MR. COCKRAN'S ADDRESS.

Mr. Chairman, Ladies and Gentlemen:

I must begin by congratulating this great assemblage on having defined so clearly at the very outset of its proceedings the object it is seeking, the motive it is obeying, and the methods it is pursuing. Its object (as these resolutions show) is pursuit of justice, its motive gratification of patriotism; its method orderly, and therefore, effective invocation of the Federal Government to investigate a charge made by a high judicial officer during a trial for murder in the State of California which, if it be true, affects deeply the security of all the States in this Union.

Above all, you are to be congratulated on having made it perfectly clear by these resolutions that we are not here attempting to review in a mass meeting a decision of a judicial tribunal.

A TRAVESTY ON JUSTICE.

The conviction of Thomas Mooney as the result of proceedings which I believe were an absolute travesty of justice, is indeed the proximate cause of our assembling. But that conviction is now before the Supreme Court of California for review. I don't permit myself to doubt, and I don't think any one would be justified in doubting, that it will be considered by that higher tribunal in a spirit of absolute impartiality. And in my judgment impartial review of these proceedings can have no other result than reversal of the judgment. But that reversal it must take time to secure. The case of Thomas Mooney can be left to the deliberate processes of California courts with perfect confidence in the outcome, but the National Government cannot leave uninvestigated for a single day the imputation which his conviction casts upon American citizenship. (Applause.)

THE CHARGE AGAINST MOONEY.

The charge against Mooney, as it was stated by the District Attorney, is that so far back as January, 1916, a plot was formed by a great many persons whom he called anarchists, having this entire country for its theatre, to subvert our whole political system by assassinating President Wilson, Governor Johnson, and other important officials, State and Federal, and by obstructing all measures the Federal Government might undertake to place the country in a proper position of defence against injury from without, or from disturbance originating within. In pursuance of that nationwide conspiracy, according to the prosecutor, Mooney and several others—one of them his wife—exploded a bomb on the 22nd of July last, while a preparedness parade was in progress, not among those who led it, nor among those who marched in it, but among innocent women and children who were watching it from the sidewalk.

WHY THE FEDERAL GOVERNMENT SHOULD INVESTIGATE.

Now manifestly, if that charge be true, this country is confronted with a danger graver than that against which the President has called Congress to take measures of defense one week from tomorrow. (Applause.) And this danger is not local, affecting a single state. It is national, threatening all the states.

Immediate precautions to meet a danger so grave become the imperative and most pressing duty of the National Government. But the verdict of the jury against Mooney, while it holds the conspiracy charged by the District Attorney to exist, does not define this conspiracy, nor is any clue to its character afforded by the evidence taken on the trial. Obviously, then, the Federal Government must itself investigate the whole terrible transaction out of which this prosecution grew, so that it may take adequate measures for the safety of the whole country if a conspiracy so formidable really threatens it.

At this point, somebody undoubtedly will ask, what right has the Federal Government to review the proceedings of a State court on an indictment for murder, in a case admittedly within the jurisdiction of that court? And right here is where that objection should be met.

It is entirely true that the Federal Government has no power to review, through its jurisdiction. But the Federal Government has all power through all its departments, to take all measures necessary to establish the safety of this country,—its soil, its people, its honor or its rights,—against any danger, whether that danger be disclosed in the proceedings of a State court, or discovered through its own agents, or by any other means.

It is, of course, true that Federal investigation of the explosion in San Francisco, on the 22nd day of July last, may show it to have been caused by some person not named in the indictment, and with whom Mooney and his co-defendants never had
any connection whatever. That result, however, would be an incident of the Federal
inquiry—not the object of it. The fact that such an inquiry might prove persons
accused of crime in a State court to be entirely innocent, is no reason why the Federal
Government should hesitate or refuse to investigate circumstances and conditions
gravely affecting its own peace and security.

TOTAL LACK OF EVIDENCE.

Now, my friends, not merely do I say that no evidence was adduced on Mooney's
trial showing that he ever engaged in a conspiracy of any kind against this govern-
ment, or that he took part in the explosion of this bomb, but I go further and say
that all the evidence uncontradicted, unimpeached and unquestioned, shows that he
could not have been concerned in that awful tragedy. (Applause.)

But you will naturally ask me, how is it that Mooney has been convicted if there
was no evidence against him? He was convicted because the prosecutor denounced
him in court as an anarchist, after having for months previously filled the San
Francisco newspapers with statements of dreadful purposes attributed to the defend-
ants, of which it was claimed abundant proof discovered in their homes would be
produced on this trial. You and I know that when the word anarchist is mentioned,
many men—I should say most men—appear to take leave of their senses, and abandon
themselves to the most extravagant notions, moved by a belief that anarchy and
violence are convertible terms.

CONFOUNDING SOCIALISM WITH ANARCHY.

Practically every taleman that was examined concerning his qualifications to
serve as a juror in Mooney's case, when asked if he had any prejudice against the
accused, answered that he was opposed to anarchists and socialists. I asked the most
vehement among them if they believed anarchism and socialism signified the same
thing, and every time the answer was in the affirmative. When I pointed out that
socialism and anarchism were of diametrically opposite significance; one being a
theory that government should undertake control of all industry, regulating the entire
production of commodities and the distribution of them, that is to say, it should do
practically everything; while anarchy was a theory that government should do nothing,
and in fact should be abolished, the statement produced surprise so profound as to
approach stupefaction. One after another when asked if he knew what an anarchist
was, answered that an anarchist was a man who spent his time in exploding bombs.

FALSE IDEA ABOUT ANARCHY.

Here is something which organized labor and its leaders should ponder very
seriously.

Why is it that the word "anarchy" which etymologically means "absence of
government," has assumed a significance so evil that to say a man indicted for an
act of violence is an anarchist, is enough to convict him before a word of evidence
has been given against him?

Anarchists themselves insist, as you and I know, that absence of government does
not necessarily imply violence or disorder, but they urge abolition of government
because they believe that it operates to defeat and nullify the purpose for which it
is organized. Organized to maintain peace, enforce justice and preserve order, they
contend, that in actual operation, government causes more disorder than it prevents,
works injustice oftener than it enforces justice, and instead of preventing war is always
itself the cause and the source of war.

Anarchy, according to all authors competent to define it, is a conception of
human nature so lofty, that it assumes all men are inherently good, and, therefore, if
left free from all coercion by government, they would spontaneously of themselves
organize a society which would be entirely free from crime, where all would volun-
tarily co-operate in production and divide the fruits of their industry in perfect peace
and justice. So far from being anxious to destroy life, the anarchist proffesses to hold
it so sacred that he does not concede the right of any human agency to take or
destroy it.

True, some men who committed crimes that have startled the world claimed to be
anarchists, and to have perpetrated their awful deeds as a means of spreading
anarchism. But these men, anarchists insist, were lunatics not anarchists; demented
creatures whose mental infirmity was indicated by such insane efforts to promote
respect for anarchn by acts that violated its fundamental ideas. These unfortunates,
anarchists contend, were no more representative of the political and sociological prin-
ciple which counted among its exponents, Prudhon, John Stuart Mills, Ralph Waldo
Emerson and Walt Whitman, than Guiteau who proclaimed himself a "stalwart of
the stalwarts" when he killed President Garfield, was an authorized representative
of the political party or faction known in those days as the "Stalwarts" which counted
among its most conspicuous figures, Roscoe Conkling, President Arthur and General Grant, or John Wilkes Booth, who, in killing President Lincoln, declared he was removing the tyrannical oppressor of the South was an accredited representative of the Southern Confederacy, or of its leaders, Jefferson Davis, Benjamin Hill and Robert E. Lee.

Yet although anarchism or anarchy has been the subject of extensive discussion and elaborate definition by the greatest intellects of the last century, it continues to be asserted with unremitting persistency that the violent men who exploded bombs were the true exponents of anarchy, not the great number of philosophers who have labored to show that it is essentially a principle of peace and good-will. And by this persistent misrepresentation there has been planted firmly—I may say immovably—in the public mind a profound conviction that anarchy is a tendency in wholesale destruction of life and property by violence.

