jured state is without legal redress. Her own courts cannot get jurisdiction of the New Jersey corporation, for its domicile is in New Jersey. She might go into the New Jersey courts; but that would be futile, for they would doubtless decide in harmony with the New Jersey policy, which favors monopolization, and not with that of Minnesota, which favors competition. The Supreme Court of the United States, invested with jurisdiction to try precisely such cases—issues between a state and citizens of another state—refused, following an absurd decision of its own, made for the protection of the Southern Pacific Railroad company in a suit brought by the state of California a few years ago against that artificial product of Kentucky legislation, to take jurisdiction. "So there you are!" Minnesota has no judicial redress for this palpable defiance of her domestic policy, by the owners of a corporation of her own creation. Even though the state of Washington be admitted as it has been to prosecute the question in the Supreme Court, her claims rest upon different and possibly weaker grounds. Minnesota is without a remedy. If a labor question instead of a railroad corporation question were involved, it would probably be different. Some remedy would doubtless be found. But as it is there appears to be none, unless the legislature of Minnesota shall decide to "take the bull by the horns" and withdraw the Minnesota privileges of the corporations in question, on the ground that they are being abused in defiance of the laws of the state.

A few weeks ago (vol. iv., p. 801) we quoted Gen. Miles as having testified before a Senate committee that the Root army bill, now before Congress, "would seem to Germanize and Russianize the small army of the United States," and to throw "the door wide open for a future autocrat or a military despot." That Gen. Miles was right will appear upon considering one feature of the Root bill, that which provides for a general staff. Under the present plan the technical head of the army—the major general or lieutenant general in command—rises to his position regularly through the organization of which he is part; and although he is subject to the general direction of the president as commander-in-chief, he is not subject to arbitrary appointment and removal by the president or at the behest of a political party. But that would all be changed by the Root army bill, which aims to enable the president to appoint and remove the technical head of the army at will. Instead of being a civil magistrate, with incidental military powers as commander-in-chief, the president could make himself commander-in-chief with incidental civil powers. The technical head of the army would no longer be merely his military subordinate, charged with the proper execution of lawful orders; he would be his personal puppet, able and willing to further his designs, whether lawful or unlawful, so far as the military organization could be made to operate to that end. Professional success in the army would depend altogether upon pleasing the president and his party; and every change of administration would be followed by a change in the technical head of the military machine. Perhaps there is no real danger in the bill. Possibly no president would be disposed to avail himself of the enormous power it would confer upon him to execute a coup d'etat. But if by any chance a strenuous president so disposed should come into office, what a tempting opportunity would confront him!

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The true adjustment of this matter lies in the direction of the bill introduced in the senate on the 22d by Senator Hawley. This bill would place the technical direction and control of the army under a military head, subject to the general orders of the president, but not subject to his arbitrary control. It quite properly puts the president, as commander-in-chief in the same relation to the general in command that the latter is in to his subordinates. Arbitrary dictation, obeyed in fear of removal or in hopes of retention or promotion, would be prevented; yet the president, so long as he acted within the law, would remain supreme. His lawful orders would have to be obeyed; his secret wishes would not. He could remove the general in command upon conviction of misconduct; he could not remove him at his own unbridled will. If this system places a wholesome check upon military officers of lower grade with reference to their subordinates—as colonels to captains—as it certainly does, it would not be an unwholesome check upon the president with reference to the general in command.

A man sits under the shadow of the gallows in Chicago who may be guilty of a brutal murder, but whose execution will nevertheless itself be murder if carried out. For this man has not had a fair trial. He was convicted under circumstances which raise a strong presumption that the jury that convicted him was intimidated.

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It would be bad enough if a possibly innocent man were hanged. But that is not the worst of it. Human justice being necessarily fallible, innocent men may now and then suffer under the best possible conditions. But when human justice has been poisoned at the source, the integrity of society itself is menaced. In these circumstances not merely may an occasional sad mistake be made, but constant perversions of justice are possible, and all confidence in the law must perish.

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Society should try to prevent crime, and in doing so may punish criminals. It is impossible, however, for society to ascertain guilt, except through agencies adapted to that purpose. Hence courts of criminal justice are established, with judges, prosecutors and juries. In these institutions the juries are the final arbitrators. They are relied upon by society to sift and weigh the facts and

to determine the question of innocence or guilt. So long as juries are uncorrupted and independent, any man may well say: "I cannot possibly inquire into the merits of every criminal case; but an honest and independent jury, fully apprized of the facts, has rendered a verdict, and I am justified in accepting that verdict as conclusive." But no man can say this when juries are bribed or intimidated. As fraud vitiates all contracts, so corruption or intimidation vitiates all verdicts.

