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C. S. DARROW

Volume 5.

HAYWOOD TRIAL

Moyer-Haywood Trial Transcript Volume 5

June 25, 26, 27, 28, 29, 1907.

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Boise, Idaho, Tuesday, June 25th, 1907.

9:30 o'clock A. M.

Parties met pursuant to adjournment.

Minutes of the session of June 24th read by the clerk and the same were signed by the court.

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

HARRY ORCHARD being recalled as a witness on behalf of the People, for the purpose of asking him questions for impeachment by counsel for the defense, the witness having been heretofore duly sworn, testified as follows:

CROSS EXAMINATION

BY MR. RICHARDSON:

MR. RICHARDSON: If your Honor please, I want to call your attention to what we conceive to be a clerical error at page 1993 of the testimony. The word June, in two places, should be written January. My co-counsel informed me that I used the word January, and it says June. It purports to refer to a conversation had in the office of General Bradley at Cripple Creek in January of 1904.

THE COURT: It is a mistake in the date any way, in the year 1904.

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MR. RICHARDSON: It should be the 30th day of January— the 15th to the 30th of January, 1904, we want it.

THE COURT: Hadn't you better ask the question over again?

MR. HAWLEY: Re-ask the question.

MR. RICHARDSON: Very well, I will do so.

I asked you a question with regard to a conversation which you had with General Engley — the transcript of the record purports that that question was asked, between the 15th and 30th of June, 1904; it should have been, of January, of 1904; do you remember the conversation? A I remember the question.

Q But you had no such conversation as that? A No sir.

Q Between the 15th and 30th of January, 1904, under the circumstances which I detailed to you when you were on the stand the other day? A No sir, I didnot.

MR. RICHARDSON: Very well, I think that probably corrects that, if your Honor please.

Max Malich

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Q I will ask you if you had a conversation with Max Malich in the Windsor turkish baths in the City of Denver in what is known as the electric room in those baths on or about the 28th or 29th day of June, 1905, be and you bring alone wherein this language occurred between you, speaking about McDonald, a man who ran the company's store at Globeville: "There is one S. O. B. that I am going to get away with if I don't live 24 hours afterwards;" Malich said, "Who is that?" You said, that G. D.", filling in the words, "dirty S. O. B. of a governor Steunenberg in Idaho;"

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Malich said, "What in hell do you want to kill him for?" And you said, "I could be a millionaire today if he had not run me out of the State with that bunch of men deported out of the Coeur D'Alenes I had a one-sixteenth interest in the Hercules mine which I sold for $300. and I could have an income right today of from twenty to one hundred dollars a day, and I am going to get even with that S. O. B.?" using the words? A No sir, I never had any such conversation at any time or place.

Q Were you in the Turkish bath with Malich about that time? A I have been in the Turkish bath with him, yes sir.

Q But you had no such conversation at that time or place with him? A No sir.

Q Either there or anywhere else? A No sir, no time or place.

Q Very well, do you know a man named John T. Elliott? A I don't know him by name.

MR. RICHARDSON: Is Mr. Elliott in the room? Stand up and come forward Mr. Elliott, so that Mr. Orchard can get a good look at you.

Mr. Elliott came forward toward the witness.

THE WITNESS: No sir, I don't know the man that I know of.

MR. RICHARDSON: That is all, Mr. Elliott.

Q I will ask you whether or not you had a conversation with John T. Elliott, the man who has just now been brought before you for identification, in a train,-- in one car of a train of cars which was running in the direction of Nampa from Oregon

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line, or a place named Kelser, near the Oregon line, this man sitting in the seat immediately behind you in the car, there being other passengers in the car but they not being within hearing distance, they being further forward in the car, on or about the 27th or 28th day of November or 1903 when you turned around and used the following language: "My name is Hogan; I reside in Colorado;" you then asked this man where he resided and what his business was and you then said to him, "I took you to be a detective or road agent;" whereupon Mr. Elliott said to you that he did not object to your calling him what you liked so that you did not denominate him a road agent; you then asked him if he was a miner, or belonged to the miners' union; he told you he did not; you then said "They have had a pretty hot time - no, Mr. Elliott said "They have had a pretty hot time down there in Colorado for the past two or three years," and you said "In what way do you mean?" Mr. Elliott said "Why, the trouble between the Miners' Union, and the Mine Owners, strikes, etc." And you said "Yes, a little." You then said "I belonged to the Federation formerly, but I left it about two years ago, and went to work for the Mine Owners' Association, and have been working for them and in their interests ever since that time. And Mr. Elliott then said "You are in a position to know, having been employed on both sides of the controversy, and I would like to ask you who is to blame for the condition of affairs down in Colorado," after referring to the description of property, loss of life, and trouble generally between the Unions and the Mine Own-

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ers; you then said "Well, both are." Mr. Elliott then said "Well then, how long is this condition of affairs going to last down there, and who is coming out on top, or about?" You said, "Well, it will result in the breaking up of the Western Federation of Miners, the organization known as the Western Federation of Miners." Elliott said "How is it possible to destroy the organization, and labor organization that has a right under the laws, to exist?" You said, "Well, ways will be found. The Mine Owners' Association, backed by other large aggregations of capital, will destroy the labor organizations of the country; and as the Western Federation of Miners have made themselves pretty obnoxious to the Mine Owners Association, they will have to go first." You said "There is no mine owners' union, except the officers, three or four men, and when they are out of the way, they will go to pieces." Mr. Elliott then said "Do you mean to say that the Mine Owners will employ assassins to murder these men?" And you said "Oh no, I don't know as they will do that." Mr. Elliott then said "Perhaps you think they will bring charges against them, and cause their arrest?" And you said "That is about the size of it." Mr. Elliott said "I understand that they have been arrested repeatedly, and have always gone clear." And you said "Yes." And Mr. Elliott said "Don't you know that men of their knowledge and experience will not be likely to, or it will not be reasonable to suppose, that they will permit an overt act to lay themselves responsible or amenable to the law." And you said "Ways will be found to accomplish these things, and something will happen pretty

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shortly right here that will have that result, and will startle the country, and you will hear of it." Mr. Elliott said "There is no mining property here to destroy; there is no mines here. This is a farming country, with nothing but sage brush, and there are no mines in this country." And you said "Oh well, it will happen right here." You then asked about Governor Gooding, and ex-Governor Steunenburg, and asked him in what estimate each of them was held, and which was the strongest man, speaking in a political sense. Mr. Elliott said "I regard ex-Governor Steunenburg as the strongest democrat in the state, and if he would get the nomination for Governor, he would give Gooding a pretty close race, I think. He might not be elected, for when he was elected before he was elected by the combined strength of the Democrats, Populists and Republicans, and the two last named parties will not now be factors in the coming election." He said that he did not think that Steunenburg had any aspirations in that direction; that he had not heard his name mentioned in connection with the coming election or convention. You then said that something sensational would happen within thirty days, but it would probably, however, be several months before the Federation was entirely broken up. You then said to him "You will hear of it," and inquired what papers Mr. Elliott read. He told you that he read the Statesman and Capital News regularly, and occasionally all the prominent papers of the country; and you said "You will hear of it"? A No sir.

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Q Did you have any such conversation as that with this man?

A No sir, never.

Q Either in substance or effect? A No sir, never, I never did.

Q Or anything like that? A No sir.

Q Either on the 28th or 29th day of November? A No sir.

Q In the cars or anywhere else? A At no time or place.

MR. MCNAMARA: I will have to ask the Doctor McGee question over again, because I got the date wrong in that.

Dr Walker

Q You know Dr. McGee, a doctor at Wallace, Idaho, or who used to be at Wallace, Idaho? A I used to know a Dr. McGee, who was at Mullan, Idaho.

Q Were you in Wallace in July, the extreme latter part of July, or the latter part of August of the year 1904? A No sir.

Q Did you, in a conversation with Dr. McGee, in the extreme latter part of July, or extreme latter part of the month of August, 1904, at his office in a hospital in the town of Wallace, in the County of Shoshone, in the State of Idaho, you and he then alone being present, have a conversation with Dr. McGee, in substance and effect as follows, after going into the room, and having some general conversation: You said "Is there any easy money going now?" The doctor said "I don't know of any." You said, "It is kind of reported around here that you have some easy money." The doctor said "What are you doing?" You said "I am working in the ozone." The doctor said "What are you doing in the ozone?"

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You said "I am spotting." The doctor said "For Colonel Gwynne?" You answered "No, you know there is two crowds in here now, there being a political campaign on." The doctor then sent you to a man by the name of Johnson, who was Treasurer of the campaign Committee? A No sir.

Q Did anything like that happen? A No sir.

Q Either in substance or effect? A No sir.

Q Either at that time or place? A No sir, at no time or place.

D. C. Copley

Q Do you know D.C. Copley? A Yes sir.

Q Did you have a talk with D. C. Copley, in his room in San - Francisco, at 242 Kearney Street, on or about, or shortly after the 4th day of December, of 1904? A I had a conversation with D. C. Copley, but I don't remember the time.

Q Was it in his room? A Yes sir.

Q Was it on Kearney Street? A I think it was.

Q And it might have been at 242 Kearney Street? A Yes sir.

Q You and he alone being present? A We talked alone, yes sir.

Q Some time after the explosion at Bradley's house? A Yes sir.

Q You had met him there some time after that explosion in a public theater, where he was giving a stereoptican lecture?

A I met him there, yes sir.

Q And you came to his house shortly after that? A I came to his room once or twice after that.

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Q Did you in that room, at that time and place, in San Francisco, as I have stated, state to D. C. Copley, as follows: -- did you ask him if he had seen the account of the blowing up of Bradley in the newspapers? A I think possibly I did.

Q Possibly you did? A Yes sir.

Q Did you say to him in the course of that conversation that that s.o.b., using the words, had gotten what he deserved? A Well, I couldn't say. Possibly I did say something like that.

Q Did he ask you who he was, and did you tell him that Mr. Bradley was the Manager of the Bunker Hill and Sullivan Mine, or one of its properties, at the time of the Coeur d'Alenes troubles in 1899? A Well, I wouldn't say that I told him that. We talked about that. I think he knew who he was.

Q You would not say that you did not tell him that on that occasion? A I would not say that I didn't tell him; but I talked about it, I am sure.

Q Did you follow that general conversation by the use of this language, at that time and place, you and he alone being present, that you had owned an interest in the Hercules Mine, but on account of the action of Governor Steunenberg you had lost that interest, and that if you ever got an opportunity you would get even with Steunenberg? A No sir, not in those words.

Q Anything like that? A No sir.

Q Even in substance or effect? A Well, Governor Steunenberg was mentioned, but it wasn't like that.

Q Either in substance or effect? A No sir.

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Q The most you will say is that you did have a conversation with him in which Governor Steunenberg's name was mentioned?
A I think Steunenberg's name was mentioned, yes sir.
Q Did you have a conversation on a subsequent occasion in the same room, with the same man, you and he alone being present, some time between the 2nd 4th of December and the 4th 2nd day of December, in which you called his attention to the newspaper paragraph where somebody had been drilling the milled edge of twenty dollar gold pieces, and had been arrested for it? A Yes sir.
Q And did you ask him if he could not fix up a scheme to restore the milled edge, for you thought of going into that business? A Well, we talked about that.
Q And did he not say to you upon that occasion that you had better abandon any such idea as that, or you would wind up in the Penitentiary, for you could not make any more than days' wages at it? A No sir; he talked about something, how it might be done, and he had been a jeweler, and spoke about a turning lathe it might be done with.
Q Didn't you use that language, that he was a jeweler, or had been a jeweler, and he ought to be able to tell you how to do it?
A No sir, I did not; he used it himself.
Q And when he told you that you could not make any more than day wages out of that, didn't you say to him that you had an easier course than that, working the soldiers out at the Penitentiary?
A No sir, I did not.

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Q Did you say anything about working the soldiers down at the Presidio ? A. I may have said something about the soldiers, that I had been out at the Presidio and played a little poker out there.

Q You think you did say something of that kind ?

A Yes sir.

Q But not what I have stated ? A. No sir. I would not say I did not say something like that -- exactly.

Chas A Sullivan
see
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Q Do you know a man named Charles A. Sullivan, who was a member of Aultman Miners Union ~~number 19, perhaps it is, any way~~, in the Cripple Creek district ? A. I don't know that I remember him by name.

MR. RICHARDSON: Is Mr. Sullivan in the room ? Come forward, Mr. Sullivan. Here he is.

The WITNESS: Yes, I know Mr. Sullivan.

Q You knew him in the Cripple Creek district ?

A Yes sir.

Q In 1903, did you ? A. I knew him there in 1903 and '08.

Q 1903 ? A. Yes sir.

Q Very well. You roomed in the Cripple Creek district in Mr. Neville's house when you first went there ?

A I roomed there shortly after I went there.

Q And Mr. Sullivan roomed in the same house and had the adjoining room to yours, did he not, at the time you went there -- I mean to Mr. Neville's house ? No sir,

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he never roomed in Mr. Neville's house when I was there,as that I know of

Q It was a rooming house over his saloon, wasn't this ?

A I think he had a room there; I am not sure.

Q Did that room adjoin yours ? A. I would not say whether it did or not. I don't think that Mr. Sullivan roomed there when I was there, but I would not say positive.

Q I will ask you if you did not room at Neville's rooming house, or over his saloon, for about three months ?

A I roomed there for some time, I would not say how long.

Q And did not Sullivan have an adjoining room to yours ?

A I think possibly he had a room up there. I would not say for sure whether he was there or not.

Chas A. Sullivan

Q During the time you were ~~an~~ rooming at Neville's house in the Cripple Creek District, in December --or the fall of 1903, did you not have a conversation with Charles A. Sullivan on the porch of ~~that~~ his saloon, you and he alone being present, wherein you said that if it was not for Steunenberg you would be a rich man, that the S. O. B., (filling in the words) ought to have been killed -- too bad he had not been killed, and you wondered why he had not been killed, and you further said, he will be killed yet and if he is not, I will kill him myself ?

A No sir, there was no such conversation.

Q Either on the porch of that saloon or anywhere else ?

A At no place at any time.

Q ~~And what~~

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Q. And did you not have a similar conversation in substance and effect at the breakfast table, in Mr. Neville's house or in the rear of his saloon, wherever it was where you ate about that same time ? A. No sir, I did not.

Q. And you had neither of those conversations either in substance or effect ? A. No sir.

Q. With Mr. Sullivan ? A. No sir, I did not.

Q. At that time, or those places, or any time or place ?

A. At no time or place.

Frank Haugh

Q. Do you know a man named Frank Hough ? A. I don't know him by name.

Q. Don't know him by name ? A. No sir.

Idaho

Q. Were you playing cards in Bradley's saloon at Wallace, in September or October of 1906 with a man by the name of Frank Hough -- ~~I want say to your Honor that this witness~~ is on his way here and has not arrived yet, so I cannot ~~show him to the witness, or may be you would call him~~ Huff, I don't know ? A. I don't know him by either name.

~~The COURT: What is that date ?~~

~~MR. RICHARDS: In September or October of 1906.~~

wife said Frank Haugh

Q. Did you not in ~~the~~ conversation, at that time and place, you and he alone being present, tell him about your troubles in the Coeur d'Alenes district, and finally wind up by speaking of Steunenberg, saying in substance and effect, and in language that he was an old S. O. B., using

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using the words, and he had no right to live anyway ?

A. No sir, I did not.

Q. For anything like that ? A. No sir, nor anything like that.

Q. Either at that time or at any time ? A. At no time or place.

James Ramey

Q. Do you know a man named James Ramey ? A. I think I know a man named Ramey.

Q. A stage driver ? A. I knew a man named Ramey who used to drive stage.

Q. Where did he drive stage ? A. Between Gem and Wallace X when I knew him.

Q. I will ask you if you had a conversation with James Ramey, a stage driver on or about the 29th day or the 30th day of April of 1899, immediately after the blowing up of the Bunker Hill nd Sullivan mill, wherein you said to him that you would like to sell him your interest in the Hercules for $400 -- ~~interest~~ -- that you were obliged to leave the country on account of the troubles which had taken place, the blowing up of the Bunker Hill and Sullivan mine, such a conversation being had somewhere on the road between Gem and Burke or at Gem or Burke ? A. No sir, I did not. I had no such conversation. I had no interest in the Hercules mine at that time.

he and Jim alone being present

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Q. I am asking you if you had such a conversation ?

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A No sir.

Q Either in substance or effect ? A. No, no way.

Q At the time or place or any time or any place ?

A I never had any such conversation at no time or place.

Lottie Day

Q ~~You said the other day you knew Lottie Day. I will have to amend that question.~~ I will ask you if you had a conversation with Lottie Day, sitting with her alone on a sofa or settee in the office of the Belmont rooming house between 17th and 18th streets on Stout in the city of Denver, on or about the 25th day of May, 1904 ?

see page 2140, 2141

~~Mr. BORAH: You had it 1905, and do you want to ch[illegible] that year ?~~

~~Mr. RICHARDSON: 1905 is right.~~

~~Mr. BORAH: You want to change that year, do you ?~~

~~Mr. RICHARDSON: Yes.~~

Q Then the following occurred: You stated to her that you h had had a chance to have been rich, that you loved once and but once in your life, that you was separated by poverty from the woman that you so loved, that this chance that you had to make a raise would have enabled you to go back to this person that you loved, and that God damned Steunenberg had driven you out of the country and ruined that chance, and that you would get him yet if it was the last act of your life; and she said to you, "Oh, forget it, and don't talk like that." You said you would not forget it and you would kill him if you was hung for it the next

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minute, it is a long lane that has no turning. Did you have that conversation ? A. No sir, and I don't know that this woman I spoke of that I knew was Lottie Day. I knew a woman named Day, but I don't know whether it was Lottie or not. I never had any such conversation as that at no time or place.

Q Never sat on that settee or sofa with her ? A. Yes sir, I have sat there.

Q And while you were sitting there were other people passing in and out of the hotel office ? A. Possibly there were some times.

Q You did sit there with her and have a conversation?

A I have talked with the woman they called Day.

Q And at or about the time stated ? A. I would not say as to the time.

Q But you do say you did not have any such conversation with her at that time or place or any other time or place ? A. No sir.

Q In substance or effect ? A. I do.

Q Not in the words stated ? A. I do.

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Q. Did you in the course of the same conversation say to her that you were going up into Wyoming to Grand Encampment?

A. No sir, I don't remember of saying anything like that to her.

Q. Did you say to her that it was about time for pay day up at Grand Encampment and you were going to be up there on the next pay day and get some money away from the miners?

A. No sir, I did not.

Q. That they would be flush and you were going to gamble with them and going to get their money away from them? A. No sir, I did not.

Q. Did not? A. No sir.

Q. Neither in substance nor effect? A. I don't remember of any such conversation.

Q. Did she say to you in the course of that conversation that she had seen and known a good deal about gambling, and instead of your going up there and taking away their money you would probably come back busted? A. I don't remember of no such conversation.

Q. Don't remember of any such conversation? A. No sir.

Q. Do you swear there was no such conversation that took place?

A. I would swear that there was no such conversation as that took place.

Q. Did you then and there at that time and place, you and she being present as I have stated and talking with one another, say to her that you would never be busted because you always kept a little money to windward; that when you made a raise gambling you put a part of it with Mr. Pettibone and you could collapon Mr. Pettibone for it? A. No sir, I did not.

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Q. Nothing like that, neiter in substance nor effect ~~like that~~?

A. I might have talked to her about gambling, spoke about gambling but nothing to that effect.

Q. Did you talk about Pettibone having any money for you, when you were broke, in his safe, which you had gotten as a result of gambling? A. No sir, I did not.

Q. Nothing like that in substance or effect? A. No sir.

F.R. Redd

Q. Do you know F. R. Redd? A. I know a man they called Redd.

~~MR. RICHARDSON: Is Mr. Redd in the room? Stand up,~~ Mr. Redd. He is in the middle there, so you better turn around and look at him over there.

A. ~~Yes sir, I think that is the same man I knew.~~

Q. You knew him in the Cripple Creek district in 1902 and 3, did you not? A. I knew him in 1903 and 4.

Q. ~~He was a member of the same union with you, was he not?~~

A. No sir, I don't think he was.

Q. Altman No. 19? A. No sir, I don't think he was.

Q. Don't think he was. You were a member of Altman No. 19?

A. ~~Yes sir.~~

Q. I will ask you if you had a conversation with Mr. Redd late in 1903, about Dec, ~~in the Union hall of Altman lodge No. 19 — have I got that right? Where was that, Union hall?~~

~~MR. REDD: No. 40, Cripple Creek.~~

Q. In Union hall No. 40 in the Cripple Creek district, Colo, other persons being present but none in your immediate hearing, wherein you said if it had not been ~~and~~ for Steunenberg you wouldn't have been there — "here" is the way you used it — and you further said "I will get that s.o.b.," using the

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words -- this was after telling of Steunenberg's actions at the Coeur d'Alene trouble? A. I have had a conversation with Mr. Redd, but no such conversation as that.

Q. None whatever about Steunenberg or the Coeur d'Alene trouble?

A. I wouldn't say that the Coeur d'Alene trouble hadn't been spoken of; I don't ever remember of it having beenspoken of, or Mr. Steunenberg, there in his presence.

Q. You have had no such conversation as that? A. No sir, I did not.

Q. But you did talk with him about the Coeur d'Alene trouble and about Steunenberg? A. No sir, I don't say I did. I say possibly it might have been spoken of in a general way but that was all. I don't remember of any conversation.

Q. You do not say that you did not then have a general conversation abouthat the Coeur d'Alene troubles and Steunenberg, but you deny it was of the force and effect I have stated?

A. I deny it was of the force and effect and I don't remember any conversation; possibly there might have been something.

Q. Did you say to him in the course of that conversation that you had sold your interest in a mine in the Coeur d'Alenes for a song because you had been driven out of there? A. I might have spoken about selling an interest in a prospect that turned out a big mine, but not because I was driven out of there.

Q. Didn't speak of it? A. I don't know that I spoke of it, but I ~~[illegible]~~ often have spoken of it and I may have spoken of it to him.

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MR. RICHARDSON: Mr. Coates was nothere the other day

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and I will have to remark that question to get it just right, but I will leave the question that I did not understand and another one as to another conversation.

D. C. Coates Q. You got acquainted with Mr. D. C. Coates, I believe you said, in Pettibone's store in Denver? A. I think I met him first on the street.

Q. On the street? A. I think so; I got acquainted with him in Denver.

Q. Did you have a talk with Mr. D. C. Coates in Pettibone's store in Denver, Colo on or about the18th or 16th day of July in the year 1903, he purporting to have just returned from Chicago?

A. I had a talk with him at that time, yes sir, or somewhere about that time.

Q. Did you tell him in the course of that conversation in Pettibone's store — you and he alone being present but clerks being around the store but not within hearing — "I was at one time part owner in the Hercules; I took the ~~the~~ first ore out up there and worked with August Paulson; and if I hadn't been run out by Steunenberg in 1899 I would have been rich just like the rest of my old partners," and that you thought of going back up there sometime? A. Well, I never had that conversation as you have asked me that. I spoke, possibly, telling him about taking the first ore out up there but I never worked up at the mine.

Q. Did you or not have the conversation known as I have related it, either in substance or effect, with Mr. Coates in Pettibone's store, you and he alone being present in that part of the store where the conversation was being carried on, as

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Stout Street in the city of Denver on the 15th or 16th of July or 1905? A. I never had no conversation with him on Stout Street.

Q. Did you tell him in the course of that conversation to send, to take your regards to Mr. August Poulson, your old time partner? A. I possibly did. We were talking about the people up there and I think possibly I did. I don't remember exactly.

Q. Was that at the same conversation or at least the same time that you have stated in your direct examination cross examination that Mr. Costes made an arrangement with you to kidnap Poulson's child? A. No sir, it was before that.

Q. You were sending up your regards and was going to kidnap the child afterwards? A. I don't remember about having this conversation -- about what was said in the store; but I met Mr. Costes there and possibly spoke of everything as said, but I don't remember the conversation.

Q. Well, maybe the store was on Court place at that time. It was afterwards moved up to Court place but I don't just remember dates. Did the conversation that I have stated occur on Court place in Mr. Pettibone's store? A. It was on Court place where I seen Mr. Costes, but that conversation I didn't here as you have related it.

Q. Well, either at the store on Court place in the city of Denver or anywhere else? A. Not as you have related it, no sir.

Q. Do you know William Easterly and William Davis? A. I know William Easterly and I know W. F. Davis.

Q. Mr. Easterly you have identified.

MR. RICHARDSON. Mr. Davis, stand up, please.

Wm Easterly
W. F. Davis

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Mr. Darrow: I do sir.

Q. Is that the Mr. William Davis that you know? A. Yes sir.

Q. I will ask you if you did not have a conversation with both Mr. Easterly and Mr. Davis at Minors' Union hall in Alton, Colo about the time that the miners were deported from Idaho Springs, Colo in the fore part of the month of August of the year 1903, in which you said, after discussing that deportation, that, if you had not been run out of the Coeur d'Alenes you would be rich; that you owned an interest in the Hercules which you had lost because you were run out, and that you held Steunenberg and Sinclair responsible for it, and that you would get those s.o.b.s some time? A. No sir, I did not.

Q. Nothing like that either in substance or effect? A. No sir.

Mr. Richardson: Is Mr. Joe Schultz in the room?

Q. I show you two pictures marked for identification defendant's exhibits 1 and 2 and ask you to state, if your know, what they are. A. I think I do.

Q. You know what they are, do you? A. I think so.

Q. What are they? A. They are the picture of me, that was taken of me.

Q. When? A. I think it was in the Caldwell jail or at the sheriffs office.

Q. What time? A. The first of January, 1906.

Q. Two days after the killing of Governor Steunenberg?

The Court: Are they both the same, Mr. Richardson.

Mr. Richardson: No sir, slightly different.

A. I would say two days.

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MR. RICHARDSON: I offer defendant's Exhibit 1 and 2 for identification in evidence.

MR. HANLY: We object to that as not being proper evidence at this time. The witness was called and only called for a specific purpose, and we object to it as being incompetent, immaterial, irrelevant, on general principles.

MR. RICHARDSON: We offer these as a part of the purpose of showing the condition which prevailed at that time with respect to the man who has been introduced here upon the stand and his condition as he appears here upon the stand, and as a matter of identification for other witnesses as well.

THE COURT: The only question in the mind of the court at this time is whether it is a proper time for their introduction.

MR. RICHARDSON: If your Honor please, I suppose if it was overlooked in cross examination your Honor would extend to us the same privilege, that we could reopen for the purpose of cross examination at this time.

THE COURT: You are not treating this as a part of your case, the examination of this witness is a part of the cross examination.

MR. RICHARDSON: I understand that, but I did not suppose the order as to the time in which they would be received would make any difference so far as that is concerned.

THE COURT: The court will admit them.

Q. I show you a paper marked defendant's Exhibit No. 3 for identification. I will ask you to look at it and state if you know what it is? A. Yes sir.

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Q. What is it? A. It is a picture of myself and two other men.

Q. Which man is yourself? A. This one.

MR. BOYLE: The middle man?

A. No sir, the one on the side.

Q. The man with the smoking revolver in his hand? A. Yes sir.

Q. Where was this photograph taken? A. Salt Lake City.

Q. When? A. Well, 1901 I think, or possibly 1900.

Q. Who are the other two men with you? A. It is Andy Christiansen and a man named Peter Christiansen.

MR. RICHARDSON: We offer defendant's ~~Exhibit~~ Exhibit 2, in evidence.

MR. HARLEY: We object to it as being incompetent, immaterial and irrelevant, not pertinent to be the issues.

THE COURT: What is the purpose of this, Mr. Richardson?

MR. RICHARDSON: The purpose of it is, if your Honor please, to show in connection with the discussion of the general character of this witness as testified to by himself upon the stand, and also for identification of the man himself.

THE COURT: I do not see the materiality of this at this time, but the court will admit it.

MR. RICHARDSON: We will show the materiality of it before we get through.

MR. RICHARDSON: That is all.

RE-DIRECT EXAMINATION

BY MR. HARLEY:

2117 Q. Mr. Orchard, when were these two pictures taken that had been marked Exhibit 1 and 2, I believe those were defendant's

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Exhibits 1 and 2. A. I couldn't say when these were taken. They look like a copy of some that were taken of me while I was in jail at Caldwell. I couldn't say they were the same.

Q. Do you know how long you had been in jail at the time they were taken? A. I don't remember exactly how long. It was shortly after.

Q. Were you taken out from the jail a few days after you were there to have your picture taken? A. I had it taken out in the sheriff's office.

Q. At whose request was it taken? A. I think it was at Captain Swain's.

Q. It was not done at your request? A. No sir. They asked me if I would consent to have it taken and I did consent to let them take a picture.

Q. I call your attention to the picture marked defendant's exhibit 3, the picture of three people: Have you examined that closely? A. Yes sir.

Q. This figure upon the left is your picture you say? A. Yes sir.

Q. And who is the central figure, the man with the hat on, standing up? A. A man named Andy Christianson.

Q. And who is the figure to the left? A. The other is his brother, Peter Christianson.

Q. Do you recollect when this picture was taken? A. Well, it was taken I think in 1900, possibly the summer of 1899 -- possibly 1899 or 1900 I think it was.

Q. Where was it taken? A. In Salt Lake City.

2148 Q. At what particular place in Salt Lake City? A. I don't know that I can tell you the particular place. I think it was on

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Main Street between second and third south, just below the Kenyon hotel.

Q. At a photograph gallery? A. Yes sir.

Q. What are the circumstances surrounding the taking of the picture in this peculiar way? A. It was just out of curiosity. We had three or four different sittings taken in some similar way to that, just as though we had been a playing cards and was in a row or something. We just thought of that and had it taken that way.

Q. Who are these men whose pictures were taken with you? What is their business, where do they live? A. Peter Christianson was working out with me at the mouth of Little Cottonwood in a shaft.

Q. Was he a miner? A. He had a contract there, yes sir.

Q. And who was his brother? A. His brother was a miner; I think he was around Bingham a good deal. I think he was at Bingham at this time working and was just in Salt Lake City.

Q. Both were miners? A. Yes sir.

Q. And when had you come to Salt Lake? A. I came to Salt Lake in 1900.

Q. Prior to this picture being taken? A. In 1899 rather.

Q. Well, how you came from this work? A. Well, I think it was the same summer, along in August or September, that I had this picture taken, the summer of 1899.

Q. And your partner was there with you, was this man your partner that was with you? A. Well, one of them, Peter Christianson.

Q. Do you know where either of these parties are or both of these parties are at present? A. Well, I think they are around Salt

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Lake. I think I know where Peter Christianson is.

Q. When did you last see him? A. I saw him at Mercer I think in the winter of 1902.

Q. When about did you last see his brother? A. I saw his brother at that same time. He and his brother were both there.

Q. What were they doing? A. They were working in the Golden Gate mill.

Q. Have you heard of either of them since? A. Not directly.

Q. Heard indirectly? A. I couldn't say positively whether I have or not. I think I have heard from them when I was in Salt Lake, a year ago last winter when I was down there.

Q. What did you ascertain in regard to the whereabouts of these men or either of them? A. I think I was told that Peter Christianson was living out at Ft. Pleasant, where he had formerly lived, by Louis Cutler. But I am not positive about that.

Q. You don't know what his business was then of your own knowledge at that time? A. I don't know. He owned some property at Ft. Pleasant and I think he was living there at that time.

Q. Do you recollect where you was between January 1st and January 15th, 1904? A. I think I was in the Cripple Creek district, or between Cripple Creek and Denver.

Q. You have no data by which to give your exact whereabouts between those two dates? A. No sir, I have not. I think, however I was in Cripple Creek — the Cripple Creek district rather.

Q. This man John D. Elliott that stood up, the first man that stood up to be identified: Did you ever see him before to your knowledge? A. Not to my knowledge I never did.

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Q. Did you ever have a conversation of any kind with him to your knowledge? A. Not to my knowledge I never did.

Q. Where were you on the 27th and 28th of November, 1906? Can you give us your whereabouts on those two particular days?

A. I rather think I was in Salt Lake City. I wouldn't say positively that I was.

Q. You are not certain? A. No sir, I am not certain.

Q. I will not ask you further in regard to that then at present. State whether or not you was in Wallace, Idaho, during the summer of 1904? A. No sir, I was not.

Q. Was you in Idaho in that year, any part of Idaho?

A. No sir, I was not.

Q. Where did you spend your time in 1904, in the summer of 1904?

A. I was in Colorado and in California. I went from Colorado to California during part of the time.

Q. Where was you in July of that year, 1904? A. I think I was in Wyoming, that is, part of July.

Q. Along with Neville? A. Part of the time, yes sir.

Q. And in August, do you remember the date which you started for California, whether it was one or the other of those months? A. I think it was the latter part of July, or the first of August possibly.

Q. When you went to California how did you go?

MR. DARROW: Just a minute, Mr. Hanley. I don't care, except you went over all of that.

THE COURT: Did you not go over that?

MR. HANLEY: Not as to the exact route, your Honor. I want to know by what route he came, whether it was straight through Ogden on the Southern Pacific or around by way of the

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Short Line?

THE COURT: I will permit the question.

A. I went over the Union Pacific and Southern Pacific by Ogden.

Q. You know D. C. Copley, do you? A. Yes sir.

Q. Where did you first become acquainted with Copley?

A. I couldn't say positively where I did first become acquainted with him. I think it was in the Cripple Creek district that I met him and I afterwards seen him at headquarters in Denver some.

Q. Do you know what position he occupied, if any, in the Western Federation? A. He was a member of the Executive Board, when I first knew him, of the Western Federation of Miners.

Q. In what year was that? A. 1903 ~~and somebody~~ or 1903 it was when I knew him and some of 1904.

Q. What time was it you first saw him in San Francisco in reference to the explosion at the Bradley residence?

A. I couldn't say what time, but it was after the Bradley explosion I think that I saw him.

Q. Did you see him more than once? A. Yes sir, I seen him more than once.

Q. Where went that you met him during these times?

A. The first time I met him was at — it was a little theatre or a little opera building where he was showing stereopticon pictures; I don't remember the street that that is on — in San Francisco, though.

Q. Did you afterwards meet him in any other place? A. Yes sir, I met him in his room afterwards.

Q. How many times? A. I couldn't say; possibly two or three

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times.

Q. Where did you last meet him with reference to the time that you left there? A. I met him in his room the last I met him there.

Q. What was said or done at that time? A. I was out there and told him about going back to Colorado, that I was going to change my clothes in his room, if he didn't mind. I was going to put on a suit of soldier's uniform, and he said he thought it would be a good disguise, and suggested to get a pair of glasses, and he went out and got me a pair of glasses.

Q. Who got the glasses for you? A. I think Mr. Copley went out and got them while I was changing my clothes.

Q. Did you have any conversation with him as to the reason for disguising yourself? A. Yes sir. We was talking about the troubles there had been up in Colorado, and among others he spoke about the Colorado Springs -- or the Idaho Springs trouble, told me some things about that in a general way.

Q. Had you informed him in regard to your mission in San Francisco and the efforts you had made there in the Bradley matter?

A. No sir. I think I spoke about the Bradley matter but I didn't inform him that I had done it.

Q. Where did you become acquainted with Charles A. Sullivan?

A. I met him first at Cripple Creek -- in the Cripple Creek district.

Q. What was his business at the time? A. He was mining.

Q. Belong to your lodge there in the Federation? A. I think that he belonged to Free Coinage Miners' Union at Altman.

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Q. Who was F. E. Reid? A. He was a man that belonged to the

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Cripple Creek union.

Q. Did you have any particular acquaintance with him?

A. I met him some during the time that I was organizing some labor clubs there after the meeting of the State Federation of Labor in Denver.

Q. You was organizing there? A. Yes sir.

Q. Did you become intimate with him at all or simply a passing acquaintance? A. Well, I talked to him several times on that line. He was helping to organize, I think he was appointed one of the organizers to help do that work.

MR. HAWLEY: That is all.

MR. RICHARDSON: Mr. Schultz, stand up.

QUESTIONS BY MR. RICHARDSON:

Q. Is that the Mr. Joseph Schultz that you speak of?

A. No sir, I don't think it is.

Q. Well, did you know this man in the Cripple Creek district in 1902 and 1903? A. I don't remember of it.

THE COURT: Mr. Witness, can you see him distinctly?

MR. RICHARDSON: Come down here, Mr. Schultz, where he can get a look at you.

THE WITNESS: No sir, this is not the man that I know that I call Joseph Schultz.

Q. This is not Mr. Schultz that was in the Cripple Creek district in 1902 and 1903? A. Not the Joseph Schultz that I know.

Q. Did you know this man in the Cripple Creek district?

2154 A. Not that I know of, no sir.

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Q. Don't know whether his name is Joe Schultz or not?

A. I don't know, no sir.

MR. RICHARDSON: Let me ask this man, so as to identify him, if his name is Joseph Schultz and if he was in the Cripple Creek district --

MR. BOAM: Wait until you put the witness on the stand.

MR. RICHARDSON: I am going to ask him what kind of a looking man Mr. Joe Schultz was.

MR. BOAM: Wait until you get to your case.

THE COURT: You, this witness has not been sworn.

Q. What kind of a looking man was the Joe Schultz you testified about, how did he look? A. He was a man of light complexion with a heavy light mustache.

Q. With a heavy light mustache? A. I mean light colored, heavy, but a light sandy mustache, quite heavy. I think he was a little bit bald headed, a little bald, rather, his hair was back quite a ways, off some; and he was a man about thirty-five years old I think, possibly a little older.

Q. How much did he weigh? A. I should think he would weigh about 160, possibly 170 pounds.

Q. Give us his height, how high do you think he was?

A. I should think he was was about five foot eight.

Q. Any other distinguishing marks about him? A. His eyes, he had -- his eyes was sore, that is, he was troubled a good deal with his eyes. His sight was bad.

Q. He had bad sight, did he? A. Yes sir.

Q. Do you know what had caused that? A. I don't know particularly no sir.

Q. Do you know where he is now?

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A. No sir, I do not.

Q. Ever heard of him since? A. I think I have heard of him, yes.

Q. Where did you last hear of him? A. I think I heard he was in Cripple Creek -- in the Cripple Creek ~~district~~district, rather.

Q. The last time you ever heard of him he was still living there in Cripple Creek where he helped you to commit that crime on the Vindicator? A. The last I heard of him he was, yes sir.

Q. When was that? A. This last summer some time.

Q. Where did you get that information from? A. Mr. McFarland told me.

Q. That is all you know about it then? A. Yes sir.

Q. Had you seen him at any time since you and he attempted to commit that crime on the Vindicator, when you shot at the negro man? A. Yes sir.

Q. You have seen him since that? A. Yes sir.

Q. When did you last see him? A. Well, I couldn't say just when I last seen him. It was the winter I think of 1904, though, some time along towards Spring possibly.

Q. You have not seen him since the winter of 1904 and all you know about him is that Mr. McFarland told you last year some time he was at Ni in the Cripple Creek district?

A. Yes sir.

MR. RICHARDSON: That is all.

MR. HAWLEY: That is all.

THE COURT: The witness will be remanded.

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MRS. MARY J. KING, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. What is your full name, please. A. Mary J. King.

Q. Where do you live, Mrs. King? A. My home is in Cripple Creek.

Q. Cripple Creek, Colorado? A. Yes sir.

Q. How long have you lived there? A. Since '91, most of the time.

Q. You have lived there ever since '91? A. Yes sir.

Q. Have you been in any business there? A. Yes sir.

Q. What? A. I used to keep a boarding house, and later kept a rooming house.

Q. You have a family? A. Yes sir.

Q. How many children? A. Six.

Q. You have a number of grown children? A. My children are all grown.

Q. Are they employed? A. Yes sir.

Q. Any of the boys miners? A. Yes sir.

Q. Are they members of the Miners' Union? A. No sir.

Q. Have they ever been? A. No sir.

Q. And have they been working in Cripple Creek and vicinity?

A. Yes sir.

Q. And are now, are they not? A. Yes sir.

Q. And your daughters are grown? A. Yes sir.

Q. Have you in any way been connected with the Miners' Organization? A. Never, no sir.

Q. Now when did you say you kept a boarding house there?

A. Why, I kept a boarding house in '91, '92 -- well, off and on

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until '07.

Q. There was it, right in the village or town or city, whatever it is? A. It was what they call "Old Town".

Q. And was it a boarding house for miners or other classes of people generally? A. Yes sir.

Q. Which? A. Miners and all different kinds of people.

Q. Now afterward you gave up the boarding house and commenced keeping a rooming house, did you? A. Yes sir.

Q. When did you do that? A. I can't just exactly tell.

Q. Do you know about the time? A. I should judge about -- as near as I can remember it was about 1898 I believe; I am not positive though.

Q. And what rooming house did you keep? A. Well, I kept a rooming house on Bennett Avenue and didn't have any name, it used to be part of the National rooming house.

Q. And did you later keep any other rooming house? A. Yes sir.

Q. What one? A. The Star rooming house on Bennett Avenue.

Q. The Star rooming house on Bennett Avenue? A. Yes sir.

Q. Bennett Avenue is the name of the street, is it? A. Yes sir.

Q. How long did you keep the Star rooming house? A. I can't tell just exactly. I think from some time in the fore part of January until the latter part of March. I think that is about right.

Q. That would be what year? A. That was in 1904?

Q. 1904? A. Yes sir.

Q. Is that rooming house two stories or what is it? A. It is a two-story building but the upstairs was the rooming house.

Q. You just occupied the upstairs? A. Yes sir.

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Q. Do you know how many rooms you had there about? A. I think it was ten, nine or ten.

Q. And what entrances are there to the rooming house? Is there more than one entrance? A. Yes sir, there is a back stair and a front.

Q. Back stairs and front? A. Yes sir.

Q. Now the back stairs: Do the back stairs come into a hall?

A. Yes sir.

Q. Now about the front stairs? A. Comes into the same hall.

Q. That is, there is a hall runs through the building from one end to the other? A. Yes sir.

Q. And does the back stairway come in from an alley or a street?

A. Comes in from an alley.

Q. I will ask you whether a man named E. C. Sterling, a detective in that district, occupied your house at the time you were there? A. He occupied one room.

Q. What part of the house? A. One of the front rooms.

Q. How long did he occupy it? A. I believe about two months and a half.

Q. Did he rent a room there for anyone else during that time?

A. Yes sir.

Q. Who was that? A. Why, it was Mrs. McKinney.

Q. Was that the wife of the McKinney we who was in the spike pulling case? A. Yes sir.

Q. How long did she stay there? A. I don't just exactly remember -- about six weeks anyway.

Q. Who paid for her room? A. Mr. Sterling did.

Q. I show you two pictures here, defendant's Exhibit 1 and 2

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for identification. You may look at those pictures. Do you recognize those pictures? A. Yes sir.

Q. Did you ever see the man that belongs to these pictures?

A. Yes sir.

Q. Where have you seen him? A. I seen him at the rooming house I kept, the Star rooming house.

Q. Have you seen him anywhere else? A. I believe I met him in a restaurant once.

Q. Have you seen him in Boise? A. Yes sir.

Q. Whereabouts? A. The first day I came he was on the street.

Q. Who is he? A. Harry Orchard.

Q. Now where did you see him at your rooming house? A. I seen him in the hall and I saw him knocking at Mr. Sterling's door.

Q. How many times did you see him there? A. I believe I can't have seen him seven times anyway, probably more. I saw him frequently.

Q. What time of day did you see him there? A. Most always in the evening. I have seen him in the day time too.

Q. What time in the evening? A. Well, very near dark and sometimes after dark.

Q. What stairway did he use? A. I never seen him come up the stairs, but he came in the back door.

Q. How to reach Mr. Sterling's room did he need to see you, did you have to open any door, or could he go directly to the room -- that is, if anybody came to Mr. Sterling's room was it necessary to disturb you or did you just see them accidentally accidentally? A. My door, my kitchen door and dining room

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d or was most always open and anyone passing in the hall, why, I would most always see them because I would hear their steps.

Q. But it was not necessary to open any door to go up through the hall to thereon, was it? That is, there was no outside door that you had to open? A. No; there was doors but I never opened them for anybody.

Q. When you saw Mr. Graham at these various times did you open the door to let him in or did you just happen to see him?

A. Just happened to see him. I never opened the door for him.

Q. Now how was it as to Mr. Sterling being in the habit of having people there various times of day and night?

MR. BRAM: We object to that, if your Honor please.

MR. PATTON: I will pass that for a moment.

Q. Do you remember how long this man stayed at different times?

A. No sir. I don't think I ever seen him leave.

Q. What is that? A. I don't think I ever seen him leave. I don't remember at any time.

Q. Don't remember of seeing him leave? A. No.

Q. You just saw him coming? A. Yes sir.

Q. Mr. Sterling had other visitors I suppose at other times?

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

THE COURT: Objection overruled.

Q. How was that? A. I didn't hear the question.

Q. Did Mr. Sterling have visitors at other times? A. Yes.

2161 Q. At what times of day or night? A. All times, at night and in the day time.

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Q. Now those times that you saw Orchard go to Sterling's room was within what period, between what dates? A. I couldn't tell very well.

Q. Well, you can fix it within certain limits, one way or the other, can you not? You say you went there when? A. I went there I think it was in January, but I am not positive.

Q. And you left in what month? A. We left the latter part of March.

Q. It was between those two dates then, was it? A. Yes, it was between those two dates.

Q. And that is as near as you can fix it, is it? A. Yes, I believe it is.

Q. Do you know whether Orchard ever went to Mrs. McKinney's room? A. Yes, I believe he did. I seen him knocking there and then I have seen him talking with her in the hall.

MR. DARROW: You may cross examine.

CROSS EXAMINATION

BY MR. MALEY:

Q. You say this was between January and March of what year?

A. 1904.

Q. But you can't fix the time any closer than that? A. I don't believe I can, no.

Q. Did you keep books, ma'am? A. No sir, I never kept any books.

Q. You kept no books in regard to showing a record of those who were stopping at your house? A. No sir.

Q. And necessarily then you are simply giving your recollection, to the best of your recollection, but not basing it upon any

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written evidence? A. No sir, I haven't any.

MR. MANLY: That is all.

RE-DIRECT EXAMINATION

BY MR. DARROW:

Q. Well, as I understand you, Mr. Stirling stopped with you all the while you were there, didn't he? A. He came before Christmas I know, but I couldn't tell the date.

Q. And you left him, when you sold out you left him in the house, didn't you? A. Yes sir, I left him in the house.

Q. How do you remember just the time you went there -- you say Stirling came before Christmas, was he there before you came or did you know? A. He came after I did; it was a few weeks, probably three weeks, or two anyway, after I went there. I know I hadn't paid my first month's rent.

Q. What anyway first month's rent, if you remember? Do you remember whether it was December or January, or what month?

A. It was December.

Q. December was the first month's rent? A. Yes.

MR. DARROW: That is all.

MR. MANLY: That is all, Madam.

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MISS FRANCES E. KING, a witness on behalf of the defendant being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. BARROW:

Q. Give us your name, please. A. Frances E. King.

Q. Where do you live? A. Cripple Creek.

Q. You are a daughter of the witness who just testified, are you not? A. Yes sir.

Q. And you have lived in Cripple Creek a good many years?

A. Yes sir.

Q. Your mother kept a rooming house there, didn't she? A. Yes sir.

Q. Do you remember when? A. Well, it was between -- it was either in December or January, until the latter part of March, 1904.

Q. And what was the name of that rooming house? A. The Star rooming house.

Q. On Bennett Avenue? A. Yes sir.

Q. Were you living at home at that time? A. Yes sir.

Q. Helping your mother some about the work? A. Yes sir.

Q. Did you know Mr. Sterling who roomed there? A. Yes.

Q. What part of the house did he occupy? A. He had the front room.

Q. Of what portion of the time you were there did Mr. Sterling occupy the front room? A. Well, I don't know what time he came. I haven't any idea what time he came. I don't remember.

Q. Was he there when you left? A. Yes, he was still in the house when we left.

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Q. Do you know Mrs. McKinney, the wife of the McKinney who was in the cable pulling case? A. Yes sir.

Q. Did she occupy a room there? A. She occupied the next one to Mr. Sterling's.

Q. Do you know whether Mr. McKinney came there at that time or where he was? A. No, I never saw Mr. McKinney come here.

Q. Do you know whether he was in jail at that time? A. Yes, he was in jail.

Q. Now I will show you a bundle of pictures here marked defendant's Exhibits 1 and 2; Do you recognize those? A. Yes sir.

Q. Have you ever seen that man? A. Yes sir.

Q. Have you seen him in Boise? A. Yes sir.

Q. Whereabouts? A. In the court room.

Q. Who is he? A. Harry Orchard.

Q. Did you ever see him in Cripple Creek? A. Yes sir.

Q. Whereabouts? A. In the Star reading house on Bennett avenue.

Q. In the Star reading house? Where was he going or coming from?

A. Well, he was going down the hall, and then I saw him at Mr. Sterling's door, and talking in the hall with Mrs. McKinney. Those are the three times I remember.

Q. How many that you remember of? A. Three.

Q. Do you know whether to the best of your judgment you saw him more times or not? A. Yes, I saw him once on Bennett avenue.

Q. But do you know whether three times was all the times you saw him in the reading house, or all that you remember at this time definitely? A. That is all that I can remember.

Q. Was he pointed out to you on Bennett Avenue? A. Yes sir.

2165 Q. By whom? A. Mrs. McKinney.

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Q. MR. DARROW: That is all.

MR. HAWLEY: That is all.

MRS. ALICE FECHYEW, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. Will you give your name, please, in full? A. Alice Fechyew.

Q. Where do you live, Mrs. Fechyew? A. I live in Fairview, Nevada.

Q. How long have you lived in Nevada? A. Three years.

Q. Did you formerly live in Cripple Creek? A. Yes sir.

Q. How long? A. Since '94.

Q. Since 1894? A. I mean I lived in Cripple Creek since '94.

Q. Up to what year? A. [redacted] 1894, in February.

Q. You went to Cripple Creek in 1894 as I understand? A. Yes sir.

Q. When did you leave there? A. I left there the 5th of September, 1904.

Q. You were there ten years about? A. Yes sir.

Q. Were you [redacted] engaged in any business while you were there?

A. I was in a rooming house.

Q. Amongst other rooming houses did you occupy the Star rooming house? A. Yes sir.

Q. Where was that located? A. It is 350 East Bennett Avenue.

2166 Q. When did you move into the Star rooming house? A. Well, I can't positively say if it was the 4th or the 3rd of March,

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1904. It was one of the three two.

Q. And you stayed there until you left Cripple Creek, did you?

A. I stayed there until the first day of September.

Q. The rooming house was upstairs or down below? A. It was upstairs.

Q. And when you went there I will ask you whether you knew a man named F. C. Sterling, a detective? A. He occupied room 8.

Q. Thereabouts is that in the house? A. It was the front room, one of the front rooms.

Q. You got him with the house, did you? A. Yes sir, he went with the house.

Q. And he stayed as long as you were there, did he? A. Yes sir.

Q. Was Mrs. Kearney there too? A. Yes sir, she was for a short time.

Q. State whether her husband came afterwards? A. No, she stayed only I think about twenty-six I took possession.

Q. Do you know whether her husband came after that at any time?

A. Yes sir, her husband came there when he first got out of jail.

Q. Did you see him with Sterling at any time? A. I seen him in Mr. Sterling's room. I meet Mr. Sterling --

MR. KEARNY: Hold on, we object.

THE COURT: Just answer the questions, Madam.

MR. DARROW: Just answer the questions.

Q. You did see him in Mr. Sterling's room? A. Yes sir.

Q. Do you know about how many times?

MR. KEARNY: We object to that as immaterial.

MR. DARROW: I don't think it is immaterial, your Honor.

THE COURT: The objection is overruled. We will see

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how far it is going.

MR. DARROW: That is as far as it is going, I am going to produce right now.

MR. HARRY: Well, then, that is all right, we will withdraw the objection if that is as far as it is going.

Q. About how many times did you see him there? A. He stayed in his room for I think four days.

Q. That is you mean Mr. McKinney stayed in Sterling's room?

A. In Sterling's room. I think it was four days. I am not positive. It might not have been only three, but I am positive it is three.

Q. I show you some photographs here marked defendant's Exhibits 1 and 2; I will ask you whether you have ever seen him?

A. Yes sir, I have.

Q. Did you ever see the man when you recognize by this photograph here in Boise, too? A. Yes sir.

Q. You have seen him here in Boise? A. Yes sir.

Q. Thereabouts? A. On this witness stand.

Q. Who is he? A. Harry Orchard he calls himself.

Q. Where did you see him? A. I seen him in Cripple Creek at my house.

Q. At your house? A. Yes sir.

Q. Who did he come to see? A. He came to see Mr. Sterling.

Q. Do you know when was the last time you ever saw him there?

A. I can't positively say the day; but to the best of my knowledge it was four or five days before June the 6th.

Q. You never saw him after June 6th? A. No sir.

Q. Do you know how many times you ever saw Harry Orchard

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at Scott's room or at your place there?

THE COURT: At whose room?

MR. DARROW: I mean at Sterling's.

A. Well, I never counted the times, but I would judge I seen him at least a dozen times.

Q. And that was between what dates? A. I can't tell you that positively.

Q. You can tell the day you went there and the day —

A. I seen him most always — I think all the time I ever seen him was in the morning or in the evening.

Q. Well, now, what was the earliest time that you must have seen him? A. I remember the first time I seen him I might state.

Q. When was that? A. He came upstairs and he rung my bell; that was about one week I think after I had taken possession of the house.

Q. Did he make any inquiry? A. Yes sir.

Q. For whom? A. For Mr. Sterling.

Q. That was a bell from the hall, was it? A. Yes sir, the bell was attached in the hall.

Q. Was Mr. Sterling in at that time? A. He wasn't in town.

Q. What did he ask you at that time? A. He asked me if I knew if Mr. Sterling was in town.

Q. And you answered him? A. I told him that he was not.

Q. Now that was how long after you moved in in March? A. Well, I can't just exactly say, but I think it was about a week.

Q. And then the last time you saw him you say was some few days before the 6th of June? A. Yes sir.

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MR. DARROW: You may cross examine.

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CROSS EXAMINATION

BY MR. HANN:

Q. Have you any -- did you keep any record in your rooming house, any books? A. No sir. I generally put down by the number of the room what I took in on the room.

Q. What did you do with that register or that book? A. Well, I don't know.

Q. Haven't got it now? A. No, I haven't got it. It might be at home and it might not. I don't know whether it is destroyed or not.

Q. How many rooms did you have there, Mrs. ? A. Ten.

Q. Occupied by different persons at different times of course?

A. Yes sir, different persons.

Q. How many entrances are there to that house? A. There is the back and the front one.

Q. The back and front? A. Yes sir.

Q. Both were used? A. What is it?

Q. Both were used? A. Certainly; they were standing wide open, both doors.

Q. Both were standing open, both doors, and then the back entrance, was that from a street, did that come up from a street also?

A. It was from the alley.

Q. That was used both by the occupants of the rooms and their visitors? A. Yes sir, anybody that chose to use it.

Q. Have you any way of fixing the last time you saw Mr. Orchard there in Sterling's room? A. Yes sir, I have.

Q. What is it? A. Well, I was sitting in a little room -- you see this hall, stairway, as it comes from the street, the

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front entrance, it came up and then there was a little square I should judge probably eight feet, and out in that little entrance there was one, two, three and four doors, rooms opening into this little square hall --

Q. I am asking you, Mahan, if there is anything to fix the date.

A. Well, I was just explaining as I could explain to you --

Q. Does that fix the date? A. Yes sir. I was sitting in this door waiting for a man that owed me some room rent and Mr. Orchard came upstairs and he rapped on Mr. Sterling's door and Mr. Sterling had company at the time; he opened the door and he had a whispered conversation with Orchard, and what they said I don't know, only as he started away Sterling said "In a few minutes". That is why I know.

Q. I asked you, Mahan, if you had anything to fix the date?

A. No. That was just a few days before the explosion.

Q. You don't know whether it was ten days or two weeks, or two days or four days, or anything about it, got nothing to fasten that particular time in your mind? A. Well, no, I don't know that I just do know that particularly, but I know it was a very short time --

Q. You are simply testifying as to your recollection of something that occurred some three years ago? A. Yes sir.

Q. You made no memorandum of it, there is nothing in any book or writing to fix this on your mind that you can refer to?

A. Certainly I did not.

Q. Or there was nothing happened at that time that you made a memorandum of but you could refer to? A. Well, I don't know that there was in particular, only the different men coming

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up to his room.

Q. I am asking you if you made any memorandum, any writing of any kind? A. No sir, I didn't make any memorandum.

Q. Of this circumstance or any other circumstance about that time? A. No sir, I did not.

MR. BAILEY: That is all.

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C. W. ALLER, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. Will you give us your full name, please? A.-C. W. Aller.

Q. And where do you live, Mr. Aller? A. Leadville.

Q. Where? A. Leadville.

Q. What is your business? A. Railroading.

Q. That is Leadville, Colorado, is it? A. Yes sir.

Q. And in what way are you railroading? A. Well, in the last year I have been in the train service; and about seven years before that I was a telegraph operator, station man, and in the clerical department.

Q. Did you use to live in Cripple Creek? A. Yes sir.

Q. When? A. I went there in June, '99, and left October 4th, 1904.

Q. What did you do there? A. I was working in the office while I was in Cripple Creek, the Florence and Cripple Creek railroad office.

Q. Do you know Mr. D. C. Scott? A. I do.

Q. What was his position at that time? A. He was what was called a special agent for the railroad, in other words, a detective.

Q. Did he have charge of that district for the Florence and Cripple Creek road? A. Yes sir.

Q. You have seen him here in Boise too, haven't you? A. Yes sir.

Q. He had charge while you were there, and he has since, I suppose? A. Yes sir — well, I wouldn't say now whether he had or not, but then he did when I left there.

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Q. Do you know Mr. K. C. Sterling? A. Yes sir.

Q. What was he? A. He was also a detective, and I think employed by the mine owners.

MR. BORAH: We object to what he thinks — unless he knows.

Q. Well, from what was generally reported there?

MR. BORAH: No, we object to what he was generally reported.

MR. DARROW: It has already been testified to.

MR. BORAH: We ask to have that answer stricken out as not proper evidence.

THE COURT: It may be stricken out unless he knows.

MR. DARROW: You don't need to know by bringing a witness who has seen somebody hire him. He may know a certain man is a judge because everybody points him out as a judge.

MR. BORAH: That is a different proposition. There is a way to prove an official position.

THE COURT: You may prove what he knows about it, Mr. Darrow — not by giving his opinion.

Q. What do you know about Mr. Sterling's business? A. I don't believe I understand.

Q. I say what do you know about what was Mr. Sterling's business, K. C. Sterling? A. Well, he associated with Scott and I was told —

MR. BORAH: Wait a moment.

THE COURT: You need not tell what you were told.

Q. Where have you seen him operating or working there?

2174 A. Well, with Mr. Scott.

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Q. In Cripple Creek? A. Yes sir.

MR. DARROW: Is Mr. Scott in the room? Do you know whether he is or not?

MR. HAWLEY: I don't know. I haven't seen him this morning. I will ask him to come up at noon if we can reach him.

MR. BORAH: We are not objecting to what he knows with reference to Sterling as to being in the employ of their company.

MR. DARROW: He was not in the employ of their company.

MR. BORAH: Then if he was not, he don't know it, if he was in the employ of somebody else.

Q. I will ask you whether you ever saw Scott and Sterling together? A. Yes sir.

Q. About how frequently? A. Well, in the whole time that I was there it was a great number of times, but I don't know just how many times. They come in and out of the office there two or three times a day together.

Q. And that was during the time of the strike? A. Yes.

MR. HAWLEY: We object to that as leading.

Q. Well, what time was it that they come in and out of the office so many times? A. Well, it was during the winter of 1904 and also 1905, and also up as far as 1906, until I left there.

Q. You mean the early winter of 1904, January and February, or the whole winter? A. Well, during the winter of probably 1903, 1904, 1905 and 1906 -- well, all the time.

Q. You remember the time of the strike? A. Yes, but I don't remember the year now.

2175 Q. Well, you remember the fact about it? A. Yes.

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Q. And whether you saw them together during that time? A. Oh, yes.

Q. Do you know whether Mr. Scott and Mr. Sterling -- or Mr. Sterling, I will strike out Scott, were in any interested in the strike at that time?

MR. [illegible]: Do you know of your own knowledge,

Q. From what you saw of him?

MR. [illegible]: We don't want an opinion, we want facts.

A. Well, in what way do you mean?

Q. Whether he had anything to do with him at all.

MR. [illegible]: We will ask him to state what he did.

MR. [illegible]: Yes, what he did.

MR [illegible]: State last whether he knows.

A. Not from personal knowledge, no, but from hearsay I did.

Q. What did you see them do? A. I seen him around Scott several times and he always had a gun on his and I have seen him several times cleaning his gun.

Q. Where was he, in what part of the district? A. He was right in Cripple Creek -- well, he was all over the district, but he lived right in Cripple Creek.

Q. I show you some pictures marked defendant's Exhibits 1 and 2; I will ask you to whom you recognize those? A. Well, I believe I do. It is a good likeness of a man that I know.

Q. Did you ever see this man in Boise? A. Yes sir.

Q. Thereabouts? A. Several times on the witness stand here.

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Q. Yes, what is his name? A. Harry Orchard.

Q. That is the name he goes by? A. Yes, and that is what he went by when I knew him.

Q. Where did you see him before that? A. I saw him at Cripple Creek.

Q. Whereabouts? A. At the depot.

Q. Did you ever see him any other place in Cripple Creek?

A. Not that I remember, no, I can't say that I did.

Q. For what purpose did he come to the depot? A. To see Mr. Scott.

Q. This same D. C. Scott you have spoken of? A. Yes.

Q. Do you know how many times you saw him at the depot to see Mr. Scott? A. Well, some three or four times.

Q. And do you know about when it was? A. Well, he may -- it was scattered out.

THE COURT: What is the answer.

THE WITNESS: Well, it was within six months before that explosion, he was there three or four different times that I know of positively. I don't remember the dates.

Q. Do you remember any special time that you saw him at the depot?

A. Yes, I do one time in particular, and that was Mr. Scott told me --

MR. BOHAN: Wait a minute.

THE WITNESS: Well, it was on Sunday.

Q. On Sunday? A. Yes.

Q. How long before the Independence depot was blown up?

A. Well, it was not over three weeks.

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Q. What is that? A. It was not over three weeks.

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Q. And what is the shortest time it might have been before that?

A. I believe it was the second or third Sunday before the Independence blowup.

Q. Yes. A. I don't remember the date of the Independence Blow-up.

Q. Had you any engagement with Mr. Scott that day? A. Yes.

Q. For dinner, or something like that, a five o'clock dinner?

A. Yes, a five o'clock dinner.

Q. Did Mr. Scott -- what did he speak to you about -- you need not say what he said, but was it in reference to anybody?

A. When he left the depot, do you mean?

Q. Yes.

MR. KEAH: We object to that he told him as hearsay.

Q. He spoke to you in that reference to some one did he not?

A. Yes sir, he did.

Q. What was it, or who was it? A. Harry Orchard.

Q. What time was it in the day? A. Well, it was just about two o'clock.

Q. Yes, about two o'clock? A. In the afternoon.

Q. Did Scott go away or did he stay there? A. Scott went up town.

Q. And how long before he came back? A. About thirty minutes, possibly forty minutes.

Q. Did anybody else come in the meantime? A. Mr. Orchard.

Q. What? A. Mr. Orchard.

Q. Yes, and did he inquire for anybody? A. He inquired for Mr. D. C. Scott.

Q. Of you? A. Of me, yes sir.

Q. And what did you do with Mr. Orchard -- where did you put him?

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A. He came in the office and sat down and waited for Mr. Scott.

Q. Afterwards, did he meet Scott? A. He did.

Q. Where did they go? A. Up to Scott's room.

Q. Was anybody else there with them? A. Not at that time, no sir.

Q. Or later? A. There were later, yes sir.

Q. Who? A. -- K. C. Sterling.

Q. What is the name? A. -- K. C. Sterling.

Q. About what time did K. C. Sterling come?

A. Well, I did not see him come in; the first I saw of Sterling was at five o'clock when I went up to Scott's room.

Q. First, what time(s) Mr. Scott and Orchard go up to the room -- about what time? A. Well, about half past two.

Q. Now, you did not see Sterling when he came in? A. No, I did not see Sterling when he came in.

Q. And then when did you see any of them again? A. Five o'clock.

Q. Five o'clock? A. Yes sir.

Q. And where did you see them? A. In Scott's room.

Q. And who was in the back room? A. I don't believe I understand that question.

Q. Who all was in the room, -- or did you say in Scott's room?

A. Yes.

Q. I misunderstood you. Who all was in there? A. Scott, Sterling, and Harry Orchard.

Q. Yes, and that was about five o'clock? A. Yes, but was just at five o'clock because we were going to a five o'clock dinner, Scott was going to dinner with me and I went up to get him to go.

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Q. Did he go? A. No, he did not.

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Q. Did he say anything?

MR. DORAN: Was this a conversation with Mr. Scott

MR. DARROW: Yes.

MR. DORAN: We object to that.

Q. Was any word conveyed to you to come later?

MR. DORAN: We object to that as leading and calling for hearsay testimony.

THE COURT: The objection will be sustained.

MR. DARROW: Note an exception.

Q. You had a conversation with Mr. Scott, did you? A. I did.

Q. And did you go out? A. I did, I left and went to dinner.

Q. What is that? A. I left and went to dinner.

Q. And then did you go back? A. I did.

Q. At what time? A. I got back about six o'clock. I waited from six until seven.

Q. And where were they at that time? A. Well, I did not see them at that time. I saw them a little after that.

Q. What time? A. There is a train leaves there at 6:16, and the next I saw of either of them was at the time that train was leaving, 6:35.

Q. Where about? A. Mr. Scott was the only one I saw at that time and he was on the depot platform.

Q. Do you know when he left the office? A. No, I could not say as to that, just the exact time. I did not see any of them come down stairs, leaving Scott's room.

Q. And you don't know whether they got their dinner or where they went, or what they did? A. No.

2180 Q. Was anything said to you about taking dinner -- you need not

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say that it was. A. There was.

Q. And then you went off after that and got your dinner alone, did you? A. Yes.

Q. Then you saw Scott again at eight o'clock? A. Yes.

Q. That is all -- well, the other times you saw Mr. Orchard with Mr. Scott, where was they? A. Well, Mr. Orchard came to the depot and asked for Mr. Scott and Scott was either in the depot, or he asked for him and turned around and talked to Scott in the depot there, and they went off together.

Q. Where did they go? A. I think they went to Scott's room.

Q. Yes, and that was before this time, or after? A. That was before that time that they were all three together.

Q. Do you know whether Mr. Sterling was present or not? A. No, I never saw the three together but once, that is the only time.

MR. DARROW: You may cross examine.

Cross Examination

By Mr. Hadley:

Q. What was your business at that time? A. I was a telegraph operator and ticket clerk.

Q. And was your place of operating in the same room as Scott's place? A. No, Scott's room was upstairs. This was a public office for selling tickets.

Q. It was a place where the public all came? A. Yes, on the outside, up to the ticket window, not on the inside.

Q. The inside was plainly visible from the outside, was it not?

A. Well, the same as you can see through any ticket window.

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Of course there are windows around, but the door into the waiting room was always locked.

Q. The first time you saw Orchard there was about when? Give the date as near as you can. A. Well, now, I cannot give you the exact date.

Q. Give it as near as you can, sir, I don't expect the exact date.

A. It was between the first day of January and that Independence explosion.

Q. That is, between the first day of January and the 6th day of June, 1904? A. Yes.

Q. You cannot fix it any closer than that? A. Not positively, no; because there was three or four times he came there and I don't remember the first time he did come, only he asked for Scott; and I paid no attention to it at that time because there was so many coming there and asking for Scott that I did not pay any attention to it.

Q. Were you there when there was some trouble in regard to the railroad, an attempt to derail a train? A. I remember that, yes.

Q. What time was this in reference to that time -- that event?

A. Well, he was there before that train wrecking.

Q. He was there before the train wrecking? A. Yes.

Q. How long before? A. Well, I cannot just place that.

Q. Well, was it a day or a week or a month? A. Well, now it might have been all of them because I saw him three or four different times; I am speaking now as to the first time.

Q. Yes, I am speaking as to the first time you saw him with reference to the train wreck. A. I don't really know the date

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that train wreck was, but he was there before the train wreck.

Q. And how many times was he there before the train wreck?

A. Well, let's see; I don't know just how long the train wreck was before this last time that he was there.

Q. Well, you say he was there three or four times now?

A. Yes, and once or twice before the train wreck, and possibly it was a week or ten days between the two visits he made, and the dates; I don't know the exact time, I don't know.

Q. You do know of him being there once before the train wreck?

A. Yes, it was.

Q. Was he there more than twice? A. You mean before these this train wreck deal was?

Q. Yes. A. He was there twice, but whether it was about a week or ten days between times --

Q. Was he there more than twice before the train wrecking?

A. I could not say positively to that because I don't remember exactly the date when the train wreck was, and I don't remember exactly all the times he was there.

Q. What did he say the first time there? A. He just came and asked for Mr. Scott.

Q. Who did he ask for Scott? A. He asked of me.

Q. What time of day was it? A. Well, I would not say sure whether it was in the morning or afternoon -- after dinner, right after noon time.

Q. What was the language that he used? A. He asked if Mr. Scott was in.

Q. What did you tell him? A. I told him I would see if he was upstairs.

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Q. Did you go upstairs to see? A. I did.

Q. What did you find? A. I don't remember whether Scott came in while I was out or whether we met at the door coming in, -- anyway, we met.

Q. And they met? A. Yes.

Q. Did you know Orchard at that time? A. No, I did not.

Q. Did Scott introduce you to him? A. No, he did not. They turned around and walked out.

Q. Do you know whether or not Scott and Orchard were acquainted? Did they address each other as acquaintances? A. No, I don't know that they did; I don't know that I remember any conversation that they had excepting this: Mr. Scott just came in--

Q. Did he call Orchardby name? A. I would not say for sure that he did or that he did not.

Q. On this second trip after the explosion where did you see Orchard at that time? A. He came to the office and asked for Scott.

Q. And he came and asked in the same way, did he? A. Yes, he came to the window and asked for him.

Q. And you answered him in the same way? A. I don't remember what I didsay to him and I don't remember whether he saw Scott or not at that time.

Q. And was Scott there? Did he see Scott? A. I am not sure whether Scott was there or not.

Q. Your recollection is very indistinct in regard to the matter, isn't it? A. Well, I think likely it is; but you can t remember--

Q. I am not asking any apology for it at all. Did he -- about how long was this before the train wrecking? A. I don't know

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exactly --

Q. Well, give us the best of your knowledge, approximate it, speaking now of this second time that he inquired for Scott.

A. Well, I cannot -- I don't know just what it was. I will tell you all the meetings that they had that I remember of were between the first day of January, that is, during the months of January, February, March, April and May.

Q. I am trying to fix it in reference to the train wrecking. You say there was two meetings there before this train wreck and I want to know how long this second meeting was before the train was wrecked.

Mr. Baker: There wasn't any train wreck.

Mr Davis: The attempted train wreck.

Q. I am asking him in regard to the attempt; he spoke of it as a train wreck. A. I cannot place it. It was possibly two or three weeks.

Q. Possibly two or three weeks? A. Yes.

Q. You did not see him afterwards until the train wreck then?

A. No, I think not.

Q Are you sure of that? A. Yes, I am pretty sure that I did not see Mr. Orchard after that; it was two weeks before the train wreck.

Q. Was you introduced to Orchard on this second trip? A. I was never introduced to him.

Q. Did you know his name? A. I knew his name by Scott saying it was Orchard; that is all I know.

Q. How many times did you see him after the train wreck in your office? A. The only time I remember was when the three of

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them were together.

Q. That is the only other time? A. Yes, that is the only time I remember seeing Orchard there.

Q. And about how long after this attempt to wreck the train?

A. Well, it was either the second or third Sunday before June 6th -- before that Independence blewup.

Q. Either the second or third Sunday before the blowing up?

A. Yes.

Q. And could you tell us the time between the second visit that he made and the time of this third or last visit? A. No, I don't remember.

Q. Was it a week or two weeks, or a month between the two?

A. Well, it might have been a month.

Q. As a matter of fact you don't know anything about it except by the record going work, do you? A. I have no records of it. It is only memory with me.

Q. It is just guessing about it and you don't feel sure about it at all? A. I don't know the dates, but I do feel sure about seeing him there.

Q. Was the office open on Sunday? A. Yes.

Q. Was Open on every day? A. Yes.

Q. And an open public place there? A. Yes, an all railroad offices are.

Q. And this second visit was like the first, in the day time?

A. Yes.

Q. Do you know what time it was, forenoon or afternoon?

A. No, I could not say as to that; it might possibly --

Q. This third visit was in the afternoon, I believe you say?

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A. Yes, the third was in the afternoon.

Q. Do you know whether Scott left and went to Denver shortly after this third visit? A. No, I could not say as to that.

Q. Have you nothing to fix your mind on that point? A. No, he did not very often say anything to me about when he was going.

Q. Do you recollect seeing him in there for three or four days after this? A. Do you mean Scott?

Q. Yes sir, Scott, recollect seeing him there for three or four days succeeding this third visit, there around the office?

A. Well, I usually saw him there every day.

Q. I am asking you about the next two or three or four days after this visit on the Monday or Tuesday following?

A. I don't remember about that.

Q. Was he there on the Monday or Tuesday following? A. I could not say as to that, I don't know. I don't remember of seeing him and I don't remember of him saying he was going away.

Q. You don't remember of seeing him there in the next two or three days? A. No, I don't.

MR. HALLY: That is all for the present. I may want to recall you, Mr. Aller.

MR. DARROW: We don't want to keep these witnesses here.

MR. HALLY: We may want to keep him over until tomorrow

MR COURT: The witnesses will have to remain until both sides are through with them.

MR. DARROW: They ought to remain at the expense of the State then.

MR. HALLY: We will determine it this afternoon.

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MR. DARROW: Well, we are willing to do that. Unless I am personally notified, I was going to notify this witness to go but if Mr. Hanley will tell me, we won't disagree about the matter.

RE-DIRECT EXAMINATION

by Mr. Darrow:

Q. Mr. Aller, this depot that you speak of, where is that located in reference to the town? A. Well, it is on Main, and it is on the south side -- that is, it is not on the south side of the town; it is three blocks from the main part of the town on Bennett Avenue.

Q. Is it in the heart of the town or at some one side?

A. I would not say -- it is three or four blocks from the business part of the town, but there are residences all around there and some business places right close.

Q. It is three or four blocks from the business part? A. Yes.

Q. The first date you were not sure of? A. No.

Q. The date with reference to the conversation where he called-- it was that date that you fixed? A. Yes sir.

MR. DARROW: That is all.

Thereupon the bailiffs were sworn, the jury received the statutory admonition from the court and retired in charge of the bailiffs, the defendant was remanded to custody and a recess was taken until 1:30 o'clock P. M.

R E C E S S.

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Boise, Idaho, Monday, June 20, 1927.

1:30 o'clock P.M.

Parties met pursuant to adjournment.

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

THE COURT: Mr. Darrow, there is a complaint comes from the jurors, of the difficulty to hear these witnesses.

MR. DARROW: I suppose that has been more or less in evidence ever since we began here. I think the jury ought to speak up and tell us.

THE COURT: There have been several instances where the Court has had difficulty in hearing, and I thought I would bring the matter up.

MR. DARROW: I will bear it in mind. I stood back here this morning as far as I could for that purpose. I will call Ira Bilyeu.

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IRA MINARD, being called as a witness on behalf of the defense, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION.

By MR. DARROW.

Q Give us your name, please, in full? A Ira Minard.

Q Mr. Minard, where do you live? A I have been in Cripple Creek up to the last two months, for the last thirteen years.

Q What has been your business? A Practically railroading.

Q In what way? A As conductor, train master, road master of different lines, brakeman,- also I bought ore there for four years,- between three and four years.

Q Did you testify before the United States Commission that investigated the Colorado troubles? A No sir.

Q Do you know whether your statement was in the Wright report? A I have never testified in any case that I know of.

Q You don't think you ever testified there? A No sir, not in the United States Court, no.

Q I don't mean in the United States Court, but before an investigating Committee appointed by Congress? A No sir.

Q Do you know E. C. Sterling? A Yes sir.

Q How long have you known him? A Oh, between twelve and thirteen years.

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Q Where have you seen him? A In the Cripple Creek District.

Q For how long of this time? A During all that time, dor twelve or thirteen years, off and on.

Q Whereabouts there have you seen him? A On the railroad train, and around the town,- around the different cities there; Victor and different places.

Q Have you seen him in the Mine Owners' Association too? (Headgrs.)

A Yes sir.

Q Do you know how many times? A Oh, perhaps three or four different times that I happened to be in there myself.

Q And have you ever communicated with him from the office of the Mine Owners Association? A I have never communicated with him from the Mine Owners Association office.

Q I mean by calling up the Mine Owners Association? A Yes sir.

Q What have you seen him doing there? A Why --

MR. BORAH: Just a moment. Is this Mr. Sterling you are asking about?

MR. DARROW: Yes, K. C. Sterling.

MR. BORAH: We object to that as incompetent, immaterial and irrelevant. The State is not bound by any action of Mr. Sterling. It must have for its object and purpose, I suppose, the proving of some act on the part of Mr. Sterling, connecting up with something else.

MR. DARROW: Certain things have been offered in

2191 evidence by the State --

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THE COURT: This question may be necessary, and we will see what develops, Mr. Berch.

Q Now, will you read the question, Mr. Reporter?

The last question was then read.

A Why, as to what I have seen him doing, he has been riding around on different trains.

THE COURT: I understood this question to relate to what he was doing in the Mine Owners Association.

MR. BARROW: No, both.

THE COURT: Read the question, Mr. Stenographer.

The last question was again read.

THE COURT: The last question was, prior to that, that he had seen him in the Mine Owners Association.

MR. BARROW: I meant generally. I am proving the general conduct and connection of this man.

THE COURT: The objection of the Court is that the question was as to what was he doing in the Mine Owners Association, and that was the reason for the objection, as I understand it.

MR. BARROW: The object of the question is to prove that he was an employe of the Mine Owners Association, and we think we have a perfect right to show the connection of this man with it.

Q You may say first what you have seen him doing in the Mine

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Talking to Teagle in charge

Owners Association office? A When it comes to answering that question as you have put it, I have seen him standing around there in the Mine Owners Association headquarters.

Q And you have communicated with him by telephone to that office, have you? A Yes sir.

Q Now, for the time being, we will go back to another proposition. Where were you on the 6th day of June, 1904, the day of the explosion at the Independence depot? A I was in the Cripple Creek district, Teller County.

Q What was your business at that time? A I was contracting freight agent for the Midland Terminal and Florence & Cripple Creek Railways.

Q Did you go to the point of the explosion that morning?

A At the Independence depot, yes sir.

Q What did you see there at that place? A I saw where the depot had been blown up.

Q Did you see a wire and chair round? A Yes sir.

Q How far was that from the location of the depot? A Why, the wire led up to the depot, - well, I didn't measure the distance, but I would judge as an off-handed estimate, perhaps between two and three hundred yards, or something like that.

Q What was this depot, whether it was used or an unused depot?

A It was not being occupied at that time.

Q How long had it been since it was occupied? A Oh, as to that, I don't positively know, but it had been some time.

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Q What was its condition? A It was in good condition.

Q About what was the size of this depot? A Why, it was a nice,- now, I could not give you the dimensions of that,- but it was quite a nice, up-to-date station, with a waiting room, and a large office, and a --

Q Do you know about the size of it? If you don't --

A I never measured it, Mr. Darrow, but as a rough guess I would judge it was, perhaps, including the building itself, was perhaps a hundred feet long, and possibly, oh, maybe forty or fifty feet wide.

Q And there was a platform? A That is just an estimate.

Q And there was a platform there? A Yes, there was a nice large platform, leading to the track.

Q And did you see it afterward? A Yes sir.

Q And what was done that morning, if anything, in the way of putting dogs on the scent from the chair room? A Why, as far as my knowledge goes in regard to the dogs, it was in the evening.

Q Well, in the evening? A It was not in the morning.

Q You did not see any in the morning? A No sir.

Q Did you in the evening? A Yes sir.

Q At what time? A Well, while I make no record of it, but I would judge between four and five o'clock in the evening.

Q Yes, and where were you at that time? A I went over from Victor on a car that a dog went from Victor up to Independence on.

Q Who else was with the dog? A Why, there was a man who had

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the dog, and his own; and when they left Independence there was two men when I understood as being Deputy Sheriffs.

Q Yes? A With the dog.

Q Were you there when the dog started? A Yes sir.

Q Which way did they go?

MR. BORAH: Wait a moment. Now, if your Honor please, I presume you are intending to prove the action of the dog in regard to it.

MR. MASON: Yes sir.

MR. BORAH: We object to that until the dogs are qualified.

MR. MASON: Orchard qualified then, I think.

MR. BORAH: This is not a trivial matter. I object on the ground that the authorities here establishes the rule that a dog cannot be put on the trail that way. He must be qualified. They have got to show that these dogs know something about their business.

MR. MASON: We first say that for the purpose of this witness it does not make any difference whether the dogs are qualified or not. We are calling him for an entirely different purpose. I want to show that they went in a certain direction, and that the witness reported it, and secondly, we will make full connection as to the qualification of these dogs. We cannot do it all at once, as was suggested to us many times in putting in

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their case.

THE COURT: Is it necessary to show the qualification of the dogs?

MR. MORAN: We think you have got to make some sort of showing as to what sort of dogs they were.

THE COURT: You have not made any showing at all. Q What sort of dogs were these? A Hounds.

MR. MORAN: We object to this, because the witness has not shown himself qualified to testify.

MR. MARROW: We will say to your Honor in introducing fragments, as they said a hundred times, that we propose to connect up this witness.

THE COURT: Have you witnesses here to show the qualifications of these animals?

MR. MARROW: I haven't all of them.

THE COURT: When will you have them?

MR. MARROW: I am not certain. We will endeavor to have them here before the case closes. One we sent for did suddenly, and we will get others, and there are others whose depositions we can take if it is necessary, but so far as this witness is concerned, that is not the purpose of it. It is the purpose to show his report to Sterling.

THE COURT: I will permit the witness to answer this question.

THE WITNESS: Read that question, please.

The question was then read.

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A It was a blood-hound, in my judgment.

MR. HARLAN: We ask that that be struck out. He does not give it as a positive statement.

MR. BARROW: Is not his knowledge and belief as to the being a blood-hound enough?

MR. HARLAN: We think not.

THE COURT: The motion is denied.

Q Where did they go?

MR. MORAN: We object to this as calling for prematurely what they have got to lay the foundation for before they give us a showing of what the dogs did.

MR. BARROW: I am going to show that they went down a certain road at that time.

MR. MORAN: We object to it as incompetent, immaterial and irrelevant, and no foundation has been laid for it, and this kind of evidence is incompetent, immaterial, in my view of the case, because you cannot introduce that kind of evidence in a case of this character.

MR. BARROW: I don't think the courts have ever refused this kind of evidence in any case.

THE COURT: Have you showed where the dogs were taken in the first place?

MR. BARROW: I think so.

Q Where were the dogs taken before they started away? A They were taken from Victor on a car, a caboose, which was used as a

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special car, on the Florence & Cripple Creek Railway, taken to Independence, and put on the trail there, taken there first to where this --

Q Chair round? A Chair round, and where the wire was.

Q And given the scent of the chair round? A He picked it up.

Q And then where did they go? A

MR. DORAN: We object to that as incompetent, immaterial and irrelevant, until it is shown, the qualification of the dogs.

THE COURT: The Court will permit the question to be answered, and will give an instruction covering it, if the foundations not laid.

Q You may state where they went? A Over in the direction of the Vindicator Mine.

Q And thereafter? A Down towards what is called the Black Sampler, and better known as the Cripple Creek Sampler.

Jerome here telephoned to Victor - Gen Supt of RR.

Q And from there, in what direction? A Down toward the Albaun pumping station.

Q On the road -- on the highway? A Yes sir. He went across a bottom there, down a hillside, and down the bottom, and went from there on the road known as the Gheyenn Canonroad, between Colorado Springs and Cripple Creek.

Q Is that the main road from Colorado Springs to Cripple Creek? A Yes sir.

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Q What did you do as to following the dogs? A When we were at the Black Eagler I called up Mr. Waters.

Q Who was Mr. Waters? A President and General Manager of the Florence & Cripple Creek and Midland Terminal Railways, and told him where I was.

MR. MORAN: We object to any conversation with Mr. Waters.

MR. DARROW: I don't care for Mr. Waters.

Q What did you do after that? A I went on and followed the dogs.

Q Down that road? A Across the country down there, across the bottom, down the hillside, until I came to the Altman water station.

Q And when way were they then going as to the direction of the Colorado Springs road? A The dog, and the people who were with it in my advance were going down the main road toward Colorado Springs.

Q And then what did you do? A Why, I stopped there at the water station, and the pump man came out and told me --

MR. MORAN: Wait a moment. We object to that.

Q Did you stop at the water station? A Yes sir.

Q What did you do then? A I called -- after a conversation I had with some people there - Mr. Sterling up on the plains at the Mine Owners Association at Victor.

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Q For what purpose did you call to him?

MR. DORAN: We object to that as incompetent.

MR. DARROW: We think this whole matter is competent.

THE COURT: The witness may answer.

Q For what purpose? A To help locate the people, who in my judgment, were guilty offmaking a part in blowing up the depot.

Q And did you get Mr. Sterling at the telephone? A Yes sir.

Q What did you ask for, if anything?

MR. DORAN: Are you asking for a conversation now?

MR. DARROW: I am asking for what he inquired for.

MR. DORAN: We object to it as hearsay.

THE COURT: He may answer the question.

Q You may answer the question. A I told him of a party, Victor Poole, who had been through there with a pair of horses, and I told him what the dogs were doing.

Q Go on.

MR. DORAN: We object.

MR. DARROW: The Court says to go ahead.

A I told him where the dog was.

Q You told him -

MR. DORAN: Has the Court ruled that Mr. Sterling's statement may go in?

THE COURT: No, I understand that he is going to tell what Sterling said to him.

MR. DORAN: We object to what Sterling said to him.

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MR. DARROW: We shall ask him what Sterling said. I am really trying to connect this up with Mr. Sterling. I suppose we are able to prove who was responsible for blowing up the Independence depot.

MR. HAWLEY: There is a way to get at that, if somebody else did it, there is a way to show it, and it is perfectly legitimate. We do not contend that they cannot show that some other party blew up that depot besides Mr. Orchard. They cannot show it by threats, or declarations, on the part of other people. Now, the authorities are very clear on that proposition. We agree that they may show that someone else did it, but they cannot show that someone else said he was going to do it, or that somebody else said they did it.

MR. DARROW: It is not necessary that we bring here the man that blew up the Independence depot. That might be absolutely impossible, and out of the question. They have attempted to show every fact and circumstance from their standpoint, that would point to the connection of this defendant with this matter. They have not proven that he said, or ever said, that he ever did it, or had anything to do with it.

THE COURT: Do you expect to show it by the declarations of Sterling?

MR. DARROW: No sir.

THE COURT: Do you expect to show that somebody else did it by his declarations?

MR. DARROW: We expect to show that Sterling was re-

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responsible for it, and knew of it, and connect the Mine Owners Association with it. We expect to show that he, as I said in my opening statement, called off the dogs, because they were following Orchard, and told him that somebody else did it.

THE COURT: The Court will overrule the objection.

A What is the question?

Q State what was said by you to Stering, and what he said?

A I told him over the phone from that pump station, from Altman to Victor, about Victor Poole having driven through there, and I also told him that the dogs were on a good, safe trail? He says "Call the dog off; we know who did it."

Q Did you tell him which way the dog was going? A Yes sir, the dog was going down the road.

Q What did you do after that? A I went down and called the dog off, and came back to the pump station with the deputies, and the man with the dog, and his son.

Q Did you see Stering again? A Yes sir.

Q When? A The second day afterwards.

Q Whereabouts? A At Victor.

Q Did you ask him anything in reference to this conversation, and why he asked you to call off the dog? A Why, I don't remember asking him. The conversation came up.

MR. BOAK: We object to any conversation between Stering and this witness.

Q And what did he say at that time? A Mr. Boak

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MR. HOWAT: That is objected to.

THE COURT: This will be admitted. The objection will be overruled.

A He says, "The reason I asked you to call that dog off was because we know who did it. Steve Adams," he said "is the man who did it."

Q And where was that conversation? A In front of the Florence & Cripple Creek depot, beside a passenger train being made up to go to Donnyille.

Q That was on the day of the Donnyille affair? A Yes sir, on June 6th.

Q Did you know Orchard at that time? A No sir, never knew him that I know of. Never had seen him that I know of.

Q Did you ever have any experience with hounds or dogs? A Yes sir, a little.

Q To what extent? A Not extensively. Now, this hound on that case, I saw him work on a case a number of years before that, where some parties whose names I don't remember --

Q The same hound? A The same hound,-- had broken out of the Victor jail. I saw him, and they had a puppy with him at that time.

Q Did they trace this case? A They picked up a trail, but I did not follow the hound.

Q How long ago was that? A Oh, that was perhaps three years prior to this time we are speaking of.

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Q Had you any other experience with dogs? A Not extensively, I have had some.

Q You have had some experience with hounds trailing, have you? A I have seen some start off to work.

Q Do you know whether this hound started out on a trail at this time? A He acted to me like he did.

Q Yes, up to the time you testified. Now, you have told all the places that this particular hound went at that time, have you? A So far as the time I was with him, yes.

Q Did the hound go to the Vindicator powder house? A I cannot say whether he did or not.

MR. MORROW: You may Cross-Examine.

CROSS - EXAMINATION.

By Mr. MORROW.

Q How many of these hounds were there? A I beg pardon.

Q How many dogs were there? A In this case I have been questioned on, there was only one.

Q And you had never had any experience with hounds before except that you saw this same hound start from the County Jail? A No sir, it was the City jail.

Q The City jail? A Yes sir.

Q That was the extent of your experience, was it? A I have seen hounds work a little bit.

Q You don't pretend to know anything about it? A No sir, not as an expert.