Because I have entered at this length into the difference between the principle which anarchists themselves profess and the one attributed to them by public opinion, I don't want you to assume that I am an anarchist. I am not. I am far from sharing the anarchist's belief that in the absence of government all men would dwell together spontaneously in peaceful and, therefore, effective co-operation. I fear there is still a minority more disposed to seek subsistence in plundering their fellows than in working with them. And this minority must be coerced into peace by the majority, that is to say, by the government which the majority must establish for its own protection.

MOONEY WITHIN THE SHADOW OF THE GALLOWS BECAUSE HE WAS A CHAMPION OF LABOR.

I have dwelt on this perverted notion of anarchy, which has become practically universal, merely to point this question: If the conviction of Mooney be allowed to stand, and the sentence pronounced on him be executed, how long will it be before the words "labor agitator" shall assume the same vicious, perverted significance that has already been fastened upon the word "anarchist?"

As a matter of fact, my friends, Mooney was not an anarchist. Not only did the prosecutor fail to offer a scintilla of proof that he was an anarchist, but it was conclusively proven that he had always been opposed to anarchism. Calling him an "anarchist," however, sufficed to convict him. Ladies and gentlemen, Thomas Mooney has been pursued to the shadow of the gallows, not because he was believed to be an anarchist (the police knew well that he was not), but because he really was a labor agitator. About that there was no doubt whatever. Certainly there was no doubt of it in the minds of the police, or of their corporate employers. (Applause.) So you see already a man stands convicted of an atrocious crime because being concededly a labor agitator, it was, therefore, assumed that he must be an anarchist. This, I think, will be made perfectly clear by a statement of the testimony actually given on the trial.

THE STORY OF THE DEADLY EXPLOSION.

The San Francisco Preparedness Parade of last July—similar to one that I saw here in Chicago a few weeks earlier—not so imposing nor so large, but of the same nature and convoked for the same purpose—started from the ferry at the foot of Market street about 1:30 and marched along Market street. The different units while waiting to join it, were stationed on the intersecting streets. One of these was Steuart street. At the corner where it joined Market street there stood a two-story building occupied as a saloon, access to the roof of which was through an adjoining empty building which fronted on Market street. Both of these have since been demolished to make way for another and larger structure.

At six minutes past two just as the Spanish Veterans, one of the units which had been waiting on Steuart street, swung into Market street, an explosion occurred on the Steuart street sidewalk at a point close to the two-story building at the corner. Eight or ten persons were killed, one of them being horribly mangled, some two-score injured, more or less seriously.

Dr. Mora Moss who marched with the Spanish Veterans, as he turned into Market street, happening to look upwards, saw an object, which he described as cylindrical in shape, fall from above and, as it struck the sidewalk, the explosion occurred. He was not allowed at the time to quit the parade for the purpose of rendering aid to the wounded, as the police had forbidden any interruption of the march through fear of panic. But the moment he reached a point where he was permitted to leave the ranks he telephoned police headquarters just what he had seen.

A lady who occupied with her husband an apartment on Market street in the Terminal Hotel, directly opposite Steuart street, while standing at the window, saw a man appear on the roof of the two story building at the corner a few minutes before
the explosion. He approached the edge, and leaning over the cornice, threw some-thing to the ground. She reported what she had seen to two police officers on the spot.

The District Attorney, Mr. Fickert, while he was hastening to the scene of the explosion, was stopped at Sutter and Montgomery streets by a woman who informed him that she had been standing in Steuart street, before the catastrophe when she saw an object descending from above. Immediately afterwards around her people began falling and glass began breaking in the windows before her, when she herself lost consciousness. This meeting occurred in the presence of several well-known women of San Francisco, who maintain in that neighborhood an establishment for the relief of the Allies in the European war. The woman, still suffering from her experience, repeated to those ladies what she had told Mr. Fickert.

CONSPIRACY HATCHED BY A RAILWAY DETECTIVE TO RUIN MOONEY.

The first proceeding of the police was to search the roofs of the buildings, especially the lower ones, within a mile of Steuart and Market streets, manifestly on the assumption that the explosion had been caused by a bomb thrown from above. That was obviously the natural and intelligent course for an honest investigation to have taken in view of the statements that had been made to the authorities. But suddenly, about two hours later in the same afternoon, one Martin Swanson, a private detective, employed by the United Railways Company, appeared upon the scene and at once assumed control of all proceedings connected with the catastrophe. From that moment, as all the evidence shows, no further attempt was made to ascertain the cause of it. Under his direction all the energies of the police and the District Attorney were occupied in fastening responsibility for this awful tragedy upon Mooney. It is not too much to say that with the appearance of Swanson everything like genuine inquiry into the cause of the explosion ceased. Thenceforth, it became a conspiracy to ruin an individual. (Applause.)

Now, that is a very serious statement. It would be infamous to make it on anything less than evidence that could not be impeached. Realizing fully the gravity of what I have said, I ask you to judge how far it is justified by the evidence given on the trial, not merely evidence adduced by Mooney to meet adverse testimony, but evidence which stands absolutely uncontradicted, unimpeached, and which under the law of California, as of every other State,—being uncontradicted, must be taken as true.

To realize clearly the genesis of this prosecution it is necessary to understand certain conditions immediately preceding the dreadful event on which it is based. For many years prior to this explosion, as you probably know, San Francisco had been the theatre of some very fierce industrial disturbances. The result was a very bitter feeling between employers of labor and organizers of labor whom these employers have acquired the habit of calling "Labor Agitators." A strike among employees of the United Railways Company operating the street car service of San Francisco, which, after lasting a long time, resulted in failure, was among the bitterest of these conflicts. As usually happens in such cases, attempts at once began by men who advocate organization of workers to form these new employees into Unions. It has always been thus. The efforts of organized labor are often defeated, but its spirit is unconquerable. Again and again, it has wrested from triumphant employers the fruits of victory by organizing into new Unions the very men who had displaced the strikers.

Now, Mooney was perhaps the most active and the most persistent among these men who were laboring to organize the new employees of the United Railways Com-
pany. After long effort, he succeeded in assembling them at a meeting on the 10th of June, preceding the explosion. He rode to the meeting place accompanied by his wife, in the jitney bus of a man named Weinberg. Weinberg is jointly indicted with both of them now, and therefore, it may be well to explain how all three became acquainted.

Mooney’s wife is (or was before her arrest on this charge) a well-known music teacher in San Francisco. Her name, which was Rena Herman before she married Mooney, she still retains in her professional work. After her marriage she entered into every effort of Mooney’s to organize non-union men, with a spirit and a zest which soon brought down on her head the wrath of employers, already bitterly incensed against Mooney.

ANOTHER INNOCENT VICTIM.

Weinberg was a Jew who had come to this country from Russia, then the theatre of frightful oppression, now happily, thank God, at an end forever. (Loud and prolonged applause.) We all know that in this country, prejudice against the Russian Jew has long been extensive and deep-seated. I myself,—I was going to say shared it,—but think it more accurate to say, was a victim of it. While I have always
been strongly opposed to any restriction of immigration I was inclined to make an exception of the Russian Jew. Since I met Weinberg and learned to know him, I have come to the conclusion that there could not be too many of his kind in this country for the welfare of our people. (Applause.) In the presence of his fortitude under conditions that were frightfully trying, his cheerfulness under the hideous charge of which he is entirely innocent, the admirable use he has made of the liberty which this country afforded him, I wish I could say for myself, considering our respective advantages, that I had improved the opportunities of American citizenship to the extent that Weinberg has improved them in the fourteen or fifteen years he has been in this country. Landing without a penny, a stranger to our language, he made his own livelihood from the moment his foot touched these shores, without ever having violated a single law or incurred even a word of reproach from any officer of the law in any community through which he passed or in which he dwelt. By industry and frugality, he succeeded in accumulating some little property. At the time of his arrest, he was the owner of a jitney bus in San Francisco and an officer of the Jitney Bus Drivers' Union.

