

C. S. DARROW

Volume 3.

July 10 and 11, 1907

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Darrow

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For I guess Boise, Idaho, Wednesday, July 10, 1907. It is to be
was the Northern Pac 9:30 o'clock, A.M. and they were explod-
ing it that Court convened pursuant to adjournment. have heard
it, and at the clerk read the minutes of the session of Tues-
day, July 9th, 1907, and the same were signed by the court.

The clerk called the names of the jurors and
announced all present. It would require a heavy charge in that

THE COURT: Proceed, Mr. Borah.

Mr. BORAH: Cross examination by Mr. Van Duhn.

THE COURT: What is the name of this witness?

Mr. BORAH: Abernethy.

Thereupon the balance of the deposition of the wit-
ness A. A. Abernethy as read in evidence, the cross examination
by Mr. Borah, the re-direct examination by Mr. Darrow and the re-
cross examination by Mr. Borah. It appears as follows.

Q. Is there any distinction between granite exposed beneath
the earth? The balance of said deposition enclosed the
figures as follows, to wit:

A. It is said.

Q. If below the earth it would be dull. A. Yes, and it shows
would be made of a granite, but not equal to granite.

Q. Granite exposed above the earth would be a granite vol-
ume but in your opinion not equal to granite. A. Yes.

for I guess a month or six weeks, and right opposite to it was the Northern Pacific Freight Yards and they were exploding it there continuously; and up in Little Chap I have heard it, and at Illiamna Bay; then up at Dawson. I don't know where I have not heard it in fact. Now the Railroad in Spokane used to charge heavy. They drilled down sixteen or eighteen feet and it would require a heavy charge in that depth to do any good.

Q. Was this a sharp or what you would term a volume report?

Q. It would be a volume report, meaning the explosion when Bradley was hurt.

CROSS EXAMINATION:

Q. Did you ever hear dynamite, Mr. Abemethy, except above ground? A. I have. I have exploded it myself.

Q. Is there any distinction between dynamite exploded beneath the earth and above the earth? A. Sure there is.

Q. I presume that distinction would be in the sharpness.

A. It would.

Q. If below the earth it would be dull. A. Yes, and if above would be more of a volume, but not equal to gas.

Q. Dynamite exploded above the earth would be a greater volume but in your opinion not equal to gas. A. Yes.

Q. It would depend upon the quantity of dynamite used?

A. Yes.

Q. This sewer gas explosion that you were speaking of--was the sound very great? Could it be heard a long distance?

A. I was seven blocks away and could hear it very distinct. It blew a man hole cover at last twenty feet up in the air.

Q. How about the explosion of dynamite--from what you know of it, does that have a shattering effect on windows in buildings? A. I would relate that from an experience I had in Spokane. There was a party about five or six blocks from the school (I was building the High School at the time) and he took out a box supposed to be empty and built a fire to burn it up, but it went off and that shook the windows at the High School. I was right on the corner opposite the High School, but it shook the windows so you could here them there.

Q. What effect did it have in regard to breaking windows?

A. It did not break any there, but right close at the building (it was a store) it blew everything in, in front and the rear door and windows blew it out.

Q. That was in Spokane, and as I understand it, it was dynamite you are speaking of now. A. Yes.

Q. Dynamite in exploding would have an effect to make a vacuum of air? A. No, I think the air went through and blew the windows right out.

Q. It has a compelling force, whether vacuum or not? A. Yes, it does.

Q. In regard to the sewer gas, what effect, if any, did that

have upon surrounding buildings ? A. I did not go up to it and do not know.

Q. Is there any difference in the sound and effect of the different kinds of dynamite. A. Well, No. 1 is stronger and sharper than No. 3.

Q. And No. 1 would produce a greater volume of sound ?

A. No. 1--one cartridge I should say would equal two cartridges of No. 3.

Q. Do you know what a gelatin powder is ? A. I do not.

Q. As you understand the different grades of dynamite, ~~know~~ they differ according to their number. A. Yes. There is No. 1 and No. 3. No. 3 is the weakest.

MR. VAN DUYN: That is all.

MR. MILLER: That is all.

(Signed) W. A. Abernethy.

State of California,)
) ss.
City and County of San Francisco.)

I, R. E. Treat, a notary public in and for the City and County of San Francisco, State of California, do hereby certify that in pursuance to the foregoing stipulation I took the deposition of W. A. Abernethy, at my office, 1101 O'Farrell Street, in the City and County of San Francisco, State of California, commencing at the hour of 1.30 o'clock P. M. on the 29th day of June, A. D. 1907; that S. H. VanDyyn Prosecuting Attorney of Canyon County, Idaho, appeared as the

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attorney for the plaintiff, the State of Idaho, and Fred Miller, Esq. on behalf of the defendant William D. Haywood; that it was stipulated that the testimony of said witness may be taken in shorthand by Ida M. Ansell, and thereafter reduced to writing by her, and signed by said witness after the same was reduced to writing by said Ida M. Ansell; that the said witness, W. A. Abernethy was first duly sworn to testify the truth, the whole truth and nothing but the truth; that the defendant offered in evidence a photograph identified by the witness, which is attached to his said deposition and marked as Defendant's Exhibit San Francisco No. 5; that it was stipulated between counsel for the respective parties that the requirement of the Idaho statute that each question and answer be read to the witness be waived, and that said witness read over and sign said evidence when the same is transcribed by the stenographer; that said evidence was first read by said witness and the corrections were made under his direction and before the said deposition was subscribed by him; that said deposition was signed in my presence and I have subscribed my name to each page of said deposition.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal, at my office above stated, on this 1st day of July, A. D. 1907.

R. B. Treat, Notary Public, in and
for the City and County of San Francisco, State
(SEAL) of California.

(Each page of said deposition was signed "R. B. Treat, Notary Public.")

(ENDORSED)

In the District Court of the
Third Judicial District of the
State of Idaho, in and for the
County of Ada.

State of Idaho,
Plaintiff,

vs.

William D. Haywood, et al.,
Defendants.

DEPOSITION OF W. A. ABERNETHY.

Filed and published

July 8, 1907.

W.L. Cuddy,
Clerk.

By Otto Peterson,
Deputy.

JOHN I. TIERNY, being recalled as a witness on behalf
of the defendant, having been heretofore duly sworn, on oath
testified as follows:

DIRECT EXAMINATION:

BY MR. DARROW:

Q You testified the other day, didn't you? A. Yes.

Q And you are a newspaper man with the Denver News and Times.

A Yes.

3729 Q How long have you been? A. Between five and six years with

Boise, Idaho, Wednesday, July 10, 1907.

9:30 o'clock A. M.

Parties met pursuant to adjournment.

The clerk read the minutes of the session of Tuesday, July 9th, 1907, and the same were signed by the court.

The clerk called the names of the jurors and announced all present.

THE COURT: Proceed, Mr. Borah.

MR. BORAH: Cross examination by Mr. Van Dahn.

THE COURT: What is the name of this witness.

MR. BORAH: Abernethy.

The balance of the deposition of the witness W. A. Abernethy was then read in evidence, the cross examination by Mr. Borah, the re-direct examination by Mr. Darrow and the re-cross examination by Mr. Borah.

JOHN I. FERRIS, being recalled as a witness on behalf of the defendant, having been heretofore duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. You testified the other day, didn't you? A. Yes.

Q. And you are a newspaper man with the Denver News and Times?

A. Yes.

Q. How long have you been? A. Between five and six years with

those papers.

- Q. Working in Denver all the time? A. Except such times as I have been sent outside.
- Q. Were you there in 1903, 1904 and 05? A. Yes, I was.
- Q. And on the newspaper? A. Yes.
- Q. Did you also have anything to do with politics in those years, either of them? A. Yes.
- Q. What year? A. 1904.
- Q. Were you a candidate on any ticket? A. Yes, I was a candidate for the legislature on the Democratic ticket.
- Q. Did you take your seat after election? A. No, I did not.
- Q. Were you familiar with the political situation in the state of Colorado in 1903, 4 and 5? A. I was.
- Q. You say you did not take your seat at that election: Were you elected on the face of the returns?

MR. BORAH: We object to that as incompetent, irrelevant and immaterial.

MR. DARROW: I will withdraw that for a minute, until I ask something else. Were you familiar -- I will ask the question direct. Was there any public feeling in 1904 and 5 against the Supreme Court judges and the governor in Denver and Colorado?

MR. BORAH: We object to that, if your Honor please, as incompetent, irrelevant and immaterial, not as yet connected with any so-called conspiracy.

MR. DARROW: Your Honor --

THE COURT: You may state the purpose of this and what you expect to show.

MR. DARROW: The state introduced here a decision of the Supreme Court of Colorado which was supposed to in some way affect the Western Federation of Miners and the officers of the Western Federation of Miners as showing a motive that they might have had against the Supreme Court judges and against the governor. We wish to show that there was an intense political feeling in the state which reached all classes of people at that time; there were free comments against the Supreme Court, against the governor, and all sorts of actions of all classes of people in the community against the Supreme Court and against the governor at that time. We wish to show it for the purpose of showing that any motive that might possibly have existed against the officers of the Western Federation of Miners was very much stronger against the public generally or a large portion of the public in the city of Denver at that time, so that if any inference is to be drawn by the jury as to who was responsible for any act against any member of the Supreme Court or against the governor they may have the full facts as to the motive of the various people in Denver. That is the purpose of it.

THE COURT: Is that as far as you expect to go with that evidence, Mr. Darrow?

MR. DARROW: Yes, your Honor, that is as far as we expect to go at this time, and use it in connection with whatever we put in at this time.

THE COURT: I will hear you upon the materiality of it.

MR. DARROW: The State has been permitted to introduce the decision of the Supreme Court, which is a decision upon

the eight hour law. It is introduced for the purpose of showing that these defendants might have had a motive in doing some of the things which Mr. Orchard said he did. Assuming that Orchard told the truth, for the sake of the argument, as to any attempts that were made upon the Supreme Court justices, it is denied by the defendants that they had anything to do with it or knew anything about it. The defendant and the president of the organization will both take the stand and deny it. Then the question resolves itself into this: Assuming he did it, what is there to connect the defendants with it? And what reason is there, what reason can the jury have for saying that the defendants were the guilty parties? They bring in the Supreme Court decision, a decision in part directed against them, against the men whom they represented, a decision with which these defendants would not be in harmony, and it is argued that whatever they did against the Supreme Court or any members of the Supreme Court was done because of this decision. That is, that the decision furnished a motive. These men, if convicted, or if believed to be guilty in reference to the Supreme Court, must be partially believed to be guilty because they had motive for it. Now assuming that something happened, the question is, did anybody else have a motive? Was there a state of feeling in that community which would cause a reasonable man to think that someone else out of a million people might have had the same or a stronger motive.

THE COURT: Do you propose to follow this up and show that somebody else did this?

MR. DAWSON: No, your Honor, we do not. Assume that Grehard did it, that does not show that the defendants were in any way connected with it, the defendants deny it. Assume that he was the agent, we don't know who he acted for. They say he acted for us because of a decision of the Supreme Court had been rendered and therefore we were anxious to get rid of him and therefore we hired this assassin to do it. We say there were others who were infinitely more interested than we; there was a feeling that was infinitely stronger in that community than any feeling that the Western Federation of Miners had; and assuming that he was the agent, and the motive of someone else was very much stronger than the motive of these defendants, and it is to show motive pure and simple. We think the political history of the times is a part of the case and the jury has a right to know about it. That is all I care to say about it.

MR. BORAH: If your Honor please --

THE COURT: Mr. Borah, I do not think we will take up any more time. I am satisfied that this testimony on the statement made by counsel is not admissible, and the court will sustain the objection.

MR. DAWSON: What is the question you have there?

(Question read as follows: "Was there any public feeling in 1904 and 5 against the Supreme Court judges and the governor in Denver and Colorado?")

MR. DAWSON: That question was objected to and the objection sustained. We save an exception.

Q. Of course you won't answer any of these questions, Mr. Tierney,

until after the court rules. Do you know what was the state of the public feeling in the city of Denver in 1905 toward the Supreme Court and Governor Peabody? Now I suppose that question might be answered: Do you know, yes or no?

A. Yes, I do.

Q. Now this I suppose they will object to. What was that feeling?

MR. BORAH: We object to that as incompetent, irrelevant and immaterial, calling for hearsay evidence and a conclusion of the witness, and so far no foundation has been laid for it in the way of any connection and no promised connection.

THE COURT: The objection is sustained.

MR. DARROW: I desire to take an exception. Your Honor, I think I ought to make an offer of proof here but I don't suppose I ought to make it before the jury.

THE COURT: You have already stated, Mr. Darrow --

MR. DARROW: I haven't stated it specifically at all.

THE COURT: You have stated what you expected to show and what you did not expect to show.

MR. DARROW: I haven't stated it specifically so the record would show the exact thing we want to prove and I want to make the record straight on that.

THE COURT: I am rather of the opinion that any offer that is made must be made in the presence of the jury.

MR. DARROW: We prefer to make it in the presence of the jury but I don't want to take any advantage.

MR. BORAH: I supposed that Mr. Darrow had stated the object of it.

MR. DARROW: What I have stated is a matter of the

admissibility of this evidence, a matter of argument. I want to state the specific thing.

THE COURT: You stated the things you expected to show.

MR. DARROW: Yes, but I didn't state the facts which I expected to show.

MR. BORAH: We submit if he is going to make a statement of facts that they had better be submitted in a different form.

MR. DARROW: As far as I understand it, it is the regular way to state what you expect to prove by the witness, and I think it is necessary to do it in this case.

MR. BORAH: You have certainly got a statement before the court upon which the court has ruled, and that is all there is to it so far.

MR. DARROW: No, the question may possibly some time be up for review, and the question will be whether this evidence is competent.

MR. BORAH: Your statement is in the record what you propose to prove.

MR. RICHARDSON: That is not the offer of proof. The record should contain the offer of proof.

MR. BORAH: Let the counsel state his statement is the offer of proof.

MR. DARROW: No, it is only general.

MR. RICHARDSON: That is the effect of the proof.

MR. DARROW: What I want to state is what I expect this witness to swear to.

MR. BORAH: We submit, your Honor, that the counsel state it in writing.

MR. DARROW: I am willing to state it any way the court says, but I want to state it, I want to show what we expect to prove by this witness.

THE COURT: We will probably save time, gentlemen, by sending the jury out and let him make his offer.

(Thereupon the court gave the jury the statutory admonition).

MR. DARROW: I believe I stated to the court in this connection that the defendant and his associates had nothing whatever to do with the witness Orchard in reference to any action against any member of the Supreme Court or the governor. If I did not, I want the record to show that.

MR. BOWEN: The records shows that.

THE COURT: Swear the bailiffs.

(Thereupon the bailiffs were sworn and the jury retired in charge of the bailiffs).

MR. DARROW: We expect to show by this witness that from the year 1903 down to the present time he has been in the newspaper business in the city of Denver, familiar with the political condition of the city and the state of Colorado; that he has, as a news gatherer, had frequent conferences with the governor and other state officers during that time; that he was a candidate for the legislature in the year 1904, and upon the face of the returns was elected, that the whole Democratic ticket was elected on the face of the returns; that a large number, a considerable part of the Democratic officials took their offices, and that afterwards a contest was entered into in the legislature by which it was sought to unseat a considerable

number of the Democratic members of the legislature, and this witness with the rest; that at the election of 1904 Alva Adams was the Democratic candidate for governor and Joseph H. Peabody the Republican candidate; that upon the face of the returns Adams was elected by about eleven thousand majority; that thereupon Adams took his seat and remained governor for upwards of two months; that immediately preceding the time that Adams took his seat, the night before Governor Peabody's time expired he appointed Judge Luther M. Goddard as a justice of the Supreme Court, being an office that had been created by the past legislature -- by a constitutional amendment, and which was to go into effect some three or four months after the appointment; that this man Goddard was formerly elected as a Democratic justice of the Supreme Court; that he had been repudiated and not renominated by his party after having been elected to fill a vacancy; that at the next election he was not renominated and not re-elected by his party; thereupon, the night before Peabody's term expired, Peabody being a Republican, appointed this Luther M. Goddard who had pretended to be a Democrat and whose appointment was urged by the corporations of the state of Colorado; and that within at a few hours of that time his term expired and Governor Adams took his seat; that this created intense excitement and bitterness and hatred throughout the city of Denver and the State of Colorado; that the election contests that followed came before this same Goddard who had been appointed by Governor Peabody, and before another judge, Gabbart, who had formerly been elected as a Populist and Democrat; that both of these judges, heretofore Democrats, decided in favor of throwing out certain Democratic

precincts or precincts in which there were large Democratic majorities, thus nullifying the Democratic majorities and declaring the Republicans elected, and ousting the Democrats from office and seating the Republicans in their place; and that in that contest some fifty or sixty leading Democrats of Denver were thrown into jail by order of the Supreme Court; that the matter caused the most intense excitement in Denver; that during that period flags were placed at half mast on account of it, nooses were displayed in windows for the Supreme Court, and an editor who had given his opinion of the Supreme Court was fined a thousand dollars for contempt and refused the right to prove the truth of his charges; that a former governor of Colorado, Governor Thomas, at a public meeting declared that if Alva Adams should be ousted and Peabody took the place that there was no other resort excepting force, which declaration was cheered to the echo; and that all over the city of Denver and the state of Colorado, wherever men would come together, there were discussions in reference to the Supreme Court and Peabody, and threats against both; and that afterwards the legislature under some sort of an agreement made an arrangement by which Governor Peabody handed in his resignation, and thereupon the legislature ousted Governor Adams, leaving Governor Peabody the governor of the state for a few minutes, and then his resignation was filed, and Lieutenant Governor McDonald took his place; that the resignation was placed in escrow because nobody in the state would trust Governor Peabody; that within about thirty minutes they had three governors in the state of Colorado, one of which had never been voted for and two of which had never been elected; that all of this created the

most intense public excitement in the city of Denver and the state of Colorado, and threats were universally indulged in both against Governor Peabody and the members of the Supreme Court, especially the two members whom the Democrats regarded as renegades. That is what we expect to show.

MR. BORAH: I suppose in the interest of history it ought to be stated that the Supreme Court of the United States sustained the Supreme Court of Colorado on that decision.

MR. DAWSON: On what decision?

MR. BORAH: The Patterson decision.

MR. DAWSON: It did not.

MR. RICHARDSON: On the ground it had no jurisdiction and no federal question involved.

MR. DAWSON: The Supreme Court of the United States held they had no jurisdiction and no federal question involved. You are not making history very fast.

THE COURT: State your objection, Mr. Borah.

MR. BORAH: We object to the offer as incompetent, irrelevant and immaterial, calling for hearsay evidence, also calling for secondary evidence, and also for the conclusion of the witness; and for the reason that no foundation has been laid, no connection established or any promise made tending to establish it; and for the further reason that its only tendency is to establish threats upon the part of third parties who are not connected with the case, and that by hearsay evidence.

THE COURT: The objection will be sustained.

MR. DAWSON: An exception.

THE COURT: An exception will be noted.

MR. BARNOW: That is all.

THE COURT: Have you any further offer to make along this line? If so, we will probably save time while the jury is out.

MR. BARNOW: We have stated to the court that we expect to prove in this connection that the defendants Meyer, Haywood and Pettibone had nothing whatever to do with Orchard, nothing to do with any act of his in connection with any member of the Supreme Court or the governor.

THE COURT: Send for the jury, gentlemen.

(Thereupon the jury were brought into court).

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The clerk thereupon called the names of the jury and announced all present.

THE COURT: Call your next witness, gentlemen.

MR. BARNOW: We will call Mr. Meyer.

CHARLES H. MOYER, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DAWSON:

- Q What is your name, please, in full? A C. H. Moyer.
- Q What is your first name? A Charles.
- Q Where do you live, Mr. Moyer? A I have been living in Boise for the past 17 months.
- Q When did you come to Boise? A I came to Boise the 18th of February, 1906.
- Q You are a married man, are you? A Yes sir.
- Q Where did you live before you came to Boise? A I lived in the City of Denver for about five years,-- or six years.
- Q Denver, Colorado? A Yes sir.
- Q Did you come from Denver, Colorado, here? A Yes sir.
- Q And what is your business? A I have followed mining and other labor all of my life.
- Q How long have you been a miner -- about how long? A I have worked in the mines off and on since 1883.
- Q Whereabouts most of the time? A Black Hills and Colorado.
- Q Black Hills, Dakota, and Colorado? A Yes sir, South Dakota.
- Q What kind of mining? A I worked in underground workings and

surface working,-- placer mining.

Q What are some of the mines you worked for in the Black Hills?

A The Horse Shoe, the Gold Reward, Kendall Creek Hydraulic and the Homestake Gold Mining Company, and in Colorado the Caribou Mining Company.

Q Are you a member of the Western Federation of Miners?

A Yes sir.

Q What position do you hold in the Western Federation of Miners?

A The office of President at the present time.

Q How long have you been President? A I have been President since June, 1902.

Q How often is the President elected? A Annually.

Q And you have held that office ever since June 1902? A Yes sir.

Q When did you join the Western Federation of Miners? A In 1897.

Q 1897? A '97, yes sir.

Q What year did you say? A 1897.

Q Were you a member of any miner's organization previous to that time? A No sir.

Q Or any labor organization? A No sir, that was my first experience with a labor organization.

Q Where were you working at the time? A I was working for the Horse Shoe Mining and Milling Company at a place called Tams, Black Hills, South Dakota.

- Q And you then joined the Federation, did you? A Yes sir, I joined what was known as the Millmen's and Smelters' union at Deadwood, Dakota.
- Q Had you worked in the mill? A Yes sir.
- Q At that time? A I worked three years and a half with that company that time.
- Q Mining or as a smelter man? A I worked in what was known as a chlorination plant.
- Q Did you begin taking an active interest in the union after you joined it? A Yes sir. I was a charter member and was elected president of the local organization as its first president.
- Q You was its first president were you? A Yes sir.
- Q There was no union at that place previous to the time you joined it? A Not a union of the Western Federation of Miners; there were unions composed of other crafts but not of the Western Federation of Miners or of the millmen.
- Q How long did you hold the office of President? A In that local organization two years, which would be four terms.
- Q And that brought you down to what time? A Brought me down to 1899.
- Q Did you have any other offices in connection with the organization up to that time? A No sir, other than I was chairman of what was known at that time, and is yet, of the Black Hills district union, which is a union composed of delegates from all the unions throughout the Black Hills connected with

the Western Federation of Miners.

Q Was there any trouble in that district while you were president? A No sir, no serious trouble, no sir. There was some slight differences or misunderstandings between the local unions and the employers, but no strikes during that time.

Q Nothing that you could not fix up yourself? A No sir, everything was amicably adjusted, I believe.

Q When did you have any connection of any sort with the general organization and what was the first? A I attended a convention of the organization in 1899 and was there elected a member of the executive board of the general organization.

Q Was that the first time you had been a delegate to the convention? A Yes sir.

Q And when you were elected you were president of your union, were you? A Yes sir.

Q How large a union was that, about? A Our membership varied; we had from three hundred to five hundred members.

Q And how many members of the executive board were there at that time? A There was five.

Q Now, how long did they hold office for? A One year.

Q Who was president? A Mr. Boyce was president at that time.

Q How long did you stay on the executive board before you were elected to any other position? A Until June, 1902, and

prior to June I had acted for nine months as an organizer for the organization out of my district which I was supposed to represent as a member of the executive board.

Q Was there any particular number of organizers? A No sir, not at that time.

Q What were the duties of an organizer? A The duties of an organizer is to visit localities where there is no organization or local of the Western Federation of Miners -- no local union, and bring them in -- organize them.

Q Are the members of the union frequently used as organizers?

A No, only in their own jurisdiction. Often the union employs the president and secretary both as organizers for their local organization.

Q Now, when did you say you were elected president? A In June, 1902.

Q Who was secretary at that time? A Mr. Haywood.

Q When did you first become acquainted with Mr. Haywood?

A I became acquainted with Mr. Haywood in 1900, at a convention in Denver, Colorado, -- a convention of the Western Federation of Miners.

Q Had he been elected secretary and treasurer before you were president? A Yes sir, before I was elected president.

Q He had been elected the year before, had he not? A. In 1901.

Q What were the duties of president at the time you were elected and since? A The duties of the president are generally to

supervise the organization, travel from one part of the jurisdiction to the other, and visit the local unions as often as his time will permit, assist them in their organizing and advise them as to the best methods of conducting the affairs of their local organization.

Q Has you been a member of any other organization besides the Western Federation of Miners, and are you a member? A Yes sir.

Q Any fraternal organization or orders? A I am a member of the Independent Order of Odd Fellows and the Ancient Order of United Workmen.

Q How long have you belonged to these? A I have belonged to the Odd Fellows for 14 years and to the Workmen for 8 years.

Q You joined the Odd Fellows before you became a member of the Western Federation? A Yes sir, many years.

Q How often is it the president's duty to visit organizations, if there is any -- you are still a member of both of these organizations, in good standing? A Yes sir, in good standing.

Q How often is it the duty of the president to visit the different locals? A The constitution provides that the president shall visit each district during his term of office, and as many unions -- local unions as his time will permit.

Q Have you a copy of the constitution with you? A Yes sir.

Q Is this the constitution that I now show you? A Yes sir, that is the constitution as last amended in May, 1906.

Q Has it been substantially the same from the beginning?

A There have been changes made at most every convention, but the preamble of the constitution and the basis of the organization has never been changed.

Q This defines the duties of the officers, does it? A Yes sir.

MR. DARROW: I am going to offer this. I suppose you have one?

MR. BORAH: I think that is the one that Mr. Richardson handed us a copy of it.

MR. DARROW: I think it is.

MR. RICHARDSON: That is the only one we have got.

MR. DARROW: The different dates may change immaterial matters but we will give you any year you want. I will offer this. I will have this marked defendant's exhibit 20, and I will offer that in evidence.

THE COURT: Any objection?

MR. BORAH: No, I think not.

THE COURT: What will it be marked?

MR. DARROW: Defendant's exhibit 20.

THE COURT: It will be admitted.

Defendant's exhibit No. 20 is in words and figures as follows, to-wit:

INDUSTRIAL'S EXHIBIT 20.

"CONSTITUTION AND BY-LAWS
of the
WESTERN FEDERATION OF MINERS.

Adopted at

Butte City, Montana

May 19, 1893.

Amended at Salt Lake City, Utah, 1894.
Amended at Denver, Colorado, 1895.
Amended at Denver, Colorado, 1896.
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Amended at Denver, Colorado, May, 1904.
Amended at Salt Lake City, Utah, May, 1905.

P R E A M B L E.

We hold that all men are created to be free and should have equal access and opportunity to the enjoyment of all benefits to be derived from their exertions in dealing with the natural resources of the earth, and that free access and equal opportunity thereto are absolutely necessary to man's existence and the upward progress of the human race. Since it is self-evident that civilization has, during our centuries, made progress in proportion to the production and utilization of minerals and metals, both precious and base, and that most of the material prosperity and comforts enjoyed by mankind are due to this progress, it is highly fitting and proper that the men who are engaged in the hazardous and unhealthy occupation of mining, milling, smelting and the reduction of ores should receive a just compensation for their labors, which shall be proportionate to the dangers connected therewith, and such protection from law as will remove needless risk to life or health, and for the purpose of bringing about and promoting these, and other proper and lawful ends, and for the general welfare of ourselves, families and dependent ones we deem it necessary to organize and maintain the Western Federation of Miners, and among our lawful purposes, we declare more especially our objects to be:

First: To secure compensation fully commensurate with the dangers of our employment and the right to use our earnings free from the dictation of any person whatsoever.

Second: To establish as speedily as possible, and so that it may be enduring, our right to receive pay for labor per-

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formed, in lawful money and to rid ourselves of the iniquitous and unfair system of spending our earnings where and how our employers or their agents or officers may designate.

Third: To strive to procure the introduction and use of any and all suitable, efficient appliances for the preservation of life, limb and health of all employes, and thereby preserve to society the lives and usefulness of a large number of wealth producers.

Fourth: To labor for the enactment of suitable laws and the proper enforcement thereof.

Fifth: To provide for the education of our children and to prohibit the employment of all children until they shall have reached at least the age of sixteen years.

Sixth: To prevent by law any mine owner, mining company or corporation, or the agents thereof, from employing detectives, or armed forces, and to provide that only the lawfully elected or appointed officers of the county, state or province, who shall be bona fide citizens thereof, shall act in any capacity in the enforcement of the law.

Seventh: To use all honorable means to maintain and promote friendly relations between ourselves and our employers, and endeavor by arbitration and conciliation, or other pacific means, to settle any difficulties which may arise between us, and thus strive to make contention and strikes unnecessary.

Eighth: To use all lawful and honorable means to abolish and prevent the system of convict labor from coming into competition with free labor and to demand the enforcement of the foreign contract labor law, against the importation of pauper

labor from any foreign country, and also to use our efforts to make it unlawful to bring persons from another state, territory or province to take the places of workmen on a strike, or who may be locked out, by means of false representation, advertisements or other misleading means.

Ninth: To demand the repeal of conspiracy laws that in any way abridge the right of labor to organize to promote the general welfare of their membership, and also to use our influence to bring about legislation which will prevent government by injunction by either Federal, state or provincial courts. To procure employment for our members in preference to non-union men, and in all lawful ways co-operate with one another for the purpose of procuring a just share of the product of our toil and mutual advancement in order that the general welfare of the membership and their families may be steadily advanced and promoted.

Tenth: To use our united efforts to discourage the contract labor system and as soon as practicable to abolish the same, believing the said system to be detrimental to the best interests of organized labor.

CONSTITUTION.

ARTICLE I.

Section 1. This organization shall be known as the Western Federation of Miners, and shall be composed of all persons working in and around the mines, mills and smelters, organized into unions paying per capita tax to the Federation.

Sec. 2. The objects of this organization shall be to unite the various persons working in and around the mines, mills and smelters into one central body, to practice those virtues that adorn society and remind man of his duty to his fellow men, the elevation of his position and the maintenance of the rights of the workers.

Sec. 3. Whenever twenty or more persons of any craft specified in section 1 of this article shall be found that will be self-supporting, they shall, on application, be granted a charter.

ARTICLE II.

CONVENTION.

Section 1. This Federation shall hold its annual convention on the fourth Monday in May, at such place as the convention shall designate before adjournment of any session thereof.

Sec. 2. Each union shall be entitled to one delegate for one hundred members or less, and one for each additional one hundred or majority fraction thereof. Provided, no delegate shall in any event, either holding proxy votes or representing

a union entitled to a greater number, cast more than five votes.

Sec. 3. Representation in the annual convention shall be based on the January report prior to the holding of the convention, and the January report of each year shall be an annual report; provided, in case a special convention shall be held, the representation shall be based on the last quarterly report prior to the calling of the special convention.

Sec. 4. Each union shall elect a delegate or delegates and alternates to attend the annual convention of the Federation at least thirty days prior to the assembling thereof. The alternate delegate shall only attend and be entitled to a seat in the convention when the regularly elected delegate fails, refuses or is unable to be present to discharge his duties. To be eligible, either as a delegate or alternate, a membership in good standing in the Western Federation of Miners for a continuous period of two or more years, and of twelve months or more in the union which such delegate represents, shall be required; provided, however, that the provisions of this section shall not apply to the unions and members thereof which have been organized for a length of time less than that mentioned herein. Delegates shall present their credentials and have them passed upon before taking their seats in the convention. Delegates in attendance at the convention and absenting themselves without permission from the sessions thereof shall not be entitled to their per diem for any day, or part of a day, upon which they

are absent. Duplicate credentials must be in the hands of the secretary-treasurer at least fifteen days prior to the meeting of the convention. No local union shall be entitled to representation in the convention which has not complied with the constitution of the Federation.

Sec. 5. Delegates representing a majority of the unions comprising the Federation shall constitute a quorum.

ARTICLE III.

OFFICERS.

Section 1. The officers of the Federation shall consist of a President, a Vice-President, a Secretary-Treasurer, and an Executive Board of ten members, including the three general officers before named, of which the President shall be chairman, all of whom shall be elected from the delegates present by a majority vote of the votes cast at each annual convention, and shall hold office until their successors are duly elected and qualified and enter upon the duties of their office.

NOMINATIONS AND ELECTION OF OFFICERS.

Sec. 2. Nominations of officers shall be made from the floor, and election must be by ballot. Should no candidate receive a majority of the votes on the first ballot, the candidates receiving the lowest number of votes shall be dropped and another ballot taken, and this procedure continued until some candidate is elected.

DUTIES OF PRESIDENT.

Sec. 3. It is the duty of the President to preside at all meetings of the Federation, preserve order, enforce the constitution and watch vigilantly over the interests and affairs of the Federation. In this he shall be assisted by all the officers of the Federation. He shall have the right to vote at the election of officers, and when the members are equally divided he shall have the deciding vote on the question under consideration. He shall sign all orders drawn by the Secretary-Treasurer, in compliance with a vote of the majority at any session of the Executive Board. He shall, with the approval of the Executive Board, fill all vacancies occurring in the Executive Board, or in the offices of Vice President and Secretary-Treasurer. He may, with the approval of the Executive Board, appoint such organizers as the condition of the Federation may justify. Said organizers shall at all times act under the instructions of the President, and they shall receive \$5 per day for such time as they are actually employed, together with transportation expenses, and they shall report to the office of the Federation in writing at least once each week, while in the employ of the Federation as organizer. The President shall visit each district once each year, and visit as many unions as the condition of the Federation will permit; and he may also examine the books of any union he visits, provided he has time to do so, in order to ascertain if each union is paying its share for the maintenance of the Federation. He shall communicate with persons living in places

where the Federation does not exist, and have them organized, if possible. He may convene the Executive Board when in his opinion the affairs of the Federation will justify the same; and he may, with the approval of the Executive Board, call an extra convention of the Federation, and he shall, on the written request of six members of the Executive Board, or on written request of ten unions having a combined membership of 7,500, representing at least three districts, call an extra convention of the Federation. He shall submit a complete report of his work during the term of his office to each convention, and make such recommendations as in his judgment will advance the interests of the organization. He shall receive \$5.00 per day for his services, besides such additional amount as may be necessary to defray his transportation and other expenses.

DUTIES OF THE VICE PRESIDENT.

Sec. 4. It is the duty of the Vice President to assist the President to preserve order at all meetings and assist him in the discharge of his duties; preside during his absence, and perform the duties devolving upon the President; and in case of vacancy occurring in the office of President he shall ascend to the presidency and act as such for the unexpired term.

DUTIES OF SECRETARY-TREASURER.

Sec. 5. It shall be the duty of the secretary-treasurer to attend all conventions of the Western Federation of Miners and bring thereto all the necessary books, papers and documents pertaining to his office and keep a proper and correct record of the

proceedings of the convention; read all petitions, resolutions and communications, not in charge of a special committee, which may be submitted to the Federation; file and safely keep, unless otherwise ordered, all papers or documents which have been before the convention. At each annual meeting of the convention he shall submit a complete report of the receipts and disbursements of the Federation for the preceding year; number of unions organized, number in good standing and the number of unions disbanded, if any, and the cause thereof. If ordered by the convention, he shall cause to be printed duly authenticated copies of the proceedings of the convention and furnish each local union with a copy thereof. He shall prepare, sign and seal all charters and such other papers and documents as may emanate from the Western Federation of Miners and which are required to be duly authenticated. He shall, at the end of each quarter, send a report to each local union showing the receipts, and the dates thereof, of all moneys received from the local unions for the preceding quarter. All moneys coming into his hands belonging to the Federation shall be deposited, at least twice a month, in some solvent bank or banks, and shall only be drawn out to pay indebtedness arising out of the due conducting of the business of the Federation, and then only after a bill shall have been first duly presented by the creditor when in payment thereof a check shall be drawn and signed by him, after which he shall present it, together with the bill, to the President for his countersignature. He shall have charge of all the funds and property of the Western Federation of Miners, and shall keep a careful and accurate account

thereof, as well as an accurate account of all funds arising out of the relation of the Federation with the local unions, and whenever money is received from a local union a receipt therefor must be given or mailed to the sender. He shall promptly attend to all correspondence pertaining to his office, and within the first week in April, of each year, he shall send to each union which is not indebted to the Federation for moneys, which it should have paid under the constitution, duplicate credentials for delegates. Upon the expiration of his term of office or retirement from any cause he shall faithfully account for all moneys or property remaining in his hands or not paid out or disposed of in the due course of the discharge of his official duties, it shall be accounted for and turned over to his successor or such other person who may be duly authorized to take into his custody the funds or property of the Federation. For the honest and faithful discharge of his duties he shall give a bond in the sum of not less than \$30,000, the bond so given to be approved by the Executive Board and kept in their custody. For his services he shall receive a sum of not less than \$125 per month, which may be paid monthly out of the funds of the Federation, in the same manner as is provided for the payment of other bills and indebtedness.

SECTION
EXECUTIVE BOARD.

Sec. 6. The Executive Board shall constitute the Federation board of arbitration and conciliation, and between conventions have full power to direct the workings of the Federation. No representative of a union shall be entitled to

a hearing before the Executive Board without proper credentials, with the seal of the union attached thereto.

Sec. 7. The Executive Board shall be convened by the President, or by the Secretary-Treasurer, at the request of three members of the Board.

Sec. 8. The imperative mandate shall effect all elective officers on receipt of a petition signed by over fifty per cent. of the members of the Federation in good standing.

Sec. 9. The Executive Board shall consist of nine members, including the President, Vice President and Secretary-Treasurer, to be elected by the delegates at each annual convention. All of whom shall be delegates at large and entitled to the same privileges as other delegates at the convention.

Sec. 10. The territory covered by the Western Federation of Miners shall be divided into the following districts:

- No. 1. California, Nevada and Arizona.
- No. 2. Washington, Oregon and Idaho.
- No. 3. Montana and Wyoming.
- No. 4. Colorado, Utah and New Mexico.
- No. 5. South Dakota, Minnesota, Wisconsin and Michigan.
- No. 6. Territory north of United States boundary.
- No. 7. Kansas, Missouri, Arkansas, Indian Territory and Oklahoma.

Each of the districts herein designated shall be entitled to one representative on the Executive Board exclusive of the general officers, said representative to be an actual bona fide resident of the district he represents.

Sec. 11. Each member of the Executive Board shall act as an organizer in his district, and he shall also be required to make such investigation relative to the condition of each local Union in his district as in his judgment may be necessary, and make a report thereof to the President of the Federation on or before the 10th day of April of each year. In case of trouble arising in the jurisdiction of a Union, the member of that District shall be summoned and given full charge of the direction of negotiations until the arrival of the President, who shall be summoned if necessary. For all necessary services rendered in the discharge of his duties, he shall receive the sum of \$5.00 per day for such time as he is actually employed, together with his transportation expenses, and he shall at all times be subject to the orders of the President.

ARTICLE IV.

REVENUE AND DISBURSEMENTS.

Section 1. The revenue of the Federation shall be derived from a charter fee of \$25 and an annual per capita tax of \$2 per member in good standing, to be paid from the general fund of each union, quarterly in advance, and in case of emergency such assessment as in the judgment of the Executive Board may be necessary; the same shall be paid from the general fund and based on the preceding quarterly report previous to such assessment.

Sec. 2. The per capita tax is due on January 1st, April 1st, July 1st and October 1st, on membership in good standing on those dates. Any union failing to remit the amount of per capita tax or assessment within twenty days after it becomes due shall

be fined and required to pay ten per cent. of the amount due in addition to the tax or assessment itself.

ARTICLE V.

STRIKES AND ADJUSTMENTS.

Section 1. It shall be unlawful for any union to enter upon a strike unless ordered by three-fourths of its resident members in good standing voting. Such questions shall be decided by a secret ballot at a special meeting called for that purpose, after having received the approval of the executive board of the Western Federation of Miners. Should any employer or employers attack the rights of the members of the union or its established principles without allowing the union sufficient time to notify the executive board of the proposed change, then the members shall have the right to declare a strike to maintain their rights. In this they shall be assisted by the Executive Board.

Sec. 2. In case of a strike being in progress in the jurisdiction of the Federation, where a union of the Federation is on strike, regularly ordered by the union and the Executive Board, and in the opinion of the president and the Executive Board it becomes necessary to call out any other union or unions in order to carry the strike to a successful termination, that they shall have power to do so.

Sec. 3. Any contract or agreement entered into between the members of any local union and their employers as a final settlement of any difficulty or trouble that may occur between them shall not be considered ~~valid~~ valid or binding until the same

shall have the approval of the Executive Board of the Western Federation of Miners.

ARTICLE VI.

NEW UNIONS.

Section 1. Whenever twenty or more non-union or union men shall be so situated within the jurisdiction of a union that the attendance at the meetings of such union would be inconvenient, they may apply to the President of the Federation for a charter. Should he consider their application a proper one for the advancement both of the interest of the applicant and the Federation, a charter shall be granted them and their territorial jurisdiction defined. If such applicants are members they must apply to their respective unions for transfer cards, through the secretary-elect. Any union refusing to issue such cards shall be subject to a fine, the amount of which shall be determined by the executive board. All men working in or about a mine desiring membership in a union shall join the organization representing their particular craft, but in case there is no such organization near enough for them to conveniently join and attend, then they may become members of any union of the Western Federation of Miners. Where there is an engineers' union of the Western Federation of Miners, engineers, firemen, pumpmen and machinists shall become members thereof, and where there is no organization of blacksmiths they shall become members of the Miners' union. Wherever there is a union of blacksmiths of the Western Federation of Miners the blacksmiths and blacksmiths' helpers shall become members thereof. Whenever a dispute shall arise which cannot be amicably adjusted by the

parties interested respecting the proper union to join by them following any particular line of work, the matter shall be submitted to the Executive Board of the Western Federation of Miners for settlement, and the decision of such court shall be final and binding on all parties concerned.

ARTICLE VII:

FINES/PENALTIES:

Section 1. Any union failing or refusing to comply with the Constitution and By-Laws shall for the first offense be suspended from the privileges and benefits of the Federation for three months, and for a second offense, six months, or be expelled, as the Executive Board may determine.

Sec. 2. Any union failing to make a correct quarterly report to the secretary-treasurer of the Federation, thereby evading its just share of the per capita tax or assessments, shall be fined for each offense a sum equal to double the amount so evaded.

ARTICLE VIII.

DUES AND PRIVILEGES OF MEMBERS.

Section 1. Each member at initiation shall pledge himself to support the Constitution of the Federation and obey all lawful orders of the Executive Board, in addition to the obligation required by the union of which he becomes a member.

Sec. 2. If a member of a union commits an offense in violation of his obligation, or against the good and welfare of his union, or any union of the Western Federation of Miners, or any

members thereof, or in violation of the Constitution and By-Laws of the Western Federation of Miners, or affiliated unions, he shall be entitled to an impartial trial by his local union, as hereinafter provided. The offense with which he is charged shall be presented in writing to his local union by the member making the charge, who at the time must be a member of the Western Federation of Miners in good standing. Said charges shall be read by the Recording Secretary of the union at the first regular meeting of the union after the paper containing the charges is received. When said charges are read, the president shall, without discussion, appoint an impartial committee of five members of the union in good standing to investigate such charges, whose duty it shall be to present a copy of the charges to the member against whom the charges have been preferred, and notify him when to appear before said committee for trial. Similar notice shall be served upon the member preferring the charges. This committee shall elect a chairman and secretary before proceeding to hear evidence for the plaintiff and defendant, and to keep a correct copy of the charges and all testimony presented, and submit the same to the union, with their written report signed by all members of the committee. The union shall either adopt or reject the report of the committee. In either case the defendant or plaintiff shall have the right to appeal to the Executive Board of the Western Federation of Miners, and from that body to the ensuing convention. The Executive Board shall receive no evidence in the case except the records of the committee, nor permit any witness to appear for the plaintiff or defendant. Should the union fail to preserve the record of the investigation as returned by the

committee, or refuse to surrender the same to the Executive Board upon the request of the secretary-treasurer, it shall be subject to whatever penalty the Executive Board may deem necessary to impose upon it.