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Q And you had nothing to do with the matter from the time the hounds started from the road? A Nothing only look out for the Railroad Company's interests.

Q Where was it you had this second conversation with Sterling in regard to the reason for calling the hound off? A As I stated, it was in front of the Florence & Cripple Creek depot on the right hand side as you would stand looking southward, by a special train made up there.

Q Anybody else present? A No sir, not that I know of.

Q And Sterling told you on that occasion that the reason he called the hound off was because they knew who did it, and it was Steve Adams? A Yes sir.

Q Did he tell you anything further about Steve Adams, or how he came to know that he was connected with it? A No sir.

Q Did you know Steve Adams? A I did not.

Q Sir? A I did not.

Q Did you know where he stayed at that time? A I did not.

Q Did you make any inquiries as to who he was? A No sir.

Q Didn't cause you — did you try to find out whether he had been arrested? A No sir.

Q You did not ask for any information in reference to it then? A I had been told of course — this is hearsay evidence.

Q I am asking you about the conversation you had with Sterling? A I suppose that is hearsay, the same as this that we have been talking.

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MR. DUNN: You can find out who told him.

Q Did you have anything to say to Sterling about it? A Nothing only what I have stated.

Q Well, give the rest of the talk in regard to this matter? A That is all there was. The train started and pulled out, and went down to Denville.

Q Now, in regard to the Independence depot, you say that was a pretty good station? A Yes sir, it was a good building.

Q What did you say with reference to its being uncompleted? A It was not completed at that time.

Q You mean there was no agent there? A It was a closed-up station.

Q But the train stopped there, did it not? A As a flag station.

Q And they stopped there and took on passengers? A Yes sir.

Q And the men who worked on the mountains at the mines there got off and on at that station? A They got on and off there at that station.

Q You did not know where Steve Adams lived at that time? A No sir.

Q Did you find out; did you ascertain? A I did not.

Q Make no inquiries in regard to it? A No sir.

Q Never met him afterwards? A No sir, never saw him that I know of, Mr. Hanley.

Q

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MR. [redacted]: That is all.

MR. [redacted]: That is all, Mr. Hilmert.

THE COURT: Is that all with this witness?

MR. [redacted]: I believe so.

THE COURT: Call your next witness.

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I. L. Hollo, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

Recalled 2549-53

DIRECT EXAMINATION

By Mr. Darrow.

Q What is your name, please? A I. L. Hollo.

Q Where do you live? A Live on Coeur d'Alene Lake.

Q Right in the water? A No, I live in a boat.

MR. BORAH: You are not a walrus, then?

MR. DARROW: I thought I would make sure.

Q How long have you lived there? A Oh, most of the time for two years.

Q How long have you lived in the Coeur d'Alenes? A Since the fall of 1896.

Q And thereabouts? A No, 1896.

Q Whereabouts have you lived there? A I lived at Wardner, and Wallace, and Mullan.

Q What is your business? A At that time I was a physician and surgeon, but I am a mining broker now.

Q Did you ever have a hospital there? A Yes sir.

Q What - when? A I was interested in the Wardner Hospital, and I owned the Wallace Hospital and the Mullan hospital.

Q How long have you been a physician and surgeon? A Since the spring of 1892.

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Q Let's see - you were once Coroner of Gunnison County, were you not? A I was at one time.

Q When was that? A I finished out a term for a Coroner that resigned. It was in 1900, I think,- '99 - no, 1902.

Q Do you know Harry Orchard? A Yes sir.

Q How long have you known him? A I have known him since he first went to Wallace. That was in the spring of 1897.

Q How well have you been acquainted with him? A Well, he delivered milk to my house, the first milk I bought in Wallace, he was working for Hartwell's Dairy, and I knew him when he was keeping a wood yard in Burke; I used to go up there professionally, and I used to see him about the town, as I saw other people, and I knew him also, because he wanted to court my nurse, and she consulted me as to whether she should let him or not.

Q When was that? A That was in the fall of 1897. They had had some kind of a watch contest there among the miners, and this girl won it, and he represented that he got acquainted with her when she was making the race for the watch.

Q Do you remember the time the Bunker Hill and Sullivan Mill were blown up? A I remember the time they said it was blown up. I was not there.

Q Where were you that day? A I was at home in bed.

Q What town were you living in? A Mullan.

Q How far is Mullan from Wardner? A Well, about eighteen miles, I think.

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Q Do you know whether you saw Harry Orchard that day? A I don't know whether I did, but I think I did.

Q Whereabouts? A In Mullan.

Q Do you know where? A Well, if I am not mistaken, he was playing poker in Dominick Flynn's saloon when I saw him, or in his cigar store.

Q You won't be quite sure of that, I infer? A No, I am not as sure of that as I am,- but that is my impression.

Q Did you see Harry Orchard again in 1904? A I did, sir.

Q Whereabouts? A In my office in the Wallace hospital at Wallace, Idaho.

Q At what time in 1904? A Well, the exact time is mighty hard to say; it was some time during the season they go swimming on the Coeur d'Alene Lake, and I think about the 1st of July.

Q But you are not quite sure as to the exact time? A Oh no, I am not sure as to the date.

Q Did you have a conversation with him? A I did.

Q Where did you say it was? A In my office,- in my private office, in the operating room of the Wallace Hospital.

Q Did this conversation, in substance and effect, occur between you and Harry Orchard at that time: Did Orchard say to you,"Is there any easy money going now?" And did you reply,"I don't know of any." Did Orchard reply, "It is kind of reported around here that you have some easy money;" and did you say,"What

are you doing?" And did he reply, "I am working in the annex." And did you say "What are you doing in the annex?" And did he reply, "I am spotting;" and then did you say, "For Colonel Guyton?" And did he answer, "No, you know there are two crowds in there now." And did you say, "There being a political campaign on,"and did you refer him to one Johnson, the Treasurer of the Republican campaign committee? A Yes, that conversation occurred except as to Johnson. I told him, I think, that Johnson was the Chairman of the Republican campaign committee.

Q The conversation occurred that way? A Yes sir, that much of the conversation occurred.

MR. DARROW: You may Cross-examine.

CROSS - EXAMINATION

By MR. HAGEN.

Q Are you sure this was in 1904, that you had this conversation? A Yes, I am sure of that.

Q Are you in any wise certain as to the month? A I am not as sure of the month as I am of the year, but I know it was during the campaign season, for the next day I started down to see my children, down on the lake, and I saw him again up at the depot with a man that I think I had seen before.

Q Had you seen him prior to this time, or in 1904, prior to this time, that you met him in your office? A Yes, I saw him the day before that.

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Q There was he the day before? A He came into my office and sat down, - there were several there, and he came into the hospital, and sat down in the hall, but he did not await his turn; he got up and went away.

Q You had no conversation then with him? A No sir, none.

Q This was also in the town of Wallace? A Yes sir.

Q You had not seen him before that since the time he left Burke after the explosion? A No, I had not seen him since the strike.

Q Did you talk to him this day and ask him where he had been, and what he had been doing? A No, I don't think I asked him that question. I think the first thing he said, after he recalled to me who he was, was "There is Anna now?" That was my nurse.

Q And after he recalled that, what did he say? A Then he opened the conversation in this way: He said "Is there any easy money going now?" I hesitated a minute, for I thought perhaps he referred to some gambling game, and then I said to him, "I don't know of any." And in the conversation he said to me that it was kind of reported around among the boys that I had some easy money, and I recommended to cover up them, and told him that I did not have any easy money, and if he was looking for political money Mr. Johnson was the chairman of the campaign.

Q What did he say then? Was there anything further said?

A Yes, I think he said good day, and that is about the end.

2212 Q And that was the end of the conversation as you recollect it?

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A Yes, I brought it to a close as rapidly as possible.

Q Was there any reference,- was it in this conversation was made to the fact that he was working for Dwyne? A Yes.

Q Did you make any remark in regard to it? A No, I asked him if he was working for Colonel Dwyne.

Q And it was to that that he responded, was it? A No, he said, "You know there is two crowds in the canon now."

Q He had told you that he was a detective? A No sir, he did not tell me anything about that.

Q But you simply asked him if he was at work for Colonel Dwyne? A He said he was spotting, and I inquired a little as to who he was spotting for.

Q Did you see him again after that? A After that conversation?

Q Yes, after that conversation? A I saw him down at the depot the next day after that when I was going down to the lake.

Q Did he get aboard the train? A I think he did, but I don't know that though.

Q You did not talk with him any going down on the train? A No sir.

Q Do you know where he was staying there at Wallace? A No sir.

Q Did you see any one else there that was talking with him? A That day on the platform he was talking to a tallgentleman that I thought I recognized, but I don't know as I did. It was a gentleman that I thought I knew.

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Q You could not call the name then now? A Yes, I think it was a man by the name of Cunningham that he was talking to that I had had trouble with before.

Q Who was Cunningham? A I never saw him but once in my hospital, and we had an altercation then, and I met him on the street after that, and we had another altercation.

Q Where did this Cunningham live? A I don't know.

Q Do you know his business? A I think he was a miner.

Q You ran a hospital there for the miners? A For those that wanted me.

Q Did you have any arrangement made with the Union to care for those that were sick? A Not at that time.

Q When did you cease to run a hospital there? A Let's see, I sold out in December, I think, the latter part of December, 1904.

Q 1904? A Yes,- it was so gradual; I don't know the day. I sold out to my partner, and I think it was about that time that I sold out.

Q In 1897 when you became acquainted with Orahood, he was delivering milk, you say, first? A Yes sir.

Q Did you become in any wise intimate with him? A No, he came to the hospital every morning with milk.

Q And after he moved to Burke, you saw him there occasionally when you was thereon business? A Yes.

Q Now, he was running a wood yard there? A I knew he was around there, and I think I knew that he was running a wood yard.

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Q Did you have any business with him outside of that which you have stated there? A None,- Oh, yes, I did too. Before the strike he was in my hospital once, with an infected hand.

Q How long before? A Well, I think it was something like,- I think it was in the fall before. As I remember, the strike occurred in the spring, and it was the fall before that he was in there. It was not a very bad infection, and I thought he was in there more to see the nurse than to see the doctor.

Q Did you,- I believe you said you had no further talk with Orchard on this 1904 trip, outside of the time he was in your hospital? A No, nothing further.

Q Was there any one there at your hospital when you had this talk? A Oh yes, there was plenty of people in the hospital, but not in the operating room.

Q You, as a matter of fact, cannot tell any one that you now that saw Orchard at that time, that you know of? A No, I am only talking about what I saw.

Q And you don't know where he stayed, or anything about it? A No sir.

Q And he gave you no information as to where he had come from, or where he was going to? A Only he said he was working in the camps.

Q He did not say how long he had been workingin the camps, or anything about that? A No, nothing about it.

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Q And are you certain, or do you feel certain, as to this time being the last of July, or first of August? A I am very positive it was in the month of July or August,- the last of July or first of August.

Q You feel quite positive of that? A Yes sir.

Q Other matters there connected with your business on the lakes that causes you to remember that distinctly, does it? A That is the way I remember it, yes sir.

MR. HARLEY: That is all.

RE-DIRECT EXAMINATION

By MR. DARROW.

Q Who was Captain Gwayne? A He was the head of a detective agency in Spokane.

Q What one? A I don't know what one.

Q The Reid agency? A More than likely it is. I know Captain Gwayne very well, but I never asked him a question as to what agency he was working for.

MR. DARROW: That is all, Doctor.

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D. C. SCOTT, being called as a witness on behalf of the defense, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

By MR. DARROW:

Q Mr. Scott, you are from Cripple Creek, and are the Special Agent of the Florence & Cripple Creek Railroad, are you not?

A Yes sir.

Q And have been for a number of years? A Yes sir.

Q That Special Agency business means looking after matters of stealing and other affairs in connection with the Road, and may be called detective sometimes? A Some of the work I have to do is similar to that of a detective, yes sir.

Q You are the only man, or the chief man for the Company at that point? A Yes sir.

Q You were brought here on behalf of the State, were you not?

A Yes sir.

Q Do you know E. C. Sterling? A I do.

Q How long have you known him? A Since perhaps August or September, 1903.

Q What is his business? A He was at that time a secret service man for the Mine Owners Association.

Q That is, you say, since August, 1903? A 1903, it might

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have been later than that; I don't know,- I knew Mr. Sterling by sight, probably, about that time.

Q During the time of the trouble, I suppose you mean, do you not? A Some time after the trouble, yes sir.

Q Did you know he was with them up to, and before a year ago, or thereabouts, was he not? A No sir, I don't know what time he did quit them, I am sure.

Q You only know he was with them during the strike trouble? A That is all.

Q MR. DARROW: That is all.

MR. BORAH: That is all, Mr. Scott. Is that all for this afternoon for Mr. Scott?

MR. DARROW: Yes sir, that is all, Mr. Scott, for this afternoon.

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W. H. END, being called as a witness in behalf of the defense, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

By MR. DARROW.

Q What is your name, please, in full? A W. H. End.

Q Mr. End, where do you live? A I live in Goldfield now, Nevada.

Q Goldfield, Nevada? A Yes sir.

Q What is your business? A Miner.

Q How long have you been a miner? A Well, about twenty-seven years.

Q Did you ever live in the Cripple Creek district? A Yes sir.

Q How long? A Why, I went to the Cripple Creek District in 1895, in '96, and I lived there until 1899, and then I was away for about a year, and then I went back.

Q When did you go back, in 1900 or 1901? A Let's see, it was in 1900, I went back, that was right; it was later than that that I left.

Q Then how long did you stay? A Well, I stayed until June, 1904.

Q Were you working as a miner during all that time? A No sir.

Q What else were you doing? A I was looking for a job most

2319 of that time, looking around town.

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Q Did you ever follow any other business? A Why, I worked a little while at the carpenter trade at Clyde, about fourteen miles out of Cripple Creek.

Q You, at what time was that? A That was in the fore part of June, I think we started work out there on the 31st day of May, I am pretty sure it was.

Q How long did you stay there? A I stayed there until the 7th day of June.

Q That was 1904? A That was 1904, yes.

Q Did you know Harry Orchard? A Yes sir.

Q Or a man called Harry Orchard? A Yes sir.

Q Have you seen him here? A Yes.

Q How is that? A I have seen him here.

Q On the witness stand? A Yes sir.

Q The same man, is it? A The same man.

Q When did you get acquainted with him? A Well, I think 1903 it was late in,- I think it was in December, 1903, the first time I met him.

Q Whereabouts? A Well, I met him down about the Union Hall, one place.

THE COURT: What was that last answer?

Q MR. DARROW: He said late in 1903.

Q Now, when was it you say you met him? A I think it was in December, 1903.

Q Do you remember where? A Well, no, I don't; the first time, I don't exactly remember where I did meet him; some place

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in the Cripple Creek district, and I think were then likely down about the Union Hall.

Q And how often did you see him? A Oh, I seen him two or three times a week, maybe.

Q I will ask you, Mr. Hal, whether you had a conversation with him in Union Hall, No.40, in the Cripple Creek district? A Yes sir, I did.

Q Did he say to you at that conversation, in 1903, in the Union Hall of No.40, in the Cripple Creek district, "If it had not been for Steunenberg, I would not have been here; I will get even with that," calling him a hard name, "I will get even with that s.o.b.;" after telling you about the Coeur d'Alene troubles with Governor Steunenberg? A Yes sir, I had that conversation.

Q Mr. Hal, after you were working at the carpenter business down twelve miles from Cripple Creek, what happened to you on the 9th day of June?

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

BY THE COURT: What is the purpose of this?

MR. DARROW: We think all that was done in the Cripple Creek district is a part of the history of this case, and has a bearing upon the responsibility of the parties, and the motives of the parties in this case. They have chosen out such parts of the troubles in Cripple Creek, and other parts of the country as they thought would bear upon the motives of the defendant, and

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their connection, and we wish to show in a general way what took place in this district, and it remains for the jury to fix the responsibility for these matters; it is simply going ahead with what they partially did, and proving what took place at the time of the riot.

THE COURT: What who partially did?

MR. DARROW: What the State partially did. They went into the Victor riot, the blowing up of the Independence depot, the strike, and the affairs at Cripple Creek, and we insist the whole matter as to Cripple Creek should go to this jury as far as we wish to show it.

MR. EARLY: Now, we did not go into those matters. We did go into certain crimes that are alleged to have been committed there by Orchard under the direction of the defendants. That we had a right to do that there is no question; and there was a great deal said upon cross-examination with reference to affairs that happened there in the Cripple Creek country at that time. The cross-examination, over our objection, took a very wide latitude. That was attempted - it was attempted, undoubtedly, to show these things, and it was admitted and undoubtedly there was a right to admit it, under these circumstances, and we make no complaint outside of taking our formal objection, because we appreciated that there were peculiar conditions that possibly would make it necessary, but what I desire to call the attention of the Court to now, is that, so far as these troubles, outside

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of these crimes which we have inquired into are concerned, they are simply matters that have crept into this evidence through the cross-examination of the defense itself, and they are not permitted to set up a man of straw in a cross-examination, in order to knock it down in direct examination of their own witnesses.

What are they seeking to inquire into here, if your Honor please, and what is this the entering wedge for? And we can go to the opening statement of the learned counsel, and find from that that it is but as to the troubles that occurred in the Cripple Creek and other mining districts, the matters of the deportations, and the differences between the contending forces. They are going into matters extending over years of time, seeking apparently to blind the Court and the jury to the real issues involved here, by going into matters that are irrelevant, as we contend, to the issues here. Any inquiry that would elucidate these questions, we here have asked these witnesses in regard to the murders committed or the outrages committed there, that we have inquired into, would, of course, be pertinent; but I ask how could be contended that this man being deported, or some other man being deported, or troubles of that kind existing there, or troops in there, doing perhaps things they should not have done,- these outrages that my friend took such pleasure in outlining yesterday being committed, I ask what possible connection it could have with this conspiracy to kill which resulted in the death of Governor Steunenberg, upon which charge we are now trying

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this defendant?

I will say, if your Honor please, it is simply opening up grounds for inquiry that are absolutely and entirely distinct and not connected with this case, going into extraneous matters that cannot be connected, diverting the attention of the jury, occupying the time of the Court, and without any real object. If they can go into this Cripple Creek dispute of 1903, and '04, they are equally privileged to go into the Telluride troubles, and bring in here all of those matters connected with the troubles of the State of Colorado, and for all these years, in going into the particulars of certain agreements which are charged, in going into matters that would tend to prove away the thing these people were charged with,- their connection with these crimes, and simply going into questions of whether one side or the other were right, or were wrong. Perhaps invoking sympathy, perhaps engendering hatred or ill will, but in no wise tending, as I take it, to elucidate those questions which are pertinent and proper in the consideration of this case. I would ask in all seriousness under what rule of law or evidence matters of this kind could be permitted in a case. I would ask my learned friend to point to some authorities that would make it possible for things of this kind to be brought in?

THE COURT: Suppose the evidence seemed to prove a conspiracy here of the facts testified to by the prosecution, to what extent then might they introduce evidence, to establish that fact?

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that is the question the Court would like to hear you upon.

MR. HANLY: If there was a question that would come up to attempt to explain certain outrages testified to here as being done by some other force, or some other combination than that which we have urged, that would be admissible within certain lines, but I ask in all seriousness, if that is the case, how would it be possible to bring in these matters of deportations and these other troubles as part of them? They would have to have some well defined theory. They would have to begin to prove that there was that combination,- prove it by these deportations, by troubles of that kind, that this man, and that man, or some other man, had been run out, in order to get his opinion as to what outrages had been inflicted upon him. How could that obtain? We know of no principle of law or evidence under which it could be brought in. It would be absolutely extraneous to the issues in this case.

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MR. DARROW: Your Honor, I suppose we might as well discuss this matter to some extent at this time as any other time. According to the opening statement in this case made by Mr. Hawley, the Western Federation of Miners and its leading spirits were charged with having entered into a general conspiracy right at the inception of its organization. It was said to this court that the murder of Governor Steunenberg was but an incident of that general conspiracy; that all the leading spirits of the Western Federation of Miners, even before this defendant had anything whatever to do with it, were members of that conspiracy. They began by proving the troubles in the Coeur d'Alene district.

THE COURT: Certainspecific acts.

MR. DARROW: Yes, that is what we are trying to do, your Honor. They began by proving that a few men got onto a train and went down to the Bunker HILL & Sullivan mill, put powder under it and blow it up, up here in the Coeur d'Alenes. They carried us then to Cripple Creek. They attempted to prove that somebody had blown up the Vindicator mine; that somebody had tried to wreck a train on the Florence and Cripple Creek railroad; that somebody hadblown up the Independence depot. They carried us back two or three years to prove that a telegram containing $[illegible] had been sent to Steve Adams at Ogden, without any connection whatever excepting as these isolated cases might prove certain things to the jury. They carried us over to San Francisco to prove that somebody blew up a building in San Francisco at that time, for the purpose of drawing the inference that if somebody did it these

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defendants did it. Now, your Honor, it is begging the question to say that they have the right to pick out whatever they see fit and to have somebody charge it onto these defendants and that we can only reply as to those specific things because we are charged -- whether Haywood and Moyer had anything to do with the Independence depot, had anything to do with the Vindicator mine, had anything to do with Bradley's house, had anything whatever to do with the Steunenberg homicide, these are the questions of issue in this case, and we deny it. We say that whoever did it and however it happened these men had nothing to do with it. If Orchard did it, he did it for someone else -- perhaps he did, perhaps he didn't. But the State has been permitted here to pick out any fact it sees fit from 1902 down to the time that Steunenberg was murdered and prove that fact so that the jury may from that fact draw an inference that the defendant is guilty. They could pick out the explosion of the Vindicator mine, if they wished; they could pick out the blowing up of the Independence depot, if they wished, if they could show to the court and the jury that they believed that such facts would throw light upon this case, and it is for the jury to say from all the history, from everything that they bring and from whatever we bring whether it proved that the defendants are responsible or that somebody else might be responsible. It has been proven upon the part of the State that there was a strike. It has been proven that these men were officials in the organization. It has been proven that during the strike and afterwards certain acts of violence resulted. How do we know who was responsible for them? How

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is this jury to say who was responsible for putting the powder under the Independence depot? It is material in this case, and the court has permitted it to go into this case as bearing upon the homicide of ex-governor Steunenberg. Now is this jury to find out who was responsible for wrecking the train or attempting to wreck the train on the Florence & Cripple Creek railroad? How are they to find out who was responsible, if anybody, for the accident in the Vindicator mine? Or the act of violence, whatever it was, in the Vindicator mine? They can only determine by the history of the case. They introduced a part. I assume, your Honor, that we have a right to introduce a part, any part we see fit, if such evidence as we can introduce will lead to the inference that someone else was responsible and that this defendant was not responsible, could we be denied? Can the State pick out such acts, your Honor, as in their opinion tend to incriminate us and forbid us to discuss any act but those and refuse us the right to prove such acts as that we may tend to incriminate someone else and tend to prove that we are not guilty in this case? Now our theory of this case is plain, as plain as theirs. They say that from the inception of this organization this organization has been a criminal conspiracy, and therefore everyone of its acts of its most insignificant member may be shown in this court to prove a criminal conspiracy and to connect this defendant with it. We say that it is a labor organization formed for legitimate purposes, and that from the beginning the mine owners' Association has done everything in its power to drive it out of existence and to destroy its members; that every

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out in this affair, the blowing up of the depot, the dispersion of the members, these acts of violence, everyone of them are a part of the conspiracy between the mine owners and the detectives in their employ to get rid of the union and the union men. Even if that were not the case, your Honor would we not have the right to show, for instance, that a thousand men were in the bull pen in the Cour d'Alene and the jury have the right, if they believe the evidence warranted it, to draw the inference that somebody connected with that might have been the one who killed ex-governor Steunenberg? Would we not have the right to show the conditions that existed at Cripple Creek, the indignities that were heaped upon members of this union, the war and strife and bloodshed incident to it, so that the jury may draw the inference as to who was responsible for the specific acts? We insist, your Honor, that it cannot be said at any time that the State should be permitted to pick out any single act it saw fit, and if we believe that some particular acts are a part of the history of that time, tend to relieve us from responsibility or to place responsibility somewhere else, then we are estopped from showing it. Can it be said that they can only pick out incriminating acts and that we can inquire only as to those, when, purposed, right beside those incriminating acts are acts which incriminate someone else, and relieve us from the responsibility? I take it, your Honor, that where the State has shown this strife and contention, where the State has shown this organization where they have claimed there was a criminal conspiracy from the beginning, where they have been permitted through all of these

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years and all of this territory plus out any act they can find no jury and no court can rightly base their judgment unless they can get the whole history of that struggle and from it all say who were the responsible parties. If any act they picked out tends to locate responsibility, so any act we may pick out may tend to locate responsibility. And, after they have shown what pleases them and we have shown what pleases us, it is for the jury, your Honor, to locate this responsibility. I submit -- and I am not now discussing or criticising the rulings of the court -- there has not been an incident, an act, an event, that the State has desired to prove that they haven't been permitted to prove it. There hasn't been a fragmentary conversation with a member of this union or a poor bystander that they haven't been permitted to prove for the sake of fastening a conspiracy if it could fasten a conspiracy, or fastening an act if it could fasten an act upon these defendants. If they had desired to prove that the military authorities bundled up a thousand men in the Cripple Creek district and deported them on the plains of Kansas, is there any reason why they couldn't have proven it? Is there any more reason why they shouldn't have proved it than to have proven the explosion at the depot? Wasn't the destruction of the miners' organization, of putting men in bull pens, of boycotting, of blacklisting, wouldn't that have furnished the executive county as the trouble in the Coeur d' Alenes, on the arrest of men, on the imprisonment of Moyer in the bull pen, which they proved in this case? And can the court say that they may pick out acts which they think throw light

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upon motives, upon individuals, upon connections -- they may pick anything they please, any conversation they please, and when we are called upon to defend ourselves that we can only discuss the particular acts that they introduced in this case? They have claimed that this whole history is a conspiracy upon the part of the Western Federation of Miners. We claim that from the beginning to the end they have been the aggressors, and every single act was moved and inspired and directed for the purpose of getting rid of this organization and that these men are in no way responsible for it. And, assuming that Orchard did some of these things or all of these things, that they were not for us. Everyone of our men deny it and we have emphatically denied it, but that they were for them or for himself; and the jury cannot determine, without hearing such evidence as we may introduce as to the history of this strike and the history of the troubles between these two organizations.

MR. DARROW: If your Honor please, in order to introduce the acts and declarations of parties who are not parties to the trial, there must be some theory upon which that is to be introduced and against whom it is to be connected finally upon the theory that it is introduced as a part of a conspiracy of course the State introduced a certain line of testimony here claiming that they could show sufficient, at least for the court to be satisfied with the matter (whether it would be for the jury or not) that it had a tendency to connect the defendant with the crime which is charged here in this indictment, and

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upon that theory we proceeded to introduce the declarations and acts of those who we claimed were connected with the conspiracy; and, acting under a well known rule of law, the court permitted such acts and declarations as we were enabled to show were connected with these defendants, and for that purpose and that purpose alone. Now there must be some theory upon which the defense is going to introduce this evidence; they must tie up at some point. There must be some post where they are hitched up, in order that there may be a connecting proposition between the evidence and the final ultimate object of the evidence as a matter of proof. They have stated in their opening, they have undertaken to prove, they say that they are prepared to prove that ex-governor Steunenberg was killed by Orchard not because he was a part of a conspiracy belonging to the mine owners or made up by the mine owners, but because he had a particular personal grudge by reason of a matter between himself and Governor Steunenberg.

MR. DARROW: They have a right, Mr. Borah, to rely upon separate defenses.

MR. BORAH: They have a right to rely upon separate defenses, but in order to get a defense they must have a connecting proposition, one connecting these declarations or these acts. Now what do they propose to prove by this particular transaction? They propose to prove that a man upon a certain occasion will say he was deported from that district. What does that prove? Who is it connected with? It is a separate offense. Is it for extortion? Is it in obligation

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of punishment or where is the connecting proposition as a matter of defense here? They must offer some kind of a conspiracy out of which to build it, and they have not undertaken to state to us under what that is. Another thing, it is not done by anyone so far who is connected with this proposition in any way, shape or form. It is done by the military and by parties with whom we were not connected in any sense at all, and they have not offered or set forth as to how they are going to connect it.

MR. DARROW: We will connect it, your Honor.

THE COURT: Let the stenographer read the last question and answer prior to the question objected to.

(Question and answer read).

THE COURT: The Court will ask you specifically what you expect to show by this witness in answer to this question, so that I may understand definitely what I am ruling upon.

MR. DARROW: We expect to show that this witness, who was then working twelve miles from Cripple Creek, was sent for by the Mine Owners' Association and the militia and was brought in with a bunch of other men and sent out on a train and deported in Kansas or some other place -- one of the deportations in this case. That is what we expect to show by it.

THE COURT: The court will permit this question to be answered, but you need not consider that, gentlemen, as an indication that the court is going to permit going into all the labor controversies in Colorado. The Court will have to be satisfied before it will permit the defense to go into that, but I will permit this question to be answered. The courtwill

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rule upon the other questions as they are presented.

MR. DARROW: Go ahead.

MR WILKINS: What happened to me was this, one afternoon — it was in the evening —

Q. Speak louder. A. I forget just what time in the evening it was, I went out to the train to get a paper; the train had come up from Denver going to Cripple Creek and I went out there to get a paper. As I started up the smoking car, alongside of it, there was some deputies jumped off in front of me, and one man I knew in particular, and he says, Budd, he says, we want you. Well, I said, "It looks as though you had got me all right." There was three or four in front of me and by that time three or four of them behind me, so they just put me on the train, took me to Cripple Creek and put me in the bull pen there.

Q. For how long? A. Well, I was in there until the 11th of June, the night of the 11th of June they let me out. This was on the 7th I went in there.

Q. Was any charge made against you? A. No sir.

Q. Or any trial? A. No sir.

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

MR. DARROW: That is all.

MR. HAGAN: We move that all of this evidence be stricken out as being incompetent, immaterial and irrelevant, not pertinent to the issues.

THE COURT: The motion will be denied.

MR. DARROW: That is all, Mr. Budd.

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CROSS EXAMINATION

BY MR. HALEY:

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

A. Yes sir.

Q. You are at the present time? A. Yes sir.

Q. How long have you been a member of that organization?

A. Why, I think I went in in '99 -- in 1899.

Q. At what point? A. In Cripple Creek.

Q. And been a member all of the time since then? A. Yes sir.

Q. You are employed in mining at Goldfield now? A. Yes sir.

Q. When did you come here? A. Come here to this town?

Q. Yes sir. A. Last Wednesday.

Q. How long have you been at Goldfield? A. I went there the 7th of December, 1906.

Q. 1906 you mean? A. Yes, 1905.

Q. From what point? A. From Creede, Colorado.

Q. Creede in Colorado? A. Yes sir.

Q. How long had you been a resident of Creede? A. Well, I got up to Creede I think it was in -- I think it was in the latter part of July.

Q. Of what year? A. In 1904.

Q. That was after you had been sent away from Cripple Creek?

A. Yes sir, it was after I had left Cripple Creek.

Q. What date was it that you saw these deputies -- I believe you said deputies -- kept you on the train and sent you down to the bull pen? What was the date, 7th of June? A. It was the 7th of June, 1904.

Q. Who were these people you call deputies? Were they military

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people or were they deputy sheriffs? A. I think most all of them was deputies. There might have been some militia men among them. I couldn't say for sure about that.

Q. How many was there there of that outfit? A. Well, there was anyway twenty-five or thirty of them.

Q. Did they arrest you? A. Well, it looked that way to me.

Q. They told you that they had been looking for you, did they?

A. Yes, they said they wanted me.

Q. And where did they take you to, how far from there?

A. About twelve miles I should think.

Q. And they kept you until the 11th of June? A. Yes sir.

Q. Four days. They released you then, did they? A. Yes sir.

Q. Did they give you any information in regard to your release, did they take you before any tribunal? A. Oh, yes, they took me before the Star committee there.

Q. What was this committee that you speak of? A. Well, the Mine Owners' Association had some of their picked men there that they thought could handle the proposition better than --

Q. How do you know they did? Are you guessing at it?

A. Well, I naturally supposed they did.

Q. You naturally supposed? A. Yes.

Q. Now this was after the Independence explosion, the day after the Independence depot explosion that you were taken in charge by these men? A. Yes sir.

Q. Was there military law, martial law in that camp at that time?

A. Well, no, I don't think there was, unless it had been declared that day, that night; of course I was out of town and I didn't get much news, you know.

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Q. There had been martial law that spring and winter before?

A. Yes sir.

Q. And the troops had been in possession there? A. Yes sir.

Q. And had control of things under martial law? A. Yes sir.

Q. And martial law, as you understood it, had been revoked?

A. Well, I think it had, yes.

Q. Do you know whether it had been revoked or not or simply the troops withdrawn and martial law still maintained?

A. I couldn't swear to it.

Q. You don't know in regard to that? A. No, I couldn't say.

Q. Were you there during the time martial law was in force?

A. Yes sir.

Q. Was you arrested before that ? A. No sir, I was not.

Q You had not been molested in any way? A. Well, I had been molested, yes,but then I had not been arrested.

Q. You had not been arrested? A. No.

Q. This bull pen you speak of was a place of imprisonment that had been prepared by the military, was it not? A. Well, I don't know who prepared it, it was what they called the bull pen there.

Q. Well, it was a place where the prisoners taken in charge by the military were imprisoned, was it not? A. Yes, and the deputies, too; yes sir, it was.

Q. The deputy sheriffs? A. Yes sir; that is, they were deputy sheriffs, some of them there.

Q. Think some deputy sheriffs acted in conjunction with the military? A. On this day, the 7th day of June, yes.

2237 Q. Do you know how it had been before that? A. How is that?

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Q. Do you know how it had been while martial law had been proclaimed before this, whether the deputies acted with the military? A. Well, I don't know. I couldn't say in regard to that exactly.

Q. Did you see military officers or soldiers down there at this place you call the hall pen? A. Oh, yes.

Q. While you was there? A. Yes sir.

Q. In fact military officers had control of it, did they not?

A. Yes sir, I think they did at the time, inside anyway.

Q. How many were there at this time, how many of you were imprisoned there? A. Well, I should judge there was one hundred and fifty of us.

Q. One hundred and fifty? A. Yes.

Q. And how many were released on the day you was released, the 11th? A. Well, I couldn't say to that.

Q. How many of them had been released prior to the time of your release? A. Well, I couldn't say that either because I don't remember.

Q. You don't know anything about it? A. I don't know how many, no.

Q. Don't you know that the military were investigating this matter of the Independence depot and inquiring into the cause of all suspects, and, after inquiry, ascertaining that they were innocent, that they were permitted to leave? A. No sir.

Q. You was permitted to leave, was you not? A. I was advised to by the general there.

Q. And you did? A. I did.

Q. Where was you on the 6th of June? A. I was working.

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Q. Whereabouts was you working? A. Out at Clyde.

Q. What was your business at Clyde? A. Working there putting up a dancing pavilion.

Q. Had you been working at mining prior to that time? A. Yes sir.

Q. How long before had you done any mining? A. Well, I think the last mining I done there in in September, 1903.

Q. Then you had not mined there for some seventeen or eighteen months -- yes, twenty months? A. No, no --

Q. Oh, 1903. This was 1904? A. Yes.

Q. It was about eight months? A. Yes, about that.

Q. I beg your pardon. I didn't mean to confuse you at all. And you had been laid off on a strike at that time, had you not? A. Yes sir.

Q. And that was the reason you had not been at work? A. Yes sir.

Q. And all the union miners were on strike? A. Yes sir.

Q. And these troubles had commenced after the strike? A. Yes sir, the troubles commenced after the strike.

Q. Had you been working at any of these mines at all in any way on your own account or otherwise after your work in September, 1903? A. Did I worked on any of the mines you say?

Q. On any of them on your own account or for any one? A. No sir.

Q. You was not highgrading there? A. No sir.

Q. How long had you been engaged in this carpenter work?

A. Why, we went out from Decoration Day; that was the 31st of May, as I remember -- the 30th of May in 1903 -- 1904.

Q. When you say "we" who do you mean? A. Me and the rest of the fellows that was working out there.

Q. The rest of the carpenters? A. Yes sir.

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Q. Amateur carpenters? A. Yes.

Q. You was not a carpenter by trade? A. No sir.

Q. Then you had been working right along there until the 6th of June or the 7th? A. Well, from the time I had went to work there, yes, I had been working right along up until that time.

Q. How far was this place where you was working at carpenter's work from your residence? A. From my residence?

Q. Yes. A. Why, I think they call it twelve miles. I wouldn't be sure. It is twelve or thirteen, more or less, something like that.

Q. Well, I may have misunderstood you. Was you arrested out there at the place where you was at work? A. Yes sir.

Q. Not right at Cripple Creek then? A. No.

Q. Did they arrest any of the other parties there that were with you at that place? A. They arrested -- There was two men had the contract. They was carpenters. They arrested one of those and then they arrested another man out there who was a miner the same as I was myself.

Q. In fact they were trying to arrest -- did they explain they were arresting miners who had been connected or supposed to have had some connection with that Independence explosion, did they not? A. I suppose.

Q. And that is what you understood you was arrested for?

A. No sir, I did not.

Q. Did you not understand you was arrested for it? A. No.

Q. And discharged by reason of being able to show, or your innocence being established when you were discharged on the 11th? A. No sir, not at all. It wasn't mentioned to me in no

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way being implicated or anything else with the explosion.

MR. MINOW: A little louder.

A. I wasn't implicated at all by being connected with the explosion at all in any way.

Q. But you were discharged on the 11th? A. I was discharged on the 11th, yes sir.

Q. Do you know Steve Adams? A. No sir, I do not.

Q. Wasn't acquainted with him? A. No.

Q. Hadn't seen Steve Adams on the 7th? A. No sir.

Q. Or on the 6th? A. No sir.

Q. Did you know him by sight? A. No sir.

Q. Had no knowledge of him at all? A. None whatever.

Q. Have you seen him since? A. A man walked across the yard out here the other day with a couple of men with him; they said there goes Steve Adams. That is my first knowledge of seeing Steve Adams, and I wouldn't know him now if I would see him.

Q. You knew him by name there on the 7th, didn't you? A. I had heard of him I think

Q. You had heard of him at the time you were in the bull pen about the time you was arrested, did you not? A. No, I don't think I did.

Q. But you swear positively you did not see Steve Adams on the 6th of June, 1904? A. No knowhim, you.

Q. Had no talk with him? A. Absolutely none.

MR. MARLIN: That is all.

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RE-DIRECT EXAMINATION

BY MR. DARROW:

Q. Do you remember the manner that committee that Mr. Hanley asked you about that you were taken before? A. Why, Mayor Franklin, I think, was one; and Mr. Cunningham I think was another one.

Q. French? A. I don't know what his first name is.

Q. Do you know whether French was one, H. McCarty?

MR. HANLEY: We object to that as leading.

MR. DARROW: Well, it is leading.

THE WITNESS: Well, I think it was —

THE COURT: Let him give the names first so far as he can.

THE WITNESS: Mr. Cunningham was one of them and Mayor Franklin.

Q. Mayor Franklin? A. Yes sir, that is, he was ex-mayor. He wasn't mayor at this time.

MR. MCMANIGAL: Nelson Franklin?

A. Yes. He had been mayor there before that. Then there was a man that used to be in the bank there. I would know his name if I heard it. I think he was on that committee that I was taken before.

Q. Was Copeland, was C. E. Copeland, on it? A. No, I don't think so.

Q. Was Frank E. Reardon one? A. No, I don't think so.

Q. Do you know whether Bidwell was one? A. No, I don't think that is the name either.

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Q. McGarry? A. No.

Q. Frank? What was Nelson Franklin's business? A. He was in the mining business there, mill business.

Q. How many members were there of that committee that you were taken before? A. Well, I wouldn't be sure now, three or four, and was coming in and out of the door, you know, and stop in there a minute and then they would go on out; I think there was only three that took any particular part in it.

Q. You say you were discharged? A. This committee didn't discharge me, no.

Q. What was done? A. Well, when they got through with me they sent me back up to the bull pen and they kept me up there until Colonel Verdinberg -- he was the colonel commanding the troops there -- he came up there on the 11th of June and called out my name -- of course in the meantime was kind of feeling around the edges, you know, to get me out if she could -- and he came up there and called out my name and I walked out; he introduced himself as Colonel and I told him I was glad to see him. So he says -- he wanted to know if I had anything in there. I says "Yes, I have got an overcoat hanging up here". Well, he says, "You get that overcoat and I will release you". Well, I asked him if that meant I would be released like the rest of them, that they would be arrested as soon as they would get about half a block away and thrown in some place else. He says no, he says when I release you, he says you are free, and he says if you are molested in any way, he says, let me know either by messenger or phone and he says I will see that you are immediately released. So I took my overcoat and

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Q. Did you stay in the district? A. That was on the 11th of June, that was on Saturday I think, I am pretty sure it was; on Sunday I stayed around the house all day, I didn't go down town; Monday morning I took the train out of Cripple Creek, for the Colonel advised me that he thought that was the best thing I could do under the conditions.

Q. Have you been back since? A. I have not been back since.

MR. DARROW: That is all.

RE-CROSS EXAMINATION

BY MR. HANLEY:

Q. Then this colonel that you mention had command of the troops in the district? A. Yes sir.

Q. And he had control of the bull pen? A. Yes sir, the bull pen that I was in he had control of it.

Q. And it depended upon him whether or not the prisoners there would be released or continued in prison? A. Yes sir.

Q. And he released you and told you what to do? A. He told me what was the best to do, yes.

MR. HANLEY: That is all.

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CHARLES A. SULLIVAN, a witness on behalf of the defendant being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. What is your name, please. A. Charles A. Sullivan.

Q. Where do you live, Mr. Sullivan? A. Denver, Colorado.

Q. What are you doing, what is your business? A. Why, at present I am a watchman at the Brown hotel.

Q. How long have you been a watchman at the Brown hotel?

A. Since last December.

Q. What was you doing before that? A. I was driving a wagon.

Q. Did you formerly live in the Cripple Creek district? A. I did.

Q. Were you a miner? A. Yes.

Q. How long had you been a miner? A. Why, at that time, since 1900.

Q. How long did you stay in the Cripple Creek district?

A. Until 1904.

Q. What time? A. June the 14th.

Q. 1904? A. Yes.

Q. And where did you work in the district? A. I worked on the Vindicator, the Atlanta, the Pepper, the Smuggler Union.

Q. Did you belong to the union? A. Yes.

Q. Where did you go when you left Cripple Creek? A. I went down to New Mexico.

Q. Did you know Harry Orchard while you were there? A. I did.

Q. When did you get acquainted with him? A. The first Sunday in July, 1903.

Q. Do you know how long that was after he got into the district?

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A. The same day.

Q. Where did you meet him? A. At Neville's saloon.

Q. Did you learn where he came from? A. He said he came from Utah.

Q. And did you learn whether he had formerly been in the Coeur d'Alenes? A. Yes, he said he had been in the Coeur d'Alenes.

Q. How well did you get acquainted with him? A. Why, I saw him every day for about five months. We had frequent conversations.

Q. How many him did you live? A. Why, we roomed together, that is, we roomed above the saloon for two or three months.

Q. What was he doing? A. He went to work on the Trophyie first, then on the Hall City.

Q. Did you take your meals with him? A. Yes.

Q. And where was that? A. That was at Neville's dwelling house back of the saloon.

Q. Neville's saloon was in front and the dwelling house back?

A. Yes.

Q. And what was above the saloon? A. Why, there was a large porch right opposite the depot.

Q. And some living rooms upstairs? A. Yes, about six.

Q. And those were rented to miners and others to live in?

A. Yes, some that boarded there.

Q. How do you remember how long you boarded there and roomed there?

A. Why, I went there in 1901, stayed until 1902.

Q. Did you have a conversation with Harry Orchard in the fall of 1902 in reference to the Coeur d'Alene matter? A. Yes.

Q. Was that on the porch of the saloon? A. One of them was.

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Q. You had a conversation there, did you? A. Yes.

Q. Did Harry Orchard say to you at that time, you being alone with him, that had it not been for Steunenberg he would be a rich man, that the (calling him a name) ought to have been killed too had he hasn't been killed, and you (he) wondered why he hadn't been killed and that he would kill him yet, he would get killed yet, and if not he would kill him himself? A. Yes.

Q. That was Orchard's statement, was it? A. That was Orchard's statement.

Q. Did you have another conversation with Orchard at the breakfast table in Neville's house in reference to the Coeur d'Alenes?

A. Yes.

Q. In which he made substantially the same statement? A. Yes sir.

MR. DARROW: That is all.

CROSS EXAMINATION

BY MR. HEAH:

Q. Where do you reside at present, Mr. Sullivan? A. Denver, Colorado.

Q. How long have you resided in Denver? A. Three years.

Q. What has been your business during that three years?

A. Why, I drove for the Omaha company for two summers a baggage wagon.

Q. Are you acquainted with Mr. Haywood, the defendant? A. Yes.

Q. How long have you known him? A. Why, since 1903.

Q. Since the strike in 1904? A. Yes, about the time of the strike.

Q. Acquainted with Mr. Moyer? A. Yes.

Q. How long have you known Mr. Moyer? A. About the same length

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of time.

Q Pretty well acquainted with him? A. No, not intimate.

Q. Do you know Mr. Pettibone? A. No, I never met Mr. Pettibone.

Q. Ever been to his place of business? A. No.

Q. When did you first go to Cripple Creek to reside?

A. February, 1900.

Q. Were you a miner when you first went there? A. Well, I had not been mining for ten years.

Q. Had you ever lived in the Coeur d'Alenes? A. No.

Q. You went to mining when you went to Cripple Creek? A. Yes.

Q. Continued to mine until the strike, did you? A. Yes.

Q. In what mine? A. Why, the Vindicator, that is Vindicator blocks 3, 7 and 8. The Atlanta mine and a lease on the Pauper, and Maude Helena.

Q. When did you join the Federation? A. April of 1902.

Q. April, 1902? A. Yes.

Q. How long was that before you met Orchard? A. A couple of months.

Q. Were you a member of the same union, the same local union?

A. I never saw him in a union meeting.

Q. Do you know whether or not he was a member of the organization?

A. He said he was.

Q. Well, did you understand that he was a member of the same local organization? A. Why, no; I never saw him at a meeting.

Q. Well, I asked you — you said you understood or that he said he was a member? A. He said he was a member of the union when he came in there, he said he had a card in his pocket.

Q. Did you know W. F. Davis? A. Yes.

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Q. Was he the president of your union? A. Yes.

Q. Did you know Sherman Parker? A. Yes.

Q. What position did he have in the union? A. He was financial secretary.

Q. Of the same organization that Davis was president of? A. Yes.

Q. And did you know Steve Adams? A. Yes.

Q. Where did you know Steve? A. In Independence.

Q. Did you know Bill Aldeen? A. Yes.

Q. Did you know Art Easton? A. Yes.

Q. Did you know Mr. Minster? A. Yes.

Q. Knew them all there, did you? A. Pretty much all.

Q. Hey? A. About all of them I guess.

Q. You knew all of those that I have mentioned? A. Yes.

Q. Well acquainted with them? A. Why, not intimate.

Q. They were officers, some of them were officers of your union, were they? A. At times, yes.

Q. Did you know Bill Easterly? A. Yes.

Q. What position did he have in the union? A. Why, he was financial secretary before Parker.

Q. Parker succeeded him? A. Yes.

Q. And you got acquainted with Mr. Orchard on the first Sunday in July, 1906? A. Yes.

Q. How soon after you got acquainted with him was it that you had this conversation with him? A. Oh, I had various conversations.

Q. This conversation which you have narrated to the counsel? A. On the porch?

Q. Yes. A. That would be about September.

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Q. You had a conversation with him in September after you got acquainted with him in July? A. Yes.

Q. No one present but Orchard and yourself on the porch?

A. No one that I remember of.

Q. You had talked with him before about the Coeur d'Alenes, had you? A. Yes.

Q. He told you about the troubles up there? A. Yes.

Q. Did you have this conversation at the breakfast table the same time, that is, the same day, or was it afterwards?

A. Oh, we had several conversations at the breakfast table.

Q. Did you have several conversations in which he said this same thing? A. Yes.

Q. He repeated that at breakfast several times? A. Several times.

Q. Was there anyone present at the breakfast table when he repeated it to you? A. There was nobody eating but us two.

Q. Well, were they present whether they were eating or not? A. No.

Q. There was no one present at all? A. No.

Q. You and Orchard were eating alone? A. We were eating alone.

Q. Each time that he made this statement you were eating alone?

A. Yes.

Q. Each time he made it to you on the porch or elsewhere you were alone? A. Nor anyone on the porch that I remember of.

Q. And you were alone then? A. Well, there was men passing in and out of the saloon but they didn't pay any attention to us.

Q. How do you know they didn't? A. I don't know whether they did or not. They didn't stop.

Q. There was no one engaged in the conversation except yourself and Orchard? A. That is all.

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Q. At any of these conversations? A. That is all.

Q. And it was a common thing for him to repeat this language at the breakfast table, was it? A. Well, he repeated it quite frequently.

Q. Well, now, state just what he said at the breakfast table.

A. Well, he said if it hadn't been for Stauenberg he would have had plenty of money today and he wished the son of a bitch had been killed, wondered why somebody hadn't killed him and said that he would killhim.

Q. Now how many times did he repeat that conversation at the breakfast table to you? A. I should say at least four or five times.

Q. The same language? A. Oh, he probably put it a little different each time.

Q. Well, did he? A. It was substantially as I have said.

Q. He gave it to you at some four or five breakfasts and substantially the same language? A. Well, it occurred over a period of a month or so.

Q. Well, I say at four or five different breakfast tables he gave you that and in substance the same? A. Yes.

Q. And no one was ever present except Orchard and yourself?

A. Not that I remember of.

Q. Did you ever talk with Orchard at any time in regard to the Coeur d'Alene matters when anyone was present except yourself and Orchard? A. Not that I remember of.

Q. Hasn't Bill Easterly ever around? A. No, I never remember him.

2251 Q. Never saw him around? A. Never saw Bill Easterly talking to Orchard.

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Q. Did you communicate this fact to anyone immediately? A. No.

Q. Didn't tell anybody about it? A. No.

Q. At all? A. No.

Q. When did you first tell anyone about it?

A. Why, I suppose I told the lawyer for the defense.

Q. How did the lawyer find out you knew it?

A. Why, Fritz Heming brought him around to see me. I had told Fritz Heming.

Q. Who is Fritz Heming? A. He is an engineer in Denver.

Q. When did you tell Fritz Heming? A. After the trial started here.

Q. You however told anyone about it until after the trial had started, had you? A. Not until I saw Orchard's statement in the paper.

Q. And the first party you ever told was Fritz Heming. Is he here as a witness? A. No, not that I know of.

Q. When did you tell him? A. Oh, I don't remember — some time after Orchard's confession came out.

Q. About how long after Orchard's confession and where was it?

A. Well, we worked together last October and November.

Q. Well, there was it that you told him? A. I suppose I must have told him there some time while we were working together.

Q. Not what you suppose, but can you tell where you were and when it was that you told him? A. It must have been either one of those months, last October or November.

Q. Do you remember whether there was anyone present or not when you talked with him? A. I don't think there was.

Q. Did you ever tell anyone else but him? A. I don't remember —

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no, I don't remember of telling anyone else.

Q. Do you remember where you were when you talked with Hensing?

A. I think we were in the engine room at the Y. M. C.A. Building.

Q. You recall more of that, do you? A. I think we were.

Q. Was anybody present? A. Not that I remember.

Q. And you told him what you have testified to here on the stand, did you? A. Yes.

Q. Now that was the first party that you ever spoke to about it, was it, after Orchard's testimony was given here or after his confession was made, is that right? A. I think he was about the first.

Q. He said he came from Utah, did he? A. Orchard?

Q. Yes. A. Yes.

Q. And that he was a member of the union? A. He said he had a card in his pocket, I didn't see it.

Q. And after he arrived there he went to work in the Trachyte mine? A. He worked a few shifts there.

Q. And then he went to work at what mine? A. The Bull City.

Q. How long did he work there, do you know? A. Well, along late in the fall.

Q. Now, Mr. Sullivan, have you stated all the language used by Mr. Orchard upon your breakfast occasion at any time?

A. All the language?

Q. Yes, the only language he used in regard to this matter of Governor Steunenberg, have you stated all that he said in regard to it? A. He told me about him causing him trouble, how he had to hike over the hill and all that part.

Q. He told you had to get out of there, did he? A. Yes.

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Q. Did he tell you he was down in Wardner? A. I don't remember. He spoke something about Burke.

Q. He said he was at Burke? A. Oh, down at Wardner?

Q. Yes. A. Yes, he was down at Wardner.

Q. Said he was down at Wardner? A. Yes.

Q. Was down there & the blowing up of the mill? A. Yes.

Q. Told you that, did he? A. Yes.

Q. And for that reason he had to get out of there? A. I supposed that was the reason.

Q. He didn't tell you he was over at Mullen playing poker that day, did he? A. No.

Q. He said he was down to Wardner and helped blow up the mill, didn't he? A. He said he was down at Wardner.

Q. And helped to blow up the mill? A. He didn't say he helped blow it up. He said he was there on the train.

Q. Went down on the train with the other parties that went down?

A. Yes.

Q. Did you ask him why it was he would have been wealthy, or much better off if it had not been for Steunenberg? A. I don't think I asked him. He told the story himself.

Q. Didn't you ask him why it was that Steunenberg had interfered with him or how it was? A. I don't believe I did.

Q. Do you recollect anything that you said at all? A. I remember inquiring about the troubles when I heard he was in the Coeur d'Alenes.

Q. Do you remember anything you said in reference to why he had any trouble with Steunenberg? A. I don't think I asked him why.

Q. Didn't he tell you why? A. He told me he owned an interest in

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the Hercules.

Q. And did he tell you that he had to part with it on account of his leaving? A. He said he had to sell it for a few hundred dollars.

Q. On account of his leaving, having to leave? A. I supposed that is why he had to sell it.

Q. Well, did he say to you that he had to sell that interest in the mine because he had to leave the Coeur d'Alenes?

A. He said he had to sacrifice his interest because he had to get away from there.

Q. His interest in the Hercules mine? A. In the Hercules mine, yes.

Q. And you understood that that was the reason why he had a feeling against Steunenberg, was because he had to sell his interest in the mine? A. I thought that went.

MR. DARROW: This witness said "sacrifice".

MR. HEALY: Well, we will put it in the witness's language.

Q. You understood that the reason he sacrificed his mining interest was in order that he might get out of there? A. Yes, that is the way I understood it.

Q. That is what he said, is it? A. That is substantially what he said.

Q. Did he give any other reason why he had it in for Steunenberg?

A. I don't think so.

Q. Do you remember of anything he said which would lead you to believe that he had any other reason for feeling ill toward him? A. Why, he said he would have had plenty of money if he didn't have to get out of there.

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Q. You understood that related to his interest in the Hercules?

A. Yes.

Q. And you didn't understand he had any other feeling toward Governor Steunenberg than that which was based upon the necessity of his sacrificing his interest in the mine?

A. I supposed that was the reason he had ill feeling against him.

Q. Well, you say you supposed so; He didn't say anything from which you could infer anything else, did he? A. Why, he said repeatedly he would [illegible] have had plenty of money if it hadn't been for Steunenberg.

MR. BORAH: That is all.

MR. DARROW: That is all.

Thereupon the court gave to the jury the statutory admonition, the bailiffs were sworn, the jury retired in the custody of the bailiffs, the defendant was remanded, and a recess was hereupon taken until 9:30 o'clock, Wednesday, June 26th, 1907.

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Boise, Idaho, Wednesday, June 26, 1907.

9:30 o'clock A. M.

Parties met pursuant to adjournment.

Minutes of the session of June 25, 1907, were read and the same werenigned by the court.

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

MRS. LOTTIE DAY, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. Give us your name, please, in full. A. Mrs. Lottie Day.

Q. Where do you live, Mrs. Day? A. In Denver.

Q. And did you ever live in Cripple Creek? A. Yes sir.

Q. How long have you lived in Colorado? A. I have lived in Colorado since 1894.

Q. Were you called here to Boise on the part of the State at the beginning of this trial? A. Yes sir.

Q. And how long did you stay here? A. I was gone from Denver sixteen days.

Q. When you were sent back to Denver, were you? A. Yes sir.

Q. And now have come up on our request? A. Yes sir.

Q. Mrs. Day, did you ever know Harry Orchard? A. Not by that name.

Q. Anon who went by that name? A. No sir.

3257 Q. A man passing by the name of Dempsey? A. I knew a man passing

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by the name of Dempsey, yes sir.

Q. Did you meet him at the Belmont rooming house in Denver?

A. I did, yes sir.

Q. Do you remember when that was? A. Well, it was about a month before the Western Federation of Miners met in session in Denver; I couldn't state exactly the day.

Q. What year was that? A. In 1904.

Q. How long were you at the Belmont? A. I was there from the last of March until a week after the Western Federation of Miners met in Denver.

Q. And were you stopping during that time at the Belmont?

A. Yes sir.

Q. Who was keeping that rooming house at that time?

A. Mr. and Mrs. Charon.

Q. You know where that was located with reference to Mr. Pettibone's store? A. It was immediately over his store.

Q. Was Dempsey stopping there? A. Part of the time, yes sir.

Q. Did you get acquainted with him? A. Yes sir.

Q. Did you see Mr. Haywood there at any time? A. Yes sir.

Q. Was that when the convention was in session, do you know?

A. Yes sir.

Q. And where did you see Mr. Haywood? A. I saw him in the hall of the Belmont hotel.

Q. Did you see him with Dempsey at any time there? A. Yes sir.

Q. And who came in first? A. Sir?

Q. Who came in first? Mr Haywood or Dempsey, or did they come in together? A. Mr. Dempsey was talking with me in the hall when Mr. Haywood and a gentleman by the name of Mr. McDonald,

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who was connected with the Western Federation, came in with him.

Q. And what did you do then? A. Sir?

Q. Did you talk with any of them? A. Mr. Dempsey introduced me to Mr. Haywood and he and Mr. Haywood went down the hall and I sat and talked to Mr. McDonald for a few moments and then I went away.

Q. You are not quite sure of the exact date of that except as you have told us? A. Well, it was on Thursday after the Western Federation of Miners met in Denver in 1904.

Q. About how many times did you see Dempsey there? A. Oh, he was there for several days and then he went away and came back again, and was there for a few days and then he went away again and came back and was there when the Western Federation of Miners met. He was there election day I remember distinctly.

Q. Was there election day? A. Or the spring election, yes sir.

Q. Do you know whether he had anything to do with the election, did you have any conversation about it — you needn't repeat it at this time? A. No, I did not.

Q. You know he was there at that time? A. I know he was there, yes.

Q. Did you have a number of conversations with him? A. Yes sir.

Q. Whereabouts? A. Well, in the hotel, in the lobby of the hotel and in the landlady's room and in the office, different places.

Q. You got pretty well acquainted with him, did you? A. Quite well. I had nothing to do and he didn't either, seemingly.

Q. Did you have a conversation which I will read to you, did

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you have it in the rooming house, the Belmont, between 17th and 18th Streets on Stout, on or about the 25th day of March, 1904; Did Orchard say to you that he had a chance to have been rich; that he loved once and only once in his life; that he was separated by his poverty from the woman that he loved; that this chance he had to make a raise would have made him able to go back, or to bring this woman to him, and that God damned Steunenberg had driven him out of the country and ruined his chance, and that he would get even with him if it was the last act of his life; and did you say "Oh, forget it, don't talk like that"; and did he say that he wouldn't forget it, and he would kill him if he was hung for it the next minute, it is a long lane that has no turn; Did you have that conversation with him? A. Well, I don't believe he swore that way. I hardly think he did.

Q. Well, omitting the swearing. A. He said "That old devil of a Steunenberg" is what he said.

Q. Instead of "God damned Steunenberg"? A. Yes.

Q. Changing that to the "old devil of a Steunenberg" did you have the conversation with him? A. Yes sir, very much like that.

Q. Did you have another conversation with him at the same place about the same time in reference to gambling? A. It was some time before that, Mr. Darrow.

Q. Some time before it? A. Yes.

Q. And you were discussing his business at that time, were you?

A. Yes, we were.

Q. Did he say to you that he was going up into Wyoming to Grand Encampment, or some such place, and was going to be there on

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the next pay day to get some money away from the miners; that they would be flush and he was going to gamble with them and going to get their money away from them; and did you say that you had seen a good deal and heard a good deal about gambling, and instead of going there and taking away their money he would probably come back broke; and did he say that he would never be broke because he always kept a little money to windward, that when he made a raise in gambling he put a part of it with Mr. Pettibone and could call on him for it at any time; Did you have that conversation with him?

A. Yes sir, very much like that.

Q. At the same place? A. Yes sir.

MR. DARROW: You may cross examine.

CROSS EXAMINATION

BY MR. HANLEY:

Q. When was this time that you was at the Belmont rooming house, Mrs. Day, what date? A. It was about a month, Mr. Hanley, before the Western Federation of Miners met in Denver.

Q. In what year? A. In 1904.

Q. And how long did you stay there? A. I stayed there about — well, at the Belmont?

Q. Yes. A. I was there from in March until on Thursday after the Western Federation of Miners met. As to the date I couldn't swear positively, Mr. Hanley.

Q. Where did you come from to that particular place? A. Sir?

Q. Where had you been stopping before this? A. Before I came to the Belmont?

Q. Yes. A. I came from the south. I had been spending the winter

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in the South, Mr. Hawley.

Q. What part of the South? A. Mexico City. I was there for three months. Prior to that I lived in Colorado Springs.

Q. You had what? A. Prior to that I lived in Colorado Springs.

Q. What was your business there at Colorado Springs? A. My husband was a broker.

Q. Where is your husband now, is he alive? A. My husband is dead.

Q. When did he die? A. He died six years ago, six years last spring.

Q. Was he alive at the time you was at the Belmont rooming house?

A. No sir, no.

Q. He was not? A. No sir.

Q. What was your business at that time, Mrs. Day? A. What was my business?

Q. Yes, madam. A. I wasn't in any business.

Q. Simply stopping there? A. Simply stopping there, yes sir.

Q. Had you a home there in the city? A. No sir, not at that time.

Q. Had you any children? A. I have one son, yes sir.

Q. Was he there? A. No sir, no.

Q. Had you ever stopped at this Belmont house before, Mrs. Day, this Belmont rooming house, before you went there upon this occasion that you have mentioned? A. Yes sir.

Q. Who kept that Belmont rooming house at that time?

A. Mr. and Mrs. Guaren.

Q. Where did you go from there, Mrs. Day? A. I went to Manitou for about two weeks and then I went to Cripple Creek from there.

2262 Q. And what business have you -- did you go into there at Cripple Creek? A. I went into the rooming house business.

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Senate

Q. What business are you in now? A. I have still my rooming house in Cripple Creek but I have it leased and I am living in Denver.

Q. What place in Denver? A. 1718 Glenarm.

Q. Had you ever met Harry Orchard prior to the time that you met him in the Belmont rooming house at this time? A. Mr. Dempsey have you reference to?

Q. I am referring to this man Dempsey that you recognized as Harry Orchard afterwards, did you? A. I recognized his picture.

Q. You haven't seen him here yourself? A. No sir.

Q. You was not in the court room yesterday when he was on the stand? A. No sir, I was not.

Q. Well, had you ever seen Orchard or Dempsey, whatever his name may have been, prior to this time that you saw him there at the rooming house? A. No sir, never.

Q. You had had no acquaintance of any kind with him? A. No sir.

Q. When did he come to the rooming house with reference to your being there? A. About a month before the Western Federation of Miners met, perhaps five weeks.

Q. Did you get acquainted with him soon after he came there?

A. Well, I don't know as to that, how long he had been there when I got acquainted with him. But that is as long as I had been acquainted with him.

Q. He was there when you went there? A. No, I don't know whether he was or not. I say the first time I met him was about four or five weeks before the Western Federation of Miners met.

2263 Q. Who introduced you, if anyone? A. Mr. Pettibone.

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Q. Mr. George A. Pettibone? A. I don't know as to his first name. It is Mr. Pettibone that had the store underneath there.

Q. How long had you been acquainted with Pettibone at this time?

A. Well, I had known Mr. Pettibone, oh, for a couple of years.

Q. Where? A. In Denver.

Q. At this same place? A. Well, now, I couldn't tell you; I think so, though; I think so.

Q. Had you been stopping for a couple of years before or prior to this time at the Belmont rooming house when you were in Denver? A. I always stopped there, yes sir. I never was in Denver but a day or so at a time.

Q. How did you get acquainted with Pettibone, when did you get acquainted with him? A. I got acquainted with Pettibone, the landlady of the Belmont introduced me to him.

Q. There in the Belmont or down at the store? A. At his store, yes sir, but I couldn't tell you how long. I wouldn't swear to the exact date of it.

Q. Did you get pretty well acquainted with Pettibone, intimate?

A. No, only just fairly well acquainted with him, talked with him.

Q. Was he in the habit of coming up to see you, when you was there in Denver, in your room? A. He never came to see me, no sir.

Q. Were you in the habit of going to see him? A. No, not particularly so. He used to come up and talk in the hotel when he wasn't busy.

Q. Come up often? A. Yes, fairly often, once in a while; I can't say as to how often.

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Q. And this was how long before the occurrence when he introduced you to Dempsey that you had got acquainted with him -- two years you say? A. Repeat the question.

Q. This was about two years before he made you acquainted with Dempsey, was it? A. Well, now, I couldn't tell you as to the exact date; it was some time before.

Q. Well, I am asking you the best of your recollection?

A. It was anyway a year before.

Q. You know Pettibone's family, did you? A. No, I did not.

Q. You never visited at his house? A. No sir, I did not.

Q Or didn't know his wife? A. Never, no sir.

Q. Where was you when he introduced you to Dempsey, what part of the hotel or rooming house? A. At the door of his store. I started upstairs, and he and Mr. Dempsey was standing in the door, and he called me and introduced me to him.

Q. Call you back, did he? A. Called me just at the door, you sir, as I started up the steps.

Q. And after that you acknowledged the acquaintance with Dempsey, did you? A. Yes sir.

Q. You are positive that he went by the name of Dempsey?

A. The man that I knew went by the name of Dempsey, yes sir.

Q. Do you know what his first name was or how he was called?

A. No sir, I do not. "Mr. Dempsey" is what I called him.

Q. He wasn't known as "Hogan"? A. No sir, I never him knew him under any other name only Dempsey.

Q. Except Dempsey? A. Yes sir.

Q. When was it with reference to the meeting of the Western Federation of Miners in 1904 that you was introduced to Haywood?

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A. That I was introduced to Haywood?

Q. Yes. A. It was on Thursday after the Western Federation met.

Q. They had not? A. Yes.

Q. Who was present at the time you was introduced to Haywood?

A. A man by the name of Mr. McDonald, I believe was his name

Q. Who was this man McDonald? A. He was connected with the Western Federation of Miners.

Q. One of the delegates? A. I think so, yes sir.

Q. And who else was present besides Haywood and McDonald?

A. Mr. Dempsey.

Q. Anyone else? A. No sir.

Q. Where was this introduction, in what part of the house?

A. It was in the hall of the Belmont hotel.

Q. What were these people doing in the hall? A. What people?

Q. Dempsey, Haywood, McDonald. A. Dempsey was talking with me on the sofa, sitting on the settee in the hall.

Q. And did Haywood come in? A. Haywood and Mr. McDonald came in from the outside, came up the steps.

Q. Did they speak to Dempsey when they came in? A. Yes.

Q. What did they call him? A. They just says "Hello" to him.

Q. Tell about wanting to see him? A. Yes.

Q. Who was it said they wanted to see him? A. Mr. Haywood.

Q. Did he say what he wanted to see him about? A. No, he did not, if I remember rightly; I am sure he didn't.

Q. But Haywood did say that he wanted to see him? A. Yes, and they walked off to the back of the hall into Dempsey's room.

Q. Haywood and Dempsey walked off? A. Haywood and Dempsey.

2266 Q. Did Y[illegible]ould go with them? A. No sir.

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Q. But Dempsey introduced you to Haywood there before he went off with Haywood to his room? A. Yes sir.

Q. Did he introduce you to McDonald also? A. I know Mr. McDonald.

Q. You was acquainted with him? A. I had met McDonald, yes, at the hotel.

Q. Did Dempsey, when he introduced you to Haywood, tell you who Haywood was? A. No sir, he did not;

Q. But you shook hands with him, did you? A. Yes sir.

Q. Did you have any conversation with Mr. Haywood at all?

A. Never, no sir.

Q. At that time? A. Never.

Q. You recognize him though as being the same man that is here — A. Yes sir.

Q. — on trial? A. Yes.

Q. Well, then, McDonald had come in with Haywood, had he?

A. Yes sir.

Q. Did McDonald stay there and converse with you while Dempsey and Haywood went into Dempsey's room? A. For a moment or two, and then I went upstairs.

Q. He passed the time of day with you, did he? A. Who is that?

Q. McDonald? A. Yes sir.

Q. Did he sit down on the sofa, take his seat? A. Yes, he did for a moment, and then I got up.

Q. Do you remember what you and McDonald were discussing, what particular subject? A. I said "That is a nice looking gentleman if it wasn't for his eye being out;" and he said, "Yes, he is a nice fellow, he is one of our order, one of the head men of our order."

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Q. Then did you talk further in regard to him? A. No sir.

Q. Or any other subject? A. No sir.

Q. You went upstairs to your room then? A. I went upstairs to the room that I had had, and my trunk was still there.

Q. And when you went upstairs you left McDonald sitting there, did you? A. Yes sir.

Q. Did you come down shortly afterwards? A. Sir?

Q. Did you come down again shortly afterwards to where McDonald was? A. No, I never saw him afterwards.

Q. You didn't see him? A. I didn't see any of them afterwards.

Q. You don't know how long Dempsey — A. I don't know anything about it.

Q. — and Haywood were up in his room? A. No sir, I do not.

Q. Where was Dempsey's room with reference to this place where you were sitting? A. Right to the back of the hall.

Q. You knew the number of his room? A. The door was open, yes sir.

Q. And the door was open and Dempsey and Haywood went to the room, went in and closed the door and apparently were having a conversation? A. I couldn't say whether they closed the door or not. I never noticed.

Q. You don't know? A. No; I don't think they did, though.

Q. You do know, though, that they went into the room? A. They went to the back of the hall and went into the room, but I couldn't say whether they closed the door or whether they didn't.

Q. And you know also that Haywood had come up apparently for the purpose of seeing Dempsey? A. Well, I don't know as to

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that at all.

Q. Well, they went right off together after this introduction?

A. Yes.

Q. And Haywood told Dempsey he wanted to see him? A. Sir?

Q. Haywood told Dempsey that he wanted to see him? A. He said yes.

Q. Did you see Haywood at any time afterwards? A. Never, no sir.

Q. You saw Pettibone a good many times, did you not, during this time you were stopping there, you met him quite often?

A. I did, yes sir.

Q. Met him quite often in the presence of Dempsey? A. Well, yes, I saw them together several times.

Q. They were together a good deal, were they not? A. Sometimes, yes sir, I saw them out there on the street the same as others.

Q. Was Pettibone in the habit of going up to Dempsey's room?

A. I never saw him in Dempsey's room.

Q. Dempsey was down in his store a good deal, was he? A. I have seen him there, yes sir.

Q. Saw them on the street a good deal? A. No, I don't think I ever did, any more than others.

Q. How many times do you think you saw them together there?

A. I could not say in reference to that.

Q. Ten or fifteen or twenty times? A. I could not swear to the number of times. You know when you are living in a place and see people right along, you don't notice.

Q. When he was there you would see him there in company with Pettibone often? A. Yes sir, but he went any one time.

Q. Now, where did he go to, Mrs. Ivy, do you know?

A. Where did who go to?

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Q. Dempsey, when he went away; you say he went away and was not there part of the time? A. He said he was going to Grand Encampment once when he was going away.

Q. How much of the time was he away during this time?

A. I should judge about ten days, or twelve.

Q. And do you know who went with him? A. I don't know a thing about that.

Q. He did not tell you anything about that? A. No sir.

Q. And after he came back he went to rooming against the Belmont, did he? A. Yes sir.

Q. Do you know whether he retained his room there? A. No sir.

Q. Was he away on any other trips, to your knowledge, during this time? A. Well, there was several times that I don't remember of seeing him.

Q. You don't know but what he might have been there? A. No sir.

Q. You have talked with him and Pettibone together during this time, have you not, on several occasions? A. Yes, I had seen them together.

Q. And you have talked with them when they was together?

A. Yes, I suppose I did; I don't remember anything in particular though.

Q. What was Dempsey's method of addressing Pettibone? How did he speak to him? By what name did he call him? A. I could not remember.

Q. Call him by his first name, call him George? A. I don't remember.

Q. You don't remember? A. No.

Q. And how did Pettibone address Dempsey? A. I don't remember

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that either.

Q. You cannot tell the language at all? A. No.

Q. They seemed to be on intimate terms, did they not?

A. Yes, appeared to be friendly.

Q. Yes, but you don't remember how they addressed each other whether it was by their given names or not? A. No, I don't.

Q. When was it in the course of this stop of yours at the Belmont that you began to get on friendly terms with Dempsey?

A. Well, I don't know what you mean -- on speaking terms?

Q. On speaking terms -- not on simply speaking terms, but so you would sit down and talk together and when discuss matters -- exchange ideas? A. Oh, right away soon after I met him; he seemed to have nothing to do and I was doing nothing particularly.

Q. What was your object in being there at this time?

A. I was just stopping there. I expected to go to the mountains.

Q. You expected to go to the mountains and go into business in the mountains? A. Yes sir.

Q. And you was simply stopping there until a convenient season would arise? A. Yes sir.

Q. Had you any particular place you expected to go? A. Yes, I expected to go to Cripple Creek.

Q. Had you lived in Cripple Creek prior to this time? A. No sir.

Q. You knew nothing about the Cripple Creek country? A. Yes, I had been there several times with my husband.

Q. But you never lived there? A. No sir.

Q. And you contemplated going into the rooming house business there, did you? A. I did not know whether I would go into the

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rooming house business or into the millinery business.

Q. You found that Dempsey had been a resident of Cripple Creek?

A. Yes, he told me he had been in Cripple Creek, but not that he had ever lived there.

Q. You talked with him about Cripple Creek -- in regard to Cripple Creek? A. I talked about the strike and what he thought in regard to the outlook.

Q. Did you talk with him in regard to your business chances?

A. No sir, never.

Q. You made no inquiries from him in reference to the chances for doing business in Cripple Creek? A. Never, no sir.

Q. Did you talk with Pettibone in regard to that? A. No sir.

Q. How long was it after you got acquainted with Pettibone or with Dempsey, before you had this first conversation that you have talked about, the conversation with reference to Steunenberg? A. How long afterwards, do you say, Mr. Hadley?

Q. How long after you got acquainted with him? A. Well, it was on Thursday, I told you, after the Federation of Miners met in Cripple Creek, and I got acquainted with him about a month or a little more before that.

Q. And it was on Thursday after they met, about a month after you made his acquaintance that he had this talk with you?

A. Yes sir.

Q. And this talk was in the Belmont rooming house, you say?

A. Yes sir.

Q. Now, you say that prior to this talk Orchard seemed to have nothing to do? A. Apparently, no.

Q. He was spending a good deal of his time around the rooming

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house? A. Yes sir.

Q. Was he around the Federation at the time of the meeting?

A. I cannot say as to that, Mr. Hawley.

Q. He did not talk with you or discuss matters pertaining to that with you? A. To the Federation?

Q. Yes. A. No sir, he did not.

Q. But he spent a good deal of his time around thereoming house?

Q. Yes sir.

Q. Were there many stopping there? A. Yes, there were a great many

Q. Were they mostly members of the Federation that were there upon the Federation business? A. I could not say as to that, I am sure.

Q. There was quite an influx there at the time of this meeting?

A. Yes sir.

Q. Where were you at the time you had this conversation with Orchard -- what part of the house? A. Which conversation do you refer to?

Q. Speaking of the one where Steunenberg's name was mentioned.

A. In the hall of the hotel, sitting on the sofar or divan, whatever you call it.

Q. Anyone else there outside of Orchard and yourself? A. No sir.

Q. Orchard came in, did he, while you were sitting there?

A. I was sitting there and he came out of his room and left the door open and came and sat down alongside of me.

Q. What did he say first? A. I said, Good morning, and he said, Good morning, and I said "What are you doing so early?" And he says, "Well, I have got to go to the depot and meet some people that are coming in."

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Q. This was early in the morning, was it? A. Yes.

Q. About what time was it? A. I should judge about half past eight.

Q. Go ahead and state what was said then. He said he had to go to the depot and meet some people, did he? A. Yes. I said, "Mr. Dempsey, what do you think of the outcome of the strike in Cripple Creek?" He says, "Well, I don't know; I am afraid it will end the same as the one ended in Idaho."

Q. Yes. A. I said, "How was that?" And he says, "Well, you know what the governor did to us up there;" he said, "It was through" -- he says, "I would have been a millionaire today if it had not been for the decision of the governor in Idaho."

Q. Did you have any further conversation? A. Yes sir.

Q. Go ahead and give all the conversation just as it happened.

A. And he says, "I would have been a millionaire if I had not lost my mine in Idaho;" He says, "And it was owing to that action of the governor," or words to that effect; I cannot give you the exact words.

Q. Give it just as nearly as you can. A. And he says, "I will get even with him;" and I said, "Oh, forget it, that is a miner's luck;" and he said, "I lost more than that;" and I said, "How in that?" And he says, "The only woman I ever cared for in my life would have come back to me if I had had that mine and had the money to take care of her, but I lost the mine and through that lost her, but I will get even with that old devil if I hang the next day; I will kill him if it is the last act of my life."

2274 Q. Any more of the conversation? A. No, I don't think so.

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Q. And he went off to the depot then, did he? A. I don't know,-- no sir, I think not.

Q. He went off, did he? A. No sir, Mr. Haywood -- just a moment or two after that Mr. Haywood and Mr. McDonald came in.

Q. Oh, this -- this was the same day that Haywood and McDonald came in, was it? A. Yes sir, the same day.

Q. And he introduced you to Haywood then? A. Yes.

Q. And went into his room with Haywood after he introduced him?

A. Yes sir.

Q. And that is all of the conversation, that was all of it at that time? A. Yes sir, all at that time.

Q. It commenced in the way you have stated and ended the way you have stated? A. Yes sir.

Q. You was here -- you was subpoenaed and brought here as a witness at the instance of the prosecution in the early stage of this case, was you not, Mrs. Day? A. Yes sir.

Q. And you made a statement to Mr. Stone, one of the attorneys for the prosecution? A. I did.

Q. Made a statement which was put in writing? A. I did.

Q. And which was verified? A. Yes sir.

Q. That was before you was discharged? A. Yes sir.

Q. That statement was considered -- was taken down from what you stated to Mr. Stone, was it? A. Yes sir.

Q. And it embraced all you know about this affair? A. So far as it went, yes sir.

Q. So far as it went? A. Yes sir.

Q. Did you have any -- did you make, as part of that statement, any reference to any conversation with Orchard or Denpsey?

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A. The only thing I said in that was that I was talking with Mr. Dempsey in this hall, I think, when Mr. Haywood and Mr. McDonald came up, but you did not ask me.

Q. Don't say "you", for I was not present. A. Pardon me, Mr. Stone.

Q. You talked with several of the counsel for the prosecution prior to his, did you not? A. Sir?

Q. You had talked with several of the counsel for the prosecution prior to thistime, had you not? A. The prosecution?

Q. Yes. A. Several of the counsel?

Q. Yes? A. Yourself and Mr. Stone is the only ones.

Q. We are the only ones? A. Yes sir.

Q. You never had stated anything about a conversation with Dempsey or Orchard in regard tothis Steunenberg matter?

A. Not to your counsel, no sir.

Q. Had you talked with Mr. E. F. Hawley who was assisting the prosecution in regard to it? Did he take a statement from you in regard to it? A. No sir, never.

Q. He did not take a statement? A. I don't think so.

Q. Could you fix the time when the Federation met any closer than you have? A. I asked Mr. Stone if he would kindly find out for me, when I was here before, and he said it was between the 6th and 10th of May.

Q. He looked at the Miners' Magazine, did he not? A. I don't know what he looked at, I am sure; I could not tellyou. I did not know when it was, but that is the date we find in the statement, but I find it was later in the month.

2276 Q. Later in May? A. Later in May, yes sir.

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Q. But you know it was in May sometime? A. Yes sir.

Q. But you could not pretend to give the date, and any date you give is simply based on what you was informed from other sources? A. Yes sir, on what Mr. Stone told me.

Q. MR. HANLY: That will be all, if your Honor please, except one matter: Mr. Stone who is associated with us is in Caldwell, and I have a letter this morning stating that he is unwell and even his partner could not see him at the present time, but possibly he will be here in the next few days, and as soon as we are permitted to talk with him in regard to this matter, we would like to have this statement and we may like to question Mrs. Day in regard to this statement, and I make this statement simply for the purpose of having Mrs. Day recalled after we get this statement which is in his possession.

MR. RICHARDSON: We have not the slightest objection to Mrs. Day staying here as long as the State may want her, and that is also true as to the other two witnesses who were mentioned yesterday, and I desire to state to the State that they are both here now, but that the defense will pay this witness and the other two today and will start them back home at four o'clock this afternoon, and if the State wants them they can have the clerk issue subpoenas for them and they can hold them for the per diem and that relieves us of the expense of taking care of them.

MR. HANLY: So far as that goes, I think the rule has been -- your Honor is perfectly well aware of that -- that a witness is never discharged by either side until both sides shall assent to their discharge, and when the learned counsel

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states that he proposes to pay them off and let them go at four o'clock this afternoon he is doing something that aint the practice in this state, and that he has absolutely no right to do and cannot do. I have notified him that the witness Aller and the witness McGee would be desired for further examination and having so notified him they have no right to discharge them and cannot discharge them, and the advice he gives the court and us in regard to our subpoenaing these witnesses and keeping them here, while we thank him for it very much, we do not propose to comply with it because they are here as their witnesses, not as ours,and we propose to cross examine them as their witnesses and not examine them as ours. Now, so far as the question of expense is concerned, we care nothing in regard to that, so far as the per diem is concerned in keeping them here, although they might be kept here at the expense of the party that directed that they be kept. So far as that is concerned we will waive all that and see that that part of the expense is paid.

THE COURT: The Court understands that, and that a witness once sworn is here subject to the order of the court. I think probably there can be a way of taking care of this matter that will be satisfactory to both parties.

MR. HAMLIN: We will pay all these expenses.

MR. RICHARDSON: I will say, so far as the Defense is concerned, that when it is through with these witnesses it proposes to excuse them and take a chance on it and if the Court retains any witnesses that is a matter between the Court and the witnesses, but the Defense will not subpoena witnesses

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here and keep them pending the action of the State.

MR. MANLY: I presume counsel will be guided by what the Court says in that regard, and I ask for a positive order from the Court in regard to this matter, and we will see whether the counsel or the court is running this trial.

MR. RICHARDSON: We will have no trouble with the Court, but we are ready to have trouble with any counsel at any time that counsel desire.

MR. BORAH: That refers I presume to my associate.

MR. DARROW: Brother Borah, perhaps you and I had better withdraw.

THE COURT: These witnesses will remain here. The Court announced yesterday that all these witnesses would be excused except those notified by the counsel that they would be required for further cross examination; and if there are any others, you will give your notice in open court for any witnesses that you may desire to be retained.

MR. DARROW: I know that this witness is anxious to go back as quick as you can get through with her.

MRS WIGGINS: Your Honor, I have told everything that I knew about that date.

RE-DIRECT EXAMINATION

by Mr. Darrow.

Q. Mrs. Day, when you were here on behalf of the State where did you stop? A. I stopped up here on -- well, now I cannot tell you -- right over here, (pointing).

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Q. At a boarding house? A. Yes, this next block over here; I could not tell you the street to save my life, but it was the next door to the Christian Science church, I know that.

MR. HANLEY: I don't think that is any information to my learned friend.

Q. Now, Mrs. Day, did Mr. Thiele and Mrs. Thiele stop at the same boarding house with you? A. Who?

Q. Mr. and Mrs. Thiele? A. Yes sir.

Q. One evening, while you were here, did You go to Mr. Hanley's office? A. Did I what?

Q. One evening, did you go to Mr. Hanley's office? A. No, I did not.

Q. Did you go somewhere with Mr. Stone, the attorney? A. Did I go somewhere with him?

Q. Yes. A. Yes sir.

Q. And did you learn in the meantime that I had called to see you?

A. Yes sir, I did.

Q. And the next morning were you taken by Mr. Stone to Nampa?

A. No sir, I took myself to Nampa and went home.

Q. Did he go with you? A. No sir, he went on the same train to Nampa and came back.

MR. DARROW: That is all.

MR. HANLEY: That is all, Mrs. Day.

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JOHN D. ELLIOTT, being called as a witness on behalf of the defendant, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDSON:

Q. What is your name? A. My name is John D. Elliott.

Q. And what is your age? A. I am sixty-one years old.

Q. Where do you reside? A. I am stopping at the Soldiers' Home now

Q. Where? A. Near Boise.

Q. How long have you resided at the Soldiers' Home near Boise?

A. Since August, 1904.

Q. Where were you on or about the 29th or 30th day of November of 1905? A. I was on my way from Washington county home here, here near Boise.

Q. What had you been to Washington county for? A. I went up to see -- to visit my people up there, and a little business in connection with a land claim.

Q. How did you become a member of the Soldiers' Home?

A. Well, because I was an old soldier and I had no other home, and I somewhere to stop.

Q. You were in the war of the Rebellion, were you? A. Yes sir.

Q. I will ask you if you have seen a man since you have been here purporting to be named Harry Orchard, the man who was on the witness chair yesterday? A. Yes sir, I saw a man that I saw once before.

Q. Did you see a man who calls himself now Harry Orchard here yesterday? A. I have heard others call him that, but I have not heard him repeat his name.

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Q. Did you ever see the man before who sat here on the chair yesterday, by the name of Harry Orchard? A. Yes sir, once before.

Q. When and where did you see him? A. I saw him on the cars between Weiser and Nampa, or I would say Caldwell.

Q. Somewhere between Weiser and Nampa? A. He left the train at Caldwell.

Q. He left the train at Caldwell, did you say? A. Yes sir.

Q. Very well. I will ask you if at that time and at that place this man whom you saw yesterday and identified here on the witness chair and who was then going by the name of Harry Orchard, sat immediately in front of you in the car, there being other passengers in the car, but they not being within hearing distance, they being further forward in the car, when this man turned around to you and used the following language in words, and in substance and effect: "My name is Hagan; I reside in Colorado;" that He then asked you where you resided and what your business was, and then he said to you, "I took you to be a detective or road agent;" on reason you replied to him that you did not object to his calling you what you liked so that he did not denominate you a road agent; he then asked you if you were a miner or belonged to the miners' union, and you told him you did not; you then said, "They have had a pretty hot time down there in Colorado for the past two or three years;" and he said, "In what way do you mean?" You then said, "Why, the trouble between the Miners' Union and the Mine Owners, strikes, etc." And your

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he said, "Yes, a little." Orchard then said, "I belonged to the Federation formerly, but I left it about two years ago and went to work for the Mine Owners' Association, and have been working for them and in their interests ever since that time." And you said to him, "You are in a position to know, having been employed on both sides of the controversy, and I would like to ask you who is to blame for the condition of affairs down in Colorado", after referring to the destruction of property, loss of life, and trouble generally between the union and the Mine Owners; Orchard then said, "Well, both are." You then said, "Well, then, how long is this condition of affairs going to last down there, and who is coming out on top or ahead?" And Orchard said, "Well, it will result in the breaking up of the Western Federation of Miners, the organization known as the Western Federation of Miners." You said, "How is it possible to destroy the organization, a labor organization that has a right under the laws to exist?" Orchard said, "Well, ways will be found. The Mine Owners' Association, backed by other large aggregations of capital, will destroy the labor organizations of the country; and as the Western Federation of Miners have made themselves pretty obnoxious to the Mine Owners' Association, they will have to go first." And he further said, "There is no Miners' Union, except the officers, three or four men, and when they are out of the way, they will go to pieces." You then said, "Do you mean to say that the mine owners will employ assassins to murder those men?" And Orchard said, "Oh, no, I don't know as they will do that. And you then said,

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"Perhaps you think they will bring charges against them and cause their arrest?" And Orchard said, "That is about the size of it." You then said, "I understand that they have been arrested repeatedly, and have always gone clear;" and he said, "Yes." And you then said, "Don't you know that men of their knowledge and their experience will not be likely to, or it will not be reasonable to suppose that they will permit an overt act to be committed to lay themselves responsible or amenable to the law;" and Orchard said, "They will be found to accomplish these things and something will happen shortly right here that will have that result, and will startle the country; and you will hear of it." You then said, "There is no mine property here to destroy; there is no mines here. This is a farming country with nothing but sagebrush, and there are no mines in this country." And Orchard said, "Oh, well, it will happen right here." He then asked you about Governor Gooding and ex-governor Steunenberg, and asked you in what estimate each of them was held, and which was the strongest man, speaking in political sense. You said, "I regard ex-governor Steunenberg as the strongest Democrat in the state, and if he would get the nomination for governor he would give Gooding a pretty close race, I think. He might not be elected, for when he was elected before he was elected by the combined strength of the Democrats, Populists and Silver Republicans, and the two last named parties will not now be factors in the coming election." And you further said that you did not think Steunenberg had any aspirations in that direction; that you had not heard his name mentioned in

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that connection with the coming election or convention. Orchard then said that something sensational would happen within thirty days, but it would probably, however, be several months before the Federation was entirely broken up. He then said to you, "You will hear of it," and inquired what papers you read. You told him that you read the Statesman and Capital News regularly, and occasionally all the prominent papers of the country, and he said, "You will hear of it." Did you have that conversation in words or in substance and effect?

A. Yes sir.

Q. With this man who was on the stand yesterday forenoon?

A. I would like a little correction in respect to the road agent business.

Q. Make your correction, if it is wrong. A. He said I took you to be a detective agent, and I says, you can take me for what you like so you don't call me a road agent. That was the conversation we had in that connection. It was in a joking way, -- he seemed to be a jovial and lively man.

