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C. S. DARROW



AYWOOD  
TRIAL

Moyer-Haywood Trial Transcript  
Volume 7

Volume 7.

July 8-9, 1907.

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Darrow

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Boise, Idaho, Monday, July 8th, 1907.

10 o'clock A. M.

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Parties met pursuant to adjournment.

Minutes of the session of July 5th read and the same were signed by the court.

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

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MR. DARROW: Your Honor, I will read these depositions first. These were just opened in the presence of the court.

THE COURT: What special statute is there governing the opening of depositions?

MR. BOHLEN: I understand there is a statute that the defendant may take depositions if they want to.

THE COURT: Whatever order is necessary for the publication of the depositions will be made.

MR. DARROW: They were taken by stipulation so I don't suppose any is necessary, but perhaps an order should be made that they be opened and read.

MR. BOHLEN: That is all right, excepting we desire that we have an opportunity to object to the relevancy as they are read. The practice seems to have been to file objections, but it has been almost impossible to do that, and there are not so very many objections anyway and we can object as we proceed.

THE COURT: What is the provision of the stipulation?

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MR. RICHARDSON: That they may be objected to as to materiality and relevancy at the time they are read, and if it is not, we will agree to it; but that is my recollection of the stipulation.

MR. DARROW: I suppose an order may be entered that they be opened and read.

THE COURT: Yes sir.

MR. RICHARDSON: Let the record show that they were opened in open court.

THE COURT: Yes sir. I think, gentlemen, before the day is up you better call the attention of the court to the statute so as to have the proper order entered, whatever is required.

MR. DARROW: Yes, the statute authorizing the taking of these.

THE COURT: The taking of these, and whatever order is necessary may be made. The court is not familiar with the statute providing for the taking of depositions in these cases.

MR. DARROW: We will do that.

I am going to read Linforth's first, because it has got a description of the premises. It is found on page 85.

THE COURT: Are these pagged consecutively?

MR. DARROW: Yes, your Honor. These are depositions taken in San Francisco.

THE COURT: What is the first deposition, Mr. Darrow?

MR. DARROW: I will first read Walter H. Linforth's. It is not first in the volume.

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THE COURT: Give the page of it.

MR. DARROW: Page 35.

Thereupon the direct examination was read by Mr. Darrow, and during the reading thereof Exhibit marked "S F No. 1" was detached from said deposition and exhibited to the jury.

The cross examination of said witness Walter H. Linforth was then read by Mr. Harsh. During the reading thereof Exhibits marked "S F No. 2" and "S F No. 3" were detached from said deposition and exhibited to the jury.

The re-direct examination of said witness Walter H. Linforth was read by Mr. Darrow.

Thereupon the court gave to the jury the statutory admonition, the bailiffs were sworn, the jury retired in charge of the bailiffs, the defendant was remanded and a recess was hereupon taken until 1:30 this afternoon.

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R E C E S S .



Boise, Idaho, Monday, July 8th, 1907.

1:30 o'clock P. M.

Court convened pursuant to adjournment.

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

THE COURT: Are you ready to proceed, gentlemen?

MR. DARROW: Yes, your Honor, we are ready.

MR. BORAH: If your Honor please, in regard to the cross examination of the witness Linforth, we will not offer the re-cross examination.

MR. DARROW: We will ask to read it then, your Honor.

MR. BORAH: We suppose that the rule is that if we offer it it is subject to the same rule of competency and relevancy as if they offered it in the first instance, and if there is any question about it we desire to be heard on it. That is to say, they have a right to read the deposition but it must be legal and competent,-- the particular question and answer, the same as if they offered it in the first instance. That is the rule as I understand the authorities have established it

THE COURT: Does the stipulation provide that this may be read by either party?



MR. DARROW: No, your Honor. I take it that a deposition could not be read in the first instance by the State, but I do not see that the rule could be any different in a deposition -- in regard to a deposition than taking the testimony here on the stand or anywhere else. A party cannot ask a question of a witness on the stand and then ask to have that stricken out if it does not suit him. That is the one rule that prevails here, after they have asked the question, the same as any other.

MR. BORAH: It is never evidence until it is offered.

THE COURT: They may offer it and you may make your objection. I understand you now propose to offer the re-cross examination of this witness.

MR. DARROW: Yes sir.

THE COURT: The State having declined to introduce it?

MR. DARROW: Yes, or to read it.

MR. BORAH: We having declined to offer it, yes; and at this time we desire to save a formal objection, and we object to the re-cross examination for the reason that it is incompetent, immaterial and irrelevant.

THE COURT: You mean the re-cross examination by the defense?

MR. BORAH: Yes, -- the introduction of it by the defense. We object to it as incompetent, immaterial and irrelevant, and in that it calls for certain secondary evidence and illegal and incompetent evidence; but of course, I

say to the court that I save our objection merely as a matter of protection; I think the proper way is to object to the specific question.

THE COURT: You better let me examine that, Mr. Borah. I understand the objection goes to the whole examination -- the re-cross examination.

MR. BORAH: Yes sir. Our statute covers that to some extent, <sup>if</sup> your Honor please.

MR. DARROW: I can proceed and read this and can stop at the right point there. The question shows what it is.

MR. BORAH: The particular matter is on page 133, beginning about the middle of the page -- well, you might say beginning at the top of the page; it calls for a lot of record evidence with reference to that suit.

THE COURT: You may take this, Mr. Darrow, I have examined it.

MR. DARROW: Shall I start in, your Honor?

THE COURT: Your objection is general. There is some portion of it you do not object to.

MR. BORAH: It is general, but I desire ~~to~~ simply to reserve the objection to their right to read this.

THE COURT: Well, I will hear you upon the general objection to the introduction of any portion of it, and then I will hear the other side upon the materiality of their right to introduce certain other portions of it, commencing at the middle of



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the page as you suggested.

MR. BORAH: I prefer to argue that point alone, because I do not care to urge this except to save my right in the matter.

THE COURT: I will make this suggestion: If there is any portion of it you object to you may make your objection to it.

MR. BORAH: Then I will withdraw the objection at the present.

MR. DARROW: This is Mr. Van Dorn's re-cross examination.

Mr. Darrow then proceeded to read the re-cross examination until he came to the portion to which Mr. Borah desired to object.

MR. BORAH: Now, I desire to object to that question as calling for incompetent, immaterial and irrelevant testimony, and testimony that is secondary and not the best evidence, and not the best evidence as to this testimony here.

THE COURT: I will hear you, gentlemen, on that.

MR. RICHARDSON: Here is the witness upon the stand who is examined with respect to a certain matter.

THE COURT: The court does not understand that the witness is on the stand, in taking this deposition.

MR. RICHARDSON: Why not, let me ask; is it any different whether a witness is giving his deposition or is a witness here on the stand before your Honor? Now, so far as that is concerned, in taking this deposition, they ask of the witness a

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question and then because the answer is not satisfactory they object to their own question because it is incompetent, immaterial and irrelevant, after they had gotten the answer. Now, the only difference between the deposition and the testimony of a witness upon the stand is this, that in a deposition the materiality, relevancy and competency of the question is preserved by the ruling of the court. In every case that is tried, where depositions are taken, I presume each side asked some question of their own witness which would not be allowed if it was objected to by the other side, but whoever heard that one may ask a question and then themselves object to any answer made to the question? Now, assume that the answer is not there. They themselves have asked this question and they themselves, after asking the question, object to the answer to it, and they object to the answer after they have seen that the answer is of no benefit to them but is of benefit to us. Now, I say, if your Honor please, if there be any authorities which would sustain a contention of that character upon the part of a person asking that question, I am uninformed of them. Every one who asks for an answer vouches for the propriety of the question propounded so far as they are concerned; they take chances as to the answer to that question so far as it is within the purview of the question. Of course the witness can go on and ramble into some outside extraneous matters, but anything that has been propounded by them, it seems to me that they cannot object to the materiality of their own question.

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This does not become our question because it is in the deposition;



it is there re-cross examination, and having propounded the question and gotten an answer they don't want that given here, and they object to it.

THE COURT: They declined to introduce it.

MR. RICHARDSON: Yes, but they can decline to introduce a part of it -- or, can they introduce a part of it and decline to introduce another part of it. They come here with a deposition that they have taken; they say, we will read a part of the deposition of this witness and a part we will not, and if you undertake to read it we will object to its relevancy and competency. I submit it is just exactly as though this witness was here upon the stand, as though Mr. Van Dign had propounded the question to the witness, and then objects to the answer of the witness after it has been answered, upon the ground that it is incompetent, irrelevant and immaterial. It is not claimed that the answer is not strictly in accordance with that sought to be elicited in the question which he asked.

MR. BORAH: If your Honor please, counsel make the error of assuming that the witness is upon the stand and that we are bound by the same rules of evidence in a deposition as by the rules of testimony in court. The evidence in a deposition taken in this way is not considered evidence at all until it is offered to the jury, and either party has a right to offer either part of the deposition which they desire, and the other party have a right to offer it, and it is inadvisable -- rather, it is ad-

missible if it is competent testimony. If this is legal and competent, they would have a perfect right to read it here, but they cannot offer illegal and incompetent testimony. Now, this was taken upon stipulation in San Francisco, and certain questions have been asked in regard to this judgment, and I think Mr. Van Dorn was perfectly justified in asking any question which might elicit the information; yet, under the ruling which this court will make we don't have to offer it because we provided against the possibility of asking these questions in San Francisco. Now, Section 7189 of our statutes provide for this and it shows that we are laboring under an entirely different rule than if the witness were examined here. You can object to both the question and the answer in a deposition because it is not regarded as testimony until the testimony is read in court. Now, I have not brought into court a number of these authorities because they are in the library and I could not take them away, but I desire to call attention to some of a long line of authorities here showing the distinction made. "A deposition taken and not used by the defendant, cannot be read by the plaintiff." This is a Federal case in 1st Cranch. "A deposition taken, by a party, and if not read by him, may be read by the opposite party against the objection of the other party at whose instance it was taken." "Where a plaintiff introduces in evidence a portion of a deposition taken by him, omitting a part relating to a conversation of one of the defendants, they have no right to insist upon the



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whole deposition being read in evidence, thereby proving their own self serving declarations." Now, "Where a party who has caused his own deposition to be taken on his own behalf does not read all of it, if the answers which he declines to read are relevant and competent, the other party may cause them to be read and used as evidence in his behalf." "Though the party offering a deposition and for whom it is taken is not obliged to read it all, his adversary is entitled to read all of the remainder that is competent evidence, under the pleadings." "If a deposition be taken by one party it is competent for the other to read such parts of it as tend to prove his case, leaving to the other party the right to read the other parts if they be legal evidence for him." And we say in this case it is not competent, that it calls for record evidence in regard to another suit that suit that is now pending. Now it would not be permissible for them to prove that a suit was pending, or that a suit was to judgment and as to the issues which were in that suit. If they are to be proven they must be proven by the record.

MR. RICHARDSON: If your Honor please, I suppose you have read that stipulation, and it relates to the objection for incompetency, irrelevancy and immateriality. Now, I don't understand that a deposition is incompetent which calls for the contents of a copy, if there is no objection made upon the ground of its being secondary evidence, or incompetency, immateriality and irrelevancy are not necessarily those grounds, nor are they those grounds at all within the meaning of the law. For the

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reason as urged is that this testimony cannot be read because it calls for a copy. It seems to me the logic of the Senator must fall to the ground upon that basis. If the evidence which is called for would be good -- would be material, taking his own argument, for the original record, if it was produced, then so far as this stipulation is concerned it is just as good whether they testify to the copy or the original record. And that is the basis upon which we urge our right to read this deposition. They have read a part of their cross examination; they leave out a part of their cross examination, for there is no difference between cross and re-cross examination, for that matter, and they object to it because, they say, it is their deposition and incompetent because it calls for secondary evidence, and if that is the only ground for their objection it seems to me it is the duty of the court to put all the deposition in evidence. They call for a part of their cross examination and we have a right to the entire cross examination, and if that does call out something which they cannot get any benefit from and which we can, we are entitled to it.

THE COURT: Under certain circumstances and conditions I have no doubt but that you might introduce it here as your own testimony, but I am satisfied that under the circumstances, the objection, as taken by the State is well taken in this matter. You would have been permitted to have introduced this testimony over objection, and if you are permitted to introduce it, you are permitted to introduce it as your own testimony, but it is

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not competent. It has to do with a case pending in San Francisco involving the destruction of this property.

MR. DARROW: Your Honor would not doubt if this witness had been sitting in this chair and the defendant had asked this question on cross examination they could not move to strike it out.

THE COURT: Not at all, but the court don't consider that the position here.

MR. DARROW: We think it is.

MR. RICHARDSON: Note an exception.

MR. DARROW: We wish to waive an exception.

THE COURT: The Stenographer will note an exception to the ruling of the court in this matter.

MR. DARROW: May I suppose that objection goes to all that part of the testimony.

MR. BORAH: It commences on page 137 and covers the rest of the deposition to page -- it covers all the rest of the deposition. All the rest is in reference to the records -- the writing or record -- reading it into the deposition, on page 143. I don't think there is any mistake about it.

MR. RICHARDSON: No, I don't think there is any mistake about it.

MR. DARROW: Yes, it runs through, all the same proposition, and to the ruling of the court we except.

THE COURT: The exception will be noted.

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MR. DARROW: That completes that one.

THE COURT: That completes the Linforth deposition?

MR. BORAH: Yes sir.

MR. DARROW: I will read next the deposition of E. V.

Bradley:

THE COURT: How many pages does that take?

MR. DARROW: It takes out about seven or eight pages.

MR. BORAH: The entire deposition took from 85 to 148.

THE COURT: What page is the Bradley deposition on?

MR. DARROW: The first page — it begins at the bottom of page 2. Shall I proceed?

THE COURT: You may proceed, Mr. Darrow.

MR. DARROW: Now, there is some that is objectionable, and do you wish to object to it, or do you wish us to go on —

MR. BORAH: I don't think it is material one way or another. I think we can eliminate it as you proceed, if there is anything you want. It is largely repeating or drawing out some things that have been covered, so I am willing the matter be dropped.

MR. RICHARDSON: Strike out the re-cross examination.

MR. BORAH: Strike out from page 41 to page 48, or we will omit to read it, we will not strike it out, for we may want to use it at some other time.

THE COURT: Following that is the re-cross examination and following that is the re-direct or re re-direct?

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MR. DARROW: Any way, from page 41 to the end we will omit to read to the jury. I think, your Honor, we have taken it back.

MR. BORAH: The re-cross examination I will take that and read it.

MR. DARROW: It is not very long. I will now proceed to read the deposition.

Thereupon the deposition of E. W. Bradley was read after which the deposition of Tracy Cummings was also read and the direct examination of the deposition of J. B. Riley was read.

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 an adjournment was taken until 1 9:30 o'clock, Tuesday, July 9th, 1907.

ANSWERED.

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MR. DARBOW: Any way, from page 41 to the end we will omit to read to the jury. I think your Honor, we have taken it back.

MR. BOGREN: The re-cross examination I will take that and read it.

MR. DARBOW: It is not very long. I will now proceed to read the deposition.

Thereupon the deposition of F. W. Bradley was read after which the deposition of Tracy Cummings was also read and the direct examination of J. B. Riley was also read.

Thereupon the court gave the statutory admonition to the jury, the bailiffs were sworn, the jury retired in charge of the bailiffs, the defendant was remanded to custody, and an adjournment was taken until 9-30 o'clock, Tuesday, July 9th, 1907.

ADJOURNED.

The depositions so read in evidence are in words and figures, as follows, to wit:



Said depositions read in evidence, as above set forth,  
are in the words and figures following, to-wit:

IN THE DISTRICT COURT OF THIRD JUDICIAL  
DISTRICT OF THE STATE OF IDAHO, IN AND  
FOR THE COUNTY OF ADA.

State of Idaho,

vs.

William B. Hayward,  
et al.

STIPULATION.

It is hereby stipulated and agreed that the defendant  
may take the deposition of F. W. Bradley, Josephine R. Linforth,  
Walter H. Linforth, Tracy Cummings, George J. Ritter, W. J.  
Webster, Mrs. Crow, Miss Bell, John B. Kelly, George F. Stagliet,  
F. O. Ward and others in San Francisco, California, before  
H. I. Mulorovy, Clerk of the Superior Court of the City and  
County of San Francisco, in California, at his office in said  
city, and before said Mulorovy, as Special Commissioner, appointed  
for such purpose, commencing on the 30th day of June, A.D. 1907,  
at ten o'clock A.M., and to continue from day to day thereafter  
until such depositions are complete.

And we further waive all other notice as to time and  
place, and waive the filing of a petition and interrogatories,  
and consent that said depositions may be taken on oral examina-  
tion of witnesses, and waive all formalities except as to

competency and materiality only.

And stipulate that said depositions shall be sealed up and forwarded by mail to the Clerk of this court, immediately upon the taking thereof.

And we further stipulate that a commission may issue out of this court appointing and authorizing said H. I. Mulerevy as Special Commissioner of this court to take and transmit such depositions as herein stipulated.

Owen K. VanDyke,

Of Attorneys for plaintiff.

Fred Miller,

Of Attorneys for defendant.

IN THE DISTRICT COURT  
of Third Judicial District, County of Ada,  
STATE OF IDAHO.

State of Idaho,  
Plaintiff,

vs.

William D. Haywood,  
et al.,  
Defendants.

COMMISSION TO TAKE TESTIMONY.

THE PEOPLE OF THE STATE OF IDAHO,

To H. I. Mulorevy, Greeting:

WHEREAS, It appears to the Judge of the District Court of  
the Third Judicial District of the State of Idaho, in and for the  
County of Ada, that H. W. Bradley, Josephine Linforth, Walter  
V. Linforth, Tracy Cummings, George J. Ritter, W. J. Webster,  
Mrs. Crow, Miss Bell, John B. Kelly, George E. Stregliot,  
F. O. Ward, and others of San Francisco, California, is a  
material witness in a certain action now pending in our said District  
~~District Court~~ a certain action now pending in our said District  
Court, between the state of Idaho vs. William D. Haywood, et al.,  
and the personal attendance cannot be had of said witnesses at  
said trial, we, in confidence of your prudence and fidelity have  
appointed you, and by these presents do appoint you, a Commission-  
er, to examine said witness, and therefore we authorize and empower  
you, at certain days and places, to be by you for that purpose  
appointed, diligently to examine said witnesses in respect to the

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questions in dispute herein, and upon his oath, first taken before you and in accordance with the stipulation hereto attached, and cause the said examination of the said witness to be reduced to writing and signed by the same witnesses, and by yourself, and then certify and return the same annexed to this commission, in a sealed envelope, with all convenient speed, unto our District Court aforesaid, directed to the Clerk thereof, by mail or other usual channel of conveyance, enclosed under your seal.

WITNESS, Hon. Fremont Wood, Presiding Judge of the District Court of the Third Judicial District of the State of Idaho, in and for the County of Ada, this 13th day of June, 1907.

Attest, My hand and seal of said District Court the day and year last above mentioned and written.

F. L. Cuddy,

Clerk.

(SEAL)

By Otto F. Peterson,

Deputy.

WALTER H. LINFORTH

Called for the Defendant, sworn and testified as follows:

DIRECT EXAMINATION

Q. STATEMENT:

- Q. Your name is Walter H. Linforth? A. Yes sir.
- Q. Where do you at present reside? A. Well, when I am at home I am living at 1770 Pacific Avenue, but I am staying at Mexican Park most of the time.
- Q. You are the Mr. Walter H. Linforth referred to in the testimony of Mr. Reilly? A. Yes sir.
- Q. Were you the owner in November, 1904, of a certain building at the northwest corner of Washington and Leavenworth Streets, in San Francisco? A. Yes sir.
- Q. Where did you live at that time, Mr. Linforth? A. I lived in a building adjoining the one referred to, to the west.
- Q. Immediately to the west? A. Yes sir.
- Q. You were the owner of that building also? A. Yes sir.
- Q. Do you recall an explosion that occurred in your corner building of the 17th of November, 1904? A. Yes sir.
- Q. Where were you at the time of the explosion? A. I was in my home, that is in the adjoining building.
- Q. About what time did the explosion take place as you recall it? A. I think it was in the neighborhood of fifteen or twenty minutes to eight in the morning, somewhere along there.
- Q. Had you arisen and had breakfast at that time? A. No sir.
- Q. Were you sleeping at the time of the explosion, if you remember? A. I don't recall as to that fact; I know I was ill at the time, and I won't say whether I was sleeping at the time of the explosion, or not, I don't recall.
- Q. What did you do immediately upon hearing the explosion?

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- A. I got out of bed and put my head through the window in my  
trousers and then immediately put my pants on and my slippers  
and my overcoat and ran into the street.
- Q. How many explosions occurred, if more than one? A. One.
- Q. One. And one only? A. I only heard one, and if there had  
been more than one I surely would have heard it.
- Q. What can you tell us as to the loudness, the volume of sound  
of this explosion? A. It was terrific; it would have been  
heard, as I was told it was heard, for a mile from there.
- Q. You got up and dressed in the manner stated, and went out  
on the street? A. Yes sir.
- Q. Did you proceed to your building, the corner building?
- A. Yes sir.
- Q. Can you give us approximately, how long a time elapsed from  
the time you heard the explosion until the time you were in  
front, had reached to the point in front of the corner building.
- A. Well, I was there, I should imagine, within a minute after the  
explosion. I moved pretty quickly that morning.
- Q. Did the explosion affect the building in which you were living?
- A. Yes sir.
- Q. Briefly, not in detail, but in a general sense, state how it  
affected that building. A. The windows were broken in the build-  
ing I was living in; many doors that were closed were burst  
open and forced open; the front door was burst open and the  
jamb of the door was completely split, so that the door was  
forced right open and many of the doors in the house that  
were latched, closed but not locked, they were also broken  
open, and this building was separated from the adjoining



building -- they were not together -- so from that you can form an idea as to the extent of the violence of the explosion.

Q. And the report or sound was, you say, very loud? A. Well, we didn't need any alarm clock to get us by that morning.

Q. Do you happen to know whether it is an arthouse or where people in that neighborhood round about? A. Yes, I think that the windows in pretty near all of the buildings within a block or two around there, were broken and the people came out in all directions and assembled in front of the building.

Q. Arriving at or near the corner of the building, did you smell any powder? A. No sir.

Q. Or traces of explosive powder or dynamite? A. No sir.

Q. Was the building in such condition as to enable you to go in and did you go in the building proper? A. Yes sir.

Q. Immediately after arriving? A. Yes, I climbed up over the debris and up the stairs and got into the building; that is I went into the lower corner flat and the middle corner flat and into whatever was left of the hall way of the Brasley flat.

Q. Did you at that time or any subsequent time find any piece large or small of lead in or about the building in which the explosion took place? A. No sir, I found no lead anywhere about the place.

Q. Any piece of lead such as would come from an explosion -- exploded gas lead pipe? A. No, I found none, and we -- when I say we -- several of there -- made a careful examination of the place in order to ascertain what the trouble was.

Q. Did you employ a Japanese at the time of this explosion?

A. I employed two, Mr. Shortridge.

8. Did you employ one for the purpose of cleaning the steps of the vestibule or other parts of the corner building? A. Yes sir.
9. What time of the morning did he usually do the work?  
A. He usually did that work between seven and eight in the morning and he had been employed by me several months prior to that for that purpose.
10. And in a general sense what was his work, what was the work he did? A. His work was to clean the marble stairs of the corner building and to clean the vestibules of the west building and to keep the sidewalks around that building clean, whenever that was necessary, but his cleaning of the steps and the vestibule was to be done daily.
11. Did you see him on the morning of the 17th of November?  
A. Well, I had no recollection of seeing him on that morning. My folks saw him, but I have tried to recollect whether I did see him or not, but my memory won't serve me. I can't say I saw him on that morning. It may be that I was a little bit excited and did not notice him, but I don't remember seeing him, my memory is not good enough to let me say I did.
12. Have you in times past made an effort to locate him?  
A. Yes sir.
13. Briefly state what the efforts you have made in that direction are? A. I made inquiries of the people where he used to live and for whom he worked to ascertain his whereabouts, and some months after the explosion he left for Japan and my last information is that he is still in Japan. He went by the English name of "Charley" and I had his name -- that is, his

Japanese name -- in Japanese that is written to a receipt for money that I paid him and with that as a help or a starter I tried to locate him but from the information I received he is not in this country.

- Q. Now this building, this corner building, was put up by you as owner of the property? A. Yes, I had it built.
- Q. Was it furnished with gas? A. Yes, each flat was furnished with its own gas, through its own separate meter.
- Q. How many flats were there in the building? A. There were seven.
- Q. Seven. There were seven -- the entrance -- the main entrance to this building was on Washington Street was it not? A. Yes sir.
- Q. And the vestibule on Washington Street served to lead to six of the flats? A. Yes sir.
- Q. The seventh flat, where was it? A. The entrance to that flat was on the Leavenworth Street side and that flat fronted on Leavenworth and was to the rear of the building, that is to the north.
- Q. This was a frame building? A. Yes sir.
- Q. Where was the meter room, if there was such a room? A. The meters were in an unfinished basement which was situated at the northwest corner -- pardon me, at the southeast corner of the building -- and if I remember right, that room was about --
- Q. (Interrupting) Southeast corner of the building? A. (Continuing) Southeast corner of the building. And that room, if I remember right, was about twenty-five feet square,

something about that sort.

- Q. It was immediately under what we may understand to be, the Cummings flat, was it not? A. It was immediately under the Cummings flat and in part under the vestibule.
- Q. On the corner? A. Yes sir.
- Q. Could you reach it from the street? A. You, there was a little doorway leading from the street, Washington Street, into this meter room.
- Q. The basement or meter room, as I would call it, was, you say, unfinished? A. Unfinished.
- Q. No flooring? A. No flooring and no plaster and no lath.
- Q. And in that room, so-called, you could look in under the steps could you? A. Yes, you could look in under the steps, under the vestibule, under part of the vestibule, there were seven meters in there.
- Q. Seven meters. Where were they arranged, or where did they stand? A. Well, they were on a little shelf, I should say about three feet from the floor and formed a kind of half circle, running from the little doorway that lead into the place towards the west and north in the direction of the stairs and the vestibule.
- Q. Did you make any investigation as to the cause of the explosion, Mr. Linforth? A. Well, along with the then manager of the Gas company, Mr. Haphtaly, I did.
- Q. You mean by Mr. Samuel Haphtaly? A. Mr. Samuel Haphtaly.
- Q. What position did he hold with that company? A. He was the manager of the San Francisco gas company at the time.
- Q. Did you or others under your immediate direction, find any



defective or leaking meter in that water room? A. Yes sir.

Q. Mr. Van Ryn: At what time? A. We found a meter with a hole in the back of it.

Mr. Shortridge: Q. And as counsel suggest, about what time was that discovery made? A. I can't give you the exact day now, I did know at the time I testified in this case against the Gas company. But I have not read that testimony since and I don't recall the exact date now. I can fix it by a circumstance which will come very close to it. It was I think in December, along about the middle of December, we found a hole in the meter. I think it was the day my family moved from our own house into the middle corner flat of this building, which had been vacated, by one of the tenants after the explosion.

Q. Who was it that found the defect in the meter stated?

A. Two plumbers that I had employed, Mr. Gilley and Mr. Lewis.

Q. Were they with you at or about the time they located the point or the defect? A. They had been hunting for hours for the leak but I reached there just before it was found.

Q. And where was it? A. As far as I could ascertain at the time it was in the back of the meter to the flat that we had just moved in, that is the middle corner flat that was occupied by Mr. De Laveaga and his family at the time of the explosion. So that you will understand that answer, let me say, the meter was right up against the south wall of the building, that is the front wall of the building, and so close to that wall, it was impossible to get your head back to see just where the hole was, but by putting your head over the corner of the meter, you could smell the gas coming up from it.

- Q. Had the meter been shut off? (Strike that out) Was the meter shut off immediately after the explosion? A. Yes, the entire supply of gas to the whole building had been shut off almost instantly after the explosion and by one of the firemen, and it was not turned on again until after the pipes had been tested, and when the pipes to each flat had been tested, the gas was again turned on. But in the lower corner flat and the middle corner flat, the tenants having vacated, ~~they~~ why the gas had not been turned on those two meters and the gas was not turned on to this particular meter until we moved in there, which I think was the 16th or 17th of December.
- Q. December. In other words, after the explosion all the gas served to that building was turned off? A. Yes sir.
- Q. And before it was turned on again a test was made of the various pipes and outlets and so forth, furnishing that building? A. Yes sir.
- Q. And as to this particular meter that served -- which flat? A. That served the middle corner flat, No. 1402 Washington St.
- Q. And the gas was not turned on as to that meter, until you moved in? A. Yes sir.
- Q. And after you moved in and the gas was turned on and passed through that meter to furnish the flat, you discovered the smell of escaping gas? Is that correct? A. Yes sir. Soon after the gas was turned on which went through that meter, 1402 Washington Street, a smell of gas was discovered in the building. And then it was that we sent for these plumbers to go over these meters and pipes again to ascertain the

source of that leak.

- Q. And it was then in pursuance of this work -- that this leak was discovered, as was stated? A. Yes, in the back of this meter, the hole in the meter was then patched up by the Gas company employes. They used soap to patch it up with and the following day, or the day after -- I think the following day was Sunday -- the following Monday morning they took the meter away and put in a new one in its place.
- Q. That is the way they temporarily fixed up the meter, is it. They used soap to cover the opening? A. Yes, they patched it up with common brown soap.
- Q. Yes, Mr. Linforth -- you were familiar with the various flats and the general shape of that corner building? A. Yes sir.
- Q. You were familiar then, with what we may call the Bradley flat, which was the upper corner flat? A. Yes sir.
- Q. That was a double flat, was it not, what is known as a double flat? A. That was a flat which consisted of about nine rooms-- the flat proper -- and then there was an attic in which there were four or five rooms and a bath room. In other words the Bradley flat was two stories.
- Q. Now, was there, looking out from the Bradley flat, a flat roof? A. The flat roof of the Bradley flat could be seen from the attic windows. It was only a portion of the roof. The rest of it was gables and this flat roof extended over the dining room and one bedroom and the bath room of the Bradley flat and over a small portion of the Blood flat to the west.
- Q. How was that flat roof reached? A. It would only be reached

by going through the windows from the rooms in the attic in either the Blood or the Bradley flat.

Q. Was the Blood flat occupied on the 17th -- on the 16th and 17th -- of November, 1904? A. Mr. Blood and his family were living there at the time.

Q. And the Bradley flat was occupied by Mr. Bradley and his family? A. Yes sir, at the same time.

Q. Was there any way to reach that flat roof referred to you in your preceding answer, other than through the windows, the attic windows of the Bradley or Blood flat? A. Not unless you built some kind of a scaffolding from the back stairs over about ten feet in order to reach it -- and then climbing up to the top of this flat roof which would be about twelve feet in height above the level of the top of the Bradley back steps.

Q. Was there any ladder leading up to this flat roof? A. There was not.

Q. Was there any structure, a temporary scaffolding leading to that roof? A. There was none.

Q. Was there a building immediately to the north of your building, a building fronting toward the north and immediately to the north of your corner building on the 17th of November, 1904?

A. There was at that time a building to the north but not immediately adjoining my building and not immediately to the north of the Bradley flat. To make myself clear, in the rear of this building which would be to the north, there was an old house that used to be occupied by John H. Wise which set way back in the garden, I should imagine at least thirty-five



feet from the Levensworth Street front; that building was there at the time of this explosion.

Q. Could you reach the flat roof referred to from the so-called Wise house? A. That would be impossible.

Q. Was there any building immediately to the north of your flat, from which a man could step or leap onto this flat roof?

A. Of the Bradley flat?

Q. Yes. A. There never was any such building where such a thing could be done. About six or eight months after the explosion this old house of Wise's that I speak of was torn down and a building was then constructed immediately to the north of my building and adjoining my building to the north, which was built right out to the street line, that is, to the Levensworth Street front. As from the roof of that building constructed after this explosion many months, it was possible for a person to get from the back steps which led from the Bradley flat; in other words, a person could go from the top of the back steps which led to the Bradley flat to the roof of this building which was constructed many months after the explosion, but it was impossible at any time to go from the roof of that building or the roof of the old Wise building to the flat roof of my building. The roof of this building referred to, that was constructed many months afterward, ended with about the floor of the Bradley flat proper, so that this flat roof that you refer to was about twelve feet higher than the roof of that building and then from this flat roof there was the space made by the back yard of some ten or twelve feet between the roof of that building and the flat roof of the

Bradley flat.

- Q. I think you have covered the matter by your preceding answer, but to leave no doubt as to the point, was there on the 17th of November, 1904, any way of getting onto that flat roof without using any ladders or scaffolding or other artificial means then to go through the attic windows of the Bradley or Blood flat? A. There was no way.
- Q. I show you a picture and ask you to state what it is?
- A. The main part of the structure is the likeness of the corner building in which Mr. Bradley lived at the time of the explosion, and the small portion of the building that you see to the left of the picture, is the building in which I lived at the time of the explosion, and the small portion of the building that you see in the right of the picture, is the building that was constructed about six or eight months after the explosion, which I have referred to in my preceding answer. This picture was taken many months after the explosion. You will observe by that picture and by the portion of the building to the right shown in the picture, the height of the adjoining building to the north on Levensworth Street, so you can see what I mean by saying that the roof, the flat roof of that portion of the Bradley flat was at least ten or twelve feet above the roof of the adjoining building to the north.

Mr. Miller: The photograph referred to in the answer of the witness is introduced in evidence and marked defendant's Exhibit S. F. No. 1.

- A. (Continuing) It may help and aid matters a little so that who ever has to pass upon it ultimately will be in a better

position to base upon the testimony -- to understand the testimony -- with the picture before me, let me say, that the portion of the building in which the sign "To Let" appears was the Bradley flat; that portion of the building with the attic immediately above it, was occupied at the time of the explosion by Mr. Bradley and his family. The flat roof that you refer to cannot be seen in this picture, but it is immediately back of the attic, as shown in the picture itself, to the north, and to the west of the attic, shows in the picture. The middle corner flat at the time of the explosion was occupied by the De Laveaga family. The lower corner flat was occupied by the Cummings family and the little flat shown in the basement, to the right of the picture, was occupied by the watchman. I have forgotten his name. The lower flat to the left of the picture, which is to the west, was occupied by a family by the name of Hudgear and the flat immediately above that, being the being flat to the west, was occupied by Dr. Kelly. And the flat immediately above that, including the attic, was occupied by the Blood family. And I lived in the little building just shown in the picture, to the left in the picture, which is to the west. The building faces Washington Street; the entrance being on Washington Street and the basement flat shown in the picture fronts on Leavenworth Street.

An adjournment was here taken until 1:30 P. M.

The hour of 1:30 P. M. having arrived, the taking of testimony was resumed and Mr. Linforth continued his direct

examination.

III. DISCUSSION:

Q. You have stated, Mr. Linforth, that on or about December 18th, 1904, after investigation and searching for a leak, that as by you explained, a leak in a certain meter was found.

Q. State, if you can, whether that meter, was in the same condition at the time of the discovery of this leak, as it was on the 17th day of November, 1904? A. So far as I know, the meter had not been touched from the time of the explosion down to the time of discovering the leak.

Q. Was it in the same place, in the meter room? A. Yes sir, in the same place.

Q. That was on December 18th? A. Yes sir.

Q. Please, if you are able to do so, explain to us the construction of the building, particularly those parts connecting -- from the meter room up to the second flat -- up to the first flat -- the second and the third even, in respect to the condition of any openings or avenues for the passage of air and gas?

A. The basement or meter room was not finished. By that I mean it was not lathed or plastered, so that gas escaping from any meter in that basement or meter room could arise and percolate up between the studding of the building, right to the very top of the building, and under the battens and between the floor joists. I don't remember the size of the studding in the building, or in the basement. The first floor I think was 2 by 4; to illustrate, on each side of the studding there would be the walls of the building, or the partitions

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of the room and there would be a space between those two walls, the width of the studding, whatever it may be. So that air or gas, or any such substance in that basement, if it had a tendency to rise, would rise between the studding; and between the floor joists there would be a space of ten inches or a foot, so that gas escaping in that basement -- it would no doubt rise and permeate in through the studding and in between the floor joists until it reached almost the entire building, if there was sufficient gas for that purpose.

MR. MILLER:

1. What was the effect of the explosion upon the walls of the upper story or upper stories in the front of the building, if you noticed? A. Right at the head of the stairs was a large hall or reception room in each flat. Take to illustrate, the living room which was at the head of the middle corner flat. That room was about 14 feet by 24, and the room was paneled to the height of about 7 feet. The panels were put close together and where the two panels would join, there would be a moulding over the top, say, a strip in other words, and if the panel, say, was a foot wide and seven feet in height the strip which covered the joining of the two panels, would be, perhaps, four inches in width, by a quarter to half an inch in thickness, and that was so all round each one of the living rooms. Above the height of this panelling, from there to the ceiling, it was lath and plaster. I noticed in particular the living room or reception hall of this middle corner flat, after the explosion, these strips and these panels had been blown right out, so that they were splintered and lying in the

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room.

- Q. You refer to the panels of the wall next to the Washington Street side? A. I refer to the panel in particular which formed the westerly wall of the living room of the De Laveaga flat, 1405 Washington Street.
- Q. What direction would that be from Washington Street?
- A. From Washington?
- Q. Yes. A. Well, that would be at right angles to Washington Street.
- Q. Did you make an examination in the basement, after the explosion, to determine whether any of the gas pipes were broken in the basement? A. Personally, I did not make any examination, but I hired men and gave them instructions to investigate everything connected with every pipe in the building.
- Q. Did you read the testimony of Harry Orchard as to the placing of the bomb and where he placed it? A. I read what purported to be a transcript of his testimony furnished me by you. I did not read all of it, Mr. Miller. But I read portions of it, and the portion relating, I think, to that incident.
- Q. Did you hear the testimony of Mr. Bradley as to his position as to the time of the explosion, relative to opening the door?
- A. Yes, I heard the testimony of Mr. Bradley.
- Q. Where would Mr. Bradley be standing?

Mr. Van Dorn: Objected to as incompetent, immaterial and irrelevant, and on the ground it would be hearsay evidence and not of his own knowledge.

8176 Mr. Miller: Q. In light of the testimony of Mr. Orchard and of Mr. Bradley, state the relative position of the door

and also of Mr. Bradley.

Mr. Van Dorn: Objected to as immaterial, and incompetent and a hypothetical question.

Mr. Miller: I withdrew that question. I can probably give it so it will not be incompetent.

- Q. What was the direction of Mr. Bradley's door; was it running east or west, north or south? A. North and south. It opened to the west.
- Q. What is the direction of Washington Street? A. East and west.
- Q. Then where at what position would the door be situated relative to Washington Street at right angles or parallel?
- A. At right angles to Washington Street, opening to the west.
- Q. Mr. Bradley, in opening the door, would he be on what side of it from the points of the compass? A. He would have been west of the door.
- Q. And the bomb would have been where? A. East of the door.
- Q. And Washington Street would have been what direction from the bomb and the door and Mr. Bradley? A. To the south.
- Q. Are you able to tell from the testimony of Mr. Orchard and Mr. Bradley, whether Mr. Bradley would have been north or south of the point where the bomb is claimed to have been placed? A. If I understand correctly the testimony of those two gentlemen, he would have been west of it.
- Q. Towards the front or rear of your flat, your building?
- A. Right in front.

Mr. Van Dorn: I must object to the legal conclusion of the witness, as a conclusion from his testimony. The jury would probably be the best judge of it.

A. (Continuing) I can put it this way. Mr. Bradley's door way was west, west of the vestibule or landing at the head of the stairs and if my boss was in that vestibule, of course, Mr. Bradley's door way would be to the west of it.

Mr. Miller. What was the direction of the force of the explosion there as you observed it afterwards?

A. Up and down, north, south, east and west.

Q. All directions? A. Yes sir.

Mr. Miller: That is all.

#### CROSS EXAMINATION

MR. HALL: DIRECT:

Q. As I understand, Mr. Linforth, when you made an examination of the meter it was in the neighborhood of a month after the explosion occurring on November 17, 1904, your examination being made about December 17th? A. I never made any examination of the meter.

Q. I misunderstood you; that is what you testified then, has been hearing in regard to the condition of the meter?

A. No sir, I was present when they found the leak in the meter, and put my nose over the corner of the meter and as near to the wall as possible, and detected the odor of gas coming from the meter. But I never examined the meter or any of the meters. I was present when the hole in the meter was found.

Q. Who was present at the time the hole was found in the meter?

A. Mr. Gilley, who was the head plumber and the helper or an employe of his, a Mr. Levin, and I think a Mr. Weatherbee, who was also an employe of Mr. Gilley. There were several

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other people there; I don't know as I recall all of them. But if my memory serves me correctly there was the inspector of buildings of this city, present at or about the time; I know he was there just after the hole was found, if not just at the minute and I can't recall his name. Mr. Burnett, you know the old gentleman I mean? He was a witness in the trial of the suit which I had against the gas company. I can't think of the old gentleman's name, but he was the building inspector here.

- Q. This hole was found concerning which you have testified, and as I understand from your testimony, it was in the neighborhood of a month after the explosion? A. Yes, just about a month after the explosion.
- Q. Now, during all the time intervening between the explosion and the examination, was the basement opened so people could come in and go out? A. I think it was open all the time; the carpenters and plumbers were working around repairing the building, and I think they had lumber and material stored in the basement during that interval.
- Q. And gas had been used since the explosion and at the time of finding the hole there? A. I think it had been used in all the flats except the particular middle corner flat, and possibly the lower corner flat.
- Q. Who had occupied it? A. That was where Mr. De Lavergne lived at the time of the explosion, No. 1402 Washington Street.
- Q. Had you up to the time of the examination, been troubled very much with --- I mean the time you discovered the hole---

troubled very much with gas escaping over the house?

A. From the time of the explosion down to the time this hole was found in the meter?

Q. Yes. A. No, there had been no smell of gas in the building during that interval to my knowledge.

Q. Were there gas pipes running from this meter to each flat?

A. There was a separate meter to each flat.

Q. And there were gas pipes running from that flat to that separate meter for that flat? A. Yes sir.

Q. And were there gas pipes in this little vestibule used for lighting, Mr. Linforth? A. Yes, in each side of the vestibule, that is the west side where the three entrances for the corner was, there was an electric and a gas fixture combined.

And on the side of the vestibule where the entrance is to the three flats to the west was, there was the same kind of a combination fixture.

Q. What effect, if any, was made by the explosion upon the fixtures of which you have spoken in the Bradley side? A. If my recollection serves me rightly, the fixture was blown up through the ceiling of the vestibule.

Q. Was it broken? A. I think so, if my recollection serves me correctly. I know the pipes in the ceiling of the vestibule were blown up there.

Q. In regard to the pipes conducting the gas up the sides of the vestibule wall? A. Do you mean the main leader or service pipes that ran from the meter, between the studding up to the flats above? \*

Q. Yes. A. The explosion broke one of the leader pipes out about four or five or six feet above the vestibule. I think that is shown quite clearly in one of the pictures here. If my recollection serves me correctly. You will pardon me a minute and I will try and find it for you. That shows in the picture which you have just handed me and is marked defendant's exhibit S.F. No. 2. That is one of the riser pipes that ran from one of the meters in between the studding; on the one side of which was the east side of the vestibule and the west side of the wall to the parlor of the lower corner flat.

Q. Do you remember which meter that was, Mr. Linforth?

A. No, I don't; I don't know what meter that connected with.

Q. Do you remember whether any of the floor pipes were broken?

A. I must ask you before I can answer that, what you mean by floor pipes.

Q. I presume there are floor pipes running through the floor, that is in a horizontal direction. A. That is gas pipes, under the floor?

Q. Yes. A. I am quite satisfied that the pipes which ran along the ceiling of the vestibule were all broken and blown up. I think some of them show in the picture which I have just referred to. In that picture that wall which you see exposed there was not the wall of the building. The wall of the building was entirely blown out and that is a temporary wall put there to close the building in until repaired.

Q. And immediately after the explosion there was nothing standing there but those pipes? A. That wall or boarding was put in by the carpenters afterwards; those pipes were standing and

also that studding was standing. If that studding had come down, the building would have fallen because that is part of the carrying wall of the building.

Q. You don't know what meters those pipes ran to? A. No, I do not, Mr. Van Duyn.

Q. You say in regard to the finish of the basement, that it was an unplastered basement? A. Unplastered and unboarded.

Q. And between the basement and the flat above, there was existing two floors? A. I mean by two floors, there was a rough floor and a finished floor. Now just excuse me a moment, I don't think that is so with reference to the first floor. I know it is so with reference to the upper floors, the reason for that being, in the upper flats to deaden the noise, to deaden the sound, but that reason would not exist with reference to the lower flat. I don't think there was a double floor. I think that was a single floor, but in that I may be mistaken.

Q. As I understand these floors were probably grooved floors?

A. Yes, the upper floors were joint tongue and groove and tightly laid.

Q. Now this pipe you have testified as being broken to which floor did that extend, if you know? A. I could not tell you that.

Q. You couldn't tell? For each pipe, as I understand, was a feed or supply pipe for one flat. Was there more than one pipe running to one flat? A. Well, there were many pipes to a flat but of course, there was one feeder pipe running from the meter. There was one particular pipe from which all the sub pipes

would run.

- Q. Was that pipe that was broken a feeder pipe or was it a sub pipe? A. Well, I am not very well versed on that, but I am under the impression the pipe that was broken was one of the feeder pipes that connected with one of the meters.
- Q. Now, in regard to the back staircase, Mr. Linforth, have you ever been up the back stairs case at any time? A. You mean the back stairway to the Bradley flat?
- Q. To the Bradley flat? A. Many times.
- Q. Would you kindly explain how they go up, the direction and the manner. A. You mean on the Bradley side?
- Q. Where they go up? A. On the Bradley side?
- Q. Where they got their milk? A. Yes. The stairs commenced in the back yard and were built at the extreme rear of the lot and made two or three turns before you finally reached the little landing or back porch at the top of the Bradley flat.
- Q. Now, would they start from the street or from the back of the building? A. No, they started from the back yard.
- Q. How do you reach the stairs? A. Looking at defendant's Exhibit S.F. No. 1 between the extreme west of the building as shown in the picture, and the building next door.
- Q. Occupied by yourself?
- A. Occupied by myself. There was a passage way of about four feet that went back about twenty feet and then under the building into the back yard; so a person going from Washington street would walk out north for about forty feet and then they would be in the back yard, which was a space of about twenty-five feet -- thirty feet perhaps -- by about twelve



and you would then turn east until you came to the foot of the stairway, which commenced in that back yard and you would go up those stairs a certain way and then the stairs would make a turn and then you would go up again to the next floor and make another turn going up to the next floor, make another turn going to the third floor, which was Mr. Bradley's door, and on to his back porch. The stairway ran from Mr. Bradley's back porch down into the back yard.

