

Location

Archives

State of Idaho

vs.

Steve Adams

1907

75

v.2
p.506-
1061

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DR. D. E. KEYS,

Called as a witness on behalf
of the State, and after being
first duly sworn, testified as
follows:

DIRECT EXAMINATION

BY MR. KNIGHT:

Q State your name, residence and occupation, please?

A D. E. Keys; Mullan, Idaho; Physician and Surgeon;
also Coroner of the county.

Q How long have you been Coroner of Shoshone
County?

A Coroner since 1903.

Q Where were you graduated, Doctor?

A St. Louis College of Physicians and Surgeons, '93.

Q 1893?

A 1893.

Q Been practicing ever since that time?

A Yes, sir, more or less.

Q You are regularly admitted as a physician in the
State of Idaho, are you?

A Yes, sir.

Q During the fall of the year 1905, were you called
upon, in your official capacity, to investigate the death
of one Fred Tyler?

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A Yes, sir.

Q Do you remember about when that was?

A I was called on the 26th day of July.

Q Twenty-sixth. Who called you?

A ~~xxx~~ I may have gotten the information on the 25th but I started on the 26th.

Q From where did you start?

A How is that?

Q From what place did you start?

A I started from Mullan.

Q And to what place?

A To the head of navigation, St. Joe.

Q And how far in did you go?

A I went to St. Joe only.

Q Who went with you?

A Deputy Sheriff Williams.

Q What did you do when you got to St. Joe?

A Well, we inquired, found out what we could about St. Joe and where the ⁷~~find~~⁷ was and I deputized Mr. Williams to go in and bring the remains out.

Q What did you do then?

A I returned to Wallace; returned home to Mullan.

Q You didnt wait at St. Joe for his return?

A No, sir.

Q Were the remains brought to you?

A They were brought to Wallace, to the undertaker's rooms, Mr. Wertzell.

Q When were they brought there, if you know?

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A They were brought there on---well, I was notified on the morning of the 29th.

Q Did you go and investigate these remains?

A Yes, sir, went down and examined them.

Q You made an investigation at Worstell's undertaking parlors did you?

A Yes sir.

Q Who was present when you made the investigation?

A Mr. Williams and Bruce Worstell.

Q And what did you find there doctor?

A We found a mass of bones and encased in some clothing and some flesh.

Q Where was the flesh on these bones?

A The flesh principally was on the back and around the shoulders; there was a little bit of flesh still sticking to the skull, and one foot that I remember of was pretty well intact; it was enclosed in a sock and the flesh was pretty well intact on that foot; and I think there was a little flesh on the hand probably.

Q And whereabouts on the skull was the flesh or tissue?

A Well, there was a little hair and some of the scalp was remaining on the back of the skull somewhere on the back and side, I think.

Q Any on the front part of the face?

A No, I don't remember seeing any on the front part of the face.

Q Not at that time?

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A No sir. The skull was very shiny and greasy and there was some contents inside, portions of brain membrane probably, that had undergone decomposition.

Q Somewhat nauseating at that time was it?

A Very.

Q Did you make a careful investigation of the remains?

MR. DARROW: Now, I object to the form of the question.

MR. KNIGHT: Q What investigation did you make, doctor?

A Well, we examined the bones as thoroughly as we could at that time; the stench was something terrible and we went over the bones pretty thoroughly.

Q Did you examine the skull?

A Yes, sir.

Q What was the condition of the skull when you examined it?

A Well, the jaw bone was, of course, disarticulated and was fractured in several places; one piece of the jaw bone was gone entirely; it looked as if it might have been broken in three pieces and the middle portion was gone; the rest of the skull was fractured around the base---very ragged fracture, sharp---the base of the temporal and occipital bones were protruding downwards, of course. The basilar portion of the occipital bone in particular was fractured, broken lengthwise; it is a small flat piece of bone that extends under the base of the skull.

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Q And could you distinguish on the basilar portion of the occipital bone or on any part of the back of the skull any marks of violence?

A Well, there was fractures; there was some fractures there. The occipital bone was fractured as I said; the basilar portion of the occipital bone was fractured lengthwise longitudinally; and there was a notch shaped fracture in the---I have forgotten just which side it was, but it was one side or the other, either right or left of the occipital bone and rather posterior; the occipital is the posterior bone of the head; it is the one back here, but the notch shaped cup was rather in---in the line and back of that bone and the bone was not entirely broken off; it was broken loose so you could push it in a piece and then it would come back ~~xxxxxxx~~ to its place again showing as if there had been force applied from the exterior. And then there was a like notch on the opposite side of the temporal bone, not a round one, but rather a cup shaped piece of bone was gone, cut out.

Q This back bone you say was near the median line of the occipital bone?

A Somewhere near the median line; it was on one side or the other, I believe it was on the right side. I had the skull at the time I examined it before.

Q I hand you Plaintiff's Exhibit 17, Doctor, this trial and ask you to examine that and the parts contained in it.

A The cup shaped wound that I have described to the occipital bone was on the right side. That would be just--- here would be the ear and that would be about two inches

back of the ear, back in here (indicating). Now, there is the notch and then right by the side of it, there was a piece of the bone that I spoke of that presses inward, but will not press outward (indicating). The internal plate of the skull there is intact while the outer plate is broken, the skull having two plates with some spongy tissue between, and they will press inward, but not outward.

Q Did you examine the top and sides of the skull thoroughly?

A Well, not this time, I did before.

Q Well, did you at that time?

A Yes, sir.

Q From the examination you made at that time, doctor, of the skull, what other marks of violence, if any, did you find?

A Why, on the parietal bone on the left side, I found a fracture extending from the suture where it connects with the occipital bone obliquely upward and forward in the parietal bone for an extent of about two inches up there.

Q From your examination of the skull, did you conclude or could you conclude what kind of wound had been inflicted on that head? (Exhibiting Plaintiff's Exhibit 17)

A This fracture has been broken from outside; that fracture has been caused from some source without.

Q What force, wound would cause that fracture?

MR. DARROW: I object to that; suppose it did cause it?

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Q From your examination of the skull, the external wound in the basilar portion of the occipital bones, and from the wounds in the temporal bones or the fractures, did you determine what caused the fractures in the skull?

A Well, it ~~xxxx~~ occurs to me that it is one of those explosive fractures---

MR. DARROW: Wait a minute; he asked if you knew.

A (Continued) that is caused from gun-shot wounds.
Is

Q ~~Was~~ there any other sort of wound, internal wound or internal force that could cause that wound in the parietal portion of the skull, other than a gun-shot wound?

MR. DARROW: I object. You mean anything the doctor knows about.

MR. KNIGHT: Yes, I do; I mean anything the doctor knows about.

MR. DARROW: Then I object to it on the ground that it is an incompetent question.

THE COURT: The objection will be overruled.
Defendant excepts and exception allowed.

A During life, I know of no other.

Q No other force could cause it?

A No other force than what I have described, what we call the hydro-dynamic action.

Q What is hydro-dynamic action?

A Hydro-dynamic action is the action that a projectal will have on a container full of a liquid or semi-liquid substance, such as water, wet plaster or brain, or anything of that kind. It is a law of physics that a liquid or semi-liquid substance will transmit pressure in every

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direction without loss; it applies in this case.

Q And what is the physical condition of the contents of the skull?

A Well, it is a semi-liquid condition.

Q Semi-liquid condition?

A In fact, a great portion of it is liquid; all of the cavities are filled with cerebro-spinal fluid, which is like liquid.

Q And do you conclude as to whether or not the wounds there were produced by a gun-shot wound?

MR. DARROW: I object to that question; it is leading.

MR. KNIGHT: Probably leading, Mr. Darrow.

THE COURT: Yes, I will sustain the objection.

Q You say you found some wounds in the jaw bone?

A Yes, sir.

Q Fractures. Lower or upper jaw?

A The lower jaw was fractured and broken.

Q Did you make a careful examination of these fractures?

A Yes, sir.

Q Did you conclude as to whether they were broken from within or without?

A Well, they are broken from without---

MR. DARROW: To that I object---well, go on.

THE COURT: Objection withdrawn, I suppose.

MR. DARROW: Yes.

A From the angle of the fractures when the bones are put back in their normal position, I am led to believe that the force was from without.

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Q I believe you stated you were also led to believe that the force which caused the wound in the occipital bone was from without?

A Yes, sir. In this inferior maxillary I had reference to this bone at the center of the jaw; the fracture at the center of the jaw indicated that it was broken from without, while the one on the side we cannot determine about because one piece is gone.

Q Cant determine whether that was broken from within or without then?

A I cannot. I dont know whether the other piece is here. There was one piece gone I know; this piece sets up there, corresponds to that one and there is a piece gone there of about an inch and a half.

Q Did you find anything else about the skull indicating violence in any way that you recall.

A Well, this---no, I think I have described all of them.

Q I will ask you, doctor, ---I believe you stated there was some hair and skin remaining on the back portion of the head or skull?

A Yes, sir, where the head had probably laid on the ground.

Q What was the condition of that hair?

A Well, it was all matted and wet and matted together in a solid mat there over this prominence on the occipital bone.

Q Rather coagulated mass, was it?

A Yes, sir.

Q Did you examine that mass of stuff?

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A How is that?

Q Did you examine that mass of stuff as to what caused the coagulation?

A Well no, I didnt examine it so carefully possibly.

Q From any examination that you made, did you or could you conclude as to whether it was blood or not?

A Well, I thought it was blood from the fact that it all hung together---it was somewhat---water wont adhere anything together as well as blood wlll; blood is somewhat viscid, mucilaginous.

Q Speak distinctly, every word, doctor, so the stenographer can get it all fully. Do you know what clothing there was there or anything of that kind, doctor?

A Yes, sir, I noticed the clothing.

Q What clothing was there?

A There was a pair of blue overalls and a pair of drawers. On the upper part of the body was just an under-shirt.

Q Do you know what was done with these remains?

A I turned them over to Mr. Wortsell with instructions to bury them.

Q Did you attend the burial?

A How is that?

Q Did you attend the burial of the bones in any way?

A No, sir,

Q What Mr. Wortsell did you turn them over to?

A Bruce Wortsell.

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Q Did you or did you not hold an inquest?

A I didnot.

Q You did not?

A No, sir.

Q Why didnt you, doctor?

MR. DARROW: I object to that; it is a matter of cross examination.

THE COURT: Objection sustained.

Q What was the condition of those feet you saw at that time, doctor?

A The feet was pretty well preserved, the one foot, and the other I dont remember about; I think it was disarticulated and the flesh was about all gone off of that; but one foot, I dont know just which one was encased in the shoes and socks.

Q Did you examine the cuticle and skin on that foot, the lower portion of it?

A No, I didnt at that time, not the feet.

Q After that time, doctor, did you see those remains again?

A At the time of the Preliminary I saw them.

Q You testified at the Preliminary examination, did you?

A Yes, sir.

Q Where were they then?

A Well, I disinterred them in the grave yard and brought them into Court at Wallace.

Q When did you disinterr them?

A Along the latter part of September, 1905.

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Q What time with reference to the Preliminary examination that was held up there?

A I think the examination had been in progress a few days.

Q It was during that examination, was it?

A I know I was in Spokane when they called me.

Q What time of day or night did you disinterr them?

A It was about seven o'clock at night.

Q Who was with you, if any one?

A Mr. Wortsell was with me.

Q Which Wortsell?

A Bruce Wortsell, and there were two men along, I never did know their names; they did the digging.

Q From what place did you disinterr them?

A I dont know. I should judge it was about a mile and a half out of town; I dont know in which cemetery it was.

Q Was it in a cemetery?

A Yes, sir, in a cemetery.

Q And what condition did you find them in at that time?

A Well, pretty much the same condition as this skull was it. The flesh was all gone and they had been buried in a very light box and the box was broken in and dirt had fallen in among the skeleton.

Q And how was the remains taken out of there; how were they gotten out of there?

A We dug down until we got down under one end of the box and raised it up a little; the bottom was loose and ready to fall out, then we slipped some ropes around under the box

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and raised it up as we would a coffin and put it into the wagon that way and drew it out.

Q You say you raised some dirt up with it?

A Quite a lot of it.

Q Lots of dirt?

A The box was full of loose dirt, just piled around in the bones.

Q Do you know whether you got it all or not?

A No, I couldnt say.

Q What did you do with those remains then?

A Took them down to Mr. Wertsell's and left them there until the next morning.

Q From your examination of that skull, which you hold in your hand, Exhibit 17, I will ask you whether or not you can identify that as the skull that was presented to you at Worstell's undertaking parlors, which you examined, and the one which you afterwards disinterred.

A Yes, sir, it is the same skull, I think. I want to get another piece here, if I can find it. Yes, that is the same skull.

MR. KNIGHT: We will offer this in evidence.

THE COURT: Put this with it.

MR. KNIGHT: We offer EXHIBIT 17 in evidence.

MR. DARROW: Well, there is an objection to it and we will let the Court pass on it now.

THE COURT: I think I will let it rest, subject to that objection, until Mr. Wertsell is called and not admit it at present.

MR. KNIGHT: It would seem to me that the doctor identifying it as the skull presented there by Mr. Williams, that maked an identification. However, we will have

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have Mr. Wortsell here.

MR. DARROW: We would want to have a record anyway. You can use it all you want to.

MR. KNIGHT: Q Do you know whether or not there was any mark of identification on the grave where that was found?

A Yes, sir, there was a head-board at the grave.

Q How was the head-board marked?

MR. DARROW: Wait a moment; I object to that.

MR. KNIGHT: That is one of the exceptions to the hearsay rule; we are entitled to show, as a matter of fact---

MR. DARROW: Head-board put up in a year, I should say not.

MR. KNIGHT: Head-board put up at the time of burial to identify the grave.

THE COURT: I think you can show that better by Mr. Wortsell. I will sustain the objection at present.

MR. KNIGHT: Q Doctor, I will ask you whether the wound that you have described upon the basilar portion of the jaw and jaw bone and that in the parietal bone would be sufficient to cause death?

A Would be sufficient?

Q Yes.

A Oh, yes, sir.

Q Instant or---

A (Interrupting) Yes, sir.

Q Instat death?

A Yes, sir.

Q Did you particularly examine the hands,

A No, sir.

Q The bones of the hand?

A No, sir, I dont think so.

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Q Do you know whether you secured from the grave all of the bones of the hands?

A I do not.

Q Immediately after that disinterment, did you examine the hand bones to see whether you had them all or not?

A We examined---yes, sir, examined what I had.

Q Did you have them all?

A No, I did not.

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E 1

-----CROSS-EXAMINATION

BR. MR. DARROW:

Q How long have you been coroner there?

A Since 1903.

Q You were well acquainted with Angus Sutherland, who was then sheriff?

A Yes, sir.

Q And with Mr. Williams, who was deputy sheriff?

A Yes, sir.

Q Mr. Williams, I understand brought these remains out?

A Yes, sir.

Q And gave them over to you?

A Yes, sir.

Q For what purpose?

A How is that?

Q For what purpose were they given to you?

A I suppose he thought that I was the proper authority to give them to.

Q To bury them?

A Take charge of them, hold an inquest, or bury them, or do what they thought best.

Q The law does not make it the business of a coroner to bury them, does it?

A No, sir; I never buried any yet.

Q The business of a coroner is to hold an inquest, is it not?

A Well, it is my business to dispose of the remains; but if there is no friend to do so the law specifies that the coroner should.

Q The first thing is to hold an inquest, is it not?

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MR. KNIGHT: I object, because the statutes themselves are the best evidence of what the law is.

MR. DARROW: I asked him what they were delivered to him for.

MR. KNIGHT: He has testified as to that.

THE COURT: Objection overruled.

Q How is that, Doctor; you know the duty of a coroner and the business of a coroner is to hold an inquest, don't you?

A Yes, sir.

Q When were those bones delivered to you?

A They were delivered to me on the morning of the 29th of July.

Q When were they disposed of?

A Soon after I examined them, that same day.

Q That same day, and you held no coroner's inquest?

A No, sir.

Q You had present with you the sheriff, or the deputy sheriff?

A Yes, sir.

Q And you folks went over these bones together, with the undertaker, and you held no coroner's inquest, and put them in a box and sent them out to be buried; is that right?

A Yes, sir.

Q Did you make any record of any of your proceedings in this matter?

A Yes, sir; I made a record, principally of the date; that is about all of the record I had.

Q On file in the office?

Keys X
B 3

A No, not on file in the office; I have it in a book that I keep the cases in.

Q There is no record other than the one filed in the coroner's office about this body at all?

A In my quarterly report there is a record of it.

Q There is a report, printed report of the business, isn't it?

A It is the business that goes through my office.

Q There is no record on file in the office, is there, no original record?

A Nothing besides that, no, sir; I consider that as a record.

Q When was the quarterly report made, with reference to this?

A The quarterly report was made---it would be made the 1st of October.

Q Have you a copy of it here?

A No, sir.

Q By quarterly report, you mean simply the printed report of the business of your office for the quarter preceding?

A Yes, sir, stating that I---

Q (Interrupting) You distinguish between that and a record of your office, don't you?

A Well, that is a part of the record of my office; it is not all of it.

Q Do you make a record of anything else?

A Yes, sir.

Q Do you consider the quarterly report of the inquests a part of the record?

Kays X
B 4

A No, it is not a part of that record, no, sir.

Q But if you take a body that you suppose has been killed and bury it without an inquest, then you consider, if it is put in a quarterly report, that is a part of the record, do you; that is the only record you have got?

A It is a record, yes, sir.

Q Did you talk with the sheriff about this?

A Yes, sir.

Q And the deputy?

A Talked with Mr. Williams and Mr. Sutherland.

Q And you informed them that you thought this corpse had come to its death by means of a gun shot wound?

A I don't know that I did at that time; no, sir.

Q Mr. Williams was right there?

A Mr. Williams was there, yes, sir.

Q Do you say you did not?

A Not at that time, I don't think.

Q Why not?

A I don't know why not particularly.

Q You didn't inform anybody of that?

A We talked it over there, about the probable cause of death.

Q You told them what you thought; didn't you?

A I guess probably I told them what I thought; I don't remember now.

Q You don't think this body was buried without the sheriff being aware that in your opinion it died from foul means, do you?

A No, sir.

MR. KNIGHT: Objected to as calling for only an opinion of the witness, being hearsay testimony, and not

proper cross-examination.

Q That is right, isn't it?

(Question and answer was then read by the reporter)

Q Doctor, you would not pretend to remember what clothing was on this body, would you?

A I remember some of it.

Q What do you remember?

A I remember the overalls very distinctly.

Q Anything else?

A And the drawers and the undershirt.

Q Were they on the body at the time?

A Yes, sir; they were on the body; one foot, from the knee down, was encased in the three garments, socks and drawers, and pants.

Q Those garments were on the body at the time, were they?

A Yes, sir.

Q How were they folded in?

A It was all gathered up in a mass, but the pants were on the leg, on one leg, the pants and the drawers and the socks and the underwear, enclosed the shoulders, the shoulder bones; we had to pull them out of the mass in order to get to see them.

Q Was there more than one undershirt?

A I don't remember but one.

Q Do you know whether there was or not?

A I do not.

Q Do you know whether there was an overshirt?

A There was no overshirt; I know that.

Q You don't remember but one shirt?

A I remember, I think there was only one undershirt.

Q How many pairs of stockings were there on this?

A There was only one.

Q Sure about this, are you?

A Yes, sir, I think so.

Q You think so?

A Yes, sir; I am sure.

Q And one foot, that the stockings were on, was fairly well preserved?

A Yes, sir.

Q The other was not; is that right?

A That is right.

Q And the color of the stockings?

A I don't remember the color.

Q Did you see any shoes?

A I saw a piece of one.

Q What did you do with it?

A I turned it in with the remains to the undertaker.

Q You say you carefully examined the skull?

A Yes, sir.

Q Did you see any bullet hole in it?

A I could not swear that I saw a bullet hole.

Q You could not. You could simply swear that there was a possible fracture. Whereabouts, please. Tell us now, in your own language, if you can?

A A possible fracture, on the right backward portion of the occipital bone.

Q Which is the occipital bone?

A The back bone in the head.

Q Back of the ear?

A It is further back; it is right on the back of the

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head, where this prominence is here, and runs around to back of the ear on each side.

Q You mean, square in the back of the head?

A Yes, sir; square in the back of the head.

Q How high up?

A It runs up to where it meets the parietal bone, two parietal bones that form the bridge of the skull.

Q So there was a wound there, was there?

A Yes, sir; there was a fracture there.

Q A fracture?

A A fracture.

Q Did you find the bones intact so you could put them together?

A No, sir; not at that place.

Q How much was lacking?

A Well, I don't know just how much was lacking.

Q You don't. Don't you remember about what was lacking?

A There was one piece of bone that was not entirely broken off that I saw; and this fracture was right to the edge of the occipital bone, the lower edge.

Q How much was out out, could you tell, from this skull?

A There was a little cup-shaped fracture, probably a half of an inch deep and about half an inch wide.

Q There must have been some part of the skull missing at that point, was there not?

A I don't think so.

Q If you had a complete skull, where a bullet hole had been shot into it, you could tell it, couldn't you?

A Yes, sir.

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Q Then, you did not have a complete skull, as to that part, did you?

A I think we did.

Q Well, you have just said you could not say for sure whether there was a bullet hole there or not.

A It was not a round hole; it did not have the entire circumference of the hole.

Q What part of a hole was there?

A The upper portion.

Q Can you find it there now?

A Yes, sir.

Q Suppose you show it to us?

(The witness takes skull and exhibits the point to counsel).

Q That is the hole you refer to, is it?

A That is the hole.

Q This piece?

A yes, sir.

Q You mean that?

A yes, sir.

Q Did you find the part that fits on to there?

A yes, sir; I did; it is in the skull.

Q It fits in there, does it?

A yes, sir.

Q Does it make a complete hole practically round there?

A I don't remember now; it has been a long time since I saw that together; I don't think it makes a round hole; it makes an irregularly shaped hole.

Q Is there any other break there on that part of the skull?

A There is a little break right at the side of that

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E 9

hole, in which the point of the bone is pressed inward.

Q How big was that?

A It is a triangular piece of bone, about five eighths of an inch across the base and about a half an inch perpendicular.

Q Do you find any other indication of a gun-shot wound there?

A The only thing would be I found another cup-shaped fracture over on the temporal bone at the time, but---

Q(Interrupting) Would that be an indication of a separate gun-shot wound?

A It might or might nor; I don't know about that. I would take this (Illustrating) to be the entrance, but I don't know whether that would indicate the exit or not.

Q Do find any other indication of a bullet?

A I find a fracture in the parietal bone.

Q That was just a fracture, was it not?

A That was a fracture.

Q I mean any other indication; by indication from its shape, that would show that a bullet entered or left

A You mean of another shot, indicate that?

Q Yes.

A Yes, sir; the jaw.

Q Did the jaw show that a bullet either entered or left?

A No, it doesnot; it does not show it is a gun-shot wound at all; it shows that the jaw has been broken from the outside, but what with I cannot say.

Q That the jaw was broken from the outside?

A yes, sir.

Q At more than one place?

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E 10

A Broken in three places.

Q Three places?

A I should judge possibly more.

Q Do you find any other bone broken from the inside?

A I found that the basilar portion of the occipital is broken, split lengthwise.

Q From the inside?

A Yes, sir; I don't know whether it is broken from the inside or from the outside; it is just simply split.

Q Did you find any that was broken from the inside?

A Found the parietal bone broken from the inside.

Q Where is that, please?

A It is on the left side of the head.

Q Point to it on yourself?

A Rather posteriorly, right here, (indicating); then, there is another piece here that is disarticulated; that belongs in there like that, (illustrating), and I should judge that that was broken off from inside. (referring to another portion), because you can't push it in with any ordinary pressure, but you can pull it right out. That fracture in the parietal bone is continuous with this fracture that helped to dislodge that bone.

Q It is a part of the same fracture, is it?

A A part of the same fracture, yes, sir.

Q So how long was that fracture all together?

A All together it would be about five inches long, now taking those two fractures together-- which is the same fracture.

Q You say there were three fractures of the jaw bone?

A Three or more.

Q No indication of gun-shot wound?

A No, sir.

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E 11

Q Something from outside?

A Some outside force fractured it.

Q How strong is the jaw bone?

A It is pretty strong; I don't know how many pounds it will hold, but it is quite a strong bone; it is arch shaped, so it makes it very strong and hard to break from the outside.

Q Would a bone like that be apt to break from falling down?

A No, sir.

Q It could not, could it?

A I don't think it is possible for that bone to break from a man's weight, with the average jaw.

Q It must have been some outside clubbing or shooting?

A Something from the outside.

Q And you find no evidence of shooting?

A Not on the jaw bone, no, sir.

Q It was not from any inside pressure?

A I don't think so.

Q How long have you been practicing, Doctor?

A Since 1903.

Q Up at Milan?

A No, sir; I have been in Milan since 1898.

Q Where were you before that?

A Missouri.

Q You never had a very extensive experience with skeletons or skulls, did you?

A probably not so much as some people.

Q You were never detailed in any army corps to look after the wounded?

A No, sir.

Keys X
E 12

Q You have only had such practice as would come to a country doctor in rather a small place?

A Country practice, principally, yes, sir.

Q Do you know whether the se fractures of the jaw were made before or after death?

A I do not.

Q Do you know about the other one?

A I could not say whether they were made before or after death.

Q No indication one way or the other?

A No, sir.

Q That is, that you are able to tell?

A No, sir.

Q What substance is immediately back of the place where you say that hole was in the back of the skull?

A What substance?

MR. KNIGHT: Immediately on the interior, do you mean?

MR. DARROW: Yes, that is what I mean.

A It would be the brain, the dura-mater first.

Q Does the brain come to that point?

A Sir?

Q How is that?

A Yes, sir; part of the brain.

Q Did you look at the hands at all?

A Not specially, no, sir.

Q How is that?

A No, sir.

Q Didn't make any examination of a little finger?

A Well, when we disinterred the body I hunted for that but I could not find all of the bones.

Q You mean you could not find any that corresponded

Keys X
E 13

to what you wanted?

A No, I could not find what I wanted; I found very few of the phalanges.

Q You found a little finger all right, did you?

A Did I?

Q Yes?

A I did not, that I know of.

Q You don't know whether you did or not?

A I found some phalanges; I can't say whether they were of the little finger or the others.

Q You saw some phalanges that came from the fingers?

A Yes, sir; from the fingers.

Q You are not sure whether from the big ones or the little ones?

A No, sir.

Q But you did not find any abnormal joint?

A No, sir.

Q That is what you were looking for, was it not?

A Yes, sir.

Q You looked for it and could not find it?

A I looked for it and did not find it.

Q Do you know how many phalanges there are in a hand?

A I don't know now; some five or six or eight, I guess.

Q Show the jury what phalanges are?

A The phalanges are the bones that extend from the knuckle down to the ends of the fingers; there are three of them in the finger.

Q Three in each finger?

A Three in each finger and two in the thumb.

Q You are not able to tell a little finger from a large one, from what you found?

Keys X
E 14

compare them I could.

Q But you could not tell from what you did have?

A No, sir.

Q You saw a shoe, did you, when you buried this?

A Yes, sir; we had one shoe.

Q When they were buried, before they were buried?

A Before they were buried?

Q Yes.

A yes.

Q Can you describe the shoe?

A I could not describe it distinctly. I know it was the sole of a foot, and that was about all.

Q That was about all there was to it?

A That is about all that I noticed, yes, sir.

Q Did you get any information at that time about the shoe?

A yes, sir; Mr. Williams told me that the shoe had been positively identified by the man who made it.

Q You understood that it was positively identified?

A yes, sir.

Q You understood that the little finger had?

A I understood the little finger had been identified.

Q And you shoved everything in the box together, did you; put everything in together?

A yes, sir.

Q Who were present when these were put in the box?

A I was not present myself. I left that for Mr. Worstell.

Q What was the condition of this when you left?

A Condition of the what?

Keys X
E 15

Q The remains and the clothing.

MR. KNIGHT: At what time, before the burial?

MR. DARROW: Before the burial .

A The remains, you mean?

Q yes?

A Well, as I said before, they were in a very decomposed condition.

Q No, I mean, Doctor, whether they had been put in any box before you left them.

A No, sir; they were not put in a box.

Q Lying on a floor, were they?

A No, sir; we had them put up on a table in the undertaking room, where we could sort them out.

Mr. Williams had gathered them up in I think some gunny sacks, and we spread these out and spread the bones out on them and sorted them out.

Q Had any box been brought in?

A No, sir.

Q For the purpose of burial?

A No, sir.

Q You had heard that this was supposed to be the body of a claim jumper up on the St. Joe, hadn't you?

A Yes, sir.

Q And you handed it over to the undertaker without any more ceremony than you have told us for burial?

A I told him to bury it and mark the grave afterwards.

Q yes?

A That was all.

Q Did he bury it at the county expense?

A I think it was at the county expense, yes, sir.

Keys X
E 16

Q Were there any of the bones that were tied up in a handkerchief when they got there, when you saw them?

A I believe that there were. I think Mr. Williams had a piece of this jaw tied up in a handkerchief and I don't remember whether there were any more or not. I think he had the skull wrapped up, separate from the rest of the body, and the rest of it was all thrown in together.

Q And all of this was about the 1st of August, 1905?

A It was the 29th day of September exactly.

MR. KNIGHT: Q Of September?

A Of July, 29th day of July.

MR. DARROW: Q And you did no more and heard no more about it until Steve Adams was arrested, more than a year later?

A Yes, sir.

Q That is right, isn't it?

A That is correct.

Q And then, at the instigation of Angus Sutherland and some others, you went and participated in digging those up?

A I don't know who it was at the instigation of; somebody called me up; I think probably Mr. Knight called me up from Spokane.

Q You have talked with Sutherland about it, more or less, haven't you since that time?

A Since that time?

A Along about that time?

A Yes, I think I did.

Q You didn't know where you were going, or where these remains were; you just went down to be present

Keys X
E 17

when they were dug up?

A No; I didn't know where to go.

Q Did you see any other shoes around on the table there when you were examining these things?

A There was not any more on the table, no, sir.

Q Do you know whether you saw a jumper or an outside blue shirt, outside shirt?

A No, I didn't see any.

Q You made no memoranda of the things that you had discovered and buried?

A Well I think I made a memorandum, but I have lost it; I made it on an envelope which I took out of my pocket, if I remember right.

Q You never took it off of the envelope?

A Never took it off of the envelope myself.

Q What do you suppose you did that for?

A Well, I usually make a memorandum and enter it on the book at home, so I will have something to refer to, but in that case I did not.

Q But in the case of Fred Tyler you put it on an envelope and lost it?

A Lost the envelope, if I made a memorandum; I can't swear positively that I made a memorandum.

Q You don't even know whether you made one or not?

A It is a rule that I usually make them.

Q You usually hold inquests, don't you?

A Well, not all of the time; I hold some.

Q Do you usually hold them where you hear a human being has been killed, that you suspected by foul means?

A In the majority of cases I hold an inquest.

Q Do you recall any other case where you did not do it?

Keys X
E 18

A In the Bouley case I did not hold any inquest.

Q Any but the Bouley case?

A Well, I think a great many cases; I don't know that I suspect foul play. The Jim O'Neil case, the bones were brought in to me, something like this; I didn't hold an inquest in the Jim O'Neil case.

Q You did not in the Bouley case?

A No, sir.

Q That was supposed to be another claim jumper?

A Yes, sir.

Q It is the duty of the coroner to hold an inquest where there is some suspicion that death happened by foul means?

A Yes, sir.

Q Do you remember when it was that this was dug up again?

A It was dug up some time during the preliminary hearing; it must have been between the 20th of September and the 1st of October some time.

Q What was it held in?

A It was enclosed in a box; just a very ordinary thin box; looked like an Arbuckle's coffee box, lumber about three eighths or half an inch thick.

Q How big was it; how long and wide and deep?

A It was about three feet long-- two and a half feet long and about two feet wide and probably a foot and a half deep.

Q How deep down was it buried?

A I think it must have been probably three feet to the top of the box.

Keys X
E 19

Q The box was closed up, was it not?

A The box was closed up, yes, sir.

Q Tight?

A It had been, I suppose; the top was all washed in with the dirt.

Q But the bottom was there all right?

A The bottom was there, yes, sir, but loose; I think the nails had pulled out; when we went to raise the box out the bottom remained in the ^{grave} ~~hole~~ and we had to raise it up with ropes under it.

Q You looked around for anything that might be in the grave, didn't you?

A Yes, sir.

Q You supposed you got it?

A I did get it.

Q You got all there was there?

A I got everything that was there, that I know of.

Q You say this resurrection was in the night time or day time?

A It was about 7 o'clock in the evening; it was night; it was dark.

Q You had a lantern, I suppose.

A yes, sir; we had a couple of lanterns, I think.

RE-DIRECT EXAMINATION.

BY MR. KNIGHT:

Q You don't know whether this disinterment occurred at the request of Mr. Darrow, Angus Sutherland or myself, do you?

A I don't remember who it was.

Q When you say you didn't notice any indication of

Keys XRD
B 20

gun-shot wound on the jaw bone, do you mean that you could distinguish whether or not the wound there was caused by a gun-shot wound or some other instrument?

A I cannot.

Q You could not tell?

A It could very readily be caused by a gun-shot wound or any other violence from the outside.

WITNESS EXCUSED.

Williams recalled.
E 21

MR. KNIGHT: I will call Mr. Williams again.

C. H. WILLIAMS was recalled for further examination.

MR. KNIGHT: You wanted to cross-examine Mr. Williams a little, didn't you?

MR. DARROW: Just a little; not over three minutes.

MR. KNIGHT: I have one other direct question, Mr. Darrow.

MR. DARROW: All right.

MR. KNIGHT: At page 145 of the record Q Mr. Williams, I will ask you at the trial at Wallace, in answer to the question I am about to read to you, you gave the answer which I am about to read-- the questions and answers: "Q Did you find a handkerchief there? A yes, sir. Q here was it? A I believe the handkerchief hung to the log, right near where the head was." Did you so answer?

A

CROSS-EXAMINATION.

MR. DARROW:

Q Will you explain to us how you might possibly have got some of your ideas confused with the other two that you found. What did you say those other two were?

A When did I take them? When was I bringing them out of the woods?

Q Yes, sir.

A I brought one or took in one party up last fall on the 11th day of September, a year ago this last September.

Q A woodman evidently, was it?

A No, sir; he was a miner from near Milan, proved to be.

Q Donyou remember how he was dressed?

A He had on a blue serge dress suit; he had on a blue working shirt or working blouse, whichever you call it,

Williams recalled
E 22

and he had a fleecelined coat on, a duck, heavy duck coat over all that.

Q Any overalls?

A I think not.

Q Didn't you tell me he did at noon; that he had blue overalls over the blue serge?

A I think not; he had a blue serge suit.

Q Didn't you tell me at noon that he had blue overalls on?

A Salisbury, the other party, had blue overalls on.

Q Didn't you tell me both of them did?

A I think not.

Q How was the other one dressed?

A He had on rather an orange color undersuit and blue overalls.

Q When you say orange color, you mean yellowish?

A Yellowish, yes, sir.

Q And blue overalls?

A Something similar to that.

WITNESS EXCUSED.

MR. KNIGHT: We will ask to have the name of Mr. Bruce Corstell endorsed on this information.

MR. DARROW: We have no objection him anyway.

THE COURT: The name will be endorsed.

15 20

BRUCE G. WORSTELL, a witness called on behalf of Plaintiff, being first duly sworn, testified as follows:

DIRECT EXAMINATION.

BY MR. KNIGHT:

Q State your name, residence and occupation, please.

A Bruce G. Worstel; Wallace, Idaho.

Q What is your occupation?

A I am in the merchandising business; undertaking and furniture.

Q During the year 1905 did you bury the remains brought in there by Mr. C. H. Williams, Deputy Sheriff, purporting to be the remains of Fred Tyler?

A Do you remember about the date?

A I can't give the date. I can give the day of the week, but I don't know the day of the month.

Q You can give the day of the week?

A Yes, sir.

Q What day of the week was it?

A It was on Sunday.

Q How did you come to get possession of those remains, Mr. Worstel?

A Coroner Keys telephoned to me they had the remains of a skeleton they had found and they wanted me to come down and open up the room so he could put those remains in there, and I did so.

Q Who brought them there?

A Dr. Keys and Mr. Williams. I helped carry the package, as I remember it, a portion of the way.

Q How long did it remain in your custody?

A About four hours I guess.

Worstel D
B 24

Q About four hours?

A I should judge so.

Q Was there an examination made of them while they were there?

A Yes, sir.

Q Who made it?

A Dr. Keys.

Q Were you present during the examination?

A During a part of the time.

Q What was the condition of the remains at that time?

A Well, it was merely a skeleton tied into a piece of canvass and some burlap; there was a skull and the trunk of a body, some clothing and bones in it, and so forth.

Q Did you make any examination of it yourself?

A No, I can't say that I did. I can say that I did not, rather.

Q Did you remain there during the entire examination?

A No.

MR. HEITMAN: He said he did not.

MR. KNIGHT: He said he did not make any examination.

MR. HEITMAN: He said he was present a part of the time.

THE COURT: He said he was present a part of the time.

Q What were you doing the rest of the time?

A I stood outside of the building.

Q How did it come that you did not stay in there?

A I simply could not stay in there; at least, I thought I could not; the stench was too much for me.

Q Did you bury the remains?

A I did.

Q In what did you bury them?

Worstel X
R 25

A He called it remains, and I buried it in an ordinary packing box brought there.

Q What did you put in that box?

A Well, I gathered up all of the stuff that had been brought there; there was a piece of canvass and some old clothing and burlap and one thing and another. In this examination they had scattered a good deal of it on my floor from the sack, and the main portion of the body, there was a sort of a black substance, not unlike molasses or something that had been spread around on the floor, and I took a good deal of paper and burlap and cleaned this up off of the floor the best I could and put it up and stuffed it into this box, and I buried them in it.

Q Did you put anything else in that box?

A We did.

Q What else?

A Well, we had some old clothing that had been lying on the floor there, taken off of different dead bodies that had been brought in and we filled up the box with it; the box, you understand, was not quite full; it was a packing box, about a foot and a half in thickness, probably four feet by three feet long; we filled it up with the rest of these garments, thinking it was a good way to get rid of them.

Q That was a good way to get rid of them?

A Yes, sir.

Q Do you know whether or not you put any shoes in there?

A I could not say.

Worstell X
E 26

Q You could not say as to that. Do you know whether or not you put all of the remains that were brought to you in that box?

A I believe we did.

Q You believe you did. Is that what you said?

THE COURT: Yes, sir; that is what he said.

Q Does that mean you don't know whether you did or not.

MR. DARROW: I think we can judge of what that means.

MR. KNIGHT: All right.

Q I will ask you whether or not you put any other remains of a human being, of any kind, skull or bones of any kind, in that box, excepting these of that skeleton?

A I did not.

Q And the other stuff that you filled up the box with was simply the clothing and stuff of that kind that had been left there from otherbodies, was it?

A yes, sir.

Q You buried the body yourself?

A I did.

Q Where did you bury it?

A In Green Mount Cemetery.

Q Did you assist Dr. Keys in disinterring that afterwards?

A Yes, sir.

Q When was it that you helped disinter it, do you know?

A I could not give you the date.

Q With reference to the progress of the preliminary examination. I have broken that off, Mr. Darrow, (referring to a portion of the skull). Do you know

Worstell D
X 27

whether or not at that time the preliminary examination of Steve Adams was in progress at Wallace?

A It was at that time.

Q I will ask you whether or not the bones you had disinterred at that time were the bones of this skeleton that were brought you by Mr. Williams?

A Yes, sir.

Q Who assisted you?

A In exhuming the remains?

A Yes, sir.

Q Well, there were two men that worked for me, that helped Dr. Keys and myself; they were present.

MR. KNIGHT: I will offer this skull now, with that identification.

THE COURT: You object to it, Mr. Darrow?

MR. DARROW: We wish to save our exception.

THE COURT: The skull is admitted in evidence and the exception allowed.

MR. DARROW: We have objected to it on the ground it was not properly identified.

Objection overruled. Defendant excepts and exception allowed.

-----CROSS-EXAMINATION.

BY MR. DARROW: Q You had a kind of general clearing up down there when you did this burying, did you?

A Well, we didn't clean up everything.

THE COURT: Speak louder.

THE WITNESS: I say we didn't clean up everything at the time.

Q Well, you took everything, as you supposed, that belonged to this particular invoice, or whatever it was, didn't you?

Worstell X
E 28

A yes, sir.

Q And put that in a box. You were not requested to take any special care of any special part of it?

A At that time?

Q yes, sir.

A No, sir; not that I recall.

Q How is that?

A Not that I recall.

Q You didn't know it was necessary. You supposed that the skeleton was being buried for good?

A I did.

Q But after you got all of these things that belonged to this skeleton, then you threw in some old clothes?

A yes, sir.

Q What did you throw in?

A Clothing that had been taken off of different bodies that we had had in the room.

Q How long had that clothing been accumulating?

A Not long, but I could not tell you how long, because it was not the custom to have it there very long.

Q Off of several different bodies?

A I could not tell you that.

Q How do you remember that you took any?

A Well, I remember that well enough; I simply know that I did.

Q But you don't know what you took?

A No, I could not tell you the different articles; it was clothing but I could not tell you the different articles

Q Can you tell me any articles?

A Well, I could say probably a coat and pants.

Q No, I don't want probably.

Worstell X
E 29

A I could not tell you definitely, only I know it was clothing that we took off of these dead persons.

Q You think perhaps it was a coat and pants?

A Perhaps.

Q That is as nearly as you can get at it?

A Yes, sir.

Q Did you take any hat?

A I don't know.

Q How is that?

A I don't know.

Q You don't know whether you took any shoes?

A I do not know.

Q You were called on to go and dig this up again?

A Yes, sir.

Q And you did dig it up?

A I did.

Q When you dug it up, did you sort out the clothing that did not belong to this particular skeleton?

A I did not.

Q You put it all together and delivered it over to the State?

A What was the last?

Q You put it all together and delivered it over to the Prosecutor, Mr. Knight, or whoever had charge of it?

A It was in the box as we put it in the ground.

Q You gave it all; you gave them whatever you buried?

A Absolutely.

Q What was this box that you buried it in? You say it was a packing box?

A Yes, sir.

Worstell E
E 30

Q Do you know what had been packed in it?

A Yes, sir.

Q What?

A It was a box such as they use for tin and granite ware; I could not say whether tin and granite ware had been packed in it, but it was that kind of a box; we used them frequently.

Q Do you know what kind of boards it was made of?

A About inch, heavy material.

Q Tight, was it?

A The boards were not tongue and grooved; they laid close together.

Q And you nailed the top on of course?

A Oh yes, sir.

Q How deep did you bury it?

A According to law; it was down two feet-- two and a half.

Q Buried it about two feet?

A Yes, sir; but I made no charge for it.

Q Did the County pay for it?

A No, sir; no one.

Q There never has anybody paid for it?

A No, sir; never charged for it.

Q What ground was it buried in?

A In Greenmount Cemetery.

Q Anybody by the lots there, or that part of it?

A We had a contract for burying the county dead then and I suppose that was the reason it was turned over to us and we buried it without any charge to any one.

Q You buried it in the place where you bury the county dead?

Worstell X
E 31

A yes, sir.

Q Potter's Field?

A Well, you can call it that.

WITNESS EXCUSED.

MR. KNIGHT: That is all that we have, until we start in with some witness that will consume a good deal of time. I understood from Mr. Darrow that he would like to have an adjournment.

MR. DARROW: I would be very glad, for one, if we could adjourn now. I think I will be all right Monday; I hope so anyway.

THE COURT: All right; I will take pleasure in accommodating you. I want to see you in good health during this trial.

The Court appointed any one of the attorneys for the defendant, in connection with Mr. Potts, representing the State, as censors in the matter of the jurors' mail, etc.

Thereupon, the jury was admonished by the Court, as required by law, and the officers were duly sworn, in whose charge the jury retired, and court

ADJOURNED until Monday morning, November 12, 1907,
at 10 o'clock A. M.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF
KOOTENAI.

STATE OF IDAHO,)	
)	
PLAINTIFF,)	
)	
VS.)	NO _____
)	
STEVE ADAMS,)	
)	
DEFENDANT.)	

MONDAY MORNING, NOVEMBER 11, A. D., 1907.
MORNING SESSION.

At this time, the Defendant being in Court with his counsel, present as before, the record of Saturday's Proceedings was read and approved, and the following Proceedings were had herein, to-wit:

THE COURT: Call the Jury.

THEREUPON, the Jury came into Court in charge of the officers, and being duly polled, all answered to their names and the trial of this cause proceeded as follows:

S. G. THIELE,	Called as a witness, and after being first duly sworn on behalf of the State, testified as fol- lows:
---------------	----------------------------------------------------------------------------------------------------------------

DIRECT EXAMINATION

BY MR. HAWLEY:
Q What is your name?

A S. C. Thiele.

Q Where do you reside?

A Spokane, Washington.

Q How long have you resided there?

A Since June, 1906, permanently.

Q What is your business or occupation?

A Assistant Superintendent Pinkerton National Detective Agency.

Q At what point?

A Spokane, Washington.

Q Did you, in his lifetime, know Fred Tyler?

A Yes, sir.

Q Do you know the Defendant, Steve Adams?

A Yes, sir.

Q How long have you known him?

A Since February 20th, 1906.

Q Where did you make his acquaintance?

A On a ranch near Haines, Oregon.

Q Under what circumstances?

A I was with the Sheriff when he arrested him there.

Q Who was the Sheriff, and what was his office?

A Harvey K. Brown, Sheriff of Baker County, Oregon.

Q Was there any one else with you at that time?

A Colonel James A. Panting.

Q Whose ranch was it?

A J. W. Lilliard ranch.

Q The elderly gentleman, who has been in Court here?

A I have not seen him.

THE COURT: He has not been in Court.

Thiele-D
A-3

MR. HAWLEY: It is admitted that it is the Mr. Lilliard, uncle of the Defendant?

MR. DARROW: Yes.

Q Where had you gone from to make this arrest?

A Boise, Idaho.

Q Under what ~~circumstances~~ ^{process was he} he arrested, if you know?

A A warrant had been gotten out to arrest him for the Steunenberg murder, placed in the hands of Rube Robbins.

Q Who was he?

A He had been appointed State Agent of Idaho.

Q For what purpose?

A For the purpose of arresting Steve Adams in Oregon.

Q What was your particular business out there at that time?

A I was employed under James McParland, looking up evidence in the Steunenberg murder case.

Q Who is Mr. McParland?

A Western Manager of the Pinkerton National Detective Agency.

Q Was Mr. McParland at that time in person at Boise?

A At which time do you mean?

Q At the time you started with Robbins, the State Agent, to make the arrest?

A No, sir.

Q How far was this, the Lilliard ranch where you arrested Adams, from Baker City?

A About twelve miles.

Q Baker City is the County Seat of Baker County, Oregon, is it?

Thiele-D
A-4

A Yes, sir.

Q Did you three go out, if so, by what means?

A I was in Haines, and telephoned Brown to come there and Brown came and he brought Colonel Panting with him.

Q Did you know who Colonel Panting was?

A I did not until after that.

Q What did you ascertain, if anything, in regard to the official position, if any, he held at that time?

A He was Special Deputy Sheriff of Baker County, Oregon.

Q When you went out, you may state what happened, state the circumstances?

A We left Haines and went out to---

MR. MILLER: I dont see how that is material, your Honor. He has testified Steve Adams was arrested on another charge.

MR. HAWLEY: We dont contend there is any particular materiality, your Honor, but ---

THE COURT: Objection will be overruled. It is probably introductory.

MR. HAWLEY: It is introductory, that is all. Did I understand the objection was overruled?

THE COURT: The objection is overruled.

Q Go ahead.

A We went out to arrest Steve Adams and I went along for the purpose of identifying Steve Adams, the proper party, we went out there and I walked up to Mr. Adams,

who was coming from the barn to the house and asked him if he was Adams---

MR. HEITMAN: Speak a little louder, if you please, I cant hear you.

A (Continuing) I say, I walked up to Adams, who was coming towards his house and asked him if he was Adams, and asked him some other questions leading up to the fact whether I had the right man or not and Sheriff Brown was there; and he wanted to know how we had a right to ask him these questions, and Sheriff Brown pulled the warrant out of his pocket and handed it to Adams, and Adams read it and handed it to his wife, she came on the scene; he was then in and changed his clothes and we put him in a buggy and took him to Baker City.

Q When he got to Baker City, state what became of him?

A The next morning he was put aboard the train and taken to Boise.

Q What particular object did you have in going from Boise to Baker City, and to the Lilliard ranch at that time?

A I went out with Mr. Brown to identify Adams, show him the right man.

Q After being in Baker, after getting back to Baker, how long did you stay in Baker?

A Stayed over night.

Q And the next day went to Boise, did you, on the train?

A Yes, sir.

Exhibit-D
A-6

Q In whose custody or in whose charge was Adams, when taken to Boise?

A In the custody of Rube Robbins, State Agent of Idaho.

Q What month and what day of the month was this, if you recollect?

A Twentieth of February, 1906.

Q After reaching Boise, what was done with the Defendant?

A Taken up to the penitentiary and placed in a cell there.

Q Afterwards did you see the Defendant?

A I saw him about the Fourth of March.

Q Of this same year, 1906?

A Yes, sir.

Q Where was he at that time?

A He was at the penitentiary.

Q Who had charge of the penitentiary at that time, what officer was in charge?

A Warden Whitney.

Q Did you have any conversation with Adams, at this time you saw him?

A Yes, sir.

Q Did you go up there for the purpose of conversing with Adams?

A No, sir; not that time.

Q Afterwards, when did you see him?

A I saw him on the Sixteenth of March.

Q Did you speak to him?

A Yes, sir.

Q Where?

A At the penitentiary.

Q Did you have any conversation with him at that time with reference to the killing of Fred Tyler?

A No, sir.

Q Or was this conversation on other matters?

A Relative to Marble Creek matters---

MR. DARROW: We object to that as not answering the question.

Q I am asking you whether this conversation was in regard to other matters outside of the killing of Fred Tyler?

A Yes, sir.

Q Did you have any conversation with him at that time in regard to the Marble Creek country, and his presence there?

A Yes, sir.

Q Did you have any conversation with him in regard to the Marble Creek country, and his presence there, and his actions there in 1904?

A Nothing with reference to his actions, but with reference to the Marble Creek country.

Q Did you afterwards have a talk with him?

A Yes, sir.

Q When was it?

A Seventeenth of April.

Q 1906?

Exhibit-D
2-8

A Yes, sir.

Q State whether or not that conversation was in reference to the Marble Creek country and his actions while there in 1904?

A Yes, sir.

Q Did it include reference to Fred Tyler?

A Yes, sir.

Q Where was this conversation had which you refer to on April 17th?

A In a room in the rear of the Warden's office.

Q In what particular place or location?

A The Administration Building at the penitentiary.

MR. DARROW: When was this? April 17th?

MR. HAWKEY: Yes.

Q The penitentiary at or near Boise, in Ada County, Idaho?

A Yes, sir.

MR. HEITMAN: April, 1906.

MR. HAWLEY: 1906.

Q Who was present in that conversation outside of yourself and Steve Adams?

A No, one, the first part of the conversation.

Q Was there in the latter part?

A Yes, sir.

Q Who, then?

A Mrs. Annie Adams.

Q Who is Mrs. Annie Adams?

A I understand she is the wife of Steve Adams.

Q What particular business had you at the penitentiary on the day of the talk you refer to?

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Thiele-D
A-9

A I went up to see Steve Adams, to find out if he had anything to state; I was looking up the murder of Ex-Governor Steunenberg.

Q Had you still been engaged in investigating the murder of Ex-Governor Steunenberg?

A Yes, sir.

Q In the employ of the State of Idaho?

A Yes, sir.

Q And under Mr. McParland?

A Yes, sir.

Q And he, at that time, occupied the position--- did he at that time occupy any official position in the State of Idaho or any of its counties?

A No, sir.

Q Did you have charge of the prosecution of the Defendant for any crime of which he was accused or implicated as a party at that time?

A No, sir.

Q Prior to this time or at this time, or at any time, had you ever talked with Mr. Adams, the Defendant, with reference to making statements in regard to any crimes he stood charged with?

A No, sir.

Q Had you at any time suggested to him that it would be a matter of policy or would procure him favors---

A No, sir.

Q (Continuing) if he made a statement?

A No, sir.

Q Had you tried by any means or inducement to obtain

Thiele-D
A-10

any statement from him in regard to the killing of Fred Tyler or any other matters?

A No, sir.

Q Had you offered him any reward of any kind---

A No, sir.

Q (Continuing) or any inducement of any kind with reference to this case?

A No, sir.

Q Had you at any time made any threats with reference to the matter?

A No, sir.

Q Or threatened him in any manner, if he refused to disclose what he knew?

A No, sir.

Q Had any one in your presence, hearing or within your knowledge, offered him any inducement?

A No, sir.

Q Or made any threats or promises or offered any reward or immunity if he would make a statement in regard to this matter?

A No, sir.

Q This Seventeenth of April was the first time you had any talk about this, you had no talk before this time?

A Not about Fred Tyler.

Q You may now state what was said on that occasion about the Marble Creek country and the killing of Tyler, and other matters incident thereto.

MR. DARROW: We object, your Honor. Perhaps the Jury might be excluded for a few minutes.

THEREUPON, the officers were duly sworn, the Jury duly admonished and excused for a few minutes and retired in charge of the officers.

IN THE ABSENCE OF THE JURY.

MR. DARROW: First, we want to object to any evidence as to a confession on the ground that said evidence is inadmissible until after proof of the proper corpus delicti, which has not been made.

The Court ruled on that and we argued it before and do not care to argue it again.

THE COURT: The objection will be overruled and exception noted.

MR. DARROW: Exception. Now, on the question as to the method of getting the confession, I think I would like to ask a few questions of the witness at this time.

THE COURT: You will be allowed to do so.

EXAMINATION BY MR. DARROW ON THE QUESTION OF METHOD OF PROCURING CONFESSION.

MR. DARROW: Q You say, Mr. Thiele, this conversation was on the Seventeenth of April?

A 1906.

Q 1906. And you had brought Steve Adams to the penitentiary at Boise on the Twentieth of February, 1906?

A I didnt bring him there.

Q You didnt?

Thiele-D
A-12

A No, sir.

Q Did he bring you there?

A No, sir.

Q You just came together?

A He was in charge of Rube Robbins. I came with them.

Q You didnt have anything to do with it?

A I went along with Rube Robbins.

Q Is that all you had to do with it?

A I was not in charge of the party in any way.

Q You didnt have anything to do with looking after
Steve Adams?

A Just in a general way was all.

Q You brought him there in a general way then?

A I cant say I brought him; I was not responsible for
the man.

Q I dont care whether you did.

A How?

Q I dont care whether you did, Mr. Thiele. You went
up to get him?

A No, sir.

Q You did not? Are you quibbling?

A No, sir.

Q All right; we will find out about that. You came
back with him, didnt you?

A Yes, sir.

Q You were a Pinkerton Detective?

A Yes, sir.

Q The head of the force at Spokane?

A No, sir, not at that time.

Q What position did you occupy?

A Working as an operator at that time.

Q You are now promoted?

A Yes, sir.

Q Now at the head of it?

A No, sir.

Q What position do you occupy now?

A Assistant Superintendent.

Q Who is the boss up there?

A G. H. Hassen.

Q You were working under Mr. McParland in the Steunenberg murder?

A Yes, sir.

Q Whatever you had done with Steve Adams, you did in that capacity?

A Yes, sir.

Q What time was Steve Adams landed in the pen?

A The twentieth of February, 1906.

Q Did you go clear to the pen with him?

A Yes, sir.

Q When did you see Mr. McParland after that?

A Oh, it must have been four or five days, maybe six.

Q How soon after that did Mr. McParland see Steve?

A I think about four or five days after he was taken up there.

Q How soon after that did McParland get the confession from him?

A A couple of days after he---

Q You knew that?

A Yes, sir.

Q So you knew when Steve Adams talked to you that

Mr. McParland had had the confession for six weeks?

A Yes, sir.

Q And you had read it?

A Yes, sir.

Q Knew what it was?

A Yes, sir.

Q Did McParland tell you his method of getting it?

A No, sir.

Q That you knew nothing about?

A No, sir.

Q You knew that Whitney had talked with him, didnt you, before that?

A I didnt know what he had talked with him about.

Q You knew he had talked with him?

A I supposed he had. He had him in his charge there.

Q You knew the confession had been signed and sworn to?

A Yes, sir.

Q And you had seen a copy?

A Yes, sir.

MR. DARROW: Now, your Honor, I want to call Mr. McParland.

MR. HAWLEY: I desire also to question the witness.

EXAMINATION BY MR. HAWLEY,

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On Method Of Procuring Confession.

MR. HAWLEY: Q You stated that you knew there had been a confession made prior to this time By Adams to

A-15

McParland?

A Yes, sir.

Q Did you know what that confession was with reference to?

A The entire life and career of Steve Adams.

Q What were the charges that McParland and yourself were investigating at this time?

A The Steunenberg murder case.

Q And Adams' arrest, charged with the murder---who had been arrested charged with the murder of Steunenberg at that time outside of Adams?

A Harry Orchard, Charles H. Moyer, William D. Haywood, George A. Pettibone and Vincent St. John.

Q Were you at this time investigating or was there any attempt to investigate anything except the charges against the Western Federation of Miners or the particular party who were charged with the murder of Ex-Governor Steunenberg?

A We were employed to investigate the murder of Ex-Governor Steunenberg alone.

Q Were these matters in the St. Joe country, relative to Tyler or any of these matters the subject matter of any investigation of yourself or agency at that time?

A No, sir.

Q You were not, or were you in any way employed to investigate these matters or any matters outside of the facts that were connected with the Western Federation?

A No, sir.

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A-16

EXAMINATION RESUMED BY MR. DARROW:

Of witness Thiele.

Q You say you had seen a copy of this confession?

A Yes, sir.

Q With reference to Northern Idaho?

A Of the man's life.

Q Beg pardon?

A Of the man's life.

Q You mean of Steve Adams's life?

A Yes, sir.

Q That included the killing of Tyler?

A Yes, sir.

Q So you knew that had been obtained?

A Yes, sir.

Q Got and signed and acknowledged. You were employed to investigate the Western Federation of Miners and its doings up in Northern Idaho, were you not?

A I dont think at that time we were investigating the Western Federation in Northern Idaho.

Q But you saw a copy of this confession?

A Yes, sir.

Q You were not engaged in investigating the Western Federation of Miners or that they had sent Steve Adams into Northern Idaho---

A Members of the Western Federation, not the Western Federation.

Q Moyer, Haywood and Pettibone?

A yes, sir.

Thiele-D
A-17

Q Do you mean to say that you were not investigating the connection or trying to connect the Western Federation of Miners with matters in Northern Idaho?

A No, I didn't understand it that way. We were employed to investigate the murder of Ex-Governor Steunenberg.

Q Do I understand, or did you understand that you were not investigating Steve Adams going to Northern Idaho, up into North Idaho with Jack Simpkins?

A With Jack Simpkins, yes, sir.

Q After that was signed, did you talk with McParland about it?

A I don't think I had discussed that with McParland.

Q Don't think you had?

A No, sir.

Q How often did you see McParland?

A Sometimes three or four times a day; sometimes would not see him for three or four days.

Q You never mentioned it?

A Not Northern Idaho.

Q Who showed it to you?

A Mr. Hopkins.

Q You never mentioned it to ~~anybody~~ him?

A No, sir.

Q Nor he to you?

A No, sir.

Thiele-D
A-18

Q Hopkins was a stenographer, I suppose?

A Yes, sir.

Q Were they seeking to connect Ed. Boise with any matter up there too?

A Not that I know of.

Q Dont know as Ed. Boise name was mentioned?

A Yes, sir.

Q By the Pinkerton Detective Agency?

A I think Ed. Boise name was mentioned in one of these confessions.

RE-DIRECT EXAMINATION

BY MR. HAWLEY:

Q Did you understand that Adams had been sent up to the Marble Creek country to take part in any timber matters up there?

A No, sir.

Q Simply upon the matters connected with Steunenbergs death?

A Yes, sir.

MR. HAWLEY: Thats all. I understand you desire to call Mr. McParland in this matter also?

MR. DARROW: Yes, sir.

MR. HAWLEY: They are here in attendance.

THE COURT: You can step down, Mr. Thiele. Do you desire Mr. Thiele to retire?

MR. DARROW: Yes, I think so.

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WITNESS EXCUSED.

JAMES McPARLAND, was called as a witness on behalf of the defendant, and, after being first duly sworn, testified as follows:

CROSS EXAMINATION.

BY MR. DARROW:

MR. HAWLEY: (To Mr. Darrow) : Were you looking for the testimony of Mr. McParland. If so, you will find it at page 427.

MR. DARROW: I will have it here in just a minute.

What we want is to cross-examine this witness as to the circumstances under which the confession of Steve Adams was obtained.

MR. HAWLEY: No objection on our part.

Q Mr. McParland, you are a detective?

A Yes, sir.

Q Your full name is James McParland?

A Yes, sir.

Q How long have you been a detective?

A Over forty years.

Q What is your position with the company?

A Manager of the Western Division.

Q Of the Pinkerton Detective Agency?

A Yes, sir.

Q How long have you been connected with the Pinkerton Detective Agency?

A I guess about forty-one years.

Q You were connected with the Molly Maguire case, I believe?

McParland D
B-2

A Yes, sir.

Q That was how many years ago?

A Well, I started that investigation in '73, in October, '73.

Q And when was it finished?

A '77, March '77.

Q And you were called into the investigation of the case of the killing of Ex-Governor Steunenberg?

A I was.

Q When were you called into that?

A In the early part of January, '96.

Q Harry Orchard had then been arrested?

A Yes.

Q And after a time you secured a confession from Harry Orchard?

A I did.

Q And in that confession, Steve Adams was mentioned in some regard?

A He was.

Q Do you remember about the time the confession was obtained, Harry Orchard's confession was obtained?

A The latter part of '96.

THE COURT: 1906?

A 1906.

Q Where was Harry Orchard at the time?

A He was in the penitentiary at Boise.

Q Now, this murder of Steunenberg was Caldwell, Canyon County, isn't it?

A Yes, sir.

Q And Boise is in Ada County, the county adjoining?

A Yes, sir.

McParland D
B-3

Q And the penitentiary is in Boise?

A Yes, sir.

Q And Harry Orchard was taken from Caldwell to the Boise penitentiary?

A yes.

Q His case had not then been disposed of then, and has not yet been disposed of?

A No.

Q Did you conclude to send for Steve Adams later, after the Orchard confession?

A Yes, I concluded to try to locate him.

Q Who was working with you?

A Mr. Thiele.

Q Was he your chief assistant down there?

A He was the only one I had there.

Q Mr. Thiele was connected with the office at Spokane?

A yes.

Q And he was there substantially all the time that you were there?

A He was.

Q Of course, you were in constant consultation about these matters?

A Yes, I seen him occasionally.

Q How often?

A Possibly every day, or every other day.

Q Living at the same hotel, weren't you?

A yes.

Q Possibly a good many times a day, I suppose?

McParland D

D-4

A No, I dont think so; he was out working and I was---

Q (Interrupting) You saw him and consulted with him whenever you thought it was necessary?

A Yes.

Q He came there about the same time you did?

A He was there ahead of me.

Q When did you locate Steve Adams?

A Well, I was in Denver at the time; I think somewhere about the 17th of February 1906.

Q When did you begin trying to locate him?

A Immediately after I had got Mr. Orchard's confession.

Q That was for the purpose of arresting him, of course?

A yes, sir.

Q Do you remember the date that Moyer, Haywood and Pettibone were taken to Boise?

A Yes, I guess it was, as near as I can remember, the 18th of February, 1906.

Q You had left full instructions and directions as to Adams, I suppose, before you left?

A I had not, because I didn't know where he was.

Q Did you leave instructions to look for him?

A I was looking for him in the East.

Q You were not looking for him in the West?

A No.

Q What?

A No.

Q Had you talked it over with Mr. Thiele, as to what you were going to do with Adams?

A yes, sir; I told Mr. Thiele if we could locate him we would have him arrested.

Q That is what I mean?

A Yes, sir.

Q Did you locate him, or somebody else?

A One of our representatives located him.

Q From Denver or from Boise?

A From Denver.

Q That is what I mean. What did you do after you located him?

A I wired.

Q To whom?

A I wired the Governor, I think it was, Governor Gooding.

Q Did you wire Thiele?

A I wired Thiele, I think, at the same time.

Q Where he was and what to do?

A Where we thought he was.

Q And what to do, or did he know what to do?

A I expect they knew what to do; I did not tell him, as I remember.

Q And you wired him that you thought he was over here near Haines or Baker City, on a ranch?

A Yes, sir.

Q With his uncle?

A No, I didn't know anything about his uncle at that time.

Q Well, he was there anyway. And you knew, or heard that they would go and see him?

A Yes, sir; I was satisfied they would.

Q When did you get word that they had captured Adams?

A I don't know; I guess probably two or three days

McParland D
B-6

after we had located him; I could not tell just the exact date.

Q Two or three days after he was taken?

A No, after we had wired them where we thought he was located.

Q As quick as they got him ~~xxx~~ they notified you, didnt they?

A Well, I was notified; I dont know whether it was directly after he was got or not.

Q You would assume ⁱⁿ that an office as well conducted as yours you would be notified at once, would you not?

A I guess they notified me just about as soon as they could.

Q What did you do then?

A I remained in Denver a day or two and then came up to Boise.

Q Do you know when you went to Boise?

A Yes, about; I arrived in Boise about, I believe now, about the 23rd of February.

Q Do you know exactly, Mr. McParland?

