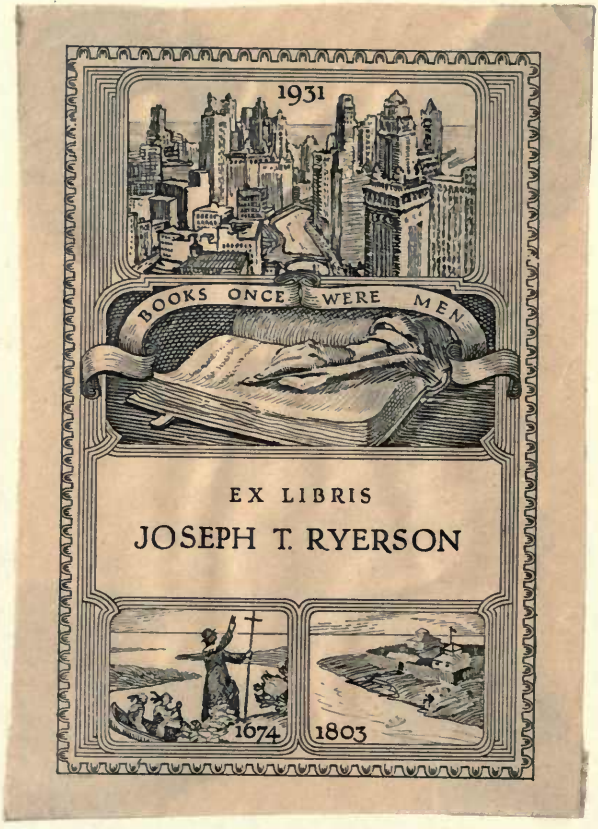
1931
BOOKS ONCE WERE MEN
EX LIBRIS
JOSEPH T. RYERSON
1674
1803

IN THE

SUPREME COURT OF ILLINOIS,

NORTHERN GRAND DIVISION.

MARCH TERM, A. D. 1887.

AUGUST SPIES ET AL.,
Plaintiffs in Error,
vs.
THE PEOPLE OF THE STATE OF ILLINOIS,
Defendants in Error.

Error to the Criminal Court of Cook County.

BRIEF ON THE FACTS FOR DEFENDANTS IN ERROR.

GEORGE HUNT,
ATTORNEY GENERAL.

JULIUS S. GRINNELL,
STATES ATTORNEY.

GEORGE C. INGHAM,
OF COUNSEL.

FRANCIS W. WALKER,
EDMUND FURTHMAN,
ASST. STATES ATTORNEYS.

CHICAGO:
BARNARD & GUNTHORP, LAW PRINTERS, 44 & 46 LASALLE STREET.
1887.

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MAY IT PLEASE YOUR HONORS:

I.

The competency of evidence and the correctness of instructions depend largely upon the facts developed during the progress of a trial. Evidence which under one state of facts is incompetent under another becomes competent, and an instruction which in one case may result in a reversal in another may be approved as sound law.

We desire, therefore, before entering upon a discussion of the questions of law involved in the record, to state somewhat fully the history of the crime and the connection of the defendants therewith as developed on the trial, for we are convinced that when all of the facts of the case are considered together there can be no question of the correctness of the rulings and the soundness of the instructions of the distinguished judge who presided at the trial.

II.

THEORY OF THE STATE.

(*a.*) The theory of the prosecution is, that for a number of years there existed in the county of Cook a conspiracy, embracing a large number of persons, having for its object the destruction of the legal authorities of the state and county, the overthrow of the law itself, and a complete revolution of the existing order of society, and the accomplishment of this, not by agitation or through the ballot-box, but by force and terrorism, a conspiracy deliberately formed and thoroughly organized.

(*b.*) That the bomb, the explosion of which resulted in the death of Degan, was thrown by a member of the conspiracy in pursuance of the objects of the conspiracy and for the purpose of carrying it into effect; in other words, that it was the opening shot of an internecine war which should bring about the social revolution.

(*c.*) That each one of the plaintiffs in error was a member of that conspiracy and an active participant in it, and hence was responsible for the results which followed from it.

If the record establishes these facts beyond a reasonable doubt, it follows, as a conclusion of law, that all of the plaintiffs in error are guilty of murder, for they were all engaged in an unlawful project involving the use of force and violence. The unlawful project resulted in murder, and hence, under a doctrine which is as old as the common law, and which has always been recognized in this state, all of the defendants are guilty of the unlawful result.

Growing out of the evidence in the case are certain other principles which apply to some or all of the defendants under which they become guilty in addition to their responsibility growing out of the fact of their membership in the unlawful conspiracy.

(*d.*) There is evidence in the record tending to show a direct and immediate connection of some of the defendants with the throwing of the bomb. If the evidence establishes this fact beyond a reasonable doubt, then those of the defendants so shown to be connected are guilty.

(*e.*) It appears, moreover, that some of the defendants, through a long period of time, both orally and in print, publicly and in private, have advised, encouraged and solicited the destruction of the police force of the city of Chicago and of the lawful authorities by force.

If the person who actually threw the bomb was incited or encouraged to do it by reason of the speeches or articles referred to, then the authors of those speeches and articles are, under our statute in regard to accessories, equally guilty with the man who actually threw the bomb. Our position upon this branch of the case is that the evidence shows overwhelmingly, when all taken together, that whoever threw the bomb was so instigated.

Evidence of Facts about which there is no Material Dispute.

III.

WAS THERE SUCH A CONSPIRACY?

If there was such a conspiracy, and if the defendants were members of it, it can only be shown, as in this case it has been shown:

By their declarations, and by their acts.

(A.) SPIES' DECLARATIONS AT GRAND RAPIDS.

On the 22d of February, 1885, August Spies, one of the defendants in this case, the editor of the Arbeiter Zeitung, and, as we claim, the controlling spirit among the revolutionists in the west, visited the city of Grand Rapids, Michigan, for the purpose of delivering a lecture before the Knights of Labor. He was introduced to the audience by Mr. Luther Moulton, at that time connected

with and a prominent officer in the organization of the Knights of Labor at that place. Before delivering the lecture, Spies appeared at the house of Moulton, and was introduced to him by a man named Tandler. The conversation which took place between Mr. Moulton and Mr. Spies was in the presence of a gentleman named Shook. Both Mr. Moulton and Mr. Shook testified in the case. Mr. Moulton said (I, 276):

"Mr. Tandler introduced him, and stated he was a prominent man among the socialists of Chicago, and was there for the purpose of lecturing, and wished me to become acquainted with him, and requested that I should introduce him at the meeting that was to follow that day. *I proceeded to question Mr. Spies at some length in regard to the purposes and objects of the organization that he represented.* I cannot undertake to recite this conversation, of course. I did not charge my memory with it, and made no record of it. The substance of his replies was, substantially, *that the organization was for the purpose of reorganizing society upon a more equitable basis, that the laboring man might have better and a fairer division of the products of his labor.* I had heard much of their theories, and I questioned him particularly as to how they were to accomplish this result, *and I interposed the objection, to draw him out, that the ballot-box and the legislation of the country was the proper means to resort to; he expressed no confidence in such methods, and expressed the opinion that force and arms was the only way in which the results could be accomplished directly; that they were prepared for such a demonstration.*

"Q. *Where?*

"A. *In Chicago*, and in all commercial centers of the country, *that they had a sufficient force already organized in Chicago to take the city, numbering about 3,000; I objected that 3,000 would not be sufficient. He said they had superior means of warfare.* I then conceded that if they might take the city how would they keep it? *He said that they would rapidly gain accessions to their ranks if they were successful.* I said, where would it come from? He said, from the laboring men. *I said, how could they get*

the laboring men to join them? He said, hold out inducements. I said, what inducements? *He said they would embrace the opportunity to make the demonstration when laboring men were idle in large numbers, out on strikes and lock-outs, and would hold out to them inducements in the shape of means to relieve their wants and employments, which would induce the laboring men to join them in great numbers, which would add to their strength quite rapidly, so that they would be able to hold the city.* I questioned as to how they would hold the country, and *he thought the country would fall in line, because they would be able to propagate their ideas rapidly among the country people and satisfy them that they were improving the condition of society. I inquired how they would carry out these results without bloodshed—if there was no danger of killing some one. He thought there might be; that that happened frequently in the case of revolutions. I then inquired if this would not amount to a criminal action which would be punishable, and in substance he thought it might be if it failed, but if it was a success it would be revolution, and George Washington would have been punished had he failed,* and therefore all such things were considered *crimes if failures, and heroism if successful, and thereby they would be able to escape the consequences of punishment if they were successful; they would have to take their chances.* That was substantially the result of the investigation. I did not investigate to any great length as to their plan of organization.

"Q. Was anything said in that conversation by Spies as to the means or mode of warfare or of their revolution, about armed forces which he said they had in Chicago?

"A. No details in regard to that.

"Q. Was anything said as to explosives or dynamite?

"A. *I am quite certain the term explosives was used in connection with arms;* but nothing very definite, and no extended investigation about tactics and methods.

"Q. Was anything said there as to how you might or others interested with them might become informed as to their means and form of warfare?

"A. I don't recollect any such inquiry.

"Q, How long did this conversation last?

"A. I should say in the vicinity of half an hour.

"Q. That was at your house?

"A. At my house.

"Q. That was on Sunday, the 22d of February, 1885?

"A. It was.

"Q. Was there anything said at that conversation about the eight-hour movement? When it was to culminate or when this revolution was to culminate?

"A. There was something said about the eight-hour movement.

"Q. What was said with reference to that?

"A. It was mentioned in connection with the subject of the great number of men likely to be idle and unemployed, and *in answer to a question as to when the demonstration was likely to be made which they proposed to make; and he stated substantially that it would probably come at a time when the workingmen attempted to introduce the eight-hour system of labor.*

"Q. Now, at that time was there anything said about the police or militia that might or could be brought against them in the city of Chicago?

"A. Nothing further than in general terms; *they were prepared to successfully resist and destroy such forces.*

"Q. Did you preside at the meeting that day at which Spies spoke?

"A. I did."

Mr. Shook's account of the conversation (I, 282) is as follows:

"I am a laboring man, a machine hand, employed in a furniture factory at Grand Rapids; have lived there six years; am acquainted with Mr. Moulton, the previous witness; in 1885 I lived in the same house with him; on the 22d day of February of that year I was introduced to August Spies; I heard a conversation between Mr. Moulton and Mr. Spies. The conversation was more of a discussion. Mr. Moulton commenced to question Mr. Spies regarding his socialistic organization, as he termed it, and *I remember very distinctly of his stating that they had a secret organization in the city of Chicago numbering very nearly 3,000;* I remember he stated, as the question was asked him, what they proposed to do with this organization; *he said they proposed to revolutionize the*

country or society in general; he argued that it was entirely useless to undertake to better the laboring element by legislation, because it was hardly possible to get men into office that would legislate for their benefit, *and he thought that it could be brought about by revolution, and the question was asked him how by revolution, and I remember he used the word 'explosive';* he was asked again whether there was any other method; *he said by a secret organization which nobody knew until they became a member of the organization*—that is what they intended to do in this organization, how they intended to drill their men in their mode of warfare. That was substantially the argument, as I remember it.

"Q. Do you remember anything about the use of the name Washington on that Washington anniversary?

"A. I remember when he was asked the question if he didn't think there would be bloodshed, he said he didn't know but what there might; *he said that all revolutions had to undergo a certain amount of risk, and that they were liable, of course, somebody, to get hurt.*

"Q. What was said in that connection about George Washington, if anything?

"A. Nothing more in particular, although they said if he had failed he would probably have been hung for treason.

"Q. That was the chance they took?

"A. Yes.

"Q. In that conversation was anything said about the culmination of this revolution—when it was to take place, or with reference to what it was to take place?

"A. I don't remember that there was any date stated.

"Q. How was it expressed?

"A. *At the time when there would be the most men idle —the most confusion.*

"Q. Do you remember of there being anything said at that time about the eight-hour discussion?

"A. I do not.

"Q. In that connection, or in that conversation, was anything said about Chicago or the commercial centers?

"A. Yes.

"Q. What?

"A. He said that they proposed to organize all the large commercial centers as they had Chicago organized.

"Q. Now, was anything said about the country outside the commercial centers?

"A. I do not remember of anything distinct regarding that matter."

It will be observed from this evidence, which was uncontradicted, although Mr. Spies himself took the stand as a witness, and which was not even attacked by a cross-examination, that Mr. Spies deliberately stated to Mr. Moulton and Mr. Shook that there was an organization then formed in the city of Chicago, numbering about three thousand persons, who were armed with superior means of warfare; that the object of this organization was the destruction of the existing order of society; that it proposed to accomplish this, not by agitation—having no confidence either in agitation, the ballot or legislation—but by force; that they expected to bring about the revolution when laboring men were idle in large numbers and could be easily induced to join them. Spies, at that time, recognized the fact that in order to accomplish the result wished for, bloodshed would be necessary; that in case of failure he would be a criminal, amenable to punishment; but that if succesful, he would be a hero, and would escape punishment; that he took his chances.

Was this statement of Spies a deliberate statement of a fact which actually existed, or was it, to borrow a pet expression of the counsel for the defense, "mere braggadocio?"

If the revolutiouists in Chicago expected to do what Spies said they did, there was but one way in which they could accomplish their purpose. They must make converts to their theory and prepare their means of warfare by which they could carry their plans into execution.

The evidence shows that there has been in existence in the city of Chicago for a number of years groups of an organization known as the International Workingmen's Association, spoken of sometimes through the evidence as the International Arbeiter Association, and known commonly as the "International"—an organization extending through most of the civilized countries of the world. This association in the city of Chicago was composed of groups, some of them autonomous in their government, others, being by far the greater number, sending delegates to a central organization called the general committee, which met at the office of the Arbeiter Zeitung, and which was a sort of a central governing committee, and formed a bond of union between the different groups.

It is well known, as a matter of history, of which courts can take judicial cognizance, that the object of the "International," wherever it exists throughout the civilized world, is the bringing about of what they style a "social revolution," by which they mean the destruction of the right of private property; the details of the system which they propose to substitute for the present system of society and the forms of government which they propose to substitute for those now existing differing somewhat in different countries and in portions of the same country, according as the members of the "International" are more or less radical in their views. It is also known, as a matter of history, that some of the members of the "International" are what are called anarchists, or those who believe that there should be no government whatever, and that there should be no right of property whatever, but that every man should live as he sees fit and do as he sees fit, subject only to the opposition of his neighbor, who may perhaps be stronger than himself. It is

also known, as a matter of history, that the anarchist believes that the only way the social revolution can be brought about, existing property rights destroyed, and existing governments overthrown is by the use of force and the inspiration of terror.

What was the common object which bound together the groups of the "International" in the city of Chicago appears from the record in this case. It appears in the evidence, and is uncontradicted, that the "Arbeiter Zeitung," portions of which were introduced in evidence in the case, was the organ of the German-speaking groups of the "International"—was their official mouthpiece; that its managing editor was August Spies, and the editor next in rank was Michael Schwab; that among its stockholders were the defendants Spies, Schwab, Fielden, Parsons and Neebe. It appears also that "The Alarm," portions of which were introduced in evidence, was the organ and official mouthpiece of the English-speaking portion of the groups of the "International"; that its editor was the defendant Parsons; that Fielden, Spies, Parsons, Schwab and Neebe, defendants in this case, were stockholders in the organization which owned it.

As to the competency of the introduction of the articles in these papers, we shall speak later on. We desire now to quote from a portion of the articles which were introduced in evidence for the purpose of showing from the recognized organs of the "International" what it was, and what the anarchists in the city of Chicago hoped to do. From these articles it appears that those connected with and responsible for these papers were engaged continuously and systematically in the work of propagation—that is, of advocating the doctrines and making converts to the cause of the social revolutionists.

(B.) THE WORK OF PROPAGATION.

There appears in all the issues of the Arbeiter Zeitung during the months of February, March and April, 1886, the proclamation and the platform of the International Association of Workingmen in America; in other words, the official declaration of their principles and intentions as promulgated by the editors of that paper and the Alarm, in which it was also published.

The article is as follows:

(1.) The Platform of the International.

"International Association of Workingmen.
(People's Exhibit 16.)

"PROCLAMATION.

"*To the Workingmen of the United States of North America.*

"Fellow Laborers: The Declaration of Independence of the United States of this country contains the following: 'When a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them (the people) under absolute despotism, it is their right, it is their duty to throw off such government and to provide new guards for their future security.'

"Now, has not the moment already arrived for reducing to practice this thought of Thomas Jefferson, the real founder of the American republic? Are we not too much governed?

"And is our government, forsooth, anything but a conspiracy of privileged classes against the people, against you?

"Fellow laborers: Hear what we have to say to you under such circumstances, read the following declaration which we have issued in your interest and for the welfare

of your wives and children, for humanity and progress. The present order of society, so-called, is based upon the spoliation of the non-property owners by the property-owners. The spoliation consists in this, that the property-owners (the capitalists) buy the labor of the poor on the average for the mere cost of living (wages), and claim for themselves, that is, steal all the new wealth (products) created by this labor, over and above this amount.

* * * *

"This system is unjust, insane, and murderous. For that reason every human being who suffers under it, and who does not wish through his inactivity against it to share in the responsibility for its continuance, ought to strive for its total destruction, by the use of all means and by the exertion of his greatest energy. In its place is to be put the true order of society.

"This can be brought about only when all instruments of labor, ground and soil and other conditions of production, in short, when all capital which has been produced by labor, has been transformed into common property. For on this condition alone is every possibility of spoliation of man by man cut off. It is only when capital is made common and indivisible that all can be made to partake fully and freely of the fruits of common activity. It is only by the impossibility of acquiring individual (private) capital, that everybody is compelled to work, if he wishes to claim the right to live.

"Neither lordship nor servitude will henceforth exist in human society.

"This order of things carries with it, furthermore, that production will be regulated by the wants of the community, and that no one will need to work more than a few hours a day and yet all will be able to satisfy all their wants to the fullest extent. In this way, time and opportunity are also given for opening to all the people the possibility of the highest imaginable culture, that is, for cutting off together with the privileges of wealth and birth the prerogatives also of higher knowledge.

"Opposed to the establishment of such a system stand above all the political organizations of the capitalistic classes, be they called monarchies or republics. These

political creations (state), which are wholly in the hands of the property owners, have apparently no other end in view than the maintenance of the spoliation—disorder of the present day.

"The laws direct their sharp points wholly against the laboring people. So far as the opposite seems to be the case, they serve, on the one hand, to throw dust in the eyes of the workingmen, and, on the other hand, they are simply evaded by the ruling classes.

"The school itself exists only to furnish the offspring of the rich with those capacities which are necessary to maintain the supremacy of their class. The children of the poor receive scarcely a formal elementary education; this, moreover, is directed toward those subjects of study which serve only to promote conceit, prejudice, servility, in short, anything but intelligence.

"The church, moreover, seeks, through a reference to a fictitious heaven, to make the masses forget the loss of paradise on the earth. The press, on the other hand, takes care to confuse the public mind.

"All these institutions, far from promoting public intelligence, aim to prevent the people from reaching intelligence. They are entirely in the pay and under the sway of the capitalist classes. The laborers, consequently, can look for aid from no outside source in their fight against the existing system. They must achieve their deliverance through the exertion of their own strength.

"*As in former times no privileged class ever relinquished its tyranny, no more can we take it for granted that the capitalists of the present day will forego their privileges and their authority without compulsion.* If there could ever have been any doubt on this point, it would have been sufficiently cleared away by the brutalities of which the *bourgeoise* (middle classes)—in America as well as in Europe—have been guilty, as often as the *proletarians* (laboring classes) anywhere conceived the notion of taking energetic steps to improve their condition.

"*It is therefore self-evident that the fight of proletarianism against the bourgeoise must have a violent revolutionary character, and that mere wage conflicts can never lead to the goal.*

"*We could show by numerous illustrations that all at-*

tempts which have been made in the past to do away with the existing monstrous social system through peaceable means, for example, through the ballot-box, have been entirely useless and will be so in the future, and for the following reasons: The political institutions of the present time are only instruments of power, in the hands of the property-owning classes; their sole object is the maintenance of the prerogatives of your spoliators; every reform in your favor would only curtail these privileges; to this the privileged can never give their consent, for that would be to them suicide. *We know, therefore, that the ruling classes will not voluntarily relinquish their prerogatives and will make no concessions to us. Under all these circumstances, there is only one remedy left—force!*

" Our ancestors (the champions of liberty of 1776–1781) have not only taught us that force against tyrants is justifiable and is the only means of redress, but they have themselves given us an immortal example of this. It was through force that our ancestors freed themselves from their foreign oppressors, and through force their descendants must free themselves from domestic oppression.

" Therefore it is your right, it is your duty, says Jefferson, to arm yourselves.

" *Agitation with a view to organization, organizations for the purpose of rebellion, herein is indicated in a few words the way which workingmen must take, if they would rid themselves of their chains.* And as the situation of affairs, in all lands of the so-called 'civilized' world is the same; since, moreover, the governments of all monarchies and republics work completely hand in hand, when it comes to opposing the efforts of the thinking portion of the laboring men; since, finally, the victory of the laboring population can be confidently counted on only when the proletarians inagurate the decisive combat at the same time along the whole line of the civil (capitalistic) society, the necessity for the international affiliation which finds its expression in the International Association of Workingmen is self-evident.

"OUR PLATFORM.

"Our aim is therefore simple and clear:

"1. *Destruction of the existing class-domination, by all means; i. e., through energetic, inexorable, revolutionary and international activity.*

"2. The building up of a free society founded on a communistic organization of production.

"3. Free exchange of equivalent products through the productive organization itself, without jobbing and profit-making.

"4. Organization of the educational system, upon a non-religious, scientific and equal basis for both sexes.

"5. Absolutely equal rights for all without distinction of sex or race.

"6. The regulation of all public affairs through agreements fully entered into by the autonomous (independent) communes and confederacies."

The same platform appears in "The Alarm" (see People's Exhibit 19). It will thus be seen, from the reading of this platform, that the object of the "International," as officially declared, was "the destruction," to use their own language, "of the existing class-rule, by "all means"; that is, by energetic, relentless, revolutionary and international action, and the establishment of society upon a communistic basis, in which there should be no government except that of autonomous communes. It will be seen also, from the articles which follow, that these doctrines were not only indorsed, but were ceaselessly advocated by both of these papers. To avoid making our brief more voluminous than is necessary, we insert only a portion of the articles which appear in the record; the articles are gathered together in the volume of exhibits.

(2.) Alarm Articles.

In The Alarm of October 25, 1884, appears the following editorial:

"The Socialist. (People's Exhibit 23.)

"*The Socialists are accused of being bloodthirsty. This is not true. They, like all other thinking people, know that a revolution must come.* There was a time when competition ground down so slowly that none noticed its workings. But now, with free schools, free press, steam and electricity, everything moves so rapidly that whichever course it takes, people see its aim and end. And when anything is moving against the rights of the majority, it will sooner or later be stopped. *Whether the stopping and uprooting of a bad principle will require bloodshed depends first, on how old it is, and how much the people are receiving it as a second nature, and how much its supporters are interested in keeping it a-going. And secondly, how strong, clear and determined the opposition is when it begins to oppose. A weak opposition, or an opposition that is believed to be weak, will cause bloodshed, but an opposition that is known to be sufficiently strong for certain victory will command and obtain a bloodless surrender. This is why the communist and anarchist urges the people to study their school-books on chemistry, and read the dictionaries and cyclopedias on the composition and construction of all kinds of explosives, and make themselves too strong to be opposed with deadly weapons. This alone can insure against bloodshed. Every person can get this knowledge inside of one week, and a majority now have one or more books containing all this information right in their own homes. And every man who is master of these explosives cannot be even approached by an army of men. Therefore, bloodsheed being useless, and justice being defenseless, people will be forced to deal justly and generously with each other.*

"The ridiculous situation that requires men to freeze because there is too much coal in the country, and starve because there is too much bread in the country, and go naked because there is too much clothing in the country,

and lie out-doors because there are too many houses in the country, cannot always continue, especially when we know that the natural ingenuity of invention is constantly and rapidly increasing this over-supply and glutted market and forced idleness. *We know that there is and can be no other remedy but to turn all things into common property, and let all partake of the abundance freely, and allow none, under penalty of death, to carry off, or hide, or pen up any of that abundance for any selfish motive whatever.*

"Man is so created that to make him stand still punishes him, and we cannot stop his thinking. Therefore, we know there is energy in every man that even the man himself cannot stop without causing himself suffering. From this alone, we know for a certainty that the world would blossom anew every day with beauty and abundance, if men were free to place their energies where nature forcibly directs them. Then, truly, we need take no thought of the morrow, what we shall eat, what we shall drink, or what we shall put on."

In the Alarm of November 1, 1884 (People's Exhibit 24), appears an editorial, entitled "The Useless Classes," which begins by asserting that as society is at present constituted it is the sole business of numerous classes "to "sustain the wicked right of property," and including among the classes "lawyers, ministers, judges, legislat- "ures, jailers, police, bankers, brokers, peddlers, nearly "all storekeepers and clerks, the armies, navies," etc., etc. It then goes on to argue that, if the system of society were changed, the persons constituting these classes could be put to some useful employment, and ends by stating, "destroy the right of property," and all this useless energy would be turned, by the force of nature, to useful production and distribution. Further, it says:

"*How can all this be done? Simply by making ourselves masters of the use of dynamite, then declaring we will make no further claim to ownership in anything, and deny every other person's right to be the owner of anything,*

and administer instant death, by any and all means, to any and every person who attempts to continue to claim personal ownership in anything. This method, and this alone, can relieve the world of this infernal monster called the 'right of property.'

"*Let us try and not strike too soon, when our numbers are too small, or before more of us understand the use and manufacture of the weapons.*

"*To avoid unnecessary bloodshed, confusion and discouragement, we must be prepared, know why we strike and for just what we strike, and then strike in unison and with all our might.*

"Our war is not against men, but against systems; *yet we must prepare to kill men who will try to defeat our cause*, or we will strive in vain.

"The rich are only worse than the poor, because they have more power to wield this infernal 'property right,' and because they have more power to reform, and take less interest in doing so. Therefore it is easy to see where the bloodiest blows must be dealt.

"We can expect but few or no converts among the the rich, and it will be better for our cause if they do not wait for us to strike first."

In the same issue of "The Alarm" appears this editorial (People's Exhibit 25):

"The socialists are accused of advocating the destruction of property. Their policy is this: When they take possession of a store they will declare it a public storehouse and public goods, and any man can take whatever he needs; but any one destroying or wasting anything or carrying off more than he has need of will be considered a public enemy. But in case of an overpowering attack by the police or militia, it is better to set fire to all that cannot be carried off."

In the same issue of the same paper (People's Exhibit 26) appears an article headed "Anarchism," as follows:

"ANARCHISM.

"The anarchist believes in peace, but not at the expense of liberty. He believes that all political laws are enacted only to force men to do those things they would not naturally or if left untrammeled. *Therefore he considers all political laws as violations of the laws of nature and the rights of man.* He believes that if each man held all laws within himself, he would be held to a just execution of them by every other man. Therefore that we can only hope for justice and liberty through the abolition of statutes and governments. He has no faith in the laws of man; but all faith in the laws of nature.

"He believes that under any government the more a man is governed the less he is free. Therefore, as the less government the better, none at all is best.

"He believes that all governments tend to more laws, instead of less, and that therefore all governments ultimately become despotisms.

"He believes the evil in man only appears when some natural law or natural right of that man has been violated, and therefore, as all statutes only operate when they oppose the natural will, they can only operate to produce evil.

"He believes that every law of man's is a 'bone of contention,' and that a majority of the laws are intended to help some person or class take or hold some advantage of another. *He therefore demands the abolition of all political laws and the restoration of the rights of man as nature has provided.*"

In the Alarm of November 29, 1884, (People's Exhibit 30), appears an article denouncing the right of property. It concludes as follows:

"No man has the right to be the owner of anything: but every one should use the energies they do use in producing something, and no man should pay them for what they produce. It is no credit to a man that he spends his energies. If he should stop his energies it would cause him pain. He spends his energy because he has to; he is so created he can't help it. Therefore, no man should be paid for what he produces; but in all just-

ice to humanity he ought to be killed if he will waste his energies without producing something. The moment you pay a man for what he produces he will take that pay and then spend his energies in taking advantage of somebody with it. *Down with pay, and dynamite the man who claims it; and hang him who will not let his energies produce something. This is socialism.*

" Upon this principle, and this only, can all humanity be raised up, and upon this principle alone can we stop all this quarreling, robbing, starving and throat-cutting. There is no reason on earth why any living being should have less of the benefits and pleasures of this world than Vanderbilt now possesses. The idea that the world can have no more than there are dollars to every representative is ridiculous nonsense. There isn't money enough in the world to represent the amount of fine combs and tooth-brushes that humanity ought to possess. Down with this infernal nonsense that we must measure everything by money. We have no just use for money, or for banks, or for brokers, or for insurers, or jailers, or for any other hoodlum classes who are wickedly wasting the energy of their whole lives. *Nothing but an uprising of the people and a bursting open of all stores and storehouses to the free access of the public, and a free application of dynamite to every one who opposes, will relieve the world of this infernal nightmare of property and wages.* Down with such wretched nonsense. No rascality or stupidity is sacred because it is old. Down with it!"

In the Alarm of November, 29, 1884, appears an article headed:

"The Black Flag! The emblem of hunger, unfurled by the proletariats of Chicago. The red flag borne aloft by thousands of workingmen on Thanksgiving day. The poverty of the poor is created by the robberies of the rich. Speeches, resolutions and a grand demonstration of the unemployed, the tramps and the miserables of the city. Significant incidents." (Exhibit 29.)

* * * * * * * *

" Mr. Parsons then called for the resolutions, which were then read as follows:

"'WHEREAS, We have outlived the usefulness of the wage and property system, that is now and must hereafter cramp, limit and punish all increase of production, and can no longer gratify the necessities, rights and ambitions of man; and

"'WHEREAS, The right of property requires four times more effort to adjust it between man and man than is required to produce, manufacture and distribute it; therefore, be it

"'*Resolved*, That property rights should no longer be maintained or respected. That the great army of useless workers (among which are the lawyers, insurers, brokers, canvassers, jailers, police, politicians, armies and navies, including all useless employes, whose sole business is to adjust property claims between man and man, should be deprived of this useless and corrupting employment, and be allowed to spend their energies producing, manufacturing and delivering the necessaries and luxuries of life.

"'And this is impossible so long as man continues to pay or receive pay for production; therefore, be it further

"'*Resolved*, That no man shall pay for anything, or receive pay for anything, or deprive himself of what he may desire that he finds out of use or vacant. While none can eat more than they ought, under any system, or wear more than one suit of clothes at a time, or occupy more than one house at a time, yet, as a free access to all will require more production; therefore, be it further

"'*Resolved*, That any person who will not spend a reasonable portion of energy in the production, manufacture or distribution of the necessaries, comforts and luxuries of life is the enemy of all mankind and ought to be treated as such. He who will wilfully or maliciously waste is no better.

"*As this system cannot be introduced against existing ignorance, selfishness and distrust without the force of arms and strong explosives, therefore, be it*

"'*Resolved, That when all stores, storehouses, vacant tenements and transporting property are thrown open and held open to the free access of the general public; the good of mankind and the saving of blood requires that all forcible opposition should be dealt with summarily as fast as it may*

present itself. But none should be harmed or offended for holding opposite opinions; and lastly be it

"'*Resolved*, That as natural law provides that the more one has the more he wants, therefore the gratification of human desires only can stimulate human ambition. Therefore our policy is wise, humane and practical and ought to be enforced at the earliest possible moment, with a just regard for numbers and implements.

"'As an expression of our thankfulness in this Thanksgiving Day,

"'*Resolved*, That we are thankful because we have learned the true cause of poverty and know the remedy, and can only be more thankful when the principles are put in force."

Then follows a description of other proceedings of the meeting.

In the Alarm of January 13, 1885, is a contributed article signed "C. S. G.," entitled "**Force!**" (People's Exhibit 34) "The only Defense against Injustice and Oppression," the last part of which is as follows:

* * * * * * * *

"We are told that force is cruel. But this is only true when opposition is less cruel. If the opposition is a relentless power, that is, starving, freezing, exposing and depriving tens of thousands, and the application of force would require less suffering while removing the old cause, then the force is humane. *Seeing the amount of needless suffering all about us, we say a vigorous use of dynamite is both humane and economical.* It will at the expense of less suffering prevent more. It is not humane to compel ten persons to starve to death when the execution of five persons would prevent it.

"*It is upon this theory that we advocate the use of dynamite.*

"*It is clearly more humane to blow ten men into eternity than to make ten men starve to death.*"

In the Alarm of February 7, 1885 (People's Exhibit 37),

appears a poem, entitled "The War Cry," signed "Gorsuch." Two of the stanzas we quote:

"Our demand is full surrender, compromise we shall not heed,
In the past too oft we've been deceived and misled in our need.
All the hoarded wealth of ages, all that toil doth forge to-day,
Ye shall yield, or righteous vengeance shall o'ertake and claim her prey.

* * * * * * * *

"*Then our battle cry re-echo, 'Dynamite shall free the slave!'*
All ye men who fear not, 'forward!' tho' ye fill a martyr's grave;
Yet the tyrant private property dethrone, the coming race,
Bright with glowing fire of freedom, shall thy name in honor trace.
"GORSUCH."

In the Alarm of February 21, 1885 (People's Exhibit 38), is the following editorial, written by the defendant Parsons:

"THE DYNAMITE TERROR.

"'As for the American people, the thing to bear in mind is that here the ballot-box can be so wielded that there shall be no need of resorting to force for the cure of any public evil, however deep-rooted or malignant.'—John Swinton's Paper.

"The above is the concluding paragraph of a lengthy article of John Swinton's paper last week. We are surprised to see our old friend bow at the shrine of that capitalistic humbug—the ballot.

"America *is not* a free country. The economic conditions of the workers here are precisely the same as they are in Europe. A wage-slave is a *slave* everywhere, without any regard to the country he may happen to have been born in or made the living in.

"Friend Swinton, how can the industrially enslaved be politically free? How can a man without the right to live possess the right to vote?

"You give the facts and illustrations in your own columns which prove that the hand which holds the bread can alone wield the ballot.

"What do you mean by 'public evils?' Do you mean the political offices, with its bribery and corruption? And that all the workers have to do in order to be saved is to 'turn the rascals out'? Well, from a democratic point of view, Cleveland will do that after the 4th of March

next. The 'outs' will go in, and 'ins' will go out. But surely you cannot mean that the wage-slave will no longer be a slave?

"Here in America the worker is deprived of life, liberty and happiness (the Declaration of Independence to the contrary notwithstanding), in spite of, yes, mainly by means of the ballot. With a copy of the declaration in one hand and the ballot in the other, the wage-worker is deluded into the belief that he is a free man and a sovereign.

"The poor have no votes; poverty can't vote—for itself. Wealth alone can vote. The workers vote wrong, because they are poor, and are poor because they are robbed. Robbed of their inheritance—the land; robbed of their right to the free use of all the resources of life—the means of existence. The workers are deprived of all opportunity to acquire and apply knowledge. They are deprived of all access to culture and refinement. For the perpetuation of these evils they have to thank government, the state, the ballot-box and the politicians. Politicians and the state are the legitimate, inevitable outgrowth of the profit-mongering system of wage-slavery, based upon competition and wages. We cannot get rid of the former until we remove the latter.

"The deep-rooted, malignant evil which compels the wealth-producers to become the independent hirelings of a few capitalistic czars cannot be reached by means of the ballot.

"*The ballot can be wielded by free men alone; but slaves can only revolt and rise in insurrection against their despoilers.*

"*Let us bear in mind the fact that here in America, as elsewhere, the worker is held in economic bondage by the use of force, and the employment of force, therefore, becomes a necessity to his economic emancipation! Poverty can't vote!* P."

In the same number of the Alarm (People's Exhibit 39) is a contributed article, signed "T. Lizius, Indianapolis, Ind.," as follows:

"DYNAMITE.

"*Dynamite! Of all the good stuff, this is the stuff. Stuff several pounds of this sublime stuff into an inch pipe, gas or water pipe, plug up both ends, insert a cap with a fuse attached, place this in the immediate neighborhood of a lot of rich loafers who live by the sweat of other people's brows, and light the fuse. A most cheerful and gratifying result will follow. In giving dynamite to the down-trodden millions of the globe, science has done its best work. The dear stuff can be carried around in the pocket without danger, while it is a formidable weapon against any force of militia, police or detectives that may want to stifle the cry for justice that goes forth from the plundered slaves. It is something not very ornamental, but exceedingly useful. It can be used against persons and things; it is better to use it against the former than against bricks and masonry. It is a genuine boon for the disinherited, while it brings terror and fear to the robbers.* It brings terror only to the guilty, and consequently the senator who introduced a bill in Congress to stop its manufacture and use must be guilty of something. He fears the wrath of an outraged people that has been duped and swindled by him and his like. The same must be the case with the 'servant' of the people who introduced a like measure in the Senate of the Indiana Legislature. All the good this will do. Like everything else, the more you prohibit it, the more it will be done. Dynamite is like Banquo's ghost: it keeps on fooling around somewhere or other, in spite of his satanic majesty. *A pound of this good stuff beats a bushel of ballots all hollow, and don't you forget it.* Our lawmakers might as well try to sit down on the crater of a volcano or a bayonet as to endeavor to stop the manufacture and use of dynamite. It takes more justice and right than is contained in laws to quiet the spirit of unrest. *If workingmen would be truly free, they must learn to know why they are slaves. They must rise above petty prejudice and learn to think. From thought to action is not far, and when the worker has seen the change, he need but look a little closer to find near at hand the sledge with which to shatter every link. The sledge is dynamite.*

"INDIANAPOLIS, IND. T. LIZIUS."

In the Alarm of March 7, 1885, an article (People's Exhibit 40) signed "P." (Parsons), entitled "Our Agitators," shows the extent to which at that time the work of propagation was carried on.

In the Alarm of May 2, 1885, under the title of "Our Vampires," is an article (People's Exhibit 52) describing a public meeting called for the purpose of denouncing the board of trade, whose new building was that night dedicated. In the article appears a speech which was delivered on that occasion by A. R. Parsons, the editor of the paper, in which, after denouncing the members of the board of trade as a gang of legalized thieves, and denouncing the present social institutions as responsible for the wrong suffered by the working classes, he says:

"The present social system makes private property of the means of labor and the resources of life—capital—and thereby creates classes and inequalities, conferring upon the holders of property the power to live upon the labor product of the propertyless. Whoever owns our bread owns our ballots, for a man who must sell his labor or starve must sell his vote when the same alternative is presented. The inequalities of our social system, its classes, its privileges, its enforced poverty and misery, arises out of the institution of private poverty, and so long as this system prevails our wives and children will be driven to toil, while their fathers and brothers are thrown into enforced idleness, and the men of the board of trade and all other profitmongers and legalized gamblers who live by fleecing the people will continue to accumulate millions at the expense of their helpless victims. This grand conspiracy against our liberty and lives is maintained and upheld by statute law and the constitution and enforced by the military arms of the state. *If we would achieve our liberation from economic bondage and acquire our natural right to life and liberty, every man must lay by a part of his wages, buy a Colt's navy revolver* (*cheers, and 'that's what we want'*), *a Winchester rifle* (*a voice: 'And ten pounds*

of dynamite! we will make it ourselves') *and learn how to make and to use dynamite.* (*Cheers.*) *Then raise the flag of rebellion* (*cries of 'Bravo' and cheers*), *the scarlet banner of liberty, fraternity, equality, and strike down to the earth every tyrant that lives upon this globe.* (*Cheers, and cries of 'Vive la Commune.'*) *Tyrants have no right which we should respect. Until this is done you will continue to be robbed, to be plundered, to be at the mercy of the privileged few; therefore agitate for the purpose of organization, organize for the purpose of rebellion, for wage-slaves have nothing to lose but their chains; they have a world of freedom and happiness to win.* (*Cheers.*)"

An article from the same paper (People's Exhibit 42) dated April 18, 1885, headed "Assassination," is as follows:

"ASSASSINATION."

"Assassination is stigmatized as barbarous and cowardly. This is sometimes true, especially when one government employs assassins against another, or when one person adopts this course against another. But there are instances where assassination is both brave and humane, and wise also.

"The effort to abolish government cannot be done by the accepted methods of warfare, because it requires the organization of a government to abolish it, stronger than the one abolished, thus leaving a stronger government in existence than before. Such a method is literally foolish, for all the blood, treasure and effort has been worse than wasted.

"The moment the abolition of a government is suggested, the mind pictures the uprising of a hundred little despotic governments on every hand, quarreling among themselves and domineering over the unorganized people, *This fact suggests the idea that the present governments must be destroyed, only in a manner that will prevent the organization or rise of any and all other governments, whether it be a government of three men or three hundred million. No government can exist without a head, and by assassinating the head just as fast as a government head ap-*

pears the government can be destroyed; and by this same process all other governments can be kept out of existence.

"This is the policy of the nihilist of Russia, and the moment it gets any popular support throughout civilization all governments will disappear forever. Those governments least offensive to the people should be destroyed last. All governments exist by the abridgment of human liberty, and the more government the less liberty. He alone is free who submits to no government. All governments are domineering powers, and any domineering power is a natural enemy to all mankind and ought to be treated as such.

"*Assassination will remove the evil from the face of the earth.*

"Man will always have and always need advisers, teachers and leaders in all departments of life, but bosses, jailers and drivers are unnecessary.

"Man's leader is his friend. His driver is his enemy. This distinction should be understood, and the parties should be dealt with accordingly. *Assassination properly applied is wise, just, humane and brave. For freedom, all things are just.* G."

In the Alarm of Sept. 5, 1885, is an article headed "Eight Hours. Our Reply," signed "A." (People's Exhibit 50), which antagonizes the eight-hour movement then being agitated by the workingmen, on the ground that the shortening of the hours of labor will be of no benefit to the working classes; that the only method of improving their condition is by a radical change in the system of society. It closes as follows:

"And this man poises as a critic on anarchism! He ought to go in partnership with Mr. Powderly, *the man with the 'dynamite of ideas,' who, in his own language, 'does not fight persons, but systems.'*

"*This is exactly the same thing as if England had said: 'Why, we don't fight the Egyptian people; what we fight is Egypt.'* We think Mr. Powderly and Edmonston would pull well together.

"Now, in regard to the proposed strike next spring, a

few practical words to our comrades. The number of organized wage-workers in this country may be about 800,000; the number of the unemployed about 2,000,000. Will the manufacturing kings grant the modest request under such circumstances? No, sir. The small ones cannot, and the big ones will not. They will then draw from the army of unemployed; the strikers will attempt to stop them. Then comes the police and the militia. * * * *Say, workingmen, are you prepared to meet the latter; are you armed?*"

In the Alarm of March 20, 1886 (People's Exhibit 57), appears the following, signed "P.," as a note to an article:

"Argument is no good unless based on force. You must be able to *make* your antagonist stand still and listen to your plea. When he refuses to do that, the use of force becomes a necessity."

In the Alarm of April 24, 1886 (People's Exhibit 61), is an article entitled "Knaves or Fools?" which is of great significance in view of the occurrences which followed a few days later. It is as follows:

"KNAVES OR FOOLS?

"In the contest now going on between labor and capital the pretended leaders and official mouthpieces of trades unions and Knights of Labor assemblies are attempting to prevent the toiling masses from using the best, most effective and only successful means against the predatory beasts which must be exterminated as public enemies during strikes and boycots, our only weapons against capitalistic conspiracy and organized murder, starvation and wage-slavery. These flunkies and lickspittles speculate on their chances of securing places at the public crib as influential agitators, or as foremen and 'sweaters' over their fellow-workers, or some other sinecure; others are tickled by the praises of the capitalistic press, and, by being quoted as representative reformers in interviews published by such labor organs as the Chicago Times, Mail, Tribune, Nuisance, etc. These enemies of labor

manage to get themselves elected to trades assemblies and other representative bodies of organized labor, where they play the role of harmonizers and peacemakers between the despoiled wage-slaves and their despoilers. The toiling masses never gave Mr. Powderly or any other man the authority to issue a proclamation against the enforcement of the eight-hour law from and after May 1st, nor has he been empowered by any plebiscite to forbid strikes and boycots, and to preach the harmony of capital and labor as against the gospel of discontent. The Knights of Labor, trade unionists and other working people repudiate by their action the foolish talk of such men. *The social war has come, and whoever is not with us is against us.*"

(3.) Arbeiter Zeitung Articles.

Exhibit 105.

In the issue of February 12, 1885, is this editorial:

"When a common 'philister' declares * * * 'It is true it had been proven that the locomotive which caused the injury of the plaintiff was in a dangerous condition, but as he (the plaintiff) had also been informed thereof, and notwithstanding continued his work, then he alone has to bear the consequences of his risk.'

"It was the Sormonic Judge Bailey who gave this decision in the case of Albert Standard against the Chicago, Milwaukee and St. Paul railway, and there set aside the verdict of the jury which gave the plaintiff $500 damages. Standard was an employe of the said railway company. The locomotive which he run was in a dangerous condition. The management of the road knew this. Whether the plaintiff had knowledge of it or not is immaterial. As an employe, he had to do as the management commanded.

"'Had to?' asks the philister; 'couldn't he have said that he refused to mount the locomotive until it was in good repair and good condition?' Of course he could have done that, for it was certainly the best thing; but at the same time he could have packed his traps as a free-

man, and could have looked for another master. This alternative would have been no less dangerous than to have remained at his post and risked his life. If, when one has a choice between death by starvation and cold, on the one side, and a risk or danger to be sent suddenly into the beautiful beyond by a boiler explosion, then he would be a fool not to prefer the latter. The liberty of the plaintiff, then, simply consisted in this choice to decide in favor of one of two methods of destruction, whichever might be most agreeable to him.

"*How dearly Judge Bailey sold this decision we do not know; it has nothing to do with the case, either.*

"*Perhaps the proletarians will occasionally pay the courageous gentleman for his decision by according to him also the freedom of choice between a hemp necktie and a nitro-glycerine pill.* (*Signed*) '*A. S.*'"

EXHIBIT 106.

In the issue of February 23, 1885, is an editorial:

"Thicker and thicker the clouds gather around the political and social horizon of the world, more and more the darkness increases. Without laying claim to the reputation of a prophet, one can say with certainty that this cannot end without a mighty storm, bringing terror and blessing, destruction and freedom. Discontention or hatred of all the corrupt and rotten that is existing grows and prospers everywhere. The struggle between the parties is tapering, the diplomatic machinations of the so-called statesmen have reached their culminating point.

"*The already approaching revolution promises to be much grander and more terrible than that at the close of the last century, which only broke out in one country. The common revolution will be general, for it makes itself already felt everywhere and generally; it will demand more sacrifices, for the number of those over whom we have to sit in judgment is now much greater than that of the last century.*"

EXHIBIT 107.

March 2, 1885, an editorial:

"* * * But our censure is not directed only against the workingmen of Philadelphia; it strikes especially *and in much higher degree those dirty souls who carry on as a business the quieting of the working class under idle promises of reforms in the near future.* The workingmen believe the promises of these false prophets and go to sleep, and when then a thing happens like that in question then the dupes stand about with empty hands and open mouths, allow their heads to be knocked in as if that was the proper thing, and find comfort in the thought of the beautiful promises of their prophets.

"That much is sure, that thing could not have happened in Chicago without placing for exhibition on the telegraph wires and cornices of houses a dozen cadavers of policemen in pieces for each broken skull of a workingman. *And this is due solely and purely to the revolutionary propaganda carried on here.* Finally our respect to the Philadelphia women: They were the only ones who resisted the order-beast and defended themselves with commendable bravery.

"(*We wonder*) *whether the workingmen in other cities will take a lesson from this occurrence and will at last supply themselves with weapons, dynamite and prussic acid as far as that has not been done yet.*"

EXHIBIT 108.

March 11, 1885, an editorial notice:

"The community will soon have to decide whether to be or not to be; *either the police must be and then the community cannot be, or the community must be and then the police cannot be; one only of the two is possible.*"

EXHIBIT 110.

March 20, 1885, an editorial notice:

"Don't we need to shoot the rascals dead? Already another one of our wise lawgivers in Springfield, Senator

Frank Bridges, has kicked the bucket of his own accord and has saved thereby another shot of powder. Every little helps."

EXHIBIT 112.

March 23, 1885, are editorials as follows:

"Yet one thing more. Although every day brings the news of collisions between armed murder-serfs of the bourgeoisie with unarmed crowds of people (strikers and the like), we must ever and again read in the so-called workingmen's papers: discussions of the question of arming ought to be avoided in the associations of the proletarian. *We characterize such pacifying efforts as criminal.*"

"*Each workingman ought to have been armed long ago.* We leave it an open question whether whole corporations are able to completely fit themselves out in a military point of view with all their numbers; but we say that each single one, if he has the necessary seriousness and the good-will, can arm himself little by little very easily. *Daggers and revolvers are easily to be gotten. Hand grenades are cheaply to be produced; explosives, too, can be obtained and finally possibilities are also given to buy arms on installments. To give an impulse in that direction one should never tire of.*

"*For not only the revolution proper approaching with gigantic steps commands to prepare for it, but also the wage contests of to-day demand of us not to enter into it with empty hands.*

"*Let us understand the signs of the times! Let us have a care for the present, that we will not be surprised by the future unprepared!*"

EXHIBIT 116.

April 8, 1885, is an editorial notice:

"That is something worth hearing: A number of strikers in Quincy yesterday *fired upon their bosses and not upon the scabs. This is recommended most emphatically for imitation.*"

EXHIBIT 122.

May 5, 1885, is an editorial notice:

"When anywhere a small party of workingmen dare to speak of rights and privileges, then the 'order' draw together all the murdering scoundrels of the whole city, and if necessary from the whole country, to put their sovereignty the more clearly before the sovereigns. In short, the whole power of the capital, that is, the entire government, is ever ready to suppress the petty demonstrations of the workingmen by force of arms one after another, now here, then there. This would be quite different if the workingmen of the entire country could only see that their class is in this wise subjected part by part without condition and without repartee. *The workingmen ought to take aim at every member of the militia, and do with him as one would do with some one of whom it is known that he is after taking one's life. It might then sooner be difficult to obtain murdering tools.*"

In a small notice under the same heading is this: "Workingmen, arm yourselves! Let the butchery of Lemont be a lesson to you."

EXHIBIT 123.

The 7th of May, 1885, an editorial closing:

"Before you lies this blissful Eden. The road to it leads over the smoking ruins of the old world. Your passport *to it is that banner which calls to you in flaming letters the word 'Anarchy.'*"

EXHIBIT 125.

June 19, 1885, is an editorial:

"* * * It is scarcely necessary for us to say in conclusion that it would be an insane undertaking to meet the serfs of order with empty hands and to allow one's self to be clubbed down and to be shot down without means of defense; taking this into consideration it appears clearly that it is more necessary than anything else to arm

one's self *as soon as possible. . Therefore, workingmen, do arm yourselves with the most effectual means. The better you do this the quicker the fight is fought, the sooner the victory is yours. Do not delay, for that would be your ruin.* Z."

EXHIBIT 126.

In a continuation of the same article, June 20, 1885, the author says in conclusion:

"Enough is now said about the importance of being armed, and another question approaches us now which also must be discussed. *We are to go to work to supply ourselves as quickly as possible with these useful things.* The price of them is too high than that one could buy them himself. *The writer of these lines expresses his opinion, which does not intend to be too previous, to this effect, that special groups ought to form themselves to this end which are to accomplish these things incorporal, and which collect and pay the money in small sums optional with each one according to his means. Small contributions one can easily spare; one does not mind them and he is in this way the sooner in fighting trim for our purposes. In explanation it must also be said that dynamite bears several names here in America, among others it is known in trade also under the names of Hercules powder and giant powder.*

"*But we will not tire the reader any longer, and go about to close this article. The fable reports to us that founders of great and difficult works have been nursed by wild beasts, among others Romulus and Remus by a she-wolf; that is to be understood figuratively. It is not said that the founders of a great work must have something wolfish in their individuality, for such a beginning is ever the password in a fight, and in this it is meant for one to be a wild animal. Workingmen, fellows in misery, men of action! A creation greater, more important, higher, more elevated than one has ever been, it is for us to found and establish!*

"*The temple of the unveiled Goddess of Liberty upon the whole face of the globe. But to this end you must be wolves, and as such ye need sharp teeth. Workingmen, arm yourselves!*"

In the Arbeiter Zeitung, of June 19, an account is given of a meeting at Mueller's Hall (Exhibit 102), in which Schwab is reported to have spoken as follows:

"In America nothing is to be expected from the two political parties. If they had meant their promises seriously they would have fulfilled them long ago. Of political freedom we cannot speak in Illinois in view of the existing laws against conspiracy, which go against the workingman, but because we know (concluded the speaker) that the ruling class will never make any concessions, *therefore we have once for all severed our connection with it and make all preparations for a revolution by force.*"

"Hereupon Comrade August Spies was given the floor. He says that he was accused by a little paper to have called upon the workingmen to commit criminal acts. He conceded that and repeated it again. What is crime, anyway? When the workingman was putting himself in the possession of the fruits of his labor stolen from him, that was called a crime. A pseudo opponent had remarked that he could bring about the emancipation of the working classes through the ballot. *This, however, was impossible. If the ballot had been of advantage to the workingman, then Napoleon and Bismarck never would have given the franchise to the people;* the ballot was serving only for the covering over of capitalistic tyranny and highway robbery. The speaker pointed out the miserable condition the coal-diggers in the Hocking Valley had gotten into, and in conclusion he gave his hearers the advice to frequently visit the meetings of the International Workingmen's Association, and to read the organs of the workingmen for the purpose of informing themselves."

In the Arbeiter Zeiting of April 29, 1885 (Exhibit 121), is an editorial describing what is known as the board of trade meeting, in which it is stated that in the procession which marched past the board of trade there "marched a strong company of well-armed comrades of the various groups. Let us remark here that with perhaps few exceptions they were all well armed, and that also the *nitroglycerine pills were not missing.* They were prepared for a probable attack, and if it had come to a collision there

would have been pieces. The cordons of the police could have been quite excellently adapted for experiments with explosives! About twenty detectives were loitering about the Market square at the beginning and then disappeared. That explains the keeping back of our otherwise impertinent order—scoundrels."

EXHIBIT 127.

An editorial on the 24th of June, 1885, closes as follows:

"Fellows! Agitators! Dark, threatening economical storm-clouds have arisen in the United States; they become thicker above our heads; they will discharge themselves and bring a flood of inexpressible misery upon us. A terrible crisis is coming. Let us close our ranks and do not let us pierce our own flesh, but that of capital. The time is too serious. Let us rather see in every comrade a welcome fellow-combatant. Let us do this, and then the day of liberation, which will be celebrated here in a short time and which celebration must seem to us as derisive laughter of hell, will soon be followed by the true and real day of liberation; that is our most earnest desire."

In the issue of the Arbeiter Zeitung of October 5, 1885 (People's Exhibit 76), is an editorial which begins as follows:

"We have seen that even in England, without exceptional laws, and even under the cover of a semblance of political freedom, socialistic meetings have been dispersed and the speakers arrested and punished. In America, where the prosecution of the socialists is in full bloom since about a year, it is just the like."

The article then goes on to say that the eight hour movement and strikes are of no advantage to the laboring classes, and ends as follows:

"The question which presents itself to the wage-worker is this: Will you look on quietly that they eject in such manner those who have shown themselves most willing to be sacrificed, and that they are driven from house and

home and persecuted with the whip of hunger—will you or will you not? *and if they do not want that, there is no other way than to become immediately soldiers of the revolutionary army, and establish conspiring groups, and let the ruins fall on the home of such.*"

In the Arbeiter Zeitung of October 8, 1885 (People's Exhibit 75), is this editorial note:

"EDITORIAL.

"All organized workingmen in this country, no matter what views they might have otherwise, should be united on one point: they should engage in a general prosecution of Pinkerton's secret police. No day should pass without a report being heard from one place or another of the finding of a carcass of one of Pinkerton's. That this should be kept up until nobody would consent to become the blood-hound of these assassins."

In the Arbeiter Zeitung of December 28, 1885 (People's Exhibit 80), is an editorial, which is as follows:

"EDITORIAL.

"At last Chicago also has its dynamite sensation. Last Saturday morning, before the door of the palace whose proprietor is Lambert Tree, a little can was found, which, as it was afterwards shown, contained dynamite, the fuse partially burned up, indicating that there was a terrible attack, which had only failed on account of the unaccountable extinguishing of the fuse; evidently the dynamiter proposed to explode into the moon this big stone palace with a quarter of a pound of dynamite. And especially that fact speaks for the correctness of this theory, that he chose such a small quantity, and that he put it in the stairs so carefully and so cleanly the terrible bit of—well, of course, an anarchist.

"Such clumsy humbug has never before come to our notice. No man who has a little experience needs doubt for a moment who the perpetrator was. A fuse once ignited in a dry night is never extinguished by itself.

The explanation of the shrewd police that the wind had extinguished it shows the amount of culture of these protectors of law and order.

"To be brief, that tin can, with the explosive and partially burned fuse, was put there by the firm of Pinkerton, a very ordinary business trick of that despicable gang; to give a serious aspect to that attack, the end of the fuse was allowed to burn before it was put into the can. The citizens will be excited about this 'diabolical' plot, and all means must be engaged to find out the perpetrators. They call on Pinkerton, who at once puts three men at eight dollars a day at their disposal. Now they have a sure trace of the perpetrator, he cannot fail to fall into their hands, and the engagement must be prolonged. To prove that they were not idle, a poor devil is arrested once in a while, etc.

"We want to caution our capitalistic fellow-citizens against this last attack of the Pinkertons upon their pockets, *at the same time we want to advise them that true dynamiters are not so stupid as to enjoy such child's play. They do not joke in such matters, they do not blast a stone palace with a quarter of a pound of dynamite by laying it on the steps, and if they do undertake something like that, the fuse does not fail.*"

In the issue of the same paper of December 29, 1885 (People's Exhibit 81), is a report of a meeting of the north side group at 58 Clybourn avenue, which is as follows:

"The following resolutions were adopted:

"This assembly declares that the north side group, I. A. A., pledges itself to work with all means for the introduction of the eight-hour day, beginning on the 1st of May, 1886. *At the same time the north side group cautions the workingmen not to meet the enemy unarmed on the 1st of May*," etc.

In the issue of the same paper of January 22, 1886 (People's Exhibit 85), is a letter signed "R. B.," which is as follows:

"CHICAGO, January 21, 1886.

"DEAR MR. EDITOR: Taking advantage of your permission to publish views of the eight-hour movement in your valuable columns, I beg leave to give the following as my views. I am neither a member of the Arbeiter Association nor the Social Arbeiter Parthei or any other workingman's association, but I think I can take it for granted that all workingmen, organized or unorganized, work for the same end, namely, the liberation of the working classes to-day under the degradation and slavery under which it suffers:

"The eight-hour question is not, or at least should not be, the final end of the present organization, but in comparison to the present state of things, a progress not to be underrated. But now let us consider the question in itself, How is the eight-hour day to be brought about? Why, the thinking workingman must see for himself, under the present power of capital in comparison to labor, it is impossible to enforce the eight-hour day in all branches of business otherwise than with *armed force.* With empty hands the workingmen will hardly be able to cope with the representatives of the club, in case after the 1st of May of this year there should be a general strike. Then the bosses will simply employ other men, so-called 'scabs;' such will always be found.

"The whole movement then would be nothing but filling the places with new men, *but if the workingmen are prepared to eventually stop the working of the factories to defend himself with the aid of dynamite and bombs against the militia, which will of course be employed, then and only then you can expect a thorough success of the eight-hour movement.*

"*Therefore, workingmen, I call upon you, arm yourselves.* R. B."

EXHIBIT 86.

In the issue of January 23, 1886, is a letter signed August Kiesling:

"The rottenness of our social institutions cannot be covered any longer. Too open lies the wound with which the rotten system of to-day is afflicted; although

this ulcer is very old, although they have constantly doctored it, and although it is getting worse from year to year, they now intend to put new plaster on it. Brief is the space of time until the eventful day. The working-people feel that something must be done. The conditions force them to wake up from slumber. Already an immense mass is without means of subsistence. They are more and more meager. Capital sucks the marrow out of the bones of the workingmen.

"But why do we complain? Why do we murmur? We have no right to. Do we not know that all the misery, all the want, are the necessary consequence of the present state of society? As long as we admit that we are pariahs, that we are born to submit our neck as slaves under the whip of hunger, of extortioners; as long as we admit that, we have no right to complain. *Therefore, associates in misery, for this pressure has finally become unbearable, do not let us treat peaceably with our deadly enemies on the 1st of May. We do not want to cheat ourselves for the hundredth time that we would get from them in a peaceable and harmonious way even the least for the betterment of our situation.* We have so many examples and experiences, that even the large and indifferent mass does not believe any more that an agitation which tends to ameliorate the condition of the workingmen in a harmonious way would be of any purpose to those people, and I for one think they are right. *On the 1st of May, also, we will have an example of how harmoniously the capitalists will have our skulls crushed by their hirelings, if, out of sheer love of harmony, we will stand by with our fists in our pockets. He who employs the best means of battle, and uses them, is the victor. Force is right (by Bismarck), and if once we have seen that, on account of our unanimity and the modern means of warfare, we have the power, then we will also see we have the right; and that it is a great stupidity to work for that rabble of parasites instead of ourselves.*

"*Therefore, comrades, armed to the teeth, we want to demand our rights on the 1st of May; in the other case there are only blows of the club for you.*"

EXHIBIT 88.

In the issue of February 17, 1886, is an editorial:

"* * * That the conflict between capitalism and workingmen is taking constantly a sharper form is to be hailed, inasmuch as thereby the decision will be (word out). *Hundreds and thousands of reasons indicate that force will bring about the decisive results in the battle for liberty, and the more conscious the masses are in that conflict of their irresistible power, the nearer will be the approaching spring tide of the people.*"

EXHIBIT 89.

In the issue of April 20 is an editorial:

"As long as the people in the kitchen of life are satisfied with the smell of the roast and feeds his empty stomach with the idea of national greatness, national riches, national liberty of the poll, the glutton is always for liberty. Why not? It is useless to others and he feels comfortable with it. Freedom of making contracts, most sacred constitutional right of mankind, why shouldst thou not be welcome to gentlemanly gluttons? * * * *It is true that hundreds have armed themselves. But thousands are still unarmed.* Every trades-union should make it obligatory to every member to keep a good gun at home and ammunition. The time is probably not very far where such neglect would be bitterly felt, and the governing class is prepared, and their demands and their importunes is backed by muskets and Gatling guns. Workingmen, follow this example."

EXHIBIT 114.

March 2, 1886, editorial notices:

"The order-scoundrels beamed yesterday morning in their full glory. With the help of pickpockets, the natural allies of professional cutthroats, who otherwise call themselves also detectives, they succeeded yesterday in taking seventy scabs to the factory, accompanied also by scoun-

drels of the secret service to give a better appearance. This morning the number of the scabs which went back to work was materially increased. At this opportunity it was once again seen for what purpose the police existed—to protect the workingman if he works for starvation wages and is an obedient serf, to club him down when he rebels against the capitalistic herd of robbers. Force only gives way to force. *Who wants to attack capitalism in earnest must overthrow the body-guards of it, the well-drilled and well-armed 'men of order,' and kill them, if he does not want to be murdered himself. But, for this is needed an armed and systematically drilled organization.*"

On the same page: "*The time up to the 1st of May "is short. Look out!*"

Exhibit 96.

In the issue of March 19, 1886, is a communication denouncing the eight-hour movement as of no advantage to the workingmen, and saying:

"*The only aim of the workingmen should be the liberation of mankind from the shackles of the existing damnable slavery.* Here in America, where the workingman possesses yet the freedom of meeting, of speech, and of the press, most should be done for the emancipation of suffering mankind. But the press gang and the teachers in the schools do all in their power to keep the people in the dark. Thus everything tends to degrade mankind more and more from day to day, and this effects a 'beastening,' as is observable with Irishmen, and more apparent even with the Chinese.

"*If we do not soon bestir ourselves for a bloody revolution we cannot leave anything to our children but poverty and slavery. Therefore prepare yourselves in all quietness for the revolution.*"

EXHIBIT 90.

In the issue of April 21, 1886, appears an editorial, as follows:

"*The love for law on the part of the workingman is not so well established if put to the test.* But the hypocritical peace assurances in quiet times are in the way of preparations for serious conflict. When it comes to serious occasions it unfortunately happens that very often the workingmen break their heads on the walls of the law. *The desire to ignore the law is there, but it remains a desire.* Possible action means to remain unorganized and to stand anything that the extortioner may see fit to do.

"*He who submits to the present order of things has no right to complain about capitalistic extortion, for order means sustaining that. And he who revolts against the institutions vouchsafed by the constitution and the laws is a rebel and has no right to complain if he is met by soldiers. Every class defends itself as well as it can. A rebel who puts himself opposite the mouth of the cannons of his enemies with empty fists is a fool.*"

EXHIBIT 93.

In the issue of April 30th is an editorial:

"As we are informed from reliable source, the police have received secret orders to keep themselves prepared in their stations, as a labor conflict is feared on Saturday of next week. You see the capitalistic sluggards are thirsty for the blood of workingmen. The workingmen will not permit themselves to be kicked by them like dogs any more. They will not be tortured to death any more by unlimited work, and they will not be starved any more. For this opposition they want vengeance and they cry for blood. May be that this cry will be heeded—but then, beside the red life-sap of the extortioner's victim, there may flow a little of the black-dragon poison of the extortioner. *To the workingmen we again say at this hour arm yourselves. You have but one life to lose. Defend that with all means. And in this connection we want to caution the armed workingmen as yet to con-*

ceal their arms so that they will not be stolen by the minions of the law, as it has happened in various instances."

From these quotations, taken from various numbers of the files of these two papers, it is apparent that those papers were continually agitating, from day to day, the bringing about of a social revolution by force; that they were continually declaring that society in America was divided into two classes, the bourgeoisie and the proletariat; that the workingmen were held in a condition of abject bondage to the capitalists or the bourgeoisie; that they had no hope of amelioration by peaceable means; that the ballot was a delusion; that any plan for the amelioration of their condition by lessening the hours of labor was delusive; that their only hope lay in a complete and bloody revolution which should entirely destroy the existing order of society and wipe out "the infernal right of property"; that in bringing about this revolution they should act wholly without conscience and utterly without heart; that they should be consumed by a single passion—the revolution; that they should be at war with the whole civilized world; that they should live in it merely for the purpose of destroying it; that they should know but one science, the science of destruction; that they should live for that and for that alone; that they should despise public sentiment and all morality; that they should extend mercy to no one who stood in the way of their purpose, and should expect none for themselves; that a war of life and death reigned between them and society; that the police and the government of the country were the allies of the capitalists, and hence their enemies, and that it was necessary, in order to success, that the police, the militia and the government itself should be annihilated.

The Arbeiter Zeitung was under the control of Spies as managing editor. Leading editorials were written by him. The minor editorials, editorial notes and some of the leading editorials, as appears from his own evidence, were written by Schwab. The Alarm was under the editorial control of Parsons. Many of the editorials were written by him. Some of them appeared over his own signature. Whatever appeared, whether by way of communication or by copy from other papers or documents, or in original editorial matter, was under the direct control of these defendants, And thus it appears that so far as Spies, Schwab and Parsons were concerned, the declarations of these papers were their declarations, their acts, their advocacy of the change in the social order and of the bringing about of that change by force. Moreover, these two papers were the recognized organs of the International; they spoke for it; their contents show that they were continually advocating the very doctrines announced and published by them as the official platform of the International in America, and the purpose, according to this platform of the International, was "the destruction "of the right of property, and complete change in the "order of society," and they proposed to accomplish that by "agitation with a view to organization, *organization* "*for the purpose of rebellion.*" Herein is indicated in a few words the way which workingmen must take if they would rid themselves of their chains. The first section of their platform being, "destruction of the existing class-"domination by all means, *i. e.*, through energetic, in-"exorable, revolutionary and International activity." This object was treasonable. Their conspiracy, the moment it resulted in an overt act, was treason, and every member of it guilty of treason.

Moreover, not only did those defendants named advocate these doctrines through the columns of their papers, but they, together with others of the defendants, were continually advocating the same doctrines and the same methods orally, in public and in private, openly upon the streets of the city of Chicago, and throughout the country, privately and in the secrecy of their own meetings. This appears from the testimony of a large number of witnesses, to which attention is now called, and also from accounts appearing from time to time in these papers, of meetings in the interests of the Internationals, which were held from time to time, some of which we have cited.

(4.) Speeches of the Defendants.

Clarence P. Dresser, a newspaper reporter, testified (Vol. J, 214) that he had attended probably a dozen meetings on Sunday afternoons, at the lake front, in the city of Chicago, where Fielden, Parsons and Spies were present, and at which they and Mrs. Parsons made speeches; that he had heard *Spies* in these speeches *advocate the principle that property was a crime*, and say *that he would like to head a crowd and carry the black flag down Michigan avenue*, and had seen *Fielden*, when he was addressing a crowd, *point to the carriages on Michigan avenue and say*, "*Those are the people that we want to blow*—and he did not say to eternity;" that he had heard *Fielden say that they ought to blow all of those people to hell, and also that he would be glad to march down Michigan avenue and carry terror to the hearts of George Pullman and Marshall Field and such men*, calling them by name, and *that such men as Pullman, Field, Doane and others deserved to be*

killed, and *asked who would be willing to follow him*, whereupon a great many called out "*We will*," and he, *Fielden, said that they would be ready with weapons and be properly equipped to take such an excursion.* The witness had heard *Parsons say that the workingmen must rouse up and arm themselves and meet their oppressors*, as he termed them, *with weapons—meet them face to face, and consider that they were to be treated in the same manner, and especially denounced the militia and the police*, and that *they should arm themselves with guns, pistols, dynamite and anything they could obtain;* that on the night of the board of trade demonstration he heard Spies say it was the intention to blow up the board of trade building, (Vol. J, 219.)

MARSHALL H. WILLIAMSON, a newspaper reporter, testified (Vol. J, page 1) that he heard Parsons and Fielden speak on the night of the board of trade demonstration; that *Parsons called the police blood-hounds* and servants of the robbing capitalists, and *called upon the mob to follow him in an assault upon Marshall Field's dry goods house* and various clothing houses *and take from there what he called the necessities of life which the audience was in need of.* He was speaking from the second floor of the Arbeiter Zeitung building; there were about a thousand people in the audience; that *Fielden*, in his speech on the same occasion, *called upon the mob and he agreed to lead them to rob those places*, or to go into them and take from them what they needed in the way of clothing and dry goods; that both the speakers said that the new board of trade building was built out of money of which they had been robbed, and that all of the men who transacted business there were robbers and thieves and ought to be killed; that after the speaking on

that night, in the front room of the Arbeiter Zeitung building he had a conversation with Mr. *Parsons.* "I "*asked him why they didn't march upon the board of trade* "*and blow it up; he said because the police had interfered,* "*and they did not expect the police to interfere and were* "*not prepared,* and I says, 'Well, your party was armed; "why didn't you go right through the police?' He said, "'*We were not prepared to meet them as we wanted* "*to.*' I told him that I had seen revolvers exhibited by "some in the procession, and asked what further prepara- "tion he wanted; *he told me when they met the police that* "*they would be prepared with bombs and dynamite.* "*Fielden* was standing at Parsons' elbow at the time and "*said,* '*The next time the police attempted to interfere with* "*them they would be prepared for them.* I asked him "*when that time would be, and he said he* '*didn't know,* "*perhaps in the course of a year or so.*'" That during the winter months of 1884 he had heard both Parsons and Fielden make addresses to socialistic organizations in the hall at 54 West Lake street; that on one occasion *Fielden* wanted them to follow him to those clothing stores and grocery stores and other places and get what they needed to live on, what they needed to support their families with and feed their babies with, and *told them to purchase dynamite; he said that five cents' worth of dynamite carried around in the vest pocket would do more good than all the revolvers and rifles in the world;* that Parsons told the audience that they were being robbed, and offered to lead them to the grocery stores and various other places to get what they wanted.

LAWRENCE HARDY, a newspaper reporter, testified (Vol. J, 356) that at a meeting of McCormick's ex-employes on the night of the 12th of March of this year

(1886), at Zepf's Hall, he heard *Fielden* say that the time had come for workingmen to assert themselves. He said: " *We are told that we must attain our ends and aims* " *by obeying law and order. Damn law and order!* " *We have obeyed law and order long enough. The time* " *has come for you, men, to strangle the law, or the law* " *will strangle you. What you should do is to organize and* " *march up the Black road and take possession of McCor-* " *mick's factory; it belongs to you; it does not belong to* " *him. You made it; he did not.*" That he continued in that strain for some little time. At the same meeting, *Parsons, to whose speaking opposition was made*, finally obtained the platform and *said* that the capitalists had ground the workingmen under their heels and robbed them for years; *he thought the time had come for them to assert their rights, to get them if they could, even by force, if necessary;* he referred to the McCormick strike in particular, saying that McCormick himself was not the real owner of the property; it belonged to the workingmen who had created it; that a previous strike had failed because of the intercession (interference) of the police, who had driven the men away, *and advised them to arm themselves, and get their rights by force.*

William H. Freeman, a newspaper reporter, testified (Vol. K, 37), that he heard *Parsons* in a speech at the board of trade demonstration say that if the workingmen were driven to starvation they would unfurl the banner of liberty and equality and sweep everything before them; he said that dramatically, turning and shaking his finger at a red banner that was hanging on the platform, and *urged the workingmen there to take up arms, and by that means right the wrongs which they were at that time undergoing;* at the same meeting *Fielden said* that all ag-

gregation of property and all accumulation of property by individuals was wrong and against the best interests of the workingmen; that the workingman had a direct interest in everything that was produced, and *that they could only be enabled to enjoy the fruits of their labor and what belonged to them by the use of force.*

MAXWELL E. DICKSON, a newspaper reporter, testified (Vol. K, 93) *that he met Parsons last November (1885)*, and remarked to him in a sort of joking way, "You are not going to blow up anybody, are you?" *Parsons said, "You will see." I said, "You don't "mean you are going to use dynamite?" He said, "I don't say that we won't; I don't know that we "won't, but you will see the revolution brought about "sooner than you think for."* That they had several conversations of that kind. The witness attended socialistic meetings since 1875. At a meeting at West 12th street Turner Hall, called for the purpose of discussing socialism, Parsons "made a speech in which he said that "the editors of the capitalistic press, clergymen, lawyers, "publicists and capitalists had been invited to discuss the "questions there, and during his remarks he said that the "degradation of labor was brought about by what was "known as the rights of private property, and he there "quoted some statistics, a long line of them, in which he "showed that an average man with a capital of $5,000 "was enabled to make $4,000 a year, and thus get rich, "while his employe who made money for him obtained "but $304, and there was upwards of 2,000,000 heads of "families who were in want, or who were bordering on "want, and who were making their living either by theft, "robbery or any such occupation as they could get work "in. And he said that, while they were the champions

" of free speech and social order, it would be hard for the " man who stood in the way of liberty, fraternity and " equality to all." Fielden at the same place made a speech in which he said, " The majority of men were " starving because of over-production, and the cause of " that over-production he figured out, showed that that " ought not to be, and then went on to show that over- " coats were being sent to Africa, to the Congo States, " to cover the nakedness there, that were needed at home " here, and he could not understand how that was. As a " socialist he said that they believed in the equal right of " every man to live, but that the present condition of the " laboring man was due to the domination of capital, and " they could expect no remedy from the legislature or " from legislators, and that there were enough present in " the hall at that time to take Chicago from the grasp of " the capitalists." Further he said, " That the time was " coming when a contest would arise between capital and " labor, and socialists should be prepared for the result; " he was no alarmist, but the contest would certainly " come, and the socialists would be prepared for the vic- " tory when it did come."

The witness was present at a meeting at Mueller's Hall, at which Fielden presided, when a man named Griffin made a speech advocating the use of force to right social wrongs, and there was a man named Lichtner who advocated the socialistic idea, but opposed the use of force, whereupon *Schwab*, one of the defendants, *said* that the gap between the rich and poor was growing wider; that although despotism in Russia had endeavored to crush nihilism by executing some and sending others to Siberia nihilism was still growing, and he praised Reinsdorff, who had then been recently executed in Europe, but stated that

his death had been avenged by the killing of Rumpf, the chief of police of Frankfort, who had been industrious in endeavoring to crush out socialism; that murder was forced on many a man through the misery brought on him by capital; *that such a thing as freedom in the United States was a farce, or something to that effect, and that freedom in Illinois was literally unknown; that both of the political parties were corrupt, and what was needed here was a bloody revolution which would right their wrongs.*

At the same meeting *Spies* made a speech in which he *advised the workingmen to revolt at once, and said that he had been accused of giving this advice before, and that it was true, and that he was proud of it; that wage-slavery could only be abolished through powder and ball.* He denounced the ballot as a sort of "skin" game. He compared it to a deck of cards, in which there was a marked deck put in the place of the genuine, and in which the poor man got all of the skin cards, so that when the dealer laid down his card his money was taken from him.

Parsons then offered the following resolution:

"WHEREAS, Our comrades in Germany have slain one of the dirtiest dogs of his majesty Lehmann, the greatest disgrace of the present time, namely, the spy Rumpf, resolved, that we rejoice over and applaud the noble and heroic act."

Parsons offered resolutions advocating the abolition of the present social system and favoring a new social co-operative system that would bring about equality between capital and labor.

The witness was present at a meeting held on Thanksgiving day at the Market square, where Fielden said that they (the working people) would be justified in going over to Marshall Field's, over the way, and taking from there that which belonged to them.

JOHN J. RYAN, a retired army officer, testified (Vol. J, 131), that he had attended meetings held on the lake front in the city, at one of which he heard *Parsons* make a speech. "He was speaking in a general way about "trouble with the workingmen and the people, what he "called the proletariat class, and *spoke about their enemies*, "as he termed them, *the police and the constituted author-* "*ities; he said that they were their enemies and that they* "*would use force against them; the authorities would use* "*the police and the militia, and they would have to use force* "*against them; he advised them to purchase rifles; if they* "*hadn't money enough to buy rifles to buy pistols, and if* "*they couldn't buy pistols, they could buy sufficient dynamite* "*for twenty-five cents to blow up a building the size of the* "*Pullman building, and pointed to it.*"

He heard *Fielden* speak *to the same effect* at that meeting. He also *heard Spies* at meetings at the same place at different times *say* the oppressed class, *the workingmen and the workers*, are opposed to the capitalists and the property-holders; *that a property-holder or a capitalist was the enemy of the workingmen; if they could not get their rights in a peaceable manner they must get them in a forcible way.*

The witness boarded at the Clifton House (near the lake front) and went to these meetings Sunday afternoons often, listening to the speeches. "After the picnic *Mr.* "*Parsons—I won't be sure of that—spoke about a young* "*German experimenting with dynamite at this picnic. He* "*had dynamite in a can, a tomato can, and spoke* "*of how the thing was thrown into a pond, or* "*lake, and how much execution could be done with* "*that amount of dynamite.*" *He also spoke of what could be done with it in destroying buildings and property*

in the city. The witness said that the *same sentiments were repeated by the speakers at every meeting;* these meetings were held on the lake front (a park in the center of the city, on the lake front) nearly every Sunday, and the attendance was about 150.

THOMAS L. TREHORN, a police officer, (Vol. J, 230) was present on the night of the board of trade meeting and heard the speech which Parsons made. *Parsons* characterized the board of trade as a robbers' roost and den; that they were all reveling in the proceeds of the workingman; that every dollar that was put in that building belonged to the workingman. He says: "How many of my "hearers could afford to give twenty dollars for a supper "to-night? The invitations are twenty dollars, I believe."

He *says:* "*It is no use of arguing; we will never gain "anything by argument and words. The only way to "convince those capitalists and robbers is to use the gun and "dynamite;*" and his speech went on in that manner.

JAMES G. MILLER, a lawyer, testified (Vol. J, 292) that last fall he heard *Fielden* addressing a crowd on the lake front, in which he *stated "that the workingmen, the "laborers, were justified in using force to obtain that "which was theirs, and which was withheld from them by "the rich;* that our present social system was not proper; "that an equality of possession should exist, and if the "rich kept on withholding from the poor what was justly "due to the poor because they had earned it, *they should "use force and violence; that force should be used against "the rich, the wealthy and the men who had means; that "the existing order of society should be destroyed—annihi-"lated—and as no other redress could be had peaceably they "were justified in using force and violence;* that at that

" time there were from two to three hundred present in " the crowd."

HENRY WEINECKE, a police officer, testified (Vol. J, 85) that some time in February, 1886, before he came on the police force, he heard the defendant *Engel* at Timmerhoff's hall, 703 Milwaukee avenue, address a meeting. The witness said: "I was standing in the " door, the door that goes in the hall from the saloon. I " heard him *talking about buying revolvers for the police.* " *He advised everybody—'every man wants to join them, to* " *save up three or four dollars to buy revolvers to shoot* " *every policeman down'; he says he wants every working-* " *man whom he could get to join them, and then advise* " *everybody you know—you save up three or four dollars* " *to buy a revolver that was good enough for shooting* " *policemen down, he said.*" The witness further stated that the hall at that meeting was crowded, and Engel spoke in German.

ANDREW C. JOHNSON, a detective of Pinkerton's National Agency, testified (Vol. J, 385) that he knew Parsons, Fielden, Spies, Schwab and Neebe; that in the course of his employment as a detective of that agency he joined the American Group of the International Workingmen's Association; the first meeting which he attended was on the 22d of February, 1885; the last meeting on the 24th of January, 1886; that he made a report in writing of the meetings which he attended, as the meetings were held, which he returned to the agency. The witness attended a meeting on the 22d of February, 1885, at Baum's Pavilion, Cottage Grove avenue and 22d street, in Chicago, at which *Parsons* made a speech, saying the reason the meeting had been called in that lo-

cality was so as to give them, the many merchant princes who resided there, an opportunity to attend and hear what the communists had to say about the distribution of wealth. He said, "*I want you all to unite together and throw off the yoke; we need no president, no congressmen, no police, no militia and no judges;* they are all leeches, sucking the blood of the poor, who have to support them all by their labor. *I say to you, rise, one and all, and let us exterminate them all. Woe to the police or the militia whom they send against us!*"

On the 1st of March, 1885, the witness joined the association at a meeting at Greif's Hall, 54 and 56 West Lake street. He says, "I went to the defendant, Fielden, who "was at that time acting as treasurer and secretary for the "association; I gave him my name and signified my will- "ingness to join the association; he entered my name in a "book and handed me a red card with my name on and a "number. At another meeting held at 54 West Lake "street, *Parsons stated,* '*We are sorely in need of funds* "*wherewith to publish the Alarm, and I think as many of* "*you who are able ought to give as much as you can, as our* "*paper is a most powerful weapon, and it is only through* "*the paper that we can hope to reach the masses.*' At a "meeting of the American group held at Greif's Hall in "this city on the 22d of March (1885), a man (page 394) "named Bishop introduced a resolution of sympathy for a "girl named Sorrel. The girl in question, Bishop stated, "had been assaulted by a master; the girl had applied for "a warrant, which had been refused her on account of the "high social standing of her master. Spies said, 'What is "the use of passing resolutions? We want to revenge the "girl. Now there is an opportunity for some of our young "men to go and shoot Wight.'"

At a meeting at the same place on the 29th of March, *Fielden said that a few explosions in the city of Chicago would help the cause considerably.* "There is the new "board of trade, a roost of thieves and robbers. *We* "*ought to commence by blowing that up.*"

At another meeting at the same place (page 399), Fielden said: "*It is a blessing that something has been* "*discovered wherewith the workingman can fight the police* "*and the militia with the Gatling guns.*"

At a meeting on April 22d, Parsons said, in referring to the opening of the new board of trade building, "What "a splendid opportunity there will be next Tuesday night "for some bold fellow to make the capitalists tremble, by "blowing up the building and all the thieves and robbers "there." At the conclusion of the speech, he stated that the workingmen of Chicago would form in procession on Market square on Tuesday evening next, and he invited all those present to get as many of the friends as they could to join the procession.

At the same meeting, Fielden said: "I also wish to "invite as many of you as can come, and as many as "you can get; go to the lodging-houses and get as "many of the tramps as you can find, and get them to "come along and join in the procession; the more the "merrier."

At the next meeting, on the 26th of April, 1885, Parsons said: "I wish you all to consider the misery of the "working classes, and the cause of all the misery in these "institutions termed government; I lived on snow-balls "all last winter, but, by God, I will not do it this "winter."

At a meeting held at Ogden's Grove, June 7, 1885, Fielden said: "*I want all to organize; every workingman*

" *in Chicago ought to belong to our organization; it is of*
" *no use to go and beg of our masters to give us more*
" *wages or better times. When I say organize, I*
" *mean for you to use force; it is of no use*
" *for the working people to hope to gain anything by*
" *means of the ordinary weapons; every one of you must*
" *learn the use of dynamite, for that is the power with*
" *which we hope to gain our rights.*"

At a meeting at Greif's Hall, August 19, 1885, Parsons (page 404), referring to the late strike of the street-car employes, said: "*If but one shot had been fired, and Bon-*
" *field had happened to be shot, the whole city would have*
" *been deluged in blood, and the social revolution would*
" *have been inaugurated.*"

At a meeting of the same group on the 2d of September, 1885, Fielden, in a speech, said: " It is useless for
" you to suppose that you can ever obtain anything in
" any other way than by force. You must arm your-
" selves and prepare for the coming revolution."

At a public meeting, held in 12th street Turner Hall October 11, 1885, Fielden said: " The eight-hour law
" will be of no benefit to the workingman; *you must all*
" *organize and use force; you must crush out the present*
" *government, as by force is the only way in which you*
" *better your present condition.*"

On the 20th of December, at the same place, *Fielden said:* " All the crowned heads of Europe are trembling at
" the very name of socialism, *and I hope soon to see a few*
" *Liskas* (*the man who murdered the chief of police of*
" *Frankfort and was hanged for it*) *in the United States*
" *to put out of the way a few of the tools of capital.*"

At a meeting at 106 Randolph street on December 30th, Fielden was asked: " Would the destruction of private

" property insure universal co-operation?" and replied: " I or nobody else can tell what is going to happen a hun- " dred years from now, but this everybody knows: if pri- " vate property was done away with it would insure a " better state of things generally, and we will try all we " can to teach the people the best way in which to bring " about this change."

At a meeting at the same place, January 14th, Spies said to Fielden, privately: " Don't say very much about " that article in the Daily News. You simply need to " state that a reporter of the Daily News had an inter- " view with me a few days ago, but that most of the " statements in the paper are lies. You must be careful " in your remarks; you don't know who might be amongst " us to-night." Afterward the meeting was called to order and Fielden spoke. " He made a long statement " commenting on the article which had appeared in the " Daily News. He said, ' All the statements, or most of " the statements, are lies. Mr. Spies did have an inter- " view with a reporter some days ago, but the most of " the assertions brought forth in the paper are not true.' " He further said, as regard the dynamite bombs: " *It is* " *quite true we have lots of explosives and dynamite in our* " *possession and we will not hesitate to use it when the proper* " *time comes. We care nothing either for the military or* " *police, for these are in the pay of the capitalist.* Even in " the regular army most of the soldiers are all in sympathy " with us, and most of them have been driven to enlist- " ment. I have even had a letter from a friend out west " who told me that he had seen a soldier on the frontier " reading a copy of the Alarm. At a later period, " Fielden said, referring to the eight-hour movement: " ' We don't object to it, but we don't believe in it; as to

" whether a man works eight hours a day or ten hours a " day, he is still a slave. We propose to abolish slavery " altogether.' "

GUSTAV LEHMANN, himself a socialist, and a member of the Lehr und Wehr Verein, testifies (Vol. J, 207) that in January or February of this year (1886) he heard the defendant *Engel* make a speech at Neff's Hall, 58 Clybourn avenue, before the assembly of workmen of the north side, in which he *said* that *those who could not arm themselves and who could not buy revolvers should buy dynamite, that it was very cheap and easily handled*; and *gave a general description of how bombs could be made, how gas pipes could be filled; that a gas pipe was to be taken and a wooden block put into the end, and it was to be filled with dynamite; then the other end is also closed up with a wooden block and old nails are tied around the pipe by means of wire;* then a hole is bored into one end of it and a fuse with a cap is put into that hole; that the nails should be tightened to the pipe so that when it explodes there will be many pieces flying around; that gas pipe could be found on the west side from the river, near the bridge.

WILLIAM SELIGER, a member of the "International," testified (Vol. I, 527), that he heard Engel, one of the defendants, make a speech to the north side group in Neff's Hall, last winter, in which he said that every one should manufacture bombs for themselves; that pipes could be found everywhere without any cost; that the pipes were to be closed up with wooden blocks fore and aft, and that in one of the blocks was to be drilled a hole for the fuse and cap; that every workingman should arm himself with them; that they were cheap to be had and were the best means against the police and capitalist.

MORITZ NEFF, who was the keeper of the hall known as Thoeringer Hall, sometimes called "The Shanty of the Communists," and also called Neff's Hall, testified (J, 269) that he heard Engel address a public meeting of the north side group at that place; that he addressed the meeting on general principles, and came around and wanted money for a new paper which they had started.

"It is called the 'Anarchist'; it is a paper started by the north-west side group and two of the south side groups. He came there for the purpose of obtaining money in order to push the paper along. He said that the Arbeiter Zeitung was not outspoken enough in those anarchistic principles; therefore it was necessary to start something else, and for this purpose they started this paper; they distributed some of these papers around there; and after that he sat down. Later on he spoke again, and he gave a kind of history of revolutions in the old country, and stated that the nobility of France were only forced to give up their privileges by brute force; and then he stated that the slaveholders at the south had only liberated their slaves after being compelled by force by the northern states, and therefore, he said, that the present wage-slavery would only be done away with by force also; and he advised them to arm themselves, and if guns were too dear for them they should use cheaper means—dynamite, or anything they could get hold of to fight the enemy. He stated that in order to make bombs it was not necessary that they should be round; anything that was hollow inside would—in the shape of gas pipes, or something like that. * * * This was in the speech that he made; he sat down afterwards. It was customary to have a discussion after the speech was made, and anybody that wanted to ask the speaker a question could do so. That part of the speech I did not hear; I was in the saloon."

The witness then identified the paper spoken of as "The Anarchist" (a copy of which appears as People's Exhibit 32).

(C.) THE WORK OF PREPARATION.

Not only were the defendants advocating through the press and by speech, in public and in private, the doctrines which they announced, and thus actively engaged in the work of propaganda, but at the same time they were diligently making preparations to carry their theories into effect.

There were in the city a large number of groups of the International, a portion of the membership in each one of which was armed and called the armed section. There were also a number of companies of an organization local to Chicago, known as the Lehr und Wehr Verein. These organizations acted in concert and were all armed and drilled for the express purpose of being in a position to bring about the social revolution whenever the time for its inauguration should be most favorable. All these various bodies were known as armed men, and whenever the notice appeared in the "Briefkasten," or letter-box, of the Arbeiter Zeitung, "Y, Komme———" with the date inserted, they met at 54 West Lake street, a place known as Greif's Hall, a beer saloon, which was a rendezvous for the socialists and anarchists of all grades. They were not only armed with the arms known to civilized warfare and drilled in tactics recognized as honorable among civilized nations, but were also engaged in the manufacture of explosives of a kind known only to the revolutionists, in the purchase of dynamite and in experiments with it. The Alarm and the Arbeiter Zeitung were constantly publishing instructions of the most practical kind for the revolutionists. Some of these articles, as, for instance, Bakunin's Groundwork, published in

the Alarm and the Arbeiter editorial about revolutionary deeds, are in effect codes of ethics and at the same time manuals of tactics for the revolutionist. Their doctrines and teachings agree in every respect, and not only agree with themselves, but are also identical with those of Most's book. Others of the articles are descriptive of the method of the manufacture and use of dynamite and other explosives, the manufacture and use of bombs and other instruments, taken sometimes from Most's book and sometimes from other sources. Publishing also letters from and giving advice to correspondents upon these subjects with an openness and abandon that is astonishing, and is indicative of the perfect contempt in which they hold both the law and the public opinion of the land.

That there was such an organization, that it was armed, they made it no secret, but declared it openly in the editorial columns of their papers, and in speeches and private conversation. In fact, the very openness and publicity with which these declarations were made is seized upon by counsel as furnishing ground for an argument that no such preparations could have been made, and that the talk was "mere braggadocio," counsel, forgetting that every criminal offense has in it a very large element of foolishness, and forgetting, also, that for these men to succeed they must make converts in whom they must inspire confidence, and forgetting, also, that one of the cardinal doctrines of the revolutionists is that by the inspiration of terror the "property-owning beasts" can be more easily demoralized, and the cause of the revolutionists more easily attained.

In the library of the general committee, which was a sort of central committee, composed of delegates from the different groups in the city, and which met in the

Arbeiter Zeitung building, were kept many copies of a book written by John Most, now of New York, entitled "The Science of Revolutionary War," a book the purpose of which is accurately described by its title. This book was distributed and sold at the meetings of the various organizations, and also at picnics and public meetings held under the auspices of the organization; large portions of it were reprinted in the Arbeiter Zeitung, although there credited to "Die Freiheit," Most's paper, published in New York. Translations were also printed in the Alarm. This book is a practical treatise on revolutionary warfare, describing in the most practical manner, so as to be understood by any man of ordinary intelligence, the best methods known for the manufacture of dynamite, fulminate of mercury, nitro-glycerine, nitro-gelatine and other powerful and dangerous explosives, the manufacture of bombs, of fire cans for the destruction of buildings with inextinguishable compounds, the manufacture of weapons, of deadly poisons, the best and safest method of administering the poison. It is also a manual of tactics, describing minutely the method of revolutionary warfare, the manner in which revolutionary deeds shonld be accomplished, so as to be at the same time the most effectual and to be accomplished with the least danger to the revolutionists. It is also a code of ethics for the revolutionist, its teachings corresponding with the teachings of the various editorials and other articles in the Arbeiter Zeitung and the Alarm, as well as the speeches of the various defendants. It is a book which also shows the revolutionist to be utterly devoid of conscience, and which, for cold-blooded diabolism, has no counterpart in the whole range of literature. It is the book from which the defendants, Lingg and Fischer,

learned the manufacture and use of deadly weapons. (I, 353–4; K, 507.)