Q. As for instance, from your testimony, the back stairs were on the west side of the building? A. No, the back stairs are on the north side of the building, the extreme north end of the building.

A. And you would go through the avenue between your house and the Linforth flats--you would have to go to the extreme length of the building, then turn to the right until you got to about the center part of the Linforth building? A. Yes, sir.

Q. And then you would commence--your zig-zag curve up the stairs? A. Yes.

Q. Now at the landing--at each landing of the back stairs,--is there a railing around the landing or was there at that time?

A. Yes, there was a little railing around each landing and the door from the landing lead into the back porch of the flat proper.

Q. And there was a landing with a railing on the third floor of the Linforth building which was known as the Bradley flat?

A. Yes, just the same as on the other two.

Q. How high is that railing above the floor landing of the Bradley Flats? A. Well, it would be a matter of I should imagine the height of that railing would be the same as the railing all the way up the stairs--about three or four feet; a little higher than the ordinary banister for stairs.

Q. And then from the height of that railing to the east roof how far would that be according to your best estimate? A. What roof do you refer to, the gable roof or the flat roof?

Q. The lowest part of the roof--what part would that be?

A. The lowest part of the roof would be the flat roof and that would be about eight feet - but there was a space of about twelve feet between the stairway and that flat roof in that part of the building.

Q. As I understand from your evidence, Mr. Linforth, going north from Washington Street the whole third story belonged to Mr. Bradley for his use and occupancy, is all the way across--all that side of the building? A. All the windows on this side--(indicating)--were in Mr. Bradley's flat; there are one, two, three bay windows on the Leavenworth street side and two on the Washington Street side. I don't count the corner window in that.

Q. Now from the top of the railing at the rear of the Bradley flat to the lowest point on the east of the Bradley roof, what in your judgment, would be the distance, Mr. Linforth?

A. You mean the south--the flat roof there--that flat portion of the roof?

Q. <sup>east</sup> No, on the west, right immediately above the steps where the steps strike the landing. A. That would be perhaps 15 feet because right there was the attic you see which ran to the end of the lot and the roof there is the top of the attic and the attic was fully twelve feet and from the top of this railing to the floor of this attic would be six to eight feet more, it would be at least eighteen to twenty feet.

Q. And from the top of that railing to the lowest point of the

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roof--I presume you would call that the cornice (sh

A. No, the flat roof.

Q. This would be the same height as the flat roof, that rim that ran around there, I presume you would call the cornice ?

A. Yes. From that railing (the top of the railing that went around the little porch at the head of the stairs)--it would be I should say, eight feet, but the attic was above there at least ten feet more, which would be eighteen feet. On the rear of that building you did not have that cornice. You have on the front. It ran into the gable roof up there, so a man would have to climb right straight on the shingles if he tried to get up.

Q. What was the incline of that roof from the Bradley landing ?

A. Well, it is pretty steep. I would not like to give an opinion. I know no man could walk up or down it without he had boards nailed on to hold him, or unless he had nails or something in his shoes which would hold him. It was too steep to walk on.

Q. Would you kindly give the dimensions of the Bradley landing.

A. Do you mean the little landing at the top of the stairs just before you go in the back porch ? ~~Yes.~~

Q. Yes. A. I should imagine about four feet square; that is just an estimate it was not more than that. It was about that square. (indicating) I don't think it was more than that--a little small landing.

Q. As I understand, the flat roof you speak of would be to the right ? A. As you stood on that little landing at the head of the stairs the flat roof would be to the right which would be in the direction south toward Washington street because the stairway was at the extreme north end of the lot.

Q. Standing on that landing, looking toward the building, if you took a position on that little landing and turned your face toward the building-- A. (interrupting) That is, looking south.

Q. (continuing) Toward the building or south, where relatively would be this flat roof? Immediately to the front of you or to the right or left? A. It would be immediately to the front of you about eight to ten feet above the top of the railing, about fifteen feet away from you. Now these distances of course are estimates, because I never measured this, of course, you know.

Q. How was the rear of the building fixed in regard to water pipes or anything of that kind?

A. The rear of the building, the rear wall, where this flat roof ended.

Q. (interrupting) Near the steps? A. (continuing) The water pipes were all on the inside of the back porch.

A. Now, after leaving the Bradley landing there, the rear landing, you went into the back porch? A. Yes, sir.

Q. And what were the dimensions of this room, Mr. Linforth?

A. That back porch?

A. Yes. A. I should say, above twelve feet square. It was made large enough for the wood box and wash tubs and a toilet, I should say; twelve feet square or ten feet.

Q. How many entrances were there to this back porch? A. This door at the head of the stairway and a large window to the right, as you stood at the head of the stairs.

Q. There were no openings going into the interior of the house?

Q. From the porch there was a door which lead into the kitchen of the flat proper.

Q. Now, in getting to the attic through this way, how would you go to get there? A. The only way to get to the attic was up through the house. There were no back steps that went to the attic. The stairs ended with the flat proper, a story below the attic.



Q. Now, this building of which you have spoken as having been built so as to adjoin your building on the north, after the explosion, in what course of construction was it at the time of the explosion? A. They had not commenced to build at the time of the explosion.

Q. They had not commenced to build at that time? A. No, sir.

Q. What was the space intervening between your flats and the old house, which I understood you to have spoken of? A. My building was right on the Leavenworth street front, right up to the sidewalk line, as you will notice, right at the lot line and the building next door, that is, the old Wise home, if I remember correctly, must have been thirty or thirty-five feet from the lot line.

Q. A small or large building? A. Very large house; it was a house that ran very far back in the lot; the lot was 137 feet deep and the building was set way back in the lot; the entire corner used to be Mr. Wise's home, and the part of the lot where my building stood, used to be Mr. Wise's garden.

Q. Now, the west side of your building, Mr. Linforth, how is that fixed in regard to water pipes or drain pipes? A. The west side of my building, the west side of this corner building?

Q. The Linforth flat building? A. The west side was the building where I lived.

Q. What was the extent of the space intervening between?

A. Only in front, not in the rear. In the front between the two buildings there was a space of about ten feet and that extended to a depth of about thirty feet, and from there two two buildings came close together.

Q. In regard to the flat roof on top of the Linforth flats what means of access was there to that from that side?

A. You mean this flat roof that was on the corner building.



Q. The corner building, yes ? A. The only way that flat roof of that building could be reached was either through the rooms of the attic of Mr. Blood's flat or through the rooms in the attic of Mr. Bradley's flat.

Q. How near did your building approach that flat roof ? A. You mean where I lived ?

Q. Yes. A. The rear portion of my building was right against the corner building, but if my building had not been continued up to the height of the flat roof over to the corner building, why it would have been right next to it, but my building where I live was only two stories high, and this corner building was four stories high, and the hill slopes and drops so that you can look from the window of the middle inside flat, which is Dr. Kelly's flat right over the roof of my building. The only part of my building which you could not look over the roof of from Dr. Kelly's window was the little gable front that we had on top of our roof, but all the rest of the building you know looked right over from Dr. Kelly's window. And I know that to be the fact because in ~~the~~ building set door, I built it as not to interfere with the view that Dr. Kelly got of the bay and the Golden Gate from his windows there, and the distance between the roof on my building and this flat roof we have been talking about, would be sixteen or seventeen feet somewhere along there.

Q. You spoke of water pipes running inside the rear porch from the rear. You mean, conveying the water for household purposes ?

A. The water pipes referred to were pipes carrying the water--not drain pipes--from the roof.

3429 Q. The drain pipes ? A. Let me see if I understand you correctly,

so you mean the gutter pipes ?

Q. Yes. A. Where were they situated with reference to the rear, main corner of the building ?

I don't know as I could tell you that.

Q. They didn't run inside the building ? A. Not the drain pipes.

Q. I noticed one gutter pipe on the Leavenworth street side of the building, shown by defendant's exhibit S. P. No. 1 ?

A. Yes, that is the Leavenworth street side.

Q. Also one on the Washington Street side ? A. Yes, sir.

Q. In regard to the west side, how many on that side ?

A. My recollection don't serve me, but the chances are there was one on the west side exactly the same as on the front. On the Washington street at front and the Leavenworth street front.

Q. And the south side, how was the south side situated ?

A. The chances are the south side was just the same.

Q. And the north side ? A. The chances are there was a gutter pipe on each four sides of the house, similar to the two shown on the two sides of the building, shown in the picture.

Q. According to your best recollection, there was probably a gutter pipe on the outside each four walls of your building ?

A. Well, while I don't have any distinct recollection on that subject. I think that was the case; however, there are two shown on the two sides in the picture and the chances are there was one on each of the outer sides which don't show on the picture.

Q. In relation to the flat and gable roof in the rear of the Bradley flat, you don't know whether there was a gutter pipe extending to each of those or not ? A. Each of the roofs--the tall roof ?

A. I couldn't say whether there was one gutter pipe to the two, or

whether each one had a separate pipe.

Q. There may or may not have had, you don't know in regard to that ? A. No.

Q. Were there any projecting window ledges or anything of that kind on the north side in the neighborhood of the Bradley rear landing ? A. In the neighborhood ?

Q. Yes. A. No, there was a space between the rear landing at the head of the back stairs of the Bradley flat and the flat roof, being the width of the back yard which I have already referred to.

Q. What I mean, were there windows in the rear looking out ?

A. Any windows in the back, fronting the back yard ?

Q. Yes. A. Yes, the dining rooms of the inside or west flats fronted on that back yard.

Q. These windows- did they have ledges or projections or were they simply a window set in, an ordinary window ? A. They were bay windows.

Q. In the rear also ? A. There were bay windows of the dining rooms of the inside flats, which fronted on that back yard.

Q. Did they project out from the main wall in the building a considerable space ? A. The same as any bay window.

Q. Approximately the same space as shown in defendant's exhibit

B. F. No. 1--the bay windows shown there ? A. Yes, pretty much the same.

Q. So the wall in the neighborhood of the rear Bradley flat was considerably broken by windows ? A. Well, there was the bay window to the dining rooms of the west flats, window to the kitchens of the west flats and the windows to the kitchens of the flats on the Bradley side. All open on that back yard. In other words, one bay window and two flat windows of each flat fronted

on that back yard.

Q. Now, in regard to the Washington Street side, concerning which you have testified, I would ask you what effect was had upon the floor of the Bradley vestibule by the explosion upon the 17th of November, 1904. Upon the floor of the vestibule in the neighborhood of the Bradley door? A. The vestibule -- by the vestibule do you include just the little landing or the stairway -- all together?

Q. I mean the little landing. A. It was broken and shattered. The tiling was blown out, the little risers running from the floor of the vestibule to the doorway were blown out, the railing around it, as you see in the picture, was blown right up through the stairway of the middle corner flat, and right through the door of a closet at the head of those stairs. We found the iron railing there in the closet after the explosion.

Q. Mr. Linforth, what is immediately below the vestibule floor of which you have spoken? Providing that floor be down what would we find immediately below? A. It was intended as a billiard room for the lower corner flat, but was used by the Cummings people as a bed room; that in part, and over one corner of it is the unfinished basement.

Q. Was there a hole blown so that one could go from the billiard room of which you have spoken, through the vestibule floor?

A. From the meter room?

Q. From the billiard room? A. There was a hole in the floor of the vestibule through which the firemen, when they came there, were shoveling the debris. I remember that quite distinctly



and told them not to shovel any debris down there.

Q. They were shoveling it down that hole, and it went in the basement? A. No -- it was a room there, and billiard room of the lower corner flat, and they were shoveling it down there; the risers of the stairs were also blown out and the stairs themselves cracked.

Q. If one should at that time have drawn a line from the foot of Mr. Bradley's door where it opened into the vestibule, vertically downward, as I understand from your testimony, that line would have entered the billiard room? A. It would go in the billiard room which was used by the Cummings family

Q. as a bed room. There was a broken space -- an open space broken down there -- what was the diameter of that space which was broken, Mr. Linforth? A. Well, I should imagine that the hole would be large enough or the broken space would be large enough -- for one person to drop right through. The vestibule was tiling and was more or less cracked and split and broken.

Q. Where was the hole in relation to the Bradley door?

A. If my recollection serves me right the hole was about in front of the De Lavenga door. I am quite sure it was.

Q. The next flat next? A. I am quite sure it was very close.

It was out of the De Lavenga stairway that they were shoveling this debris.

Q. How far would that be from the Bradley door? A. That would be about in the center of the vestibule, and the vestibule, if I remember correctly, was about three to four feet in width and six, seven or eight feet in length.

Q. It would then be about three and one half feet from the Bradley



door, or four feet? A. Referring to this hole, I think that is correct.

Q. You stated in your direct testimony, Mr. Linforth, you did not notice any indications of any lead scattered around the building? A. No sir.

Q. There was considerable debris scattered all round the building? A. Yes sir.

Q. You were not particularly searching for lead at that time? It is only a theory that no lead was found around there that time? A. I had no theory at all. I did not know at that time what was the cause of the explosion and we were looking around to find what was the trouble, and did not come to a conclusion until the manager of the gas company came there and picked up a washer which he thought was made of rubber instead of leather and claimed that the washer was the cause of the explosion and that it was a gas explosion, and we of course, not knowing anything different, accepted his statement as being correct, except that we did not agree with him, that the washer was made of the wrong kind of material. He and the fire marshal determined what the cause of the explosion was and we knew no different and accepted their version.

Q. Now in regard to the lead of which you have spoken -- is it not possible that there might have been minute fragments of lead scattered around the plastering and the various debris without your noticing it at that time? A. The vestibule was like the reception hall above. The vestibule was paneled with hard wood to the height of about seven feet and if the lead, of which this man claims this bomb was in part made, melted and was blown

into any place it should have been in that wood.

Q. You didn't see any melted lead or anything of that kind?

A. No sir.

Q. You don't know what the effect would be upon a lead bomb if it was exploded by dynamite? The lead casing of the bomb?

A. No sir.

Q. Did you make any personal examination of the walls for lead at that time, or anything of that kind? A. No sir. We looked around in a general way trying to find what caused the trouble.

Q. Did you go pretty thoroughly over the debris in the building?

A. We searched through it carefully.

Q. Did you go pretty thoroughly over the building -- over the parts of the building -- which were splintered? A. Personally, I did not.

Q. You did not instruct anybody to look for lead or anything of the kind? A. No, I did not.

Q. Now this billiard room directly below the Bradley door -- what is below that billiard room, if anything? Is there a cellar or anything of that kind? A. No, just the foundation of the house.

Q. And where are these meters of which you have spoken in regard to the billiard room in relation to it? A. Within a few feet to the south of the billiard room.

Q. Towards Leavenworth Street? A. Towards Washington street.

Q. Towards Washington and Leavenworth? A. (pointing) Yes, in that direction.

Q. You are the same Mr. Linforth that sued the gas company for

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damages caused by a gas explosion which suit is now pending on appeal in the Supreme Court of the State of California.

A. Yes sir.

Q. In regard to turning ~~the~~<sup>on</sup> the gas after the explosion, I understood you to say, although I may be mistaken, that the gas had been turned on before the time you found the hole after the explosion -- and before you found the hole? A. When we moved in that flat, about a month after the explosion, the gas was ordered turned on and was turned on about three o'clock in the afternoon. When I came home about six o'clock that evening my wife reported there was a smell of gas in the building again, and I immediately went down stairs to see what the trouble was, and coming into this lower corner flat which was then vacant, I at once smelled the gas quite strongly and I walked into the parlor under which the meters were and the smell of gas came up through the floor, the mantle as yet not having been put in. I shut the folding doors to close the parlor up and opened the windows to let all the gas out, and it escaped all the rest of the afternoon and evening.

Q. What time -- was that the day before the leak was discovered there? A. The gas had been turned on that afternoon and it was the next morning. I notified these plumbers to come and hunt for that leak, and I think it was the next day, Saturday, that they came and hunted all that day until about three or four o'clock when they found it.

Q. That notification of which you speak was a letter to the gas company? A. I think my wife gave them a written order to

turn the gas on. Then a short time after -- an hour or so after -- they had turned the gas on, the building was full of gas again.

Mr. Shortridge:

Q. You called up somebody and told them there was a leak?

A. Yes sir. After the plumbers had located the leak I dictated a letter over the telephone to one of the boys in my office and had him sign my name and deliver it to the Gas company, and told them there was another leak in my building. By the time their men had got there, my men had found the leak in the back of this meter. Their men patched up the leak with soap and I think it was the following Monday morning they put in a new meter.

Mr. Van Durn:

Q. The letter -- you told the gas company -- you had already had one explosion and did not want another? A. Yes, something to that effect.

Q. It was meter 1402? A. Yes sir.

Q. Who had occupied 1402 at the time of the explosion?

A. The De Laverga family. They moved out the day of the explosion and the gas was not turned on and there was no one living there and it remained that way until we moved in when we ordered it turned on, and then there was the gas escaping again.

Q. The gas had not been turned on from that meter 1402 until you had made an examination, that is, during the interval between the explosion and the time you found the hold there -- the gas had not been turned on in 1402? A. No, not to my knowledge, the gas had never been turned on so far as I know.



- Q. So far as you know? A. So far as I know.
- Q. Did you ever, at any time after the explosion, and if so at what time, give instructions to have the gas turned on in 1402, for the purpose of testing? A. I told the plumbers or the builders that were employed -- I don't know which one, but one or the other -- immediately after the explosion to go ahead and test every pipe in the building, because I feared the explosion had wrenched or broken the pipes in the building. And the instructions were given either by me personally or by the contractor who was employed to repair the building immediately after the explosion.
- Q. Do you know whether they did make a test, as you instructed?
- A. From my own knowledge --
- Q. (Interrupting) From any report made to you?
- A. (Continuing) From the report made to me they did make the test.
- Q. And as they reported to you, they had made the test?
- A. They reported everything was all right.
- Q. And what time was that? A. I couldn't fix the time. It was after the explosion and during the repairing of the building. They were some two months in repairing the building.
- Q. How long would that be, Mr. Linforth, before you found the hole in the meter?
- A. From what?
- Q. Before you found the hole in the meter concerning which you have testified up to the time the report was made? The difference in time between the time they reported 1402 and the



time you found the hole in 1403?

- A. They did not report to me in that way; that they had inspected 1402. My instructions were to inspect everything, test everything in the building, and the report to me was that they had tested everything and had fixed things up and that everything was all right. They did tell me the pipes in the ceiling of the vestibule were entirely blown up and broken and the pipes running in the floor of the vestibule were broken, and that they had also made their test.

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Q Was that a week or so before you made the examination?

A Made the examination?

Q I mean the time you discovered the hole in the motor?

A I couldn't tell you the time because I would be guessing at it. My recollection won't serve me just now, as to when they told me, but it was before we discovered the leak in the motor -- because they had been working around the place and we would not have moved in if we had known there was any leak.

Q In order to have made the test in 1902 they would have had to turn on the gas. That is the only way of making the test?

A I don't know as to that of my own knowledge.

Q You say you were in bed at the time of the explosion and you thought it might be in the neighborhood of fifteen minutes to eight o'clock? A I think it was shortly before eight o'clock, between half past seven and eight o'clock.

Q Could you in any manner describe that explosion. What it sounded like, any similar noise that you know of? A Well, the explosion was something terrific and immediately following the explosion was the breaking of glass in every direction, which I suppose, aided to it, and I don't know as I could describe it.

Q Was it a dull report, or a sharp report -- a dull thudding report? A Well, I don't know as I could tell you Mr. Van Dorn, whether the report was sharp or dull. It was very loud and the force of it must have been tremendous from the way it broke the doors in my own home, next door, and the way it

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broke the windows of the buildings in the neighborhood. I have often wondered how far the report was heard and I have had some people tell me it could be heard five miles. Of course, I think that is carrying it pretty far, but I understand that Mr. Naphhtaly, who was the manager of the gas company, heard it where he was at their works, at Bay Street and Buchanan Streets, somewhere in that neighborhood.

Q That is all hearsay? A You can strike that out. From my knowledge it was very loud.

Q In regard to the Bradley door, what was the result upon the Bradley door. I understood it was a glass door? A All the doors to the flats were heavy plate glass with just an oak frame or sash around.

Q What was the effect upon the Bradley door? A If my recollection serves me correctly, the door to Dr. Kelly's door, was the only door that was found after the explosion. The other five doors were blown to pieces. That is my present recollection. I know I had to buy new doors.

Q Did you find any particles of glass around the vestibule? I presume the glass to the door was much heavier than ordinary window glass? A I really paid no attention to it. The glass was all scattered around the building, because as you notice from the pictures, the entire front of the buildings was nothing but windows and the sidewalks and streets were covered with glass. I don't think there was a pane of glass left in the building after the explosion.

- Q What was directly within the Bradley door, was that the partition wall running up between the two parts? A The wall that divides the Bradley stairway from the Blood stairway.
- Q What was the effect of the explosion upon that wall? A All the plaster was stripped off the wall, the laths broken, the studding shattered. The Blood door were blown clean out.
- Q Was there a hole blown through that division? A No, no hole blown through that division.
- Q Would you know whether or not there were any particles of glass found in that partition? A No, I did not notice.
- Q Did you see anything on the door mat around there after the explosion? Were there any particles of that remaining?
- A I didn't notice whether there were or not.
- Q As I understand, after you came outside the Bradley door, there is an open space in there? A It is open in front.
- Q Open in front? A The other three sides are closed.
- Q And during the time you lived there, did you ever smell gas in that porch? A I never lived there before the explosion.
- Q Well, after the explosion? A I never smelled gas on that porch at any time I lived there.
- Q In such an open porch in that doorway it would be difficult for gas to remain there in any large quantities? A I think gas could remain in there from that moulding up to the ceiling. (Pointing to picture)
- Q From the moulding of the porch up to the ceiling? A Yes sir.
- Q The depth from there to the highest part of the ceiling of the



vestibule -- what is that depth there? A Perhaps three feet, something of that sort.

Q And at the front of that porch is practically all open except for the upright columns that run through there? A No, there is only a portion of it that shows open. The picture which you have is a true picture and shows that. (The picture referred to is here introduced in evidence and marked defendant's exhibit S. P. No. 3.)

Q I herewith hand you defendant's exhibit S. P. no. 3 and ask you if this is a fair representation of the vestibule of the Linforth flats, on the Bradley side and the approaches thereto?

A As much as is shown in the picture, is a true representation. The picture does not show all of the front vestibule.

Q Now from the dividing partition wall between the Bradley side of the flat and the Blood side of the flat -- what is the distance from the side of the dividing partition wall to the extreme east end of the vestibule? In other words, what is the length of that small vestibule from the division wall that you referred to to the easterly wall of the vestibule on the Bradley side? A I should say the distance is about twelve feet.

Q About twelve feet? A I should say that the little landing in the Bradley hallway was about four feet square and that vestibule was, I think, about seven or eight feet.

Q Now, what are the dimensions as near as you can give them, Mr. Linforth, of the outside vestibule, that is, from the Bradley



door, easterly to the wall of the vestibule? A I just gave them, seven or eight feet.

Q And the width of it as I understand from your testimony would be three to four feet? A Yes sir.

Q And the height of the vestibule would be about what? A I am not quite clear upon that point because the ceiling was covered, but I don't think it was higher than twelve feet, although it might have been, but I don't think so.

MR. VAN DYKE: I think that is all.

RE-DIRECT EXAMINATION

BY MR. SHORTRIDGE:

Q I call your attention to defendant's exhibit S. F. No. 1 and to the drain pipes or gutter pipes shown on that picture; to the one on the Leavenworth street side and the one on the Washington street side, and ask you to state whether there are, or were similar pipes on the other side of the buildings, and if so, if you are able to state, whether they were in the same relative position, that is to say, whether there was one on the north side of the building corresponding to the one on the south, and one on the west, corresponding to this one on the east? A I have no independent recollection on that subject, but the chances are there was a similar pipe on the west side and one on the north side.

Q As I understand it, there was a bay window extending out to the north from the dining room of the Bradley flat?

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A No sir, there was a bay window extending from the dining room of each flat to the west but not from the corner flats. When I speak of the corner flats, I mean the Cummings, the De Laveage and the Bradley flats.

Q This way to the right of that picture?

A That is not to the north, that is to the east.

Q To the right of that picture, that direction is north, is it not? A Leavenworth street runs north and south, the bay windows run to the east.

Q Are there any bay windows on the north of that building?

A There is no bay window extending out to the north from the Bradley flat. The bay windows extend to the east from the Bradley flat. The bay windows to the north are the bay windows from the dining rooms of the three flats that were occupied by the Blood family, by Dr. Kelly and by the tenant in the lower inside flat.

Q Then the west — the three flats to the west do have bay windows on the north end?

A Yes, from their dining rooms, but there are no corresponding bay windows to the flats on the east. There was a flat window to the north on those dining rooms, but not a bay window.

Q In other words, the north wall, so to speak, is not uniform in respect to bay windows, which run from Washington street?

A It runs from Leavenworth street in about twenty-five feet, then there is a jog of about fifteen feet that gives light to the

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rooms.

Q And this picture, defendant's exhibit B. F. No. 1,-- I call your attention to what appears to be a door directly opposite or behind a telegraph pole to which I am directing your attention; is that the door referred to in your testimony leading into the meter room, about which we have been questioning? A Yes, that is the door that lead into the little meter room from Washington street and those two little objects that look like doors, one on each side of that, are ventilators.

Q If Mr. Bradley was in the act of opening the door of his flat leading out onto or into the vestibule and a bomb at that time was lying just outside of that door on the vestibule floor, what direction, to clear this up, would Mr. Bradley be from this supposed bomb? A He would be to the west of it.

Q To the west. And assuming him to be standing in the position indicated by my preceding question, the window looking out from the hallway in which he was standing would be in what direction from him? A South of him.

Q South. Counsel asked you whether you were the Mr. Linforth that brought suit against the gas company for damages to your property. You answered that you were. I ask you did you bring suit against the San Francisco Gas and Electric Company for damages resulting to your property and ascribed the cause of

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the injury to your building, as being a gas explosion? A Yes sir.

Q And that case went to judgment? A Yes sir.

Q Was tried and went to judgment. The case I believe you stated was on appeal and now pending in the Supreme Court of this State? A The gas company appealed it.

Q In other words you recovered a judgment against the company?

MR. VAN DUYN: Objected to as calling for the conclusion of the witness, and therefore incompetent.

A Yes, the jury brought a verdict in my favor, and upon that verdict, judgment was entered against the gas company.

Q The gas company contended that the explosion resulted from gas escaping from the gas grate in the parlor room of the lower corner flat, did it not? A Yes sir.

Q And you contended as plaintiff, that the gas came from this defective meter which you have referred to in your preceding answers? A Yes sir.

Q And the defendant company, now appellant, moved for a new trial upon the ground, among others, of newly discovered evidence, which newly discovered evidence, was the story of the man Orchard in respect to this explosion, did it not?

MR. VAN DUYN: I object to the question as calling for the conclusion of the witness, incompetent and immaterial, and the record being the best evidence.

A Yes sir, it did.

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Q And you, as plaintiff, filed certain counter affidavits in respect to that particular ground of the motion?

MR. VAN DUSEN: Same objection.

A Yes sir.

A And I take it that the motion upon that and all grounds was by the trial court denied?

A Yes sir, and the gas company has appealed it.

Q And as I understand it, the gas company has appealed from the judgment and also from the order of the trial court denying the motion for a new trial? A Yes sir.

Q Could a man climb these gutter pipes as they were placed on or against that building?

MR. VAN DUSEN: I object to that as immaterial, calling for the conclusion of the witness, and not proper foundation for expert climbing.

MR. SNODGRASS: I withdraw that question because the objection was absolutely good. I withdraw the objection entirely.

Q Please describe these pipes as they were placed there on that building? A They were square tin gutter pipes, made of light tin and fastened to the building with tin straps, and no one, even though he had the ability to climb them, could have climbed them without pulling them out or breaking them down.

Q What distances were the bay windows referred to -- the bay windows on the north side of the building -- what was the



distance from them, or any part of them, to this flat roof we are talking about, or have been talking about? A Well, the one in the Blood Flat was almost under the flat roof. It went pretty close up to the flat roof. The other two were immediately below that.

Q Were they of such construction as to enable a man to climb around them so as to get up over them?

MR. VAN DORN: I object to the question as calling for the conclusion of the witness.

Q Answer the question. A The bay window on the dining room of the lower inside flat was about fifteen feet from the floor of the back yard, and the bay windows of the two dining rooms immediately over that -- no man could climb them unless he had spikes in his heels -- like a telegraph lineman operator would use to go up a pole, and unless at the same time he had a fastened rope or something else on top of the roof, hanging down to hold on to.

Q Mr. Linforth, you were asked whether this meter furnishing gas to flat No. 1402 had been turned on or tested after the explosion on November 17, 1904, and before, say, December 10, 1904, when it was turned on for the purpose of furnishing gas to the same flat, and you answered, if I remember, that it had not been, to your knowledge; do you wish to explain your answer? A Yes.

A (Continuing. Of my own knowledge, I don't know that the meter

had been turned on or tested during that interval of time, but

I recall that one of the plumbers, Curtis, I think his name was, testified upon the trial of my suit against the gas company, that he did have that meter on at the time he tested the pipes, and that it was on about half an hour, and that he subsequently turned it off and that he did not detect any odor of gas at the time he turned it off. If I remember correctly Mr. Curtis testified that he did that within a week after the explosion. But at that time the marble stairs were all out, the floor of the Cummings parlor, which was the roof of the meter room was up and the doors to the meter room were both open and the wind was blowing through the place so if there was a small leak during that half hour, of course, it would not have been detected there.

MR. SHORTRIDGE: I think that is all.

RE -CROSS EXAMINATION

BY MR. VAN DUYN:

- Q I believe from your testimony, that you don't recall the situation of those drain pipes as we may call them, in the rear of your building? A The gutter pipes.
- Q Yes? A No, I don't Mr. Van Duhn, I can't place just what their location was either on the side or on the back, that is the west side, or in the rear of the building. The evidently were on there and I think one on each side.
- Q Are you in a position to state positively what the construction of those were? A Those two in the picture?

- Q I mean in the rear? A I haven't any doubt they were all the same, and the testimony I have given, assumes they were all the same. If they were not, then my testimony must be modified.
- Q As to being positive of your own knowledge? A In giving my testimony, I have assumed they were the same. The same as those two, shown in the picture.
- Q And don't you know? A My recollection won't serve me to state.
- Q Now in regard to the time, you obtained judgment against the San Francisco Gas and Electric Company, at that time, Orchard's confession had not been made public, nor was it made public for more than a year afterwards, was it? A I never heard of it until after that time.
- Q About how long afterwards did you first hear of Orchard's confession? A I think my first knowledge on the subject was somewhere in about January or February, 1908, and that information was derived from one of the newspapers.
- Q There was no evidence in that case, Mr. Linforth, as to suggestions made, or any evidence put forth on the theory that a bomb had been exploded in Mr. Bradley's door way, was there, in the case in which you received judgment, I am speaking of?
- A No sir, if my memory serves me rightly, the case was tried and prosecuted on my behalf on the theory that it was a gas explosion, and defended by the gas company also, on the theory that it was a gas explosion. In claiming the gas came from a

defect in the gas grate and not through any defect in the meter.

I don't think there was any suggestion in that case, from one end to the other, of any bomb. On the contrary, I remember many learned experts in the gas company employed and called, who testified for days as to what would happen and what did happen and what shouldn't have happened and all those opinions were based upon the theory that it was a gas explosion.

Q So the point at issue in that case was whether it came from their meter in your basement, or whether from your pipes running to the points in the flat? A Yes sir. That was one of the issues.

Q The jury has never, at any time, passed upon this Cronard's confession, in any way, or any evidence pertaining to his confession? A The jury who tried my case?

Q Yes. A No, but the judge before whom the case was tried, did pass upon the motion for a new trial.

Q That was based upon affidavits, was it not, no personal examination?

A The evidence presented in behalf of the gas company was



the affidavit of James McFarland and Frank R. Gooding, Governor of the State of Idaho, both of whom if I remember rightly, stated that Orchard had made a confession to them, or in their presence.

- Q. In those affidavits, nothing of the details were given, that is, practically none of the details of the confession, as you afterwards read them in the papers, was it? A. On the contrary, the affidavits of James McFarland and Governor Gooding were quite full, if I remember correctly, and went quite fully into the details. For instance, Mr. McFarland, in his affidavit, went on to fix the time at which Orchard told him this alleged bomb was left at the door, and he fixed the time there from fifteen minutes to thirty minutes after eight o'clock in the morning and he fixed the size of the bomb and how both ends were closed up with wood and he went on and told about the purchase of ten pounds of dynamite powder and how a hole had been cut in the center of the lead pipe and the flap turned back and how the pipe had been charged with seven pounds of dynamite and twelve giant cartridges and how the cartridges were placed on the powder with heads down right under the hole that was cut in the lead case and how these cartridges were sprinkled with chlorate of potash and fine sugar, and then he went on to state of how he filled a small bottle with sulphuric acid with a rubber stopper placed in it and how a pin was run through the head of the stopper in the inside and how the pin was bent so a piece of string could be attached to the same and he then went on to state how he fastened the bottle by another piece of string to the case con-



taining the dynamite and how on the morning of November 17th he placed a little screw eye in the front door of the Bradley flat to which he attached another piece of string that was fastened to a point of the pin in the cork of the bottle and left the bomb down by the side of the door; and in the same affidavit, the same deponent said that Mr. Orchard told him he had got possibly a block away from where Mr. Bradley resided when he heard the explosion. Mr. Orchard told him that.

Q. He only got a block away when he heard the explosion?

A. That is what Mr. McFarland on the 30th day of March, 1906, swore to, that Mr. Orchard told him. And that affidavit of Mr. McFarland, according to the record in my case, was sworn to before G. C. Adams, a Notary Public in and for the County of Ada, in the State of Idaho, and Mr. McFarland, in that same affidavit, swears that Mr. Orchard told him that he placed this little screw eye in Mr. Bradley's door on the morning of November 17th just a few minutes before the explosion and not the night before as Mr. Orchard now swears to. And with reference to the affidavit of Governor Gooding, which affidavit was sworn to on the 30th day of March, 1906, before Will H. Gibson, Secretary of the State of Idaho, the Governor swears that Mr. Orchard told him that he placed this little screw eye in Mr. Bradley's door at about eight o'clock on the morning of November 17, 1904.

Q. Was there an affidavit, Mr. Linforth, from Mr. Orchard used in that case? A. My recollection is to the effect that they did not present any affidavit from Mr. Orchard.

Mr. Van Dorn: That is all, Mr. Linforth.

MR. SHORRIDGE:

A. In your last two or three answers you gave the sum and substance of the affidavits of McFarland and of Governor Gooding, did you? A. I think so, but so there may be no question about the matter I would like to read that portion of the affidavit of Mr. McFarland that I referred to, because I don't want to place the wrong construction upon anything he says.

Q. You may do so, because I would like to have the exact words, rather than your interpretation of the affidavit.

(Reading) The affidavit of James McFarland was sworn to as I have already stated, and his affidavit reads as follows:

Q. Let me interrupt you right there. Was this affidavit offered and read in evidence upon the defendant's motion for a new trial? A. Yes, in my suit against the gas company.

(Continuing) "During the month of January, 1906, while investigating the murder of Ex Governor Frank Steunenberg of Idaho, I became acquainted with one Harry Orchard. On January 29th, 1906, I had a conversation with Harry Orchard. During this conversation he informed me that during the early Fall of 1904 he went to San Francisco, California, for the purpose of assassinating one Fred W. Bradley, who resided in San Francisco as Mr. Bradley was considered an enemy of the laboring class. On arriving in San Francisco he discovered that Mr. Bradley

was absent from the city. He remained in San Francisco up to some time in November of the same year when he learned that Mr. Bradley had returned to the city and was located in the flat building at the northwest corner of Washington and Leavenworth Streets in that city. He shadowed the building where Mr. Bradley lived for some days and discovered that Mr. Bradley generally left his home between 8:15 and 8:30 A. M. This fact being established to the satisfaction of Orchard he procured a foot of five-inch sheet lead pipe. He closed the ends of this pipe up with two pieces of wood; and having purchased ten pounds of dynamite from the Jackson Powder Company on Market Street he cut a hole in the center of the pipe; that is to say, he cut the front and both sides leaving as it were the back part of the flap uncut. This he turned back. He charged this lead pipe with seven pounds of dynamite and twelve giant cartridges. The cartridges were placed in the powder with heads down right under the hole that was cut in the lead case. On these cartridges he sprinkled chlorate of potash and fine sugar. He then filled a small bottle with sulphuric acid and placed a rubber stopper in the same. Before placing the rubber stopper in the bottle, he ran a pin through the stopper, the head of the pin being on the inside of the stopper. The point of the pin was bent so low that he attached a piece of string to the same. He then fastened this bottle by means of another piece of string to the case containing the dynamite right above the hole in the case mentioned above. About 8:15 A. M. on or about the 17th of November, 1904,

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he went to the residence of F. W. Bradley, corner of Washington and Leavenworth in the city of San Francisco, placed a little screw eye in the front door of the said flat or residence, to which he attached the other end of the piece of string that was fastened to the point of the pin in the cork of the ~~water~~ bottle of sulphuric acid and left the bomb or case down by the side of the door. The object of this was that Mr. Bradley on opening the door, pulled the cork out of the bottle of sulphuric acid, which emptied on the ~~gun~~ caps and exploded the bomb. Orchard stated that he had got possibly about a block from where Mr. Bradley resided when he heard the explosion, but he did not go back to ascertain as to whether Mr. Bradley was killed or not, although he later read in the newspapers that Mr. Bradley had been badly hurt."

The affidavit of Governor Gooding reads as follows:

"I have read over the affidavit in this case made by one James McFarland, dated March 26th, 1906, and hereby certify that the same is true from the fact that Harry Orchard has made the same statement to me, when he informed me that while in San Francisco in the early part of November, 1904, after having discovered that one Fred W. Bradley had arrived in San Francisco and having located his residence, he purchased a piece of five inch lead pipe, one foot long, closed up both ends of this pipe with pieces of wood, then flattened the pipe a little on the sides, cut a piece out of the pipe, leaving one end of the piece intact and turning the piece of pipe out as described off the hole. This pie he charged with sevenpounds of dynamite and one dozen of giant caps,



placing the open ends of the caps upward in the powder right under the hole that had been cut. To this flap he tied a small bottle of sulphuric acid. The cork of the bottle was rubber through which he inserted a pin, the point upward. He bent the point of this pin to which he attached a piece of string. He then saturated the caps with chlorate of potash and fine sugar. About eight A. M. on or about November 17, 1904, he inserted a little screw eye in the front door of the building where Mr. Bradley resided and placed the bomb beside the door and attached the string that was attached to the cork in the bottle of sulphuric acid to this screw eye so that when the door was opened it pulled the cork out of the bottle and allowed the acid to spill into the hole cut in the pipe and over the giant caps which were saturated with chlorate of potash and fine sugar which caused the explosion. Orchard further stated that he bought the dynamite, I think he said ten pounds, at the Judson Powder Company's place somewhere on Market Street in the city of San Francisco, but only used seven pounds of this powder." The said Orchard is now in my custody or rather in the custody of the state of Idaho where he is charged with murder and confined in the penitentiary of Idaho, in the city of Boise; but as a matter of public policy I decline to allow the said Harry Orchard to make a statement either under oath or otherwise at the present time.

Mr. Shortridge: I think that covers the matter; there is nothing further.



Mr. Van Dym: There is just one more point. This transcript from which you have been reading, Mr. Linforth, has that been certified to by the clerk as being a true and correct copy? We have found a mistake in regard to the date of the explosion.

A. I don't know whether it has been certified to as yet. It was printed at the request of the Gas company. Whether it has been certified as yet, I don't know.

Q. I noticed the other day you called it to our attention that this transcript spoke of the 18th day of November, as being the day of the explosion, whereas, as a matter of fact, it was November 17, 1901.

A. The original affidavits were signed by these two gentlemen and filed in the suit brought by us against the Gas company as I read them heretofore.

Mr. Van Dym: That is all.

Mr. Shortridge: That is all.

(Signed) Walter H. Linforth.

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.

EXPOSITIONS ON BEHALF OF DEFENDANT.

BE IT REMEMBERED, that on the 20th day of June, A. D. 1907, at the hour of 10 o'clock A. M. the matter of taking depositions in pursuance to the annexed stipulation came up before H. I. Mulerovy, County Clerk of San Francisco and ex officio clerk of the Superior Court of the City and County of San Francisco, State of California. The State of Idaho being represented by O. M. Van Duhn, Prosecuting Attorney of Canyon County, Idaho, and the defendant, W. D. Haywood, by Samuel M. Shertridge and Fred Miller.

By stipulation of the parties, the matter was continued until 2 o'clock P. M. It was agreed that the depositions should be taken at the office of Samuel M. Shertridge, 1101 O'Farrell Street, in the City and County of San Francisco, State of California. The taking of said depositions was continued until the hour of 2 o'clock of said day.

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At 2 o'clock P. M. of said day the Commissioner being engaged in one of the Superior Courts of the City and County of San Francisco and unable to attend, the taking of testimony was continued until the hour of 9 o'clock A. M. on the 21st day of June, A. D. 1907, at the office of Samuel H. Shortridge, 1101 O'Farrell Street.

It was stipulated between the parties that the testimony should be taken by Etta G. Block and K. Kimberly in shorthand and be thereafter reduced to writing by them and that the testimony may be signed by said witnesses either at the office of Mr. Shortridge, 1101 O'Farrell Street, or at the respective places of business of the respective witnesses. And that the certificate of the commissioner to said depositions may show said facts.

F. W. BRADLEY,

Witness on behalf of the defendant, William D. Haywood, being first duly sworn, testified as follows:

DIRECT EXAMINATION

Mr. Shortridge:

Q. Your name is F. W. Bradley? A. Yes sir.

Q. Where do you now reside, Mr. Bradley? A. 2661 Broadway, this city.

Q. How long have you resided in San Francisco and made it your home? A. For the last ten years.

Q. Where did you reside and was your home in the month of November, 1904? A. At 1404 Washington Street, this city.

- Q. Was that in a building at the northwest corner of Washington and Leavenworth Streets? A. Yes.
- Q. Did you occupy a flat known as 1404 Washington Street? A. Yes.
- Q. Was that the upper corner flat? A. That was the upper corner flat, yes.
- Q. Were there three flats, a lower, a middle and an upper flat? A. Yes.
- Q. How long approximately had you occupied the upper flat? A. We moved in as soon as the flat was ready for occupancy. I think we had been there for a year or more.
- Q. Your family consisted of whom -- including servants, during the month of say -- including October, -- September, October and November, 1904? A. Consisted of my wife and baby boy.
- Q. Servants? A. And servants. I think my wife's mother was also living with us.
- Q. Your business, Mr. Bradley, what is it and what has it been for years past? A. It has been, and is now, mining.
- Q. Were you in San Francisco and at and in the flat at 1404 Washington on the 17th of November, 1904? A. Yes.
- Q. Had you been in town for any length of time, and if so, how long prior to that date? A. Several weeks. I have the exact date with me when I returned to town.
- Q. Have you any notes or memoranda, Mr. Bradley, which would enable you to tell us exactly how long you had been in town prior to the date mentioned, November 17, 1904? A. Yes, I have them with me.
- Q. Will you now turn to them and inform us?

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A. I returned to San Francisco, October 25, 1904.

Q. And did you remain here continuously up to November 17, 1904?

A. Yes.

Q. Are you able from memoranda, which you have, to give us your movements, your goings and comings over a period say, for the year 1904, prior to the date last mentioned? A. I have that information with me.

Q. Referring to it, will you kindly give us that information as to your movements in chronological order, if you are able to do so? A. On January 9th left San Francisco for Ely, Nevada; January 22nd, returned to San Francisco; March 15th left San Francisco for Porterville, Fresno County, California.

Q. Pardon me, you returned to San Francisco on such and such dates? A. Yes.

Q. Will you kindly, then, in giving your testimony, state whether you remained in town during the intervening dates. A. Yes.

January 22nd returned to San Francisco; remained here until March 15th; left San Francisco for Porterville, Fresno County, California March 15th; returned to San Francisco -- I remained here until March 19th. Left San Francisco for Bourne, Baker County, Oregon. April 1st returned to San Francisco. Next day left for Monterey. April 6th returned to San Francisco; remained here until May 14th; left San Francisco for Jackson, Amador County, California, May 19th; left Amador for Mariposa County; May 22nd returned to San Francisco; remained here until May 28th; left San Francisco for Oroville, California; May 30th, returned to San Francisco; remained here until June 14th; left San Francisco for Bourne, Baker County, Oregon;



June 22nd left Bourne for Susanville, Grant County, Oregon; July 1st left Susanville for Wardner, Idaho; July 12th left Wardner for Rossland, British Columbia; July 20th left Rossland for Tacoma; July 25th left Tacoma for Treadwell City, Alaska. August and September, made many trips from Treadwell City to Burners Bay back and forth. October 6th left Treadwell City for Seattle; October 14th arrived Spokane, Washington; October 16th left Spokane for Bourne, Baker County, Oregon. October 26th returned to San Francisco.