ARTICLE IX.

LEGISLATION

Section 1. The initiative and referendum shall govern all legislation. Whenever ten per cent. of the members in good standing shall by petition offer an amendment to the Constitution and By-Laws it shall be considered in the annual convention, and by that body submitted to the members of the Federation, who shall vote upon the same within sixty days. After having received the approval of two-thirds of all the unions of the Federation voting upon the question, it shall receive the signature of the president and secretary-treasurer and become constitutional. An amendment to the Constitution and By-Laws enacted by delegates in convention assembled shall be referred back to local unions for their approval or rejection, same to be signed by president and secretary-treasurer. The secretary-treasurer shall canvass the vote on all referendum questions and make up a return sheet, setting forth the vote of each local, and furnish the locals with a copy of the same.

Sec. 2. This Constitution shall not be amended except by a two-thirds vote of all delegates assembled in annual convention.

BY-LAWS.

ARTICLE I.

STRIKES AND LOCKOUTS.

Section 1. Whenever a strike shall be approved by the Executive Board and local union, as authorized by Section 1 of Article V of the Constitution, the Treasurer of such union shall receive all aid sent by the Secretary-Treasurer. Said Treasurer shall file a bond with the Executive Board, subject to its approval in such sum or sums as the Executive Board may determine. Said Treasurer shall make complete itemized returns through the Secretary-Treasurer to the Executive Board and local union of the receipts and disbursements, and the persons aided.

RECEIPTS AND ACCOUNTS.

Sec. 2. Local unions shall preserve all receipts issued by the Secretary-Treasurer and have the same presented to the finance committee at the annual convention, through their delegates, to the convention, in order to compare them with the stub book of the Secretary-Treasurer.

PASSWORD.

Section 3. The President shall send to each union which has paid per capita tax and is not ninety days in arrears for assessments a quarterly password.

MEMBERSHIP CARDS.

Sec. 3 A. Throughout the jurisdiction of the Western Federation of Miners a uniform membership card shall be used. The same shall be the stamp card system approved by the Tenth Annual convention; the form and style of said card shall be arranged and designed by the executive officers of the Western

Federation of Miners.

SUPPLIES.

Sec. 4. All withdrawal and transfer cards of the Federation shall be made of uniform size, with stub attachment.

Sec. 5. The Federation has adopted, for the sake of uniformity, the following supplies, which must be procured from the Secretary-Treasurer, except in the Dominion of Costa, where blanks shall be printed to conform with the laws and usages of that country as well as in conformity with this Constitution, and that the same may be printed in the Dominion of Canada, viz: Const Stations, withdrawal cards, transfer cards, quarterly report blanks, blank bonds of officers of unions, application blanks. ~~See~~ Provided, all membership cards and the authorized metal emblems of the Federation shall be procured from the Secretary-Treasurer of the Federation.

TRAVELING CARD.

Sec. 6. On presentation of a traveling card to any union the holder shall be entitled to the same benefits, financial and otherwise, to which he would if in his union, and shall be aided in procuring employment when desired; provided, that all money paid to any member under this section be repaid by the union to which the member then belongs.

WITHDRAWAL CARDS.

Sec. 7. If a member takes a withdrawal card from the union to which he belongs and goes to work as specified in Section 1, Article I, of the Constitution, where there is a union of the Federation, he shall at once deposit his card in that union; failing to do so, he shall be held for dues and

assessments from the time he starts to work by the union within whose jurisdiction he may be employed.

FINES AND PENALTIES.

Sec. 8. Any member who is under the influence of liquor, appearing as a delegate at any convention of the Western Federation of Miners or failing to answer roll call without being excused by the President, shall be fined for the first offense the sum of one dollar, for the second offense the sum of two dollars, and for the third offense the sum of five dollars, and any delegate or delegates who shall have been guilty of such an offense shall be censured and reprimanded by the President, and the union to which he or they may belong shall be notified of his action.

PAY OF DELEGATES.

Sec. 9. The pay of each delegate to the annual convention shall be \$5.00 per day, which shall be paid by the union he represents.

The Federation shall pay the stage and railroad fare of one delegate from each union in good standing. Any union electing more than one delegate shall pay stage and railroad fare on all delegates elected above that number.

DISTRICT UNIONS.

Sec. 10. Where two or more unions exist they may, if they deem it necessary, organize a district or state union for the purpose of doing business for the district or state. Such union shall apply to the Federation for and receive a special charter, said charter to be issued at cost. Such district or state union shall be subordinate to the Federation, but shall be

a higher authority than the local unions of the Federation in its jurisdiction. All local unions of the Federation within the jurisdiction of a district or state union shall be a member of said district or state union and recognize the authority of same.

BALLOTING.

Sec. 11. All unions shall, on the demand of five or more members in good standing, take a secret ballot upon any question coming before the union.

ARTICLE II.

TRANSFER.

Section 1. Any member leaving the jurisdiction of his Union and going to work in the jurisdiction of another Union of the Federation, shall immediately deposit his membership card with the Financial Secretary, and pay up all arrearages. The Financial Secretary, receiving the member's card, shall immediately notify the Union of which the member has a card, so that the member's account can be closed in the former Union. All dues and assessments collected shall belong to the Union making the collection.

Sec. 2. Any member working within the jurisdiction of a local Union and refusing to deposit his card shall be subject to a fine of not less than \$1.00 or more than \$5.00, said fine to be left to the discretion of the local Union.

Sec. 3. When a member of a local Union goes to work within the jurisdiction of another and refuses to deposit his card it shall be its duty to place a fine against him and suspend him from any benefits whatever.

WITHDRAWAL CARDS.

Sec. 4. Any member leaving the jurisdiction of the Federation or who may follow any vocation not governed by this organization, may, by paying his dues, fines and assessments to date, demand a withdrawal card, and by preserving his card, join at any time for the sum of \$1.00. In any case the Union reserves the right to reject him.

Sec. 5. Local Unions of the Federation shall have full jurisdiction over all members who are permanent residents of their local Districts, subject, however, to the right of appeal described in Section 2, Article VIII, of the Constitution.

ARTICLE III.

NOMINATIONS, RESORTS AND INSTALLATION OF OFFICERS.

Section 1. All unions of the Federation shall hold their semi-annual elections at the first meeting in March and September. Nominations shall be made from the floor and remain open for two regular meetings prior to election, when each Recording Secretary shall, within ten days thereafter, forward the names of all officers elected to the Secretary-Treasurer of the Federation, who shall compile a directory of the same and forward a copy of these directories to each local union. Installation of officers of local Unions shall not take place until the first meeting in April and October.

INTERCHANGEABLE CARDS.

Sec. 2. Transfer cards issued by any chartered labor organization, shall be accepted by local unions of the Western Federation of Miners, subject to the rules and qualifications

governing members of such locals of the Western Federation of Miners.

ARTICLE IV.

JURISDICTION.

Section 1. The jurisdiction of the Federation shall extend to all states and territories, and territory described in District No. 6 of Section 10, Article III of the Constitution.

Sec. 2. Whenever a local union becomes defunct and surrenders its charter and books to the Federation, any member of the said union becoming desirous of joining another union of the Western Federation of Miners shall, by paying the dues and assessments he owed in his former union up to the time the books were turned over to the Federation, be transferred to the union to which he makes application.

Sec. 3. The property of defunct unions shall be held in trust by the Federation for a period of not less than one year, thereafter it shall become the property of the Federation.

CORRESPONDENCE.

Sec. 3 B. Each secretary of a local union shall be required to keep a copy of all correspondence in a copying book suitable for that purpose.

AMENDMENTS.

Section 4. These By-Laws shall not be amended except by a two-thirds vote of all delegates assembled in annual convention. All proposed amendments to the Constitution and By-Laws of the Federation must be submitted to the Secretary-Treasurer at least

thirty days prior to the date of the annual convention under the seal of the local union presenting the same.

R U L E S O F O R D E R.

During the continuance of the meeting silence must be observed, the officers and members retaining their respective seats, and no one leaving the room without permission of the President or Vice President.

No member shall, by conversation or otherwise, interrupt the business of the Federation or refuse to obey the chair.

The President, while presiding, will state every question coming before the Federation, and immediately before putting it to a vote shall ask: "Are you ready for the question?" Should no member rise to speak, or by silence indicate their readiness, he shall rise to state the question, and after he has risen no member shall be permitted to speak upon it. He shall announce the result or decision of the Federation upon all subjects

Every member when he speaks or offers a motion shall rise and respectfully address the presiding officer. While speaking he shall confine himself to the subject under debate, avoiding all personalities and indecorous language, as well as any reflections upon the union or its members.

time, the chair shall decide who is entitled to the floor.

No member shall disturb another in his speech unless to call him to order for words spoken.

If a member while speaking shall be called to order, at the request of the chair he shall cease speaking and take his seat until the question of order is determined, when, if permitted, he may again proceed.

No member shall speak more than once on the same question until all the members wishing to speak shall have had the opportunity to do so, nor more than twice without the permission of the chair.

When any communication, petition or memorial is presented, before it is read, a brief statement of its contents shall be made by the introducer to the chair.

No motion shall be subject to action unless seconded and stated by the chair.

Any member may call for a division of a question when the sense will admit of it.

When a question is before the Federation, no motion shall be received unless to close, the previous question, to lay on the table, to postpone indefinitely, to refer, to amend, and shall have precedence in the order herein arranged -- the first three of which shall be decided without debate.

After any question, except one of indefinite postponement or one the result of which the Federation cannot reverse, has been decided, any member who voted in the majority may, at the same meeting, move for a reconsideration thereof.

No amendments shall be received except they are in

writing.

All questions not provided for by the Constitution, By-Laws, Rules of Order, or by the General Laws of the Federation, shall be determined by a majority of the members at a regular meeting.

These rules may be suspended for a special purpose by a vote of two-thirds of the members present.

Roberts' Rules of Order shall govern the proceedings of the Federation in the absence of any rules not herein provided for.

ORDER OF BUSINESS.

1. Call the meeting to order.
2. Warden secure the door.
3. Presentation of credentials.
4. Appointment of committees.
5. Roll call.
6. Reading minutes of previous meeting.
7. Communications and correspondence.
8. Bills.
9. Report of officers.
10. Reports of standing committees.
11. Special committees.
12. Unfinished business.
13. New business.
14. Election of officers.
15. Good and welfare of the Federation.
16. Installation of officers.
17. Adjournment.

- Q What are the duties of the secretary - treasurer? A To keep the accounts of the organization between the local unions and the general organization, as to the finances of the organization, and attend to the requirements of the local unions.
- Q Is the secretary-treasurer under bond? A Yes sir.
- Q How much? A \$30,000.00.
- Q Ten, you say? A Thirty.
- Q Is the president under a bond? A No sir.
- Q How much of the time since you have been president has the duties of your office required your absence from headquarters?
- A I would say that the duties of the organization -- of the president, rather, under the constitution, would require my absence from headquarters most of the time, but I have not been absent I would say more than about half of the time.
- Q Generally speaking whereabouts have you been during these absences? We will call your attention to specific matters when we want them, -- just state it generally? A I have covered the metaliferous districts from Minnesota to the Coast, and in British Columbia.
- Q What is the extent in area of your organization -- what territory does it cover? A There is no limit to the jurisdiction; all the Western Federation of Miners -- our jurisdiction is general; wherever men are employed underground or in milling or smelting.
- Q Does it include all metaliferous mining? A All men employed in mining or connected in any way with the mining industry.

- Q You might define that term, metaliferous for the benefit of Mr. Borah and counsel; what does that term generally mean?
- A It means base ore.
- Q It does not mean coal? A No sir.
- Q Do you have anything to do with the coal miners? A We have coal miners in our organization.
- Q They are admitted? A We have never made any effort to organize the coal miners, but they are entitled to membership if they desire to affiliate.
- Q How far north and south is your organization? A We have locals in British Columbia -- one in Cobalt, and a number in Michigan and Minnesota.
- Q And how far south? A Missouri is the farthest south.
- Q Anything south of Missouri? A No sir, not at this time.
- Q Have you one in Alaska? A Yes sir, we have probably more than 1 in Alaska.
- Q And they extend from Michigan to the Pacific Coast and from Alaska practically down to Mexico, do they not? A Yes sir, we have a local union at Globe and Bisbee, Arizona, which is a few miles from the line of Old Mexico. I can also say that we have a great many members working in Old Mexico.
- Q Have you any regular local in Old Mexico? A No sir.
- Q Any where? A No sir, we have no local unions in Old Mexico.
- Q About how many members have had you when you were elected president? A I think about 22,000 -- in the neighborhood of 22,000; it might be over and might be less.

- Q Do you know about what it was when you moved to Boise -- at that time? A When I came to Boise?
- Q Yes. A About 30,000, I think.
- Q Do you know about what it is now? A Taking the last reports of the convention just held in Denver, it is something over 40,000.
- Q You are still president of it? A Yes sir, I was continued as president by the last convention just adjourned.
- Q When did the last convention finish its work? A I don't remember the exact date of their adjournment; it is about a week ago.
- Q Some one else, however, is doing the work in your place, is there not? A The Vice-President.
- Q Who is that? A Mr. Mahoney from Butte,-- Charles E. Mahoney.
- Q So far as strikes are concerned has the executive board and the central officers the right to call a strike in the first instance? A No sir, there is no power vested in the executive board or the officers under the constitution to call a strike.
- Q Who calls the strike? A The local organization by a vote of its membership.
- Q Can a strike be called in the first instance without a vote of the local that calls it? A No sir.
- Q Does a majority vote authorize it? A A two-thirds vote authorizes the calling of a strike by a local union.
- Q It requires a two-thirds vote of the union? A Yes sir.

- Q That is, to be exact, I suppose it is a two-thirds vote of the vote cast, isn't it? A The meeting for the purpose of voting is advertised by the secretary, authorized by the union, and it is a two-thirds vote of those responding to the call and voting.
- Q Now, during your term as president there have been some strikes, have there not? A Yes, there has been some strikes.
- Q And there were some before? A Yes sir.
- Q Do you remember when the first strike occurred after you became president? A To the best of my recollection there was a strike in progress at the time I was elected president of the organization.
- Q Do you remember where that was? A At Roslund, British Columbia.
- Q And during a strike what does the general organization have to do with it? A It is the duty of the president to respond to the call of the local union to go to the place where the strike has occurred and take charge and assist the local union in conducting the trouble.
- Q Are the general officers bound to take part in the strike or may they veto it if they see fit and have nothing to do with it? A Unless the strike is endorsed by the executive board the general organization is not in duty bound to take charge of or share in the strike.

- Q Well, if it is endorsed by the executive board what does the general organization do in reference to looking after its members? A They assist them in every way possible, both financially and otherwise.
- Q They provide strike benefits for those who are out on a strike? A Yes sir, if it becomes necessary -- if the people are in need and require financial assistance of the organization they are paid strike benefits.
- Q Are those paid weekly? A Not always, no. They may be paid weekly or monthly or two or three times a month, just as the rule may be established, as the conditions will require, thus paying and taking care of the people who are involved.
- Q But they do take care of them, do they? A Yes sir.
- Q During your times president and before that, what has been your custom as to defending people who have been accused of crime where it in any way goes down out of their connection with the organization or where any charges are made against the organization? A That has been the rule of the organization to always protect its members and the interests of the organization, wherever they may be charged with any offense or violation of law.
- Q Have you had to do it pretty often? A Yes sir, we have defended a great many of our members.
- Q Have you had many convicted? A Comparatively few with the number that have been charged.
- Q In those cases the organization have paid for the defense?

A Yes sir.

Q Has that been the rule ever since you were president?

A Ever since I have been connected officially with the organization, as a member of the executive board or as an officer, that has been a rule followed and established by the executive board and the organization.

Q How many members of the executive board are there at this time? A Seven besides the two general officers who are ex-officio officers of the executive board.

Q What jurisdiction do those members have? Is the territory divided up? A The jurisdiction where we are organized is divided into seven different districts.

Q And the members of the executive board have a sort of general jurisdiction over that section, does he? A Over their district, yes sir.

Q I suppose that jurisdiction is somewhat limited -- does he go -- A It is limited to two or three states or territories.

Q And does the member act for the officers in that district?

A Sir?

Q And does the member of the executive board act for the officers in that district, generally speaking as to the duties of the organization? A I don't understand your question, Mr. Darrow.

Q Supposing the board is not in session and something occurs in a certain district, does a member act for the whole board

until they can get together or until the president and secretary can assist him? A Yes sir, it is the duty of a member of the executive board to be continually in the field in his district, organizing and assisting local unions, and managing the affairs of the men in his district.

Q Who were the members of the board in 1908, or 1906, when you were arrested? A There was Mr. Brown of Missouri, Mr. Switzer, of Colorado, Mr. Moore of Arizona, Mr. Mahoney of Butte, Montana, Mr. Hills of Greenwood, British Columbia, and Mr. Simpkins, of Warmer, Idaho.

Q What has become of Mr. Switzer? A He was killed a few evenings ago by an accident in Denver.

Q On his way up to this trial? A He was leaving for Boise to appear as a witness in this case.

Q And he was killed on the railroad track, was he? A Yes sir, as I understand.

Q What was Jack Simpkins' jurisdiction? A Idaho, Washington and Oregon.

Q When did you first become acquainted with Simpkins, if you can recall? A To the best of my recollection it was in the summer of 1902.

Q You have been acquainted with him ever since? A Yes sir.

Q Was he then on the board? A He was elected on the board at the convention held in Denver in June, 1902.

Q And he has taken an active management in affairs since that

time? A Yes sir, he has attended to his duties, as prescribed by the constitution, in his district.

Q Where were you in 1899 at the time of the Coeur d'Alene troubles? A At the beginning of the troubles and up until May of 1899 I was in the Black Hills, South Dakota.

Q Did you have any official position with the executive board at that time? A Not until June of that year.

Q Were the troubles still on at that time? A The strike was still on there, yes sir.

Q Did you have any special interest in the matter of the Coeur d'Alenes? A Any special interest?

Q Yes. A I had the same interest at that time as any other member of the organization, and as a member of the executive board would naturally have.

Q You kept in touch with the affair, did you not, and knew what was going on then in a general way? A Yes, as well as I could at the distance I was from the scene of trouble.

Q You had nothing to do with the management of it -- of the strike, did you? A No sir, I had no active management of the strike.

Q You did not know Jack Simpkins in those days? A No sir, I had never met Mr. Simpkins at that time.

Q And did you know anybody connected with the management of the strike or trouble up here? A I knew the president and secretary of the organization in whose charge the management

of the strike was left.

- Q Who was that? A That is, by the convention of the organization. That was Mr. Boyce and Mr. Maher.
- Q That is Ed. Boyce who testified here, and James Maher?
- A I believe they testified here, yes sir.
- Q Both of them were here. You had some interest as a member of the organization in the affairs of the Cosar d'Alencas -- or felt some interest rather? A Yes sir and have had on some matters in the executive board in connection with the management of the strike after I was elected to that position.
- Q Do you know whether your union contributed any money toward that, to help out? A I could not say positively, Mr. Darrow, but I am inclined to think they did, as all the local unions were contributing to the support of the strike, and the local that I belonged to did the same as the others, I am satisfied.
- Q There were a number of assessments levied to take care of your men, weren't there? A There was more than one assessment; I cannot say how many, but a number of assessments were levied, and our union contributed.
- Q You are satisfied that the union you belonged to paid the assessments the same as the rest? A Yes sir, and paid some moneys outside of the assessments.
- Q Were you in sympathy with the men there? A I was, yes sir.
- Q And after you became a member of the executive board did the central organization help on the strike, do you know?
- A The Federation, do you mean?

- Q The Federation, yes sir. A They did.
- Q And you were in sympathy with that also? A I was surely in sympathy with the effort to protect our people in the Coeur d'Alenes at that time, to provide for them and assist them in any way that was possible.
- Q Did you know Governor Steunenberg at all? A No sir.
- Q Did you ever see him? A No sir.
- Q Did you ever have any personal hostility toward him, outside of -- did you ever have any personal hostility? A No personal hostility, no sir.
- Q I suppose that as to martial law and the affairs up there you were with your men and felt the same as they did, generally speaking? A I don't know as to feeling the same as the men who were actually engaged in the struggle in the Coeur d'Alenes; I could not say as to that. They probably felt different than I would at a distance.
- Q I mean with the organization in general? A I was in sympathy with the men who were engaged in the strike in the Coeur d'Alenes.
- Q Did you at that time or any other time have any personal feeling against Governor Steunenberg outside? A No sir, I cannot say that I had any personal feeling against Governor Steunenberg.
- Q Although you did not approve of his course at that time --

MR. BORAH: We suggest, Mr. Darrow, that you do not

lead the witness.

MR. DARROW: Well, all right, that is leading.

Q Now, passing that, you remember when there was some trouble arose in the Cripple Creek region? A Yes, I am familiar with the trouble, and at the time it arose -- what time do you mean -- what trouble?

Q Well, begin with Colorado City. A Yes, there has been trouble in the Cripple Creek district.

Q We won't go back of that at the present time. What was the condition of the unions generally speaking in the Cripple Creek district before the troubles down there? A You mean in the way of organization?

Q Yes, and strength. A I will say that the Cripple Creek district at that time was as well organized as any other place where laboring men were employed.

Q How did that district compare as to any other at that time, as to gold production? A I would say it compared with any other.

Q How was it as to being the greatest gold mining camp in the world? A It was recognized, or at least advertised, as the greatest gold mining camp, I believe, and the production was as great as any other mining camp.

MR. BORAH: Was this the Cripple Creek district?

MR. DARROW: Yes sir.

Q What do you understand by the Cripple Creek district? A I

understand the locality there -- the country comprising about ten miles --

Q That includes Cripple Creek, Victor, Goldfield, the town of Independence? A All of those camps. There are included in the Cripple Creek district Victor and Anaconia, Goldfield -- that is the country around there.

Q That is the country that is spoken of as the Cripple Creek district? A Yes sir.

Q You had been there at different times before this? A I had visited the unions there a few times before the trouble occurred.

Q Do you know how many unions you had there? A I believe we had nine, -- eight or nine; I would not say exactly, but I think about nine.

Q When did the strike occur at Colorado City? A It occurred in February, 1903.

Q Now, without going minutely into that at this time, what was the contest there -- the cause of it? A The men employed in the mills at Colorado City desired to organize, to affiliate with and organize a local union there, and affiliate with the Western Federation of Miners, and their right to so affiliate was contested by the employers.

Q Were there discharges made? A There was.

Q And the strike came on from that controversy, did it?

A Yes sir, that was the principal cause of the strike at that time.

- Q Had there been a union there previous? A There had been a number of attempts there made to organize by the men, and they had always been defeated in their efforts to perfect an organization.
- Q What was this, the smelters or millmen? A The millmen.
- Q What company? A There was three companies operating there; the Portland Gold Mining Company were treating their ore at Colorado City, the Standard Company and the United States Reduction and Refining Company.
- Q Was the Standard Company a part of the United States Reduction and Refining Company? A Yes sir, they had two mills there.
- Q That was the smelter crowd? A Also there was what was known as the Telluride mill.
- Q How long did that strike continue before anything happened in the Cripple Creek district? A It continued about 30 days.
- Q Was there any agreement reached at any time during that strike after it was inaugurated? A Any agreement made?
- Q Yes, any truce arranged there? A There was an understanding arrived at on the 30th of March of that year.
- Q Yes, and how long did that last? A It lasted until August of that year, or that fall.
- Q And what was the cause -- or what was the controversy when they went out the second time? A The same controversy that was the cause of the strike.

Q Well, when did they go out the second time then? A The 10th day of August, 1903,-- or 1904 rather.

Q Were the militia called -- no, that was 1907? A 1903 was the date.

Q Was the militia called then to Colorado City? A Not to Colorado City, not in August.

Q When were they called? A They were called in the spring, about the latter part of February or first of March.

Q How long after the strike was called were the militia called? A Why, it was not long; I don't know exactly the time.

Q Was there any protests by the citizens there about calling the militia? A I read a protest signed by a large number of the citizens of Colorado City protesting against the calling of the militia.

Q Do you know whether that included the Mayor and other officials? A It did.

Q You were familiar with the conditions there? A I particularly remember the marshal of the town signing the petition.

Q And you were familiar with the conditions that existed there?

A Yes sir, I was; I had been there.

Q What were the conditions there at the time the militia was called there as to there being any trouble? A During the time I was there the conditions were very quiet. There was no trouble to speak of.

- Q Now, when was the strike called in Cripple Creek -- in the Cripple Creek district? A The 10th day of August.
- Q And what year? A 1903.
- Q And what was the cause of that strike, without going into it minutely? A The men in the Cripple Creek district took up the cause of the millmen in Colorado City.
- Q Did they belong to the same organization? A They did, and belonged in the same district -- to the same district organization.
- Q How were the Colorado City people related to the Cripple Creek people? A How were they related?
- Q Yes. A They were first members of the same organization and had representation in what was known as the district union of the Cripple Creek district which was composed of representatives and delegates from all the locals in the Cripple Creek district.
- Q On the operators side, how were they related -- whether they -- what did they do with their ore at Cripple Creek? A A great deal of the ore was treated and milled in Colorado City.
- Q And what were the demands of the unions in Cripple Creek with reference to sending ores to the mills where the strike existed in Colorado City? A The unions of the Cripple Creek district made a request of the mine operators not to ship ore to the mills in the Cripple Creek district until the employers in Colorado City agreed to permit the men to organize.
- Q Did any of the mines agree with the unions on that proposition?

A There were, yes sir.

Q What ones? A The Portland Company in particular were --

Q The Portland mine was the largest, was it not? A I believe the Portland were employing more men at that time than any other mine in the district.

Q And you said that they -- that they did not send their ore there, is that right? A Yes sir.

MR. HAWLEY: We object to that as leading.

MR. DARROW: It is leading, but it has been done so many times that I have got sort of used to it.

MR. HAWLEY: I know you are used to it.

Q What did the Portland mine do as to sending their ore to the smelters where the trouble existed,-- or the mills where the trouble existed? A I would say that the Portland mine at no time denied the right of their men to organize and there was no trouble at any time on account of organizing their men.

Q Did they have a mill of their own? A Yes sir.

Q Where was their mill? A At Colorado City.

Q Where else in that vicinity were there any mills? A In that vicinity?

Q Yes. A You mean the vicinity of Cripple Creek?

Q Yes, or of the country tributary to it? A There was one mill, the Economic mill, at Cripple Creek, and one at Florence.

- Q Any trouble there at those mills at that time? A Yes sir, the men ceased work at the mill -- the Economic mill, and also at Florence they were forced to.
- Q Forced for what reason? A The mine owners refused to supply the mill with ore unless the management would agree not to employ members of the Western Federation of Miners.
- Q Had they been employing members of the Western Federation of Miners up to that time? A Yes sir.
- Q Had there been any trouble up to that time? A There had been no trouble up to that time.
- Q When did the trouble begin at Telluride? A It began in August, 1903.
- Q August, 1903? A Do you refer to the Telluride mill at Colorado City, or Telluride, Colorado.
- Q I mean at Telluride, Colorado? A That was in September, 1903.
- Q And what was the difficulty there? A The mill men there went on strike for an eight hour workday.
- Q Had there been any law passed or constitutional amendment passed in reference to an eight hour work day in mines, mills and smelters? A There had.
- Q When was it passed? A Passed by the legislature that winter,-- by the legislature. An amendment to the constitution had been submitted to the voters of the State and carried by a large majority.

- Q When had the constitutional amendment been submitted? A At the election -- the former election, general election.
- Q What year? A 1903, if I remember correctly.
- Q Now, I may ask a leading question while Mr. Hawley is out of the room; the first eight hour law was passed in 1899, wasn't it? A Yes sir, there was a law passed by the legislature of 1899.
- Q What was done with that so far as being declared constitutional or unconstitutional? A It was declared unconstitutional by the Supreme Court of the State of Colorado.
- Q Then what was done with the question -- was there any effort to amend the constitution? A There was an amendment to the constitution submitted to the voters.
- Q When was that voted on? A In 1903, to the best of my knowledge.
- Q Do you know what the vote was on that? A I believe it was about 46,000 majority vote cast in favor of the amendment.
- Q Out of how many voters? A I don't know the vote of the state; I never paid any attention to that.
- Q Then when did the legislature meet after that? A The legislature met in January, I believe, at the regular time of meeting of the legislature in Colorado.
- Q Was there an eight hour law passed in conformity with the amendment? A There was not.
- Q What effort did the Western Federation of Miners make to have

an eight hour law passed? A They did everything in their power, used all their influence, and did everything they could in conjunction with other organizations.

Q What opposition did they meet? A The opposition was about as strenuous as could be on the part of the employers who the eight hour law would affect.

Q Do you remember how -- whether the political parties took any part in it in their conventions,-- whether they declared for it or against it? A The political parties?

Q Yes, the Republicans and Democrats? A I believe both political parties declared for the amendment.

Q How was it when the legislature adjourned, had they or not passed an eight hour law? A They had not.

Q And the strike at Telluride grew out of a demand for an eight hour day? A Yes sir.

Q Now we will go back to Cripple Creek. When did you go down to Cripple Creek after August 10th -- I am speaking of August 10th, 1903? A I think about the -- I was there in Cripple Creek on the 15th of August; I might have possibly went there the day before, but I was there on the 15th.

Q For what purpose? A The unions of the district -- organized labor had called a picnic to be held at Pinnacle Park and I went there to attend the gathering.

Q Anybody go with you? A Mr. Haywood was there.

MR. BORAH: Will you give me that date, Mr. Moyer?

THE WITNESS: The 18th of August.

- Q Was there any speeches made by you or anybody else? A There were a number, you sir, and also by Mr. Haywood and myself.
- Q Did you say anything in reference to the conduct of the strike? A I did. That was one of the purposes I had in view in going there to address the people on the strike.
- Q How was that picnic attended? A It was generally attended by the people of the Cripple Creek district, of all classes.
- Q And do you recall anything that you said in reference to the conduct of the strike? A I do.
- Q What was it? A I advised the men as to my opinion how the strike should be conducted?
- Q Yes, that is what I mean; what did you advise them? A I went into the details as to the cause of the strike, the fact that members of their own organization employed in the mills of Colorado City had been deprived of their employment for no other reason than that they desired to be members of the organization, and advised them it was their duty to assist them in every way possible by stopping the shipments of ore to the mills in Colorado City, until the trouble was adjusted.
- Q Did you say anything about how the strike should be conducted?

MR. BORAH: We suggest that in view of the question that this is questionable evidence, you should not lead him.

- Q What else did you say? A I remember advising the members of the organization there on strike to be careful about any

acts of violence on their part or any acts that might be charged to them or that might be used against the organization.

- Q Do you know whether your speech was reported? A It was.
- Q Where? A It was reported in the Cripple Creek papers and also in the Denver papers.
- Q How long did you stay up there at that time? A I was only there a few days at that time.
- Q Do you know when the troops were called to the Cripple Creek district, if at all? A They were called, I believe, in the month of September.
- Q Do you know what time? A About the 4th, I think.
- Q Were you down there again in the meantime? A I was there the night the troops arrived in the Cripple Creek district.
- Q What was the condition at that time as to peace and quietude--

MR. BORAH: We object to that as a conclusion, if your Honor please.

- Q What was the condition?

MR. BORAH: There are certain facts which could be testified to, I presume, but to state a conclusion that way, it strikes me as improper and I object to it.

MR. DARROW: If there was peace, it cannot be much but a conclusion, I take it.

MR. BORAH: That is a different proposition.

THE COURT: You may show what the condition was there

if the witness knows.

Q On the 15th, when you were up there, did you visit anybody connected with the administration of justice or charged with the keeping of order and quiet? A I had a talk with the sheriff of the county and his deputies.

Q Whereabouts? A In the office of the Cripple Creek Miners' union in Cripple Creek proper in the Cripple Creek district.

Q How did you find conditions up there at that time -- I think I might add as to peace or violence, without making it leading; describe how you found it. A I found the majority of the men employed in the Cripple Creek district had ceased work in the mines and were --

Q What were they doing? A As far as I could see they were going peacefully about their business.

Q How did you find it when you went there the next time?

A I found about the same conditions, Mr. Darrow.

Q How, how was -- when did you say the troops were called in?

A To the best of my recollection it is about the 4th of September. I am not positive as to the date.

Q How long did you stay down there at that time? A I cannot say. I was in and out of the district working in conjunction with the men who had charge of the strike there, -- who were selected, -- I was back and forth and I could not say exactly as to the time I may have been there before the troops were called in.

- Q How often did you go down there the rest of the year -- we will say, up to the 1st of January? A Why, I would say two or three times. I was in the southern part of the state, in Telluride, during the month of September, and a good share of that month I think I was probably in Cripple Creek a couple or three times between that and the 1st of January.
- Q How long did that strike last? A In the Cripple Creek district?
- Q Yes. A The strike is still in progress there; it has never been declared off.
- Q When did you first meet Steve Adams, if you know? A The first recollection that I have that I can state that I met Steve Adams was the 15th of August, 1903.
- Q Where was that? A That was at this picnic I have related about in the Cripple Creek district.
- Q What was Steve doing at that time? A The unions there had a refreshment --
- Q Had what? A Had a refreshment stand, and Mr. Adams was attending to that stand, serving lemonade, ice cream and other soft drinks that they had there, for the purpose of accommodating the people.

MR. BORAH: This was September 15th?

THE WITNESS: August 15th I believe.

- Q Did they have any beer there?

MR. BORAH: That was September, wasn't it?

THE WITNESS: No, it was in August, a few days after

the strike.

Q And you met him there at that stand? A Yes sir, that is the first I remember meeting Mr. Adams.

Q Did you have any special business with him? A No special business. I believe I had something to drink at his stand that he was attending to; in fact I know I did,-- I met him there at that time.

Q Do you know how you made yourself known to him or he made himself known to you -- do you recollect anything about that?

A I was introduced to him there by some one of the men that I was with when we went to the stand. I cannot just recall the name of the person who introduced me to Mr. Adams. There were a great many people there at that time.

Q Well, now you said you went up there -- you told us about how many times, up to the 1st of January,-- do you know whether you went up after the 1st of January again -- do you recall any special time? A I don't recall visiting the district in January of that year; I would not say whether or not I went there.

Q What was your organization doing as to furnishing relief up there to the men on strike and their families? A As fast as the men began to ask for relief, or as fast as they needed relief, owing to the fact that they were not working, we began furnishing them with the necessaries of life.

Q Yes. Do you remember when you first met Harry Orchard?

A I first met Harry C. Robert in January of 1904.

Q Whereabouts? A In Denver, Colorado.

Q And whereabouts in Denver? A At the headquarters of the Western Federation of Miners.

Q And do you recollect the time you met him? A The first of January of that year a convention, or a mass meeting rather, occurred in Denver, which was called by the president of the Colorado State Federation of Labor.

Q And who did that include? A It included representatives or delegates from the different labor organizations throughout the state and all others representing labor that desired to attend there.

Q. That was not confined to the Western Federation?

A. No sir, it was a general mass meeting of wage workers.

Q. Where was it held in Denver? A. It was held in the Coliseum to the best of my recollection. I might be mistaken as to the place of meeting, but I think it was in what was called the Coliseum.

Q. Do you know whether Harry Orchard was a delegate, or what do you remember about it? A. He was. He was sent there with others from the Cripple Creek district, representing the Altman Miners' Union No. 19.

Q. Do you recall any conference or conversation you had with him at that time? A. Not personally with Mr. Orchard, although I am satisfied that I talked with him among others during that time.

Q. How was it as to the number of members of your organization that were there at that time? A. I called a meeting I believe on the 2nd, to the best of my recollection, on the 2nd of the month, the ~~main~~ second day of the mass meeting; I requested all the members of the local unions represented there of the Western Federation of Miners to meet me in the evening at headquarters. I believe there responded about twenty representing our local unions.

Q. You mean the local unions of the state? A. Local unions of the Western Federation of Miners of the state.

Q. Do you know what the fact is as to whether he was one of the twenty? A. He was.

Q. Do you know whether you saw him more than once or do you recall how often?

- A. I don't recall having met him but the one evening, but I undoubtedly did meet him at the mass meeting as I was a delegate or rather was there representing the organization.
- Q. Do you recall any conversation you had with him at that time when he was there in January? A. I don't remember any personal conversation with Mr. Orchard. I undoubtedly talked with him with others on that occasion.
- Q. Did you meet him in your office in December? A. I did not, no sir.
- Q. Did he ever come into your office in December and tell you that he had blown up the Vindicator mine and killed two men, and you told him he had done a good job and gave him \$300 or \$400, or any other sum of money? A. No sir, I did not.
- Q. In the presence of Mr. Haywood? A. I would say that I never met Mr. Orchard until the first or the second of January, 1904; therefore, I couldn't have met him at the headquarters of the organization in December, 1903.
- Q. Did you ever meet him in the presence of Billy Easterly at headquarters? A. Not unless it was in January when the mass convention met. But I don't remember of Mr. Easterly being a delegate to that convention.
- Q. Did you ever have any conversation with him in the presence of Billy Easterly in reference to blowing up the Vindicator mine or committing any other act of violence? A. I have no recollection of ever meeting him with Mr. Easterly.
- Q. Well, did you ever have any such conversation? A. I did not.
- Q. Did you ever have any such conversation with him at any time or place? A. No sir.

- Q. Either in substance or effect? A. No sir.
- Q. How do you know when you saw him again after this meeting in January? A. When I saw him again?
- Q. Yes. I am referring now to Harry Orchard. A. I saw him in the month of February, some time after the 15th of February.
- Q. Whereabouts? A. In the Cripple Creek district.
- Q. What was you doing in the Cripple Creek district? A. I went to the Cripple Creek district -- to Cripple Creek proper, to attend the trial there of three of our members who were charged with attempted train wrecking on the Cripple Creek road, railroad.
- Q. Did you hear about an explosion in the Vindicator mine at the time? A. I heard of the explosion, yes sir, a few days after it occurred.
- Q. Do you remember how you heard of it? A. I saw the account of it in the Kansas City papers.
- Q. Where were you at the time? A. I was in Joplin, Missouri.
- Q. Do you know how much of December you were in Denver?
- A. I was in Denver about half of the month, I would say about half of the month of December, 1903.
- Q. Was the executive board there at that time? A. The executive board was there, yes sir, until the 15th of the month.
- Q. You mean they were there from what time in December?
- A. They convened I believe about the 4th, or the fore part of the month.
- Q. And adjourned the 15th? A. About the 15th.
- Q. Were all the members there, do you remember? A. They were.

- Q. Where were they meeting? A. Meeting at headquarters, in the Mining Exchange Building, on the corner of 15th and Lawrence Street.
- Q. What part of the month if you know, were you in Denver?
- A. I was in Denver from the first of the month until the 15th continuously.
- Q. Then you went where? A. I went to Pueblo, I believe, the day after the adjournment of the board.
- Q. When did you get back to Denver? A. I was gone about eight or nine days, and came back, and went back again then to Pueblo -- probably in Denver five days after the 15th, between the 15th of December and the 1st of January.
- Q. And when in January did you return -- or was it the last days of December, or when did you return? A. I think I was in Denver the first of January.
- Q. The first day? A. Yes sir, to the best of my knowledge that is the time.
- Q. Anything happen in Pueblo in connection with your troubles at that time, the strike? A. I had a number of meetings there, made an effort to organize the smeltersmen, men in the employ of the American Smelting & Refining Company at Pueblo.
- Q. Have any difficulty with it? A. I had some trouble there with certain people in Pueblo in the attempt to organize, that, as I supposed, it was owing to the fact that I came there to organize the men employed in the smelters.
- Q. Did you hear through the press or otherwise that there was an attempt to wreck a train down in the Cripple Creek district some time in the fall or winter? A. Yes sir.

- Q. How was it done as to any of your men down there in connection with that matter? A. There was a number of the members of our organization that were arrested at that time charged with the offense.
- Q. Who were they? A. Mr. Parker and Mr. Davis and Mr. Foster.
- Q. Did you have anything to do with it -- I don't mean wrecking the train, I mean with the men that were arrested? A. I had nothing to do with the men that were arrested other than to secure counsel for them and assist them in securing bail.
- Q. Did you secure counsel? A. I did.
- Q. Who? A. I employed Mr. Hawkins and Mr. Hauge, -- Mr. Hauge an attorney of Cripple Creek, Mr. Hawkins of Denver.
- Q. First you got bail you say? A. That is, we employed the firm of Richardson and Hawkins and Mr. Hawkins attended to the trial of the case.
- Q. Mr. Richardson was busy somewhere else at that time, was he not? A. I judge so, yes. I don't know exactly as to his whereabouts at that time.
- Q. Do you know whether you had another case on trial at that time, or don't you recall? A. I believe there was trouble at Telluride at that time, and if I remember correctly, Mr. Richardson made a trip there about that time to attend to some matters -- or at Idaho Springs, I am not positive as to the place.
- Q. Well, did you go down to Cripple Creek when the trial came up?
A. I did.
- Q. How long did the trial last? A. To the best of my recollection that trial began the 16th of February and lasted until about

the 3rd of March.

- Q. What happened to the men? A. The men were acquitted. The court dismissed on motion one of the men and the others were acquitted by the jury.
- Q. Which one did the court dismiss? A. Mr. Kemison -- or Mr. Davis, excuse me.
- Q. William Davis, is it, who testified here? A. Yes sir, William F. Davis.
- Q. Did you see Harry Orchard while you were down there? A. I did.
- Q. How often did you see him? A. I think probably I saw him most every day after my arrival there until I left.
- Q. What was he doing? A. Why, he was in attendance at the trial and also was at the office of the Gripple Creek miners' union where these men met, and at the office of the attorneys who were conducting the case.
- Q. Confering over the case at any time? A. Why, he at that time was assisting, appeared to be very willing and anxious to do what he could and did do what he could to assist in preparing the case, getting witnesses for the defense and assisting in every way apparently that he possible could to assist in the trial of the case.
- Q. Did you meet him any differently from any other men there at that time so far as you can recall? A. No; I had no acquaintance with Mr. Orchard only look the time I had met him in Denver in January, and I met him there the same time as I met others who were members of the organization.
- Q. And how well acquainted did you get with him during that time or suppose you got with him? A. I, having met him almost

every day during that time, became fairly well acquainted with him, as I did the other men who were actually assisting in the case on trial.