Upon this branch of the case, we desire to call the attention of your Honors to the following evidence:

(1). THE CODE OF ETHICS AND THE MANUAL OF TACTICS.

" Bakunin's Groundwork for the Social Revolution," a document published in the Alarm, December 26, 1885 (Exhibit 54), is perhaps as cold-blooded, as wicked and diabolical an article as was ever conceived in the brain of man or penned by his hand. The man who wrote it and the men who reproduced it must be wholly without conscience and utterly without natural affection. It is at once a code of ethics and a manual of tactics for the revolutionist.

" A revolutionist's duty to himself.

" 1. The revolutionist is a self-offered man. He has no personal interest, feelings or inclinations; no property, not even a name. Everything in him is consumed by one single interest, by one single thought, one single passion —the *Revolution.*

" 2. The whole work of his existence, not only in words but also in deeds, *is at war with the existing order of society, and with the whole so-called civilized world; with its laws, morals and customs he is an uncompromising opponent. He lives in this world for the purpose to more surely destroy it.*

" 3. The revolutionist despises every doctrine and disclaims society in its present form. He leaves the reorganization of society to the future generations. *He knows only one science; the science of destruction.* He studies mathematics, physics, chemistry and perhaps medicine for and *only* for this purpose. For the same reason he studies day and night the living science of men, characters, conditions and also the situation of the present socia ' order.' *The quick and sure destruction of the pres-*

ent unreasonable order of the world is the object of these studies.

"4. He despises public sentiment. He despises and hates the present social 'morality' in all its instigations and manifestations. He acknowledges as moral whatever favors the triumph of the revolution; immoral and criminal whatever checks it.

"5. The revolutionist is a consecrated being (who does not belong to himself); *he would not spare the state in general and the entire class society, and at the same time does not expect mercy for himself. Between him and society reigns the war of death or life, publicly and secretly, but always steady and unpardoning.* He has to get used to standing all endurance.

"6. Stringent with himself he must also be to others. All weak sentiment towards relation, friendship, love and thankfulness must be suppressed through the only cold passion of the revolutionary work. For him there exists only one benefit, one wager, one satisfaction—the effect of the revolution. *Day and night dare he have only one thought, one aim: The unmerciful destruction; while he, cold-blooded and without rest, follows that aim, he himself must be ready to die at any time and ready to kill with his own hands any one who seeks to thwart his aim.*

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"The revolutionist's duty towards his revolutionary comrades:

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"9. It is unnecessary to speak of the fellowship amongst the revolutionists; upon them exists the entire might of the revolutionary work. Comrades of the revolution who stand even high on the revolutionary understanding and revolutionary habit must as much as possible consult all important affairs in common and take resolution unanimously. *In executing a resolved upon case, everybody must as much as possible depend upon himself. In case where a lot of destructive deeds is to be done, everybody must be self-operating and request help and counsel of his comrades only in cases where it* is absolutely necessary for success.

"10. Every comrade of the revolution shall have several revolutionists in the second or third order, on hand,

that is, such persons as are not thoroughly instructed; he shall dispose of them as a trusted part of the revolutionary capital. He shall use his part of the capital economically, in order to get as great results from them as possible. He shall dispose of himself as so much capital to be used for the triumph of the work of the revolution, but a capital which he cannot dispose of without the full consent of all the fully consecrated comrades.

* * * * * *

The revolutionist's duty towards society.

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"13. A revolutionist moves in the world of state, in the world of classes, in the so-called 'civilized' world, and lives in the same, *just for the simple reason that he believes in its speedy destruction.* He is no true revolutionist who clings to anything at all in this bourgeoise world. He dare not shrink where the cause is at stake or refuse to break any tie which binds him to the old world, or hesitate to destroy any institution or its upholders. Equally must he hate everything, but that is anti-revolutionary. So much the worse for him *if he has in the present world ties of relation, friendship or love; he is no revolutionist if these ties are able to arrest his arm.*

* * * * *

"15. The entire filthy society of our time should be divided into different categories. *The first one consists of those who are immediately sentenced to death.* The members may make up lists of such delinquents, in a degree according to their rascality, and in regard to the effect of the revolutionary work, but so that the first numbers may be served before the rest.

"16. In making up these lists, and arranging the categories, the individual corruptionist dare not justify himself or perhaps the hatery by which he is feared to the members of the organization or the people, because corruption is useful, when it is able to stir up a riot. The measure of usefulness is only to be considered, which may result from the death of a certain person for revolutionary work. *In the first place, those persons are to be destroyed who are most harmful to the revolutionary organization, and whose violent and sudden death is able to terrify the governments and shake their might the most, in so far*

as it will rob the powers that be of their most energetic and intelligent agents.

* * * * * * *

"21. The sixth category is of importance. It is the women, who are to be divided into three classes: To the first belong the perfunctorious women, without intellect or heart, who are to be used in the same manner as the men in the third and fourth categories. To the second class belong the passionate, devoted and qualified women, who, although they do not belong to us, because they have not risen to the practical, praiseless, revolutionary comprehension, they must be handled as the men in the fifth category. In the third category are the women who are wholly consecrated to the social revolution, that is, they have accepted our whole programme. *They are to be regarded as the most valuable part of the revolutionary treasures, for without their assistance we are unable to achieve the social revolution.*"

In the Arbeiter Zeitung of March 16, 1885, is an editorial entitled "About Revolutionary Deeds." This article is in effect a treatise upon the method of carrying on revolutionary warfare. It begins with a highly poetical description of the present condition of society, and then proceeds (Exhibit 109):

"Peculiar is the task of the critic; it bears a great similarity to that of an anatomist or physiologist. As he, free from every inward excitement, takes the dissecting knife into his hand, cuts the corpse, examines the organs, looks for abnormities and follows up the results which these have produced from the mutual contact of the organs, thus in similar manner the critic has to dissect revolutionary actions into their atoms and observe to study and compare, to draw conclusions and develop theses, thereby to sharpen and make more effectual that side of the two-edged blade, revolutionary action, which is turned towards tyranny and to dull and thus make less dangerous the opposite side. This is the task of the following lines: In all revolutionary action three different epochs of time are to be distinguished,—*first, the portion of preparation for an action*, then *the moment of the action itself*,

and finally that *portion of time which follows the deed.* All these portions of time are to be considered one after another.

"In the first place, a revolutionary action should succeed. Then as little as possible ought to be sacrificed, that is, in other words, *the danger of discovery ought to be weakened as much as possible and if it can be should be reduced to naught;* this calls for *one of the most important tactical principles which briefly might be formulated in the words: Saving of the combatants.* All this constrains us to further *explain the measures of organization and tactics which must be taken into consideration in such an action.*

"Mention was made of the *danger* of *discovery.* That is, in fact, present in all three of the periods of conflict. This danger *is imminent in the preparation of the action itself,* and finally, *after the completion thereof;* the question is now, *how can it be met?*

"If we view the different phases of the development of a deed we have *first, the time of preparation.*

"It is easily comprehensible for everybody that the *danger of discovery* is the *greater* the *more numerous the mass of people* or *the group is which contemplates a deed, and vice versa.* On the other hand, the threatening *danger approaches* the *closer* the *better the acting persons are known to the authorities* of the place of action, and *vice versa.* Holding fast to this, the following results:

"In the commission of a deed a comrade who does not live at the place of action, that is, a comrade of some other place, ought, if possibility admits, to participate in the action, or, formulated differently, a revolutionary deed ought to be enacted where one is not known.

"A further conclusion which may be drawn from what was mentioned is this:

"*Whoever is willing to execute a deed* has, in the first place, to *put the question to himself, whether he is able or not to carry out the action by himself;* if the former is the case, let him *absolutely initiate no one into the matter* and *let him act alone,* but if that is not the case then let him look with the *greatest care, for just as many fellows as he must have absolutely, not one more nor less;* with *these* let him *unite* himself *to a fighting-group.*

"*The founding of special groups of action or of war is an absolute necessity.* If it were attempted to make use of an existing group to effect an action, discovery of the deed would follow upon its heels, if it would come to a revolutionary action at all, which would be very doubtful. It is *especially true in America*, where *reaction has velvet paws and where asinine confidentially is from a certain direction directly without bounds.* In the preparation already endless debates would develop; the thing would be hung upon the big bell; it would be at first a public secret and then, *after the thing was known to everybody, it would also reach the long ears of the holy Hermandad* (the sacred precinct of the watchman over the public safety), which, as is known to every man, woman and child, hear the grass grow and the fleas cough.

"In the *formation* of a *group of action* the *greatest care must be exercised. Men must be selected*, who have head and heart in the right spot; for of such is true the word of the poet:

> "'For here the heart is yet considered,
> No substitute can here be found;
> But for himself he stands his ground.'

"Has the formation of a fighting group been effected, has the intention been developed, does each one see perfectly clear in the manner of the execution, then *action must follow with the greatest possible swiftness without delay*, for now they move within the scope of the *greatest danger* simply from the very adjacent reason, because the *selected allies might yet commit treason without exposing themselves in so doing.*

"In the *action itself one must be personally at the place to select personally that point of the place of action and that part of the action which are the most important and are coupeled with the greatest danger*, upon which depend chiefly the success or failure of the whole affair.

"Has the *deed* been *completed?* then the *group of action dissolves* at once without furthur parley, *according to an understanding*, which must be had beforehand, leave the place of action and *scatters to all directions.*

"If this theory is acted upon, *then the danger of the discovery is extremely small;* yea, reduced to almost nothing; and from this point of view the *author ventures to say*

thus and not otherwise must be acted if the advance is to be proper.

"It would be an *easy matter* to *furnish* the *proof* by the different revolutionary acts in which the history of the immediate past is so rich, *that the executors sinned against the one or the other of the aforementioned principles, and that in this fact lies the cause of the discovery and the loss to us of very important fellow champions* connected therewith; but we will be brief, and leave that to the individual reflection of the reader. But one fact is established; that is this: That all the *mentioned rules can be observed without great difficulties;* further, that the *blood of our best comrades can be spared thereby;* finally, as a consequence of the last mentioned, that light actions can be increased materially, for the *complete success of an action* is the *best impulse to a new deed* and the things *must always succeed when the rules of wisdom are followed.*

"A further question, which might probably be raised, would be this: *In case a special or conditional group must be formed for the purpose of action,* what is the *duty* in that case *of the public groups* or the *entire public organization,* in view of the aforesaid actions? Well, the answer is very near at hand. In the first place, *they have to serve as a covering,* as a *shield behind which one of the most effective weapons of revolution is bared;* then these *permanent groups* are to be the *source* from which the *necessary pecuniary means are drawn* and fellow *combatants are recruited;* finally, the *accomplished deeds* are to *furnish the permanent groups* the *material* for critical *illustration.* These discussions are to *wake the spirit of rebellion,* that important lever of the advancing course of the development of our race, without which we would be forever nailed down to the state of development of a gorilla or an orang outang. This *right spirit is to be inflamed,* the *revolutionary instinct is to be roused,* which still sleeps in the breast of man, although these monsters which, by an oversight of nature, were covered with human skin, are honestly endeavoring to cripple the truly noble and elevated form of man by the pressure of a thousand and again a thousand years, to morally castrate the human race; finally, the means and form of conquest are to be found by untiring search and comparison, which enhance

the strength of each proletarian a thousand-fold, and make him the giant Briareus, which alone is able to crush the ogres of capital.

"*May these modest lines give an impulse to a general, deep and lasting reflection in this direction, for the situation in which we are is of a doubly serious nature.* Already the single-handed fight, already the small warfare has commenced at many a point of our line of battle. Already the hydra of every tyranny is winding, coiling itself; step by step it goes forward in spite of the ruling monsters and Iscariots of the people. *Now, it is the thing to put down the fencing mask* and to *put in position the lance and fight with the sharpest and most effective means, and fight with the employment of the greatest cunning against our bestialized, demoralized enemy.* If then follows at *last an early rising en masse*, then let every one of us, without an exception, be mindful of the words of the poet:

"'For virtue, rights of man and liberty to die,
Is reward of highest nature, is death of a savior of the world.
And only the most brave of the heroes of mankind
Do dye their armor red in these with their heart's blood."

(Signed) "Z."

(2.) Practical Instructions for the Revolutionist.

In the Alarm of October 18, 1884 (People's Exhibit 21), is an article referring to one in the Inter Ocean which denounces anarchism, and declaring that if the American people became alarmed at the movements of anarchism their action would be infinitely more condign, vengeful, sharp and decisive than that of the European powers. On that article the Alarm comments as follows:

"The Inter Ocean man has overlooked the fact that one man armed with a dynamite bomb is equal to one regiment of militia when it is used at the right time and place. *Anarchists are of the opinion that the bayonet and Gatling gun will cut but sorry part in the social revolution. The whole method of warfare has been revolutionized by latter-day discoveries of science, and the*

American people will avail themselves of its advantages in the conflict of upstarts and contemptible braggarts who expect to continue their rascality under the plea of preserving law and order."

In the Alarm of November 15, 1884 (People's Exhibit 27), is an article entitled "The Butchers of Men—What Gen. Phil Sheridan says in his annual report on the subject of capital and labor," in which it is alleged Sheridan expressed the opinion that banks, public buildings, commerce, entire cities, could be easily destroyed by explosives, and which those attacking could carry in their pockets. The article concludes:

"What, then, is the use of an army? What is to prevent its destruction in the same manner? Dynamite is the emancipator! In the hand of the enslaved it cries aloud: 'Justice or—annihilation.' But, best of all, the workingmen are not only learning its use; they are going to use it. They will use it, and effectually, until personal ownership—property rights—are destroyed, and a free society and justice becomes the rule of action among men. There will then be no need for government, since there will be none to submit to be governed. Hail to the social revolution! Hail to the deliverer—*dynamite.*"

In the Alarm of December 6, 1884 (People's Exhibit 31), is an article which concludes as follows:

"A hint to the wise is sufficient. Of course, Gen. Sheridan is too modest to tell us himself that an army will be powerless in the coming revolution between the propertied and propertyless classes. Only in foreign wars can the usual weapons of warfare be used to any advantage. One dynamite bomb properly placed will destroy a regiment of soldiers, a weapon easily made, and carried with perfect safety in the pockets of one's clothing. The First Regiment may as well disband, for, if it should ever level its guns upon the workingmen of Chicago, it can be totally annihilated."

In the Alarm of March 21, 1885, appears this article (People's Exhibit 41):

"How to make Dynamite.

"The next issue of the Alarm will begin the publication of a series of articles concerning revolutionary warfare, viz: 'The manufacture of dynamite made easy.' 'Manufacturing bombs.' 'How to use dynamite properly.' 'Exercises in the use of dynamite by the military department of the United States and other countries.' Each of these articles will be complete and thorough on the subject considered by them. Agents can order copies of paper containing the above information in advance."

In the Alarm of April 18th, 1885 (People's Exhibit 43), is an article headed "Explosives—the power of dyna- "mite illustrated by blasting exercises," translated from 'Die Freiheit,' by 'A. A.' It is, in reality, a translation from Most's book, as will appear upon the comparison of those articles with pages 16, 17 *et seq.* of that book (a copy of which is set out as People's Exhibit 15). The article concludes ("to be continued"), with this note attached, "Note: 'In our next issue we will give a description of dynamite guns, gun cotton, fulminate of silver and of mercury.' A. A."

In the Alarm of May 2, 1885 (People's Exhibit 44), is an article entitled "Bombs. The manufacture and use of the deadly dynamite bomb made easy. The weapon of the social revolutionist placed within the reach of all. The terror of tyrants. (Translated from Freiheit by A. A.)"

This article is also in effect a translation from Most's book, pages of it being identical with pages of Most's book, and simply varying a little in the order.

In the Alarm of June 27, 1885 (People's Exhibit 45), is

an article headed "Dynamite." "Instructions regarding its use and operations."

"Though everybody nowadays speaks of dynamite, that great force of civilization, some with awe, others with delight, it may be said that but few have any knowledge of the general character and nature of this explosive. For those who will sooner or later be forced to employ its destructive qualities in defense of their rights as men, and from a sense of preservation, a few hints may not be out of place.

"Dynamite may be handled with perfect safety, if proper care is used. It is a two-edged sword if handled by one who is not acquainted with its character. Dynamite, which is also known in the market as 'giant powder' and 'Herculean powder,' is a compound of nitro-glycerine and clay (China clay is the best); in many cases sawdust is used. It requires a practical chemist to mix nitro-glycerine with clay or sawdust, for it is a very dangerous piece of work. Revolutionists would do well to buy the dynamite ready made. It is very cheap; much cheaper than they can manufacture it for themselves. No. 1 is the best. No. 2 will do also. Dynamite can be purchased from any large powder concern in any of our cities.

"Dynamite explodes from heat and detonation. It is self-explosive at a temperature of 180 degrees (Fahrenheit) and through sudden and violent concussion, as, for instance, produced by the fulminate of silver or mercury. If you keep your stock of dynamite below a temperature of 100 degrees, and even 125, it will not explode itself. Yet you ought not expose it directly to the rays of the sun or get it too near the stove. The best way of storing it is: Wrap it well in oil paper, place it in a box of sawdust, and bury it in your cellar, garden or where nobody can touch it. The moisture is neutralized by the sawdust. Never attempt to thaw frozen dynamite. This requires the skillful hand of a chemist, and is very dangerous.

"In handling dynamite be careful not to get any of it on your lips, nose, eyes or skin anywhere; for if you do it will give you a terrible headache. When filling bombs, and you must handle it with your fingers, place a rubber

mitten on your hand, and tie a handkerchief over mouth and nose, so that you may not inhale the dangerous gases. They likewise produce a frightful headache. In filling bombs use a little wooden stick, and never be careless.

"Keep the stuff *pure!* Beware of sand. For the revolutionist it is necessary that the revolutionist should experiment for himself; especially should he practice the knack of throwing bombs.

"For further information address A. S., Alarm, 107 5th ave., Chicago."

It will be recollected that the initials of August Spies, are "A. S.," and that his address was 107 5th avenue.

In the Alarm of May 30, 1885, appears an article entitled, "War with all means (translated from Freiheit)." It is descriptive of the manufacture of combustible weapons. This article is identical with Most's book (People's Exhibit 15), see page 30 of that exhibit, *et seq.* To this article in the Alarm appears the following note by "A. A.:" "There are two kinds of this fluid, one spelled "with 't' and the other with 'd.' The one spelled bi-"sulphi*d*e is right; the other will not answer the purpose. "In the foot-note of the article in the last issue on 'fulmi-"nates,' it reads *mashed* instead of *washed.* The differ-"ence is too great, for whoever should try to *mash* ful-"minate of silver would never be able to *wash* it. A. A."

In the Alarm of June 13, 1885, the following article appears (People's Exhibit 47):

"The Alarm," June 13, 1885.

"Explosives.

"The explosive power of gun-cotton has been greatly increased by recent experiments. In No. 21 of the Alarm, the manufacture of gun-cotton was published in a precise manner. The following taken from Johnson Turner's work on chemistry will prove an invaluable appendage. It says: 'After the gun-cotton is washed clean in a light

soda lye, and after being well rinsed out in clear water, it should, before being dried, be well soaked in a solution of chlorate of potash. Such a process will greatly increase its explosive power and make it the equal of dynamite. The cotton after being soaked in the acids and then put in the solution mentioned will increase in weight seventy-five per cent., *i. e.*, one pound of cotton will then make one and three-quarter pounds of gun-cotton. In washing and preparing it great quantities of lye and clean water should be used. A. A."

In the Alarm of July 25, 1885, is an article entitled,

"STREET FIGHTING.

"*How to Meet the Enemy.*

"Some valuable hints for the revolutionary soldiers. What an officer of the United States army has to say."

The above is the heading of People's Exhibit 48, which describes with diagrams the method of revolutionary warfare, with particular reference to street fighting.

In the Alarm, from August 17, 1885, to the last issue of that paper (People's Exhibit 53), appeared the following notice:

"The armed section of the American group meets Monday night at 54 West Lake street."

In the Arbeiter Zeitung, Nov. 27, 1885, (People's Exhibit No. 78) is the following:

"LETTER BOX, S. Steel and iron are not on hand, but tin two or three inches in diameter. The price is cheap. It does not amount to fifty cents apiece."

During the months of December, 1885, January, February and March, 1886, appeared the following notice (People's Exhibit No. 82) headed:

"'Exercise in Arms.' Workingmen who are willing to exercise in the handling of arms should call every Sun-

day forenoon, at half past 9, at No. 58 Clybourn avenue, where they will receive instructions gratuitously."

In the Arbeiter Zeitung of March 2, 15, 18 and 25, 1886, appeared the following notice:

"'*Revolutionary Warfare*' *has arrived and is to be had through the librarian at 107 5th avenue, at the price of ten cents.*" (Vol. I, 497).

This was not a paid advertisement, as appears from the testimony of Fricke, the business manager of the Arbeiter Zeitung (I, 490), as also from the testimony of Seiger, the translator (I, 498).

In the issue of March 15, 1886 (People's Exhibit 95):

"'LETTER BOX.' Seven lovers of peace. A dynamite cartridge explodes not through mere concussion when thrown; a concussion primer is necessary."

January 4 (People's Exhibit No. 99) has the following:

"Voices from the people. Nitro-glycerine. Editor Arbeiter Zeitung: Johann Most gave in his speech at Philadelphia, among other things, a description for the preparation of nitro-glycerine. But as our dear Lord has considered it suitable to allow me to walk through this vale of sorrow only with the passable school education of which chemistry was no part, I find Mr. Most's receipt a little obscure, but I would request you to reproduce the names of the ingredients and quantities of them in a little more complete form. The consideration that your paper is read by thousands of young people eager to learn, for whom (not through their own fault) it is impossible to study chemistry, and to go through the high schools and colleges and to visit libraries, will no doubt move you to comply with my request." (Signed) "K."

"EDITORIAL ANSWER." The most simple method of preparation of nitro-glycerine is the following: Prepare a mixture of one part concentrated nitric acid (1 52-100 specific weight) and two parts strongest sulphuric acid (1 83-100 specific weight); some of this mixture is placed in a well-cooled generator surrounded by ice. After this

mixture of acids has been in the vessel for some time and has been well cooled in consequence, a few grains (15½ grains) of perfectly pure glycerine, free from water, is added. Hereupon the whole is poured out as quickly as possible into a larger quantity of cold water. The nitro-glycerine that has been formed is seen at once dripping to the bottom as a liquid of specific weight, looking like drops of oil. Now the acid is poured off the nitro-glycerine, water is poured upon the latter, which is again carefully poured out and is replaced by fresh water. After this has been repeated several times, the nitro-glycerine is washed out with a weak solution of soda to completely free it from acid, and is then finally freed from the water by a few small pieces of muriate-chloride of calcium. This preparation is not accompanied with danger, but only of course in the hands of an experienced man, who knows exactly the nature of the material which he handles. The laymen ought not to venture the experiment. Signed, "The Editor."

January 18, 1885 (People's Exhibit No. 101), is the following:

"'Regarding Arming.' In the interest of arming ourselves, a meeting will take place on Saturday, the 24th, at 8 o'clock, at Steinmueller's Hall, No. 5 Clark street, in which all our comrades who will take an interest in it ought to participate. Comrade Matsinger will deliver a lecture on the mode of warfare. Signed, Committee."

In the issue of March 24, 1885 (People's Exhibit No. 114), is an article taken from Most's Revolutionary Warfare, the English translation of which is on page 25, of Most's book, as it appears in People's Exhibit No. 15.

In the issue of February 9th of the Arbeiter Zeitung is an article entitled "Bombs," which was taken from Most's book, purporting to be a translation from 'Die Freiheit,' Herr Most's organ in New York (K, 642), but which is taken literally from pages 18, 19, 20, 21, 22, 23 and 24 of Most's book, and which appears in the

translation of it (People's Exhibit 15), in the record, on pages 12, 13, 14, 15 and 16.

Upon this point, we desire to call attention to the testimony of the witnesses Lehman, Seliger and Neff, as to the explicit directions given by Engel, in public speeches, upon the manufacture of gas-pipe bombs, in which he even told the audience where they could find pieces of gas pipe. The evidence of these witnesses appears in the brief, at pages 61 and 62.

(3) Editorial Declarations.

The Alarm, January 9, 1885.

"In the absence of the editor, as well as the assistant editor of the Alarm, all their duties and work devolved upon me. The readers therefore will kindly excuse any defects that they may discover in this number.

"A. Spies.

"THE RIGHT TO BEAR ARMS.

"The conspiracy of the ruling against the working classes in 1877—the breaking up of the monster meeting on Market square, the brutal assault upon a gathering of furniture workers in Vorwarts Turner Hall, the murder of Tessmann and the general clubbing and shooting down of peaceably-inclined wage-workers by the blood-hounds of 'law and order'—greatly enraged the producers in this city, and also convinced them that they had to do something for their future protection and defense. The result was the organization of an armed proletarian corps, known as the '*Lehr und Wehr Verein*.' About one and one-half years later this 'corps' had grown so immensely that it numbered over 1,000 well-equipped and well-drilled men.

"Such an organization the 'good citizens' of our 'good city' considered a menace to the common weal, public safety and good order, as one might easily imagine, and they concluded that 'something had to be done.' And

very soon after something was done. The state legislature passed a new 'militia law,' under which it became a punishable offense for any body of men, other than those patented by the governor and chosen as the guardians of 'peace,' to assemble with arms, drill or parade the streets. This law was expressly aimed at the 'Lehr und Wehr Verein,' who, as a matter of course, did not enjoy the sublime confidence and favor of 'His Excellency.'

"The 'Lehr und Wehr Verein,' at that time composed principally of socialists, who believed in the possibility of a revolution by the ballot, looked upon this new law as an invasion into their 'constitutional rights' as American citizens, and subsequently instituted a 'test case,' trusting that the courts would revoke the law expressly manufactured against them as an 'unconstitutional act.'

"There were a good many of our comrades then, of course, who opposed this comedy most vehemently, and called attention to the fact that the dominating classes, represented by their agencies, the courts, would not listen to any arguments, nor recognize any so-called 'constitutional rights,' when *their* privileges and *their* 'rights' as social drones would be in the least endangered. This counsel, however, was rejected and not listened to, coming, as it did, from the 'extremist.' Thus the 'test case' was instituted.

"Judge Barnum, of this city, decided that the law conflicted with the rights of American citizens, and that it was therefore unconstitutional. An appeal was taken. The Supreme court of this state upset the decision of Judge Barnum, deciding that the law was constitutional. The Lehr und Wehr Verein, not being up in law very high, did not know whom to believe, and took a further appeal to the United States Supreme court, in Washington. Here the case has been resting for the last five years, until a few days ago the decision was given by this illustrious tribunal that 'certainly the law was constitutional,' and that, in fact, anything which in any way aimed or had the tendency of holding the wage-working mobs, the *plebeians* and *pariahs* in subjection, and—of course—'peace and order' was constitutional.

"Wage-workers, do we need to comment on this? No.

"*That militia law has also had its beneficial effects.*

Where there once was a military body of men publicly organized, whose strength could be easily ascertained, there exists an organization now whose strength cannot even be estimated; a network of destructive agencies of a modern military character that will defy any and all attempts of suppression.. We don't grumble. Make more 'laws' if you like."

In the Arbeiter Zeitung (People's Exhibit 84), January 6, 1886, is an editorial to the same effect. It is as follows:

"A New Militia Law.

"To return to the Lehr und Wehr Verein, we have already said that after the adoption of the law, the shallow waters would gradually dry up. That lasted until about the fall elections of 1879, when at once the socialistic vote shrunk to 4,000 votes (in the spring there were over 12,000), then the whole 'movement,' to which (we) look back with unaccountable pride, was stopped. What was done for the mass of the people has proved to be a shallow and unclean * * *

"Well, let us drop the subject. The lesson of 1877 has, meanwhile, been forgotten. Politically they could not do much with it, and in a business sense—well, after the failure of the movement, there was not much the matter. To be brief, it did not *pay* any more to be a socialist or an armed proletarian. The thing didn't pay any more, and of the big pile there remained but a very little pile. But this little pile was a good one, and had lately achieved more than formerly the big pile. *The army has since made a gigantic progress; where six years ago a thousand men had been armed with muskets, the majority of which are even to-day on hand, we find to-day a power which can neither be fought by law nor by force. Where a military organization existed formerly, the strength of which was well known, there exists to-day an invisible network of fighting groups, the dimensions of which are beyond any calculation, and, therefore, this organization is a timely one.* To the above law we are partially indebted for that."

(4.) Spies' Declaration to Wilkinson.

Harry Wilkinson, a reporter for the Daily News, testified (J, 142) that in his professional capacity he had a number of interviews with August Spies in the month of January, 1886, the interviews being instigated by the fact that a bomb with a partially burned fuse had been found on the steps of the residence of Judge Lambert Tree, in this city.

The witness says:

"I inquired of him about that explosive and one that was placed in the Chicago, Burlington and Quincy railroad offices, and he emphtically denied that those machines were either made or thrown by the socialists or anarchists, and proved it by showing me that they were of entirely different character from the ones in use by the socialists. *At that time he showed me this* (producing the bomb known as the Czar bomb) *and I took it away with me; he described it as the 'Czar,' and went on to describe the wonderful destructive power of the Czar bomb; said it was the same kind that had been used by the nihilists in destroying the Czar, and that was the reason this was so called." The witness told him that he thought it a pretty "tall" story, whereupon Spies became excited and produced the Czar bomb and said there were others larger than that, run by mechanical power, "and exploded in that manner—clock-work bombs," and he gave me that in a small room just adjoining the counting-room office of the paper of which he was editor.* I asked him if they made those things at the Arbeiter Zeitung office besides printing a newspaper and doing jobwork; if that was any part of their business, and he said not; *that they were made by other persons, and that there were several thousand of them in Chicago distributed, and that sometimes they were distributed through the Arbeiter Zeitung office; that those who could make bombs made more than they could use, and those who could not make them got them from those who could; that he had a few there for samples and that was one of the samples.* The whole matter was a

personal assignment from Mr. Stone (the editor of the Daily News), and I asked Mr. Spies if I could take that over and show it to him, and I took it over there; I didn't bring it back.

"Q. Was anything said by him as to how force was to be administered, as to what body of men or who they were going to have this force against?

"A. Upon another occasion, Mr. Spies—

"Mr. BLACK: Tell us what that occasion was?

"A. Well, that was another one of these interviews following right along in those, between the first of January and the publication of that article. We went to dinner together, Mr. Spies and Mr. Gruenhut and myself.

"Mr. BLACK: Gruenhut?

"A. Gruenhut—Joe Gruenhut. And *he told us there about the organization of their people, how they were organized and rather in a boastful manner, as I thought at the time, but I don't think so now. Well, he described to me how they had gone out on excursions on nice summer mornings, some miles out of the city, and practiced throwing these bombs; also the manner of exploding them;* THAT THEY HAD DEMONSTRATED THAT THE BOMBS MADE OF COMPOUND METAL WERE MUCH BETTER THAN THE OTHER KIND—I PRESUME MADE OF ALL LEAD OR ALL METAL. I think that was the understanding at that time, and that they went out there for the purpose of practicing throwing them, *and that they had demonstrated that a fuse bomb, such as that, with a detonating cap inside, was by far the best, and at that time he told me of one attempt made in his presence where one of their machines had been exploded in the midst of a little grove, and that it had entirely demolished the scenery, blown down all the trees, four I think, in number, four or five.* Well, he further described to me some very tall and very strong men—an organization of Swedes; he told me that they could throw a large-size bomb, weighing five pounds, one hundred and fifty (50) paces, *and further went on to state how these bombs were to be used in the case of a conflict with the police or militia. He didn't have a very good opinion about the fighting abilities of the militia, and stated so, that they probably would not stay to see a second or third one go off*, and the idea was, as he explained by taking

some little toothpicks out of the vase on the table and laying them down and making a street intersection, showing that if the police or the militia were coming marching up a street that the throwers would receive them formed in the shape of the letter V in the mouth of the street just crossing the intersection, and that if the conflict should occur at any of the principal street intersections here in the city, that there would be a few dynamiters—that is not what he called them, but some of these sections of organized men would be on top of the houses at the street intersections, ready to throw bombs overboard and among the advancing troops or police. *And he said that these matters had all been investigated; that the men were all thoroughly trained and organized; that they understood street warfare and had made it an especial study*, and that the means of access to the housetops at the corners of these street intersections was a matter of common information among their adherents; that they all knew how to get up there—that is, all those who were entrusted with that work. I asked about their military captains, about their drilling and training, and he said that they didn't have any; that *they had no leaders, that they were all instructed, one as well as another, and that when the great day came that each one would know his duty and do it.* Then after I had gotten nearly full of that sort of information, I began trying to find out when this would probably occur, and he did not fix the date precisely or approximately at that time, but *subsequently informed me that this conflict would probably occur in the first conflict between the police and militia; that if the men were to strike—be a universal strike for this eight-hour law, eight-hour system—that there would probably be a conflict of some sort, brought about in some way, between the First and Second regiments of the Illinois National Guards and the Chicago police, and the dynamiters on the other hand. He said that there were thousands of bombs in the hands of men who knew how and when to use them, who were not afraid to use them.* In trying to get at the probable number of them by questioning, I understood him that there were probably eight or ten thousand. He spoke of other bombs that they had experimented with, larger ones—as large as

a cigar box, and that there were machines to be exploded by electricity, which would be placed under the street in case they decided to barricade any section of the city—that they could be placed under the street; that certain numbers of their organization had in their possession a complete detail of maps and plans of the underground system of the city, and that these machines could be placed there and exploded by electricity with perfect safety by the ones handling them, but that they would either destroy everybody that was above them when they went off, or so tear up the street as to make it impassable.

* * * * * *

"*He told me how they did make their dynamite and how much better it was than other dynamite. He said that the ordinary dynamite of commerce was about a sixty per cent. dynamite—sixty or sixty-six, and that they made a finer quality by importing their infusorial earth and mixing it themselves; that they made a dynamite which they regarded as about a ninety per cent. quality.* * * *

"In a general way I understood that the object was the bettering of the workingmen's condition by the demolition of their oppressors. He spoke of a list of names that was somewhere, in a vague sort of way, of prominent citizens here who might suddenly be blown up one at a time or all at once. I don't particularly remember.

"Q. What did you say, if anything, to him about believing these yarns of his—this story of his?

"A. Of course, I affected not to believe it; and that is the reason he was tantalized.

"Q. The question is, what did you say?

"A. I said—I don't recollect my exact remarks, but I remember to have frequently said that I did not believe much in the story.

"Q. What was the response to that?

"A. He simply uttered renewed declarations. That is one of the responses there on your note paper (referring to the Czar bomb). I talked to him in his own room, at his own desk, and Mr. Schwab was there once or twice when I was in, although I was not acquainted with him personally. * * *

"Q. Where did he get that bomb from?

"A. From one of those little pigeon-holes in that room (a little room partitioned off from the front room, in which were the pigeon holes). * * *

"Q. Now, so that I may have a clearer idea from what you have said, how did he describe this intersection, their holding any meetings near or at the intersection of streets, at which the police or militia might march up?

"Mr. BLACK: He has not said anything about that. He said nothing about holding meetings near the intersections of streets. It is a leading question to suggest the subject-matter to the witness. He has talked about a march, but not about meetings.

"Mr. GRINNELL: I understood him differently. How is that, Mr. Wilkinson?

"A. I spoke about their barricading and fortifying the street corners in case they see fit to barricade any particular street in the city, and in speaking about that he mentioned this Market square down here—what an easy thing it would be, and how few men it would take.

"Q. East Market square?

"A. No; on the south side, below our office a short distance.

"Q. On the south side of the river?

"A. Yes, sir; that it would take a very few men to fortify that street against all the militia and police in Chicago by such means as I have already described, *and that they would have the tunnel at their back for a convenient place of retreat for those who were not engaged in throwing shells, or for women and children who they might care to take there.*

"Q. Now, what, if anything, was said about meetings or warfare at intersections of streets?

"A. Well, as I have said, they proposed to receive them with their line formed in the shape of a letter V, the open end of the letter V facing toward the street intersection. Then there were to be others to reinforce them, as it were, on tops of the houses at those corners, and under the street there was to be placed a machine which would blow up the street or anybody that was in it.

"Q. I wish you would look at that paper there

(handing witness the 'Daily News' of January 14), and that plan down to the bottom—where did you get that?

"A. That is a plan which I drew from one that he made right on the table-cloth as we sat at dinner together, except that he did not put in these little squares, but explained where these would be to me, and laid toothpicks to make these lines." (Plan referred to above appears as People's Exhibit 13.)

(The bomb described by the witness as the Czar bomb was then introduced in evidence, and photographs of same appear as People's Exhibits 130 and 131.)

On cross-examination of this witness it appears that Joe Gruenhut, who was himself a socialist, said, "*That the conflict to which our conversation referred at the table would occur probably on the first of May, or within a few days thereafter, and that it might extend all over the country.*"

* * * *

"Q. How many of those tall Swedes could throw a five-pound bomb fifty paces?

"A. My recollection is that it was a company referred to, without number.

"Q. Without stating how many?

"A. Yes, sir; and I understood that there were five, I think—four or five only of that company who could throw a five-pound one; that is a large-size shell and fifty yards is a long distance to throw a shell.

"Q. Did you ask the names of those four or five men, or any of them?

"A. O, no. I did several times ask for information of that kind, and *he told me then that he described to me the character of their organization, and that they were known only to each other; that if there were three the first would know the second, and the second a third, but not the third the first; that it was nihilistic in its character, and that they were known by other means than names.*

"Q. By the way, what was Mr. Spies' condition while he was making these revelations to you, as to sobriety?

"A. He was sober.

"Q. Seemed to understand what he was saying at the time?

" A. Oh, yes, sir.

" Q. Did he talk freely or did you have to pump him? I think that is a phrase that as a reporter you understand?

" A. Both.

" Q. Was the pumping process one of ease in this case?

" A. Well, we don't buy wine for everybody, to interview.

" Q. You bought wine for him, did you?

" A. He ordered it, and I paid for it.

* * * * * *

" Q. How many thousand of these grenadiers were there?

" A. I did not say anything about grenadiers.

" Q. Or, to use another term, how many thousand of these organized—what do you call them?

" A. Dynamiters.

" Q. Dynamiters, yes, for want of a better term. Were they called dynamiters in that interview?

" A. No, sir.

" Q. What were they called.

" A. *They called them groups, and such—companies and clubs, and so forth.*

" Q. Companies and groups?

" A. Yes.

" Q. Well, now, how many did they say there were in all of these companies and groups? How many did Spies say?

" A. It was the number of bombs distributed that I referred to before; I don't think that I said anything about—

" Q. How many bombs?

" A. I approximated it at eight to ten thousand, perhaps, that they had.

" Q. I am not calling for your approximation. I am wanting to know what Spies said about it?

" A. As near as I could determine by questioning him, there was that many.

" Q. Was the addition a mental process of his, or did you figure it up?

" A. Between us we arrived at that conclusion.

" Q. That there were from eight to ten thousand bombs distributed?

" A. Yes, sir.

* * * * * *

" Q. Wasn't it spoken of, so far as Mr. Spies was concerned, as simply illustrating and detailng the modern science of street warfare?

" A. He did not say so to me.

" Q. Wasn't it so spoken of in the interview?

" A. No, sir.

" Q. Did he, in the course of that conversation, speak of this street warfare as a thing that was for the immediate future of Chicago, or did he speak of it simply as in general terms?

" A. *He spoke of it as a preparation for some time not mentioned, when it would be necessary for the—*

" Q. Necessary where?

" A. *Here in Chicago.*

" Q. That was mentioned by him, was it?

" A. He mentioned the street intersections which I have spoken about?

" Q. Did he name any streets?

" A. The Market square.

" Q. He named the Market square?

" A. Yes, and the tunnel—the Washington street tunnel, I presume."

In reference to the testimony of Wilkinson, we desire to call attention to the testimony of Detective Johnson (J, 416), who says that on January 14th he attended a meeting of the American group at 106 Randolph street. Before the meeting he heard Spies say to Fielden:

" Don't say much about that article in the Daily News. You simply need to state that a reporter of the Daily News had an interview with me some days ago, but that most of the statements in the paper are lies. * * * You must be careful in your remarks; we don't know who might be amongst us to-night. After the meeting was called to order, Fielden made a statement commenting on the article which appeared in the News, and said: 'All of these statements, or most of the state-

ments are lies. Mr. Spies did have an interview with a reporter some few days ago; but most of the assertions brought forth in the paper are not true. *As regards the dynamite bombs, it is quite true. We have lots of explosives and dynamite in our possession, and we will not hesitate to use it when the proper time comes.* We care nothing either for the military or police. All these are in the pay of the capitalists. Even in the regular army most of the soldiers are in sympathy with us; most of them have been driven to enlist. I have had a letter from a friend out west, who told me he saw a soldier on the frontier reading a copy of the Alarm.' Later on Fielden said: 'We don't object to it (the eight-hour movement), but we don't believe in it. As to whether a man works eight hours a day or ten hours a day, he is still a slave. We propose to abolish slavery altogether.'"

(5.) DECLARATIONS OF PARSONS AND FIELDEN IN THE PRESENCE OF SPIES, AT ARBEITER ZEITUNG OFFICE, AND WHAT WAS SEEN AND HEARD THERE.

MARSHALL L. WILLIAMSON, a reporter, testifies (J, 6):

That on the night of the board of trade demonstration, and after the demonstration, at the office of the Arbeiter Zeitung, he had a conversation with the defendant, *Parsons.* "I asked them why they didn't march upon the board of trade and blow it up? He said, 'Because the police had interfered, and they had not expected the police to interfere, and were not prepared for them.' I says, 'Well, your party was armed; why didn't you go right through the police?' He said, 'We were not prepared to meet them as we wanted to.' I told him that I had seen revolvers exhibited by some in the procession, and asked him what further preparation they wanted. *He told me when they met the police they would be prepared with bombs and dynamite.* Fielden was standing at his elbow at the time, and he said, '*The next time the police attempted to interfere with them they would be prepared for them.*' I asked him when that would be? He

said he didn't know; '*perhaps in the course of a year or so.*' * * * Spies was in the room; it was the front room of the Arbeiter Zeitung office. * * * I was shown what they told me was a dynamite cartridge. The package was about six or seven inches long, an inch and a half or two inches in diameter, and wrapped up in a piece of paper; the paper was broken. In the course—and after I had conversed with Mr. *Parsons* awhile, he *took out of the broken place a small portion of the contents. It was a reddish color*—slightly reddish—and *he* again *said it was dynamite, and that is what they would use when they met the police. He also said that he had enough of that, where he could put his hands on it, to blow up the business center of the city.*" The witness was shown fuse. "The fuse was rolled in a coil; I should judge there was about fifteen or twenty feet of it. I was also shown a fulminating cap, by which they said the dynamite bombs were exploded. The cap was exploded in the room while I was there, to show me that it would go off, I presume.

"Q. What was the effect of that explosion of the fulminating cap?

"A. Well, it made quite a noise and filled the room full of smoke.

"Q. Describe that fulminating cap as near as you can now?

"A. It was copper and about an inch long, and perhaps an eighth of an inch in diameter, I should think.

"Q. In reference to ordinary common gun-cap, the old-fashioned gun-cap, how was its diameter?

"A. Well, it was about the size of 22-cartridge cap, I should think. Those things, when they were shown to me, they were in a drawer in a desk, and Mr. Parsons called for them. And *Mr. Spies was the one that handed them to him to be shown to me.* * * * I asked him what they were for—what they were going to use them for. *Mr. Parsons told me that they were preparing for a fight for their rights;* that they believed they were being robbed every day by capitalists and the thieving board of trade men. He said it must stop. *That the workingman had become sufficiently enlightened to see that he was being robbed, and was going to insist and fight for*

his rights. He said they were preparing in various ways to carry on their warfare. He told me that they had bombs, dynamite and plenty of rifles and revolvers, and he said their manner of warfare would be to throw their bombs from housetops and tops of stores, and in that way they could annihilate any force of militia or police that could be brought against them, without any harm to themselves whatever. * * * This conversation was had with Mr. Parsons, with Mr. Fielden standing right alongside of him, and after I had had this conversation I went downstairs. At the foot of the stairs I met Detectives Trehorn and Sullivan, of Cottage Grove avenue station. I was acquainted with them; they were standing downstairs, I presume, listening to the addresses from the window. * * * I met them and took them upstairs, and renewed the conversation with Mr. Parsons, and left him talking with the police officers. I stood by awhile, also listening and joining in the conversation. The conversation that I had with Mr. Parsons was, in effect, repeated to the police officers in my presence. The officers were in citizen's clothing." The witness cannot say that Parsons knew they were officers.

Testimony of Officer TREHORN (J. 236).

"Q. Do you know Williamson, a reporter?
"A. Yes, sir.
"Q. Did you meet him upon that night?
"A. Yes, sir.
"Q. Where?
"A. In front of the Arbeiter Zeitung. * * *
"Q. What occurred after you got upstairs?
"A. After we got up in the office the speech-making had closed, and they had closed the windows, and Spies was up in the office that night; he was standing by the desk and Williamson asked him to show him that cartridge again, and Spies handed the cartridge to Parsons.
"Q. What did he say it was?
"A. It was a package about the size of this newspaper (indicating), about twelve inches long and about an inch think, only a considerable larger, with fuse attached to it; and then I commenced talking to Parsons; I said to him, 'why didn't you go to the board of trade

as you first intended and have some of that supper?' he said, 'oh, the blood-hounds were there to prevent us as usual.' I said, 'why, there were not many of them, why didn't you break through?' and he says, 'we were not exactly prepared to,' and he says (holding in his hand), 'here is a thing that I could knock a hundred of them down with, like ten-pins.'

"Q. Give us a description of that, the thing he alluded to, when he said that?

"A. It was a little package about as large as that newspaper, and looked like a very large fire-cracker.

"Q. Did he say what it was?

"A. He said it was a dynamite package.

"Q. Did you see Mr. Fielden up there when it was exhibited?

"A. Oh, yes, he was in the office.

"Q. Name all the people that were there as near as you can?

"A. Spies was there, Schwab, Parsons, Mrs. Parsons and this Lizzie Moore, and probably a dozen other people whom I did not know.

"Q. Did you have any further conversation as to what you intended to do that night, or anything about that?

"A. He showed me a coil of fuse, and I asked him what it was used for.

"Q. Who showed you that?

"A. Parsons showed that to me; it was in under a desk, and Spies reached down under the desk and handed it to Parsons, and Parsons showed it to us, and then I asked him about the dynamite, and he says there is enough there to blow up that building. It is very small dynamite that would raise that. I says it would be dangerous, you would be killed in doing that; he says, we have plenty of fuse, a man could be a block off and blow it up; and at that time he exhibited this coil of fuse.

"Q. To what building was reference made, if it was mentioned?

"A. The board of trade."

Testimony of Officer JEREMIAH SULLIVAN (J, 250):

"Q. Do you know Williamson, the reporter?

"A. I do.

"Q. Did you meet him that night?

"A. I met him that evening.

"Q. Where?

"A. Just as he was coming downstairs.

"Q. Tell us what occurred after you met him?

"A. He called our attention to what he saw upstairs, so we went upstairs with him, and I met Mr. Fielden just as I went in, and I shook hands with him and spoke with him.

"Q. You were in citizens' clothes that night?

"A. Yes, sir.

"Q. Up to that time had you known any of these defendants?

"A. I have met five of them.

"Q. Do you know whether you were known to them?

"A. No, sir; they didn't know me as a policeman.

"Q. What occurred then?

"A. Then the reporter went to show us this—they went to explain the fuse to us.

"Q. Who were there?

"A. Mr. Fielden, Mr. Parsons and this gentleman here, Mr. Spies, he was at the desk; Mr. Schwab was there also.

"Q. State what was done and what each one did?

"A. Mr. Parsons went over and asked Mr. Schwab for this dynamite. He asked him, this man here, Mr. Spies—he brought it over and Mr. Parsons showed how it could be used; how, if it was thrown into a line of police or the militia, it would take the whole platoon.

"Q. Was there anything else exhibited there?

"A. Yes, sir; a coil of fuse.

"Q. What was said about that, if anything?

"A. Well, I seemed to understand that; I says, 'you can get that in any quarry; they use that in blasting;' he says, it comes in good to load this with, to touch this with, to touch this off with (referring to dynamite shells).

"Q. Did you see any caps there?

"A. Yes, sir.

"Q. What were they?

"A. They were about the size of a twenty-two caliber cartridge.

"Q. Will you describe the substance that he said that if it exploded it would blow up?

"A. Well, it had a kind of a reddish tint.

"Q. What was it; was it a stick, or what?

"A. A stick, and it was shaped about that long (indicating about a foot) and about an inch and a half in diameter, but I supposed he showed us dynamite; it looked like a red sand.

"Q. In that connection did you have any conversation with Parsons, or any one in his presence, about the board of trade building, when that was exhibited?

"A. Yes, sir; I asked one of them why they didn't go there; they said they were not prepared to-night; that there were too many of the blood-hounds before them on the street, but that the next time they would turn out they would meet them with their own weapon, and worse.

(6.) GROUPS; ARMED SECTIONS; DRILLING; DYNAMITE; BOMBS; GUNS; GENERAL COMMITTE; Y, KOMME.

GOTTFRIED WALLER, a cabinet.maker, born in Switzerland, and who had lived for three years in this country, and himself a socialist, testified (Vol. I, 52): That he was a member of a society called the Lehr und Wehr Verein; the object of the society was to exercise in arms, military discipline and instruction; that he was a member of the second group; *that the organization drilled and exercised in arms, and so forth; that members of the Lehr und Wehr Verein had no names, but were known by numbers* (page 98); that each man had his own number. The witness' number was nineteen.

* * * * * * * *

"Q. Where were you on the evening of the 3d of May?

"A. In Greif's Hall, on West Lake street. * * *

"Q. How did you come to go to that hall?

"A. On account of an advertisement in Arbeiter Zeitung.

"Q. When did you see the advertisement in the Arbeiter Zeitung?

"A. On Milwaukee avenue, in Thalia Hall. * * *

"Q. What was the advertisement which you saw?

"A. *The letter 'Y,' come Monday night.* * * *

"Q. What is the word just before the words which you have read?

"A. Briefkasten, which means letter-box.

"Q. Did this expression (the letter Y), followed by the words 'come Monday night,' have any meaning among the society to which you belonged?

"A. *It was nothing but a sign that our meeting was to take place there.*

"Q. Whose meeting?

"A. *Of the armed section.*

"Q. Should meet where?

"A. It always met in Greif's Hall.

* * * * * * * * *

(I, 95.) "That on Thanksgiving day in the year 1885 he was given a gaspipe bomb seven or eight inches long by the defendant Fischer.

"Q. What did he say, if anything, when he gave it to you?

"A. I should use it if we were attacked by the policemen just as it happened at this time.

"Q. Tell what Fischer said?

"A. He gave us those bombs which we should use on Market square; there was a meeting on Market square.

"Q. What did Fischer say?

"A. He said nothing, but simply this, that we should use it.

"Q. Where were you when Fischer gave you the bomb?

"A. In Thalia Hall (636 Milwaukee avenue).

"Q. Who were present at Thalia Hall?

"A. Mostly members of the north-west side group and several men of the Lehr und Wehr Verein.

"Q. (Page 101.) What became of the bomb which you had?

"A. I gave it to a member of the—I don't know how that society was rendered here. I had it with me two weeks in my house.

"Q. Do you know of your own knowledge what became of it?

"A. Yes.

"Q. What?

"A. He had it exploded in the woods in a hollow tree."

BERNHARD SCHRADE testified (I., 155) that he was a member of the Lehr und Wehr Verein; that his *company was in the habit of drilling once a week in Thalia Hall*; the members of the company each had a number; witness' number was thirty-two; he knew four companies of that organization in the city.

WILLIAM SELIGER testified (I, 505):

* * * * * * *

"Q. Look at the paper which I now show you, 'Y,' and the sentence 'Komme Montag abend'—what does that mean, if you know?

"A. *It is the meaning for all the armed men to come to the meeting at 54 Lake street.*

"Q. What do you mean by armed men?

"A. That they might be informed there about matters that were to be talked about.

"The COURT: The question is, who were the armed men?

"A. *There were divers ones, all of the socialistic organizations.*"

* * * * * * *

"Q. *The question is, who were the armed men?*

"A. *They were divers ones; all of the socialistic organizations.*

"Q. *Why were they called armed men?*

"A. *Because there were several organizations in existence which were drilled in the use of arms.*"

He further said (page 527) that he was a member of the north side group of the International Workingmen's

Association; was financial secretary; that his number was seventy-two; that the members had been known by numbers for two years. * * *

"Q. (Page 529.) Did you ever see any bombs at any other place than your own house that Tuesday night?
"A. Yes, two.
"Q. Where did you see them?
"A. *At the Arbeiter Zeitung.*
"Q. When did you see them there?
"A. *Last year, at the time of the car-drivers' strike.*
"Q. Who was present when you saw those bombs?
"A. That I don't know any more, precisely who were present.
"Q. Who showed them to you?
"A. They were not shown to me, but Rau showed them to some one.
"Q. Do you remember whether any of the defendants were present at that time?
"A. Yes, *Spies was present.*
"Q. Was that in the day-time or night-time?
"A. *It was at night, in the evening.*
"Q. Had you seen bombs at any other time than that?
"A. No.
"Q. How many bombs did you see at that time?
"A. Two.
"Q. What kind of bombs were they—were they round or long?
"A. *There was one round bomb and one long one—not very long.*
"Q. What were you doing at the Arbeiter Zeitung at that time?
"A. *I was a delegate from the north side group.*
"Q. A delegate to what?
"A. *There were delegates meeting there every two weeks, at the Arbeiter Zeitung, of all the groups.*
"Q. What do you call that body of delegates?
"A. *The general committee.*
"Q. Of what?
"A. *The general committee of all the groups of Chicago.*"

(Page 531.) The witness says that the north side group was in the habit of meeting every week—Mondays—in the evenings; that there were speeches made at these meetings, or a review of what had happened during the week; that on *Sundays the members drilled with rifles;* that each man kept his rifle at his own home. The witness had one which he kept in his dwelling.

On cross-examination (page 562), the witness says that he saw the *bombs* in the building of the Arbeiter Zeitung in 1885; didn't see whether they were loaded or not; *they were in a room where the delegates of the socialistic organizations meet; that those organizations had met in that room as long as the Arbeiter Zeitung was in existence;* it was a library room that belonged to the International Workingmen's Society; they were below the counter; that Rau showed them to others and witness saw them.

* * * * * *

(Vol. I, 509.)

"Q. Who cast those bombs, if you know?

"A. Lingg was casting them once by himself.

"Q. Where did he cast them?

"A. In the rear room upon my stove.

"Q. When was it that you saw him casting the bomb?

"A. *Probably six weeks previous to the 4th of May.*

"Q. Where was the first bomb that you ever saw?

"A. In Lingg's room.

"Q. When was that?

"A. That was still before that; that I cannot tell exactly, but it was more than six weeks.

"Q. Did you have any talk with Lingg at that time about the bombs or their object?

"A. No conversation I had with him, but he told me he was going to make bombs.

"Q. Did you ever see any dynamite?

"A. Yes.

"Q. Where did you see that first?

"A. In Lingg's room.

"Q. When.

"A. *About five or six weeks back from the 4th of May.*

"Q. Did you have any talk with him about that dynamite?

"A. Yes; he told me that he had some dynamite.

"Q. Did you have any talk with him about the objects of that dynamite?

"A. *Well, he said that every workingman should have some dynamite, and that there should be considerabte agitation; that every workingman should learn to use—to handle these things.*"

Mrs. BERTHA SELIGER testified (Vol. I, 571):

"Q. Did you ever see any bombs in your house?

"A. Shortly before May, I saw some, as he (Lingg) was about to hide them.

"Q. Where did you see them?

"A. There were about half a dozen lying in the bed which he wanted to hide.

"Q. What kind of bombs were they?

"A. They were round bombs and long ones.

(Witness was shown gas-pipe and Ezar bombs.)

"Q. Did they look like these (indicating)?

"A. Yes.

"Q. Did you have any talk with him about those bombs?

"A. No; not at all. I had only heard it said that these were bombs. I had never seen anything like that before.

"Q. When did you next see any bombs?

"A. I didn't see any more next to the Wednesday previous to the time when he wanted to hide them in that closet.

* * * * * *

"Q. Did you ever see any one making bombs?

"A. *Lingg frequently made bombs.*

"Q. What kind of bombs?

"A. *I always saw him cast; I did not pay particular attention, but I simply saw him melt lead on the cooking stove.*

"Q. The cooking stove in your house?

"A. Yes.

"Q. How many times have you seen him melting lead on the cooking stove in your house?

"A. Twice. Heumann was with him, once my husband and Thielen and frequently he was by himself; he said to us, 'Don't act so foolishly, you might do something too.' We were standing looking at him.

GUSTAV LEHMAN, a carpenter, born in Prussia, who had lived in this country for four years, testified (Vol. J, 204,) that for three months he was a member of the north side group which met at 54 Clybourn avenue, at Nepf's Hall; that they met on Monday evenings of each week, where they talked together and advised together and reviewed what had happened, *and drilled with hunting guns and shot guns which they kept at their homes.* The witness testified (page 205) that he attended a dance at Florus' Hall on Lake street, in the month of March, 1886, gotten up by the carpenters' union, at which Lingg, one of the defendants, was present; that there was a profit of ten dollars from beer sold.

"Q. Did you see anything done with the money?

"A. *It was turned over to the armed section of the carpenters' union.*

"Q. Was anything said about what it was to be used for?

"A. There were to be some shooting practices, and the targets and lead and so forth were to be bought for it.

"Q. What else, if anything?

"A. *At the next meeting several came together and it was resolved that dynamite should be bought for it and we should practice with that once.*

"Q. Where was the meeting held at which that resolution was passed?

"A. 71 West Lake street.

"Q. At whose place?

"A. At Florus' Hall.

"Q. Is it a beer saloon?

"A. Yes.

" Q. Is there a hall overhead?

" A. Yes.

" Q. *Was Lingg present at that meeting?*

" A. *Yes.*

" Q. What was done with the money?

" A. *It was unanimously resolved that we were to buy dynamite with it, and to experiment with it to find out how it was used—how it was handled.*

" Q. What became of the money?

" A. *We were unanimous that some one should take the thing in hand and Lingg was entrusted with it, and he took the money and bought dynamite with it.*

" Q. When was that, as nearly as you can place it?

" A. About two weeks after the dance where the money was raised. * * *

" Q. (Page 210.) *You went to 54 Lake street because you saw 'Y—come Monday night,' did you?*

" A. *Yes, sir.*

" Q. *Was that the understanding before of the manner in which meetings were called?*

" A. *Yes.*

" Q. How many times have you seen that notice before in the 'letter-box' of the Arbeiter Zeitung?

" A. Only once, before that time.

" Q. You understood tthat whenever a meeting was to be called of the armed section at 54 West Lake street it would appear in the 'letter-box' in the Arbeiter Zeitung, did you, in this form?

" A. Yes.

" Q. How long had you understood this?

" A. I do not know how long before that; some one came to the carpenters' meeting and announced that fact to us.

" Q. When?

" A. At the time of the meeting.

" Q. How long did you belong to this armed section?

" A. I think three or four months, something like that.

" Q. Was it soon after you joined that you received notice of the manner of the calling of the meetings of the armed section?

" A. It was some time after; two months might have passed before it was announced.

" Q. *How often did the armed sections meet at 54 West Lake street?*

" A. *That was irregular.*

" Q. *Your meetings of the armed sections were governed by this notice in the Arbeiter Zeitung, were they not?*

" A. *Yes.*

The detective Johnson testified (J, 405): That on Monday, the 24th of August, 1885, he attended a meeting of the American group at 54 West Lake street, at which Fielden, Parsons, Walters, Bodendecker, Boyd, Larson, Parker, Frankling, Snyder, and in all some twenty or thirty were present.

" Q. Now, you may state what occurred there?

" A. After having been there a short time, a man armed with a long cavalry sword, and dressed in a blue blouse, wearing a slouch hat, came into the room; he ordered all those present to fall in; he then called off certain names, and all those present answered to the names. He then inquired whether there were any new members who wished to join the military company. Some one replied that there was. He then said, ' Whoever wishes to join, step to the front.' We were asked separately to give our names. I gave my name, which was put down in a book, and I was then told that my number was 16. *Previous to my name being put down in the book, the man to whom I was speaking asked whether there was any one present who knew me, or whether any one could vouch for me being a true man; the defendant Parsons and a man named Bodendecker spoke up and said that they would vouch for me.* The other two were asked their names in turn; as they were properly vouched for in a similar manner, their names were entered in a book and they were given numbers. The man whom I have previously spoken of, who came into the room armed with a sword, then inquired of two other men who were in the room whether they were members of the American group; they both said they were, and he asked to see their cards; *as they were unable to produce their cards, he told them to leave the room. There was also two others expelled from the*

room, the doors were closed, and the remainder was asked to fall in line. And we were then drilled for about half an hour or three-quarters, put through the regular manual drill, marching, countermarching, turning, forming fours and wheeling, and so forth.

"Q. Who drilled you?

"A. The man that I have spoken of, who came in armed with a sword. He was evidently a German. I did not ascertain his name. At the expiration of that time the drilling inspector stated that he would now introduce some of the members of *the first company of the German organization. He went outside, and in a few minutes he returned, accompanied with ten other men, dressed as he himself was, and each one armed with a Springfield rifle.* When they all got into the room he placed them in line in front of us, and introduced them as *members* of the *first company of the Lehr und Wehr Verein*, and said that he was going to drill them a little while to let us see how far they had got with their drill. He proceeded to drill them for about ten minutes; put them through the regular musketry drill. At the end of that time a man whose name I do not know—he is employed for the proprietor of the saloon 54 West Lake street——

"Q. He was there?

"A. Yes, he was there; he came into the room with two tin boxes, which he placed on the table at the south end of the room. *The drill-instructor then asked those present to step up and examine the two tin boxes, as they were the latest improved dynamite bombs.* I stepped to the front with the others and examined the two tins. They were—they had the appearance—

"Q. Just describe them as near as you can, Mr. Johnson, now.

A. *They were about the size and had the appearance of ordinary preserve fruit cans. The top part unscrewed and the inside of the cans were filled with a light-brown mixture. There was also a small glass tube inserted in the center of the can. The tube was in connection with the screw, and it was explained where the can was thrown against any hard substance it would explode.*

"Q. What was the color? Was that mixture a liquid?

"A. Inside of the glass tube was a liquid.

"Q. Was there anything around that glass tube?

"A. Yes, sir; it was a brownish mixture.

"Q. Was that a liquid?

"A. No, sir. * * * It looked more like fine sawdust. * * * The *drill-instructor first told everybody* present that *they ought to be very carefnl as to who we selected as to new members of the company, as, unless we was very careful, there was no telling who might get into their midst—our midst.* The next proceeding of the meeting was to select officers; a man named Walters was chosen as captain, and the defendant Parsons was chosen for lieutenant.

"Mr. FOSTER: This was the next night?

"A. No, sir; that was the same night. Some discussion arose as to what the company should be called. It was decided, eventually, that we should be called the *International Rifles.* The drill-instructor then suggested that we ought to choose some other hall, as we were not quite safe there. He added: 'We have a fine place at 636 Milwaukee avenue; we have a shooting-range in the basement, where we practice shooting regularly.' Parsons then inquired as to whether it was not possible for us to rent the same place. The drill-instructor then informed him that he did not know. The question of renting another hall was finally put off until some other time, and our other meeting was then fixed until the following Monday.

* * * * * *

"Q. Who drilled in your company that night?

"A. The German before spoken of.

"Q. Well, he drilled you, but who were in the company drilling? Was Parsons there, and Fielden, drilling?

"A. Parsons and Fielden.

"Q. They joined the company also that night?

"A. No. I understand they had joined previously. I was not there on the first night. * * * The next meeting was on the following Monday, on the 31st of August, at the same place. Parsons and Fielden were present, and a number of others.

* * * * * *

"Capt. Walters drilled us for about one hour and a

half. Afterwards a consultation was held among all the members of the company as to the best way of procuring arms. Some one suggested that each member should pay so much a week until a sufficient amount had been raised wherewith to purchase a rifle for each member of the company. The defendant Parsons then made a suggestion—he spoke as follows: 'Look here, boys, why can't we make a raid some night on the militia armory? There are only two or three men on guard there and it is easily done.' This suggestion seemed to be favored by the other members, but some more discussion took place and it was finally decided to put the matter off until the nights got a little bit longer."

CHARLES B. PROUTY, a gunsmith connected with the firm of E. E. Eaton & Co., testified (Vol. K, 572): That sometime in the fall of 1885 Engel, in company with his wife, called at his store "and made some inquiries in regard to some large revolvers. They found one there that seemed to be satisfactory and obtained the price of it, and wanted to know what they could furnish a quantity for—they didn't know just how many, possibly a hundred, probably two hundred—and wanted to take that one, buy that and pay for it, and take it and present it at some meeting of some society. I didn't ask them who or where. They took the pistol and paid for it. Probably in a week or two they returned and said the pistol was satisfactory and wanted to know if I could get them a lot. I told them I hadn't any in the store—that was a sample. I told them I knew where there was a lot in the east and I would write to know if I could get them. I wrote east and found the lot had been disposed of, and was unable to get them. They were somewhat disappointed, and said it didn't make any great difference, for they had found something else for a little less money that would answer the purpose, and with that they left our store. * * *

"Q. You used the word 'gun'; what kind of a gun in your testimony here in your talk about arms, what were they—pistols?

"A. Large revolvers; something about seven-inch barrel.

"Q. Any price designated?

"A. Yes, the price would be $5.50 apiece.

"Q. What caliber?

"A. I have forgotten the caliber. I think it was 44 or 45; I would not be positive which.

"Q. Did you have any talk with them about any profit to be derived from it by themselves?

"A. Yes; I told them the price. I qnoted them as very cheap, and they ought to make a nice profit on that. They replied that they did'nt care to make profits; it was for a society, and they didn't care to make profits on it."

WILLIAM J. REYNOLDS testified (Vol. K, 576): That he was in the gun business employed with D. H. Lambertson & Co.; that in February or March, 1886, Parsons called at his store. "He came in and said "that he wanted to buy a quantity of revolvers. He "mentioned, I think, forty or fifty. I showed him the "samples we had, but he wanted what is called an old "remodeled Remington revolver, 44 or 45 caliber. I "agreed to write and get a quotation on the revolver, and "if he would come in in a few days I would give him the "price. I did so, and he came in in my absence. Then "he came in again, and I quoted him a price on it. He "did not purchase any revolvers, and was in once or "twice after that. He seemed undecided about it."

MARTIN QUINN, a policeman, testified (Vol. K, 414): That three or four days after the Haymarket massacre he went to Engel's house and searched his house; that he told Engel that he had come there to look around his premises, having been informed there were

combustible materials—bombs and so forth—there; whereupon *Engel told him that the machine* (photographs of which appear in the record as People's Exhibits 133 and 134) *was brought there by some man four or five months previous to that time*, and Engel's wife in the presence of Engel described the appearance of the man whom she said had left the machine in the basement door. "I (Quinn) didn't know what the machine was, but "*Mr. Engel said that he thought it was made for the pur-*"*pose of making bombs*, and that there was a meeting. I "asked him how he knew that; he said there was a meet-"ing at one time at Turner Hall where it was said, inti-"mated he saw this man there, and the next thing was this "machine was brought over.

"Q. What did he say about the man at Turner Hall?

"A. He said he made a speech there, talked about the manufacture of bombs, and Mr. Engel told me that he said he would not allow him to make any bombs in his place in his basement. So the man went away. He said he didn't know where he was."

"Engel was taken to the Central station, where he had a conversation with John Bonfield, who testifies: "I don't remember the exact language of the conversation, but the substance of it was, I asked him what this thing was made for; he said he didn't know. I asked him who made it; that he didn't know. He said it was brought there some months before; five or six, to the best of my recollection, and left at his door. I think he said his basement door, by some party unknown to him."

JOHN BONFIELD describes the machine as a blast furnace in miniature, a home-made one. (Vol. K, 421):

"I can describe it. This upright part could be lined with fireclay. This shoulder you see at the bottom here, some two inches and a half from that, could be filled in around with clay, leaving the holes here open. This in a blasting furnace would be known as the tuyere. It is

filled up to a considerable height with clay to protect it from the hot fire inside, and the blast is applied to those pipes, one or both of them, as may be necessary. By blast I mean a pressure of air. In a blast furnace where they use hot air or cold air—the same purpose. When the fire is extinguished or removed, the debris or slag that comes from the metal, and the acid or cinders from the material used for fuel can be taken out. That is where the melted metal, after the metal or combination, whichever it may be, would be in a melted state, passes off. This (indicating) is stopped with a plug of clay, and when it is melted, the material melted, that plug can be removed and the metal poured through that tube (indicating)."

Bonfield testified further, that accordtng to his judgment as an expert the machine had never been used.

Following Bonfield was a witness named Louis Mehlendorf. He testified (Vol. K, 427) that he was a tinner; his place of business was No. 149 Milwaukee avenue, where he had been engaged for two years; that he knew Engel; *that he made part of the machine referred to in the testimony of the last two witnesses and made it for Engel about a year previous to the trial;* that another man was with Engel at the time he ordered it.

We call attention again to the testimony of the reporter Wilkinson (I, 142):

"At that time he (Spies) showed me this for producing the bomb known as the (Czar bomb), and I took it away with me. He described it as the Czar bomb, and went on to describe the wonderful destructive power of the Czar bomb. Said it was the same kind that had been used by the nihilists in destroying the Czar. That was the reason that this was so called. I asked him if he made these things at the Arbeiter Zeitung office, besides printing a newspaper and doing jobwork; if that was any part of their business, and he said no, that they were made by other persons, and that there were several thou-

sand of them in Chicago distributed, and that sometimes they were distributed through the Arbeiter Zeitung office; that those who could make bombs made more than they could use, and those who could not make them got them from those who could; that he had a few there for samples, and that that was one of the samples." (III, C, 6).

THEODORE FRICKE (I, 471):

"*Did these groups have any separate organization—a central committee or anything of that sort?*

"A. *Yes, sir;* besides this north-west side group.

"Q. All except the north-west side group?

"A. Yes, sir.

"Q. *Where did the central committee meet?*

"A. *107 Fifth avenue.*

"Q. Is that the Arbeiter Zeitung building?

"A. Yes, sir.

"Q. You say the north-west side group did not have any member of that committee?

"A. Yes, sir.

"Q. Do you know why not?

"A. Well, they had other principle.

"Q. Well, what principle?

"A. Strong anarchistic."

In this connection we desire to call the attention to the testimony of the defendant, Spies himself (N, 78):

"Q. How many bombs did you have in the office of the Arbeiter Zeitung?

"A. I think there were four of those shells, that looked like that, and I think two others. *They were iron cast and given to me by a person, I believe his name was Schwape, or Schweep, who left for New Zealand.*

"Q. Which did you get first, these or the iron ones?

"A. The iron ones first.

"Q. From whom did you receive the iron ones?

"A. I told you.

"Q. What was his name?

"A. I think his name was Schwape, or Sweet, or something like that.

"Q. Where did he come from?

"A. He came from Cleveland, if I am not mistaken.

"Q. Do you know what his business was in Cleveland?

"A. I think the man was a shoemaker. I have only seen him once; he passed through Chicago and came up and talked with me.

"Q. When was that?

"A. I suppose, nearly three years ago.

"Q. How did he come to leave these bombs with you?

"A. I suppose he thought--

"Q. No matter what he thought; what was said or done?

"A. *He came up to the office and asked me if my name was Spies. I told him yes, as far as I can remember. He asked me if I had seen any of the bombs they were making or they had, or something like that.*

"Q. Any of the bombs who were making, or that who had?

"A. That they had.

"Q. Whom did he mean by 'they'?

"A. I don't know whom he had reference to.

"Q. Didn't he tell you whom he meant by them?

"A. He did not; *he spoke of people in Cleveland with whom he had associated.*

"Q. Did he tell you whom these people were?

"A. I did not ask him.

"Q. Or the class of people?

"A. I did not ask him.

"Q. Didn't you know who they were?

"A. I did not.

"Q. He simply came up and asked you if you had seen any of those bombs that they were making?

"A. Yes, sir.

"Q. What did you say?

"A. I told him I had not.

"Q. What was the conversation about it there?

"A. I cannot recollect the conversation I had with a man three years ago, when I would have twelve or fifteen conversations every day.

"Q. Did you have twelve or fifteen conversations every day with men about bombs at that time?

" A. No, sir.

" Q. This was a little out of the way of your regular conversations?

" A. Yes, sir; that was out of the order.

" Q. Can you give any of the rest of the conversation that took place at that time?

" A. No, sir; if I remember it plainly, clearly, I had very little time. I never had very much time, and got rid of him just as soon as he would leave.

" Q. Can you give any of the rest of the conversation?

" A. I did not even say that was exactly the conversation between myself and him.

" Q. How did he come to give you the bombs?

" A. He left them there; he said he would not take them along.

" Q. Did he have any more with him at that time?

" A. I did not ask him.

" Q. Were those bombs bombs that exploded with a cap or were they bombs that exploded by percussion?

" A. They exploded by percussion, I think.

" Q. Heavier on one side than they were on the other, were they not?

" A. Yes, sir.

" Q. So that when they were thrown the cap would always come down?

" A. I think so.

" Q. They were made of iron?

" A. Yes, sir.

" Q. How long ago was that?

" A. About three years ago.

" Q. How long did you have those in the office of the Arbeiter Zeitung?

" A. I think they were there on the 4th of May.

" Q. That man went to New Zealand?

" A. He went to New Zealand; that is, he said he was going to New Zealand.

" Q. You never saw him before or after that?

" A. I never saw him before or after that.

" Q. *He came there and told you his name and said he was from Cleveland?*

" A. Yes, sir.

"Q. *And asked you if you wanted to see any of the bombs that they were making?*

"A. Something to that effect.

"Q. *He left you those two iron bombs?*

"A. Yes, sir; he left those bombs.

"Q. Both of them were percussion bombs?

"A. Yes, sir; I should not swear to that. I must say I never paid very much attention to them. I just had them there and I put them aside. I have shown them to a good many persons who came there, reporters and others.

"Q. When did you get those Czar bombs?

"A. I never got these Czar bombs. That is another invention of the reporter. I never had anything of the kind. *These bombs were left one day, I believe, with the book-keeper or with the office-boy.* I do not remember. When I came back from dinner they were lying there on my desk, and I asked some of them there and they said a *man had been to inquire whether those were bombs of a good construction, and the man never called for them*, and I told the reporter, too, by the way.

"Q. When was it the man left the bombs there and inquired whether they were bombs of good construction or not?

"A. I think that was about a year and a half or two years ago.

"Q. How long did you have them there in the office?

"A. Ever since.

"Q. What became of the other one?

"A. I supposed that was at the office at the time.

"Q. Can you tell what became of the two iron bombs, and the other Czar bomb?

"A. I cannot. I have not seen them for some time, but I thought they were in the office.

"Q. Was the other bomb that was left in your office similar to this?

"A. Yes, sir.

"Q. Did it have a detonating cap?

"A. Yes, sir.

"Q. To be exploded in that way?

"A. Yes, sir; I suppose so.

"Q. When was it you got the dynamite?

"A. I got it about two years ago.
"Q. From whom did you get it?
"A. From the Ætna Powder Company.
"Q. How much did you get?
"A. Two of these bars.
"Q. Why did you get the dynamite?
"A. I got that dynamite to experiment with in the first place. That was my intention.
"Q. Did you ever experiment with it?
"A. I did not.
"Q. Why did you want to experiment with it?
"A. Oh, I thought—
"Q. What object did you have in experimenting with dynamite?
"A. I had read a good deal about dynamite and I thought it would be a good thing to get acquainted with the use of it.
"Q. Why would it be a good thing to get acquainted with the use of it?
"A. Well, for general reasons.
"Q. Could you not get acquainted with it enough for the use of your purposes by reading?
"A. If I wanted to experiment just the same as I would take a revolver and go out and practice on a revolver.
"Q. Was that your only reason?
"A. Yes, sir.
"Q. Merely from curiosity?
"A. No, I would not say it was merely curiosity; I don't want to say that exactly.
"Q. Then, what was it, if it was not merely curiosity?
"A. I think I have explained sufficiently.
"Q. Can you give any further explanation than you have given?
"A. No, I could not say that I could.
"Q. Why did you get the caps and fuse?
"A. Simply because I would need them to experiment with.
"Q. Did you ever experiment with them?
"A. I did not."

(7.) Most's Book.
(People's Exhibit 15.)

Most's book is entitled "Science of Revolutionary War." "Manual for Instruction in the Use and Preparation of Nitro-Glycerine and Dynamite, Gun-Cotton, Fulminating Mercury, Bombs, Fuse, Poisons, Etc., Etc. By Johann Most. New York: Printed and Published by the 'Internationale Zeitungs Verein' (International News Company), 167 William St."

The introduction to the book shows its purpose, it beginning as follows:

"*About the importance which the modern explosives have attained for the social revolution in the present and future, nothing need be said.* It is evident that in the next epoch of the world's history *they will form a decisive element.*

"Nothing is more *natural*, therefore, than *that the revolutionists* of all countries *become more and more anxious to obtain them*, and *to learn* the *art of applying* them *practically.*

"It seems to us as if, heretofore, there was too much time and money wasted in a wrong direction.

"Many procured expensive books, etc.

"Some, however, may have profited by reading such books, especially when they had an opportunity to consult experts.

"And, as there is no harm in anything you learn, the time thus employed is not altogether wasted.

"*We, and others, have advanced a step*, and have *endeavored* to *popularize*, through men of experience, the learned treatises contained in said works on the *manufacture of explosives;* we soon, however, learned that also these explanations were but little understood."

He then goes on to say that without the necessary experience the manufacture of dynamite or gun-cotton is difficult. "After all trouble and sacrifices, those fortunate "ones were more than ever convinced that they had

" merely a theoretical value. With small quantities of " dynamite there is damned little to be done, and, more- " over, it is much too expensive."

He then advises the revolutionist to obtain dynamite already manufactured, as it has become an article of commerce easily acquired. " Money buys everything, " even dynamite. If the revolutionists have money they " will be able to get dynamite. * * * We intend, in " the course of this treatise, for the sake of completeness " of the theme, to publish also the simplest methods of " the manufacture of explosives."

The book then describes the method in which dynamite should be handled; also the simplest way in which it may be exploded. It describes scientifically and very clearly the different methods of exploding bombs, giving the preference to those exploded with the lighted fuse. The method of the construction of bombs is described; upon this method Lingg made great improvements, as can readily be seen when his method of making them is considered. On pages 11 and 12 he describes the making of gaspipe bombs—a method which was followed in the manufacture of the gaspipe bombs introduced in evidence in this case. He says: " Those hints will be " sufficient to convince everybody beforehand that such " missiles may be easily manufactured, and without much " expense (the main thing for our purpose), and that " they, if used against a big crowd (the 'respectable' " rabble), must produce a brilliant effect."

The book then describes the manufacture of bombs which are constructed with percussion primers; also describing the use of dynamite in large operations, such as the blowing up of massive buildings, palaces, churches, court houses and so forth, and describes a large number

of experiments showing the destructive force of dynamite and in what way it should be applied to get the best results. It then gives descriptions of the method in which dynamite should be handled, followed by a method by which any one can make nitro-glycerine, and cautions the reader that handling these substances frequently causes terrible headaches, especially if the person handling them is addicted to the use of liquor. The manufacture of gun-cotton is also described and the method in which it can be used, accompanied by a description of the effect of nitro-gelatine when thrown from a dynamite gun.

"As regards the revolutionists, they of course are not "in a position to procure dynamite cannons (uncouth "things of about forty feet long); but they can make "bombs of the above description which may either be "laid or thrown from slings at short distances, in which "case the old (simple) construction of sling-machines "might be very serviceable.

"What tears solid rocks into splinters may not have a "bad effect in a court or monopolists' ball room."

The manufacture of fulminate of mercury is then described. "A particularly effective weapon is *fire*. "Napoleon I has experienced this in Moscow. The "Prussians, it seems, were also cognizant of it when in "1870–1871, in France, they operated with petroleum, "which two instances we note of the thousands of others."

"In the list of revolutionary war utensils, the articles "serviceable for incendiary purposes must therefore not "be omitted."

The book then describes the manufacture of different combustible fluids, some of which burn spontaneously.

* * * * * * * * *

"If some of this fluid, even in a very moderate portion,

is poured on rags, or other combustible material, in a short time it catches fire.

"If you add petroleum to this mixture, then the combustion sets in slower. The more petroleum is added the less rapid the combustion takes place. This fact is of great value, if one wants time to get away.

"A further explanation in regard to the practical use of this article in social warfare is therefore superfluous. Everybody can find out himself the most practical way to act. Only this we want to call your attention to, that clothes, of course, burn well. In this regard experiments were made in France with detectives, and those experiments have warmed them up pretty lively.

"Another incendiary article is the following:

"The cover of a fruit-jar is soldered off and the contents taken out. In the center of the cover a hole is cut, into which a medicine glass may be squeezed afterwards and then the cover is soldered on again. Then pour benzine through the opening so that two-thirds of the can is filled. Meanwhile the medicine glass has been filled with gunpowder and closed with a stopper. Through this stopper a fuse or piece of touchwood has been conducted. When this glass is squeezed through the opening as far as possible, the fire-bomb is ready. To fit the medicine glass very tightly it may be wrapped up in paper or rags.

"Light the fuse or touchwood with a burning cigar and throw the bomb into the place to be destroyed after you have ascertained that it contains combustible material.

"In the moment when the fuse or touchwood is burned down to the powder, the latter explodes, at the same time causing the explosion of the benzine. All around the burning liquid flies, causing destruction. Firebrands of this kind may, of course, not only be thrown, but also laid.

"Nobody will be able to deny that a hundred men, equipped with several such simple kindlers, and distributed all over a city, will at the moment of a riot be able to achieve more than twenty batteries of regular artillery. And the thing is remarkably easy and dirt cheap."

(This description corresponds exactly with the fire cans introduced in evidence in the case.)

"Where, in the warfare against the property-owning beast and the governing rabble, those whose removal in the interest of the social revolution is particularly desirable cannot well be singled out for operation with blasting and incendiary material; then, for good or evil, shelter must be abandoned and the life of one or more revolutionists must be risked.

"In mentioning '*shelter*,' we mean what we say, for the idea of some fools, that the revolutionist has nothing else to do than to sacrifice his own life 'courageously,' where only the self-preservation of *others* come into question, is downright nonsense. A revolutionist who recklessly and unnecessarily endangers his own life, acts against the interest of the revolutionary cause.

"Aside from the fact that the terror of the law and order lubber is a hundred times greater if the author remains unknown than if he is captured or has perished in the deed, the principal rule of all military tactics is not to endanger the operating men more than necessary.

"For this reason two or three ought never to expose themselves when *one* is sufficient to accomplish a revolutionary deed. He ought not even to have a confederate. Is a revolutionist obliged to do a deed by which he himself may become a victim, as no other means to destroy the respective enemy exists, he ought to be particularly careful that his purpose should by all means be successful.

"This remark is by no means superfluous, as only too many comrades have already fallen into the hands of the enemy, and thus perished after an unsuccessful operation.

"Dagger-thrusts did not penetrate deep enough; grazing shots have only caused slight wounds, not to speak of *total* failures in this regard.

"The same precarious accidents led to the idea to *poison* the weapons used for assaults; but as yet this idea has never been carried out.

"The reason for this is to be looked for in the difficulty to obtain the suitable poisons. Or, to be more definite, the poverty of the revolutionists is the cause of it.

"It is the old story—money buys everything. It is obvious that one has to get acquainted with physicians, druggists, chemists and similar people, to obtain poisons from them either by persuasion or bribery.

"Even the introduction into those social spheres, and, moreover, the continuous moving in them is connected with expense which the penniless revolutionist is not able to defray.

"As, however, it is hoped that this lack of money will not be permanent, and that, on the contrary, the revolutionist will be able to overcome this calamity by instigating proper measures, some hints in regard to this subject are not out of place.

"The best of all substances for poisoning arms is *curari*, with which the South American Indian rubs his arrows. This poison, which, by the way, leaves no visible traces, *kills without fail* as soon as the smallest quantity of it comes in contact with a man's blood. But it has a high price in the market, and it is not to be had without the intervention of a physician, druggist, etc. More simple methods are the following:

"After a dagger is made red-hot and hardened again in a decoction of rose-laurel, the least little cut or stab is sufficient to produce blood-poisoning or death.

"A more simple method is to mix red (pulverized) phosphor with thin gum arabic, and to rub with this mixture the weapon (dagger, bullet, etc.) to be used.

"Verdigris, which every one can easily produce by dipping copper or brass into vinegar, and exposing it to the atmosphere, may also be mixed with gum arabic and applied to weapons. In the two last-mentioned cases the weapons ought to be grooved, so that the poison will remain on it easier and in larger quantities.

"The best of all poisons is ptomaine (cadaver poison), as many physicians, who have been engaged in dissecting dead bodies, have proved by their death. But also this substance cannot be obtained without the intervention of proper persons.

"In all cases where poisoned arms are used they must be prepared immediately before use, as the atmosphere decomposes the respective substances gradually, rendering them more or less harmless. Prussic acid, which has often been recommended for the poisoning of arms, decomposes particularly quick, and on account of that is not adapted for this purpose.

"As even a slight wound caused by a poisoned weapon

may be sufficient to kill, the idea was conceived to operate with poisoned bolts—by means of air-guns, blow-pipes and similar apparatuses—particularly so on account of the noiselessness with which the work can be done. It is, however, to be surmised that in most cases thick clothing affords protection for the body against the penetration of those missiles; one would be compelled to aim it at the face or hand in order to be successful, but in such case the mark may be easily missed.

" Finally, we urgently advise everybody who wants to operate with poisoned weapons to acquaint himself with the effect of the poison by experimenting on animals. Practice is better than theory, as an old proverb has it.

" The general arming of the people has become the standing topic. But it cannot be treated universally alike, and it is not desirable that it should be done, for it is here as with a good many other things: success is not to be achieved by *one* definite procedure, but by the thorough utilization of all the different circumstances. Finally, the very diversities of the situation are in the way of a stereotype action in this regard.

" It would probably be best if all organized workingmen of the civilized world might be induced to provide themselves with good muskets (according to a system previously agreed upon) and a corresponding quantity of ammunition, to undergo a thorough military drilling, and thus get themselves ready for the coming social war.

" These, of course, are mere wishes.

" As regards Europe, only in Switzerland might they be able to proceed thus without being molested. We say 'might'—for one can easily imagine that those clannish and overfed burgher princes would soon do away with the right of the universal arming of the people, as soon as they find out that they themselves are the cause of the target practice.

" In all other European countries the purchase of such arms or muskets is made difficult by all sorts of laws and police ordinances. And whoever procures them secretly is, if detected, exposed to the danger of being dragged in a proceeding for 'constructive treason.'

" Only the more cunning ones are, therefore, able, in spite of all those obstacles, to provide themselves with

breech-loaders; a military arming of the proletarian masses is beyond all possibilities.

"In America it is at present a little different yet. There everybody has the 'constitutional' right and the duty to arm himself as he sees fit, but the lawgivers and governing classes have, for a considerable time already done all in their power to hinder the arming of the people and to weaken its purposes. So, for instance, is the carrying of *concealed* weapons *prohibited* in nearly all of the states; and as revolvers and daggers are carried in pockets, this circumstance makes you liable fo a fine. And if you would carry those things *openly* in your belt, they soon would make laws to prevent that, or the extortioners would soon discharge workingmen thus attired. You can, therefore, only carry daggers and revolvers in contravention of the law, or you have to leave them at home, so that in the moment of danger you will probably have to be without them.

"But that's not all. *Hardly had several hundred comrades in Chicago founded a military organization, when the legislative scoundrels of the State of Illinois made a law by which only such military organizations are tolerated or allowed to march which regard themselves as members of the militia and are ready to swear the oath of allegiance. A litigation, continued for several years before the Supreme courts against this utterly unconsitutional law, has until now been without any result.*

"There is even a tendency noticeable of late among the legislative bodies of America, to prohibit the best of all weapons, *dynamite*, except for industrial purposes and national defense. Thus, step by step, the arming of the people is opposed by the governing bandits. What does all this mean? Perhaps that we will idly look on and refrain also in America from a regular arming? No, indeed! We point with fingers at the disarming of the people. We see things develop in a highly reactionary manner, and are convinced that the workingmen of America *cannot* arm themselves if they do not do it *soon*.

"If they hesitate no longer and supply themselves in time with the best weapons obtainable, the disarming of the people is out of question, simply because the armed proletariat would not stand it, but if the indifference is con-

tinued as heretofore it may soon happen that the obtaining of arms may be rendered as difficult to the American people as it is for a long time now the case in Europe; then no amount of complaining and clamoring will avail. You will find yourself defenseless and powerless in face of a mob of murderers in uniform, armed to the teeth.

"You talk about arming, but always one looks for it to the other, and the thing does not progress. Many are of the opinion that as long as the societies to which they belong do not contemplate arming, they themselves needn't. One or the other buys himself a watch—well, for that money he would get a damned fine breech-loader. Away with all lying excuses!

"As a rule we do not take much stock in the arming of organized bodies as such. They are all pigeon-coops, as it were. Members come and go, influenced by circumstances over which they have no control, or even their whims. A military spirit is out of the question there. Besides, the arming of such a corporate body would be impossible without causing great pressure upon those who are unwilling to join. But that would not only be a violation of the anarchistic principle, but also dangerous to the respective organizations, as it would imply great financial sacrifice on the part of those that prefer to do nothing for this cause.

"The labor organizations should therefore content themselves to facilitate the purchase of guns on the part of those who have resolved to arm themselves. They may employ their capital to buy guns wholesale, and retail them to their associates—if necessary on the installment plan—at cost. As in this way all outlays go back to the treasury, the scheme can always be repeated without endangering the assets of the respective society or its general purposes. Those armed may form special sections and may hold their exercises however they want and can.

"Speaking of the purchase of *muskets*, we do not say that this is the only desirable and possible method of arming.

"There is no doubt that, at the outbreak of a revolution, it is essential whether at the first moment there are

rifles enough in the hands of the revolutionists to surprise the enemy with bold tactics, to spirit away his principal leaders, and to occupy his most important positions; or whether we are reduced to rely to plundering of arms (in *every* case self-evident and unavoidable), and the untrustworthiness of the enemies' soldiers. Be this as it may, there are other weapons which we consider of great value.

"Good revolvers, daggers, poisons and firebrands are destined to be of immense service during a revolution, the more so because those which have such things about them are not easily found out or shunned, but are able to hunt the enemy in his hiding places and do away with him there.

"*First of all, the modern explosives deserve attention. Considerable quantities of nitro-glycerine and dynamite, numerous hand-grenades and blasting cartridges—every one of them things which may be easily concealed under the clothes—must be at the disposal of the revolutionists, if they want to be sure of success.*

"Those arms are apt to act as the fighting proletariat substitute for artillery, and to create surprise, confusion and panic in the ranks of the enemy. It is to be endeavored, therefore, to keep those things also on hand.

"All the last-mentioned arms are particularly recommendable to the European revolutionists on account of their unsuspicious appearance. They cannot buy rifles under the prevailing circumstances. But dynamite they can make or confiscate.

"*Take all in all, our motto is: Proletarians of all countries, arm yourselves! Arm yourselves, no matter what may happen; the hour of battle draws near.*

"Who in these days comes to the front for social revolution and anarchism must not lose sight of the fact that he is surrounded by enemies from all sides, who at any moment might find opportunity to ruin him. His conduct ought to be regulated according to that.

"If a revolutionist wants to communicate with an associate in writing, he should never use the proper address of the latter, but a fictitious one; that is to say, the address of any harmless person, who has previously been made acquainted with that fact. The fictitious addresses

ought frequently to be changed. But this precaution alone is not sufficient to entrust to the paper what you would whisper in the presence of the hearer only. The possibility that the letter might fall in the wrong hands is not excluded; its contents ought to be shaped with a view to this fact. A revolutionist ought never to mention the true name of his confederates. Certain initials or nicknames are preferable. Things, the knowledge of which is not absolutely necessary to the recipient of the letter, must *never* be communicated in writing, no matter how intimate you are with the correspondent, especially not if such communications, when found out, could harm other associates. Everything that must be said should be expressed '*sub rosa*'—in the style of business, family or love letters—as the case may be. Such hints will be understood by all who are not extraordinarily stupid. That you should never sign your right name is self-evident.

"They often recommend ciphers for important correspondence, but that is the most suspicious method of all. Aside from the fact that the art of deciphering has been developed wonderfully of late, every letter in cipher is in itself an object of suspicion, which stimulates the cunning of the blood-hounds to the utmost. If you use ciphers at all, the key should be communicated to only *one* confederate, for if you divulge it to all your secret correspondents, the secret will not long be maintained.

"All letters received which bear secrets should always be burned immediately after reading. Revolutionists should never keep things in their own dwelling by which they or others might be laid liable to suspicion. But, wherever this cannot be avoided for a few hours, or over night, you must never lose sight of the possibility that the police may at any moment come down upon you. In other words, the doors have to be well closed. And if the law-and-order scoundrels knock, the respective objects have to be destroyed immediately, so that the burglars will be disappointed.

"In personal intercourse you should not be so talkative as it is generally the case. No communication whatever ought to be made, which is not unavoidably necessary in the interest of the cause; and neither through friendship, love, or family ties should you be influenced to talk.

"The same rules apply particularly to all enterprises that are directed against the prevailing disorder and its laws.

"If somebody wants to execute a revolutionary deed, he should not speak about it with others, but should go to work silently. Only if one or two others are indispensable he may choose them. Of course, every misstep in that direction is as good as an invitation to treason.