A Yes, I have refreshed my memory; I know exactly.

Q Well, what was the date?

A 23rd of February.

Q That is, you arrived at Boise on the 23rd?

A yes, sir.

Q At what time of day?

A I think it was in the evening.

Q Dont you know?

A Yes, in the evening.

McParland D
B-7

Q Then what time did you leave Denver?

A I left Denver the morning of the 22nd.

Q Did you leave on the 21st?

A No, I think not.

Q Have you got any memoranda that shows that?

A No, I haven't; but that would be about the running time.

Q I dont mean as to that, but I mean any memorandum showing when you left Denver and when you got to Boise?

A I have in my reports, but I havent got the reports here.

Q Have you looked for them lately?

A Yes, sir; I have looked for them.

Q Or a part of it?

A Yes, sir.

Q So you swear positively that you left Denver on the 22nd, in the morning, and got to Boise the evening of the 24th?

A No.

Q 23rd, I mean?

A I know I got to Boise on the evening of the 23rd.

Q But you would not be positive that you left on the 22nd?

A No, I would not be quite positive, but I think I am right, though.

Q And you dont know the day you got this telegram that he arrived?

A No, I dont remember.

Q Well, then you went to Boise?

A Yes, sir.

Q On account of that telegram?

A Well, not exactly on account of that telegram;
I was coming up anyhow.

Q Did it hurry you any?

A No.

Q You were coming on the 22nd anyway?

A Yes, I was coming up somewhere about the 22nd.

Q Well, you at least left the day after you got the
telegram, didnt you?

A Well, that I am not sure of.

Q You did not get the telegram before Aams was
arrested?

A Certainly not.

Q Where did you get the telegram from, Boise or
Baker City.

A I dont remember.

Q You were asked about all of this before, were you?

A I dont remember whether I was or not.

Q And you dont remember where it was sent from,
or the day it was sent?

A No.

Q You think the telegram had nothing to do with your
coming to Boise?

A It had something to do with it?

Q You cant tell how much?

A No.

Q Well you got to Boise on the evening of the 23rd.
When did you go to the penitentiary?

A I believe it was about the 26th.

McParland D
B-9

Q Did you get any reports as to Adams before you went?

A I did not.

Q Nor ask anybody about him?

A I inquired if he was there.

Q Anything else?

A That is all.

Q Did you inquire where he was kept?

A No, I did not inquire where he was kept.

Q Did you know where he was kept?

A I knew he was in the penitentiary.

Q Is that all you knew about it?

A That is all I knew about it.

Q Did you know he was with Harry Orchard?

A I found that out subsequently.

Q Subsequently to what?

A When I went to the penitentiary.

Q You did not hear of it for the first three days that you were in Boise?

A I heard it on Sunday.

Q On Sunday?

A Yes, sir.

Q And you had been there two full days before it?

A Not two full days; one full day and part of an evening.

Q You got there the 23rd, you say.

A Yes, sir; the evening of the 23rd.

Q The next full day would be the 24th?

A Yes, sir.

Q The next full day would be the 25th?

A That was the day I heard about it.

McParland X
B-10

Q You say you heard about it after you went to the penitentiary?

A I heard it Sunday, before I went down to the penitentiary; that is a mistake.

Q You heard it before you went?

A Yes, sir.

Q You did not go to the penitentiary on Sunday?

A No.

Q Adams had then been confined in a cell, as you understood it a few days before?

A I could not tell how long he had been there; I didnt know how long he had been in the penitentiary

Q You found out, didnt you?

A I suppose I found out at that time, but I dont now remember how long.

Q You would undoubtedly have found out, would you not?

A Well, there is no doubt but what I did find out, but I dont remember the days.

Q You went down there on Monday, the 26th, to see Adams?

A Yes, sir.

Q For the purpose of getting a confession?

A Yes.

Q If you could?

A If I could.

Q What time did you go?

A In the morning.

Q In whose employ were you at the time?

McParland X
Ball

A Pinkerton National Detective Agency.

Q In whose employ were they at the time?

A The State of Idaho, I guess.

Q There is not any doubt about that, is there?

A I think not.

Q You had a ~~number~~ number of conferences with the Governor?

A Yes, sir.

Q And with Mr. Hawley who conducted the prosecution?

A Frequently.

Q And your purpose on that morning was to go out and get a confession from Adams?

A Yes, if I could.

Q You went there about 9 o'clock?

A Somewhere about that time.

Q What time did you see Adams?

A Very shortly after I arrived.

Q Well you saw him about nine, didnt you?

A Well, a little while after I arrived; probably five or ten minutes after I got there.

Q What time did you get through with Adams that day?

A Well, possibly about five o'clock.

Q Had him all day, then?

A Yez.

Q Did you get a confession that day?

A Why, a kind of a preliminary; talked pretty much all the matters over that he subsequently confessed to.

Q Did you get a confession from him?

A Yes, I got---

McParland X
B-12

Q (Interrupting) On the first day?

A I got a statement from him as to a great many of the matters he had been connected with.

Q And the admission of his guilt?

A Yes.

Q Didn't you swear before that you did not?

A No, I did not swear that I did not. We talked over these matters, but I did not take any note of what he said.

Q On that day?

A Yes, on that day.

Q You wrote nothing down?

A Wrote nothing down.

Q You called nobody in?

A No.

Q Did you take luncheon with Steve that day?

A I did.

Q What did you tell him during that day?

A Oh, there were a great many things I told him.

Q What?

A I could not now quite remember.

Q You have forgotten a good deal you told him, have you?

A Well, possibly I have.

Q Can you recall what you told him?

A Wel, I talked with him on the subject of the life he had been leading and---

Q What did you say to him?

A I told him that he had better to make up his mind

McParland X
B-13

to make a full breast of all that he had done. 1

Q Is that all you remember saying to him?

A Oh, I said a great deal more than that.

Q I am asking you what you said to him?

A I told him that he would feel much better and that I thought it was a duty that he owed to himself and the community.

Q To what?

A That he owed to himself and the community to expose the crimes that he had been implicated in, and who instigated him to commit them. I told him that he was simply a tool for other parties; and if he admitted that --- and I went on and told him that there was such a thing as even a man that had committed the crimes that he had committed, that he might become penitent and would be forgiven his sins; and all matters like that.

Q Forgiven his sins?

A Yes, sir.

Q Did you tell him by whom?

A By God, of course.

Q You did not tell him by you?

A No, I have not.

Q You havent that power?

A I havent the power of absolution.

MR. DARROW: We thought you had.

MR. HAWLEY: We object to all such remarks right here and now, and we want counsel corrected. No counsel has a right to make insulting remarks toward a witness or remarks that do not pertain to the case,

THE COURT: No, the objection will be sustained.

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MR. HAWLEY: I would like counsel to be cautioned in the future because these are matters that should be stopped.

THE COURT: Counsel is experienced enough to need no caution.

MR. DARROW: Counsel is getting excited.

MR. HAWLEY: I am not getting excited, but to protect our witnesses, and side and by remarks are not proper.

MR. DARROW: I suppose this witness needs your protection.

MR. HAWLEY: It makes no difference whether he does or not, he will get it in any event.

MR. DARROW: Q. Did you tell him he could be forgiven by God?

A. I told him so.

Q. Did he say anything about wanting God to forgive him?

A. He certainly did.

Q. What else did you tell him?

A. I told him that the State always acted fair towards the parties that acted fair towards them.

Q. You did?

A. Yes, sir.

Q. You are sure of that, are you?

A. Yes, I am sure of that.

Q. You told him everything else first?

A. I don't know whether that was first or last; it was in the course of the conversation.

Q. It seems to be last in your statement here, does it not? Do you think of anything else you said to him?

A. Yes, sir; I recited to him several passages of

McParland X
B-15

scripture.

Q What ones did you recite?

A I recited that passage of the Old Testament of David with Uriah.

Q What had that to do---

A (Interrupting) I told him there was a good many people who committed crime and went on committing crime; never for a moment thought of the enormity of the crimes until somebody drew their attention to it; and I recited that passage that I referred to, and how David never thought he had committed a crime until his attention was called to it by the prophet Nathan.

Q And that afterwards he lived a long and happy life and was a happy man?

A That is the record we have got.

Q Well, that is what you recited, is it not?

A Yes, sir;-- I did not state that he had lived a long and happy life, but that is the record, of course, as Scripture gives it.

Q You told him that was the record of the Scripture, that he lived a long and happy life?

A No, I didnt use the words "long and happy life".

Q What did you say?

A I said, "David became a penitent and wrote the "Penitential Psalms"; confessed his crime.

Q You did not tell him he got hung by the neck until dead for killing Uriah?

A No, I have never ^{read} any record of that.

Q You did not tell him that?

McParland X
B-16

A No, I didnt tell him that.

Q Instead of that, he became God's chosen one, and wrote the "Penitential Psalms", you told him that, did you?

A I told him he did penance, became penitential and confessed his crime?

Q You told him he became a man after God's own heart?

A Yes, sir.

Q What other Bible stories did you tell him?

A I also recited the story of St. Paul and his conversion.

Q St. Paul?

A Yes, sir.

Q What did you tell him about Saint Paul?

A He had actually instigated and assisted in the stoning of Stephen to death, and subsequently repented of his sins, and became a power in propagating Christianity.

Q Saint Paul had committed murder, and he got off?

A yes, sir.

Q Did you tell him about any other historical character who had committed murder and got off, either scriptural or otherwise?

A No, I spoke, as an illustration, that the State acted fair with those that acted fair with them. I recited some cases wherein men had become state's witnesses and had not suffered the penalty.

Q Had not suffered the penalty of death?

A Yes, sir.

Q Who did you recite?

A I recited "Kelly, the bum", and one or two others.

Q "Kelly the bum", did you get that out of Scripture?

You got that out of your own experience.

McParland X
B-17

A Yes, sir.

Q That was a Molly Maguire character?

A Yes, sir.

Q What did you tell him about "Kelly the bum"?

A I told him he was one of the slayers of Alexander W. Ray?

Q What else did you tell him?

A That he became a state witness, and said the state had not prosecuted him.

Q Said what? My hearing is bad.

A I said he was not prosecuted.

Q He became a state witness and the state did not prosecute him?

A No.

Q You told him he got his liberty?

A Yes, sir.

Q Did you tell him whether he was handed any money in connection with it?

A I did not.

Q You told him some six or seven others got their liberty during that prosecution too, who turned state's evidence?

A Well, some three or four.

Q Well, whatever the number was, you told him that?

A Yes, sir.

Q And you told him that you were the chief works in that prosecution, didn't you?

A Yes, I told him I had done the work in that prosecution.

Q Well, and you told him the state was always fair to its witnesses?

McParland X
B-18

Q Did you have any purpose in telling him that?

A Not particularly; just to make conversation?

A No, I wanted him to distinctly understand that.

Q That what?

A That there was a possibility that the state would act fair to him.

Q ~~MAN~~ What did you mean by acting fair to him?

MR. HAWLEY: We object. No matter what he meant; it is what he said that would have the effect.

Q What did you intend that Steve Adams should understand you to mean by acting fair to him?

MR. HAWLEY: We object; it is incompetent, irrelevant and immaterial; it is what he said, not what he intended that is the important matter.

MR. DARROW: The whole question of this man's method of getting a confession I think and his purpose is competent.

THE COURT: I think so. Objection overruled.

A Well, I meant to convey the idea that there was precedence before wherein the state had failed to prosecute men that come over and told the truth, that were a particeps criminis in the act.

Q What is that last part?

A A man that was connected with the crimes.

Q And you meant for him to understand that, didnt you?

A Yes, I meant for him to understand it.

Q And therefore there would be such probability in this case?

A That there might be; I did not assure him that such was the case.

McParland X
B 19

Q You meant him to understand there might be?

A Well, I showed him that others had.

Q You did not tell him that if he made a confession he would be hanged?

A Certainly not; nor I did not tell him if he made a confession either.

Q We have found out what you told him on that. Do you think of anything else you told him between nine o'clock in the morning and five o'clock at night?

A No. Most of the time was taken up in telling me just what he had done after that. He stated that he had---

Q (Interrupting) After what?

A After that I had this preliminary talk with him, that we recited here this morning.

Q What time did Steve begin talking?

A In the afternoon.

Q What time in the afternoon?

A I could not tell; probably half past one or two o'clock.

Q Can you think of anything else you told him before that

A Yes, I told him that the rule generally in a case of that kind was that he would be advised to keep his mouth shut and say nothing, and that that advice would be given him very frequently; that lawyers would come to him and tell him they could clear him; lawyers sometimes made a mistake and failed to deliver the goods.

Q You cautioned him against lawyers?

A I did.

McParland X
B-20

Q That was wise?

A I think so.

Q You meant lawyers for the defense?

A Yes, sir.

Q You told him that sometimes lawyers for the defense would get them hanged, didn't you?

A Yes; I told him that.

Q And you gave him one other instance of that that came within your own experience, didn't you?

A I don't remember about that.

Q Do you remember about Tom Horn?

A No, I didn't tell him that those lawyers was the cause of Tom Horn hanging, no.

Q Did you tell him that the failure of Tom Horn to confess was the cause of his hanging?

A I told him Tom would have had a great deal better chance if he had made a statement.

Q And you told him that Tom Horn was hung?

A Yes sir.

Q That he, like Adams, was simply a tool?

A That is exactly what he was.

Q Did you have to do with the Tom Horn case?

A No, I hadn't anything to do with the Tom Horn case.

Q And you told him, Adams, that he was simply a tool?

A I did.

Q For the worst gang of--- we will not say what-- that there ever was in this country?

A Yes, sir; I told him he was the tool of that gang.

Q And that Moyer, Haywood and Pettibone were guilty, and you were going to hang them?

McParland X

B-21

A I didn't tell him they were going to be hung, but I told him they were guilty, and he admitted that was a fact. He said there wasn't any question about them being guilty.

Q Did you tell him that you thought you could do him some good when you went in there?

A I did.

Q Did you tell him what good?

A Well, if I could induce him to confess, I thought it would be best for him.

Q You told him it would be best for him if you could induce him to confess?

A No, I told him I thought that myself.

Q What did you tell him?

A I told him it would be best for him to make a confession, to tell the whole truth.

Q Did you tell him anything about seeing a clergyman at that time?

A I did not.

Q You said in the Molly Maguire cases that six or seven state witnesses got off without hanging, didn't you?

A Well, there were some witnesses got off that were not charged with any capital offense.

Q Got off without imprisonment?

A Got off without imprisonment.

Q Yes. When did you get a written confession from Steve?

A On the 27th of February, 1906, and again on the 28th, 1906.

Q When did you see him after this first day?

A The next day, the 27th of February?

McParland X
B-22

Q And on that day you got a written confession?

A Yes, sir.

Q Of his connection with the Tyler case?

A Yes, sir.

Q And several other cases. Did you show it to Mr. Thiele?

A I handed it to Mr. Thiele after it was extended.

Q After it was extended?

A Yes.

Q You talked to Mr. Thiele about it of course?

A Oh, yes; talked with him about it.

Q Naturally, consulted him day by day?

A No, I did not consult him in that manner.

Q Well, you talked with him?

A I could not tell; I simply told him that I had got a confession from Adams.

Q You showed it to him?

A I handed it to him to take down to the penitentiary.

Q How is that?

A I handed the confession, after it was written up, to Mr. Thiele to take down to the penitentiary for to have Adams read it over and acknowledge it.

Q Now, when did you become connected with the Steunenberg case?

A Why, I think about the ninth or tenth of January, 1906.

Q By whom?

A Governor Gooding.

Q And what was your employment there?

A To investigate the murder of Ex-Governor Steunenberg.

McParland X
B-23

Q You had charge of that branch of it, did you?

A Yes.

Q And you had access to the state penitentiary whenever you wanted on these matters?

A Yes, sir.

Q Through Governor Gooding and Mr. Whitney, who was then Warden?

A Yes, I had access down there when I pleased.

Q And you have had charge of that branch of the case ever since?

A Yes, more or less.

Q Well, you have had charge, haven't you?

A Yes.

Q Nobody else, have they?

A I don't think so.

Q No, others have helped you and worked with you and under you?

A Yes.

Q And you had your pay from the State of Idaho?

A I have.

Q Your purpose in getting this confession was to use Adams in connection with Harry Orchard and any other witnesses, for the conviction of Moyer, Haywood and Pettibone, wasn't it?

A My purpose in getting the confession from Adams was, of course to procure evidence against any person connected with the murder of Ex-Governor Steunenberg.

Q And you believed that Moyer, Haywood and Pettibone were connected with it?

A I did and do.

Q How is that?

A I did and does.

Q Well we are not interested in your present opinion. The jury disagreed with you, but of course that makes no difference.

A You asked my belief and I have given it.

MR. DARROW: I never had any doubt about your belief.

MR. KNIGHT: I believe one of the defendant's witnesses is in the court room, has been subpoenaed once and should be excluded.

MR. DARROW: Is there any witness for the defense here?

MR. KNIGHT: One of your witnesses is here, Mr. Maloney.

MR. DARROW: He was not in the other trial, Mr. Knight, was he?

MR. KNIGHT: He was subpoenaed.

MR. DARROW: Mr. Maloney, you have been subpoenaed, so you will not be allowed to stay in the court room. We will talk with you about the case later.

MR. KNIGHT: He says he doesn't know anything about it.

MR. DARROW: I think that is all.

MR. HAWLEY: That is all.

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WITNESS EXCUSED.

MR. DARROW: Now, your Honor, we will object to the testimony of Mr. Thiele. Is Mr. Whitney here?

MR. HAWLEY: Mr. Whitney is here.

MR. DARROW: We will call Mr. Whitney.

THE COURT: Mr. Hawley, here is something that it is desired should be handed to one of the jurors. It is something in reference to a right of way deed.

Whitney-X
C-1

EUGENE L. WHITNEY,

Called by the Defendant for
Cross Examination, after being
first duly sworn, the Jury being
absent, testified as follows:

CROSS EXAMINATION

MR. DARROW: I wish to cross examine this witness as bearing upon the question of the confession offered to be proved by Mr. Thiele.

MR. DARROW: Q Your name, please?

A Eugene L. Whitney.

Q Mr. Whitney, you are warden of the State Penitentiary of Idaho?

A Yes, sir.

Q How long have you been warden of the State Penitentiary?

A Since the 1st of March, 1905, I believe.

Q Appointed by Governor Gooding?

A Yes, sir.

Q Do you remember when Steve Adams was brought to the penitentiary?

A I recollect about the time, yes, sir.

Q When was it?

A I think it wa in February, '06; I cant give the exact date.

Q Sometime the latter part of February?

A Well, I think, if my meory serves me right, sometime in the latter part; I could not say just the exact date.

Whitney-X
3-2

Q Who brought him there?

A He was brought there by Rube Robbins, Travelling
Guard.

Q Anybody else?

A Mr. Thiele was with him.

Q You had charge of the penitentiary then?

A Yes, sir.

Q Under what authority did you take him in?

A Nothing only as a ---He was arrested under a
warrant, I believe, fugitive from justice; I had no
papers at that time.

Q Well, didnt you have anything to authorize you to
take him into the penitentiary?

A Not at that time, I didnt.

Q Did you ever have anything?

A Yes, sir, I had, later on.

Q What time?

A I had an order from the Probate Court for Canyon
County.

Q How much later?

A I cant state just the exact date.

Q You didnt have anything?

A At that time?

Q Yes.

A No.

Q Later the Probate Court of Canyon County issued an
order, did they?

A Hows that?

Q Later the Probate Court of Canyon County issued an
order?

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at Boulder Libraries

Whitney-X
C-3

A Yes, sir.

Q For the Warden of the penitentiary to take custody of Steve Adams?

A The order from the Probate Court?

Q Yes, sir.

A Yes, sir, the order from that court.

Q You understood he was charged with the murder of Ex-Governor Steunenberg? in Canyon County, didnt you?

A I understood there was a charge of something of that character against him, yes, sir.

Q But not any indictment?

A He had not been indicted at that time.

Q He had been indicted?

A Not at that time.

Q Of course not at that time. ~~But~~ But has he ever been up to the present time?

A Not to my knowledge, no sir.

Q Do you know whether he has or not?

A I dont know that he has, by ~~the~~ the Grand Jury there; I believe his case was dismissed, before the Grand Jury; they didnt indict him I know.

Q That is what I am getting at. How long did you keep him?

A Why, I cant tell just the exact time he was there; I think perhaps three or four months.

Q Nor exactly when he came or when he went away?

A Well, it was in february that he came, sometime, and my impression is that it was in September that he left; I could not state just the date.

- Q Where did you put him when he came?
- A Put him in a cell.
- Q With anybody?
- A Yes, sir.
- Q Who?
- A A man ~~with~~ we had there by the name of Hogan, under that name at that time.
- Q Was that Harry Orchard?
- A Yes, sir.
- Q He is the man who made a confession to having killed Ex-Governor Steunenberg?
- A Yes, sir.
- Q And whom you now have in the penitentiary?
- A Yes, sir, he is still there.
- Q What kind of a cell wa he put in?
- A Steel cage.
- Q Do you remember the number?
- A I could not give the number exactly.
- Q You dont know which one?
- A I think it was number 19, thought I would not say positively.
- Q You are not sure what cell you put him in?
- A I think it ws number 19; I would not swear positively.
- Q Did you have more than one kind of cell?
- A Yes, sir, we have.
- Q Have what is known as a "blind" cell?
- A yes, sir; there is one "blind" cell.
- Q Which one is that?

Whitney-X

6 W-5

A Number twenty.

Q You think he was not in twenty?

A No sir; I know he as not in twenty.

Q Anybody else in twenty?

A I do not think there was; there might have been.

Q You are not sure where Steve was; you know he was not in twenty, is that it?

A I know he was not in twenty, but the next cell to twenty, but whether eighteen or nineteen I dont recollect.

Q How long was he left in the cell with Harry Orchard?

A Well, he was there several days; I cant tell you just the number of days.

Q When did McParland come there.

A Well, that was several days after he had been there; for perhaps four or five or six days; I cant state just exactly how long. You mean to see Mr. Adams?

Q You knew who Mr. Mcparland was?

A Yes, sir.

Q You knew he was the Western Representative of the Pinkerton Detective Agency?

A I knew he was connected with the Pinkerton Detective Agency, yes sir.

Q And that he had charge of the looking up of evidence in this case?

A Yes, sir.

MR. KNIGHT: In this case or the Steunenberg case?

A Steunenberg case.

MR. DARROW: Q Well, this man was brought there in the Steunenberg case, as you understood it?

A Yes, sir.

Whitney-X
C-6

KOQ

Q Mr. McParland had access to the prisoners on any matters relating to this case or the Steunenberg case?

A Yes, sir.

Q Had Moyer, Haywood and Pettibone arrived there?

A I think they had.

Q How long before Steve Adams?

A Well, it was several days; I could not say just exactly the number of days.

Q Mr. McParland told you he wanted to see Steve Adams, did he?

A Yes, sir.

Q Tell you the reason?

A He didnt state any reason; ^{said} ~~she~~ he wanted to talk with him.

Q Say what about?

A No, sir.

Q I suppose you knew?

A Well, I had an idea what it was.

Q Yes. And you went and got Steve Adams and brought him in to McParland?

A Yes, sir.

Q And where did you take him?

A Took him into the clerk's office--- the clerk there.

Q That is, in the penitentiary?

A Yes, sir.

Q How long were they together that day?

A Well, I couldnt say just exactly the length of time.

Q What time did you get him?

Whitney-X
C-7

A Well, sir, I cant tell you the time of day I got him; I dont recollect the time of day.

Q Was it daylight or dark?

A No sir, it was dark.

Q You are sure about that?

A Yes, sir.

Q So it must have been four or five or six o'clock in the evening?

A I think so.

Q Before dinner or after?

A Well sir, I cant tell you whethwr it was before dinner or after.

Q Do you know whether it was before breakfast or after?

A I dont think it was before breakfast; they dont usually come up that early.

Q You dont know whether it was before supper or after?

A I think it was before supper; it was during the night day sometime; ~~xxxx~~ have been in the forenoon; might ave been in the afternoon; I cant say as to that.

Q But you got him in the daytime?

A Yes sir.

Q You havnt any remembrance of the time?

A I dont recollect, no sir.

Q When did he quit that day?

A I cant tell you when he went back in ; I dont recollect the time of day he went back in.

Q Did you take him back in?

A yes, sir; in the presence of the captain of the ~~Guard~~ ^{yard}, if my memory serves me right.

C-8

Q And how long were they together?

A I cant tell you how long they were together; I had other business I was attending to.

Q Well, you took him in and took him back?

A yes, sir.

Q Other business would not prevent you doing that?

A Well, I mean I dont recollect the time or how long he was there.

Q Dont you know whether it was an hour or ten hours?

A (Interrupting) I know it was not ten hours,

Q (Continuing) or fifteen minutes?

A Might have been an hour and a half; might have been two hours; might have been longer.

Q You think that would be about all. Did you ~~get~~ ^{again} get him for Mr. Mcparland?

A yes, sir.

Q How long after?

A The next morning.

Q How long was he with him that time?

A I think he was with him---the second time he was there all day, if my memory serves me right.

Q Did you get him again?

A I dont recollect whether he was brought in again or not; I would not say positively.

Q You wouldnt say whether you got him the third time?

A I know he saw him a third time, but right at that time whether he did or not, I could not ~~talk~~ say; I think he was.

Whitney-X
C-9

Q Do you know whether he saw him a fourth time?

A Well, he saw him several times there.

Q Did you have any conversation with Steve Adams about his confessing at that time?

A The first time he was out, I saw him as he was going back in and he said Mr. McParland was coming up the next morning and he was "coming through".

Q What did you say?

A I told him I thought he was doing a wise thing.

Q Say anything else?

A Not necessarily so, that I recollect.

Q You didnt necessarily tell him that, did you?

A That was what I said to him.

Q Do you know whether you said anything else?

A We were going inside, I dont think I conversed with him a great while.

Q You said you thought it was wise for him to "come through", did you?

A I told him I thought he was doing a wise thing.

Q Yes. What did you mean by that?

A Well, I thought it was a good thing for him to "come through".

Q What?

A I thought it was a good thing for him to "come through" and tell the truth.

Q And why would it be good for him?

A Well, he said he was going to make a confession or "come through".

Q In what way did I understand you to say ~~yes~~ ~~no~~?

Whitney-X
C-10

it was wise for him to "come through", wise for what?

A I thought probably to relieve his own conscience; it would mine.

Q Did you say that to him?

A No, I didnt say that to him?

Q That is what your meaning was?

A That is what I meant in my own mind.

Q You thought he would take that meaning himself.

A Well, I didnt know how he would take it.

Q Or care how he would take it?

A No, I didnt care much how he would take it either.

MR. DARROW: No. Thats all.

MR. HAWLEY: Thats all.

WITNESS EXCUSED.

MR. DARROW: Now, your Honor, we object on the ground that the original confession in this case was obtained by threats, promises and inducements, and that the presumption follows from that that subsequent confessions were obtained in the same way.

THE COURT: I shall overrule the objection.

Defendant excepts and exception allowed.

MR. MILLER: For the further reason that the confession was not a voluntary confession; it was an involuntary confession induced through the hope of reward held out by the officers in charge.

THE COURT: Objection overruled.

Defendant excepts and exception allowed.

C-11

WHEREUPON, the Jury was brought into Court in charge of the officers and being duly polled, all responded to their names, and the trial of this cause proceeded as follows:

-----000-----

S. C. THIELE,

Resumes stand for further direct examination.

BY MR. HAWLEY:

Q We were speaking, Mr. Thiele, at the time that you were withdrawn, in regard to your interview with the Defendant Adams, on or about the 17th of April, I believe, is the date?

A Yes, sir.

Q You may now state in detail the conversation with Adams on that occasion, with reference to all matters connected with the Marble Creek country, the killing of Fred Tyler and Bouley and other matters of that kind.

MR. MCBEE: The same objection, of course.

THE COURT: Objection overruled and exception allowed.

A I went up to ask Adams whether he had anything that would assist us in any way with connecting the guilty ones in the Steunenberg murder case or anything else that he might know anything about that was being investigated; and he told me he had a lot of relics on his ranch and each of them had a history connected with them. Among others was a 25-35 shell, Winchester rifle shell, the bullet of which he claimed had killed Tyler, and I asked him how I could secure this and he told me he

C-12

would give me a letter to either his uncle or his nephew on the ranch there and by taking the letter to him, why he would let me have these things. I asked him if he remembered them all and talked with him several minutes about them and we finally decided to go over and see Mrs. Adams, who was in the female ward of the penitentiary at that time, and we went over there and we talked the matter over with her and she then said that she would---

MR. DARROW: Wait a minute.

MR. HAWLEY: Q When you saw "we" do you mean Steve Adams and yourself went over to the womens ward and talked it over?

A Yes, sir.

Q This conversation you are relating was in the presence and hearing of Steve Adams, the Defendant ?

A About what part of the conversation?

Q This conversation which you are now going on to say?

A Steve Adams and I were talking.

Q Well, but Mrs. Adams was there?

A At a part of the conversation.

Q You were stating something that was said by Mrs. Adams?

A Yes, sir.

Q I will ask you if that was in the presence and hearing of the Defendant?

A Yes, sir.

Q Go ahead.

MR. DARROW: I object to that; the statements of Mrs. Adams are incompetent.

Thiele-D
C-13

THE COURT: Objection overruled.

Defendant excepts and exception allowed.

A (Continued) and after we got over there, Mrs. Adams said that during the time or immediately after the arrest of Steve Adams, she had taken these articles with Westley Lilliard and was either present at the burial or assisted in burying the articles on the ranch---

MR. DARROW: Just a moment.

MR. MCBEE: As part of that objection, if your Honor please, the statements of Mrs. Adams cannot be used as against the Defendant for the reason that her original testimony cannot be so used.

THE COURT: Under our statutes, confidential communications between husband and wife or between wife and husband

MR. MCBEE: Confidential communications between husband and wife; and the wife cannot, without her consent be a witness.

THE COURT: Or without his consent.

MR. MCBEE: And, therefore, a statement made by the wife could certainly not be used.

THE COURT: The objection is overruled?

MR. DARROW: An exception to that. The objection is in addition to the one already made.

MR. DARROW: Would you mind letting him read this statement so far?

(The stenographer read that portion of the answer from "go over and see Mrs. Adams" to the ~~know~~ place where the objection was made.

MR. HAWLEY: Now, go on, Mr. Thiele, and state the rest?

A At that time---

Thiele-D
C-14

THE COURT: Speak distinctly.

MR. HAWLEY: Speak a little louder.

A (Continued) At that time Mrs. Adams was not quite sure as to everything Mr. Adams might want me to get down there; and I told them that if they had anything they wished to keep back, they neednt tell me about it, and during my speaking in that light, they were passing a tablet between one another; Mrs. Adams wrote something on the back of the tablet and returned it to Adams and he handed it back to her and commenced to laugh, and I told them that the best thing they could do was to tell me all about it, but if they didnt want to do it, they would not have to. I also asked them to write me a letter instructing whoever was in charge of affairs up there to turn them over to me and they could think that matter over during the night. That was practically all the conversation at that time.

Q Did you receive that list afterwards?

A No, sir.

Q Did you afterwards have a conversation with Adams in regard to this matter?

A Yes, sir.

Q When and where?

A The following day---either the following day or the second day his uncle arrived in Boise---

Q Mr. J. W. Lilliard?

A Yes, sir. And I talked with him relative to the letter that was supposed to have been given me and told him that if he didnt wish to give me a letter---

MR. DARROW: Wait a minute.

MR. HAWLEY: Q Was Adams present when you talked to Mr. Lilliard?

A I didnt talk to Mr. Lilliard; I talked to Mr. Adams.

Q Go ahead.

MR. DARROW: I have a little trouble with my hearing.

THE COURT: Speak louder, Mr. Thiele, so everybody can hear.

A I was talking with Adams about the letter and told him his uncle had arrived in Boise, and if he didnt wish to give me the letter, he could give it to his uncle and talk it over with him and have him bring the articles to Boise; and that is practically everything that took place on that day.

Q In speaking of these articles at any time, was there reference made to any articles that came from the Marble Creek country?

A yes, sir; the 25-35 Winchester shell that Adams told me the bullet had killed Bouley---I should say Tyler.

Q Killed Tyler?

A Yes, sir.

Q Any other matters connected with that matter he spoke about then?

A In what reference do you mean?

Q In regard to Marble Creek; Tyler.

THE COURT: That is the first day?

MR. HAWLEY: Yes---second day.

A There were three conversations; the conversation on the first day when he spoke about that and on the second day I talked with him and he told me of the killing and on the third day, on the 19th, he told me of the--- I told him of his uncle having come up there.

Thiele-D
C-16

Q It was the second day that he told you about having the shell that killed Tyler?

A On the first day he told me that and on the second day I asked him relative to ~~his~~ his connection with the shell.

Q That is what we want; I have asked for that conversation; I havnt heard it?

A On the second day, the 18th of April, as I remember i, I asked him about the killing of Tyler.

MR. DARROW: Say what you said and what he said.

Q Yes, give the entire conversation just as it happened, as nearly as you can state; in the first place, when this conversation was had and who was present?

A The conversation was between Steve Adams and myself; no one present.

Q Where was it had?

A In a room immediately back of the warden's office; penitentiary building.

Q Now, go on and state what you said and what Adams said.

A I asked him about the Tyler killing. I cant give the exact words; asked him how he killed Tyler; and he told me that he had gone up to the Marble Creek district, or rather to Wallace, and saw Simpkins and he and Simpkins went to the Marble Creek district and after they were up there they had been talking about the claim jumpers, one who lived on the other end of Simpkins' claim, as I understood him, and Simpkins immediately went away from there and he, in the meantime had met two settler, one named Mason and one named Glover. He also learned that this man Tyler,

as they called him, was a claim jumper ---they all claimed to have homesteads up there and it was decided amongst them to kill Tyler, to "get him", the words Adams used; and one night they went to Tyler's cabin---one afternoon---didnt find him there and they waited on the trail until he came along. About sun-down he came along and one of the parties said, "Here he comes"; Adams stepped behind a tree and held a Winchester rifle on him and after he had stopped him, the other men went up and took a heavy pattern 38-colt's revolver away from him.

Q Away from Tyler?

A Away from Tyler.

THE COURT: Speak louder.

THE WITNESS I am doing the best I can.

MR. DARROW: I guess I will get most of it.

A (Continued) and after they had taken this gun, they took him over to Simpkins' cabin, kept him there over night and Adams claimed to me that he had questioned him relative to his business in that country and he told him he was a claim jumper or words to that effect, didnt tell him anything about his relations and wouldnt, wouldnt tell who sent him there; the next morning they took him out, Mason, Adams and Glover took him out and when they go to a convenient place, Adams shot him with a 25-35 Winchester.

MR. DARROW: What was that last?

THE WITNESS: Shot him with a 25-35 Winchester; and he told me the ~~shot~~^{shell} he referred to the day before was the one that had the bullet that killed Tyler.

Thiele-D
C-18

Q Was that all the conversation you had at that time in regard to the killing of Tyler, or matters in the Marble Creek country?

A He told me that after this was done they came out over a trail to the head of navigation.

Q "They", who did he mean by "they?"

MR. DARROW: Who did he say?

MR. HAWLEY: Q Who did he say?

A Adams, Glover and himself.

Q Mason, Glover and himself, you mean, dont you?

A Mason, Glover and himself.

Q Did he say they took him out to a convenient place and he shot him?

A Adams said "I shot him."

Q Go ahead with the rest.

A After they had killed Tyler, they went out over a trail to the head of navigation, parted somewhere along the river; Adams came down and met Simpkins in Wardner or Wallace, I am not sure which, told him what they had done; and, after they had laid around for a week or so, Adams and Simpkins went back into the Marble Creek District and Adams, Simpkins and Griffith, and I believe one other man he said, met Bouley on the trail and opened fire on him and it resulted in the killing of Bouley, and he then, later, came down to Wallace, and afterwards took the Coeur d'Alene Electric Road to Spokane and went back to Denver by way of the Burlington Railroad and Alliance, Nebraska.

Q Is that all he said to you in that conversation with reference to the Marble Creek affair?

A yes, sir.

Thiele-K
P-1

WHEREUPON, the jury was duly admonished, as required by law, and the officers were sworn to take charge of the jury and the jury retired in their charge, and court adjourned until 2 P.M., Monday, November 11, 1907.

S. C. Thiele D
D-1

Monday, November 11, A.D., 1907.

P. M. Session.

At this date the jury came into court in charge of the officers, and being duly polled, all answered to their names and the trial of this cause proceeded as follows, present as before.

S. C. THIELE,

On the stand for further
direct examination:

BY MR. HAWLEY:

Q What was the last question, Mr. Reporter?

The Reporter: I was not in just before the recess.

Q What was the last question you were asked, if you recollect.

Q Why you asked me to detail the conversation that happened on the 18th and 19th. I was through answering all that question.

Q You had answered those questions fully, then?

A Yes, sir.

Q After this conversation on the 19th, did you, at any time have any further conversation with Adams?

A Yes, sir.

Q By the way, before we get off from this conversation on the 18th or 19th, the first conversation on the 18th was the conversation in which reference was made to the shells?

A On the 17th.

Exhibit D
D-2

Q 17th?

A Yes, sir.

Q And when was it this conversation in regard to the occurrences on Marble Creek at the time Tyler and Bouley was killed? Was that on the 18th or 19th?

A 18th.

Q Did you have any further conversation on the 19th in regard to this matter with Adams?

A The conversation with reference to the shell and other articles we had on the ranch.

Q That was the second conversation in reference to that, was it?

A Second conversation with reference to shells.

Q Was that shell procured afterwards, that shell that professed to have killed Tyler?

A I don't know; I never seen it.

Q You did not attend to that?

A No, sir.

Q After this you had a subsequent conversation, you say. What date was that?

A 27th of May, 1906.

Q Where was that conversation had?

A Between Boise and a town called Orchard on the Oregon Short Line, in a buggy.

Q Who was in the buggy?

A Gene Johnson, Steve Adams and myself.

Q Where were you going?

A Going to Orchard.

Q What purpose had you in going to Orchard?

A Taking Mr. Adams there to turn him over to some

EXHIBIT D
D-3

officers from the State of Colorado who were going to take him to Colorado.

Q Who did you expect to meet there?

A General Buckley Wells.

Q In going over there did you have some conversation

A Yes, sir.

Q State that conversation?

A I talked with Adams about a trip I had made to Salt Lake and Park City, Utah.

Q For what purpose, in what business?

A Connected with the Steunenberg matter, and he asked me if I had seen Joe Mehalich at Park City, Utah. I told him there was a man there called himself Joe Mehalich who answered to a photograph of Joe Mehalich. He told me he gave Joe Mehalich the gun that was taken from Tyler when he was held up on the trail by Mason, Glover and himself.

Q Did he tell you who Joe Mehalich was or what connection he had had with him theretofore?

A He told me he had lived with Joe Mehalich at Park City, Utah.

Q Did you have any further conversation with Mr. Adams on this occasion, with reference to the Tyler and Bouley matter?

A No, sir.

Q Or events in the St. Joe country?

A No, sir.

MR. HAWLEY: You may take the witness.

Thiele-X
D-4

CROSS-EXAMINATION

THIELE.

BY MR. DARROW:

Q Mr. Thiele, you are a detective?

A Yes, sir.

Q What agency do you operate for?

A Pinkerton's National Detective Agency.

Q How long have you been engaged with them?

A Three years and a half.

Q Were you ever in detective work before?

A No, sir.

Q What position have you with them now?

A Assistant Superintendent of the Spokane office.

Q How long have you had that position?

A Since the 5th day of July, 1906.

Q How long have you lived in Spokane?

A Why, I moved there permanently in June of 1906.

Q You did detective work somewhere before that?

A Yes, sir.

Q Where?

A Montana, British Columbia, Idaho, Washington.

Q Where were your headquarters?

A Spokane and Seattle.

Q Which was the first headquarters you had?

A Seattle.

Q Before you became a detective what did you do?

A Worked on a tram road over in western Washington.

Q Whereabouts?

A Machias, Washington.

Q What did you do with reference to the tram road?

A Working on the tram road there.

Q In what way?

A In charge of the tram road.

Q Excuse me, Mr. Thiele, I am a little hard of hearing.

A I say I have charge of the tram road.

Q Building it?

A No, operating it.

Q How extensive a tram road was this?

A Had ten horses and four men, generally.

Q How long did you have that job?

A About four months at that time.

Q What were you doing before that?

A Working for about eight months before that for the same firm.

Q Immediately before?

A Why, there was a lapse of maybe three months.

Q Employed at anything during that time?

A No, sir; was disabled at the time.

Q How is that?

A Was disabled at the time.

Q What did you do before that?

A Before the tram became disabled, or the tramway became disabled?

Q Yes?

A Conducted the same tram road.

Q How long?

A About eight months.

Q What did you do before that?

A Worked in stamp mill in southern Oregon.

Thiele-X
D-6

Q Whose mill was it?

A J. J. Houckins's mill.

Q How long did you work there?

A Possibly a year and a half.

Q Whereabouts in southern Oregon was that?

A Gold Hill, Oregon.

Q In what capacity?

A Working as amalgamator and mill man.

Q Before that where did you go?

A At the same place.

Q How long were you there?

A Four months.

Q After that where were you?

A Working for the Southern Pacific Railroad Company
as Station Agent.

Q Whereabouts?

A Same place.

Q How long did you have that job?

A About a year and a half.

Q What was your employment before that time?

A Just prior to that for about eight months of the
same time I had charge of the Gold Hill Waterworks.

Q At the town of Gold Hill?

A Yes, sir.

Q Oregon? How long did you have charge of that?

A Yes, sir; twelve or fifteen months.

Q How big is Gold Hill?

A Six hundred population.

Q Six hundred?

A Yes, sir.

Q Were you employed at anything before that?

Thiele-X
D-7

A Immediately before that I made a trip through California

Q For what purpose?

A Two or three months, well to get acquainted with the country.

Q You were not under employment then?

A No, sir.

Q Were you employed before that time at all?

A Yes, I worked about eight or nine months for J. W. Hayes & Son. They had a power plant.

Q Where is that?

A On Rogue River.

Q Rogue River?

A Yes, sir.

Q Was that your first work? or were you working somewhere before that?

A Didn't do anything before that.

Q Then you struck the Pinkerton and have now been there three years?

A Yes, sir.

Q Have you ever been a member of the Western Federation of Miners?

A Yes, sir.

Q When?

A October, 1904.

Q How long were you a member?

A Six weeks.

Q Whereabouts?

A Butte, Montana.

Q Were you a Pinkerton at that time?

Thiele-X
D-8

A yes, sir.

Q You became a member as a spy on the fellows, did you?

A I did not.

Q Did you become a member in connection with your work there?

A They came down and asked me to join.

Q You went there for the Pinkertons to investigate something, did you?

A yes, sir.

Q And you joined the Western Federation?

A Yes, sir.

Q yes. You didnt join it so as to get information and stand in with the fellows?

A No, sir.

Q Did you join it because they asked you?

A yes, sir.

Q And you made regular reports to the Denver Office of what you learned there, didnt you?

A Yes, sir.

Q Yes. But of course you didnt tell them that you were a Pinkerton while you were with them?

A No, sir.

Q You attended their regular meetings?

A When I was off shift and had time I attended them.

Q And when you joined them you made oath read there to you, their ritual, same as any organization?

A yes, sir.

Q In which you said that you were not a Pinkerton or

Thiele-X
I-9

member of any detective association, didn't you?

A Yes, sir.

Q But you were?

A Yes, sir.

Q In that case of course you were not telling the truth?

A How is that?

Q In that case, of course, you were not telling the truth?

A I am not telling the truth?

Q You were not then? Oh, I cannot say you are not now.

A Yes, sir.

Q What?

A Oh, I was not ^{at} that time?

Q Yes, that is what I am talking about. I am not talking about now. Did you hold up your hand when you took this ritual or put your hand on it---

A I don't remember that.

MR. HAWLEY: I object to this as incompetent, irrelevant and immaterial, what he did in regard to that.

THE COURT: The objection is overruled. It is cross-examination and I shall allow it to be liberal.

MR. HAWLEY: Very well.

Q How is that?

A I don't remember exactly whether at the time the president read the ritual there was anything said about that, or before that, that I remember, about my being a Pinkerton.

Q Don't know whether you put your hand on where your heart is supposed to be when you took this obligation or not, at that time?

Thiele-X
D-10

A -----

MR. KNIGHT: Please read that last answer.

(Last answer read.)

Q You remember it was in the ritual?

A Not in the ritual.

Q It was in the obligation you took, was it not?

A In the application.

Q In the application?

A Yes, sir.

Q Which you signed?

A Yes, sir.

Q And you signed it?

A Yes, sir.

Q But, whether it was in the obligation you
dont know?

A To the best of my memory there was nothing said in the
obligation about it.

Q Yes. Well, now how long did you stay a member of
the Western Federation?

A About six weeks.

Q Paid your dues while you were there?

A Yes, sir.

Q What were you doing in Butte besides detective business?
Did you have a job?

A Yes, sir.

Q In what mine or mill?

A In the Butte Reduction Works.

Q You held your job as long as six weeks?

A Yes; longer than that; ten weeks.

Q What was your name up there?

Thi 1e-X
D-11

A John Cameron.

Q You were John Cameron then?

A Yes, sir.

Q Your dues were paid by the Pinkertons themselves, were they not?

A No, sir.

Q Paid them out of your own pocket?

A I paid them. I dont know what they done with them.

Q How is that?

A I paid them. I dont know what they charged them to.

Q Dont know what they charged them to?

A I paid the dues and charged them to them. You asked me if I paid them.

Q Perhaps I did. They were paid by the Pinkerton Office, were they not?

A I cant say they were. I paid them and charged them up to them. I dont know whether they got the money from somebody else or paid them, or who they charged them to.

Q I see. That is rather a fine distinction, is it not?

A Well, it is something I wouldnt swear posit ively on.

Q No. You swear positively as far as you were concerned; they were paid by the Pinkerton office?

A I will swear positively I paid the dues and charged them up in my bill and sent it to the Denver Superintendent.

Q And they paid it to you?

A Yes, sir.

Q Now, we have got it after a long while.

MR. HAWLEY: Oh, I object to that method of questioning.

THE COURT: Oh, yes; it is objectionable.

Thiele-X
D-12

Q You mean to say---

MR. HAWLEY: I would like a ruling on that.

THE COURT: I say it is objectionable.

Q You mean to say you dont know whether the Pinkerton Office charged them up to the men who employed them in that case, or not?

A That is it exactly.

Q You stopped paying dues after you went away?

A I withdrew from the Union and stopped paying dues.

Q Take a withdrawal card?

A Yes, sir.

Q Got it yet?

A Yes, sir.

Q Told Steve Adams you had one, didn't you?

MR. HAWLEY: I object to that; it is immaterial, unless it is intended for an impeaching question; and, if so, the foundation ought to be laid.

THE COURT: I sustain the objection if it is for impeachment.

MR. DARROW: I am not doing it for impeachment. Itv is cross-examination to find out the real circumstances.

THE COURT: I overrule the objection.

Q You told Steve Adams you were a member of the Western Federation, or had been?

A Yes, sir.

Q How long has it been since you paid any dues, or anybody paid any for you?

A Since November, 1904.

Q Did you ever, at any time, do any more work for the --- in connection with the Western Federation of Miners until

Thiele-X
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you got into the Steunenberg case?

A No, sir.

Q When were you called into that case?

A The eighth of January, 1906?

Q By whom?

A I was directed to go there by the Superintendent of the Spokane office at that time?

Q You went there the 8th of January?

A Left Spokane on the morning of the 9th.

Q Where did you go?

A Caldwell.

Q Were you deputized as deputy sheriff in Caldwell?

A No, sir.

Q At any time?

A No, sir; no time.

Q How long did you stay around there?

A Around Caldwell?

Q Yes?

A Day and a half or two days.

Q Then where did you go?

A Went to Boise.

Q You spent most of your time in Boise after that, for several months, didnt you?

A Yes, sir.

Q In connection with this case?

A Yes, sir.

Q When did McParland arrive?

A I think he arrived in Boise on the 10th or 11th of January.

Q Of course you knew McParland, knew who McParland was?

Archives
University of Colorado
at Boulder Libraries

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A Yes, sir.

Q You had met him before, I presume?

A I met him once before.

Q McParland had charge of all the Western offices?

A yes, sir.

Q You and he stopped together at the Idenhar Hotel?

A Yes, sir, that is after some little time, not right away.

Q You saw him daily?

A nearly so.

Q Talking with him daily?

A Well, I will not swear positively it was daily, but it was quite often.

Q Anyhow, you stopped with him whenever it was necessary for any one of you to be in this case?

A yes, sir.

MR. KNIGHT: Do you mean this case or the Steunenberg case, Mr. Darrow?

MR. DARROW: The same case; that is as we understand it, you got \$500,00 from the State treasury to prosecute him on

MR. KNIGHT: Not the same case.

MR. DARROW: Part of this case.

MR. KNIGHT: We would like the witness to give us the case he is talking about.

THE COURT: What case are you talking about?

A I was engaged in the Steunenberg case, I refer to the Steunenberg case.

Q Mr. Thiele, when was the question of Steve Adams's connection with anything illegal of the Western Federation or any of them, first discussed?

A Sometime after the first of February.

Thiele-X
E-1

Q That is between you and Mr. McParland?

A Between me and any one that was connected there at that time.

Q You discussees it with Mr. Mcparland, did you?

A Sometime along in February.

Q You had seen a copy of the Orchard confession, I suppose?

A Seen part of it; I dont know that I saw it all.

Q In which certain things were said about Steve Adams?

A yes, sir.

Q And then it was agreed that you should all set to work to find Steve Adams?

A It was agreed that Steve Adams be found.

Q You went out, set to work to find him?

A I did not have any way of doing any work on it in Idaho.

Q Did anybody?

A I think Mr. McParland did.

Q Was anything to be done after he was found?

A He was to be arrested.

Q He was to be arrested?

A Yes, sir.

Q That was agreed upon, that he should be found, if possible, and arrested when found, is that right?

A Yes, sir.

Q That was understood by you and Mr. McParland at least?

A Yes, sir.

Thiele-X
E-2

Q How much of the time during January and February was Mr. McParland there?

A Mr. McParland was in Boise, along about the 10th or 11th of January, until I think about the 12th of February.

Q Up to that time Steve Adams had not been located?

A I did not know where he was.

Q You dont know whether he had been located or not, do you mean to say?

A I dont know whether one of our officers had trace of him or not; I had not.

Q Well, you dont know that anybody else had located him either, do you?

A No, sir.

Q When did you learn that he had been located?

A About the 17th day of February.

Q And how did you learn?

A By telegram from the Denver office, our agency.

Q from Mr. McParland?

A I dont know whether Mr. McParland sent the telegram or one of the other officials.

Q Did it give any directions as to what you should do?

A Directions had been given previously.

Q What were they?

A If Steve Adams was located anywhere in what was commonly called "our territory" out here on the coast, one of our officials should go and identify him to the arresting officer.

Q What did you do then?

A I communicated with the authorities in Idaho.

Thiele-X
E-# 3

Q Whom do you mean by "the authorities"?

A I talked with Mr. Robins, who was appointed State Agent.

Q Anybody else?

A I think Mr. Hawley.

Q Was that all of the authorities you communicated with?

A Some one had communicated with the Sheriff of Canyon County or the Prosecuting Attorney, but I didnt know them personally; so I dont know.

Q Then what did you do?

A Mr. Robins and I started to Oregon.

Q How long after you received the information?

A In a very few hours; ten or twelve hours.

Q What process, if any, did you have?

A Rube Robins had been appointed State Agent of Idaho and had an extradition warrant and requisition papers, upon the Governor of Oregon, for Steve Adams and him and I got on the train and he went on to Baker City.

Q What charge had been made against him, upon which requisition papers were given by the Governor?

A The Steunenberg murder trial.

Q That is, he was charged with having murdered Governor Steunenberg?

A Either murdered him or been an accessory to the murder; I am not positive on that.

Q You say it I suppose?

A How is that?

Q You saw the charge or the warrant, one or the other?

A I saw a bundle of papers; I did not read them.

Q You did not care much what was in them?

A They were not in my charge.

Q There was not any of this in your charge much, was it?

A No, sir.

Q Where was the process from?

A State of Idaho, from Boise.

Q You mean they were issued by somebody in Boise?

A Yes, sir.

Q Who.

A The Secretary of State, I understood or the Governor.

Q Was there nothing back of that?

A There was a warrant sworn out from Canyon County.

Q That is what I am inquiring about.

A Warrant sworn out in Canyon County.

Q Do you know by whom?

A I do not.

Q And by whom issued?

A I do not.

Q And what were the directions, as to where he should be taken?

A Bring him to Boise and put him in the penitentiary, I understand.

Q That is, there was a warrant sworn out in Canyon County to arrest him for the murder of Ex-Governor Steunenberg, in Canyon County, and take him to the Boise penitentiary?

Thiele-X
2-5

A No, sir; I dont think there was anything of that kind in the warrant.

Q That is what I am asking you about. Was there any direction in the warrant as to where to take him?

A No, sir, none that I know of; I did not see the warrant.

Q You did not see it. You were in communication with the Sheriff of Canyon County during this time?

A Yes, sir.

Q When you got your bundle of papers, what did you do?

A Got on the train and went to Oregon.

Q Whereabouts.

A I went to Haines.

Q In the meantime had the Sheriff, of the County in which Baker City is situated, been communicated with?

A He told me after that that he had received a telegram to assist me in case I called on him.

Q From the Governor of the State?

A The Governor of Idaho, I understood.

Q That is what I mean, the Governor of Idaho.

A Yes, sir.

Q Governor Gooding?

A Yes, sir.

Q You went to Haines; that is six or eight miles from Baker City, isnt it?

A That is twenty miles from Baker City by railroad; but about twenty miles.

Q To Haines?

A Yes, sir.

Thiele-X
B-6

Q It does not matter how far it is, I guess, and you got off there because you supposed that was the nearest place to where Adams was?

A Yes, sir.

Q What did you do then?

A I inquired around there to find out where Adams was. After I found out, when I got back there, the information was not very clear on the subject and I went from North Powder.

Q How far is that?

A About twenty miles further west.

Q Well, did you get any information there?

A Yes, some.

Q Well, when did you get information that satisfied you where he was?

A On the 19th, at Haines.

Q And what date was it you went to Haines from Boise?

A We arrived late on the night of the 17th or early in the morning of the 18th, a little after midnight, I think we arrived there.

Q Then what did you do?

A After I got the information where he was?

Q Yes, sir.

A I telephoned the Sheriff of Baker County that I had Steve Adams located and bring down a warrant and cause his arrest.

Q In the meantime was Rube Robins there?

A No, sir.

Q Where was he?

Thiele-X
E-7

A He had went to Salem.

Q For what?

A He had the extradition papers on him.

Q And the Sheriff of Baker County came, did he?

A Yes, sir.

Q Alone?

A No, sir.

Q Who was with him?

A One special deputy.

Q Two horses and a spring wagon?

A He came in a buggy.

Q That was Mr. Brown, was it?

A Yes, sir.

Q What is his first name?

A Harvey K.

Q Harvey K. Brown. You told him where you wanted to go, did you?

A Yes, sir.

Q And you drove there?

A Yes, sir.

Q And there you found Steve Adams?

A Yes, sir.

Q Now, you took some steps, as you have related here, to identify him?

A Yes, sir.

Q And you did identify him?

A Yes, sir.

Q You went to the house to find out the name of his little boy, and you told them to keep him while you were gone?

Thiele-X
E-8

A Yes, sir.

Q And you were satisfied of his identification?

A Yes, sir.

Q And then took him along?

A The Sheriff took him.

Q Do you mean the Sheriff carried him?

A No, sir; the Sheriff had him as his prisoner.

Q Were you there?

A Yes, sir.

Q You did not have anything to do with it?

A I did not have the man in my charge after the Sheriff had arrested him.

Q You had your eye on him, didnt you?

A Naturally would.

Q What?

A I naturally would; I could not very well help looking at him.

Q You told Brown that was the man; to arrest him, didnt you?

A Yes, sir.

Q You had that much to do with it?

A Yes, sir.

Q Well, Brown did not put hand-cuffs on him, did he?

A No, sir.

Q There did not either of you have hold of him?

A No, sir.

Q Well, you all went back to Baker City together?

A Yes, sir.

Q Where did Steve ride?

A He rode with Brown and I in the rear seat of the rig.

Q Between you?

A We sat on our knees.

Q He was in charge of Brown; you did not have anything to do with him?

A He was not in my charge.

Q Then what did you do with him?

A Brown took him and locked him up in the Baker County jail.

Q Did you go there to the jail?

A Yes, sir.

Q Afterwards made complaint to Robins that you thought he would not be safe there?

A No, sir.

Q You did not say anything such thing to Brown?

A No, sir.

Q You said nothing of his custody there?

A No, sir.

Q What time of night did you get to Baker City?

A Somewhere after eight o'clock.

Q Did you hear Steve say anything of wanting to see a lawyer?

A No, sir.

Q If he made any such request, you did not hear it?

A I did not hear it.

Q Your hearing was good?

A Yes, sir.

Q Where did you last see him, that night?

A In the corridor of the jail, as he went from the Sheriff's office into the corridor.

Thiele-X
E-10

Q When did you next see him?

A The next morning.

Q What time?

A I think it must have been about 10 o'clock.

Q Make any report of this anywhere that night?

A Yes, sir.

Q Where?

A Notified the Pinkerton Agency.

Q This was the 19th, was it?

A During the night of the 19th.

Q The next morning you saw him, you say, about eight o'clock?

A About ten.

Q About ten, that was the first you saw him?

A Yes, sir.

Q What time did the train leave?

A About 10:30 I think; somewhere along there.

Q Who was with you when you saw him, if anybody?

A Mr. Brown.

Q What purpose, if any, did you have in seeing him?

A Did not have any in particular.

Q Only just to look at him?

A I was going down to the depot with Mr. Brown.

Q Saw him about a half hour ahead of the train?

A About that, I think.

Q Anything said about a lawyer?

A I think Brown told me that he---

Q (Interrupting) I don't care what Brown told you; did you hear Steve say anything about a lawyer?

A I did not.

Thiele-X
E-11

Q Did not hear him say a word about a lawyer?

A No, sir.

Q At any time before he left Oregon?

A Well, he was talking with a lawyer on the way down to the depot.

Q I say, about getting a lawyer, did you hear him say anything?

A Not to me.

Q Whatever you said was said to Brown, was it?

A Yes, sir.

Q And was a lawyer shown to him there?

A There was a lawyer there.

Q Right in the jail, wasn't he?

A He was there when I saw him; that is, he was in the Sheriff's office when I saw him.

Q Do you know how long Steve had made the request before he was present?

A I do not.

Q A man named Moore, wasn't it?

A Yes, sir.

Q How long did he see him after he went away?

A Ten or fifteen minutes.

Q In the jail?

A No, sir.

Q Where?

A He rode down to the depot in a hack with us.

Q Well, you took him along down?

A Yes, sir.

Thiele-X

B-12

Q That was where the conversation was?

A Yes, sir.

Q And you were present and Brown was present?

A Yes, sir.

Q Anybody else?

A The hack driver was there.

Q You did not see him until he got in the hack to have a talk with him?

A I saw him in the Sheriff's office in the corridor of the jail, right in the entrance there, before we got in the hack.

Q When?

A That was before we got in the hack.

Q Just as he was leaving?

A Yes, sir, about getting ready to leave.

Q But whatever talk you had with him was when you were going down to the station?

A Yes, sir.

Q You think that took about ten or fifteen minutes?

A From the time we left the jail until we got down to the train, I think, was about ten or fifteen minutes.

Q Was the train there when you got there?

A It was coming in.

Q Went right aboard, didn't you?

A I did not.

Q You did not?

A No, sir.

Q How long before you went aboard?

A Before the train started; it must have been five or six minutes; the train was in Baker City before I got on the

Thiele-X
E-13

Q What were you doing in the meantime?

A Talking with Mr. Moore.

Q You were talking with him?

A Yes, sir.

Q About this case?

A Mr. Moore asked whether Mr. Robins had the papers.
Mr. Robins did not know Mr. Moore; he handed the papers
to me and I handed them to Mr. Moore.

Q Robins had come in on this train, hadn't he?

A Yes, sir.

Q And you handed them to Mr. Moore?

A Yes, sir.

Q And then he handed them back?

A He handed them to the Sheriff.

Q You did have the requisition papers once, did you?

A That long, passing them between the two men.

Q And that was because Robins didn't know Moore?

A Yes, sir.

Q That is the only time you ever had in your hands
any papers connected with this matter?

A Well, Mr. Robins showed me the package and I think
I had it on the train going down, but I did not look
into it.

Q You mean going down to Baker City?

A Yes, sir.

Q Or from Baker City?

A To Baker City, when we left Boise.

Q Then you got on the train, did you, with Steve?

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Thiele-X
E-14

A About the time the train started.

Q Who was with him when you went away?

A Rube Robins?

Q Anybody else?

A Nobody but myself.

Q Well, we will count you as one, two. You were with him too, weren't you?

A Yes, sir.

Q Rube Robins was the travelling Guard of the penitentiary, wasn't he?

A Yes, sir; acting as State Agent of Idaho at that time.

Q That is, deputized by the Governor to act as State Agent for that purpose?

A Yes, sir.

Q Where did you take Steve?

A Took him to Boise?

Q Told him what he was arrested for?

A Yes, he was told that at the depot.

Q Did you tell him?

A Mr. Moore and Mr. Brown told him.

Q Was that the first time he had been told what he was arrested for?

A No, sir.

Q When did you first tell him?

A I did not tell him; he read the warrant.

Q That is the first time, was it?

A Yes, sir.

Q You had at the farm?

Thiele-X
E-15

A Yes, sir.

Q Was it the only time that you know of up to this time at the depot?

A The only time I know of.

Q And that was, for the murder of Ex-Governor Steunenberg?

A Yes, sir.

Q You were close enough by so you hear that?

A He read the warrant, and him and his wife talked about it.

Q You heard it?

A yes, sir.

Q Did you wire the Sheriff of Canyon County after you made the capture?

A No, sir.

Q Didn't notify him at all?

A I did not.

Q Then where did you go?

A You mean after we left the ranch or---

Q (Interrupting) After you left the town, after you left Baker City.

A Went to Boise.

Q Did you go through Caldwell, Canyon County, on your way?

A Yes, sir.

Q Did not run him to the Canyon County jail?

A No, sir.

Q Took him direct to Boise?

A Yes, sir.

Q Did you know where he was going to be taken before you left?

Thiele-X
E216

A Knew he was going to be taken to the penitentiary.

Q Did you know where he was going to be taken to before you left?

A Yes, sir.

Q You knew, on that warrant from Canyon County, he was going to be taken direct to the Idaho State Penitentiary in another County, did you?

A Yes, sir.

Q Was there any consultation which led up to that?

A None in particular that I remember of.

Q Was there any in general?

A All of those prisoners were taken to the Boise Penitentiary in connection with that case.

Q Did you know where Steve was going to be taken?

A Yes, sir.

Q You knew that before you left?

A Yes, sir.

Q You mean that Moyer, Haywood and Pettibone were taken to the Boise penitentiary?

A Harry Orchard and St. John.

Q And was Harry Orchard taken to the penitentiary when he was arrested?

A Not when he was first arrested.

Q That is what I am talking about; he was taken to Caldwell and put in jail, wasn't he.

A He was arrested in Caldwell.

Q And put in jail?

A Yes, sir.

Q And of course you know where the proper custody of a man is who is under arrest, before hearing and trial.

A Yes, sir.

Thiele-X
E-17

Q Now, had Moyer, Haywood and Pettibone been taken there at the time you got back?

A To the penitentiary?

Q Yes, sir.

A Yes, sir.

Q How long before?

A I think they were in there 36 hours, something like that; maybe 48 hours.

Q Afterwards taken out of there?

A How is that?

Q Afterwards, they were taken out of the penitentiary?

A Yes, sir.

Q You left him at the penitentiary?

A Yes, sir.

Q Who did you see there?

A I saw the Deputy Warden, Mr. Mills, and Mr. Heubner, the Clerk, and a guard named Ritz.

Q Who was the first man you mentioned?

A Deputy Warden, Mr. Mills.

Q Did you see the Warden?

A Not that I remember of.

Q You dont know whether he was there or not. What time did you get there?

A About 7:30 or 8:00 o'clock in the evening.

Q Do you know why he was taken to the penitentiary instead of the Canyon County jail?

A No, sir.

Q You havnt any idea?

A I was not instructed.

B-10

Q Did you deliver any papers to the warden at that time?

A No, sir.

Q Or anybody else?

A I dont know.

Q To whom did you deliver the custody of Steve Adams when yo got to the penitentiary?

A I did not deliver him.

Q To whom was the custody delivered, Mr. Thiele?

A How is that?

Q To whom was his custody delivered?

A Mr. Robins delivered him over to some one there, but I dont know who it was.

Q Were you there at the time and saw it?

A Yes, sir.

Q Then did you go away?

A Yes, sir.

Q Do you know where he was put?

A Yes, sir.

Q Where?

A In a cell with Harry Orchard.

Q Did you know that in advance?

A What os that interrogation?

Q Did you know in advance that he was to be placed in Harry Orchard's cell with him?

A No, sir.

Q When did you learn it?

A I saw him put there.

Q How is that?

A I saw him put there.

Q You went there to the cell?

Thiels-X
E-19

A No, sir; I went very close to it, though.

Q How close?

A As far as from here to that corner over there, about fifteen feet.

Q Still, you didnt have anything to do with delivering him?

A No, sir.

Q And until you saw him going to that cell, you didnt know he was going to be put in Harry Orchard's cell?

A No, sir.

Q Did you express any surprise or objection to it?