He had married and become the father of a boy eight or nine years of age. This boy having developed some taste for music, Weinberg who had heard of Mrs. Mooney (at that time an entire stranger to him) as a competent teacher, engaged her to teach his son the piano. After some lessons, the boy evinced a desire to learn the violin, but his father did not want to meet the added cost of lessons on that instrument unless he was sure that the boy had talent enough to profit by them. Mrs. Mooney thereupon offered to give him lessons free and let him practice on her own violin until it could be determined whether he had ability and taste sufficient to justify the additional expense.

In recognition of that courtesy, Weinberg drove Mrs. Mooney and her husband on a few occasions in his jitney bus, free of expense. Among other places to which he drove them was this meeting where Mooney undertook to organize the employees of the United Railways Company. When they reached the hall they found outside a number of fellows who had been strike breakers during the labor troubles. Mooney and the other leaders, believing that these men meant to provoke a disturbance, held the meeting in session behind closed doors until late into the night.

ATTEMPTS AT DISCREDITING UNION LABOR.

That same evening, in the adjoining county of San Mateo, two towers carrying wires for transmission of electrical power were dynamited. The labor leaders charged that this was caused by detectives of the corporation to discredit union labor. The corporation, as usual, charged that labor agitators were engaged in their ordinary occupation of dynamiting. (Laughter and applause.)

Immediately after this meeting, a circular was issued by the United Railways Company and a notice posted in their barns and buildings, stating that a notorious dynamiter, named Mooney, was known to be agitating for the formation of unions among their employees, and the company being well aware of every step that he took then and there notified their employees that any man found speaking to him or joining a union would be summarily discharged.

Immediately afterwards, Mooney tried to call a strike on the street railways. He succeeded in stopping only a few cars, three, I think. The interruption of traffic was exceedingly brief. Service was restored in a very short time and the whole attempt proved abortive.

But the fury of the corporation, that is to say, of its officers and agents, was now fanned to a white heat and they openly declared their purpose to "get" Mooney. The result of Mooney's trial lends a new and dread significance to that phrase.

DETECTIVE SWANSON ENTERS UPON THE SCENE.

A few days afterwards, while Weinberg was driving his jitney bus, a stranger jumped on the front seat and engaged him to drive to a place called the Cliff House, outside the city. On the way this stranger spoke about the blowing up of the towers, and said Mooney had done it as of course Weinberg knew. Weinberg at once denied that he knew any such thing, whereupon the stranger said Weinberg had certainly driven Mooney to the meeting of the United Railway employees a few nights before. This Weinberg acknowledged to be true, whereupon the stranger asked him if he had not driven Mooney out afterwards to San Mateo. Weinberg insisted that neither he nor Mooney had left the hall the whole evening. They were afraid of the gunmen outside, and so they had remained at the meeting until Weinberg drove Mooney and his wife back to their home. The stranger then said that his name was Swanson and that he represented the United Railways Company. Weinberg, he said, was a likely young fellow who should be glad to earn some money. He thereupon offered him $5,000 for any evidence that would have fastened this dynamiting on Mooney. He
said it need not be direct evidence, circumstantial evidence would suffice; Weinberg need not take the stand and testify personally against Mooney, only let him give the slightest little thing. It would do to start a prosecution and the Railway Company would see to the rest. Weinberg said he could not give any evidence whatever against Mooney, as he knew absolutely nothing that could incriminate him. Swanson continued to urge him, saying if Weinberg did not want to deal with him he could go to the head office of the company and ask for the chief counsel of the corporation (I forget the name), who was usually a very hard man to see, but who would admit Weinberg at once on the mention of Swanson's name.

On returning to the city Swanson, after paying his fare, urged Weinberg to think carefully over what had been said, adding that he would return for a final answer in a few days. In a few days he did come back and asked Weinberg if he had thought over his proposal made a few days previously. Weinberg answered that he had, and he wished Swanson would not approach him again with any such offer, which he considered an insult. He added that he knew nothing about Mooney and couldn't tell anything about him. Swanson then said that with $5,000 a likely young fellow like Weinberg could go east where he could start a new business and make a fortune; that he would never have such a chance again. The Railway Company, he added, did not ask much, any little circumstance showing that Mooney was anywhere in the neighborhood would be enough. Weinberg insisted that he did not know anything, and begged Swanson that he would not talk to him in that way. Then Swanson warned him to look out, that he was making enemies who could destroy him, adding that he would soon lose his license. Weinberg said he didn't believe than a man's living could be taken away, who had never done anything wrong. No policeman had ever had occasion to reprimand him for anything, not even for fast driving, nor for any other violation of the rules, and he did not think the license of a man who had behaved so well as that could be taken away for nothing. Swanson warned him that he would soon see what the United Railways Company could do, but urged him once more to go and see the attorney for the corporation before deciding finally to reject the proposal.

A KEY TO THE CONSPIRACY.

I have narrated these features of the case in detail because they furnish a key to the conspiracy against Mooney explaining the motive and the methods by which it was prosecuted.

Now you can easily conceive what a prospect was disclosed to Swanson when this dynamite explosion occurred on the 22nd day of July. He had been offering $5,000 for evidence that would convict Mooney and injuring property and thus remove him from the pathway of the United Railways Company, his employers, for a term of years. Here was a chance to remove him forever, and cover his name with such infamy that the mention of it would bring discredit on every enterprise or movement with which he had even been affiliated. And every step in the development of this prosecution shows that the ruin of Mooney was the sole purpose that animated it.

Ask yourselves as reasonable men and women, what course would an honest investigation have taken. Obviously the very first effort would have been to ascertain a motive for the explosion. But the result of such an inquiry would have been absolute demonstration that Mooney could have had no motive for committing it. He had no hostility against any person that could have been reached by that bomb. On the contrary, he had every motive for preventing the explosion, if prevention had been in his power. His own brother-in-law, the husband of his sister, for whom according to all the evidence both he and his wife entertained a tender attachment, marched in the parade. It has indeed, been said by some newspapers before the trial (but there was not a hint of it in the evidence adduced on the trial itself), that the non-union employees of the United Railways Company marched in the parade, and that the bomb might have been intended for them. But they were far from the scene when the bomb exploded. The program of the parade showed exactly the time each of its component units would pass Steuart street, and the procession started exactly on time.

Moreover, the bomb was not placed on the street at all, where these men and all the other paraders marched. It was exploded behind the fringe of spectators that stood on the sidewalk watching the parade. Nobody could tell from one minute to the other who among those spectators would be at a given place at any particular time. They were constantly moving and shifting their positions. The man responsible for that bomb, whoever he was, could not therefore have intended to injure any particular person, because he could not have known who would be near the bomb when it exploded.
THE QUESTION OF MOTIVE.

But the question remains who could have had a motive for causing such an explosion. To seek for an answer the only sensible course is to examine parallel cases. There is not in recorded human experience a case entirely parallel to this but there have been kindred cases. These cases which have increased with the more general use of explosives, though each one differs from all others in many particulars, yet all may be resolved into two groups by a process of general differentiation. Those comprised in one group have usually been results of combinations or plots among several men. Those belonging to the second group have never been committed by more than a single individual. Men have combined to commit acts of violence in the course of disputes or agitations, political, industrial and sociological. But every act of that character has had a clearly defined purpose, which, however reprehensible it might have been was always intelligible.

When steam was first applied to machinery, many violent disturbances occurred by men who believed they would be thrown out of employment. Many of the first sawmills were burned down by the topsawyers acting in concert who saw in them deprivation of their livelihood.

The bomb which killed the grandfather of the present Czar of Russia—or rather the ex-Czar of Russia—was undoubtedly planned by a combination of men and women who were ready to risk their lives for the overthrow of a system grievously oppressive to them and abhorrent to lovers of justice and freedom everywhere.