"Whoever embarks in an enterprise of that kind ought carefully to avoid the society of such that are already suspected as revolutionists. He would in such a case arouse the suspicions of the spies and provoke the police to exercise a watch over him. He would soon then be made harmless.

"At the moment a revolutionist is to be arrested, self-composure is doubly necessary.

"Only when there is a possibility to annihilate an attacking party, or when it becomes a question of life and death, a forcible resistance, or death, or both, is advisable. But if you are sure that the arrest is made only on vague suspicion, then you have—not without an energetic protest—to submit to the inevitable, as it is easier in such case to extricate yourself again.

"To examinations on the part of a judge, a revolutionist should only submit in such case, and so far as he is able to prove an alibi, and thereby force his release. *The more testimony a criminal court gets out of a revolutionist, the greater the danger for him to be ruined.*

"If, then, the judicial farce commences, the revolutionist admits nothing except what is *proven* against him.

"Are all means of salvation exhausted, then another, the highest duty presents itself: *the prisoner has to defend his deeds from the standpoint of the revolutionist and anarchist, and he has to convert the defendant's seat into a speaker's stand. Shield your person as long as there is a possibility to preserve it for further deeds; but when you see that you are irredeemably lost, then use the short respite to make the most of it for the propagation of your principles.*

"We have regarded it our duty to give you these instructions, the more so, as we see from day to day how people, who are experts in revolutionary matters, violate

even the plainest rules. May their lives be the last which are necessary in this regard."

The book contains an appendix giving another method for the preparation of the fulminate of mercury, saying also:

"For practical application: Stramonium (devil's apple), which is found everywhere, on heaps of rubbish, in ditches, in gardens as weeds, is, to be sure, a shabby plant, but withal very useful. For the seeds of the same may be used exceedingly humanely. Pulverize about twenty-five of these kernels (ripe, black ones, of course); bake this in an almond cake, or other dainty cake, and with this treat a spy, an informer, a minion of the law, or other scoundrel. You will soon see the effect. Already in the following days the beast will become crazy, raving, and kicks the bucket; consequently very recommendable."

Then follows a description of invisible ink, which is said to be very recommendable for revolutionary correspondence, and methods of cipher writing, and a description of an explosive known as "Sprengel's Acid and Neutral Explosives;" then come directions for the manufacture of prussic acid.

"On account of that property (its volatility) the prussic acid is not adapted for the poisoning of arms and missiles, but it is excellent for poisoning beverages, especially liquors. It is clear and liquid like water, smells and tastes pungent like bitter almonds; it decomposes in the light, but in the dark it may be preserved for a long time.

"If, for instance, you put a piece of wadding containing only half a drop of prussic acid under the nose or mouth of a cat, and the animal licks it, it will die within three seconds.

"We hope soon to have the pleasure to state what a useful effect prussic acid has on extortioners and tyrants."

Then follow directions concerning the use of phosphor, dissolved in bisulphide of carbon, a combustible which

generates spontaneously. * * * "After the whole is placed on the desired spot, lift the lid so that air may reach the fuse, and quietly go about your business. The explosion is sure and the perpetrator safe."

Capt. SCHAACK testified (K, 507), referring to Lingg:

"I asked him who learned him to *make these bombs*—dynamite—*and he said he learned it in books—scientific books of warfare, published by Most, of New York.* I asked him where he got his dynamite. He said he got it on Lake street, somewhere near Dearborn."

JAMES BONFIELD (I, 355) testified:

"Fischer was up in the office. Among other things, he was asked to explain how he came by the fulminating cap.

"Q. That was a fulminating cap similar to the one you have there?

"A. Yes, sir; it was found in his pocket at the time of his arrest. He said he got it from a socialist who used to visit Spies' office about four months previous; that he handed it to him on the stairs, the foot or head of the stairs, and he told me he did not know what it was, and had carried it in his pocket for four months. *He did not know what use there was for it.* After some further conversation, in answer to some questions put by Mr. Furthmann, *he acknowledged that he knew what it was, and had read an account of it and the use of it in Herr Most's book.*

"Q. *In Herr Most's Science of Warfare?*

"A. *Yes, sir.*

"Q. At what place was that?

"A. At the detective's office.

"Q. What was the *appearance* of that *fulminating cap* as to whether it had been tarnished or whether it was bright?

"A. *It looked to be perfectly new. The fulminate was fresh or bright on the inside.*

IV.

THE REVOLUTION WAS TO BE INAUGURATED THE 1ST OF MAY.

The evidence in the case shows, when taken together, that it was the expectation and intention of the defendants, as well as others who were connected with the conspiracy, that the time for the inauguration of the social revolution should be the 1st of May, and all their preparations were for that time. Spies, in his conversation with Moulton and Shook, at Grand Rapids, said to them that the "demonstration" would probably be made when the workingmen attempted to introduce the eight-hour system, and when large numbers of workingmen were out of employment, engaged in strikes and disaffected, and in a frame of mind in which they could be easily induced to join their fortunes with those of the revolutionists. Spies, in his conversation with Wilkinson, indicated the same fact, and Gruenhut, himself a socialist, who introduced Wilkinson to Spies, told Wilkinson, as was brought out on the cross-examination, that the time contemplated was about the 1st of May. Johnson, the detective, says that the 1st of May was frequently mentioned as the time when the revolution could probably be inaugurated, and is the time to which they were looking forward. Moreover, he says that Parsons, speaking of the west side car-drivers' strike, stated if one shot had been fired and Bonfield had been slain, the social revolution would have been inaugurated. At a public meeting held at West 12th street Turner Hall, resolutions introduced by Spies were adopted, providing that workingmen should arm them-

selves and be in readiness for the 1st of May. The 1st of May came, and with it came the eight-hour movement, a movement, as is well known, not merely local to Chicago, but extending over the whole nation. In the city of Chicago vast numbers of workingmen were engaged in a strike. There were constant troubles between them and their employers; they were laboring under a state of great excitement, and the conspirators reasoned that the time had at last come for them to strike the blow to inaugurate the revolution. They fondly imagined that success was sure, and that they would take their place in history side by side with Washington.

On this branch of the case we call attention to the following evidence:

ANDREW C. JOHNSON (J, 421) testifies:

"Q. What was said?

"A. That in case of a conflict with the authorities the International Rifles was to act in concert with the Lehr und Wehr Verein, and obey the orders of the officers of that organization.

"Q. What, if anything, was said at any time, and when said, as to when this revolution was to take place, when there was going to be a culmination of the difficulties?

"A. *The 1st of May was frequently mentioned as a good opportunity.*

"Q. *What 1st of May?*

"A. *This year.*

"Q. Mentioned by whom? can you give us some time when it was mentioned?

"A. As far as I recollect, it was a meeting at 12th street Turner Hall, on one occasion in December, one of the meetings which I attended in December last; and it was the defendant Fielden said, as near as I can recollect: '*The 1st of May will be our time to strike the blow, there are so many strikes, and there will be fifty thousand men out of work—that is to say, if the eight-hour law is a failure*—if the eight-hour movement is a failure.'"

The witness says (page 404):

"Parsons spoke. Referring to the late strike of street-car employes, he said: '*If but one shot had been fired, and Bonfield had happened to be shot, the whole city would have been deluged in blood, and the social revolution would have been inaugurated.*'"

JAMES K. MAGEE testified (I, 309): That he attended a public meeting at the 12th street Turner Hall on the 11th day of October, 1885, at which the defendant Spies introduced resolutions. The witness, continuing, said: "I don't know as I can give expression to my recollection any better than I have, that in general the resolutions proposed force, proposed or advised workingmen to arm themselves. Other features of the resolutions have not impressed themselves upon my mind."

"Q. Did the resolutions contain any time as to when this movement should take place? As to when the laboring men should be ready? Arm themselves for what particular time?

"A. For the 1st of May, 1886.

"* * * Spies was warmly in favor of the resolutions; he supported them. * * * The word dynamite was used—a general proposition to arms; this was both in speeches and resolutions. Fielden also spoke in 'defense of the general sentiment of the resolutions.' It is all summed up in the words 'force,' 'arms,' and 'dynamite;' I said that all reforms could be brought about by the ballot; I was opposed to force. I believed this was the best government that I knew anything about; I spoke in general sympathy with the workingmen and that I was in favor of even less than eight hours, and six hours I thought was enough. I remember that I spoke ten minutes about in that tenor.

"Q. The chairman of that meeting put the resolutions to vote?

"A. Yes, sir.

"Q. Was it carried?

"A. Yes, the resolutions were carried.

"Q. By what kind of a vote?
"A. By a very strong vote—very few noes.

HENRY E. O. HEINEMANN, a reporter for the Chicago Tribune, testified (I, 382):

That he was present at the meeting referred to by the above witness. "The subject, I think, was the impending eight-hour movement that was to be inaugurated on May 1st, this year. And the resolutions stated, I think, that the workingmen could not hope for success unless they were prepared to enforce their demands, and it concluded with the sentence that was published the next morning in our paper, which said: 'Death to the enemies of the human race, our despoilers'; something of that sort. * * * They began by referring to the eight-hour movement that had been inaugurated by the confederated trades, and went on to say that the probabilities were that the property-owning class would resist any attempt of the laborers to enforce eight hours by calling to their aid the police and the militia, and if the workingmen were determined on carrying their point they would have to arm themselves, and be ready to enforce their demands by the same means that the property-owning class would use. I think that is the substance. * * * The 1st of May was designated, in so far as the commencement of the eight-hour movement was fixed at that day."

In the Alarm of October 17, 1885 (People's Exhibit, 151), is an account of the same meeting as that referred to by Magee and Heinemann, in their testimony setting out also the resolutions to which they referred. A portion of the article is as follows:

"Mr. August Spies was introduced at this point and offered the following resolution: '*Whereas*, A general move has been started among the organized wage-workers of this country for the establishment of an eight-hour work day, to begin May 1, 1886. *And Whereas*, It is to be expected that the class of professional idlers, the governing class who prey upon the bones and marrow of

the useful members of society, will resist this attempt by calling to their assistance the Pinkertons, the police and state militia. Therefore, be it *Resolved*, that we urge upon all wage-workers the necessity of procuring arms before the inauguration of the proposed eight-hour strike in order to be in a position of meeting our foe with his own argument—force. *Resolved*, That while we are skeptical in regard to the benefits that will accrue to the wage-workers in the introduction of an eight-hour work day, we nevertheless pledge ourselves to aid and assist our brethren in this vast struggle with all that lies in our power, as long as they show an open and defiant front to our common enemy, the labor-devouring classes of aristocratic vagabonds, the brutal murderers of our comrades in St. Louis, Lemont, Chicago, Philadelphia and other places. Our war-cry may be 'death to the enemy of the human race—our despoilers.'

"August Spies supposed that Mr. Magee did not like the terms in which members of the government were referred to. The reason of this was that Mr. Magee was one of those political vagabonds himself. There were 9,000,000 of people engaged in industrial trades in this country. There were but one million of them as yet organized, while there were two million of them unemployed. *To make a movement in which they were engaged a successful one, it must be a revolutionary one.* Don't let us, he exclaimed, forget the most forcible argument of all—the gun and dynamite."

MARSHALL L. WILLIAMSON testified (J, 6): That on the night of the board of trade demonstration, which was April 15, 1885, Parsons told him that when they met the police, they were prepared with bombs of dynamite. Felden was standing at his elbow at the time, and he said the next time the police attempted to interfere with them they would be prepared for them. I asked him when that would be? *He said he did not know, perhaps in the course of a year or so.*

MOULTON (I, 280) testified:

"Q. Was there anything said at that conversation about the eight hour movement, when it was to culminate, or when this revolution was to culminate?

"A. There was something said about an eight-hour movement.

"Q. What was said with reference to that?

"A. It was mentioned in connection with the subject of a great number of men likely to be idle and unemployed; and in answer to the question as to when the demonstration was likely to be made, which they proposed to make, he stated substantially that it would probably come at a time when the workmen attempted to introduce the eight-hour system of labor."

WILKINSON (J, 150) testified:

"Then, after I had gotten nearly full of that sort of information, I began to find out when this would probably occur, and he (Spies) did not fix the date precisely or approximately at that time. He subsequently informed him that this conflict would probably occur in the first conflict between the police and the militia. That if the men were to strike, it would be a universal strike for this eight-hour-a-day—eight-hour system. That there would probably be a conflict of some sort brought about in some way between the First and Second regiments of the Illinois National Guards and the Chicago police and the dynamiters on the other hand. He said that there were thousands of bombs in the hands of men who knew how and when to use them, who were not afraid to use them."

On cross-examination brought out by counsel for defendants (page 162):

"Mr. BLACK. Q. Now, Mr. Wilkinson, did Joe Gruenhut say anything about the 1st of May, or any time in May?

"A. Yes, sir.

"Q. He did? What did he mention about May?

"A. He said that the conflict to which Mr. Spies referred—

" Q. Never mind—now did he say, 'To which Mr. Spies referred?'

" A. Yes, sir. This was—

" Q. What was that expression?

" A. I asked him—

" Q. What was that expression? Did he—

" A. After we came away from the table I walked with Mr. Gruenhut, and Mr. Spies said he had an appointment.

" Q. My question is, did Joe Gruenhut use that expression, 'The conflict to which Mr. Spies referred?'

" A. I did not quote him as saying so yet.

" Q. That is my question. Then you did not say that; is that true?

" A. I have not said that he did.

" Q. You started to say what you did say, as the record will show. I ask you what Joe Gruenhut said about May?

" A. He said that the conflict to which our conversation referred at the table would occur probably about the 1st of May, or within a few days thereafter, and that it might extend all over the country.

" Q. That was what conflict?

" A. A general conflict between laborers and capitalists."

V.

Events Immediately Preceding the Haymarket Meeting and Lingg's Action that Night.

The bomb was thrown on the night of Tuesday, May 4, 1886. On Sunday, May 2d, there appeared in " Die Fackel" an article describing the condition of the eight-hour movement which was then in progress, declaring that the movement would culminate by Monday or Tuesday, that something must be done by that time or that all would be lost.

On the same day a meeting of the north-western group

of the International was held at Emma street, at which the defendants, Engel and Fischer, and others were present, and at that meeting a plan was proposed for fighting the police and the militia, which is very significant.

On Monday, May 3d, Spies attended a meeting of the Lumber-Shovers' Union, held near McCormick's factory. The meeting was composed entirely of lumber-shovers, who at that time were upon a strike, and endeavoring to secure the eight-hour system. They had been having negotiations with the lumber bosses. The meeting was called for the purpose of hearing the reports of committees who had been conducting the negotiations. At that time McCormick's workmen had also struck and a large number of "scabs," as they are termed, were employed in the factory. The Lumber-Shovers' Union had no connection with and no interest in the strike of the McCormick employes, although their meeting was held in the neighborhood of the McCormick works. At that meeting Spies and a socialist named Fehling appeared and made speeches. Opposition was made to their speaking. The president of the meeting objected; stones and other missiles were at first thrown at them; but they insisted and finally prevailed. The speeches which they made were of an inflammatory character and soon aroused the passions of the crowd to a fighting pitch. This appears not only from the testimony of witnesses who were present, some of whom, however, could not understand the language in which the speeches were made, but also from subsequent declarations of Spies and from the articles written with his own hand and published in the Arbeiter Zeitung of the next day; an article of an exceedingly inflammatory and incendiary character, in which he says that if the mob had been armed "*with one single dyna-*

"*mite bomb not one of the murderers* (*police*) *would have* "*escaped.*"

While Spies was speaking a bell at the McCormick factory, about 3 P. M., indicating that the day's work was done, rang. The "scabs," through with the day's toil, were leaving the factory. Some one in the crowd which Spies was addressing, who, it is not known, cried out, "There go the scabs!" Whereupon a portion of the crowd rushed toward McCormick's and commenced pelting the "scabs" with stones. This precipitated a conflict. The police were notified and soon arrived in patrol wagons. During the conflict stones were thrown and shots were fired by both the police and the mob. As soon as the shots were fired, before he could have known whether any one was injured or not, Spies took a Blue Island avenue car and returned to the city. He immediately went to the office of the Arbeiter Zeitung and wrote out the "Revenge Circular," a circular exceedingly inflammatory in its character, headed in heavy type, "REVENGE!" "WORKINGMEN, TO ARMS!!!" and stating that the blood hounds, the police, had killed six of their brothers at McCormick's that afternoon because they had dared to ask for a shortening of the hours of toil, and to show them, "free American citizens," that they must be satisfied with whatever their bosses condescend to allow them or be killed. It declared that the workingmen had endured the most abject humiliation for years, had suffered unmeasurable iniquities, had worked themselves to death and endured the pangs of want and hunger; that their children had been sacrificed to the factory lords; that they had been miserable and obedient slaves for years to satisfy the insatiable greed and to fill the coffers of their lazy, thieving masters.

"If," it concluded, "you are men, if you are the sons of "your grandsires, who have shed their blood to free you, "then you will rise in your might, Hercules, and de- "stroy the hideous monster that seeks to destroy you. **"To Arms, we call you, to Arms!**

"YOUR BROTHERS."

This circular was printed in both English and German, the portion in German being even more inflammatory than that in English. Although it was but about twelve inches in length, six or eight printers were kept after hours at the office of the Arbeiter Zeitung employed in setting it up, so that it could be done quickly. Numbers of men took it as fast as it was stricken from the press and circulated it in different portions of the city; one man distributed it on horseback. It was distributed principally in saloons and halls in which the anarchists were accustomed to meet, and in which, at that time, owing to the fact that large numbers of these workingmen were out of employment engaged in a strike, they were in the habit of congregating.

That day there appeared in the "briefkasten" or "letter box" of the Arbeiter Zeitung the cabalistic sign—

"Y—KOMME MONTAG ABEND"

(Y—Come Monday Night), a signal which meant that the different members of all the armed sections, whether of the Lehr und Wehr Verein, or of the groups, or of any other organization, should meet at Greif's Hall, 54 West Lake street. That night from sixty to eighty of these armed men from the different portions of the city and from the different organizations met at that place. They held their meeting in the basement

under the saloon. The meeting was secret. Guards were stationed at the doors, and no one was permitted in there except those connected with it. The meeting was presided over by Waller. They first discussed the fact that six of their brothers were slain at McCormick's, a fact of which they had been apprised by the "Revenge Circular." They then discussed what they should do for the next few days, and it was agreed that they should hold themselves in readiness to come to the assistance of the workingmen whenever a conflict should be precipitated in any part of the city between them and the police. Waller proposed that a meeting of the workingmen should be called for the next morning at Market square, a widening of Market street on the south side, near the center of the city. Fischer opposed the plan, *saying that the Market square was a mouse-trap;* that the meeting should be held on the Haymarket square, which is a widening of Randolph street on the west side of the city, beginning at Desplaines and ending at Halsted, and is within a block of the Desplaines street station, as it would then be attended by a large number of workingmen. It was expected that there would be present at the meeting 25,000 people.

This plan was adopted, and it was agreed also that the mass-meeting should be called by circulars, which Fischer undertook to have printed, and, in pursuance of that, left the meeting for the purpose of having them printed that evening, but came back, saying that the printing offices were closed. Engel then said that the north-west side group had, at a meeting on the previous Sunday, agreed upon a plan for fighting the police, and proposed that the different armed organizations should station themselves at different places in the out-

skirts of the city and be ready to come to the assistance of the workingmen at any place where they should be attacked; that they should be armed with bombs and other weapons, and in case of a conflict should destroy the police wherever they appeared and should annihilate the firemen and destroy their hose. The plan further contemplated that whenever the signal was given these different bodies should march in towards the center of the city, destroying whoever should oppose them. It was agreed also that the reliable men who were not present should be notified of this plan. Schnaubelt proposed that their comrades in other cities should be notified of it. The plan contemplated that these bodies of armed men should act whenever they received the signal. Fischer proposed that the signal should be the word "Ruhe," a German word, signifying *peace*, and *it was agreed that whenever the word "Ruhe" should appear in the "letter-box" of the Arbeiter Zeitung that was to be the signal; that the revolution had come.* The details of the Haymarket meeting and the control of it were left to a committee, it being understood that those present that night should have nothing to do with the Haymarket meeting, except those who were members of the committee, but should be stationed and ready, as is above indicated.

Lingg was attending a meeting of the Carpenters' Union held a few doors from Greif's Hall. He said to Capt. Schaack after his arrest that he was present for a few minutes at the meeting in Greif's Hall. That night, after the carpenters' meeting had broken up, Lingg and a man named Lehmann, one of the witnesses for the state, and several others went home together. On the way home Lehmann, who stood guard outside of the door at the Greif's Hall meeting, referring to the meeting at

Greif's Hall, asked Lingg what took place there. Lingg said if he wanted to know something that he should come to 58 Clybourn avenue the next evening.

The next day, Tuesday, Fischer wrote the circular headed, "Attention, Workingmen," calling a mass-meeting at Haymarket square, at 7:30 o'clock that night, to denounce the latest atrocious act of the police, the shooting of fellow workingmen the day before, and concluding, **"Workingmen, arm yourselves, and appear in full force,"** signed "The Executive Committee." He had a number of these circulars printed, some of which were distributed. The circular was changed, it appears, at the instance of Spies, by striking out the line, "Work- "ingmen, arm yourselves and appear in full force." The reason for his action appears in his own evidence, wherein he says that he considered it a very foolish proceeding, for if the line appeared the workingmen would stay away. In the issue of the Arbeiter Zeitung of that day the word

"RUHE"

appeared in the "letter-box," the signal proposed by Fischer and agreed upon by the meeting the night previously. The manuscript for the work, obtained the next morning at the office of the Arbeiter Zeitung, is in Spies' own handwriting.

The same day, in the morning, Lingg, who had for several months previously been engaged in the manufacture of bombs, and who was boarding with Seliger, sent Seliger to a neighboring hardware store to purchase bolts to be used in the construction of bombs, and set him to work manufacturing them. Lingg himself left his boarding-house and did not return until about noon. Seliger worked but a short time. Upon his return Lingg

upbraided him, saying that the bombs would be needed that night and ought to be ready. That afternoon Lingg, Seliger and others worked all of the time manufacturing and filling bombs. During the day persons known to Seliger and his wife—anarchists—from time to time came to the house and went away with bombs; also persons not known to Seliger or his wife came and went. A large number were made ready for use. That night, about 8:30 o'clock, Seliger and Lingg took the valise filled with bombs to a place known as Neff's Hall, sometimes called "The Shanty of the Communist," a place for meeting of different anarchistic organizations.

They carried them through the saloon into a passageway which led to the hall in the rear, where they laid it down.

A number of persons from time to time came there, obtained bombs, and started off with them.

Seliger and Lingg left Neef's Hall with the bombs in their pockets and went on Clybourn avenue to Larrabee street. On the way Lingg said to Seliger that there was to be a disturbance made that night on the north side, as had been previously determined, to prevent the police from going to the west side. As they passed the police station Lingg remarked that it would be a beautiful thing to walk over and throw one or two bombs into the station. While they were walking on Larrabee street, a short distance from North avenue, a patrol wagon filled with policemen came by. Lingg wanted to throw a bomb at it. Seliger said it would be without any effect, when Lingg became wild and excited and asked Seliger for a light. Seliger stepped into a store to get a light, in the meantime the patrol wagon passed. Lingg started after the wagon, saying that something certainly must

have happened on the west side. At various times after they left Neff's Hall, and before they got home, Lingg expressed an anxiety to know how matters stood on the west side, and asked Seliger if he had seen the notice in the paper. Upon reaching their home Lingg pointed out the word "Ruhe" in the Arbeiter Zeitung. Up to that time Seliger had not known its meaning. Lingg said it meant everything was to go upside down, topsy-turvy; that there was to be trouble; that a meeting had been held at 54 West Lake street, and it was determined upon that the word "Ruhe" should appear in the papers as a signal for the armed men to appear at that meeting. Lingg wanted to go to the west side, and Seliger prevailed on him to go back to Neff's saloon. They arrived there some time after 11 o'clock. Several persons were there talking about the fact that a bomb had been exploded at the Haymarket. A man by the name of Heuman said to Lingg, in a very energetic tone of voice, "You were the fault of all of it." Seliger did not hear Lingg's response, and on his way home Lingg said to Seliger that he was even now scolded, chided, for the work that he had done. They hid their bombs under an elevated sidewalk in Sigel street, near Hurlbut, and then went home, where they remained for the night.

(A.) ARTICLES IN THE ARBEITER ZEITUNG.

In the issue of "Die Fackel" (Sunday edition of Arbeiter Zeitung) of May 2d, the article, "Now or Never," contains the following passage (People's Exhibit 72):

"Even where the workmen are willing to accept a corresponding reduction of wages with the introduction of

the eight-hour system, they were mostly refused. 'No, ye dogs; you must work ten hours; that's the way we want it, we're your bosses.'. Something like this was the answer of the majority translated into intelligible language.

"*In the face of this fact it is pitiful and disgusting, but more than that, it is treacherous to warn the strikers against energetic, uncompromising measures.*

"*Everything depends upon quick and immediate action. The tactics of the bosses are to gain time; the tactics of the strikers must be to grant them no time. By Monday or Tuesday the conflict must have reached it highest intensity, else the success will be doubtful.* Within a week the fire, the enthusiasm, will be gone, and then the bosses will celebrate victories.

"Arbeiter Zeitung, April 28, 1886. Editorial on second page, headed "Editorial." What anarchists have predicted months ago, they have realized now. In quiet times the shackles of law were forged to apply them in tempestuous times. From dusty garrets they have fetched their musty law books, and so, by a practical application of American liberty, tried to build a wall against the stream of the laborers' movement.

"Well, after you have erected protecting walls in the shape of laws, we will have to break them. The theory of the homœopath, 'like cures like,' is applicable here. The power of the associate manufacturers and their state must be met by labor associations. *The police and soldiers who fight for that power must be met by armed armies of workingmen; the logic of facts requires this; arms are more necessary in our times than anything else. Whoever has no money, sell his watch and chain to buy fire-arms for the amount realized. Stones and sticks will not avail against the hired assassins of the extortionists. It is time to arm yourselves.*

"What a modest demand, the introduction of the eight-hour day, and yet a corps of madmen could not demean themselves worse than the capitalistic extortioners. They continually threaten with their disciplined police and their strong militia, and those are not empty threats indeed. This is proved by the history of the last few years. It is a nice thing, this patience, and the laborer, alas, has

too much of this article, but one must not indulge in a too frivolous play with it. If you go further his patience will cease, then it will no longer be a question of the eight-hour day, but a question of emancipation from wage slavery."

(B.) THE McCORMICK RIOT.

FRANK HARASTER, a Bohemian, a laborer who had been working eleven years in the lumber yards testified (I, 412) that he was president of the Lumber-Shovers' Union; was present at the meeting in the vicinity of the McCormick works on May 3d; the meeting was called to receive the report of the committee which had been sent to the bosses of the lumber-yards to consult in regard to the eight-hour movement; when he got to the meeting a great many people were gathered, and one speech had been made; it was 3 o'clock in the afternoon; when he got there the speaking was already going on; he told the speaker it was not his duty to make a speech, as the meeting had been called for 3 o'clock in the afternoon. "I kept him from speaking. I "told the people to keep quiet, and not listen to the "speaker, that it should not culminate in a thing as it "happened in 1877, * * * when some people ran "towards McCormick's to drive out the scabs. I tried to "keep them back and get them to go home. I told the "people not to listen to those speakers, for the speeches "were probably such as were poisonous; that they should "not listen to them; that they poisoned."

The witness further testified that the Lumber-Shovers' Union was composed of over six thousand men—three thousand Bohemians and over three thousand Germans;

that he was president of the Bohemians; that the meeting was a meeting only of the lumber workingmen.

E. T. BAKER testified (I, 400) that he heard Spies speaking from the car; while he was speaking the bell at McCormick's rang; he seemed to be very much excited; the crowd listened patiently until the bell at McCormick's rang, when a man standing to the left of the speaker, on the end of the car, rushed forward and shouted, "Now, "boys, let us go for the damned scabs at McCormick's!" At that moment persons in the crowd commenced to move away towards McCormick's; some of the people on the car remained for ten or fifteen minutes after; a portion of the crowd, about two thousand in number, went towards McCormick's; the balance of it dispersed in different directions.

ARCHIBALD LECKIE, a reporter, testified (I, 406) that he was present at the McCormick meeting; that he got there about 1 o'clock; preparations for the speaking were going on at that time; the crowd was assembled; the speakers were on a box car, among whom were Spies and a Mr. Fehling; every one was anxious to speak, and there seemed to be some discussion on the subject; they pushed one man back, and he jumped forward again. "By the time I arrived there, there was a man speak- "ing. I don't know him (the man who was speaking). "I never saw him before or since, and I think he was "speaking in German—either German or Bohemian. I "did not really get close enough to him until after he got "through; he only made a short speech, and speeches "followed in English, German and Bohemian, and I paid "very little attention to them until I heard this Mr. Feh- "ling speak, and he made a very incendiary speech, I

" think, from my knowledge of German. The words " ' bomben,' and ' revolvers,' and ' messer ' are the words " that caught my ear. I am not conversant with German, " but those are the words that I particularly understood, " and the word ' Freiheit,' if I pronounce it right. That " I know means *freedom;* and from his gestures he " seemed to be telling men to use the knife. I heard the " words ' dynamite ' and ' bombs.' "

The witness then telephoned his report to the Tribune office and returned to the meeting, but was thrown from the car by the parties on it. Among the parties opposing his being there was the speaker (Fehling).

James L. Frazier testified (I, 393), that on the afternoon of the 3d of May, he was present at the meeting on the Black road, near McCormick's; he recognized Spies as one of the persons speaking; he could not understand his language; there were from three to five thousand persons present, the largest portion of them Bohemians; the manner of the speaker was very excited. During the speech some one standing upon the same car with the speaker motioned and said in broken English, " Go up and kill the damned scabs ! " that were coming from work. The greater part of the crowd rushed towards McCormick's. *Spies did not go with the crowd, but came over towards Blue Island avenue, on which there is a street-car line leading to Chicago, and the witness lost sight of him going in that direction.*

J. A. West testifies (I, 388), that he was a policeman on duty near the gates at the McCormick reaper factory on the afternoon of the 3d of May; that from where he was stationed he could see the parties speaking on the top of the car; that when the bell rang, and the men

("scabs") came from work, they came out of the big gate, and some went east and some west, and a mob of three or four thousand in number, coming across the prairie from near the speaker's stand, attacked the men and threw bricks, stones and sticks, and drove them back; that he went up and tried to tell the mob that McCormick had given the demand for the wages that they wanted, and urged them to go back, but they would not. "They fell right in and followed them right up, and got me surrounded and bricked me, and I went, got into the crowd, into the mob and went towards the patrol-box, and I turned in the alarm for the police to come at once down there, for they were shooting at that time.

"Q. From what crowd did the shooting come at that time?

"A. From the crowd that came across the prairie.

"Q. That came down from the car?

"A. Yes.

"Q. Had you shot?

"A. No, sir.

"Q. Had your partner?

"A. No, sir.

"Q. Were you the only two policemen on the ground?

"A. We were the only two policemen there. * * The men that came from McCormick's did not shoot. They run back, some of them run in, and some run over across the prairie, back as far as they could get, out of the way, the best way they could, and they come right down there and they throwed stones through the windows and shot through the windows, and I worked my way up through the crowd and turned in the alarm for the police to come down. It seemed about an hour before the police came, although it was but seven or eight minutes. * * They (the police) drove right in, drove right in through the crowd down towards the gate and I tried to get back, and the crowd had got down so far they wouldn't let me back, and so I went down towards the river and got over

the fence into McCormick's yard and got in where the police were at that time. I was injured so as to be laid up for three days."

JOHN ENRIGHT, a police sergeant, testified (I, 416) that on that afternoon he went with the patrol wagon, containing ten men, to McCormick's, at half-past 3 in the afternoon; it was the first patrol wagon that had arrived at McCormick's; drove through the crowd into the yard and commenced to drive the mob that were stoning the building out of the yard as fast as they could. The mob rallied and "we heard shots coming from different parts "of the crowd and we scattered then, about twenty or "thirty feet apart, in order to keep the crowd back and "keep all the ground that we had cleared between the "crowd and the building, and hold that clear and keep "them from the buildings. They were throwing a shower "of stones at us; some of them leading the crowd and "encouraging them for to beat us back—some different "portions of the crowd."

Shots were fired from different portions of the crowd. The police began to fire when they heard shots fired from other points. "I tried to speak to the crowd and pacify "them, and tell them for to go back and keep back; if "they would not, some of them would get hurt; the more "I would try to pacify them and keep them back the "more they would throw stones at me and the rest of the "men; so when I could not keep them back and they "would be closing right in onto me, I would fire."

After it was over he looked around to see if any of the crowd were dead or wounded, but found no one injured from the effects of bullets.

L. F. SHANE testified (I, 423) that he was one of the

officers that were sent to McCormick's at the time of the riot; got there after the patrol wagon under charge of Sergeant Enright; after the riot was over he found two of the mob who were wounded; one of them the day after died from the results of an operation; he made investigation to learn how many were injured, and found that one died and that two or three others were injured. "As we "advanced to help our brother officers, we staid in front— "kept them behind—several of them shooting at the "officers in front of us; they, being wild, did not see this "company coming up in the rear of them; I saw one man "myself shooting at my partner officer, and our lieuten- "ant stopped him, and we arrested him, and as we "arrested him he, throwed up the gun (revolver), and "throwed the gun away from him; one of my partner "officers picked up the gun, which was not the only one, "but there were several. * * We marched right "across the corner of the prairie and over where the "crowd was."

In the issue of the Arbeiter Zeitung of May 4th is an article entitled "Blood!" written by Spies, in which he described the occurrences as they took place at McCormick's. It is as follows:

"BLOOD.

"*Lead and Powder as a Cure for Dissatisfied Workmen!*

"*About Six Laborers Mortally, and Four Times that Number slightly Wounded!*

"*Thus are the Eight-hour Men to be Intimidated!*

"*This is Law and Order!*

"*Brave Girls Parading the City!*

"*The Law and Order Beast Frightens the Hungry Children away with Clubs!*

" GENERAL NEWS.

" Six months ago, when the eight-hour movement began, there were speakers and journals of the I. A. A. who proclaimed and wrote: ' Workmen, if you want to see the eight-hour system introduced, arm yourself. If you do not do this you will be sent home with bloody heads and birds will sing May songs upon your graves.' ('That is nonsense,' was the reply.) ' If the workmen are organganized they will gain the eight hours in their Sunday clothes. Well, what do you say now? Were we right or wrong? Would the occurrence of yesterday have been possible if our advice had been followed?

" Wage-workers, yesterday the police of this city murdered at the McCormick factory, so far as it can now be ascertained, four of your brothers, and wounded, more or less seriously, some twenty-five more. If brothers who defended themselves with stones (a few of them had little snappers in the shape of revolvers) had been provided with good weapons *and one single dynamite bomb, not one of the murderers would have escaped his well merited fate.* As it was only four of them were disfigured. That is too bad. The massacre of yesterday took place in order to fill the forty thousand workmen of this city with fear and terror—took place in order to force back into the yoke of slavery the laborers who had become dissatisfied and mutinous. Will they succeed in this? Will they not find at last that they miscalculated? The near future will answer this question. We will not anticipate the course of events with surmises.

" The employes in the lumber yards on the south side held a meeting yesterday afternoon at the Black road, about one-quarter mile north of McCormick's factory, *for the purpose of adopting resolutions in regard to their demands, and to appoint a committee to wait upon a committee of lumber yard owners and present the demands which had been agreed upon.*

" It was a gigantic mass that had gathered. Several members of the lumber yard union made short addresses in English, Bohemian, German and Polish. *Mr. Fehling attempted to speak, but when the crowd learned that he was a socialist, he was stoned and compelled to leave the improvised speakers' stand on a freight car.* Then, after a few

more addresses were made, the president introduced Mr. *August Spies*, who had been invited as a speaker. *A Pole or Bohemian cried out, 'That is a socialist!' and again there arose a storm of disapprobation, and a roaring noise, which proved sufficiently that these ignorant people had been incited against the socialists by their priests.* But the speaker did not lose his presence of mind. He continued speaking, and very soon the utmost quiet prevailed. He told them that they must realize their strength over against a little handful of lumber yard owners; that they must not recede from the demands once made by them; the issue lay in their hands; all they needed was resolution, and the 'bosses' would be compelled to, and would give in.

"At this moment some persons in the background cried out (either in Polish or Bohemian), 'On to McCormick's! Let us drive off the scabs!' About two hundred men left the crowd and ran towards McCormick's.

"The speaker did not know what was the matter, and continued his speech. When he had finished, he was appointed a member of a committee to notify the 'bosses' that the strikers had no concessions to make. Then a Pole spoke. While he spoke a patrol wagon rushed up towards McCormick's. The crowd began to break up. In about three minutes several shots were heard near McCormick's factory, and these were followed by others. At the same time about seventy-five well-fed, large and strong murderers, under the command of a fat police lieutenant, were marching toward the factory, and on their heels followed three patrol wagons besides, full of law and order beasts; 200 policemen were on the spot in less than ten or fifteen minutes, and the firing on fleeing workingmen and women resembled a promiscous bush-hunt. *The writer of this hastened to the factory as soon as the first shots were fired, and a comrade urged the assembly to hasten to the rescue of their brothers who were being murdered, but no one stirred.* 'What do we care for that?' was the stupid answer of poltroons brought up in cowardice. The writer fell in with a young Irisman who knew him. 'What miserable sons of b—— are those,' he shouted to him, 'who will not turn a hand while their brothers are being shot down in cold blood? We have dragged away

two. I think they are dead. If you have any influence with the people, for Heaven's sake, run back and urge them to follow you.' *The writer ran back. He implored the people to come along—those who had revolvers in their pockets, but it was in vain. With an exasperating indifference they put their hands in their pockets and marched home, babbling as if the whole affair did not concern them in the least.* The revolvers were still cracking, and fresh detachments of police, here and there bombarded with stones, were hastening to the battle ground. The battle was lost!

"It was in the neighborhood of half past 3 o'clock when the little crowd of between two and three hundred men reached McCormick's factory. Policeman West tried to hold them back with his revolver. A shower of stones for an answer put him to flight. He was so roughly handled that he was afterwards found about 100 paces from the place, half dead and groaning fearfully. The small crowd shouted: 'Get out, you d—d scab,' 'you miserable traitors,' and bombarded the factory window with stones. The little guard-house was demolished. The 'scabs' were in mortal terror, when at this moment the Hinman street patrol wagon, summoned by telephone, came rattling along with thirteen murderers. When they were about to make an immediate attack with their clubs they were received with a shower of stones. 'Back! Disperse!' cried the lieutenant, and the next minute there was a report. The gang had fired on the strikers. They pretend subsequently that they shot over their heads. But, be that as it may, a few of the strikers had little snappers of revolvers, and with these returned the fire. In the meantime, other detachments had arrived, and the whole band of murderers now opened fire on the little company—20,000, as estimated by the police organ, the Herald—while the whole assembly scarcely numbered 8,000! Such lies are told. With their weapons, mainly stones, the people fought with admirable bravery. They laid out half a dozen blue coats, and their round bellies, developed to extreme fatness in idleness and luxury, tumbled about, groaning on the ground. Four of the fellows are said to be very dangerously wounded; many others, alas! escaped with lighter injuries. (The gang, of course,

conceals this, just as in '77 they carefully concealed the number of those who were made to bite the dust.) But it looked worse on the side of the defenseless workmen. Dozens who had received slight shot wounds hastened away amid the bullets which were sent after them. The gang, as always, fired upon the fleeing, while women and men carried away the severely wounded. How many were really injured and how many were mortally wounded could not be determined with certainty, but we think we are not mistaken when we place the number of mortally wounded at about six and those slightly injured at two dozen. We know of four, one of whom was shot in the spleen, another in the forehead, another in the breast, and another in the thigh. A dying boy, Joseph Doedick, was brought home on an express wagon by two policemen. The people did not see the dying boy; they saw only the two murderers. 'Lynch the rascals!' clamored the crowd. The fellows wanted to break away and hide themselves; but in vain. They had already thrown a rope around the neck of one of them, when a patrol wagon rattled into the midst of the crowd and prevented the praiseworthy deed. Joseph Hess, who had put the rope around his neck, was arrested.

"The scabs were afterwards conducted under the protection of a strong escort down Blue Island avenue. Women and children gave vent to their indignation in angry shouts; rotten eggs whizzed through the air. The men about took things coolly and smoked their pipes as on Kirmess day.

"McCormick's assistant, Superintendent C. J. Bemly, was also wounded, and, indeed, quite severely.

"The following strikers were arrested: Ignatz Erban, Frank Kohling, Joseph Schuky, Thomas Klafski, John Patolski, Anton Sevieski, Albert Supitar, Hugh McWhifter, Anton Sternack, Nick Wolna and Thomas O'Connell.

"The 'pimp,' McCormick, when asked what he thought of it, said: 'August Spies made a speech to a few thousand anarchists. It occurred to one of these brilliant heads to frighten our men away. He put himself at the head of a crowd, which then made an attack upon our works. Our workmen fled, and in the meantime the

police came and sent a lot of anarchists away with bleeding heads.'

"*Last night thousands of copies of the following circular were distributed in all parts of the city.*" (And then followed the German portion of the Revenge circular, a translation of which appears in the brief under that title.)

One of the portions of the speech made by Spies at the Haymarket, taken in shorthand by G. P. English, is as follows (K, 276):

"I want to tell you, gentlemen, that these acts of violence are the natural outcome of the degradation and the oppression to which the working people are subjected. I was addressing a meeting of ten thousand wage slaves yesterday afternoon in the neighborhood of McCormick's. *They did not want me to speak. The most of them were good, church-going people. They did not want me to speak because I was a socialist. They wanted to tear me down from the car, but I spoke to them and told them they must stick together.* They were not anarchists, but were good church-going people. They were good Christians. Then the patrol wagons came, and blood was shed."

(C.) THE REVENGE CIRCULAR.

English portion of Revenge circular:

(1.) "REVENGE.

"*Workingmen, to Arms!!*

"The masters sent out their blood-hounds—the police; they killed six of your brothers at McCormick's this afternoon. They killed the poor wretches, because they, like you, had the courage to disobey the supreme will of your bosses. They killed them because they dared ask for the shortening of the hours of toil. They killed them to show you, '*free American citizens*,' that you must be satisfied and contented with whatever your bosses condescend to allow you, or you will get killed!

"You have for years endured the most abject humiliations; you have for years suffered unmeasurable iniquities; you have worked yourself to death; you have endured the pangs of want and hunger; your children you have sacrificed to the factory lord—in short, you have been miserable and obedient servants all these years! Why? to satisfy the insatiable greed, to fill the coffers of your lazy theiving masters! When you ask them now to lessen your burdens, he sends his blood-hounds out to shoot you—kill you! *If you are men, if you are the sons of your grandsires, who have shed their blood to free you, then you will rise in your might, Hercules, and destroy the hideous monster that seeks to destroy you. To arms, we call you, to arms! Your brothers.*"

A translation of the German part of Revenge Circular is as follows:

"REVENGE! REVENGE!

"*Workmen, to Arms!*

"Men of labor, this afternoon the blood-hounds of your oppressors murdered six of your brothers at McCormick's. Why did they murder them? Because they dared to be dissatisfied with the lot which your oppressors have assigned to them. They demanded bread, and they gave them lead for an answer, mindful of the fact that thus people are most effectually silenced. You have for many, many years endured every humiliation without protest, have drudged from early in the morning till late at night, have suffered all sorts of privations, have even sacrificed your children. You have done everything to fill the coffers of your masters—everything for them! and now, when you approach them and implore them to make your burden a little lighter, as a reward for your sacrifices, they send their blood-hounds, the police, at you, in order to cure you with bullets of your dissatisfaction. Slaves, we ask and conjure you, by all that is sacred and dear to you, avenge the atrocious murder which has been committed upon your brothers to-day, and which will likely be committed upon you to-morrow. *Laboring men, Hercules, you have arrived at the crossway. Which way will you decide? For slavery and hunger, or for*

freedom and bread? If you decide for the latter, then do do not delay a moment; then, people, to arms! Annihilation to the beasts in human form who call themselves rulers! Uncompromising annihilation to them! This must be your motto. Think of the heroes whose blood has fertilized the road to progress, liberty and humanity, and strive to become worthy of them!

"YOUR BROTHERS."

(2.) SPIES WROTE IT.

It appears from the evidence of Theodore Fricke (I, 468) that the manuscript for both the English and the German of the Revenge circular was in the handwriting of the defendant, August Spies, with the exception that the word "Revenge" which appears at the head of the English portion was not written by him. The word "Rache," the German word for revenge, at the head of the German portion of the circular, was written by him. Spies admits in evidence that he wrote this circular.

(3.) ITS PRINTING AND CIRCULATION.

HERMAN PODEVA testified (J, 349) that he was a compositor in the Arbeiter Zeitung office; that he set up a portion of the Revenge circular; that five or six printers were engaged in setting it up; that they usually quit work at 5 o'clock, but that night worked until 6 o'clock. He also testified that the manuscript of the English portion of the article did not contain the word "Revenge"; that it was headed "To Arms, Working-"men, to Arms!" but that when the printers came to set

it up it did not look well in type, and so they substituted the word "Revenge" in the place of the phrase "To Arms."

"The opinion was expressed that the short word 'To' and the longer word 'Arms' did not look well; that another longer word should be used, which would give it a better appearance. And of course it was added that whatever should take the place of it should express the same idea as the preceding word. It was also said that of course *the writer of the circular should read the proof*, and that he would either take out the word 'Revenge' or leave it remain there."

GEORGE ASCHENBRENNER testified (J, 337), that he was assistant foreman in the Arbeiter Zeitung printing office; that he saw the men setting up the "Revenge" circular in the office of the Arbeiter Zeitung. After it was set up he went over to Burgess' establishment, and, in printer's parlance, "locked the form" for the circular at that place.

GEORGE SCHULER testified (J, 279) that he was employed as a printer by Mr. Burgess; that on Monday afternoon, the 3d of May, between 5 and 6 o'clock, a form of the circular was brought over from the Arbeiter Zeitung office containing both the English and the German portions, about 2,500 copies of which were struck off that night; *that about a dozen different parties came there after them, coming one and two at a time, taking it as fast as it came from the press.*

ERNST NIENDORFF testified (J, 228) that he was the president of a meeting of the carpenters which met in Zepf's Hall on West Lake street on Monday night; that there were from eight hundred to a thousand persons present; that the "Revenge" circular was distributed at

that meeting between 9 and 10 o'clock; by whom distributed the witness could not say.

FRANZ HEUN, a saloon keeper, testified (J, 185) that the defendant Neebe on Monday evening came to his saloon and distributed a number of copies of the "Revenge" circular. "He came in and showed me that "thing (referring to 'Revenge' circular), and he asked "me if I heard something about the McCormick riot; and "I said, 'Yes, I read it'; and then he showed me that, "and he said, 'It is a shame that the police act that way, "but may be the time comes that it goes the other way— "that they get a chance too'; he was mad on account of "that." * * * He said, "That (the 'Revenge' "circular) is just printed now." At that time when he came in he said that.

HILL C. SMYTHE, a reporter for the Tribune, who spent the whole of the 3d of May in the vicinity of Greif's Hall, testified (J, 368) that a few minutes after 6 o'clock on Monday afternoon he was standing in the doorway of the entrance of 54 West Lake street, talking with Greif, the proprietor of the hall, when his attention was attracted by seeing a few of the circulars flying in the air, and he picked one up and read it. *Just at that time he saw a horseman, and the distribution of the circular was coincident with the appearance of the horseman in front of 54 West Lake street.* * * * "My impression was that "the horse was ridden west on Lake street. * * * At "9 or half-past 9 nearly every one there had a copy of "the circular." * * * 'They were very scarce at 8 "o'clock, and a reporter for the Inter Ocean and myself "sat at a table in Greif's Hall and copied the English "portion of this circular, but an hour or so afterwards we

" both succeeded in getting copies of them. They were " handed around."

In addition to the foregoing it appears from the article written by Spies, entitled " Blood," which is set out out on page 152, that thousands of these circulars were distributed; and in addition thereto the German portion of the circular was reprinted in the article, and by that means was distributed to its thousands of readers.

(D.) THE MEETING AT GREIF'S HALL.

GOTTFRIED WALLER testified (I, 54): That on the evening of the 3d of May he was present at a meeting in Greif's Hall, 54 West Lake street; he had not worked that day; went to the meeting about half-past 8 o'clock because he had seen the notice in the " briefkasten " or " letter-box " of the Arbeiter Zeitung, " Y, come Monday night," which meant that at that time there would be a meeting of the armed section at Greif's Hall. The meeting was held in the basement, beginning at half-past 8; seventy or eighty men were present; some one called out the name of the witness, whereupon he called the meeting to order. The audience sat in the front part of the basement; one of those present, Breitenfeld, who was a commander in the Lehr und Wehr Verein of Chicago, was stationed at the back stairway. Of the defendants, Engel and Fischer were present. The " Revenge " circular was distributed. " First it was talked about that at McCor- " mick's six men had been killed. Then we had a dis- " cussion as to what should be done in the next two " days. * *

" Engel said that if on account of the eight-hour strike " now going on there should be a difficulty between the " police and the workingmen, then we should meet at " certain meeting places to come to the rescue of those " attacked by the police. Then he told us that the north- " west side group had resolved as to that, that if on ac- " count of the workingmen, the strikers, something should " happen to the police, that we should gather at certain " corners or meeting places; then the word 'Ruhe' (trans- " lated as 'quiet,' or 'rest'), if that was ordered to be " published—if that was to appear, it would be the time " to meet."

" Q. Was anything said about where the word 'Ruhe' should be published?

" A. Yes.

" Q. Where was it to be published?

" A. In the Arbeiter Zeitung in the letter box. * * * * Engel said: '*If there were tumults in the city, then we should meet at Wicker Park; if that should appear in the paper—the word "Ruhe"—then the north-west side group and the Lehr und Wehr Verein of the north-west side should assemble in Wicker Park armed.*' Then a committee was appointed to watch the movement in the city, and if something happened they should report; if a riot should occur we should first storm the police stations and cut the telegraph wires.

" Q. Who should cut the telegraph wires?

" A. That was not provided for. And then, *after we had stormed the police stations, we should shoot down everything that would come out, and by that we thought to gain accessions from the workingmen*, and then if that police station was stormed we should do the same thing in regard to the second, and whatever would come in our way we should strike down, and that is about all.

" Q. What police station was referred to?

" A. First, that on North avenue.

" Q. What next?

" A. About the second police station there was nothing said. Just as it happened.

" Q. Was anything said about dynamite or bombs?
" A. Yes.
" Q. What?
" A. It would be the easiest mode—throwing a bomb in the station.
" Q. Who said that?
" A. Mr. Engel. * * * There should be a *meeting* of the *workingmen* the *next day*, that would be Tuesday.
" Q. Who said that?
" A. *I said that.* And *that* was *rejected*—the *meeting to be held in the morning*—and a *meeting was called for the evening.*
" Q. *Who said anything about calling a meeting for the evening?*
" A. *Mr. Fischer.* * * * *I had proposed Market square, and then Fischer said that was a mouse-trap; that it should be on the Haymarket*, because in the evening there would be more workingmen there, and because people were at work late, and then it was resolved that the meeting should be at 8 o'clock in the evening at the Haymarket.
" Q. Was anything said about what should take place at that meeting? At the Haymarket meeting?
" A. Yes.
" Q. What?
"A. To cheer up the workingmen, so that if something should happen the next day they should be prepared * * * if a conflict should happen."

The witness said it was *agreed that the meeting should be announced through a handbill which Fischer was commissioned to print, to announce a mass-meeting;* Fischer left the meeting to have it printed, and was gone about half an hour and came back and said the printing establishment was closed.

" *It was said that we ourselves should not participate in the meeting on the Haymarket. We should meet at the respective places. Only a committee should be present at the Haymarket*, and if they should report that something

had happened, then we should come down upon them and attack them.

"Q. Should attack them where, and attack who?

"A. *Every group had to look out, had to arrange for that themselves.*

"Q. Should attack who?

"A. Our opponents—our adversaries.

"Q. Who were the opponents mentioned in the meeting?

"A. *First, the police.*

"Q. Who else?

"A. *The police and the militia—whoever should come against us.*

"Q. Was anything said at the meeting as to who should be attacked?

"A. *Yes; first, we were to attack the police station—the North avenue police station—and then the next one, as fate would have it.*

"Q. Was there anything said as to what should be done in case the police interfered with the Haymarket meeting?

"A. No.

"Q. Was anything said as to why the police stations in the different parts of the town should be attacked?

"A. Yes.

"Q. What was that?

"A. We have seen how the police oppressed the workingmen; how the capitalists oppressed the workingmen, and that six men were killed at McCormick's, and that we should commence to take the rights in our own hands.

"Q. Who said that?

"A. It was said by several. We discussed about it.

"Q. Was anything said as to why the police station should be attacked—as to that particular time?

"A. Yes; it was planned to attack the police stations to prevent the police from coming to aid.

"Q. Coming to aid what?

"A. If there should be a fight in the city.

* * * * * *

"Q. Was there anything said about there being a fight in the city?

" A. There was nothing said about it; but we supposed so.

" Q. Who thought so?

" A. All of us.

" Q. Did the meeting over which you presided take any action in regard to the plan which you have been narrating?

" A. Yes.

" Q. What action did the meeting take?

" A. The plan was adopted, with the understanding that every group ought to act independently, according to the general plan.

" Q. How many members were present at the time the plan was adopted?

" A. Seventy or eighty.

" Q. Were they all from the north-west group?

" A. No; they were from all of the groups.

" Q. From what parts of the city?

" A. From the west side and from the south side, and from the north side.

" Q. Was anything said at the meeting as to what should be done at other parts of the city than the north side or the north-west side?

" A. The same should be done.

" Q. What was said, if anything, as to what should be done in case the police should attempt to disperse the Haymarket meeting?

" A. There was nothing said about the Haymarket. There was nothing expected that the police would get to the Haymarket, only if the strikers were attacked then we should shoot the police.

" Q. What else?

" A. In that case we should simply strike them down however we best could, with bombs or whatever would be at our disposition.

" Q. *From where was the committee, or of whom was the committee to be composed, which was to be sent to the Haymarket square?*

" A. *One or two from each group.*

" Q. *What were they to do?*

" A. *They should observe the movement not only on the Haymarket square, but in the different parts of the city,*

and if a conflict should happen then they should report to us.

" Q. Should report to whom?

" A. *If it happened in the day-time then they should cause the publication of the word 'Ruhe.'*

" Q. If it happened in the night-time to whom were they to make their report?

" A. Then they should report personally to the members.

" Q. Where were they to find the members?

" A. At home.

" Q. What was the meaning of the word 'Ruhe?'

" A. On that day we did not understand it ourselves —why the word 'Ruhe' was in there.

" Q. In the meeting was anything said as to what the word 'Ruhe' should mean if published?

" A. Yes.

" Q. What was said about it?

" A. It should be an indication that we should have to meet here and there. *The word 'Ruhe' should only be inserted in the newspaper if a downright revolution had occurred.*

" Q. Who said that?

" A. That was in the plan.

" Q. Who first mentioned it at the meeting?

" A. *Fischer first called the attention of the meeting to the word 'Ruhe.'*

" Q. Was anything said as to where the word 'Ruhe' was to be published?

" A. Yes, in the Arbeiter Zeitung, under the head of the 'letter-box."

" Q. Was there anything said as to who would see that it was published there?

" A. *The committee.*

" Q. Was anything said as to who would take it to the Arbeiter Zeitung?

" A. *No; it was the business of the committee to attend to it.*

" Q. Who comprised the committee?

" A. I know only one of them.

" Q. Who was that?

" A. Kraemer."

On motion of Engel, the meeting, by a show of hands, unanimously adopted the plan.

"Q. After the plan of the north-west group had been adopted by the meeting, did you state that plan to any one at the meeting?

"A. It was said that this plan should be communicated to such reliable men that were absent.

"Q. Did you repeat that plan to any one who came into the meeting after the meeting had adopted it?

"A. Yes."

At that meeting there were present known to the witness, as far as he could recollect, Fischer, Engel, Breitenfeld, Reinhardt, Kreuger and another Kreuger, Greenwald, Schroeder, Weber, Huebner, Lehmann, Hermann (Heumann) and Schnaubelt.

"Q, (Page 102.) What is Schnaubelt's first name?

"A. As much as I know, it is Rudolph.

"Q. Look at the photograph I now show you (People's Exhibit No. 9).

"A. That is Schnaubelt.

"Q. Did *Schnaubelt* say anything at that meeting?

"A. Yes.

"Q. What did he say?

"A. *He said that we should inform our members in other places of the resolution.*

"Q. Did he say anything else?

"A. *He said that the things should commence in other places.*

"Q. What things?

"A. *It. He said that it should also commence at other places.*

"Q. What do you mean by it?

"A. *The revolution.*"

The witness was present at the meeting at Emma street at 10 o'clock of the Sunday previous at Bohemian Hall. He was invited by August Krueger (the little one). Those present were mostly members of the

north-western group; some members of the Lehr and Wehr Verein; there were Engel and Fischer of the defendants, Greenewald, the two Kruegers, Reinhardt, and Schroeder, known to witness.

" Q. What was said at the meeting?
" A. The same that I stated yesterday—Engel's plan.
" Q. Who proposed the plan?
" A. Engel.
" Q. Now, what did he say?
" A. He submitted a *plan of his own conception, according to which, whenever it would come to a conflict* between the north-western groups—he had submitted it to the north-western groups also—according to which plan, as soon as it came to a conflict *between the police and the north-western groups, that bombs should be thrown into the police stations and the riflemen of the Lehr und Wehr Verein should post themselves in line in a certain distance, and whoever would come out should be shot down.*
" Q. Come out of where?
" A. All those that would come out of the station or stations, he said; *then it should proceed in that way until we would come to the heart of the city.*
" Q. What else?"
" A. That is all. Within the heart of the city of course the fight should commence in earnest.
" Q. Did anybody else say anything?
" A. *There was some opposition* disputes *against the plan*, also.
" Q. Who opposed?
" A. I did not know him or did not know them.
" Q. What did he say—the man that you did not know?
" A. *He thought that there was too few of us, and it would be no better if we would place ourselves among the people and fight right in the midst of them.*
" Q. What else was said?
" A. There was *some opposition to that, to be in the midst of the crowd, as we could not know who would be our nearest neighbor of the crowd; there might be a detective right near us, or some one else.*
" Q. Was there anything else said that you remember?

"A. No, sir.
"Q. Did the meeting take any action on those plans?"
"A. The *plan was finally accepted.*
"Q. Which plan?
"A. The *plan of Engel.*

On cross-examination the witness stated:

"Q. You said you went to Greif's Hall on the night of May 3d, pursuant to 'Y' in the letter-box of the Arbeiter Zeitung? Is that so?
"A. Yes, but I did not want to go there; I was gotten; somebody came for me.
"Q. Who came for you?
"A. A member of the Lehr und Wehr Verein by the name of Clermond.
"Q. *Who requested Engel to state the resolutions adopted* at the meeting of the north-west side group the day before?
"A. If I am correct he stated it at the first of his own accord; the second time I had requested him to state it, to lay it before the meeting. When then more people came to the meeting I requested him to lay it before the meeting again.
"Q. But you are not quite sure that he stated those resolutions of his own accord?
"A. *I am sure that he drew them up the Sunday before.*
"Q. I have not been talking about the Sunday meeting. I was talking about the Monday meeting. *Are you quite sure that he laid those resolutions before the meeting of his own accord?*
"A. *Yes.*
"Q. Now, is it not the fact that Mr. Engel, both at the meeting on Monday night and at the meeting on Sunday, stated that this plan was to be followed in case the police should interfere with your right of free speech and free assembling only?
"A. If the police should attack us.
"Q. Did he not say that that plan was to be followed only in case the police should interfere with your rights that I have mentioned, and by brutal force?

"A. It was said that at any time whenever we should be attacked by the police we should defend ourselves.

"Q. I am not speaking about what was said by others. I am speaking about the plan laid before the meeting by Engel. Did he not say that plan was to be followed only when the police would, by brutal force, interfere with your right of free assembly and free speech?

"A. It was said that we should use—should resort to this plan or to the execution of it whenever it would suit us, or whenever the police would attack us.

"Q. The witness don't get the point of the question—whether Engel said on what occasion the plan was to be employed.

"A. No, he did not say that.

"Q. Now, you say that you made the motion yourself, that a meeting should be called for Tuesday night?

"A. No; Tuesday morning.

"Q. But you first made the proposition that a meeting should be called for the next day. Is not that so?

"A. No, I did not make that proposition; I was chairman.

"Q. Who made the motion?

"A. No; I simply stated that it would be good to hold a meeting the next morning at 10 o'clock. Who made a motion I cannot now remember, but it was voted down, and Engel, or Fischer, then made the proposition that a meeting should be held at Haymarket square on the following night.

* * * * * *

"Q. And you say that nothing was said at the Monday night meeting with reference to any action to be taken by you on the Haymarket?

"A. We should not do anything; we were not to do anything at the Haymarket square.

"Q. And you also say that you did not anticipate that the police would come to the Haymarket?

"A. We did not think that the police would come to the Haymarket.

"Q. And for this reason no preparations were made for meeting any police attack on the Haymarket square?

"A. No; not by us.

"Q. And you say that the word 'Ruhe' was

adopted as a signal to call all the members of the armed section to their meeting places in case of a downright revolution. That is what you want to be understood as saying?

" A. *It was to be the signal to bring the members together at the various meetings in case of a revolution; but it was not to be in the papers, until the revolution should actually take place.*

" Q. Where should it be in the paper?

" A. In the letter-box of the Arbeiter Zeitung.

* * * * * *

" Q. *Was not it expected at the meeting of Monday night that there should be a gathering of about twenty-five thousand people at the Haymarket?*

" A. *We thought so.*"

Bernhard Schrade testified (I, 14c) that he was present for a short time at the meeting in Grief's basement. When he came in, Waller, who had been presiding, was explaining what had been spoken about before. He said, in explanation, that so many men at the McCormick factory had been shot dead by the police. He said that a mass-meeting was to be held at the Haymarket Square, and that they should prepare in case the police should interfere or go beyond their bounds.

The witness was also present at the Sunday meeting at Bohemian Hall; the big Krueger called for him. Of those present there were known to witness Waller, Krueger, Fischer, Engel and Greeneberg (Greenewald). Those present belonged to the second company of the Lehr and Wehr Verein and to the north-western group. The condition of the workingmen's movement was talked over, " and the remark was made that it might not go off " so easy after the 1st of May, and if it should not they " would have to help themselves and each other. *

* * * * * *

It is said that if they were to get into a conflict with

*the police that they were to mutually assist themselves to make an attack * * * upon the police.*

* * * * * *

"*Q, What was said about Wicker Park?*

"A. *Well, it was said that the members of the north-western group should go there in case it should go so far as that the police would make an attack.*

"Q. Was anything said about what the members of the north-western group should do if there was any trouble with the police?

"A. Yes; it was explained that they should defend themselves as much as possible if it should come to that.

"Q. How should they defend themselves?

"A. As well as any one could; if he had anything with him he should use it."

The witness heard nothing said about dynamite. * * *

"The *revolutionary movement was talked about*, and it was *remarked that the firemen could do much in such a case.* * * * It was said that if a large mass of people were standing upon the street, that if the firemen came they could easily disperse them.

"Q. Was anything said as to what should be done with the firemen in such a case?

"A. *Well, it was said the best thing to annihilate them, or to cut through their hose, and so forth, that they could not do anything.*"

The witness was present at the Haymarket.

On cross-examination he testified:

"Q. Did you know any one was going to take a bomb to that meeting?

"A. No.

"Q. Did you know there would be trouble there at that meeting, or expect there would be trouble at that meeting?

"A. *Well, I knew that much, that when the police should come to attack the workingmen that each one should help themselves the best way they could.*

"Q. And you did not expect any trouble?

"A. Well, not beyond that when the police would attack we knew there would be some trouble.

"Q. Now, you say that there was no trouble talked about on Monday night at the Monday night meeting that was expected on any particular night, do you?

"A. Not as long as I was there.

"Q. Not as long as you were there, but you had talked before that if the police attacked the laboring men that they would resist?

"A. Yes.

"Q. *And that is what you mean when you say that you expected if the police had attacked the meeting that may be there might be some trouble, is it?*

"A. Yes, sir.

GUSTAVE LEHMANN testified (J, 194) that he attended the meeting in Greif's basement, got there a quarter before 9; went there because of the notice in the Arbeiter Zeitung, "Y, come Monday night," which meant that the armed ones should meet there. "*When I got "there somebody made a motion to post somebody at the "door, and then I went out to the sidewalk by the door.*

"Q. Was anything said as to why you should be posted at the door?

"A. *That no one who was going to the closet should remain there and listen.*

"Q. Where were you stationed?

"A. *On (under) the sidewalk where the steps were leading down, that no one should remain there.*"

During the progress of the meeting he went in twice; all that he heard at the meeting was Fischer's offer to take upon himself the printing and distribution of the handbills. The witness had known Lingg about six months; could not say whether he was in the basement, but they went home together; on the way home they had a talk. "Somebody came to us from behind on the "sidewalk, and he said to us, 'You are all oxen—"fools.'

"Q. Who said that?
"A. Lingg.
"Q. What else did he say?
"A. *I asked him what was going on, and he told me if I wanted to know something I should come to 58 Clybourn avenue the next night.*
"Q. You asked him what was going on where?
"A. What had taken place at the meeting we were just coming from.
"Q. Were you and Lingg alone, or were others with you?
"A. Seliger, my brother, Lingg, and there was one more that I cannot now recall his name."

THOMAS GREIF, the keeper of the place where the meeting was held, testified (I, 327) that on Monday night, May 3d, Breitenfield came to him and wanted a hall; that his halls were all occupied, and the only place he could give him was the basement; Breitenfield said that when the "Ypsilon" (the German name for the letter Y) folks came to tell them to come downstairs; the meeting began about 8 o'clock, and closed about 11.

HILL C. SMYTHE, a reporter, testified (J, 369) that he spent the day of the 3d of May in the neighborhood of Greif's saloon; said that on Monday night "*I remember of going down to the basement, and upon reaching the basement floor that some one run down behind me and ordered me out.*

"Q. Which way did you try to get to the basement —through which door?
"A. From the rear of the building itself, a stairway leading from a portion of the room, directly in the rear of the bar.
"Q. It was the way leading from the saloon to the basement?
"A. From the saloon to the basement; yes.
"Q. You were prevented from going down?

"A. Well, I got down to the lower floor, and was then ordered out.

"Q. Did you observe whether the basement was lighted or not?

"A. It was.

"Q. At that time?

"A. Yes.

(E.) LINGG'S WORK TUESDAY AND TUESDAY NIGHT.

The Haymarket mass-meeting was called for 7:30 P. M. There was no speaking, nor any organized meeting until about half-past 9 o'clock. Previous to that those who had gathered were moving around aimlessly, or gathering in small groups at the different portions of the Haymarket. About nine o'clock Spies called the meeting to order. The bomb was thrown at about half-past 10.

We wish now to call attention to the transaction of Lingg and those engaged with him during Tuesday.

WILLIAM SELIGER testifies (I, 505) that he didn't work on Tuesday at his trade. "I got up at half-past 7 and after we got up Lingg came. I had previously told him that I wanted those things (bombs, dynamite, etc.) removed from my dwelling. He told me to work diligently at these bombs and they would be taken away that day. I took some coffee and after a time I worked at some shells—at some loaded shells. I was drilling the holes—the holes through which the bolt went. I worked at that half an hour.

"Q. Was any one helping you that morning?

" A. No.

" Q. Where was Lingg?

" A. He went to the west side, to a meeting.

" Q. What time did Lingg get back?

" A. It was probably 1 o'clock or after.

" Q. Did you have any conversation with him after he came back?

" A. No; he only said that I hadn't done much; that I ought to have worked more diligently. I said that I hadn't any more mind to work—I hadn't any pleasure at the work. Then *Lingg said*, '*well we have to work very diligently this afternoon.*'

" Q. Were you there during the afternoon?

" A. Yes.

" Q. What were you doing?

" A. I was helping on the shell.

" Q. What did you do during the afternoon?

" A. I did different work at them.

" Q. Did you have any conversation with Lingg about the bolts?

" A. Yes.

" Q. When was it you had that conversation with him?

" A. In the morning.

" Q. What was the conversation about the bolts?

" A. He told me that he had not enough of those bolts, and gave me one, and told me to go to Clybourn avenue, I believe, and get there some that he had already spoken to the man about.

" Q. Did you get any?

" A. Yes.

" Q. How many did you get?

" A. I cannot tell exactly; I think there were fifty.

" Q. During the afternoon how long did you work on the bombs?

" A. I worked at them different times, not continuously.

" Q. *At different times during the whole of the afternoon?*

" A. *Yes.*

" Q. *Was any one else helping you?*

" A. *Yes.*

"Q. Who?

"A. *Huebner and Munsenberg.*

"Q. Was anybody else there besides Huebner and Munsenberg?

"A. Yes.

"Q. Who else?

"A. *Heumann.*

"Q. Anybody else?

"A. No.

"Q. Were there any there whose names you don't know?

"A. No; I don't know.

"Q. What room did you work in?

"A. In the little front room; and also in Lingg's room, and also in the rear room.

"Q. What did Lingg do that afternoon?

"A. *He worked at different things; first he worked at gas pipes—gas or water pipes.*

"Q. Look at the pieces of pipe I now show you. Was he working on such pieces as those?

"A. Yes, sir.

"Q. How many bombs were made that afternoon so far as you know?

"A. That I cannot tell exactly, but there was quite a portion of them.

"Q. About how many?

"A. I cannot tell exactly how many, but there was quite a number.

"Q. Can't you say about how many? Whether there were three or four or a dozen or two dozen?

"A. Oh, no; *there were more; there were probably thirty or forty or fifty.*

"Q. About how many round bombs were made?

"A. I cannot tell that exactly.

"Q. Were the bombs cast that afternoon—the round ones?

"A. No.

"Q. *Who cast those bombs, if you know?*

"A. *Lingg was casting them once by himself.*

"Q. Where did he cast them?

"A. In the rear room, upon my stove.

"Q. When was it you saw him casting the bomb?

" A. Probably six weeks previous to the 4th of May."

The first of the Lingg bombs that he saw was in Lingg's room more than six weeks previous to that time, when Lingg told him that he was going to make bombs; he saw the first dynamite in Lingg's room about five or six weeks prior to the 1st of May.

" Q. Did you have any talk with him about that dynamite?

" A. Yes, he told me that he had some dynamite."

" Q. Did you have any talk with him about the objects of that dynamite?

" A. *Well, he said that every workingman should have some dynamite, and that there should be considerable agitation, that every workingman would learn to use—to handle these things.*

" Q. During the day, on Tuesday, while you were making the bombs, did you have any talk with Lingg about what the bombs were to be used for?

" A. Yes.

" Q. What conversation did you have with him about that?

" A. *Well, he said that it was going to be good fodder for the capitalists and the police when they came to protect the capitalists.*

" Q. Was anything said about when they wanted the bombs completed or ready?

" A. No. I only told him that I wanted those things out of my room.

" Q. Was there any conversation between you and Lingg as to what time the bombs were to be completed?

" A. *Not positively as to time, no; it was only a remark that they should be used that evening—that they were to be used that evening.*

" Q. What time did you leave your house that evening?

" A. It was about half-past 8 in the evening.

" Q. How long during the afternoon was Huebner at the house?

" A. That I cannot tell precisely; probably from 4 to half-past 5 or 6 o'clock."

Huebner was working at the bombs in the front room; Lingg was in the front room, and Muenzenberger was there at the same time; Thielen was there half an hour, or not quite that; the Lehmanns were also there in the front room; Lingg and the witness in the evening left the house together."

" Q. What did you have?
" A. We had a *little trunk* in which we had bombs.
" Q. Describe the little trunk that you had?
" A. That I cannot tell precisely; it was probably two feet long, one foot high and one foot wide.
" Q. What was it made of?
" A. I did not see what it was made out of; it was covered with coarse linen.
" Q. *What did you have in that?*
" A. *Bombs.*
" Q. What kind of bombs?
" A. *Pipes and round.*
" Q. How many did you have?
" A. I cannot tell exactly how many there were.
" Q. About how many did you have?
" A. I cannot tell how many.
" Q. About how much did that trunk weigh?
" A. *They might have weighed from thirty to fifty pounds.*
" Q. Were those bombs loaded or empty?
" A. *Yes, they were loaded.*
" Q. How did you carry that package?
" A. We had drawn a stick or pole through the handle.
" Q. Who had?
" A. Lingg had broken a stick and we pulled it through. Lingg helped to carry the bundle to Neff's Hall, 58 Clybourn avenue; the bombs were loaded with dynamite. On the way to Neff's they met Muensenberger; the bombs were taken in that building, 58 Clybourn avenue; Muenzenberger took them in through

the saloon into the hallway on the side that led from the saloon out to the rear; they were left in the hall.

"Q. After the bombs were put down in the passage-way, what became of them?

"A. *It was open and several persons came and took bombs.*

"Q. What did you see done there with the bombs?

"A. *There were different ones there who took bombs out for themselves.*

"Q. Who took bombs whose names you know?

"A. That I cannot tell precisely, who took bombs there.

"Q. How many persons did you see take bombs?

"A. *Three or four.*

"Q. Did you take any yourself?

"A. Yes.

"Q. How many did you take?

"A. Two.

"Q. What kind of ones—round or pipe?

"A. I took pipe bombs.

"Q. Where did you carry them?

"A. We went away from Neff's Hall.

"Q. Where did you carry the bombs which you took—in your hands or in your pockets?

"A. In my pocket.

"Q. When you left Neff's Hall where was the package of bombs?

"A. Still in that passage-way.

"Q. *What is the name of the hall back of Neff's Hall?*

"A. *It is known under the name of the 'Shanty of the Communists.'*"

(A plan of this building appears in People's Exhibit 2.)

"Q. Who used to meet in that hall, so far as you know?

"A. The socialists.

"Q. What organization of socialists used to meet there?

"A. *All the various shades of them—communists, anarchists and socialists, and the north side groups of the International, and companies of the Lehr und Wehr Verein.*

* * * * * *

"Q. When you left Neff's Hall that night with the bombs in your pockets who were with you?

"A. Lingg, Thielen and Lehmann.

"Q. Which Lehmann?

"A. Gustav.

"Q. Any others whose names you can remember?

"A. Those that left the hall directly I cannot say, but there was some others that came to us afterwards.

"Q. Who were those?

"A. There were two of the Lehr und Wehr Verein; they were large men. * * *

"Q. Did those with you have anything, and if so what was it?

"A. I believe they all had bombs.

"Q. How about Lingg?

"A. I cannot tell how many he had.

"Q. After leaving Neff's Hall where did you go?

"A. We went to Larrabee street.

"Q. Whereabouts on Larrabee street?

"A. On Clybourn avenue, north.

"Q. Where to?

"A. Towards Lincoln avenue.

"Q. Tell what happened after you left Neff's Hall?

"A. *We went down Clybourn avenue towards Larrabee street, to the Larrabee street station where we halted.*

"Q. Who halted there?

"A. *Lingg and myself.*

"Q. What had become of the others who had started with you?

"A. That I don't know; some went ahead of us.

"Q. Tell whatever was said *between you and Lingg* or any of the others *as to what you were going to do that night?*

"A. Well, there was to be made a disturbance that night on the north side that had previously been determined on, as I heard. There was to be made a disturbance on the north side that evening which had previously been determined upon; *there were disturbances to be made on the west and north side to prevent the police to go over to the west side.*

"Q. Tell what conversation you had with Lingg that night while you were walking from Neff's Hall?

"A. *There should be made a disturbance everywhere on the north side to prevent the police from going over on the west side.*

Q. What happened while you and Lingg were in front of the Larrabee street station?

"A. *He expressed the opinion that it might be a beautiful thing if we would walk over and throw one or two bombs into the police station.*

"Q. Who expressed that opinion?

"A. Lingg.

"Q. What else was said about that?

"A. Well, there were *two policemen sitting* in front of the station, and he said if the others came out these two could not do much; *we would shoot these two down.*

"Q. What else happened while you were there?

"A. Then we proceeded on our way.

"Q. Tell what happened?

"A. We went further north to Lincoln avenue and Larrabee street, where we halted and took a glass of beer.

"Q. Is there any police station near that place?

"A. Yes, there is one.

"Q. Do you know the name of it?

"A. Yes, I know it; but I heard it afterwards.

"Q. What is the name of it?

"A. The Webster avenue station.

"Q. After you left that saloon what happened?

"A. Then we proceeded a few blocks north, and then we turned about and came back. Then we came back to North avenue and Larrabee street; then we stood there; *while we stood there some policemen came from the outside, and we stood there a little while longer and the patrol wagon came; there were some calls when the policemen came—some one had come out of the station and called, and that brought the policemen to the spot.*"

[At thirty-two minutes past 10 on that night a patrol wagon, filled with police, left Larrabee street station and started for the Haymarket (K, 462); the wagon went east

on North avenue and south on Larrabee, thus passing the point where Seliger says he and Lingg were standing. (K, 463.)]

"Q. *Where were you when the patrol wagon passed?*

"A. *South of North avenue and Larrabee street.*

"Q. What happened as the patrol wagon came along?

"A. *Lingg wanted to throw a bomb.*

"Q. What did he say?

"A. *He said that is the best opportunity.*

"Q. Give the whole of the conversation between you and Lingg at that time? What did you say to Lingg, and what did he say to you? What did he do, and what did you do?

"A. *Lingg said that he was going to throw the bomb, that was the best opportunity to throw the bomb, and I said it would be without effect; it wouldn't have any purpose.*

"Q. What else was said or done?

"A. *Then he became quite wild, excited, said that I should give him some fire—a light. I was smoking a cigar, and I jumped into the front hall—the front opening before a store—and lighted a match, the same as if I intended to light a cigar.*

"Q. When you got the light, where was the patrol wagon? *When you had lighted your cigar, where was the patrol wagon?*

"A. *It was just passing.*

"Q. What did you say to Lingg, and what did he say to you after he got the light?

"A. *I said it would be without a purpose, and he was going to go after the wagon.*

"Q. What did he say?

"A. He said he was going to go after the wagon to see what had happened, saying that something had certainly happened on the west side, or some trouble.

"Q. Was there anybody in the patrol wagon?

"A. Yes; it was completely manned.

"Q. How near were you to the police station when you stepped in for a light?

"A. About four or five houses distant.

"Q. In which direction was the patrol wagon going?

"A. South on Larrabee street.

" Q. What did you do after that?

" A. I went into the door of a house between Mohawk street and Larrabee street and lighted a cigar.

" Q. Then what did you do?

" A. Then we went towards home.

" Q. Before you went to your home did you have any talk with Lingg about whether you should stay on the street or whether you should go home?

" A. *Yes: he first wanted to wait until the patrol wagon would come back, but I importuned him to go home with me.*

" Q. What time did you get home?

" A. It was probably shortly before 11; I cannot tell exactly.

" Q. Did you have any talk with Lingg on your way home?

" A. *Yes; he asked me whether I had seen some papers and seen that there was a notice, or whether I had seen a notice that a meeting should be held on the west side of the armed men. I said no, I had seen nothing. Lingg was going to go out right away, but I asked him not to do so, and I took the paper and tore it in two parts, and he took one and I took one.*

" Q. What paper was that?

" A. The Arbeiter Zeitung; thereupon *he said*, '*Here it is.*'

" Q. Did he show you the paper at that time?

" A. Yes.

" Q. What did he call your attention to?

" A. *To the word* '*Ruhe.*'

" Q. Look at the paper which I now show you, marked 'People's Exhibit 4.' Did you see the word in that paper?

" A. Yes.

" Q. Is that the same you saw in your house?

" A. Yes; that is the same.

" Q. Now, what talk did you have with Lingg—what did you say to him and what did he say to you about that word 'Ruhe'?

" A. *He had previously asked me if I had read the paper, and I had told him no, because I had reference to the 'Y,' and I hadn't known anything about the word*

'Ruhe' until we got home; and thereupon he said, 'Here it is.'

"Q. What talk did you have about what the word 'Ruhe' meant?

"A. I did not know the meaning of the word 'Ruhe,' until the time I saw it.

"Q. What did he say to you about it?

"A. *He said there had been a meeting on the west side and he was going to go at once to it; there was to have been a meeting on the west side, there was to be that night.*

"What else did Lingg say about the word 'Rhue'?

"A. *That everything was to go upside down—topsy-turvy—that there was to be trouble.*

"Q. Give everything that Lingg said, as fully as you can, about what the word 'Ruhe' meant?

"A. *He said to me that a meeting had been held at 54 West Lake street, and it was determined upon that the word 'Ruhe' should appear in the papers as a signal for the armed men to appear at that meeting.*

"Q. Repeat what Lingg said to you about the meaning of the word 'Ruhe'?

"A. Well, he said that a meeting had been held at which it was determined that the word 'Ruhe' should go into the paper for all the armed men to appear at 54 West Lake street, that there should be trouble.

"Q. After you had a talk with Lingg about the word 'Ruhe,' what did you do?

"A. We went away; he was going over on the west side, and I talked with him to go with me to Clybourn avenue, where I went.

"Q. Where were you going?

"A. To Neff's Hall, 58 Clybourn avenue.

"Q. Where did Lingg say he wanted to go?

"A. To the west side.

"Q. What happened after you got to Neff's Hall?

"A. We went in and there were several persons present.

"Q. After you got to Neff's Hall, what conversation did you have with Lingg, or did he have with others in your presence?

"A. I did not speak with Lingg at Neff's Hall.

"Q. Did you hear him say anything to others, or others anything to him?

"A. Others were speaking to him.

"Q. What did others say to Lingg?

"A. *A certain Hermann (Heumann) said to him in a very energetic tone of voice, 'You are the fault of all of it.'*

"Q. What did Lingg say to that?

"A. That I did not hear; *they thereupon spoke in a subdued tone.*

"Q. Did you hear anything said there about the Haymarket in the presence of Lingg?

"A. Yes.

"Q. What was that?

"A. That a bomb had fallen which had killed many and wounded many.

"Q. What did Lingg say in that connection?

"A. That I did not hear.

"Q. Do you remember any *talk* with him *on your way home?*

"A. *Yes, he made the remark that he was even now scolded—chided—for the work he had done.*

"Q. What time did you get home?

"A. It was shortly after 12.

"Q. What became of the bombs which you had?

"A. We laid them off on our way.

"Q. Where did you put them?

"A. On Sigel street.

"Q. Whereabouts on Sigel street?

"A. Between Sedgwick and Hurlbut—near Hurlbut.

"Q. Whereabouts on the street did you put them?

"A. Under an elevated sidewalk.

"Q. What kind of bombs did you put there?

"A. I laid two pipe-bombs there.

"Q. What kind did Lingg put there, if you saw them?

"A. That I don't know; I did not see.

"Q. Did you see Lingg put anything there?

"A. Yes.

"Q. But you did not see what it was?

"A. No, but he laid bombs there; one bomb or sev-

eral bombs, I sannot say with certainty, but surely bombs.

"Q. What time did you get home that night last?

"A. Shortly after 12.

"Q. What time did you get up in the morning?

"A. Probably 6 o'clock.

"Q. What time did Lingg get up?

"A. That I don't know.

"Q. Did you have any conversation with Lingg that morning?

"A. No.

"Q. Did you have any talk with him during Wednesday?

"A. Not until evening, when he got home.

"Q. Did you have with him then?

"A. Yes.

"Q. What?

"A. We spoke about the meeting at the Haymarket.

"Q. What did he say about it?

"A. *If the workingmen had the advantage of it.*

"Q. What became of Lingg after that?

"A. We went together to a meeting; there was to be a meeting at Fifth avenue, at Seaman's Hall."

The first time he saw dynamite at his house was six weeks prior to the 4th of May; Lingg brought it; he also brought some on Friday before that Tuesday; it was in a wooden box of considerable size, about three feet in length and sixteen to eighteen inches in height; it contained dynamite; there was a tin box inside of it. The dynamite with which the bombs were filled were in Lingg's room in a large wooden box which he brought on the Friday previous. They handled the dynamite with their hands and a flat piece of wood. Lingg made the piece of wood for convenience in filling. Witness identified the pan in which the shells were cast (a photograph of which appears in the record as People's Exhibit, 132).

"Q. Did you ever have any conversation with Lingg as to the number of bombs he had made?

"A. Yes.

"Q. How many did he say he had made?

"A. He said he might have made eighty to one hundred.

"Q. When you went and bought bolts how did the ones you got compare with this one (referring to bolt about two and one-half inches long)?

"A. They were something like that; he had several kinds, but such as that he gave me along as a pattern after which to get the others."

On cross-examination he testified that he and Lingg returned home the first time after their excursion about 11 o'clock; that they were within five or six minutes' walk of the house when Lingg first told him about the notice that was in the paper; that that was his first knowledge of the notice in the letter-box containing the word 'Ruhe.'

"Q. Did Lingg say a word about going to the Haymarket square that night until after he got home the first time at 11 o'clock?

"A. Yes, he wanted to know how it looked over there—how matters stood over there.

"(Question read.) A. Yes, he would like to know whether there was to be a meeting over on the west side, of the armed men.

"Q. Did he say a word about going to the Haymarket square until he got home at 11 o'clock?

"A. *Yes; he wanted to know how matters stood over there on the west side. He would like to look in the paper, and asked me whether I had read the paper.*

"Q. Up to the time that you got home at 11 o'clock, did Lingg say anything about himself going to the Haymarket square? Not about what he would like; not about what the newspaper said; but did he say anything about his own intention of himself going to the Haymarket before 11 o'clock?

"A. *No; not directly about his own going to the Haymarket; but he expressed himself that he would like to know about the matter—how matters were.*

"Q. After 11 o'clock he called your attention to this notice in the paper, did he, containing the word 'Ruhe'?

"A. Yes.

"Q. When was it that Lingg said that he wondered what was going on at the Haymarket, or would like to know what was going on—*was it about the time that you got back home?*

"A. *He wanted to know how it stood at the Haymarket previously to that time.*

"Q. How long previous to your going home?

"A. *It may have been eight minutes, or may be twenty minutes. He wanted to know at various times how matters stood over there.*

"Q. After you got home at 11 o'clock Lingg called your attention to this notice in the Arbeiter Zeitung, didn't he?

"A. Yes.

"Q. Told you that under the 'letter-box' the word 'Ruhe' meant the armed section should meet at 54 West Lake street?

"A. Yes, he said that a meeting had taken place there and that evening everything was to be in confusion.

"Q. Didn't Mr. Lingg tell you that the word 'Ruhe' under the 'letter-box' meant that the armed sections were to meet at 54 West Lake street?

"A. *He said that a meeting had already taken place at that place, and that he wanted to go over and see what had happened.*

* * * * * * *

"Q. When was it you first learned that there was to be a meeting at the Haymarket?

"A. When I was about to go the Carpenters' Union meeting.

"Q. What day of the month was that?

"A. The 3d.

"Q. You say that you knew on the 3d there was going to be a meeting on the night of the 4th?

"A. Yes.

"Q. But you did not go to that Haymarket meeting?

"A. No.

"Q. You went around in North Chicago with bombs in your pocket, did you?

" A. Yes, with several together.

" Q. Then after you went home at 11 o'clock you were persuaded to go down to 54 West Lake street with Lingg, were you?

" A. Well, generally to the west side; not to 54 West Lake street, but he said to the west side, to see what happened there.

" Q. Don't you know that after 11 o'clock the night of the 4th that you and Louis Lingg started to go to Greif's Hall?

" A. We only wanted to go to the west side.

" Q. Nothing was said of Greif's Hall?

" A. Yes, that also. We would surely have gone to Greif's Hall if we had gone over the west side.

" Q. Was anything said about the Haymarket—about going to the Haymarket?

" A. Yes, he said he would like to know what had happened there at the Haymarket.

" Q. Was anything said about the Haymarket?

" A. No, only to the west side.

" Q. When you spoke about going to the west side, you and Lingg, did you understand that you meant Zepf's Hall or Greif's Hall or Florus' Hall?

" A. One of those halls was certainly meant; for there is no other place.

" Q. So, then, you did not talk and you did not understand that you were going to the Haymarket, did you?

" A. No; only to know what was taking place there.

* * * * * *

" Q. Lingg didn't have a light that night, did he?

" A. No; I believe not.

" Q. Did he have any matches?

" A. That I don't know.

" Q. Don't you know that when the patrol wagon went by, that he applied to you for a light?

" A. Yes.

" Q. You saw him have no light that night, did you?

" A. No.

* * * * * *

" Q. Did you go any nearer the Haymarket than 58 Clybourn avenue?

" A. No; I was not closer.

"Q. Then you mean that it would take you, walking at an ordinary rate, three-quarters of an hour to go from where you were to the nearest point to the Haymarket?

"A. Yes, I think it is about that far—fully three-quarters of an hour's walk.

* * * * * *

"Q. At the time you were making these bombs in the afternoon at your house, did you talk on general subject in regard to the labor trouble among yourselves?

"A. Yes; we talked about that.

"Q. Who did you talk with on that occasion about that?

"A. I spoke with several about that.

"Q. Who were they?

"A. *Lingg said that the bombs had to be finished that evening; that it was good fodder for capitalists and police.*

* * * * * *

"Q. Did you see anybody take any bombs from your house except you and Lingg?

"A. No, I did not see it directly, but I believe that several took some along.

"Q. Did you see the men who helped you make the bombs up at Clybourn avenue?

"A. Yes.

"Q. Did you see them all there?

"A. No.

"Q. How many did you see there?

"A. I can remember two.

"Q. How many were making bombs at your house that afternoon?

"A. *That I cannot state precisely. I believe four or five or six.*

"Q. Before the afternoon of the 4th of May did you see Lingg have any bombs at your house?

"A. Yes.

"Q. How many?

"A. I cannot say.

"Q. He brought one there in the first place and showed it to you, didn't he?

"A. Yes; he showed me some pipes at one time and also some shells.

" Q. Did he at that time say they were good food for capitalists and police?

" A. Yes; every workingman ought to have them.

" Q. Did he say when he brought this first bomb where and when he expected to use it?

" A. Yes; they were applied on occasions of strikes and where there were meetings of workingmen and were disturbed by the police.

" Q. Was it Engel or was it Lingg that told you that the bombs were *good food for capitalists and police?*

" A. *Both of them said so.*

" Q. When was it that you agreed to go to Clybourn avenue the night of the 4th?

" A. When the bombs were done.

" Q. Was that the first talk about where you should go that night after the bombs were done?

" A. No; it had been mentioned before.

" Q. When was it first mentioned that you should go to Clybourn avenue?

" A. When the bombs were done that afternoon.

" Q. Did you all agree to go to Clybourn avenue that night?

" A. No; that I cannot say; I do not know.

" Q. Did you agree to go anywhere else besides Clybourn avenue that night?

" A. No, it was said that the bombs were to be taken to Clybourn avenue that evening.

" Q. Was it agreed that the bombs were to be taken anywhere else than Clybourn avenue?

" A. No; I don't believe so.

" Then you were not making bombs to be taken anywhere else than Clybourn avenue?

" A. Yes, they were to be for use on that evening, not just for use at Clybourn avenue.

" Q. They were to be taken to Clybourn avenue first and from there to be taken away?

" A. Yes, when they were taken to Clybourn avenue I don't know whether they were to remain there or were to be taken to further places. * * *

" Q. Then it was not agreed that any of the bombs manufactured on the afternoon of the 4th of May should be taken to the Haymarket, was it?

"A. No; I didn't hear anything of that.

"Q. Then you were not making bombs to take to the Haymarket and destroy police?

"A. No; they were made for use on that evening.

"Q. Do you know of the manufacture of any bombs that day or any other day, to be used at the Haymarket meeting on the night of the 4th of May?

"A. Yes; I do.

"Q. You say you know where bombs were made which were to be taken to the Haymarket?

"A. Before the 4th of May?

"Q. To be used the night of the 4th of May?

"A. No; I don't know as to that.

"Q. Then I repeat; you don't know of the making of any bombs which were to be used the night of the 4th of May at the Haymarket, do you?

"A. They were made everywhere, to be used against capital and police.

"Q. Do you know of the manufacture of a single bomb by any person at any place to be used at the Haymarket meeting on the night of the 4th of May?

"A. No; I cannot say that one single one was made for that purpose.

"Q. Do you know who had a bomb at the Haymarket on the night of the 4th of May?

"A. No; I cannot say.

"Q. Do you know anybody who was expected to be at the Haymarket?

"A. No.

"Q. You knew of no person, then, that you expected would go to the Haymarket meeting, or said that they were going to the Haymarket meeting, did you, on the night of the 4th of May?

"A. I don't know of a certain person that was to be there.

"Q. Then it was not agreed by you and the other men that made those bombs that any of you should go to the Haymarket meeting, was it?

"A. O, yes; there was plenty said about it.

"Q. Was there any one that said they were going to the Haymarket meeting—any of the crowd that helped to make the bombs?

"A. No, of that I did not hear.

"Q. Did you ever help to manufacture any other bombs except what you made at your own house?

"A. No.

"Q. Did you ever see any other bombs being manufactured except what you made at your own house?

"A. No.

"Q. Then you know nothing of the manufacture of any bombs anywhere to be taken to the Haymarket meeting on the night of the 4th of May?

"A. There had some been made which were for no other purpose but for that use."

(Answer ordered stricken out.)

BERTHA SELIGER, wife of William Seliger, testified (I, 572) that on Tuesday, the 4th of May, there were six or eight or perhaps more men at her house; among them were Huebner, Heumann, Thielen, Lingg and her husband, with others she did not know; they were there until evening, perhaps past 7 o'clock; *they were always going and coming; some went and some came;* mostly in the afternoon; they were in the front room and in Lingg's room, working at bombs.

"Q. In what room were you?

"A. I was in the kitchen, and when supper was ready I went into the bedroom. I was so mad I could have thrown them all out.

"Q. Are you a socialist yourself?

"A. No; they always fooled me."