A I was very much surprised, but I did not say anything about it.

Q Didnt say anything about it?

A No, sir.

Q One way or the other.

A No, sir.

Q Do you remember the number of that cell?

A No, sir.

Q Had you visited that cell before?

A No, sir.

Q But you had known which cell Harry Orchard was in?

A No, sir.

Q You just learned it then, did you?

A Yes, sir.

Q And then you went away?

A Yes, sir.

Q When did you see him again?

A About the 4th of March.

Thiele-X
E-20

Q When did Mcparland arrive on the scene?

A Two or three days after Adams was arrested.

Q You talked the matter over with him?

A I told him that Adams had been arrested and brought up there.

Q Well, is that all you said?

A I told him he had been arrested and brought up there and put in a cell with Harry Orchard.

Q Is that all you said?

A I told him his surroundings on the ranch, how he acted.

Q Did he say anything about its being a cell in which Harry Orchard was confined?

A He said it was a god-damndest outrage he ever heard of.

Q That Adams should be put ina cell with Harry orchard?

A Yes, sir.

Q How long did Mcparland stay there before he went to see Steve Adams?

A Three or four days.

Q You saw him daily?

A Yes, sir.

Q Talked about the Adams matter with him?

A Nothing, any fu ther than the first conversation.

Q Talked about the other matter with him?

A No, sir; not at that time.

Q Didnt have anything to say to him; merely spoke as you passed by?

A He was very busy and I was the same.

Q Who was he busy with?

A Busy with the counsel for the state.

Thiele-X
E-21

Q Who were you busy with?

A The same parties part of the time; part of the time with the sten ographer.

Q But none of you had any chance to discuss the Adams question?

A We did not discuss it?

Q What?

A I did not discuss it.

Q And you did not discuss it with McFarland, any further than what you said?

A yes, sir; that is all.

Q Did you know when he was going up to see Adams?

A yes, sir.

Q Did you know his purpose?

A Yes, sir.

Q What was it?

A He went up there to get a confession from Steve Adams.

Q And that was after he had been in Boise some three or four days and after Steve had been locked in a cell some six days with Harry Orchard; is that right?

A I dont know whether Steve had been located or not; I dont know anything about Steve.

Q You dont know but what he had been ^{turned} loose after you ~~turned~~ got away?

A ~~extended~~ He might have been turned loose in the yard; I dont think he ever left the penitentiary.

Q Mr. Thiele, do you mean to tell that Jury that you done know whether he was kept locked up in that cell until after Mr. McFarland saw him?

A yes, sir, I do.

E-22

Q And you have never heard anything about it and dont know anything about it?

A How is that?

Q And you have never heard anything about whether he was and dont know anything about it.

A If I was going to tell everything I heard about that matter, it would take me considerable time.

Q Did you ever learn anything about whether he was kept locked up or not?

A I dont know anything about it positively.

Q Did you hear anything about it?

MR. HAWLEY: We object to that as hearsay.

MR. DARROW: It is not hearsay.

THE COURT: Objection overruled. It is not hearsay as to whether he heard. What he did hear might be hearsay.

MR. HAWLEY: That is what he is calling for.

MR. DARROW: Q Did you hear anything about whether he had been kept locked up in that cell for six days.

MR. HAWLEY: Answer "yes" or "No".

A Yes, sir, I did.

MR. DARROW: Q Now, do you mean to tell the Jury that you dont know but what he was walking around the yard that six days?

A Yes sir; I do.

Q You dont know but what he was walking around the yard?

A If I would say I know he was in the cell, I would have to know it by goind in there, personal knowledge; opinin I would not swear to.

Thiele-X
E-23

Q You would not take Mr. Whitney's word, or anybody connected with it?

A No, sir; I would not.

Q Did anybody tell you he was walking around the yard?

A No, sir.

Q And you gave no instructions about it and have no knowledge about it?

A No, sir.

Q Or how he was treated there?

A I don't know anything about how he was treated there, only from hearsay.

Q Did Mr. McParland tell you he was going out there to get a confession, after Steve had been there six or seven days?

A Yes, sir.

Q So you knew his purpose in going out?

A Yes, sir.

Q Do you know about what time of day he went?

A He either went immediately after breakfast or immediately after lunch; that would be either about 9 o'clock in the morning or half past one in the afternoon.

Q Can't you tell which?

A Not definitely.

Q What is your best impression on that?

A That he went after lunch?

Q Yes. You heard Mr. McParland's testimony on that question, I suppose?

A I have not.

Q When did he get back?

Thiele-X
E-24

A Got back after dark.

Q You saw him when he went away?

A Yes, sir.

Q Have a conversation with him when he came back?

A No, sir.

Q Did you learn whether he succeeded in his efforts that day?

A I dont think he did.

Q I asked you whether you learned?

A Well, I got that second handed; I didnt get it from him.

Q Well, when did he go again, if at all.

Q He either went the next day or the second day following.

Q What time did he go at that time?

A Went in the morning.

Q How long did he stay?

A I think he stayed all day.

Q Did you learn whether he got it then?

A I think he got started on that day.

Q When did he go again?

A I think he went the following day?

Q How many times after, or how many days after that, if you know, or about how many?

A I dont know; he went up there wuite often after that.

Q And on the 27th day of february, he got a written confession, did he not?

A yes sir; somewhere about that time.

Q Which you read and saw?

A Yes, sir.

Q And talked about more or less?

A Did not talk about it very much.

Q Did you any?

A Yes, sir.

But

Q ~~Did~~ you read its contents at least?

A Yes, sir.

Q You were not present when that was made?

A No, sir.

Q And of course you dont know what McParland said to obtain it or anything about it?

A No, sir.

Q And you didnt see Steve until when?

A The 4th of March.

Q And you had no conversation with him in reference to Tyler until about the 17th day of March?

A About the 17th day of April.

Q Am I wrong about that; was it April?

MR. HEITMAN: 17th of April.

MR. DARROW: Q You had no conversation with him at all about it during March, nothing until about the 17th of April, did you see him at different times?

A Saw him on the 16th of March.

Q What date was the first conversation you say you had with Steve about this matter?

A 17th of April.

Q That was in the penitentiary?

A In the little room back of the Warden's office.

Q You went to the warden and told him you wanted to see him, did you?

Thiele-X
E-26

A yes, sir.

Q And he went and brought him out for you?

A Yes, sir.

Q Was that the first time that had been done?

A The second time it had been done.

Q Was that done for this purpose; was that your purpose in going to see Steve?

A I went up to talk to Steve about anything that he might know.

Q And on the 17th he came out there?

A Yes, sir.

Q What was it you asked him?

A I asked him anything that he might be able to tell me or know about, could give me any information whereby I could find out, in connection with any of the crimes in Idaho and Colorado.

Q Did he give you any relics?

A No, sir; he did not give me any.

Q Did he state at that time that he had a shell that killed Fred Tyler.

A A ~~shell~~^{bullet} that killed Fred Tyler and he had the shell.

Q He had the shell from which the bullet was fired?

A Yes, sir.

Q What did he say this was?

A It was a 25-35 Winchester shell.

Q Where did he say it was?

A He said it was on his ranch, or on his uncle's ranch rather, or in that neighborhood.

Q What else did he say he had there?

A He said he had several other things that would tend to connect with some of the other cases.

Thiele-X
E-27

Q Well, what?

A He had some meal tickets there.

Q Meal tickets?

A To show that the Western Federation of Miners kept him at certain places; a letter from Thomas Kerwin to his wife; shot-gun; saw off shot-gun; long over-coat.

Q Anything else?

A That is all I remember now.

Q I beg your pardon, anything else.

A I say none that I remember of now.

Q Did you go up and get any of those things?

A No, sir.

Q Did you go up there?

A No, sir.

Q Did you ever go back there?

A No, sir; not since then.

Q To Oregon.

A Well, I have been in Oregon.

Q Did you ever go back to the ranch?

A Since the 17th of April, 1906?

Q Since the time you arrested Steve?

A Yes, sir.

Q Well, we will get to that in a minute. Did you send for any of these things?

A I told Steve on the 19th of April that his uncle was up there and he could talk to him about the matter and have him bring them up.

Q Did he bring up any shells?

A Not that I know of.

Q You tried to find out, didnt you?

Thiele-X
E-28

A I think I would have been told if he had brought one.

Q What did he bring?

A His uncle brought up a letter from James Kerwin, addressed to his care, to Mrs. Annie Adams, and a saw-off shot-gun and some pictures. I dont know just what pictures he brough; it was an album, I understood that had pictures and papers in, although I did not see it.

Q You did not see it?

A No, sir.

Q And a Federation Card?

A yes, sir.

Q And a removal card from the Masons, didnt he?

A I never saw any such card.

Q You never did?

A No, sir.

Q Did you see the Federation card?

A Yes, sir.

Q Did you see his meal ticket?

A Yes, sir.

Q Brought that?

A yes, sir.

Q And a letter of recommendation from a railroad man?

A I did not see that.

Q Do you think of anything else that you saw?

A He had a withdrawal card in a Teamsters' Union.

Q Well, was that all?

A There were two or three Western Federation cards; local due cards; I dont remember exactly.

Q Go back a minute. You made a second trip didnt you, to Steve Adams' place, to the ranch?

A Yes, sir.

Q When?

A About the 1st of March.

Q For what purpose?

A To have Mrs. Adams come to Boise.

Q You went after his wife?

A Yes, sir.

Q And his children?

A Yes, sir.

Q Did you get them?

A Yes, sir.

Q And they came to Boise?

A Yes, sir.

Q At whose request was that?

A Mr. Moparland's and Steve Adams'.

Q What date did you say that was?

A About the 1st of March.

Q Now, by the way, was Steve moved from the cell where he was put?

A I dont know.

Q You cant give us any information on that subject.

A Not at that time.

Q Do you know whether he ever was?

A I understood later that he was living in the female ward at the penitentiary.

Q From whom did you understand that?

A Mr. Whitney.

Q Do you know when?

A Along in May and June, 1906.

Q Didnt you understand he got in there before May?

A I seen him there in April, but I didnt know he was living there; he was there then with me and was there when I left.

Q Do you know whether he was there in April?

A I know he was in there a few minutes with me.

Q Do you know about his being in the Hospital Ward?

A I never saw him there.

Q You dont k now anything about that?

A I could not swear to it.

Q You learned about, it, however, didnt you?

A No, sir; I have not heard of it since.

Q Have you been in the Hospital Ward?

A I think so; I have been all through the penitentiary.

Q Somewhat more commodious and pleasant than a cell?

A Yes, a little.

Q A little.

A Yes.

Q And the women's ward, is that somewhat more commodious and inviting than the cells?

A Yes, sir, they have cells; they are locked up in an enclosure anyway.

Q You dont know whether Steve's condition over there was any better than when he was put in that steel cell with Harry Orchard or not?

A I would think it would be; I would think so.

Q You would think it would be?

A Yes, sir.

Q There could not be much doubt about it, could there?

A Not if I were in there. Of course, every man feels his own surroundings to suit himself

Thisle-X
E-31

Q When he is under arrest?

A Any time.

Q You dont know but what some other fellow might prefer to be locked up in one of those little steel cells?

A Yes, sir; I dont know anything about any other fellows.

Q You have had a considerable experience with men charged with crime, havnt you?

A Not very much.

Q You have had three years at it, havnt you?

A Yes, sir.

Q Now, when you brought Mrs. Adams and the children down---there were two of them, were there not?

A Yes, sir.

Q How old were they?

A I think the boy was about eight years old and the baby must have been five or six months old, maybe seven months.

Q Were they taken to the penitentiary?

A Not immediately.

Q How soon.

A Two or three weeks after they came there.

Q That would be sometime the last of march of the 1st of April?

A I think so.

Q And then they were assigned a house, werent they?

xxx There was a wooden building, that is, inside of the ward, of the female ward?

A Yes, I believe was used as a female ward at that time, or had been.

Q Was it a separate house?

A yes sir.

Q That is what I asked you?

A I said a ward.

Q I didnt ask you where it was; I asked if they were given a house?

A I would call everything on the reservation belonging to the penitentiary.

Q You would call it what.

A I would call everything up there that had anything to do with the convicts the penitentiary.

Q was it a separate house?

A Separate from the?

Q Separate from the prison?

A Yes, sir.

Q It was the warden's house, wasnt it?

A No, sir.

Q Formerly that?

A Not to my knowledge.

Q That is what you understood, didnt you?

A Never heard of it.

Q Never heard of it before?

A Never heard of that ever being the warden's house.

Q Dont know what it was built for?

A I understood; I dont know what it was built for, but I understood it had been used as a family ward.

Q And Adams and his family were settled in this place?

A I understood it was.

Thiele-X
E-33

Q What about him?

A I only saw him there once after the day we were talking in the house.

Q After they fixed up the gates, Adams went there to live with his wife in that house, didnt he?

A I never saw him in the house but once, and that was in April.

Q You saw him there once?

A Yes, sir, but he went over there with me; I didnt know that he was living there.

Q Was that before or after the 17th of April?

A That was on the 17th of April.

Q Was it along there at that time.

A Yes, sir.

Q Was that the day she passed this note to him?

A Yes, sir.

Q Something evidently amusing in it?

A He laughed about it anyway.

Q What conversation led up to that?

A Steve Adams and I went over there, and we were talking about these articles on the ranch and he started to talk the matter over with her, and talking about getting a letter that ~~the letter~~ and giving ~~them~~ to me, so I could go and get them^A, and during this conversation she passed this note, written on the back of a tablet.

Q And then he or she smiled about it?

A She did.

Q And that is all there was to that?

A I told them if they had anything they wanted to hide and didnt want to tell me, or let me know anything about it,

Thiele-X
B-34

let me know anything about it, all right, but I would advise them to tell me anything they might know.

Q You gave them that advice gratuitously, I suppose?

A Yes, sir.

Q Did you have any special reason for advising him to tell all he knew?

A I wanted to find out.

Q The advice was given because you wanted to know?

A Yes, sir, and for his best benefit.

Q For his benefit?

A As I could see it.

Q In what way?

A If he wanted to talk to me, I didn't want him to tell me half of anything and keep the other half back.

Q But you say you told him that you would advise him to tell all he knew?

A Yes, sir.
you

Q Did ~~he~~ say anything else about that?

A No, sir.

Q Did you say why you advised him to tell all he knew?

A I said it would be best for them to tell me all they knew.

Q Best for him?

A Yes, sir.

Q Or best for you?

A It would be best for me to know all ~~of~~ ^{about} it.

Q You knew that already?

A How is that?

Q You knew already it would be best for you?

Thiele-X
B-35

A Yes, sir.

Q And you told him it would be best for him?

A Yes, sir.

Q Then did he tell you some more?

A He told me that they would talk it over during the night and give me a list of these articles and Mrs. Adams said she thought the letter had been addressed to Wesley Lilliard; that is his uncle or her uncle, I don't know which he is; I suppose he is the uncle of both of them.

Q He said, after you told him that and had given him that advice that they would talk it over during the night?

A Yes, sir.

Q And the next day was the 18th?

A Yes, sir.

Q And that is the day that Adams talked about this Marble Creek matter?

A Yes, sir.

Q Did he begin talking at once about it when you got in?

A I asked him what the connection was with the shell that he spoke about and how it happened.

Q And then he made the statement you have told about?

A Yes, sir.

Q You never did anything more to get that shell that you speak of?

A I told him on the 19th, when his uncle was up there, that his uncle told me, or I had heard, I am not sure which, that he was going back to the ranch, and he should tell his uncle all about it and let him bring these things up there, shell included.

Thiele-X
E-36

Q Did you ever make any further investigation about the shell?

A No, sir.

Q You havnt to this day?

A No, sir.

Q Ever talk to the uncle about it?

A No, sir.

Q You say you saw the uncle there on the 19th day of April?

A Yes, sir.

Q Whereabouts?

A He was in the Warden's office.

Q How did you remember these days?

A I think that this is three times now, this is the third time; it was fresh in my mind when I first told it and it was very deeply impressed on me.

Q When did you first tell it?

A September, 1906.

Q And you remembered it from the April to September?

A Yes, sir.

Q Is there any way that you remember it, excepting that you told it three times; anything to call your attention to the 18th or 19th or 17th?

A Nothing in particular, only at the time I first told it, I had the whole matter in mind, the entire case was in my mind, and I have been cross examined on it at that time; I told it again in February, and was cross examined again, and now it is up to me again.

Q You have read over this testimony, of course?

Thiele-X
E-37

A Sir?

Q You have read over what you said in the Ex trial and what you said in the preliminary?

A Yes, sir.

Q And you think this was the 18th day of April?

A I do. What have you reference to, the 18th day of April?

Q When he told you about what happened up in Marble Creek?

A Yes, sir.

Q That is what I had reference to. You asked him about that shell that killed Tyler, and if he could tell you anything more in connection with it?

A Yes, sir; words to that effect.

Q And he told you that he left Denver to come and see Simpkins?

A Yes, sir.

Q About the Steunenberg matter?

A Yes, sir.

Q And that Simpkins asked him to go up to the Marble Creek district?

A yes, sir.

Q Did he say where he came to see Simp,ins in Idaho?

A Either Wallace or Wardner.

Q Do you know which?

A I cant state positively.

Q Did he say when?

A Sometime after the 4th of July, 1904.

Q Did he say how long after?

A He did not.

Thiele-X
E-38

Q And did you make any memoranda of any of these things he told you at the time?

A Yes, sir.

Q Where is it.

A I don't know whether it is in Spokane, Portland or Chicago now.

Q Ever seen it since?

A I saw it once in August, 1906.

Q Where did you see it?

A I saw it in Spokane at that time.

Q Haven't made any search for it now?

A No, sir.

Q But you did make a memorandum of your conversation?

A Just in a general way; enough so that it would recall to my memory.

Q Where did you make it?

A I made it in the Idanha Hotel, Boise.

Q After these conversations?

A Either the same evening or the following day.

Q And you have not looked for it?

A No, sir.

Q Now, do you remember when he said that he and Mason and Glover went over to the Marble Creek district?

A They were in the Marble Creek district.

Q Sure of that?

A Mason and Glover were up there; he told me he met them in the Marble Creek district.

Q How did he tell you he got up there?

A He did not say; he just simply said he went up to the Marble Creek district.

Thiele-X
E-39

Q Did he say who he went with?

A Jack Simpkins.

Q Did he say where he stopped?

A Stopped with Simpkins.

Q Did he say anything about how he got there?

A No, sir.

Q Did he say who he saw there?

A He met Mason and Glover there, up at Simpkins' place somewhere in that district.

Q You understood up where those claims were?

A Yes sir; I understood in Marble Creek district.

Q He said he met Mason and Glover there?

A Yes, sir.

Q Anybody else?

A He didn't mention any more names at that time.

Q Did he say whether he met anybody else?

A He did not, that I remember of.

Q Did he say Mason and Glover were there at the time of this killing of Tyler?

A Yes, sir.

Q You understood they were living there?

A No, I didn't understand they were living at the scene of the killing.

Q How long had you understood they had been there at the scene of the killing?

A I understood they went up in the woods, two miles or two miles and a half, he was not definite on the distance, from Simpkins' cabin and shot Tyler, and they were there with him.

Thiele-X
E-40

Q You did not tell us anything about how far they went out in the woods before, did you?

A How is that?

Q You did not tell us anything about how far they went out in the woods on direct examination, did you?

A I did not.

Q Or on any other trial?

A I never did swear positively to the distance.

Q You never said anything about the distance before, did you, until right now?

A I dont remember.

Q Now, that is not what I am getting at. I will come to that in a minute. Did you understand that Mason and Glover were living up there where those cottages or where those claims were being held at this time?

A As I understood, they were living in this district, and Steve Adams made their acquaintance in that district.

Q And they were living there on that day?

A Living in that district, yes, sir.

Q And what did he say as to going to Tyler's cabin?

A He said they went to Tyler's cabin and they did not find him at home.

Q Did he say where they went from?

A He did not; he had been living at simpkins' cabin.

Q You understood and supposed they went perhaps from their own homes right there?

A I supposed they went through from their own cabin or Simpkins', somewhere in the district.

Q What time did he say he got to Tyler's cabin?

Thiele-X
R-41

A He said they did not find him there; they afterwards saw him on the trail; that was about sun-down or evening.

Q Did he say anything about the time they went to the cabin?

A No, sir.

Q Didnt you say, in your direct examination this morning, that he said he went to the cabin in the afternoon or evening; didnt you say that this morning?

A I think I did.

Q Well, did he say it? You have now said he did not say anything about the time. Which is right?

A He did not say definitely as to the time?

Q You have said he did not say anything about it, havnt you?

A How is that.

Q You said he didnt say anything about the time?

A He did say something about the time.

Q Then you are mistaken about that, are you?

A Yes, I am mistaken about the fact as to what time he went, if I stated any positive time.

Q He did say something about it, did he?

A He said during the afternoon, as near as I remember, that is the best of my memory.

Q He said he went there during the afternoon.

A Yes, sir; to the best of my memory.

Q That is, the three of them went to Tyler's cabin during the afternoon.

A yes, sir.

- Q Now, you are sure about that?
- A I am not sure they went there; that is what Steve Adams told me.
- Q No, I am not asking that; but you are sure he said so; that is what I mean?
- A Yes, sir.
- Q You could not forget, could you?
- A Could not forget what?
- Q That he said it or did not say it?
- A I could forget it; I can forget it.
- Q Well, you have not. You thought he did say it?
- A Yes, sir.
- Q Did he say how long he stayed there at the cabin?
- A He did not.
- Q Well, when did he say he ^{SAW} ~~heard~~ Tyler?
- A About sun-down.
- Q Did they stay in the cabin at that time?
- A He did not tell me they did.
- Q Did he tell you whether they did not, or whether they went anywhere else?
- A He did not.
- Q Did he say where they went?
- A He did not.
- Q And when he saw Tyler, where did he see him?
- A Saw him on the trail, near the spring.
- Q Did he say where the spring was?
- A He did not.
- Q Where did he say he was?
- A At what time?
- Q At the time Tyler came along.

Thiele-X
E-43

A He said he was near the spring and behind the tree when Tyler approached.

Q Where did he say Mason and Glover were?

A He said they were near, with him.

Q Did they get behind a tree too?

A He did not say anything about it.

Q And then what did he do?

A He leveled a Winchester rifle at Tyler and "held him up."

Q And then Mason and Glover took a gun off of him?

A Yes, sir.

Q Did he say what kind of a gun?

A A heavy pattern, 38 colts.

Q What did he say he did with the gun?

A He said he gave it to Joe Mahelich, he told me afterwards.

Q When was the first time he told you that?

A That he gave this gun to Mr. Mahelich?

Q Yes, sir.

A Twenty-seventh of May, 1906.

Q He didnt tell you that before?

A No, sir.

Q Did you see Joe Mahelich afterwards?

A Yes, sir.

Q Did you make any effort to get any gun?

A I did not ask him for any.

Q What?

A I didnt ask him for it?

Thiele-X
E-44

Q Did you make any effort to get one?

A No, sir.

Q When did you see him?

A I saw a man, that from the pictures I had seen and from the fact that he had been called Mahelich in Park City---

Q (Interrupting) When?

A In April, sometime, 1906, and that was before I knew that he had the gun.

Q I asked you whether you ever saw Mahelich after you were told that he had this gun?

A You did not ask me that in the other questions.

THE COURT: Answer the question.

MR. DARROW: We will let the Jury settle that.

A How is your question again now?

Q I will ask you now then---

A (Interrupting) Well, if the man that represented himself to be Joe Mahelich at the Haywood trial and the man that Steve Adams talked about are the same man, I saw him.

Q When was the next time you saw him?

A Mahelich?

Q Yes, sir.

A That was in June of this year, June or July.

Q Did you see him between April of that year and June of this year?

A No, sir.

Q Did you make any effort to get this gun?

A No, sir.

Q Now, where do you say Adams said they took Tyler?

A They took him out in the woods and shot him.

Q I mean that night?

A Took him to Simpkins' cabin.

Q And that they put in the night together?

A That is what he said.

Q Did he say anything about what was talked about that night?

A He told me he asked him who sent him into that country; who his relatives were.

Q Did he say what Tyler said?

A Tyler did not tell him, so he said.

Q Anything else that was talked about that night?

A Not that I know of.

Q I mean did he say anything else was talked about?

A He did not.

Q What did he say about it the next morning?

A He said the next morning they took him out in the woods; they came to a convenient place and "I shot him."

Q Is that all he said?

A Then, after they shot him, he said that Mason and Glover and himself went out on a trail to the head of navigation.

Q Is that all he said that you now recall?

A Went down on the river.

Q No, we will not go down the river; this is going up on the trail; we will get to that later.

A That is all that I now recall.

Q Did he say they took him out to a convenient place and he shot him?

Thiele-X
E-46

A Yes, he spoke something of the distance, but he did not say positively what the distance was.

Q Then you did not get it anyway quite right; but he said they took him out to a convenient place, did he?

A Not exactly as he said it; I cant use exactly Steve Adams' words.

Q That was exactly the words that you said he used before, wasnt it, they took him out to a convenience place and shot him, didnt he?

A Who?

Q You, on the former trial.

A No, sir.

Q What words did you use on the former trial.

MR. KNIGHT: We object; the testimony must be shown to the witness.

Q You say now he said---Do you remember his words?

A I cant give his words.

Q Did you say he said they took him out to a convenient place?

A I dont think Steve Adams ever used the word "convenient".

Q Well, what did you just say to us that he told you then?

A Well, that would be my words for it; he took him up; he might have said he took him up to the right place, ot to a place that suited him, or something like that.

Q He might have said most anything?

A I dont remember that Steve Adams ever used the word "convenient".

Thiele-X
E-47

Q You think he would not use such a word?

A No, sir, I do not; I dont think he would.

Q I agree with you. He took him out to the right place, or suitable place---he would not use "suitable" I dont suppose?

A I dont think so.

Q And then they shot him?

A Yes, sir; he shot him.

Q That is substantially what he said, as you now recall it?

A Yes, sir.

Q Do you remember what you said before?

A I cant get the exact words.

Q Well, I will let you look at this so as not to take any advantage of you; right where I have marked it, page 482, about the middle. (Hands the witness transcript).

A What part of this do you mean?

THE COURT: About the middle he says.

THE WITNESS: That is what I want to get at.

Q (After the witness has examined transcript) At the former trial, Mr. Thiele, in reference to this matter, did you say: "after keeping him there over night, the following morning they took him out into the woods"-- that is, Adams said it-- "and when they thought they had gone about far enough, they stopped and Adams said 'I shot him, and his body was left between two logs' ". Was that your language before?

A I think so; that is what I remember.

Q Did you ever either on direct examination here, or at the former trial, or the preliminary, make any statement as to the distance?

A I will not swear, positively, as to the preliminary.

Q Did you at any other time?

A I said something about it here awhile ago.

Q You didnt make it on direct examination?

A No, sir.

Q Nor on the former trial?

A No, sir.

Q Well, did Steve Adams make any statement about it, that you recall?

A I don't remember that he told me the distance.

Q No. Well, that is what I want to know. Do you recall anything other that he said as to how they spent the

night at the cabin before they went out?

A Only what I have said, that he asked in regard to his relatives and who sent him there.

Q I meant beyond what you said; no use going over that.

A No, sir.

Q Did he say anything about where he was that night before?

A No, sir.

Q I am referring to Steve Adams now?

A No, sir.

Q Or Mason or Glover?

A No, sir; that is, what night before do you mean?

Q The night before you talked about them picking him up on the trail; that is what I mean; that is what you understand?

A That is what I understand?

Q And he said nothing about that?

A No, sir.

Q I call your attention to one question--- (Addressing counsel for the State) I supposed you gentlemen would have called my attention to that, a little further down on page 482, Mr. Hawley. (Hands witness transcript.)

THE WITNESS: Which one?

Q That one about the distance.

A Yes, sir.

Q At the former trial, Mr. Thiele, was this question asked you and did you make this answer: "Q Did he say anything about what distance they took Tyler out from Simpkins's cabin? A He did not."

A To the best of my memory.

Q You did say so?

A To the best of my memory, as it serves me now.

Q Now, I don't know as I understand you: "To the best of your memory" you said that before; is that what you mean?

A To the best of my memory now, I said that at that trial.

Q Yes. Now, do you remember anything else that was said between you and Adams at that time about Tyler? Well, I guess you do; I mean up to the time they went away from there?

A I don't just catch the drift of your question?

Q Do you remember anything else that Adams said about this transaction?

A You mean while they were in the cabin overnight, or---

Q (Interrupting) Or about the killing; I will say up to the time it was done and they went away?

A Well, in talking to me about the transaction he said he thought the killing of Tyler and Boley was justifiable

Q Well, what I was referring to was to how it was done; the circumstances of it?

A Not that I remember of.

Q Now, where did he say he went after that?

A Said they went out to the head of navigation over a trail.

Q All of them?

A Said they went over a trail and he went to the head of navigation.

Q Say where the others went?

A He did not.

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F-4

- Q Did he say whether they all went there?
- A He didnt. Said they went over a trail; he went to the head of navigation.
- Q Say what time they got there?
- A He did not.
- Q Say how far it was?
- A He did not.
- Q And where did he say he went from the head of navigation?
- A Said he went down to Wardner or Wallace; into that district.
- Q And there he met Jack Simpkins?
- A Yes, sir.
- Q And how long did he stay there?
- A Several days; he did not say positively.
- Q And did he go anywhere else, did he say?
- A Said after he talked with Mr. Simpkins some time he went back into the Marble Creek district.
- Q Did he say when this killing of Tyler occurred?
- A About seven weeks after the 4th of July.
- Q About seven weeks after the 4th of July?
- A Yes, sir.
- Q Positive of that, are you?
- A That is what he said.
- Q Well, that is all you can be positive of, I take it Mr. Thiele?
- A Yes, sir.
- Q You didnt see it, did you?
- A No, sir.
- Q Did he say whether Mason and Glover went to the head of navigation?

Thiele-X
F-5

A He did not.

Q Say they went immediately?

A Immediately after the killing?

Q Immediately after the killing. I will show you this statement. (Handing witness transcript).

MR. HAWLEY: What page are you reading from?

MR. DAFROW: Will you give him the page, please; what page is that? 483, that last long answer, Mr. Hawley.

MR. DAFROW: Q At the former trial was this question asked you: "Q How did he tell you he left the Marble Creek country?" And did you make this answer: "A He said that immediately after the killing of Tyler, he, Mason and Glover started on the trail, went to some place called the head of navigation and from there on down down--- didn't mention the name of the river, but I think it was the St. Joe River, to Harrison, and he met Simpkins and told him what he had done."

Q I didnt say anything about where Mason and Glover went at the other trial, or any time.

Q Well, did you answer as I have read?

A No, sir.

Q You didnt say that?

A No, sir; I did not.

Q You did say that he immediately went?

A He went after the killing; I dont think I said the word "immediately".

Q Dont think you used that?

A I did not.

Q Well, did he say anything about where Mason and

Thiele-X
F-6

Glover went?

A Said they went with him on a trail.

Q But did he say they separated on the trail?

A He did not say anything to me about that; outside of that; said immediately after that they started.

Q Did he say anything about their parting at all?

A Not that I remember of.

Q You say there was nothing said as to where Mason and Glover went?

A Outside of the fact that they left there on the trail.

Q Was there anything said about their separating?

A No, sir.

Q Sure about that?

A To the best of my memory at this time.

Q You would remember the conversation, fo course?

A I remember all that I have stated of it; there might be some other words that I dont remember.

Q You havent looked over the notes since?

A No my notes since last August.

Q Looked over them in August?

A August a year ago.

Q And you read your testimony?

A Just glanced over it; did not read it in detail.

Q Didnt read it thoroughly?

A No, sir.

Q This morning you said you read it over, didnt you?

A Well, if you would call that reading it over; just looking down through it.

Q You just looked it through, you mean?

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P. 18

A Yes.

Q But you didnt read it?

A I read part of it.

Q You read part of it, but didnt read all of it?

A That is a pretty fine point, whether I read every word there was in there, in going over a lot of stuff like that.

Q That is a point you raised, not I.

A How?

Q Thatv is a point you raised, not I.

A You asked me whether I read it or just looked at it.

Q You swore this morning you read it, didnt you?

A Yes, sir.

Q You swear now you glanced over it?

A I glanced and read over parts of it?

Q You swore in this cross examination that you just glanced over it?

A I glanced and read over it.

Q That is a point for you to settle and not me. Let me show you this, which is the preliminary examination. Mr. Thiele, if you will read right along there where the underscore is; that is the preliminary examination, page 188.

(Witness reads testimony.)

Q You testified on the preliminary, didnt you?

A yes, sir.

Q And on that did you say that "After this was over they walked for a distance on a trail or path of some kind up to the woods and then parted, Adams going, as I understood him, down to the head of navigation."

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Did you say that?

A I dont remember that I stated the distance or that they parted; I said they went out.

Q I didnt ask you the distance; I asked you if you said what I read.

A No, sir; I dont think so; not to the best of my memory.

Q "Walked for a distance on the trail or path of some kind through the woods and then parted" To the best of your memory you didnt say it?

A No, sir; that part of the distance, I want to qualify my answer on that as to the distance, that is all.

Q very well; you mean you didnt say they "walked for a distance on the trail or path of some kind through the woods and then parted"?

A

A That is what I mean to say.

Q The last of it, as to his going on down, you did say?

A Yes, sir.

Q Well, we understand now. Do you remember how long that Adams said it was before he got back into the Marble Creek district?

A Several days; he did not say exactly.

Q Do you remember how he came?

A Back into the Marble Creek?

Q Yes?

A Said he went there with Jack Simpkins.

Q Say how he got there?

A He did not.

Q Did he say who he saw when he got back?

A Said after he got there he met Glover--- said after he got there he and Glover and Simpkins and some other party went out and opened fire on Bouley on the trail.

Q Killed Bouley?

A Bouley was killed in the onslaught.

Q Did you ask him who the other party was?

A Yes, sir.

Q Did you find out.

A No, sir.

Q Ever make any other effort to find out?

A No, sir.

Q Sure you asked him who it was, are you?

A Yes, sir.

Q When you glanced over your testimony did you see that part of it; or dont you recall? I call your attention to page 545, Mr. Thiele, will you read along there? where it is marked? (Hands witness transcript.)

Q At the former trial of this cause were these questions asked and these answers made? "Q You spoke in your direct examination of some three men who Mr. Adams named as being present at the time Bouley was killed; then you said there was a fourth man, what was his name? A Mr. Adams said himself, Simpkins and Glover and another man. Q The other man. What name did he give you?

A He didnt give me his name. Q He didnt give you his name? A No, sir. Q Did you ask him who that man was, what his name was? A I think Adams at the time---

Q No, no, did you ask him; thats the question? A No, sir. Did you make these

Q You didnt ask him? A No, sir. " answers before, sir?

A Yes, sir.

Q Have you refreshed your memory or are you mistaken

at this time; or dont you know?

A I think I was mistaken at the other time.

Q You think now you did ask him?

A Yes, sir.

Q Did you ever try further to find out who that fourth man was who committed that murder?

A No, sir.

Q Did Adams say he went direct to Harrison, up to the Marble Creek?

A He did not say anything about the way he went in there; went with Simpkins was all he said.

Q Did he say how long after he got to the Marble Creek district that they killed Bouley?

A No, sir.

Q He said nothing about how long he had been back to Marble Creek before he engaged in the enterprise with the rest of killing Bouley?

A How long he had been back on Marble Creek?

Q Yes?

A No, sir.

Q He said nothing about where he saw Mason or Glover, where he met them?

A The first mention he made to me was where-- Mason was not there; Glover and Simpkins.

Q No, I am referring to the time he went back there and the time Bouley was killed.

A That is what I mean?

Q The first mention he made was where they were all together.

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F-11

A Where Glover and Simpkins and himself and this other man were together and opened fire on Bouley; didnt say where Glover and Mason came from?

A Didnt say that Mason came there.

Q Or Glover and the other fellow?

A Simpkins went there with him; he told that before.

A How is that, please?

Q Simpkins went there with him;; he told that before.

Q Simpkins had gone there with Adams?

A Yes,

Q Did he say where Glover and the other man came from?

A He did not.

Q Did he say anything else about how Bouley was killed?

A Said that they opened fire on him on the trail and he was killed.

Q Did he say how many shots were fired?

A He did not.

Q And then what did he say they did, after that?

A He said he left that district and came back down to Spokane and went to Coeur d'Alene City and Spokane on the electric road.

Q Did he say how he got away from that district after that?

A Not that I remember of.

Q Did he say when he left?

A He did not.

Q You understood he went right away, did you?

A That is what I understood.

Q Did he say where Mason and Glover went; and the other man?

Thiele-X
F-12

A He did not.

Q He said that he left that district and came to Spokane, did he?

A Went down and got on the electric road and went to Spokane.

Q Yes. Did he say how he got to the electric road?

A I am not sure whether he said he came down on the boat or not.

Q And you are not sure whether there was anybody with him?

A Not sure whether there was anybody with him.

Q And you don't know what he said where Simpkins went to?

A Didn't say anything about where Simpkins went to.

Q Do you remember where Glover or the other man went?

A Not to my memory.

Q He just said he went away from there?

A Yes, sir.

Q Did he say anything about what Bouley was doing at the time?

A At what time?

Q When he was killed?

A On the trail.

Q Did he say whether he was walking or riding?

A He did not.

Q Say anything about whether he had a dog or a horse, or both?

A He did not.

Q Whether Bouley had a gun?

A He did not.

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P-13

Q But he did it and went away?

A Yes, sir.

Q When did you say you talked with Adams again?

A Again? What do you mean; in what reference?

Q After the 18th; in reference to Tyler?

A I talked with him on the 19th in reference to that shell and other articles he had on his ranch.

Q Well, that was when the ^{letter} shell was mentioned?

A No, sir; that was when his uncle came to Boise; the letter was mentioned in that connection.

Q When you said he better give the letter to his uncle?

A Either give the letter to his uncle or tell his uncle about it; about what we wanted.

Q Did he say anything else at that time?

A His uncle was there; he was acquainted on the ranch and inasmuch as he was acquainted on the ranch I would not have to go down there; he could just tell him what was wanted, or write it out, and he could bring it down for us.

Q That was substantially all the conversation there was then?

A That is all I remember.

Q The next conversation you had was when he was driving? was it?

A Yes, sir.

Q Where were you taking him?

A Orchard.

Q And from Orchard where?

A I didnt go within a mile and half of the town of Orchard, or the depot rather; some other parties took him from there.

Q Where was he bound for?

A Bound for Telluride I understood.

Q Buckley Wells was with him?

A Buckley Wells was with Reynolds.

Q This was the second time he had been taken away, to your knowledge. Were you with him when he went to Pocatello

A Yes, sir.

Q Well, who was present during this conversation in the ride to Orchard?

A John Johnson was driving the rig.

Q Who else was there?

A That is all.

Q What do you say this date was?

A 27th of May.

Q Now, the only conversation there was at that time was that he had given Tyler's gun to Mehalich?

A Yes, sir; that is, in addition to the fact that I told him I had been in Ogden, Salt Lake and Park City.

Q You saw Joe Mehalich?

A I didn't tell him I saw Joe Mehalich until I started the conversation.

Q That is practically all he said?

A Yes, sir.

WHEREUPON, the jury was duly admonished, as required by law, the officers were duly sworn to take charge of the jury, and it retired in charge of the officers, and court took a recess until 4:10 P.M. Monday, November 11, 1907.

Court convened, pursuant to adjournment, and the defendant being present in court with his counsel, present as before, the jury was duly polled by the Clerk and all responded to

their names and the trial of this cause proceeded as follows:

C. S. THIELE, resumed stand for further cross-examination.

BY MR. DARROW:

Q Mr. Thiele, you dont remember Steve saying anything about the time they went out in the morning with Tyler?

A No, sir.

Q Whether before breakfast or after breakfast?

A I dont remember anything about it.

Q Do you remember the breakfast question was spoken of?

A I remember his saying they had something to eat.

Q Before they went?

A I dont remember whether he said before they went or the evening before, or that morning.

Q You heard something said about eating?

A Yes, sir.

Q You dont remember whether it was before they went or the evening before or that morning?

A I dont remember.

Q Did he say they all ate?

A I dont remember anything about his saying that.

Q Well, what did he say?

A Simply said "We had something to eat".

Q He just said "We had something to eat"?

A All I remember at this time.

Q You think you remember that?

A yes, sir.

Q And that is something you did not remember before?

Thiele-X
F-17

A Remember when?

Q When I cross-examined you or when you were examined in chief?

A I didnt speak of it on direct examination; I didnt think of it.

Q He said that he shot him, did he.

A Said "I shot him".

Q "I shot him". Did he tell you where Mason and Glover were at the time?

A Said they were with him.

Q Did they say whereabouts with him?

A No, sir.

Q Did he say whether they did any shooting?

A No, sir.

Q Did you ask him

A No, sir.

Q Didnt say anything about whether anybody else did any shooting or not?

A He told me "I shot him"; I supposed that finished it.

Q ~~That~~ Yes. That is all he said about it?

A Yes, sir.

Q You say he didnt tell you the time of day they went over to Tyler's cabin?

A Not that I rememberof.

Q No. But you did say though, that you did remember that awhile ago?

A Remember the time?

Q Yes, that they went to Tyler's cabin?

A I did not.

Thiele-X
P-18

Q Now, Mr. Thiele, think that over; didnt you say that Steve Adams said they went there in the afternoon?

A Yes, I said something about the afternoon; I didnt say anything about any particular time, though.

Q Oh, I see where I am wrong. You said they went there in the afternoon; I

A I am not positive as to that.

Q That is what you said before, is it?

A I said "To the best of my memory".

Q The reason you are not positive is because I have this record beforeme?

A That hasnt anything to do with it; if I could remember it positively I would not care what it said in the record.

Q That is, you would not care what you said before if you remembered it positively. On page 205, Mr. Hawley, about the middle of the page.

MR. HAWLEY: You have the preliminary.

MR. DARROW: I should say page 205 there, Mr. Thiele. Then I will turn over here a couple of pages and save coming back again; that about the shoe (Hands witness transcript).

MR. DARROW: Did you want to see this, Mr. Hawley?

MR. HAWLEY: If you please.

MR. DARROW: Q At the preliminary examination was this question asked? "Did you say about what time in the morning they got to Tyler's cabin? A Simply said 'In the morning' ".

A Let me have that question again.

Q "Q Did you say what time they got to Tyler's cabin"

Thiele-X
F-19

A I understand that, but I asked your question.

Q Did you say that in the preliminary examination?

A I dont remember that I did.

Q Would you say that you did not?

A I wouldnt swear positively that I did or, ^{did} not; simply swear there was a reference to that but I would not swear positively what it was.

Q On the preliminary examination was this question asked you: "Q Did he say what Mason and Glover were doing at the time he shot him?"

A He said they were with him but didnt do any shooting." Did you say that?

A I would not swear positively that I did.

Q Or that you did not?

A No, sir.

Q What?

A I would not swear positively that I did or did not use those words.

Q You saw Steve Adams again after he got back from Colorado?

A Yes, sir.

Q Where was he?

A I think he was in charge of the Ada County officers the next time I saw him.

Q Well, did you see him after he got back to the penitentiary?

A Not that I can recall at this time.

Q I mean the Ada County officers; I mean after the writ of habeas corpus was issued.

A Yes, sir.

Thiele-X
P-20

Q You dont think you were out to the penitentiary after that; between that time---

A I left some time in June; I dont think I was out there again.

Q Do you know how Adams was held in the penitentiary; did you ever have any conversation about it?

A I talked with him one time about the Grand Jury having failed to indict him in the Ste unenberg case.

Q Yes. When was that?

A That was along in March, some time, 1906.

Q In March?

A Yes, sir.

Q What time in March?

A After the Grand Jury was adjourned.

Q Did you tell him that he was free to go?

A I didnt tell him to go; I told him they had failed to indict him.

Q Did you tell him he had a right to go?

A No, sir.

Q Or that he was free to go?

A No, sir.

Q Or anything to that effect?

A No, sir.

Q Did you at any other time?

A No, sir.

Q Tell him there was anything against him?

A Not that I remember of now; I remember that I told him that they had failed to indict him; words to that effect; I might have told him there was no criminal charge against him at that time.

Thiele-X
F-21

Q When did the Canyon County Grand Jury adjourn?

A I cant state positively the date.

Q Well, can you state about?

A Somewheres in the first ten days of March.

Q About the 16th, wasnt it?

A I think it was a few days before that, to the best of my memory.

MR. DARROW: I dont see just what I was looking for; possibly it isnt here, I wouldnt say. Otherwise---

THE COURT: You may take your time, Mr. Darrow.

MR. DARROW: I feel that I ought not to take the time, but if I find it I will ask leave to ask that one question in the morning.

THE COURT: very well, you will be allowed to do so.

MR. DARROW: And, while I do not like to ask favors, if I can helt ip, I would like to have the court adjourn; it is just a little over-taxing me.

THE COURT: I am very anxious to preserve your strength, Mr. Darrow, and I feel that you are entitled to indulgence.

MR. DARROW: well, your Honor, I think I will not have to ask much of this.

THEREUPON, the jury was duly admnished, as required by law, officers were duly sworn, in whose charge they retired, and the court thereupon adjourned until Tuesday, November 12th, 1907, at 10 o'clock A.M.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF
KOOTENAI.

STATE OF IDAHO,)
) PLAINTIFF,)
))
VS.))
))
STEVE ADAMS,))
) DEFENDANT.)

NO. _____

TUESDAY MORNING, NOVEMBER 12, A. D., 1907.

MORNING SESSION.

At this time, the Defendant being in Court with his counsel, present as before, the record of Monday's Proceedings was read and approved, and the following Proceedings were had herein, to-wit:

THE COURT: Call the Jury.

THEREUPON, the Jury came into Court in charge of the officers, and being duly polled, all answered to their names and the trial of this cause proceeded as follows:

S. C. THOMAS,

Resumed the stand for further
cross examination,

BY MR. DARROW:

Q You say the Grand Jury in Canyon County adjourned about the middle of March?

A The best of my memory, yes, sir.

Q You were at the Grand Jury?

A No, sir.

Q You were over there?

A I was in Caldwell while they were in session.

Q Well, I suppose you saw them?

A Yes, sir.

Thiele X
A-1

Q That was the Grand Jury before which the Steunenberg matter was brought?

A Yes, sir.

Q When you say you were not at them you mean you did not testify before them?

A Did not testify before them.

Q And you knew that Steve Adams was not indicted?

A Yes, sir.

Q And you told him so, didn't you?

A Yes, sir.

Q And you told him they had nothing against him?

A That is the best of my memory.

Q And there was nothing to hold him on?

A Yes, sir.

Q And at the same time you knew all about this Tyler confession and Bouley?

A I don't believe I did, right at that time.

Q Well then, I will have to ask you to wait a minute until my associates bring in that record.

MR. DARROW: Your Honor, there was a question or two I wanted to ask Mrs. Thomas, that I overlooked. I might ask her now as well as any time.

THE COURT: Very well. Mr. Thiele don't need to retire. (To Mr. Thiele) Take a seat in the audience.

MR. DARROW: I would like to ask Mrs. Thomas a question or two and save a little time, that is all.

WITNESS TEMPORARILY EXCUSED.

Mrs. Thomas (Rec.) X
A-4

Q When did you first learn that the defendant here, Steve Adams, had made any confession?

A When this subpoena came for me first, for the preliminary examination.

Q That was when the subpoena came for you, sometime in September, to attend the preliminary examination?

A Yes, sir.

Q Before that time you never heard there was such a man as Adams, or that he had ever made a confession?

A I think I had heard of him, but not in connection with the murder of my son.

Q You never heard he had made a confession?

A No, not at that time.

Q That Subpoena came to you from an officer?

A It came from the Court at Wallace.

Q You are wearing mourning for your son?

A I am.

Q Did you wear it at the preliminary examination?

A Part of the time;--no, I beg pardon, it was at the trial that I did.

Q You did not wear any at the preliminary?

A I did not.

Q You did not have any, did you?

A No, sir.

Q You had not yet got the mourning?

A I had not.

Q You did not get it until time for the trial, did you?

A I got it after I returned to Wallace the second time.

Q How is that?

Mrs. Thomas (Rec.) X
A-5

A I got it after I returned to Wallace the second time.

Q After you returned to Wallace the second time?

A Yes, sir.

Q And that was the time you went down there for the trial?

A That was the time I went down for the trial, yes, sir.

Q You went to the Preliminary trial without it?

A I did.

Q You did not wear it any time before you went down to Wallace in February?

A I did.

Q 1906, for the second trial?

A I did.

Q You did not wear it then?

A Not until after I got there.

Q And when you got there you bought the mourning?

A I did.

Q And wore it at the trial?

A I did.

Q Who bought it for you?

A I bought it myself?

Q Who furnished you the money?

A My husband.

Q Was any suggestion made to you by the attorneys or the detectives that you put on mourning?

A None whatsoever; it was in respect to my son's remains that I wear the mourning.

Q But you did not think about it until you went to Wallace to testify at the trial, did you?

A I beg your pardon, I did.

Mrs. Thomas (Rec) X
A-6

Q When?

A A good many times.

Q But you did not do it, at least?

A I did, as well as I could, Mr. Darrow.

Q But you did not do it until you went to Wallace to testify at the trial?

A No, sir.

Q And you had been there four months before for the preliminary examination, and a year before that you had learned of your son's death?

A I had.

Q And you have been wearing mourning ever since?

A Yes, sir.

Q And have it on in the court room?

A I have.

MR. DARROW: That is all.

RE-DIRECT EXAMINATION

BY MR. KNIGHT:

Q Mrs. Thomas, why didn't you wear mourning before that time?

A Our circumstances are not very good, ^{financially} and I did the best I could; when I came out and found that the remains was identified as those of my son, I put on mourning for him.

Q I understand, then, that your financial condition was such that you could not afford it?

MR. DARROW: ~~That~~ is a leading question.

MR. KNIGHT: That is all.

THE COURT: She has stated enough; I think.

Mrs. Thomas (Rec) RX
A-7

RE-CROSS EXAMINATION

BY MR. DARROW:

Q Did you say you put on mourning when they came out and told you that your son was identified?

A At the Preliminary examination, that was where it was identified, and when I came to the trial, I came feeling positive that it was my son.

Q The Preliminary examination was in September?

A Yes, sir.

Q And the trial was in February?

A Yes, sir.

Q And the identification by your husband and your son-in-law was more than a year before that time?

A Yes, sir.

Q You say that you were too poor to buy any mourning?

A I did not feel as though we could afford it, no.

Q Did you get some money just before the trial, at Wallace

A My husband made preparations for coming out.

Q But he got some money just before the trial?

A No, sir.

Q When did he get it?

A Only his earnings; he had worked and earned money.

Q You did not even wear a crepe veil, did you?

A No; I wore a black veil, though.

Q But you did not wear a mourning veil?

A No, sir.

Q You bought a veil?

A Wait a minute. I am not positive whether I wore a crepe veil, part of the Preliminary examination or not.

Mrs. Thomas (Rec.) RX
A-8

Q You bought veils, and you bought other clothes in the year between August, 1905 and September, 1906, didnt you?

A Yes, sir; I admit that.

MR. DARROW: That is all.

MR. KNIGHT: That is all.

WITNESS EXCUSED.

Thiele X
A-9

S. C. THIELE, Resumed the stand for further
cross examination,

BY MR. DARROW:

Q Now, I call your attention to pages 385, 387 and 388 .

MR. DARROW: Mr. Hawley, it is right at the bottom of
385, very near the bottom, "Did you tell him he was free to
go" and about the lower half of 387, and a little below the
middle of 388, and a little bit at the top of 388.

MR. DARROW: Q Will you read there, and there and
there. (Handing witness portion of record of previous trial)
Mr. Thiele, at the former trial of this case, were the
former questions asked you, and did you make the following
answers:-- ~~XX~~ Well, there is an answer there I will
read; I might not have shown you: "A He had not been
"indicted. Q Or no charge against him whatever--and yet
"you insisted to him, a number of times, you say, that
"the only safe place for him to stay was in the penitentiary?
"A I did not. Q Did you tell him he was free to go?
"A I think on one occasion I told him they had nothing to
"hold him." And again: "Q--"

MR. HAWLEY: Where you reading from now?

MR. DARROW: Page 387. "Q You haven't the remotest
"idea what he was kept there for?" That is about the
seventh or eighth line from the top. "A After he was not
"indicted by the Grand Jury, I dont know that any one held
"him there. Q And you people knew that in this confession
"of his he had implicated himself for killing Tyler? A Yes
"sir. Q And you knew it from the time the confession was

Thiele X
A-10

"first made? A Yes, sir. Q You knew it as early as the
"fore part of March or the latter part of February? A Fore
"part of March. Q You knew it along about the fore part
"of March, when you got the confession? A No, sir.

"Q When was it you got the confession? A Five or six days
"after he was arrested. Q And after you got the con-
fession from him and the Grand Jury had adjourned without
"indicting him, you told him you ~~hadn't~~ didn't
"have anything to keep him there at all? A Yes, sir."

And again, third line from the top on 388: "Q And yet this
"man, corroborating Orchard's confession, had implicated
"himself as early as the 27th or 28th of February, in the
"murder of a man by the name of Tyler, in Shoshone County?
"A Yes, sir." And then, a little below the middle, "Q In
"any event, he had implicated himself in that confession
"in the killing of Tyler, hadn't he? A Yes, sir. Q And
"You knew that? A Yes, sir. Q And knowing all of this,
"you told him there was not a thing against him after the
"Grand Jury adjourned? A Yes, sir, nothing against him."

THE WITNESS: To the best of my memory, I answered
that way.

Q You answered that way at the former trial?

A Yes, sir.

MR. DARROW: THAT is all.

MR. HAWLEY: That is all.

WITNESS EXCUSED.

Buckley Wells-D
E-1

BUCKLEY WELLS,

Being called and duly sworn as
a witness on the part of the
State, testified as follows:

BY MR. HAWLEY:

Q What is your name?

A Buckley Wells.

Q Where do you reside?

A Telluride, Colorado.

Q What is your business or occupation?

A Mining.

Q Do you hold any official position in the State of
Colorado?

A I am a member of the State Railroad Commission of
Colorado.

Q Have you held at any time the office of Adjutant
General?

A I did until--- two years preceding April 1st of
this year:

Q Are you acquainted with the defendant, Steve Adams?

A I am.

Q When did you meet him first?

A On the 27th of May, 1906.

Q Where?

A At a station called Orchard, on the Oregon Short
Line in Idaho, about thirty miles, I believe, from
Boise City.

Q What was your business at Orchard on this occasion?

A To meet Adams and go to Colorado with him.

Wells-D
B-2

Q State whether or not he came there on that day?

A He did.

Q How, and in whose company?

A With two men, Gene Johnson and S. C. Thiele.

Q S. C. Thiele, a witness here?

A I believe so.

Q How did they come, if you know?

A In a wagon, carriage from Boise.

Q Was there any one accompanied you on the trip?

A There was.

Q Who was it?

A The City Marshall, W. W. Runnels, of Telluride,
Colorado.

Q What was your object in going to Orchard on
that occasion, on the occasion you met Adams?

A To meet Adams and go with him to Telluride,
Colorado.

Q For what purpose?

A Adams had stated that he could locate the body of----

MR. DARROW: Wait a minute. Did he tell you that?

A Afterwards.

MR. DARROW: You say he had stated?

A Yes, sir.

MR. DARROW: Had he so stated?

A Not to me.

MR. DARROW: Well, of course you know you are only
to tell what you heard.

Q I am asking what his object was. State in a
general way, General.

A To endeavor to locate at Telluride, Colorado,
the remains of a man who had been killed in the labor trouble.

Wells-D
B-3

Q What name?

A Barney.

Q State whether or not he accompanied you on that trip?

A He did.

Q From Orchard which way did you go?

A Went to Pocatello, Salt Lake, Grand Junction and Telluride, Colorado.

Q Who accompanied you besides Adams while you were on tht trip?

A Deputy Warden Mills, of the Idaho State Penitentiary.

Q James E. Mills?

A I believe those are his initials.

Q Did you have conversation, talk with Adams on the road?

A I did.

Q What particular part of the car did you occupy on the trip?

A We had the drawing room.

Q That is, your party?

A Yes.

Q What was this talk you had with him in reference to?

A Various crimes in which he stated he had been concerned---

MR. DARROW: Now, wait a minute. Stated to you?

A Yes, sir.

(Question read)

MR. DARROW: I object to the answer and ask to have it stricken out, and the witness admonished that he should not --- that he should answer without injecting something.

Wells-D
B-4

MR. HAWLEY: The answer is proper---

THE COURT: That answer will be stricken out.

Should confine yourself to the case on trial as far as may be.

Q Did you have any conversation at that time with reference to the killings in North Idaho, in the St. Joe country?

A I did.

Q The killing of a man named Tyler and a man named Bouley?

A yes.

Q Where was you at the time, on what part of that road was you at the time this talk was had?

A Somewhere between Salt Lake City, Utah and Grand Junction, Colorado.

Q Who was present during this conversation?

A I think no one, except Adams and myself.

Q And you were where?

A In the drawing room of the Pullman car.

Q Prior to that time, or at that time, or at any time prior to that, had you offered any inducement to Adams to make a statement to you in regard to these matters?

A I had not.

Q Did you promise him any immunity or reward of any kind if he would make a statement with reference to this matter, or had you done so?

A I had not.

Q Did you make any threats to him of any kind?

A I did not.

Q Or threats against him there?

Wells-D
E-5

A I had not.

Q Did you at that time know anything about any crimes that might have been committed, alleged crimes committed in the St. Joe country?

A Yes.

Q Who brought this conversation up?

A It was in the course of general conversation had at that time.

Q Who directed the attention of Adams to this, called it to his attention?

A He spoke of it himself in connection with another matter.

Q You may state that entire conversation.

MR. DARROW: Just one minute now. Your Honor, we ask to make an objection to this statement on the ground that after inducements are shown to have been given, the presumption continues that he was acting under these inducements; and also that inducements were offered all the way through.

THE COURT: The objection will be overruled.

MR. DARROW: Defendant excepts.

Q Please detail, General, the entire conversation.

A The entire conversation, or that part which relates to the killing in Northern Idaho.

Q What led up to it, what were you talking about before that led up to this conversation?

MR. MCHEE: Do you mean everything that was said in this conversation, or just in reference to North Idaho?

MR. DARROW: I am asking what the conversation was that led up to

Wells-D
B-6

it. I think we can go that far as to what led up to it.

THE COURT: The general conversation, that much of it which led up to this, I shall let in. You can save your exception, if you desire.

MR. DARROW: I object to anything that the man might have said ~~with~~ about anything done in Colorado; can say he was talking about Colorado matters when this came up.

THE COURT: I shall direct his attention to what was said and then so much of the introductory matter as may be necessary ^{to} ~~will~~ explain it. I think that's the better way, Mr. Hawley. Let him state the conversation and then afterwards such introductory matter as is necessary.

MR. HAWLEY: Very well, your Honor.

THE COURT: I dont want to get in collateral matters. I dont think it is proper.

MR. HAWLEY: I was asking the witness as to the subject matter of the conversation that directed the attention of Adams to these matters up in the St. Joe country.

THE COURT: You can ask your question.

Q What were you talking about or what was he talking about, that led up to this matter of the killings in Northern Idaho?

MR. DARROW: I object to that, because it allows the witness to summarize what it was about and lug something into this record that the Court has already said should be excluded.

MR. HAWLEY: We insist that it is absolutely necessary in order that the jury should understand how this

Wells-D
B-7

conversation came up; that we shall have the subject matter of the conversation that directed the attention of the defendant to this particular matter.

MR. DARROW: What he said about the Tyler matter is the only thing to be considered.

THE COURT: I shall sustain the objection. He may state what he said of the Tyler matter, and afterwards so much of the introductory matter as is necessary to explain it.

Q Go ahead and state what he said with reference to the Tyler matter?

A Well, it relates to another occurrence, the discussion of which and questions on my part as to Adams movements after that occurrence led up to this statement.

MR. HAWLEY: That is a part of this conversation, part of this particular conversation.

THE COURT: I will overrule the objection as to that. We must get at this some time.

MR. DARROW: May I examine this witness, then, before that---

MR. HAWLEY: Now, we object to that.

MR. DARROW: The witness says he cant tell it without telling some other matter.

MR. HAWLEY: He didnt say that. He said it was a part of the discussion of another matter and in response to a question that was asked.

Q I think I will let him state what they were talking about.

MR. DARROW: Well, I shall ask that he shall not inject anything into his answer.

Wells-D
B-8

THE COURT: I hope the General will not go into any particulars in regard to other occurrences.

MR. DARROW: If he understands it I know he will not.

A I will not.

MR. DARROW: very well, Mr. Wells.

A You have the record of the former trial there from which you can learn as to what the conversation was.

MR. DARROW: If you will allow me to look at that I will do it.

THE COURT: Go ahead.

Q Go ahead, General.

A Adams had been talking about the matter of the Independence explosion, in the Cripple Creek District, and I had asked him where he had gone after that explosion occurred, and after giving me the details as to it, immediately after the explosion he said he had gone afterwards up into northern Idaho, into the St. Joe District, and had helped Simpkins 'bump' off two men who had been giving him trouble over his timber claim.

Q Is that all that conversation?

A On that subject.

Q Did you afterwards talk to him upon this particular subject?

MR. DARROW: You mean the Tyler subject?

MR. HAWLEY: Yes, sir; Tyler and Bouley.

A That was all that was said at that time. I dare say it came up again in the course of the week that I was with Adams.

Q You was with him a week, you say?

A Yes.

Q Where?

A In going to Telluride, Colo. and returning to Boise.

Wells-D
B-9

MR. HAWLEY: Take the witness.

CROSS-EXAMINATION.

WELLS.

BY MR. DARROW:

Q Mr. Wells, when did you say was the first time you saw Mr. Adams?

A 27th of May, 1906.

Q When was the last time before today? About when will do all right, if you have not got the exact date?

A I think in the neighborhood of the 1st of June of this year.

Q Whereabouts?

A In jail at Wallace, Idaho.

Q That was during the progress of the Haywood trial?

A Yes, I think it was. I think it was about the beginning of the Haywood trial.

Q You live in Colorado?

A Yes, sir.

Q And are a member of the Railroad and Warehouse Commission?

A State Railroad Commission, Railroad, there is no Warehouse.

Q Is there just one commissioner, or a board?

A Three.

Q How long have you held that position?

A Since the 14th or 15th of June of this year.

Q Before that you were Adjutant General of the State?

A For two years preceding April 1st of this year.

Q You were appointed Railroad Commissioner by the Governor. I take it?

Wells-D
B-10

A Yes.

Q You were appointed Adjutant General by the Governor?

A Yes.

Q Appointed Railroad Commissioner by Governor and Adjutant General by Governor Peabody?

A Governor McDonald.

Q You were not Adjutant General under Governor Peabody?

A No, sir.

Q Were you a state official then?

A Not a state position; I was in the militia.

Q You were an officer of the State Militia?

A I was.

Q What officer?

A Captain of Troop A, Cavalry.

Q That was under Sherman Bell?

A He was Adjutant General at that time.

Q That was during the strike?

A Yes, sir.

Q How long have you resided in Colorado?

A Practically since 1896, although I went East about a year and a half, or a little over a year, and I returned in December, 1902.

Q Where was your home before you came West?

A In Boston.

Q Where was your native home?

A I was born in Chicago?

Q You went to Boston when you were young?

A Yes.

Q Still young, but I mean when quite young.

Wells-D
B-11

A How is that?

Q When quite young?

A I was six years old, I believe.

Q You came west as manager or superintendent of the Smuggler Mine?

A This last time, in 1902.

Q And the other time you came West, was that in connection with the mine?

A Yes.

Q As manager or superintendent, or one of them?

A I had no official position at that time, I was and a couple of studying engineering ~~xxxxxxxxx~~ properties in which my people were interested I was engaged with, gaining field experience, and so on.

Q Your people were interested in the Smuggler Mine and other mines in the Telluride district, and that's why you came West?

A This last time, yes.

Q You were superintendent or mining manager?

A I was manager.

Q That was the position that Arthur Collins occupied before he was killed?

A It was his death occasioned my return to Colorado.

Q You became member of the Mine Owners Association?

A As a manager of the company. The company has the membership, and I as manager; that is the only membership.

Q Company has the membership and you as manager of the company were a member of the Mine Owners Association state of Colorado?

A Yes, sir; of the local association, which, in turn is

Wells-D
B-12

a member of the State association.

Q Are you still a member?

A I am.

Q You are still a member of the Mine Owners Association in that way?

A In that way.

Q And were while Adjutant General and while captain in the militia?

A I was.

Q And the militia was called out when there were labor troubles, in connection with the labor troubles, in Colorado, growing out of the mines, or mining?

A It was on different occasions.

Q And you had something to do with the labor troubles while you were Adjutant General?

A They had no labor troubles since that time.

Q Have you taken some interest in the Moyer, Haywood and Pettibone case, and this case, you have, have you not?

A I have.

Q Considerable interest?

A Yes.

Q In aiding the prosecution?

A Yes.

Q You were on the special train that brought Moyer, Haywood and Pettibone from Denver, were you not?

A I had charge of the train.

Q So, really, you had charge of them from Denver to Boise, of delivering them from Denver to Boise?

A I had charge of the train, itself, not of the prisoners.

Wells-M
E-13

Q You were then Adjutant General?

A ~~xxxxxxx~~ I was relieved from duty for that trip by the Governor.

Q You had been occupying that position before and occupied it afterwards?

A I did.

Q And the Governor gave you a vacation long enough to take Moyer, Haywood and Pettibone to Boise, is that correct?

A Relieved me from duty at my request for that period.

Q And the position you occupied was Railroad Conductor, or something like that?

A Simply in charge of the train.