Q. Other ways than that then you had this conversation in substance and effect with Mr. Orchard at the time and the place and under the circumstances stated? A. Yes sir.

MR. RICHARDSON: That is all, you may cross examine.

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CROSS EXAMINATION

BY MR. HAWLEY.

Q When was it you had this conversation -- what was the date ?

A It was the 28th or 29th day of November, 1905.

Q How do you fix the date ? A. I fix the date because I had got a leave of absence from the Soldiers Home to remain away thirty days, and my leave of absence was dated the 25th of October, and I remained as long as I could without overrunning my time, and I got back on the 28th of November.

Q Where had you been ? A. I had been up in Washington county, in a northerly direction from Weiser.

Q Your family lived up there, did they at that time ?

A Yes sir.

Q Had ye u been there with your family or on other business ?

A I saw some friends and my children, and I had a little business in connection with a land claim I wanted to see to.

Q A land claim of a farm yourself and your wife owned there ?

A No.

Q Yourself and wife did own a farm there at the time didn't you, but it was in connection with another piece of land, not your farm ? A. It was nothing concerning that at all.

Q How long had you -- or where was your place -- your farm so far as Weiser is concerned -- what part of Washington county ?

A Do you mean the claim that I was ----

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Q Yes. A. It was very near the town of Council.

Q That is some sixty miles or some sixty odd miles above Weiser

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on the P. and I. N. railway ? A. I think they call it about 65 miles.

Q You came down from that section how long before this trip to Boise ? A. I came down, I think it was the 20th I started.

Q From Weiser or from Council ? A. Yes, on my way back.

Q Did you stop there at Weiser at any time ? A. No, not long.

Q Was you there over night ? A. I don't remember -- the train that I took, whether I took the night train or got on the evening train.

Q What time did you -- where did you start from that day, from Council ? A. I think I left Council on the 20th; it was either the 20th or the 29th.

Q Did you take the P. and I. N. railroad over that day from Council ? A. I think I left Council on the 20th or the 29th.

Q Did you take the P. and I. N. train at Council ?

A Yes sir.

Q You are sure of that, are you ? A. Yes sir.

Q And you got into Weiser at what time on that day ?

A I don't remember the time I arrived there.

Q Was it in the evening ? A. I don't remember the time I arrived there, and I don't remember positive the time I boarded the train on the Short Line to come to Nampa.

Q Do you remember the time you left Council, whether it was forenoon or afternoon ? A. I think it was about noon.

Q You are not certain as to that ? A. Not positive. I think it was about 12 or 1 o'clock.

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Q How long does it usually take to come from Council on the railroad to Weiser ? A. Well, I forget the time that the train arrives there; some time in the afternoon.

Q There was nothing to delay the train on that occasion, was there ? A. Not that I remember of, no.

Q And do you recollect when you left Weiser ? A. Not positive; I think it was along about 3 o'clock, or perhaps 4, or some time along in the after part of the day, because I think it was night when I got here.

Q And this was on the 20th or 21th ? A. The 20th or 21th, I would not be positive,-- I would not swear positive which one of the two days.

Q It was absolutely one of the two days,-- you are positive of that ? A. Yes sir.

Q Either the 20th or 21th of November, 1905 ? A. It was one of them.

Q And you have investigated the record so as to be able to testify positively on that subject, have you -- the record of the leave of absence you had ? A. I feel quite certain about that. I don't think I would be mistaken in any way, shape or manner about that.

Q And do you feel certain that you took the afternoon train from Weiser here -- from Weiser to Boise or to Nampa ?

A I am quite certain,-- I feel quite certain, yes.

Q There was one train that leaves Weiser on the afternoon, or did at that time, and another at night, was there not -- two

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trains coming from Weiser to Boise ? A. Yes. Some times I took the night train and some times the afternoon train.

Q But I am asking in regard to this particular time. A. I want swear positive whether on that occasion I took the night train or the evening train.

Q The night train at that time came into Weiser and left Weiser for Nampa after midnight, did it not ? A. Yes sir.

Q In fact it was between 2 and 3 o'clock in the morning, isn't that correct ? A. Yes, but I am quite certain it was the other.

Q Just answer my questions, please, sir. Did not the night train at that time that you are speaking of leave Weiser for Nampa at 2 or 3 o'clock in the morning ? A. I think a little earlier than that.

Q A little earlier than that ? A. Yes sir.

Q How much earlier than that ? A. I think it was some time between 1 and 2 o'clock.

Q One and two ? A. I think so.

Q And the afternoon train left We iser at that time when it was on time between 3 and 4 o'clock in the afternoon, did it not ? A. I think some time along there.

Q Do you know the exact time that it left ? A. No, I don't know the exact time; along in the neighborhood o f the middle of the afternoon

Q Or perhaps between 3 and 4 o'clock ? A. Somewhere along there.

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Q And you don't know, and you are not certain at this time whether or not it was the night train or the day train that you took on that occasion ? A. I am quite sure it was the day train, the afternoon train.

Q But you are not absolutely certain of that ? A. Well, yes, I am. I guess I may say I am certain because I know it was in the day time that I had a conversation with this man.

Q Then it must have been the day train that you took ?

A Yes sir.

Q And you connect it on the 28th or 29th day of November last with the afternoon train, coming east on the Oregon Short Line you yourself coming on the P. and I. N. railroad from Council to Weiser, do you ? A. Will you please repeat the question ? I did not hear it distinctly.

Q You came on the P. and I. N. railway from Council to Weiser on the 28th or 29th day of November, 1905 and connected with their afternoon train,-- with the afternoon train on the Short Line coming from Weiser to Nampa ? A. Yes sir.

Q That is what you want to be understood is it ? A. Yes sir.

Q What particular part of the train did you ride in ?

A Well, I changed -- I went forward from the coach I first got into, it was quite crowded, something uncomfortable, I don't remember just what, but for some reason, I don't remember exactly, but I concluded I would go forward in the next coach, and there were only a few parties in that -- in the forward end of the coach.

Q

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Q What particular coach was it ? A.

MR. RICHARDSON: I submit, let him answer -- let him finish up his answer.

MR. HAWLEY: I want him to, but I want him to answer the quest on.

THE COURT: Make your objection.

MR. RICHARDSON: I object to his inquiring of the witness until the witness shall have come to a full stop. We were told that a number of times during our cross examination.

THE COURT: Is there any portion of Mr. Hawley's question you had not answered ?

THE WITNESS: Have you a question ?

Q Go on. A. I went forward into the coach forward of the coach I got on for some reason, I don't remember just what, but I concluded to go forward into the next coach forward, and there were only a few parties in that coach, and except one man they were in the forward end.

Q Now, answer my question. I want to know what coach that was whether it was the smoker or the ordinary chair car, or what that you went into where you met Orchard ? A. I want be certain, but I think I took the rear car in the first place and I went forward to the middle car.

Q This car that you met Orchard in, was it the smoker of the train ? A. I think not.

Q It was the chair car ? A. I think so.

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Q What part of the car was Orchard in ? A. The rear end on the

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right hand side.

Q How many people were in the car ? A. I could not say positive; I don't think over 8 or 10.

Q Where were they sitting in reference to Orchard ? A. In the forward end of the coach.

Q And Orchard was in the extreme back end ? A. Not the extreme end, but he was pretty near toward the end,-- oh, I would judge some 12 or 15 feet from the end.

Q Were there men or women in the coach outside of Orchard ?

A I remember some small children and besides them I think they were about equally divided.

Q Some men and some women ? A. I think so.

Q And what was Orchard doing when you went in ? A. Sitting in a seat.

Q Was he engaged in reading or any other employment ? A. I don't remember that he was, no; I think not. He was just sitting there.

Q Where did you take your seat ? A. Immediately behind him.

Q In the next seat ? A. In the next seat behind him.

Q Did you have any object in taking that or was it simply an accident ? A. No sir, only I could have a view of the country and could see out as we passed along.

Q Did you notice him in particular as you came in ? A. No.

Q Who commenced the conversation between you and him ?

A He did.

Q What did he say first ? A. He turned around and spoke very pleasantly to me and introduced himself to me and said, "My name is Hogan," and kept on the conversation.

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Q That is the first thing he said, was it, "My name is Hogan"?

A Yes sir.

Q What else did he say ? Give it all ? A. Well, he said, "I reside in Colorado; where do you reside and what is your business"?

Q Now, that was the first thing that was said, was it, by this man, "My name is Hogan, I reside in Colorado, what is your name and business," is that the way he addressed you ?

A Yes sir.

Q You swear to that positively, do you ? A. Yes sir.

Q You swear to that positively ? A. Yes sir.

Q What did you say in response to that ? A. I told him that I resided near Boise and I was engaged in no active business at the present time.

Q What did he say then in answer to that ? A. Well, he says, "I took you to be a detective agent.

Q Yes, did he tell you why ? A. No.

Q Give all the conversation as it came along ? Give it all after he said he took you to be a detective agent, what did you say ? A. I said, you can take me for what you like so long as you don't denominate me as a road agent, and then you want me to go on and relate the conversation ?

Q Yes, and this was the starter. Where were you at this time ? Had you reached Payette yet ? A. I don't remember just the point.

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Q. Do you recollect anywhere near the point you were ? Where was this conversation after you left Weiser ? A. It was very soon after -- I think very soon, but I wont be positive at just what point.

Q. Go ahead and relate the rest of the conversation just as it happened, all that was said ? A. Then he said, after he had expressed himself about what he had taken me for, he says, he asked me if I was a miner, "Are you a miner?" or "I thought you was a miner," or something like that, and I said, no, and he said, "Do you belong to the Miners Union ?" and I said, "No sir, I don't; I don't belong to any union," I said, "I have nothing to do with any union; I don't belong to any Miners' union;" and then he says, "Well, you have had a pretty hot time down there in Colorado for the past 3 or 4 years;" "In what way?" he says; I said, "In respect to the trouble between the Miners' Unions and the mine owners, strikes, like those, and troubles generally, and some destruction of property and loss of life, etc.," "Oh, a little," he made a kind of unconcerned remark like that, "Oh, a little," or something, kind of an expression like that; and then he said he had belonged to the Miners Union formerly, or before that, but he had left it about two years ago; I said,"Yes, how is that, is the Miners Union going to pieces, are the members deserting it? How did it happen you left the Miners Union"? "Oh, no," he says, "I don't know as the members are leaving it, but I left it because I could do better;" I says, "Oh, perhaps you got

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to be a mine owner yourself -- become interested in a mine"? he said, "Oh, no." Then I says,"You have been working for t the mine owners"? "Yes,"he says, "I was working for the mine owners association since that time to the present." "Well, then," I said, "now, you were in a position to know, and having worked for both sides in this controversy, I would like to ask you who is to blame for this condition of affairs that exist down in Colorado, so much trouble," and I referred to the destruction of property a nd some loss of life and a great deal of trouble generally; "Well, both," he says. Then I told him,-- I asked him how long that he thought such a condition of affairs would last and what would be the result of it; "Well,"he said, "it will result in the destruction or the overthrow of the organization known as the Western Federation of Miners." I said, "Well, how can that be ? How can they destroy an organization that under the laws of the country has a right to exist ?" "Well," he says, "the power of money, and the influence, the mine owners association and other large aggregations of capital would destroy the labor organizations of the country, and this Western Federation of Miners has made itself antagonistic or obnoxious to the mine owners association and they will have to go." That led me to ask him then why or how they proposed to do it, and I says, "Do you mean to intimate that they will hire assassins to murder the people of the Western Union, or the men of the Federation ?" "Oh, no," he says, "I don't know as they will do that." "Well,"

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I says, "How then could they remove the Western Federation ? Perhaps you mean to intimate that they would bring charges or have them arrested, or something like that;" "Well, that is about the size of it," he says. I said, "I understand this has been done before; they have been put under arrest and they found no charge against them and let them go." He said, "Well, that won't always be the case; you will be found," or words to that effect.

Q Any more ? Give it all. A. Then he asked me if I knowed ex Governor Steunenberg; first I told him no, only by reputation. "Well," he says, "what estimate is he held in generally?" "Very good," says I; "he is regarded very highly." Then he says, "Where does he live ?" I says, "I don't know; I think about Wardner, some place, or Wallace;" "No, he don't," he says; "he lives right here;" and I believe he mentioned Caldwell. Then he asked me if I knew Governor Gooding. I told him, yes that I had met the gentleman once or twice I believe. "Well, what estimation is he held in," he asked; I says that he had made a very favorable impression on me, a very fine man. Then he asked, "Well, Senator who do you think will be elected, or get the nomination ?" I told him, "I think Governor Gooding will get the nomination on the Republican ticket and that is tantamount equivalent to an election." "What do you think of Steunenberg's chances, what would they be in that direction ?" he asked; "Well," I says, "I regard him as a very strong candidate; I think he is the strongest

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Democrat in the State, and if he could get the nomination he would give Mr. Gedding a pretty close race, but he could not be elected, I don't think, because the state is very largely Republican. Then, I don't think Mr. Steunenberg has any aspirations in that direction for office any more; I have not heard his name mentioned in that connection." I told him that he had been elected by the combined strength of the Populist and Silver Republican parties when he was elected before, but I thought now as the Populists and Silver Republicans were not parties any more and would not be factors in the coming election I did not think there would be any chance for a Democrat to be elected any more in this state at the coming election.

Q. Is that all? Give it all. A. I think that is about all that was said. I was going -- I thought I had struck a very dangerous kind of a character and I did not want to have anything to do with the man and I wanted to get away from him.

Q. And you proceeded to do so, did you? A. Yes, I got up and walked back two or threeseats further and took a seat on the opposite side of the aisle. In a moment he got up and went forward two or three seats and seemed to be as unconcerned as I was.

Q. How did long did this conversation take? A. I could not tell; I suppose about the time I have been in relating it, -- a very little more, perhaps.

Q. You came to the conclusion that he was rather a dangerous character and quit him? A. Yes sir.

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Q. The conversation happened in about the way you have stated?

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A. Yes sir.

Q. You did most of the talking in discussing these political questions, didn't you? A. Well, I can't say that I did. He brought it out by questions.

Q. Yes, but he was apparently seeking for information and you was giving it to him, was you? A. Yes, one question led to another and we discussed the matter.

Q. You did discuss the question of Gooding and Steunenberg getting the nomination for Governor? A. Yes sir.

Q. It was a matter you took some little interest in, was it?

A. Well, ordinarily, yes, I suppose so much as any person would.

Q. Gooding was a candidate for governor at this time, was he?

A. Sir?

Q. Was Gooding a candidate for governor at this time?

A. Oh, no, this was before the convention.

Q. Oh, yes, that was what I thought, he had not been nominated yet? A. Oh, no.

Q. And did you know where the convention was going to be held or not? A. No.

Q. You spoke of the Republican state convention of course?

A. I did not know where that would be or anything concerning the convention.

Q. Yes, but Gooding was talked of as a candidate before the convention? A. Yes.

Q. And you knew that to be the fact, that is, that the talk of his nomination -- that there was a good deal of talk about his nomination? A. I had seen and read the papers and had some intimation of it and judged from that, what I saw in the

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papers.

Q. Gooding was governor at the time, was he not, and was aspiring for a second term? A. Yes sir.

Q. And there was a good deal of dispute as to whether he would get the nomination again? A. Yes, there was a question.

Q. Do you know who was trying to get the nomination besides Gooding on the Republican ticket? A. No, I don't think I took enough interest to follow it up close enough to know.

Q. How long was this before the convention? Of course you recollect when the convention was held? A. I don't remember the date of the convention, when it was held, but it was a month or two or three months perhaps, I could not say.

Q. Might it not have been four months before the convention? What is your best recollection of it? A. I won't say what time in the year the convention was held, but there had been no convention yet.

Q. What is your recollection as to the time when the convention was held afterwards, was it a month, or two months, or as long as four months? A. It might have been three or four months; I don't remember. I won't say.

Q. Do you think it was that long? A. It must have been two or three, or three or four months.

Q. Three or four months before that convention was held? A. Yes.

Q. How was it you talked about Steunenberg being a nominee? Had he been nominated? A. Well, he asked me questions in regard to the man Steunenberg and his strength as a political candidate, and I answered him to the best of my knowledge.

2299 Q. Do you know when the Democratic convention was held?

A. I think it was held sometime after in the northern part of the

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state.

Q. About how long after this talk that you had was the Democratic convention held? A. I did not pay no attention to the dates of the conventions, and I would not say.

Q. You recollect that one was held, don't you? A. Well, I remember something about the Republican convention being out about Pueblo I think.

Q. You know who was nominated by the Republicans, don't you?

A. There was a little talk about delegates, and who was the prospective delegates, -- a little agitation in that respect. I paid but little attention to it.

Q. You was talking about who would be the delegates to the convention? A. Yes, I read something in the papers about it.

Q. Was you talking with Orchard about that? A. Oh, no.

Q. Do you know who the Democrats nominated at their convention?

A. I believe the man's name was Stockinger.

Q. You think that was a month or two after this talk, do you?

A. Oh, yes, I guess it must have been longer than that.

Q. How much longer than that? A. Well, not until the next spring.

Q. The next spring, you think? A. I don't know.

Q. It must have been three or four months then? A. I don't know.

Q. Did you go back to the Soldiers' Home and stay there after this talk with Orchard? A. Yes sir.

Q. How was Orchard dressed on this occasion? A. Well, he had a kind of brownish suit on, if I remember right, when I saw him on the cars.

Q. Can you describe it any more particularly than that?

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A. No, I don't know that I can; I think the man was kind of florid in the face -- a little more red looking in the face, and perhaps not quite so fleshy, I don't think; dressed a little different.

Q. Well, now, -- A. There was a change in his appearance, much slighter than I expected to see him after so long a time.

Q. I am asking about the kind of clothes he had. A. Kind of a brownish suit like what we used to call butternut.

Q. Light or dark brown? A. Well, not very light, about medium.

Q. Can you compare it with any of the clothing any of us here engaged in the trial have once so as to give us a better idea.

A. No, I don't see anyone dressed exactly like that.

Q. Was it an old suit or a new suit? A. A very respectable suit.

Q. You could not tell whether it was new or old? A. No.

Q. What was the -- did he have a mustache? A. Yes sir.

Q. A heavy one? A. Moderately.

Q. Did you see him on the stand yesterday? A. Yes sir.

Q. How did his mustache then compare with his mustache at the present time? A. I think it is a little heavier growth now than it was then, a little.

Q. You are quite positive of that, are you? A. I think it is a little heavier -- a very little.

Q. You noticed his mustache particularly on the train? A. Yes sir, I was quite close to him.

Q. Yes, and you noticed that? A. Yes.

Q. Did he have any beard at all? A. I think not, I don't think he wore any.

2301 Q. What sort of a hat was he wearing? A. I don't remember; I won't say whether he had his hat on or not.

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Q. You are rather observant, Mr. Elliott, are you not, you note things pretty carefully, do you ? A. Oh, I don't know; some things.

Q. You noted this man very carefully; you thought it was rather a strange conversation, did you not ? A. I did indeed.

Q. Thought it was rather strange that a man whom you had never seen would talk to you in this way ? A. I did indeed.

Q. So it caused you to observe him carefully ? A. Yes, sir, to some extent.

Q. And that is the reason you are able to tell at the present time about his having a moustache and the kind of clothes he had on, is it ? A. Well, that, but more particularly from the nature of the conversation.

Q. But you do not recollect whether he had his hat on or off ?

A. I wouldn't be positive.

Q. Did he have a grip-sack there with him ?

A. I don't know. I didn't see none.

Q. Didn't see any grip--didn't see anything of that sort ?

A. No, I didn't seem grip.

Q. When did you next see him ? A. Sir ?

Q. When did you next see that a man ? A. I never seen him except that time right here in this witness chair yesterday.

Q. Who did you first tell in regard to this matter ?

A. Well, sir, I made some remarks to my roommate, a man by the name of Baker, a one-armed man, that I talked some remarks in

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connection with the matter after the tragedy had happened.

Q. About how long after ? A. Well, I don't know; not very long--perhaps a few days, not more than perhaps a week or two. And I think, though, to come to think of it, I think the man had been taken in custody.

Q. You recollected the name "Orchard" after you saw that a man named Orchard had been arrested, did you ? A. No, sir, I didn't know any one by Orchard; the paper had something about Orchard and that he had been going by the name of Orchard. I remembered him as Hogan only; the man called himself Hogan to me.

Q. That called it to your attention, did it ?

A. Well, that attracted my attention then, but I had other reasons to believe that it was the same man, because he had called himself Hogan and I was very sure of that.

Q. Have you got a brother and sister-in-law living here in this vicinity ? A. Yes, sir.

Q. Where do they reside ? A. Outside of the fair-ground about a mile and a quarter or a mile and a half.

Q. Have you talked to them occasionally ? A. Yes, sir.

Q. In fact, you lived with them for a while, did you not ?

A. Oh, I spent some part of my time there, yes.

Q. Did you talk with them in regard to this matter ?

A. Why, once in a while yes, I have.

Q. When did you first speak to them in regard to this ?

A. I don't remember.

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Q. About what time ? A. I don't know when; I don't know when I first made any mention of it to them.

Q. Did you give them a full account of this the first time you talked with them about it ? A. Oh, no; I never did.

Q. Never did ~~Mr.~~ give them a full account ? A. No.

Q. You simply referred to the fact that you had talked with a man by the name of Hogan ? A. Yes, a little--a few words, and a few words that had been said, when it came in conflict with something that they would say, would call up the matter, and I made some remarks in respect to it.

Q. When you was discussing the question of the Steunenberg killing ? A. Well, sometimes, yes, and we would sit and read the newspaper together, generally the Statesman. They were very assiduous readers of the Statesman.

Q. And then you simply mentioned the fact of having this conversation ? A. Yes; I have mentioned some things in connection with it, that I saw such a man, a man that I had reason to believe was the same man.

Q. But you did not go into the details of this conversation ?

A. Oh, no; no.

Q. With them--in any of these conversations you had with them ?

A. Not to any extent.

Q. Well, did you go into the details with your room-mate, the unarmed man ? A. Only just slightly.

2304 Q. When did you go into the details--who did you inform in regard

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to this conversation first, and when ? A. I think the first man I ever made it to at all was to Mr. Wilkie, an old neighbor of mine by the name of Wilkie.

Q. Where does he live ? A. He is in the hospital at the Soldier's Home at the present time.

Q. He is an inmate of the Soldiers' Home ? A. Yes, sir.

Q. When did you make this intimation to him ? A. Well, while the papers was full of the tragedy and the excitement at fever heat after the tragedy.

Q. When did you tell this to anybody connected with the defense ? A. Well, sir, after I had makeshift casual mention of it to my roommate, Mr. Baker. I think he talked with Mr. Nugent about it and he sent for me and I talked with him about it.

Q. When was this ? A. Well, along—I don't remember just when; a year ago, I guess, very near.

Q. A year ago you had your talk with Nugent in reference to it. Did you make a statement of this conversation at that time to Nugent ? A. No, not very accurately—not very definitely all through. I told him the circumstance.

Q. Did you talk any about this subject at Curry's place, Frank Curry's place on 8th Street in this town ? A. Where ?

Q. Curry's place, the blind man on 8th Street, the west sideof 8th Street between Idaho and Bannock ? A. No, I don't remember that I did.

Q. You know that place, do you not ? A. Yes, I know the place you have reference to, I think.

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Q. That is a place where the Socialists meet, is it not?

A. Well, I believe so, yes.

Q. You are A Socialist, are you not? A. Well, I can't say that I am. I have studied the subject some. I don't belong to no Socialists.

Q. You don't belong to the order? A. No sir.

Q. Have you met there with them at Gerry's place? A. No sir -- well, I have been at Gerry's. I go in there and buy a little tobacco sometimes.

Q. Been there at times when Socialist meetings were being held?

A. No, I haven't have been in no Socialist meeting there.

Q. Haven't been there. You simply believe in part of it, do you?

A. I would happen to be in conversation perhaps with a man there, like I would anywhere else at any other store.

Q. How much of your time have you spent there the last month when you was in town? A. Well, I think very little.

Q. Go there every time you are in town, don't you? A. No sir.

Q. Only when you need tobacco? A. Well, I think -- I may have some time when I didn't need tobacco; but then I have been buying my tobacco there; if I wanted a cigar and would be passing along that street I would buy it of him.

Q. You was employed by the Defense to get information here last fall, was you not? A. No sir.

Q. You was not employed by them? A. No sir.

Q. Was not working for them? A. No sir.

Q. Had no pay from them? A. No sir.

Q. When did you first give a statement to the attorneys here for

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use in this case? A. I think it was last -- I think it was about last Thursday or Friday, the 20th day of this month; I was told the defense would take up their defense the next day, the 21st. I think that was the first place.

Q. Was that at the offices in the Overland Block in this city?

A. Yes.

Q. That was taken down by a stenographer, was it? A. Yes sir.

Q. And you attempted to relate the facts of this conversation as you have related them here on the witness stand today, did you? A. Yes sir, about.

Q. Well, what is an overt act? A. Sir?

Q. What do you understand by the expression "an overt act"?

A. An overt act?

Q. Yes. A. Well, something that would be illegal or in violation of law.

Q. Illegal or in violation of law? A. Yes.

Q. And did you use that term? A. Yes sir.

Q. You did use the term "overt act"? A. Yes sir.

Q. In that sense, did you? A. I did, yes.

Q. Was you subpoenaed? A. I have been, yes.

Q. A subpoena issued and served on you by whom? Mr The district?

A. No --

Q. Who served it on you? A. Mr. Richardson read me the summons.

Q. Mr. Richardson gave you the subpoena, he served you, did he?

A. I don't remember the gentleman's name that was in connection with him there.

Q. Did one of the other counsel summon you together with him?

A. I believe acted in that capacity.

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Q. You was not summoned by the sheriff -- subpoenaed by the sheriff? A. No, I think not.

Q. You have not been in the pay of the Defense at all you say?

A. Well, I got a little advanced to me, one day's fees and transportation three miles.

Q. When was this? A. The 30th day of this month.

Q. You are still living at the Soldiers' Home, are you? A. Yes sir

Q. Did you ever kno live at Blackfoot? A. No sir.

Q. Was you ever in the insane asylum near Blackfoot? A. I was down there for treatment one time a little while.

Q. When was you in the insane asylum? A. Ten or twelve years ago, in '95.

Q. Twelve years ago? A. January, '95, I went there a little while.

Q. How long was you there? A. Six or seven months.

Q. You was an inmate of the insane asylum near Blackfoot for six or seven months about twelve years ago? A. Yes sir.

Q. Where was you sent from? A. Washington county.

Q. At that time you were living with your wife and children near Council on your ranch, were you not? A. Yes sir.

Q. And you was taken before whom for examination at the time you were committed to the insane asylum, who was you examined before? A. Well, I won't be certain now.

Q. Where was you examined in regard to your sanity, Council, Weiser or where? A. At Weiser.

Q. Before the probate judge? A. Yes.

Q. Who acted for you in that examination? Did you hav e an attorney? A. No.

Q. Who was it that filed the complaint for being insane? Was it

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your wife or one of your sons? A. I won't be certain. I think it was one of my sons likely.

Q. It was a member of your family you know. You was committed to the asylum on that examination, was you? A. Yes.

Q. You was taken over to the asylum by a party belonging to the asylum, by one of the asylum guards, was you, from Weber?

A. Yes.

Q. Put in a straight jacket going over? A. No sir.

Q. You wasn't? A. No.

Q. And you stayed there — you are sure you only stayed there six or seven months? A. Not to exceed seven months I don't think.

Q. Wasn't you there as a matter of fact a year? A. No sir.

Q. Who got you out of there? A. Well, my father came by there on his way from the eastern country and I went home with him.

Q. Your father? A. Yes; I waited there until he came.

Q. Your father promised to look after you if they would discharge you, would see that no harm resulted to anyone by reason of your being discharged, did he not? A. I had a certificate of recovery from the superintendent.

Q. Did he give you a certificate of recovery? A. He did, sir.

Q. You swear positively to that, do you? A. Yes sir.

Q. He gave it to you after your father came? A. Yes sir.

Q. Where did your father live at this time? A. He lived in the neighborhood that I did.

Q. Is he still alive? A. No.

Q. He is dead now, is he? A. Yes.

Q. After you came back from the asylum did you go back to your

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family and live there? A. Yes sir.

Q. With your family? A. Yes sir.

Q. How long did you continue to live with your family there?

A. Until 1904, May of 1904.

Q. What time in 1904? A. In May, the 19th day of May.

Q. Were you arrested again then for insanity? A. No sir, I wasn't arrested.

Q. Well, was you taken in charge of or in custody of anyone on account of being insane? A. Voluntary -- I went voluntarily.

Q. Who was it accused you of being insane then? A. One of my boys.

Q. Another one of your sons? A. One of them.

Q. And the accusation was laid before the probate judge of Washington county, was it not, in May, 1904? A. Yes.

Q. And you was taken down there, was you not? A. Yes sir.

Q. And you had an examination in May, 1904, before the probate judge? A. Yes sir.

Q. Of that county? A. Yes sir.

Q. And on that examination in May, 1904, the probate judge found you insane and committed you to the asylum, did he not?

A. Well, he said -- you are not insane, he says, but you are in a pretty bad state of health and you will get good treatment over there; it would cost you a fortune almost for the treatment you will receive there if you should go to a private institution, so I better fix it so you will be taken care of for awhile. That is the way he said it.

Q. He talked very nice to you and committed you, did he? A. Yes.

Q. You was ordered sent to the asylum, was you not A. Yes sir.

Q. And your brother and your brother's wife came down and agreed

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that they would look after you and see that you did no injury if you were turned over to them instead of the authorities of the asylum, isn't that true? A. Well, I believe so, yes.

Q. And so they did, and shortly after you lived with them awhile and then went to the Soldiers' Home? A. Yes, I think I went right straight to the Soldiers' Home in a day or two or two or three days, now I forget just exactly the day. I remember I worked on a ranch that summer.

MR. HAWLEY: That is all.

RE-DIRECT EXAMINATION

BY MR. RICHARDSON:

Q. You were given how much money for your testimony?

A. Two dollars and six bits.

Q. You said you lived how many miles from Boise? A. About three miles.

Q. That is twenty-five cents a mile, the amount prescribed by the statute, and two dollars for one day's attendance?

A. Yes.

Q. And I told you that you would have two dollars for every other day that we detained you, at that time? A. Yes.

Q. But the balance of it you haven't got yet? A. No.

Q. That was all the talk that you had with me about pay, wasn't it?

A. Yes sir.

Q. Now when you came up to the office to make a statement you came because somebody came to you and said I wanted to have you come there? A. Yes sir.

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Q. And when you came there I called in a stenographer and told you

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to make a statement --

MR. DOLAN: Wait a minute.

MR. RICHARDSON: I will ask the question and you can object to it after I get it asked.

Q. When you came there I called in a stenographer and told you you could make the statement and the stenographer would take down just what you said and she would extend it and you could correct it, if you wanted to, in any particular?

MR. HANLEY: We object to that as leading.

MR. RICHARDSON: In re-direct examination I think I have got a right to ask that question.

THE COURT: The objection will be overruled.

Q. Is that right, Mr. Elliott? A. Yes sir, I dictated what was taken down by the stenographer.

Q. And every word that was in that question that I read to you was as you dictated it to the stenographer and as she extended it, isn't that right? A. Yes sir.

Q. "Overt act" and all? A. Yes sir.

Q. I didn't assist you in any way in making that statement, did I? A. No sir.

Q. There was no other attorney present but myself at that time? A. No sir.

Q. You, the stenographer and myself were the only people present? A. Certainly.

Q. Now I will ask you if you have ever by reason of this trouble that you have had with your children, if you have ever done any act or thing which caused you to be arrested or imprisoned or any complaint made of you with respect to it? A. No sir.

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Q. You simply were in ill health, isn't that all there was of that?

A. Yes.

MR. HAWLEY: We object to this as being leading and suggestive.

Q. What was the nature of your malady, tell the jury about that.

MR. HAWLEY: We object to that as not being the best evidence.

MR. RICHARDSON: We think he has a right to testify in regard to it.

MR. HAWLEY: We withdraw that objection.

Q. What was the nature of your trouble? A. I suppose it was simply the trouble on account of the infidelity of my wife and hard study -- that naturally happens in a case of that kind. Mind worry, I suppose, on account of trouble.

Q. You had trouble with your family, did you? A. Yes.

Q. Have you thoroughly recovered from that? A. I think so.

MR. RICHARDSON: That is all.

MR. HAWLEY: Have you been examined or had yourself examined as to your sanity by a physician lately?

A. Not lately.

MR. RICHARDSON: I submit, if your Honor please, that a good many of us in the room --

MR. HAWLEY: That is about as pertinent as the other.

MR. RICHARDSON: He said he had a certificate of discharge.

THE COURT: He has answered the question, hasn't he?

MR. HAWLEY: Yes sir. That is all.

THE COURT: Call your next witness;

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MR. DARROW: Mr. O'Neill.

THE COURT: First, gentlemen, in reference to the matter of witnesses mentioned by the Defense, the court will make this direction in the matter: All witnesses for the Defense will be excused except those that the attorneys for the State indicate that they may desire to examine further. If they desire to examine them further and retain them, they will be retained at the expense of the State so far as their per diem is concerned after they give the notice.

MR. HANLEY: That is satisfactory to us.

THE COURT: You will give the notice to the witnesses.

MR. HANLEY: We will give the notice in open court to the other side, or to the attorneys if we forget to do so in open court.

MR. DARROW: You mean all witnesses will be excused after they testify?

THE COURT: After they testify. No witness will be excused until after they are called.

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JOHN M. O'NEILL, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. Give us your name, please. A. John M. O'Neill.

Q. Where do you live, Mr. O'Neill? A. Denver, Colorado.

Q. What is your business? A. Editor of the Miners' Magazine.

Q. You are the editor, are you? A. Yes sir.

Q. How long have you been editor of the Miners' Magazine?

A. Five years.

Q. You have been a miner yourself, have you not? A. Yes sir.

Q. Who has charge of what goes into that magazine? A. I have.

Q. What has Mr. Haywood or Mr. Moyer to do with it? A. Nothing.

Q. Who does the writing for it? A. I do, and other parties who may communicate to it.

Q. The editorial work is mainly yours, is it not? A. Yes sir.

Q. Do you know who was the editor before you took charge of it?

A. If I am not mistaken it was a gentleman by the name of Lew Smith.

Q. What is Lew Smith's business now? A. Why, he is holding some position under the city administration of Denver, I think.

Q. You are still running the magazine? A. Yes sir -- well, not while I am here.

Q. Do you know whether Mr. Haywood and Mr. Moyer ever contribute to it? A. Why, yes, a few times they would write signed articles.

Q. What is the general purpose of the magazine? A. It is the official organ of the organization, and its purpose is to

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educate the membership and unite them politically.

Q. What do you do toward publishing notices of all sorts, proceedings of all sorts of conventions, and so forth?

A. I publish whatever I have space for, anything that is extraordinarily important and that the membership should know.

Q. Do you ever consult anybody as to what you shall write or publish? A. Oh, sometimes I might consult Mr. Haywood or Mr. Moyer or probably a member of the executive board in regard to some matter that might come up, ask him his opinion.

Q. Well, what is your custom about that? A. Why, I generally write my editorials and publish them as without consulting anybody.

Q. You give your whole time practically to this, do you not?

A. Yes sir.

Q. To this magazine. How long have you been doing literary work if we can call this that? A. Five years, that is for the magazine.

Q. You have done some other literary work, have you not?

A. Yes sir.

Q. Your magazine is often quoted, isn't it, in various papers and periodicals? A. Yes sir.

Q. For how many years had you been a miner before that?

A. I have been mining off and on for twenty-eight years.

Q. Was you a member of the Legislature too? A. Sir?

Q. Have you been a member of the Legislature? A. Yes sir, I regret to say that I have been.

Q. When was that? A. In 1897.

Q. And how long have you lived in Denver? A. I have lived now

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in Denver for five years; lived there at other times for a short time.

Q. Where else have you lived in Colorado? A. Leadville and the Cripple Creek district.

Q. Did you ever know a man who generally goes by the name of Harry Orchard? A. Yes sir.

Q. Where did you ever see him? A. I saw him in Denver the first time that I can remember of about March, 1904.

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

Q. Did you see him again after that? A. Yes, I saw him again after that a few times.

Q. Did you have any special conversation with him? A. Not particularly until he entered my office.

Q. Where is your office with reference to the other offices of the men in charge, the clerks? A. Well, until about a year ago it was on the same floor as the headquarters of the Western Federation of Miners. During the past year I am on a floor above.

Q. But you have a separate office of your own? A. Yes sir.

Q. And when was it that he entered your office? A. It was during the time that the contest was on between Adams and Peabody for the governorship. I don't remember just exactly the time, some time probably about the latter part of January or the first part of February of 1904.

Q. Is that the only time he was ever in your private office that you recall? A. That is the only time that I can remember of that he ever entered my office.

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Q. You may state whether at the time and place -- was anybody present at this time? A. Not when he entered.

Q. Well, at that time and place when you and he were together alone did Harry Orchard ask you if you could tell him where Governor Peabody lived and where Sherman Bell lived? A. Yes sir.

Q. And did you look at him and reply if necessary he wanted to know where they lived he had better look in a directory, or words to that effect? A. No, not exactly those words. I said, "I don't know; you will have to look in the city directory."

Q. How much longer did he stay? A. He remained silent for a few seconds and he made the remark that they ought to be bumped off, and a few seconds afterwards my wife and daughter entered my office.

Q. And did you see him again? A. Yes, I saw him afterwards.

Q. Did he refer to this again? A. No.

Q. Did you think anything of the incident at the time?

MR. DARROW: Well --

MR. DARROW: Well, that is all. You can cross examine.

CROSS EXAMINATION

BY MR. DARROW:

Q. You say you have been the editor of this magazine, Mr. O'Neill, for about five years? A. Five years the 12th of last May -- or the 12th of June I should say. The 12th of last June.

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Q. This magazine is the official organ of the Western Federation

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of Miners? A. Yes sir.

Q. And as such it is edited? A. Yes sir.

Q. It is supposed to reflect the views of the organization?

A. Yes sir.

Q. And as such you edit it? A. Yes sir.

Q. You did not mean to be understood as saying to Mr. Darrow that these views which are expressed to this organization were your individual views separate and apart from any views that the organization might have, did you? A. The organization had practically in conventions adopted the doctrines of Socialism.

Q. Yes, I see that by the magazine. The magazine then reflects the views of the organization? A. Yes sir, although some of the members may disagree with me.

Q. But you in conducting the paper undertake to reflect the views of the organization as it expresses them from time to time? A. Yes sir.

Q. When it adopted the views of Socialism, why, the magazine took up that in accordance with the views of the organization?

A. Yes sir.

Q. And if you had been opposed to socialism you would still have been compelled, as editor, if you had remained as editor of the magazine, to have taken the views of the organization, would you not? A. I should not have remained on the magazine for the simple reason I would have been prostituting myself if I had continued on the magazine contrary to my convictions; I should have had to resign.

Q. Yes, I understand that, but what I am trying to get at, if it

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had so happened that your views had not been in accordance with the Socialist and the organization had adopted the views of Socialism you would either have had to write in accordance with those views or resign, wouldn't you? A. Yes sir.

Q. Then when you write these articles in the official organ of the Western Federation of Miners, the Miners' Magazine, you are writing as the agent and representative of the views of the Western Federation of Miners? A. Yes sir.

Q. This Magazine is paid for out of the funds of the Western Federation of Miners? A. Yes sir.

Q. And Mr. Haywood is the secretary and treasurer of that?

A. Yes sir.

Q. And no money can be paid out of there without his signature?

A. Not that I know of.

Q. And this magazine could not run twenty-four hours without the approval of Mr. Haywood, could it? A. Well, the organization has adopted it as their official organ. Mr. Haywood could not refuse. His refusal to pay the expenses of that magazine would cut no figure, because the organization is more powerful than any of its officers.

Q. Well, if Mr. Haywood should come in conflict with the views of the organization, or with the magazine, as secretary and treasurer he would have considerable to do with stopping its publication, wouldn't he? A. No; the executive board would in all probability tell him his duties.

Q. Then when you would get to the executive board you would get back to Moyer and Haywood and Jack Simpkins and Marion Moor and those gentlemen, wouldn't you? A. Yes, they all constitute

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the executive board.

Q. There isn't very much difference of opinion between these gentlemen upon these subjects, is there? A. I don't know, for the reason I have never attended a meeting of the executive board.

Q. You have never heard of any trouble between Mr. Simpkins and Mr. Haywood in reference to the policies of the organization, have you? A. No.

Q. You have never had any information brought to you by Mr. Haywood, have you, that any of these articles were not satisfactory to him? A. Not that I know of; I don't remember.

Q. You know that he is a constant reader of the magazine?

A. I presume that he reads it.

Q. You know that, don't you? A. No, I don't know it.

Q. Have you never talked with him about the magazine? A. Oh, I have seen him reading the magazine; but that he is a constant reader of it I don't know.

Mr. Haywood, as a general proposition, is a pretty busy man attending to his own duties. He probably read it at home.

Q. One of the duties of Mr. Haywood is to know what kind of an official organ the organization would have, isn't it?

A. He is one of the members of the executive board.

Q. That would be one of his duties, to know what kind of an organ was being read in the organization, wouldn't it? A. Yes sir.

Q. That is one of his duties. Now you were editor of this magazine on January 4th, 1906? A. January 4th, 1906, yes sir.

Q. And you wrote the editorials at that time, did you? A. Yes.

Q. Did you write this editorial: "Former Governor Frank Steun-

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berg of Idaho met his death last Saturday evening at his home at Caldwell, Idaho. The press dispatches report his dissolution via the bomb route." A. Yes sir.

Q. That is your editorial, is it? A. Yes sir.

Q. It expressed your sentiments at the time? A. Yes sir, I stated a fact as it appeared in the press report.

Q. You stated it in your language? A. It is a fact, nevertheless, is it not?

Q. "By the bomb route", yes, that is a fact. Do you have the selection of the editorial matter which goes into the paper?

A. Yes sir.

Q. Solely under your supervision? A. Yes sir.

Q. Did you select and have this inserted under date of January 25, 1906: "A chap by the name of Steunenberg was blown up by a bomb at Caldwell, Idaho, on December 30th. He was governor of that state some few years since, and attained considerable of a reputation as the inventor of that revered American institution known as the 'bull pen'. The bomb had been carelessly left, presumably by some Russian revolutionist, in the gateway leading to the Steunenberg habitation. Such carelessness should be frowned down. The gate was completely wrecked."

A. Yes sir. That is a clipping, is it not?

Q. Yes, taken from the Western Clarion. A. Yes sir.

Q. You selected that and inserted it, did you? A. Yes sir.

Q. Did you write this editorial under the head of "The Death of Steunenberg" under date of January 11, 1906: "Since Ex-Governor Steunenberg of Idaho was ushered into eternity on the night of December 30th the editorial columns of the capitalistic press

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have hurled rabid denunciations against the assassin or assassins who hatched and consummated a conspiracy that closed the career of a man who showed no mercy to the men on strike, and who gloried in the destruction of organized labor.

The organs of the capitalistic class recognize in the death of Steunenberg the loss of a man who was faithful and loyal to their interests.

The history of the Idaho strike of 1899 is still fresh in the memory of the membership of organized labor throughout the country.

The brutality and barbarism that characterized the official acts of those who were clothed with power and backed by authority of law, will never be forgotten during the life of the present generation. The military stockade or bull pen, where hundreds of men were goaded and tortured to the limit of human endurance, could have no other effect than to kindle in the hearts of many a flame of hatred that would burn as long as there lived a victim that bore the scars of the conflict of the year 1899.

The mothers, wives, sisters and daughters of imprisoned miners were insulted by black libertines who wore the uniform of the soldier, and were even forced to carry pistols to protect themselves from armed brutes who were supposed to uphold the majesty of the law. Men died behind the walls of the bull pen that was reeking with filth, and in one instance, when a miner with the dew of death upon his brow begged for a minister in order that he might receive the last rites of his church he was told: 'You can make your confession in hell.'

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The infamous outrages that were perpetrated upon the miners in the military bull pen of Idaho, led to a congressional investigation, and the facts that were brought before the investigating committee were of such a horrible and shocking character that the administration at Washington suppressed the evidence that covered with infamy the 'law and order' brigands who were but the tools of corporate anarchists.

We recognize the fact that the assassination of Steunenberg is not a step forward in the march of organized labor towards the goal of economic freedom.

The man or men who may have been implicated in the removal of Steunenberg have but little grasp of the great unsolved problem which confronts every nation upon the face of the globe.

The murder of a man who may be looked upon by laboring men as a tyrant or a despot does not destroy one iota of the system that has given birth to industrial slavery.

It is safe to say that the reward of $25,000 which has been offered will convict someone of the murder of Steunenberg. This vast amount of money will command the services of men who are trained to manufacture testimony and who hesitate but little at the crime of perjury.

The suspected bomb maker who was arrested under the name of Thomas Hogan is now identified as Harry Orchard. Other suspects are in jail awaiting investigation.

Though the membership of the Western Federation of Miners have suffered at the hands of the departed Steunenberg, though many of them have borne outrages as infamous as ever blackened the history of Czar-ruled Russia, yet the sudden

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extermination of the ex-governor of Idaho will not be applauded for the simple reason that men of intelligence know that as long as capitalism and wage-slavery last, Steunenbergs will be found in every nation and community who will use the functions of government to hold the laboring people in bondage."

A. Yes sir, I wrote that article.

Q. And as such you reflected your views? A. Yes sir.

Q. And as such you reflected the views of the Western Federation of Miners? A. I think so.

Q. You feel pretty sure of that? A. Yes, I think so.

Q. This was written some eleven days after the arrest of Mr. Orchard? A. I can tell you if I see the date of the magazine. I presume it was written shortly after that, after the assassination.

Q. After the news of the assassination was published? A. Yes sir.

Q. You know Harry Orchard at the time, didn't you? A. Yes sir.

Q. You had known him how long? A. I had known him since about March, 1904.

Q. You had seen him at headquarters? A. The first time that I saw him he was at headquarters.

Q. And who was at headquarters at the time? A. That I couldn't tell you. I don't remember about who was at headquarters. As a general thing the secretary-treasurer is always present.

Q. Well, was he in company with anyone? A. I don't remember that.

Q. Did you have any conversation with him? A. With him at that time?

Q. Yes. A. None that I know of.

Q. Were you introduced to him? A. Well, I don't remember that was

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even.

Q. How did you know he was Harry Orchard? A. I didn't know that his name was Harry Orchard until probably a month or afterwards, two months afterward.

Q. And where did you learn that? A. Probably a month afterwards. Why, he had been down to Ouray and came back from Ouray.

Q. In that the time he was down there with Mr. Moyer?

A. I think so.

Q. Did you know the conditions and circumstances under which he went with Moyer? A. I did not.

Q. Hadn't learned them? A. No sir.

Q. You printed some matter in your magazine with reference to his being down there with Mr. Moyer, didn't you? A. I may have.

Q. You don't recall it? A. I don't recall it, no.

Q. Well, do you remember where and when you first met Harry Orchard to know that he was Harry Orchard or going under that name? A. It was after he returned from Ouray.

Q. At the time of the arrest of Mr. Moyer? A. Yes sir.

Q. Now where was it that you met him, Mr. O'Neill?

A. I think that he returned to headquarters. I met him at headquarters shortly after the arrest of Moyer.

Q. Do you know whether or not it was upon his immediate return that he went to headquarters that you met him? A. I can't say as to that.

Q. Did he have any arms with him when you met him? A. Not that I know of.

Q. There was nothing then to indicate that it was his immediate return? A. Well, I remember that he returned very shortly

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after the arrest, a few days.

Q. And then you met him and knew him as Harry Orchard? A. Yes sir.

Q. And did anyone introduce you? A. That I have forgotten. I heard him mentioned as Harry Orchard. That is all I know about it.

Q. Now can you give me about the date that he returned from this trip, Mr. O'Neill? A. No, I can't exactly because I wasn't paying much attention to the matter at that time.

Q. Well, reflect for a moment and see if you can tell about the time of Mr. Moyer's arrest, and then fix for the date when Orchard returned. A. I have forgotten that only that I think Mr. Moyer was arrested some time in March.

Q. 1904? A. I would have to look the matter up. Yes.

Q. Then it was about March, 1904, that you first met Harry Orchard to know him that he was Harry Orchard? A. Yes sir.

Q. Now you had met him previous to this in headquarters? And you didn't know his name? A. No, I hadn't seen him at headquarters previous to March, 1904.

Q. Had not? A. No.

Q. Had you ever seen him? A. I had never seen him before that I can remember of.

Q. Did you ever meet him again at headquarters after this time?

A. Afterwards, yes, I met him probably three or four times -- I don't know just exactly, several times.

Q. Several times at headquarters after you knew it was Harry Orchard? A. I met him probably three or four times.

Q. And did you ever meet him up there with Steve Adams?

2337 A. I don't remember ever seeing Harry Orchard and Steve Adams

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together.

Q. Did you ever see Steve Adams up there? A. Yes sir.

Q. At headquarters? A. I saw him there I believe twice.

Q. A number of times? A. Twice is all I remember.

Q. About the date of that? A. I saw him shortly I think after the deportations occurred in the Cripple Creek district and I saw him again -- well, it must have been saved or eight months afterwards when I saw Steve Adams again. I don't remember seeing him more than twice.

Q. Was he going under the name of Steve Adams by that time?

A. Well, I didn't even know his name. I understood he was a member of the Federation and a deported man. There were so many men deported that I didn't make any effort in trying to find out their names.

Q. But you do remember Adams from among the many? A. I remember Adams, and remember that he was known by the name of Adams. I never knew him by any other name.

Q. Did you know Mrs. Adams? A. I saw her.

Q. Did you ever see her at headquarters? A. I saw her at headquarters I think twice, as near as I can remember.

Q. Do you remember about the time that Mr. Adams left Colorado and went to Utah? A. No sir.

Q. Do you remember Mr. Orchard bringing an order to you from Max Malkin for the transportation of Mrs. Adams? A. No.

MR. MAHON: I object.

MR. BORAH: Why?

MR. MAHON: He has answered it and said no, so I withdrew my objection.

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MR. DARROW: I am trying to show it was at the time that Mr. Orchard was at the headquarters.

MR. DARROW: Are you sure that is what you are trying to do?

MR. DARROW: Yes, that is what I am trying to do.

Q. You remember that Mr. Haywood was away at Salt Lake?

A. Yes sir.

Q. In the summer of 1905? A. Yes sir.

Q. You were acting there really in charge of matters while Haywood was away, were you not? A. Well, no, not particularly, only I had the general charge of matters at headquarters.

Q. You were about the only representative of the organization whom a man could find at headquarters at that time? A. Yes.

Q. And whatever there was to be done you had to do it?

A. Well, I haven't a great deal of authority to do anything financially. I wasn't under any bond; Mr. Haywood was.

Q. Do you remember of Harry Orchard bringing an order to you from Moe Kaiser for the price of a ticket for Mrs. Adams to Utah?

A. No sir.

Q. And you saying to him that you will have to wait until Haywood comes back, that I can't take care of the money end of it?

A. Mr. Orchard didn't call at headquarters to see me at all.

Q. You didn't see him? A. No sir.

Q. You are sure of that, are you? A. Yes sir.

Q. Did you know of Mrs. Adams leaving Salt Lake at that time?

A. Leaving where?

Q. Colorado. A. Yes sir.

Q. You know she left? A. Yes sir, I presume that she left. She

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came to me to ask for a ticket.

Q. Did you get it for her? A. No sir.

Q. Did Stere come to you when he left? A. No sir.

Q. You have written a good many articles in the Miners' Magazine in reference to Governor Steunenberg at one time and another?

A. Not until after the assassination.

Q. The signed articles I presume in this magazine by Mr. Haywood were actually his own contributions? A. Whatever articles he signed were his contributions — well, a few times I have helped out the executive board and Mr. Haywood in writing documents.

Q. About what time was it that Orchard came and asked you if you knew where Carmen Bell and Peabody lived? A. It was during the time of the Adams and Peabody contest. I don't know just exactly the time specifically.

Q. You have of course written a good many articles about Peabody in the magazine? A. Yes sir.

Q. And a good many about Bell? A. Yes sir.

Q. And in writing those articles about Peabody and Bell and all of these people you were simply reflecting the views and feelings of the organization? A. Well, I was reflecting what I considered would be the views of the membership of the organization.

Q. And they never made any objection to it, did they?

A. I haven't heard anybody make any objection.

Q. You didn't get any too fierce for anyone that you know of?

A. I haven't heard any criticism from anybody that I know of among the membership.

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MR. DORAN: I think that is all, Mr. Darrow.

RE-DIRECT EXAMINATION

BY MR. DARROW:

Q. I suppose Mr. Bell and Governor Peabody and the rest were also giving their opinion of you and the miners? A. What is that?

Q. Governor Peabody and Mr. Bell and the rest of them were also giving their opinion at the same time about you and the miners and the magazine, and the Denver Republican was giving its views too? A. Oh, yes, they frequently expressed their opinion, that is the Denver Republican frequently expressed their opinion in regard to me.

Q. And the organization and the magazine too, didn't they?

A. Yes sir.

Q. Quite as vigorously as you could do? A. Well, I think so.

Q. Now while you were running this magazine and in a general way running it along the lines of the executive board and the organization, do you know whether everything that you had said or believed or wrote met the views of all the members of this organization? A. Oh, no; I have had members write in articles which I published in the Miners' Magazine disagreeing with me.

Q. Well, how about your directions, were they general or were they specific? A. In what way? Q.

Q. As to running the magazine, as to how it should be run?

A. Why, they were general.

Q. Under these general instructions I suppose you wrote your articles? A. Yes sir.

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Q. Like any other editor, when you were speaking the people were talking, weren't they? A. What is that?

Q. I say like every other newspaper man when you were speaking the whole world was talking? A. I don't know whether all the world was talking or not, a few people were talking.

Q. You were writing your own views at the time, were you not?

A. I was.

MR. DARROW: That is all.

MR. DARROW: Your Honor, it is nearly twelve o'clock, and the next witness will be quite lengthy.

THE COURT: You had better call your witness and have him sworn.

MR. DARROW: We will call Mr. Davis.

Thereupon W. F. Davis, a witness on behalf of the defendant, was duly sworn.

Thereupon the court gave to the jury the statutory admonition, the bailiffs were sworn, the jury retired in the custody of the bailiffs, the defendant was remanded, and a recess was taken until 1:30 P. M.

R E C E S S.

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Boise, Idaho, Wednesday, June 26, 1907.

1:30 o'clock P.M.

Parties met pursuant to adjournment.

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

THE COURT: The witness will take the stand.

W. F. DAVIS, a witness on behalf of the defendant, having been heretofore duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. Will you please us give us your name in full? A. — W. F. Davis

Q. Where do you live, Mr. Davis? A. Goldfield, Nevada.

Q. How long have you lived there? A. Two years and a half.

Q. What is your business? A. Miner, prospector.

Q. Prospecting down in Goldfield? A. Part of the time, a part of the time working.

Q. Where were you born? A. Born in Missouri.

Q. How old are you? A. Thirty-seven years old.

Q. When did you begin mining? A. Seventeen years ago.

Q. And where? A. Coeur d'Alenes.

Q. When did you move to the Coeur d'Alenes? A. Well, I was first in there in '88 and then I went back in '90.

Q. When did you become a member of the miners' union? A. I believe it was in 1899 in September.

2383 Q. What union was that? A. Burke Miners' Union.

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Q. A part of the Western Federation of Miners? A. Yes sir.

Q. Did you hold any office in it? A. No sir.

Q. Did you hold any office in the Miners' Union while you were inthe Coeur d'Alenes? A. No sir.

Q. Where did you work in the Coeur d'Alenes? A. I followed mill work the most of the time. I worked principally in all of the mills in the Coeur d'Alenes both as a laborer and as a foreman.

Q. You worked at Wardner ever? A. Yes sir, I worked for the Bunker Hill & Sullivan.

Q. How long did you work at the Bunker Hill & Sullivan? A. I went to work in January, 1891, on the construction of the mill.

Q. How long did you work there? A. I worked thereuntil they shut down on the 16th of January, 1892.

Q. And did you work there again? A. Yes sir.

Q. When? A. 1894.

Q. About when? A. 1894.

Q. Do you know about how long you worked there? A. Yes sir, I think it was from February until July.

Q. And where did you work after that? A. I went to Silver City, Idaho, and Delamar, both places. I was there about a year.

Q. Then did you go back to the Coeur d'Alenes? A. Yes sir.

Q. Where did you work in Silver City? A. Well, I didn't work in the mines in Silver City. I couldn't get a job in the mines.

Q. Why not? A. An over production of men, or there wasn't mines enough for the men at that time, and I worked for a fellow running a steam saw from this city, by the name of Miller, sawing wood.

2334 Q. How long did you work at that? A. About two months, something

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like that.

Q. When did you go back to the Coeur d'Alenes? A. I went back in August, 1895.

Q. And how long did you stay at that time? A. I stayed there until the 12th day of February, 1896.

Q. Where did you go then? A. I went to Alaska.

Q. And how long were you there? A. I was gone away from there, from the Coeur d'Alenes, about thirteen months on the round up there and the back and the time I put in up there.

Q. Mining up there? A. Yes sir, prospecting.

Q. And you got back to the Coeur d'Alenes in '98, about that?

A. Yes sir, it was in March, I think about the middle of March, 1898.

Q. Where did you go? A. I went to Gem, Idaho.

Q. You had been a member of the organization during all this time, had you? A. No sir, I had not. I was enrolled as a member, I was a member of the organization, but at that time the Western Federation of Miners didn't take in outside men. I followed mill work since I quit in the mine, the following months that I worked in the fall of '95, why, I dropped my dues, quit paying into the organization and joined the Western Labor Union or the Knights of Labor, I forget which -- the Western Labor Union I believe at that time.

Q. They afterwards became merged in the Knights of Labor, or didn't they -- I guess they didn't? A. No.

Q. Well, then, you went back into the Western Federation of

2345 Miners, did you, after that? A. No sir, I didn't join the Western Federation of Miners until I think it was, September,

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1899, that is, that I reinstated. In fact, I joined over in California.

Q. September, 1899? A. Yes sir, in California.

Q. What was the dates' the Bunker Hill & Sullivan mill explosion?

A. The 29th of April, '99.

Q. At that time were you a member of the Western Federation?

A. No sir, I was not, nothing more than what I tell you, I had been a member at one time, four years before that time.

Q. Where were you working at that time? A. I was working in the Gem mine, otherwise the Milwaukee company, at Gem, owned by Finch and Campbell.

Q. How far was that from Wardner? A. I think it was about fifteen miles from Wardner, sixteen miles.

Q. How long before that had it been since you were at work in the Bunker Hill & Sullivan? A. Well, I think it was in July, 1894, that I quit and went away and went down here to Delamar.

Q. Been five years or more? A. Since I had worked in the Bunker Hill & Sullivan?

Q. Yes sir. A. Since 1894.

Q. Did you know any of the officers personally? A. Or what?

Q. Of the Bunker Hill & Sullivan? A. Why, I did at that time.

Q. Mr. Bradley? A. Well, yes, I knew Mr. Bradley.

Q. Ever have any difficulty with him? A. I never did, no sir. Of course he hadn't much to do with the works while I was there, most of the time I worked there, nothing more than he was I believe, their general surveyor. V. M. Clement was the manager.

Q. Who? A. -- V. M. Clement.

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Q. Did you have any trouble with him? A. No sir.

Q. Did you have anything to do with the blowing up of the Bunker Hill & Sullivan mill? A. No sir, nothing to do with it, sir.

Q. Did you ever lead a body of a thousand men or more to go down and accomplish that work? A. No sir, I did not.

Q. And you were not a member of the organization at that time?

A. No sir, I was not a member of the organization.

Q. Did you know Harry Orchard at that time? A. No sir, I did not.

Q. Now after the blowing up of the Bunker Hill & Sullivan mill what happened so far as large numbers of miners were concerned?

A. Well, most of them that was there at that time was either thrown in the military prison or run out of the country.

Q. Did you know Jack Simpkins? A. No sir, not in the Coeur d' Alenes I didn't.

Q. How soon after the explosion were they thrown in the bull pen or run out of the country? A. Well, I think it happened immediately -- a day or two days, something like that.

Q. Which of those things happened to you, Mr. Davis?

A. Well, I wasn't thrown in the military bull pen. I left the country about August 9th, 1899.

Q. Where did you stay during the time from April until August?

A. I was working for a portion of that time for some fellows by the name of Burke and Connely on some claims about five miles from Mullan a part of that time.

Q. Any big mines around there, was there? A. No; there was copper properties. That is, I believe they got to be good properties since, but not at that time they weren't.

2237 Q. Did you stay at the claim all the while or did you go to town?

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A. No, I didn't go to town, no sir.

Q. Were you working under cover? A. Yes sir.

Q. Was your name Davis during that time? A. Yes sir.

Q. Well, while you stayed there you worked in this claim, did you, while you stayed in the Coeur d'Alenes and under cover?

A. Yes sir, a part of the time, and I was at the Hercules mine for about twenty days.

Q. Did you know the people connected with the Hercules? A. I did, yes, well acquainted with some of them.

Q. You did at that time? A. Yes sir, well acquainted with them.

Q. Who did you know them? A. I knew the Day brothers and the sister; at the present time she is Mr. Boyce's wife.

Q. You had known Mr. Boyce for some time, had you not?

A. I had known him, yes sir, since 1892.

Q. And you had known his connection with the labor organizations and with the Western Federation of Miners? A. Yes sir.

Q. The Hercules was then a prospect, was it not? A. It was.

Q. They had not yet struck a mine? A. No.

Q. And you went over there and worked a while, did you? A. I did.

Q. Do you know whether any of the present owners were working with you there? A. Why, yes, I knew one of them; I wasn't so well acquainted with him.

Q. Who was that? A. His name was Paulson.

Q. He was then a poor man too? A. Yes sir, a poor man.

Q. And worked on that prospect? A. Yes sir, he put up his portion of it or part of it and got wages in part.

Q. Do you remember who employed you to work there? A. Well, he did, Paulson.

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Q. How long did you work there? A. I was there about fifteen days, I should judge, something like that.

Q. How many men were working there? A. There was me, I forget the other fellow's name that was working there, and himself.

Q. The three of you? A. Yes sir, just driving a crosscut.

Q. Do you remember whether you saw Harry Orchard while you were working there? A. No sir, I don't know that I did, although he spoke of one time, in Colorado, of seeing me at the Hercules mine and related the incident, Q. At what time? A. It was probably two or three days after the explosion of the Bunker Hill & Sullivan.

Q. When he was leaving the country? A. Yes, he was leaving the country, so he said.

Q. Do you remember the incident? A. I only remember the incident that I know that I was there and I know that two men came along, but I didn't remember who they were, only he mentioned it and I supposed naturally when he mentioned it that it was him.

Q. So far as your independent memory goes you don't know one way or the other? A. No, I don't.

Q. When you left the Coeur d'Alenes where did you go to?

A. I went to California.

Q. And whereabouts? A. About one hundred and sixty miles east of San Francisco up in what is called the Mother Lode district.

Q. Went to work there? A. Yes sir, I went to work there.

Q. How long did you work there? A. That was in August; I worked there until the last day of December, or 32nd, or something like that, it was a day or two of that.

2389 Q. Then did you quit work? A. Yes sir, I quit work along with

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half a dozen others.

Q. Were you discharged? A. No sir.

Q. Quit? A. Yes sir.

Q. Then where did you go? A. I went down to Randburg, California, down on the desert.

Q. Did you still keep the name of Davis? A. No sir.

Q. Got a new name going, did you? A. Yes sir.

Q. For what purpose? A. Well, so that I could hold a job. The men were blacklisted all over the country, the reason that I changed my name.

Q. Did you get any work under the name of Davis? A. No sir, not down in that country I didn't.

Q. What name did you take down there? A. I took the name of Jones, W. B.

Q. So you worked under the name of Jones? A. Yes sir.

Q. And where did you work then? A. I worked -- under that name do you mean?

Q. Yes. A. I worked at, they call it the Confidence mine, in California, Tuolumne county, and in Randburg, California, and Bisbe, Arizona.

Q. Did you keep up your membership in the organization down there?

A. Kept I did after I joined in California, yes sir.

Q. They took you all right under the name of Jones, did they?

A. Yes sir, they did.

Q. And how long did you stay in California? A. I believe I left there in May, I left there about the first of May, 1920.

Q. Where did you go then? A. To Bisbe, Arizona.

Q. How long did you stay there? A. I stayed there about eight

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months I think, up until January.

Q. What happened to you there? A. I got fired.

Q. Why? A. Because I was on a blacklist along with about fifty others.

Q. They found out your name wasn't Jones? A. Yes, and the foreman that fired me told me it wasn't on account of my work, it was on account of there was a black list against me on account of being a member of the organization.

Q. That was away down in Globe? A. Yes sir.

Q. Then where did you go? A. I went to Prescott, Arizona.

Q. Were you a married man during this time? A. No sir, I was not.

Q. How long did you stay in Prescott, or about -- I don't care exactly? A. Let's see -- I left Globe in January, I left there I think along the latter part of June, probably the 25th or something along there of June.

Q. And you stayed in Prescott about how long? A. Well, you see that would be about six months I guess.

Q. Fired again, or was it at Prescott where you got fired?

A. No, at Prescott I quit.

Q. Then where did you go? A. I went to Cripple Creek.

Q. What time did you reach Cripple Creek? A. On the 3rd of July-- the second of July I believe it was.

Q. Of what year? A. 1901.

Q. Were you acquainted in Cripple Creek when you got there?

A. Yes; I know somebody in most every mining camp I go into, I know lots of them.

Q. Did you meet any of the old Coeur d'Alenes there? A. Yes, I met some of them there and from all over the country.

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Q. There are some of them down at Goldfield, aren't there?

A. Yes, there are a few.

Q. Well, where did you go to work in Cripple Creek?

A. I went to work in the Shurtleff mine on Bull Hill, Altman.

Q. Bull Hill, Altman? A. Yes sir.

Q. Did Parker live up there? A. I don't believe that he was there at that time.

Q. Came later? A. I think he was in Leadville at that time, yes sir.

Q. Kennison came there or was there? A. I never knew Kennison until some time after that.

Q. Before I take a chance at forgetting it — where is Parker now?

A. He is dead.

Q. Where is Kennison? A. He is dead.

Q. You was a member of the union in Cripple Creek, were you, when you went there? A. Yes sir.

Q. Did you join at once or did you take your card? A. Oh, I took a transfer. You can get a transfer from one union to another.

Q. So you took along your transfer to Cripple Creek? A. I sent for it. I didn't take it along. I had my card and sent for the transfer.

Q. You became a member of the famous union at Altman, No. 19, did you? A. Yes sir.

Q. Did you afterwards become president of it? A. Yes sir.

Q. When did you become president of it? A. In March, 1902.

Q. How many members did they have when it was in its glory?

A. Well, the union was decreasing at the time that I was there on account of the street car lines that had made accommodations

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and better places to live in Victor and Cripple Creek and there wasn't so many that lived on the hill, so they naturally took their membership in those other places; something like 500 members.

Q. How long were you president? A. A little over two years.

Q. Who were the other officers? A. I don't know. It takes about a dozen different officers, and I can't remember all of them now.

Q. Was Parker at one time an officer? A. Yes sir.

Q. Secretary, financial secretary? A. Yes sir, financial ~~secretary~~ secretary.

Q. Was Kennison at one time an officer? A. No sir; Kennison was not a member of that union.

Q. Easterly, was he ever one? A. Yes sir, he was financial secretary of it when I was elected president.

Q. Did Steve Adams ever belong to the union, or don't you know?

A. Yes. Yes, he belonged to the organization.

Q. Did you meet him there? A. Yes sir.

Q. You say you were president until that day, about what date?

A. Well, I was president as long as the union was in existence.

Q. The union went out of business? A. It went out of business when we all left the state, compelled to leave it.

Q. Do you remember when it went out of business? A. Why, I wasn't there at the time. By all reports I guess it went out of business about the 6th or 7th of June.

Q. You haven't attended any meetings of the union since, not down there? A. Not down there, no sir. I haven't been there since.

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Q. What is this? A. I haven't been in the district since.

Q. You haven't been to Altman since that date? A. No sir, before that day, I wasn't there that day.

Q. You wasn't there then? A. No.

Q. Well, we will get to that after awhile. Did you ever know Harry Orchard down in Cripple Creek? A. Yes sir.

Q. When did you first get acquainted with him? A. I first got acquainted with him I think it was about May, 1903.

Q. Where-about? A. In Altman.

Q. Do you know where-about in Altman? A. In the Miners' union office -- hall.

Q. You were president at that time? A. Yes sir.

Q. And who was secretary? A. Billy Easterly.

Q. Did he come there to see you on business connected with the organization? A. He came there to straighten up with the organization; that is, he claimed that he had belonged in Burke but hadn't been in a union camp since leaving there and he asked to have the transfer sent for. The secretary attends to all that business. He sent for the transfer, but never got it, never got any reply from it; and probably three or four weeks after that or some time, I don't know the exact time, but some time after that I was in there when he came in again and he asked about it, and the secretary says "You know Frank Shannon," who was president then of the Burke Miners' Union at that time, he says "You know Frank, you better write a letter to him," he says, "you might get a record of it," and I wrote to Frank and I never got any reply to it. So we took him in like we would any other member because we didn't know that

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he did belong, all we had was his word, and of course as long as we have no record we don't take their word for it.

Q. You didn't remember him? A. No sir, only he recalled the circumstance, he said he remembered me.

Q. But as a matter of fact you could not recall him? A. No, I couldn't recall him. I recalled the incident of the men being there -- he recalled it to me and I remembered the two men passing along.

Q. Those two men said they were going to get out of the district, did they? A. Yes sir, leaving the trouble.

Q. On account of the trouble? A. The trouble, yes sir.

Q. Did he have any withdrawal card with him when he came there? A. No sir, he had nothing.

Q. You took him in at that time? A. Yes sir, he was taken into the union at that time.

Q. Or later. Did he used to attend the meetings? A. Yes sir, he attended the meetings sometimes.

Q. Never became an officer? A. I don't think so. I don't think he was ever an officer.

Q. Did you see him often there? A. Well, no -- I have seen him frequently, I didn't see him exactly often -- probably like any other member that was working down there in the camp:

Q. When did the strike come on there at Cripple Creek?

A. The 10th day of August, 1903. In fact, there was a strike on in the winter but it only lasted a short time, an armistice was declared, it lasted for six or eight weeks; but at that time I had nothing to do with handling the situation, not until later.

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Q. That strike was settled up? A. The 19th of August was when the real strike took place.

Q. And that strike was a strike in sympathy with the smelter men at Colorado City? A. Yes sir.

Q. All of you members of the same Federation? A. Yes sir, all members of the organization.

Q. Was the strike universal over the district? A. Yes sir, practically; it was called on all places.

Q. There was one place, however, where there was no strike, wasn't there, at least? A. There was a strike on it for about ten days.

Q. At the Portland mine? A. At the Portland mine, yes sir.

Q. And you settled with them? A. Yes sir, agreeably.

Q. And they went on, recognizing the union? A. Yes sir.

Q. So that was fixed up? A. Yes sir.

Q. And practically the rest of the mines were shut down, for a while at least, were they? A. Yes sir, they were shut down for a while.

Q. How long was it before the soldiers were ordered to the district, about how long? A. Two or three weeks I guess. I think it was the fore part of September some time.

Q. Did you have a committee to manage the strike? A. Yes sir, there was a committee.

Q. Who was on the committee? A. Sherman Parker and A. C. Kennison and myself.

Q. Did the committee change any during the strike at any time? A. Yes sir, it changed about the next following March.

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Q. Do you know who was on the committee then? A. Fellow by the

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name of E. L. Whitney took Kennion's place on the committee.

Q. The Easterly on the committee? A. No sir; I believe maybe he was put on once temporarily, I believe that he was. I couldn't be certain of that either. I believe he was, though.

Q. Now the soldiers were called in there along in September I believe you said? A. Yes, the fore part of September.

Q. Where were you at that time? A. I was in the Ox district -- Altman, my home.

Q. No disorder there then? A. No sir, quiet as it is in this city today.

THE COURT: You will have to speak louder.

A. I said it was quiet, no trouble at all.

Q. You said it was as quiet as it is here today? A. Yes sir.

Q. Was there any protest made by the miners or others against calling the troops? A. I believe there was after they was ordered. They were brought in in such a hurry that there was nobody given any time to protest so far as I know.

Q. When were the mines or any part of them opened up with non-union labor, if you know? A. Well, I guess that would be probably in September, I don't know -- it might be the last of August, that is one of them; now I wouldn't be certain in regard to the date. I know the first mines that started to open up but I don't remember the date.

Q. Do you know whether that was before or after the troops got there? A. I think it was about the time.

Q. About the same time? A. Pretty near, I think so.

Q. Where did the men come from, the non-union men? A. They were already in that district at that time when they started, so

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far as I know. Some of them were any how. I don't know whether they all were or not.

Q. Do you remember the time that it was reported that there was an attempt to wreck a train on the Florence & Cripple Creek railroad? A. Yes sir.

Q. That was in November or December, was it not? A. In November.

Q. Where were you at that time? A. I was in Altman in the Cripple Creek district.

Q. Had there been any disturbance? A. No sir, there had not been.

Q. Did you know or hear of anything in reference to wrecking the Florence & Cripple Creek train? A. Yes sir.

Q. When did you first know or hear of it? A. Well, I think I saw it in the morning paper, the morning following the attempt.

Q. How is that, Mr. Davis? A. I think I saw it in the morning paper, and then I heard it talked of during the day.

Q. Did you ever have anything to do with it or know anything about it until after it occurred? A. No sir, I had nothing to do with it whatever.

Q. Do you remember seeing Harry Orchard especially during this time? A. No sir, I can't say that I did. I don't recall it.

Q. Did you ever tell him that you would give him $300 or any other sum of money to touch off a carload of powder in the Vindicator mine? A. No sir, I did not.

Q. Any powder which he said he had discovered down in the Vindicator mine? A. No sir.

Q. Did you ever hear anything about any such matter as he testified here? A. I saw something of it in the newspapers in Goldfield, Nevada.

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Q. That is the first you knew of it? A. Yes sir.

Q. Well, after it was claimed that somebody had tried to wreck the Florence and Cripple Creek train what happened to you?

A. I was thrown in the military prison.

Q. There at Alton? A. Yes sir, at Independence.

Q. When you refer to seeing this matter in the Goldfield paper you mean after Harry Orchard testified here? A. Yes sir, after he testified here.

Q. Then you sent us word? A. That (indicating) is the telegram when I saw that there I sent you that telegram.

Q. That you would come here and testify? A. Yes sir.

Q. You were thrown into the military prison? A. Yes sir.

Q. How many others in reference to that matter? A. Billy Easterly was in there, Sherman Parker, and Kennison, and I don't know how many men -- a fellow by the name of Fleming, and Nelson -- I can't remember all of them. I guess there was about fifteen.

Q. Do you know whether Steve Adams was put in there? A. He wasn't put in the military prison, no. I believe he was put in the county jail.

Q. And he was charged with the Vindicator matter, wasn't he?

A. Yes sir.

Q. How long were you kept there in the military prison at that time? A. I think this was on the 31st or 32nd day of November, and I think it was either the 2nd or 3rd day of December that we were supposed to go into court on a writ, and in place of that there were complaints against us and we were thrown into the county jail and guarded by the military as well as the

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county officials.

Q. That is, you applied to the court for a writ of habeas corpus?

A. Yes sir.

Q. Which was issued? A. Yes sir.

Q. And then the military refused to give you up? A. Yes sir.

Q. And where were you taken then? A. Taken to the county jail in Cripple Creek.

Q. That is, they refused to give you up on the order of the court?

A. Yes sir.

Q. And how long were you taken to the county jail and kept there by the soldiers? A. Well, the soldiers -- of course, they had county officials there but the soldiers were conspicuous around there at all times both night and day; while the county officials really had it in charge, so to speak, but they were really under the orders or threats rather of the military so the county officials told us prisoners.

Q. How long did you stay there at that place? A. I stayed there until I think -- I might be mistaken a day or so, but I think it was on the night of the 6th day of February about twelve o'clock we were released on bond.

Q. Now what was the date you were arrested? A. What?

Q. What is the date you were thrown in there? A. In the county jail?

Q. No, by the military? A. By the military was the 31st or 32nd day of November.

Q. Of November? A. Yes sir.

Q. And you stayed until the 6th day of February? A. Yes sir.

2221 Q. Was Bond fixed for you then? A. Yes sir, I got bond.

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Q. How big a bond? A. Well, they changed it so many times it is hard for me to tell. I believe it was $30,000.

Q. Change it bigger or smaller when they changed it?

A. I think the other judge that came to sit on it that he made his rule of court that the bond was out of proportion, or something like that; that the charges were false. He said they might be innocent or they might be guilty, but he says, the charges are as false as hell.

MR. HANLY: We object to that and ask that it be stricken out as not responsive and immaterial.

THE COURT: It may be stricken out.

Q. The bond was changed, however? A. Yes sir.

Q. You finally got a bond, did you? A. Yes sir.

Q. Was that on the 9th day of February that you got a bond?

A. On the 4th day of February.

Q. And then you were out until the trial, were you? A. Yes sir.

Q. Were you placed on trial? A. Yes sir, I was.

Q. Were you discharged by the judge or the jury? A. I was discharged by the judge after the evidence in the case was all in.

Q. He ordered your release? A. He did.

Q. Nowyou are referring to the rail pulling case? A. This train wrecking.

Q. And the others were discharged by the jury, were they not?

A. Yes sir, on the first ballot.

Q. Then were you arrested again, were you arrested on the Vinita-tor charge? A. Yes sir, I had all of these charges at once against me, the whole bunch of them, all of them at once.

Q. They put you on jail on both charges at once, did they?

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A. Well, there was more than two, I think there were four.

Q. What else? A. Well, I believethat was all.

Q. So you were there on all of these charges? A. Yes sir.

Q. You were released then along the first days of May? A. What?

Q. You were released the first days of February? A. About that.

MR. HAWLEY: We object to that as leading.

Q. When were you released by the jury -- by the court?

A. I don't know the exact date. I think it was about eighteen days afterwards, I think, the trial -- or some time something like eighteen days.

Q. Was Mr. Moyer down there during the trial? A. Yes sir.

Q. Did you see Orchard around there during the trial?

A. I don't remember him any more than he might have been there and he might not. I don't remember.

Q. Did you ever say anything to Harry Orchard in reference to employing or hiring him to wreck the Florence & Cripple Creek or in reference to your having employed anybody else to do it?

A. No sir.

Q. Or did you employ anybody else or have anything to do with it in any way? A. No sir, I did not.

Q. Were meetings held during the strike by the working men?

A. They were held pretty regularly, yes. I don't know but there were somefew meetings omitted, that is on the threats of the officers if they held the meetings they would break them up.

Q. Mr. Davis, after this story about the attempt to wreck the Florence and Cripple Creek train something did happen in the Vindicator mine, did there not? A. Yes sir.

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Q. And Beck and McCormick were killed? A. Yes sir.

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Q. Did you know them? A. No sir, I did not; I believe I did know Mr. McCormick, that is, I believe I had seen him. I wouldn't say that I did know him. I believe I met him once.

Q. You never had any difficulty with either of them? A. No sir.

Q. Did you ever offer Harry Orchard or promise Harry Orchard $500 for fixing a bomb in the Vindicator mine or doing any other work there? A. No sir, I did not.

Q. Or any other sum of money? A. No sir; no sir, I did not.

Q. Or any other person? A. No sir.

Q. Did you ever have anything to do with it in any way or know anything about it? A. No sir, I never had.

Q. What did you do there in the district toward keeping peace and order among the men? A. I always advocated peaceful measures at all times.

Q. At public meetings, or private, or everywhere? A. At our meetings, yes sir, and publicly too.

Q. Was there any open disturbance up to the time of the blowing up of the Independence depot that you know of? A. No sir, there was none that I know of.

Q. Did any of your people ever resist arrest in any way?

A. No sir, I don't think they ever did. There might have been some things happened, possibly, after I was in jail, after that time, that I didn't know anything about. We wasn't allowed papers or communications.

Q. You are speaking of the time you were not in jail? A. Yes sir.

Q. When you got out what did you do? A. I went on the committee that I had been acting on before going in.

Q. Continued conducting and looking after the strike, did you?

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A. Yes sir.

Q. How long did you follow that up? A. Until I think it was about the -- probably the 20th or 22nd of May, something like that.

Q. Do you know when the Portland mine was shut down?

A. What do you mean? In regard to the strike on the Portland mine?

Q. I mean in regard to the soldiers shutting it down.

A. No sir, I wasn't there at that time.

Q. You were not there at that time? A. No sir, I don't know the conditions of that at all.

Q. What was done, if anything toward preventing you and other members of the Federation from getting work there? A. Why, they wouldn't give us work, that is except under conditions.

Q. What conditions? A. Unless we renounced ourselves from the organization.

Q. Renounced the organization? A. Yes sir, that is what they wanted us to do.

Q. And do what, take a -- A. Take a card of the MineOwners' Association.

Q. Could anybody get work in that district at that time and after without that? A. Well, all I know is what I read in regard to that and heard people say. I wasn't there.

Q. Were notices posted up? A. Yes sir, that they wouldn't hire anyone that was a member of the organization, and it was generally understood.

Q. And were there publications in the newspapers, notices?

A. Yes sir.

Q. How you stayed around there how long after you got out of jail?

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A. I stayed there until I went down to the convention of the organization in Denver in May.

Q. Do you remember where that was or when that was?

A. It was some time the 23rd or 24th day of May that the convention convened.

MR. BORAH: What year?

Q. Did you go there to Denver at any time before the convention?

MR. BORAH: Mr. Darrow, what year do you refer to?

MR. DARROW: This is all 1904 now.

THE WITNESS: 1904.

MR. BORAH: I supposed so, but I wanted to be sure.

Q. Did you go to Denver any time before that? A. Yes, I was down to Denver several times during the strike there. I can't recall any dates.

Q. What do you say about the date you went to the convention?

A. It was along somewheres about the 20th or 22nd of May, I think.

Q. Before I get there — did you know who Slim Campbell was?

A. I knew Slim Campbell, yes sir.

Q. Did you ever ask Harry Orchard if he would go with Slim Campbell and set off powder while the shift was at work in the Vindicator mine? A. No sir, I did not.

Q. Or did you ever say anything to him — A. No sir.

Q. — about it? A. No sir.

Q. Or did you ever tell him in reference to any money you had promised him? A. No sir, I did not.

Q. Did you tell him you had to go to Denver to get it?

A. No sir, I did not.

2355 Q. Did you ever say anything to him about any money that was to

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be used for blowing up a smelter down at Colorado City?

A. No sir, I did not.

Q. Now you went to Denver along in May to attend the convention?

A. Yes sir.

Q. Who went with you? A. Well, I don't remember how we all went down. There was probably twenty-five men went from the district, different delegates from the different local unions.

Q. What was the state of the strike there when you went away?

A. It looked fairly good for our side of the controversy.

Q. You expected it to be settled before long, did you?

A. I did. I thought they would be compelled to do so.

Q. What was the Portland mine doing? A. The Portland mine was working about six or seven hundred men.

Q. That was one of the largest mines there? A. It was the largest mine, worked more men than any other mine in the district.

Q. Employing about how many men? A. I believe they claimed eight hundred men with the mill. Of course the mill was in Colorado City, the mill and the mine about eight hundred men.

Q. You had stores in the district, did you, the organization?

A. Yes sir.

Q. How many stores? A. We had four at this time.

Q. Where were they? A. We had one in Goldfield, one in Victor, one in Anaconda and one in Cripple Creek.

Q. How large were those stores? A. They were general stores, handled the necessities of life, food and clothing and anything like that the members would use.

Q. Run by the organization, were they? A. Yes sir.

Q. You had halls and reading rooms? A. Yes sir, had halls and

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libraries.

Q. You had libraries in everyone of these halls, did you?

A. Of course none of them might have been small, some of them there the membership was small they didn't have large ones. Yes, I believe they had them in all of them.

Q. Louder. A. I believe they had libraries in all of the halls.

Q. And you had your lodge meetings in your general hall? A. Yes.

Q. And were those owned by the Western Federation? A. Yes sir.

Q. Now that was the condition of things when you went down to Denver? A. Yes sir.

Q. You say Parker went and Knudsen? A. Yes sir.

Q. Did anybody else go that had been taking part in it? Do you know whether Bill Easterly went? A. I don't remember whether-- no, Billy Easterly didn't go. No, he wasn't a delegate.

Q. Did you see Orchard down at the convention? A. I believe that I did, yes. I believe that he was at the convention for a few days.

Q. Did you have any discussion with him there with reference to any deeds of violence or crimes? A. No sir, I did not.

Q. Or did you ever have at any time or place? A. No sir, never.

Q. Was Orchard an intimate acquaintance of yours in anyway?

A. No sir, he isn't.

Q. Or was he an important or a noticeable man in the union?

A. No sir, no more than any other member of the organization.

Q. Did you go back to the Cripple Creek district after you went went down there to attend the convention at Denver? A. No sir; no, I never went back.

Q. What was done in the way of helping along the settlement while

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you were in Denver? A. It was discussed in the convention.

Q. Was any committee appointed? A. There was a committee, yes.

Q. What was that called? A. They suggested there would be a committee of the whole convention go up there, and they didn't think they could spare the time and so we members that had been handling the situation there insisted on a committee going up and investigating for themselves and let them report to the convention as to whether we had given the true state of affairs or not.

Q. What was this committee called? A. Well, I guess you might call it --

Q. Well, if you remember. As if you don't, let it go.

A. I don't remember exactly what they called it.

Q. Do you know who was on that committee? A. Yes sir, I did at that time but I don't know whether I can recall their names now or not, all of them.

Q. McGillis was one, was he not? A. Yes sir, and there was a man from Dillon, Wyoming; I forget his name too.

Q. McGillis and a man from Dillon, you know were on that?

A. Yes sir.

Q. Do you know when they went down there? A. It was along some time the fore part of June, now I don't remember.

Q. Do you know whether they made any report back as to the prospect of settlement? A. I believe they reported. I forget -- I believe the report was satisfactory or something to that effect.

Q. As to whether there would probably be a settlement? A. Yes sir, they couldn't see but what we had handled the strike to

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the best of our ability and they thought it was as good as could be done.

Q. What about the prospect of settlement? A. Well, they thought it looked pretty fair, that all we needed to do was to hold out.

Q. Now, where were you at the time of the explosion at the depot—before I ask you that question here is one that I might not have made clear: The Portland men were union miners?

A. Yes sir.

Q. The Portland was running with union miners? A. Yes sir, union men strictly.

Q. And that was all satisfactory to you? A. It was, yes sir.

Q. Now where were you at the time of the explosion at the depot?

A. I was in Denver.

Q. How did you first hear of this? A. I think I saw it in the morning paper.

Q. Had you ever known or heard of any plan or design to put any powder under that depot? A. No sir, I never did.

Q. Or commit any violence in connection with it? A. No sir.

Q. That caused a great deal of excitement and tumult even in Denver, did it not? A. Yes sir.

Q. And you heard and read, I suppose, about the riot the day following? A. I did, yes sir.

Q. And the deportations following it? A. Yes sir.

Q. Did some of these men that you knew were Cripple Creek men come to Denver? A. Yes sir.

Q. And did you see them in Denver? A. I did, yes sir.

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Q. When were you married, Mr. Davis? A. I was married on Christmas day, 1902.

Q. That was in Cripple Creek? A. Yes sir.

Q. And in the meantime how about your wife and baby? A. I left them there.

Q. Was that during the strike? A. Yes sir.

Q. How long before the convention? A. It was in March.

Q. March? A. Yes sir.

Q. That was after you were released from the jail? A. Yes sir.

Q. Well, these men came to Denver, a large number of them, did they not? A. Yes sir, they did.

Q. And did you see them at the various places there in Denver?

A. Yes sir, I saw them there and around headquarters, around the different rooming houses and restaurants and saloons.

Q. You had known Moyer and Haywood both? A. Yes sir, I knew them both.

Q. Did you know George Pettibone? A. Yes sir.

Q. And how long had you known him? A. I think probably a year or such a matter; that is, I had known him, met him there at Denver.

Q. Had you been in the habit of going to his store? A. No sir, I had been in his store probably two or three times, possibly.

Q. Just to connect that matter up in reference to the other evidence -- your wife and baby were brought to Denver?

A. Yes sir, and buried in Denver.

Q. And buried in Denver? A. Yes sir.

Q. Do you know whether the miners were in the habit of visiting Pettibone's store? A. Why, I believe that some of them did,

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I have been in there with some of them I think.

Q. Did you know the rooming house up above the store?

A. Yes sir, I have roomed there.

Q. How is that as to being frequented by miners, members of the organization to that convention? A. Yes, they stopped there, some of them -- quite a few of them.

Q. Now at that time how was it as to members of miners being at that rooming house and around the store and the hall after the men left Cripple Creek? A. Well, I suppose that it added to that like it would to the other different places, no particular difference.

Q. You didn't go back to Cripple Creek? A. No sir.

Q. How long did you stay in Denver? A. I don't know, but I think it was along -- it must have been along about the 14th, or something like that, that I left Denver. Now I might be mistaken two or three days in that. It was a day or two or a couple of days after the convention adjourned, probably about that time.

Q. You concluded then not to go back, did you? A. Yes sir, no need of going back, I didn't think. There was none of my people up there, they had run them all out.

Q. Where did you make up your mind to go? A. Well, I was going to hunt a new place, somewhere where I could go to work. I couldn't work in that country.

Q. Where did you go? A. I went to Wyoming.

Q. Where was the first place you landed? A. I stopped in Cheyenne three days I think.

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Q. Where did you stay in Cheyenne? A. I stayed in a rooming house there. I don't know now what the name of it was.

Q. Did you see Pat Moran in Cheyenne? A. Yes sir.

Q. Had you known him before? A. Yes sir.

Q. Where had you known him? A. I had seen him around headquarters and around Denver in different places.

Q. Pat Moran had a saloon in Cheyenne, did he not? A. Yes sir, he had a saloon.

Q. How was it as to whether miners were in the habit of going to his saloon? A. Well, I presume they would. He has been a man, I believe, that has been in the mining camps a whole lot, in Colorado.