The explosion of a bomb at Clerkenwell Prison many years ago, which Mr Gladstone afterwards stated that the cause that led to the disestablishment of the English Church in Ireland and the first attempt to substitute conciliation for coercion in the government of that unhappy country, had undoubtedly been planned by several men who believed that no protest by Irishmen that did not take the form of violence would be heeded by England.

In each of these cases the motive was perfectly clear, so clear indeed that it indicated unerringly the authors of the act.

But in all these cases comprised in the second group the total lack of sequence between the motive and the act itself establishes beyond all doubt the mental conditions of the persons who caused them.

These crimes occurring invariably in times of great public excitement have startled the world so profoundly that each one at the time of its occurrence was generally regarded as a manifestation of some widespread conspiracy. But in every instance, subsequent examination showed it to have been the act of a single individual, whose mind never well-balanced, had become totally unsettled by brooding over some question or condition which at the time was matter of extensive and excited discussion.

Ravaschol when he startled Paris and the world by exploding a bomb in the Cafe Foy believed that killing, maiming or injuring a number of persons who were feasting expensively would awaken sympathy for the hungry of Paris, while the inevitable consequence of his act, as a sane man must have foreseen, was to divert sympathy from the poor by turning the tide of it towards the victims of his violence. At the time it was supposed that Ravaschol was acting in pursuance of a widespread conspiracy. Investigation showed that he was acting entirely in obedience to his own unsettled mind.

When Vaillant threw a bomb from the Gallery in the Chamber of the Deputies, he believes that he was illustrating the uselessness of government, while any sane man would have understood that such an act would go far towards establishing the absolute necessity of government. Here again it was believed, almost universally, that this act was the result of a widespread conspiracy, when in fact investigation established that Vaillant acted entirely on his own impulses.

Similarly in our own country, you remember, Czolgosz, when he assassinated President McKinley, claimed that he was moved by a desire to relieve the people from an oppressor. The idea that by transferring the government to this country from a president who was exceedingly mild and gentle, to a very aggressive, not to say turbulent man, he would weaken the presidency itself, was manifestly not a conclusion that any sane mind could reach. You all remember, too, how universally it was believed at the time that President McKinley's death was the result of a widespread anarchistic plot. Investigation soon showed that in killing McKinley, Czolgosz acted entirely from the promptings of his own disordered mind, and without any aid, assistance or co-operation from any one else.

When Guiteau holding aloft the pistol with which he had just assassinated President Garfield said, "I am a Stalwart of the Stalwarts." It was vehemently asserted and widely believed that his purpose had been inspired and his crime abetted by the political faction of these days called the "Stalwarts of the Republican Party." But
Guiteau himself, with the vanity of a madman, resented the assertion that anybody was entitled to share the evil fame that he had acquired. He insisted that nobody had advised him, and proved conclusively that the entire transaction was the product of his own unsettled mind.

When John Wilkes Booth killed President Lincoln there was a universal belief throughout the North that the leaders of the Southern Confederacy had employed him to kill the man they could not defeat. General Miles actually put handcuffs on Jefferson Davis, who was in his custody, under the belief that the ex-president of the Confederacy had been the instigator of the crime. After investigation it was shown conclusively that John Wilkes Booth acted entirely alone, with no assistance unless we except that of one demented creature who made an abortive attempt upon the life of Dr. Seward, Secretary of State.

And if we go further back through all the pages of history we will find recurring at intervals in periods of great excitement these desperate deeds committed by unbalanced men, always under the insane notion that they were serving purposes which they were in fact injuring, arresting or defeating.

My friends, is not this dreadful tragedy of the same character? In the light of all former experience, can it be doubted that this explosion was the act of some unbalanced man moved by public excitement to commit an act that any sane man would condemn and hold in abhorrence. Have we not here all the conditions which seem to engender such a catastrophe?

**OUR POLITICAL CONDITIONS AT THE TIME OF THE EXPLOSION.**

What were our political conditions at that time? This preparedness parade itself was an expression of concern over our relations with other countries. Disputes had already broken out diplomatically with the power against which we will probably soon be waging war. But while many explosions have been charged against agents of that foreign government, this one could hardly have had any such origin.

So far as we know—so far as has been charged—the use of explosives by agents of that particular government was for the purpose of destroying some property which was used, or might be used, to injure its chances in battle. Such use of explosives was reprehensible, but it was intelligible. But no European power could have been benefited by this explosion in San Francisco. It could not have operated to prevent or discourage shipments of food or war material.

There is, however, another direction in which we may find a motive for this act—not indeed a sane or reasonable motive, but just such a one as might govern a disordered mind.

At that time we were generally assumed to be actually at war with Mexico. Our troops in large numbers were approaching the border, some had actually crossed it. Anybody who has ever visited the City of Mexico can realize the intensity of feeling which our invasion in 1846 still provokes in this generation. Even in those calm and apparently prosperous days when Diaz was holding the country in an iron grasp a visitor to Chapultepec, which was the summer residence of the president and also the seat of the military academy, might read on the base of the rock an inscription to the young men, twenty-six in number, I think, cadets of the military school, every one of whom fell defending that city against the invading army of General Scott. If he talked to a native of the memories it commemorated, he would soon realize the fury which must have been provoked in the breast of practically every Mexican by the prospect of another invasion.

Now, picture to yourselves the conditions which governed our relations with Mexico on the very day of that parade in San Francisco. It is true that the president while dispatching troops to Mexico insisted that there was no war between the two countries. And most of us were laughing at him for saying it, myself among others. Hardly any one believed that our army could leave Mexico until after it had fought a desperate war of subjugation. It is not possible—in the light of all former human experience is it not probable that some unbalanced Mexican believing that in entering his country our sole purpose was to subjugate and annex it, might have thrown that bomb moved by fury against the whole American nation?

That this will prove to be the true explanation of the San Francisco calamity, if it be ever investigated, is my firm belief. It is the only explanation consistent with all the facts. I don't say for a moment, remember, that any one connected with the Mexican government is responsible for this disaster, or that any sane Mexican would be capable of such a crime. But I do say that judging by analogy, it is much more likely to have been committed by some Mexican ill-balanced mentally, who regarded the parade as likely to encourage the invasion of his country, than by Mooney and his co-defendants, who could have had no motive whatever in perpetrating such an enormity, but had every reason for trying to prevent it.
THE ACT OF AN INSANE MIND.

The fact that this bomb was exploded, not among the marchers, but among innocent spectators as an expression of hostility to the American people, such as only an insane mind would conceive, is strongly confirmed by the lady who described that sinister figure appearing on the roof of the two-story building at Steuart and Market streets, leaning over the cornice and throwing some object which was followed by an explosion. She was not contradicted or even cross-examined. She told the truth, and in telling the truth she shattered this charge against Mooney into ten thousand fragments. And every one in the court room knew it. Every one outside the packed jury acknowledged it. (Applause.)

SUSPICIOUS CONDUCT OF THE POLICE.

Let us examine a little further the course of the police after Swanson's appearance. The City of San Francisco on the 22nd of July last contained more people than ever before in its history. From all over the countryside numbers had been crowding into it for a couple of days. The first step of an intelligent investigation would have been to guard the exits from the town. There are only three of them: One the ferry fifteen hundred feet from the scene of the explosion connecting with all the railways. Another the Southern Pacific Station at Townsend and Third streets, about a mile away, and the third, the public highway over which a man might escape in an automobile. Obviously, all these should have been watched with a view to preventing the escape of suspicious characters who could not account for their presence in the city. This could have been effected by a dozen men. No attempt was made to do it.

The investigation of adjoining buildings begun by the police on being informed of the falling bomb was arrested when Swanson appeared as we have already seen. From that moment no attempt was made to utilize information which had been offered to the authorities. On the contrary, the police and the District Attorney are now combining to suppress all real evidence that was accessible and to mutilate the conditions produced by the explosion itself.

Dr. Moss when he reported at headquarters what he had seen was told "You will hear from us again." He never heard another word.

The woman who told the District Attorney of the object she had seen falling was spirited away. Her name was concealed. We heard of her only through the ladies of the relief association, to whom she had repeated the statement made to the District Attorney. Not until we obtained an order from the court did the District Attorney reveal her name.