- Q. In making these several journeys referred to in your last answer did you take any precautions -- extra precautions to protect yourself or conceal yourself? A. None, whatever.
- Q. You stated that you were at Bourne in the State of Oregon. During one of your visits there was a strike, a miners' strike in progress there? A. Yes, that was at the time of my first visit.
- Q. On the last visit referred to, how long did you remain in Bourne? A. I must have been there four or five days.
- Q. Was your presence in that town generally known? A. I think so.
- Q. And were your movements referred to in your preceding answers generally advertised and known? A. Not advertised, Mr. Shertridge.
- Q. That word was not a happy one. I mean in the various journals, mining journals, or daily papers?
- A. My mining friends knew my movements and all those I was in business with knew my movements right along; there was no reason or no attempt whatever to conceal them.
- Q. Your business in making these various journeys was in the

line of your profession or calling as a mining superintendent, or a mining man? A. As a mining man.

Q. Yes, and I say were these journeys, more or less mentioned and commented upon in mining journals, known to men engaged in mining enterprises? A. Yes, more or less.

Q. You say a miners' strike was on in Boise during your first — the first visit in June. A. (Interrupting) March.

Q. (Continuing) In March, 1904. And was this strike on and did it continue on when you arrived there, and did it continue during your stay there? A. It did.

Q. Yes. In making these several journeys did you necessarily pass through thinly populated districts or mountainous regions, and if so, did you take any guard with you or make any attempt to conceal your journeys, or protect yourself from any danger?

A. No, my trips were always made openly. I never had any fear of reason for concealment.

Q. And the nature of the country or territory through which you passed, and the route of travel, generally speaking, if you can answer? A. Rough and mountainous country.

Q. What was your means of travel? Your different means of travel?

A. Just the ordinary conveyances. I never used any special conveyance.

Q. Well, in going from the certain cities named to others you went by train? A. By train and then by stage.

Q. In other instances? A. Then, by stage or by boat as the case might be.

Q. So that in traveling to and from the various points named, or stated in your preceding answer, you traveled by train, by

stage and and by boats? A. Yes.

Q. In your travels, through what may be called mining districts, what was your means of going to and from the various points?

A. By team teams and stage. Where there was no stage line I would have to hire a rig or team.

Q. And you did, in some instances, hire a private rig or team?

A. Yes.

Q. For instance, where would a case of that kind be? A. That would be in going to Susanville in Eastern Oregon.

Q. Is that a thickly or thinly populated country? A. Thinly populated country.

Q. What distance did you travel on that occasion? Roughly or approximately? A. That would be a journey of some forty miles by wagon.

Q. A mountainous district? Was it -- was the territory passed through a mountainous district? A. Mountainous district, yes.

Q. Were you alone or accompanied by anyone? A. If it was by stage, then I would be with the people in the stage; if by private conveyance, there would be the driver.

Q. When you engaged a private rig and were driving, by what we may call a private driver, was the driver known to you -- that is to say, did you know his name or antecedents?

A. No, I secured whatever I could.

Q. The driver, in other words, was a stranger to you? A. Yes.

Q. If anyone had been seeking, during the period named in your preceding answers, during the year 1904, to take your life or do you any great bodily harm, were opportunities offered where there would have been little chance of discovery of the

perpetrator of the crime?

Mr. Van Dahn: I will here make the formal objection on the ground as calling for the conclusion of the witness.

- A. Looking back on it now, you, there were many opportunities there, if any one had been seeking to injure me, it would have been done and gone undetected.
- Q. In passing through mountainous regions in private rigs accompanied by the driver alone, opportunities indicated by your last answer occurred? A. Yes.
- Q. I understand your answers to be, that on none of these journeys through these thinly populated mountain districts, you did not take any precautions to protect yourself against any violence of any kind? A. No, took no precautions, whatever.
- Q. You returned to San Francisco on October 26th, 1904, and remained here continuously up to 17th of November, 1904?
- A. Yes.
- Q. Yes. Did you occupy flat known as 1404 Washington Street on the night of the 16th of November, 1904? A. Yes.
- Q. If you -- what time of that evening of the 16th or night of the 16th, did you go to your home, if you remember, and remain there? A. Probably about 6 in the evening.
- Q. You remained in your home during the night? A. Yes, as I remember it now.
- Q. About what hour of the morning, of the 17th of November, 1904, did you start to leave your home. A. About 7:30 in the morning.

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- Q. You had had your breakfast? A. Yes.
- Q. This flat, as stated, is on the third floor? A. Yes, it is the top flat on the corner.
- Q. In leaving your flat and starting to reach the street, what direction did you take -- in other words, did the stairway lead? A. From our flat, going down the stairs, I would go a few steps to the north.
- Q. North -- A. Yes, then a few steps west, then a few steps north, then a few steps west and then south to the landing.
- Q. What, if anything, did you carry with you as you started to leave your flat that morning? A. As I went down the stairs I had my hat on my head, and I had a lighted cigar in my mouth; I had a book and a roll of papers in one hand; the other hand being free.
- Q. The cigar was lighted you say? A. The cigar was lighted upstairs.
- Q. As you reached the foot of the stairs, what did you do and what occurred. You will kindly proceed and state as fully and as clearly as you can what you did and what occurred.
- A. On reaching the bottom of the stairs, I faced the front door squarely, placing my other hand on the knob, which I proceeded to turn with the intention of opening the door and going right on to my office. And immediately after placing my hand on the knob and turning it and starting to open the door, there was an immense flash of light at the end of my cigar, and the impression flashed through my head that somebody had played a trick on me; that I had been given a trick cigar. My next

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experience was a deafening explosion and I was slung to the floor. Then the impression flashed through my head I had been shot in the head, and I remember putting my hand up to my ear and felt my ear was torn off. Then my next impression was suffocating. I began to have a feeling I was being asphyxiated in gas fumes and that if I did not get out that I was going to die. I could feel myself going down, and could feel there was an immense pressure on me holding me down, and I tried to see which way the light was. I turned to go out and tried to feel my way; I felt as though there was an immense pressure holding me down and I could not see where the light was and all at once there was a lifting force. The pressure was relieved -- a lifting force -- and I was thrown up and out into the street. And I hit the street car track, because I had the feeling while on the track, I must get off there, because there would be a car coming and the fall had revived me to some extent as soon as I reached the track. I did attempt to get off; merely fell into the hands of some men, who came running up. When I got into the hands of those men I know that my eyes were in very bad shape and my eyes and head were paining me and I immediately began to tell them to get a doctor and began calling my name and where I lived. Whether they heard what I said I don't know. That is what I was trying to convey to them.

Q. Describe the door which you were in the act of opening, which you faced, when this flash of light shot out from your cigar?

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A. It was a rather large oak frame door, with a large glass center. The oak frame was about 6 inches in width and the

balance of the door was of glass, with a brass knob and other fixtures, also a lace curtain on the door.

Q. Was the glass transparent or frosted?

A. It was clear glass, simply having a lace curtain inside.

That is, I know we could see the curtain from the outside.

Q. From the inside looking out, could you see through and onto the vestibule floor, or the space behind the door proper?

A. Yes.

Q. In other words, you could look through this glass door and see out onto the vestibule? A. Yes.

Q. You say that you were in the act of opening the door -- as you were in the act of opening the door, you saw a flash of fire shoot out from the end of your lighted cigar, which cigar was in your mouth. A. I saw a flash of light at the end of the cigar, yes.

Q. Did you see any other flash from any other point? A. No.

Q. What interval of time passed after you saw this flash of light until the explosion, if you are able to state?

A. I am not able to state. It followed immediately -- a deafening explosion.

Q. The explosion, in other words, followed immediately upon this flash of light which you have described? A. I had time to think it was a trick cigar before the explosion came.

Q. Did you see any object on the outside of the door, covered or not covered before the explosion as you were in the act of opening the door and looking out through?

Q. No, because I probably would not have looked at the floor. No, I didn't see anything.

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1. Did you see any newspaper lying there on the floor of the vestibule? A. No.
2. Or any string or card? A. No.
3. Now, in order that we may -- that others may understand the position you were in, I will ask you to state whether there was a window looking out, or a window on the street side and to your right as you would turn to open the door? A. Yes, on the landing. A few steps from the door. The door would be on the east side of the landing and on the south side of the landing was a window; that window was to my right as facing the door.
4. In other words, descending the stairs and going out onto the vestibule you turn to the left as you reach the bottom of the stairway -- you turn to the left to go out onto the vestibule floor? A. Yes.
5. And straight ahead of you, descending the stairs to the south, was a window looking out to the street? A. Yes.
6. Did you smell gas? A. After I was smashed to the floor I did smell gas.
7. Describe your feelings or sensation in respect to the presence of gas at the time referred to? A. I felt that I was being asphyxiated and that it was gas. I felt that if I could not get out of there, I was going.
8. Tell me, Mr. Bradley, if you can, in words, describe the loudness of the explosion which then and there occurred.
- A. It was a deafening explosion; it was so loud in fact, that I though I was shot in the head.
9. Was it such an explosion as could have been heard many blocks

- away -- a considerable distance? A. I should think so, yes.
- Q. You are sure, Mr. Bradley, that you smell gas and that you had the sensation of being asphyxiated with gas? A. I am positive of that.
- Q. And that, I take it, was immediately after the deafening noise of the explosion while you were there at 811 in the place stated, before being hurled out onto the street, as stated? A. After I had been scammed to the floor.
- Q. Was there any smell of powder? A. No, I had no feeling or sense of any smell of powder fumes.
- Q. Are you familiar with the smell of explosive powders? A. I am with ordinary blasting dynamite, yes.
- Q. You have had experience which has made you familiar with dynamite and the smell of fumes arising from explosions of dynamite? A. Yes.
- Q. Considerable? A. Yes, quite considerable.
- Q. Of course, you are familiar and was then familiar with the smell of gas, Mr. Bradley, as you have stated? A. I was familiar with the smell of gas because I had smell gas in the house prior to that.
- Q. Yes. Now, as you have stated, you were familiar with the smell of fumes arising from any explosion of dynamite? A. Yes.
- Q. I don't want to make the question leading -- but you are sure, as I understand from your preceding answers, that you smell gas and not fumes arising from any explosion of dynamite? A. Yes. My feeling of asphyxiation and of suffocation came from the gas fumes.
- 3172 Q. As I understand, the only thing that you smell was gas.



A. The only thing I smell.

Q. You saw no bomb or any contrivance whatever resembling a bomb?

A. No.

Q. Smell no powder or any fumes arising from the explosion of powder? A. No.

Q. You say, Mr. Bradley, you had smell gas in the building before the occasion or time of this explosion? A. Yes.

Q. When ~~substant~~ or how soon before? A. Several days before.

Q. Several days before. Mr. Bradley, had any one of your servants, or any member of the household been down those stairs and out on to the vestibule that morning, the morning of the 17th before you went down. A. Yes, I think so.

Mr. Van Dorn: From your own personal knowledge.

A. (Continuing) I think I had asked the girl to go down and get the paper. I generally did.

Mr. Van Dorn: Q. Did you see her start to go down, personally?

A. No, I did not.

Mr. Shortridge: Q. So that personally, you cannot of your own, immediate, first knowledge tell us whether she did go down and go out the door and get the paper, or not?

A. No, she brought the paper to me and that is where she would have to go to get it.

Q. That you do know? A. Yes.

Q. And may I ask you, about when that was? A. That would have been about 7 o'clock.

Q. And who was the person who brought the paper to you?

A. I think that was Miss Sadie Bell at that time. But I see



by the papers she has been married. I don't remember her name, Mrs. Swan, I think.

Q. You say, Mr. Bradley, that you smell gas there a few days before the explosion in the flat -- your flat, or in that building, did you smell gas? A. In the hall, going up and down those stairs.

Q. To avoid any misunderstanding, you refer to these stairs and hall leading to the door, which you were in the act of opening when the explosion occurred? A. The same stairs.

Q. The same stairway? A. Yes.

Q. Do you know, Mr. Bradley, whether any member of your family had communicated with the gas company, the San Francisco Gas & Electric Company, complaining or calling attention to the smell of gas in your flat before the explosion?

A. Yes. Mrs. Bradley had complained and the gas company had sent a man up to see where the leak was.

Q. That was a few days before the 17th of November, as I understand? A. A few days before, yes.

Q. Mr. Bradley, was there a porch forming a part of your flat, a porch in the rear? A. Yes, there was a little porch off the kitchen.

Q. Yes. That was on which side of the building -- so that others may understand? A. It was the north end of the building, but the northwest corner of our flat.

Q. And how was that porch reached? A. By very steep stairs from the back.

Q. And had access of a course, from the rooms of the flat proper?

A. Yes, and from the flat itself.

- Q. As to the flat part of the roof above your flat, how would you reach that flat roof? A. We would reach it from the attic of our flat. Our flat had an addition of a few attic rooms and in those attic rooms we could reach the flat roof.
- Q. State whether you could reach that flat portion of the roof referred to in any other way than through the attic window of your flat or the attic? A. There was an adjoining flat to ours; but I would not be sufficiently familiar with that portion of the building to know whether it was possible to climb up or not. I had never been over it.
- Q. There was no stairway leading up to that? A. No, no easy way.
- Q. Whether one could scale up the side of the building you are not able to advise us? A. No.
- Q. At some time, Mr. Bradley, there was a flat built -- a building of flats to the north of you -- of the building which you occupied? A. Yes.
- Q. And immediately adjoining was it not? A. Immediately adjoining this building.
- Q. Are you able to tell us when that flat was built -- when the building was erected. In other words, was it before or after or during November, 1904? A. I can't say as to that; I know it was in process of erection while we lived in the flat.
- Q. Whether it had been completed, you are unable to state?
- A. I am unable to state.
- Q. The way to reach the porch in question, of course, was through your flat, or up the stairs, the rear stairs? A. Yes, the two ways of reaching it.

- Q. The way to reach the flat roof referred to so far as you now know, was through your attic window, or through the attic window of the flat to the west? A. Yes.
- Q. Were you ever the head of the Mine Owners' Association of California, Mr. Bradley? A. No.
- Q. Were you ever engaged in attempting to drive out of California the Western Federation of Miners or members of that organization? A. No.
- Q. Can you give us the exact time of the explosion, Mr. Bradley? Did your watch stop or any clock stop as the result of the explosion? A. My watch stopped at twenty minutes to eight that morning.
- Q. Twenty minutes to eight -- and your watch was going as you left the building? A. Yes, my watch was going as I went down the stairs.
- Q. And was recording the correct time? A. Yes, it kept good time.

Mr. Sherbridge: You may cross examine, Mr. Bradley, gentlemen.

#### CROSS EXAMINATION

MR. VAN DYKE:

- Q. Mr. Bradley, you are the same F. W. Bradley that was manager and superintendent of the Bunker Hill & Sullivan mines during the year 1899, or had some connection with it?
- A. I was president of the company at that time.

3476 Q. There were troubles concerning that mine, wasn't there, Mr.

Bradley, in the year 1899?

MR. MILLER: I object to that as not proper examination.

MR. SHORTRIDGE: Let me ask, what is your stipulation in this regard? Must you record your objections here?

MR. VAN DUYN: We will record it and he may answer and then the court will take them up.

MR. SHORTRIDGE: Make your objections here and the stipulation may be made.

MR. VAN DUYN: In regard to that, the objections can be made in regard to being incompetent and immaterial. They may be made in the testimony.

MR. SHORTRIDGE: Will you then, Mr. Miller, guard the matter on cross examination? You are familiar with your practice there and interpose such objections as you think proper.

A. Yes. They wanted our employes to join. We did not want them to join and that led to trouble.

MR. VAN DUYN. Q. Join the union? A. Yes.

Q. What was the result, Mr. Bradley, of that trouble there, in respect to the Hunter Hill and Sullivan mines?

MR. MILLER: Objected to as not proper cross examination and immaterial.

The trouble having arisen prior to the connection of defendant Haywood with the Western Federation of Miners. A. The mill was destroyed by an outside body of men not in the employ of the company at all.

MR. VAN DUYN: Q. How many men were there, Mr. Bradley?



Mr. Miller: The same objection; not proper cross examination.

A. In the neighborhood of a thousand.

Mr. Van Dym: Q. Where did these men come from -- what towns I mean, Mr. Bradley? A. They came from Burke, Gen, Wallace and Helen.

Q. Had you at that time, Mr. Bradley, non union men working in the mine?

Mr. Miller: Objected to as not proper cross examination and immaterial.

A. Our crew at that time was largely non union, yes.

Mr. Van Dym: Q. The trouble, as I understand, resulted from the interest to have you employ union men entirely, solely? A. Yes.

Q. Which you refused to do? A. Yes, we refused to do it.

Q. And during the time since 1890, Mr. Bradley, you have been employed in about the same capacity in respect to that mine and various mines as superintendent and manager of that mine and various other mines? That has been your business, superintending? A. Yes, that was my business at that time. It has been the same business ever since.

Q. During the year 1904, as I understand from your testimony, you made various trips in California, Washington, Idaho and Alaska? A. Yes.

Q. After leaving San Francisco in the fall of 1904 about how long were you gone -- the time you went to Alaska and returned by way of Seattle? A. In the summer of 1904 I was gone about four months and a half.

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Q. Four months, returning, as I understand, in the neighborhood of October, 1904? A. October 26th.

Q. Has it been your custom, Mr. Bradley, when you were visiting various mines to give notice to newspapers and other sources of your intention to go and how long you were going to remain, or attempt to give publicity to your going?

A. I would give no information to the papers, no; but the people at the mines -- and the people with whom I am in business know my movements.

Q. Your business associates were, so far as you know, the only persons who knew your movements, where you intended to go and how long you intended to stay in certain places? A. So far as I know, yes.

Q. You made no attempt to notify them? A. Except that in all those places, where I would go there were 11 the local papers that would state I had arrived or was at the mine and so on.

Q. These trips to those small places like Susanville and Bourne were long or short trips? A. They were all short trips.

Q. Occupying possibly a couple or three days? A. Yes, about that at each place.

Q. When you were in Bourne in March, 1904, where did you stay, Mr. Bradley, at a hotel or a private house? A. I stayed at the superintendent's house.

Q. What was the character of the strike at Bourne in March, what was the issue involved? A. Boarding house.

Q. Boarding house strike. Nothing about the union or non union?

A. The strike was declared by the union.

- Q. As I understand, Mr. Bradley, after returning to San Francisco on October 25th, 1904, you made several short trips in California to places down in the country, in Southern California?
- A. No, I remained here continuously on my return at that time.
- Q. And this explosion occurred on the 17th day of November, 1904?
- A. Yes.
- Q. And as far as you know, your watch must have stopped about twenty minutes to eight o'clock that morning? A. Yes.
- Q. You remember distinctly, Mr. Bradley, of Miss Ball, now Mrs. Swan, bringing you the paper that morning, before you descended the stairs? A. Yes.
- Q. In respect to that door that opened from your staircase into the outer corridor or opening, you say that was partially constructed of glass. How far was this glass toward the bottom of the door? A. To within six or eight inches, about the same width of the frame. It was a panel door of glass.
- Q. That door -- as I understand -- you opened it with your right hand? A. Yes.
- Q. In your left hand you had certain papers? A. Yes.
- Q. In what position was the door knob in relation to your right hand, did you reach across or was it next to your right hand, or near your left hand? A. No, I stood directly in front of the knob.
- Q. The door knob was then, on your right? A. On my right, yes. I was directly facing the door, my right hand on the knob ready to go out the door immediately I opened it.
- Q. Will you state, Mr. Bradley, whether you were outside the door or inside when the explosion took place?

- Q. No, that is something I am not absolutely sure about.
- Q. You are not sure whether you got the door open?
- A. I have a feeling and feel very sure, I was on the inside of the door, that I never got out through the door.
- Q. Was there any glass found in your body after the explosion, do you know? A. Some pieces found in my eyes.
- Q. Pieces of glass in your eyes? A. Yes, in my face.
- Q. And what else was found upon your body or in your eyes?
- A. Some pieces of rock from the mosaic work of the outside vestibule and also some pieces of hair from the door mat.
- Q. At the time of the explosion was the door mat lying in front of the door? A. Yes.
- Q. It had been the custom for it to lay there? A. Yes.
- Q. And so far as you know that was about the only place they could have come from, the bristles found in your eyes?
- A. Yes, they were attributed to the door mat.
- Q. How did the door open, away from the east or away from the west wall? A. Inward.
- Q. Opened inward? That is opened to the west and away from the east wall? A. Yes.
- Q. Away from the east wall. You say you were not observing very closely what was on the outside porch as you went down that morning. You were not thinking of learning about anything outside there? A. No, I was looking straight ahead.
- Q. Did I understand you to say something about a lace curtain over the glass, or am I mistaken in that? A. There was a lace curtain over the glass.

Q. How far did it extend, over what portion of the door?

A. It completely covered the glass.

Q. The lace curtain was inside and hung down? A. Yes, inside.

Q. What sort of a lace curtain, closely woven or open work lace curtain? A. It was, I should say, closely woven. I don't remember much about it except Mrs. Bradley was sorry she lost it.

Q. Could you see the outside porch distinctly through the lace curtain, or would you have to lift the curtain aside to see out of the glass? A. I would have to look very intently to see anything -- to have observed anything; something I probably would not have been doing.

Q. You don't remember seeing the cat there that morning, as you went out? A. No.

Q. As you came down the stairs that morning, Mr. Bradley, did you notice anything in the way of gas smell, anything at all that morning? A. No. I did not smell anything, any gas that morning as I came down the stairs.

Q. Could you state the first time before that when you did smell gas either in the hall or in the rooms upstairs? A. No, I could not say that because Mrs. Bradley had complained of the gas several times and it may have been either a week or ten days. She had complained of the gas and I remember one time going up and coming down with her she smelled gas when I didn't on the same stairs.

Q. Did you ever smell it on those stairs yourself, Mr. Bradley?

3482 A. Yes, I did detect the smell of gas there a week or ten days before.



- Q. That time? A. Yes, there had been a general complaint in the house about the leakage of gas.
- Q. Was that smell very pronounced, Mr. Bradley, or a faint odor?
- A. Probably faint to me.
- Q. You probably would not have known it if your wife had not called it to your attention? A. Well, I don't know as to that -- she -- we had all complained.
- Q. All smelled it, more or less, before that time? A. Yes, we all smelled it.
- Q. Where did you light your cigar that morning, Mr. Bradley, in reference to the top of the staircase? A. I lighted it in an adjoining room, at the top of the stairs, a room we called the library.
- Q. Had you read the paper after lighting your cigar, before you started down? A. No, I had read the paper while at breakfast.
- Q. Then you lighted your cigar and started out immediately?
- A. Yes.
- Q. You are sure your cigar was lighted all the way going down the stairs? A. Yes, I am sure of that.
- Q. You say that when you opened the door there that you thought you observed a flame in front of your cigar? A. I observed a flash of light at the end of my cigar.
- Q. Did it shoot out straight from the cigar or just a flash of light in front of you? A. Flash of light at the end of the cigar.
- Q. Shot out, or up, in what direction? A. It shot in all directions.
- 3483 Q. And was that a small flame or was it comparatively large?



A. A blinding flame.

Q. A blinding flame? A. Yes.

Q. So far as you know, it might have extended farther downward or upward? A. It was immediately at the end of the cigar. As to its extent, I would not know.

Q. You were looking possibly straight ahead at that time?

A. Looking straight ahead. I had my hand on the door knob and was preparing to walk right straight ahead and go out.

Q. As I understand from your testimony, there seemed, so far as you could make out, two forces acting on your body at that time; one striking you down and the other lifting you up?

A. Yes, very distinctly.

Q. You of course, could not tell the interval of time extending between those forces? A. No. It was an interval of time sufficient for me to think about the trick cigar and to think I had been shot in the head.

Mr. Shortridge: One moment. The question assumes there were explosions, which I do not think the testimony of the witness warrants.

Mr. Van Duzen: I understood from the testimony, there were two forces testified to -- I may be mistaken.

A. (Continuing) A smashing force that smashed me down and the lifting force that threw me out.

Mr. Van Duzen: Q. Had you ever had any experience with a trick cigar, Mr. Bradley? A. No.

Q. Your assumption was that a trick cigar would make a flash?

A. No, that was the thing that went through my head at the time.

3484 Q. Do you think there is any possibility now, Mr. Bradley, that

- that was a trick cigar you had at that time?
- A. Well, that is what I thought at the time. That was one of the things that went into my head at the time.
- Q. Where did you get the cigar, Mr. Bradley? A. Out of a box I had in the house.
- Q. Which you bought yourself? A. Yes.
- Q. How far, Mr. Bradley, was the point where you were struck down from the point where you found yourself in the street?
- Q. How far would it be from the inner edge? A. A few feet.
- Q. Beyond the inner edge of the sidewalk to the center of the street? A. I do not know the distance in feet, probably twenty or thirty.
- Q. Did you hear the sound of an explosion when you first opened the door? A. Yes, I heard a deafening explosion immediately after the flash of light.
- Q. You spoke something about a window which I did not quite get, in relation to the staircase. A. That was on the street side of the little hall at the foot of the stairs.
- Q. Was it a full window or one of the small square windows to light the staircase? A. A small window to light the staircase, probably about five feet above the floor.
- Q. Was there anyone besides Miss Bell working for you at that time?
- A. Yes, there were two other servants in the house.
- Q. Do you recall their names? A. Miss Phenie Crow and a nurse girl, sister of Miss Bell.
- Q. Do you know where Miss Bell lives now, the one that married, known as Mrs. Swan? A. She lives in San Francisco.

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Q. Somewhere in San Francisco? A. Yes.

Q. Had Miss Crow or Miss Bell been working for you for some time before this explosion? A. Yes, they had.

Q. Did you ever have any experience with some milk before the time of this explosion?

Mr. Miller: I object to that as not proper cross examination.

A. One morning the milk was extremely bitter and I rejected it and told the family not to use it and asked Mrs. Bradley to complain to the dairy.

Mr. Van Duzyn: Q. Do you know what dairy that was that furnished you the milk?

A. I did not know at the time, but Mrs. Bradley has told me since, it was the Guadalupe Dairy.

Q. Do you know whether the milk was given back to the dairy?

Mr. Miller: I object to all this as not proper cross examination.

A. Not of my own knowledge. Only what Mrs. Bradley has told me about it.

Mr. Van Duzyn: What time in the morning was it that you tested the milk, if it was in the morning?

Mr. Miller: I object to that as not proper cross examination.

A. About the time I usually have my breakfast; about 7 o'clock.

Mr. Van Duzyn: 7 o'clock in the morning.

Q. Did you feel any ill effects from the use of that milk?

Mr. Miller: Same objection.

A. No, it was so bitter, --

Mr. Van Dorn: Q. Bitter taste?

A. (Continuing) That I rejected it and did not get much.

Q. About how much did you take, Mr. Bradley?

Mr. Miller: Same objection.

A. I had put some cream in my coffee and some milk on my suet and had taken a little of it, but it was so bitter that I knew I did not want it as soon as I tasted it.

Mr. Van Dorn: Q. You did not finish the suet after you tasted it? A. No.

Q. Is there a grocery store on the opposite corner from your place, or where your place is situated -- your flat? A. Yes, directly across Leavenworth Street.

Q. Do you know who conducted that grocery store at that time, November, 1904? A. Yes, Gibbini.

Q. Had you been in the habit, Mr. Bradley, of purchasing supplies from that grocery store for your place? A. Mrs. Bradley had.

Q. And you paid for them? A. Yes.

Mr. Miller: I object to all this as not proper cross examination and move to strike it out.

Mr. Van Dorn: Q. Now in relation, Mr. Bradley, to the point where this force struck you -- where did you find yourself in the street; directly opposite the front, or at an angle either way? At right angles to the front, or some acute angle to the front? Did you determine which direction you were thrown by the force? A. I was thrown onto the street car track -- probably opposite the entrance of the building and not at an angle.

Q. What was your physical condition upon finding yourself in the



street there, in regard to hearing, sight and matters of that kind? A. Why, I could not see and could not hear for some little time.

Q. Now, in respect to your clothes, Mr. Bradley, were there any marks or burnings upon them, or didn't you observe at any time? A. I did not know; they were all torn to pieces.

Q. They were torn to pieces? A. Yes.

Q. Did you at that time or shortly afterwards, observe upon which side the clothes were mostly torn? A. No, but they were all torn to pieces; they were taken off from me immediately, after I was taken care of and I did not see them.

Q. You did not see them afterwards? A. No.

Q. Were there any foreign matters forced into your body on either side? A. Yes, on my right leg.

Q. Right leg? A. Yes.

Q. And there was glass found around the neighborhood of your head? A. Yes, and on my face and in my eyes.

Q. Any glass found in your body, if you know? A. I don't remember as to that. Simply my left hand was full of foreign substances and cut up very badly, and also the front of my right leg was bruised up and cut up the same way.

Q. Your right leg? A. Yes, on the front side.

Q. What was the name of your doctor at that time? Whom you called in for medical attendance and where does he live now, if you know? A. Dr. Hulin; also Dr. Pichal, Dr. Welty and Dr. Kelly.

Q. Do you know the names of those persons who picked up you up at that time, Mr. Bradley? A. No, I do not.



it was due to Dr. Kelly that I was picked up at all. He lives in one of the flats in the same building and knew who I was from my card case, which had spilled out into the street when I hit the street.

- Q. How long did this impairment of the sight and hearing remain with you? A. Well, just for a few days. There are some sounds very difficult for me to catch now; I have to wear glasses for my sight now, but to hear and see at all, I was in shape for that after the first few days. I don't remember how long, but my eyes were kept bandaged for some time.
- Q. Have you had any other experience with gas smells, except that you had noticed in the Linforth flats which you recall now? A. No, none that I recall.
- Q. Have you at any time ever been under the influence of gas, Mr. Bradley, like you did that time, asphyxiated? A. No.
- Q. Have you ever been very close to dynamite at the time of an explosion? A. No, I have always been at a safe distance at the time of powder explosions underground.
- Q. Mr. Bradley, the smell of dynamite differs materially from the smell of ordinary powder after it has been exploded?
- A. Well, when I say dynamite, I mean the ordinary blasting powder, or nitro glycerine powder.
- Q. Do you know any point of similarity between the smell of exploded dynamite and escaping gas, or have you paid any particular attention to anything of that kind? A. No, I have paid no particular attention to it, but I would be able to detect the difference between the two without being able to describe what the difference is. Simply a difference I would

know.

- Q. The smell of dynamite, as I understand, is very noticeable after a blast of any consequence has been exploded? A. The fumes of nitro glycerine explosions are very disagreeable and nauseous and give one a headache.
- Q. Are they in a way sickening -- those fumes? A. Yes. That would, to my mind, describe the difference between nitro glycerine fumes and the gas fumes; the gas fumes would not be sickening, while the other would be of a sickening effect.
- Q. At the time of the explosion, Mr. Bradley, I suppose from the evidence you had in hand at that time, that you assumed that that could be a gas explosion? A. Yes, that was the theory for the explosion.
- Q. A small lead bomb could easily have been hidden under the mat on the morning of your opening the door, without your observing it, Mr. Bradley? A. If it had been there, I would not have seen it on that morning.
- Q. It could have been there without your noticing or observing it? A. Yes.
- Q. I understand you to say that your experience with gas relates chiefly to the gas you smell in the flat? A. Yes.
- Q. You had smell gas in the neighborhood three or four times before the explosion there? A. Yes, prior to the explosion.
- Q. That smell was not very pronounced, only a faint odor and was not so very objectionable to you, yourself? A. No. I knew there was leaking gas there and there were times when Mrs. Bradley detected it and I could not.
- 3490 Q. If there had been a strong odor of gas, Mr. Bradley, as you

descended the stairs at twenty minutes to eight o'clock that morning, you probably would have noticed it? A. Yes, if there had been a strong odor, I would have noticed it.

Q. As it was, you did not notice it at all? A. No, I noticed no gas at all.

Q. Your sense of smell prior to the accident, I presume, was normal? A. Yes, I would call it normal.

Q. And how was your sense of smell in regard to being normal or otherwise during the time these forces were acting upon you?

A. I think it was normal, although my whole face was full of various substances.

Q. Whether your sense of smell was usual or not, the impression left on your mind, was, that you smelt gas after you struck the pavement? A. Yes, those impressions I have related, that is, the impression of a trick cigar, the impression of being shot in the head, the impression of a gas asphyxiation -- they all occurred to me at the time and have been strongly fixed in my mind ever since.

Q. These things came to your mind at that time? A. Yes, they became fixed in my mind at that time.

Q. They were a sort of flashes that went to your mind at that time?

A. They were all things that went into my head and stayed there ever since.

Q. I presume from what you know about it, that you could not have been struck down and forced up by those two forces in the length of time of more than half a minute? It would not have been more than half a minute that you were there?

- A. After the explosion that smashed me to the floor I had time to feel of my ear, because there was an intense pain in my head; because I thought I was shot in the head and I had time to feel of my ear before I was lifted up and out into the street; and the only thing I thought -- that flashed through my mind -- was there was a lifting force, as if there had been a second explosion, as there was debris falling on my head.
- Q. What were you lifting, I assume, was plaster and debris which was falling? A. The debris there.
- Q. How about gas fixtures at that point, were there any chandeliers or any gas fixtures? A. Right in the landing, in the ceiling, was suspended a chandelier.
- Q. Did you ever see the gas fixtures at that point after the explosion to determine whether or not they had been injured or broken in any way? A. No.
- Q. You did not pay any attention for several weeks? A. By the time I got out that part of the house had all been repaired.
- Q. Now in regard to these back stairs at the back of the flat, Mr. Bradley, were they stairs that went straight up or crooks and turns? A. They had crooks and turns in order to make it easy to go up, but in effect, they went straight up from the rear alley way of the house to the top.
- Q. What sort of roof was that, a flat roof or sloping? A. There was a flat roof over part of the house.
- Q. In relation to your flat, Mr. Bradley, how was it constructed, flat or otherwise? A. There was a flat portion -- flat roof over a portion of the flat. A portion of the flat went up into the garret and the other portion of the flat was covered



with a flat roof.

- Q. Was that a projecting roof, or was it not; that is, I mean, projecting very far out from the building? A. I could not say as to that because I had never been out on it.
- Q. You never particularly observed it? A. I never went out on the back roof and never examined that part of the house particularly.
- Q. In regard to the adjoining flat that was built at that time, do you know whether it was very close to Mr. Linforth's flat, right up against it? A. I don't know whether it was building at the time of the explosion or not.
- Q. How low was this back porch situated in respect to the entire flat; in other words, is the front of the Linforth flat not as high as the back? A. The southeast corner of the building -- the ground line would be on a high corner of the building and then going west along Washington street it descends; there is a descent permitting of a basement under the first floor or lower flat; also going north along Leavenworth Street there is a descent that permits of a basement under the first or lower flat.
- Q. In respect to these stairs; the rear stairs, how is it there? A. That was about the deepest part of the lot; that would be some deeper than the high point at the corner of Washington and Leavenworth Streets.
- Q. Do you know, Mr. Bradley, where the milk was kept about the time that you tasted it?

Mr. Shortridge: Objected to as not proper cross examination, immaterial.



A. It was kept in the back porch.

Mr. Van Durn: Q. In the rear porch?

A. Yes, it was kept at different places, at different times; it depended upon which dairy Mrs. Bradley was trading with; sometimes the milk man would deliver it at the front door because of his refusal to climb the back stairs.

Q. During the year 1904, Mr. Bradley, I presume you were president or manager of several mines? A. Yes.

Q. Some as you had been heretofore? A. Yes.

Q. And as such president or manager you employed a large number of men in working the various properties under your control?

A. Yes.

Q. Did you ever do anything in the way of independent experting of mining properties, also, besides your managing and superintending various mines? A. Yes, I have done a great deal of examination work.

Q. Some of these trips were for that purpose? A. Yes, some of them were.

Q. In a dynamite explosion, Mr. Bradley, how do the explosions not -- equally in all directions? A. Generally downward; if the dynamite is placed on the ground, the explosion is generally downward.

Q. The greatest force would be downward, reaching all points around? A. Yes, reaching in all directions.

Q. How about the damage of your apartments -- how about the damage to them, describe in a general way the damage to your flat.

Mr. Miller: Objected to as no proper cross examination.

A. I was not able to see much of that, it having been repaired by the time I was out of bed.

Mr. Van Duyn: Q. I mean in the way of furniture being destroyed, anything of that kind?

A. We were on the upper flat and there was very little destruction in our flat.

Q. Very little damage up there? A. Yes.

Q. You have at this time brought no suit or action against the gas company for damages?

Mr. Shertridge: Objected to as not the proper cross examination, incompetent and immaterial; unless counsel will stipulate that I am showing that Mr. Linforth brought an action for damages and recovered a verdict of \$10,800. This, and also that it was proved beyond all possibility of mistake that this was a gas explosion at the trial of said cause and deemed to be a gas explosion by defendant, the gas company, San Francisco Gas and Electric Company, also it be stipulated that a motion was made for a new trial of said action based upon newly discovered evidence being to the effect that this was not a gas explosion; that motion on that and other grounds was denied and that in said order and judgment an appeal was taken. And is pending in the Supreme Court of the State of California. You will not so stipulate, Mr. Van Duyn?

Mr. Van Duyn: No, because it is not a statement of the case and we refuse to stipulate because it is not a correct statement of the facts.

A. No, I have never brought a suit against the gas company.

3495 Q. Did the gas company ever pay you anything?

MR. MILLER: Objected to as not proper cross examination and immaterial.

A. No, nothing whatever.

Mr. Van Dahn: Q. About how long were you confined to your house, Mr. Bradley, as a result of this explosion and before you were able to resume active duties? A. I think it was about two months.

Q. Your time is rather valuable, being one of the officers of the officers of these various companies of which you have spoken? A. Yes, also as an independent business man.

Q. About how long before this explosion was it, that you tasted that milk of which you have spoken -- about how many days?

A. A few days, I don't remember the interval.

Mr. Van Dahn: I think that is all.

#### RE-DIRECT EXAMINATION

MR. STORHAGEN:

Q. You state, Mr. Bradley, that your movements were known to your associates and to the public generally from publications in the various newspapers and journals; that is correct, is it not? A. Yes, that is correct.

Q. And I suppose that these mining journals or newspapers, devoted to the mining industry, made comments on your movements.

A. If this was done it was because they kept track of me in the local papers in the different mining districts.

Q. Your little child spoken of was an infant? A. Yes.

Q. It was born when? A. April 14th, 1904.

- Q. And your friends interested in you made quite general comment of that fact, did they not? A. Yes, it was known to all my mining friends.
- Q. You were in San Francisco -- was it not in San Francisco the child was born? A. Yes.
- Q. You were here? A. I was here at the time.
- Q. The fact of your being here was published in the various newspapers? A. I can't say as to that. It was known to my mining friends though.
- Q. I know you will hesitate to answer this question, but under the circumstances I know you will pardon me. You are a very well known gentleman connected with the mining industries of the Pacific Coast, are you not, Mr. Bradley? A. I am known among a certain few -- among a certain set of mining men, yes.
- Q. As indicated in your answers, under cross examination, you had been superintendent of mines which had attracted great attention in the West? A. Yes, I had been superintendent and connected with the management.
- Q. And you were in that sense, and in others, known generally to mining men and to miners in the west? A. Yes.
- Q. In other words, you were not an obscure local superintendent, but a man engaged in coming and going throughout the Pacific coast with respect to mines and mining -- that is so? A. Yes, I have mining friends all along the Coast.
- Q. The first thing of an unusual character which you noticed on the morning of November 17, 1904, was the flash of light from the end of your cigar, or at the end of your cigar -- is that

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- the fact, Mr. Bradley? A. That is the fact.
- Q. A flash from the cigar, at or from the end of your cigar?
- A. At the end of the cigar.
- Q. At the end of the cigar? A. Yes.
- Q. The initial point of the flash, so far as you could see, was at the end of your cigar, as you have testified? A. So far as I could see, it was at the end of my cigar.
- Q. No explosion had preceded this flash which you have referred to and stated, was at or from the end of your cigar? A. No, the explosion came afterwards.
- Q. The explosion followed? A. Yes.
- Q. No doubt about that point? A. No doubt whatever.
- Q. Did you see any other flash between the time you saw this flash from or at the end of your cigar, and until you heard the explosion? A. I saw no other flash.
- Q. Now, you were in the act of opening this door which led out onto the vestibule and to the west of you was an intervening wall, was there not? To the west of you was a wall intervening between the flats? A. Yes, there was a black wall.
- Q. And to your right there was the wall of the building towards the street? A. Yes.
- Q. And the window which you have described? A. Yes.
- Q. Now, you were blown south out onto the street? A. I was lifted up and out on to the street.
- Q. The direction which your body was hurled was south? A. Yes.
- Q. Now, then, the force exerted in any explosion of dynamite is in all directions, but principally downward? A. Yes.
- Q. Counsel asked you whether you would not have seen a small bomb

if it had been lying immediately in front of the door, and I believe you said you did not see any. I understand you to say you did not see any bomb of any size. You did not notice any newspaper or any object, did you? A. No.

Q. A newspaper was hung on a string, like a handkerchief on a string? A. No, I was looking straight ahead and saw nothing whatever.

Q. You have been familiar with the smell of gas for a great many years, I take it? A. Yes.

Q. Over our objection you answered that you had not commenced an action against the gas company for personal injuries resulting from this explosion, Mr. Bradley: I ask you whether you did not, if it be a fact that you did not, bring any action because of personal reasons, because of relations existing between you and the gentlemen connected with that company?

A. That is a matter I never really gave much attention to.

Q. Well, you did not begin an action, did you? Was that because you entertained at that time any doubt as to whether this was a gas explosion? A. No, it was not because of any doubt in my mind. But it was a matter that I did not want to bother with.

Q. Reasons personal to you, and having no relation to the merits of the case, is that correct? A. It was really a matter I never thought much about; I thought I had gotten out rather easy and let it go at that.

Q. You were too busy a man to engage in a litigation with the San Francisco Gas & Electric Company? A. I had not thought of doing it at all.

Q. Your business was such that you were called here and yonder

throughout the whole Pacific Coast. You had no time to carry on litigation? A. I couldn't take the time for it.

Mr. Shortridge: I believe that is all.

RE-CROSS EXAMINATION

MR. VAN DUYN:

Q. At the time that you drew this deduction in respect to there being a gas explosion, did you not have the same evidence that you now have, to give you a foundation for the deduction?

Mr. Miller: Objected to as not proper re-cross examination.

A. No, I knew nothing whatever of these other matters?

Mr. Van Duyn: You have since that time learned by reading the newspapers that One Harry Orchard has confessed to placing a bomb to the front of your door?

Mr. Miller: Objected to as immaterial and incompetent.

A. Yes, I have read his testimony in the newspapers.

Q. And that he has also confessed to having poisoned the milk you have spoken of?

Mr. Miller: Objected to as not being proper cross examination and immaterial.

A. Yes, I have read that also.

Mr. Van Duyn: Q. And so the deduction you formed at that time might be somewhat different from the deductions you have now in respect to whether someone was seeking to injure you?

Mr. Miller: Same objection.

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A. It seems to me in view of his testimony and all that he says, and of all the circumstances that it is possible that a bomb could have been there and I would not have known that it was there.

Mr. Van Dorn: Q. Is it not true, from what you have read, that you believe the bomb was placed there?

Mr. Miller: I object to that as improper and not proper re-cross examination, and calling for an opinion.

Mr. Shortridge: That is for the jury to determine and not for counsel. We want to get at the facts.

A. I could only reply to that, that it is possible.

Mr. Van Dorn: That is all.

Mr. Shortridge: Q. I am sorry to trouble you, Mr. Bradley, so much, but you learned of this man Orchard and his alleged confessions many months ago? A. Yes. When they first came out in the newspapers, soon after Governor Steunenberg's death.

Q. You remember that in respect to this case, brought by Mr. Linforth against the Gas Company, that the gas company made a motion for a new trial, and that one of the grounds of their motion was newly discovered evidence; the evidence being as claimed that Orchard had caused this explosion; you remember that fact, do you not? A. Yes.

Q. You were asked to make an affidavit in respect to the matter, I believe, which was used on a motion for a new trial. You remember that affidavit? A. Yes, I made such an affidavit.



Q. Do you recall that in that affidavit -- that affidavit was sworn to on the 15th of October, 1906 -- you recall that in that affidavit you stated among other things: "I am certain that I saw a light flash from the end of my cigar and instantly I heard a deafening explosion and I was smashed to the ground. My impression at the time was that someone had given me a trick cigar. I saw no light and no flash from any other place other than the end of my cigar. And there is absolutely no question whatever in my mind but that the cause of the explosion was the gas which the end of my cigar came in contact with." You remember that? A. Yes.

Q. And further, "Immediately upon being smashed to the ground I commenced to suffocate and the only thing I smelt was gas. I saw no bomb or any contrivance whatever resembling a bomb and I smelt no powder. I faced the door at the time I started to open it and with the exception of the frame, sash, hinges and lock the door was of heavy plate glass. I have been engaged in the business of mining for many years and have during my experience in this business become familiar with dynamite and explosives and I am satisfied and certain in my own mind that I would have detected any fumes resulting from a dynamite explosion and would not have mistaken any such fumes for gas. That is, I would have known the smell of powder from the smell of gas." You recall that? A. Yes.

Mr. Shortridge: I think that is all.

A. May I add there, at the time I made that affidavit, I did not know then of the milk story.

Q. You have no interest in this matter, I take it, one way or the

other, Mr. Bradley? A. None other than to supply all the facts that I possibly can and be glad to throw any light that I can upon it.

Q. In other words, you are an entirely disinterested witness in the case; that is correct? A. I am.

Mr. Van Dorn: Q. In regard to these mining journals of which you spoke, I presume they are not daily publications?

A. No, weekly.

Q. Published after your departure from any certain place? A. Yes.

Q. At the time of making this affidavit which Mr. Shertridge has spoken of here, you had not read the full confession of Harry Orchard? A. I never knew about it at all.

Q. You had not read the testimony of your upstairs girl, Miss Bell? A. I had no information whatever, as to the milk poisoning.

Q. You did not know the testimony of Mrs. Boward at that time, where Orchard was rooming, regarding the placing of a bomb?

Mr. Miller: Objected to as not proper re-cross examination.

A. None of that information whatever.

Mr. Van Dorn: Q. If you were to make the affidavit now it might be entirely different from what it was at that time?

Mr. Shertridge: Objected to as speculative; not proper re-cross examination, argumentative and speculative.