- Q. Did you meet him in the Union hall in Victor or any other union hall in the Cripple Creek district and give him a hundred dollars or any other sum of money on account of his good offices in blowing up the Vindicator mine or for any other illegal purpose? A. No sir; I never met Mr. Orchard in Victor, to my knowledge, in my life.
- Q: Did you ever give him a hundred dollars or any other sum there or anywhere else for the commission of any crime?
- A. No sir, I never, to the best of my recollection, and I think I am correct, gave Mr. Orchard any money for a crime or for any other purpose.
- Q. Did you ever give him any money for a crime? A. No sir.
- Q. Or for an act of violence? A. No sir.
- Q. There or anywhere else? A. No sir, I did not.
- Q. Or knew of his getting any from your organization? A. No sir.
- Q. Did you ever give him a hundred dollars on the street going up toward the depot in Cripple Creek at that time? A. No sir.
- Q. While you were there? A. No sir.
- Q. While you stayed there -- well, you stayed there, did you, until after the trial was over? A. I stayed there until after the trial was over.
- Q. Then where did you go -- there was one matter I overlooked. Did you at that time while you were in attendance on this case in the Cripple Creek district tell your attorneys or tell Orchard that you had told your attorneys, or tell anybody else,

- to leave out of the case any reference to Pettibone dope or liquid fire? A. No sir. I had never heard of such a thing as Pettibone dope at that time.
- Q. When did you begin to hear about Pettibone dope? A. I heard some mention made of some explosive of some kind of acid that had been used or was in the possession of someone, through McKinney, who was a witness for the State in the trial of the man charged with the attempted train wrecking.
- Q. Did you have anything to say upon that subject or know anything about any Pettibone dope or any liquid substance of any sort for producing an explosion or a fire? A. I did not. I had no knowledge of anything of that nature until testified to by Mr. McKinney.
- Q. Did you say anything either to your attorneys or to Orchard about it? A. I did not, no sir.
- Q. Do you remember where you first saw or heard the expression "Pettibone dope"? A. I think I saw it in the papers for the first time after being arrested and brought to Boise, Idaho.
- Q. That is in the Miner's Magazine or the regular papers?
- A. I think in the Boise paper was the first reference I had seen in reference to it.
- Q. Well, you went back to Denver. Did you go to the Cripple Creek district again some time during the month of February or March after this trial? A. I believe not, Mr. Darrow, to the best of my recollection my last visit to the district was about the 30th. I left there about the 3rd of March of that year.
- Q. When was the next time you saw Harry Orchard? A. I think about

the 20th, to the best of my recollection, about the 20th of that month, 20th of March, 1904.

- Q. Whereabouts? A. Denver.
- Q. And whereabouts in Denver? A. Headquarters of the Western Federation of Miners, in my office.
- Q. Came there alone? A. No sir, he came there in company with three or four other men, probably more -- I don't know -- quite a number of them came there at that time together.
- Q. Do you remember who they were? A. I don't remember all of them.
- Q. Do you remember what he came for? A. I remember some of them.
- Q. Who first do you remember? A. I remember Mr. Burt, who was a blacksmith at Independence, and Mr. Connell, a miner.
- Q. Do you remember what he came for? A. They all informed me when they arrived in Denver and came to the headquarters that they had decided to leave the Gripple Creek district and go elsewhere to secure employment.
- Q. Did Orchard say anything about where he was thinking of going? A. They were asking my advice as to where I believed would be a good place for them to go to possibly find work, and he among the others I would say asked me that question, yes sir.
- Q. Was there any place spoken of? A. A number of places that we discussed.
- Q. Did he refer to any place? A. I think that he referred to a number of places.
- Q. Well, what one? A. He referred to Bisbee, Arizona, I think, to the best of my recollection, and others referred to the

same place.

- Q. Did he refer to any other place? A. He referred to different points in Colorado.
- Q. What points? A. Mr. Orchard, for one, discussed with me the possibility of securing employment in the southern part of the state, in one of the mining camps in the San Juan district.
- Q. What was said about that between you and Mr. Orchard?
- A. I told Mr. Orchard that as the men were on strike at Telluride and had scattered pretty generally through the mining camps of the southern part of the state that in my opinion it would be of no use to go to Telluride or Gury to secure employment.
- Q. What reply was made to that, if any? A. He asked me what my opinion was as to Silverton. I told him that as all of the mines were working and there was more men employed in the Silverton district than in any other that in my opinion that would be possibly the best place to go for a man to secure employment.
- Q. What other conversation did you have with him about it, about going away? A. He said at that time that he believed he would go to Silverton.
- Q. Did you say anything to him about going in that direction?
- A. The next day he came to the office. I believe the first conversation, the first visit that he made was on the 20th. I believe on the 21st he came again to the office and informed me that he had made up his mind to go down to Silverton. I told him at that time -- you want the balance of the conversation?
- Q. Yes, just give it all. A. I told him at that time I was making

preparations myself to go to the San Juan, to Gurey, and would leave on the 23rd of the month, and if he was in no hurry that I would like him to wait and go down with me.

Q. Did you say so? A. Yes sir.

Q. Well, just give it all. A. I told him that a short time before that there had been two or three representatives of the United Mine Workers, Mr. Adams, Mr. Fairley and Mr. Wardjen who had been beaten up by men who they believed were in the employ of the C. F. & I. Company, a company that was operating the coal mines in that state, had been beaten up on the same route that I would take in going to Gurey, and that I proposed to protect myself, and asked him to go with me, wait and go with me for that purpose for to assist in my protection in case I was attacked by the same people.

Q. What did he say? A. He said that a couple of days made no particular different to him and he would be glad to wait and go down with me, and he did.

Q. Anything said about guns? A. Yes sir.

Q. What was that? A. I asked Mr. Orchard at that time whether he was armed in any way, and he said he had a .45 Colt's revolver. I told him it was my intention to secure what is known as a take-down shot gun, and I had an automatic, what is known as an automatic Colt's .32 revolver. I told him if he had a place to carry a shot gun of that kind that I would also buy one for him. I told him it was my intention to have mine sawed off about three or four inches so that it would fit in my suit case so I could take it down ~~and~~ break it between the barrel and stock and put it in my suit

case. He said that he also had a suit case about the same size as mine and that he could get his fixed the same way and carry it in that way.

Q. Well, did you get any guns? A. I did.

Q. Where did you get them? A. I had Mr. Pettibone get them for me.

Q. How long had you known Mr. Pettibone? A. I had known Mr. Pettibone since 1900.

Q. What had been his relationship to the miners in general?

A. Well, he had always been very friendly to the miners; was acquainted, I believe, with as many or more of the miners throughout the western country and especially the members of our organization than any other man in the city of Denver.

Q. Do you know whether he had ever been a miner? A. I believe he had at one time mined, yes sir, in Montana and Idaho.

Q. Had you ever done business with him, in the office?

A. I had, yes sir; I had done business in the way of purchasing for the office and the organization.

Q. Had he attended your conventions? A. Why, whenever the conventions were held in Denver he was generally, when his business permitted, up attending on the convention.

Q. Been on any of your committees? A. No sir. He was never a delegate to a convention in Denver, therefore, he could not have been appointed on any committees.

Q. How about the entertainment committee, to call your attention to it, if you know? A. He generally volunteered his services for the purpose of entertaining the delegates who would visit Denver.

Q. Was that in connection with any other organization or officials of Denver that they had that committee at different times?

A. As a general rule other bodies of organized labor of Denver would appoint committees and he would serve with the committees to prepare entertainments for the delegates attending the convention.

Q. Well, you got your sawed-off shot guns, did you? A. Yes sir.

Q. Were they new guns? A. Yes sir.

Q. When did you start to Oury? A. I started to Oury on the 23rd of the month, 23rd of March, 1904.

Q. By the way, do you know whether that sawed-off shot gun of yours was used to kill Lyte Gregory with afterwards?

A. No sir, it was not used to kill anyone with.

Q. Has that ever done any killing? A. The gun has never been fired up to this time, that is, unless it has been fired since I left Denver and came to Idaho, and I don't think it has. It has been in charge of a party who has my rooms rented while I am here.

Q. Do you know whether it had ever been shot at all before you came to Boise? A. Not before I came to Boise, no sir.

Q. Where was it when you last heard of it, when you left?

A. It was in my rooms, my apartments at the Aberdeen Flats on California Street.

Q. Well, where did you meet Orchard to go to Oury? A. I met him at the headquarters of the organization on the afternoon of the day we departed for Oury.

Q. Who paid the railroad fare? A. I paid my fare and Mr. Orchard paid his.

- Q. Did you give him any money or buy him any ticket or anything of the sort? A. No sir. I paid his expenses on the trip down there and his hotel bill at the hotel after our arrival.
- Q. What time did you get to Carey? A. We got to Carey on the 24th, the evening of the 24th, about five o'clock.
- Q. That would be the 24th of -- A. 24th of March.
- Q. How long was it before you saw Denver again? A. Why, some time the latter part of April I came back to Denver just for a few hours.
- Q. Well, we will get to that. That was when you came up to visit the Supreme Court on a writ of habeas corpus? A. Yes sir, I was brought to Denver for the purpose of answering to a writ.
- Q. But you did not make any extended visit there at that time? A. I was there only a few hours.
- Q. When was the next time you came for any reasonable length of time? A. I returned to Denver the 5th of July to remain.
- Q. The 5th of July. Where were you on the 6th day of June, 1904? A. I was confined in what was called the bull pen in Telluride, Colorado, about two hundred and thirty miles south of Denver, Colorado -- southwest.
- Q. How you got down there you say in March, you say the 21st? A. 24th.
- Q. How far is this from Denver? A. It is something over two hundred miles.

MR. HIGGINSON: Something over four hundred. Pueblo is one hundred and twenty miles.

- Q. Isn't it further than that? How long did it take you to go? A. Just wait a minute, Mr. Darrow, if you will. I want to state

about that distance, I know it myself.

- Q. Well, about; it doesn't matter much. A. It occurs to me it is about three hundred and fifty miles, somewhere in that neighborhood -- between three and four hundred miles.
- Q. How long does it take to get there? A. Leaving Denver in the evening at 7:30 you get to Ouray the next evening about five.
- Q. Go by way of Pueblo? A. Yes sir.
- Q. What happened to you, if anything, when you got to Ouray? Where did you go? A. There was nothing happened to me until the 26th, after the 24th.
- Q. Nothing happened to you for two days? A. Two days, no sir.
- Q. What were you doing the two days? A. There had been about sixty or seventy of our people deported from Telluride by the military and citizens there, as I had understood, mine operators, to Ouray; and I was there taking care of those people or making arrangements for their care with the members of the Ouray union.
- Q. What was being done there toward taking care of them?
- A. Upon my arrival there on that evening I called a meeting of the deported men and also of representatives of the local union and discussed the situation with them and was making arrangements for their care.
- Q. Did you have any correspondence with one James H. Peabody, then governor of Colorado? A. I did I believe on the 26th.
- Q. What did you ~~say~~ do in reference to Peabody? A. I wired Mr. Peabody and asked him if these citizens that had been deported from Telluride would be permitted to peaceably return to their homes, and if they done so they would receive the protection of

the State of Colorado.

- Q. Did you get an answer? A. That is not the wording of the telegram, but to that effect.
- Q. Did you get an answer? A. Yes sir.
- Q. What did he say? A. He said that peaceable citizens would be permitted to move anywhere in the state of Colorado but armed forces would not be permitted.
- Q. Had you known the governor? A. I had met the governor, yes sir, in 1903.
- Q. Where? A. I had met him at his office at the capitol building; also had met him, travelled from Denver to Colorado Springs in his company a one time.
- Q. Met him in reference to the business of the Western Federation?
- A. Sir?
- Q. Had you met him in reference to the affairs of the Western Federation when you met him at the capitol building?
- A. I had. I met him at a conference there of representatives of the different milling companies in Colorado City, a meeting for which he had been responsible for the calling.
- Q. Where did you stop in Telluride when you got there? A. Stop in Telluride?
- Q. Yes -- Curray I mean? A. I stopped at a hotel run by Mrs. Hyatt. I don't remember the name of the hotel at this time.
- Q. After you had been there two days what happened? A. I was arrested on the 26th of the month, morning of the 26th, about eight o'clock.
- Q. Who arrested you? A. I was arrested by Sheriff Corbett of Curray county.

Q. For what? A. There was no charge.

Q. MR. DARROW: Mr. Borah, do you object to my reading in the exact words of these two telegrams?

MR. BORAH: No, I have no objection to that.

MR. DARROW: Then I will read them.

THE COURT: These are the ones mentioned by the witness?

MR. DARROW: Yes sir.

(Reading): "Gunn, Colorado, March 24, 1904" --

This is Mr. Meyer's telegram. "James H. Fosbody, governor of the State of Colorado. Sir: In line with your suggestion, we have applied for and been granted an injunction restraining the Mine Owners' Association and Citizens' Alliance of Telluride from interfering with the return of citizens driven or removed from that place on March 14th. These citizens will return to their homes. Will they receive the protection of the National Guard? Charles H. Meyer."

And here is the reply: "Denver, Colorado, March 25, 1904. Charles Meyer, President Western Federation of Miners. Answering your telegram of yesterday. I have no disposition to interfere with or interrupt the movements of unarmed citizens going from place to place in a lawful manner. But armed bodies of men will not be permitted to march in any portion of the state, other than the state militia. James H. Fosbody, governor."

Q. When was martial law declared down there, if you know?

MR. BORAH: Have you asked Mr. Meyer whether or not he identifies these as the correct copies?

Q. Are these the copies of the telegrams? A. These are the

copies as I remember, of the telegrams, of the one I sent as far as I remember, and the one I received from Governor Peabody. To the best of my recollection they are in that working.

- Q. Do you know when martial law was declared down there?
- A. I don't remember the exact date, Mr. Darrow.
- Q. Was it 25th before or after these telegrams? A. After, I believe.
- Q. After you got there? A. About that time I believe martial law was declared.
- Q. Was it declared at Ouray? A. No sir, the military were not in the field at Ouray.
- Q. Was it at Telluride? A. Yes sir.
- Q. About how far apart are Ouray and Telluride? A. About sixty miles, I believe.
- Q. You mean sixty miles in the way you have to go? A. Yes sir, the way you have to go by rail, or a little further by wagon road.
- Q. How you say you were arrested on the 25th by whom? A. By Sheriff Corbett of Ouray county.
- Q. On what charge? A. Sheriff Corbett had no charge against me at that time. He arrested me on request of the sheriff of San Miguel county, Telluride.
- Q. San Miguel county is in Telluride, is it?
- A. No, not in Telluride, Mr. Darrow. Telluride is in San Miguel county.
- Q. Let me call your attention to whether martial law was not declared the second time on the very day that the governor

get your telegram -- no, the day you left Denver rather?

A. Just about that time. I can't swear positively as to the date, but I remember of the declaration of martial law just about the time I was leaving or after I arrived in Garry.

Q. What did the sheriff do when he arrested you?

THE COURT: I guess this is a good place to adjourn, Mr. Darrow.

MR. DARROW: I guess this is as good a place as any.

THE COURT: The witness will be reminded.

Thereupon the court gave the jury the statutory admonition, the bailiffs were sworn, the jury retired in charge of the bailiffs, the witness was reminded, the defendant was reminded and court here took a recess until 1:30 P. M.

R E C E S S.

Boise, Idaho, Wednesday, July 10, 1907.

1:30 o'clock P. M.

Parties not pursuant to adjournment.

The clerk called the names of the jurors and announced all present.

WITNESS CHARLES H. MOYER on the stand.

DIRECT EXAMINATION (Continued)

BY MR. DARROW:

Q. Mr. Moyer, I think perhaps I will ask you again, what was the year when the constitutional amendment was submitted to the people, the eight hour? You said 1903: Do you know whether you are right or not?

MR. RICHARDSON: I suppose you have no objection, Senator. It is 1902, but the legislature convened in 1903.

MR. BORAH: No, I presume not.

MR. RICHARDSON: It was the legislature of 1903.

Q. Was it the year of 1902 instead of 1903, Mr. Moyer, the fall election? A. I would think so, yes. I believe the legislature of 1903 passed on the matter.

THE COURT: It was the general election?

MR. RICHARDSON: Yes, it was a general election, of 1902, and it provided the legislature should act on it; and he was right in speaking of the legislature, that was in 1903, that is, the legislature that failed to do anything with it.

THE WITNESS: Yes sir.

MR. BORAH: That can be agreed on.

- Q. You also referred, Mr. Mayor, to a time when you met Governor Peabody on the train? A. Yes sir.
- Q. When was that? A. That was the latter part of February.
- Q. Where was it? A. 1903.
- Q. Where was it, where were you going? A. Going from Denver to Colorado Springs.
- Q. Where was your destination, Colorado Springs or Telluride?
- A. Yes sir, I was going to Colorado City, not Colorado Springs.
- Q. On what business? A. I was going there to advise with the members of the local organization there who were on strike.
- Q. Did you have any conference with the governor on the train about the conditions in Colorado City? A. I did, sir.
- I had a long conversation with him, almost all of the way down from Denver to Colorado Springs, where he was going.
- Q. Anything said about his going with you? A. I had invited the governor at that time to go to Colorado City with me and attend the meeting that I intended calling there that evening of the men there on strike who were employed in the mill, or had been.
- Q. Now going back to Telluride. You related this morning your trip down to Telluride, and you say on the 26th you were arrested, I believe you said the 26th of March? A. Yes sir, I was arrested on the morning of the 26th about eight o'clock.
- Q. Who did you say took you in custody? A. Sheriff Corbett of Cury county.
- Q. Did you endeavor to find out what was charged against you?

- A. Yes sir, I inquired of Sheriff Corbett for a warrant for my arrest.
- Q. What did he tell you about a warrant? A. He said he had no warrant; that he had been requested by a telephone communication to place me under arrest and bring me to Ridgway, which was about half way between Gury and Telluride, a railroad point.
- Q. A telephone communication from where? A. From Telluride.
- Q. Did he tell you what you was charged with? A. He didn't know what I was charged with -- had no warrant for my arrest.
- Q. Didn't know? A. No sir.
- Q. How long did you stay there with him? A. I stayed there until about one o'clock in the afternoon.
- Q. What did he say to you, if anything, about going anywhere else with him? A. He told me that the request of Sheriff Routen of San Miguel county was that he bring me to Ridgway where he would meet him and take charge of me.
- Q. What did you do as to going with him? A. I consulted with counsel in Denver over the telephone and asked their advice as to what I should do in regard to going out of Gury county without a warrant being served.
- Q. Well, what did you tell him after you consulted with counsel? A. Counsel advised me not to leave the county without a warrant being presented, and I, acting on their advice, refused to accompany the sheriff out of the county, and he did not undertake to take me from Gury at that time.
- Q. Well, did he get a warrant? A. He notified Sheriff Routen of the fact that I had refused to go to Ridgway and Sheriff

Routan came to Ouray after me.

- Q. Sheriff Routan was the sheriff of what county? A. San Miguel county, the county in which Telluride is located.
- Q. And what county were you in? A. In Ouray county.
- Q. And is Ouray the county seat? A. Yes sir.
- Q. And who was the sheriff there? A. Sheriff Corbett.
- Q. Well, then, what was done after that, after you notified the sheriff? A. Sheriff Routan arrived I believe about one o'clock in Ouray and brought with him a warrant charging me with desecration of the American flag, desecrating the American flag.
- Q. Desecrating the American flag. What did he do with you?
- A. Took me by team to Ridgway and there took the train and went to Telluride.
- Q. How long had it been since you had been in Telluride?
- A. I had been in Telluride in September the year before.
- Q. September the year before? A. Yes sir, September, 1903.
- Q. And when you were taken to Telluride what was done with you?
- A. I was placed in the county jail.
- Q. In whose authority, civil or military? A. Civil authority.
- Q. And what did the charge refer to, was it a poster?
- A. They claimed, I believe, that the flag had been used for advertising.
- Q. I show you a newspaper which I will mark Defendant's Exhibit 21 for identification. I show you defendant's Exhibit 22, is this the poster that was referred to? A. I would say that that was one of the posters, yes sir.
- Q. Is it a copy of it? A. It looks to me as an exact copy of it,

I would say it was an exact copy of it.

MR. DARROW: I will offer this in evidence.

MR. BORAH: No objection.

MR. DARROW: I think I had better read it. I will just show it this way to the jury first, and the court. (Exhibits Exhibit 13 for identification to the jury).

These stripes of the flag all bear an inscription, and I will read it.

"Is Colorado in America?"

The first line is "Martial law declared in Colorado."

The second line, "Habeas corpus suspended in Colorado."

Third: "Free press throttled in Colorado."

Fourth: "Ball pens for union men in Colorado."

Fifth: "Free speech denied in Colorado."

Sixth: "Soldiers defy the courts in Colorado."

Seventh: "Wholesale arrests without warrants in Colorado."

Eighth: "Union men colled from homes and families in Colorado."

Ninth: "Constitutional right to bear arms questioned in Colorado."

Tenth: "Corporations corrupt and control administration in Colorado."

Eleventh: "Right of fair and speedy trial abolished in Colorado."

Twelfth: "Citizens' Alliance resorts to mob law and violence in Colorado."

Thirteenth: "Militia hired by the corporations to break the strike in Colorado."

and under it reads as follows:

"Every word inscribed upon the stripes of 'Old Glory' is the truth. If this flag is desecrated, the Republican Governor of Colorado is responsible for the acts that profane ~~the~~ the emblem of liberty.

The picture represents Henry Maki, a union miner of Telluride, who was arrested for vagrancy -- had money in his pocket and was being supported by his union. He was shackled to a telephone pole because he refused to work in a filthy cess-pool under the bayonets of the state militia.

We are going to break his chains and the chains that are binding the working class of Colorado.

Our struggle is for an eight-hour day, to establish the right to organize for mutual benefit, and to prevent discrimination against union men.

If you desire to assist the striking Miners, Hill and Sealersman of the Western Federation of Miners of Colorado ~~and~~ in this battle for industrial and political freedom, send donations to Wm. D. Haywood, Sec'y-Treasurer, Room 3, Pioneer Building, Denver, Colorado.

Charles Moyer,
President.

Wm. D. Haywood,
Sec'y-Treasurer."

(In the lower left hand poster is the picture of a man with his arms handcuffed around a telephone pole and underneath are the words: Under the folds of the American flag in Colorado.")

- Q. Mr. Moyer, do you know where the flag was printed? A. It was printed to show the conditions --
- Q. No, where it was printed, I say. A. Where it was printed?
- Q. Yes. A. Printed in Denver.
- Q. By whom? A. By the Western Federation of Miners.
- Q. Who did the mechanical work on it, do you know what house? If you don't know what house -- ~~say~~ A. No, I don't know what house.

- Q. Was it done in Denver or in San Miguel county, that is the question? A. It was done in Denver, Colorado.
- Q. Who wrote it? A. Mr. Haywood wrote it and Mr. O'Neill, I believe.
- Q. Where did they write it, in Denver or in San Miguel county?
- A. Done it in the headquarters of the Western Federation of Miners.
- Q. Whom did you say? A. Mr. Haywood and Mr. O'Neill.
- Q. This charge was made against you when you were taken to Telluride, was it? A. Yes sir, the charge was made against me in Ouray county and I was taken from there to Telluride.
- Q. What was done with the charge? Were you tried? A. No sir.
- Q. What happened to you next? A. You asked me what was done with the charge. I was placed in the county jail and on the 28th I was released on \$500 bond.
- Q. Well, what did you do when you got released, go home?
- A. I made preparations to leave Telluride for Denver.
- Q. Well, did you get to Denver? A. About nine o'clock on the 29th --
- Q. On the 29th was the day you were released, was it?
- A. The 28th.
- Q. 28th? A. The evening of the 28th I was released.
- Q. Go on and tell what happened next? A. I stopped at the hotel in Telluride that evening, and my attorneys had come to Telluride to investigate as to the reasons why I was being held there, Mr. Murphy and Mr. Richardson came to the hotel that night and inquired of the officer who was in charge of the military, who were in control at that time in Telluride,

in San Miguel county, as to whether there were any further charges against me. He informed my attorneys that there were not, that I was at liberty to leave the county if I desired. I made all arrangements to leave the next morning on the morning train. About ten minutes before time to leave the hotel for the depot I was called upon by two members of the National Guard stationed there under Captain Wells and General Ball, notified that Captain Wells desired to see me up at headquarters, that is the headquarters of the military. I accompanied the two members of the militia to the headquarters, was invited to take a seat which I done. I was there about five minutes, and informed the two gentlemen that in order for me to make the train that I was intending to take out of the city it would be necessary for me to go to the train or to the hotel and take the bus for the train. They then informed me that they were instructed by ~~Shackles~~ Captain Wells to detain me until he came to headquarters. Captain Wells came to headquarters I believe about ten minutes after the departure of the train and inquired of me my name and residence --

- Q. This was Captain Bulkeley Wells? A. Yes sir.
- Q. Had you ever seen him before? A. Why, I had seen him the day before, yes sir, the night before at the hotel; not before that time to my knowledge.
- Q. Well, he came; What did he say to you? A. He inquired of me my name and place of residence and notified me that he had instructions from General Ball to detain me as a military prisoner until further notice. I was taken from there to what

was afterwards known as the bull pen in Talluride and placed there on charge by the military --

Q. Did he or anybody else tell you what the charges were against you except military prisoner? A. No sir.

Q. Then you went to the bull pen; How many other people were there? A. At that time there was not more than two or three; after that there was more, members of the organization.

Q. What were they, generally speaking, the people who were there-- well, you have answered, you have said members of the organization. A. Yes sir.

Q. Was Riddell there with the rest? A. Not at the time I was placed in the bull pen he wasn't there.

Q. Was he at any time while you were there? A. He was later, yes sir.

Q. How long was he there with you? A. Why, I think four or five days to the best of my knowledge.

Q. What is his full name, if you know? A. George is the name I knew him under.

Q. What did they do or require or try to have you do there?

A. Why, the first few days that we were confined in that place they didn't ask us to do anything. After we had been confined there about three or four days we were notified that we would be expected to go out around the city in charge of details, detachments of militia, and to clean the gutters of Talluride.

Q. Well, did you go and clean the gutters for them, for Berkeley Wells? A. I didn't go, no sir. All of the rest of the men went at that time. I notified Mr. Wells that under no consideration would I clean the gutters of the streets of Talluride, and the

notice was taken to ~~Wagoner~~ ^{him from me} and he instructed the corporal or whatever position he filled that all the rest would be expected to go out but myself, and I was not forced to work on the streets.

- Q. Did you make any further investigation to find what you were kept for during the time you were there? A. Why, I asked a great many times. I asked Mr. Wells I believe, and I asked those who were directly in charge of me there at the bull pen why I was detailed, and there seemed to be no one of them that were able to give me any information other than that I was held there on the order from the adjutant general and the commander in chief of the Colorado National Guard.
- Q. One matter that I wish to ask you that I overlooked: When this telegram passed between you, and the reply from Governor Peabody, in reference to the men going back home, what did you do towards sending any men back home that were deported?
- A. I made arrangements to send a number of men home and selected the men at that time.
- Q. What character of men did you select? A. I selected thirteen men who owned property in Telluride, men who had families, married men all of them, and started them back for Telluride.
- Q. When you say "property" you mean what kind of property?
- A. Men who owned their homes there, real estate.
- Q. Did they ever get back, so far as you found out? Did they at that time? A. They did not, no sir.
- Q. Who were they stopped by? A. They were stopped by a detachment of militia and a number of citizens about half way between Ridgway and Telluride, taken from the train and forced to walk

back to Ridgway. I might say that these men were not armed, and they were sent in under the promise of the governor that the men, unarmed citizens, would not be molested travelling anywhere through the state of Colorado.

- Q. Did you see any of them again? A. I seen them later on, some of them, in the bull pen at Telluride.
- Q. Well, now, did you get out of the bull pen temporarily?
- A. I was taken to Denver to answer to a writ of habeas corpus about the 20th of April.
- Q. Was a writ asked for before that? Before you were taken to Denver was a writ asked for in the local court? A. A writ was asked for the next day after I was taken in charge by the military.
- Q. Who was applied to for a writ the next day? A. Judge Stevens, sitting at Ouray.
- Q. What was done? Did he issue the writ? A. He did.
- Q. What was done in obedience to the writ? A. The writ was made returnable on the 5th, I believe, of April.
- Q. Were you taken into court and your case heard? A. No sir, I was not taken into court. Captain Wells and General Bell, who were named in the writ, positively refused to order me brought in court as ordered by the court on that day.
- Q. Where did you stay? A. I stayed in the bull pen at Telluride.
- Q. Then what further was done toward trying to get you your liberty? A. Then counsel asked -- applied for a writ of habeas corpus in the Supreme Court of Colorado.
- Q. Was the writ issued? A. It was.
- Q. And a day set for hearing? A. Yes sir.

- Q And were you taken to Denver? A I was taken to Denver.
- Q Who took you? A Captain Wells was in charge of the detachment of the military, I don't know how many there were.
- Q How long were you in Denver at the time? A I arrived in Denver about eight o'clock, I believe, in the morning and left about 4:30 in the afternoon.
- Q Was the case decided then or afterwards? A The case was argued then and taken under advisement by the Supreme Court.
- Q And when was it then decided? A The 6th day of June, I believe, of the same year.
- Q How was it -- was it refused, or how? A The writ was refused.
- Q In the meantime had anything else happened to you? Had you applied anywhere else? A Yes sir.
- Q Where? A I made application to the Federal court, to Judge Thayer, sitting in St. Louis.
- Q When was that? A I don't remember the exact date.

MR. RICHARDSON: You don't object to my suggesting to him, Senator? It was about the 10th of June.

THE WITNESS: I don't remember the date, Mr. Darrow.

MR. DARROW: We will assume that unless it is necessary to show otherwise, that that was the date.

MR. BORAH: Was there a decision in that case?

MR. RICHARDSON: No; as soon as they discharged him on that they re-arrested him and took him to Gripple Creek.

- Q What was done when Judge Thayer issued that writ? A The

Governor was at once notified of the writ having been issued, from St. Louis, and he immediately notified -- that is, I --

MR. BORAH: Well, I suggest that --

Q Well, what happened to you on the day the writ was issued?

A I was taken from the bull pen about 4:30 by Captain Wells and the militia and turned over to the sheriff of San Miguel County.

Q That is, you were taken and turned over from the military to what authorities? A To the sheriff of San Miguel County.

Q And was there any other charge lodged against you there?

A Not immediately. After I was turned over to the sheriff there was, about an hour after that -- about 5:30, I believe, that evening.

Q They preferred a charge an hour or so later? A Yes sir.

I descended from Sheriff Ruten to know why I was held, and he sent his deputy, Reynolds I think it was, out and he brought back a warrant.

Q What did that warrant charge? A It charged me with murdering some one in 1903.

Q Who did it charge you with murdering? A There was no name in the warrant.

Q Did you ever find out who you had murdered in San Miguel county? A No sir. I afterwards investigated quite thoroughly and found there had been no murder at all in San Miguel County in those months.

Q Were you down there at that time? A I was there in September.

Q Did you kill anybody when you were down there? A I did not.

Q What did they do with you on this charge? A I was held two days on the charge of murder.

Q And was anything done toward having a hearing or a trial?

A I immediately wired for our attorney, Mr. Murphy and he came on notice.

Q And did you have a trial? A No sir, I had no trial nor no hearing.

Q Then what did you do? A Mr. Murphy demanded a hearing for me and was notified that officers were on their way from the Cripple Creek district with a warrant for my arrest on some charge in the Cripple Creek district -- in Teller county.

Q What became of the murder charge for killing a man in San Miguel? A I don't know. I have no knowledge of what was done with that charge.

Q That is the last you heard of it? A I have never been able to get any information regarding that charge at all.

Q Then what did they do with you? A I was taken then to Cripple Creek by two officers who were detailed to go there and take me back to Teller County.

Q Who were the officers? A One was Tom Underwood, who was an under sheriff under sheriff Bell, and D. C. Scott, who I understand was in the employ of one of the railroad companies running out of Cripple Creek.

Q On what day did you leave for Cripple Creek? A To the best

of my knowledge it was on the -- it was about the 18th of June, 1904.

Q When did you get there? A We were two days on the route.

Q What did the warrant there charge you with? A The warrant charged me with riot and the murder of one Rexy McGee and others in Victor, Colorado, on June 6th, 1904.

Q Where were you on June 6th, 1904? A I was in the bull pen at Telluride, Colorado.

Q How many miles away from Cripple Creek? A Between three hundred and four hundred miles.

Q How long had you been there? A I had been there continuously since the 26th day of March of that year.

Q Well, what did they do with you when they got you up to Cripple Creek? A I was confined in the Teller county jail.

Q And how long did you stay there? A I stayed there until the 26th day of July of the same year.

Q How did you get out then? A I employed counsel there. Mr. Hango was employed.

Q Did you get bail or was the case dismissed? A I would like to go back and rectify a statement that I made there, if I may be permitted. You asked me what charge I was brought from San Miguel County on.

Q Yes. A It was not on a charge of rioting and murdering, but on another charge.

Q You were taken to Cripple Creek on another charge, were you?

A Yes sir.

- Q From San Miguel county? A Yes sir.
- Q What were you charged with? A I was charged with the murder of McCormick and Beck in the Vindicator mine on the 21st day of November, 1903.
- Q Where were you when the explosion occurred in the Vindicator mine? A I was in Joplin, Missouri.
- Q Did they try you on that charge? A No sir.
- Q How long did they hold you? A We demanded a preliminary hearing in Teller county and that charge was dismissed and I was again arrested on the charge of inciting riot and the murder of Romy McGee on the 6th day of June of that year.
- Q And after staying in jail as you have told us, how did you get out of jail? A We demanded a hearing on that charge and bonds were set.
- Q Did you give bond? A I was then placed back in the county jail and remained there until the 4th day of July when I gave sheriff Bell \$100.00 to take me to Denver for the purpose of securing bonds.
- Q That was a tip, was it not? A I don't know how sheriff Bell considered it. He received the \$100. On the 5th day of July I gave bond in \$10,000. and was released.
- Q Well, have you ever been tried yet down there for inciting riot or murder? A No sir, we were granted a change of venue from Teller county to an adjoining county and the case was well pressed by either Mr. Headlin or Trowbridge, the prosecuting attorneys,-- I forget which one, but either one dismissed

or nolle pressed the case.

Q Was Mr. Hamlin in any way connected with the mine owners' association? A He was the secretary of the mine owners' association, or a mine owner in the Cripple Creek district.

Q They brought you back to Denver on the morning of July 5th?

A Yes sir, on the morning of July 5th I was released on bond.

Q 1904? A Yes sir.

Q Did you find your suit case and sawed off shotgun when you got back there? A I had my suit case with me at Telluride and found my shotgun and other things that had been taken from my suit case at my request at my room in the Granite building.

Q Where was your wife living at that time? A My wife came to Telluride during the time I was there and lived there at Telluride -- stayed there. She came to Telluride about the middle of April.

Q Where had your home been?

MR. BOSAH: You used the term 1905.

MR. DARROW: I meant 1904.

Q Where was your home regularly, if you had any regular home, where was it during that time? A My home had been in Denver since 1901, and at that time I had rooms at the Granite building, what was known as the Granite building, or a hotel on the corner of 15th and Larimer street.

Q When you got back home did you see your gun? A Yes sir.

Q Where was it? A It was in a clothes closet in a corner of

the room, standing up in the closet.

Q Did you ever touch it since? A Oh yes, I have touched it; have moved it around and moved it from that place and took it with me.

Q Ever use it? A No sir, the gun has never been fired or discharged to my knowledge.

Q Well, after you got back to Denver did you see Harry Orchard at any time? A Not during the year 1904, no sir.

Q Where did you spend the rest of the year, 1904 -- is this the Riddell coming in the door that you spoke of seeing in the bull pen with you (indicating a man coming into the court room)? A Yes sir, that is Mr. Riddell.

Q Where did you spend the balance of the year 1904, generally speaking? A Why, I took up my duties as president of the organization and was in the city, I think most of the time during that fall,--my health was very poor when I came out of the bull pen and I went to Manitou for some little time before taking up my duties at headquarters.

Q What was the condition of your health when you came out?

A My health was very poor.

Q Were there any troubles on around the state, in reference to strikes at that time? A The strike was still on in Colorado City and Cripple Creek and Telluride, and also in Denver; there was a strike of the smeltersmen there.

Q When was the strike in Denver -- the Smeltersmen's strike?

A The strike was declared in Denver on July 3rd, 1903.

Q 1903? A Yes sir.

MR. BORAH: Was that the Globeville strike?

MR. DARROW: Yes, I believe so.

Q That was the Globeville strike, wasn't it? A That was what was called the Globeville strike and what was known as the Grant smelter, it was not in Globeville, it was in Denver.

Q What was the occasion of that strike? A The men demanded eight hours for a day's work, or a working day, and made the demand and went on strike.

Q At that time was the law in force, or was the law on the books -- the eight hour law, do you know? If you don't know, let it go? A I don't know about the eight hour law being on the book. There had been an eight hour law passed in 1899, and it has been declared unconstitutional by the Supreme Court.

Q Prior to this time? A Yes sir.

Q How long did that strike last? A It lasted until about the time that the legislature in 1906, I believe, passed the eight hour law, passed the law regulating the hours of labor in mines and smelters.

Q And then was the eight hour law amended or granted? A There was an eight hour law passed which affected some men in the mills and smelters of the state, -- not all.

Q Do you remember the occasion of the blowing up of a portion of the Independence depot, do you know -- you heard about it?

A Yes sir, I saw it in the Denver papers.

- Q You say at the time you were in the bull pen? A Yes sir, I was in Telluride at the time.
- Q Did you take any action at the time about it? A I sent a telegram -- at that time the convention was in session at Denver and I sent a telegram as soon as I received the information through the papers.
- Q To what effect was the telegram? A I requested the convention on behalf of the organization to offer a suitable reward to exert every effort to ferret out the perpetrators of the Independence depot explosion.
- Q Did they do it? A They did.
- Q How much reward did they offer? A \$5,000.
- Q Has that reward ever been taken down or revoked? A No sir, it has never been called for as yet.
- Q Did any other city, military, charitable or almshouse organization offer any reward? A There was no other reward offered to my knowledge.
- Q When did you next see Harry Orchard after that, if you recall?
- A After I left him in Curay?
- Q After you left him in Curay, when was the next time you ever saw him? A The 23rd of June, 1905.
- Q Did you know, or had you seen anything in the papers with reference to him and anybody else in connection with the Independence depot explosion? A I had, yes. I seen an account in the Denver papers which I received in Telluride,

stating that he had, in company with another man, had left the Cripple Creek district a day or two days, or a few days after the explosion and that they were suspected of having been connected with that crime.

- Q Did you know who the other man was? A Not personally. I saw his name in the paper, and have found out who he was since. His name was Neville; it was so announced in the papers, and I found out since that that was his name.
- Q Did you know or hear of his being brought back to Colorado -- Neville? A I was informed through the papers that Neville had been brought back to Colorado, but not Mr. Orchard.
- Q Did Neville come to your office at any time after he got back?
- A He did, yes sir.
- Q Do you recall when? A To the best of my knowledge it would be in the month of October, 1904.
- Q Well I got that and another year mixed.

THE WITNESS: It was 1904.

- Q 1904? A Yes sir, 1904.
- Q That is what I thought, and what business did he have there or make there? A He came to the headquarters of the organization and announced himself to one of the stenographers; then he came to my office and notified me that there was a man there who desired to see me, accompanied by a boy. I told the stenographer to have them come in, and he came in and introduced himself as Neville.

Q Did he tell you what he wanted? A Yes sir.

Q What? A He told me that he had left the Cripple Creek district with a team and drove into Wyoming expecting to locate there and had been brought back by the authorities of Cripple Creek for investigation relative to the Independence depot explosion; that he had been off quite a lot in coming and going, that he had had to employ counsel and had to go back to Wyoming to bring back his team. He asked me if the Western Federation of Miners could not reimburse him for or some part of the loss he had sustained through the action of the authorities.

Q Did he say anything about whether he knew anything about who blow up the Independence depot? A He told me he positively had no knowledge of the Independence depot explosion -- of the explosion at the Independence depot, and he firmly believed that Orchard knew nothing of it; that they were some distance from Cripple Creek at the time the explosion must have occurred and therefore they had no knowledge whatsoever of who might have been responsible for it.

Q Did he say how much he thought would reimburse him?

A I believe he told me he had paid \$50. for an attorney and that he considered that the time he had lost would amount to about \$200.

Q What did you tell him? A I told him I would make some inquiry as to who he was and for him to call the next day and I would inform him as to what could be done at that time by

the officers of the organization.

Q Did he call? A He did.

Q What did you tell him then? A I told him I had made inquiries as to who he was, and found out that he was not at any time a member of the organization, that he was in the saloon business, that he had left the district and that I would have no authority under that condition of affairs to advance him any money, but I would lay the matter before the executive board and if they considered that he was entitled to anything he would be notified.

Q Did you so notify him? A No sir. I laid the matter before the executive board and told them the circumstances and they took no action.

Q Did you ever see him again? A No sir.

Q Did he make any threats or demands other than that which you have related? A No sir, only that he asked that I reimburse him for about \$250. lost during that time.

Q Did you ever see Neville during any other time that you know of? A No sir, I never saw him before or after his visit to the office at that time.

Q Now, we will try once more to go back to Harry Orchard if we can. When did you say you saw him? A I saw Harry Orchard on the 23rd of June, 1935.

Q How do you remember the day? A I was making preparations to leave the city on the next evening.

Q Where were you going? A I was going to Chicago to attend a

convention.

- Q Do you keep a memorandum of where you go? A Yes sir.
- Q Have you consulted it on that question? A I have.
- Q What day did you leave for Chicago? A On the evening of the 24th, on the Burlington.
- Q How long were you gone? A I was gone until the 31st day of July.
- Q Where did you stop in Chicago, if you remember, or don't you remember? A I stopped first at the Briggs hotel, and later at --
- Q Well, was it the Ontario, if I may lead him; maybe I led you wrong on it? A Well --
- Q Well, I don't care where it was. A I think I stopped at three different places. First I stopped at the Briggs house, then at a rooming house on Madison street and then at the Ontario.
- Q And you left on the 23rd, you say? A On the 24th.
- Q The 24th day of June? A Yes sir.
- Q And how long had you been in Denver before you left for Chicago? A I had been in Denver about seven days.
- Q And where did you come from? A From Denver, a convention of the organization at Salt Lake City, Utah.
- Q Do you know the exact date that you landed in Denver? A I don't know; I couldnot be positive as to the exact date.
- Q Or the exact -- A My diary shows that I attended the convention and after the adjournment I attended a meeting of the

executive board at Denver. To the best of my knowledge I think it would be about the 14th of the month.

Q Well, what were the circumstances of your meeting Harry Orchard at this time? A Harry Orchard came to the headquarters of the organization; we were then in the Pioneer building at the corner of 16th and Larimer street; he came to the office about quarter to five in the evening and came into my office and shook hands and asked me to go down to have a drink with him. I told him I was very busy making preparations to leave the city the next day and had been busy dictating letters during the entire day and was then sealing them and getting them ready to send to the post; I told him if he wished to wait until I got through with my work of the day I would be pleased to go down and have a social drink with him.

Q Did he wait? A He did.

Q Where? A In the outer office,-- in the center room; we have three rooms there, and he took a chair and talked with the stenographers in the outer room.

Q Did you go and get the drink? A He waited there about an hour -- until about fifteen minutes to six when I completed my work and we went up the street together.

Q Where did you go? A We went up 16th Street to Curtis and went up Curtis to about the middle of the block to a saloon run by Mr. Holland, and there we had a couple glasses of beer. We were there about ten minutes and then went over on 17th street and went to a restaurant where we had dinner.

- Q Do you know whose restaurant it was? A The proprietor's name was called Charlie; I don't know what his other name was, but it was called Charlie's restaurant.
- Q You ate dinner together, did you? A Yes sir, we ate dinner together.
- Q Did you eat dinner with him at any other time or place that you can recollect? A Not to my recollection in the city of Denver. I ate with him in Cripple Creek and in Ouray, but not in the City of Denver.
- Q Did you eat dinner with him at that or any other place in August? A How is that?
- Q During the month of August of that year did you eat dinner with him at that or any other place? A No sir.
- Q What did you do after dinner? A We finished our dinner about quarter to seven I would say, and we left the restaurant and walked down California street, and he informed us that he had an engagement for the evening and we parted, I going west on California street to my rooms, and he going east.
- Q Then you went to Chicago as you described, and came back?
- A I left for Chicago the next day and returned the 31st day of July.
- Q After the 23rd day of June, 1906, when is the next time you have ever seen Harry Orchard? A I have not seen Harry Orchard from that time to this.
- Q You have not seen him since? A No sir.