Lingg frequently made bombs; she had seen him cast; saw him melt lead on the kitchen stove; twice Heumann was with him, once her husband and Thielen, and frequently he worked by himself; he said to her, "Don't "act so foolishly; you might do something, too." * * *

"Q. Where was Lingg on Monday, the day before the bomb was thrown?

"A. He was away; I don't know where. In the morning some young fellows came and had their names put on the list of the union, and then he was writing pretty much all day."

On Wednesday, the day after the Haymarket meeting, she saw Lingg at the house in the forenoon. "I heard "some knocking and I went in, and I said to him, 'Mr. "Lingg, what are you doing there? I will not suffer "that'; and he was tearing everything loose below; and "he sent that man Lehmann after wall paper, and he "wanted to cover up everything afterward—nail up "everything afterward; I said, 'Mr. Lingg, what are you "doing there? I will not suffer such foolishness'; he had "the wall paper already there and he said to me, 'I sup- "pose you are crazy; you ought to have said before that "you would not suffer that; then I will have to look for "a place where I am allowed to do that.'"

* * * * *

"Q. Where was it that he was tearing up things?

"A. That was all along about in the closet; he had loosened the boards and taken out the mortar.

"Q. The base-boards—the boards at the bottom?

"A. Yes, the base-boards all around; he said that if he needed something he could not first go to the west side to get it."

Lingg had a trunk which he kept in his bedroom. The witness then identified the ladle (a photograph of which appears as People's Exhibit 132) saying, "He was "always casting with that."

"Q. Lingg had some wall paper, didn't he, when he was making the noise and taking off the boards?

"A. Yes.

"Q. He brought some wall paper from down-town and bought it himself, didn't he?

"A. No; there was a young man with him, the son

of Lehmann, who got the wall paper for him and the starch.

"Q. Didn't Mr. Lingg say this, that the boards were whitewashed and that it got all over his clothes in the closet, and that he took that off for the purpose of putting on wall paper so that he could keep his clothes clean?

"A. I said to him: 'I will not suffer that. What will the landlord say when he comes?' There had never been paper there, and he answered: 'Well, then I will say to him that I will not dirty my clothes.'

"Q. How high from the floor were these boards that he took off?

"A. About that high (a foot high.)

"Q. How high was the closet?

"A. That I don't know.

"Q. As high as the ceiling, wasn't it?

"A. No; it did not reach up that far.

"Q. The wall was white and would rub off on his clothes, wouldn't they?

"A. He did do that only on purpose, because he intended to put those things in the wall.

"Q. Did you see him put anything in the wall?

"A. No; there was nothing in at that time. I stopped him at that juncture.

"Q. You don't like Mr. Lingg very well, do you?

"A. No, because he always had wrong things in his head."

GUSTAV LEHMANN testified (J, 198) that on Tuesday, May 4th, he worked until 3 o'clock; that when he quit work he wanted to go home, but met a countryman of his named Schmidecke, who wanted to go to Lingg's; they arrived at Lingg's about 5 o'clock; Lingg and Seliger, and one whose name he did not know and Huebner were there; they staid at Lingg's perhaps ten minutes; the persons there were busy in the bedroom; what they were doing he did not understand; they had a cloth tied around their face; this countryman wanted to buy a revolver; he went home with the countryman; aft-

erward he returned to Lingg's at perhaps 7 o'clock, and staid about ten minutes.

"Q. What did you see there?

"A. *It was the same thing as at my first visit; they were busy in the bedroom and Huebner was working at some strings, cutting it off into pieces.*

"Q. What kind of string?

"A. A fuse.

"Q. What else did you see?

"A. I did not go into the bedroom, but these fuse and caps they were making outside in the front room.

"Q. Did Lingg give you anything that afternoon?

"A. Yes.

"Q. What did he give you?

"A. A small hand satchel with a box in it, and three bombs and two coils of fuse and some caps.

"Q. Look at the tin box which I now show you. Is that the can which he gave you?

"A. Yes.

"Q. What did he give you besides this box?

"A. Everything was contained in the sachel.

"Q. By sachel do you mean this tin box?

"A. No; it is a hand trunk; a small trunk carried in the hand, covered with leather.

"Q. Look at the box of caps which I now show you. Did he give you anything like that?

"A. I found that afterwards in the sachel.

"Q. Was there anything in the tin box?

"A. It was said that dynamite was in it.

"Q. How much of the material—whatever it was—was there in the box?

"A. Well, the can was nearly full.

"Q. What kind of bombs did he give you?

"A. Three round bombs.

"Q. Did you have any kind except the round ones?

"A. No.

"Q. What did Lingg say to you when he gave you those things?

"A. He wanted me to keep them; he desired me to keep them in a manner that no one could find them.

"Q. What did you do with that?

"A. I took it home with me to the wood-shed. I got up at 3 o'clock that night and carried them away to the prairie.

"Q. After you ate supper on Tuesday night where did you go?

"A. Was about to go to Uhlich's Hall.

"Q. Did you go to Uhlich's Hall?

"A. Yes, but no carpenters' meeting was taking place.

"Q. Then where did you go?

"A. I was about to go home, but we went to Thoeringer Hall and took some beer—58 Clybourn avenue.

"Q. Is that Neff's Hall?

"A. Yes.

"Q. Did you have any talk with Lingg about going there, and if so, what?

"A. The evening before as we were going home from the meeting on the west side, at 54 West Lake street, he told us that if we wanted to know something that we should come to the hall at 58 Clybourn avenue.

"Q. Is that the reason why you went to Neff's Hall?

"A. Yes.

"Q. Who went with you to Neff's Hall?

"A. My countryman was with me.

"Q. What is his name?

"A. Schmidecke.

"Q. How long did you stay at Neff's Hall?

"A. Not very long—perhaps ten minutes.

"Q. About what time did you get there?

"A. About half past 9."

He saw no one but the bar-keeper, and they left the place and went up Clybourn avenue to Larrabee street; they met Seliger and Lingg standing on the sidewalk on Larrabee street near Clybourn avenue. "*We also stood* "*still there with them, but one remarked that we should* "*not keep together, we four, and then we went apart.* "* * * I don't know whether it was Seliger or "Lingg who said that.

" Q. Did you see Thielen that night?
" A. Yes; near North avenue we met Thielen.
" Q. What was he doing?
" (Objected to; objection sustained.)"

Witness got home that night about 11 o'clock and went to bed; at half past 2 or 3 o'clock he got up out of bed and took the dynamite away, took it behind Ogden's Grove, on the prairie; afterwards, on the 19th or 20th of May, he went there with Officer Hoffmann, where they got the bombs, dynamite, fuse and caps.

Moritz Neff, the keeper of the place at 58 Clybourne avenue, testified (J, 262) that on Tuesday night Lingg, Seliger and a man named Muensenberger came to his saloon about half-past 8; Muensenberger carried a common bag about a foot and a half long and six inches wide; he first put it upon the counter in the saloon and then upon the floor; Lingg asked if any one had been inquiring for him previously; that was about ten or fifteen minutes after 8; Muensenberger picked up the bag and went out of the side door, followed by Lingg and Seliger; among those present at the saloon that night were Huebner and the Lehmanns; Lingg and Seliger returned to the saloon about 11 o'clock; several others came in just previously, who, it appeared from their conversation, had been at the Haymarket, and among them was Jake Salig, the cigar-maker, the Hermanns, the two Lehmanns, the two Hagemanns and Hirschberger; about that time he heard of the bomb having been thrown at the Haymarket; the parties were conversing about it; he heard some one say in a loud voice: " That is your fault," but did not hear any response.

From the foregoing evidence it appears that at the Greif's Hall meeting Fischer proposed the use of the word "Ruhe" as a signal which was to be published in the letter-box of the Arbeiter Zeitung, the publication of which in that paper was to signify that the revolution had begun, as it "should only be inserted in the newspaper if "a downright revolution had occurred." Lingg, whom counsel for the defendants claim was not present at the Greif's Hall meeting, told Seliger, when Seliger first saw the word in the Arbeiter Zeitung, that *its meaning was that everything should go upside down—topsy-turvy.* The publication of this word was entrusted to the committee of which Kremer was a member, *and, what is of vast significance in this case, the same committee which was to have charge of the Haymarket meeting.* This committee was to "observe the movement not only on the Hay-"market square, but in the different parts of the city, and "if a conflict should happen, then they should report to "us. * * * If it happened in the day-time then they "should cause the publication of the word 'Ruhe.' At "that meeting Schnaubelt proposed that 'our members "in other places' should be informed of the resolution "then adopted, so that the 'revolution should commence "in other places,' and it was expected 'that there should "be a gathering of about twenty-five thousand people at "the Haymarket.'"

RUHE

appeared in the letter-box of the Arbeiter Zeitung on Tuesday, May 4th. The original copy from which the word was set up was introduced in evidence in the case, and is in the handwriting of the defendant, August Spies (I, 446), emphasized by being heavily underscored and marked as follows (People's Exhibit, 10):

Briefkasten.

—Ruhe!

The sinster significance of this word " Ruhe " appears from the testimony of Spies himself. He said (N, 63) that he had received through the mail a request to publish it in prominent letters in the " briefkasten " of the Arbeiter Zeitung; that he wrote out the word, sent it up to the compositors' room, and that about a little after 3 o'clock one of the employes of the Arbeiter Zeitung, Balthazar Rau, whose name frequently appears in the evidence in this case, asked him if the word was in the Arbeiter Zeitung; upon being told that it was, he asked if he, Spies, knew what it meant. " I told him I " did not. He said the armed sections held a meeting " last night, and they have resolved to put in that word; " that it means as much as the armed section should keep " themselves in readiness; prepare themselves, that in " case the police should precipitate a riot that they " should come to the assistance of the attacked. I asked " him where he heard it; he said it was a rumor, and I " sent up for Fischer, who had invited me to speak at " that meeting in the evening, and Fischer came down, " and I asked him in regard to it; he said, 'Oh, it was " just a harmless signal!' I asked him if it had any ref- " erence to the meeting on the Haymarket; he said none " whatever; he said then it was merely a signal for the " boys; for those who were armed, to keep *their powder* " *dry in case they might be called upon in the next day to* " *fight*. I told Rau it was a very foolish thing; that it is " all nonsense, and should be stopped, or at least I did " not think there was much rational sense in that, and

" asked him if he knew how that could be undone—how " it could be managed so it would be stopped; he said " he knew some persons who had something to say in " the armed organizations, and I told him to go and tell " them that the word was put in by mistake, and he did."

Rau was not called by the defense to corroborate this statement.

The same day Fischer wrote and had printed (K, 316) the following circular (which was circulated to some extent), calling the Haymarket meeting, a portion of which is in English and a portion of which is in German, both being the same:

Upon his arrest Fischer at first denied that he knew anything about it, but later admitted that he got it up. (I, 354.)

ATTENTION, WORKINGMEN !

GREAT

MASS-MEETING

TO-NIGHT, AT 7:30 O'CLOCK,

AT THE

HAYMARKET, Randolph St., bet. Desplaines and Halsted.

Good speakers will be present to denounce the latest atrocious act of the police, the shooting of our fellow-workmen yesterday afternoon.

Workingmen, Arm Yourselves and Appear in Full Force!

THE EXECUTIVE COMMITTEE.

After a number of copies of this circular had been printed, the words, "Workingmen, arm yourselves and "appear in full force," were stricken out, and a large number of the circulars, identical with the one above described, except for the omission of those words, were printed and extensively circulated. Spies accounts for the striking out of those words from the circular by saying he told Fischer that he would not appear at the meeting if the circular with those words in it were distributed; his reason for having them struck out appears from his evidence. (N, 97). "Because I thought it was "ridiculous to put a phrase like that in a circular; it "would prevent people from attending the meeting in the "first place; and in the second place, I don't think it was "a proper thing to do. One of the reasons I have already "stated; another reason is that there was at the time "some excitement, at least, even though it was not very "great, and a call for arms like that might not have been "just the thing at the time; it might have caused trouble "between the police and the attendants at that meeting.

"Q. You wanted it stricken out so that it would prevent trouble between the police at that meeting, that was one of the reasons?

"A. I did not anticipate anything of the kind, but I thought it was not the proper thing to do. *The main reason—the principal reason I had was that it would imply keep people away from the Haymarket.*"

That his real and only reason for wanting it stricken out was because its insertion would prevent people from attending the Haymarket meeting, there can be no question, when we consider that less than twenty-four hours before he himself had written and had had printed and circulated with the greatest dispatch the "Revenge" circular, which was issued and circulated for the express

and only reason of inciting the laboring classes to arm and revenge themselves.

On Tuesday night, May 4th, there was a meeting of the American group held at the office of the Arbeiter Zeitung. At that meeting there were present, of the defendants, Parsons, Fielden and Schwab, and a number of other persons. The notice for the meeting was published by Parsons. It is the only meeting, so far as the record shows, of that group ever held at that place.

VI.

THE HAYMARKET MEETING.

The Haymarket meeting was called for 7:30 o'clock in the evening. The police did not appear until after 10 o'clock. Instead of twenty-five thousand workingmen appearing, as was expected, there were at no time more than one thousand or two thousand present. During the early part of the meeting those who were present wandered aimlessly about or gathered in small groups at different places on the square. Among those present during the early part of the evening was the defendant Engel, who was in company with Fischer. A few minutes after 9 o'clock August Spies called the meeting to order, not on the Haymarket, but on Desplaines street, a short distance north of Randolph street, just opposite an alley described in the evidence as Crane's alley. The speakers stood upon a wagon at the edge of the sidewalk on the east side of Desplaines street, to the north of which, a few feet distant, was another wagon upon which were a number of people, and among whom was Mrs. Parsons and several others.

The crowd in the immediate vicinity of the wagon was composed of socialists who displayed their enthusiasm from time to time. The outer edge of the crowd was composed of persons, many of whom were not in sympathy with the speakers, the whole numbering from five hundred to a thousand people.

Spies spoke first, followed by Parsons, and he by Fielden. While Fielden was speaking, and a few minutes before the police appeared, a dark cloud, threatening rain, came up. At that time a portion of those present left, some of whom, chiefly anarchists, went to Zepf's Hall, at the north-east corner of Lake and Desplaines streets, about half a block distant from the speakers' wagon.

During the whole of the evening there was scattered through the crowd and moving from point to point several reporters and a number of detectives dressed in citizens' clothes.

(A.) THE SPEECHES.

PAUL C. HULL (K, 119), a reporter who was present at the meeting, describes the speeches as he recollected them, as follows:

"Mr. Spies told his version of the McCormick riots, which, as I remember, was, that he had been charged, he said, with being responsible for the riot and for the death of these men. He said—I believe he said that Mr. McCormick charged him with it, or else somebody had said that McCormick had charged him with it. He said Mr. McCormick was a liar; that he (McCormick) was responsible for the death of our brothers, the six men which he claimed was killed at that riot; that he had addressed a meeting on the prairie, a meeting of his countrymen, I believe, he characterized them; and when the bell of the

factory rang, or at some point in the afternoon, a body of the meeting which he was addressing detached themselves and went towards the factory, and that there the riot occurred. That was in explanation of his connection with it. He then touched upon the dominating question of labor and capital, and their relations very briefly, and asked what meant this array of Gatling guns, infantry ready to arm, patrol wagons and policemen. And my recollection is that he drew the deduction from that, that it was the government or the capitalists preparing to crush them, should they try to right their wrongs.

" Q. Did he say anything in that speech about the means to be employed against that capitalistic force?

" A. I don't remember that he did on that occasion; no, sir.

" Q. Tell us as near as you can what Parsons said?

" A. He dealt considerably in labor statistics in the first part of his speech. He followed the making of a dollar—not the minting of it—but the earning of it. I believe he drew the conclusion that the capitalists got eighty-five cents out of the dollar, and the laboring man fifteen cents. He said that this uprising of the workingmen, this eight-hour agitation, and the agitation of the social question, was a still hunt of the workingmen after this other eighty-five cents. He also dealt with the social question, the question of socialism, of capital and labor, and he advised the using of violent means by the workingmen to right their wrongs; that law and government was the tool of the wealthy to oppress the poor; that the ballot was no way in which to right their wrongs; that by physical force was the only way in which they could right their wrongs. That was the tenor of his speech.

" Q. What was the manner of the crowd on the reception or receiving of the speeches?

" A. That portion of the crowd around the speakers' wagon was turbulent and noisy, as regards breaking in on the speakers with exclamations of 'Hang him,' when McCormick's name, for instance, was mentioned, or 'Throw him into the lake,' 'Hang him to a lamp-post'—some such remark would be made when any prominent Chicago capitalist's name would be used.

WHITING ALLEN (K, 146), a reporter, was present at the meeting. He heard Parsons. About the only thing that I could quote exact was that at one time he said: "What good are these strikes "going to do? Do you think that anything will "be accomplished by them? Do you think the working-"men are going to gain their point? No, no, they will "not. The result of them will be that you will have to go "back to work for less money than you are getting." That is his language, in effect. * * At one time he mentioned the name of Jay Gould; there were cries from the crowd: "Hang Jay Gould; throw him into the lake," and so on. He said: "No, no, that would not do any "good. If you would hang Jay Gould now, there would "be another, and perhaps a hundred, up to-morrow. It "don't do any good to hang one man. You have to kill "them all, or get rid of them all." Then he went on to say that it was not the individual always, but the system; that the government should be destroyed. It was the wrong government, and these people who supported it had to be destroyed *en masse*.

"Q. Did you hear Parsons in his speech say anything about 'to arms?'

"A. I heard that cry, and I cannot tell just in what connection.

"Q. From whom?

"A. Parsons.

"Q. What was the temper of that crowd?

"A. It was extremely turbulent, especially after that speech he made about the workingmen not gaining anything by the strike. * * The crowd seemed to me to be thoroughly in sympathy with the speaker, and applauded almost every utterance.

CHARLES R. TUTTLE (K, 158), a reporter, who was present at the meeting, says:

"I should say the crowd was made up of two classes of persons, and the majority of them were opposed to the sentiments of the speaker, and a minority of those present were a good deal more enthusiastic than the speaker himself.

"Q. Where was this crowd that was enthusiastic; near the wagon, or around it?

"A. Forming a semicircle around the speaker's wagon on the south-west, and some were on the north of the wagon."

Says that portion of Parsons' speech created a great deal of excitement and many responses from the audience. He says:

"The same parties who had spoken when he referred to Gould, I think the same, one of them any way, because I had my eye on him for two or three minutes, two minutes, I should say. I think I could describe the men, and would know if I saw him—he stuck up his hand like that (illustrating), with a revolver in it and said: 'We will shoot the devils,' or some such expression. And I saw two others sticking up their hands near to him, who made similar expressions, and had what I took to be at that time revolvers; but this one man I speak of, I took particular notice of him, and remember his appearance and saw his revolver very plainly in his right hand; and he grasped it about the center of the weapon and stuck it up in front of the speaker."

The witness did not know whether the persons with the revolvers attracted the attention of Parsons or not.

EDWARD COSGROVE (K, 166), a detective, who was present at the meeting, describes the speeches about as they were described by the other witnesses; says that the enthusiastic portion of the crowd was close to the wagon, and that that portion cheered enthusiastically. He says

that Parsons talked of the police and capitalists and militia and Pinkertons. He said he was down in the Hocking Valley region, and said they were only getting 24 cents a day, and that was less than Chinamen, and he said: "My friends, you will be worse than Chinamen, if "you don't arm yourselves," and he said they would be held responsible for the blood that would flow in the near future.

TIMOTHY MCKEOUGH (K, 174), a detective, describes the speeches as being of the same general effect as the other witnesses. Says that Parsons said: "I am "a socialist from the top of my head to the soles of my "feet. I will express my sentiments if I die before "morning." He said that very strongly, and made a great commotion. That seemed to kind of catch the crowd in the neighborhood of the wagon again, and they let out a great cheer. He also says that when Fielden advised them to kill the law, to stab it, throttle it or it will throttle you, the crowd around the neighborhood of the wagon became greatly excited, whereupon he (witness) went over to the station and reported to Inspector Bonfield.

EDGAR E. OWEN (K, 200), a reporter for the Times, who was at the meeting, describes the speeches about as the other witnesses, and says that the crowd just about the wagon cheered wildly.

G. P. ENGLISH (K, 273) testified that he was a shorthand reporter for the Tribune; that he attended the Haymarket meeting; saw Mayor Harrison there and interviewed him; then went over to where the meeting was called to order; he was present when Spies called the

meeting to order; that he stood fifteen or twenty feet from the wagon, taking short-hand notes. He was standing up; had his note-book in his overcoat pocket and a short pencil. "This is Spies: 'Mr. Parsons and Mr. Fielden will "be here in a very short time to address you. I will say, "however, first, this meeting was called for the purpose "of discussing the general situation of the eight-hour "strike and the events which have taken place during the "last forty-eight hours; it seems to have been the opinion "of the authorities that this meeting has been called for "the purpose of raising a little row and disturbance; "this, however, was not the intention of the committee "that called the meeting. The committee that called the "meeting wanted to tell you certain facts, of which you "are probably aware.

"The capitalistic press has been misleading, misrep-"resenting, the cause of labor for the last two weeks, "so much so"—then there is something that is unintelligible, that I can't read at all, some of it went off on the side of my pocket. I did not have much room in my coat pocket. The next is: "Whenever strikes have taken place, whenever people "have been driven to violence by the oppression of their"—then there is something that is unintelligible, and the next I have is, "then the police"—then there is three or four words of that that is unintelligible, then there were cheers; "but I want to tell you, gentlemen, that these acts of vio-"lence are the natural outcome of the degradation and "the oppression of which working people are subjected. "I was addressing a meeting of ten thousand wage "slaves yesterday afternoon, in the neighborhood of "McCormick's; they didn't want me to speak. The most "of them were good church-going people; they didn't

" want me to speak because I was a socialist; they wanted " to tear me down from the cars, but I spoke to them " and told them they must stick together." Then there is some more that is unintelligible. The next I have, " and he would have to submit to them if they would " stick together." The next I have is, " they were not " anarchists, but good, church-going people." Then the next, " the capitalistic press," what he said I can't make out. " They were good Christians." Then the patrol wagon came, and blood was shed. Then a boy, or some one in the crowd, said, " shame on them," and the next thing said is, " throwing stones at the factory, most " harmless sport." Then some one in the crowd —then Spies said, " what did the police do?" and some one in the crowd said, " murder them;" then he went on: " They only came to the meeting " there as if attending church." Then there is some more that is unintelligible. The next I have is, " Such things " tell you of the agitation." Then there is something more that is unintelligible. The next I have is, " Couldn't " help themselves any more. It was then when they re- " sorted to violence." The next I have " before you " starve '—no connection whatever, and the next, " This " fight that is going on now is simply a struggle for " the existence of the oppressed classes." That is the last that I can get out at this time; my pocket was full of paper; it was all rumpled up, and I thought that I had got to the end of this note-book—that is, as my pocket got fuller and fuller of paper, my notes got more unintelligible because I didn't have room enough to move my hand in, and the notes were away up here (showing), and I evidently made some in my pocket. Then I moved around and the meeting seemed to be orderly,

and I took another position in the face of the speaker, and I took out my paper and reported openly during the rest of the meeting until I saw the police coming, and then I went on the sidewalk.

The witness then said that he had read all the original notes which he had left. The rest of his testimony was based upon the account which he had written for the the paper and which was published in that. The account in the paper did not contain the whole of the speeches verbatim, but it contained the incendiary portions with enough of the remainder to show the connection.

"It is said that I inspired the attack on McCormick's. That is a lie. The fight is going on; now is the chance to strike for the existence of the oppressed classes. The oppressors want us to be content; they will kill us. The thought of liberty which inspired your sires to fight for their freedom ought to animate you to-day. The day is not far distant when we will resort to hanging these men. (Applause, and cries of 'hang them now!') McCormick is the man who created the row Monday, and he must be held responsible for the murder of our brothers. (Cries of 'hang him.') Don't make any threats; they are of no avail; whenever you get ready to do something, do it and don't make any threats beforehand. There are in the city to-day between forty and fifty thousand men locked out because they refuse to obey the supreme will or dictation of a small number of men. The families of 25,000 or 30,000 men are starving because their husbands and fathers are not men enough to withstand and resist the dictation of a few thieves on a grand scale to put out of the power of a few men to say whether they should work or not. Would they place their lives, their happiness, everything out of the arbitrary power of a few rascals? * * * To say whether you shall work or not, you place your lives, your happiness, everything out of the arbitrary power of a few rascals who have been raised in idleness and luxury upon the fruits of your labor. Will

you stand that? (Cries of 'no.') The press say we are Bohemians, Poles, Russians, Germans; that there are no Americans among us. That is a lie. Every honest American is with us. Those who are not are unworthy of their traditions and their forefathers.

"Q. That is all that you have got of Spies' beside that which you have read?

"A. That is all of Spies.

"Q. Did you have more of Spies that wasn't written out?

"A. Yes, sir, I think I did; Spies, I think, spoke fifteen or twenty minutes, and this wouldn't represent more than five or six, perhaps. That is, in actual talking.

"Well, now here is an abstract of Parsons, and I can't give the exact language when he first started off. It was about the workingmen, that the remedy for their wrongs was in socialism.

"Q. Well, now tell us what you have got exact?

"A. He said, without them they would soon become Chinamen. He said, 'It is time to raise a note of warning. There is nothing in the eight-hour movement to excite the capitalist.

"'Don't you know that the military are under arms, and a Gatling gun is ready to mow you down? Was this Germany or Russia or Spain? (A voice, 'It looks like it.') 'Whenever you make a demand for eight hours pay, an increase of pay, the militia and the deputy sheriffs and the Pinkerton men are called out and you are shot and clubbed and murdered in the streets. I am not here for the purpose of inciting anybody, but to speak out to tell the facts as they exist, even though it shall cost me my life before morning.' Then he went on to tell about Cincinnati demonstration and about the rifle-guard being needed.

"Q. Is that all?

"A. No, sir; there is another part of it here. 'It behooves you, as you love your wife and children, if you don't want to see them perish with hunger, killed or cut down like dogs on the street, Americans, in the interest of your liberty and your independence, to arm, arm yourselves.' (Applause and cries of 'We will do it. We are

ready now.' 'You are not.' Then the rest of it is the wind-up. 'He talked for a long while about, out of every dollar the working-men got fifteen cents and the capitalists or employers got eighty-five cents. And he said he was a knight of labor socialist, and a member of the Typographical Union—oh, I don't know, he talked a long while.

"Q. Have you any more of his speeches?

"A. No more of his; no, sir.

"Q. What did you get of Fielden?

"A. Well, he said—the first I have of his written out was: 'There are premonitions of danger. All knew. The press say the anarchists will sneak away; we are not going to. If we continue to be robbed it will not be long before we will be murdered. There is no security for the working classes under the present social system. A few individuals control the means of living and holding the workingmen in a vise. Everybody does not know. Those who know it are tired of it, and know the others will get tired of it, too. They are determined to end it and will end it, and there is no power in the land that will prevent them. Congressman Foran said: "The laborer can get nothing from legislation." He also said that the laborers can get some relief from their present condition when the rich man knew it was unsafe for him to live in a community where there were dissatisfied workingmen, for they would solve the labor problem. '*I don't know whether you are democrats or republicans, but whichever you are, you worship at the shrine of rebels. John Brown, Jefferson, Washington, Patrick Henry and Hopkins said to the people: "The law is your enemy. We are rebels against it. The law is only framed for those thut are your enslavers.*" (*A voice: 'That is true.'*) *Men in their blind rage attacked McCormick's factory and were shot down by the law in cold blood in the city of Chicago, in the protection of property.* Those men were going to do some damage to a certain person's interest, who was a large property-owner, therefore the law came to his defense. And when McCormick undertook to do some injury to the interest of those who had no property, the law also came to his defense and not to the workingman's defense when he, Mr. McCormick, attacked him and his

living.' (Cries of 'No.') 'There is the difference. The law makes no distinctions. A million men own all the property in this country. The law has no use for the other fifty-four million.' (A voice, 'Right enough.') '*You have nothing more to do with the law except to lay hands on it and throttle it until it makes its last kick. It turns your brothers out on the wayside and has degraded them until they have lost the last vestige of humanity, and they are mere things and animals. Keep your eye upon it. Throttle it. Kill it. Stab it. Do everything you can to wound it—to impede its progress. Remember, before trusting them to do anything for yourself, prepare to do it for yourself. Don't turn over your business to anybody else. No man deserves anything unless he is man enough to make an effort to lift himself from oppression.*' Then there was an interruption on account of the storm.

"Q. Anything said at that time?

"A. Yes, sir; Mrs. Parsons suggested that they adjourn over to Zepf's Hall.

"Q. Did Fielden say anything?

"A. Fielden said: 'No, the people were trying to get information, and he would go on, he would finish what there was then. Is it not a fact that we have no choice as to our existence, for we can't dictate what our labor is worth? He that has to obey the will of any is a slave. *Can we do anything except by the strong arm of resistance? Socialists are not going to declare war; but I tell you war has been declared upon us, and I ask you to get hold of anything that will help to resist the onslaught of the enemy, and the usurper. The skirmish lines have met. People have been shot. Men, women and children have not been spared by the capitalists and minions of private capital. It had no mercy, so ought you. You are called upon to defend yourselves, your lives, your future. What matters it whether you kill yourselves with work to get a little relief, or die on the battle-field resisting the enemy? What is the difference? Any animal, however loathsome, will resist when stepped upon. Are men less than snails or worms? I have some resistance in me. I know that you have, too. You have been robbed and you will be starved into a worse condition.*' That is all I have. At that time some one alongside of me asked me if the police

were not coming. I was facing this way (showing). Fielden was over there (showing), and that was down Desplaines street (showing). I looked down the street and I saw a file of police about the middle of Randolph street. As soon as I saw the police I put my paper in my pocket and ran right over on the south-west corner."

WILLIAM H. FREEMAN (K, 37), a reporter who was present at the meeting, says of Fielden's speech:

" He discussed the legislation and Congress. He spoke particularly of the action of Martin Foran. He declared that Foran had stated that no legislation could be enacted that would benefit the workingman,and from that went on to argue that it was clear that it was impossible for the workingman to obtain any sort of redress through legislation. He told them they ought not to be fools enough to send such men as Martin Foran to Congress and legislate for them when they admitted that there was no possibility of doing anything that would redound to the benefit of the workingman. He also spoke, I think, of the revolution in this country, the original revolution which established the government, and compared the revolution proposed by the workingmen, as he styled them, to that revolution. He asserted that it was equally as proper as the original revolution. Then he spoke, I remember particularly, just before the arrival of the police, with reference to the law. He spoke of the law and of all the the acts of capital, as he styled it, I believe, and the oppressive acts of capital which injured the workingmen as being the result of the law, and urged the workingmen and his hearers to overthrow the law, to subvert it, to kill it, to stab it and to throttle it, as I remember it. Those are about the last words that I remember to have heard him speak before the arrival of the police."

(B.) THE BOMB.

When Fielden called on the crowd to kill the law, to stab it, to throttle it, or it would throttle them, and the crowd around the wagon became excited, Officer Mc-

Keough went over to the station and reported to Inspector Bonfield, and while Fielden was still speaking, the police left the Desplaines street station, which was situated on the west side of Desplaines street about half a block south of Randolph street, and marched north towards the crowd. They numbered about one hundred and eighty; they marched in four columns, extending from curb to curb across the street. A few feet in advance of the front column were Inspector Bonfield and Capt. Ward. When the front column reached Crane's alley, Fielden still speaking; they halted, and Capt. Ward ordered the crowd "in the name of the people of the State of "Illinois quietly and peaceably to disperse," whereupon Fielden replied, "We are peaceable." Just at that moment the bomb was thrown. The explosion of the bomb killed and wounded sixty-six of the officers. A nut from the bomb wounded and was afterwards taken from the body of one of the bystanders. Instantly upon the explosion of the bomb and, before the police force had an opportunity to rally, a fusilade of revolver shots was fired into the police from both sides of the street.

The effects of the bomb and its composition are of great significance. It will be remembered that Spies said to Wilkinson in his interview that *they had discovered that bombs of composite manufacture were best. The bomb exploded was of a composite manufacture.* Expert chemists who analyzed it testified that it could not have been made of any one material known to commerce, but must have been made of a composition of metals. And the evidence shows that its composition was almost identical with the composition of the bombs made by Lingg at the house of Seliger and with the composition of the Czar bomb obtained by Wilkinson from Spies. Moreover, the

evidence shows that all of the ingredients of which the bomb was composed were found in Lingg's trunk, and the nut, which was extracted from the body of the wounded bystander, was identical in appearance and size with the nuts used by Lingg in the manufacture of his bombs.

When the evidence upon this branch of the case is considered there can be no question in the mind of any reasonable man that the bomb exploded at the Haymarket was manufactured by the defendant Lingg.

That composite bombs are best is shown by the fact that this one bomb killed and wounded sixty-six officers, some of whom were covered with wounds from head to foot.

(C.) THE EFFECT OF THE BOMB.

Dr. JOHN B. MURPHY, surgeon of the Cook County Hospital, testified (K, 465), that he arrived at the Desplaines street station about 11 o'clock at night; was there until half-past 3, examined many of the wounded and injured officers, and afterwards others at the hospital.

"I went to the station. The first man I saw lying on the floor, about six feet from the door, was Officer Shannon; there was a person with him then, so I passed an- went on to another man lying a few feet from him on the floor. I looked at some of his wounds and saw they were not dangerous, and passed from one officer to and other. Think I saw ten on the first floor of that station, just inside the door; Shannon was the worst. From there I went upstairs, and Capt. Murphy, of the fire department, assisted me, helped me cut the dressings for the officers upstairs. The first one I dressed upstairs was Barrett. He was complaining most. He was cry-

ing very severely. After dressing Barrett, who I found had a very large wound in the side, large enough to admit two fingers right into his liver, and he was bleeding severely from the wound, and the blood rushed out on removing the clot. I found I could put my finger in, and felt his liver moving up and down. I could not reach the piece of shell that caused the injury. It was a lacerated wound, not made with a bullet, because it was much larger than that which could be made by a bullet, that is an ordinary pistol bullet. I tamponed the liver with gauze to prevent him bleeding to death at the station, and I went on to the next man in that way until I dressed, in all, between twenty-six and thirty at the station. After completing our work there at the station I had a conversation with Capt. Ward, in which he asked me about the hospital, and I said to have the men sent to the hospital, as they could not be taken care of so well at home. So, after, when we got through with the dressings at 3 o'clock, Dr. Lee remained at the station to take care of my patients, while I went to the hospital to take care of the portion of them that would then be sent. I told him to send us those that were injured most severely at first. Those were Officers Miller, Whitney, Keller, Barrett, Flavin and Reddin. Jake Hanson was in a separate room from the others, said he was pretty much shocked. He was pulseless at the time I first saw him, and he was given large doses of whisky, and some morphine to stimulate him sufficiently to get him to the hospital. It looked as though he would die at the station. Charles Fink, No. 154 Sangamon street, had three shell wounds in the legs. The missile which caused the wound in the calf of the leg passed in about three inches, and lay under the skin on the opposite side. It passed in from the left to the right, and lay under the skin on this side. I cut in here and opened it and put in a drainage tube. The peculiarity of the shell wounds in this case is that they make but a small opening as a as a rule on the outside, but inside they tear the soft parts terribly. In the case of a wound that would not more than admit a lead pencil on the outside, after the skin was open, you would find an opening on the inside in

which you could move your finger around very readily all through the wound. Fink had in all three wounds. The next is A. C. Keller. He was struck by a piece of shell on the left side, hitting his eighth rib. It passed directly into the eighth rib. It struck the rib, which glanced it off, and it shot under the skin six inches at an angle of twenty degrees, about six inches, and lodged just over the heart on the left side. In opening that, I first opened the skin and dressed the wound. I supposed it had entered the chest, because he was very much shocked and frightened. After opening the wound I made a test at the point it struck the rib, and found it did not enter, and then I dressed it up by making an opening in all of seven inches and a half, an incision to find where the shell was. It was important in shell wounds, different from wounds with a bullet, to get out the shell—it was very important. It is important because the shells take in large pieces of cloth and other material, and this is very dangerous because it favors blood poisoning much more than bullet wounds.

" The next is Joseph Norman, 612 Walnut street. The shell perforated the foot, and he had one fractured finger, taking off a portion of his finger between the first and second joints.

" I saw Officer Michael Sheehan, of 162 Barber street, the following morning at about 11 o'clock and examined him. He had a wound in his back just below the ninth rib. It passed in and passed forward, and the bullet lay midway between the umbilicus and the cartilage here in the abdomen. That was a bullet wound. I didn't know it was a bullet wound until I cut down and found the bullet. Then he was very much distended. His abdomen was bloody. He was collapsed and complaining of pain. On opening the wound I found it passed clear through him. I enlarged the opening and let out about two quarts of blood from the abdomen and put in a large drainage tube to allow this blood to escape from the abdomen, to go out through the drainage tube. He continued to suffer from pain, and his distension got greater and greater. He got peritonitis and died, I think, on the seventh day of peritonitis. I would say that I was at the autopsy, and found that the ball passed through the upper

portion of the kidney and through the stomach, through the bowel and out through the wall of the abdomen.

" Officer Arthur Connelly, 318 Huron street. I dressed this man at the station. He had a compound fracture of the fibula. The shell struck him about two inches below the knee, tore away a piece of bone of the fibula, and perforated the tibia, and lodged in or about the middle of the large bone of the leg, a short distance below the knee. At the operation we enlarged the opening and took out the pieces of injured bone and a piece of shell, which was left at his house. That man is now able to be around, but is quite lame. There is a hole yet down in that bone, because that takes a considerable time to fill. He had, beside this wound, which was his most severe one—he had several others—I don't know how many—all shell wounds.

" Officer Lawrence Murphy, of Desplaines street station, 317½ Fulton street, residence. He had in all, I think, fifteen wounds, all shell wounds. One was here in the neck, entering a little to the left of the trachea, and passing in, lodged in one of the muscles here, just at the base of the skull. It passed right by the carotid artery. I could see it pulsate. Then there were three or four wounds in the arms. In his left foot the shell struck right at about that point, cut the foot, the right, off here (indicating). And then, when it struck the bone of the great toe, it was slanted down and the shell lodged at the base of the great toe, just back of the base of the great toe, and left his foot hanging by a piece of skin. This piece of shell weighed about an ounce and a half. It was still there, and this is a piece of shell, which I divided and gave a part to Prof. Patton and two portions of it to Prof. Walter F. Haynes, of Rush Medical College. The foot had to be amputated about two inches further back from where the injury was. He had a piece two inches square taken out of the anterior surface of his leg. He had two perforating wounds in the left thigh and a number in the right—I have forgotten how many in the right thigh.

" Officer Ed Barrett, Lake street station, residence Ohio street. He has two shell wounds in the leg, both in the neighborhood of the knee-joint, turning out large pieces of flesh, and leaving ragged wounds on the surface.

" Officer J. H. King, of Desplaines street station, was struck by a piece of shell in the chin. It passed up and went through his upper lip. Another piece took away about an inch of his lower jaw bone—carried it completely away, so that his face is very much turned to one side, and his bone is short. He had one other slight wound besides that; it looked like a shell wound. The missile was not there.

" Officer J. H. Brady, of Desplaines street, had several flesh wounds in the legs, both in the thigh and legs. How many I don't remember; there were some pieces of shell taken out of them. Whether they were all shell wounds or not I don't know. Except in those wounds where we found the shell absolutely there, we did not call them shell wounds, because it was not positive.

" Tim Flavin was struck with a piece of shell four inches above the ankle-joint, tearing away a portion of the large bone, and fracturing the small bone, tearing all the soft parts but a few pieces of skin, and leaving his leg hanging. He had two wounds just below the shoulder-joint in the right arm, cutting the artery so that it had to be ligated. He had two wounds in the back, both of which passed into the—one into the abdomen and one into the lung, because there was a rattling in the lung at the time, which indicated that it had been injured by the shell. Those were shell wounds. He had an amputation. He had to be amputated the second day afterwards, about three inches above the knee. There was a ligation of his brachial artery and a drainage of the wounds in the back. He had, besides, large pieces torn out of his right hip. He died on the fourth day, I think—fourth or fifth. I am not positive of the day.

" Officer Jacob Hansen, Desplaines street station, residence 137 South Morgan street. I saw him first in his separate room at the station. He was very much collapsed. He had a shell wound in the right thigh about two inches and a half long, tearing the thigh open. It passed through and cut the vein. It tore that for about an equal distance, and a shell-wound fracture of the tibin of the opposite side, passing through the bone of the tibia and striking the fibula in the opposite side, that is, in the left leg, entering from the left. The wound was laid

open, the shell was removed and the vein ligated. The vessel was tied to prevent him from bleeding. The second day after, it was evident that he would lose his leg. He was told of the fact. On the third day it was black to about three inches below the knee. On the fourth day it was amputated about six inches below the hip. He had, besides that, a large wound, three inches deep, at the right hip-joint, a little above, and another one in the anterior surface of the right thigh. At the end of three weeks his blood-vessel burst, and we amputated more, had to be laid open. Again he bled very profusely. He was pulseless at the time I saw him. He was in care of an attendant, but he had lost so much blood before they could control it that more had to be laid open again and the vessel ligated. Two weeks later it burst again. It was ligated; the vessel was tied two inches higher. His pulse at that time was 180 during the operation, and artificial respiration had to be kept up to keep him alive on the table. About two weeks later he got another hemorrhage. Then he was very much exhausted, and we could not give him ether, as he was pulseless; and I had to tie the vessel in the wound and hold it with the forceps all night to keep him from bleeding, and tried to keep him alive while we gave him whisky and kept up his respirations. The following morning he was somewhat better. There was a doctor stayed by his side with me for the four days following. At the end of the fourth day I made an incision into his abdomen, and ligated his external illiac.

"Q. What is that?

"A. It is a large vessel that leads from the main trunk down. It divides into two branches, the external and internal. The external illiac is the vessel that goes into the thigh, and after it passed a certain ligament commenced to burst the ligament, which is frequently the case. These blood vessels kept bursting from time to time, so they had to be tied higher and higher until I got to the external illiac, which was ligated on the 29th of last June. Since that he has gradually improved until now he is able to sit up a little.

"Officer John Doyle, of Desplaines street station, had several wounds about the legs. How many I don't remember.

"Officer John Barrett was taken at my direction from the station to the hospital. I saw him the first patient after I arrived at the hospital—the first one that I paid attention to. He had a large hole in his liver. I removed the gauze that I put in at the station to see if I could do anything more to stop the hemorrhage, as I thought it was dangerous to leave the gauze there. I found a piece of shell in his liver, which I removed, and I tamponed the liver again. Besides that he had a compound comminuted fracture of his elbow-joint—that is, a piece of his elbow-joint was entirely torn away. The internal condile was torn away by the shell, leaving the elbow joint open. The heel bone—I have forgotten whether it was the left or right—for about two inches was carried right off, torn right off, and left a piece or flap of the skin in its place. He was semi-unconscious from the time he entered the hospital. He was constantly moaning. He became bloody on the next day, very much pulseless and collapsed, and died on the 6th.

"Officer Michael O'Brien, No. 495 5th avenue. I saw him at the station shortly after entering. He was standing up leaning against the wall. He said: 'I am shot in the leg; won't you dress me first?' Afterwards I looked at the openings, and he said himself that they were not so severe; but, on having him removed to his house and examined him there, I found that one of them passed almost entirely through his thigh. I found it a little under the skin on the opposite side. It looked like a small wound, as the majority of those shell wounds did, on the outside, but inside it made a large opening in the thigh where I could put my finger in; a shell wound.

"Officer Nicholas Shannon. I counted, in all, on him eighteen wounds. They were principally in his side and back, and a number of wounds were in his neck; none in his face; and they ranged all the way from his neck to his heels. There were two at his ankle-joint of his left foot. We had him under ether two hours and a half to take out the pieces of shell from the different parts of his body. My recollection of it is that we took out, in all, nine pieces of shell. He had eighteen wounds, and we took out nine pieces of shell. He is still confined to bed, and recently, within the last week, I assisted Dr. Lee in removing a

portion of the bone of the leg where it was broken loose with the shell—that is, of the tibia, and also a portion of the fibula.

"Mr. GRINNELL: Q. Where were those wounds?

"A. I think they were all the way from his neck to his heels.

"Q. What is his present condition?

"A. His present condition is, he is confined to bed. I think he will recover.

"Q. He had an amputation?

"A. No, sir; not an amputation. We put in a large number of drainage tubes, and he did not require an amputation. We drained every wound—eighteen drainage tubes. We took out about nine pieces of shell—I think that is my recollection of it. We counted nine pieces.

"Peter Butterly, Lake street station. There was a wound in his arm three inches long. Some one took the shell out at the station before I saw him. The other wounds were in his legs. There was one at the anterior surface of the leg, carrying away probably an inch square out of the anterior portion of his leg. There were two perforating wounds, which went almost through the leg, which had drainage tubes, and there was a large burn, in which it did not tear the flesh away, but the shell burned a large surface, probably two inches long and an inch across.

"Officer Terrell, 228 South Lincoln street. I saw him the following day, and he had a shell wound in the right thigh or leg, I have forgotten which.

"Officer Thomas Reddin. I saw him first at the station. I found out that he had a very bad fracture of the leg three inches below the knee, in which a large portion of the bone was entirely carried away. He had, besides that, several wounds below that in the leg, and in the opposite leg, in the other leg, in his right leg, and a compound wound, that is, a wound opening the joint of the right elbow. He was taken to the hospital. He was put on the table and examined, and it was concluded to try and save his leg, although a large portion of the bone was carried away. It was drained. The drainage tubes were also put in some wounds he had in his back and in his elbow-joint. He went on until, I think, it was ten

days or two weeks. He died on the 16th, the night of the 16th.

"Q. From shell wounds?

"A. We found a piece of shell at the entry in the leg, also at the elbow.

"Patrick Hartford, Desplaines street station. A piece of shell passed into his ankle-joint, laying the joint open, and it was removed, and a drainage tube put into the ankle-joint—it was the right ankle-joint. A portion of his left foot was carried way from the base of the great toe, carrying off the two toes. The missile was not there in this case. It cut them, and allowed them to hang, and passed out. It was not found. It was not even found in his shoe. The ankle-joint was drained; and it is a short time since he left the hospital. He will recover.

"Charles E. Whitney. A piece of shell struck him a little to the left of the median line between the second and third ribs just at the base, just over the base of his heart. It passed in a direction from the left to right, passing behind, tearing off a piece of the breast-bone, and passing in behind the breast-bone. In probing the wound the base of the heart, that is the vessel at the base of his heart, could be distinctly felt beating against the finger. It was on the night of the injury, or the morning after, that I first dressed him and put in the drainage tubes. I did not find the shell, but a week after a piece of shell with a large piece of cloth came out of the wound. It is draining yet, and he is now in a somewhat critical condition from the injury done to the vessels at the base of his heart. He is having at present symptoms of the development of aneurism.

"Q. That is heart disease?

"A. No, sir, it is a disease of the vessels. Aneurism is where the wall of a vessel is weakened either from disease or from injury, and gradually dilates. After it is dilated to a certain extent it bursts, just the same as a hose does. At present he has the symptoms of a developing aneurism, and at whatever time that should burst it would kill him, if it goes on to that extent. He is at present under treatment. There is a drainage tube in there about an inch and a half in length.

"Officer Bernard Murphy had a large wound in his

forehead. The shell struck him there at an angle, struck the bone, passed through and came out here (indicating). It was a lacerated wound. For that reason I call it a shell wound, in which I put a drainage tube. He also had three, I believe, wounds in his thigh. He is now about.

" Officer McNulty, who is yet in a critical condition, is at the hospital. I saw him the morning after. I saw him at the station first, and saw him the morning after at the hospital and examined his wounds. Both of the pieces of shell passed into the popliteal space, right in proximity to the large popliteal vessel that is there. One passed into the knee-joint, and on the fourth day his knee-joint became very much swollen. It filled with matter, so we had to open up the knee-joint to let the matter out and put in, in all, seven drainage tubes through his knee-joint. He had a hemorrhage on the evening of the 4th, a very profuse hemorrhage, and was collapsed. The next day he rallied a little. He got delirious, and was wildly delirious for three weeks from the shock. He got so frightened at the hemorrhage that he was delirious from that moment. He was perfectly rational before, a little nervous; but from the moment he began to bleed he got delirious. He is now just able to sit up, at the hospital. He has been in a very critical condition for the greater part of the time.

" Q. What is his given name?

" A. I have not got it.

" Officer Smith got a shell wound. The shell struck him at the tip of the right collar-bone, passed along the collar-bone and lodged here at the base of the neck. It was removed from there at the hospital.

" Lieut. Stanton I saw first at the hospital. He was taken directly to the hospital. He received one wound on the right side of the chest, passing into the rib, and then passing off to the backwards instead of forwards. Whether it entered the chest or not I don't know. We didn't find the missile in this case. He had besides three wounds in his leg, two perforating and one smaller one passing downwards, in which we put three drainage tubes. He had another one higher up in the leg in the front, carrying away a large portion of the skin. He had another in the forearm and still another in the arm about three inches below the shoulder.

" Michael Horn had two bullet wounds in the thigh.

" McCormick, 474 Erie street, had one perforating wound of the arm, small.

" Officer Miller, one of those injured most severely, and complaining most at the station, was shot in the left side just below the axilla; the ball passed down through the body, a bullet, and lodged in his right side just above the hip-bone. He was very low when I saw him. He asked me if he could live. I told him I didn't know. He wanted me to send for his folks. I told him about an operation. He said, 'I will die anyway.' I told him I thought he would, so he didn't consent to an operation, and I didn't urge him, because I didn't consider it favorable. He suffered probably more than any man from pain for a short period of time. His agony was terrible. The perforation of the chest allowed the air to enter in so that his right lung collapsed. He had only one lung to breathe with. It made his breathing very difficult, and his bowels, being torn by the ball, distended his abdomen so that he could not breathe with his diaphragm. His suffering was terrible; the most of any man that was wounded for the time. The ball was taken out here, just above the hip-bone. There was no drainage of the peritoneal cavity.

" Officer Simon McMahone had, I believe, three wounds of the legs. Two pieces of shell were removed from him at the hospital.

" Officer Weinecke was struck in the neck by a missile. It passed up and struck the base of his skull and fractured the external plate, and it glanced off in some direction so that it could not be found. It fractured the base of the skull. That is all.

" Q. How many pieces of the missiles which you have taken, shells you have taken from different officers, have you given to Profs. Patton and Haines?

" A. I divided the piece I took out of Lawrence Murphy's foot into three portions. One I gave to Patton and two to Haines.

Dr. Andrew J. Baxter, one of the surgeons of the county hospital, testified (K, 36) that on the night of the 4th of May he was at the Desplaines street station.

" Q. Tell me now, from your examination, what you discovered, and give me the names of the officers, if you can?

" A. Well, I can't remember them all. They were brought in so fast, and a good many of them were strangers to me, and I was not particular about names. It was their wounds that I was looking after. I attended to officers whose names I don't remember—I didn't know; but I remember some of them, as, for instance, Officer Redden. He was shot in the right leg. The leg was simply shattered.

" Q. That was a shot or a bomb wound?

" A. That was a bomb wound. I removed the piece of bomb myself. And there was an officer—well, I saw Officer Barrett also—and there was an officer by the name of Sullivan, I think he was wounded in the side and also in the thigh. He was the first officer, by the by, that I saw.

" Q. That is, Officer Sullivan?

" A. I think that was the name. He had a large, ragged wound in the upper part of the thigh, so that you could put your hand in; and I supposed from the character of the wound that I would find some large missile embedded in the tissues of the thigh; but, after considerable search, I could not find anything, and was somewhat annoyed to think that I could not find it, but ultimately I found it on the inside of the thigh. It was one of these pieces of zinc. Then he had another wound on the outside of the leg, and the piece I removed from the inside passed between the bones, and I removed it from the inside. Then he had a wound on the opposite leg which looked like a scratch, but on further investigation, I found it was also made with one of these pieces of zinc, but it had hit the surface edgewise, and consequently it did not make a large external wound. The external wound depended on the manner in which the missile hit the surface. These bomb pieces were undoubtedly cut from pieces of zinc, and they were oblique, of course, after leaving the bomb. They would be revolving on the axes, and if they happened to hit the surface edgewise, they would make a linear incision, but if they hit it flat, they

made a very large, ragged wound, which made part of the wound have this torn, ragged appearance.

"Q. Did you find any gunshot wounds?

"A. I think two or three that I remember."

Dr. EDWARD W. LEE, surgeon at the county hospital, testified (K, 559) that he was at the station that night and dressed about seventeen or eighteen at the station. "I suppose, to the best of my recollection, about "seven or eight more at the hospital, besides going over "those again that had already been dressed at the station. "The majority of those I attended were wounded with "pieces of the bomb—fragments of the shell; there were "three or four wounded with pistol wounds, but the great "majority were wounded with fragments of shell." Officer Shannon had eighteen wounds; Officer McEnnery twelve or thirteen.

FERDINAND HENROTIN, examining surgeon at the county hospital, testified (K, 562) that he had examined all together sixty-seven of the officers, of whom about half a dozen were wounded with bullets, the rest with pieces of the bomb.

Dr. F. H. NEWMAN testified (K, 86) that he attended upon some of the wounded police officers; most of them wounded with pieces of shell; that some were wounded with bullets; that the bullets varied in size; some large and some small.

Dr. THEODORE J. BLUTHARDT, county physician of Cook county, testified (K, 612) that he made the *post-mortem* examination upon the body of Matthias J. Degan at the Cook County Hospital on the 5th of May.

"I found a cut upon his forehead; another cut over

the eye, and another deep cut about two inches in length on the left thigh. I found a large, apparently a gunshot wound, a hole in the middle of the left thigh. I found seven explosive marks on his right leg, and two other explosive marks on the left leg. The large hole in the middle of the left thigh was the mortal wound. It was caused by an explosive, a missile, a piece of lead in the form of a piece of lead that had penetrated the skin and destroyed the inside muscles of the left thigh to a large extent, lacerated also the femoral artery, which caused the man to bleed to death. Besides that he had a wound on the dorsum of the left foot, which was also caused by a piece of lead that forced its way through the bones of the ankle-joint. I found it lodged behind the internal malleolus or inside ankle of the left foot. Both pieces of that missile I preserved and gave to Mr. Furthmann, of the state's attorney's office."

(The witness here produced an envelope containing two pieces of metal.)

"This larger piece—there is a piece that was cut off since—is the one that destroyed the femoral artery. The other piece I don't recognize. The other piece was nearly the size of this one. * * * The external appearance of that wound on the left thigh, as stated before, was that of a rifle ball. It was round and not very ragged edges. It was clean cut through the skin. The piece of skin was clean taken out, but the muscles of the thigh of the inside were all contused and torn and formed a kind of pulpy cavity, as large as a goose egg on the inside. That missile which had passed through the muscles was lodged in the upper part of the thigh about four inches above where it entered; it was not a bullet wound. Degan died from hemorrhage of the femoral artery caused by the wound that I described. * * * I made five other *post-mortem* examinations personally (upon the bodies of policemen who died from the effects of wounds on the 4th of May). One of them, George F. Miller, died from the effects of a pistol-ball wound."

(D.) THE COMPOSITION OF THE BOMBS.

Prof. WALTER S. HAINES, professor of chemistry in Rush Medical College, testified (K, 584) that at the request of the state's attorney he examined several pieces of metal.

"I received from Capt. Schaack, on the 24th of June of this year, a piece of bomb said to have been connected with Lingg; and therefore I, for the purpose of designation, call it 'Lingg bomb, No. 1.' On the same day I received from Dr. J. B. Murphy a piece of metal said to have been taken from Officer Murphy, and therefore designated by me as 'Murphy bomb.' On the 22d of July I received a piece of metal said to have been taken from Officer Degan, and which I therefore designate as the 'Degan bomb.' The last piece was received from Mr. Furthmann. I subsequently received from Officer Whalen a piece of bomb said to have been connected with Lingg, which I therefore designate as 'Lingg bomb No. 2.' The next day I received from Capt. Schaack pieces of two other bombs, also said to have been connected connected with Lingg, which I designate, therefore, as the 'Lingg bombs 3 and 4'; and the same day I likewise received from Mr. Furthmann a portion of a bomb said to have been connected with Mr. Spies, which I designate, therefore, as the 'Spies bomb.' These were all subjected to chemical examination. The Lingg bombs, those which I have designated as the Lingg bombs, Nos. 1, 2, 3 and 4, had a similar composition; laying aside the bomb No. 2, laying that aside for the present, the other three bombs, Lingg bomb No. 1, No. 3 and No. 4, were found to consist chiefly of *lead, with a small percentage of tin, and traces in addition of antimony, iron and zinc.* The amount of tin in these bombs differed, each one containing a slightly different proportion from any of the others. One of them contained about *one and nine-tenths per cent. of tin*, the remainder being lead, and traces of antimony, iron and zinc. Another contained about *two and four-*

tenths per cent. of tin, the remainder being lead, with traces of antimony, iron and zinc. The third contained about *two and a half per cent.* of tin, the remainder being lead, with the same traces of antimony, iron and zinc. The three, therefore, of the four bombs that were examined had very similar composition, consisting of exactly the same constituents, the only difference being a little variation in the amount of tin in the three. The bomb designated as the *Lingg bomb No. 2 differed somewhat from the other three.* It contained more tin, and consequently less lead. It also contained a little more antimony and a little more zinc. The amount of tin in this bomb was *nearly seven per cent.*, the amount of lead being correspondingly reduced. * * * I found that the *Murphy bomb was composed of the same constituents as I found in the Lingg bombs I have spoken of, namely, tin, a small proportion of lead, chiefly with traces of antimony, iron and zinc*, the amount of *tin being in round numbers one and six-tenths per cent.* The piece designated as the *Degan bomb consisted of the same constituents as the others*, namely, of tin, lead with traces of antimony, iron and zinc—the amount of tin being in round numbers *one and six or seven-tenths per cent.*, the remainder lead, with the traces I have already spoken of. The Spies bomb, the bomb that I call the *Spies bomb*, was found *like the others to consist also chiefly of lead with a small quantity of tin and traces of the same antimony, iron and zinc.* The amount of *tin in this bomb was one and one-tenths per cent.*, in round numbers, the remainder being lead with traces of the other metals I have spoken of.

"Q. Before you get to the bomb which you call Linng bomb No. 2, you say that the ingredients entering into the composition of all the pieces which you have described so far were the same?

"A. The constituents were the same, differing slightly in quantity.

"Q. That is, you found the same constituents in every piece you have described so far; the only difference was a difference in proportions?

"A. Yes, sir.

"Q. You found more tin in some than you did in others?

" A. *Every bomb differed from every other bomb examined slightly in the amount of tin*, but they all contained the essential ingredients the same.

" Q. Did the different pieces of the same bomb that you examined differ slightly in their proportions?

" A. *Yes, sir; the two halves of the same bomb differed slightly in the proportions of the metal present.*

" Q. Did the piece of metal which you call the Murphy bomb differ in its proportions from the piece of metal you describe as the Degan bomb?

" A. It differed slightly. The Degan bomb contained slightly more tin than that which I call the Murphy bomb.

" Q. But the ingredients were the same?

" A. *The ingredients were exactly the same.*

" Q. Is there any commercial product or substance anywhere from which those pieces of metal could have been made?

" A. *There is no commercial substance with which I am acquainted that has such a composition.*

" Q. This lead, commercial lead, does it contain any ingredients except lead itself?

" A. Commercial lead frequently contains traces of other substances, but as far as I am acquainted commercialy lead never contains tin.

" Q. Of what is solder composed?

" A. Solder is composed of a mixture of tin and lead. It generally consists of from a third to a half tin, and the remainder lead.

" Q. What commercial substances could have been used to produce the mixture which you examined?

" A. *Lead must have been the basis for the preparation of these various articles, and this must have been mixed either with tin or with some other substance containing tin, as for instance, solder.* Slight traces of antimony, zinc and iron are present in a great number of metals—it came probably from lead and tin, or lead and solder used in compounding them.

" Q. Now, describe the *Lingg bomb* which you designate as bomb *No. 2?*

" A. That contains *rather more tin than the others* and a proportionate less quantity of lead. It contains about *seven per cent. of tin.* It contains also more antimony

than the others contained, and it contained a perceptibly larger proportion of zinc, and a *minute trace in addition of copper*, differing, therefore, somewhat from the other bombs tested.

"Q. Have you examined these articles?

"A. I have tested them partially.

"Q. What is that which I now hand you?

"A. This is a piece of ordinary commercial solder, composed essentially of tin and lead.

"Q. What is that which I now hand you?

"A. This is a piece of tin, block tin, a very good commercial article of that metal.

"Q. *Did you examine this piece of candlestick?*

"A. I have examined it.

"Q. Of what is that composed?

"A. *That is composed of tin and lead, with a certain amount of antimony and zinc and a little copper.*

"Q. Can you state the per cent. of antimony in No. 2?

"A. I didn't separate the antimony in No. 2, and didn't make an accurate determination of it. The precise quantity of the antimony and tin is very difficult to determine where it is present in a small amount. I judge it was a fraction of one per cent."

Witness testified that, Prof. Patton being sick, he had worked with Prof. Delafontaine.

"Q. Some of these bombs you took in pieces?

"A. Yes, sir.

"Q. Can you designate this as one of them?

"A. Yes, sir; that is the bomb that I designate as the Spies bomb, and I eut a little myself from this top of the bomb.

"Q. These pieces of metal I show you—the solder and tin—you examined yourself?

"A. I did.

"Q. Look at the bomb which I now show you? (The shell which the reporter, Wilkinson, said he received from Spies.)

"A. This is a bomb from which I scraped pieces myself; the bomb having been given me for that purpose by Capt. Schack."

The witness identified the various bombs from which he had taken portions for examination, and also the pieces of tin, of lead, of solder, *and a piece of toy or candlestick* which was previously identified as having been found in Lingg's trunk.

On cross-examination he testified:

" Q. I suppose if you take the ordinary commercial tin, and the ordinary commercial lead, and mix them, you will find traces of antimony, zinc and iron that you spoke about?

" A. Generally, yes, sir.

" Q. You would not expect from the analysis you made of this composition that there was a distinct putting together in a vessel of one portion of antimony and one of iron, and one of lead, and one of zinc and one of tin, to form what you have here?

" A. I do not think from the small quantity that exists of antimony, iron and zinc, that they were deliberately added. They probably came as impurities in the other two constituents.

" Q. In which of the constituents would they be as impurities?

" A. They may be present in both.

* * * * *

" Q. So then you would say that in the formation of the metal from which all these bombs were made, that there was a slight quantity of commercial tin, a very slight proportion, probably not over two per cent. of the others, and the lead?

" A. Either tin, or some compound containing it, as for instance, solder or some other substance containing it."

MARK DELAFONTAINE, a chemist, testified (K, 595) that he had made examinations of various articles identified by Prof. Haines; that their results agreed.

" Q. Did you make an examination of the piece of candlestick or toy which I now show you?

" A. Yes, sir.

" Q. What did you find it to contain?

" A. I found it to be a mixture *of antimony, tin, lead, zinc, and a trace of copper.* There was probably not over two per cent. of zinc. *The tin and antimony were about in equal proportions.* Then there was more lead, but I didn't do any weighing. It was what we call a qualitative examination. * * *

" Q. Is there any commercial product which you know of, any one commercial product of which the pieces of bomb which you examined could be composed?

" A. I don't know of any. I have analyzed commercial lead of different brands many times during the past twelve or fourteen years, but I never found a sample of lead containing the least trace of tin, and I do not believe that there is any at all.

" Q. So that the pieces you examined you would say were composition?

" A. Yes, sir. Of course there is solder, which contains tin and lead, but their proportions are vastly different—from thirty to fifty per cent. tin."

The witness also testified, for the purpose of seeing whether the bombs could have possibly been made from old pieces of lead pipe, upon which large quantities of solder had been used, that he " took a piece of old lead " pipe that had been very much mended, that is, much " solder put on it. It was certainly as bad as it could be " in that respect. I melted it and analyzed it, and the " amount of tin contained in that mixture was about " seven-tenths of one per cent.

" Describe to the jury about how much solder there was on that piece of pipe?

" A. Well, there was at both times—the circumference of the pipe—the sample was about nine inches long. Then there was a crack from one end to the other that had been plugged with plenty of solder, not only the crack filled, but there was a great deal on the surface and above the surface of the metal.

" Q. Was it what the plumbers call ' wiped ' at both ends?

" A. Yes, sir.

" Q. In addition to that there was solder running along one side?

" A. Yes, evidently the pipe had burst and it was filled with solder lavishly.

" Q. You melted that and found the proportion of tin was less than one per cent?

" A. It was less than seven-tenths of one per cent.

* * * * * * *

" Q. This experiment you speak of there, with the lead pipe—what was the weight of it altogether?

" A. I did it for the purpose of finding out, if possible, whether those bombs were made exclusively by melting old lead pipes, which are generally more or less covered."

Thus, it will be seen from the testimony of the chemists who made examinations of four of the bombs traced by the evidence directly to Lingg, and admitted to have been manufactured by him, and of the Spies bomb, and also two pieces of the bomb taken from officers wounded at the Haymarket, that the composition of these bombs, with the exception of one of Lingg's, were almost identical. The chief ingredient was lead; next to that was tin; there were traces in each of iron and antimony. No commercial product, except solder, contains both tin and lead. Solder always contains at least thirty per cent. of tin, sometimes more; so the bombs could not have been made of solder. They could not have been made of old pieces of water-pipe, upon which solder had been used, because Delafontaine hunted for the worst specimen he could find, and upon analyzing that, found that the percentage of tin was less than seven-eighths of one per cent. Hence, the bombs were of composite manufacture.

The chemists also analyzed various articles found in Lingg's trunk; some of these articles they found to be pure lead; one a piece of pure block tin; others commercial solder, and one, which is described in the evidence as a

candlestick or toy, analyzed by Delafontaine, contained antimony, tin, lead, zinc and a trace of copper. This candlestick, or toy, contains the very ingredients found in the Lingg bomb, which differed from the others. Thus, Lingg had in his possession all of the ingredients which entered into the composition of the various bombs; and when we remember that he melted his metals in a small ladle (a photograph of which appears as People's Exhibit 132), and that he necessarily, with the rude instruments at his disposal, cast them half a shell at a time, using clay molds made by himself which could be only used twice (K, 525), the small difference in the proportions of the ingredients in the various bombs is easily accounted for. Moreover, it appears from the evidence of the chemists, that the proportions of the ingredients differed slightly in different parts of the same bomb, and when in addition to this we take into consideration the fact that the nut which wounded the bystander at the time of the explosion of the bomb (I, 447), and which was afterwards extricated from his body (K, 87) corresponded exactly with the nuts upon the Lingg bombs and the "Czar" bomb, and consider all of the facts in regard to Lingg's manufacture of bombs, his hasty manufacture and distribution of them on the day of the 4th of May, his statement to Seliger on the night of the 4th after the explosion, that "he was even now scolded—chided for the "work he had done," there can be no question that the bomb which resulted in the death of seven officers and the wounding of sixty others was one of the bombs made by him. "Good food," as he (Lingg) expressed it, "fodder for capitalists and police."

VII.

AFTER THE HAYMARKET--ADDITIONAL EVIDENCE OF CONSPIRACY.

REUBEN SLAYTON, a police officer, testified (I, 453) that on the 5th of May, in the forenoon, in the neighborhood of 10 or 11 o'clock, he arrested the defendant Fischer at the office of the Arbeiter Zeitung; Fischer was coming downstairs at the time he was placed under arrest. The officer found upon him a 44-caliber, self-acting revolver, loaded, *and also a file.* Fischer wore a belt and sheath, *the belt having a brass buckle upon it, a buckle of the Lehr und Wehr Verein society.* The file was in the sheath; the revolver was stuck in a slit in the belt; there were ten cartridges in his pocket; there was also a *fuse cap—a fulminating cap in his pocket; the fulminating cap was bright.*

"Q. Did you have any conversation with him?

"A. No more than in regard to the gun (revolver). I asked him what he carried that for; he carried it because he carried money, and going home nights was to protect himself. The file was an old-fashioned, *three-corner file, ground, with the three corners to a sharp edge, and very sharp on the point, and had a wooden handle.*"

JOHN D. SHEA, lieutenant of police, testified (J, 60) that on Fischer's being brought to the station he had a conversation with him.

"I asked him what he had that belt and dagger for, and dynamite, or fulminating caps. He said, 'Well, I have had that pistol and dagger to protect myself.' I said, 'Did you have it that night?' He said, 'No; I didn't have it with me that night.' I says, 'Where was it?' He says, 'In the Arbeiter Zeitung office.' And I said,

'How did you come to have it on you Wednesday morning, when Officer Slayton arrested you?' 'Well,' he says, 'when I came to the office I put it on.' I says, 'What did you put it on for in the office? You were not afraid of anybody in the office?' '*Well*,' *he says*, '*I didn't intend to stay; I was going away.*' And I says, 'How did you come in possession of that cap that was found in your pocket, that fulminating cap?' He said, '*I got that from a man in front of the Arbeiter Zeitung office some three months before that.*' I asked him if he made any inquiry about its use; he said no—never paid any attention to it. I also said to him, 'There has been other weapons found, just exactly like this, the one you are carrying. How is it that you happen to carry the same kind of weapon that has been found with the others, those sharpened daggers?' He says, 'Well, I don't know; I made that myself for my own protection.'"

James Bonfield says (I, 353) that he had a conversation with Fischer after his arest; Fischer was up in the office, and, among other things, was asked how he came by a fulminating cap.

"Q. That was a fulminating cap similar to the one you had there?

"A. Yes; it was found in his pocket at the time of his arrest. He said he got it from a socialist that used to visit Spies' office, about four months previous; that he handed it to him on the stairs—the foot or head of the stairs—and he claimed he did not know what it was, and he carried it his pocket for four months; he did not know what use there was for it. After some further conversation, in answer to some questions put by Mr. Furthmann, *he acknowledged that he knew what it was, and read an account of it, and the use of it, in Herr Most's book.*

"Q. *In Herr Most's Science of War?*

"A. *Yes.*

"Q. At what place was that?

"A. At the detective's office.

"Q. What was the appearance of that fulminating cap, as to whether it had been tarnished, or as to whether it was bright?

"A. *It looked to be perfectly new, and the fulminate was fresh and bright on the inside.*"

And he testified further, in relating a conversation with Spies (I, 350):

"Q. Where did he (Spies) say he went, if anywhere, when he got off the wagon?

"A. He went in the east alley; that would be the alley next to Crane's, my recollection is, and came out on Randolph street. *He said he approved of the method, but he thought it was a little premature; that the time had hardly arrived to start the revolution or the warfare.* I cannot just use the term he used, but that is the sense of it."

WILLIAM JONES, a police officer (J, 91) went to the office of the Arbeiter Zeitung about half-past 8 on the morning of the 5th of May, and assisted in searching the building; he found a number of circulars, some of them the "Revenge" circulars; and others calling the meeting at the Haymarket. Spies' desk in the front office of the second floor of the building was locked; on opening it he found a coil of fuse, two bars of dynamite and a box containing fulminating caps for the explosion of dynamite. He also visited Fischer's house some days after and found in it a number of cartridges that fitted the revolver taken from Fischer, and a blouse such as was worn by members of the Lehr und Wehr Verein.

JAMES W. DUFFY, a police officer, testified (J, 107) that he, in company with several other officers, searched the Arbeiter Zeitung building on the 5th of May; that they found manuscript of the "Revenge" circular, copies of the "Revenge" and of the Haymarket circulars and various other manuscripts which were afterwards identified as being in the handwriting of Spies or Schwab. He says:

"There is a shelf upon the left-hand side as you go in the closet, and up on there there was a large package composed of—well, it looked like a coffee-sack saturated with oil and paper and stuff. We took it down off the shelf and opened it and examined it; didn't know exactly what it was. It looked something like sawdust, and brown stuff, kind of an oily substance; probably four or five pounds of it. We took it to the Central station; it was put in a vault there. I afterwards learned that it was tested."

He identified the package which was then in court as being the same one which he took from the shelf—a package which was shown by the testimony of Mr. Buck to be dynamite.

James Bonfield, a police officer (I, 344½), went to the Arbeiter Zeitung office on the morning of the 5th of May, and arrested Spies, Schwab and a brother of Spies; also assisted in searching the office.

"In Mr. Spies' office I found a small piece of fuse and a fulminating cap, and a large double-acting revolver.

"Q. How much fuse?

"A. About five inches, I should judge; it might have been more or less.

"Q. You have them here?

"A. Yes.

"Q. Please show it?

(Same exhibited to counsel.)

"Where did you find that?

"A. I found that revolver (indicating) under a wash-stand in the office; that dirk file was along with it, about as those lay now (indicating), with the paper doubled over them loosely. I found that piece of fuse and that fulminating cap (indicating).

"Q. Describe that fulminating cap and fuse?

"A. It is an ordinary fuse; the fulminate is in the end of the cap; the fuse is inserted that way (indicating), and the cap is pinched, and that is inserted in the dynamite and the whole closed. I have used it. You can cut the

fuse according to the distance that you want to get away from the explosion.

" Q. What is the cap used for?

" A. I never saw it used for anything except dynamite and nitro-glycerine. I have used it in mines for that purpose. The shot from that cap when it explodes touches the dynamite off, or nitro-glycerine."

The revolver was a 44-caliber.

The same witness testified (K, 648):

" Q. You are one of the parties who searched the Arbeiter Zeitung office?

" A. I am.

" Q. Did you find any banners there?

" A. I did.

" Q. How many?

" A. I think about forty.

" Q. How many of them can you identify now?

" A. Those over there (pointing to banners).

" Q. The rest you are not able to say whether they were found there?

" A. No, sir.

" Q. Point out the ones found there, and the inscriptions?"

(The witness here indicated the ones.)

Mr. GRINNELL: Let Mr. Gauss take the stand and translate the inscriptions.

" Mr. INGHAM (to Mr. Gauss): Q. What is the inscription?

" Mr. GAUSS: Every government is a conspiracy against the people.

" Q. Is it the same on both sides?

" Mr. GAUSS: This is the same.

" Q. (To Mr. Bonfield): Mr. Bonfield, is that another one you found there?

" Mr. BONFIELD: Yes, sir.

" Q. (To Mr. Gauss): What is that?

" Mr. GAUSS: Down with all laws.

" Q. Is it the same on the other side?

" A. It is the same.

" Q. (To Mr. Bonfield): What are those? (pointing.)

"Mr. BONFIELD: Small black flags.

"Q. Those are two red flags without any inscription?

"Mr. BONFIELD: Yes, sir.

"Q. Was that found at the Arbeiter Zeitung office?

"A. Yes, sir.

"Q. (To Mr. Gauss): What is that?

"Mr. GAUSS: That is a German expression. It means 'Boys, hold tightly to it.' 'Stick together.' 'Proletarians of all countries unite.' 'Club together.' 'International Workingmen's Association, Sec. 5, Chicago.'

"Q. Can you read the center?

"Mr. GAUSS: 'Dedicated by the Socialistic Women's Society, the 16th of July, 1875, Chicago.'

"(Q. To Mr. Bonfield: Was that found at the Arbeiter Zeitung office?

"Mr. BONFIELD: Yes, sir. 'Dick Oglesby, who murdered three poor workingmen in Lemont, is not in this this procession. You can see him later.'

"Mr. GRINNELL: Is the same thing on the other side?

"A. Yes, sir.

"'Carter Harrison, who clubbed our citizens during the carmen's strike, is not in this procession. You can see him later.

"Q. That is the same on the other side?

"A. Yes, sir."

MICHAEL H. MARKS, a police officer (K, 320), was one of those who went to the Arbeiter Zeitung building on the 5th; he went into the second floor of the Arbeiter Zeitung building, where he met the defendant, Neebe. "I says, 'who has charge of this office?' He (Neebe) "says, 'I am in charge in the absence of Mr. Spies and "Schwab.' I says, 'Who occupies those rooms above "this?' He says, 'That is the editorial rooms of the Ar-"beiter Zeitung.' I says, 'Who occupies that floor?' "He says, 'They are the offices of Mr. Spies and Mr. "Schwab.' I says, 'I am going upstairs to make a "search of that floor.' He says, 'All right; you can go,

" but you will not find anything there but papers and " writing material.' I went up stairs and Mr. Neebe fol- " lowed me. As I came in there was a desk there facing " west; it was the front room on the third floor on the " east side. I asked Mr. Neebe whose this desk was. " He says: 'That is the desk of Mr. August Spies.' I " then turned around the room, going east, and there I " found a closet. Officer Duffy then came in and walked " towards the closet with me. I seen a shelf about ten " feet high. I got a chair and got onto it, and on the top " of the shelf I seen a large bag, kind of bag with brown " paper around it, and I lifted it off the shelf and brought " it down, and walked towards Mr. Spies' desk and placed " it on a chair. Mr. Neebe was standing there and I " says, 'What is this?' He says, 'I don't know.' I opened " and felt it. It was kind of yellowish, greasy sawdust. " He says, 'I guess that is for cleaning type.' Officer " Haas was standing by the door, and I says, 'You better " go upstairs and call down Lieut. Shea;' he goes up " stairs and Lieut. Shea comes down and looks at it and " he says, 'You better be careful how you handle that. " Take it right over to the Central station.'"

Witness further said that it was the same package which had been produced in court. He was present at the time of the experiment made by the witness Buck. The material he experimented with was the same substance that he found in the closet.

Buck, the expert, testified that it was dynamite, and described his experiment with it.

FRED L. BUCK testified (J, 74) that he had experimented with the substance; that it was dynamite, and described the effects of explosions of the portions of it with which the experiments were made.

HERMAN SCHUTTLER, a police officer, testified (K, 431) that he arrested Lingg at No. 80 Ambrose street on the 14th day of May. Lingg was in the kitchen.

"I went into the room and took him for another man. I had a picture of him, and he was described to me as a man with chin whiskers and a mustache. I had found out that he lived there, and I said, 'How do you do, Mr. Klein'? As soon as I said that he stepped back and drew a revolver and half cocked it." (The witness identified the revolver.) "I grabbed the revolver and him, and I fell down on the floor together, and struggled for the possession of it. Whenever the revolver would be towards me he would try his best to shoot it off. At last he began to get it cocked again, and the only way I could do then, I got his thumb into my mouth and bit it, and he hollered; at that time Officer Lowenstein came in and pulled him off. We put him under arrest. At first he resisted to go along, and I wanted him to come along, and he said, 'I refuse to be shackled,' and finally I got my come-alongs on him, and he went along. I took him to Hinman street station and left him there awhile and went back to search the house.

"Q. Before you got the come-alongs on him, while you were trying to get them on, what did he say?

"A. He said, 'Shoot and kill me.'

"Q. Give the whole conversation?

"A. He said, 'You can shoot.' Says I, 'If you don't stop now we will have to do something.' He tried to get the gun again, and he said, 'I wish you would shoot me.'

"Q. Did you have any conversation with him on the way to the Chicago avenue station?

"A. I said to him, 'What did you want to kill me for so very bad?' I said, 'We ain't such very bad sort of fellows.' He said, 'Personally I have nothing against you, but if I had killed you and your partner I would have been satisfied.' He said, 'I would have killed myself if I had got away with you and your partner.'"

On the 7th of May, at about 3 o'clock in the afternoon, the witness went to the room of Lingg, on Sedgwick street, with Officers Stifft, Lowenstein and Whalen.

"We searched a trunk and found a round lead bomb in a "stocking. (Photograph of bomb marked People's Ex- "hibit, 129.) The bomb was in a trunk in the south- "east room."

"Q. What else did you find there besides that bomb?
"A. In another stocking I found a large navy revolver."

The witness identified the revolver. He turned the bomb over to Capt. Schaack. The bomb and revolver were both loaded. "I did not find anything else besides "that, except this, in the line of weapons. I was there "when we found a ladle and some tools, a cold chisel and "all of those articles. We found the ladle in his room.

"Q. Did you notice the condition of the closet in the bedroom?
"A. I was not there at first. I was not the first officer in there. Things were kind of upside down when I got there.
"Q. Did you take any charges out of this gun today?
"A. Yes.
"Q. How many?
"A. Twelve.
"Q. Look at the trunk which is placed before you—is that the trunk you found in Louis Lingg's room?
"A. Yes, sir.
"Q. Were those letters, 'L. L.,' on it at that time?
"A. Yes.
"Q. Did you take anything out of the trunk yourself?
"A. Yes.
"Q. What?
"A. I took out that bomb and the stocking.
"Q. Whereabouts was it?
"A. Right at the bottom.
"Q. Where was the revolver?
"A. The revolver was lying right about there (indicating the position in trunk).

"Q. You say you found certain tools there in that room?

"A. Yes.

"Q. What were the tools?

"A. A kind of cold chisel and I believe a file. There was a round, porcelain-lined blue cup, kind of round cup, made out of china. When I saw the closet, things were a little torn up. Clothes were hanging on the wall. We saw the base-board—it was on the sides, right on top of the base-board, it looked like it had been tampered with. I helped to move it.

"Q. What did you find underneath it?

"A. A lot of torn-off plaster.

"Q. How about the lathing?

"A. The lathing was sawed so you could get your hand between the floor, and between the bottom of the laths underneath and the floor above. The lathing was not gone. It was sawed off. It did not reach down to the floor.

"Q. Look at this cup which I show you—a metal cup?

"A. Yes, sir.

"Q. Did you find that there?

"A. Yes.

* * * * * * * * *

"Q: Look at the things in these boxes and see if you recognize any of those?"

(Showing witness box.)

"A. I saw that in Lingg's room.

"Q. Did you see it there at the house before it was taken to the station?

"A. I saw those lead pipes laying between Lingg's house, the house Lingg lived in, and the next house to it, in a small gangway there.

JACOB LOWENSTEIN, a police officer (K, 444), was present at the time of Lingg's arrest.

"Q. How did you get into the room?

"A. Went around the back way from the front, or went at the back door. I looked in the window and could not see anybody. The next thing I heard, I heard

jumping on the floor, and then started around to get around to him and broke the door in. When I got around back I found Lingg on Schuttler's back.

" Q. What position were they in?

" A. Lingg had his right arm over Schuttler and Schuttler had Lingg's thumb in his mouth. Lingg had his left hand on his gun.

" Q. What do you mean by gun?

" A. Revolver. Schuttler had both hands hold of the revolver. Found them in that position.

" Q. What took place?

" A. I struck him with a little cane I had.

" Q. What position was Schuttler in at that time?

" A. He was stooped over, standing. I struck Lingg in the ear with a twenty-five cent cane I had in my hand, and it did not have any effect on him, and so I dropped the cane on the floor and grabbed him by the left arm, by his coat sleeve. He jerked away, and he tore the sleeve all the way up. Then I grabbed him by the throat and dragged him up against the wall. As I had lost my come-along, I asked Schuttler to let me have his. I had him under control. He said he would not allow himself to be shackled. I told him he had to; that we would have to take him along. After we got the come-alongs on him we took him to the Hinman street station. He said quite frequently, 'Shoot me right here before I will go with you.' That was all the conversation I heard him say—'kill me.' On the way from the Hinman street station to the Chicago avenue station Officer Schuttler said to him on the wagon, 'Lingg, why did you want to kill me? We ain't such bad fellows.' He said: 'If I had killed you and your partner and put a bullet through my own head it would be the happiest hour of my life.'

The witness, between 10 and 11 o'clock of the 7th of May, together with Officers Whalen, Stift, Schuttler, Cushman and McCormick, went to Lingg's room at Seliger's house.

" We went to the house and found nobody there at all; looked in the windows, and the door was locked, and finally we pushed in the door and went

in. The first thing we done was Officer Whalen looked through the house to see if there was anybody in the house. He came by the front door. He went in, rather, to the house and said 'Nobody's here.' We then started to search the house. I went to the front room and from there to a little bedroom in the south-east corner of the house (the room identified by other witnesses as Lingg's). There was a bed in there and a wash-stand and trunk, and, I think, a little shelf up in the corner with some bottles on it. I looked around in the closet, and the first thing I saw I saw a lot of shells in there and also some loaded cartridges. Officer Stift came in, and I says, 'Here is some shells.' I then looked around on the shelves and found these shells on the floor. I found some metal and also some lead.

"Q. Look at those articles (indicating a box containing shells)?

"A. Those are the shells I found.

"Q. Where did you find them?

"A. In the closet of Lingg's room.

"Q. Aud some lead?

"A. Yes, sir.

"Q. What else did you find there?

"A. I found some lead, some babbitt metal, some sheets of lead.

"Q. Any of the lead here that you found?

"A. I found that (indicating).

"Q. You found those bolts?

"A. I found those bolts in the wash-stand.

"Q. What do you mean by 'in the wash-stand?'

"A. There is a wash-stand standing there in the room, a home-made wash-stand with the lids up. I raised the lid up, and these bolts lay in the top. There was no bowl in there, nothing like that.

"Q. Look at these pieces of metal I show you?

"A. I found this metal here. I found them after I had opened the trunk; they were in that dinner-box.

"Q. Found them where?

"A. In the dinner-box, with some dynamite bombs, loaded.

"Q. What do you mean by a dinner-box?

"A. That little japan box there, dinner-box.

"Q. This box (indicating)?

"A. Yes, sir.

"Q. What did you find in that?

"A. I found four bombs.

"Q. Round or long?

"A. They were gas-pipe bonds.

"Q. At that time, were they loaded?

"A. Two of them were loaded; the two in the bottom were loaded.

"Q. Is that one of them (indicating)?

"A. Yes, sir.

"Q. The charge is now withdrawn?

"A. Yes, sir.

"Q. How many bombs did you find in that box?

"A. When I first opened up the trunk this cover dropped, dropped down, and with that a Remington rifle fell down with the stock off it—as I was raising the lid up it fell down." (Witness identified rifle.) "It was loaded right up so I could not unload it right there, the pin catched a little bit, and my command was to unload it. I then opened the trunk, and found a lot of papers and books in the top of the trunk; took them all out and put them in the bed, and found that little dinner-box with the bombs in it. I took them out in the other room and set them on the table, and told Officer Whalen I thought I had found some dynamite, which he should take down to the station, which he did. In going back into the room I found in a gray stocking a round dynamite bomb, in taking up these books and one thing or another; and as I got back the first thing I put my hand on was a gray stocking with a dynamite bomb loaded. I then left the house and took it to the station, and reported to Capt. Schaack.

"Q. Look at the bomb which I now show you (shows witness bomb)?

"A. That is the one.

"Q. Where did you find that?

"A. I found that on a bed in a gray stocking; in taking out these things out of the trunk it was right among those articles, and it rolled down.

"Q. Do you say it was loaded at that time?

"A. Yes, sir, it was. I took it to the station to Capt.

Schaack, the East Chicago avenue station, and I told him what I found, and he told me to go back to the house and search thoroughly. I went back to the house. In the meantime we had left Officer Schuttler there on guard, and told him if anybody should come to arrest them. When I got back from the station we searched through the house thoroughly.

"Q. How many bombs did you yourself find?

"A. I found five in all, three loaded and two empty. Two gas-pipes loaded, one round metal bomb loaded, and two round empty gas-pipes with two pieces of solder. I found those in the closet of Lingg's room, the room he occupied; the same room the trunk was in.

"Q. Did you see any metal there yourself?

"A. Yes, sir.

"Q. With pieces of lead?

"A. Yes.

"Q. I wish you would point those out to the jury.

"A. I found all these here (indicating).

"Q. Where did you find that?

"A. Between the two houses.

"Q. Did you see these pieces?

"A. I found these on the floor in the closet.

"Q. What was the condition of the ground?

"A. It had been dug up a little. Sand had been kind of thrown over it a little bit; covered up this lead was.

"Q. Where did you find this piece of lead?

"A. In that dinner-box.

"Q. What is that?

"A. That is solder.

"Q. These two pieces of solder you found in that dinner-box?

"A. In that dinner-box.

"Q. These other pieces you found where?

"A. Those other pieces were found in the closet, or little closet press you might call it, on the floor.

"Q. Did you find any tools there?

"A. I found two hammers.

"Q. Which ones?

"A. That blast hammer, and one a little smaller; one kind of pointed?

" Q. Is that it?
" A. Yes, sir.
" Q. What else in the shape of tools did you find?
" A. I found a couple of iron bits and drills. * * * I found a two-quart pail with a little sawdust in the bottom of it—it looked like sawdust. I found out it was dynamite. I found a little tin quart basin under the bed with a little piece of fuse in it, and also some sawdust or dynamite. I did not know at the time it was dynamite, but afterwards learned it was. Some time after I was looking through the trunks and found some little dynamite fuse two or three inches long in the bottom of the trunk.
" Q. What was the condition of the closet?
" A. The landlord of the house had called our attention, was looking around there, and said there was a lot of plaster, mortar, lying out back of the yard. We then went upstirs and looked at the closet, and tore the base-board, which had been freshly nailed, off; and the nails were projecting out a little bit. We tore them away, and put our hands down there, and I spoke up and says, ' There is where the plaster comes from '—it was tore out all the way around the base-board."

On cross-examination witness said that in the tin dinner-box he found four bombs, in addition to which were two bars of soldier; the gas-pipe bombs were about six inches long, different somewhat in size. In all, he found three loaded bombs and three empty ones. Schuttler found one loaded one.

Michael Schaack, captain of police (K, 505), had a conversation with Lingg at the time he was brought to the station.

" First, I asked him his name; I asked him where he lived. He told me his name; he told me he had lived at 442 Sedgwick street. I asked him how long he was out of work; he said about four weeks. I asked him whether he was at the meeting at 54 West Lake street on Monday night, held there in the basement, and he said yes. I asked him where he was on Tuesday night, May 4th. He

said he was at home. I asked him if he was at home all the evening; he said no, that he and a man by the name of Seliger had been on Larrabee street, up along Larrabee street quite a ways north, and had several glasses of beer, and from there he went home. I asked him then about making dynamite bombs; he said yes, he made some. I asked him what he made them for. He said he made them for to use them, and use them himself. He looked very much excited, and as I heard from the officers that they had trouble with him, I asked him what made him be down on the police. He said that he had reason for it. I asked him what reason he had. He said that they had clubbed him out of McCormick's, and he said that he was down on capitalists, and he found fault with the police; they took the part of the capitalists. Then I asked him again about using those dynamite bombs, why it wasn't more proper to use other kinds of arms, guns and so on. His answer was, what is the use? If the capitalists turn out, the militia and the police force and their Gatling guns and cannons, they with their revolvers couldn't do anything. And therefore they adopted these bombs and dynamite so they could fight the authorities or their officers. He said, " With our little revolvers we couldn't do anything." I asked him who learned him to make those bombs—dynamite. He said that he learned it in books, scientific books of warfare published by Most, of New York. I asked him where he got his dynamite. He said he got it on Lake street, somewhere near Dearborn. I asked how he got it. He said he went in and asked for a couple of pounds and got it, and bought some fuse and caps, and told me what he paid for it, too. So I asked him if he used it all up. He said no. Then I asked him then about making bombs. He said he made bombs of gas-pipe and also of lead, made some of metal, or metal and lead mixed. I asked him where he got the gas-pipe. He said, find it on the street sometimes. I asked him how he got the lead. He said about the same way. I asked him about how many he made. He said that was all he did make, what we found in his place.

" Q. Did you show those to him at the time?

" A. I had one very similar. I had one somewheres.

"Q. Can you tell which one is the one you showed to him?

"A. It is a bomb which was found by the firemen, I think.

* * * * * *

"Q. Were they round bombs?

"A. One was a round one, and two long ones.

"Q. What other conversation did you have with him, if any, that you can remember about?

"A. He said that he made those bombs, and he meant to use them, too, as I said before. Then Mrs. Seliger, we put her face to face with him up in the office, and she accused him right there, that he was making bombs; commenced making bombs a few weeks after he came to their house. We were satisfied he made more than that, and he didn't say anything or answer anything to it; looked at the woman, and he didn't say anything. And also there was a man arrested by the name of John Thielen, and Thielen faced him right in the same office, and from Thielen we had recovered two cigar boxes full of dynamite, and two of those bombs. I had the dynamite right there.

"Q. Were those the bombs, and was that the dynamite (showing witness) which Officer Hoffman brought to you?

"A. Yes, sir; it has been shown here in court—yes, sir; and I told him: 'Now,' says I, 'this man Thielen here says that you gave him this May the 4th. What do you say to it?' 'Well,' he says, 'that is so,' and at the same time Lingg looked right square at Thielen and shook his head for him to keep still. Thielen said to him, 'Never mind, you might as well tell it; it is all out anyhow; they know it all.' And that is about the last of that conversation. * * * When we discovered the lead and everything, the officers telephoned to me, and I told them to bring everything down belonging to Lingg, and everything that was in his room. This trunk here (indicating large trunk) was brought down, and in the evening I was alone for a little while in the office, and I opened it and looked through it; and I saw here (indicating some part of the inside of the trunk)—I discovered here there was something what was not

long he was a socialist; he didn't make any particular answer; he said that he was a socialist ever since he could think. * * *

"When Engel was brought in, the first conversation I had with him was very short. I asked him where he lived, and so on; he told me. I asked him where he was on the 3d of May, or Monday. He said he worked for a friend, and he was doing some fresco work for him, a friend of the name of Koch, somewhere out west, somewhere there. And I asked him if he went to the meeting that night; he said yes, he went to 54 West Lake street, to that meeting, but was only there a little while. I asked him if he made a speech there; he says no, he did not; he said he didn't have anything to say to anybody, and that nobody authorized him to make a speech, and from there he went home. Then a few days after, a day or two, probably two days, his wife and daughter came there; they wanted to see him, and they didn't see him until this day I had his wife in the office and I sent for him. And his wife gave him a bouguet of flowers, and all at once he broke out and he says, "What good are those flowers to me?" He says, 'They got me down here in a dark cell,' and claimed to be abused, and so on."

The captain then gave directions for changing his cell.