A. I would have qualified it somewhat.

Mr. Van Dorn: Mr. Bradley, you stated there was no other flash from any other place other than from the end of your

cigar? A. There was absolutely no question in my mind on that point. That the cause of the explosion was the explosion of gas which the end of my cigar came in contact with.

Mr. Miller. Objected to as not proper re-cross examination and an immaterial.

Mr. Van Dorn: Q. That the cigar touched off the gas?  
A. In view of everything I have since heard, of course, that lies is shaken now.

Mr. Van Dorn: That is all.

Mr. Shertridge: Q. Is it not a fact, Mr. Bradley, that the first thing which you saw and that you thought you saw, before you heard any explosion, was this flash of light from or at the end of your cigar? A. That was the first thing I saw.

Q. That is a fact? A. That is a fact.

Q. It is equally positive fact that you saw no flash as stated here, from any other place, up to the time of the explosion?

A. I saw no other flash at any other place, at any time.

Mr. Shertridge: That is all.

Mr. Van Dorn: That is all.

(Signed) F. W. Bradley.

Adjournment is here taken until 2:30 P. M.

At the hour of 2:30 P. M. all persons being present,  
the taking of testimony was resumed:

TRACY CUMMINGS

Called as a witness on behalf of the defendant William D.  
Haywood, being duly sworn, testified as follows:

DIRECT EXAMINATION

MR. SHORTRIDGES:

- Q. Your name is Tracy Cummings? A. Yes sir.
- Q. Where do you live? A. 1928 Home Street, Berkeley.
- Q. Where did you live in the month of November, 1904? A. 1400  
Washington.
- Q. That was in the building owned by Mr. Walter H. Linforth?  
A. Yes sir.
- Q. Do you remember an explosion that took place in that building  
in the month of November, 1904? A. Yes sir.
- Q. You were in the building on the morning of the explosion?  
A. Yes.
- Q. What time did you leave that building that morning?
- Q. It was somewhere in the neighborhood of a quarter to eight; I  
don't remember exactly.
- Q. The flat which you and your parents occupied, was the lower  
corner flat? A. Yes sir.
- Q. Known as 1400 Washington Street? A. Yes sir.
- Q. Please state or explain the route you took in passing from  
the — in leaving the flat until you got out upon the street  
to where you were when you heard the explosion.

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- A. Our door faces south and I came out the door and turned to the west down the steps, then south again to the street, then directly east to Leavenworth Street; then down Leavenworth almost to Sacramento.
- Q. Clay Street was parallel to Washington and the next street south of Washington was -- A. Sacramento.
- Q. Then came Sacramento? A. Yes.
- Q. In passing out of the door leading from the flat 1400, your flat, you turned, you say, toward the west? A. Yes, I would naturally turn toward the west in coming out of the door.
- Q. And turning to the west that caused you to look towards what we would call the Bradley door? A. Yes.
- Q. Leading to Mr. Bradley's flat? A. Yes.
- Q. About how wide -- what was the distance from where you were when passing out of your door to Mr. Bradley's door?
- A. I should judge about three and one half to four feet.
- Q. As you passed out of that door, did you see a bomb about five and one half or more or less inches in diameter and about one foot in length lying immediately in front of Mr. Bradley's door? A. I did not, no sir.
- Q. Did you see a string connected or made fast to Mr. Bradley's door leading to some object of the size I have suggested in the preceding question? A. No sir.
- Q. Did you see a newspaper lying there at all? A. No sir.
- Q. Did you see a newspaper in position as though thrown over a string? A. No.
- Q. Up from the vestibule floor and over toward the door? A. No.

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- Q. A newspaper in position of a newspaper, thrown over a string leading from the floor up to a distance of a foot and one half or two feet above the lower part of the door; a newspaper thrown over a string? A. No sir, I did not see any.
- Q. Was there any such thing that I have described there, as you came out and passed across the vestibule floor? A. If there was, I didn't see it.
- Q. You were in a position to see it, I believe you stated? A. Yes.
- Q. If there had been a bomb about the length of this paper volume, which I hold in my hand, which is about thirteen inches long and some five inches in diameter, lying there immediately in front of Mr. Bradley's door and within three or four feet of your door, you looking in that direction, on the occasion referred to in your answer, would you, or would you not have seen it? A. I undoubtedly would have seen it.
- Q. Was there such a thing there? A. I did not see it.
- Q. You saw no such object as I have suggested? A. No.
- Q. Now, where were you when you heard the explosion? A. I was a block and a half away.
- Q. On which side of Leavenworth street did you walk on leaving your flat? A. On the west side.
- Q. How long did it take you to walk that distance from your home to the point you were at when you heard the explosion? A. I should judge about a minute and a quarter or a half.
- Q. Have you any reason for knowing that it did take you about that length of time? A. Yes, because I have since walked that

distance and timed myself.

- Q. And you found that was about the time? A. Yes.
- Q. Give us some idea of the loudness of the sound of the explosion as you heard it? A. Well, it sounded quite loud. Of course, I had no idea what it was; it sounded like a blast of some kind.
- Q. Was it a very loud noise? A. Yes, sir, very loud.
- Q. How many explosions did you hear? A. One.

CROSS EXAMINATION

MR. VAN DYKE:

- Q. What is your business now? A. In the railroad business.
- Q. In the railroad business? A. Railroad business.
- Q. What position in the railroad business are you occupying?
- A. Assistant to the general western agent to the Rock Island railroad.
- Q. What business and position were you occupying upon November 17, 1904? A. I was contracting freight agent for the Illinois Central Railroad.
- Q. How do you fix the time, Mr. Cummings, that you left the Linforth flat building on November 17, 1904, in the morning?
- Q. It was my usual custom to leave about a quarter to eight in the morning for the office and I did not deviate, to my knowledge, that morning.
- Q. To be exact in regard to that, you are fixing it by your usual custom? A. Yes sir.
- Q. Therefore it was about fifteen minutes to eight? A. Yes sir.
- Q. You did not look at the time or anything of that kind?

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A. No, I don't remember.

Q. What was your gait, Mr. Cummings, in respect to the distance you walked from the Linforth Flats to the point where you heard the explosion, fast or slow? A. It was rather fast.

Q. And going down the steps I presume your gait was proportionate, was it, as you walked swiftly down the steps? A. Well, I don't know as I walked swiftly down the steps.

Q. What do you think about it? A. Just a usual gait.

Q. You don't know whether you sauntered slowly or about what speed you were going about that time? A. No, I would not say I was going fast, a medium gait.

Q. You think it was a medium gait that you struck? A. Yes.

Q. It was your usual custom? A. Yes.

Q. You are fixing all this by your usual custom, not by anything particularly of that morning? A. Yes.

Q. What did you see in front of the door of Mr. Bradley's flat, anything at all? A. Nothing, no sir.

Q. Did you notice the door mat at that time or not? A. No, I did not.

Q. If it had been there, would you possibly have seen it?

A. Well, I would possibly have seen it, although I do not recollect it.

Q. I presume, as a matter of fact, you did not pay very much attention to Mr. Bradley's door or what was around there. You paid no particular attention to it? A. No.

Q. The mat might have been there or might not, so far as you know?

A. Yes sir.



- Q. All you know is you did not notice anything of that kind or any bomb or string? A. Yes sir.
- Q. Possibly the mat could have been there without your noticing it? A. Yes sir.
- Q. Possibly a string could have been there without your noticing it, either a small string or a small wire? A. Well, if the wire had been stretched across the vestibule, I probably would have noticed it.
- Q. If a string had been stretched across the door you would have noticed it? A. Yes, possibly.
- Q. If a newspaper had been lying there you would have observed that? A. Yes.
- Q. Well, you did not observe anything? A. No.
- Q. How far, Mr. Cummings, had you walked from your door -- the door of your flat to the point at which you heard the explosion? A. About a block and a half.
- Q. Immediately after going down the steps you crossed the street? A. I usually diverged right across the street.
- Q. Diagonally? A. Diagonally.
- Q. To the opposite sidewalk? A. Right across to the corner.
- Q. Which direction, after striking across the corner, did you go? A. South.
- Q. A block and a half according to your best knowledge? A. Yes.
- Q. At that place how many feet, would that be? A. From the house to where I heard the explosion?
- Q. Yes. A. I should judge about 600 feet, possibly.
- Q. And what was the topography of the ground there, in respect to being level or sloping from the point where you left the flat

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to the point where you heard the explosion? A. An incline is from the point where I would leave the flats to Leavenworth Street.

Q. Incline which way, up or down? A. I was walking up.

Q. Then, from Washington to Clay Street it was practically level, possibly a slight incline; then from there down to Sacramento a decline.

Q. After hearing the explosion did you return to the house? A.No.

Q. You did not return? A. No.

Q. You did not know exactly where the explosion came from? A.No.

Q. At what time, Mr. Cummings, did you walk back over that route and time yourself, in respect to the time it would take to walk that far? A. Why, I don't remember the exact date.

Q. Just fix it at or about as nearly as you can? A. I think it was some time in September or October, 1906.

Q. Somewhere about the time you made the affidavit that was used in the suit of Mr. Linforth against the Gas Company?

A. Yes, just previous.

Q. Previous to making the affidavit? A. Yes.

Q. At whose solicitation did you time yourself? A. Mr. Linforth.

Mr. Shertridge: The affidavit is sworn to on October 8th, 1906.

Mr. Van Dugn: Q. And it may have been a few days before that? A. Yes.

Q. With whom did you say you lived in that flat, Mr. Cummings, with your father and mother? A. My father and mother and brothers and sisters.

Q. What is your father's name? A. -- M. E. Cummings.

Q. Do you know if he has at any time brought suit against the gas company for injuries sustained in that explosion?

Mr. Shortridge: One moment. I object to that as immaterial and no proper cross examination.

A. Yes sir.

Mr. Van Dorn: Q. Do you know now, Mr. Summings, whether the suit is still pending?

Mr. Shortridge: Objected to on the same ground.

A. I understand it is still pending.

Mr. Van Dorn: Q. Still pending in the courts? A. Yes.

Q. In making this trip did you pursue the same route as near as you can remember? A. Yes sir.

Q. And you used the same gait as near as you can remember?

A. Yes sir.

Q. And you found that time to be about how many minutes?

A. I think it was a minute and ten seconds.

Q. Those things you observed -- you did not see anything -- you paid no particular notice as to whether there was anything there or not. There was nothing there to make you observe those things? A. No sir.

Q. All you know is that you did observe those things there. There might have been some there and you did not observe them?

A. Well, what, for instance?

Q. For instance, a string and for instance, a paper. Would you have noticed it? Would you have noticed a paper at some particular door when you were coming down in the morning?

A. Well, I don't remember seeing a paper there. It could have been there and I would not have paid particular notice to it.

- Q. You don't know whether it has been the custom for anyone's paper to be delivered there at the foot of the steps? A. No.
- Q. You have not observed anything about that? A. No.
- Q. Would you mind drawing me a rough diagram, Mr. Cummings, of the situation of these doors and the stairs coming down, making the three doors in the entrance there. (Witness makes drawing) How far is the beginning of the descent from the door out of which you came? Is I mean the landing where you went down; the width of the vestibule floor; how far from his door to where you commenced going down the steps?
- A. I should judge about seven or eight feet.
- Q. Is that almost directly in front of your door? I mean the head of the stairs going down the descent? A. Yes, right directly in front.
- Q. And who has the door on the right of your door? A. I think Mr. De Laveaga.
- Q. 1402? A. Yes sir.
- Q. Still further to the right was Mr. Bradley's door, as I understand it, 1404, is that correct? A. Yes.
- Q. Still further to the west? A. Yes sir.
- Q. About how wide -- how far is it from the top of that landing of the descent down to the point you strike the street approximately? A. Seven or eight feet, I think.
- Q. About what is the incline -- about what degree? A. 50 I think.
- Q. Then in leaving your door, 1400, you would go directly forward to the head of the staircase, turn to the right, or to the left?



Mr. Shortridge: To the right.

Mr. Van Dorn: (Continuing) And descending, is there any railing in front of 1400? And 1402 is there a railing there? A. No railing in front of 1400.

Q. No railing in front of 1400? A. It commences at 1402.

Q. Then a little to the right of your door is the railing extending up to the vestibule? A. Yes.

Q. Your procedure -- in leaving your door, you turn to the right and go down? A. Yes sir.

Q. You would not look to the right or to the left; you would walk straight forward and look straight ahead? A. Yes sir.

Q. You did not look to the right or left that morning, so far as you can remember? A. As far as I can remember.

Q. So far as you know? A. No.

Q. In walking down the staircase you would look up to see Mr. Bradley's flat, would you not? A. Well, no, it would be on my left; that is the bottom of his door; after I had reached the foot of the stair.

Q. After you reach the foot of the stairs? A. Yes.

Q. But you had nothing to attract your attention and make you look that morning, so far as you remember? A. No.

Q. You ran down the stairs, turned to the left and walked out into the street? A. Yes.

Q. Straight forward to the right, then to the left and then down on to the street, that is my understanding? A. Yes, to the left.

Q. What is the width of the doors to those flats? A. I should

- Q. About three feet? Well, then, there was the floor, three feet between your flat door and the Bradley flat door, was there? A. Yes sir.
- Q. Is there any interval between the next flat door to your right and the Bradley flat door, a casing of any kind? A. Yes, there is a casing.
- Q. About how much would that? A. A foot or so, maybe, a half a foot.
- Q. As far as you know approximately, it is something like four feet, from your door to the Bradley door? A. Yes, sir.
- Q. And about approximately six feet from your door straight forward to the head of the stairs? A. No, it is not that far.
- Q. How far was it? A. Not more than three feet.
- Q. Then you only had a couple of steps to make before you were at the head of the stair case to turn downward? A. Yes sir.
- Q. Then the view you would have in leaving your flat door, No. 1400, would be a side view until you get on the staircase? A. Yes sir.
- Q. If you wanted to get a good look at the Bradley door, you would have to turn your face to the right? A. Yes.
- Q. Then after you got up on the steps -- you would usually watch the steps going down to the next step? A. Well, I possibly would do so, yes.
- Q. How long do you think it would take you to go from the door of your flat to the street, the way you were going that morning? A. Not more than three or four seconds.
- Q. A very short time? A. Yes sir.
- 3515 Q. Did you at that time, Mr. Cummings, or do you now belong to any

unions? A. Yes sir.

Mr. Van Duzen: That is all.

RE-DIRECT EXAMINATION

MR. SHORTRIDGE:

- Q. What did you say was the length of the vestibule? A. About six or seven feet.
- Q. And the width, I mean from the hall which was a part of the parlor, on the outside wall, to Mr. Bradley's door, what is that distance? A. Six or seven feet.
- Q. What was the width from your door to where you stepped down from the step? A. About three feet.
- Q. You walked out as stated in the usual way, turning and pursuing the usual and necessary route to get to the street? A. Yes sir.
- Q. Now, you would pass, and did pass, what distance from Mr. Bradley's door, did you say? A. Well, in going --
- Q. (Interrupting) As you went out on this occasion, you first came out of your door, going toward Washington Street; now what distance were you from the door to Mr. Bradley's door? A. Not more than four feet.
- Q. Now, if a bomb thirteen or fourteen inches in length, five or more inches in thickness, had been lying immediately in front, or in front of Mr. Bradley's door, you would have seen it, would you not? A. I think so.
- Q. If a string had been attached to that bomb and made fast to the door, and if thrown over that string was a newspaper somewhat in this fashion (indicating) it would have attracted

your attention, would it not? A. Yes sir.

Q. You saw no such object or objects lying there on the occasion referred to? A. To the best of my recollection, there was nothing there at all.

Q. Now, then, as you reach this landing, you would turn to go down the steps and that would take you in a westerly direction? A. Yes sir.

Q. And as you turn then, your face would be in the direction -- right in front of Mr. Bradley's door, would it not? A. Yes sir.

Q. This railing in front of the vestibule, was it a closed fence so to speak, or made otherwise? A. It was an open lattice work.

Q. There is no question about your remembering it? A. No sir.

Q. Iron, was it? A. Yes sir.

Q. Not so made as to obstruct the view? A. No sir.

Q. If an object as big as a bomb, suggested in the preceding questions had been placed there and covered over by a mat and then a newspaper placed as suggested, you would have seen it?

A. I think I would.

Mr. Shertridge: That is all.

RE-CROSS EXAMINATION

MR. VAN DYKE:

Q. This matter of what you saw that day or night have seen, was not called to your attention for more than two years, or in the neighborhood of two years after the explosion?



A. I don't remember just how long it was after the explosion.

Q. The explosion occurred in November, I believe, November 17, 1904, and as I understand your affidavit was made in -- about October 1906, and there had been very little conversation, if any, with you between the time of the explosion and the time of that affidavit?

MR. SHORTIDGE: With whom?

MR. VAN DUSEN: With any persons concerning this bomb?

A. Well, I think possibly there was some conversation.

Q. About what time was the first conversation? A. That I could not say, I don't remember when, exactly.

Q. When did you first give consideration as to the report whether there was or was not something in front of that door?

A. Well, possibly, it was brought out from this man Orchard's testimony.

Q. About what time was that, Mr. Cummings? A. I think possibly about a year after.

Q. About a year or so afterwards? A. Yes sir.

Q. Did you, at that time, speak about a bomb being placed in a certain position or anything about a newspaper being placed there? A. Nothing about a newspaper; I think something was said about a bomb being placed.

Q. As a matter of fact you had forgotten exactly what you did say there at that time -- at the time of making this affidavit and the only way you fix it is what you possibly would have noticed.

Mr. Shortidge: Objected to as not proper re-cross examination, and assuming what the witness has not testified

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to.

A. I would have undoubtedly seen such a contrivance as has been brought out if it had been there.

Mr. Van Duyn: Q. If it had been partly covered by a mat do you think you would have seen it? A. Yes, I think I would.

Q. What makes you think you would have seen it? A. From the fact that it might have been unusual, or would have been rather unusual to see such an object lying there.

Q. If you had seen it? A. Yes.

Q. Would there have been anything unusual about the paper lying there in front of the door? A. Nothing.

Q. The paper might have been there and you would not have noticed it? A. No sir.

Q. If the paper had covered a wire you would not have noticed that providing the paper hid the wire? A. Yes sir.

Q. How was it that morning, in respect to being dark or light in there, is there just of a projection? A. That porch runs out quite a way.

Q. Is there any shadow in there in the morning -- at the time in the morning? A. Why, I presume there would be a shadow in there, yes.

Q. Do you think so? A. I don't know that there would be a shadow in front of the Bradley door because that faces the street. Possibly in front of our door would be a shadow.

Q. So far as you can remember at this time, Mr. Cummings, you did not make any particular observations that morning? A. No sir.

Q. You did not see anything -- all you know about it was the usual way -- and you did not see anything? A. Yes.

Q. You would not mean to say, Mr. Cummings, in a matter of ten or twelve months after such an occasion and where you had paid no particular attention, that you would recall having seen anything in such a position or whether a rug was there in such a position? A. No, I would not recall it.

Q. It would be a perfect blank in your recollection in regard to what might have been there -- whether a newspaper or bomb?

A. Yes sir. But as I stated before had a bomb of such dimensions been there I think I would have noticed it; but as to a mat or newspaper which may have been there, you know, why, I would not have paid any particular attention to that; but any unusual object I undoubtedly would have noticed.

Q. You would not be willing to say, Mr. Cummings, that if Mrs. Swan, formerly Miss Bell, had testified that there was a mat there that morning, whether it was there or not?

MR. SHERIDAN: I object as improper cross examination.

A. No.

MR. VAN DYKE: Q. The fact is, you don't remember whether there was a mat there or not.

Mr. Van Dyke: That is all.

MR. SHERIDAN: That is all.

(Signed) Tracy Cummings.

J. B. REILLY

Called for the defendant, W. C. Haywood.

Sworn.

DIRECT EXAMINATION

MR. SHORTRIDGES:

Q. Your name is J. B. Reilly? A. Yes sir.

Q. Where do you at present reside? A. 1420 Washington St.

Q. Where did you live in the month of November, 1904?

A. In the same place, 1420 Washington Street.

Q. Where is that place in respect to cross streets?

A. Between Leavenworth and Hyde.

Q. On which side of Washington Street? A. On the north side.

Q. On the north side? How far was 1420 Washington from the corner building owned by Mr. Linforth? A. I should judge about 340 feet or 260 feet.

Q. You mean at the end of the building? A. I mean to the corner.

Q. About what was the distance from 1420 Washington to the corner of Washington and Leavenworth; that is what I mean?

A. It was somewhere around 300 to 260 feet, I should judge.

Q. I understood the building was about 70 feet on Washington Street.

Mr. Miller: Q. What is the length of those blocks, north and south.

A. North and south, I think, about 375 feet. The blocks running east and west are about 411 feet, three fifty varies.

Mr. Shortridge: Q. Do you remember the explosion that took place in Mr. Linforth's place? A. Yes sir.

Q. Were you in that vicinity? At or about the time of that



explosion? A. Yes sir.

Q. Before the explosion had you passed by the Linforth building?

A. Yes sir.

Q. About how long before the explosion did you pass by that building? A. I should judge ten or fifteen minutes.

Q. From where, and to where, did you go or had you gone?

A. From my home up to a grocery store opposite the Linforth building.

Q. Was the grocery store referred to on the northeast corner of Washington and Leavenworth Streets? A. Yes sir.

Q. Mr. Linforth's building was on the northwest corner of Washington and Leavenworth Streets? A. Yes sir.

Q. In going from your home to the grocery store, did you see anyone on or about the vestibule of Mr. Linforth's building?

A. I saw a Chinaman or at least a Japanese.

Q. What if you know, was he doing there? A. He was washing up the marble stairs.

Q. Had you ever seen him before on other occasions? A. Yes sir.

Q. At about the same place? A. Yes sir.

Q. And at about the same time? A. About the same time.

Q. How long, if you remember, did you remain at the grocery store?

A. Well, I stayed in there probably ten minutes -- in the neighborhood of ten minutes -- somewhere in the neighborhood of ten minutes.

Q. Who kept that grocery store? A. Mr. Guibini.

Q. Had you left that store before the explosion? A. Yes sir, I left the store shortly before.

Q. Where had you gone? A. I went back to my home -- that is, I

started to go back.

Q. Had you passed there -- did you return over the same course?

A. Yes.

Q. Had you passed the building of Mr. Linforth? A. Yes.

Q. How far beyond had you gone at the time of the explosion?

A. You mean the distance?

Q. I do. A. Well --

Q. (Interrupting) Had you reached your own home? A. I was going through the gate.

Q. You had then reached your gate? A. Yes sir, I was passing through the gate and was about to close the gate when the explosion came.

Q. As you passed down the street -- for the street does decline there -- did you see this Jap? A. The Jap was about getting his pail and stuff and going up the stairs.

Q. Going up what stairs? A. Up towards -- I don't know where he was going -- the stairway of this gentleman's house.

Q. He was picking up the bucket or the material used?

A. Just about finished I should judge.

Q. You saw him when you passed down the street? A. Yes.

Q. As you passed up the street, as I understand, he was at work?

A. Yes.

Q. As you passed down he was cleaning up -- he was gathering up the brushes and buckets as though he had finished work?

A. Yes.

Q. And you had reached your gate and was turning in, you were passing through the gate when the explosion occurred? A. Yes.

Q. Can you give us approximately the length of time it took you to

Boise, Idaho, Tuesday, July 3th, 1907.

9:30 o'clock A. M.

Parties convened pursuant to adjournment.

Minutes of the session of July 2th read and the same were signed by the court.

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

THE COURT: Are you ready to proceed, gentlemen?

MR. HAWLEY: I regret to say that Senator Berah is somewhat indisposed this morning and therefore we will have to continue without his presence, but I will continue with this reading until he is able to be in court. I beg the indulgence of the court and counsel in not knowing where the counsel left off.

MR. DARROW: We were at page 73, the re-cross examination of Mr. J. B. Riley.

MR. HAWLEY: I believe the rule is that the State was to read their cross examination.

THE COURT: Yes sir, that is the rule that has been followed.

MR. DARROW: I believe it is fair to say to you, Mr. Hawley, and the jury, that J. B. Riley was the man who had gone over to Galbini's for a morning drink, so that it may appear

who this witness was.

MR. HAWLEY: That is one mistake of my career; I should have read that. I will now read, gentlemen, the cross examination of Mr. Riley by Mr. Van Duyn.

Mr. Hawley thereupon finished the reading of the deposition of the witness J. B. Riley.

MR. DARROW: Now, Mr. Hawley, we have read the deposition of Mr. Linforth, and we will skip that and take the next after Linforth, Mrs. Charles Pickard, at page 146.

THE COURT: Did you read from page 62 to page 85?

MR. DARROW: Riley's deposition begins on page 62 and Linforth's begins on page 85,— yes sir, we have read from page 62 to page 85. This is the deposition of Mrs. Charles Pickard, beginning on page 146.

Counsel then read the deposition of Mrs. Charles Pickard; after which they also read the deposition of Mrs. Cummings, beginning at page 153, and then the deposition of Mrs. Lucy Arielle Cummings, during the reading of the direct examination of which an objection was made.

MR. HAWLEY: That we object to as calling for a conclusion.

MR. DARROW: I don't care anything about it. It has been the general rule, however, in all the others to let this all go in.

THE COURT: What is the question?



MR. DARROW: "How far in your opinion could the explosion be heard?"

THE COURT: There are a number of these that have been admitted without any objection, Mr. Hawley.

MR. HAWLEY: Very well, go ahead.

The reading of the deposition was then completed by counsel.

MR. DARROW: The next is the deposition of Mrs. Linforth, -- Mrs. Josephine Linforth, on page 153.

The deposition of Mrs. Linforth was then read by counsel.

MR. DARROW: Now, here is a stipulation: It is stipulated that the photographs which have been used as exhibits are photographs of the premises and are introduced without first being identified by Mr. Charles Perry, the photographer who took them.

THE COURT: They were taken out yesterday, Mr. Hawley, and shown to the jury.

MR. DARROW: The next is the deposition of John J. Satchman, on page 153.

The deposition of the witness Satchman was then read by counsel.

MR. DARROW: I will now detach defendant's exhibit S. P., No. 4, which is taken from an appropriate page in the back of the deposition, and which is referred to on page 175 -- I will read this question for the benefit of the jury and counsel and myself in particular, in order that the photograph, exhibit S. P., No. 4, may be introduced at the present time: "I hand you

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a picture which has not yet been offered in evidence, but which in your opinion is a picture of the room which adjoins that, being the reception hall of the lower corner flat, and ask you if these are the two rooms you referred to which you say were damaged the most? A. Yes sir."

THE COURT: You come to the place now where that is offered in the deposition, Mr. Darrow?

MR. DARROW: Yes, your Honor, I am trying to find out which is the right side up.

The photograph was then offered in evidence and passed to the jury for their inspection, after which the reading of the deposition of the witness McKeenan was completed.

MR. DARROW: We will now read the deposition of Thomas Genty, on page 178.

The deposition of Thomas Genty was then read; also the deposition of J. W. Parry, at page 184; also the deposition of W. T. Walsh at page 192 and also the deposition of Joseph Vincent De Leveaga.

THE COURT: We will not take up the next deposition until after the recess.

Thereupon the court gave to 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 P. M.

R E C E S S.

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3400

Boise, Idaho, Tuesday, July 9th, 1907.

1:30 o'clock P. M.

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Parties convened pursuant to adjournment.

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

THE COURT: You may proceed, Mr. Darrow.

MR. DARROW: Your Honor, we have a couple of witnesses here that want to get away and we would like to break into the depositions for these witnesses, and put them on now.

THE COURT: Call your witnesses.

MR. DARROW: I will call Mr. Swain.

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ALVA A. SWAIN, being called as a witness on behalf of the defendants, and being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

- Q Give us your name in full, please? A Alva A. Swain.
- Q Where do you live, Mr. Swain? A 1029 Twentieth Avenue, Denver.
- Q What is your business? A I have charge of the Denver office of the Pueblo Chieftain.

THE COURT: What is that answer?

THE WITNESS: I have charge of the Denver office of the Pueblo Chieftain, a newspaper.

- Q How long have you had charge of the Denver office of the Pueblo Chieftain? A Since four years ago the first day of last March.
- Q What is the Pueblo Chieftain? A A daily paper published in Pueblo, Colorado.
- Q Do you know James McFarland? A I met him once.
- Q Do you know his business -- did he tell you what it was?
- A I don't think he did; however, I understand what it was.

THE COURT: What is that answer?

The answer was read to the court.

- Q The James McFarland you refer to is the Pinkerton Superintendent in Denver, is he not? A Yes sir, I understand so.



Q Do you know where their offices are? A I do not.

Q Do you know whether it is in Denver -- his offices?

A I beg pardon.

Q Do you know whether his office is in Denver? A Yes sir.

Q Where did you see him? A In my office.

Q When? A Some time last year preceding the fall election.

Q Were you alone? A He came into the outer office and I went into a private room and had a talk with him.

Q Did he come to see you in reference to the case of the State of Idaho against Mr. Haywood, and Moyer, and Pettibone?

A He did.

Q In reference to your testifying in that case? A Yes sir.

Q What did he say?

MR. BORAH: Wait a moment. We object to this as incompetent, immaterial and irrelevant insofar as we are advised. We don't know what the object of it is.

MR. DARROW: We can tell your Honor: The object is to show the conspiracy between the Pinkertons and the Mine Owners to convict and execute these men and to manufacture false evidence against them, -- exactly in line with the other testimony. We wish to show that he wanted to get this witness to swear to testimony in reference to this case that was not true, and to show it was not true.

MR. BORAH: We still object to it as incompetent, immaterial and irrelevant under any connections which have been made.

MR. DARROW: We will show that the statement he wished to get this witness to swear to in this matter was not true. I don't like to state in the presence of the jury just what it was, but we wish to show by this witness that he attempted to get him to swear to something that was not true for the purpose of convicting this man in this case, in line with the conspiracy, as we claim, to get rid of the Western Federation of Miners.

THE COURT: The court will sustain this objection. I don't think there is anything introduced here that will justify such a ~~misleading~~ connection.

MR. DARROW: Is it a question of the matter of connection? We won't make any promises that we don't think we can fulfill. Mr. Swain, I will have to ask you to stay here then.

THE WITNESS: Can't you arrange it for me to return again, for it is almost impossible for me to stay? I have been here twice already you understand.

MR. DARROW: We will have to arrange that outside. We want to have an exception at this point.

THE COURT: The exception will be noted.

MR. DARROW: That will be all then, Mr. Swain.

MR. RICHARDSON: I want to say to your Honor that Mr. Swain is an extremely busy man. He is the only man who is connected with the Pueblo Chieftain at Denver and the only man who has charge of its affairs at that point. He has had charge of them so long that it is almost impossible for him to be away, and he comes here without being forced to come by a subpoena, as your Honor well knows, because no subpoena can run outside of the state boundary; and my partner promised him that if he would come up here that he would be put upon the stand during the day that he got here and that he could go back on the afternoon train, and that is what the trouble is in regard to Mr. Swain. And I want to ask your Honor now since Mr. Darrow has asked for a subpoena for him, if he cannot return to Denver on this afternoon's train, notwithstanding the service of the subpoena, to come back here on a telegram from us.

MR. BONAP: Certainly.

THE COURT: With your consent.

MR. RICHARDSON: Yes, with our consent. I wouldn't like to violate the promise that Mr. Hawkins has made to him, because otherwise the man wouldn't have come here at all. I suppose you have had the same difficulty in regard to getting witnesses here as we have. They are not obliged to come, they can come or not just as they please.

MR. BONAP: Any arrangement that the counsel make of course will be satisfactory to us.

MR. RICHARDSON: I want to do that so that Mr. Swain won't be in any contempt of court or have any reason to keep

out of the state of Idaho hereafter.

THE COURT: He will simply be subject to your call.

ALLEN F. GILL, a witness on behalf of the defendant,  
being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARRON:

- Q. What is your full name, please? A. Allen F. Gill.
- Q. Where do you live, Mr. Gill? A. Spokane, Washington.
- Q. What is your business? A. Contractor at the present time.
- Q. How long have you been a contractor? A. Nearly a year.
- Q. What was your business before that? A. Engineer.
- Q. What kind of an engineer? A. I was a consulting engineer  
for the city of Spokane, building water improvements, for a  
year prior to that time.
- Q. And what was you before that? A. City engineer for four years.
- Q. Of Spokane? A. Yes sir.
- Q. Previous to that what was your business? A. I was employed  
in the mines. Was master mechanic at the Tiger-Poorman mine  
at Burke, Idaho.
- Q. When were you master mechanic of the Tiger-Poorman at Burke,  
Idaho? A. From the latter part of 1896 to some time in August  
of 1899.
- Q. While you was there did you know Harry Orchard? A. Yes, I  
knew Harry Orchard.
- Q. I don't ask you for any conversations at this time but just

for facts. Did you some time in 1899 make any investigation with reference to the value of an interest in the Hercules mine which he purported to have? A. I did.

Q. At whose request was that? A. At the request of Mrs. Gill, my wife.

Q. Did you see Harry Orchard in 1903? A. Yes, I saw him in 1903.

Q. What time? A. I believe it was about the first part of November; as to the exact date, why, I am not quite positive.

Q. And whereabouts? A. At the corner of Riverside and Howard, city of Spokane.

Q. On the street? A. Yes sir.

Q. Anybody with him? A. Yes.

Q. Who? A. Jack Simpkins.

Q. Did you know Jack Simpkins? A. Yes, I knew him.

Q. Did you have any conversation with Harry Orchard at that time? A. Yes.

Q. What was it with reference to -- or, what was the conversation?

MR. MORAN: We object to this, if your Honor please, as no foundation is laid for this conversation, or the impeachment.

MR. DARRON: Well, your Honor, it is impeachment, and it is impeachment that we didn't know of when Harry Orchard was on the stand. My theory always has been --

THE COURT: I don't know of any exception to the rule, Mr. Darron.

MR. DARRON: There isn't; there isn't. But I have always thought that we had the right to prove any threat he made regardless of impeachment, although we have proceeded the other way. But anything that shows the motive of the man who



committed this crime, I think it is competent and original evidence without asking any impeaching questions, and I can only offer it at this time on that theory of the case. Otherwise I have got to ask to have Mr. Orchard brought in here. But I think anything that shows motive on his part to have done this is independent evidence, and that is the only way I can offer it at this time, -- the question of the motive of Harry Orchard.

THE COURT: Do you desire to have Mr. Orchard brought back for cross examination? If so, the court will make the order directing him to be brought here.

MR. DARROW: I know your Honor will make the order. I haven't any doubt about that. But it may not be necessary -- if my view of the law is right. But if your Honor holds otherwise I will have to ask for the order, but I would like to have this witness have a chance to get away tonight.

MR. RICHARDSON: Why can't we reverse the procedure and take the testimony and then ask Orchard about it afterwards?

MR. DARROW: I can tell you privately what we desire to show.

(Mr. Darrow and Mr. Borch consult).

MR. HODMAN: With the understanding -- of course I don't suppose we have a right to bring Orchard in after this with reference to this under any rule of evidence that I am familiar with, but with the understanding that it does not embarrass us in taking Orchard's testimony on the matter, why, we will permit this to go ahead.

MR. DARROW: We will consent to that, your Honor.

MR. RICHARDSON: Yes, that will be all right.

THE COURT: Let the record show the statement of counsel in regard to that matter. He may testify with that understanding.

MR. BAYBOW: Mr. Orchard may testify in regard to this either in contradiction or otherwise.

Q. Mr. Gill, what was the conversation?

A. In general?

Q. Well, you might say what the conversation was between you and Mr. Orchard at that time? A. I spoke to him in regard to the interest that he at one time held in the Hercules prospect and the proposal that he made to Mrs. Gill to buy the same interest.

Q. Go ahead and state what it was? A. What the interest was?

Q. No, what was said between you and him about that subject at that time. A. I said, since that time the property has become very valuable and that I considered myself unfortunate that he didn't come around to close up the deal. He said that at that time he was hard up, but afterwards -- but sold out his interest in the wood business and went to work in the mine. He said that he himself would have had money in all of his pockets and might have been building -- putting up blocks as Faulsen and Hutton were doing if he hadn't been driven out of the country by that son of a bitch Stannenberg.

Q. Was any reference at that time made to Cordonia? A. Yes.

Q. What was that? A. I asked him if he had seen Cordonia, and he said no. He says "That damned dog is having good times

spending what ought to be my money."

Q. Have you ever been a member of the Western Federation?

A. No sir.

Q. Or any other labor organization? A. No sir.

Q. How long were you connected with the mines up there in the Coeur d'Alene? A. Somewhat over three years.

Q. In an official position? A. As master mechanic on the mine.

MR. BARNOW: That is all.

#### CROSS EXAMINATION

BY MR. BARNOW:

Q. Mr. Gill, what was the date of this conversation that you had with Orchard which you have just given us? A. I am not quite positive as to the date, but my recollection is that it must have been some time in the first part of November or thereabout.

Q. Were you living in Spokane at that time? A. Yes sir.

Q. What were you doing at that time? A. I was consulting engineer for the city of Spokane at that time.

Q. Was there anything which you had under your supervision at that time, any work, by which you could fix the date of this conversation, anything by which you could locate the time to any certainty, that is, as to the day? A. No, I couldn't. I remember -- the only recollection I have as to the date is that I remembered afterwards, after the assassination of Governor Steunenberg, that I fixed the time as several weeks prior to this, and it is the best of my knowledge and understanding it would be about the first part of November.

- Q. But you haven't any memoranda or anything by which you can fix the date except your reflecting back by an event which transpired afterward? A. That is all.
- Q. How he was in the company of Jack Simpkins? A. Yes sir.
- Q. You had known Jack Simpkins before, had you? A. Yes sir.
- Q. Knew him in the Cour d'Alenes? A. I know him in the -- well, yes.
- Q. And where in Spokane did you see them? A. At the corner of Howard and Riverside.
- Q. Were they going along the street? A. They were going along the street and they stopped when they came to me and we spoke.
- Q. And did Jack Simpkins -- was he present at this conversation? A. Yes.
- Q. Did he participate in it in any way? A. Yes sir.
- Q. And he took part in the conversation? A. Yes sir.
- Q. He was a party to the interview, then? A. He was a party to the interview.
- Q. And the way the mine matter came up was your remarking that it would have been well for you, or something to that effect, if you had purchased his interest? A. That is if he had come around and closed the deal.
- Q. And he said in answer to that that he at that time was hard up? A. Yes sir, but that he had sold
- Q. But that he had sold out his wood yard and afterwards went to work in the mines? A. Yes sir.
- Q. When he said that he was at that time hard up you understood he referred to the time when the proposition was made back in 1899, or about that time -- what period did you understand he

referred to when he said he was at that time hard up?

A. That is the time he was in the wood business.

Q. Was that the time that he was talking to you about selling the mine or to your wife? A. Yes, that was the last time. He was in the wood business when he spoke with her about it, I believe.

Q. You understood then that at the time he spoke to your wife he was in the wood business and that after that he sold out his wood business and went to work in the mine? A. Yes.

Q. Were you present when he spoke to your wife about it? A. No.

Q. Were you pretty well acquainted with Mr. Orchard? A. Yes, fairly well acquainted with him.

Q. Pretty well acquainted with Mr. Simpkins? A. Yes.

Q. What direction did they take when they left you on the street?

A. They were going west on Riverside.

Q. Did you see them more than once? A. That is the only time I saw them.

Q. Anybody else present besides you three? A. No sir.

Q. Where were you going, do you know? A. I don't recollect just where I was going.

Q. Did you ever see Jack Simpkins afterwards? A. Yes sir.

Q. Where did you see him? A. I saw him in Spokane some time afterwards.

Q. Have any talk with him again about the matter? A. No, I didn't speak to him about that.

MR. DEAN: That is all.



## RE-DIRECT EXAMINATION

BY MR. BARROW:

- Q. Did you learn where they were going at this time? A. No, I didn't know -- you mean in regard to going along the street or where they were intending to go?
- Q. Where they were intending to go? A. Why, yes.
- Q. From which one? A. From Simpkins.
- Q. Do I understand you that that matter that was referred to was in '99? A. The selling of the interest in the mine?
- Q. Yes. A. Yes, in '99.
- Q. Do you remember what time in '99? A. It was on or about the 22nd day of March.

MR. BARROW: That is all.

## RE-CROSS EXAMINATION

BY MR. BOWEN:

- Q. How do you fix the date in '99? A. Well, I fix that date from the fact that a party from Wallace came to my house to sell me some stock in another mine, and the question arose at that time whether we could afford to buy the different stocks, that is, to buy the Orchard interest in the Hercules and to buy this other stock in the Banner.
- Q. Who was the other party that was selling you the stock?
- A. His name is Argo.
- Q. In what mine? A. In the Banner of the near Wallace.
- Q. Was that a corporation owning that? A. It was a stock company, yes.
- Q. Do you know what Orchard was actually doing, what he was

working at at the time? A. I saw him driving the wood wagon around occasionally, probably every day.

MR. BORAH: That is all.

MR. DARROW: That is all.

MR. DARTON: This is the deposition of Doctor Kelley, page 208.

The deposition of Dr. Elmer Kelley was then read, the direct examination by Mr. Darrow, the cross examination by Mr. Borah, the re-direct examination by Mr. Darrow.

MR. DARTON: The next is the deposition of T. W. Doyle, on page 218.

The deposition of T. W. Doyle was then read in evidence, the direct examination by Mr. Darrow, the cross examination by Mr. Van Dusen and the re-direct examination by Mr. Darrow.

MR. DARROW: Your Honor, there is one more witness that wants to go, the wife of the man who testified. I presume we may put it in now.

THE COURT: Yes.

MR. RICHARDSON: Mrs. Hill.

MRS. ALLEN F. GILL, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDSON:

- Q. What is your name? A. Mrs. Allen F. Gill.
- Q. And you are of middle age, above the age of eighteen anyway?
- A. Yes sir.
- Q. And you reside where? A. At Spokane, Washington.
- Q. And your occupation is that -- A. Of housekeeper -- wife.
- Q. You are the wife of whom? A. Allen F. Gill.
- Q. Do you know Harry Orchard? A. I do.
- Q. How long have you known him? A. Well, I first knew him in 1898 and 1899.
- Q. What was he doing at that time, Mrs. Gill? A. When I first knew him he was driving a milk wagon for Markwell Brothers, milk business.
- Q. What was he doing afterwards? A. He was in the wood business, hauling wood.
- Q. In what town? A. Burke, Idaho.
- Q. Were you a customer of his? A. I was.
- Q. I will ask you if you ever had any arrangement or any negotiation with Harry Orchard looking toward the purchase of an interest in the Hercules mine? A. I did.
- Q. When did that arrangement take place? A. He asked me --

MR. DONAT: That is with the same understanding as the other?

MR. RICHARDSON: Yes.

THE COURT: The same as with the other witness.

MR. RICHARDSON: Yes, although this d couldn't go to the same extent still we make the same arrangement about it.

Q. You may proceed. A. In February.

Q. What was the arrangement in February with him? A. He just spoke to me and asked me -- he knew what we were buying stocks and interests in a good many claims around Burke and he, I presume, spoke to me hoping to sell his interest.

Q. What did you say to him about it? A. I told him that I would speak to Mr. GILL about it.

Q. And did you do so? A. I did.

Q. And did you consider the matter? A. Mr. GILL spoke to parties who had interests and decided that he would take it.

Q. Did you have a further conversation with Mr. Orchard then?

A. I did later.

Q. What time did you have that conversation? A. Well, it was somewhere about the 22nd, I think, of March.

Q. Of what year? A. 1899.

Q. And did you purchase that interest? A. I did not.

MR. RICHARDSON: I guess that is all. You may take the witness.

#### CROSS EXAMINATION

BY MR. BURAN:

Q. What business was Mr. Orchard engaged in at the time you had the first conversation with him? A. In hauling wood.

Q. What business was he engaged in at the time you had the second conversation? A. Hauling wood.

Q. It was the time he owned the wood yard there and was delivering wood? A. Yes sir.

Q. Was he delivering wood at your house at the time you talked with him? A. He was.

Q. And it was on the occasion of his being there with wood that you had these talks with him? A. Yes.

MR. BORAH: That is all.

MR. RICHARDSON: That is all.

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MR. DARROW: Deposition of C. A. Craemer, page 281.

Deposition of C. A. Craemer read in evidence, the direct examination by Mr. Darrow, cross examination by Mr. Borah, re-direct examination by Mr. Darrow, re-cross examination by Mr. Borah.

MR. DARROW: Deposition of B. R. Lewis, page 250.

Deposition of B. R. Lewis read in evidence, the direct examination read by Mr. Darrow, the cross examination by Mr. Borah.



MR. DARROW: The next, is the deposition of E. A. Gilley.

THE COURT: What page?

MR. DARROW: Page 361.

Counsel then read the deposition of the witness Gilley.

MR. DARROW: Now, your Honor, we have one more short deposition, but I think it is time to adjourn, isn't it? It seems so to me anyway. I would prefer not to go on with this to-night.

THE COURT: How long is that?

MR. DARROW: I will open it now, your Honor.

THE COURT: The court will enter the order that you say open it.

MR. DARROW: I don't think it will be very long in the morning.

THE COURT: How much is there of it?

MR. DARROW: I am just running it through to make sure. This is shorter than I thought.

THE COURT: I guess we better get through with that to-night.

MR. DARROW: No, it is longer than I thought; it is 17 pages and that will take about half an hour.

THE COURT: Are those longer pages than the others?

MR. DARROW: They are somewhat longer. It took us about a minute and a half to the page on the other, but I think

we have worked long enough for one day,-- or loafed long enough; still, I will go ahead if you say so.

THE COURT: I think we better get through with that,

Mr. Darrow:

MR. DARROW: This is the deposition of W. A. Abernethy. Possibly there was some question about this.

THE COURT: There has not any been raised yet, Mr. Darrow:

MR. DARROW: I did not know but there had been and I did not want to take any advantage of it.

MR. BORAH: There has been no understanding as to this, and as there was an understanding with regard to the others we want the same understanding in reference to this.

MR. DARROW: Yes, they may have the same right to examine Mr. Orchard in regard to this deposition.

Mr. Darrow then read the direct examination of the witness.

THE COURT: Do you want to look that over until tomorrow morning, Mr. Borah?