Q That was a special train?

A Yes.

Q Did you have the keys of Mr. Moyer's hand-cuffs in your possession?

A On perhaps two or three occasions I assisted the deputy State Warden of the Idaho State Penitentiary, who was in charge of the prisoners, in unlocking their hand-cuffs, but I had at no time, other than that, possession of the keys and returned them immediately.

Q Away back of that, a year or two, Mr. Moyer was imprisoned in Telluride under your especial charge? under martial law?

A Under orders from the Governor, sir.

Q You had charge of him?

A I was the officer in charge of the jail in which he was confined.

Q That was Governor Peabody?

A Yes, sir.

Wells-X
B-14

Q When he declared martial law in Colorado, in Telluride?

A Yes, sir.

Q Well, you ~~remember~~ brought these men to Boise, then went back home again and took up your office?

A Yes, sir.

Q And assisted the State all you could in the prosecution of the case?

A Yes.

Q Made a number of trips to Boise?

A Yes.

Q Had a good many conferences with Mr. Hawley and Mr. Borah, in reference to it?

A Yes.

Q And a considerable number of with Mr. McParland, the detective?

A Yes, quite a number, about the same number I expect as with Mr. Hawley and Mr. Borah.

Q With Governor Gooding?

A Yes, on a few occasions.

Q Assisted in getting witnesses up to Boise?

A To a small degree, yes; some from Telluride.

Q Some from Telluride. Didn't go yourself, you were not a witness, of course?

A No; I was not called.

Q You came up here first time to see Adams in connection with the Moyer, Haywood and Pettibone prosecution?

A The first time I saw Adams?

Q Yes. That was the purpose of taking Adams away

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was your visit to Adams?

A Well, I don't know whether it is a proper answer to make, but the purpose of that trip, as expressed to me by others, and by Adams himself, was to, as far as I was personally interested, also in the finding of Barney's remains. Purpose was to verify the truth of Adams's statements in that and in other matters.

Q Well, now, you think that a full answer, Mr. Wells? Was not that purpose to connect up Moyer, Haywood and Pettibone in the conspiracy involving the Steunenberg matter?

A To establish the truth of the statements in the confession made by Adams had a very direct bearing on that matter.

Q That was the purpose you were after rather than Adams, I take it?

A I think so.

Q You were not giving getting Adams down there so you could hang him, I take it?

A No.

Q You were looking for bigger game than Adams at that time?

A Yes.

Q That was all connected and woven in with the story of Harry Orchard, to show a general conspiracy on the part of the officers of the Federation?

MR. HAWLEY: Now, I object to that.

MR. DARROW: Yes, I withdraw that question. The witness tells very frankly what I ask him anyway.

Q You came here, then, as part of that general purpose, to get Adams and take him down to Colorado, and

Wells-X
B-16

have him hunt up the remains of a man named Barney, who was supposed to have been killed; that right, is it not?

A. Yes, that right.

Q. Barney was some kind of a boss or superintendent down there, killed in some labor difficulty?

A. Shift boss.

Q. And you and who else from Colorado?

A. W. W. Runnels, City Marshall of Telluride.

Q. Anybody else?

A. No one else in Colorado.

Q. And you took Adams down to Telluride and kept him a week?

A. We were gone just a week from the time we left Idaho until we got back.

Q. You took him down in the drawing room of the car?

A. Yes.

Q. Some of us might not have seen a drawing room--- what is that---

MR. HAWLEY: Now, I object to these side remarks, and ask that this kind of questioning be stopped, and these side-bar remarks.

MR. TAPROW: Tell us what it is, Mr. Wells?--

MR. HAWLEY: I insist on my objection. It is improper.

THE COURT: He is asking a proper question now. I don't think there is anything improper about it.

MR. HAWLEY: Well, I ask to have it stricken out, and that this mode of questioning be stopped.

THE COURT: The question is proper and it is so ruled.

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B-17

MR. DARROW: You are getting excited, Mr. Hawley. You will get me so scared I will not dare to ask anything pretty soon.

Q Tell the jury what it is?

A A drawing room is a small room at one end of a car containing three berths .

Q Shut off by itself?

A One end has a door which shuts it off from the rest of the car.

Q And has a toilet and all sorts of conveniences, has it not?

A Has a toilet, yes.

MR. HAWLEY: We object to that. Evidently counsel knows what a drawing room is by his question.

MR. DARROW: No, I was asking for the other counsel.

THE COURT: This is a 'side-bar', I guess, Mr. Hawley.

MR. HAWLEY: I stand corrected, your Honor; it is open to objection.

Q You took Mr. Adams down in the drawing room, at least?

A Yes, sir.

Q Didnt have him hand-cuffed?

A No.

Q Fed him well?

A Yes, I think so.

Q Associated with him?

A Yes.

Q Did you have him hand-cuffed or any special provision during night-time?

A No.

Q Treated him on perfectly friendly relations?

A I think so.

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B-18

Q Some of you were with him all the time?

A Yes.

Q Did you have any papers?

A Any what?

Q Any writs or papers?

A Not to my knowledge. I had none. I dont know whether the deputy state warden of the penitentiary had any or not; I had none.

Q You mean the deputy warden of Idaho?

A Of the Idaho penitentiary.

Q You didnt take any from Colorado?

A No.

Q As far as you know, he was not a prisoner in Colorado?

A Not a prisoner of the State of Colorado, I suppose.

Q Do you know of any warrants or writs of any sort issued by the State of Colorado, of which you were, or by which you were authorized to hold him?

A No.

Q He was a sort of a guest at the time?

A It was a sort of a voluntary trip, as I understood it.

Q When you got to Telluride, where did you keep him?

A At my house.

Q Did he eat with the rest of the family?

A Rest of my family?

Q Yes?

A At that time my family were not living in Telluride.

Q Eat with you?

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A Well, at that time the family of the superintendent of the storehouse of the Company occupied my house.

Q He lived in the house with you?

A Yes, occupied a room.

Q Yes. Separate room?

A Yes.

Q Anybody guard him at night?

A There was some one with him at all times.

Q How?

A I think not while he was in the house at Telluride.

Q He had the freedom of the house, practically?

A With some one there.

Q How long did you entertain him at your house there in Telluride?

A We got there the night of the 29th and left the morning---- 29th of May, and left the morning of the 1st of June, 1906.

Q Yes. Did you go out and find Barney's remains?

A We did not at that time.

Q Well, did he go out and find them at any other time, so far as you know?

A Did he?

Q Yes.

A No.

Q That is the question I asked you.

A I thought you said "Did you".

Q Well, I meant to say "he". He didnt find them?

A He did not.

Q And then you brought him back?

A Yes.

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B-20

Q I suppose you had a good many conversations with him on your way down?

A Yes, down and back both.

Q All you heard him say about Idaho was the fact he left Colorado in June, 1904. He went up to northern Idaho and helped Jack Simpkins 'bump' off some jumpers, is that it?

A Two men who were giving him trouble on his timber claim.

Q That is substantially what you heard him say?

A That is the substance of it.

Q Anybody else present?

A I think not on that occasion

Q You made no memorandum of it?

A No.

Q Gave it no particular attention?

A Except as part of the statement he had made on that and other matters which were of interest.

Q Yes. That's all he said about that matter, was it?

A I believe that's all he said at that time, practically. There were references made to it once or twice again during that trip.

Q You have never sworn to anything else about that as far as you recollect it?

A That's all, I believe.

Q So I think that is all you are sure of?

A That's all I have testified.

Q Yes. About Northern Idaho?

A Yes.

Wells-X
E-21

Q Then you didnt say anything yourself about this specific matter?

A In what way do you mean?

Q Oh, ask him any of the details?

A No.

Q Make any inquiries to get at any specific fact?

A No. It was a matter aside from general matters in which I was directly interested.

Q Yes. That was not a matter you were interested in specially.

A Only as part of the general story.

Q And not interesting as showing any connection with Moyer, Haywood and Pettibone?

A Not directly, no.

Q Well, did he say Moyer, Haywood and Pettibone directed him to do this?

A No, but it seemed to me a natural conclusion if he was willing to do such a thing in one case he would be in another; thats what I mean by being indirectly connected.

Q Did he say--- but he didnt say there was any connection with Moyer, Hay wood and Pettibone in the matter of this excursion?

A He did not.

Q well, you called nobody in to witness any of this?

A I think there was no one present at that time.

Q Have you asked them since to find out whether anybody was present?

A I asked Mills. I believe ^{and} he didnt recollect that he was present when that conversation was had.

Q What you mean by that is he didnt hear any such conversation, is it not?

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B-22

A On that occasion I asked him with respect to that particular afternoon?

Q He says he didnt hear any such thing.

A Yes, on that occasion.

Q He had access to your and Steve's drawing room any time?

A Yes.

Q And slept there himself at night?

A Yes.

Q He must have been out then, thats what he means?

A Usually one man stayed with Adams I think most of the time on the train.

Q Now, when did you next see Steve Adams?

A I believe it was histrial of this case in Wallace.

Q Up at wallace, when you went up to testify, as you suppose, substantially as you have here?

A Yes, sir.

Q Did you have any private conversation with him?

A No, sir.

Q But you did go up and seehim last June afterthe first trial?

A Yes.

Q The first trial was some time in February, thereabouts was it?

I think so, yes.

Q And when you went up there in June, ^{was} during the time Moyer, Haywood and Pettibone were being tried?

A Yes.

Q Your purpose was to go up there and see if you could not prevail on Steve Adams to go and testify against Haywood?

A I wanted to see the frame of mind he was in, also

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B-25

to gain some further details in regard to this Barney matter.

Q Well, do you think that is a direct answer to my question?

A That was the purpose of my going there.

Q Was it with reference to his going there to testify against Haywood?

A The part of my purpose in going there which referred to the frame of mind in which he was, did, yes.

Q And you asked to see him?

A I did.

Q And asked him if he would not come out and go through with that agreement?

A I did not.

Q Practically that?

A I--- Conversation I had with him, aside from asking if he would come out and talk to me-- he was inside of the cell, inside the jail there-- and told him I wanted to clear up that matter of which he had knowledge. I didnt care to speak any more definitely before some other prisoners who were in the cage with him, about which he went to Telluride with me, meaning the Barney matter. He declined to come out; said he couldnt talk to me; was sorry but couldnt talk to me at that time; that was all there was about it ~~essentially~~ substantially.

wellseX

Q-24s that the language you used?

Q Is that the language you used?

A Substantially, yes.

Q Didnt you ask him if he couldnt go down and close up that deal?

A I said I wanted to close up that matter on which he went to Telluride with me; wanted to have some further talk with him about it, on which he went to Colorado with me.

Q You mentioned Colorado?

A I said down to Colorado, I think.

Q Didnt mention going to Boise?

A I did not.

Q Why didnt you?

A I didnt have any occasion to do so.

Q That was part of your purpose in goinb there, was it not?

A Yes, but I didnt care to discuss it in the presence of the other men in the case.

Q The Sheriff was accommodating. He would have taken him out for you?

A Adams declined to come out; told me he was sorry, but couldnt talk to me.

Q And you didnt want the Sheriff to drag him out as long as he declined to come?

A There didnt seem to be any necessity for that.

Q You went back?

A I went to Boise then.

Q You had no other purpose in going to Wallace?

A Those two points were the chief purposes.

Q You didnt go there to get some further evidence to

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B-25

hang Steve on?

A No.

Q You never associated with him for that purpose?

A No. You said "Steve", didnt you when you asked that question?

Q Steve, yes.

A I could not quite hear.

Q You have for some years, and do now feel a strong interest in these cases against the officess of the Western Federation of Miners?

A I do.

Q And it is that interest that has mainly prompted you in these various movements, is it not?

A Yes, sir.

Q I dont say in your testimony, I say in your goings and comings?

A yes, sir.

Q That interest still continues?

A It does.

Q It does?

A Yes.

Q Your expenses were paid when you came up here by the Haywood prosecution, I suppose?

A That is, on the last trip I made to Wallace?

Q Yes, the last trip?

A If I remember rightly, my lileage and witness fees in the haywood trial covered all the expenses I was put to in the matter.

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Q That is, you got mileage and witness fees in going to Boise in the Haywood case?

A yes, and this covered my expenses, that I kept at the time, ^{account}

Q You didnt testify?

A I didnt testify. I was not called.

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C-1

Q The trip you made to get Steve Adams to go down to Colorado, that was made at the expense of the prosecution in the Heywood case, wasn't it, Moyer, Heywood and Pettibone matter?

A No, my expenses--you mean when I went with Adams to Colorado and returned?

Q Yes, sir.

A The expenses in that case were paid by funds belonging--out of funds belonging to the Mine Operators' Association of Colorado.

Q Oh, I see. The Mine Owners' Association paid them?

A Yes, sir.

Q Did they also pay for the special train which you conducted up to Boise from Denver?

A They did not.

Q Who did that?

A I don't know.

Q Then, they may, so far as you know?

A I would have known if it had been paid by Mine Owners' funds of the Mine Owners' Association.

Q You did not pay it?

A I did not pay it, no.

Q And your expenses this time are being paid by whom?

A I presume the mileage and witness fees will cover them. They did in the former trial.

Q Mr. Wells, do you remember how you testified at the former hearing on this question of this special train?

A The question was asked, and I was not allowed to answer it.

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C-2

MR. DARROW: I kind of think you are in error, but let me show you--no, I guess you are right, Mr. Wells.

THE WITNESS: I think so; I think objection was made to the question and the Court sustained it.

Q (Referring to the record) May 27th, that was not that train?

A No, sir.

Q That was the one you have just referred to?

A That is right.

Q When you met Steve up in Idaho to take him to Colorado, you met him at an obscure sort of a station?

A Simply a station house and water tank, I think that was all; there was no town.

Q You did not take him from Boise?

A No, sir.

Q He did not exhibit any reluctance to go?

A No.

Q You never had any talk with him one way or the other, as to what was going to happen to him?

A I think not.

Q Quite sure of that?

A Yes.

Q You never told him what you wanted to happen to him, or cautioned him, or anything of that sort?

A Cautioned him, in what way?

Q As to how he should protect himself.

A In the matter of these crimes that were discussed, you mean, or what?

Wells X
C-3

Q Yes, sir; as to whether he was going to get hanged or not.

A No, never.

Q You were not concerned one way or the other; if you were, you did not express it?

A I dont think there was any occasion to say anything on that subject.

Q Well you did not any way?

A I did not, I think.

Q The question of whether he was going to be hanged or go free, so long as he was with you, did not create any occasion for you to say anything one way or the other about it?

A What do you mean by "so long as he was with me"?

Q Well, you were talking with him, companionable, I suppose?

A No, I saw no occasion for it.

Q You mean it was not a matter of any concern to you what became of Steve Adams?

A No, I dont think I mean that.

Q Well, I dont hardly think so either. ^{What} ~~XXX~~ you do mean, I take it is that that matter was disposed of?

A I dont understand the meaning of that.

Q Well, do you really know what you do mean by it then?

A I have not said anything that meant it. I am trying to answer your questions.

Q You said you were not concerned with it, didnt you?

MR. HAWLEY: Concerned with what?

Wells X
C-4

MR. DARROW: Q With what would happen to Steve Adams, whether he should be hanged or not?

A I dont think I answered any such question as that, no.

Q Well, were you?

MR. KNIGHT: I think the question is objectionable. It does not make any difference whether the witness was concerned with him or not. Naturally, if he thought him guilty, he would want him hanged; if he thought him innocent, he would want him to live. It can not have any relation whatsoever to the guilt or innocence of the defendant of the crime of which he is charged here. It is entirely immaterial and irrelevant and not a proper cross examination in any way.

THE COURT: It is proper to cross examine him upon promises or inducements or anything of that kind.

MR. KNIGHT: Or anything he did or said.

THE COURT: Or anything he said or did. I shall sustain the objection as to what he thought or anything that is not what he said or did.

MR. DARROW: Q You said nothing to him, or did nothing with reference to cautioning him or advising him in any way as to his own safety or welfare?

MR. HAWLEY Are you speaking with reference to this particular conversation in North Idaho, or to the conversation generally, now?

MR. DARROW: I am speaking on his trip, during his trip.

Q Did you say or do anything?

A No.

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C-5

Q How far was this station where you took Steve from Boise?

A I believe it is about thirty miles by road.

Q How many?

A About thirty miles by road, I believe; I dont know; I am not acquainted with that country.

Q Then you did not take it at the station there?

A Did not take it at the what?

Q That was down on the main line, wasn't it?

A Yes, sir.

Q And thirty miles from Boise?

A Yes, sir; about; I dont know the distance.

Q Well, about; I dont know either; I am not desiring to take any advantage of that. There is a little town by the name of Orchard down there in that vicinity?

A Not any town, just a railroad station and water tank.

Q No town at all?

A I think perhaps three ~~xxxxx~~ buildings in the neighborhood, three houses.

Q Did you go over with him?

A Where from?

Q From Boise?

A I met him at Orchard.

Q How long did you stay there?

A I think the train we came up on arrived about one or two o'clock, and he came along about half past four or five.

Q What time did you get a train?

A It was that afternoon train from Boise; I think it was practically on time; about between five and six in

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C-6

the afternoon.

Q You were armed at the time?

A Yes.

Q The rest of your crew was?

A Yes.

Q That was not to keep Steve Adams from escaping?

A Both that and other reasons. As far as Mills was concerned, it was, no doubt, to prevent him from escaping.

Q And ~~when~~ you were armed down in Colorado when you were with him?

A Yes.

RE-DIRECT EXAMINATION

BY MR. HAWLEY:

Q Was Adams armed on that occasion?

A He was not.

Q Why were you armed?

A Why?

Q Yes, sir.

A Well, it was thought that there might be some danger to Adams, in view of the confession which he had made.

Q State whether or not Adams knew the reason you were armed, or talked to you about it.

A Whether Adams did what?

Q Did Adams express himself in regard to the matter?

A He did.

Q What did he say in regard to arms or being armed, or the danger he was in?

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C-7

A Why, he seemed to be in great dread of meeting any member of the Western Federation of Miners who might recognize him.

MR. DARROW: The question is what did he say, Mr. Wells.

A Well, he expressed himself to that effect.

MR. DARROW: I ask that that be stricken out.

THE COURT: State what he said.

MR. HAWLEY: State what he said, as nearly as you can; if that is as near as you can say it, that answer will stand.

A I have answered that already. I say, I think he expressed himself as being afraid of meeting members of the--any member of the Western Federation of Miners--who might recognize him.

Q Why?

A He was in fear of violence from them. Archives
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Q For what reason?

MR. DARROW: I object; he can state what he said.

THE COURT: State what he said, and that is all.

MR. HAWLEY: Q He said what? State fully what he said, as nearly as you can.

A I can only state it in a general way, naturally, after this length of time and all. In substance what he said was that he was afraid of violence from any member of the Western Federation of Miners who might recognize him, because of the position he had taken in making this confession.

Q General Wells, did you know anything about, did you ~~participate in~~ have any interest in the northern Idaho affairs at the time that you made this trip to Colorado?

A None, except as a part of this general confession.

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C-8

Q Speaking in regard to your being in Boise as a witness, state whether or not you were brought there as a witness at the Heywood trial?

A I was.

Q A number of Telluride witnesses were brought there?

A Yes, sir.

Q And it seems without testifying, were they not, on account of the peculiar situation of the case?

A Several of them were, yes.

Q You said, I understood you, at least to say, that you have taken a considerable interest in this case, you may explain why you take that interest.

MR. DARROW: I object to that.

MR. HAWLEY: We think we are entitled to it. They have brought out the interest; we have a right to show it.

MR. DARROW: He has not a right to show his motives; they have only a right to ask him whether he is interested, as bearing upon his testimony.

MR. HAWLEY: We insist that in the way in which it brought out the matter, we have a right to bring out the fact as to the impelling cause.

MR. DARROW: Then we would have the right to try the impelling cause; the question is whether he has an interest.

MR. HAWLEY: Counsel took those chances upon cross examination.

MR. DARROW: I took none, I asked him simply if he was interested.

THE COURT: I sustain the objection.

MR. HAWLEY: Q I believe you stated that your particu-

lar business was in connection with the Barney case, your particular object of that trip to Colorado?

A It was.

Q Did you have any talk with Adams on the road in regard to his disposition to go there, whether or not he objected to going?

A Yes.

Q What did he say in that regard?

MR. DARROW: I object to that.

Objection overruled.

A He said he had been willing and wanted to go to Colorado in this matter, in substance those were his words.

Q Give them, as nearly as you can, in his language.

MR. DARROW: I will save an exception to that.

A Because it gave him a chance to establish the truth of the confession which he had made.

Q You may state whether or not you made a search for Barney's remains after getting to Telluride.

A We did.

Q Where did you go, so far as Telluride is concerned?

A About eight miles from Telluride, up in the mountains.

Q How is that country, as far as altitude is concerned; snow?

A It is about--

MR. DARROW: (Interrupting) I object to that. I don't object to his saying how the snow was at the time.

MR. HAWLEY: We think we have a right to show that.

THE COURT: At that time?

MR. HAWLEY: Yes, sir, at that time.

MR. DARROW: Yes, sir, at that time.

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MR. HAWLEY: The altitude, I presume, is the same at any time.

MR. DARROW: I don't care.

A The altitude was something over 11000 feet, and there was about four feet of snow at the time, at the place where the search was made.

Q Who assisted in the search?

A Runnells and Mills and H. F. Carey.

Q And Adams?

A And Adams.

Q Did you afterwards make further search of that place?

A We did.

Q This refers to what you did yourself, of course?

A Yes; Adams was not present.

Q And guided by what, when you made your last search?

MR. DARROW: I object to that as incompetent, irrelevant and immaterial and not re-direct examination.

MR. HAWLEY: They have asked, if your Honor please, with reference to this search, whether they found anything or not; they proved he did not find anything at that time.

THE COURT: Now, you have shown enough; I shall sustain the objection.

MR. HAWLEY: I will ask this question: Q Did you afterwards find the remains in that vicinity?

MR. DARROW: To that we object.

MR. HAWLEY: Q Did you find the remains in that vicinity?

MR. HEITMAN: Not in the presence of the defendant.

MR. DARROW: We object as irrelevant, incompetent and immaterial and not in the presence of the defendant.

Wells RD
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Objection overruled.

Defendants except and exception allowed.

A We did.

Q When was that?

A We did--Adams stated that he had buried the clothes--

MR. DARROW: Wait a minute,. We object to that question and that answer.

THE COURT: The answer will be stricken out, that part of the answer.

THE WITNESS: What may I answer?

MR. DARROW: When was it?

THE COURT: When was it?

MR. HAWLEY: When was it?

A On June 24th, 1906; ^{and} August 7th, 1907.

Q State whether or not Adams made a map or a diagram of those premises where this body was.

A He did.

Q Have you that map or diagram with you?

A I have it.

Q Will you please produce it?

Witness produces map and hands it to examining Counsel.

MR. HAWLEY: I ask to have this map marked for identification PLAINTIFF'S EXHIBIT No. 18.

Q (Handing witness Plaintiff's Exhibit No. 18 for Identification) Is that the diagram you refer to?

A It is.

Q Do you know Steve Adams' handwriting?

A Only from seeing his signature.

Q You have seen his signature?

A I have.

Q Noticed the peculiarities of it?

Wells RD
C-12

A The whirl that he puts over the top of a "t".

Q Was it from this (Diagram) that you found the body?

MR. DARROW: I object to that question.

MR. HAWLEY: Q State whether or not it was from this diagram that you found Barney's body, and the clothes.

MR. DARROW: I object as irrelevant, incompetent and immaterial, to introduce other matters into the trial of this case that are outside and collateral, and not re-direct examination.

MR. HAWLEY: They have opened the doors; we calim we have got a right to go in.

THE COURT: I sustain the objection. I think they did open the doors to the proof you have made; further than that you should not go.

MR. HAWLEY: You stated in answer to Counsel that you had done a great deal of talking on the route there with Adams. What were these conversations with reference to; state generally.

MR. DARROW: I object to that; I did not ask him what the conversation was about.

MR. HAWLEY: You have asked about the conversations.

MR. DARROW: I asked him whether a good many conversations were had.

MR. HAWLEY: We have a right to know generally in regard to what those conversations were.

Objection sustained.

MR HAWLEY: That is all.

Wells RX
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RE-CROSS EXAMINATION

BY MR. DARROW:

Q Mr. Wells, how much territory, about, did you go over with Adams in your search?

A In making this search?

Q Yes, sir.

A I should think about an area equal to five or six times the size of this room; in the particular part in which the remains were expected to be found; there was something like five or six acres, probably, in the whole matter.

Q Did you identify any bones or any remains yourself?

A I could not; I did not know Barney.

Q So far as you are concerned, you don't know anything about that?

A Not personally, no.

Q You can't swear to anything about that if you don't know personally?

A No.

RE-RE-DIRECT EXAMINATION

BY MR. HAWLEY:

Q These bones that you found, state whether or not these bones found by you were found in pursuance from instructions from Adams as to the place where they would be found?

MR. DARROW: TO that we object.

THE COURT: Objection sustained; we have been over it.

WITNESS EXCUSED.

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MR. HAWLEY: Call Mr. Whitney.

EUGENE L. WHITNEY, Recalled on behalf of the
 Plaintiff, testified as
 follows:

DIRECT EXAMINATION

MR. KNIGHT: You have been sworn, Mr. Whitney?

A I was sworn yesterday, yes, sir.

MR. HAWLEY: Q What is your name?

A Eugene L. Whitney.

Q Where do you reside, Mr. Whitney?

A At present in Boise.

Q What is your business?

A Warden of the Idaho State Penitentiary.

Q How long have you been in that office?

A Since the first of March, 1905.

Q And as such Warden, have charge of the penitentiary?

A Sir?

Q And as Warden, you have charge of the penitentiary?

A Yes, sir.

Q Do you know Steve Adams, the defendant?

A Yes, sir.

Q How long have you known him?

A I have known him ever since in February, 1906, some-
time, I think.

Q Was he brought to the penitentiary on or about that
time?

A Yes, sir.

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C-15

Q By whom?

A By Rube Robbins.

Q How long did he stay there in the penitentiary?

A I think he left there in September the same year; I couldn't say positively.

Q Did you while he was there have any conversation with him with reference to the killing of Tyler and Bouley or events in the St. Joe country connected with their killing?

A Yes, sir.

Q About what time was it that you had this conversation?

A I could not state just the date, but it was after he had been there several weeks.

Q Did you have more than one conversation?

A Yes, sir.

MR. DARROW: Have you got the page there?

MR. HAWLEY: At page 553 are some matters that I want to refer to; the evidence commences at 550.

MR. DARROW: As to the conversation, is that page 550?

MR. HAWLEY: Yes, sir; but at page 553 is the particular matter that the question has reference to, that and the subsequent pages.

Q Where was it that you had the first conversation, and when, as nearly as you recollect?

A Well, it was in my clerk's office; he had been there several weeks; I can't state just how long.

Q The clerk's office; is that a part of the penitentiary?

A Yes, sir.

Q You could not give the time any closer than that?

Whitney (Rec) D
C-16

A No, sir.

Q That he had been there several weeks?

A No, sir; I could not give you the date.

Q Who, if any one was present at that time?

A Nobody.

Q Did you at that time, or at any time prior thereto, offer any inducements to the defendant to make a statement?

A None whatever.

Q Had you threatened him in any way with the consequences if he would refuse to make a statement?

A No, sir.

Q Had you offered him a ^{reward} ~~reward~~ of any kind?

A None at all.

Q Or offered him any immunity if he would make statements in regard to this?

A No, sir.

Q State whether or not the statements that you refer to were made freely and voluntarily.

A They were.

Q State whether ^{or not} they were brought on by your questions, or made without questions upon your part.

MR. DARROW: Would it not be better to tell how?

MR. HAWLEY: Well, no matter. I think this is just about as good a way; it gets it a little quicker, so long as we get at it.

A I could not say as to that; we were conversing; I could not see whether it was brought about by our conversation--which it was--I could not say whether I was responsible for everything, the questions that brought it out.

Q State generally what you were conversing about; not

Whitney (Rec) D
C-17

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going into particulars, but just in a general way.

A I was conversing when the first statement was made about Jack Simpkins.

Q Now go on, Mr. Whitney, and narrate to the Jury what was said on that occasion; detail it fully.

MR. DARROW: Wait one minute. I want to object on the ground that the inducements and threats and promises that were originally made by Mr. McParland, it is presumed by law, continued to any subsequent confession, and for that reason we object to the admissibility of this testimony.

Objection overruled.

Defendant ~~objection~~ excepts and exception allowed.

Q Go ahead.

A Well, we were discussing the capture and whereabouts of Jack Simpkins. Mr. Adams made the remark that if he had three or four days he could go right to where Jack Simpkins was, and he said that he was confident he was up there in that country, in that Marble Creek country, and I asked him if he knew the country. He said, "Yes, I was up there at the time Bouley and Tyler were killed:2 and I asked him-- I didn't ask him--he says, "a fellow by the name of Mason and Glover and myself went down from Jack Simpkins' cabin to Tyler's cabin in the morning, and we didn't find him there:2 and he says, "we stayed there all day until late in the evening, and we thought he had left, and we started back to Simpkins' cabin, and at the spring Mason and Glover stopped to get a drink" and he says, "I heard somebody coming down the trail" and, he says, "I just

Whitney (Rec.) D
C-18

psht to the boys and jumped behind a big tree myself, and when he came down I saw it was Tyler, and I held him up, and the other boys took the gun off of him and took him to Simpkins' cabin and got his supper and tried to get him to tell who had sent him up there, and we couldn't do it; and in the morning we got breakfast; after breakfast we put a rope on him and led him up a couple of miles from the cabin, and the fellow who was leading him, he says, 'here is a good place to stop him', and he says, "I shot him." I asked him if he shot him with a sawed-off, he said, "No, I shot him with the 25-35 Winchester."

Q Go on; anything further that was said by him?

A Of course, we drifted off into another conversation. I dont know just at that time that there was anything more said about the killing of Tyler.

Q You may state whether or not anything was said in that conversation as to where the body fell, or the surroundings.

A Why, I could not state that it was in that conversation positively, but at one time he did state to me that they cached it by some logs there; whether it was between the logs or not, I could not say.

Q Did you afterwards at any time talk with Adams in regard to this matter, this killing of Tyler or Bouley?

A Yes, sir.

Q When was the next conversation?

A Well, it was some time after that; I could not give the dates.

Q Who was present at this next conversation?

A Mrs. Adams was present.

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C-19

Q Mrs. Adams?

A Yes, sir.

Q Where was it had?

A It was in the female ward.

Q At the penitentiary?

A Yes, sir.

Q Mrs. Adams was living there at that time, with her family, was she?

A Yes, sir.

Q State that conversation; state it in detail.

A Why, Mr. Adams' uncle had come down, Mr. Lillard.

Q This gentleman, that is sitting here?

A Yes, sir; he had brought some effects down that belonged to Mr. Adams.

Q By the way, do you know who had sent for those effects?

A Mr. Adams had.

Q Go ahead.

A And we were looking at the stuff that he had brought down, and he showed me a cartridge.

Q Who showed you a cartridge?

A Mr. Adams, that the shot came out of that killed Bouley

Q What did he say with reference to it; use his own language, as nearly as you can.

MR. DARROW: Suppose we strike that out. I move to strike that out, and let him state it over as to what he said, the witness said, "He showed me the shell the shot came out of that killed Bouley".

THE COURT: It can be stricken out. He can state what he said.

MR. HAWLEY: I understand you now. I did not under-

Whitney (Rec.) D
C-20

stand at first.

MR. DARROW: Let him tell it.

MR. HAWLEY: Q State what was said and done, on that occasion.

A He says, "Here is the shell that the shot came out of that killed Bouley."

Q And when he said that, what did he do; did he have the shell there?

A Yes, sir.

Q What did he do with the shell when he said it?

A He handed it to me.

Q Did you have any further talk with him in regard to that?

A Yes, sir.

Q Well, go ahead and relate it all.

A He said, "Mr. Whitney," he says, "I always shall believe ~~think~~ that the killing of these men was justified." He said, "they were gun men, and they were sent up there by somebody to jump these claims", and he says, "I shall always believe that it was justified in killing them."

Q Did he make any statement at that time or at any time in regard to the killing of Bouley?

A He did not at that time.

Q Did he afterwards?

A I could not say positively that he ever did.

Q Did you have any conversation with him at any time afterwards with reference to this affair, the killing of Bouley, or the killing of Tyler, or matters generally in the St. Joe or Marble Creek country?

A Why, we visited frequently, and these conversations

Whitney (Rec.) D
C-2;

were brought up, and I cant recall other conversations. Those were the two that he made the statements to me, and it impressed me so that I recollect those definitely.

Q Where was Adams staying at that time?

A He was staying at the penitentiary.

Q What part of it?

A Why, he was--there was part of the time that he stayed inside, in the main penitentiary at night, and stayed with his wife over in what is called the female department, during the day, and then afterwards, why, he was permitted to stay over at the female ward with his wife.

Q And children?

A Yes, sir.

CROSS EXAMINATION

BY MR. DARROW:

Q Mr. Whitney, you are Warden of the State Penitentiary?

A Yes, sir.

Q You used to live in this county?

A Yes, sir.

Q And was Sheriff of it?

A Yes, sir.

Q How long were you Sheriff?

A Two years.

Q Whereabouts in this county did you live?

A I lived here at Rathdrum at the time I was Sheriff.

Q Where did you live before?

A I lived at Bonners Ferry.

Whitney (Tec) X
C-22

Q Did you go from Rathdrum to Boise to become appointed by Governor Gooding?

A Yes, sir.

Q You are acquainted with a number of this Jury, are you not?

A Why, there are some of them that their faces are familiar.

Q You have had considerable interest in this case?

A Why, yes, sir, I have had some interest.

Q Considerable, I said.

A Well, I dont know as I could say it was considerable; I have taken some interest in it yes, sir.

Q But you don't know whether it would reach the magnitude of "considerable" or not?

A Well, I dont know; one might ~~construe~~ ^{construe} it one way and another another.

Q I am asking you how you construe it.

A I have taken an interest in this case, yes, sir.

Q Well, you don't answer. You don't know whether you have taken considerable interest or not?

MR. KNIGHT: We object to the question, if your Honor please.

Objection overruled.

A I have taken a great deal of interest in it, yes, sir.

Q We will leave it at that. You have been up here on this case, havent you?

A Since I was subpoenaed, yes, sir.

Q Since you were subpoenaed?

A Yes, sir.

Whitney (Rec.) X
C-23

Q Is that the reason you came?

A I came on a subpoena, yes, sir.

Q I asked, was that the reason you came?

A Why, yes, sir.

Q When were you subpoenaed?

A I was subpoenaed--the subpoena was telegraphed to me; I just forget the date, to appear here on the 4th, I believe it was, of this month.

Q On the 4th?

A I would not say positively the date; I know I had just time to get here.

Q On the 4th of November?

A I would not say the date, but I know I took the train right up.

Q Have you got the subpoena?

A No, sir; I have not here.

Q It was not very long ago; would you forget the date so soon?

A I have just forgotten the date that I was subpoenaed here, but I know I just had time and I took the first train up and came.

Q Who signed the subpoena?

A It was signed by the Sheriff.

Q When did you get ~~there~~ here?

A I got here Monday, I think it was, or Tuesday.

Q When?

A It was a week ago Monday, I think.

Q You had time, and so you started?

A Well, I just had time to get ~~away~~ here.

Whitney (Rec) X
C-24

Q Just had time to get here for what?

A For the trial.

Q You mean to testify?

A Well, I was subpoenaed to appear here at the time the case was set.

Q You were not subpoenaed here to get a Jury, were you?

A No, sir.

Q You have been in this town and around this town and interviewing people and working on this case for nearly two years, haven't you?

A No, sir, I have not.

Q How long have you been here, sir?

A I have been here pretty nearly two weeks.

Q You have been here pretty nearly two weeks?

A Yes, sir.

Q Have you had any other business, excepting to look after this case and help convict Steve Adams?

MR. HAWLEY: We object to that as irrelevant, incompetent and immaterial. If he is brought here as a witness it is his duty to be here.

MR. DARROW: We don't believe so, and we have got a right to contradict him.

MR. HAWLEY: Then you may contradict him with some other evidence.

MR. DARROW: We have got the right to contradict him by this witness himself, showing his interest in this case.

MR. HAWLEY: We urge our objection; not proper cross examination, irrelevant, incompetent and immaterial.

THE COURT: I don't think it is proper to ask him to put in his own mouth that he is here for the purpose of

convicting Steve Adams.

MR. DARROW: I will leave that out. For the purpose of aiding the prosecution in this case; have you any other business?

A I was subpoenaed here as a witness in this case.

Q Have you had any other business, excepting in connection with this case, sir?

A Not necessarily so, no, sir.

Q I don't care for "necessarily"; have you had any?

A I said, "No, sir".

Q Were you here when the Sheriff started out to summons the Jury, the original Jury?

A The original Jury?

Q Yes, sir.

A No, sir, I was not.

Q How long were you here before this last trip?

A Why, I came through here, and I think it was perhaps three weeks before, or not quite that long.

Q Came through?

A Yes, sir.

Q Well, two weeks before?

A I think perhaps about two weeks.

Q Where did you go to or from?

A Well, I went to British Columbia, from here, and I went to Wallace.

Q And you went through on the railroad from Spokane to British Columbia?

A Yes, sir; I stopped here; I went from here; I came from Spokane here, and I went back to Spokane and took

Whitney (Rec) X
C-26

a train out of Spokane.

Q Then you did not come through here to British Columbia, did you?

A No, sir; I went back to Spokane after coming here.

Q It was about two weeks before?

A I think about two weeks before.

Q How long were you here then?

A I think I was one day; only one night.

Q In connection with this case?

A No, sir.

Q Did you have any other business?

A Well, this was my old home; I came up so--

Q (Interrupting) Did you have anything to do or say in connection with this case at that time, sir, to anybody?

A Well, I might have had, yes, sir.

Q Well, did you have?

A Yes, sir.

Q Did you have any other business here?

A I had no business here, and I just came up because I had a day or so to spare.

Q You had nothing else to do, did you?

A No, sir.

Q How long had it been before that since you had been in Rathdrum?

A It had been--I don't think I had been in Rathdrum for six or eight months.

Q And how long before that had it been that Steve

Adams was removed and the trial was removed over here to Rathdrum?

Whitney (Rec) X
C-27

A I could not say just exactly the date, but the change of venue was granted.

Q You could not?

A No, sir.

Q But you knew it, didn't you, at the time?

A Yes, sir, I knew it had.

Q You knew that the State had been given a change of venue to Rathdrum, your old home?

A Well, I knew it was my home, yes, sir.

Q And you very soon came over here and spend a day and did talk with a number of people about this case, didnt you?

A No, sir, I did not.

Q Well, what part of that do you object to, "very soon"?

A You say "a number"; I did not ^{talk to} ~~xxxx~~ a great many.

Q Did you talk to more than one?

A I dont know that I did.

Q Do you know whether you talked to anybody?

A Yes, sir, I did.

Q Well, how many?

A I don't recollect of talking to but one man in regard to it.

Q Talked to the Sheriff?

A Yes, sir.

Q Did you talk to Mr. Heitman?

A No, sir.

Q Talk to Mr. McBee?

A No, sir; I dont recollect that I did in regard to the case.

Whitney (Rec) X
C-28

Q So far as you now recall, you confined your talk to the Sheriff's office, did you?

A Well, there may be a difference between you and I as to the time and date.

Q Well, if there is clear it up, Mr. Whitney.

A The day I was here first I talked to nobody but the Sheriff.

Q Mr. Whitney, I am referring to your trip about two weeks before the time that you came this time.

A The first time that I came to Spokane I was up here, and I was here after that.

Q Oh, you have been here three times now since Steve Adams was removed to this county?

A The day that I was here, the first time that I was here, I went back to Spokane and went to British Columbia. After I had been to British Columbia, I came here again.

Q I see; that makes one; when was that?

A It was on the same trip, about two or three weeks ago.

Q How long a time elapsed between your first and second visit here?

A It might have been four or five days; I just forget; I was over in British Columbia.

Q How long were you here on your second visit?

A I came here in the evening and went out in the morning.

Q Were you here on the day that the Sheriff started out to summon the venire?

A I dont know that I was; I dont know when he started out to summon the venire.

Whitney (Rec) X
C-29

Q You dont know?

A No, sir; I dont think I was here.

Q You say you had no talk with anybody but the Sheriff about this case?

A The second time I was here, yes, sir.

Q With whom?

A I had some talk with Mr. Heitman.

Q Anybody else?

A Why, I think Mr. McBee was in the automobile, and Mr. Heitman, when we were going across to Ross' Point and the subject was mentioned, I think, in a casual way.

Q Only in a sort of a way?

A In a casual way, I say. I dont know that the case was even mentioned; I could not state positively it was.

Q Did your true business to this town have any connection with the fact that Steve Adams was to be tried in this county? sir?

A None whatever, sir.

Q You came here both times purely because you had not anything else to do; is that it?

A Well, that was just about it; yes, sir; I had no business; I paid some taxes here while I was here.

Q You didn't have to come here to pay taxes?

A Not necessarily so, but I paid them whilst I was here.

Q You could have sent a check from Boise?

A Oh, yes, sir.

Q You dont mean to say you came over here those two trips to pay taxes?

A I just came up because I had a little time; I had to wait over there for the court in Shoshone County before I

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C-30

could go back; and I had the time to spare.

Q That had no reference whatever to the Steve Adams case?

A No, sir; not in any way, shape or form.

Q Did you ever have any talk with the ~~Sherriff~~^{Governor} about coming here, in reference to it?

A I dont know that I ever had.

Q Do you know that you did not?

A Yes, sir; I did not have any talk with the Governor in regard to my coming here.

Q Well, with regard to this case being here, did you have any?

A Why, we discussed it, yes, sir.

Q Yes. ~~Have~~^{Have} you had anything to do with this case since you came here?

A I dont know ~~that~~ I have.

Q Can't you answer affirmatively, whether you have or have not?

A I have discussed it but very little, if any.

Q Have you had anything to do with it?

A No, sir, I have not.

Q Have you consulted with anybody about it?

A I don't know but I have talked with the attorneys for the prosecution some.

Q Dont you know whether you have or have not?

A Yes, sir, I have.

Q Now that is what I want to know; how often have you talked with them about it?

A I could not say just exactly.

Q Well, about how often?

Whitney (Rec) X
C-31

A I have been up here at the room perhaps two afternoons when they were there, just happened.

Q Haven't you been up here nearly every evening, talking with them?

A No, sir, I have not.

Q Have you discussed it with Mr. McFarland?

A Very little, if any.

Q Have you any?

A I have talked about the case with him.

Q Since he was here?

A Yes, sir.

Q Have you anywhere else?

A I might have mentioned it somewhere in Spokane. We were in Spokane last Sunday.

Q You might not. Did you?

A I don't think we did; I don't recollect mentioning it.

Q Did you see him?

A Yes, sir, I saw him.

Q Did you see anybody else that is connected with this case?

A I saw Mr. Knight down there.

Q Did you see anybody else connected with it?

A I saw Mr. Hanson.

Q Did you see anybody else?

A I don't recollect of anybody else that was connected with it.

Q Where did you see them?

A I saw Mr. Knight in the Spokane Hotel and saw him on the street; I saw Mr. Hanson, I think it was in the Spokane Hotel.

Whitney (Rec.) X
C-32

Q Where did you see McParland?

A McParland, I saw him at the Halliday.

Q Anywhere else?

A I saw him at the Spokane, yes, sir.

Q Halliday is the Spokane, isn't it?

A No, sir.

MR. KNIGHT: The Spokane.

Q Oh, the Spokane. Anybody else?

A No, sir, I don't think that I did.

Q Anybody with you?

A There were people around there.

Q Was there anybody with you and McParland at the Spokane?

A There was a man there by the name of Carver, or Carver, I believe.

Q Were you in a room?

A No, sir, we were not.

Q Where?

A In the hotel lobby.

Q Were you in a room in the Halliday?

A No, sir, I was not.

Q Where were you, then?

A I was in the lobby.

Q Did you see Mr. Thiele?

A Yes, sir, I saw Mr. Thiele.

Q Whereabouts?

A I saw him at the Pinkerton head-quarters there.

Q Where I say. You were at the Pinkerton head-quarters?

A Yes, sir.

Whitney (Rec) X
C-33

Q What were you doing there?

A I went there and dictated a letter to the stenographer of the Pinkerton people.

Q Was that your purpose in going there?

A That was one of them, yes, sir.

Q Was it your only purpose?

A I was acquainted with Mr. Thiele--I went up there-- and Mr. Hasson.

Q Well, was that your only purpose?

A Yes, sir; that was my only purpose.

Q You couldn't dictate a letter at your hotel?

A Well, I could.

Q But you didn't?

A I didn't do it, no sir; I knew that they would grant me that privilege there, so I went down there.

Q Did you see anybody but Mr. Thiele there?

A I saw Mr. Hasson.

Q Mr. Hasson is the General Manager?

A Yes, sir. I saw the stenographer, I believe, and another boy there.

Q Did you see McParland?

A McParland was up there once, I think, while I was there.

Q Well, do you know whether he was there or not?

A Yes, sir; he was there once.

Q Why do you say you think?

A Well, I dont know as that makes any difference to you.

Q Well, I dont know as it does. Are you trying to

Whitney (Rec) X
C-34

evade that question?

MR. KNIGHT: We object.

A I am not trying to evade you, sir.

Q Why do you say you think, when you know?

A It is a habit I have, perhaps, of saying it that way.

Q That is a habit?

A I am not trying to evade any questions, sir, that you can put to me.

Q Did you meet Mr. McParland and Mr. Thiele at their office?

A Yes, sir.

Q How many times?

A I didn't see Mr. McParland there but once.

Q How long a time were you there at that time?

A I dont think that I was there over fifteen minutes, and perhaps not that ~~much~~ long.

Q Was anybody else connected with the prosecution of this case there at that time?

A I dont recollect that there was.

Q Was Mr. Knight or Mr. Hanson or Mr. Hawley or Mr. Cyde there at that time?

A Well, sir, I would not say; I don't think they were, though.

Q But you can't say?

A I would not swear positively.

Q They might have all been there, for all you know now?

A No, they were not all there.

Q There might have been some of them there?

A I dont think there was any of them there

Whitney (Rec.) X
C-35

Q You dont exactly remember who was there?

A Well, I recollect Thiele was there and Hasson was there and McParland was there.

Q And McParland?

A Yes, sir.

Q When was this?

A I think it was last Sunday morning.

Q How many times were you in Pinkerton's office since you have been up to Rathdrum this time?

A Why, I was over--I have been there twice.

Q Twice?

A Yes, sir.

Q Meet any lawyers there at any time; or dont you know?

A No, sir, I dont think I did.

Q Do you know?

A I dont recollect of anybody being there; no, sir.

Q Did you discuss this case with Mr. Thiele and Mr. McParland?

A No, sir, I ~~did~~ did not.

Q Never said a word about it?

A No, sir.

Q Never said a word about it in the Pinkerton office?

A At the time that Mr. McParland was there was there, I dont think I was there to exceed ten minutes.

Q Did you discuss it with him at any time in Rathdrum?

A I dont know that I did discuss it; it might have been mentioned.

Q It might have been?

A Yes, sir; I think perhaps it ~~was~~ was; I couldn't

Whitney (Rec.) X
C-38

say positively.

Q Did you discuss it with the lawyers in Spokane?

A No, sir; I did not.

Q Never mentioned it?

A I dont know that it was mentioned.

Q Was it talked about it?

A No, sir.

Q Had you any business down to Spokane?

A Yes, sir.

Q What?

A I had some laundry there that was in hoc that I wanted to get.

Q You went to Spokane for your laundry?

A Yes, sir.

MR. HAWLEY: Probably like some of the rest of us, he went down there for a square meal, too.

MR. DARROW: No, he went down there for the laundry. You didn't know that you could get your laundry here from Spokane, did you?

At this time the Jury was duly admonished as required by law and retired in charge of officers duly sworn for that purpose, and court took a recess until 2:00 P. M., Tuesday, November 12, 1907.

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TUESDAY, NOVEMBER 12th, A.D. 1907.

P. M. SESSION.

At this day defendant being court with his counsel, present as before, the jury came in in charge of the officers, and being duly polled, all duly answered to their names, and the trial of this cause proceeded as follows.

~~EUGENE WHITNEY ON THE STAND.~~

EUGENE WHITNEY

On the stand for further

CROSS-EXAMINATION.

BY MR. DARROW:

Q How many times did you go to Spokane since you have been here this time?

A Been down there twice, I think.

Q When was it?

A I think last Saturday. I think I was there on Saturday if my memory serves me right; cant say just exactly the number of times I went, though I have been there twice.

Q Went there Saturday afternoon?

A yes, sir.

Q Left here at what time?

A I went across. It was after court adjourned. I went across to Ross.

Q What time did you get there?

A I think I got there about, after five o'clock.

Q When did you come back?

Whitney-X
D-2

A I came back Monday.

Q Left there on the morning train?

A Yes, sir.

Q Went after your laundry both times?

A Why, I was down there and left laundry the first time I was there.

Q You left it the first time?

A Yes, sir.

Q Then you went down the next week to get it?

A I went down last Sunday.

Q Did you go down to leave it?

A Well, I left some there.

Q Was that your purpose in going, to leave some laundry?

A I went down there and spent Sunday, yes, sir.

MR. WHITNEY: That wasn't the question I asked you; I asked you if your purpose in going there was to leave laundry. Was it?

A Not necessarily so.

Q I don't suppose it was necessarily so, but was it?

A I could have left it there.

Q Was that what you went for, to leave laundry?

A I left it, but it was not my particular object in going there to do it.

Q When you said you went to leave laundry, then, it was not true?

A I didn't go entirely for that purpose.

Q Well, you didn't go at all for that, did you?

A I left some there, yes, sir.

Whitney-X
D-3

Q Did you get your laundry the next week?

A Yes, sir.

Q Where?

A At the Halliday Hotel.

Q Was that what you went for the next time?

A Yes, sir.

Q You went to get it?

A Yes, sir.

Q Thats all you went for?

A I went down there to spend Sunday.

Q Did you see McParland both times?

A No, sir; did not.

Q Did you see the attorneys in the case both times?

A I couldnt say whether I did the first time.

Q Did you go down with them?

A The last time I went with Mr. Knight and Mr. Hawley, that is, I caught the same train over here at Ross, that they went down on.

Q Then you went with them from Ross?

A I went with them on the same train. They were not in the same car I was.

Q A d to the same hotel?

A No, sir.

Q Did you go with them to Ross?

A No, sir.

Q You did the first time?

A I dont recollect whether they went or not; I couldnt say.

Q It is so long ago you cant possibly remember?

A Well, I had no interest; I was not with them at all.

Whitney-X
D-4

Q You cant remember two weeks, or a week ago last Saturday, when you went to Spokane, whether the attorneys were with you or not?

A No, sir; I dont, because it was something that had no connection with my trip at all. I dont know whether they were there or not.

Q You dont know what did have any connection with that trip, do you?

A I know I went there.

Q Did you have any business on earth?

A I dont know, outside of going there and taking a bath and leaving laundry.

Q Dont you know the lawyers and detectives and you were in almost constant consultation on both of these trips?

A No, sir; I dont know.

Q You swear you were not?

A No, sir; I will not swear I was not.

Q Have you not been in constant consultation with these men ever since you came to Bathdrum?

A No, sir; I have not; have been with them a good many times.

Q Yes. In consultation upon this case?

A I have talked to them in regard to the case.

Q You have been consulting in regard to the case, or dont you know what I mean by "consulting"?

A Yes, sir; I think I do.

Q Have you been?

A yes, sir.

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Q Why didnt you say so then, before? Did you talk with them?

A Sometimes on subjects pertaining to this case; sometimes it would not pertain to it.

Q I asked you whether or not you had been consulting with them regularly; frequently in regard to this case?

A I have consulted with them, yes, sir.

Q Dont you know both times you came here and this last visit, you came with reference to this case? you came to consult the Sheriff, see what you could do about a jury?

A I didnt do any such thing.

Q Did you say anything about a jury to the Sheriff?

A Yes, sir; I did.

Q Did you say anything to the Sheriff about a jury in the Adams case?

A yes sir; I did.

Q Yes. Did you come up here for that purpose?

A No, sir; I did not.

Q Anybody request you to come?

A No, sir.

Q Did you talk with anybody about coming?

A Not for that purpose.

Q Did you talk to anybody about coming?

A Yes, I talked with the Governor about coming.

Q Where?

A It has nothing to do with this case.

Q Did you talk to him about coming to Rathdrum?

A No, sir; I did not.

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D-6

Q Did you talk about going anywhere about the Adams case?

A No, sir; I did not.

Q That's the question I asked you; not going into any of your other affairs. You recollect that I asked you if you knew the jurors and you said you recognized some faces?

A Yes, sir.

Q You meant by that that you recognized, in looking at the jury, you had seen some of their faces somewhere before?

A Yes, sir.

Q But you were not acquainted with them?

A No, sir; I did not necessarily.

Q Why did you answer me in that way?

MR. HAWLEY: Now, I object to that. Counsel can't scare anybody in that way.

THE COURT: I sustain the objection.

Q Why did you answer, or did you answer the question in that way to carry the impression before this jury that you had no personal acquaintance with any of these jurors?

A No, sir; I did not.

Q But you do say you recognize some faces?

A Yes, sir.

Q Some of them you have known for a number of years?

A I don't think there is but one man on the jury who I could call by name and have known him a number of years.

Q How long have you known him?

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A I think since I was elected sheriff.

Q When you came here, you ~~went~~ at once commenced to mix with the men called on the special venire?

A I didnot.

Q Didnt you shake hands with some of them?

A Yes, sir, I did.

Q You shook hands with them, knowing they were jurors?

A I did not; I shook hands with men I knew was on the jury.

Q Didnt you shake hands with a good many of the jurors?

A No, sir; I did not.

Q You were here about two weeks with no other business except this case?

A I came on subpoena.

Q Thats not what I asked you. You have been here with absolutely no other business except this case, for two weeks?

A Yes, sir.

Q Thats what I asked you. Somebody else ran the penitentiary, I suppose.

MR. KNIGHT: I object to that.

THE COURT: Objection is sustained.

MR. DARROW: I withdraw that.

Q You have taken some interest in this case before it came to your native county?

A I have taken an interest in it.

Q A good deal, have you not?

A Yes, sir.

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Q That's the question I asked you. A good deal, not 'an interest'. How many times have you been to Wallace with reference to it?

A I have never been to Wallace only as I was subpoenaed on the other trial, only at the preliminary up there.

Q You were not subpoenaed for that?

A I was there then; had taken Mr. Adams up there.

Q How many times have you been to Wallace on this case?

A When Mr. Adams came to Wallace I was with Mr. Sutherland who brought him there.

Q How many times have you been to Wallace on this case?

A Twice, I think, with reference to this case.

Q And you were with Angus Sutherland-- and you with Angus Sutherland, took Steve Adams and drove him across the country, occupying some three, four or five days in getting him from Boise to Wallace, didn't you?

A Yes, sir.

Q Anybody else?

A I think Gene Johnson was with us.

Q Have you talked with Angus Sutherland about the case?

A Yes, sir.

Q Ever talked with Bailey, the sheriff of Shoshone County, about it?

A Just in a casual way, is all.

Q Just in a casual way?

A Yes, sir.

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Q Yes.

A General conversation.

Q Frequently talked with Sutherland about it, have you not?

A When I have seen him I have, yes, sir.

Q Not when you have not seen him?

A No, sir.

Q When did you make this trip first to Wallace? That was about September, was it not?

A It was in September that we took Mr. Adams over there.

Q One year ago last September?

A I think it was in September, yes, sir.

Q Did you have anything to do with taking Adams back from Wallace to Boise during the Haywood trial?

A No, sir. I did not.

Q Now, Mr. Whitney, you were warden of the state penitentiary in February when Mr. Adams came to your place?

A Yes, sir.

Q And had then been warden a considerable length of time?

A Yes, sir; some time.

Q Before that time had been Sheriff of Kootenai County, so you knew what the duties of one who has charge of prisoners are?

A Yes, sir.

Q When did you first learn that Adams was coming there

A Why, it was ^{at} the time they were talking of sending for him.

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Q Well, when was that?

A That was when they were getting out requisitions papers for him.

Q How long before he got there?

A I couldn't state just exactly the number of days, but the papers were being made out.

Q From whom did you learn it?

A I think it was the Governor, but I couldn't say who the other party was, whether it was Mr. Hawley or not; I don't know. I don't recollect.

Q You knew he was to be sent to the Boise penitentiary if they got him?

A Yes, sir--- I didn't know he was coming to the Boise penitentiary at that time.

Q You didn't know it?

A No, sir.

Q When did you learn he was coming to the Boise penitentiary?

A After they had captured him; after they got him.

Q You never had any knowledge or any information that he was to be brought to the penitentiary until after they captured him?

A No, sir. I didn't know but they were going to stop in Canyon County with him.

Q You never talked with anybody about it?

A I did after---

Q Not before?

A No, sir; not about taking him to the penitentiary.

Q After he was taken when did you first learn he

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was coming to the penitentiary?

A After he was arrested up there.

Q How did you learn that?

A I think I learned it from the Governor they had arrested him.

Q And were going to bring him to the penitentiary?

A Yes, sir; and were going to bring him to the penitentiary?

Q How long before he got there?

A It was after he had been arrested.

Q Yes. How long was it between the time the Governor informed you he was coming before he reached there?

A I don't think it was over two days.

Q You think you knew it about two days in advance?

A Yes, sir.

Q Any consultation between you and the Governor as to what you were going to do with him?

A No, sir; there was not.

Q Or anybody else?

A No, sir; there was not.

Q You saw Thiele before he went away?

A I saw him several times whilst he was there.

Q You knew he went with Rube Robbins, didn't you?

A No, sir; I didn't know it at all.

Q You didn't know it?

A No, sir.

Q Are you sure about that?

A I knew he had gone, but didn't know he went with Rube Robbins.

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Q I say, didnt you know it then?

A No, sir; I knew he went, but whether they went together I didnt know.

Q Went where?

A I knew he was going down there.

Q Down where?

A To see if he could locate Mr. Adams.

Q From whom did you know it?

A I couldnt say just exactly.

Q You knew ~~whaxhraughtxhin~~ Rube Robbins was going down there?

A yes, sir.

Q But didnt know they were together?

A No, sir. And I didnt know whether they went together or not.

Q But you knew they went at the same time?

A I didnt know whether they went at the same time. I didnt see them when they left.

Q Either of them?

A I saw Mr. Robbins when he left the penitentiary.

Q Who brought him to the penitentiary?

A Rube Robbins.

Q Anybody else?

A Mr. Thiele was with him.

Q What time of day did they bring him?

A Why, it was along in the evening some time.

Q Were you there?

A Yes, sir.

Q Deliveredhimto you?

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Q What warrant or authority did they have with them to deliver him to you?

A Why, they had none at that time.

Q You took him without any?

A They had him arrested on a warrant, I believe, as a fugitive from justice.

Q What?

A I think he was arrested on a warrent as a fugitive from justice.

Q Did you have any warrant or any authority?

A I did not at that time; no, sir.

Q You took him into the penitentiary without any?

A Yes, sir.

Q What did you do with him?

A Put him in a cell.

Q Whereabouts?

A I put him in a cell on the second tier.

Q Are you sure what tier it was on?

A Yes, sir.

Q When did you recall what tier it was on?

A I dont know that I have ever had to recollect.

Q You dont?

A No, sir.

Q Whose cell did you put him into?

A I put him in the cell with Harry Orchard, or Hogan.

Q You knew where his cell was, did you?

A I couldnt tell you about the number of it. I knew where it was located, yes, sir.

Q You dont know the number?

A No, sir, I do not.

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Q Do you know how long he had been in that cell?

A I think he had been there some time.

Q How long?

A I don't know just exactly the time he had been there.

Q Not ever since he came to the penitentiary, had he?

A No, I think not.

Q Then you don't know how long?

A Don't know just exactly, no.

Q Don't know whether it was one day or one week or what it was?

A No, I couldn't say as to that.

Q Did you know where you were going to put Steve Adams when they brought him there?

A After I found out they were at Nampa, I knew.

Q You were telephoned from Nampa he was there?

A Yes, sir.

Q And when he was at Nampa you made up your mind you were going to put him in with Steve Adams?

THE COURT: Harry Orchard?

Q Harry Orchard, yes; I mean Harry Orchard. Who did you consult about that?

A I didn't consult anybody.

Q No, but you had your mind made up?

A I had my mind made up.

Q Had you talked about it before you made up your mind about it?

A Before I what? Had I what?

Q Had you talked with anybody about where he should go?

A No, sir; I had not.

Q You never determined that until he got to Nampa?

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A I had for myself.

Q For how long?

A I dont know how long.

Q Oh, about how long?

A Might have been a day; might have been half a day.

Q Might have been two days?

A After I found out about their arresting him.

Q Then you had your mind made up to put him in

Harry Orchard's cell?

A I put him there because we were crowded for room.

Q You had that length of time, thought you would
put him in Harry Orchard's cell?

A Yes, sir.

MR. HAWLEY: I object to that; it is immaterial; it
dont make any difference.

MR. DARROW: Shows the whole purpose.

MR. HAWLEY: Go ahead.

Q Did you have Harry Orchard moved to seem special
cell on this account?

A No, sir; not on that account.

Q Did you have him moved about that time?

A He asked to be moved; yes, sir.

Q From where?

A From where he had been stopping before.

Q Where was that?

A I dont recollect the cell.

Q Do you recall the reason he was moved?

A The reasons were we was crowded and we
were short of room around there and that is something
that is done frequently; changes in the penitentiary.

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Q Do you remember any special reason for moving him except you were crowded for room?

A I have no special recollection, no, sir.

Q You just state that now, then, without any special recollection?

A Yes, sir. I know there were changes made there very often.

Q You removed him to this cell about this time?

A He was removed, yes, sir.

Q Do you know how long Harry Orchard stayed in that cell?

A I dont know the number of days.

Q More than a week.

A Might have been a week, might been a little more might be a little less, cant say.

Q Cant tell anything about that?

A No, sir.

Q Do you remember the time Mr. McParland get Steve Adams's confession?

A I recollect about the time it was claimed he got it.

Q Do you remember when Harry Orchard was moved, with reference to that confession?

A I dont recollect; dont recollect the number of days; some time beforethat.

Q Did you have any purpose in putting Steve Adams in Harry Orchard's cell?

A Nothing any more than I knew they were acquainted with each other and we were crowded and had to double up.

Q You did it as a friendly act to both of them because you knew they were acquainted?

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D-17

A We were crowded and had to have the room.

Q You put them there because they were acquainted and you needed the room?

A yes, sir.

Q You are pretty well acquainted with Harry Orchard?

A Slightly, yes, sir.

Q Have read his story as written by himself?

A I cant say I have read it all.

Q Have you read any of it?

A read part of it.

Q Have you read the November number in which he states the reasons you gave for putting him there?

A No, sir.

Q What was that?

A No, sir; don't recollect it.

Q Never saw his statement about it?

A No, sir.

Q How long did you leave him ~~xxxxxxxxxxxx~~ there with Orchard?

A I couldnt say.

Q Have you no idea?

A Might be four or five or six days, might be, I couldnt say just exactly.

Q Might have been six or eight weeks for all you know?

A No, sir; not in that cell, dont think they were.

Q Might have been one or two days?

A It was longer than that.

Q Did you know anything about that at all, yourself?

A I had , I could not say exactly my

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D-15

to the captain of the yards, sir.

Q How long before anybody visited Steve?

A I couldnt tell you the number of days he was there before anybody visited him.

Q Well, about how long?

A I presume he was there four or five days; couldnt say the exact number of days.

Q In the meantime did you see Harry Orchard?

A I saw him; yes, sir.

Q Where?

A In his cell.

Q In his cell. Anywhere else?

A I had had him out once.

Q Where?

A Out in the Clerk's office.

Q How many times did you have him out in the Clerks office?

A I think not more than once.

Q Simply had him out in the Clerk's office once.

Q You swear that you had him out in the Clerk's office only once?

A I couldnt swear to it.

Q You had him out to talk to him there?

A yes, sir. I brought him out there, yes sir.

Q How long did you talk with him?

A I dont recollect the length of time.

Q Talk with him about Steve Adams?

A I couldnt say that I did.

Whitney-X
B-19

- Q You couldnt say that you did?
- A No, sir; I wouldnt say whether I did or did not.
- Q Would you say you didnt?
- A I dont recollect the conversation.
- Q Do you know what you did talk about?
- A No, I do not.
- Q Do you know what you brought him out for?
- A I brought him out there to see Mr. McParland.
- Q Did you bring him out there before Mr. McParland came?
- A After Steve Adams was there?
- Q yes, sir
- A I dont recollect I ever did.
- Q You dont?
- A No, sir.
- Q Will you swear you did not?
- A I wouldnt swear I didnt; I have no recollection of it though.
- Q Have no recollection.
- Q You have no recollection whether you did not or did?
- A I could not say now that I did or did not.
- Q Did you talk with Orchard alone during this time?
- A Why, yes, as I was taking him out and taking him back.
- Q Did you talk with him in that office alone? bring him out to talk with him?

A No, sir; I did not.

Q You did not?

A Dont think I did; dont recollect it.

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Q Will you swear you did not?

A I couldny swear I didnt; these things--

Q Well,-----

MR. KNIGHT: Let him finish his answer; he started to say---

THE COURT: Let him finish his answer.

MR. KNIGHT: Go ahead, Mr: Whitney.

A (Cont inued) These things were something that were occurring quite frequently so I couldnt say; I made no particular mention of it or mark in my mind as to these things that would occur there daily.

Q What things do you mean occurred daily? Talking with Harry Orchard?

