

CLOSING WORDS OF BORAH WIN PRAISE FROM DEFENSE

(BY J. S. DUNNIGAN.)

Boise, Idaho, July 27.—United States Senator Borah, closing the argument for the state against William D. Haywood, made a mark in the legal pleadings of this country. He is a remarkably able man, clear and incisive in his reasoning, relentlessly logical in arraying the evidence that the state hopes will find Haywood guilty. He did not apotheosize Orchard; he did not denounce Haywood, but he did argue forcefully that the case against the Western Federation has been established. The senator did what none of the other lawyers in this historical trial has attempted. He stripped the case of all externals and stuck to the murder of former Governor Steunenberg. He told the jury it made no difference if Haywood and his associates had murdered or dynamited in Colorado; he cannot be hanged in Idaho for crimes alleged or committed in Colorado, California or anywhere else.

The jury must determine from the evidence whether Haywood had any part or responsibility in the killing of the former governor of this state, and if they were convinced beyond a reasonable doubt he should be convicted.

Mrs. Steunenberg came to court with her son, Julian, and during Senator Borah's vivid denunciation of the killing of her husband she fainted, and was carried from the court room to a nearby doctor. Haywood's aged mother, who has been very ill for several days, was overcome by the heat and nerve tension, and she, too, had to leave the crowded court room.

Boise has never seen such crowds as sought admission to the court room. No one seemed to care about heat and bad air. Men fought with halliffs to get inside after the place was jammed to the point of suffocation. Women, who were told that every inch of space was occupied, insisted, pleaded, cajoled and hysterically demanded admission. They waited in front of the court house for two and three hours to get a chance to hear Borah, and when the doors were opened they rushed and crushed like a mob at a bargain sale.

No One Can Guess Verdict.

This morning the case went to the jury with the judge's instructions. No one can guess what the verdict will be. For three long months these twelve farmers have sat immobile, stoical, listening, observing and thinking their own thoughts. No one has ever made a facial expression that would indicate feeling or interest

in their affair. Darrow pleaded humanely, eloquently, but not a juror winked an eyelash. Borah analyzed and pointed out this or that suspicious circumstance, an incriminating letter or telegram, and the dozen farmers sat, apparently attentive and disinterested, not bored, not indifferent, but withholding their thoughts behind impenetrable masks, truly a remarkable jury.

Senator Borah argued that three things point conclusively to Haywood's guilt: The confession of Orchard, the flight of Jack Simpkins, a member of the executive board, who was with Orchard in Caldwell, and the silence of George A. Pettibone, who dared not take the witness stand to deny his letters and telegrams to the assassin. Pettibone's silence, he said, is stronger proof of the guilt of conspirators than Orchard's admissions.

Cyclonic Delivery of Words.

In emphasizing these points, Borah has pounded his hands together until they are purpled and swollen. He talks quietly at the commencement of each illustration. Then he gets going, and in about a minute he is talking more rapidly than a Puritan preacher, and overwhelms the stenographers with a cyclonic delivery of words that pour upon the jury all he reaches a crescendo period.

Borah maintained that the killing of the fourteen non-union men in the Independence depot blow up was not an accident; that the intent of the perpetrators was to kill the "scabs." This brought Borah to Steve Adams, who once confessed and then repudiated his admissions.

Orchard tells that Steve Adams helped kill Lyte Gregory; that he helped hunt Peabody; that he helped blow up the depot. There is a man who knows all

SENATOR BORAH'S GREAT ARGUMENT

By O. K. Davis in New York Times.

It has been many a day since anything like the speech which Senator Borah made this morning in his closing argument in the trial of W. D. Haywood, charged with the murder of ex-Governor Steunenberg, was delivered in any court room in this country. With wonderful lucidity, with deadly precision, he gathered up the vital facts of the whole case, and, brushing away all the mass of sophistry and immateriality, presented a vivid living picture of the conspiracy and showed the conspirators at their work.

It was a display of intellectual power that amounted almost to revelation. The personal effect of it was overwhelming, terrific. It carried the crowded court room breathless and spellbound before it, and when it came to an end, with the noon adjournment, it left the audience oppressed with the feeling that they had seen the flashing sword of justice.

It was not a personal arraignment of Haywood. There was nothing of invective or denunciation or vituperation or hate in it. It was simply an overpowering marshaling of the evidence presented by the prosecution. And Haywood understood. He sat with face held steady, fronting his accuser, but a dull flush covering it that told in a manner no words could deny of the thumping heart beneath. The wife and mother knew, too, and on their faces there was a revelation of pain no power of pride could prevent, and the lawyers knew also. Darrow and Richardson strove in vain to hide their feelings.

Even Pete Breen, the dynamiter from Butte, for once lost the sneer of contempt from his expression and, with white face and downcast eyes, there is little ease in trying to convey adequate picture of it all. The tiny courtroom was lighted up by a gleam of living fire as this man stood

there pleading the cause of outraged law, crying in the name of manhood and integrity of the state, not for the blood of any man, but for justice to the murderers of Frank Steunenberg.

The charm in the magnetism about the personality of Borah lent emphasis to the force of his speech. His is a mental engine of amazing power. It runs at terrific speed and at every revolution it throws out a fact, an argument, an assertion, an inference, the logical connection of which is instantly apparent.

Terrific, crushing, destroying, these are the words that come nearest to describing the tremendous power of the man in argument and the tremendous effect of his speech. He is not a large man physically, of medium height, with a big barrel of a body, surmounted by a big head, and there is nothing about him as he goes along the street to attract attention or differentiate him from his fellows.

But in action he is a different being. His face lights up, his eyes gleam, he radiates power. His gift of speech is wonderful. His words flow with astonishing rapidity, but they always go straight to the mark. There never is any hesitation, never any uncertainty. Endowed with the highest dramatic powers he seizes unerringly the telling point, rushes along with tremendous energy and deadly precision the climax, and with a burst of eloquence drives home and clinches his conclusion.

That is perhaps the most distinguishing feature of his performance, its absolute lucidity. It is not merely that he never deviates from the line of his argument, but that every word he utters as he goes along is absolutely necessary to the clear presentation of his thought. There is no superfluity, and there is no repetition. What he says, simply has to be said, and when it is said he turns to something else.

That was a fine tribute which both Haywood, and Darrow his counsel, paid to Borah's speech to the jury. "Well, I have heard the best of them in the country," said Haywood, "but Borah beats them all." "Senator Borah's speech to the jury was the fairest and the ablest I have ever heard from counsel in a great murder case," said Mr. Darrow. It should modify the extremes of public opinion to have these assurances of fairness in the trial of what promises to be one of the celebrated cases of the country.

about these things. Steve Adams knows. But Steve, like Pettibone, thinks this is a good time to keep silent. If Adams is innocent he would come to the witness stand and testify."

The Jury's Duty.

Borah then concluded in part as follows:

"You, gentlemen of the jury, are carrying the solicitude of the people of Idaho. Very soon the court and its officers will pass into the background. You will have placed in your hands a most important duty. If the defendant has not been proven guilty under the law he must be given his freedom. If he is proven guilty, you must do your duty as good citizens. It is the supreme duty of your life.

"You may have been swayed by the eloquence and power of the great lawyers brought up to defend these men. After I listened to them, there came to me another scene. I saw that awful night, Dec. 30. I saw the stain of his life's blood on the white snow. I saw Idaho disgraced. I saw murder—no, worse than murder. I saw anarchy exult over its first triumph in Idaho. If the defendant is innocent let him have his liberty. If he is guilty, then do your duty. Some of you have stood the test in defending your country's flag. There never was a higher duty placed upon you than that which now confronts you; you never needed greater courage than on this night. Do your duty."

DARROW AND BORAH.

That strife that is the clash of ideas is as the breath of life in the nostrils of most Americans. The gift of eloquence, skill and moving power in argumentation, is to its fortunate possessor a magic key to popularity. Whatever his other qualities and whatever the worth of his ideas, the truly eloquent man will always have an audience and a following.

While Americans are broadly tolerant, and gladly give every man his hearing, they are growing more discriminative with the passing years. Their power of discrimination will be applied to the figures of the two contending combatants who rose, head and shoulders above all the others, in the great trial just concluded at Boise.

HAYWOOD'S FATE TO BE LEFT TO JURY BY NOON

Court Begins His Instructions at 10 O'Clock; Disagree- ment Predicted.

Special to the Post-Dispatch.

BOISE, Idaho, July 27.—The fate of William D. Haywood will be in the hands of the jury by noon today. Court will convene at 10 o'clock (mountain time), and Judge Wood will immediately begin reading his instructions.

The deliberations of the jury will begin as soon as the charge is submitted. It is considered probable that a verdict may be reached before night. However, a majority needed a hung jury.

Senator Borah closed the final argument for the State at 7 o'clock last night. His appeal to the jury was a masterpiece. It has been many a day since anything like this speech was delivered in any courtroom in this country.

It was a display of intellectual power that amounted to revelation. The personal effect of it was overwhelming, terrific. It carried the crowded courtroom breathless and spellbound before it, and when it came to an end it left the audience oppressed with the feeling that they had seen the flashing sword of justice claiming the life of a strong man.

The charm and the magnetism about the personality of Borah lent emphasis to the force of his speech. He is a mental engine of amazing power. It runs at terrific speed, and at every revolution it throws out a fact, an argument, an assertion, an inference, the logical connection of which is instantly apparent. His is a gigantic intellect that scorns the cobwebs and mazes which rather about and clog the mental process of the ordinary speaker. He goes along his course straight from starting point to goal, unshattered and unaffected, serene and calm, but moving with appalling energy and with a crushing weight terrific.



U.S. SENATOR
WEBORAH
ASSOCIATE COUNSEL
for the STATE.

NOW FOR THE LAST ROUND AND WINDUP!



W. M. HAYWOOD PALES BEFORE MERCILESS LOGIC OF BORAH

Idaho Senator Weaves Lives and Movements of Orchard, Haywood and Other W. F. M. Officials Together.

WHY ORCHARD COULD'NT HAVE BEEN A SLEUTH

Boise, Idaho, July 26.—Evidence and argument is at an end and tomorrow morning the jury will be left to decide what penalty, if any, William D. Haywood shall pay for the alleged participation in the criminal conspiracy, resulting in the assassination of Frank Steunenberg, with which he is charged.

United States Senator William E. Borah, engaged by the state of Idaho as special counsel for the prosecution, spoke the last word tonight. Tomorrow morning Judge Fremont Wood will charge and instruct the jury, which it is expected will retire to consider their verdict about eleven o'clock.

Crowd Breaks All Records.

The crowd seeking admission to the courtroom tonight broke all records in a murder trial in Idaho. Two hundred persons remained on the grounds when the doors were closed after the morning session, and hours before they opened again all approaches were blocked. When, finally, every seat and inch of space within the courtroom was filled several hundred stood on the lawn under the open windows that they might catch sentences from the impassioned pleading of the young senator.

Analyzes Evidence.

Senator Borah laid the foundation of his argument last night. This morning he began an analysis of the evidence, but he confined himself to the murder of Steunenberg and the conspiracy. He linked Orchard to Haywood, Haywood, to Simpkins, Simpkins to Moyer and Moyer to Pettibone. Then selecting only the evidence of witnesses for the defense and leaving Orchard's confession out, he wove the lives and movements of the five men together.

Weaves Principals Together.

Without departing from the record and incidentally clearing a number of situations left somewhat clouded, he brought these officers and members of the Western Federation of Miners together. Then he took Orchard away from Denver and back again to Denver, to the headquarters of the Western Federation of Miners. This was done carefully and almost monotonously. The quiet before the storm—then Borah's voice and manner changed. He sprang into action. His voice quivering and hand upraised, finger outstretched, he shouted.

"Watch Them Now."

"Watch them now. Watch the five conspirators. Steunenberg is to die in thirty days and they are moving on the scene."

The dramatic utterances and tense figure of the pleader sent a thrill through the courtroom. For the space of ten seconds there was silence. Then relaxing, Borah continued with his merciless logic.