Q. Who did you see there when you went to his place in Cheyenne?

A. Well, I saw -- H. C. Copley, I saw him there. He stopped there at this time.

Q. To go back a minute, did you see Orchard in Denver after the Independence explosion, if you know? A. No sir, I don't think that I did see him in Denver.

Q. At least you don't remember of seeing him? A. No sir, I don't.

Q. Did you see him in Cheyenne? A. Yes sir.

Q. Whereabouts? A. I saw him in Moran's saloon.

Q. Was anybody with him? A. Yes sir.

Q. Who? A. There was a fellow named Neville and his son, a boy about thirteen or fourteen years of age I should judge.

Q. Had you known Neville? A. Yes sir.

Q. You had known him in Cripple Creek I presume? A. Yes sir.

Q. You say you met Copley there? A. Yes sir, I seen Mr. Copley there.

Q. Who was Copley? A. Copley?

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Q. Copley, who was he? A. He was a member of the executive board, or had been. He wasn't at that time. There was an election and he didn't run or wasn't elected.

Q. Where had his home or headquarters been, where had he lived before? A. He had lived in Independence, Colorado, his folks lived up there.

Q. He lived up there with you or near you? A. Yes sir, pretty close.

Q. On the hill? A. Yes.

Q. What was he doing then at Cheyenne? A. Well, he said he was going to go somewheres and go to work. He was out of a job.

Q. He was getting away too? A. Yes sir.

Q. What was your name up at Cheyenne? A. I was going by the name of Jones.

Q. You had got back to Jones again? A. Yes sir.

Q. Then where did you go? A. I went to Grand Encampment.

Q. Where is that? A. It is in Wyoming. I guess it would be about 200 miles west of Cheyenne, close to that.

Q. Did you go to work there? A. No sir. I went there to go to work but there was more men than there were jobs, so I went to another place.

Q. Still found an over production of men, did you? A. Yes sir.

Q. Then where did you go? A. I went about thirty miles from there to what is called the old Keystone district and went to work for a fellow I had worked with in Bisbe, Arizona, he was a superintendent, a fellow by the name of Kenney.

Q. You went to work for him? A. Yes sir.

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Q. How long did you work there? A. I stayed there until the 2nd

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or 3rd of September, something like that.

Q. Then where did you go? A. I left there and went to Battle Mountain, Nevada, about eighteen miles from Battle Mountain; I run a property up there for W. A. Dane of San Francisco for about five months.

Q. Still travelling under the name of Jones? A. No sir, I took the name of Morris, W. F. Morris.

Q. Another one? A. Yes sir.

Q. Did that work any better than Jones? A. It helped the job.

Q. Morris? A. Yes sir.

Q. How long did you keep that name? A. I kept that name until the snow got so deep and we was out of fuel and compelled to shut down, and I think that was on the 10th of January. This was from September until January.

Q. Then where did you go? A. I went to Goldfield.

Q. When was it you landed in Goldfield? A. I stopped down in Reno a couple of weeks, I guess it would be along the last of January some time, sometime the last of January.

Q. What year? A. That would be 1905 I guess -- yes, 1905.

Q. And you got back to the name of Davis again when you got to Goldfield? A. Yes sir, I took my own name when I struck the main line.

Q. And you have hung onto that and your job ever since until you come to Boise? A. Yes sir.

Q. A miner belonging to the Federation can go by his real name down in Nevada, can he, down in Goldfield? A. Yes sir.

Q. Mr. Davis, did you ever have a conversation with Harry Orchard in reference to his leaving the Coeur d'Alenes, the reason for

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it? A. Yes sir.

Q. Do you remember where that conversation was? A. Yes sir.

Q. Where was it? A. It was in Altman at the Miners' Union office hall.

Q. Was anybody else present? A. Yes sir.

Q. Who besides you and Orchard? A. Sherman Parker and Billy Easterly, and there was others there, I don't remember who they were; they were sitting around the office reading and talking.

Q. Were you talking about the Coeur d'Alenes at the time?

A. No sir, we were talking about the deportation at Idaho Springs.

Q. Was that in the fore part of August, 1900? A. Yes sir, somewheres along there; I think it was in August.

Q. Did Orchard say, after discussing those deportations, that if he had not been run out of the Coeur d'Alenes he would be rich; that he owned an interest in the Hercules which he had lost because he was run out, and that he held Steunenberg and Sinclair responsible for it and he would get them, calling them some harsh name, sometime? A. Yes sir.

MR. DARROW: You may cross examine.

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CROSS - EXAMINATION

By MR. HERAH:

Q You were born in Missouri? A Yes sir.

Q Thirty-seven years ago? A Yes sir.

Q What part of Missouri? A About four miles from the Iowa line.

Q When did you leave Missouri? A In the spring of 1889.

Q To what point did you go? A To Spokane.

Q And from there to what point? A I was working for the O.R. & N. Company.

Q Did you remain in Spokane some time? A No sir.

Q Where did you go? A I was running over the road there.

Q When did you finally go to Idaho? A I was running in there in 1889, and on me out and went back in 1890.

Q When did you go there and locate? A In 1890.

Q What did you then go to doing? A I went to work for the Bunker Hill and Sullivan, building the new mill there.

Q Up to what year did you remain there? A Until the trouble in 1892,- no, hold on; no, on the 10th of January,1892, the mines all closed down, but I remained there, but not in their employ.

Q Where did you next locate to go to work? A Hold on, I believe on direct examination I said I left there,- I left there and went to British Columbia, and came back there in July.

Q Of what year, 1892? A Yes, 1892.

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Q You mean 1892? A Yes sir, 1892,- '92.

Q And then you went to work at what point? A I went to work for the Bunker Hill and Sullivan Company, after the trouble in 1892.

Q How long did you continue with them? A I worked there, I think it was probably in October, or something like that; I forget just exactly the time.

Q When did you leave Wardner finally, and go up the Canon? A Yes sir, I think it was in September, if I remember rightly; I left there and went to Gem and went to work for the Granite people, at the Granite Mill.

Q Was that a Union mine? A Yes sir, it had been.

Q What? A Yes sir, it had been; they were all getting Unionized again; none of them was, and none was not.

Q How long did you remain in Gem? A I stayed there until July, 1893, or 1893, I meant to say.

Q And then where did you go? A I went to the World's Fair at Chicago.

Q Where did you next go to work? A The places all closed down; it was silver, and the — they were having quite a time during that time in regard to the silver question, and the mines in northern Idaho closed down at that time.

Q Where did you go to work? A I went away in July, and I returned and went to work, I think it was in November.

Q 1893? A Yes sir, for the same people. They started up again.

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Q Well, did you remain in the Canon pretty continuously then until 1899? A No sir. I think I worked there then from 1893 until January of 1894, and left and went down and went to work - it closed down again, and I went down and went to work for the Parker Hill and Sullivan Hill, until I think in July of 1894, that I quit there.

Q When did you next go back into the Canon? A I never went back there until I came to Silver City. I was there at one of your trials, Mr. Borah, when you was defending General Logan.

Q That fixes it. A That was in 1894, I guess it would be about September, and I left there, I think, in August, 1895, and went back up in Canon Creek, to Cem and Burke.

Q Did you get acquainted with Mr. Haywood, in Silver City?

A No sir.

Q You did not know him there? A No sir, I did not know him there.

Q Where did you go to work? A I went to work for the Standard Company, I think, the Standard Company had a property there.

Q And that is in the Canon? A Yes sir.

Q And did you remain there then in the Canon until 1896? A Yes sir, I remained in the Canon,- no, I went to Alaska, in 1898.

Q In 1898? A Yes sir, I think it was the 12th day of February, 1898, that I left for Alaska.

Q After you got back from Alaska where did you go to work?

A I went to work for a fellow named Billy Hoyle, and Huggles

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and Cartright, and a fellow named Allen, I think is his name; they had a lease on the Milwaukee, and I went to work for them, fixing up their compressor.

Q When did you first join the Federation? A In 1898, at Burke.

Q Burke was a Union camp? From 1895 to 1899? A Yes sir, that part of it was.

Q There were no mines working there excepting Union mines?

A No sir, not in the Canon at all.

Q And you had been a Union man from 1895 to 1899? A Yes, until 1899?

Q Yes. A No sir, as I stated a while ago, I joined the organization,- I was working in a mine at the time - I was a mill man, but I went to work in a mine at that time, and I joined the Burke Union, but I only paid dues for the time I was working for them. They don't allow men to belong unless he works in in a mine.

Q Unless a man actually worked in a mine he was not permitted to belong? A No.

Q But you had been a member up to 1899? A I never worked in the mines any more.

Q Well, at any time you had worked in the mines prior to 1899, you had been a member of the Union? A Yes sir, about three months.

Q And the other portion of the time you were working in such matters that you were not permitted to belong to the Union?

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A I could probably have belonged to the labor unions or the Knights of Labor, and even while I was foreman or shift boss I was not permitted a membership in them, and in fact I did not belong to any organization.

Q The reason you did not belong was because you was working in positions where it was not desirable that you should be a member?

A Yes sir.

Q Where were you working on the 20th of April, 1899? A On the Gem.

Q In the Gem Mine? A Yes sir.

Q In what capacity? A Fixing machinery and getting ready to start up the leave.

Q Did any of the men work that day? A No sir, I don't think so. The foreman and some others might have worked.

Q None of the union men worked that day, did they? A Who ever was working there, they was all union men.

Q Then no one worked that day that you know of? A No, not that I know of.

Q They all left? A There was no one reported for work, and a fellow there told us there would be no work.

Q Did he say why there would be no work? A No sir.

Q You knew why, did you not? A No sir.

Q You did not? A No sir.

Q Where did you spend the day? A There in the town of Gem.

Q Who was with you? A Several, I don't know.

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Q Who that you now recall that you were associating with that day? A A fellow named Moyle was there, the foreman there.

Q Is he there now? A I don't know whether he is or not, I have not heard from him.

Q Do you know where he is? A No sir, I do not.

Q Have you seen him since? A No sir, I don't believe I ever saw him.

Q Who else was there that you were with that day? A I don't remember now; I don't recollect who all was there.

Q Do you recall any business men that you saw there? A Yes sir.

Q Who? A George Batley, the Postmaster there.

Q Did you see him that day, on the 20th? A Yes sir.

Q After the train pulled out for Wardner? A Yes sir.

Q You are sure of that, are you? A Yes sir.

Q About what time was it that you saw him with reference to the time that the train went to Wardner? A I saw him there, around there all day. I was in his place of business, and I was rooming there with him.

Q Did you have a talk with him that day? A I don't know; I probably did. I probably had a talked with him most every day in a little town like that.

Q Do you remember of seeing him that day? A Yes sir, he was there.

Q You remember having a talk with him that day? A Yes,- I don't remember having a talk with him that day any more than any other day.

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Q Where were you when the train went through Gem that morning?

A I was there in Gem.

Q See the train go through? A Yes sir.

Q See how it was loaded? A I saw lots of people on it.

Q Recognize a lot of your acquaintances? A No sir.

Q Did not recognize any of them? A No sir.

Q You had been there in the Canon four or five years, and did not see anybody you knew? A I had been there longer than that.

Q You had been there longer than four or five years, and did not see anybody there that you knew? A No sir, the men I saw had masks on; I did not know any one.

Q You had been a member of the Burke Miners Union for some little time before that, hadn't you? A I was for a short time, but quite a while before that.

Q Did you know Paul Corcoran? A I don't know; I might have known him. I did not know him by name, no.

Q Was there any one from Burke that you saw that you could identify upon that train? A No, there was no one I could identify.

Q Were they all masked? A All that I noticed.

Q How were they masked? A Well, they had - a mask is disfiguring their face.

Q How were they masked? A They had cloths over their faces.

Q Handkerchiefs? A Some might be handkerchiefs, and some had cloths, and some pieces of burlap.

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Q What per cent of them were masked? A All that I saw was masked.

Q How many men did you see there masked? A I don't know, there might have been two or three hundred.

Q How many got on at Gem? A I don't know that.

Q Were there any? A There possibly might have been.

Q Don't you know? A No, I don't know that I do.

Q Didn't you see the train pull in? A Yes sir.

Q And pull out? A Yes sir.

Q And did not see anybody get on? A Yes sir.

Q How many got on? A When you speak of the train stopping at the train at Gem, I saw it come in, and lots of them got off, and lots got on, but I don't know how many got on from Gem.

Q You did not see anybody there from Gem get on the train? A No sir, I did not.

Q Did you see them get off and go up to the Armory, up to the hall? A No sir.

Q Where were you when the train pulled in? A There in the town of Gem.

Q About where? A Well, I don't know exactly; are you acquainted there?

Q Oh yes. A Well, I think I was alongside of Hoel and Bonner's store, across from the mill there.

Q Now, in the town of Gem, the street is strictly the railroad track, isn't it? A Sure, the railroad track runs right up there.

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Q Now, how close were you then to the street? A I might have been twenty feet.

Q You went out to the train? A No sir, I was there at the side of the building.

Q Who was with you then? A I don't remember who was with me.

Q Did you see anybody there whose name you can now recall? A No sir, I don't know that I can.

Q You were well acquainted there? A Well, fairly well acquainted; that is, I had been away for over a year, and they had changed to some extent; miners change, you know.

Q You cannot recall anybody's name that you saw there at that time? A No, I cannot,- I don't believe that I can.

Q Did this crowd have arms? A No sir, I don't think so.

Q Did you see any guns? A I don't believe I saw any guns.

Q Is your recollection pretty clear about that? A I cannot say that it is; they might have had, and might not.

Q If they had had rifles, you would have observed it, and remembered it? A Yes sir, I think so.

Q Do you remember seeing the guns? A No sir.

Q Can you say you did not? A No, I cannot say that I did not. I don't remember. It has been quite a while ago, you know.

Q How long did they stop in Ger? A Oh, they were possibly there fifteen minutes.

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know,- I believe they did.

Q Where is the powder house there,- the Frisco powder house, with reference to Sam? A I don't know.

Q You know where the Frisco Mill is, of course? A Yes, I was foreman there for Joe McDonald for twenty months.

Q And you don't know where the powder house was? A I did at one time, but I don't know whether I did at this time or not. It used to be up above the Black Bear there.

Q Do you now recollect of the train backing up to that powder house while you was there? A I believe it did; I would not say.

Q It was a pretty interesting morning, wasn't it? A Why, I don't know that it was sin particular.

Q Wasn't there considerable excitement there that morning?

A I did not see any great excitement, no sir.

Q You saw these three hundred masked men on this train, going down the road, and you say there was no excitement? A I don't know what you call excitement.

Q Well, what did you think of it? A I did not see any great amount of excitement, no.

Q It did not disturb you at all? A No sir, not a bit.

Q You knew what they were going to do? A No sir, I did not.

Q You knew they were going to Wardner? A No sir, I did not.

Q You did not know it? A No sir.

Q And you made no inquiry in regard to it? A No sir.

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Q You saw this train pass through Gem? A Yes sir.

Q You saw this train pass through there with three hundred masked men on it? A Yes.

Q And you saw it back up to the powder house? A I don't know whether it did or not, because I did not see that.

Q You saw this train come in there? A Yes.

Q With three hundred men on it? A I should judge there might be.

Q And you did not inquire where they were going? A I might have.

Q What did you do? A I don't remember.

Q Can't you remember? A I don't remember, no. I don't know particularly, no sir.

Q Do you remember how the engine was protected by armed men? A No sir.

Q Did you look at the engine? A I don't know that I did.

Q Did you see who was riding on it, whether they were masked or not? A I did not see any one that I recognized.

Q Now, you know that that train was in the possession of armed men? A No sir.

Q You knew it was in the possession of masked men? A I don't know. It might have been in their possession and might not. I saw the train men.

Q And you did not ask what they were going to do? A It was none of my particular business, no sir.

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Q What train men did you see? A I believe I saw Al Hutton, the engineer. I had known him for a long time.

Q Was he masked? A No sir.

Q Who was standing behind him while he was running the engine? A I don't know.

Q You remember Hutton? A Yes sir.

Q And remember seeing him? A Yes sir.

Q Do you remember seeing who was beside him? A No sir, I don't remember.

Q Did you notice anything peculiar about that engine that morning in reference to the way it was connected, as different from any other morning? A I never paid any attention to it at any time.

Q It was just the same that morning as any other? A I did not notice anything. It was run with the same power and the same people that had been running it for years.

Q Was it usual for that train to go through there that time, or that way? A It was about the time it usually went through, yes.

Q Were you acquainted with Al Hutton? A Yes sir, I knew him for years.

Q Who was his fireman? A I forget the fellow's name.

Q Did you see him? A Possibly I did, but I don't remember now.

Q Now, Al Hutton and the fireman are the only men you saw that you can recall? A Yes, and I saw the other train men,-

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the conductor I knew well, but I cannot recall his name either. He was on the train that those people were on.

Q Did you see any one there except the immediate employes of the road that you can recall? A No sir,

Q No one at all? A No sir, I cannot.

Q Now, were you on the train at all? A No sir.

Q Did not go out any closer than where you were standing when it came in? A No sir.

Q Did you see the conductor get off the train? A I saw him off the train, yes.

Q Do you remember his name? A No, I don't remember it.

Q Do you know where he is now? A No sir, I don't.

Q What time did that train get back that evening? A I believe along about dark.

Q About how many men were there on it when it came back?

A I don't know in regard to that.

Q Did you see it again? A Yes sir, I saw it.

Q You was down there to see it? A No sir, I was sitting over by the mill.

Q Did you observe any of the men when they came back, whether they were masked or not? A No sir.

Q Were they masked? A They might have been, and might not; I was not very close to the train when it came back.

Q Did any people get off the train and remain there when it came in? A The depot is back of the town.

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Q Did you see anybody get off the train? A I might have, yes, but I don't remember now.

Q And you never made any inquiries that day, or see where they had been? A Yes, I heard it talked of, that there was a demonstration in Wardner.

Q What time did you hear of this explosion? A I don't know. I believe along in the afternoon, some time, I heard it.

Q Did you hear of any killing that day? A No sir, - I might have heard it that evening.

Q Didn't they have a dead man on board when they came back?

A I don't know.

Q Didn't you hear about Smith's being killed? A Yes sir.

Q And you know that they took him up that night on the train?

A No sir.

Q When did you first hear of his being killed? A The next morning, I think.

Q Did you know Smith? A No sir.

Q Did you know Jimmie Shayne? A No sir.

Q Did you hear of him being shot? A I believe I did, yes sir.

Q Now, you heard,- that train was down there, and the men on it, blew up the Bunker Hill and Sullivan Mill, and you heard of that, didn't you? A No sir, I did not hear that they did it, no sir. I heard that the mill went up.

Q And it happened about the time the train got into Wardner, didn't you know that? A No sir.

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Q How long did it happen after it got there? A After what got there?

Q After the train arrived? A I don't know anything about it.

Q Did you hear anything about it? A I might have. I don't remember.

Q You cannot now recall? A No sir.

Q This was a matter of interest to you largely? A It was none of my business, I had nothing to do with it.

Q Was there a strike on in the Coeur d'Alenes at that time? A I don't know,- I believe there was sometrouble in Wardner.

Q Where was it? A At Wardner, I believe.

Q At what mine? A I believe it was on at the Bunker Hill and Sullivan.

Q Did anybody tell you there was a strike on there at the time of this blow-up? A Yes, I guess there was several.

Q Who told you? A I was general talk, I suppose, and I probably read it in the paper.

Q Can you recall any one who told you that there was a strike on at that time? A No sir.

Q Can you recall any item in a newspaper where it said there was a strike on at that time, prior to the blowing up of the Bunker Hill and Sullivan Mill? A Say that over again.

Q Can you recall any item that you saw in a newspaper where it said there was a strike on prior to the blowing up of the Bunker Hill and Sullivan Mill? A Yes sir, I believe that I did.

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Q That paper was it? A I think I saw it in the Spokane Review or the Spokesman.

Q Who struck, union men or non-union men? A I don't know in regard to that.

Q It was a non-union mine, wasn't it? A I know it was part of the time, yes sir.

Q It was a non-union mine? A It had been seven or eight years before that, part of the time, and part of the time it was supposed to be union.

Q It was non-union at the time it was blown up, wasn't it?

A I don't know about that.

Q You don't know? A No, I don't.

Q You have never had any information about it? A I might have had, but have forgotten it.

Q You say you did not see Harry Orchard that day? A No sir.

Q Did you know him at that time? A I never knew Harry Orchard until I knew him in Colorado.

Q Never had seen him prior to that time that you can recall?

A No sir.

Q Where did you stay the night of the 29th of April, 1899?

A In Gem.

Q Where did you sleep? A In my room.

Q Where did you stay the next day? A Stayed in Gem.

Q Did you work the next day? A No sir,- I believe I went to Wallace the next day.

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Q When did you go up to the Herculea mine? A I think probably about the first of May.

Q About two or three days after the blowing up? A Yes sir.

Q You quit work down where you were? A Yes sir.

Q And went up to the Herculea? A Yes sir.

Q And worked there how long? A I think probably a couple of weeks.

Q What did you do in the Herculea? A I was pounding a drill.

Q What were you doing on the 30th of April? A I was not doing anything.

Q Well, on the day before? A I think I was setting a station pump on the four hundred, in the Gem mine of the Milwaukee.

Q And you quit work there and went to the Herculea? A Yes sir.

Q And stayed how long? A I think about two weeks.

Q Did you come down to the town after that? A Yes sir, but I did not step in the town; I went through the town.

Q Did you make yourself known around there? A No sir, I did not.

Q You went into hiding immediately? A No sir, I was staying under cover.

Q Yes, you went into hiding at once? A Yes, if you call it that; I was staying out of the way from the soldiers.

Q You went into the Herculea mine, and did not come out of the mine for some time, did you? A No sir, I came out to eat and

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sleep.

Q Wasn't the food carried in to you? A No sir, we came out and got it.

Q You are sure of that? A I know it was not. The tunnel wasn't in only about 75 feet.

Q You were known up there popularly as Big Davis, were you not? A I don't know that they called me that.

Q You have had your friends apply that name to you, haven't you? A No, I don't believe that they ever called me that. They called me Dave, a good many of my friends.

Q You knew they were hunting for you immediately after this explosion, or within two or three days? A I knew they were hunting for everybody.

Q You knew they were hunting for you, didn't you? A No sir, no more than anybody else.

Q Didn't you see any advertisements? A Any what?

Q Didn't you see any placards out? A No sir.

Q Out for you? A No sir, I did not.

Q You did not? A No sir.

Q How long did you remain at the Hercules? A I think about two weeks.

Q Then where did you go? A About five miles from Mullan.

Q Did you remain there under cover? A Yes sir.

Q How long did you remain there? A I think - I left there, I

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think, on the 8th or 9th, I guess it was,- probably the night of the 8th or 9th of August. I would not be certain whether it was the 8th or the 9th.

Q Where did you go from there? A To Butte.

Q How did you go out, over the railroad or afoot? A I got on the train at Mullen and went to Butte.

Q You had to go through Wallace? A No sir, it is seven miles the other way from Mullen.

Q You got on the train at Mullen? A Yes sir.

Q What name was you going under? A I took the name of Jones.

Q When did you take that name, with reference to the 30th of April? A Now, I don't quite understand your question.

Q When did you assume that name? A As soon as I went on the road, or went to look for a job some place else.

Q As soon as you began to leave or go? A Yes sir.

Q As soon as you left the country? A Yes sir.

Q What was your first name? A W. S., William.

Q W. S. Jones? A Yes sir.

Q Did you say there was any one traveling with you on the train that night? A No sir, I went alone.

Q Did you have a handkerchief thrown over your face as you went out? A No sir.

Q You did not? A No sir.

Q You did not lay back and throw a handkerchief over your face? A No sir.

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Q Did you know the conductor? A Yes sir, I believe that I did; I have forgotten his name though.

Q Did you make yourself known to him? A He knew me.

Q Spoke to you? A Yes, and asked me where I was going, and I told him I was going to Butte.

Q Did you stay in Butte any length of time? A I think I was in Butte about a couple of weeks, or something like that.

Q And then you went to California? A Yes sir.

Q Now, why did you change your name to Jones? A Why did I change my name?

Q Yes. A Simply because I could not get a job.

Q You were not hunting a job when you changed it, were you?

A Certainly I was.

Q Were you hunting a job when you went out on the train?

A Certainly I was.

Q Did you see yourself black-listed anywhere? A No, I did not see it, no sir.

Q How did you know you were black-listed? A I would naturally suppose I would be.

Q Why? A Because there was other men black-listed everywhere; and you know the Bunker Hill and Sullivan was black-listed long before that.

Q Was you a member of the union? A No sir.

Q Why was you black-listed? A Simply because I signed a petition, and sent it,- if you will permit me to tell it.

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MR. RICHARDSON: Tell it, go on.

THE WITNESS: There was a petition which was signed by the men there, and it was sent to Governor McConnell, and it came back to the Bunker Hill and Sullivan, and it had the names of the men on there, and it protected against their not timbering their mine properly, and seven men were killed in the mine in a week, and we got up this petition and signed it, and it came back and every one was black-listed.

Q When was this? A I think it was in the fall of 1893: I think that is the time I signed that list.

Q When did the list come back? A I don't remember when it came back, but I saw thatlist, because the clerk showed it to me in the office.

Q You did not change your name until seven years afterward, did you? A Something like that, I guess; perhaps six years.

Q Was that the reason you changed your name? A No, but I was going out to go some place else, and while I was going under that name when I got fired,- I will tell you that I was also going under that name when I got fired in Bisbee, Arizona, too.

Q Why? A Because I was going under an assumed name, and was black-listed.

Q How did they know that? A I don't know.

Q When did you change your name to Jones? A I guess probably about the time I struck Butte.

Q And did you make an application over there for a position?

A For work?

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Q Yes. A No, I don't believe that I did.

Q Butte was a Federation camp, wasn't it? A Yes sir.

Q A man could get a job there at any time without changing his name, couldn't he? A I presume he could.

Q You did not have to change your name there to get a job? A No, I suppose not. I tell you, I did not care about lying in the bull pen; I did not want to be incarcerated in bull pens, or in jail, as other men in the country were.

Q But that was not the reason you changed your name? A I was not particular about lying in a bull pen.

Q You changed your name because you did not want them to know where W. P. Davis was? A They knew I was in Butte.

Q Who did? A For I met them there.

Q Did you meet any of the officers there? A I don't know as I met everybody I met on the street.

Q Did you meet any of the officers there?

MR. MARRON: The officers of the law, you mean?

MR. NORAH: Yes.

A I believe at that time, I think the Governor had taken a little different action against the authorities in Idaho about letting them take men back from there. They were going over there and taking men out of the state without even asking him for them.

Q You went into a place where you did not have to change your

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name to get employment of the Western Federation, did you?

A Not necessary for me to change my name, no.

Q Then you did not change your name because of the fact of the Federation men were black-listed, did you? A I changed it for the reasons I have stated.

Q Because Governor McConnell had sent this list back, and they had been black-listed six years before? A That is part of the reasons,- that is the reason why I did it.

Q Now, you got to Bisbee and you had this name of Jones some little time? A Yes. I had it in two different places in California where I worked too.

Q Did you tell them where you came from? A No sir, I did not.

Q How long did you work in Arizona? A I was there from May, I think, until probably the first of January,- let's see, that would be 1900.

Q Under the name of Jones all the time? A No. This would be 1901, I guess, when I quit there.

Q Under the name of Jones there? A Yes sir.

Q And where did you go from Bisbee? A I went to Trinco.

Q Under the name of Jones? A Yes sir.

Q What did you work at there? A Mining.

Q And where did you go from there? A Colorado.

Q And then you took your name of Davis back? A Yes sir.

Q You had got back in a Federation camp? A Yes, they organ-

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lead a union in Prescott, Arizona, also.

Q You went to Prescott? A Yes sir, I went to Prescott.

Q You did not take your name in Arizona? A No sir, I did not.

Q But when you got to Cripple Creek you took the name of Davis?

A Yes sir.

Q That was a Federation camp? A Yes sir, one of the best organized in the country.

Q No more thoroughly organized than Butte? A No sir, I don't think so.

Q How long were you there before you became President of the union? A I was elected President in March, 1902.

Q Did you organize the union there? A Where?

Q At Cripple Creek? A No, I did not organize no union.

Q You became President shortly after you got there? A It was from July to March before I was elected President.

Q Did you meet any of the Coeur d'Alenors there? A Yes sir, I believe I did.

Q Who did you meet? A That would be pretty hard to say.

Q Name any of them? A Jimmie Lafferty and Charlie Sweeney, and I suppose I met several others.

Q You had known them in the Coeur d'Alenes, had you? A Yes.

Q When you got into the Cripple Creek country, Governor Steunenberg had retired from office, hadn't he? A I don't know about that, whether he had or not.

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Q You did not keep track of that matter at all? A No sir.

Q It did not interest you? A No sir.

Q Had you ever used your right name from the time you left the Coeur d'Alenes until you got to Cripple Creek? A No sir.

Q Now, at the time while you were President of this union in Cripple Creek, Mr. Parker was Secretary? A A portion of the time he was, and part of the time W. H. Easterly was.

Q Was Steve Adams a member of the organization when you first met there? A Now, I don't know about that, because the President don't know; they don't have no records; that is the Secretary's business. I believe he was, but I am not certain.

Q How soon did you get acquainted with Steve Adams after he went to Cripple Creek? A I don't know when I did get acquainted with him. He did not live in the same little town that I lived in.

Q Did you get acquainted with him immediately after he went there? A No sir, it was some time before I knew him.

Q Did you get acquainted with him finally? A I had a jail acquaintance with him, yes sir, about three or four months.

Q Both in the same cell? A Yes sir.

Q And had you gotten very well acquainted with him prior to that time? A Yes, about like I would with any of the other members, I guess.

Q This strike occurred on the 29th of August,1903, did it?

A Yes, that is when the -- of course there was a strike in the

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winter, but there was an armistice declared, and they had promised to do certain things,- they were going to reinstate some men at Colorado City where the strike arose.

Q The strike took place on the 29th of August, 1903? A Yes.

Q How long had you known Orchard prior to this strike? A I think it was in May, 1903, - I would not be certain - that he came to me and the officers of the union.

Q He told you he was from the Coeur d'Alenes? A Yes, he told me he had been me at the Hercules mine. I did not remember him, but I did remember the incident he spoke of, because I was there.

Q Did you talk over the Coeur d'Alene matter? A No, I don't know that we did at that particular time.

Q Did you from time to time and at different times talk it over? A No, I don't know that I did any more than I probably would with any one else.

Q You would talk it over with any one you would meet from there, wouldn't you? A I might, yes.

Q And your recollection is that you talked it over with Orchard in the way you ordinarily talked with men from that country? A Yes, probably, but I cannot recollect any instance, no.

Q Did he tell you about the blowing up of the mill? A No sir.

Q Never talked with him about that? A I never talked with him about that, no sir.

Q Never referred to that matter at all? A No sir, I never talked with him about it at all.

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Q You must have talked about it some time when you talked about this matter with reference to Steunenberg, didn't you?

A Have I said that? I don't understand that question.

MR. DARROW: I object to that. Talked about what?

MR. BORAH: I think the witness understands.

MR. DARROW: I don't, and I don't think the witness does.

THE COURT: Read the question.

The question was then read.

MR. DARROW: Talked about what? I object to that.

THE COURT: Do you understand the question?

THE WITNESS: I don't believe I do.

Q You talked about the matter, didn't you, is that right?

A I want to get that question. I don't exactly understand you.

Q You stated to Mr. Darrow a while ago that you had a talk with Orchard in which Steunenberg was referred to? A Yes sir.

Q At that time did you talk over the Coeur d'Alene matter?

A No sir, we did not. We was talking about the Idaho Springs affair at the time.

Q What did he say to you at this time when Steunenberg's name was mentioned? A In regard to the conversation we had?

Q Any conversation you had there at the time Steunenberg's name was mentioned? A I don't know that I can say the exact words, he said - it has been quite a while ago, but I do remember that he was very sore.

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Q Just state what he said, Mr. Davis? A We was talking about the Colorado affair, and the deportation of the miners from Idaho Springs, and he made mention of the fact that Peabody was going to be something like Governor Steunenberg. That is how we came to be talking about it, and he made mention that if the opportunity ever presented itself what he would do, and also against St.Clair, the Secretary of State at that time.

Q Do you pretend to give the conversation that was had?

A No sir, only as I remember it. I remember of words to that effect.

Q You would not pretend to give the words or the substance of what he said? A Not the words, no sir, but the substance of it I can give you.

Q What did you say? A I don't remember what I did say to him.

Q Can't you remember your conversation? A I was very deeply interested, and was one of the officers in handling the strike there in Colorado, and it looked as if the state officials were going to be antagonistic to the organization in every way, and I dismissed the matter from my mind so far as any other place was concerned.

Q Did you make any memorandum of what Orchard said? A What do you mean by memorandum? In your head or written?

Q Any written memorandum? A No sir, I don't keep no written memorandum of nothing.

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Q You cannot recall anything you said? A No, not in regard to Idaho or the Governor. I did not know him.

Q Do you remember anything that Parker said? A No, not exactly, no.

Q Do you remember anything that he said? A In the general conversation. We were talking over general conditions of the state, about having the strike, and how we were going to get funds, and how we were going to run the union and take care of the members.

Q Was Orchard participating in this? A No, only as he chipped in, as other members would.

Q Can you give any conversation there except what Orchard said? A No, I don't know that I can, any more than what I have told you. We were talking back and forth about the general conditions of the state, and the matters there in the strike district.

Q Can you give any language that Easterly used? A I don't know that I can.

Q Can you give any reply to what any of them said? A I don't exactly understand that question.

Q Can you give any language that was used there by anybody except the fact that Orchard used the language which you have stated? A Why no, I don't know that I can give any conversation other than the statements he made,- not words, - I could not give them in words, but I gave you the substance of it.

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Q Can you give me the substance of anything that Parker said? A Probably nothing more than the manner of handling of the stores there, and the general way of getting relief; there were three of us, and we were stopping at different places in the district, and we met every day and talked over those matters, and the likes of that.

Q When Orchard said he was going to get Steunenberg, did anybody make any remark about it? A I don't know that they did.

Q Did anybody make any response to it? A I don't remember that they did.

Q Did Easterly make any remark in regard to it? A No sir, I don't remember that he did. But I would like to say that I have heard not hundreds, but thousands of people during my travels through the western states here discussing the Governor of this state, both in business and as a mining man.

Q But what I want to know is whether your recollection is fresh upon anything except what Orchard said, and whether you can give any language except what Orchard said? A As I said, we met every day, this committee, and we talked over general conditions and the way of running strikes, and the question of funds that was coming into the organization, and went over those things in detail every day; we met every day during the strike, and when we were together anything that would come up, we would go over it.

Q What date was this conversation with Orchard about Governor Steunenberg? A I think it was some time in August, I don't know

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the exact date.

Q 1903? A Yes sir.

Q Where was it? A In the Miners' Union Hall in Altman.

Q And Parker and yourself and Orchard and Easterly were present? A Yes sir, and there was some more, I don't remember who it was, but they used to meet there; there was a library there for the members.

Q Is this the first time you ever heard Orchard mention that subject about Governor Steunenberg? A I don't know. It might have been, and might not have been. I have heard thousands of people say in mining and business some very mean things about him.

Q I am asking about Orchard's statements, if you heard him mention that before? A I could not say definitely, no sir.

Q Did you ever hear him mention it afterwards? A I might have, but I don't know.

Q But you do remember this one conversation? A Yes sir.

Q And you cannot remember what anybody else said? A As I stated, I believe I remember it, yes, about what we generally talked about.

Q I want to know if any one made any remark about Governor Steunenberg in answer to his remark? A Now, state that question again.

Q I want to know if any one of you three made any reply to his remark? A No, I don't know that they did; still, they might have.

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Q You say this strike occurred on the 28th of August, 1903, and it was a sympathetic strike? A No sir, it was not a sympathetic strike.

Q It was because the smelter men had gone out on a strike?

A They were on a strike, yes sir.

Q And you folks went out for that reason? A We went out because we - it was an obligation we had in the organization that we should go out; they were part of the organization.

Q And you went out, not because of any trouble there in Cripple Creek between the Mine Owners and the men in the mines, but because of the troubles at the smelters? A It started at the smelters, yes, and at Colorado City they refused to reinstate, as they had agreed to, after giving them six weeks, the men, and they only reinstated one, and that was a blacksmith.

Q There was not any trouble in regard to wages in the mines, was there? A No sir.

Q There was no trouble there at all, except around the smelter?

A Yes, that is where the trouble started.

Q When did the militia come into the district? A I think --

THE COURT: Mr. Berah, how long do you think it will take you?

MR. BERAH: About fifteen minutes, I think.

THE WITNESS: I think it was about the third or fourth day of September, the 4th.

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THE COURT: I don't believe you will be able to get through with this witness this afternoon. There will probably be some Re-direct examination.

MR. DORAN: All right then.

THE COURT: I think we had better step here.

Thereupon the bailiffs were sworn, the jury were given the statutory admonitions by the Court, and retired in charge of the bailiffs, the defendant was remanded to custody, and an adjournment was taken until 9.30 o'clock A.M., Thursday, June 27th, 1907.

Adjourned.

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Boise, Idaho, Thursday, June 27, 1907.

9:30 o'clock A.M.

Parties met pursuant to adjournment.

The clerk read the read the record of the court for Wednesday, June 26, 1907, and presented them to the court for signature.

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

WITNESS W. F. DAVIS ON THE STAND.

CROSS EXAMINATION (Continued)

By Mr. Borah:

Q. Going back a little, Mr. Davis, when you were working in the Hercules mine after the 29th of April, 1899, what part of the mine did you work in? A. In the tunnel.

Q. Which one of the tunnels? A. At that time it was called the Lower tunnel.

Q. Was that the tunnel in which they struck ore? A. Yes sir, I believe that is the place.

Q. Had you struck ore at that time? A. No sir, we were expecting to strike through.

Q. Who was there with you besides Paulson? A. I don't remember the fellow's name but was there at that time.

2399 Q. Was there more than one? A. Yes, there was another, there were

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three of us.

Q. And you don't remember the other party's name? A. No sir, I don't.

Q. Did you get acquainted with him while you were there that month or three weeks? A. The two weeks that I was there?

Q. Yes. A. Why, I got acquainted with him, but he was an Italian I think, -- I am pretty sure he was an Italian, but I don't remember his name.

Q. You cannot identify him in any way at the present time so we would know the man? A. No, I don't think I could. He was not a very largeman; he was rather a small man, if I remember rightly. I should judge he was a man about forty-five years old.

Q. You say you remember of two men going past the Hercules mine on their way out of the country? A. Yes sir.

Q. Did you know either one of them? A. No sir, I did not.

Q. Did not learn the names of either one of them? A. No sir, I did not.

Q. Did they stop for lunch? A. No sir, they did not take lunch.

Q. Now, to refresh your recollection, Mr. Davis, didn't they stop for lunch and didn't Paulsen fix up a lunch for them to take with them on their way? A. No sir, he did not.

Q. You are sure of that, are you? A. Yes sir, I am sure of that.

Q. And did they simply go by the place where you were working without stopping, or indulging in any conversation at all?

A. They stopped, I believe, a few minutes, if I remember rightly. I don't think it was long though.

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Q. Do you remember any part of the conversation that took place?

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A. No sir, I do not.

Q. Do you remember of taking out a letter that you had from someone and reading it to the crowd that was there? A. No sir.

Q. You did not? A. No sir.

Q. You have no recollection of doing that at all? A. No sir.

Q. You did not do that? A. No sir, I did not.

Q. What? A. No sir, I did not.

Q. But you say that Orchard afterwards told you in Colorado that it was he who passed the mine at that time? A. Yes sir, after him telling me that he saw me there I remembered the incident and supposed it was him.

Q. Now, if this was Orchard that was passing the mine at that time did he go into the mine? A. No sir.

Q. Did he make any inquiries about the status of the mine?

A. No sir.

Q. Did he say anything to Paulsen about buying his interest?

A. Not that I heard, no.

Q. Did he make any inquiries about the mine, about how it was showing up? A. No sir, I don't remember that he did.

Q. Did he talk about that? A. No sir, I don't remember of it.

Q. If there had been anything said about that do you think you would have remembered it? A. I possibly might have, yes, and I might not.

Q. If you had taken out a letter from someone and read it do you think you would have remembered that? A. Possibly I would, yes.

Q. And if there had been a lunch fixed up for them to take on their way would you remember that? A. Possibly, yes; I might

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have remembered that they had taken lunch.

Q. But you don't recollect anything of that kind? A. No sir, I don't.

Q. Is your recollection pretty good, Mr. Davis, with reference to these things? A. Well, I don't know; it is fairly good I guess.

Q. Now, how many times had you met Orchard in Colorado prior to August 10th, 1903, the time of the strike? A. That is a pretty hard question to answer. He lived right there within probably half a mile of me.

Q. You knew him pretty well then, I suppose? A. I knew him about like I did any other members of the organization.

Q. Were you ever at his home? A. No sir, I don't think I ever was.

Q. Did you ever see his wife, Mrs. Orchard -- Mrs. Toney?

A. Yes sir, I have seen Mrs. Toney.

Q. Was you ever at her house? A. I don't believe I ever was, no.

Q. It is your best recollection that you was never at her house?

A. Yes sir.

Q. You swear now that you never were? A. Yes sir, I am positive I never was.

Q. Where did you meet him then, when you did meet him?

A. I used to see him in saloons and in different places around there.

Q. In Union hall? A. Yes, I saw him in Union hall and at union meetings.

Q. And in the meetings? A. Yes, in the meetings.

Q. Did he attend pretty regularly? A. Probably about like other

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members; I don't know of any particular interest that he took in any way.

Q. Nothing peculiar about his attendance? A. No sir.

Q. It was about the same as other members? A. Yes sir.

Q. And you knew him as you did other members? A. Yes sir.

Q. And did you know Steve Adams at the same time? A. I don't just remember when I got acquainted with Steve Adams, but I knew him there, yes.

Q. Did you know Steve Adams as early as 1903? A. 1903?

Q. Yes. A. Now, that I could not say; I don't know whether I did or not.

Q. Do you remember where you first met him? A. No sir, I don't remember where I first met him.

Q. Do you remember whether you met him in 1903 at all or not?

A. I could not say whether I did or not. I believe he was there.

Q. Where were you living in the month of November, 1903?

A. I lived on Bull Hill at Altman.

Q. Where were you living upon the 21st of November, 1903?

A. On Bull Hill at Altman.

Q. About how far from the Vindicator mine? A. It was the adjoining little town, -- I should judge about half a mile.

Q. And how far from Orchard's residence? A. Well, it was -- he lived in the upper edge of this little town -- I should judge perhaps quarter of a mile, I would say.

Q. Did you continue to reside there during the remainder of the period that you resided in Cripple Creek? A. Well, --

Q. At this same place? A. Well, about half the time I should judge, I was in Cripple Creek after that, I was in the county jail in Cripple Creek.

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Q. But during the time that you had the privilege of selecting your own residence you lived at this place? A. Yes sir.

Q. And where were you residing on the 6th of June, 1904?

A. I was in Denver attending a convention of the Western Federation of Miners.

Q. Where was your home? A. I had lost my family and had turned my furniture over to a second hand man.

Q. You had no residence at that time then? A. I never got anything for the furniture yet, either; they run the man out

on account of its being the largest union in the district. They had some 1200 members or more.

Q. Was Orchard there that night? A. I cannot tell you; he might have been.

Q. What is your best recollection? A. My recollection is that I don't know. He might have been there and might not; there was probably eight hundred or a thousand men there.

Q. Did you go down to Orchard's residence and see Mrs. Orchard the evening of the explosion? A. No sir.

Q. The evening of the explosion which killed Beck and McCormick?

A. No sir.

Q. Parker and yourself did not go there? A. No sir.

Q. How did you go to the meeting that night? A. I think we walked that night.

Q. Was there any discussion about taking the car or going afoot?

A. We missed the car. The cars were about an hour apart and we could get there about as quickly by walking over the hill.

Q. Did you see Orchard that night that you recollect? A. No sir.

Q. You have no recollection of seeing him? A. No sir.

Q. When did you see him first after the explosion that killed McCormick and Beck? A. I could not say that.

Q. Do you have any recollection of when you saw him after that explosion? A. Yes, I suppose I saw him, like other men do; I might have seen him every four or five days around there.

Q. But you have no specific recollection of any specific time that you saw him and talked with him? A. No sir, I don't.

Q. Did you ever see him in company with Parker after that?

A. No sir.

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Q. Never did? A. No sir.

Q. You recollect that? A. I might have, yes, but I won't say that I did because I don't know that I did.

Q. How long prior to the explosion was it that you saw Orchard?

A. Now, I don't remember that.

Q. You cannot recall of having seen Orchard anywhere around the time of the explosion, can you? A. No, I cannot, no sir.

Q. You can recall seeing Parker, and did you see Bill Easterly?

A. Yes, I remember them fellows because they were directly interested in the handling of the strike and the relief committees; we had relief committees from each of the local unions who looked after the members.

Q. Do you remember of seeing Easterly the night of the explosion?

A. I don't believe I did, — I can't recall seeing him although I might have seen him.

Q. Do you remember seeing him immediately prior to the explosion?

A. Possibly I might have. He lived there on the hill, and I don't suppose there was more than two or three days that I did not see him.

Q. Where was Steve Adams at the time of this explosion?

A. I don't know that. He had a cabin —

Q. You knew him well at this time, didn't you? A. I knew him like any other member; I was not pretty well acquainted with him at all.

Q. You say the troops came in there on the 4th day of September, 1903? A. Yes sir, I think it was the 4th.

Q. Are you certain as to the date? A. I have no data of it any more than just my remembrance.

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Q. That is your best recollection? A. Yes sir.

Q. The strike was on the 10th day of August? A. Yes sir.

Q. And they came in on the 4th day of September? A. I think so.

Q. Did you know an old man by the name of Stewart, a non-union man up there? A. Yes sir.

Q. Did you see him and talk with him? A. Yes sir.

Q. Well acquainted with him? A. No sir.

Q. A carpenter? A. I don't know whether he was or not; he papered my house for me before I was married. I saw his sign there and employed him to do that and got acquainted with him in that way.

Q. You were there in the district at the time it happened?

A. I was on the ~~train~~ train, I believe, at the time it happened. The manager of the Golden Cycle mine, L. F. Hill, and myself were on the train coming up from Colorado Springs.

Q. What was the date of it? A. I heard about it that evening.

Q. And what was the date of it? A. I don't know what the date was.

Q. The first day of September, 1904, wasn't it? A. It was some time along there I think.

Q. About three days before the troops were brought in? A. I could not say about that.

Q. What was done to old man Stewart? A. I don't know that, except what I saw in the paper.

Q. They took a shot at him? A. I don't know.

MR. DARROW: Wait a minute. I object to proving what was done to old man Stewart. You had better prove it by someone who knows about it.

MR. BOHN: This man says that everything was quiet in

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the district.

THE COURT: He may answer the question.

MR. DARROW: He says he don't know.

THE COURT: The objection is overruled.

MR. DARROW: Save our exception.

THE COURT: The witness is not expected to testify to what he don't know.

Q. Mr. Davis, you know that you heard of it? A. Yes sir, I believe that I did hear of it.

Q. You don't believe anything about it; you know it, don't you?

A. Yes, I heard of it, sure I did.

Q. And did you hear about J. T. Hawkins being beaten up?

A. Yes.

Q. That was before the troops were brought in? A. I don't know in regard to that, whether it was or was not.

Q. Hawkins was a non-union man, wasn't he? A. I don't know; Mr. Hawkins was telling me about this occurrence about two months ago in Goldfield, Nevada.

Q. He was a non-union man at that time, wasn't he? A. I don't know whether he was or not.

Q. Was he a member of your union? A. No sir, I don't think so, although he might have been and I would not know it, there were so many.

Q. He was a justice of the peace there, wasn't he? A. He was a justice of the peace in the other end of the district, it is in Anaconda.

Q. You did not know him as a union man, did you? A. No sir, I did not know him as union man or not to be one.

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anything to do with the Federation?

MR. MORAN: The simple proposition was --

MR. DARROW: Or the killing of a woman, that he had anything to do with that in a house of resort.

MR. MORAN: No, I don't know about the house of resort. I did not ask him about that, but the witness --

THE COURT: They are trying to show the conditions that existed there just before the troops were brought in.

MR. DARROW: Well, somebody not connected with the union killed a woman in a house of ill repute -- that wouldn't show anything that would justify him bringing in the troops, or they would have to have them in nearly all the cities pretty often.

THE COURT: What is the objection?

MR. DARROW: The objection is it has no bearing on this case.

THE COURT: Read the question.

(Question read as follows: "Did you know of his killing a woman two days before the troops werebrought in?")

THE COURT: What is the objection?

MR. DARROW: I object to it on the ground it is incompetent, irrelevant and immaterial, and so far as this witnessis concerned is hearsay.

THE COURT: The objection is overruled and the testimony will be admitted simply for the purpose of showing the conditions justprior to the bringing in of the troops.

MR. MORAN: The question is, did you know of it, Mr. Davis?

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A. I knew of it, yes sir. I don't remember when it was, though, whether it was before the troops came or after they came in. But if I remember rightly, I think it was after they came in.

MR. DARROW: Mr. Doran, if you want the date of that, it is in the government report and we will consent to it going in.

MR. DORAN: I have got the date here which is entirely satisfactory to us.

MR. DARROW: If it comes in the report it is entirely satisfactory to us.

MR. DORAN: I have got a date here which is entirely satisfactory and which we propose to try and show if I am permitted to do so.

MR. DARROW: We will consent that the report by the commissioner for the United States Government may be offered as to the date of the killing of this woman.

MR. DORAN: I don't apprehend that the United States commissioner was there, and we hope to find somebody who was there, which would be the best evidence in this case.

MR. DARROW: You don't seem to be trying to find somebody who was there.

MR. DORAN: I am doing my best with this witness. I think he ought to know all about it.

THE COURT: This witness has testified to the conditions existing in Cripple Creek immediately prior to bringing in the troops, and the court will permit him to be cross examined upon this matter.

MR. DARROW: Your Honor, we claim this was after the

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troops were brought in and that the government report shows it.

MR. DORAN: You also know, Mr. Darrow, that the government report is not evidence.

MR. DARROW: Not unless you consent to let it be used.

MR. DORAN: I presume this has been ruled on.

THE COURT: Yes.

Q. Mr Did you know Mr. Minster? A. Yes sir.

Q. He was a union man? A. Yes sir.

Q. Did you know of his getting into a difficulty up at the Golden Cycle mine upon the first day of September, 1903, with reference to some non-union men going to work?

A. No sir, I don't remember.

Q. Didn't hear anything about that? A. No sir.

Q. Did you know that the non-union men tried to go to work? Non-union men at the Golden Cycle mine on the first of September, 1903? A. I know that there was a lot of them did go to work, but I don't remember the date.

Q. Did the non-union men go to work in the Golden Cycle mine at any time in September, 1903? A. Yes, I should judge they did.

Q. What time in September? A. Well, now, I couldn't state; I couldn't say as to what time.

Q. Were there any non-union men at work in that mine prior to the time the troops came in? A. I don't believe there were.

Q. You know that they undertook to go to work upon the first of September, 1903, don't you? A. Now I don't know.

Q. Well, Mr. Davis, you was president of that union, wasn't you?

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A. Yes sir, I was.

Q.

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Q. And it was your business to be informed about all of these things? A. Yes.

Q. And you have no recollection of what occurred?

MR. BARROW: I object to that question "You have no recollection of what occurred"; that does not follow from anything he has said.

Q. Have you any recollection as to what occurred?

A. Why, no, I can't recall it, no.

Q. Where were you that day? A. Why, in Colorado.

Q. What part of Colorado? A. I guess I was in the Cripple Creek district.

Q. Do you know that you were? A. I have a right to believe that I was there, yes.

Q. That is your best recollection? A. Yes sir.

Q. Well, then, you were there in Cripple Creek, and don't you know that upon the first day of September, 1903, the non-union men undertook to go to work in the Golden Cycle mine?

A. I don't remember whether it was that date or not. I know that they did go to work there.

Q. And don't you know that Ed. Minster went up there with arms and prevented their going to work? A. No sir.

Q. Do you know that he didn't? A. No sir, I don't know that he didn't.

MR. DARROW: I object to that. He might not know that anybody did.

Q. Were you keeping yourself pretty well informed as a member of the union? A. The best I could, yes sir.

Q. Did you make any memorandum of these affairs? A. Nothing more than just remembrance of it, that is all.

Q. Now you say, do you, before this court and jury, that at the time the troops were called in everything was as peaceable in that district as it is in this court room?

MR. DARROW: He didn't say that. He said in Boise.

MR. HAWLEY: Well, in Boise then. We will anticipate Mr. Darrow to a "T".

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A. When I stated that, it might not have been as quiet as here in Boise, there might have been a few rough and tumbles, you know what mining camps are with eight or ten thousand men in them, you are liable to have a rough and tumble fight any time in it.

Q. Now you know furthermore, don't you, Mr. Davis, that at that time the mine owners were undertaking to bring into the camp non-union men? A. Yes sir, I know that they did ship men into the country, yes.

Q. And you know that that was causing a disturbance with the union men? A. Well, the only particular --

Q. Well, answer my question. You know that that was causing a disturbance upon the part of the union men? A. Well, no, I don't know that it was.

Q. You know you had it up for discussion in the union hall?

A. They left it to the strike committee, yes sir.

Q. And you had a meeting in the union hall over the matter, didn't you? A. No sir, I don't believe that we did.

A. We might have had it in committee rooms. Mr. Borah, there is a district union there that represented all of the local unions, and that district union composed about fourteen or fifteen members, and out of that district union there is an executive committee for handling the affairs of the strike, and I was one of them, and Sherman Parker and a man by the name of Knudsen at that time.

Q. You were allin touch with the situation? A. Yes sir.

Q. And you don't know whether thereewas any disturbance between the union and the non union men prior to the time the troops

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were brought in by reason of the fact that they were bringing in these non-union men, is that right? A. No sir, the only thing was that we tried to hold our own men in line. We didn't care who they shipped in there. We were trying to hold our own men in line, that is what we were trying to do.

Q. The difficulty you were having was to keep your own men from going to work? A. Yes sir, if we could only keep our men from going to work, that was the proposition.

Q. Then this situation had resolved itself into this, that there was a strike — A. Yes sir.

Q. And that the difficulty which this executive committee was having was to keep its own men from going back to work?

A. That is, to keep them in line, yes sir, until we could get a settlement.

Q. Then it was a strike of the committee, wasn't it?

A. No sir, it wasn't.

Q. The men — A. If you will permit me, Mr. Horah — the mine owners had a great many agents and a great many men to deceive our men that was out on a strike and tried to mislead the proposition to them through the press and through their representatives around through the district, tried to discourage our own members, that was the proposition.

Q. The trouble that you were having was to keep your men from going back to work? A. As I stated, to try to keep them in line so that they would not believe what these people were telling them.

Q. You were having some difficulty about that? A. That is what the committee was for, was to handle the strike to the best

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of their ability.

Q. You want to conclude this statement then by still saying that everything was peaceable in the district? A. Yes sir, I would say it was as peaceable a time as any other time in the Cripple Creek district.

Q. Any other time in the Cripple Creek district? A. Any other time, yes sir, or in any other district I have been in for the amount of people that lived there.

Q. Where did you say you were upon the night of the 21st of November, 1904? A. State that over -- the night you mean, you say?

Q. Yes. A. I was at home. I understand the Vindicator explosion, as I understand, was about ten or eleven o'clock in the day.

Q. Was the Vindicator at this time a union mine or a non-union

there would have been participation on the occasion of their funeral by the union? A. I know they were not union men at that time.

Q. That is what I am trying to get at. A. Why, no.

Q. Then as a matter of fact you are now ready to say that at the time they were killed they were non-union men? A. Yes sir, I leave it that way; I should judge they couldn't belong to the organization if they were taking the place of men that were out on strike, I wouldn't call them very good union men if they did that.

Q. You don't style them as union men? A. No sir.

Q. And they were taking the places of the men that were out on strike? A. They were taking the places that were held formerly, the superintendent and foremen I believe of the property.

Q. Where were you on the night of the 6th of June, 1904?

A. I was in Denver, Colorado.

Q. You was at the convention? A. Yes sir.

Q. Did you know the men who were killed at the Independence depot?

A. No sir.

Q. Did you know any of them? A. I read the names I think, but I don't believe that I did. I might have known their names, some of them.

Q. You know the union men in the district pretty well, didn't you?

A. I know a good many of them, yes, I know thousands of them that I didn't know their names. I might know them now but I don't know their names.

Q. Were those men that were killed at this depot union men or non-union men? A. I believe -- I don't know; I believe they

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were non-union men.

THE COURT: What is that answer?

A. Non-union men I believe.

Q. Do you know of anyone that was killed at the Independence depot or at that explosion who was a union man? A. I can't say. There might have been or there might not have been. I wasn't there in the Cripple Creek district at the time or I wasn't there afterwards and I haven't been there since, so I don't know.

Q. Did you make any inquiries as to whether any of them were union men or not? A. I don't know that I did.

Q. When you heard of this matter in Denver did you talk it over with anyone, talk with anyone about it? A. The first I heard of it was in the morning paper when I got up.

Q. Did you as the president of a union feel any interest to know whether they were union men or not? A. I possibly did. Probably the paper explained it. I believe it said they were coming off of shift of different mines; of course they were non-union men.

Q. What mines did they come from? A. Well, as a rule the people that took that station there and another station or two right there, there was probably half a dozen mines -- there was the Vindicator, the Bull City, the Finley and the Gartlett and probably the Eagle and Deadwood.

Q. Those were all non-union mine at that time? A. Well, some of them wasn't running I believe.

Q. Well, all of them that were running were running with non-union men? A. Yes sir, I believe so.

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Q. These men that were killed at that depot were men that came out

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of these mines and most of them at least were non-union?

A. So the papers stated and so I understood -- the morning papers.

Q. Now upon the 6th day of June what union mine was running in the Cripple Creek district? A. On the 6th day --

THE COURT: What date?

MR. BORAH: 6th day of June, 1904.

A. The only big mine that I know -- there was quiten number of leases that were working that was working union men, and a great many of our members and men were leasing on these fair properties, and the only big mine was the Portland.

Q. How long had ~~mine~~ that been running as a non-union mine?

A. Which?

Q. The Portland. A. As a non-union mine?

Q. Yes. A. Do you mean non-union?

Q. I mean as a union mine, excuse me. A. I think they was out about ten days whenthey all went out on the 10th of August before that, and I think it was something like ~~[illegible]~~ ten days, and there was a satisfactory settlement or adjustment made between the organization and the president of the Portland Gold Mining Company. Jim Burns was president, and it was fair up until that time.

Q. What other mine except the Portland was running as a union mine on the 6th day of June, 1904? A. Well, now, I don't know that I can just exactly call the name. There was some little dispute over this man Bolles on the --

Q. Well, we will get at it another way. Name the non-union mines which were running. A. That would be pretty hard to do.

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Q. Name all that you can. A. Well, I could name the biggest part of them.

Q. Name all that you can. A. The biggest part of them that was running -- oh, a great many of these here was simply nothing more than just keeping a few men around just to keep the mine open.

Q. Name all that you can that were running as non-union mines.

A. The Independence was probably the largest, worked the most men; probably the El Paso, the Finley, Golden Cycle, and the Vindicator, the American Eagle and the Logan -- no, I don't believe the Logan was running at all.

MR. RICHARDS: A little louder, Mr. Davis.

A. I don't know, I might name some of these mines that wasn't running at all; but if they had been I guess they would have been non-union.

Q. Name those that were not running because the union men were not in there working? A. Well, they are the principal ones.

Q. The district was non-union at that time, practically, except the Portland. A. That is the company mines, yes; yes sir, that worked any amount of men.

Q. And had been practically ever since the strike? A. Well, of course what work they were doing. The Portland I guess was shipping more ore than all the rest of them combined, I think a great deal more.

Q. You don't seem to understand my question, Mr. Davis. I say that all the mines in the district you have mentioned, except the Portland mine, were non-union mines and had been since the strike? A. Yes sir.

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Q. And that every man killed upon that depot was a non-union man, so far as you know? A. Possibly, yes, they might have been and there might have been some that wasn't. I wouldn't say because I don't know.

Q. You made no inquiry? A. I possibly did make inquiry.

Q. You left Denver too soon afterwards to find out? A. I left Denver about -- I guess probably about a week after that; six or seven days, something like that.

Q. Do you know W. F. Campbell? A. President and general manager of the Vindicator property?

Q. Yes. A. Yes sir, I know Mr. Campbell.

Q. How long have you known him? A. Well, I guess I have known him about--probably about four years.

Q. Did you have a talk with Mr. Campbell about opening the Vindicator mine, that is about the men going to work? A. Yes sir, I did.

Q. Whereabouts? A. I believe it was on his property. I believe it was in his office.

Q. About when? A. I don't know. I believe it was along some time in the fore part of the strike. I don't remember just when it was. Mr. Campbell wasn't there only a portion of the time.

Q. Did you have a talk with him in his office -- A. Yes sir.

Q. -- about the first of September? A. It was along some time in the fore part of the strike, yes sir.

Q. Was it before the troops came in? A. I couldn't say whether it was or not.

Q. You do remember having the talk? A. Yes sir.

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Q. And you told him there at that time if he opened up or insisted on opening his mine with non-union men something would happen, did you not? A. No sir, I did not.

Q. You are sure of that, are you? A. Yes sir, I am sure.

Q. What did you say to him? A. If I remember the conversation right, I heard he was going to start up and I told him he had always treated us fair there and we had tried to give him the best results we could give him and we would like to continue so. Well, he said, "It would be beyond my reach to do anything, gentlemen". That is just what he said. He said "I have nothing to do with it." He says, "The Mine Owners' Association is handling the problem."

Q. What did you say to him in case he should insist on opening up? A. I didn't say anything. I just simply left him when he said it was out of his hands. Of course there was no need of talking to him further.

Q. You did not tell him then in his office on the property about the first of September, 1903, that if he insisted on opening up his mine with non-union men that something would happen to the property? A. No sir, I didn't tell him any such a thing.

Q. Nor that in substance? A. No sir, I did not.

Q. At that time nor any other time? A. No sir, or no other time.

Q. When did you see Orchard at the convention down in Denver?

A. Well, it was some time during the convention, I saw him there.

Q. Where did you stop? A. I stopped at the Belmont rooming house, I believe was the name of it.

Q. Who stopped with you? A. Sherman Parker.

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Q. You had a double room? A. I believe we had a double room, I

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wouldn't say for sure.

Q. Who else stopped with you besides Parker? A. I believe there was a fellow by the name of Whitney stopped a few days with us, until his wife came down.

Q. Mr. Whitney was from where? A. He was from Cripple Creek.

Q. There was Mr. Whitney, Mr. Parker and yourself stopped at the Belmont hotel or rooming house? A. Yes sir.

Q. That is just over Mr. Pettibone's store? A. I don't know whether it is in the same building or not. I don't believe it is in the same building. If it is -- I have been in Pettibone's store -- but if I am not mistaken it would be to one side of his store.

Q. It was near Pettibone's store? A. Yes sir, it was near his store.

Q. Did you see Pettibone there? A. I don't know. I used to see him once in a while.

Q. Do you remember of seeing him at the convention? A. I believe that he was there; I generally saw him.

Q. Generally attended the conventions did he? A. I would generally see him; frequently I saw him at the conventions, around there, yes sir.

Q. You remember seeing him at this convention? A. Yes sir, I believe he was there.

Q. Where did you see him? A. I seen him at the convention.

Q. Whereabouts in the convention? A. As long as he was there, the particular place he was sitting in the convention do you mean?

Q. Yes, what was he doing, where was he sitting, where did you

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see him and what was the occasion of his being there?

A. I believe he is a member of the organization and has a right to attend. A member has a right to hear the discussions and deliberations of the convention.

Q. Did you see him there, do you remember? A. Yes sir.

Q. Saw Mr. Haywood of course? A. Yes sir.

Q. Saw Mr. Moyer? A. No sir.

Q. Did not? A. No sir.

Q. He was not there at that time? A. No sir; Mr. Moyer was in Telluride in jail.

Q. Did you see Mr. Marion Moor? A. Yes sir, I believe he was there.

Q. Was Orchard up to your room at any time during that convention?

A. No sir, not that I remember of.

Q. You don't remember? A. No sir, I don't think he was.

Q. Would you say that he was not? A. Yes sir, I believe that I would say that he was not. But he might have been. I wouldn't say.

Q. Where did you see him if you saw him at all?

MR. DARROW: I object to that question. He says he didn't see him, he doesn't remember him. How he says where did you see him if you saw him.

MR. BOHAN: He does say he saw him.

MR. DARROW: He said in answer to your question that he didn't remember of seeing him at all but he might. How "Where did you see him if you saw him".

MR. BOHAN: We will settle it by asking the witness. Didn't you state in answer to Mr. Darrow yesterday in direct

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examination that you saw Mr. Orchard in Denver at this convention?

A. Yes sir. I said to you here this morning that I seen him.

MR. BORAH: That is what I thought. I was just trying to get Darrow right.

MR. DARROW: This question was as to his rooming house, the Belmont.

MR. BORAH: No, I said where did you see him if you saw him at all.

MR. DARROW: Speaking of the rooming house.

MR. BORAH: No, I did not.

MR. WILLIAMS: I misunderstood you. I thought you said at the rooming house.

THE COURT: What is the question?

(Question read as follows:"Where did you see him if you saw him at all?")

THE COURT: The objection is overruled.

Q. Where did you see Orchard if you saw him at all?

A. I saw him at the convention in Denver.

Q. In the convention hall? A. Yes sir, he was at the convention.

Q. With whom was he talking? A. I couldn't state that. He might have been talking to me.

Q. Well, was he? A. I couldn't say for certain. He was there, I know that. I seen him there at the convention. I believe he was there quite a few days there of that convention.

Q. Do you remember of talking with him at all? A. No sir, I don't remember of it.

2426 Q. Do you remember of seeing anyone talk to him? A. I couldn't

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say that I did. I would naturally suppose that a man would -- that a man wouldn't stay around there four or five days without talking with somebody.

Q. I want to know whether you saw him or not? A. I couldn't say. I guess I would be perfectly safe in saying that I did, yes.

Q. Did you see Parker there? A. Yes sir.

Q. Did you see him in company with Orchard? A. No sir, I did not.

Q. You remember that? A. Well, I might have seen him, yes, I might have or I might not have seen him. I don't know.

Q. Did you see Haywood there at that convention? A. Yes sir.

Q. Was he in company with Orchard? A. No sir, I didn't see him.

Q. Do you remember that? A. As I said, I might have, -- two or three hundred men in a building I ain't going to follow a man around who is a member of the organization.

Q. Did you see Mr. Pettibone in the convention? A. Yes sir.

Q. In the convention hall? A. I think so, yes sir.

Q. Did you see Mr. Orchard talking to him? A. Not that I particularly recall, no; I might have and I might not.

Q. Where did you last see Orchard prior to the time that you left Denver? A. I see him there in Denver -- prior to the time I left Denver?

Q. Yes. A. I saw him in Denver.

Q. How long before you left? A. I suppose a week or ten days or something like that.

Q. Did you have a talk with him that recalls that you did see him?

A. Why, no, I don't know that I did. I might have been there

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all the time, I don't know.

Q. You heard of the explosion after the occurrence or it of course?

A. Yes sir.

Q. Where was this strike committee at the time this explosion occurred? A. They were in Denver.

Q. How long had they been back? A. If you call it the strike committee, I was on the strike committee.

Q. This peace committee I should say. A. It was somewhere the fore part of June. I don't remember the exact date.

Q. How long had they been back when the explosion occurred?

A. Well, I couldn't say as to that; I don't know.

Q. Was it the same day? A. I think they came back and reported at the convention.

Q. Before the explosion? A. Yes sir.

Q. Was it the same day of the explosion that the report came in?

A. Well, now, I couldn't say as to that, whether it was that day. It was some time in the first few days of June, if I remember right.

Q. The explosion of course made quite an impression on your mind? A. It naturally would, you sir, right where I lived.

Q. Do you know what was occurring in the convention or what progress was being made by the convention at the time that it occurred -- what you were doing? A. Well, now that would be pretty hard to recall, Mr. Horn.

Q. If you can't recall it, you can say so.

MR. MARROW: You mean at the time he learned of it, of course?

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MR. HORN: The time he learned of it, of course.

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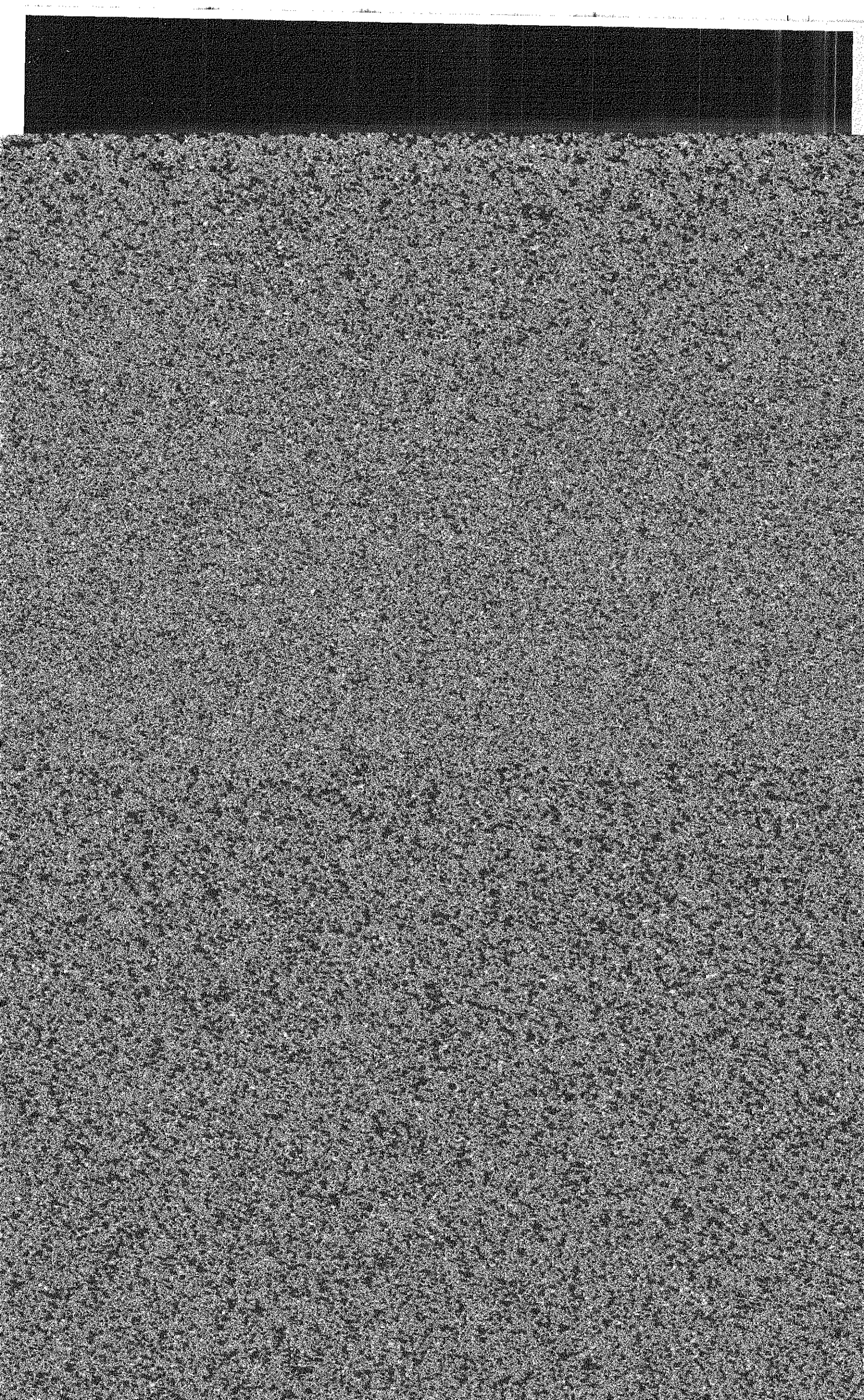

they suggested that some one of the executive committee go down with this committee.

Q. And that was Sherman Parker? A. Mr. Parker had his family living there, I had none at the time, and he says, "Well," he says, "I will go home for a night and I will godown".

Q. And he did go down? A. And he went down there, yes sir.

Q. Now can you tell me, after refreshing your recollection upon these things, whether or not this report had come in before you heard of the explosion? A. I rather think it had, at least I think it was before that.

Q. And was it upon the same day that the explosion occurred or the day after? A. I rather think it was before, Mr. Borah. I wouldn't say positive but I rather think it was before.

Q. And do you know now whether it was in writing or a verbal report? A. No sir, I don't remember whether it was verbal or whether it was in writing.

Q. Well, how long did you stay in Denver after this explosion was heard of? A. I can't know. I think it was about -- if I am not mistaken which I might be two or three days -- I think the convention -- I think we got through the work of the convention about the 10th or 11th. Now I might be mistaken a day or two in that.

Q. And did you go immediately then? A. No sir, I didn't go for a day or two days I believe.

Q. When did you change your name on your trip? A. When did I change my name?

2430 Q. Yes. A. I changed my name when I started on the trip.

Q. On the train? A. Yes sir.

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Q. In whose name did you buy the ticket? A. Well, I suppose I bought it in my own name but I didn't sign nothing.

Q. Didn't sign any name? A. I bought the ticket.

Q. Did you sign the ticket? A. No sir, I didn't sign no ticket.

Q. And you changed your name about the time you started and you took your travelling name again of Mr. Jones? A. Yes sir.

Q. The same Jones, W. S. Jones? A. Yes sir.

Q. Why did you change your name? A. I changed my name simply for the reason that I had -- Mr. Borah, that my people had been deported from the state which I was representing, and --

THE COURT: Louder, Mr. Witness.

A. I say I changed my name for the simple reason -- he asked me why I changed my name. I changed my name for the simple reason that they deported my people from the state over the line into New Mexico and the state of Kansas and there was none of them left there, only those that was compelled to, those that had their families there and the like of that to take care of, to take out a card in the Mine Owners'Association and go to work; and under those conditions I knew there was no job there for me or any place else in the state because there was trouble on in two or three other different parts of the state; and I changed my name for various reasons, and another reason that I changed my name was that I laid there in the bull pens and jails for some six or eight months and I had been kangarooed in the courts, as I called it, on charges of allkinds brought against me, and mine had been tried in the court and I was ordered turned loose from the jury by the judge of the court --

2431 Q. Because you were ordered turned loose, proved innocent, you

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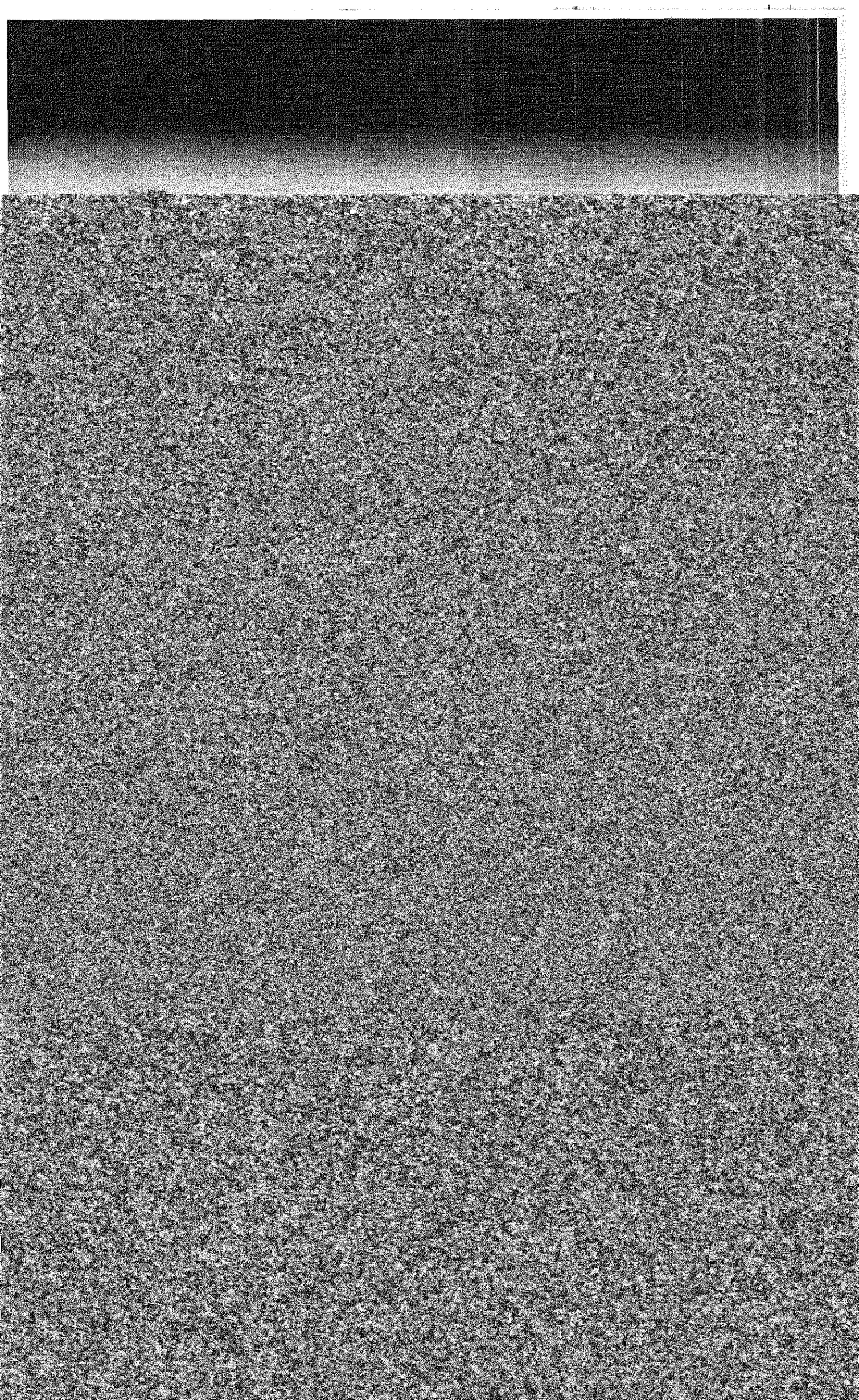

Denver around headquarters and around different places.

Q. You saw him there a number of times? A. Yes sir.

Q. How long did you stay in Cheyenne? A. I was there about three days.

Q. Did you register under the name of Jones? A. I didn't register at all.

Q. But you passed under the name of Jones? A. Yes sir.

Q. Orchard was there all the time? A. I met him on the evening I think when I went into this saloon. He was there, I think that he was in there, yes sir.

Q. And Mr. Neville was there, the old man? A. Yes sir.

Q. And Charley Neville? A. That is the boy?

Q. Yes. A. Yes sir. I didn't know his name.

Q. Did you go fishing the next day or two? A. I went out to a dam they were building there fishing, and also to get a dog, with Mr. Marsh, from a fellow by the name of McKenney of Denver, a contractor.

Q. Did you see Orchard out at the dam? A. Yes sir.

Q. Mr. Neville and his son with him yet? A. Yes sir.

Q. They were travelling in a wagon? A. Yes sir.

Q. What day of the month was this? A. Well, let's see -- now I couldn't say as to the exact date. It must have been along the 15th or 16th or somewhere along there maybe, we will say the 15th.

Q. 15th of June? A. We will say the 15th; it might have been two or three days either way.

2434 Q. Now did you see Orchard any more? A. No sir.

Q. That was the last you saw of him? A. I never let saw him

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any more until I saw him right here in the court room.

Q. When you left Cheyenne you immediately went up into Wyoming to another point, didn't you? A. Yes sir.

Q. Still went under an assumed name? A. Yes sir.

Q. And you travelled under an assumed name until you reached Goldfield? A. Yes sir.

Q. Under the name of James all the time? A. No sir.

Q. Took another name? A. Yes sir.

Q. Where did you take that name? A. I took that at what is called the Old Keystone mining district.

Q. It is about forty-five miles from Laramie Wyoming.

Q. What name did you take then? A. -- W. F. Morris.

Q. And kept that until you got to Goldfield? A. Yes sir.

Q. Then you took W. F. Davis again? A. Yes sir.

Q. Now you say that some of your men had been deported: When were the first men deported from that country down there where you live, Cripple Creek? A. Cripple Creek?

Q. Yes, the first one. A. They deported some one or two, or something like that, during the winter; but it seems as though they came back, they wouldn't stand for it.

Q. They were not union men, were they? A. Yes sir, they were union men.

Q. What were the names of the union men that were deported in December? A. I didn't say December.

Q. When? A. Some time in the winter.

Q. Well, some time in the winter. A. I don't believe I can call to the fellow's name there.

2434 Q. Can you give me the name of a single man that was deported

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in the winter of 1903 and 3? A. I can't give you the name, but he was deported. Now, understand me, it might have been a family affair or something of that kind, and I believe they were thrown in jail or something over there, two brother-in-laws. I believe that one of them was a union man and one wasn't. The union man got him out but he wouldn't stand for it and he came back.

Q. What was this union man's name? A. I can't recall his name. I might get his name from someone that is here from Victor.

Q. Was he deported because he was a union man as you understood it? A. He was a union man, that is the way he understood it from none of the nine men there, nine men that deported him.

Q. What other union man was deported? A. And beat him up.

Q. What other union man was deported? A. Well, I don't recall.

Q. Well, when was the first general deportation from Cripple Creek, what date? A. All I have got is press reports, and from that I have heard. I wasn't there. I think it was the 6th or 7th or 8th or somewhere along there, or 9th or 10th of June.

Q. It was after you left Denver, wasn't it? A. After I left Denver?

Q. Yes. A. No, it wasn't. They were all out of the state

Q. Had Steve Adams arrived in Denver before you left?

A. I don't know. I believe that he had, yes sir, I believe that he had.

Q. Did you see him? A. I believe that I did.

Q. Talk to him? A. I can't say that I did; I might have.

Q. Well, you finally wound up in Goldfield, Nevada. When you got there Parker came also? A. I met Mr. Parker. He was doing some prospecting out at —

Q. He was there in Goldfield? A. No, he was in Reno. I stopped in Reno a couple of weeks coming in from Battle Mountain.

Q. That is where you met him in Nevada? A. He had his family and lived there, yes sir, and he was prospecting there for a mining man.

Q. Were you elected as a delegate to Chicago from Nevada.

Q. Went through Denver? A. No sir, I didn't go through Denver.

Q. Came back through Denver? A. Yes sir.

Q. See Orchard? A. No sir.

Q. Did not? A. No sir.

Q. Sure of that? A. I know I didn't see him.

Q. You did go to the convention and came back through Denver?

A. Yes sir, and I stopped in Denver two or three days. I put up some stones at my wife's grave.

Q. Did you write to Pettibone from Cheyenne? A. No sir, I did not.

Q. Didn't get any letter from Pettibone at Cheyenne? A. No sir.

Q. Get any money from Pettibone before leaving Denver? A. No sir.

Q. Write for money from Cheyenne? A. Write to Pettibone?

Q. For money from Cheyenne, did you? A. No sir, I did not.

Q. When did Parker leave Denver? A. He left Denver I think about

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the day or the day before I did, something like that.

Q. When did Bill Easterly leave Denver? A. I think that he and Easterly left together, I think they did.

Q. When did Steve Adams leave Denver? A. I don't know.

Q. What was Easterly's name when he left? A. I don't know that.

Q. Do you know what Parker's name was when he left? A. So far as I know they had their own names. I don't know. They might have changed them.

Q. It was necessary for all you people to change them, wasn't it?

A. Yes. They possibly did change them.

Q. Do you know when Steve Adams left Denver? A. No sir, I don't.

Q. Do you know what his name was when he left? A. No sir, I don't.

Q. When did you last see Art Easton? A. Art Easton?

Q. Yes. A. I guess it was about 1902 or 3; I don't remember. He lived on Bull Hill.

Q. Have you seen him since 1903? A. Let's see if I can recall when he left there. If I am not mistaken, I think it was the winter -- I might be mistaken in regard to that -- I think it was the winter of 1903 -- no, hold on, I guess it was 1902.

Q. When did you last see Mr. Minster? A. Let's see, I guess it was some time about -- during the fore part of the strike in Cripple Creek.

Q. When was Parker killed in Goldfield? A. He was killed on the 6th day of November.

Q. 1905? A. 1906.

Q. 1906? A. Yes sir.

MR. BOYD: That is all, at present.

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RE-DIRECT EXAMINATION

BY MR. DARROW:

Q. Mr. Davis, just a few more questions. You were speaking about your chief business or trying to keep your men in line down there after the strike? A. Yes sir.

Q. That is, keep them from going back to work I suppose?

A. Yes sir, that was the object.

Q. That is always one of the chief businesses of strike committees, isn't it? A. Yes sir, part of their duties, to give them all the assistance they can in winning their point.

Q. It isn't an easy matter to keep thousands of men with families from working when they haven't got anything to eat?

MR. BORAH: We object to that as leading.

THE COURT: Objection overruled.

A. It isn't a very desirable position to hold, no, it isn't.

Q. Mr. Davis, you were asked in reference to the troubles down there before the troops came in. Did you ever hear of anything that was ever talked about in the newspaper or by the Mine Owners' Association excepting the assault on the old gentleman — what is his name — Stewart, and the assault on the justice of the peace up there, that occurred before the troops got in, outside of the regular usual amount of trouble that always occurs in a big district? A. No sir, I don't think so; I can't recall anything. No sir, I don't think there were anything.

Q. And as to the assault on Stewart, the officials were trying to get them and a reward was offered, and they were searching

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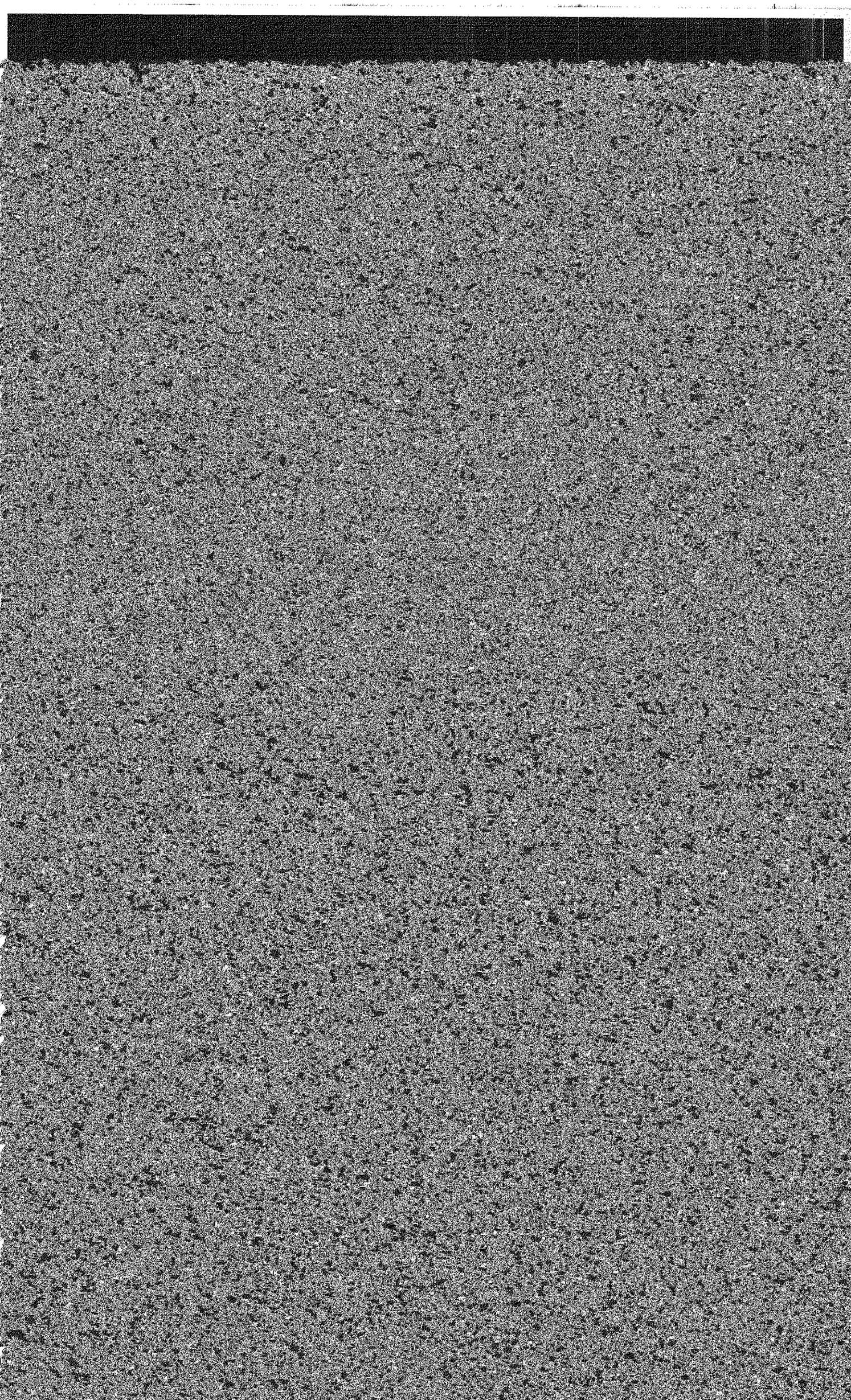

A. Who is this?

Q. McCormick and Beck, who were killed? A. One was superintendent and the other was foreman, and had been, as I understand -- of course I didn't know at that time, I have heard it talked since, they had been for some time on that property.

Q. Is it customary for the bosses and superintendents and officers to be members of the union? A. No sir, it isn't customary.

Q. Sometimes they join but it wasn't customary? A. No. They can be members if they wish to, I believe, some of them or a great many of them didn't wish to belong or don't pay up. Of course each local union has its own jurisdiction in that respect.

Q. When you left to go toward Cheyenne did you learn how many people were actually arrested up there at Cripple Creek on account of the Independence depot explosion? A. How many was taken in?