"He (Engel) was terribly excited, and his wife said to him then; she says, 'Papa, do you see now what trouble you got yourself into?' And his answer was—he said, 'Mamma, I can't help it.' I said to him, 'Now, why don't you stop that nonsense? You see how bad your wife feels?' 'Well,' he says, 'I promised my wife so many times that I would stop this anarchism or socialism business, but I can't stop it.' He says, 'What is in me has got to come out; I can't help it; that I am so gifted with this eloquence'—the way he expressed himself, and he says, 'It is a curse, it has been a curse to a good many other men, what has been so possessed,' and he says, 'A good many men have suffered already for the same cause, and I am willing to suffer and I will stand it like a man.' He also spoke of a woman once taking a leading part in this kind of business, the anarchists.

"Q. What name did he mention?

"A. I think Louise Michel. He says she was a great woman, and she had suffered for the cause and he was willing to do the same thing. I asked him where he was at the evening of the 4th. He said he was home laying on the lounge. That is about all the conversation I had with him."

The captain then described various experiments which he had made with dynamite traced in the evidence to Lingg, and which experiments show that the dynamite of the darker color was more powerful than the lighter; he also identified the different bombs and articles from which samples had been taken and sent to Prof. Haines to be examined by him.

"Q. Did Lingg say anything to you about the purpose for which he was making the bombs?

"A. He said that the police would come with their Gatling guns and the militia and that he would fight them with them bombs.

"Q. Do you remember whether anything was said about revolution or not?

"A. And there would be very likely revolution through this workingmen's trouble. Furthermore, about Lingg, I forgot, as we are telling now, there was a sachel I brought from Neff's place; Mr. Thielen was present. The sachel, it was filled with them bombs, and I asked Lingg if he brought that sachel there. He said he saw a sachel; I described it to him; he said, 'Yes, that was the sachel he saw.' I asked him what became of it? He says he didn't know. He saw it stand there when he left, and that was the last he saw of it.

"Q. Did you have any talk with him about the molds for making bombs—about who made the molds?

"A. I asked him where he got the molds to make these bombs. He said he made them himself; he made them of clay. And I asked him how often they could be used to cast in; he says, only about twice, then they would crackle to pieces.

"Q. Did you ask him anything about the Revenge circular?

"A. Yes. He said he saw that on the west side; I believe 71 West Lake street.

"Q. Did he say anything about his personal appearance, his hair or his whiskers?

"A. Yes; when we had a picture of him I had several of them struck off to be sent out, and there is where he had the light chin-whiskers and mustache, and when he was brought in—and also the pictures showed he had quite a lot of hair—when he was brought in his hair was pretty short and he was clean shaved. I asked him when he done that. He said on or about the 7th of May.

"Q. Did you ask him anything about whether anybody had been in his room on the 4th of May?

"A. That is what I learned—there were other parties, and I asked him if he could tell me who they were. I had learned some of their names, and I wanted to know all of them. He said there had been several persons there that afternoon, probably six or more, and among those persons was the two Lehmanns, so far as he knew."

On cross-examination the witness testified:

"Q. What Lingg said to you, Captain, was this substantially, was it not—if not in words, in substance—that the time was coming when there would be a contest between the labor classes on one side and the police and the militia, with their Gatling guns, on the other, and that he was making these bombs to be used when that time came?

"A. That is about it, but he said that the time was there now, with those working troubles.

"Q. Did he say anything about any particular time that he was going to use them—that is, the date?

"A. No, sir; no date; no, sir.

"Q. You never drew from him the fact that he intended to go to the Haymarket meeting, or anything of that kind, on that occasion?

"A. No; he said he wasn't there. He said he was on Larrabee street."

JOHN STIFT, a police officer (K, 619), went to the house of the defendant Neebe on Friday, the 7th of May, and found there a 38-caliber Colt's pistol, sword, breech-

loading gun, and a red flag; five chambers of the revolver were fired; one was loaded with a cartridge; one had a shell in it.

Mrs. JOHANNA SULLIVAN, living at 37 Sigel street, testified as follows (J, 364):

"Q. Do you remember, after the 4th of May last, of finding any bombs near your house?
"A. Not any bombs, but I found two pipes; I don't know what they contained. I accidentally went there.
"Q. Two? What kind of pipes were they?
"A. About that length (indicating about six inches). The two that I saw.
"Q. Iron pipes?
"A. I guess so.
"Q. Where did you find them?
"A. Right under the sidewalk.
"Q. Under the sidewalk?
"A. Yes, sir; the ends were sticking out.
"Q. Oh, the ends were sticking out towards the street?
"A. Yes, sir.
"Q. And you live right opposite there?
"A. Yes, sir.
"Q. You gave those to—?
"A. To Mrs. Miller.
"Q. To Mr. Miller or Mrs. Miller?
"A. Yes, Mrs. Miller.
"Q. These are the ones that Mr. Miller testified to this morning?
"A. Yes, sir.
"Q. That is Mr. Miller, the fireman?
"A. Yes, sir.
"Q. Did you find anything else there?
"A. No, sir; nothing else.

GEORGE N. MILLER, lieutenant on fire department, testified (J, 287):

"Did you at at any time after the 4th of May last find any dynamite bombs at any place or locality?

"A. Yes, sir.
"Q. Describe where and what you found?
"A. I found two pipe bombs and a round bomb.
"Q. Two gas-pipe bombs?
"A. Yes, sir.
"Q. And a round bomb?
"A. Yes, sir.
"Q. Describe them as near as you can, so that these gentlemen may understand what they were?
"A. One was about a two-inch pipe, about six inches long, and the other one about an inch and a half pipe, and it was about eight inches long; and the other one was a round bomb with a bolt through it. * * *
"Q. Describe the round bomb?
"A. It was a leaden bomb; it was made in two pieces with a bolt through it.
"Q. What did you do with it?
"A. I took them to Chicago avenue station.
"Q. Gave them to Capt. Schaack?
"A. Yes, sir. There were two fuses there, too.
"Q. Besides these bombs what else did you find?
"A. Two fuse.
"Q. Now, what was the shape and length of that fuse, and what did it look like? Describe it?
"A. Well, one fuse had a cap on the end, and it was about five inches long. But the other one did not have no cap on.
"Q. About the same length?
"A. About the same length.
"Q. What did you do with that fuse and those three bombs?
"A. I took them to the Chicago avenue station.
"Q. Gave them to Capt. Schaack?
"A. Yes, sir.
"Q. Now, give correctly the description of the place from which you took them—where you found them?
"A. Well, the two gas-pipes, I did not pick them up myself; my wife picked them up and brought them in to me as I was at breakfast, and she said—
"Q. After she did speak to you, what did you do?
"A. Well, I took them down to the station. In about an hour afterwards the children were playing around

outside there. And there was something in under the sidewalk, and they called me. I was asleep at home, and I got up and went out there, and I got down on my knees and I saw this round bomb under the sidewalk, and I got down and got it out.

" Q. Where is your house? This is in front of your house, was it?

" A. There are steps leads up to our sidewalk. Our sidewalk is elevated higher than the rest, about three and a half feet, and it was underneath the sidewalk, underneath the stairs.

" Q. Between the curb and the lot line, between the curb and the house?

" A. Well, it was not in front of our place; it was on the next lot—that would bring it, because our sidewalk is on the line, and it is elevated higher. * * *

" Q. What street is that that you live on?

" A. On Sigel street.

" Q. What number of the street?

" A. I live at number 39.

" Q. Now, in reference to No. 39 Sigel street, this would be what—37 or 41?

" A. 37."

The bombs referred to by the witnesses Miller and Sullivan are the bombs which were deposited by Lingg and Seliger on their way home, after leaving Neff's Hall the second time.

Michael Hoffman (K, 497), a police officer, testified that he had found in all thirteen bombs, nine round ones and four long ones; that at the corner of Clyde and Clybourn avenues at Ogden avenue, under the sidewalk, he found two that were empty and one that was loaded, which he gave to Capt. Schaack. That he got at the same time two coils of fuse and a can of dynamite and a box of caps. They were the bombs referred to in the testimony of Gustav Lehman, who was present with him at the time he got them, and that he found at the house of Thielen

two loaded bombs and two cigar boxes full of dynamite, a rifle, a revolver and two boxes of cartridges. The revolver and box of cartridges was buried under the floor of the coal-shed, and the dynamite and rifle and the other box of cartridges buried under the house. The bombs were the ones referred to by Capt. Schaack in his testimony as having been shown to Lingg, which he admitted having given to Thielen.

Thomas McNamara (K, 581) testified that on the 23d day of May, under the sidewalk on the Bloomingdale road and Robey street, he found thirty-one gas-pipe bombs—thirty loaded and one empty. The loaded ones had the caps and fuse. They were in an oilcloth. They were put on the ground under the sidewalk; there were also three coils of fuse and two boxes of dynamite caps. The place where they were was about four blocks from Wicker Park.

Frederick Drews (K, 553) testified that on the 2d of June he tore up the sidewalk in front of his place, 351 Paulina street, for the purpose of repairing it; that he found there four cans which he placed inside of his lot and then notified Capt. Schaack about them; that they were filled with some kind of explosive substance.

Michael Whalen (K, 555), a police officer, testified that he took those cans from the yard at 351 Paulina street; that the yard is distant, he thinks, from half a mile to a mile from Wicker Park. The cans were filled with fluid.

Daniel Coughlin (K, 568), a police officer, testified that he experimented with one of the cans; that he exploded it by lighting the fuse, and the material inside was

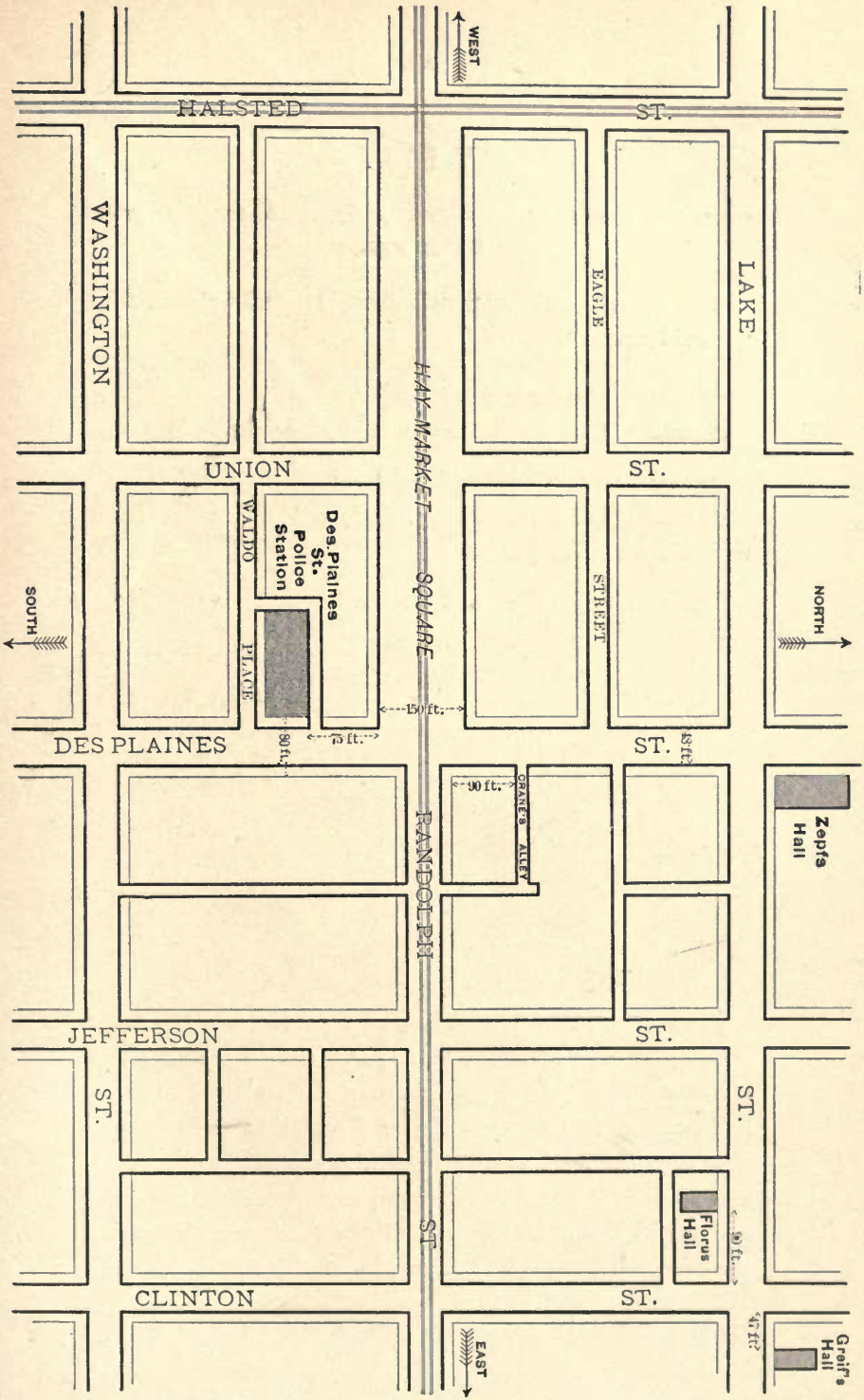
thrown four or five feet and made a blaze three or four feet high. That it burned from three to five minutes. (A photograph of one of the cans appears in People's Exhibit 131.)

Thus far we have called attention only to those portions of the evidence which appear in the record, about which there is practically no dispute. The only portion about which there is any disagreement is as to the conversation between Spies and Wilkinson. Spies says that the conversation did not refer particularly or specifically to the city of Chicago, but was simply a general conversation in regard to the science of revolutionary warfare, and some of the statements made by Wilkinson are denied by him.

Aside from that, the foregoing evidence is without denial, stands uncontradicted and is practically admitted by by the defense.

Thus it will be seen upon an examination of this evidence that the fact of a conspiracy to overthrow the existing order of society stands proven overwhelmingly, and that not even an attempt is made to dispute it; also, that the defendants were members of that conspiracy, and that the time had been fixed for its culmination and all preparations made for carrying it into effect.

The points in the evidence which are seriously disputed are wholly in regard to some of the transactions at the Haymarket.


WEST
HALSTED
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Des Plaines St. Police Station
WALDO
PLACE
SOUTH
STREET
NORTH
150 ft.
75 ft.
80 ft.
DES PLAINES
ST.
90 ft.
CRANE'S ALLEY
RANDOLPH
Zepf's Hall
JEFFERSON
ST.
ST.
ST.
Florus Hall
90 ft.
CLINTON
ST.
EAST
Greif's Hall

VIII.

MATTERS ABOUT WHICH THERE IS A CONFLICT IN THE EVIDENCE.

The questions about which there is a serious conflict in the evidence are:

First. Did the crowd fire first?

Second. Threats as the police approached.

Third. Did Fielden fire from behind the wagon?

Fourth. Who threw the bomb, and the point from which it was thrown?

The police marched in the following order (I, 428):

North.

Inspector Bonfield. Capt. Ward.

Lieut. Quinn's Company. Lieut. Steele's Company.

Lieut. Stanton's Company. Lieut. Bowler's Company.

Lieut. Hubbard's Company.

Lieut. Penzen's Company. Lieut. Beard's Company.

South.

(1.) DID THE CROWD FIRE FIRST?

JOHN BONFIELD, who as inspector was in charge of the police that night, testifies (I, 18) that the force numbered about 180 men; the police left the station between 10 and half-past 10, marched north on Desplaines street, Capt. Ward and himself at the head of the two first companies; Lieut. Steele and his company were on the right and Lieut. Quinn on the left; of the next two companies the one on the right was Lieut. Bowler's, that on the left

Lieut. Stanton's; then the company of Lieut. Hubbard came next, formed in single line, and the companies of Penzen and Beard brought up the rear, who were ordered to stop at Randolph street and face to the right and left.

" The orders were that no man should draw a weapon or commit any act, fire or strike anybody, until he received positive orders from his commanding officer. Those orders were given partly to the men and to each commanding officer individually, with instructions to report it to his men individually; and as to my personal knowledge of how the men were, I walked along the lines while the men were formed, before they turned into Desplaines street, and each officer was dressed in full uniform with his coat buttoned up to the throat and his club and belt on, and his club in the holder on the side. I had no belt and carried a club in my hand myself, and Capt. Ward was with me in front, and we each had our batons in our hands, pistols in our pockets. As we approached the truck, or about that point (indicating), there was a person speaking from the truck, and Capt. Ward turned slightly to his right and gave the statutory order to disperse in the name of the people. The language was: 'I command you in the name of the people of the State of Illinois to immediately and peaceably disperse,' and as he repeated those words—I think those are the exact words used—he turned slightly to the right and left and said: 'I command you and you to assist.' Almost instantly, or just before that, Mr. Fielden, as I recognized afterwards, was standing on the truck speaking as we approached, and as Capt. Ward gave the command Fielden turned so as to face the captain and myself and stepped off from the end of the truck and turned to go towards the sidewalk, and as he turned he said in a rather loud tone of voice, 'We are peaceable.' Almost instantly after that remark was repeated I heard from behind me a hissing sound. * * * which was followed in a second or two by a terrific explosion. To go back a little, as we came up the street the crowd parted, kind of peculiar to my idea; some portions of them run on Desplaines street towards Lake, *but the greater portion of*

them fell back to each sidewalk, to the right and left and partly lapped back to our flanks; almost instantly after the explosion, or whatever it was, the firing from the front and from both sides poured in right on us. I should judge there were from seventy-five to one hundred pistol shots right in our front and both flanks almost instantly after the explosion of the bomb. * * * from the crowd standing directly in front and from both flanks of us. Those shots and the explosion were before there was a word spoken or a shot fired by any officer—a word spoken by any officer except the statutory command given by Capt. Ward and my command to the men to halt. * * * It was but a few seconds; there was not but just time enough for the men to get their revolvers out when the police commenced firing, but there was an interval of a few seconds between the firing by the crowd and the return fire by the police. I was standing there when the explosion occurred, perhaps two or three paces in front of the first column of men; on hearing the explosion I turned around quickly and I saw the second two lines of men, almost all of the men, shrink to the ground. There were a great many men lying there. * * * *It would be hard to make an accurate statement, but I should think I would be very safe in saying that it was not less than one hundred* (not less than one hundred shots that were fired by the crowd before the police fired)."

He says (page 44) that at the time the police were halted the front rank of the first division was not quite up to the north line of Crane's alley; that Capt. Ward was within six feet of the wagon upon which the speaker stood.

Lieut. STEELE testified (I, 169) that Capt. Ward "went "around to the front, or stepped up; he was in front then "and commanded the speakers to disperse in the name of "the people of the State of Illinois, and called on the citi- "zens present to assist him in dispersing them, and at that "time—well, it might have been two or three seconds— "the shell was thrown in the rear or on the left of my "company, and it exploded there; there was then also a

"smaller report in the rear of me like a large pistol shot, "right almost behind me, and at that time they fired "immediately into us almost.

"Q. Who fired immediately into you?

"A. The crowd in front of us, on the sides and in the front.

"Q. On the sides of the street—on the sidewalk?

"A. Yes; and as soon as it was done the firing was returned by myself and the men.

"Q. *Who fired first, the people in the crowd on the streets in front of you, or the police?*

"A. *The people in front and on the side of us.*

"Q. With reference to the explosion of the bomb, when did the firing begin?

"A. Right after that.

"Q. What interval of time, if you can measure it by time?

"A. Well, it could not have been more than two or three seconds."

He says (page 174) that as the police got north of Randolph street the crowd separated to the right and to the left.

CAPT. WARD testified (I, 430):

"Q. How were your men armed?

"A. With clubs and pistols.

"Q. Where were their clubs and pistols?

"A. They were in the belts and sockets—clubs—and pistols in their pockets.

"Q. What was the first thing that happened after Fielden said 'We are peaceable'?

"A. A few seconds after he said 'We are peaceable' I heard the explosion in my rear.

"Q. What happened then?

"A. I turned and looked to see, and pistol firing began from the front and on both sides of the street.

"Q. *Was the pistol firing begun by the crowd?*

"A. *By the crowd, yes; it came from in front of us and on each side of the street immediately afterwards; there was quite a number of them, a great many; quite a scattering volley.*

" Q. *Where was that volley? where did it come from? was it general?*

" A. *In front and on both sides of the street; from the wagon and rear of it; that way (indicating); saw the flashes.*

" Q. Did you see anybody fire—that is, did you recognize anybody?

" A. I did not recognize anybody.

" Q. What happened then?

" A. Then the police began firing and we charged into the alley—into Crane's alley and north on Desplaines street."

Officer JOHN WESSLER testified (I, 251):

"I saw it flying through the air; it struck and it laid there probably a couple of seconds when it exploded; just as it got exploded there was about a hundred shots; *I won't say exactly, but there was a volley of shots fired into us by the opposite party.*

" Q. *By the crowd around?*

" A. *Yes. So they shot into us and our men fell by our sides.* Lieut. Bowler told us then to draw our revolvers and shoot and kill every one we met—shoot and kill. I drew my revolver and I ran north.

PETER FOLEY, a police officer, testified (I, 268):

" Q. In reference to the explosion of the shell, when were the shots fired?

" A. Well, the report had not died away when the shots were fired.

" Q. *From whom did the shots come?*

" A. *From the parties that were on the sidewalk and in front of us.*

" Q. What did you do?

" A. I got a command from the lieutenant to draw revolvers, and I shot.

PAUL C. HULL, a newspaper reporter, testified (K, 122):

" Q. At the time the bomb exploded had there been any firing?

"A. Yes.
"Q. After the bomb exploded, did the firing begin?
"A. Yes; it did.
"Q. From whom?
"A. *From the crowd.*
"Q. *Before the police fired?*
"A. *Before the police fired.*
* * * * * * * *

"Q. What was the effect upon the police of the explosion of that bomb?

"A. It seemed to level to the ground the second and third divisions of police. My eye followed the spark of the bomb as it fell to the ground. I did not see the great body of the police, except the two columns which bounded either side of the bomb. It seemed to throw them all to the ground. *At almost the same instant there was a rattling of shot, which came from both sides of the street, which did not come from the police.*

GEORGE W. HUBBARD, a lieutenant of police, testified (J, 80):

"It (the bomb) immediately exploded, and, as far as I could see, the entire division disappeared; the division in front of me all disappeared, except the two ends, which was really two-thirds of the division; they went down, but a great many of them got up again, and, of course, got up in kind of disorder, and then I flanked the left of the division.

"Q. In reference to that, first, was there any firing before that bomb was thrown or exploded?

"A. No, sir; that was the first sound.

"Q. In reference to the explosion of the bomb, when did the firing begin?

"A. *Almost immediately.*

"Q. From what source did it come?

"A. *From both sides of the street and north of me.*

"Q. What did you do when you found that the firing begun—the explosion of the bomb and the firing?

"A. Fitzpatrick, the sergeant, who was in command of one-half of my company, and myself—I divided it, and I being on the left, *rushed them around towards the sidewalk, and commenced answering the charge from that qaur-*

ter, and Fitzpatrick the other way, *from the east, and we commenced shooting right into the crowd on the sidewalk, faced them right and left.*

"Q. How was your company armed as you went down the street?

"A. We had our regular revolvers in our pocket, and we had a larger revolver in the socket attached to our belt on the outside.

"Q. How about the clubs?

"A. Clubs were also—the club in its socket, and the revolver in its socket, were both hanging to the left side of each officer.

"Q. *Had the pistols or the clubs been pulled before the explosion of the bomb?*

"A. *No, sir; they were all in the pockets.*"

LOUIS HAAS, a police officer, testified (K, 254):

"Q. In reference to the explosion of the bomb, when did the firing begin?

"A. *There was firing from the west (east) side of the street, almost at the same time this explosion occurred.*

"Mr. BLACK: Q. From which side of the street?

"A. *From the east side of the street towards the wagon.*

"Mr. GRINNELL: Q. You may state as to the wagon; you mean from where the wagon was?

"A. *On the east side.*

"Q. Had the parties fired before the bomb exploded?

"A. No, sir; they had not.

"Q. After the bomb exploded, did the police fire before the crowd?

"A. *There were shots fired from the east side of the street, where the wagon was, before any shots were fired from the police.*"

EDWARD COSGROVE, a police officer, testified (K, 170):

"Q. Before the explosion of the bomb, had there been any firing that you heard?

"A. No, sir.

"Q. No pistol shots fired?

"A. No, sir.

"Q. With reference to the firing of that bomb, how soon did the pistol shots begin?

"A. *Immediately.*

"Q. From what source did they come first, if you know?

"A. I cannot tell; I don't know.

WILLIAM H. FREEMAN, a reporter (K, 42):

"Q. Do you know where firing began first?

"A. No, sir; I do not. The firing was simultaneous almost after the explosion of the bomb."

EDWARD E. OWEN (K, 215):

"Q. You don't mean to say that the pistol shots preceded the bomb?

"A. *I don't know which was first.*

"Q. You don't know which was first?

"A. *No, sir; the pistol shots came from the sides of the street—both sides?*

"Q. Both sides?

"A. *Both sides.*

"Q. Did you see them?

"A. I could hear them. I was standing in such a position the bullets were right below me.

"Q. The question is, did you see any pistol shots from the street sides, and pistol flashes?

"A. *I could see flashes on the opposite side—I could hear.*

"Q. Whereabouts on the opposite side did you see any flashes of pistol shots?

"A. *Near the alley.*

"Q. When was that with reference to the explosion of the bomb?

"A. *As I said before, it was all simultaneous*, and I did not wait there to see just how matters were running from the first minute."

HENRY E. O. HEINEMANN, a newspaper reporter (K, 235).

"Q. How soon after the explosion of the bomb was it before the shots were heard?

"A. I could not measure the time at all.

"Q. Almost instantly? A. *Almost instantly.*

"Q. Can you say from whom the shots came first, from the police or the crowd?

"A. That I cannot say; it seems to me as if I heard some bullets from pretty close proximity to myself; that is, coming from the north.

LIEUT. QUINN (I, 185):

"The people, when they came up, stopped—they got to north of where the speaker was speaking—about eight or ten feet right to the north, and formed a line across the street in our front, and immediately when that bomb was fired, and that shot from the wagon which came almost *instantaneously, at the same time they commenced firing into our front and from the side, and then from the alley the firing commenced.* I fired myself. I hadn't looked back then, but kept on watching toward the front."

On behalf of the defendants, SIMONSON testified (L., 73), that the firing of pistol shots began on the part of the police. He also swore on his cross-examination to the remarkable statement that the *whole of the firing was done by the police;* that no shots were fired by any portion of the crowd, and also says (page 116), the firing commenced right in the center of the street where the police were, although the testimony in the case is uncontradicted that the police of the second column in the center of the street were all thrown to the ground, and the police in the third column, as appears from the testimony of Lieut. Hubbard, wheeled to the right and the left, advancing to the sidewalks before they fired.

ZELLER, who had been a member of the Freiheit group, is quoted in the brief for plaintiffs in error, as having denied (I, 157) that the crowd fired first. Zeller nowhere says that the crowd did not fire first, but his testimony is simply to the effect that as he ran south on Desplaines street he heard bullets whistling around him, coming

from the north and north-west, and saw persons who were apparently wounded by the bullets, and that he saw no one there firing from the crowd.

RICHTER, a witness for the defense, testified (L, 181), that at the time the bomb exploded he was on Desplaines street, and about half way between Crane's alley and Randolph street, moving or being pushed by the crowd in the direction of Randolph street; that immediately upon the explosion of the bomb he heard shots fired, testifying that the shots came from the direction of the police and that he saw no one in the crowd near him fire.

FREDERICK LIEBEL, who had been a reader of the Arbeiter Zeitung ever since he came to this city, and who went to the meeting because of the notice he saw in the Arbeiter Zeitung, and who had frequently attended socialistic meetings and picnics at which he heard some of the defendants speak, testified (L, 202–3):

"Q. What came next (after seeing bomb in air) to your observation?

"A. I heard some shots.

"Q. From where?

"A. From the police and from the crowd. I cannot say from whom exactly.

"Q. I ask you from what direction did the shots come?

"A. They came from the police.

"Q. Did they come from the center of the street, from west of you?

"A. Yes, from west of me.

"Q. Did you see any of the people on the sidewalk return the fire?

"A. I did not see that; no, sir.

"Q. Did you hear the detonation caused by the explosion of the bomb? A. Yes.

"Q. In reference to the shooting, was that a little before or a little after, or was it, in your judgment, simultaneous?

" A. It may be this or that.
" The COURT: Which was first?
" A. It was just near together, the detonation and the shots—and the revolver shots.
" Q. Which was first, the shots or the bomb?
" A. They came so near together that I can't tell which came first."

One of the witnesses whose evidence is cited upon this point is JAMES D. TAYLOR, who says (L, 222) he was standing on the curbstone of the north side of the alley at the time the bomb was thrown, close to the west edge of the sidewalk; took that position before the speaking commenced. The front rank of police were on a line with witness.

" Q. Did you see and hear any pistol firing?
" A. It seemed to me almost simultaneous—the pistol firing and the explosion of the bomb. The firing came from the direction where the police were.
" Q. *Did you see any pistol firing from the crowd?*
" A. *Not one* (233). I was the last man that went up the alley. Saw no perforations on the south side of the telegraph pole (236). Been a socialist for fifty years; know Fielden, Parsons, Spies and Neebe, of the defendants; especially acquainted with Parsons and Neebe; a member of the American group."

We call attention to one portion of the cross-examination of this witness. He says *that he got to the Haymarket about 7 o'clock;* that he *went directly to the position close to Crane's alley and stood there until the meeting was called.*

" Q. *So you went up to Crane's by that alley and stood there until the meeting was called* (246)*?*
" A. *I did.*
" Q. Are you mistaken about that?
" A. No, sir.
" Q. *Can't you be mistaken about that?*
" A. No, sir.

"Q. Here is the Haymarket (indicating). You say you came down and stood there from the time you got there until the meeting was called to order?

"A. Yes.

"Q. Are you positive of that?

"A. I went from Madison right up there to the alley.

"Q. Didn't you go to the Haymarket and stand on the Haymarket awhile?

"A. No, sir.

"Q. Not any place on the Haymarket?

"A. No, sir.

"Q. Didn't you stand on the Haymarket and talk with any groups?

"A. No, sir.

"Q. Or talk with any people?

"A. No, sir.

"Q. You went directly to that place and stood there?

"A. Yes, sir.

"Q. *What did you do that for?*

"A. *On purpose to hear.*

"Q. *You wanted to be there where the meeting was called?*

"A. *Yes, I wanted to hear what was going to be said.*

"Q. You went directly to that place?

"A. Yes, the same as I would go to church.

"Q. To hear a socialistic discussion?

"A. Yes, sir.

"Q. Did anybody tell you there was going to be a socialistic meeting?

"A. No, sir.

"Q. You went there to hear the discussion?

"A. Yes, exactly.

"Q. What time did you get there?

"A. A little before 7, I think."

An examination of the testimony of this witness shows that he is utterly unreliable and willing to swear to anything which, in his own opinion, will help the cause of the defense. He testifies (L, 233) that the police fired first, or, rather, that the first shots came from the direction of the police, and that *no shots were fired from the crowd.*

This witness swears positively and repeatedly that he went to the Haymarket about 7 o'clock in the evening; that immediately upon arriving there he crossed the Haymarket, went down Desplaines street to Crane's alley, and stationed himself at the very place where the meeting was called to order by Spies; that he stood in that position from the time he got there, about 7 o'clock, until Spies called the meeting to order. This statement is significant. One of two things is true: Either Dr. Taylor swears falsely, *when he says he stood there that length of time, or else he knew beforehand just the point at which the meeting would be called to order.* The evidence shows that the the original intention was to have the meeting on the Haymarket. Spies himself in his evidence that he picked out the place for the speaking *after he got upon the ground*, and that he chose the position on Desplaines street because it would not interfere with travel on Randolph street. If Dr. Taylor knew beforehand that the meeting was to be called at Crane's alley he must have learned it from Spies or some one acting with him, because Spies took upon himself the responsibility of calling it at that place. In view of the fact that Taylor for fifty years has been a socialist, that he was a member of the American group, intimately acquainted with Fielden and Parsons, also acquainted with Spies and Neebe, it would not be at all surprising if he had been previously informed at just what point the meeting would be called to order, and the significance of the meeting being called just at the mouth of Crane's alley is very great, when we consider the fact that a man throwing a bomb from the mouth of the alley would have a safe and secure means of retreat through it. We shall call attention later to the testimony of this witness upon another point.

With reference to the removal of the telegraph pole mentioned by witness, it was admitted by the defense (N, 150) that the pole had been removed by the telegraph company, which was at that time removing its poles throughout the city, and not by the city or at its instance.

ROBERT LINDENGER, living at 53 North Clark street, with Carl Richter, says that he went to the Haymarket with Richter, and that the police fired first; *the crowd did not fire at all.*

FRANK STENNER testified (L, 283) that he was in Chicago since May, 1885; that he heard the police shoot when the bomb was thrown; *that he did not see anybody else shoot except the police*, but he says that immediately after the shooting began he laid himself on the steps of Crane Brothers, about sixty feet from the wagon, where the police came and arrested him.

JOSEPH GUTSCHER testified (L, 301–3):

"*When the meeting was pretty near over the police came in and started shooting.*

"Q. *The police began to shoot?* A. *Yes.*

"Q. Who did they shoot at?

"A. They shot at everybody that they found on the street.

"Q. *Did you see anybody except the policemen shoot?*

"A. *No, sir.*"

He testified also that he was standing on the west side of Desplaines street, *directly opposite the mouth of Crane's alley*, and that the *bomb exploded twenty-five or thirty feet south of him*, when every other witness in the case swears that the bomb exploded about on a line with the alley.

FRANK RAAB testifies (L, 315–6) *that the police fired and the crowd did not.*

WILLIAM URBAN (L, 338) who has been a compositor on the Arbeiter Zeitung since 1879, and is a member of the Central Labor Union, testifies that at the time the police came up he was standing seven or eight feet from the lamp-post on the east side of the alley, and that at the time Capt. Ward gave the order for the meeting to disperse he saw in the hands of the policemen (352) in the front rank near sidewalk, something shining like revolvers; he says (page 346) he did not see any of the citizens fire, and that he is a socialist.

With reference to the testimony of this witness, we call attention to the evidence introduced on rebuttal, which appears in Vol. N, pages 260, 270. The evidence of fourteen officers who stood in the first and second rows nearest the east sidewalk shows positively that no officer at the point indicated by the witness had a revolver in his hand before the explosion of the bomb.

EBERHARD HIERSEMENZEL testified (L, 384):

" When the police came up I saw the commanding officer of the police walk up to the wagon and converse a few words with Mr. Fielden, and whilst I was looking at Mr. Fielden I at once heard a noise like a shot, and I turned around and saw the police fire at the people.

" Q. At that time did you see any of the people fire at or towards the police (page 387)?

" A. No. * * * The commanding officer stepped up to the wagon (page 394), said a few words to Mr. Fielden, and Mr. Fielden said a few words in return, and while I still had my eyes on Mr. Fielden, I *heard behind me the noise of pistol shots, and as I was turning around I saw them fire into the people.*

" Q. Saw the police fire? A. Yes."

The witness further swore that he did not see any shots fired from the crowd.

CONRAD MESSER testified (L, 401) that he was stand-

ing by the side of the wagon at the time the police arrived; says: "After the bomb exploded the policemen "shot all of the crowd, so I went on the sidewalk and " Mr. Fielden stepped on the sidewalk too; after this I " did not see him any more. * * *

" Q. Did you see any citizen shoot there?
" A. No, sir."

GEORGE KOEHLER says (L, 508) that *the firing was by the police, and that none of the crowd fired.* But it further appears from the testimony of this witness (page 517) that the moment he saw the bomb in the air, before it exploded and before he knew what it was, as he says, he started to run and fell down on the sidewalk, and was lying on the sidewalk at the time he was shot, and it is clear that he could not have known who shot or from what direction.

CHARLES HEIDEKRUEGER testified (L, 543) that the police and no one else fired.

CHARLES LOUIS SCHMIDT (L, 552) is quoted by the counsel for the defense in their brief as saying that the firing came from the police, and not from the crowd. We call attention to this portion of his testimony:

" Q. At the time the bomb exploded, how far were you from the wagon?
" A. Perhaps two or three paces.
" Q. Where did you go after the explosion of the bomb?
" A. I went northward on Canal street, towards this way (indicating).
* * * * * *
" Q. Did you run with the crowd north?
" A. Yes; I went with the crowd of people.
" Q. Did you hear and see the police shoot on that occasion?

" A. *I cannot tell actually and positively whether it was the police shooting, but I saw the first shots fired from the southerly direction, and then right away after that the bomb came from the other direction.*"

This witness had been a constant reader of the Arbeiter Zeitung since he came to this country, and the fact that he swears that the shots were fired by the police before the bomb was thrown shows that no credence whatever can be given him or his evidence.

JOSEPH SCHWINDT (L, 557), a reader of the Arbeiter Zeitung, who had lived in this country one year and nine months, was present at the meeting because of having read a notice of it in that paper; says that the police fired, and that the *crowd did not.*

JOHN HOLLOWAY, one of the witnesses cited by plaintiffs in error, testifies (M, 61) as follows:

" The COURT: Q. Where did the first shots come from, if you saw any shots?

" A. I never did see any shots. I only heard them; that was after the bomb exploded.

" Q. From what direction did they come?

" A. I cannot tell you more than from their report, because you cannot see every place.

" Q. Where do you think they came from?

" A. From the middle of the street, or the street in behind us.

" Q. Was there a large number of people in about where you stood?

" A. There was; it was full.

* * * * *

" Q. After the shooting commenced where did you go? Which direction did you take ?

" A. I took on the sidewalk in the direction of Randolph street.

" Q. Then where did you go ?

" A. Well, the shooting commenced then, pretty

strongly, and came from the middle of the street, somewhere; I don't know where, and the people fell down and I fell down, and one man exclaimed he was shot, and I pulled him up against me, to keep the bullets off me."

EDWARD LEHNERT (M, 82), cited by plaintiffs in error, nowhere in his evidence says that the police fired first.

WILLIAM SNYDER, who was a socialist, a member of the American group, testifies (M, 112) that he was one of the parties on the wagon upon which the speaker stood, and a friend of some of the plaintiffs in error; that the police fired, and that no *shots were fired by the crowd.*

JOHN F. WALDO, a socialist, a member of the American group and of the International Rifles, the armed section of that group, testified (M, 164) that the police fired and the crowd did not. The witness also swore positively on cross-examination (M, 174), *that the police fired before the explosion of the bomb, which is a manifest lie.*

STEPHEN T. INGRAM (M, 513), cited by plaintiffs in error, says:

"Q. Who was it that was doing the shooting?

"A. Well, most of the shooting that I could hear—it seemed like the police were shooting.

* * * * *

"Q. Was there any shot fired from the wagon before you heard the explosion of the bomb?

"A. No, sir; there was not.

"Q. Was there afterwards?

"A. There was not that I could hear, there was not that I could tell. The police were not very far from the wagon, and there was a great deal of shooting where they were. I could not tell positively, the crowd began to rush so.

HENRY SCHULTZ (M, 388), cited by plaintiffs in error, does not testify that the police fired first.

When we consider the character of the witnesses introduced by the defense upon this point, the manifest sympathy of most if not all of them with the prisoners, and that many of them were members of socialistic organizations, readers of the Arbeiter Zeitung, and most of whom were crowded together in the immediate vicinity of the wagon, and in that portion of the crowd which was most demonstrative and boisterous, and when we consider that most of them swear positively that no shots were fired by the crowd, but that all came from the police, there can be no question in the mind of any reasonable man, considering all of the evidence together, that the crowd opened fire immediately upon the explosion of the bomb, and no reliability can be placed upon the testimony of those who testify otherwise. There can be no possible question in this case that the crowd did fire. This is apparent from the testimony of the surgeons who attended policemen wounded at the time, and who testified that the bullets extracted from officers were of different sizes (see K, 188), while the police force was armed with a regulation revolver. It is apparent from the testimony of the witnesses already cited. It is also apparent from the testimony of Officers Doyle (I, 338), Krueger (I, 248), Hanley (I, 306).

The crowd did fire first. About that there can be no question. They fired before the police fired and instantaneously upon the explosion of the bomb. That fact of itself is almost conclusive evidence that the throwing of the bomb that night was the result of a conspiracy.

(2.) THREATS AS THE POLICE APPROACHED.

H. F. KREUGER, who was number 1 in the front rank, on the right of Lieut. Steele's company, testified (I, 232):

"I heard somebody speaking on the wagon.

"Q. Did you hear what he said?

"A. I could not hear distinctly what he said, only one remark that I distinguished when we got up pretty close, within twenty-five or thirty feet.

"Q. What was that?

"A. I think it was something like this: '*Here they are now, the blood-hounds,*' or some such remark as that.

"Q. Was that the speaker on the wagon?

"A. I *should judge it was; I would not be positive.*"

On cross-examination the same witness was asked:

"Q. Did you hear in a loud tone of voice, '*You do your duty, and we will do ours?*'

"A. *Well, I heard something like that, but I would not swear to it.*

"Q. Why didn't you tell the state's attorney about that?

"A. Well, I am not certain about it. What I am not certain about, I am not going to say.

"Q. Are you certain of it?

"A. No.

"Q. Then you did not hear, 'You do your duty, and I will do mine?'

"A. I heard something like that.

"Q. Did you hear that?

"A. I am not positive. I heard something like that. That was the reason I could not tell it to the state's attorney.

"Q. All that you heard, then, that you are positive of, is, 'Here come the blood-hounds, now?'

"A. 'Here they are, now, the blood-hounds.'

"Q. That is all that you are sure that you heard?

"A. Yes."

Lieut. MARTIN QUINN, whose company was to the left of that of Lieut. Steele's as they marched down the street, says (I, 183):

"As we were within about fifty feet of where the speakers were, I heard the remark passed, '*Here they are now, the blood-hounds. You do your duty and I will do mine.*' *That came from the man that was speaking at that time.*

"Q. From what place was he speaking?

"A. On the wagon."

Lieut. STEELE, who was in command of the first company on the right, the one which stood nearest to the wagon, testifies (I, 171):

"Q. Could you hear or did you hear any one in the wagon speaking prior to your getting there or prior to your halting?

"A. I could hear speaking going on in front of us.

"Q. Did you distinguish the words?

"A. I heard the words uttered by some one, '*You do your duty and we will do ours.*'

"Q. Who was it that made that remark?

"A. That I could not say; it was said from in front.

"Q. Was it said from the street or the wagon?

"A. Well, it was in front of us. *The sound came from in front of us as we marched up.* We took up pretty nearly the whole street, the two companies; Quinn was on the left, on the west side of the street, *and I was on the east side, nearer the wagon than Quinn's company.*"

On cross-examination, he says (page 179):

"Q. You heard the remark come from the direction of the main body of the crowd stating that 'you do your duty and I will do mine'; or, 'we will do ours'?

"A. 'The blood-hounds are coming; *you do your duty and we will do ours.*'

"Q. That came from the direction of the body of the crowd?

"A. Yes; in front of us.

"Q. You don't pretend, of course, to say, and you

don't now wish the jury to understand you as saying, that the speaker made that declaration from the wagon and in the midst of his speech?

"A. I didn't say so.

"Q. Well, I say, you don't wish the jury to infer that you mean it—you do not so mean—you don't pretend to say who it was?

"A. I don't pretend to say anything, only what I know.

"Q. Well, you know that you heard that voice, but I say you do not know where it came from. That is all there is to it?

"A. It came from the front, in front of me.

"Q. Certainly, all of the audience was in front of you, except a few stragglers on the sidewalk, as I understand you to stay; that is true, isn't it?

"A. Yes.

JOHN WESSLER (I, 256), who was in Lieut. Bowler's company on the right, being the second column, testified that he had got about as far as the Randolph street car track on the north. "We were marching along and I "heard the remark, '*There come the blood-hounds*,' and "whatever remark was made after that I could not state."

On cross-examination (page 263):

"Q. Just as you got north of the railroad track, between the track and the edge of the street, you heard 'Here come the blood-hounds'?

"A. Yes, sir.

"Q. Where did that come from?

"A. *It came from towards where the speaker was; I could not swear positively whether it was the speaker or not.*

* * * * *

"Q. When you say it came from the direction where the speaking was, you mean it came from somewhere on the north of you?

"A. Yes.

"Q. You don't mean to say that the man on the wagon uttered that?

"A. No, sir; I was too far away."

Louis Haas, a police officer in citizen's clothes, who was circling among the crowd at the meeting, testified (K, 250–1):

"As the first company got across Randolph street, north of Randolph within ten or fifteen feet, I heard Fielden make this remark: 'Here comes the blood-hounds, now men do your duty and I will do mine.'

"Q. Now, where were the policemen, the front ranks of the policemen with reference to the car tracks on Randolph street, when you heard that remark?

"A. They were north of Randolph street.

"Q. Where were you?

"A. I was then on the—pretty near the center of the street, more toward the west side of the street than the east, I should say.

"Q. Well, with reference to the wagon, say?

"A. Well, I should say I was then within five or six feet of the wagon."

On cross-examination his testimony was to the same effect.

In this connection we desire to call particular attention to the testimony of Frank Stenner, a witness called by the defense, who, upon cross-examination, says (L, 292):

"Q. When the bomb exploded you were looking at the police come up?

"A. Yes.

"Q. *Did you hear Fielden speak?*

"A. *Yes.*

"Q. *What was it he said?*

"A. *When he saw those policemen he said, 'Stand.'*

"Q. *He said 'stand' in a good, strong tone?*

"A. *Not very loud.*

"Q. You heard it?

"A. *I heard it.*

"Q. How far were you from him when he said it?

"A. From whom?

"Q. From Fielden?

"A. *Well, about six or eight feet.*"

On re-direct examination he said (page 299):

"Q. You say Mr. Fielden said 'stand'?
"A. Yes.
"Q. Do you remember the word 'stand'?
"A. Yes.
"Q. Did he, in that connection, say 'stand together if you are going to succeed in the eight-hour movement'?
"A. I don't know.
"Q. You remember the word 'stand'?
"A. Yes.
"Q. Your English was not as perfect then as now?
"A. No, sir."

Another witness for the defense, JOHN BERNETT, upon cross-examination (M, 487) testified:

"Q. Now, when the police came up, what did you hear Fielden say?
"A. I cannot remember now. He was speaking on and the police came up.
"Q. The police came up; but what did he say? Did he say 'stand'?
"A. No, sir; not then.
"Q. When did he say that?
"A. I heard that when the captain of the police ordered them to leave that place. I heard somebody say 'Stand! Don't run'!"

There is no pretense based upon any evidence in the case that Fielden at any time toward the close of his speech, and about the time when the remark testified to by Stenner was made, said anything about workingmen standing together, or used any phrase of that sort. Moreover, while the speech which he made to the audience was in a loud tone of voice, as is admitted by every one, the command to stand, Stenner says, was in a low tone of voice, and it was addressed undoubtedly to those in the immediate vicinity of the wagon, who were the enthusiastic supporters of the

speaker, and this command was in perfect keeping with the character of Fielden, as exemplified in his speech, when he said at its very close, as testified to by Mr. English (K, 283): " Socialists are not going to declare war, but " I tell you war has been declared upon us, and I ask you " to get hold of anything that will help to resist the on- " slaught of the enemy and the usurper. The skirmish " lines have met. People have been shot. Men, women " and children have not been spared by the capitalists and " minions of private capital. It had no mercy, so ought " you. *You are called upon to defend yourselves, your* " *lives, your future. What matters it whether you kill* " *yourselves with work to get a little relief or die on the* " *battle-field resisting the enemy?* What is the difference? " Any animal, however loathsome, will resist when stepped " upon. Are you, men, less than snails or worms? *I* " *have some resistance in me. I know that you have, too.* " *You have been robbed and you will be starved into a worse* " *condition.*"

Stress is laid in the argument upon the fact that Mr. English, the reporter for the Tribune, did not hear the words attributed to Fielden by the foregoing witnesses. That fact, however, is of no significance whatever, because according to his statement as soon as he saw the police approaching him he immediately ran south to the north-west corner of Randolph and Desplaines streets and was there at the time the command to disperse was given. He did not even hear Fielden's exclamation, " we are " peaceable," which was heard by nearly every witness that testified in the case. A number of witnesses are cited on page 9 of the brief filed by Messrs. Black, Salomon and Zeisler, who swear that they did not hear this utterance. Even if those witnesses testified truthfully, the fact that

they did not hear it would not prove that no such utterance was made, because at the time it was made there was great noise, disturbance and confusion. Some witnesses would hear one utterance and see certain things, while other witnesses would not hear the utterance, but would hear others and see other things. It is in the nature of negative testimony and cannot avail as against positive. Moreover, from an examination of the testimony of these witnesses it will appear that most, if not all of them, are sympathizers with the defendants, many of them socialists, members of groups, readers of the Arbeiter Zeitung, and they were the very persons who constituted the tumultuous portion of the crowd.

Counsel for plaintiffs in error, in their brief (page 10), say that this remark is one of the heirlooms of the detectives and police and has done duty on previous occasions.

Counsel evidently have forgotten that no remark would come more naturally from the lips of the speakers on that occasion than the characterization of the police as "blood-hounds." In fact, the evidence shows that the pet expression used by all of these defendants, both in print and in speech, whenever referring to the police, was "blood-hounds"; an expression made use of only the day before by Spies and Schwab in the articles which they wrote for the Arbeiter Zeitung.

And it is significant that Fielden, although he took the stand as a witness, did not deny having uttered the words.

(3.) DID FIELDEN FIRE FROM BEHIND THE WAGON?

Officer KREUGER, who was number one in the front rank to the right, of Steele's company, testified (I, 233):

" Q. In reference to the use of those words, ' we are peaceable,' what did he (Fielden) do?

" A. He (Fielden) stood at the south end of the wagon; the wagon was standing up north and somebody in the crowd told him (Fielden) to get down, and he said, ' all right,' and he stepped down and from the wagon and passed right to my right behind the wagon, and in about a moment the bomb fell behind me.

" Q. Then what?

" A. *Then I saw a pistol in his hand and it exploded twice. I am certain of two shots being fired by that gentleman* (*Fielden*).

" Q. Where was he with reference to the wagon, and where were you with reference to the wagon when that thing happened?

" A. I stood within about six or eight feet of the wagon.

" Q. On which side of it, south of it or the street side of it?

" A. On the street side of it. He (Fielden) passed right past me; I could almost have touched him with my hand, and he went right behind the wagon and stepped up on the sidewalk, up on the curbstone, when the bomb exploded. *Then I saw him have a pistol in his hand, and he fired twice to my recollection.*

" Q. Which way did he fire?

" A. Well, I judged he fired directly at the column of the police.

" Q. What was his attitude—what did he do?

" A. He took cover behind the wagon as far as I could judge.

" Q. Describe how he took cover?

" A. He took cover behind the wagon; he covered himself with the wagon between the police and him. I

then returned his fire, and at the same instant I received a bullet in my knee-cap.

* * * * * * *

"Q. The wagon was about where this is (indicating), and Fielden was on the sidewalk about there (indicating and the wagon between you?

"A. Yes.

"Q. When he fired, what did he do?

"A. He fired directly at the column of the police, and he fired two shots from there, the same as if this is the wagon (indicating), *he would crouch in this way* (indicating).

"Q. *He stooped down behind the wagon?*

"A. *Yes.*

"Q. Did you receive a wound?

"A. I received a wound the same instant.

* * * * * * *

"Q. What is the last you saw of Fielden?

"A. Well, the firing was going on pretty lively, and I saw that he was in the crowd, and I shot at him again, and he kind of staggered, but did not fall, and he mixed up with the crowd and I did not see him any more after that."

On cross-examination (page 243) the witness testified:

"Q. You say that Fielden passed to the sidewalk?

"A. He stepped up to the sidewalk.

"Q. And he got under cover of the wagon?

"A. Yes.

"Q. That is, went north?

"A. He stepped right behind the wagon, one step north.

"Q. The rear of the wagon, where there were no sideboards or no obstructions, was to the south, wasn't it?

"A. Yes.

"Q. So when he passed out of the wagon he passed south and got down?

"A. Yes.

"Q. You were within six feet of him, further south and near the curbstone?

"A. Yes.

"Q. He then went to the sidewalk and went north?

"A. Stepped right behind the wagon.

"Q. How near was he to the curb at the time you say he fired?

"A. He was right on the curb; he stepped right on to the curb.

"Q. How near to the curb were you in the street?

"A. Well, I was within, I should judge, four feet of the curb—four or five feet of the curb.

"Q. How far did he go north of the end of the wagon, which was within six feet of you?

"A. He went only one step north.

"Q. How far north of the end of the wagon did he step before you say he fired?

"A. He got just behind the wagon.

"Q, That is, to the side?

"A. Yes, to the side of the wagon.

"Q. How near to the south end of the wagon was he?

"A. Just enough to cover his body.

* * * * * *

"Q. Mr. Fielden was then probably seven or eight feet further north of you and a little to the right, was he?

"A. Yes, that was his position.

"Q. Now, when he went away, you say that he went through the alley?

"A. I would not swear to it. I said he mixed in the crowd toward the alley.

"Q. I understood you to say a while ago in your testimony that he went through the alley—he mixed with the crowd and went away through the alley?

"A. Diagonally toward the alley.

"Q. Then he came towards you?

"A. No; he crossed away from me; he was behind the wagon and crossed over to the alley."

L. C. Baumann, of Lieut. Steele's company, was in the first rank, the seventh man from the right; he testified (I, 296):

"Q. Where were you standing with reference to the wagon when the bomb exploded?

"A. I was standing north of that alley there.

"Q. About how far from the wagon?

" A. Well, I should judge about three or four feet.
" Q. After the bomb exploded what did you do?
" A. I stood right there.
" Q. What did you see?
" A. As soon as—well, what did I see, I saw Mr. Fielden, that he was standing on the hind wheel, *behind the hind wheel of the wagon, and had a revolver in his hand and fired off a shot.*

* * * * * *

" Q. Where was he (Fielden) standing, when you saw him with with the revolver in his hand?
" A. He was standing on the sidewalk.
" Q. Where with reference to the wagon?
" A. Right behind the hind wheel.
" Q. In what direction did he shoot?
" A. He shot from east to west.
" Q. Did you see him fire more than once?
" A. No, sir.
" Q. Where was your attention directed after seeing him fire the first shot?
" A. So we got called to 'fall in,' and we all went in the ranks and we shot—fired.
" Q. When you saw him fire the shot from behind the wagon, was that before or after the explosion of the bomb?
" A. That was after the explosion of the bomb.
" Q. About how much time, in your opinion, elapsed between the explosion of the bomb and the firing of the shot?
" A. I should say about half a minute."

On cross-examination (page 299), he testified:

" Q. You saw Fielden fire but one shot?
" A. Yes.
" Q. And then you say he fired from the sidewalk, from behind the wheel of the wagon?
" A. Yes, sir.
" Q. He was standing at that time behind the wagon and between the wheels, was he?
" A. He was between the wheels.
" Q. Between the wheels and behind the wagon?
" A. Yes.

"Q. On the sidewalk?
"A. On the sidewalk.
"Q. You saw him fire but one shot?
"A. That is all."

Counsel say in their brief, at page 14, with reference to the testimony of this witness, he admits that he saw Fielden that night for the first time, that he did not see him since then until he testified, and that he asked *some of the officers* who that man was that fired the shot, and *they told him it was Fielden.* What he did say is as follows (page 302–3):

"Q. When did you first see Fielden after that night?
"A. I have not seen him after that.
"Q. Until now?
"A. Yes, sir.
"Q. When did you first see him here in court?
"A. This morning.
"Q. This morning, that is the first time?
"A. Yes, sir.
"Q. And you have never seen him before?
"A. No, sir.
"Q. How do you know it was Fielden, then?
"A. Well, I simply asked who that man was that fired the shot, and so they told me it was Fielden.
"Q. Who told you that it was Fielden that fired the shot?
"A. Some of the officers.
"Q. Yes, but who?
"A. I could not tell.
"Q. You did not know yourself then at that time that it was Fielden who was shooting, did you?
"A. *No, sir; I only know his face.*
"Q. Now, what light did you have there that night to tell his face by?
"A. We had light enough to go and recognize any one."

* * * * * * * * *

"Q. And you haven't seen Fielden from the 4th of May until you saw him here to-day in court?

"A. Yes.
"Q. Where were you sitting to-day when you first saw him?
"A. I was sitting there (indicating).
"Q. Who pointed him out to you?
"A. *I pointed him out myself.*
"Q. You pointed him out?
"A. Yes.
"Q. *You recognized him?*
"A. *Yes.*
"Q. To whom did you point him out?
"A. To myself.
"Q. You yourself pointed him out to yourself?
"A. Yes."

Officer HANLEY was in Lieut. Steele's company in the first rank, number 4 from the right, and testified (I, 306):

"Q. At the time the bomb exploded how far were you from the wagon?
"A. I was about four or five feet.
"Q. Which direction were you from the wagon?
"A. I was facing north.
"Q. Did you notice the man speaking that was the last speaker?
"A. I did.

* * * * * * * * *

"Q. Tell what you saw immediately after the bomb exploded?
"A. Immediately after the bomb exploded I turned my face from (to) where the explosion was and I looked for the wagon again, and I noticed that man right over there (referring to the defendant Fielden) *by the wheel of the wagon, with a revolver, right behind, firing. I saw one shot go,* then I thought it was time to draw my revolver, and just as I got my revolver they rushed for the alley; that was a little south of the wagon.
"Q. Who rushed into the alley?
"A. Well, him (Fielden), and about, I really should judge, about twenty more; they kept firing about fifteen or twenty shots after they started to run in the alley."

On cross-examination by Mr. Black the witness testi-

fied (Counsel requests defendant Fielden to stand up, and he does so):

"The WITNESS: That is the man.

"Q. You recognize Mr. Fielden as the man whom you saw fire and who ran up the alley?

"A. Yes, sir; ran towards the alley.

"Q. Towards the alley?

"A. Yes. sir."

Officer CHARLES SPIERLING, who was in the front rank of Lieut. Quinn's company and the thirteenth man west of the east sidewalk, testified (I, 341):

"Q. Where were you when the bomb exploded?

"A. I was facing north.

"Q. Did you see the bomb before it exploded?

"A. No, sir.

"Q. How far were you from the wagon at that time?

"A. About ten or twelve feet.

"Q. Did you see any man making a speech from the wagon?

"A. Yes.

"Q. What happened after the bomb exploded—tell what you saw?

"A. *I saw Mr. Fielden get off of the wagon and fire one shot.*

"Q. Where was he standing, with referenee to the wagon, when you saw the shot fired?

"A. *Behind the wagon, on the sidewalk.*

"Q. In which direction did he fire the shot?

"A. West.

"Q. Was that before or after the bomb exploded?

"A. They seemed to come pretty near together.

"Q. Was it before or after, if you can tell?

"A. I think it was a little before.

"Q. Are you positive that the pistol shot was first, or the bomb?

"A. I think the pistol shot was a little the first.

"Q. How close did they come together, as you heard them?

"A. Well, hardly a second apart.

"Q. What happened after that?

"A. I pulled out my pistol and I fired two shots at the wagon, at the crowd.

"Then what did you do?

"A. Then I turned to the west and fired three shots at the crowd; that was going west.

"Q. Did you notice Fielden after he fired the first shot?

"A. Yes. I saw him over at the wagon firing just like that (indicating).

"Q. After the shot was fired did you pay any attention to him?

"A. No, sir; I did not."

On cross-examination he testified:

"Q. How many shots did you see Fielden fire?

"A. One shot."

JOHN WESSLER, who was on the right of Lieut. Bowler's company, testified (I, 250):

"We marched along and our company just had landed at the south end of Crane's alley; I was standing at the lamp-post. Sergt. Moore was on my right. * * * I drew my revolver. I ran north on the street, or on the sidewalk next to Crane's alley; I ran probably twenty or thirty feet north of Crane's alley, and when I got there I shot probably twice. I heard the order, 'fall in,' in the rear of me, just where I left. I ran back to see what was going on, and when I got to this wagon, the same wagon that the speaker was on, at the wheel, at the south end of it—the wagon stood next to the curb lengthwise—and at the middle of the south end of the wagon, *Mr. Fielden stood there*, and I noticed before I got there a man who would not stand up, *and he would shoot into the police and get down behind the wheel*, and I, thinking it was Capt. Bonfield, because that night he wore a black slouch hat, the thought struck me, and I said I would be sure, and *I went up and saw that Mr. Fielden was there, and he got up a second time and shot into the police*, and he got down by the wheel of the wagon, and as he did I shot him and he fell under the wagon.

"Q. Did you lose track of him absolutely?

"A. Then they were hollering, 'fall in' in the rear, and I ran away and left him, and we got orders to pick up the wounded, and we did so and we took them to the station."

Stenner, one of the witnesses for the defense, was arrested by Officer Foley at the steps of Crane Bros. while the firing was going on. He afterwards had an examination before Magistrate Scully. An attempt was made by the defense to impeach the testimony of Officer Wessler by showing that, at that examination of Stenner, he, Wessler, had testified that he could not identify the man that he saw shooting over the wagon. This attempt signally failed, as appears from the testimony of Justice Scully (N, 155), who says that Wessler at that time described the man whom he saw shooting over the wagon as a large man with whiskers (a description answering the description of Fielden), and said he thought he could identify him if he ever saw him again.

Counsel for plaintiffs in error called attention to the testimony of Freeman. Freeman testifies positively (K, 42) that he did not see Felden after the command by the officers for the meeting to disperse. If that is so, of course he did not see him shoot.

* * * * *

"Q. Did you see him (Fielden) withdraw from the wagon (K, 47)?

"A. My mind is not clear on that at all. I don't remember anything that occurred after I started to go to the officers. The thing happened so quickly that nothing was clear to me beyond the movements I made myself.

"Q. At the time you were crouching down there, while this firing was going on, down opposite the wagon on the sidewalk and near it, did you see any shots fired between you and the wagon?

"A. No, sir.

"Q. Did he have any revolver in his hand?

"A. No, sir.

"Q. Positive he did not?

"A. No, sir.

"Q. How long did you see him there?

"A. I saw him standing between the police and the wagon myself.

"Q. Between the wagon and the police?

"A. Yes.

"Q. Which side of the wagon?

"A. The tail end of the wagon.

"Q. Didn't he pull out his revolver after he got down there?

"A. No, sir.

"Q. How do you know he didn't?

"A. Because I could have seen him.

"Q. How long did you look at him there?

"A. I remember the last time I looked in the direction he first stood; that was after the bomb was thrown. He was down, or he was gone, I don't know which.

"Q. Did you keep your eye on him from the time you saw him speaking *on the wagon until the bomb exploded?*

"A. *I did.*

"Q. You are *positive* of that?

"A. Yes; *I am.*

"Q. You did not take your eye off of him one minute from the time he was standing on the wagon speaking until the bomb was exploded?

"A. *Not one half minute..*

"Q. Not a half minute during the whole time?

"A. No, sir.

"Q. *Did you have your eye off him at all during that time?*

"A. *Because he was in line with the police, and I was looking across the street and had to see him.*

"Q. *You saw him from the time he was speaking, from the time he said, 'we are peaceable,' until the bomb was exploded?*

"A. *Yes.*

"Q. And during that time he did not have any revolver in his hand?

"A. No, sir.

"Q. There cannot be any mistake on that?

"A. No, sir.

"Q. Not an instant, when he could have taken out a revolver from his pocket?

"A. No, sir.

"Q. Where did he go then?

"A. The Lord only knows, I don't know.

"Q. Didn't you keep your eye on him after that? You say the Lord only knows?

"A. The demoralization was such, mind you, *I am sure now that he was among the first that was hit with the shell.*

"Q. The demoralization was so great that he was amongst the first that was hit with the shell?

"A. *Yes; I think he went down, and after that I did not see him.*

"Q. Where did you say he went down?

"A. *I think he went down probably in front of the police.*

"Q. Where, in reference to the wagon? Where did he go down, with reference to the wagon?

"A. Well, he was a little *west* of the wagon, not much.

"Q. That is where you think he was struck by the shell and went down?

"A. I think probably he was.

"Q. What do you mean by demoralization?

"A. I saw that the middle ranks of policemen were demoralized. I saw that, and I know another thing. I know I saw one boy right close to where he was standing. I saw him go down—a boy that was standing in front there.

"Q. But you did not see Fielden after he went down?

"A. No, sir.

"Q. You feel very certain he was west of the wagon when he did go down?

"A. I think he was west a little.

"Q. And was demoralized by a piece of the bomb?

"A. I think he was."

It will be remembered that this witness stood (page 223) upon the north-west corner of the sidewalk and the

alley, which was in a position six or eight feet south of the wagon, and if he had his eye upon Fielden at the time Fielden jumped from the wagon up to the time of the explosion of the bomb, as he swears, he must have been standing with his back to the south and his face to the north. Notwithstanding this a few moments (page 260) later he testified:

" Q. At the time you saw the bomb thrown where were you standing?

" A. I was standing on that curb of the sidewalk, on the north side the alley.

" Q. Where was the bomb thrown from?

" A. From the south-east side.

" Q. How many people between you and the place from which the bomb was thrown?

" A. As to that I could not say.

" Q. Were there few or many?

" A. There was not many.

" Q. How many would you say between you and the man who threw the bomb?

" A. I could not say.

" Q. Could you see the hand of the man that threw the bomb?

" A. No, sir; the first time I saw it the fuse was burning.

" Q. And whether it was a policeman who threw it or not, you cannot say?

" A. No, sir.

" Q. You did not see the arm of the man who threw it?

" A. No, sir.

" Q. You did not see the man who threw it?

" A. I saw nothing, but something like his head.

" Q. Where was the man, or something like the man's head, that you saw; where was he standing?

" A. He was standing right behind those boxes.

" Q. North or south of the boxes?

" A. South of the boxes.

" Q. Anybody between you and that man?

" A. Yes.

" Q. How many?

" A. I don't know; I did not count them.

" Q. Didn't they cut off your sight so you could not see?

" A. No.

" Q. You could see distinctly?

" A. I could see so far as to know there were persons there.

" Q. Could you see distinctly, so far as to know he was the man who threw the bomb?

" A. I could see the fact that the man did throw the bomb, because I saw when the bomb first arose; I saw the light, and that called my attention to it.

" Q. How long did you look at that man?

" A. Not long, I assure you.

" Q. Did you follow the blaze through the air?

" A. I was looking at the blaze more than I was at him.

" Q. How did the blaze go? What sort of a motion did it make?

" A. It made a circling motion.

" Q. What do you mean by circling—that is, it made an arch?

" A. Yes.

" Q. That was the course it took?

" A. Yes.

" Q. Did the fuse itself have any motion?

" A. No more motion than it would in following the bomb.

" Q. Simply straight after the bomb?

" A. Yes.

" Q. Did it twist around any, like a spiral?

" A. No, sir.

" Q. It did not go like a spiral?

" A. No, sir.

" Q. Which went first, the bomb or the fuse?

" A. Why, of course, the bomb.

" Q. Did you see it, or are you simply speaking from general principles, that it must have gone first?

" A. I saw the bomb enough to know it was a round bomb.

" Q. It was not a gas-pipe bomb?

" A. No, sir.

"Q. Positive it was not a gas-pipe bomb?
"A. Positive of that.
"Q. Round?
"A. A round bomb.
"Q. How big around was it?
"A. Well, I guess about as large as one of these base balls.
"Q. Could you tell anything about the color of it?
"A. No, sir.
"Q. Did you see it was round?
"A. Yes.
"Q. Did you trace it from where you first saw it until it landed?
"A. I saw it go right down.
"Q. Where did it go?
"A. Between the first and second lines of police.
"Q. How many lines of police were there?
"A. I cannot tell you that.
"Q. You saw two?
"A. I saw them all, but I could not tell how many there were.
"Q. But you saw two lines that you could distinguish?
"A. Yes; this came between the first and second.
"Q. Did it fall nearest to the first or second?
"A. I could not tell; it fell a little west of the center of the street and between those two lines, as near as I could judge.
"Q. What happened when the bomb went off, to the police?
"A. A terrible demoralization, I assure you."

If the witness saw what he says he did, he must have been at that time facing south, and could not have had his eye on Fielden. It being admitted that the throwing of the bomb and its explosion and Fielden's jumping down from the wagon to the sidewalk were simultaneous, it follows necessarily that this witness lies either in regard to what he says about Fielden or in regard to what he says about the bomb, or, as is probable, as to both. A review of the testimony of this witness, which is so often cited by coun-

sel for plaintiffs in error, will show that he is absolutely unworthy of belief on any subject.

William Snyder, whose evidence is quoted by them in this connection, is another witness unworthy of belief. He was an anarchist, a member of the American group, a friend of Parsons and Fielden, was on the wagon at the time of the speaking, and one of the most enthusiastic of those present, and was under indictment for conspiracy at the time of testifying in this case. Certainly the testimony of such a man as this cannot prevail as against that of reputable men; at any rate, the very strongest that can be said for it is that it is to be considered by the jury, and they have considered it, and stamped it as a lie.

Four other witnesses, Stenner (Plaintiffs' Abst., 196), Messer (P. A., 208), Holloway (P. A., 229–30), Ingram (P. A., 297), testified that they did not see Fielden shoot. This evidence is subject to the same objections as that of some of the preceding witnesses, and is in its nature merely negative. Fielden, himself, in his testimony (M, 319), denied that he fired that night and denied that he had any revolver in his possession.

With reference to the position assumed by counsel in their brief, that nothing was said at the coroner's inquest about Fielden's having fired a shot, we desire to say, first, that there is no evidence in the record that such testimony was not given; and second, if, as a matter of fact, such evidence was not given, it proves nothing, even by implication, for the coroner's jury met the day after the Haymarket, at a time when many of the witnesses who have testified in this case were wounded, and some of them unconscious; but few witnesses were present at that

examination, and, as any one who knows anything about such matters is aware, all of the facts growing out of such a transaction as that of the Haymarket can be gathered together only after a long space of time, and with a vast amount of labor.

So far as the argument based upon interviews taking place between the reporters and Fielden on the day of the 5th of May is concerned, it is simply puerile. Whatever ability reporters may have, however important a factor they may be in modern civilization, no one yet has ever assumed or even thought that they were omniscient, and the fact that they did not know every one of the thousand and one incidents at the Harmarket, or did not ask about every one of the thousand and one incidents, within twenty-four hours after its occurrence, proves nothing, except that they are not omniscient.

(4.) WHO THREW THE BOMB, AND THE POINT FROM WHICH IT WAS THROWN?

MALVERN M. THOMPSON (K, 287), who lived at 198 South Peoria street, and at the time of the trial was employed by Marshall Field & Co., was present during a portion of the time at the Haymarket meeting. At the time of that meeting he was in the grocery business at 108 South Desplaines street. About half-past 7 he was handed a "Revenge" circular on Randolph street; about five minutes later he arrived at the corner of Desplaines and Randolph streets, where he met Mr. Brazleton, a reporter for the Inter Ocean, with whom he talked for about fifteen minutes, and asked him the time and learned that it was ten minutes to 8. Just then the

defendant Schwab came along, who was pointed out to him by Brazleton. He went over on the east side of Desplaines street, near the corner of Crane's alley, and stood just back of the alley. This was the point at which the meeting was called to order, and the point at which the front line of the police stood at the time the bomb was thrown.

"Q. Then what did you see?

"A. Then Spies got up on the wagon and asked for Parsons. Parsons did not respond. He then got down, and two men walked in the alley—that is, Schwab and Spies; in the alley that I was standing, near the corner, at the back of Crane Brothers'. The wagon was back a little further. The first word I heard between them was 'pistols.'

"Q. Between whom?

"A. Between Schwab and Spies. The next word was 'police.' I think I heard 'police' twice, or 'pistols' twice; one or the other. I then walked a little nearer the edge of the alley, and just then Spies said: 'Do you think one is enough, or, hadn't we better go and get more?' There was no answer to that that I could hear. They then came out of the alley and walked south on Desplaines street to Randolph, and west on the north side of Randolph to Halsted, and cut across the street and went over to the south-west corner and were there about three minutes; came out of that crowd and came back again. On the way up I did not catch much of the conversation, but on the way back, as we neared Union street, I heard the word 'police' used again; just then I went by them and Schwab said: 'Now, if they come we will give it to them.' Spies replied that he thought they were afraid to bother with them.

"Q. They were what?

"A. Afraid to bother them; and then they came on down and Spies—just before they got up near the wagon they met a third party and they huddled right together there south of the alley (Crane's), appeared to get right in a huddle, and there was something passed between them; what it was I could not see.

Field & Co.; that he had worked for Marshall Field; had never seen any of the men before that night. Schwab was pointed out to him by Mr. Brazleton, at which time he was going north; that was about a quarter to 8. He next saw him a quarter-past 8 when he was with Spies in the alley. At that time there was a crowd congregating there. He (witness) was standing right near or alongside of the alley, just north of the alley, standing against the building. He could not see down the alley unless he turned his face to it. The first time he saw Spies was when he got up on the wagon.

"Q. Now, were you specially interested in knowing Schwab and Spies at that time?

"A. Not specially. I was not specially interested; just only had a mere curiosity. Spies, when he got up on the wagon, inquired for Parsons; was there a minute or so only, and got out of the wagon and went into the alley."

At that time witness was probably three feet north of the alley, and then moved down to within half a foot of it. Schwab and Spies went just around the corner of the alley; could not have been more than two feet.

"Q. You could not see them then?

"A. I could if I had looked down the alley.

"Q. You did not look?

"A. No, sir.

"Q. You did not look at that time, either then or afterwards?

"A. I did when they came out."

Witness never spoke German; never heard Schwab speak German; the conversation was in English. The first word he heard was "pistols" and then "police."

"Q, How long were they in there?

"A. Probably two or three minutes.

"Q. The conversation you could hear, for they were near enough to you?

" A. I just caught that part, and when I drew up in front of the alley I heard them ask, 'Is one enough?'

" Q. What did they say besides 'pistols' and 'police?'

" A. They said, 'Do you think one enough, or had we better go for more?'

" Q. One what?

" A. I don't know.

" Q. Who said that?

" A. Spies said that to Schwab.

" Q. They were not talking about Schwab going out to Deering's to make a speech and about the question of whether one speaker was enough, or whether they should send for more?

" A. Not that I know of.

" Q. What were they talking about? Did you hear from the conversation what they were talking about?

" A. I did not learn; no, sir; but of course I had my own opinion. * * *

" Q. Now, then, you heard no words spoken in German?

" A. Some, I did.

" Q. In this same conversation?

" A. I did, going up Randolph street. * * *

" Q. Did you know Mr. Schwab's voice at that time?

" A. No; I cannot say that I did know his voice.

" Q. Did you know Mr. Spies' voice at that time?

" A. No, only from what I heard him ask on the wagon.

" Q. Did you know it enough so you could recognize his voice?

" A. Yes, I think I did.

" Q. Which one said 'revolvers'?

" A. I think it was Spies. He said 'pistols.'

" Q. Which one was it said 'police?'

" A. He did.

" Q. You did not see him when he said it?

" A. No; I did not see him. I was not looking directly at him. * * *

" Q. How long was it after they went into the alley and went out of sight that you heard this conversation?

" A. It was all done in three minutes, I should judge.

" Q. How long was it after they went into the alley and went out of sight that you heard the first remark?

" A. About a minute and a half. * * *

" Q. You had no particular object in view in finding out who it was that was going to speak that night on that occasion?

" A. Not necessarily; no sir.

" Q. You were not employed as a detective, were you?

" A. No, sir; just out of mere curiosity. * * *

" Q. As they started (from the alley) to go down south you trailed after them?

" A. Yes.

" Q. You were following them pretty close?

" A. Yes; started pretty close, and in fact, in one place I was pretty close alongside of them.

" Q. You intended to hear the speeches, of course?

" A. Yes.

" Q. Without any more interest than just to look around?

" A. Well, I thought probably at that time the speeches were going to be held at some place else.

" Q. Had you heard the announcement that the meeting was going to be held anywhere else?

" A. No, sir.

" Q. How far did you follow them?

" A. Down on Desplaines to Randolph. It was about a quarter after 8.

" Q. What did they do after that?

" A. They walked west on Randolph street to Halsted.

" Q. And you trailing after them all of the time?

" A. Yes, sir.

" Q. Anybody else go besides you?

" A. Not that I know of.

" Q. The crowd was up about the wagon, wasn't it? The principal crowd was at the wagon?

" A. No; I cannot say that it was. The principal crowd was on Randolph street.

" Q. You went south to Randolph, and west on Randolph to Union, some blocks?

" A. Two blocks.

"Q. And those two men were going along, and you were trailing along after them?

"A. Yes.

"Q. Part of the time beside them and part of the time ahead and past them, but all the time close to them?

"A. Yes. * * *

"Q. When you got down there, there was nobody there except probably two or three men?

"A. Probably twenty or thirty.

"Q. Just as you would see here at the bridge at any moment—a situation like that?

"A. Yes.

"Q. No wagons or dry-goods boxes or obstructions, were there?

"A. Not that I saw.

"Q. Did they see you?

"A. I don't know as they did.

"Q. Nothing prevented their seeing you?

"A. Nothing whatever.

"Q. Now, when was it that you heard the next conversation with them after you started trailing after these two men?

"A. It was near Union street.

"Q. Where is that?

"A. It is between Desplaines and Halsted.

"Q. That was after you had gone half a block south and a whole block west?

"A. I had gone two blocks west; was on my way back. * * *

"Q. Now, what was it they said?

"A. I could not say what they said until they came to Union street, and then I crossed right by them, or got near them, or got past them.

"Q. Was it light at that time so that they could see you?

"A. Yes.

"Q. Had the same view of them as they had of you?

"A. Exactly.

"Q. What was the first thing they said?

"A. The first thing I heard him (Schwab) say was, 'Now, if they come, we will give it to them.'

"Q. Schwab said, 'Now, if they come, we will give it to them.' Why didn't you tell us that before?

"A. I did.

"Q. You told that before here in your direct examination?

"A. That is what I said.

"Q. If who came?

"A. I don't know who.

"Q. That they would give it to who?

"A. I don't know who.

"Q. Schwab said that?

"A. Schwab said that; and Spies said he didn't think they would bother him, because they were afraid. * * *

"Q. Then you say it was when you were going by them?

"A. Yes; on Union street. * * *

"Q. Now, you were sworn as a witness the next day before the coroner?

"A. Yes.

"Q. I will ask you whether you stated one word in that examination about overhearing the conversation between Spies and Schwab at Union street?

"A. I did, at or about Union street.

"Q. You swear that you did?

"A. I did.

"Q. Before the coroner?

"A. If I didn't, then——

"Q. Never mind whether you did or didn't now. Do you remember that you did?

"A. I do. * * *

"Q. Now, then, what was the next thing that took place?

"A. The next thing was that they met the third man there (about five feet south of the corner of Crane's alley). They met a third man there; this man here (referring to picture of Schnaubelt)."

Witness said that he had never seen Schnaubelt before; had seen the picture before the trial; it was shown to him by Mr. Furthmann.

"Q. That is, he handed you that picture and asked you whether that was not the man you saw with Spies and Schwab, didn't he?

"A. He did not. * * *

"Q. Who was it that gave somebody something and who was the somebody that received it, and what was the something that was given?

"A. That I cannot tell. I can tell that it was Spies that handed this man (referring to picture of Schnaubelt) something, and this man put it into his pocket, and Spies got upon the wagon and made a speech.

"Q. Did you hear the word *bomb* at that time?

"A. No, sir.

"Q. Did you hear 'police'?

"A. No, sir.

"Q. Did you hear 'knives' and 'revolvers'?

"A. No, sir.

"Q. You did not hear anything?

"A. No, sir; he just took and put it down.

"Q. Do you know whether it was a chew of 'fine-cut'?

"A. I could not tell you that. * *

"Q. Now, this third man that you say received something and put it in his pocket, where did you see him next?

"A. I saw him on the wagon.

"Q. Did you see Schwab on the wagon?

"A. No, sir; I did not.

"Q. How long did Schnaubelt stay on the wagon?

"A. Probably an hour.

"Q. Did he leave then?

"A. I cannot say whether he did or not."

Harry L. Gilmer, a painter, residing at 40 North Ann street, testified (K, 362) that he was at the Haymarket meeting on the night of the 4th of May; got there about quarter to 10 o'clock. Came along Desplaines street to the corner of the alley (Crane's) and stood between the lamp-post and the wagon, up near the east end of the wagon for a few minutes. "Fielden was speaking "when I came there. Stayed there a few minutes looking "for a party I expected to meet, and stepped back into the "alley (Crane's).

"Q. What did you see when you stepped in there?

"A. I stepped in there and was standing looking around for a few minutes, and I noticed parties in conversation.

"Q. Where were they?

"A. They were right across the alley when I first noticed them.

"Q. Which side of the alley?

"A. On the south side.

"Q. What were those people doing?

"A. They were standing holding a conversation there. Somebody in front of me, out on the edge of the sidewalk there, said: 'Here come the police.' There was a sort of natural rush looking to see the police come up; there was a man came from the wagon down to the parties that were standing on the south side of the alley; he lit a match and touched it off, something or other; it was not quite as big as that, I think (indicating); the fuse commenced to fizzle, and he gave a couple of steps forward and tossed it over into the street.

"Q. How did he do it? What was his manner?

"A. If your honor will excuse me I will illustrate.

"The COURT: You can illustrate the motion.

"A. He was standing in this direction (indicating); the man that lit the match came on this side of him, and the two or three of them stood together, and he turned around with it in his hand; took two or three steps that way, and tossed it that way over in the street.

"Q. Do you know who it was that tossed that fizzling thing? Look at that photograph (handing witness photograph of Schnaubelt) and state.

"(Objected to.)

"The COURT: Describe the man that you saw throw that fizzing thing into the street that night?

"Mr. GRINNELL: Do you know the man?

"A. I have seen him. I knew him by sight. I have seen him several times at meetings, at one place and another in the city.

"Q. You don't know his name?

"A. I do not.

"Q. Describe him?

"A. He was a man about five feet ten inches high,

somewhat full-chested, and had a light or sandy beard, not very long. He was full-faced here, his eyes set somewhat back in his head; I should think he was a man that would probably weigh 180 pounds, perhaps, judging from the appearance of the man.

"Q. What kind of clothes did he wear, if you noticed? What kind of a hat?

"A. I could not say, the kind of hat, whether it was a soft hat, one of those felt hats, or whether it was a stiff hat. My impression is, his hat was dark—brown or black.

"Q. You may look at that photograph (Schnaubelt's) and state what is the resemblance?

"(Objected to; objection overruled; exception by defendant.)

"Q. You have seen the photograph before?

"A. I have, sir.

"Q. What do you say as to whether or not that is the man?

"A. I say that is the man that threw the bomb out of the alley.

"Q. How many men were standing in that group at the time that the bomb was lighted and thrown?

"A. Well, there was quite a number in the alley; a good many people standing around in the alley; parties that stood; those parties were four or five; stood together there.

"Q. Do you know the man? You say that somebody came from the wagon towards the group?

"A. Yes.

"Q. Describe that man. Is it any of the defendants?

"A. That is the man right there (pointing to Spies).

"Q. Spies?

"A. Yes.

* * * * *

"Q. Did you see any of the defendants in the alley at that time?

"A. That man that sits over there is one of the parties (pointing to defendant Fischer).

"Q. Fischer?

"A. Fischer.

"Q. Are you certain of that?

"Q. What did they say?
"A. I could not tell you.
"Q. Couldn't you understand?
"A. No, sir.
"Q. Were they speaking English?
"A. No, sir.
"Q. Were they speaking in German?
"A. Yes.

* * * * *

"Q. You say that at the time Mr, Spies is the man that came with the match?

"A. The man that came from the wagon down in the alley.

"Q. Had they moved their position from where they stood before the match was lighted?

"A. They stood there in the group together.

"Q. Had they moved their positions? That is, had they gone out on the sidewalk before the bomb was lighted, down the alley on the south side?

"A. Yes.

"Q. You were close to the north side?

"A. I stood across the alley, and stood right behind them.

"Q. At the time the match was lighted or before that?

"A. Before the man came from the wagon I stepped across the alley and was standing there on the north side of the alley.

"Q. How near to this knot of men there?

"A. Perhaps three or four feet.

"Q. Were you standing on the west or the east of them?

"A. I was standing to the east of them.

"Q. Then you were further in the alley than they were?

"A. I was further in the alley at that time.

* * * * *

"Q. After you went into the alley and just before the explosion of the bomb, how many men did you see get off of the wagon at the hind end?

"A. I don't know. I saw one or two, I think, get off the wagon. I think one of them got right over the hind wheel and jumped down onto the sidewalk.

* * * * *

"Q. At the time the bomb was thrown, or what you supposed to be the bomb, the man who threw it turned around, facing the police, didn't he?

"A. Yes.

"Q. Did he do anything more than turn around toward the police?

"A. Yes, he made one or two steps towards the sidewalk.

"Q. Just one or two steps?

"A. He might have made three; I am not positive.

"Q. Now, at the time the bomb was lighted he was from eight to ten feet down the alley, from the mouth of the alley?

"A. Yes.

"Q. And near the south side?

"A. Yes.

"Q. He took one or two steps and then threw the bomb?

"A. Yes.

"Q. So, then, at the time he threw the bomb he was still in the alley and not on the sidewalk?

"A. He was just somewhere about the edge of the sidewalk.

"Q. That is about the end of the alley?

"A. Yes.

"Q. Which way did the bomb go?

"A. It went in a westerly direction.

"Q. Did you see it alight?

"A. I didn't.

"Q. Did you see the fuse curling in the air until it did alight, or until it got near the ground?

"A. I saw it as it went up that way and started down.

"Q. Spies was there at that time?

"A. Yes.

"Q. He had lighted the fuse—this man?

"A. Immediately afterwards the two parties of them went through the alley.

"Q. At the time the bomb was thrown Mr. Spies was there, having lighted the fuse?

"A. He was there a few seconds before that time.

"Q. A few seconds before that time?

"A. Before the bomb was thrown up in the air.
"Q. When the bomb was thrown was Mr. Spies there?
"A. He was there.
"Q. You noticed his high cheek-bones, didn't you?
"A. I didn't say anything about Spies' cheek-bones; I said the man that threw the bomb."

The testimony of Gilmer as to the place from which the bomb was thrown and the man who threw it is positively contradicted by that of John Burnett, a witness introduced by the defense (M, 483, *et seq.*), who testified that he saw the man who threw the bomb; that the man who threw it was in front of Burnett at the time, was about Burnett's size; that it was thrown from about thirty-eight feet south of the alley, a little bit north of west. On cross-examination he said forty-five feet south of the alley. He was shown a picture of Schnaubelt, and was asked if he recognized that as the man who threw the bomb, and answered, "I guess not."

A great mass of evidence was introduced in the case as to the position from which the bomb was thrown, the witnesses differing in their statements, varying from the north side of Crane's alley to forty-five feet south of the alley. The evidence in the case is (K, 226) that the bomb fell a few feet north of the south line of the alley, a little to the west of the center of the street. The roadbed of the street was forty-eight feet wide. (I, 4.) Burnett says that the bomb went a little north of west. If that were so it could not have been thrown from the position in which he says it was, and land in the place where it did land; and with reference to his statement we desire to call attention to the statement of Heinemann, the reporter, who says (K, 243) that at the time the bomb

exploded he was on the east side of Desplaines street, between Crane's alley and Randolph street, about half way. The distance from Crane's alley to Randolph street is ninety feet (I, 4). That would put Heinemann about forty-five feet south of the alley, and at or at least within about seven feet of the point from which Burnett says the bomb came. Heinemann says, "I saw the bomb "raise out of the crowd and fall among the police. That "is, I did not distinguish the bomb, but I saw the burning " fuse.

" Q. From what locality on the sidewalk with reference to the alley that runs into Crane's was it that you saw this bomb raising out of the crowd ?

" A. It was very nearly the south-east corner of the alley."

That is just about the place that Gilmer puts it. If the bomb had risen within seven feet of Heinemann, he certainly would have seen it. In this case no attack can be made upon Mr. Heinemann; he is a reputable gentleman. Certainly is not prejudiced against the defendants, for he himself has been a socialist, a member of some of their organizations, and only left it about two years previous, when, as the evidence shows, Johann Most visited this city and violent methods began to be agitated.

Officer FOLEY, who was in Bowler's company, which was the second column, and who stood about two and one-half feet from the lamp-post, says (I, 272) that he saw the bomb and its course through the air; "it was " coming from the north-east where I stood."

" Q. Was it still going up, or had it begun to fall when you saw it?

" A. It was going up, sir.

He at that time was a few feet south of the south line of the alley.

Officer WESSLER, who stood by Foley's side, says (I, 251):

"I was standing at the lamp-post. We came to a halt there. Capt. Ward went over to the speaker. Fielden was on the wagon, and he (Ward) says, 'I command you in the name of the state to disperse peaceably.' Fielden turned on the wagon, and says, 'We are peaceable.' He had not hardly the word peaceable out of his mouth when I saw something a little mite south of where he got off of the wagon; it was in the rear of the wagon towards Crane's building; that had struck the ground; it struck on the left of our company and on the right of Lieut. Stanton. It did not take a minute, probably half a minute when it went off. I saw it flying through the air."

On cross-examination he says (page 233) that he stood right at the south-east corner of the alley, right at the lamp-post. He says (page 275):

"Q. Did it pass over your head?

"A. It kind of went something like that (indicating).

"Q. And it was nearly directly over your head when you saw it?

"A. Not directly.

"Q. At what angle?

"A. I am not sure, because I probably looked at it like that (indicating).

"Q. How far was it away from you, do you think?

"A. I could not say; probably ten feet.

"Q. How high up in the air do you think it was?

"A. Ten feet up in the air is what I mean.

"Q. Do you remember whether you looked a little to the north or a little to the west when you saw it?

"A. I could not say, because I did not pay attention to it; I thought it was something they were trying to scare us with.

"Q. You simply saw it in the air?

"A. Yes.

"Q. You don't mean that you saw it when it started?

"A. I know about what direction it came.

"Q. You say you saw it about over your head?

"A. I think that is all."

From the position in which these two witnesses stood at the time, facing, as they were, the north, and being about on the south line of the alley, they could not have possibly seen the bomb in the air if it had been thrown from about thirty-eight feet south of the alley.

Lieut. STANTON, who was in the second column on the left, testified (I, 216): "I came to a halt, probably "it was three or four or five seconds, may be, in reference "to the shell. I came to a halt about five seconds when "I saw the shell come over and fall about four feet from "where I stood.

"Q. On which side of you?
"A. On the left side of me.

* * * * * *

"Q. In reference to the alley (page 219) at Crane Brothers', where was your company, supposing this to be the alley here (indicating), here is the Desplaines street station (indicating), about how many feet do you think you stood from that alley?
"A. I think I stood about the alley.
"Q. In the street somewhere?
"A. In the street.
"Q. On the left of Lieut. Bowler's company?
"A. Lieut. Bowler was on my right.
"Q. You were on the left-hand side of the street?
"A. I was about the middle of the street.
"Q. Where was the shell when you first saw it (220)?
"A. In the air.
"Q. Where, in reference to yourself?
"A. It was about over—very near over my head.
"Q. From what direction did it come, if you know?
"A. From the east.
"Q. Where in reference to the alley?
"A. I think a little north of the alley.
"Q. Did you see the shell?
"A. I did."

This witness, as the evidence shows, had been in the

navy, was familiar with shells, knew that this was a shell when he saw it in the air and called the attention of the officers to that fact, and certainly is as capable of judging the direction in which it was moving as any one present on that night. Moreover, it would have been impossible for him to have seen it while it was in the air if it had come from the position indicated by Burnett. Officer Haas, who at that time was standing in the center of the street, near the speaker's wagon, testifies (K, 252) that he saw the bomb in the air; that it seemed to him to come from the east side of Desplaines street. "I should say " between five and six feet from the corner of the alley, " south of the corner; there was quite a number of boxes " piled up on the sidewalk south of the alley, and from " the direction I saw the bomb come I should say it was " half way between the alley and the boxes."

PAUL C. HULL, a reporter for the Daily News, who was standing upon the stairway at the north-west corner of Randolph and Desplaines streets, testified (K, 124) that the bomb seemed to come from about fifteen or twenty feet south of Crane's alley.

Of the witnesses for the defense, Barton Simondson testified (L, 71) that he was standing upon the stairway on the opposite side of the street, and that the bomb seemed to come from about twenty feet south of Crane's alley.

LUDWIG ZELLER says (L, 149) that it came from six, eight or ten feet south of the lamp and moved north-westerly. This witness, who was himself a socialist, and who lived at 54 West Lake street (Greif's Hall), which fact of itself speaks volumes, testified positively that as the bomb went through the air, it went fuse first.

FREDERICK LIEBEL said (L, 201) it came from about half way between the alley and Randolph street.

JAMES D. TAYLOR (L, 230), whose testimony we have heretofore commented upon as to this very point, testifies that he saw the bomd thrown from somewhere between twenty and forty feet south of the alley.

WILLIAM URBAN testified (L, 344) that it came from fifteen to eighteen feet south of the lamp-post.

AUGUST KRUMM (L, 415) reasons that it must have started about twenty feet south of the alley, and says that it did not come from south of the alley.

WILLIAM ALBRIGHT (L, 493) says he was with Krumm, and that the bomb was not thrown from the alley where they stood.

GEORGE KOEHLER (L, 508) is alluded to in the plaintiffs' brief, but it is very apparent, upon examining his evidence entire, knows nothing about where the bomb came from or in what direction it went, for if his statement means anything it means that the bomb was thrown from the east sidewalk to the north-west corner of Desplaines and Randolph streets.

The witnesses who testified for the defense upon this point are the same witnesses who testified for them upon the other disputed questions of fact, and the same observations as to the value of their testimony are applicable here.

MICHAEL SCHWAB, one of the defendants, testified (N, 1) that on the night of the 4th of May he was at a meeting of the American group at the Arbeiter Zeitung office when a telephone message was received from Deer-

ing's (a manufacturing establishment on the north side of the city), asking for Mr. Spies to make a speech there, because he understood German and English; that he left the meeting and went to the Haymarket to see if he could find Spies, who could speak in both languages; that he went to the Haymarket, where he met his brother-in-law, Rudolph Schnaubelt, and had a conversation with him; that he did not see Spies; took a car and came back to the center of the city and then went to Deering's, where he made a speech. He denied that he entered the mouth of Crane's alley and had a conversation with Mr. Spies there, or that he walked in company with Spies on Randolph street from the corner of Desplaines to Union and back again, and also denied that he met Spies in company with Schnaubelt.