He brought Davis, Copeley, Adams and Easterly, all officers of the Western Federation of Miners, in touch with Orchard. Without a pause he drew picture after picture of the men associating together at various points.

Why Always Back to Denver?

From each place and fresh from every crime he brought Orchard back "home to Denver," and then smiling, leaned towards the jury to ask:

"Why, why, always back to Denver, unless it was to find there the protection and the pay of his employers?"

All these things denounced or sneered at by counsel for the defense found a bold and brilliant paragraph of defense in Senator Borah's interludes.

and counsel for the defense were driven into a murmur of protest under the lash of pointed sarcasm, and again when under a tirade of indignant reproach, culture, Christianity, law and order, refinement, the home and the country found a ready champion. The state of Idaho, its people and its chief executive, each in turn were given brilliant eulogy.

Haywood's Face Flushes.

Under it all Haywood himself was, perhaps, the only man in the room who bowed the least emotion. At times his face flushed and more than once glared under the attack as Borah, reaching the climax of the conspiracy, pointed an accusing finger at the man who he said "was the criminal force behind the Western Federation of Miners." Mrs. Steunenberg, widow of the dead governor, attended the morning session, but left early, almost presaged by the emotion awakened by Borah's vivid oratory.

Haywood's mother also left the courtroom in tears, but soon returned to her accustomed place beside the widow.

Senator Borah's peroration was delivered in quiet, almost pleading, tones, a strong contrast to the harsher voice which he spoke of Clarence Darrow's argument of justification.

"If," he said, "the state has pointed it to you the men who were concerned in and executed this awful crime then in the name of the manhood and womanhood of Idaho do your duty without fear of any man or favor to a man."

Night of the Murder.

"As I listened to the eloquent voice of counsel pleading for their client it came to me the memory of another scene and another time. I remembered again that night in dark December in 1906—a night that added 1 years to the lives of some here who in the room. I felt again the icy chill and faced the drifting snow as I sat beside the body of my dead son and whose lifeblood stained the snow. I felt again the disgrace that had come to Idaho. I saw a murdered man it meant more than murder, for it was the first blow that anarchy had dealt at my state. And on that night said to myself, can time unteach the son of this hour?"

Let us then be brave in this supreme moment. If the defendant is innocent, then let him go free, but if guilty, then let him take the punishment that the law prescribes.

Higher Duty to Perform.

"You have a higher duty to perform than ever was asked of a jury in Idaho. Some of you men have stood the test in the past in protection of your homes and your flag, but you have never faced a duty that required more courage than now."

"In every home in Idaho the thoughts of our people are with you, mingling with thoughts of things that made these homes possible, and in every home throughout this broad land men and women tonight look to you as the brave

men who stand for the right and the flag."

At the close of Senator Borah's address and the adjournment of court he was surrounded and congratulated by nearly everyone in the courtroom, including counsel for the defense.

"Watch these five men—Slompkins, Orchard, Haywood, Moyer, Pettibone! Steunenberg is to die in thirty days!"

"Watch them. We have got them together. They are moving to the scene."

This was the dramatic climax reached this morning in the Haywood trial, when for an hour and a half Senator Borah, making the last argument in the Haywood case, had woven craftily on the meshes of his net. His theme was conspiracy—the essence of the case of the state of Idaho in its effort to show that Harry Orchard was only the tool of Haywood when he killed the former governor.

"Now watch this quintet!" he cried, triumphantly, when he had laid his foundation, piece by piece, using only the testimony of witnesses for the defense itself, picking it out from the mass of mixed material, he showed the intimacy between Orchard and the highest officials of the Western Federation of Miners.

The argument of the morning centered in Caldwell, but the scenes changed rapidly, each flash showing an officer, a friend or a member of the Western Federation of Miners, "the confidant and intimate friend of Harry Orchard."

Morning Session.

Senator Borah continued his argument for the prosecution this morning. As early as seven o'clock the courthouse doors were besieged by hundreds seeking admittance to the limited courtroom, Senator Borah being popular as an orator in this, his home city. So great was the throng that court officials and others having busi-

ness at the trial had to find their way into the building by devious ways; most of them climbing a steep improvised stairway in the rear. The jury was also brought up these steps.

Inside the court Haywood sat surrounded by his family. His invalid wife, whose helpless condition and pained face has attracted so much attention and sympathy, sat immediately at his right and next to her sat the gray-haired mother, who on yesterday could not restrain the tears which filled her eyes as Clarence Darrow of Chicago made the last plea for the life of her son.

Mrs. Steunenberg Present.

The prisoner's daughter and sister were also in the family circle, the only absentee being the 10-year-old girl, Henriette.

Mrs. Frank Steunenberg, the wife of the murdered governor, and her stalwart son, Julian, were early in the courtroom and when they had been shown to seats inside the attorneys' rail, found themselves within seven or eight feet of Haywood himself. Attorneys from many cities in the west have come to Boise for the last arguments and constituted a large proportion of today's big audience. When the last seats were occupied, disappointed hundreds remained on the courthouse lawn to catch what they could of Senator Borah's address as the words filtered out of the open window.

Trail of Blood.

Senator Borah began by reviewing briefly the points made in the opening hour in his address to the jury last night. He said he would go briefly over the trail of blood left by Harry Orchard, taking first the murder of Gov. Steunenberg and harking back over some of the most important incidents developed in the testimony.

"I hardly need to tell you men," declared the pleader, "that Pinkerton detectives had nothing to do with the assassination of Frank Steunenberg. That is one of the most absurd of the many absurd things brought into the case by the learned counsel of the defense."

Senator Borah, in laying the foundation for his argument of conspiracy, pointed out that Orchard went to Caldwell from Denver and fresh from association with the officers of the Western Federation of Miners, who regarded Steunenberg as an enemy. Then he touched upon the fact that Marian Moore, an officer of the Western Federation of Miners, in testifying for the defense, admitted that he agreed with Orchard to deceive Orchard's wife when Orchard wished to desert her.

Pettibone's Silence.

"Harry Orchard left Denver with crime in his heart, the impelling, compelling force came from Denver. George Pettibone helped Orchard pack

his utensils of murder in his trunk. Why is Pettibone not here to deny it? His silence is a confession of his guilt. Pettibone's absence is an absolute corroboration of Orchard."

Taking up the question of the personal motive, the defense had urged against Orchard, Senator Borah showed to the jury the deed by which Orchard had parted absolutely and forever with his interest in the Hercules mine, fourteen months before Gen. Merriam and his negro troops marched into the Coeur d'Alene.

"This deed, the letters, telegrams and all the other evidence not subject to being tampered with in this case, corroborate Harry Orchard and fit in precisely with the story he has told you. Gov. Steunenberg did not cause Orchard to lose his interest in the mine,

so how could he have entertained a murderous grudge?"

Senator Borah took up one by one the witnesses for the defense, who, he said, corroborated Orchard and proved a criminal conspiracy, because they had covered and protected Orchard up to the time he confessed and implicated Haywood.

Easterly and Davis.

Among these were Bill Easterly, the member of the Western Federation of Miners who heard Orchard's threats and to whom Orchard telephoned from Caldwell before the murder. W. F. Davis, the president of the Western Federation of Miners local, who heard Orchard make threats against Steunenberg and who swore the passing of the armed mob in possession of the train did not interest him when he saw it. David Coats, the ex-lieutenant governor of Colorado and friend of the Western Federation of Miners, with whom Orchard discussed the stealing of Paulsen's children; Lottie Day, who was introduced to Haywood by Orchard and who saw Orchard and Haywood in private consultation; Gen. Eugene Engley, the former attorney-general of Colorado, "who of all men, an officer of the law, should not have kept these direful threats a secret locked within his breast when the state of Idaho was looking for evidence against Orchard, the suspect."

"But," said Senator Borah, "Gen. Engley does not believe in law. He is not even a socialist, he is an anarchist. You heard the speech he made here in the witness chair. Nobody could stop it.

"With such men as Engley in office, I am not surprised that Colorado had had hell within her borders for the past ten years."

The senator next read effectively to the jury the articles denouncing Steunenberg in the Miners' Magazine.

"There is much talk here and in the arguments of the council about an industrial war. There is an industrial war, but it is for you men to determine whether industrial warfare shall be carried out on the principal of murder."

Conspiracy Proved.

"The defense tells you that outside of Orchard's testimony there is nothing

here to prove a conspiracy. What more do you want? We put Orchard and Simpkins and Moyer and Haywood and Pettibone together in Denver. Now watch them as they move to the scene of Frank Steunenberg's murder.

Briefly Senator Borah showed the friendship existing among the quintet. Then he buried at the jury the letter which Orchard said he received from Pettibone at Caldwell.

"Friend Tom—That was sent to Jack the Hat."

"Now," exclaimed Senator Borah, "did Pettibone know that Orchard, under the name of Tom Hogan, was at Caldwell? Why did Haywood send a draft for \$100 to Jack Simpkins on December 21? Has Pettibone come here to say a word as to this? Now, watch the conspirators, how quickly they act. Scarcely had the news of Tom Hogan's arrest been flashed to the world than attorneys for the Western Federation of Miners flocked into Caldwell from three directions."

Simpkins Sent Cipher.

"Jack Simpkins was the man who went to see Attorney Miller at Spokane. Jack Simpkins was the man who sent the mysterious and unexplained cipher telegram to Haywood. The wording of the telegram," Senator Borah declared, "showed that he knew Haywood had full knowledge of the case. And Haywood got busy."

"Follow Simpkins, Orchard, Moyer, Haywood and Pettibone from Denver to the death of Steunenberg at Caldwell, review the testimony, watch their actions, and I say to you that an absolute and concerted conspiracy has been proved."

Motive of Murder.

"They killed Steunenberg to show to the world that they never forget any enemy."

"Where is Pettibone—afraid to speak? Where is Jack Simpkins, who was at Caldwell with Orchard, and could tell so much? He is in a corner and is afraid to come out and say a word for his life-long friends."

Senator Borah said he was ready to admit that Haywood was shrewd, keen and possessed of brains.

"Of course he has brains!" he exclaimed. "He had brains to start a defense for the Western Federation of Miners the minute he learned that Orchard, the hired assassin, had been arrested."

"Did the Pinkerton men send anybody to defend Orchard? Did the mineowners? No! it was the Western Federation of Miners."

Answers Theory of Defense.

Answering at great length the theory of the defense, that attempts on the life of Fred Bradley at San Francisco were accidents and not the design of Orchard, Senator Borah pointed out that the latter moved directly from Denver to San Francisco. He traced the movements of Orchard in San Francisco and ridiculed the theory of a gas explosion.

"And," cried Senator Borah, "when Orchard gets ready to leave San Francisco, where does he go? Back to Denver. What for? To get his money. The deed was done, the pay was done."

At twelve o'clock recess was ordered until 8 o'clock p. m.

Evening Session.

At six o'clock Senator Borah commenced the last stage of his argument, with the announcement that he would conclude tonight.

He devoted himself at first to the proposition of the defense that Orchard was a Pinkerton detective. Far from having any such connection, the senator insisted that Orchard, through years of crime and conspiracy, was perfectly loyal to the Western Federation of Miners and the leaders of the organization. If Orchard had had any sinister motive against Moyer, Haywood or Pettibone, if it had been his purpose to gather evidence against them he had almost unlimited opportunity to do so.

But on the contrary, it was shown that every piece of evidence which came into Orchard's hands was destroyed by him, even to the letter received from George A. Pettibone in the Caldwell jail. Never at any time did Orchard undertake to build up a case against the defendant, Haywood, or any of his associates.

Discussing briefly the Colorado attention, Senator Borah said the crimes and disturbances in Cripple Creek and Telluride were brought into the case only to show the motive, the conspiracy, the combination and the understanding which finally led to the murder of Ex-Gov. Steunenberg. The jury was not asked to convict upon any crime but

the last. Regarding the alleged kidnaping of the defendants in Colorado and bringing them to Idaho, he said:

Question Before Jury.