- Q Did you ever at any time or place have any arrangement with him, an agreement or talk, about killing anybody or your committing any crime of any sort? A He sir, I never discussed the committing of any crime with Harry Graham.
- Q Or did you ever know of any money having been given him for any such purpose? A He sir. I never gave him any money, and to my knowledge he never received any money from the Western Federation for any crimes or for any other purpose other than what he might have secured through his membership in the organization as one on strike was entitled to -- strike relief.
- Q You have been reading some of his testimony? A I think I have read it all. It has been furnished me and I think I have read it all.
- Q Do you recall his testifying that he once visited you at your house, or twice,-- I don't remember the date, do you -- in the Aberdeen flats? A I don't remember his claiming to have visited me at my rooms in the Aberdeen flats more than once, and that was in the month of April.
- Q Do you remember meeting him there? A He never was at my house to my knowledge when I was there other than one time when he was at my room in the Granite building when he returned from Curay or Silverton in the summer of 1904.
- Q What was he there for then? A He was there to return my gun that I took to Curay with me, and some papers that I instructed him to take from my suit case when I was arrested and a

specimen which he brought, taken from the suit case at the same time, which had been given to me by Mr. McLean, Secretary of the Cury Miners' Union.

Q Did you and Harry Orchard and Mr. Haywood go out one Sunday afternoon in George Pettibone's back yard, along in August of 1905, at two or three o'clock in the afternoon, and discuss the question of killing Governor Stansberg or anybody else? A What month?

Q August, 1905? A No sir, I never was in George Pettibone's yard in company with Harry Orchard or Mr. Haywood in August, 1905, or at any other time.

Q And you could not locate it in any other month any better?

A No sir.

Q Did you ever discuss any such question with Mr. Orchard in your office -- any question of killing anybody? A No sir, I never met Mr. Orchard in my office at any time other than the times I have already related.

Q Did you give him any money there? A No sir, Mr. Orchard never received any money from me other than money which I paid for him, which did not go to him, for the expenses on the trip to Cury.

Q Did you tell him that your health was so delicate that you did not want any more crimes committed about Denver and that he better go to Idaho or anywhere else? A The question of committing crimes was never discussed between Mr. Orchard and myself, therefore I did not have no occasion for telling

him anything of the kind.

Q Did you ever know Orchard in any other way than you have told us? A No sir.

Q Did you ever know anything more about his history except as you have told this jury? A No sir, I never heard anything detrimental to Mr. Orchard or anything good about him other than what you hear of the general run of the members of the organization.

Q Now, to go back a little: Did you ever ask him to go and kill Neville for any purpose? A No sir. I had no object in asking Orchard to take the life of Mr. Neville. Mr. Neville had never done me any injury to my knowledge and as far as my knowledge he might have had, if he had any as to the blowing up of the Independence depot, it could not be connected with me in any way, shape or form, and therefore I could have no desire to take the life of Mr. Neville.

Q And if he had any knowledge he never attempted to use it in any way? A No sir.

Q You said you met Steve Adams the first time on August 15th in the Cripple Creek district? A That was the first time I have any recollection of meeting Mr. Adams personally.

Q Do you remember when you met him again, at any time? A I met him in the month of February, 1904.

Q Do you know where? A Yes sir.

Q Whereabouts? A I met him in Cripple Creek.

Q Well, was that the occasion of the trial you have been speaking of? A Yes sir, that was the time I was there attending the trial of the man charged with the train wrecking, the spike pulling case.

Q Was he having anything to do with the trial particularly?

A Not especially, any more than the other members of the union there.

Q He was not charged with the crime? A Not with the spike pulling case -- not to my knowledge.

Q Do you know whether he had been charged with anything else?

A He had been in jail before that, charged with some offense.

Q Do you recall what that was, that he was charged with?

A It occurs to me that it was the Vindicator matter. I am not positive.

Q Do you recall when you met him again after seeing him in Cripple Creek at the time of the spike pulling case? A

After the 3rd of March of that year I have never been in the Cripple Creek district and did not see him again in the Cripple Creek district. I did see him again in the fall of 1904.

Q Whereabouts? A I saw him at headquarters of the Western Federation of Miners in Denver.

Q Do you know what time? A I would fix the time at about the month of October; I am not positive about the date, but I remember the fact of him being there, but as to the exact month I would not care to state positively, but to the best of my judgment and recollection it was in the month of

October, 1904.

- Q Was there anybody with him? A Yes sir.
- Q Who? A His brother was with him, William Adams, and another gentleman that I am not acquainted with his name at this time.
- Q Did they have any business? A Yes sir.
- Q What was it? A Mr. Adams -- that is, William Adams, came to the office for the purpose of securing some transportation that we were giving out to men then who were leaving Denver to look for employment. He had decided to go and look for employment elsewhere and came to the office to get the amount of transportation that we were giving to those men.
- Q Did he get it? A Yes sir.
- Q Was that your general custom? A We had established that custom after the men were deported from Cripple Creek and other places who had come to Denver, that all those who desired to have their names taken from the relief lists to go elsewhere and seek employment, that we would furnish them transportation.
- Q What did you know about any considerable number of men being deported and driven out during those days? A I had no knowledge of them being driven out other than what I received through the newspapers until after the 5th of July.
- Q What did you find out then? A I found out on my return to Denver that there had been a large number of men and women driven out or deported from the Cripple Creek district, and found a great many of them in Denver at that time.

Q What do you know about men changing their names under those circumstances or others -- for what purpose? A I don't remember of any men changing their names before they left Denver. I met men later on, during the winter, and the next year,-- I met them throughout the jurisdiction of the organization where they were going under assumed names -- men who had been deported.

Q Was that anything unusual with miners and other trade unionists? A No, I have met a great many men, not only members of the Western Federation, but of railroad organizations who have changed their names on account of the black list that is maintained by a great many of the companies.

Q Well, returning to Steve Adams again, after you gave the money to his brother to leave the country, do you remember when you saw Steve Adams again? A I have no recollection of seeing Mr. Adams after that date in October, as I have just related.

Q Did you have any other acquaintance with him? A The acquaintance I had with Mr. Adams was the acquaintance I had with him during the time I was in Cripple Creek attending the trial, the same as I had with other members of the organization.

Q Any other acquaintance with him, other than as with other miners? A No sir.

Q Do you know, outside of meeting him, whether he or his wife, or both of them were on the relief list during 1904, or 1905, or any part of it? A I never had the pleasure of meeting Mrs. Adams. I don't know whether she was on the relief list

er not, but I suppose she was as she was one of the people who were entitled to relief owing to the Cripple Creek strike, and they having been on strike.

Q Well, there are no other incidents so far as your acquaintance with Adams is concerned that you recall at this time?

A No sir, I have no recollection of meeting him after the time I have stated.

Q After you was -- when you saw Harry Orchard in 1908, in June or any other time, do you know whether you learned -- well, that is a question that is getting pretty long and I will strike it out; it is getting away with me.

Did you ever hear of Harry Orchard going by any other name? A He told me at this meeting I have spoken of, that he had taken the name of Hogan when he left the Cripple Creek district.

Q Did he tell you why? A He told me when he left Denver he would go up into the Grand Encampment country in Wyoming and secure employment there in the mines and that he decided to change his name so that he would not be recognized, at least by the name of Orchard.

Q Do you know whether the Independence matter was discussed and the charges up there in any way? A I don't think it was discussed to any extent. I think we talked about the Independence matter, and he told me of having left there shortly -- I don't exactly remember the time he stated at that time, but shortly after the explosion and had went up

into Wyoming in company with Mr. Neville.

Q And that trip, and the charges against him on that account, had you heard discussed before or read about them in the newspapers? A Yes sir, I had heard it discussed and had read it in the newspapers, but I had the opportunity of discussing it with no one.

Q Now, after June 8th when was the next time that the name of Harry Orchard or Thomas Hogan came before your mind that you recall? A I think about the end of January, 1906, was the next time I heard of him.

Q And in what way? A I saw an account in the Denver papers of a man by the name of Thomas Hogan who had been arrested in Caldwell, Idaho, and was being held as a suspect for the assassination of ex-governor Steunenberg.

Q I think I omitted one thing that I want to go into first. Had you been in Idaho some time previous to the assassination of ex-governor Steunenberg? A I had.

Q When? A I had been in the State of Idaho in the month of October -- the latter part of October.

Q 1905? A Yes sir, 1905.

Q Where had you been, Mr. Meyer? A I had been at Silver City and DeLamar.

Q How did you go to Silver City? A I came from Portland, Oregon to Baker City, and from there to Hampa and then to Murphy, and from there to Silver City.

Q What for? A For the purpose of visiting the local unions in

that part of the jurisdiction in accordance with my duties under the constitution.

- Q And did you visit the local unions? A I did.
- Q Did you stop at Caldwell? A No sir, I did not know there was such a place as Caldwell at that time. I had no recollection of having passed through it.
- Q You found that out since? A Yes sir.
- Q Did you stop at Hampa? A Yes sir.
- Q How long did you stop there? A I think I was in Hampa about an hour and a half. The train on that day was a little late as I remember it, and I stopped there for a train on the main line going to Denver.
- Q Did you meet Harry Orchard or Jack Simpkins on this trip?
- A I did not. I knew nothing of their whereabouts at that time.
- Q Did you see any letter from Harry Orchard in Butte or anywhere else, asking for \$100. or any amount? A No sir.
- Q Did you ever write him any letter? A No sir, I never had any communication with the gentleman at all.
- Q Or know of any being written by anybody else? A For Harry Orchard?
- Q Did you ever have any one write one for you? A No sir, I always done my own writing there at headquarters or dictated my letters at headquarters, to stenographers.
- Q How long were you down in southern Idaho at these various places visiting the unions? A I left Baker City on the morning of the 24th, and left Silver City on the morning of

the 23th.

- Q Where did you go when you left Silver City? A I came by stage to Murphey and took the train toampa.
- Q And then where? A Then I took the main line train for Cheyenne and Denver.
- Q Did you -- when had you been to southern Idaho to visit locals before that? A That was my first visit to southern Idaho, to those unions.
- Q Did you see Bill Easterly or any of the other men you knew over there? A I saw a great many men of the organization there and met Mr. Easterly at the mine, and was with him about 15 minutes. I would say that I drove to the mine with Dr. Hamilton's horse and buggy to meet Mr. Easterly.
- Q Did you have any other purpose or any other knowledge or anything else at all in your visit down here except as you have stated? A No sir, my only purpose was to visit the locals in accordance with my duties under the constitution of the organization, as I was supposed to do.
- Q Where had you been before that? A In Montana and British Columbia.
- Q What had you been doing up there? A Visiting the local unions of the organization.
- Q The same business as you were doing over here? A Yes sir.
- Q Was there any public meeting over here at Silver City, any banquet or anything like that? A The meeting was a meeting

of the union and there was a banquet given after the meeting adjourned which was attended by a number of the people that were not connected with the organization, and a number of members of the organization.

- Q Do you know whether your name got into the local papers over there on that occasion? A I believe Mr. Horn wrote up a very nice account of the meeting and forwarded me one of his papers which I received after my arrival there.
- Q That was at Silver City, was it? A Yes sir.
- Q You did not see anything in the Statesman, did you? I don't care anything about that? A I know nothing about the Statesman at that time. I don't believe I had ever seen a copy of it.
- Q Did you see Jack Simpkins later in Denver? A Later in Denver?
- Q Yes sir, A I seen Jack Simpkins in Denver in the month of December.
- Q What was he doing there? A He was attending a meeting of the executive board of the organization.
- Q Did he get any money while he was there? A I think so, yes sir. In fact I am satisfied he got money while he was there.
- Q That was not within your direct charge, was it, I mean? A Why he could have got no money at that time without my knowledge, as I was at headquarters.
- Q What money do you refer to that he got? A He got whatever was due him as a member of the executive board, per per diem

and transportation, and attending to his duties as a member of the executive board.

Q By the way, what salary do you get for being the head of this organization? A I receive \$5.00 per day.

Q Whether you work or not? A Well, I have never been without work since I have been connected with the organization, and I don't know what they might do if I was on the retired list.

Q If you did not work the whole thing might go perhaps so you would not get anything? A I don't know about that.

Q Do you get expenses while you are away from home? A My railroad and stage fares,-- not my expenses.

Q How much does the Secretary-Treasurer get? A \$5.00 per day at this time. His salary was raised about two years ago from \$125. a month to \$150. a month.

Q How about the Secretary-Treasurer travelling -- does he do much travelling unless there is somebody after him -- does he do any travelling in connection with the organization?

A The secretary has not been absent but twice from headquarters, to my knowledge, since he was elected secretary of the organization.

Q The president does the travelling? A Yes sir, that is the instructions to the president by the convention and under the constitution.

Q Well, do you know when Jack Simpkins left Denver at this time, or about when? A I would say that he left Denver on the 14th of December.

Q Did you hear from him afterwards? A Yes sir.

Q Where from? A I heard from him from Salt Lake on the 16th; the letter was written on the 16th of December from Salt Lake.

Q Well, now we will go back to Orchard.

MR. BORAH: Go back where?

MR. DARROW: To Orchard.

Q When did you learn of the assassination of ex governor Steunenberg? A The next morning I believe after the assassination; we seen it in the Denver papers.

Q Had you ever heard anything about it, or any threats about it, or heard any plans about it, or heard anything about it before that time? A No sir, I know nothing whatever, Mr. Darrow, about any attempt on the life of ex governor Steunenberg, or heard it discussed in no way by any one.

Q How much space was given in the papers the next day to it?

A Why, there was considerable space -- a front page story of the assassination and giving the conditions that prevailed at that time after the crime had been committed.

Q Do you recall when it was that anybody was arrested for it?

A Why, I believe that according to the papers, the statement at that time was that there were arrests made, or at least there were men under suspicion, and possibly held without arrest, or notified to stay there, that they might be wanted, the next day after the arrest, and possibly the same night; I am not sure of that. But I did see an account a day or two

after that of arrests having been made.

Q Do you recall when you saw any account of Thomas Hogan having been arrested,-- or about when? A Why, it was two or three days afterward, to the best of my recollection; I cannot give the exact date, but two or three days after we seen the account of the arrest of Thomas Hogan.

Q Did the paper say where he purported to be from? A He registered, I believe the papers said, from Denver, Colorado.

Q How soon was it after Governor Steunenberg was assassinated before it was charged by the newspapers and others that the Western Federation of Miners were in it? A I think the papers on Monday began to mention -- I have no recollection and I would not say at this time, that the papers of the next day mentioned the organization in connection with it, but I believe the papers on Monday began mentioning the fact that the Western Federation of Miners had something to do with the assassination.

Q As you understand it, the assassination was on Saturday night?

A Yes sir.

Q And the papers -- on the following Monday you refer to you, do you? A Yes sir, which would be the 1st of January.

Q How much space was given in the papers on these days to this matter? A There was a full page in some of the papers, and possibly more.

Q Was there much public discussion about it at that time?

A There was. It was a matter of general discussion. Whoever

you would meet would discuss the assassination with you.

Q As the days went on for a short time how was it as to your organization and the officers being charged with this crime? What was the fact? A The charges, or the discussion in the paper at least, became more general, and not only the organization, but the names of individuals were mentioned as knowing something as to the facts.

Q What names were mentioned? A Mr. Haywood and myself and Mr. Stephens, and possibly other members of the organization.

Q Did this have any effect on you at all? A Why, naturally, yes; we were very much interested, and as any man would be that was suspected, or charged, even indirectly, with a charge of that kind; we were very much concerned about it.

Q Did you talk with people, and your friends, about it?

A We did, and a great many people came to our office to discuss the matter with us.

Q When did you get any further information outside of the public press and town gossip and the like of that? A We received a telegram on the 4th which I believe was addressed from Spokane.

Q Was that telegram in cipher or in english? A The telegram was written in cipher which we had used in our ritual for the purpose of transmitting pass words to our local unions.

Q How long have you had a cipher? A Ever since the organization was formed, I believe.

Q Do you know whether that is a common or uncommon thing with

secret organizations? A It is a very common thing, I believe.

MR. BORAH: I suppose it would not be material except as to this organization?

MR. DARROW: I think so, I think it is material.

MR. BORAH: I think it should be confined to this organization, and I object to it unless it is.

MR. DARROW: No, I ask him whether a cipher is a common thing with secret or fraternal organizations. It might be claimed that the fact was a suspicious circumstance --

THE COURT: I don't think it is material. You may answer the question.

THE WITNESS: I would like to have the question again.

The last question and answer were then read.

MR. BORAH: I did not hear that answer.

MR. DARROW: I did not know that he answer it.

Q Was that your answer? A Yes sir.

Q Was that published in your ritual? A Yes sir.

Q It was published? A Yes sir, it was, for the use of the local unions.

Q I will show you a book here and ask to have it marked exhibit 22 for identification.

MR. DARROW: You won't object to this going in, I suppose, and if you won't I will put it in first. I will introduce this exhibit 22.

Q What is this exhibit 22? A Why, it is a copy of the ritual

of the Western Federation of Miners, or it is the ritual as used by the organization.

Q Does it contain the cipher? A Yes sir, it contains a cipher code that was used in transmitting the pass word that was sent out to the local unions.

MR. BARROW: I will offer this exhibit 22 in evidence.

Exhibit 22 of defendant is in words and figures as follows, to-wit:

Being a small book on the inside of the first cover of which is a diagram of a lodge room and under it the following:

"CIPHER FOR PASSWORD.

11	C	7	8	9	14	16
2	U	G	D	J	K	S
26	5			10	25	18
T	O			C	R	W
13	4	3	2	1	12	22
H	F	I	L	Q	B	Y
15	19	24	17	21	23	20
Z	H	K	P	V	X	A

This Ritual must be kept under lock when not in use; officers of Unions will be responsible for the three Rituals of their Union. Non conformity with this provision merits expulsion from the W. F. of M.

By order of the

Executive Board.

R I T U A L
OF THE
WESTERN FEDERATION OF
MINERS.

OPENING OF MEETING.

The President upon taking the chair will give one wrap of the gavel and announce in a loud voice:

'Any person in the hall who is not a member of this union or not in possession of the current password, S. A. T. P. W., or travelling card from a local Union of the Western Federation of Miners, will retire.'

President -- 'The union will now come to order. Officers will take their respective stations.'

Vice President -- 'Warden, you will take charge of the door, and see that no person enters without the current password, except by order of the President, and in no case will you admit any person during the reading of the minutes of the previous meeting or during the initiation of candidates.'

President -- 'Brother Conductor, you will take up the current password and report those not in possession thereof to me.'

The Conductor will then give the password to the President and proceed to take it up from the members, beginning at the right of the President. When he has finished he will advance to the center of the hall, salute the President thus * * *

and announce:

'Mr. President, I have obeyed your command and found all in possession of the current password.'

The President standing will then give three wraps of the gavel and the members will arise to their feet.

President -- 'It is my duty to preside over this meeting and to govern its deliberations, to promote fraternity and harmony among the members, to labor for the welfare of this union and of the Western Federation of Miners, and thus advance our cause with sincerity and earnestness to the best of my ability. In this I ask your co-operation and assistance.'

'What is the duty of every member of organized labor?'

The Members -- 'It is our duty to act in harmony with each other, to practice fraternity, to encourage honesty and sobriety, to promote organization by inducing others to join our ranks, and at all times to labor for the welfare of our union and that of the Western Federation of Miners.'

The President will then give two wraps of the gavel and the members will be seated.

ORDER OF BUSINESS.

1. Roll call of officers.
2. Reading minutes of previous meeting.

When the minutes have been read the President will ask:

'Are there any corrections to be made? If not, the minutes

will stand approved.'

3. Applications for membership.

The secretary will then read from the regular applications the names of applicants and by whom proposed; if any application has not been properly filled out, such must be laid over for correction.

When the applications have been read, the President will ask:

'Are there any objections to electing these applicants to membership in this union?'

If any member knows of any reason why an applicant should not be elected to membership, it is his imperative duty to state such reason. If any objection be made and reasons stated why any applicant should not be elected to membership, the President shall appoint a committee of three to investigate the matter and to report in writing at the next regular meeting of the Union, at which time the Union must act upon the report by either accepting or rejecting it.

If there be no objection a motion will be in order to elect the candidate or candidates by acclamation; but a secret ballot must be taken when requested by five members of the union.

4. Initiation.

President -- 'Brother Conductor, you will retire to the ante room and ascertain if any candidates are in waiting to be initiated.'

The Conductor will then salute the Vice President and retire

to the ante room. Upon his return he will advance to the proper station, salute the Vice President, and then facing the President will announce as follows:

'Mr. President, the following named candidates who desire to become members of Union No..... of the Western Federation of Miners are in waiting in the ante room.'

(Reads names.)

Or he will announce:

'Mr. President, there are no candidates in waiting.'

If there be any candidates in waiting, the President must then ascertain if they have been duly elected to membership.

President -- 'Brother Conductor, you will retire to the ante room and conduct the candidates to the proper station for initiation.'

The Conductor salutes the Vice President, retires to the ante room, prepares the candidates for initiation, gives two knocks upon the door, which will be answered by the Warden with two knocks.

Warden -- 'Who strikes upon this door?'

Conductor -- 'The Conductor of this Union with candidates for initiation seeks admission.'

Warden -- 'Mr. President, the Conductor of this Union with candidates seeks admission.'

If everything is in readiness the President will reply:

'Brother Warden, admit them.'

The Conductor with candidates enters and proceeds to station in front of President and says:

'Mr. President, I have the honor to present to you these candidates for initiation.'

The President will then arise and ask each candidate:

'Have you ever been a member of any Union of the Western Federation of Miners?'

Candidates must answer 'Yes' or 'No.' Should any answer in the affirmative, it is the duty of the President to satisfy himself that such candidate is clear of financial and other obligations to the Union of which he was formerly a member, before proceeding to initiation. If all candidates answer in the negative, the President will say:

'You have been elected to membership inUnion No..... of the Western Federation of Miners. This body exacts no pledge or obligation which in any way conflicts with the duty you owe to your God, your country or your fellow man. With this assurance from me as President of this Union, are you willing to take the obligation?'

Candidates must answer 'yes' or 'No,' and if they answer in the affirmative the President will give three gaps of the gavel and the members will arise and remain standing until the candidates have taken the obligation.

President (to candidates) -- 'Raise your right hand and repeat after me: I (name), in the presence of Almighty God and the members of this Union, solemnly pledge myself to be a true

and faithful member of Union No..... of the Western Federation of Miners, and that I will support and obey all laws, rules and regulations contained in the constitution and by-laws of this union and of the Western Federation of Miners.

'I further pledge that I will not work for a less compensation than the rate established by this Union or any other Union of the Federation of which I may hereafter become a member, or within the jurisdiction of which I may be employed.

'I further pledge that I will practice the principles of fraternity by giving support as I may be able to my Brothers in time of trouble or affliction; that I will uphold and at all times aid in securing the rights of the working man; that I will not unlawfully receive or misappropriate any of the funds of any Union of the Federation; that I will keep secret all business, signs, grips and passwords of the Federation, and will endeavor to be useful and efficient in our efforts to advance true labor reform.

'And in pursuance of the pledges I have taken, I, as a faithful and loyal member of this Union, further pledge that whether I remain a member of this organization or not, the obligations I have taken shall be preserved inviolate. So help me God.'

President -- 'Brother Conductor, face the friends to the Vice President, that he may charge them.'

Vice-President -- 'Friends, you have taken the most solemn

obligation which man can take. It is as binding as any oath, for it is a charge upon your honor, and without honor no man can be a true, faithful, and helpful friend and brother.

'I charge you in the presence of your fellows here assembled to be true to it and all the obligations of life. A man who does not keep his word of honor assists in binding the chains of slavery upon unborn generations, and will be an outcast to society and banished from the friendship and councils of his fellow men.

'It is your solemn duty to keep sacred the obligations you have taken like a true man. Do this and you will have the respect and confidence of your associates; violate it, and you will be branded as a traitor and unfit for the companionship of all honorable men.

'Brother Conductor, face the friends to the President for final instructions.'

The President will give two wraps of the gavel and all will be seated except the President, who will proceed to instruct the friends in the secret work of the Federation.

President -- 'In order to gain admittance to the union while in session you will give to - - knocks upon the door, which will be answered by the Warden, to whom you will give the password. If you are correct he will admit you; if you are not correct you will give him your name, which he will announce to the President and inform him you are without the password. If you are clear on the books the President will order you to be

admitted, when, after saluting the Vice President, you will advance to the station of the Conductor and receive the password; if you are not clear on the books you will be so notified, and if you wish to pay up your arrearages you will be allowed to proceed to the station of the financial secretary for that purpose, and when you have cleared yourself you will be instructed in the password.

'I will now instruct you in our secret signs.

'When you wish to caution a member who is transgressing upon his obligation of secrecy, or for other reasons, you will use this sign * *. If he recognizes you he will answer by this sign - * .

'When you desire to know whether a person is a member of the Federation, you will challenge him thus * * . If he is a member he will answer you thus * * .

'We have a distress sign which should be used only when in actual danger or distress; it is * * . The answer is - * . The grip of the Federation is given thus * * . The voting sign is made thus * * . This is used in all cases of voting except in the election of officers, which must be by ballot.

'Upon signing your name to the roll book of this Union you will become a member of the Western Federation of Miners; and as such, so long as you remain in good standing, you are entitled to all the rights and privileges of the local Union of which you are a member.

'Brother Conductor, have the newly initiated brothers

sign the roll book and return to this station.'

This order having been obeyed, the President will charge the new members as follows:

'My brothers, as members of a labor organization whose objects are to better the condition and make happier the lives of the laboring class, who are the wealth producers of the world, it is your duty to take an active part in the affairs of your Union; attend the meetings regularly and if possible stay until the end of the meeting, although it may often be against your inclination. Practice the spirit of fraternity by at all times lending your assistance to your fellows in the time of need; speak kindly one to another and be careful to not unjustly criticise any member or attribute to him unworthy motives simply because he may differ with you. It is by honest differences of opinion that we arrive at sound conclusions and correct judgments. You can be very useful to our organization by living a sober, industrious life; and as all vices tend to destroy our manhood, I urge you to keep from them, and thus be a real factor in assisting in our great struggle against oppression and greed; champion the rights of labor; help to increase our membership; act in harmony with honesty of purpose and in the true spirit of fraternity, and at all times prove true to the obligations you have taken, and indeed you will be a useful member of our organization in its efforts to progress and reform.'

The President will then instruct the Conductor to face the newly initiated brothers to the members and will give three wraps

of the gavel.

President -- 'Officers and members of Union No.... of the Western Federation of Miners, I take pleasure in introducing to you our newly initiated brothers.'

The President will then seat the members with two wraps of the gavel.

President -- 'Brother Conductor, see that each of the new members obtains a copy of our constitution and by-laws and also of the Federation; instruct them in the current password and to salute the Vice President, and show them to seats.'

5. Communications and correspondence.
6. Bills.
7. Report of members sick or injured.
8. Report of sick committee.
9. Reports of standing committees.
10. Reports of special committees.
11. Election of officers.
12. Unfinished business.
13. New business and installation of officers.
14. Good and welfare of the Union.
15. Collection of dues.
16. Receipts since the last regular meeting.
17. Closing in due form.

President -- 'Brothers, we are assembled here this evening for mutual benefit to ourselves, our families and our fellow men; and as we are now to separate and mingle again with the outside

world, I urge you to be careful not to reveal any of the business or transactions of this meeting to any person but those you know to be members of the Federation in good standing, and bound by the same obligations you have taken.'

18. Adjournment.

INSTALLATION OF OFFICERS.

President -- 'The officers elect will come forward for installation.'

When the officers elect have taken their station in front of the President he will call the members to their feet with three wraps of the gavel.

President -- 'My brothers, you have been elected by this Union to fill the several offices during the ensuing term; and in turning over to your keeping the charter of this Union, I charge you to be faithful and diligent in the discharge of your duties, as on you will, in a great measure, depend our success and progress. In appointing committees great care is needed to select those best qualified for the purpose for which they are appointed; in deciding questions of order, do so fairly and without prejudice; allow no wrangling or abusive language, and at all times encourage harmony and fraternity.

' You will each raise your right hand and repeat after me:

'I, (your name), in the presence of the members here assembled, most solemnly promise to faithfully, honestly and impartially perform the duties incumbent upon me as of this

Union, in accordance with the rules and regulations of this Union and of the Western Federation of Miners, until my successor is elected and installed.*

In event of the President being an officer elect, he will install the other officers, one of whom (which must be the new President or Vice President, if present -- if not, one of the Secretaries) shall then install him.

FUNERAL SERVICE.

(Out line -- not imperative).

Song.

Remarks by a minister or President.

Song.

Prayer, if clergyman be present.

Song.

Viewing remains.

March to grave.

In case there be no clergyman present the President will conduct the services or call upon some member to do so, a member of the Union if possible. If the services are conducted by a religious organization, they may be in accordance with the customs of such organization, but at the grave the President or some member of the Union must conduct the following:

BURIAL SERVICE.

*We are now to pay our last tribute of friendship and brotherly love to one of our members who has laid down the burdens and

responsibilities of life. No more will his voice be heard in our councils; no more will he feel the gentle touch of love for kindred and friends, or tender pity for the unfortunate and afflicted, for his heart has ceased to beat; no more will he behold the beauties of nature or experience the joy, the pleasures or the sorrows and distress of this life. He sleeps his last long sleep in the grave. We yet have duties to fulfill; we yet have burdens to bear; we yet can find enjoyment in this life; but to him these have passed forever. He has gone to "that land from whose bourne no traveler e'er returns." Will his eyes open on a better and happier land, a land where there will be no sorrow and no weeping, but a place of eternal happiness and joy? Our reason says perhaps, while the hope and longing of our hearts says yes. And now, as we deposit the sprig of evergreen and consign the remains of our brother to their last resting place, let each one resolve to

"So live that, when thy summons comes to join
 The innumerable caravan, which moves
 To that mysterious realm where each shall take
 His chamber in the silent halls of death,
 Thy go not, like the quarry slave at night
 Scouraged to his dungeon; but, sustained and soothed
 By an unfaltering trust, approach thy grave,
 Like one who wraps the drapery of his couch
 About him, and lies down to pleasant dreams."

The members will then march by the grave and deposit the

sprig of evergreen, during which some appropriate song may be sung, or if there be a band, a dirge may be played. The members will then form in line and march back to the hall before dispersing."

Q It says under this cipher -- it says -- I will read this part of it: "This ritual must be kept under lock when not in use; officers of unions will be responsible for the three rituals of their union. Non-conformity with this provision merits expulsion from the W. F. of M.

By order of the

Executive Board."

This ritual, or cipher, is made by having certain figures to represent letters, does it not? A Yes sir.

Q I mean the cipher -- the cipher consists of certain figures representing certain letters? A Yes sir.

Q The letter Z is 11, and V is 6, and G is 7, and so on?

A Yes sir.

Q And are there some complications in its use which makes it somewhat difficult some times? A If it was not very carefully set down it would be difficult to decipher it.

Q Can you illustrate other matters, -- as to other matters of doubt what the figures mean? A It would be the way the figures are placed; if a double figure was used, say 26, you might have the two figures connected and it would make it

impossible to determine which letter was used.

Q Will you state whether it is a matter of considerable difficulty to translate these telegrams? A There have been times that it has been impossible for us to decipher one of the telegrams. It would depend a great deal upon the length of the telegram of course.

Q Now, the telegram you speak of was received when? A Late on the evening of the 4th of January.

Q What did you do with it? A It was addressed to Mr. Haywood. He was there, and it was delivered to and signed for by him, and he looked it over and brought it into my office. We both worked on it for some little time and found it was going to be very difficult to decipher, and I told him I would take it home with me and work on it during the evening and bring it down in the morning.

Q Did you do it? A I did, the next morning at about nine o'clock.

Q And did you manage to translate it as you thought? A I did the best I could but it was not very successful.

Q Have you got the original telegram -- have we got it?

A I have not got it.

Q Is this it, that I hand you? A I would say that it was; if not it is an exact copy of it.

MR. BARRON: We will offer this in evidence, and we want to have the right to withdraw it and copy it, Mr. Borah. We want to offer this, and have the right to substitute a copy of it.

THE COURT: Any objection?

MR. BOWEN: No sir.

THE COURT: It may be admitted.

MR. BOWEN: This will be defendant's exhibit No. 23.

THE COURT: Counsel will be permitted to withdraw the original and substitute a certified copy afterwards.

Defendant's exhibit 23 is in words and figures as follows
to-wit:

DEFENDANT'S EXHIBIT No. 33.

POSTAL TELEGRAPH COMMERCIAL CABLES.

Clarence H. Mackay, President.

T E L E G R A M.

The Postal Telegraph-Cable Company (Incorporated) transmits and delivers this message subject to the terms and conditions printed on the back of this blank.

Received at Main Office, 920 - 17th Street, Ernest
& Gramer Building, Denver. (Telephone 4500, 4501).

383-CH.C.402 pm 38.

Spokane, Wa., Jan 4th.08.

W. D. Maywood,

3 Pioneer Bldg., Denver.

o n n o t e
Ten, twenty, thirteen, thirteen, five, twenty six, seven,

o t a l a w y
fifteen, twenty six, twenty, two, twenty, eighteen, twenty-two,

i e r t o d e
three, fifteen, twenty-five, twenty-six, five eight, fifteen,

r e n d H o e e
four, fifteen thirteen, eight, nineteen, five, seven, fifteen,

n a n s
thirteen, twenty, thirteen, sixteen.

L. J. Simpkins.

(Cannot get a lawyer to defend Hogen. Ans.).

MR. DARROW: I will read the original. I want to first show the jury about how long it is.

MR. RICHARDSON: Don't you want to show them the ritual?

MR. DARROW: I will show the jury this ritual, or the cipher: 11 is s, 6 is u, 7 is g, and so on, and some times one letter is represented by one figure and some times two figures. This telegram reads as follows, translated: "Spokane, Jan. 4, 1906, 4 -3 P. M. and 33 after that;" I don't know what that means. "Cannot get a lawyer to defend Hogan. Answer. L. J. Simpkins." That is the translation of it.

Q You brought that down the next morning, did you? A Yes sir at nine o'clock.

Q Who did you consult about it then? A I consulted with Mr. Haywood in regard to the telegram at that time.

Q That would be on January 5th in the morning? A Yes sir.

Q Do you know whether there was anything in the newspapers on January 5th about the case -- I don't mean specially? A I would say that there was. There was hardly a morning I believe during that week, and for some time afterwards but what there was some mention made in the newspapers.

Q Was there any custom or rule of your organization for the non-members of the executive board, in which any one who was charged or for any particular person to look after any charges in that district, or any individual -- what was the custom? I am

afraid I have made that kind of leading but I don't know how else to do it.

MR. BORAH: I agree with you on that latter.

A I believe it was the duty of the executive board to take charge of any trouble that might occur in his jurisdiction.

Q After you had consulted with Mr. Haywood did you come to any determination as to what to do? A We did not come to any determination as to any action regarding the matter referred to in the telegram, other than legal action.

Q What did you do legally? A We called up the office of Attorney Murphy at the time and found he was not at his office but was at his residence, and we took the street car and went out to his residence.

Q Do you know why he was not at his office? A He was sick and confined to his room at that time.

Q Did you consult with him about it? A We did. We took the telegram with us and read the telegram as we had deciphered and asked him his advice.

Q Did he advise you in the matter? A He did.

Q What did he say you had better do? A He advised us at that time to not act hastily in the matter.

MR. BORAH: Who was this, an attorney?

THE WITNESS: Mr. Murphy.

MR. BORAH: An attorney for the organization?

THE WITNESS: Yes sir, and he advised us to take no

action in regard to the matter until he had time to think it

over and get down to his office when he would advise us as to the best way to act in connection with it.

Q Did you know who this telegram was from? A At that time I did not know who the telegram was from. I knew whose name was signed to the telegram but I had no way of knowing whether or not it was a counterfeit telegram or where it was from the party it was supposed to be from.

Q You did not feel sure either way? A No sir, I had no way of knowing, but I knew it would be possible for some one to send a counterfeit telegram using the cipher in the ritual as this telegram was wired and used.

Q Did you know whether the ritual was in possession of anybody else,-- of any of your enemies? A I knew we had lost a great many rituals, and knew they must be in the possession of some one.

- Q. Who was entitled to a ritual under your organization?
- A. The president of the organization, of the local unions.
- Q. Who was entitled to the key? A. The president and secretary were generally in possession of the keys of the local --
- Q. When you say the president and secretary -- A. I would like to finish my answer. The keys were in the possession of either the president or the secretary, I think that was it.
- Q. You mean the president and secretary -- A. Of the local union.
- Q. Each local, was it not? A. Yes sir.
- Q. Had any local unions been raided up to this time, do you know?
- A. They had.
- Q. Whereabouts? A. In the Cripple Creek district and at a number of other places.
- Q. Did you take any further action yourself about this matter or did you go out of town? A. I left town that afternoon.
- Q. Where did you go? A. I went to Chicago.
- Q. When did you return? A. I returned on the 27th of January, leaving on the 5th.
- Q. Did you do anything further after consulting Mr. Murphy at that time before you went away? A. Nothing further than to have a conference with Mr. Haywood in regard to the matter.
- Q. Did you have any correspondence while you were away?
- A. To the best of my recollection at this time, I received a couple of letters, possibly more, from Mr. Haywood, during my time in Chicago.
- Q. When you got back did you learn whether Mr. Haywood had done anything looking toward the defense of the organization or the men arrested? A. Yes sir, and I think Mr. Haywood mentioned

that fact in the communications which he sent me to Chicago.

Q. Did you see the various communications that had passed between him and others in reference to it after you got back?

A. After my return to headquarters, yes sir.

Q. Do you know with whom these communications passed? A. There was communications between the secretary of the Silver City Miners' Union and Mr. Equest, I believe, the attorney, in Silver City.

Q. And the office I suppose? A. And the office. The secretary and the attorney for our organization, Mr. Murphy.

MR. DARROW: Now, Mr. Borah, we are going to offer all of these, and we haven't got the originals here.

MR. RICHARDSON: You better not detach them. You better read them into the record and leave those alone.

MR. DARROW: As a matter of fact, Mr. Heywood is the one who knows the best about it, and he did it, but you may want to inquire here so we are going to offer them.

MR. BORAH: Just these two pages?

MR. RICHARDSON: There are some letters on the same subject just a little farther on, Senator, a page or two further on. First are the telegrams and then the letters occur.

MR. DARROW: Your Honor, I am going to offer the correspondence between Mr. Heywood and the officers of the Silver City union in reference to this matter, and ask to read them in the record, and I guess there is no objection to them, is there?

MR. BORAH: No objection.

THE COURT: They will simply be read into the record?

MR. DARROW: Yes, your Honor. Most of these are not originals anyway, none of them are, so we will have to read them from this, and we have agreed that if there is any question about it we will try to get the originals if we can. But these are to act as the originals.

"January 7, 1906." I don't see the place, but it must be Denver where it was sent from. This is a telegram, a telegram from Denver.

"January 7, 1906.

R. J. Hanlon, Sec'y Miners' Union,
Silver City, Idaho.

Employ John T. Nugent at the expense of the Western Federation of Miners to protect the interests of the organization at Boise. Answer.

Wm. D. Haywood,
Sec'y-Treas., W.F.M."

And in answer to that:

"Silver City, Idaho, Jan. 7, 1906."

This is a telegram.

"Wm. D. Haywood,
Sec'y-Treas. W.F.M., Denver.

Wire at length in what manner you wish Nugent to proceed. He wants full particulars to what is the attack on the organization, and what is the complaint.

R. J. Hanlon,
Sec'y Silver City Miners Union."

THE COURT: Is that the same date?

MR. DARNOW: Yes, the same date, January 7th.

The next is another telegram.

"Denver, Colorado, January 8, 1906.

R. J. Hanlon, Fin'l Sec'y.,

Miners' Union, Silver City, Idaho.

Press dispatches indicate that there is another conspiracy entered into to connect the Western Federation of Miners with grave crimes, several persons in Caldwell, Idaho, have been arrested in pursuance of the conspiracy. The Western Federation of Miners defends ^{member} no guilt of crime, but in the past, it found every one of its members accused of crime innocent and they would have been the victims of a conspiracy had the organization not aided in their defense. So have Mr. Nugent take up the defense of any member of the organization, so that if innocent, they may be discharged.

Wm. D. Haywood,

Sec'y-Treas., W. F. M."

"Silver City, Idaho, Jan. 10, 1906.

W. D. Haywood,

Sec'y-Treas., W. F. M.,

Denver, Colorado.

Mailed you a letter this morning with full explanations.

R. J. Hanlon,

Sec'y, Silver City Miners'
Union."

MR. DARNOW: The next is a letter to which the telegram refers, dated Silver City, Idaho, January 9, 1906.

W. D. Heywood,

Sec'y-Treas., W. P. M.,

Denver, Colorado.

Dear Sir and Brother:-

I have your telegram received last night notifying me to employ John Nugent, as counsel for any member of the organization, accused of the assassination of Frank Stansberg. Mr. Nugent, after considering the matter over, thinks it would be a dangerous thing for him to agree to go to Caldwell at this time as the man in custody for the crime above stated has obtained counsel himself. It has been scattered broadcast that John Nugent has been retained as counsel for Harry Orchard. I denied to press representatives in Boise tonight. Mr. Nugent says that he is willing to be counsel, if the authorities are going to endeavor to fasten the guilt on the Federation.

Speaking for a number of us here, we think for the Federation to employ counsel at this time would be giving the ones who have nothing but the bitterest feeling for the organization the opportunity they are waiting for, that is, by an aggressive act of ours they would implicate the organization, and poison public sentiment against us. The burden of the proof is with the plaintiff, and when we are put on the defense, then will be the time for us to take the necessary course to defend the Federation.

The capitalist press is watching all our movements, therefore, I think caution should be our motto at this time. Hoping to hear from you at the earliest opportunity, I am

Yours fraternally,

(Signed) R. J. Haulon,

Sec'y, No. 66. "

MR. DABROW: The next letter is Denver, Colorado,
January 20, 1906, signed by Mr. Maywood.

"Mr. R. J. Haulon,

Sec'y, Silver City Miners' Union No. 66,

Silver City, Idaho.

Dear Sir and Brother:-

Your letter of the 9th inst., replying to my telegram of the 6th, was received in due time. Before taking up the matter of having you secure counsel in behalf of the Federation, we reviewed the situation as best we could from this distance. When it became public that Sam Crump and sheriff M. Bell from the Cripple Creek district intended to go to Idaho, it was evident to us that something would have to be done immediately to checkmate Mr. Crump, as all during the Colorado trouble Crump has been an implacable enemy of the organization. It was he that received \$10,000 from the County Commissioners of Teller County to prosecute the perpetrators of the Independence outrage. This money has all been dissipated without results. Crump is recognized in Colorado as being the most unscrupulous attorney in the legal profession. There is nothing too low, mean or dirty for him to stoop to do. It was Crump and Haulin who from a place of vantage in an express wagon incited the mob to riot the day after the explosion at Victor. Morally and mentally, as well as physically, he is a monstrosity, and it was because of his departure or intended

departure for Idaho that gave us reason to think that an effort would be made to implicate the organization in Idaho.