SUSPICIOUS WORK OF DETECTIVES.

Fickert appeared on the scene accompanied by another man who carried a sledgehammer. The bomb in falling had made a slight indentation on the sidewalk. With this sledgehammer they broke the sidewalk to a degree that would give the impression that a ton of dynamite had exploded there. I asked the police officer Matheson who was in charge of the place if he had permitted this change of conditions. He answered that it occurred during his absence, while he had gone off with the wounded to the hospital. When he came back he said he reprimanded the men who were interfering with the sidewalk for destroying evidence. I asked him then if he took steps to prevent any further destruction of evidence. He said no, the scene of explosion then passed into the hands of the detectives. I asked him the names of these detectives and he said he did not know them. This, it will be remembered, occurred on Saturday.

The explosion also caused a small indentation on the wall of the building at Steuart and Market streets. It amounted to displacing slightly one brick, making a slit between it and the next one into which you could hardly force the blade of a penknife. This slight indentation some time between Saturday and Monday was enlarged apparently with a crow-bar until it presented a great square opening. I asked Matheson if he knew who was responsible for this additional mutilation of evidence, and again he answered he knew nothing about it.

Photographs of the sidewalk thus mutilated and the indentation thus enlarged were placed before the jury to show the effects of the explosion. Fortunately, there were a few reporters there who had taken small snapshots of the scene before any of these changes had happened. One of these was enlarged two hundred and fifty times, and it showed the sidewalk as it appeared immediately after the explosion.

At the conclusion of the testimony I called the attention of the court to this alteration of conditions produced by the explosion, and demanded that the District Attorney tell us who did it, or at least produce the detectives who had suffered it to be done. He remained silent. The California law gives this silence on his part a significance that should have acquitted the defendants. But he snapped his fingers
at us. He knew his jury. We only knew the law. And the event showed that his reliance was better than ours.

For two days nothing was done. Meanwhile, the perpetrator of the deed had ample time to reach Mexico on the South or Canada on the North, where doubtless he is contemplating with sardonic satisfaction the elaborate precautions taken by officers of the law to prevent his ever being brought to justice.

MOONEY'S ARREST.

The first outward evidence of Swanson's activity was the appearance of statements in the newspapers that authorities knew the authors of this explosion, and would soon place their hands on them. Next it was stated that Mooney, a notorious dynamiter, was the guilty person and that he had gone away.

Mooney and his wife had gone away for a holiday, not on Saturday, the day of the explosion, as the prosecution intimated, but on the Monday following. Their friends had long known that they were going for a vacation. This was proved by the testimony of young women and boys who were Mrs. Mooney's pupils. They were the flower of California's citizenship, sons and daughters of citizens in moderate circumstances who were anxious to give their children every advantage, often stinting themselves in order to afford it. One by one they came upon the stand and swore that they had brought her flowers and books and fruit, to wish her a pleasant time during the holiday which they knew she had been planning for weeks and months to take.

When Tom Mooney up at Russian River, whither he had gone on his vacation, read in the newspapers that he was suspected of this crime, he was in a boat two miles from his boarding house, clad in a bathing suit. At once he went ashore and telegraphed his whereabouts to the Chief of Police, stating that he was returning forthwith to San Francisco. He walked back in his bathing suit, dressed, and started with his wife for San Francisco. Officers met them on the way, took them off the train with a great ado, and brought them in automobiles to the county jail where they were locked up and for eight days allowed communication with nobody.

HOMES OF ARRESTED SUSPECTS VAINLY SEARCHED FOR EVIDENCE OF GUILT.

Now you will see that arresting Mooney and his wife on a charge of having caused this explosion would have been absolutely futile if Weinberg were left at large and free to state under oath the efforts that had been made to suborn him as a witness against Mooney on another charge. So Weinberg was seized while driving his jitney bus and locked up charged with complicity in this explosion, without being allowed to communicate with friends or counsel.

A man named Billings, who had been convicted of carrying dynamite, was offered $2,500 by Swanson a few days before the explosion on July 22nd for evidence that would connect Mooney with the explosion at the towers at San Mateo. He, too, was seized without any warrant having been issued and held in what they call out there incommunicado.

A man named Nolan was also seized and held in similar fashion. The grounds on which he was arrested have never been disclosed, except that he had been a friend of Mooney.

After these men had been arrested officers went to their homes and in their absence ransacked every locker, every drawer, every nook and every cranny. Practically everything portable was taken away. The fruits of these domiciliary visits are at Police Headquarters to this day. After all these examinations not a scrap or title of evidence was found upon which any charge could be brought against them.

THE LAWS OF CALIFORNIA FLAGRANTLY VIOLATED.

Then for several days they were dragged from one place to another, handcuffed to officers, surrounded by detectives and prosecutors, for the purpose of terrifying them into confessing; each one being informed that some of the others had already confessed, implicating all the others. One assistant to the District Attorney went so far on one of these occasions as to tell Weinberg that he would hang unless he gave information to the prosecutors, adding that a graceful urbanity peculiar to these prosecutors that he regretted it would be impossible for him to see Weinberg hang, owing to the great crowd that would be assembled to rejoice at his execution.

Now all these proceedings were wholly lawless. They were in direct violation of the California statutes.

Under the law of California, when a person is arrested without warrant, it is made the duty of the officer to bring him at once before the nearest Magistrate where the charge must be reduced to writing, and the prisoner given notice of that of which he is accused. The statute prescribes specifically not only that his counsel and his friends must have free access to him, but that no more restraint can be imposed upon
him than is absolutely necessary to secure his appearance before the court which is

SUSPENDS THE LAW "IN THE INTEREST OF JUSTICE."

I asked one of the officers concerned in these lawless proceedings, if he did not
understand that, under the law of California, he was bound to bring a person whom
he held prisoner without a warrant at once before a magistrate. He answered, "Yes
he knew that was the law."  "Why didn't you obey it?"  I asked him.  "I was obeying
the command of my superior officer," he answered.  "Would you obey your superior
officer rather than obey the law?"  I asked, and he answered, "I know nobody but
my superior officer."

Subsequently the superior officer was placed on the stand and I asked him if he
knew that the law required a person arrested without a warrant on an accusation of
crime must be brought forthwith before a magistrate. He answered, "Yes."  I asked,
"Did you obey this provision of law in the case of Mooney and the others held with
him."  He said, "No."  I asked him "Why," and he answered, "In the interests of
justice."  "Would you in the interests of justice," I asked, "suspend the law."  He
answered, "Yes, I would and I did."

CHIEF DETECTIVE ADMITS HE HAS NO EVIDENCE OF GUILT.

Not merely did the police fail to discover any evidence of guilt among the papers
and belongings of these prisoners, to which they had absolutely free and unrestrained
access, but Matheson, the chief detective in charge of this prosecution, admitted on the
stand that on the day these men were arrested he had not a scintilla of evidence
against any one of them, except a confidential communication. I asked him from
whom it proceeded, and he refused to answer.

Under the law of California, it seems that the police are not bound to disclose the
source of confidential information. But the fact remains, that at the time Mooney and
the others were held in custody and subjected to the outrages and indignities of which
I have given you but a faint outline, not a single fact tending to incriminate them
was in the possession of the police. They were seized without evidence. They were
held in violation of law. Their treatment was the beginning of a crime which now
threatens to be completed by judicial murder. (Applause.)

Now, my friends, let me tell you what followed. These five persons having been
taken into custody and held without a shadow of evidence, the police went out into
the highways and byways seeking witnesses who for a share of $17,000 that had been
offered as a reward, would testify to something that might justify these arrests.

Their first "find" was a woman named Estelle Smith, who, according to her state-
ment, was employed as a kind of a nurse by a dentist doing business in a two-story
building at No. 721 Market street, about a mile from the scene of the explosion. She
testified that about one o'clock on that afternoon Billings, carrying a suit case, came
into the dentist's office, and asked leave to go on the roof for the purpose of taking
photographs. After a little while he came down and complaining of faintness sat down
in the office while she rubbed his face with a towel, after which he went away. What
motive he could have had for doing this and carrying a suit case to the roof nobody
undertook to explain. If he were concerned in the explosion he could have had no
motive for this conduct, except to afford several people an opportunity to identify him.