Q. Yes. A. I understood that all men that was on strike that refused to go to work was either deported or thrown in the bull pen.

Q. Did you see a notice posted on December 30th, 1903, issued by the command of Colonel Verdenkberg, signed by H. H. Libby as lieutenant and adjutant, first infantry, first brigade N.G.C., adjutant of the district, did you see that notice posted in reference to taking people who were strikers for vagrants? A Yes sir.

Q. Where was that posted? A. It was run in what we called their official paper there, notices in different ways, general understanding.

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Q. Did you see any answer made by Moyer and Haywood in reference

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to it? A. I don't remember.

Q. Could you by referring to the book recall what that notice was? I want to call your attention to it, gentlemen, (Speaking to counsel for the State) on page 217 of the report. I want to introduce it.

MR. DORAN: We have no objection to your offering that.

MR. DARROW: Very well.

Q. Was this notice posted --

MR. HALEY: Read the line before so as to show who it was issued by.

MR. DARROW: I will. If you folks think it best, after awhile, we will stipulate that any part of this report may go in.

Q. Was this notice posted: "The following is a general vagrancy orderant issued by the military authorities."

MR. DARROW: That is the line you refer to, isn't it?

MR. HALEY: Yes sir.

MR. DARROW: (Reading): "Headquarters, Teller County Military District, National Guard of Colorado. Victor, Colorado, December 30th, 1903. Any person failing to work and support himself in some honest and respectable calling, or shall be found loitering or strolling about, frequenting public places where liquor is sold, begging or leading an idle, immoral or profligate course of life, or not having any visible means of support, shall be deemed a vagrant. Notice is hereby given that from and after January 7th, 1904, all vagrants, as hereinbefore defined, who shall be found within any of the cities and towns or any part of Teller

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county, Colorado, will be promptly arrested by the military authorities and dealt with according to law. All persons within the said territory who fall within the above definition of a vagrant are hereby given until the above mentioned date within which to become engaged in some honest and lawful pursuit, after which they will be taken into custody without further notice. By command of Colonel Verdidebury. E. M. Libby, first lieutenant and adjutant, first infantry, first xxxx brigade N.G.C., Adjutant of the district."

Was that the notice?

A. I couldn't state, Mr. Darrow.

Q. Was it substantially that? A. At that time there was a whole lot that was printed that I never got to see, and I didn't get to see but very little. I was in prison at the time. I remember it, I believe, of being talked over, but I don't believe I remember of reading it.

MR. DARROW: We will have to prove it by somebody else. We will offer that in connection with the cross examination. I understand there is no objection to it at this time as being the notice given at the time.

MR. HANLY: By the military authorities.

MR. DARROW: By the military authorities, yes.

THE COURT: There being no objection it will be considered as being admitted. You don't care to read it again, I suppose?

MR. DARROW: No, I don't care to read it again. It has been read already.

2442 Q. When those men went out on strike --

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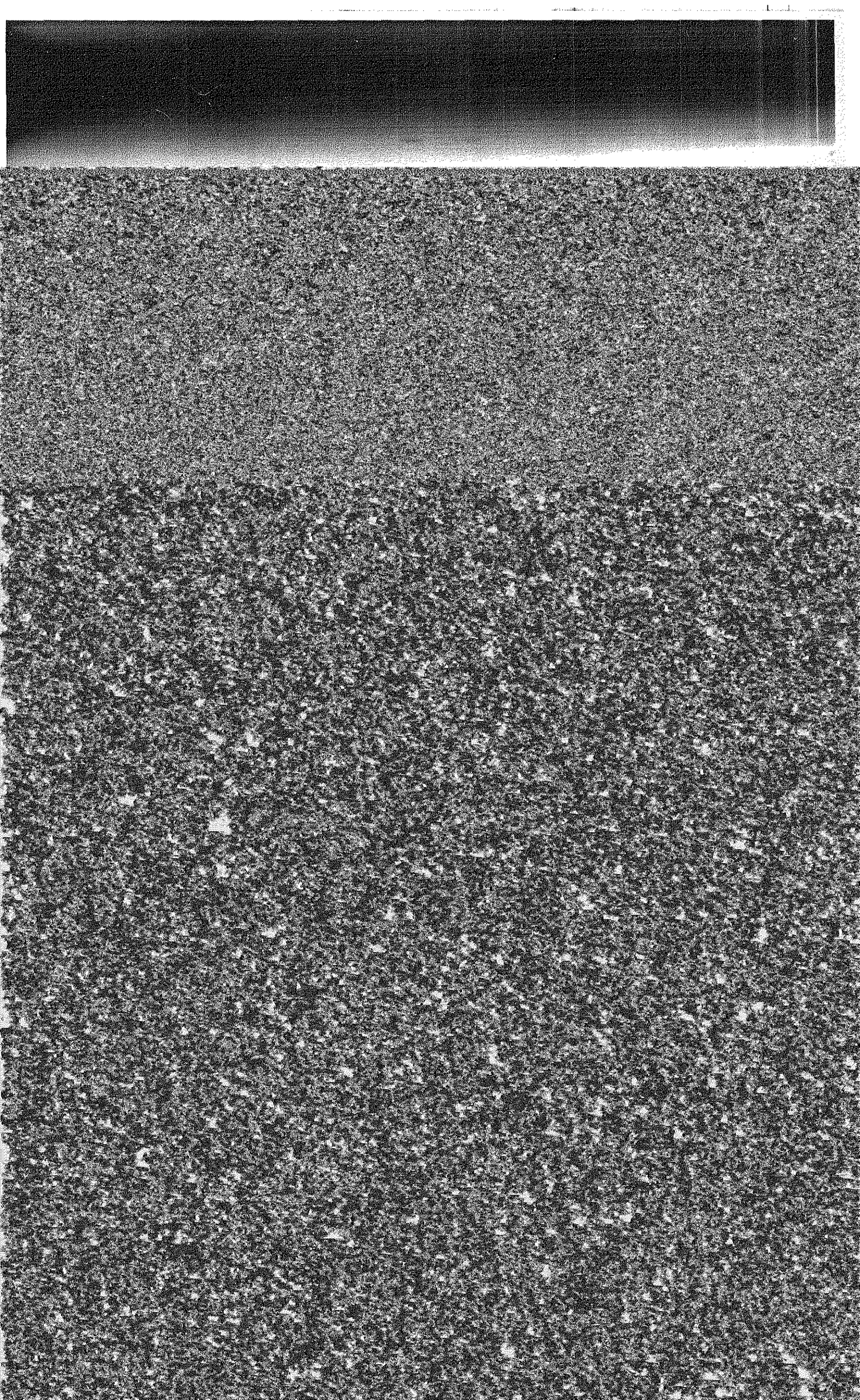

A. Was the relief given out there?

Q. Yes. A. Different local unions give out relief, yes sir.

Q. Were all your people supported? A. Sir?

Q. Were all of your people supported? A. Yes sir.

Q. By the union? A. Yes sir.

Q. Taken care of, weren't they? A. Yes sir, they were all taken care of.

Q. Weren't sent to the poor house? A. None of them, no sir.

Q. You were asked about the assault that you heard of in the district, in Colorado, referring to Stewart; Did you hear of assaults on Mr. Richardson at Telluride? A. I heard of that; yes sir, I heard of that.

Q. And Mr. Floten? A. Yes sir; I saw Mr. Floten when he was in Denver; after Mr. Floten was run out of Telluride he come there with his head bent up, the first time I ever met the man. I met him at headquarters in Denver.

Q. And did you hear of other assaults on your friends and men and members during the strike? A. Yes sir, quite often I would hear of somebody misused in some way or other.

MR. DARROW: That is all.

RE-CROSS EXAMINATION

BY MR. KORAN:

Q. Did you know Charley Campbell? A. Charley Campbell?

Q. Yes. A. I don't believe that I did.

Q. What? A. I don't believe I did.

Q. You knew Ed. Minster of course? A. Yes sir.

Q. Did you know John Nevin? A. Yes sir.

Q. You knew Steve Adams? A. Yes sir.

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Q. Jim Lafferty? A. Yes sir.

Q. Did you make any effort to find out who beat up old man Stewart? A. Well, I don't know as I made any particular effort, only we did talk about it.

Q. Did you mention mr Parker about it? A. I believe we talked it over with him, yes.

Q. Did you ask Jim Lafferty about it? A. Possibly I might have talked with Lafferty about it, yes.

Q. Do you have any recollection of asking him about it?

A. I don't, no.

Q. Did you ask Charley Campbell about it? A. Charley Campbell I don't know.

Q. Did you ask Mr. Minster? A. No sir, I don't remember that I ever talked with him about it.

Q. John Nevin? A. No sir.

Q. Steve Adams? A. No sir.

Q. They were all union men, weren't they? A. I don't know this man Charley Campbell.

Q. They were all union men except Campbell?

MR. RICHARDSON: I think maybe it may be the same man as "Slim" Campbell.

MR. DORAN: I don't know whether it is or not.

Q. Do you know whether it is or not? A. No sir, I don't.

Q. All of these men except Campbell were union men? A. Slim Campbell is all I ever heard him called.

Q. All of these men were union men except Campbell -- and maybe you don't know him -- there was Sherman Parker, Steve Adams,

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John Nevin, Mr. Minster and Jim Lafferty? A. Yes sir, they were all union men, I believe, at that time, yes sir.

Q. Did you ever talk to Steve Adams about this matter?

A. No sir, I never did.

Q. Don't you know, Mr. Davis, and didn't you know that within twenty-four hours after this happened, that old man Stewart was taken from his cabin by Jim Lafferty, Sherman Parker, Steve Adams, Mr. Minster and John Nevin, and one side of his beard shaven off, shot and beaten --

MR. DARROW: I object. This witness has already said he didn't know; he wasn't present and didn't know.

THE COURT: Have you completed your question?

MR. BORAH: Yes.

THE COURT: Objection overruled.

A. No sir, I don't know anything about it. As I stated awhile ago, I heard of this, but at the time it was reported that this was done, but I stated I was on the train and in company with L. E. Hall of the Golden Cycle riding up from Colorado Springs.

Q. I didn't ask you where you was at the time, I am aware that you were away from there, but I am asking you if you didn't know within twenty-four hours afterward from Sherman Parker and Steve Adams that they went and did it? A. No sir, I did not.

MR. BORAH: That is all.

QUESTIONS BY MR. DARROW:

2116 Q. There is one thing I omitted there; were you present at a

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meeting at Pinnale Park during the strike? A. Yes sir, I was at a picnic there, a Labor Day picnic.

Q. Was Mr. Moyer and Mr. Haywood there? A. Yes sir.

Q. Did they make any speeches? A. Yes sir.

Q. What was said by them in reference to the way the strike should be conducted? A. They said they always advocated doing it on peaceful lines, and to stand shoulder to shoulder in the way of supporting the organization until our men was reinstated in the organization, which they had promised to do.

Q. Was anything said as to what effect violence would have upon the strike? A. Yes sir, they advocated peace at all times, that it would be detrimental should violence be done, and they always advocated peace.

MR. DARROW: That is all.

QUESTIONS BY MR. ROAH:

Q. Did you ever hear them make speeches them on any other strike occasion? A. I never was on any other strike with the two men we are speaking of.

Q. You never heard any labor leader connected with the Western Federation of Miners advise anything except peace upon those occasions, did you? A. No sir.

Q. When they were publicly speaking? A. No sir, I never, nor private neither.

MR. ROAH: That is all.

MR. DARROW: Did you ever have any private instructions any different?

A. No sir.

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Rush

Glad of that night of the Ind. Explosion.

Sent at trial of Parker Foster & Davis upon a Charge of Conspiracy to wreck a [illegible] tried to [illegible] Rush.

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W. W. RUHL, a defendant on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. Where do you live, Mr. Ruhl? A. Denver, Colorado.

Q. What is your business? A. Locomotive engineer.

Q. How long have you been a locomotive engineer? A. Since October, 1900.

Q. What is your age? A. Thirty-two.

Q. Where did you begin running? A. On the Florence and Cripple Creek railroad.

Q. Where are you working now? A. On the Moffat railroad.

Q. Running a passenger or freight? A. Both.

Q. That is the Moffat road running out of Denver over the mountains? A. From Denver to Kremling at present.

Q. Were you the engineer in charge of a train on the Florence & Cripple Creek railroad in November, 1903, where it was reported that an effort was made to wreck the train? A. I was.

Q. Did you have any personal knowledge of what was reported to be the first effort? A. No personal knowledge.

Q. Did you have any personal knowledge? A. No sir, not of the first attempt.

Q. From whom did you get information that there was any such attempt the first time, if there was any such first attempt?

A. Now that would be pretty hard to say, Mr. Darrow. I heard it when I came down to go to work that night.

Q. You don't recall exactly when you heard it from? A. I talked with several people that night.

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Q. Did you get any information later from anyone connected with the railroad or with the Mine Owners' Association of any second attempt to be made? A. I did.

Q. From whom did you get the information? A. From D. C. Scott.

Q. And he was the chief detective or the only one on the Florence & Cripple Creek railroad, was he not, at that time?

A. His title, official title, by which we addressed him was special agent.

Q. How long had you known him? A. I had known him ever since he entered the service of the company. I was there before he came there, I think the summer of '99.

Q. You have seen him here in Boise, haven't you? A. I have, yes sir.

Q. Where were you when this information was conveyed to you by him? A. You mean definite information or general information?

Q. Well, both. A. I believe on the same night on which I found out that the ~~first~~ first attempt had been made I was told by him to be very careful, that there would be, he thought, another attempt, the first general information I had. The specific information was the night of the 14th of November about 7:30 o'clock.

MR. HALEY: What was that date?

Q. The 14th of November you say? A. Yes sir.

Q. The specific information? A. Yes sir.

Q. Where was that and what was it? A. That was --

MR. BOAH: Is this the statement of Mr. Scott?

MR. DARROW: Yes, it will figure in here.

2449 MR. BOAH: We desire to reserve an exception as hereto.

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We don't know where this matter may lead.

THE COURT: Is Mr. Scott here?

MR. DARROW: He is here, your Honor.

THE COURT: What is the question?

MR. DARROW: What was the information that was conveyed to you.

THE COURT: I think I will permit this question to be answered.

THE WITNESS: The information was that the attempt would be made to wreck the train known as the Bull Hill trip or Vista Grand trip, coming from Victor about three o'clock in the morning; and an attempt would be made somewhere between the Economic mill and Victor, probably an effort will be made to put the train into what was known as the overhead crossing, this being where the Low Line electric went under the Florence and Cripple Creek railroad, about a mile from the Victor depot, maybe a little more.

Q. Go on and tell the rest of it. A. I said to Mr. Scott I didn't think that they could put me in there, that it was very plain --

THE COURT: Didn't think what?

THE WITNESS: I didn't think they could put the train into this cut as it could be seen too far. He asked me if I knew of another good place along there to wreck a train. I said, yes, the second left hand curve east of the overhead crossing. He repeated it after me "The second left hand curve east of the overhead crossing." I then went to work, departed on that trip. I didn't see Mr. Scott again I think

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until the trip when we left Cripple Creek at 11:58.

Q. The same night ? A. The same evening, yes, the night of the 14th. He then came to me and asked me to let him and Mr. Sterling off at the Economic mill--

Q. There was that with reference to this point you have indicated?

A. Probably half or three-quarters of a mile west of it, the mill there in the Pike Gulch, the Economic Mill, and there was a flag stop there for the suburban trains. He said "Let me off, stop a little before you get to the station." There was an electric light at the station. "Stop a little before you get there and we will drop off." I did so. Somebody dropped off the hind end of the train and I went ahead.

Q. How many men ? A. Two that I saw.

Q. What was their description ?A. One was a tall man and the other was a short man, both dressed in storm coats.

Q. Is Mr. Sterling a short man ? A. No, sir, he isn't.

Q. Sterling, I don't mean Scott ? A. No, sir, Scott.

Q. Scott ? A. Scott isn't a short man.

Q. Sterling, what is he ? A. He is a short, heavy set man.

Q. Go on ? A. I went to Goldfield, back to Cripple Creek, and to supper, left on what was known as the Victor Grand or Bull Hill trip about 1:30, came back to Victor. At Victor I saw Mr. Sterling on the platform as I pulled in. He followed along by the side of the engine, as I stopped, he said something to me which I didn't exactly understand and I got down off the engine and he said "Well, they have done it." I said "Done what ?" "They have got a rail out." I says, "Is that so ?" "Thereabouts" "Right at the identical point

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where you said you thought they would." I went into the depot then with Mr. Sterling. Mr. Scott was seated at the telephone. Judging from his conversation, he was telephoning for a livery rig.

MR. DOLAN: We object to this as hearsay, after the incident was over.

MR. DARROW: It is not over yet.

MR. DOLAN: He said it was.

MR. RICHARDSON: No.

THE COURT: I will permit this -- the court will permit it.

MR. GILMORE: I entered into a conversation with Mr. Sterling, asking him something in regard to the rail; I think the first I asked him was if we couldn't go over it. He said, "Oh, no, no, you can't, you can't get over it at all; we have sent down to the yard for some spikes and a spike maul. The watchman had gone down. So I said,"Did you see him do it, did you see him take this rail out?" He says, "Yes, I stood within twenty feet of him." I said, "Why didn't you take a shot at him, why didn't you shoot him?" No court in the world, no jury in the world would ever convict you for killing a man who was trying to wreck a train. He said, "We know who they are, there are some other implicated in it, we are going to get them, we are going to get them to-night." I said, "How many are there?" He hesitated, didn't answer me. As soon as Mr. Scott looked up from the phone he said, "There were three of them;" I don't remember of any further conversation material -- I think about that time --

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we had been holding the train for the man to come with the spikes and spike maul. He came about that time. I took the spikes and the spike maul over on the engine, and went out, struck a torpedo out there, stopped and went ahead and found the place the rail was supposed to have been removed. It had been snowing that night, about four inches of snow on the ground -- very easy to see where the tracks were along by the side of the rail, this was a sharp curve up there, one hundred or one hundred and fifty feet down, I mean to the Santa Rita mine. I went out there, the conductor came forward, the brakeman and one or two of the passengers. We examined the rail and found, I believe, nine or ten spikes removed from the outside of the rail; also two finplate bolts. The two finplate bolts were not taken both from the same end of the rail, one from one end of one rail and one from the end of the rail adjoining it, originally there being four. I drove back five or six of the spikes -- pretty cold -- and I got on and went to Cripple Creek.

Q. Well, now you say there were how many removed from one rail?

A. Spikes?

Q. Yes. A. About nine or ten, either nine or ten, not over ten.

Q. How many spikes were there on that rail before any were removed?

A. Well, depends on the number of ties; it runs, I think, from eighteen to twentyone ties, I think about eighteen ties. They may be set a little closer on sharp curves.

2453 Q. But it would be about eighteen to twentyone ties to one rail?

A. Yes sir.

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Q. You think about eighteen? A. Yes sir; that varies, of course, because the ties are shoved closer together where the joint comes.

Q. Now how many spikes in a tie? A. Well, inside and outside?

Q. Yes. A. Three on those heavy curves. The heavy curves are double-spiked on the outside.

Q. So there was something like sixty spikes on the rail? A. Approximately, I judge so.

Q. And there was nine or ten of them gone? A. Yes sir.

Q. Otherwise the rail was intact, was it? A. With the exception of the two fishplate bolts or angle bar bolts being removed.

Q. How many fishplate bolts were there in the rail? A. That is in one end, to each?

Q. Yes. A. There is two in one rail, and in the rail adjoining it there were two more.

Q. And one was taken out of each? A. One taken out of each rail; there was still two left.

Q. What would have happened to you if you had run your engine over that? A. I don't know I am sure. I got over the other wreck and didn't know anything about it until the next night. I don't know what would have happened in this case. I couldn't tell until I went over it.

Q. Would ther there have been any difficulty in running your engine over that? A. I don't know, Mr. Darrow? I would certainly have gone over it, I wanted to go, but the conductor thought we had better drive the spikes back, so we did.

Q. So you drove them back and went on, did you? A. Yes sir.

2454 Q. And so far as you know that was all there was to the train

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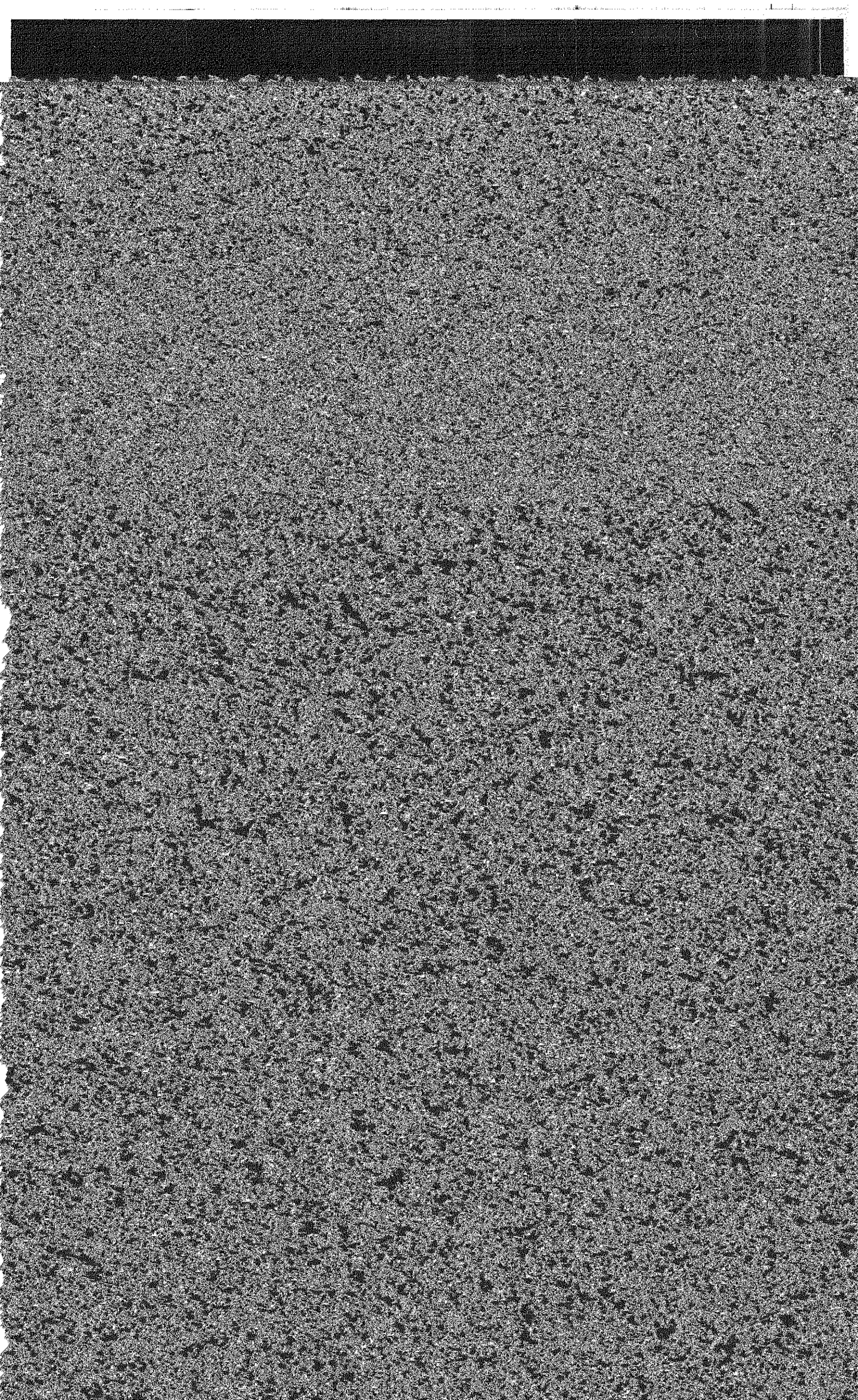

Q. And he had been constantly in the employ of the road ever since? A. Ever since.

Q. Had been since he first came until 1903? A. To the best of my recollection he was. I don't remember of anybody else in that capacity.

Q. And he had been over the road a good deal I presume?

A. Yes, I used to see him a great many times on the train.

Q. And he told you he thought it would take place at a certain place? A. He said they would try to put us into the overhead crossing.

Q. And you told him you didn't believe they could do that?

A. I did.

Q. You told him you didn't think it was physically possible, or what was it? A. Well, I had an idea if they followed the same procedure that they had before, of removing a rail, that I had a clear enough view of the rail with an electric headlight to see it.

Q. And Mr. Scott said where would there be a good place to wreck a train? A. Yes, he wanted to know if I knew of any other good place along there to wreck a train.

Q. And you told him where you thought the danger would lie?

A. I told him where I thought would be a dangerous place because of the nature of the track -- a sharp curve.

Q. How many times do you suppose Scott had been over that road before? A. Mr. Scott can tell you better about that than I can.

Q. You have some idea of it, haven't you, as to how often his official capacity necessitated his going over it? A. I don't know what his official capacity necessitated him travelling

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over the road, to what extent.

Q. You knew he had been over the road a great deal, don't you?

A. Oh, yes.

Q. A good many times? A. I had seen him a great many times.

Q. And he was quite familiar with the track? A. Yes sir; I don't know whether he got a great deal of familiarity with it, or as much as the track man would.

Q. But you had quite definite information with reference to the safe places and the dangerous places in the road? A. Have you been over many mountain roads, Mr. Borah?

Q. Well, I have been over one or two when I paid my fare and one when I didn't. A. I was going to say, most places look unsafe on a mountain road. I picked that particular place because it was the most unsafe place that I knew of between the points indicated by Mr. Scott.

Q. You regarded that as much more dangerous -- if they were going to do anything, if anyone would select a place where they could do business they would select that place rather than the other? A. I did, yes sir.

Q. And you thought, when you told him of that, that if anyone desired to wreck the train they would more likely select that place than the one he had spoken of? A. Well, yes, I could say yes to that. I really looked at it as a matter if I was going to wreck a train myself that was the place I would pick out.

Q. If it was going to be done that was the point the parties would go? A. Yes sir.

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Q. And you so informed Mr. Scott? A. I did, yes sir.

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Q. After you arrived at this place and you began to examine the track you found how many of the rails -- or how many of the spikes had been taken out? A. There was nine or ten.

Q. How many were there all together used for that purpose, about?

A. On the outside rail?

Q. Yes? A. Double spikes, there were eighteen ties, that would be thirty-six spikes.

Q. Was this a mixed train? A. No sir, a straight passenger train.

Q. And who rode upon this passenger train in the way of workmen, anyone? A. Anybody that had a pass or paid their fare, I guess.

Q. Well, but was there any miners riding upon the train at any time? A. Supposed to be run exclusively for the benefit of the miners.

Q. And to what mine? A. Well, it took in all the mines on Bull Hill, all the men that had a mind to go from up there down to Independence, Victor, -- the men from the Independence, the Vindicator, the Santa Rita and so forth.

Q. This was on the morning of the 15th of November? A. Yes sir.

Q. Was there a strike on down in that country at that time?

A. To the best of my knowledge there was.

Q. And all the mines that were being worked at that time on Bull Hill were being worked by non-union men? A. I don't know.

Q. Your information didn't go that far? A. What information I had was newspaper information.

Q. And that was to the effect that those mines were out on a strike up there? A. Yes sir, they were.

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Q. Then whoever rode upon the train at this time would be the non-union men, would they not?

A. I should judge they would be, yes sir.

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Q When these two men dropped out the rear end of the train, did you see who they were? A Well, I thought I knew who they were.

Q Tell us who they were? A I think it was Mr. Scott and Mr. Sterling.

Q You know it was, didn't you? A I was satisfied in my own mind that it was.

Q And you have become satisfied since that that is who it was, haven't you? A Yes sir.

Q That is all - just a moment; did you make a report of this matter to anybody? A I did not, no sir.

Q Wasn't it your duty to do so? A No sir.

Q Did you testify in this trial? A I did, yes sir.

MR. NORAH: That is all.

THE COURT: What trial do you mean, Mr. Norah?

MR. NORAH: The train wrecking trial that Mr. Darrow asked him about.

RE-DIRECT EXAMINATION

by MR. DARROW.

Q Why wasn't it your duty to report it? A If I reported it to anybody, I should have reported it to Mr. Scott, and he knew all about it.

MR. DARROW: You could not tell him anything he did

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not know could you? That is all.

THE COURT: Any further questions of this witness?

MR. DARROW: No sir, I think that is all.

MR. BOURK. Nothing further.

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EDWARD BOYCE, being called as a witness on behalf of the defendants, and having been heretofore duly sworn, on oath testified as follows:

DIRECT EXAMINATION

By MR. DARROW:

Q Give us your name, please, in full? A Edward Boyce.

Q Now, speak so all these jurymen will understand you; where do you leave, Mr. Boyce? A Wallace.

Q How long have you lived in Wallace? A That is a hard question to answer, Mr. Darrow.

Q Well -- A I will state that for five years I have lived there permanently; previous to that I had lived there at different times, and while President of the Federation of Miners, I did not live there.

Q Where were you born? A Lame. Ireland.

Q How long ago? A It will soon be forty-five years.

Q How old were you when you came to this country? A It will soon be forty-five years.

Q Yes, but how old were you when you came to this country? A Well, I was born on the 15th of November, 1862; I came to the United States on the 15th day of September, 1882.

Q Yes -- A Short of twenty years of age something.

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Q What is your business now, Mr. Boyce? A Mining.

Q You are more of a mine operator than a miner nowadays, are you not? A Yes sir.

Q Kind of graduated from the ranks? A I presume it would be called so.

Q And to get one matter off my mind first, your wife or yourself has an interest in the Hercules Mine now, haven't you?

A I beg pardon?

Q Either you yourself or your wife now have an interest in the Hercules Mine, haven't you? A My wife.

Q When was ore struck in that mine? A In June, 1901.

Q June, 1901? A Yes sir.

Q Do you know how long they had been prospecting before they struck it; about how long? A About fourteen years.

Q Were your people interested in 1899 in it? A Yes sir.

Q Was its condition any different then than in 1897, or 1898, or '96? A None.

Q Was it any different in 1900? A No sir.

Q It was not any different until you struck it? A No sir.

Q Now, Mr. Boyce, when you got to this country what business did you go into? A I went to work for the Milwaukee Northern in Neenah, Wisconsin.

Q As a railroad man? A Yes sir.

Q And when did you begin working in the mines or smelters?

A In 1883.

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Q Where did you begin? A Cummins & Finn's Smelter in Leadville.

Q How long did you work in the smelter? A About six months.

Q Why did you give it up? A Because I could not stand the work. I was unhealthy.

Q Then what did you do? A I went to Glenwood Springs on account of my health. I had got leaded, and after I got my health I returned and went to work in the mines.

Q What did you mean by leaded? A The arsenic in the lead ore - the fumes from the ore, is of a poisonous character; it contains arsenic, and attacks the stomach.

Q And you went to Glenwood Springs for treatment? A That is where the men from the mines and smelters went for treatment.

Q Well, after that, did you go back to smelting or something else? A I went to mining.

Q And how long did you continue mining? A I continued mining during,- I should state that I got leaded in a mine also, so I was forced to quit, and I then went to work for the Leadville Water Company.

Q Water Company? A Yes sir.

Q And how long did you work for them? A I think about eight months, if I remember correctly.

Q Then what did you do? A Went back to mining again; worked in the mines in Leadville until 1887.

2464 Q And then what did you do? A I left Leadville in 1887 and

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came to Wardner, Idaho.

Q And what did you work at in Wardner? A I worked on the construction of building the grade from Wallace to -- from the Old Mission to Wallace. The Northern Pacific was then building.

Q And what after that? A I left there and went to Butte, Montana.

Q Still mining? A I went to work in the Anaconda Mine.

Q At Butte? A At Butte.

Q Or near Butte? A Yes sir.

Q How long did you stay there? A I stayed there for one year.

Q That brings you down to about what time? A That brings me down to March, 1888.

Q And what did you do after that? A I returned to Wardner, and went to work in the Stem Winder Mine, and worked there for two years.

Q That brings you down to 1890? A Yes sir.

Q And then did you keep on mining? A Well, I took what money I had saved, and went to Kalispell, where I invested what money I had, about $1200, in property.

Q And went there to live? A No, there was quite an excitement,- or not an excitement, but there was a statement made through the press that on account of the productive qualities of this valley, and the railroad going through there, there would be a good town established there, and I went there to see what I could do.

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Q Did you go to work mining again? A Yes sir.

Q When did you go to work mining again? A I went to work mining again in 1891.

Q And how long did you continue? A I continued until April, 1896, when I could get employment.

Q Yes, and how often was that? A I should say from 1892 until 18--

Q 1896, you mentioned? A November, 1896, I could not get any employment.

Q Did you have any steady place of business any portion of this time? A I did not, sir. My home was in Wardner. I prospected in summer.

Q Did you have any steady job in Boise any part of that time? A I was in Boise from the 20th, I believe, of July, until the 20th of -- 20th of July, 1892, until the 20th or 24th, or somewhere, of February, 1893.

Q Whereabouts were you stopping in Boise at that time? A I was in prison.

Q Down here at the jail? A Yes sir.

Q You afterwards came to Boise again? A Yes sir.

Q What were you doing at that time? A I had another sentence of two months in the legislature.

Q You got back as a member of the legislature, did you?

A Yes sir.

Q

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Q How long after was that? A Two years.

Q That was in the Senate, wasn't it? A Yes.

Q That was the State Senate? A Yes.

Q Mr. Boyce, when did you get interested in unionism? A In 1883.

Q In 1883? A Yes sir.

Q And you joined some miners union, did you, at that time?

A The Knights of Labor.

Q And you were then living in Leadville? A In Leadville.

Q And you have been connected with unions ever since, have you not, until recently anyway? A Yes sir.

Q And when was it that you were sent to prison here? You said 1892, didn't you, 1892? A Yes sir, I believe it was in July of 1892.

Q Well, let it go at that; and at that time you were a member of some union, were you? A Yes sir, the Wardner Miners Union.

Q Yes-- A And also a member of the Knights of Labor.

Q Now, at that time, was there any general miners union?

A No sir.

Q And what were the miners unions at that time, generally speaking -- the individuals of different camps? A Yes sir.

Q That is, each had its separate union and there was no connection between them? A No sir.

Q And had you been an officer in your Wardner union? A I was Corresponding Secretary.

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Q Yes, at the time that you came to jail? A No sir.

Q Why? A Because I left and was in Kalispell Valley, and when I left I resigned.

Q Were you an officer at the time you were sent to jail?

A No sir, because I had resigned, as I stated.

Q And that was a matter -- that was growing out of some labor troubles up in the Coeur d'Alenes, was it? A The amount of it was, to give the generalyoutline of it, properly speaking, it was on account of an injunction issued by Judge Beatty of the Ninth Judicial District, I believe, of the Federal Court, restraining all members of organized labor from going upon the property of companies, or trespassing, or interfering with people seeking employment, consoling with them, or anything.

Q And it was by virtue of that injunction or an order that was afterwards made that you were sent to jail for contempt of court? A Yes sir.

Q Anybody else? A Thirteen others.

Q Do you remember who they were? A Yes sir.

Q Who were they? A Thomas O'Brien, Joseph Boynton, Hugh McGee, Thomas Henry, John Whalen, John Nicholson, Gus Peterson, Thomas Eaton and another.

Q I guess that is enough. A Fred Dean, and Mr. Robinson.

Q Did your time expire, or did you get out by some other legal process? A My time expired.

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Q The rest, did they get out by some legal process? A By a

tion of these organizations into one body? A That would be very hard to state, who was the first; I would say we discussed it here, and we discussed it with our counsel, and it had been discussed, as I understand it, in Butte, with our counsel, at the Miners Union Hall.

Q Was it discussed here with Mr Hawley? A Yes, I remember Mr. Hawley and Mr. Reddy also discussed it in jail here.

Q You discussed it in jail with Mr. Hawley while he was your counsel? A I remember when Mr. Hawley returned from the north after defending a person, I believe; he went by the way of Butte, and on his return we were in conversation in front of this window, when Mr. Hawley stated that without a unification of the different unions we were practically helpless.

Q He stated that the mine owners - or at least I think that is what he stated - the mine owners had set the example.

Q Had they a Mine Owners Association at that time? A Yes sir.

Q Do you know when the Mine Owners Association was formed?

A Yes sir, in Helena, in the year 1890.

Q They got there first, as usual, did they? A Yes sir.

Q Well, after you got out, what did you do toward organizing?

A When I got out I went to work close to Missoula, and worked there all summer,- that was the summer of 1892.

Q And what was done toward organizing the Western Federation?

A I believe the Federation was organized - I believe a call was issued by all the miners unions of the Pacific coast, to meet in

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Butte, for the purpose of discussing the advisability of organizing a central body. That was done, I believe, on the 15th of May, 1893.

Q And then you organized into the Western Federation of Miners?

A Yes sir.

Q That organization is alive yet, is it? A Yes sir, they are holding a convention, I believe.

Q Well, did you have any criminal purposes, that you know of, in it? A I was not at the formation of the organization.

Q Did you during its discussion? A No sir.

Q There didn't any one of you miners, or your counsel, suggest any criminal purposes during these discussions, did you?

A No sir.

Q What was the purpose for which this organization was formed?

A It was formed for the purpose of preventing a reduction of wages, the abolition of the Company boarding house, and Company store, and for more safety appliances in the different mines.

Q Was there any other special abuses that it was meant to correct or help? How about the hours of labor? A Yes, the hours of labor - we endeavored to shorten them; we endeavored to elect members to the legislature, and used all our influence wherever possible to better conditions generally.

Q You have taken some hand in politics, have you? A Always. I always advised it, and I am sorry to say my advice was not heeded in that respect the way I would like to have it.

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Q You tried to elect your friends, and defeat your enemies, as you understood it, haven't you? A Yes sir.

Q What were the conditions in reference to company boarding houses that called for the organization of the Federation, in your opinion? A Well, I might give you the incident connected with myself, perhaps. When I was working at the Last Chance Mine in Werdner I was discharged because I would not board at the Company boarding-house, where we were directed to board by the owner, Mr. Charles Sweeney. You could not work at the mines unless you boarded at the company's boarding house.

Q How was it in the case of married men? A They were not many married men employed in the mines, generally speaking. I know of one occasion, one at Lump Gulch, at Helena, where married men had to board at the Company boarding house.

Q What about the condition as to the company stores and doctors? A Company stores were run in about the same manner. Company doctors,- why, all miners were required to pay one dollar a month to the doctor, and a great objection on that point was that the men had no voice in the selection of the physician that they paid their dollar to.

Q Any other deductions, insurance or anything of that nature? A No.

Q Well, was a deduction made for insurance in some places? A In some places deductions were made, but that was not prevalent.

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Q What was the condition with the Company boarding houses.

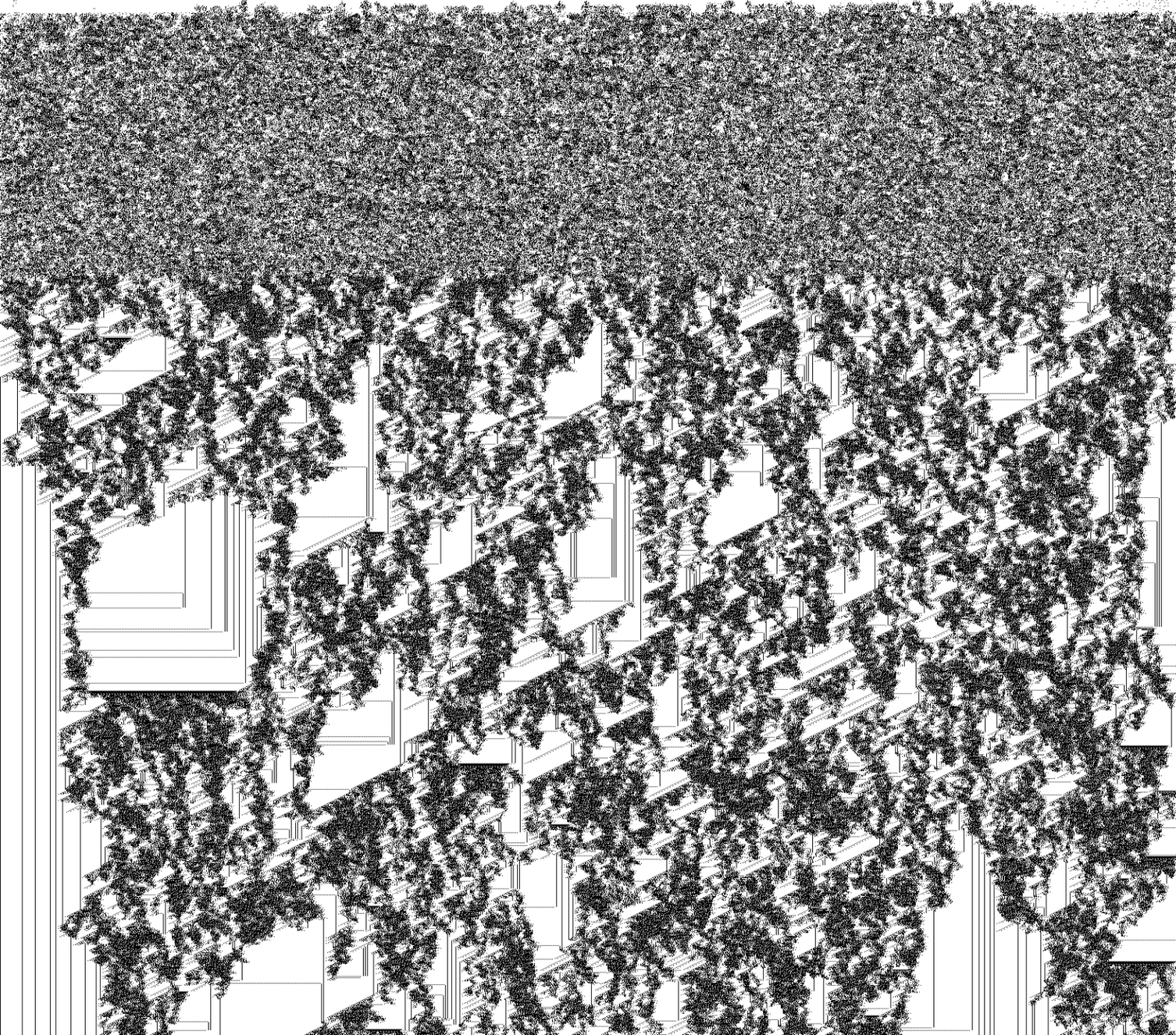
A Well, they were not good. You know how it is if you are compelled to eat something you don't desire to eat, you certainly don't like it.

Q I don't know; I used to. How about the hours of labor?

A The hours of labor were ten hours.

Q Any longer than ten hours? A Yes, I worked twelve hours.

Q What were the sleeping accomodations in these company boarding houses? A That was a company bunk house. That was separate and apart from the boarding house; it was built by the com-



was made from our wages for the purpose of paying a man to sweep the bunk house.

Q What was the condition in the smelters in those days? A The men worked twelve hours, and their wages ranged, I believe, two dollars -- I believe the wages would average about $2.50 per day,- I don't know as they would average that, but I guess they would.

Q That included deductions, or gross? A Oh no, that did not include any deductions.

Q What was the condition of smelter work in those days?

A It was very unhealthy at that time.

Q In what way? A On account of the - well, what I should call fumes.

Q Yes, go on. A Since then they have - at that time in a lead furnace you were forced to walk up in front of it and stand there while the molten metal or the slag ran away, and it ran into what we call a pot, or a vat, and we would haul it away and run it over the dump; generally the smoke would hang there and not go away, and there we would get the fumes. Now, they have a trough running in front of the furnace, and the slag runs out and into this trough and as soon as it strikes the cold water the hot slag cools immediately, and the fumes pass away.

Q What effect did it have on the bones and teeth? A It caused more like a paralysis, and the hands become paralyzed; they have what they call "the drop wrist" from the effects of lead.

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Q How about the teeth? A When it affects your stomach it has to affect your gums, as well.

Q Did you ever have any experience with it? A Yes, I did.

Q Did your teeth drop out? A Yes, they got loose and fell out, the same as others.

Q Was there any grass or other green things, unless it was the smelter men, lived around the furnaces like that at this time? A No, the smelter fumes will kill all vegetation.

Q How about animal life? A When vegetation is gone, the animals won't come there, unless it is man.

Q It was just entirely barren around the houses? A Yes sir.

Q Now, your Western Federation of Miners was organized and what did it do toward - what did it do toward endeavoring to better conditions, and help the miner and smelter men, and the rest, as to wages and hours, and conditions? A We endeavored to elect members of the legislature, we endeavored to have eight hour laws enacted, we endeavored to have mine inspectors elected or appointed, and have safety appliances on the cages, and to have the mines timbered properly; in other words, to support those who were seeking to better or aid and take care of the widows and orphans, and those who were sick.

Q Have you done that work? A Yes sir.

Q Taken care of the widows and orphans? A Yes sir.

Q Have any of them been sent to the institutions and poor houses since the Western Federation was organized? A I don't know of any.

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Q Do you know how much the Butte Union has paid out, or about how much, alone in these benefits? If you don't know, I will ask some one else? A I could not give you the exact amount. At one time I think about five years ago, when they stated -- I will tell you where you can find it, from my address in Butte, which Senator Borah read the other day. I got it at that time from the books, and I believe it was from a million to a million and a quarter.

Q That is the Butte Union alone? A Yes sir.

Q And what was that paid for? A It was paid for sick benefits and all our charitable purposes.

Q Was this relief work done by the locals? A Yes, and by the Federation.

Q Mostly by the locals, however, was it not? A Yes sir.

Q To what extent was relief done by the general Federation? A Whenever we wanted were appealed to for help, - for instance, in a case of the explosion at Fernie in British Columbia, when some coal miners were suffocated, we sent, I believe it was, five thousand dollars. In all cases like that it has helped.

Q Have you ever refused any case of appeal for help? A Not while I was present, no.

Q What part, if any, have you taken in the agitation and passing of eight hour laws, and amendments to the constitutions of the various states? A Well, we paid Mr. Murphy to carry the

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Utah eight hour law through the courts of Utah, and on to the Supreme Court of the United States. We have also paid him to go to other states, and do the same thing, as near as he possibly could.

Q Are the miners any more interested than anybody else in the Utah eight hour law? A Yes sir.

Q I mean, did it affect them any more than other people?

A Yes sir.

Q In what way? A Because the miners as a general thing work longer hours, and their work was more dangerous and more unhealthy.

Q Still it was a general law? A Yes sir, a general law.

Q It applied to mines, mills and smelters? A The law reads, for the men engaged in the production and reduction of ores, is about what it would be termed.

Q In how many of these western states has eight hour legislation been passed since the organization of the Western Federation of Miners? A All of them, I believe, where mining is carried on.

Q And what has been required in a number of them as to getting constitutional amendments through? A That was, of course, a provision in many of the states. I believe in Colorado, and also, I think, in the State of Idaho.

Q And you said - how is it as to your organization as to its having fought and contributed its money in all of these campaigns?

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A We always did.

Q And have you elected members of the legislature to help put them through? A Yes sir.

Q And you have taken a hand in trying to elect or trying to defeat judges when you thought were friendly or unfriendly to the eight hour law? A We endeavored to defeat them the same as any one we considered were opposed to fair and just legislation for the benefit of the working people.

Q As a result of your work since the organization, are the hours of labor shorter today in smelters and mines? A Yes sir.

Q Than they were ten or twelve years ago? A Yes sir.

Q How is it as to mining being hazardous or a healthy occupation? A No sir, it is not healthy, and it is hazardous, because you are forced to go underground.

Q Well, is it hazardous? A It is, and you are handling explosives, and you are not depending entirely upon yourself, for your own protection, but a fellow workman, by being careless or inexperienced, or any other kind of accident might injure you while it was no blame of your own.

Q What has the Federation accomplished so far as wages are concerned? A Well, I believe wages have been increased; I could not say what percentage.

Q What has been the purpose as to keeping wages from going down? A That was the principal - one of the principal causes or organizing, when we were opposing a reduction of wages from

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$3.50 to $4.50 per day.

Q Now, you went into a portion of the coal fields of the west?

A Yes sir, we did.

Q Did they have the script system in those fields? A Yes sir.

Q You fought that, did you? A Yes sir.

Q What is the scrip system? A This scrip system means a small piece of paper about two inches long, or two inches and a quarter long, and an inch and a quarter wide, and it says on this, "Good for twenty-five cents," "Good for fifty cents," "Good for seventy-five cents," or "Good for one dollar at the company's store or at the Company's office," giving the name of the Company.

Q Those were redeemable at the Company's stores or office as a last analysis, wasn't it? A Yes sir, and that same system also prevails in the Treadwell Mine in Douglas, Alaska.

Q Instead of getting paid in money, you got paid in scrip?

A In scrip.

Q What have you accomplished, if anything, in the way of safety appliances and improved machinery? A Well, we had doors or enclosures placed on the cages, so that men coming up from the foul air,- some of them would faint; of course when you strike the fresh air men will faint, and when there was no doors on the cages, you would naturally fall out, and fall against the wall, and many got killed; and we also had dogs put on the cages, or safety clutches.

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Q Was that so that if something happened around the elevator you would not have to go down half a mile before you would stop?

A It would immediately stop. It would immediately fall around the cage on the guide, and fasten into it, so that the cage would not descend.

Q Were there formerly a great many accidents on that account?

A Yes sir.

Q The cage dropping directly down to the bottom of the mine?

A Yes sir.

Q Did you have any fights to get the mine owners to put on dogs to stop the cage as they were going down? A Yes, because they did not consider it necessary; in other words, they were more expensive than a common cage.

Q Did you have contests in courts and other places on that, and in the legislatures? A No contest in the courts, but we endeavored to have these laws passed by legislatures just the same as we did about having a requirement to have a second opening in a mine, so that in case one opening should become injured the men would not be kept there; they would have an opportunity to escape through another opening.

Q And that is another matter you have worked on? A Yes sir.

Q And generally accomplished? A No, not generally, I am sorry to say.

Q There are many of them where it has not yet been accomplished?

A Yes.

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Q Have accidents happened on account of the lack of this extra escape? A Yes sir.

Q Do you recall the Smuggler, down in Telluride, where Bailey Wells was in charge? A Yes sir.

Q How many men were killed there? A I could not say.

Q Some nineteen, wasn't it? A I could not say.

Q You know there was a large number? A Yes, but you take a man in my position, and you don't pay any attention to men getting killed; it is hard to remember.

Q Why is that? A Why, they are so frequent.

Q Has there been some improvement in machinery?and conditions in the smelters? A Yes sir.

Q As the result of the work, etc., of the Western Federation of Miners? A Well, perhaps it would be saying too much if I would claim that honor for it. We endeavored to accomplish it as best we could.

Q You worked for it any way, always? A Yes sir.

Q What have you done toward establish hospitals? A Many unions of the Federation have established hospitals.

Q What were the accomodations for the members of the Western Federation; and the hospitals before these were established?

A The accomodations were that if you took sick you had to stay in your room or go to some house while you were sick where you could be taken care of, or in other words, why, you might go to the County Hospital - wherever you would be sent by the physician

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you were paying your dollar a month to.

Q Yes, and how about reading rooms and libraries? A Nearly all our unions have that at the present time I believe,-- I think so.

Q Now, as to the company doctor, you say they took out a dollar a month for that, did they ? A. Yes sir.

Q At a mine where they were employing 500 or a thousand men, did they have more than one company doctor ? A. Did you say more than 100 men ?

Q I say 500 to 1,000 men -- take one of the big mines of this sort ? A. Well, they generally,-- where there is a large number of men employed in a mine on that character, there are as a general rule -- there are hospitals established by charitable organizations, and the dollar per month goes to this hospital and the doctor gets his percentage out of it. That is, at those large places, and speaking about small mines where only 100 or 200 or 300 men are employed, generally one doctor will be all that would be necessary, but the way that was generally done, why, the company or some one generally got the doctor and got a percentage from the doctor.

Q Yes, they hired the doctor for one price and they took the difference ?

The Court: We will stop here, Mr. Darrow.

Thereupon the Court gave the jury the statutory admonitions, the bailiffs were sworn, the jury retired inharge of the bailiffs, the defendant was remanded to custody, and a recess

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was taken and I 1-30 o'clock P.M.

RECESS.

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Boise, Idaho, Thursday, June 27, 1907.

1-30 o'clock, P.M.

Parties met pursuant to adjournment.

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

THE COURT: The witness may take the stand.

Mr. DARROW: There was one question I omitted to ask Mr. Hawley, and he wants to go home, and if the court will let me I will ask him that question.

THE COURT: You may recall him at this time.

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W. W. RUSH, being recalled, as a witness on behalf of the defendants, and having heretofore duly sworn, on oath testified as follows:

DIRECT EXAMINATION,

By Mr. Darrow.

Q Mr. Rush you were in the habit of running that train regularly, were you not ? A. It was what was called my assigned run, yes sir.

Q Do you know whether the employes of the Portland mine were in the habit of riding on that train too ? A. Yes sir.

Q And were they on there on that night ?

A I could not say definitely, because I was not personally acquainted with any of them at that time.

Q But they were in the habit of it, were they ? A. Yes sir, they were.

Q Was that the regular train for them to be on ? A. Yes sir, it was.

Q Do you know Virgil King a member of the strike committee ?

A I did, — I knew Virgil King.

Q Was he on that train ? A. He told me he was.

Q And where is Virgil King now ? Do you know whether he is dead, or don't you know ? A. I don't know.

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Mr. FARLEY: We ask that that be struck out as hearsay.

The COURT: The motion will be granted.

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Mr. DARROW: We will save an exception to the t.

Q. Do you know anything of your own knowledge as to Virgil King being on that train? A. Did I see him on there?

Q. Yes. A. No sir, I did not.

Q. Or see him before or after on that night?

A. I have seen him afterwards.

Q. I mean immediately after that, or before? A. No sir.

Mr. DARROW: That is all.

Mr. MORAN: No questions.

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EDWARD BOYCE, being again called to the stand testified as follows:

DIRECT EXAMINATION, continued

By Mr. Darrow:

Q I will show you a document here in reference to accident insurance. Let me have that marked for identification.

The paper was then marked "Defendants' Exhibit No. 8 for identification."

Q I show you defendant's exhibit No. 8 for identification, and will ask you whether you have seen that sort of contract with the Bunker Hill and Sullivan mine,— or the Federal Mining Company rather ? You neednot bother to read it clear through, just as to whether you — A. I would state that I have never seen anything like this and I don't know anything about it except what I have heard from the employes of that company.

Q How was it as to whether contracts were made in reference to insurance then ?

Mr. DARROW: Mr. Hawley, you may examine this if you want to.

Mr. HAWLEY: We object to that as incompetent, immaterial and irrelevant.

Mr. DARROW: I will not offer it now.

Q We will pass over that for the present. The Western Federation of Miners had more or less trouble of various sorts during its life, have they not ? A. Yes sir.

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nt ? A. Yes.

you elected president or it ? A. May 1896.

ng were you president ? A. Until May 1900.

re its headquarters ? A. For first five years in

l the last year that I served it was in Denver.

ecretary ? A. The secretary was William H. Eddy,

ner and William D. Haywood.

were president ? A. Yes sir.

ed stayed after you ceased to be president ?

are how long after you were president ? A. One

hile you were president ? A. Yes sir.

w many members did they have when you took up this

tion ? A. Between 7 and 8 thousand.

t how many did they have when you closed your convention

as president ? A. I presume about 30,000.

A. That could be given correctly.

bout ? A. I believe that is about it.

some difficulties during the time, did you ? A. Yes.

the policy of the organization during the time you

sident as to defending men who were arrested ?

re defended our men.

any regard to whether they were officers or privates ?

n often arrested ? A. Yes. In that connection, I

should state that we did not make any exception between our men and any other laboring man who was arrested.

Q You did not? A No sir. If we could assist any one that we considered worthy of assistance, we always gave it to them.

Q Were you arrested at any other time except the time you were thrown in jail down here? A Yes sir, I was arrested in 1896.

Q Whereabouts? A In Leadville.

Q Were you then President? A Yes sir.

Q What were you doing in Leadville? A I went to Leadville on the receipt of a telegram of the Secretary of the Leadville Union saying that - asking me not to go to Arizona, to come to Leadville, that they had trouble.

Q How long had you been in town before you were arrested?

A About one hour.

Q What charge was made? A Safe keeping.

Q Safe keeping? A Yes sir.

Q That, I suppose, was by the organization, to keep you from going to Arizona. How long before that had you been in Leadville - how long had it been before that that you had been in Leadville, before that time? A About - I left Leadville in 1897, and this was in 1896.

Q Were you ever tried on that charge of safe keeping, for safe keeping? A Yes, after I was held in jail for three days, or four; I don't remember which; a charge was lodged against me, and in the District Court, for committing an assault upon some indi-

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vidual; I don't remember the name. At the time the assault was committed, I was in Butte, Montana.

Q Were you tried? A No sir, the case was dismissed.

Q Were you ever tried at that time at all? A No sir.

Q What? A No sir.

Q You were allowed to go were you, after a while? A That same day.

Q Were you arrested again at any different time? A No sir.

Q What obstacles were put in the way of your organizing your unions, and carrying on your work?

MR. HAWLEY: We object to that as incompetent, immaterial and irrelevant. What figure can it cut, if your honor please, if some obstacle was put in their way by some person?

THE COURT: I think that is very indefinite, Mr. Darrow.

MR. DARROW: It was charged in the opening of this case that the organization was formed for a criminal conspiracy from its inception, and we claim that everything that has happened was due to a counter-conspiracy to break up the Western Federation of Miners, and they have adopted and taken all the means they could to disrupt and destroy this organization, and that all the violence that has occurred was a part of their conspiracy for this purpose.

MR. HAWLEY: We charge that there was a conspiracy at one time among certain persons, but what has that got to do

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with this case as far as these questions are concerned? If they are claiming that that organization was connected with these matters, that would be another question, but here is a question that embraces everything.

MR. DARROW: I will make it more definite, if that is the proposition, at this time, I will withdraw it.

THE COURT: The question is withdrawn.

Q What was done by the Mine Owners Association and Mine Owners to black-list you and your members?

MR. HAWLEY: We object to that as incompetent, immaterial and irrelevant, and not pertinent to the issue. If your honor will notice the form of the question, you will notice he asks what was done by the Mine Owners Association and the mine owners. Now, whether there was a Mine Owners Association in some particular place would depend upon circumstances, and the place and the time would have to be determined before it could, under any possible construction of the rules of evidence, become pertinent here. There is nothing even in the opening statement of counsel upon the other side to show that they were intending to produce evidence of this kind and show a general mine owners association. There has been some talk of a mine owners association in the Cripple Creek mining district, and so far as that has been developed it has been shown to be a local matter. Now, in regard to

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these matters that have been considered, that testimony has been given in regard to, if they could show a mine owners association there had done certain acts, then perhaps this would be competent and relevant proof on the theory of the counsel for the defense, but this is not confining it to that mine owners association, nor to any mine owners association, but includes all mine owners as well. What possible effect would it have on any of the issues in this case if the mine owners in a certain locality at some time had done certain things against this witness, or some other witness, which were wrong in principle? What would that have to do with the issues here? What would that have to do with the issues here if some association of mine owners at some place had taken some action inimical to the witness or against the interests of the association he represents? I submit, before any evidence, could be competent on this point, so far as its being from the Mine Owners Association, it must be proved to be a mine owners association that was interested in these troubles which have been testified in regard to, or connected with. They have got to show the time, and all of that. They cannot go into these matters generally and introduce evidence here which does not pertain to these localities involved, and the persons involved, or the association that was involved.

MR. DARROW: Your honor, I thought that I made my opening statement broad enough on that ground. If I did not I

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ought to amend it. I meant to say what we meant to prove in this case, that there's a Mine Owners Association existing in every mining district in Colorado and in Idaho, and I think the evidence will show also in the other western states.

THE COURT: A separate association?

MR. DARROW: That they are connected and that they are working together, and that these mine owners associations, through one of its chief members, Bulkley Wells, a man who had been an officer for a long time, were the people who attacked these defendants, and took them in the manner in which they were taken, and brought them here to this jurisdiction. We have charged definitely, as we supposed, that this was a conspiracy, and is a conspiracy, on the part of the Mine Owners Association and Citizens Alliance in the destruction of this union, and these men, and we expect to show that thing.

THE COURT: What do you mean by Citizens Alliance, Mr. Darrow?

MR. DARROW: The Citizens Alliance was connected with the Mine Owners Association in each town. We will show their official reports and that they were formed for the purpose of helping out the Mine Owners Association, that they passed their resolutions for boycotts, and driving out these men.

THE COURT: Your question involves the entire jurisdiction of the Western Federation of Miners?

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MR. DARROW: Just the same as the others,- they took in California, Utah, or anywhere else. So far as the State is concerned in this case they have shown acts in Idaho, in part of Colorado, California, Utah,- the action of the Western Federation in California, and in Utah, and that these were the people, as they say, that were connected with this matter. They have introduced evidence tending to show that Bradley's house was blown up in California; that money was sent by telegraph to some one at Ogden, and as to every thing, every place, every person, every instance in all this western country, which they wished to offer evidence upon, as far as we could see at least, every part of it. Now, they introduce it specifically as to the Coeur d'Alenes and Cripple Creek, and that district, and they introduced it as to Ouray and Telluride. We expect to show that the Mine Owners Association existed in all these districts, that they operated together, that they operated in connection with the Citizens Alliance, that the Mine Owners Association was organized ahead of the Western Federation of Miners, and that as quick as the Western Federation of Miners was organized, they at once began a work of seeking to exterminate that organization, and they have kept up that work together with the detective association, up to this very time. Now, if your honor has any doubt upon the question of the legality of it, we have collected authorities, and I want to be heard upon that before the Court makes

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a final ruling. We will bring them in in the morning, if your honor desires.

THE COURT: There is no doubt of your right to show a conspiracy in this case, but the doubt is as to the extent you can go, and whether it is relevant to establish that counter-conspiracy.

MR. DARROW: Of course we all know as lawyers that it is a little difficult to draw the line on to just what does prove a conspiracy. For instance, in this case, the jury would have a right to infer from the isolated sending of a telegram from Denver to Ogden, that that was sent as a part of a general conspiracy. They would have a right to show that the destruction of the house in San Francisco was a part of that general conspiracy; the blowing up of the Bunker Hill and Sullivan Mill was a part of the general conspiracy, but after all these matters are put in together, then it rests for the jury to say whether that general conspiracy has been shown or not. It cannot be expected that we can call in here the officers of the Mine Owners Association, or of the Detective Association, and have them admit that this general conspiracy existed upon their part. We can only introduce such facts as have come to our knowledge, and which we can prove, and with those facts submit it to the jury to say whether there was such a conspiracy or not, and I will say in good faith

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that I expect to introduce enough evidence, or enough facts, that question should fairly be submitted to this jury as to whether there was a conspiracy on our side of this case or not, and that is the purpose of it.

MR. HANLEY: Now, so far as these matters are concerned, we are ready to fight them out at any time, because we sure will most strenuously resist any evidence of this kind. If there is a counter-conspiracy which is responsible for these crimes, and which it is claimed are responsible for the crimes that have been committed, that is, different instances of what we claim to be the general conspiracy, culminating in the crime now charged here, that would be proper proof to go before this jury, and that we don't dispute, but if counsel say that he can prove --

MR. DARROW: In saying that, is there any different rule to be applied at present than when you were establishing the conspiracy upon which you are relying for the prosecution?

THE COURT: Conceding it was the same rule, but they are not bringing this within the rule.

MR. HANLEY: Counsel states that I have taken isolated instances and brought them to the attention of the Court and jury as showing a part of a general conspiracy. We have brought, if your honor please, certain instances to your attention, and connected them with a general conspiracy, not by proving the instances themselves, and coming to the conclusion

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without any evidence of any witness to connect them, and they are not privileged to do it. They could not introduce evidence in that way to prove a conspiracy even with a promise to connect, because they have got nothing to connect it, or tend to connect it, either. Now, in this Mine Owners Association matter, where here we anything in this evidence to show that there was a general Mine Owners Association? Where is there such an assertion in the opening statement of my learned friend? Here we hear it for the first time that there was a general Mine Owners Association in the different mining camps of the count, and all connected together with a bond of some kind; that is the mere statement of counsel made here this afternoon for the first time, without anything to base it upon in the way of proof, and we claim there will be no proof to base it upon unless he takes these isolated matters which will not be connected by evidence, and then assume to urge and claim that they are matters of evidence showing there was aconspiracy, and then he brings in what he calls a Citizens Alliance, and he is going to go further now, and tell us that this kind of or ganization existed. Does he say that he is going to fasten these matters upon these bodies or associations, that he is going to be charge the death of Steun - enberg to the Mine Owners Association? We are investigating Colorado matters, and where the only mention of the Mine Owners Association has come up. Some of these matters were

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directly connected with these parties who composed this organization that we claim were members of this conspiracy; and that they should go into this matter and show a counter-conspiracy, and be permitted to go into a matter of this kind and do it upon the idea suggested by my learned friend, I say he cannot find any authority for it in any of the books, in my humble judgment.

THE COURT: Read the question.

The last question was then read.

THE COURT: I don't think, gentlemen, that there has been a sufficient foundation laid yet for an answer to that question, but at the same time the Court will permit it to be answered so far as it relates to any action of the Mine Owners or Mine Owners Association in the Coeur d'Alenes and in Colorado.

MR. DARROW: I guess that will be far enough now.

Q Now, if you will answer that, and limit it, as the Court says, to the Coeur d'Alenes and Colorado? A Men who took

A any action in the way of signing petitions -

MR. BORAH: Well, if your honor please, I think he will have to state something definitely; hecannot state his conclusion.

THE COURT: He may state what he knows about it.

MR. DARROW: I guess he will confine it to what he knows

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MR. HORAN: It is apparent from what he has stated that it is stated from what some one told.

Q Well, if you know what was done in that regard, of course you can tell it, Mr. Boyce? A I must conclude that what was done to me was done to every other member of the organization. I could not secure employment in the Coeur d'Alene country because I was told so.

MR. HORAN: We object to that as hearsay.

MR. HANLEY: We move to strike that out.

THE COURT: You was told so by whom?

A By John McMullen, who was foreman of the Hecla Mine, he told me I could not have employment, although I had been previously employed there.

Q What other person? A At the Frisco by Joseph McDonald.

Q And what was he? A He was the mine superintendent.

Q Any other places?

THE COURT: This was in the Coeur d'Alenes?

Q Was that the Coeur d'Alenes? A That was the Coeur d'Alenes, yes sir.

Q What was done toward denying you food when you went to organize?

MR. HANLEY: I object to that as incompetent, immaterial and irrelevant, and impertinent to the issues.

Q In Colorado? A In the town of Stanleyville, I went there for the purpose of organizing. I could not get food in the

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ent of the Federation; at least, I was

e object to this as being hearsay, and

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t it - could you get food in the town,

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Let the record show that Mr. Hawley's

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get food? A From Starksville to

o miles, I believe.

erence with the Mine Owners at that

to what you were doing? A I did not.

I object to that as incompetent, immate r-

hen was this?

A This was in the month of November,

ent of the organization? A Yes sir.

Now, if your honor please, this is at

e absolutely remote, at a town that has

there is nothing to connect this with

is said composed the Mine Owners Associa-

in 1903 and 1904.

THE COURT: How is this connected with the transactions in this case?

MR. DARROW: I will ask one question first about that.

Q Who were the mine owners there at that time? A The Colorado Fuel and Iron Company.

Q Were they operating in the Coeur d'Alenes? A No sir.

Q Where did they operate? A In Colorado.

Q At different points in Colorado? A Yes sir.

Q And how were they connected, if at all, with the Federal Mining Company?

MR. HAWLEY: At this time in '99?

THE WITNESS: At this particular time?

Q Yes? A I could not state.

Q Do you know whether they were members of the Mine Owners Association at that time? A I could not say.

Q You could not state that? A No.

MR. DARROW: The question which you objected to, he answered, and he said he did not have any conference there.

MR. HAWLEY: The question has not been answered to the last objection I made.

Q You said you had not had any conference? A Yes sir.

MR. HAWLEY: I did not notice that. When I am objecting, Mr. Boyce, please don't answer.

Q Did you have any experience in Telluride, and other places, in reference to impediments that were placed in your way in

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organizing?

MR. HAWLEY: He must certainly fix the date for this.

Q I mean, when you were President, after 1896? A I don't remember any at Telluride, while I was there, because I never went into any of the mines. I went there on a public lecture tour.

Q Yes, and were you able to get a hall?

MR. HAWLEY: I object to that as incompetent, immaterial and irrelevant, and not pertaining to the issues, whether he could get a hall to lecture in or not.

THE COURT: The objection is overruled.

Q How was that? A I spoke in the Union Hall that belonged to the Federation, I believe.

Q Any other towns where the mine owners owned the halls in Colorado?

MR. HAWLEY: We object to that as assuming that the Mine Owners owned halls.

Q Well, wherever they controlled them?

MR. HAWLEY: We object to it unless some particular time and place is fixed.

THE COURT: The objection will be sustained.

MR. HAWLEY: And also as being incompetent.

Q Can you fix a time? A When I was refused a hall in Colorado?

Q Yes. A No, I could not.

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Q What was done at Rock Springs, when you attempted to organize?

MR. HAWLEY: We object to that as incompetent, immaterial and irrelevant and not pertaining to the issues.

THE COURT: Rock Springs, where?

Q Are Rock Springs in Wyoming? A Yes sir, Rock Springs, Wyoming.

MR. KEAN: In what year?

Q What year was this? A In 1897.

MR. HAWLEY: We object to that, and to anything that was done in Rock Springs in 1897, as incompetent.

THE COURT: The objection will be sustained.

MR. DARROW: Save an exception to that ruling.

Q What do you know, Mr. Boyce, as to members and officers being black-listed on account of their connection with the Western Federation of Miners?

MR. HAWLEY: We object to that as incompetent, immaterial and irrelevant, and the question is too general. It has got to be shown that they were black-listed by some one connected with this case.

THE COURT: The Court will make the same holding in this in reference to the locality as it did in the other.

Q All right, in the Coeur d'Alenes, and Colorado, then? A I know of it in Colorado, in Leadville, in 1896 and '97, and I also know of it in Idaho.

Q Yes, and do you know what was done by men in the way of chang-

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ing their names, and going from place to place on that account?
A It was frequently done.

Q I want to ask a question which you won't answer until the Court rules. What do you know of this in Wyoming, and Montana, California, Arizona, Nevada and Utah?

MR. HAWLEY: What do you know of what?

MR. DARROW: Of black-listing.

MR. HAWLEY: We object to that as incompetent, immaterial and irrelevant, not connected with the issues, the question being too general, and no predicate upon which such a question can be asked.

THE COURT: The objection will be sustained.

MR. DARROW: We will save an exception to that.

Q Mr. Boyce, did you know Harry Orchard? A No sir.

Q So far as you know, did you ever see him? A I am positive I never saw him until I saw him on the stand here.

Q Did he ever come to you in Butte, Montana, in the year 1899, or any other time, and get a withdrawal card, or a transfer card, or any other card, showing his membership with the Western Federation of Miners? A No sir.

Q Were you President then, and located at Butte, Montana?
A Yes sir.

Q As President did you have any authority to issue any such cards?
A No sir.

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A No sir.

Q One question I omitted to ask you: What do you know about the employment of detectives and spotters to take prominent positions in your organization during the time that you were President? A I know of but two instances that I connected with any degree of positiveness.

Q Yes, and where were these? A One was at Cen, and one at Wardner.

Q And who were they? A The Secretary of Gem Union was named Allison, and the Secretary of the Wardner Union was named Mickern.

MR. HAWLEY: Were those since the organization?

THE WITNESS: No sir, they were not.

Q I mean, during the time of the miners organization?

MR. HAWLEY: We object to anything except during the organization of the Western Federation.

MR. DARROW: The organization was formed after these other organizations, your honor.

THE COURT: I don't see any necessity of your going back of the formation of the organization, Mr. Darrow.

Q Well, I will call your attention directly to Sprague; did you ever know him? A Yes sir.

Q Do you know whether he was an officer of a Union at one time?

MR. HAWLEY: We object to that unless it was since the

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formation of the organization.

Q Do you know whether it was since 1902? A It was in 1902.

Q In 1902? A Yes sir.

Q And was he connected with the organization after that? A He might have been in some other locality.

Q Have you seen Syringo since? A Yes sir.

Q Where? A At Boise.

Q Has he been attending this trial as one of the guards of Mc-Parland and others? A That is pretty hard to state what his business is.

Q Has he been attending the trial? A I have seen him in the court room.

Q Did he act as one of the body guards to Mr. Orchard? A I don't know that.

Q You wasn't here at that time? A No sir.

Q Mr. Boyce, during all the time that you were President of this organization did you know of any such thing as an "inner circle"? A No sir.

Q I suppose that is a political term that you did not know of being applied to the Western Federation of miners, did you? A The newspapers of the country have applied all kinds of terms to them.

Q And that with the rest? A Yes sir.

Q Was there any such thing? A None whatever.

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Q Was there ever at any time, while you were connected with

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this organization, to your knowledge, any conspiracy, or agreement, or combination of any sort, to do any illegal act?

A There never was.

Q And was there any purpose of the organization excepting such as you have outlined to us on the witness stand? A None.

Q What do you know generally as to trouble arising at different places during all the time that you were President, as to detectives being placed inledger?

MR. HANLEY: Well, we object to that, unless it is a personal knowledge of this witness.

MR. DARROW: He was the President of the organization.

MR. HANLEY: We cannot help that.

MR. DARROW: He could not get it from one of them.

MR. HANLEY: Then it is your business to bring the man who does know. If Mr. Boyce knows of his own knowledge, well and good.

MR. BORAH: Do you deny it?

MR. HANLEY: Deny what?

MR. BORAH: Do you deny that that condition does exist?

MR. HANLEY: We are not compelled to affirm or deny.

THE COURT: If he knows of his own knowledge, he may testify.

MR. HANLEY: We have no objection to that.

Q I will ask if it is one of the things that you had to guard

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against as President of the organization? A It was.

Q Do you know whether efforts were made while you were President to interfere with your rooms, and get documents and information from them? A Yes sir.

MR. HANLEY: We object, unless he knows of his own knowledge.

Q Of your own knowledge? A Yes sir.

Q Whether these were done, and by what means? A My desk had been broken into repeatedly in the office, and my grip was frequently gone through in traveling. They went through my grip in Leadville, and inDenver, and my grip was also gone through in Lincoln, Nebraska; it was also gone through in Angels' Camp in California.

Q How often was your desk broken into? A Upon three different occasions.

Q That came to your personal attention? A Yes sir.

MR. HANLEY: We ask that this all be stricken out unless counsel intend to connect it by somebody connected with this case.

THE COURT: You are a little late in your objection, Mr. Hanley; you may cross-examine in relation to it.

MR. DARROW: You may cross-examine.

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tectives. Now, this evidence does not stand alone. Here is a man who has described to a considerable extent the obstacles he has met, both in beginning and organizing the unions, and attending to his work, and says that at various mining camps and at repeated times he has had his valise broken into, at three separate times, his desk at his headquarters has been broken into, and he has shown a number of acts by authority of mine owners where he has undergone hardships and been blacklisted, and fought in every conceivable way by them, and other instances that we will show, and where it is connected with this case, we say it is a fair question for the jury to say, under proper instructions of the court, whether detectives, who we will show were constantly in this organization, and working in it in all sorts of ways, whether they and other people connected with them, were guilty of these things or not, and we think it is a fair matter for the jury to consider.

THE COURT: The Court will permit this question to stand, but unless there is something hereafter to connect it, it will be covered by an instruction.

Q In 1899, after the troubles in the Coeur d'Alene, you were in Butte? A Yes sir.

Q And at that time that was the headquarters of the Federation?

A Yes sir.

Q You had the general offices of the Federation there, did you

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not? A Yes sir.

Q Yourself as President, and the Secretary and Treasurer, and other officers resided there? A Yes sir.

Q You made it your place of business? A Yes sir.

Q After these troubles in 1899 there were a great many people went from Idaho over there, did there not? A Yes sir.

Q A great many people connected with the troubles in the Coeur d'Alene country? A Yes sir, I presume so.

Q In fact, the greater portion of those who got away came from Montana, did they not? A I don't know about that.

Q Well, there were a great many came there at headquarters right along? A Yes sir.

Q And they would - do you say that you would recollect all those persons that were there at headquarters? Do you believe you could recall these men? You did not know these men, who were there, to see you for a few minutes? A No, I don't say I would recollect all of them.

Q You would not want to be understood that way? A No sir.

Q That would be an impossibility? A Yes sir.

Q Now, Mr. Boyce, I will ask you if a person going to some other locality would not have a right to have an endorsement on his union card, or something to show that he was a union man, in the event he did not have a union card, from the officers of his union? A He would, Mr. Hawley.

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Q And presuming that a member of the union at that time had been without his card, and was going to some strange place on account of the exigencies of the occasion, and he could not get his card from his local lodge, wouldn't you have authority to give him something to show he was in good standing? A I could not, because I would not know whether he was in good standing or not.

Q Could you not give him a letter, after having tested him as to his being a member? A I could not.

Q There was no provision of that kind? A No, and I might state that I would not take chances of that character, by giving a man a letter with my signature.

Q If he had a card? A I would not.

Q If he had a card showing he was in good standing, and was vouched for, would there be any objection to your signing it?

A I had no right to sign his card.

Q No right to sign one? A No sir.

Q Do you know of any Mine Owners Association, in the Coeur d'Alenes Mr. Boyce? A At the present time?

Q Yes sir, or at any time? A Yes.

Q When was there a Mine Owners Association in the Coeur d'Alene Country? A It was organized in -- I should state it was organized in Helena in 1890. Their meetings were frequently held in Spokane, and some times in Wallace. Mr. Finch, Mr. Campbell, Mr. Euler, and all of the mine operators in that

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district were members of that association,- at least, they don't deny it.

Q Has that association - how long did that association continue? I am speaking now, has there been an association - a Mine Owners Association in the Coeur d'Alenes, since 1893, that you know of? A Yes sir.

Q Where did it exist and when? A It existed, and their meetings were held in Spokane, mostly.

Q When was it held? A Their meetings?

Q When was a meeting of the Mine Owners Association in the Coeur d'Alenes held? A I don't know the exact date.

Q You don't know in regard to it, in regard to any time of meeting? A Their time of meeting, that I have noticed in particular, only when it was noted through the press.

Q Do you know of a Mine Owners Association in that section of the country now? A Not except in a general sense.

Q You are one of the owners of the Hercules Mine, Mr. Boyce? and that is one of the large producing mines of that district, is it not? A It is.

Q Are you a member of the Mine Owners Association? A No sir.

Q Are your partners, Mr. Day and Mr. Poulson, members of the Mine Owners Association? A They might be for all I know.

Q Do you know of any Mine Owners Association at the present time in the Coeur d'Alene mining country? A I don't, except what I know of them, as I have stated, by reading of their meetings,

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or when they were held. Positively the only thing I could say was what I heard from Patsey Clark and George B. McMillan, and they told me they were members themselves.

Q I am speaking of late years? A Of late years, Mr. Hawley, I cannot say there is one.

Q Or, has there been one to your knowledge, Mr. Boyce, since 1899? A Since 1899?

Q Yes sir. A My knowledge of your question, or my knowledge of that, is confined in this way, Mr. Hawley; I am told there is an employment agency that they use that is paid by the Mine Owners Association to employ men.

Q And that is all you know about it? A That is all.

Q And who gave you this information in regard to this matter?

A The information I got was from men who sought employment, and were told by the employment agent that on account of their connection with the union, and the Western Federation of Miners, the Mine Owners Association refused to employ them, and therefore he could not give them employment.

Q And all this is from the statements that some parties here made to you in reference to an employment agency? A Yes sir.

Q Do you know that I am speaking now of the time from, say 1892, or 1900, of any Mine Owners Association in the State of Idaho?

A I do not.

Q

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Q Do you know since 1899 of any Mine Owners Association in the State of California? A I do not.

Q In the State of Utah? A I do not.

Q Or in the State of Montana? A I do not.

Q You have spoken, Mr. Boyce, with reference to an interview of yours, or rather, to certain endeavors of yourself and other parties, members of the Federation, to obtain certain kinds of legislation, which has been in part accomplished; the eight hour law, in different places? A That is true.

Q Do you desire to be understood, Mr. Boyce, as stating that the Western Federation of Miners has been responsible for the passage of the eight hour law, or has it simply been one of the advocates of that measure, along with a good many others?

A I wish to be understood that this was one of the objects for which the organization worked.

Q That is, you say, that the organization was in favor of that?

A Yes sir, that is our root.

Q And there were a great many other organizations also in favor of it, and a great many people who do not belong to any organization? A Yes sir.

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Q. And in fact it was made a political question, adopted in the platforms of political parties in all of the western states?

A. That is correct, I believe.

Q. And the eight hour law has not only been passed in the mining states but in many of the other states, has it not, Mr. Boyce?

A. They couldn't have a mining law in a state that wasn't productive of mines.

Q. I am speaking of the eight hour law generally. A. Generally speaking, yes.

Q. And there has an eight hour law in the last few years been passed by the Congress of the United States pertaining to all work carried on by the government, or contractors under the government, has there not? A. Yes, I believe there has.

Q. And your association was like all other labor organizations, like a great many on the outside favored that and did what you could in your own way to accomplish it? A. We did.

Q. Now the same state of affairs exists in regard to these other matters, does it not, which you have spoken of? Take the question of wages: Do you claim that your organization has been responsible for an increase in wages of the miners and smelter men? A. To a greater degree than any other.

Q. As a matter of fact is there a greater wage rate paid now in the mining camps than there was ten years ago, fifteen years ago and twenty years ago? I am speaking now of the mining camps of Idaho, we will take Wood river, the Coeur de d'Alenes, Custer county, Silver City and the mining camps--Boise Basin and the mining camps generally. A. If you go back twenty years and pick out an isolated place, of course not.

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Q. I am speaking generally, Mr. Boise. A. Generally speaking, Mr. Hanley, I believe there is an increase.

Q. Now in what particular place -- we will take Silver City, for instance: Do you know the wage rate in Silver City for the ordinary miner at the present time? A. The wage rate was $3.00 when I was there. What the wage rate is at the present time I don't know.

Q. And when was you there last, sir? A. I was there in 1901.

Q. And do you know what the wage rate was there in 1890 to 1900? A. I believe it was the same, $3.00 per day.

Q. And prior to 1900, from 1880 up to 1900, it was $3.00, wasn't it? A. From 1880?

Q. From 1880 to 1900, or thereabouts? A. I don't think so. I think the wage rate there was $2.00.

Q. You don't know anything about it prior to that time of your own knowledge? A. No.

Q. Are you acquainted with the mining sections -- the Boise Basin section? A. I have never been in Boise Basin.

Q. Do you know anything about the wage rate there? A. Nothing but what I have been told.

Q. Well, you as president, as a prominent member of this organization, kept yourself well informed in regard to the wage rates in mining camps everywhere, did you not? A. I never do.

Q. Well now, as a matter of fact, Mr. Boyce, the Boise Basin country was never under the control to any extent of the Federation, that is, the Federation never had any miners or any lodges, union lodges there, that is correct, is it not?

2519 A. That is correct. There never were enough men together at one

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place to organize any while I was president.

Q. Hasn't the wage rate been the same there as it has in Silver City and these other places, the other camps where the miners have organized and had union lodges? A. To my knowledge it has. I haven't heard anything to the contrary.

Q. And doesn't the same state of affairs apply in Custer County where they have union lodges in Custer and in Mackay and in any of the other mining camps, doesn't the same rate of wages apply in the union camps as it does where the union exists and those outside of it? A. No sir; wages were reduced at Custer and at Mackay and the union took it up and got the old wages restored. They were reduced from $3.00 to $2.50 per day.

Q. When was that, Mr. Boyce? A. That was along in 1896.

Q. 1896? A. 1895 and 1896.

Q. Wages were not reduced at Clayton or Bayhouse at that time, were they? A. I don't believe they were.

Q. And neither Clayton nor Bayhouse were union camps at the time, were they? A. No.

Q. And the same condition of affairs practically exists in the other states besides Idaho, do they not? That is, there is no difference in the wage rate in the union camps and those that are not unionized? A. Yes. We don't find all of them as good as this part of Idaho, I am sorry to say, we didn't when I was there.

Q. There are differences in different sections? A. Yes sir.

Q. Lower in Utah? A. The wage rate in Utah is lower than it is in Montana.

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Q. There is no such legislation here in Idaho? A. No.

Q. But you did not mean to be understood as your organization having originated this idea, you were simply adopting an idea that had ~~prevailed~~ prevailed in other places and putting it into force in Montana? A. We were endeavoring to put it into force and effect by legislation because it was a saving of the lives of men.

Q. And in that other citizens united, some other unions, and people that didn't belong to any union, giving a helping hand and united themselves, and other prominent men, and members of the Federation, in obtaining the passage of that law?

A. We did.

Q. And did you try it here or in any of the other western mining states outside of Montana? A. We have very little mining here, and we had no trouble in getting it applied in the Coeur d'Alene district, that is at Burke.

Q. It was applied by general consent of the people that owned the mines as a matter of fact, wasn't it? A. Yes.

Q. After their attention was called to it? A. Yes.

Q. As a matter of fact, it is a saving to the mine owners as well as to the miners, it saves the mine owners' property and really saves them money as well as saving a great deal of danger to the miner himself? A. It saves money of the mine owners on account of the lawsuits, generally suits brought for damages on account of it.

Q. Was there a meeting of the Federation held in Salt Lake City, Mr. Boyce, while you were president of the Federation? A. Yes.

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Q. What year was that, sir? A. When I was president?

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Q. Yes. A. I think it was 1897, 1898, 1899.

Q. You made a speech at the opening of that convention, did you not? A. At which convention, Mr. Hanley?

Q. In Salt Lake City in 1898. A. Well, I presume I made a speech at nearly all of them.

Q. I would ask you if at that time in speaking -- speaking of the year 1898, -- at the convention of the Western Federation of Miners at Salt Lake City in the course of your speech at the opening of that convention you used the following language, to-wit: --

MR. HANLY: Gentlemen, I am going to read a part of this extract. I will show it to you beforehand, if you wish.

MR. DARROW: We are familiar with it.

MR. HANLY: (Reading): "Every union should have a rifle club. I strongly advise you to provide every member with the latest improved rifle, which can be obtained from the factory at a nominal price. I entreat you to take action on this important question so that in two years we can hear the inspiring music of the martial trend of 25,000 armed men in the ranks of labor."

Q. Is that a part of your speech, Mr. Boyce? A. That is, I believe, the language, but I am not sure whether it is the language I used or not. I should like to see the article.

MR. CLARK: Show it to the witness.

MR. HANLY: Certainly. (Hands book to witness). It pretends to be a quotation. We have got it in another place, Mr. Boyce. Here on the outside, Mr. Boyce, is the

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question, that is the one.

MR. BORAH: The speech is in the Miners' Magazine, Mr. Darrow, that we let you take.

MR. DARROW: I suppose when we get the whole of it it can go together.

MR. HANLEY: Certainly, you have got a right to have the rest of it go as a matter of course.

Q. That is your language, is it, Mr. Boyce? A. I can't say whether it is my language or not, Mr. Hanley.

Q. What is your best impression about it? A. It purports, to the best of my judgment, to be a part; whether it is the correct language that I used or not I wouldn't swear.

Q. The sentiment that you was trying to utter at that time is incorporated in this extract, is it not? The idea announced in this extract is the idea that you was — A. That I endeavored to convey?

Q. That you endeavored to convey at that time. A. Yes.

MR. HANLEY: That is all.

THE WITNESS: Are you going to let me go tonight?

MR. HANLEY: Do you want to leave tonight?

THE WITNESS: Yes, I would like to.

MR. HANLEY: We can have it understood, if he wants to leave, that we can put this in if we desire.

THE COURT: Is that the understanding, gentlemen?

MR. DARROW: Yes, your Honor.

MR. BORAH: Well, no —

THE COURT: Have an understanding what is to go in.

MR. DARROW: The understanding is, I believe, that the

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Miners' Magazine or whatever contains the full speech may be introduced by either side if they wish, is that right?

MR. BONAR: Yes sir.

THE COURT: The speech containing this language.

MR. DARROW: Yes, or what language in here.

MR. HANLEY: That is, the parts that pretend to explain this particular language.

MR. DARROW: Is there is anything more we willput it in, and if there is anything more you want you can put it in.

MR. HANLEY: If there is anything that explains this language or tends to explain it. Any independent matter, that would be a question for the court.

MR. DARROW: There would be no question or rant of this being the speech, because we will agree on it; and if there is a question of competency, we will leave that to the court.

MR. RICHARDSON: If any part of a writing is introduced we are entitled to have all of the writing.

MR. HANLEY: Not always.

MR. DARROW: If there is any question about that the court can pass upon it.

RE-DIRECT EXAMINATION

BY MR. DARROW:

Q. Mr. Boyce, I see the document that was handed you by Mr. Hanley and read from purports to be compiled by the Colorado Mine Operators' Association, Colorado Springs, Colorado, doesn't it? A. I didn't notice that.

Q. Will you look at it and see. (Hands book to witness)

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A. Yes sir.

Q. And it is entitled "Criminal Record of the Western Federation of Miners, Coeur d'Alene to Cripple Creek, 1894 to 1904", is it not? A. Yes sir.

MR. DARROW: We would like to offer the outside cover only.

MR. ROAH: We want to offer the entire book if you offer any of it.

MR. HAWLEY: We simply offered that because you had the original, regular book.

MR. DARROW: I don't think we will object to the whole book, but I do want to offer the outside cover.

MR. ROAH: We want to offer the entire book if any of it goes in here.

MR. HAWLEY: We don't believe there is any part of it material, your Honor. Here was simply an extract to call the attention of Mr. Boyce to certain words that were said to have been uttered in a speech, and that was all there was to it.

THE COURT: Now what is the question before the court.

MR. HAWLEY: I don't know.

THE COURT: The court would like to find out.

MR. DARROW: I wish to offer the cover to this book, which comes from the State's counsel --

MR. ROAH: If your Honor please, I suggest --

THE COURT: Let him make his offer.

MR. HAWLEY: We object to it as incompetent, immaterial and irrelevant.

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THE COURT: Let him make his offer. Are you through with your offer?