"If these men were not legally here they would not be here. You gentlemen are not concerned with how they got here, or any other questions than whether or not this defendant was connected with the event at Caldwell. If he was, then it was our law which was violated; if he was, it was our citizen who was murdered; if he was, it was in our jurisdiction that he raised the red-band, and it's proper that he should be here to answer to an Idaho jury."

"And you know as well as I do that, while he is a stranger to you, his life and his liberty are just as safe in your hands as they would be with any jury in their home state of Colorado. Bill Haywood is in no more danger of being convicted in Idaho, unless the evidence shows his guilt beyond a reasonable doubt, than he would be in Colorado. The court, the attorneys for the state and everybody connected with this case have extended to Mr. Haywood every right, every privilege, every courtesy known to the law as the right of the defendant. Haywood and Moyer on the witness stand were allowed to tell all they wanted to tell, in violation of all the laws of evidence, and without a single objection from myself or my associates."

Senator Borah scored the defense for not putting on the stand Steve Adams, the associate of Harry Orchard, to prove that Orchard was not telling the truth, especially about the Independence depot affair.

Why Always Back to Denver?

"Darrow gives you an excuse for the burning up of old man Stuart at Cripple Creek, the fact that he was a 'scab.' There, gentlemen, lies the motive for the explosion at the Independence depot. The fourteen men blown to atoms that fateful sixth of June were 'scabs.'

Nearing the close of his argument, Senator Borah came on with the attempts on the life of Gov. Peabody, Gen. Sherman Bell and Judges Goddard and Gahbert, and said they were the result of doctrines such as had been enunciated to the jury by Clarence Darrow of Chicago. He bitterly assaulted Mr. Darrow and declared that if the Western Federation of Miners regarded constitutions as being only for the rich, the laws being made only to be broken, it was the most potent motive ever put into the brain of man to take the law in his own hands and go forth to commit crime.

"We are here," he exclaimed, "to determine whether or not the state of Idaho can enforce the laws put on its statute books for the protection of life and property. But if the statements of Mr. Darrow in his argument reflects the sentiment of the Western Federation of Miners there need not be any doubt in your minds as to whether or not the defendants at bar would murder men who represented the law."

At the conclusion of Senator Borah's argument, Judge Wood announced that he would charge the jury at ten o'clock tomorrow.

U. S. Senator Who Makes Last Talk in Haywood Trial



SENATOR BORAH.

ION: SATURDAY, JULY 27, 1907.—FOURTE

DEMANDS HAYWOOD'S LIFE.



SENATOR-ELECT BORAH.

He completed a masterful argument yesterday for the prosecution in the trial of man accused of complicity in the assassination of Gov. Stevenson, of Idaho.

Clarence Darrow of Chicago went into that fight a widely known and well advertised man. He was known not only as an able and successful lawyer and an eloquent pleader. He was known as a man of peculiar ideas. His political creed was known to be a combination of philosophical anarchy and non-resistance. His religious views were known to be decidedly "liberal." He was classed as one pessimistic as to the realities of today but optimistic as to the possibilities of tomorrow. He was the natural friend of the poor, the champion of the oppressed, the defiant enemy of the rich and powerful. And with it all he was generally believed to be a man of downright earnestness and sincerity.

He comes out of the fight not so strong as when he entered it. The public did not object to his caustic satire, his withering irony, his merciless severity toward all who were against his client, though it comforted him with his gospel of "non-resistance to evil." It did not object to his airing of his radical views before a jury to whom they were utterly unfamiliar and so must be repugnant. His client, though, might justly have objected. But what the public did object to, and what lowered Clarence Darrow in the popular regard, was the fact that he had recourse to demagoguery. He did not appear, throughout his plea, as one honest with himself. There was a "yellow streak" woven into the warp and woof of his speech to the jury. And while the power and gifts of the man attracted, this "yellow streak" repelled. Clarence Darrow's admirers—and they are many—would have liked him better had he never made that speech.

On the other hand was the young and unknown Senator Borah. In the unenviable role of special prosecutor, he emerges from the fight on the losing side, yet he is crowned with laurels. His reputation is established not only as a strong and eloquent lawyer, but as a true and honest man, who in the heat of battle yet refused to resort to the slightest act or word of unfairness, who eschewed alike and

utterly the dishonest argument and the special pleader's rant. His plea to the jury deserved the encomium pronounced by Darrow himself: "It was the fairest and the ablest I have ever heard from counsel in a great murder trial." If the eminent counsel for the defense remembered, as he spoke, the mental dishonesty of some of his own pleas to passion and prejudice, surely it must have been with an inner flush that he doffed his hat to his losing but victorious opponent!

There are two Idaho names that the great American public will remember, for awhile, to dwell on them fondly and even a bit proudly because of their conduct in the great trial just concluded; these are the names of Senator Borah and Judge Fremont Wood.

The prosecuting attorneys, especially Senator Borah, showed a forbearance that is often lacking in criminal trials. While his closing argument was a masterpiece in every respect the brilliant young attorney maintained a dignity that was at once creditable to himself and to the state of Idaho. He showed the defense that he was an honorable foe and he confounded the tongues of those who tried to make the country believe that trade-unionism was on trial rather than the alleged murderers of Frank Steinenberg.

It was not alone the conduct of the trial, however, which gave me a new and more favorable impression of Boise than I had hitherto entertained. Like others, I confess I was in total ignorance of the true conditions which prevail here. I was led to believe that there was little respect for law and order in this community. On the contrary I have seen during my three months' stay that there is more respect for law and order in Boise than in any city of equal size I have visited in any part of the country. In no city where I have lived have I seen a higher class of citizenship. I do not say this because I think Boise requires any testimonial at my hands. I say it as the result of my observations during the past three months, and on my return to Chicago, which, of course, is the greatest city in the country, I intend to become an active and enthusiastic member of a "Boise Boosters' club."—Luke Grant, Chicago Record-Herald.

FATE OF HAYWOOD WITH JURY TODAY

His Case Goes to the Twelve
Men in the Box After
Judge Wood's Charge
This Morning.

BORAH'S PLEA A THRILLER

Senator's Last Word for Prosecution
Moves Even Prisoner
and His Lawyers to
Admiration.

BY O. K. DAVIS.

Boise, Idaho, July 28.—[Special.]—The jury which for two months has listened to evidence and argument for and against the charge that William D. Haywood participated in a murder conspiracy which resulted in the assassination of former Gov. Frank Steunenberg will tomorrow morning take the case into its own hands and decide the fate of the prisoner.

Tonight United States Senator Borah said the last word for the prosecution. At 10 o'clock in the morning Judge Fremont Wood will charge and instruct the jury. An hour later it is expected the jury will be locked up. How long it will take to arrive at a verdict cannot be estimated.

It has been many a day since anything like the speech which Senator Borah made in his closing arguments in the Haywood trial today was delivered in a courtroom in this country.

It was simply an overpowering marshaling of facts, which permitted no escape from the conclusion that the five men he pictured forth were the moving figures in the great conspiracy. Men used to such appeals to the jury for the death of a man accused of a great crime described the senator's arraignment as terrific, crushing, and devastating.

Wins Even Darrow's Admiration.

Clarence Darrow said tonight that Borah's argument was the fairest and ablest he had ever heard in a criminal court.

"There were several things he might have said and remained within his rights," said Darrow, "but he did not touch them. His conduct of this case throughout has been eminently fair."

Haywood added his tribute to the ability of Borah in this manner:

"I have heard the best of them all over the country, but he beats them all." Haywood, too, commented on the fairness of the trial.

Senator Borah laid the foundation for his argument last night. This morning he began an analysis of the evidence, but he confined himself to the murder of Steunenberg and the conspiracy. He linked Orchard to Haywood, Haywood to Simpkins, Simpkins to Moyer, and Moyer to Pettibone. Then, selecting only the evidence of witnesses for the defense and leaving Orchard's confession out, he wove the lives and movements of the five men together.

Sends Thrill Through Court.

Without departing from the records, he brought these officers and members of the Western Federation of Miners together. He carried Orchard away from Denver and back again to Denver, to the headquarters of the Western Federation of Miners. Again and again he did this carefully and almost monotonously. Then his voice and manner changed. With voice quivering and hand upraised, he shouted:

"Watch them now! Watch the five conspirators! Steunenberg is to die in thirty days and they are moving on the scene!"

A thrill went through the courtroom.

For the space of ten seconds there was silence. Then, relaxing, Borah continued with his merciless logic. He brought Davis, Copley, Adams, and Easterly, all officers or members of the Western Federation of Miners, into touch with Orchard. Without a pause he drew picture after picture of the men associating together at various points. From each place and fresh from every crime he brought Orchard back "home to Denver," and then, smiling, leaned toward the jury to ask:

"Why? Why always back to Denver unless it was to find there the protection and the pay of his employers?"

Borah's Four Propositions.

Immediately upon the resumption of his argument this morning Senator Borah stated four propositions to the jury as the subjects he would discuss. They were:

First—Whether or not a conspiracy existed, a concerted agreement among four or five men to commit crimes against the enemies of the Western Federation of Miners.

Second—Whether Haywood was knowingly and willfully a member of that conspiracy, knowingly and willfully aiding and abetting it in its work.

Third—Was Harry Orchard telling the truth in his testimony.

Fourth—Was there sufficient evidence of itself to tend to convict Haywood of the murder of Steunenberg independent of the testimony of Orchard.

"We will begin with the murder of Steunenberg and travel back," said Borah. "No mine owners were connected with him there. No Pinkertons were busy about that blood stained gate. Orchard was not sent to Caldwell by either of them. There were no difficulties or troubles there to divide men's passions. It was a cold blooded, deliberate murder."

Haywood Is Flayed By Borah

Ruthlessly Connects Miners' Leader With Murder of Steunenberg.

ORCHARD NO TRAITOR

Senator Eloquently Upholds Everything Denounced by Darrow.

(By Associated Press to The Dispatch.)

BOISE, Ida., July 26.—Evidence is at an end and tomorrow the jury will be left to decide whether William D. Haywood is guilty of participation in a criminal conspiracy to assassinate former Governor Frank Steunenberg.

United States Senator William E. Borah, for the prosecution, spoke the last word tonight. Tomorrow morning Judge Fremont Wood will instruct the jury, which is expected to retire to consider the verdict about 11 o'clock.

Senator Borah laid the foundation for his argument last night. This morning he began an analysis of the evidence, but he confined himself to the murder of Steunenberg and the conspiracy. He linked Orchard to Haywood, Haywood to Simpkins, Simpkins to Moyer and Moyer to Pettibone. Then, selecting only the evidence of witnesses for the defense and leaving Orchard's confession out, he wove the lives and movements of the five men together. Without departing from the records, incidentally clearing up situations left somewhat clouded, he brought these officers and members of the Western Federation of Miners together.

BORAH DEMANDS LIFE OF HAYWOOD



WILLIAM E. BORAH,
United States Senator from Idaho.

The Climax of the Argument.

Then he took Orchard away from Denver and back again to Denver to the headquarters of the Western Federation of Miners. This was done carefully and almost monotonously, the quiet before the storm.

Then, Borah's voice and manner changed. He sprang into action. His voice quivering, hand upraised, fingers outstretched, he shouted:

"Watch them now! Watch the five conspirators! Steunenberg is to die in 30 days, and they are moving on the scene."

The dramatic utterance and tense figure of the pleader sent a thrill through the courtroom. For 10 seconds there was silence. Then, relaxing, Borah continued with his merciless logic.

He brought Davis, Copley, Adams and Easterly, all officers or members of the Western Federation of Miners, into touch with Orchard. Without a pause he drew picture after picture of the men associating together at various points. From each place, and fresh from every crime, he brought Orchard "back home to Denver," and then, smiling, leaned toward the jury to ask:

"Why, why always back to Denver, unless it was to find there the protection and the pay of his employers?"

Stands Up for Law and Order.

All these things denounced or sneered at by counsel for the defense found a bold and brilliant paragraph of defense in Senator Borah's interludes and counsel for the defense were driven into a turmoil of protest, now under the lash of pointed sarcasm and again when, under the fire of indignant reproach, culture and Christianity, law and order, the home and the country, found a ready champion. The State of Idaho, its people and its Chief Executive, each in turn were lauded.