Two women named Edieu, a mother and daughter, were found to swear that while
in Market street watching the procession they saw Billings on the roof of No. 721
Market street, making signs to two persons on the sidewalk whom they identified as
Mr. and Mrs. Mooney.

A man named McDonald, who described himself as a waiter long out of work,
saw that about ten minutes to two, while standing on Steuart street, he saw Billings
come down from Mission street, which runs parallel to Market street with a suit case
in his hand bobbing his head in a way which the witness thought was highly suspicious.
Concluding that the suit case had been stolen he watched to see what the man carrying
it would do. Billings put the suit case on the sidewalk about the spot where the
explosion subsequently occurred, and then went to the door of the saloon at the corner,
from which Mooney emerged. The two engaged in conversation for a few minutes
Mooney looking at his watch repeatedly and apparently comparing it with the clock.
on the tower of the Ferry House, after which they separated, Mooney going directly across the street while Billings turned to the right and walked towards the ferry. Thereupon McDonald turned around and walked in the same direction. Just as he reached the Alameda Cafe he heard the explosion.

The Alameda Cafe is 85 feet from where he had been standing. Billings and Mooney, according to this, were at the corner of Steuart and Market streets about one minute before the explosion, and the explosion occurred at six minutes past two. That time was fixed by the police.

IMPORTANT EVIDENCE FOR THE ACCUSED HELD BACK BY THE POLICE AUTHORITIES.

That was practically all the testimony offered against Billings on his trial. There were some other witnesses, but their testimony was merely corroborative of some other details, and therefore I do not pause to consider it.

Billings established a perfect alibi, but it was disregarded and he was convicted. During his trial it was known to the defense that some four films, each about the size of an ordinary envelope, taken by an independent photographer, showing several persons on the roof of the Eilers Building before the parade passed, were in the hands of the police. This Eilers Building was where Mrs. Mooney had a studio, and where she and her husband lived. These films show some figures that could hardly be distinguished, but it was conceded that they were Mooney and his wife among others. They were covered with little white spots which I believe is not unusual, and which to the ordinary observer were of little significance. In the hands of a photographic expert these white spots became a mine of valuable information.

During Billings’ trial the defense, notwithstanding repeated efforts, could not obtain these films, but after its conclusion, on an order of the court, they were surrendered to his attorneys, by whom they were taken to a man named Kytka, a high authority on handwriting and photographs. He enlarged them many times when one of these white spots turned out to be a clock on the street in front of a shop. Mooney and his wife appeared on the roof in each of them, while the clock showed that one film was taken at one minute before two, one at two minutes past two, one at four minutes past two, and one at six minutes past two. This completely disposed of McDonald’s testimony, for obviously if Mooney were talking to Billings at the corner of Market and Steuart streets at five minutes past two—one minute before the explosion—he could not have been on the roof of the Eilers Building, a mile away, from one minute before two to six minutes past two.

Had these enlarged photographs been in the court room when Billings was on trial they must have resulted in his acquittal even by that jury. But they were not there. No one could have suspected that the films which the police refused to let the defendant’s counsel have would utterly destroy the whole fabric of accusation so laboriously erected.

SAMPLE OF THE TESTIMONY THAT CONVICTED MOONEY.

When these enlargements were made the police knew of them. And now when Mooney’s case was called the entire scope of the evidence is changed.

Estelle Smith, the nurse of the dentist, was not put on the stand. She, it turned out, had a record which the prosecution shrank from having publicly exposed. The two Edeau women, however, were called and they now say that they saw Mr. and Mrs. Mooney together on Market street, Mrs. Mooney sitting on something which they did not describe, where they were joined by Billings whom the Edeaus had previously seen on the roof of 721 Market street. They also swore they saw Weinberg there with his jitney bus. All this they swore occurred between half past one and twenty minutes to two.

McDonald was called, and knowing that these enlarged photographs showed that Mr. and Mrs. Mooney were over a mile away at the time when he had previously placed Mooney near the scene of explosion, an attempt is made to change his whole story. He now says that it was about twenty minutes to two o’clock when he saw Billings come along Steuart street. When I asked him if his memory was not as good a few days after the explosion as it was then when he was testifying, he was compelled to admit that it was. I then read his testimony before the Grand Jury when he put the time of Billings’ appearance on Steuart street at six minutes before two, and asked him if that statement were true, in answer to which he said that he was probably mistaken in the length of time that it took him to walk from the place where he saw Billings deposit the suit case to the Alameda Cafe. He went on to say that he had undergone a grave operation and could hardly move owing to the weakness of his condition. In his own language he could only move at a “snail’s pace.” I then asked him to step down from the witness chair and walk to the door of the court room.
as slowly as he could possibly move, notifying him at the same time that I would time his movements with a stop-watch. If ever a lie appeared upon legs before the eyes of men, it was when that wretched creature shuffled past some intervening chairs, delaying as long as he could in putting them out of the way, slowly opened the wicket of the railing which enclosed the space devoted to counsel, and then literally crawled over the floor. When he reached the door and turned around to face the judge, the stop-watch showed that it had taken exactly thirty-six seconds to cover the distance which was fifty feet. The distance from the scene of the explosion to the door of the Alameda Cafe being eighty-five feet by actual measurement, it was clear that even though he moved at the “snailiest pace” possible not more than a minute could have elapsed from the time he saw Mooney and Billings separate at the corner of Steuart and Market streets until he heard the explosion. And so that lie on legs walked out of the court room and disappeared into the obscurity from which he had emerged.

(Applause.)

But now they put a man named Oxman on the stand. He did not appear in the Billings case at all. He is represented as a millionaire cattle dealer from Oregon. According to his testimony, he reached San Francisco that morning to keep an appointment with a buyer of cattle in the Terminal Hotel. At twenty minutes before two he crossed the street over to the corner of Steuart. While he was there a jitney bus driven by Weinberg with Mooney sitting alongside of him on the front seat holding a suit case on the running board, came from Market street and stopped immediately in front of him. Billings with Mrs. Mooney and a man with a bristly mustache sat on the back seat. Billings jumped out, took the suit case from Mooney who had with the bristly mustached man followed him through the crowd on to the sidewalk. Billings and the bristly mustached man walked along Steuart street in the direction of Mission street, while Mooney remained in front of the saloon at the corner. After going some 70 or 80 feet Billings took the suit case from the bristly mustached man, turned around and put it down on the sidewalk. He then joined Mooney at the saloon. They talked for a few moments when the witness heard Mooney say, “Give it to him right away or the bulls will be after us.” Then they all, except the bristly mustached man, jumped into the jitney which turned up Market street and drove away. The bristly mustached man crossed Market street on foot and disappeared.

This all occurred shortly after twenty minutes to two. He was positive that at quarter to two he went back to the hotel to meet a person with whom he had an appointment at two o’clock. When asked how he came to observe four persons so closely that he could identify them after less than five minutes’ observation, he answered that his attention was called to them because he believed they were thieves who had stolen the suit case. Asked if thieves usually paraded their booty in a crowd, he said he was not familiar with the habits of thieves, although he had just undertaken to identify these persons as thieves—by their actions. I asked him what he supposed could have been the purpose of thieves in leaving a suit case they had stolen on the sidewalk. He said he thought perhaps they had first taken out the contents. I asked why he did not mention what he had seen and what he suspected to the police. He said there was not a uniformed policeman in sight and, therefore, he took the number of the jitney bus so that if the newspapers announced a theft the next day he could report it to the police. Thereupon he produced an old telegraph envelope on the back of which the number of the jitney bus and the words, “Janly 22nd” appeared in writing obviously quite recent. He had undoubtedly started to write January when he was concededly in San Francisco for the purpose of appearing at the Mooney trial. When the first syllable had been completed he evidently realized that he must make it read “July” to be of any value as corroborative evidence. He could have had no difficulty in obtaining the number of the jitney bus, for it had been in the possession of the police ever since Weinberg’s arrest.