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And of these two, intimidation is the worse. Men may turn aside from bribery who dare not stand out against intimidation. To refuse to be bribed requires only honesty, and most men are inclined to be honest. But to cope with intimidation requires moral courage, and that is the rarest of all the manly virtues. For this reason, the murder case referred to above is one of transcendent importance. Whether the man is in fact guilty or not, if his conviction has been procured by intimidating the jury that tried him, another deadly blow has been leveled at the administration of justice in Illinois. It can be averted only by giving the convict a new and fair trial, and properly rebuking the persons guilty of this crime against justice which, even though not a crime legally, is nevertheless so dangerous to society as to be worse than corruption.

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To understand the nature and force and danger of the intimidation in question, the facts about the crime and the circumstances of the conviction must be outlined. The prisoner's name is Thoms. He is charged with murdering a young woman whose body he sunk in the river, having been assisted in this secret burial by a young man who saw the crime and who became a state's witness. This young man was virtually the only witness. Without his testimony there would have been no case at all, and he does not appear to have been materially corroborated by collateral facts. The case has been twice tried. Its merits we do not intend to discuss, for the point upon which we wish to center attention is the same whether the prisoner is in reality guilty or innocent. Whether he went upon the witness stand in his own defense or not; whether he had given indications of innocence by trying to prosecute the incriminating witness, before he had become a witness but was a fugitive, upon charges of petty larceny; whether any adequate motive for the murder was shown—these and all similar matters are immaterial to the main question, which is the intimidation of the jury that convicted.

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At the first trial, two jurors refused to join in the verdict of conviction. They said that they did not believe the story of the state's witness, upon the truth of which alone the question of guilt seems to hang. This was not only their right; it was their duty. They were in that jury box to report upon the facts, not as the prosecuting attorney wanted them to, not as the judge may have desired, not as the other ten jurors saw the facts, but as they themselves saw them. If they were not corrupt, and no one accuses them of corruption, then their conclusion of "not proven" was entitled to just as much respect as the contrary conclusion of their associates in the jury box. Unless this is so, the jury system is a farce. But the jury system, however it may be perverted at times, is not a farce; and the refusal of these two jurors to agree to a verdict of guilty upon testimony which they believed to be untrustworthy, an act apparently of a high order of moral courage, is one of the events which go to prove the essential value of that time-honored system.

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For having thus courageously done their duty as jurors, these men were persecuted. Mobs threatened them and newspapers held them up to scorn. Persecution of that kind, however, is to be expected. It is one of the penalties of honesty in public office, one of the conditions which make honesty of little value when not backed up by moral courage. But this persecution was supplemented by the publication in the Daily News of the 8th, by A. C. Barnes, the assistant state's attorney, who had conducted the prosecution that failed and was immediately thereafter to conduct the one that succeeded, of the following astounding letter over his own name:

It is incomprehensible to right-thinking men how, in the face of indisputable evidence pointing conclusively to the defendant's guilt of a crime so horrible as to excite feelings of universal execration toward him, it is possible to find even one man with the ordinary instincts of humanity who would vote to acquit such a monster. Such a vote can be reconciled only with criminal instincts. It is not compatible with ideas of justice, self-respect or regard for others. It is almost a crime. At any rate the man who would cast it upon such evidence is unfit for citizenship or association with decent people. His own conduct could be governed by no rule observed by men of right impulses and normal ideas. I cannot express myself too strongly upon this subject. It is a strange anomaly that in this day of the most advanced civilization and improved methods such a man can be found in the jury box. It is not a question of denying the accused a single right. He was accorded every advantage and right our most liberal and humane laws bestow upon the accused. But none of these could change the force of facts, which no man could honestly question. Hence a vote of not guilty under such circumstances is not only a reflection upon the man who casts it, but borders so near a crime as to bring either the present jury system or the method of its selection in public disrepute. It is worse than some crimes, because such a miscarriage of justice creates disrespect for the law and its forms. In some parts of the country it would encourage lynching. Such a juror is a public enemy.