MR. DARROW: I will yield to Mr. Borah. He said he wanted to make a suggestion.

MR. BORAH: I am not admitting it is competent, because my associate has objected to that. But in view of the fact we only have one of these and they have one, and I should suggest they offer their own because we do not want to part with it.

MR. DARROW: If you will show it is the same one.

MR. BORAH: I will show you it is the same one.

MR. DARROW: We would ask to have this marked as defendant's Exhibit 6 for identification only.

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

MR. DARROW: We will ask to have it marked as defendant's Exhibit 6 for identification.

THE COURT: Let it be marked.

MR. DARROW: Now the purpose of this offer I suppose, your Honor, was to show that there is a Mine Owners' Association.

MR. HALEY: There has never been any dispute that there is a mine owners' association at Colorado Springs. That is not one of the disputed points, never has been.

THE COURT: Let me look at that book which is offered. (Book handed to Court).

MR. HALEY: What we have been trying to do is to confine the evidence to a Mine Owners' Association, to this particular

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one.

MR. DARROW: We would have to scatter some if we followed you.

MR. HAWLEY: I think we have kept pretty well to the point. If any part of it goes in, as Brother Darrow says, we will insist on it all, the covers and the inside.

MR. RICHARDSON: We will insist on our answer to it going in also.

MR. HAWLEY: And the replication -- is there a replication to the answer?

MR. RICHARDSON: If you get your answer in we ought to have ours in.

MR. DARROW: We are trying the replication now.

THE COURT: The court will permit this to be received in evidence.

MR. DARROW: I think by tomorrow morning we will consent to all of it going in. We want to think it over.

MR. BORAH: Yes, I think you will think it over.

THE COURT: What page, Mr. Darrow.

MR. DARROW: I will read it now.

THE COURT: Read it to the jury.

MR. DARROW: (Reading): "Criminal Record of the Western Federation of Miners, Coeur d'Alene to Cripple Creek, from 1894 to 1904," and then this following, purporting to be the quotation from the speech --

MR. HAWLEY: Read it again, good.

MR. DARROW: I am going to read it.

"Every union should have a rifle club. I strongly

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advise you to have provide every member with the latest improved rifle, which can be obtained from the factory at a nominal price. I entreat you to take action on this important question so that in two years we can hear the inspiring music of the martial tread of twenty-five thousand armed men in the ranks of labor.--From a speech by the president of the Western Federation of Miners at Salt Lake City."

And then after that is the following quotation:

"I find that the disturbance at Cripple Creek and Telluride amounted to insurrection against the state of Colorado in that mining, milling and other business was suspended there by reason of intimidation, threats or violence, and that the civil officers were not able to or did not maintain order.--From report of major general J. C. Bates, U.S.A., to the Chief of Staff. Compiled by the Colorado Mine Operators' Association, Colorado Springs, Colorado."

Now I presume we can agree that the record may be substituted as it is written in place of this, if we desire.

MR. HAWLEY: You want to keep your book, too?

MR. DARROW: So we can preserve our book.

THE COURT: A copy may be substituted by the stenographer.

Q. Mr. Boyce, how long a speech was this that you delivered?

A. I have no recollection.

Q. This wasn't all of your speech, this wasn't all you said?

A. No.

Q. Whatever you said was at the regular annual meeting of the board, was it not? A. It was a regular annual meeting.

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lon? A. Yes.

to state to what this applied, this part of the speech?

it? A. When I wrote those lines I had in view the
for the militia in Colorado in the city of Leadville,
ey were marching through the streets with imported men
e state of Missouri and butting the women on the streets
ville when they were passing to the mines and calling
de names. I had in mind that the miners or any other
men had as much right under our constitution to have
lubs as any body or aristocrats.

in mind any action of the mine owners in organizing
A. I certainly had.

seen the mine owners in the employing of troops and
or guns? A. I had.

A. In Colorado.

ever seen it in the Coeur d'Alenes or don't you
now, Mr. Boyce? Now --

THE COURT: Was that question answered?

know whether you ever had seen them in the Coeur
n? A. Yes sir.

A. In 1892.

ple killed by them? A. No, it was very fortunate,
the regular soldiers.

remember July 11th, 1892? A. I do.

anyone was killed at that time? A. There were.

MR. HAWLEY: We object to that as incompetent,
rial, irrelevant, not pertinent to the issues here,

orado
aries

being before the organization of this Federation. I ask that the answer be stricken out.

MR. DARROW: I object to its being stricken out. The matter was put into the record and could only be competent as throwing some light upon the character of this witness.

THE COURT: The motion will be denied.

Q. Do you remember the names of any of those men that were killed in the Cour d'Alene? A. Carlson, Cummings, Ramsey.

Q. Where are they buried? A. Near Wallace in the cemetery.

Q. The Miners' Cemetery? A. Yes sir.

Q. Were they armed men at the time, do you know? A. To the best of my knowledge they were not.

Q. Mr. Boyce, you were speaking about whether there was any Mine Owners' Association at Wallace at this time, speaking of the employment office there, do you know whether there is an employment office in Wallace, the fact as to whether there is one there? A. Yes.

Q. How long has it been there? A. I saw it on the board.

Q. How long has it been there? A. It has been there since 1899

Q. In whose building is it? Where is it with reference to the Federal Mining Company? A. I believe it is in the -- was in the building on the corner of 6th and Cedar; but I believe it is now in the Federal Mining building on Bank Street.

Q. They are the largest owners and operators in that district, are they not? A. Yes sir.

Q. About what proportion of the mines there do they own and operate, or own or operate? A. Well, I think they claim they operate seventy per cent.

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Q. In the whole Coeur d'Alenes? A. Yes.

Q. And the Bunker Hill & Sullivan is the main mine in the balance the chief mine outside of it, isn't it? A. Yes sir.

Q. Do you know what corporation is really the owner of the Federal Mining Company? A. I believe it is the American Smelting and Refining Company, the principal owners.

Q. And who owns that? A. The Standard Oil Company controls it.

Q. Mr. Hanley referred to the Comstock mine —

MR. HANLEY: The Comstock ledge.

MR. DARROW: The Comstock ledge did you say?

MR. HANLEY: Yes sir.

Q. The Comstock ledge as being one where they had this safety appliance, do you remember, thirty years ago? A. Yes sir.

Q. I will ask you whether the Comstock Union is not one of the largest of the Miners' unions? A. It is the oldest union, miners' union, in the United States, as I understand it, among the metalliferous miners.

Q. And if you know — you may not know — whether they had to do with providing the safety appliances there? A. They had, but they were not in the Federation then.

Q. But they were the Miners' union? A. Yes sir.

MR. DARROW: That is all.

QUESTIONS BY MR. HANLEY:

Q. The time of the troubles you mention in 1892, there was trouble there again in which six men were killed all together at the time these three men were that you have mentioned?

A. I believe there was six.

MR. HANLEY: That is all.

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JAMES MAHER, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

By Mr. DARROW:

Q. What is your name, please? A. James Maher.

Q. Mr. Maher, where do you live? A. Butte, Montana.

Q. What is your business? A. Mining.

Q. Do you work in the mines or hire men to work? A. Hire men.

Q. You used to work? A. Yes sir.

Q. How long have you lived in Butte? A. About twenty years.

Q. Have you been connected with any political positions over there? A. Yes sir.

Q. What? A. County treasurer.

Q. How long were you county treasurer? A. Four years.

Q. Were you ever secretary of the Western Federation of Miners?

A. Yes sir.

Q. How long? A. From September first, 1900, to June, 1902.

Q. 1896 you mean? A. Yes, 1896, pardon me.

Q. To 1901. Who was president during the time? A. Edward Boyce.

Q. Where was your office? A. At Butte.

Q. You were secretary and treasurer, were you? A. Yes.

Q. And you had charge of all the moneys that were paid out during that time? A. Yes sir.

Q. Were you giving all of your time to the organization?

A. Yes sir.

Q. In a general way, without taking much time, what was the purpose of the organization? A. Well, the purpose was, wherever there was unions to be organized or camps that was unorganized,

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the president went and organized them, got a charter from the organization, paid their per capita tax and so forth.

Q. When this Federation began it was a Federation of the local unions? A. Yes sir.

Q. When did you go into the Western Federation of Miners yourself? A. I belonged to Butte No. 1 before there was a Federation.

Q. How long ago did you join Butte No. 1? A. '87.

Q. Butte No. 1 is the largest union in the organization, is it not? A. Well, it was in my time, yes.

Q. How many members has it? A. About 6,000.

Q. What had the Federation done while you were in there in the way of looking after its members and those dependent on them? A. Well, the local unions took care of that part of it, very much in the way of sick benefits and funeral benefits; if any aid was to be given to people in distress, why, the local took care of that. It was a personal matter with them, with the local union.

Q. What did the local do with reference to more caring for the sick or the injured or the families of the dead? A. Each local union, as I understand it, it was optional with them what funeral or sick benefits they would pay. When they organized that was left to themselves, their conditions.

Q. Do you know what some of the unions have done? A. Well, outside of Butte Union I know but very little, except from hearing the report which we often receive as to what they had done.

Q. What has Butte union done? A. Butte union has done a great deal, a great deal -- paid out more sick benefits I guess than

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on account of its large membership.
providing for widows and orphans,
. Well, they have done a great deal.
ked for anything that they refused, I
ne.
nds and property? A. They have got a
a hall probably worth $50,000.
South Dakota, organization?

ave done there? A. I understand they
all there. I never saw it, I saw

ave dispensed in benefits?
a large union, as I understand, all
d naturally answer for why they paid
mall unions.
the organization toward establishing
s? A. Well, that was about their first
n organized, was to set aside a certain
a hall.
his been done? A. A great many of
heir own hall and their own property.
ying rent, and besides it is a good

ard establishing hospitals?
ot hospitals in quite a few of the

during practically all the time that he

president of the organization, were you not? A. Yes, he was president from May to September ~~xxxxxx~~ before I was secretary-treasurer, and he continued after I left the office.

Q. What did the organization do towards defending its members when they were charged with crime or in trouble while you were secretary? A. Well, they did very little outside of Leadville -- 1899 we had some troubles in the Coeur d'Alenes in which we had one member to defend there, the Federation I believe defended him and paid all the attorney fees.

Q. Did you ever know or was there ever any criminal purpose or conspiracy, or money used for any such purpose in connection with this organization while you were connected with it?

A. No sir.

Q. Or at any other time to your knowledge? A. No sir.

Q. What efforts did the organization make toward perfecting wages, shortening hours and the improving of machinery?

A. Well, some of the locals when they were organized, when they sent a petition to the office to have Mr. Hayes or a special organizer go there, it was for the purpose of bettering their condition both in wages and their surroundings.

Q. Do you know Mr. Haywood? A. I do, sir.

Q. How long have you known him? A. I have known him since 1896.

Q. Was he connected with the organization while you were there?

A. Yes sir.

Q. And he succeeded you, did he, as secretary-treasurer?

A. Yes sir.

Q. And you knew Mr. Hayes? A. Yes sir.

2536 Q. When did he become connected with the organization?

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A. 1896 I think was the first convention he came to, at Salt Lake.

Q. When you left the secretaryship you went into the mining business did you not, or did you go into something else?

A. No sir, I was elected treasurer of Silver Bow county.

Q. Are you a member at present — A. No sir.

Q. — of the organization? A. No sir.

MR. DARROW: That is all.

CROSS EXAMINATION

BY MR. HEAH:

Q. Mr. Maher, was the policy of defending men who were members of the Federation extended to any offenses other than those which may be deemed connected in some way, or those what you concede to be in some relationship with the Federation?

A. I never knew them to defend anybody else outside of that one extreme.

Q. It simply relates to those matters and those alone so far as you know? A. Yes, where it comes in like trouble, a strike or something.

Q. Now you were secretary-treasurer during the trouble in 1899 in the Coeur d'Alenes? A. Yes sir.

Q. And I believe you stated they paid the expense of the defense of Paul Corcoran? A. Yes sir.

Q. Who was charged there with the killing of Jim Smyrl?

A. Yes sir.

Q. Well, did you also pay the expense of Sheriff Young's trial wherein he was impeached and removed from office because of his actions upon that day? A. I don't know anything about it.

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Q. You don't know anything about that? A. No sir.

Q. Do you know that Mr. Breen and Pat Reddy and Mr. Robertson, the same parties who defended Paul Corcoran, also defended Mr. Young? A. I don't know anything about it.

Q. Did you know anything about the defense of the two county commissioners who were charged to have been connected with it? A. No sir.

Q. You haven't any accounts whatever, or didn't have, which passed under your supervision which would show anything in reference to their defense? A. No sir.

Q. And you would not be able to say whether the counsel were paid who defended them out of your fund? A. I could not.

Q. Do you know as a matter of fact that the same counsel who defended Mr. Corcoran also defended them? A. I do not.

MR. NASH: Well, they did not, Mr. Borah, as a matter of fact.

MR. BORAH: Perhaps you were not, Mr. Breen, but I think Pat Reddy was. He was the leading counsel at that time. I believe that is all, Mr. Maher.

RE-DIRECT EXAMINATION

BY MR. BARNES:

Q. Mr. Maher, just another question: The business of the organization, so far as defending men, went to the defense of men connected with the organization who were charged with crime on account of their connection with the organization, was it not? A. Yes sir, that was my answer.

2538 Q. You did not first hold a trial to find out whether they were

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guilty amongst themselves? A. No sir.

Q. But you defended them? A. Yes sir.

MR. DARROW: That is all.

MR. BORAH: That is all.

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. B. EASTERLY, a witness on behalf of the
ng first duly sworn, on oath testified as

DIRECT EXAMINATION

me, please? A. — W. B. Easterly.
live, Mr. Easterly? A. I have been residing in
ver City, for nearly two years, except what
em in Boise.
. in Boise now for some time, haven't you?
he 5th of March.
u born? A. In the southern part of Illinois,
unty.
. On a farm, yes sir.
ommence mining, if at all? A. Why, about the
nce I had at mining was in the winter of 1894
unison county, Colorado.
from Illinois at that time? A. Yes sir.
u go to work? A. Why, at a little town called

n a miner ever since? A. Yes sir.
he time? A. Why, practically since 1896.
ve you done? A. Why, I worked on a ranch, my
,e ranch, and in the smelters and mills.
? A. In milling and smelter work at Pueblo.
d you work at that? A. About six years.
nt back to mining? A. I went from Pueblo to the
n district and then engaged in mining.

Q. When did you go to the Cripple Creek district first?

A. About the first of April in 1896.

Q. Let's see, I believe you belong to the union, don't you?

A. I do.

Q. When did you join the union? A. Why, I think it was the summer of 1896, shortly after I went to the Cripple Creek district.

Q. Was that the Western Federation of Miners? A. The local, No. 19, Free Coinage, of the Western Federation of Miners.

Q. That was the Altman union, was it? A. The Altman union, located in the town of Altman.

Q. Up on Bull Hill? A. The summit of Bull Hill.

Q. That was the union that Parker belonged to and Davis?

A. Yes sir.

Q. And some more of them? A. Many others.

Q. How many members did you have in those days? A. Why, it varied at various times. I think when I joined ~~membership~~ somewhere over two hundred. During the time I was a member there it was over five hundred.

Q. Did you hold any office? A. Yes sir.

Q. What office did you hold in it? A. Practically all the offices in the local -- president, financial secretary, vice-president, various ones during the time of my membership.

Q. You didn't hold them all at once? A. No, but at various times.

Q. You have been a delegate too frequently to the conventions?

A. Yes sir.

Q. Ever hold any office in connection with the central organiza-

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tion? A. I was a delegate to the district union No. 1, which organized the Cripple Creek district.

Q. You never was on the executive board or held an office, a general office, did you? A. Not of the Western Federation of Miners only as a delegate to their annual convention.

Q. Were you in the Cripple Creek district during what is called the Cripple Creek strike? A. Yes sir.

Q. When did you leave? A. The night, or the evening rather, of the 7th of June.

Q. 1904? A. 1904, yes sir.

Q. You haven't attended a meeting of Altman No. 19 since, have you? A. I have not.

Q. Have you been back to Cripple Creek? A. No sir.

Q. Did you ever know Harry Orchard? A. Yes sir.

Q. When did you first meet him? A. If my recollection is correct, I met him on the Trachyte mine sometime in the summer of 1902.

Q. Were you then secretary of the union? A. Yes sir.

Q. Do you know how your first meeting occurred? A. I do.

Q. How was that? A. The duty of the financial secretary was to solicit membership, collect dues and visit the mines to see who various members -- where they were working, and I met him at this mine, the Trachyte mine.

Q. In connection with the organization? A. That is, it is the duty of the organization which I was performing.

Q. You met him on account of your duty as secretary there?

A. Yes sir.

Q. Was he then a member? A. Why, he told me he was an ex-member of some of the organizations of the Coeur d'Alenes.

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Q. Did he make a request to you of some sort in connection with it?

A. Why, I solicited me him to become a member of our local, and he said he had been a member up there, and he told me when he left the Coeur d'Alene country that he didn't get a card, and I told him that was my duty to investigate and write to the local, of which I believe he gave me the name which I desired, and I corresponded with the parties the best I could at that time and I could get nothing in regard to his membership.

Q. Did he afterwards become a member? A. So we afterwards took him in as a new member.

Q. This was in 1902? A. Yes sir.

Q. How frequently did you meet him? A. Oh, quite often, as I went to and fro in the town where he lived in Albion, practically every day. Perhaps I met him once or twice a week.

Q. Did you have any intimater close connection with him?

A. Nothing more than a casual acquaintance, as with any other member.

Q. Was he ever an officer in the organization or take any prominent part in it? A. I don't think he wasever elected to any office. He might have been temporarily appointed to fill some chair during the vacancy or the absence of a regularly elected member.

Q. Do you remember any such instance? A. Why, I think I have seen him act as doorkeeper or warden.

Q. You don't know how he got there? A. Nothing any more than by the appointment of the president that one evening.

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Q. You don't recall his getting beyond doorkeeper?

A. Not that I can recall.

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Q. Well, you remember the time the strike came on in the Cripple Creek district, do you not? A. Yes sir.

Q. When was that strike declared in Cripple Creek?

A. That is the one that is usually spoken of, was called on the 10th of August, 1903.

Q. That was the one that was called on account of the lockout or the troubles down in Colorado City, was it not?

A. It originated from the Colorado City trouble.

Q. Did you have any official position in connection with the strike in 1903, called in September, 1903? A. Yes sir.

Q. What was it? A. Why, at various times I was called on as an advisory member of the strike committee. In the absence of one or the other of the strike committee I took their place; also was on the relief committee from Altman No. 10.

Q. That was a part of the organization, wasn't it?

A. Yes sir.

Q. How long were you on that committee? A. Practically all the time from the strike until we had to leave there.

Q. Was it a part of your duty to help manage the strike in connection with that? A. Why, it was a part of my duty to aid in the assistance of relief of the members and their families.

Q. Do you remember when the troops were called in? A. Yes sir.

Q. Can you recall the date? A. Why, about the 4th or 5th of September, I am not sure which date, but it was near the first of the month.

2544 Q. What was the condition of the district as to peace and quiet and order at that time? A. Compared with the times before the

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irk it was more quiet
t work.
men out of saloons?
train from visiting places
nd out of work.
or anything of that sort
ents of it.
of that kind?
considered a mob at all.
have any men there,
preserve the peace, gun
, they were in the district.
't say to the number.
nally acquainted with that
mers' side.
as who reported as gun

en? A. Frank Hancock.

acquainted with him.
several times.
t.
they? A. Yes sir.
men got in there, as to
of any kind?

there was frequently bur
n it had been previously.

Q. Were all of the mines closed down? A. Practically so.

Q. Do you know how it was with the Portland mine? A. Why, they closed for a short time and an arrangement was made with the management on that and the strike committee so that they resumed work.

Q. And when they resumed work the union men worked there, didn't they? A. Yes sir.

Q. Did you know whether they were closed afterwards, or weren't you there at that time? A. That is not while I was in the district -- only from hearsay.

Q. Do you know whether you observed the movements of Harry Orchard to any extent during that time? A. Why, not any more than other members. I seen him quite frequently.

Q. Did he ever consult you about bombs? A. No sir.

Q. Or make any suggestions to you about bombs, or you to him?

A. No sir.

Q. Did he ever ask you or you ask him, or did you together go up Bull Hill to experiment with giant caps in an old building somewhere? A. No sir, we did not.

Q. You heard his testimony on that point, didn't you?

A. I believe I did.

Q. Did any such thing ever occur as your exploding a pistol to see whether giant caps would explode? A. No sir. According to his statement, it would be very dangerous for a proposition of that kind.

MR. HAWLEY: I suppose that is the reason it didn't

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happen.

THE WITNESS: It would be practically considered an impossibility.

Q. Mr. Berah suggests that might be a reason you didn't do it. That would be one good reason, wouldn't it? A. It would if a man had any ordinary judgment.

Q. No such thing ever occurred, however? A. It did not.

Q. Did you ever have any conversation with him in reference to the Vindicator mine or the explosion of any powder there?

A. No sir.

Q. I am not sure that he says you did. Did you go with him or meet him in the general offices of the Western Federation, when Mr. Haywood and Mr. Moyer were present, or either of them, in which he told them or stated that he had had to do with the blowing up of the Vindicator mine? A. No sir, no such meeting ever occurred to my knowledge.

Q. Did you ever see them put him on the back and tell him he had done well and could have all the money he wanted?

A. I did not.

Q. Were you ever present when there was any conference of any such nature between Moyer, Haywood and Orchard? A. No sir.

Q. Did you ever see the together that you know of? A. Not any more than with many others.

Q. And that would be at what time, if at all? A. About the first recollection that I can call to memory, that is, that I ever seen him in the presence of any or either of them was at the funeral of Mr. Davis's wife and child, which they attended at that time.

2547

Q. Where was that? A. In Denver.

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Q. Do you remember the date? A. Why, it was near the first of April in 1904.

Q. The two were buried about the same time, the wife and child?

A. Why, the wife was buried and I returned to Altman and the child died while I was there and I went back again with it the next day.

Q. Do you remember whether Moyer was there then? A. I don't think he was.

Q. Do you know where he was at that time? A. I think home in Telluride.

Q. Do you know whether Mr. Haywood was under arrest at that time?

A. I think he was under the custodian of an officer.

Q. For safe keeping I suppose? A. I believe they termed it that.

Q. Well, you remember the incident of the explosion in the Vindicator mine; Do you remember when it happened?

A. I remember when they reported the incident there, the papers spoke of it.

Q. Do you remember where you were at the time? A. Yes sir, I was in Altman.

Q. Where did you first learn of it, if you remember?

A. Why, the particulars I think I learned in the paper, but I heard it spoken of in the afternoon.

THE COURT: I think we will suspend now.

Thereupon the court gave to the jury the statutory admonition, the bailiffs were sworn, the jury retired in charge of the bailiffs, the defendant was remanded and an adjournment was taken until 9:30 A. M. Friday, June 28, 1907.

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Boise, Idaho, Friday, June 28, 1907.

9:30 o'clock A.M.

Further met pursuant to adjournment.

The minutes of the session of June 27, 1907, were read and the same were signed by the court.

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

MR. HAWLEY: The witness whom we desire to recall for a very few questions has not, he says, to leave on the afternoon train, Dr. McCon; and in order to accommodate him I have spoken to counsel for the Defense and they are willing that he shall take the stand. It will take us but a very few minutes.

THE COURT: He may be recalled.

Gentlemen, Mr. Russell wishes an interview tomorrow sometime with his foreman on the ranch.

MR. RICHARDS: We are willing, under the same conditions.

[illegible] M. I. L. McCONNELL RECALLED

EXAMINATION BY MR. HAWLEY:

Q. Doctor, when were you subpoenaed in this case? A. I wasn't subpoenaed at all.

Q. When did you come to Boise with reference to this trial?

A. Well, I don't remember the date. It was some place — I got here I think along about the 9th or 10th, something like that.

2549 Q. 9th or 10th of June? A. Yes sir.

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during the progress
this case at all.
two or three months

the Defense in
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allace, oh, just about—
ruary.
of an attorney at
ow and Mr. Richardson
think he was associated
was in the Store Adams

John Wourms.
e are here actively
t up into the office
had a short conver-

Oth? A. I should

ningham at the depot
ay that I did see him,
attention to Orchard,
of Cunningham that I

efer to? A. Well, sir,
that I had an alterca-

Q. Is he a miner? A. I think not. If he was I had never known him as such.

Q. Was he an inmate of your hospital at the time? A. No sir, he was visiting a county patient in my hospital and he was there beyond the hour, and I had sent the nurse to have him go away twice, I believe, and when he didn't do so I went up and took a hand in it myself.

Q. Throwed him out? A. No, I didn't throw him out, but he went out.

Q. Had some help then presumably. Well, then, Doctor, did you know this man's name? A. Which man?

Q. Cunningham? A. No.

Q. Didn't know his given name? A. No; I didn't know his name was Cunningham even, but somebody told me that.

Q. What year was it that you had this trouble in the hospital with him? A. Well, it was the year -- that was in the spring of 1904. The way I know that, the next altercation I had with him was on the day of the Republican county convention.

Q. In 1904? A. Yes.

Q. So you had trouble with him twice? A. Yes, it was trouble.

Q. Where was this second altercation? A. It was on the corner by the First National Bank Building, at the rear of the First National Bank.

Q. Who was present? A. Well, there was several came there soon afterwards. The first person I believe that came into the play was John Millett, the deputy sheriff.

Q. Is that the county convention of 1904? A. Yes sir; that is the way I remember it.

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Q. And the first interview or first time you saw him was --

A. Just a short time before that.

Q. At the hospital? A. Yes. The man he came to see was a morphine fiend, Jim Causey, that fell off of a Northern Pacific train. I made a record of that and could hunt it up.

Q. Well, I want to know the name so as to fix it. And it was between those two occasions that you saw Orchard with this man or whom you supposed to be this man at the depot?

A. No.

Q. Between the two altercations? A. No.

Q. What time was it? A. Well, my recollection is it was after that.

Q. After each of these altercations? A. It was while the campaign was going on.

Q. Will you please fix the date again when you saw him there?

A. My recollection is it was the last of July or the first of August, and the way I recollect it was this, I was running a newspaper there and I went over to the newspaper office and from there to the depot and I knew I left to go down to the lake and I don't usually go to the lake other than in the summer time.

Q. How long was it after this second altercation? A. I am unable to say.

Q. Well, give us your best recollection? A. I don't know when the second altercation occurred only that it occurred the day of the Republican convention, and I haven't that date.

2552 Q. The day of the Republican convention but you don't recollect when? A. No.

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Q. Can you describe this man Cunningham? A. These are the only two times I ever saw him; the last time I saw him was a very short time, there wasn't much to it.

Q. Could you tell about his height? A. Yes, I think he was rather a tall fellow. I know he was bigger than I was, or taller than I was. I didn't think I wanted much of his game.

Q. Did you ascertain whether he was stouter than you was?

A. No, I didn't get that far along with him.

Q. Did he have a mustache or a beard? A. Well, I don't remember. He had a gun, I know that.

Q You saw the gun, did you? A. Yes.

Q. Do you remember how he was dressed, Doctor? A. No sir, I don't remember. When a man shows you or a gun I don't pay much attention to his make-up.

Q. Did you leave that section of the city? A. No sir, I didn't do that either.

Q. But you was observing the gun and not the clothing. Did you ever see this man afterwards, Doctor? A. I don't think I ever did. I am very well satisfied that I didn't, too.

Q. You don't know anything about his whereabouts? A. No sir.

Q. How did you ascertain anything about him? A. No sir, I don't know anything about him.

Q. You was perfectly satisfied after the last interview then?

A. Yes, if he was I was.

Mr. MANOW: That is all.

Mr. MANOW: That is all, Doctor.

Mr. Easterly may take the stand.

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WITNESS WILLIAM H. HASKELL ON THE STAND.

DIRECT EXAMINATION (Continued)

BY MR. DARROW:

Q. You remember the time of the explosion at the Vindicator, don't you? A. Yes sir.

Q. That was about November 21st, I suppose? A. I think that is the date that it occurred on.

Q. You had worked in Pueblo at some time, had you? A. Yes sir.

Q. When did you leave Pueblo -- when you were working there I mean?

A. That is, when I left the city of Pueblo?

Q. When you stopped work, yes. A. Why, the last work I done there was in March.

Q. Of what year? A. Of 1906, the Miller smelter.

Q. Did you have any relatives or friends at Pueblo in 1903 and 4?

A. Yes sir.

Q. What? A. I have a brother and a sister that was there at that time and is there yet today.

Q. Were you in Pueblo in the latter part of 1903 or the first part of 1904, December or January? A. I was there in both months.

Q. Both months? A. December and January.

Q. Do you remember what you were doing there? A. Yes sir.

Q. What? A. I was organizing the smeltermen's union for the Western Federation of Miners.

Q. Do you know how long you were there? A. Some thirty-five or forty days.

Q. Where did ya go from? A. I went from Denver.

Q. Can you give the exact date, Mr. Haskell? If you can't never

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mind. A. It was near the middle of December, probably from the 15th to the 20th; if my recollection is right, it was on the 16th, it might vary a day or two, when I went down to Pueblo.

Q. I suppose you did at the time or some time make some memoranda of it? A. I kept a record of it during the times, as I had to report to the organization.

Q. And then you probably got back along the 20th of the next month? A. Somewheres near that time, the 20th of January.

Q. There in Cripple Creek did you ever tell Orchard at any time that Parker wanted to see him? A. No sir, I did not.

Q. Or tell him anything in reference to the Independence depot explosion which had not yet taken place? A. No sir.

Q. Do you know what Orchard was doing, generally speaking, in Independence and Cripple Creek in 1903 and 4? A. Why, he mined a little occasionally; but he was quite a fiend at card games, played a great deal.

Q. Ever know of his working for any great length of time together?

A. Why, not to exceed a month, I think, to my knowledge at one place or at one time. He might have been longer, but not to my memory.

Q. You used to attend meetings pretty regularly during the strike and before? A. Where? you say?

Q. Yes, yes. A. Yes sir, I attended very regularly.

Q. Was there any talk of violence at any of the meetings?

A. Why, no, that is not except the one time one visiting member tried to make an insertion.

2555 Q. Who was that? A. Why, he went by the name of Charles Bedman

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at that time; he afterwards proved to be a secret service man.

Q. He was a detective, was he? A. Yes sir.

Q. Did you ever hear any of the regular members of the organization, who mined, advocate violence during that period?

A. No sir.

Q. That was said and what was done by the committee and your men to preserve peace? A. My, the officers always advised peace and quietness, to refrain from any violation of law or any immoral practice that could be looked or pointed at by the organizations.

Q. What did they do in reference to going to the saloons -- to keeping men away from the saloons? A. They advised them not to frequent those places any oftener than was absolutely necessary to do so.

Q. By oftener than necessary, I suppose you mean to get a drink?

A. Or to go to see a person who might be in there.

Q. We don't want to miss anything as we go along. Were you present at a Labor Day picnic at Pinnacle Park? A. I was in 1903.

Q. That was along the first days of September, or do you remember the date? A. It was on Labor Day in September; I am not sure about what day of the month it was.

Q. Was Mr. Moyer and Mr. Haywood there? A. Yes sir, they was.

Q. How many of the Miners' Club were there? A. This was practically all the picnic or gathering place of the district, perhaps there were several thousand in the park.

Q. Did Mr. Moyer and Mr. Haywood speak? A. Yes sir, and others.

Q. Who else spoke? A. Sherman Parker and William P. Davis spoke

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[redacted]

a short address.

Q. Did Moyer and Haywood have anything to say about how the strike should be conducted? A. Yes sir, talked along organization lines and the conducting of the strike.

Q. Did they have anything to say as to going into saloons and the like? A. They advised peace and quiet and for the members of the organization who were on strike to conduct themselves in a gentlemanly way.

Q. Was there anything said as to what effect disturbance and violent deeds would have on the strike? A. Why, I think all four of them referred to it in case any difficulty, or any violence, that it would be readily charged to the organization, and for the men to be very careful not to violate any law or to make any disturbance.

Q. How was it, as a matter of fact, during that strike, as to whether accidents and breaches of the peace and things of that kind were charged to the organization? A. It was very readily charged to some member of the organization.

Q. Did you get arrested during this period? A. During the strike period I was.

Q. When? A. On November 22nd, 1903.

Q. What was you arrested for, Mr. Easterly? A. Military necessity, as they claimed it.

Q. For military necessity? A. That is what the officers charged against me.

Q. Were you the only man whom military necessity required at that time? A. No sir, there was many others.

Q. About how many others were arrested at that time?

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A. Some twelve or fifteen possibly.

Q. And what was done with you? A. We were taken and thrown into the military hall pen.

Q. How long did you stay there? A. I remained there from the 22nd of November until the 3rd day of December.

Q. Did they try you on that charge of military necessity?

A. Why, there was a writ of habeas corpus gotten out and the court ordered me released.

Q. What judge? A. Judge Banks.

Q. There sitting in Cripple Creek? A. Yes sir.

Q. Were you released? A. I was.

Q. At that time? A. By his orders, yes sir.

Q. Were you arrested again? A. No sir.

Q. That writ issued in December and you were discharged in December I believe you said, didn't you? A. Why, that is when I was discharged. The writ I think was issued several days before, three or four six days' notice.

Q. And did you stay around Independence and Bull Hill and Cripple Creek? A. Not immediately after that.

Q. Where did you go? A. I went to Denver.

Q. How long did you stay there? A. I was only there a couple of days, I think I went to Pueblo from there.

Q. To Pueblo from Denver? A. Yes.

Q. And then you stayed in Pueblo for the time you spoke of?

A. No, I returned to Denver and made about two trips between that and the 10th or 15th of December, back and forth from Denver to Pueblo.

Q. And after that did you go back to the district? A. After I

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completed the organization in Pueblo then I went to Denver and from Denver to the district.

Q. About what time did you get back to the district?

A. The latter part of January.

Q. How did you ever know or hear anything about any spike pulling case or any attempt to wreck a train excepting as you hereard about it in the newspapers after it was supposed to have happened or heard it from others after it was supposed to have happened? A. That is my first information, after it was supposed to have occurred.

Q. Did you ever hear anything about any explosion in the Vindicator mine until after it happened? A. No sir.

Q. Now what did you do after you got back in January?

A. Well, I assisted on the relief committee.

Q. About how many people were getting relief up there?

A. Well, practically all of our members of Free Coinage No. 19.

Q. Do you remember the time a number of your people were charged with vagrancy? A. Yes sir.

Q. And do you remember the notices that were given out at that time by the commanding colonel or whatever he is? A. I remember when they posted notices and also inserted it in the daily papers.

Q. Where were they posted? A. I think I noticed one on the door or near the door of the entrance to the postoffice in Victor.

Q. Were numbers of people arrested on the charge of vagrancy?

A. Why, there were some.

2559 Q. Were those people those who were receiving regular relief?

A. Some of them, yes sir.

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A. No, I couldn't say.

Q. Did you hear anything about any trouble that was liable to occur at the depot before it did occur? A. No sir, I did not.

Q. When did you hear about it? A. Why, I heard talk of it the next morning when I went to breakfast of what had occurred and happened.

Q. Where were you that night? A. The night previous to that?

Q. Yes, on Sunday evening. A. I was at the Trades' Assembly at Victor, Labor Trades' Assembly.

Q. Do you know what time you went home? A. I think the car, the schedule time of the car that I went home on was 11:05, that I left Victor.

Q. How long did it take to get up to the top of Bull Hill?

A. About twenty-five minutes' run.

Q. So you got up there about 11:30? A. About that time.

Q. Where were you living at the time? A. In the town of Altman.

Q. Did you have a house of your own? A. Yes sir.

Q. Or a flat or something of that sort? A. A little house.

Q. That was it? A. A little frame building, a three roomed house.

Q. And were you living alone? A. Yes sir.

Q. You are not a married man I believe? A. No sir.

Q. And when you got back that night where did you go?

A. I went direct home, the electric line stopping place between Independence and Altman where I got off the car at.

Q. Did you go to bed? A. I did.

Q. To sleep? A. I did.

Q. When did you first know that anything had happened?

A. Well, I heard an explosion that night. I knew nothing about

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what had occurred.

Q. How far was your house from the depot? A. Somewhere between a quarter and a half a mile.

Q. And did you go down there that night? A. No sir.

Q. Get up? A. I got up and looked out of the window, I couldn't see nor hear nothing after the explosion and so I went back to bed.

Q. When did you learn what had happened? A. When I went to breakfast next morning.

Q. There were a good many people gathering around at that time, I suppose? A. Yes, quite a number up.

Q. And considerable talk on the streets and everywhere else about it? A. Yes sir.

Q. And at that time you learned about it, did you? A. Yes sir, I learned about it.

Q. Did you learn that there was going to be any delays down at Victor that day? A. No, not at that time I didn't.

Q. When did you learn that? A. Later on, somewhere nine or ten o'clock.

Q. How did you learn it? A. I think Frank Cochran, the secretary of No. 32, had telephoned us there that the militia, non-union men and Citizens' Alliance were arming themselves in Victor.

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Q Did you see any handbills scattered around? A Not at that time; in the afternoon I did.

Q What did you do when you heard that everybody was arming themselves and going to Victor? A I went to Cripple Creek.

Q You went to Cripple Creek? A Yes sir.

Q What time of day? A About ten o'clock.

Q How long did you stay in Cripple Creek? A Only a short time, perhaps a half hour.

Q Have any talk with members of the organization and others who were sympathizers there? A I did.

Q Then where did you go? A A number of us went from the Creek to Victor.

Q How many of you went together to Victor? A Well, every car that went over there was full; there was hardly standing room on the cars.

Q All of them your people? A No, all classes of people,— men, women and children.

Q Any guns in the crowd? A Many of them.

Q You did not have any I suppose, did you? A No sir, no rifle.

Q Did you have any smaller weapons around you? A I did.

Q What? A A six shooter.

Q And you went over on the car, did you? A Yes sir.

Q Did you go over to attend the meeting? A Not to attend no meeting, no sir.

Q Where did you go? A Just in Victor, at the Miners Union Hall.

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Any others of the boys gather there? A Many of them.

Q About how many? A Oh, there were those that resided there--

[illegible]

Q Any militia? A Lots of them.

Q And special service men? A Yes sir.

Q And Western Federation men? A Yes sir.

Q Clerks and all kinds of people, were they? A All classes of people were in the block around the square there.

Q Yes, and a good deal was said about the Federation, back and forth, one way and another by the crowd, wasn't there?

A Why, the non union men was very open in condemning the union men and accusing them of various things.

Q Anything said as to what they would do with the union men?

A Many remarks of that kind.

Q Of what? A Why, any union man who had been prominently -- or known in the organization, when they would see him or pass him they would call him vile names and would say, "There is one of them that ought to be hung or have his head shot off," and remarks of that kind.

Q Any of them made to you? A There was.

Q Well, there was a great deal of excitement that day, was there? A There was.

Q At that place? A Yes sir.

Q And finally the speaking began, did it? A Yes sir, in the afternoon.

Q Who were the speakers? A C. C. Hamlin, is one that made the talk, and Mr. Crump was also intending to speak as I learned.

Q But he got busy before that time, before he got to his speech?

2565

A I rather think he did.

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Q What was Hamlin's position — what was he? A Why, he was secretary of the mine owners association.

Q And what was Crump? A He was the Mine Owners attorney.

Q Hamlin was also a lawyer, wasn't he? A I believe so.

Q And afterwards became prosecuting attorney of the district?

A Yes sir.

Q When they changed State's attorney? A When they changed, yes sir, later on.

Q Well, did he begin speaking? A He made a few remarks before the difficulty occurred.

Q Then what happened? A There was a shot fired and then they began to go pretty rapidly.

Q What was the character of his remarks? A He referred to the explosion at the Independence depot, that that was a dastardly act of the organization, that if the citizens did not take that in hand and have fifty or more of the leading members and run the balance of them out of the district they would get their just dues, or something to that effect.

Q And then the shooting began? A Yes, then the firearms began.

Q Were there many? A There was many a shot fired.

Q Were the militia with the crowd or were they posted somewhere else? A They were practically mingled all around through the crowd near the wagon where the men spoke.

Q Were any of them posted on the hotel? A I could not say as to that, but the militia and non union men were practically all over town.

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Q Armed, were they? A Armed with rifles and shotguns.

Q And you had a revolver there, you say? A I did.

Q What did you do? A I done like many of the others -- pretty badly excited.

Q Where did you go? A When the firing was over and things kind of cleared up I went up the street, I think it is Third Avenue, to the south side of Battle Mountain; I remained there a while and I seen the militia maneuvering around in town as though they were surrounding the Miners' Union hall. I remained there a few minutes and then they commenced shooting at the hall. There was a number of shots fired in that and then they ceased and then I went on up the hill towards home.

Q What for? A Well, I went home, and on my way home I stopped at Steve Adams housend tell him what had happened, what I had heard and what I had seen.

Q Yes? A Then I went home.

Q Did you tell him anything about getting out of the country?

A I told him the threats I had heard made against him and against other union men and that it was his duty to protect himself and not fall into their hands if possible.

Q Then, who else did you see? A Why, I seen several of the boys in Altman when I got home; Chris Kenney, Cooper, George Howard, quite a number of the boys.

Q And what did you do next? A Well, when I went home I got my shotgun.

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Q What kind of a shotgun was that? A A Winchester pump shotgun.

Q Then what did you do? A I went over there to Goldfield.

Q Anybody with you? A No sir, I was alone.

Q Where did you go? A I went down through Independence; went down the main road through the street of Independence and from there on to Goldfield. As I understood there was a number of the union boys meeting at Goldfield in order to protect ourselves.

Q Yes, and did you meet any of the boys? A I met a number of them on the way and going through Independence.

Q Did they have guns? A Some of them did.

Q How many-- how far is Goldfield from Victor or from Independence? A Well, the three towns practically join, only they are/separate corporations.
under

Q Where did you go when you boys got down there? A Well, we first went to the city hall at Goldfield, quite a number of us stopped there, and while we were there we noticed the militia and citizen's alliance and their gang-thugs were had taken a train and was going up on Bull Hill to Altman and to Independence,-- some four or five carloads of them. We watched them move from there, and whenever we saw them step on the south side of Bull Hill they all unloaded there and started down through Independence practically gathering up all union men they could find.

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Q Were they armed? A All armed.

Q Then what was done? A They came on down through Independence and from Independence into Coldfield.

Q How close were they to you at that time? A They were in something like a quarter of a mile, perhaps, at the edge of Coldfield when we were at the city hall.

Q How many people were there in the crowd as near as you could get at it? A Any way, four or five hundred.

Q How many of you fellows were there? A I think there were about twenty or twenty-five of us in the hall.

Q What did you do? A We remained there until they got to the union store, some of us,— many of them began to leave as soon as they seen the militia coming towards us; when they got to the union store they began to holler and make an awful noise and started violence and some shots were fired and they appeared to part as though they were going to circle the city hall. We seen what kind of a predicament we w as going to be in at that place and at that time I think there were three of us left.

Q The rest had resigned before that? A The rest had resigned. Then as we retreated up the hill back of the hall there was a number of shots fired at us as we went up the hill side.

Q Where did you go? A We went two or three hundred yards up the hill side until we got into some prospect holes and we remained there for a short time until the militia advanced closer and then we went further up the hill in the quaking asp

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trees.

Q Being shot at all the time? A There was a number of shots fired at us.

Q Did you shoot back? A I did not; I only had a shotgun and it was too short to reach that distance.

Q That was the reason, was it? A That was the only reason.

Q You was busy too, were you? A I was doing the best I could to

Q ditch them.

Q Did you get hit by a bullet or anything? A There was a ball struck a rock right close to where I was in a prospect hole and a little piece glanced and struck me right above the eye.

Q Then where did you go? A It began to get dark and we remained in the quaking asp trees, myself and one other party,— we practically stayed together all that night and evening, and the next day we maneuvered around the edge of Goldfield until something like three or four o'clock in the morning and then we went to Gillette four miles away and stopped with a friend over there.

Q And when did you leave there? A We remained there all that night and until the next evening.

Q What did you do then? A As the train came by there going to Denver we boarded the train and went into Denver.

Q And went to headquarters? A Yes sir.

Q Who was the man that was with you? A Fritz Gary.

2570 Q And a number of other people came to Denver at the same time?

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A There was a number on the train and many had arrived there before I got there.

Q That is, all your old Bull Hill crowd? A Cripple Creek acquaintances. A Yes sir.

Q She had been driven out the same as you? A Yes sir.

Q How was it in Denver as to -- around the headquarters and the lodging houses there? A There was quite a number of them that usually frequented the headquarters and the rooming house where we were stopping.

Q Did you meet a good many of them there? A Yes sir.

Q You went to the headquarters, did you? A I did that evening and also the next day.

Q You saw Pettibone, did you? A I did.

Q How long had you known Pettibone? A Perhaps six or seven years.

Q How has he been connected with you people? A Why, he has always been very friendly, accommodating, with us, on many occasions when we was there at conventions.

Q Was you in the habit of going to his store? A Yes sir.

Q And others were in the habit of going there, of the boys?

A We did, many of us.

Q He is a companionable sort of man, isn't he? A A very companionable, very friendly kind of a man.

Q And did you see him, do you know, at that time? A I seen him that evening I think, and I know I did the next morning. I stopped at the rooming house right above his place of busi-

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next.

Q Did you see Orchard? A I did not.

Q Did not see him at all during that day? A No sir.

Q Then was the next time you ever saw Orchard after leaving the Cripple Creek district? A I think the next meeting with him was in Pueblo.

Q Well, we will get to that pretty quick. How long did you stay in Denver? A I stayed in Denver about a week I think—about the next following Monday or Tuesday I left Denver.

Q Then where did you go? A I went to Sterling, Colorado, and remained there about a week and then I went to Greeley.

Q What did you do at Greeley? A I remained there a couple days and then went on a farm and worked on a farm.

Q How long did you stay on the farm? A I stayed at that time until the 8th day of October, the following October, 1904.

Q Did you go by your real name? A Not exactly. I might say that I dropped or amputated the last part of it, and they usually called me Bill Brown, as my first and middle letter or name.

Q So you was Bill Brown at Greeley, were you? A Yes, at the farm where I was working.

Q Where did you go from Greeley? A I went back to Denver.

Q Did you go to work in Denver? A No sir.

Q There wasn't anybody looking for you to hire you in those days? A Not at that time. The passion had cooled off so I

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was willing to stand any charge, if any charge was preferred. I stayed there openly and met many of the Cripple Creek men.

Q Read any of the articles? A I did.

Q How long did you stay in Denver? A I stayed in Denver until about the 18th or 19th of December and then I went from Denver to Pueblo and stopped a few days with my brother and sister there, and then I went to Illinois where I was raised.

Q When did you leave Pueblo? A At that trip?

Q Yes, at that time? A Why, I think about the 26th or 21st, any way, I arrived at home on December the 24th, which would be about three days travel.

Q Was that the time you saw Orchard or some other time?

A Another time when I came back.

Q Well, you stayed down on the farm in Illinois a time, did you?

A I was seeing my relatives and friends there until May.

Q Got down there it was quiet and restful? A Yes sir.

Q And then in May did you come back? A In May I came back to Pueblo.

Q And where did you stay in Pueblo when you came back?

A I stayed with my brother and sister who has a family there, and during the time I was there a niece of mine who had been going to school at Greeley, she was coming down by there and I was to meet her at the depot — at the Union Depot. While I was waiting to meet her there Orchard and this man Vaughn came in. I talked with Orchard perhaps ten or fifteen minutes

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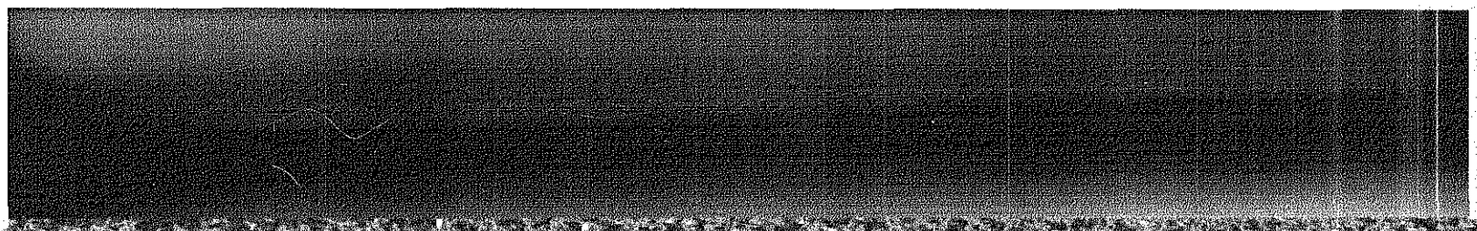

Gunnison with my brother about a month I think, and went from there to Park City, Utah.

Q Did you go to work? A I went to get work, but I did not find it.

Q Could you get work? A I did not get it any way.

Q Did you go the mines to get work? A I went to the mines for three or four different days and inquired and could not get on and it looked discouraging.

Q Did you go under your own name? A I did, yes sir.

Q Then where did you go? A Then I came to Silver City in this state.

Q How far is that from Park City? A Silver City in this State?

Q Yes, did you say Park City, Utah? A Yes sir.

Q That is down near Salt Lake, isn't it? A Park City is.

Q How did you come to go to Silver City? A The secretary of the organization there had at one time worked over here and he learned they were short of men and he advised me to go to Silver City as it was an out of the way place where men do not usually come, as it is off the railroad, and thought it would be a proper place for me to get on.

Q The secretary of the organization advised you? A Of the Park City Western Federation of Miners.

Q And so you came to Silver City? A Yes sir.

Q Had you ever worked there before? A No sir.

Q Did you get a job there? A I did, I went to work there.

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Q Thereabouts? A At the Blaine mine — the Blaine tunnel, near Silver City, about a mile up from the town.

Q When was it you went to work? A I think it was on the 14th of August, 1905.

Q 1905? A Yes sir.

Q And you have been there ever since here you? A I have except what time I have been over here.

Q Been working ever since? A Yes sir.

Q At the same place? A At the same place— same mine.

Q Under your own name? A Under my own name.

Q When did you next hear of Harry Orchard? A The next I heard of him I think was in November.

Q Of what year? A 1905.

Q From whom did you hear of him? A L. J. Simpkins.

Q Where was L. J. Simpkins? A He was at Silver City.

Q Did he tell you where Harry Orchard was at that time?

A He told me he had met Harry Orchard or otherwise Tom Hogan in Caldwell.

Q Did he tell you what he was doing? A He told me he was working at the insurance business and selling mining stock.

Q What was Simpkins doing at Silver City? A He came there on the request from our local in regard to organizing some miners in the southern part of this State.

Q You of course affiliated with the local there as soon as you got there? A I did, transferred to there.

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Q Do you know how long Simpkins was there in Silver City?

A I think he was there two days, or two nights rather; he arrived in the evening and left the second morning.

Q Did he talk with you about killing anybody or any act of violence? A No sir, he did not.

Q Now, do you know whether -- never mind that. When did you next hear of Harry Orchard? A Shortly after Simpkins left there Harry Orchard wrote me a letter.

Q Now, that would be about what date? A About the 16th or 17th of November.

Q Have you got the letter? A I have not.

Q Are you in the habit of keeping letters? A No sir, not usually, especially when I was living at a place of that kind.

Q What kind of accommodations have you for taking care of wardrobes and documents and letters? A Well, my wardrobe was very limited at that time, and our place of convalesce was more-- they are about like the bunk in a Pullman palace.

Q Not finished up quite the same way? A No, not quite so neat and nice.

Q You haven't the letter? A No sir, I have not.

Q What was in that letter? A Why, he spoke of learning of my whereabouts, also told what he was doing, referred to the talk I had in Pueblo with him in regard to going into the insurance business with him, also that he was selling mining stock, that it was a nice valley, and that it would be a nice field for that kind of work.

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to you
Q Say anything about going over there? A He wanted to know if I wanted to quit the mines and take up the work with him.

Q Did he say what kind of insurance he was doing? A Selling life insurance, also hail or storm insurance,— he intended to in the spring.

Q Did you reply to him? A I did.

Q You did not save a copy of your letter I suppose? A No sir, I did not.

Q I am afraid that is lost. What did you say in your reply?

A I told him about how long I had been in there, that I was working at a steady job and preferred to stay there the balance of the winter, that I was practically broke and needed a few months work and expected to stay there until spring.

Q Did you hear from him again after this? A About a month later, some time in December he wrote me again.

Q Have you got that letter? A I have not, no sir.

Q What did it contain? A He still insisted, or requested me to come over, that he would like to visit with me, or me visit with him, and outlined the work, the showing — the prospects of the field there would be for that kind of work and he said he would assist me and was satisfied I could make better money at that than mining.

Q Did you reply to him? A I did, and I still declined to go over; I told him that I was working there and intended to work the balance of the winter.

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Q And that last letter was some time in — A I think it was somewheres near —

Q As near as you can get at it? A Some wheres between the 18th and 20th of December.

Q Did you ever hear any more from him? A About the next day or the day after I wrote the last letter, I was working on the night shift, and there was a telephone call for me and I was called to come to the phone,— the shift boss came over and waked me up and I went over and answered it, and the party at the other end of the line said his name was Hogan, said he had received my letter and asked me if I could not get a lay-off and come over for a little while. I talked with him over the phone a while but still declined to come over or to get a lay off.

Q Did he say anything about having a job there, or anything more that you think of? A I told him I had a job I was satisfied with and that I expected to remain there.

Q Did he say anything either in his letter or over the telephone about any intention of killing ex governor Steunenberg?

A He did not.

Q Or any other business that you now recall excepting the mining and the insurance? A That is all.

Q You did not go? A I did not.

Q And later I suppose you heard that ex governor Steunenberg had been assassinated? A I did; I read the account of it.

2579 Q Mr. Easterly, do you recall ever hearing Mr. Thomas Hogan,

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Orchard, Horsley, say anything about his mine up in the Coeur d'Alenes? A I heard him speak about owning an interest in that at one time.

Q Did you have a conversation with him in the Miners' Union hall in Altman? A I did.

Q Some time about the month of August, 1903? A I think it was about that time.

Q At which Mr. Davis and perhaps Parker were present? A Yes sir.

Q Did he then say that if he had not been run out of the Coeur d'Alenes he would be rich, that he had owned an interest in the Hercules that he lost because he was run out, and he held Steunenberg and St. Clair responsible, and he would get the G. O. B.'s some time? A That was the substance of his remarks.

Q Do you remember how the subject came up at the time?

A We were talking about the deportation of those men from Idaho Springs in Colorado.

MR. DARROW: You may examine.

CROSS EXAMINATION

BY MR. HORAN

Q Did you know Governor Steunenberg? A I did not.

Q You had heard of him? A Yes sir.

Q Quite a good deal? A Not particularly so, no more than any

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other governor.

Q You had not heard of him any more than any other governor?

A No sir,— that is, of this state.

Q Had you known of the trouble in the Coeur d'Alenes? A I had read of them.

Q Read of his connection with that? A Yes sir.

Q You knew that your organization ah read that he was an enemy of the organization? A Why, it had been alluded to on that.

Q You knew it, didn't you? A By paper report.

Q You knew that as a member of the organization, you had knowledge of that fact, didn't you? A I did.

Q And from the magazine which was published as the official organ of that organization? A I believe it referred to him as an unfriendly man.

Q And was that about the language that was used in the magazine as you recall it? A I cannot recall the articles, but that is the impression I got.

Q When did you get to learn of Governor Steunenberg and his attitude toward the organization of which you were an official member? A During the Coeur d'Alene trouble.

Q Where were you then? A In Altman, Colorado.

Q And your union took an active part in that, in the way of contributions? A We did.

Q You took an interest in it? A Yes sir.

Q And you became familiar with Governor Steunenberg's attitude with regard to it —official actions? A Yes sir.

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Q And discussed the matter with your associates there, did you not? A We may at times.

Q And passed some resolutions in regard to it? A I don't remember about the resolutions. Perhaps there was.

Q And made some contributions from time to time? A We paid our assessments to that fund.

Q Then you know perfectly well at the time the killing was going on who Governor Steunenberg was and his attitude toward your organization? A We knew he was governor of this state.

Q You knew it was charged that he was -- he was charged with being the tool of the Standard Oil Company and was engaged in driving out the Western Federation from the Coeur d'Alenes.

A I know that he was Governor of the state.

Q And you know that your organization as an organization charged that he was engaged in driving your organization out of the Coeur d'Alenes, as a representative of the mine owners' association? A I think that is about the impression they had of him.

Q And that is the feeling you had toward him, wasn't it?

A My feeling was not very bitter at that time.

Q You had a feeling that he was engaged in breaking up your organization, didn't you? A I viewed it in that light at that time.

Q And as such you engaged in taking up or making contributions for the purpose of protecting your organization? A Protecting our members, yes sir.

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Q You know that Paul Corcoran was indicted and tried for murder?

A Yes sir, I read of it.

Q And you continued to be familiar with this situation until it closed? A The best I could at that distance.

Q Now, you say you had a conversation with Harry Orchard in which he expressed his feeling against Governor Steunenberg, and when was this? A That was in August, in 1905.

Q Who was present? A Porter and Davis.

Q Charles Porter and W. P. Davis? A Yes sir.

Q And yourself? A Yes sir.

Q And Harry Orchard? A Yes sir.

Q How long was this after you became acquainted with Orchard?

A Perhaps a year or more.

Q You had become pretty well acquainted? A I had casually formed his acquaintance.

Q It was more than a casual acquaintance, if a man should sit down and tell you he was going to murder a governor, wasn't it?

A I knew he claimed to be a Coeur d'Alene man.

Q And you was not surprised then? A I was somewhat impressed at his remarks.

Q And you thought he meant it? A I thought he did.

Q And you thought at the time that you had possession of the fact that some man was going to kill Governor Steunenberg?

A Not in that way.

Q You understood a man was making a statement in your presence that he was going to kill the Governor of this state?

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A He left the impression that he had an enmity against the man.

Q And he was going to act upon it? A I was not well enough acquainted with the man to know whether he was going to carry out his remarks or not.

Q Did you make any reply to his remark? A I don't know but what I did in a casual way, that he was revengeful or held a grudge.

Q Did you say something of that kind? A It might have been passed in that manner.

Q Did you? A I am not clear on that subject.

Q You have no recollection of having made any reply? A I think I passed it up by a remark that he was a vindictive kind of a man, that he still held a grudge.

Q That is your recollection, is it? A Yes sir.

Q Then you felt that he was vindictive and he meant what he said?

A I believed in a certain degree he did.

Q Did Parker make any reply? A I don't remember.

Q Did Davis make any reply? A I don't remember in that respect.

Q Was there any reply made there other than this you think you made, that you can now recall, or any remark made by any one to Orchard's remark other than this one you think you yourself made? A In regard to Steunenberg?

Q Yes, or in regard to the subject matter? A No more than what I repeated.

Q None of you people said anything except what you have just stated? A That is all.

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Q Had you talked with him about the Coeur d'Alenes prior to this? A He had related his experiences.

Q Had he told you about his being there? A He did.

Q Or about his being down at the blow up? A No sir.

Q Did you ask him if he was there? A I did not.

Q Did you inquire about the things that happened on the 29th of April to familiarize yourself with it? A No sir.

Q He simply related his experience up there? A He simply related his feeling.

Q Had he related his feeling prior to this time? A Not in my presence.

Q Had you heard of it — had you heard of his statements about Steunenberg or any one else? A Not at that time.

Q Did you afterwards? A No sir.

Q Then this is the only remark you ever heard coming from Orchard with reference to Steunenberg? A Yes sir.

Q And that was in 1906? A 1906.

Q 1906? A Yes sir.

Q What time in 1906? A In August.

Q In August, 1906? A Yes sir.

Q What time in August? A I cannot give the date, but it was after the deportation of the Idaho Springs men.

Q Now, I wish you would state just the language that Orchard used as near as you can recollect it? A Well, we were discussing the deportation of these men. I think he said that he believed that Peabody would be as tyrannical as

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Governor Steunenberg would if he had the power, or was in a position. He remarked that he would have been an independent man, or a rich man if it had not been for the action of Governor Steunenberg; that at one time he owned a sixteenth interest in the Hercules mine which if he had not been deported or exiled, or forced to leave that country he might have retained his interest in that mine but by not being given permission to live there he had to sell his mine which at that time, the time spoken of, if he had owned it he would have been an independent man and had a fortune, but by his being deported by Governor Steunenberg that he hoped some day that he would be in a position that he could get that man, the Governor, and also St. Clair, as he held them responsible for the deportation.

Q And he told you, did he, that he had been deported by Governor Steunenberg? A Not deported, but compelled to leave there.

Q Did he tell you what he had done? A No, not what he had done, simply because he was a member of the organization.

Q That was all, was it, simply because he was a member of the organization? A That is all.

Q When did you first tell any one in regard to this Steunenberg talk? When did you first make a statement to any one in regard to that? A Why, I related it, I think, to our attorneys after this occurrence happened over here.

Q How long after? A It reflected back his enmity and feeling at that time.

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ever?

Q When did you relate it to the attorneys? A I think I spoke of it to Mr. Hagan.

Q How soon after the occurrence? A Some time in February or March.

Q Give us about the date? A I had several interviews with Mr. Hagan.

Q Give us the first date as to when you told him what Harry Orchard said? A I related my experience and conversation with Harry Orchard I think on or about probably the 20th, or near that, of February.

Q February, 1906? A Six, the following February.

Q Yes, 1906? A Yes sir.

Q And that was in February after the Governor was killed in December, 1905? A Yes sir.

Q It was after Harry Orchard had purported to have made some confession? A Yes sir.

Q Was that the first time you narrated this to anybody?

A Yes sir.

Q The first time you spoke to any one about it? A I think so.

Q Cannot recall that you mentioned it to any one except Hagan in February, 1906? A I cannot recollect it.

Q That is your best recollection, is it? A Yes sir.

Q When you came up here to work in Silver City you afterwards came in contact with Orchard in 1913 by a letter? A Yes sir.

Q You received a letter from him? A Yes sir.

Q Previous to that you heard from Jack Simpkins? A I talked

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with him.

Q And he told you that Harry was up here? A Yes sir.

Q And Jack told you he was over here, or where did he tell you he was? A He told me he met him in Caldwell.

Q Did he tell you he was there with him? A He told me he stopped there.

Q Did he tell you what name he was going under there? A He did not.

Q Did he tell you why he changed his name? A He did not tell me he changed his name.

Q He did not tell you that? A No sir.

Q He told you he had had a visit with Orchard? A He told me he met Orchard there.

Q How did he come to speak about Harry Orchard being there, do you know? A He spoke of a number of the boys, where he had learned that they was at, also that he met Orchard over at Caldwell.

Q When he was speaking of the boys you mean the boys from the troublous times in Colorado? A Yes sir.

Q And among others he saw Orchard in Caldwell? A Yes sir, he met him here.

Q You know at once who Harry Orchard was? A Yes sir, I did as Hogan.

Q And Simpkins seemed to know pretty well who Harry Orchard was?

A He seemed to.

Q And he told you where Harry was, in giving an account of the

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boys scattered over the country? A He said he met him.

Q Did he tell you he was o rganizing a union down there?

A He told me that he came to the southern part of the State to look around and see about the advisability of organizing in various places.

Q Did you understand he was going to organize a union at Caldwell? A One below, at Pearl.

Q Did he tell you he stopped at Caldwell to go to Pearl to organize a union? A No sir.

Q Did he tell you he went over to Pearl? A He did not.

Q Did he tell you he had any communication with Pearl? A Not at that time.

Q Did he tell you why he stopped at Caldwell with Orchard?

A He did not.

MR. DARROW: He has answered that three times before.

MR. DORAH: Then we will probably have it in the record.

Q After you learned from Simpkins that Orchard was at Caldwell did you see Moyer over there? A I saw him first.

Q There? A In Silver City.

Q When? A In October.

Q How long prior to the time you saw Simpkins? A I think two or three weeks.

Q And how long did he stay there? A I understood by the other boys that he was there three or four days; I only talked with him about five minutes.

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Q Do you know the date that he was there? A No sir.

Q You say you received a letter from Orchard in November, 1905?

A Yes sir.

Q And that letter you answered? A Yes sir.

Q That letter came from Caldwell? A Yes sir, he wrote it from Caldwell.

Q And he spoke about writing in answer? A Yes sir.

Q The same as he was doing when he was at Canon City or Pueblo?

A Yes sir.

Q And he asked you to come over and join him in the work?

A He asked me if I would like to.

Q And you declined to do it? A Yes sir.

Q And then you did not hear anything more about him until December? A Yes sir, that is all I heard.

Q And then you got a letter from him again? A Yes sir.

Q Written from Caldwell? A Yes sir.

Q And you wrote him back at Caldwell? A Yes sir.

Q And then you had a telephone from him? A Yes sir.

Q Did that come in the night time? A The phone came in the daytime and I had been sleeping, you see I worked on night shift.

Q And you went to the phone and found it was Harry Orchard?

A Yes sir, I recognized his voice.

Q And he told you he was at Caldwell? A No sir, he said he was at Nampa.

Q When did you first hear of the death of Governor Steunenberg?

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A I think I was working in the shaft and I think I learned of it when I came off shift at 3:30 in the morning.

Q When did you first hear as to how he had been killed? A I learned it in the Statesman and the papers.

Q Was that a day or two after? A I think so.

Q You then learned that Harry Orchard had been arrested? A Yes sir.

Q And you knew it was the man whom you have known down in Colorado? A Yes sir.

Q When did you first hear that Harry Orchard was accused of this crime, with reference to the time you heard of his death?

A When the paper stated of his arrest.

Q Did you learn that he was going under the name of Hogan at the time he committed this crime? A He wrote me under the name of Hogan.

Q And the papers carried the word that it was Hogan, otherwise Harry Orchard? A Later on it quoted him as having both names.

Q And you knew the man who was charged with having blown up Governor Steunenberg was the man you have known as Harry Orchard in Colorado? A Yes sir.

Q And you learned this about the 2nd of January, 1906? A I learned it from the paper.

Q What time was this as to the time a telegram was received from Denver, from there, with reference to looking after the defense of Orchard? A I could not say as to that. I know

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our secretary had received word later on.

Q About what time did he receive this word? A I did not have a talk with him until four or five days afterwards.

Q Then you must have had a talk with him about the 6th of January, or 7th, 1906? A Somewhere along there.

Q You understood the telegram had been sent from headquarters by Mr. Haywood, to look into the case of Mr. Orchard?

MR. DARROW: Wait a minute. If you haven't a copy of the telegram we will give them to you.

MR. MORAN: I am getting the information of the witness.

MR. RICHARDSON: We have copies of every one of those things.

THE COURT: You can go into it and show them on re-direct.

MR. DARROW: I think it is objectionable to get at it in this roundabout way.

MR. MORAN: I simply want the witness's information.

MR. DARROW: I won't object to that, and we won't object to the other if you will let us furnish you a copy of it.

Q When did you first have knowledge of the receiving of this telegram at Silver City? A Why Joe Easton spoke to me about it.

Q About what date? A About a week afterwards.

Q About the 6th or 8th of January, 1906? A It may be about that time.

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Q Was there a meeting of the officers of the Western Federation called to discuss this matter? A No sir.

Q Did you discuss it among yourselves? A In regard to the telegram?

Q No, in regard to whether you should defend Harry Orchard?

A No sir.

Q Nothing was said about it? A No sir.

Q Now, you had not at this time and up to this time told any one that you knew Harry Orchard had said four years before, that he had said he was going to kill Steunenberg if he got a chance? A No sir.

Q You knew in December, 1903, that the man who said in Colorado, in 1903, that he was going to kill Steunenberg, was loafing around in Caldwell? A I knew he was there.

Q And you had the knowledge of the fact that he was going to kill that man if he got a chance? A He made that remark.

Q Did that fact occur to you? A Not until after it occurred.

Q You mean to say then that you had knowledge of the fact that this man was in Caldwell on two different occasions, and you had knowledge of the fact that he was going to kill Governor Steunenberg, and yet you did not tell any officer or anybody about it? A I did not know where the Governor lived.

Q You had no knowledge of that? A No sir.

Q When did you learn of it? A After his death.

Q After he was dead; did you tell any officer that you knew the man who was accused ought had threatened three years before

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to kill him? A I told Mr. Nugent.

Q That was after Mr. Nugent was employed to defend in this case?

A After he was spoken to.

Q And after Harry Orchard made a confession? A Yes sir.

Q But you never told any representative of the law in the State of Idaho? A No sir.

Q You kept that matter entirely within your own breast until Orchard had made a confession, and then you came here to testify against him? A I had no occasion to repeat it.

Q You had no occasion to repeat this matter until Harry Orchard turned against the Federation? A Until he made the statement he did.

Q And the first time you said this was after Orchard implicating himself implicating the leaders of the Western Federation of Miners? A And implicating himself.

Q That was the first time you ever said anything about it?

A Yes sir.

Q Why didn't you tell some officer of this? A I did not consider it my business.

Q You did not consider it your business— did not think the man who had killed Governor Steunenberg might be apprehended and punished? A I am not an informer along those lines.

Q You became an informer immediately after he had made a confession against the Western Federation of Miners? A I told what he had said.

Q Could you have told this if he had not made this confession

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here? A I would if I had been asked.

Q But you would not have volunteered it?

MR. DARROW: I object to that.

THE COURT: The objection will be overruled.

MR. DARROW: We will save an exception.

Q Is that right? A If the occasion had come up to be necessary to state it I would, but I would never have told it unless some one pryed it out of me; I would have told it if the party presented it in the proper manner.

Q You knew from 1903 until 1905 that they were hunting evidence against Orchard, didn't you? A Only from newspaper reports.

Q You knew it from paper reports? A If I could put my confidence in them, yes.

Q And you knew there were three men, Davis, Easterly, Parker and yourself that knew of these threats? A Yes sir.

Q And you told no one? A I had no occasion to.

Q Now I think we may go back to the Independence depot matter. How long had you known Orchard prior to the 6th day of June, 1904? A Why, I met him some time in the summer of 1903.

Q Then at the time of the Independence depot explosion you had known Orchard for about two years or a little less than two years? A Something like that, yes sir.

Q And he had been a member of your union? A Yes sir.

Q And you was secretary of the union? A A part of the time, yes sir.

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Q And you were quite well acquainted, I presume, with most of the

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members? A I was.

Q And had Orchard been elected as a delegate to any convention held at Denver during that time? A Why, I heard from other members that he was sent as a delegate to the Boys and Means Committee.

Q To Denver? A Yes sir.

Q Had you ever seen him in Denver prior to the Independence depot explosion? A Yes sir.

Q When? A Why, somewhere about the 1st of April.

Q What year? A In 1904.

Q Where did you see him there? A At the depot and at the cemetery.

Q Where else did you see him? A I don't think I met him anywhere else.

Q Did you ever see him in Denver at any other time except this one time prior to the Independence depot explosion? A No sir.

Q Never did? A No sir.

Q You know Pettibone well? A I do.

Q Have stopped around at his store when you were there? A Yes sir.

Q And he was very friendly with the Federation boys? A Yes sir.

Q And was always interested in the Federation matters? A I could not say as to that, but he was always friendly.

Q He was a member, wasn't he? A No, not to my knowledge.

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Q And honorary member? A He might have been that.

Q Did you ever see him attending your conventions? A He has been in there at times.

Q On more than one occasion have you seen him there? A I think I have.

Q Now, when did you first get acquainted with Steve Adams?

A I think I met Adams before I became secretary of the organization.

Q What year was that? A 1901.

Q And you had known Steve Adams then at the time of the Independence explosion some three years? A Yes sir.

Q Adams was a pretty active member of the Federation down there for a while, wasn't he? A Why, he was a frequent visitor of the organization and met with us.

Q Do you know Andy Starr? A I think we had a member by that name.

Q Did you know a man named Jack Robinson? A I knew Robinson, but I don't remember the Jack part.

Q Did you know old man Stewart? A Yes sir.

Q What was his position with reference to the union? A I think known a paper hanger.

Q With reference to being a union or non-union man? A I would not say in that regard.

Q You don't know? A No, I don't.

Q You don't remember any difficulty with Stewart by reason of his not being a union man? A I don't. I remember of a report-

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ed difficulty with him.

Q You never had any talk with Steve Adams about the matter?

A No sir.

Q Do you know Mr. Hawley? A This gentleman?

MR. RICHARDSON: The justice of the peace, you mean?

MR. BORAH: Yes sir.

MR. RICHARDSON: That was Hawkins.

Q Did you know him? A I heard of him.

Q You became acquainted with Adams at the time of the Independence depot explosion? A I knew the man, yes.

Q Where did he live? A At Midway.

Q How far from the Independence depot? A Maybe a mile or more.

Q How far did you live from the Independence depot? A Well, probably a little more than a quarter of a mile.

Q A quarter of a mile? A Yes sir, quarter of a mile.

Q How far did Orchard live from the depot? A Between me and the depot, about half way.

Q About a quarter of a mile? A Yes sir.

Q Where did Sherman Parker live at that time? A At Independence.

Q Do you know where he was the night of the explosion? A At Denver, it was reported.

Q Did you have any knowledge of it yourself? A I suppose he was in Denver.

Q Did you know where W. F. Davis was? A He was supposed to be in Denver at the convention.

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Q Did Jack Simpkins and yourself stand on the way from the point

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wherethe men leave the mine and went to the depot on the night of the explosion? A No sir.

Q You are sure of that? A I am.

Q You did not see Jack Simpkins shout that time? A No sir, no one seen him that time.

Q What men came out and took the train at this depot at the time of the explosion — from what mine? A Well, it was supposed to be the men working on the Deadwood, the Shurtleff, and the Findley.

Q Were those all non-union men at that time? A They were on the unfair list.

Q I mean the mines? A Yes sir,

Q They were being worked by non-union men? A I think so.

Q You know so, don't you? A It would not be very likely that they was working unfair men.

Q Were there any union men working there except the Portland— on the Portland? A None of any consequence; there might have been some leases.

Q Now, the Portland had its own mill didn't it? A Yes sir.

Q That was the reason why it was working? A It treated its own ore.

Q And that was the reason the Portland was working? A Yes sir.

Q And those who did not treat their own ore were not permitted to work, or at least they were covered by a strike? A Unless they sent their ore to a fair mill or smelter.

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Cross

Q Prior to 1903 that was a union district? A Yes sir.

Q And no man was allowed to work there for any length of time without he joined the union? A Oh yes, lots of them did.

Q And as the result of running things as you did it was an entirely union camp? A The majority of them did belong to the organization.

Q And after the strike came they began to fill up the mines with non-union men? A Those who wanted to go back work did.

Q But they ceased to be members of the union when they went back to work, didn't they? A Most undoubtedly they would have to.

Q Then, as a matter of fact they became non-union men after the strike? A If they went to work on an unfair mine they did.

Q At the time of the explosion all the men who came down and took the train at this depot were working in unfair mines?

A They were supposed to be, as far as I know.

Q Did you ever learn the names of those who were killed on the 6th of June, 1904? A No sir.

Q You never ascertained? A Perhaps I seen it published.

Q Did you recognize the name of any union men among them?

A I recognized the name of one who had been.

Q Well, a man who had been was not in any better attitude toward the union than a man who never had been, under those circumstances, did he? A He would be considered an unfair man.

Q What was the name of the man who had been member of the union? A Johnson.

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Q J. H. Johnson? A I think his name was Homer.

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Q That was the only one you recognized that belonged to the union? A Yes, that I was personally acquainted with.

Q There was thirteen men killed at that explosion? A According to the reports.

Q And all of them were non-union men? A I believe they were.

Q And there were eight who were crippled in different ways; their legs blown off, and their arms, etc, who did not actually die, wasn't there? A I could not say only what the papers reported.

MR. DARROW: Now, wait, I object.

Q That is a fact, isn't it?

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THE COURT: Read the question.

(Question read).

MR. DAWSON: There is a way of proving that if they want to prove it.

THE COURT: That objection is sustained.

Q. How long prior to the Independence depot explosion had the McCormick and Bell affair taken place? A. Why, that occurred in November.

Q. And that was in an affair mine? A. Yes sir.

Q. Now after this Independence depot explosion, this trouble which you have narrated this morning began? A. That is that following day?

Q. Yes. A. Yes sir.

Q. You said that when you arrived at this point where they were gathering and Mr. Hamlin made his speech that the non-union men were making threats against you and calling you ugly names, and so forth? A. Yes sir.

Q. Were those the non-union men who were working in the mines?

A. They had been.

Q. They were the common laborers of the mines that were making those statements as well as the men who owned the mines, weren't they? A. Some of them belonged to the state militia.

Q. Well, some of them were working in the mines, weren't they?

A. They had been.

Q. And they were the day laborers there, in other words?

A. Well, they were unfriendly to us.

Q. Oh, yes, exactly; but that didn't keep them from being day laborers in the ordinary sense of that term, did it?

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A. Not at all.

Q. Then they were the day laborers, and this crowd that gathered there was made up of these laborers, clerks, employes in stores, business men, mine owners, militia and everybody else?

A. Yes sir.

Q. The entire community had practically gathered there at that time, hadn't it? A. Yes sir.

Q. Composed of all the different walks of life? A. Yes sir.

Q. And these threats were being made against you people? A. Yes sir.

Q. By all these different people? A. No, not all.

Q. Who else? A. No one but the union men.

Q. And the union men consisted of the citizens' Alliance, of mine owners and the day laborers in the mines? A. Well, men who was openly making remarks of that kind was men that had made a business of insulting the union men.

Q. You said in answer to your counsel that these laborers and workmen were in the habit of making remarks to you people, calling you names, and so forth; When did you refer to when you referred to that class of men? A. Those that are usually termed gun men, men that were looking for trouble all the time.

Q. Were there any of the day laborers upon the mines there except the gun men? A. Oh, yes.

Q. They were all there, were they not? A. There was lots of them, not all of them.

Q. And at the time these people gathered in this crowd it was about some eight or ten hours after some thirteen of their fellow workmen had been killed at that depot? A. They concerned

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coming into Victor early in the morning.

Q. Immediately after this killing had been reported over the country? A. Yes sir.

Q. When were you arrested? A. At the time the military taken me -- on the 22nd of November.

Q. Had you been arrested before that? A. That was the only time I was arrested.

Q. On the 22nd of November, 1903? A. Yes sir.

Q. You were not arrested at any time after the explosion at the depot? A. No sir.

Q. What time did you leave there with reference to the depot explosion? A. Leave the district?

Q. Yes. A. I left there on Tuesday evening.

Q. Before you left you went over and told Steve Adams he had better go out? A. I told him what had occurred and what I had heard.

Q. Steve didn't tell you that he already knew what had occurred, did he? A. No sir, he did not.

Q. Did he tell you anything about his knowledge in reference to the matter at all? A. No sir.

Q. Was Mrs. Adams there when you told him? A. She was.

Q. Did she hear what you said to him? A. I think perhaps she did. She and another lady was in the room.

Q. Who was the other lady, Mrs. Mahoney? A. She was.

Q. When did the deportations which you have spoken of, Mr. Easterly, commence? A. Well, I couldn't say to that; it was after the riot.

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Q. There were no deportations then until after this explosion at the Independence depot? A. That is in a general way you

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meet?

Q. Yes. A. Why, not to my knowledge.

Q. And about how long after the explosion was it that they commenced, as you remember? A. Why, I couldn't say to that; several days I would think.

Q. Where were you at the time they commenced? A. I think I were in Denver.

Q. When you went to Denver you went immediately to headquarters?

A. That evening, yes sir.

Q. Did you meet anyone there from the district? A. I met a number of the boys that was there as delegates.

Q. Did you see Steve Adams there at that time? A. No sir.

Q. Did you see him at all before you left the country? A. I did.

Q. Where did you see him? A. I met him in Denver.

Q. He had come on to Denver? A. After I had arrived.

Q. What was his name when he was in Denver this time?

A. Steve Adams.

Q. He hadn't changed his name? A. Not to my knowledge.

Q. Did you have any talk with him about the matter at that time?

A. I did.

Q. There? A. I think at headquarters.

Q. Who was present when you had the talk? A. There was a number of men.

Q. Well, who among others that you can name? A. Well, in the office, Davis, Potter, Reynolds, members of the executive board.

Q. Was Mr. Haywood there? A. He was in the office.

Q. Mr. Moyer was not there at that time, was he? A. No sir.

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Q. Was Mr. Pettibone around there? A. I couldn't say to that.

Q. What is your best recollection? A. Well, there were many men around there, I couldn't name all of them.

Q. Did you see Mr. Pettibone about this time? A. I seen him in Denver when I was there.

Q. Were you at his store? A. I was.

Q. Did you see Steve Adams there? A. I seen him about the rooming house above his store.

Q. Now you say that you never knew Harry Orchard to do very much work; He never did do any work after the 6th or June, 1904, that you know of at all, did he? A. Well, I never seen the man after that but very —

Q. You never heard of his doing very much work after that?

MR. DARROW: I object about his having heard of it.

MR. HOGAN: It would be incompetent if it hadn't been for the direct examination. Well, that is all right.

Q. Where were you in November, 1903, Easterly? A. November, 1903? I think I were in Akron.

Q. Did you know Steve Adams at that time? A. I was acquainted with him, yes sir.

Q. Do you know his whereabouts during the month of November, 1903?

A. I couldn't say, no.

Q. Have you any means by which you could fix his whereabouts at that time? A. I can't call to memory at the present time.

Q. You have no means of fixing his whereabouts then during that month? A. No, I can't call to memory.

Q. Can you fix it generally as to what particular district he was in or what particular locality he was in? A. 1903?

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Q. November, 1904? A. I can't say that I can.

Q. When you left the district in 1904 (?) did you leave an infernal machine under the floor of your cabin? A. I did not.

Q. Leave any shotgun there or arms? A. I left two rifles there.

Q. And you took a shot gun? A. I did.

Q. Do you remember of sending Orchard down to your residence at one time to get a shotgun which was under the bed? A. No sir.

Q. Have no recollection of that at all? A. No sir.

Q. Never sent him on such an errand? A. No sir.

Q. You had two rifles there and a shotgun and a six-shooter and an infernal machine, didn't you? A. No sir.

Q. What did you have in the way of firearms? A. I had a six-shooter, a shot gun and two rifles.

MR. DARROW: "An infernal machine" is just a little indefinite, isn't it?

MR. HAWLEY: Not to experts.

MR. DARROW: Well, of course you may know, I don't.

MR. HAWLEY: If I don't we have got a witness who does.

MR. DARROW: I presume you have.

Q. Now, Mr. Easterly, when you got to Park City did you see Steve Adams there? A. No sir.

Q. Did you learn of his having been there? A. I think the secretary of the union told me he had been there.

Q. When did you next see Steve Adams after you left Denver in 1904? A. After I had left Denver, when I returned back to Denver, that is in October.

2607 Q. Saw Steve Adams there in October in 1904 when you returned?

A. Not when I returned.

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Q. Did he come there while you were there? A. I think he did.

Q. Can you fix about the date that he was there? A. No sir, I can't.

Q. Where did you see him? A. At his home.

Q. Where was he living at that time? A. Well, I couldn't say the street number.

Q. Do you know the street? A. No, not that, something that they call North Denver, I believe.

Q. Who was staying with him aside from his family?

A. Billy Aikman.

Q. Who else? A. That is all.

Q. Didn't see Harry Orchard there? A. No sir.

Q. You saw Albert? A. Yes sir.

Q. And Mrs. Adams? A. Yes sir.

Q. And Mr. Adams? A. Yes sir.

Q. But you didn't see Orchard? A. No sir.

Q. Did you see Orchard at that time at all? A. No sir, I didn't.

Q. When you saw Orchard in Pueblo, will you give me the date of it, when he told you he was writing insurance? A. As near as I can remember it was on the 15th of June.

Q. Of that year? A. In 1903.

Q. 15th of June, 1903; He was with Mr. Vaughn at that time?

A. Yes sir.

MR. HURAY: That is all at present.

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RE-DIRECT EXAMINATION

BY MR. BORAH:

Q. Mr. Easterly, when you referred to Mayer being at Silver City, what was the date of Mayer's being in Silver City?

A. Well, I couldn't say the exact date, it is something like two weeks or so before Simpkins was over there, and I know from an accident that happened to me a couple of days after Simpkins is there is why I remember that he was there.

Q. You had an accident happen in a mine? A. I got a fall and sprained an ankle and was off a couple of shifts and I wrote to Simpkins while I was off, the reason I know.

Q. What was Mayer doing there? A. He was visiting the organizations, looking over the books and records.

Q. That is a part of his regular duty, to visit the organizations, wasn't it? A. It was.

Q. You say you saw him about fifteen minutes? A. He came up to the mine just before I went on shift, working night shift.

Q. Anybody with you? A. Why, there was thirty or thirty-five men working at the mines. We were all in the bunk house there together.

Q. Just saw you all together, did he? A. All together.

Q. Now referring to the time that Orchard was arrested and you heard of the Steunenberg assassination, the first you heard of the details you say you read in the paper? A. Yes sir.

Q. How soon was it that the Western Federation was charged in the papers with this crime? A. Why, a very few days afterwards.

2609 Q. How soon were the officers of the organization charged in the

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papers publicly? A. Yes sir, they were.

Q. Within a day or two, were they? A. Yes sir.

Q. How long was that before it was given out that there had been a confession? A. Why, a month or more.

Q. You knew it right at the time, didn't you? A. I knew the papers accused the Federation of it.

Q. At the time you had this conversation with Orchard in Goldfield or Victor, when Sherman Parker and Davis were present, did you attach any special importance to it at the time? A. The conversation with Orchard in the presence of Davis and Parker?

Q. At the time he spoke of his guilty to Steunenberg?

Q. Why, we were speaking of the Idaho Bartlett deportations and also the action of the governor of Colorado.

Q. Well, I mean whether that was matter that you attached any special importance to at the time? A. Why, it made an impression as though he was remorseful.

Q. And do you remember when it was that it first occurred to your mind, that conversation in 1906? A. Why, after he was arrested.

Q. And when was it with reference to the time the charges were made against the Western Federation officers in the newspapers?

A. Well, I think that the papers charged the Federation with being the instigator of it within a very few days afterwards.

Q. And then as quick as you got to the attorney of the Federation you told him about it? A. I did.

Q. You didn't come over and tell it to the Statesman or to Mr. Hanley? A. No sir.

Q. You had met Mr. Pettibone at different times?

A. Yes sir, I had.

Q. Do you know whether he had been on entertainment committees at

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different time down there in Denver when the conventions were having their meetings? A. He had been on reception and entertaining committees.

Q. Mr. Burch asked you about whether there were any general deportations before the Independence depot explosion: Were there deportations before that time? A. Why, there were a few men that were not allowed to remain in the district.

Q. As early as December, weren't they? A. Yes sir.

Q. Do you remember Baker, a member of the board, coming there, to start a store, from British Columbia, or don't you remember him? A. I remember the occasion.

Q. Do you remember whether he was sent out? A. I understood he was requested not to remain there.

MR. HALEY: We object to that as being hearsay and ask that it be stricken out.

MR. MARSH: We will consent to it being stricken out, your Honor.

THE COURT: It will be stricken out.

Q. Do you remember Waite, who was an officer of the Union?

A. Yes sir.

Q. Do you remember what happened to him in December? A. I think he were put in the bull pen.

Q. Do you remember whether any other men were deported in December before the explosion? If you don't recall it you can say so? A. Why, I were in Pueblo; I heard of it, heard it.

Q. The Idaho Springs deportations you spoke of, when were those?

2611 A. That were sometime in July or August, July I think, 1903.

Q. How about Telluride? A. That was somewhere along that time.

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Q. Six months or more before, or a year before the Independence depot matter? A. Yes sir.

MR. DARROW: That is all.

RE-DIRECT EXAMINATION

BY MR. HAWLEY:

Q. Who was this man White that you say was put in the bull pen?

A. He was an organizer for the Mine Workers, or a W. of L.

Q. Did he have any business aside from that of an organizer?

A. I think that comprised his business.

Q. Did he have any, following exactly the question there at all, have any place of business or anything of that kind? A. No, not in the district.

Q. Where did he come from, do you know? A. No, I couldn't say to that, any more than he was an organizer.

Q. He wasn't a Western Federation man, was he, or was he?

A. Not to my knowledge.

Q. There was the bull pen at this time, in December, 1905?

A. Why, they had it at the military headquarters -- 1905 did you say, or 6?

Q. Yes, 1905, yes. Military headquarters: Where was that?

A. On the south slope of Battle Mountain near Goldfield.

Q. And this was after the troops had been called in there?

A. Yes sir.

Q. Now you say that the Western Federation was charged pretty soon after Orchard was arrested with being implicated in this?

A. Yes sir.

Q. And all within two or three days? A. Well, I couldn't say

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within two or three days, but shortly afterwards.

Q. Well, that would be along the first of January then some time?

A. Yes sir.

Q. And you first made a statement of this matter to Bryant in February, did you? A. No sir, in January.

Q. You said awhile ago in February: Do you want to change it now to January? A. Well, I spoke to Bryant --

Q. Well, I say to Bryant. A. Yes sir.

Q. You want to change that to January? A. I don't think I said in February.

Q. Well, do you want to change it to January if you did say February.

Q. What time in January? A. Why, somewhere along the first ten days.

Q. Then you spoke to Bryant about it some ten days, in the fore part of January, the first ten days of January sometime?

A. I think it was.

Q. Now did you come to speak to Bryant about it, what did he have to do with this matter at that time? A. Because I went with the secretary in regard to employing him to look after the interests of the Federation.

Q. And had there been anybody arrested who represented the Federation at that time except Orchard? A. Not that I know of.

Q. And you were beginning to get busy? A. We began to prepare to look after the Federation interests.

Q. You said awhile ago that you made this statement after Orchard had made a confession: Now, do you wish to change that?

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A. After his confession -- perhaps I repeated it several times

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after his confession.

Q. You said awhile ago that the first time you mentioned it to Mr. Hyent was after Orchard made his confession: How do you wish to modify that statement? A. Well, I don't think I made it in that way.

Q. Well, if you did? A. I spoke to Hyent about it on several occasions.

Q. If you did make it in that way then you wish it changed, do you? A. No, I don't think that I made the assertion.

Q. Well, at any rate, you now say that you told Hyent about it before the convention, do you? A. I told Hyent the correspondence and the conversation I had had with Orchard.