Under it all Haywood was, perhaps, the one man in the room who showed the least emotion. At times his face flushed and more than once he paled under the attack as Borah, reaching the climax of the considerations, pointed an accusing finger at the man who he said "was the criminal force behind the Western Federation of Miners."

Mrs. Steunenberg, widow of the murdered Governor, attended the morning session, but left early, almost prostrated by the emotion awakened by Borah's vivid oratory. Haywood's mother also left the courtroom in tears, but soon returned to take her accustomed place beside the invalid wife of the defendant.

Senator Borah's peroration was delivered in quiet, almost pleading tones, in strong contrast to the harsher voice in which he spoke of Clarence Harrow's argument of justification.

Recalls Night of the Murder.

"It," he said, "the State has pointed out to you the men who were concerned in and executed this awful crime, in the name of the manhood and the womanhood of Idaho, do your duty without fear of any man or any favor to any man.

"As I listened to the eloquent voice of counsel pleading for their client, there came to me the memory of another scene and another time. I remembered again that night in dark December in 1905, a night that added 10 years to the lives of some here in this room. I felt again the chill and faced the drifting sleet, and I stood among beside the body of my dead friend, whose life blood stained the snow. I felt again the disgrace that had come to Idaho. I saw the murdered man that meant more than murder, for it meant the first blow that anarchy had aimed at my State; and on that night I

said to myself, 'Can time unteach the lesson of this hour?'

"Let us then be brave in this supreme moment. If the defendant is innocent let him go free; but if not let him take the punishment that the law prescribes. You have a higher duty to perform than ever was asked of a jury in Idaho. Some of you men have stood the test in the past in protection of your homes and your flag; but you have never faced a duty that required a higher courage than now.

"I hardly need to tell you sensible men," declared the speaker in opening his speech,

"that Pinkerton detectives had nothing to do with the assassination of Frank Steunenberg. That is one of the most absurd of the many absurd things brought into this case by the learned counsel of the defense.

"Harry Orchard left Denver with crime in his heart. The impelling, compelling force came from Denver. George Pettibone helped Orchard pack his utensils of murder in his trunk. Why is Pettibone not here to deny it? His silence is a confession of his guilt. Pettibone's absence is an absolute corroboration of Orchard."

Senator Borah took up one by one the witnesses for the defense, who he said, corroborated Orchard and proved a criminal conspiracy because they had covered and protected Orchard up to the time he confessed and implicated Haywood.

Attorney General Denounced.

One of these was General Eugene Engley, former Attorney General of Colorado, who, of all men, an officer of the law, should not have kept these direful threats a secret locked within his breast when the State of Idaho was looking for evidence against Orchard, the suspect.

"But," said Senator Borah, "General Engley does not believe in law. He is not even a Socialist, he is an Anarchist. You heard the speech he made here in the witness chair. Nobody could stop it. With such men as Engley in office I am not surprised that Colorado has had hell within her borders for the past ten years.

"There is much talk here and in the argument of counsel about an industrial war. There is an industrial war, but it is for you men to determine whether industrial warfare shall be carried out on the principal of murder.

"Follow Simpkins, Orchard, Moyer, Haywood and Pettibone from Denver to the death of Steunenberg and Caldwell; review the testimony, watch their actions, and I say to you that an absolute and concerted conspiracy has been proved. They killed Steunenberg to show to the world that they never forget an enemy."

Orchard Loyal to Miners.

Mr. Borah devoted himself to the contention of the defense that Orchard was a Pinkerton detective. Far from having such connection, the Senator insisted, Orchard, through four years of crime and conspiracy, was perfectly loyal to the Western Federation of Miners and the leaders of the organization. If Orchard had had any sinister motive against Moyer, Haywood or Pettibone; if it had been his purpose to gather evidence against them, he had almost unlimited opportunity; but, on the contrary, it had been shown that every piece of evidence which came into Orchard's hands was destroyed by him, even to the letter received from George A. Pettibone in the Caldwell jail. Never at any time did Orchard undertake to build up a case against the defendant Haywood or any of his associates.

Kidnaping Not the Question.

As to the alleged kidnaping of the defendants from Colorado to Idaho he said:

"If these men were not legally here they would not be here. You gentlemen are not concerned with how they got here

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or any other question than whether the defendant was connected with the event at Caldwell. If he was then it was our law which was violated. If he was it was our citizen who was murdered. If he was it was in our jurisdiction that he raised the red hand, and it is proper that he should be here in answer to an Idaho jury.

"And you know as well as I do that while he is a stranger to you, his life and his liberty are just as safe in your hands as they would be with any jury in Colorado. Bill Haywood is in no more danger of being convicted in Idaho unless the evidence shows him guilty beyond a reasonable doubt than he would be in Colorado. The Court, the attorneys for the State and everybody connected with this case have extended to Mr. Haywood every right, every privilege, every courtesy known to the law as the right of the defendant. Haywood and Moyer on the witness stand were allowed to tell all they wanted to tell, in violation of all the laws of evidence and without a single objection from myself or my associates."

Senator Borah scathingly arraigned the defense for not putting Steve Adams on the stand. Adams, the associate of Harry Orchard, could, if anybody could, prove that Orchard was not telling the truth, especially about the Independence station affair.

"Darrow gives you as an excuse for the beating up of old man Stuart at Cripple Creek the fact that he was a 'scab.' There, gentlemen, lies the motive for the Independence depot explosion. The 14 men blown to atoms that fateful 8th of June were 'scabs.'"

Goodwin's Weekly

Aug. 3. 1907

The Haywood Trial and Verdict.

The jury in the Haywood case brought in a verdict of not guilty. There could be but one explanation of it. The jury must have felt that the testimony of Orchard was not enough corroborated to hang a man on the evidence of so depraved a criminal. The verdict of course is final and so far as Haywood is concerned he stands, so far as the verdict of a jury can make it so, vindicated.

But the trial was a wonderful one, and some features of it may be profitably reviewed. The prosecution of the case was able and strong and was relieved of all semblance of vindictiveness. And Judge Hawley's handling of it was absolutely without flaw, save when, once or twice, he gave way to the natural indignation aroused by the blackguard tactics of Attorney Darrow. Senator's Borah's closing speech was a superb one, and lawyers all over the land may study it as a model. Judge Woods' bearing through all the long trial was that of a righteous, fearless,

able and sensitively conscientious judge. Idaho has a right to be most proud of the prosecutors of the case and the judge who presided.

For the defense Judge Richardson is called "a great criminal lawyer." He may be, but we look in vain for any evidences of it in his management of the case, while Darrow's whole course revealed that he must have graduated from practice before a police court and took a higher place solely because he was known as a blackguard in its coarsest sense, a blackguard and bulldozer, and if not an out and out anarchist it is because he can do better in his profession than he could by playing the role of Herr Most, of baleful memory. That he has any real sympathy with the poor or the cause of the distressed, his face and his words forbid.

His opening address, wherein he portrayed the conditions of the poor miners before the Federation of Miners was formed, was strained, unmanly and untrue, and was, moreover, an insult to the whole west, for thirty-five years before the formation of that federation, miners' hours were reduced to lower hours and their wages advanced to a higher figure than ever miners before in this world received. In his closing argument he more than once gave away the fact that down deep in his perverted nature he has no regard for the restraints which the laws are supposed to draw around and protect society; in his references to the murder of the non-union men at the depot in Colorado, he made clear that he thought they were served right, and in his references to Judge Hawley, he showed that he had been brought up in that school where a blackguard can, behind his attorney's role, ply his calling without fearing to be held personally responsible for his words.

As to the effect of the verdict, it is too soon to give a positive opinion. If it emboldens the federation to new exactions, it will close many prosperous enterprises; it will give to many frey men who have always felt that the laws should be supreme, an idea that, after all, it is right to appeal, in a crisis, to the old law of self-preservation.

In the meantime Governor Steunenberg, for performing his duty under his official oath, is dead, and it is the fixed belief in thousands of hearts that no such an embrethed wretch as Orchard could, unaided, have carried out his assassination, and the assassinations in Colorado.

The west coast has held its breath while this trial has been in progress. Now each man has his own views, and in thought is peering into the future and be he an employer or a wage-earner is considering what he will do if ever in future he is forced to meet such a situation as was in the Coeur d'Alenes or at Cripple Creek.



U.S.
SENATOR
BORAH *for the prosecution.*

CLOSING FOR THE PROSECUTION.

Thousands Besiege Court Room to Hear Idaho's Youthful Senator Open the Closing Argument for the Prosecution.

FAMOUS CASE WILL END TONIGHT, WHEN JUDGE WOOD WILL DELIVER THE CHARGE TO THE JURY—WIDOW OF EX-GOV. STEUNENBERG LISTENS TO ARRAIGNMENT OF HER HUSBAND'S ALLEGED SLAYER — PROSECUTOR BITTERLY ATTACKS HAYWOOD WITNESSES.



San Francisco Call.

Town Talk

Aug. 3. 1907

Haywood's Acquittal

The acquittal of Haywood at Boise City caused great surprise among San Franciscans who attended the trial. The story told by Orchard made an impression on them. Clement Bennett, the Federal Court reporter, who spent his vacation at Boise and attended the trial, says that the almost universal opinion among the spectators was that Orchard was telling the truth. Bennett tells me that Senator Borah made a reputation during this trial that places him close to the head of the criminal lawyer class. Some of the best newspaper men in the country were at Boise, men who have attended the greatest trials in the country, and they agreed that Borah has no equal. He has been urged to go to Chicago or New York, but prefers to remain in Idaho and represent the people in the United States Senate. Borah himself is facing a trial, as at about the time he was elected to the Senate he was indicted for land frauds. It seems that in Boise an indictment is not looked upon as evidence of guilt—in which Boise differs from San Francisco. Bennett has a great admiration for Clarence Darrow, the Chicago socialist lawyer who was the leading attorney for Haywood. Darrow, he says, affects a slouchy attire, the very opposite of Borah, who is something of a dandy. The two opposing attorneys were going down the street one day, each surrounded by a group of friends. Darrow had with him two or three newspaper men who are noted for dressing like hoboes, while Borah's group had a Broadway appearance. "How is it," asked Darrow, "that you always have a swell looking crowd with you?" "Birds of a feather flock together" was Borah's instant reply.

THINKS ORCHARD WILL BE HANGED

John R. Kennedy, Famous as
Associated Press Corre-
spondent, Talks of Case.

NOT PROMISED IMMUNITY

Writer Who Followed Haywood
Trial and Became Intimately Ac-
quainted With Lawyers and
Officials, Positive of This.

"Harry Orchard will be hanged. He has never been promised immunity. In fact, no inducements were offered him to make his famous confession in the Bolee dynamite cases."

This was the unqualified assertion made—positively, too—yesterday afternoon by John R. Kennedy, a correspondent of the Associated Press, who spent the entire time of the Haywood trial at the Idaho capital as the representative of the greatest news-gathering organization in the world. Mr. Kennedy was in a position of close intimacy with Governor Goodin, Senator Borah and all the leading actors in the recent prosecution, as well as with the distinguished attorneys of the defense.

"No Governor would dare pardon him, for the sentiment of the people of Idaho, as it is all over the Nation, is a unit in demanding that this arch-assassin pay the penalty of his atrocious crimes. I was given the strongest assurances by the principal state officials that Orchard would go to the scaffold. No matter what may be said by sentimentalists, I am fully convinced that Orchard personally gained nothing by his confession except the satisfaction of having relieved his conscience as far as was possible. I think the preponderance of opinion is that he told the truth in the main, for it was not within the bounds of human possibilities that a man could invent such a fearful story and stick to it through a solid week of the most rigorous cross-examination as did this man.

Verdict Was a Surprise.

"The verdict in the Haywood case was a surprise to me, as it was to many others. I had considered a disagreement probable and a conviction possible, but was not prepared for an acquittal. However, the people of Idaho and the rest of the country, I believe, accept the verdict

and are convinced that the trial was fairly conducted. The jury held to the opinion that under Judge Wood's instructions the crime was not proved beyond a reasonable doubt. The prosecution made a strong case, but seemed to fall, in the opinion of the jurors, to lack its proof up to the point of establishing beyond a moral certainty that Haywood was guilty.