For this reason we believe that it would be well to have a representative on the ground to look after the interests of the Federation. Being well acquainted with John Nugent and knowing his ability and integrity as a counsellor, I notified you to secure him for the purpose as mentioned. I am very glad that he is willing to be counsel for the organization in the event of the authorities attempting to connect the Federation or fasten the guilt upon the organization. I fully appreciate the delicacy of our position, but even that must not prevent us from being in a position to protect ourselves, as we know that the capitalist press and the Mine Operators' Associations of Idaho and Colorado will do everything within their power to point the finger of suspicion toward the Western Federation of Miners.

I enclose you copy of letter that was directed to Mr. Nugent by attorney J. H. Murphy, and would also call your attention to the article under caption 'We Court the Wildest Investigation' which appeared in the last issue of the Miners' Magazine.

Yours fraternally,

Wm. D. Haywood,

Sec'y-Treas."

MR. DARRROW: We will offer also the article in the Miners' Magazine when we come to it to connect it.

MR. RICHARDSON: Isn't Mr. Murphy's letter there, too?

MR. DARRROW: Yes, I guess that is right. Another

letter referred to I want to get, if I can.

(Letter not found).

- Q. When you got back did you learn of this correspondence that I have been reading? A. Yes sir.
- Q. Did you examine it, go over it? A. Yes sir, I read the letters and also the telegrams.
- Q. When did anything else happen in reference to this matter that you can refer to -- I will call your attention directly to Mr. Miller's visit. Did Mr. Miller come to Denver? A. Yes sir.
- Q. Mr. Miller is what? A. He is an attorney residing in Spokane, Washington.
- Q. This is Fred Miller sitting at the table, is it not?
- A. Yes sir, that is the gentleman.
- Q. When did you first see him? A. About the first of February is my recollection.
- Q. Do you recall the exact date? A. I think possibly about the fifth; I would say the fifth, the fourth or the fifth of February.
- Q. Where did you first see him? A. I first saw him at Mr. Murphy's office, John H. Murphy's office, in Denver.
- Q. In the meantime had you watched the papers with reference to the preliminary examination in Caldwell of Orchard?
- A. Yes sir, I had.
- Q. Had you known who appeared for Orchard at the preliminary examination? A. I had seen by the press that Mr. Miller had appeared there during the preliminary for Mr. Orchard.
- Q. From whom did Miller come as you understood and supposed?

A. Came from Mr. Simpkins.

Q. And for what purpose? A. For the purpose of defending Mr. Hogan at his preliminary hearing in Caldwell.

Q. Had the preliminary been then held when he came to Denver?

A. Yes sir.

Q. Do you know whether he brought any transcript with him of the evidence, or anything of that sort? A. He did.

Q. Did you talk with him about the case? A. Yes sir, we went over the entire situation, the preliminary hearing and all matters connected with the case.

Q. Did he tell you by whose request he first went into it and was there? A. Yes sir.

Q. By whose? A. Mr. Simpkins.

Q. And did he tell you his purpose in coming to Denver to see you folks? A. Yes sir, he said that Mr. Simpkins had requested that he be retained to defend Mr. Orchard and asked that he come to Denver to consult with Mr. Murphy and the officers of the organization.

Q. Did you learn that there was any question of fees involved, too, in his visit?
~~about~~ A. He brought word from Mr. Simpkins that it would require some amount of money in order to prepare the case and a request from Mr. Simpkins to us that we furnish the amount.

Q. Who did he see first, you or Mr. Murphy? A. He saw Mr. Murphy first; he arrived in the evening.

Q. Then where did you meet him? A. I met him at Mr. Murphy's office the next morning. He arrived in the evening and went that evening, I believe -- at least Mr. Murphy told us he had gone to Mr. Murphy's residence in the evening and Mr. Murphy

asked him to call at the office, his office, the next morning; and Mr. Murphy informed us over the telephone that Mr. Miller would be at the office the next morning.

- Q. Did anybody go with you to Mr. Murphy's office? A. Mr. Haywood went with me.
- Q. What did you do as to employing Mr. Miller at that time?
- A. We complied with Mr. Simpkins request and retained Mr. Miller to defend Mr. Hagen.
- Q. Did you give him any money? A. We did.
- Q. How much? A. \$1500.
- Q. Who gave it to him? A. I gave it to him.
- Q. Do you know who drew the check for it? A. The check was drawn, filled out by Mr. Haywood, endorsed by me and cashed by Mr. Haywood; he brought the money to me and I gave it to Mr. Miller.
- Q. And then Mr. Miller went away so far as you know?
- A. So far as I know of my knowledge of his actions immediately after that.
- Q. And this occurred along about the first of February?
- A. To the best of my recollection about the 5th of February.
- Q. And was this matter still a matter of considerable discussion and excitement in the press and other places? A. Yes, it was a matter of discussion and a matter that was mentioned continuously in the press during that time -- not so prominently, though, as it had been of course during the first part of the trouble.
- Q. When were you away again, if at all, after that voluntarily, did you go away again? A. No, I was not absent from head-

quarters from that time until I came to Idaho. I was making arrangements to visit the Black Hills the evening on which I was arrested.

- Q. What train were you going to take? A. I was going on the Burlington to Alliance, Nebraska, and Edgemont to the Black Hills.
- Q. What hour did the train leave? A. The train left at eight o'clock I believe.
- Q. Night? A. Yes, 7:45 or 8; about eight o'clock.
- Q. Did you get a ticket? A. Yes sir, I bought a ticket.
- Q. Where to? A. Deadwood, South Dakota.
- Q. Where did you buy your ticket? A. I bought it at the city office of the Burlington on 17th Street in Denver.
- Q. What time? A. That same day, in the afternoon, about four o'clock.
- Q. Did you start for the train that evening? A. I did; I walked from my rooms on California Street to the Union depot and there took the sleeper.
- Q. Stop in anywhere going down? A. I stopped in on Curtis Street and had a glass of beer on my way down.
- Q. Where place? A. Mr. Holland's, a place I generally went when I wished a glass of beer or any refreshments of that kind.
- Q. Where is the Pinkerton office with reference to Mr. Holland's saloon? A. It is in the same building, just overhead, in the Tabor Opera House.
- Q. Well, you got down to the train what time? A. I got down to the train about fifteen minutes before the time for its departure.

- Q. Did you get on the sleeper? A. Yes sir, I went in the sleeper and placed my suit case and coat in my bunk -- I guess they call it "bunk".
- Q. Then what happened to you? A. Just about five minutes I think before time for the train to leave I was placed under arrest by Mr. DeLue, a deputy sheriff of Denver.
- Q. For what, what charge was made? A. Charged with the assassination of ex-governor Stansberg.
- Q. Where did he take you? A. To the county jail.
- Q. Where did he put you there? A. In a cell in the west wing of the county jail.
- Q. Anybody else present with him when he made the arrest?
- A. Why, I believe there was another party in company with him, but he took no part in the arrest and there was no one with Mr. DeLue and myself when we were going from the depot to the county jail. We went in a hack alone.
- Q. Did you have any fire arms on you? A. Yes sir.
- Q. What? A. I had an automatic Colt's revolver, which I had carried for some time -- always carried it when I was on the road.
- Q. What did you do with that? A. I gave it to Mr. DeLue on the way to the county jail.
- Q. You and he alone together at that time? A. Yes sir.
- Q. Did you make any request to see any lawyer or your friends or your family?

MR. BORAH: We object to it as incompetent, irrelevant and immaterial, not having any bearing on this case.

MR. DARROW: We have got a right to show what was done

as a part of the history of the case. If this man ran away, they would have a right to show it. We have got a right to show anything that was done up to the time --

MR. BORAH: I don't object up to the time of his arrest, because I think they would have a right to show, in order to prevent the possible inference of flight, as he was taking the train; but after the arrest was actually accomplished and he was taken into custody it would be wholly immaterial from that time on as to what transpired so far as the question of the commission of the crime charged in the indictment is concerned, and it could have no possible bearing on the guilt or innocence of the defendant.

MR. DARROW: We also want to show who took part in the arrest at the train -- Balseby Walls and others of that sort who came with him. We would have the same right to show it that they would have a right to show flight, for instance.

MR. BORAH: No, an entirely different proposition, if your Honor please.

THE COURT: What is the question?

(Question read as follows: "Did you make any request to see any lawyer or your friends or your family?")

THE COURT: The court will permit the witness to answer.

THE WITNESS: May I answer the question?

MR. DARROW: Yes.

THE WITNESS: What is the question again please.

(Question read).

A. I did. I made a request of Mr. Dalzie and of the jailer at the jail to telephone for either attorney Murphy or attorney

Hawkins or Richardson.

Q. Were you permitted to do it? A.

MR. BORAH: We object for the same reason as heretofore stated.

MR. DARROW: We think we have got a right to show it, your Honor.

THE COURT: What is the purpose of it, Mr. Darrow?

MR. DARROW: It is a part of the history of this case, and we propose to show in connection with it that the officers and the agents of the Mine Owners' Association, the Pinkerton detective company, procured this matter secretly, and they were in charge of them, and brought him here and prevented any chance to apply for a writ or any hearing of any sort in the state of Colorado.

THE COURT: Is it your contention that that is a matter of defense here?

MR. DARROW: Yes, surely. We have contended from the beginning that these men were not being tried nor attempted to be punished because they had done something, but it is a part of the plan to get rid of these men and this organization, and we think that has a very strong tendency to prove it. Now if these men were in the act of flight the State would have a right to show it, show they were trying to get away. On the other hand, if there was a body of men who were trying to accomplish some ulterior purpose we have a right to show that -- that these men really are not on trial for this, but that it is a part of the general conspiracy to get rid of these men and this organization, and we think we have got a right to

show who was with them and exactly how it was done.

MR. BORAH: If your Honor please, there was a complaint sworn to and the officers of the law were called into action for the purpose of bringing these men from the state of Colorado. Now it wouldn't make any difference in whose company they were. They were brought here according to legal process, and the officers of the law were in charge of the parties, and they were in the custody of the officers of the law, and it could make no make no possible difference as to who accompanied them, nor neither could it possibly be a part of a conspiracy under any theory. After the arrest was made, the papers were served, and the parties were in charge of the officers of the law, so it wouldn't out any figure as to who was present, or even if Mr. Walls had been the man who served the writ, because he was serving that which came from the authorities of the state of Idaho.

MR. DARROW: Now, your Honor, we expect to show this --

THE COURT: You have shown already that this witness was arrested on a warrant.

MR. DARROW: Yes.

THE COURT: ~~Man~~ Charged with the murder of Governor Steunenberg?

MR. DARROW: Yes, that is true.

THE COURT: Now how could what transpired after that be a matter of defense here?

MR. DARROW: We haven't shown who had custody of him. We expect to show that the officer with the warrant had very little or nothing to do with it, that he was turned over to the custody of the Mine Owners' Association and Pinkertons at

once, that the requisition was procured secretly on a false affidavit and illegally.

THE COURT: The court doesn't care to hear any argument on that proposition, Mr. Darrow. The court will rule against you on that. The only question in the mind of the court here is how far it may permit you to go in this matter. It will not permit you to go into the question of the extradition itself and the circumstances under which the extradition was secured, so far as the officers of Idaho are concerned or so far as the officers of the state of Colorado are concerned; it is not a matter of defense here.

MR. DARROW: As to the method and the way they were brought here and as to who brought them, I take it that can be shown, and who was with them, who was with them on the train, who took care of them, how they came here.

THE COURT: Read the question, Mr. Stenographer.

(Question read as follows: "Were you permitted to do it?" The previous answer was also read, as follows: "I did. I made a request of Mr. DeLue and of the jailer at the jail to telephone for either attorney Murphy or attorney Hawkins or Richardson.")

THE COURT: You may answer that question.

A. I did request the deputy sheriff who made the arrest, and the jailer at the county jail, to telephone for some of our attorneys, either Mr. Hawkins, Richardson, or Mr. Murphy, to notify them of my arrest.

Q. What did he do? Did he telephone or permit you to telephone?

A. Not to my knowledge, nor didn't permit me to telephone.

Q. Where were you kept until the time you were removed?

A. Kept in the county jail until about three A. M. when we were

kept there until about six o'clock, when we were placed on board a special train and brought to Idaho.

Q. Where did this train stop?

MR. BORAH: We object to that as incompetent, irrelevant and immaterial.

THE COURT: Objection sustained.

MR. DARROW: I will take an exception.

THE COURT: An exception will be noted.

Q. How long were you coming?

MR. BORAH: We object to that as incompetent, irrelevant and immaterial.

THE COURT: The objection will be sustained.

MR. DARROW: Note an exception.

THE COURT: An exception will be noted.

Q. Who was on board this train besides you three men?

MR. BORAH: We object as incompetent, irrelevant and immaterial, no part of the defense in this case.

MR. DARROW: We want to show who was doing it and who was in charge of it.

THE COURT: Do you want to show who the officers were?

MR. DARROW: Who were the officers, yes, who had charge of it.

MR. BORAH: When you ask who had charge of the train, we object for another reason --

MR. DARROW: I don't mean the train crew, I mean the men who had charge of the prisoners.

THE COURT: You may show who the officers were.

Q. How many prisoners were there of you? A. Three.

- Q. Who were the other two? A. Mr. Haywood and Mr. Pettibone.
- Q. Well, who had custody of you? A. As far as we know, Captain Wells, or Adjutant General Wells at that time of the National Guard of Colorado was in charge.
- Q. Berkeley Wells? A. Yes sir.
- Q. Who else was with him in charge? A. There was Bob Holdrum and four others, two of them were Pinkerton detectives and two were members of the National Guard.
- Q. Who is Bob Holdrum? A. Bob Holdrum is what is generally known in the southern part of the state of Colorado as a gun man. He was in the employ of the Mine Owners' Association.
- Q. Anybody else? A. Mr. Mills of Idaho was on the train coming back, yes sir -- or coming here, rather.
- Q. Were you handcuffed? A. Yes sir, we were handcuffed when we were taken from the county jail to the hotel, were handcuffed in the hotel and handcuffed during the forenoon of that day.
- Q. Who had charge of that? A. Captain Wells had charge as far as I know, he seemed to have the giving, the issuing of orders and to have charge of the men who were aboard the train.
- Q. Do you know whether he had the keys to the handcuffs?
- A. He unlocked the handcuffs which were attached to my wrists one or two different times.
- Q. Do you know what position, if any, Wells had with the Mine Owners' Association? A. He was a member I believe of the -- now, I don't know as to his membership, but I have been informed and have reason to believe that he was a member of the Mine Owners' Association, and a mine ^{OWNER} himself, and operator.
- Q. Where were you brought to when you came to Idaho?

MR. BOHAN: We object to that as incompetent, irrelevant and immaterial.

THE COURT: The objection is sustained.

MR. DARROW: We desire to except.

THE COURT: An exception will be noted.

Q. I want to ask directly whether you were taken to the state penitentiary when you were brought to Idaho?

MR. BOHAN: We object to that as incompetent, irrelevant and immaterial.

MR. DARROW: We want to show that they did to these men what they had no legal right whatever.

THE COURT: It may be, Mr. Darrow, but still that is not a matter of defense here.

MR. DARROW: It has some tendency to show who was responsible for it.

MR. BOHAN: The Mine Owners' Association of Colorado could not take them to the penitentiary. They went there because they were turned over to the custody of certain officers, and that is wholly immaterial.

MR. DARROW: It is hardly possible that the officers of Idaho would put a man in the penitentiary of their own volition and motion.

MR. BOHAN: It is highly ~~very~~ improbable that the mine owners of Colorado would put them there.

MR. DARROW: We don't think so.

THE COURT: Whether the court has ruled on the matter, gentlemen. Proceed.

Q. When did you arrive in Boise? A. We arrived the morning of the 19th.

Q. Of what? A. Of February.

Q. Of what year? A. 1906.

Q. Been waiting for a trial ever since? A. Waiting ever since --

MR. BORAH: Wait a minute. We object to that as incompetent, irrelevant and immaterial.

THE COURT: The objection is sustained.

MR. DARROW: I desire to take an exception.

Q. I will ask you whether the defendant -- whether you have been insisting on a trial ever since you arrived?

MR. BORAH: We object to that as incompetent, irrelevant and immaterial, and not the best evidence. The record shows what was done.

THE COURT: The objection is sustained.

MR. DARROW: We desire to take an exception.

THE COURT: An exception will be noted.

Q. Have you been imprisoned ever since? A. Yes sir.

MR. DARROW: I think that is all. That is all I can recall now anyway.

THE COURT: You have another letter that you desired to introduce, Mr. Darrow?

MR. RICHARDSON: I had that letter out and was reading it with Mr. Nugent and I must have left it over to the office. It isn't here with the other papers, but I remember distinctly of reading it with Mr. Nugent and it must have gotten out of my grip; so we will have to bring that over tomorrow morning.

THE COURT: There is only a few minutes left, do you desire to go ahead with the cross examination?

MR. BORAH: I can go ahead, but unless the court desires

to I prefer to wait.

Thereupon the court gave to the jury the statutory admonition, the bailiffs were sworn, the jury retired in charge of the bailiffs, the witness and the defendant were released, and an adjournment was taken until 9:30 o'clock A. M., Thursday, July 11th, 1907.

ADJOURNMENT.

Boise, Idaho, Thursday, July 11th, 1907.

9:30 o'clock A. M.

Parties convened pursuant to adjournment.

The clerk read the minutes of the session of Wednesday, July 10th, 1907, and the same were signed by the court.

The clerk called the names of the jurors and announced all present.

THE COURT: You may proceed, gentlemen.

MR. DARROW: Now, that letter,-- is there any objection to it?

MR. BORAH: Yes, you better present that to the court.

MR. DARROW: This is a letter from the General Counsel, Mr. Murphy, that was enclosed with the correspondence to Silver City, do you remember,-- and I will hand it to your Honor because there may be some question as to it.

(The letter was handed to the court for examination; after which Mr. Darrow proceed:)

I will have this document marked as defendant's exhibit 24 for identification. Now, I suppose the objection would not be made that this is a copy.

MR. BORAH: Not exactly that; that would be one objection but there is no authenticity yet shown -- no facts or surroundings showing the delivery of the letter up to the present time.

MR. DARROW: Both these objections would be good in my opinion, if it is objected to on the ground of competency, but this is the letter which accompanied the letter written by Mr. Haywood to Silver City and is a part of the reason made in the letter why he took the action --

THE COURT: What is the objection?

MR. BORAH: Has it been offered yet?

MR. DARROW: I am going to offer it now. The other letter went in without objection.

MR. BORAH: We object to it at this time as incompetent, immaterial and irrelevant, and as hearsay and self serving, and also that its authenticity has not yet been shown.

MR. DARROW: That is good, but we can show that all right.

THE COURT: The court thinks the first objection is good, and I will hear from you on the first objection.

MR. DARROW: As I know that the last is good, and it is good, I think I will not introduce it until I am ready to prove the authenticity of it. Now, we have offered the copy of the constitution and of the ritual. They are both, the constitution especially, is rather long and I don't see any occasion for reading it at this time. We will pick out any part that we want and you can pick out such parts as you may desire.

THE COURT: That was shown to the jury yesterday?

MR. DARROW: Yes. The same is true of the ritual,

excepting it is not quite as long, but I do wish to read a portion of it at this time in reference to admissions to membership, and I will read on page 7:

The Warden says, "Mr. President, the Conductor of this Union with candidates seeks admission.

If everything is in readiness the President will reply:
Brother Warden, admit them.

The Conductor with candidates enters and proceeds to station in front of President and says:

Mr. President, I have the honor to present to you these candidates for initiation.

The President will then arise and ask each candidate:

Have you ever been a member of any union of the Western Federation of Miners?

Candidates must answer yes or no. Should any answer in the affirmative it is the duty of the President to satisfy himself that such candidate is clear of financial and other obligations to the union of which he was formerly a member, before proceeding to initiation. If all candidates answer in the negative, the President will say:

You have been elected to membership in Union No..... of the Western Federation of Miners. This body exacts no pledge or obligation which in any way conflicts with the duty you owe to your God, your country or your fellow man. With this assurance from me as President of this Union, are you willing to take the obligation?

Candidates must answer yes or no, and if they answer in the affirmative the President will give three wraps of the gavel and the members will arise and remain standing until the candidates have taken the obligation.

President (to candidates) -- raise your right hand and repeat after me: I (name), in the presence of Almighty God and the members of this Union, solemnly pledge myself to be a true and faithful member of Union No. of the Western Federation of Miners, and that I will support and obey all laws, rules and regulations contained in the constitution and by-laws of this union and of the Western Federation of Miners.

I further pledge that I will not work for a less compensation than the rate established by this Union or any other Union of the Federation of which I may hereafter become a member, or within the jurisdiction of which I may be employed.

I further pledge that I will practice the principles of fraternity by giving support as I may be able to my brothers in time of trouble or affliction; that I will uphold and at all times aid in securing the rights of the working man; that I will not unlawfully receive or misappropriate any of the funds of my Union of the Federation; that I will keep secret all business, signs, grips and passwords of the Federation, and will endeavor to be useful and efficient in our efforts to advance true labor reform.

And in pursuance of the pledges I have taken, I, as a faithful and loyal member of this Union, further pledge that

whether I remain a member of this organization or not, the obligations I have taken shall be preserved inviolate. So help me God.

President -- Brother Conductor, face the friends to the Vice President, that he may charge them.

Vice President -- Friends, you have taken the most solemn obligation which man can take. It is as binding as any oath, for it is a charge upon your Honor, and without Honor no man can be a true, faithful, and helpful friend and brother.

I charge you in the presence of your fellows here assembled to be true to it and all the obligations of life. A man who does not keep his word of honor assists in binding the chains of slavery upon unborn generations, and will be an outcast to society and banished from the friendship and councils of his fellow men.

It is your solemn duty to keep sacred the obligations you have taken like a true man. Do this and you will have the respect and confidence of your associates; violate it, and you will be branded as a traitor and unfit for the companionship of all honorable men.

Brother Conductor, face the friends to the President for final instructions.

The President will give two wraps of the gavel and all will be seated except the President, who will proceed to instruct the friends in the secret work of the Federation.

President -- In order to gain admittance to the Union while

in session you will give * * * * * knocks upon the door, which will be answered by the Warden, to whom you will give the password. If you are correct he will admit you; if you are not correct you will give him your name, which he will announce to the President and inform him you are without the password. If you are clear on the books the President will order you to be admitted, when, after saluting the Vice President, you will advance to the station of the Conductor and receive the password; if you are not clear on the books you will be so notified, and if you do not pay up your arrearages you will be allowed to proceed to the station of the financial secretary for that purpose and when you have cleared yourself you will be instructed in the password."

At this time I will not read any farther from the ritual. You have a copy of it, haven't you?

MR. BORAH: No, but that is in evidence.

MR. DARROW: I want to read the preamble to the Constitution, which is exhibit 20. I will only read at this time two pages. This is the preamble to the Constitution:

"We hold that all men are created to be free and should have equal access and opportunity to the enjoyment of all benefits to be derived from their exertions in dealing with the natural resources of the earth, and that free access and equal opportunity thereto are absolutely necessary to man's existence and the upward progress of the human race. Since it is self-evident that civilization has, during centuries, made progress

in proportion to the production and utilization of minerals and metals, both precious and base, and that most of the material prosperity and comforts enjoyed by mankind are due to this progress, it is highly fitting and proper that the men who are engaged in the hazardous and unhealthy occupation of mining, milling, smelting and the reduction of ores, should receive a just compensation for their labors, which shall be proportionate to the dangers connected therewith, and such protection from law as will remove needless risk to life or health, and for the purpose of bringing about and promoting these and other proper and lawful ends, and for the general welfare of ourselves, families and dependent ones we deem it necessary to organize and maintain the Western Federation of Miners, and among our lawful purposes, we declare more especially our objects to be:

First: To secure compensation fully commensurate with the dangers of our employment and the right to use our earnings free from the dictation of any person whatsoever.

Second: To establish as speedily as possible, and so that it may be enduring, our right to receive pay for labor performed, in lawful money and to rid ourselves of the iniquitous and unfair system of spending our earnings where and how our employers or their agents or officers may designate.

Third: To strive to procure the introduction and use of any and all suitable, efficient appliances for the preservation of life, limb and health of all employes, and thereby preserve to society the lives and usefulness of a large number of wealth

producers.

Fourth: To labor for the enactment of suitable laws and the proper enforcement thereof.

Fifth: To provide for the education of our children and to prohibit the employment of all children until they shall have reached at least the age of sixteen years.

Sixth: To prevent by law any mine owner, mining company or corporation, or the agents thereof, from employing detectives, or armed forces, and to provide that only the lawfully elected or appointed officers of the county, state or province, who shall be bona fide citizens thereof, shall act in any capacity in the enforcement of the law.

Seventh: To use all honorable means to maintain and promote friendly relations between ourselves and our employers, and endeavor by arbitration and conciliation, or other pacific means, to settle any difficulties which may arise between us and thus strive to make contention and strikes unnecessary.

Eighth: To use all lawful and honorable means to abolish and prevent the system of convict labor from coming into competition with free labor and to demand the enforcement of the foreign contract labor law, against the importation of foreign labor from any foreign country, and also to use our efforts to make it unlawful to bring persons from another state, territory or province, to take the places of working men on a strike, or who may be locked out, by means of false representation, advertisements or other misleading means.

Ninth: To demand the repeal of conspiracy laws that in any way abridge the right of labor to organize to promote the general welfare of their membership, and also to use our influence to bring about legislation which will prevent government by injunction by either federal, state or provincial courts. To procure employment for our members in preference to non-union men, and in all lawful ways co-operate with one another for the purpose of procuring a just share of the product of our toil and mutual advancement in order that the general welfare of the membership and their families may be steadily advanced and promoted.

Tenth: To use our united efforts to discourage the contract labor system, and as soon as practicable to abolish the same, believing the said system to be detrimental to the best interests of organized labor."

MR. DARROW: You may mark this, and I will offer this as exhibit 25.

Q Mr. Moyer, what is this exhibit 25? A It is an application blank for membership in local unions of the Western Federation of Miners.

Q Any regulation as to the applicant signing this before they join? A There is generally a committee appointed for the purpose of investigating the character of the applicant for membership.

Q Well, state whether the prospective member is required, or is not required to sign this? A Yes sir, it must be signed.

Q Must he sign an application blank? A Yes sir, the application is not accepted until signed by the applicant after being filled out.

MR. DARROW: I will read this application blank, gentlemen:

Exhibit No. 25 was then read to the jury, and is in words and figures as follows:

"Defendant's Exhibit 25.

WESTERN FEDERATION OF MINERS

APPLICATION BLANK

Union No.

Name

Age

Complexion

Height

Color of eyes

Name and address of nearest relative

Have you ever been a member of organized labor?

When and where?

What organization?

Where have you worked during the past five years?

Have you ever taken the place of strikers?

Have you ever assisted in putting scab labor in the place of strikers?

Have you ever assisted as a deputy sheriff, Pinkerton man, or in any manner assisted corporations or individuals to oppose the demands of organized labor.

I hereby voluntarily pledge and obligate myself on my word of honor that the above is a true and correct statement in answer to the questions asked, and I further promise to obey all laws and lawful summons of the W. B. of M. that may be now or hereafter in existence.

Applicant.

Proposed by

N. B. -- Initiation fee must accompany application."

On the back of said exhibit is as follows:

"Applicant

.....
 Application made190..
 Elected.....190..
 Rejected190..
 Initiated190..

Union No....

Secretary.

N. B. -- Secretaries receiving this blank from applicant must have same kept on file for future reference."

MR. DARROW: I think you may examine.

CROSS EXAMINATION

BY MR. BORAH:

Q How old are you, Mr. Meyer? A 41 years old.

Q Where were you born? A In Mongona, Iowa.

Q What was your father's name? A My father's name was Francis Moyer.

Q When did you become an officer of the Western Federation?

A An officer of the Western Federation of Miners?

Q Yes sir. A In 1902, in the month of June.

Q And what office did you first hold? A First as a member of the Executive Board representing the district composed of the Black Hills, South Dakota, -- that was the district at that time.

Q You were living then in the Black Hills? A Yes sir.

Q And how many members composed the executive board at that time? A To the best of my recollection there were five. I may be mistaken and there may have been six.

Q Who was President at that time? A Mr. Boyce -- Edward Boyce.

Q And the Secretary was Mr. Maher? A Yes sir.

Q You have been an officer, either as a member of the executive board or ex officio member of the executive board ever since?

A Yes sir, continuously, ever since, yes sir.

Q And when did you become president of the organization? A In 1902.

Q About a year after you became a member of the executive board?

A I became a member of the executive board in 1899 and President of the organization in 1902.

Q Then in 1899 you became a member of the executive board?

A Yes sir.

- Q And in 1908 you became President? A Yes sir.
- Q In what year did Mr. Haywood become secretary of the organization? A In 1901.
- Q He preceded you then a year? A Yes sir.
- Q He was secretary a year during the incumbency in office of Mr. Boyce? A One year, yes sir.
- Q Now, the officers of the Western Federation are the President and Secretary-Treasurer, and what other officers? A Seven members of the executive board.
- Q How many members? A Seven at this time.
- Q During the interim between the time of the meetings, or conventions of the Western Federation, where does the power of the Federation rest? A With the executive board.
- Q With the executive board and the President and Secretary? A Yes sir.
- Q Now, as I understand, between the conventions the sole power of the organization is with these men, the seven men and the two officers, President and Vice President,-- A As far as they are empowered to act under the constitution of the organization.
- Q Well, the constitution, as I understand it, gives them the sole power to act for the organization? A Between the conventions.
- Q Yes, and what are the duties, Mr. Moyer, in a general way of the President? A The duties of the President is to generally supervise the organization, advise with the officers and

membership of the local unions, travel throughout the jurisdiction and endeavor to organize the unorganized mining camps, and assist in every way possible, under the constitution, the locals and the members of the organization.

Q. Well, he is the executive officer who is supposed to know of all matters of vital importance to the organization?

A. Yes sir.

Q. And the Secretary-treasurer, what are his duties?

A. He is the financial secretary of the organization and treasurer, has charge of the funds of the organization, and it is his duty to correspond with the local unions, furnish them with the supplies necessary to carry on their work, and so forth.

Q. The finances of the organization are entirely within his control or under his supervision, are they not? A. He has charge of the finances of the organization.

Q. Does he divide that responsibility with you or do you have anything to do with that? A. I do.

Q. Explain that, if you will, what the relationship is, what relationship you have with the secretary-treasurer with reference to the finances: Do you have to check together?

A. The constitution provides that the money shall be placed in some solvent banking institution and can only be drawn out by check made out, accompanied by a bill, paid out by check, paid out by the secretary-treasurer and countersigned by the president.

Q. Then it requires the joint act of the secretary-treasurer and yourself to get money out of the treasury? A. Yes sir.

- Q. Who are the present members of the Western Federation of Miners -- I mean the officers, who are the present officers?
- A. You mean the president and secretary-treasurer?
- Q. Yes, and the executive board. A. Mr. Haywood and myself.
- Q. And who are the executive board at the present time?
- A. A new convention has just met in Denver, and there has been a new executive board elected, Mr. Borch, and I may not be able to mention all of the members of that board.
- Q. Give me all the names you can. A. Mr. Kirwan is a member of the executive board representing the Black Hills district; Mr. Randall I believe was elected from Nevada; Mr. Lowmy from Montana, Mr. Mills of British Columbia, Mr. Seelner of Colorado, and the member of the board elected from Missouri I am not able to furnish you with the name, I am not familiar with that name.
- Q. And who is the member from this state? A. Mr. Simpkins, I believe, was continued in office and an alternate was elected in his place. I am not able to furnish you with that name. He belongs, I believe, at Index, Washington.
- Q. He has an alternate who was elected, as you understand, in his place, to act in his place at this time? A. Yes sir, to act in his place at this time.
- Q. Now that ~~name~~ makes how many members of the Executive Board at the present time as you understand? A. Seven unless there were changes made at this last convention.
- Q. Where were you working during the year 1899, Mr. Moyer, or where were you living? A. 1899?
- Q. Yes sir. A. I was living in Deadwood, South Dakota.

- Q. And at that time that was the year in which you became a member of the executive board? A. Yes sir.
- Q. And did you become familiar with the troubles in the Cocur d'Alenes at that time to some extent? A. I believe I heard of the troubles that day or the next day after they occurred through the local papers in the Black Hills.
- Q. Those troubles were discussed quite generally through the country in the press, were they not? A. Yes sir.
- Q. And you became familiar I presume in a general way and as an officer of the Western Federation with the difficulty as it obtained or prevailed there? A. Just the same as the other people there, Mr. Borah. I had no definite knowledge of the matter.
- Q. You of course knew of the fact that what was called a bull pen was erected there? A. Yes sir, later, after the trouble occurred.
- Q. And that what was called the permit system was inaugurated by the authorities there, Governor Stearnberg and others?
- A. I was so informed. I had no personal knowledge of the fact.
- Q. And you knew that there was some miners prosecuted there at that time? A. By my own personal knowledge I did not, Mr. Borah. But from my talk with men who had been confined there, and the members, and information that was conveyed to me I was made acquainted with that.
- Q. And you knew that Governor Stearnberg was governor during these troubles? A. Yes sir.
- Q. And did you know Mr. Corcoran, who was prosecuted at that time, personally? A. I never met Mr. Corcoran until the fall of

1902. I had no acquaintance with him at that time.

Q. You became familiar, as a member of the organization, with the view which the organization held of Governor Steunenberg by reason of his actions there, the manner in which they looked upon him, as an enemy of their organization, I presume?

A. I would say, Mr. Borah, that about the first time I think that I came in contact with any of the men in the Coeur d'Alenes was at the convention at Salt Lake of that year.

Q. 1899? A. In May and June of that year; yes sir, 1899.

Q. That convention was held in May and June of 1899 and the first trouble was on the 29th of April, 1899? A. I am not positive as to the date, but prior to the time of holding the convention.

Q. Well, you became familiar at that convention with the conditions there generally and of the attitude which Governor Steunenberg had assumed in regard to these matters?

A. Yes sir.

Q. And became familiar with the regard in which he was held by the organization? A. I ~~remember~~ heard men from the Coeur d'Alenes at that time express their views in regard to the action of Governor Steunenberg and the condition in the Coeur d'Alenes at that time.

Q. And you knew how he was looked upon by the organization at that time, as an enemy of the organization? A. As I say, I heard men discuss the action of the governor and the general situation.

Q. You understood that from what you did hear? A. Yes sir.

Q. Was you a reader of the Miners' Magazine after its publica-

tion pretty generally? A. Why, I think so; yes, I believe that I saw most of the copies of the Miners' Magazine from the time it was first established until the present time.

Q. You, I presume, had something more or less to do with its publication, being a member of the executive board, didn't you?

A. I will say that during the time that Mr. Boyce was editor that I had nothing whatever to do with the editing of the organ. It was in the hands of the president and secretary-treasurer at headquarters, and the members of the executive board were not consulted as to what -- I didn't see it until after it was edited.

Q. You were aware of the fact that it was the official organ of the organization? A. It was so recognized, yes sir.

Q. And as such I presume you took it and read it? A. Yes sir, it was accepted by the membership as the official organ of the organization.

Q. When did you become acquainted with Jack Simkins the first time? A. I believe in the summer of 1902, the first recollection I have of meeting him.

Q. Where did you first meet him? A. At the convention of the Western Federation of Miners in Denver at that time.

Q. Was he an officer of the organization at that time?

A. Not at that time.

Q. Was he in attendance upon the convention? A. Yes sir.

Q. As a delegate from the Coeur d'Alenes? A. From the Wardner Miners' Union.

Q. How well acquainted did you become with him at that time, any more than a passing acquaintance, or did you have conversations

with him and talked with him about matters in the Coeur d'Alenes and the condition of the unions there, and so forth?

A. I was trying to think, Senator, as to whether or not Mr. Simpkins was elected on the executive board at that convention. I am not positive as to that; he was either elected at the 1902 convention or the 1903 convention. If he was elected a member of the executive board at that time I became quite well acquainted with him.

Q. Do you remember ~~distinct~~ whether you talked with Mr. Simpkins the first year you met him with reference to the conditions in the Coeur d'Alenes? A. I don't think so; that is, I say, if I am mistaken as to his being elected on the executive board that year I did not talk with him in regard to the conditions in the Coeur d'Alenes other than as I would talk with any other delegate in the convention.

Q. Well, I presume that the conditions in the Coeur d'Alenes was more or less a matter of interest to the entire organization about that time, were they not, 1902 and 27?

A. Why, it was just a general discussion by the members of the organization and the delegates in the convention, was a matter discussed by the convention.

Q. Was there any other prominent member from the Coeur d'Alenes attending the convention other than Mr. Simpkins at that time, during the year you met him? A. Not from the Coeur d'Alenes, I don't think so. Now there was delegates from Gen, I think, and Burke, and possibly Mallan to that convention. But I have no distinct recollection of them. I believe that Mr. Hays was there representing the union from Gen, and Mr. Kelly from

Burke, if I remember correctly, John Kelly.

Q. Had Mr. Corcoran been pardoned at this time, do you know?

A. Mr. Corcoran was pardoned prior to the time I was elected president of the organization. I don't know just exactly the time he was pardoned.

Q. Well, after Mr. Simpkins became a member of the executive board I presume you became pretty well acquainted with him?

A. I did, yes sir; that is, I probably met him for ten or fifteen days at a time, and then possibly I wouldn't see him for six months.

Q. Did you ever talk over with him his troubles in the Coeur d'Alenes and his experience in the bull pen, and so forth?

A. I have heard him tell of his experience in the bull pen in the Coeur d'Alenes.

Q. You knew then that he was one of the parties who had some experience in the bull pen in 1899? A. Yes sir.

Q. And you learned that I presume pretty early after you got acquainted with him? A. I think so; I think that we discussed possibly and probably the general conditions that prevailed there at that time during the time that we had the discussion.

Q. And you knew pretty generally how he felt with reference to those who were the cause of his imprisonment, and so forth, didn't you? A. I think so, yes; I would say that I knew about it -- heard him express his sentiments in regard to the conditions there.

Q. Now you spoke yesterday to Mr. Darrow about a rule with reference to defending members of the Western Federation of Miners: What is that rule, Mr. Moyer? How far does it extend?

What is it? A. Why, it extends to members that are charged with any offense, violations of laws in connection with any strike difficulties or any matter where in the opinion of the executive board or the convention of the organization a member is being prosecuted for no other reason than his connection with the organization.

- Q. Does it include the defense of a man simply because he is a member of the Western Federation of Miners unless his crime is in some way connected with some act of the Western Federation of Miners, some strike, or something of that kind?
- A. No sir, not unless in the opinion of the executive board the matter of his arrest has grown out, in their opinion, of the fact that he was connected with the organization, and the arrest grew out of a strike or some trouble of that nature.
- Q. Well, it does not cover any offenses, then, as I understand it, unless you people determine it has some connection with the Western Federation as an organization? A. No sir; that is, in other words, Mr. Borah, a man charged with an assault or something of that character, unless it was charged directly to the organization would not be furnished counsel by the Western Federation.
- Q. If one of your members should kill a man upon the streets of Boise you wouldn't feel under any obligation because he was a member of the organization to take up his defense unless you were satisfied of the fact that it grew out of some act upon the part of the Western Federation of Miners or an attempt to have trouble with the Western Federation of Miners as an organization? A. That is the my impression that I am desirous

of conveying, yes sir.

Q. Do you have any system or any means of determining, when a party is charged with a crime, as to whether or not he is probably guilty of the offense before you enter upon his defense, or do you simply take up the proposition of his defense regardless of your own investigation?

A. Why, the conditions that prevail and the locality in which he might be arrested have a great deal to do in forming an opinion as to whether or not he was -- what offense or what the cause might be of his arrest.

Q. Well, do you ordinarily make an investigation to find out whether the party is guilty of the offense or not yourselves, to satisfy yourselves, or do you go into court in the first instance to determine the question of his guilt or innocence? Does the organization itself make any investigation?

A. We endeavor to be present and take part in the preliminary to see what the status of the case is and find out the evidence that is produced against a man before we finally enter into an agreement to defend him.

Q. You don't hold it out as a proposition then to your members that if they commit crime that they will have the Western Federation of Miners back of them regardless of whether they are innocent or guilty, do you? A. No sir, we do not.

Q. No one has a right as a member of your organization to understand that that rule exists? A. They have never been ~~any~~ given any reason by the constitution or by the officers of the organization, especially speaking of myself, that there would be any such inducements offered or held out for them.

- Q. I will ask you if your organization at the present time is defending Steve Adams? A. Yes sir.
- Q. And that is a charge having reference to the killing of two men as timber jumpers or claim jumpers in north Idaho?
- A. Yes sir.
- Q. And you conceive that that had something to do with the interest of the Western Federation of Miners, I presume?
- A. We believe that the conditions or circumstances under which Mr. Adams was arrested grew out of the assassination of ex-governor Steunenberg, and that was the reason that we want to his defense.
- Q. How long has Steve been a member of your organization?
- A. I would say since about 1901.
- Q. When did he cease to be a member, if at all?
- A. He has never ceased, as far as I know, Mr. Borah. I am not positive as to his connection with the organization.
- Q. You are not aware of the fact then that he ceased to be a member in the latter part of 1904? A. I know that the union there, the local to which he belonged, was virtually destroyed at that time by the military taking possession of their hall, books and property, and the record of the membership of the union was destroyed. I don't know as to his further paying dues into the organization after that date.
- Q. You have no knowledge of the fact of his paying any dues since the latter part of 1904, have you? A. Not personally.
- Q. Have you made any inquiry to ascertain whether or not he has?
- A. I have been informed that he had a card paid up.
- Q. Up until what time? A. I couldn't say. I understood he had

a card when he left, last left Denver and went to Park City and deposited that card there, whether I am correct in that -- that is simply information.

- Q. Do you know whether or not he had a card after he left Park City and went to Oregon? A. I did not.
- Q. When did you first meet Steve Adams to become acquainted with him? A. The first recollection I have of meeting Mr. Adams was in the month of August, 1903.
- Q. And you met him where at that time? A. I met him in Cripple Creek at Pinnacle Park.
- Q. What was he doing? A. He had charge of the stand there that had been erected by the union in which they were furnishing refreshments for the crowd attendant upon the picnic.
- Q. Who introduced you to him, if you know, or how did you learn it was Steve Adams? A. I can't recollect who at that time, Mr. Borah. I remember the circumstance of going to his stand with a number of the other men there and being introduced to Mr. Adams.
- Q. You don't remember how you ascertained that it was Steve Adams, who told you it was or who introduced you? A. I am satisfied at that time whoever I was with introduced me to him.
- Q. As Steve Adams you had not known him, you are satisfied, prior to that time? A. No sir, I have no recollection of ever meeting him prior to that date.
- Q. Did you have any business with him that day other than taking refreshments as you have stated? A. None at all.
- Q. Have any conversation with him? A. No sir, I don't remember of any particular conversation; I am satisfied I shook hands

with him there at most the stand and that was all. I don't think I had any conversation with him whatever, other than simply passing the time of day. I remember saying that I was pleased to meet him.

Q. Did you learn of what local union he was a member?

A. Not at that time.

Q. Did you afterwards? A. Yes sir.

Q. Of what local union was he a member? A. On the 6th of --

Q. I don't care about the date, Mr. Moyer. I simply want to know of what union he was a member. A. He was a member of Altman No. 19. I was trying to fix the date that I met some one that I heard his name mentioned.

Q. That was the union of which W. F. Davis was president at one time? A. Yes sir.

Q. And Sherman Parker was secretary? A. Yes sir.

Q. And Bill Basterly was secretary? A. They were all officers at that time of that organization -- or different times rather.

Q. Did you know Ed. Minster? A. I did.

Q. Was he a member of that local union 19? A. Yes sir.

Q. Did you know Lafferty? A. I never met Lafferty, no sir.

Q. Now when did you next see -- A. That is, I don't know what Lafferty you mean, Mr. Borah.

Q. Jim Lafferty? A. I judged that. No, I never met him.

MR. RICHARDSON: A little louder.