MR. BORAH: Yes, I think I would.

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 court was adjourned until 9:30 o'clock A. M., Wednesday, July 10th, 1907.

ADJOURNED.

Which said depositions so introduced and read in  
evidence are in words and figures as follows, to wit:

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- walk from the corner of Mr. Linforth's flat to your gate?
- A. I could not tell; I walked along, you know, just in an ordinary gait. Probably a little over 200 feet, I suppose, it would be 200 -- 240 feet.
- Q. Down hill? A. Down hill, yes.
- Q. You never tested it, have you since then? A. No, I never tested it.

Mr. Shortridge: That is all.

#### CROSS EXAMINATION

MR. VAN DYKE:

- Q. What is your occupation, Mr. Reilly? A. At present I have no occupation. I have been doing quite a little appraising for the Probate courts. I am not steadily occupied.
- Q. What was your position about November 17, 1904? A. Deputy county clerk; court room clerk in the Superior Court, of this City and County.
- Q. About what time in the morning do you think it was, you passed Mr. Bradley, or rather the Linforth flat?
- A. I should judge about half past seven or eight. It was my habit to go up there every morning about that time.
- Q. As I understand it you went over immediately to the grocery store of Mr. Guibiani? A. Yes sir.
- Q. And you had some little talk with him? A. Yes sir.
- Q. About how long do you think you remained there? A. Well, it may have been ten minutes -- it may have been fifteen -- it may have been seven or eight.
- Q. You had no special reason of keeping track of the time?

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A. No, not the exact time, no.

Q. I presume you are fixing it by the time you usually stayed there? A. I never stayed there very long.

Q. You say that was a Jap or Chinaman cleaning the steps, if you remember? A. A Jap.

Q. Did he didn't attract your attention at that time; it was not an unusual thing to see a Japanese cleaning the steps? A. Well, you know I would walk right close up by him as I came down.

Q. You took no particular note of seeing a Jap there? A. There was nobody else there at that time in the morning. I seldom saw anybody that would attract my attention as I went along at that time in the morning.

Q. You say he was still scrubbing the steps when you went back, or started up the steps? A. When I went up he was at the top and when I came back he was at the bottom and getting ready to go up inside.

Q. When did you first have any conversation with any one concerning the Japanese you had seen there? A. That was some time back -- with Mr. Linforth.

Q. About what time was it? A. I can't tell exactly the time.

Q. Was it this year? A. I think it was this year.

Mr. Shertridge: We can fix it by the affidavit.

A. Yes, when I made the affidavit in 1906. It was in 1906, somewhere in that neighborhood.

Mr. Shertridge: Mr. Kelly's affidavit was made in February, 1907.

Mr. Van Ryn: Q. So far as you remember it was somewhere in the fall of 1906? A. I think it was, somewhere around October -- I have forgotten; I have not rehearsed this



thing very well.

Q. You did not, then, until about a year or a year and a half after notify Mr. Linforth what you had seen there that day?

A. I volunteered to be a witness for Mr. Linforth.

Q. That is what I understand? A. It was some time back, and he said he didn't care as he didn't think it was necessary.

Q. The time I am asking you for? A. I cannot recall the time.

Q. Would you think it was in the neighborhood of a year -- about 1904? A. When I made the affidavit?

Q. From the time of the explosion? A. Oh, yes.

Q. Counting from the time you talked with Mr. Linforth to the time of the affidavit you think it would be about a year and a half. A. Yes, some time after that.

Q. You, of course, you kept no track of the time it took to go from that corner down to your gate? The time would be only a conjecture? A. I kept going, I didn't stop until I got to the gate.

Q. Do you remember, Mr. Reilly, whether you met any person on the way to your gate -- going to your gate? A. No, I did not meet anybody at all.

Q. To the best of your memory, you didn't meet anyone? A. No.

Q. Although you would not be willing to say positively and absolutely? A. I can say that my memory is right on that point.

Q. You think in walking a block or a block and a half that you would remember after a year and a half whether you met or passed any persons on your way to your gate? A. I can remember that morning on account of that occurrence. I didn't walk no block and a half. I only walked about a half a block.

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- Q. What gait were you taking? A. An not ordinary gait. You know it is only half a block to my house.
- Q. A block is something like 400 feet? A. About 400 feet. I lived right in the middle of the block.
- Q. And you were gone in the neighborhood of fifteen minutes; it would only take fifteen minutes from the time you left your house and then got back to your house? A. It might have been less time than that. I might have been gone ten minutes, from the time until I got back.
- Q. From the time you left the corner and got back, how long was that? A. About ten minutes.
- Q. Of course, you made no attempt to time yourself, or anything of that kind? A. No, I never timed myself.
- Q. It is a reasonable conjecture, based upon a reasonable time, it would take to go that far? A. Yes sir.
- Q. Who was in the store, Mr. Reilly, at the time you were there?
- A. Nobody there at all.
- Q. Nobody there at all? A. No sir, with the exception of Guibini.
- Q. What is that I mean? Guibini was there? A. Yes.
- Q. Do you remember whether you conversed with Guibini that morning? A. I probably said "Good morning"; there was no particular conversation.
- Q. Did you have any particular business going to that grocery store? A. I went for some whiskey.
- Q. After some whiskey -- you bought a glass of whiskey and conversed a little with Mr. Guibini and walked away? A. Yes sir.
- Q. Just a passing conversation, nothing particular that you conversed about? A. No.

- Q. Was it before you had breakfast or afterwards? A. Before I had breakfast.
- Q. That has been your usual custom to go up there and get an eye-opener every morning? A. Yes sir.
- Q. You always go to Mr. Guibinini's for your morning drink?
- A. Yes sir, at that time.
- Q. Did you notice any street cars passing the Linforth flat on that morning as you were walking up and back? A. No, I did not at that particular time.
- Q. Well, I mean from the time you started to go up to Guibinini's and coming back? A. I don't remember that I saw any cars.
- Q. Do you know how often the cars pass that corner? A. I think the run is five or six minutes -- something like that. I am not sure about that -- going east.
- Q. This Jop was the sole person you saw on your round trip from your home to Mr. Guibinini and back? A. The only one.
- Q. The only one you saw on the street? A. Yes. He is the only one I saw on the street coming down; of course, there might have been people passing along in other directions.
- Q. You did not see Mr. Guibinini about a couple of minutes before the explosion? A. No, I did not.
- Q. You did not see any street cars passing on your way up to Guibinini's? A. No.
- Q. Or on your way back? A. No, not that I recollect.
- Q. Don't you think that you might possibly have stayed at Mr. Guibinini's between five and ten minutes? A. Yes sir.
- Q. What kind of a drink did you get -- beer or highball?
- A. Whiskey.

Q. Had any street cars been passing at that time you would have seen them probably, going up or going down? A. Yes, my attention would be attracted to street cars -- but I don't remember seeing a street car passing up or down; while I was in the store one might have passed, but I don't pay any particular attention to the street cars; one might have run by.

Q. You think Mr. Cummings could have gotten out of the house a minute and a half before the explosion and go down the steps without your seeing him? A. Yes. A person could go a long distance in a minute and a half.

Q. A person could do a great deal in half a minute? A. Yes.

Q. From the time you left the corner and returned home, it is quite possible a man with a small bomb could have run up to the landing there and hooked a wire to the door in a hole already prepared there?

Mr. Shertridge: I object to that as not proper cross examination, argumentative and calling for the opinion of the witness as to a matter where opinion testimony is not admissible.

A. Well, it is possible.

Mr. Van Dorn: Q. You state a great deal could happen in that time, Mr. Kelly? A. Yes.

Q. A man might have passed in that length of time? A. It is possible, yes.

Mr. Van Dorn: That is all.



RE-DIRECT EXAMINATION

MR. SPICERIDGE:

Q. Mr. Kelly, you don't undertake to be accurate as to the exact number of minutes you were in Mr. Guibinni's <sup>store</sup> store?

A. No, I did not.

Q. And when you came out of the store, you started to return to your home? A. Yes.

Q. Going on down -- going west on the north side of Washington Street? A. Yes sir.

Q. How many explosions were there? A. I only heard one.

Q. What can you say as to the violence of it or as to the loudness of the noise? A. It was awful loud.

Q. It could be heard a long distance? A. Yes sir.

Q. From your knowledge and experience how far do you suppose that explosion could have been and was heard? A. Well, I never studied that, but I should judge it could be heard at least half a mile, maybe more.

Q. Assuming that Mr. Cummings, young Mr. Cummings, had gone out of the corner flat, and had walked up to Leavenworth and turned and walked towards California St., and had reached about midway between California and Sacramento Sts., when the explosion occurred, do you think that in that space of time a man could have gone up onto that vestibule and rigged up a bomb and left the vestibule, gotten aboard a passing car and out of hearing of that explosion when it occurred? A. Well, it doesn't seem probable. If he did it, he did it very quickly, and the car was right there waiting for him.

Q. Could he, in your judgment, in the time suggested by my



- preceding question, a minute and ten seconds, or a minute and a quarter, have done these things, got aboard a car and gotten out of sound of that explosion? A. It doesn't seem probable.
- Q. Well, do you think it possible? A. I don't think so.
- Q. An indicative of the violence of that explosion, and the consequent noise, the buildings round about there were shattered more or less, were they not? A. Some of the windows were cracked and broken in some of the buildings.

Mr. Shortridge: That is all, Mr. Reilly.

#### CROSS EXAMINATION

MR. VAN DUYN:

- Q. As I understand it, it took you a minute and a half to go from Guibini's sta corner down to your gate? A. Yes sir.
- Q. How far would you take it to be from the sidewalk in front of Mr. Linforth's residence up to where the doors open in the flat? A. It may be about fifteen or twenty feet, I should judge; I never measured it.
- Q. Going and returning from that door way to the middle of the street, don't you think a man could do that in about half or one-third of the time a man could walk to your house from the corner? A. If he fixed up the apparatus, if he had an apparatus —
- Q. (Interrupting) Assuming the apparatus was already fixed and all you had to do would be to go and have a screw eye in the door, hook a small wire over it, couldn't he do that and get on a street car in a minute, or half a minute, a street car

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passing that door? A. Well, I don't think so.

Q. It took you a minute and a half to walk that distance, walking an ordinary gait. Do you know the time it takes a man, walking an ordinary gait, to go 250 feet? A. I never timed it, no.

Q. Do you think he could run up and do that in about one-third of the time it would take a man to walk that distance?

A. Yes, he might sneak around the corner, but it doesn't seem probable.

Mr. Shertridge: I object to the question as argumentative and not proper, calling for the opinion of the witness.

Mr. Van Duzen: Q. Couldn't a man take a bomb that was already fixed and prepared, and having a screw eye in one of the doors at the top of the steps, and attach a wire over it and return to the middle of the street in about one-third or half the time it would take you to go from the corner of the Linforth flats to your gate? A. It is possible.

Mr. Van Duzen: That is all.

#### RE-DIRECT EXAMINATION

Mr. Shertridge:

Q. Do you think it possible for a man to go up into or upon that vestibule floor, attach a bomb, lay a bomb down, make fast a string from the door to an eyelet, in the door, put a mat over the bomb, throw or spread a paper over the string so as to conceal it, turn, go back and around down on the street, cross out to the car track, get aboard a car, go eastward on that car, and be out of hearing of that explosion, in the time

What it took you to walk from Mr. Linforth's house down the street, a distance of some 200 feet, to your gate? A. I don't think so.

Q. Would it be within the range of possibility for it to be done?

A. I don't think so.

Q. The explosion occurred just as you turned into your gate?

A. Yes sir.

Q. And you had walked immediately down from this Linforth building.

Now, you said you thought it had taken you no long a time.

You have not since then, have you, Mr. Reilly, tested the time with your watch? A. No sir.

Q. Have you any objections, Mr. Van Duzyn, to having him do so and return and tell us how long it would take?

Mr. Van Duzyn: No, if he wishes to do so.

Mr. Shertridge: Will you then kindly do so, Mr. Reilly.

An adjournment was here taken until Monday morning,  
June 24th, at ten o'clock A. M.

The hour of 10 o'clock A. M. Monday, June 24, 1907, the hour to which the taking of testimony was adjourned, having arrived, all parties being present as before, J. B. Reilly, a witness on behalf of the defendant, was recalled for further examination.

MR. SACRISTON:

Q. Mr. Reilly, since testifying on Friday last have you, as by us requested, visited the premises in and about the corner of Leavenworth and Washington Streets? A. Yes sir.

Q. Have you, or are you now able to tell us about what time it took you to walk from in front of the Linforth building to your gate or the gate leading to your house on the morning of November 17, 1904? A. Yes sir.

Q. What time -- will you now state -- it took you to walk that distance on that morning? A. About thirty-six seconds.

Q. You have tested the matter, have you? A. Yes, I timed myself, Friday evening after I left here -- some time after I left here.

Q. State what you did and the test you made.

A. Well, I had a young fellow with me and I walked it and he walked it; we walked it several times in about thirty-six -- thirty-five -- thirty-six seconds; an ordinary walk.

Q. Thirty-five or thirty-six seconds? A. Yes sir.

Q. That is to say, it took you about thirty-five to thirty-six seconds to walk from in front of the Linforth building -- the entrance of the building down to your gate? A. To my gate, yes. I walked up hill too.

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Q. What time did it take you to walk up the hill from the points



named? A. A fair gait, forty-one and a slow gait forty-five seconds.

Q. And in so far as time is not concerned you now wish to state, and as I understand, do state that it took you from thirty-five to six seconds to walk to the front of the entrance of the Linforth building to the front of your gate? A. Yes sir.

Q. Is that all, Mr. Miller.

Mr. Miller: I think that is all.

#### RE-CROSS EXAMINATION

MR. VAN DUSEN:

Q. You say it is an ordinary gait that you took Friday morning -- Friday evening? A. Yes sir.

Q. And where was your starting point, Mr. Reilly, from what point?

A. From the end of the entrance, west.

Q. From the west end -- that would be the end down west -- down the hill? A. Down the hill, west.

Q. And you walked as far as your gate -- where your gate was?

A. The posts are there; they are burned you can see where the posts are in the ground.

Q. That is down hill, as I understand it, more or less to your place? A. Yes sir.

Q. Considerable grade? A. Yes sir.

Q. Do you remember whether on the morning of the 17th or November, 1904, you walked about the same gait? A. Well --

Q. (Interrupting) Your usual walk? A. My usual walk yes -- well, I might have -- it is possible I could have done it in quicker time, because you know it is going down hill -- going home.



- Q. And it is possible that you might have done it in a slightly slower time, as far as that is concerned? A. As a rule I walk down pretty fast.
- Q. Were you going to breakfast at that time, Mr. Reilly? A. Yes sir.
- Q. Are you positive, Mr. Reilly, that Mr. Guibinni sold you the liquor you bought that morning? A. Yes sir.
- Q. You are as positive of that as anything else you have testified in regard to this case? A. Yes sir.
- Q. Where does Mr. Guibinni live, or did he live at that time, above his store? A. Yes sir.
- Q. His residence was above and the store below? A. Yes sir.
- Q. On or about that time what was his usual time for opening his store for business? A. Well, the place was opened somewhere around -- between six and seven.
- Q. It is true the store was opened when you got there? A. Yes sir.
- Q. Did you ever know a man by the name of Barry at that time?
- Mr. Shortridge: That is objected to as not proper re-cross examination, immaterial, irrelevant.
- Mr. Van Durn: Q. What is the answer? A. I saw a gentleman there who claimed his name was Barry.
- Q. He was a good deal around Mr. Guibinni's store?
- Mr. Shortridge: Objected to upon the same grounds.
- A. Yes sir.
- Mr. Van Durn: Q. What kind of a looking man was he, Mr. Reilly? A. Well, light complected person.
- Q. How in regard to mustache or otherwise? A. Small mustache.
- Q. And in respect to build? A. I should judge in the neighborhood

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of 145 or 50 pounds.

Q. 148? A. Yes sir.

Q. What sort of business was he doing around there, if you know?

A. Well, he claimed -- card player -- playing cards.

Q. Around Guibini's store -- what did he seem to be doing around there? A. He hung around -- sitting around -- coming around evenings.

Q. How long had you noticed him prior to the explosion and how often? A. He had been around there in the neighborhood -- of a month or a month and a half.

Q. He was seen quite often -- you saw him quite often? A. Yes sir.

Q. How his name was Barry? A. He told me it was.

Q. Where did he room at that time? A. He roomed above at Mrs. Seward's.

Q. Do you know her given name, Mrs. Seward's? Is it Florence Seward? A. I think it is Florence.

Q. He had been rooming there during the time you had known him? A. Yes sir.

Q. Have you seen his pictures in the papers; where in those papers it is reported to be one Harry Orchard? A. I saw one picture of his; I didn't think it looked very good. It did not resemble him.

Q. It seemed to you, the picture in the papers, did not resemble the man now known as Harry Orchard?

Mr. Shortridge: It is understood by counsel that we object to each and all of these questions upon the ground they are not proper cross examination, immaterial, irrelevant and incompetent.

A. Yes sir.

Mr. Van Duhn:

Q. You don't know the number of Mrs. Seward's place, do you, Mr. Reilly? A. I think it is 1336 or 1326, I don't know for sure.

Q. You think it is 1336? A. Yes sir.

Q. How far, Mr. Reilly, is it from the corner of Washington and Leavenworth Sts, where the Bradley residence was, to Jones St?

A. To Jones St?

Q. Yes. A. From the Bradley residence?

Q. Yes. A. It maybe, I guess about 460 feet, somewhere like that, from the Bradley residence.

Q. From the Bradley corner? A. You, I should judge about 450 feet.

Q. Somewhere in the neighborhood of two blocks? A. Yes sir.

Q. Two blocks. I mean two streets? A. Only one street from Leavenworth to Jones.

Q. I thought it was two blocks? A. Only one block.

Q. What is the incline of the ground from Leavenworth to Jones, up or down? A. It is up a hill, I guess maybe it is close to 300 feet, about 250 or 300.

MR. SHORTRIDGE: Q. Before it reaches Jones? A. Yes sir.

MR. VAN DUHN: Q. When it reaches Jones it commences to descend, does it? A. Abruptly, yes sir.

Q. It goes down for at least ten or twelve blocks, a very abrupt incline? A. Yes, it goes right down, all the way down.

Q. Can you describe the loudness of that explosion, what it sounded like, Mr. Reilly? A. It sounded very loud.

Q. What I mean, was it like a thud or a loud report like a gun?

A. Well, it seemed to me, -- I couldn't explain it. It was an unusual sound.

Q. It was an unusual report? A. An unusual report.

Q. It didn't sound like a gun or anything like that? A. It was something new to me, that explosion was, I never heard anything like it before.

Q. As I understand, it was in the nature of a dull and heavy shock?

A. Well, I couldn't describe it, it was an unusual thing to me, it was awful loud, an awful loud report.

Q. Do you remember when you were leaving Guibinini's store that morning, -- did you notice Mr. Cummings going away from the house? A. No, I didn't see Mr. Cummings.

Q. At the time did you see any cars? A. No, I don't remember.

Q. You don't remember seeing any cars or any person upon the streets? A. No.

Q. There may have been cars or persons, as far as you remember, at the time? A. It is possible.

Q. Did you ever play cards with this man Barry, now known as Orchard? A. Yes sir.

Q. Frequently? A. Yes sir.

Q. And did you play cards in Guibinini's store? A. Yes sir.

Q. How much would you think that man would weigh? A. I should judge he would weigh about 145 or 50 pounds.

Q. And the color of his mustache, as near as you can remember?

A. Light.

Q. Sandy? A. Sandy, yes.

Q. How did he dress, was he pretty fairly well dressed?

A. Yes, he dressed very nicely.

- Q. Did you notice whether or not at the time he was wearing a Masonic emblem? A. He did.
- Q. On his coat, or a watch chain? A. On his vest, he wore it on his vest.
- Q. Did he claim to be a Mason? A. Yes sir.
- Q. So far as you know he was around Guibinni's store for a month or more? A. He went away for several weeks there at one time; he said he was going into the country somewhere; I don't know where he went to.
- Q. How often did you see him around there, in the neighborhood of a month? A. Over a month; during the greater part of two months.
- Q. Was Mr. Guibinni fully dressed when he was serving you a morning drink that morning? A. Yes sir.
- Q. Fully dressed? A. Yes sir.
- Q. And if he has stated any at any time that he was not dressed at the time of the explosion, he is mistaken in that regard, would you think? A. Yes sir.
- Q. How often had you seen that Japanese working there, Mr. Reilly, in going up and down in the mornings? A. Pretty nearly every morning.
- Q. Did you pass there every morning, practically about the same time? A. Yes sir.
- Q. Usually before you had breakfast in the morning? A. Yes sir.
- Q. Are you a union man or have you been, Mr. Reilly? A. I don't belong to any union.
- Q. Have you ever belonged to any union? A. I never have, no sir.
- Q. Was Mr. Linforth in the case at any time been attorney for you?



A. No.

Q. You have been friendly? A. He have been friendly.

Q. You have known him for a number of years? A. Yes sir.

Q. Do you know whether the street car in going up Jones Street makes very much of a noise, a cracking or grinding noise?

A. As it goes down that hill it makes quite a bit of noise, yes.

Q. Is it a cable car? A. Yes sir.

Q. And it usually makes considerable noise, especially in a case of that kind? A. Yes sir.

Q. How far does that car, cable car, go straight from the Leavenworth corner? A. It turns the corner at Powell Street.

Q. And how many blocks is that from Leavenworth? A. That would be from Jones.

Q. From Leavenworth? A. Well, that would be Jones, Taylor, Mason and Powell.

Q. Jones, Taylor, Mason and Powell? A. Yes sir.

Q. How many blocks would that be before it turns again from Jones Street, where it turns off? A. She goes along Powell to Market; that would be a transfer point at Market Street.

Q. What time going out does it turn? A. At the foot of the hill as it goes down towards the ferry. It doesn't turn before it gets to Jones, then down Powell and to Market; that car makes the turn and goes down to Market street at right angles.

Mr. Van Duzen: That is all.

RE-DIRECT EXAMINATION

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Mr. Miller:

Q. Where did you first meet this man Barry?

A. I met him in Gaibinni's bar room.

Q. What time of day? A. It was in the evening.

Q. Had you been around the bar room quite frequently of an evening?

A. Yes sir.

Q. Where was he rooming on the evening that you met him?

A. Well, he told me he was rooming up above, up at Mrs. Soward's place.

Q. Did you go with him on that evening, did you walk up the street with him? A. Well, I don't recollect now, whether I walked up with him or not; I did several evenings walk up there, but I can't recall whether I went up with him that evening or not.

Q. Do you know whether you met him the first day he was there or not? A. Well, I have an idea, I did, because I was around there you know pretty much all the time in the evenings.

Q. Could he have been around there without your noticing him?

A. Well, he might have, but I don't think he could have been around there without my seeing him.

Q. Had Gaibinni said anything to you about his being there before?

A. No sir.

Mr. Miller: That is all.

MR. HENNINGER:

Q. Mr. Reilly, I want to clear up a little bit. That is a single track road? A. Yes sir.

Q. The cable or the cars run east? A. Yes sir.

Q. From Leavenworth going east the car proceeded to Powell Street?

A. Yes sir.

Q. And there turned at right angles and proceeded on Powell Street southward to Market Street? A. Yes sir.

Q. Now in order that others may understand it, from Leavenworth east -- we first go -- come to Jones; then to Taylor, then Mason, then to Powell Street. Now going east from Leavenworth, that is an incline up to about half way or two-thirds of a block? A. About two-thirds.

Q. Then eastward on a level? A. Yes sir.

Mr. Van Dryn: Q. As I understand, that is where it commences to go down about Jones? A. She starts to go down that decline there.

Mr. Shartridge: Q. Does the track dip downward as you pass to the east immediately beyond Jones Street, that is right? A. Yes sir.

Q. In a word, Jones Street, is, so to speak the dividing line, the divider? A. Yes sir.

Q. Now, it is difficult to describe in words, you say that this explosion was an awful loud report -- you used that phrase? A. Yes sir.

Q. By the words "awful loud" you mean a very loud report, do you? Q. Yes sir.

Q. By comparison would you say it sounded like a gun exploded out at the Presidio? A. No, it didn't sound that way; it was a very peculiar sound; something I never experienced before and would be pretty hard for me to describe it.

Q. You can hear the guns at the Presidio can you not? A. Yes sir.

Q. From Leavenworth and Washington Street? A. Yes sir.

- Q. And possibly hear exploding guns at Alcatraz? A. Yes sir.
- Q. If you are able to do so, state the comparative loudness of this report and the loudness of the reports of the guns at the Presidio or Alcatraz.
- A. This would sound louder to me on account of being so close. I was pretty close to it.

Mr. Shortridge: I think that is all.

Mr. Van Dorn: That is all.

(Signed) J. H. Reilly.

MRS. CHARLES PICKARD,

called as a witness on behalf of the defendant, sworn and testified as follows:

DIRECT EXAMINATION

MR. BUCHHEIM:

- Q What is your name, please? A Mrs. Charles Pickard.
- Q Where do you reside? A 3452 19th St.
- Q Did you ever live at No. 1404 Washington St., this City?
- A Yes sir.
- Q Did you leave there during the month of November, 1904?
- A Yes sir.
- Q In whose family did you reside at that time? A In the family of F. W. Bradley.
- Q Fred W. Bradley? A Yes sir.
- Q That was the top flat in the building at the corner of Washington and Leavenworth Sts., the northwest corner? A Yes sir.
- Q Before you married what was your name? A Mrs. Crow.
- Q While you were living in that Bradley flat, on the morning of the 17th of November, 1904, did you hear any unusual noise?
- A Yes sir.
- Q What happened? A It sounded to me like a shot.
- Q It sounded to you like a shot Well, was it an explosion?
- A Well, of course, I was in the rear end of the house, and I couldn't distinguish it very well until I got to the front of the house.
- Q Was it a loud noise? A Yes, considerable.



- Q How hearing that explosion on the morning of the 17th of November, 1904, had you detected the odor of gas around those premises anywhere? A Yes sir.
- Q Whereabouts on those premises had you detected the odor of gas before the explosion on that morning? A We had detected it most in the library in the front hall.
- Q In the library in the front hall. Now, let me see, if I understood you correctly on that. The stairway came right up to the front of the flat, and at the head of the stairway was what you call the library? A Yes sir.
- Q Was there any doorway shutting off the staircase from the library? A No sir.
- Q In other words, you stepped from the stairway right into this large hallway which you call the library? A Yes sir.
- Q And it was in the stairway and in the library you had detected the odor of gas? A Yes sir.
- Q How soon prior to that explosion, on the morning of the 17th of November, 1904, had you detected gas? A Several times.
- Q How soon, a day or two days? A The day before and three days before.
- Q Had you done anything with reference to communicating with any one a day or two, or three days, before that explosion about smelling the odor of gas in that hallway and in that library? A Yes, I telephoned to the Gas Company myself.
- Q You telephoned to the Gas Company, to the San Francisco Gas & Electric Company, about what? A Yes sir.

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Q About what? A About coming to see if they could find where the escaping gas came from.

Q Did any one tell you to do that? A Mrs. Bradley told me to do it.

Q That is the Mrs. Bradley, wife of J. W. Bradley, the man who was injured? A Yes sir.

Q Did you telephone to the Gas Company with reference to that matter on one occasion or more than one occasion? A On three or four, I couldn't tell you just now which.

Q Do you know or remember which day with reference to the explosion, when you last telephoned to the Gas Company with reference to the escaping gas? A I am positive it was on the second day before.

Q Two days before the explosion was the last time you telephoned to the Gas Company with reference to this smell of gas?

A Yes sir.

Q Did they come and attend to it? A Not to my knowledge.

Q If they had come, would you have seen them? A Certainly.

Q You were at home all the time during those two or three days before the explosion? A Yes sir.

Q Did you ever see the man they called Cronerli?

A Not to know him by the name of Cronerli.

Q What name was he going by? A By the name of Barry.

Q Barry. Did you ever see him in the Bradley flat? A No sir, I saw him on the back stairs.

Q On the back stairs, that is, the back stairs going up to your

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back porch? A Yes sir.

Q You never saw him inside the house? A No, I never did.

Q You never went to the theatre with him, did you? A No, never.

Q When his testimony to the effect he took you to the theatre is false? A Yes sir. I was offered tickets through Guibbini.

Q That is, you were offered tickets for the theatre by the corner grocery man? A An invitation, but I never saw the tickets.

Q You never went to the theatre with this man called Barry or Croharr? A No sir.

Q When he said he took you to the theater, he told a falsehood?

A Yes sir.

MR. SHORTRIDGES: You may take the witness.

CROSS EXAMINATION

BY MR. VAN DUYN:

Q Where had you first met Mr. Croharr, at that time known as Mr. Barry? A In Guibbini's grocery store.

Q About how long before the explosion, if you remember?

A About six weeks.

Q What was the occasion of the meetings who introduced you?

A Guibbini.

Q And how often had you seen him in the meantime, that is, in regard to fixing the time between the time you first met him and the time of the explosion? A I had to go to the grocery store every day and he was there.

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Q Did you see him every day, was he usually hanging around there?

A He was always around the corner, there.

Q Did he ever deliver any groceries to Mr. Bradley's house, from Giubbini's? A Twice, to my knowledge.

Q Did he usually deliver those groceries at the back? A At the back steps.

Q Up at the top of the landing? A At the top.

Q Would he wait and knock at the door? A The kitchen door was always locked. He always left them on the wash tubs on the porch.

Q Up on the landing? A Yes sir.

Q You had seen him twice, to your knowledge, at the place?

A Yes sir.

Q Do you recall, Mrs. Richard, about how long those times were before the explosion? A About three or four weeks after we first met him.

Q Do you recall whether any of those times that you saw him there were before the time of the milk episode, the poisoned milk episode? A Yes, quite a while before.

Q He was pretty familiar with those back stairs? A Of course, I don't know that. He was up there twice with the groceries.

Q So far as you know, there were no other times? A No sir.

Q You were speaking of seeing him once on the back steps; was that one of the times you referred to? A One of those two times, yes.

8578 Q Did you ever hold any conversation with him? A No sir, never.



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Q What was it about those theatre tickets? A When he came with the groceries, - the kitchen door was always locked, and I was in the kitchen and I would never open the door, and he would leave the groceries on the wash tubs and go again.

Q What was your position at that time, Mrs. Pichard?

A I was cooking for Mr. Bradley.

Q Your name at that time was Mrs. Crows, and you have married since? A Yes sir.

Q Did you Mr. Orchard know the Bell girls? A He met them at the same time he met me.

Q He was introduced to them? A Yes, he met them with me. Well in the evenings when we were going out, we would go over to the grocery and wait for a car, we always stood there to wait for the car, and Giubbini would maybe give us candy or something and talk to us; you know, how the girls would talk, and he happened to be there, and Giubbini introduced the three of us together.

Q He was introduced to you, the three of you, about six weeks before the explosion, before the day of the explosion?

A Yes sir.

Q And intervening between that time and the time of the explosion you saw him around every day? A Every day. I couldn't look out of the windows, but I would see him at the corner.

Q That kind of a looking man was this Barry, now known as Orchard? Describe him as to height, build and complexion.

A I should judge he was a man, stout, he looked to me about a

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man weighing 160 or 65 pounds.

Q Fleshy face? A A fat face and heavy set, with rather down-cast forehead, it looked like to me.

Q How was he dressed? Pretty well dressed at that time? A Yes sir.

Q Did he have a white shirt and collar on? A I never noticed. I couldn't tell you whether he had a collar on, or not.

Q He struck you as being a fairly well dressed man at that time?

A Yes sir.

Q You remember that milk episode, Mrs. Pickett?

MR. MILLER: We object to that as not proper cross examination, immaterial and irrelevant.

Q That occurred some time previous to the explosion? A Yes sir.

Q Did you taste that milk yourself?

MR. MILLER: Same objection.

A Yes sir.

Q What was the taste of it?

MR. MILLER: Same objection.

A It was very bitter.

Q Do you know whether Miss Bell tasted it at that time?

MR. MILLER: Same objection.

A Yes sir.

Q Do you know whether Mr. Bradley tasted it at that time?

MR. MILLER: Same objection.

A He was the first to taste it.

Q

Q Did you know where Mr. Cronard roomed, or rather the man known as Barry at that time? A No sir, I never did.

Q You don't know whether he roomed at Mrs. Seward's house?

A No sir.

Q Or where Mrs. Seward was located? A No sir.

Q You say you never went anywhere with Mr. Cronard, to the theatre or was anywhere else? A No sir.

Q He never invited you to go to the theatre? A Not in person.

Q Did you receive any invitation? A Through Giubbini, he invited me.

Q I presume that is what you referred to about the tickets on your direct examination? A Yes sir.

Q And what was that? A Well, Giubbini would come up the back stairs with the groceries, and he would say "don't you want to go to the theatre some evening, you and the girls, don't you want to go, and we would say "no", and on several occasions he offered -- or at least he said that this man wanted to take us to the theatre, and asked us to go.

Q Mr. Cronard wanted to take you to the theatre? A Yes.

Q But he never did? A Never. He followed us one night in on the cars, but we didn't know it for a fact, but Giubbini told us that he did.

Q He seemed to be anxious to take one or all of you to the theatre at that time? A Yes, so Giubbini said.

Q How long was it, Mrs. Pickard, if you remember, from the time of tasting that milk, or when Mr. Bradley tasted it, until

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the time of the explosion?

MR. MILLER: We object to that as not proper cross examination, immaterial and irrelevant.

A I should judge about three or four days.

Q How did that explosion sound to you, in the way of a report; is there anything you can compare with it? A It sounded like --

Q Did it sound like a gun explosion? A Yes sir.

Q Very loud? A Well, I couldn't say it was so loud, because I was in the house, in the back, and I couldn't say it sounded to me such a terrible roar; of course, it was quite a rattle, more a rattle than a roar.

Q More like a rattle than a roar? A Yes sir.

Q More dull than sharp? A Yes.

Q Sort of like a dull rattling thud? A Yes sir.

Q You then went immediately to the front of the house? A I went immediately to the front of the house and saw a man lying in the street.

Q About where was Mr. Bradley, when you went to the front of the house? A By the car tracks.

Q I presume that would be about 15 or 20 feet from the flat?

A About 25 feet from the door.

Q From the door. Was there on that morning or previous mornings a rug lying in front of the door, Mrs. Pickett, a mat or rug?

A There always was.

Q What kind of a rug was that? A A brown Brussels rug.

Q A door mat for wiping the feet? A Yes sir.

Q Did you ever see that rug after the explosion? A Not to my knowledge.

Q Not to your knowledge. Did you ever see Mr. Orsardi after the explosion. A No sir.

Q When had you been with him up to the time of the explosion?

A The day before.

Q And then after that you never saw him any more? A No sir.

Q If he had been staying around Giubbini's after that, you would probably have seen him there? You continued to get your groceries just as you had done before? A Yes, just the same.

Q Do you know whether any of that milk was ever taken to Mr. Giubbini's store?

MR. MILLER: Same objection as to the former questions as to the milk.

A Yes sir.

Q Do you know whether any of that milk was ever taken to the City Chemist of San Francisco?

MR. MILLER: Objected to as not proper cross examination, immaterial, and irrelevant and incompetent, unless she knows of her own knowledge.

A I don't know.

Q Where had the milkman, up to that time, been in the habit of delivering Mrs. Bradley's milk, at the front or back door?

MR. MILLER: Same Objection.

A Back door.

Q Upon the third landing, in the rear? A Yes sir.



Q Do you know the dairymen's name who was delivering milk at that time? A No sir, I do not.

Q Where are you living now, Mrs. Pickart, what is the number?

A 2432, 18th St.

Q The only time you ever remember meeting Mr. Orchard was the time you were introduced at Giubbini's store, and the couple of times afterwards, on the back steps of the Bradley residence? A I spoke to him several times at Giubbini's store.

Q You saw him several times there? A Yes, but I never said more than how do you do or good evening.

Q You never held any personal conversation with him at all?

A No, I never did.

Q You are certain you would remember, if you had? A Why, sure.

Q How long after the explosion, Mrs. Pickart, were you married?

A I was only married a year on the 1st of April, last.

Q You were married in April, 1906? A Yes sir.

Q And Mrs. Dean, who went forward to Idaho to testify, is Miss Bell, one of the upstairs girls at that time? A Yes sir.

Q And the other Miss Bell, who was there, is she married at this time? A No sir.

Q And where does she live now? A At Mrs. Wilson's on California Street.

Q Do you know, Mrs. Pickart, who was in the habit of getting the morning paper for Mr. Bradley? A A Miss Bell, or Mrs. Dean now.



- Q Did you ever go for it yourself? A Very seldom.
- Q It was her usual duty to get that in the morning and bring it up? A Yes sir.
- Q Do you know whether she was down there that morning and got the paper for him? A Yes sir.
- Q Do you remember when Mr. Bradley lighted his cigar, when you were there, and started down the steps? A I know he lighted it in the library.
- Q He would have his breakfast, then he wouldn't remain long, but went down the steps, go from the dining room; his usual habit was to go to the library and light his cigar and immediately go down the steps? A Yes sir.
- Q Every morning at the same time? A Yes sir.
- Q Taking his breakfast at a certain time? A Yes sir.
- Q And immediately leaving and going away? A Yes sir.
- Q Mr. Orhart, if he had been around there, around Giubbini's, would have discovered that?

MR. MILLER: One minute, we object to that as not proper cross examination, and calling for the conclusion of the witness as to the observations of some other parties.

MR. VAN DYKE: That is correct, I withdraw that question.

- Q About how wide was that rear platform at the back of the Bradley residence, Mrs. Richard? A There was a little platform first, and that entered into a little room I should judge about 5 by 5.
- Q And then after leaving that, you would enter into the little back room there? A Yes sir.

Q Was it there you kept the milk, and the milk was delivered?

A No, it on that 3 by 5 glass.

Q As I understand it, the bay window in the dining room faces westward, does it not, toward the back yard, the bay window faces westward? A Eastward.

Q The rear of this building of Mr. Linforth's is a little bit higher than the front, situated on a side hill? A Yes sir.

Q What happened to that part of the house you were in, that is, Mr. Bradley's house, where you were, when the explosion took place, in respect to the furniture being broken or smashed?

A Nothing except the chandelier in the library and a reading lamp, a globe lamp.

Q Did it break many windows? A Yes, all the windows.

Q How was the plastering on the walls up there? A It was all off in the hallway, all the way up the stairway and clean up to the library.

Q That report seemed to be more on the order of a dull thud than a very sharp report like a gun, you say? A Yes.

Q How long had you been working there at the time of the explosion, Mrs. Pickard? A I think about a year.

MR. VAN DUSEN: That is all.

RE-DIRECT EXAMINATION

BY MR. WENTWORTH:

Q On this night that this man Barry, or Berry, or Orchard, or whatever his name was, followed you and the Bell girls, was Mr. Bradley along? A No sir.

Q He wasn't then after Mr. Bradley, but after you girls?

MR. VAN DYKE: I object to that as a legal conclusion of the witness, only hearsay.

A I don't know that he followed us, it was only told to me.

MR. HICKMATH: That is all, Mrs. Richard.

(Signed) Mrs. Charles Richard.

MRS. CUNNINGHAM,

called as a witness for defendant, sworn and testified as follows:

DIRECT EXAMINATION

BY MR. [REDACTED]:

- Q Mrs. Cunningham, what is your full name, please? A Lucy Arcell Cunningham.
- Q Your husband's name is what? A Melvin Elmer Cunningham.
- Q You are the mother of the young man who was a witness the other day, Tracy Cunningham? A Yes sir.
- Q Where are you residing at the present time, Mrs. Cunningham? A 1928 Lane St., Berkeley.
- Q Did you ever reside at No. 1400 Washington St., which was the lower corner flat in the building at the northwest corner of Washington and Leavenworth Sts. in San Francisco? A Yes, I did.
- Q Did you reside there, on the morning of November 17th, 1904. A Yes sir.
- Q Did you on that morning hear any unusual noise about that place? A Well, yes, I think I did.
- Q Where were you when you heard that noise? A In the dining room at the breakfast table.
- Q The dining room was at the extreme rear of that flat, to the north? A Yes sir.
- Q Well, go on in your own way and state what that noise was, whether it was faint or loud, or how it seemed to you? A Well, it seemed the most terrible noise I ever heard in my life.

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- Q It was an explosion? A An explosion, and the minute that this explosion occurred, Mr. Cummings and myself both jumped up from the table and said "The gas". That was the expression we made, "the gas."
- Q Now, prior to that morning had you detected the odor of gas around the front of those premises? A I had.
- Q How soon immediately prior to that explosion had you detected that odor of gas there? A Well, just the day before.
- Q And whereabouts in those premises did you detect that odor of gas first? A In the parlor and reception hall.
- Q Did you open the door from the vestibule right into the reception hall? A Yes sir.
- Q And it was right inside the door you detected the odor of gas? A Yes sir.
- Q And in the parlor which was immediately to the right and adjoining this reception hall? A Yes, in both rooms.
- Q Were you home with your family on the evening of the 18th of November, 1904, the night before this explosion? A I was.
- Q And did you have company that night? A We did, up to twelve o'clock.
- Q And what part of your house were you and the company in with reference to the vestibule that night? A Well, we were in the two rooms, right on the vestibule, the parlor and the reception hall.
- Q Did you smell gas there the night before? A We did.
- Q Had you made any complaint to the Gas Company just before



about the smell of gas? A Yes.

Q Had they come and attended to it? A Well, they were up there, but they didn't go down to see the meters at the time; I sent for them twice; the first time they didn't come, and the second time they did.

Q And after they came you still smelled the gas? A Yes.

Q Now, at the time of this explosion did you hear one or more than one explosion? A Well, I can't remember; it didn't sound to me like it just went off, there was one big noise, that is all.

Q If there had been more than one, you would of course know, you were right there? A I was right there, yes.

Q How far, Mrs. Cummings, in your opinion, could that explosion be heard? I merely ask you this for the purpose of getting an idea as to the loudness of the explosion. A Well, I should say that it could have been heard down town, as far as the Palace Hotel, --

MR. VAN DUSEN: I object to that as calling for the conclusion of the witness.

Q Which was a mile or two miles? A I should judge so, may be further than that.

Q A man that far west could have heard it?

MR. VAN DUSEN: Same objection.

A Yes, I should have thought so, I should have thought it could be heard all over the City of San Francisco, it was so

terrible.

Q In other words, the explosion was terrific? A I guess it was; the ~~down~~ dishes were all tumbling down and the glass was falling out of the windows.

Q Mrs. Cummings, how soon after the sound of the explosion, did you go to the front door, that is, how long a time elapsed?

A I suppose it was there, may be, in two seconds.

Q You rushed right from the rear of your flat to the front door?

A Right to the front door, yes.

Q When you got there, did you smell any powder or any powder smell? A I smelled gun.

MR. SHORTRIDGE: Take the witness.

CROSS EXAMINATION

BY MR. VAN DYKE:

Q How long after your son had gone, did you hear the explosion?

A Well, I didn't see him go out the front door, because I was in the dining room.

Q He got up from the table? A Yes, and went out, but I was not in the front room when he went. I was at the table.

Q Did he return after the explosion? A He did, we phoned him right after the explosion, phoned to the office.

Q How long before — where was he working at that time?

A He was working in the Illinois Central right there at the Palace Hotel at that time, where the office was at that time.

Q He returned a couple of hours after the explosion? A He returned immediately.

- Q As soon as you phoned? A He came right up on the car.  
Of course, I don't know when he got there, but it was very shortly after we phoned.
- Q How long after he left the table until the explosion?
- A Well, I couldn't tell that.
- Q As near as you can? A Well, 15 or 20 minutes about. He just left the dining room and went out. He put his hat on and went out.
- Q Did you ever smell dynamite after it has exploded? A No.
- Q You never smelled it? A Never.
- Q You don't know then what the degree of difference is between the smell of dynamite and gas, whether it is the same or partly the same, of your own personal knowledge? A Well, I know on the Fourth of July I can smell powder around once in a while.
- Q You don't know whether dynamite would smell like powder, or not? A No, I couldn't say.
- Q Did you see Mr. Bradley when you went to the front door?
- A When I went to the front door, yes.
- Q There was he lying at that time? A They had picked him up, they were just raising him up from the ground.
- Q They were taking him in? A In the house, yes.
- Q Any one with him? A I think my husband and Mr. Linforth were the two gentlemen that were bringing him. Mr. Kelly was one of the gentlemen, I know he was there at the time.
- Q Do you ever remember of having smelled the smell of gun

powder or dynamite in conjunction with gas? A Never.

MR. VAN DYKE: That is all.

RE-DIRECT EXAMINATION

BY MR. SHORRHEAD:

Q Just a question, Mrs. Cummings, a second or two after the explosion, after you reached that vestibule, right then and there you smelled gas? A I certainly did.

Q And you didn't smell any kind of powder known to you?

A Never.

MR. SHORRHEAD: That is all.

(Signal) Lucy Arielle Cummings.



## MRS. LINFORTH

called as a witness for the defendant, sworn and testified as follows:

## DIRECT EXAMINATION

BY MR. CHORNIKOFF:

- Q What is your name, please? A Josephine Linforth.
- Q Where do you live? A Home Park.
- Q Where did you live on the 17th of November, 1947? A 1414 Washington St.
- Q Was that in the building immediately to the west of the building on the northwest corner of Washington and Leavenworth Sts, this City? A It was.
- Q That morning, between seven and eight o'clock, did you hear any unusual noise around that place? A I did.
- Q About what time was that? A About a quarter of eight.
- Q Would you state in your own way the volume and extent of that noise? And what it was, if you know? A Well, it sounded like a loud report.
- Q Well, was it an explosion? A Yes, decidedly.
- Q Did you hear one or more explosions? A Only one.
- Q And so that we may get an idea as to the loudness of the explosion, in your judgment how far could it have been heard?
- MR. VAN DYKE: I object to the question as calling for the conclusion of the witness.
- A I don't know, it was very deafening to be so near as we were, so it must have been heard for quite a distance.