A Sometimes I would and sometimes I would not.

Q How do you know whether you brought Harry Orchard out to talk with him?, in your office, during the time Steve Adams was there or not, to talk with him yourself?

A I would not swear I did or didnt.

Q No, but you would not swear you did or didnt bring him out every day?

A I dont recollect I brought him out after he was brought in there until Mr. McParland saw Steve Adams.

Q You didnt bring him out there alone?

A No, sir; I have no recollection of it.

Q Let me call your attention to some of your testimony. On page 571, Mr. Hawley, will you read the part that is marked there. (Handed to witness)

A I think that is pretty near the same as I kham just testified to; I said I talked to him.

Q Did you testify to that before? Well, I will

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ask you the questions: On the former trial of this case were these questions asked you and did you make these answers?

"Q Did you see Orchard during those four or five or six days? A. Yes, sir. Q Where? A In the cell.

"Q Did you see him anywhere else? A I think I saw him out in the Clerk's office. Q Do you know whether you did or not? A. Yes, sir I did. Q Did you have any conversation with him? A. Yes, sir. Q Did the conversation have anything to do with Adams? A No, sir. Q Nothing at all? A No, sir. Q Do you remember the conversation? A He came out there and--- Q Not asking you that. Am asking you if you remember? A I remember Steve Adams's name was never mentioned by him. Q Do you remember what that conversation was about? A Not particularly. Q What did you bring him out for? A Why, I brought him out, I used to take him out to visit with him.

"Q Oh, you was I nesome and brought him out to visit with him?

"A I brought him out to talk to him."

Q Was that what you said before?

A yes, sir, and thats what I say again. I told you I had visited with him and had talked with him.

Q You understand talking with him and visiting with him is the same thing, do you?

A Well, it might be taken that way.

Q Now, with this to refresh you, will you say you brought him out and talked with him yourself in the back office, or in the office at any time alone? I am referring to Harry Orchard,- during the time Steve Adams was in the cell with him?

A yes, I took him out there; talked with him there in the office; then, as I left him in the office---

Q Well, did you---

MR. KNIGHT: You said "then as you left him in the office"- have you anything else to add there?

A Yes, sir.

Q Did you talk him out and talk to him in the office yourself?

A I think I talked to him, yes, sir, as I left him in the office there.

Q Why do you remember him being there? What did you bring him out for then?

A To talk with Mr. McParland?

Q And do you now say you never brought him out except to talk with McParland?

A I dont recollect but that one time I brought him out while he was therein that cell.

Q yes. Did you say on the former trial--
I will let you see it first. I hand you this, commencing at the top of page 572 and going down about a quarter of the page, or one-third.

(Witness examines the document)

A yes, sir.

Q At that trial, the former trial of this case, were these questions asked you and these answers made?

"Q Did you visit with McParland?

"A I did visit with McParland, yes, sir.

"Q Thats the only reason you now think of; you
"brought him out to visit with him- Orchard- you brought
"Orchard out to visit with him?"

MR. DARROW: That should be Orchard instead of

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McParland.

"A I had him out to visit with him, yes, sir.

"Q Do you remember how many times you had him out to
"visit with the first four or five days after Adams
"got there?

"A I dont think I had him out but once. "

Q Did you make these answers with reference to
Mr. Orchard?

A Yes, sir.

Q And you now say that that was the time that you
brought him out to see McParland?

Q McParland was there at that time.

Q You are sure about that?

A Yes, sir.

Q I call your attention to page 577, at the
top of the page, Mr. Whitney; please read that.

(Hands it to witness and witness examines the testimony).

A yes, sir.

Q Yes, sir, what? You said it?

A Yes, sir.

Q Its true?

A Yes, sir.

Q And you now say, sir, you never brought him out
before McParland got there?

A I brought him out when McParland was there.

Q Did you never bring him out before?

A No, sir; I dont recollect ever bringing him out
before.

Q Did you make these answers-- Were these questions
asked you and did you make these answers at the former trial:

"Q How long was this before you put him into the
cell with him?

"A Perhaps two or three or four days.

"Q Perhaps two or three or four days, more or less, I
suppose?

"A Well, I couldn't say just exactly. I don't recollect the
date.

"Q Now the other day you stated, that is what I remember, of it,
you had brought Orchard out to visit with him while Adams was
in his cell?

"A Yes, sir.

"Q Did you do that more than once, before McParland saw
Adams, or don't you know?

"A I don't recollect, don't think I did but once.

"Q Do you recollect how long you visited with him at that
time?

"A Not but a short visit."

Q Did you make those answers before?

AA Yes, sir.

Q Did your answers in that testimony refer to
McParland being there at the time?

A The question I don't think was asked me.

Q Did you have him out to visit with him?

A I brought him out to see McParland.

Q Did you bring him out to visit with him?

A I took him out to see McParland.

Q Was that the purpose of bringing him out there?

A I took him out to see McParland.

Q Was that the purpose of bringing him out,
to visit with him?

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A I brought him out to ~~xxxx~~ see McParland.

Q I ask you to answer my question, whether that was your purpose in bringing him out to visit with him?

A I visited with him some, if you call it visiting.

Q I ask to have a direct answer.

A I said yes.

Q That was your purpose in bringing him out?

A I brought him out to see McParland.

MR. DARROW: I ask the Court for a direct answer.

THE COURT: Give a direct answer, Mr. Whitney.

~~XXXXXXXXXXXX~~

Q I asked you whether you brought him out to have a visit with him?

A I brought him out to see McParland.

MR. KNIGHT: Yes, I know, Mr. Whitney.

Q Was your purpose in bringing him out there to have a visit with him?

A No, sir; it was not.

MR. DARROW: Now, I have got it.

Q I call your attention to the bottom of page 571 and the top of page 572. The bottom of page 571 I didnt call your attention to. (Hands the witness and witness examines the testimony)

A yes, sir.

Q On the former trial of this case were these questions asked you and did you make these answers:

"Q Do you know what you brought him out for?"

MR. DARROW: Referring to Harry Orchard.

"A Why, I brought him out, I used to take him out to visit with him.

"Q Oh, you was lonesome and brought him out to

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visit with him?

"A I brought him out to talk with him.

"Q Thats the only reason you now think of; you brought
"him out to visit with him, Orchard--

MR. HAWLEY: You are jumping some there, read that
before that.

MR. DARROW: No, I have not get to read that; it is a
mistake in transcribing, and this that follows shows it .

(Proceeds with the reading of the testimony)

"Thats the only reason you now think of; you
"brought him out to visit with him, Orchard, you brought
"Orchard out to visit with him?"

MR. HAWLEY: (Reading):

"Q Did you visit with McParland?

"A I did visit with McParland, yes, sir.

MR. DARROW: That evidently means Orchard.

MR. HAWLEY: well, you will have to get the notes---

THE COURT: You will get that mixed up. I think
you better get your answers as you go along. You will
mix up the testimony.

MR. DARROW: well, I dont mind reading that part. It
is perfectly plain that it was a mistake in transcribing,
and the next question shows it.

"Q Did you visit with McParland?

"A I did visit with McParland, yes, sir."

MR. DARROW: Now, the next question explains that:

"QThats the only reason you now think of; you brought
him out to visit with him, Orchard; you brought Orchard out
to visit with him?

"A I had him out to visit with him, yes, sir.

"Q Do you remember how many times you had him out to

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"visit with, the first four or five days after Adams
"got there?"

"A I dont think I had him out but once.

"Q Do you remember how long you visited?"

"A Not a great while."

Q Did you make those answers?"

A Yes, sir.

Q And do you now say Mc. McParland was there?"

A Yes, sir; Mr. McParland was there; he was in the
Clerk's office at the time.

Q Now, Mr. Whitney, that is one thing you will be
positive of that at that time Mr. McParland was there, is it?"

A Yes, sir.

Q Now, I ask you to read three or four lines further,
just to be positive about this. Now, read the next three or
four lines which I have marked on page 522. (Handed the
witness) (Witness examines the testimony)

A Is this the part you want me to read?"

Q yes, sir; following the part I marked there.

MR. HAWLEY: If you desire you can read the entire
context, if you want to.

MR. DARROW: Certainly, certainly. If there is
anything you want to call his attention to you can do so.

MR. HAWLEY: We have got to take it all together;
you cant pick out and call his attention to one page in
two hundred.

MR. DARROW: I certainly call his attention to one
page in two hundred.

THE COURT: read wherever you desire, Mr. Whitney.
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Q Mr Whitney, at the former trial of this case, were the following questions asked you and did you make the following answers:

"Q Do you remember how long you visited?

"A Not a great while.

"Q You dont remember that exactly, of course?

"A I couldnt tell you to a minute.

"Q Well, now, do you know where Mr. McParland was at the time Adams came there?

"A No, sir; I do not.

"Q Do you know Mr. McParland?

"A Yes, sir.

"Q He had visited you at your office?

"A Yes, sir.

"Q Often, had he not?

"A Several times.

"Q And had been allowed access to some of your "boarders?

"A He had requested to see certain parties there and "he had seen them."

Q Did you make those answers?

A yes, sir.

Q Now, I will ask you, Mr. Whitney, you said you didnt talk with Harry Orchard before, or did you say you had before you put Adams in the cell?

A I didnt understand the question.

Q Did you inform Harry Orchard you were going to put Adams in his cell?

Q

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A No, sir.

Q Never talked to him about it?

A No, sir.

Q Sure?

A No, sir. Not about putting him in--the cell. I had talked to him in regard to him.

Q Talked to him in regard to him?

A Yes, sir.

Q But you didnt talk to him about bringing him and putting him in the cell with him?

A No, sir; I did not.

Q When did you talk to him in regard to him?

A I couldnt tel just exactly the date.

Q You told him Adams was coming?

A I dont recollect that I did.

Q Do you know whether you did or didnt?

A I couldnt say whether I did or didnt.

Q Do you know what conversation you had with him about Adams?

A Why, I couldnt state the conversation; I know we had talk about it.

Q Do you remember any of the conversation?

A No, sir; I do nt recollect the conversation.

Q None of it?

A I would not undertake to give it because I dont recollect it well enough. I know I talked to him in regard to him.

Q Who first mentioned it, you or Orchard?

A I couldnt say as to that.

Q You do remember one time talking with Orchard

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Mr. Orchard out to visit McParland, do you?

A Yes, sir.

Q Do you remember how long he had been there?---

I mean--- well, leave that as it is. Do you remember one time taking Steve Adams to see McParland?

A Yes, sir.

Q Do you know how long he had been there at that time?

A How long he had been at the penitentiary?

Q Yes, sir.

A I forget; he had been there several days.

Q Could you make a guess at it?

A May be four or five or six days; cant tell just exactly; dont recollect.

Q All the time in Orchard's cell with Orchard?

A Yes, sir.

Q What time did you take him out?

A I dont recollect the time of day I took him out.

Q Do you recollect whether it was daylight or dark?

A I do.

Q Was it daylight or dark?

A It was daylight.

Q Didnt have to take a candle?

A No, sir.

Q Any other way you can remember what time it was?

A I have no recollection of the date, no way of recalling it.

Q Do you know how you happened to do it?

A I done it because McParland was there to see him.

Q Because McParland asked you to?

A Yes, sir.

Q Can you tell whether it was in the forenoon or

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D-31

- A Couldnt tell you just the time of day.
- Q Do you know how long they stayed together?
- A No, sir.
- Q Do you know when he went away?
- A No, I dont know that; I couldnt tell you when they went away.
- Q Did you take Adams away?
- A I took Adams back in, yes, sir.
- Q McParland went away?
- A yes, sir.
- Q Dont know when he went?
- A Dont recollect the exact time.
- Q Dont know whether it was forenoon or afternoon?
- A Dont know whether it was forenoon or afternoon.
- Q Did you serve lunch to them?
- A Dont recollect whether I did that day or not.
- Q Thats all you remember about that day, is it?
- A Thats all I recollect.
- Q Do you remember whether you brought him to see McParland? next?
- A Yes, sir.
- Q When was that?
- A Next day, I think.
- Q What time of day was that?
- A In the forenoon some time.
- Q Early in the forenoon or was it later?
- A Probably about nine o'clock; maybe a little later.
- Q How long did he stay?
- A I think all day.

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Q Until five or six o'clock in the evening?

A In the evening, yes, sir.

Q Serve lunch to him?

A Yes, sir.

Q Did he see him again?

A I think he did.

Q When?

A I think the next day.

Q How long did he stay that day?

A I think he stayed all day again.

Q From early morning until late in the afternoon or evening?

A I couldn't state exactly.

Q Serve lunch again?

A Yes, sir.

Q In your back office?

A In the Clerk's office, yes, sir.

Q Did he see him again?

A I couldn't say--- He did see him again, yes, sir; but I couldn't say---

Q You knew of his getting a written confession, didn't you?

A I understood he did.

Q Do you know on which one of these trips?

A Why, I think he started to take the written confession the second time he saw him.

Q Well, do you know?

A I don't know. I couldn't swear to it, no, sir.

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Q When did you see it?

A Why, I saw a document that was claimed to be his confession several days afterwards.

Q Several days afterwards?

A Yes, sir.

Q Thats all you knew at the time?

A Yes, sir.

Q Did you move Steve Adams out of that cell?

A They were both moved out.

Q Both Steve Adams and Orchard?

A Yes, sir.

Q Do you know when?

A It was several days, I couldnt tell just exactly the number of days afterward.

Q Several days from what?

A From the day they were put in there.

Q That is as definite as you could get, is it?

A I dont recollect just how long they were in the cell, no, sir; just how many days.

Q Can you give us any kind of a clue that is better than "several days"?

A Steve was not feeling well, and we moved him out; moved him into a room in the hospital; both him and Orchard.

Q Thats not what I asked you. I asked you if you could give us any kind of a clue when you moved them?

A I cant tell exactly.

Q You say you put them in the cell together because they were acquainted?

A Yes, sir.

Q Moyer, Haywood and Pettibone had arrived a few

days before?

A Yes, sir.

You gave each of them a separate cell?

A Yes, sir.

Q There was a vacant cell near them was there not?

A I dont think so.

Q Are you sure?

A Not sure, not very sure, but quite positive in my own mind.

Q You knew they were acquainted?

A Yes, sir.

Q You didnt put them in together on that account?

MR. KNIGHT: I object to that as incompetent, irrelevant and immaterial.

THE COURT: Objection sustained.

Q Well, you took Steve out several days after and put him in the hospital?

A Yes, sir; him and Orchard both.

Q Both went into the hospital?

A yes, sir.

Q At the same time?

A Yes, sir.

Q Did Orchard ever go back to that cell?

A I dont think either of them went back.

Q Neither?

A No, sir.

Q How long did Steve stay in the hospital?

A I couldnt state just exactly how long. He stayed there nights for quite awhile, in fact day times quite awhile.

Q How large a room was it?

A It was a room perhaps ten or twelve feet square.

Q Had plenty of room?

A Yes, sir.

Q How long did they stay in the hospital?

A Well, they were together there for quite a long time.

Q How big is the cell you spoke of where they were?

A The cell, I don't know just exactly the dimensions, I presume that was about four by seven and a half, might be a little more or a little less each way.

Q The hospital room you put him in was about twelve by twelve?

A Yes, sir--- I judge about ten by twelve, might be a little larger, in my judgment.

Q Neither of them ever went back to their cells?

A Not to that cell.

Q Not quite correct to say neither of them ever went back to a cell before they left, is it?

A No, not quite.

Q Well, we will get to that a little later.

Q Do you know how long Steve stayed in the hospital at that time?

A I couldn't tell the exact time. He was there quite awhile.

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Q Where did he go then?

A He went over to what is called the "Female Ward".

Q What kind of accommodations do they have there?

A Well, that is the old Warden's residence; it is enclosed in the Female Ward and has a kitchen, bath tub, dining room, sitting room and bed room.

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Q Steve had them?

A Yes, sir; his family did.

Q That was the best suite in the penitentiary?

A yes, sir, in the penitentiary, yes, sir.

Q So then you moved him and his family, his wife and two children, into a house where he had a kitchen, dining room bath room, bed room and parlor, was there a parlor to it?

A There was a sitting room there.

Q And they lived there?

A He stayed there day times for quite a while at first, and then, finally, he was permitted to stay there nights with them.

Q And they were living there, visited by you and by the attorneys, Mr. Hawley and Mr. Borah and the Governor of the State, were they not?

A I dont think the attorneys ever visited them over there. I couldnt say positively whether they did or didnt. I dont think they did. I used to visit them there yes, sir.

Q Did the Governor ever come there?

A yes, sir; the Governor was up there, yes, sir.

Q Any other callers?

A Mr. Lillard was there.

Q Thats his uncle?

A yes, sir.

Q How long did that condition last---By the way, before that, Steve's wife cooked for him, didnt she?

A yes, sir.

Q How long did they live in this house?

A Why, they lived there, I couldnt say the exact time, I presume two months, maybe more.

Q Could you say as to any event that happened before taking him out of that house?

A (No answer)

Q Anything happen before taking him out of there, out of that house?

A Yes, sir. There was a writ of habeas corpus.

Q That is, Steve asked for a writ of habeas corpus?

A I couldnt say he asked for it; I didnt hear him.

Q No. You were served with papers showing that a writ of habeas corpus had been asked for while he lived in that house?

A Yes sir.

Q You immediately took him out of there and locked him in a cell, didnt you?

A yes, sir.

Q What cell? The same old cell?

A I dont think it was, no I couldnt give you the number of the cell.

Q Then you gave him up upon the order of the Court?

A I delivered him to the Court, yes, sir.

Q Now, when was it you had the conversation with Steve that you have related, with reference to north Idaho?

A Why, it was in --- it was the time that Mr. Lillard was there; I couldnt give the date?

Q No, I suppose not.

A He brought down some things there that they had sent for.

Q Could you give the year it was in?

A I guess I could.

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D-38

Q What year was it?

A 1906.

Q Summer or winter?

A It was in the summer time.

Q Could you tell the month?

A I could not tell the month, no I could not.

Q If it was in the summer it must have been in June, July or August?

A I judge along there. It might have been earlier than that. It was in the early part of the season.

Q Then it was either in the spring or summer?

A Yes, sir.

Q That was then in March, April, May, June, July or August?

A It was after they brought Steve there.

Q Could you tell what time it was?

A It was some time between the 1st of February and the 1st of September.

Q A pretty close guess. He came therein February and left before September. You say his uncle had brought some things to Steve?

A Yes, sir.

Q What stuff had he brought?

A He brought a sawed-off shot gun, brought a book.

Q What kind of a book?

A Kind of a pocket book; had some pictures in; had a picture there of Steve Adams and Jack Simpkins.

Q They were some of the papers were in that pocket book?

Whitney-X
D-39

name, of the Federation of Miners, wherein he had stated that he had sent her twenty-five dollars; something to that effect; I just forget what it was; stated to her he had sent her twenty-five dollars, something like that.

Q The letter also said to be as economical as she could because they had a great deal of expense, didnt it?

A I couldnt state the exact language of the---

Q Is there anything else you can remember?

A I think there was a meal ticket, Federation ticket that granted them meals somewhere; dont recollect just exactly how it was.

Q A Union card?

A I dont know whether there was a Union card in it or not.

Q Densit card of the Masonic order?

A I couldnt say as to that.

Q Letter of recommendation from a man by the name of Cooper?

A I dont recollect.

Q You dont recollect anything else. Now, do you remember where you had this conversation?

A It was in the sitting room.

Q Of his house?

A Yes, sir.

Q Anybody present?

A I think Mrs. Adams was there.

Q She was---

A Why, she might have stepped out into the other room for a book or something. I think she did get up while we were talking there, but she was there during part of

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Wh tney-X
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Q You know whether she got up and went out?

A My recollection is that she did. She went after something.

Q Your recollection is good?

A I cant say I have got the best memory, no, sir.

Q You are sure about what conversation you heard there?

A Yes, sir.

Q Now, will you tell us what Steve said about north Idaho?

A Why, he showed me this cartridge---

Q No I dont care for that. What did he say?

A Well, he said "Here's the cartridge that killed Bouley"---

Q Showing you the cartridge?

A Yes, sir.

Q What else?

A He said: "Mr Whitney, I always shall believe the killing of those fellows, the 'bumping off' of those fellows, " I think that is the expression he made, " I always "shall believe, was justifiable up there", he says: "They were g un men sent up there to jump those claims."

Q Anything else?

A He always thought they were justified in putting them out of the way.

Q What else did he say?

A Why, I dont know as there was anything special that I can recollect of now outside of that.

Q Did he tell you what he had done up there?

A At that time?

Q Yes, sir.

A No, sir; I dont recollect that he did.

Q When did he?

A When did he tell me what ^{he} you done?

Q yes.

A Why, if you will make your question plainer, I will try to answer it.

Q Did you ever have any other conversation with him with reference to anything he said he had done in the Marble Creek district?

A yes, sir.

Q When?

A It was before this conversation.

Q How long before?

A I cant just give the date.

Q Where was it?

A In the Clerk's office.

Q Where was ^{he} you located at the time in the building?

A Where was he stopping?

Q In the hospital or in the house?

A I think he was stopping in the hospital at that time.

Q Anybody present?

A No, sir.

Q Will you tell us that conversation?

A yes, sir. I think it was when he was going out through to the Female Ward and he stopped in there and was talking about in regard to the location of Jack Simpkins-

Q What did you say and what did he say?

A I cant tell just exactly how the conversation--- we was talking about the location of Jack Simpkins, I cant say just how the question came up first, but he made the remark

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that if he was out three or four days he could go right to Jack Simpkins, he believed he was in the Marble Creek district. I asked him if he was acquainted up there.

Q Go on.

A (Continued) and he said "Yes, I was acquainted." says: "I was up there when Tyler and Bouley was killed."

Q Did he say when?

A No, sir.

Q Did he say how he got there?

A No, sir; he didnt tell me.

Q Did you ask him?

A No, sir.

Q Who did he say he saw up there?

A Why, he didnt say who he saw, only Mason and Glover and Fred Tyler.

Q Did he say he saw Mason and Glover?

A Yes, sir.

Q How do you remember their names?

A Because he said Mason and him went down to Tyler's cabin in the morning, expecting to get him before he left, but he had gone and they stayed there all day---

Q Mason and him went down?

A Yes, sir.

Q Sure about that?

A Mason and Glover?

Q Oh, Mason and Glover and Steve?

A Yes, sir.

Q Did he say where they went from?

A Said they went from Simpkins's cabin.

Q Did he say how they got to Simpkins's cabin?

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A No, sir.

Q Nor how long they had been there?

A No, sir.

Q Or where Mason and Glover came from?

A No, sir.

Q Did you ask him ?

A No, sir.

Q That they went down in the morning?

A Yes, sir.

Q Expecting to get him before he went away?

A Yes, sir.

Q But he wa s gone?

A Yes, sir; he was gone.

Q Had you ever heard of Mason and Glover before this?

A Never had.

Q Ever heard of Tyler and Bouley?

A No--- I say no, I had heard of it, heard when these two men were killed up there, when I was sheriff.

Q You were sheriff at the time?

A Yes, sir.

Q You had never heard of Mason or Glover?

A No, sir. Never heard the names mentioned before that I know of.

Q You were sheriff when these two men were killed?

A Yes, sir.

Q Well, you were sheriff when Tyler's body was found, waht was supposed to be his body?

A I think I was.

Q Are you sure about it?

A I think I was, yes, sir.

Whitney-X
D-45

Q Do you remember when you became warden?

A I dont remember the date of finding Tyler's body.
I think it was---

Q Do you remember the date of your appointment as warden?

A Yes, sir.

Q When was it?

A First day of March, 1905, that I took---

Q At that time you moved away from here?

A Yes, sir.

Q To Boise?

A Yes, sir.

Q Now, going back to what Adams said, well I think they stayed in the cabin during the day?

A He didnt say they stayed inthe cabin.

Q What did he say about that?

A He said they stayed there.

Q Did he say where?

A No, he didnt say where; said they stayed there all day until towards evening.

Q Then towards evening what?

A He didnt show up and they thought he had gone and they started back to Simpkins's cabin.

Q Then what ?

A They got to a spring, Mason and Glover stopped to get a drink and he heard somebody coming down the trail. He just mationed to them and they jumped behind big trees andwhen he came down it was Tyler and he throwed his gun down on him; held him up there, and they went and took his gun off from him.

Whitney-X
D-24

A No, he didnt tell me what kind of a gun it was.

Q They took off of him?

A No, he didnt say.

Q Did he say where they went to from there?

A They went to Simpkins's cabin that night.

Q Did he say where they got supper?

A yes, sir he did.

Q Give you any details about it?

A Nothing particular about their supper, no, sir.

Q Nothing about that. Tell you anything that happened during the night?

A He said they tried to get the man to tell who sent him up there?

A Did he say whether he would or not?

A He said he would not.

Q Did he say anything else about during the night?

A During the night?

Q yes.

A Why, not exactly that I recollect.

Q Did he say whether they went to bed or not?

A No, he didnt say whether they went to bed or not.

Q Now, what time did he say they started out next morning?

A He didnt state the time; said it was in the morning.

Q Did he say whether they had breakfast?

A Yes, sir; they had breakfast.

Q Did he give any details about breakfast?

A Nothing only they had breakfast.

Q said they tied a rope on him?

A Tied a rope on him and led him, yes, sir.

Q Did he say anything about whereabouts they put the rope?

A No, sir.

Q So to lead him?

A No, sir.

Q Did you ask him?

A No, sir.

Q Did he say how far he was led?

A Why he says in the neighborhood of a couple of miles.

Q What did he say about shooting him?

A He said when they came to a place the fellow, wh ever was leading him stepped aside and said "Here's a good place, and I shot him."

Q Did he say whether anybody else shot?

A No, sir.

Q Did he say anything about what they did with the rope?

A No, sir.

Q Did he say anything about where they went afterwards?

A No, sir.

Q Did you ask him?

A No, sir.

Q Didnt ask him any questions at all?

A Well, I had my breath taken out of me, a man telling me anything like that.

Q You got it in time to save your life, didnt you?
Had you ever heard this story before?

A No, sir.

Q Had you ever seen this confession?

A I had seen what purported to be a confession.

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Q That in writing?

A yes, sir.

Q Typewritten?

A Well, it was typewritten, I think.

Q Yes.

A I never had read it.

Q This is the same matter?

A I cant say the same matter was in the confession.

Whitney (Rec) X
E-1

Q This same matter?

A I could not say that the same matter is in that confession.

Q Didn't you know all about that confession as to Tyler before that?

A I knew that he had made a confession.

Q As to Tyler?

A I never read a word of his confession.

Q You haven't got very much curiosity?

A Well, I was visiting with him there and he was telling these things.

Q Did you ask him anything about it?

A I did not know Tyler.

Q Did you ask him any questions about it?

A No, sir.

Q No.

A It came up just as I said.

Q Did you make any report to anybody?

A Why, I had a talk about it; yes, sir; I had a talk on the Friday afterwards.

Q Did you make any report to anybody about this matter at the time?

A I made no report; no, sir; I did not make any report.

Q You were then Warden of the penitentiary?

A Yes, sir.

Q And you had been Sheriff of Kootenai County, in the vicinity of where this happened?

A Yes, sir.

Whitney (Rec.) X
E-2

Q You didn't make any report to any officer of the law?

A No, sir.

Q Did you ever make any effort at that time to locate Mason and Glover?

A No, sir.

Q Or at any other time?

A No, sir.

Q And never did anything about it, or asked any questions about it?

A Only the conversation that we had.

MR. KNIGHT: Conversations with whom?

MR. DARROW: He means the one he has repeated, doesn't he?

MR. KNIGHT: Conversations with whom?

A With Adams.

MR. DARROW: Q You did begin to take some interest in it when Steve Adams asked for a writ of Habeas corpus, didn't you?

A Yes, sir.

Q And never before?

A Why, I have taken some interest in it, yes, sir.

Q Did you ever take any interest in prosecuting anybody before for this matter?

A Not in that matter; I did not know about it.

Q And have you ever taken any steps or any interest in prosecuting anybody else but Steve Adams in this matter since?

A No, sir;-- yes, sir, I have.

Q What?

Whitney (Rec) X
B-3

A I think Mr. Glover and Mason were taken up there; I took some interest in it.

Q Did you have anything to do with it?

A I didnt have anything to do with their taking them.

Q Did you have anything to do with prosecuting?

A No, sir, I did not.

Q What did you say so for?

A Haven't you asked me if I took an interest in it?

Q Yes.

A I took an interest in it.

Q You knew that Mr. Mason and Mr. Glover were taken at the same time and asked to testify against Steve, and when they refused they were turned loose, weren't they?

A I don't know that they were asked to testify against him.

Q And you never tried to prosecute them or get a witness or did a thing, did you?

MR. HAWLEY: I object as irrelevant, incompetent and immaterial and not proper cross examination.

THE COURT: Objection sustained.

MR. DARROW: He brought this out. Did you ever do anything toward prosecuting anybody yourself?

A No, sir.

Q Or finding any evidence--except Steve Adams?

MR. HAWLEY: Objected to as irrlelvant, incompetent and immaterial and not proper cross examination.

Objection sustained.

Defendant excepts and exception allowed.

Q Did Steve ever talk with you again about this matter in detail?

Whitney (Rec) X
C-4

A I dont think so, only he just mentioned about it perhaps, in a casual way.

Q And you never asked him any more about it?

A I dont recollect I ever did.

Q Ho. Do you remember when Steve said they got to Simpkins' cabin?

A How, is that?

Q Do you remember when Steve said they got to Simpkins' cabin?

A At what time, that is?

Q The time you say they went from Simpkins' cabin to Tyler's?

A No, sir; he didnt state what time they got there.

Q Did he say where they stayed that night?

A No, sir; he did not.

Q Mr. Whitney, where is that letter; where are those things that you took that you say Mr. Lillard brought you?

A The gun is at the penitentiary there.

Q Where are the documents and papers?

A I have them there, I think.

Q You haven't got them?

A I would not say positively; I think maybe I turned them over to Mr. Hawley; I could not say positively as to that.

Q Have you got Kirwin's letter?

MR. HAWLEY: I think it is among the archives of this other case somewhere.

MR. DARROW: It is not here?

MR. HAWLEY: No, it is not here. I think I can send for it and have it.

C-5

MR. DARROW: I would kind of like it if I can get it.

MR. HAWLEY: I will send for it. All of those things were turned over to me; the order they were returned to me I could not say positively; I had a lot of things stored away. If they are there and they can be found, I will have them here.

MR. DARROW: A few other matters here.

Q You knew, Mr. Whitney, that the Grand Jury of Canyon County did not indict Steve Adams?

A That they have not?

Q Yes, sir.

A Yes, sir.

Q And you understood that he was placed in your charge on account of the Steunenberg murder?

A Yes, sir.

Q And you knew that when the Grand Jury adjourned, the middle of March?

A Yes, sir; when it adjourned, I dont recollect the date that it adjourned, though.

Q Do you know under what authority you held him after that?

A None at all.

Q Did you tell Steve so?

A I dont know that I told him that. He understood it, because we talked about it.

Q You told him he had a right to go?

A That conversation had come up in a casual way, that we had no authority.

Q He understood he did have a right to go?

Whitney (Rec) X
C-6

A Yes, sir.

Q But when the writ of habeas corpus was served, you locked him up in a cell?

A Yes, sir.

Q Was that a cell out of which the condemned murderer had been hanged a day or two before?

A I could not say whether it was or not.

Q What is your impression?

A I dont recollect what cell he was put in at that time.

Q Would you say that it was not?

A That he was not put in that cell?

Q Yes, sir.

A I would not say that he was not; he might have been.

Q Did you search him before you put him in?

A Yes, sir.

Q You never tried to hold him up to that time?

A Not after the Grand Jury had failed to indict him.

Q Never tried to hold him?

A No, sir.

Q Did you put him in this cell after he had applied for a writ of ~~hax~~ habeas corpus?

A Yes, sir.

Q Did you let people see him?

A Why, I let some people see him; yes, sir.

Q Whom?

A I let Mr. McParland see him.

Q Anybody else?

A Mr. Hawley, and I think Mr. Borah.

Q Let any of his friends see him; anybody that is not

Whitney (Rec.) X
C-7

trying to take his life?

A Mr. Lillard; Mr. Lillard saw him; his brother saw him.

Q Did his brother see him alone?

A No, sir.

Q In the presence of a guard?

A Not all of the time, no, sir.

Q Did he ever see him alone, see his brother?

A No, sir, he did not.

Q Why did you say then, not all of the time?

A I said alone, because he was in the presence of my clerk, who was not a guard.

Q That is the reason?

A Yes, sir.

Q Your clerk was acting as a guard, though, at that time, wasn't he?

A No, sir; he is a clerk.

Q A spy?

A No, sir; he is a clerk.

Q Did anybody else see him?

A I think not.

Q You did not permit anybody else to see him, did you?

A No, sir.

Q Mr. Hawley and Mr. Borah and Governor Gooding, these saw him without a guard?

A Yes, sir; there was another man, another party saw him, too.

Q There was a man named Moore, a lawyer of Baker City, who saw him without a guard?

Whitney (Rec) X
C-8

A Yes, sir, and there was another party from Baker City; I can't state his name.

Q Bond?

A Bond, yes, sir.

Q Was with Moore?

A Yes, sir.

Q They saw him without a guard?

A Yes, sir.

Q Do you know anybody else?

A I can't ^{bring} ~~remember~~ anybody ~~know~~ to memory now.

Q You don't remember any of his friends that ever saw him without a guard, except Mr. Lillard?

A Mr. Moore and Mr. Bond was his friends, I guess.

Q You think so, do you?

A I understood that.

Q From whom?

A He was Mr. Adams' attorney, I believe at the time.

Q You did understand Moore was a friend at the time, did you?

A How?

Q Don't you know the Governon gave Mr. Moore a hundred dollars to go to Colorado to see about getting evidence in the case?

MR. HAWLEY: I object as irrelevant, incompetent and immaterial, trying to get something in that he knows this witness could not know about, something improper.

MR. DARROWP I don't know it.

MR. HAWLEY: You do know it.

THE COURT: I sustain the objection any way.

Whitney (Rec) X
C-9

MR. HAWLEY: Trying to make some impression before the Jury on a matter to develop prejudice.

THE COURT: There is no matter before the Jury. The objection is sustained.

Defendant excepts and exception allowed.

MR. DARROW: By whose order did Mr. Moore see Steve?

A Why, I think that he was acting as his attorney.

Q I asked you by whose order he saw him?

A I could not say, but I rather think the Governor was the party that told me.

Q Don't you know the Governor is the one who directed you to let him see him?

A I had no written order to that effect, no sir.

Q Well, telephone or verbal or any old way?

A The Governor told me to let Mr. Moore see him.

Q Why didn't you answer that right off. That is true, isn't it?

A Yes, sir.

Q Did you tell Steve Adams he had a right to leave?

A I dont think I ever did.

Q Was it talked over at different times between you and him, so that he understood it?

A Yes, sir.

Q When was Mr. Killard there?

A Which time?

Q Well, the last time before Steve went out?

A He was there and took dinner with them the day, I believe, before the application for a writ was made.

Q The next day after Mr. Lillard was there the appli-

Whitney (Rec) X
C-10

cation for the Writ came?

A I think it was the next day.

Q That was some time along probably in September, 1906, wasn't it?

A I think so.

Q Did you see Mr. Lillard at your office after that?

A I could not say that I did; I would not say positively whether I did or did not.

Q You would not?

A No, sir.

Q Didn't you at that time and at that place, at your office, say to Mr. Lillard, no other persons being present, did you not say to Mr. Lillard that Adams had the promise of immunity if he would testify and help convict these murderers, referring to Moyer, Heywood and Pettibone?

MR. KNIGHT: We object.

A No, sir; I never did.

Q You did not say that, either in substance or in fact?

A No, sir.

RE-DIRECT EXAMINATION

BY MR. HAWLEY:

Q Mr. Whitney, why was it that you put Adams in a cell after this writ of habeas corpus was served?

A Because there had been a process served on me by the court, ordering me to deliver his body there the next day of a certainty, at a certain hour.

Q In these matters, so far as the retaining of Adams in the penitentiary, after the action of the Grand Jury in

Whitney (Rec.) X
C-11

Canyon County, under whose instructions were you acting in the matter?

MR. DARROW: To that we object.

Objection overruled.

Defendant excepts and exception allowed.

A He was staying there at his own request.

MR. DARROW: How is that?

A I say he was staying there at his own request.

MR. HAWLEY: Q And under whose instructions were you acting in permitting him to stay?

MR. DARROW: I object to that on the ground it is not re-examination; it is not competent; it has been answered.

MR. HAWLEY: Most anything would be direct after the cross.

Objection overruled.

Defendant excepts and exception allowed.

A Why, at the request of the Attorneys for the State and the Governor.

Q You may state whether or not Adams ever made any objection to this method of retaining him?

A No, sir; he did not.

Q State whether or not he understood the position that he was there retained in.

A Yes, sir; he did.

Q You spoke during your cross examination with reference to not having made reports to anyone in regard to this matter of these statements. Did you have conversations with any one with reference to these matters?

A Sometimes, I did, yes, sir

Whitney (Rec.) RD
C-12

Q What did you mean by saying that you made no reports?

A Why, the conversations I had was just in a general way. I had to make no report to anybody; there was nothing that compelled me to, on any request even.

Q You spoke about pictures of Adams and Simpkins?

A Yes, sir.

Q What did you say with reference to that matter?

A Why, they showed me a picture of Adams and Simpkins that was taken together at that time.

Q Where did that come from?

A At the time, I supposed it came--

MR. DARROW: Never mind what you supposed, Mr. Witness.

MR. HAWLEY: Q Who had it when they showed it to you?

A Mrs. Adams brought it in.

Q Was Adams there?

A Yes, sir.

Q What time was this with reference to the time that these articles were brought by Lillard from Oregon?

A Just a day or so afterwards.

Q You have been asked with reference to conversation with the Sherrif--going back to the pictures, did Adams talk to you at the time or tell you why they were made or who had made them?

A He told me where they were taken, but I have forgotten the place.

Q Do you remember when they were taken?

A No, I dont recollect when they were taken.

Q You don't recollect, either, when or where?

A No, sir.

Q You have spoken in your cross examination in regard

Whitney (Rec) RD
C-13

to talk with the sheriff about a jury, or summoning a jury, that you had a conversation with him in reference to the jury in some way. Is that correct?

A Yes, sir.

Q Where was that conversation had?

A It was here in Rathdrum.

Q When?

A It was the first time that I was up here.

Q What was that conversation; detail it.

A And the second time I was up here.

Q Detail the conversation.

MR. McBEE: I object as immaterial.

MR. HAWLEY: What did you bring it out then in the record for?

MR. McBEE: We brought that out to show the witness' information; not to show the specific acts, ~~however~~ but showing his interest and bias in this case.

MR. HAWLEY: How could it show an interest of some person that had a talk, where he had been an official, with reference to a matter of this kind?

MR. DARROW: A witness in the case.

MR. HAWLEY: A witness in the case; whether he is or not cuts no figure, could cut no figure.

MR. DARROW: Came and talked to the Sheriff.

MR. HAWLEY: ~~Q~~ I am asking what that conversation was only to prevent you basing an argument upon it that might be misleading; so I am asking to bring it in.

MR. McFARLAND: The witness has a right to not rest under an insinuation of that kind and may explain it at any time.

Whitney (Rec) RD
C-14

MR. HAWLEY: It is an insinuation, or might be used for one; I dont say it was meant for one, but it may be used for one. We want the conversation.

Objection overruled.

Defendant excepts and exception allowed.

Q Go on and detail it.

A The first time I was here I had a talk with Charley and told him I was very much interested--

Q (Interrupting) Who is Charley?

A Charley McDonald, the Sheriff--that I was very much interested in his record that he was going to make here, as he had been my Jailer, and that we hoped he would go out and select a straight, honest Jury, regardless of anybody--attorneys on either side or anybody else. I says, "Don't you listen to anybody; you select your own Jury; get good, straight, honest men", that was all I said to him at that time.

Q What did you say to him at another time?

A After I had found out that Mr. Heitman had been employed, retained in this case, I saw Mr. McDonlad again; I says, "Mr. Heitman is probably employed in this case for the purpose of selecting a Jury, and knowing that he is friendly with your office. Now, you stand from under Mr. Heitman's influence or anybody elses'." Says I, "Don't you listen to anybody; you select your own Jury."

Q Is that all the conversation you had with the Sheriff?

A Yes, sir.

Q Now, in these statements of Adams to you, Mr. Whitney, to go back to it, as suggested by Counsel, to you, I

Whitney (Rec.) RD
C-15

understood you to say that you had not reported it up. You say you talked it over. Did you talk it over with Counsel?

A Yes, sir.

Q Who did you talk it over with? What Counsel did you talk it over with?

A With yourself, Mr. Borah, Mr. McFarland and the Governor.

Q About that time?

A And some with the Attorney General.

Q When, with reference to the time the statements were made?

A Well, I could not state as to the time.

Q Again, explain what you mean by not having made reports.

MR. DARROW: I object; this was asked him before.

Objection sustained.

MR. HAWLEY: That is all for the witness.

MR. DARROW: I think we have got enough to make an argument on.

MR. HAWLEY: We have got enough to prevent you making yours.

RE-CROSS EXAMINATION

BY MR. DARROW:

Q When was it you had your first talk with the Sheriff?

A It was the first time I was up here.

Q What time of day was that?

A Well sir, I could not--I could not tell you just

Whitney (Rec) BK
C-16

exactly the time of day.

Q Is that all of the talk you had with him?

A Why, I met him at different places, two or three different places.

Q Was that talk up here at his office?

A I could not say whether it was up there or on the street.

Q Could you say whether you had any other talk with him about it at that time?

A Not at that time, I dont think; I dont recollect it.

Q You came up here to tell him that, did you?

A No, sir. I did not come here specially for that.

Q You did not have any other business, did you?

A No, sir.

Q Now, you told him that he had been your Jailer?

A Yes, sir.

Q And you were very much interested in him?

A Yes, sir.

Q And you wanted him to get a good jury in this case?

A I told him to get a good, straight, honest Jury, regardless of anybody.

Q Well, he evidently followed your advice, didn't he?

A I think so, yes, sir.

MR. DARROW: We think so.

MR. HAWLEY: I say we ditto.

MR. DARROW: I say we think so.

MR. KNIGHT: Be sworn, Mr. Darrow.

MR. DARROW: Q and you afterwards saw him again?

A Yes, sir.

Whitney (Rec.) RD
C-17

Q You had seen Mr. Heitman in the meantime?

A Yes, sir.

Q Tried to engage him for the State?

A No, sir, I did not.

Q What?

A No, sir, I did not.

Q Talked with him about it?

A Talked with him about the case; he said he was engaged had been retained; he said he had been retained.

Q You went to him for that purpose?

A I did not go to him to employ him, no, sir.

Q Well, you talked with him about his employment by the State, didn't you?

A I talked with him, yes, sir.

Q That is why you went?

A It was one object, yes, sir.

Q And then when you found you could not employ him--

A (Interrupting) I did not ask him to employ him.

Q When you found he had been employed, that the State could not employ him, then you went to the Sheriff and told him that you thought that Mr. Heitman would be liable to use his influence with him to get the Jury his way?

A I told him--

Q (Interrupting) Is that the substance of it?

A I told him that Mr. Heitman had been frequently accused here, as he well knew, of helping select a Jury, sometimes rightfully and sometimes wrongfully, and, says I, "You stand out from under."

Q And you knew that when you went to Mr. Heitman in reference to employing him ~~by~~ by the State?

Whitney (Rec.) RM
C-1E

A No, sir, I did not go to see him with regard to employing him by the state.

Q Did you go to him with that in view at all?

A To employ him, no, sir.

Q Or to talk with him about it?

A I went there with that view, yes, sir.

Q Did you have a talk with the Governor about employing him?

A Yes, sir, I did.

Q And you told Mr. Heitman that you had urged the Governor to employ him, ~~had~~ didn't you?

A Yes, sir.

Q And you knew all about him that you know now or that you knew when you went to see the Sheriff the second time, didn't you?

A I don't know as I understand your question.

Q You knew everything about Mr. Heitman when you went to him with reference to his employment that you know now?

A Yes, sir.

Q Excepting that he was on our side?

A Yes, sir. I did not go to employ him, though.

Q Well, you have told us that. You talked to the Governor about it, and then you went and talked with him?

A I talked with the Governor about it, yes, sir.

Q And when you commenced talking with him he told you he had been employed, that is right, isn't it?

A Yes, sir.

Q And he could not talk with you; then you skipped over to the Sheriff's office?

Whitney (Rec) RX
C-19

A I saw the Sheriff; I did not skip over to the office.

Q Where did you see him?

A I saw him down on the corner of Mr. Heitman's place.

Q I guess we have got it about right, havent we all together. You say the reason you locked Adams up after the Writ of Habeas Corpus was served on you was so you could be sure to have him to take into Court the next day?

A Yes, sir.

Q You was afraid he would get out of the place where he had been stopping for three months?

A Well, he could have gotten out; the gate was open a great deal of the time.

Q You have guards there?

A Have guards there, but not over that particular department.

Q With guns?

A Yes, sir.

Q And he could not have got very far, could he?

A Well, he might; there has some of them got away.

Q But anyway, after he had applied for a writ of habeas corpus, you turned and locked him up in a cell, and your only reason was you were afraid he would get away?

A I locked him up so I would have him, yes, sir.

Q I say that was your only reason?

A Yes, sir.

Q You did not lock him up because you were mad?

A No, sir.

Q Did you go in and talk with him that night?

A No, sir.

Whitney (Rec.) RX
C-20

Q Did you take anybody else in to talk with him that night or the next night?

A How is that?

Q Did you take anybody else in with you that night?

A I dont recollect I did, outside of the captain of the yard, or one of the guards.

Q Do you remember what tier you locked him up in?

A I dont recollect the cell that he was locked in that night, no sir.

Q How long before that ~~may~~ had that man been hanged there? You say you did not go back to see Steve after he was put in the cell?

A I dont recollect of going back.

Q Didnt try to get him to change his mind?

A No, sir; I did not.

Q Did Mr. Hawley see him after that?

A I dont recollect that he did.

Q You say, do you, this time, that you kept him there; you kept him there at the request of the Governor and the Counsel?

A Yes, sir, and at his own request.

Q The request of the Governor and the Counsel, wasn't it?

A No, sir.

Q The Governor have anything to say about it?

A Why, yes, sir; he had something to say about it.

Q And the attorneys in the Meyer, Heywood cases?

MR. Hawley, Mr. Boarh and the rest of them?

A Yes, sir.

Q Do you remember the time, that I, (Mr. Darrow) together with some others, came with the papers to get an interview

Whitney (rec.) RX
C-21

with Steve?

A I recollect when you came up there , yes, sir.

Q Hadn't you just taken Mr. Hawley in to see him in advance of that time?

A I couldn't state whether I did or not; I dont recollect.

MR. HAWLEY: What are you referring to; that time?

MR. DARROW: The time that we applied for the habeas corpus.

MR. HAWLEY: You have been questioning him in regard to a subsequent time, and you are liable to get the witness confused or the Jury might be mislead.

MR. DARROW: Q I am referring to the time when the application was made for the writ of habeas corpus; didnt you take Mr. Hawley in to see Steve while he was in the cell just before I got up there?

A I dont recollect of taking him in.

Q What?

A I dont recollect whether he was there or not.

Q How is that?

A I dont recollect whether he was there or not.

Q Do you recollect taking him to the female ward just ~~aka~~ ahead of my arrival with the papers to see Adams?

A No, sir, I dont recollect it.

Q If you did, you have forgotten it?

A If I did, I have forgotten it.

Q Mr. Whitney, you and Mr. Heitman have always been good friends?

A Yes, sir.

Whitney RX (Rec)
C-22

Q Politically and socially and every other kind?

A Yes, sir.

MR. KNIGHT: What difference did it make whether Mr Heitman and Mr. Whitney are good friends, socially, political-ly or any other way? Mr. Heitman is not on trial, and I trust his personality will not influence this trial whatever, other than his duty as a lawyer.

MR. DARROW: Your Honor remembers what was brought out.

MR. HAWLEY: You brought it out at his instance yourself.

MR. DARROW: I asked this witness whether he had seen the Sheriff, that is all, and then he made the rest of the statement, to which I have no objection at all, and I am asking him whether they had been friends all of this time.

THE COURT: I am perfectly willing you should ask him that.

MR. DARROW: It does not seem to me it makes any difference one way or the other, but Mr. Heitman would like to have the question asked. Q That is right, isn't it, Mr. Whitney?

A Yes, sir.

Q You and Mr. Heitman have always been good friends in every way?

A Yes sir.

Q And are still, so far as you know?

MR. KNIGHT: We object; that is distracting the attention of the Jury to a question of friendship between the Ex-Sheriff of this County and prominent Counsel of the County.

Whitney (Rec) RX
C-23

Q Mr. Whitney, you opened Steve's mail and his wife's mail while they were there?

A Yes, sir.

Q Both the mail that came in and the mail that went out?

A Yes, sir.

Q And read it?

A Yes, sir.

MR. HAWLEY: Q You open the mail of everybody that is confined in the penitentiary and staying there, do you?

A Yes, sir; they have to sign an order to that effect when they come in there.

MR. DARROW: Q Every prisoner?

A Yes, sir.

Q If you have a visitor from Kootenai County, you don't open his, do you?

A If I had a visitor, I would not, no.

MR. HAWLEY: Q Any one that is temporarily placed in there for any purpose, you don't allow any mail to come in without it being opened, do you?

A She requested to come there and of course her mail was served the same as other people.

MR. DARROW: Q Did she sign an order to open her mail?

A I don't think she did.

THEREUPON, at 3:55 o'clock P. M., Tuesday, November 12, 1907, the Jury was duly admonished, as required by law, and retired in charge of officers duly sworn for that purpose, and Court took a recess until 4:05 P. M. o'clock Tuesday, October 12, 1907.

McParland (Rec.) D
C-24

THEREUPON, pursuant to the foregoing adjournment, the Jury came into court in charge of the sworn officers, and being duly polled all answered to their names, and the trial of this cause proceeded as follows:

MR. HAWLEY: Call James McParland.

JAMES MCPARLAND, Resumed the stand for further examination.

DIRECT EXAMINATION

BY MR. HAWLEY:

Q What is your name, sir?

A James McParland.

Q Where do you reside?

A In Denver, Colorado.

Q What is your business or occupation?

A Manager of the Western Division of the Pinkerton National Detective Agency.

Q Are you acquainted with the defendant, Steve Adams?

A Yes, I have met him.

Q When did you first meet him?

A About the 26th day of February, 1906.

Q Did you have any conversation with him upon that day?

A I did.

Q Did you have any conversation with him upon that day and the succeeding days, with reference to the killing of Tyler and Bouley in the Marble Creek country, in Shoshone County of this State. State yes or no.

McParland (Rec) D
C-26.

A I did.

Q What was your business at the time in Boise City at the time that you met Adams?

A I was investigating the murder of Ex-Governor Steunenberg.

Q At whose employment?

A Employed by Governor Gooding.

Q For the State?

A For the State.

Q Were you investigating anything else at that time, or employed to investigate anything else, except the Steunenberg murder?

A No.

Q At the time you saw Adams and had this conversation did you, or had you before that time, or did you at any time during the course of the series of conversations you had with him, offer him any inducement or reward, or promise him immunity of any kind, conditioned upon his stating what he knew in regard to matters connected with the Steunenberg murder?

A I did not.

Q Or with the killing of Tuler or Bouley?

A I did not.

Q Did you at that time, or at any of the times that I have mentioned, threaten him in any way?

A I did not.

Q Did you place him under duress?

A I did not.

Q Was any reward of any kind offered to him for testifying or making statements, at this time or any time?

McFarland (Rec) D
C-27

Q Where was this first conversation had, February 26th?

A In the room in the warden's office of the Bode Penitentiary, in the back room.

Q Who was present besides yourself and Adams?

A Well, the first day there was nobody present except Adams and myself.

Q The conversation upon the first day--or did you in any conversation upon the first day take up the matter of Tyler's and Bouley's killing?

A I did not, because I didn't know of Tyler and Bouley, but I took it, at least he informed me that he had been detailed to go to kill--

MR. DARROW: (Interrupting) Wait. I object.

Q No, you need not go into that at present.

Q How long did you talk with him on that first day?

A Oh, I think it commenced about nine o'clock in the morning and finished about five, somewhere in that neighborhood.

Q Had you any understanding after the first day's conversation, with reference to your seeing him again upon the succeeding day?

A He asked me to come back the next day and he would make a full statement, fetch a stenographer with me and take it down.

Q What time did you go to the penitentiary the next day?

A I got there probably a little before nine.

Q Who did you take with you?

A I took Mr. Hopkins, stenographer.

McParland (Rec) D
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Q Who was Mr. Hopkins stenographer for at that time?

A He was working for me.

Q Where did you see Adams on this occasion?

A In the rear room.

Q That is, the Clerk's room near the Warden's room
in the penitentiary?

A Yes, sir.

Q Was the statement that he made upon that day after-
wards extended into longhand?

A It was.

Q By whom was it so extended?

A By Mr. Hopkins.

Q Under your direction?

A Yes.

Q Did you see it after it was so extended?

A I did.

Q What became of that statement after it was extended
by Hopkins?

A If I remember exactly, I gave that to Mr. Thiele to
take to the penitentiary.

Q J. C. Thiele?

A Yes, sir.

MR. KNIGHT: S. C. Thiele.

MR. HAWLEY: Q Or S. C. Thiele, I mean?

A Yes, sir.

Q He was an employe of the Pinkertons at that time?

A Yes.

Q And assisting in Boise, in the work there?

A Yes, sir.

McParland (Rec) D
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Q Do you know what became of it, or did you see it after it was given by you to Thiele?

A Yes, the Warden subsequently fetched it back to me.

Q Warden Whitney?

A Yes, sir.

Q How long after did he fetch it back to you?

A I dont know whether it was--I could not exactly state; maybe the next day, and maybe a day or two afterwards, I dont know.

Q When it was brought back to you, you may state whether or not it was signed?

A It was signed and acknowledged.

Q By whom?

A Signed by Steve Adams.

Q Did you examine that after it was returned to you?

A I did.

Q What was its condition, outside of being signed and acknowledged?

A There was one or two little alterations made in it.

Q In what way, ~~signed or how?~~ Handwriting or how?

A There were two alterations in the handwriting, I think two; maybe there might have been more.

Q Did you afterwards ascertain how that was done?

MR. DARROW: You mean from Mr. Adams?

MR. HAWLEY: From Mr. Adams?

A I dont know that I made any inquiries, except that Mr. Adams in a subsequent talk said that he had made the changes; either made them or wanted to have them made, I dont know.

McParland (Rec) D
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Q Made these corrections (Handing witness paper)?

A Yes.

MR. KNIGHT: State's Exhibit 19 on the former trial.

THE COURT: You better have it marked over again.

The same was marked by the reporter, at the request of Mr. Hawley, "Second Trial, PLAINTIFF'S EXHIBIT No. 19 for Identification".

MR. HAWLEY: Q You may examine this document, marked Plaintiff's Exhibit No. 19 for identification and state what that is.

A That is the same document.

Q IS this the document that was extended and sent by you through Thiele and Whitney to Adams?

A It is.

Q Do you notice these corrections in there, or interlineations?

A Yes, sir.

Q Are those the same interlineations that Adams stated to you he had made?

A Yes, sir.

Q By correcting it?

A Yes.

Q State, Mr. McParland, whether or not in talking these matters over on the first day they were made by question and answer or in narrative form by Adams?

A Narrative form.

Q How was it about the matter on the second day?

A Questions.

Q Who asked the questions?

A I did.

Q And no one else present there, except yourself and the stenographer and Adams?

Mc Parland (Rec) D
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A That was all that was present.

Q These are the same questions and answers that were asked by you and answered by Adams on that day?

A Yes, sir.

MR. HAWLEY: We now offer this in evidence.

MR. DARROW: We object to it. I suppose it is the same one, Mr. Hawley?

MR. HAWLEY: Yes, sir; Mr. McParland has examined it. I have not seen it since the last trial. I see it is marked as Exhibit 19. If you make any question as to identification, we will introduce Mr. Hopkins.

MR. DARROW: No, I am not going to do that; I am satisfied about that. We object to the introduction of this on the ground that the evidence does not show this confession was made voluntarily, without fear, or without threat, or without promise or inducement, and that the evidence does show that it was made through fear and through threats and through promises and inducements held out to the defendant.

THE COURT: The objection will be overruled.

Defendant excepts and exception allowed.

MR. HAWLEY: I understand there is no objection on account of the lack of identification?

MR. DARROW: No objection at all on that.

MR. HAWLEY: This, Gentlemen, is State's Exhibit No. 19. (Reading):

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"Statement of Stephen Adams, made on Tuesday, February
 "27th, 1906, in the office of the Warden of the Idaho State
 "Penitentiary at Boise, Idaho, in the presence of James
 "McParland and W. B. Hopkins, the questions being marked "Q
 "and being asked by the said James McParland, and the
 "Answers being marked 'A' and being made by the said Stephen
 "Adams.

"In re murder of Ex-Governor Steunenberg of Idaho.

" "Q What is your name?

"A Stephen W. Adams.

"Q Where were you born?

"A I was born in Jackson County, Missouri, in 1867.

"Q What was your nearest town?

" A Pleasant Hill.

"Q Do some of your people reside there yet?

"A Well, I think I have an aunt and a brother and some
 "cousins there yet. To the best of my knowledge they are
 "still there.

"Q How many of a family were there of you?

"A Three boys and father and mother.

"Q What were the boys' names? that is, your brothers?

"A Joseph Schmich and William Thomas.

"Q Where does Joseph reside?

"A I had a letter from him a short time ago at Crede,
 "Colo.

"Q Where does William reside?

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"A In Crede, at Bachelor Camp.

"Q Have any sisters?

"A No, sir.

"Q Your parents are dead?

"A Yes, sir.

"Q What is your occupation?

"A At present it is farming.

"Q Follow any other occupation?

"A I have been a miner and worked in the mines.

"Q Where did you work in the mines?

"A At Cripple Creek, Telluride and above Silverton.

"Q When did you first come to Colorado?

"A To the best of my knowledge, between 1898 and 1900;

"I do not know just what year it was. I have my Union cards that can be referred to, and can tell pretty nearly the date from them. They are up at my house near North Powder, Oregon.

"Q You are a member of the Western Federation?

"A Yes, sir, I have got a card up to 1906.

"Q When did you join?

"A I joined when Dan McGinley was Secretary at Altman.

"Q Who was President at that time, if you remember?

"A To the best of my knowledge, Judge Cooper was.

"Q About what year was it that you first joined the

"Union?

"A I think I had been in Cripple Creek one year when I joined, or about that.

"Q Was Cripple Creek the first place you came to when you came to Colorado?

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"A Yes, sir, I came direct to Cripple Creek. I had some letter from my brother Joe, who wrote me from there, and I bought a ticket for Cripple Creek.

"Q Had you worked in the mines in any other place before you went to Cripple Creek?

"A No, sir.

"Q How long have you resided in Oregon?

"A I came there, to the best of my knowledge, in August 21905.

"Q Where did you come from when you went to Oregon?

"A Park City, Utah.

"Q Will you state as to whether or not during the time you were in Colorado you got acquainted with Charles Moyer, Williad D. Heywood and George A. Pettibone?

"A Yes, sir, I did.

"Q When did you first get acquainted with these people?

"A The summer following Arthur Collins' assassination at Telluride.

"Q You were intimately acquainted with the right along after that up to the time you left Denver?

"A Yes, sir, ~~and I have not seen them since.~~

"Q During the time that you were acquainted with these men, did you ever have any conversation with them in reference to the assassination of Ex-Governor Steunenberg of Idaho?

"A They told me to go to Idaho and see Jack Simpkins";--

MR. DARROW: I guess you are not reading the right one.

MR. HAWLEY: I am reading exhibit 19.

MR. DARROW: Pass it to me, please.

(Mr. Hawley hands Mr. Darrow the paper requested.)

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MR. HAWLEY: If it is not the right one, we want to find it out right now.

MR. DARROW: It was not read into the record at that time; yours is right and the record is wrong here.

MR. HAWLEY: The record is very likely to be wrong.

MR. DARROW: I don't know as the original was a correct copy. Excuse me for calling your attention to it.

MR. HAWLEY: All right; call my attention to it; anything that is not right.

MR. DARROW: I have no doubt that that is right that is being read, that is, that that is the original document.

MR. HAWLEY: (Resumes reading)

"Q During the time that you were intimately acquainted with these men, did you ever have any conversation with them "in reference to the assassination of Ex-Governor Steunenberg "of Idaho?

AA They told me to go to Idaho and see Jack Simpkins; "that he wanted to see me on some business in regard to "Steunenberg, and that I would meet him near Wallace, Idaho, "at Wardner, I believe.

"Q No, we want to be as particular as possible in this.

"A Yes, sir.

"Q When did this talk about the assassination of Steunen- "berg first occur?

I saw Simpkins which was shortly after the
"A Shortly after [^]the dynamiting of the depot at Inde- "pendence.

"Q That would be in 1904?

"A Yes, sir; to the best of my knowledge it was about "a month after that when I started up there.

"Q That would be in July, 1904?

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"A Yes, sir; I think that is about the time.

"Q Where did this conversation occur with these men?

"A In George Pettibone's back room.

"Q Who was present?

"A Heywood and Pettibone.

"Q What was said, if you remember?

"A They just told me to go up and see Simpkins, as he "wanted to see me, and he would probably tell me about the "Steunenberg matter, as they wanted to get Steunenberg."

MR. WOURMS: We would like to see that.

MR. HAWLEY: Certainly. (Handing same to Counsel).

I will re-read this, gentlemen; there seems to be a question as to a word being omitted. (Reading)

"A They just told me to go up and see Simpkins as he "wanted to see me, and he ~~told me~~ ^{told} ~~would probably tell me~~ "about the Steunenberg matter, as they wanted to get "Steunenberg.

"Q Did they say they wanted to get him killed or just "say they wanted to get him?

"A ~~They just~~ ^{Simpkins} said they wanted to get him.

"Q Was Moyer present at any of this conversation?

"A No, sir, he was not.

"Q Where was Moyer?

"A I can not tell you where Moyer was at that time; "it seems to me, though that he was in jail at Telluride.

"Q Now, in pursuance of that, did you get any money?

"A They gave me two hundred dollars to go up there on.

"Q Who gave you the money?

"A George Pettibone.

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"Q Was Heywood present?

"A Pettibone went over to Heywood's and got the money ,
"at least, he told me so. He told me to wait until he
"went over and got it.

"Q Did they say anything as to the best manner in which
"to remove Steunenberg?

"A No, sir, they did not.

"Q Did not give you any directions?

"A No, sir; it was understood I was to use my own
"judgement.

"Q Did you see Heywood before you started after Petti-
"bone gave you the money?

"A No, sir.

"Q Did you go direct from Denver to Wardner?

"A No, sir; I stopped at Granger and then I went to
"Wallace, Idaho, and then up to Burke first.

"Q Whom did you see at Burke?

"A I saw St. John, and a fellow named Griffin.

"Q Did you have any talk with them about the Steunen-
"berg matter?

"A No, sir.

"Q How long did you remain in Burke?

"A Well, I went down to Wallace the 4th of July, and
"on the night of the 4th I went back up to Burke, stayed
"there all night, and the next day went back down to Wallace
"again; and when I got down there I went down to Wardner
"and met Simpkins. I went to his house and found him in bed
"when I got there.

"Q Did he get out of bed?

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"A No, I did not see him at all; I talked to him through
"the window.

"Q What did you say to him?

"A I told him I came down to see him if he was there.
"He said: 'All right, I'll see you in the morning.' I
"told him not to mind getting up, as I would go down to the
"boarding house and stop there for the night, as it was
"getting late. He said he wanted me to go up to his timber
"claim with him in the morning.

"Q Did you meet him in the morning?

"A Yes, sir.

"Q Where?

"A I went up to his house and had breakfast with him.

"Q He knew you before?

"A Yes, sir, met me in Denver.

"Q Did you take the Steunenberg matter up with Simpkins?

"A Yes, sir.

"Q What was the conversation, if you remember?

"A He said he would write that day and get some money
"and would go down with me on the Steunenberg case.

"Q Did he write to Denver?

"A Yes, sir.

"Q Did he get any money?

"A That is something I dont know, but Pettibone told
"me afterwards that he sent the money to Ed. Boyce, three
"hundred dollars, but I left there before the money came.

"Q How long did you stay at Wardner?

"A I was not in Wardner except that night before I went
"up to his claim with him.

"Q Where were the claims located?

"A Up on the St. Joe River, above the head of navigation

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"about fourteen miles; that is about as near as I can tell
"you.

"Q By what route do you get there?

"A I went to Harrison, and from Harrison went to the
"head of navigation on a boat, and from there we walked to a
"place called The Meadows, crossed the mountain trail, and ~~at~~
"after getting some groceries, packed on in six miles; walked
"all the way.

"Q Did you meet anybody there from near these claims
"that you were introduced to?

"A I met some settlers, one named Albert Mason.

"Q Any one else?

"A Yes, sir.

"Q Who?

"A A man named Rae.

"Q Know his first name?

"A I do not believe I do.

"Q Is he the one known as 'Wall eye'?

"A I dont know. I met a man named Nute Glover who has a
"cock eye.

"Q He was a settler?

"A Well, he had a claim down the river further. There
"is a man there running a store named Price.

"Q Did Price seem to know Simpkins?

"A Yes, sir.

"Q Was he friendly to him?

"A Yes, sir.

"Q Know where Price came from?

"A No, sir, I do not.

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"Q Now, what did you do up there?

"A There was some jumpers in there, and it seemed as though they were trying to take these settlers' claims away from them; and Simpkins said if I helped him to get rid of these fellows he would give me three hundred dollars.