THE WITNESS: I never met Mr. Lafferty. I didn't know what Mr. Lafferty Mr. Borah referred to.

Q. When did you next meet Mr. Adams, Mr. Moyer, after this incident that you have just stated when he was running a re-

freshment stand? A. To the best of my recollection, Mr. Borah, I might have met him in the district prior to this time I am telling, among others. But I have no recollection of meeting him until the month of February the next year.

Q. 1904? A. 1904.

Q. That was at the time of the trial with reference to the railroad wrecking? A. Yes sir, or the attempted railroad wrecking.

Q. Did you meet him to converse with him at that time and become better acquainted with him? A. Why, I seen him almost every day there and probably conversed with him as much and probably more than I did some of the others. He was very active. He had been charged there with some offense himself and was very active, in company probably with fifteen others, in assisting myself and the attorneys in preparing that case.

Q. You became at that time then very well acquainted with him?

A. I did, yes. I became very well acquainted with him.

Q. And, as I understand, Mr. Orchard was there also at that time?

A. Yes sir, Mr. Orchard was there.

Q. When did you next see Steve Adams to know him, or talk with him, or to have any conversation with him or business with him?

A. It was some time in the fall of 1904. I would say about the month of October. I remember that it was getting cold in Denver at that time, at the time he visited the office.

Q. Where did you see him then? A. I seen him at the headquarters of our organization.

Q. He come to headquarters I think you said in company with his brother? A. Yes sir, his brother William.

- Q. Did you have any particular conversation with Steve at that time? A. Not any particular conversation. I talked with both of them generally, but no particular conversation.
- Q. This was after the Independence depot explosion? A. Yes sir.
- Q. And it was after, of course, the Vindicator explosion?
- A. Yes sir.
- Q. And did you ever see Steve Adams at any other time after that?
- A. Not to the best of my recollection. I have no recollection of seeing Mr. Adams after that time.
- Q. Did you see Mrs. Steve Adams about headquarters at any time?
- A. I had never seen Mrs. Steve Adams until I seen her here in Boise.
- Q. The last time you saw Steve Adams then, which you can recall, was in October, 1904? A. To the best of my recollection.
- Q. And at headquarters? A. Yes sir.
- Q. Do you know where he was going at that time? A. He said nothing to me at that time of going anywhere. His brother was ~~leaving~~ leaving at that time, and he as I understood was stopping there in Denver at that time.
- Q. Now when did you first get acquainted with George A. Pettibone, Mr. Moyer? A. I believe in 1898 was the first time I ever met him.
- Q. 1899? A. Or 1900.
- Q. Where did you meet him? A. I met him in Denver.
- Q. Was he running a place of business there at that time? A. Yes.
- Q. What was his business? A. He was selling -- I don't know what he called his place -- he was selling wringers and clocks, rugs, and such things as that.

- Q. Where was his place located at that time? A. I believe at that time on Court Place.
- Q. Did you meet him at his place of business or at headquarters?
- A. At that time I didn't meet him at headquarters or his place of business. I met him at a convention that was held there, and he came up at different times to visit the convention.
- Q. Western Federation convention? A. Yes sir.
- Q. And you met him at convention hall? A. Yes sir.
- Q. And it was quite a usual thing for Mr. Pettibone to be in attendance upon these conventions? A. Whenever his business would permit him to get away for an hour or such a matter he would come over and come in the convention and sit and listen to the transactions of the convention.
- Q. He always manifested an interest in the affairs of the convention? A. Yes sir.
- Q. And was often called upon to do things for different members of the Federation? A. Yes sir, he was always willing and perfectly willing to assist in any way possible, and was acquainted with a great many of the men and assisted them in finding a rooming house and such as that then they came to the city.
- Q. His place was one which was often visited by members of the organization? A. Well, I would say that a great many of them went there to meet Mr. Pettibone, yes sir.
- Q. And his interest in the Western Federation continued up until the time of his arrest, so far as you know? A. So far as I know, yes sir.
- Q. He was always regarded as a friend of the organization by

the members of the organization? A. Yes sir.

Q. And he was a familiar person I presume around the headquarters of the organization? A. Why, he often called at headquarters, yes.

Q. Was he ever called in consultation in any way with reference to matters at headquarters? A. Not to my knowledge, Mr. Borah; not by me. I don't believe that he was ever called into any consultation in regard to the management of the affairs of the organization.

Q. He was called upon at different times to purchase goods or things which the organization desired? A. I might say, Mr. Borah, that when the headquarters of the organization were removed from Butte, Montana, in 1901, we furnished four rooms of an office in the Mining Exchange Building and bought a great deal of the office fixtures from Mr. Pettibone.

Q. Well, there were other instances in which Mr. Pettibone went out to buy things that the members of the organization desired?

A. Yes sir, whenever we desired anything in the office in the way of supplies or some personally.

Q. Well, as president of the organization, you never hesitated to call on Mr. Pettibone for any favor that you desired of that kind? A. No sir; I always felt Mr. Pettibone was perfectly willing and would assist me in any way possible in purchasing anything of that kind.

Q. Do you know J. C. Sullivan, an attorney in Denver? A. No sir.

Q. Don't know him? A. I know of Mr. Sullivan but I never met him personally.

3927 Q. He is an attorney in Denver? A. I know at one time he had been

in Messrs. Richardson and Hawkins's office, that is to the best of my recollection, although I believe now he is practicing law for himself.

Q. When did you first get acquainted with William Easterly?

A. Why, I would say in 1900, about that time, the best of my recollection. I might have met him in -- I would say in 1901, Senator. I might have met him in 1900 as I was in the Cripple Creek district at that time in company with a delegation from the convention and met a great many of the men, and might possibly have met Mr. Easterly.

Q. You afterwards became quite well acquainted with him, I presume?

A. Yes sir. He was an officer of the local union and a delegate at a number of conventions.

Q. And he was one of the parties whom you met at Silver City when you were there in 1905? A. Yes sir, we drove from the hotel up to the mine for the purpose of seeing him.

Q. For the purpose of seeing Mr. Easterly? A. For the purpose of seeing him. I hadn't met him for some time before that.

Q. And during the time of the Cripple Creek trouble you were down there more or less? A. I was down there several times.

Q. And hadn't met Mr. Easterly in regard to the troubles that were prevailing at that time? A. If Mr. Easterly was in the particular camp that I was in I probably met him. He was a very active member back of the affairs of the organization there and was on the relief committee, issuing relief to the members on strike.

Q. Do you know W. F. Davis? A. Yes sir.

3928 Q. Knew him well as a member of the organization? A. I had met

him in convention and knew him as an officer of the union.

Q. He was an active member of the organization? A. Yes sir.

MR. RICHARDSON: Let him finish his answer. Knew him as an officer of what?

MR. BORAH: Of the local union?

THE WITNESS: Yes sir, of the local union, Altman Miners' Union No. 19.

Q. Now did Mr. Easterly or Mr. Davis ever talk to you about Orchard at any time? A. No sir, I have no recollection of either one of the gentlemen ever mentioning Mr. Orchard to me.

Q. No conversation ever had between Mr. Easterly and Mr. Davis and yourself with reference to Orchard? A. No sir.

Q. Either about one subject or another? A. No sir, I have no recollection of any such conversation, Mr. Borah.

Q. Did either one of them ever make any statement to you with reference to Orchard's feeling toward Governor Steunenberg?

A. I don't think so. I don't remember of either of them ever mentioning Mr. Steunenberg to me in connection --

Q. If they had any such knowledge they never conveyed it to you? A. No sir.

Q. And you now know that as members of your organization they had this knowledge all the time, don't you -- from reading their testimony, you stated yesterday you had been reading the testimony here. A. Yes sir, I read the testimony of Mr. Orchard. I have his word for it, as to whether or not he did convey this information to Mr. Easterly and Mr. Davis.

Q. Did you read Mr. Davis's and Mr. Easterly's testimony?

A. Yes sir.

- Q. And you now know that as a fact these men as members of your organization had personal knowledge of Orchard's feeling toward Governor Steunenberg, if it existed, all of the time?
- A. Yes sir, since they testified; I have their testimony for that fact.
- Q. But they never conveyed it to you either directly or indirectly?
- A. No sir, I have no recollection of either of them ever mentioning Mr. Steunenberg or Mr. Orchard to me.
- Q. And you never heard of that fact, did you, Mr. Moyer, until after your arrest? A. The fact of this knowledge?
- Q. The fact of their knowledge of Orchard's enmity toward Governor Steunenberg? A. I never heard of it until the testimony was brought to me in the room down stairs.
- Q. During what time was Mr. Copley a member of your executive board? A. Mr. Copley was elected I believe in 1902.
- Q. And served with you how long, one or two years? A. Served until 1904.
- Q. And did Mr. Copley ever inform you anything in regard to Orchard or his views with reference to the Coeur d'Alene situation? A. No sir, I have no recollection of ever discussing Mr. Orchard with Mr. Copley.
- Q. Now I believe you stated yesterday, Mr. Moyer, that you first met Orchard in January, 1904? A. That is the first recollection I have of meeting him, Mr. Borah.
- Q. Do you recall who introduced you to Orchard?
- A. He came to the headquarters with two men that I was acquainted with and they introduced me.
- 3930 Q. Who were the two men? A. Bert and Connell.

- Q. He was a delegate at that time to that general labor convention? A. Now, just a minute. I have made a mistake, Mr. Borah. Mr. Bert and Mr. Connell was not with him at that time, but he came with other delegates to attend a mass convention there, a number of others.
- Q. You don't recall who it was that introduced you to him?
- A. I don't believe that I had a formal introduction to him at that time. He came to the office during the meeting I believe with fifteen or twenty other delegates, and I met him at that time.
- Q. Now, Mr. Moyer, I understand he came as a delegate from Altman No. 19? A. Yes sir.
- Q. To the general labor convention of January, 1904?
- A. Yes sir, a convention that was called by the president of the Colorado State Federation of Labor.
- Q. That was Mr. Sullivan? A. Yes sir, J. C. Sullivan.
- Q. And this Altman No. 19 was the union in Cripple Creek of which Mr. Davis has been president? A. Yes sir, a union at Altman, Colorado.
- Q. And this was the local union of which Mr. Masterly and Mr. Parker, Adams, Davis and Munster had been members?
- A. To the best of my knowledge they were all members of that union.
- Q. Mr. Orchard was a delegate from that particular union to this labor convention in January, 1904? A. Yes sir.
- Q. And as such delegate you met him there for the first time?
- A. That was the first time that I have any recollection of meeting Mr. Orchard.

- Q. Do you recall that Orchard and yourself were appointed on a ways and means committee together in that convention, both appointed on a committee together in the convention?
- A. Yes sir, we were both appointed on a ways and means committee in the convention or by the convention.
- Q. And who were the other members of that committee, if you remember, Mr. Moyer -- or can you recall them now?
- A. I cannot recall many of them, Mr. Borah, because there was no meeting of the general committee. The meeting was divided into different sub-committees in different parts of the state.
- Q. Were you upon the portion of the sub-committee upon which Mr. Orchard was also? A. No sir.
- Q. But you were both on the same general committee? A. We were both on the same general committee.
- Q. What was the duty of that committee and what were its objects and purposes in the appointment? A. The purpose of the committee was to organize the people, organize our unorganized people into what was afterwards or what at that time was called the Liberty League.
- Q. And was Mr. Orchard in attendance upon the convention pretty generally during its sessions? A. I would think so. I have no recollection as to whether he was, but I would say that he was.
- Q. He was going at that time under the name of Orchard? A. Yes.
- Q. You knew him only as Orchard up to that time and at that time?
- A. Only as Orchard, yes sir.
- Q. I understood you to say yesterday that there was a committee of twenty which called at your room one evening? A. I said

about twenty; I think about twenty, Mr. Borah.

Q. And Mr. Orchard was upon that committee? A. Yes sir.

Q. Was that the same committee that I have been referring to or was it a different committee? A. It was not a committee selected by the convention. It was simply a committee that I called of the delegates representing our local unions. That is, the Federation local unions. They came to headquarters and discussed with me the situation concerning the Western Federation of Miners in the state at that time.

Q. And upon that committee Mr. Orchard acted and was present?

A. Yes sir.

Q. Did you have any conversation with Mr. Orchard at this time as to his previous or prior history, where he had lived and worked, or anything of that kind? A. No, I had no conversation with him at that time other than the conversation that occurred at the meeting of this body of delegates.

Q. But you know him well and was entirely familiar with his whereabouts so far as Colorado was concerned? A. I knew who he was, Mr. Borah, knew he was there representing one of our local unions from the Cripple Creek district.

Q. Now the next time you saw Mr. Orchard was at Cripple Creek during the attempted railroad wrecking case? A. Yes sir, a month and a half after the meeting in Denver.

Q. And he was present at that time and in company with yourself and others who had that matter in charge? A. Yes sir.

Q. And I believe you stated yesterday he seemed to be taking an active part in the matter so far as you observed?

A. He did, seemed very willing to do whatever he possibly could,

tendered his services to assist in the preparation of the case.

- Q. Was in consultation with you at different times, I presume, and with the attorneys? A. He met with others in the attorneys' office and in the office of the Cripple Creek Miners' Union.
- Q. And you became better acquainted with him there than you had prior? A. Yes sir, I met him almost daily during that fifteen or twenty days.
- Q. You still knew him as Orchard? A. Yes sir.
- Q. And as an active member of the Western Federation? A. Yes sir.
- Q. And the next time you met Mr. Orchard was on March 20th, I believe? A. About March the 20th.
- Q. That was just prior to your getting ready to go to Ouray?
- A. Yes sir, I was making arrangements to go to Ouray at that time.
- Q. He came to headquarters at this time in company with Mr. Bert and this other gentleman? A. Yes sir.
- Q. And you recognized him, of course, as the man whom you had seen at the labor convention and at the trial? A. I did, and I might say that I met him during that time in the Cripple Creek district at a meeting of the delegates that was called by the Liberty League, that is, attending to his duties as a member of that committee appointed by the Denver convention.
- Q. And it was at this time, on March 20th, 1904, or thereabouts, that it was finally arranged that he should go with you down to Ouray? A. Yes sir, I believe he decided to go about the 21st.
- Q. You expected possibly some trouble down there? A. I did, yes; that is, I expected trouble on the road down there and possibly trouble after I got there.

- Q. And you were desirous of having some one accompany you for that reason? A. I was, yes sir.
- Q. Had you had anyone else in mind prior to Orchard's coming into the room? A. There was a number of men around Denver at that time and I intended to get one of them, if no one came there and volunteered to go or was going that way.
- Q. And after Orchard's coming you took Mr. Orchard and did not ask anyone else to accompany you? A. No sir, I did not ask anyone else. I did not think it necessary, Mr. Borah, to have more than one, and for that reason I asked no others.
- Q. But you did anticipate possible personal violence to yourself on that trip? A. Yes sir. It was my intention to employ someone to go with me if Mr. Orchard hadn't volunteered to go.
- Q. Now, as I understand, you had some firearms, revolvers and a couple of sawed-off shot guns? A. Yes sir, I purchased two what they call take-down shot guns, and we each had a revolver.
- Q. You had Mr. Pettibone purchase those shot guns for you?
- A. I did, sir. I called Mr. Pettibone over the telephone and asked him to purchase for me two of those shot guns.
- Q. One for yourself and one for Mr. Orchard? A. Yes sir.
- Q. And you had some firearms beside that, did you, Mr. Meyer?
- A. I had a .32 Colt's automatic revolver.
- Q. And what day did you leave for your trip to Guray, do you remember? A. I left on the evening of the 23rd.
- Q. Accompanied by Mr. Orchard, and anyone else? A. No sir, we were alone.
- Q. You travelled pretty closely together, I presume?

- A. Yes sir, we occupied the same seat going.
- Q. How long did it take you to go down from Denver to that point, to Carey from Denver? A. We arrived there on the evening of the 24th about five o'clock.
- Q. You left on the evening of the 23rd, do I understand?
- A. Yes sir.
- Q. And arrived there the next evening? A. About five o'clock.
- Q. And you were on the train during the night? A. Yes sir, during the night and one day.
- Q. Did you have any general talk with Orchard at this time as to his previous history, where he had lived and worked, and so forth? A. Why, we talked pretty generally of the different mining camps throughout the west and the places that he had been and places that I had been, yes sir.
- Q. Did he tell you that he had lived in the Coeur d'Alenes?
- A. I believe he did, yes sir.
- Q. Did he tell you anything about the troubles in the Coeur d'Alenes in 1899? A. I think probably that he did, Mr. Borah. I would say that he did, because that was a matter that would naturally come up if a man was there at that time.
- Q. Do you recall about his telling you how he came to leave the Coeur d'Alenes? A. He told me that he left shortly after the trouble there and went over the hills, as I understood him to tell me, that he went over the hills out of the Coeur d'Alenes at that time.
- Q. Did he make any reference to Governor Steunenberg to you?
- A. I think he did, I think he discussed the acts of Governor Steunenberg in comparing him with the governor that we had at

that time in Colorado.

Q. That is your best recollection? A. That is my best recollection. Now I have no definite knowledge or recollection of that, Mr. Borah, but I would say that he did because we talked about the general situation, and I think that that undoubtedly would occur to me anyhow to compare the action of the two governors at that time.

Q. Do you now recall that he said anything which led you to infer that he held in any personal animosity toward him? A. He didn't say anything in regard to any personal animosity.

Q. Did he make anything in the nature of a threat, or anything of the kind, that he would yet get even with him? A. Not to me, Mr. Borah.

Q. Did he say anything about his having forfeited his interest in the Hercules mine by reason of his leaving? A. I don't think he said anything to me about having forfeited his interest. He told me about having some interest, I don't know the interest, in the Hercules mine, and if he had been permitted to stay there he probably would have got it back; as near as I can recollect, that was his conversation.

Q. But he didn't say anything in this connection at all with reference to the governor, that is, I mean with reference to the governor being the cause of his losing his interest in the Hercules? A. I don't remember that he expressed himself in that way. The trouble, if I remember correctly -- he said that owing to the trouble there he had lost his interest in it.

Q. You have no recollection of Orchard ever at any time, ever said to you upon any of these trips, or any time when you were

with him, anything in the way of a personal threat against Governor Steunenberg? A. No sir, not to the best of my recollection at this time.

Q. You have no recollection of his ever having said to you that Governor Steunenberg caused him to lose his interest in this Hercules mine, have you? A. Not Governor Steunenberg, no sir.

Q. How did you carry these shot guns, in your valise? A. Carried them in our suit cases. Each had a suit case and the shot guns were taken down and placed in the suit case.

Q. Did you expect any trouble on the train possibly?

A. I did, yes; yes sir.

Q. Had Pettibone ever purchased any firearms for you or members of the organization before this to your knowledge? A. He had purchased this automatic Colt's revolver for me, or a Lather revolver for me and I traded it later for the Colt's I have told about. He purchased that for me, yes sir.

Q. Did you send Orchard over to Pettibone's to get these or did you telephone for them? A. No sir, Pettibone brought them around with him on the afternoon of the 21st of the month.

Q. Was Orchard there when he brought them there? A. Orchard was there, yes sir.

Q. Did he seem to know Pettibone or did you introduce him?

A. Why, it occurs to me that he was acquainted with Mr. Orchard at that time. I am not positive, though. If he was not, I introduced him when he came into the office.

Q. Your recollection doesn't serve you whether or not you introduced him or whether he was acquainted? A. No sir, it does not at this time. I wouldn't care to be sure that I introduced

him or whether he was acquainted with him before that.

Q. Did Pettibone and Orchard at that time enter into any conversation? A. We all three engaged in conversation in regard to carrying the guns in the suit cases.

Q. Now, as I understand, Mr. Moyer, in a little over two months you had met Orchard three times, once at the national convention or the labor convention, once at the trial and on this occasion when you were going to Ouray? A. Yes sir, once in February and once in March and once in January.

Q. And all these occasions were occasions in which the Western Federation of Miners as an organization was somewhat interested?

A. Yes sir.

Q. And upon the last occasion he was chosen to go with the president of the organization down to Ouray? A. Not necessarily chosen, Senator. He simply came there, as I have related, and asked my advice as to going to some part of the jurisdiction of the organization and securing employment and decided to go with me. I did not ask him to go -- well, I asked him to go with me if he decided to go there, and he had decided to go there.

Q. I understand, however, after he came there that you finally did select him to accompany you upon this trip? A. Yes sir.

It had been my intention to employ someone to go with me, and he coming there and determining to go to Ouray or Silverton I asked him, I did select him to go with me.

Q. Well, Mr. Orchard went with you down to Ouray, Mr. Moyer?

A. Yes sir.

Q. Did he occupy the same room in the hotel with you at Ouray?

A. Yes sir.

Q. For how long did you occupy the same room at the hotel, how long were you there together? A. We were there two nights, that is, we arrived on the evening of the 24th and I was arrested in the forenoon of the 26th.

Q. Were you talking with Mr. Orchard over the telephone about the time that you were arrested? A. About the time that I was arrested?

Q. Yes. A. After I was arrested and had been taken to Telluride I called up Mr. Orchard on the telephone.

Q. You were not talking to him then previous to your arrest or was he in immediate company with you at the time of the arrest?

A. No, I was in the room at the hotel alone when Sheriff Corbett came to the hotel to make the arrest. Mr. Orchard was out somewhere about the city, I don't know where.

Q. Had you been talking to him previous to that a few minutes anywhere? A. Not to my recollection, no sir.

Q. You have no recollection of that? A. No sir, I have no recollection of talking -- he had just left me a short time before that, Senator.

Q. Had he been with you pretty generally and pretty closely from the time you arrived until you were arrested? A. He had been with me and the other men there, yes sir, around the office of the local union and in the hotel rooms.

Q. After you were arrested you afterwards telephoned him?

A. I telephoned him on the 28th to the best of my recollection.

Q. Where did you find him? A. I found him at Silverton.

Q. And did he have anything to do with taking your shot gun back

to Denver? A. Yes sir, when he went back he took my shot gun and some papers that I asked him to take out of my suit case after the arrest was made, and a specimen that Mr. McLane, the secretary of the union, had given me. He brought them back to Denver some time in the month of April.

Q. When did you next see that shot gun after you were arrested, Mr. Moyer? A. After I was arrested?

Q. Yes, when did you next see it? A. I next seen it in ~~judicium~~ July when I returned to Denver, in my room in the Granite Building on 15th and Larimer Streets.

Q. Orchard took possession of it then and the first time you saw it was in July after you were arrested in March? A. Yes sir.

Q. What became of the shot gun which Orchard had? A. He has it to this time as far as I know.

Q. Did you give him that shotgun? A. I never asked him for the shotgun. I intended that he should have it when I purchased it for him. Do you know of your own knowledge, or from any conversation which you had with Orchard, when he left and went back to Denver? A. I have been informed since, not by Mr.

Orchard, but I was informed later on that he came back some time the fore part of April, a very short time after the arrest. I don't think he stayed there long, to the best of my recollection.

Q. Only a few days after your arrest? A. I couldn't say exactly as to the time, I wasn't in communication with him after I was taken in charge by the military, but I have understood since he came back a few days after the arrest, that is, some time the fore part of April.

- Q. Did you see him again prior to July? A. Prior to July?
- Q. Yes. You didn't see him at any time while you were under arrest? A. No sir.
- Q. How often did you next ~~meet~~ see Orchard? A. I seen Orchard in the month of June, 1908.
- Q. 1908? A. Yes sir.
- Q. You didn't see him at any time after you were arrested until June 23rd, 1908? A. No sir.
- Q. Is your recollection clear upon that, Mr. Moyer? A. Why, I believe it is, Senator. I am perfectly willing under oath to say that I did not see Mr. Orchard from that time until the month of June, 1908.
- Q. Did you meet or see Mrs. Orchard in the meantime?
- A. I have never met Mrs. Orchard.
- Q. Now there was nothing arose during this time which estranged your friendship to Mr. Orchard in any way was there?
- A. Not at all. I know nothing further in regard to Mr. Orchard during that time than I had at the time I left him in Cury.
- Q. Nothing arose which caused you to have any suspicion as to his loyalty either to you or the Western Federation of Miners?
- A. No sir.
- Q. And you met him again on the 23rd day of June and that was the time you went down and took lunch with him? A. Yes sir.
- Q. At the restaurant? A. Yes sir.
- Q. Did you talk over matters of your experience and the arrest, and so forth, at that time? A. I think so, during the short time that we were together, we talked over the time that we were parted in Cury and the conversation was general in

regard to the trouble in the Gripple Creek district.

- Q. Did he tell you what he was going to do? A. At that time?
- Q. Yes. A. Why, he told me I believe that he at that time was canvassing for insurance, as I remember it, and that he expected to go out in the country during the fall.
- Q. When you left him at this restaurant or down the street where you parted I believe that was the last time you have ever seen him at all? A. That was the last time that I have seen Mr. Orchard. I haven't seen him since.
- Q. Now, Mr. Moyer, you say Johnny Neville came to your headquarters at one time and asked you for some money? A. Yes sir, he came to the headquarters of the organization in the fall of 1904.
- Q. Had Neville ever been a member of the Western Federation of Miners? A. Not to my knowledge.
- Q. He had kept a saloon in Gripple Creek, hadn't he?
- A. I found out after that, after investigation, that he had kept a saloon in Independence, I believe.
- Q. Did he make any claim that he had been a member of the Federation when he came to headquarters? A. No sir.
- Q. And had you ever seen the gentleman before? A. Not to my knowledge.
- Q. Did you know who he was? A. No sir.
- Q. Had anybody told you about him? A. No sir.
- Q. Did you expect his visit? A. No sir.
- Q. What did he say to you when he got there? A. He came into the office and told me that his name was Neville, and that he was the man that had been brought back some time before that from

Wyoming suspected for the explosion of the Independence depot.

Q. What else did he say? A. He went on to relate the fact that he had been brought back at a loss, had been forced to pay some amount for counsel and that he thought the Western Federation of Miners ought to reimburse him for that loss.

Q. Did he tell you why he thought that the Western Federation of Miners ought to reimburse him because he had been arrested by the State? A. He said through the strike -- if it hadn't been for the strike by the Western Federation of Miners there -- that he thought they were responsible for, he wouldn't have had this trouble with the authorities.

Q. He thought by reason of the strike the Federation ought to reimburse him for his loss by reason of this arrest?

A. Yes sir.

Q. Well, you already had a reward out for \$5,000 for the men who did that? A. Yes sir, we did.

Q. Was that reward published? A. Yes sir, generally published in the Press.

Q. Did Mr. Neville say anything about that? A. He did not. I don't know whether he knew it or not.

Q. Did you say anything to him about it? A. I think probably that I did. I know that we talked over the matter of the Independence explosion.

Q. Did he tell you he was with Orchard on the night of the explosion? A. He did. He told me that he and Orchard had left I believe the same day of the explosion.

Q. Did he tell you about their trip into Denver immediately after the explosion? A. He told me that they had come on to Denver and went from there into the State of Wyoming.

- Q. And did he tell you about stopping in Denver when they came in on their way to Wyoming? A. I don't remember that he told me of the length of time that they stopped, simply told me they came there, on their way to Wyoming came through Denver.
- Q. Did he tell you where they went in Wyoming? A. Why, he told me they had went up -- I can't call the name, Senator -- Thermopolis, if I remember correctly. He said they had been up, and he had left his team, if I remember correctly, up near Thermopolis somewhere in Wyoming.
- Q. When did you first see, through newspaper account or otherwise, any reference to Orchard in connection with the Independence depot explosion? A. Why, I think it was some little time after that.
- Q. It was pretty shortly after the explosion that the papers published the fact that Neville and Orchard were suspicioned, wasn't it? A. I don't think it was right after that, Mr. Borah, but some little time after.
- Q. It wasn't over a couple of weeks, was it, Mr. Moyer?
- A. I don't think so; possibly a couple of weeks.
- Q. Then along about the middle of June or a little thereafter it was known, through newspapers, the press and otherwise, that Neville and Orchard were both suspicioned of this crime?
- A. Yes sir.
- Q. Had the Western Federation of Miners sent out anyone to investigate in regard to the matter? A. I don't think so. I don't think we employed any detectives to make an investigation.
- Q. Did you have any of your organization or any of your men

make any investigation with reference to Orchard's whereabouts at that time, and whether or not he was -- A. I don't think so other than I was informed afterwards through a general discussion among the delegates attending that convention that they would keep a lookout for any suspicions or anyone that discussed in any way that might create a suspicion as to whether or not they were connected with it.

Q. Did the Western Federation of Miners as an organization ever do anything in the way of ferreting out the responsible party for this crime other than the offering of the reward? A. They never employed anyone to actually take the field to find anyone that might have been responsible for it.

Q. Did you undertake to satisfy yourself as to Orchard's connection with this affair by any means? A. Orchard's --

Q. Connection with the Independence depot explosion?

A. I don't think so, no. No.

Q. Did you have any reason to believe that he was connected with it or not? A. I did not. I had no suspicion at that time. I had no reason to suspect Mr. Orchard of having had any connection with the Independence depot explosion.

Q. Did you know what had become of Steve Adams in the meantime?

A. I did not. I didn't meet Mr. Adams at that time until later on in the fall.

Q. Did you make any effort to fasten this upon anyone, in the way of ferreting out the responsible parties, either Steve Adams, Orchard or anyone else, other than the offering of this reward? A. We did not. We believed that was the duty of the regularly elected or appointed officers of the state of

Colorado, and we were willing to assist them by the offer of this reward as an incentive for them and other private detective agencies to take up the work.

Q. It was after you had learned of Orchard's being suspected of this crime that you had dinner with him in June, 1908?

A. Yes sir.

Q. Did you have any conversation about the Independence depot explosion at that time? A. Why, I don't -- I think probably we did, yes.

Q. Do you recall when it was? A. No, I do not, other than Orchard told me that he and Neville had been suspected of it and they had left the country together at that time and went up into Wyoming.

Q. Did he tell you why they left the country at that time?

A. I had already been informed as to that, but I don't know but what he might have possibly told me at that time.

Q. Did he tell you it was by reason of the ~~murder~~ explosion of something else? A. That he had left?

Q. Yes sir. A. No, he told me he had left before the explosion, and knew nothing whatever about it.

Q. Did you have this conversation with him in regard to the Independence explosion at the time you had the dinner with him in July, 1908? A. I think the matter was mentioned. I wouldn't be positive. We were only together a short time, as I have already sworn to, and the conversation could not have been very lengthy.

Q. Your recollection is, however, that the subject matter was mentioned? A. I think the subject matter was mentioned. It

would naturally be mentioned at that time.

- Q. Did you tell him about Neville having been to your office for this money? A. No, not at that time, Neville hadn't -- yes, that was right, that was later -- yes sir, I did.
- Q. You told Orchard then that John Neville had been to your place and asked for some money in connection with this matter of the Independence depot explosion? A. Yes sir, I said John Neville had been to my office in the fall of 1904.
- Q. What did Orchard say in answer to that? A. Orchard agreed with Mr. Neville that he had been at a considerable loss in regard to the fact that he had been taken and brought back from Wyoming and been compelled to go back to Wyoming to bring back his team.
- Q. Did he endorse the proposition of the Federation doing something for him? A. No, he did not at that time.
- Q. But at any rate Orchard and yourself talked over in a general way the Independence depot explosion and the fact that Neville had been arrested, and the fact that he had come back, and the fact that he had been to headquarters and asked for money? A. I don't want to be understood, Borah, or Mr. Borah, excuse me, or swearing positively to that conversation. But to the best of my recollection there was something said about that matter.
- Q. That is your best recollection? A. I would believe that that matter was touched upon as it had transpired since I had last met Mr. Orchard, and it was a matter which was considered of a great deal of importance, of course.
- Q. When did Mr. Neville die, Mr. Moyer, if you know?

A. I have no knowledge of his death, Mr. Borah.

Q. Now, with reference to your travelling -- A. Yes -- I say I have no knowledge of the death, I don't want to be understood as not knowing of his death. I have heard of his death since I have been here in Idaho through the Newspapers.

Q. Taking up your whereabouts during the year 1905, for a few moments, Mr. Meyer, you made a trip to the northwest that year visiting the unions? A. Yes sir.

Q. About what time were you in Montana and Butte? A. I was in Montana in the month of October.

Q. You left there sometime about the fore part of October, didn't you? A. I left headquarters, to the best of my recollection, about the 15th of September, and returned to Denver the 31st of October. I was in Montana and British Columbia during that entire time with the exception of the time I spent in Oregon, two or three days, and two or three days in Idaho.

Q. You were in Butte, Montana, then during the fore part of October? A. Yes sir.

Q. Did you have any communication from there at that time with Mr. Simpkins? A. Not to my knowledge.

Q. Did you see Mr. Simpkins on that trip at all? A. No sir.

Q. Nor didn't hear from him? A. Not to the best of my recollection at this time. I wouldn't be positive. I might possibly have received a letter from him, but I don't remember of any such letter.

Q. Where did you go to direct from Butte, if you remember?

A. From Butte I went direct to Greenwood or --

Q. British Columbia? A. It wasn't Greenwood, Mr. Borah. I think

I will think of it.

- Q. Was it in British Columbia? A. It was in British Columbia, you sir, just a few miles from Greenwood.
- Q. No matter about the particular locality, it was British Columbia? A. Yes sir.
- Q. And from British Columbia where did you go? A. I came back to Spokane from British Columbia.
- Q. Did you go to California that year at all? A. That year?
- Q. Yes. A. 1905! Yes sir.
- Q. When did you go to California? A. I left Denver the 3rd of August.
- Q. And when did you return from California? A. The 21st of August.
- Q. On the 21st day of August? A. Yes sir.
- Q. Did you return to Denver on that day? A. I did.
- Q. How long did you remain in Denver? A. I remained in Denver until the 15th or 16th of September.
- Q. Was Mr. Haywood in Denver during all of that time?
- A. As far as I know he was, yes sir.
- Q. Was Mr. Pettibone there during all of that time?
- A. I have no way of knowing, Mr. Borah, whether he was in the city or not.
- Q. Did you see Mr. Pettibone at any time during that period?
- A. To what period do you refer, Mr. Borah?
- Q. I mean from the time you returned from California until you left. You say you returned from California the 21st?
- A. I think probably I did. I don't remember just exactly the time, I might have met him there and I think possibly I did

meet him during that time.

- Q. Were you about headquarters pretty generally during that period? A. I think most all the time, I would say every day, unless it was a day that I was confined to my room. I was not well at that time and probably might not have been at the office each day during that time.
- Q. Did you have any union at Caldwell, has the Western Federation any organization there at all? A. No sir, there is no mining there to the best of my information.
- Q. There is no representation of your organization there at all in the way of an organization? A. No sir.
- Q. Did you see Simpkins in Denver in December, 1905? A. I did.
- Q. Did you have a talk with him there about the conditions in Idaho at that time? A. Why, the conditions of the different districts were discussed and reported on by the different members of the board at the meeting of the board, yee sir.
- Q. Did he tell you about what particular point he had come from to Denver in Idaho? A. To the best of my recollection he came from Spokane to Denver at that time.
- Q. Did he tell you about coming to Denver on Orchard's ticket? A. No sir.
- Q. Did you learn that fact at all? A. I did not.
- Q. When did you first know that fact, if at all? Did you ever know it? A. I have never had any information to that effect, that he came on Mr. Orchard's ticket.
- Q. Did he say anything about seeing Orchard in Idaho? A. No sir, he said nothing to me relative to Mr. Orchard at all at that time.

Q. Did you learn of the fact that Orchard was in Idaho at that time or about that time, either directly or indirectly, from anyone? A. No sir, I knew nothing about his whereabouts, Mr. Borah, after I met him in June until he was arrested in Caldwell.

Q. Mr. Simpkins got some money when he was there in December?

A. Mr. Simpkins got his transportation and his per diem for services rendered as a member of the executive board at that time.

Q. Did you know of his getting a draft or having one sent to him about the 31st of December? A. No sir, I have no knowledge of any such draft.

Q. How could that draft be drawn without your signature, or money out of the treasury? A. There was no draft drawn or any check drawn to my knowledge for a draft at that time.

Q. If a draft was sent by the secretary-treasurer of the W. F. K. your signature should have been on it, shouldn't it?

A. Not on the draft, no sir.

Q. Should it have been on the check that provided for the draft?

A. Yes sir, if there was a check for which the amount of the draft was drawn from the bank it would have my signature.

Q. You know nothing about that draft at all? A. No sir, I have no knowledge of the draft.

Q. Have you any knowledge from anyone in regard to it?

A. I have heard of the draft in evidence in this court since this case has been heard.

Q. That is the first you ever heard of it? A. Yes sir.

Q. You did not sign any check for the money to be covered by

that draft? A. No sir; I signed the check for Mr. Simpkins, to the best of my recollection at this time, on the 11th of that month for his transportation and per diem.

Q. How much was that? A. I am not positive as to the amount. It would be something, I would say, over \$200 for the services he had rendered at that time and his transportation.

Q. Was he paid money or do you know how he took it?

A. It was paid in check if he received his money there at that time; I believe he did.

Q. Do you know whether the check was cashed at the bank at that time? A. I have no knowledge as to that. The check was countersigned by me and left my office and I know nothing as to what was done with it after that time.

Q. Have you got here any papers, Mr. Meyer, which you read and to which you referred yesterday in your testimony, as informing you that the Western Federation was liable to be implicated in this matter down here? A. No, I have none of them, Mr. Borah, at this time.

Q. Do you recall what newspaper it was? A. Why, all three of the Denver newspapers had accounts of it.

Q. Do you recall any particular article of any particular date which impressed it upon your mind as being the article which caused you to believe that they were to be implicated?

A. I couldn't say as to the article read, Mr. Borah, but I remember of the reference being made I think on the second day after the assassination.

Q. Do you remember in which of the publications in Denver it was?

A. I think it was particularly in the Denver Republican.

Q. You did not preserve the paper? A. It might be on file and I think possibly it would be on file at headquarters, as we kept such papers as that.

Q. You haven't it so that you can produce it at this time?

A. Not that I can say positively at this time whether it would be possible to secure it or not.

Q. Could you secure that newspaper for us, Mr. Moyer, before this case closes? A. I think possibly that the files of the papers could be secured from the offices of the paper in Denver.

Q. The ones to which you referred when you were giving your testimony yesterday as causing you to believe that the Western Federation was to be implicated? A. Yes sir, the papers for the four or five days after.

Q. You think you can possibly secure them? A. I think so. I think the editors of the papers would be kind enough to forward them here if we would send for them in all probability.

MR. BORAH: I would like to have you do so if you can.

MR. DARROW: We will try and send for the papers.

Q. Now you say, Mr. Moyer, that you read in a newspaper that Hogan was suspected of the killing of Governor Stearnberg?

A. Yes sir, I read in the paper that he was held as a suspect for that offense.

Q. And did that article which informed you that he was suspected also state that he was a member of the Western Federation?

A. I don't remember that it did right at that time; now it occurs to me that either at that particular date or later it was reported that he was, that he had a card of the Western

Federation of Miners, or that he had a postal card which had been addressed to me which was found in his possession.

Q. Now you read in the paper some time after that that there was a postal card found in his pocket addressed to you?

A. I don't believe it was in his pocket; if I remember right it was in his suit case or in his room that the card was found.

Q. That was, as I understand it, one of these leather postal cards?

A. Well, I don't know whether it is one of the leather postal cards or one of the board, pasteboard postal cards used for that purpose.

Q. But one of those postal cards -- souvenir cards as they are called? A. I believe that was as it was reported in the press, yes sir.

Q. That was in his pocket and addressed to you, or in his suit case? A. Yes sir.

Q. And you saw that in the paper? A. I saw it in the newspaper.

Q. Can you give me the date about that you saw that in the newspaper? A. No, I cannot, but it was some time I believe before the 4th of the month.

Q. It was after you had seen in the paper that he was suspected?

A. Yes sir.

Q. And after he was being detained? A. Yes sir.

Q. Now you knew when you saw that this was Hogan, or saw the name of Hogan, you knew that was Orchard, did you? A. I didn't know it, no, but I talked with Haywood and others who came to the office, and the fact that he was registered from Denver created a question in our minds as to whether or not it was not the same Tom Hogan that had been formerly Harry Orchard.

- Q. And was that the only knowledge which you had to connect Hogan with Orchard? A. That was the only knowledge until later when we received a telegram from Mr. Simpkins.
- Q. The only knowledge then that you had that Hogan was Orchard was the fact that he was registered from Denver?
- A. Yes sir, I believe that was the only knowledge that we had at that time as to whether or not it might not have been the same man.
- Q. Did you set in motion any method of ascertaining whether or not this Hogan was Orchard prior to hearing from Simpkins, or take any action at that time? A. No sir, only to wait for developments.
- Q. You say you waited for developments? A. Yes sir.
- Q. You had in mind then the probability that it was Mr. Orchard?
- A. We discussed it as to whether or not it might not be the same Tom Hogan that had formerly been Mr. Orchard, Harry Orchard.
- Q. You received a telegram from Simpkins -- upon the 4th, was it not? A. On the evening of the 4th, yes sir.
- Q. Did you telegraph back to Mr. Simpkins? A. No sir.
- Q. Had you ever received a telegram from Simpkins before in cipher? A. Not to my knowledge, not before from Simpkins. We had received telegrams from officers of the local unions and members of the executive board.
- Q. You never had received any communication of that kind from Mr. Simpkins? A. Not to my knowledge.
- Q. Now, this telegram from Mr. Simpkins reads, according to this translation, "Can't get a lawyer to defend Hogan": Is that the correct translation? A. That was not the translation

that I made at that time, Mr. Borah.

- Q. Do you regard it now as the correct translation?
- A. I haven't had the telegram in my possession since I left the headquarters to come to Idaho, and I am not positive as to whether that is the correct translation or not. In fact, I have never been satisfied as to the correct translation or meaning of the telegram.
- Q. This is the translation, as I understand, Mr. Moyer, which was put in evidence here as the translation of the telegram by your attorneys, that is, "Can't get a lawyer to defend Hogan".
- A. The way I translated the telegram, Mr. Borah, was, "Can I get counsel for Hogan?"
- Q. Well now, Mr. Moyer, can you take your ritual and translate that telegram, "Can I get a lawyer to defend Hogan?" A. Let us have the ritual here. I might say it is possibly translated correctly at this time, Mr. Borah.
- Q. Now take that just a minute. Here is the telegram. "W. D. Haywood, Pioneer Bldg., Denver, Colorado. Ten, standing for the letter o? A. Yes sir.
- Q. Twenty standing for the letter a? A. Yes sir.
- Q. Thirteen, standing for the letter n? A. Yes sir.
- Q. ^{Five} ~~Eight~~, standing for the letter o? A. Yes sir.
- Q. Twenty-six standing for the letter t? A. Yes sir.
- Q. Seven standing for the letter g? A. Yes sir.
- Q. Fifteen for the letter e? A. Yes, correct.
- Q. Twenty-six standing for the letter t again? A. Yes sir.
- Q. Twenty standing for the letter a? A. Correct.
- Q. Two standing for the letter l? A. Correct.