- Q By quite a distance what do you mean? How far would be called quite a distance in your judgment? A That I can't tell, but it must have been heard down town.
- Q And don town was about how far from the northwest corner of Washington and Larimerworth Sts? A I should think 25 blocks.
- Q In other words, it was a very violent explosion, was it not?
- A Yes sir.
- Q Do you know whether or not at and prior to that time there was any servant in the habit of cleaning the front stairs and the vestibule to that building? A Yes, every morning.
- Q And was he a white man or a black man? A He was a Japanese.
- Q Do you know of your own knowledge what was his usual time of performing those duties? A Between seven and eight.
- Q Did you see him on the morning of this explosion, after the explosion? A Yes, right after.
- Q And where was he when you saw him, right after the explosion?
- A In our kitchen.
- Q In the kitchen of the house where you resided, which was right adjoining to the west of the corner building? A Yes sir.
- Q And you saw him right after the explosion? A Right after.
- Q At that time did you have a Japanese servant other than that Japanese? A Yes, I had a Japanese woman, a cook.
- Q Whereabouts in your house did you see the Japanese boy whose duty it was to clean those steps? A In the kitchen.
- Q In the kitchen of your house? A Yes sir.

Q With the Japanese servant you employed at that time? A Yes.

Q What was the Japanese servant you employed, woman or man?

A Woman.

Q What was she trying to do with this Japanese boy servant, whose duty it was to clean those steps? A She was giving him a cup of coffee.

Q Well, was he excited or calm or was she trying to brace him up with coffee? A He was almost scared to death. She said "One minute more and he would have been killed."

Q She was talking to him in Japanese?

MR. VAN DORN: I have to strike out what the girl said.

A Yes sir.

Q And was he sitting up when you went in there? A Yes.

Q And looked as he were scared to death? A He looked like it, yes.

Q And she was giving him black coffee? A Yes, coffee.

MR. CROSS: That is all.

CROSS EXAMINATION

BY MR. VAN DORN:

Q Were you awake when the explosion occurred? A No sir.

Q You were awakened from your sleep by the explosion? A Yes.

Q Was Mr. Linforth awake? A No, he wasn't awake. We both were asleep.

Q After the explosion, did both of you immediately go out to look at the explosion? A Mr. Linforth went out, I didn't.

Q How long after the explosion before you went out, was it?

A Half an hour.

Q Was it before you went out on the ground that you saw the Japanese? A Yes, when he came back and went into the kitchen.

Q Before you went out? A Right after the explosion, about five minutes.

Q After the explosion, before you went out? A Yes sir.

Q In the neighborhood of about five minutes after the explosion?

A Yes sir.

MR. VAN DUSEN: That is all.

RE-DIRECT EXAMINATION

BY MR. SHORRHOUGH.

Q Don't say what they said on the subject, if they said anything, but in your presence and hearing did the Japanese boy say to the Japanese girl, or to you, where he was at the time of the explosion? A He told me where he was.

MR. SHORRHOUGH: That is all.

MR. VAN DUSEN: That is all.

(Signed) Josephine P. Linforth.

The further taking of testimony was hereupon adjourned until the hour of ten o'clock Tuesday morning, June 28th, 1907.

IT IS STIPULATED that the photographs which have been used as exhibits are photographs taken of the prisoner, and permitted to be introduced without first having been identified by Mr. Charles Perry, the Photographer, who took them.

Tuesday morning, June 25, 1907.

JOHN J. BOCKELMAN

Called for the Defendant.

Sworn.

DIRECT EXAMINATION

BY MR. BROOKHUISER:

- Q Your full name, Mr. Bockelman? A John J. Bockelman.
- Q Where do you reside at the present time? A 3510 Lombard St.
- Q This City? A Yes sir.
- Q Are you a member of the fire department? A I am, yes sir.
- Q How long have you been a member of the fire department?
- A About eleven years.
- Q With what engine are you connected? A With the hook and ladder company No. 4.
- Q And how long have you been assigned to that duty? A 11 years.
- Q Where did you live in the month of November, 1904; that is the month when an explosion occurred in Mr. Linforth's property or building? A 1523 Leavenworth Street.
- Q Where was the engine house with which you were connected?
- A On Pacific between Polk and Van Ness Avenue.
- Q Pacific between Polk and Van Ness Avenue? A Yes sir.
- Q Did you know where Mr. Linforth's property was? A Yes, I do.
- Q That was at the northwest corner of Leavenworth and Washington streets? A Yes sir.
- Q How far was that from the engine house - engine house No. 4 - was it known as engine house No. 4? A Engine house No. 6.
- 3594 Q How far was the engine house referred to to the building of



Mr. Linforth? A Six blocks and a half.

Q Did you hear any explosion on the 17th of November, 1904?

A Yes, I did.

Q What explosion was it you heard? A The explosion at Washington and Leavenworth.

Q Where were you at the time of the explosion? A In the engine house.

Q What did you immediately proceed to do, if anything? A Well, we started to hook up to get ready for the alarm to come in; and the alarm was sounded and we responded.

Q And what did you do - where did you go from the engine house?

A I went in - we were ready with the apparatus and responded to the alarm at Washington and Leavenworth streets.

Q You went to Washington and Leavenworth streets? A Yes sir.

Q How many boys were in that crew that went with you? A Eleven.

Q Arriving at the corner, if you did, what did you personally proceed to do? A I was ordered into the building to shut off the gas - to relieve Walsh the engineer, who was turning off the meters. He was ordered back and I went in to relieve Walsh to shut off the gas meters and I also shut off the main supply; from the mains to the service.

Q You were ordered to do something and in order to do that something, where did you go in respect to the building? A In under the basement through a small hole or window - a small little door. I crawled in through and crawled in and went into the basement to reach this meter or these meters.

Q About how long was that from the time you heard the explosion at the engine house? A Well, I should judge it was somewhere in the neighborhood from about seven to ten minutes at the most.

Q Then I understand you to state that you went in - climbed through that little door on the Washington street side?

A Yes sir.

Q That took you into this basement? A Yes sir.

Q Where the meters were? A Yes, where they were.

Q Did you smell any gas when you got inside and was in this basement? A Yes, I did very plainly.

Q Strong? A Yes.

Q Was Walsh already in there at work? A Yes, he was.

Q Do you know how many meters, if any, he had turned off when you got in? A I think he had - either two or three - I can't ~~say~~ say positively but I think two or three.

Q Did you proceed to turn off all the others? A Yes, and also the main supply.

Q Was the little door, opened by you, open when you arrived?

Q It was, yes, an open space.

Q In other words, it had been burst or chopped open by some one when you arrived? A Yes sir.

Q Personally who did that, you don't know? A No sir.

Q You say that you heard the explosion? A Yes, I did.

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Q Where were you in the building when you heard the explosion?

A In the fire house.

Q Where in the firehouse were you? A About the middle of the house; it was probably 127 1/2 feet long and I was about in the middle of the house at the time.

Q State whether you heard the explosion distinctly? A I did, very.

Q Can you give us some notion as to the loudness or volume of the sound which you heard? A Well, I really could not - that is - explain the difference; but it seemed to me it was like a report of a roaring cannon; something like that it sounded to me.

Q Very loud? A Yes, very loud.

MR. SHORRIDER: You may cross examine, Mr. Van Dorn.

#### CROSS EXAMINATION

BY MR. VAN DORN:

Q What was the nature of the report in regard to being sharp or rumbling? A Well like roar - really at the time --you know -- when we heard this explosion -- the report -- I did not pay any particular attention but I know there was a very loud report -- a very loud roar.

Q It cracked something like a gun as you remember? A No, I could not say exactly because just as soon as we heard it we were ready to hook up and our attention was called immediately away from it. And we got ready waiting for the alarm to come in.

Q How far is Mr. Linforth's building - I think you testified in regard to that - six blocks and a half. A I was on - I can easily tell - Washington to Jackson is one; Jackson to Pacific

two; Leavenworth to Hyde three; Hyde to Larkin four; Larkin to Polk five - and a half - five blocks and a half.

Q Five blocks and a half? A We are situated on Pacific avenue between Polk and Van Ness.

MR. SHOOTERIDGE: That whole territory between Washington - between Mr. Linforth's property and the engine house was then covered with buildings of different size and shape?

A Yes sir.

Q In other words it was thickly populated; it was a built up section of the city? A Yes, it was.

Q And there was a street car running west on Jackson street, was there not? A Yes sir.

Q A cable car that went on Pacific Avenue? A Yes sir.

Q There was a cable car running west on Jackson street, a single track? A Yes sir.

Q A double track cable car on Pacific? A Yes sir.

Q That turned on Polk Street? A Yes sir.

Q A cable car running east on Washington Street? A Yes sir.

Q There was a double track cable car on Hyde street? A Yes sir, both and south.

Q And the same on Polk street? A Yes sir.

Q So far as you know all these cables were in operation? A They were at that time.

Q And cars coming and going? A Yes sir.

MR. VAN DYKE: What were the dimensions of these blocks, Mr. Scholten? A Well, as I understand the blocks running



east and west were 412 feet; and the blocks running from north to south, 375 feet.

Q Did you notice when you went into the basement, whether or not any portion of the floor above the meter room was open? A Yes sir.

Q How was the situation in respect to that? A Everything was all piled up; that is the vestibule as you went in was all blown over and the floor inside; the gas grates and mantles and the plastering down below was all carried down below between the joints; everything was a total wreck.

Q Was the floor in the vestibule blown out - part of it.

A Yes that was all covered with lathes and plaster; debris of all kinds inside of the building.

Q About how large was the hole in the vestibule? A Well, I could not say.

Q The dimensions as near as you can give them? A Just the hole?

Q The hole that lead through the vestibule upstairs, if you noticed it? A Yes, everything was all piled up, lathes and plaster was all round. I really could not say how large it was because I was ordered to relieve Mr. Walsh, by the captain. The hole was big but I could not see in though, how large it was.

Q Considerable of a hole? A Yes, all through there.

Q The floor of the vestibule? A Yes, well, I don't know, I jumped up and climbed in through that way afterwards. I could not see; it was all plaster and lathes and everything all over.



- Q You found glass I presume, scattered all round there? A Yes sir.
- Q How about the basement room downstairs? Did it seem pretty well blown up? A Yes, most of it was blown up where the meters were.
- Q But the meters were still intact? A Yes sir.
- Q How about the ceiling of the basement room -- in the unfinished basement room -- was there any hole in the ceiling? A Yes, there was a hole from the flooring where all the lino, plaster and lathes came through.
- Q Were you up in the vestibule while you were there? A I went upstairs to get inside.
- Q Was there gas escaping up there when you were there?
- A After I shut it off I went up afterwards and there was an odor of gas there after we shut it off.
- Q Were there any broken gas pipe lying about the vestibule there?
- A Well, I saw -- that is the pipe leading to the gas grate, it was all broken and the gas grate itself blown out into the floor. The mantle was all lying there. For instance, like this mantle here, the gas grate came right out.
- Q Where did the explosion seem to be worse? A The basement -- it seemed to me right above the basement.
- Q Above the basement right up there in the vestibule? A Yes sir, right there -- that was directly over the meters -- right over the meters.
- Q And the explosion so far as you could figure it out at that

time seemed to be in the neighborhood of those stairs?

A At the head of those little stairs that go up into the vestibule. Everything was all shattered.

Q Badly shattered at that point? A Right in the front room.

Q In the neighborhood of the vestibule it seemed to be the worst demolished -- more than any other place around there?

A Inside these rooms -- inside the room.

Q In -- where were those pipes that were coming up from the basement conveying the gas? A The risers were blown out --

Q Any part broken away? A Yes, the supply coming down there to this grate.

Q Been broken away? A Yes sir.

Q Where did you notice the strongest odor of gas? A Basement.

Q And when you were in the parlor did you notice the odor of gas very much? A After I come up not very much, because we had shut it off.

Q Not so strong as the basement? A Very little.

That is all, Mr. Shertridge.

RE-DIRECT EXAMINATION

BY MR. SHERTRIDGE:

Q You are now member of the fire department? A Yes, off on leave of absence.

Q You say the place that seemed to be most damaged to you was right in these rooms. By that, do you mean in the parlor or the lower corner flat and the reception hall adjoining?

A Yes sir.

Q I hand you a picture called defendant's exhibit S.F. No. 2, and ask you if that is a part of the room referred to? And I will tell you for your own information that this wall was boarded in after you left there that morning? A Yes sir.

Q I hand you a picture which has not yet been offered in evidence but which for your information, is a picture of the room which adjoins that -- being the reception hall of the lower corner flat and ask you if those are the two rooms you refer to which you say were damaged the most? A Yes sir.

MR. SHOKERLIXES: We offer this other picture in evidence and ask that it be marked defendant's exhibit S.F.No. 4.

Q And you say you got the strongest smell of gas in the basement or meter room? A Yes sir, I did.

Q And it was after the alarm had been turned in and you had gone with your engine and crew a distance of five and one half blocks, that you still got the smell of gas when you went into that meter room? A Yes.

Q And at that time the stairway was blown up and open? A Yes sir.

Q And this doorway leading to the meter room was chopped open the one passing through this meter room? A Yes sir.

That is all.

RE-CROSS EXAMINATION

BY MR. VANDUYN:

Q Your present address is what? A 2516 Lombard Street.

Q How long have you been employed by the fire department of

San Francisco? A Eleven years.

Q Have you there been any like cases -- like this Linforth case -- called to your attention? A Yes sir.

Q Where were they? A Well, we had one shortly afterwards, over on Lombard and Hyde; I had another at Post and Larkin street, the same way; had another over on Pacific between Leavenworth and Broadway, between -- on Franklin between Pacific and Broadway in Mr. Downey Harvey's place.

Q Were they all explosions? A Yes, gas explosions; and I had another on Fourth street.

Q Were they bad explosions? A The one on Hyde street was pretty bad; the one on Franklin between Pacific and Broadway was only a slight one.

Q What kind of a sound did these make, if you heard these sounds?

A Well, really I did not hear those.

Q Any fire resulting from these explosions? A On Fourth street we had a fire; they called the alarm; on Hyde street was a fire, but on Mr. Downey Harvey's place there was no fire.

Q How about Mr. Linforth's flat, was there a fire there when you got there at any time? A The only ~~time~~ <sup>fire</sup> I could see was the window cord.

Q No fire had started? A No sir, the engine was there. You see when we heard this explosion the engine responded with what we call a still alarm and we were hooked up and ready when the alarm came in and we responded to the alarm.

MR. VAN DYKE: That is all.

MR. HOUTRIDGE: All these explosions -- all these instances you have just mentioned were gas explosions? A Yes sir.

Q Did you ever have any explicit experience with gas explosions that you know of? A No.

Q Not before this one, Mr. Eckelmann? A No sir.

MR. VAN DYKE: You did not know personally whether there was anything else besides gas exploded there at that time or not? A No sir.

Q It was an assumption of yours that gas exploded? A Yes sir.

That is all.

(Signed) John J. Eckelmann,

2516 Lombard St.



## THOMAS CANTY

called for the Defendant

Sworn.

## DIRECT EXAMINATION

BY MR. SHERKIDGES:

- Q Your name is Thomas Cauty? A Yes sir.
- Q Where do you now live, Mr. Cauty? A 46 Fifth Street, Watsonville, now.
- Q Where did you live in the month of November, 1904? A Well, I lived in the engine house principally, but I boarded across the street.
- Q Where was the engine house? A On Pacific between Jones and Leavenworth, north side.
- Q Were you connected at that time with the fire department of this city? A Yes sir.
- Q What was your position? A Captain.
- Q You were assigned to duty with what engine? A Thirty-one.
- Q The engine known as No. 31? A Yes sir, 31.
- Q And the engine house was on Pacific Street? A North side of Pacific street between Jones and Leavenworth.
- Q Do you know where Mr. Linforth's building was? A I know where the explosion was but I did not know whose building it was at the time.
- Q That building was where? A The northwest corner of Washington and Leavenworth streets.
- Q How far was that building from the engine house just mentioned?
- A About two and three quarter blocks.

Q Did you hear the explosion? A Plainly.

Q What can you say as to the loudness, or the volume of the sound of the explosion? A It was very loud.

Q Explain to us as you would endeavor to explain it to anyone.

A Well, it was such a loud explosion, I knew some damage had been done some place, but I did not know where because I could not tell exactly which way it came from, but I knew it was somewhere in front of our house; I could not tell how far away. I thought some damage had been done and I told them to hitch up the horses immediately.

Q Do I understand you then that it was a very loud explosion?

Q Yes sir, very loud indeed.

Q Can you describe somewhat as to the character of the noise by comparison? How would you describe about what the report was; the sound of this explosion? A Well, I have heard lots of explosions, but to tell the truth I was not giving much thought to it at the time. I knew there must be lots of damage done by the loudness.

Q Have you heretofore heard the noise of explosions - gas explosions? A No, not that I remember.

Q So all you can say was that it was a very loud explosion, is that correct? A Yes sir.

Q As to the volume of it, how far could it have been heard at that time? A I thought it could be heard all over San Francisco.

Q In that way you endeavor to explain to us how loud it was,

- do you? A Yes sir.
- Q You were at the engine house, I believe you said? A Yes sir.
- Q Where were you in the engine house, if you were in the building? A Well, I really forget what part of the engine house at that time.
- Q What, if anything, did you immediately do? A I ordered the horses hitched up immediately.
- Q Did you leave the building and go to the place of explosion? A Immediately. We saw the people running and we followed right up.
- Q How much time elapsed from the time you heard the explosion, until you arrived at the place of the explosion, if you did arrive there? A Well, as near as I would guess, I should say it would not be more than two and one half or three minutes.
- Q What, if anything, did you personally do immediately or after you arrived at the building where the explosion took place? A I immediately jumped on the wagon and told the boys to turn in an alarm because I saw a lot of damage had been done and thought there might be a lot of people killed in there.
- Q What next did you do? A I tried to break my way into the building up through the hall to see how many people there were in there; I wanted to get them out.
- Q Kindly proceed, Mr. Conroy, and state further what you did. A Well, I just simply tore my way into all the plaster and mortar and stuff; I was not acquainted with the building so I could not tell what rooms I got into.

Q Did you go into the meter rooms, where the meters were?

A No sir.

Q Did you start to go or endeavor to go in? A No, but I gave orders for my men to go in, the engineer.

Q Who was he? A William T. Walsh, engineer.

Q In what way was the meter room entered if you know? A Well, it was a little -- some kind of a little door as you go up the stairs -- I don't know what you would call it -- a door.

Q On the Washington street side? A Yes sir.

Q Now, did Mr. Walsh go into this little door referred to?

A Well, I am sure he did although I did not stand and watch him. I told him immediately to go and shut off the meters.

Q Did you smell gas there, Mr. Cauty, at the window? A It was a door or window if you would call it -- it did not seem much bigger -- much more than that big. (The witness measures off about eighteen or twenty inches square.)

Q To have no doubt as to what you are referring, I show you defendant's exhibit No. 1, Mr. Cauty, -- defendant's exhibit S. P. No. 1 -- and direct your attention to that little square cross, which I have just placed on this picture and ask you to state whether that is the door or opening which you have just referred to. (Showing defendant's exhibit S.P.No. 1.)

A That is the hole, if my memory is right -- that is the hole.

Q Were you standing there on the sidewalk? A Immediately in front right on the side-walk.

Q Did you smell gas coming out of that little piece or opening?

A While I was talking to the engineer, yes.



- Q You did? A Yes sir.
- Q What order did you then give, after you smelled this gas?
- A I told him not to scratch a match by any means; I told him not to make a light, but to slip in through there, if possible;
- Q Was it open; had it been broken open? A Not when I got there.
- Q Was it broken in? A One of my men broke it in, because I was too busy.
- Q When you were standing in front of the opening had it been broken into or chopped off? A After I give the order, it was; it was not until I ordered it.
- Q Did you remain there; were you there after it had been chopped or broken open? A Certainly, I was there because I was still ordering the engineer and telling him what to do.
- Q Did he here -- it was broken or chopped open pursuant to your orders, your directions -- after it was broken or chopped open, did any one go in or climb in through? A The engineer did.
- Q And that was Walsh? A Yes sir.
- Q And you say you gave him some order in regard to matches, not striking matches? A Yes sir.
- Q Why did you give him that order? A Well, to protect ourselves and protect the people in the building; I did not want it blown up again.
- Q You smelled gas, as I understand it? A Yes sir.
- Q That was the reason you gave him the order not to light a match or use a candle? A That is right, sir.



Q I think that is all.

CROSS EXAMINATION

BY MR. VAN DUSEN:

Q Going over the building above -- did you go over the building above the basement, while you were there? A The first thing I did.

Q Did you smell gas above? A I was too busy, I did not notice.

Q You did not notice whether it was there? A No sir.

Q Did you find any damage in there? A Well, it looked like a wreck to me -- a total wreck.

Q Did you go upstairs leading to the vestibule leading to the Bradley flat, if you know where that was? A Well, if I thought there would be any testimony, I would have taken better notice. I went up the stairs turning in a hallway; this hallway seemed a total wreck, and the house blown to pieces; my idea was to try and get all the people out of that building.

Q You were not noticing your surroundings much? A The building did not bother me, all I wanted was to get the people out.

Q Did you ever hear a gas explosion that you know of, Mr. Canty?

A No, not that I remember; I have been to where there was explosions.

Q You never heard the sound of one that you know of? A No.

Q I think that is all.

MR. SHORTRIDGE: That is all, Mr. Canty.

(Signed) Thomas Canty.

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J. W. PARRY

called as a witness on behalf of the defendant, sworn and testified as follows:

DIRECT EXAMINATION

BY MR. SHORRHEAD:

- Q Your name is what? A John W. Parry.
- Q Where do you now live? A 6 Harry Place, off Laguna, between Filbert and Green streets.
- Q Are you a member of the fire department of this city? A Yes.
- Q How long have you been such member? A Since the 15th of December, 1899.
- Q You were then a member of the fire department in the month of November, 1904? A Yes sir, engine company 31.
- Q Did you then live where, Mr. Parry? A 1336 Pacific St., in the firehouse.
- Q Do you remember an explosion which occurred in the month of November, 1904? A Yes sir.
- Q Where were you and do you know, do you know where the building owned by Mr. Linferth then was? A Yes sir.
- Q Where was it? A On the northwest corner of Washington and Leavenworth streets.
- Q You remember an explosion which occurred in that building? A Yes.
- Q Where were you at the time? A Cleaning harness in the front of the house, the wagon house.
- Q At the engine house? A Yes sir.

- Q And that was about how far from the place of the explosion?
- A Two blocks and three-quarters.
- Q Did you hear the explosion? A Yes sir.
- Q Was it a loud explosion? A Terrible loud.
- Q Did you hear it distinctly? A Yes sir.
- Q Can you describe the explosion, the sound which you heard?
- A Well, I don't know if I could describe it; it was the loudest explosion ever I heard and I heard some pretty good ones during the earthquake and fire.
- Q You were here in San Francisco during the earthquake and fire period during 1906, - in 1907? A Yes sir, all through it.
- Q And during those terrible days you heard many explosions?
- A Yes sir. I seen between five and six hundred pounds of dynamite sent off in one building.
- Q And naturally heard the report? A Yes sir.
- Q In view of your experience during the days following the earthquake, the explosions which you heard during that time, how would you describe the explosion which you heard on the morning of November 17, 1904?
- A Well, I seen an explosion in Chinatown, directly across the street; I don't know how much there was, but I should say there was a couple of cases, fifty pounds in a case, and I sit directly across the street and it didn't bother me a bit, or didn't break the windows in the house, but that explosion up at Washington and Leavenworth Streets, it broke windows for a block; it seemed to shake all the buildings around in that

neighborhood.

Q You mention having seen or heard an explosion where there were five or six hundred pounds of dynamite? A Yes, I seen it.

Q How did that explosion compare in noise or sound with the explosion in Mr. Linforth's property? A Well I don't know, it might have been my ears, but it didn't seem near as loud.

Q As the Linforth explosion? A Yes, as the Linforth explosion.

Q Well, what did you personally do after you heard the explosion in Mr. Linforth's property? A Well, I dropped the sponge, I had a sponge in my hands, and I run to Pacific Street and Leavenworth, and saw the people running, so I run up there myself.

Q Did you arrive at the building where the explosion took place?

A Yes sir.

Q What did you then personally do there, in and about that building? A I run right in the building, I went into the lower flat and ordered the people out. I opened a door where there was some folks dressing in there, and said for them to come out, there will be another explosion, and then I went to the other flats and hollered for the people to come out; to come out in the street. I wanted to get them out in the street.

Q Did you personally go into the meter room? A No sir,

Q Did you have anything to do with opening the door leading into it? A Yes, I chopped it open with an axe.

Q Who went in? A Mr. Welch, the engineer.

Q When you chopped it open, did you smell any gas? A Yes sir,



we all got away from the hole so as to leave the gas come out, so the gas could get out, there was so much coming out.

Q From this meter room? A Yes sir.

Q I show you defendant's exhibit S. F. No. 1, Mr. Perry, and direct your attention to the right of this picture, showing a three-story building to the north of the Linforth building, and ask you to state whether that building was there, as it here appears, at the time of the explosion? A No sir.

Q What building, if any, was immediately, or at all, to the north of the Linforth building, at the time of the explosion?

A A two-story house there, sort of a cottage, set back about twenty-five feet; it had a lamp on each side, those old-fashioned ones, and about fifteen or twenty feet from Mr. Linforth's flat.

Q Could a man step or jump from that building onto the flat roof of the Linforth building? A Well, he would have to jump up pretty high, it is quite a distance.

Q Would it be possible for a man to make that leap? A No sir, impossible.

MR. SIDWICK: That is all.

CROSS EXAMINATION

BY MR. VAN DYKE:

Q What is your present address? A 6 Harry Place.

Q How long have you been employed in the San Francisco Fire Department? A Since the 18th of December, 1900.

Q You say you went into the house after you chopped the door



open? A Before I chopped it open.

Q Was there a smell of gas there? A The place was open, so there was some air in there, there was a little smell of gas, not much.

Q How did you go into the house? A Right up the steps.

Q On which side of the apartment, on the right hand side toward the staircase? A Everything was piled up there, right on top.

Q The staircase lead up on the right; now, what condition -- how did you find those stairs and the staircase? A Full of plaster, lathes and everything.

Q How about the doors? A The doors were all blown out.

Q Were those doors you saw there -- how were they? A All to pieces.

Q In the staircase? A Part of them.

Q Part of the doors leading onto the staircase? A Yes sir.

Q Was the odor of gas above there noticeable? A No sir.

Q What in regard to the broken pipes around in the vestibule, where you started to go upstairs, in the little vestibule?

A I didn't notice any pipes.

Q The pipes may or may not have been there? A They may or may not have been there.

Q Did you ever hear a gas explosion? A Yes sir.

Q Where? A I heard one over on Lombard and Leavenworth Sts.

Q What sound did the explosion make, the one on Lombard and Leavenworth streets? A It wasn't quite so distinct, but I was further away.

- Q Did it just make a loud roar? A A loud noise.
- Q A loud report, anything similar to this report? A This report was a whole lot louder.
- Q Was there any glass shattered around this place? A Around Mr. Linforth's building?
- Q Yes. A Yes, all around there, for a block around.
- Q Do you know what the effect of dynamite is upon glass? A No.
- Q You were around San Francisco after the earthquake, and didn't you notice that it broke any glass around the city? A It broke some of it.
- Q It shattered glass usually, didn't it? A Sometimes, it didn't.
- Q And sometimes it did? A Yes sir.
- Q Do you know whether the dynamite explosions could be heard a considerable distance? A I couldn't say, I was pretty close to them all.
- Q You never heard any far away? A No sir.
- Q Did you notice the floor of that vestibule, where you went up the stairs on the Leavenworth side, if there was any hole in that floor? A Yes, there was a hole there, I run all over the place.
- Q What kind of a vestibule was it, tiled? A I think it was tiled or marble.
- Q The steps were marble, and the little vestibule entrance inside the steps? A I wouldn't say about that.
- Q You were not particularly noticing the description of the building at the time? A No, more than anything else I was

looking for people, and looking for fire.

Q Did you find any fire inside there? A Just one of these cords on the window; the end of the cord was like a punk, and I just took it and whipped it in my hand.

Q That was all you noticed of fire at that time? A Yes sir.

Q Was there any hole in the walls broken through by the force of this explosion? A Several were all broken out.

Q You mean the partitions were broken out? A Out in the street.

Q What room was that in? A In the lower flat, not in the basement flat but up the steps.

Q The partition was broken out? A Yes sir.

Q Do you remember whether the parlor floor was perfectly intact?

A Well, I couldn't say, it was pretty well covered up with laths and other things.

Q At least, you didn't fall through the floor there? A No.

Q You say you didn't smell gas there, up above? A There was a little gas, but not much up above.

Q In one of your answers you testified "I was a little excited, I didn't smell no gas, I didn't take notice of any gas the first thing, because I would have gone out of there." That is about right? A Yes, that is about right.

Q You don't remember smelling gas above the basement? A No sir.

MR. VAN DUSEN: That is all.

RE-DIRECT EXAMINATION

BY MR. SHORTRIDGE:

Q You chopped this door open to the meter room; then what, if

anything, did you smell? A I smelled plenty of gas, and I got away from there to let the gas come out.

Q During the days following the earthquake and fire, in April, 1906, you were around a good many explosions of dynamite?

A Yes sir.

Q So in the few days following the earthquake and fire you became pretty well accustomed to the smell of dynamite and the smoke from dynamite explosions? A Yes sir.

Q With that knowledge, I ask you whether or not on the morning of the 17th of November, 1904, when you ran up these vestibule steps, you smelled any dynamite smoke or any other kind of powder smoke around the vestibule in that building? A No sir.

Q Or around that building at all? A No sir.

Q How soon after the explosion was it you reached that vestibule?

A I ran all the way and got there in a minute or a minute and a half.

Q You were there a minute and a half after the explosion, and was there a smell of any kind of dynamite smoke or powder smoke or any other kind of smoke noticeable to you in that building, -- in that vestibule or hallway? A No sir.

MR. SHORTLIFFE: That is all.

RE-CROSS EXAMINATION

BY MR. VAN DUSEN:

Q How far were you from that explosion? A Two and three-quarters blocks.

MR. VAN DUSEN: That is all.

(Signed) John W. Parry.



W. T. WALSH

called as a witness on behalf of the defendant, sworn and testified as follows:

DIRECT EXAMINATION

BY MR. SHORTRIDGE:

- Q Your full name is what? A William T. Walsh.
- Q Where do you now live, Mr. Walsh? A I now live at 1286 Broadway.
- Q Are you a member of the fire department of this City? A Yes sir.
- Q How long have you been connected with that department? A About thirteen years.
- Q Were you a member of the department in the month of November, 1904? A Yes sir.
- Q Where did you then live? A I lived at the same place as I do now, except that the number was 1206 Broadway, but after the fire, why, that was the incorrect number, and they have numbered the building correctly.
- Q What engine, if any, were you connected with? A I was then engineer of engine 31.
- Q And are you now occupying the same position? A That company is now out of service, and I am detailed for duty on another company.
- Q What company? A Engine 15 at present.
- Q You say engine No. 31 is out of existence? A Well, out of service; we were burned out and haven't gone into service

since.

Q Burned out at the time of the big fire last year? A Yes sir.

Q Who was the head of engine 51, in November, 1904? A Thomas Carty was then captain of that company.

Q Do you know where Mr. Linforth's property was then located?

A I know where it was then located, yes sir.

Q Where? A On the northwest corner of Washington and Leavenworth streets.

Q Do you know whether an explosion took place in that building in the month of November, 1904? A Yes sir.

Q Did you hear that explosion? A Yes sir.

Q Where were you when you heard the explosion? A I was in the back part of the engine house that morning.

Q The engine house was where? A Located on the north side of Pacific St., about two-thirds of a block east from Leavenworth.

Q That would be how far from the place of the explosion?

A About two blocks and two-thirds.

Q Where in the engine house were you, if you remember, when you heard the explosion? A In the back portion of the house, I don't remember the exact portion of the house, the house was sixty feet deep.

Q Did you hear the explosion plainly? A Yes, very plainly.

Q How loud a noise or sound did that explosion make?

A Well, it made a very loud noise; the explosion I judged to be very loud. I didn't know where it was. We had heard many

explosions from different causes, and sometimes in times past we had had explosions of powder, and probably proximity or closeness might have caused those to be much louder noises.

Q It was very loud? A It was loud, yes sir.

Q What did you immediately proceed to do? A Well, I simply obeyed orders; the orders were to hook up and get ready; we saw people running south in Leavenworth Street, so that indicated to us the direction in which the trouble was.

Q Did you personally go to the building where the explosion had taken place? A Yes sir.

Q About how long after the explosion was it you arrived there, approximately? A Approximately, well within five minutes, less than five minutes, I should judge. It would take half a minute to get on the street, and a minute and a half to go up each of those blocks, which would be a little over three minutes, probably four minutes when we reached the place.

Q When you reached there, personally what did you do? A When I reached the corner, we stopped, -- there is a hydrant located on the corner, and the apparatus rolled up alongside the hydrant and I clucked a small piece of wood to prevent it from rolling backward. Just as I had that done, why I took up the hose to connect to this hydrant, expecting to prevent fire. By that time I received an order from Capt. Cony to shut off the gas.

Q What did you then do? A I took a monkey wrench out of the tool box, which is in the back portion of the engine, and

started towards the building; when I went around the corner, Mr. Perry was there with an axe, and this door there -- (indicating on picture)--

Q This door right back of the telegraph pole was shown in the picture. What did Mr. Perry do with the axe?

A Mr. Perry stood there ready with the axe to break that door open, which was about twenty-four inches square. I thought the door could be pried off and save it, and I told Perry to pry it off, but he didn't mind me, and with two blows the door was in splinters.

Q Where were you standing when you finished breaking it open?

A I stood far enough back to let him strike the door with the axe, as he knocked the door after the second blow, I stepped to the opening and started to go in.

Q What, if anything, did you smell, standing there in front of that open door? A The odor of gas was very strong, so much so that I started back, and said not to strike a light, which is customary,-- that is, to bring a light in where there is a fire, because as a general thing it is dark, and I thought they would go with a light and cause a second explosion. So I hollered to them to go back and wait until the gas smell cleared away. Captain Carty then told me to wait until the gas was out of the basement so I could go in there.

Q Did you wait? A Yes sir, I waited.

Q Did you then go into the basement? A Yes sir.

Q Was there still some smell of gas when you got in there?

A Yes, there was an odor of gas there.



- Q What, if anything, did you do after you got in there, through that door; you went in through that door? A I climbed in through and found the partition that ran through, and also the meters, the meters for the building.
- Q How many, do you remember? A I couldn't say exactly, although I knew the number now to be seven.
- Q What did you then proceed to do? A To shut off those meters.
- Q While you were in there, did you receive any orders from your superior officer? A Yes, I was told to come out and go back with the truck.
- Q Did you see Mr. Kokelman there? A Mr. Kokelman came in and I gave him the wrench.
- Q He went into do what you had been doing? A Yes, he proceeded to shut off the other meters.
- Q I show you this defendant's exhibit S. P. No. 1, and call your attention to what appears as a picture of the building to the north, immediately to the north of the Linforth building, and ask you to state whether that building, as there represented, was built and there at the time of this explosion? A No sir, it was not there.
- Q It was not there? A No sir.
- Q What, if any, buildings were to the north of the Linforth building, immediately to the north? A To the north, that building was the old Wise residence.
- Q Did it front on the street, did it go up flush with the street?
- 3628 A No sir, it stood back probably thirty or thirty-five feet from

the street, with large stairs going up to the second story.

Q You mean back from the street? A From the line of the sidewalk; it was surrounded by a garden; there was a garden in front at that time.

Q Could a man get from the Wise Building to the roof of the Linforth building? A No sir, he could not.

Q It would be impossible? A Be impossible, yes sir.

Q Did you go, again drawing your attention to this exhibit S. P. No. 1, did you go up and inside the vestibule? A No sir, I didn't.

Q You did not? A The only thing I did was going through that hole there and shutting off the meters. My observations from in there were that everything was intact in connection with the meters, and any damage seemed to be above that. The side of the vestibule seemed to be blown out, as though the force of the explosion was exerted from within.

Q Referring to the loudness, the volume of the sound of this explosion, which you heard at the engine house, how far would you say that that sound could be and was heard? A Well, I should judge that sound would have been heard within a radius, that is in the direction which the wind was blowing, at least five miles; that was my opinion.

Q What direction does the wind usually blow in San Francisco, in the month of November, in the morning? A Between half past seven and eight o'clock? A The prevailing wind in November would be from the north.

Q You think it could probably be heard five miles? A That was my opinion, yes sir.

Q Mr. Walsh, were you here on the 18th of April, 1906, at the time of the earthquake and for the few days that followed that time? A Yes sir.

Q And you were performing your duty as fireman during that period? A I was.

Q During those few days did you smell a good deal of smoke and fumes from giant powder explosions? A Yes, all kinds of explosions.

Q Were you in close proximity during the few days that followed the earthquake to innumerable explosions of dynamite? A Well, I was located on the morning of Wednesday, when they started in to dynamite, in the afternoon rather, -- we were located on California St. near Sansone, and they were dynamiting in Liedendorff, as close as Halleck St., on Liedendorff, --

Q That would be how far from where you were? A A block and a half.

Q On that morning, and Thursday and Friday and up to Saturday? A Yes, up to Saturday.

Q Did you at the time you were in the Linforth building, on the morning of the explosion, smell or detect any odor of powder smoke, or giant powder smoke, or any other kind of smoke? A No I didn't get any smoke, only there was dust.

Q You detected no odor of an explosion of dynamite around those premises? A No odor but gas.

Q Did you hear more than one or only one explosion that morning?

A Only one.

MR. SHORTRIDGE: That is all.

CROSS EXAMINATION

BY MR. VAN DUSEN:

Q These explosions that occurred about April 18th, were they loud in volume? A Yes, they were, some of them were, it depended on the quantity of dynamite used.

Q They could be heard over the City? A I presume they could, yes, but I was very much closer to them than I was to this; yes, they could be heard a long distance undoubtedly.

Q A great number of explosions were heard outside the city?

A Yes sir.

Q You were not inside the building? A No, only in that unfinished portion of the basement where the meters were.

Q You were not upstairs at all? A No sir, I wasn't.

Q It was in the basement where you smelled the gas? A Yes sir.

MR. VAN DUSEN: That is all.

RE-DIRECT EXAMINATION:

BY MR. SHORTRIDGE:

Q In describing the volume or loudness of this explosion at the Linforth building, you, as I understandly comparison in attempting to explain yourself, spoke of powder explosions as well as gas explosions? A Yes sir.

Q Now, do you use, or did you use that by way of comparing



the volume of sound? A Well, I don't understand your question.

Q I asked you a while ago as to the volume of sound? A Yes sir.

Q How loud was this report was, and you said something about having heard powder as well as gas explosions. Did it sound something like a powder explosion? A Yes, it -- I think it sounded more to me like a powder explosion than a dynamite explosion, that is, if I know the difference. I didn't consider it had that sharp, penetrating sound a dynamite explosion would have. My idea, if I am permitted to state what I think, my idea was the partitions had been loaded with some explosive material, gas or material of some kind, which I thought was gas, and that the volume or body of it became too great, because that would make a volume of sound, but it didn't have that sharp penetrating sound which a good deal of dynamite would have.

Q What partitions -- by partitions you mean the partitions in that building? A I mean the partitions which would act as a reservoir containing that explosive material, whatever it might be.

MR. SHERIDAN: That is all.

RE-CROSS EXAMINATION

BY MR. WEN DIXIE:

Q Is there a vital difference between a powder explosion and a dynamite explosion? A The only thing I noticed during the fire, in black powder, when we were going north in Kearny St.,

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and on California St., on the evening of Wednesday, the 18th of April, was a vast difference to me and all of us present with the apparatus, between that sound and the sound of dynamite, which comes from the explosion right away.

Q A sharpness? A With black powder, the sound or volume was there, but it didn't seem to have that penetration, that sharpness, which we noticed with dynamite; but immediately instead of blowing things in the way we thought dynamite would act, things seemed to blow right into the street, so much so that we couldn't pass back along Kearny street, the debris was there from all these buildings, between Sacramento and Clay, and carried the fire entirely across Kearny St., so that we had to get out in front of the apparatus and pull the stuff out of the way to get past.

Q How about the distinction between the smoke of powder and dynamite? Is that marked? A I should judge it would be, yes.

Q Do you know in regard to that? A No, I don't know.

Q In regard to the distinction in the smell, as to whether it has a strong odor, stronger than the other? A I couldn't say and be positive about it.

MR. VAN DUSEN: That is all.

MR. SHONKHEIMER: That is all.

(Signed) William F. Walsh.

An adjournment was here taken until the hour of two o'clock P. M. Tuesday afternoon, June 25th.

June 25th, 1907, Tuesday afternoon, 2 o'clock.

J. V. De LAVERGNA,

Called on behalf of the Defendant, sworn and testified as follows:

DIRECT EXAMINATION

BY MR. MILLER:

- Q State your name and occupation? A Joseph Vincent De Lavegna.  
I am an attorney at law.
- Q Where do you reside at the present time? A Menlo Park.
- Q Where were you residing on the 17th day of November, 1904,  
and for some time prior thereto? A At the apartment known  
as 1402 Washington St., on the northwest corner of Leavenworth  
and Washington Streets in this city.
- Q Is that the building known as the Linforth flats? A Yes, Mr.  
Linforth owned them.
- Q What flat did you occupy? A The middle one. There was a  
lower flat, a middle one and an upper one. I had the apart-  
ment in the middle, the second story.
- Q You occupied the flat immediately under Mr. Bradley? A Under  
Mr. Bradley and over Mr. Cummings.
- Q You may state whether you ever smelled escaping gas there?  
A Yes, I smelled escaping gas there.
- Q Where? A In the vestibule of my apartment, some six days  
prior to the 17th of November of that year, 1904.
- Q Where is the vestibule, -- where was the vestibule of your  
apartment relative to the vestibule of the apartment of Mr.  
Bradley? A Right adjoining on the ground floor. Mr. Bradley

was immediately to the west of my apartment. I was in the center, as I explained, the middle apartment. My vestibule was in the middle; Mr. Cummings' was on the east, then mine, and then Mr. Bradley's.

Q How shortly prior to the explosion had you smelled gas in your vestibule? A Well, I should say eight to ten days.

Q Did you discover any the day before? A Well, on the evening before. Of course, I was in town all day, my office was down town, and when I came back in the afternoon, in the evening we smelled gas, I know we took a walk, and I remember distinctly that we smelled gas in that lower vestibule.

Q Did you observe any gas escaping in your apartment upstairs, or smell any? A No, I don't think so. The smell of gas we noticed and commented upon was in the vestibule. That is, after you opened the front door and going into the house, in that vestibule, about half way upstairs, the stairs turned, or rather there was six or eight steps, and then turn at a right angle, and after you went up past that turn you never smelled it.

MR. MILLER: You may cross examine, Mr. Van Dorn.

CROSS EXAMINATION

BY MR. VAN DORN:

Q What is your present number, Mr. De Lavergne? A My residence is Menlo Park --

Q Menlo Park is where you reside? A We don't have any numbers there.



- Q How was the vestibule fixed for lighting purposes; what kind of arrangement was there at that time for lighting the vestibule? A There was a drop light, if I am not mistaken. I mean when I saw a drop light, from the ceiling was a combination gas and electric light.
- Q What did you usually use, Mr. De Laveaga, for lighting?
- A We usually used electricity in the house, except in the upstairs front vestibule or reception hall, -- there was quite a large hall there, and we used a gas light because we had an automatic press button upstairs and downstairs and could light it from either place, and it was more convenient and cheaper. That was the only gas we used in the house, except possibly in the kitchen.
- Q How close to this gas fixture in the vestibule was the bottom of the stairs? A You mean -- I don't quite understand.
- Q In the vestibule. A You went upstairs around a turn. The vestibule was, I think, four to five feet lower. I know there was a rug, as I remember; about four to six stairs going up; possibly eight; I don't recollect exactly; then you turned directly around to go up to the reception hall. It is right at the head of the staircase.
- Q Was there any gas fixture at the bottom of the staircase?
- A As to that I am not absolutely certain, but I think there was, a drop combination fixture, although I am not absolutely certain; my memory isn't very good, there are so many things happened since then, but I think there was.

Q Ten days preceding this explosion you had noticed gas escaping? was it, Mr. De Laveaga? A Thereabouts.

Q Continuously thereafter, until the time of the explosion?

A Yes, every evening I had commented on it.

Q Was it very strong or slight? A I should say that it increased, -- not so strong you could not breathe, but quite an odor, a pronounced odor.

Q Did you ever come out of that door smoking or using a cigar?

A Well, probably I did, although I cannot say. It was my custom to smoke in the morning after breakfast, and I may have gone out smoking.

Q You had probably gone out of there a good many times lighting or smoking a cigar? A Probably.

Q Nothing ever happened at those times? A No.

Q Were you there at the time of the explosion? A Yes.

Q What effect, if any, did the explosion have on the vestibule? On the vestibule outside the door? A The whole thing was blown up in front of my door. It was all blown to pieces. The stairway was simply taken right out. You could look right down into the basement; there was no obstruction and you could look right down through.

Q Was there a hole near your door? A Right at the doorway.

Q The dimensions of that hole, as near as you could figure it out, were what? A Well, that is pretty hard for me to say; so many things have happened since, it is pretty difficult to give any accurate dimensions, but it was right, -- I know, -- the

stairway was all blown away; the vestibule was about four feet wide, I should judge; there was a partition separating my vestibule from Mr. Bradley's apartment; that whole landing place was all blown up in pieces. In fact, I remember that, because we had to carry my wife out and I remember that distinctly.

Q There was considerable of a hole in front of your door?

A Yes.

Q It extended pretty close to the hole in Mr. Bradley's door?

A I can't say as to that.

Q Immediately in front of your doorway was it? A Yes, you know there was a tiling out in the vestibule area, and that was all blown up.

Q There was a hole in the tiling outside the doorway?

A Yes, there was, for I remember that; we had to carry my wife out.