Spies in his evidence (N, 17 *et seq.*) testified that he called the meeting to order, as Thompson stated, and asked for Parsons; denied that he had seen Schwab that night at the Haymarket; that he went into the alley with him, or that he had any of the conversation with Schwab which was narrated by Thompson; that after calling for Parsons he got down from the wagon and, in company with his brother Henry, one Lechner and Schnaubelt, went to find Parsons; that he went to Randolph street, west on Randolph street to Union and almost to Halsted, but that seeing a few people, probably twenty or twenty-five, there and not finding Parsons, he returned; he said that as he and Schnaubelt walked along Randolph street they conversed in German, but also denied that he had given anything to Schnaubelt at the place indicated by Thompson; he testified to having made a speech practically to the same effect as that set out in the testimony of the witnesses hereinbefore cited. While Fielden was speaking the police

came up; that he was on the wagon when the command to disperse was given, and was about to reply to it when some one in the crowd asked him to step down, and that a man named Lechner and his brother, Henry Spies, assisted him in dismounting; that just as he got upon the sidewalk the bomb exploded; he heard the detonation and supposed that the police had opened up on the crowd with cannon, whereupon he went to Zepf's Hall; he says it is singular, but he did not think it was a bomb, and he also says that while he had been in the habit of carrying a revolver to protect himself, as the revolver was heavy he "very singularly" that night left it with a friend of his named Stauber, and did not have it at the time of the Haymarket meeting.

Spies claims that he did not go through Crane's alley after leaving the wagon, but the morning after his arrest, in the conversation he had with James Bonfield, he said (I, 350) that after getting off the wagon he went in the east alley (Crane's) and came out on Randolph street. Moreover, he denies that he saw Schwab or had any conversation with him at the Haymarket, but in the interview which Knox, the reporter, had with him shortly after his arrest (J, 297), he said that he did not want to go to the Haymarket meeting, and when he got there he did not want to make a speech. He said that he told Schwab so. Spies was at the Haymarket meeting the whole of the evening. Schwab was at the meeting in the early part of the meeting, and, as he himself testifies, went there for the express purpose of seeing Spies. And Spies' statement made to Knox shows that he and Schwab did have a conversation, and to that extent corroborates Thompson.

TIMOTHY MCKEOUGH, a police officer, says (K, 174) that he heard Spies call the meeting to order, and ask if Parsons was there; he then said that he would find him; some one said, "Let us pull the wagon around on "Randolph street and hold the meeting there," to which Spies replied, "No, that might stop the street cars." Spies then started away, and the witness followed him as far as the corner. "There was a man with him whom I think "was Schwab; I am not very sure, because I did not pay "much attention to anybody except Spies at that time; "in about five minutes he returned; when I got back he "was addressing the meeting."

On cross-examination he says that he saw Schab there in the early part of the evening; lost sight of him somewheres in the vicinity of half-past 8.

"Q. Where was Schwab when you saw him last?

"A. The last I saw of Schwab he was talking to Parsons at the side of the wagon.

"Q. Had you seen Schwab on the wagon at any time?

"A. He got on the wagon, I think, before the meeting started, and tapped Spies on the shoulder, and said something to him.

"Q. Then Spies called the meeting to order?

"A. No; then Spies got down off the wagon and started away to find Parsons."

EDGAR E. OWEN testified (K, 202):

"I walked on east and met the mayor.

"Q. Did you see any of the other defendants at that time?" (About half-past 8.)

"A. I was standing at the corner of Randolph and Desplaines streets, a few minutes after I met the mayor, and Schwab came up and almost ran into the mayor before he saw him. Immediately upon seeing him Schwab turned about and *went north on Desplaines street.*"

WILLIAM H. FREEMAN, a reporter, in his testimony says (K, 42):

"Q. Who did you see upon the wagon whom you recognized, besides Parsons, Fielden and Spies?

"A. I think I saw Schwab there.

"Q. Who else—did you see any of the other defendants, any of these defendants there that you recognized?

"A. I did not recognize any of them but those three. I am not altogether positive about Schwab, but I think I saw him there."

There is no doubt that Schwab was at Deering that night and made a speech there, but it is also true that he was at the Haymarket, and he could have had the conversation described by Thompson, and the one described by McKeough, and still have had ample opportunity to get to Deering at the time it is claimed he reached there.

The defense introduced a number of witnesses, whose evidence is cited and collated in their brief, to the effect that Spies did not leave the wagon until just as the bomb was thrown. Spies testifies that just after leaving the wagon he went north to Zepf's Hall. These witnesses are the same ones upon whom the defense rely upon all controverted questions of fact, and, in considering their evidence, the criticisms which we have made upon other points are applicable upon this. The only witness among all those introduced in the case who testified that August Spies was in Zepf's Hall is himself; and his brother, Henry, says in his testimony (M, 148–50) that, after being shot, he himself went to Zepf's Hall for his brother, but did not find him.

It is a very significant fact that the defense introduced two witnesses, August Krumm and William Albright (L, 412 and 488), who testified that just as the police came

up and halted they were standing in Crane's alley, a few feet back from the mouth of the alley, and Albright lighted a match from which both of them lit their pipes; thus placing themselves in just about the positon in which Gilmer says that Schnaubelt and Spies stood, and attempting to have the jury infer that Gilmer did see a match lighted, but made the mistake of assuming that a pipe was a bomb.

This closes the discussion of the controverted questions of fact, and closes our collation of the evidence in the case. There are many points in the evidence to which we have not referred. The short time which we have had for the preparation of this brief, having received the brief for plaintiffs in error but a few days ago, precludes a reference to them.

Under the instructions in the case, especially those as to which complaint is made by counsel, on these controverted questions, the two most important are: as to whether or not the crowd fired first, and as to whether or not threats were uttered as the police approached.

If the crowd fired first (and that they did there can be no question), that fact, as we have stated before, is in itself conclusive that they were there, armed, ready and waiting to attack the police; and the moment the signal was given, the bomb thrown, they did, in fact, open the attack.

The fact that threats were uttered—about which we

submit, under the evidence, there can be no question—also shows that the crowd was waiting to attack. That they were beaten, and the police victorious, is owing to the fact that they had entirely over-estimated the *moral* effect of dynamite, not its *physical* effect; for the effect of that bomb was certainly as great as any one in his wildest imaginings could have dreamed it would be; but the "demoralization" which followed, about which the witness Taylor testifies so unctiously, was a great physical and not a moral demoralization. The police stood their ground; they did not flee; and the moment they returned the fire those of the revolutionists who had fondly hoped for success knew that, instead of success, defeat stared them in the face, and they sought security in flight; the anarchists did, in fact, "sneak away."

Conclusion.

The indictment in this case was for murder. There were a large number of counts. Some of them were the ordinary counts for murder, charging the defendants directly with the murder. These counts would have been sufficient, but others were added, some of which charged that one of the defendants committed the murder, that the others were accessories before the fact, and in conclusion, charged all of them with the murder. These counts varied, naming each one of the defendants respectively as the principal and the others as accessories. Some of the counts charged all of the defendants with being accessory to a murder committed by an unknown person, and in conclusion, charged them directly with that murder.

We submit, from an inspection of the evidence above set out, that it sustains beyond all reasonable doubt the theory of the state. So far as the question of conspiracy is concerned, no attempt was made upon the trial, on the part of any of the defendants, to deny the conspiracy, or to deny their complicity in it. If the bomb was thrown as the result of the conspiracy, it follows that all of the defendants are guilty. We submit that as to that question there can be no doubt. The defendants had for years deliberately plotted murder; they had deliberately preached it in secret meetings, openly upon the streets and defiantly through the press controlled by themselves; they had for months been actively engaged in preparing to bring it about. It is urged by their counsel that the theory of conspiracy to overthrow the law of the land by force, on the part of the prisoners and those connected with them, is absurd; that there was no possibility whatever of their accomplishing their plans. The answer to that is, that some of the men are so constituted as not to be able to weigh the chances of success or failure. They become converts to a theory, dream over it until their dream amounts to an infatuation, work themselves up to such a pitch of ecstacy as to entirely obliberate the cool judgment which prevails among men generally.

No better instance of that can be found than the case of the man to whom counsel for the prisoners continually compare them—the case of John Brown, whose attempt at Harper's Ferry to incite a servile insurrection among the slaves of the South, and to thus secure their freedom by force, was certainly as wild as that of the anarchists here. In fact, the chances for his success were infinitely less than theirs. His party—those cognizant of his plans—were few. They were armed with the

ordinary weapons. They had no advantage whatever over those by whom they knew they would be attacked. He expected his reinforcements and aid from a class of men who were slaves, ignorant and cowardly, and who had never been educated to and had no knowledge of his intentions. Here, the prisoners had been for months and years educating their followers. They had an organization extending through the whole city, numbering, as Spies in his declarations said, and as the articles in their papers declared, over three thousand men—men who had been armed and drilled for years for the express purpose of assistance whenever they should be called upon. Moreover, they were armed with explosives of a most powerful and destructive character, explosives whose power and force the public suppose has no limitation whatever. They had demonstrated its force. They believed in its power, not only in physical power, but supposed that the first use of it would utterly demoralize the whole community and place it at their disposal. This appears from numbers of the articles hereinabove quoted—articles in which they declare that one bomb would destroy the First regiment; that it would annihilate and destroy the police. Spies himself published on the afternoon of the day of the Haymarket, in the Arbeiter Zeitung, an article written by his own hand, entitled "Blood," in which he declared that "if the brothers "had defended themselves with one single dynamite "bomb, not one of the murderous police would have "escaped his well-merited fate." That this statement was the expression of his deliberate judgment, and not merely an extravagance of speech upon his part, is apparent from the fact that a year before, while talking with Johnston (J, 403), whom he supposed to be a co-

conspirator with him, while witnessing a review of the Illinois National Guards, he stated that half a dozen dynamite bombs would scatter them all; that they were only boys, and would be no use in a riot; that fifty determined men would disarm them all.

The idea was a common one among the conspirators, was foremost in their speeches, utterances and declarations, that the power of dynamite was unlimited, and, best of all, it was easily obtainable and cheap.

Moreover, it must be remembered, in this connection, that the meeting was called for 7:30 P. M.; that it was expected that 25,000 persons would be present. It was also undoubtedly expected that the police would attempt early in the evening to disperse the meeting. The police did not appear until late, and at that time many of the conspirators, as, for instance, Engel, had left for their homes, doubtless supposing that the police would not come. If the police had appeared early in the evening, there can be no question in the mind of any one familiar with the circumstances of the case that the whole body of them would have been destroyed, and, the signal having been given at a time when the conspirators, scattered throughout the city, were waiting for it and could have been notified, a general carnage and destruction would have been inaugurated.

There can be no question on a consideration of the whole evidence in the case that the bomb was thrown as the result and in pursuance of the conspiracy and by the instigation, advice and encouragement of the prisoners. The instrument itself is almost conclusive proof of that. Who, in America, ever made or used a dynamite bomb of that description unless he were an anarchist? Who

It is contended on behalf of the prisoners that the meeting was a lawful one, that the police in attempting to disperse it were themselves violaters of the law.

If that be true, it constitutes no defense in this case. Even if the police were unjustified in dispersing the meeting; even if the police were mistaken in dispersing the meeting, it would not justify any one under the law in taking their lives. The only defense for the taking of life in this state is that the person who does it does it under the-well grounded belief that by his act only can his own life or his own person be protected.

The meeting was not a lawful one. It had its inception in the "Revenge" circular, a circular issued for the purpose of inciting laboring men of the city to revenge the alleged murder of workingmen at McCormick's. It will be remembered that most of the conspirators, as appears from the evidence in the case, were of German-speaking nationalities, and it is very significant that the German portion of the "Revenge" circular in its concluding sentences was even more inflammatory than the English. It concluded:

"Laboring men, Hercules, you have arrived at the crossway. Which way will you decide? For slavery and hunger or for freedom and bread? If you decide for the latter, then do not delay a moment; then, people, to arms! Annihilation to the beasts in human form who call themselves rulers! Uncompromising annihilation to them! This must be your motto. Think of the heroes whose blood has fertilized the road to progress, liberty and humanity, and strive and become worthy of them!"

This appeal of Spies, scattered as it was at the haunts of the socialists, was to them a statement that the time for the "social revolution" had come, that they must act now or never, and was a direct appeal to them to annihilate the police force. After it came to the meeting at

Greif's Hall, a seditious and treasonable meeting, assembled for seditious and treasonable purposes; composed of men who, if they were citizens, would be traitors. That gathering arranged for the Haymarket meeting, and when the suggestion was made by the chairman that it should be held at the Market square, on the south side, Fischer, one of the prisoners, objected that the Market square was a "mouse-trap," and named the Haymarket.

It is significant that that meeting opened with a discussion of the facts stated in the "Revenge" circular.

Moreover, that the meeting decided that whenever the word "Ruhe" should appear in the Arbeiter *Z*eitung, it should be the signal that the time for the general uprising had come, and that the "Revolution" was inaugurated. The publication of that notice and the time of its publication were left with the committee who had it in charge.

The next step was the publication of the "dodger" calling the meeting, prepared and printed by Fischer. That "dodger," as first printed, distinctly called upon the workingmen of the city to "arm themselves and appear in full force," and it is in evidence in the case that "dodgers" having that line in it were in the possession of the police.

Next came the word "Ruhe," the signal agreed upon, and by its publication the fact was announced that the time for the "Revolution" had arrived. In the same paper containing it again appeared the German portion of the "Revenge" circular, and the significent line, written by Spies himself, that one bomb would have annihilated the police at McCormick's.

After the meeting was in progress, and before the police appeared, Fielden made a speech not only inflammatory and incendiary in its character, but actually seditious

and treasonable—a speech which, at the least, was a direct solicitation tending to a breach of the peace, and hence was a crime in itself, according to the doctrine laid down in *Cox* v. *The People*, 82 Ill., 193. This speech, moreover, was a direct encouragement to do the very act which was done that night.

No criticism can be made upon the police for dispersing that meeting. When we consider that at that time a general excitement was prevailing throughout the city, that acts of violence were being constantly committed, and the circumstances under which this meeting was called, a failure of the police to disperse it would have been criminal.

If, during the years preceding, meetings at which sedition and assassination were openly advocated had been dispersed, the massacre at the Haymarket never would have occurred. No better illustration of the effect of a fearless enforcement of the law is seen than in the fact that as soon as Johann Most had suffered the penalty imposed upon him by the English law for his incendiary utterances, he left the soil of England and planted himself upon the soil of America, and that the officers of the law, who, because of his teachings, became martyrs for the law, instead of being officers of the kingdom of Great Britain, were officers of the State of Illinois.

GEORGE HUNT,
Attorney General.
JULIUS S. GRINNELL,
States Attorney.

GEORGE C. INGHAM,
Of Counsel.

FRANCIS W. WALKER,
EDMUND FURTHMAN,
Asst. States Attorneys.

IN THE

SUPREME COURT OF ILLINOIS,

NORTHERN GRAND DIVISION.

MARCH TERM, A. D. 1887.

AUGUST SPIES ET AL.,
Plaintiffs in Error,
vs.
THE PEOPLE OF THE STATE OF ILLINOIS,
Defendants in Error.

Error to the Criminal Court of Cook County.

BRIEF ON THE LAW FOR DEFENDANTS IN ERROR.

GEORGE HUNT,
ATTORNEY GENERAL.

JULIUS S. GRINNELL,
STATES ATTORNEY.

GEORGE C. INGHAM,
OF COUNSEL.

FRANCIS W. WALKER,
EDMUND FURTHMAN,
ASST. STATES ATTORNEYS.

CHICAGO:
BARNARD & GUNTHORP, LAW PRINTERS, 44 & 46 LASALLE STREET.
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(*a.*) Where there is a conspiracy to do an unlawful act which naturally or probably involves the use of force and violence, the act of each conspirator done in furtherance of the common design is the act of all. If murder results, all are guilty of murder; and that, too, although the conspirator who does the act cannot be identified; and,

(*b.*) Even though the particular act may not have been arranged for, or the means of its perpetration provided, that the act was the natural result of the conspiracy and was perpetrated in furtherance of the common design. Whether the act was the act of a member of the conspiracy, whether it was done in furtherance of the common design, is a question of proof..... 2

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I.

Introduction.

The record in this case is exceedingly voluminous. The briefs filed by plaintiffs in error contain over five hundred pages. These briefs and the abstracts we did not see until they were filed in this court. Owing to the shortness of time which we have for a reply, it will be impossible for us to discuss fully or *seriatim* the points raised by them. We can only discuss the propositions upon which the state relies, and, in discussing these we shall necessarily in effect answer the most, if not all, of those maintained by the plaintiffs in error, as they are the converse of each other.

The facts in the case we have discussed in another brief, and have there indicated the theory upon which the case was tried and upon which the state now relies. We shall here discuss only propositions of law; the application of those propositions will be seen upon reference to our other brief.

We contend that the death of Degan was murder, resulting from a conspiracy, a conspiracy to which all of the plaintiffs in error were parties; that its general object and design was the overthrow of the existing social order and of the constituted authorities of the law, by force.

Upon this state of facts, we argue:

II.

The Law of Conspiracy.

(*a.*) *Where there is a conspiracy to do an unlawful act which naturally or probably involves the use of force and violence, the act of each conspirator done in furtherance of the common design is the act of all. If murder results, all are guilty of murder; and that, too, although the conspirator who does the act cannot be identified; and,*

(*b.*) *Even though the particular act may not have been arranged for, or the means of its perpetration, provided the act was the natural result of the conspiracy and was perpetrated in furtherance of the common design. Whether the act was the act of a member of the conspiracy, whether it was done in furtherance of the common design, is a question of proof.*

Upon these propositions we cite the following authorities:

Brennan v. *The People*, 15 Ill., 511.
Hanna v. *The People*, 86 Ill., 243.
Lamb v. *The People*, 96 Ill., 74, and cases cited in both opinions.
Kennedy v. *The People*, 40 Ill., 488.
Whar. C. L. (9th Ed.), § 1,405.

1 Bish. Cr. L., 636, and cases cited:

"*Acts within common plan.* But, as we say in another connection, a man may be guilty of a wrong which he did

not specifically intend, if it came naturally or even accidentally through some other specific or a general evil purpose. *When, therefore*, persons *combine to do an unlawful thing*, if the act of one proceeding and growing out of the common plan *terminates in a criminal result, though not the particular result meant*, all are liable."

Hawkins' Pleas of the Crown, Ch., 29, Sec. 8:

"It seems to be sufficient that the person who does the fact is encouraged and emboldened into it from the hopes of present and immediate assistance from the abettor, whether he be in view of the fact or not, and upon this ground it has been adjudged that where persons combine together to stand by one another in the breach of the peace, with a general resolution to resist all opposers, and in the execution of their design a murder is committed, all the company are equally principals, though at the time of the fact some of them were at such a distance as to be out of view."

Foster, 351, Sec. 6:

"There might be no special malice against the party slain, nor deliberate intention to hurt him; but if the fact was committed in the prosecution of the original purpose, which was unlawful, the whole party will be involved in the guilt of him who gave the blow."

State v. *McCahill*, 30 N. W. R., 553:

In a trial for murder committed by a mob of miners on strike, in carrying out a conspiracy to drive out new men, an instruction to the effect that if the defendant was engaged in a conspiracy to forcibly compel the new men to leave, and in the carrying out of such conspiracy the act of homicide was committed, such homicide was binding upon him as much as if done by himself, is not error.

The court say:

"Where there is a conspiracy to accomplish an unlawful purpose, and the *means are not specially agreed upon*

or understood, each conspirator becomes responsible for the means used by any co-conspirator in the accomplishment of the purpose in which they are all at the time engaged."

Judge KING, in his charge to the jury in the cases growing out of the riots in Philadelphia in 1844 (Whar. on Hom., 708), said:

"When divers persons resolve generally to resist all officers in a breach of the peace, and to execute it in such a manner as naturally tends to raise tumults and affrays, and in doing so happen to kill a man, they are all guilty of murder. For they must at their peril abide the event of their acts, and when they engage in such bold disturbances of the public peace, in opposition to, and in defiance of the justice of the nation, malice in such killing is implied by law in all who were engaged in the unlawful enterprise. Whether the deceased fell by the hand of the accused in particular, or otherwise, is immaterial. All are responsible for the acts of each, *if done in furtherance and pursuance of the common design*. This doctrine may seem hard and severe, but it has been found necessary to prevent riotous combinations committing murder with impunity. *For where such illegal associates are numerous, it would scarcely be practicable to establish the identity of the individual actually guilty of the homicide.*"

Foster's Rep., 370, Sec. 3:

"Where the principal goeth beyond the terms of the solicitation, if, in the event, the felony committed was a probable conseqence of what was ordered or advised, the person giving such orders or advice will be an accessory to that felony. *A* adviseth *B* to rob *C;* he doth rob him, and in so doing, either upon resistance made or to conceal the fact, or upon any other motive operating at the time of the robbery, killeth him; *A* is accessory to the murder. These cases are all governed by one and the same principle. The advice, solicitation or orders, in substance, were pursued and were extremely flagitious on the part of *A*. *The events, though possibly falling out beyond his original intention, were, in the ordinary course of things, the prob-*

able consequences of what B did under the influence and at the instigation of A. And, therefore, in the justice of the law, he is answerable for it."

Nevill v. *The State*, 60 Ind., 308:

"Where on the trial of several defendants on an indictment for larceny, the evidence establishes, beyond a reasonable doubt, that the larceny charged was committed by some one of the defendants in pursuance of a common purpose by all, the jury is warranted in finding each of them guilty, *though the evidence leaves in doubt the identity of the particular defendant who took the property.*"

In the case of *Ritzman* v. *The People*, 110 Ill., 369, a case in which death resulted from the act of some one of a party engaged upon an unlawful purpose, the court say:

"*And yet we are told there can be no conviction in this case, because the evidence does not show beyond a reasonable donbt the very hand that hurled the fatal missile that sent him into eternity without a moment's warning.* So far as the accused is concerned, under the proofs in this case we think it wholly immaterial whether the missile in question was thrown by the hand of the accused, or some one of his co-trespassers."

Hamilton v. *The People*, 113 Ill., 34:

"The fact is undisputed that the three defendants, one of whom was armed with a pistol, invaded the premises of the prosecuting witness with a criminal purpose. The business upon which the parties deliberately entered was a hazardous one. They had a right to expect that in the event they were detected in stealing melons, it would result in violence, endangering life or limb—as it actually turned out afterwards. That they were all co-conspirators in a dangerous criminal enterprise, is an undisputed fact. Such being the case, *whatever was done by one in contemplation of law was done by all*, and all are therefore equally responsible."

Regina v. *Tyler & Price*, 8 C. & P., 616; (34 E. C. L.), is a case where the prisoners were indicted for the murder of Nicholas Meares (1836.) There were two counts in the indictment; the first charged them with being accessories to the murder of Meares, and that the principle offense was committed by John Thom, otherwise called Sir William Courtney. Thom, who was insane and called himself Sir William Courtney, had assembled a great number of persons together and led them about the neighborhood of Canterbury, promising them plenty in this world and happiness hereafter, and asserted that he was above all earthly power and was the Saviour of the world. It was proved that on one occasion the prisoner Tyler said to him: "Sir William, I heard a man "say that you were a fool and an imposter, and that he "would not mind taking you." Thom replied, "If any "one comes I shall try my arm. I can clap my left hand "on my right arm and slay ten thousand men. If the "constables come I shall cut them down like grass." Two days after Thom had caused this assembly of persons, a warrant was granted for his apprehenison. It was placed in the hands of Meares, a constable. Some of the men who were with Thom armed with bludgeons were placed as guards about his house. Thom, upon being informed of the arrival of Meares and his brother, said, "Are you "constables?" The deceased replied, "I am;" whereupon Thom shot him and attacked the brother, who escaped. Thom then came back and drew a sword, with which he hacked the deceased. The prisoners and two other persons, by order of Thom, took the deceased, who was still alive, and threw him into a dry ditch, where they left him and returned to the house to breakfast, when Thom said, "I have killed his body, but I have saved his soul." Thom was killed later on by the military.

As to the first count of the indictment, Lord DENMAN said in summing up:

" Thom was undoubtedly a man of unsound mind and was himself not responsible for his act; for that reason the prisoners who were charged in that count with being accessories to his act could not be convicted under that count."

It was urged by Shee, counsel for the prisoners, with respect to the second count, that they could only be made liable if the act was done in the prosecution of some unlawful purpose in which all of the parties were engaged; that Thom and his followers were *not shown to have had any distinct or definite purpose of any kind*, and, therefore, there could not be any combination or community of purpose between Thom and the prisoners. He also insisted that the prisoners did what was imputed to them from a fear of personal violence at the hands of Thom.

DENMAN in charging the jury said that the prisoners could not set up fear in defense of their act. He says:

" There (in the second count) these persons are themselves charged with having committed the offense; and if they were aware of the malignant purpose entertained by Thom, and shared in that purpose with him, and were present aiding and abetting and assisting him in the commission of acts fatal to life, in the course of accomplishing this purpose, then no doubt they are guilty as principals on this second count. In Hawkins it is said, 'where divers persons resolve generally to resist all opposers in the commission of any breach of the peace, and to execute it in such a manner *as naturally tends to raise tumults and affrays, and in so doing happen to kill a man, they are all guilty of murder;* for they must at their peril abide the event of their actions who willfully engage in such bold disturbances of the public peace in open opposition to and defiance of the justice of the nation.' But in all such cases the fact must appear to have been committed in prosecution of the purpose for which the parties assem-

bled. Here it is argued that as Thom and his followers are not shown to have had any distinct and definite purpose in view in assembling together, there could not be any general combination for the execution of any such purpose, and the defendants must therefore be acquitted. I think that the evidence will lead you to a very different conclusion. *It seems to me wholly unimportant whether the parties had a well defined and particular mischief to bring about as the result of their combination;* because I think if their object was, 'to resist all opposers in the commission of any breach of the peace,' and that for that purpose the parties assembled together and armed themselves with dangerous weapons—in that case it appears to me that however blank might be the mind of Thom as to any ulterior purpose, and however the minds of the prisoners might be unconscious of any particular object, *still if they contemplated a resistance to the lawfully constituted authorities of the country* in case any should come against them while they were so banded together, *there would be a common purpose*, and they would be answerable for anything which they did in the execution of it. If any man is found aiding another, of whose ill intentions he is thoroughly apprised, he is responsible. It will be for you to say whether from what was done by these men both before and after the killing of Nicholas Meares they did not intend this general resistance to the law."

There was a verdict of guilty upon the second count.

It will be noticed in this case that the court lays stress upon the fact that they were present at the time of the commission of the offense. This was important under the law, as it existed in England at that time, for if they had not been present, either actually, or so near as to be there constructively under the law as then held, they would not have been principals. Our statute, however, provides that one may be a principal, although he is not present, either actually or constructively, at the time of the commission of the act, providing he has, before the

commission of the act, advised, aided or encouraged its perpetration.

Reg. v. *Bernard*, I. F. & F., 240, is a case where Bernard was indicted as being acccessory to the throwing of a bomb. The bomb was thrown by Orsini and others for the purpose of destroying the emperor of France, but in fact killed one Nicholas Batty.

Lord CAMPBELL, in charging the grand jury, said:

"Unless the evidence, unanswered, does, in your judgment, make out against Bernard a *prima facie* case of complicity in the plot against the life of the emperor, I think that you ought to return the indictment which will be laid before you not a true bill, and this will put an end to all further proceedings under the commission. But if the evidence does, in your judgment, make out a *prima facie* case of complicity, I would advise you to find a true bill, so that the trial may proceed. Such complicity may be sufficient to make the accused an accessory before the fact to the murders, which in the event were committed, although the deaths of the *individuals who were killed were not in the contemplation of the accused* when he became a party to the plot. It is laid down in our books that 'an accessory before the fact is he who, being absent at the time of the offense committed, doth yet procure, counsel, command or abet another to commit a felony; and it seems that those who by hire, command, counsel or conspiracy, and those who by showing an express liking, approbation or assent to another's felonious design of committing a felony, abet and encourage him to commit it, but are so far absent when he actually commits it that he could not be encouraged by the hopes of any immediate help or assistance from them, are accessories before the fact.' As to the objection that Bernard could have had no intention that those who were killed by the explosion of the grenades should be put to death, it may be observed that such a question can only arise when the principal does not act in strict conformity with the plans and instructions of the accessory. But here, *if Bernard was privy to the plot*, Orsini, Pierri, Gomez and DeRudio,

in throwing the grenades as they did, *must be considered as having acted strictly in conformity with his plans and instructions, and he is answerable*, as accessory, *for the consequences*. It is even laid down that ' where the principal goes beyond the terms of the solicitation, yet if, in the event, the felony committed was a *probable consequence of what was ordered or advised*, the person giving such orders or advice will be an accessory to that felony.' "

III.

The Competency of Evidence.

(*a.*) *Any act or declaration of any of the defendants tending to prove the conspiracy, or the connection of that defendant with it, whether made during the existence of the conspiracy or after its completion, is admissible against him.*

This position is elementary, and we leave it without further comment.

The court recognized it on the trial, and carefully time and again during the introduction of the evidence announced its limitation; we cite one instance of many:

" The Court (I, 348): I have no objection to making the declaration now, that any statement by any one of the defendants, made in the absence of the other defendants, is no evidence—any statement made after the Haymarket meeting, after the separation of the people at that meeting—any statement made by any one of the defendants not in the presence and hearing of some other one of the defendants, is evidence only against the man who makes the statement, and it is evidence only against the one in whose presence and hearing it was made, if he assented."

And the effect of such evidence was carefully limited in the instruction given by the court on his own motion. (O, 35.)

" The case of each defendant should be considered with the same care and scrutiny as if he alone were on trial. If a conspiracy, having violence and murder as its object, is fully proved, then the acts and declarations of each conspirator in furtherance of the conspiracy are the acts and declarations of each one of the conspirators. But the declarations of any conspirator before or after the 4th of May which are merely narrative as to what had been or would be done, and not made to aid in carrying into effect the object of the conspiracy, are only evidence against the one who made them."

(*b.*) *The conspiracy having been established, prima facie, in the opinion of the trial judge, any act or declaration of any member of the conspiracy, though he may not be a party defendant, in furtherance of the conspiracy, is evidence against all the conspirators on trial.*

This position is elementary, and we need not cite authorities to sustain it.

Whether a conspiracy is established, *prima facie*, is peculiarly for the consideration of the trial court.

Card v. *The State* (Ind.), 9 N. E. R., 591.
1 Greenleaf on Ev., Sec. 111.

This rule is subject, however, to this objection: that it is not always necessary, to render the declarations admissible, that the conspiracy should have been first established *prima facie*.

" Ordinarily, when the acts and declarations of one co-conspirator are offered in evidence as against another co-conspirator, the conspiracy itself should first be established *prima facie* and to the satisfaction of the judge of the

court trying the cause. But this cannot always be required; it cannot well be required where the proof of the conspiracy depends upon a vast amount of circumstantial evidence, a vast number of isolated and independent facts; and, in any case, where such acts and declarations are introduced in evidence, and the whole of the evidence introduced on the trial, taken together, shows that such a conspiracy actually exists, it will be considered immaterial whether the conspiracy was established before or after the introduction of such acts and declarations."

State v. *Winner*, 17 Kan., 298.

State v. *Miller*, Pac. Rep., Vol. 10, p. 869.

(*c.*) *The conspiracy per se may be established in the first instance by evidence having no relation to the defendants. It may be shown by acts of different persons at different times and places, and by any circumstances which tend to prove it.*

The conspiracy and its objects having been shown, the defendants are not affected by it unless they are connected with it by proof.

The State v. *Winner*, 17 Kan., 305.

"The evidence in proof of a conspiracy will *generally*, from the nature of the case, *be circumstantial.* Though the common design is the essence of the charge, it is *not necessary* to prove that the *defendants* came together and *actually agreed in terms* to have that design and to pursue it by common means. If it be proven that defendants, by their acts, pursued the same object, often by the same means, one performing one part and one another part of the same act so as to complete it, with a view to the attainment of the same object, the jury will be justified in the conclusion that they were engaged in a conspiracy to effect that object. Nor is it necessary to prove that the conspiracy originated with the defendants, or that they met during the process of the concoction; *for every person entering into a conspiracy or common design already*

formed, is deemed in law a party to all acts done by any of the other parties, before or afterwards, in furtherance of the common design."

3 Greenleaf on Ev., Sec. 93.

Lord KENYON:

"If a *general conspiracy* exist, you *may go into* general *evidence of its nature* and the conduct of its members, so as to implicate men who stand charged with acting upon the terms of it, *years after those terms have been established*, and who may reside at a great distance from the place where the general plan is carried on; such as was done in the cases of the state trials in the year 1745; where, from the nature of the charge, it was necessary to go into evidence of what was going on at Manchester, in France, Scotland and Ireland, at the same time.

"His lordship therefore *permitted* a person who was a member of this society to prove the *printed rules and regulations of the society*, and that he and others acted under them in execution of the conspiracy charged upon the defendants Hammond and Webb, *as evidence introductory* to the proof that they were members of this society, and equally concerned—but added, that it would not be evidence to affect the defendant, until they were made parties to the same conspiracy."

Rex v. *Hammond*, 2 Espinasse, 718.

"If a series of acts are to be performed with a view to produce a particular result, he who aids in the performance of any one of those acts in order to bring about the result must have the intention to effectuate the end proposed, and if he operates with others, knowing them to have the same design, there is, in fact, an agreement between him and them; his criminal intent is not to be distinguished from the intent of those who first formed the plans of the conspiracy."

People v. *Mather*, 4 Wend., 261.

"The forms of the evidence are multitudinous, and as to the *act of conspiring*, which is the gist of the offense, it *may be circumstantial* as well as direct. Acts per-

formed by the defendants secretly, yet tending to the one end, together with the relations of the doers to one another, and any explanatory facts may be shown as justifying the jury in inferring whence they proceed; but, inferential or otherwise, the connection between the acts must appear, or they will be inadequate."

2 Bish. Crim. Prac., Sec. 277.

"*Combining may be made to appear by any competent testimony*, and then the separate acts and declarations of the co-conspirators, including even persons not indicted, may be introduced."

Idem, 228.

"The actual fact of conspiring may be inferred, as has been said, from circumstances, and the concurring conduct of the defendants need not be directly proved. Any joint action on a material point, or collocation of independent but co-operative acts, by persons closely associated with each other, is held to be sufficient to enable the jury to infer concurrence of sentiment."

Wharton Crim. L., Sec. 1,398.

"I am bound to tell you that though the common design is the root of the charge, it is *not necessary to prove* that these *two parties came together* and actually agreed in terms to have this common design and to pursue it by common means and aid to carry it into execution. This is not necessary, because in many cases of the most clearly established conspiracies there are no means of proving any such thing. Neither law nor common sense requires that it should be so proved. If you find that these *two persons pursued by their acts the same object*, often by the *same means*, *one* performing *one part* of an act and *another another part* of the same act so as to complete it, with a view to the attainment of the object which they were pursuing, you will be at *liberty to draw the conclusion* that they were engaged in a conspiracy to effect that object. The question you have to ask yourselves is: Had they this common design, and did they pursue it by these common means, the design being unlawful?"

Reg. v. *Murphy*, 8 C. & P., 310.

"In a case of high treason or conspiracy the prosecutor may either prove the conspiracy, which renders the acts of the co-conspirators admissible, *or he may prove the acts of the different persons and thus prove the conspiracy.*"

Reg. v. *Frost*, 9 C. & P., 129.

In the same case, TYNDALL, C. J., said:

"*A conspiracy may be shown by antecedent acts*, but that is not the only mode. It may also be shown by acts done afterwards what the common design was.

"A conspiracy is rarely, if ever, proved by positive testimony. When a crime of high magnitude is about to be perpetrated by a combination of individuals, they do not act openly, but covertly and secretly. The purpose formed is known only to those who enter into it. Unless one of the original conspirators betray his companions and give evidence against them, *their guilt can be proved only by circumstantial evidence.* This kind of evidence often satisfies a jury of the guilt of the accused, and it is claimed by some writers on evidence that such circumstances are stronger than positive proof. A witness swearing positively, it is said, may misapprehend the facts and swear falsely, but that circumstances cannot lie. The common design is the essence of the charge, and this may be made to appear when the defendants steadily pursue the same object, whether acting secretly or together, by common or different means, all leading to the same unlawful result."

U. S. v. *Cole*, 5 McLean, 601.

The actual fact of conspiring may be proven by collateral circumstances.

King v. *Parsons*, 1 W. Blackstone's Rep., 391.

On a trial for forgery in pursuance of a system of conspiracy, other forged notes are admissible in evidence to show and explain the system.

"In order to prove purpose on the defendant's part,

system is relevant, and in order to prove system *isolated crimes are admissible from which the system may be inferred.* Conspiracy cases give signal illustration of the rule here stated. *The acts of each conspirator emanate from him individually, yet when they are a part of a system of conspiracy* they are admissible in evidence against his co-conspirators, *although each component act may constitute an independent offense.*"

Card v. *State* (Ind.), 9 N. E. R., 591.

" On a trial for murder, in which the evidence shows that the defendant was with a mob of miners which surrounded a house and tried to drive other miners out of it by firing several shots into the house, during the perpetration of which deceased was killed, *but fails to show that defendant fired the shot*, evidence of the facts and events of a strike and of a conspiracy to drive out new men who had been brought in to work the mines, which led up to the attack on the house, is admissible, as also is evidence which tended to show the history of the trouble, a considerable part of which took place before there were any acts of violence on the part of any one, and before it is certain that any acts of violence were contemplated. *It is proper to trace the growth of the conspiracy from the beginning. The character and purpose of the combination before it became unlawful had a tendency to shed light upon its acts afterwards.*"

State v. *McHahill* (Ia.), 30 N. W. R., 553.

Upon a charge of murdering a person by means of explosive grenades, *evidence of other deaths and wounds* suffered by others at the same time held *admissible* for the purpose of *proving the character of the grenades.* A witness being called to prove that he manufactured certain grenades, by which the death in question had been caused, *Held*, that the name of the person who gave the order for them might be asked as a fact in the transaction, even though he had not then been shown connected with the prisoners.

Reg. v. *Bernard*, 1 F. & F., 240.

In the case of *Campbell* v. *Commonwealth*, 84 Penn. St., 187, a case growing out of the Molly Maguire conspiracies, the theory of the prosecution was that the deceased had become obnoxious to members of the division or association of which the prisoner was an active member; that it was arranged by him and others that he should be killed, but it was considered unsafe for the offended parties, or any of the men about the mines of which Jones was superintendent, to undertake the work, for the reason that such a course would be more likely to lead to detection, and it was therefore arranged that members for the purpose should be procured, through the instrumentality of the Molly Maguire organization, from some division of the society whose members were unknown to Jones; that according to the regulations and practices of the order such a mode of procedure was not unusual or extraordinary; that such services were rendered "on a trade," as it was termed by members of one division to those of another in return for similar services; that in this way, through these instrumentalities, the defendant and others procured Doyle, Kelly and Kerrigan to enter upon the work of killing Jones, in the prosecution of which they were counseled and encouraged by him and those with whom he was jointly indicted.

"Such, in substance, was the theory of the commonwealth; and the learned judge instructed the jury that if the evidence satisfied them 'beyond a reasonable doubt that Alexander Campbell alone, or together with Carroll and McGehan, or either of them, did thus procure Doyle or Kelly, or either of them, to kill Jones, and Doyle and Kelly, in pursuance of that procurement, counseling or command on the part of Campbell, actually did kill Jones, then Campbell is equally guilty with Doyle and Kelly, or either of them, if but one struck the fatal blow.' In considering the questions thus submitted to

them, and especially whether the killing was by procurement of Campbell, it was very important that the jury should be fully informed of all the circumstances that would tend to explain his connection with the transaction and motives by which the parties to it were actuated. Without this it would have been difficult, if not impossible, for them to understand how Campbell was able to procure the assassination of Jones by young men who were entire strangers to him, and to whom personally he had never given any cause of offense; what motive he had in doing so, and the reasons which influenced them in consenting to waylay and kill one who, so far as they were personally concerned, was an unoffending stranger. *The evidence complained of tended to shed a flood of light on these and other matters which without it would have been dark and almost impenetrable.* The circumstances of the case were indeed peculiar and extraordinary and without proper explanatory testimony would not have been fully and fairly comprehended by the jury. As a general rule every transaction can be best understood when viewed in the light of all the surrounding circumstances; and this was especially true in this case. It was for these purposes that the evidence was admitted, and very properly so, we think. *If the labyrinths of crime are not explored, justice will be often defrauded.*"

But it is observed by Mr. Starkie that in some peculiar instances in which it would be difficult to establish the defendant's privity without first proving the existence of a conspiracy, a deviation has been made from the general rule, *and evidence of the acts and conduct of others has been admitted to prove the existence of a conspiracy previous to the proof of the defendant's privity.* 2 Stark, Ev., 234. 2d Ed. So it seems to have been considered by Mr. Justice Buller that *evidence might be, in the first instance, given of a conspiracy, without proof of the defendant's participation in it.* 'In indictments of this kind,' he says, 'there are two things to be considered: *First, whether any conspiracy exists,* and next, what share the prisoner took in the conspiracy.' He afterwards proceeds. 'Before the evidence of the conspiracy can affect the prisoner materially, it is necessary to make out

another point, viz., that he consented to the extent that the others did.' So, in the course of the same trial, it was said by Eyre, C. J., that, in the case of a conspiracy, *general evidence of the thing conspired is received*, and then the party before the court is to be affected for his share of it. * * * The point may be considered as settled ultimately in the Queen's case, 2 Brod. & Bing., 310, 6 E. C. L. R., where the following rules were laid down by the judge: 'We are of the opinion that, on the prosecution of a crime to be proved by conspiracy, *general evidence of a conspiracy may, in the first instance, be received* as a preliminary step to that more particular evidence, by which it is to be shown that the individual defendants were guilty participators in such conspiracy. This is often necessary to render the particular evidence intelligible, and to show the true meaning and character of the acts of the individual defendants. But it is to be observed in such cases, the general nature of the whole evidence intended to be adduced is previously opened to the court, whereby the judge is enabled to form an opinion as to the probability of affecting the individual defendants by particular proof applicable to them, and connecting them with the general evidence of the alleged conspiracy; and if, upon such opening, it should appear manifest that no particular proof sufficient to affect the defendants is intended to be adduced, it would become the duty of the judge to stop the case *in limine*, and not to allow the general evidence to be received, which, even if attended with no other bad effect, such as exciting an unreasonable prejudice, would certainly be a useless waste of time."

* * * * *

"It has since been *held that the prosecutor may either prove the conspiracy*, which renders the acts of the conspirators admissible in evidence, *or he may prove the acts of the different persons*, and thus prove the conspiracy. * * * A husband, his wife, and their servants were indicted for a conspiracy to ruin a card-maker, and it appeared that each had given money to the apprentices of the prosecutor to put grease into the paste, which spoiled the cards, but no evidence was given of more than one of the defendants being present at the same time; it was ob-

jected that this was not a conspiracy, there being no evidence of communication; but Pratt, C. J., ruled that the defendants, being all of one family, and concerned in making cards, this was evidence of a conspiracy to go to a jury. *R.* v. *Cope*, 1 Str., 144.

"If on a charge of conspiracy it appeared that two persons by their acts are pursuing the same object, and often by the same means, the one performing part of an act, and the other completing it for the attainment of the object, the jury may draw the conclusion that there is a conspiracy. If a conspiracy be formed, and a person join it afterwards, he is equally guilty with the original conspirators.

* * * * * *

"The *existence of the conspiracy may be established either as above stated, by evidence of the acts of third persons or by evidence of the acts of the prisoner*, and of any other with whom he is attempted to be connected, concurring together at the same time and for the same object."

Roscoe's Crim. Ev., 414.

It will be seen from the foregoing authorities that the rules of evidence as applicable to conspiracy, or to the case of a prosecution for any offense which is based upon a conspiracy (Whar. Cr. Ev., 9th Ed., 701) are entirely different in many respects from the rules of evidence applicable to other prosecutions.

In a prosecution for any specific crime, it is an elementary rule that where the defendant is charged with one specific act, evidence of other crimes cannot be introduced against him. This rule is subject to two exceptions; first, where the evidence of other crimes has a bearing upon question of the intent with which the party did the act with which he is charged, as, for instance, in a case for receiving, where the proof of the receipt of stolen property prior to the receiving upon which the prosecution is based, and from the same principal, is admissible for the

purpose of showing guilty knowledge of the receiver; and likewise in a prosecution for passing counterfeit money, where evidence of prior possession of false bills is permissible as bearing on the question of guilty knowledge; and, second, as will be seen upon reference to the foregoing authorities, in prosecutions for conspiracy, where other specific crimes are parts of a general plan and shed light upon the plan, it is an elementary rule that *res inter alios acta* cannot be introduced; yet it will be seen, from an examination of the foregoing authorities, that in prosecutions for conspiracy they can. It is laid down in those authorities that in the first instance the conspiracy may be proven by the acts of third persons, and by any evidence which tends to show a conspiracy months and even years before the defendant had any connection with it whatever. The conspiracy having been established, the defendants' connection can then be shown. This is settled law, and yet it is wholly repugnant to the rules of evidence governing the trial of all other offenses. The authorities show conclusively that a conspiracy may be shown by any evidence which tends to prove it, by the acts and declarations of the defendants themselves, by acts and declarations of co-conspirators, made in pursuance of its plans, whether on trial or not.

This simple statement of the rule of evidence governing trials for conspiracy, and about the correctness of which there can be no question, disposes of a vast number of objections raised by the defendants to the introduction of evidence in this case.

If, as a matter of fact, there was, in the county of Cook and State of Illinois, a conspiracy to overthrow the law; to overthrow the whole social fabric; to bring about a

new order of society; to do that forcibly and against the will of the vast majority of the citizens; if men were actually preparing to bring about these results, certainly that fact can be shown on a trial in court. The only way it can be shown is the way it has been shown in this case, by proving the fact of the conspiracy, which must be proven and can only be proven by the acts and declarations of those who were members of that conspiracy, and by proof of anything, whether the acts of the defendants themselves or of third persons, which throws light upon the question of the conspiracy, by proof of any facts or circumstances which tend to establish the existence of the conspiracy.

If this be not so, if conspiracies cannot be established in that way, they cannot be established at all; and the law of the land, instead of being the sword of justice which shall protect the citizens of the land, becomes the bulwark of defense, behind which conspirators and assassins can safely rest.

It was held in the *McCahill* case, *supra*, where an organization which was originally lawful in its character afterwards became unlawful, that evidence of the character, objects and purposes of the organization while lawful could be shown, in order to throw light upon its objects and purposes after it became unlawful.

In the *Campbell* case, *supra*, it was held that the objects and methods of the "Molly Maguire" organization could be shown, and was based explicitly upon the ground that only in that way could a jury of law-abiding citizens be made to believe that the story told by the witnesses for the state was true. In other words, the purposes and objects of the organization were introduced for the pur-

pose of corroborating the statements of the prosecuting witnesses. The court uses this language:

"Without this, it would have been difficult, if not impossible, for them to understand how Campbell was able to procure the assassination of Jones by young men who were entire strangers to him, and to whom personally he had never given any cause of offense; what motive they had in so doing, and the reasons which influenced them in consenting to waylay and kill one who, so far as they were personally concerned, was an unoffending stranger. The evidence complained of tended to shed a flood of light on these and other matters, which, without it, would have been dark and almost impenetrable. * * * *If the labyrinths of crime are not explored, justice will often be defrauded.*"

In the *Hammond* case, *supra*, Lord Kenyon held that general evidence of the nature of a conspiracy could be given, and the conduct of its principals, so as to implicate men who stand charged with acting upon its terms, years after those terms have been established; and refers to the state trials of 1745, where, from the nature of the charge, it was necessary to go into the evidence of what was going on at Manchester, in France, Scotland and Ireland at the same time, and permitted evidence of the rules and regulations of the society before any evidence had been introduced of the defendant's connection with it.

In this case, objection is made to the introduction of articles from the Arbeiter Zeitung, the Alarm and the Anarchist, and to the introduction of evidence of speeches made by various of the defendants at different times prior to the throwing of the bomb.

These papers and these speeches were the acts and the declarations of the defendants themselves. There can be no question that the evidence had a tendency to establish

the fact of a conspiracy, and if it is admissible (about which there can be no question) to introduce evidence of the acts and declarations, the *res inter alios acta*, of third persons, certainly it is admissible to introduce the declarations and acts of the defendants themselves.

The Alarm was the organ of the "International," as Parsons himself stated at the meetings of the American group.

The Arbeiter Zeitung was the organ of the "International," and was under the control of the defendant Spies. Schwab was the editor next in charge.

The sole object of the existence of these two papers, as is apparent from the articles introduced in evidence in this case, was to advocate the cause of the "social revolution," to bring it about by force, and to educate their readers for the practical work of attaining that result. These papers not only advocated the bringing about of this revolution, and bringing it about by force, against the wishes and desires of a majority of the people of the country, but actually, from day to day, published the most minute and practical descriptions for the preparations of the means of warfare by which the revolution could be inaugurated.

The Anarchist, as Engel, its publisher, himself said at the meeting at Neff's Hall, was established for the reason that those who had established it considered that the Arbeiter Zeitung was not radical enough.

How can a conspiracy be established if it cannot be established by the declarations and acts of its members? What better proof can we have of the intentions of men

than the declarations which they themselves make in regard to those intentions?

Complaint is made especially as to the reports of meetings contained in those papers; but the publication of those reports was calculated to aid the cause of the revolutionists. They were undoubtedly published for the purpose of giving aid and comfort to the revolutionists. The republication of speeches made at those meetings was in itself an advocacy of the cause of the revolutionists, and at the same time advice to the members of the conspiracy. The speeches and articles introduced in evidence were all *acts* in furtherance of the conspiracy.

Complaint is also made of the introduction of Most's book in evidence.

It appears from the evidence that Lingg told Schaack that he had learned the method of making bombs from this book. It appears also in evidence that Fischer told Bonfield that he had learned the use of the fulminating cap from Most's book. This evidence alone would render the book competent as against these two defendants; but when we remember that the evidence shows, without contradiction, that large quantities of the book were kept at the library of the general committee of the "International;" that the book was sold at the picnics of the "International;" that announcement was made in the Arbeiter Zeitung, among the editorial notices inserted without pay, that the book was ready for distribution; that large portions of it, translated into English, were reprinted in the Alarm; and when we consider the nature of the book itself, there can be no question that it is admissible against every member of that conspiracy.

Suppose a man were indicted for poisoning, charged

with administering some occult poison, which could be manufactured only according to some formula but little known, and which, in order to be effective, must be administered in a certain way. Would it not be admissible to show that the man charged with the offense had in his possession a book describing the formula, and the means of administering it? Suppose, further, that the poison could be manufactured and administered only by a concert of action among different individuals, would it not be competent to show that the same book had been circulated by parties to the conspiracy among the conspirators?

Most's book, upon its face, shows its purposes and shows its object. It was published for the express purpose of assisting the cause of the "social revolutionists," for the express purpose of informing those ignorant of chemistry of the method by which explosives could be manufactured, and the method in which they should be used; and the book itself proves that the author of it was a member of the same general conspiracy to which the defendants themselves belonged. He was their comrade—"Comrade Johann Most"—engaged in the same nefarious purpose, by the same nefarious means, and if there were no other ground for its admission it would be admissible in this case upon the ground that it is the declaration of one conspirator made to others, in furtherance of the common design.

Complaint is also made in this case to the introduction in evidence of bombs and fire cans discovered after the meeting at the Haymarket.

The complaint is twofold: First, that they are *res inter alios acta*, the connection of the defendants with them

not being shown by the evidence, and, second, that they were discovered so long after the Haymarket that they might have been manufactured for the purpose of prejudicing the case of the defendants.

So far as the second objection is made, that is a question for the jury. It is an objection which may be made against any other species of circumstantial evidence, and in this case the counsel themselves set up the ridiculous pretext that the five or six pounds of dynamite found in the office of the Arbeiter Zeitung early in the morning after the bomb was thrown was placed there to injure the immaculate occupants of that office, notwithstanding the fact that Spies himself admitted to the reporters that his office was "more warlike than some," and that he for months had had in his possession dynamite and bombs for the purpose, as he says, of experimenting with them and learning their use. The fact that they were not found for days after the Haymarket is a fact which it was proper for the jury to take into consideration, but does not affect the question of their admissibility. As to the first point, *res inter alias acta* is admissible in prosecutions for conspiracy, and for offenses based upon conspiracy—any evidence which tends to establish the conspiracy. The finding of these articles certainly proves that some one had prepared them for some purpose. For what purpose could they have been prepared, or could they have been used, except for the purpose of the "revolutionists"? Who is there on the face of the earth who ever manufactured bombs of that kind, or fire cans of that sort, except revolutionists, men who were instigated thereto by the diabolism such as that of Most's book, by the teachings and advice of his comrades? Moreover, the bombs and fire cans which were not traced di-

rectly to the defendants were all found in the neighborhood of Wicker Park, and it is in evidence in the case that at the meeting at Greif's Hall it was determined that members of the conspiracy should assemble at Wicker Park, to await there the announcement which should come to them from the committee. And it appears also from the evidence that Lingg, Seliger and Lehmann, after hearing of the Haymarket, hid their bombs and dynamite in just such a manner as the bombs and fire cans mentioned were hid.

The tendency of that evidence certainly is to establish the fact of the conspiracy, and, having a tendency to establish that fact, they are admissible in evidence. The weight of the evidence is a question for the jury; the only question for the court, the competency.

Moreover, Spies, in his declaration to Wilkinson, stated that there were thousands of bombs scattered all over the city, in the hands of men who knew how to use them, and who would use them when the time came. The fact of the finding of those bombs shows that there were bombs scattered throughout the city.

It is strongly insisted that the court erred in admitting the introduction of the letter from Most to Spies, upon the cross-examination of Spies. (The letter appears in Vol. N, 105.)

A number of authorities are cited by counsel to sustain their objection. One of them, the case of *Gifford* v. *The People*, 87 Ill., 210, is a case differing entirely in the facts from the one here. Gifford was indicted for rape. The illicit intercourse was not denied. The only question in the case was, as to the consent of the prosecutrix. Upon

cross-examination, a witness named Washburne was asked: "Have you not heard people say that he (the "defendant) was a gambler?" The witness answered that he had heard somebody say that he gambled. The defendant himself, upon his cross-examination, was compelled to state that he had visited houses of ill-fame in Cleveland and Chicago a number of times, and also that he had played cards for money. There can be no question that the introduction of this evidence was irrelevant. It pertained to matters having no connection whatever with the case on trial. He may have been a gambler, but that fact would throw no light upon the question of his guilt upon a charge of rape. He may also have visited houses of ill-fame, but that would throw no light upon the question, because in a prosecution for rape, the gist of the offense is that the act is done with force, and against the will of the prosecutrix. No one denies that proof of independent acts of crime, having no relation whatever with the crime charged, and not being part of the system, are inadmissible.

The case of *Commonwealth* v. *Edgerly*, 10 Allen, 184, was an indictment for having counterfeit bills, with intent to pass them. There was no element of conspiracy in the case. The letter introduced in evidence was a letter found upon the person of the defendant, never having been by him opened, and the contents being to him unknown. There is nothing in the case which shows that that letter was in the nature of a declaration made by one co-conspirator to another.

In this case the letter of Most introduced in evidence was a declaration of one co-conspirator made to another in furtherance of the common design. It is true that the

letter has no reference to the crime at the Haymarket, to that specific act, but it must be recollected that in this case the conspiracy complained of was a general one to overthrow the laws of the land; that the crime at the Haymarket was but an incident to the conspiracy. The throwing of the bomb at the Haymarket was by no means the culmination of the conspiracy, and even had the conspirators succeeded that night in placing the city of Chicago at their disposal, that fact would not have culminated the conspiracy. The general conspiracy, from anything which appears in this record, may still be in existence, and, as a matter of fact, doubtless is. The letter of Most to Spies was in furtherance of this general conspiracy, as appears from its contents. It has always been held that a letter from one co-conspirator to another in furtherance of the conspiracy is admissible in evidence. Indeed, the courts go further than that.

In the case of *Card* v. *the State* (Ind.), Vol. 9 N. E. R., 591, the indictment charged that Card and one Strain forged a certain note. Card was tried separately. It appeared in evidence that the forgery of that note was the result of a conspiracy to forge notes generally and was only one act in a system of forgeries. A letter from Marshall to Mikels, neither one of whom was indicted, was introduced in evidence, as the court held properly, on the ground that it was the declaration of one co-conspirator to another.

Certainly, if a letter which the conspirator on trial has never received and has never even seen is admissible against him, on the ground that it was the act of one of his co-conspirators, a letter written to the defendant, received and read by him, is admissible, if it were the declaration of a co-conspirator.

To the same effect is:

Rex v. *Stone*, 6 Durn. & E., 527.

In the case of *State* v. *Winner*, 17 Kans., 300, four telegrams were introduced in evidence, two of them purporting to have been signed by Winner, one by McNutt, a co-conspirator (not on trial), and one by Seiver, the victim of the conspiracy.

The court say:

"We think there is no other evidence tending to show that Winner (the defendant on trial) sent said dispatch No. 1. In all probability he sent it; but even if he did not, still it was received by McNutt, a co-conspirator and partner in guilt as well as in business, and was received in furtherance of their common design and purposes, and therefore for that reason it was admissible in evidence."

In the case of *Reg.* v. *Bernard*, I F. & F., 250, a letter in the handwriting of one Allsop, who up to that time had not been shown to be a co-conspirator, and which bore a memorandum in the handwriting of the prisoner, was admitted in evidence.

Lord CAMPBELL (C. J.) said that they "were unanimously of the opinion that the letter was admissible. It would be for the jury to form their own opinions of its bearing. The letter was found at the lodgings of the prisoner, with his handwriting upon it. It must, therefore, be assumed to have been in his possession, and it must be admitted, not on the ground that the writer of the letter was a co-conspirator with the prisoner (for that fact had not appeared at that time), but on the ground that it was in the prisoner's possession, and that its contents were relevant to the present inquiry. He was of opinion that the letter had been found in the possession of the prisoner, and that the context was relevant, and in that opinion all his learned brethren on the bench concurred."

In the case of *C., R. I. & P. Co.* v. *Collins*, 56 Ill., 212, Collins brought an action against the company to recover for a trunk and its contents. Duggan was not a party to the suit. The defendant offered in evidence a letter from Duggan to his cousin Manyon. The object of the letter was the fabrication of evidence.

The court say:

"There was sufficient evidence of a community of interest and design between Collins and Duggan to have rendered this letter of Duggan admissible in evidence as against Collins to show a conspiracy between them to defraud the railroad company."

And, because of the refusal of the lower court to admit the letter, the case was reversed.

Certainly if the letter from Duggan to Manyon, Manyon himself not being a conspirator or having no connection with the case, Collins never having seen the letter or had it in his possession, or, so far as the case showed, known anything about it, was admissible as against Collins, there can be no question that the letter, if directed to Collins, found in his possession and read by him, would be admissible. That being so, Collins' case is decisive upon this question.

The only possible objection that can be raised to the introduction of this letter grows merely out of the order of proof; and the introduction of evidence—the order of its introduction—we understand is somewhat discretionary with the trial court; and certainly the fact that the letter was introduced out of its order would not be error sufficient to reverse this case, where it is clear beyond all question that the letter was competent in the first instance.

It is also urged that, in the cross-examination of those

of the defendants who took the stand, the defendants were compelled to give evidence against themselves.

Certainly, if the ordinary rules of cross-examination were observed, no objection can be made upon this ground, unless the giving of evidence against themselves is a violation of the constitutional provision that defendants shall not be compelled to give evidence against themselves. But we understand the rule to be, that a defendant when he takes the stand is subject to the same rules of cross-examination as any other witness, and that for the time being his position of defendant is merged in that of witness, and that it is proper to examine him upon any subject connected with the direct examination, which it would be proper to examine any other witness upon. There can be no question about this position, as the law is now well settled.

"If a defendant offers himself as a witness to disprove a criminal charge, can he excuse himself from answering, upon the ground that by so doing he would criminate himself? This question has been much agitated since the passing of enabling statutes, and the conclusion is that, so far as concerns questions touching the merits, the defendant, by making himself a witness as to the offense, waives his privileges to all matters connected with the offense. It has been ruled also that, to affect his credibility, he may be asked whether he has been in prison on other charges, whether he has suborned testimony in the particular case, *and whether he has been concerned in other crimes, part of the same system.*"

Whar. Crim. Ev., Sec. 432.

As to the objection made, that many of the articles introduced in evidence had been seized by the prosecution, perhaps unlawfully, and that the introduction of them in evidence was for that reason a violation of the constitutional guaranty that defendants could not be compelled to

give evidence against themselves, we desire to say but very little.

The defendants were not compelled to produce these articles. The state produced them. How the state obtained them cannot be material to the question.

The case of *Boyd* v. *U. S.*, 116 U. S., 616, has a bearing upon this question.

That was a case which passed upon the constitutionality of an act of Congress authorizing courts to, in effect, compel defendants in certain criminal cases to produce the evidence which should be used against them. It does not require any opinion of the Supreme court of the United States to convince anybody that such a rule would, in effect, compel a defendant to testify against himself.

In this case, however, the defendants produced nothing. The state produced it; and whether the state got hold of it properly does not affect the question whether the defendants produced it or were compelled to produce it.

Complaint is made of the fact that evidence was introduced showing that Rudolph Schnaubelt, after the Haymarket meeting shaved off his beard and clipped his mustache. It was stated at the time of the introduction of the evidence that it was for the purpose of identification. The evidence is relevant and competent for this reason: Gilmer has sworn that Schnaubelt had, at the time he saw him standing in the alley at the Haymarket, a beard. In the photograph introduced in evidence in the case he appears as wearing a beard. Gilmer testified that he told the officers about what he saw at the Haymarket two days after the bomb was thrown. It is in evidence also that Schnaubelt was arrested and confined in the Central station, the same station at which Gilmer made

his statements. From that it could have been argued that Gilmer did not give the description of a man, or if he had he would not have been arrested. The evidence was introduced for the purpose of showing that at the time Schnaubelt was under arrest he had no beard; that his beard was taken off prior to his arrest, and after the meeting at the Haymarket, and that for that reason the officers would not recognize him as the man described by Gilmer.

A number of points have been raised by counsel as to the admissibility of evidence in the case, which we have not the time to consider separately; but we insist that, if our propositions as to the rules of evidence governing the trial of cases based upon conspiracy be correct, no error has been committed in the introduction of evidence which is material. It is possible that there may be some minor points in the evidence not strictly competent; but certainly no evidence has been introduced improperly which is material in the case, or which has affected the final result. The introduction of the evidence in the case took weeks, and it is utterly impossible for a trial involving as wide a range of evidence as this to be conducted without some error being committed upon minor points.

"Where the result reached by a judgment is clearly right, it will never be reversed for errors which do not affect the substantial merits of the case."

Wilson v. *The People*, 94 Ill., 327.
Calhoun v. *O'Neill*, 53 Ill., 354.
Leach v. *People*, 53 Ill., 311.
Clark v. *Same*, 31 Ill., 479.
Richmond v. *Same*, 110 Ill., 371.
Lander v. *Same*, 104 Ill., 250.
State v. *Winner*, 17 Kan., 304.

IV.

The Doctrine of Accessories.

Where advice to murder instigates murder the adviser is guilty, even

(*a.*) *If the perpetrator is unknown: Provided the proof shows that the act was caused by the advice.*

Neither of the defendants, Spies, Schwab, Neebe, Parsons, Fielden, Fischer, Lingg or Engel, himself actually *threw* the bomb, but, as we claim from the record, each of the said eight defendants was an abettor, adviser and encourager of that murderous act. It is not at all important to make a distinction between "principal" and "accessory," so far as the indictment is concerned. If the defendants, or any of them, are accessory to the murder charged, then such defendants are guilty of that murder, and they may be charged as principals. The statute is as follows:

"An accessory is he who stands by and aids, abets or assists, or who, not being present, aiding, abetting or assisting, hath advised, encouraged, aided or abetted *the perpetration of the crime.* He who thus aids, abets, assists, advises or encourages *shall be considered as principal and punished accordingly.*

"Every such accessory, when a crime is committed within or without this state by his aid or procurement in this state, may be indicted and convicted at the same time as the principal, or before or after his conviction, and *whether the principal is convicted or amenable to justice or not*, and punished as principal."

R. S., Chap. 38, Secs. 274, 275.

If a defendant is accessory, before the fact, to the crime of murder, he may be charged in the indictment as principal and punished accordingly.

In *Baxter* v. *The People*, 3 Gil., 368, the court, in commenting upon the accessory statute of this state, ask this question: "The inquiry is, whether proof that the pris-" oner was accessory to the crime before the fact will " sustain an indictment against him as principal?" and say:

"The act says all such accessories shall be deemed and considered as principals, and punished accordingly. This act, then, makes all accessories, at or before the fact, principals. The declaration that they shall be *deemed and considered* is as unequivocally expressed as if the act had said, *are hereby declared to be.* It is true the act states what an accessory is, but then it declares, in substance, that he is principal. It was in perfect harmony with the system pursued by the legislature to go on and define what an accessory is, as it has defined all other offenses which it has attempted to enumerate, and it does not detract from the force of the provision that they shall be deemed and considered as principals. The distinction between accessories before the fact and principals is, in fact, abolished. At the common law, an accessory at the fact might be indicted and convicted as the principal; for the common law declares that he who stands by, advises and encourages the murderer to give the blow gives the blow himself, as much as if he held the weapon in his own hands.

" Our legislature has gone one step further, and provided that he who, not being present, hath advised or encouraged the giving of the blow, hath given the blow as much as if he had stood by and encouraged it, or even had struck with his own hands. It is no more a fiction of law to declare that he gives the blow by advising and encouraging it beforehand than it is to affirm that he gives it by advising and encouraging it at the time. * * *

" Then, as by the law in this case the acts of the principal are made the acts of the accessory, he thereby be-

comes the principal, *and may be charged as having done the acts himself.* He shall be deemed and considered as principal, and be punished accordingly."

By every decision rendered by our court, the indictment in the case at bar would have been sufficient, absolutely, if the trial had proceeded alone upon the first count thereof.

In *Dempsey* v. *The People*, 47 Ill., 326, objection was raised that the indictment was for murder against Dempsey as principal. The Supreme court says that the objection is not well taken, and further says:

" Our statute declares an accessory before the fact to be a person who stands by and aids, abets or assists; or who, not being present, aiding, abetting or assisting, and advises or encourages, shall be made a principal and punished accordingly. The statute having declared such persons principals, no reason is perceived why they were not to be indicted as such."

Hence, it is not so important, under our statute, to have precise and learned definitions of " accessory " and " principal," as to determine what relation the eight convicted defendants bear to the atrocious murder—what is their responsibility for the act, to which history furnishes no parallel.

First. In answer to the proposition of defendants' counsel, we maintain that *at common law* the accessory may be guilty of the substantive crime, *even if the principal is not pointed out and in fact is unknown.*

Some one, other than defendants, actually threw the bomb. Suppose his name and identity are unknown, the defendants would clearly be liable if they " abetted, advised or encouraged " the " act," although it did not appear in evidence that they knew the perpetrator. If de-

fendants advised and encouraged the commission of the *crime* and the state fails to show the precise individual who commits the crime, the requirements of our statute are fulfilled, because it says that "an accessory is he who "stands by and aids, abets or assists, or who, not being "present, aiding, abetting or assisting, hath advised, en- "couraged, aided or abetted the *perpetration of the crime.*"

Archbold says (Pr. and Pl., Vol. 1, p. 67) if the principal felon be unknown, the indictment of the accessory may state it accordingly.

Through all the authorities, where the common law distinction between principals and accessories prevails, the only modification of the above rule announced by Archbold is, that if the principal is declared unknown in the indictment, and the proof on the trial shows that he is known, there would be a fatal variance.

Rex v. *Walker*, 3 Camp., 264.
Rex v. *Blick*, 4 C. & P., 377.

In other words, if the indictment alleges the principal unknown and the proof shows him unknown, there is no variance and the conviction follows. If some unknown person commits a crime at the instigation of *A*, and the proof shows such principal unknown, but that *A* counseled and encouraged the commission of that particular crime, it would be a monstrous doctrine to say that *A*, although guilty, could not be convicted because he had not kindly furnished the state with the name of his agent. An insane person or a child under ten years cannot commit a crime, yet if such person or child, at the instance of *A* and by his advice and encouragement, commits a murder or any felony, then *A* is guilty.

Wharton C. L., Vol. 1, Sec. 207.

Reg. v. *Tyler*, 8 C. & P., 616.
Bishop C. L., Vol. 1, Sec. 651.

The absurdity of the common law distinction between accessories who were present, aiding, etc., and accessories who were absent, aiding and encouraging, etc., is further manifest when the law declares that an accessory to a crime by an insane person is principal. There must always be a principal, and if the agent be irresponsible of course the instigator can only be principal. The logical inference is that the instigator, encourager and abettor, whether present or absent, whether the agent be known or unknown, stands in law, as the statute and decisions in this state declare, as principal.

In *Pilger* v. *Com.*, 112 Pa. St., 220, defendant was indicted for arson. The proof left it in doubt as to whether defendant was present or absent, but the court say that as it appeared that he advised, encouraged or instigated *some one* to commit the crime, he was guilty.

In *Brennan* v. *People*, 15 Ill., 516, the court say:

" The prisoners might well be convicted of the homicide, if the fatal blow was given by a person not named in the indictment, provided they were present aiding or abetting him, or if absent had advised or encouraged him to do the act."

In *State* v. *Green*, 26 S. C., 103–128, in South Carolina, where the common law as to accessories and principals prevails, under an indictment for murder containing several counts, the jury found defendant guilty under third count as accessory to an unknown principal. The court say:

" *The count charges the murder to have been committed by a person unknown, and that the prisoner was accessory thereto* before the fact. It would be sufficient to answer this by saying that the conviction is upon a good count.

But I am disposed to meet the objection at once and answer it. To *make this count bad, it must be established that a murder cannot be committed by a person unknown.* Such a position would not, I presume, be assumed by the learned counsel for the prisoner, but still without it, their argument cannot be supported, for an accessory before the fact is he who counsels, commands, procures or incites another to do the act. A murder is committed, but the perpetrator is unknown. Is it less a murder from the fact that you cannot say who did it? Unquestionably not. *If it can be shown who counseled, commanded, procured or incited that murder, is not the person thus ascertained accessory to the crime of murder?* It cannot be doubted that he is."

Hawkins says, Sec. 11, Chap. 29:

"I take it to be a settled rule that wherever a man procures a felony to be committed, and is absent at the time when it is committed, and no other person but himself can be adjudged a principal in it, he shall be esteemed as much a principal as if he had been present. For no one can be punished as a felon, but either as a principal or as an accessory, and therefore where the procurer of a felony cannot be punished as an accessory, because there is no other to whom he can be an accessory, he must be punished as a principal or not at all."

No constitutional guaranty, as counsel seem to think, is impaired by this reasonable, sensible rule. The defendant cannot be in jeopardy twice for the same offense. Who is responsible for the crime, is the only inquiry, as in this case death resulted from the act, and the fact of the death of deceased is not in question. The fact of the existence of criminal agency in causing that death is the only question, which may be established by circumstances and is the proper subject of presumption arising upon all the facts and circumstances of the case. At present, defendants are properly in jeopardy *once.*

Pitts v. *State*, 43 Miss., 472.

People v. *Bennett*, 49 N. Y., 137.
State v. *Crank*, 2 Bailey (S. C.), 66.

The common law for many years maintained that persons present and aiding, abetting, etc., the commission of a crime, were accessories at the fact. This was a manifest absurdity and misapplication of terms, hence the courts declared such an accessory a principal in the second degree to distinguish him from the principal who actually did the act, a principal in the first degree. This distinction as a matter of pleading or proof has finally been abandoned by all the courts, and even those where the ridiculous proposition is still maintained that there is a a difference between the person who commits the crime and he who caused him to commit it.

Bishop says:

" The distinction between accessory and principal rests solely in authority, being without foundation, either in natural reason or the ordinary doctrine of law. The general rule of law is, that what one does through another agency is to be regarded as done by himself."

Bish. C. L., Vol. 1, Sec. 673.

Therefore has this state adopted a sensible statute, abandoned an absurdity and decided through its courts that:

" It is no more a fiction of the law to declare that he gives the blow by advising and encouraging it beforehand than it is to affirm that he gives it by advising and encouraging it at the time."

Thus all are principals, and the fact that some other principal is also guilty, but unknown, in no way lessens the guilt of those known.

State v. *McCahill*, 30 N. W. R. (Ia.), 553.
Com. v. *Adams*, 127 Mass., 15.
1 Whar. C. L., Sec. 327.

From the foregoing authorities it is apparent that even where the common law doctrine prevails, one who has advised or encouraged the commission of a crime may be convicted as accessory, although the principal be unknown, if the indictment charges the defendant with being an accessory to an unknown principal.

In this state, the distinction between principal and accessory having been abolished, all questions as to the manner in which the indictment should be drawn are avoided.

The absurdity of the position contended for by the plaintiffs in error is easily illustrated: Suppose A informs a crowd of men that B is his enemy, and offers a reward to the man in the crowd who will kill B. A leaves. Afterwards B, coming in view of the crowd, is shot by some one in the crowd. The one perpetrating the deed cannot be identified. If the perpetrator should be indicted for murder he could not be convicted, because a common purpose could not be shown to have existed among the crowd, and it could not be shown beyond a reasonable doubt that he himself committed the offense. Would any one contend that A under such circumstances would not be guilty of murder? And yet, if the position assumed by counsel for plaintiffs in error be true, he would not.

The trouble with the argument of the counsel for plaintiffs in error is, that they continually confound a question of law with one of fact. The difficulty is not one of law, but one of fact. Because the principal cannot be identified simply increases the difficulty of proving that, whoever he was, he was actuated by the advice of the accessory.

If the evidence in a case establishes clearly and con-

clusively that the act was done pursuant to the advice of the defendant, there is certainly no reason why he should escape simply because the perpetrator cannot be identified.

No one of the authorities cited by counsel in their brief has any application whatever. We admit that where the common law prevails, before an accessory can be punished, the principal must have been convicted, provided the principal were not unknown. In some of the states the rule of the common law has been so far modified as to permit the trial and conviction of the accessory before the conviction of the principal. In such states the advisor must still be indicted as accessory, and if the principal be known he must be named in the indictment; and in such case the allegation of the indictment as to the guilt of the prisoner must be sustained. We know of no decision which holds that where the principal is unknown the accessory cannot be convicted.

The case cited from Starkie on Evidence, *Rex* v. *Howell*, 9 C. & P., 437, was decided on a question of fact simply.

The case of *Jones* v. *The State*, 64 Ga., 697, is not in point. In that case Jones was indicted as being accessory to the act of Sellers. Of course, that allegation in the indictment had to be proven. In Georgia the distinction between accessory and principal still prevails.

In the case of *State* v. *Ricker*, 29 Me., 86, the court used this language:

"The guilt of the principal is a necessary fact to be shown on the trial in order to obtain the conviction of the accessory; but the record of a conviction is not required."

Of course, it is necessary to prove the *guilt* of the principal, for if no principal is guilty there is no crime.

If the perpetrator of the act is not responsible mentally, his accessory becomes the principal, and that at common law. Moreover, in that case, Ricker was charged with having hired and procured Staples to commit arson. Of course, that allegation, being made, must be proven. That case holds that their statute does not abolish the distinction between the principal and accessory, and that is the only question discussed in the case.

Neither is the case of *Ogden* v. *State*, 12 Wis., 532, in point, for the statute of Wisconsin is identical with that of Maine, discussed in the Ricker case, *supra*, and hence in Wisconsin the common law distinction still prevails. Moreover, Ogden was indicted "*as for a substantive* "*felony*," in having *advised one Wright* to commit the felony, and the court say, "In order to establish the guilt of *Ogden* it was first incumbent on the prosecutor to "prove the guilt of Wright, *as alleged in the indictment*."

For the same reasons *State* v. *Crank*, 13 S. C., 74, has no bearing upon the question here, nor has

Holmes v. *Com.*, 25 Penn. St., 222.

In the case of *Hatchett* v. *Commonwealth*, 75 Va., 932, the court say:

"'Our statute has not gone far enough to make an accessory before the fact to a felony liable to be convicted on an indictment against him as principal.' Upon this view of the statute the conclusion is obvious that an accessory to a felony cannot be prosecuted for a substantive offense, but only as an accessory to the crime perpetrated by the principal felon, and in order to his conviction, although it is not necessary now to show that the principal felon has been convicted, it is necessary to show that the substantive offense, to which he is charged as having been accessory, has been committed by the principal felon."

The effect of the decision is that under their statute the advisor must still be indicted as accessory; and as the principal had been named, his guilt, of course, must have been shown.

Our statute has gone far enough to make an accessory before the fact liable to be convicted upon an indictment against him as principal, and hence, by the very terms of the decision, its conclusion is not applicable here.

1 Bish. C. L., § 671, does not announce the doctrine stated by counsel; he is commenting on the Massachusetts statute; states it was held not to impair the common law distinction between principal and accessory; and says, "statutes *like these* do not supersede the necessity of "*proving the guilt* of the principal."

It is true that 1 Whar. C. L., Sec. 237, uses the language quoted, but *the text does not bear out the interpretation put upon it by counsel. No one denies that the guilt of some principal must be shown before an accessory can be convicted, because if no principal is guilty there is no crime, which is all that Wharton or Bishop assert. The question in this case is whether the principal always and under all circumstances must be identified, and not whether he must be proven guilty. Here there certainly was a principal, and here the principal was proven guilty; the only question is the identity of the principal.*

The conclusion of the whole matter seems to be this: Originally under the common law it was necessary to aver and prove the *conviction* of the principal before the accessory could be punished (provided the principal were known), but it has always been permissible to charge the advisor with being accessory to an unknown principal, hence the question after all is simply one of practice; and

where, as in this state, the accessory is in fact a principal, all questions of practice are eliminated, and the only question in such case is one of fact, *viz.*, did the actual perpetrator do the deed by the procurement of the defendant? Of course where the actual perpetrator is unidentified the difficulty of proving the causal connection is greatly increased. Such connection of course can be proved just as any other fact material to a conviction can—by circumstances.

And where, as in this case, such connection has been shown overwhelmingly, there is no reason, either in sound sense or in law, why the conviction should not stand, even though the personal identity of the perpetrator has not been shown.

We cannot comprehend what bearing the law of *corpus delicti* has upon this question. Counsel for plaintiffs in error seem to contend that by the expression *corpus delicti* is meant both the crime *per se* and the responsibility of a defendant for it.

We had always supposed, and, notwithstanding their argument, do yet, that by the phrase *corpus delicti* is meant the criminal act as an entity, having no relation whatever to the question of a defendant's responsibility for the act; and that the only practical application of the doctrine of *corpus delicti* in the law is this: that the admission of a prisoner that he has committed a crime will not sustain a conviction unless it is otherwise shown that the crime (*corpus delicti*) has in fact been committed.

For a further discussion of this subject, we call attention to that portion of this brief relating to the instructions.

(*b.*) *And even though* (*also*) *the advice was general in its character, and was not specifically directed to any particular person to do any particular act.*

The evidence in this case (well and carefully considered by the jury), by a study of the record, demonstrates that Spies, Parsons, Fielden, Schwab and Engel have been for years the advisers of murder and assassination to accomplish the end they sought, viz.: the "social revolution"; that they have been specific in their endeavors to educate the masses. They have not only, in season and out of season, advised and declared that the only way the end desired could be reached was by wholesale murder, by wiping off the face of the earth the capitalists, by murdering the police and disposing of all officers of the law and all rulers, but they marked out the way to that end. They have taught the means to that end. They have, openly and secretly, by speeches and by written declarations, advised the arming of all laboring men. They also specifically taught the use of dynamite, its powers, its terrors, and the particular way in which it could be manufactured, as well as the cheapest and most serviceable bombs. They have specifically (which is clearly demonstrated by the proof in this case, as disclosed in the record), given careful and clear directions how to use these missiles of destruction and carnage. Each of the defendants last mentioned declared repeatedly that dynamite was cheap, readily obtained, easily used, and also suggested how, if their advice was followed, the perpetrator of any crime would be safe.

One of the propositions of law to be determined in this case is, broadly stated: Can a man continuously and persistently for years advise generally the commission of

murder, and, while imparting that general advice, distinctly declare the specific road and way to the end, designating also the time of the accomplishment of the deed and the classes to be destroyed, and then be held guiltless of murder, because the advice and the encouragement had been followed by some person whose identity cannot be proven, although such unknown person has followed the advice, encouragement and education so closely that the act appears like that of the teacher rather than the disciple?

The illustration given by the learned judge who tried this case, on the motion for a new trial, is of a kind to demand respect, and is unanswerable.

"Suppose that the leaders of the radical temperance men should for a long period of time, by speeches and publications, declare that there was no hope of stopping the evils of the liquor traffic except by blowing up saloons and killing saloon-keepers; that it was useless to expect any reform by legislation; that no prohibition laws or high license laws, or any other laws, would have any effect in their estimation, and that therefore they must blow up the saloons and kill the saloon-keepers, and justify that course of conduct. Suppose, further, that in addition to all this teaching they had further taught the means by which saloons could be blown up and saloon-keepers killed, advising how to manufacture dynamite, the easiest modes of making bombs, how to throw them and declaring that their use against the saloon-keepers and the saloons was the only remedy and the only way to reach the end desired by the radical temperance men. Then supposing these same leaders called a meeting in front of the saloon at 54 West Lake street, Chicago, and spoke denouncing the liquor traffic and denouncing the saloons and the saloon-keeper, indulging in figures and facts about the liquor traffic, and one would say, 'If you are ready to do anything, do it without making any idle threats,' and another speaker say 'throttle,' 'kill,' 'stab' the saloon business, 'or it will kill, throttle and stab

you;' and then while that speaking is going on some unknown man out of the crowd, with a bomb of the manufacture and design of the temperance men, explodes No. 54 West Lake street and kills the occupant of the house, can there be any doubt that such leaders, so talking, so encouraging, so advising, would be guilty of murder?"

We must bear in mind that our statute makes it criminal to "advise, encourage, aid or abet the *perpetration of* "*the crime.*" Parsons, Fielden, Spies, Engel and Schwab repeatedly advised murder, the use of dynamite, the destruction of the police and of capitalists. They practically conducted a school in which was taught the use of explosives and firearms and the manufacture of bombs and instruments of death and destruction. They "advised and encouraged *the perpetration of the crime*" of killing representatives of the law, defenders of the law and protectors of the peace, to bring about "the so-"cial revolution," whereby the right of private property should be abolished. The object was plain, the means clearly defined, the encouragement and advice always the same. The crime designated, the perpetration thereof encouraged and advised.

In the case at bar the crime was perpetrated precisely as advised and encouraged. We have seen heretofore that the responsibility of defendants herein depends upon what encouragement or advice they gave the perpetrator. The illustration above might be multiplied, but is sufficient and unanswerable.

As bearing directly upon this question we invite special attention to the case of *The Queen* v. *Most*, L. R., 7 Q. B. D., 244. It is a thoroughly considered opinion of a court of the highest respectability, is based upon reason-

ing which amounts to a demonstration, and, as we insist, is conclusive of the question.

The statute (24 & 25 Vict., C. 100, Sec. 4) upon which the indictment proceeded, is as follows:

"Whosoever shall *solicit*, *encourage*, persuade, or endeavor to persuade, or shall propose *to any person* to murder *any other person*, whether he be a subject of her Majesty or not, and whether he be within the Queen's dominions or not, shall be guilty of a misdemeanor."

Queen's Bench Division, 244.

If in this state a man advises or encourages the commission of a crime, he is not guilty *under the statute* unless the crime is in fact committed. In England he is guilty the moment the advice is given of a substantive offense. Any act which in England would make a man guilty under the above cited provisions of their statute (and which are the provisions discussed in the opinion) would in Illinois make him guilty as accessory *if the crime were in fact committed.* And in that respect the statutes are identical, with this exception—that the language of the English statute is narrower (as respects this question) than that of Illinois. Our statute provides that whoever "advises or encourages" "the commission of the crime" shall be guilty; theirs provides that "whosoever" shall "encourage" "*any person*" to "murder *any other person*" shall be guilty.

And the question in that case was *whether general advice to murder a class* was within the terms of their statute. Certainly there can be no question that if general advice is within the terms of the statute there it is within the terms of the statute here.

Bearing this in mind, we call attention to the facts and the language of the court.

The first two counts charged the publication of a seditious libel. Upon those counts a separate verdict was found against the accused, and no question as to them was reserved.

The third count alleged that Johann Most, unlawfully, knowingly and wickedly did encourage certain persons, whose names to the jurors were unknown, to murder certain persons, to wit, the sovereigns and rulers of Europe, not then being within the dominions of our lady, the queen, and not being subjects of the queen, against the form, etc.

The fifth count charged that he encouraged a certain named person to murder certain other persons, to wit, the sovereigns and rulers of Europe.

The seventh count was similar to the third, except that the persons encouraged were alleged to be persons whose names were to the jurors unknown, aud who, on the day of the publication of the libel, were subscribers to a certain newspaper called the *Freiheit*.

The ninth count alleged that he encouraged certain persons, unknown, to murder a certain other person, to wit, his imperial majesty, Alexander III, Emperor of all the Russias, not then being, etc.

With regard to the last ten counts, Lord COLERIDGE stated a case, for the opinion of the court, as follows:

* * * * *

"The last ten counts of the indictment charged the prisoner with offending against 24–25 Vict., C. 100, S. 4.; the subject-matter of all the counts was the same; the publication, which was treated as a common-law libel in the first two counts, was treated as an offense against the statute in the remaining ten. It was an article written in German, in a newspaper written entirely in that language, but published weekly in London, and enjoying

an average circulation of 1,200 copies. The prisoner was proved to be the editor and publisher of the paper; several copies of the paper were proved to have been bought at his house, and some copies of a print of the article in question were actually sold by the prisoner himself to one of the witnesses called on behalf of the crown. It is not necessary to set out the article at length, but it contained, amongst others, the following passages:

"'Like a thunder clap it penetrated into princely palaces where dwell those crime-beladen abortions of every profligacy, who long since have earned a similar fate a thousand fold. * * *

"'Nay, just in the most recent period they whispered with gratification in each other's ears that all danger was over, because the most energetic of all tyrant haters, the "Russian Nihilists," had been successfully terminated, to the last member.

"'Then comes such a hit.

"'William, erewhile canister shot prince of Prussia, the new Protestant pope and soldier, emperor of Germany, got convulsions in due form from excitement. Like things happened at other courts. * * *

"'At the same time they all know that every success has the wonderful power not only of instilling respect, but also of inciting to imitation. There they simply tremble then from Constantinople to Washington for their long-since forfeited heads. * * *

"'When in many countries old women only, and little children yet limp about the political stage, with tears in their eyes, with the most loathsome fear in their bosoms of the castigating rod of the state night watchman, now, when real heroes have become so scarce, such a Brutus deed has the same effect on better natures as a refreshing storm. * * *

"'To be sure it will happen once again that here and there even socialists start up who, without that any one asks them, assert that they for their part abominate regicide, because such an one after all does no good, and because they are combating not persons, but institutions.

"'This sophistry is so gross that it may be confuted in a single sentence. It is clear, namely, even to a mere political tyro, that state and social institutions cannot be

got rid of until one has overcome the persons who wish to maintain the same. With mere philosophy you cannot so much as drive a sparrow from a cherry tree any more than bees are rid of their drones by simple humming.

" ' On the other hand it is altogether false that the destruction of a prince is entirely without value, because a substitute appointed beforehand takes his place.

" ' What one might in any case complain of that is only the rarity of so-called tyrannicide. If only a single crowned wretch were disposed of every month, in a short time it should afford no one gratification henceforward still to play the monarch. * * *

" ' But, it is said, " Will the successor of the smashed one do any better than he did? " We know it not. But this we do know, that the same can hardly be permitted to reign long if he only steps in his father's footsteps. * * *

" ' Meanwhile, be this as it may, the throw was good and we hope that it was not the last.

" ' May the bold deed, which, we repeat it, has our full sympathy, inspire revolutionists far and wide with fresh courage.'

" The 4th section of the 24 and 25 Vict., C. 100, is as follows:

" ' All persons who shall conspire, confederate and agree to murder any person, whether he be a subject of her majesty or not, and whether he be within the queen's dominions or not, and whoever shall solicit, encourage, persuade, or endeavor to persuade, or shall propose to any person to murder any other person, whether he be a subject of her majesty or not, and whether he be within the queen's dominions or not, shall be guilty of a misdemeanor, and being convicted thereof shall be liable, at the discretion of the court, to be kept in penal servitude for any term not more than ten and not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labor.' The ten counts framed upon this section all charged the prisoner with having ' encouraged,' or ' endeavored to persuade ' persons to ' murder other persons,' some named and others not named, who were in all cases not subjects of her majesty, nor within the queen's dominions.

" The evidence in support of these counts was the

same as that in support of the first and second counts; and the only encouragement and endeavor to persuade proved was the publication of the libel.

"I directed the jury that it they thought by the publication of the article the defendant did intend to and did encourage or endeavor to persuade any person to murder any other person, whether a subject of her majesty or not, and whether within the queen's dominions or not, and that such encouragement and endeavoring to persuade was the natural and reasonable effect of the article, they should find the prisoner guilty upon the last ten counts, or such of them as they thought the evidence supported. The jury convicted the prisoner upon all the ten counts, and there was abundant evidence to justify them if my direction was correct.

"Entertaining, however, some doubt as to the correctness of my direction, I deferred sentencing the prisoner, and I have now to request the opinion of the Court of Criminal Appeal whether such direction was correct in point of law or not. If the court of appeal thinks the direction correct, the conviction on those ten counts is to be affirmed; if otherwise, the conviction on those ten counts is to be quashed."

It was contended by Sullivan, counsel for the prisoner, that there was no evidence of any personal communication between the prisoner and the persons he is alleged to have encouraged to murder the sovereigns and rulers of Europe; that the statute contemplated some personal communication between the parties, something more than the mere publication of seditious and scandalous libel; that in the case there was nothing in the nature of a personal proposal to any defined person, no effect produced or attempted upon the mind of any defined person, and that for that reason there was no evidence for the jury of an offense within the law.

Lord COLERIDGE said:

"We have to deal here with a publication proved by

the evidence at the trial to have been written by the defendant, to have been printed by the defendant, that is, he ordered and paid for the printing of it, sold by the defendant, called by the defendant his article, and intended, as the jury have found, and most reasonably found, to be read by the twelve hundred or more persons who were the subscribers to, or the purchasers of, the *Freiheit* newspaper; and, further, one which the jury have found, and I am of opinion have quite rightly found, to be naturally and reasonably intended to incite and encourage, or to endeavor to persuade persons who should read that article to the murder either of the Emperor Alexander, or the Emperor William, or, in the alternative, the crowned and uncrowned heads of states, as it is expressed in one part of the article, from Constantinople to Washington. The question, therefore, simply is on those facts which are undisputed and with regard to which the jury have pronounced their opinion—do those facts bring it within these words? I am of opinion they clearly do. An endeavor to persuade or an encouragement is none the less an endeavor to persuade or an encouragement, because the person who so encourages or endeavors to persuade does not in the particular act of encouragement or persuasion personally address the number of people, the one or more persons whom the men address which contains the encouragement or the endeavor to persuade reaches. The argument has been well put, that an orator who makes a speech to two thousand people does not address it to any one individual amongst these two thousand; it is addressed to the number. It is endeavoring to persuade the whole number, or large portions of that number, and if a particular individual amongst that number addressed by the orator is persuaded, or listens to it and is encouraged, it is plain that the words of this statute are complied with; because, according to well known principles of law, the person who addresses those words to a number of persons must be taken to address them to the persons who, he knows, will understand them in a particular way, do understand them in a particular way, and do act upon them. For that purpose, the case which was suggested by my brother Williams, and was mentioned by me in the

course of this argument, the case of *Gerhard* v. *Bates* (2 E. & B., 476, and cases cited) is an authority. There are authorities to be found elsewhere to the same effect, that a circular addressed to the public containing false statements, reaching one of the public, not as an individual picked out, but as one of the public, who is influenced by the statement in that circular to his disadvantage, and who is injured by them, may afford good ground for a personal action for damages occasioned by the statements in that circular who has issued it to the public. The reason being that the recipient of the circular is one amongst the number of persons to whom it was issued, and he has been injured by the statements contained in it. (*Scott* v. *Dixon*, 29 L. J., and cases cited.) It seems to me that this is not the less an endeavor to persuade, or an encouragement to murder, either named individuals or unnamed individuals, because it is under another aspect of the law a seditious and scandalous libel. On the whole, I am clearly of opinion, on the words of the statute, and upon the authorities which have been cited, that the direction given at the trial is correct, and the conviction right and proper to be affirmed."