- Q. Twenty standing for the letter a again? A. Yes sir.
- Q. Eighteen standing for the letter w? A. Correct.
- Q. Twenty-two standing for the letter y? A. Correct.
- Q. Three standing for the letter i? A. Three for i, yes sir.
- Q. Fifteen for the letter e? A. Correct.
- Q. Twenty-five for the letter r? A. Yes sir.
- Q. Twenty-six for the letter t? A. Correct.
- Q. Five for the letter o? A. Correct.
- Q. Eight for the letter d? A. Yes sir.
- Q. Fifteen for the letter e? A. Correct.
- Q. Four for the letter f? A. Yes sir.
- Q. Fifteen for the letter e? A. That is correct, yes sir.
- Q. Thirteen, letter n? A. Correct.
- Q. Eight, letter d? A. Eight, correct.
- Q. Nineteen, letter h? A. Nineteen is correct.
- Q. Five, letter o? A. Five is correct.
- Q. Seven, letter g? A. That is correct, yes sir.
- Q. Fifteen, letter e? A. That is correct.
- Q. Thirteen letter n? A. Correct.
- Q. Twenty, letter a? A. Yes sir.
- Q. Thirteen, letter n? A. Yes sir.
- Q. Sixteen, letter s? A. That is correct.
- Q. Now, that being a complete translation, if that is correct, reads "Cannot get a lawyer to defend Hogan." Is there any correction which you would like to make in it? A. I don't think so. I think we have correctly translated it now.
- Q. Now there isn't a thing in that telegram except the statement then "Cannot get a lawyer to defend Hogan"? A. No sir.

- Q. Had you heard from Simpkins prior to this in any way in reference to defending Hogan? A. No sir, we had had no communication from Simpkins in regard to the matter.
- Q. Do you know why Mr. Simpkins sent you that kind of a telegram, "Cannot get a lawyer to defend Hogan" on the 4th day of September -- or 4th day of January? A. I do not.

- Q Did you ever talk to Jack Simpkins about this telegram?
- A Talk to Jack Simpkins about this telegram?
- Q Yes. A No sir, I have not seen him since the receipt of that telegram.
- Q Did you communicate with him by letter or telegram?
- A I think I wrote him a letter from Chicago.
- Q Did you receive an answer? A I don't think so.
- Q Did you have any doubt in your mind at that time about that telegram being from Jack Simpkins? A I did have serious doubts, Senator Borah.
- Q Why didn't you communicate with him and find out? A I was just as careful about communicating with him at that time as I was with having him send telegrams.
- Q You was not afraid of his loyalty to the Federation? A No sir, I never was.
- Q Did Jack Simpkins come to Denver after sending this telegram?
- A No sir.
- Q Did he make any report to the Western Federation of Miners as to why he had sent the telegram? A Not to me, no sir.
- Q The only thing you ever heard from Jack Simpkins in regard to this matter is this telegram? A I would not say. I might have received letters from Mr. Simpkins -- or, do you mean right at that time or later?
- Q I mean that you have never received any word from L. J. Simpkins in regard to this subject matter? A No sir, not

especially as to this subject matter, I received possibly a letter from him.

Q What are the duties of a member of the executive board for a certain district in a matter where the Federation is vitally interested? A A member of the executive board is authorized to take full charge of any trouble, or anything occurring in his district in which the organization is interested.

Q And he would be the party to whom a member would go in that particular district in a case of vital importance? A Yes sir.

Q Well, after you received this telegram from Mr. Simpkins you took it up to Mr. Haywood, did you? A Mr. Haywood was in his office, and he received it.

Q The telegram was to Haywood? A Yes sir.

Q And he received it and brought it to you? A Yes sir.

Q And he brought it to you? A Yes sir.

Q And then you got into consultation in regard to it?

A We discussed the telegram and spent some little time that evening in an effort to translate it.

Q Did you ever try to get the original of the telegram at the Spokane office? A I don't think so. Not to the best of my recollection at this time.

Q Did you make any communication through any lawyer, or in any other way with Jack Simpkins in reference to the question of whether or not Orchard was really guilty of this offense before you finally took up his defense and paid an attorney?

A Just repeat that question.

Q Did you have any communication with Jack Simpkins through an attorney or otherwise with reference to the question of what he knew about Hagan's connection with this affair before you took up his defense and paid his attorney? A It is my opinion that Mr. Simpkins wrote a letter to headquarters in regard to the matter.

Q Have you that letter? A It was not to me personally, and if it came to headquarters it was either to Mr. Murphy or to Mr. Haywood.

Q You did not get the letter? A No sir, I don't remember of having seen the letter.

Q You have not seen such a letter? A No sir.

Q You don't know whether Jack Simpkins had ever been called upon to explain what he knew about Hagan's connection with this affair, with the assassination of ex-governor Steunenberg, prior to the time you paid his attorneys? A Other than the information we obtained from the attorney who he selected and who came there.

Q Now, this telegram was received on the evening of the 4th and on the morning of the 7th Mr. Haywood sent a telegram directing the employment of Mr. Nugent? A I am not positive as to the date of the telegram, but it was about that time.

Q Three days after the reception of the telegram from Mr. Simpkins, Mr. Haywood telegraphed Mr. Hanlon to employ Mr. Nugent to look after the Western Federation? A Yes sir, at whatever

date is shown by the telegrams.

Q At that time there had been no charge made against the Western Federation of Miners at all except some newspaper reports?

A Only through the newspapers, yes sir.

Q There was no charge lodged against any member of the Western Federation of Miners, unless it was Orchard? A Not directly, no sir. Indirectly, the organization and certain of its officers, to the best of my recollection was mentioned as having some connection with it or being responsible for it.

Q You were not interested in this matter in any way, shape or form, unless it was by reason of the fact that Orchard was a representative of your organization? A If it was Orchard, he was charged with a crime, and we believed it was done for no other purpose than to connect the Western Federation of Miners with it.

Q And you had no reason to act in the matter except because that Orchard was a member of your organization and you were taking up his defense for that reason? A That was the only reason we had.

Q Now, did you make any effort to satisfy yourself, as President of the organization, whether or not this man Orchard was really guilty of this offense, of the assassination of ex governor Steunenberg, ~~was~~ before you started upon his defense?

A No, we expected to determine by the preliminary examination whether or not there was evidence sufficient to hold Mr. Orchard for the charge of assassinating ex governor Steuner-

berg.

Q Did you believe that you could protect the honor and good name of the Federation by defending a man who had actually killed Frank Steunenberg? A I did not believe that Orchard had had anything to do, at that time, with the assassination of ex-governor Steunenberg.

Q Did you make any effort to ascertain from Jack Simpkins, the man who was in charge of the situation here, as to what knowledge he had of that matter? A I believe Mr. Simpkins wrote a letter to Mr. Murphy or Mr. Haywood, or possibly myself,-- I would not say at this time positively but that I received a letter from him in Chicago in regard to the matter.

Q Now, Mr. Miller came down there upon the 30th of January, 1906? A About that time, I think, about that time.

Q He must have brought some communication from Mr. Simpkins in regard to this matter? A He brought no written communication from Mr. Simpkins.

Q Did he bring any oral communications? A Yes sir.

Q Did he report those to headquarters? A He reported them first to Mr. Murphy.

Q And upon the 30th of January you gave him a check for \$1500.?

A About the 30th, or near that date.

Q Now, from the 4th of January, the day you received the Simpkins' telegram until the day you paid this \$1500. to Mr. Miller, some 26 days had elapsed? A Yes sir.

Q Now, had any member of the Western Federation of Miners,

either at your suggestion or at the suggestion of any one else that you know of, during that period of time, made any investigation to find out where Orchard had been, what he had been doing, and whether he had been there at Caldwell under an assumed name, with Jack Simpkins, there in that town?

A No sir, we had no information from any one other than we heard from the members and from people who came back -- who had been in Colorado, from Caldwell, and had identified Mr. Hogan as Harry Orchard who had formerly been in the Cripple Creek district.

Q Then the situation is this, that upon the 4th of January, 1906, Jack Simpkins sent this telegram? A Yes.

Q That some 26 days elapsed and the man sent by Mr. Simpkins to Caldwell as an attorney, came to Denver and reported to you, and upon the strength of that report you gave him \$1500. upon his attorney fee to defend Harry Orchard?

A Yes sir. I don't know, Senator, whether you asked me as to whether I had written a letter to Mr. Simpkins, but I had written him quite a lengthy letter from Chicago in regard to the action I thought he should take in the defense of Harry Orchard and of the matters of the Western Federation of Miners.

Q Did you write that letter after this consultation in which it was decided that this telegram was to be sent to employ Mr. Nugent? A I wrote the letter about -- I think about the middle of January, some several days after my arrival in Chicago.

- Q When Mr. Haywood wired Mr. Hanlon to employ Mr. Nugent you got this telegram back: "Wire at length in what manner you wish Nugent to proceed. He wants full particulars as to what is the attack on the organization and what is the complaint." A That was the telegram as I understand that was received at headquarters.
- Q Mr. Nugent did not seem to understand at that time as to how the organization was being attacked? A I would take it from that that he did not.
- Q He was residing then within about 30 miles of where the offense was committed? A I found out since that he was, but at that time I had no acquaintance with him and did not know where he resided.
- Q Did you have any knowledge, or did Haywood, of the fact that Jack Simpkins was down at Caldwell with Harry Orchard in the month of November? A No sir, I believe he was somewhere in this district, but not in Caldwell. I had never heard of Caldwell until after the transaction of the assassination of ex-governor Steunenberg.
- Q Did Orchard ever ask your help or the help of the Western Federation of Miners after he was arrested? A No sir, I never heard personally from Harry Orchard.
- Q Whatever you did as an organization, and whatever the organization did was entirely voluntary so far as Orchard was concerned? A Yes sir, we believed at that time that the Western Federation of Miners, owing to the trouble that had occurred

in the Coeur d'Alenes, that an endeavor would be made in some way to connect the organization with the offense.

Q Did Miller bring a letter from Harry Orchard, or an order of any kind? A No written order that I seen, no sir.

Q Did you know that J. C. Sullivan went from Denver to Caldwell a few days after the killing of ex-governor Steunenberg?

A I learned later that Mr. Sullivan had been through this district, that he had went to Baker City, Oregon, and stopped off at Caldwell for the purpose of satisfying himself there as to whether the man there was really the man he had known in Denver as Hogan or Orchard.

Q Did you know that Sullivan stopped off at Caldwell? A I did later,-- I learned of it later.

Q Then, on the same day that Jack Simpkins sent this telegram Fred Miller started from Spokane for Caldwell? A I am not familiar with that part of the transaction. I have no personal knowledge of it.

Q You did not know anything about it? A What information I have is simply hearsay that I have heard later.

Q And you learned also that within a few days after this Mr. Sullivan appeared upon the ground in Denver, Colorado? A I seen it in the paper, and heard that he came through this way and stopped off there to identify Mr. Hogan as the man whom he had known in Denver.

Q And upon the 7th day of January you knew the instructions had been given to employ Mr. Nugent also? A I did not hear that

for several days after that for I was in Chicago, but I understood afterward that it had been on the 7th.

Q This money that was paid to Mr. Miller upon the 30th day of January was paid by check? A The check was drawn for the amount and cashed at the bank.

Q That check was not drawn to Mr. Miller, was it? A No sir.

Q The check was drawn by Mr. Haywood? A Yes sir.

Q To Mr. Haywood? A It was drawn -- not to Mr. Haywood, no sir.

Q Who to? A To the firm of Richardson & Hawkins.

Q And was cashed at the window and paid to Mr. Miller? A It was paid to Mr. Miller, yes sir, in money.

Q Was paid to him in money? A Yes sir.

Q Where did you pay Mr. Miller? A We paid Mr. Miller in Mr. Murphy's office.

Q Do you remember the day that that check was cashed? A To the best of my recollection it would be on the 5th,-- now, I am not positive and would not want to be understood as being positive about that, but to the best of my recollection it would be about the 5th.

Q Now, had you or any of you people made any inquiries among any members of your organization as to the antecedents of Harry Gerhard, between the time you received this telegram from Jack Simpkins and the time you finally employed Mr. Magent, in the way of his having been in the Cosur d'Alones,

er as to any feeling he had or any threats he had made against Governor Stearnsberg? A We already know, Mr. Borah, or at least I did, that he had formerly been in the Coeur d'Alenes. In fact he had already told me of that fact.

Q But neither Davis, nor Easterly, nor Copley, nor any of these prominent members of the organization had given you any information as to Orchard's personal relations to Governor Stearnsberg? A No sir. I would state that to the best of my recollection, I never discussed Mr. Orchard's history in the Coeur d'Alenes with any of the gentlemen you have named.

Q This letter which Mr. Haywood wrote to Mr. Hamlin was written after a full consultation with the attorneys? A Yes sir, I am so informed.

Q And you understood that these letters were sent after the matter had been taken up and counsel had been called into consultation? A Yes sir.

Q And the letters were written after that? A Yes sir.

Q And you say that when you were arrested you were brought here and Mr. Wells had something to do with the matter. What official position did Wells hold in Colorado at that time?

A He was Adjutant General of the State of Colorado at that time.

Q I think you said that there was some Pinkerton on the train with you; do you recall, or do you know who he was? A I don't recollect the names of those who were there, but there was at least one who told me he was a Pinkerton.

Q You don't know what his name was? A I cannot recollect the name at this time. The only name I recall was Mr. Meldrum who was in company with Mr. Wells.

MR. BORAH: That is all.

RE-DIRECT EXAMINATION

BY MR. DARROW:

Q Do you know whether one was a man named Watson? A Since you refer to that I remember that name, in conversation with the other men who were arrested, I heard it.

Q Now, Mr. Meyer, referring to the Independence depot matter and your offer of reward, did you have any lawyer employed down in that district at that time, for any matter that you then had down in Cripple Creek? A We had Mr. Hange there employed for some time, yes sir.

Q Do you know whether Mr. Hange made any investigation down there at that time in reference to locating the party or parties who blew up this depot?

MR. BORAH: That would be hearsay, and we object to it as hearsay.

MR. DARROW: Well, Mr. Borah has asked this witness whether they did anything whatever toward attempting to locate the parties.

MR. BORAH: Mr. Meyer has testified that they did not, so that must be the extent of his knowledge.

MR. DARROW: I think he is mistaken on that.

MR. BORAH: If he is mistaken and has omitted something, all right; I will withdraw the objection.

THE COURT: He may testify as far as he knows.

Q Do you know whether anything was done toward having Mr. Hange make any investigation? A We had him employed as an attorney and he made considerable of an investigation there as to that matter. He was not employed as a detective or for the especial purpose of running down the suspects or whoever might have been responsible for the Independence depot explosion, but he was employed to make whatever investigation he could in that district.

Q Do you know whether money was paid him on that account?

A Yes sir, we paid him money from time to time, and had him in our employ there for probably a year.

Q Have you any idea at that time -- could you give any estimate of how much money was paid him?

MR. BORAH: Well, if your Honor please, Mr. Meyer has said that they did not employ him for that specific purpose.

MR. DARROW: I don't understand his testimony that way.

THE COURT: What was the testimony on that point?

MR. DARROW: I will ask him.

Q Do you know whether anybody was paid directly on account of the investigation of this or not? A That was part of the

duty of Mr. Hays -- at least we requested him in connection with other law suits and matters that we had there to make an investigation to the best of his ability in regard to the independence depot explosion.

Q Did you ever have any consultations with him about it?

A He often came to headquarters and discussed the matter with us, yes sir.

Q Well, I won't go any farther with that. Now you say that you don't know about the draft of December 21st personally?

A No sir, I have no knowledge of it, only I have been informed that such a draft had been introduced in this case -- I heard that it was introduced in evidence.

Q But how it was paid off, by cash, check or draft or how --

A There was no check drawn for it to my knowledge, and I would have had knowledge of it if it had been drawn.

Q Did you read the papers about the Steunenberg matter immediately following the days of it? A I read the papers every morning, Mr. Darrow, yes sir, as soon as I came to headquarters I generally read the papers, that is, during the time I was in Denver.

Q How was it when you were in Chicago? A I read the Chicago papers and there was considerable mention made of this matter -- made in the Chicago papers.

Q So whatever information or tips or rumors you received they were conveyed to you through the papers that you got at least?

A Yes sir, I also got the Denver papers that were forwarded to me from Denver.

Q Do you know whether there was anything said as to a description of Hogan, or anything else to identify him, excepting the registering from Denver? A As I have already answered in the examination of Mr. Borah I don't remember the exact wording of the articles I read in the paper, but I believe there was a description given of the man charged with the offense.

Q And was the matter discussed at headquarters in Denver, as to who he was? A It was generally discussed, yes sir.

Q You have been speaking of this code; are there any combination of figures used other than appear upon the face of it? For instance, in writing twenty-six, whatever that stands for, is it ever written any other way? A Not to my knowledge, no sir.

Q You were asked whether you had any other reason excepting the fact that Orchard was a member of the organization to take any interest in the matter of the assassination of ex Governor Steunenberg; did you have any other reason than that? Was there any other reason than the fact that Orchard was a member of the organization? A No sir. I would say that if Orchard had not been a member of the organization we would not have given up his defense.

Q Well, what about any charges that were made against any one

also connected with the organization at that time? A To the best of my recollection the papers reported that -- or at least connected the names of both the officers of the organization and the member of the executive board in this district.

Q I will ask you whether that had anything to do in influencing you in taking the part of investigation and hiring lawyers to defend the case? A It did. We naturally believed that if we were mentioned in connection with the matter we would undoubtedly have to defend ourselves.

Q How soon did you come to that conclusion? A Within a few days after that.

Q You mean a few days after the assassination? A Yes sir.

Q Let me call your attention to whether there was anything in the papers about anybody else being under surveillance, if you know? A I don't believe there was anybody else arrested.

Q I mean members of the Western Federation? A No sir. There was no members, although there was men arrested at that time, if I remember correctly, that the claim was made that they were members of the organization; there was a number of men that was suspected at that time, but were afterward, I believe, released.

Q No, what I mean was, whether in reference to whether any members of the Western Federation were suspected? A Not to our knowledge. There were men that were suspected at that time of being members of the organization but as to whether they were or not I have no knowledge.

Q Now, before Mr. Simpkins came to Denver in November or December, had you communicated with him in reference to going anywhere else, in reference to any organization work? A In November?

Q Before he came down, yes. A Yes sir.

Q When had you communicated with him? A I had taken the matter up some time before that.

Q In regard to organizing throughout his district and especially in the southern part of the State? A Yes sir.

Q Any particular place mentioned? A There was -- I had received a letter from a member of the organization at Silver City, named Nelson, stating that in his opinion there could be local organizations organized at a number of the camps in the southern part of the State, naming Pearl for one, and eight or nine different places.

Q Was Hailey one? A I believe it was. I am not positive,-- I am not familiar with the names of the different mining camps in this part of the State, but there was Pearl that I remember, and possibly Hailey.

Q Do you remember whether that letter was published in the Miners' Magazine? A I believe it was, yes sir.

Q And what did you do? A I wrote a letter to Mr. Simpkins calling his attention to the fact that I had received this letter from Mr. Nelson and advising him to take the field and organize them if possible.

- Q Now, Mr. Meyer, you say that you read all the papers after that time; did you from the newspapers or otherwise keep informed as to the preliminary examination of Hogan? A As well as I could owing to the fact that I was quite a distance from the scene.
- Q Did you know whether any lawyer, and if so, what lawyer, was looking after his interests? A I understood that Mr. Simpkins, or Mr. Miller had been employed and I judge by Mr. Miller, or Mr. Simpkins -- in fact I had written a letter to Mr. Simpkins advising him to employ counsel.
- Q And when Mr. Miller came to Denver was that -- when was that with reference to the preliminary examination? A It occurs to me that the preliminary was about the middle of the month some time.
- Q Had it been completed when Miller came down there? A Yes sir, and he brought the transcript of the testimony with him.
- Q Did you go over the transcript? A Yes sir.
- Q And did you consult with him as to what evidence there was against Orchard and what the chances were as to whether he was guilty or not? A We had heard from him, his opinion in regard to the matter.
- Q Was that before you gave him the \$1500.? A Yes sir.
- Q Do you know when Simpkins disappeared? A When he disappeared?
- Q Yes. A No sir, I have no knowledge that he has disappeared.
- I have not seen him since the adjournment of the executive

heard on the 14th of December.

Q Well, there was something of that sort stated in the papers was there not? A I believe so,-- I am not positive as to that.

Q You have no way of recalling now when that was? A No sir.

MR. DAWSON: I guess that is all, or just a minute,-- yes, you may examine.

RE-CROSS EXAMINATION

BY MR. BORAH:

Q You would not know where to go to get in touch with him?

A No sir, I don't know and have not heard from him since along in the month of January.

Q You would know where to find all the other members of the executive board? A Yes sir, I think they could be reached,-- I don't know though.

Q You have not heard of Mr. Simpkins or his whereabouts any time since? A No sir.

Q Did he ever answer your letter that you wrote him from Chicago?

A I think he did, yes sir.

Q Have you got that letter? A It might be at headquarters or at my rooms in the Aberdeen flats. It was a letter that I received while I was away from headquarters and it may be at my rooms.

Q Do you remember the date of it? A I think it was about the 10th of January, after my arrival in Chicago.

Q You were asked if there was a description of Orchard in the papers; you did not need any description of Orchard after that telegram, did you? A We decided if the telegram was from Mr. Simpkins that it was undoubtedly the same party, yes sir.

Q And when you got a telegram from Jack Simpkins at Spokane in reference to Tom Hogan at Caldwell and in reference to employing an attorney for him, and put that in connection with the information you had as to the killing of Governor Steunenberg--

A We thought it was from Simpkins.

Q And you knew it referred to the defending of Tom Hogan who was charged with the killing of Governor Steunenberg?

A We thought that, yes sir,-- we thought that Simpkins had found out that it was really Mr. Orchard or Hogan that we had formerly known.

Q Now, I wish you would present to us through your counsel, or in any way, before you leave the stand -- that is before the case is closed, if you can, the newspaper account which you had read up to the time you received this telegram which you received from Jack Simpkins, and that is all.

MR. DARROW: We will endeavor to furnish a number of papers on the subject.

MR. RICHARDSON: I will send a telegram this noon to

got the files if we can, and we will try and get a number of papers.

MR. DANTON: That is all, Mr. Moyer. I suppose we will adjourn here?

THE COURT: Yes, it is time to stop.

Thereupon the court gave the jury the statutory admonition, the bailiffs were sworn, the jury retired in charge of the bailiffs, the defendant was remanded to custody and a recess was taken until 1:30 o'clock P. M.

RECESS.

Boise, Idaho, Thursday, July 11th, 1907.

1:30 o'clock P. M.

Court convened pursuant to adjournment.

The clerk called the names of the jurors and announced that all were present.

THE COURT: Are you ready to proceed, gentlemen?

MR. BARRON: We are ready, your Honor.

THE COURT: Very well, call your next witness.

MR. BARRON: Mr. Haywood may take the stand.

WILLIAM D. HAYWOOD, the defendant herein, being called as a witness in his own behalf, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

- Q Give us your full name please? A William Dudley Haywood.
- Q Where were you born? A Born in Salt Lake City, Utah.
- Q Salt Lake City, Utah? A Yes sir.
- Q How old are you? A 38,-- born February 4th, 1869.
- Q What were your people -- what was your father? A My father was an American, born in Ohio; my mother was born in South Africa.
- Q An english woman? A Her father was an officer in the English army, a Scotchman, and her mother was Irish.
- Q And what was your father's business? A My father was a miner in the latter days of his life. When he was a young man he was a pioneer and rode the pony express.
- Q In this western country? A This is the only place where that ever took place -- ever occurred, so it must have been.
- Q And at the time of your birth was he a miner? A Yes sir, in the mining business.
- Q And did you become a miner? A I did.
- Q How early in your life did you begin working in and around

a mine? A My father died when I was three years old and my step father was a miner and I worked with him in the mines when I was nine years old.

Q Have you ever had any other business since that time excepting mining -- generally speaking? A No, not generally speaking.

Q What else have you ever worked at? A In 1889 I was in the real estate business in Salt Lake City, and in 1893 during the panic, 1892, '93 and '94 I worked at a number of different vocations -- farming, surveying --

Q Whereabouts? A In Nevada.

Q Well, when were you married? A I was married October the 24th, 1889.

Q You have two children, I believe? A Yes sir.

Q You have brothers and sisters? A I have one sister and two half brothers and one half-sister, -- two half sisters.

Q Where were you living at the time you were married? A I was living in Utah.

Q Where were you married? A At Pocatello, Idaho.

Q Were you a miner in those days? A Yes sir.

Q Where were you working? A At Bingham Canon, Utah.

Q You had some time come to this state of Idaho, didn't you?

A I came to Silver City on the 20th of October, 1895/

Q By the way, how did you lose your eye, Mr. Haywood? A I stuck a knife in it when I was a little boy.

Q How old were you? A About seven years old.

- Q Now, once more, what do you say was the date of your coming to Silver City? A October 20, 1898x 1895.
- Q How long did you live there? A My family lived there until July 17th, 1901.
- Q What did you do in Silver City? A Mining.
- Q How long did you work in Silver City? A I went to work in October -- the October that I arrived there and worked until May, 1901.
- Q Some six years? A Yes sir.
- Q Five or six years? A Yes sir.
- Q Where did you work? A I worked for the Trade Deller Company in the Baline mine.
- Q Is that the same company, the Blaine mine and the Trade Deller Company? A Yes sir, I worked for the same company in the same mine all that time.
- Q All the time you were in Silver City? A Yes sir.
- Q Who was connected with that mine -- who were the owners, do you know? A James Hutchinson was the general manager and Joseph H. Hutchinson was the superintendent.
- Q Joseph H. Hutchinson aft er that had some position in this state, did he not? A He was Lieutenant Governor of this State under ex-Governor Stearnsberg -- the late Governor Stearnsberg.
- Q Your wife is an invalid, I believe? A Yes sir.
- Q When did her health fail? A The first bad spell she had

was in 1892.

Q When did it fail completely? A After the younger child was born.

Q When was that? A She is now ten years old past .

Q She has been an invalid ever since? A Yes sir.

Q Where were you living then? A Silver City.

Q You are secretary-treasurer of the Western Federation of Miners? A I am.

Q When did you join the Western Federation of Miners, Mr. Haywood? A August the 10th, 1896.

Q Had you ever belonged to a labor organization before?

A No sir.

Q And where were you when you joined? A Silver City.

Q Was there a local therebefore that time? A There had been, but that was in 1865, one of the first unions in the west.

Q Had there been at any time while you were there? A No sir.

Q And had you worked before where there were any unions? A No sir.

Q You joined at the time of its organization, did you? A Yes sir.

Q You joined this union at the time of its organization?

A I was a charter member.

Q Do you know how many charter members there were? A The night I was elected I think there was over a hundred initiated.

Q Did you hold any office? A Yes sir.

Q From the first, or later? A I was elected on the finance committee at that time, and afterwards held nearly every office in the union.

Q Were you ever president of it? A I was.

Q When? A I was president in 1900.

Q in 1900? A Yes sir.

Q Did you have an office in 1899? A In 1899 I was financial secretary, I think.

Q Who was president that year? A Wallace Johnson, if I remember correctly.

Q Where is he now? A He has been in attendance here at the trial.

Q You were in Silver City in 1899 at the time of the troubles in the Comar d'Alenes, were you? A Yes sir.

Q And held this office of secretary? A Yes sir.

Q Did you ever know Governor Stearnesberg in his life time?

A I never knew him personally.

Q Did you ever see him? A I never did.

Q Were you in the state when he was elected? A Yes sir.

Q Did you know where he lived? A Yes sir.

Q And where was that? A He lived at Caldwell.

Q And Caldwell was how far about from Silver City, if you know?

A Well, I should judge by stage and rail it was 70 miles -- 60 or 70 miles.

Q That is, it was 60 or 70 miles in the usual way of travel?

3985 A In the usual way of travel.

Q Were you in any way interested in the Coeur d'Alene trouble?

A Only as a member of the organization.

Q When did you get acquainted with the Miners' Magazine?

A The Miners' Magazine was not established at that time. I got acquainted with it as soon as it was started.

Q Do you remember when that was? A January, 1900.

Q And have you been well acquainted with it ever since it was established? A I don't think I have missed a copy.

Q Did your union or you or both of you take any part in any way in the Coeur d'Alene troubles in 1899? A Yes sir, the union did and I did personally.

Q What part did the union take in it? A They took up the matter to the extent of sending a committee to the Coeur d'Alenes to investigate the permit system.

Q When was that, or about when? A I think that was along in the fall of 1899 probably; I would not say positively.

Q Was that during the time of the martial law, do you know?

A Martial law was then in force.

Q Were you a member of the committee? A No sir.

Q What other part did the union take in it? A The most important part probably was to raise funds and provide for the wives and children of the men that were incarcerated in the bull pen.

Q Did it do that? A Yes sir.

Q Did you contribute? A I did.

Q Do you know how many -- A And I also circulated a petition.

Q How is that? A I also circulated a petition among the townspeople.

Q Did you raise any money among the townspeople? A Yes sir.

Q Do you know how much? A We raised close to a thousand dollars with the subscription list, aside from what was assessed on the members of the union.

Q And what was the purpose of that subscription? A The purpose was to provide the necessaries of life to the women and children of the miners in that district.

Q Were any assessments made on your organization at that time -- your local? A Yes sir.

Q Do you know how many? A I think probably five or six, ranging from one dollar to three dollars a month.

Q Well, were you assessed? A I was.

Q Did you pay it? A I did.

Q Did the union have anything to say about the conduct of the matter by the Governor, and the declaration of martial law and things that followed in its train? A Yes sir, the union communicated with the Governor and it also passed resolutions.

Q Do you know to what extent other labor organizations passed resolutions in reference to it and took action? A I think very generally throughout the United States.

Q State whether that was confined to the Western Federation of

Miners? A No sir, all kinds of labor organizations.

Q Do you know whether or not the matter was taken up by Congress? A I know that it was. That was one of the resolutions that was passed by Silver City Miners' Union.

Q And do you know what was done by way of investigation or otherwise about it? A There was a committee appointed by Congress.

Q Do you know whether it ever reported? A It never made a public report.

Q Do you know whether evidence was taken? A Yes sir.

Q Do you know whether it was printed? A It was.

Q Did you ever have a copy of it? A Yes sir, it was in Congressman Lents' speech, if I remember correctly.

Q And who was Congressman Lents? A He was the Congressman of Ohio, and also Sultzner of New York.

Q Did the union to which you belonged take any official action in reference to the strike other than raising funds, that you recall? A Nothing more than sending this committee to investigate conditions.

Q Did they pass any resolutions? A Yes sir.

Q And to what effect?

MR. BORAH: Are those resolutions to be had?

MR. DARROW: I don't know, I will see.

Q Do you know if you have a copy of them anywhere? A I think they were published in the Miners' Magazine.

Q You haven't them at hand have you? A I have all the magazines.

MR. BARNOW: Suppose he states generally, and we will introduce that in this connection; that is satisfactory to you?

MR. BORAH: If you will tell me where I can get hold of them.

Q You have already shown them to us, haven't you? A I don't know, but this was a resolution commending Congressman Lents and Congressman Sultzer on their part that they took in these matters.

MR. BORAH: I have that.

Q And did it refer in any way to the action of the authorities and the part they took? A I think it did, yes sir.

Q Do you remember in general terms what part of it they referred to, or what the resolutions contained on that subject?

A I think particularly to the fact that martial law existed, and it probably referred to the permit system and more than likely to the bull pen.

Q Well, we will introduce it anyway,-- A I don't remember at this time the exact language.

Q Do you know who drew that resolution? A I think that particular one I wrote myself.

Q Was that at the time you were secretary? A Yes sir.

Q Do you know where you were when you wrote it? A I was working in the face of the Dewey tunnel -- that is, if was known

as the old Dewey tunnel,-- and I wrote it while I was at work, on the bottom of a candle box.

Q Took the time off to do it? A It did not take long. I probably had framed it as I was working.

Q As you were working? A As I was hammering.

Q Was that resolution introduced and passed? A Yes sir.

Q Do you know whether you made any statements orally or written in reference to Governor Steunenberg or the conduct of this campaign between him and the miners at that time? A I think more than likely that I did; I think very likely that nearly every man that was working there --

MR. BORAH: That answers the question.

Q Was it a matter of general comment amongst the miners?

A Very general, yes sir.

Q And was it a matter of comment generally or otherwise amongst other people who were not miners? A Yes sir. I might say in connection with that Mr. Darrow, that probably the strongest article I read was from Lieutenant Governor Hutchinson which is embodied in the statement to Congress.

Q Now, do you recall a witness who testified in reference to some statement you made,-- what was his name? A Mr. Stewart.

Q Stewart, yes; you heard his testimony? A I did.

Q Do you remember whether you made any such statement to him in reference to Governor Steunenberg at that time? A I am quite sure that I did not.

- Q Do you know whether you talked to him about it? A I don't know that I ever talked with Mr. Stewart about that; I don't think he testified to that effect.
- Q Do you know whether you ever talked in his presence in reference to it or discussed the matter? A I might have done it.
- Q Did you use, or do you think you used any such language as that he gave, that the Governor ought to be exterminated?
- A Not that. Perhaps the language I used was that he should be relegated.
- Q Did you take any hand in relegating him? A I did, yes sir.
- Q Did you at any time or place use any language in reference to him or anybody else, that you can recall, in reference to exterminating him? A I don't believe I did at any time.
- Q Was the question of the acts of the administration in the Cesar d'Alencas carried into politics here in Idaho at the time? A Yes sir, very generally.
- Q Was anything done by the unions, and particularly by the Western Federation of Miners in this state or generally in reference to Governor Stansberg and his political ambitions?
- A The matter was taken up at the convention of the Western Federation of Miners and resolutions were introduced there.
- Q Was there any organization -- did any other organizations take any part, outside of the Western Federation of Miners?
- A Yes, the local organizations in the State of Idaho, and the city of Boise, and elsewhere.

- Q Was any campaign made by labor organizations in reference to his nomination or election? A His re-nomination or election.
- Q Yes, his re-nomination or election? A Well, it was in reference to his renomination.
- Q Was there any campaign made on that matter? A Yes sir, a very active campaign.
- Q Was he renominated? A No sir.
- Q Who did the Democrats nominate that next time? A Frank W. Hunt.
- Q Was he elected? A Yes sir.
- Q Now, in using the word ~~made~~ relegate, what do you mean by that? A I meant, to defeat him politically.
- Q I believe you say you never met Governor Steunenberg? A I never saw Governor Steunenberg.
- Q Did you ever have any personal quarrel, or hostility or feeling toward him? A Never.
- Q How did you regard him? A I regarded him the same as any other politician that was being swayed by capitalist interests.
- Q And you left this state when? A I left this state the last time, July the 17th, 1901; that is the time I came up for my family.
- Q That is the last time so far? A That is the last time.
- Q Well, where was Governor Steunenberg at that time? A I haven't any idea.
- Q Was he Governor? A No sir.

- Q When did you first become acquainted in any way with the national organization of the Western Federation of Miners?
- A I was elected as a member of the executive board in 1900.
- Q That was the first connection you had had? A I had been as a delegate to the convention previous to that time.
- Q Who was President then? A In 1900?
- Q Yes? A Edward Bayce.
- Q Who else was on the board? A James Maher was secretary, James Purey represented Montana -- that district, Chris Foley represented British Columbia, -- I don't know as I can recall all the other members of the board.
- Q How long did you hold that position? A One year.
- Q During that time what district did you represent? A I represented the district that was composed of the States of Utah, Oregon and Washington.
- Q Yes, and then when did you -- or were you elected to any other position? A In the convention of May and June of 1901.
- Q To what position? A Secretary-Treasurer.
- Q How long have you held that position? A From that time until now.
- Q You are still secretary-treasurer, are you -- nominally at least? A I was continued in office by the convention recently adjourned.
- Q No successor has ever been elected to you? A No sir.
- 3998 Q Anybody been doing the work? A One of the members of the executive board, Mr. James Kirwan.

Q What are the fees and emoluments and perquisites? A \$150.00 a month.

Q And found? A Sir?

Q Do you get your expenses to? A That includes everything.

Q And what are the duties? A The duties are to attend to the financial relations of the local unions with the national organization, to keep a correct account of the funds and finances, to take care of all papers and documents, to keep the seal of the organization, to send credentials to the local unions previous to the convention, and assist the President in maintaining and looking out for the best interests of the organization.

Q Do you have to give a bond for the money? A Yes sir.

Q How large? A \$50,000.

Q The first year of your incumbency -- that means holding the office, who was President? A Edward Boyce.

Q How long had you known Boyce? A I had known him since 1896.

Q How intimately? A He was the President and organized the local union at Silver City and I afterwards met him in the convention in 1898 and got fairly well acquainted with him, and met him in the convention in 1900, and was elected on the executive board at that time and got very well acquainted with him. When I was elected as secretary from that time on we lived in the same house.

Q What did the organization have by way of organizers or any other officers beside the President and Secretary-Treasurer and members of the executive board? A There were no other officers at that time.

Q Have any been provided for since? Yes sir.

Q What? A Organizers.

Q How are the organizers appointed or elected? A Also an editor of the Miners' Magazine.

Q And also you manage to get an office for a lawyer, didn't you? A I would say that we have had an attorney for some time before the magazine was started, I think.

Q Is your attorney an officer? A Not an officer of the organization.

Q Who has been your regular attorney? A John H. Murphy.

Q For how long? A I think the first work that he done for the organization was when he carried the Eight Hour Law of Utah to the United States Supreme Court.

Q Aside from your regular attorney you have had more or less irregular attorneys, or attorneys at irregular times, haven't you? A At one time we had twenty-three attorneys on the payroll.

Q Was that during a strike? A Yes, a number of strikes.

Q All of them busy? A I think so.

Q Well, that is, all of them said they were busy? A Yes sir, I believe so.

- Q Well, you had a Vice President at some time, did you, later?
- A Oh, we had a Vice President all the time.
- Q Always had a Vice President? A Yes sir.
- Q A salaried office? A No sir.
- Q Organizers -- salaried officers? A They are now; that is, the executive board acts as organizers and are salaried.
- Q How many organizers have you? A Each member of the executive board is an organizer and is paid for the work in his district.
- Q And are special organizers ever appointed? A Yes sir.
- Q Who does the appointing? A The President.
- Q The President? A Yes sir, the President, with the sanction of the executive board.
- Q How many members about did you have when you went into this organization as secretary-treasurer? A About 17,000.
- Q Has it been increasing or otherwise since that time? A It has been increasing all the time with the probable exception of one year during the Cripple Creek strike when about 3,000 men lapsed in dues -- between three and four thousand, but that was only temporarily.
- Q Whereabouts were those three or four thousand men mainly -- what section of the country? A They were scattered all over the country.
- Q Had they come from any special section? A From the Cripple Creek district.
- Q What in general are the objects and purposes of the organiza-

tion? A The aims and purposes of the organization are fairly set forth in the preamble as read this morning to the jury. In addition to that I would say it is the purpose of the organization to organize its members industrially and unite them politically.

Q Has the organization adopted any policy, whether by resolution or otherwise, practically of taking an interest in political matters? A Yes sir.

Q Taking an interest in electing or defeating various candidates for office? A More particularly electing.

Q That some times includes defeating them, does it not?

A As a matter of course.

Q Well, what kind of officials -- what character -- generally speaking? A I don't think there is any particular class of officials that have been segregated; it is the general plan of the organization to, I would say that before we adopted the uniform policy, that it was the general plan of the organization to elect its friends and defeat its enemies.

Q That is what I was trying to get at without asking a leading question. Have you also taken any interest in political measures and industrial measures? A Yes sir, we have taken an active interest in all labor measures, or measures that would tend to benefit the working people generally, whether they were members of the organization or not.

Q What ones can you instance? A The anti child labor law, bi-monthly pay day law, the ventilation law, and laws to pro-

vide for appliances for the safety of life and limb, for the eight hour law, for an edit law,-- I would say that that is for the purpose of providing more than one outlet to the mines in case of fire or any other trouble that the entrance would be closed up.

Q In what states, I mean, generally speaking? A In every state where the Western Federation of Miners is organized and also in the provinces of British Columbia.

Q Has anything been accomplished in the way of this legislation which you have attempted for the benefit of working men?

A We have made fair progress in the province of British Columbia; an eight hour day has been procured for miners and smeltersmen, also in Montana, Idaho, Colorado, Utah, Arizona, Missouri and Kansas.

Q In any of these states has it devolved any change in the constitution as interpreted by the Supreme Court? A In the State of Idaho it became necessary to amend the constitution; in the State of Colorado the constitution was amended; in the state of Montana the constitution was amended after the law was passed. I would say that in connection with the eight hour bill we have been compelled to carry that measure to the United States Supreme Court on more than one occasion.

Q What did your organization do toward hiring lawyers and paying them to carry this measure to the Supreme Court of the United States? A Mr. Murphy has represented us in the United States Supreme Court on that measure at each time it has been there,

and also in the supreme courts of several states.

Q What has the organization done, if anything, in the way of providing hospitals? A The local unions of the Western Federation of Miners have in a number of places established hospitals. The Goldfield Miners union has only recently completed a hospital containing 62 rooms, or rooms for 62 patients, at a cost of \$35,000. The Telluride miners union had a hospital -- as fine a building as was in the state of its size at about a similar cost. A number of unions in British Columbia have hospitals.

Q And what have they done toward providing reading rooms and libraries? A We have some very good libraries in different parts of the jurisdiction; it is very general in the local unions to establish a library.

Q Have any steps been taken toward the payment of sick benefits and taking care of widows and orphans and the like? A I don't think there is a local union but what provides a sick and funeral benefit, and also in extreme cases they always provide for the widow and orphans, and they care for the sick and bury their dead.

Q Well, now coming down to Colorado, was there any political movement that was participated in by your organization in reference to an eight hour law in Colorado? A In the election of 1899, the local unions were very active in passing -- or in endeavoring to elect a legislature that would pass an

eight hour law.

Q Was one passed? A It was.

Q In 1899? A At the meeting of the legislature following.

Q What became of it? A It was declared unconstitutional by the supreme court of the state.

Q Well, what was done next in a political way? A I don't catch that question.

Q What was done next in the way of an eight hour law, in a political way? A The next endeavor was to amend the constitution.

Q What was done -- was that submitted to the people of Colorado-- an amendment? A It was.

Q And when was that voted upon? A In 1902 at the November election.

Q Did it carry? A It carried by a majority of 46,714 votes.

Q What proportion of the vote did that mean? A That was about six to one.

Q And when was the next legislature? A The next legislature convened in 1903.

Q Was any effort made by the organization to have a law passed ~~xxxx~~ to carry out this constitutional amendment? A There was an effort made by the organization, that is by the representatives of the organization to have the legislature carry out the mandate of the people.

Q Was it resisted? A The law was not passed.

Q Was the effort to have a law enacted -- was that resisted --

was there any force pitted against it? A Yes, all of the forces; that is, the American Smelting & Refining Company, the Colorado Fuel & Iron Company, the United States Refining & Reduction Company, the Mine Owners Association and the Railroad interests attacked that measure.

Q Were you personally present before any committees in the advocacy of this law? A I met other members representing organized labor in the assembly hall before the committee on mines and mining, and also in the senate chamber before the same committee.

Q Was there anybody present in opposition? A The several companies who were directly opposed to an eight hour law were represented by their head officials and also by their attorneys.

Q Can you give the names of them -- the men who were there?

A The Colorado Fuel & Iron Company was represented by Mr. Hearne-- Frank J. Hearne, and Cass Harrington, their attorney; the American Smelting & Refining Company was represented by ex-Governor James B. Grant and General Manager Guiterman; the Victor Fuel Company was represented by their attorney, Mr. Seaman, and Mr. Chapelle. I would say that the C. F. & I. also was represented by John C. Osgood.

Q Well, did the legislature pass a law? A No sir.

Q Do you remember when it adjourned? A Why no, I don't remember the date when it adjourned,-- in the due course of procedure.

Q Well, this legislature was in the winter and spring of 1903, was it not? A Yes sir, that was the time that Governor Peabody was inaugurated.