Q. Well, but what I mean is did you tell him about the conversation down where Davis and Parker and yourself were present prior to Orchard's confession? A. The conversation that I had had with Orchard?

Q. Yes, in regard to his threats against Steunenberg, did you tell Hyent of it prior to Orchard's confession? A. I couldn't say to that, whether I related that part of it, or the correspondence and the conversation over the phone with him.

Q. You don't recall then that you did tell him about this statement until after Orchard's confession? A. I don't remember that in particular.

MR. DARROW: That is all, Mr. Easterly.

QUESTIONS BY MR. DARROW:

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Q. Mr. Easterly, did you tell him as soon as it came into your

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mind about it? A. I did.

Q. Mr. Nugent was and had been for a long time the attorney of the union there, hadn't he? A. Yes sir.

Q. In Silver City, and you knew him? A. I did, yes sir.

Q. The first person you mentioned the matter to you went to the attorney and told him? A. I told Nugent.

Q. You were asked whether Mr. White, the organizer, had any other business during the strike: That was about all the business an organizer could attend to at that time, wasn't it?

A. It usually is.

MR. DARROW: That is all.

MR. BORAH: That is all.

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JOSEPH SCHULTZ, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. What is your name, please? A. Joseph Schultz.

Q. Where do you live? A. At present I live in Milan, Idaho.

Q. What is your business? A. Miner.

Q. Where do you work? A. Working for the Gold Hunter Mining Company at present.

Q. Did you ever live at Cripple Creek? A. I did, yes sir.

Q. Mining there? A. Yes sir.

Q. When? A. I went to the Cripple Creek district some time in December in '95.

Q. How long did you stay? A. I stayed there until the 28th day of May, 1906.

Q. Were you there during the strike? A. I was, yes sir.

Q. Were you a union man? A. I was, yes sir.

Q. Did you ever know of any other Joe Schultz that lived there? A. Not until along in the summer of '04, I had met a Joseph Schultz -- or not a Joseph Schultz, but a Schultz. I can't remember that his name was Joseph, but I met a Schultz on Bennett Avenue and had a short talk with him.

Q. What kind of a man was that Schultz? A. Well, sir, the man I was talking with told me he was a gun man, what we called the gun men, that was carrying guns around there.

Q. Was he the only other one that you know of by the name of Schultz? A. He was the only man I know of in the Cripple Creek district.

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Q. Was he a gun man for the mine owners? A. That is what I was told.

MR. HALEY: You was told that?

A. Yes sir.

MR. HALEY: We ask that that be stricken out.

THE COURT: It will be stricken out and the jury will disregard it.

MR. DARROW: Save an exception to that.

Q. Do you know of any other Joe Schultz but you who was there in 1903 and 4? A. I do not, no sir.

Q. Did you ever know Harry Orchard? A. No sir, I never did.

Q. Did you ever join any expedition with him down in the Vindicator mine to blow it up, to set off a car load of powder? A. No sir, I never was in the Vindicator mine.

Q. You never was in the Vindicator mine at all? A. I never was.

Q. Never had any talk with him about committing any crime?

A. I never saw Harry Orchard till I saw him here in this chair.

MR. DARROW: That is all.

CROSS EXAMINATION

BY MR. DARROW:

Q. There was one date that I think you got wrong, Mr. Schultz, you said as I understood, 1894, when you met the this other Schultz: You meant 1904? A. 1904, yes sir.

Q. Where did you meet him? A. I met him on Bennett Avenue at Cripple Creek.

Q. Did you have a conversation with him? A. I had a short conversation with him.

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Q. And learned that his name was Shultz? A. Yes sir.

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MR. DORAN: That is all.

RE-DIRECT EXAMINATION

BY MR. DARROW:

Q. Did you judge he was a miner from his appearance?

MR. DORAN: We object to that as a conclusion.

THE COURT: Sustained.

Q. What was his appearance as to being a miner? A. He was like all common men, looked like a miner.

Q. Do you know whether he had any gun on him? A. No sir; I didn't see any.

QUESTIONS BY MR. DORAN:

Q. It wasn't a very unusual thing for a miner to have a gun on him down there, was it? A. I never saw a miner with a gun on that I know of.

Q. Did you ever see Bill Easterly? A. Yes sir, well acquainted with him.

Q. Was you ever in his cabin? A. No sir.

MR. DORAN: That is all.

MR. DARROW: We will call Mr. Wood. He doesn't seem to be here. We will call Mr. Breen. Your Honor, there are two separate matters I wish to examine this witness about, and one I don't wish to examine him on at this time because I am not quite ready for that. But the other I would like to get out of the way if possible. So I will ask to recall him for that.

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THE COURT: You may have that privilege.

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GEORGE BROWN, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DAWSON:

Q. Mr. Brown, give us your name. A. George Brown.

Q. What is your business? A. Railroad.

Q. Used to be a railroad man, didn't you? A. Yes sir, I was up until last March.

Q. Now you own a ranch down in Colorado? A. Yes sir.

Q. Did you ever run to Canon City? A. Yes sir.

Q. And to Cripple Creek? A. Yes sir.

Q. And through Independence? A. Yes sir.

Q. On what road? A. The Florence & Cripple Creek and the Golden Circle railway.

Q. Were you in Independence the day after the explosion at the depot? A. Yes sir, I was there the same day.

Q. What time of day? A. I got there about 7:30 in the morning, remained there until about noon, or very near noon, about eleven o'clock.

Q. Did you see some hounds there? A. I saw some hounds going there. I didn't see them at the place.

Q. Where were they going from? A. As I understood it, they were going --

MR. BELL: Wait a minute. We object except what the witness knows.

MR. DAWSON: We will try to connect the hounds to your entire satisfaction before we get through.

2619 Q. Now, Mr. Brown, from what direction were they coming?

A. They came from Canon City, from the penitentiary.

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Q. What color were they? A. There were two, one was a liver colored dog, that is, white and red and yellow spotted dog, and the other one was more of a black and tan, white and dark brown or black.

Q. What time did they get to Independence, if you know?

A. Well, sir, they got to Victor about 2:30 in the afternoon, between 2:30 and three o'clock.

Q. Were they unloaded at Victor? A. Why, they had them there alongside of the caboose -- they come up in a special car, that is the caboose was used as a special car and they come up in that.

Q. And they came on a special car, did they? A. Yes sir.

Q. Anybody in charge of them? A. Yes sir, there was a couple of men there, or one man in particular had charge of the dogs.

Q. Do you know his name? A. No, I don't.

Q. Know where he was from? A. He was from Canon City. I had seen the man there.

Q. Do you know whereabouts in Canon City he was from?

A. From the penitentiary.

Q. And he was one of the men who had charge of these dogs, did he?

A. Yes sir.

Q. Did you see these dogs at any time at Independence?

A. No, not at Independence.

Q. Had you ever seen the dogs before that time? A. Yes sir.

Q. Whereabouts? A. At the penitentiary in Canon City.

Q. How many times? A. Well, it would be hard to tell, I don't know, saw them there quite frequently.

Q. Quite frequently? A. Yes sir.

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Q. For how long a time? A. Well, I worked out of Canon City from June, 1900, up to November, 1903; I worked out of Canon, in and out of there every day.

Q. And you had seen them covering that space at different times, had you? A. Yes sir.

Q. Did you ever see them anywhere else in Canon City excepting in the penitentiary? A. I saw them when they would work them out over the hills there, exercise them.

Q. You had seen them work them? A. Yes sir.

Q. Who was with them, as to whether they were men connected with the penitentiary? A. The guards of the penitentiary were with them.

Q. Did you seen other dogs there at the penitentiary?

A. Yes, there were several other dogs.

Q. Did you seen them training dogs there? A. I seen them train those hounds.

Q. How them training the hunter hounds? A. I saw them work with them.

Q. That is, you seen train them for what? A. Every Sunday morning they used to take one or two of the trusties around the institution, -- take a circle over the hills; then in an hour or so afterwards they used to take those dogs out and let them take the trail, and they used to work them up in what they called Sand Creek gulch.

Q. That is, to follow the trusties? A. Yes sir.

Q. Or were they trustees? A. Trusties I should have said, not trustees -- trusties.

Q. Well, these were the same ones that you saw at Victor after-

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words? A. Yes sir.

MR. DARROW: That is all at this time.

MR. BORAH: That is all at this time.

MR. DARROW: That is all on this branch of it, Mr. Borah. I am not going to call him again for two or three days.

MR. BORAH: That is all at this time.

MR. DARROW: Is Mr. Collins in the room? He is out, too

THE SHERIFF: Mr. Wood is here now.

MR. DARROW: I don't like to waste any time. I will do whatever the court says. Mr. Collins isn't here —

THE COURT: How long will it take you to examine Mr. Wood?

MR. DARROW: He will be quite a long witness. I think it will take an hour to examine him and cross examine, at least half an hour to examine him. It is hard to guess on Mr. Darrow.

THE COURT: I don't like to lose this time, Mr. Darrow, a nice cool day like this.

MR. DARROW: I will be willing to come in earlier, or we will go on now, if your Honor please.

THE COURT: We will have to make it up this afternoon.

MR. DARROW: We will be willing. We will have plenty of them here.

Thereupon the court gave to the jury the statutory admonition, the bailiffs were sworn, the jury retired in charge of the bailiffs, the defendant was remanded and a recess was taken until 1:00 o'clock P. M.

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R E C E S S.

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Boise, Idaho, Friday, June 28, 1907.

1:30 o'clock P.M.

Parties met pursuant to adjournment.

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

C. A. COLLINS, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. Give us your name, please. A. — C. A. Collins.

Q. Where do you live, Mr. Collins? A. I live at Leadville, Colorado.

Q. What is your business? A. Brakeman.

Q. Braking? A. Yes sir.

Q. For what road? A. Colorado Midland.

Q. How long have you been in that business? A. I have been employed on the Colorado Midland since February 3rd.

Q. Last? A. This February, this year.

Q. What was your business before that? A. Brakeman.

Q. For what road? A. For the Midland Terminal out at Cripple Creek.

Q. How long have you been a railroad man? A. The past three years.

Q. What were you doing in 1904? A. 1904 I worked on the Anaconda tunnel above Anaconda.

Q. Mining, or what work? A. Mining.

Q. Mining? A. Yes sir.

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Q. Had you been railroading before that? A. No sir.

Q. Where were you on the morning after the explosion at the Independence depot? A. At home.

Q. You lived in Independence at that time? A. Yes sir.

Q. How near to the explosion? A. I lived about a hundred or a hundred and twenty-five feet right due south of that depot.

Q. You heard about it, I suppose? A. Yes sir.

Q. Where were you at that time? A. I was in bed.

Q. Were the remains of the depot afterwards taken away, or a new depot built? A. Why, they moved that depot, tore it down and moved it to Sumit on the Short Line.

Q. There is no depot there? A. There is no depot there at all now.

Q. Was it occupied at the time? A. No sir.

Q. How long since it had been? A. I don't know just how long, about eight months or so.

Q. What was its condition as to the windows and doors at that time? A. Why, they was nailed up.

Q. Do you know about how large a depot that was? A. I should judge the depot was about 75 feet long and about 20 feet wide.

Q. And a platform on the side toward the railroad? A. Yes sir.

Q. How was the ground there as to being level or going up, a hill?

A. The platform was built out level to the railroad and then there was an open space under the depot where there was freight, what they used for a freight room.

Q. Had you ever been to Green City? A. Yes sir.

Q. Before that time? A. Yes sir, I had been down there.

Q. Did you see some dogs up at Independence? A. Yes sir.

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Q. Do you know where they came from? A. Why, the Canon City hounds was there.

Q. Had you seen those hounds at Canon City? A. Yes sir.

Q. Where? A. I seen them dogs there at the penitentiary at Canon City.

Q. How many times? A. Why, two or three times.

Q. Had you ever seen them working? A. I never seen them dogs work.

Q. Had you seen other dogs work? A. Yes sir, a few times.

Q. But you had seen those dogs at Canon City? A. Yes sir, I had seen those dogs at Canon City.

Q. At the penitentiary? A. Yes sir.

Q. How were those dogs brought to Independence? A. Yes sir.

Q. Did you see them when they came? A. Yes sir, I seen them.

Q. How did they come? A. Why, they came up to Victor on the Florence & Cripple Creek, then there was a special, came up off the special on a car.

Q. Anybody have charge of them? A. Why, there was a man had charge of the hounds and then there was two men on horses.

Q. Do you know who had charge of the hounds? A. I didn't learn his name.

Q. Where did you see those hounds after they got there?

A. I seen them there where they had that chair round and that wire.

Q. What was the color of those hounds? A. There was some kind of a white and brown spots, and the other was a kind of a black and a white.

Q. Did you see them a barked at the wire? A. Yes sir.

Q. Or at the chair round? A. Yes sir.

Q. What was done toward giving them the scent there?

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A. Why, they give them the chair round, they smelled around there quite a little while, and then they went right direct down below from there, west of there, to an old log house, and they smelled around there a little while and then they went right down direct to a man's house by the name of Demore.

Q. Mr. Demore? A. Yes sir.

Q. What was that, what kind of a house? A. A low house, a dirt roof, a frame building.

Q. Where did the dogs go at the house? A. Right to the door, the kitchen door.

Q. Then what was done with the dogs? A. Then they brought them back and started them again and they went down there again, and from there they went off down in toward theVindicator.

Q. Do you know who had charge of them when they brought them up there? A. No sir, I don't.

Q. Thereabouts at the Vindicator did they go? A. I couldn't tell you. That was as far as I could see them.

Q. That was the last you saw of the dogs? A. Yes sir.

MR. HENRY: You may cross examine.

CROSS EXAMINATION

BY MR. HENRY:

Q. Did they go down toward Colorado canon -- or Colorado city?

A. They went off that way toward the Vindicator mine.

Q. Does the Vindicator mine lie in that direction?

A. Yes sir, it lays in that direction.

Q. Where is the Demore cabin? A. TheDemore house, I would judge, was about two hundred yards due south of that depot.

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Q. Where did Steve Adams live at that time, do you know?

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A. I don't know just where Steve Adams lived.

Q. Didn't know where he lived? A. No sir.

Q. Did they go in two different directions when they started off those two different times? A. No sir, they went down to this Bonore house twice and from there they went on down through toward the Vindicator mine.

Q. How far was this Bonore house from this depot? A. About 300 yards.

Q. How far is it from the place where the chair round was round?

A. Well, it is about 150 yards I would judge.

Q. The place where the chair round was found was between the Bonore house and the depot, was it not? A. It lays kind of northwest of Bonore's house.

Q. You didn't know who had charge of those hounds? A. No sir, I did not.

Q. How many of those hounds was there there? A. There was two or three hounds.

Q. How many do they have at the penitentiary all together?

A. I don't know how many they had at the penitentiary.

Q. Where was you mostly working at this time? A. I was working on the Ingham tunnel at that time above Ansonia.

Q. You belonged to the Federation did you? A. I did once upon a time, yes sir.

Q. Did you at that time? A. No sir.

Q. Had you quit the Western Federation then? A. I had dropped out of it then.

Q. How long was it that you had ceased to be a member at that time? A. I judge about six or seven months.

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Q. Have you been a member since? A. No sir.

Q. Was you dropped by them or did you withdraw? A. Why, I just dropped it. I went into railroading after that and it wasn't my place to belong to it.

Q. Belong to a railroad organization of any kind? A. Yes sir.

Q. The brakemen's organization? A. Yes sir, B.R.T.

Q. You quit the Federation when you joined the brakemen's organization, did you? A. I wasn't in the brakemen's organization then at that time. I didn't belong to any organization for a year.

Q. Were you prospecting there or working for wages?

A. Working for wages.

Q. How long did you stay there afterwards? A. At Independence?

Q. Yes. A. I was there two years.

Q. Two years after, and until what time? A. I left there one Christmas, the 25th day of December, went down and worked four months for the Santa Fe people out of Denver between Pueblo, and then I went back to Independence.

Q. You was railroading out of Independence? A. Yes sir, I was working out of there, I worked out of Cripple Creek to the Divide.

Q. How long was it after the Independence depot explosion before you went to railroading? A. About three months.

Q. You hadn't railroaded any up to that time, had you? A. No sir.

Q. What was you doing after the explosion and until you did go into railroading? A. I had a contract from the government, U. S. mail carrier.

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Q. From where? A. From Independence to the Short Line.

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Q. You had been living there and mining or working on this prospect before that, had you? A. Yes sir, I had been working there before. I had a contract four years.

Q. Was you in any trouble there? A. Yes sir.

Q. You was arrested a number of times for making disturbances with non-union men, were you not? A. No sir.

Q. How many times were you arrested all together?

A. I was arrested twice and thrown in the bull pen.

Q. Arrested twice? A. Yes sir.

Q. When were those arrests, before or after the Independence explosion? A. My first arrest was right after the Independence explosion, when they was getting all of them.

Q. That was the first time? A. Yes sir.

Q. How long, the next time day? A. It was that evening.

Q. Where was you at the time you was arrested? A. I had just took my mail over to the Short Line train.

Q. You was arrested by the military, was you? A. Yes sir.

Q. And put in the military prison which was called the bull pen?

A. Yes sir.

Q. How long did you stay there? A. About thirteen days.

Q. When was you next arrested? A. The time they was doing all of that deporting.

Q. When was that? A. I don't know just when it was.

Q. Who was you arrested by? A. I don't know just what his name was now.

Q. Was it under the military officers? A. Yes sir.

Q. What was you arrested for that time, do you know? A. I don't know.

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Q. What was done with you? A. I stayed five days in the armory hall.

Q. In the armory hall? A. Yes sir.

Q. What was done with you then? A. They turned me loose when they found out who I was.

Q. Was you arrested afterwards at any time? A. No sir, not by the military.

Q. What? A. No sir.

Q. You was only arrested twice all together? A. Yes sir, by the military authorities.

Q. Well, now, we will go on to the civil authorities my then. How many times were you arrested by the civil authorities?

A. I was arrested once after that.

Q. What time was that? A. I don't remember just what date or what month.

Q. How long after the Independence depot explosion?

A. I would judge about seven or eight months.

Q. Was there martial law in the district still? A. No sir, nothing.

Q. Was you arrested by a sheriff? A. Yes sir.

Q. On a warrant? A. No sir.

Q. Was you taken before a court? A. Yes sir.

Q. Was you tried? A. Yes sir.

Q. Acquitted or convicted? A. I was convicted.

Q. On what charge? A. Of being drunk.

Q. Was you arrested at any time for assault? A. No sir.

2630 Q. On union men? A. No sir, none.

Q. Or creating disturbances? A. No sir, none.

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Q. Was there a charge that you were drunk and creating disturbance at this time? A. Drunk and disorderly, yes sir.

Q. Drunk and disorderly -- creating disturbance? A. No sir.

Q. How many other times were you arrested? A. That is all I remember of.

Q. Don't remember of being arrested on any other charge at any other time by the civil authorities? A. No sir.

Q. Only been arrested three times all together? A. Yes sir.

Q. You are speaking of this Cripple Creek country?

A. Yes sir, Cripple Creek.

Q. What time was it that the hounds were brought there?

A. Why, the same morning of the explosion -- in the afternoon.

Q. The explosion occurred when? A. In the morning.

Q. What time in the morning? A. Well, it was between two and half past two in the morning.

Q. You recall more of that time? A. Yes sir.

Q. How do you know the time? A. Well, the clock stopped at I think it was twenty minutes after two or a little more.

Q. Was you up at the time of the explosion? A. Yes sir, I got up.

Q. You had been in bed though at the time that it occurred?

A. Yes sir.

Q. And the clock stopped at something after two? A. Yes sir.

Q. What time was it the hounds got there, the dogs? A. Between three and five o'clock that evening.

Q. Somewhere from thirteen to sixteen hours after the explosion, was it? A. Yes sir.

Q. Did you go there to the depot right after the explosion?

A. No sir, I didn't.

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Q. Didn't go around there at all? A. No sir, I didn't go around.

Q. Did the explosion cause you to be surprised? A. Yes sir, I got up and looked out and looked around, I paid no attention and I went back to bed.

Q. Was there a crowd there? A. There was no crowd there at that time.

Q. When did the crowd commence to come there? A. The first I seen of the crowd was about six o'clock in the morning.

Q. Did you go down there then? A. Yes sir, I got up and went around.

Q. You saw the crowd begin to gather and you got up and went down? A. Yes sir.

Q. Do you mean to say that there was nobody got around there the night before? A. Around the depot the night before?

Q. Yes, the night before, after the explosion? A. I didn't see nobody around the night before. I seen them there the following morning.

Q. Did you hear the alarm --

MR. DARROW; I don't believe the witness exactly understands whether you mean before the explosion or after the explosion.

MR. HAWLEY; I will make him understand or try to.

Q. Was there an alarm from the railroad train that was there after the explosion, did they sound an alarm? A. I didn't hear any.

Q. Did you make no effort to ascertain what had been done, what had caused the noise? A. No sir.

2632 Q. There had been a great noise, had there not, at the time of the explosion? A. Yes sir.

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Q. It stopped a clock you say? A. Yes sir.

Q. How did you ascertain that? A. I ascertained that in the morning when I got up.

Q. Had it broken the windows in your house? A. A couple of windows was broken.

Q. How far was you from the scene of the explosion, you say?

A. Oh, about 125 or 150 feet.

Q. Had it disturbed anything in your house outside of breaking the windows and stopping the clock? A. No sir, didn't disturb anything inside of the house at all.

Q. It aroused you to wake up, did it? A. Yes sir.

Q. Was there anyone else in the house outside of yourself?

A. My mother and three brothers.

Q. Did they wake up? A. Yes sir.

Q. Did any of them go down? A. No sir.

Q. All of you stayed in? A. Yes sir.

Q. You knew what had occurred, didn't you? A. No sir, I didn't.

Q. Had no curiosity about it to ascertain? A. No sir, none whatever.

Q. Did you hear people going past your place towards the depot before morning? A. No sir, I didn't, not until it was daylight.

Q. You went to sleep again,did you? A. Yes sir.

Q. And you went down there in the morning? A. Yes sir, I went there in the morning.

Q. And was there much of a crowd there at that time?

A. I should judge about thirty-five or forty people around there.

Q. How long did you stay there? A. I stayed there until about nine o'clock.

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Q. What was you doing? A. Just looking around.

Q. Had the wounded men been removed? A. Yes sir, they had them all gathered up.

Q. And the dead men were removed? A. Yes sir.

Q. Did you stay there for that time just looking around?

A. Yes sir.

Q. Trying to ascertain what caused the explosion? A. Yes sir.

Q. When did you return? A. ~~[illegible]~~ Return home?

Q. No sir, to the scene? You say you left there about nine o'clock. When did you return back to the depot after that?

A. I lived right below, I could sit there in the door yard and see it.

Q. And where was you when you saw these dogs? A. I was in my own door yard, in my own back yard.

Q. You didn't go down to ascertain what they were doing?

A. No sir, I could see it all.

Q. But you didn't see who it was that had charge of these dogs?

A. No sir, I don't know who had charge of the dogs.

Q. How could you tell what they were doing? A. Well, I could see, watching them where they would go.

Q. Had you seen the chair round ~~[illegible]~~ and the wire before that?

A. Yes sir.

Q. The morning before? A. Yes sir, the same morning.

Q. Had they been guarded? A. Yes sir.

Q. And you saw them go to this point? A. Yes sir, I saw them go to that point.

Q. You knew Steve Adams, didn't you? A. Yes sir.

2634 Q. How long had you known Steve Adams? A. I judge about eight or

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nine months.

Q. Pretty well acquainted with him? A. Not very well acquainted with him.

Q. Had you talked with him shortly before this? A. No sir.

Q. Seen him in that vicinity? A. No sir.

Q. Do you know what he was doing at this time? A. No sir.

Q. See him afterwards, shortly afterwards? A. No sir, I did not.

Q. Didn't know where he lived even? A. No sir.

Q. Just knew him? A. Just met him.

Q. Did you belong to the same union that he did? A. Yes sir -- I don't know whether he belonged up there, 19.

Q Album 19? A. Yes sir, I belonged to Album 19.

Q. That was the same union that Kentucky and Sherman Parker belonged to, was it? A. Yes sir.

Q. Did you know Harry Orchard? A. I just knew him by sight, that is all.

Q. Did you see him around there at all? A. No sir.

Q. Didn't see him around at that time? A. No sir.

Q. You had seen him shortly before this, hadn't you? A. No sir, I hadn't.

MR. HALEY: That is all.

RE-DIRECT EXAMINATION

BY MR. DARROW:

Q. What date was it they sent you to the penitentiary for getting drunk? A. I don't remember just what date it was.

Q. What did they do to you -- didn't send you to the pen?

A. No sir.

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Q. Fined you? A. Yes sir, they gave me a fine.

Q. Do you remember how much? A. I think it was $5 and costs.

Q. You paid it, didn't you? A. Yes sir, I paid it.

Q. Now you say you were arrested before that twice by the military?

A. Yes sir.

Q. Were you charged with anything at all? A. No sir, no charges whatever.

Q. How long did they keep you locked up? A. I believe about thirteen days the firsttime and five or six days the second time.

Q. They never tried you for anything? A. No sir, just found out who I was and what I was doing and what my occupation was and turned me loose.

Q. How old was you -- how old are you now? A. Twenty-three years old, twenty-three years old the 14th day of last month.

Q. You had belonged to the union but had dropped it at that time?

A. Yes sir.

Q. And you were working during the strike? A. Yes sir.

Q. In a non-union mine? A. No sir.

Q. Were you working in a union mine? A. Yes sir.

Q. What mine were you working in? A. I was working in the Ingham tunnel for Jack Bryan. He was leasing.

Q. And you are now a member of what organization? A. The Brotherhood of Railway Trainmen.

Q. When did you say you were a mail carrier? A. I don't remember just what date I had it, I think four years.

Q. Were you a mail carrier when you were arrested by the authorities?

A. Yes sir, employed by the government.

Q. Were you delivering letters at that time? A. Just mail routes.

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I carried mail under backwards and forwards.

Q. And they took you while you were carrying the mail?

A. Just after I had put my mail on the train and started for home they got me.

Q. How long were you a mail carrier? A. I had the contract there four years.

Q. You carried it during the whole time, did you? A. Yes sir.

Q. Went from what point? A. From the Vindicator mine to Independence.

Q. How far is that? A. About a quarter or half a mile.

Q. Of what did your family consist at that time that were at home?

A. Why, my mother and three brothers and myself.

Q. How old were your brothers? A. I have got one brother twenty, another one eighteen and another one twelve.

Q. You all stayed in the house? A. Yes sir, we all stayed in the house.

MR. DARROW: That is all.

CROSS-EXAMINATION

BY MR. HANLY:

Q. You say you were working in a union mine? A. Yes sir.

Q. And you were not a union man at that time? A. Yes sir; I was working for a lessee, Jack Payne.

Q. Didn't they consider a man under that was working without being a member of the Federation? A. Not there at that mine.

Q. You are sure you had withdrawn before this from the Federation?

A. Yes sir, I won't owing up my dues or nothing.

Q. That is the reason you say you had withdrawn because you were

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in debt for some dues? A. No sir, not a bit; I could have paid them.

Q. Had you ever made a formal withdrawal? A. No sir, I never did.

Q. Never did? A. No sir.

Q. You simply supposed you was dropped for non-payment of dues?

A. Yes sir.

Q. You hadn't paid any dues for how long at this time?

A. I judge about a month.

Q. You was behind in your dues about a month? A. Yes sir.

Q. And because you was behind in your dues about a month you state that you didn't belong to the union? A. Yes sir.

Q. How long was it after failure to pay dues before a person was dropped, if you know? A. I don't know.

Q. You don't know? A. No sir, I don't know.

Q. You don't mean to say that if you was behind for a month in the payment of your dues you would be dropped from the union and cease to be a member, do you? A. No sir, I don't know nothing about that.

Q. Then why do you say you were not a member of the union if you was only behind a month and had not withdrawn?

A. Well, I suppose I wasn't.

Q. What makes you suppose that when you know nothing about it according to your statement now? A. Well, I didn't pay any more in then.

Q. You didn't pay any more? A. No sir.

Q. But why do you state to the jury that you were not a member of the union at this time? A. Well, I didn't suppose I was when I let it go a month.

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Q. Why? You say that you know nothing about that matter.

A. No sir, I don't. I never read the constitution and by-laws.

Q. Never read them? A. No sir.

Q. And you know nothing about it? A. No sir.

Q. And you know you was only behind a month? A. I might have been a little better.

Q. Have you been instructed to say that you were not a union man?

A. No sir, not a bit of it.

Q. Haven't had any instructions in that line? A. No sir, never.

MR. DAVIS: That is all.

MR. DAVEY: Do you know whether another dog was brought there later, or don't you know?

A. I don't know.

MR. DAVEY: That is all.

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L. P. TAYLOR, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. BARRON:

Q. What is your name, please? A. — L. P. Taylor.

Q. And where do you live? A. I live at Independence, Colorado.

Q. How long have you lived there? A. I have lived there since the 6th of April, 1894.

Q. You still live there, do you? A. Yes sir, that is my home.

Q. What is your business? A. I am a miner.

Q. Are you a member of the Western Federation? A. I was at one time, yes sir.

Q. Are you now? A. No sir, I suppose not.

Q. You are mining, are you? A. Yes sir.

Q. When did you cease being a member? A The last dues I paid into the union was, I think it was in May, 1903.

Q. And you have worked right there in that district in non-union mines since, have you? A. Part of the time, and I have been leading.

Q. And part of the time you have been working? A. Yes sir.

Q. In other mines? A. Yes sir.

Q. Where were you at the time of the explosion at the Independence depot? A. I was in Independence.

Q. How near to the depot did you live? A. Oh, perhaps 200 yards or 250.

Q. Did you know Al. Ennore? A. Yes sir.

Q. Have you seen him around there often? A. Yes sir.

Q. What was he? A. Well, he was a miner for one thing. You mean since the trouble?

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Q. Since the trouble, yes, and during the trouble? A. He was deputy sheriff part of the time; part of the time he was marshal of Independence.

Q. Did you see him wearing a badge during the trouble?

A. Yes sir, at one time I did.

Q. What kind of a badge? A. A deputy sheriff's badge.

Q. Was he connected with the authorities and the mine owners at that time? A. He was supposed to be.

MR. BOTKIN: We object to that and ask that it be stricken out.

THE COURT: It will be stricken out.

MR. DENVER: The last answer?

THE COURT: Yes sir, the last answer, and the jury will be instructed not to regard it.

Q. Now, Mr. Taylor, where were you the day after the explosion or the morning following? A. About seven or eight o'clock I went up to the depot to see it; from there I went to Victor.

Q. Did you during the day at any time see two dogs there, hounds?

A. Yes sir, I did.

Q. What kind of dogs were they as to color? A. Well, one of them was a kind of a liver and white, and the other was a white and dark looking.

Q. Do you know where they came from? A. No sir, I don't.

Q. Hounds, were they? A. Yes sir, they were hounds.

Q. Where did you first see them? A. I seen them taking them off of a car.

Q. Came in on a special car, did they? A. Well, I couldn't say whether it was special or not, Mr. Denver.

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Q. You saw them taking them off of a car? A. Yes sir, there was an engine and caboose on.

Q. Just an engine and caboose? A. Yes sir.

Q. There was nothing else in the train? A. Nothing else in the train.

Q. Do you know who was there with them? A. No, I didn't know any of the men that was there with them.

Q. And which way did they come from on the train? A. They came from Victor.

Q. When they were taken off the car where were they taken to?

A. They were taken out to where the chair round was attached to the wire.

Q. Given the scent there, do you know? A. They were put on the scent there.

Q. Where did they go? A. Well, they went down the hill to a log house that was there, stopped around there a little, and then they went down, circled around below Mr. Bemore's house, came up on the west side of it and went to the kitchen door.

Q. How did anything happen there at the kitchen door, do you know — whether they were met at the kitchen door or not?

A. I think the door was shut, the dogs was drove out like by someone and the door was shut. I know the door was shut after the dogs come out.

Q. You mean the door was closed while they were there, while they were coming there? A. No, after the dog had partially stepped in the house someone appeared there and shut a screen door.

2642 Q. Then what was done after that? A. Someone followed the dogs down, I don't know who he was, and took them back up.

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Q. To the chair round? A. Yes sir.

Q. And what was done again? A. They came down -- they started, and I lost sight of one of the dogs, but the other one went down to the house, went right around apparently in the same track he went before and walked up to the porch, and they were taken back then.

Q. Then where were they taken? A. They were taken up to the depot or to where that chair round was, and I didn't see those dogs any more.

Q. You did not? A. No sir.

Q. Did you see any other dog later than that? A. There was another dog came there later, yes sir.

Q. What colored dog was that? A. I can't tell you what color he was.

Q. He came to that place, did he? A. Yes sir.

Q. Do you know who brought him? A. No sir, I don't.

Later in the evening

MR. DARROW: That is all.

CROSS EXAMINATION

BY MR. HAWLEY:

Q. When was this last dog brought there? A. Brought there later in the evening than the two first ones.

Q. What time in the evening? A. Well, I couldn't tell you, Mr. Hawley. I think about five o'clock.

Q. What time was it the first dogs were brought there? A. Somewhere about four o'clock I should judge.

2643 Q. About four? A. Yes sir.

Q. You were living how far from the depot? A. I lived 800 or

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250 yards.

Q. Are you a man of family? A. Yes sir.

Q. Your family living there with you? A. They were at that time, yes sir.

Q. What time did that explosion take place, if you know?

A. I couldn't tell you.

Q. It woke you up, did it? A. It woke me up, yes sir, but I didn't know what was the matter and I went to sleep again.

Q. Did it cause any damage around your house? A. No sir, I don't think it did.

Q. Didn't break any windows? A. No sir.

Q. Didn't you get up and go to inquire what it was?

A. I didn't rouse up to find out what it was.

Q. Did it alarm your wife and children? A. They heard it, yes.

Q. You all got up, did you? A. They got up.

Q. Didn't you get up? A. No sir, I didn't.

Q. Did any of your family go down there? A. No sir.

Q. How old were your children, how many did you have and how old were they at that time? A. My daughter wasn't sixteen or seventeen years old and my boy three years younger, fourteen.

Q. Did it cause you any feeling of curiosity to know what caused an explosion of that kind? A. I didn't know anything about it until daylight in the morning.

Q. Had no curiosity to ascertain? A. I didn't hear it enough to know that there had been an explosion. I woke up.

Q. What time did you go down there in the morning? A. Somewhere

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between seven and eight o'clock I think.

Q. Had the bodies been removed? A. Yes sir, they had.

Q. And the wounded been taken away? A. Yes sir.

Q. How many people were around there at that time?

A. I should judge there was fifty or sixty when I first went up there.

Q. Anybody in charge? A. There seemed to be, yes sir.

Q. Who was it that had taken charge? A. Mr. Robertson, the sheriff, was there.

Q. Was Mr. Bemore there? A. Mr. Bemore was there, yes sir.

Q. That is when you saw him with the sheriff's badge, was it?

A. No sir.

Q. When was it you saw him with the sheriff's badge? A. I saw him in Independence after that with a sheriff's badge on.

Q. How long after that? A. Well, I couldn't tell you. It was perhaps three or four months after that that I saw him.

Q. Three or four months after that? A. Yes sir.

Q. Then you don't know what he had been doing after the explosion until three or four months afterward when you saw him with the sheriff's badge on? A. I don't think he had been doing anything that is, in the labor line; I don't think he had been working.

Q. He was a miner, was he not? That was his trade? A. Yes; he worked in the mines, yes sir.

Q. Now when you went there in the morning did you find Mr. Bemore around there? A. He was there I think when I went there, yes.

Q. How long did you stay there? A. I stayed there perhaps an hour.

Q. Did you see Mr. Bemore go away from there, go to his home?

A. Not that I remember, I didn't.

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Q. You don't know whether he went to his home or not?

A. No sir, I do not.

Q. Did you hear Deere talking there in regard to the explosion that morning? A. Yes, some, I did.

Q. He told you about being up there shortly after the explosion occurred, did he not? A. No, I didn't talk to him myself; I just heard him talking to others.

Q. You heard him talking to others about how things looked right after the explosion when you went up there, did you not?

A. No sir, I don't think I did.

Q. You don't know whether he went up there immediately after the explosion or not? A. No, I don't.

Q. But you do know that he had gone up there before you went there in the morning? A. I think he was there when I went there. I won't be sure about that.

Q. Did you see him there after your first trip in the morning, did you see him there again during the day before the hounds came? A. I wasn't up there after that.

Q. Was you not there in the afternoon? A. Not right at the depot I wasn't, no sir.

Q. Where did you see this occurrence in regard to the hounds?

A. Well, about half way between where I lived and the depot.

Q. What was you doing there? A. I started up for the depot and they was ahead of me so I stopped there.

Q. And yonder you was about 125 yards away then? A. Yes, perhaps I was; not from Deere's house, though.

Q. Why didn't you go up to the depot? A. Because the dogs were up there and I couldn't get up there in time to see them work

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up there so I stopped where I was and I had a good view of them from there.

Q. Did you see who it was that had charge of the dogs?

A. I saw the man but I didn't know him.

Q. You don't know the man's name? A. No sir, I don't.

Q. Was there more than one man had charge of those first dogs?

A. One man seemed to have charge of the dogs and there was two men on horseback also.

Q. Who were the two men that were on horseback? A. I couldn't tell you.

Q. Don't know about that? A. No sir, I didn't know them.

Q. And all you know is what you saw from that distance?

A. Yes sir.

Q. How often were those two dogs taken back to the place where the explosion had been pulled off, to the chair round?

A. They was taken back twice.

Q. After being there first; the third time do you know what became of them? A. No sir, I don't know what became of them.

Q. What did you do? A. I went back down to the penitentiary and from there I went home.

Q. Who was it that owned this other dog, where did it come from?

A. I couldn't tell you.

Q. Was you there when that dog was started out? A. No sir, I wasn't.

Q. Where was you when you first saw the third dog? A. I was at home.

Q. You observed his movements from home? A. Well, I didn't observe very much movement about it. There were several men

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leading this dog and going out towards the Vindicator mine.

Q. And that was on the road down the canon toward Colorado City was it not -- Colorado Springs? A. Well, yes, you might say it was directly on the road towards Colorado City.

Q. You don't know how long that dog was out on that trail or supposed trail? A. No sir, when he went by -- somewhere near the Vindicator powder house he was out of my sight and I don't know anything about that.

MR. HARRY: That is all.

RE-DIRECT EXAMINATION

BY MR. DARROW:

Q. What was Sheriff Robertson doing there,around there?

A. Well, sir, he didn't seem to be doing very much of anything, that is, when I saw him. He ordered a rope stretched around the scene of the disaster, that is all.

Q. That is, to keep things until the coroner got there?

A. Yes sir.

Q. Do you know what became of his afterwards, as to whether he was deposed or not? A. He was deposed, I know that, but I didn't see any of it personally.

MR. DARROW: That is all.

RE-CROSS EXAMINATION

BY MR. HARRY:

Q. How long after that before the sheriff was deposed?

A. Well, I should think about two o'clock in the afternoon.

Q. Some other sheriff put in in his place or did the military

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take charge? A. That is all hearsay evidence with me, Mr. Hanley. I didn't see any of it.

Q. The whole of it is hearsay, is it not? A. Yes sir.

Q. About his being deposed that is hearsay, isn't it? A. I know he was deposed out of office, another man put in. There was another man in there at least.

Q. You don't know who it was done by, you don't know whether the military were in charge or not? A. I didn't see it done, no.

Q. Don't you know as a matter of fact that the military had charge and martial law was proclaimed in that district right after the Independence explosion? A. It might have been.

Q. Did you see proclamations in regard to martial law?

A. No, I did not.

Q. But you know the military had control, that they had a military prison which you called the bull pen there? A. I know there were citizens running around there arresting men.

Q. I am asking you, sir, if you know whether or not the military were there and had control? Arresting men? A. I didn't see the military arrest anyone.

Q. Don't you know it? A. I presume they did, yes sir.

Q. You saw them there, you know where their military prison that was called the bull pen was, don't you? A. Yes sir.

Q. And you know the military had control of that, do you not?

A. I suppose they did.

Q. You saw them there, did you not? A. Yes sir, I saw men taken there.

Q. And saw men taken there by the soldiers? A. No sir, I never

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did. I saw them taken there by citizens.

Q. By citizens, and given over to the soldiers? A. I don't know who they were given over to.

Q. Was you taken there? A. No sir.

Q. You didn't leave the district? A. No sir.

Q. You stayed right there? A. Yes sir.

Q. And wasn't disturbed? A. No sir, I wasn't disturbed.

MR. HAWLEY: That is all.

QUESTIONS BY MR. DARROW:

Q. You were not a member of the union at that time?

A. No sir, I hadn't been for a little over a year, that is, I hadn't paid any dues for a little over a year.

Q. You don't know as a matter of law whether the military had the right to depose one sheriff and appoint another or not, do you? A. I don't know anything about it.

Q. Who was appointed sheriff or assumed to act afterwards as sheriff? A. Mr. Bell.

Q. What citizens did you see arresting people and taking them to the prison? A. I saw Mr. Kellen, Mr. Gray, Jack McCarren.

Q. Who were those men? A. They were miners that were there, lived there.

MR. DARROW: That is all.

MR. HAWLEY: That is all.

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THOMAS WOOD, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. Give us your name, please. A. Thomas Wood.

Q. Where do you live, Mr. Wood? A. Cripple Creek, Colorado.

Q. Where were you born? A. In Scotland.

Q. How old were you when you came to this country? A. Twenty-eight.

Q. What has been your business during your life? A. Mining.

Q. Where have you mined? A. All the way from Great Britain to Cripple Creek.

Q. Clear across? A. Clear across, yes.

MR. HAWLEY: That would be deep sea mining.

MR. DARROW: Deep sea mining, yes.

Q. When did you come to Cripple Creek? A. Eleven years and three months ago.

Q. And you began mining when you came? A. I did.

Q. Are you still a miner? A. Yes, I am still a miner.

Q. Did you ever belong to the Western Federation? A. I did not.

Q. Well, you were working during the strike, were you? A. Yes sir.

Q. You were a non-union man, speaking lightly, were you?

A. Yes sir, I was a non-union man.

Q. You never have joined it at any time? A. Never.

Q. Where were you working during the strike? A. I worked on the Vindicator for one, on the Abe Lincoln, and several other places, [illegible] the strike was going on, and I have been in several places.

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Q. When did you work on the Vindicator? A. I was hired on the Vindicator on the 19th, I believe, of November, by Mr. McDermid and started working on the 20th.

Q. When did you stop? A. On the 31st when the explosion occurred.

Q. You worked twodays on the Vindicator? A. One day and a half; held by the troops the second time.

Q. Who employed you on the Vindicator? A. Mr. McDermid.

Q. Had you been acquainted with Mr. McDermid? A. Never.

Q. Did you know Mr. Bell? A. Yes sir.

Q. Now was McDermid and Bell, what were their positions?

A. McDermid was superintendent, and Bell was foreman, shift boss as I call it.

Q. Do you know Harry Orchard? A. I do not.

Q. Never met him? A. Never met him.

Q. Did you ever attend any union meetings? A. Never.

Q. Well, did you go to work on the 31st? A. I believe so.

Q. You were working on the 30th, were you? A. Yes.

Q. Underground? A. On the 800-foot level.

Q. The 800 level? A. Yes sir.

Q. What were you doing? A. Timber man.

Q. Did you know the 650 level? A. Well, I made one call there, that is all.

Q. When? A. The day of the explosion.

Q. Do you know whether that was being worked at the time?

A. It was not.

Q. Do you know whether they were preparing to work it? A. Yes sir.

Q. And you made a call there on the day of the explosion, did you?

A. Yes sir.

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Q. You fast with reference to the preparations to work the level?

A. No sir.

Q. Do you know when it was to be worked? A. The night of the explosion.

Q. Now on the morning of the explosion, on the day before the explosion, you were on the 6th level, were you? A. Yes sir.

Q. What did you do in reference to any powder on the day before the explosion? A. I carried a box, a half a box of powder for a machine man that couldn't use the powder back to the shaft for accommodation to the machine man.

Q. Where did you put it? A. I put it on top of a water barrel at the shaft.

Q. At the shaft on the 6th level? A. Yes.

Q. Do you know what the rule was as to permitting any powder to stay in the level? A. Yes. I understood from a man speaking that day that Underwick was very careful in keeping the powder out of the mine — to take it back to the powder magazine the night before, or any time —

MR. HAILEY: We ask that that be stricken out as a voluntary statement and hearsay.

THE COURT: I will permit him to stand.

Q. How much powder was this? A. A little less than half a box, fifty pounds in the box.

Q. That would be a little less than twenty-five pounds? A. Yes.

Q. That would be what kind of powder? A. Forty per cent.

Q. Well, did you see that powder on the shaft? A. Yes sir.

Q. What did you do during the day, during the day? A. I loitered all I could until quitting time.

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Q. In what level? A. On the 600 level.

Q. Were you right on the level or a little off of it?

A. I was up on the stope above the level.

Q. Now explain it so we farmers may understand it. Whereabouts did you work there, how was the level, how did it run?

A. Well, I couldn't tell you. I didn't take a survey of the level, I couldn't explain that very well.

Q. There would be the stope? A. The stope was I should judge eight feet from the level, and the machine men were still going up breaking ore.

Q. You mean eight feet above? A. That was the first timber, that was put in, eight feet I should judge, off the level, and then the stope was still going up with timbers in it, with the machines breaking the ore down.

Q. How far from the shaft before you started up the stope?

A. I should judge, about as near as I can guess at that, about 400 feet.

Q. That is, you went 400 feet from the shaft before you went up on the stope? A. Climbed up on the stope, I should judge that much.

Q. How high up did you go on the stope? A. I should judge to where I was putting in this timber might be, we will say, from fifteen to twenty feet.

Q. What is a stope? A. A stope is where they break the ore down, or to the chutes, to go on the level below.

Q. A chamber of ore, isn't it? A. Yes.

Q. Any way of getting up there? A. Yes.

Q. How? A. Sometimes you have got to go through the chute where

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the are gone, but sometimes you have to go through the ladder way.

Q. How did you go up? A. I went up the small ladder way.

Q. And then you were working up there some eight or twelve above the 6th level? A. More than that.

Q. Or more? A. Yes.

Q. And up a ladder? A. Up a ladder, yes.

Q. And you worked there during the day, did you, the 20th?

A. Yes.

Q. Did you go back the 21st? A. I did.

Q. Did you see the powder? A. I did.

Q. There was it? A. The same place I had left it the night before, on the water barrel.

Q. How far do you say you was working from the shaft?

A. I should judge about 600 feet. I never measured that though. I don't know. I guess at that.

Q. How far west it did you go to go up the stope? A. Feet wise?

Q. The powder? A. 600 feet.

Q. Was the powder at the end near the shaft? A. The powder was at the shaft in the morning when I went to go to work the next shift.

Q. Whereabouts was the powder on the 6th level, at the shaft?

A. At the shaft on top of the water barrel, yes.

Q. The water barrel was right at the shaft? A. Right at the shaft.

Q. And you went on 600 feet further to go to the stope? A. Yes.

Q. How what time did you go in there on the 21st? A. I went in I guess about eight o'clock with my first loader timber.

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Q. Did you see the powder there at that time? A. Yes.

Q. Did you see Bock and McCormick? A. I saw Bock and McCormick something about ten o'clock, a little after ten.

Q. How long before the accident, or explosion, or whatever it was?

A. As near to the time as I could guess of the explosion -- I didn't hear the explosion, it was up on six and I was on eight and a long ways from it -- it was around near twenty minutes past ten or twenty minutes to eleven, as near as I could tell about twenty minutes to eleven I should judge.

Q. The explosion? A. Yes.

Q. And you saw them what time? A. I saw them shortly after ten, I met them above, got instructions from them what to do.

Q. Where did you meet them? A. I met them on the stope.

Q. On the stope? A. Yes.

Q. And were instructions given you by them? A. Yes.

Q. And then where did they go? A. They went down this ladder and I went on further up to do the work.

Q. That is, they went down the ladder to the 8th level? A. Yes.

Q. And as you supposed, on out? A. Yes.

Q. Did you know where they were going? A. I judged they were going to the shaft. That was their usual way of going around, going back and forth to the different levels.

Q. That was the way to the shaft, was it? A. Yes, that was the way to the shaft.

Q. When did you hear that there was an explosion, how soon after you met them? A. Not long, I should judge from twenty to thirty minutes.

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Q. What did you do when you heard there was an explosion?

A. I heard the boys holler "Boys, for God's sake, make your escape, the Ventilator mine is blowing up".

Q. And what did you do? A. I rolled down the boat I could onto the level.

Q. Onto the 6th level off of the stope, didyou? A. Yes.

Q. Then where did you go? A. I made for the chute.

Q. Did you meet other people going there? A. I met men in all directions, yes.

Q. Where did you go? A. Me?

Q. Yes. A. To the chute.

Q. Did you see that rain barrel or that water barrel there?

A. I saw the barrel, yes.

Q. Was the powder there? A. No sir, the powder was gone.

Q. How long before you went there and found the powder gone was it that you had seen it there? A. The last time I left the chute was about five minutes past ten, I believe, with the second load of timber, which was the last time I seen the powder.

Q. Was it there then? A. It was there then, yes.

Q. And between that and half past, or whatever that time was, it was gone? A. It was gone, yes.

Q. In the meantime had you met Dede and McCormick? A. Yes, I met them on the stope, when I left for the second load of timber I met them on the stope.

Q. And they had gone out of that place at that time? A. They had gone out of that place then, yes.

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Q. When you got to the shaft what did you do, Mr. Wood ?
A. When I got to the shaft, along with the rest of the men, I wondered which way I was going to get home, or if I was ever going to get home. Some of the men made a proposition to go out through the Gyrie mine, they thought that was the best way to make an escape, and some tried it; I don't know who tried it,but several tried it and found the level or the cross-cut filled with water and couldn't make it; some men tried making a climb on another stope, on the other side of the shaft, and failed on that; and I was trying to compose myself on the level at the shaft. I stood still. I picked up some little timbers that was falling down, small pieces, and they made my hand very hot, as though there was a fire up in the shaft. We drew to the conclusion that was burning—
Q. What did you do ? A. Well, we made a proposition the only thing for us to do was to take chances and climb the shaft no matter who drew us, to keep on climbing. We started out, six of us, I believe, in company.
Q. Was there a ladder up there ? A. A ladder goes up the shaft all the way in most of the mines. Some are not very good, some are.
Q. Those levels are about a hundred feet apart ? A. A hundred feet apart. I was the sixth man, I believe, in that bunch to climb—I don't know how many climbed all together. We made that climb nearly up to 6, about two hundred feet looking about fifteen feet, nearly one length of ladder. The ladders are in about sixteen feet lengths generally and are nailed to the side of the shaft, fastened to the timbers. While the six of us was on this

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length, it being broke away by the explosion at that level, it came away and fell across the shaft and stayed there with the support it got on the shaft. As one of the men above, the top man above, says "Hold on below, boys, we are liable to fall down the shaft, hold on below." I being the last man I held the ladder tight for fear some one might come from above down on me, and if he did come back on me I would hold myself on the ladder. But as the ladder stayed with us we crawled to the top of it and got out through the raise on the 600 level. When we finally got onto the station where the explosion was I found No Corrick to the left of the explosion and Beck was to the right of it, and the gun also was to the left.

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Q Just one minute. In that way you reached the sixth level, did you? A Yes, we reached the sixth level.

Q Then what did you do? A We got off onto the ruins which was a pretty bad looking affair. I found McCormick to the left of the shaft where we crawled through, where the car would go to get on the cage.

Q Where did you find Beck? A To the right about fifty feet from there, and McCormick about six feet to the left of the open shaft.

Q Do you know whether either or both of those men had a revolver?

A Yes, Mr. Beck had a revolver.

Q How did you know that? A I saw it in his pocket as I was coming out of the stope. And that wasn't the first one I saw with a revolver, who was a boss in the mines at the time.

Q It was not unusual? A No sir.

Q Did you say anything about that? A Yes, I called his attention to it; it was going to fall out of his pocket.

Q You thought it was loose in his pocket? A It was loose, yes.

Q Was there anything peculiar about the revolver to make you pay attention? A No, only he just carried it for self protection.

Q Were you much familiar with revolvers? A I never had a revolver in my life and would hardly know one now if I saw it.

Q You don't know whether Beck had one or not? A Yes, this is Beck, he had one.

Q I mean you don't know whether McCormick had one or not?

A I never saw him with one.

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[illegible]

Q How you saw the lining as you have described and you saw the elevator,— what was the condition of that? A The cage was lying in an upset manner, thrown out of the guides, and mixed up in a bad shape.

Q How was the floor? A It was all torn up and in ruins. The timbers were across the stone shaft and were 12 x 12, and they were blown out by the explosion. Those were the ones that came down the shaft.

Q Did you stop to make any examination there? A I did, yes.

Q Did you find any revolver, or piece of one? A Yes sir.

Q Do you know whether you find more than one? A No, no more to my knowledge.

Q How long did you remain around there? A Well, as long as they were fixing up a temporary cage to take us out.

Q Did you find any wire there? A I did not.

Q Was there any there that you could see? A I never saw any. I had my hand on the safety bar across the shaft and didn't see it and looked at it but saw no wire.

Q Was there any wire on the bar? A Not to my knowledge, and I looked for it.

Q You looked for it? A I looked around for anything.

Q About how large a space was it there? A It may be five feet wide,— I should think it might be six, but I think about five.

Q Did you go up to daylight then? A No.

Q What did you do then? A By this time Mr. Holman was coming down from the surface.

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Q Who was Mr. Holman? A He was the manager of the Cycle mine, and I held a card along the side of the shaft that he could climb down and see the ruins that was there. This man that was there, and I, he was a Swede, I don't know his name but that is good enough,— he picked up the muzzle of the gun and I picked up the chamber and we looked at it and between us both we handed it to Mr. Holman, and he handed it back to the Swede and told him to take charge of it. And I walked in then with Holman where Bent was and he took him by the hand and cried, and says, "Poor Bent, a man I have known for 16 years," and that was all of that; and we started off and went up to the ninth level and went there to the breast and came back, and there was another way of getting in there, through the Hall City placer mine, and there I turned to go back to the shaft and as soon as I could get out I went up to the surface.

Q About what time did you get out? A I could not tell the time I got out, but it was just about within half an hour of getting a car to go to Victor. I called the attention of Naylor—

Q Did you meet him? A He was there with the troops when I got on top. He was not down in the mine. I told him I wanted to go home as quick as possible for my wife would be a very bad state when she heard the rumor, and he told me I should not dare to go out of the grounds, and he kept me there until Mr. Clark the clerk in the office gave me permission to go and when

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Eden

I got to Victor it was three o'clock.

Q Was there a coroner's inquest? A There was.

Q Did you attend it as a witness? A I did not.

Q Do you know who conducted it? A I do not.

Q But Naylor saw you there at the mine? A Yes sir, he certainly did for he would not let me go home.

Q Did others see you? A Yes sir.

Q This Steele, what was his business? A A miner.

Q And you did not -- you never were called as a witness at the coroner's inquest? A I never was called, and good reason why, I don't think they knew I was there.

Q Were you acquainted in the mine with the men to any extent? A No, I could not be, only been there a day and a half; I could not hardly well acquainted.

Q But you have lived there in that Cripple Creek district over since? A I have lived there eleven years, three months and some days.

MR. DARROW: That is all.

CROSS EXAMINATION

BY MR. BORAH:

Q Mr. Wood, is it? A Yes sir, Thomas Wood.

Q By the time you reached the 6th level after the explosion was there anybody there except the two persons there who were injured? A We all got there together, six of us.

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Q Was your crowd the first crowd that got there? A As far as I know, yes.

Q Did you see anybody there except your six men and the two who were lying there when you arrived? A No, I did not.

Q How long after you got there was it until you saw the Grand?

A I believe he climbed along with us; I could not say whether he did or not, but I believe he did.

Q The Bonds went along as you did? A I believe so.

Q Did you examine the premises when you arrived on the 6th level to find what you could with reference to the cause of -- with reference to the evidence of the cause of the explosion?

A Yes sir, and my knowledge, yes.

Q And you saw what appeared to be the remains of a revolver, did you? A Yes sir, I had the chamber in my hand and the muzzle both.

Q Could you recognize that as what you saw there Mr. Wood (handing the witness exhibit U)? A Yes sir, that is it.

THE COURT: What is the mark on that?

MR. BORAH: That is exhibit U for identification.

THE WITNESS: That is it. There is no doubt at all about it.

MR. BORAH: I had not offered this, but we desire to offer it now, exhibit U for identification, in evidence.

MR. DARROW: If he identifies it properly?

THE WITNESS: That is it.

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MR. DARROW: Let it go.

Q Did you see anything like that (handing witness exhibit S for identification) around there? A No sir, the muzzle was back up more than that.

Q But it was the same thing in a different condition? A Yes, in a different condition there, sure.

THE COURT: What is the mark on that?

THE WITNESS: That was in my hand there on the level.

MR. DORAH: This is exhibit S for identification.

Q Now, this is what you now except you think it was— A It was straighter; it was not so much twisted up as that.

Q Is that otherwise than the fact that it is more twisted now than when you saw it there, what you found there? A Yes sir.

Q Otherwise, it was just as you see it now? A Yes sir.

Q And you think you saw it there? A Yes sir, though I am more confident about the other.

MR. DORAH: He is more confident of exhibit Y than exhibit X.

Q You still identify it as a piece of metal that you found there? A Yes, I know that, yes.

MR. DORAH: We now offer in evidence exhibit S for identification.

MR. DARROW: I am not going to make my objection to it at the present time, but it is not very fully identified.

MR. DORAH: It was identified as being picked up but we could not show who picked it up.

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THE COURT: It was picked up and handed to him by some one, as I remember the testimony of the other witness.

MR. DORAN: Yes, that is what he testified to.

MR. DARROW: I want to reserve the right to object to it after further examination but I won't now.

THE COURT: Did this witness state what he did with that after he picked it up?

MR. DORAN: He states it is the article he saw there and found there.

THE COURT: And the other witness testified that this was handed to him by some one else. I remember the testimony.

Q Do you know that by yourself? A We picked these up together; I picked up the barrel and he picked up the muzzle, I call it,— I don't know anything about those guns,— that and the barrel was picked up at the one time by the Swede and myself and handed to Mr. Nelson and Mr. Erickson handed it back to the Swede and told him to take care of it.

Q Now, whereabouts did you find this gun, or the remains of a gun when you arrived there and picked it up? A Right to the left of the shaft and there I crawled through the ruins on this ladder-way.

Q About how far from the McCormick? A I should judge about three or four feet.

Q And did you find any other pieces of a gun except these two?

A No, I never saw the back part of it; I don't know,— I never saw it.

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Q And it was about how far from Beck? A I should judge thirty feet from Beck, and only three or four feet from McCormick.

Q You did not see anything else there at all except the injured bodies? A No.

Q Nothing indicating the cause of the explosion? A No, I looked for this infernal machine that they talked about, but I never saw it.

MR. MORAN: We would like to pass these up for the examination of the jury.

THE COURT: That exhibit B will be admitted.

Q Mr. Wool, these levels, when you reach a level, there was a bar that you raised to go into the level? A A flat bar to keep the men from falling down the shaft.

Q And that was true with reference to all the levels in the mine? A It was on the 900; I was not through them all.

Q How far was it from the 8th level to the 6th level? A 200 feet I should judge. They generally run them a hundred feet apart. I could not tell about that theory but they generally run them a hundred feet apart.

Q You had not worked on the 6th level,-- you visited it on one occasion? A Yes.

Q And when was that with reference to this explosion? A Right after the explosion.

Q You had been there once before? A Oh no.

Q Never had stopped there? A No sir.

2667 Q You knew nothing about it then? A No sir, I knew nothing

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about it.

Q And that was the first time you was there? A That was the first time I was there and that is what I believe I stated too.

Q Then, this was the first time you was ever on the 6th level?

A Yes sir.

Q Where was it you took this pointer to? A To the 800 level.

Q From what point? A I took it for accomodation to this machine man who could not use it.

Q And then you took it back and put it on the top of the water level there at the station of the 6th level? A Yes sir.

Q On the 800 level? A Yes sir.

Q And you last saw it there on the morning of the explosion?

A Yes sir.

Q After the explosion there was considerable excitement?

A Yes sir.

Q And confusion? A Yes sir.

Q It was a question of life and death and whether you would get out? A Yes sir, thats right.

Q And you were particularly concerned with that proposition?

A Yes, a good deal of it. I wanted home; I had enough of it.

MR. BORAH: The stenographer says that I misspoke on exhibit, and I want to identify it in the record properly. The exhibit which I referred to in the record as exhibit Y should be exhibit U and I want the record to so show. That is all, Mr. Burns.

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RE-DIRECT EXAMINATION

BY MR. BARROW:

Q Mr. Post, just a minute. Mr. Doran said -- will you describe that safety bar there at the 6th level? A Yes, it is a pipe, about two inches I should think; the pipe bolted on with a bolt at one part of the timber where it is put on and it crosses the shaft for safety.

Q Is it a gas pipe? A No, he generally used a water pipe there or an air pipe, for the others machines to work.

Q Do you remember the diameter of it, about? A About two inches, I should judge; it might be two and a half, I would not be sure.

Q Round? A Yes.

Q The Coroner asked you if you last saw that powder in the morning; what time in the morning? A That I last saw it?

Q Yes. A About five minutes past ten, I believe.

Q What do you mean by the last time you saw it? A When I took my truck with timber to go back to my work.

Q Not when you went in in the morning? A No, I went in once and came back and went back again with another load of timber.

Q And that is the time? A Yes, when I came out for another load of timber.

Q And that is the time you saw it? A Yes, and I can see it now.

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MR. BARROW: I think that is all.

RE-CROSS EXAMINATION

BY MR. DORAN:

Q Were you doing that work in this mine by hand drills or machines? A I was not drilling at all, I was a timber man.

Q I know, but those who were? A It was all machine work.

MR. DORAN: That is all.

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sure

D. C. CUPLEY, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q Give us your name in full please? A D. C. Cupley.

Q Where do you live? A I live at Ely, Nevada.

Q What is your business? A I am a watchmaker and jeweler.

Q How long have you lived there and been in that business?

A I have lived there since the 15th of July a year ago last July,— the 15th of this next month it will be two years.

Q Any connection with the railroad company in your business?

A I have worked for the S. P. Company there the greater portion of the time up until a short time ago.

Q That is the Southern Pacific? A Yes sir.

Q In what way have you worked for them? A In clerical positions, first in the superintendent's office, later in the freight office, and then in connection with it as Wells Fargo agent, and finally in the roadmaster's office, and as official watch-inspector for the division.

Q Are you that at the present time? A Yes sir.

Q And you are a jeweler, are you? A Yes sir.

Q Were you ever a miner? A Yes sir.

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Q How long? A I was mining,— that is mining and leasing in the Cripple Creek district for about six years.

Q And living where? A Living at Independence in the eastern part of the district.

Q Did you begin mining up there? A Well, yes, so far as practical work in the mines is concerned.

Q And you moved away from Independence, didn't you? A Yes sir.

Q When did you move? A I left Independence— well, I cannot say; the last time I was there was in December, 1903.

Q Yes, go on? A I left there at that time and have not been there since.

Q Were you a member of the Western Federation of Miners? A No sir, not at this time.

Q How long since you have been? A Something like a year ago, I believe.

Q You used to be a member? A Yes sir.

Q When did you join them? A I joined them on the 20th day of October, 1900, I believe it was.

Q And you formerly belonged to the Altman union, didn't you?

A No sir, not to Free Coinage union No. 19. I was one of the organizers of Altman Engineers union No. 75 and was a member of that union as long as it was in existence.

Q Did you at any time become a member of the executive board?

A Yes sir.

Q When? A In a convention of the Western Federation of Miners held in May, and I believe over into June; it must have been

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from the 5th to the 10th of June, 1903, that I was elated to the executive board.

Q How long were you a member of the executive board? A Two years.

Q These officers are elected for how long? A One year.

Q So you were re-elected the next year? A Yes sir.

Q And your term of office expired in May or June of 1904?

A Yes sir.

Q And while you were a member of the executive board, where were your headquarters? A My home was in the Cripple Creek district, and my headquarters was practically in Denver at the headquarters of the Western Federation of Miners although I was there very little.

Q Your business called you to various places, I suppose?

A Yes sir.

Q In connection with the organization? A Yes sir.

Q And your home during all that time was in the Cripple Creek district? A Yes sir.

Q Were you there during the strike? A I was there occasionally during the strike; not all the time.

Q Were you there at the time the strike began? A Well, I was not there steadily. I believe I was there and at Colorado City and in Denver, back and forth as my business called me.

Q Did you have anything to do with organizing the Colorado City smelters? A Yes sir, I organized the Colorado City mill and

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the Smelterman's union.

Q You started the trouble? A I guess so. That is what they say, at least.

Q But is the union where the first difficulty occurred, was it? A I believe so.

Q What did that grow out of? A It grew out of the conditions surrounding the employment of the mill and smelterman. As soon as there was an attempt at organization there the mill owners attempted to defeat the organization and there was more or less of that procedure right along up until the time of the strike.

Q Were men discharged at that time? A There were men discharged, yes sir.

Q And it grew out of those difficulties, did it? A Yes sir.

Q Did you know a man named Crane? A Yes sir, I initiated him into the union.

Q Yes, do you know who he was? A Well, he said he was a coal miner before he came there, but he was a mill worker there.

Q Do you know what else he was? A Well, I think he was in the employ --

MR. MORAN: Wait a minute. We object to what he thinks.

THE COURT: Let him state what he knows.

Q Did you discover afterwards what he was? A Yes sir, I did.

Q What was he? A A spotter.

Q That is another name for what? A For a detective, I suppose.

2674 Q How long was he there in your organization? A I don't remember

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the date on which he was initiated, but he was there for several months. I could not state exactly how long.

Q Did he leave town? A He did.

Q Did he have any prominence in the union? A He was recording secretary at one time, I believe. I think he was at the time he left town.

Q Do you recall how he left the town? A I was not there at the time.

Q Well, we will pass that then. Were you ever to Cripple Creek at the time that the strike began in Cripple Creek, or about that time? A I was there about that time; I could not —

Q Did you have to do with it? A I had something to do with it in advising with the strike committee.

Q What efforts were made there to keep order and quiet during those times? A The members of the unions were always advised in the local unions, or at any place, that if anything of that nature came up they were always advised along the lines of not making any disturbance, not committing any overt or unlawful acts by men and other officers of the organization.

Q And how was it there after the strike, up to the time the militia was called in? A At any time that I was there I saw no violence, saw nothing unusual, unless it be that it was quieter than usual.

Q Were you around there watching it? A I was around the district — over the district, visiting the various unions and naturally took notice of what was going on.

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Q Do you recall, or do you know when the militia came in there?

A I was in Denver I believe, when the militia went in there, but I knew of it -- knew it at the time they went in.

Q Was you back there afterward? A Yes sir.

Q Were there any other people sent or brought to the district by mine owners or operators? A Yes.

Q What kind of people? A Well, they were all sorts of people; supposed to be miners.

Q Any violent characters -- gun men?

MR. BORAH: Wait a moment. That is calling for a conclusion.

MR. DARROW: I guess that's right. I will withdraw that.

Q What character of men were brought there?

MR. BORAH: That calls for a conclusion of the witness also.

Q Well, what men were brought there then? A Well, there were men brought there as gun men, I understood.

MR. BORAH: Wait a moment. We object to what he understood and move that it be stricken out.

THE COURT: It will be stricken out and the jury are instructed to disregard it entirely.

Q What do you know about other men being brought there, if you saw them? A Well, positively I could not state that I saw them there, not being acquainted with those that were considered

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gun men.

Q How long were you there in the Cripple Creek district, or how much of the time were you there after the strike began?

A I was not there a great deal; just occasionally.

Q Just occasionally? A Yes sir, a day or two at a time.

Q The strike — the management of it, did you have to do with that? A Well, I had more or less to do with it in my position as a member of the executive board, I was supposed to advise with those who were on the ground and had direct charge.

Q The officers there had that? A Yes.

Q What part of the time were you out of the city up to the 1st of January — or out of the Cripple Creek district? A At what time did you mention?

Q I will say between the beginning of the strike and the 1st of January, what proportion of the time were you in the district and what proportion out — about? A Well, not very much of the time. I was there as I stated, on trips, going to Colorado City and up there on various trips, and to my recollection I was there at one time a week and other times a day or two at a time.

Q Were you there at the time of the explosion in the Vindicator mine? A No sir.

Q How long after it were you there? A I don't know that I remember the date of the explosion.

Q That was the 21st day of November, 1903? A I don't think I was there after that until the 12th day of December.

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Q Did you go there the 12th day of December? A Yes sir.

Q Anything happen to you? A Yes sir.

Q What happened? A I was thrown into the military bull pen.

Q Where were you found? A I was found at my home in Independence.

Q At day or night time? A At night.

Q What time? A It was about 12:00 in the morning of December 12th to my recollection.

Q What were you charged with? A Nothing that I know of.

Q How long were you in the military prison? A I was there until at noon, I believe on the 14th or 15th, I don't remember which. I think I was taken there on Sunday morning; I was arrested and taken into custody of the militia at 12:00 on Sunday morning or what we would call ordinarily Saturday night; just after arriving at home I was taken and taken to General Bell's headquarters in Independence, which was, or had previously been used as the offices of the Bull City pioneer mine. I was taken from my home there and kept there until Sunday morning and then taken to the bull pen at camp Goldfield close to Victor and kept there during Sunday and Monday until noon, I believe.

Q Were the others of the Retention there too? A No sir, there were no others there when I was there.

Q You are the only member of the executive board there at that time? A No sir, there was two other members of the board that went to the district with me.

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Q Where did they go to? A I don't know; I did not see them for some time after that.

Q Who were they? A James A. Baker and Mr. Kirwan the present acting secretary.

Q What was done with you after the time you describe when you were in the bull pen? A I was taken out and told that I could go, on Monday, I believe, dead noon.

Q Were you under bond to appear somewhere else at that time?

A I was.

Q Where? A At Georgetown.

Q And was that the reason given for your being released at that time? A Yes sir, it is; I learned later that it was. I was given no reason why I was turned loose at that time.

Q Were you under indictment at Georgetown? A Yes sir.

Q For what? A For conspiracy to commit a felony in the blowing up of the transformer house of the Sun and Moon mine.

Q At Idaho Springs? A Yes sir, at Idaho Springs.

Q And did you go over there to Georgetown after you were released?

A I did.

Q Were you convicted or acquitted after your trial? A I was acquitted.

Q When did that happen? A The acquittal, I believe, was I think the 31st of January to the best of my recollection.

Q Then where did you go? A I went to Denver.

Q How long did you stay in Denver? This Georgetown case was not a military tribunal, it was a trial before a jury,

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wasn't it? A A trial before a jury, yes sir.

Q And after you came to Denver how long did you stay there?

A I don't remember how long I stayed in Denver at that time.

Q Did you go back to Cripple Creek? A No sir.

Q Stayed away? A I did later; I don't remember the date, however, that I went back. I believe -- wait a moment, yes, I was back to Cripple Creek in February.

Q Did anything happen at that time? A No,-- that is, nothing to me personally.

Q Were you back at the time those cases were tried -- that case for wrecking a Florence and Cripple Creek train? A I was there at the trial one day, I believe.

Q And then you went back to Denver again, did you? A Yes sir, Colorado City and then to Denver.

Q Where were you at the time of the explosion at the Independence depot? A I was in Denver.

Q What were you doing at that time? A I was in attendance at the annual convention of the Western Federation of Miners.

Q What was the progress of the strike down at Cripple Creek at that time? A The strike was fairly satisfactory to us at that time.

Q Had a committee been down there? A There was a committee sent from the convention down there I believe to inquire into the conditions.

Q Had it made a report? A I believe they had, yes.

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Q And when did you first hear of the explosion and how? A To

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the best of my recollection I heard of it when I picked up the morning paper on the 7th of June.

Q How long did you stay in Denver after that time? A I stayed in Denver until the convention was adjourned, which I think was on the 10th or about that time, the 10th or 11th of June, and on the 14th day of June I believe it was I left there.

Q You were acquainted with Moyer and Haywood? A Yes sir.

Q Were you acquainted with Pettibone? A Yes sir.

Q How long had you known Pettibone? A To the best of my recollection I met Mr. Pettibone in May or June of 1900.

Q Where about? A In Denver, at the convention, I believe, of the Western Federation.

Q Where did you stop while you was there in Denver? A At this time, do you mean?

Q At the time of the convention? A In 1900?

Q No, I mean 1904. A I stopped at the Markham.

Q How was it as to the Cripple Creek Western Federation men coming there to Denver in large numbers at that time? A Why there was a great many of them came in there to the convention as delegates and there were a great many who came in who had been deported, near the close of the convention.

Q Where did they go, generally speaking? A Well, they were were taken care of in Denver at the various rooming houses and restaurants, etc.

Q Do you know the Belmont rooming house? A I believe I do.

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Q Over Pettibone's store? A I believe so.

Q Do you know whether a large number of them went there?

A Why, I believe there was some of them there.

Q Do you know the Granite rooming house? A That is the one I spoke of, calling it the Markham. I think they are the same if I remember right. Anyway it is the Granite that I stopped at, and I called it the Markham.

Q Now, you stayed until the convention adjourned? A Yes sir.

Q By the way, did you know Harry Orchard in those days? A Yes sir.

Q Where did you get acquainted with him? A I believe the first time I ever met Orchard to know who he was was in Cripple Creek, to the best of my recollection, in November, 1903.

Q How well did you know him? A Not very well.

Q Do you know where you met him at that time in Cripple Creek?

A I think I met him at that time in the library of Cripple Creek miners' union No. 40.

Q And had you seen him at other times in the district? A I might have seen him before that, I think I did, but not to know what his name was.

Q Did you see him in Denver at this time, do you know? A Yes, I have seen him in Denver.

Q No, I mean the time immediately after the explosion at the Independence depot, do you know whether you ran on to him there?

A I don't believe I did.

2682 Q Did you know Neville? A Yes sir.

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Q Where did he live? A He lived in Independence.

Q What was he? A He was a saloon keeper.

Q Well, when you got ready to leave Denver where did you go?

A I went to Cheyenne.

Q What was your purpose in leaving? A Why, I was advised quietly by a member of the Fire and Police board, an old friend of mine, that they were looking for me.

Q Any charges been made through the press and other ways against leading members of the organization at that time? A Yes.

Q And you went to Cheyenne? A I did.

Q How long did you stop in Cheyenne? A About two hours and a half.

Q Where did you go? A While waiting for the train I strolled up town and dropped into the saloon of Pat Horan.

Q Did you have charge of the office at any time, the general office in the spring there in Denver? A Yes sir.

Q When was that? A I don't remember the exact date, but it was at the time that Secretary Haywood was in the county jail there.

Q And where was President Moyer? A He was in jail at Telluride, I believe, or Ouray.

Q And you were keeping house while they were gone? A Yes sir, I was called back from Missouri to keep house while they were in jail.

Q How long were you there at that time? A To the best of my

2683 recollection, in the neighborhood of about two weeks,-- some-

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thing like that, possibly three, I am not positive about it.

Q You say you dropped into Pat Horan's saloon, I believe, in Cheyenne? A Yes sir.

Q Did you keep your name or keep it off? A No sir, I have never stopped this name off. It is good enough for me anywhere and any time.

Q Did you meet anybody you knew in Pat Horan's saloon? A Yes sir.

Q Who? A Bill Davis, Orchard and Neville.

Q How long did you see them there? A Probably thirty minutes, or such a matter.

Q Did you have any special conversation with Orchard? A I had very little conversation with any of them. I had a few minutes conversation with Davis and probably a word or two with Orchard and Neville. I don't remember speaking to Neville at all; I saw him there however.

Q And where did you go? A Where did I go?

Q From there, you A.I went to Omaha.

Q Went straight to Omaha from that place? A Yes sir.

Q Over the Union Pacific? A Yes sir.

Q And when did you come back from Omaha? A I have never been back from Omaha. I went from there over into Iowa and from there to Butte, Montana, later on, about two months. I stayed over in Iowa a couple of months and then on a message from Mr. Haywood I went to Butte.

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Q You say you was only in Cheyenne about two hours and a half?

A In that neighborhood I believe,— something like two hours and a half.

Q And when you got back to Butte did some communication call you to Butte, to go there? A Yes sir, a message from Mr. Haywood.

Q And di you go into some business for the Federation membership after that? A I took charge of a stereopticon lecture tour.

Q That was representing what? A Cripple Creek eruption.

Q Moving pictures of the Cripple Creek affair down there?

A Yes sir.

Q The deportations and the like? A Deportations, and the Independence depot after the explosion and the hall that was shot to pieces, etc.

Q And what else— hall panel? A Yes, military headquarters and all of these things that we have been able to get.

Q And it was a description of the troubles there in the Cripple Creek district, was it? A Simply an illustrated story of the Cripple Creek trouble.

Q And you went with that, giving talks or lectures through the west, did you? A Yes sir.

Q Generally speaking, where did you go — not every place?

A From Butte we went to Helena and Great Falls and many other places — I have no recollection — I have not kept it in my mind the places that we visited; however, we visited a great

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many points in Montana, in Idaho, and Washington, Oregon, and finally wound up at San Francisco.

Q What time did you get to San Francisco? A I arrived in San Francisco, to the best of my recollection, about the 29th or 31st -- I believe it was the 31st of November.

Q What was the proceeds of this for? A The proceeds were for the maintenance of men on strike in the Western Federation of miners, the members of the Federation.

Q Was anybody with you on this tour? A Yes, there was a man by the name of Dunlap and a man named Glass.

Q And you wound up in San Francisco? A Yes sir.

Q Did you give an exhibition there? A Yes sir.

Q Whereabouts? A In the Alhambra theater on the corner of Sixty and Jones, on the 4th day of December.

Q Were there one night? A Only one.

Q Did you see any distinguished guest in your audience that night? A Well, there were about 2,000 people there -- 1800 or something like that and I presume some were more or less distinguished.

Q Did you see Harry Orchard there? A I did.

Q Where was he? A Well, when I was just adjusting or focusing the electric lamp used for displaying the pictures on the canvas just prior to the lecture, I had darkened the house so I could see how it would focus on the canvas, and when I again turned the light on, that is, when I had finished with the focusing and the house was not darkened any longer, he was standing

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near me in the gallery where I had the lamp.

Q Had you seen him since you parted with him in Cheyenne?

A That was the first I had seen of him.

Q Had you known he was in San Francisco at the time? A I had no intimation where he was. I did not know he was in San Francisco until that time.

Q Well, what did he do afterwards? A What was the question?

Q Where did he go after that? A He attended the lecture and I saw no more of him for several days, and about a week or so after that he came to my room. I believed he inquired my number at that time, and he came to my room.

Q Whereabouts was that? A To the best of my recollection it was 242 Kearney street.

Q Do you know how he knew your room -- where it was? A I believe he inquired of me the night of the lecture, and I gave it to him.

Q What time of night did he come there? A Why, to the best of my recollection it was along just after dinner, probably six or seven o'clock, or a little later perhaps.

Q What did he talk about while he was there? A Why, I believe we discussed the social ans of the Federation and he brought up the matter of the Bradley explosion and wanted to know if I had seen it in the papers; I told him I had.

Q What did he say about it? A He remarked that that was one of the gang that had gotten what was coming to him, and that

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there was others, mentioning Steunenberg's name that would likely get the same done later.

Q Did he say anything as to why he had any such feeling towards Steunenberg? A He told me of his connection at one time prior to that with the Hercules mine and seemed to have a grievance on account of having to leave Idaho as the result of the trouble there at which time, or about which time, he found it necessary to dispose of his interest there, and that was why he had a feeling against Bradley and Steunenberg and others that took a prominent part in the deportations and bull pen at that time.

Q Did he tell you what he was doing there? A He didn't tell me that he was doing anything except the soldiers.

Q What did he say about the soldiers? A He said he was making some easy money off of the soldiers down at the camp Presidio gambling.

Q Did he come back again? A He was there probably a week after that — some few days after, I don't just remember how long.

Q For what purpose, what did he say when he came? A I don't know. He called as he had done before and was in my room probably an hour or so in the evening, the same as he had been before, and he asked me at that time if I had read about — that day or near that day, in the papers of some one, I don't remember who now, that had been convicted of mutilating United States coins — twenty dollar gold pieces — by drilling into the edges of them and extracting the drillings and filling

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them up with base metal and passing them off as legal coins. I remember that very distinctly from the fact that being a jeweler I did not think the grilled edge could not be filed up so it would not be noticeable and he wanted to know if I did not think that business could be carried on with a profit.

Q What did you tell him? A I told him he was talking to me with the same success that the other party did, that he would wind up in a penitentiary if he attempted it, that there was nothing in it even if he could do it for a while, that he not make only about wages and he could make wages anywhere and he would be taking chances, and I would advise him not to do it.

Q Did he see you again later? A He did. He came to my room again,— at that visit I am speaking of now he told me he was going to leave San Francisco and he wanted to leave in disguise because he was going back where perhaps they would know him and he asked me if I had any objections to his coming to my room and changing his apparel there— his civilian's clothing for a soldier's uniform that he said he had procured from the soldier at the Presidio, and he asked if he could come there and put on this soldier's uniform and pass out of the city as a soldier.

Q Well, did he do it? A He did.

Q Then— the same day or— A No, it was some days later. I don't remember just how many, but to the best of my recollection it was three or four days; I don't remember the date.

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Q Did he have any spectacles? A I believe he did.

Q Did you go out and buy him some spectacles? A I don't recollect that I did.

Q Did you go and buy any for the purpose of disguising him, or suggest any such matter to him? A Not then, no sir.

Q Do you remember any such instance? A No sir.

Q Did you ever know anything about any inner circle inside the Western Federation of Miners? A No sir.

Q Excepting what you have read in the newspapers? A That is all I know about it.

MR. MARSH: You may cross examine.

CROSS EXAMINATION

BY MR. HOGAN

Q About what time was it that you reached San Francisco with your exhibition? A To the best of my recollection it was the 21st of November.

Q 1903? A 1904.

Q When did you exhibit it? A On December 4th following.

Q That is when you saw Orchard? A Yes sir.

Q December 4th, 1903? A 1904.

Q He came to your lecture room or to the hall and the first you saw of him was when the lights were turned on? A Yes sir.

Q And you recognized him of course immediately? A I did, yes sir.

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Q And when was it he called on you at your room with reference to that night? A It was some days after that; I don't remember,— probably a week or four or five or six days.

Q You stayed there but one night, but you was there some time?

A I was there until the 22nd of December.

Q When he called on you this first time was that the time he talked with you about the Bradley affair? A I believe it was the second time he was there; it may have been the first, I am not positive.

Q Had you read anything about the Bradley matter in the papers prior to his coming? A I think I saw it very soon after I landed in San Francisco, in the papers.

Q Did you bring up the subject or did Mr. Orchard? A He brought it up.

Q Appeared to desire to call your attention to it and discuss it?

A He did.

Q And said that there was one man that got what he deserved?

A That is what he said.

Q And coupled with it the statement that there were more who would get it later? A Yes sir.

Q And mentioned the name of Governor Steunenberg? A He did.

Q Did you infer from that that he was making a threat against Steunenberg? A I might have perhaps, that he was making an idle threat.

Q The fact that Bradley had been blown up a few days before

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and him commenting on it as he did together with his statement that there were others who would get it in the same way, and he expressed his feeling against Steunenberg, and all that did not lead you to believe it was more than an idle threat?

A No, I had no reason to believe or even think that he was connected with the Bradley explosion at that time.

Q But you had reason to believe that his threat against Gover or Steunenberg— A He connected their names together in that way, but that did not lead me to believe that it was anything more than an idle threat.

Q Didn't he state to you that Mr. Bradley was one of the parties who drove him out of the Coeur d'Alenes? A He stated that he was connected with the conditions there that caused him to leave.

Q And sacrificed his property? A Yes sir.

Q And still you did not regard it any more than idle talk on his part? A No sir.

Q Didn't you know he was a criminal? A No sir.

Q But you learned it soon afterwards? A Yes sir.

Q Then didn't you reflect back to the proposition that perhaps he had something to do with the Bradley matter? A No sir, I don't think I thought much about it.

Q He stood desirous of coming to your room and discussing the subject of the blowing up of Bradley and that he was going to kill Steunenberg? A I don't think he mentioned the Bradley

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affair but the once.

Q But he did call it to your attention? A Yes.

Q And called your attention to the fact that Mr. Steunenberg was likely to go in the same way? A That is about the drift of his conversation.

Q And called your attention to the fact that he had a disposition to go into the coin shaving business? A Yes sir.

Q And that did not excite your suspicion at all? A No, not to any extent.

Q Did you ask him why he did not change his clothes in his own room? A I don't remember that I did.

Q But he asked you if he could come to your room and change his clothes? A Yes, he did.

Q And told you why he wanted to do it? A He told me he was going back to Denver, or Salt Lake, or somewhere, and for fear that they might get hold of him in connection with the strike — that is all I thought of it.

Q In order to keep from being arrested in Denver he was going to start out of San Francisco with a soldier's suit on?

A I took it that he feared that they were liable to be looking for him anywhere.

Q And for that reason it was more convenient to come in your room and prepare for his escape? A Well, I presumed that he might have given up his own room.

Q Did he go out and get some spectacles, do you know? A I don't

2683 remember about that. To the best of my recollection he had

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glasses on when he left; that is, what we use for severe sunlight, when there is a glare.

Q Did he tell you that those glasses were for the purpose of concealing his identity also? A No sir, I don't remember that he did.

Q He seemed desirous of going back to Denver? A He seemed to be desirous of going somewhere in that direction.

Q And he gave you to understand that he anticipated trouble when he got there? A He seemed to want to disguise himself.

Q You understood that he expected trouble when he got to Denver?

A He did not say

Q Didn't it occur to you that he was possibly trying to get out of San Francisco without being identified? A I don't know that I gave it a thought in that particular.

Q But you did feel that you had a criminal in your room changing his clothes for the purpose of leaving the city? A I had not known of any criminal act he had done, any more than he had talked of it.

Q You knew he was down there gambling with the soldiers? A He told me that yes.

Q You know he tried to mutilate coin? A No sir, I do not. He told me he thought of it and we had that conversation.

Q And you knew he was trying to disguise himself? A Yes sir, at the time he left there.

Q That must have suggested to you the possibility that he was

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in some criminal enterprise? A Under the circumstances I don't know that it would to any great extent.

Q You had never known Orchard as a criminal before? A I had not.

Q Did you know that he was suspected of the Independence depot explosion? A I don't know; but I perhaps might have known of that, but there was others suspected that I presumed was as far from it as he was.

Q But there was nothing you knew of in Denver as to why he should be covered up? A Nothing more than as many others who changed their names and their appearance perhaps.

Q Was this true in December, 1904? Was the conditions in Denver such that a man could not go about there without concealing himself in Denver in December, 1904? A I was not there at that time, but I presume there were men who would have been picked up perhaps, if they had been there.

Q Now, when was the last time you saw Orchard before you saw him in San Francisco? It was in Cheyenne? A Yes sir.

Q And he was then in company with Pat Ford? A Yes sir.

Q He was an old friend of Mr. Pettibone? A I don't know.

Q Did you ever see him down to headquarters? A Not that I know of.

Q How did you come to go into Pat's saloon? A It was the first place I came to as I went up the street.

Q And you dropped into the saloon? A Yes sir.

2695 Q And it was a pure accident that you dropped into the same

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saloon that Orchard and Neville were in? A It certainly was.

Q But after you reached that saloon you found those people there and had a talk with them? A Yes sir.

Q And you saw by the papers that Orchard and Neville were suspected of this depot explosion? A I presume I did, but what I got out of the papers in regard to those things seldom has much effect on my believing it.

Q It some times causes a man some trouble, don't it? A I don't know about that; it never has me.

Q Who was the friend that had been advising you in Denver that you had better leave? A He was a member of the fire and police board.

Q What was his name? A It did not come to me directly from the friend; it came through another party.

Q Who was the friend that it started from, do you know? A Yes sir.

Q What was his name? A T. S. Kemp.

Q Who told you? A I forget who told me.

Q That was the reason you were leaving Denver? A That was the reason I left Denver at that time.

Q You had not done anything to leave for, had you? A Not that I recollect, no sir.

Q What was Davis doing at Cheyenne? A I don't know.

Q And what was his name, there in Cheyenne? A Davis, as far as I know; that is what I called him.

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Q You did not know he had taken another name? A I did not.

Q He had his regular name so far as you were concerned in your communication with him? A Yes sir.

Q Now you say when the troops came in in September, 1903, everything was quiet? A Yes sir, as far as I know.

Q There had not been any disturbance there of any kind? A Not to my extent that I heard of.

Q What time did the troops come in? A To the best of my recollection it was about the 3rd or 4th of September, somewhere along there.

Q And had there been any disturbance at all from the 1st to the 4th of September that you know of? A Not that I recall to mind now.

Q Were you there? A No, I was not in the district.

Q Where were you? A I was up in Denver, or Colorado City, or Idaho Springs.

Q Then you did not have any way of finding out, did you?

A Just that old newspaper rot, that is all.

Q But there was some that seemed to indicate that there was some disturbance? A Some times.

Q You saw something in the paper about old Mr. Stewart?

A I believe I did.

Q Did you know Steve Adams at that time? A Yes sir.

Q Did you know Lafferty? A Yes, I believe so.

Q Did you know Hadin? A Not that I remember.

2697 Q Know a man named Charley Campbell? A No.

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Q You had not known anything about the Telluride matter except what you read in the paper? A I believe that is all I know of it. I think, however, I heard of it later, when I went in the district.

Q Yes, but you did not know anything about the trouble with old man Stewart up there? A Not at the time, but I think I did hear of it when I went up there in that district later. But to my recollection I have never heard of the Hawkins matter until I heard it here on this stand.

Q Now, did you know anything about the non-union men trying to go to work on the Cycle mine on the 1st of September?

A Why, I believe I heard something of it.

Q Did you hear what the result was? A To the best of my recollection there was men went to work there.

Q Do you remember about the excitement there when the non-union men tried to go to work? A No sir.

Q Then as to these three instances happening; in reference to the non-union men trying to go back to work and the beating up of Mr. Hawkins and old man Stewart, you know nothing about it? A Nothing except the Stewart matter.