GROVE, J. "I am of the same opinion. The words of the act, so far as they are material to this case, are: 'Whosoever shall solicit, encourage, persuade, or endeavor to persuade, or shall propose to any person to murder any other person, whether he be a subject of her majesty or not, and whether he be within the queen's dominions or not, shall be guilty of a misdemeanor,' etc. I think there can be no doubt that those words taken alone, for reasons which I will presently give, apply, at all events personally, to more than one particular person. I do not think it would be argued that if a person, instead of encouraging to persuade one person, endeavored to persuade two persons or three persons, that would not be within the act, because in endeavoring to persuade two or three persons, he endeavors to persuade each of those two or three persons. Then, to go a step further, suppose he addresses eight or ten persons, and says: Now, I recommend any one of you who has the courage to do it to murder so and so, and you will gain so and so by it, or uses other words, either by way of argument or by way

of promise, to induce some one or more of those persons to murder another; surely that would be encouraging a person or persons—that is, each and every one of those persons—to murder. Then, supposing it is not done by word of mouth, supposing a person writes a letter to an individual person, can it be said that that is not wholly within the words of this section? If appears to me it is absolutely within them. It is a direct encouragement to a person to murder. Then if he goes further, and, instead of writing one letter, he writes ten or twenty letters, and distributes them to persons whom he thinks they may have an effect upon, or the first twenty who come, does not he then encourage each of those persons to commit a murder? Then, to go a step further, if he prints a circular of the same character as a letter, and hands that to twenty or more than twenty persons, is not that an encouragement to every one of those twenty persons to commit a murder? Does he lessen the offense by increasing the number of persons to whom he publishes or transmits this encouragement? Then, can it be said that the printing of a paper and circulating it to a definite body of subscribers, as was done here, or to all the world does? It is beyond my comprehension to see that that can alter the fact at all. It seems to me first, it is clearly within the words of the statute, and, secondly, that so far from extenuating—I do not mean in the sense of punishment, but diluting the offense—it increases it, because he not only endeavors to persuade a person to commit the offense, but a considerable number of different persons, each one of whom is 'a person.' It appears to me, therefore, that it is literally and clearly within the words of the statute, which are 'persuade any person,' and it does not the less do that because it persuades, or endeavors to persuade, or encourages separately, a considerable number of persons."

DENMAN, J.: "The sole question in this case is whether there was, upon the facts which are here stated, evidence to go the jury that the defendant was brought within S. 4 of 24 and 25 Vict., C. 100. And upon this point it was said for the defendant that it was made out that he had encouraged or endeavored to persuade any person to murder any other person. With regard to murdering any other person, that point was not reserved. I think

there was nothing to reserve about it, because I should draw the same conclusion the jury did from the document itself, that it did contain an encouragment or an endeavor to persuade to murder the particular persons whose names are mentioned in it. But it is out of the case, and the only question is whether the words 'any person' are are met by the evidence in this case. Now, I must own that if that question had been for the first time raised before me, as it was before my lord upon the trial, my impression is strong that, looking at the importance of the case, and looking at the fact of the absence of any authority upon it in our courts, I should, as my lord did, have thought it a proper case to reserve for the consideration of the Court of Criminal Appeal, and I am glad he did so; but the question having been reserved, we have to consider whether there was here evidence to meet that part of the case. I think there was. The contention was that the statute did not intend to meet such a case; that the statute did not intend to meet a case of libel of this character, circulated, as libels are circulated, simply by the publication of a paper, and sending it to the subscribers, or allowing it to be circulated amongst the population. I agree with my lord entirely, and I am glad that he now feels that there is no doubt about it, and that though this may be a mere publication of a libel, still if it is the publication of a libel of this character, and the libel does in itself amount to an endeavor to persuade all persons to whom it is sent to commit murder, nevertheless it is doing an act intended to be legislated against by this clause, making it a misdemeanor of another character—a misdemeanor punishable by a more severe punishment than the ordinary circulation of a libel of that character would be. The statute was passed for the very purpose, I think, of rendering it a more serious offense than the common law rendered it to do such an act as this. Now I need say no more than that I entirely agree with my lord and brother Grove on that point, but I do wish to add this. The doubt which I should have felt probably, if it had come before me, was a doubt in accordance with Mr. Sullivan's argument whether the words 'any person' might not mean some definite person. I should, however, have thought that if it had been made

out that the libel had been circulated to a certain set of persons whose identity was easily ascertained, except only that their names were unknown, the clause would have been satisfied even if it meant some definite person. But I do not think that is the meaning. I think the circulation to the world, to multitudes of persons wholly undefined, and to whom it would come, would be sufficient, but what I wish to add is this, that even if the other construction were the true one, I should have been prepared to support the conviction on this ground—that many of these persons were, in that sense, definite persons. They were known subscribers in large numbers to this newspaper, and the man who edited the newspaper, the man who wrote the article, the man who sold the newspaper and caused it to be distributed, did know that that newspaper would, in the ordinary course, come to its regular subscribers at all events, whether it went to a larger number of persons, or whether it did not. Therefore, supposing it were necessary that the persons unknown should be in this case definite persons, ascertainable persons, persons who might be ascertained by inquiry, although unknown to the jurors at the time of their finding, I should hnve thought that in that sense the indictment was supported by the evidence."

HUDDLESTON, B.: "The question for consideration, submitted to us by the lord chief justice, is whether his direction was correct in point of law, and that direction is this: He told the jury that if they thought that by the publication of the article the defendent did intend to, and did, encourage or endeavor to persuade any person to murder any other person, whether the subject of her majesty or not, and whether within the queen's dominions or not, and that such encouragement and endeavor to persuade was the natural and reasonable effect of the article, they should find the prisoner guilty. Now, I do not entertain the slightest doubt that that was really the only question which could be left to the jury, and that the evidence was ample to warrant their finding. The charge is founded directly on the words of the statute, and if you come to look at the words of the statute, the distinction which Mr. Sullivan has attempted to draw with reference to conspiracy really does not arise; be-

cause the section of the statute contemplates two classes of cases, one where there is a conspiracy, and another where there is individual action. As regards the second class, it is remarkable to see the words which the legislature have used for the purpose of pointing out the act which makes the party liable. The largest words possible have been used—'solicit'—that is defined to be, to importune, entreat, to implore, to ask, to attempt, to try to obtain; 'encourage,' which is to intimate, to incite to anything, to give courage to, to inspirit, to embolden, to raise confidence, to make confident; 'persuade,' which is to bring to any particular opinion, to influence by argument or expostulation, to inculcate by argument; 'endeavor,' and then, as if there might be some class of cases that would not come within those words, the remarkable words are used, 'or shall propose to,' that is to say, make merely a bare proposition, an offer for consideration. It is to be a misdemeanor of a highly criminal character to encourage, to persuade or even to propose to any person to kill any other person, whether one of her majesty's subjects or not. Mr. Sullivan has argued that you must have an immediate connection with the proposer, the solicitor or the encourager, and the person who is solicited, encouraged, persuaded, or proposed to, and that it is not sufficient to solicit generally, that you must solicit some person in particular. What was the intention of this act? The intention was to declare the law and to protect people abroad from the attempts of regicides of this description, and therefore the largest possible words are used. It shall be criminal—not to persuade an individual, but to persuade 'any person,' that is to say the public—crowds who may hear it if it is an oration, or who may read it if in a newspaper. I have been furnished from the bar with a case which is certainly not inapplicable to the present one. There was a question of disputed marriage, and the father, who was interested in the marriage, put an advertisement in the newspapers offering a reward of a hundred pounds if any person could come and give evidence of that marriage. It was suggested that the object was to render impure the sources of justice, to bribe some people to give improper evidence, and the party was brought up for contempt

before Lord Chancellor Parker, but it was argued on his behalf that nothing had been done in consequence of the advertisement. No witnesses had come. But the lord chancellor said: 'It does not appear that some person would not come in if this were not discouraged; however, the person moved against has done his part, and if not successful, is still not the less criminal.' The counsel objects that it is not to any particular person. 'It is equally criminal when the offer is to any, for to any is to every particular person. The advertisement will come to all persons, to rogues as well as honest men, and it is a strange way of arguing to say that offering a reward to one witness is criminal, but that offering a reward to more than one is not so. Surely it is more criminal, as it may corrupt more.'

"If you hold an offer out to the public—an invitation to come in and give perjured evidence—that is as much a criminal act as to request an individual to do so. Just so it is here criminal to publish to the whole world, or declare to the whole world, that the individual rejoices in regicide, and recommends others to follow his example, and trusts that the time is not long absent when once a months kings may fall. This article was an encouragement to the public—a solicitation and encouragement in any person who chooses to adopt it, and comes within the meaning of the act. I am perfectly satisfied with the conviction, and think it was right."

WATKIN WILLIAMS, J.: "I am of the same opinion. The jury have found the defendant guilty, and upon the narrow question of law which has been reserved for the consideration of this court, it seems to me the conviction ought not to be interfered with.

"*Conviction affirmed.*"

It will be seen from the portions of the evidence set out in the report that the articles published in Most's *Freiheit* in London, and upon which the prosecution was based, are of a character identical with scores and scores of articles published by the plaintiffs in error in Chicago in the *Arbeiter Zeitung* and the *Anarchist* in German and in the

Alarm in English, articles which appear in the record, except that the articles here are more specific, more direct and more incendiary. In addition to this printed advice and encouragement to murder, the record is full of speeches publicly made by the defendants containing not merely general but specific and direct advice to murder. Certainly if the articles of Most set out in the report are within the terms of the English statute, the articles and speeches here are advice and encouragement within the terms of our statute. Whether the perpetrator of the act was encouraged by those articles and speeches is a question of fact, not of law.

Pertinent to this branch of the case some matters are suggested in the decision in the Green case. (26 S. C., 128.) The defendant, Green, had endeavored to accomplish the death of her husband through various instrumentalities, solicitation of different individuals and the means different in each case. The deceased was finally shot by some unknown person, without proof that any particular unknown person was solicited to commit the crime. The chief end desired by the defendant was the death of her husband. The solicitation, or advice, or encouragement, by herself to third parties, known and unknown, was general as to the means to be employed, but the end desired was death. The reasoning in the Green case submits itself to the approval of any individual reading it, and is parallel to the case at bar.

In the case of *Reg.* v. *Sharpe*, 3 Cox C. C., 288, the defendant made an inflammatory speech at 3 P. M., and said he would make another and did make another at 5 P. M. He left the second meeting, whereupon the crowd dispersed in different directions. Some of the crowd soon

after went to a church which contained policemen, upon which they made an attack. Chief Justice WILDE, in charging the jury, said:

"If persons are assembled together to the number of three or more, and speeches are made to those persons to excite and inflame them, with a view to incite them to acts of violence, and if that same meeting is so connected in point of circumstances with a subsequent riot that you cannot reasonably sever the latter from the incitement that was used, it appears to me that those who incited are guilty of the riot, although they are not actually present when it occurs. *I think it is not the hand that strikes the blow, or that throws the stone (bomb), that is alone guilty under such circumstances; but that he who inflames people's minds and induces them by violent means to accomplish an illegal object is himself a rioter*, though he take no part in the riot. It will be a *question* for the *jury* whether the riot that took place was so connected with the inflammatory language used by the defendant that they cannot reasonably be separated by time or other circumstances."

1 Bishop, C. L., Sec. 641:

"The true view is doubtless as follows: One is responsible for what wrong flows directly from his corrupt intentions; but not, though intending wrong, for the product of another's independent act. If he set in motion the physical power of another, he is liable for its result. *If he contemplated the result, he is answerable though it is produced in a manner he did not contemplate.* If he did not contemplate it in kind, yet if it was the ordinary effect of the cause, he is responsible. *If he awoke into action an indiscriminate power, he is responsible. If he gave directions vaguely and incautiously, and the person receiving them acted according to what he might have foreseen would be the understanding, he is responsible.*"

Foster's Reports (page 370, Sec. 3) says:

"The events, though possibly falling out beyond his original intentions, were in the ordinary course of things

the probable consequences of what *B* did under the influence and at the instigation of *A*. And therefore, in the justice of the law he is answerable for them."

These citations declare that the advice and encouragement may be general, and whatever naturally and probably follows from the advice and encouragement determines the responsibility of the adviser.

It has always been held, as in the Sharpe case, *supra*, that an inflammatory speech which incites to riot makes the speaker guilty. Scores of decisions sustain that position; none can be found denying it.

The speaker having inflamed the minds of his audience to such a point that riot follows, he is legally as well as morally responsible for the act of each one of the rioters. If murder follows, he is guilty of murder. His advice was to the crowd generally, but the law declares that it was made to each one of the crowd specifically.

What difference is there in principle whether the advice which leads to riot or murder is given an hour, a month or a year before the riot or murder?

The greater the time between the advice and the crime the greater the difficulty of proving the connection, but the difficulty is one of fact, not of law.

Counsel rely strongly upon two citations from Wharton. One, 1 Whar. C. L., sec. 226, is found in a note. The statement there made is the opinion of the writer, and is not based upon any authority. Any one who has occasion to use the later edition of Wharton's criminal works knows from experience that the notes are unreliable; at any rate, the most that can be said for it is, that it is merely Mr. Wharton's opinion and is valuable only in

proportion as the argument is sound. It is apparent, however, that the illustrations given by him are not parallel with the advice and encouragement disclosed by the record here.

The other citation (Sec. 179) discusses the question as to what solicitation is indictable as a substantive offense.

We invite a comparison of the doctrine of this section with that laid down in 1 Bish. C. L., Sec. 768.

Moreover, under the law in this state, as declared in *Cox* v. *People*, 82 Ill., 192, a man may be guilty as an accessory to a crime which has been committed who could not be punished for soliciting if the crime had not been committed. For instance, A may solicit B to steal the property of C; if B does steal it, A is guilty of larceny; if B does not steal it, A cannot be punished for the solicitation.

For further discussion of this question we invite the attention of the court to that portion of this brief relative to the instructions.

V.

The Instructions.

Counsel for plaintiffs in error complain of a number of the instructions given at the instance of the prosecution, particularly of the following:

Instruction Number 4.

"The court instructs the jury, as a matter of law, that if they believe from the evidence in this case, beyond a reasonable doubt, that the defendants, or any of them, conspired and agreed together, or with others, to overthrow the law by force, or to unlawfully resist the officers of the law, and if they further believe from the evidence, beyond a reasonable doubt, that in pursuance of such conspiracy, and in furtherance of the common objects, a bomb was thrown by a member of such conspiracy at the time, and that Mathias J. Degan was killed, then such of the defendants that the jury believe from the evidence, beyond a reasonable doubt, to have been parties to such conspiracy, are guilty of murder, whether present at the killing or not, and whether the identity of the person throwing the bomb be established or not."

Counsel complain of this instruction, because it told the jury in substance, that if they were satisfied from the evidence, beyond a reasonable doubt, that a conspiracy to commit crime was formed, that defendants were members of such conspiracy, and that in pursuance of the plans of such conspiracy, a bomb was thrown by one of the conspirators, whereby Mathias J. Degan was killed, then all of the defendants that the jury believe from the evidence, beyond a reasonable doubt, to have been parties to

such conspiracy are guilty of murder, "*whether present* " *at the killing or not, and whether the identity of the per-* " *son throwing the bomb be established or not.*"

From a perusal of the brief of counsel, page 324 *et seq.*, it will be seen the words in italics above constitute the supposed objectionable part of this instruction. Are these words objectionable? The foundation of accessoryship is responsibility; and on this idea the law imputes guilt to a person absent from the place of the crime at the time of the commission of the criminal act, but who had advised and encouraged the perpetration of the crime.

In our statute accessories at the fact and accessories before the fact are designated by the following words: *First.* "An accessory is he who stands by and aids, abets, or assists." *Second*, "or who, not being present, aiding, abetting or assisting, hath advised, encouraged, aided or abetted the perpetration of the crime." Accessories before the fact, therefore, are not present at the commission of the crime. Then we insist that the words, "whether present at the killing or not," plainly state the law, and are therefore wholly unobjectionable. It remains then to be seen if the concluding words, "and whether the " identity of the person throwing the bomb be established " or not," vitiate this instruction.

"Every such accessory, when a crime is committed within or without this state, by his aid or procurement in this state, may be indicted and convicted at the same time as the principal, or before or after his conviction, and whether the principal is convicted or amenable to justice or not, and punished as principal."

Rev. Stat. 1874, *Crim. Code*, Div. II, Sec. 3.

If, as is plain under the foregoing provision of the statute, an accessory may be convicted in this state, when

the principal is not even amenable to our law, and when his crime, however atrocious, may not even be an offense against our law, it would seem idle to contend that simply because the principal is unknown or because his identity has not been or cannot be established, therefore a conviction as accessory cannot be had, however clear the proof, and that too, when the criminal act is a violation of our own law.

But it does not seem that the objection taken to the language contained in the above instruction is urged so much on account of the rule of law which the language announces, as because the prosecution introduced evidence tending to show that Rudolph Schnaubelt threw the bomb, and the language objected to covers the case of an unknown or unidentified principal.

Commenting on this instruction, counsel say:

"It will appear from this instruction, as in fact from all instructions given for the people, that the state entirely abandoned the theory that *Rudolph Schnaubelt* threw the bomb, and that the plaintiffs in error were accessories before the fact to *his* crime. The instruction will be searched in vain for even the slightest allusion to Gilmer's testimony, *the only evidence in the case by which the identity of the bomb-thrower was sought to be established*, but the theory adopted was, that the bomb was thrown by an *unknown*, *undescribed*, *unidentified individual person*."

To all which, it need only be answered that the indictment charges that Schnaubelt threw the bomb, and that plaintiffs in error were accessories to that act, and it also charges that a person to the jurors unknown threw the bomb, and that plaintiffs in error were accessories to that act; the prosecution was entitled to and did introduce testimony to support both counts of the indictment, or both theories of the case. The fact that the prosecution asked

no instruction referring to, or based upon, the hypothesis that Schnaubelt threw the bomb is not in theory, nor is it treated in our practice as an abandonment of that count of the indictment. That would be done by a *nolle* as to that count. The evidence was before the jury and it was for them to consider it, and give to it such weight as they deemed it entitled to. The jury were neither required nor asked to find by their verdict who actually threw the bomb, nor did they so find; and neither the trial court nor this court will inquire or can ascertain whether the jury believed from the evidence that the bomb was thrown by Schnaubelt or by an unknown person.

In all the counts of the indictment plaintiffs in error are charged with aiding, abetting or assisting, or having advised, encouraged, aided or abetted the perpetration of the crime. It was the truth of this charge which the jury were required to investigate, it was to this alone that their verdict must relate; this was the issue they were called upon to try, and trying it, they found defendants guilty as charged in the indictment; and if the proof supports any count in the indictment, that verdict is good. The tendency of all the evidence introduced by the defense as to the identity of the person who threw the bomb, was that it was thrown by an unknown person.

How the plaintiffs in error were injured or prejudiced by the failure of the prosecution to ask an instruction based upon the theory that Schnaubelt threw the bomb, we are unable to see.

It is further urged by counsel that, " with the abandon-
" ment of the theory that Rudolph Schnaubelt threw the
" bomb, the theory that Adolph Fischer and August
" Spies stood by and aided him was given up." Whether the theory that Schnaubelt threw the bomb was aban-

doned or not it can make no possible difference as to the guilt of Fischer and Spies under the indictment and on the evidence in this case. The indictment charges them, as well as all the other defendants, as accessories both before and at the fact, absent from, and present at the perpetration of the crime.

There is evidence in the record tending to prove that Fischer and Spies were present at the Haymarket meeting aiding and abetting the perpetration of the crime; and whether they aided and abetted Schnaubelt or an unknown person is wholly immaterial under this indictment, if either was satisfactorily proved.

There is also evidence tending to prove that these two, as well as the other defendants, had advised and encouraged the perpetration of the crime, not being present at the time of its perpetration; and surely, the fact that advice had been given to and was acted upon by a person unknown to the witnesses for the prosecution, or whose identity could not be established, by no means excuses the criminal act of these accessories, or vitiates this instruction.

It is also contended by counsel that where a party is sought to be held on the sole ground of alleged prior advice, assistance, abetting or encouragement, no conviction can be had without legal proof showing a "causal relationship" between such alleged accessory and the principal in the case, and it is then insisted that this "causal relationship" shall be established by proof so far identifying the principal actor as the same person who was at another time and place advised and encouraged to commit the crime by the accused.

If the correctness of this proposition is conceded, then the conviction of one sought to be held as accessory would in any case be impossible where the principal actor

is unknown. If the specific proof suggested, namely, that the principal actor is the same person who at some other time and place was connected with the accused, then the complete identity of the principal act or must in all cases be shown, and the "unknown person" becomes at once a known person. Suppose that in the execution of the declared intentions of a mob, a building is burned, and on the trial of those indicted for the crime, no witness swears that he saw the hand which applied the torch; will it be contended that no conviction can be had of those whom the evidence plainly shows had counseled, advised and encouraged the burning, simply because neither the name, residence, stature or color of the hair of the principal actor is known or disclosed by the evidence?

The instruction required the jury to believe that the person who threw the bomb was a member of the conspiracy, and that the bomb was thrown in pursuance of the objects of the conspiracy and in furtherance of the common object.

These could be proved by the circumstances surrounding the transaction and the occurrences detailed as part of the *res gestae*, and if they were so shown to the satisfaction of the jury, the identity of the bomb-thrower was immaterial.

While it may be true, as suggested by counsel, that the commission of the crime does not show that the principal actor was a member of the conspiracy; yet the conspiracy may be shown, and the acts of the conspirators before and at the time of the commission of the crime may also be shown, as proof that the conspirators were accessories to the perpetration of the crime. If the jury were satisfied from the evidence, beyond a reasonable doubt, that the bomb was thrown by a member of the conspiracy,

and in pursuance of its purposes, then the status of the members of the conspiracy, as accessories to the perpetration of the crime was fixed. If the proof disclosed the name of the principal actor, or established his identity in any other way, very good; but that fact would be important only in so far as it was instrumental in bringing all the violators of the law to justice. If, however, the proof did not disclose the identity of the principal actor, then proof of his character as one of the conspirators might be shown by his acts, in accordance with the plans and in furtherance of the purposes of the conspiracy; but this, too, would be important in relation to the defendants, only in so far as it tended to establish their characters as accessories.

But suppose that the evidence did not satisfy the jury that the person who threw the bomb was a member of the conspiracy? Such failure in the proof would not make this instruction vicious. There was evidence tending to show that fact, and the instruction was given for the purpose of stating the law applicable to the hypothesis that the bomb was thrown by a person whom the evidence showed was a member of the conspiracy, if the evidence showed that a conspiracy existed.

In this, as in other parts of their brief, counsel for plaintiffs in error seem to deal with this as a prosecution and conviction for conspiracy, treating that as the substantive crime, instead of a prosecution for a crime already committed; losing sight of the fact, that the proof of the conspiracy was made for the sole purpose of establishing the position of members of the conspiracy as accessories to the crime of murder.

In discussing the propriety of this instruction, counsel for plaintiffs in error say (brief, 239):

" Our statute declares that an accessory shall be considered as a principal and punished accordingly. This only places the principal and accessory on the same footing, so far as punishment is concerned, but it does not abolish the common law distinction between the principal who actually commits the deed, and the accessory, who simply lends assistance."

Though we scarcely see the relevancy of the discussion to this branch of the case, we will answer it here. It would seem that this identical question had been long ago settled by this court, beyond cavil. Early in the judicial history of this state that question was decided, and the decision then made has stood unchanged till the present time.

In case *Baxter* v. *The People*, 3 Gilm., 381, December term, 1846, the court said:

" By the seventh, eighth, ninth and eleventh instructions, the court is substantially asked to instruct the jury, that if the evidence shows the defendant to be guilty as accessory before the fact, that he cannot be convicted under this indictment for murder. The correctness of the decision of the court in refusing to give these instructions must depend upon the construction of our statute. By the thirteenth section of the criminal code it is declared: ' An accessory is he or she who stands by and aids, abets or assists, or who, not being present aiding, abetting or assisting, hath advised or encouraged the perpetration of the crime. He or she who thus aids, abets or assists, advises or encourages, shall be deemed and considered as principal and punished accordingly,' and the inquiry is, whether proof that the prisoner was accessory to the crime before the fact will sustain an indictment against him as principal. The act says that such accessories shall be deemed and considered as principals and punished accordingly. This act then makes all accessories at or before the fact principals. The declaration that they shall be ' deemed and considered ' is as unequivocal an expression as if the act had said, ' are hereby declared

to be.' It is true, the act states what an accessory is, but then it declares in substance that he is principal.

"It was in perfect harmony with the system pursued by the legislature, to go on and define what an accessory is, as it has defined all other offenses, which it has attempted to enumerate, and it does not detract from the force of the provision, that they shall be deemed and considered as principals. The distinction between accessories before the fact and principals is in fact abolished. At the common law, an accessory at the fact might be indicted and convicted as principal, for the common law declares that he who stands by, advises and encourages the murderer to give the blow gives the blow himself as much as if he held the weapon in his own hands."

"Our legislature has gone one step further and provided that he who, not being present, hath advised or encouraged the giving of the blow hath given the blow as much as if he had stood by and encouraged it, or even had struck the blow with his own hands. It is no more a fiction of the law to declare that he gives the blow by advising and encouraging it beforehand than it is to affirm that he gives it by advising and encouraging it at the time. Both proceed upon the principle that what we advise or procure another to do, in the eye of the law, we do ourselves. All are principals and as such should be indicted and punished. Indeed, they must be indicted as principals or not at all, for they are declared by the act to be principals. If they are not to be indicted as principals, the very object of the law is defeated; if they are to be indicted as accessories, they must be tried and convicted as accessories, and then they could not be tried till after the conviction of the principals, for, as we have before seen, we are bound by the rules of evidence of the common law, of which that is one.

"Such is the inevitable consequence unless they are indicted and tried for murder, of which the statute says they shall be deemed and considered guilty. There is no doubt but the pleader may, if he choose, and perhaps it would be advisable to describe the circumstances of the offense as they actually transpired, as it is in an indictment against an accessory before the fact; but if the stating part of the indictment be that way, it should conclude as

for murder, for that is really the offense of which the party is guilty, if at all. * * * *

"Then, as by the law in this case the acts of the principal are made the acts of the accessory, he thereby becomes the principal, and may be charged as having done the acts himself. He shall be deemed and considered as principal and punished accordingly. The Circuit court decided correctly in refusing these instructions."

The section of the law (Sec. 13 Criminal Code) construed by the court in the above case, is identical with the law in force upon the same subject at the present time, Sec. 2, Div. II, Criminal Code.

By the foregoing decision all distinction between principals and assessories before and at the fact is declared to be abolished by the law, and as to all the essentials of the crime, degrees of guilt and punishment, they are treated by the law as principals. The reasoning of the court in this case is logical and unanswerable, and its conclusions have never been changed or modified. This doctrine is clearly affirmed by this court in *Brennan et al.* v. *The People*, 15 Ill., 511, where the court say:

"One who counsels or procures another to commit a crime, although he may be absent when the act is done, is equally guilty with the one perpetrating it. By the express provisions of our statute, he is deemed to be a principal offender and may be indicted and punished as such."

"If several persons conspire to do an unlawful act and death happens in the prosecution of the common object, all are alike guilty of the homicide. The act of one of them done in furtherance of the original design is, in consideration of the law, the act of all. And he who advises or encourages another to do an illegal act is responsible for all the natural and probable consequences that may arise from its perpetration."

2 Hawk, P. C., Ch. 29; 1 Hale, P. C., Ch. 34; 1 Russell on Crimes, 24; 1 Chitty Crim. Law, 264.

In further discussing people's instruction number 4, counsel for plaintiffs in error refer to the case of *Baxter* v. *The People*, 2 Gilm., 578, as supporting the position that, in the prosecution of one whom the proof shows was an accessory, it would be necessary to show the guilt of the principal before the defendant could be convicted.

We have carefully examined the case of *Baxter* v. *The People*, 2 Gilm., 578, and same case 3 Gilm., 368, and can find nothing announcing such a rule, in either of said cases.

Nor is above attributed to the court in the Baxter case deducible from the decision therein. The statute says that whoever aids, abets, assists or hath advised and encouraged the perpetration of the crime shall be deemed and considered as principal; and this court in the Baxter case said that the words, "deemed and considered" are equivalent to "are hereby declared to be." And the court further says, that while it is proper in drawing an indictment against one whose connection with the crime has been in the character of accessory, that "the pleader "may, if he chooses, and perhaps it would be advisable "to describe the circumstances of the offense as they ac- "tually transpired; yet the indictment should conclude for "murder, for that is really the offense of which the party "is guilty, if at all."

It is even optional with the prosecutor whether he will detail the acts of the accused in the character of accessory or principal, so the indictment charges the substantive offense, and if the evidence satisfactorily shows the guilt of the accused in either capacity, the indictment would be good, and the conviction would stand. For, says the court: "Our legislature has gone a step further and provided that he who, not being present, hath advised

and encouraged the giving of the blow, hath given the blow as much as if he had stood by and encouraged it, or even had struck the blow with his own hand."

So in this case, each one of plaintiffs in error is described as the principal actor in certain counts of the indictment, and in certain other counts his acts are described as accessory, but all the counts conclude for murder; and if the jury were satisfied beyond a reasonable doubt, from the evidence, either that the accused or any of them threw the bomb, or was present, aiding, abetting or assisting, or had advised and encouraged the perpetration of the crime, they were justified in finding those whom the evidence thus inculpated, guilty of murder; and it matters not that no witness is able to describe the person who threw the bomb, or swears that he saw the hand that threw it.

In such case the jury must be satisfied from the evidence that the bomb was thrown in pursuance of the advice and encouragement of the accused, and of this, we contend the jury may be satisfied by other inculpatory evidence though the identity of the principal actor be not disclosed.

We maintain that the case of *Ritzman* v. *The People*, 110 Ill., 362, is in point. In that case there was a positive conflict in the evidence as to who actually struck the fatal blow, and it cannot be said that the jury determined that fact. There was as much or more evidence that the blow was struck by Spies as that it was struck by the accused, and the accused was convicted, in sustaining which, this court used the following language:

"So far as the accused is concerned under the proofs in this case, we think it wholly immaterial whether the missile in question was thrown by the hand of the ac-

cused, or of some one of his co-trespassers. That the defendant was present, and ,to say the least of it, encouraging the perpetration of the offense, cannot be denied, unless we are prepared to set aside the testimony of Mrs. Lovett and Barry, two wholly disinterested witnesses, and accept the unsupported statement of the accused, which, of course, we cannot do.

"And if the defendant was so present, encouraging the perpetration of the offense, it is hardly necessary to say that by the express provisions of our statute, he is made a principal, and equally guilty with the one who personally gave the fatal blow."

The crime committed by the person whose position with relation to the act is that of accessory consists of advising and encouraging the perpetration of the crime, and if the jury are satisfied that the crime was the result of or was done in pursuance of such aid, advice and encouragement, the guilt of the person so aiding, advising and encouraging is sufficiently proved. In fact, whenever the proof fails to show which one of a number of persons actually did the deed, the individual perpetrator is as much unknown as he is, in case no witness swears that he saw the principal actor, or attempts to identify him in any way whatever.

If any further authority were needed on this proposition, it would seem that the decision of this court in case *Kennedy* v. *The People*, 40 Ill., 488, would settle conclusively the question of the immateriality of the identity of the principal actor. In that case the following instruction was given on behalf of the people:

"5. The court further instructs the jury that if the evidence convinces you, beyond a reasonable doubt, that Patrick Maloney was killed in manner and form as charged in the indictment, and that this defendant, John Kennedy, was present, and in any manner aided, abet-

ted or assisted in such killing, then the jury should find him guilty, although there was no eye-witness to the fact of such killing."

Upon review, this court held the foregoing instruction unobjectionable. It will be remembered that the cases of *Baxter* v. *The People*, *Brennan* v. *The People*, and *Kennedy* v. *The People*, *supra*, the leading cases in our state on the law of accessory were all decisive of the legal force and meaning of section 13, criminal code, statutes of 1845. Since those decisions were rendered, section 3, division II, criminal code, statutes 1874, heretofore referred to, was enacted.

The next objection urged by counsel for plaintiffs in error is to

INSTRUCTION NUMBER 5.

"If the jury believe, from the evidence, beyond a reasonable doubt, that there was in existence in this county and state a conspiracy to overthrow the existing order of society, and to bring about social revolution by force, or to destroy the legal authorities of this city, county or state by force, and that the defendants, or any of them, were parties to such conspiracy, and that Degan was killed in the manner described in the indictment; that he was killed by a bomb, and that the bomb was thrown by a party to the conspiracy, then any of the defendants who were members of such conspiracy at that time are in this case guilty of murder; and that, too, although the jury may further believe, from the evidence, that the time and place for the bringing about of such revolution, or the destruction of such authorities, had not been definitely agreed upon by the conspirators, but was left to them and the exigencies of time, or to the judgment of any of the co-conspirators."

It is not denied that this instruction correctly states the law applicable to a certain hypothesis, but it is denied that

there is any evidence in the record to warrant such an instruction. But little discussion is necessary on this branch of the case. If there is any evidence in the record to which the instruction will apply, then the instruction was properly given. We submit that there is ample evidence in the record to warrant the giving of this instruction.

It is not denied, in this part of their argument, by counsel for plaintiffs in error, that there was a conspiracy to bring about the social revolution by force, and to destroy whatever agencies the law might interpose to prevent the success of the revolutionary movement. This seems to be admitted, in this connection, at least, for the sake of the argument. The part objected to is the following:

"Although the jury may further believe, from the evidence, that the time and place for the bringing about of such revolution, or the destruction of such authorities, had not been definitely agreed upon by the conspirators, but was left to them and the exigencies of time, or to the judgment of any of the co-conspirators."

The authorities on criminal law all agree that it is exceedingly difficult to prove a conspiracy, and more especially the unlawful purposes and designs of a conspiracy, by direct, positive testimony. The very life and essence of conspiracy is secrecy. On this account the rules of evidence so rigidly applied in proving other offenses are greatly relaxed in an attempt to prove a conspiracy. Not only the conspiracy, therefore, but the plans and purposes thereof must be proved largely by circumstances, by acts, and by the declarations of individual members of the conspiracy. In support of this instruction we therefore call attention to the following extracts from the People's Exhibits and the testimony of witnesses, as shown by the record:

People's Exhibit 15, Vol. Exhibits 40, Most's Book:

"If a revolutionary deed is proposed, it should not be talked about, but silently pursued. If assistance is indispensable it may be chosen, but a misstep is fatal."

People's Exhibit 18, Alarm, October 4, 1884:

"A word to tramps. Can you do nothing to insure those whom you are about to orphan against a like fate? The waves will mock your act; but stroll down the avenue, look in the voluptuous homes and discover the robbers who have despoiled you. Here let your tragedy be enacted, and send forth your petition that will never be heeded except when read in the glare of conflagration, or when handed to your oppressors upon the point of the sword. You need no organization, that would be a detriment, but avail yourselves of the materials of warfare which science has placed in the hands of the poor. Learn the use of dynamite."

People's Exhibit 21, Alarm, October 18, 1884:

Commenting on an article in the Inter Ocean:

"The Inter Ocean man has overlooked the fact that one man with a dynamite bomb is equal to a regiment of militia. The method of warfare has been revolutionized by the discoveries of modern science, and will use explosives in the coming conflict."

People's Exhibit 31, Alarm, December 6, 1884:

"Dynamite, the protection of the poor against the armies of the rich." The article again quotes from Gen. Sheridan's report of November 10, 1884, as to the ease of constructing and carrying explosives, and further says:

"A hint to the wise is sufficient. One dynamite bomb, properly placed, will destroy a regiment of soldiers. Their First Regiment may as well disband, for if it should ever level its guns upon the workmen of Chicago, it can be annihilated."

People's Ex. 42, Alarm, April 18, 1885:

"All governments exist by the abridgment of human

People's Ex. 90, Arbeiter Zeitung, April 21, 1886:

" He who submits to the present order of things has no right to complain about capitalistic extortion, for order means sustaining that. A rebel who puts himself opposite the cannon's mouth with an empty fist is a fool."

People's Ex. 109, Arbeiter Zeitung, March 15, 1885:

"In all revolutionary actions three epochs are to be distinguished. First, the time for preparation; then the moment of action and finally the period which follows the deed. First the revolutionist should study to save combatants, to avoid danger of discovery. It is easy to be seen that the danger of discovery is increased by the number of actors and *vice versa*. Therefore in the commission of a deed, a comrade not living in the locality should be chosen for the act. Again, if one comrade is able to perform the deed alone, he should call no one to his assistance. The forming of special groups of action is a necessity, especially should publicity be avoided in a country like America. In the formation of a group of action, the greatest care should be exercised to select men whose heads and hearts are in the right spot. When an action is resolved upon it must be executed as speedily as possible, to prevent the dangers of delay. In the action one must be upon the spot. When the action is completed the group scatters. If this rule is acted upon the danger of discovery is greatly reduced. Because of the neglect of these precautions most of the dangers of the past have occurred. The complete success of an action is the best possible impulse to a new deed. Already this small warfare has commenced at many points. Finally will come the rising *en masse*."

" At a meeting on April 22d, Parsons said in referring to the opening of the new board of trade building: 'What a splendid opportunity there will be next Tuesday night for some bold fellow to make the capitalists tremble by blowing up the building and all the thieves and robbers there.'" (Testimony of Johnson, Vol. J, p. 385 *et seq.*)

" At a meeting at Greif's Hall, August 19, 1885, Parsons, referring to the late strike of the street-car employes,

said: 'If but one shot had been fired and Bonfield had happened to be shot, the whole city would have been deluged in blood, and the social revolution would have been inaugurated.'" (Testimony of Johnson, Vol. J, p. 404.)

Also Spies' declaration to the News reporter, Wilkinson.

"He said they had no leaders; one was instructed as well as another, and when the great day came each one would know his duty and do it. I tried to find out when this would probably occur, and he did not fix the date precisely or approximately at that time. At another of those interviews he said it would probably occur in the first conflict between the police and the militia; that if there should be a universal strike for this eight-hour system, there would probably be a conflict of some sort brought about in some way between the First and Second regiments of the Illinois National Guard and the police and the dynamiters on the other hand."

"He vaguely spoke of a list of prominent citizens who might suddenly be blown up one at a time or all at once.

"He described the character of the organization; that if there were three, the first would know the second and the second the third, but not the third the first; that it was nihilistic in its character, and that they were known by other means than names." (Abst., Vol. 2, pp. 68, 69, 71; Rec., Vol. J, pp. 150, 151, 170.)

"The plan stated by Engel was adopted by us with the understanding that every group ought to act independently according to the general plan.

"Q. What was said, if anything, as to what should be done in case the police should attempt to disperse the Haymarket meeting?

"A. There was nothing said about the Haymarket. There was nothing expected that the police would get to the Haymarket; only if strikers were attacked we should strike down the police however we could, with bombs or whatever would be at our disposition." (Waller's testimony, Abst., Vol. 2, p. 5; Rec. I, pp. 65, 66.)

Also, report of Spies' speech at Haymarket:

"The day is not distant when we will resort to hanging these men. McCormick is the man who created the row Monday, and he must be held responsible for the murder of our brothers. [Cries of 'Hang him.'] Don't make any threats; they are of no avail. Whenever you get ready to do something, do it and don't make any threats beforehand." (Abst., Vol. 2, pp. 130, 131; Rec., Vol. J, p. 279.)

The foregoing extracts from the record clearly show that the plans of the conspiracy contemplate the doing of revolutionary work, the accomplishment of which must be left, of necessity, largely to individual discretion and individual action. In fact, as appears, the main purpose of the International is the work of propagation, the organization of groups and the drilling and preparation of the members for revolutionary work; but the execution of the work, so far as relates to the nature of the particular enterprise and the time and mode of action are left largely to individual determination.

We maintain that the foregoing extracts from the evidence warrant the giving of the instruction complained of.

Instruction Number 5½.

Counsel for plaintiffs in error devote much time and space to the consideration and unfriendly criticism of People's instruction number 5½, which reads as follows:

"If these defendants, or any two or more of them conspired together, with or without any other person or persons, to excite the people or classes of the people of this city to sedition, tumult, and riot, to use deadly weapons against and take the lives of other persons, as a means to carry their designs and purposes into effect, and in pur-

suance of such conspiracy and in furtherance of its objects any of the persons conspiring, publicly, by print or speech, advised and encouraged the commission of murder without designating time, place or occasion at which it should be done, and in pursuance of and induced by such advice or encouragement, murder was committed, then all such conspirators are guilty of murder whether the person who perpetrated such murder can be identified or not. If such murder was committed in pursuance of such advice or encouragement, and was induced thereby, it does not matter what change, if any, in the order or condition of society, or what, if any advantage to themselves or others, the conspirators proposed as the result of their conspiracy, nor does it matter whether such advice and encouragement had been frequent and long continued, except in determining whether the perpetrator was or was not acting in pursuance of such advice and encouragement, and was or was not induced thereby to commit the murder.

If there was such conspiracy as in this instruction is recited, such advice and encouragement was given and murder committed in pursuance of and induced thereby, then all of such conspirators are guilty of murder. Nor does it matter, if there was such a conspiracy, how impracticable or impossible of success its ends and aims were, nor how foolish or ill-arranged were the plans for its execution, except as bearing on the question, whether there was or was not such conspiracy."

Concerning this instruction, counsel first suggest:

"The only act on the part of the plaintiffs in error required to be found under this instruction, by the jury, is the mere matter of conspiring together, or with others, to excite the people or classes of the people to riot, tumult and sedition, and to the use of deadly weapons against, and taking the lives of other persons."

The foregoing criticism does not deny that the instruction applies to and defines a conspiracy to do an unlawful act; for surely, it will not be contended that "riot, "tumult and sedition" are lawful, or that exciting the

people "to use deadly weapons against, and to take the "lives of other persons," would be highly promotive of good order and the public peace. "Conspiring is a com- "bination of two persons or more, by concerted action, "to accomplish a criminal or unlawful purpose, or a pur- "pose not in itself criminal, by unlawful or criminal "means."

Heaps v. *Dunham*, 95 Ill., 583.
Rev. Stat., Crim. Code, Div. I, Sec. 46.

But it is urged by counsel that a conspiracy to excite the people to take the lives of other persons is not a conspiracy to commit murder, or to do any act of violence out of which murder might result, but is only "*a conspir-* "*acy to excite, a conspiracy to solicit crime.*"

This criticism is not hypercritical; it is anarchical; and when the International has wrought as much confusion in the operation of the English common law as this criticism does with the English language, the wildest dream of the anarchist will be well nigh realized. Suppose this instruction, instead of using the expression, "to excite "the people," had said, "to advise, encourage or induce "the people," would it then be obnoxious to the criticism made upon it?

The word "excite" as used in this connection is synonymous with "incite," "awaken," "animate," "arouse," "stimulate," "influence," "provoke," "agitate," and one of its usual meanings is "to stir up to combined or general activity."

In *Brennan* v. *The People*, 15 Ill., 518, this court said:

"It is enough that a party by his acts *incites* or *counsels* another to commit the crime; in other words, that he intentionally encourages its perpetration."

The examination shows that these jurors were men of fair intelligence. The statute requires that they should understand the English language, and it is a legal presumption that they were thus qualified. If the people were *excited* to take the lives of others, they were, in contemplation of the law, *incited* and *induced* to commit murder. A conspiracy to excite a person to commit crime is a conspiracy to induce and encourage a person to commit crime, and if a crime is committed in pursuance of and influenced by the *exciting*, *inducing* and *encouraging*, the conspiracy has so far accomplished its purpose, and every person so conspiring becomes accessory to the criminal act, and, under our statute, punishable as principal.

But this instruction did not tell the jury that the mere conspiring to excite the people to commit crime, of itself, made the conspirators guilty as accessories of whatever crime was committed. It goes further, and says, "and in "pursuance of such conspiracy, and in furtherance of its ob- "jects, any of the persons so conspiring, publicly, by print "or speech, advised or encouraged the commission of mur- "der, without designating time, place or occasion at which "it should be done, and in pursuance of, and induced by "such advice or encouragement, murder was committed, "then all of such conspirators are guilty of murder, whether "the person who perpetrated such murder can be identified "or not."

The instruction does not premise that the murder was done simply in pursuance of the *exciting*, but as it plainly states, "in pursuance of and induced by such advice and "encouragement," and such advice and encouragement must have been given by a person connected with the conspiracy, "in pursuance of such conspiracy and in

"furtherance of its objects." We maintain that if the jury believed from the evidence in this case, beyond a reasonable doubt, that murder was committed in pursuance of the advice and encouragement given by a member or members of the conspiracy, and that such advice and encouragement was given in furtherance of the plans of the conspiracy, then the jury were justified in finding all the conspirators who were on trial guilty of murder, and that this instruction in so advising the jury correctly stated the law.

But complaint is made because the instruction told the jury that if murder was committed, etc., the conspirators were guilty, without limiting the actual commission of the murder to one of the conspirators. In this, too, we maintain that the instruction is correct.

It is not necessary that the principal actor should be a member of a conspiracy, in order to charge as accessories the conspirators through whose advice and encouragement the crime was induced, and in pursuance of which it was committed. And so in this case, if the jury believed from the evidence beyond a reasonable doubt that the bomb which exploded at the Haymarket meeting was thrown in pursuance of the advice and encouragement of certain conspirators, such conspirators are guilty of the crime thereby perpetrated, even though the principal actor may not have known at the time of committing the act that any such conspiracy existed.

His guilt does not necessarily depend upon his membership in the conspiracy; it depends upon his guilty purpose in the commission of the criminal act which he did; while the guilt of the conspirators depends upon their aiding, advising and encouraging the commission of the crime,

and their membership in the conspiracy fixes their characters as accessories to the criminal act.

If this were a prosecution against the several plaintiffs in error on a charge of conspiracy, then it will be readily admitted that in order to convict any one of them, his guilty knowledge of the conspiracy must be proved.

We may even go much further than this and insist that if plaintiffs in error conspired to commit murder, or to encourage, induce and bring about the commission of murder, and if, in pursuance of such conspiracy, murder was committed, then the conspirators are guilty of such crime, even though the principal actor might not be.

Suppose the principal actor were a madman or a fool, one whose mental condition made him incapable of committing a crime; in such case no criminal intent could be entertained by the principal actor, nor any crime imputed to him, and it cannot be doubted that those inducing or encouraging the act would be guilty to the same extent that the principal actor would have been, if of sound mind.

In case *Regina* v. *Tyler*, 8 C. & P. Rep., 616, Thom, the principal actor, was a madman, and yet the defendants, Tyler and Price, were found guilty of murder on the ground of being present, aiding and abetting the criminal act.

In deciding that case, Lord DENMAN, C. J., said:

"It is not an opinion which I mean to lay down as a rule of law applicable to all cases, that fanaticism is a proof of unsoundness of mind; but there was in this particular instance so much religious fanaticism and violent excitement of mind, such great absurdity and extreme folly, that if Thom was now on his trial it could hardly be said from the evidence that he could be called to answer

for his criminal acts; that, therefore, simplifies the question you will have to decide and confines it to the second count of the indictment. There these persons are themselves charged with having committed the offense; and if they were aware of the malignant purpose entertained by Thom, and shared in that purpose with him, and were present aiding and abetting and assisting him in the commission of acts fatal to life, in the course of accomplishing this purpose, then no doubt they are guilty as principals on this second count."

Hawkins, P. C. B., 1, Chap. 13, Sec. 51.

In short, our own statute, Crim. Code, Div. II, Sec. 15, by express provision settles the law as announced in the Thom case, and section 3, Div. II, heretofore cited, expressly fixes the responsibility of those who are accessories to the perpetration of a crime, for the commission of which the principal, for any cause, is not amenable to justice.

This section, we maintain, is broad enough to embrace an unknown principal, as well as a principal who for any other reason would be exempt from punishment under the laws of this state.

If murder was committed in pursuance of the advice and encouragement of the conspirators, as a means of carrying out the purposes of the conspiracy, then, although neither time, place, occasion, principal actor or individual victim may have been determined or agreed upon in the conspiracy, the law will refer all these to the original felonious design, and it will affix criminal responsibility for the murder to all who participated in the conspiracy, and make them accessories to the criminal acts. Nor do we concede that this instruction is obnoxious to the charge of indefiniteness suggested by counsel. The exciting to riot, tumult and sedition, to use deadly weapons

against and take the lives of other people, were the means for carrying into effect the primary purposes and objects of the conspiracy. The ultimate objects and purposes of the conspiracy having been set forth in other instructions, it was not necessary to repeat them in this one. The instructions must all be taken together.

"The true view is doubtless as follows: one is responsible for what of wrong flows directly from his corrupt intentions; but not, though intending wrong, for the product of another's independent act. If he set in motion the physical power of another he is liable for its result. If he contemplated the result he is answerable, though it is produced in a manner he did not contemplate. If he did not contemplate it in kind, yet if it was the ordinary effect of the cause he is responsible. If he awoke into action an indiscriminate power, he is responsible. If he gave directions vaguely and incautiously, and the person receiving them acted according to what he might have foreseen would be the understanding, he is responsible."

Bishop's Crim. Law, 1, Sec. 641, 7 Ed.

"The events though possibly falling out beyond his original intentions were in the ordinary course of things, the probable consequences of what B did under the influence and at the instigation of A. And therefore he is responsible for them."

Foster's Reports, 370, Sec. 3.

"Where one has entered into a conspiracy with others to commit a felony or other offense under such circumstances as will, when tested by experience, probably result in the unlawful taking of human life, he will be presumed to have understood the consequences which might reasonably have been expected to follow from carrying into effect the purpose of the unlawful combination, and also to have assented to the doing of whatever would reasonably or probably be necessary to accomplish the object of the conspiracy. If the unlawful act agreed to be done is dangerous or homicidal in its character, or if its accomplishment will necessarily or probably require

the use of force and violence which may result in the taking of life unlawfully, every party to such agreement will be held criminally liable for whatever any of his co-conspirators may do in furtherance of the common design, whether he is present or not."

Lamb v. *The People*, 96 Ill., 73.

"It seems to be agreed that if the felony committed be the same in substance with that which was intended, and varied only in some circumstances, as in respect of the time and place at which, or the means whereby it was effected, the abettor of the intent is altogether as much an accessory as if there had been no variance at all between it and the execution of it. As, if a man advises another to kill such an one in the night, and he kills him in the day; or, to kill him in the field, and he kills him in the town; or, to poison him, and he stabs or shoots him."

Hawkins' P. C., Ch. 29, B. 2, Secs. 7, 8, 9, 11, 16, 18, 20.

We shall not follow the reasoning of counsel for plaintiffs in error in their attempts to establish an analogy between the John Brown raid, the secession movement, culminating in the great rebellion, the Ku Klux Klan, or the anti-Chinese atrocities, and the crime for which plaintiffs in error have been convicted. Neither the character of heroism, with which his admirers have invested the one, nor the condemnation with which history will properly stamp the others, in the least palliates or excuses the brutal and bloody butchery of the Chicago policemen at the Haymarket meeting, nor will any amount of sentimentalism sanctify this crime.

It is also urged that instruction $5\frac{1}{2}$ is bad because it does not refer to the evidence, and that it contains mere abstract propositions of law. The giving of an instruction containing merely an abstract legal proposition, is discretionary with the court.

Corbin v. *Shearer*, 3 Gilm., 482.
Pate v. *The People*, *id.*, 44.
Parker v. *Fergus*, 52 Ill., 419.
Devlin v. *The People*, 104 Ill., 504.

When the attention of the jury in a criminal case has been directed to the evidence in a number of the instructions it is not necessary that this direction shall be repeated in every instruction given. Especially is this true when, as in this case, an instruction was given by the court, on its own motion, whereby the jury were particularly cautioned that they must look alone to the evidence for proof of guilt, and that unless the evidence establishes the guilt beyond a reasonable doubt they must acquit. In this instruction the court says:

"What are the facts and what is the truth the jury must determine from the evidence and from that alone. If there are any unguarded expressions in any of the instructions which seem to assume the existence of any facts, or to be any intimations as to what is proved, all such expressions must be disregarded and the evidence only looked to, to determine the facts."

Nor do the authorities cited by counsel for plaintiffs in error, Wharton, Cr. Pl. & Pr., 793; *Murray* v. *Commonwealth*, 79 Penn. State, 241; *Clem* v. *State*, 31 Ind., 480; *Howard* v. *State*, 50 Ind., 190, and *People* v. *Valencia*, 43 Cal., 543, contravene the position which we occupy here. The proposition laid down by Wharton, *supra*, is, "material error in one instruction calculated to mislead is not cured by a subsequent contradictory instruction."

That proposition is generally recognized as correct, both in civil and criminal practice. In the instruction complained of, however, there is neither material nor immaterial error, nor is the rule of law laid down in that

instruction contradicted by, or at variance with the rule laid down in any other instruction.

We have already shown that the giving of instructions containing mere abstract propositions of law is discretionary with the court. The mere giving of such an instruction, then, cannot be error, if the instruction correctly states the law applicable to the case.

But an instruction which merely states an abstract proposition of law, from its very nature, omits all reference to the evidence, and if such an instruction may properly be given, then the omission of all reference to the evidence therein cannot be material error.

The failure to refer to the evidence in any instruction where such reference is usually made could be, at most, only an omission, which might be material or immaterial, but whether material or immaterial, such omission may be cured in another instruction which correctly states the law and directs the attention of the jury to the evidence as the basis of their conclusion. And so, in this case, when the court, of its own motion, after all the other instructions had been read, gave to the jury an instruction particularly directing their attention to the evidence, as their only source of information upon which to reach a verdict, and especially cautioning them against all other sources or supposed sources of information, the omission was fully cured.

Instruction Number 12.

Complaint is made of People's instruction 12, which was as follows:

"The court instructs the jury that, as a matter of law, in considering the case, the jury are not to go beyond the

evidence to hunt up doubts, nor must they entertain such doubts as are merely chimerical or conjectural. A doubt to justify an acquittal must be reasonable, and it must arise from a candid and impartial investigation of all the evidence in the case, and unless it is such, that were the same kind of doubt interposed in the graver transactions of life, it would cause a reasonable and prudent man to hesitate and pause, it is insufficient to authorize a verdict of not guilty. If, after considering all the evidence, you can say you have an abiding conviction of the truth of the charge, you are satisfied beyond a reasonable doubt."

No one will deny the importance of properly instructing the jury on the subject of reasonable doubt, and this court has frequently had occasion to review instructions asked on this point. This instruction tells the jury that "a doubt to justify an acquittal must be reasonable," and then defines this state of mind, by saying: "Were the "same kind of doubt interposed in the graver transactions "of life, it would cause a reasonable and prudent man to "hesitate and pause."

Concerning the source from which a reasonable doubt must spring, the instruction says: "It must arise from a "candid and impartial investigation of all the evidence in "the case," and "if, after considering all the evidence, "you can say you have an abiding conviction of the "truth of the charge, you are satisfied beyond a reasona-"ble doubt."

It is supposed that the objection is urged because the instruction did not say that a reasonable doubt might arise from a want of evidence.

If there is "a candid and impartial investigation of all "the evidence in the case," such investigation can only be made for one purpose, namely, that of determining the sufficiency of the evidence to sustain the charge made in

the indictment. If the evidence is insufficient, such insufficiency must, in the first instance, arise out of the want of evidence; and until this want is supplied, until the evidence is sufficient to sustain the charge, the defendant is not required to say anything or adduce any evidence in rebuttal. A candid and impartial investigation of all the evidence in the case, therefore, will disclose the want as well as the sufficiency of the evidence, and such want of evidence can be disclosed in no other way, nor are the jury permitted to look for it elsewhere. This investigation of the evidence will as readily disclose the want of evidence on the part of the prosecution as it will discover rebutting evidence adduced by the defense. How otherwise than by a candid and impartial investigation of all the evidence can the want of evidence be discovered? This instruction does not tell the jury that the reasonable doubt must arise alone out of the evidence adduced by the defense, nor can any such deduction either logically or reasonably be drawn from it.

"The court instructs the jury that a reasonable doubt means in law a serious, substantial and well-founded doubt, and not the mere possibility of a doubt, and the jury have no right to go outside of the evidence to search for or hunt up doubts (in order to acquit the defendant) not arising from the evidence or want of evidence."

Earl v. *The People*, 73 Ill., 329.

The foregoing instruction was sustained by this court, and while it contains the words "the want of evidence," we maintain that all that is expressed thereby is necessarily implied in the language used in the instruction now in question, and would be so understood by any intelligent person.

then, in law, there exists no reasonable doubt;" and while this court held that said instruction did not correctly state the law on the subject of reasonable doubt, but was rather in the nature of an argument, this error was held not to vitiate the verdict of the jury, and the judgment was affirmed.

It will be borne in mind, also, that the jury in this case, by People's instruction number 11, had already been apprised of the full burden of proof which the law devolved upon the prosecution, and the presumption of innocence with which it clothes the accused, and cautioned against the conviction of an innocent person. Said instruction is as follows:

"The rule of law which clothes every person accused of crime with the presumption of innocence, and imposes upon the state the burden of establishing his guilt beyond a reasonable doubt, is not intended to aid any one who is in fact guilty of crime to escape, but is a humane provision of law intended, so far as human agencies can, to guard against the danger of any innocent person being unjustly punished."

In addition to the foregoing instructions for the people, in which we maintain the law was correctly laid down, the jury were most liberally instructed on this subject, at the instance of the defense.

On the part of the defense the jury were told:

"The law presumes the defendants innocent of the charge in the indictment until the jury are satisfied by the evidence, beyond all reasonable doubt, of the guilt of the defendants.

"If a reasonable doubt of any facts necessary to convict the accused is raised in the minds of the jury by the evidence itself, or by the ingenuity of counsel upon any hypothesis reasonably consistent with the evidence, the doubt is decisive in favor of the prisoners' acquittal.

"The law does not require the defendants to prove

themselves innocent, but the burden of proof that they are guilty beyond all reasonable doubt is upon the prosecution.

"It is incumbent upon the prosecution to prove beyond all reasonable doubt every material allegation in the indictment, and, unless that has been done, the jury should find the defendants not guilty.

"A reasonable doubt is that state of mind in which the jury, after considering all the evidence, cannot say they feel an abiding faith, amounting to a moral certainty, from the evidence in the case, that the defendants are guilty, as charged in the indictment."

It will be observed from the foregoing that the jury were very liberally instructed as to the matter of reasonable doubt; and it will be further observed that the jury are referred to the evidence as the source of reasonable doubt, but in no instance to the want of evidence. In short, the theory of reasonable doubt as embodied in defendants' instructions is in close and substantial accord with the doctrine of the People's instructions on the same subject; though defendants' instructions go much further than the law as usually laid down in criminal cases, and allow a reasonable doubt to be raised by the ingenuity of counsel.

Instruction Number 13.

Objection is also made to instruction number 13 given on behalf of the people, and which reads as follows:

"The court further instructs the jury as a matter of law, that the doubt which a juror is allowed to retain in his own mind, and under the influence of which he should frame a verdict of not guilty, must always be a reasonable one.

"A doubt produced by undue sensibility in the mind of any juror in view of the consequences of his verdict is not a reasonable doubt, and a juror is not allowed to create

sources or materials of doubt by resorting to trivial and fanciful suppositions and remote conjectures as to possible states of fact differing from that established by the evidence.

" You are not at liberty to disbelieve as jurors, if, from the evidence, you believe as men; your oath imposes on you no obligation to doubt where no doubt would exist if no oath had been administered."

The objection to this instruction is peculiar and relates to the last clause, concerning which it is said, " that it permits the jury to find a verdict against the plaintiffs in error, upon any conviction in reference to the issue with which they enter the jury box."

Before the jurors were accepted they each and all swore that they had no convictions as to the guilt or innocence of the defendants, and they all further swore that they would fairly and impartially try the cause according to the law and the evidence and a true verdict render.

By no fair construction of this instruction are they told that they may disregard either of the oaths which they had taken. They are told that as jurors they can believe from evidence alone; that if as men they would believe from the evidence in this case, then as jurors they are under no obligation to doubt. In other words, that acting under the obligation of their oaths, they must, in considering the evidence, exercise the common sense with which nature had endowed them.

Com. v. *Harman*, 4 Penn. State, 272.

By defendants' instructions the jury were told:

" Your personal opinion as to facts not proved cannot be the basis of your verdict, but you must form your verdict from the evidence and that alone, unaided and uninfluenced by any opinions or presumptions not founded upon the evidence."

The objection to this instruction 13 can be found only in the ingenuity of counsel.

Nevling v. *Com.*, 98 Penn. State, 334.

Instruction Number 13½.

Complaint is also made of instruction number 13½, because, while it tells the jury that they are the judges of the law as well as the facts in the case, it also tells them, in substance, that they have the right to disregard the instructions of the court, if they choose to do so; but in such case they should be prepared to say upon their oaths that they know the law better than the court. The instruction complained of here was approved by this court in case *Schnier* v. *The People*, 23 Ill., 17, and the principle therein announced has been affirmed in subsequent decisions.

Fisher v. *The People*, 23 Ill., 283.

In case *Mullinix* v. *The People*, 76 Ill., 211, this court said:

"It is further insisted that the court erred in modifying the instruction of plaintiff in error. It was this: 'The court instructs the jury for the defense, that the jury are the sole judges of the law as well as the facts in the case,' to which the court added: 'But the jury are further instructed that it is the duty of the jury to accept and act upon the law as laid down to you by the court, unless you can say upon your oaths that you are better judges of the law than the court; and if you can say upon your oaths that you are better judges of the law than the court, then you are at liberty so to act.' This modification was strictly within what was held in *Fisher* v. *The People*, 23 Ill., 283, and so long as the statute remains as it now is, we regard such a modification to such an instruction as eminently just and proper."

The instruction, as modified in the *Mullinix* case, was again approved by this court in case *Davison* v. *The People*, 90 Ill., 223.

"The office of an instruction is to inform the jury what the law is relating to the case in hand."

Lander v. *The People*, 104 Ill., 248.

The rule of law embodied in the instruction complained of has been thoroughly settled in our criminal practice.

The intelligence which best qualifies a man for service as a juror, and is indispensable to the proper discharge of his duties, will readily convince the average citizen that ordinarily he does not understand the law better than the court. The law requires the court to instruct the jury as to the law, and this requirement is wholly idle and useless unless there is also implied, on the part of the jury, the duty to accept and apply the law as given to them by the court in the instructions. If, however, in any case the jury are prepared to say on their oaths that they know the law better than the court, they may do so.

We are aware that a similar instruction was not upheld by the Supreme court of the State of Indiana in case *Clem* v. *State*, 31 Ind., 480, but it was condemned there because the court held that it contravened a constitutional provision, and on that ground alone. As there is no such provision in the constitution of this state, the reasoning of the Indiana court does not apply.

But we desire also to call the attention of the court to the fact that the same rule embodied in the instruction complained of is embraced in the second instruction asked and given for defendants in this case, which is as follows:

"The jury have the right to disregard the instruction of the court provided they can say upon their oaths that they believe they know the law better than the court."

Defendants' Refused Instructions.

It is first urged that the court erred in refusing to give instruction number 3 asked by the defense.

This instruction required the jury to find:

1. That defendants entered into an illegal conspiracy.

2. That the Haymarket meeting was an unlawful assembly in aid of such conspiracy.

3. That the bomb which killed Officer Degan was cast by a member of the conspiracy, in aid of the common design; or, by a stranger to the conspiracy, aided and advised by all or some of the defendants; and if they found all of such facts affirmatively, then they were to be instructed:

"But, in any event, should you find such a conspiracy, from the evidence, to have been in existence, any one or more of these defendants, not found, beyond a reasonable doubt to have been a member thereof, and who is or are not found, beyond a reasonable doubt, to have been present at the Haymarket meeting, or who, if present, did not knowingly counsel, aid, or abet the throwing of the bomb by which Officer Degan lost his life, such defendant or defendants you are bound to acquit."

We do not see how it can be seriously urged that this instruction should have been given.

It is in violation of the very foundation principle upon which accessoryship before the fact is based.

I. If the conspiracy existed, and the bomb by which Officer Degan was killed was thrown in pursuance of said conspiracy, either by a member thereof, or by a stranger, advised and encouraged thereto by a member of the conspiracy, in pursuance of its plans, then it mat-

ters not whether the Haymarket meeting, at which the bomb was thrown, was, *per se*, a lawful or an unlawful assembly.

II. This proposed instruction sought to tell the jury that none of defendants could be convicted whom the jury did not believe from the evidence, beyond a reasonable doubt, to have been actually present at the Haymarket meeting and actively aiding, counseling or abetting the throwing of the bomb. In this it attempted to ignore and avoid all responsibility on the part of all the defendants who were not present at the Haymarket meeting, but "who, not being present, aiding, abetting or assisting, hath advised, encouraged, aided, or abetted the perpetration of the crime."

In *Brennan* v. *The People*, 15 Ill., 517, this court said:

"The twentieth instruction was also erroneous. It required the jury to acquit the prisoners, if they were not present when the murder was committed, although they may have advised and encouraged it to be done. The law is clearly otherwise. One who counsels or procures another to commit a crime, although he may be absent when the crime is done, is equally guilty with the one perpetrating it. By the express provision of our statute, he is deemed to be a principal offender and may be indicted and punished as such."

Objection is also made to the action of the court in refusing to give instruction 8 asked by the defense.

"If the jury believe from the evidence that the defendants, or any one of them, entered into a conspiracy to bring about a change of government for the amelioration of the condition of the working classes, by peaceful means if possible, but if necessary, to resort to force for that purpose, and that in addition thereto, in pursuance of that object, the Haymarket meeting was assembled by such conspirator or conspirators, to discuss the best means

meeting was in thorough keeping with, and in furtherance of the purposes of the conspiracy.

If, then, such conspiracy existed, and the defendants were members thereof, and the Haymarket meeting was called by members of the conspiracy and in furtherance of its objects, the law will not measure the responsibility of defendants for any crime committed at such meeting, by the rule announced in this instruction. Even though the bomb which killed Officer Degan was thrown by a person outside of said conspiracy, and without the knowledge and approval of the defendant or defendants, that would not entitle the defendants to acquittal, if the jury believe from the evidence, beyond a reasonable doubt, that the bomb was thrown through the aid and encouragement of any of the conspirators, and in pursuance of the purposes and teachings of such conspiracy. We maintain that the rule by which defendants sought to limit their responsibility, as set forth in this instruction, was too narrow, and the instruction was therefore properly refused. The following instruction given for defendants states correctly the rule applicable to the hypothesis contained in this instruction:

"The bomb might have been thrown by some one unfamiliar with and unprompted by the teachings of the defendants or any of them. Before defendants can be held liable therefor, the evidence must satisfy you beyond all reasonable doubt that the person throwing said bomb was acting as the result of the teaching or encouragement of defendants or some of them."

Instruction number 9, of the refusal to give which complaint is made, was, as we contend, erroneous, and therefore properly refused.

The concluding portion of said instruction is as follows:

"Or if you should find that it was thrown by a person, not proved beyond a reasonable doubt to have been a member of said conspiracy, then you must find that these defendants knowingly aided and abetted or advised said bomb-thrower to do the act, otherwise you are bound to acquit them."

On the same grounds urged against instruction 8, *supra*, namely, that it attempted to improperly limit the responsibility of defendants, we contend that this instruction was wrong, and therefore properly refused. Whatever was meritorious in the instruction was included in the following, given for defense:

"Unless the evidence proves beyond all reasonable doubt that either some of defendants threw said bomb, or that the person who threw it acted under the advice and procurement of defendants or some of them, the defendants should be acquitted."

Instruction number 11, which was refused, sought to tell the jury that unless they believed, from the evidence, that a conspiracy existed, of which defendants or some of them were parties, and that the act resulting in the death of Degan was done by a member of the conspiracy, and in pursuance of the common design, they must acquit the defendants, unless they believe from the evidence, that defendants, or some of them, personally committed the act, or aided, abetted, or advised it, or, not being present, had advised, aided, encouraged, or abetted the act.

This instruction also ignores the responsibility of defendants for an act done in pursuance of the plans and purposes of the conspiracy, where the principal actor was not a member of the conspiracy, and it was therefore too narrow.

Defendants' instruction number 18, which was refused, was as follows:

"Although certain of the defendants may have advised the use of force, in opposition to the legally constituted authorities, or the overthrow of the laws of the land, yet, unless the jury can find beyond all reasonable doubt that they specifically threw the bomb which killed Officer Degan, or aided, advised, counseled, assisted or encouraged said act or the doing of some illegal act, or the accomplishment of some act by illegal means, in the furtherance of which said bomb was thrown, you should return said defendants not guilty."

We insist that this instruction was objectionable, because it wholly ignored the responsibility of defendants as members of the conspiracy, if the jury believed from the evidence that the existence of the conspiracy was proved; and it sought to limit the right of the jury to convict to proof of individual advice to commit crime. If the conspiracy existed, and if the defendants were members thereof, and if, in furtherance of the purposes of the conspiracy, any conspirator, whether defendant or not, aided, advised or encouraged the throwing of the bomb whereby Officer Degan was killed, then, as we insist, the defendants are guilty. This element of guilt was entirely omitted from this instruction, and it directed an acquittal, unless the jury found the elements of guilt just as recited in the instruction, no matter what other inculpatory proof there might be, or how convincing its character.

Complaint is also made on account of the refusal of the court to give instruction No. 1, which stated that "it can-
"not be material in this case that defendants, or some of
"them, are or may be socialists, anarchists or commun-
"ists."

The propriety of this instruction must depend wholly on the evidence. If the evidence showed or tended to show that anarchism, communism or socialism were elements of or essential parts of the conspiracy, having for

their purposes the overthrow of the law and the destruction of the lawful authorities by force; if it showed, or tended to show, that these classes or organizations were adjuncts or agencies of the conspiracy, and that they were engaged in propagating the teachings and promoting the designs and purposes of the conspiracy, then we submit that it was highly material that defendants belonged to or were connected with any of said designated classes or organizations, and in such case said instruction was highly improper.

On the other hand, if the evidence showed nothing of the character above suggested, then the instruction was wholly unusual, and not relevant to anything that could be supposed to raise either a presumption of guilt, or arouse an element of prejudice, and was, therefore, properly refused.

Instruction No. 13, which was also refused, was, we think, so clearly improper that it is not necessary to discuss it at length.

Instruction by the Court Sua Motu.

Serious complaint is made of the instruction given by the court of its own motion after the reading of the instructions given at the request of the prosecution and defense respectively. Of the right of the court to give an instruction in such case there can be no doubt. While it is the general practice in this state for counsel for the respective sides to write and ask the court to give the instructions to the jury, it cannot be doubted that the court, if it so choose, may reject all instructions offered by counsel, and, of its own motion, charge the jury fully as to the law, the statute only requiring that such instructions shall

be in writing. In *Vanlandingham* v. *Huston*, 4 Gilm., 125, it was held that a judge may give instructions of his own motion, or modify offered instructions; and our present practice act, *Rev. Stat.*, chapter 110, section 53, clearly contemplates not only the right of the court to modify or qualify instructions after they have been given, but also that the court may explain instructions already given, provided, always, that such modifications, qualifications and explanations shall be in writing.

It is clear, then, since our statute recognizes the right of the court to modify, qualify or explain an instruction already given, that such modifying, qualifying or explaining would not be treated or regarded as superseding or withdrawing any of the instructions already given from the jury, unless the intention to do so was stated in the court's instruction. That such was not the intention of the court in this case is clearly manifest from the language used.

The instruction first directs the careful attention of the jury to all the instructions, to the end that all seeming discrepancies and contradictions may be reconciled. It then carefully and, as we maintain, correctly states the law under which defendants may be convicted of murder if the proof justifies it; the rule as to reasona le doubt is again properly stated; the jury are told that "if a conspiracy having violence and murder as its object is fully proved, then the acts and declarations of each conspirator in furtherance of the conspiracy are the acts and declarations of each one of the conspirators," and that the jury must determine what are the facts and the truth from the evidence alone. The instruction commends to the consideration of the jury the case of each defendant, with the same care and scrutiny as if he alone were on trial.

And finally, all the instructions are referred to the evidence, and the jury are particularly cautioned to disregard all expressions in any of the instructions which may assume or seem to assume the existence of any fact not clearly established by the evidence, or that any fact in issue has been proved, and that the evidence alone must be looked to to determine the facts.

All this we maintain was essentially proper and wise, and there is no part of this instruction which does not better guard the rights of defendants and make them less liable to an improper conviction. This instruction did not pretend to summarize or epitomize all the instructions which had been given. It was intended as explanatory, and to prevent any misapprehension of the law as already embodied in previous instructions.

INSTRUCTION AS TO THE FORM OF THE VERDICT (1 A., 24; O, 37).

The objection raised to the instructions given as to the form of the verdict is completely answered by this court in the case of *Dunn* v. *People*, 109 Ill., 646.

The indictment in that case charged the defendant with an assault with intent to commit murder.

The court say: " The tenth and last instruction given " for the people merely directs the jury as to the form of " the verdict. But it is said that the direction to fix the " term defendant should serve in the penitentiary, if found " guilty, ignored their right to find the defendant guilty " of the lesser offense, and hence was erroneous. We " do not concur in this view, but if counsel for defendant " are correct, *it was for them to prepare an instruction* in-

" forming the jury that they should bring in a verdict, " only if they find, from the evidence, that the defendant " was guilty of the lesser offense, an assault with a " deadly weapon, and as they did not ask for an instruc- " tion of that character, they are in no position to com- " plain."

In concluding this branch of the brief, we submit that, when all the instructions which were given in this case and by which the jury were guided in arriving at a verdict are considered together, it will be found that the law applicable to this case was fairly and correctly stated to the jury, and that no rule of law is expressed therein which is improperly prejudicial to plaintiffs in error. We maintain that an examination of the record will show evidence therein supporting every hypothesis embraced in any of the instructions, and that the instructions correctly state the law applicable to the several hypotheses. If this is true, then such instructions, so based on the evidence and stating the law relating thereto, were properly given, and plaintiffs in error cannot complain.

The instructions properly impose upon the prosecution the burden of proving every material fact necessary to establish the guilt of each and every one of the defendants, beyond all reasonable doubt, and caution the jury that they must look to the evidence alone for proof of guilt.

The presumption of innocence is strongly and clearly stated; and the jury are told that they are the judges of the law as well as the facts.

We believe that a fair consideration of the instructions, considered as a series, will lead to the conclusion that the jury were properly instructed, and that all the rights of plaintiffs in error were carefully protected thereby.

VI.

The Jury.

First: Manifestly, from the argument of counsel, an important question is the impaneling of the jury—their competency, the requirements of the statute and the constitution, counsel for defendants claiming as error in the premises, that the law has been violated in the selection of the jury which tried this case in the lower court.

Before proceeding to the discussion of the principles of law involved in the subject of impaneling of the jury, it would be well to take into consideration some facts which are undisputed—admitted.

There were called into the jury-box and sworn to answer questions 981 men. Of these, twelve were accepted and sworn. The defendants challenged peremptorilly 160. The state challenged peremptorily 52. There were excused upon challenge for cause 757. About four weeks was consumed in examining these as to their qualifications.

The nature, character and quality of the jury which tried this case can be clearly determined by reading the answers to questions propounded to the twelve selected. A careful study of the examination of the twelve, respectively, will, in our opinion, brush away any possible objection interposed in impaneling the juror. A fair, full and non-partisan abstract of the questions and answers of the jury selected, respectively, is as follows:

Juror James H. Cole (Vol. A, pp. 172, 250 and 370) lives at 987 Lawndale avenue, Chicago, Illinois; lived in

Chicago seven years; was born at Utica, New York; fifty years of age; was in the Federal army from 1861 to October, 1865; captain of the Forty-first Ohio; served as major; enlisted in Ohio; has been in the railroad business, and in the insurance business as book-keeper; had heard about the Haymarket meeting; read the newspaper accounts from day to day from that time to the impaneling of the jury; did not believe all he read in the newspapers; did not believe enough to form an opinion as to the question of the guilt or innocence of any of the defendants; has very slight knowledge of the purposes or objects of communists, anarchists or socialists; has a prejudice against secret societies, and, so far as he understands the objects and purposes of communists, anarchists and socialists, has a prejudice against such classes, because he has a prejudice against all organizations that violate the law, but such prejudice is not such as would prevent him rendering a fair and impartial verdict if taken as a juror in this case; the verdict would be rendered the same as against any man, whether communist, socialist or anarchist, or not; could lay aside the prejudice against any class and return a verdict according to the evidence introduced in court; could lay aside any unfavorable opinions which he had formed as to any class, and be guided entirely and exclusively by the testimony from the witnesses upon the stand in court, under the instructions of his Honor, the judge; knows none of the police force of the city of Chicago; is acquainted with none of the police force who were present at the Haymarket square; has had conversations about the occurrences at the Haymarket, but not sufficient to form an opinion; obtained what little information he had about the Haymarket matter from the "News," the "Herald" and the

"Tribune"; does not know any of the defendants, and never saw any of them before to his knowledge; is a member of the Episcopal church; has a family consisting of a wife and four children.

This juror (Cole) was accepted by the defense, without objection, and turned over to the state for examination; whereupon he said, in answer to questions put to him by the state's attorney, that if he was taken as a juror in this case he would determine the innocence or guilt of the defendants, or any of them, upon the proof presented to him in court, regardless of any opinion, any influence or anything except the evidence itself, and under the instructions of the court.

Juror S. G. RANDALL (B, 25), upon examination by the defendants, stated that he lived at 42 LaSalle street, Chicago; was twenty-three years of age; born in Erie, Pennsylvania; a single man; was working in the seed store of J. C. Vaughan, in Chicago; had lived in Chicago about two years and a half; was a laboring man, brought up on a farm; at one time ran a milk wagon in the city of Chicago, and am at present working for Mr. Vaughan; has very little time to read much; the Haymarket matter was not discussed in his hearing, and from all information that he had received from all sources had formed no opinion whatever as to the guilt or innocence of the defendants, or any of them; is acquainted with no member of the police force of the city of Chicago; knew none of those who were present at the Haymarket meeting on May 4th; had no conversation with anybody that undertook to detail the facts as they occurred there; thinks he read, what little time he had, of the Haymarket matter in the "Tribune"; does not remember of reading of the arrest of defendants, or

any of them; is acquainted with none of the defendants; knows nothing about the principles of socialism, communism or anarchism; has no acquaintance with any of the defendants, and has no prejudice against any of the classes known as socialists, communists or anarchists; has no bias or prejudice in this case, and knows of no reason why he could not listen to the testimony and return a fair and impartial verdict in this case, under the evidence and the law, as given by the court; is not a member of any trades union or labor union.

This juror, after examination by the defense, was accepted, and, without objection, turned over to the prosecution for further examination; whereupon he again repeated that if he was taken and sworn as a juror in this case he would determine the innocence or guilt of the defendants upon the proof presented to him in court, regardless of everything else; that he had no prejudice or bias one way or the other, and that he believed he could render an impartial and fair verdict in this case and try the same fairly and impartially; has had no opinion and has expressed none.

Juror THEODORE DENKER (B, 125), being first examined by the defendants' counsel as to his qualifications for a juror in this case, said that he lived with his mother at Woodlawn Park, in the town of Hyde Park, Cook county; was born in Minnesota; was twenty-seven years of age, and married; had lived in Chicago twenty-five years; is shipping-clerk for Henry W. King & Co., where he has been engaged a little over two years; has formed an opinion upon the question of the defendants' guilt or innocence of the charge of murder, or some of them; has expressed that opinion; still entertained it.

Whereupon the following question was propounded to him by defendants' counsel:

"Q. Is that opinion such as would prevent you from rendering an impartial verdict in the case, sitting as a juror, under the testimony and the law?
"A. I think it is."

Upon this answer and the foregoing, the defendants' counsel challenged said juror for cause, and then the prosecution asked the following questions, to which the following answers were given:

"If you were taken and sworn as a juror in the case, can't you determine the innocence or guilt of the defendants upon the proof that is presented to you here in court, regardless of your having that prejudice or opinion?
"A. I think I could.
"Q. You could determine their guilt or innocence upon the proof presented to you here in court, regardless of your opinion, regardless of your prejudice and regardless of what you have read?
"A. Yes."

The COURT then asked this question:

"Q. Do you believe that you can fairly and impartially try the case and render an impartial verdict upon the evidence as it may be presented here, and the instructions of the court?
"A. Yes, I think I could."

The challenge for cause interposed was overruled by the court, and the defendants' counsel proceeded with his inquiries.

Mr. Denker said that he did not believe everything that he read in the newspapers; thinks he believed enough to form an opinion, and the opinion that he formed was entirely from what he read in the newspapers; he expressed such opinions to others in conversation, but never expressed an opinion in regard to the truth of the news-

paper account of the Haymarket matter; is acquainted with no member of the police force who was at the Haymarket meeting; has had no conversation with any person that undertook to detail the facts as they occurred at the Haymarket square, or who claimed that they had been there; does not know what the principles of anarchism are; from what he does know of socialism thinks he has a slight prejudice against it, but said again, that, notwithstanding his opinion formed from newspaper reading, he is conscious of the fact that he could try this case and settle it upon the testimony introduced in court, and not be controlled or governed by any impression that he might have had heretofore, and would be governed by the law as given by the court.

Counsel for the defense asked this question:

" Q. I will ask you whether, acting as juror here, you would feel in any way bound or governed by the judgment that you had expressed on the same question to others before you were taken as a juror? Do you understand that?

" A. I don't think I would.

" Q. That is, you have now made up your mind, or at least you have formed an opinion; you have expressed that freely to others. Now, the question is, whether, when you listened to the testimony, you would have in your mind the expression that you had given to others, and have to guard against that and be controlled by it in any way?

" A. No sir, I don't think I would. I think I could try the case from the testimony regardless of this.

" Q. I understand you to say that you believe you can entirely lay to one side the opinion which you have formed; it would require no circumstances or evidence to overcome it if you were accepted as a juryman?

" A. I think I could lay aside that opinion that I have formed.

" Q. You believe you could?

" A. Yes.

" Q. That is your honest judgment?

" A. Yes."

Counsel for defense, without further objection than that above designated, accepted juror Denker and turned him over to the state for further examination, when he said that he had no acquaintance with any of the defendants; never saw any of the defendants before; that if taken as a juror in this case he believed he could determine the innocence or guilt of the defendants upon the proof presented to him in court, under the instruction of the court, regardless of everything else, and that he knew of no prejudice or bias that would interfere with his duties as a juror.

Juror C. B. Todd (B, 297), upon examination by the defendants, said that he lived at 1,013 West Polk street, in the city of Chicago; was in the clothing business as salesman for the Putnam clothing house, and has lived in Chicago about four years; was born in New York State; is forty-seven years of age; has a wife and family; served in the Federal army during the rebellion, and thereafter moved to Minnesota; had read accounts published in the papers of the Haymarket meeting; had conversation in regard to the same; thinks he has formed an opinion as to the guilt or innocence of some of the defendants; does not usually make up his mind as to the absolute truth of a matter because he reads it in the newspapers; such opinion as he has is not a firm opinion; there is nothing in his mind that would require circumstances to overcome before he would be unbiased; could listen to the testimony and be governed and guided solely by the evidence and the charge of the court, irrespective of any opinion which he formed, and that his mind is clear to act upon the testimony alone; knows nothing about the teachings of the class known as socialists, communists or anarchists, except what he has

read at different times in the newspapers, and has no prejudice against this class of people, but believes them to be advanced thinkers, but has no prejudice against them; he thinks of them as advanced thinkers, but has no prejudice; is not acquainted with the police force of the city of Chicago, except two, with whom he has a passing acquaintance; has had no conversation with either of such two since the Haymarket meeting, and has had no talk with either of them, nor with any policeman, about the Haymarket meeting; has talked with no one who was personally present at the Haymarket meeting or professed to know himself what took place there, and what knowledge he has of such meeting is obtained from reading and from talking with others, who also obtained their information from the newspapers; presumes that he has expressed such opinion as he had, but such opinion is not a decided one, and is conscious of no reason why he could not determine this case purely, solely and entirely upon the evidence that is introduced upon the trial and the charge of the court; knows of no existing cause, no prejudice, no bias or anything which would prevent him acting upon the sworn testimony alone; has no prejudice against trades unions or labor unions or any individual who organizes such, and has no prejudice against the organization of any class for their own protection and advancement.

Juror Todd was accepted by the defense, without objection, and turned over to the state for further examination; whereupon he further said that he knew of no reason why he could not try this case fairly and impartially upon the proof presented to him in court, regardless of everything else, and upon such proof alone determine the guilt or innocence of any or all of the defendants; and re-

gardless of any opinion that he had formed or that he may have had, he thought he could determine the innocence or guilt of the defendants upon the proof presented to him in court, under the instructions of the court; knows none of the defendants; has never seen them before to his knowledge.

Juror FRANK S. OSBORN (C, 291, 456), upon examination by the defendants, said that he lived at 124 Dearborn avenue, city of Chicago; was a salesman in Marshall Field & Co.'s store; had read and heard about the Haymarket trouble, and from what he had heard and read did not form any opinion as to the guilt or innocence of any of the defendants; read of the Haymarket matter first on the morning of the 5th day of May; thinks that perhaps in such accounts read by him, the name of some of the defendants was mentioned, but is not certain; believes that newspaper reports are a good deal colored; does not think that he read the verdict of the coroner's jury, but may have read it; did not read the grand jury proceedings, nor the reports thereof in the public press, but presumes, from the fact that he reads newspapers, that he must have read the result of the grand jury investigation; could not state positively; formed no opinion as to whether the defendants, or any of them, were guilty or innocent, or morally responsible for the result of the Haymarket meeting, and is conscious that he has no opinion whatever as to the guilt or innocence of any of the defendants, and did not discuss the question of their guilt or innocence with any person; is a widower with three children; thirty-nine years of age; born at Columbus, Ohio; has been working for Marshall Field fourteen months; lived in Columbus all his life, up to the time of his coming to Chicago, about fourteen months ago; has read in the news-

papers something about socialism, communism and anarchism; has read very little, and has very little knowledge about them; is not prejudiced against men forming societies, or having minds of their own; "I am not prejudiced against that class of men;" has no prejudice against labor organizations or trades unions, nor any individual who organizes such; is not acquainted with any of the defendants, and never has seen any of them to his knowledge before; knows none of the police force; knows none of the officers at the Haymarket meeting that night; never conversed with any individual who was present at the Haymarket meeting on the 4th of May, nor with anybody who professed to know anything of the facts, and could determine the guilt or innocence of each and every one of the defendants solely upon the proof presented in court, regardless of anything that he had heard upon the subject, or any opinion that he has formed, although he had formed no opinion of the guilt or innocence of any of the defendants.

Said juror, having been accepted without objection by the defense, was turned over to the prosecution for inquity; whereupon said juror again answered that he believed in the maintenance of the laws of the State of Illinois and the government of the United States, and had no sympathy with any individual or class of individuals who had for their purposes or objects the overthrow of that law by force, and believed that he could determine the guilt or innocence of the defendants and each of them upon the proof presented to him in court, under the instructions of the court, and upon that alone.

Juorr ANDREW HAMILTON (D, 259, 359, 365), first examined by the defendants' counsel, answered that he resides at 1,521 43d street, in the town of Hyde Park,

in Cook county; has a wife and family; that he has a retail hardware business at 3,913 Cottage Grove avenue; has lived in Chicago about twenty years; was born in Nova Scotia; is a citizen of the United States; has read and heard of the Haymarket meeting; has formed an opinion as to the nature and character of the crime committed at the Haymarket, but has formed no opinion as to who perpetrated that crime or who is responsible for it; has formed an opinion that somebody is responsible for the death of the police officers at that meeting, but has formed no opinion as to whether or not these defendants, or any of them, are responsible for it; is acquainted with none of the defendants; read the accounts of the Haymarket matter in the Chicago "News" and "Tribune"; did not read the papers very fully or carefully, because of serious sickness in his family at that time and after it; has conversed with no one who was present at the Haymarket or who pretended to have been present; is acquainted with no members of the police force of the city; don't know as he knows anything about socialism, anarchism or communism; feels perfectly free to listen to the testimony in this case as it shall be given by witnesses sworn, and the charge of the court, and render an absolutely impartial verdict in the case, if he is selected as a juryman; the feeling that he has, that somebody ought to suffer for the crime perpetrated at the Haymarket, would have no tendency or weight against these defendants, unless the testimony clearly showed that they are the ones that are responsible; has no prejudice or objection against the organization of laboring men for their own protection and advancement, while they confine themselves within the limits of the law; never expressed to any one the duties

of a juror in this case; never have expressed an opinion as to the guilt or innocence of the defendants; never made use of the remark that these defendants ought to be made an example of, but have said that whoever was responsible for the Haymarket massacre ought to be punished; that he is ready to try these men, each and all of them, without any prejudice, purely and entirely upon the testimony which shall be produced here, without influence of any former convictions or opinions, and has not the slightest doubt of his ability to do so; that he never expressed to any one a willingness or an eagerness to sit on this jury; never said anything of the kind; that he does not desire to sit on this jury, but "means to tell the truth."

After the foregoing examination by the defendants' counsel, Mr. Hamilton was accepted as a juror by the defense, without any objection, and turned over to the state for further examination, when he said, in answer to inquiries, that if he was taken as a juror in this case, to try the same upon the proof presented to him, that he believed that he could determine the innocence or guilt of the defendants upon the proof presented in court, regardless of everything else.

Juror CHARLES A. LUDWIG (D, 352, 362, 392), being examined by the defendants' counsel as to his competency as a juror, said that he lived at 4,401 South State street; engaged as a book-keeper for Charles L. Page, 337 Wabash avenue, who is a dealer in wood mantels; is twenty-seven years of age, unmarried, and lives with his mother; has read and heard newspaper accounts of the Haymarket meeting, but from what he has read and heard did not form nor express an opinion upon the question of the guilt or innocence of any of the defend-

ants; his information derived entirely from reading; has had no conversation with any one pretending to know anything about the matter; did not make up his mind or come to any conclusion upon the question of the defendants' guilt or innocence of the offense committed at the Haymarket; knows very little about the principles of communists, socialists or anarchists; from the little reading that he has done, or the attention given, knows very little about their principles; even considering what little he has read about them, and considering everything else that he could imagine and think of, he knows of nothing that would cause a prejudice in his mind which would prevent him from rendering an impartial verdict in the case under the evidence that was introduced and the charge of the court; has no objection to any organization of labor unions or the formation of such; when they have not for their object the violation of the law, certainly does not object to them; does not condemn a principle or a man because he does not concur in his ideas, provided he is not contending for the violation of the law; is a member of the Baptist church; is not acquainted with any member of the police force in the city of Chicago, nor any of the city officials in the police department.

Without objection, defendants' counsel accepted Mr. Ludwig as a juror and passed him to the state for examination, when he said that he knew of no reason whatever, if he was taken as a juror in this case, why he could not determine the guilt or innocence of the defendants from the proof itself, regardless of what he had heard or read; knows none of the defendants.

Juror J. H. Brayton (F, 132, 368), being first examined by the state, answered as follows:

Lives at Englewood, Cook county, and has lived there since 1872; is a school teacher by profession, being principal of the Webster school, 33d street and Wentworth avenue, in the city of Chicago; has taught school in the public schools of the city of Chicago for three years; was born at Lyons, New York State; is forty years of age, married, and has a family; has lived in the west over twenty-five years; has read and talked about the Haymarket meeting and formed an opinion as to the nature and character of the crime perpetrated at the Haymarket on the 4th of May; from accounts that he has read in the newspapers has formed an opinion as to the guilt or innocence of the defendants; has talked with no one that professed to know anything about it; if he was taken and sworn as a juror in this case to try the same upon the facts presented to him here in court, he believes that he would determine the guilt or innocence of the defendants upon the proof alone, regardless of what he had read and heard; has read something about socialism, communism and anarchy; has given the matter some thought and attention; again says that if he should be taken and sworn as a juror in this case to try the same, that he believes that he could determine the guilt or innocence of the defendants upon the proofs presented to him in court, regardless of everything else, regardless of what he has read or heard, or the opinion that he has formed upon the proof presented in court, under the instructions of the court; knows none of the defendants; never saw any of them before.

Whereupon Mr. Brayton was accepted by the state as a juror, and passed to the defendants' counsel for further examination, when he said that he had been a teacher in the public schools of Cook and Will counties about fifteen

years; is acquainted with no member of the police force of the city of Chicago; has communicated with no one who claimed to have been at the Haymarket meeting at the time of the occurrence there; has no feeling against the organization of laboring men or the establishment of trades unions and labor unions; has no objection to them so long as they keep within the law; believes that they have a right to organize societies for their mutual aid and protection, assistance, education and general advancement, and has no objection against any organizer of labor societies or unions; says that he believes that, notwithstanding his opinion or the prejudice that he may have against communism or anarchism, etc., notwithstanding his opinion upon the question of the guilt or innocence of the defendants, that he could listen to the testimony and decide the case upon it alone, regardless and entirely outside of any opinion or prejudice which he may have; his mind is so constituted and his experience such that he is not in the habit of relying implicitly upon newspaper publications.

At this stage of the examination, Mr. Foster, one of the counsel for the defendants, said:

"These four jurors might be sworn to try the case, your Honor."

Whereupon Mr. Brayton said to the court:

"Your Honor, this is my vacation, and it is the only time I have to be away. I tried to answer these questions truthfully, but I would like to be excused."

"The COURT: I cannot discharge you. I am in the same condition."

Whereupon the last four jurors accepted were then sworn to try the case, among whom was Mr. Brayton, against whose competency and qualifications no objection was raised by the defendants.

The court then, on the afternoon of July 8th, adjourned to July 9th. During the afternoon session of July 9th, Mr. Brayton arose and addressed the court as follows:

"Mr. BRAYTON: It is probably rather more technical than material; but under the consideration and gravity of this case I think it my duty to make this statement. In my statement yesterday I said that all my information was based upon newspapers. I had forgotten at that time that I had also seen a circular that was a call for the Haymarket meeting. I consider it rather technical, but still I consider it my duty to make that statement.

"The COURT: When he asked the question you had forgotten the fact that you had seen any such circular?

"A. Yes.

"Capt. BLACK: We do not think that will make any difference.

"Mr. GRINNELL: That is satisfactory to us."

ALANSON H. REED (G, 253, 311), being examined first by the state, said he lived at 3,442 Groveland avenue, Chicago; was a piano manufacturer and dealer; had been in that business twenty-three or twenty-four years; has lived twenty-five years in the city of Chicago; is forty-five years old; was born in Boston; said that he had an opinion as to the character and nature of the offense committed at the Haymarket, May 4; from newspaper accounts only has an opinion as to the guilt or innocence of the defendants; notwithstanding the opinion, which was based upon what he had read in the newspapers, he believed that he could give a fair and impartial trial upon the evidence here in court, and base his verdict upon that.