"Q Was that said to yourself personally, or was any other person present?

"A To myself personally.

"Q You agreed to help him?

"A I told him I would go up and see what could be done.

"Q Now, in carrying out that agreement, what was done?

"A Two of these men were killed.

"Q Who assisted in the killing of these men?

"A Nute Glover, Jack Simpkins and myself.

"Q Mason was not in it?

"A Mason and Glover were with me when the first man was killed, but Mason did not do any killing.

"Q What was this first man's name?

"A Tyler.

"Q How was he killed?

"A By a shot from a Winchester, 25-35.

"Q Where was Simpkins at that time?

"A He was in Wardner.

"Q This man Tyler was on Simpkins' claim?

"A Yes, sir.

"Q How did you carry out the murder of Tyler?

"A We went in one night, Nute Glover, Albert Mason and

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"myself, to Simpkins' cabin, made some coffee and had
"breakfast, and in the morning we went over to try to
"catch Tyler at his cabin on Jack Simpkins' claim. He was
"gone, so we layed there until about sundown. He never
"returned, and we started up to a spring, and while we were
"drinking, we heard some one coming. I said, 'All right,
"I am glad of it'. I got my Winchester, and standing by
"the side of the trail, never moved. I saw it was Tyler
"coming. He had a big gun buckled on him. I stepped out
"on the trail and told him to throw up his hands. We
"disarmed him, took him to Simpkins' cabin, stopped there
"until morning, had breakfast there, took him three miles out
"into the timber the next morning, and I killed him.

"Q The three of you were together all the time?

"A Yes, sir.

"Q What was done with the body?

"A It was left lying between two logs.

"Q Where did Tyler say he came from?

"A He did not tell me.

"Q Who did he say placed him on that claim?

"A A fellow named Lewis, a banker, I think, from
"Spokane; but I can not say positively about that.

"Q After that, what occurred?

"A I went down and met Simpkins at Harrison, and told
"him what I had done; that he did not have any jumper left
"on his claim. 'Well', he said, 'after we rest a while,
"we'll go back in and get the rest of them fellows off

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"those other claims'. In about a week or thereabouts, or
"probably two weeks, we went back up in there, and met a
"fellow named Bouley and another man coming down the trail
"near Simpkins' cabin. We opened fire on them, killing
"Boley; Jack Simpkins, I and Nute Glover. There was
"another man with us at the time, whose name I do not
"know.

"Q Did Simpkins fetch the other man? or who fetched
"the other man?

"A He met us on the trail as we went in.

"Q Did Simpkins seem to know him?

"A Yes, sir.

"Q Glover knew him?

"A Seemed to.

"Q Was Mason with you at that time?

"A No, sir.

"Q How did it happen the second man got away?

"A We missed him; he was dodging. We shot at him.

"Q What did you do then?

"A We went back down the river to Glover's ranch.

"Simpkins went down to Mason's.

"Q Where did the other man go?

"A He left us on the way out. We separated up in the
"hills as we were going out.

"Q How did you get out of there?

"A We walked to the river and out across through the
"timber to the St. Joe River, got a canoe and went down the
"river

"Q Who gave you the canoe?

"A It was on the bank and we took it. It was close
"to some house; I don't know who lived there.

"Q Where did you make a landing?

"A We landed above Glover's ranch, about a mile I
"guess or thereabouts, turned the boat loose and let it
"go on down the river, and we went to Glover's ranch.

"Q How long did you stay there?

"A I stayed there until the Sheriff came in from
"Wallace and made an ~~investigation~~ ^{investigation} on these men, and then we went
"back up in and blew up the jumper's cabins all except one.
"We blew up three, I think, two or three any way.

"Q Did the Sheriff find both of the bodies?

"A No sir.

"Q Did he find any of the bodies?

"A He found Bouley, who was right by Simpkins' cabin.

"Q Did you see the Sheriff?

"A I did not; but Simpkins did.

"Q What did he say to the Sheriff?

"A I don't know.

"Q The Sheriff did not accuse him of it?

"A No, I don't think so; not that I know of.

"Q What County was that in, do you know, where
"was the County seat?

"A No sir, I can't tell you.

"Q After this was over, did you get the three
"hundred dollars from Simpkins?

"A I did not.

"Q What excuse did he give?

"A He said all the settlers agreed to help pay it,
"but they did not come in with the money. I got a
"hundred and twenty dollars. Mason gave me a hundred dollars,

Archives
University of Colorado
at Boulder Libraries

"and Simpkins gave me twenty dollars when I left.

"Q I suppose Mason is there yet?

"A I expect likely he is, as he is a man with a
"large family. I will say this in behalf of those people
"up there. It seemed like there was a rich man trying to
"rob them of their claims; this man Lewis whom I have pre-
"viously mentioned. Tyler told me that Lewis was to
"furnish them money to hold them up there on these claims
"until they could take them away from these settlers,
"and then he was to give them half and he was to get half in
"return.

"Q Were these claims timber claims?

"A Yes sir, they had timber on them, good timber.

"Q After this affair was over, where did Simpkins
"and you go to?

"A I left Simpkins up at Mason's and went back to
"Denver.

"Q Why did you go back to Denver without tending
"to the Steunenberg matter?

"A They never sent the money, or had not up until
"that time, and I was not going down there broke.

"Q Did you tell Simpkins that you were going back
"to Denver?

"A Yes, sir; I got a letter from my wife. I had
"been gone six or seven weeks from Denver. This was in
"1904, I think.

"Q In parting with Simpkins was anything said
"about the money?

"A He told me he would go down with me after he got
"the money, but he did not get the money; instead of
"sending the money to him at Gorden they sent it to
"Ed. Boyce, and it was not received up to the time I left.

"Q Did Simpkins write them?

"A Yes sir,

"Q Did you see him write?

"A yes sir.

"Q Whom did he write to?

"A He wrote to Pettibone.

"Q Do you remember the substance of the letter?

"A No sir, I do not.

"Q Where was he when he wrote this letter?

"A We were up at his cabin in the woods. We were working this claim, clearing up some of the ground. I wrote a letter to my wife same day.

"Q Did you have paper etc. with you?

"A Yes sir.

"Q Who had that, Simpkins or you?

"A Simpkins.

"Q Was this letter written with pen or pencil?

"A I think it was written with a pencil, but am not quite positive.

"Q How long did you wait for the answer to that letter?

"A I was there altogether about seven weeks, and this was written pretty soon after I went in there. It was probably three or four weeks before I came away that this letter was written.

"Q In returning, by what route did you return to Denver?

"A I went to Alliance, Nebraska, and went over the Burlington from there down.

"Q How did you get to Alliance?

"A I think it was over the Burlington.

"Q Where did you take the train?

"A In Spokane. I went to Coeur d'Alene City on a boat,

"took the electric railway from there to Spokane, then
 "bought a ticket to Denver by way of Alliance, Nebraska,
 "and arrived in Denver on the Burlington.

"Q What time of ^{year} night was that?

"A I think it was in August or September, 1904,
 about seven weeks from the 4th of July anyway.

"Q On arriving in Denver did you see Moyer,
 "Haywood and Pettibone, or either of them?

"A I went direct to Pettibone's store. My wife had
 "moved and after I went to where she had been and found out
 "she had gone I went to Pettibone to find out where she
 "was. He told me she was on South 13th Street, where I
 "found her.

"Q You do not remember the number?

"A It was in the 4's.

"Q Between 4th and 5th Avenues?

"A Yes, sir, I think it was.

"Q Whom was she living with then?

"A Arthur Baston and his family.

"Q Know how Baston spells his name?

"A It is Baston, I think; I have one of his cards
 "some where.

"Q Did you talk to Haywood about the Steunenberg
 "murder when you arrived there?

"A No sir. Pettibone wanted to know if we got the
 "money, and I told him no.

"Q What did he say about the money?

"A He said they sent it to Ed. Boyce.

"Q Do you know what way he sent it, by check, or how?

"A No sir.

"Q Did he ever tell you that the money was returned?

"A He said they were going to write and have it
 "returned.

"Q When did you see Haywood after that?

"A I saw him a short time after that, not very long,
"just a few days.

"Q Did you take up the matter of Steunenberg with Hay-
"wood again?

"A Yes, sir; he told me they had sent the money up there.

"Q Did he say why they did not send it to Gordon?

"A He said they forgot the name of the place.

"Q Both Pettibone and Haywood said that?

"A Yes, sir.

"Q Did they say anything about you going back to carry
"out this matter of murdering Steunenberg?

"A No, sir.

"Q Did not tell you that they had sent somebody else to
"do it?

"A No, sir.

"Q You did not see Harry Orchard when you came back?

"A No, sir; I heard he was not there.

"Q Did you inquire about him?

"A Yes, sir, I asked where he was, and Pettibone told me
"he was in California.

"Q Did not say where?

"A No, sir.

"Q Did you ever have any talk with Moyer at any time
"upon that matter?

"A No, sir.

"Q Just Haywood and Pettibone?

"A Yes, sir.

"Q When you returned was Moyer out of jail?

"A I cannot tell you whether he was or not.

"Q Did you ever see Jack Simpkins from that time up to
the present time?

"A Yes, sir.

"Q Where did you see him?

"A I saw him in Denver.

"Q You never knew why it was that the assassination
"of Governor Steunenberg was postponed at that time?

"A No sir, I never found out.

"Q Did anybody suggest that it should be done at some
"other time?

"A No sir, it was dropped so far as I know.

"Q Did you ever discuss the matter of going up after
"Steunenberg with any other person except Haywood and Pettibone?

"A No sir, never did; did not know that it was
"going to be done until I got up there and saw Simpkins.

"Q But they did not tell you they wanted to get
"Steunenberg?

"A Yes sir, *I heard them speak of it in a general way*

"Q Did they say the reason why they wanted to
"get him?

"A Yes, sir.

"Q What were the reasons?

"A On account of the stand he took in the
"Coeur D'Alene strike.

"Q Did they say how much money there would be in it
"for you if the job was done?

"A No sir, they did not say as to the amount.
"We had an understanding as to these things beforehand.
"There was always supposed to be a thousand dollars in a job.

"Q During the time that you were waiting for the
"money from Pettibone while up on the claims did Simpkins
"and yourself discuss as to how Steunenberg should be removed?

"A No sir, he did not seem to care how.

"Q Never said whether it should be by a bomb, a gun
"or what?

"A No, sir; he did not say.

"Q Did he say he was going to go down with you?

"A "A yes sir; he said he would get them jumpers off
"the claim and would both go down and get Steunenberg
"out of the way.

"Q Referring back to the time that you were detailed
"on the Steunenberg matter, would ask you if afterwards you
"ever talked to anybody about this?

"A No sir.

"Q Did you not tell Harry Orchard about it?

"A Well, I don't think I did. I might have referred
"to it, believe I did tell him about it and about the money
"etc. He knew about the money and asked me what was the matter
"I did not do the work. This was after he came back from
"California. That would be in November or about the first of
"December, 1904.

"Q Have you any idea where Simpkins is at the present time?

"A Well, it will only be a guess with me, Mr.
"McParland. I think the place he is most likely at would be
"up where his timber claim is with this "Wall eyed" man in
"the woods.

"Q In the many talks you had with Simpkins did he ever
"tell you where he came from or where he had any relatives?

"A No sir.

"Q What is the county seat of Jackson County, Missouri?

"A Liberty, I think. Jackson County is where the
"James boys, Jesse and Frank and the other brothers, were
"born and raised.

"Q In the matter of your being detailed to assassin-
"ate Ex-Governor Steunenberg in 1904, about what time did you
"return to Denver?

"A It must have been about the early part of September,
"to the best of my knowledge.

"Q Did you ever have any conversation with Moyer,

"Haywood or Pettibone, or either of them on that subject after you returned to Denver?"

"A Yes, sir.

"Q Where did this conversation take place?"

"A I talked with Pettibone in ^{his} store. I saw Haywood about it some time after that, also in the back of Pettibone's store, but what day and date I can not say; but I saw Haywood within a few days.

"Q What talk did you have with Pettibone?"

"A He told me that he forgot the name of the post office, which was Gordon, and therefore sent the money to Ed. Boyce with instructions to give it to Simpkins.

"Q Did Pettibone subsequently tell you that the money had been returned to him?"

"A He said he would send for it and have it brought back to Denver.

"Q Do you know whether or not it was ever returned?"

"A I do not.

"Q Did you subsequently talk with Haywood about this?"

"A Yes; he also told me that this money had been sent.

"Q Did he say why he did not send it to Gordon as you had directed?"

"A He said Pettibone forgot the place to send it to, was the reason I did not get it.

"Q Was this matter ever discussed, the matter of the Steunenberg assassination, in the presence of Moyer at any time?"

"A Not to my knowledge. Not that I remember of, although it might be that it was and that I have forgotten, but I would not say positively that it was.

"Q In making the statements that you have made on the different outrages perpetrated at the command of the

" Inner Circle of the Western Federation of Miners,
 " more especially Moyer, Haywood and Pettibone, was there any
 " force or coercion used to get you to make these statements?

" A No sir.

" Q Was there any promise of immunity or reward
 " made by James McParland, or anybody else, to you in order
 " to get you to make these statements?

" A No sir.

" Q Then these statements were made of your own
 " free will?

" A Yes, they were.

" Q Then why did you make these statements?

" A I felt it a duty I owed to my family, my friends
 " and brother workmen, the state and God. I wanted to
 " live a new life, and thought this was the best way to
 " commence.

" Q You had seen through the fact that the Executive
 " Board, or at least a portion of the Executive Board, of
 " the Western Federation of Miners, had used you as a tool?

" A Yes, sir, and I hope that the reign of terror
 " inaugurated by Moyer, Heywood and Pettibone and other
 " members of the Executive Board of the Western Federation
 " of Miners will cease.

" State of Idaho)
 " County of Ada) ss

" Stephen W. Adams, being first duly sworn, says,
 " that the above and foregoing questions were asked him by
 " James McParland, and answered by him, the said Stephen W.
 " Adams, in the office of the Warden of the Idaho State
 " Penitentiary at Boise, Idaho, on the 27th day of February,
 " 1906; that he has carefully read over the above and
 " foregoing questions and answers thereto, and corrected the

"same, and that the above questions and answers are true
"and were made by him of his own free will.

"(Signed) Stephen Adams.

"Subscribed and sworn to before me
"this 6th day of March, A. D., 1906.

"(Signed) Geo. C. Heubener

(Notarial Seal) "Notary Public, Ada County, Idaho.

"Witness:

"(Signed) E. L. Whitney."

MR. HAWLEY: Take the witness.

THE COURT: (To Mr. Darrow.) I suppose you rather
I would adjourn at this time?

MR. DARROW: Yes, sir.

MR. HAWLEY: There may be another question or two
that I would like to ask the witness.

MR. DARROW: Very well.

At this time the Jury was duly admonished, as required
by law, and retired in charge of officers duly sworn for
that purpose, and Court adjourned until Wednesday, November
13th, 1907, at 10:00 o'clock A. M.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF
KOOTENAI.

STATE OF IDAHO,

Plaintiff,

vs

Steve Adams,

Defendant.)

No. 194

WEDNESDAY MORNING, NOVEMBER 13, A. D., 1907

MORNING SESSION.

At this time, the Defendant being in Court with his counsel, present as before, the record of Tuesday's Proceedings were read and approved, and the following proceedings were had herein, to-wit.

THE COURT: Call the Jury.

THEREUPON, the Jury came into Court in charge of the officers, and being duly polled, all answered to their names and the trial of this cause proceeded as follows:

JAMES McPARLAND,

Resumed the stand for further examination.

MR. HAWLEY: You may take the witness.

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CROSS EXAMINATION

BY MR. DARROW:

Q Mr. McParland, you say you are a detective and have been for many years?

A Yes, sir.

Q You were born in Ireland, I believe?

A I was.

Q And when did you come to America?

A Well, I sailed in and out of America. The first time that I came to the United States was, I guess, about 1857.

Q You said you were born in 1840; is that the year?

A I think it was 1839.

Q So you were eighteen the first time you came here?

A Yes.

Q You were a sailor during the younger period of your life?

A I was.

Q Before the mast?

A Yes, sir.

Q How many years?

A Probably thirteen.

Q After that you worked in stores?

A How?

Q After that you were employed in stores and different places?

A Yes, for a little while.

Q What were you doing just before you became a detective?

A I had been a coachman.

McParland (Rec) X
A-3

Q How long?

A Five or six months.

Q Whereabouts?

A Chicago.

Q How long had you been living in Chicago?

A Some couple of years, I guess.

Q When did you first become a detective, or become associated with a detective association?

A In '67.

Q With what one?

A What?

Q With what association?

A Bobine & Felker.

Q Where were they located?

A In Chicago.

Q What was the character of your business with them?

A Doing general detective work.

Q How long did you stay with them?

A Oh, about a year and a half, I guess.

Q Then what did you do?

A Then I went to work at the Pinkerton Agency.

Q That would be about the year 1869?

A Well, I guess it was ahead of that.

Q Well, nearly forty years ago, anyhow?

A Yes.

Q The dates are not very material to us, if they are not to you, on that. And you have been with them ever since?

A Yes.

Q So that the major part of your life you have been a detective?

McParland (Rec) X
A-4

A I have.

Q Ever since you were twenty-seven or eight years old, somewhere along there?

A Well, I dont know exactly the date.

Q What kind of work did you do with the Pinkertons first?

MR. HAWLEY: We object to all of this as being incompetert going into these particulars; not that we have any desire to conceal anything, but it serves no purpose; it is irrelevant and immaterial.

THE COURT: Cut it as short as you conveniently can.

MR. DARROW: I shall, your Honor.

THE COURT: I shall overrule the objection.

MR. DARROW: I suppose the history of any witness is important.

MR. HAWLEY: We don't object to that, but it looks to us consuming time upon immaterial matters.

MR. DARROW: I will make it very short.

Q What sort of work did you get into first with the detective agency?

A I don't quite remember; Oh, shadowing, I guess, was the first.

Q That is, watching people, where they went, and reporting on them?

A Yes.

Q That is, being a man's shadow; going around where he goes; following him?

A Yes.

Q Do you know how long you were a shadow?

A I have done more or less of that when occasion required

McParland (Rec.) X
A-5

it for many years.

Q Stopped that lately, I suppose?

A How?

Q You stopped that for a number of years, yourself, I suppose?

A Oh, yes.

Q How soon did you become an official of the organization?

A In '87.

Q What was your position then?

A I was Assistant Superintendent for a couple or three months before I became Superintendent.

Q And you became Superintendent, then, in about 1887?

A Yes.

Q Of what office?

A Denver.

Q And after that you got still further promotion?

A Yes.

Q What was that?

A Became General Superintendent of the Western Division.

Q When did that occur?

A Oh, about '92, 1892.

Q In your business as a detective you have had a great deal to do with confessions, haven't you?

A Yes, considerable.

Q You have obtained a great many of them?

A I have.

Q Mostly in jails and prisons?

A Sometimes; sometimes outside.

Q I suppose mostly in jails and prisons?

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A Well, I could not say that.

Q You think you have got just as many outside, do you?

A I do.

Q Where the man was not confined?

A Yes, I think I got more.

Q Can you recall any particular ones you got outside?

MR. HAWLEY: We object to that, irrelevant, incompetent and immaterial; not pertinent to the issue; not proper cross examination.

MR. DARROW: I don't think I ought to be hampered in a fair cross examination of this witness.

MR. HAWLEY: No hampering about it, if your Honor please. There is certainly a limit to everything. They are allowed to go into these matters, why? Simply to cast discredit, if possible, on something. Now, to go into particulars, that has never been permitted, unless it is something connected with the case. According to the theory of Counsel, if they desire to examine into these matters, dehoers the record entirely, so far as the real case is concerned, they would be privileged to do it. I submit it as a matter of law that while an examination of this kind would not be tolerated at all except in case of a particular witness; but in case of a witness under the circumstances such as this, I think it should be gone into in a general way. But then to go into the particulars, to go into the minutae to try to develop something that perhaps would find a lodgment in the prejudice of the witness, in the mind of some one of the Jury, is something that I urge your Honor is not admissible; that it is not legitimate cross exami-

McParland (Rec) X
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nation; can not affect the witness' credibility as a witness; but the only object that is sought and the only object that could be attained would be, as I said before, perhaps to prejudice some Jurymen against the witness on account of some outside matter not connected with this case, but that has happened in the course of his career.

So I submit, that while this matter can be gone into in a general way and these general questions asked, that they have absolutely no right to go into any particulars.

THE COURT: I am going to allow very considerable latitude, but I hope you, Mr. Darrow, will be as sparing as possible of the time of the Court, as it is limited.

MR. DARROW: I will promise to take not over half the time that was taken before.

THE COURT: Objection overruled.

MR. DARROW: If Mr. Hawley will not criticise me too much, I think I will be through by noon.

THE COURT: Mr. Hawley's objection is pertinent, and I think pretty well taken, too, but I am going to be a little more liberal than usual.

Last question read by the reporter as follows: Can you recall any particular one that you got outside?

MR. DARROW: Outside of confinement?

A Yes, sir; the confession of Livingston, in Wisconsin.

Q Was he not a prisoner at the time?

A He was not a prisoner at the time.

Q What was he?

A He was a hold-up.

Q And not under arrest?

McParland (Rec.) X
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A And not under arrest.

Q Do you think of any other?

A Yes.

Q Who?

A The confession of Archer.

Q Orchard?

A Archer, Columbus, Kansas, for arson.

Q Arson?

A Yes, sir.

Q He came into your office and confessed?

A Didn't have an office.

Q Came to you and confessed?

A I sent for him.

Q You had him in your presence?

A I had him in my presence.

Q I suppose you did the other man, too?

A Yes.

Q Can you tell about how many confessions you have obtained in your business?

A I could not.

Q Went up into the hundreds?

A I dont hardly think so.

Q Ever fail to get one when you went after it?

A Not if the party was guilty, I never failed that

I know of.

Q Ever fail when they were innocent?

A Invariably.

Q You have failed, then, when you have tried to get it?

A Invariably.

Q Well, you have failed, I say, when you have tried to

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get a confession?

A Yes, when I tried to get a confession from an innocent man.

Q You have tried that?

A I have, considered that he was guilty until I talked with him.

Q You could not give us an estimate of how many you have got?

A No, I could not.

Q And you say you never failed to get one from a guilty man?

A Never.

Q And the fact that a man gave you a confession was proof to you that he was guilty?

A Very conclusive proof.

Q That satisfied you, at least?

A Yes.

Q Whether it did the courts or not. You were a detective in the Molly Maguire case, were you not?

A I was.

Q When did you operate down there?

A From '73 to '76.

Q When?

A 1873.

Q Did you become a member of their organization?

MR. HAWLEY: I object as irrelevant, incompetent and immaterial; not pertinent to the issues; and not competent cross examination. Now, your Honor, I repeat what I said before that there can be but one object and one purpose in an examination of this kind, and that is to develop some

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member of the Jury toward the witness and towards some statement that he will make, on account of his connection with certain matters. I ask, in all seriousness, what object could there be in lugging into this case matters of this kind; why the minutia should be entered into in any affair with which he has been connected in his business as a detective can not be explained upon any logical ground or upon any tenable position that can be taken in a court of justice, and I submit to your Honor that there is no rule of evidence, and no principle of evidence, that will permit these matters to be gone into. Why could it be done? What object is there in it? Is it to test the memory?

MR. DARROW: No, it is not.

MR. HAWLEY: What purpose has it?

MR. DARROW: I will tell you when we get through.

MR. HAWLEY: I will take the answer now. I think I am entitled to it; I am opening this and I am entitled to know.

MR. DARROW: To show what kind of a man he is and how he does his business.

MR. HAWLEY: To show what kind of a man he is and how he does his business?

MR. DARROW: Yes, sir.

MR. HAWLEY: Is that a legal excuse for offering it? He is a detective. His business is to do certain things. They can ~~enquire~~ enquire in a general way; they can go into these matters, but they can not select a particular case or a particular statement and go into the details. It is not permissible. I say again that there is no rule of evidence

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that will permit it, that would countenance it, or even squin^d in that direction. They can not impeach him in that way; as suggested, there is no object in it except to build up this feeling of prejudice, and to make an argument on it; that is the only object that could be gained, the only object that could be sought in these matters; and, therefore, again we protest against it and make our objection to any such course of cross examination.

MR. DARROW: Your Honor, this is the chief witness of the State.

THE COURT: I don't think I will listen to you, Mr. Darrow, I think I shall overrule the objection, but I do wish you to make it as brief as you can.

MR. DARROW: I will do that. This whole matter was gone into before.

MR. HAWLEY: We will make the objection, and ask to have an exception allowed.

THE COURT: Exception is allowed.

MR. HAWLEY: I would like to have the whole thing taken under objection.

THE COURT: Very well.

A I did.

MR. DARROW: Q How long were you a member?

A For about two years and a half.

Q Sending reports constantly of what was going on at their meetings?

A I did.

Q Making observations?

A Yes.

Q That organization was the Ancient Order of Hibernians?

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A It was not.

Q Was not that the name of it?

A It was not.

Q What was the name of it?

A It was known as the Molly Maguires.

Q I didn't ask you what it was known as, sir.

A That was the name.

Q Did it have a charter?

A Not that I know of.

Q Did you spend all of this time and join it without knowing whether it had a charter or not?

MR. HAWLEY: I object to this argument on these immaterial matters. He is bound by the witness's answer.

THE COURT: Objection sustained.

Q Do you know whether it had a charter?

A Not that I know of.

Q Did you have any certificate of membership?

A I did not; there was no certificates issued.

Q Didn't have anything in writing or printing?

A No, sir

Q And never did have?

A No sir.

Q So you never saw what the ^{name} ~~name~~ of it was: is that right?

A I knew the name of it.

Q I mean the charter name.

A I don't know of any charter.

Q And you spent three years with them?

A Yes, sir.

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Q You went there and joined the organization for the purpose of reporting to the Pinkerton Agency in reference to crimes that you supposed were being committed in the anthracite region; is that right?

A Not exactly right, Mr. Darrow.

Q You went there and joined the organization for that purpose?

A I went there for the purpose of discovering whether this organization was guilty of crime or not.

MR. HAWLEY: We object to it as incompetent, irrelevant and immaterial and not proper cross-examination. We object to this line of questioning.

THE FURNUPON counsel got into a controversy, and both counsel apologized.

THE COURT: I will listen to Mr. Hawley first and Mr. Darrow afterwards.

MR. HAWLEY: My objection is that this line of evidence is entirely immaterial and not proper cross-examination, and that counsel, in asking these kind of questions is bound by the answers of the witness, because they are upon immaterial matters. He cannot be permitted to build up a house of cards and blow them over with his breath; if he asks these questions and develops something that does not suit him he is bound by it; it is not proper cross examination; it is not upon anything that was brought out upon direct examination.

MR. DARROW: I ask the witness substantially did you go down for this purpose, which question he could answer yes or no; instead of that, he undertakes to tell what he went down for. This I say he cannot do and bind us

MR. HAWLEY: He is not cross-examining upon this point. It is not cross-examination; he is going into new matter; therefore, under the rule of cross-examination, I say he is building up a house of cards to blow them over with his own breath; it is not proper cross-examination.

MR. DARROW: This is cross-examination. If I have no right to ask this on cross examination, I have no right to ask it at all. There is a rule of law, as Mr. Hawley well says, if I cross-examine on immaterial matter I am bound by it; that is, if this man makes an answer and it does not satisfy me, I cannot call Tom Smith nor John Jones or anybody else to contradict it; I am bound by it.--

THE COURT: You are bound by immaterial matter.

MR. DARROW: Well, whatever I ask him as cross-examination, I have a right to ask and have him answer my questions that is all; that's all I claim, but when I ask a question I am entitled to a direct answer and cannot be bound by anything he undertakes to answer outside of that.

MR. HAWLEY: I say that he is asking him questions outside of the rules of cross-examination and he has a right to make those answers.

THE COURT: I say you are both right. I knew it in the beginning without this personal discussion. Mr. Darrow has the right to ask questions on cross-examination and the witness should answer them directly; if he cannot he has a right to explain his answer; the witness has a right to do that if he can, and at the same time to make his explanation; that is the ruling of the court on the subject.

MR. DARROW: well, I will try it again.

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Suppose I try it again. I ask that this answer be stricken out.

THE COURT: Very well, that will be done.

Q You were sent there by the Pinkerton Detective Association, were you not?

A I was.

Q You assisted in ferreting out certain matters?

A yes, sir.

Q And in that connection you joined the organization?

A I did.

Q And you stayed there three years or thereabouts making reports concerning the organization and its members?

A Concerning the organization's actions and its members actions.

Q All right. And concerning the actions of its members?

A Yes.

Q Concerning its meetings and what took place in them?

A Yes.

Q Was it a secret organization?

A It was a secret criminal organization.

Q Yes. Well, that was not the question I asked you.

A Well, I wanted to explain that.

MR. HAWLEY: Has a right to say what it was.

MR. DARROW: I insist he has no right, he had no right to say it was a criminal organization; that is not before this jury.

MR. HAWLEY: We insist he has.

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THE COURT: I rule that he has.

Q Was it a secret organization?

A It was.

Q You made reports of what took place at their meetings?

A I did.

Q It was an organization of coal miners?

A Some of them were coal miners; a few.

Q A few of the members?

A A few of the members.

Q Only a few?

A Only a few.

Q Do you know how big their membership was?

MR. HAWLEY: I object to that as incompetent, irrelevant and immaterial.

THE COURT: I think it is very immaterial. I sustain the objection.

MR. DARROW: Well, I only asked it in view of his answer that only a few of them were coal miners.

Q On account of your--- what name did you go by there?

A James McKanna.

Q Whats the name under which you went?

A Yes.

Q Did you take any obligation of any sort when you joined?

MR. HAWLEY: I object to that as incompetent, irrelevant and immaterial; not pertinent to the issues, not proper cross-examination. He testified he joined for a certain purpose.

MR. DARROW: Well, I am asking if he took any obligation

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B-5

MR. HAWLEY: What difference does that make?

MR. DARROW: I think it would make some difference.

THE COURT: The objection is overruled.

MR. HAWLEY: We desire our exception noted. I would like to know what an obligation in a criminal organization would be.

Q Did you take an obligation?

A Yes, I did.

Q Were you known by any other designation there at the time as "McKenna the Tough"?

MR. HAWLEY: Objected to as hearsay, incompetent irrelevant and immaterial; not tending toward impeachment.

MR. DARROW: I am not trying to impeach him.

THE COURT: Objection sustained.

MR. DARROW: Well, I will take an exception to that.

THE COURT: Very well.

Q When you were talking with Steve, you talked to him about the Molly Maguires, didnt you?

A I did.

Q And your work down there?

A Yes.

Q How many men were hanged there as the result of your work?

MR. HAWLEY: I object to that as incompetent, irrelevant and immaterial; not pertinent to the issues, not proper cross-examination nor tending toward impeachment. I desire to repeat what I said, there can be but one object and purpose and that is to prejudice the mind of some one.

L-
B b

MR. DARROW: I think we can put it in a way that will obviate any objection. I will undertake that and if I fail I will take the ruling of the Court.

THE COURT: The conversation with Adams, to which reference is made, I think lays the foundation of this class of questioning. I shall overrule your objection.

(Question read)

MR. KNIGHT: Do you mean as a result of his talk with Steve Adams or his work with the Molly Maguires?

MR. DARROW: I don't think anybody has been hanged yet as ~~his~~ result of his talk with Steve Adams, Mr. Knight.

A Well, there was eighteen, if I remember rightly, the cases that I was directly connected with. There was some five I believe afterwards was convicted through members that had turned state's evidence after that I had left them.

Q By reason of ~~xxxx~~ your investigation or growing out of it?

A Yes, sir. I was out of the district at that time.

Q After you got through with your Molly Maguire business you went back west?

A Yes, sir; went back to Chicago.

Q And later you went to Denver as superintendent of the Pinkerton office?

A Assistant superintendent.

Q Then became superintendent and district manager of the whole works of the Pinkertons?

A Yes, sir.

Q When were you sent for or communicated with reference to the trouble in Idaho, on the Steunenberg case?

A Well, I think it was on the 31st of December, 1905,

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I received a telephone message, long distance 'phone, from Chief Justice Stockslager, subsequently a telegram.

Q Chief Justice Stockslager was the first one you communicated with?

A The first man who telephoned me to come.

Q And you came?

A I did not.

Q When did you come?

A I didnt come until about the first of January, 1906.

Q You didnt come as the result of that telephone?

A No, I told the Chief Justice--- I referred the matter to our Portland and Spokane office, I told him I was not operating.

Q When was it you came?

A Yes, sir.

Q Got here about when?

A I got to Boise on the evening of the 10th of January, 1906.

Q In the meantime Mr. Thiele had arrived, hadnt he?

A Yes, sir.

Q Mr. Thiele was then as now connected with the Spokane Office?

A He was.

Q An officer of it?

A No, he was an operative at that time.

Q Has become an officer since?

A yes, sir.

Q You first took up the Orchard matter?

A Well, I took up the investigation of the murder of Ex-Governor Steunenberg.

Q Orchard was then confined at Caldwell?

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B-8

A I believe so.

Q You know it, dont you?

A Yes.

Q Did you advise that he be moved to the Boise penitentiary?

MR. HAWLEY: I object to that as incompetent, irrelevant and immaterial; not pertinent to the issues, not proper cross-examination.

MR. DARROW: All this matter was gone over before.

MR. HAWLEY: Dont care whether it was or not.

THE COURT: It was gone before without objection, I believe.

MR. DARROW: Well, this is a matter of course should be kept within reasonable bounds, I think, your Honor---

THE COURT: I shall overrule the objection.

(Question read)

A I did.

Q And you secured a confession later?

A Subsequently I did.

Q Through that learned of Steve Adams, did you not?

A Well, I had known of Steve Adams before through newspaper accounts in 1904.

Q Through that you got certain matter for which you wanted to get Steve Adams, didnt you?

A I did.

Q Well, Thiele was there at the time?

A He was in Boise, I believe.

Q You had consultations from time to time with him, the Governor and attorneys, did you?

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E-9

A I did.

Q Then you set about finding to find how Adams could be got?

A I did.

Q And you did that not only by yourself but your Denver office and through Mr. Thiele and other offices?

A yes, sir.

Q So that if you were not here at the time he was discovered whoever was here was to go and arrest him and bring him in?

A The proper authorities would be appealed to, yes.

Q Yes. Then you set it in motion?

A I did.

Q For whom were you working at this time?

A For the State of Idaho.

Q What was your exact position with reference to it?

A Simply employed to investigate the murder of Ex-Governor Steunenberg.

Q Did you have charge of that investigation?

A No, sir.

Q You had charge so far at least as the detectives were concerned, did you not.

A No, not directly.

Q Who else had charge?

A The superintendent of the ^{Denver} Office had charge.

Q Who had charge besides there?

Mr. Hasson.

Q Where is he from?

A Spokane.

L-McParland X
B-10

Q He is in the organization?

A Yes. But he had charge of the men. I didnt have direct communication with the men. And Mr. Carey of the Denver Office, superintendent.

Q Mr. Haddon at any time?

A He was for a few days.

Q Mr. Carey?

A

Q You spent the time, a part of the time in Boise from that time down to the Haywood case?

A I spent part of the time.

Q Well, can you tell about how much?

A Well, I was there from the tenth of January up until about the tenth, I believe, of maybe the eighth of February. I was gone there from the 23rd or 24th--- 23rd of February, to the latter part of--- the early part of April, 1896, and I was there for a few days in June 1896, and for a week or ten days in September, 1896.

MR. KNIGHT: 1906?

THE COURT: 1906, all the way through?

A 1906 is what I meant.

MR. DARROW: Well, we understand you, Mr. McParland.

Q Now, let me ask you again did you have charge of that branch of it?

A Yes, I had general charge of the investigation.

Q Thats what I supposed. Now, Mr. McParland, you were not there when Steve Adams was brought in?

A I was not.

Q Do you know how long before that you had left there?

L-McParland X
B-11

A I left there, I think it was, about the eighth of February.

Q Well, I am not particular about the exact date.

A About that.

Q Went back to Denver?

A I did.

Q Did the Denver Office proceed to try to locate Steve Adams?

A They were trying to locate him when I got there.

Q You finally got him located in Oregon?

A We did.

Q What did you do then?

A I wired to Boise.

Q Where you thought he was?

A Yes.

Q To whom did you wire?

A I wired the Governor, and I think I wired Mr. Thiele at the same time.

Q Well, as a result of it, as you understand, Mr. Thiele went out and arrested Steve Adams?

A He didnt arrest Steve Adams. He had no authority to do that.

Q Were you there?

A I was not there, but I know it.

Q How?

A Because none of our employees has any authority to make any arrests and they dont do it.

Q You say none of your employees have any authority to make arrests?

A They have not.

L-McParland X
B-12

Q Do they ever go and direct it?

A They go with the regularly constituted officers.

Q And take charge of it and direct it?

A No, they dont take charge of it.

Q Do you know Mr. Thiele went?

A I do know he went with the sheriff.

Q That is, you heard so?

A Yes, sir.

Q All you know is what Mr. Thiele told you or what you got from others?

A Well, it is a fact though, just the same.

Q I say all you know about what was done down there is what you gathered from other people, of course?

A Yes.

Q Well, Mr. Thiele has testified, so I submit that. afterwards
Did you ~~xxxxxx~~ come to Boise?

A I did.

Q When?

A On the 23rd of February.

Q In the meantime Steve Adams had been arrested, you had learned that?

A I had.

Q When did you learn it?

A I think prior to leaving Denver I learned it.

Q To get to Boise on the 23rd you would have to leave Denver what day?

A On the morning of the 22nd.

Q Who notified you of his arrest?

A Dont recollect just now.

L-McParland X
B-13

Q Dont recollect?

A No.

Q Did it come from one of your men?

A I expect it did, probably from Mr. Thiele, but would not be positive.

Q But you have not much doubt that is where you got it?

A I think probably it might be that way, but I dont know.

Q Well, you came to Boise?

A Yes, sir.

Q Do you remember what time you arrived here, or at Boise, rather? What day of the week?

A I arrived Friday.

Q Friday. Did you go to see Adams?

A I did not.

Q See anybody?

A Oh, I saw plenty of people in Boise.

Q What?

A I saw a great many people in Boise when I got there.

Q Did you see anybody in connection with this matter?

A I seen the Governor---

Q Thats what I was getting at.

A (Continued) That I recollect.

Q Anybody else?

A I think I saw Mr. Whitney.

Q Anybody else?

A I cant remember-- I seen Mr. Hawley.

L-McParland X
B-14

Q Did you see Mr. Hawley?

A yes, sir.

Q Borah?

A I dont believe I seen Mr. Borah.

Q Orchard?

A Nor Orchard.

THE COURT: Speak a little louder.

A I didnt see Orchard.

Q You are sure of that, are you?

A I a sure of it, yes, sir.

Q You are sure you didnt go over to the penitentiary and Mr. Whitney went into the cell and brought out Orchard for a conference with you, before you saw Steve Adams?

A Pretty positive of that.

Q You say "pretty positive"; are you positive?

A Yes, I didnt see Orchard prior to the time I seen Adams.

Q Do you remember the first time you saw Orchard after you got back?

A I didnt go to the penitentiary until--- I got in Friday night and didnt go up to the penitentiary until ---

Q You got in Friday?

A I did, and I went to the penitentiary on Monday and I seen Orchard the same after-noon before I went back to the hotel.

Q Where did you see him?

A I saw him in the Warden's office.

Q After Adams had left?

A Yes, sir.

Q That is the first time you saw him after you got back?

L-McParland X
E-15

A Yes, sir.

Q And you got there as you recollected on Friday and went to see Adams on Monday?

A Yes, sir.

Q For what purpose did you go to see Adams?

A I went to talk with him, might be for to get a confession from him.

Q Thats what you went for?

A Thats what I went for.

Q Did you know where he had been confined?

A I did not, except that he was confined in the penitentiary.

Q You didnt know up to that time that he had been confined during five or six or seven days with Harry Orchard?

A Yes, I learned that about Sunday before I went down there.

Q Then you did know it?

MR. HAWLEY: I object to that.

MR. DARROW: Yes, I withdraw it. I dont want to carry any false impression about the witness.

Q You say you knew that Sunday?

A I did.

Q Found out about it then?

A Yes, sir.

Q Didnt know it before?

A No, sir.

Q You did nt know it on Friday and you didnt know it on saturday; is that right?

A Not that I can remember now.

B-16

Q Do you know when you learned it?

A I learned it positively on Sunday.

Q From whom?

A I dont know.

Q If you dont know who you learned it from how do you know when you learned it?

A I know there was general talk about it. I talked with Mr. Whitney and Mr. Thiele.

Q Was there general talk on Friday?

A No.

Q Was there general talk on Saturday?

A No.

Q No talk?

A No talk, but there was on Sunday.

Q You say Sunday?

A I think so.

Q Did you see the Warden Saturday?

A I think so.

Q Did you see Thiele Saturday?

A Yes.

Q Did you see Thiele Friday?

A I saw him at the station just a minute.

Q Did you see the Governor Saturday?

A No.

Q You didnt learn Friday or Saturday from Thiele where Orchard had been confined?

MR. KNIGHT? Adams.

Q Steve, I mean; you didnt learn that until Sunday?

A I think so.

Q What time did you go to see Steve Monday morning?

L-McParland X
B-17

A I got there about nine o'clock somewhere?

Q Did you have any cigars with you?

A I did.

Q What time did you go away?

A I left the penitentiary about six.

Q About six o'clock in the evening?

A Yes, sir.

Q Had you spent all that time with Steve?

A No. I spent until about five o'clock in the evening with Steve.

Q And then you spent some time with Orchard after that?

A Yes, probably twenty minutes or so.

Q You was with Steve then, from nine o'clock in the morning until about five o'clock at night?

A Yes, sir.

Q This of course was several weeks after Orchard had made his confession.

A Yes, it was three or four weeks.

Q How is that?

A Three or four weeks.

You had never seen Steve Adams before this time?

A I ever did.

Q You understood of course on what charge Steve was arrested and taken to the penitentiary?

A I did.

Q It was for the murder of Ex-Governor Steunenberg?

A Yes, sir.

Q You understood that was to be the charge when you went there?

A Yes.

L-McParland-X
B-18

Q You understood he was to be taken to the penitentiary, didn't you, before you went there, when he was arrested he was to be taken there?

A I didn't know whether he was to be taken there or taken to Caldwell.

Q That matter was not talked over?

A No, simply wanted to arrest him, if he was outside of the state, extradite him to Idaho.

Q But you wanted to arrest him and get a confession out of him, didn't you?

A No-- Of course I expected to get a confession out of him. I wanted to arrest him on account of information I had already received that he had at one time been connected with the conspiracy to murder Ex-Governor Steunenberg.

Q You wanted to get a confession before he was arrested?

A I did, certainly.

Q You were during all of that time, of course, on the prosecution of the Steunenberg matter?

A Yes.

Q Had Moyer, Haywood and Pettibone been taken from Denver at the time you went to see Steve?

A They had.

Q They were in the penitentiary?

A I believe they were.

Q You know they were don't you?

A Well, I had never seen them there.

Q You knew it from information, didn't you?

A I would like to know what your question was.

Q You knew from Whitney and other officers that they

L-McFarland A
B-19

were in the penitentiary at that time?

A I have heard that was so., have heard them say so.

Q What was the first thing you did when Steve was brought to you?

A I was introduced to him.

Q Yes. By whom?

A Warden Whitney.

Q Yes. Then did Warden Whitney leave the room?

A He did.

Q Then what did you do?

A Sat down and talked with him.

Q What did you say?

A Well, it would be hard to remember what I did say.

Q It would?

A I said a good deal.

Q How long did you talk to him before he talked to you, to any extent?

A Oh, he talked to me from right along from we met.

Q How long did you talk to him before he talked to you any about these matters?

A Oh, I guess it was about two o'clock in the afternoon when he---

Q Yes.

A (continued) commenced to narrate just what crimes he had been connected with.

Q Do you remember the first thing you did say in beginning to talk to him?

A Yes, told him I had come there as his friend to talk to him.

L-McParland X
B-20

Q You were there as his friend?

A Certainly I was there as his friend.

Q You told him so?

A Yes, sir; I told him so.

Q Didnt you give him a cigar about that time?

A I gave him several cigars during the day.

Q Good ones?

A Very good cigars indeed.

Q The first thing you did was to offer him a cigar?

A I offered him a cigar. .

Q He took it?

A Yes, sir.

Q You both began smoking?

A We both smoked.

Q Then you told him you came there as his friend?

A I did.

Q Did you tell him his people were good people?

A I did. . . . I inquired about his people and he gave me straightforward answers.

Q You didnt know about his people before that?

A No.

Q Then you told him they were good people?

A They seemed to be from what he said.

Q Well, you toldhim they were good people?

A I did.

Q Thats what I am getting at, what you said. What else did you say in that time between nine o'clock and two?

A Well, I told him that he was a creature of circumstances; had been led into the commission of crime by associating with bad company and that I pitied him.

L-McParland X
B-21

Q What?

A I pitied him.

Q That was true, was it?

A No doubt about that.

Q You did pity him?

A I did, and I pity him now.

Q What else did you tell him?

A I told him the best thing he could do was to make a 'breast' of the whole business, everything he had been connected with.

Q You did. Did you tell him in what way it was best?

A To tell the truth.

Q Did you tell him why it was best?

A I told him the State always acted fair if such parties acted fair with the State.

Q Did you give him any illustrations of it?

A I did.

Q What?

A I illustrated a couple of so cases to him wherein men had been--- had committed crimes, a number of crimes, had seen the error of their ways and come through and told the truth on the witness stand and subsequently was not prosecuted.

Q yes.

A I have known instances of that kind.

Q What instances did you relate of that sort?

A Well, I told him the case of "Kelly the Bum" and of Alexander W. Ray.

Q Who was Kelly the Bum?

A Kelly the Bum was a notorious Molly Maguire.

L-McParland X
B922

Q With whom you had connection while there hadn't you?

A yes, sir.

Q And he turned state's evidence, I believe?

A He did.

Q And was not prosecuted?

A Never prosecuted him.

Q And you told Steve that?

A I did.

Q Did you tell him about a number of other people who turned state's evidence there and were not prosecuted?

A I told him about James Carrigan, a notorious Molly Maguire.

Q And you told him that, did you?

A I did.

Q Who else did you tell him about---

A Well, there was some---

Q who had turned state's evidence and not been prosecuted?

A There was some three or four other people?

Q Well, what?

A I can't remember now.

Q Can't you remember now anything but Kelly the Bum?

A There was Patsy Butler; he was charged with conspiracy.

Q What did you tell him about Patsy Butler?

A He turned state's evidence.

Q You told Steve that?

A Yes, sir.

Q And was not prosecuted?

L-Moparland X
B-23

A Yes, sir.

Q Did you tell him it was one of your cases?

A Yes, sir.

Q And that the State always treated those witnesses fair if they came through?

A As a rule, I said.

Q Did you say "always" or "as a rule"?

A No, not "always", I said "as a rule".

Q You are sure you didnt say "always"?

A No, not "always"-- "as a rule".

Q You testified before in this matter, did you not?

A Yes, sir.

Q Up to Wallace?

A Yes, sir.

Q You were Steve's friend then as you are now?

MR. HAWLEY: I object to that; its improper.

I withdraw the objection.

Q You were Steve's friend then as you are now?

A I was his friend as long as he tried to do right.

Q You are now, aint you?

A I am, certainly I am friendly to him.

Q I wish you would read a little bit at the top of page 680.

(Manuscript handed witness)

MR. HAWLEY: Read the whole context before and after, if you desire.

THE COURT: read as much as you please.

MR. DARROW: This is page 680 of Volume VI.

(Witness examines the record)

A Well, I never saw this record before.

L-McParland X
B-24

Q I am not asking you any question about it.

A well, I wish you would question me on that.

MR. DARROW: well, I will.

Q You did testify at Wallace, did you?

A I did.

Q Did you not there--- was this question asked you and this answer made:

"Q Did you not tell him also ~~that~~ in that connection that the State always treated its witnesses fairly?"

"A I told him when a witness had done what was right "I had always seen that the State acted fairly towards the "witness." Did you say that, that language?"

A The word "that" if I made the expression in that sentence, is not correct. I said I had always seen that the State had acted fairly to a witness.

Q You think "that" ought to be struck out, the word "that"?

A Yes; I said I had always seen--- the word "that" was not there.

MR. DARROW: I dont object to striking "that" out at all. That would make better grammar.

A I had always seen it.

Q You said you had always seen it, the State acted fairly?

A I had always seen it.

Q You did use the word "always"?

A Well, I meant, as a rule.

Q I didnt ask you what you meant. You used it, didnt you? You said it?

L-McParland-X
B-25

901

A well, I expect I said it.

Q You were on the stand twice, were you not?

A I think so.

Q Yes.

Q You testified in Wallace twice, didnt you, once before the Court without a jury and once before a Jury?

A I believe so, yes.

MR. DARROW: I read, Mr. Hawley, from Volume 6; that was when the Jury was present; and this is volume four, when the Jury was not present, page 415. (Exhibiting same to witness.) Read that part.

MR. HAWLEY: Read anything before or after, Mr. McParland, that you desire; you are not confined to the particular paragraph.

THE COURT: Yes, read enough to get the consecutive narrative.

MR. HAWLEY: What part of the page, Mr. Darrow?

MR. DARROW: The last paragraph, the last half dozen lines. (Exhibiting same to witness) Have you got through, Mr. McParland?

A I have got through.

Q Do you desire to call my attention to any other part there?

A Yes, sir; I do; there is the qualification right there, sir.

Q Where?

A Just exactly what I testify to now.

MR. DARROW: Don't argue it yet.

THE WITNESS: No.

Q Mr. McParland, When you were examined preliminarily, when the Jury went out, was this question asked you and did you make these answers: "Q And you told him the State took care of its witnesses? A No, sir; not in that way.

McParland (Rec) X
C-2

"Q What did you say? A I told him that the State always
"acted fairly with it." Did you make that answer?

A Yes.

Q I will read the rest, Mr. McParland, that you
called my attention to, before I get through with it.

A If you please.

Q Again: "Q Yes, sir; that the State always acted
"fairly with those who acted fairly with it? A Yes, sir."
You said that, too, did you not?

A I expect so.

Q Now, you called me attention to something about two
pages further on.

MR. DARROW: Mr. Hawley, at the top of 417.

Q This is what you called my attention to; this was
also said on further cross examination: "Q And that the
"State always took care of those who were fair to it?
"A As a rule, I told him that the State always took care of
"those who were fair to it."

THE WITNESS: Yes, sir.

Q You made that answer?

A I did.

Q Did you have any reason at this trial for modifying
from
the statement, ~~the~~ the statement that the State always treated
its witnesses fairly, to the statement that the State gener-
ally treated its witnesses fair; did you have any reason
for that?

MR. HAWLEY: We object to that as not being based upon
premises that are correct. He did not testify in regard to
this. This is testimony taken at the last trial.

McParland (Rec.) X
C-3

MR. DARROW: That is what I mean, the last trial.

MR. HAWLEY: You are referring to something upon the other trial; you are building up another house of cards.

MR. DARROW: Perhaps I have not made myself clear.

Did you have any reason for changing the statement made at the former trial, that the State always treated its witnesses fairly, to the statement made at this trial, that the State generally treated its witnesses fairly?

MR. HAWLEY: Objected to as not being based upon facts shown in the record, and being irrelevant, incompetent and immaterial on that account. The witness testified at the last trial in the same way, there is really no difference in the statements. You might as well say there was a difference between the words "McCarthy came out of the house" and "Came out of the house McCarthy", to any other of these matters. But these matters are both matters of evidence taken on the last trial where the question was asked in different ways and now he is asked if he had a reason for modifying that statement, as if there was a modification of that testimony at this trial, as compared with that which was given at the last trial, which I do not think the record will bear out. If I understand the record correctly, the testimony is the same. I may be mistaken in that.

Objection overruled.

MR. DARROW: Did you have any reason to do it?

A I had no reason, except the facts, that there were several cases that the State prosecuted and convicted witnesses that had--

McParland (Rec.) X
C-4

Q (Interrupting) Did you tell Steve about those cases?

A No, I did not.

Q You thought of those since?

A No, I thought of them then, too.

Q You did think of them?

A Decidedly.

Q You did not tell him?

A No, sir.

MR. KNIGHT: The record is, he said "as a rule"; it is on page 417.

THE COURT: The record is there; I think that is a matter of argument, gentlemen.

MR. DARROW: Sure.

MR. KNIGHT: The argument should be made to the Jury, and not between Counsel and the witness.

MR. DARROW: I have passed that long ago. "Q But you "did tell him that 'Kelly the Bum' got his liberty? A I did. "Q And that he was guilty of murder? A I did. Q Did you "give him any instance of a man who had not helped the State, "who was hanged? A I did not. "Q You did not? A No. "Q Did you mention Tom Horn? A Excuse me; probably that question I did not quite get.

Q Perhaps we don't understand each other. Did you give him any instance of a man who had not tured State's evidence, who had helped the State, who were hanged?

A Yes, sir.

Q Who?

A Tom Horn.

Q You told him that?

McParland (Rec) X
C-5

A Tom Horn.

Q You related some other matters to him, didn't you?

A Yes, I related a good many matters.

Q Did you tell him you thought you could help him?

A I did.

Q Did you tell him how you thought you could help him?

A Yes, or rather I told him he could help himself.

Q That is not the question I asked you, Mr. McParland.

I asked you first if you told him you thought you could help him, did you?

A Yes, I told him I could help him, by him helping himself.

Q What?

A I told him I could help him by him helping himself and coming through and making a full statement.

Q Did you say any more in that connection, as to how you could help him?

A No. I dont know as I did.

Q No. You told him you thought you could help him by him coming through and making a full statement?

A Yes.

Q Of course you had told him before who you were?

A Yes; he knew me anyhow, so he stated.

Q He knew you the minute he set eyes on you?

A He had seen me before.

Q And you told him about your connection with the Molly Maguires, didn't you?

A I did.

McParland (Rec) X
C-6

Q Did you give him any other historical illustrations of murderers and others who came through and lived a happy life and did good in the world?

A No, I didn't know of any that ever did live a happy life, who followed that life afterwards; I didn't give him any illustrations of that.

Q Did you give him any illustrations of anybody else?

A I dont hardly think so.

Q What else did you tell him while you were there, between nine and two?

A I told him--

Q Go on, Mr. McParland, if you wish to. I asked the question.

A (Continued) --that it appeared to me that he would be an important witness for the State if he come through.

MR. HAWLEY: For the State where?

MR. DARROW: Q In what case?

A In the Steunenberg case; and such being the fact, I warned him against the lawyers that was representing Moyer, Heywood and Pettibone; I said they would come to him, tell him that they could clear him; that their object was simply to get him to go back on any statement that he might make; and to keep his mouth sealed until after these trials were over; that they did not care a continental about him; he was simply a tool for Moyer, Heywood and Pettibone, and the lawyers would advise him to continue so; I warned him against that.

Q You told him he had better look out for Moyer, Heywood and Pettibone's lawyers?

A I did.

McParland (Rec) X
C-7

Q And that they didnt care anything about him; rhey would simply use him as a tool for Moyer, Heywood and Pettibone?

A I said they didn't care anything about him; he had been the tool of Moyer, Heywood and Pettibone, which had got him into the trouble that he was now in; and they would want him to continue so and keep his mouth sealed, and his lawyers would fool him; I told him that his lawyers would not be able to deliver the goods, that was, to clear him.

Q You can't tell just yet, can you?

MR. HAWLEY: I object to that.

Objection sustained.

Q You say you left Steve between the detectives on one side and the lawyers on the other, didn't you?

A Yes, sir.

Q Or, in other words, between the devil and the deep sea, when you went away?

A Yes, sir.

Q You did feel kind of sorry for Steve, leaving him that way, didnt you, and do now?

A Yes, sir; I do.

Q Did you tell him in that connection that you could "deliver the goods"?

A I did not.

Q But you told him we could not?

A I did.

Q You did not tell him that you had any goods to deliver?

A No, sir; I didnt have any goods to deliver.

McFarland (Rec) X
G-8

Q Now, did you tell him about any other historical characters there?

A Oh, I might have, but I don't quite recollect.

Q You have not forgotten, have you?

MR. HAWLEY: Why don't you call his attention to it?

MR. DARROW: Q Didn't you tell him about king David?

A Oh, yes; that was the spiritual part of the matter.

Q That was the spiritual part?

A Yes.

MR. HAWLEY: I notice in this court room at times that it seems to be the habit of several here to make a demonstration of some kind; I don't suppose it is intended for any effect.

THE COURT: I don't suppose it is.

MR. HAWLEY: But I would like to have, for the sake of this case, and the good order of the Court, these people cautioned in regard to this silly and absurd method of laughing, when there is nothing to be laughed at, and if they continue it to have them summarily taken from the Court-room, those who indulge in it. I have the right to ask that as Counsel.

THE COURT: The audience will keep quiet, and indulge in no demonstrations, applause or otherwise.

MR. DARROW: Whether there is anything to laugh at depends upon which point of view you take. I don't think there is anybody in the court-room who intends that.

MR. HAWLEY: I am not charging it. I hope not; if I thought so, I would say so and have it investigated.

THE COURT: I don't think there has been anything intentional.

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McParland (Rec.) X
C-9

Q You did talk to him about David?

A Yes, sir; I demonstrated to him in that case.

Q That was on the spiritual side, was it?

A That there was even salvation for a criminal, even in murder.

Q You are not a clergyman?

A No, sir.

Q That was on the spiritual side?

A Yes.

Q What did you say about David?

A Well, I referred to that ~~xxxx~~ passage of Scripture wherein--

Q (Interrupting) What did you say?

A Wherein David fell in love; I told him that David fell in love with Uriah's wife, and he wished to enjoy her company, and he sent a message by a fellow to Jobe, the captain of his host, who was then fighting the Philistines, or somebody else, and in that message he told Job to put him in front of the battle, and then to forsake him, so he would be slain. I said David did enjoy--cohabit with-- Uriah's wife, and never thought he had done any wrong until the Prophet Nathan drew his attention to it, and then he done penance, and confessed to his sins; and that illustration, I whoed to him, that possibly he, Steve Adams, had never recognized the fact that he had done wrong in the commission of the different crimes that was laid to his charge.

Q You were making a parallel between his and David in that regard?

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McParland (Rec.) X
C-10

A I made a parallel because there is a great many that don't know that they have been doing wrong until they are caught; it never occurs to them.

Q And you recited the story of the Prophet Nathan, as calling his attention to it?

MR. HAWLEY: I object to that, as building a house of cards.

Objection sustained.

Q You did that to show that, not only he might get temporal help, but spiritual salvation?

A He could have spiritual salvation, yes.

Q Did you give him any other fellow?

A I did.

Q Scriptural illustrations of?

A I did; I recited that passage of the New Testament wherein that Saul, afterwards Saint Paul, one of the Apostles, had assisted in the stoning of Stephen, the first Christian martyr, to death, that subsequently he had seen the error of his ways, and become a Christian, and even died for the Faith.

Q You told him David was a murderer and Paul was a murderer?

A No question about that.

Q And David had become a man after God's own heart, in spite of that?

A He had done penance, yes.

Q Paul had become a mighty man in the Christian Faith?

A Yes, sir.

Q Of course, you meant by that that he should draw the

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inference that he could become something if he did penance?

MR. HAWLEY: I object to what he meant, as not being pertinent to any of the issues, not being proper cross examination. It is what was said, your Honor, and not what he meant by saying it, that is material.

THE COURT: Yes.

MR. DARROW: Did you have any purpose in it? I will withdraw it.

A I had the purpose to show that his soul might be saved.

MR. HAWLEY: I object to any purpose he might have had. Objection overruled.

Q And did you have any purpose in relating to him about "Kelly the Bum", and telling him the State always treated its witnesses fairly, if they treated it fairly?

A Certainly; that was stated for the purpose of leading him up to a confession, if he was willing.

Q Did you have any purpose in that to show that his body might be saved, too?

A Why, he could draw his inference.

Q First, had you any purpose; that is the question?

A Yes, sir; I showed him that others had been saved that had confessed.

Q Yes.

A Some of them.

Q In relating St. Paul and David, you had the purpose in showing that, by confession, he might save his soul?

A Yes, sir.

Q And by talking about "Kelly the Bum" you had the purpose of showing that by a confession he might save his

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body?

A Certainly he might.

Q Well, that was your purpose, I say, was it not?

A Yes, sir.

Q I suppose you just threw in Tom Horn, who did not confess, for good measure?

MR. HAWLEY: I object as incompetent and irrelevant.

MR. DARROW: Q Did you have any purpose in telling him about Tom Horn?

A Certianly I had a purpose.

Q Tom Horn, before he hanged, was a Pinkerton detective, wasn't he at some time?

A Yes, sir.

MR. HAWLEY: I object as irrelevant, incompetent and immaterial.

Objection sustained.

Q Do you think of anything else that you told him at that time?

A No, I dont.

Q Before two o'clock?

A No, I dont think of anything.

THE COURT: A little louder, please.

THE WITNESS: I don't think of anything at present.

Q Did you have anyt ing to eat that day?

A We had lunch, well, in fact, I had three meals that day.

Q You had a good hearty supper, I suppose?

A I did; breakfast and lunch.

Q Where did you have lunch?

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A I had lunch in the penitentiary, in the Warden's room.

Q With Steve?

A Yes, sir.

Q You and he had lunch together?

A Yes, sir.

Q You had a good lunch?

A Very good lunch indeed.

Q Where did that come from?

A I don't know where it come from; it was fetched in there and put on the table.

Q You told Steve that your object here in that matter was to get after the man who killed the late Governor Steunenberg?

A Yes, sir, I did.

Q And you told him that Meyer, Heywood and Pettibone were three of the greatest sons of bitches that ever lived, didnt you?

A Well, I didnt use the words "sons of bitches"; I declared them great criminals.

Q Did you use that language?

A No, not sons of bitches, no.

Q You never use that sort of language?

A Well, I have used that language sometimes.

Q At the same session where you quoted Scripture?

A Not at the same session, no.

Q You take another session for that?

MR. HAWLEY: I object to that as being argumentative, impertinent and immaterial.

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THE COURT: It is objectionable.

Q How about "damnedst sons of bitches that ever drew the breath of life"?

A How?

Q Did you say that Meyer, Heywood and Pettibone were "three of the damnedst sons of bitches that ever drew the breath of life"?

A I used the word "criminals".

Q But you did not use the words I have just been asking about?

A Not that I remember of.

Q Will you read along there where that is marked (Handing record to witness.)

MR. HAWLEY: What page?

MR. DARROW: Page 421, about the middle, pretty near to the bottom.

THE WITNESS: Yes, my answer here is, agreeing to the Counsel; not what I said, but agreeing to the words that the Counsel said, Mr. Richardson.

MR. DARROW: I have not asked you about this yet.

THE WITNESS: Well, I don't want to be misquoted there.

MR. DARROW: I won't misquote you; if I do, call my attention to it.

THE WITNESS: Mr. Richardson called them that, and I said there was no doubt he was right.

Q You say Richardson said that about them?

A I think that was Richardson's question.

Q What?

A I think that was Richardson's question.

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Q You understood that Richardson called his clients that, and you thought he was right?

A I will read the question there, if you want it.

Q I thought I would find out what you said about it first. Mr. McParland, you testified, as you have already said, in this case before. I now read from the examination which took place in the presence of the Court, and the Jury absent, page 421, volume four. I will read a little back: "Q Now, along about that time you commenced to talk about the "Western Federation of Miners, didn't you; you told him they "were a criminal organization? A No doubt about that. "Q You told him that? A Yes, sir. Q There never has been "any doubt in your mind for a number of years? A I don't "remember of ever having any doubts on that matter. Q You "told him what you were after were those three men in the "penitentiary, in a cell below him somewheres? A I told him "I was after those who instigated the murder, and committed "the murder of Ex-Governor Steunenberg. Q And you told "him further, did you not, that three men, by the name of "Moyer, Heywood and Pettibone, that they were three of ~~af~~ "the damnedst sons of bitches that ever drew the breath of "life? A I think so; no doubt about it. Q That was right "after you told him about his duty to his God, to his family "and to himself? A Yes, sir. Q And what you had said about "the State's witnesses being treated right? A Yes, sir." Were those questions asked and were those answers made at the former trial?

A Yes, they were made. I just answered Mr. Richardson's questions, he used the words "sons of bitches" and I haven't

McParland (Rec) X
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any doubt that he was right.

Q Do you mean that you thought that Mr. Richardson was calling his clients sons of bitches?

A He used that expression there.

Q And you thought they were?

A Yes, I agreed with him; that was one point we agreed upon.

Q But these questions and answers were correctly reported, whatever they mean?

A I expect so, yes.

Q Now, you saw Steve until five o'clock that night, didn't you?

A I did, somewhere about that time.

Q In the same room?

A Yes.

THE COURT: Speak a little louder.

THE WITNESS: In the same room, yes, sir.

Q And after two he began to talk, you say?

A Well, he had been talking all the time.

Q Did he begin to talk about his case, these cases?

A He then commenced to make a statement of his case.

Q You got him kind of mellow after two o'clock, so to speak?

A Well, he seemed to be.

Q When did you go again?

A The following morning, Tuesday morning.

Q The following morning?

A Yes, sir; Tuesday morning.

Q What time did you ^{get} ~~go~~ there then?

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A Got there about nine o'clock.

Q About what time?

A About nine o'clock; maybe half past eight.

Q What time did you get away?

A About five, I guess, as near as I can remember.

Q Did a full day's work?

A Did a full day's work.

Q Have any cigars with you that day?

A I did.

Q Have any lunch?

A I did.

