case as I feel about this. Never in my life did I wish anything as I wish the verdict of this jury, and, if I live to be a hundred years old, never again in my life will I feel that I am pleading in a case like this—never will this jury be called upon to act in another case which involves such momentous questions as this. You are jurors in a historical case. You are here, with your verdict to make history, here to make history that shall affect the nation for weal or woe, here to make history that will affect every man that toils, that will influence the liberties of mankind and bring

weal or woe to the poor and the weak, who have been striving through the centuries for some measure of that freedom which the world has ever denied to them.

Gentlemen of the jury, this responsibility is on you, and if I have done my part I am glad to shift it upon your shoulders and be relieved of the grievous load.

## IF CONVICTED SUN WON'T SHINE.

I have known Haywood—I have known him well and I believe in him. God knows it would be a sore day to me if he should go upon the scaffold. The sun would not shine or the birds would not sing on that day—for me. It would be a sad day, indeed, if any such calamity could come to him. I would think of him, I would think of his wife, of his mother, I would think of his children, I would think of the great cause that he represents. It would be a sore day for me, but, gentlemen, he and his mother, and his wife and his children, are not my chief concern in this great case. If you should decree that he must die, ten thousand men will work in the mines and send a portion of the proceeds of their labor to take care of that widow and these orphan children, and a million people throughout the length and breadth of the civilized world will send their messages of kindness and good cheer to comfort them in their bereavement and to heal their wounds. It is not for them I plead. Other men have died before. Other men have died in the same cause in which Will Haywood has risked his life. Men strong with devotion, men who loved liberty, men who loved their fellow men, patriots who have raised their voices in defense of the poor, in defense of right, have made their good fight and have met death on the scaffold, on the rack, in the flame, and they will meet it again and again until the world grows old and gray. William Haywood is no better than the rest. He can die if die he must. He can die if this jury decrees it; but, oh, gentlemen, do not think for a moment that if you hang him you will crucify the labor movement of the world; do not think that you will kill the hopes and the aspirations and the desires of the weak and poor. You men of wealth and power, you people anxious for his blood, are you so blind as to believe that liberty will die when he is dead. Think you there are no other brave hearts, no other strong arms, no other devoted souls who will risk all in that great cause which has demanded martyrs in every land and age?

There are others and these others will come to take his place; they will come to carry the banner when he can hold it up no more.

## SPEAKS FOR THE WEAK AND WEARY.

Gentlemen, it is not for him alone that I speak. I speak for the poor, for the weak, for the weary, for that long line of men, who, in darkness and despair, have borne the labors of the human race. The eyes of the world are upon you—upon you twelve men of Idaho tonight. Wherever the English language is spoken or wherever any tongue makes known the thoughts of men in any portion of the civilized world, men are talking, and wondering and dreaming about the verdict of these twelve men that I see before me now. If you kill him your act will be applauded by many. If you should decree Bill Haywood's death, in the railroad offices of our great

cities men will applaud your names. If you decree his death amongst the spiders of Wall street will go up paeans of praise for these twelve good men and true. In every bank in the world, where men hate Haywood because he fights for the poor and against that accursed system upon which the favored live and grow rich and fat—from all those you will receive blessings and unstinted praise.

But if your verdict should be "Not Guilty" in this case, there are still those who will reverently bow their heads and thank these twelve men for the life and reputation you have saved. Out on our broad prairies where men toil with their hands, out on the wide ocean where men are tossed and buffeted on the waves, through our mills and factories, and down deep under the earth, thousands of men, and of women and children—men who labor, men who suffer, women and children weary with care and toil—these men and these women and these children will kneel tonight and ask their God to guide your hearts—these men and these women and these little children, the poor, the weak, and the suffering of the world, are stretching out their helpless hands to this jury in mute appeal for Will Haywood's life.

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# GOD AND THE GOOD MAN

## A FABLE

A Man of the People stood before the Throne of Judgment, and God called for the Book of Life, and the Recording Angel opened the Book and read therefrom. And as he read the Man of the People wept, and the sound of his weeping was terrible.

And God said to the Man of the People: "Toil and trouble have been thy lot on earth. From childhood even unto the day of thy death thy days and nights have been given to drudgery. Blows and contumely were showered upon thee. Yet didst thou never rebel."

And the Man of the People answered: "Even so I suffered."

And God said to the Man of the People: "When the laughter of children at play called thee to idleness thou didst ever close thine ears, because thou wast afraid to disobey thy master. In tears and silence thou didst eat of the scraps he threw to thee. Weary was thy poor body when the long day's toil came to an end, and to thy master wast thou always respectful."

And the Man of the People answered: "Even so I suffered."

And God said to the Man of the People: "In manhood also suffering was thy lot, and the woman who brought thee love drank of the bitter cup. Pain and anxiety were ever in thy house, and the mother of thy children wept in secret. Hard and long didst thou labor, yet were the bellies of thy children pinched, and never didst thou hear their voices sing with the joy of life. Many times did the wolf cross thy threshold, and

the pale cheeks of the woman who brought thee love hurt thee like a deep wound."

And the Man of the People answered: "Even so I suffered."

And God said to the Man of the People: "The hands of the mighty were heavy upon thee, yet didst thou not complain. When the cunning lord stole the fruits of thy labor thou didst touch thy cap, and when the priest conjured thee to be content thou didst bow thine head. Thou sawest thy brethren crushed under the heels of tyrants, and thou heardst the wailing of the children whose blood held the dust from the eyes of the rich. Yet didst thou ever keep the law, and never was thy voice raised against the oppressor."

And the Man of the People answered: "Even so I suffered."

And God said, "Close the Book." And the Recording Angel closed the Book of Life. And there was a great silence.

And God said to the Man of the People: "To Hell must thou go. Yea, even unto Hell for ever and ever."

And the Man of the People gave a great cry and writhed at the foot of the Throne of Judgment.

And he said: "Is God also unjust and an oppressor?"

And God said: "Not so. Whatsoever a man soweth, that shall he also reap. Thou hast sown weakness and cowardice and suffering. Weakness and cowardice and suffering must be thy fate in the life eternal, even as it was on earth. Because thou rebelledst not against the tyrant, because thou didst condemn to tears the woman who brought thee love, because thou sawest thy children perish and thy poor brethern crushed under the heel of the oppressor, because thou didst suffer the cunning lord to rob thee of the fruits of thy labor, because thou didst harken to the voice of the priest who conjured thee to be content; because thou wast a worm instead of a man. Even so shall be thy reward. To Hell with him."

And they took the Man of the People and cast him into Hell.—E. B. Suthers, in London Clarion.

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