After which examination he was accepted by the state and turned over to the defendants for further examination, when he said he had no prejudice against the organization of laboring men, or the formation of unions by laboring men, if they kept within the law; that he

believes in their organization for their advancement; believes they have a right to organize meetings for discussing wages, what wages they ought to have, discussing questions of practicability of working at a stipulated sum, or for a stipulated number of hours per day, and has no prejudice against any individual who is an organizer of labor unions, if such organizer and such labor unions are kept within the law; has some prejudice against, although very little knowlege about, socialists, communists and anarchists, but would not have a prejudice against a man because of his views; would have a prejudice against any man that he considered was undermining the social and political laws of the country; in the same category might be placed his prejudice against Mormons, and he further might have a prejudice against one of the leading political parties to which he was opposed, but has made no study or inquiry into the principles of socialists, communists or anarchists.

"Q. Yet any feeling that you might have upon that subject, I presume, would not, in your opinion now—you do not believe would weigh a feather's weight in the trial of this case?

"A. No, sir; I could not say it would, honestly."

And he further said that he would not discredit the testimony of witnesses who might not entertain views not in accordance with his own; is not acquainted with any of the defendants; does not remember to have seen any of the defendants; heard some speeches on the lake front, but heard none of the defendants; has only a qualified opinion as to the connection of the defendants with the commission of the offense at the Haymarket, May 4th; he has no proof of the fact that they were connected with that offense; that his mind is clear to hear the proof, and to act under the proof and nothing else in this case; that

he certainly would not convict a man whom the evidence did not convince his mind was guilty; he could not do that; that he would not under any circumstances convict any man, unless the testimony convinced his mind, beyond all reasonable doubt, that he was guilty of the offense charged; says that he is a free-thinker; is a member of no church; attends different churches; was raised in the Episcopal church, and means by the use of the word "free-thinker" that he does not believe in the supernatural, nor inspiration, but is not an atheist by any means; is acquainted with no police officer of the city of Chicago, so far as he knows, and knows none of those that were injured or killed at the Haymarket meeting.

Mr. Reed was also accepted by the defendants' counsel as a juror in this case, no objection being made or raised as to his competency.

Juror JOHN B. GREINER (G, 355, 412, 441), first examined by the defendants' counsel, said that he lived at 70 California avenue, Humboldt Park, Cook county; has been for seven years an employe of the North-Western railroad, as clerk; is unmarried and lives with his mother; was born in Columbus, Ohio; has resided in Chicago since March, 1880; is twenty-five years of age; has read and heard of the Haymarket meeting on the 4th of May; heard of the killing of the policeman by the explosion of the bomb; has formed an opinion, based upon newspaper reports, as to the innocence or guilt of the defendants.

"Q. Now, is that opinion one, Mr. Greiner, that would influence your verdict if you should be selected to try the case as a juror, do you believe?

"A. I certainly think it would affect it to some extent. I do not see how it could be otherwise.

"Q. Would it affect it to the extent that you could not

listen to the testimony and the charge of the court and render an impartial verdict, uninfluenced by the opinion that you have?

" A. That is a pretty hard question to answer.

" Q. Nobody can answer it but you. It is for you. The question is not, would it absolutely, because you do not know, but do you now believe that it would?

" A. Well, if I was upon the jury it would be my duty, of course, to abide by the evidence and to ignore everything else. I do not place any particular confidence in what I see in the papers, as far as that is concerned.

" Q. I know that would be your duty, but men will not always do their duty; sometimes they won't and sometimes they can't. Now, do you think you can—do you believe that you can lay aside your opinion and lay aside all prejudice which exists in your mind, and act upon the testimony and that alone, and render a verdict which is absolutely impartial?

" A. I think I could do so.

" Q. Do you believe you could do so?

" A. I think so."

Mr. Greiner said further that he had a general idea as to what socialism, communism or anarchism is, but never had made it a special study; have no prejudice against communists, socialists or anarchists, provided they do not violate the laws; have no prejudice or objections against the organization of laboring men into unions—trades unions, labor unions—so long as they resort to proper means to obtain their end, but do not believe in their coercing anybody else.

Upon the closing of the examination of juror Greiner he was accepted without objection by defendants' counsel and passed to the prosecution for further examination, when he said that he had read some magazine articles upon the subject of socialism, communism and anarchism, and, after some other formal questions, he was accepted by the state.

G. W. Adams (H, 30 and 38), first examined by the state as to his qualifications as a juror, said that he lived at Evanston; was a painter by trade; has worked at his trade till within the last year, during which time he has been on the road as salesman of prepared paints—mixed paints; is twenty-seven years old; was born at Danville, Illinois; has lived in Cook county twenty-two or twenty-three years; his parents live at Evanston, Cook county; is a member of the Methodist church and unmarried; was not in the county of Cook on the 4th day of May; was in the State of Michigan; saw some accounts of the Haymarket meeting of May 4th in Michigan newspapers; formed an opinion as to the nature and character of the crime perpetrated at the Haymarket from the reading; says that if he is taken as a juror in this case he believes that he could determine the guilt or innocence of the defendants upon the proof presented in court, regardless of everything else; knows none of the defendants; don't know that he ever has seen any of them before; has no prejudice against labor organizations, and knows no reason whatever why he cannot fairly and impartially try this case upon the proof presented in court, and upon that alone determine whether or not the defendants are guilty; knows very little about socialists, communists or anarchists.

Mr. Adams was tendered by the state to the defendants for examination, and in answer to the counsel for the defendants, he said that he had followed his trade as a painter till within the last year; worked at his trade about eleven years; conversed about the Haymarket matter with various individuals; formed an opinion as to the nature of the offense committed at the Haymarket; does not remember the names of the individuals supposed to be connected

with that, but thought that some of the defendants were interested in it; that whatever opinion he has in regard to the connection of the defendants with the Haymarket meeting is not a strong opinion; has no prejudice against labor classes or individuals belonging to labor classes, or organizations, or trades unions, or labor unions for their own protection, and no feeling or prejudice against any individual who organizes laboring men into societies or labor organizations, although he never belonged to any labor organization himself; does not know enough about socialists, communists or anarchists to have any prejudice against those classes, and that, notwithstanding any opinion which he may have upon the question of the guilt or innocence of some of the defendants, his mind is in a condition in which he can say now that he can try this case upon the testimony, and only upon the testimony which may be introduced in court; that he understands that it is the duty of the jury in this case, as in all other criminal cases, to decide and return a verdict which shall be formed entirely upon the legal evidence in court; recognizes the fact that no man can legally be convicted upon newspaper statements, or upon street gossip or talk; understands that there is but one kind of legitimate evidence which ought to work a conviction in any case, and that is proper and legal evidence introduced in court in the presence and hearing of the court, and upon that alone; recognizes the principle that no man can be convicted of any crime unless his guilt is established beyond all reasonable doubt, and if the guilt is not so established he is entitled to a verdict of acquittal, notwithstanding any prejuice, bias or opinion which a juror might have outside of court—which he might have gained outside of court before he was selected as a juror; says that his

mind is in that condition that he can lay aside all prejudices, all opinions, all bias—everything which would be either for or against defendants; believes that he can decide this case upon the testimony and the testimony alone, uninfluenced, unbiased and unaffected by any opinion which he may have.

Mr. Adams was accepted as a juror in this case by the defendants, without objection.

H. T. SANFORD (H, 293), being examined first by the defendants' counsel, said that he lived at Oak Park, Cook county; that he had been a clerk in the North-Western railroad company's office in Chicago about fifteen months; that he is twenty-four years of age; was formerly a petroleum broker in New York; was born in the State of New York, and is a married man; has an opinion as to the guilt or innocence of some of the defendants; has an opinion as to whether or not an offense was committed at the Haymarket meeting by the throwing of the bomb; thinks he knows something about the duties of a juror; understands that when a man is on trial, whether it be for his life, or for any penal offense, that he can only be convicted upon testimony which is introduced in the presence and hearing of the jury; knows that any newspaper gossip or any street gossip has nothing to do with the matter whatever, and that the jury are to consider only the testimony which is admitted by the court actually, and then are to consider that testimony under the direction as contained in the charge of the court, and says that if he should be selected as a juror in this case to try and determine it, believes that he could exercise legally the duties of a juror; that he could listen to the testimony and the charge of the court, and, after deliberation, return a verdict which would be right and fair as between the de-

fendants and the people of the State of Illinois; that he could fairly and impartially listen to the testimony that is introduced in court, and the charge of the court, and upon that alone render an impartial verdict; has very little knowledge of the principles contended for by socialists, communists or anarchists; has, from what he knows, a decided prejudice against them; that he would attempt to try the case upon the evidence introduced here upon the issue which is presented here; supposes he has an opinion in his own mind that the defendants, or some of them, encouraged the throwing of the bomb.

Counsel for defendants put this question:

"Q. Well, then, so far as this is concerned, I do not care very much what your opinion may be now, for your opinion now is made up of random conversations and from newspaper reading, as I understand?

"A. Yes.

"Q. That is nothing reliable. You do not regard that as being in the nature of sworn testimony at all, do you?

"A. No.

"Q. Now, when the testimony is introduced here and the witnesses are examined and cross-examined, you see them and look into their countenances, judge who are worthy of belief and who are not worthy of belief. Don't you think then you would be able to determine the question?

"A. Yes."

Has no opposition to the organization of laboring men into associations or societies or unions for their own advancement or protection, when they do not violate the law; has no acquaintance with any member of the police force; had no acquaintance with any one that was killed or injured at the Haymarket meeting; says that "if he "should be selected as a juror in this case he believes

" that, regardless of all prejudice or opinion which he " now has, he could listen to the legitimate testimony in- " troduced in court, and upon that and that alone render " and return a fair and impartial, unprejudiced and un- " biased verdict."

Whereupon defendants' counsel challenged the juror (Sanford) for cause; which was overruled by the court, and, the defendants having exhausted their peremptory challenges, they stood silent.

Whereupon the state further examined Mr. Sanford, who further stated that he never had expressed his belief or opinion as to the truth of the narrations which he had read in the newspapers, and believed that if taken as a juror to try the case he could try the same fairly and impartially, and render a verdict upon the law and the evidence; knows none of the defendants; knows no one who is interested in them personally, that he is aware of.

It is not out of place to suggest that the above jury was a typical American jury; one of them born on foreign soil; the twelve representing, by descent, different nationalities, but all thoroughly American. Every one intelligent, conscientious, fair, impartial and appreciating the gravity of the charge and the solemnity of his duty. Mr. Hamilton, in his retail hardware store in the town of Hyde Park, may, in a small way, be said to be an employer. Mr. Reed conducts his own business of selling pianos manufactured by others. They embrace all classes of citizens. All work for a living, and the twelve are representative freemen, worthy the republic.

Further it is significant that the eight defendants and their four lawyers first accepted eight of the entire panel

and turned them over to the state, raising no objection whatever except to Mr. Denker, although at that time they had 142 challenges still to be used. Messrs. Reed, Brayton and Adams were accepted by the state first and then by the defense, without objection. Mr. Sanford was objected to, because, before he was called, defendants had exhausted the whole number of their peremptory challenges, forty-three of which had been lavishly, extravagantly and ridiculously used in filling the twelfth place in the panel, finally occupied by Mr. Sanford. Ten of the jury were accepted by defendants without objection.

(2.) Overruled Challenges for Cause Complained Of.

Plaintiffs in error complain in their brief of challenges for cause which were overruled by the court in cases where persons called as jurors were afterwards challenged peremptorily by them. They call attention in their brief to twenty-six instances, and cite portions of the examination and answers of these twenty-six talesmen. We have not time to take up the case of any of these talesmen. It will be seen, upon a comparison of the record with the portions of it which appear in their brief, that the brief does not fairly and impartially present the examinations. We take the position with reference to this branch of the case:

First. That the plaintiffs in error are not in a position to take advantage of any errors, if errors there were, in the examination of any of the talesmen. It has always been held by this court that no party to any suit could

take advantage of errors in the impaneling of the jury, unless their peremptory challenges had been exhausted, because if they had peremptory challenges which they could have used, however erronous a ruling of the court may have been, they were not prejudiced thereby, as they might have used their peremptory challenges to have rejected the objectionable juror.

In *Collins* v. *The People*, 103 Ill., 23, the court say:

"It appears that in the selection of the jury, a juror was challenged by the counsel on the ground that he did not understand the English language. * * * The challenge was disallowed, and thereupon the juror was sworn and served as a juror in the case, and this is assigned as error. Without stopping to inquire whether the juror was incompetent on the ground suggested, it is sufficient to say that it does not appear that the accused had exhausted his peremptory challenges, or *that he subsequently had occasion to use all his peremptory challenges*, and such being the case, the objection is not well taken."

This doctrine of the court is based upon the ground that a party cannot complain of an error which is not prejudicial to him, and that so long as the party has peremptory challenges which he can use, he is not prejudiced by any error of this sort, because he has the means at his disposal of rejecting the objectionable juror. If the first eleven jurors taken had constituted the panel which tried this case no error could have been alleged upon the rulings of the court previous to that time, because, when the first eleven had been taken, the plaintiffs in error had at their disposal forty-three unused peremptory challenges. An inspection of the record of the examination of talesmen, after the eleven jurors had been taken, will disclose the fact, beyond peradventure, that the plaintiffs recklessly, and for the sole purpose of taking advantage of any

errors which may have previously occurred, frittered away their forty-three peremptory challenges; that being so, they did not have "occasion" to use them. They made use of their peremptory challenges remaining simply and solely for the purpose of exhausting them; not because they needed them, nor because the use of those peremptory challenges was necessary to their defense, but simply in order that they might take advantage of any errors which they claimed existed. The object of the law, in permitting peremptory challenges to either party, is a practical one, and is to enable them to reject jurors not satisfactory to them. If, instead of using their challenges for that purpose, they use them for some other purpose, they have not had "occasion," within the meaning of the decisions of this court, to exhaust them. If a party who has not exhausted his challenges is not prejudiced, by reason of an erroneous ruling upon a challenge for cause, it follows, as a necessary conclusion, that a party who exhausts his peremptory challenges solely to take advantage of errors has not been prejudiced by them; and that is the position in which plaintiffs in error in this case stand.

In fourteen of the cases they ask a few general questions, challenge for cause, which was overruled, and immediately challenge them peremptorily. In none of these twenty-nine cases was any attempt made to discover whether or not the talesmen were subject to challenge for cause; in fact, an examination of the record will disclose the fact that the jurors were carefully and skillfully led on by the counsel making the examination, so as to be apparently competent. An inspection of the examination of the talesmen, who were examined after juror Adams was accepted, with an examination of those called

previous to his acceptance, will disclose the different method followed by the counsel, and will furnish conclusive proof of the position we assume. Take, as an illustration, the cases of Meyers (H, 96), Walcott (H, 113), Metcalf (H, 181), Phillips (H, 184), Atwater (H, 186), McElwaine (H, 190), Levi (H, 214), Beveridge (H, 227), Keukan (H, 250), Madden (H, 252), West (H, 263), Fay (H, 265), Sullivan (H, 267), Bowman (H, 270), Bennett (H, 275), and Beers (H, 280).

2d. We contend that there was no error in the refusal of the court to sustain the challenges to the jurors named. In the limited time which we have for the preparation of this brief we find it impossible to take up the cases cited by counsel in their brief, but portions of the examination of each one of those talesmen appear in the brief. A comparison of those portions with the whole record of the examination will show that they do not fairly set out the effect of the examination. Isolated sentences, detached portions of an examination give a distorted appearance to it. We insist that upon inspection of the whole record of the examination of each individual talesman it will appear that no error was committed by the trial judge.

The ruling of the court was to the effect that a juror who had formed or expressed an opinion based upon rumor or newspaper statements (about the truth of which he had expressed no opinion) did not disqualify him should he further state upon oath that he believed he could fairly and impartially render a verdict, and the court was satisfied of the proof of such statement. An examination of the record will disclose that in every instance where the opinion of the juror was formed upon something else than rumor or newspaper reports, a chal-

lenge for cause was sustained, and wherever the juror had expressed an opinion as to the truth of the rumor or statements which he had read, the challenge for cause was sustained.

The ruling of the court was based upon the statute—
Revised Statutes 1885, Chap. 78, Sec 14.

We submit that the ruling of the court was in strict conformity with the statute; that the statute is constitutional, and hence that the ruling was correct.

The clause of the statute in question is as follows:

"And provided further that in the trial of any criminal case, the fact that the person called as a juror has formed an opinion or impression, based upon rumor or upon newspaper statements (about the truth of which he has expressed no opinion) shall not disqualify him to serve as a juror in such case, if he shall upon oath state that he believes he can fairly and impartially render a verdict therein in accordance with the law and the evidence, and the court shall be satisfied of the truth of such statement."

Other states have statutes to the same effect, among them the State of New York, and the Court of Appeals of that state has, in a number of cases, passed both upon its constitutionality and its interpretation.

In England, and in many of the states, among them New York, there are two kinds of challenges, one for principal cause and the other for favor. Challenge for principal cause is based upon a cause which of itself excuses the juror. Challenge for favor is based upon the bias or prejudice of the juror and is a question of fact which originally was ascertained by triers, from whose decision there was no appeal. In this state, and later it New York, the question of favor was submitted to the

trial judge, and the statute provides that an appeal might lie from his decisions. In this state, a challenge to the juror includes both the challenge for principal cause and for favor, and the practice has always been that both questions are passed upon by the court.

In the case of *Stokes* v. *The People*, 53 N. Y., 171, the court say:

"Exceptions were taken to the decisions of the court upon the challenge by the prisoner of several jurors for principal cause. It was not claimed by the counsel of the accused that any error was committed, if chapter 475, volume 1, page 1,133 of Laws of 1872, is constitutional. It will be proper first to determine this question, as in case that act be held constitutional and valid, it will be unnecessary to determine whether any error was committed, had the law remained as it was at the time of the passage of the act. The position of the counsel for the accused is, that the right of trial by jury is secured to persons accused of felony by the constitution, and that this secures the further right of trial by an impartial jury. We shall assume the correctness of the latter position. Any act of the legislature providing for the trial otherwise than by a common-law jury, composed of twelve men, would be unconstitutional and void, and any act requiring or authorizing such trial by a jury partial and biased against either party would be a violation of one of the essential elements of the jury referred to in and secured by the constitution. The counsel insists that the act in question does compel the accused to be tried by a jury partial and biased against him. That the common law held, 'that having formed or expressed an opinion conclusively proved a want of impartiality, and for this reason excluded the juror upon a challenge for the principal cause, without inquiry as to whether this would influence his action as a juror. The authorities upon the question were somewhat conflicting, and the object of the statute was to prescribe a definite rule. The act provides that the previous formation or expression of an opinion or impression in reference to the circumstances upon which any criminal

action at law is based, or in reference to the guilt or innocence of the prisoner, or a present opinion or impression in reference thereto, shall not be a sufficient ground of challenge for principal cause to any person who is otherwise legally qualified to serve as a juror upon the trial of such action, provided the person proposed as a juror who may have formed or expressed or has such an opinion or impression as aforesaid shall declare on oath that he verily believes that he can render an impartial verdict according to the evidence submitted to the jury on such trial, and that such previously formed opinion or impression will not bias or influence his verdict, and provided the court shall be satisfied that the person so proposed as a juror does not entertain such a present opinion as would influence his verdict as a juror. It will be seen that the intention of the act was not to place partial jurors upon the panel, but that great care was taken to prevent such a result. The end sought by the common law was to secure a panel that would impartially hear the evidence, and render a verdict thereon uninfluenced by any extraneous considerations whatever. If the person proposed as a juror can and will do this, the entire purpose is accomplished. To secure this the statute requires that he shall make oath that he can do this, irrespective of any previous or existing opinion or impression. Not satisfied that this may be safely relied upon, on account of the difficulty of determining by a person having an opinion or impression how far he may be unconsciously influenced thereby, the statute goes further and provides that the court shall be satisfied that the person proposed as a juror does not entertain such a present opinion as would influence his verdict as a juror. Surely this latter provision, if rightly and intelligently administered by a competent court, will afford protection to the accused from injury from a partial jury. But the accused has not only this but the further protection in his right, after challenge for principal cause has been overruled, again to challenge for favor, and have this tried and determined, uninfluenced by the decision made by the former challenge. While the constitution secures the right of trial by an impartial jury, either common or statutory, principally the latter, and it is within the power of the

legislature to make, from time to time, such changes in the law as it may deem expedient, taking care to preserve the right of trial by an impartial jury. The opinion of Chief Justice Nicholson, in *Eason* v. *The State of Tennessee*, is cited in opposition to this view. This opinion was given upon the constitutionality of a statute of Tennessee upon the same subject, but differing from that in this state. By the Tennessee statute it is provided that the juror shall be competent, if he state on oath that, upon the law and testimony on trial, he believes he can give the accused a fair and impartial verdict. The statement is made conclusive of the question."

The case of *Thomas* v. *The People*, 67 New York, 220, holds that under the act of 1873 the Court of Appeals has power to reverse the action of the trial court upon a challenge for favor.

"We have, therefore, the same power to pass upon the question involved in the challenge for favor which the trial court had, and the question to be determined is, was the juror indifferent within the rule of law applicable to such a case? He had heard the matter talked about, and has an impression or opinion as to the guilt or innocence of the prisoner. That impression or opinion depended upon the truth of what he had heard; and he testified that he would decide the case upon the evidence, and that he believed that he could render an impartial verdict upon the evidence, unbiased and uninfluenced by his impressions. Upon such a state of facts the court properly held the juror indifferent. At least, we cannot say that the court, having the juror in its presence, and able to judge somewhat from his appearance, erred in its decision. He had an opinion which depended upon the truth of what he had heard. As a juror he was to find the truth of the case, and such an opinion as he had would in no way interfere with his impartial search after it. The exclusion of a juror in such a case, in these days of general intelligence and newspaper circulation, would render it impracticable in many cases to obtain a competent jury for the trial of persons charged with flagrant and notorious crimes."

What the juror said appears upon page 220 of the opinion:

"George J. DeWitt was called as a juror and was challenged by the prisoner for principal cause, and upon being sworn testified that he had heard the killing talked about, had expressed an opinion of the affair from what he had heard talked, and then had an impression or opinion as to the guilt or innocence of the prisoner if what he heard was true; that he thought it would take evidence to remove that impression and that he would not go into the jury-box entirely unbiased; that the impression depended entirely on the supposition that what he had heard was true; that if he went into the jury-box he would decide the case on the evidence given, and that he believed if he was sworn as a juror he could render an impartial verdict upon the evidence, unbiased or influenced by any impression or opinion which he then had. The court then overruled the challenge. The prisoner then challenged the juror for favor, and that challenge was also overruled."

In the case of *Phelps* v. *The People*, 72 New York, 363, the court uses this language:

"The challenge of the juror Lamb was properly overruled. *Though some of his answers, taken separately, would perhaps have established a disqualification, yet the effect of all that he said was to show him a proper juror under the late statute.*"

The examination of the juror appears upon page 339. We call attention to it, as it is in many respects similar to the examination of the talesmen to which complaint is made in this case.

The case of *Greenfield* v. *The People*, 74 New York, 277, is a case in which the court held a juror incompetent, and place their decision expressly upon the ground that the opinion which he had found was based upon reports of a previous trial of the same prisoner for the same

offense, the court drawing a distinction between an opinion based upon rumor or ordinary newspaper reports and the reports of the evidence of a trial.

In the case of *Balbo* v. *The People*, 80 New York, 484:

"1. The juror, Betts, was challenged by the prisoner for principal cause, and was examined in support of the challenge which was overruled, and the juror was thereupon challenged by the prisoner for favor. The juror was further examined on the challenge for favor, which was also overruled by the court and the prisoner excepted. The juror on his examination in chief testified, in substance, that he read at the time in a newspaper an account of the murder, and that he was of impression that the account he read was the report of the testimony taken before the coroner's inquest, and that he had not talked the matter over with any person. In answer to a leading question put to him by the prisoner's counsel, he said that he formed at the time a positive and clearly marked opinion in regard to the guilt or innocence of the accused, which opinion was still in his mind, and that it would require strong evidence to remove the opinion he then entertained. The prisoner was an Italian, and the juror, in answer to a question whether he had any prejudice in favor of or against the Italians as a race, said: 'That it was a race that he was not particularly fond of, and did not think much of, judging from those we had here.' On cross-examination by the district attorney, the juror said that he read the newspapers every day and read the account of this murder in the same way he read other items; that he took no particular interest in the case; that he did not know any of the parties connected with the transaction, and had no knowledge of the circumstances, except as he had read them at the time; that if a statement in the papers was contradicted in the next day's papers he believed the contradiction; that his impression in the case was based on the assumption that things reported are probably true; that he did not make a great deal of distinction between an opinion and an impression; that he should call an opinion of the truth or falsity of a statement he saw in a newspaper

an impression, if he read it casually and it slipped out of his mind, and is afterwards revived; that he did not know that he had anything more than that in his mind about the case; that he did not know what the defense was, and that all he remembered was that a man killed his wife in Rose street. The juror on his examination on the challenge for principal cause said that he was not conscious of having any impression which would prevent his acting fairly and impartially in the case, and that he had no doubt that he could give a verdict upon the evidence without being influenced or biased by any opinion he had. At the conclusion of his examination by counsel on the challenge to the favor, the juror, in response to a question of the court, said that he did not suppose that any opinion he had would bias, influence or prejudice him in any manner in the consideration of the evidence; that he believed it would not, and that he could give full weight and effect to the evidence the same as though he had no opinion. The record states that the court thereupon, 'from observation of the appearance of the juror, his age, intelligence, his manner on the stand, and his answers to questions, found that he was fair, impartial and unprejudiced, and held the challenge not proved,' and he was thereupon sworn as a juror.

"In determining the question whether the court erred in overruling the challenge, it is important to bear in mind the changes which had been wrought by the acts chapter 475 of the laws of 1872, and chapter 427 of the laws of 1873, in respect to the legal sufficiency of certain causes of challenge to jurors, and in respect to the power of the court on appeal to review the decision of the trial court in allowing or overruling challenges. Prior to these statutes it was the established rule that a fixed and settled opinion of the guilt or innocence of a prisoner was a good cause of principal challenge, and operated in law as a disqualification of a juror, and it was held not to be material how or upon what evidence the opinion was formed, provided it was fixed and definite, nor was the disqualification removed, although the juror should state upon his oath that he believed that he could decide the case fairly and impartially upon the evidence without bias or prejudice from the opinion he had previously formed.

(*Ex parte Vermillea*, 6 Cow., 555; *People* v. *Mather*, 5 Wend., 232; *Freeman* v. *People*, 4 Denio, 9; *Cancemi* v. *People*, 16 N. Y., 501.) 'The law,' said MARCY, J., in *People* v. *Mather*, 'attaches the disqualification to the fact of forming and expressing an opinion, and does not look beyond to examine the occasion or weigh the evidence upon which the evidence is founded.' The rule that an opinion formed by a juror upon the guilt or innocence of a prisoner operated as a disqualification was based upon the theory that such a prepossession of the mind was inconsistent with the exercise by a juror of a free and impartial judgment of the case upon the evidence, and the declaration of a juror that he believed he could decide the case uninfluenced by his previous opinion was held not to remove the objection, for the reason assigned by Ch. J. Marshall (1 Burr's Trial, 416), that 'the law will not trust him.' But it was held in many cases before the recent statutes, that a hypothetical opinion or an expression simply of the guilt or innocence of the prisoner derived from rumor or from reading newspaper accounts of the transaction was not a cause of principal challenge, but the fact might be considered by the triers on a challenge to the favor, and their decision on the question of indifferency was final and not the subject of review. (*Bodine* v. *People*, 1 Denio, 281; *People* v. *Honeyman*, 3 *id.*, 121; *Freeman* v. *People*, 4 *id.*, 9; *Bryan* v. *People*, 36 N. Y., 279; *People* v. *Thompson*, 41 *id.*, 1.)

"The act of 1872 was a clear departure from the law governing challenges for cause as it had been previously declared by the courts. It abrogates the rule that the formation or expression by a proposed juror of an opinion of the guilt or innocence of the accused is *per se* a disqualification, and sufficient in law to sustain a challenge for principal cause. The act declares that 'the previous formation or expression of an opinion or impression in reference to the circumstances upon which any criminal action at law is based, or in reference to the guilt or innocence of the prisoner, or a present opinion or impression in reference thereto, shall not be a sufficient ground of challenge for principal cause, to any person who is otherwise legally qualified to serve as a juror upon a trial of such

action, provided the person proposed as a juror, who may have formed or expressed, or has such opinion or impression as aforesaid, shall declare on oath that he verily believes that he can render an impartial verdict according to the evidence submitted to the jury on such trial, and that such previously formed opinion or impression will not bias or influence his verdict; and provided the court shall be satisfied that the person so proposed as a juror does not entertain such a present opinion as would influence his verdict as a juror.' The act of 1873, passed the following year, makes a further change in the previous law, by making all challenges triable by the court, and confers, as was held in *The People* v. *Thomas*, 67 N. Y., 218, upon an appellate tribunal the right to review upon the facts the determination of the trial court.

"It cannot be denied that the act of 1872 proceeds upon a different theory from that upon which courts and judges have acted in the decisions to which we have referred. It does not deny the principle which has its foundation in natural justice, that jurors upon whose judgment may depend the lives or liberty of individuals accused of crime should be impartial and free from any existing bias which may influence their judgment. The language of Lord Coke, often quoted, 'that the juror must stand indifferent as he stands unsworn,' expresses a rule of justice, as well as a rule of law. But the statute of 1872 assumes that a man may be a fair and impartial juror although he has an opinion of the guilt or innocence of the accused, and that it is possible that he may notwithstanding be able to set aside and disregard such opinion, and weigh the evidence and determine the question of guilt or innocence independently thereof, and uninfluenced thereby. It is not for the court to pass upon the correctness of this assumption. But I am not prepared to say that it is contrary to human experience or the principles of human philosophy, or that it may not frequently happen that persons who have formed opinions of the guilt of an accused person from reports or statements, verbal or written, may not as jurors lay aside their prepossessions, and not only honestly and conscientiously endeavor to hear and decide the case upon the evidence alone, but be able in fact to divest

themselves of the influence of their previous opinions. It may, I think, be safely affirmed that the consciousness of such prepossessions would in many cases induce on the part of jurors a more cautious consideration and a more charitable construction of the evidence against the prisoner. The act of 1872, however, makes the court the ultimate judge upon this question. If the juror, on being challenged for principal cause, discloses on his examination that he has a fixed and definite opinion in the case on the merits, and nothing further is shown, then the rule of law which existed prior to the statute of 1872 applies, and the court would be bound as matter of law to reject him as incompetent. But if in addition he states upon oath that he believes he can render an impartial verdict upon the evidence, and that such previously formed opinion will not bias or influence him as a juror, the question of his competency is then to be determined by the court as a question of fact. In determining the question the declaration of the juror is to be considered, but it is not controlling. But the decision of the trial judge is subject to the supervisory jurisdiction of the court upon appeal, and the appellate tribunal in reviewing it is bound to say on its own responsibility upon a fresh examination of the evidence, giving due weight to the circumstance that the trial judge had the juror before him, whether in its judgment the question of fact was properly decided. In reviewing the decision of the trial judge no certain rule can be laid down by which the appellate court is to be guided. The determination of the question presented must depend, in a great measure, upon the circumstances of the particular case. The cardinal rule, that the accused is entitled to be tried by a fair and impartial jury, is always to be borne in mind. There may be cases where the opinion of the juror has been formed under circumstances which, in the judgment of all reasonable men, will prevent him, however conscientious he may be, from judging and deciding the case irrespective of his prepossessions. The case of a juror who was an eye-witness to the transaction, or whose opinion was formed upon his personal knowledge of the criminating facts, are examples. The circumstances under which the opinion was formed, its strength, the fact whether the juror has

any personal feeling against the prisoner, or exhibits any pride of opinion which may lead him to give too little or too much weight to evidence in favor of or against the accused; these and many other considerations will enter into the judgment of the court in passing upon the question of the juror's competency. In short, under the statute of 1872, the competency of a juror who has formed an opinion is in all cases a question of fact and not of law when he makes the declaration specified in that statute. This fact is to be determined in the first instance by the trial judge, and afterwards, in case of appeal, by the court of review.

"The cases of *The People* v. *Thomas*, 67 N. Y., 218, and *The People* v. *Greenfield*, 74 *id.*, 277, illustrate the function of this court in reviewing the decision of a trial judge upon challenges to jurors, under the acts of 1872 and 1873. In the Thomas case, the decision of the trial judge was affirmed, and in the Greenfield case his decision was reversed. The opinion of the juror in the Thomas case was not fixed and absolute, but was hypothetical, and no circumstances were shown which created any doubt upon the part of the court of his ability to decide the case upon the evidence impartially, without bias from his previous impression. In the Greenfield case there was, as is stated in the opinion, no question of law involved, but merely a question of fact, viz.: whether, upon the evidence and surrounding circumstances, the jurors Betts and Jennings were fair and impartial jurors. The case had been once tried and the jury had disagreed. It had excited great interest in the community where the crime charged was committed. The fact that there had been a felonious homicide was admitted. The question to be tried was whether it was committed by the prisoner, and this depended upon circumstantial evidence. The jurors challenged lived near the scene of the murder. They had heard the circumstances of the crime talked about, and had read part of the published testimony on the first trial, and each had an impression or opinion of the guilt of the accused which would require evidence to remove. This court, upon a review and consideration of the facts disclosed in that case, were of opinion that the challenges should in the

exercise of a discreet and careful judgment have been sustained, and the conviction was for this reason reversed. In the Thomas case this court was of opinion that the decision of the trial judge on the challenge was justified by the facts, and in the Greenfield case that there was at least so much doubt in respect to the competency of the jurors challenged that the challenges should have been sustained. The cases are entirely harmonious and consistent, the court upon different facts reaching different conclusions in the respective cases.

"In the case now before us, we are of opinion that the challenges to the juror Betts were properly overruled. Such opinion as he had was formed without reflection, upon a casual reading of a newspaper report of the testimony before the coroner some months before the trial. He evidently had no personal prejudice against the prisoner and had taken no particular interest in the case. The opinion, if it was anything more than an impression, was a hastily formed judgment upon statements which he assumed to be true from seeing them in a newspaper, but there was apparently no such prejudgment as would prevent him as a juror from deciding the case fairly and impartially upon the evidence. The statutes of 1872 and 1873 were passed to facilitate the selection of jurors, which in some cases was attended with great difficulty and delay by reason of the stringent rule which had obtained as to the disqualifying effect of an opinion formed in the case. But the legislature did not intend to interfere with the fundamental right of an accused person to be tried by a fair and impartial jury. And, if in exercising the jurisdiction and powers conferred by those statutes, courts and judges proceed on the humane principle of the common law, giving to the prisoner the benefit of a reasonable doubt, there will be little difficulty in so administering the law that the purpose of the statute will be attained without subjecting accused persons to the peril and injustice of being tried by prejudiced jurors.

"*The fact that the juror may have have had some prejudice against the Italian race was not, we think, a disqualifying circumstance.* An opinion that the prisoner's character was bad is not a ground of principal challenge.

(*People* v. *Lohman*, 1 N. Y., 379; *People* v. *Allen*, 43 *id.*, 28). The fact that the juror did not like the race to which the prisoner belonged was quite too inconclusive to justify a finding that he was incompetent."

The examination of this juror appeared at pages 486 to 489, and is identical in many respects with that of the talesman complained of in this case.

In the case of *Cox* v. *The People*, 80 New York, 512, the court say:

"Two jurors, Adolph Dumahout and Albert W. Howard, were challenged for cause and for favor, and were examined on the challenges and the challenges were overruled. It is conceded that if the challenges to the juror Howard were properly overruled, the challenges to the juror Dumahout were properly overruled also. It will only be necessary, therefore, to consider the propriety of the ruling in the case of Howard. He testified on his *voir dire* examination by the prisoner's counsel that he had read of the case, and had formed a decided opinion as to the guilt of the accused, which it would require evidence to remove, and if sworn as a juror he would enter the jury-box with this opinion. On his examination by the district attorney he testified in substance that his opinion was formed from having read in the newspapers accounts of the transaction, and among other things a statement purporting to be a confession by the prisoner of the crime, and that he accepted these accounts as true, for the reason that he had read nothing to the contrary, and that he believed statements in the newspapers which were not unreasonable until they were contradicted, and that in that sense he had an opinion of the guilt of the prisoner; that he had no knowledge whether the statements he read were true or not, and that his opinion was a contingent one, based upon the supposed truth of the statements read; that he had no pride of opinion and had no doubt of his ability to set aside the opinion he had on entering the jury-box and decide the case according to the evidence submitted, without being influenced thereby, or by what he had read. We are of the opinion that the challenge was properly

overruled. Under the statutes of 1872 and 1873 the fact that a proposed juror has formed an opinion of the guilt or innocence of the prisoner is no longer in any sense a legal disqualification, provided the juror makes the declaration specified in the statute of 1872. If he makes such declaration, then his competency becomes a question of fact to be determined by the trial judge, subject, however, to review by the appellate tribunal."

To the same effect are the cases of:

Abbott v. *The People*, 86 N. Y., 460.
Corneth v. *The People*, 92 N. Y., 85.
People, ex rel. Oyer & Term., 83 N. Y., 436.
People v. *Otto*, 101 N. Y., 690.

The effect of the New York statute and that of our own is identical, and we insist that the action of the court in refusing the challenges to the talesmen objected to is sustained by the authority of those cases. It is claimed, however, that our statute does not provide that the formation *and expression* of an opinion shall not disqualify. It is true that the statute does not in terms provide that, but it does in effect, the language being: "The fact that "a person called as a juror has formed an opinion or im- "pression based upon rumor or newspaper statements "(about the truth of which he has expressed no opinion) "shall not disqualify him."

Thus it will be seen that the statute has provided as to what expression should disqualify, and that the only expression which does disqualify is an expression as to the truth of the rumor or statements, and not the expression as to the guilt or innocence.

The case of *Stevens* v. *The People*, 38 Mich., 739, cited by counsel in their brief, in no way conflicts with this

tion of the statute will show that this contention is not well founded. The language of the statute is "about the "truth of which he has *expressed* no opinion," not about the truth of which he *expresses* no opinion, thus clearly referring to an expression of opinion made prior to his examination in court.

We call the attention of the court to the case of the *People* v. *Mahoney*, 18 Cal., 183, as being decisive of many of the objections raised in this case. A juror named Dundass was challenged for implied bias, which was the same thing as a challenge for favor. He testified as follows:

"I have resided in San Francisco since 1851; recollect reading in the newspapers about the defendant, and his being sent away by the vigilance committee; recollect hearing about defendant as a bad man, in connection with the vigilance committee of 1856; I have impressions upon my mind, derived from the newspapers and from hearing about defendant; it might require evidence to remove these impressions; these impressions are that defendant is a bad man; unless there was some evidence to remove them, I suppose these impressions would remain; I don't think these impressions would make any difference; I have now an impression that he must have been a bad man, or he would not have been sent off; I should think him more likely to be guilty of a crime than a man against whom I had not heard these things; I am not conscious of any prejudice against the defendant, or any bias which would prevent me from giving him a fair trial; I should endeavor to be governed by the evidence."

* * * * *

The court says: "There was no error in the refusal to reject the juror Dundass for implied bias."

Complaint is also made that the court refused, although at the time no objection was made to it by the representa-

tive for the state, to permit the following question to be asked of the jurors:

"Suppose it should appear in evidence that the meeting held at the Haymarket square was a meeting called by socialists or anarchists, and was attended by them and others; suppose that it should further appear that the bomb which is alleged to have produced the death of Mr. Degan was thrown by some one in sympathy with the socialists or anarchists; now, I will ask you, provided it was not established beyond all reasonable doubt that these defendants actually threw the bomb, or that they aided, participated in or advised the commission of that wrong, would the fact that they were socialists or communists have any influence upon your mind in determining their innocence?"

We submit that if the court had permitted this question to be asked it would have been grossly erroneous. The case itself is one depending largely upon circumstantial evidence. In passing upon the question of the guilt or the innocence of the defendants, the jury had the right to take into consideration the fact that they were socialists. Suppose that one of the defendants had been a Quaker, who all his life had been preaching peaceable methods, opposed to force of every sort and kind, would not the jury have been justified in taking that into consideration in determining the question of his guilt or innocence of an act involving the use of force and the taking of life? Inasmuch as the fact that the defendants were anarchists and socialists was a fact which the jury had the right to consider in arriving at their conclusion, the counsel for the defense had no right to pledge the jurors upon oath beforehand that they would not take that fact into consideration. If any other rule should be adopted in any case depending upon circumstantial evidence, counsel representing the prisoners could succeed in procuring a jury pledge under oath to pay no attention to any one of the chain of circum-

stances which constituted the proof. We submit that upon the examination of a juror no question is competent which requires him to make a pledge as to what he will do or will not do, or as to what weight he will give or will not give to any circumstances which may be introduced in evidence, and which has a bearing upon the question of guilt or innocence. The juror should be left free to consider the whole evidence, and be left to give whatever weight, after hearing all of the evidence, he thinks should be given to any particular fact appearing.

(3.) What is an Impartial Jury?

What is an *impartial* jury? Defendants could hardly expect to be tried by anarchists. Impartiality does not mean ignorance, want of information, failure to read the public press, or imbecility.

"Stupidity and impartiality are not synonymous terms. A jury of imbeciles might be impartial, but that does not answer the requirement. The impartial jury of the constitution means a jury of intelligent men, capable of weighing and judging of the evidence in a calm, unbiased manner, and with intellectual capacity and judgment sufficient to arrive at a just conclusion. It is as much a violation of the intent and spirit of the constitution to try a defendant before a jury incapable of weighing and judging of the evidence properly as to try him before a jury that had agreed before hearing the evidence to convict. *The impartial jury that the constitution requires is a jury of intelligence.* If the stratum of ignorance and imbecility is to furnish the guardians of our dearest rights and liberties; if intelligence is to be excluded from the jury-box in order to defeat justice and to protect crime, then indeed have we squandered our inheritance and failed properly to administer the trust of the fathers." (C. L. M. & Rep., Vol. VIII, No. 5.)

We claim that the jury selected in their qualifications comply with the requirements suggested by the decisions of this state, and that an analysis of such decisions upon the broad ground of *general principle*, and not from the standpoint of some isolated dicta applicable to the particular case, will confirm our premises.

In *Baxter* v. *The People*, 3 Gil., 376, decided in 1846, this court say:

"Although the books are full of cases deciding what shall and what shall not disqualify a juror, yet the task of laying down a rule so clear and distinct as to leave no difficulty in its application in practice is so difficult that it has never yet been accomplished. The difficulty consists in describing that condition of mind which the courts have considered requisite to make an impartial juror, so that it might be comprehended by all. * * * Hence the variety of modes adopted by different courts in laying down the rule which should govern in determining the question. All seem to agree that to disqualify a juror, he should have something more than a vague and indefinite impression, not founded upon facts acknowledged in his own mind to be true, and yet that it is not necessary that he should have so far prejudged the case that his mind is not still open to conviction. * * * If the juror is already able to respond to the question, if put to him, so as to satisfy his own conscience, 'Is the prisoner guilty or is he innocent?' then he is incompetent; but if, from not being convinced of the existence or non-existence of certain facts, he is unable to determine that question, then he is competent."

In the above case, the juror, Leper, said that he had formed and expressed an opinion, from reports, a part of which he believed; and, when further examined, he said that the opinion which he formed was on the hypothesis that the rumors were true, only a part of which he believed. Therefrom the court concluded "that he had no "opinion whether the rumors which he had heard were

"true or false, and that the opinion which he had formed "was not of a definite and fixed character."

The Supreme court decided juror Leper competent in that case, and affirmed the decisions preceding it in the Supreme court of this state.

It will not be amiss, in view of the circumstances of the case at bar, to quote from the decision in *Baxter* v. *The People* further, as illustrative of what we have heretofore said in regard to the difference of individuals in either forming or expressing an opinion. Judge CATON says as follows:

"Hence, it is not uncommon to observe, during the examination of the counsel on either side, the most palpable contradictions in the expressions used by jurors in giving the extent of their opinions, and that, too, by men of intelligence and integrity. It often happens that a juror may suppose that his belief in the existence of a certain fact will constitute an opinion, when, in truth, it may be necessary to establish a great many other facts before the guilt or innocence of the party could be established. A man may be charged with murder, and the juror may have no doubt that the man alleged to be murdered was killed, and that the accused killed him, and yet have no sort of an idea whether the homicide was justifiable, excusable or felonious. No one will pretend that such a juror has an opinion of the guilt or innocece of the accused. If such opinions were to disqualify jurors, it would in very many, if not in a majority of instances, be utterly impossible to get a jury in these cases; yet it is not uncommon for jurors, whose belief even extends no further than this, to answer in the first instance that they have an opinion."

The first well-considered opinion by the Supreme court of this state upon the qualifications of jurors may be found in the case of *Smith* v. *Eames*, 3 Scam., 76, decided in 1841, wherein juror Taggert said that he had formed *and expressed* an opinion in relation to the right of the

plaintiff to recover, but that such opinion was based upon rumor and not derived from any knowledge of the facts. Taggert further said that he still entertained the opinion as to which party ought to succeed in the matter, *if what he had heard was true*. Numerous common-law decisions were quoted in the opinion.

The court say:

"We have carefully examined all the cases referred to with a desire to arrive at some rule which shall be suited to our condition, which can be practically enforced, and which shall do no violence to the right of every person to a fair and impartial trial by jury. There is not a perfect coincidence of views in the several cases referred to, nor entire harmony of opinion. The old rule was, that the more a person knew of the facts, of his own knowledge, the better qualified was he to perform the functions of a juror. The doctrine now is in England, that if a juror has declared that the prisoner was guilty, or will be hanged, or the like, if made out of ill-will to him, it is a good cause of challenge; but if it was made from personal knowledge of the facts in the cause it is not ground of challenge. * * * If, without any qualification whatever, a juror says the defendant is guilty, or the like, or that the plaintiff ought to recover in the action, or that the verdict ought to be against the plaintiff, he would be disqualified, as not standing impartial between the parties. If, on the contrary, a juror says that he has no prejudice or bias of any kind for or against either of the parties; that he has heard rumors in relation to the case, but has no personal knowledge of the facts, and from the rumors has formed and expressed an opinion in a particular way, if they are true, without expressing any belief in the truth, we should think he would not be disqualified.

"By hearing reports of a case, not from the witnesses, nor from the parties, but from common fame, and making up an opinion on them, the juror has not prejudged the case, unless the case should turn out to be precisely as the rumors were—a thing very improbable; he has judged only of rumors, varying in their hue and color as they circulate through the country. The human mind is so

constituted that it is almost impossible, on hearing a report freely circulated in a country or neighborhood, to prevent it from coming to some conclusion on the subject, and this will always be the case while the human mind continues to be susceptible of impressions. If such impressions become fixed and ripen into decided opinions, they will influence a man's conduct and will create, necessarily, a prejudice for or against the party towards whom they are directed, and would disqualify him as a juror.

"Opinions are formed in different ways. With some their preconceived prejudices are their opinions; with others, a current rumor fixes the belief; with another class, the most idle gossiping is received as truth itself; while others hesitate long and demand testimony before they will assent or dissent. Taking mankind as we find them, it may not be unreasonable to believe that by far the greater part come to no certain conclusion on a statement of facts until they have evidence of their existence, though they may have impressions in regard to them, which, if not carefully examined, might seem to be fixed opinions, and, when called on, it would be so stated. A distinction must be made between such impressions and opinions, and in this consists the rule."

In deciding the above case, Judge Breese refers to the juror Hamilton Morrison, called in the famous Burr trial. Said juror in that case said that he had frequently declared that if the allegations against the prisoner were true, he was guilty. Judge Marshall accepted such juror as an impartial juror.

Juror Taggert, in the foregoing case, was declared by this Supreme court to be competent.

In *Gardner* v. *The People*, 3 Scam., 83, three jurors, respectively, said that they had formed *and expressed* opinions, from report, as to the guilt or innocence of the prisoner. They still had an opinion that the report was true. The court simply affirms what it had already said in *Smith* v. *Eames*, above—held the jurors competent and affirmed the decision of the court below.

his answer that he had formed a decided or positive opinion that Silas Gray committed the crime, so that should the evidence show that the prisoner was Silas Gray, then the juror had a decided opinion as to his guilt.

Even in the light of the common-law rulings, and a careful consideration of what this court has said in *C. & A. R. R. Co.* v. *Adler*, 56 Ill., 344, and *Winnesheik Ins. Co.* v. *Schueller*, 60 Ill., 465, there is no objection to any one of the jurors selected in this case.

In decisions rendered by this court before the act of 1874, the jurors in the case at bar were competent.

Thompson v. *People*, 24 Ill., 60.
Collins v. *People*, 48 Ill., 145.
Leach v. *People*, 53 Ill., 311.

The examination of the jury in *Leach* v. *The People* appears very fully. A comparison of the questions and answers in the examination of the jury in that case with the questions and answers in the case at bar discloses the fact that if there is any significance in the words "fixed opinion," the jury in the case at bar is less subject to that criticism than in the foregoing case.

In case *Collins* v. *The People*, 48 Ill., 146, cited by defense, a number of the jurors stated that they had heard the circumstances of the difficulty; that they believed the statements, and upon these statements had fixed opinions as to the merits of the case such as would require evidence to remove or change. This court held that the challenges for cause as to said jurors should have been allowed; and properly so, because such jurors said that they had *fixed* opinions.

Our Supreme court, recognizing the necessity of a

change in the jury law, in *Albright* v. *Walker*, 73 Ill., 69, said:

"It is a familiar principle that juries must be free from all exception. There have been invasions upon this old maxim of the common law by the legislation of some states, among them our own, as will be seen by reference to Section 14 of Chapter 78, Revised Statutes (1874). This change of the law was rendered necessary for the due administration of criminal justice and demanded by its exigencies, and will, no doubt, work well in practice."

The court, in that case, held juror Carpenter competent, and Steckel incompetent. It was very evident that both under the act of 1874 and under the common-law decisions prior to that date, that Steckel was incompetent.

In the case of *Plummer* v. *The People*, 74 Ill., 261, cited by counsel for the defense, the court quotes with approval the provision of the statute above, and declares juror Sullivan competent and Broubaker incompetent. The last-named juror did not say he could sit as an impartial juror and determine the case upon the evidence alone; whereas the juror Sullivan says he does not think that any unfavorable opinion that he has would prevent his rendering a fair and impartial verdict.

In *Lycoming Ins. Co.* v. *Ward*, 90 Ill., 545, defendant challenged five persons for cause. The challenges were respectively overruled, and exception by defendant. The ground of challenge was that these five men were on the regular panel and that they had heard a part of the evidence in a similar case between the same parties. Judge CRAIG says: "If they had any opinion whatever from "what they had heard during the trial of the other case, "it was merely hypothetical and would not prevent a fair "and impartial judgment of the facts as they might be

" proven on the trial." The judgment in said case was affirmed, and the suggestions of the court there go much further than we claim for here, because it does not appear anywhere that any juror selected to try this case knew anything whatever about the facts involved, except that derived from rumor, and each one of the twelve selected as well as the twenty-six complained of stated that he could decide the case fairly and impartially upon the facts presented in court, and upon them alone.

Robinson v. *Randolph*, 82 Ill., 521.

In *Wilson* v. *The People*, 94 Ill., 299, juror Gray, to whom objection was made, said: "I have read news-" paper accounts of the commission of the crime with " which the defendant is charged, and have also conversed " with several persons in regard to it since coming to " Carthage, and during my attendance upon this term of " court; don't know whether they are witnesses in the " case or not; don't know who the witnesses in the case " are; from accounts I have read and from conversations " I have had, I have formed an opinion in the case; would " have an opinion in the case now if the facts should turn " out as I have heard them, *and I think it would take some* " *evidence to remove that opinion.* Would be governed by " the evidence in the case, and can give the defendant a " fair and impartial trial, according to the law and the " evidence."

If the announcement of the Supreme court upon the examination of this juror has any significance or weight, the question at issue here in regard to the jury impaneling is settled.

The court say:

"We think the objection to Gray's competency is

clearly removed by the statute, *if, indeed, he would have been incompetent otherwise.*"

Richmond v. *Roberts*, 98 Ill., 476.
Gradle v. *Hoffman*, 105 Ill., 147.
Hughes v. *The People*, 116 Ill., 339.
Carrow v. *The People*, 113 Ill., 550.

In *C. & W. I. R. R. Co.* v. *Bingenheimer*, Justice SCOTT, for the court, in sustaining the rulings of the lower court upon the competency of the jurors, said:

"The juror distinctly said he did not know as there "was any reason why he could not try this case fairly "and impartially. It is true he did state, if he had any "sympathy it would be with the 'young man that lost his "limb,' and that he 'would have no sympathy for the "railroad.' That is simply an expression of kindly feel- "ing common to all good people, and certainly the posses- "sion of so kindly a spirit would not disqualify a citizen, "otherwise competent, from acting in the capacity of a "juror. Notwithstanding any sympathy he might have, "he stated he would not violate his 'oath under any cir- "cumstances,' and when asked whether he would "'endeavor to do justice between the parties,' he answered "without hesitation that he would. The juror was com- "petent, and there was not the slightest ground for sus- "taining the challenge as to him for cause."

Portions of the examination of the twenty-six jurors mentioned in plaintiff's brief.

We wish briefly to bring the attention of the court to some of the inaccuracies of statement in the defendants' brief, in reference to the examination of the twenty-six complained of.

Frank Jacobson (A, 312), whose business was that of a watchmaker, has resided in the city of Chicago twenty-five years. Had read the accounts of the Haymarket tragedy in some of the newspapers; said further that although he was prejudiced against the *class* known as communists, anarchists and socialists, believed that he could try the defendants fairly and impartially upon the testimony produced in court, and render a fair and impartial verdict; believed that justice was such that a man ought to be tried only upon the evidence.

The only possible objection to this juror consists in the fact, as appears from the brief, and also the record, that he expressed for the first time, upon his examination, the opinion that he believed the accounts which he read to be true; counsel contending that if a juror upon his examination for the first time expresses his opinion about the truth of the rumor or newspaper statements, he is disqualified.

John Johnson (B, 155):

Born in Sweden; in the tobacco business; lived eighteen years in Chicago. Believes only to a certain extent what he reads in newspapers; says that he could listen to the testimony and the charge of the court, and return an impartial verdict in the case. To a certain extent he is

prejudiced against the classes known as socialists, anarchists and communists; is acquainted with none of the defendants. Know none of the policemen who were at the Haymarket meeting. Acquainted with two or three policemen; none of whom had he seen since the Haymarket meeting. His opinion is not very strong, and can be removed by evidence, and such opinion will not prevent him from rendering an impartial verdict in the case. The court refused to allow this juror to answer the question as to whether or not it would require strong evidence to remove his opinion. This question was manifestly objectionable. It allows the juror to say, in the first instance, before any testimony whatever is produced, whether or not such testimony is strong. It allows him to determine what is strong and what is not strong testimony. The question was misleading, and in no way, if answered, could it throw any light upon the juror's competency.

CHAS. H. HILL (B, 187):

Is a printer, residing in Chicago for the last eight years; born in the State of Illinois. Has expressed no opinion as to the innocence or guilt of the defendants; could try the case impartially, regardless of opinion; could act solely upon the evidence; and has had, in reference to the Haymarket tragedy, casual conversations; has a prejudice against anarchists.

Counsel for defendants complained of the answer to one question propounded to this witness. Two questions, taken together, and the answers thereto respectively, read as follows:

"Q. Do you believe that, notwithstanding your present condition of mind and opinions, you can listen to the testimony of witnesses sworn in this case, and the charge by the court, and render an impartial verdict in the case?

"A. Yes, sir.
"Q. You have no opinions, biases or prejudices which would require testimony to overcome?
"A. Yes, sir, I have."

W. H. Upham (A, 6):

He is in the tannery business; *did not state that he had expressed an opinion about the truth of the rumor or newspaper statement which he had read and heard.*

Has no prejudice whatever against the defendants which would influence his verdict; could render a verdict absolutely upon the evidence and law. Could not state positively that he ever had expressed any opinion about the innocence or guilt of the defendants, although he thought he did in regard to some of them.

E. F. Shedd (A, 291):

Lives at Ravenswood, in Cook county, Illinois, and is a clerk in a wholesale coffee and tea concern; resided in Cook county since 1870. Formed an opinion, from reading the newspapers, about the Haymarket massacre. Says he thinks that he could render a fair and impartial verdict upon the evidence produced in court under the instructions of the court, notwithstanding the opinion which he had already formed.

A. F. Bradley (A, 198):

Resided in the city of Chicago twenty years; is a painter by trade. Talked with people that he supposed were at the Haymarket meeting, but none of the facts and circumstances occurring there were detailed to him; have had no conversation with any of the members of the police force or the detective force in regard to the matter. Such conversations as he had were casual and not of an inquiring nature; had formed no opinion as to the guilt or innocence

of the defendants. Has no prejudice against socialists, communists and anarchists; prejudice is strong against their conduct; has no prejudice against secret organizations, nor against trades unions or labor unions, and if he were to sit as a juror in this case the fact that they were socialists, communists or anarchists would not bias his judgment in determining their guilt or innocence; he is sure of that; and believes that he could fairly and impar tially determine the guilt or innocence of the defendants by the evidence under the instructions of the court, and nothing else. Said he would try this case as he would any other case; does not believe that a man is guilty because he is charged with a crime, and is no more prejudiced against the defendants than any other men charged with crime.

The challenge for cause appears interposed on page 303, which being overruled, the defendants' counsel proceeded further to examine the juror. His answers altogether pronounce him a qualified juror. The challenge for cause was not again interposed, but he was challenged peremptorily by defendants at the close of the examination, as appears on page 206.

WILLIAM NEIL (C, 50):

Is a manufacturer of oil tanks; resided in Cook county about eight years; believes some of the accounts which he reads of matters in newspapers. Believed enough to form an opinion as to the Haymarket matter, but his opinion is not strong; is prejudiced against none of the defendants. Has expressed such opinion as he has. Believes that he could entirely lay aside the opinion he has and dismiss entirely from his mind the impression that he has formed from reading or hearing, and does not believe

that the opinion which he has formed would, in any way, influence his verdict. Believes that he could determine the guilt or innocence of each or every one of the defendants upon evidence presented in court solely, without being influenced in any manner or shape by what he has read or heard, or the opinion that he has. Says he could give a fair verdict on the evidence that he would hear; has no ill-will or ill-feeling against any of the defendants on account of what he has read or heard about the transactions at the Haymarket on the night of May 4th. Could fully and impartially make up his mind as to the guilt or innocence from the proof under the charge of the court; would not find any man guilty of a crime until he believed from the evidence that he was guilty beyond all reasonable doubt, and knows that he is not to convict a man unless he is proven to be guilty in court on trial, by evidence so satisfactory that the jurors have no reasonable doubt about his guilt, and that the evidence must be clear, whatever prejudice or feeling the jurors may have about the crime.

James S. Oakley (C, 91):

Lived twenty years in Cook county; is a manufacturer of leather; has read and heard of the Haymarket difficulty and has expressed an opinion. Says that he believes that he could determine the guilt or innocence of each and every one of the defendants upon the proof presented to him in court solely, and under the instructions of the court, without being influenced by what he has heard or read, or the opinion that he has. Says if the evidence was insufficient would not convict; and would not convict any defendant unless he was satisfied by the evidence that he was guilty beyond all reasonable doubt; and would not call

upon his opinion, or allow himself to be influenced by it; don't think he has ever seen any of the defendants before. Believes that if he was selected as a juror, could determine the guilt or innocence of the defendant solely upon what was presented here in court, regardless of what he had heard or read, and without being influenced by what he had read or heard, and knows that no man should be convicted of any offense until he is proven guilty beyond a reasonable doubt; is conscious of no feeling which would have any tendency to interfere with the desire on his part to learn from evidence, and from that alone, the absolute truth about what had happened; talked with no one who knew anything about the Haymarket matter; if the evidence was insufficient, would acquit.

H. F. CHANDLER (C, 149):

Is in the stationery business; resides in Chicago; had an opinion, based upon newspaper statements, as to the guilt or innocence of the defendants, which he has expressed; has never expressed any opinion as to the truth of the rumor or newspaper statements, and believes that he could determine the guilt or innocence of each and every one of the defendants solely and exclusively upon the evidence presented in court, without being influenced by what he had heard or the opinion that he has. He is not opposed to labor organizations, like the Knights of Labor; has no acquaintance with any member of the police force of the city of Chicago; has talked with no one who was present at the Haymarket meeting, so far as he knows; knows only of the matter through casual newspaper reading, and has not had very freqent conversations on the subject.

Mr. Chandler's examination was further resumed on page 209:

Has no personal acquaintance with any of the defendants; don't know as he ever saw any of them before. Thinks he has some feeling against the defendants on account of what he has read about the Haymarket meeting; knows that no man shall be convicted of any offense, unless the evidence on his trial satisfies the jury beyond a reasonable doubt of his guilt; and believes that he could sit as a juror and determine the truth about any charge affecting them, solely from the evidence that he may hear in court. Talked with some one, whose name he cannot recall, who professed to have a personal knowledge or acquaintance with some of the defendants, but such conversation was not in reference to the charge which is now under investigation. Never expressed an opinion as to the truth of the rumor or newspaper statements.

A. L. KETCHUM (C, 131):

Is in the drug business in Chicago with Peter Van Schaack & Sons; had read about the Haymarket difficulty; formed an opinion; has expressed it. Thinks he could determine the guilt or innocence of every one and each of the defendants exclusively and solely upon the evidence presented in court, and would not allow himself to be influenced by what he had heard or read, or the opinion he has, in arriving at a verdict. Thinks he could render a fair and impartial verdict.

The following questions and answers appear in this examination:

"Q. Supposing this state of facts: That the prosecution will produce their testimony here in court; after resting their case we would not introduce any evidence; if the evidence presented by the state did not satisfy you beyond a reasonable doubt that some one or more of these defendants are guilty of the crime of which they are

charged, would you then be influenced by the opinion you have? Would you draw upon the facts stored up in your mind when you drew the conclusion?

" A. *I would be governed by the evidence in the case.*

" Q. You think that you could lay aside entirely the opinion you now have?

" A. Yes, sir."

Would not be influenced by any previous opinion to help out the insufficiency of the evidence; is not prejudiced against socialists, anarchists and communists, and is not opposed to labor organizations, and has no acquaintance with any member of the police force; talked with no one who undertook to narrate to him the facts in the case.

The further examination of this juror was resumed on page 179, where he said that he had formed a pretty decided opinion. He says, further, that the opinion is not firmly fixed in his mind.

E. F. SWAN (C, 195):

He is a broker; was born in the State of Connecticut and has resided twenty-five years in the city of Chicago. Formed an opinion and has occasionally expressed it. Believes that he would be governed solely by the evidence in the case; thinks he would be able to dismiss from his mind the impression that he has, and could determine the guilt or innocence of the defendants solely upon the facts presented in court, and entirely lay aside what he has heard or read about the case heretofore. He has a prejudice against the class known as socialists, communists and anarchists, and their views, as he understands them, but is not prejudiced against any individual who professes the doctrine of socialism, communism or anarchism, and is not opposed to labor organizations or trade unions if conducted within the law, and is not opposed to the Knights

of Labor as expounded by their chief, Mr. Powderly; thinks his ideas are good. Has no personal acquaintance with any of the defendants; never saw any of them before; has no feeling against either one of them. Believes that he could listen to the evidence on both sides that may be presented on the trial and from that evidence alone make up his mind fairly and impartially as to what the real truth about the connection of the defendants with the Haymarket meeting was, and without any reference to what he had heard about it heretofore, or what he had read about it, or what he may feel about it.

EDWARD KNAUER (C, 103):

Is in the real estate business in Chicago; resided in Chicago since 1849; was born in Germany; had formed an opinion of the guilt or innocence of the defendants from what he had read, and had expressed it. Says it is a pretty strong opinion, but believes he could determine the innocence or guilt of every one of the defendants solely and exclusively upon the proof presented to him in court, without being influenced in any way by what he had heard or read, or the opinion that he has. Whereupon juror Knauer was challenged for cause. He was further interrogated. Has no personal acquaintance with any of the defendants; don't know as he had ever seen any of them before; has no ill-feeling against any of them, except such as may have grown out of the reports which he had read or heard. Would "go by the evidence" in determining the question of the guilt or innocence of the defendants. Says he believes he can arrive at a fair and impartial verdict from the evidence. Would endeavor to be influenced only by the evidence. Knows that no man should be convicted of any offense unless the evi-

dence in court clearly proves him to be guilty beyond all reasonable doubt. Believes that if he was taken as a juror he would acquit each of these defendants against whom there was not sufficient evidence, and believes further that he would not convict unless the evidence established in his mind the truth of the charge beyond all reasonable doubt. Says he is in favor of socialists, but is against anarchism; has studied the doctrine of socialism some. On page 105 this question and answer appear: "Q. Do you believe that you could, if you were to sit here "as a juror, make up your mind as to what happened only "from the evidence that may be put in here and in mak- "ing up your mind consider only that evidence and not "consider any opinion that you have had before? A. Of "course I would just go by the evidence that I would "hear now; but it might influence me some."

Counsel in their brief make this witness say that his opinion *would* influence him some.

The challenge for cause was interposed and overruled on page 104.

The further examination by the court and by the defendants' counsel appears through page 109, where juror Knauer was excused peremptorily by defendants, no challenge for cause being again interposed.

F. I. Wilson (C, 284):

Resides in Chicago; manufacturer of galvanized iron, etc.; had read about the Haymarket matter; formed an opinion.

This question was put: "Q. That opinion is as to "the guilt or innocence of some one or more of these de- "fendants? A. Not necessarily these men. I think "*somebody* is guilty."

To a certain extent he believes what the newspapers say; says that he has some opinion as to the moral responsibility of the defendants; thinks that his opinion might influence his judgment.

A challenge for cause was interposed, whereupon he was examined by the court and prosecution as follows:

Knows that his sworn duty as a juror is to determine the guilt or innocence of the defendants, from the proof presented in court, and thinks that he might determine their guilt or innocence upon the proof regardless of his opinion, and regardless of any prejudice, or any reading. Never saw any of the defendants before. Knows that no man is to be convicted of any offense for which he is charged unless the evidence, upon his trial in court, proved to the satisfaction of the jury beyond a reasonable doubt that he is guilty. Recognizes that duty and that rule. Has no feeling against any one of the defendants, and no feeling or prejudice except what grows out of his reading. Is only conscious of a wish or a desire, or a hope, that whoever is guilty may be punished, not necessarily these men, and is conscious of no wish that the testimony or the evidence may be against the defendants, and is not conscious of a desire that the proof presented in this case shall show that some one of these men is guilty; is only conscious of a desire to know or ascertain the actual truth from the testimony.

John Connolly (C, 338):

Lives in Chicago; clerk in book publisher's establishment; formed some opinion from what he read. Entertains a personal opinion; his opinion depends upon whether these defendants are responsible for the act; has an opinion that the defendants are responsible; might change his

be determined absolutely from the proof presented in court; that he cannot be tried or acquitted upon newspaper reports. Knows nothing about whether the accounts which he has read are true or not; would try to determine the guilt or innocence of the defendants solely upon the proof presented to him in court, and says he thinks and believes that he could fairly and impartially try the case and determine the guilt or innocence upon the proof presented. Has no acquaintance with any of the defendants. Never saw any of them before. Has no ill-feeling against any of them, and has no feeling except such as grows out of what he has read or heard about the Haymarket matter. No conversation with anybody who was at the Haymarket meeting. All he knows about socialists, communists and anarchists is what he read in the newspapers, and from such reading has a prejudice. Never has investigated and don't know what they really are; don't know as there is any prejudice in his mind which would affect his judgment; knows of no reason that would prevent him from rendering an unbiased verdict in the case, but that he has a prejudice against anything of that kind.

This juror, as were many others, was confused by confounding the expression of his opinion with the expression of an opinion about the truth of the rumor or the newspaper statements. It is clear, however, from all his examinations, that the narration of facts that the rumor or the newspaper statements he expressed no opinion as to the truth of.

H. N. Smith (D, 311) lives in Cook county; is in the retail hardware business; was born in Chicago, and is twenty-eight years of age; has formed and expressed an opinion. Does not think it would prevent him from ren-

dering an impartial verdict in the case. He said further, upon Mr. Foster's adroit examination, that he did not think he could render a fair and impartial verdict, and then said that he did not like to say that he would be partial after listening to the testimony and the charge of the court, further declaring that he should render a verdict according to the testimony, if it was a possible thing.

After a challenge for cause was interposed, he stated further: That if he was taken and sworn as a juror in this case to try the same upon the proof presented in court that *he believed he could determine the guilt or innocence of the defendants upon that proof alone, regardless of what he had read or heard, or his opinion.* Says that he knows that the defendants placed upon trial are entitled to be heard and tried upon the proof presented in court; that they are to be judged by the evidence; knows that it is the duty of the jury to hear the proof, and from it determine whether they are innocent or guilty, and he thinks that he could do that; that he has no personal acquaintance with any of the defendants; never saw any of them before to his knowledge. Has no feeling against them except what he has heard from newspapers. Has talked with some one who was at the Haymarket at the time of the excitement, but had no conversation in regard to any one of these eight defendants; no name of any man was mentioned.

Isaac W. Pinkham (D, 339) is the agent of a coffee house; was born in the State of Maine, and has been west over two years; has formed an opinion and had expressed it; has talked with no one who was at the Haymarket meeting; read about it in the Chicago papers. Thinks that, notwithstanding his opinion, he could listen

to the testimony and charge of the court and render an impartial verdict:

"Q. You know your own mind well enough to believe that, upon the testimony in court, you can determine whether these defendants, or any of them, were proved to be guilty beyond a reasonable doubt; and if they were not so, you could return them not guilty, notwithstanding all you have ever heard or read—all impressions or opinions that you have formed?

"A. I think I could. I think I could change my opinion if I saw any necessity for it."

That the evidence would have to show that I was in error before my opinion would be changed. I do not think that my present opinion would prejudice me. Does not think it would make any difference with his credence in the testimony, that it concurred with his views or the opinion that he had expressed. I talked with no one who knew anything about the facts. From all sources, from prejudice against socialism, in determining the guilt or innocence of the defendants, he would try not to be biased. Believes that he could weigh the evidence. Said that if he were taken and sworn as a juror in this case to try the same upon the proof presented to him here in court, that he believes that he could determine the guilt or innocence of the defendants upon the proof presented to him before the court alone, and under the instructions of the court, regardless of his opinion or what he has read or heard.

Leonard Gould (E, 477) is a wholesale merchant; has read of the Haymarket massacre; held considerable conversations about it; thinks he has formed an opinion as to the question of guilt or innocence of some of the defendants; thinks he could listen to the evidence; does not think it would be hard to be persuaded by it.

He said on his examination by the defense that he did not believe that he could, irrespective of prejudice and that opinion and all conclusions, be governed by the testimony alone.

He was challenged for cause, whereupon, in the examination by the state, he said that he knew that a defendant placed upon trial is entitled to be tried upon the proof presented in court; that that is the only fair way, and that he knows that that is the duty of a juror, and says he thinks he could weigh the evidence impartially. Afraid that he could not do the case justice; if he was to sit on the case he would give his undivided attention to the evidence and calculate to be governed by it. Believes that he could. Believes that he could render a verdict based upon the testimony presented in court alone.

On the further examination by Mr. Foster he says if he were to sit on a jury he should calculate to be governed by the testimony. He says that he could render a verdict in accordance with the law and the evidence.

This juror again, as did many others, evinced some confusion between the expression of an opinion and the expression of an opinion about the truth of the rumor or newspaper statements; but we submit that he was qualified under the statute, so far as that matter is concerned.

James H. Walker (F, 35) lives in Chicago, and is in the dry-goods business; firm of James H. Walker & Co.; has an opinion as to the innocence or guilt of the defendants; probably has expressed it; said if he was selected as a juror he should try to do his duty to the accused and to the state, and thinks that he could do it uninfluenced by the opinion which he has, like any intelligent man. Said that he was willing to admit that his opinion would handicap his judgment possibly, but felt that he could be

governed by the testimony, but he says he would expect to be governed by the testimony, and would try very hard to listen to the testimony and the proof introduced in court, and render a verdict uninfluenced, unprejudiced, and unaccompanied by his present opinion, and he believes he could do so. Thinks that he could go into the trial of this case and be governed by the testimony, instead of being influenced by his opinions. Knows something about the principles of socialism, communism and anarchism, and is prejudiced against them from what he has read; at least they don't predispose him toward them, and has prejudices against anything that is unlawful or seems to be unlawful; only has a prejudice against socialism, communism and anarchism so far as they go beyond the limits of the law. He said in this case, upon examination by the defendants, that if the testimony was evenly balanced between the state and the defense, that his present opinion might add to the weight of the testimony on the part of the state, whereupon he was challenged for cause, and the following examination was had, on the part of the state:

"Q. I have understood from all of your answers, and all of the inquiries that have been put to you that you could determine—that you could pass upon this case, upon the testimony presented here in court and the law as given to you by the court? A. That is what I feel, sir."

He said further that he certainly would be governed by the law, and that he would determine this case upon the law and evidence presented in court. He said that he knew that the law was that no man was to be convicted of any crime unless the evidence upon his trial proved his guilt beyond a reasonable doubt. Knows that no man is to be tried upon prior impressions or prior opinions of

the jurors. Believes that he could fairly and impartially render a verdict without any regard to rumor, in accordance with the law and the evidence in the case.

The answers of the juror Walker, taken in connection with his demeanor, his manner and his intelligence, demonstrate that his qualifications come within the provisions of the law.

W. D. ALLEN (C, 125), in the wholesale rubber business in Chicago. Formed an opinion, and expressed it to others. Thinks that he could determine the guilt or innocence of these defendants and each and every one of them solely and exclusively upon the proof presented to him in court, without being influenced by the opinion that he has. He said that he has a strong opinion against the defendants, whereupon he was challenged for cause. Further said that he could determine the guilt or innocence of the defendants upon the proof presented in court, regardless of his opinion. Has no personal acquaintance with either of the defendants; knows none of them; has no feeling against them, and if he was impaneled as a juror he believes that he would endeavor to get at the real truth by the evidence, without regard to any former opinion that he has or has had, or anything that he has read or heard; believes that he could fairly and impartially try the case only upon the evidence heard in court, under the instructions of the court. Is familiar with the rule of law that if there is no evidence which entirely satisfies a jury beyond a reasonable doubt of the guilt of the person charged with the offense, he must be acquitted. Believes that he could fairly and impartially apply this rule in this case, and unless the evidence which he heard here in court is of that character, that he could acquit these defendants.

WILLIAM CROWLEY (A, 141) lives in Lemont, in Cook county; was born in Cook county; is a farmer. Has been a laboring man and a farmer since he began to work for himself. Has an opinion derived from newspapers and rumors. Does not believe all he heard and read. Does not put implicit confidence in all that is said or printed. Has some prejudice and feeling against the class called communists; feeling is not so strong that he could not render a true verdict in this case under the evidence. Thinks his mind is free from any prejudice or bias which would prevent his rendering a verdict upon the testimony as it shall be introduced here by the witnesses on the stand. Has some acquaintances on the police force. Has had no conversation with any policeman since the Haymarket affair; did not know the deceased. Says he could give a fair verdict regardless of anything.

The only point made against juror Crowley appears to be that he was not permitted to answer the question appearing in brief of counsel for defendants at page 363. It occupies more than one-half of the page, and we submit it to the court for inspection. We contend that the question is objectionable as framed, and it being substantially a hypothetical question, counsel had no right to assume a part of the supposed facts in a case as the complete hypothesis. We insist, further, that it does not conform to the correct propositions of law applicable to this case.

T. H. DOWD (B, 99): No challenge for cause was interposed as to this juror; he was challenged peremptorily by counsel for defendants. His examination clearly announced his competency, as there was no prejudice and no opinion in any way which would interfere with his

ent at the Haymarket the night of the meeting; has talked with some policemen who were on duty that night; has had no conversation with any one that was injured, but has with some who were there. Don't know as he knows Degan. Says that he could lay aside his opinion absolutely, and determine the question without any bias.

This witness says, on the bottom of page 514 of the record, and following, that he does not remember of talking with any one who said anything about the defendants at that meeting. He says further, on page 517, that he does not remember of talking with but one who was present; does not remember that he mentioned the name of any individual. No part of the speeches was detailed to him; it was simply a narration of a few facts, namely: that the policemen marched down the street; that a bomb was thrown, and that some of the policemen were injured.

We submit that the italicized and emphasized remarks remarks of counsel on page 368 are unfair and partial; that the record will not bear out the same; that the most that appears from Anderson's testimony is that he was talking with somebody who professed to have been at the Haymarket and from such person obtained only the information that the police were there; that a bomb was thrown and some policemen were injured. It does not appear that he talked with any individual who was called as a witness, or who was a witness.

T. E. KEEFE, (D, 42) lives in Chicago; is a salesman in a grocery store; was born in Chicago twenty-five years ago; read about the Haymarket matter; had formed an opinion in the matter; has the opinion yet; says that he does not think that his opinion would influence him as a juror in the case; that he could listen to the testimony and

charge of the court and render an impartial verdict; is acquainted with some of the police officers; has talked with none of them about the Haymarket matter, and has heard no policeman say anything about the Haymarket massacre. He knew Officer Degan; only knows Degan from seeing him and meeting him on the street; his death had nothing to do with my forming an opinion in the matter. He has expressed his opinion.

From the examination of this juror it appears that the only question was whether the juror had expressed his opinion about the Haymarket massacre, or the guilt or innocence of the defendants, or had expressed an opinion about the truth of the rumor or the newspaper statements.

It is evident that the juror did not mean, although adroitly questioned by the counsel for defendants, that he had expressed an opinion about the truth of the rumor or newspaper statements.

M. D. Flavin (D, 411): We submit the examination of this juror to the consideration of the court. His answers evidently impressed the counsel for the defendants upon his examination that he was competent, as appears on page 418.

Rush Patterson (F, 56): Born in the State of New Jersey and has lived twelve years in the west; has been in the employ of Edson Keith & Co. for eleven years; resides in Chicago; had formed an opinion; had expressed it to others. The opinion is simply formed upon the reading of newspapers, and it is pretty deeply rooted. Says that he thinks that he could listen to the testimony from the witnesses upon the stand here in court and any other proofs that may be introduced on the trial, and

under the charge of the court, render a verdict upon that and that alone, uninfluenced, unaided, unassisted, unprejudiced and unaffected by his present opinion. Is prejudiced against the class known as socialists, communists and anarchists. Knows of no prejudice existing in this case that would prevent him from rendering an impartial verdict on the evidence in the case except such as he remarked about having the opinion formed from the newspaper reports and general conversations. Says that he would take the law from the court and determine the matter upon the evidence, and if the evidence did not show that the defendants were guilty beyond all reasonable doubt he could acquit them; that he would give give the defendants the benefit of the doubt; that his opinion would not come in for consideration at all in the trial of the case. He favors the formation of associations of laboring men for their protection, so long as they keep within the bounds of the law.

This juror said substantially, during his examination, that he had formed an opinion as to the guilt of some of the defendants; believes that he could determine the question of their guilt or innocence entirely upon the testimony. He said further that he could listen to the testimony that would be introduced and make up his opinion according to the facts; that he was not there to convict them on his opinion or his testimony. "*I am not here to "try them from my opinion at all; I don't mean that.*" He further stated that if the testimony was evenly balanced he was afraid that his opinion would influence his verdict against them.

A challenge for cause was interposed, whereupon said juror was further interrogated by the state, when he again said that if he did not believe the defendants, or some of them, were guilty from the facts and evidence

produced in court, beyond a reasonable doubt, he would acquit them. He said again that if the testimony was in fact evenly balanced, he certainly would have a reasonable doubt; that he would give the defendants the benefit of that doubt. He said further that the evidence must be of such a character as would make the defendants' guilt clear beyond a reasonable doubt or else he would acquit them; said he would take the law from the court, and the evidence from the witnesses, and he should give the benefit of the doubt to the defendants, and would acquit them unless they were proven to be guilty by the evidence beyond a reasonable doubt.

LEROY HANNAH (G, 165) lives in Hyde Park, county of Cook; live stock and commission business; lived in Cook county eight years; formerly resided in Livingston county, Illinois; formed an opinion from reading the newspapers; is not sure whether the defendants are guilty or not; I have formed no opinion upon the question of the guilt or innocence of the defendants. I have a prejudice against socialists, communists and anarchists; thinks his opinion might be biased.

He was challenged for cause, whereupon the state further interrogated and ascertained from him that he had formed no opinion as to the guilt or innocence of the defendants. Have formed an opinion as to the crime perpetrated, the nature and character of it. Says that he would try to determine from the proof alone the innocence or guilt of these defendants, regardless of what he had read or heard, and believes that he could do that. Never has seen either of these eight men before; no personal acquaintance with any of them; that the only opinion that he has is derived from the reading of the

newspapers, and talking with other people. I talked with one policeman, whose name he does not know, who was present, but the names of none of the defendants were mentioned; the talk of the policeman had no influence in arriving at his opinion, and he says further that he could weigh the evidence and decide on the evidence, and that alone, without reference to anything else. The policeman with whom he talked only gave him the information in a general way about the police marching down, and that a bomb was thrown into the crowd; made no mention of who made speeches, and mentioned no names.

We have not the time here to make analyses of the foregoing, or a comparison of the statements herein with that contained in the brief of counsel for the defendants. We simply say that, considering the fact that 981 men were called into the jury-box, that 757 were excused for cause, that the long and elaborate examination of these, as well as other jurors, equally determined us to the conclusion that the twenty-six above complained of were unobjectionable.

VII.

Other Matters Complained Of.

The Manner of Impaneling the Jury.

By the statutes (Chap. 78, Sec. 21) it is "Provided "that the jury shall be passed upon and accepted in pan- "els of four by the *parties, commencing with the plaint-* "*iff.*" This language is plain and has but one construction. The state, commencing, passes upon and accepts the jury in panels of four, twelve being in the jury-box. The four which the state "passes upon and accepts" are tendered to the other parties, who must pass upon these four and accept them or others in their place, and having accepted four which are different in part or in whole from those accepted by the state, then the state in turn reëxamines the defendants' tender of four. The state commences and the defense follows in the passing upon or accepting the three successive fours of the twelve.

The case of *Fitzpatrick et al.* v. *City of Joliet*, 87 Ill., 58, partially quoted by counsel, by the entire decision is in point for the state. Defendant in error in this case had first passed upon and accepted the jury, which was turned over to the objectors, the plaintiffs in error. The court say:

"We find that after the several objectors had been heard in their order, and had respectively made challenges of jurors whose places had been supplied by 'talesmen,' and before the panel was turned over to the city for examination, the court asked the several objectors if they desired to pass further upon the jurors presented, and stated that if the objectors were through, the jurors would be

turned over to the city for examination, and the objectors making no further objection to said jurors, they were accepted by the city."

The defendants in turn must tender back a panel of four before the state commences examination of the next panel of four.

Impeachment of Jurors by Affidavit.

It was attempted, on the motion for new trial, to attack the qualifications of jurors Denker and Adams by and through the affidavits of Morgan and Cull respectively. (Vol. O, 66.) Denker, accepted by defendants first, stated in his examination that he had an opinion in the premises and had expressed it, but believed he could fairly and impartially try the case and render a fair and impartial verdict on the evidence. He denies in his affidavit that he ever expressed the opinion attributed to him in Morgan's affidavit, or that he ever expressed to Morgan any opinion whatever. Cull made an affidavit in regard to Adams. His statements are denied by Adams.

A juror's affidavit will be received to sustain but not to attack a verdict. Any other rule in a case like this one would be an absolute subversion of justice.

Graham v. *Waterman*, N. Y., Vol. 3, pp. 1,450–1.
Hayne New Trial, 224.
Hughes v. *The People*, 116 Ill., 338.

In the *Hughes* case this court, after declaring that a juror's affidavit will be received to sustain his verdict, say that:

" Scarcely a criminal case comes to this court where the same objection to the competency of jurors is not taken,

founded on mere *ex parte* affidavits. Such affidavits are a most unsatisfactory mode of establishing any fact in a case. The parties making them are subject to no cross-examination—one of the most potent methods ever adopted to elicit truth, to detect falsehood. Besides that, a mere casual remark concerning any matter may be imperfectly understood or not accurately remembered. Many cogent reasons readily suggest themselves why the testimony as to such previously expressed opinions by persons called as jurors should be of a clear and satisfactory character, otherwise a verdict fully warranted by the evidence might have to be set aside and the ends of justice defeated."

The Number of Challenges.

It was insisted on the part of the defense that the state was entitled to only twenty peremptory challenges, the court below holding that the state was entitled to one hundred and sixty challenges, that both the state and the defendants stood alike under our statute. The section in question is as follows, R. S., Sec. 432, Chap. 38:

"Every person arraigned for any crime punishable with death or imprisonment in the penitentiary for life shall be admitted on his trial to a peremptory challenge of twenty jurors and no more; and any person arraigned for any offense that may be punishable by imprisonment for a term exceeding eighteen months shall be admitted to a peremptory challenge of ten jurors; and in all other criminal trials, the defendant shall be allowed a peremptory challenge of six jurors. *The attorney prosecuting on behalf of the people shall be admitted to a peremptory challenge of the same number of jurors that the accused is entitled to.*"

This section has been in operation since 1869. Prior to that time, if our examination is correct, from 1827 the state was entitled "to one-half of the number," etc.

Gates' Statutes, 1839, p. 232, Sec. 174.

R. S. 1845, p. 185, Sec. 184.

Laws of 1869, p. 362.
Laws of 1827, p. 162, Sec. 172.
R. S. 1833, p. 213, Sec. 174.

Then this section, so far as its construction is concerned, has been in operation about sixty years, and the Supreme court has never passed on the question, although during all that time the practice in Cook county and, from all the information we can obtain from the bar of the state, in every county in this state, has been agreeable to the ruling of Judge Gary in the case at bar. The relative position of the state and the accused to the trial, under the English common law, has been changed—revolutionized, and they stand alike before the court in this state.

The statutes pertinent and relevant to the respective decisions cited by counsel for defense are, each and all, manifestly and entirely different from our own.

It would be a strange thing if, after sixty years of uniform, unquestioned practice throughout this state, establishing a universal rule, without an exception so far as we can learn, that we should finally awake to the idea that in a case like the present one the state ought to furnish facilities to the defendants to "pack the jury."

But defendants are in no position to complain. No specific number of peremptory challenges was charged to any defendant. The eight defendants bunched, aggregated their challenges, no one making twenty, but all together making one hundred and sixty, so that each, in effect, had the benefit of the whole number. The accused had one hundred and sixty challenges. The state was entitled to the same number. If the English language has any meaning, or if universal custom has any force, there is no error in this assignment.

Conduct of the Special Bailiff.

Ryce was appointed special bailiff, on motion of defendants' counsel, under the statute, to serve the venire for the jury.

On the motion for a new trial, defendants filed the affidavit of E. A. Stevens, that he had heard Otis Favor say that Ryce had said, in his hearing, or to him, something about what kind or class of men he was summoning as jurors, and, based upon said affidavit, defendants made a motion to cause said Favor to appear in court on said motion, and testify as to what, if anything, Ryce had said to him.

Counsel refer, as pertinent to this question (viz: the power of the court to compel a witness to appear and testify on a motion of the character designated), to Secs. 1,469 and 1,472 of *Troubat & Haley's Practice.*

Upon the reading of these sections, it appears that they do not in any particular apply to the proposition announced by counsel.

Counsel also refer to *People* v. *Jameson*, 40 Ill., 93, which is not in point.

In the Jameson case there was a mandamus to compel Jameson, then Judge of the Superior court, to sign a bill of exceptions presented by relator. He declined to sign the bill of exceptions presented, but in his return said that he had signed a bill of exceptions which he approved. The Supreme court said that that ended the matter; that this court had no authority to compel a judge to sign any bill of exceptions except that which he approved. The

most that can be claimed in matter of compelling a judge to sign a bill of exceptions is that if the judge be in doubt as to what any witness has testified to, he might ask the witness to come before him and recite again the facts on the disputed point.

It does not strike us that the case is at all in point.

There is another objection to the position of counsel. The affidavit is too indefinite and too remote to base any motion upon whatever. It is hearsay, and is to the effect that Stevens heard Favor say that Ryce had said so and so.

Another significant feature of this motion and the affidavits upon which it is based, which stamps the whole proceeding with fraud and suspicion, is that it does not appear that Ryce made any declarations of the character attributed to him to any individual juror, or that he said anything whatever to any one of the twelve taken to try this case.

It is contended by counsel that the judge had power to issue a subpœna, based upon these indefinite and suspicious affidavits, to compel Favor to present himself in court and give testimony, the result of which might be the ascertaining of facts upon which to base an additional ground for a new trial; it not appearing in the motion, in any affidavit, or by any declaration, that any injury or prejudice resulted to the defendants, or any of them.

The court denied its power in the premises. The most that could be claimed on the part of the defendants' counsel was that the court should exercise his discretion in the premises. Upon the affidavits and the motion as made, the court exercised the proper discretion, in refusing to have anything to do with it, because no injury and no

prejudice had resulted from the alleged conduct of said bailiff against any defendant.

Counsel complain, as shown by their brief (page 391), of the following language attributed to Ryce: "I am "summoning as jurors such men as they will be com- "pelled to challenge peremptorily, and when they have "exhausted their peremptory challenges, they will have "such a jury as is satisfactory to the state."

There is nothing objectionable in this, if true, and it means simply that Ryce was endeavoring to summon intelligent and competent jurors, against whom no ground of objection, and no cause of challenge, could be laid. The statute says that he shall summon persons having "the qualifications of jurors," etc., and such qualifications are specified in section 2, chapter 78. Did counsel expect him to summon disqualified and incompetent jurors?

Motion for Separate Trial.

As to the claim that the court erred in refusing a separate trial, from the other defendants, to Spies, Schwab, Fielden, Neebe and Parsons, it is sufficient to say that the question is one resting entirely in the discretion of the trial court, and even if the discretion is not properly exercised, it is not error that can be complained of here. This has been explicitly held in

Maton v. *The People*, 15 Ill., 536.

Moreover, the motion must rest on the cause shown in the affidavits supporting it, and upon the affidavits presented in support of the motion in this case no sufficient cause was alleged, for the only ground named in the affidavits is the introduction of evidence which could have no effect upon them if the affidavits were true.

Remarks of State's Attorney.

Where the evidence of guilt is satisfactory, the judgment will not be reversed for mere improper remarks of counsel for the people, tending to prejudice the jury against the accused.

Wilson v. *People*, 94 Ill., 299.
Garrity v. *People*, 107 Ill., 163.

Conclusion.

In conclusion, we desire to say: The indictment in this case charges all the plaintiffs in error with the crime of murder, and is sufficiently broad in its averments to embrace the conclusions of guilt which might be drawn from any evidence that has been adduced in this case, and warrant a judgment thereon.

We maintain that the accused has each enjoyed the right to appear and defend in person and by counsel, to demand the nature and cause of the accusation and to have a copy thereof, to meet the witnesses face to face, and to have process to compel the attendance of witnesses in his behalf, and a speedy and public trial by an impartial jury of the county in which the offense is alleged to have been committed. We speak not outside of what the record discloses when we assert that the jury which tried this cause was one composed of men of superior in-

telligence and fully imbued with a proper sense of the grave responsibilities which rested upon them. They each and all filled the full measure of the general statutory qualifications.

It is true all of them could read and write, and by these acquirements had better fitted themselves for the duties of citizenship, including service as jurors in criminal causes, in the issues of which were involved the lives and liberties of their fellow men. In this day of the rapid and general diffusion of intelligence, it is impossible, from the very nature of things, that any considerable number of men of fair or even moderate mental capacity could be found in the county of Cook, who should not have heard something of and formed some opinions in regard to a matter occurring in their midst of so much public moment as the terrible crime for the perpetration of which these plaintiffs in error have been convicted. To demand, in such a case, that men shall be selected as jurors who have heard nothing of the occurrences, or, hearing of them, have too little capacity to remember what they have heard long enough to formulate an opinion therefrom, is to commit the operation of our entire jury system to ignorance alone and thus destroy its usefulness as part of our judicial machinery. The constitutional guaranty to the accused is "an impartial jury"; and we confidently maintain that a careful examination of the record in this case will fail to disclose a condition of mind on the part of any juror who tried the cause, indicating any malice or ill will toward any of the accused; or that any one of them had in any way so prejudged the cause that he could not impartially try the issue submitted to him, and render a verdict based on the evidence alone. Each of the jurors answered on

oath that he could so try the cause, and each of them solemnly swore that he would so try it; the trial court believed them so capable of so trying the cause, and when they had rendered their verdict believed they had so tried it and refused to set the verdict aside; the prosecution believed they would so try the cause, and that the accused so believed when the jury were accepted is evident from the record, which shows that all of the jurors were voluntarily accepted by the accused except the last one, and he was manifestly challenged for the sole purpose of saving an exception.

It was in the power of the accused to excuse any or all of said jurors, except the last one, and this power they did not choose to exercise. We insist that the accused have had the benefit of a trial by an impartial jury, as provided by the constitution of this state.

That the evidence sustains the verdict, we believe this court, after a careful examination of the record, will not entertain a reasonable doubt.

That the accused, through the medium of the conspiracy of which they were members, were accessories to the crime of the murder of Mathias J. Degan, accomplished by the explosion of a dynamite bomb, at the Haymarket meeting, we submit, the evidence convincingly shows. If they were guilty as accessories, under our law they are deemed to be principals, and are punishable as such; and the wisdom of this provision of the law, we submit, was never more manifest than in the present case.

The history of crime in this state shows no parallel in all its pages to the murderous act for which plaintiffs in error have been convicted; an act which, as the record shows, was wholly unprovoked and without the shadow of

justification, showing a heart utterly depraved and a wicked disregard of human life; an act resulting not only in the death of Mathias J. Degan, but also in the killing of six others and the maiming of still sixty other members of the police force of the city of Chicago.

We submit that the evidence justifies the verdict; that the record shows no material error, and that the judgment should be affirmed.

GEO. HUNT,
Attorney-General.
JULIUS S. GRINNELL
State's Att'y.
FRANCIS W. WALKER,
EDMUND FURTHMAN,
Assistant State's Att'ys.

GEO. C. INGHAM,
Of Counsel.

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