Q Between nine and five; that would be about an eight hour day, would it not?

A About that.

Q Did you get any written statement from Steve that day?

A I did.

Q Was it reduced to writing?

A It was taken down in shorthand and subsequently extended.

Q By whom?

A By Mr. Hopkins.

Q Mr. Hopkins was whom,--your private stenographer?

A My clerk, yes.

Q Who came from Denver?

A Yes.

Q And how long had he been with you at that time?

A In Boise, you mean?

Q No, in the Pinkerton office.

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A I don't remember; Mr. Hopkins was there three or four years.

THE COURT: Speak louder.

A (Continued) About three years; I don't remember exactly when he was employed; he has been there quite a little while.

Q Now, that would be about the 27th of February, would it not?

A Yes.

Q What time of day did he take that statement down?

A Why, I had a short conversation with Steve, and then called him in in the morning, and he was at it all day, except during the lunch hour; we took about an hour for lunch, I guess.

Q Did you see him the next day?

A I did.

Q Did Hopkins see him the next day?

A He did not.

Q So the statement as written out is supposed to be from the statement of the second day?

A That is the second day that I had been with Adams.

Q That you were there?

A Yes.

Q About the 27th day of February?

A Yes.

MR. DARROW: Will you let me see that original, Mr. Hawley; there are some changes in that.

The same was handed Mr. Darrow by Mr. Hawley.

MR. DARROW: This bears date the 27th of February, so I

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suppose that was the date, wasn't it?

MR. HAWLEY: There is a date there at the end of it.

MR. DARROW: That is the 27th, "Made on Tuesday, February 27th."

MR. HAWLEY: Yes, the last date there where it was acknowledged and sworn to was in March, if I recollect right.

MR. DARROW: Q Do you remember when this was sent to Steve to sign?

A No, I don't remember.

Q Well, you know about how long after, don't you?

A No, I could not say.

Q What?

A I could not say.

Q Could you say by looking at it; do you think that would help you any?

A Well, if there is a date on it, I suppose it shows for itself.

Q The acknowledgement there?

A Well, it shows for itself.

MR. DARROW: Possibly it might not have been acknowledged the same day, but I suppose it was.

MR. HAWLEY: I suppose so.

MR. DARROW: I presume it was; it might not have been, though. Q Supposed to be acknowledged on the 6th day of March.

A Sixth day of March. Well, I suppose that is right; I was not there.

Q That was a week after the statement was taken down to the penitentiary, wasn't it?

A Yes.

Q Where was Hopkins in the meantime?

McParland (Rec) X
C-20

A He was doing my work in the Idanha Hotel.

Q You were in constant communication with him?

A Yes; I was dictating mail to him a great deal.

Q Dictating mail to him?

A Yes, a great deal.

Q And it was in the neighborhood of a week before he got this written up?

A Well, he had a great deal more than that to write; he had a whole day's work to write.

Q I am asking about this one.

A I don't know just exactly when he had got it written up.

Q You say you were not there when it was done?

A No, I was not present when he was writing it up.

Q What you mean is, that you were not present in the penitentiary?

A No, nor I wasn't present in his room when he was writing it up, either.

Q You were in Boise?

A Yes, I was in Boise.

Q Do you know what day he was writing it up?

A He commenced the next day to extend his notes that he had taken the day before.

Q Were you in his room the next day?

A I was not.

Q At any time?

A No.

Q What?

A No.

McParland (Rec) X
C-21

Q Didn't dictate anything to him the next day?

A I did dictate a good deal to him the next day.

Q Where was it done?

A In my room.

Q Were you in his room at any time between the 27th of February and the 6th?

A Well, I presume I was.

Q Well, you say him constantly? Didn't you?

A I did not see him constantly, because I would have to be in his room all the time if I would see him constantly.

Q Well, you saw, a good deal of him?

A I did.

Q A good many times a day?

A Just as I got in mail, I called him in and dictated replies to such as wanted replies and told him to get that mail out.

Q Did you do any other business of any sort with him?

A No other business with him; was simply there dictating.

Q No other conversation?

A No, none that I remember.

Q How far was his room from yours?

A It was the next room to me.

Q Was there a door between?

A There was.

Q Did he hand you this when it was written?

A Yes, he handed it to me.

Q (By Mr. Hawley) You are referring to the statement
now?

McParland (Rec) X
C-22

A Yes, the statement is what I am referring to.

MR. DARROW: Q Yes. What did you do with it?

A I locked it over.

Q Then what did you do with it?

A I took it, with a number of other statements that he had extended.

Q What did you do with this, was the question, Mr. McParland?

A Gave it to Mr. Thiele to take to the penitentiary.

Q To get signed?

A Yes, sir.

Q Who returned it to you?

A Mr. Whitney, if I remember rightly.

Q The same day?

A No.

Q How long after, if you remember?

A I don't remember.

Q Do you remember what time of day you gave it to him?

A I do not.

Q I suppose Steve's exact language was used here, was it?

A Just his answers as he gave them.

Q I say, his exact language?

A Yes.

Q What?

THE COURT: Speak louder.

A Yes, sir.

Q Do you know Steve's writing?

A I don't.

Q There are some interlineations here. Do you know whose handwriting that is?

McParland (Rec.) X
C-23

A I don't.

Q There are some erasures; do you know whose those were?

A I don't, except what Steve told me himself, that he made some alterations, or directed some alterations to be made; that is all I know about that.

Q You could not say he did do it; he said he directed them, is that it?

A That is what I understood.

Q Aside from that, or even with that, it is his language; not only the substance of it, but the language itself?

A The language that he used, yes.

Q You heard him say it?

A I did.

Q I will read a part of it: "Q In making the statements "that you have made on the different outrages perpetrated at "the command of the Inner Circle of the Western Federation "of Miners, more especially Moyer, Heywood and Pettibone, "was there any force or coercion used"--against you--"to get "you to make these statements? A No, sir. Q Was there any "promise of immunity or reward made by James McParland, or "anybody else, to you in order to get you to make these "statements? A No, sir. Q Then these statements were made "of your own free will? A Yes, they were. Q Then why did "you make these statements? A I felt it a duty I owed to "my family, my friends and brother workingmen, the State and "God. I wanted to live a new life, and thought this was the "best way to commence." Is that Steve's language?

A That is the language he used, sir.

Q Was it used to him before?

McFarland (acc) A
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A Not that I know of.

Q Did you hear it before?

A I did not hear it before.

Q Was it discussed before?

A At the beginning of our preliminary meeting there was such a discussion.

Q Oh, there was?

A Yes.

Q So, when you asked him this question: "Then why did you make these statements"? you knew what he would answer, did you?

A I did not.

Q You had no idea of what he would answer?

A No idea of what he would answer.

Q And then, when you said, "Why did you make these statements?" he popped right out, "I felt it a duty I owed to my family, my friends and brother workingmen, the State and God. I wanted to live a new life, and thought this was the best way to commence?"

A That is right

Q And you had not any idea what answer he would make?

A I did not.

Q Did you have any purpose in asking it?

A I certainly had.

Q What?

A Just for to show in black and white, if such a thing came up, as has come up now, that there was no coercion or promises made.

Q You wanted a paper signed?

A I did.

McParland (Rec) X
C-25

Q So that, if sometime he happened to jump to his lawyers, instead of the detective and got into court you could say, over his own signature, that you had not used any coercion?

A Yes, certainly.

Q And that was your purpose in asking it?

A That was my purpose.

Q Now, didn't you talk that over with him at any time?

A I did not.

Q You say this language was talked over before, don't you?

A As I told him that in the beginning, that it was a duty he owed the community at large.

Q What did you tell him now exactly?

A To make a confession; I told him it was his duty to do so.

Q Is that what you said, or did you say it was a duty he owed to God, to society and to his ~~family~~ fellow workmen and to his family?

A No, I don't know as I used all of them, but I said it was a duty he owed to society, his family and his country.

Q Did you say anything about his God?

A No, I didn't say anything about his God.

Q Sure?

A No.

Q Did you say anything about his fellow workmen?

A No, I don't think so, that I can remember.

Q Will you swear you did not?

A Yes, I said I did not.

Q But you did tell him the rest?

A I did.

McParland (Rec) X
C-26

Q Did you say anything to him about leading a new life?

A I did not.

Q When he popped out that answer, that he wanted to lead a new life, you didnt ask him where he was going to lead it, did you?

A I did not.

Q You thought he meant in Kingdom-come, after he got hanged?

MR. HAWLEY: I object as argumentative and not proper cross examination.

Objection sustained.

MR. DARROW: Q Did you say anything to him when you heard him say he was going to lead a new life?

A I did not.

Q And you did not discuss the question at any time with him as to his leading a new life?

A I did not.

Q Then following, beginning here right after: "Q You had seen through the fact that the Exucitive Board, or at least a portion of the Executive Board, of the Western Federation of Miners had used you as a tool? A Yes, sir, and I hope that the reign of terror inaugurated by Moyer, Heywood and ~~xxxxx~~ Pettibone and other members of the Executive Board of the Western Federation of Miners will cease". Was that his language?

A That was his language.

Q He used the word "inaugurated"?

A He used the words used there; I remember him using the word "inaugurated."

McParland (Rec) X
C-27

Q Did you ever use it to him?

A I dont know as I did.

Q In discussing it before?

A No, I dont think I did.

Q You don't think that is a word that you would use?

A No.

Q You think that came from Steve?

A I dont think it; I know it.

Q Yes. You know it came from him?

A Yes, positive of it.

Q And when you asked him that question: "QYou had seen
"through the fact that the Executive Board, or at least a
"portion of the Executive Board, of the Western Federation of
"Miners, had used you as a tool", did you have any idea what
answer he was going to make?

A I expected that he would answer, "Yes."

Q You did?

A Yes, sir, because he had already made the same
statement,--

Q Did you--

MR. HAWLEY: Hold on.

A (Continued) I couldn't tell what else he was going to
answer. I expected he would answer "yes".

Q But you didnt know whether he would make any further
answer or not?

A No.

Q Now you saw him a number of times a little later,
didn't you?

A Frequently.

McParland (Rec.) X
C-28

Q Do you know where he was staying, in what part of the penitentiary, when you were getting this confession?

A Why, he told me himself, at the time I was getting the confession, he was stopping in the cell with Orchard.

Q Well, you knew it before you went there?

A Yes, I heard he was there.

Q When did you learn that his quarters had been changed?

A I didn't learn that his quarters had been changed.

Q You didn't know they were ever changed?

A No.

Q Did you see him afterwards?

A I seen him several times.

Q Where?

A In the Warden's room.

Q Ever see him anywhere else?

A No.

MR. HAWLEY: You mean about that time, I suppose?

MR. DARROW: Yes, I mean about that time.

Q Did you ever see him anywhere else in the penitentiary?

A I never did.

Q Excepting after the writ of habeas corpus was applied for?

A I never did.

Q You never were out to his house?

A To his house?

Q Yes, sir, where he was keeping house with his family?

A I didnt know where he was keeping house.

McParland (rec) X
C-29

Q Somewhat later you learned that Steve had applied for a writ of habeas corpus, didn't you?

MR. HAWLEY: It is now twelve o'clock.

MR. DARROW: I am not going to take long, not over ten or fifteen minutes longer.

THE COURT: I dont intend to limit you.

MR. HAWLEY: No, but I had a particular object in getting out promptly at twelve is the reason I ask for the adjournment now over the recess.

THEREUPON, the Jury were duly admonished, as required by law, officers were sworn to take charge of the Jury, and the Jury retired in their custody, and the Court took a RECESS till two o'clock P. M. Wednesday, November 13, 1907.

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WEDNESDAY, NOVEMBER 13, A. D., 1907

AFTERNOON SESSION.

The Defendant being in court with his Counsel, present as before, the Jury came into Court in charge of the officers, and being duly polled, all answered to their names, and the trial of this case proceeded, as follows:

MR. HAWLEY: Was it desired to proceed with the examination of Mr. McParland? It was understood, I believe, that it should be continued until Mr. Darrow's return.

THE COURT: That was continued until Mr. Darrow's return.

MR. HAWLEY: If that is the case, that being understood, there will be nothing else, I believe.

THE COURT: Yes, Mr. McParland is to be recalled for cross examination upon the return of Mr. Darrow.

MR. HAWLEY: That is the way I understood it; and with his absence the only thing to be taken up was the Chandler matter.

THE COURT: Yes, sir; the Chandler matter.

MR. HAWLEY: I presume we will excuse Mr. McParland, then, until tomorrow?

THE COURT: Mr. McParland can be excused from attendance here until tomorrow.

MR. KNIGHT: At this time we desire to introduce the testimony of Mr. William B. Chandler, given at the city of Wallace on the former trial of this case, in the months of February and March. At this time, in support of this offer,

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we have to say that the sheriff of this county has returned his subpoena, issued to Mr. Chandler, "Not found", and I have filed this affidavit of Henry P. Knight, entitled in this case. (Reading) "Henry P. Knight, being first "duly sworn"--

THE COURT: Have you any objection to Mr. Knight reading it before the Jury?

MR. MILLER: I dont know as that is material, your Honor, but I dont think it should be read in the presence of the Jury, and I desire to make objection that a showing of this kind can not be made by affidavit.

THE COURT: That objection will be overruled.

MR. MILLER: We save an exception. I have seen the affidavit, and, for the purpose of saving time, we can waive the reading of the affidavit, and we simply desire to object at this time to the introduction of the testimony of Mr. Chandler, given on the former trial, for the reason that no ground has been laid for the introduction of the evidence.

MR. KNIGHT: I haven't laid the ground yet.

MR. MILLER: I will waive the reading of the affidavit.

MR. KNIGHT: We must examine Mr. Wing as to the identity of this testimony.

THE COURT: Let me read the affidacit. (Counsel hands Court affidavit.)

MR. MILLER: That does not go to the showing.

THE COURT: Do you wish to call Mr. Wing?

MR. KNIGHT: I sent for Mr. Wing.

MR. MILLER: We will waive the identity of the notes, or anything of that kind, Mr. Knight.

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MR. KNIGHT: Then, will you admit that the testimony of Mr. Chandler, contained in volumes VI and VII, which I now hand to the reporter for identification--is the testimony given by Mr. Chandler at the former trial at Wallace?

MR. MILLER: We will admit that is a correct transcription of the stenographer's notes. We object to its introduction, however, on the ground that no proper foundation has been laid for its introduction, and no competent showing has been made to your Honor upon which its introduction can be allowed; and for the further reason that there is nothing in the statutes of the State of Idaho permitting the reading of a deposition of former testimony of a witness, given at a former trial, and it was not authorized or practiced at the common law; and further, that there is no showing that his absence, if at all, was procured by the Defendant in this case.

THE COURT: I will inform you before I rule upon this, that Mr. Knight's affidavit, which has been filed, is subject to your cross examination, if you desire to cross examine Mr. Knight.

MR. MILLER: We could not cross examine his affidavit.

MR. KNIGHT: I will tender myself for cross examination.

THE COURT: The objection will be overruled.

Defendant excepts and exception allowed.

MR. KNIGHT: Now, will you specifically waive any question as to the identification of this testimony?

MR. MILLER: We don't raise any question about the testimony; that is, about the genuineness of the notes.

MR. KNIGHT: We will stipulate that if there are any errors you desire to have corrected, or that you may suppose

are in there, that the stenographers are both here who took the testimony, and that you may call them for examination upon that proposition.

MR. MILLER: If any unseemly controversy arises, we will call the stenographers.

THE COURT: They are both in attendance?

MR. KNIGHT: They are both in attendance.

I presume we will read this testimony in the same manner as we did before. The testimony begins on page 719 of the record of the former trial, and the cross on page 723. There is some further direct examination in volume VII.

MR. HETIMAN: He was then recalled, was he?

MR. KNIGHT: Twice recalled. I am reading from volume VI now. (Reading)

"W. B. CHANDLER, A witness called on the part of the prosecution, after being first duly sworn, testified as follows:

Chandler D
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"Direct Examination.

"By Mr. Knight:

"Q State your name, your residence, age and occupation.

"A William Blain Chandler, Mullan, clerk.

"Q How long have you been at Mullan?

"A About sixteen months.

"Q Where did you reside prior to that?

"A In Walla Walla.

"Q Ever in Marble Creek district, Shoshone County?

"A For a while.

"Q What year?

"A 1905.

"Q At any other time?

"A I was up there in 1904.

"Q Do you know the defendant, Steve Adams?

"A I have met him several times; knew him under the
"name of 'Red.'

"Q Knew him under the name of 'Red'?

"A Yes, sir.

"Q Where did you meet him?

"A In the St. Joe Mountains.

"Mr. Darrow: Where?

"The Witness: The St. Joe Mountains--that is on Marble
"Creek.

"Q When was it you met the Defendant in the Marble Creek
"district?

"A Why, early in August, about the first of August--
"the first day of August.

Chandler D
E-2

"Q What year?

"A 1905.

"Q 1905?

"A Yes, sir.

"Q Did you meet him up there in 1904?

"A No, sir.

"Q To fix the date in your mind, I will ask you if you
"were not in that district at the time of the killing of
"Mr. Bouley and Mr. Tyler?

"A Yes, sir.

"Q And what year was that?

"A 1905.

"Q What month, do you remember?

"Mr. Darrow: Oh, he can correct that--as a matter of
"fact, he is mistaken.

"Q As a matter of fact, it was in 1904, wasn't it?

"A 1904, two years ago last summer.

"Q Do you remember the month it was in?

"A It was in August.

"Q Was it prior or subsequent to the killing of Bouley
"and Tyler that you saw the Defendant?

"A Both prior and after.

"Q About how long prior to that date had you seen him?

"A About nearly three weeks.

"Q Where?

"A Why, on section--

"Q There is a map right there, you can refer to that
"if you like.

"A (Witness referring to map which was hung on the wall
"near the witness stand.) Why, section 30, in the N. E. quar-

Chandler D
E-3

"ter, what is called the Winter Crossing of Buffalo Creek.

"Q What range was it?

"A 44-3.

"Q 44-3. Will you point out where it was?

"A(Pointing out on map) Right here.

"Mr. Richardson: Put your pencil on it, Mr. Knight.

"The Court: You can mark about where you saw him.

"Mr. Darrow: Oh, no, I object to him doing that; just
"let him state.

"Q What was he doing there?

"A Why, I just happened to meet him, run across him.

"Q Who was with him?

"A Jack Simpkins and some other party, I have forgotten
"his name.

"Q When did you see him again?

"A On or about the 24th of August, the same month.

"Q Where was he?

"A At Price's cabin.

"Q With reference to the killing of Bouley, was that
"prior or subsequent to the killing of Bouley?

"A Why, two days after I heard of it.

"Q Two days after you heard of it?

"A Yes, sir, about the murder.

"Q Who was with you at that time?

"A Mrs. Judge Perkins, Miss Perkins, Miss Shearer, and
"a fellow by the name of Otis Chinn.

"Q Who else?

"A That is all. There were five in the party.

"Q Mr. Simpkins was there at that time?

"A Yes, sir.

Chandler D
E-4

"Q Any one else at Price's cabin?

"A Steve Adams, Nute Glover, and a tall red headed fellow, I don't know his name.

"Q Had you ever seen that tall, red headed fellow before?

"A No, sir.

"Q What was Steve doing there?

"A He was standing on the porch, when I saw him.

"Q What time of day was it?

"A About noon.

"Q Did you ever see him after that?

"A Yes, sir.

"Q Where?

"A In Nebraska.

"Q When?

"A About a week later.

"Q Under what circumstances did you see him?

"A I met him in the smoker, shortly before he got to Alliance, Nebraska.

"Q On the Burlington Road?

"A Yes, sir.

"Q Did you recognize him there?

"A Yes, sir.

"Q Did you have any conversation with him?

"A Talked with him about five minutes.

"Q You say that was before he got into Alliance?

"A About an hour before, I should judge, shortly before.

"Q Did you go to Alliance?

"A I went on through East.

"Q Do you know where Adams got off?

"A He must have gotten off at Alliance; I went through the car, to the smoker where I had seen him, about an hour later and he was not in there.

"Q After you had passed through Alliance, you mean?

"A Yes, sir.

"Mr. Knight: That is all.

"Cross Examination."

MR. HEITMAN: (Reads)

"Cross Examination.

"By Mr. Darrow:

"Q Where do you live?

"A At Mullan, Idaho.

"Q What is your business?

"A Clerk--I have been driving a team there the last year.

"Q Driving team now?

"A I left there about two weeks ago.

"Q Who were you driving a team for?

"A For the Tiger Mercantile Company.

"Q How long did you do that?

"A About a year.

"Q What is your age?

"A Twenty-seven.

"Q What did you do before that?

"A Worked in the Morning Mine before that.

"Q Ever have any business at all?

"A No, sir, none at all.

"Q Where were you born?

"A In San Francisco.

Chandler D
E-6

"Q How long have you been in this country?

"A Four years next July.

"Q Where did you go when you came here?

"A I went to St. Joe first.

"Q When did you go to St. Joe?

"A Four years next June.

"Q What time in June?

"A The fifteenth.

"Q The fifteenth?

"A On or about.

"Q I didn't ask you 'on or about',--do you know what
"day you went there?

"A I think I arrived there on the sixteenth.

"Q Well, do you know whether you did or not?

"A No.

"Q Have you got anything by which you can fix that date?

"A I have not.

"Q Do you know what day you left San Francisco?

"A About---

"Q I don't want to know anything 'about' it,-- do you
"know what day it was?

"A I was seven years old.

"Q Where did you come from when you went up to St.

"Joe?

"A Walla Walla.

"Q Do you know what time it was you left Walla Walla?

"A June fifteenth.

"Q Well, do you know that?

"A Yes, sir.

"Q What did you do when you went to St. Joe?

Chandler M
E-7

"A Spent a couple of months vacation laying around
"there.

"Q Did you have any friends there?

"A No.

"Q Just boarding around there at the hotel, were you?

"A Yes, sir.

"Q Well, when did you go up to the Marble Creek
"country?

"A The next year.

"Q And what year was that?

"A 1904.

"Q When in 1904?

"A May 24th.

"Q What year?

"A I got there about May 25th.

"Q Don't tell me 'About'. Do you know what day you
"got there?

"A I don't.

"Q That is what I want to get at,--

"A Not the exact date, but it will be---

"Q Just answer my question, don't bother about that.

"Mr. Knight: The witness has a right to make an
"explanation.

"The Court: Oh, you may re-examine him, and if
"there is any explanation he wants to make he can do it then.

"Q Where did you come from, when you went to the
"Marble Creek Country?

"A Walla Walla

"Q And where did you go when you left the Marble Creek
"country?

Chandler X
E-8

"A I came to Wallace and went East.

"Q Before you went to the Marble Creek country?

"A Afterward.

"Q And before you went to the Marble Creek country
"you came from--

"A Walla Walla.

"Q And you said you stopped at St. See?

"A That was the year before,--I was working in the
"Stanton Mine, Mace, Idaho.

"Q How long did you work there?

"A For five months.

"Q When did you go there?

"A In December.

"Q When did you leave?

"A About the middle of May.

"Q Well, have you got anything to fix the exact date?

"A Not at all.

"Q That is what I want to know. You think it was
"some time in May?

"A I know it was.

"Q How do you know it was?

"A Well, I remember that distinctly.

"Q Have you got anything to remember it by?

"A I didn't keep a diary.

"Q Anything happen by which you can remember it?

"A No, I don't think so.

"Q Well, when did you come over in the Marble Creek
"country?

"A The latter part of May.

Chandler X
E-9

"Q Is there any event by which you fix that date?

"A I probably registered at the Hotel.

"Q Is there anything else?

"A Well, probably the register at O'Neill's Hotel
would show.

"Q Then you have not fixed the date by that?

"A No, sir.

"Q Is there anything you have fixed it by?

"A No, sir.

"Q But you did register there before you went home?

"A Yes, sir.

"Q Where did you go then?

"A Up to Manley's ranch, 44-3.

"Q Where?

"A On 44-3.

"Q Who was there?

"A Nobody; I went up there to do some work for him.

"Q Where was Manley?

"A He is a traveling man, he was in the East somewhere.

"Q How long did you stay there?

"A About three months.

"Q All alone?

"A Yes, sir.

"Q Well, did you see anybody while you were there?

"A Yes, sir, people coming along.

"Q Who did you see?

"A A great many.

"Q You remember any you saw?

"A Yes, sir.

"Q Who?

"A Well, Ed. Theriault, Billy Stoddard Geo. Root, and
"Tom Davis.

"Q You remember when you saw any one of these men?

"A Not the exact dates, no sir.

"Q Well, do you remember any event that happened
"while you were there, or was there any event?

"A That I can fix the dates by, do you mean?

"Q Yes, that will assist you in fixing the date?

"A No.

"Q But you think you stayed there about three months?

"A Yes, sir.

"Q And when you went away, where did you go to?

"A I came to Wallace.

"Q Where did you go when you came to Wallace?

"A I stayed at the Wallace Hotel.

"Q How long?

"A A day and a half or two days.

"Q You registered?

"A I guess I did.

"Q Have you looked at the register ?

"A No, sir.

"Q What did you do down here in Wallace?

"A Nothing, only stayed around here a few days.

"Q Were you acquainted here?

"A Why, some, yes, sir.

"Q Did you visit anybody?

"A No.

"Q Just stayed at the Wallace Hotel?

"A Yes, sir.

"Q And what time do you think that was?

Chandler X
E-11

"A That was August 25th, 26th, and 27th, not later than
"the 27th.

"Q How do you know?

"A I sent a draft east from the First National Bank. on
"the 27th.

"Q From the First National Bank of this city?

"A Yes, sir.

"Q How do you know that?

"A I went down and enquired of them.

"Q When?

"A About two months ago.

"Q Who did you send the draft to?

"A The Cashier of some bank in St. Louis, I have
"forgotten--the Merchants--

"Q To whom did you mail it?

"A I sent a Cashier's certificate to the bank down
"there.

"Q Did you owe the bank down there?

"A No, I sent it there for safety, so I would have it.

"Q Did you make a deposit?

"A Yes, sir.

"Q You got a certificate of deposit?

"A I got a certified card---

"Q Have you got it now?

"A No.

"Q What be came of it?

"A I destroyed it, I suppose.

"Q How much of a draft was it?

"A One hundred and eighty dollars.

Handler X
E-1 ✓

"Q You say you sent that what time?

"A August 27th, 1904.

"Q And you have been down there to find out about it?

"A Yes, sir.

"Q Was that draft made payable to you?

"A Yes, sir.

"Q For how much?

"A One hundred and eighty dollars.

"Q That was the First National Bank?

"A Yes, sir.

"Q Where did you go then?

"A To St. Louis.

"Q In what direction?

"A Over the Burlington.

"Q And that is the time you say you met Steve Adams
"on the train?

"A Yes, sir.

"Q How many times had you met him before that?

"A Twice.

"Q Where the first time?

"A In the woods--I don't know what you call it--
"Buffalo Creek Crossing.

"Q While you were on the ranch and living out there?

"A Yes, sir.

"Q At Buffalo Creek Crossing?

"A Yes, sir.

"Q Where is that?

"A That is on the N. W. 1-4 of Section 25.

"Q Anybody with him?

Chandler X
E-13

"A Yes, sir.

"Q Who?

"A Jack Simpkins and another fellow.

"Q Do you know who the other fellow was?

"A No, sir.

"Q Were they on the trail or in the woods?

"A In the woods.

"Q Hunting?

"A I suppose they were.

"Q What were ~~you~~ doing?

"A I was out with a party fishing that day.

"Q Who were you with?

"A George Root.

"Q And where did he live?

"A At Wallace.

"Q Where did you go after you got through fishing?

"A Back to George Root's cabin.

"Q Where was his cabin?

"A I have forgotten the section.

"Q How long did you stay there?

"A Three or four days.

"Q Do you know which, three or four?

"A No, sir.

"Q Where did you go then?

"A Went back to Mandell's ranch.

"Q How long did you stay there?

"A Oh, about two or three weeks.

"Q About two or three weeks?

"A Yes, sir.

"Q You don't know which?

Chandler X
E-14

"A No, sir.

"Q Then where did you go?

"A Went out to Mrs. Perkins'.

"Q And where is Mrs. Perkins'?

"A Partly in 44-3 and partly in 43-3.

"Q Is that somebody that had a claim there?

"A Yes, sir.

"Q How long did you stay there?

"A About two weeks.

"Q You don't know exactly, but you think about two weeks?

"A About a week.

"Q About a week?

"A Yes, sir.

"Q Anything happen there that enabled you to remember the date?

"A Only the date I came out on; I remember the day I came out on.

"Q You stayed there you say about a week?

"A About a week.

"Q Then what did you do?

"A I came down to St. Joe, and from there to Wallace.

"Q And you got back to Wallace the 25th of August, is that right, or the 27th?

"A No, I got up on the 25th.

"Q And you were here a day and a half all together?

"A Something like two days and a half.

"Q That was the time you bought the draft?

"A Yes, sir.

"Q Now, you were at Price's at some time, was that on your way out?

"A Yes, sir.

Chandler X
E-15

"Q Is there anything by which you fix the date you were at Price's?

"A Just by that draft.

"Q You fix everything by that?

"A And the time I left.

"Q Did you stop at St. Joe coming out?

"A Yes, sir.

"Q How long?

"A Over night.

"Q Where?

"A St. Joe Hotel.

"Q Who was the proprietor?

"A William O'Beill.

"Q Did you register again?

"A Yes, sir.

"Q Did you see Price there at Price's?

"A No, sir.

"Q Did you stay all night?

"A No, sir, I stayed about an hour.

"Q Did you talk with anybody there?

"A Yes, sir.

"Q With whom?

"A I talked with Simpkins a little bit.

"Q What did you talk about?

"A Why, he advised me to make a claim.

"Q What did you talk about?

"A Why, claims, homesteading.

"Q Did you talk with anybody else?

"A I talked with Nute Glover and the other fellow
a few minutes.

Chandler-X
E-16

"Q Do you know who the other fellow was?

"A No, sir.

"Q Was not introduced to him?

"A No, sir.

"Q Could you describe him?

"A I think I could.

"Q Anything about him so you could recognize him in any way?

"A I think I could, yes.

"Q Well, describe him.

"A He was a tall man about six feet tall, sort of light skin, and extremely red hair, with a big forelock hanging up here (indicating) and blue eyes.

"Q Named Glenning?

"A I don't know what his name was.

"Q Did you hear his name?

"A No, sir.

"Q He was a tall, slender man with red hair?

"A Yes, sir, pretty well built.

"Q How was his teeth, all right?

"A Yes, sir.

"Q Did you talk with him any?

"A Had a dispute with him at the table.

"Q What about?

"A He claimed that--

"Q No, not what he claimed, I want to know what it was about, what he said.

"A He claimed Billy Theriault was a jumper and I said he was not.

"Q It was a dispute as to whether Billy Theriault
"was a jumper?"

"A As to whether he stood in with them or not.

"Q Do you know whether that fellow was a settler
"in there or not?"

"A I don't know, I never saw him before.

"Q Or did not know where he lived?"

"A No, sir.

"Q When you came down here to Wallace, you came
down the St. Joe River I suppose?"

"A Yes sir.

"Q Same as everybody else does? What time of
"day did you leave the head of navigation? Don't care
"anything about the date now.

"A On the 7 o'clock boat.

"Q Seven o'clock in the morning. Did you get
"breakfast there?"

"A Yes, sir.

"Q What time did you get there?"

"A On the evening of the 24th.

"Q What time?"

"A I have forgotten the hour.

"Q Did you get supper there?"

"A Yes, sir.

"Q Sure?"

"A Yes, sir.

"Q At what time?"

"A Have forgotten the hour.

"Q How long were you there before supper?"

"A I think about an hour.

"Q An hour. Did you eat by daylight or dark?"

"A By daylight.

"Q Ate at the first table, I suppose, regular supper hour?

"A Have forgotten.

"Q Do you know anything to the contrary?

"A No, sir.

"Q Who ate supper with you?

"A Mrs. and Miss Perkins, Miss Shearer, Avis and myself

"Q Anybody else?

"A Don't remember of anybody else.

"Q Was anyone else in the room when you were eating?

"A Don't remember; no, we all ate together.

"Q Might have been others there?

"A Might have been.

"Q Was there a dozen people in the room?

"A I don't know.

"Q Large dining room, was it?

"A Several tables.

"Q Long table one way, and then another across?

"A Long table one way, can't remember about the other table.

"Q Several people there, were there not?

"A I have forgotten.

"Q Was Frank Price there?

"A I don't remember of seeing him.

"Q Would you know if he was, do you think?

"A I would know if I should see him, yes sir.

"Q Was Glover there?

"A No, sir.

"Q Sure?

"A Yes, sir.

"Q Yes. How did you come to the St. Joe Hotel?

"A We came to Hugus' on the trail, and then came down
"from Hugus' to the St. Joe Hotel, in the canoe.

"Q How far did you come in the canoe?

"A About seven miles.

"Q Where is Hugus' with reference to Mason's?

"A About a half a mile below.

"Q Who brought you down in the canoe?

"A I brought it down myself, rented a canoe.

"Q Who all was in the canoe?

"A Mrs. Perkins, Miss Shearer, and Miss Perkins.

"Q How about Chin?

"A He brought the horses over the trail.

"Q How long did it take to come down in the canoe?

"A I don't know.

"Q Are you used to canoeing?

"A Quite a bit.

"Q Have you any idea how long it took you to come in
"the canoe?

"A An hour and a quarter or an hour and a half.

"Q Where did you take the canoe?

"A Took it to the head. The river was low and it took
"longer than it should have taken, took about an hour and a
"quarter.

"Q Did you take it to the head?

"A No, left it across from the ferry.

"Q How far is that from the St. Joe Hotel?

"A About two hundred yards across to the hotel,
"and half a mile by the river.

"Q About two hundred yards across to the hotel,
"and about half a mile further?

"A By the river.

Chandler-X
B-20

"A By the river.

"Q Oh, Which way did you go?

"A Went across the trail.

"Q Then you went to the hotel, did you?

"A Yes sir.

"Q Stayed there about an hour and got your supper,

"as you think?

"A As near as I can remember.

"Q How did you come to Hokus's?

"A On the trail.

"Q On foot?

"A I walked, and a couple of the young ladies walked,

"and Mrs. Perkins rode.

"Q What kind of a road was it?

"A Trail.

"Q Level or mountainous?

"A Mountainous.

"Q About ~~xxxx~~ like these surrounding Wallace?

"A Just about.

"Q All the way from Price's?

"A What do you mean?

"Q To Hokus's?

"A It is down hill.

"Q Do you know how far it is?

"A No, sir, I have forgotten.

"Q You say you and the two young ladies walked,

"and Mrs. Perkins rode?

"A Yes, the other parties rode part of the way.

"Q Have you any idea how far it is?

"A I should judge it to be about eight miles.

"Q Up and down mountains all the way?

Chandler-X
E-21

"A Mostly down hill.

"Q Up hill part of the way?

"A Yes, sir.

"Q Was Chinn with you?

"A No, he was with Mrs. Perkins. They trailed
"behind a mile or two all the way.

"Q They came over the distance with you?

"A Yes, sir.

"Q And he and Mrs. Perkins trailed behind?

"A Yes, sir, he and Mrs. Perkins.

"Q Did you have a watch with you?

"A No, sir.

"Q Didn't look at the time?

"A No, sir.

"Q You have no remembrance now of what you did at
"Hugus's?

"A No, sir.

"Q What time did you get to Price's?

"A About noon. We ate dinner there.

"Q How long did you stay there?

"A About an hour.

"Q About an hour?

"A Yes, sir.

"Q Where did you stay all night?

"A At the head of navigation; O'Neill's Hotel.

"Q The night before?

"A At Mrs. Perkins's cabin.

"Q How far is that from Price's?

"A About eight miles.

"Q Did you walk or ride from Price's?

"A I walked.

"Q Did the girls walk?

"A Yes, sir.

"Q What time in the morning did you start?

"A Oh , about 7 or 8 o'clock, I have forgotten.

"Q You remember the time, do you?

"A Not the hour, no, sir.

"Q Where did you stop that night?

"A At Mrs. Perkins's.

"Q Well, Mrs. Perkins rode on a horse?

"A Yes, sir.

"Q Where was Chinn?

"A He was riding part of the way, and drove the
"pack horses part of the way.

"Q So that was the way; that was a mountainous road,
"too, was it?

"A Yes, sir.

"Q All the way up and down mountains?

"A Yes, sir.

"Q And over a trail?

"A Yes, sir.

"Q That was about eight miles?

"A Yes, just about.

"Q You and the girls walked with you all the way?

"A Yes, sir.

"Q Were those young girls?

"A About sixteen and twenty-one.

"Q How many people took dinner at Price's?

"A Six of us ate at the same table.

"Q Was there another table?

"A No, sir, just the one to the best of my knowledge.

"Q So there was only six in the room?

"A The fellow Price had working for him, waiting on

"the table.

"Q Six were at the table? What six were they?

"A Mrs. Perkins and Miss Perkins, Miss Shearer,
"Chinn and the red headed fellow.

"Q Mrs. Perkins, Miss Perkins, Mrs. Shearer, Chinn,
"and the tall, red headed fellow?

"A Miss Shearer.

"Q And yourself?

"A Yes, sir.

"Q Yes. Did you talk any while you were eating?

"Did you talk with anybody else there?

"A We all talked.

"Q Did you talk with anybody except at the table?

"A I talked with Simpkins and Newt Glover.

"Q Where did you talk with them?

"A I talked with Simpkins on the porch, and with
"Glover at the bunk house.

"Q How long did you talk with Simpkins?

"A About ten minutes.

"Q What did you talk about?

"A About the murder and so on.

"Q What did you talk with Newt Glover about?

"A Nothing except about a horse that was injured
"a few days before.

"Q Whose horse?

"A Billie Theriault's.

"Q You spoke to him about that?

"A Yes, sir; and we all looked at him there.

"Q Did you talk to anybody else?

"A Yes, sir, I spoke to Adams.

"Q What did you say to Adams?

"A Just passed the time of day with him.

"Q Had you ever seen Newt Glover before?

"A Yes.

"Q Where?

"A At the Head, several times, and a number of times
"the year before.

"Q You were there the year before, were you?

"A Yes, sir.

"Q How many times had you seen Simpkins?

"A Just the one time.

"Q Where?

"A On the NE quarter Section 30.

"Q Who told you who Simpkins was?

"A Half a dozen.

"Q When?

"A It was in the early part of August.

"Q When you first saw him?

"A Yes, sir.

"Q Half a dozen there when you saw him?

"A A dozen or fifteen.

"Q Where was it you saw him?

"A NE quarter of Section thirty. I want to
"correct myself. It was Section 30, NE quarter. I said
"28 the other day.

"Q Who were the dozen with you?

"A Simpkins, Adams, Steve Logan, August Hanson,
"Charles Strohle, John DeVideo, George Root, myself
"Chandler, and several I cant think of.

"Q Yourself and Chandler?

Chandler-X
B-25

"A No.

"Q You mean Chandler?

"A Yes, sir.

"Q What were you doing?

"A Holding a settler's meeting in the woods.

"Q A settler's meeting, yes. At which you discussed
"jumpers?"

MR. HEITMAN: There was an objection which was
overruled.

(Resuming reading):

"Q Is that right?

"A What is that?

"Q The question of jumpers was discussed?

"A Yes, sir. Jumpers and Northern Pacific scrip.

"Q Was that the object of the meeting?

"A Yes, sir.

"Q These were all settlers?

"A Yes, sir.

"Q And they were discussing the question of jumpers
"who were coming in there to take away the homesteads?"

"A Yes, sir. That is one of the topics.

"Q You were one of them?

"A I didn't have any say. I was not interested in
"it.

"Q You were just looking on? Was Mrs. Perkins and
"Miss Perkins there?"

"A No, sir.

"Q They were discussing the Northern Pacific scrip?

"A Yes, sir.

"Q You say Northern Pacific scrip?

"A yes, sir.

"Q Oh, scrip.

"A Scrip.

"Q That would be scrip that would be used to get these pieces of land, homesteads, that is what you mean by it, don't you?

"Mr. Knight: We object to that.

"Sustained."

MR. HEIRMAN: We had better get in our exception there, if your Honor please. Mr. Knight's objection that was sustained. We desire to take an exception.

THE COURT: All right.

MR. HEITMAN (Resuming reading):

"Q Well, now, that is the first time and the last time you ever saw Simpkins except the time you speak of when you took luncheon?

"A At Price's, yes, sir.

"Q What did Simpkins look like?

"A He is a man, tall, rather stooped, dark complexioned, kind of a hooked nose, couple of teeth that overlapped, prominent teeth, sort of a peculiar eye.

"Q What was there about his eye peculiar?

"A One of them looked kind of straight, and the other looked diagonal, shifting all the while.

"Q One would look straight a while, and the other would look straight, is that the way you say?

"A Yes, sir.

"Q One looked crooked and the other looked crooked?

"A Yes, sir.

"Q You observed all this when you were looking at him?

"A Yes, sir.

"Q Nobody else told you about that?

"A No, sir.

"Q How tall would you say he was?

"A About your height.

"Q How tall would you say that is?

"A About 5 feet, 11.

"Q How was he as to weight? Was he a thin man?

"A Weighed about 190, rather heavy set.

"Q Did he have whiskers and mustache?

"A No, had a mustache.

"Q A full head of hair or was he bald?

"A Why he was not bald, but didn't have much hair
neither as near as I remember.

"Q Neither bald---you mean he had a light head of
hair?

"A Not light in color, no.

"Q No, in quantity?

"A In quantity, yes, sir.

"Q And dark in color?

"A Yes, sir.

"Q What boat did you come down on?

"A I have forgotten.

"Q From the head?

"A I have forgotten the boat.

"Q When did you say you went in?

"A It was the latter part of May, 1904.

"Q Stayed all night at the head?

"A Yes, sir.

"Q Got supper?

"A Suppose so; I have forgotten that.

"Q Forgotten your supper?

"A Well, I suppose I got my supper then.

Chandler-X
B-28

"Q You are in the habit of eating supper when you
"are around where it is, so you think you ate then?

"A Yes, sir.

"Q But don't remember anything about it?

"A No, sir.

"Q All of this happened two years ago?

"A Yes, sir.

"Q Did you go alone on the boat when you went in?

"A Yes, sir; that is, I had no acquaintances on the
"boat.

"Q If you had any supper, did anybody else eat at the
"time you did, do you remember that?

"A I don't remember that.

"Q Forgotten all about it?

"A Yes.

"Q What time did you get to the head?

"A I have forgotten. The boat gets there about
"five, I suppose---

"Q I asked you what time you got there?

"A I have forgotten.

"Q What day of the week was it?

"A I have forgotten.

"Q Daylight or dark?

"A Day light.

"Q Do you remember what boat you went up on?

"A No, sir.

"Q Do you know who the captain of the boat was?

"A No, sir.

"Q Or who was the pilot?

"A I don't know.

"Q Do you remember where you got on?

"A At Harrison

Chandler-X
E-29

"A At Harrison.

"Q Did you stay at Harrison over night, or have you
"forgotten that?

"A No, sir; I went straight through.

"Q From where?

"A From Wallace.

"Q You left Wallace?

"A Yes, sir.

"Q Did you stay here over night? the night before?

"A I will not swear to that, whether I stayed over
"night or not.

"Q You don't know whether you stayed anywhere
"over night?

"A I have forgotten whether I stayed in Harrison or
St. Joe over night.

"Q You don't remember?

"A No, sir.

"Q Did you stay in St. Joe over night after you got
"there?

"A Yes, sir.

"Q Whereabouts?

"A At the St. Joe Hotel.

"Q Did you get breakfast?

"A I suppose I did.

"Q You don't remember your breakfast?

"A No, sir.

"Q Or anybody who was at breakfast?

"A No, sir.

"Q Where did you go next day?

"A Went out to Billy Therault's.

"Q How did you go?

"A Walked.

"Q Alone?

"A Went with Billy Theriault's pack train.

"Q What time did you leave?

"A In the morning early.

"Q Anybody with you?

"A Billy Theriault, we got a fellow on the trail
named August West, or Andy West.

"Q What time did you get there?

"A In the evening. I have forgotten the hour.

"Q Stayed there all night?

"A Yes, sir.

"Q Got supper?

"A Yes, sir.

"Q Where did you go next day?

"A Up to Billy Stoddard's.

"Q When did you get up to Perkins's?

"A I didn't meet them until way in July.

"Q Did you come out more than once that year?

"A Yes, sir.

"Q How many times?

"Q When?

"A About the middle of July as near as I can re-
member.

"Q Came out the middle of July?

"A Yes, sir.

"Q You didn't mention that before, did you?

"A I didn't have a chance to.

"Q Nobody ever asked you about it?

"A Not that I remember of.

"Q No. Well, let us find out a little about that.

"Where did you start from when you came out the
"middle of July?

"A From Billy Theriault's.

"Q How long had you been at Billy Theriault's?

"A About two hours. I started from Manley's.

"Q Where you had been living?

"A Yes, sir. I stayed at Theriault's two or three
"hours.

"Q Who did you see at Theriault's?

"A I have forgotten.

"Q Well, did you see anybody?

"A I suppose I did, but can't think who they were.

"Q You have no idea at all?

"A No, sir.

"Q How did you go to Theriault's from Manley's?

"A Walked.

"Q Alone?

"A Yes, sir.

"Q How far is it?

"A About four miles.

"Q How long did you stay at Theriault's?

"A About two or three hours.

"Q Did you do anything there?

"A Can't remember.

"Q Where did you go from Theriault's?

"A Down to the Head.

"Q Did you stop anywhere between Theriault's and the
"Head, or don't you remember?

Chandler-X
E-32

"A I don't remember.

"Q Did you stop at Price's?

"A I think, so, but I would not swear to it.

"Q You would not swear to it?

"A No, sir.

"Q If you stopped at Price's, did you eat anything
"there?

"A I have forgotten.

"Q If you ate anything, did you see anybody at dinner?

"A I don't remember.

"Q You have forgotten everything from Theriault's
"down to the head, have you?

"A I don't recollect anything---

"Q Did you walk?

"A Yes, sir.

"Q Alone? or if you remember, was anybody there
"with you?

"A I have forgotten whether anybody was with me.

"Q You got down to the Head, did you?

"A Yes, sir.

"Q What time?

"A In the evening, six or seven o'clock.

"Q Did you stay there all night?

"A Yes, sir.

"Q Got your supper?

"A Yes, sir.

"Q And went down on the boat next morning?

"A No; stayed at the Head.

"Q Do you remember who was there to supper?

"A No, sir.

Chandler-X
E-33

"Q Now you think that was along the middle of July, do you?"

"A Yes, sir.

"Q Did you register in July?"

"A Yes, sir; at the St. Joe Hotel.

"Q At the St. Joe Hotel?"

"A Yes, sir.

"Q (Book shown to witness) Mr. Chandler, is that your signature?"

"A Yes, sir.

"Q You wrote that, did you?"

"A Yes, sir.

"Q Is that your signature?"

"A Yes, sir.

"Re direct Examination.

"By Mr. Knight: Q How did you happen to attend the settler's meeting?"

"A I was with George Root. We went down to Theriault's; were with a party who asked us to come along.

"Q What were you doing down to Theriault's?"

"A We went down to mail a couple of letters and were going fishing later on.

"Q Your attendance there was simply casual?"

"A Yes, sir.

"Q Did you see Mr. Frank Price on the 24th day of August on which you took dinner at his place?"

"A I would not swear to it.

"Q Did you know Mr. Price at that time?"

"A I met him at his cabin several times, on the trail, at the Head a number of times.

Chandler-X
E-34

"Q Did you see him in the dining room when you were eating dinner?

"A I don't remember him.

"Q You don't remember seeing him there?

"A No. "

MR. KNIGHT: The witness was recalled at page 774, I see, for further cross-examination. (Read by Mr. Heitman):

"By Mr. Darrow:

"Q Mr. Chandler, you say you made a trip out in July?

"A Yes, sir.

"Q I think you said about the middle of July?

"A As near as I can remember.

"Q Did you go beyond St. Joe?

"A No, sir.

"Q How long did you stay at St. Joe?

"A Why, either one or two days, I have forgotten which.

"Q Did you stop at the hotel?

"A Yes, sir.

"Q Did you register when you went out, or when you came in, if you remember?

"A When I came in, as near as I can remember.

"Q How did you register, when you went out to St. Joe in the middle of July, or when you got ready to come back?

"A When I arrived out there.

"Q You don't know how many days you were there?

"A About two days, as I remember it now.

"Q Do you remember of anybody you saw at the hotel in those two days?

"A Yes, sir.

"Q Who?

"A Well, I remember of one man I saw there,
"Montgomery.

"Q Who?

"A James Montgomery.

"Q You remember what time you saw him?

"A No, sir.

"Q Do you know where he lives?

"A He lives up the river somewhere.

"Q You remember any one else you saw either days you
"were there?

"A Why, I bought a pair of shoes from Warner at the
"store, yes, sir.

"Q Do you remember anybody else you saw at the Hotel?

"A I don't recall anybody, no.

"Q (Showing witness book) Is this your signature?

"A Yes, sir.

Mr. Darrow: I would like to have this marked for
"identification

(The page, opposite the witness's name was marked
"Defendant's Exhibit No. 7 for identification.) "

MR. KNIGHT: That is the end of the testimony.

THE COURT: That is as far as we can proceed this
afternoon, I believe.

MR. KNIGHT: We have another witness we could call,
I presume.

MR. HELLMAN: No, Mr. Darrow wants to be here.

THE COURT: Gentlemen of the Jury, there is an unavoi-
dable detention, on account of the absence of Mr. Darrow this

Chandler-X
B-36

afternoon. We regret it extremely, but the exigencies of the case command it.

At this time the jury was duly admonished, as required by law, and retired in charge of officers, who were first duly sworn, and court took a recess until Thursday, November 14, 1907, at 10 o'clock, A.M.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF
KOOTENIA.

THE STATE OF IDAHO,)
)
 Plaintiff,)
)
 vs) No. 194
)
 STEVE ADAMS,)
)
 Defendant.)

THURSDAY, NOVEMBER 14th, A. D., 1907
MORNING SESSION.

At this day, the Defendant being present in court with his counsel, present as before, the record of yesterday's proceedings was read and approved. The Jury came into court in charge of the officers, and being duly polled, all answered to their names, and the trial of this cause proceeded as follows:

MR. KNIGHT: We will call Miss Mayme Shearer.

Sherer D
A-2

MISS MAYME SHERER,

A witness called on behalf of
Plaintiff, being first duly sworn,
testified as follows:

DIRECT EXAMINATION

BY MR. KNIGHT:

Q What is your name?

A Mayme Sherer.

Q Where do you live, Miss Sherer?

A Spokane.

Q What is your occupation?

A I am going to school.

Q What school?

A Blair Business College.

Q Have you ever been in the Marble Creek District,
in Shoshone County, Idaho?

A I have.

Q When?

A In the year 1904, during the summer time.

Q What time did you go in there?

A I went in in June.

Q How long did you remain in there?

A About three months.

Q Do you know the Defendant, Steve Adams, sitting
beside the lady there?

A I have seen him.

Q Where have you seen him?

A At Mica Meadows.

Sherer D
A-3

Q What place in Mica Meadows?

A At the cabin of Mica Meadows.

Q At the cabin?

A Yes, sir.

Q What cabin, do you know?

A I think it was Mr. Price's cabin.

Q When did you see him?

A In August.

Q 1904?

A 1904, yes, sir.

Q Do you know what Price that is, what his first name is?

A I don't know his first name; I know him when I see him.

Q It is Mr. Price who appeared as a witness in this case before, was it?

A Yes, sir.

Q Do you know about what time in August you saw him there

A It was the 24th, I believe.

Q Who else was present when you saw him?

A Mrs. Perkins, Miss Perkins, Mr. Chin, Mr. Chandler and myself.

Q What were you doing there?

A We took dinner there the day we came out.

Q Where did you come from?

A Came from Mrs. Perkins' in White Pines.

Q Who came out?

A Mr. Chin, Mr. Chandler, Mrs. Perkins, Miss Perkins and myself.

Q About what time did you arrive there?

Sherer D
A-4

A About noon.

Q About what time did you arrive there, do you remember?

A It was about noon; maybe about eleven, I should think.

Q Where is Mrs. Perkins' place, that you say you started from?

A We did not start from Mrs. Perkins' place in the morning; we started from Theriaut's; we stayed all night; it was about a half a mile from Mrs. Perkins' place.

Q How far is that, approximately, from Price's cabin?

A Eight or ten miles, I think.

Q What time in the morning did you start out?

A About seven; somewhere along there; as early as seven, I guess.

Q Whom, besides those, did you see at Price's cabin?

A The cook was there.

MR. DARROW: Q Who was that?

A The cook, the man that ran the cabin.

MR. KNIGHT: Q That is, the cook was the man that ran the cabin?

A Yes, sir; ran the boarding house, and there was another man there, a large man that had red hair; I don't know his name; he was rather tall, and I remember seeing two men, Mr. Adams and Mr. Simpkins, if I remember right.

Q Mr. Adams and Mr. Simpkins?

A Yes, sir.

Q What kind of a looking man is Mr. Simpkins?

A He is quite tall; about almost six feet, I should think; rather heavy set and has a peculiar eye; one eye

Sherer D
A-5

turns; it looks in a different direction, to the side rather.

Q Do you know whether his complexion was dark or light?

A His hair was dark.

Q Any other peculiarity about Mr. Simpkins that you remember at all?

A He had a peculiar nose; rather a crooked nose.

Q Rather crooked nose?

A Yes, sir.

Q How about the teeth?

A I don't remember.

Q You don't remember the teeth?

A No.

Q And had you seen Mr. Simpkins before that time?

A I never remember of seeing him before.

Q Did you know who he was at that time?

A He was pointed out to me.

MR. DARROW: Q What is that?

A He was pointed out to me.

MR. KNIGHT: Q By whom?

A By M r. Chandler.

Q And Mr. Adams--

MR. DARROW: (Interrupting) Now I object, on the ground it was leading.

MR. KNIGHT: I had not finished my question. Q Did you know who he was at that time?

A Mr. Simpkins?

Q Adams, the man sitting here beside the lady?

A I was told who he was, but I didn't pay much attention to him.

Q Do you know what name he went under at that time?

Sherer D
A-6

A No, I didnt hear.

Q Who were you told he was?

A Why, I dont remember; I know that he and Mr. Simpkins were pointed out to me, and I dont remember much about it now.

Q You say you had your dinner there?

A Yes, sir.

Q Who, besides yourself, were at the dinner table?

A Mrs. Perkins and Miss Perkins, Mr. Chin, Mr. Chandler and then this large man with red hair.

Q How soon after you arrived there did you see Simpkins and this defendant?

A They were on the porch when I came.

Q They were on the porch when you came there. Did you see them while you were eating dinner?

A I dont remember of it.

Q Did you see the Defendant after that time?

A No, sir.

Q Who arrived at the wabin first, if you remember?

A Mr. Chandler and Miss Perkins.

Q Whom next arrived?

A I did.

Q You?

A Yes, sir.

Q And who after that?

A Mr. Chin and Mrs. Perkins.

Q How long after you arrived before Mr. Chin and Mrs. Perkins arrived?

A About fifteen minutes.

Sherer D
A-7

Q Do you know how long Mr. Chandler and Miss Perkins had preceeded you?

A About fifteen minutes, was all.

Q How did you come; did you walk or ride?

A I walked.

Q How did the party generally come?

A You mean how did all of the rest of them come?

Q Yes.

A Miss Perkins and Mr. Chandler walked; Mr. Chin and Mrs. Perkins rode.

Q How long did you remain at Price's cabin?

A We stayed there long enough for dinner; about an hour.

Q Where did you go then?

A Went on to Hugus' .

Q Where is Hugus'?

A It is about eight miles from there, I should judge.

Q Did you remain over night at Hugus'?

A No.

Q Where did you go then?

A Took a boat and went down to St. Joe.

Q Did you yourself take the boat, or did some one take you down?

A Mr. Chandler.

Q Mr. Chandler took you down in a boat. What kind of a boat was it?

A Canoe.

Q Prior to that time did you know of the killing of Bouley?

A Yes, sir.

Sherer D
A-8

Q Do you know how long prior to that time Bouley had been killed?

A Two or three days.

Q How did you know of the death of Bouley?

A Why, I don't know; I was acquainted with Bouley, and as soon as he was killed the news came there, right away after he had been killed.

Q How far was Mrs. Perkin's place from Bouley's place, do you know?

A I don't know how far.

MR. KNIGHT: That is all.

CROSS EXAMINATION

BY MR. DARROW:

Q You live in Spokane, Miss Sherer?

A I do.

Q What did you say you were doing?

A Going to school.

Q Business school?

A Yes, sir.

Q How long have you been going to school?

A Six weeks.

Q What were you doing before that?

A Nothing; staying at home.

Q How is that?

A Staying at home.

Q You had been employed before that?

A Yes, sir.

Q What?

Sherer X
A-9

A I worked in Bradstreets for a while.

Q At what?

A Clerical work.

Q Ever been employed at anything else?

A I worked for my father.

Q What is his business?

A We were in a grocery store in Spokane.

Q Are you preparing in the business school to take any situation at all?

A Yes, sir, I am going to be a stenographer.

Q For the Weyerhausers?

A No, sir.

Q Your sister's husband is in some way connected with them, isn't he?

A Mr. Prickett?

Q Yes, of Moscow?

A He is in with the Lumber Companies; I don't know which one; I never knew about his business.

Q You don't know which one it was. You say you saw Mr. Adams on the porch as you went in?

A I did.

Q You were going into the house?

A Yes, sir.

Q And you didn't notice him at dinner?

A No, sir.

Q Nor after dinner?

A No, sir.

Q And that is all you noticed?

A I noticed him on the porch when I came in, was all.

Q As you were walking in?

Sherer X
A-10

A I didn't go in then; I was on the porch.

Q How long were you on the porch?

A I stayed out there until dinner was ready.

Q How long were you there?

A About ten or fifteen minutes before.

Q Who was with you?

A Mr. Chandler and Miss Perkins and myself were on the porch first.

Q Who else?

A And then later Mr. Chin and Mrs. Perkins came.

Q Did you see Adams when he came there?

A He was there when I came.

Q Did you see him when he went away?

A No, sir.

Q You don't know when he went?

A No, sir.

Q You didn't pay any attention to that?

A No.

Q You didn't pay any attention to him?

A No, sir; only except when I went in.

Q Who else was on the porch?

A Mr. Simpkins.

Q You didn't know Mr. Simpkins?

A He was pointed out to me; I knew him when I saw him.

Q But that is all; you never had heard of him or saw him before?

A Yes, sir, I had heard of him.

Q Before?

A Yes, sir.

Q Had you ever seen him?

Sherer X
A-11

A Yes, sir.

Q Where were you coming from, Miss Sherer; where had you been?

A I had been at Mrs. Perkin's; spent the summer there.

Q How long had you been there?

A I went in June.

Q How many people did you see around the place there?

A I dont remember of any more, except these two that I mentioned, Mr. Adams and Mr. Simpkins, and our party, and the man that ran the house, and this tall gentleman with red hair.

Q Who is the man that ran the house?

A Why, I don't know his name; he went by the name of Phill; he was the cook there.

Q And the tall gentleman, what was he?

A He was just there; I dont know what he was doing.

Q You dont know his name?

A No, sir.

Q How did he look?

A He was rather large and had red hair; rather fair skin, I should think; I dont remember much about him except that.

Q You dont remember much about him?

A No, sir.

Q What was the color of his eyes?

A Blue, I believe.

Q Do you remember that they were blue, or are you just guessing it?

A I remember they were blue.

Sherer X
A-12

Q Did you look at them?

A I did.

Q Looked into his eyes, did you?

A Yes, sir.

Q Did you have any interest in looking into his eyes?

A No, sir.

Q What was his nose like?

A I dont remember.

Q Couldn't you see his nose when you were looking into his eyes?

A I didnt pay any attention.

Q Then how did you pay any attention to his eyes?

A I remember he was fair and had blue eyes and red hair, because I can remember it.

Q Did you notice his eyes?

A I looked at him.

Q How did he wear his hair?

A Well, he wore his hair rather ^{pomped} ~~straight~~ back.

Q What?

A He wore his hair rather straight back.

Q What kind of a hat did he have on?

A He did not have any.

Q He did not have any hat?

A Not when I saw him.

Q What kind of a coat did he have on?

A He did not have a coat.on.

Q What kind of clothes did he have on?

A He had on rather a brownish,^{or} ~~xx~~ yellow flannel shirt.

Q Brownish or yellow flannel shirt?

Sherer X
A-13

A Yes, sir.

Q What else?

A I dont remember.

Q Don't you remember anything else he had on but his brownish or yellow flannel shirt?

A His every-day clothes; I remember the shirt.

Q Do you remember anything about that?

A I ~~dont~~ remember seeing him, how he looked.

Q No. I am asking you about his clothes.

Q Do you remember anything about his clothes excepting he had on a brownish or yellow flannel shirt?

A He had on a yellow flannel shirt.

Q Was that all you remember about his clothes?

A I think he had on overalls.

Q Do you remember that he had them?

A I would not swear to that; no.

Q You would not swear but what he had on black trousers, would you?

A I dont think he did.

Q Well, would you testify to what he had on?

A No, I would not swear it.

Q Did he have suspenders on him?

A Yes, sir.

Q What kind?

A I didnt notice them.

Q Didnt notice them?

A No, sir.

Q Do you remember anything about his suspenders?

A I remember he had suspenders on.

Q Do you remember anything about his suspenders from your memory?

L-Miss Shearer
B-1

A I refuse to answer.

Q You do refuse to answer.

THE COURT: You will have to answer.

Q Why do you refuse?

A I dont know what kind of suspenders he had on.

THE COURT: Thats an answer.

Q I ask you whether you remember or not?

Do you or dont you remember?

A I dont remember anything about it.

MR. DARROW: That settles it. That answersit; thats
enough.

Q Do you remember whether he had shoeson?

A I do.

Q What kind?

A He had heavy boots lacedup.

Q How high?

A Above the ankles.

Q What color?

A I dont tememberthat.

Q You dont remember?

A No sir.

Q But you do remember they were heavy and laced
above the ankles?

A Yes, sir.

Q Was thereanybody but he didnt have high boots
laced above the ankles?

A Yes, sir.

Q Who?

A Mr. Chandler didnt.

Q Anybody else?

A I dont remember.

B-2

Q Now, take the man you say was Simpkins. You say he was tall?

A Yes, sir.

Q Will you answer, please?

A I said he was.

Q What do you mean by tall? Will you tell us how tall?

A About six feet, I should judge.

Q Yes. Straight or stooped?

A I dont remember.

Q You dont remember, but you do remember he was tall?

A Yes, sir.

Q Heavy set?

A Yes, sir.

Q How much would you say he would weigh?

A About 180.

Q Heavy set as I am?

A Yes, sir.

Q Heavier?

A I should judge he was taller than you are.

Q Heavier set?

A Yes, I think he is.

Q Do you see anybody around here who seems to be as heavy set as he? How about this second or third juror in front? leaving out the question of heighth, this one?

A heavier set than that.

Q heavier set than that?

A Yes, sir.

Q What clothes did he have on?

A Wore a blue flannel shirt and wore a belt with cartridges in it.

L-Shearwr
E-3

Q What kind of a belt?

A Brown leather.

Q What else did he have on besides the blue flannel shirt and brown leather belt?

A Don't remember.

Q Don't remember?

A No, sir.

Q Remember what kind of trousers he had on?

A No, sir.

Q Remember what kind of a hat he had on?

A No, sir.

Q Don't remember that?

A No, sir.

Q Or what kind of shoes he had on?

A Don't remember.

Q Did you hear him speak?

A They were talking; the men were talking.

Q Did you hear his voice?

A I don't remember what his voice sounded like.

Q Do you recall anything he said?

A No, sir.

Q Did he have his hat on or off?

A He had it off.

Q He did have it off?

A Yes, sir.

Q Sure about that?

A As near as I can remember.

Q All the time you saw him?

A Yes, sir.

Q What color was his hair?

A His hair was dark.

Q Heavy or light?

A Dont remember.

Q Dont remember that?

A No.

Q Didnt notice that. Do you know howit was cut,
long or short?

A Just ordinary, as much as I can remember.

Q You do know his hair was dark?

A Yes, sir.

Q Dont know whether it was heavy or light?

A No.

Q Do you know whether he was bald bridheaded or not?

A No, sir.

Q If he was you didnt notice it?

A No, sir.

Q Do you know whether he had whiskers or not?

A He didnt have whiskers.

Q Did he have a mustache?

A He did.

Q Yes. Did you see whether he had a gun at any time?

A He had a gun in his belt , pistol.

Q What kind of a gun?

A Pistol, I dont know what kind.

Q Pistol?

A Yes.

Q Did you see any other gun there?

A Mr. Adams had the same.

Q Has any body ever described Mr. Simpkins to you?

A No, sir.

Q Is that correct?

A Yes, sir.

Q Have you ever been shown his photograph?

A I recognized his photograph.

Q Has anybody ever shown it to you?

A Nobody has taken it and shown it to me.

Q Have you ever had it in your hands?

A I have.

Q Who gave it to you?

A It was given to me when I was in the court room before

Q Well, who gave it to you?

A Mr. Hawley, I think, was the one that handed it to me.

Q Did you ever see it any other time?

A I dont think I did; dont remember it.

Q How long had you been in Wallace before you testified before?

A Two days.

Q You was in the lawyers office frequently, was you not?

A No, sir. I was up there once or twice.

Q Yes. You was around with Mr. Chandler day after day, was you not?

A I was.

Q Do you say you didnt see that photograph until it was handed you in the court room?

A I dont remember of it.

Q Will you swear you didnt?

A I dont think I saw it.

Q Will you swear you didnt see it until it was handed

to you in the court room?