Q Where seemed to be the principal point of the explosion, in the vestibule? A Yes, and around the side, I mean the side nearest the corner, because the front room in my apartment, which was facing the corner, the living room and the reception hall, which was fixed up for a den, was very very badly wrecked. There was a big oak table there, a very massive piece of furniture, and it was smashed up into the ceiling. I should say the principal place of the explosion, so far as I know, was right there in my front room, to the corner of the vestibule, east to the vestibule.

Q Were you awake at the time of the explosion? A I was dozing. I had that morning gotten up about half past six with a headache, and Mrs. De Lavergne had prevailed upon me to retire again. I was in a half doze when I heard the report. I wouldn't say that I was wide awake.

Q Was the glass in your window broken? A The transom came right in to the other side of the hall.

Q It was blown inward? A Yes sir.

Q Were there any doors blown inward on the staircase? A Not that I know of.

Q They may or may not have been, so far as you know?

A I don't think so.

Q The door was blown in you say? A The glass transom was; the transom was blown in right over to the bed.

Q What door was that blown from? A From the door of the bedroom, my bedroom door.

Q Did you ever notice any broken gas pipes around there, in that neighborhood after the explosion, if you made any examination?

A No, I didn't. I was too rattled or wrought up to notice. I got out as quickly as I could.

Q Were you there when they picked Mr. Bradley up in the street?

A Yes, I was there. I ought to qualify that by saying, -- we were all stunned for a minute, and I put on a few clothes and went out into the hallway; the front door was very badly jammed, and after I got out into the reception hall I met several men there, firemen I guess, a couple of firemen; Mr. Reilly was



there, I believe. Mrs. De Lavergne wasn't well at the time, in fact she was very unwell, and we carried her into Mr. Linforth's house, and as we were getting her out, I saw them picking up a man from the street; I didn't know it was Mr. Bradley; and were carrying him towards the building. I was pretty excited at the time and didn't pay much attention; I was looking after my own people and things.

Q Now, the hole in the vestibule, -- you speak of it as having been tiled? A Yes, there was a good deal of plaster and everything fell down, all over the place.

MR. VAN DORN: That is all.

RE-DIRECT EXAMINATION

BY MR. MILLER:

Q Did you know where the meters were located in the house? Were they under this table in your reception room, to which you have referred? The place where the meters were situated? A They were right under it.

MR. MILLER: That is all.

RE-CROSS EXAMINATION

BY MR. VAN DORN:

Q Did you have a mat before your door, Mr. De Lavergne? A Yes. There was a mat before my door, I know that.

MR. VAN DORN: That is all.

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An adjournment was here taken until 10 o'clock A. M.

Wednesday morning, June 26th, at the hour of 10 o'clock, by consent of all parties, the further taking of testimony was adjourned until two o'clock P. M. June 26th.

At the hour of two o'clock P. M. June 26th, the further taking of testimony was resumed:

DR. KELLY

called as a witness for defendant, sworn and testified as follows:

DIRECT EXAMINATION

BY MR. WIDENBERGER:

- Q What is your full name? A Elmer Kelly.
- Q Where do you live? A 2041 Bush St., San Francisco.
- Q What is your business or profession? A Physician and surgeon.
- Q And how long have you been a physician and surgeon?
- A Twenty years this fall, it will be since I graduated.
- Q Did you ever live at the northwest corner of Washington and Leavenworth streets, in San Francisco? A Yes, I did.
- Q That was the number of the flat in which you lived on that corner? A 1408 Washington St.
- Q And which flat was that, doctor? A The middle flat on the west side.
- Q The middle flat was on the west side. Were you living there on the morning of the 17th of November, 1904? A Yes.
- Q And had you lived there for some years or months prior to that, doctor? A Yes.
- Q And where were you on the morning of the 17th of November, 1904? Say between seven and half after seven? A I was at home.

Q In your flat? In that building? A Yes sir.

Q That morning, between the hours of 7:30 and 8, did you hear any unusual noise around that neighborhood? A Yes sir.

Q Will you give,-- will you go on in your own way, doctor, and state what it was you heard? A There was a very loud explosion occurred, with crashing of glass in the hallway, in my flat, with a great cloud of plaster or dust. I was eating breakfast at the time, and ran to the front of the house, and seeing this cloud of dust and thinking it might be a fire, I ran to my wife's room and told her to get up immediately, as the house might be on fire, and then in going down again, I saw there was no fire and went back and told her there was no fire, and she needn't be alarmed at all, and then I went into the street. When I first went out on the street I saw a man on the sidewalk, on his hands and knees, and I asked him what his name was, but he evidently couldn't hear me, and I told some of the parties standing there,-- I am not certain but what I told Mr. Linforth,-- to watch that man; I thought perhaps he might have tried to blow up the house, he looked like a tramp, he was so covered with dirt, and I thought he might have tried to blow up the house up, and then I went into the house of the Cummings family, where there was a lot of children, to see if any of them was injured; finding no one injured there, I came out and saw this man across the street. When I first went out I had picked up a little pocket diary book, which had Mr. Bradley's name on it, but I didn't know Mr. Bradley,

and had never seen him to my knowledge. I didn't know even the name of the people living upstairs. But I picked up this book and saw this man across the street, and then some one told me it was Mr. Bradley, and that he lived in the top flat.

Q Before you go further into that, let me ask you this. You say you were in your dining room at the time of the explosion?

A Yes, at my breakfast.

Q Your dining room was where with reference to the flat, in the front or rear? A The rear, extreme rear.

Q In other words your flat was directly under the flat occupied by the blood family? A Yes sir.

Q Your dining room was to the extreme rear of your flat facing the north? A Yes sir.

Q Now immediately upon hearing the explosion, Doctor, did you go out into the street? A Well not immediately. I went to the stairway first and seeing the smoke I ran to Mrs. Kelly's room, or what I supposed to be smoke which afterwards proved to be dust because there was no fire.

Q Now as near as you can state what time elapsed from the time you heard the explosion until you went into the street? A I don't think it could have been over forty-five seconds.

Q And how soon after you got upon the street did you go up the steps and into the vestibule and from there into the Cummings flat? A It could not have been more much than a minute after the explosion.



Q So within a minute after the explosion, to your best knowledge and judgment you were in that part of the vestibule from which lead the entrance to the Cummings flat, the LaVeaga flat and the Bradley flat, being the three flats on the corner? A Yes sir.

Q Now when you got up there, did you smell any powder fumes, or dynamite fumes, or smoke of any kind? A I did not to recognize them.

Q Doctor, before the 17th of November, 1904, and before the morning of that explosion had you detected the odor of gas around the premises which you occupied in that building?

A Yes sir.

Q And how soon immediately before the explosion had you detected the odor of gas around those premises? A Well, it could not have been more than two or three days.

Q Two or three days before the explosion? A In fact the day before the explosion my wife had sent for a man from the gas company to come and fix the fixtures.

Q And whereabouts those premises -- at what particular point or points had you detected this smell of gas? A Principally in the vestibule, in the stairway as I came and went from the house -- coming and going at different times.

Q That is in the entrance to your flat proper? A Yes sir.

Q In other words, right at our front door, to use that expression?

A Yes sir.

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Q You had detected that odor on more than one occasion prior to

the explosion? A Yes sir.

Q Was it pronounced? A Very marked, yes.

Q Now, doctor, on the morning of the explosion, how many explosions did you hear, one or more? A I only heard one.

Q And if there had been more than one you would have heard it right there? A I think so.

Q With reference to the volume of that explosion on that morning can you state so that the jury who may hear this testimony can form some kind of an idea as to how far it was heard, was it very loud, or terrific or how? A Very severe, very heavy.

Q And as illustrating your answer, in your judgment, how far could the explosion have been heard? A Well, I think in the open air, it could certainly have been heard ten or fifteen blocks.

Q That is ten or fifteen city blocks here in San Francisco?

A Yes.

Q About 500 feet each? A Yes sir.

Q So far as the building itself was concerned was it at all affected by the explosion, so far as jarring or anything of that sort? A It was very badly jarred at the time of the explosion; the flat gave a very big lurch as if it might have been thrown over, the house was very badly shaken.

Q When you first reached the street you say you saw this man lying down on the street and you told Mr. Linforth to watch him that he might have been the cause of this? At that time was this man bleeding? A Well he was covered with bruises, and scratches and dust and his clothes were badly torn; he

looked like a tramp he was so covered with dirt from the street.

Q He looked like a plasterer didn't he? A As much as anything else.

Q And his hair was white from the plaster and debris and dust?

A Yes sir.

Q Do you remember whether you and Mr. Linforth took him anywhere?

A Yes sir, we took him into his own house, upstairs.

Q Do you remember whether or not before taking him into his own house that you took him into the lower corner flat occupied by the Cummings family? A Yes, we did; there was so much debris there it was difficult to get into the Bradley flat.

Q Was it while in the Cummings flat before Mr. Bradley was taken to his own apartment that you and Mr. Linforth found out or ascertained who he was? A Yes, it was.

Q Doctor, where were you on the 18th, 19th and 20th and 21st days of April, 1906? A I was in the flat on the morning of the earthquake and the day following.

Q What I am trying to get at is this, were you in San Francisco during those days? A Yes sir.

Q And during those days did you hear a great many reports of dynamite explosions and smell a good deal of dynamite smoke?

A I couldn't say I smelled very much of it because I was hunting for Mrs. Kelly, but I heard it a great deal of the time.

Q You don't know whether you were close enough to any of these dynamite explosions on those occasions to know the odor which

arose from those explosions? A I couldn't say I was.

MR. SHONTRIDGE: That is all.

CROSS EXAMINATION

BY MR. VAN DUXH:

Q About what was Mr. Bradley when you first saw him, doctor, when you saw him in reference to the Bradley flat?

A On his hands and knees on the sidewalk.

Q Which sidewalk? A Next to the house.

Q He ~~was~~ seemed to be hurt at that time? A Yes sir.

Q Did you make any examination of him at that time or afterwards? A I did, yes.

Q What was the result of the examination, what did you find?

MR. MILLER: We object to the question on the ground that it is not cross examination.

A I found that his ears were very badly injured so he couldn't hear; his eyes were filled with dirt and plaster so he couldn't see at that time and he had bruises and scratches; there was dirt imbedded in the skin of his face and in his hands and there was some contusion from the falling debris. His clothes were badly torn and there were bruises on his limbs and scratches.

Q Where did the bruises on his body seem most severe? There seemed to be no place upon his body where the bruises were most severe? A Yes sir.

Q They were pretty generally distributed over his body? A Pretty generally distributed.



- Q Were there any glass in his person -- any particles of glass?  
A No sir.
- Q Did you make an examination of his eyes? A Yes sir.
- Q What was the result of the examination of his eyes?  
A Nothing more than that the eyes were filled with dirt -- I was going to say the Conjunctiva -- the white portion of the eye and also the cornea.
- Q Did you remove these particles of dirt from his eye, or were they taken by some other person? A By some other person; the specialist I think took them out.
- Q The examination was made at that time was for the purpose of seeing if he was seriously injured? A For the purpose of seeing if he was seriously injured and to get the dirt out of his face and to make him comfortable; and to see if there were any broken bones or serious injuries.
- Q Sort of a general examination? A Yes sir.
- Q You were at breakfast at the time of the explosion? A I was eating breakfast at the time.
- Q And then you went to your wife's room and informed her --  
A I ran to the front of the building first and seeing the dust I ran to her room and told her to get up immediately for there might be a fire and then I went back and seeing there was no fire I called to her there was no fire and not to be alarmed.
- Q And then you went out and found Mr. Bradley? A Yes sir.
- Q And then you and Mr. Linforth took Mr. Bradley into Cummings flat? A Yes sir.

- Q Was there in front of the Cummings flat a hole driven through the building -- through the vestibule on the outside? A Yes sir.
- Q About what were the dimensions of that hole, doctor, as near as you could figure? A I should say it was three or four feet across if I remember correctly; most of the tiling of the vestibule floor had been broken out and the steps were broken.
- Q You had to step over this hole to get into the Cummings flat? A More especially into the Bradley flat, I think.
- Q Did the hole seem to be more in front of the Bradley flat than the Cummings flat? A I think so.
- Q There was a great deal of debris around the Bradley flat, I understood you to say that as one of the reasons why you didn't go into the Bradley flat? A Yes sir.
- Q This explosion you say -- was this explosion dull or what was the character of it? A Well, the explosion was loud but I was in the house at the time -- indoors -- and it would be difficult to say what the noise was like.
- Q You were so situated it is difficult to say what it did resemble? A No, I couldn't say positively.
- Q How about the debris there in front of the house, was there very much? A In the front of the house on the sidewalk -- there was not such a great deal on the sidewalk, part of the woodwork was blown out and part of the vestibule.
- Q And where was most of the debris blown inward toward the house, or outward toward the street? A Well, in my own flat the door was blown in and the windows all seemed to have

blown out in the street. I remember there was a great deal of debris in the De Laveaga flat and the stairway -- the woodwork of the stairway -- was so torn and blown out that it was impossible to get in. In going up into the Bradley flat, if my memory serves me correctly, we went up the back stairs on account of the debris and also the vestibule was blown out in front and there was so much debris in front.

Q All filled with debris? A It seemed to be.

Q Pretty well filled up? A The stairway was not easily accessible because the vestibule was blown up and it was easier to go up the back stairs which I think we did.

Q How long had you noticed the smell of gas before the explosion, as near as you can estimate? A At different times for ten days and two weeks.

Q It was greater in the inner vestibule? A Yes sir.

Q By the inner vestibule I mean inside your door? A I never smelled it outside at all.

Q There was a little vestibule outside? A Not a closed vestibule, an open vestibule.

Q How was that inner vestibule lighted at the time of the explosion? A It was lighted by both gas and electricity.

Q You were in the habit of using gas or electricity? A We used electricity mostly.

Q You only used gas part of the time? A Occasionally we used the gas only when the electricity was not working.

Q Do you know whether any one frequently passed out of your

door with a lighted cigar before the explosion or whether any one smoked in that building? A No one smoked in my apartment.

Q As I understand it, your flat was on the west side of the Linforth flat? A Yes sir.

Q Do you know whether the Linforth flats were destroyed by fire?

A I am very positive of that.

Q That was on or about the 18th of April, 1966? A Yes sir.

That is all.

RE-DIRECT EXAMINATION

BY MR. SHORTRIDGE:

Q The hole you referred to in the vestibule is just about in front of the De Laveaga door -- the door to the middle flat?

A Yes, the De Laveaga opened directly in front and the Bradley opened to the side. The hole was in front.

MR. VAN DUYN: About in front of the De Laveaga flat?

A Yes sir.

Q A hole through the floor of the vestibule? A Yes, the cement floor.

MR. VAN DUYN: That is all.

MR. SHORTRIDGE: That is all.

(Signed) Ernest Kelly.



P. W. DOYLE

called as a witness for the defendant, testified as follows: ~~Heard~~

DIRECT EXAMINATION.

Mr. Thorbridge. Q What is your name, please? A. Peter William Doyle.

Q Where do you reside? A. 1195 Green street, San Francisco.

Q What is your business please? A. Foreman, carpenter for C. A. Crasner.

Q How long have you been a foreman for Mr. Crasner? A. About seven years and a half.

Q Did you know a building on the northwest corner of Washington and Leavenworth streets in this city? A. Yes sir.

Q A building that was owned at one time by Mr. Louforth?

A Yes sir.

Q And do you know who built that building? A. Yes sir, C. A. Crasner.

Q Did you act as foreman during the construction of that building?

A Yes sir.

Q Are you in a general way now familiar with the construction of the building? A. Somewhat.

Q Did you remember the back stairs at the extreme rear of the building which ran up to the Bradley flat from the back yard?

A Yes sir.

Q The Bradley flat being the top flat on the corner? A. Yes sir.

Q Can you state approximately the width of that back yard?

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A. What do you mean ?

Q. The back yard to those premises ? A. I guess about twenty feet.

Q. So that there would be a space of something like twenty feet from the end of the building to the back stairs ? A. I don't mean the portion of the Bradley flat but the remaining portion of the building.

A. You mean the "L" ? Q. Yes. A. Yes.

Q. The "L" made the back yard ? A. Yes sir.

Q. Could a man stand on the back stairs or the little porch at the top of the back steps of the Bradley flat and reach that flat roof ?

Mr. VAN DUIN: I object to the question.

Mr. SHERBIDGEN: I withdraw the question.

Q. Do you remember whether or not there was a flat roof over any portion of that building ? A. Yes, there was a flat roof on the rear of it.

Q. And do you remember how a person could gain access to that roof on the rear of the building ? A. There was only one way to gain access and that was through the attic of the Bradley flat or the rear of the Blood flat from the attic of the back room

Q. Through the windows in the attic to either the Bradley or Blood flat ? A. Yes sir.

Q. That was the only way to gain access to that flat roof ?

A. Yes, the only way to get through.

Q. Unless a person built a scaffolding or something of that sort to get up through ? A. Yes sir.

- Q Mr. Doyle, were you at or about those premises, after the explosion which occurred on the morning of the 17th of November, 1904?
- A The same evening about six o'clock I guess, coming from my work.
- Q Do you know who it was that reexamined those premises after the explosion in so far as the carpentering work was concerned?
- A What do you mean in regard to the carpentry?
- Q Carpenter work, who was it that did that work? A. Yes, I do. I was the superintendent on it and passed over it two or three times a day; I was the acting foreman and I had a sub foreman.
- Q Mr. Cramer was the contractor who did that work? A. Yes sir.
- Q You were working for him at that time? A. Yes sir.
- Q Did you make an examination in and around whatever was left of the vestibule of that building? A. Yes sir.
- Q Did you find any fragments of lead anywhere about the building in any woodwork or otherwise? A. Not the slightest to my knowledge.
- Q Found nothing and saw nothing? A. Only splinters of wood, about all I see was splinters. There was lots of those.
- Q Mr. Doyle, from an examination of those premises made as made by you after the explosion, are you in a position to state and if you can answer this question yes or no, whether or not the force caused that explosion came from between the walls and under the floors? A. Well, to my judgment, yes.
- Q In your judgment where was the force that caused the damage to that building, if you can state?

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Mr. VAN DYKE: I object to the question on the ground

that the proper foundation for expert testimony had not been laid.

A It seemed to be on that wall of the Cummings flat where the gas pipes had run up to the upper stories.

Mr. SHORTRIDGE: Q.

Q Do you mean by that between the stalling which formed the west wall of the Cummings parlor and the east wall of the vestibule?

A Yes sir.

Q Did you examine, Mr. Doyle -- to illustrate your answer -- the floor in the room immediately above the vestibule which was one of the front rooms in the middle corner flat? A. Yes, that is the flat which Mr. Linforth afterwards moved in.

Q Was that floor level or raised? A. All raised up, buckled.

Q Would you state what you mean by the floor being buckled?

A On a raise; raised up like that (indicating).

Q Did that floor in the condition that you saw it indicate to your mind whether or not whatever caused that explosion, was underneath that floor and between that floor and the vestibule?

A Yes sir.

Q Do you remember how the reception halls or rooms in that building were finished, that is whether they were panelled in part or plastered entirely? A. Panelled in part.

Q Do you remember about how high these walls were panelled?

A I think six feet to the best of my recollection.

Q After this explosion did you examine those reception walls which were so panelled? A. Yes sir.



Q Did you find out whether or not, as a result of that examination, that these panels had been burst out into the room?

A Burst out and split; we had to replace a part -- many others.

Q Did that indicate to you where the force that caused them to burst in that way, where it had come from?

Mr. VAN DUYN: Objected to as leading and as calling for the conclusion of the witness, and the foundation for expert testimony has not been laid.

Mr. SHORTRIDGE: The question is withdrawn if that objection is insisted upon.

Q What conclusion did you come to with reference as to where the force that caused those panels to burst out in that way?

Mr. VAN DUYN: Objected to as calling for the conclusion of the witness and a proper foundation for expert testimony not having been laid.

Mr. SHORTRIDGE: You may answer. A. It looked to me it came from in between the studding; everything was bulged out.

Q It looked to you as if the force that did that particular damage came from between the studding?

Mr. VAN DUYN: The same objection.

A Yes sir.

Mr. SHORTRIDGE: Q This paneling was on the one side of the reception hall in the Cummings and De Laveaga flat, which was on the corner side of that building? Now the other side, Mr. Doyle, of that studding, what was there lath and plaster?

A Lath and plaster.

- Q Opposite the studding on one side was the panelling of these rooms, what was on the other? A. Plaster and lath.
- Q What effect on the plaster and lath did the explosion have?
- A It bulged the lath out and tore the plaster all off the walls.
- Q So that the effect of that explosion was on both sides of the studding? A. It appeared that way to me.
- Q That was the condition on which you found this building on the evening of the explosion, wasn't it? A. Yes sir.
- Q Do you remember the stairway to the middle corner flat, being the flat which Mr. De Laveaga was occupying? A. Yes sir.
- Q Do you remember what effect the explosion had on those stairs?
- A Yes sir.
- Q Would you state what it was? A. Bulged them out and raised the stringers.
- Q By raising the stringer what do you mean? A. The stringers are these (indicating) they were all bulged out and all raised.
- Q What are the stringers? A. Well, these are the stringers (indicating).
- Q The frame upon which the stairs rest? You mean all these stringers? A. Yes. They were all bulged out. The stairs all bulged out.
- Q And that stairway you were talking about was above the vestibule or the entrance to that particular flat? A. Yes, about eight feet.
- Q You didn't hear the explosion that morning? A. No.
- Q As I understand your testimony, Mr. Doyle, on one side of this partition was the panelling you have spoken about? A. Yes sir.

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- Q On the other side of the wall -- on the opposite wall -- was plaster and lath? A Yes sir.
- Q Now, the panelling was bulged or blown out? A Bulged out and shattered.
- Q The laths and plaster were also blown out or bulged? A Yes sir.

## CROSS EXAMINATION

BY MR. VAN DYKE:

- Q Where was that explosion, Mr. Doyle? A In the Cummings flat on the first floor.
- Q Was that in the stair case or in the room upstairs? A It was in the reception hall. Then the staircase, passing to the second flat was right next to the wall.
- Q The plaster was a great deal broken off? A Yes sir.
- Q Shaken from the building? A Yes sir.
- Q What do you mean by the plaster bulging out, was it knocked off on the inside? A Some of the plaster was knocked off and the laths bulged out.
- Q On the outside of the vestibule the panelling as you call it -- the paneling had been broken off? A Yes, all broken and shattered.
- Q It was shattered all in pieces? A Yes sir.
- Q And generally demolished? A Yes sir.
- Q Have you had much experience in observing the effects of gas and dynamite. You needn't talk to me about dynamite.
- Q So far as you know it might have been blown up by dynamite or

Q Yes? A No.

Q Did you notice a hole in front of the De Laveaga flat, flat 1402?  
In the vestibule in the outside vestibule? A A hole.

Q Yes. A On the upper section.

Q In the floor of the outside vestibule? A In the ceiling, yes.

Q In the floor of the outside vestibule? just before you go up  
stairs of the De Laveaga, or the lower flat, 1402? A I don't  
recollect.

Q On the outside floor? A I don't recollect.

Q Were you there that day, Mr. Doyle? A I was there in the  
evening.

Q In the evening? A Yes.

Q Do you know how long it took to repair the hole in the  
vestibule in front of the De Laveaga flat? A No.

Q You didn't observe that at that time? A No.

Q You had a man there especially for that? A Yes.

Q You didn't do that kind of work? A No.

Q You did the carpenter work? A Yes, I am foreman of the  
carpenters.

Q You had nothing to do with anything of that kind? A No sir.

Q You paid no attention to that part of it? A No sir.

Q So far as you recall now, you don't recall observing any hole  
at all in the vestibule? A No sir.

Q Did you take in the building of the Linforth flats? A Yes  
sir.

Q About how many windows were on the top or third story of that



flat, in the rear, commencing at the east side and running westerly across the northern part of the building? A Well, there was a double window to the best of my recollection in the rear porch; and one in the kitchen of the corner flats then following next door the bay window in the rear of the West flats, if I am not mistaken, and then the one in the kitchen and then came the porch.

Q The west flats, to the rear, were considerably broken by windows, as I understand it? A That I don't recollect.

Q Part of them had bay windows in the rear? A Yes sir.

Q Can you tell me the number of windows there were -- it was not a blank wall? A I don't know, I didn't notice.

Q I don't mean the window glass that was broken. I mean as to it being a blank wall broken by windows across the north end of the wall. It wasn't a solid wall, the flat surface was broken by windows, wasn't it? A Yes sir.

Q The wall in the rear was considerably broken by windows extending westward from the corner? A Yes sir.

Q How was it fixed in regard to water pipes, if you remember? I don't mean water pipes, I mean run pipes, gutter pipes.

A It was a flat roof, there was no gutter pipes in the rear.

Q No gutter pipes in the rear? A It was a flat roof on that rear side you speak of, partly shingled roof and partly ~~was~~ flat.

Q There were no gutter pipes in the rear at all? A No.

Q Would you be willing to state positively as to the gutter pipes extending in the rear of the Linforth flats? A There was none in the rear.

Q Nothing in the rear? A No.

Q Absolutely? A That is my recollection; I didn't see no gutter pipes in the rear.

Q Would you be willing to state that fact absolutely and positively that there were none? A Yes, to the best of my recollection.

Q To the best of your recollection? A Yes.

Q Were there gutter pipes in the front? A Yes.

Q On each side? A Yes. On Leavenworth and Washington streets they went around the "L" and continued all over the whole of the building, and carried the water, that is the horizontal gutter pipes.

Q Going downward -- we called these gutter pipes -- we have been calling them gutter pipes. A They were gutter pipes horizontally.

Q How was the front of the building fixed in regard to leader pipes?

MR. MILLER: We object to that as not proper cross examination and immaterial.

A The leader pipes go right down on the Leavenworth and Washington street side. (Witness refers to picture of building which has been offered in evidence Exhibit S.E. No. 1.)

the Washington street side of the building? A One.

Q And how many on the Leavenworth side? A One here.

Q And how many would be on the western side of the building?

A One right in the corner where the west and north sides of the building join and form a little "L", about three feet, about the middle of the building? A That would be the line of the lot, the west line of the lot and about the middle of the building to the north.

Q Going to the rear or north side were there leader or outlet pipes? A No outlets at all.

Q No leader pipes at all to the rear? A No.

Q How far did the gabled roof there-- the tall roof in the rear-- extend? I mean by the tall roof -- there were two roofs, one a flat roof --

A The flat roof was on the rear.

Q How far would this roof we see in the front part of the picture extend westward before you struck that "L"? A It went to the "L".

Q What was the width of the "L"? A The depth of it?

Q Yes. A I guess about eighteen or twenty feet.

Q And in the rear of that "L" how was it fixed in regard to leader pipes? A I don't recollect whether there were any there or not.

Q There may or may not have been leader pipes in the rear of the "L"? A I think the drain pipe ran around the gutter -- ran around the flat roof and dropped there into a leader pipe which

ran down the left wall into the middle of the building.

Q Are there any gutter pipes in the front of the building?

A Ivo there; one on Leavenworth and one on Washington.

Q What kind of arrangement did you have for keeping the gutter pipes up? A I think it was a four inch galvanized pipe with ornamental strips to it.

Q In the rear how were the gutter pipes fixed on the flat roof?

A They returned around and dropped on the gutter itself; turned around to the flat roof.

Q Were there any gutter pipes around the front of the flat roof at all? A The gutter was on the inside; the outside went down the light well to my recollection.

Q Describe the construction of the rear stairs there, Mr. Doyle, as existing before the explosion? A There was a platform at the head of the stairs to each floor -- a platform about three or four feet square-- the stairs starting from the floor line in the back yard.

Q And the rear stairs as I understand it, went in an easterly direction up that "L"? A Yes, winding around to the third floor landing.

Q About what were the dimensions of that flat roof on top of the Linforth building? A I could not give the exact dimensions.

Q Just about as near as you can figure it out? A I guess about thirty feet by about thirty, I guess.

Q What were the dimensions of the other roof? A I guess it must have been twenty-four feet. It was a half pitch.



Q When was this building built under your supervision, Mr. Doyle?

A I think Mr. Linforth could tell better than I but I think it was about four years ago since it was built.

Q And since that time have you examined the building to refresh your memory in regard to the details in any way in the construction? A I was around there after the explosion in regard to repairing the different flats.

Q Have you made any examination of it since that time in regard to the leaderpipes? A No sir.

Q About four years ago, was when it was built; and do you recall there were no leader pipes in the rear of the building?

A I don't recollect any leader pipes, for it was a flat roof there.

Q You think there were none; you do not remember one way or the other? A No, I think there was a small light well in the center; that was where the leader pipes all went down, pitched down there, and this light well gave light to the bath rooms in the center flat; all the water or gutter pipes pitched to it; I recollect it now in the center there was a light well.

Q You say then, as far as you know, there would be only two ways of getting to the roof -- the flat roof of the building; one through the Wood flats and the other through the Bradley flats? A That is right.

Q Going up through the little attic? A Yes sir.

MR. VAN LIND: That is all.

RE-DIRECT EXAMINATION

BY MR. SHORRIDGE:

Q In the construction of a building of this character with a shingled roof in part and with a flat roof in the back or rear with a light well in the center, would you have gutter pipes and drain pipes from the flat roof in the rear of the building? A No, it would be all in one place to make it easy for the plumber.

Q And in this particular instance the drain pipes went down the light well? A We pitched everything to the light well.

Q Your memory is now refreshed on that subject, and all the bath rooms in the entire building looked out upon the light well? A Yes, looked out on the light well and gave light to the hall stairs also going up to the third story flats.

Q The light well was situated where with reference to the center of the building? A Yes sir, about the middle.

Q That is, the light well was in the center of the building?

A Yes sir.

Q And the bath rooms and the servants rooms and halls all depended for their light upon that light well? A Yes sir.

Q In other words, the windows of each one of those rooms opened upon that light well?

Q The light well was about how large, according to your best recollection? A I think about 8 x 10.

MR. SHORRIDGE: That is all.

MR. VAN DORN: That is all.

(Signed) Peter W. Doyle.

O. A. CRAMER

called for the defendant, sworn and testified as follows:

DIRECT EXAMINATION

BY MR. SMITHSON:

- Q What is your name please? A O. A. Cramer.
- Q Where do you reside? A 140 Belvedere Street, San Francisco.
- Q What is your business? A Contracting.
- Q Have you been engaged in that business in this city for a number of years past? A I think eight years.
- Q Did you know the building at the northwest corner of Washington and Leavenworth streets owned at one time by Mr. Linforth?
- A Yes sir.
- Q Did you build that building? A I built that building.
- Q Did you have a foreman in charge of the building at the time it was constructed? A Yes sir.
- Q Who was that foreman? A Peter Doyle.
- Q The witness who just preceded you? A Yes sir.
- Q Do you remember the time that the building was injured by an explosion in November, 1904? A Yes sir.
- Q Do you know who did the carpentering work in the reconstruction of the building? A I did the carpenter work.
- Q Who was your foreman in the reconstruction of that building?
- A I had Doyle in charge and a sub-foreman there under him.
- Q Mr. Doyle, the witness, who just testified? A Yes sir.
- Q You had a sub-foreman at this time? A Yes sir.
- Q Did you see that building at any time on the 17th day of

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November, 1904, the day of the explosion? A Yes sir, I got there before noon sometime.

Q Some time during the morning of that day? A Yes sir.

Q Did you make an examination of the building? A Yes, I did.

Q A careful examination or otherwise? A A careful examination especially in the front.

Q Did you make a careful examination of the doorways and the hallways leading out on the vestibule? A Yes, I did.

Q And in particular, did you make a careful examination of the vestibule on the corner side, that is, where the Bradley, and Cummings and the De Laveaga flats were? A Yes, I did, especially of that wall between the Cummings flat and the vestibule.

Q That is the wall which constituted the east wall of the vestibule and the west wall of the parlor of the Cummings flat?

A Yes sir.

Q In the examination which you made did you find any sign of or pieces of lead anywhere around in the woodwork or otherwise?

A No.

Q If there had been any quantity blown into that woodwork in that vestibule or in that vicinity do you think your examination was minute enough to have enabled you to have discovered it?

A I think it would. I was looking particularly for any burned wood.

Q And why were you looking for any burnt wood? A I don't know why but I thought after an explosion there would be fire.



- Q And you were looking to see if you could find any sign of fire? A Yes sir.
- Q And found none? A None.
- Q Any sign of any lead? A No.
- Q You were familiar with the construction of that building before the explosion? A Yes sir.
- Q Were you familiar with the construction of the reception hall in the flats on the north side? A Yes sir.
- Q And you were familiar with the construction of the stairways? A Yes sir.
- Q Is it, or is it not a fact that the reception halls were panelled to a certain height and plastered above the panneling? A Yes sir.
- Q And on the other side of the studding from the paneling how was that finished? A Lath and plastered.
- Q In other words, one side of the studding would make the finished panel a part of the room? And on the other side of the studding would make the plaster of the hallway? A Yes sir.
- Q After this explosion did you examine that particular part of the building in respect to the Cumming's reception hall and the stairway and the reception hall in the middle corner flat? A Yes, I went all through that and examined all parts.
- Q From the examination you made can you state whether or not that force which caused the damage to those particular portions of the building came from between the studding?

MR. VAN DUSEN: I object to that as calling for the conclusion of the witness the proper foundation not having been laid for expert testimony.

A Yes, I came to the conclusion that the force was between the walls; both sides were blown from the partition.

MR. SHORRIDGE: Q Now let me see if we understand you correctly; one side which would be say, the living room side bulged which way? A Bulged into the living room.

Q And the other side which was plastered and lathed which made the hallway bulged which way? A The opposite way, into the hallway.

Q From the living room? A From the living room.

Q In other words, the one wall -- the first was to the east and the other wall was to the west, is that right? A Yes sir.

Q Then from the examination that you made, the fact as it appeared to you there, was that one wall bulged one way, and the other wall bulged the opposite way? A The walls and the lower floors

Q That is the case with reference to the walls? A Yes sir.

Q That was so that it could be observed by the naked eye; by any one looking at the walls after the explosion? A Yes sir.

Q I want to direct your attention to the floors in the building after the explosion and to illustrate, take the floor in the front room in the middle corner Flat, which would be directly over the vestibule or the entrance, was that floor level? A No; that was raised up, I guess, four or five inches.

Q How was that floor before the explosion? A It was perfectly

level.

Q You know of your own knowledge? A I know it was when we left the building.

Q And after the explosion when you examined that floor you say it was raised four or five inches? A It was raised so much that even the joists were split enough to show it to raise.

Q And the floor was fastened down and nailed to the joists you have spoken of? A Yes sir.

Q So that the upper part of those joists was the floor of the room above, and the lower part of those joists was what?

A Ceiling of the vestibule.

Q What was the ceiling of the vestibule underneath? A That ceiling was plastered.

Q So that taking that floor as an illustration, the flooring or boards which were nailed to the joists to make the floor of the room above they were bulged up? A Yes sir.

Q And the plaster, which was the part of the vestibule under the joists, which made the ceiling of the vestibule, that was broken down? A To the best of my recollection the plaster was off the ceiling; you could still see some of the laths there.

Q I call your attention here to a picture, which is called plaintiff's exhibit No. 3 which is found in the settled bill of exceptions in a case brought by Linforth against the San Francisco Gas and Electric Company and which appears to be filed in the office of the county clerk of San Francisco on the 6th day of April, 1906, and ask you if that picture shows the

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vestibule in the condition you have just described it? A Yes. This is the vestibule; these joists were forced right up, in fact we had to put new joists in and take these out; that floor was raised up four or five inches.

Q Mr. Cracner, do you remember making an examination of the plaster and the tiling in both rooms of the corner flats? A I believe in the lower corner flat, we had to take out the tiling, that was loosened; some of it had fallen out; also the plastering, most of the plastering bulged badly.

Q Do you remember now, whether or not the bulging tiling in that room -- whether the bulging was on all of the walls or only one? A That I cannot recall.

Q Now, Mr. Cracner, do you remember the condition of the east wall of the vestibule after the explosion, which was also the west wall of the Cummings parlor? A Yes, I do. That wall -- in fact, that wall scared me; it was a main-bearing wall. As soon as I saw that I rushed off to get some timbers to brace the up. And I told the people to be careful and not go near it.

Q Why? A That was a main bearing wall running through the building and I was afraid it would collapse.

Q Did you find out which way that wall went from the east to the west, if you can tell? A I know that part of the mantle and gas grate was blown out to the side of the room.

Q To the east? A To the east.

Q So that the force whatever it was carried it to the east?



A Yes sir.

Q With reference to the vestibule which was over towards the west do you remember whether that wall was also blown out?

A It wasn't blown out as badly; we had to take most of the plastering off; the studding wasn't shattered. I don't recall now whether all of the paneling was blown off or not.

Q Do you recall whether or not the fire place and the mantle which was in the parlor of the lower flat to the west, which stood against the west wall of the vestibule and the east wall of the parlor, do you remember whether that mantle was thrown out of place and into the room toward the west, as near as you can remember? A That mantle wasn't blown out altogether. It was blown out three or four inches. I had to take it out, set the partitions back plumb and then re-set the mantle.

Q So the force which evidently did that damage was to the west, while the force that did the damage to the wall referred to in the Cummings flat, was to the east? A Yes, that is right.

Q Mr. Crasner, do you remember the arrangement of the lower pipes, or gutter pipes or drain pipes, whatever they may be called on that building? A I know the gutters, the front leaders, draining the water from the roof down to the street. That is, to the sewer. They ran to the street line, but I cannot recall - I know it was a flat roof in the rear. I know the plumbing for the bath rooms was all in the light well and mostly likely the outlets for the gutter pipes were in that light well also.

- Q By that you mean the flat roof? A The flat roof.
- Q Your recollection of that matter will it serve you to say positively on that subject? A No, I would not, but to the best of my recollection that is the case.
- Q By looking at the picture which has been marked defendant's exhibit S.R. No. 1, you will notice one of these drain pipes on the Leavenworth street side, and one on the Washington street side, can you state what these were made of? A Yes, they are made of galvanized iron.
- Q And fastened to the building how? A With galvanized iron strips. With the exception of the lower ends. The lower five feet was of cast iron. The Leavenworth street side and the Washington street were made of cast iron.
- Q Could a man weighing 150 pounds or more climb up one of these leader pipes to the roof of the building without breaking it down? A It would not be safe; he couldn't get to the roof because there is a big over-hang, fully three feet.
- Q But suppose he could use those leader pipes, or drain pipes, whatever you call them made of galvanized tin or iron and fastened to the building with these tin strips, would these be strong enough to support a man of 150 pounds in climbing up there? A I don't think it would be; I would be afraid to risk it.
- Q If there was any drain pipes on the north side of that building and connected with a flat roof, were they of the same character as those shown on that picture? A Yes, only those were

square pipes and they would be round pipes.

Q Mr. Graener, you know where the flat roof of the building was?

A Yes sir, on the rear portion.

Q Was there any way of getting to that flat roof except through the attic windows of the Blood and Bradley flats?

MR. VAN DUSEN: Objected to on the ground of calling for the conclusion of the witness.

A The only way to get on the flat roof was through the attic windows of the top floor.

Q One of which was occupied by Mr. Blood's family at the time of the explosion and the other by the Bradley family. And that is the reason I have referred to them as the Blood and the Bradley attic.

Q Do you remember, Mr. Graener, about the size of the back yard which was formed by the "L" in the building? A As near as I can remember it was probably 20 by 40 feet, 40 to 50 feet.

Q It is a fact is it not, the back stairs that lead up to the corner flats from the yard were built on the extreme north line of the building? A Yes sir.

Q So that the space between those stairs and this flat roof was the width of that yard made by the "L" in the building? A Yes sir.

MR. SHORTLIFFE: That is all.

CROSS EXAMINATION

BY MR. VAN DUSEN:

Q What was the condition of the vestibule in front of the Bradley

flats, the outside vestibule? A The plaster was all down; before the explosion it was paneled six or seven feet, then the plaster was above that; the plastering was down and the panelling was all shattered and scattered around; as near as I can remember there was a hole in the floor of that vestibule in the corner vestibule, the vestibule leading to these three entrances.

Q To the Bradley entrance? A Yes sir.

Q What was the condition of the tiling there, was it blown inward or downward, or how, if you remember? A I only remember a hole there, I covered that up; there was a number of steps and some of the risers were cracked and partly blown out.

Q Blown out toward the street? A Toward the street. The stairs did not face the street directly; from the street you would enter a platform and then walk east or west to the vestibule -- east to the Bradley flat.

Q West to the Bradley flat? A East to the Bradley flat.

Q On the vestibule you walked east? A On the stairs you went east.

Q When you first turned up there? A Yes.

Q How was that vestibule railing, where was that found, if you know? A That I cannot recall.

Q Was it outside or inside the building? A I cannot recall that I know it was out.

Q It must have been out of the building? A I know it was out of its proper place.



Q Do you know whether that was found on the stairs or not?

A I cannot recall.

Q How about those doors in the Bradley, Cummings and the De Laveaga flats? The three doors on the Bradley side of the building, the ~~lowest~~ lower doors? A As near as I can remember the three doors on that side were destroyed. We couldn't use them; two of the others we could re-use.

Q Were those doors completely demolished, that were found?

A I know part of them -- I think one was still on the hinges. I don't remember which door that was.

Q Was it blown upward or inward? A I could not recall.

Q The vestibule of the Cummings flat of which we have spoken -- you say the ceiling of that vestibule was partly blown out as shown by the picture we have examined? A Yes sir.

Q And above that where the hole was made the lath was blown upward, that is the upper part -- the floor was blown up? A The plaster of that ceiling was blown down.

Q The plaster was blown down? A Yes sir.

Q Was there much of a hole through the ceiling? A Yes, through the plaster and lath there was a very big hole.

Q A hole clear through? A Some of the lath were still hanging.

Q There was considerable of a hole as shown in that picture?

A Yes sir.

Q A hole was blown through the ceiling? A Yes sir.

Q Now for instance we will take the ceiling of this room; a hole was blown right through the vestibule? A Yes sir.

- Q And above that, after you got through the interior plaster of the floor above, it was blown upward? A Yes sir.
- Q What do you mean by the plaster being blown down? A It was blown out and dropped down in the vestibule from the force of gravity. I found the plaster on the floor and some of the lath were hanging down.
- Q The lath were broken and hanging? A Yes sir.
- Q Hanging by a little fragment or fibre of the lath? A The one end would naturally come loose and the other end was still nailed.
- Q These were the part of the fragments around the hole, around the various little holes made in the ceiling of the vestibule?
- A Yes sir.
- Q And the lath were broken and hanging down? A Yes sir.
- Q And the explosion had broken a hole entirely through?
- A No, there was a double floor, one laid diagonally and the other one just the opposite.
- Q That is where the bulge took place? A It bulged the two floors up. Also three or four joists.
- Q You were speaking about an indication of one explosion having blown from the west toward the east; and in response to Mr. Linforth's question, you spoke about the direction, evidently having come from the east to the west? A That was the interior wall.
- Q What place? A I noticed one partition between the lower flat and the stairway of the middle flat; the lower flat -- the latt-

one on the panels, that is the small strips were blown out this way to the east.

Q There was something spoken about a grate, I didn't understand what you said? A The grate in the Cummings parlor which was in the east corner room was still lying there when I got there.

Q The explosion there would have indicated there was a force leading from the west? A In that room, yes.

Q And now you speak of a force leading towards the west, the lower flat? Describe that again.

A Immediately in the back of that room was the reception hall.

Q You mean north?

Q North, yes. The main partition there between the stairway leading to the second flat and the reception hall -- the panel work was blown into the reception room, that would be east and the plastering on the other side, the lath were blown the other way to the west.

Q The plaster and lath had fallen out towards the west?

A In some cases and also about four feet high of that stairway consisting of linocrust that was pasted on the plaster, that held the plaster in place -- the plaster was bulged out toward the stairway.

Q What direction? A East.

Q The plaster on the west? A On the western side.

Q On the east side was the paneling and this linocrust which was sort of a paper preparation, a preparation of cork and oil, about one sixteenth of an inch thick pasted on the lath and

the plaster.

Q This was on the west wall and the east wall was paneled?

A Yes sir.

Q And the paneling on the east wall was broken out towards the east? A Yes sir.

Q That was all broken? A It was battened. The pieces were nailed -- came together and a small strip over the joints -- this was blown into the reception hall, east.

Q The wall was completely blown out there all the way?

A The scabbed wall of plastering, the linework on the wall, and the panels were spread; these strips were blown out on the floor.

Q Broken out that way from the wall, extending from the vestibule into this other room? A In some cases the plaster would be down and the lath were often loosened.

Q The hole was broken all the way through the plaster, as you have testified? A Yes, in some places the lath were entirely off.

Q How far back was that from the Bradley vestibule -- the door of the vestibule? A Right adjoining the vestibule, in the Cummings flat. Right in back. I should judge and extending back about 16 or 18 feet.

Q What was the effect of the explosion? From your examination made, where was the greatest force of the explosion? A The greatest force of the explosion, I should judge, was right immediately under the southeast corner of the Cummings flat.

Q That would be about the neighborhood of the vestibule, the



three doors of the vestibule, Bradley, De Lavergne and Cummings, right at this corner (looking at picture) A The southeast corner of the vestibule; the southwest corner of the room; this corner of the Cummings parlor.

Q The southwest corner of the Cummings parlor? A About three or four feet back.

Q Then, as I understand, the greatest force of the explosion seemed to be in the vicinity of the front of the Cummings flat? A Yes.

Q These pipes -- you spoke of there being a difference between the front and rear leader pipes; in what respect would that difference be? A Just in the shape of the pipe; one was square; the pipes, on the front are square in this case, and the others were round.

Q They were mere in the way of ornament? A Yes, just for ornament.

Q When you speak of these leader pipes, do you mean the vertical pipes? A The vertical pipes.

MR. SHOETRINGER: Q That carry away the water from the roof? A Yes sir.

MR. VAN DUSEN: Q Do you know now at this time or recall to memory whether or not there were any vertical leader pipes in the rear of the building? A I think not-- they were in the light well; that was the usual custom of putting them up. To the best of my recollection, they were down in the light well; all the plumbing was very close and brought to the light well.

Q You are not speaking now from memory, but from the custom of the plumbing at that time? A Yes sir.