"I heard one juror say after the verdict had been rendered, that he was almost ashamed to look an honest man in the face, for he believed and had believed during the entire trial that Haywood was guilty. It is a remarkable fact that this view was held by a number of the jurors, but technically they could not return any other verdict than acquittal because of the legal trammels. Possibly, however, people at a distance are in a better position to judge than I am.

"The effect on labor organizations generally will I believe be much better than if there had been a disagreement. The labor unions do not stand for murder and the real union labor men have been shocked by the suggestions of crime as a part of the union workings of the Western Federation of Miners. The result will be less secrecy in the conduct of the unions and a tendency to avoid anything like the appearance of unlawful procedure. In addition to this the verdict disarms the agitators who delight in making inflammatory speeches on the street corners and in the parks. You had a display of oral violence here in the Plaza the other night, but think how much more disorderly would that meeting have been had Haywood been convicted.

Idaho Americanism Ideal.

"This is the first time I was ever west of Chicago and the trip has been a revelation to me. I never expected to see such a manifestation of ideal Americanism as I saw at Boise. The people there went about their business during the trial and there was absolutely no irresponsible and incendiary talk. The citizens of the town absolutely did not discuss the case on the streets and only in homes and in clubs would you hear the merits of the case spoken of. In this way there was no chance for the disorder that almost assuredly would have followed the indiscriminate thrashing out of the affair on the street corners. It was admirable.

"Idaho has done herself proud. A fairer trial was never accorded any man than Haywood had. The sentiment of the people was: 'If Haywood is guilty, hang him; if innocent, set him free.' And this was exactly the procedure followed.

"Guilt was not established to the degree required by the law, and the people are willing to let it go at that. It was in its way an unique demonstration of the majesty of the law, and the respect our people have for it, for, while many still believe the defendant guilty, there was an acquiescence in the jury's verdict.

Praises Borah's Speech.

"The trial was notable in many respects. The finest and most affecting oratorical effort I ever heard in my life was Senator Borah's speech, and the fairness of Judge Wood and the opposing counsel toward each other was ideal. All in all, the trial of Haywood will have a beneficial effect, perhaps

a greater because he was not convicted because there can be no charge of unfairness or prejudice brought against anyone who was connected with it."

Mr. Kennedy is one of the best-known correspondents in the service of the Associated Press. He has been acting in his present capacity since 1900, and has traveled practically all over the world in the line of duty. For three years he was connected with the London office, and "covered" big events all over Europe. He then became night manager of the New York office, and was later acting general superintendent of the association. He is now on his way to Japan, where he will probably take charge of the work of the Associated Press in the Far East. He will remain in Portland until Saturday, when he will leave for Victoria, B. C., to take passage for Tokio.

TRIAL OF SENATOR BORAH ON LAND FRAUD CHARGES CAUSES INTENSE INTEREST

Suggestions of Unfair Prosecution Because of Activity in the Haywood Trial Alarms the Department of Justice.

Because of information that has been reaching Washington lately and going to Ogyster Bay, the coming trial of Senator William E. Borah of Idaho, who, with other leading men of the State, is charged with conspiring to defraud the Government in land matters, will be watched with peculiar interest. The fact that a member of the Senate is under indictment charged with a serious crime would in itself surround the Borah trial with importance, but there are other reasons why the Department of Justice is giving the case careful attention.

The question that has been squarely raised in the Borah case is whether he is being unjustly prosecuted on account of his connection with the Haywood trial.

As is well known, Senator Borah was retained by the State of Idaho as the prosecutor of William D. Haywood, who was charged with complicity in the murder of Governor Steunenberg. Senator Borah is a lawyer of conspicuous ability, and he set to work with the greatest vigor to bring about the conviction of Haywood.

Before the trial began the news leaked out that Borah, with Frank Martin, who was attorney general of Idaho under Steunenberg, and several officers of the Barber Lumber Company had been indicted. It was alleged they had conspired to defraud the Government by securing illegal entry of timber lands. Knowledge of the indictment was suppressed as far as possible, but when the reports concerning the indictment were conspicuously printed, Borah was called here for a conference with the Department of Justice. District Attorney Rulek was also called here. It is alleged the indictments were held back until Senator Borah got through the Haywood trial, at any rate that the serving of warrants was deferred on orders from Washington.

Senator Borah insisted he was in no way guilty of the charges against him

and that while he was counsel for the Barber Lumber Company he had nothing to do with alleged land frauds and knew nothing of them.

Now parties have come to the President and the Department of Justice and, of their own volition it appears, asserted Borah was being done an injustice and that the Western Federation of Miners was instrumental in getting the Idaho Senator indicted. It is alleged the federation tried to get him indicted in order to discredit him in the trial of the Haywood case. Just what part District Attorney Rulek played in the matter is not known, though he is alleged to be in sympathy with the Western Federation of Miners. There are intimations that this sympathy may have made him unduly zealous against Borah.

The Department of Justice is looking into the Borah case with care, and it is understood here that Judge Burch, of the department, who, as special attorney, has an intimate acquaintance with Western land matters, will try the case. If it should develop that the assertions of Borah's friends are true and that the charges against him are baseless and were made with the idea of hampering him in the Haywood case, there is little doubt the President will consider it such a reflection on District Attorney Rulek as to warrant his removal.

The trial is set for September 23.

BORAH INNOCENT, THINKS DARROW

Senator Man of Honor, Haywood Counsel Declares.

"I firmly believe Senator W. E. Borah to be guiltless of complicity in Idaho timber frauds with which he is charged," said Clarence L. Darrow of Chicago, senior counsel for the defense in the recent trial of W. D. Haywood at Boise, Idaho, who is in Spokane. "In all my relations with him in the trial of Haywood, in which he appeared for the state, I have been convinced of the integrity and enormous mental capacity of the senator. He is a most capable lawyer. I can not anticipate his conviction of the crime with which he is charged. His argument in the Haywood case was extremely clever, his plea to the jury was the most eloquent appeal I have heard spoken by any attorney; he fought his case with integrity and tact, and lost because of the failure of the state to gather sufficient evidence against Haywood aside from the confession of Harry Orchard.

"If he is acquitted, which, I hope, will be the result of the trial, he will continue to act as attorney for the state in the cases pending against Moyer and Pettibone; if convicted, of course, he may drop out of the case. His immediate trial will have no material effect on the cases of Moyer and Pettibone," said Mr. Darrow.

Attorney Darrow is accompanied by his wife and client, Charles H. Moyer of Denver, president of the Western Federation of Miners, who has been released from custody on \$25,000 bond awaiting the setting of his case. Mr. Darrow is also attorney for Steve Adams, whose case will be tried next month before the Kootenai county court at Rathdrum, a change of venue from Shoshone county having been secured.

Trade Unionism Strengthened.

"The Haywood trial could not have resulted more favorably for all classes of people than to have acquitted the prisoner. The cause of trade unionism has been materially strengthened; the workingman throughout the United States has been made to feel

that he will be given a square deal in the courts. The verdict of acquittal has been the means of instilling a sort of conservatism into the minds of the laboring classes. An era of good feeling between the employer and the employed has been created and the then-existing shortsightedness of both the defense and prosecution has in a measure been removed.

"The service of the Associated Press sent out the most correct versions of the arguments at the trial."

Mr. Darrow, accompanied by his wife and C. H. Moyer, will leave today for Rathdrum to arrange details for the trial of Steve Adams. The date has not yet been set. They will then go to Boise to be present at the opening of the trial of Pettibone, which has been set for hearing on October 1.

Borah Waives Technicalities.

Senator Borah of Idaho will be commended for his announced refusal to take advantage of technicalities said to exist in the indictment against him for alleged public land frauds.

If during the trial he manifests the same willingness to avoid technicalities, this case will mark a distinct departure from the usual routine of criminal trials, and there should result a prompt and satisfactory bringing out of all of the facts involved.

Time and again public disapproval of criminal procedure in the courts has been manifested because of the numerous objections raised by counsel on points immaterial to the securing of a fair verdict on the substantial merits of the case. To this one cause is due almost entirely the dissatisfaction often expressed with the outcome of criminal trials.

If the evidence proves that Senator Borah was implicated in land frauds his action in brushing aside technicalities that might be favorable to him can not, of course, be allowed to interfere with a strict meting out of justice. There is, however, in his present conduct, an apparent confidence on his part of ability to prove himself innocent.

URGE TRIAL FOR BORAH

Central Labor Union Leaders Ask President to Act.

CHANCE TO REMOVE STIGMA

Adopt Resolution of W. W. Beattie Declaring Attorney General Should Issue Order for Immediate Trial of Idaho Senator, Indicted for Alleged Timber Frauds—Labor Men to Confer.

The Central Labor Union, at last night's session, unanimously adopted a resolution offered by W. W. Beattie, of the Telegraphers' Union, requesting that President Roosevelt require or permit the Attorney General of the United States to issue an order for the immediate trial of Senator Borah, of Idaho, who has recently been indicted for being implicated in alleged timber land frauds against the government.

The resolution declares the indictment of the United States Senator brings a stigma which should be removed immediately, and that a speedy trial would give him an opportunity to prove whether he is an "undesirable citizen."

Upon the motion of J. L. Rodier, of the Typographical Union, Secretary De Nedrey was instructed to send a telegram of congratulations to William D. Haywood, the secretary-treasurer of the Western Federation of Miners, upon his being acquitted by the jury in Boise Sunday morning.

The motion contended that Haywood was an intended victim of a "plot of the Mine Owners' Association to assassinate him through the forms of law." The telegram, representing the sentiments of the Washington Central Labor Union, was sent last night.

Labor Men to Confer.

It was said that the special committee of ten, appointed by the Central Labor Union to invite at least one officer from the seventeen international building trades' organizations to be present at a convention to be held here in Washington next Thursday morning at 10 o'clock, would meet at the office of John H. Brinkman, Wednesday, to make the final arrangements for the meeting.

It was announced that Herman Holerback, of Cincinnati, the secretary-treasurer of the International Brewery Workers' Union, was in the city yesterday looking after the financial end of the cases against the sixteen brewery workers, who were charged with conspiracy by several local bottling concerns, more than a year ago. The case, which was in Justice Anderson's court, was dropped last week, because the grand jury had failed to return indictments.

Members of the Building Trades Mechanics' Council said last night that the master builders had issued the statement that after August 15 they would report into Washington nonunion bricklayers to complete the work on buildings which have been tied up by the union men.

GEORGE S. LONG TALKS OF THE BORAH CASE

Says His Complete Exoneration Was Certain After First Few Days of His Trial.

"I am not surprised at the acquittal of Senator Borah of the charge of being implicated in timber frauds against the government," said George S. Long today. Mr. Long, who acted as a trustee for the Barber Lumber company in the purchase of timber lands, was summoned as a witness for the government. He was in court during the greater part of Senator Borah's trial.

"In the first place," Mr. Long continued, "Senator Borah impresses one as being too big to stoop to any petty fraudulent dealings such as he was charged with. He is above that kind of business. Another reason why people did not believe him guilty is that he is too smart a man to get mixed up in a crooked deal."

"As the trial progressed the feeling that Senator Borah was innocent became more pronounced. He refused absolutely to take any advantage of technicalities and would not cross-examine the witnesses for the government when it was apparent that their testimony could have been torn to pieces. A prominent attorney from the east who sat with me in court one day became so incensed at the attitude of Senator Borah and his attorneys in letting these witnesses go without cross examination that he could hardly contain himself. Referring to one witness he said: 'If I had that fellow for fifteen minutes I could make him look like 30 cents.'

"The control that Senator Borah exercised over himself and his attorneys during the trial was remarkable. When a man's reputation is at stake people naturally expect him to take advantage of every opportunity that offers, but that was not the case with Senator Borah. He knew that he was innocent of any wrong-doing and simply let the testimony of the government go in for what it was worth.

Victim of Politics.