A I will not swear it, no.

Q Did you see it afterwards?

A After I saw it in the court room?

Q Yes.

Q No, sir.

Q When was the last time you saw it?

A In the court room.

Q How did you happen to go to Wallace at that time?

A I was called for.

Q By whom?

A By the deputy sheriff or some officer.

Q Did you talk with anybody about it?

A Before I left?

Q Yes.

A No, sir.

Q Did you see Mr. Chandler?

A Not until after I got to Wallace.

Q Did you see anybody else before you left, but the deputy sheriff?

A Nobody to talk to.

Q Did you see anybody about the case?

A No, sir.

Q Did you go into the Pinkerton office?

A No, sir.

Q Did you see Mr. Thiele about it, or he you?

A Don't know who they are.

Q Don't know who they are?

A No, sir.

L-Shearer-X
B-7

Q Who served the summons on you in Washington?

A After I got to Wallace?

Q No, before, who served summons on you in Washington?

A No one.

Q How did you happen to go to Wallace?

A I came on a telephone.

Q From whom?

A From the Wallace deputy sheriff.

Q What was his name?

A I dont remember.

Q You dont?

A No, sir.

Q Didnt Chandler 'phone for you?

A I was talking with Chandler over the 'phone after the deputy sheriff called.

Q What about?

A He was asking me to come.

Q Oh, yes. He 'phoned to Wallace--- from Wallace, did he?

A Why, he talked over the 'phone from Wallace, yes.

Q And when you got there you were met by Mr. Chandler?

A Why, the sheriff met me and Mr. Chandler.

Q You didnt know what you were going for?

A I did.

Q How did you know that?

A They told me by 'phone there I was wanted on the case.

Q Did they state what you were wanted for?

A He did.

I-Shearer-X
E-8

Q Over the telephone?

A Yes, sir.

Q Did he tell you again when you got there?

A Mr. Chandler didnt say anything to me about it after I got there.

Q Did you talk with him about it after you got there?

A No, sir.

Q Did you talk with anybody about it after you got there?

A No, sir. They told me what I was called up for, that was all.

Q Did you talk with them about the case?

A I talked some.

Q Why didnt you say so if you talked?

MR. KNIGHT: She has said so.

THE COURT: She said so.

Q She says she didnt say anything about it. You did talk with them, whereabouts?

A In their office; in Mr. Knight's office.

Q Who was there?

A Mr. Knight and Mr. Hawley.

Q Do you remember what they said?

A They told me they wanted me to go on the stand, yes, sir.

Q Did you know what they wanted you to go on the stand for?

A I did.

Q Told you that, did they?

A Yes, sir.

Shearer-X
B-9

Q What was it for?

A When I went on the stand it was to contradict the statement made by Mr. Price.

Q How long were you in their office?

A About twenty minutes, I suppose.

Q How long did you stay in Wallace?

A Four days.

Q Then you went back to Spokane?

A Yes, sir.

Q When did anybody send for you again in this case?

A Not until this time.

Q Who sent this time?

A Mr. Knight.

Q When did you get here?

A Last Friday.

Q Been here since last Friday?

A Yes, sir.

Q Have you talked with the lawyers since?

A I have not had any talk with them about the case.

Q Have you been at their office?

A No, sir.

Q Met them anywhere?

A No, sir.

Q Had no conference with any of them?

A No, sir.

Q Or anybody else?

A No, sir.

Q Didnt Mr. Knight and Mr. Hanson go to your room the first evening you got here?

A They did.

Q And you didnt have anything to say to them or they to you about this case?

A No, sir; we got ready and went down to dinner.

Q Didnt say a word about it?

A Passed some little remark, but nothing I was to testify about.

Q Do you know what was said about the case?

A No, sir.

Q Now, to get back to the Price--- Did you see Price there?

A At the cabin?

Q Yes.

A No, sir.

Q What clothes did Adams have on?

A He was dressed like Mr. Simpkins with blue flannel shirt and wore a leather belt with cartridges in it.

Q Do you remember anything else he had on?

A No, sir.

Q Remember what kind of shoes he had on?

A No, sir.

Q Remember whether he was smooth shaven at that time?

A No, sir; couldnt swear.

Q Wouldnt swear whether he had a mustache or not?

A Dont think he did.

Q I am asking whether you remember it?

A I dont remember it, no.

Q No. Do you remember what kind of a hat he had on?

A No, sir.

Q Dont remember that do you? Do you remember hearing

him speak?

A No, sir.

Q What was said to you with reference to Adams that day?

A They was pointed out. I dont remember what was said.

Q Who pointed them out?

A Mr. Chandler.

Q Did he tell you who he was?

A He pointed him out so I knew who he was; dont remember what he said.

Q Did he tell you who he was?

A No, sir.

Q Just pointed his finger at him?

A He told me who he was, I guess, but I dont remember it

Q You dont remember it?

A No, sir.

Q Forgotten that too?

A Yes, sir.

Q Well, do you think of anybody else that was there?

A At the cabin?

Q Yes.

A I didnt see anybody else.

Q This was when?

A August 24th.

Q What year?

A 1904.

Q Yes. 1904, and you testified in September, 1906?

MR. KNIGHT: Mr. Darrow, no.

MR. DARROW: February, 1907?

A Yes, sir.

Q Two years and a half later?

A yes, sir.

Q Had you thought about this thing since?

A Never thought anything about it.

Q Never entered your head?

A No, sir.

Q Do you know where that photograph came from that was shown to you?

A No, sir.

Q Where did you go from this place?

A From the cabin?

Q Yes.

A Went down to Hugus's.

Q Where is Hugus's?

A About eight miles beyond.

Q Did you get anything to eat at Gugus's?

A Didn't get a meal; stopped there a while.

Q How long?

A About an hour.

Q Was anybody there?

A Just Hugus's family.

Q Who did you see?

A Mr. Hugus was there.

Q Did you see him before?

A I stopped there the other time I was there.

Q Anybody else there?

A No.

Q Only Mr. Hugus?

L-Shearer X
B-13

A His family was there; had some children there.

Q How many children?

A I dont remember.

Q You dont?

A No, sir.

Q Well, did you see them?

A Yes, sir.

Q Talk to them?

A Oh, I may have made some remark; dont remember any.

Q Dont remember whether you talked to the children or not?

A No, sir.

Q Do you remember whether you talked to Hogus or not?

A Yes; we went down to the store. He had a little store there, and bought something.

Q About how many children were there?

A I dont know.

Q Ten or fifteen?

A Oh, two or three, I guess.

Q Boys or girls?

A Dont remember.

Q Dont remember whether boys or girls?

A No, sir.

Q About what ages are they?

A I dont know.

Q Have no idea, only you saw some children there?

A No, sir, not of their age.

Q Or sex?

A No, sir.

Q Nor how they were dressed?

L-Shearer
B-14

A No, sir.

Q Anybody talked to you since about these children?

A No, sir.

Q This is the first time the children ever came into your head, isnt it?

A Yes, sir.

Q Have not been shown a photograph of them?

A No, sir.

Q Where did you go from there?

A Down to St. Joe.

Q Go to any Hotel?

A St. Joe Hotel.

Q How long did you stay there?

A Over night.

Q Over night. Get your dinner?

A yes, sir.

Q How many people were present at dinner in the dining room?

A Just remember a number.

Q Anybody else in the dining room at the time?

A There might have been a couple in there, but no, more dont remember.

Q You mean a couple--

A Two or three people.

Q Men or women?

A Dont remember whether men or women.

Q Old or young?

A Dont remember.

Q Tall or short?

A Dont remember.

Q Fat or lean?

L-Shearer X
B-15

A Dont remember.

Q Blonde or brunette?

A Dont remember.

Q Any of them dressed in a blue undershirt with brown belt with cartridges in it, or dont you remember?

A I dont remember that.

Q How many people were there present?

A I dont know.

Q You dont know?

A No, sir.

Q You dont know whether one or a dozen besides yourselves

A No, sir.

Q That has all faded out of your mind?

A I dont remember that.

Q Nobody ever spoken to you about it since?

A No, si r.

Q What time did you get to the St. Joe Hotel?

A About six o'clock or a little later.

Q Light or dark?

A It was light.

Q Anybody on the porch?

A I dont remember. I remember seeing some people therep dont remember who they were.

Q There were some people on the porch?

A Yes, sir.

Q Men or women?

A I dont know.

Q One or fifteen?

A I dont know how many there were.

Q Couldnt give us any idea?

L-Shearer X
B-16

A No, sir.

Q Old or young?

A Dont remember.

Q Lean or fat?

A Dont remember.

Q Black or light hair?

A I dont remember.

Q Or red hair?

A Dont remember.

Q Tall or short?

A I dont remember that.

Q You have not got any re membrance of any man you saw on the porch there, have you?

A No, sir.

Q Or what kind of clothes he had on?

A No, sir.

Q Where did you go the next morning?

A Down to Harrison on the boat.

Q Went down to Harrison in a canoe?

A No, sir; on a boat.

Q Oh. How many people got on there that morning?

A All of our party; dont know who else.

Q Did anybody else get on?

A Yes, sir.

Q About how many?

A It was not a crowd at all.

Q Can you give us an idea of how many it was that got on?

A I cannot.

Q Do you remember anybody that got on?

L-Shearer X
E-17

A No, sir; not who they were.

Q Can you remember how they looked?

A No, sir.

Q Or how they were dressed?

A No, sir.

Q Or whether there were more women or more men?

A I can't remember of any women. I know there were some men got on the boat.

Q Don't know how many men?

A No, sir.

Q Have no idea about it?

A No, sir.

Q How long did you stay in Harrison?

A We stayed there and ate dinner at Harrison.

Q Whereabouts?

A At the hotel.

Q Anybody else in the dining room except your party?

A I don't remember.

Q Might have been full and you don't remember it.

A No, sir.

Q Don't remember whether men, women or children there?

A No, sir.

Q Anybody on the porch?

A Don't remember.

Q Anybody in the office?

A Not that I remember.

Q Do you remember seeing anybody in Harrison at all?

A I remember seeing one lady there.

Q Did you know her?

A No, sir.

Q Pointed out to you?

L-Shearer A
B-18

1001

A No, sir. She was canvassing, that is all I know.

Q Thats the only one you remember?

A yes, sir.

Q When did you get home to Spokane?

A I lived in Spokane then.

Q On your roadhome to Moscow?

A yes, sir.

Q When did you get to Moscow?

A Friday night.

Q Nothing of this matter came to your mind until two years and a half afterwards?

A No, sir.

MR. DARROW: Thats all. wait a minute.

Q You were at Mr. Knight's room too, since you have been here?

A No, sir.

Q Have you not?

A No, sir.

Q Have not been in conference with him?

A No, sir; not been in his room.

Q With other people?

A No, sir.

Q The only time you saw him was when he and Mr. Hanson came to your room?

A yes, sir; he was down in the dining room. I didnt see him in his office.

Q You have not talked to any other lawyer?

A No, sir.

MR. DARROW: Thats all.

RE-DIRECT EXAMINATION

Shearer

BY MR. KNIGHT:

Q When you came didnt I exchange my room with you?

A yes, sir.

Q Do you remember what number of room I gave up to you?

A 21.

Q Is that the one you took?

A I took No. 4.

Q I took your room, w 21?

A yes, sir.

Q Why did we change?

A On account there was no stove in my room.

Q You say that at Wallace you understood that you was to correct some testimony of Mr. Price's?

A yes, sir.

Q Do you know whether afterwards Mr. Price changed that testimony or not?

MR. DARROW: I object to that, whether Mr. Price changed his testimony or not is a matter of record.

THE COURT: Objection is sustained.

Q We did take breakfast together this morning or ate at the same table?

A Yes, sir.

Q Is this the second time we have eaten at the same table?

MR. DARROW: Objected to as leading.

THE COURT: It is leading.

MR. KNIGHT: Take the witness.

MR. DARROW: Thats all.

MR. KNIGHT: Just a moment.

Q You testified you saw a photograph, handed you,
of Mr. Simpkins, in the court room at Wallace?

A yes, sir.

Q Whereabouts in the court room was you at that
time?

A I was in the witness chair.

WITNESS EXCUSED.

THERRUPON, E. E. Pyle

was called and being duly
sworn as a witness on the
part of the State, testified as
follows on examination.

MR. KNIGHT:

Q State your name, residence and occupation, please?

A E. E. Pyle.

Q How do you spell your name?

A P-y-l-e. I live between sixteen and eighteen
miles above the head of navigation on the St. Joe river.
My occupation is rancher and inn-keeper.

Q How long have you resided there?

A It will be six years the 11th of next March.

Q Were you there during the summer and fall of 1904?

A Yes, sir.

Q Mr. Pyle were you there during the time that
Bouley and Tyler are purported to have been killed?

A Yes, sir.

Q Do you remember about what date that was?

A I dont.

L-Pyle D
B-21

Q Where is your place with reference to the St. Joe River?

A My residence is about, I should judge, fifty feet from the bank of the river, on the north side.

Q With reference to the side of the river that Bouley and Tyler were purported to have been killed upon, which side is it?

A On the north side, same side as---

Q same side was it?

A Yes, sir.

Q Where is your residence? Is that the inn you keep there?

A yes, sir.

Q Where is Huckleberry Mountain from your ranch? Do you know?

A No, sir.

Q Do you know where Huckleberry Mountain is at all?

A No.

Q I will ask you whether during the month of August you remember to have seen threemen come out of the woods there?

MR. DARROW: Object to that as leading.

MR. KNIGHT: It is leading.

Q I will ask you--- I dont know how else it could be asked. However, that question is preliminary.

THE COURT: The objection will be overruled. I dont see how you could get at it.

MR. DARROW: Well, I dont care; I withdraw the objection.

(Question read)

MR. DARROW: I object to the part of it that fixes the date.

B-22

MR. KNIGHT: I dont think that would be objectionable, in the month of August. It is a preliminary question.

MR. DARROW: No, it is not a preliminary question. It is fixing a date upon a matter which, if it has any importance at all, it is important.

THE COURT: Yes, I think so. I shall sustain the objection.

Q With reference to the time of the killing of Bouley, I will ask you whether or not near or about that time you saw three men come out of the woods near your place?

A Yes, sir.

Q What time in the morning? ---What time of day was it?

A Early morning.

Q Before or after you had gotten up that morning?

A Before.

Q What attracted your attention to the three men?

A My dog woke me up.

Q Barking?

A Well, no, he was growling and sniffing when I woke.

MR. DARROW: He was what?

A He was growling and sniffing, or snuffing the air, whatever you might call it.

Q What did you see?

A I saw three men come out of the woods.

Q From what direction did they come?

A From the north.

Q What did they do, if you know?

A They passed from my view behind a cabin of mine situated on that flat.

L-Pyle D
B-23

Q How far were they from you at that time?

A Oh, about eight or ten rods possibly.

Q How were they dressed, if you remember?

A I dont remember.

Q Do you remember how they were dressed?

A No, I dont.

Q Did you see them any more?

A No, sir.

Q What did you do after you had seen these men?

A I went to sleep.

Q How long did you sleep?

A I got up, I think, about six o'clock, or six-thirty.

Q About what time was it then you saw these men?

A I didnt look at the time, therefore I could not tell positively, but it was in the early dawn, early morning.

Q About how long prior to the time you got up do you think, Mr. Pyle?

A Well, I should judge two hours and a half; possibly three.

Q Now, with reference to the time you saw these men come out of the woods, I will ask you whether or not, did you have a boat there?

A I owned a boat, yes, sir.

Q Did you have a boat there that morning?

A I dont know.

Q Did you have a boat the day before?

A I dont know.

Q Did you have a boat the day you saw these men come out of the mountain?

L-Pyle-D
B9 24

A As I stated before, I owned a boat but I don't know whether it was there or not.

Q Did you look for your boat that day?

A Yes, sir.

Q Did you find it?

A Yes, sir.

Q Where did you find it?

A At Van Dorn's Landing.

Q Where is Van Dorn's Landing, with reference to your place?

A It is about, probably twenty-five rods below my house on the opposite side of the river.

Q On the opposite side of the river?

A Yes, sir.

Q With reference to your place, where does Newt Glover live up there?

A About seven miles below, on the opposite side of the river from where I live.

Q In looking for your boat did you go any further down the river than Van Dorn's Landing?

A Yes, sir.

Q How far down did you go?

A St. Joe.

Q Who, if any one, did you see on your trip down to St. Joe that day?

A I can't call to mind of meeting anybody.

Q What did you go down there for?

A I went down looking for Van Dorn's boat and to get some freight.

Q How about your boat, was you looking for yours?

A I already had mine.

1-17-1945
B-25

Q I thought you said you went down further that day looking for your boat?

A No, sir.

Q Where did you find Van Dorn's boat?

A Didnt find it.

Q Didnt find it?

A No, sir.

Q Any one go with you?

A Yes, sir.

Q Who?

A Ed. Maloney.

Q Who is he?

A He is a woodsman; has been working on the St. Joe River several years; homesteader.

Q How did he happen to come to your place then?

A He had been working for me, whether he was at that time I could not positively state.

Q Did you see Frank Price that day

A I dont remember of seeing him.

Q Did you hear that day of the death of Bouley?

A Yes.

Q From whom did you hear it?

A Well, I couldnt tell from whom I heard it.

They were conversing about it when I got to the head of navigation.

Q Did you hear any one say anything about it before you got to the head of navigation?

A Not to my knowledge.

Q To be more specific, when you were going down the river, Mr. Maloney was with you, was he?

L-Pyle D
B-26

A Yes, sir.

Q And you and Mr. Maloney saw Frank Price, didnt you?

A I wouldnt state that I did. I dont remember.

Q I will ask you if Frank Price didnt tell you on that day that Bouley had been killed the day before?

MR. DARROW: I object to that. Cross-examination of his own witness.

MR. KNIGHT: I think the question ought to be allowed because evidently this witness is not anxious to testify in this case---

MR. DARROW: I object to the statement of counsel. The witness has not shown any unwillingness to testify yet.

THE COURT: The witness hasnt shown any unwillingness to testify. I shall sustain the objection.

Q Mr. Pyle you were subpoenaed in this case at Wallace?

A Yes, sir.

Q You had some conversation with me about this case?

A Yes, sir.

Q I will ask you whether or not on Sixth Street, Wallace, during the trial of the other case, while you were subpoenaed there, in front of the County Building, practically in front of the store of Hayes and Jones, whether or not you didnt say to me that your boat was missing the morning you saw the three men, that you went down the river that day looking for your boat or for some otherboat and that Frank Price told you on your way down that Bouley had been killed the day before?

MR. DARROW: I object to that.

MR. HEITMAN: If it is an impeaching question he has not laid the foundation.

L-Pyle D
B-27

MR. MILLER: Laying ground for the impeachment of his own witness.

THE COURT: Under our peculiar statute it is not an impeaching question.

MR. DARROW: We object on the grounds that it is a question tending to impeach his own witness. Improper, incompetent, irrelevant.

THE COURT: I overrule it. Certainly would be an attempt to impeach if it were not for our statute. It is a peculiar statute.

MR. DARROW: I think no proper foundation has been laid.

THE COURT: The objection is overruled.

MR. DARROW: I will save an exception.

THE COURT: Exception allowed.

Q Answer the question, please, Mr. Pyle.

A As regards that specific part of it, I don't remember telling you about it.

Q What specific part do you refer to?

A In regard to Mr. Price telling me about the killing of Bouley.

Q The rest of it you do remember?

MR. DARROW: Well, wait.

Q Do you or do you not remember the rest of it?

MR. DARROW: I object to that. Let the question be read over again.

(Question read)

A No, sir.

Q I will ask you if that was the conversation except the statement of Mr. Price?

MR. DARROW: We object to that.

Q Well, with reference to the time you heard of the killing of Bouley, what time was it you saw these three men come out of the woods, and that you went down the river to look for the boat?

A It was the same day.

Q Do you remember what day of the week that was?

A Sunday, I think.

Q Do you remember what month it was?

A No, I dont.

Q Do you remember about what time Bouley was killed?

A Well, I dont know as I could state the date.

Q Do you remember whether or not you saw Frank Price that day?

A I dont.

Q You dont remember?

A No.

Q You wouldnt say you did or did not?

A No.

MR. KNIGHT: Thats all.

File X
C-1

cross examination

BY MR. DARROW:

Q Where did you say you lived now?

A St. Joe River.

Q The same place you did at this time that you are testifying about?

MR. KNIGHT: Just one question. Q You knew Nute Glover?

A Yes, sir.

Q Did you see Nute Glover that day?

A No, sir.

Q Or Alva Mason?

A No, sir.

MR. DARROW: Q You lived the same place then as you do now?

A Yes, sir.

Q What were you doing in those days?

A Ranching; keeping an inn.

Q Looking after summer boarders?

A Yes, sir.

Q How many did you have at that time?

A I could not state the amount.

Q Had some all right, didn't you?

A Yes, sir.

Q Do you remember about how many you had?

A Well, I don't know as I could.

Q Well, was it half a dozen or a dozen?

A I presume there was apt to have been ten or twelve or fifteen.

Q Both men and women?

File X
C-2

A Yes, sir.

Q Did they all have access to your boat?

A Yes, sir.

Q You were pretty busy farming and looking after summer boarders I suppose?

A I am.

Q It kept you most of your time?

A Yes, sir.

Q You don't remember just when you did see the boat last?

A I do not.

Q The boarders took it whenever they wanted to and went where they wanted to?

A Yes, sir.

Q Nothing unusual for you not to find it at your wharf?

A No, sir.

Q When you went out to use it on this Sunday morning you did not find it at your wharf?

A No, sir.

Q And you did find it just across the stream, at Van Dorn's landing?

A Yes, sir.

Q You dont know how it got there, or when?

A No, sir.

Q Was it tied up or not?

A I don't know.

Q You don't remember, or don't you know?

A I dont know.

Pile X
C-3

Q Was Van Dorn's place below yours on the stream, or above it?

A Below it.

Q It might have drifted down there, or it may have been taken across by anybody, as far as you know?

A Yes, sir.

Q Now, is your place on the regular line where people come from that Marble Creek country down through?

A I live on the opposite side of the river from Marble Creek; there was a trail running up the river.

Q You live on the opposite side of the river from Marble Creek?

A Yes, sir.

MR. DARROW: I understood him to answer Mr. Knight the same side.

MR. KNIGHT: I did, too.

MR. DARROW: Let us see if we can both together get at it. Q Now, do you know where those homesteads are up on Marble Creek?

A No, sir.

Q You know where the Marble Creek territory is?

A Yes, sir.

Q And you live on the opposite side of the river?

A Yes, sir.

MR. DARROW: I think you answered Mr. Knight the other way; you might not have understood the question; but you are sure about that, are you not?

A Yes, sir.

Q Then, anybody coming from Marble Creek to your place,

Pile X
C-4

would have to cross the river?

A Yes, sir.

Q How much of a river is there along that place; how wide is it?

A Where I live, you mean?

Q Yes, sir.

A Oh, it varies; I should judge in front of my place there at that time of the year the water flow would possibly be a hundred and fifty feet wide.

Q How about the depth?

A The depth of the river opposite my house there, I should judge is about, in places, four or four and a half feet.

Q How is it along further up, a mile or two, or three? About the same, or different?

A About the same, I should judge; it varied of course in eddies and riffles.

MR. DARROW: I did not get that.

THE COURT: It varies in eddies and riffles. Speak louder, Mr. Pile.

MR. DARROW: Q Now, Mr. Pile, what lies on the same side of the river that you are on and further up the stream and north of it, what sort of a country is it up through there?

A It is rough, mountainous, with some flats.

Q Any people live up there?

A Yes, sir.

Q In the habit of passing your place going down?

A Yes, sir.

Q How frequently?

A Well, at that time of year, very frequently.

File X
C-5

Q And at what times of day or night?

A Well, at all times, nearabouts.

Q So there was nothing unusual in seeing men go past?

A No, sir.

Q Any trail along there?

A Yes, sir.

Q That was a regular trail, wasn't it?

A Yes, sir.

Q That was a regular trail where you saw these men?

A Where they came out, yes, sir.

Q But that trail did not lead to Marble Creek?

THE COURT: (To the witness) Answer that, please.

A It went up along the river, the St. Joe River, it branches off; that trail leads into going up into the Big Creek district, and also goes along the river.

Q It goes along the side of the river?

A Yes, sir.

Q Do you know how far?

A Well, I have been up about three miles and a half above my place; whether it went farther or not I could not state.

Q How long have you lived there?

A It will be six years the eleventh of last March, or next March, rather.

Q When was your attention called again to this matter? You did not pay any attention to it that morning, I suppose; that was at the time that you saw these men?

A No, sir, at the time I saw these men.

File X
C-5 6

Q You did not consider it anything unusual at all?

A No, sir.

Q Do you remember when your attention was called to three men after that?

A No, sir; I do not.

Q How close were you to them, or they to you?

A Oh, they were about eight or ten rods, possibly.

Q Daylight, was it?

A It was early dawn, yes, sir.

Q Didnt know any of them?

A No, sir.

Q How long have you known Nute Glover?

A About five years.

Q How well have you known Mason?

A About the same length of time.

Q And how well have you known him?

A The same as Mr. Glover.

Q Well, you got up later and went down to your wharf and were going to use the boat, were you?

A I had no intention of using it.

Q Well, you didnt see it, anyway, when you were down there?

A Yes, sir; I did not see it.

Q And then you looked across the stream. Could you see it from where you were?

A No, sir.

Q And you went across. Did you find it?

A No, sir; I did not go across.

File X
C-7

Q How did you do that? Maybe you can tell it better than I can, seeing you were there and I was not.

A I started down the trail afoot.

Q On the same side?

A That I lived on, yes, sir; I had not gone but a very short distance before I spied my boat across the river.

Q Then you went across?

A No, sir.

Q Again, I will let you tell it; how did you get it?

A Mr. Maloney went across and got it.

Q And brought it over to you?

A Sir?

Q Brought it over to you?

A Yes, sir.

Q He forded the river, I suppose, there?

A Yes, sir.

Q You did not look for Van Dorn's boat over on the landing, did you?

A I looked for it at the landing, at the water's edge, but I did not examine back in the bank, or on the bank, in the woods or around his house.

Q And then you went down stream later in the day to get a cargo from St. Joe and also to see whether you could see Van Dorn's boat; is that right?

A Yes, sir.

Q You did not see the boat?

A No, sir.

Q Did you get the cargo?

A Yes, sir.

Pile X
C-8

Q And you came back home?

A Yes, sir.

Q What time did you get home?

A About two thirty the next day.

Q You mean Monday, then?

A Yes, sir.

Q While you were down stream you heard that Bouley had been killed?

A Yes, sir.

Q You dont remember where you heard it, or do you remember?

A I remember of hearing them talk about it at the head of navigation.

Q That was a general conversation up around the Head, wasn't it?

A Yes, I heard it discussed quite a good deal.

Q And where did you stop when you were at the Head of Navigation at that time?

A St. Joe Hotel.

Q Usually stopped there, did you?

A Yes, sir.

Q Register, do you?

A As a rule I do, yes, sir.

Q Well, you registered this time, didn't you?

A I could not state whether I did or not.

Q You could not state whether you did or not?

A No sometimes I do, and it is almost invariably the rule that I do, but as to swearing that I did, I couldnt do it because I dont remember.

File X
C-9

Q Dont you register when you stay all night and have a room assigned you?

A Yes, sir.

Q If you dropped in there for a meal or something, you might not register, I suppose?

A I suppose that would be the case.

Q But if you stayed all night, you registered, didn't you?

A Yes, sir.

Q And you did stay all night at this time?

A I stayed all night; yes, sir.

Q So your name must be on that register?

A I presume it would be; ~~but~~ ^{as} I dont remember of staying there over night without registering.

Q You havent got anything by which you fix the date of goinf down this river, have you?

A Well, no, nothing except the hearing of the killing of Bouley; I dont know as regards to dates.

Q You dont know just where you heard it, or just when, do you?

A I heard it discussed at the Head.

Q Well, do you know whethet that is the first place you ever heard it discussed?

A I think it was.

Q Are you sure about it?

A I would not be positive; but it is in my mind that that is the first place that I heard of Bouley being--

Q (Interrupting) That is in your mind, of course?

A Sir?

Q That you mean is in your mind at this time?

A Yes, sir.

Pile X
C-10

Q But would you be positive that the first time you heard it was at the Head of Navigation?

A No, I would not be positive of that.

Q Do you now remember from whom you heard it first-- a distinct remembrance of the person and place?

A No, I do not.

Q You were in the habit of going down the river occasionally, weren't you?

A Yes, sir.

Q Well, you would not remember any special time you went down, excepting as you rather think that these matters were linked together, the way you have described it; is that it?

A Yes, sir; I could not state the date.

Q When was it brought to your mind to talk it over afterwards?

A What is that?

Q When was the matter brought before you to talk it over afterwards--at the time you went to Wallace?

A Yes, sir.

Q Not before?

A No, sir.

Q And that was two years and a half after all of this, wasn't it? Well, it was in February, 1907?

A It was the time of the trial at Wallace; I don't know how long after Bouley was killed.

Q And you have not thought about it since?

A No, sir.

Q Had not thought about when you heard of Bouley's death or when you found the boat missing, or when you saw three men?

A I have thought about it since, but I have never--

Q (Interrupting) I meant up to that time?

A No, not particularly.

Q And you had not thought about the question whether there was any connection between those events or not?

A No, sir.

Q And you had a conference with our friend, Mr. Knight, about it?

A Yes, sir.

Q More than one?

A Well, I spoke about the matter here and in Wallace at the time of the trial.

Q You spoke about the question of whether these events all happened at the same time, and when they happened, or how much you remembered of them, didnt you?

A Something to that effect; yes, sir.

Q He talked about it and you talked about it?

A Yes, sir.

Q Did you go there under subpoena?

A To Wallace?

Q Yes, sir.

A Yes, sir.

Q By the State?

A Yes, sir.

Q And you were not called on the witness stand?

A No, sir.

Q Did you have any talk with Mr. Knight or anybody afterward?

File X
C-12

A Not since the trial, until this present one.

MR. DARROW: Well, I guess that is all.

RE-DIRECT EXAMINATION

BY MR. KNIGHT:

Q What time during the trial did you come to Wallace?

A Well, I could not say what time of the trial.

Q Do you know whether it was after or before the State had finished its case, that is its prima facie case?

A Well, I would not say; I dont remember but I--

Q (Interrupting) Were you told why you were not placed upon the stand there at Wallace?

MR. McBEE: That is immaterial.

MR. KNIGHT: It is material.

MR. DARROW: I object to that, whether he was told why he did not go on the stand.

MR. KNIGHT: I think it is material after the cross examination. This witness was asked if he was put on the stand. This man was not placed upon the stand because ~~xxxxxxxxxx~~ he did not come down until after the State put in its case.

MR. DARROW: I object to the statement.

MR. KNIGHT: That is true.

MR. DARROW: He came down while you were putting in your testimony and you did not call him.

MR. KNIGHT: No, rebuttal testimony.

MR. DARROW: You introduced just exactly the same testimony in Wallace in rebuttal.

MR. KNIGHT: No, you are again mistaken about that.

File X
C-13

THE COURT: The objection will be sustained anyway.
It is immaterial.

MR. DARROW: Q Mr. Pile, I want to get the location of your place exactly. I don't exactly understand your statement. You say that you live on the north side of the St. Joe River?

A Yes, sir.

Q Now, on which side of the St. Joe River is the Marble Creek district, if you know?

A On the south side.

Q On which side of the river did you see these men come out of the woods?

A On the north.

Q Opposite your place?

A No, sir; on my place.

Q On the south of your place?

A Yes, sir.

Q And Van Dorn lives on the north side?

THE COURT: On the south side.

A On the south side.

Q Which side of the river does Nute Glover live on?

A He lives on the south side.

Q On the south side. That is, on the same side as the Marble Creek district, that Nute lives on, is it?

A Yes, sir.

Q When you went to Van Dorn's landing, was Van Dorn at home?

A I did not go to Van Dorn's landing.

MR. DARROW: He said he sent Mr. Maloney over.

MR. KNIGHT: I understood you to say on cross examina-

File X
C-14

nation that you did look around there for Van Dorn's boat?

A I looked at the landing, but I was not over at the landing; simply passed by in a boat going down the river.

Q Do you know whether Van Dorn was at home at that time or not?

A He was not.

Q He was not at home?

A No, sir.

Q Was anyone at his place?

A Not that I know of.

Q Do you know how long since Van Dorn had been there?

A I could not state the exact time.

Q About how long since Van Dorn had been at his place?

A It would only be a guess with me to state; it might have been a week or two weeks; possibly maybe longer; it might have been a shorter time; I don't remember the exact time he was gone.

Q I dont remember whether you stated that you did or did not see Frank Price that day.

MR. DARROW: He said he was not sure, didnt he?

A I dont remember of seeing him.

MR. KNIGHT: Q You dont remember whether you saw him or not?

A No, sir.

File RX
C-15

RE-CROSS EXAMINATION

BY MR. DARROW:

Q You say Nute Glover lives on the opposite side of the stream from You?

A Yes, sir.

Q Mason lives on the same side?

A Yes, sir.

Q As you do, Mason and Glover live on opposite sides?

A Yes, sir.

Q Had you been over to Van Dorn's landing before this time recently?

A Not recently, I have not; that I remember of.

Q You dont know anything about where his boat was or how long it had been away, if at all, at that time?

A No, sir; I dont.

Q Now, at Van Dorn's landing, is there a trail from Vna Dorn's landing over to Wallace?

A Not that I know of.

Q You dont know of any?

A No, sir.

Q Is there a trail anywhere from there up into the woods, or dont you know?

A I dont know; I am not acquainted with that side of the river very much.

RE-RE-DIRECT EXAMINATION

BY MR. KNIGHT:

Q What kind of a boat did you have?

A I had a steel boat.

Pile RRD
C-16

Q What kind of a boat did Van Dorn have?

A He had a steel boat, I think.

Q Steel canoes or flat boats?

A They are canoes. Mine was a canoe; Van Dorn's, although it had ores on it, there is a place for ores, he usually uses a pike pole; made in the shape of a row boat a good deal.

Q Larger or smaller than yours?

A Smaller.

Q The usual method of traveling up and down the river is by canoe, rather than by row boat, isnt it?

A Yes, sir.

WITNESS EXCUSED.

Maloney D
C-17

ED. MALONEY,

A witness called on behalf of
the Plaintiff, being first
duly sworn, testified as
follows:

DIRECT EXAMINATION

BY MR. KNIGHT:

Q What is your name?

A Ed. Maloney.

Q What is your business?

A I am a lumberman.

Q Where do you live?

A Live on the St. Joe River.

Q How far above the head of navigation do you live?

A About twenty-six miles.

Q Do you know E. H. Pyle?

A Yes, sir.

Q How long have you known him?

A A little over four years.

Q During the year, 1904, did you live on or work at
his place?

A Yes, sir.

Q Were you there during the time that Bouley was killed
in that country?

A I was there when I heard of his getting killed.

Q How soon after he was killed, did you hear of his
getting killed?

A Sir?

Maloney D
C-18

Q How soon did you hear of his getting killed?

MR. DARROW: How soon after what?

MR. KNIGHT: Q When did you hear of his getting killed?

A I dont know the dates; in August, though, I think, that year.

Q You think it was in August?

A Yes, sir.

Q During the month of August you were with Mr. Pyle, were you?

A Yes, sir.

Q Did you assist Mr. Pyle in looking for the boat on the St. Joe River?

A Yes, sir.

Q What time was that with reference to the time that you heard of the killing of Bouley?

A About that time.

Q About that time. Do you remember about what day of the week that was?

A It was on the St. Joe; just what date it was, I dont know.

Q What is that?

A It was on the St. Joe; the date I dont remember.

Q Do you remember what day you heard Bouley was killed?

A It was on that day, on Sunday.

Q What did you and Mr. Pyle do that day?

A We went down the river to the Head of Navigation, St. Joe.

Q What for?

A Looking for this boat.

Maloney D
C-19

Q What boat?

A Plyes' boat.

Q Plyes' boat. Did you find it?

A Yes.

Q Where did you find it?

A Only a short ways below Pules', where I found his boat.

Q What did you do after you found his boat?

A Went to the Head.

Q What did you go for?

A I dont know what he went for.

Q What did you go for?

A I went with Pyle.

Q Did you go to look for another boat?

A Yes, sir.

Q What boat did you go to look for?

A To look for Van Dorn's.

Q Did you find that boat?

A No.

Q Where did you hear of the killing of Bouley?

MR. DARROW: If he knows?

MR. KNIGHT: Q Did you know whether Van Dorn's boat was at that place on the day before or not?

A No.

Q You didnt know?

A No.

Q When did you see Van Dorn's boat before?

A I dont know; it may have been gone for two weeks, or a month, for all I know.

Maloney D
C-20

Q Where did you hear of the killing of Bouley?

A I heard about it at Hugus'.

Q Who told you about it?

A Nobody told me about it; I heard that holloaed
across the river.

Q Who did you hear holloea it?

A I dont know who it was.

Q Som one across the river?

A Yes, sir.

Q Who else was there at that time?

A I could not say; Pyle and I was in the boat.

Q And what did you hear?

A I heard them say that Bouley was shot.

Q What was the exact language you heard, if you
remember?

A I dont know as I heard anything more than that,--
Bouley was shot.

Q Did you see who said that?

A No, they were not talking to me.

Q Some boys talking to you, did you see who said
that?

A No, I couldnt see who said it; there were a couple
of men on that side of the river and I heard one holloea
to that effect, and that is all I know.

Q Who was he holloeaing it to?

A I dont know.

Q Holloaed out loud, did he?

A Yes, sir.

Q Do you know Frank Price?

A I saw him; yes, sir.

Q Did you know him at that time?

Maloney D
C-21

A No.

Q Did you hear anything more about the killing of Bouley that day?

A No.

Q Was ~~Rankey~~ Pyle with you when you heard that?

Q How far is Hugus' below Pyle's place?

A Between four and five miles; six miles, I guess.

Q That was on the way that you were going down, was it?

A Yes, sir.

MR. KNIGHT: That is all.

CROSS EXAMINATION

BY MR. DARROW:

Q Mr. Maloney, you went down the river that day also to get freight, didnt you, as far as you know?

A Yes, sir.

Q Did you get any?

A Yes, sir.

Q And brought it back?

A Brought it back Monday.

Q You don't remember anything about what time these things happened?

A No, I dont.

Q And you dont know anything about how long Mr. Van Dorn's boat had been missing, if it ever was missing?

A No, sir.

Q Do you know whether there was a path from Van Dorn's over to Wallace or anywhere in that neighborhood, trail?

Maloney X
C-22

MR. KNIGHT: I object. That is not cross examination at all.

THE COURT: Let him take him for his own witness. He can enquire.

MR. DARROW: Very well Q Do you know?

A Van Dorn's?

Q Van Dorn's?

A No, sir.

MR. KNIGHT: The question is if he saw it in August, at that time.

MR. DARROW: I suppose that is true. What about it?

MR. KNIGHT: The witness has answered he dont know.

THE COURT: He says he dont know.

MR. DARROW: Q Did you look to see what had become of anyone who had the--well, I think that is my case, if I can make it. You went over after Plye's boat to Van Dorn's wharf, did you?

A Yes, sir.

Q Did you go up any in the woods there?

A No, I came--I waded across the river and went down along the bank and brought the boat across to the river bank.

Q And you dont know whether there was any trail around there or not, leading anywhere?

A No, there is no trail on that side of the river.

Q On the Van Dorn side?

A No.

WITNESS EXCUSED.

McParland (Rec) X
C-24

made a mistake.

Q Did you tell him how he had made a mistake?

A I did.

Q You did not?

A I did.

MR. HAWLEY: He did.

MR. DARROW: I beg your pardon. Oh, you did.

MR. HAWLEY: Speak a little louder, Mr. McParland.

MR. DARROW: Q What did you tell him about that?

A I told him he had done just what I had warned him against.

Q What else?

A That he had allowed lawyers, who were working in the interest of the defense of Moyer, Heywood and Pettibone, to approach him, and I had warned him against them. I told him that I knew they had promised him that they would set him free, and did not believe they could do so.

Q What made you think the lawyers had promised him something when you had not?

A What?

Q What made you think the lawyers had promised him something?

A I was satisfied in my own mind they had; otherwise he would not have taken the course he did.

Q You did not think Steve would have taken any such course unless he had had some promise, did you?

A Certainly not.

Q And you told him you had no doubt but what the lawyers had promised to get him free if he took that side?

McParland (Rec) X
C-25

A Yes, sir.

Q And you had not any doubt?

A I had no doubt but that was what they promised him.

Q Nobody had told you so?

A No, sir.

Q You havent any doubt about it now, I suppose?

A No doubt whatever.

Q Otherwise, you think Steve would not have acted that way?

A No, sir; I dont think so.

Q So your inferences are drawn entirely from Steve's actions?

A Yes.

Q Is that all you said to him?

A I believe that is about all.

Q You say you could have done more for him than we could?

A No, I had already told him.

Q You had already told him that?

A Yes.

Q And you thought he ought to remember it?

A Yes, sir.

Q You told him he had made a very foolish break, didnt you?

A I did.

Q You told him you had been his friend and was very sorry he had taken that step?

A I did.

Q And that you were his friend, as long as he was faithful and true to the State?

McParland X (Rec.)
C-26

A I believe I told him that.

Q Did you tell him anything else?

A Not that I remember just now.

Q Didnt you tell him then that if he persisted in that course, of heeding these lawyers, he could prepare to meet his God?

A No, I did not.

Q Sure?

A I think not.

Q Did you tell him anything of that sort?

A I think not, that I can remember.

Q And did you not tell him that if he persisted in his confession he would not have to meet his God yet?

A Never told him anything of the kind.

Q You did not say anything to him about his being safer with you at that time?

A No, not at that time.

Q You thought he would be, however?

A I did.

Q Did you also tell him that if he persisted in that course he would have to prepare to stand trial?

A I told him that, yes.

Q You did not tell him that he would have to prepare to meet his God?

A No.

Q I call your attention to page 706, about the middle of the page, where I have marked it.

THE COURT: (To the Witness) Read all you want to.

MR. DARROW: If you will read the next page you may find something that you will want to call our attention to.

McParland (Rec.) X
C-27

I have marked that too. (Handing witness volume, who reads therefrom.) Q You read that next page too, did you?

A I did.

Q On that trial, were these questions asked, and did you make these answers: I will read the next afterwards, Mr. McParland, I will assure you of that: "Q Did you not tell him then and there that if he persisted in his course that he must prepare to meet his God? A I told him it looked that way, and it did. Q Yes, yes; that if he persisted in his confession, he did not have to meet his God yet? A I don't know about that; he might have had a little more time. Q You think so yet, do you? A Yes, I suppose so." Now, skipping a page and coming to the next page, the question was asked again: "Q But you did tell him at that time, at the time I am speaking of, that if he persisted in this course he was then taking that he must prepare to meet his God? A No, I didnt say 'to meet his God; but I said he would have to prepare to stand trial, and I would have to be a witness."

THE WITNESS: That is correct.

Q That you would be a witness; is that right?

A That is right.

Q Did you say anything to him about whether you would be a witness against him if he stood by his confession?

A I did not.

Q But if he did not stand by his confession, you would be a witness against him?

A Certainly.

Q You are still Steve's friend, I suppose?

Idaho (1967) A
C-28

A Still friendly to the unfortunate man, yes.

Q You use the word "unfortunate" because he is not following your advice; is that it?

A That is it, exactly.

Q Not because you think he has committed some crimes?

A I know from himself he has committed several crimes, yes.

Q But the reason you use the word "unfortunate" is he is not following your advice, isn't it?

A He is unfortunate in both ways; unfortunate in committing the crimes, and next to ~~have~~^{take} the advice that he has done.

Q Instead of taking your ~~advice~~ own advice?

A Instead of taking mine.

Q And you told him so?

A And I told him so.

Q Now, you came up here to Idaho from Denver to testify against him, haven't you?

A I have.

Q And are still his friend. You saw him again, didn't you, before the trial?

A I think I seen him in Wallace.

Q Yes.

Q Where?

A In the jail.

Q Well, when Steve concluded to take the course he is now taking and not follow your advice any longer, he was taken to Wallace?

A Yes.

Q And you went to Wallace, didn't you?

McParland (Rec) X
C-29

A I did, subsequently.

Q Who got there first, you or Steve?

A I believe I was there ahead of Steve; got there about the same day, I think; I am not sure.

Q Well, you think you were there a day or so first, don't you?

A No, I hardly think so.

Q You were there ahead of him, weren't you?

A Yes.

THE COURT: Speak a little louder, please.

A I was; I think I was.

Q You had consultations with the Counsel on the other side, didn't you?

A ~~Yes~~ Invariably.

Q In Wallace?

A In Wallace, yes.

Q And with one Angus Sutherland?

A Yes, sir.

Q Who was then Sheriff of Shoshone County, and interested in the prosecution of Adams and the prosecutions in Boise?

A Yes, sir; he was sheriff; I dont know what interest he had.

Q You dont know whether he was interested in those matters or not?

A Doing his duty, I suppose, as the Sheriff of the county.

Q Did you ever investigate as to whether he was doing his duty or not?

McParland (Rec.) X
C-30

A I did not; but I think so.

Q I asked you if you knew whether he was doing anything on those cases?

A I say he did his duty as a Sheriff.

Q Did you have conferences with him in reference to the prosecution of the Adams case?

A Several times, yes, sir.

Q Now, that is the question I have asked you.

A Not in that way, Mr. Darrow.

Q Not whether he was doing his duty; I asked it moderately so as to get a moderate answer. Adams was taken out on the writ of habeas corpus at Boise, wasn't he, out of the penitentiary?

A I believe so; I was not there at the time.

Q And he was released from that charge by the order of court, as you understood it at that time?

A That is what I understood, yes.

Q And then he was arrested on some Colorado charge and taken to the jail, wasn't he, to the county jail in Boise?

A I believe so, yes, sir.

Q You know about that, don't you?

A Well, that is what I heard; I was not present.

Q And then that was dismissed and he was arrested and taken from the jail and placed in Angus Sutherland's hands, wasn't he?

A Yes, sir; he was arrested and taken to Wallace.

Q Yes, but something happened before that, didn't there, when Angus Sutherland got hold of him, he immediately put him back in the penitentiary, did he?

McParland (Rec.) X
C-31

A I believe he did.

Q You know it, don't you?

A Yes, sir; I seen him in the penitentiary.

Q That is what I am trying to get at. So you know that at least?

A Yes, sir.

Q And that was when Angus Sutherland had charge of him?

A Yes, sir.

Q Did you have any conference with him then?

A That was when I had a conference with him.

Q Then you got up to Wallace and had these conferences you tell us about. Were you present in the District Attorney's office when I made some protest that I must see my client?

A I was.

Q Had you seen Steve at that time?

A I had not.

Q How long after that was it before you saw Steve?

A I guess it was a day or so.

Q Did you make a request to see Steve?

A I did.

Q How long after you made the request before you saw him?

A I made the request the evening before.

Q And you saw him the next day?

A I saw him the next morning.

Q Are you sure about that?

A I am sure about it, yes, sir.

McParland (rec.) X
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Q How long after I (Mr. Darrow) made the request before I was permitted to see him?

A You will have to answer that; I don't know anything about your business.

Q You don't know?

A Yes; you will have to answer that.

Q We will see whether I will or not. I will call your attention to the lower part of page 708, about two thirds of page 709 and the top of it, and the lower part of page 710 and the top of page 711. Will you read right there, if you please. I will show you what I want and you can read anything else you want; that and along there, and there. (Handing witness volume of testimony and indicating to him.)

MR. HAWLEY: It will take probably some little time, a half hour or so.

MR. DARROW: I am not going to spend much more time with him, but he has a right to examine this as far as he wants to.

MR. HAWLEY: That is what I supposed. So there will be a little re-direct.

THE WITNESS: That answer simply means: "Q In a few minutes? A Yes, sir." That was a few minutes after I seen Mr. Sutherland, the next morning. I went to see Mr. Sutherland the next morning. The arrangements were made the night before.

MR. DARROW: Q Mr. McParland, at the former trial of this case, were these questions asked and were these answers given: "Q Did you not arrange with Angus Sutherland that you should see him before his attorneys were allowed to see him? A I made no such arrangement. Q Weren't his attorneys, as a matter of fact, waiting at the front door

McParland (Rec.) X
C-33

"of the jail, when you went down the alley between the
"two streets, Bank and Cedar, and went into the back door?
"A I dont know anything about that."

THE WITNESS: That is correct.

Q (Reading) "Q Were you not in the office of the
"District Attorney and consulting with him and others at
"the very time that Mr. Adams' attorneys came in and made a
"demand to see him personally? A I remember Mr. Darrow
"coming in and saying something about that while I was
"sitting there. Q What were you doing? A I was sitting
"there. Q Weren't you there to consult with the District
"Attorney about this matter? A Not about this matter.
"Q This was the only matter you had up here at that time?
"A I don't know exactly what we were talking about. Q And
"don't you know that when that demand was made, you got
"to see the prisoner before his counsel, Mr. Darrow, was
"allowed to see him? A Oh, it was the day after I saw
"him. Q Did not you see Steve Adams before Mr. Darrow
"saw him? A I dont know anything about that; but after Mr.
"Darrow came in, it was the day after. Q How long was it
"after Mr. Darrow had made his demand to see Steve Adams,
"in the District Attorney's office, before he saw Adams?
"A I think it was the next day. Q How long was it after
"you asked to see Steve Adams before you got to see him?
"A I saw him in a few minutes. "Q In a few minutes? A Yes,
"sir. Q And you knew then, when you went into that little
"room, you would presently see Steve Adams? A I did.
"Q Did you see him alone, or with his Counsel? A I saw him
"alone." Were these questions and answers made in Wallace?

A The answer, "In a few minutes"--

McParland (Rec.) X
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Q First, I will treat you fairly--

THE COURT: First, were they made?

A Yes, those questions were.

MR. DARROW: Q And those answers were made?

A Those answers were made.

Q Now, if you want to explain, do so.

A Yes, I want to explain, that my answer to the question: "Q How long it was before had you seen this man"-- was simply replying to the fact that I seen him the next day, and the question of the few minutes was the next morning, a few minutes after I seen Mr. Sutherland, the next; he had made the arrangements the night before; I met him the next morning and said, "I want to go down now and see Adams", and he said, "In a few minutes," and he had to do something else, and subsequently came in and went down and seen Adams; I never knew when you (Mr. Darrow) seen Adams.

MR. DARROW: There will be very few questions more.

MR. HAWLEY: There will be very little re-direct, and then we will rest.

MR. DARROW: I suppose we had better be prepared to go on?

MR. HAWLEY: You better be prepared to go on.

THEREUPON the court admonished the Jury, and officers were sworn to take charge of the Jury, and the Jury retired in the custody of the officers, and Court took a

RECESS till two o'clock P. M. Thursday, November, 14, 1907.

McParland X
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THURSDAY, NOVEMBER 14, 1907.

P. M. SESSION.

At this day defendant being in court with his counsel, present as before, the jury came in in charge of the officers, and, being all duly polled answered to their names, and the trial of this cause proceeded as follows:

JAMES McPARLAND

On the stand for further
cross examination

BY MR. DARROW: Q Mr. McParland, you finally saw Steve Adams in the jail at Wallace?

A Yes.

Q What did you say to him?

A I asked him if he hadnt concluded to come back and tell the truth. He said he couldnt talk, and would not talk.

Q You are sure of that language, are you?

A Yes.

Q Did you ask him if he would not come back and tell the truth?

A Yes. Besides I told him---

Q What?

A I told him, "Well, if you want to pur sue that course, you are simply about to add perjury to the other crimes you have committed."

Q Is that exactly what you said?

A I guess thats about what I said to him, as I remember it now.

Q Thats all you said?

A Thats all I said. He said he didnt want to talk with me.

Q Do you remember exactly what you said?

A Well, pretty well.

Q Yes.

A There was very little said.

Q I know. That is the language you recollect that you used? You remember it?

A Pretty near, I guess.

Q You asked him if he wanted to come back and tell the truth?

A Yes, or rather, I asked him if he still persisted in the course he was pursuing, and everything to that effect.

Q What did you ask him?

A It was words to that effect.

Q Words to which effect?

A If he still persisted in the course he claimed to have adopted down at Boise.

Q Then you didnt ask him if he was coming back and tell the truth?

A It was something to that effect.

Q Cant you tell us what you asked him?

A I cant tell exactly.

Q Did you use any such words, that he was coming back and tell the truth?

A yes, sir; something like that.

Q Did you use the word "truth"?

A yes, sir.

L-McParland X
D-3

Q Come back and tell the truth?

A yes, if he was going to tell the truth.

Q Yes. I call your attention to the bottom of page 713, which is a reference to your visit with him in jail at wallace. (Hands to witness) (Witness looks it over)

A Yes, that answer is right so far as it goes.

Q Is there anything on the next page. I dont remember.

A I dont know. (Witness examines it further)
Thats all.

Q McParland, at the former trial of this case in Wallace, were you asked this question and did you make this answer?

"Q What did you say to Steve Adams?

"A I told him I wanted to talk with him a "few minutes," he said "I cant talk". I said, "I "am very sorry that you have taken this stand." He said, "Well, I cant talk, Mr. McParland, and it is all wrong "for us to be together." And I then knocked on the "door and made the jailer take him out." Is that what you said at Wallace?

A Yes, that was correct as far as it goes. There was some more things said. I knocked on the door and told the jailer to take him out.

Q You did say this?

A yes, sir.

Q You said more?

A Yes, sir; I did say more.

Q Whis time when I asked you about this you didnt repeat this, did you?

A No, sir; not exactly.

L-McParland X
D-4

Q But you did say something else?

A I say this is correct as far as it goes.

Q Yes, but you didnt make the other statement before, did you?

A That was said.

Q Yes. But when I asked you the question you didnt make the statement you made at Wallace, did you?

A Not exactly.

Q Now, you swear to this jury that you used the words "if he hadnt concluded to come back and tell the "truth"?

A I did.

Q But you never stated that before?

A No, I did not.

Q Never in your testimony once on that former trial?

A Well, I knew it at that time, but I didnt make the statement, evidently.

Q Do you say, Mr. McParland, you distinctly remember using the words "I want you to come back and tell the "truth"?

A I do.

Q Have you not told this jury a few minutes ago that you didnt remember it?

A No, I said I used words to that effect.

Q Never mind words to that effect. Didnt you, two minutes ago tell this jury you didnt remember?

A I said I used words to that effect, and I know I did.

Q I ask you, didnt you tell this jury within two or three minutes that you didnt know you used those words?

L-McPar land X
D-5

A n I dont think so.

Q You dont?

A No, sir.

Q I am not thinking about "to that effect". Do you remember any other words you used?

A Thats about all, except the statement I made to him that through his actions he was going to addperjury to other crimes he had committed.

Q Did you say to him he was going to add perjury to other crimes he had committed?

A Yes, sir.

Q Did you state that in Wallace, sir?

A No, sir.

Q You never said that until now? until this afternoon?

A I was never examined on it.

Q But you now remember you did say it at that time?

A Yes, sir; I used that language.

Q I say, do you now remember it?

A Yes, sir; I do.

Q Do you now remember anything else you said?

A No, not exactly.

Q Did you tell him you was his friend and had been?

A I think I did, too.

Q Are you sure?

A Well, I am pretty well satisfied.

Q Yes. You think you told him that?

A Yes, I told him I had been his friend.

Q Did you say you was sorry he was taking that stand?

A I dont know that I used the words at that time.

Q You didnt?

A No.

Q Will you say whether you did or didnt?

A I dont remember whether I did or not; I might have.

Q Let me call your attention again to what you just read, on page 713, the lower part. (Handed to witness who examines the same)

A Yes, thats all right; it seems I did say it.

Q It ~~does~~ seems you did say you were sorry he had taken that stand?

A Yes, sir.

Q You have forgotten it, from the time I passed this paper to you the first time until the second time, didnt you?

A I didnt notice it. I didnt notice from the examination I made.

Q Now, is it not a fact that you dont remember a single word that took place there?

A Yes, sir; I know.-----

Q Or the time--of day?

MR. KNIGHT: Let him finish his answer.

A Yes, I remember the time of day.

MR. DARROW: If he wishes to finish his answer I am willing to allow it.

A It was in the morning.

Q You asked Mr. Sutherland and you had no difficulty in seeing him?

A No, sir; I had no difficulty in seeing him.

Q You have never had any difficulty in seeing Mr. Adams, whether with Mr. Sutherland or in the state

L-McParland X
D-7

penitentiary?

A Never had any difficulty in seeing Mr. Adams nor any other prisoner.

Q You mean that every jailer and ever warden of every penitentiary have always thrown their doors open for you?

A They always have.

Q You have not seen Mr. Adams in Rathdrum, have you?

A I have not.

Q Did you see Tom Horn?

A Never went to see him.

Q When you went to Wallace you were in the employ of the State of Idaho?

A yes, sir.

Q Being paid by the State of Idaho?

A Yes, sir.

Q You were subpoenaed as a witness there?

A I was.

Q And did you draw your mileage and witness fees from Shoshone County at the same time?

A I did.

Q So you were paid by the State of Idaho a per diem and for that time?

A yes.

Q And also for your expenses in coming to Wallace, and at the same time you were drawing your witness fees and mileage from Shoshone County, is that right?

A yes.

MR. HAWLEY: I object to that as incompetent, irrelevant and immaterial; not pertinent to the issues; not proper cross examination.

L-McParland X
D-8

THE COURT: The objection is sustained.

MR. DARROW: We take an exception.

THE COURT: Exception allowed.

MR. DARROW: Thats all.

RE-DIRECT EXAMINATION

McFARLAND.

BY MR. HAWLEY: I had one or two questions I wanted to ask.

Q Mr. McParland, at the time you were obtaining statements or attempting to obtain statements from Adams in the penitentiary near Boise City, what particular matter was you investigating?

MR. DARROW: I object to that; been all over that.

MR. HAWLEY: I dont think I have.

THE COURT: Overruled.

MR. DARROW: Defendant excepts.

THE COURT: Allowed.

A I was investigating the murder of Ex-Governor Steunenberg.

Q State whether or not you were investigating affairs in northern Idaho, or the killing of Tyler and Bouley?

A I never heard of them until Adams told me about it.

Q I was about to ask you whether you knew about Tyler and Bouley, or knew anything about these men prior to that time?

A I never did.

Q Was you about that time an officer of the State, or have any official capacity in the State of Idaho?

A I had not. I was employed as a detective to make the investigation.

Q Did you ever represent yourself to Adams at that time or at any time as an officer of the State or one having authority in State matters?

A I never did.

Q Is this statement that we have read marked Exhibit No. 19, the entire statement which was taken at the time he confessed to you?

A No. There is a great many other statements of different other murders that he was connected with.

MR. DARROW: Now, wait.

THE COURT: The objection will be sustained and that answer will be stricken out after the words "there were a "great many other statements".

MR. DARROW: He has had experience enough so he ought to know he ought not to make any statement as to other matters.

THE COURT: Yes, please do not state in regard to any other matters.

A All right, that was my mistake.

MR. DARROW: Of course we know it was entirely innocent on his part.

Q These other matters included in that statement, or were they incorporated in different statements?

A Each was taken down separately.

Q When were they taken with reference to the first interview you had?

A They were taken on the 27th and 28th day of February, 1906.

Q Who was it that took down this entire confession including all these statements?

A Mr. Hopkins took down a portion and Mr. Huebner took down---

L-McParland RD
D-10

A Well, George Huebner, who is Clerk at the penitentiary was one of the stenographers who took down part of it.

A Yes, sir, he took down the last part the last day.

Q Is that the same gentleman who was notary public and verified the statement of Adams?

A Yes, sir.

Q Or beforewhom the verification was made, to be more exact?

A Yes, sir.

MR. HAWLEY: That's all.

RE-CROSS EXAMINATION

McPARLAND.

BY MR DARROW: Q You had long since taken a confession from Harry Orchard?

A yes. Took confession from Harry Orchard about the latter part of January.

Q Do you swear that Harry Orchard told you nothing about any killing of claim jumpers up on the St. Joe River in north Idaho?

A He didnt tell me of any claim jumpers in Idaho.

Q Did he tell you of any other killing up near Jack Simpkins's cabin?

A He told me Jack Simpkins told him there were a couple of men killed up there. But I didnt know where his cabin was.

Q He did tell you Jack Simpkins told him?

A That there was a couple of men killed up near his cabin.

L-McParland RC
D-11

Q Did Harry Orchard include it in his written statement?

A He never gave a written statement to me.

Q Did he give any written statement?

A He never gave any written statement to me.

Q Well did you see any?

A No, I took down his confession and read it over afterwards.

Q Was this in this statement you now make included---

MR. HAWLEY: What statement do you mean?

MR. DARROW: I say the statement that he said Jack Simpkins told him about the men being killed in northern Idaho.

A A couple of men had been killed.

Q Was that included in it?

A Yes, sir.

Q And published in it?

A I don't know whether it was published or not.

Q And you had seen it?

A Seen what?

Q That statement in Harry Orchard's confession.

A Harry Orchard made the statement to me.

Q Yes. And had he used Steve Adams's name in that connection? Or did he?

A He did not.

Q Then Harry Orchard did not say that Steve Adams was implicated in it?

A No, he told me ~~just~~ ^{that} Jack Simpkins said a couple of men had been killed up there.

L-McParland RC
D-12

Q That Jack Si mpkins had them killed?

A Or that he ,killed them himself or had them killed;
cant remember now which it was.

Q You cant remember what it was, except that it was in
reference to a couple of men being killed up there?

A Yes, sir.

Q That you had heard from Harry Orchard?

A yes, sir.

RE-DIRECT EXAMINATION

McPARLAND

BY MR. HAWLEY:

Q Was the place mentioned?

A No, sir.

Q Was the name of the parties mentioned?

A No, sir.

RE-CROSS EXAMINATION

McPARLAND

BY MR. DARROW:

Q Did you ask him?

A I did. He said he didnt get their names.

I asked him.

Q Did you in vestigate any further at that time?

A I didnt. I subsequently did after Adams had
confessed.

Q I mean before that?

A No, I did not.

WITNESS EXCUSED.

Pyle-D
L- D-13

E. E. PYLE

Recalled, witness on the part
of the State, testified as
follows:

BR: MR. KNIGHT: I believe you stated on the north side of
the St. Joe River?

A Yes, sir.

Q The Marble creek district is on the south side?

A Yes, sir.

Q Is there a trail passes by your place which runs
to the Marble Creek district?

A There is a trail passes by my house goes within
three miles-- --goes at least three miles and a half
above my house, as to whether it goes further, personally,
I have no knowledge, only what I hear.

Q I will ask you whether or not that trail is
used by people who pass to and from the Marble Creek
district, or who say they are going to that place?

A People have told me they were going to the
Marble Creek district or to Marble Creek in passing by
my house, or in going up there. In going up there
they would be going toward Marble Creek.

Q I want to know whether these people you refer to
as using the trail, went on the side of the creek by your
house?

A They told me they were going that way up the
trail. I dont know. I never followed them. I only had their
word for it.

THE COURT: You say "creek", I suppose you mean river.

MR. KNIGHT: I mean whether they were on the trail
that run up the north side of the St. Joe River.

L-Pyle D
D-14

THE COURT: You said the "creek"

Q I want to know whether they used the trail
north
on the ~~south~~ side of the river?

A I presume they do.

Q They use it, do they?

A They do.

Q In which direction does that trail approach
your place; from what direction?

A It comes from the-- the river trail comes from
the northeast.

Q What's the course of the river there?

A The course of the river is --- well, its
natural course would be I presume about east and west. Of
course it varies, varies I presume. I don't know just exactly
the way that river runs.

Q For what distance from your house on your
place does this trail go in a northeasterly direction?

A Well, I don't think it is more than twenty or
thirty rods; possibly not that far.

Q Then what the course of the trail?

A Well, it pursues that direction until it gets
to the flat on Big Creek.

Q So the course of the trail is with the river?

A Yes, sir; it would be east and west I presume.

Q But it approaches your house from a north-
easterly direction?

A Yes, sir; as near as I can say, yes, sir.

L-Pyle X
D-15

CROSS-EXAMINATION

PYLE.

BY MR. DARROW:

Q This trail you speak of runs along your side of the river?

A Yes, sir.

Q And if anybody did go to the Marble Creek district over that trail or come from that district over that trail they would have to ford the river?

A Well, they would have to ford it or cross in a boat somewhere; ford or something.

Q There is no bridge?

A Not to my knowledge, no, sir.

Q As far up as three miles above your place?

A And a half.

Q Three miles and a half. Where does Marble creek empty into the river?

A Sixteen and a half miles above where I live.

Q You have never been up that far?

A Yes, sir; I have.

Q But not along that trail?

A No, sir.

Q You dont know whether there is a trail on the other side of the river or not, I take it?

A I do not.

Q And you dont know whether there is a way out down from Marble Creek-- a way to get down from Marble creek without fording the river, going on your

L-Pyle X
D-16

side of it or not?

A Not to my positive knowledge, I dont.

MR. DARROW: No, I guess thats all.

WITNESS IS EXCUSED.

MR. DARROW: There is just one question I want to ask Mrs. Thomas. She can answer it right there if she wants to.

THE COURT: Let her ~~up~~ up.

MRS ANNIE THOMAS Recalled for further cross-examination, by Mr. darrow testified as follows:

Q You spoke of your son's underwear. Did you see any of his underwear before he went away?

A yes, sir.

Q Where?

A At home. I did his laundry work.

Q You did it yourself?

A yes, sir.

Q Do you know how many suits he had of it before he went away?

A Just one he took away with him.

Q He didnt take any valise with him?

A No, sir.

MR. DARROW: Thats all.

WITNESS EXCUSED.

MR. KNIGHT: State rests.