Q I herewith hand you defendant's exhibit C.F. No. 3 and ask you what was the effect upon the column which I herewith mark "X" of that explosion? A The finished work around that column was out -- torn completely out. This column here (referring to plaintiff's exhibit No. 3 in the suit against the Gas Company) was out.

Q Then, as I understand all the stone work-- A That column was wood--

Q Was blown away? A This wasn't there at all (indicating)

Q Was that in relation to the Bradley and the De Laveaga flats? You refer to this column "X"? A Just in front of the De Laveaga door that column was in front of the De Laveaga door.

Q Which door was known as 1402, the middle corner flat?

A I know it was 1402.

Q That was immediately adjoining the east to the Bradley flat, wasn't it? A The entrance door was immediately to the east of the Bradley door.

Q What was the effect upon the ceiling of the outer vestibule in front of the Bradley and the De Laveaga doors?

A That was the ceiling we were speaking of before.

Q I think we were speaking of the inner vestibule. A This was the outer ceiling; there wasn't an inner vestibule.

Q I presume that in testifying in this case, you have not testified as an expert but simply from what you observed in

regard to the effect of the explosion and do not pretend to say whether the explosion was caused by dynamite or gas?

A I don't pretend to know whether it was caused by either the gas or dynamite.

MR. VAN DORN: That is all.

RE-DIRECT EXAMINATION

BY MR. SHORTRIDGE:

Q Counsel asked you, where, in your judgment the greatest force of the explosion seemed to be, and you said at that portion of the building which is the southwest wall of the lower corner flat which was occupied by the Cummings family at the time of the explosion. Would you take this pen, please, and upon defendant's exhibit S. P. No. 1 and put a capital "C" to indicate the point we have referred to. A I cannot very well see the explosion seemed to be two feet back of that point.

Q As near as you can put it on that picture, make a capital "C".

MR. VAN DORN: I object to that as the picture does not show what grate.

MR. SHORTRIDGE: The witness has made a capital "C" at that point on the picture. Now then, I ask you, if you know, where the meters were in that basement with reference to the point where you say the greatest force of the explosion was?

A They were about three or four feet to the north of that point.

Q And underneath it, or how? A Under the first floor.

Q So that gas meters in this building were three or four feet to the north of the point where you say the greatest damage

was and underneath; how far underneath? A Under the first floor.

Q How many feet? A Probably 2 feet.

Q So that from the examination you made of this building, how many feet from the point where the greatest damage was done, were the gas meters? A Just a few feet above the meters.

Q In other words, how far away from that particular point was the gas meter, 5, 6, 10, 20 feet, or what? A About three feet as near as I can remember, below the first floor. Below the first floor there wasn't so much damage. The meters were two or three feet below the first floor and most of the damage seemed to be done above the first floor level.

Q And the point where the greatest damage was done was four feet to the north of east, according to your present recollection?

A Yes sir.

Q Now, Mr. Crocker, are you familiar, or were you familiar with the unfinished basement or meter room of that building?

A Yes sir.

Q Was it a finished or unfinished room? A An unfinished room.

Q Was that room so constructed, that if there was a gas leak in one of these meters in that unfinished room it could find its way in between the studding of that building and in between the floors?

MR. VAN DYKE: I object to the question upon the ground that it calls for the conclusion of the witness.



MR. SHORTRIDGE: Q. (Continuing) I ask you as a matter of fact was the building so constructed that if the gas did leak from those meters in that basement room, it could find its way in between the studding? A Yes sir.

Q Was there a space in between the studding of the building and in between the floors of that building, so that air could come in from that meter room and find its way up into those studding, and between those floors? A One side of that building was exposed; there was nothing to prevent it from traveling up.

Q It could or could not have gone up? A It could have done so.

Q One further question with reference to this wall that you have talked about. If I understand correctly, that main carrying wall, ran right out to Washington Street? A Yes sir.

Q And taking this pen knife, to illustrate the portion of the knife where the blades close, we will say, was in between the studding. The right hand side of this knife was the paneling of the living room.

MR. VAN DYKE: I object to all these questions as leading and assuming something that has not been introduced in evidence.

MR. SHORTRIDGE Q. (Continuing) And the left hand side of the knife was the hallway or the stairway, leading up to the De Laveaga flat. Now, do I understand you to say that the paneling in the living room was bulged to the east and the plastering and lathing in the hallway or stairway was bulged to the west? A You refer -- I don't think you have

the location. The paneling work was to the east of that partition.

Q The paneling was to the east and the plastering to the west, that is correct? A That is right.

Q If I understand you correctly, the paneling bulged to the east and the plastering on the other side of the wall bulged the opposite way to the west? A That is right.

MR. SHORRIDGE: That is all.

RE-CROSS EXAMINATION

BY MR. VAN DORN:

Q What do you mean by bulging, the plastering had fallen off on that side? A It had partly fallen off and the lath was partly off.

Q It had broken loose and hung? A Not in all cases. Some places where the lath is usually nailed, it was still nailed. Some of the boards were nailed on one side and were bulged over that way.

Q And hung out? A Yes sir.

Q On the other side, they bulged the other way? A In some cases where there were battens they were completely blown away.

Q And in many cases there was a hole? A In a great many.

Q A number of cases? A Yes sir.

Q Did you notice any place where it bulged on both sides without breaking? A Yes sir.

Q Were those places numerous? A Yes, quite numerous.

Q At that time, Mr. Graener, you of course, thought that gas was the only explosive material around that building? And in examining these things you assumed it was a gas explosion?

A No, at the time, I did not know what caused the explosion.

Q You didn't know at that time? A No, not until later. I came to the conclusion it must be something between the walls.

Q That was your conclusion at that time? A Yes sir.

MR. VAN DORN: That is all.

MR. HENNINGSEN: That is all.

(Signed) G. A. Graener.

B. R. LEWIS,

Called as a witness for the defendant, sworn and testified as follows:

DIRECT EXAMINATION.

Mr. Shertridge: Q. What is your name? A. Bert E. Lewis.

Q. Where do you reside, Mr. Lewis? A. 335 Sadown Street, Ocean View, San Francisco.

Q. What is your business, please? A. At the present time I am working at sheet metal work.

Q. Do you know Mr. F. A. Gilley? A. Yes, sir.

Q. Were you working for him in the months of November and December, 1904? A. You catch me on the dates, but I was working for him.

Q. Do you remember an explosion to the building at the northwest corner of Washington and Leavenworth streets?

A. Yes, sir.

Q. Were you working for Mr. Gilley in the month that explosion took place and the following months?

A. Yes, sir.

Q. That was in November and December, 1904; now in what capacity were you working for Mr. Gilley?

A. Plumber and gas-fitter.

Q. Were you working in and about those premises in the month of December, 1904? A. Yes, sir.

Q. Do you remember the circumstance of Mr. Linforth and his family moving into the middle flat, the flat No. 1402?

A. Yes, sir.



Q. Did you then prosecute your search ? A. Yes, sir.

Q. What means did you use hunting for that leak ?

A. I used soap and water for searching for the bubbles.

Q. Will you explain the process you used ? A. I used the soap and water applying them with a brush on all the pipes, that conveyed gas, in what we called the meter room so in case there was any leak the bubbles would show.

Q. In other words, in soaping these pipes and meters with soap and water with a brush, if you should strike a place in any pipe or meter where there was a leak, where the gas was escaping, it would cause a bubble ? A. Yes, sir.

Q. In that way you are able to detect a leak ? A. Yes, sir.

Q. Is that the ordinary way of looking for leaks ? A. Yes, it is not so much a big leak, you can follow that down with your nose; our orders were to go ahead and find the leak and make sure where it was.

Q. Did you finally find the leak where the gas was escaping from ? A. Yes, we couldn't get near to the leak because the boards were in the way.

Q. Did you finally find the place or the thing that was leaking and where the gas was escaping from ? A. Yes, sir.

Q. Who was present at the time you finally located the leak ?

A. Bob Jones, my helper.

Q. Who else ? A. Well, we came to the conclusion that was right where the leak was and then Mr. Gilley came and he went over it and he came to the same conclusion with us.

Q. Then after you had come to that conclusion, your helper, Mr. Gilley, reached there; he reached there before you came to this conclusion? A. No, we let him have his say and he came to the same conclusion.

Q. What I am trying to get at is whether you located the leak before Mr. Gilley got there or before, or afterwards?

A. Before.

Q. In what particular thing did you find the leak came from?

A. From the gas meter.

Q. Do you remember in which gas meter you located the leak, what flat? A. The gas meter that supplies 1402.

Q. That was the gas meter which was supplying the flat with the Linforth family had just moved in to? A. Yes, sir.

Q. Now, whereabouts in the meter was it that you found the hole the leak came from? A. The odor came up from the back of the meter.

Q. So that hole was in the back of the meter? A. Yes, sir.

Q. How close was the back of the meter to the wall of that building? A. About four or four and a half inches.

Q. It was so close I couldn't get down in to see it.

Q. You couldn't get down in to see it? A. No, sir.

Q. <sup>What</sup> Was it satisfied yourself that the hole was in the back of the meter? A. The odor came right there.

Q. You could put your nose to the corner of the meter and ~~and~~ smell the odor of the gas coming out? A. Yes, where the gas was escaping was right to the top.

Q. Was the hole a small one or a large one from your knowledge of the quantity of gas that was escaping ? A. That we call a small hole, but at the same time it was a good leak.

Q. Is there any particular name that you plumbers and gas men give to that kind of a hole which was in the back of the meter and located there at that time by you ? A. We always call it a pinhole in the metal.

Q. Do you know whether or not these pinholes in these kind of meters are caused by rust, or don't you know ? A. Well, in sheet metal we call it a flaw in the metal. Sometimes it rusts through and sometimes it is just a thin spot in the iron.

Q. It may then be caused in several ways ? A. Yes, sir.

Q. Did you call the attention of Mr. Gilley, your employer, and Mr. Linforth, to that hole that you found ? A. Yes, sir.

Q. Were you at these premises the following Monday morning when that meter was taken away by the employees of the gas company and a new meter put in its place ? A. I was there on Monday morning, yes.

Q. You afterwards saw the new meter of the company which was left there in the place of the other ? A. I don't know that I saw it that morning. I think it was left there on that morning and I went on to another job for a day or two. I don't recollect, but I think I did.

Q. At some subsequent time you saw a new meter in place where this old one was ? A. Yes, sir.

Q. Before this meter was taken away by the gas company, did you see any patches of soap upon the back of it?

MR. VAN DUIN: I object to the question as leading.

MR. SHERRIDGE: I withdraw the question.

Q. Were you present Mr. Lewis, on the evening of the day on which the leak was discovered in the meter, when the employees of the gas company temporarily patched the leak with soap? A. No, I was not there.

MR. SHERRIDGE: That is all.

CROSS EXAMINATION.

MR. VAN DUIN:

Q. Your name is Bert R. Lewis? A. Yes, sir.

Q. As I understand it, you were employed by Mr. Gilley?

A. Yes, sir.

Q. And who did Mr. Gilley represent? A. In looking after the piping in Mr. Linforth's flats, the gas company, or Mr. Linforth. A. Mr. Linforth.

Q. And the gas company had nothing to do with that at all?

A. I had nothing to do with the gas company.

Q. Were you ever at any time previous to the explosion called to the Linforth flats for the purpose of attending to escaping gas? A. Yes, sir.

Q. At what times were you there before the explosion? A. I was there two or three days before the explosion.

Q. And who made the complaint? A. I believe the name was

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?

Cummings, the lower flat, on the Leavenworth street side of the building, I believe; I don't remember the number of the flat, but I believe the name was Cummings.

Q. What did you do at that trip? A. They reported a strong odor of gas and so I went out there before four and five o'clock. In fact, it was about a quarter of five when I got there. I went through the house, but I couldn't detect any odor at the time, but I tightened up the right-hand gas cocks. Whenever they are used all the time they naturally get loose and I left word for them to call me up on the telephone. I gave them my number. I wrote it on a card and stuck it up over the sink where they would be sure and get it and told them to call me up if they got any odor of gas whatever in the morning. There was small chance of finding it as there were so many children running in and out, the doors were all open. They said they would and I went home but I heard nothing more about it at that time.

Q. You say you tightened the gas fixtures at that time?

A. Yes, sir.

Q. Do you know whether those gas fixtures there were new?

A. Many times in a house we will find one cock that is always used, a little loose--loose enough to flash a match from and so I didn't know what they got their odor from.

Q. Isn't there always a smell about the fixtures in a house

where gas is used? A. Not necessarily so. Sometimes they think it is gas when it isn't; burning gas throws off an odor they think is gas.

Q. You have been called in a number of ~~cases~~ cases where they thought gas was escaping in a house and found gas escaping there at different places? A. We have had complaints sometimes when they thought it was gas and we would find nothing more than a new carpet or something like that.

Q. Your imagination has a great deal to do with it?

A. The imagination goes a long way in the smell of gas.

Q. You were called to the Bradley flats for an examination of their fixtures? A. That I could not say whether from the Bradley or from what house. I don't know what it was.

Q. Previous to the explosion or possibly ten days before, had you ever been called to any place but the Cummings flat?

A. I don't think so; I don't think I had been there on any kind of a job. I may have been there within ten days or I may not.

Q. It was about a month after the explosion you examined this meter referred to as 1402? A. If that is the date, I don't remember the date.

Q. About how long after the explosion did you examine that meter? A. It must have been about a month, because I was naturally there with the work I had been doing.

Q. How was the entrance to that meter room? A. How?

Q. Was it locked up at that time? A. Yes, sir.

Q. Was there a door placed upon there? A. A door and a lock on it.

Q. Was the hole in the meter discernible to the naked eye?

A. No, I could not get in to see it.

Q. Did you find the hole yourself? A. I find right where the odor of gas came from, I didn't see--I didn't say I saw the hole, I saw just where the gas came from and I came to the conclusion that that was where the leak was, where the odor was strongest.

Q. You don't know of your own knowledge that a hole was there?

A. I couldn't see through the meter.

Q. You had never seen the hole at any time? A. Yes.

Q. When? A. In Court.

Q. When was that in reference to the time you made the examination? A. I don't know when; Mr. Linforth had me brought in when he brought suit against the gas company.

Q. Was it a couple of months later? A. A year, I guess.

Q. Did you ever make a test of the meter in there at any time before the explosion? A. No, sir.

Q. Did you ever test the pipes in the Linforth flat at any time before the explosion? A. No.

Q. As to whether there was any leak in there or not?

A. There were several gas grates and we tested them all. We took them all apart and put them up again after the explosion.

Q. Not before? A. No.

Q. You never, then, to your knowledge, tested the pipes before the explosion? A. Nothing, only to go through with a

match and see if there was any leak, when there was a complaint.

Q. Did you ever find any leak at those times? A. Oh, sometimes, we might find a leak or two.

Q. Do you recall at any time that you found a leak before the explosion? A. I think we found two or three probably.

Q. Where were they? A. On the chandelier ~~stands~~<sup>hook</sup> it was leaking a bit and we would fasten it up something like that, it wouldn't amount to anything.

Q. You say when you went in there, some few days before the explosion, did you say, two or three days before? A. Three days before.

Q. Where did they complain that the leak was coming from at that time? A. They said the odor was strongest in the front part of the building.

Q. Who said? A. The old man that was around there; the general man about the house; I believe he cooked or something; I believe they called him their uncle.

Q. Did he smell it at the time you were there?

A. No, they couldn't find anything. Mrs. Cummings was away and she was the only one who seemed to know anything about it.

Q. How long was it after you arrived that you received notification that gas was smelling there? A. That I don't know; just as soon as Mr. Gilley told me.

Q. On the same day? A. Yes, sir.



- Q. How long after Mr. Gilley told you ? Three or four hours ? A. No, something--a couple of hours at the most.
- Q. Did you find anything the matter at all ? A. Nothing that I could find.
- Q. You did not notice any smell at all when you were there ? A. No.
- Q. If there had been any quantity there, you would have known it ? A. The doors were all open and the youngsters were running in and out of there--about a dozen I guess, coming in from school.
- Q. (Interrupting) The doors were all open, you say ? A. At that time when I was there.
- Q. You say there were several children in the Cummings Flat ? A. I think there were anywhere from half a dozen to a dozen.
- Q. There seemed to be many children living in those flats ? A. There seemed to be.
- Q. You are satisfied there were a dozen children in those flats ? A. I don't know how many; there seemed an awful lot.
- Q. What was the height of the basement you were in ? A. The ground is sloping. The building is on a side hill so that part-by getting my head between the joists I could stand up straight.
- Q. At the point where the victims were situated, how high was the ceiling ? A. I don't think you could stand up straight.
- Q. You would judge it in the neighborhood of four feet ? A. Yes, I think it would go four feet and one half, but there

were a good many pipes in the basement, water pipes, etc., and it kept a fellow dodging pretty well to stand up in there.

MR. VAN DUSEN: That is all.

RE DIRECT EXAMINATION.

BY SHUTRIDGE.

Q. On this occasion that you went up to the Cummings flat two or three days before the explosion did you go into the basement or meter room on that occasion? A. No.

Q. And you say you didn't see the hole in the back part of the meter at the time you discovered the leak. Was that because you could not get your head down in between the back of the meter and the building? A. Yes, sir.

Q. If it had not been for that you could have seen the hole? A. Yes, sir.

Q. You have no doubt but what there was a hole in that meter; if you could have put your head over the corner of it?

A. I certainly don't.

Q. Counsel said to you, not having seen the hole, you did not know whether there was one there or not, and you said "no"; is it not a fact, from the smell you got from that meter you know there was a hole? A. I said you might smell something--refuse on the meter--and the odor would smell like gas.

Q. Was that so in this particular case? A. I don't think it was.

Q. Don't you know that it was not? A. I know it was not.

MR. STORREDAIDG: That is all.

MR. VAN DUYN: That is all.

(SIGNED) B. E. Lewis.

F. A. GILLEY

Called for the defendant, sworn and testified as follows:-

DIRECT EXAMINATION.

MR. SHORRIDGE:

Q. Your name is F. A. Gilley ? A. Yes, sir.

Q. Where do you reside, Mr. Gilley ? A. 830 Church Street.

Q. Your business ? A. Plumbing and heating.

Q. How long have you been in that business ? A. About 35 to 36 years.

Q. You remember, don't you, the building at the northwest corner of Washington and Leavenworth Streets owned by Mr. Linforth ? A. Yes, sir.

Q. You heard the testimony of the preceding witness, Mr. Lewis ? A. I did.

Q. Do you recall the circumstance of the explosion in that building in the month of November, 1906 ? A. I do.

Q. Was Mr. Lewis working for you at that time ? A. He was.

Q. Do you remember the circumstance of Mr. Lewis hunting for a gas leak in the meter room of that building after the explosion ? A. I do.

Q. Sometime the following month ? A. I do.

Q. Were you present at the time, or shortly after the time the leak was found ? A. Yes, sir.

Q. Who else was present there, Mr. Gilley ? A. Mr. Linforth came soon after I got there.

Q. What means was being used by your man for the purpose of



locating that leaking gas in that meter room ?

A. Mirror, a little hand mirror, taking the reflection of the light.

Q. Reflecting the light upon the pipes or meters that they were searching ? A. Yes sir.

Q. And then what else was used in connection with that process ? A. Well, most always soap and water is used.

Q. That is, the meters and pipes were being soaped with a brush with soap and water on them, which forming a bubble on the metal would enable you to locate where the gas was escaping ? A. Yes sir.

Q. You say that is the usual way of locating gas leaks in meters and pipes ? A. Yes sir.

Q. Do you know whether or not a leak was found and the place of leak discovered ? A. Yes sir.

Q. Do you remember where it was the leak was found and discovered ? A. In the back part of the meter.

Q. Do you remember whether it was the meter which supplied No. 1402 Washington street, the flat the Linforths had just moved in ? A. Yes sir.

Q. Was it possible on account of the position of the meter against the wall to see the hole itself ? A. It was impossible to locate the exact spot of it on account of the pipes and connections and the distributor to allow a person to get in far enough to see well.

Q. The back of the meter was how close to the wall side of the building ? A. The back of the meter was within an

inch and a half of the joists and the joists are four inches.

Q So it was impossible to put your head back and see the hole? A. You couldn't get back far enough; even if the space was great enough you couldn't get back there far enough on account of the pipes.

Q The pipes, you mean connecting the meter with the house pipe and with the gas company's service pipe? A. Yes sir.

Q After the leak was discovered in the back of this meter did you put your head over there and verify what was said to you on the subject? A. I did.

Q Did you notice the odor of gas coming from the back of that meter? A. I did.

Q Strong? A. Very strong. I have just one statement to make in regard to the difficulty that was experienced in finding that leak. It was because of a register or ventilator plate in one corner of the building and the entrance door being east of one of the meters and being open gave a draught across there that put the gas out while they were searching in the meter room. That is an explanation that has never been given or anything like that but that is an explanation why it wasn't found sooner.

Q That took considerable time to locate it? A. Yes, it did.

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Mr. SHERMANS: That is all.

Mr. VAN DUXH: Q How long before the explosion, Mr. Gilley, did you examine the pipes in the house and the meter, etc. at any time? A. If any one had a complaint and they telephoned down to me either from Mr. Binforth or any of his tenants I most invariably sent Mr. Lewis there as he was familiar with the building. I ordered him to go up there and make a report.

Q You never made any examination yourself, after the explosion? A. I usually left that for Mr. Lewis. On the same day of the explosion I was at the building. I don't know just how long after but as soon as I got word of it.

Q Did you notice anything about the gas pipes at that time in the Bradley vestibule? Where the fixtures were?

A The gas pipes were sheared off.

Q About what was the diameter of these pipes that were sheared? A. One inch or an inch and a quarter.

Q You recall the leader pipes -- I am not familiar with the term -- A. (Interrupting) Yes, the supply pipes.

Q The leader pipes are about the same thing? A. The same thing.

Q About how many pipes in the neighborhood of the vestibule did you notice as having been broken at that time, Mr. Gilley? A. I think there were three.

Q Were those all leader pipes? A. All gas pipes leading to the different flats.

Q Those were all broken in the neighborhood of the vestibule -- down stairs vestibule? A. Yes sir.

- Q Were the upright pipes broken or transversely? A. The horizontal pipes were sheared off.
- Q In the neighborhood of the ceiling of the vestibule?
- A Immediately over the ceiling.
- Q Where do the leader pipes go? A. I presume you mean the vertical leaders; I was speaking of gas pipes.
- Q The main supply pipes? A. Speaking of leader pipes we always couple leaders with (rain water) -- but the gas service pipes for the building they run horizontally in combination in the net or race and then up. In the Cummings parlor partition and vestibule -- part of them in the parlor and part in the vestibule -- you see these pipes went up. They could not all go up in a confined space! They were spread out; some of them went in the partition between the Cummings flat and the vestibule of the entire building.
- Q Which was known as the outer vestibule? A. Yes sir.
- Q These vertical pipes leading up, if you remember, how many were broken? A. I think three. I am not sure in regard to it, but I think there were three were sheared right off.
- Q But of course, when you put them in they were good solid pipes? A. Absolutely so.
- Q They were evidently broken by the force of the explosion that took place on the 17th of November, 1904? A. Yes sir.

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Q Were you ever in the basement around the meter previous to the 17th of November, 1904 making any examination of the meters? A. I don't remember.

Q You don't remember being there personally? A. No.

Q Did you receive any complaint, Mr. Gilley, from any of the tenants of Mr. Linforth previous to the explosion?

A I might.

Q In regard to the leaking of gas there, Mr. Gilley?

A If there should one of these little valves become loosened or anything like that would give a small odor of gas.

Q Is that an unusual occurrence to have happen in the house to your own knowledge? A. No, it is not.

Q Where do most of the leaks occur? A. In the chandeliers.

Q The chandeliers not being tight enough? A. In not being tight enough and becoming shaken from turning on and off.

Q And the gas which comes from the fixtures in that position would be strong enough or not very strong? A. Not very.

A Where the fixtures are screwed on there would be just a little leak -- just enough to give an odor and make it noticeable.

Q Practically all you know about the meter 1402, is what you discovered with the monkey on that day on or about the 10th of December, 1904? A. All we know is that we had considerable difficulty in finding the place and time and

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time again I had sent a man up there.

Q Of your own personal knowledge and an examination of the meter -- you never had made an examination before the 17th of November, 1904? A No.

Q And it was not until a month afterwards you made an examination and at that time you found what was called a pin hole perforation? A Yes, a case of rust.

Q Was that hole to be seen by the naked eye? A No, it was almost an utter impossibility to get the range of the leak.

Q The usual way of discovering these minute leaks is by soap suds and water so that a bubble will rise up?

A We would apply soap and water to the outside of the meter and that we couldn't get at.

Q Do you know whether Mr. Linforth used any gas or any of his tenants used gas after the explosion? A Yes sir.

Q They used it for some time? A They used it for cooking, most of the tenants for cooking -- they used gas.

Q And during the interval from November 17th to December 10th, 1904, or whenever you made this examination was there frequent complaints from the tenants in Mr. Linforth's house?

A There was never a complaint from the time of the explosion up to the time that Mr. Linforth had the gas turned on in the flat he occupied.

Q So it was about three weeks between the time of the explosion - after the explosion and when you made this examina-

tion, providing that was on or about the 18th of December?

A. Yes, on or about that.

Q. So far as you know nothing had ever been done to the meter during that time, from November 17th 1904 until the time you examined it and found this hole? A. There had been not been a meter touched there in that basement.

Mr. VAN DUSEN: That is all.

RE-DIRECT EXAMINATION.

Mr. SHORRIDGEE: Q. That is, of course, to your knowledge?

A. To my knowledge.

Q. You don't know what some one else may or may not have done?

A. That I mean -- to my knowledge -- some of the meters run there right along.

Q. You say if you remember correctly, you were not certain about it, that there were three of the vertical pipes which ran from the meters up to the studding, between the vestibule and the Cummings parlor, broken? I now, for the purpose of refreshing your recollection, call your attention to defendant's exhibit S.F.No. 3 which show these riser pipes and ask you, after looking at that picture, if you could state how many were broken, that is, of the vertical pipes? A. I don't know if any vertical pipes were broken. It is a branch here (indicating) I did notice some of these sheared off.

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Q. Then, when you answered that three of the vertical pipes

were broken, you misunderstood the question. You examined three leader pipes which fed the upper flats with gas which ran along the vestibule? A. Yes, that is, I did, the horizontal pipes, the service feed pipes that left the ceiling, caused by the rasing or shattering of the second floor joists, wherein these pipes were notched; notched right into it, where the pipes for the gas drop in the separate vestibule walls. These pipes were threaded and the thread was the weakest part and as many of those as were in that bunch were broken off.

Q. That is the only thing that you referred to? A. There was one vertical pipe broken; the rest were horizontal.

Q. That is all.

Mr. VAN DUSEN: That is all.

F. A. Gilley.



At this point the defense announced that it had no further testimony to offer pursuant to the motion heretofore issued to the Honorable H. I. Mulcahy and the taking of testimony is closed.

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

I, H. I. MULCAHY, County Clerk of the City and County of San Francisco and Ex Officio Clerk of the Superior Court of the State of California, in and for the City and County of San Francisco, a resident and citizen of the City and County of San Francisco, State of California, and a Commissionery appointed on the 13th day of June, 1907, to take depositions of F. W. Bradley and others of the City and County of San Francisco, State of California, do hereby certify that the witnesses, F. W. Bradley, Tracy Cummings, J. H. Bailly, Walter H. Linforth, Mrs. Charles Richard, Mrs. Lucy Ardell Cummings, Mrs. Josephine Linforth, John J. Sakelman, Thomas Conry, John W. Barry, William L. Walsh, J. V. DeLavenne, Dr. Elmer Kelly, Peter William Boyle, G. A. Cragson, Bert K. Lewis and F. A. Gilley, were called as witnesses on behalf of the defendant, William D. Haywood, and each of said above named witnesses before testifying, was by me duly sworn to testify to the truth, the whole truth and nothing but the truth in said cause.

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That the plaintiff was represented by O. H. Van Duzen, Prosecuting Attorney for Canyon County, State of Idaho and the defendant, William D. Haywood, was represented by S. M. Sherbridge, Esq., and Fred Miller, Esq. and said depositions were taken upon oral interrogatories propounded to each of said witnesses by respective counsel; that said depositions were taken commencing on the 30th day of June, A.D. 1907, at the hour of 10 o'clock A.M. and were continued from time to time over night and Sundays thereafter until completed on the 30th day of June, A.D. 1907m said testimony being taken between the hours of 10 o'clock A.M. and 5 o'clock P.M. on said days.

That it was stipulated between the respective counsel that the testimony may be taken in shorthand by K. Kimberly and thereafter reduced to writing by her and submitted to said witnesses for correction and signature and that the same need not be signed in the presence of the Commissioner, but at the respective places of business of the said witnesses or at the office of S. M. Sherbridge, Esq., 1101 O'Farrell Street, in the City and County of San Francisco, where it was stipulated that said depositions, for the convenience of the parties and counsel, may be taken. That each of said witness, with the exception of J. V. Delavonga signed their said testimony, and the same was by them or under their direction corrected to correspond with the testimony which they had given, and then read by them.

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I further certify that there was introduced in evidence on behalf of the defendant, William D. Haywood, exhibitmarked Defendant's Exhibit S.F. Nos. 1, 2, 3 and 4.

That said depositions were taken at the office of S. W. Shertridge, 1101 O'Farrell St. in the City and Co. of San Francisco.

I further certify that K. Kimberly, the stenographer, taking said depositions, is a disinterested party and that the foregoing is a transcript of the shorthand notes of the said stenographer, corrected as aforesaid by said witnesses.

IN WITNESS WHEREOF I have hereunto set my hand, this        day of July, A.D. 1907, at the City and County of San Francisco, State of California.

H. I. MULCRONE.

County Clerk of the City and County of San Francisco, and Ex Officio

(Official Seal)

Clerk of the Superior Court of the Superior Court of the State of California in and for the City and County of San Francisco, and Commissioner appointed herein.

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.

STIPULATION TO TAKE DEPOSITION OF WITNESS

ON BEHALF OF DEFENDANT, HAYWOOD.

It is hereby stipulated and agreed by and between the  
attorneys for plaintiff and defendant, William D. Haywood et  
the City and County of San Francisco, State of California, to  
the deposition of W. A. Abernethy, a witness on behalf of the  
defendant may be taken before H. H. Trent, a notary public  
in and for the City and County of San Francisco, State of  
California, at his office, 1101 O'Farrell Street, in said  
city and county, on the 20th day of June, A. D. 1907, begin-  
ning at the hour of 1.30 P. M. of said day; and if said depo-  
sition is not completed on said day, the taking thereof may  
be continued from time to time until completed.

It is further stipulated that the notice of time and  
place of the taking of said deposition is waived and it is  
agreed by the respective counsel that said deposition may be  
taken at said time and place under said stipulation; that  
the issuance of a commission by the Judge of the District

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Courtes of the Third Judicial District of the State of Idaho,  
in and for the county of Ada is waived and said deposition  
when taken may be used in all respects as if a commission  
had been regularly issued by said court, directed to the said  
R. E. Treat.

It is further stipulated that all objections as to the  
relevancy, immateriality and competency of said evidence  
may be made when said deposition is read in evidence, the  
same as if incorporated in the record at the time of the  
taking of said deposition. This stipulation is made sub-  
ject to approval of Jas. H. Hawley of counsel for the state  
and to be void if not approved.

It is further stipulated that said deposition may be  
taken in shorthand by Ida M. Ansell and afterwards reduced  
to writing by her and signed by said witness.

Dated:- This 23th day of June, 1907.

O. M. Van Dorn  
Of Counsel for plaintiff.

Fred Miller

Of counsel for defendant

William D. Haywood.

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 E. A. ABERNETHY.

Be it remembered, that, pursuant to the annexed stipulation and on the 29th day of June, A. D. 1907, the deposition of E. A. Abernethy, a witness on behalf of the defendant William D. Haywood, was taken before the undersigned notary public at his office, 1101 O'Farrell Street, in the City and County of San Francisco, State of California, beginning at the hour of 1.30 P. M. of said day.

The plaintiff was represented by O. H. Van Dorn, Prosecuting Attorney of Canyon County, State of Idaho; and the defendant William D. Haywood by Fred Miller, Esq.

It was stipulated by the respective counsel that the reading over question and answer to the witness be waived.

W. A. Abernethy, a witness called on behalf of defendant William B. Haywood, after being first duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Miller.

Q. State your name, age, place of residence and occupation?

A. W. A. Abernethy; sixty-four; contractor; 1343 Geary Street; San Francisco, California.

Q. Where were you living during the year 1904?

A. You want to get to a particular time. Most of the time I was in Alaska, but at the Lick House in part of October, November, December, January and on up to the earthquake. I always made the Lick House my headquarters. That is on Montgomery Street.

Q. What is the Lick House?

A. It is a hotel, what you might call--the Palace is first class and the Lick would come next to it.

Q. Were you ever engaged in mining business in the State of Idaho?

A. I was, up near Burke, Idaho, with Sam Sherton. First of all we had a claim called the "Ben Harrison," and then another called the "Little Chup." We had that bonded from Pat O'Neil. I think that was his name. Anyway he was ex-sheriff of Spokane County.

Q. When did you quit? A. Well, that must have been about '02 or '03, I would not say which, in there somewhere. The miners drove our men out of Burke, Idaho, on account of not

belonging to the Union.

Q. With what contracting company are you connected now ?

A. The Standard Building Company.

Q. Where are you engaged in business ?

A. In San Francisco. I was engaged in mining for years after that and will be again after next year anyway.

Q. Did you at any time meet a man in San Francisco by the

name of Orchard ? A. I was introduced to a man of the name of Orchard by Captain Gamble. That was some time in November, 1906.

Q. State the circumstances under which you met him ?

A. Captain Gamble brought him down and introduced him to me as a gentleman who had a silver-lead proposition in the State of Idaho in the Coeur d'Alene District, some time in November I think. I kept no dates but it was close on to the time the explosion was up here when Bradley was hurt.

Q. Do you remember the occasion of the explosion when F. W. Bradley was injured ?

A. I was somewhere between Larkin and Van Ness on either Post or Geary or O'Farrell Street at the time of the explosion.

Q. When was this conversation--relative to the time of that explosion ? A. It was pretty close to it and right before it I think. But I kept no dates and there was not much impression made on me at the time.

Q. State what, if any, conversation occurred between your-

self, Mr. Orchard and Captain Gamble ? A. We sat down in



the lobby and he stated that he had this proposition in Idaho, but not under bond, but could get it, and from the talk that I had with him it would require about one hundred dollars expense money. He said it would take about one hundred dollars that he would need to go up there and secure this property, and I told him I did not care about going into the proposition that way, and then he spoke about being in Coeur d'Alene and I related my experiences to him up near Butte, and then he brought up that his partner had made a mint of money and was very wealthy up there and if it had not been for that son of a bitch Steuinsenborg he would have been wealthy, and then we talked maybe a minute or two longer right on the same subject and then he made the remark, "I will fix that son of a bitch if I get a chance," or something to that effect. I think he said "I will fix him, the son of a bitch." Anyway it was words to that effect. Then we went into the other room from there, the four of us, into the bar room, and I do not know if we had a cigar or what, but we had something and then sat there and talked five or ten minutes longer just on mining. I could not say what was said there.

Q. Did he say anything about his financial condition at that time? A. Only I thought he was down pretty low when he wanted a hundred dollars to go up there. I got my inference from that, that he would require money to go there and get the property.

Q. I show you a bunch of photographs and ask you if you can pick the man Orchard out of that bunch. A. That one--his chin is too short. If that one had a collar and mustache on, it would be the best picture of the two. You do not take much notice of a man when you meet him like that, but I should say offhand if you could get a combination of those two pictures it would make the man. This is too good for him.

Q. Did the Orchard you met have a mustache? A. He had a mustache.

Counsel for defendant here offers in evidence the picture referred to by the witness, which is marked "Defendant's' Exhibit San Francisco No. 5"; to which counsel for the State objects as not being properly identified.

Q. Who was present, if any one, aside from yourself, Orchard and Gamble? A. Now, there was four of us, because it cost four bits when we went to the bar room. I think it was John Lermer, but I would not say for certain.

Q. Where is Captain Gamble now?

A. Captain Gamble was killed in the earthquake.

Q. Where is the other party? A. The other party is in town. I have not seen him for two or three months but I know he is in town. I think that was the man. I went away for certain.

CROSS EXAMINATION by Mr. Van Dorn.

Q. What time was it that you had this conversation with Mr.

Orchard - in reference to the explosion, before or after ?

A. I should say it was before. I have no date or anything to tell. I was there for two or three months.

Q. Do you know whether Mr. Orchard was staying at the Hotel

Lick at that time? A. I do not think he was staying there at all, for it was too high priced for him.

Q. What month do you think it was ? A. I should say November.

Q. As to being there before or after the explosion, you want say for certain ? A. I would not say for certain.

Q. Who was Captain Gamble ? A. He was a son of General Gamble of the United States Army in the war of the Rebellion, and a West Point man himself. I guess he went down the line in drink and left the army anyway.

Q. What was his occupation ? A. He was mining.

Q. Under what name was Orchard introduced to you ?

A. He was introduced to me as Orchard.

Q. Harry Orchard ?

A. I would not say Harry, but just Orchard.

Q. Did he have a mustache ? A. In my memory ~~was~~ is right he did.

Q. What was the general description of the man ? A. I am the poorest hand at description you ever came across. I should say he was a man about my size.

Q. What weight is that ? A. I weigh now somewhere between a hundred and eighty and a hundred and ninety.

Q. How was he in regard to being stout built or thin ?

A. I do not think he was as heavy across the shoulders, still he may be. You don't pay much attention when you meet a man.

Q. Do you remember what time of day it was, in the morning or afternoon ? A. It was in the morning.

Q. How long before the lunch hour ? Do you remember ?

A. Anyway after nine o'clock and before eleven.

Q. How long was you in conversation with him ? A. It may have taken three quarters of an hour.

Q. As near as you can remember, John Lowmex was there ?

A. As near as I can remember. I want say for certain, but I know, I am certain there were four of us at the bar.

Q. Captain Garble was present and as far as you can remember there was another man present whom you do not remember at all ? A. I would not say who was present, but there were four of us went into the bar room.

Q. Did Captain Garble speak of having known Orchard before ?

A. No. He would bring men in every two or three days who had mining propositions. During that time I was promoting.

Q. During the three quarters of an hour concerning which you have testified as having talked with Mr. Orchard, what other subjects of conversation were mentioned besides mining ?

A. Nothing outside of his partner being wealthy, but was all pertaining to mining.

Q. Did he tell you where he had come from ? A. I did not ask him about that.

Q. You do not know whether at that time he had come from Denver ? A. No. I only knew he said he had property in Coeur d'Alene.

Q. Did he tell you where that property was ? A. No, sir.

Q. As I understand, he wanted an advance of one hundred dollars to go up there and secure the property ? A. He said it would cost a hundred dollars to go up there and get the bond if it could be got.

Q. Did he describe the property ? A. No, he did not.

Q. He just mentioned that he had a silver-lead proposition ? A. No. That he could get it.

Q. Did he tell you anything about his financial condition at that time in other words ? A. No. The only reason I judged it at all was on account of his saying it would cost one hundred dollars.

Q. Did he say anything about Mr. Bradley at that time that you remember ? A. Not that I remember. He might have, but I would not say. He was very bitter against Steunenberg.

Q. When did you first recall the conversation, Mr. Abernethy ? A. At the time it passed out of my mind altogether, until reading of your gentleman coming down here to take these depositions. I went right away in April or May following up to Alaska.

Q. You had not thought about the matter until you read it in some of the San Francisco newspapers during the month of June, 1907 ? A. Yes.



Q. With whom did you communicate after having read the matter ? A. I talked it over in the building with C. Goodfellow, and then the next thing I saw Mr. Miller and Mr. Griffith came with him.

Q. You told Mr. Goodfellow about the matter and shortly afterwards Mr. Miller came round to speak about the matter ?

A. I think the first I spoke about it was last Monday or Tuesday.

Q. About what date did you have the conversation with Mr. Miller ? A. Last night, was it not ?

MR. MILLER: Yes.

Q. That was your first conversation--last night ?

A. He came and wanted me to go up there and I told him I could not spare the time to go up.

Q. That was Mr. Miller, the attorney here ? A. Yes.

Q. During the year 1904, as I understand, Mr. Abernethy, you were engaged in the mining business and that consisted of the selling and promoting of mining stocks. Do I understand ?

A. I was engaged with George W. Dutton to open up a property on Iliamna Bay at Alaska.

Q. That was 1905 ? A. In 1905 I went up with a crew of men from Seattle to open up a copper proposition with George W. Dutton at Iliamna Bay.

Q. Where were you during 1905 ? A. I made two trips up there. Each trip would take a month to go and a month to come.

Q. I mean by that, where were your headquarters ?

A. The Lick House. Whenever I came down it was the Lick House.

Q. In 1905 what was your business ? A. In 1905 I was at Kayak, Alaska.

Q. Who were your associates ? A. Harry White at Seattle.

Q. Who else ? A. Of course, there were three Whites, George and John and Harry. And then there was S. B. McFarland of Portland. There were some parties in Los Angeles, Florence Arata.

Q. What is his address ? A. His address is Los Angeles, that is all I can give you.

Q. During the year 1904 with whom were you associated in business ? A. The same ones.

Q. During November, 1904, how long were you at the Lick House ? A. I think I was there all of 1904 way along maybe till April 1905.

Q. You were continuously there during the fall of 1904 ?

A. Practically. I went away for two or three days.

Q. Who was the proprietor of the Lick House at that time ?

A. Now I won't tell you that. It is not Buchbann, but something like that.

Q. Did you know anyone working around the hotel at the time--

clerks ? A. Alonso Hardy's brother of Spokane was Bookkeeper and knows me well. They all know me, every way on the place there, but I do not think I ever called a clerk or any of them by name.

Q. You do not recall at this time any of the clerks' names ?

A. No, I do not.

Q. Have you at any time, Mr. Abernethy, been a member of a labor organization ? A. No, sir, I never have. I never belonged to a Union in my life.

Q. As I understand it, not now ? A. No, I have always been it in for myself.

Q. At the time that you had the conversation with Mr. Orchard did you know that Mr. Steunenberg at one time had been the Governor of the State of Idaho ? Did it strike you as unusual that a man would say anything of the kind that Mr. Orchard did about him ? A. I thought the man was put out on account of his saying that he lost a fortune for him. I only set it down as kind of hot air.

Q. You did not think he meant it at the time--in regard to your belief ? A. I did not believe one way or the other.

Q. You thought it was a general statement of a man who was rather disgraced about something ? A. He was pretty earnest about it.

Q. He was pretty earnest about it. Did he look serious at the time ? A. Yes, he did. He looked serious.

Q. Did you communicate what Mr. Orchard said to anyone else ?

A. I do not think I spoke a word about it only to Mr. Goodfellow.

Q. What I meant, Mr. Abernethy, was had you informed anybody about the conversation up to the time of June, 1907 ?

A. I did not.

Q. As far as you recollect, Mr. Orchard did not say anything about any other mining man at that time? A. No. He did not. You asked me a question about Mr. Steunenberg a little while ago that I did not answer. I knew he was governor or had been.

Q. As far as you remember, Orchard did not say anything about an explosion. He did not mention that. A. No.

Q. I presume you are inclined to believe it was before the explosion you had this conversation. A. My opinion is that it was before the explosion.

Q. Did you at any time meet Orchard again after that conversation? A. Not that I know of.

Q. I presume you are sure that you never had any conversation with him afterwards. You would very probably have remembered it if you had had another. A. I would. You asked me about the explosion. I was then within some seven or eight blocks when that happened. I was the same distance off in Spokane when an explosion of gasoline gas there killed that woman on Howard Street, and there was a great similarity in sound in these two.

The counsel for plaintiff at this time asked that what he has gone before be struck out in that it is in no response to a question.

Q. Do you know Mr. Loromet's address? A. He has an office in San Francisco. He is an architect.



Q. Did Mr. Garble state to you what was the purpose of introducing Mr. Orchard? A. He did not say anything about what the purpose was, only that Mr. Orchard had a silver-lead property that he could get. That is about the size and substance.

Q. Then you talked generally about the property and he said if that he had a hundred dollars he could go up there and get it.

A. In some way the hundred dollars came round.

Q. I understand Mr. Lorom is an architect in San Francisco at this time? A. Yes.

RE-DIRECT EXAMINATION:

Mr. Abernethy, you say you heard the explosion at the time Mr. Bradley was injured. How far were you away from it?

A. I will have to give you about where I think I was. That will be on -we will say West, Geary or O'Farrell Street and somewhere between Larkin and Van Ness. That is two blocks.

Q. That would be how far from the corner of Washington and Leavenworth? A. I should say, offhand, maybe six, seven or eight blocks.

Q. Was the sound of the explosion distinct? A. It was. Yes.

Q. Have you ever heard giant powder and dynamite explode?

MR. VANDUEN: I object to this question as being improper.

MR. MILLER: We recall the witness for the purpose of this question.

MR. VAN DUEN: We object to the witness being called.



Q. Have you ever heard giant powder and dynamite explode ?

MR. VAN DUIN: Same objection.

A. I have.

Q. Have you ever heard of it in quantities of five or ten  
seven pounds ? A. I have. I want say five to seven pounds.  
I have heard say thirty or forty sticks.

Q. What, if any, similarity was there between this and dynamite explosion ? A. I would not call any similarity between the two.

MR. VAN DUIN: Between what ?

Q. What, if any, similarity was there between the Bradley explosion and dynamite ? A. The Bradley ~~that~~ was more of a volume explosion, if you understand me. One is sharp and other more of a volume. I heard the explosion in '98, maybe '98, in Spokane when there was a woman killed on Howard St. That would be south of the railroad there.

Q. What kind of an explosion, by the way, was that ?

A. It was from gasoline gas and the woman was burnt to death. Any way there was a similarity between the two. Then about three months ago there was an explosion of sewer gas here. I was about six or seven blocks away, on the corner of Commercial and Dupont when that exploded and that was a similar explosion to this.

Q. Where and to what extent have you heard dynamite explode, that is, how frequently have you heard it ? A. In Spokane

I was building the Franklin School House and we used it there