"I spent considerable time on the streets of Boise listening to the comments of the people on the Borah trial. In nearly every instance where the case was discussed it appeared to be the opinion that Senator Borah had been the victim of political enemies."

FULTON DEFENDS COLLEAGUE BORAH

Senator Expresses Belief
That Timber Fraud Indictment
Was "Ribbed Up."

Among those who warmly champion the cause of United States Senator W. E. Borah, indicted for alleged complicity in timber frauds in Southern Idaho, is his fellow-wearer of the toga, Senator Charles W. Fulton. In conversation with a number of friends in the Imperial Hotel lobby last night, Senator Fulton defended his colleague, and expressed the opinion that ultimately his innocence of the crime charged would be proved.

"I don't believe Borah is guilty, even technically guilty," said Senator Fulton. "He stands high in the estimation of the people of Idaho, from all I can learn, though he has a number of bitter political enemies, as have all other men in public life. At the time this indictment was returned his enemies were especially active, owing to the political situation in Idaho, and the fact that the Haywood trial was coming on. A blow at Borah would, if effective, work to the advantage of the defendant in the trial of the secretary-treasurer of the Western Federation of Miners.

"My belief is that the indictment of Borah was largely 'ribbed up' by his political enemies. Recent developments, as recounted in the news dispatches, seem to indicate that such is the case. Three members of the grand jury which indicted the Senator, according to the wires, now declare they did not get to read the indictments before signing them, and did not know the names of Borah and of Frank Martin were on the list of defendants. They also declare United States Attorney Rulick did not leave the room in their deliberations. I don't say these things are true—I don't know—but they appear to strengthen my theory.

"The attitude of Borah is not that of a guilty man. He has refused to interpose technical objections to the procedure against him and seems disposed to meet the charge squarely on the merits of the case. No, I repeat, I do not believe Borah even technically guilty, and feel

confident that a hearing of the case will vindicate my opinion in the matter."

Senator Borah was counsel for former Governor Frank Steunenberg, of Idaho, who was murdered by Harry Orchard. Steunenberg was engaged extensively in timber operations in Southern Idaho prior to his assassination, and it is a matter of common gossip at Boise, the state capital, that had he lived he would doubtless have been indicted along with Borah, Martin and a number of others. It was the fact that Borah officiated as counsel for the man who was murdered that has caused many to think he may be technically guilty of wrongdoing in connection with timber deals, but lacked that intent which would make him a criminal under the moral law.

Senator Borah

(Tacoma News.)

The evidence in the case against Senator Borah of Idaho is not public property yet, but the senator's actions are. And they are not the actions of a guilty man. He has interposed no technicalities; he has waived any attempt to prove irregularities in the drafting of the indictment; he has set up no demurrer. But he has asked for a trial, and that a speedy one. He apparently wants to go to Washington as senator without any cloud on his record, or else not go at all. Of all the public men of the west, Senator Borah is one who gives, perhaps, the greatest promise. He is able and forceful. He isn't much of a politician, and his methods of frankness astonished his opponents during the senatorial campaign. He associated himself with the Haywood prosecution while his fight for the senatorship was at its height. A more cautious man would have shunned that step. He conducted the state's case during the trial with such great ability and marked fairness to the accused as to draw the highest praise from a man like Darrow. That a man displaying such qualities as the senator has shown himself possessed of is guilty of land frauds is difficult of belief in this juncture. His example in refusing to take advantage of any technicalities is in marked contrast with the Oregon cases. There are convicted men in Oregon who are still out of jail. At all events, it is refreshing to find a lawyer who does not resort to legal tricks.

Borah the Equal of Clay or Webster

Avery C. Moore's Tribute to Idaho's
Senator—Hot Shot for "Char-
acter Assassins."

Avery C. Moore of Kootenai county is in the city on mining business. His attention was called to the attack upon Senator Borah by an alleged government official named Gillespie which was published in a recent issue of the Salt Lake Tribune. Mr. Moore said: "That will have the same effect upon Senator Borah that the bite of an insect generally has upon anyone. Gillespie may be a government employee; I don't know. If he has a government job he doesn't work at it in the day time. He is best known as a character assassin, and it is hardly probable that the government compensates him for the work he performs in that capacity. If it does, he draws considerable pay for overtime."

"Senator Borah is an able man," continued Mr. Moore, "and some day he will be a great man. He has always been honest in his personal and professional business, and he is more firmly established in the confidence and affection of the people of Idaho. Against Gillespie's declaration that Senator Borah will never take his seat in the Senate, I will set the prediction that Borah will be Senator from Idaho as long as he lives, and that he will achieve a fame equal to that won by Henry Clay and Daniel Webster. There were Gillespies in the lives of Clay and Webster—but Clay and Webster never found it out."

Mr. Moore is on the program of the Southeastern Idaho Press Club banquet, which will be given at Pocatello next Sunday night. He has also been invited to make the principal address at Pocatello's big Labor Day celebration.

INTIMATES BORAH HAS PROTECTION

ATTORNEY F. M. GOODWIN CALLS
ATTENTION TO UNUSUAL
PROCEEDINGS.

INDICTMENTS NOT MADE PUBLIC

Grand Jury Report Returned Six
Months Ago and No Arrests
Are Made.

Strange and unprecedented have been the actions of the government in the preparation of its case against Senator W. E. Borah of Idaho and those who were indicted with him in connection with timber land frauds, says F. M. Goodwin, who was chief of special agents at the time Borah was indicted. Mr. Goodwin has resigned from the government's service and is now establishing a private law practice in Spokane. He worked up most of the evidence against Borah, and also against the Kettenbaughs, Lewiston bankers, who have been convicted of land frauds. No attempt is made by Mr. Goodwin to charge the administration with the protection of Borah or any one else. He simply states the facts in the case.

"Although Senator Borah was indicted several months ago he has never been arrested, and the indictment has never been made public except by himself," said Mr. Goodwin. "It is generally known that several others were indicted at the time of the grand jury report that implicated

Senator Borah, but none of these indictments has been made public.

Had Prosecution Tied.

"Senator Borah announced himself that he had asked the administration to withhold proceedings against him, pending his participation in the prosecution of Haywood. I don't tell anything in this connection, except what Senator Borah made public himself. He announced that proceedings against him were held in abeyance at his request while he was fighting the Haywood case.

"Now he suddenly announces that he wants a quick trial. In other words, he has had the prosecution remain inactive for six months, and now he wants to be tried immediately. The prosecution has been put in the position of a man who has his feet tied and is then told to run."

"Is it customary for the government to withhold the names of persons indicted?" was asked.

It has been done in instances where it was necessary to apprehend a man before he had knowledge of his indictment. But in this case Borah knew of his indictment and was giving it out to the public before the indictment had been announced by the prosecution. It has never been made a matter of record to this time, and had Borah kept silent it would have been known only to the grand jury, the federal judge, the district attorney and the president. As a matter of fact, Borah announced his indictment through the papers before it had actually been made.

Haywood Case Not Involved.

"I do not know why the administration held the prosecution of Borah and those who were indicted with him until he could finish the Haywood trial. I was closely connected with the case and I know that the charge that

friends of the Western Federation of Miners were responsible for his indictment are unfounded. We began the investigation leading to the indictment five years ago. We did not know then who the investigation would hit, and Borah was neither senator nor had he any connection with the Haywood case at that time.

"The grand jury returned its reports in Boise six months ago. Neither Borah nor any of those indicted with him have ever been arrested."

Borah's Manly Course

The News is not a bit surprised that Senator Borah, on trial for conspiracy to defraud in Idaho, should have thrown technicalities aside and demanded a trial on the merits of the case. That is exactly what might have been predicted from his conduct of the Haywood trial. Though Borah was by all odds the man the defendant had most reason to fear, and though he left no stone unturned in legitimate endeavor to win his case, he steadfastly refused to be drawn into matters which might indeed prejudice the jury, but which could have no bearing on the guilt or innocence of the defendant. The man who could lay and hold such a course when acting for the state is precisely the man who would take similar action in his own case.

We hope Senator Borah can prove himself innocent. Frankly, we have come to like the big, genial, fearless fighter. He has qualities of greatness in him which we more than admire; and we devoutly hope they are unalloyed with those other qualities which have shipwrecked so many otherwise splendid lives. Time, and the jury, must tell.

IDAHO POLITICS.

Thus far the prospect does not seem bright for the conviction of Senator Borah of Idaho of alleged participation in land frauds, although the trial has uncovered a great many facts tending to blacken the name of former Governor Steunenberg, victim of an assassin.

Senator Borah seems to be fulfilling his promise to court the fullest investigation and to avail himself of none of the many technicalities al-

ways so easily raised in cases of this sort.

There seems to be an understanding that there is a great deal of politics in the prosecution of Senator Borah, having for its ultimate object a change in Idaho's representation in the United States senate. District Attorney Buick, who is conducting the prosecution, is understood to entertain the conviction that were Borah convicted of fraud, the man who convicts him would very naturally occupy a commanding position in the public eye and would stand a fair chance to inherit the senatorial succession.

There may be something behind the charges of fraud preferred against Borah, but so far has the prosecution come from showing it that it has been admonished by the court that it is time that, in justice to the accused, some such showing should be made.

Everyone knows how difficult it is to make a conclusive showing against so exalted a personage as a United States senator. It is true that such showings have been made in the cases of Senator Hurton of Kansas and Mitchell of Oregon. But here in Nebraska we had an exhibition of the effulgence with which the innocence of an accused senator shines in upon the conscience of a court, and the case of Senator Bailey of Texas confirms the penetrating influence of such a radiant showing.

Possibly this difficulty in convicting a senator of criminality may be due to the universal consciousness that the senatorial office is ever the storm center around which roar and rage the ambitions of politicians, many of whom would not hesitate, in efforts to advance their own prospects, to tear the garb of respectability and honor from a blameless life and rob it in the direct hideousness.

Idaho was made so famous by the terrible disclosures of Harry Orchard in the Haywood trial that the trial of Senator Borah is perhaps not receiving the attention it would otherwise claim and receive, although the two cases are not entirely unrelated. Each discloses the tragedy that hedges in the lives of public men in Idaho and the untoward lengths to which ambitious men will go to work their sometimes selfish ends.

SEVERE ARRAIGNMENT OF DISTRICT ATTORNEY RUICK

Washington Post Editorially Declares Infamous Use Was Made of an
Opportunity to Indict an Innocent Man—Grand Jury In-
duced or Dragooned Into Taking Such Action.

(Special Dispatch.)

WASHINGTON, Oct. 4.—The Post today says editorially:

"The instant acquittal of Senator Borah directs sharp attention to the abuse of the grand jury system. In this case the evidence is clear that infamous use was made of an opportunity to indict an innocent man. By means of secret and ex parte methods the jury was induced or dragooned into making a baseless charge against Senator Borah, which might have ruined him. The public is often prone to confuse an indictment with a conviction, at least to the extent of regarding the man as presumptively guilty. Acquittal does not always remove the stain upon his good name. Fortunately in this case the acquittal was so prompt that the innocence of the accused senator is made emphatically clear.

THE POST.

WAILLEN & HOGG, Props.

SENATOR BORAH'S TRIAL.

The date of the trial has been set for September 23rd, and it is expected that it will occupy three weeks. We firmly believe that Senator Borah will come out of this trial unscathed. From what we are able to glean from the papers, it seems to us that it is a put up job against the Senator to besmirch his name and reputation, and everything seems to point to this. It is a well known fact that the Federal Judge in whose Court the indictments were found by the Grand Jury, was a political enemy of the Senator as both of them were aspirants for the same position of United States Senator. It has now leaked out that the most important witness before that Grand Jury, was brought from Oregon at the expense of the Government, and that this same witness now renounces the evidence he gave before that Jury. It is also a well known fact that animosity exists in the heart of the U. S. Attorney and apparently the U. S. Attorney General is aware of that animosity, and for fear that the

There may be embarrassment in the Borah case for the department of justice. Whether malice inspired the district attorney or not, the outcome of Senator Borah's trial is a scathing commentary upon the quality of the evidence placed before the grand jury, and the inference will be drawn that the district attorney was either unfit to counsel the grand jury or that he was able by some means to convince the jury that it should indict an innocent man. It is hardly within bounds of probability that a grand jury would return an indictment against a man on flimsy evidence if it were advised to the contrary by an able and unprejudiced district attorney. In any event the Borah trial ought to serve as a stern warning to the department of justice and all its district attorneys that the returning of an indictment against a man is a most serious proceeding. When an innocent man is besmirched by an indictment there is to be and there should be a day of reckoning."