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Could anything be better calculated to intimidate the jury at the second trial, which followed immediately? Under the influence of a probable repetition of that excoriation of jurors who were not satisfied with the evidence Mr. Barnes had to offer, the second jury was chosen. Is it any wonder that they decided this question of life and death almost without leaving their seats? Is it any wonder that they convicted the prisoner

in less than half an hour, and without hesitation, upon the first ballot? Can it be assumed above all peradventure that this was because the evidence was irresistibly convincing beyond a reasonable doubt? May it not have been due to fear? For, had not the jurors been semi-officially forewarned of the punishment in store for them if they refused to convict? Not only were they admonished that if they disagreed with the prosecutor they must be prepared to suffer at the hands of some hysterical mob. They were in a position also in which, if they found themselves in disagreement with him, they must stiffen their moral courage to bear up under a scathing denunciation from him in the newspapers. He came before them in the name and with the dignity of the state virtually to demand that each of them vote for conviction, regardless of his own judgment and conscience, under penalty of being semi-officially denounced as a man of "criminal instincts," as one "unfit for citizenship or association with decent people," as being guilty of "something worse than some crimes" and as "a public enemy." If any of these men saw that publication or heard of it, this second trial was a farce. Considering the denunciations of the dissenting jurors at the first trial, the menace to which they were subjected by a mob, the gratuitous and infamous public attack upon them by the public prosecutor, of all which the jurors at the second trial must have been cognizant, the verdict given was under circumstances which indicate that it was secured by intimidation. A verdict so rendered ought not to stand. If no other functionary interferes to secure a fair trial for this man, then the governor of the state should find a way of doing it. The good name of Illinois cannot bear up under too many notable instances of judicial murder.

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As to Mr. Barnes, after publishing the assault upon the independent jurors which we quote above, he ought not to have been permitted to try the case a second time. The function of prosecuting official is in some degree judicial, and Mr. Barnes was not judicial. Not only should he have been withdrawn from the case by his superior; he should have been dismissed from the prosecutor's office. His letter is a reflection upon the administration of justice in the office that continues to employ him. It is a letter the publication of which would have been in bad taste had the first jury agreed upon a verdict of acquittal, thereby releasing the prisoner finally. But in view of the fact that the prisoner had another trial to undergo, that Mr. Barnes himself was to prosecute, that it was to come on immediately, and that the jurors would be men who had probably seen and might be intimidated by the letter, Mr. Barnes committed a moral crime against good government.

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Unless the administration of justice is to be completely discredited, something should be done to protect the independence of jurors, not only from prosecutors such as Barnes, but also from judges who take it upon themselves to rebuke jurors whose verdicts do not please them. Because there has been an occasional "failure of justice," consisting in an escape of the guilty through the laxness of juries, there seems to be a disposition in some quarters to follow indictments invariably not with trials but with convictions. It is to cater to this anarchistic disposition that some judges rebuke independent jurors, and prosecutors like Barnes publicly insult and libel them. The truth is that the guilty escape oftener through the interposition of judges in the higher courts than through laxness of juries. But even if that were otherwise, jurors should be encouraged to rely upon their individual judgment, and not be hounded when they do so. "Swift justice" may be a good thing, even if it is a characteristic of lynch law. But it is hardly worth having at the expense of fair trials.

One of the good signs of the times is the growing number and expanding influence in their respective states of the weekly papers of radically democratic proclivities, such as the Star of San Francisco and City and State of Philadelphia. Another just added is the Red Wing Argus. A local paper of many years standing, the Argus has now essayed to represent the Democracy of the state of Minnesota. Its prospectus gives promise of good wholesome democratic work, as one brief quotation will show:

Democracy has principles but no programme—just the opposite of our friends the enemy. Democracy's principles are firmly established; the programme has to be hammered out in some open place. . . . Democracy is—has been—shall be—constant to equal rights, forever fighting special privilege. What can't be made to harmonize with that is not Democracy; whatever is necessary to that must be Democratic policy; whatever can be made to square with it may be Democratic programme.

No further guarantee of fidelity to this sound conception of democracy is needed than the fact that the editor of the Argus is John Stone Pardee, whose name as that of a brilliant editorial writer is already familiar in more than one state.

RIPPERISM.

Political movements toward industrial justice seem likely to find their starting-points in cities. Cleveland and Toledo are just now instances in point. The latest newspaper word, is the verb active to "tomjohnsonize." The answer of the plutocrat is the new expression "ripperism."

The cities which become imbued with real democratic Democracy, and show symptons of putting it into effect in the form of laws for the municipal ownership of public utilities, or the placing on the monopolies of something like their true share of the burden of taxation, are to be disciplined and plundered at once by ripper legislation. Indeed in Pennsylvania ripperism was inaugurated for plunder rather than party advantage; and the extent of the stealings of the Quay machine, in the form of franchise grants in cities, made at Harrisburg in defiance of the wishes of the people of the cities interested, togeth-