I asked him if he did not feel himself to be responsible for the explosion, seeing that it could not have occurred if he had done his duty as a citizen and called attention of the police twenty minutes before it occurred to these persons, whom he believed to be thieves making away with their booty. He said he did not bother himself about it, he admitted that he was in the neighborhood taking his lunch when the explosion occurred, and added that he himself was almost stunned. I asked him after he had found that the suit case which he had seen these men deposit on the sidewalk caused the disaster and he had the number of the jitney bus in which they had brought it to the place of the explosion, why he did not at once notify the police? He answered he did not want to get mixed up in a bomb throwing arrangement. When I asked him why then had he returned to testify at the Mooney trial, he said he had thought better of it. And that was all the testimony offered against Mooney that tended in any way to connect him with this explosion.
A JURY THAT SOUGHT NOT THE TRUTH BUT A VICTIM.

Now, my friends, I invited the jury to test the value of this identification by asking each man to pick out for himself five persons in the court room—four men and a woman—and after watching them as intently as possible for five minutes to see if he could identify them the following day. Such a feat is absolutely impossible. On this Lombroso and all other criminologists who have written on the question of identification are entirely agreed.

But that jury, as statements by some of them afterwards clearly showed, was seeking not the truth, but a victim.

If there could be any doubt that this whole prosecution was a frame-up, the last vestige of it must be dispelled in the light of the method pursued in the so-called identification of the defendants.

Nothing like this has ever before occurred in a criminal prosecution under the common law; not even in that unhappy country where courts of law often were far from being tribunals of justice. Indeed what I am now about to say is hardly credible. I would not ask you to believe it were it not attested by a record that is indisputable.

A CLEAR CASE OF "FRAME UP."

Neither the Edeau women, McDonald nor any of the witnesses was ever invited or required to pick one of these defendants from a number of other persons. This is the only kind of identification ever recognized as of any value at common law. As a precaution alike against wilful perjury and against honest mistakes an identification of persons has never before been accepted unless it had been subjected to this test which is always reasonable and usually conclusive. What course was pursued in this case? The Edeau women, Oxman, McDonald, every one of the witnesses produced against Mooney was taken each in turn to the jail. The different defendants were then called out and engaged in conversation by the detectives, apart from all others, for a space of time thoroughly familiar with the features of the person to be identified.

But this was not all. Oxman, who during the month of December had been taken to the different places where the various defendants were confined and allowed to see them separately until he felt confident he could recognize them, evidently became a little doubtful, as the trial drew near of his capacity to differentiate them from one another on the witness stand. So while the jury was being selected in presence of all the prisoners, he was brought into court by an officer attached to the District Attorney's office and allowed to occupy a seat until he had become sufficiently familiar with their appearance to be sure that he could point them out under examination. This was brought out on his cross-examination.

Now to pick out a person in court after such a preliminary training was not identification at all within the meaning of the law. Yet not a single witness was able to identify Mooney who had not gone through that preliminary course of instruction. Here clearly was a "frame-up" so absolutely bare faced, unashamed and unconcealed that the like of it has never before discredited a trial under the common law in the whole range of recorded experience.

CONTRADICTION AMONG WITNESSES WHICH SHOULD HAVE SECURED MOONEY'S ACQUITTAL.

You will see that the statements of McDonald and Oxman are absolutely irreconcilable. The contradiction between them is so palpable that of itself it creates the seasonable doubt which under the law should have caused Mooney's acquittal. Moreover, every police officer who was put upon the stand testified that all traffic had been excluded from the street twenty minutes before the parade started. No attempt was made to reconcile this testimony with Oxman's statement that a jitney bus was allowed to drive down Market street in the teeth of the parade and up Steuart street, which, according to all the testimony, was then thronged with units waiting to join the procession. The defense produced photographs of the scene at the corner of Market and Steuart streets, taken at twenty minutes of one, as was shown conclusively by the clock on the ferry house which appeared in the picture. Not a vehicle of any kind was in sight except the press automobile from which the photographs were being taken. This photograph showed a mounted policeman midway on the crossing at the corner of Steuart and Market streets, over whom a jitney bus going in the direction described by Oxman must have passed in turning in to Steuart street.

Matheson, the chief of the Traffic Squad, and Bunner, the detective who discovered Oxman as a witness, both testified that they were standing in full uniform at the place where Oxman said no uniformed policeman was visible.

So much for the case as it was presented by the prosecution.
THE TESTIMONY FOR THE DEFENSE.

For the defense, in addition to the persons already named, a woman of unimpeachable character, unquestioned disinterestedness and acknowledged respectability, testified that after having stood some time on Steuart street opposite the scene of the explosion, she saw two other women starting to cross the street, and she, who had wanted to do so for some time but hesitated on account of the crowd, decided to follow them. On the way she saw an object descend, followed immediately by the explosion. She herself was knocked down, badly cut in the face and rendered senseless. This lady was not even cross examined. Two young men of undoubted respectability, one of them a student at the University of California, gave similar testimony. They were not impeached or questioned.

Besides all these witnesses, several men of unquestioned character swore to having seen Weinberg drive his jitney bus through streets far distant from the scene of the explosion at the time it occurred. Weinberg himself took the stand and, after explaining his whereabouts during the entire day, produced a receipt for a gas bill which was paid in the office of the company at a time which rendered it impossible that he could have been at Steuart and Market streets anywhere near twenty minutes to two. Not a human being in the court room, outside the jurors, who heard Weinberg’s testimony, doubted the truth of a single thing that he said.

Besides the enlarged photographs showing Mooney and his wife on the roof of the Eilers Building one mile away, at the time of the explosion, they both took the stand and explained minutely all their movements on the 22nd day of July. Not a single statement of either was contradicted or impeached.

THE CHARGE OF THE COURT IGNORED.

But even that is not all. Even if we concede that every bit of evidence adduced by the prosecution was true; if the conflicting statements of Oxman and McDonald could be reconciled; if Oxman’s statement that he had seen a jitney bus standing at the corner of Steuart and Market streets at twenty minutes before two could be reconciled with the testimony of the police that the street had been cleared of all traffic except official automobiles, twenty minutes earlier; if the testimony given by the Edeau women be accepted as true; if we accept as true all statements that Billings was seen carrying a suit case and that he placed it on the sidewalk near the corner of Steuart and Market streets, yet no case whatever has been made out against Mooney. There is not a scintilla of evidence that, this suit case, even if it had been placed at Steuart and Market streets, contained dynamite or any other explosive.

If it had been shown that Billings placed a suit case on the sidewalk and shortly afterwards an explosion occurred at the same place, and there was no other evidence, it might perhaps, with some show of plausibility, be inferred that the contents of the suit case had caused the explosion. But the direct testimony, uncontradicted and unimpeached, of witnesses whose disinterestedness could not be questioned, and whose entire respectability was conceded, that a descending object was the cause of this explosion, could not lawfully be disregarded. In the light of such positive evidence, mere inferences from the presence of a suit case on the sidewalk that its contents had caused the explosion were wholly unwarranted. And this was the purport of the charge delivered by the court.

DISTRICT ATTORNEY VIRTUALLY DEMANDED LYNCH LAW.

But even the District Attorney, instead of urging the jury to obey the instructions of the judge, told them in plain terms not to be governed by it. He intimated plainly that for the jury to obey the law, as the judge defined it, would be “pussy-footing” as he himself expressed it. He told the jurors that San Francisco was in the presence of anarchism, that persons had been killed, mentioning their names, and that there must be satisfaction for the killing. It was a lynch law appeal and that appeal in the land of the vigilantes is evidently stronger than an appeal to the law of the land or to the Justice of Heaven.

THE EVILS OF JURY PACKING.