Senator should not be given a fair trial; his services is set aside for the time being at least and two attorneys from Denver and Omaha are sent to conduct the prosecution. This is as it should be. The humblest citizen in the country is entitled to this and Senator Borah is entitled to nothing more. The state of Idaho gave Haywood a fair and impartial trial and the Senator shall also have one. Let the trial go on, but let it be fair and impartial and we believe that he will prove his innocence and the parties who have sought to disgrace Idaho's Junior Senator will suffer the shame and contempt they deserve.

THE ACQUITTAL OF SENATOR BORAH.

There are few citizens in Idaho today who are not pleased with the news that Senator Borah had been acquitted of the grave charges that were preferred against him. Public opinion is wholly in accord with the verdict, having read between the lines several days ago that this would be the probable outcome of the trial.

It is not too much to say that Senator Borah comes out of the ordeal wholly unscathed by the trial. He is one of the few prominent men in the Pacific Northwest identified with the land fraud cases that has escaped a smirch from the contact. It is a high credit to him and to the state of Idaho that this is so.

Senator Borah is just entering on a public career that promises to be one of great usefulness. The apprehension that the people had misjudged him in electing him to a position of trust and confidence has been happily dispelled not only by the verdict of the jury, but by the larger verdict of public opinion that has followed the case since its inception and as it unfolded in the testimony given at the trial.

The Tacoma Daily News

THE BORAH VERDICT

The acquittal of Senator Borah was not only popular in Boise, but gratifying to the country at large. This man's course during his political struggles, during the Haywood trial, and lastly during his own trial, has been singularly upright. Especially is this true of the ordeal through which he has just passed. He availed himself of no legal technicalities, permitted but few objections to questions asked of witnesses by the state, adopted no bulldozing methods of cross-examination, was his only witness in his defense, and lastly, submitted his case without argument. These are not the tactics adopted by a guilty man seeking to evade justice. At no time did the evidence show that the senator had knowledge of any fraudulent transactions the Barber company may have practiced. Most of his testimony showed, as in the case of Mr. Long, that these so-called "dummy entrymen" were in reality trustees of purchased land, not land lately patented by the government. Whether the Barber company is or is not guilty of land frauds, we shall not presume to say. Its guilt or innocence is apart from that of Senator Borah. But there have been enough fraudulent land transactions without wasting the time and money of the government in a prosecution that from the outset has appeared to be based on fictitious facts.

Senator Borah will go to Washington now with a clean record. What he will accomplish there cannot be forecasted. He is able, vigorous, forceful—a fighter. His future appears one of great promise.

SENATOR BORAH'S VINDICATION.

It is with pleasure that the Capital News can announce the vindication of Senator Borah and can assert its belief that the vindication was full and complete in every respect.

This is not only gratefully announced on Senator Borah's personal account but also on account of the state, the honor of whose citizens had been vindicated but the integrity of its courts again established beyond cavil.

The result in Senator Borah's case is all the more emphatic as he really did not take advantage of the usual legal technicalities during the course of the trial. There were but very few objections on the part of his attorneys to the introduction of evidence by the prosecution, and they remained silent when evidence was offered that even the lay mind could see was not material and to the point, and when evidence was offered that caused the court, on its own motion, to take the unprecedented proceeding of objecting on the ground of its immateriality. During the entire course of the trial there was but one exception taken to any ruling of the court, upon which appeals are usually based, and that was probably made by one of the attorneys through force of habit, rather than a genuine desire to take advantage of a supposed error in the ruling.

The government was allowed to introduce all the evidence of whatever kind it cared to offer and the nature of the evidence it did produce shows that it had scoured all the country most thoroughly to discover all that could be obtained, yet there was scarcely enough to cause a prudent juror to even suspect improper motives in Senator Borah. It might have been such as would cause political discussion during a campaign, but not such as jurors must demand before acting, and even during the heat of a political campaign should the same evidence have been offered, it would have been regarded as less injurious to Borah than it would have been to those bringing it forth.

There was no whitewash about the verdict. The government attorneys, sent here by the president, did their work fully and completely. They left nothing undone that they could do to make a case and they made no attempt to spare the defendant. They were undoubtedly acting under the instructions of the president, in whose mind an accusation of fraud these days, is convincing proof of the guilt of those so accused, unless it refers to himself and his connection with campaign contributions, when those making the accusation become the liar and the accused the virtuous ones.

And in this connection, there was far less evidence produced showing that Senator Borah knew of any fraudulent transactions connected with timber land matters in Idaho than there is to show that Theodore Roosevelt knew of the fraudulent use of money in securing his own election.

The people of the state need have no hesitancy in accepting the verdict of the jury as a complete and sufficient vindication of Senator Borah insofar as his connection with any timber frauds are concerned.

Senator Borah's Acquittal.

Senator Borah is to be congratulated on the outcome of his trial at Boise on charges of being implicated in land frauds. Idaho may also be congratulated on the result which frees from stigma the name of the man recently elected to represent it in the United States senate. There now seems to be no bar to his entry upon a career of usefulness in the senate.

The jury to which his case was presented presumably acted conscientiously upon the evidence. The charge was a serious one, especially as against a man in Mr. Borah's position. Though comparatively young, he has taken an active part in public affairs and enlarged opportunities will now be afforded him.

The trial, brief as it has been, has served to demonstrate that men who value their standing in the community can not be too careful as to the relations they have with others whose actions are not above suspicion.

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SHOSHONE JOURNAL

SENATOR BORAH ACQUITTED--OF COURSE.

Senator Borah was acquitted by the jury, Wednesday, after 14 minutes deliberation on the evidence presented against him on the charge of defrauding the government in a timber deal, wherein he was attorney for the company that is alleged to have committed the fraud.

The Journal did not mention the case, even as news, until last week, when the foolish evidence began to pour in. It presupposed honesty of purpose, and at least ordinary ability to discriminate between the true and the false, the relevant and the irrelevant, on the part of the government agents who brought the prosecution. It was for them to make good, and to justify the confidence the public wants to have in all branches of the government, especially the department of justice. That they have failed to so make good, in private, in public, in court, is a matter for sincerest regret. It is no great consolation that they are likely candidates for a dishonorable discharge. They have apparently wantonly dishonored the state, in casting a stain upon the name of Idaho's most honored citizen, her representative before the nation; and this with no visible foundation but ignorance or malice. That a jury and a court have officially proven that there was no truth in the slanderous charges, does not remove the sting of the insult.

It is a disquieting belief, that any department of the government, especially any one or ones connected with the department of justice, should use the governmental powers for personal malice or revenge. It might be an excess of enthusiasm, leading to a distorted estimate of the value of the testimony. It might be a disregard of personalities which would more or less wantonly strike another, especially one who it would hurt, for the larger good of an object lesson to other offenders. It might be sincere honesty on the part of the prosecution. The course of the Borah trial would seem to favor any of these more than the last. Whatever the motive that prompted the prosecution—hate, jealousy, fear, ignorance, or sincere honesty—is a sealed book until the principals make it known. If it be any but the last, it is the act of the assassin who takes no risks because the law can not prove his motive; if it be the last, it is too like the stupid, dangerous honesty of the fool who believes he tells the truth when he says the gun isn't loaded with which he shoots his friend. It is a dangerous honesty in the hands of a man who does not know what to do with it.

It may be due to district attorney Ruick to say that he was this week exonerated by the special grand jury from the charge of intimidating jurors and witnesses to secure the indictment of Senator Borah. Though this charge has been disproved, it in no wise explains away the reason for ever bringing an indictment on such flimsy evidence. It may be that he was misinformed by the horde of special agents, who, seeking promotion at the expense of whoever could be made a victim, trumped up a charge hoping it might be substantiated. But assuming the best possible motive, it reflects small credit on his office. Other prosecutions may show much better evidence; the Borah case had so little evidence that few lawyers would have touched it.

SENATOR BORAH.

The acquittal by a jury at Boise night before last of United States Senator Borah came as no surprise. He was indicted on a ridiculous charge, obviously as a result of politics. He has emerged from the ordeal with perfectly clean skirts, and stands today higher in the estimation of his friends, if that is possible, than before the attempt was made to smirch his fair name.

In a speech at the Idanha hotel after the verdict was rendered, Senator Borah said:

"There have been those who would have made politics out of this. I feel it my duty to say here that my friends have been of every party. Some of the most loyal have been of the Democratic faith. It has simply been a fight of men of all parties who like fair play against a clique whose appetites were whetted by private malice and corrupt motives, unconscionable and unprincipled.

"Let me say to all, that I shall not forget this. It will be a guide on many occasions when called upon to perform public service."

The senator is right. He should not forget this attempt to not only besoul his own name and fame, but should remember that the attempt was also directed against the name of the state of Idaho, whose distinguished representative in the senate of the United States Mr. Borah is. If there are men in the Gem State who are of the kind who would do anything, even prostitute the judiciary, for political purposes, Senator Borah should mark them. Their time will come.

In a signed statement yesterday Mr. Borah thus pays his respects to the timber and stone law:

"The stone and timber law is a piece of infamy as administered by the government. The government makes a man swear that he does not take it for speculation, and the department construes that to mean he must not take it with a view of selling it. There is not a man in the department of the interior and presumably in the department of justice but knows full well that ninety-nine out of every hundred men or women take up these claims with no other view than selling them as soon as the get title. Notwithstanding this knowledge the government continues to issue final

receipts and thus connives at the doing of that which they afterwards seek to visit upon some one as a fraud. The government ought to establish a rule which would at least not ambush men into doing wrong. Undoubtedly there are some instances of actual wrongdoing and they ought to be punished, but there are hundreds and hundreds of instances where the people would not think of taking the land except as they believe to be in accordance with the law, which, however, is often construed by the government to be not in accordance with the law, although it has issued final receipt with the full knowledge of how it was taken. I do not justify any man in wrongdoing, but I say this deliberately, that the government has blundered shamefully in the administration of the stone and timber law."

THE TACOMA LEDGER

S. A. PERKINS, Proprietor.

THE GENERAL VERDICT.

Senator Borah's friends and admirers in Tacoma, as elsewhere, rejoice in his acquittal by a jury on the first ballot. They have been confident at all times of his innocence, for they were quite sure he was not the kind of a man to engage in fraud. He is forceful and brilliant and in the prime of life. Those who know him predict that he will be a power in the national congress.

His conduct since the charge was brought and during the trial has been manly and upright. He would not permit his attorneys to attack the indictment on technical grounds, but would have the prosecution present its case in open court, that the world might judge of whether he had proved false to himself and to the people.

There is no question but that the verdict of the jury, returned as quickly as the vote could be taken, well expresses the general opinion of the case. It is hard to understand how an indictment was returned on such flimsy evidence as was presented in open court against the senator.

It is good to know that a young man of such character and attainments, evidently beloved of the people of Idaho, will remain in the service of the state and nation.

The Moscow Evening Journal

THE ACQUITTAL OF BORAH.

The land fraud case against Senator Borah terminated about as everybody acquainted with the man and the circumstances that inspired the indictment believed from the first it would. There was never any doubt in the public mind as to the innocence of the defendant, and now that the flimsy case of the prosecution has been laid bare the wonder is that any jury of two dozen men could be found any where who would deliberately return a criminal indictment against an honored citizen with absolutely no evidence upon which to base it. The circumstances justify the belief that the grand jury were practically coerced into doing a thing which they knew the evidence before them did not justify—led against their will, probably, by the statement of the chief prosecutor that he had damaging and convincing evidence which he did not desire to disclose to the jury at that time. Weak men could be influenced by a plea of that nature, but men of that type are unfit for the duties of jurymen, and prosecutors who would deliberately seek to blaken the character of an innocent man, and convict him of an offense of which they practically know he is innocent, are the worst type of criminals abroad in the land.