Q In 1903? A Yes sir.

Q Following the adjournment of the legislature did any strike result on account of an eight hour day? A The first strike that was strictly attributable to the eight hour legislation, or rather the lack of it, was the Denver Mill and Smeltermen's strike on July the 3rd, 1903.

Q Was there any other demand made by them? A Well, they did not make a demand, but they requested the officials of the company to comply with the spirit of the law at least as voted on by the people.

Q Well, the request evidently did not go, did it? A No, it did not go.

Q Well, what did they do? A They went on a strike.

Q When was the strike in Colorado City? A The last strike in Colorado City was February the 14th, 1903.

Q And what was that for -- what was the trouble, without going into the details? A Discrimination against members of the union.

Q What do you mean by discrimination? A The union had been organized there some months before and the company were opposed to it and discharged a number of men from one time to the other, and I think on February 13th they discharged 45 men; those were all old employees, men who had been in the

employ of the company from two to eight years, and they were discharged and told so because they belonged to the union.

Q Were the militia called in? A The militia was called in on the 3rd of March following.

Q Were you in touch with the situation down there at the time?

A Yes, I had been to Colorado City -- I knew the officers of the union.

Q Was there any protest against the calling of the militia at the time? A There was a very general protest of the officers of the town and also by the people of the town.

Q Was that difficulty patched up for any time at all?

A No, not at that time, there was --

Q Was there later? A On March the 14th the representatives of the Companies, Mr. Moyer and myself in company with an attorney whom we had employed for that particular occasion, being Mr. Harvey Riddell, had a conference in the Governor's office, and we effected a settlement with the Portland Gold Mining and Milling Company, and a temporary -- at least a partial settlement with the Telluride Company, but we could do nothing with the United States Refining and Reduction Works.

Q To whom did these companies belong that you could not effect a settlement with? A Well, it was generally understood that they belonged to the American Smelting and Refining Company.

Q Did the strike go on at that time? A The strike went on in that place and was followed by a strike in the Cripple Creek

district on the 17th of March.

Q And what was the connection between the Cripple Creek district and that one? A The mills there were handling the ore of the Cripple Creek district.

Q How was it, whether your men in the Cripple Creek district and the men in the mills were affiliated? A They belonged to the same organization and to the same district union.

Q Was it the same district? A They were members of the same district union.

Q What was included in that district organization? A The miners' unions of the Cripple Creek district --

Q Yes, and what else? A The engineers' unions of the Cripple Creek district and the unions at Colorado City and I think the union at Florence.

Q Now, were you down -- did you go into the Cripple Creek district after the strike was declared? A Yes, a few days -- no, not at that time; that is, the strike that was called on March the 17th, -- I was not in the Cripple Creek district at that time.

Q Well, we will get past that. The Cripple Creek strike was called when, and you mean the first one called in the district was called March 17? A Yes, the one that was called in Cripple Creek at the time the strikes were on in Colorado City.

Q Was that patched up for a while in any way? A It was on the

30th of March.

Q Yes, well, it did not stay patched very long, did it, nor did it amount to anything; when did it break out again?

A There was a temporary settlement arrived at to hold good until the 18th of May when the executive board would meet.

Q Well, were your difficulties fixed up then, or did you fail to fix them up? A No, they were not fixed up at that time, neither by the executive board nor by the convention.

Q Was there any effort made by your organization to get a settlement or arbitration at that time? A Yes, we made every overture that was possible to the United States Refining and Reduction Company.

Q What did you do to get an arbitration -- briefly, without going into the details? A We offered to allow the company to select one member, or the Governor to select one member for them, and we select one, and they two select a third and we would abide by the decision of that committee.

Q What was done with your proposition? A It was refused.

Q Were you able to make any settlement or adjustment at all?

A No, there was not a chance at that time.

Q And when did the next strike occur? A In the Cripple Creek district?

Q Yes, in the Cripple Creek district? A August the 1st, 1903.

Q How was that settlement prevented, if you know?

MR. BORAH: That is this settlement you have just been

talking about?

MR. DARROW: Yes.

Q What was done about that? A I would say there was an effort made to secure an arbitration committee which was refused by the company, and also an advisory board to be appointed by the Governor, and they in their report said that they believed Mr. McKeel, the manager of the company would abide by the terms we suggested, but would not enter into an agreement, and we desired to be as good as he was and declared the strike off temporarily and gave him an opportunity to reinstate these men that had been discharged.

Q Were they reinstated? A They were not.

Q Who was the manager of that company? A Charles McKeel.

Q Then you say the strike was called in the Cripple Creek district? A On August the 10th.

Q How general was that? A That was -- it included every mine in the district with the possible exception of the Portland.

Q Was there an agreement reached with the Portland mine?

A Yes sir.

Q And how long did that run -- did it run with union men?

A Yes sir.

Q Well, we will reach that later. When did you visit the district after the strike was called? A I visited the district at the occasion of a gathering at Pinnacle Park at a picnic.

Q Did you have anything to say at the meeting? A I spoke at that time, yes sir.

- Q Who else spoke? A Mr. Moyer and the officers of the district.
- Q What was the tenor of the speeches so far as you and Mr. Moyer was concerned? A Well, we reviewed the reason for the strike; we urged the men to stand together, we counseled them against any violence,-- said it would be charged to the organization, that if there was any disturbance it would result in the militia being sent into the Cripple Creek district, having in mind that it did not take much to have the Governor send the militia out as he did in Colorado City, so we urged them to peacefully conduct the strike.
- Q Did you learn whether the militia did go after a while?
- A The militia was called into the district on the 4th day of September.
- Q Had a commission been down there before that? A How is that?
- Q Had a commission been sent there before that? A There was a commission representing the Governor that went up there on the 9:30 train, I believe, and left there some time early in the morning.
- Q You mean arrived there at 9:30 at night? A I think so, some time late at night, and left very early in the morning.
- Q And was it on the report of the commission that the troops were sent down?
- MR. BORAH: Wait a moment. That must be hearsay.
- Q Was there a report made by the commission?

MR. BORAH: We object to that. That is hearsay also.

- Q Then, do you know who was on the commission? A At this time I can only recall one member of that commission and that was the Attorney General, H. C. Miller.
- Q Who was that? A The Attorney General of the State of Colorado at that time.
- Q Do you know his name? A H. C. Miller.
- Q And when was the militia called out in reference to that investigation by the commission? A Almost immediately.
- Q When did you go to the district again, if you recall? A I don't recall having been in the district after that time.
- Q Now, generally speaking, what was the -- what did the office of secretary require as to where you should be most of the time? A At headquarters.
- Q Unless you was wanted some where else that was your place, was it? A Yes sir.
- Q And the visiting and outside work was done by whom? A By the President and the members of the executive board.
- Q From the time you took this position up to the time you came to Idaho, about how much of the time did you spend at your office? I don't mean at your -- or in your office, but were you there during your office hours? Put it any way you want to, showing how much time you were there? A In the early part of January, 1905, I was in Chicago for a few days. In May of the same year I was in Salt Lake attending a convention and in June and July I was in Chicago, and previous to that

time the only occasion of my being absent or away from the office was for a short stay in the county jail in Denver.

Q You were not far away then? A No, I conducted the business, or partially so, from the jail.

Q Do you know whether you were in the Cripple Creek district again during the year 1903 after you made your speech at Pinnacle Park? A I believe I was, but I don't recall the occasion.

Q At least, you don't recall anything that happened especially that you care to call attention to? A No sir.

Q Did you hear of an attempt, or an attempted attempt to wreck the Florence and Cripple Creek train? A Yes sir.

Q Do you remember about what time that was when you heard about it? A I think it was about the middle of November or probably a little later than that; I cannot recall the date of the attempted spike pulling.

Q Did you ever hear anything about that from anybody connected with it or from anybody who assumed to know anything about it except what you heard and from the newspapers? A There were a number of our members who were charged with that.

Q Did you ever have any information concerning it before it happened? A Never.

Q Do you recall that there was an explosion in the Vindicator mine down there? A Yes sir.

Q Do you recall the time? A About the time.

Q About when was it? A I have heard it testified here to until I know the date exactly; it was the 21st of November.

Q I don't want to lead you on that date.

MR. BORAH: I would hate to see you do it.

Q The 21st of November, 1903, you mean? A Yes sir.

Q When did you first hear of it and how -- in what way did you first hear of it? A I think through the papers,-- possibly, Mr. Darrow, by a telephonic communication from the district.

Q When did you first meet, as far as you can recall, a gentleman named Harry Orchard? A I first met Mr. Orchard at a mass convention that was called by Mr. John C. Sullivan, President of the Colorado State Federation of Labor, on June 2nd, 3rd and 4th, 1904.

Q What was the purpose of that convention? A It was for the purpose of uniting the labor forces of the state politically as against the Peabody administration.

Q Where did you see Harry Orchard? A Now, there was only two places that I could have seen him and I don't remember of having any conversation with him, and one of these was at the general meeting which was held in the Club Building and the other at the caucus of the delegates representing the different unions of the Western Federation of Miners at headquarters.

Q How do you know that you met him at all at that time? A I know he was there at that convention, as I afterwards saw his name among the members of the ways and means committee.

Q Now, before that time, some time in November, did Harry Orchard

come into your room,-- or in December, the first time you have ever seen him, and introduce himself and say his name was Harry Orchard and he had blown up the Vindicator mine and killed two men, Beck and McCormick, and had been promised \$300. or some other fabulous sum -- \$500., and did you tell him it was a good job and you were glad of it, or any conversation like that? A I never saw Harry Orchard previous to the time I tell you, and I never had any such conversation with him in our office.

Q Did you ever have any anywhere -- any such conversation as that? A No such conversation as that anywhere or at any time.

Q Did you have a conversation with him in your office where Mr. Meyer was present where any such thing happened as I am speaking of? A No sir.

Q You heard his testimony, didn't you? A I did.

Q Did you have any conversation with him when Billy Baxterly was present in which he said anything about having blown up any part of the Vindicator mine or committing any crime and wanting any money on account of it from you? A He never spoke to me at any time or at any place about the Vindicator and he never at any time received any money.

Q Now, you say the first time you saw him was at the meeting you have described; do you know whether you saw him more than once when he was there at that time? A If I did I don't

remember it.

Q Do you know whether you had any conversation with him?

A I don't think I did.

Q Would you be sure that you recollect him excepting as you saw his name connected with it -- how is that? A That is the only remembrance that I have of him being at that convention at all. I don't remember of seeing the individual.

Q Do you remember the next time you saw Harry Orchard, when it was? A The next time I saw him was when he and Mr. Moyer were preparing to go to Curay, I think on the 22nd of March, 1904.

Q Do you remember where he was when you saw him at that time?

A He was in Mr. Moyer's office at headquarters.

Q How long did you see him at that time? A Only a few minutes.

Q Did you have any conversation with reference to where he was going, or learn where he was going? A Yes, I knew where they were preparing to go.

Q Did you hear anything said by Mr. Moyer or Orchard as to how they should go? A Yes.

Q What? A I heard them speaking about making some preparations to defend themselves.

Q For what reason? A Well, because the members of the United Mine Workers, who was representing Mr. Mitchell in the southern coal fields had been beaten up, three of them.

Q How was this as to the place they were going -- as relating to the vicinity of the place where Mitchell's men had been

beaten up? Now, there is a question that is not leading.

A Well, it was in the same general direction.

MR. BORAH: I am permitting the leading questions in the interests of time. I would rather you would be sworn, though.

MR. DARROW: And also save a chance of the witness not understanding it.

Q As a matter of fact up to that time had there been any reports-- newspaper or otherwise -- in reference to any disturbance in the southern coal fields? A Oh yes, there was a strike on in the southern coal fields under the United Mine Workers of America.

Q Had there been anything in reference to any acts of violence down there? A No, there had not been any acts of violence other than those committed by reputed authorities.

Q These are the ones I am trying to get at. Had those matters been spoken of in the papers? A Yes sir.

Q Now, do you know whether Mr. Moyer went? A I know he went to Curray.

Q Do you know how many times about you saw Orchard when he was there, about this time? A Why, I may have seen him there in the office two or three times. I don't remember that distinctly. There was one matter that I do remember.

Q What was that? A It was in Mr. Moyer's office.

Q What was it? A Mr. Moyer asked him if he had any firearms and he said he had, and he reached down in his pants here and

pulled out a forty-five, about a foot and a half long, and I asked him what he was going to do with that and he said he was going to take it down with him, and I said, "Well these men won't wait for you to undress to get that gun in action."

Q That was to Orchard, was it? A That was to Orchard and this was at the same time that they were measuring their suit cases, having laid them up on a bench near the window and they were measuring their suit cases to see how much they would saw off the gun afterward.

Q Do you know whether they got any guns? A Yes, they got two sawed off shotguns.

Q Do you know who furnished them -- who bought them for them?

A I believe Mr. Pettibone bought them.

Q Do you know who paid for them? A Mr. Moyer, I think.

Q You were acquainted with Pettibone, were you? A Yes sir.

Q Had you people and the miners been in the habit of buying anything of him at different times? A Oh yes, we bought a good deal of stuff from him at different times. I would say that when the headquarters were moved from Butte that Mr. Pettibone furnished the rugs and carpets in the office, also the clock, and I think through him we purchased the desks and the office chairs and such things.

Q Do you remember the day that Mr. Moyer started for Ouryay?

A The 23rd day of March, 1904.

Q Now, in the meantime, before he went away you had had some posters printed, had you not? A I had those posters printed

while Mr. Moyer was in attendance at the trial of the spike pulling cases in the Gripple Creek district.

Q Now, I am referring to the posters that had the flag on it?

A That is the ones I referred to.

Q Who wrote them -- who wrote the inscriptions? A I wrote the inscriptions.

Q Where were they printed? A They were printed in the city of Denver.

Q And where were you when you wrote it? A I was at my home in the City of Denver.

Q Were you ever in Telluride? A I never was.

Q Or Ouray? A I never was in that section of the state.

Q Did you want to go about that time? A I had no desire to go.

Q Well, did you learn about anything that happened to Mr. Moyer?

A I learned of his arrest.

Q Did you learn what charge had been lodged against him?

A Yes sir.

Q In the first instance? A Yes sir.

Q How did you learn it? A Well, I had a telephonic communication from the secretary of the union at Ouray, and afterwards read the account of it in the newspaper, from the press.

Q Did you get any information from any source as to any contemplated proceedings against you? A I did.

Q From what source? A I think it was in the press and also

from a private source.

Q Did you learn anything in reference to -- or, what did you learn?

MR. BORAH: Wait a minute. We object to that as hearsay and incompetent, immaterial and irrelevant, and he has just stated that he got it from the newspapers.

THE COURT: He may tell what he knows, Mr. Darrow.

Q What did you know as to anything that was liable to happen to you? A I knew there had been a warrant sworn out in San Miguel county charging me with the same offense.

Q That is, with desecrating the American flag, don't you mean?

A Yes, that is the charge.

Q How far off was San Miguel county at that time?

MR. BORAH: The same distance it is now, I guess.

A About 420 or 430 miles.

Q Was there martial law down there then? A Martial law was declared in San Miguel county on the 23rd of March.

Q How was that as to the day that Mr. Moyer started? What day did Mr. Moyer start? A The 23rd of March.

Q And what day was martial law declared? A The same day.

Q Well, when you got this information, what did you do?

A I was arrested on the same charge in the city of Denver.

Q You mean you arrested yourself? A It would amount to that.

Q Was a complaint made against you? A Yes sir.

Q And how long were you in custody in the city of Denver?

A That was on the 30th day of March and I was in custody I

think in all, probably about a month or five weeks.

- Q In the meantime did any other officials from any portion of the state come to look for you? A The same day that I was arrested Sheriff Ratan, of San Miguel County, appeared at the office of the Sheriff of the city and county of Denver with a warrant for my arrest.
- Q On the same charge? A On the same charge.
- Q And that was from San Miguel county? A Yes sir.
- Q But you were busy at that time and could not go? A I was in the ~~custody~~ custody of the officer at that time.
- Q Did you have any hearing on that case? A Yes sir.
- Q What was done with the case? A I was discharged.
- Q Ever re-arrested on that anywhere? A No sir.
- Q When did Mr. Meyer return to Denver? A He returned on the -- that is, he came up to answer a writ of the supreme court on the 19th or 20th of April.
- Q How long was he there? A He arrived about eight o'clock; I don't know what time he left only from --
- Q Eight o'clock in the morning? A Eight o'clock in the morning.
- Q Where did you meet him first? A I saw him at the depot.
- Q Did you know he was coming? A Yes sir.
- Q Who was with him? A When he arrived?
- Q Yes. A He was in custody of a detachment of militia.
- Q About how many? A I think about twenty, or twenty-four; there was also a company who met him at the depot -- a detached company.

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Q What did you do at that time? A I was in the custody of an officer at that time and I asked him if he would have any objection to my going down to the depot to see Mr. Moyer, and he said he would not and he went down with me in company with the stenographers in the office and Mr. O'Neil.

Q Did anything happen to you? A Yes sir.

Q What? A When the soldiers got off the train there was about twelve preceded Mr. Moyer, and he got off the train and there was a considerable space between him and the soldiers in the lead and I walked up to him and shook hands and told him I was glad to see him and asked him how he was, and just at that time Captain Bulkley Wells stepped up and separated us and made a pass, as I supposed, as though he was going to strike me and I struck him. I think there was a general melee engaged in by myself and the soldiers in which I was very much worsted.

Q Where were you hit? A I could more easily tell you where I was not hit probably. I was then placed under arrest by the orders of Adjutant General Bell and taken to the Oxford hotel where one of the militiamen told me to sit down, and I told him I preferred to stand up, and he pulled out his six shooter and attempted to strike me over the head and then there was another ruckus.

Q What happened then? A Well, I got pretty badly beaten up, and was held in the custody of the soldiers.

Q You didn't strike back when he pulled out his six shooter,

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did you? A Yes, I struck back as frequently as I could, warding off the blows coming my way.

Q What condition were you in after it was over? A I was in pretty bad shape.

Q Then what happened after that to you? A I was held in the outbody of the militia until the civil officers of the city of Denver made a demand on the soldiers for my release which was afterwards secured by an order from Governor Peabody.

Q Any charges lodged against you by the civil authorities in this matter? A No sir, I was already under arrest.

Q Well, now we will skip over some things because it is hot. When did you next see Harry Orchard? A I saw him previous to this time.

Q Oh yes, I skipped too far. When did you next see him after the time I last referred to your having seen him? A After he went to Ouray with Mr. Moyer I saw him in the early part of April.

MR. BORAH: Early part of when?

THE WITNESS: The early part of April.

Q 1904, of course? A That was a day or two after the funeral of the wife and baby of Mr. Davis, a few days after that.

Q That is the William Davis who has testified in this case, is it? A Yes sir.

Q Were you at the funeral? A No sir.

Q Well, where did you see Orchard? A He came up to head-

quarters.

- Q Did he have any business there? A None other than to report that Mr. Meyer had been arrested and he stated at the time that he had brought up a specimen from Hugh McLean that was to be sawed in two for Mr. Meyer and myself.
- Q How long did he stay? A Only a few minutes. I was busy at my desk and he came in and leaned up on the top of the desk and repeated about the conversation that I have related.
- Q When did you see him the next time, if you can recollect?
- A As nearly as I can remember the next time I saw him was at or during the convention of the Western Federation of Miners.
- Q When was that convention? A It convened on the 4th Monday of May.
- Q When did it get through with its business? A I think on the 8th or 9th of June.
- Q Was Harry Orchard up there during the convention, any part of it? A I believe that he was.
- Q Anything to call your attention to it,-- particularly to his being there? A No sir, and if he was there he was not a delegate, but there were a number of other members of the organization there as spectators and listeners.
- Q Do you know whether you saw him at any time during that convention? A I would not be positive as to that, but I think I did.
- Q Do you know the Belmont rooming house? A Yes sir.

Q Do you know whether you were ever there at any time during the convention? A I have been in the Belmont and may have been there at that time.

Q Do you know whether your people were in the habit of stopping there? A There were a great many of the delegates that stopped there, yes sir.

Q When did you -- do you recall when you saw him again?

A The next time I saw him I think was probably the middle or latter part of January in 1905.

MR. BORAH: 1905? January?

THE WITNESS: Yes sir. I know it was after my return from Chicago.

Q Did you hear about the explosion that occurred at the Independence depot? A Yes sir.

Q Do you know when you heard of it? A I heard of it that morning.

Q Do you mean this on the morning of the 6th? A On the morning of the 6th.

Q Do you know how you got the first information? A I think it was told to me just as soon as I got to the office. I did not take a morning paper at the house.

Q Had you had any information of any sort about it previous to that time? A No sir, never.

Q Had you ever told Harry Orchard in the presence of Mr. Moyer or anybody else or alone to go back to the Cripple Creek District and he could not do anything too fierce for you? A Never.

- Q. Or anything to that effect at any time? A. No sir.
- Q. One matter before that. Did you hear of the murder of Lyte Gregory? A. Yes sir.
- Q. About when was that? A. I think that was about the middle of May.
- Q. Do you know whether the executive board were in session at that time? A. They were.
- Q. Was that matter discussed in the executive board or any part of the executive board before it happened? A. No sir.
- Q. Did Harry Orchard or anybody else come to you or any other member of the executive board in your presence and tell you if you would give them a hundred dollars or any other sum he would kill him? A. He did not, nor anybody else.
- Q. Did you know anything whatever about it until after it happened? A. I never ~~did~~ did, no sir.
- Q. Or have any discussion with any other member of the executive board about it until after it happened? A. I never did, no sir.
- Q. Did you know Lyte Gregory? A. I did not know him personally.
- Q. Did you know whether there had been any difficulty between him and your organization? A. There never had to my knowledge.
- Q. Had you heard of him in connection with any other trouble?
- A. Yes, I heard of him in the capacity of a detective, commonly known as a gun man, in the southern coal fields.
- Q. Of what agency? A. The Reno Detective agency.
- Q. Had the papers during that time had anything to say about his connection with the southern coal fields? A. I think so, yes sir.

- Q. Where were you at the time you first heard of the Independence depot matter? A. Well, I couldn't say to be accurate, but I am sure that it was at the headquarters of the Western Federation of Miners.
- Q. Did the executive board have a session that day? A. The convention was then in session.
- Q. Had anything been done previous to that time in the way of sending committees to Cripple Creek or a committee?
- A. There had been a committee sent to the Cripple Creek district.
- Q. Do you know who was on that committee? A. Malcolm Gillis, H. G. Seaman, R. G. Allen. Gillis was from Butte, Montana; Seaman from Roseland, British Columbia, and Allen from Dillon, Wyoming.
- Q. What was the purpose of the committee? A. The purpose was to investigate conditions in the Cripple Creek district and to see what could be done with outside influence in the way of effecting a settlement of the strike.
- Q. Had they returned by the time you heard of this matter?
- A. I think that they had.
- Q. Do you know when their report was presented to the convention?
- A. If I am not mistaken, it was the same day.
- Q. In the meantime when was the decision rendered in the Mayer habeas corpus case? A. It was rendered on that day.
- Q. When was it announced first that it would be rendered?
- A. I am not sure as to that, but I think it was a day or two or three days previous.
- Q. Was that through the press or some other way, do you know?

- A. Oh, it was publicly known. We had been expecting it for some time.
- Q. Was any action taken by the organization in reference to the Independence depot explosion? A. There wasn't such else discussed in the convention that morning, and there was a committee appointed to draft a resolution, and the next day the resolution was adopted offering a reward of \$5,000 for the arrest of the perpetrators.
- Q. Do you know who had acted as your attorney in Cripple Creek before that time? A. Frank J. Henge.
- Q. Was anything done or taken up with Henge or anybody else in the Cripple Creek district in reference to this?
- A. Mr. Henge on behalf of the district union drafted a set of resolutions urging the members of the organization to use their most diligent efforts in ferreting out those who might be guilty of perpetrating that outrage.
- Q. Do you know whether any investigations were made by him or anyone else down there?

MR. BORAH: We suggest that that must necessarily be hearsay.

MR. DARROW: We think you are right about that.

- A. Do you know whether you did anything, was anything to your knowledge done toward employing him and paying him for any investigation down there in this matter? A. Not in this matter directly, no sir.
- Q. Was there in connection with this matter? A. Yes sir.
- Q. Did you see Harry Orchard and a man named Neville within a few days after the Independence explosion? A. I did not.

- Q. Did you ever know Heville? A. No sir.
- Q. Ever see him? A. I think I did.
- Q. Where? A. At the headquarters.
- Q. When? A. Along some months after that.
- Q. At the time that Mr. Moyer referred to this morning?
- A. I believe that was the time, yes sir, though I never spoke to him.
- Q. You was not present at any such conversation as was repeated here this morning? A. No sir; whatever conversation was repeated took place in Mr. Moyer's office and I was in my own.
- Q. Did you give any money to Harry Orchard or to anyone else for him a few days after the explosion at the Independence depot on account of his services in blowing up that depot and killing those people down there? A. No sir, I did not.
- Q. Or did you at any other time or place, directly or indirectly?
- A. Never at any time nor place.
- Q. As I understand you, you did not see Harry Orchard at that time? A. No sir.
- Q. When did you next see him after June, or May or June, whichever that time was of that meeting? A. The next time I saw him was in the month of January, 1906.
- Q. Where did you see him? A. At the headquarters. We had by that time moved down on 15th and Larimer Streets.
- Q. After the Independence explosion and the scenes following it was there any activity around the headquarters especially, any number of people come there? A. Yes sir. I think that some night the first detachment of deportees arrived in the city of Denver, and from that time on there was quite a large

number of men congregated -- that is, men and women and children congregated in the city of Denver from the Cripple Creek district.

Q. What did the union do in reference to looking after them, if anything? A. When you say the "union", do you mean the Federation?

Q. I mean the Federation. A. Well, it was necessary for us to provide lodging and to provide the necessaries of life. For the families we rented houses and for the single men we filled up the lodging houses, that is, in the cheaper quarters of the city of Denver.

Q. What had the Federation been doing in the way of relief to people on strike out there in Cripple Creek and that district up to this time? A. Shortly after the strike was declared we established a system of commissary by starting stores at four different points in the Cripple Creek district, and the men were allowed, according to the number in the family, a certain amount of relief. It was operated by different systems at different times. But when we got it down to a methodical basis we had coupon books so that each family got a certain amount and they purchased their supplies from the union stores.

Q. How many stores did you have there? A. We had four stores.

Q. About how extensive were they? Can you tell by the volume of business or otherwise? A. Well, I might say that the Victor store was the largest and done the greatest volume of business. Their business in six months was \$76,000.

Q. How was the business -- A. That is, taken from the report of

Mr. Harper, who was manager.

- Q. What was the condition of the business up to the time of the Independence explosion, as to whether it was increasing or running behind? A. Well, at that time we had quite an extensive business outside of the membership of the organization.
- Q. Do you know whether there was any opposition to it in that district? A. There was a considerable opposition on the part of the other store keepers.
- Q. In how long a time from the first did it take to establish the four stores? A. Well, we started in with three, that is, we didn't have anything at first only staple groceries, potatoes and flour and such things, but from that small start they grew into quite good sized stores, and the stores were commenced early after the strike, I think some time in September.
- Q. What was the primary reason for starting these stores?
- A. When the strike was declared, which was on pay day in the Cripple Creek district, the merchants had informed the miners that if they would pay up they would carry them as long as the strike lasted. A great many of the men paid their bills. It was only two days after that when the merchants informed all of the men in the Cripple Creek district, through posters or otherwise, that everything would be on a cash basis, and they at once raised the prices of goods, and as a matter of self-defense, a matter of self-protection, the stores were started.
- Q. Now you say Orchard came in again in January, 1905: What was the occasion of that? A. Well, I don't know what the occasion was. He came up to headquarters, and if I remember rightly, he

came up for relief.

- Q. Do you know whether he had been getting relief? Do you know from your books or otherwise that he had been receiving relief during the strike in Cripple Creek? A. I am sure that he did.
- Q. Up to what time? A. Up until the time that relief was cut off, which was some time in the spring of 1905.
- Q. Do you know when he left the Cripple Creek district?
- A. What is that?
- Q. Do you know when he left the Cripple Creek district?
- A. I don't know of my own knowledge.
- Q. Well, I mean from information, general report? A. As near as I can tell from his testimony on the stand he left the Cripple Creek district the day before the explosion.
- Q. What about relief after he left, was that given out?
- A. It was given to his family.
- Q. Did you ever tell him before that time or any time that it would be better to leave him on the relief books, although he was getting a fine salary for other work, than it would look better to leave him on the relief books? A. I never made any such statement to him.
- Q. Now when he came back to your office in January, 1905, do you know whether anybody was with him? A. I think Steve Adams was with him.
- Q. Had Steve Adams or his family been receiving relief at that time? A. They had been and were at that time.
- Q. And where was that being paid? A. At headquarters.
- Q. The headquarters paid relief to what people? A. To all of the people that were on strike. There were a number at that time

in Denver, at Globeville, and members of the Sealtersmen's union who were still receiving relief.

- Q. What I mean is the relief would be dispensed from the headquarters for what people, for what territory? A. For all the territory.
- Q. Would it be for Cripple Creek or Telluride -- you wouldn't dispense relief from headquarters for these, would you?
- A. Not directly to the members.
- Q. I am speaking directly. A. Well, I would say in connection with that that there was a time in the Cripple Creek district when we sent the checks direct to the members. That was at the time -- some little time after special order No. 19 had been issued by Colonel Verdenberg.
- Q. What was special order No. 19 that you refer to?
- A. That no relief or assistance could be given to any of the people in the Cripple Creek district except through military channels, except through Major T. E. McClelland. I will say that we never complied with that order.
- Q. You never delivered your relief to Major McClelland you mean?
- A. No, after the order was issued we then distributed relief for a time through a committee selected by the women's auxiliary, and later we paid merchants to distribute relief in the Cripple Creek district, but that didn't meet with very much satisfaction as there was no system to it. However, we were compelled as a matter of fact to make a deposit in the banks of Denver before the groceries were distributed.
- Q. What was the custom of those who were stopping in Denver as to where they would get their relief? A. The people from the

Cripple Creek district came to headquarters. The members of the Smeltersmen's union got their relief through the relief committee.

- Q. How was it as to Steve Adams and his wife? A. His wife usually came to the office, I believe.
- Q. How was the relief distributed as to the time? A. I think every two weeks.
- Q. What do you know, Mr. Heywood, as to any considerable number of the men having changed their names after the Cripple Creek matter? A. I know that there was a number that changed their names.
- Q. What do you know, generally speaking, about trade unionists changing their names?

MR. BORAH: You mean confined to this organization?

MR. DARROW: Well, I am asking him for both.

MR. BORAH: We object to the matter unless confined to this organization.

- Q. Well, as to this organization. A. Well, it is different, Mr. Darrow, in different localities. Now there are some places where it is necessary to sign an application blank. And to avoid the blacklist men are compelled, if they get work at all, to change their names; and in the southern coal field it is customary for the men to change their names from one mine to the other, much less from one camp to the other.
- Q. Did you see these applications that had been used for men to sign? A. Yes sir. We have received a number of copies of those at headquarters.
- Q. When were these used in the metalliferous regions in connection

with your organization? A. They had been used for a number of years.

Q. Were they used at the time of the Cripple Creek strike?

A. Not the same system in the Cripple Creek district as they had elsewhere. The Citizens' Alliance, or rather the Mine Owners' Association, which was a part of the Citizens' Alliance, adopted a card that was almost the same as the Western Federation of Miners'. It was the same size, the same color, other than that the back of the Federation card was covered with cloth, and that was of paper.

Q. And was there any requirement made as to the men who should be employed after that? A. It was necessary for a man to secure employment in the Cripple Creek district to abjure his connection with the Western Federation of Miners.

Q. And what must he do with those cards? A. He must take out one of those cards before he could go to work.

Q. Do you know whether that is in effect still in the Cripple Creek district? A. It is.

Q. What descriptions or identifications were used in the applications you refer to to get work? A. They vary in different localities. But usually a man is required to give his name, his place of birth, the name of his parents and their address, whether or not he is married or single, the color of his eyes, the color of his hair, his height, his weight, his complexion, where he was previously employed, who was his foreman, why he had quit. It was necessary to recount at least two or three different places where he had previously worked, the name of the mine and the name of the shift boss, the occupation that

he followed and a complete biography of the individual that was seeking employment. In connection with that, in old Mexico at the present time, where many of our members are working, they are required to affix the imprint of their thumb to the application after it is filled out. Now this same application is in vogue in Bisbee, Arizona, with the possible exception of the thumb mark.

- Q. Has the Western Federation taken any part in combatting that permit system? A. Yes, we have always contended against the card system and have in some instances secured injunction against the mining companies for compelling or attempting to compel men to seek employment in that manner.
- Q. Well, now, after the exodus from Cripple Creek do you know personally about any of the men who changed their names?
- Q. Yes, I know of some men that changed their names.
- Q. Do you know anything about whether any charges were made as against any particular persons on account of the Independence depot explosion? A. Shortly after the explosion the papers connected the names of Orchard and Neville.
- Q. When Orchard came back to your office in January did you learn where he was stopping? A. I think he was stopping with Adams.
- Q. Did you learn what name he was going by? A. If I remember rightly, he was going by the name of Hogan.
- Q. Do you know how often you saw him in that winter or the following spring? A. No, I couldn't say as to how frequently I saw him.
- Q. Do you recall any particular time you saw him? A. Yes, there was one time which was considerably later than that, I think

along probably in the first of May that I saw him in Mr. Pettibone's store.

MR. BORAH: 1905?

THE WITNESS: Yes sir.

- Q. Do you recall any time you saw him between January and that time -- do you know whether you did or not? A. No, I don't recall any particular instance.
- Q. Did you have any extended conversation with him then or any time up to ~~then~~^{May} that you can recall, or any business transaction with him of any kind? A. No sir, than any other member of the organization.
- Q. Did you know anything about his business? A. At that time?
- Q. Yes. A. You mean the time that I met him in Mr. Pettibone's store?
- Q. No, from January we will say up to May. A. I know nothing about his business.
- Q. You say you think you met him in Pettibone's store in May?
- A. Yes.
- Q. Do you know what time in May? A. Well, it was previous to our leaving for the meeting of the executive board which took place prior to the convention in Salt Lake City.
- Q. What was the date of the convention in Salt Lake City?
- A. We convened on the third or fourth Monday in May.
- Q. And did you go to that convention? A. Yes sir.
- Q. Did Pettibone go to the convention? A. Yes sir.
- Q. And what was your business at his store at that time, if you had any? A. Well, I had no particular business, but I think I dropped in to urge him to go to the convention if he could.

- Q. Hadn't you any business in that vicinity? A. It wasn't far out of my way going home.
- Q. And where was Orchard? A. At the time I entered the store Mr. Orchard was standing at the railing in front of Mr. Pettibone's desk, and there was another man there by the name of Johnny Van Wourmer. I remember this instance because both of them immediately on my coming in the store, almost before I had time to say "How do you do" they accosted me with the proposition of taking some life insurance. They were both representing the Mutual Life Insurance Company.
- Q. Did you know Van Wourmer? A. I knew him, yes.
- Q. Well, did you get your life insured at that time? A. I did not.
- Q. Did you have any further conversation with Orchard then?
- A. No sir.
- Q. Do you remember when you saw him again? A. I think the next time I saw him was in July after I returned from Chicago.
- Q. Do you remember where? A. I might say, Mr. Darrough in connection with that, we went from Denver to Salt Lake, attended the meeting of the executive board and the convention, and was elected at the Salt Lake convention as a delegate to a convention that was to be held in Chicago.
- Q. How what time did you leave Denver for Salt Lake? A. If I remember correctly it was on the 9th of May.
- Q. And when did you get back to Denver from Salt Lake, about when?
- A. On the 20th of June, I think it was the 20th; it may have been a day or two earlier than that.
- Q. When did you go to Chicago? A. I left for Chicago on the 22nd of June.

Q. When did you get back? A. Some time after the middle of July; I am not positive as to that, because after the Chicago convention I went on to Louisville and visited there a day or two and then returned to Denver.

Q. So from the 9th of May until the middle of July you were not in Denver excepting those two or three days you speak of?

A. I think it was two days that I was in Denver -- well, it may have been more, it may have been three or four days; but that is the only time I was in Denver until I returned from Chicago.

Q. And where did you see Orchard in July, if you recall?

MR. BORAH: He just testified to that.

MR. DARROW: Did he testify to that?

MR. BORAH: In Pettibone's store.

THE WITNESS: No, I didn't say Pettibone's store.

MR. DARROW: It was in May in Pettibone's store.

THE WITNESS: It was the first part of May, I think it was, there.

MR. DARROW: Before he went to the convention.

Q. Now you say you saw him again you think some time in the month of July? A. I think so, or the first part of August.

Q. Do you remember one time when you and Pettibone and Moyer and Orchard were out on a Sunday afternoon in Pettibone's back yard, two or three o'clock in the afternoon, and had a conversation about killing Governor Stearnsberg? Did you have any such conversation with him out in the back yard?

A. I never had any such conversation in the back yard; but, Mr. Darrow, that is not the way he testified to it.

- Q. You heard his testimony, did you? A. I did.
- Q. Well, did you have any conversation with him on a Sunday, in reference to killing anybody, out in Pettibone's back yard? A. No sir.
- Q. Or anywhere else? A. Never at any time, no sir.
- Q. Are you familiar with that neighborhood there? A. I lived right opposite Mr. Pettibone.
- Q. How long have you lived right opposite Mr. Pettibone's house?
- A. We first lived next door to him for a short time and we have lived immediately opposite ever since I have been in the city of Denver -- that is, the folks have moved since I have been here.
- Q. Any considerable number of people live in that neighborhood?
- A. Yes, that is a populous neighborhood.
- Q. What is there next to Mr. Pettibone's house on each side?
- A. On the north side is a vacant 25-foot lot and a flat; on the south side is a house right close up to his.
- Q. Do you know who lives in that house? A. Solomon lived there after we moved.
- Q. Did Solomon have any children? A. He had ten at home.
- Q. At that time? A. Yes sir.
- Q. About how wide is Mr. Pettibone's yard? A. Twenty-five foot lot.
- Q. Were you ever out in his back yard? A. Yes sir.
- Q. Discussing murder? A. No; no sir, not discussing murder.
- Q. Do you remember when you were out there at all? A. I have been in Mr. Pettibone's backyard a number of times.
- Q. Well, did you ever have any conversation either there or any-

where else such as Mr. Orchard placed in that back yard?

A. Never at any time.

MR. DARROW: I have been waiting for the Senator to make a motion to adjourn. Does your Honor want us to go on any further?

THE COURT: I had intended to take a little earlier adjournment, but this breeze I think will take us through until four o'clock, Mr. Darrow.

MR. DARROW: Well, we will try to comply all right.

THE COURT: Unless some of the jurors prefer not to go further we will continue until four o'clock.

A JUROR: We feel quite comfortable now.

Q. Do you know about Mr. Orchard being up at Pettibone's house for any length of time along in August or July, or any time in 1905? A. Yes, he was stopping at Pettibone's house in August.

Q. Do you know where Mrs. Pettibone was at that time?

A. I think she was visiting her relatives in Illinois.

Q. At that time you were living across the street, were you?

A. Yes sir.

Q. You heard a Denver policeman testify, didn't you, here about seeing you on the front porch? A. Yes sir.

Q. Do you know whether you were on the front porch at any time with Mr. Pettibone and Mr. Orchard, that is, the front porch of Mr. Pettibone's house, in the evening? A. I don't remember of the instance.

Q. Could you say it was not true or was? A. No, I wouldn't say that it wasn't true because I was over to Mr. Pettibone's house.

- Q. Were you over to Mr. Pettibone's house at any time when Harry Orchard was there in August? A. Yes sir.
- Q. Do you recall any special time or anything you were doing at that time you were there? A. I remember one instance.
- Q. What was that? A. Mr. Orchard and I were in the kitchen, that is, they had two kitchens, this was the inside one near the sink, and we had been discussing the excitement that was on in Alaska at Fairbanks or Fairfield, as nearly as I can recall the name, and Mr. Orchard remarked that he was going up there he thought. And I said to him, "What are you going to do with your family?" "Well", he says, "I am not going back." I said, "Are you not going to take care of them?" He said, "There is two boys," -- two or three, I think he said two, and he said, "they don't belong to me and I don't feel like providing for some other man's children." And I looked at him and said, "She had those children when you married her, didn't she?" And he said, "Yes." "Well", I said, "the little woman married you in good faith." "Yes", he said, and hung his head, "but I ain't going to provide for another man's children." That is one of the conversations that I remember that occurred of those times that I was in Pettibone's house. Another time was Pettibone had received a letter from a man by the name of Arthur Parker, who was located up somewhere near Seattle, if I remember rightly on Horseshoe Bay, and this Parker had written Pettibone quite a letter descriptive of his place and said it was the first time that he ever felt like a free man in his life, that he had been offered \$3 a day --

MR. BORAH: You haven't got that letter I suppose?

MR. DARROW: No. You haven't got the letter, have you?

THE WITNESS: No, I haven't got the letter, but I heard Mr. Pettibone read it.

MR. BORAH: Who did you say this letter was from?

THE WITNESS: Arthur Parker.

MR. BORAH: We will not object.

THE WITNESS: (Continuing). He said it was the first time that he felt like a free man; that he had been offered \$3 a day to go to work and he had turned it down. He had eleven acres of land and Bill Bert and Al. Jenks, two other Cripple Creek miners, had locations in the immediate vicinity. He went on describing the scenery and the timber, the berries that grow there, and one thing and another. I don't remember, Mr. Darrow, of any other particular conversation.

- Q. Was Mr. Orchard ever in your house? A. Yes sir.
- Q. At that time or some other time? A. I don't know whether he was ever in my house after the first of August or not. I rather think not, though he had been there previous to that.
- Q. When did you learn that he had left? A. When did I learn that he had left Denver?
- Q. Yes. A. I came home one night and my wife said "I guess Orchard" -- she called him Orchard, if I remember rightly, "has gone; I saw him and Mr. Pettibone putting their valises in the buggy." That was some time I think in the latter part of August.
- Q. Do you know when you had seen him in reference to that time?
- A. I don't just recall but I think it was probably a week or ten

days previous to that.

- Q. Did he come to your office as he went away? A. He did not come to our office at the time he went away. He came there some time previous to that.
- Q. How long had it been since you had seen him? A. It seems to me it was a week or ten days.
- Q. Had he told you anything further about where he was going than you have already related? A. No sir.
- Q. When did you see him again? A. I haven't seen him again until I saw him here on the witness stand.
- Q. And when is the next time you heard anything about him?
- A. When he was arrested or shortly after.
- Q. Shortly after he was arrested in Caldwell? A. Yes sir.
- Q. When did you first meet Steve Adams?

THE COURT: Mr. Darrow, before taking up another subject --

MR. DARROW: I am willing to adjourn if the court insists on it.

THE COURT: This will probably be a good place to stop. Thereupon the court gave to the jury the statutory admonition, and the bailiffs were sworn.

THE COURT: Gentlemen, I think tomorrow morning we will commence at nine o'clock and work from nine until half past eleven tomorrow, and we will determine the length of the afternoon session when we get to it.

MR. BORAH: According to the breeze.

MR. DARROW: We are satisfied with that.

MR. BORAH: I am satisfied with all of it except coming

in at nine o'clock.

THE COURT: Retire, gentlemen.

Thereupon the jury retired in charge of the bailiffs,
the defendant was remanded, and the court adjourned until
nine o'clock A. M., Friday, July 13th, 1907.

ADJOURNMENT.