I cannot complain of the judge. No man could have tried harder to hold exactly even the scales of justice. His charge would have been accepted by any impartial jury as a direction to acquit. But the system under which juries are drawn in San Francisco does not render acquittal of a man certain, or even probable, when there has been failure to prove his guilt, or even where his innocence has been established. If the police and the District Attorney combine to “get him” he has practically no chance of escaping them.

Let me describe that system. Trial by jury has proved itself to be the firmest bulwark of liberty and order that the ingenuity of man has ever devised. But this is true only of a jury impanelled under the common law, that is to say, of a jury drawn
from the whole body of the country, the members of which after their verdict is rendered return to the common citizenship.

On the other hand, the very worst system that has ever scourged a community is one under which a jury can be packed, or which permits anything like permanent or professional jurors.

In Ireland the government for many years was able to pack juries under a law which gave the prosecutor an unlimited number of challenges, and which was enforced so ruthlessly that, in a case where the government desired a conviction, every talesman was compelled to step down until a jury was secured entirely of men who could be trusted to bring in a verdict not embodying justice but gratifying vengeance.

In Ireland these packed juries brought the law into such discredit that conviction of crime became a badge of distinction and the prison a temple of fame. The people crowned with applause and affection the man who died on the scaffold and doomed to infamy the judge who had condemned him. (Applause.)

So in France, the Reign of Terror, which has so discredited the great Revolution, was entirely due to a system of permanent jurors in the tribunals organized to try persons accused of offenses against the state. Being permanent they were everywhere subject to the passions of the multitude, and thus became the instruments who furnished that dreadful procession of human victims to the guillotine, which continued day after day, until Paris, its sewers choked with blood, rose up and ended the bloody sacrifice.

HOW JURORS ARE DRAWN IN SAN FRANCISCO.

San Francisco has a system peculiar to itself. The jurors are largely permanent. They are not drawn by lot or otherwise from a body of the citizens. There are sixteen superior court judges. Each one puts a limited number of names into the jury box, usually those of persons who have asked to be selected. Nobody ever wanted to serve on a jury who is fit to serve on it. Good men and true will serve on juries as matter of civic duty when they are called. But no man ever volunteered to serve on a jury who had another occupation worth pursuing, and who for that reason would be qualified for jury duty. Under this system in practical operation five men out of every six drawn from the box belong to the lame, the halt, the blind, the decrepit and the worthless. The vast majority describe themselves as "retired." Just what they retired from it was difficult to say. (Laughter.)

Of those who actually served in Mooney's case the majority were long past the age of eligibility in my state. To most of them what they can earn from time to time as jurors is an important feature, if not the chief feature of their means of subsistence. One man over eighty years of age, who had been an inmate of the poor house, we felt compelled to accept for fear of having somebody much worse forced upon us. There were some younger men, but they were the reliable of the District Attorney's office, as was shown by interviews given out afterwards.

One of them went so far as to say that Mrs. Mooney was as bad as Mooney, and that Mooney was clearly a bad fellow. When asked why he was a bad fellow, the answer was that he had interrupted commerce on the streets of San Francisco by attempting to pull off a strike, and his wife, who was present with him at the time, was worse than he. Except for this participation in Mooney's union activities, not a word had been breathed against that woman. She had maintained in San Francisco the very highest character with all the years that she had lived there.

One of the "frame-up" included not merely the manufacture of evidence by the police, but the placing of men in the jury box who were friends of the prosecutor, their intimacy having been concealed from the defense, and who, being young and determined, easily convinced or overawed the decrepit old men with whom they were associated. But you may ask, is it possible that men holding a place so high as the District Attorney and his regular assistants would engage in a "frame-up" against Mooney and his co-defendants. I answer, it is a peculiarity of human nature in every country and at all times that prosecutors, in order to fasten responsibility for crimes on certain persons, have stooped to practices which they would be the first to condemn in others, and from which they themselves would recoil under any other circumstances.

To mention a single case. It is only a few years ago that men holding the very highest offices in France combined to convict—to "frame up" as we would say here—a Jewish army officer named Dreyfus on a charge of having sold military secrets to a foreign government. To effect his ruin, forgery and perjury were the weapons employed by these conspicuous persons who, in stooping to such conduct, seemed utterly unable to realize its baseness. The motive for the Dreyfus "frame-up" was by ruining him to discourage other Jews from seeking commissions as officers in the French army.

The motive for this Mooney "frame-up" was to discredit labor organizations by fastening responsibility for this awful crime on a man known as a "labor agitator," in the hope that this would discourage workers from joining labor unions.
In the presence of this attempt to discredit it, organized labor must act, and it must act now. It must take a definite stand, not to defend crime, but to demand that unsupported accusations of crime be investigated, not to shut out light, but to demand light on this prosecution; not to identify itself with violence, but to defend the law of the land and uphold the justice of God. (Applause.)

And now, my friends, what practical measures must we take?

We must demand that the Federal Government investigate the charge made by the District Attorney of San Francisco, that this crime was the result of a conspiracy to subvert this government and that Mooney was its agent. If that charge be true, we must, of course, concede that the doom pronounced on him was fully deserved. And let me point out here that, if Mooney be really guilty, the last thing he would desire is the investigation we are now demanding. It could have no other result than to remove all doubt of his guilt. The long arm of the Federal Government, extending into every part of this country, can ascertain and make perfectly clear every fact connected with this explosion. If the charge made by the District Attorney be established, the government must proceed in its own defense to ascertain who besides Mooney and these defendants have been plotting for over a year to destroy it. If the charge turn out to be unfounded, Mooney and his co-defendants will, of course, be delivered from the peril in which they now stand, but it will still remain the duty of the government to ascertain who did cause this explosion. The possibility that it was aimed at measures of preparedness, undertaken or contemplated by this government, renders it imperative that the cause of it should not remain in doubt. If it be shown, as I am confident it will, that it was the act of a madman, then our citizenship will be relieved of the dark stain cast upon it by these convictions, and our sense of security will be completely restored.

AN INVESTIGATION DEMANDED IN THE INTEREST OF THE NATION.

This investigation is not demanded on behalf of these defendants. It is an absolute necessity of our condition as a nation. Think of it! We are actually standing on the brink of a cataclysm which has already engulfed a large part of the world and which, should we be drawn into it, in the judgment of many means devastation is not total destruction of the whole world. How can we venture to engage in that desperate conflict while any essential element of our own condition remains in doubt? How can we face the enemy beyond our frontiers, if inside them, in the midst of our population there be a conspiracy to destroy the political structure, typified by that flag of which we are part, under which we live, to which we are attached by every fibre of our affections. (Applause.)

Before embarking upon this troubled desperately tempestuous sea of universal war—a sea unexplored and unchartered by any previous experience of man—must we not first ascertain whether the ship of state be sound, or whether it be corroded by disloyalty, whether all the elements she contains are forces eager to defend her, or whether some are planning to sink and destroy her; whether this government is free to employ all its resources of men and money to defend our country from foreign foes, or whether we must first deal with domestic foes planning to undermine and disrupt our entire political system. All these questions must be settled before we can safely move ahead one single step in this awful crisis of civilization.

Wherever lies the truth it must be discovered and disclosed.

NOT ALONE THE LIFE OF MOONEY, BUT THE WELL BEING OF THE NATION ITSELF AT STAKE.

In all this I am not acting as a friend of Mooney's. I am not acting as a friend of organized labor. I am demanding as an American citizen, loving my country, that the government entrusted with its safety, shall take adequate measures to protect it.

Ladies and gentlemen, I move the adoption of these resolutions in the firm belief that the light, which we all seek, will not disclose anything reprehensible in American citizenship, but will establish more firmly its virtue and its patriotism; that investigation of this tragedy by the Federal authorities will show that there are among our population neither anarchists nor Socialists plotting damage to the Republic or its citizens, but that we are all, men and women, workers of both sexes and of every kind, inspired by no purpose except an ardent desire to maintain the glory of that flag and make these institutions which we love, and which embody, as we believe, the justice of Almighty God, safe on our own soil and respected throughout the world to the end of time. (Loud and prolonged applause.)