The people of north Idaho feel as the people of south Idaho do on this case. They feel that it is regrettable that the machinery for the enforcement of law should be consigned to the care of men who prostitute their office to vent their personal spite against any citizen. In this way is the government and the methods it has provided for the administration of justice brought into disrepute. No American citizen familiar with the Borah case but must feel a sense of humiliation and shame as he contemplates the methods employed by the agents of his government in the prosecution and persecution of a man whose innocence must have been known to them in advance of the indictment and trial.

As to the senator himself, the people of Idaho never for a moment lost confidence in him. They believed him innocent and they shared with him the humiliation of the outrage which had been inflicted upon him. They now rejoice that he has come out of the ordeal unscathed, and is even stronger in their regard than he has been at any time in the past. The career of public usefulness upon which he has just entered will not be checked; if anything, his opportunities are enlarged and his splendid abilities stimulated by the expressions of popular regard and confidence which are being extended to him from every corner of the state.

SENATOR BORAH'S ACQUITTAL.

The acquittal at Boise, Idaho, of Senator Borah, especially so promptly, will, we believe, be gratifying to the entire West. We are really surprised that Senator Borah should have been brought to trial on so flimsy a showing as was made against him. It would seem either that the prosecution was daft or else that there had been a collapse in its evidence since the indictment. Surely there could have been no expectation of a conviction by mere inference, suggestion, or conclusion, in the absence of any damaging evidence or facts directly connecting him with any of the alleged land frauds.

Senator Borah is newly elected to the United States Senate. It would be a cloud upon the West if it had been found that he was guilty of anything criminal in connection with those land cases. We are glad indeed that he is acquitted, and take it as proof that

there has been an enormous amount of exaggeration in connection with this whole matter of the so-called land frauds in Idaho. We have been taught to believe, by repeated reports from Boise, that these frauds were very extensive, and that the proof of them would be ample. At the same time, the assurance was given that Borah's connection with them would be absolutely proved. As a matter of fact, when it came to the test, the case against Mr. Borah absolutely broke down. And for this we are sincerely glad, and earnestly congratulate Senator Borah upon the outcome of the trial.

THE BORAH VERDICT

The acquittal of Senator Borah was not only popular in Boise, but gratifying to the country at large. This man's course during his political struggles, during the Haywood trial, and lastly during his own trial, has been singularly upright. Especially is this true of the ordeal through which he has just passed. He availed himself of no legal technicalities, permitted but few objections to questions asked of witnesses by the state, adopted no bulldozing methods of cross-examination, was his only witness in his defense, and lastly, submitted his case without argument. These are not the tactics adopted by a guilty man seeking to evade justice. At no time did the evidence show that the senator had knowledge of any fraudulent transactions the Barber company may have practiced. Most of his testimony showed, as in the case of Mr. Long, that these so-called "dummy entrymen" were in reality trustees of purchased land, not land lately patented by the government. Whether the Barber company is or is not guilty of land frauds, we shall not presume to say. Its guilt or innocence is apart from that of Senator Borah. But there have been enough fraudulent land transactions without wasting the time and money of the government in a prosecution that from the outset has appeared to be based on fictitious facts.

Senator Borah will go to Washington now with a clean record. What he will accomplish there cannot be forecasted. He is able, vigorous, forceful—a fighter. His future appears one of great promise.

The prompt and unquestioned acquittal of Wm. E. Borah yesterday is welcome news to Idaho, not alone because of the cloud it removes from the name of one of its most favored and trusted citizens, but also because of the halt it calls in the hitherto successful effort to stamp corruption and fraud upon those who have embarked in timber activities in good faith and whose transactions have been conducted with no possible intention of wronging anyone out of the value of anything. The testimony in the case just closed has spoken for itself, and how any criminal or immoral indictment could have been predicated upon such grounds is beyond comprehension. It is not necessary here to reflect upon the prosecuting officers in suggesting that if grand jury proceedings are productive of that sort of results, the sooner such proceedings are relegated back to the medievalism from which they sprang the better for all concerned. The suspicions, charges, incriminations and acerbities that these dark lantern and

underground practices make possible are amply shown in the current case, out of which no one has emerged with credit except only the original victim of the meshes. In congratulating Mr. Borah upon the outcome, the Tribune is mindful of the special triumph it means to this splendid young scion of the state. Mr. Borah has won other hard fights, he may have others to win yet, but there is none that can mean so much to him as this has. We hope Mr. Borah may long enjoy the honors and rewards of a good servant, of a wise and faithful counsellor, of an advocate who observes with care the fine ethics of his high calling.

REAL TRIAL WILL BEGIN NEXT WEEK

Hawley to Make Opening Address for State in Haywood Trial. Darrow for Defense

Borah Will Cross-Examine Witnesses, as Will Richardson—Battering Ram Method Necessary in Attacking Orchard on Stand—Will Testify Friday.

(By Hugh O'Neill, Special Commissioner of the Portland Journal and Denver Post.)

(Special Dispatch to The Journal.)

Boise, Idaho, May 22.—Senator William Borah of counsel for the prosecution told me this morning that the trial of William D. Haywood for the murder of Governor Frank Steunenberg would commence on Monday morning. There are only eight peremptory challenges remaining, four to be exercised by each side, and all the counsel seem confident that the jury will be completed on Friday afternoon. Saturday will be given to the jurors as a recess to arrange their private and business affairs. The case for the people will be presented by James H. Hawley. His opening address will occupy two hours.

Mr. Hawley will conduct the examination in chief of the witnesses for the state. They will be cross-examined by Richardson, attorney of record, of counsel for the defense.

The opening statement for the defense will be made by Clarence Darrow.

Senator Borah will cross-examine the witnesses presented by the defense. He will also make the final address to the jury on behalf of the prosecution.

The cross-examination of Harry Orchard is one problem that the 14 attorneys of the defense are considering with no little concern. Originally it was arranged that the attorney of record for the defense should cross-examine him, but the impression is growing that distant every day, that a truculent, battering-ram method will only succeed in arousing the cool, stubborn pugnacity in the informer.

Orchard is a cold, courageous, watchful fighting man from the feet up. Any statement that he made his "confession" in contrition, or through a broken spirit, or through cowardice may safely be discredited. If he is to be discredited at all it will only be by the subtle hand of a man as cool and watchful as himself, and the probabilities are that Clarence Darrow, and not Richardson, the attorney of record, will conduct his cross-examination. Darrow also will probably deliver the closing address of the defense to the jury.

Darrow's only weak point is that of a quick temper. Hawley aroused that temper with some ill fortune for the defendant at the original trial of Steve Adams and Borah will play on that weak string in this trial. Borah is a man of immense self-possession and steady temper. He was a law student in Lawrence university, Kansas, with William Allen White, General Funston and Herbert Hadley, now attorney general of Missouri. He came to Idaho 15 years ago. He is a diligent student of law and history and literature. He has the most complete law library and general library in the state. And as a jury advocate he is unusually successful.

Orchard will probably be put upon the stand on Friday week.

HAYWOOD'S GUILT URGED BY BORAH.

Senator in Last Word for the
State Declares Conspira-
cy Has Been Shown
Clearly.

NO PARDON FOR ORCHARD

Whatever Happens in This Trial
Murderer Never Will Go
Free, Is Prosecutor's
Pledge.

BY O. K. DAVIS.

Boise, Idaho, July 23.—[Special.]—Senator Borah began his closing argument in the Haywood trial at 7 o'clock this evening. Despite the heat, which rendered the place almost unbearably warm at that hour, the courtroom was crowded, and there was a crowd on the lawn of those who were unable to secure admission even to hall or corridor.

Senator Borah wasted no time in preliminaries.

"There is no graver or greater responsibility resting upon the state," he said, "than that of enforcing the law and affording protection to the lives and the property of its citizens."

Adverting to the attack on Prosecutor Van Duyan of Canyon county, and on Hawley, by Richardson and Darrow, Borah said that it might be there was some reason why the defense should attack the men who had had the courage to bring to the bar the men charged with these crimes.

Says Testimony Is Enough.

"There seems to be running through this case an attack on every one connected with the prosecution of the awful crime of Dec. 30, 1905. If the facts warranted by the returns of the state are true there could be no plea so strong and eloquent for the full discharge of their duty by the jurors as that testimony."

There was no attempt at oratorical display by Borah. He stood away from the jury and talked in a deliberate fashion, scarcely even raising his voice.

"One thing is true," he said, "that for the last few years a terrible condition has prevailed in this mountain country, where twenty or more murders have gone unpunished by justice.

"We don't want any one to suffer for the crimes of Harry Orchard if he was not aiding and abetting them. We don't want him committed for the crime of Pettibone if he was not a co-conspirator.

Denies Attack on Labor.

"Much has been said about this being a poisoned community crying for the blood of Haywood. Have you heard of any such facts? Is there any poison in your hearts? There is not any one who does not believe that if Haywood is sent back to Denver or if he is sent to the penitentiary for this crime it will be because a fair and impartial jury has passed on his case.

"Now, we are not fighting organized labor, nor are we fighting the poor and the weak. This is simply a trial for murder. Frank Steunenberg has been murdered and the integrity and the manhood of Idaho wants to know why. An offense has been committed that shocked the civilized world and we would not be fitted for membership in the community of states if we did not want to know.

"It does not mean war. It is not class against class. It is not faction against faction. It is justice and fairness and honesty and right. When the verdict is arrived at it will be in accordance with that situation. But if I were to contend that I was a case of class against class, I would not inveigh against law, I would not rail against government, or sneer at the Christian religion."

Takes Up Steunenberg Crime.

With that response to Darrow, Borah took up the Steunenberg case.

"If you stand," he said, "at the yard gate of Frank Steunenberg, spattered with the blood of your dead governor, and examine the trail of his murderer, you will find that every track leads up those stairs in Denver up which Harry Orchard went to get Haywood to look at the rig he bought from the darky. From the hour of his arrival in Colorado Orchard never went forth to crime but that he started from Denver and returned to Denver after the crime was committed.

"The defense would have you believe that, notwithstanding what Moyer may have done, what Pettibone may have done, what Simpkins may have done, or what Orchard may have done, Haywood is not guilty. But the law, gentlemen of the jury, says when men knowingly join together to commit a crime the act of one is the act of the other, no matter where that other may be at the time of the commission of the crime.

"It is not an answer to our charge for the attorneys for the defense to say: 'We care nothing for Jack Simpkins; let him go overboard. We care nothing for what Pettibone may have done; we will take care of him later.' I tell you, and I think the court will instruct you, that in a case of this character the acts of Pettibone are the acts of Haywood; the unexplained letters and telegrams of George Pettibone and Jack Simpkins are the unexplained letters and telegrams of William D. Haywood.

"Inner Circle" Shown by Darrow?

"The only question here is as to whether or not the evidence has been adduced to satisfy you that there was a conspiracy. Counsel for the defense has said we have not shown an 'inner circle' or an organized bureau of crime. Well, I could pretty nearly rest the proof of that proposition on the argument of Mr. Darrow himself.

"The evidence in this case shows that somewhere in the Western Federation of Miners there is a power which controls—a power which commits crimes—it is proved as clearly as the fact that Frank Steunenberg is dead. Take the 29th of April, 1899, when the members of the Western Federation of Miners walked boldly from their work, organized with military precision, went to Wardner, and there blew up the Bunker Hill and Sullivan mill. Mr. Darrow tells you himself that the miners went back next day to their work in the mines. Why did they? Because they believed there was no such thing as law and order in the state of Idaho.

"O, no, gentlemen of the jury, this was not a criminal act; this was not the Western Federation of Miners. What was it? Was it an accident? Jim Shayne was killed; O, yes, but he was a scab, Darrow tells you. The Bunker Hill mine was blown up. O, yes, but it employed nonunion men. Darrow says that whenever you get a thousand men together to go and do a thing it is something