Q Now, you say you had some trouble at Georgetown? A No, I did not have any trouble.

Q I understood you went down to Georgetown for trial?

A Yes.

Q And that was by reason of trouble that had arisen where?

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A At Idaho Springs.

Q What was that? A A strike on the Sun and Moon mine.

Q Were the Western Federation of Miners involved in that?

A Yes sir.

Q Did you knowlyte Gregory? A I saw him I believe in Idaho Springs.

Q He was a witness in that affair, wasn't he? A I don't think so, no.

Q He was known as one of the detectives working for the mine owners there, wasn't he? A Yes, I believe he was.

Q And was recognized as being identified with them in that matter? A I believe so, to the best of my recollection.

Q Did you know who Mr. Bradley was, Mr. Copley? A I had no recollection of ever hearing of Mr. Bradley at that time until Mr. Orchard mentioned the fact and related the story and then I remembered that I had heard of him in the time of the Coeur d'Alene trouble.

Q He was the manager of the mine that was blown up, as you understood it, on the 29th of April, 1899? A I don't remember whether I knew that he was the manager or not. I recall something about his having some connection with the Coeur d'Alene trouble.

Q He was one of the consulting parties in the management of the mine in 1899, was he not? A I don't remember.

Q Did Orchard tell you what connection he had with it? A I don't remember that he did.

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Q He did not mention that? A I don't remember that he did any more than he was concerned with the trouble there.

Q Did he tell you what mine he was connected with? A I don't remember about that.

Q You say you know Mr. Pettibone? A Yes sir.

Q He is a member of the Western Federation of Miners? A I believe he is an honorary member.

Q A man who takes considerable interest in the affairs of the organization? A I don't know that he does.

Q Did you know he was a friend of Mr. Orchard? A No sir, I don't know that.

Q And Orchard did not say anything in San Francisco about Pettibone being his banker? A No.

Q Did you talk anything about the Colorado matter with Mr. Orchard when he was in San Francisco? A I don't remember; I don't recall that we talked anything about conditions there particularly.

Q Now, at the time of the Independence depot explosion I understand you to say that the strike was in a satisfactory condition to you people? A I believe so.

Q There had been a committee sent down there to converse with the men once at that time? A There was a committee sent to the district, I believe, to investigate some and see what the conditions were. The strike committee who had the conditions there in charge were in attendance at the convention and had made their report.

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Q Now, what mine was running in the Cripple Creek district on the 6th of June, 1904, as a union mine except the Portland?

A I think there were none except the Portland; perhaps there might have been a lease or two,-- I am not positive about that.

Q The Portland had its own smelting works? A It milled its own ore.

Q And for that reason it was permitted to run? A There was no trouble on the Portland. There was nothing to prevent their running.

Q The trouble arose over those mines who smelted their ore at this particular smelter where the trouble had arisen? A Well, probably yes, that was the beginning of it.

Q Now, they were all non-union mines at the time of the explosion were they not? A All except the Portland and some leases.

Q How many mines were working in Cripple Creek, do you suppose, at the time of this explosion? A I could not tell you; not very many.

Q How many mines were operating at that time? A I could not tell you.

Q The Findley? A I believe it was.

Q The Vindicator? A I think it was working a few men.

Q Can you think of any others? A Possibly the Hull City placer and their might have been some men on the Golden Cycle; there were a great many of those mines there but I don't remember how many were working.

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Q And that was the condition of affairs at the time of the Independence depot explosion? A Yes sir.

MR. BORAH: That is all I think.

RE-DIRECT EXAMINATION

BY MR. DARROW:

Q Mr. Copley, just a word more: When you met Orchard there in San Francisco and he spoke about the Bradley explosion, did he say anything to intimate that he had blown up Bradley's house?

MR. BORAH: How is that?

Q Did he say he had blown up Bradley's house? A To the best of my recollection the inference would have been that he had something to do with it, and yet I had little confidence in the man and I doubted very much whether he had or not.

Q You did not think he had? A I hardly thought so.

Q Did he say anything about whether the newspaper reports were true — or what the newspaper reports claimed it was?

A I don't remember about that.

Q And do you recollect yourself as to what the newspaper reports were? A To the best of my recollection, as I read it, and at the time he told me about it, it refreshed it in my memory, and to the best of my recollection it was claimed at that time to be an explosion of gas caused by a leak in a pipe. I just read it casually. I did not know Bradley and had no

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thought of its being any person we had had any trouble with as an organization — the Western Federation of Miners.

Q Did you think anything especially about what Orchard said in connection with it? A It did not hang heavily on my memory at all, because those things are common.

Q He was discussing what the newspapers said about it? A He brought the matter up, I remember that.

Q Now, as to his trying to discuss the matter, do you think of anything any other matter except in the Colorado trouble in connection with that that he brought up? A I have no thought of it.

Q Had you ever known anything or had any reason to think of anything as to Orchard being a criminal any more than a shoestring gambler?

BORAH:

MR. [redacted] I suggest that if counsel is going to testify he be sworn.

Q You were indicted at Idaho Springs, you said? A Yes sir.

Q Do you know why you were indicted? A Well, I don't know that I do more than because I was an officer of the Western Federation of Miners. I know no more about the explosion than you did, I was not in the district at the time it occurred and had no connection with any one there and absolutely knew nothing about it.

Q And you were never called on to defend yourself — to testify?

A No sir, I was never put on the stand.

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MR. DARROW: That is all.

MR. BORAH: That is all.

Thereupon the court gave the jury the statutory admonition, the bailiffs were sworn and the jury retired in charge of the bailiffs, the defendant was remanded to custody and court was adjourned until nine o'clock A. M., Saturday June 29th, 1907.

Adjourned.

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Boise, Idaho, Saturday, June 29, 1907.

9:00 o'clock A.M.

Parties met pursuant to adjournment.

The minutes of the session of June 28, 1907, were read and the same were signed by the court.

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

DENNICK FLYNN, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. HARRY:

Q. Give us your name, please. A. Dominick Flynn.

Q. Where do you live, Mr. Flynn? A. Wallace, Idaho.

Q. That is up in the Coeur d'Alenes, isn't it? A. Yes sir.

Q. A mining town? A. Yes sir.

Q. What is your business? A. Merchant.

Q. How long have you been a merchant? A. About nine years.

Q. In that town? A. Yes sir.

Q. How long have you lived in Wallace? A. Nine years about.

Q. Where did you come from before that? A. Why, I lived in Coeur d'Alene for about twelve years.

Q. Do you know Harry Orchard? A. Why, yes, I know a man by the name of Harry Orchard.

Q. Where did you first know him? A. I knew him when he was travelling between Wallace and Gem, or Burke rather, when I first knew him.

Q. What was he doing? A. He had charge of a milk wagon.

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Q. That was eight or ten years ago I suppose? A. Yes sir.

Q. How well did you know him in those days? A. Well, at those times I wasn't very well acquainted with him, just knew him as a man on the milk wagon was all.

Q. What was you doing in those days? A. I worked in the Prince mill at that time.

Q. When did you start your store? A. It was in August, '20.

Q. What kind of a store was it? A. A cigar store.

Q. Did the boys ever play cards in the store? A. Yes sir.

Q. In the main room or in another room? A. No sir, it was in a club room in connection with it.

Q. Do you remember the day the Hunter Hill & Sullivan mill was blown? A. I do.

Q. Or want up. How far is Millen from Wardner? A. It is between 18 and 20 miles.

Q. Is Millen on the main road between Burke and Wardner? A. No.

Q. Is it on a railroad? A. It is on a railroad between Wallace and Missoula.

Q. How far from Wallace is it? A. Seven miles.

Q. Do you recall that day? A. I do.

Q. Do you know how it was as to whether any considerable number of people left the town that day? A. Why, yes, there was; the town was very quiet that day.

Q. Did you leave the town? A. No sir.

Q. What did you do that day? A. I was attending to business.

Q. Were there many people around your place of business and in town that day? A. Not very many, no.

2706 Q. Was there a poker game there that day? A. There was, yes.

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Q. Do you know who was there? A juror has difficulty in hearing, Mr. Flynn, and I wish you would speak a little louder. You say there was a poker game in your store that day? A. Yes sir.

Q. Who was playing? A. Well, there was four or five different parties.

Q. Was Harry Orchard there? A. Yes sir.

Q. Do you remember what time he was there? A. Well, it was between noon and four o'clock in the evening.

Q. Did you hear the explosion at the mill? A. No sir, I did not.

Q. Did you learn of it at some time during the day or evening?

A. Along towards evening I did.

Q. Do you recall about when people commenced coming back up to Wallace? A. Yes sir.

Q. About when was it? A. I should judge about seven, between seven and eight o'clock.

Q. In going thereabouts would they go first, from Wallace to Gardner? A. Why, they would have to go to Wallace.

Q. Do you know about what time people commenced going away in the morning, those who went? A. I don't know the exact time, no. I saw a number of people crowding around between half past nine and ten o'clock.

Q. Were you at the store all day? A. Yes sir.

Q. Where did you live in reference to your store? A. I roomed in the upper part of the store.

MR. HAWLEY: You may cross examine.

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CROSS EXAMINATION

BY MR. HORAN:

Q. Were you ever a member of the Federation, Mr. Flynn?

A. No sir.

Q. How long have you been in business at Mullan? A. About nine years.

Q. Did you ever work in a mine? A. No sir.

Q. And never belonged to any organization? A. I have belonged to organizations, yes.

Q. Any labor organization? A. No.

Q. How long had you known Harry Orchard prior to the 29th of April, 1899? A. Why, I should judge about a year and a half or so.

Q. How long had he been in the habit of playing poker in your place? A. Why, he had been around that district between six weeks and two months.

Q. Had he been in that district and in your house off and on for the last six weeks? A. Yes sir.

Q. Prior to the 29th of April? A. Yes sir.

Q. Was he there upon the day prior to the 29th of April?

A. The day prior?

Q. Yes, in Mullan? A. I think not.

Q. How long had it been prior to the 29th of April that you had seen him in your room? A. I don't recollect just the number of days.

Q. How long had it been since you had observed he was there playing poker? A. Why, the time before I remember him playing there about, possibly two weeks beforehand.

Q. About two weeks? A. Yes.

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Q. That would make it then about the 15th of April? A. I don't know -- somewhere in that neighborhood. I don't know the exact time.

Q. Who was with him at the time he played these two weeks before?

MR. RICHARDSON: Can you speak up a little louder, Mr. Flynn? We can scarcely hear you over here and I don't see how the jury can hear you at all.

A. Why, I remember one man simply that played there.

Q. The two weeks before? A. Yes sir.

Q. What? A. His name was Mahle.

Q. Where does he live now? A. He lives in Milan.

Q. What does he do? A. He is a bartender.

Q. He is there at present, is he? A. Why, I think he is here at present.

Q. How that was about two weeks before? A. I should judge about that.

Q. And Mahle, I presume, was playing with him on the 29th?

A. Yes sir.

Q. Who else was playing with him the two weeks before?

A. I think there was a man by the name of Wells played with him.

Q. Do you know where he is? A. No sir, I don't.

Q. What was Wells' business? A. Wells was a miner.

Q. Is he in that country now? A. Not that I know of.

Q. Was Wells playing on the 29th? A. No sir, I don't think so.

Q. He was down at Durango I reckon? A. I don't know, I am sure.

Q. Do you know where he was? A. I don't know, I am sure.

Q. Did you see him that day? A. Wells? Yes sir, I saw him in the evening.

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Q. After the train got in? A. Why, there was no train in the evening that I know of.

Q. Well, after the boys got back from Wardner? A. Yes sir.

Q. And you understood he had been down to Wardner, did you?

A. I didn't ask him any questions.

Q. Well, did you understand that he had been down there?

A. No, I didn't understand that he was.

Q. Hadn't seen him around town that day prior to the time of their return, had you? A. No sir.

Q. Now who was playing with Orchard on the 29th of April?

A. Well, there was a man by the name of Colonel Moore.

Q. Colonel Moore? A. Yes sir, Eddie, and I played part of the time myself.

Q. Anyone else? A. Why, I think there was others, but I don't recollect just who they was.

Q. You can't recall? A. No sir.

Q. Was Harry there the next day? A. I don't remember of seeing him.

Q. Was he there the next after that? A. No sir.

Q. Did you ever see him again? A. I never saw Harry afterwards.

Q. That was the last time you ever saw Harry Orchard? A. Yes sir.

Q. On the 29th of April, 1899? A. Yes sir.

Q. And never saw him in your store in a game of poker, or any place else, after that? A. No, I never saw him afterwards.

Q. And that was the last time he ever appeared there in any way, shape or form? A. Yes sir -- well, I don't know as it was, but it was the last time I saw him.

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Q. I mean the last time that you ever saw him there, and about

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what time in the day did the game break up? A. Well, I should judge about four o'clock. I don't know the exact time.

Q. Was that in the afternoon? A. Yes sir.

Q. Then they began playing about noon, did they? A. Somewhere in that neighborhood, yes.

Q. That was about the time the mill was blown up?

A. I don't know the exact time the mill was blown up.

Q. Well, you understood about the time it was blown up?

A. No, I understood the mill was blown up about three or —

Q. You did understand so? A. Yes sir.

Q. Who did you understand that from? A. Well, from what I heard from people around town.

Q. He came in to play about twelve o'clock and played until about four? A. I don't know the exact time he came in. It was somewhere in the afternoon.

Q. And he was a frequenter of your place prior to that, was he?

A. He was, yes.

Q. Do you know where he had been working in any of the mines?

A. Yes sir, I know where he had been working at times.

Q. Where? A. Why, he used — he had a wood contract, I believe, or something similar to that. He was cutting wood.

Q. Where was he working at any of the mines? A. Why, I don't know.

Q. Did you know of his being in the Tiger-Poorman? A. I knew of him being in Burke.

Q. When was he in Burke? A. Why, he was shipping wood over there, Tim a wood yard there, and he used to come back and forth to Wallace.

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Q. Did you know of his working in a mine at Burke? A. No.

Q. You did not? A. No.

Q. Had no knowledge of that at all? A. No sir.

Q. Where was he stopping when he was in Wallace at this time on the 30th of April? A. Where was he stopping?

Q. Yes. A. In what hotel do you mean?

Q. Yes. Where did he lodge whether in a hotel or --

A. I don't know.

Q. What? A. I don't know. I didn't ask him.

Q. Have you ever ascertained since where he stopped? A. No sir.

Q. Don't know where he was rooming? A. No sir.

Q. Nor where he was eating? A. No sir; I think he used to eat at the Wallace house.

Q. Do you know whether he stopped there or not, roomed there or not? A. No sir, I don't.

Q. How far is it from Wallace to Wallace? A. Seven miles.

Q. By road? A. Yes sir.

Q. And in a direct line is it any closer? A. That is the direct line.

Q. That is the most direct line, is it? A. Yes sir.

Q. How many did you first make a statement to anyone about seeing Harry up there on the 29th of April? A. I don't recollect just when it was.

Q. Can't you recall when it was? A. I know there has been several times asked me about it; I don't know just the exact date.

Q. When was it you first talked with anyone and whom did you talk to? A. I talked with Mr. Nourse.

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Q. Who? A. Lawyer Nourse.

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Q. When was it? A. I should judge about two weeks ago or so, maybe three weeks.

Q. Had you ever talked with anyone between 1899 and that time in regard to this matter? A. In regard to which matter?

Q. In regard to Harry Orchard playing cards, poker, with you that day? A. Yes, I did.

Q. Whom did you talk with? A. I don't recollect — some of the boys around town.

Q. Can't you recall any of them? A. Not distinctly, no, because there has been so many different conversations.

Q. Where did Wourms see you in regard to this matter in the first instance? A. Mullan.

Q. Came up there to see you? A. Yes sir.

Q. Had you told him prior to that in any way, directly or indirectly, of your knowledge.

Q. He came and asked you if he was playing poker in your house that day? A. Yes sir.

Q. You don't know how he came by the information? A. No sir.

Q. And you told him that he was? A. I told him he was.

Q. You remembered it immediately? A. I did.

Q. You remembered immediately that he was therethat day?

A. I did.

Q. And who the particular parties were? A. Yes sir.

Q. Was Mr. McHale present when Wourms was talking to you?

A. No sir.

Q. You have talked with McHale since? A. Why, yes, I have talked with McHale.

Q. About this matter? A. Yes sir.

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Q. Did you say that Mr. Orchard had been in the habit of playing cards in your place before the 27th? A. Yes sir.

Q. Almost every day would you say? A. Not every day, no:

Q. Every day or two? A. Well, no.

Q. Well, how often? A. Well, probably every week or so.

Q. Where did he come from when he came over there to play, do you know? A. He was in a wood camp out about five miles from town.

Q. You he over there once or twice a week? A. I should judge about once a week or so.

Q. For how long had that extended? A. I should judge about six weeks.

Q. How far is it from Wallace to Burke? A. In what -- direct line?

Q. Any way that you would go by a practicable route? A. You can go across the divide in about four miles and you can go around the other way in about fourteen miles.

Q. Any means of conveyance by rail or anything of that kind?

A. Why, yes, by going the way of Wallace there is.

Q. You would go down to Wallace: How far is it if you would go by Wallace? A. It is about fourteen miles.

Q. You go down by Wallace and then you would take the train to Burke? A. Yes sir.

Q. But you have to go from Mullan to Wallace by road?

A. By the railroad or road, either one.

Q. How far is it from Mullan to Wallace, do you say?

A. Seven miles.

Q. And from Burke to Wallaceseven miles? A. Seven miles.

Q. And from Mullan across to Burke about four miles?

A. About four miles, between four and five.

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Q. Is it a mountain country there? A. Yes sir.

Q. The usual routeof travel then, I presume, from Burke to Mullan would be by way of Wallace, wouldn't it? A. It all depends. Lots of men goes over the hill.

Q. Now on the 29th of April most of the miners went down to Burke, didn't they? A. Why, they left Mullan. I didn't ask them any questions where they was going.

Q. About what time did they leave there? A. I should judge they left town about ten o'clock. I didn't ask them where they went, though, or anything at all.

Q. No, of course not, but how many of them left? A. I don't know.

Q. Do you know about how many? A. I have no idea how many left.

Q. Did you see them going? A. Well, yes, I saw some of them leave, yes.

Q. About how many did you see going? A. Why, there was possibly a hundred in the crowd when I saw them leave.

Q. Were they armed? A. I didn't see no arms.

Q. Did you see any masks? A. No sir.

Q. Did you see them coming back? A. No sir.

Q. Didn't see any of them coming back? A. No sir.

Q. Where were you about the time of their return? A. I was in my store.

Q. But you didn't observe any of them? A. I didn't observe none that — I didn't ask them whether they had been to Wardner or not.

Q. You know by this time the mill had been blown up?

A. I did, yes sir.

Q. You know as a matter of fact they were down there on that

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mission, didn't you? A. No sir.

Q. You didn't learn that at all? A. I learned that the mill was blown up but I didn't learn they was going down for that occasion.

Q. Did you learn they had been down for that occasion?

A. No, no.

Q. Never learned that at all? A. I learned that they had done it, but I didn't learn that they had went down for that occasion.

Q. How? A. I found out that they had done so, but I didn't learn that they went down for that occasion.

Q. You learned afterwards that they had been there for that purpose, didn't you? A. I don't know as I did, because there was a dispute as to whether they went down for that purpose or not.

Q. But after they went down and came back the mill was blown up? A. The mill was blown up, yes sir.

Q. Did you know any of them individually, personally?

A. Why, I don't know as I knew any of them as ever acknowledged being down there.

Q. Did you know any who went down to your knowledge?

A. Why, yes, I did know some of them.

Q. Who were they? A. Well, I could recall their names now.

Q. Don't you recall any of them? A. Why, yes, I expect I could.

Q. Well, try. A. There was a fellow named Morrison, and Sullivan--

Q. Morrison, what was his first name? A. I think his first name was Pat.

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Q. What was Sullivan's name? A. John.

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Q. Anybody else? A. Why, yes, there was several others.

Q. Well, give me the names of them? A. I think there was a man by the name of Craddick.

Q. Craddick hasn't been in that country since, has he?

A. Why, not that I know of.

Q. He left that night and has never been back since?

A. I don't know whether he left that night or not.

Q. Well, you have never seen him since, have you?

A. Yes sir, I have.

Q. Where did you see him? A. In Dallas.

Q. How long after the blowing up of the mill?

A. Why, possibly a week.

Q. Have you ever seen him since that time? A. Yes sir.

Q. Where did you see him? A. I seen him in Dallas afterwards.

Q. How long after? A. Possibly a year.

Q. You know that he was indicted for murder, didn't you?

A. I know that he had been arrested on that charge.

Q. You know he had been arrested? A. Yes sir.

Q. You know he afterwards escaped jail?

A. Well, if that is what you might call it.

Q. What would you call it? A. The name it went by there was a ball pen.

Q. Well, he escaped prison, did he? A. I expect so. I don't know whether he escaped. He got away some way.

Q. Did you see him after he escaped? A. I did, yes.

Q. Where did you see him? A. In Dallas.

Q. How long was he there? A. Why, I don't know.

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Q. Did you tell any of the officers that he was there?

A. The officers saw him.

Q. Who saw him? A. Different officers.

Q. What officers? A. Harry Williams for one.

Q. Who else? A. That is the only officer outside of the policeman.

Q. How long was he in Mullan at this time?

MR. DARROW: Your Honor, I don't want to object, except that this is not at all cross examination, and I want to give the court a chance to rule on it.

MR. DORAH: I just want to ask one more question.

MR. DARROW: Then I will withdraw the objection.

Q. Have you seen Mr. Craddick in there the last two or three years? A. Not the last two years, no.

Q. Do you know where he is now? A. No sir.

Q. Have you any means of finding out? A. No sir.

MR. DARROW: That is three questions now.

MR. DORAH: That is because he didn't answer me. That is all.

MR. DARROW: There is a trail over the mountains from Mullan to Burke, isn't there?

A. Yes sir.

MR. DARROW: That is all.

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PAT McHALE, being called as a witness on behalf of the defendants and having first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q What is your name please? A Pat McHale.

Q Where do you live? A Mullan, Idaho.

Q How long have you lived there? A About eight years.

Q What do you do? A Tend bar.

Q Whereabouts? A E. B. Crawford's, Crawford Brothers.

Q That is a saloon? A Yes sir.

Q That is a saloon in Mullan? A Yes sir.

Q How long have you been a bartender? A I started in bartending eight years ago.

Q In Mullan? A Yes sir.

Q And you have been at that ever since, have you? A No sir, not steady.

Q Did you know Harry Orchard? A Yes sir.

Q When did you know him? A I knew him about 1896.

Q Where did you use to see him? A I seen him at Wallace.

Q Anywhere else? A Seen him in Burke.

Q Anywhere else? A Seen him in Mullan.

Q What was he doing in the days when you knew him? A I don't know. I heard he worked for Harkwells in Wallace.

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Q What was he doing at the time you saw him? A I could not say, I heard he was cutting wood.

Q At what places did you see him at different times? A I have seen him in several places,-- met him on the streets and saw him in saloons.

Q Anywhere else? A Yes sir, I met him on the streets there in Mullen.

Q Yes, do you know Dominick Flynn, or did you know him in those days? A Yes sir.

Q What was his business? A He was running a cigar store.

Q Was there any card room there in connection with it? A Yes sir.

Q Where was it, in the store? A In the back end of the cigar store.

Q Do you remember the day the Bunker Hill and Sullivan mill went up? A Yes sir.

Q Where were you that day? A I was at Mullen.

Q Was you working nights or days at those times? A I was working night shift.

Q About what time did you get up in the morning? A I could not say, about twelve o'clock or half past twelve probably.

Q Do you know how it was as to the number of people there were around Mullen that day? A Yes sir.

Q How was it? A There was not many people in Mullen that day.

Q Were you there that day? A Yes sir.

2720 Q What part of the day were you there? A I was there all day.

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Q You did not go down to the Bunker Hill and Sullivan mill?

A No sir.

Q And did you hear the explosion? A No sir, I did not.

Q When did you learn that something had happened to the mill?

A I heard that evening that it was blew up. A man came in the cigar store and said he heard the Bunker Hill mill was blew up.

Q What time did the people begin coming back? A I would not be positive,— about from seven till eight.

Q What were you doing during the day? A I played cards part of the day.

Q Whereabouts? A In Flynn's cigar store.

Q Do you remember whether Harry Orchard was there that day?

A Yes sir.

Q Playing cards with you? A Yes sir.

Q Have you ever seen him since that time? A No sir, I have not.

MR. DARROW: That is all.

CROSS EXAMINATION

BY MR. HAWLEY

Q Where were you born? A Born in Ireland.

Q How old are you? A 32 years old.

Q Where did you come to in this country? A Evansville, Indiana.

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Q When did you come to this country? A 1893.

Q And you came to Evansville? A Yes sir.

Q How long were you there? A A year and a half.

Q What did you do there? A Helped blacksmithing.

Q Where did you go from there? A To Nashville, Tennessee.

Q How long were you there? A About a year and a half.

Q What did you do there? A The same thing.

Q Where did you go from there? A To Missouri.

Q What did you do there? A Nothing.

Q How long were you there? A A day and a half.

Q Where did you go from there? A Burke.

Q How long were you there? A About a year and a half.

Q Stayed there a year and a half? A Yes sir.

Q Worked at your trade there? A Yes sir.

Q And who were your acquaintances and associates in Burke?

A Why, lots of them.

Q Well, name some of them? A Walter Graham.

Q What did he do? A Run a saloon.

Q What was the name of some other friend? A Howell, the master mechanic of the Tiger.

Q Anybody else? A Yes, lots of them.

Q Name some of them. A Dan Cortonia.

Q What did he do? A Run a whore.

Q The man who afterwards purchased Harry Graham's interest in the Hercules? A Yes sir.

2722 Q And you knew Dan Cortonia? A Yes sir.

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Q Did you know of his interest in the Herculas? A I did not know of it until after it turned out to be a mine.

Q Who else were your friends there? A Mike Maher.

Q Was he a miner or work in the mines? A No sir.

Q What was he? A He run a saloon.

Q Who else was your associate? A A man by the name of Sargent.

Q What did he do? A A blacksmith.

Q Did you work for him? A Yes sir.

Q Can you give the name of any one else? A Yes sir.

Q Who? A A man by the name of Gray.

Q What did he do? A A blacksmith.

Q All worked in the same shop? A Yes sir

Q Anybody else? A Yes sir.

Q Who? A Mr Emberg.

Q Did you have any friends or acquaintances among the miners?

A No sir, not very many.

Q Did you have many friends among the workingmen generally?

A Why, no.

Q After you left Burke where did you go? A I went to Wardner.

Q What did you do at Wardner? A I worked in a mine about two months.

Q Which mine? A The Last Chance.

Q And when did you finally go to Mullan? A I went to Mullan in 1890.

Q And what did you go to doing there? A I went there to look for work.

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Q What did you do after you got there? A The first work I done was tending bar.

Q And the last work you did was tending bar? A Yes sir.

Q How long were you tending bar in Butler? A I could not say.

Q What has been your profession since 1899? A I have done everything.

Q Have you generally tended bar? A I could not say I have generally. I have prospected and I have gambled some and I have tended bar.

Q You gamble a good deal, don't you? A I do, yes sir.

Q That is really your profession, isn't it? A No sir.

Q How much do you gamble? A I gamble whenever I get a chance.

Q And there is nothing in Butler to prevent a man from gambling most any day he wants to, is there? A Yes sir.

Q Then there is nothing to prevent your gambling if you want to? A I gamble when I get a chance.

Q Are you tending bar now? A Yes sir.

Q How long had you known Harry Orchard prior to 1899?

A I would not be certain, but I think about two years.

Q What was he doing when you first knew him? A I knew him in Wallace, Idaho.

Q Yes, and what was he doing when you first knew him? A I don't know.

Q What was he doing there in Butler when you met him there?

A I have seenhim on the streets and in the saloons and seen him playing cards.

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Q Was that the way you got acquainted with him? A Yes sir.

Q You had known him how long prior to the 20th of April, 1899?

A About two months.

Q What was he doing? A I could not say.

Q Was he stopping in Mullen? A No sir.

Q You were stopping there in Mullen? A Yes sir.

Q Did he come there? A Yes sir.

Q Did you know where he came from there? A I did not, I heard he came from a wood camp.

Q Did you understand that he was running a wood camp about the 20th of April, 1899? A No sir.

Q About when did he stop running a wood camp? A I don't know.

Q When did you understand he quit running a wood camp? A I don't know; he told me he came up there to collect some money that was owing him.

Q When did you understand he was running a wood camp?

A About the first time I knew him.

Q When was that as to the 20th of April? A About six weeks or two months before.

Q And did you understand that he continued to run the wood camp for some time? A Yes sir.

Q And up to what time did he continue to run the wood camp?

A I could not say only from what I heard.

Q Up to what time did you understand he was running a wood camp in reference to the 20th of April? A I understood he was running it at that time.

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Q Practically up to the 20th of April you understood he was running the wood camp? A No sir.

Q Up to what time did you understand he was running it?

A About two or three weeks.

Q Then did you understand he sold out? A No sir, I did not.

Q Did you understand he had quit running it? A No sir.

Q You did not know anything about it? A No sir.

Q Is that right? A I don't know when he quit running it.

Q Well, you said that you understood that he was running a wood camp up to two or three weeks prior to the 20th of April?

A Yes sir.

Q Did you understand he had quit? A Three weks before the 20th of April?

Q Yes. A I did not know that he quit it, no sir.

Q Then for might you knew he was still running the wood camp about this time that you were running this game with him?

A Yes sir.

Q That was his business? A Yes sir.

Q How often did he come into Ballen, about? A I might see him once in a week or ten days, or twice a week,— I could not say.

Q Did you see any other party around there besides you and Mr. Flynn and Orchard that day whom you can recall? A Yes sir.

Q Who? A I seen a man by the name of Clark.

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Q Was he in the game? A Yes sir.

Q Where is he now? A He is in Dallas.

Q He is here, is he? A No sir.

Q Is he a gambler? A No sir.

Q He was that day, wasn't he? A No sir.

Q What was his first name? A Horace.

Q What does he do now? A Does not do anything.

Q He has retired from gambling? A Yes sir.

Q Hasn't he any profession at all? A He is a miner and prospector.

Q Does he work in the mines? A No sir.

Q He has retired from that also? A No sir, I don't think so.

Q Is he a vagrant? A No sir, he is a retired mining man, I call him.

MR. DARROW: Perhaps he is a lawyer.

Q He has just retired from everything? A He has some prospects and some properties and is drawing money from some of them.

Q Who else was there that day? A Colonel Moore.

Q Who is Colonel Moore? A He was the electric light man and water man.

Q Is he here now? A No sir.

Q Where is he, do you know? A I don't.

Q Was he in the game? A Yes sir.

Q How long since he lived in Dallas? A He left about 1900, I think.

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Q About a year afterwards? A Yes sir.

Q And you don't know where he is now? A No sir.

Q Do you know where he went? A He went to Missouri.

Q Who else was in the game besides Flynn, Clark, Moore, yourself and O'Rohard? A Nobody.

Q Anybody else in the house? A I could not say.

Q Did you see Doc McGee around there? A Yes sir.

Q Was he in the game? A No sir.

Q What time did Doc get up? A I could not say. He came in there late in the evening.

Q After the game was over? A No sir.

Q Now, was there any one else aside from Doc McGee and yourself and the parties you have named who was about there when O'Rohard was there? A No sir.

Q That was all. How many of the miners went down from Gardner that day, to your knowledge? A I could not say.

Q Did you see any of them going? A No sir.

Q See any of them come back? A Yes sir.

Q There was you? A I was on the street.

Q About how many did you see coming back? A I could not say.

Q Give me an estimate? A Maybe a hundred.

Q Did you know any of them by name? A Yes sir.

Q About what time did they come back? A I could not say.

Q Did you learn what they had been doing down there? A Yes sir.

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Q But Harry Orchard was not there, was he? A No sir.

Q Harry Orchard had a complete alibi if he had been charged with anything in connection with that mill?

MR. DARROW: I object now. I don't suppose this man is a lawyer.

MR. BORAH: I will bet he knows what an alibi is.

Q You know Harry Orchard was not there, don't you? A Yes sir.

Q You know he had no occasion to be uneasy about anything that took place at Gardner? A Yes sir.

Q You know he had no occasion to leave the country on account of anything that happened there? A Yes sir.

Q And there was no reason for his sacrificing his property or anything else, and getting out of there? A No sir.

MR. BORAH: That is all.

RE-DIRECT EXAMINATION

BY MR. DARROW:

Q Now, do you know whether Harry Orchard was a member of the union? A No sir.

Q You don't know, is that what you mean, that you don't know?

A No sir, I don't.

Q You know that all members of the union were pulled in indiscriminately there, don't you?

MR. BORAH: That is a conclusion.

MR. DARROW: You have asked if he had no reason to be

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alarmed, and we have a right to show this.

Q How far was it, as far as you know, whether all members of the union were driven out or pulled in the bull pen? A They arrested everybody in Mullen.

Q Whether they were members of the union or not? A Yes sir.

MR. DARROW: That is all.

RE-CROSS EXAMINATION

BY MR. MORAN

Q Did they arrest you? A No sir.

Q Did they arrest Dan McGee? A I could not say.

Q Did they arrest any of those professional gamblers there? A They arrested everybody except the saloon keepers.

Q Did they arrest Daniel Flynn? A I could not say. I think so.

Q You folks did not go out of the country, did you? A Yes sir.

Q When did you come back? A Very soon afterwards.

Q How soon afterwards? A About a month.

Q Were you in the bull pen? A No sir.

MR. MORAN: That is all.

MR. DARROW: That is all.

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FRANK RAUCH, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION
BY MR. DARROW:

Q What is your name please? A Frank Rauch.

Q Where do you live? A I am living at Wallace at the present time.

Q How long have you lived there? A Three years.

Q What is your business? A Sign Painter and paper hanger.

Q Were you ever a member of the Western Federation of Miners? A Yes sir.

Q Are you now? A Yes sir.

Q How long have you been a member? A Since 1900.

Q Since 1900? A Yes sir.

Q Where did you live in 1899? A At Gem, Idaho.

Q What were you doing then? A I was working for Mr. Bradley as a baker.

Q You were not a member of the Union then, and mining? A No sir.

Q Do you remember anything that happened in 1899? A Yes sir.

Q Were you arrested and taken to the bull pen? A Yes sir.

Q How is that? A Yes sir.

Q Where were you at the time before the arrest? A Before the arrest?

Q Yes. A I was in Gem.

Q How long was you in the bull pen? A Two months and ten days.

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Q Did you see Jack Simkins there? A Yes sir.

Q Was he in the bull pen? A Yes sir.

Q How long had you known Jack Simkins? A Well, I was not personally acquainted with him, but I knew him to be an electrician in Warsaw prior to that.

Q What were you arrested for? A I could not say.

Q Have you ever found out? A Yes sir.

Q Have you ever tried to find out? A Yes sir.

Q Were you ever tried for anything? A Yes sir.

Q What? A I tried to find out what I was arrested for.

Q That is what you was tried for, is it? A Yes sir.

Q And you never have found out yet? A No sir.

Q You were finally released, were you? A Yes sir.

Q After how long a residence? A Well, I was there two months and ten days.

Q How many other people were there? A Oh, I could not say. There must have been two or three hundred, in that neighborhood -- or thereer four hundred.

Q Where was this bull pen? A Just above Kellogg, there on the flat.

Q Near Wallace? A No sir, it is about 12 miles from Wallace.

Q Was it a building or the ground, or both? A Well, it was called a building.

Q How large was it? A About a hundred feet square, I guess -- in that neighborhood.

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Q How many people were packed into it?

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MR. HANLY: We object to this unless there is some object for it. If it is simply for the purpose of inquiring into the particulars, it is incompetent, immaterial and irrelevant.

THE COURT: The court restricted the prosecution from going into this Coeur d'Alene matter, and unless there is some reason for going into this the court will restrict you.

MR. DARROW: There is some reason. Jack Simpkins was in this bull pen at this time and it is claimed by the state that that was the beginning of the whole matter, and we want to show what happened to Jack Simpkins at that place, and generally the conditions that existed there. That is as far as I want to go with it.

THE COURT: The court will permit it, and we will see what develops, Mr. Hanley.

MR. HANLY: And all these matters pertaining to it?

THE COURT: The court will give an instruction covering the matter if it don't become material.

MR. HANLY: We want to know in order to obviate the necessity of making objections if it is not necessary.

THE COURT: I do not intend to permit of going into all of them. You can make your objections as we go along and the court will rule upon them.

MR. DARROW: I take it that anything that could affect the mind of this man at this particular time is especially particular in this case. I don't mean to pursue it very far,

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and don't propose to. It was the starting point in their case, and it is only fair that we should go into it.

Q About how many men were in that building? A Well, I could not tell positively; there must have been four or five hundred.

Q How many were there together?

MR. HARLAN: We object to that as being incompetent.

THE COURT: The objection is overruled.

A They were lying about as thick as they could in bunks,— small bunks, and a board between them,— about as close as they could lie.

Q What were they — any of them sick? A Well, the majority of them got sick afterwards.

Q In what way? A Mostly with dysentery.

Q Stayed in that condition day and night both, in the room?

MR. HARLAN: We object to that entire line as being incompetent, immaterial and irrelevant, going into issues in no wise competent.

THE COURT: The court will permit this testimony as indicated by him.

MR. HARLAN: I understand this is for the purpose of showing the motive of Stapleton?

MR. DARROW: To be sure, this feeling, if he had any, against ex governor Steunenberg, just the same as the Harry Orchard matter.

Q What was that question, Mr. Libby?

2734 The last question was then read.

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Q How was that? A Certainly they did, they had to stay there.

Q What became the condition there as to filth and as to vermin?

A Well, the majority of them were lousy.

Q What accommodations were there for keeping clean? A None at that time.

Q How was it as to stenches and odors,— how was the air? A Well it was not very good.

Q What ventilation did they have? A The only ventilation we had was the small vent we had inside the bull pen and outside of that there was none.

Q What time of year was this? A That was in May, the latter part of April or first of May; I could not exactly state the date I was put in there.

Q Do you remember the day you went out? A Yes sir.

Q What was it? A I think it was — somewhere along about the 10th of July, if I am not mistaken.

Q How was the heat during June and July? A Very warm.

Q What was the drainage that was there? A It was not very good at that time.

Q What closets, if any, were there there? A We had one.

Q Where? A On the outside.

Q How many men were there in a condition that they could not get out? A I could not say as to that.

Q Were there any? A Well, there must have been at least one-fourth of them that were afflicted that way.

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THE COURT: How is that?

THE WITNESS: There must have been at least a quarter of them that were afflicted with the dysentery.

Q How were they guarded or kept there? A By soldiers.

Q What kind of soldiers? A They were colored troops at first.

Q Do you know whether it was this Brownsville regiment that was there? A I could not say as to that.

THE COURT: You are not going into the investigation of that affair, are you Mr. Darrow?

MR. DARROW: Well, I guess not.

MR. BORAH: We will send for Booker if he does.

MR. RICHARDSON: He is a handy man all right.

Q They were colored troops, were they? A Yes sir.

Q Do you know how many there were? A I think there were two regiments. I don't know about that though; I did not pay much attention to it.

Q Do you know who was in command? A No, I don't, not over the colored troops, I could not say who he was now.

Q Did you see any special incidents in connection with the conduct of the troops, particularly toward Jack Hughins?

A Well, they took him out one day, they claimed for not obeying orders.

MR. HAWLEY: We object to anything he did not see or what they claimed.

Q You say they took him out? A Yes sir.

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Q And you saw them take him out? A Yes sir.

Q Did you learn what offense he had committed? A No sir, I did not.

Q Well, what was done to him?

MR. HANLEY: If you know,— what you saw; but not what somebody told you?

A No sir, I saw them take him out and stand him up.

Q Stand him up where? A Out alongside the bull pen and told him to stand there.

Q What time of day was it? A About ten o'clock, I guess, in the forenoon.

Q What kind of a day? A A pretty warm day.

Q How long did he stand there? A He stood there six hours.

Q What was his condition?

MR. HANLEY: If you know; this man is no doctor.

Q As you saw him? A It looked as though he was suffering from standing there in the hot sun.

MR. HANLEY: We object to that and ask that it be stricken out.

MR. DARROW: It does not take a physician to tell that a man has the appearance of suffering.

THE COURT: Read that last question and answer.

The last question and answer were then read.

THE COURT: I will let it stand.

Q Do you know whether he made any effort to sit down? A Yes

2737 sir, he did.

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Q Was he permitted to? A No sir.

Q How was he prevented? A By the sergeant giving orders to the two soldiers to make him stand up.

Q These colored soldiers? A Yes sir.

Q What did they do? A They presented their bayonets at him.

Q Did you see their bayonets? A I saw them present them.

Q Did you see whether they jabbed him with them? A No sir, I did not.

Q Where were you at the time? A Standing in the gateway.

Q How far away? A Probably 35 or 40 feet; I would not say the exact distance.

Q What time was he allowed to go from the place where he was standing there? A It must have been about four o'clock, I guess.

Q What was he standing by? A By the wood pile.

Q And he had been stood up there all the time, had he? A Yes sir.

Q Do you know what his condition was then? A When they released him?

Q Yes. A I did not see him after they released him.

Q I mean at four o'clock? A They brought him over to the hospital or guard house, which ever it was. I could not say as to that, they took him away.

Q Was he given any water while he was there, do you know?

A I believe he called for water and I think it was the captain told them to give him a glass of water.

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Q Do you know how long he was kept there after that? A Kept where? X ~~In the bull pen~~

Q In the bull pen? A I don't think he got out of the bull pen until some time in September, the latter part of September.

Q Did you see an incident of an old soldier who was stood up there? A In the bull pen.

Q Something happened to an old soldier at that time, at Gem, that was. A Yes sir.

Q Was he in the custody of the militia? A He was.

Q What troops? A It was the colored troops; I don't know what company it was.

Q Was that during this time? A That was the day they made up the clean up there in Gem.

Q What was the clean up? A Arresting every one -- that is, arresting the miners.

Q Were you there at that time? A Yes sir.

Q Were you taken in at that time? A No sir, not that day.

Q How was it as to whether all the miners were arrested at that time? A I beg pardon.

Q How was it as to whether all the miners were arrested at that time? A Well, I believe they arrested all they could get.

Q And what was done to this particular man, this soldier I speak of?

MR. HAWLEY: We object to that as incompetent, immaterial and irrelevant; it does not come in the idea the court

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was controlled by in permitting this other evidence of ill.

MR. DARROW: The whole matter was as to the indignities of what would effect the condition of a man feelings in this case.

THE COURT: The objection is sustained.

MR. DARROW: We desire to save an exception.

THE COURT: The exception will be noted.

Q Do you know when the majority of the fellows got out of this place? A No, I don't know when the majority got out. Some were let out on different occasions from time to time.

Q You were not a miner at the time? A No sir.

Q Did you ever work in the mines? A No sir.

Q Or belong to the union? A I have belonged to the union since.

Q I mean at that time? A No sir.

Q Were there men arrested and put in that place who were not miners and not members of the union? A Yes sir.

Q Do you know who gave the directions and orders as to who were to be taken? A I could not say as to that.

Q Now, you stayed there in that country ever since, have you? A I have been there twenty years the 14th of last March.

Q Yes, and you are a paper hanger, you say? A And painter, yes sir.

Q Do you do any other kind of work winters, or any time, when you are not working at that? A Yes sir, I occasionally tend

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her in the winter time, yes sir.

Q Where have you tended bar? A Well, the last place I worked was at the Centennial Hotel in Wallace for John Hurst.

Q What is a hotel in Wallace? A Yes sir.

Q When did you work there? A I quit there on the 4th day of May.

Q What May? A This year, this last May.

Q 1907? A Yes sir.

Q How long have you been there? A Eight months and four days.

Q Did you -- were you tending bar also the year before? A No sir.

Q Did you see Harry Orchard in Wallace in the fall of 1906?

A Yes sir.

Q Where were you at that time? At the Bi-Metallic hotel in Wallace.

Q Where was he stopping at that time? A He was registered there.

Q At the Bi-Metallic hotel in Wallace? A Yes sir.

MR. HOGAN: In 1905?

MR. DARROW: Yes sir,-- in 1906.

Q Do you remember when it was you saw him? A It was in September, somewhere around about the 15th or 20th, somewhere there; I cannot remember the exact date.

Q Did you see him in company with anybody in the town? A Well, I met him in there that day and he was talking to the proprietor of the house when I went in.

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Q Did you know him? A I knew him by sight, yes.

Q He introduced himself? A Yes sir.

Q What name was he going under? A We sat down -- do you wish me to tell just how we met?

Q Yes. A He wanted to play a game of solo and we sat down to play solo for the cigars, and in the conversation -- him and I got to talking and he said he had come from Alaska, and I said to him, "It seems to me that I have met you before;" and he said, "I think you have; I am an old timer in this country;" and he said his name was Hagan, that he had worked for Markwells and also had worked at Burke; I did not ask him what he was working at in Burke, and we got to talking about different countries and I told him I thought the Coeur d'Alenes beat Alaska and he said he thought so himself, and that he was at one time an owner in the Hercules mine and if it hadn't been for Steunenberg he would have been a wealthy man and living at ease in Wallace then.

Q Did he say anything in reference to the troubles there, more specifically than that? The troubles there in the Coeur d'Alenes? A No. He did not address Steunenberg by very nice names.

Q Did he speak about the soldiers or the bull pen or anything of that sort? A No sir.

Q That was the substance of it, that you remember? A That is the only conversation I had with him.

MR. MARKUM: That is all.

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CROSS EXAMINATION

BY MR. MORAN:

Q Where are you living now? A Wallace, Idaho.

Q What are you doing? A Painting and hanging paper.

Q Have you been painting and hanging paper lately? A I had to leave my work the day I came here.

Q Where were you tending bar the last time? A At the Centennial hotel, Wallace.

Q How long did you tend bar there? A About eight months.

Q Double cone? A No sir.

Q You simply play cards then on occasions such as this incident you narrated? A I simply sit down and play a social game, something like that.

Q Where else have you tended bar? A In Gem and at Burke.

Q How long have you been a bartender off and on? A Oh, since the trouble.

Q Since 1899? A Yes sir.

Q And in that country up there all the time? A Yes sir.

Q Now, you were at Gem on the 29th of April, 1899? A I was.

Q What were you doing that day? A I was working for Albert Bradley.

Q What did he do? A He ran a restaurant there.

Q Did you see the train that day? A Yes sir.

Q Were you looking for the train? A No sir, not particularly.

2743 Q Did you know it was coming? A Yes sir, it went upand went

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down every day.

Q Was there anything that day that caused you to be looking out for it? A No more than usual.

Q But when it did come in there was something unusual on it?

A There was quite a number of men.

Q They were riding on box cars and on the engine?

MR. DARROW: We object to that as not cross examination. We did not go into that question at all. We proved by him that he was arrested and was thrown in the bull pen.

MR. BORAH: We have a right to show --

THE COURT: The objection will be overruled.

MR. DARROW: All right, note our exception.

Q What was the question?

The question was then read.

Q Were they? A Riding on box cars?

Q Yes. A Oh, there were some sitting out on box cars.

Q How many people were on the train, do you think? A I could not say as to that.

Q Give us an estimate? A Probably a couple hundred.

Q When they got to Caldwell? A Yes.

Q That was all? A I could not say; I did not pay much attention to them.

Q Is that your best judgment? A There might have been more or might have been less.

Q Did you see W. B. Davis around there? A No sir.

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Q Did you know him at that time? A Yes sir.

Q And did you see any of the men who were unloading the train?

A No sir.

Q There were some of them masked? A Not that I saw.

Q You did not see any masked men at all? A No sir.

Q And did not see any arms? A No sir.

Q Did you seeany one in the engine besides the engineer and fireman? A No, I did not. The engine when I saw it was away below the town.

Q And did the engine back up to the Frisco powder house there?

A It backed up the road, I don't know whether it went to the Frisco powder house or not.

Q And about how many men were there on the train when it pulled out of Ouray?

MR. DARROW: I object to this. It is going into matters that I did not go into.

MR. BOOTH: I want to show why this man was arrested and put in the bull pen.

THE COURT: The objection will be overruled.

MR. DARROW: We will save an exception.

A I could not say. There may have been three or four hundred, or less.

Q How many men got on at Ouray? A I could not tell you that.

Q Do you know about how many? A No.

Q What were the condition of the men that got on at Ouray and who were they? A Well, that I don't know, or who they were.

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Q Could you see the union hall from Bradley's restaurant?

A No sir.

Q Did you see the union hall that morning at all? A Yes sir.

Q Did you see people going to the union hall? A I did.

Q In crowds? A There was quite a number went in.

Q How many would you think? A Thirty or forty, probably.

Q And all of them came out and took the train? A I could not say as to that.

Q Did you see them come out? A No sir, I did not.

Q When did you mention go in? A That was early in the morning, at 4 o'clock or something like that.

Q About how long before the train got there? A About an hour.

Q And did you know any of them that came in? A Yes, I knew one or two.

Q They were Western Federation men, were they not? A One was the president of the union.

Q Who was he? A Thomas Keenan.

Q Was the secretary there? A I could not say.

Q Were there any men working on the mines that day after the train got in? A I believe not.

Q But the president of the union and the secretary were around among the men, were they not? A I did not see him at all.

Q Did you know Paul Corcoran? A Yes sir.

Q Did you see Paul Corcoran that day? A No sir.

Q Did you see him at that time? A I think not.

Q You did not recognize on that train that you could identify,

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did you? A I might possibly.

Q Can you tell me anybody that you saw on that train that you could identify? A There is one that died, Mike Devine, and Jay Gould, that is out of the country.

Q Mike Devine? A Yes sir.

Q What position did he have in the union? A He was only a member, I guess.

Q Is there anybody that has left the country that you can name? A Yes, Jay Gould.

MR. HIGHAMSMITH: He is dead too.

THE WITNESS: I did not know that.

Q Is there anybody that you can identify except those who are dead or who have left the country? A Well, I might, but I can't tell now, that is a long time ago to remember these things.

Q You cannot recall anybody except these? A Oh, there was Morris Mahoney and Joe Riley, I was talking to them, but I don't know whether they went down or not.

Q Gen was pretty quiet that day after the train pulled out? A No, not very many left there.

Q And the larger portion of the ex population seemed to be going down on the train? A I believe they did all right enough.

Q And when they came back that evening how many people got off at Gem? A That I don't know, I was busy at the time and did not see the train when it came in.

Q Did you know where that train was bound for? A No sir.

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Q You did not inquire? A I found out afterwards.

Q You did not inquire at the time? A No sir, I did not ask any questions with regard to it.

Q Did it excite your curiosity in regard to it at all?

A Not at the time, it was standing there.

Q Did it at the time it pulled out? A Yes sir.

Q Then you found out where it was going? A I found out they were going to Werner.

Q And you knew that fact at the time the train pulled out?

A Yes sir.

Q Did you try to find out who was in charge of the train? A I did not.

Q They backed up to the powder house once or twice, didn't they?

A Not to my knowledge. They backed up the train only once that I know of.

Q You knew they were bound for Werner, did you? A Yes sir.

Q And you knew they were going down there for that purpose, didn't you? A I didn't know what the purpose was.

Q You knew it was something in connection with the Baker Mill and Sullivan mine? A Supposed to be, yes.

Q And you knew that was the only non-union mine at Werner?

A Yes sir.

Q You had that knowledge a few minutes after they left Ore, didn't you? A Yes sir.

Q Now, the men who rode up that train -- the crowd on the train, were composed of the miners and Federation men, were they not?

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A That I could not say.

Q All of them who knew you? A I did not belong to the union at that time and I could not say.

Q You knew the men as Federation men, didn't you? A No, not all of them.

Q You knew some of them? A Yes.

Q Was there a single mine in the camon at that time except union mines? A Not in that section.

Q And all the mines in that section were worked by Federation men at that time? A Yes, so far as I know.

Q You were arrested about what time? A I was arrested -- I cannot remember the date.

Q Who arrested you? A Death on the trail.

Q Was he a friend of yours? A I don't know that he was, he was a stranger to me.

Q What was his name? A I could not tell you his name. That is the only name I ever heard for him.

Q And you were taken to the bull pen? A I was taken to Telluride first and put in the jail there.

Q Was that after Sheriff Young had been impeached and thrown out of office? A Yes sir.

Q And Death on the trail was one of Angus Sutherland's deputies wasn't he? A I could not say.

MR. MARNEY: It sounds as if it was.

Q He was a deputy sheriff, was he? A I understood him to be a United States Marshal or deputy, something of that kind. I

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don't know what he was.

Q You understood he was a deputy United States Marshal? A Yes sir.

Q But you don't know his name? A Yes sir.

Q How long was it, after you got in jail, was it that you were put in the bull pen? A I went down on the afternoon train.

Q And there you found Jack Simpkins? A Yes sir.

Q You was not very well acquainted with him at that time?

A No sir.

Q He was quite a conspicuous figure there in the bull pen -- he was one of the prominent men in there, wasn't he? A No, I don't know as he was,-- not any officials; I never saw anything very prominent about him while he was in there.

Q Was he one of the men who organized a kind of a militia inside the bull pen? A Not that I knew of.

Q You did not know anything about that? A I think --

Q How? A I think the man that organized the militia is dead now.

Q That is Devine? A No sir, Will Kennedy.

Q And was Paul Corcoran in this bull pen? A Yes sir.

Q He was the man who was afterwards tried for murder? A He was.

Q Was George Craddick in this bull pen? A Yes sir.

Q Do you know where he is now? A I don't.

Q You know how he got out of there? A Yes sir, partially.

Q Now, you had a talk with Harry Orchard in the fall of 1905,

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did you? A Yes sir.

Q How long had you known Orchard? A I never was personally acquainted with him, only knew him by sight.

Q Did you know him by the name of Orchard? A When he worked for Hartwell, yes.

Q And you had not seen him from the time he worked for Hartwell until he introduced himself to you? A No sir.

Q You did not recognize him, did you? A I recognized him, but I could not place him.

Q And you had a game of cards and he told you he had been to Alaska? A Yes sir.

Q Did he tell you he had just come from Alaska? A That is what he told me.

Q He did not tell you he had been down in this country? A No sir.

Q Or had been stopping at Wardner? A No sir.

Q Or at Caldwell? A No sir.

Q And was Jack Simpkins with him? A No sir.

Q Did you see Jack Simpkins around there? A No sir.

Q Did you see Mr. Gosten with him, Dave Gosten? A I did not.

Q You know Dave Gosten? A Yes sir.

Q You did not see him? A No sir.

Q Did you see Jack Simpkins in the town about that time?

A Two days afterwards.

Q Was Orchard still there? A No sir,— he might have been there, but I did not see him.

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Q Did you ever hear Jack Hopkins say anything about Governor Steunenberg? A I never had any conversation with him in regard to the matter.

Q Never had any conversation with him about the subject matter of the Governor at all? A No, not that I remember.

Q Were you pretty well acquainted with Hopkins so as to talk with him about these matters? A I was not very well acquainted with him.

MR. BOISE: That is all.

MR. MARLOW: That is all.

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

DIRECT EXAMINATION

BY MR. RAMEY:

Q Give your full name please? A J. H. Ramey.

Q Where do you live? A I live at Murray at present.

Q Where? A Murray, Idaho.

Q What is your business? A Well, the stage business and transfer and livery business.

Q Is your place of business at Murray? A Yes sir, at present. I bought out the business in April and since that time I have been running down near Yale in the meantime.

Q Where did you run your stage? A From Murray to Wallace.

Q How far is that? A 32 miles.

Q Carry the United States mail? A Yes sir.

Q How long have you been carrying the mail? A Since the 1st day of April of this year.

Q How long have you been in the stage business? A You mean this?

Q No, all together? A Well, I started in in 1894 and run from Cda to Wallace.

Q And you have been having a stage route ever since? A Well, no sir. I sold out in 1897 and did not go into the business any

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more until this last spring.

Q What were you doing there from 1897 to this spring? A Well, I was in the hay and grain and fuel business.

Q Wherebouts? A At Cda, Idaho, and Black Bear and Burke.

Q How long have you lived in that vicinity? A I went to Cda in the fall of 1892.

Q I mean the Coeur d'Alenes? A I mean 1892,— I went there in 1892, in the fall.

Q That is the first time that you went into that country?

A I landed in Wardner in 1890.

Q Where was your home before you went up to the Coeur d'Alenes?

A I was in Montana and came into the Coeur d'Alenes from Montana.

Q Did you know Harry Orchard? A Yes sir, I knew him.

Q Have you ever been a miner? A No sir, I never was.

Q Never belonged to the union? A I never did.

Q Did you ever know Harry Orchard? A Yes sir, I knew him slightly.

Q Where did you first know him? A He was working for Hartwell and was on their dairy.

Q How long did you know him? A Well, I think I knew him in 1897, '98 and '99.

Q How often did you see him? A Oh, I could not tell you; not very often, — probably three or four times a year until he got in the fuel business in Burke and then he was in the same business I was in and I saw him occasionally and joshed him a little about the business.

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Q You saw him a lieutenant at that time? A Yes sir.

Q Do you remember the last time you ever saw him? A Yes, that is about the 2nd day of May, 1899.

Q Do you remember it in connection with the Bunker Hill and Sullivan explosion? A Yes sir, we was talking about it.

Q Where were you at the time of that explosion? A I met him about a mile and a half below Gem, or a mile and quarter probably, on the road between there and Wallace.

Q How far is Gem from Wallace? A Four miles.

Q And where were you on the day of the explosion? A I was at my little ranch about half way between the two towns, two miles from Gem.

Q Well, did you have any conversation with Orchard at that time?

A The day I met him, you mean?

Q Yes. A Yes sir.

Q What was it? A Well, when he met me he says, "You are just the man I want to see; I want to sell my interest in the Hercules -- my sixteenth interest," that he said he had.

Q Did he say why? A Well, he said he wanted to get out of the country.

Q Did he say why he wanted to get out of the country? A Well, of course we talked over the situation of affairs.

Q What situation? A Well, the way the country was at that time, and this trouble at Wardner, and he said he wanted to get out before the soldiers came in.

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Q Did he say anything else about the soldiers? A He said they were due to be at Yoss this afternoon at four o'clock, but he said, "I don't think they will be there that soon."

Q Where is Yoss? A That is in Washington here.

Q That is a transfer place? A Yes sir, that is the junction.

Q And what else did he say about selling his interest in the Herculan? A He said he wanted to sell it to get money to get out of the country on. He says, "I want to get out of here before they come in."

Q Did he say how much he would take for it? A Yes sir, he offered it to me for $400.

Q Now, do you say you think that was the second day of May, 1900?

A Yes sir. I ain't positive of that; it was either the 1st or the 2nd; it was a couple days after the explosion and the soldiers did not come in for four days, and it was between that time.

MR.DARROW: You may cross examine.

CROSS EXAMINATION

BY MR. HAWLEY:

Q Have you any way of fixing the exact date of this conversation? A I have not. I know that I remarked about it to some there in Gem and we joshed him and told him that that train would be in that afternoon; several were joshing him and I made up my mind that they were joshing him so as to secure him.

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Q Do you remember the day the soldiers did come in? A I could not say as to the date, no; I think it took them about four days to get in after the explosion.

Q Did Orchard take a ride out with you on your sled? A No sir, he was horseback. I had sold out my stage at that time.

Q You were travelling then? A I was taking a load of wood in with a two horse team.

Q Do you know how it was that he was looking for you? A The only reason I know of is that I speculate a good deal and always try to keep a little money on hand, and I suppose he knew of it.

Q And you met him about Gem somewhere and he was on horseback? A He was about a mile and a quarter below Gem.

Q He was not travelling with you on your stage? A No sir, I had sold out at that time.

Q You just came up with him there? A He had started to my ranch to see me, for I was out there. I had a wood business and had men cutting wood there.

Q Do you know whether he was riding his own horse? A No, he was riding a horse that belonged to Sam Stringham in Burke.

Q Did you inquire about how the title to his interest stood at that time? A No sir, I told him that I did not want to buy.

Q Did he tell you anything about his having transferred it to Cortelvin a year or so before? A No sir.

Q You did not ask him about it? A No sir, I was not interested in buying it or I probably would.

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Q You did not take any interest in the matter at all? A No sir, I turned him down cold.

Q You did not expect to find out whether he had any interest or title at all, or anything? A No sir, I did not want anything to do with it.

Q But he told you he would take $400. for it? A He said, "I want to sell it and get out of here."

Q Was there any discussion about how it was standing up at that time? A No, he says, "It will make a nice news day." I had had it talked to me a thousand times in that country by those who were interested.

Q Did you ask him anything about the amount or development that was being done? A No sir, I know very little of the Xerxes. I had heard it mentioned a number of times as a prospect.

Q Did you know Patton who was an owner in it? A No sir.

Q Did you know Hutton who was also an owner in it? A Yes sir, I knew Hutton very well.

Q Did you ever talk with him about it? A No sir.

Q Did you ever talk with him afterwards about this offer of Harry to sell this interest to you? A I have talked about it to many.

Q And you are sure it was two or three days after the explosion? A Yes sir.

Q Did you ever talk to Sorenson about this matter? A Yes, I did mention it to Sorenson since.

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Q Did you mention it to him to inquire the condition of the title at the time? A No sir, he never told me anything about the title.

Q Did he tell you when he acquired the interest of Harry Orchard? A No sir, I heard the other day that Cornish had a mortgage on that; it ain't five days ago.

Q Did you go and look at the record? A I did not, because I was not interested in it in the first place.

Q Was there any one present when you had this conversation with Harry? A No sir, we met alone there on the road.

Q Did any one come up before it was closed? A Not a soul was in sight that I saw.

Q No one about at all? A No sir.

Q This was the first and only conversation you had with him in regard to this sale? A Yes sir. I did not know he had an interest in the Hercules.

Q Did you ever see him in the country after that? A No sir.

Q Never saw him from that time until this time, ever at all?

A I never did.

Q About what time of day was it that you met him, do you think? A Well, it must have been after -- well, I had eaten my dinner and started for town and I generally started about one or a little before some times.

Q You did not make of course any memorandum of this conversation?

A No sir, I didn't,not then.

Q You simply recall it from your recollection? A I wouldn't

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have recollected it except that they struck it in the Herculas shortly after, and I saw what I lost by not buying.

Q When was it they struck it with reference to the time you had this talk with Orchard? A It must have been a year or two years later. I couldn't tell you just exactly -- a year and a half probably.

Q And then you remembered this conversation? A Yes, it was fresh to me then, and I seen where I had made a mistake you know.

Q Did you by reason of that have any talk with Cordonia at any time about his title to it? A I was talking with Cordonia, him and I was talking one day when the mail come along and that he broke up the conversation, the mail come in and he went back.

Q Do you know where Cordonia is now? A No sir, I don't. I understood he was in California.

Q Is he in Wallace, do you know? A I haven't been in Wallace; I don't know.

Q Do you know whether he is in that country or not up there? A I don't know whether he is or not.

MR. DARROW: We can tell you if you want to know.

MR. HOPAN: I understand he is in California.

MR. DARROW: No, he is in Europe, somewhere in Europe as near as we can find out. I suppose it is fair for both sides to know that.

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MR. [redacted]: We have been trying to ascertain.

MR. [redacted]: We have been trying to do the same thing they say he is in Spain.

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JAMES A. BAKER; a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

Q. Give us your name, please? A. James A. Baker.

Q. Where do you live, Mr. Baker? A. British Columbia when I am at home.

Q. You are not a citizen of the United States, are you? A. No.

Q. How long have you lived in British Columbia? A. Most of the time since 1898.

Q. What is your business? A. Miner and prospector and so forth.

Q. What part of British Columbia do you live in? A. I make my home at Spokane City in the Kootenai mining district.

Q. Are you a member of the Western Federation? A. I am.

Q. How long have you been a member? A. Since 1900.

Q. Did you ever hold any official position with the organization?

A. I have.

Q. What? A. I was a member of the Executive Board.

Q. Did they have more than one member in British Columbia?

A. No sir.

Q. You were the member from British Columbia? A. Yes sir.

Q. How long were you a member of the executive board?

A. From June, 1901, to June, 1905, four years.

Q. You mean 1901 and 1905, I guess, don't you? A. Yes, exactly.

Q. 1901 to 1905? A. Yes.

Q. Were you down in the Cripple Creek district and in Denver during the troubles there? A. To some extent, yes.

Q. Were you called to Denver in 1903 or 4? A. Yes, I was called in a regular way. The Board met semi-annually and I was

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there at a meeting at that time.

Q. Did you have charge of the office for any length of time?

A. Well, not solely. I was assisting in charge of the office for a short time.

Q. Who else was there in charge? A. James Hiram and Vice-president William.

Q. There was Mayer then? A. Mayer was in jail I believe.

Q. And where was Maynard? A. At that time I couldn't say.

Q. He be in jail in Denver, do you know? A. Yes, I believe he was, came to recall it.

Q. Where was Copley? A. Copley was under arrest, I believe at that time, in --

Q. Idaho Springs or Georgetown? A. I believe he was.

Q. And you came along to take charge or help take charge, did you?

A. Why, we had assembled there at a regular meeting of the executive board and this was subsequent to the meeting.

Q. Did you have to do with going down to Cripple Creek in connection with their business in Rose December, or close to that, 1902? A. Yes sir.

Q. Where did you go? A. Well, we went pretty well over the district, went to Cripple Creek, Victor, Ansonda, Goldfield.

Q. That was in connection with establishing another store down there, wasn't it? A. Yes sir. There was three of us went up there, I believe -- Mr. Copley, Mr. Hiram and myself.

Q. Where was this store to be established? A. At Goldfield.

Q. Can you remember the date of that? A. Well, when we first went up there I believe it was about the 12th or 13th of December, 1902.

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Q. Did you go there? A. Sir?

Q. Did you again there? A. Yes sir.

Q. How long afterwards? A. I believe it was about the 17th that I was up there again.

Q. On the same business? A. Yes sir. We had returned to Denver, that is, Mr. Kirwan and myself -- Mr. Copley was arrested by the military up there -- and we discussed the situation at the Federation headquarters and decided if we could find a suitable proposition to purchase up there that we had better do it, and I went up for that purpose.

Q. Did you go to the Union hall at the time? A. I did, yes sir.

Q. What was the occasion at the union hall? A. The occasion that called me there?

Q. Well, was it a meeting or what was it? A. It was a regular meeting on Saturday night, yes sir.

MR. BORAH: Where was this, at Cripple Creek?

THE WITNESS: This was at Victor.

Q. How many people were present at Union hall? A. Well, it would be hard for me to say. As I remember there might be anywhere between two and three hundred.

THE COURT: What was this date, Mr. Darrow?

MR. DARROW: It was about the middle of December.

Q. Can you give the exact date? A. Of this meeting?

Q. Yes. A. If my memory serves me, it was on the 19th of December.

Q. 19th of December, 1903? A. It was on a Saturday night anyway, and I think it was the 19th.

Q. Did anything happen while the meeting was in progress?

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Q. Then? A. I was arrested during the meeting.

Q. By whom? A. By the military and soldiers; I don't know whose authority at the time.

Q. Did they come into the hall? A. Yes sir.

Q. How many were there? A. I would judge between fifteen and twenty.

Q. Well, did you go with them? A. Yes sir.

Q. Any resistance offered by you or anybody else there? A. No.

Q. Where were you taken? A. I couldn't tell to what part of the town I was taken. I wasn't very well acquainted with the streets and locations there. I was taken before some officer. I was informed it was Major Rutherland.

Q. And from there where were you taken? A. I was taken to what they termed military headquarters.

Q. Were you charged with something? A. No sir.

Q. Did they ask what you were doing there? A. Well, there was no questions asked me while I was held under guard there.

Q. Then where did you go? A. I remained there until the following day, I believe about eleven o'clock as I remember. I was taken before an officer, I was told, in charge, Colonel Verhoeberg I believe it was.

Q. And then what happened? A. He asked me who I was, where I came from and what my business was. I told him my name, that I was from British Columbia, that I was a member of the Executive Board of the Western Federation of Miners. He wanted to know what I was doing there. I told him I was there for the purpose of establishing a union store in Goldfield. He said "I don't know that we want any more stores there -- here at this time."

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He hesitated a little bit. He said "I believe we can get along without you here also." I told him that I wasn't guilty of any offense so far as I knew, I hadn't made any breach of the laws, and he ignored my remark, as I remember. He said to me, "You can go now where you please, you have your freedom to go where you like until train time this evening; if you are here later than that, you will be put in the bull pen indefinitely."

Q. Well, did you take the train? A. I did.

MR. PATTON: That is all.

MR. KOHN: That is all, Mr. Baker.

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WILLIAM AMOLE, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. What is your name, please? A. William Amole.

Q. Where do you live, Mr. Amole? A. Denver, Colorado.

Q. How long have you lived there? A. This last time, since September, 1904.

Q. Did you use to live in the Cripple Creek district? A. I lived in Victor.

Q. When? A. From 1898, February, 1898, until July the 25th, 1904.

Q. What was your business? A. I was watchman on the Portland mine.

Q. Were you watchman during all that time? A. All that time.

Q. You were there during the strike, were you? A. I was.

Q. Were you there when the strike began? A. I was.

Q. And that was some time in August, 1903, was it not?

A. Yes sir.

Q. Who was the chief spirit of the Portland mine?

A. The president was James F. Burns.

Q. Residing at Colorado City? A. At Colorado Springs.

Q. Or Springs, I mean. How big a mine was that? A. At the mine they employed in the neighborhood of six hundred men; in the mill some two hundred, perhaps eight hundred men all told, in that neighborhood.

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Q. Had their own mill, did they? A. Yes sir.

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Q. How did it compare in size with the other mines in the district?

A. It was much larger than any other mine in the district, perhaps working, with the exception of the Independence, more men than any other three mines in the district, perhaps.

Q. About how many were there in the Independence? A. I am unable to say, only just to estimate from seeing them coming and going, I would judge three hundred and fifty or four hundred.

Q. Was this the only mine that had its own smelter in the district, or mill? A. As far as I know.

Q. Well, did the Portland mine close down during the strike at first? A. Yes sir.

Q. For how long? A. About eleven days I think it was. I aint positive about that. I aint very much wrong though when I say eleven days, eleven or twelve, I think.

Q. That was right in the beginning, was it? A. Yes sir.

Q. And then what was done? A. An agreement was made with the Western Federation of Miners and it was opened up, started again, as before, with the old men.

Q. It ran all winter and spring, did it? A. Yes sir.

Q. How long did it run uninterruptedly after that? A. It run up to June 6th uninterrupted. At that time, why, the militia began to take insome of the union men from the Portland mine, compelling them to hire men quite often.

Q. And did it run after that? A. It was running the night of June 6th, is all I am able to say for a short period.

Q. You were running after that, were you? A. Yes, I run.

Q. Well, what were you doing just before that time? A. Just before

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June 6th?

. Yes. A. Well, I was watchman on the mine on that night. I started to work the same as ever at seven o'clock. On my way up there, at the corner of 4th and Victor Avenue the street was guarded as I saw with people, all appeared to be armed, had rifles and revolvers. I walked to the corner of 4th and Victor and as I went to turn the corner at the bank there was a man by the name of Scott stepped in front of me, had a rifle in his hand. I went to step around him and he stepped in front of me again. He looked up and I says, "Hello, Gene." He says, "Hello". I says, "What are you going to do with the men?" I says, "What are you doing with those guns?" ~~[illegible]~~ "Why," he says, "I don't know as that is any of your damned business." I said, "No?" And I says, "It don't look as if it would be tonight." He says, "It might some day though." He says, "You better make it your business right now." I says, "No, it aint my time." And just then I saw him look up and there was two fellows that had badges on, stars or something of the kind, special deputies, grabbed me by the shoulder and says, "You come with us." Just then there was two or three, I think four — three anyway, soldiers behind me grabbed hold of my shoulders and pushed me along and they drug me over Victor Avenue towards where they had put a number of the men in Armory hall, started down there with me, got almost there and a man by the name of Williams, he was alderman there, saw this occurrence. He came up and ~~[illegible]~~ through his influence and the influence of others he kept them from putting me in the hall, and I went on to work

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that night the same as ever. I came home the next day, the next morning, and they had been taking in all the union men and their sympathizers. I had been thinking of going to the World's Fair at St. Louis. I told my wife it didn't look very good --

Q. Did you go away? A. Yes sir.

Q. And did you come back? A. I did, I came back.

Q. When did you get back? A. About the 11th of July.

Q. And what happened to you then? A. I went back to the mine and worked a few days, I think until the night of the 20th or 21st, I aint positive.

MR. DONAH: 21st of what?

Q. Of July? A. Of July; and then about two o'clock or ten minutes past two I noticed the militia coming up to the mine up over the dump, up the steps, and I didn't want them to get me, and they got around almost before I could get away and I laid down behind a pile of cribbing, logs. They came in, surrounding the shaft house, went in the shaft house and waited there until the night shift came up. They had a list, read off the names of the men they wanted. They took the men as they came up, that is, they caught those men and put them in one part of the shaft house and those they didn't want was left on the other side. Well, they got interested there, got quite a number, and I seen a chance to get away. So I climb down the side of the cribbing and got down on the railroad track, went home and changed my clothes and came back, hurried back and hid down along the railroad track in a car.

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Q. Who were the ones that were wanted, were they union men?

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A. They were union men, yes, men that had belonged to the union; and I watched them take these men down town. Then I went back up to the mine and looked around and satisfied myself that there was no militia there and I went back in the mine, into the shaft house. There was one of the watchmen that was working under me was there, and the engineer and fireman. I had a talk with them. I gave them -- him, the keys to the office, and I hit the trail for Cameron.

Q. For what? A. Cameron, another station out about four or five miles.

Q. "Hitting the trail", that means getting out on the road afoot?

A. I walked, yes sir, I walked. I went there and waited until a passenger train came along for Colorado Springs, I got on that train and went to Colorado Springs and remained there until the next Sunday when there was a big excursion coming up, and I thought perhaps I could sneak in with the crowd and get my furniture and get my belongings there and get out. I succeeded in getting in there without being caught, packed some of my things and I had to have some boxes and barrels to pack my dishes and the balance of my things in and had to go uptown after them. I went uptown, and hadto go to the mine and I was seen by someone -- General Reardon was one I know that saw me, and when I got back or shortly afterwards, they came to the house, the militia did, and got me, took me up to where they was keeping the prisoners, which at that time was in the union hall that they had taken before and was using that for a prison, kept me there until about nine o'clock that night, and they took me before this military board of inquiry

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or whatever it is and examined me there, or questioned me, and charged me with conspiracy.

Q. Did they say conspiracy for what? A. They accused me of going back there to take these engineers and union men off of the Portland mine that was working there, and they took me in there and Major McClelland done the questioning; they questioned me there about a number of things and finally took me around into the Citizens' Alliance headquarters.

Q. What did he say to you, Major McClelland? A. He asked me many—some of the questions was he said, "What did you do with the keys of the Portland mine, Portland offices, on such and such a night — he meant the night of the 21st or 22nd, the last night the soldiers were there to get the union men. I says, "I don't know as that is any of your damned business." He says, "What?" He says, "You talk to me like that?" He says, "I will have that soldier beat you with a gun." I says, "You will have to have somebody", I says, "You can't do it." And he says, "What is that?" He jumped up and I jumped up and Mr. Reardon, General Reardon was sitting between so he jumped up, and the soldier put his hand on my shoulder, and he said, "Sit down". Reardon motioned to McClelland to sit down. He sat down again and he said, "You come back here," he says, "perhaps to make trouble." I says, "I didn't come back here for anything of the kind." He says, "We have been trying to get rid of such men as you," or something to that effect, that may not be just his words, and they went on with a lot of questions that I don't remember, I don't remember just what.

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Q. What did they do with you? A. They took me around in the Citizens' Alliance headquarters where Captain Hoag was and left me there about forty-five minutes --

Q. Took you from military headquarters to the Citizens' Alliance? A. Yes, it is around --

Q. Close together? A. Yes, it isn't any more than one door between, a little ways anyway.

Q. And that was open, that one door? A. Yes sir, I went in there and in about forty-five minutes or an hour Captain Moore came in and says, "We have decided to discharge you." I says, "What else could you have done?" Now, I says, "Do I understand I am through with you people?" Captain Moore says, "As far as I am concerned you are." Captain Hoag, who was secretary of the Citizens' Alliance, says to me, he says, "You can't get a job in this district." I says, "I will never ask you for one." And he says, "You can't work in this district." I says, "I will not ask you to work here." Then he says, "You can't get a working card in this district, a Mine Owners' card." I says, "I will never ask you for one." Well, I says, "Now am I through with you?" And I don't think he made any reply, and Captain Moore says, "You can go now." I then went over to the drugstore down about a block from there and stopped in there and got a glass of soda water, I believe, and talked perhaps five minutes, started home down on Second Street; as I got down within about a block of home there were four men come running up behind me, there was two of them, one on each side, grabbed me by the arms. I looked around,

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I thought it was some of the militia men, I says, "I thought I was through with you fellows," and I see that they had handkerchiefs or masks on and I see it wasn't the same fellows I had been talking to, and he says -- they both had guns, or all of them had guns, they put their guns -- these two put their guns in my face and says "Don't you squeal," they says, "or we will blow your damned head off."

Q. So you didn't squeal? A. I kept a going, and they took me down the Canon City road, walked me about an hour I would judge, I went down there about six miles. Finally one of them says, "I guess we have gone far enough," and one fellow grabbed my coat by the collar and he says "Let's see if this son of a bitch has got a Western Federation card on him." He says, "Take off that coat," and he grabbed my coat. I says, "Wait a minute", I says, "I will take off the coat,".and I took off the coat and handed it to him. Just as I was handing it to him some fellow hit me with the end of a blacksnake right across the back of the head. I turned around to see what it was and just about the time I looked around some fellow hit me on the other side with a revolver or something and -- well, I was too busy, they kept pounding me then. Finally, I was about all in, I got weak, and they just stood off with that blacksnake whip and laid it on me as hard as they could. I couldn't do anything except about the only thing I could do was to cover my eyes to keep the whip cracker from hitting me in the eyes, so I covered up my eyes and pretty soon they quit, and I says, "Boys," I says, "I would like to know what this is for." I says, "What have I done that necessitates any

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treatment of this kind?" And one of them spoke up, he says, "You have been too damned good a friend of the Western Federation of Miners, Jim Burns and that whole Portland outfit." He says, "You have got to get out of here, and" he says, "never come back;" he says, "Now run." I picked up my hat -- it got lost in the shuffle -- and my coat, which was throwed down in the path on the other side, and I walked off. He said, "Run"; I didn't run but I walked on, I walked down a ways and at first thought of going back and then I changed my mind and went on down to where the toll gate was, which wasn't very much further.

Q. Then after that you went out of the district, did you?

A. I did.

Q. Ever been back since? A. No sir.

MR. DARROW: That is all.

CROSS EXAMINATION

BY MR. HARAH:

Q. Did you come on to Denver? A. No sir, I went to Canon City from there.

Q. When did you come to Denver to live? A. To live?

Q. Yes. A. I didn't come -- that was the 25th of July and I didn't come to Denver to live until September.

Q. Now this occurrence which you have narrated was about the last days of July, 1903? A. That was the night of the 25th of July.

Q. That was about a little over a month after the Independence depot explosion? A. Yes; that was the 6th of June.

2775 Q. And this was about the 25th of July? A. Yes sir.

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Q. And where were you the night of the explosion at the depot?
A. At the Portland mine.
Q. And this first incident with which you were connected, where you were arrested, was the next evening after the explosion, as I understand? A. The explosion was about 2:40 in the morning and it was the evening of that morning.
Q. Prior to that you had not been disturbed at the Portland mine, had you? A. No sir, I had never been arrested or any disturbance.
Q. Never had any trouble up there? A. No trouble at all.
Q. Were you acquainted with any of the parties who were killed at the depot explosion? A. I was not.
Q. Were you a union man at that time? A. I was not.
Q. You were working in a union mine? A. I was. I was watchman.
Q. As I understand, this Portland mine had its own mill?
A. It did.
Q. And it was permitted to run by reason of an agreement with the Western Federation? A. Yes sir.
Q. It couldn't have run without such an agreement I presume then?
A. Well, I don't know anything about that. I don't know what other agreements or arrangements they could have made.
Q. Well, I say it closed down for about ten or eleven days?
A. Yes sir.
Q. And then by reason of an agreement made with the western Federation it was permitted to run? A. Yes sir.
Q. The other mines in the district were not running with the Western Federation men? A. No sir, not to my knowledge, with the exception of a few leases.

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Q. They were all out on a strike, that is, the union men were out of the mines? A. Yes sir.

Q. And they had been filled up with non-union men so far as they were being worked at all? A. Yes sir.

Q. Were you there from the 10th of August, 1903? A. I was.

Q. That was the time the strike was called? A. Yes sir.

Q. Between the time that the strike was called and the time when this Independence depot explosion occurred was the time in which these mines had been filled up with non-union men in so far as they had been filled? A. Yes sir.

Q. And during that time the union men had all gone out of these mines, and were there in the district, were they?

A. A great many of them were; some of them had left the camp.

Q. There had been no disturbances, no arrests or deportations that you know of prior to the Independence depot explosion, had there A. Nothing only through hearsay; I have heard of it.

Q You heard of those little matters in December, 1902, I suppose you have reference to? A. I did, I heard something of that. I had no personal knowledge of it.

Q. Did you know anything about the parties who were deported at that time? A. I did not.

Q. You didn't understand that it was a deportation by reason of any conflict with the union men, did you? A. I didn't understand any reason whatever. I just simply heard of the affair and knew nothing of the reason.

Q. The deportations which you refer to as taking place there and with which you were connected more or less yourself,

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or of which you were a victim moreor less we will say, was all after the 6th of June, 1904? A. Yes sir, the majority of them after that time.

Q. About how many non union men were there in the district at that time, at the time of the explosion, working? A. Oh, I couldn't attempt to say. I couldn't give you anywheres near an estimate.

Q. Well, couldn't you give a general estimate from your knowledge of the mines in the district, and so forth, how many non-union men had been brought in there? A. No, I couldn't. I couldn't do it.

Q. Do you know where they had been brought in from, what point?

A. Why, I was talking with one that said he had been brought in from Minnesota. How I come to be talking with him, he said it was misleading to him, that he didn't understand there was a strike on when he was hired up there in Minnesota and brought down there.

Q. Or he wouldn't have come? A. He wouldn't have come.

Q. He joined the union afterwards? A. I don't know whatever become of him. I never saw him afterwards.

Q. Did you learn from anyone else where they came from?

A. No, I didn't.

Q. Well, did you ascertain generally the points from which they came, without knowing any specific individual, did you learn generally from what points of the compass the men were brought?

A. I heard of three different points.

Q. What were the three different points? A. Some from Missouri and Minnesota and some from the Coeur d'Alenes.

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Q. Now were there any troubles there prior to the 10th of August, 1903, with reference to these conflicts between the union and the non-union men? A. No.

Q. It all occurred after the 10th of August, 1903, and all the deportations occurred after the 6th of June, 1904? A. Not all the deportations; all that I have any personal knowledge of.

Q. There were no conflicts between the union and the non-union men prior to that time in which deportations took place, were there? A. Nothing of any importance.

Q. Who was this man Scott that you spoke of, what is his first name? A. Eugene.

Q. Was he an employe of the authorities there at that time, was he a military man or deputy sheriff? A. No, I had always known him previous to that as a pump man. He had run pumps in mines.

Q. Well, did you say he had a badge on? A. I think he had a star, deputy sheriff's star, or something, on. Now I couldn't describe it. I didn't notice it thoroughly.

Q. Did you know the names of those parties who accompanied you out of the district the last time? A. I did not.

Q. Did you ever see them before? A. I did not.

Q. Did they have any stars on? A. No sir.

Q. Were they working men apparently or were they men who were not working? A. Well, that is hard to say. They were disguised. One of them had a great, big, white slough hat on, and the other one had a derby hat on which evidently wasn't his for it was too small for him.

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Q. And you were not able to identify them in any way so as to know who they were? A. No sir, I don't remember of ever seeing them before or since.

Q. Nor what their connections were? A. No sir.

Q. Their relations to the authorities or anything else?

A. Nothing more than what they told me when I asked them what I had done and why they done that.

Q. They told you you were too good a friend to the Western Federation? A. Yes sir.

MR. BORAH: I believe that is all.

MR. DARROW: That is all, Mr. Amole.

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MORRIS FRIEDMAN, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q What is your name, please? A Morris Friedman.

Q Where do you live, Mr. Friedman? A At the present time I live in New York.

Q How long have you lived in New York? A Well, I have just gone back to New York from Denver, in January, 1907.

Q And did you formerly live in Denver? A Yes sir.

Q When did you live in Denver? A In Denver -- you mean my residence address?

Q Yes. A Why, the last residence I had was on Stout Street, 2736 Stout.

Q I say when did you live in Denver? A I lived in Denver from 1900 until 1907.

Q What is your business? A Well, just at present I am newspaper correspondent.

Q What was your business formerly? A Well, the year before that I wrote a book.

Q Before you wrote a book what was your business? A Stenographer

Q How long were you a stenographer? Well, about three and a half years I should say.

Q Covering what time? A Between 1901 and -- well, I should say over four years, a little over four years, between 1901 and 1905.

Q Were you a stenographer during the time of the strike?A.Yes sir.

Q Whereabouts? A At the Pinkerton detective agency.

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Q Whose work did you do there? A Well, principally the work of Mr. McParland.

Q Were you familiar with the system of that office? A Yes sir, very thoroughly.

Q What had you to do with the correspondence that was received and sent out? A Well, the main thing that I had to do was to handle the correspondence of Mr. McParland, that is to say, to write whatever letters he had to send to different parties.

Q What had you to do with reports that came from your operators?

A Whenever I wasn't busy with Mr. McParland's mail, why, I would write reports.

Q Did you handle reports? A Quite a number.

Q In what way would they come in in the regular course of business? A Well, in the regular course of business they would come in on blank stationery, written in lead pencil or in ink, turned over to some assistant superintendent in the office and corrected by him; after being corrected they would be turned over to the chief clerk and then the stenographers would simply take them ~~xxxxxxxxx~~ indiscriminately and typewrite them, and subsequently they would be sent to their clients.

Q Sent to the clients of the office? A Yes sir.

Q Were any of the reports or copies of them retained in the office? A A duplicate of every report was retained in our files.

Q Who was the general superintendent or who was the head man in the office? A Well, the superintendent of the Denver office during the time that I was there was Mr. Frazer.

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Q. Any one above him? A. Yes sir, the manager of the division.

Q. Who? A. Mr. McFarland.

Q. Mr. McFarland was the head man, was he? A. He was manager of the western division, and is still so far as I know.

Q. And that included what? A. Well, that included the general supervision of all the offices between Denver and the Pacific coast.

Q. And Fraser, you say, was superintendent? A. The local superintendent.

Q. Is he there now? A. I don't think so. I think he has been promoted, at least that is what I hear.

Q. Who was the next in authority there? A. Mr. Carey.

Q. What was he? A. Assistant superintendent.

Q. And who else, who was the next? A. Well, after him came Mr. Prettyman.

Q. And what was he? A. Also an assistant superintendent.

Q. And then who? A. Then came Mr. Landoner.

Q. And has he a title? A. Also an assistant superintendent.

Q. Do you recall the strike down at Cripple Creek? A. Yes sir, it started during the time that I was there.

Q. Had the office anything to do in connection with the strike?

A. Well, they did have considerable to do in a way, that is to say, they were mixed up with the strike when trouble began at Colorado City.

Q. Had they operatives there? A. They had one during the beginning and another one subsequently.

Q. Who? A. To start with they had Mr. Grant.

2283 Q. Who was Mr. Grant? A. Well, he was an operative working on a

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smelter man in the Standard mill at Colorado City, known as No. 5.

Q A member of the union? A Well, he wasn't a charter member but he came into the union a little later on.

Q Was he prominent in the union? A Became secretary, as I remember, and subsequently was appointed chairman of the strike committee when the strike was inaugurated and was in full swing.

Q Did he make regular reports? A Every day.

Q Every day? A That is reports to the agency, and reported besides to Mr. Hawkins by phone.

Q Who was Mr. Hawkins? A Mr. Hawkins was the manager of the Standard mill.

Q Did you handle any of his reports? A No. 5, quite a few.

Q And he was No. 5, was he? A He was No. 5, yes sir.

Q Did you ever see him? A I don't beliebe I ever saw him but once and that was only a bird's eye glance; it was after his exposure and he had just issued a statement in the press stating that he never had anything to do with the Agency and I happened to pass through and heard some remark there, heard him mention something and --

MR. BORAH: Wait a minute.

Q Never mind that then. Where was he at the time that you saw him? A In the agency.

Q How long did you handle his reports? A Well, never at stated intervals, simply when I wasn't busy handling correspondence.

Q Did you have any other men at Cripple Creek? A In Colorado City.

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Q. At Colorado City. A. Well, a little later, after No. 5's exposure, they did get another man in there.

Q. Who was that? A. That was Gadden, Joseph F. Gadden.

Q. Joseph F. Gadden? A. Yes sir.

Q. Was he a member of the union? A. No, he couldn't get in. He tried and tried for months but couldn't get in.

Q. Was he working in the mills? A. Well, he did all kinds of work. I don't think he worked around the mill because that would have queered him with the union men. He worked for some livery man, saloon man, tended bar, did everything he could.

MR. HANLEY: How do you know this? Are you speaking of your own knowledge?

THE WITNESS: Speaking of my own knowledge, yes sir, that is from the reports as handed in by him.

Q. Did they have -- do you know a man named Reimer? A. Yes sir.

Q. Was he an operative? A. He was an operative at the time of the Cripple Creek strike.

Q. Where was he? A. He worked in the Cripple Creek district, travelled around from Cripple Creek, Victor, Colorado Springs.

THE COURT: What is the name of this other man?

THE WITNESS: Charles H. Reimer.

Q. Was he in the union? A. No sir, he was not.

Q. He was not? A. No sir, he was a general operative.

Q. Do you know a man named Riddell? A. Yes sir.

Q. George W. Riddell? A. Yes sir.

Q. Was he an operative? A. Yes sir.

MR. DARROW: Is Mr. Riddell in the court room?

THE WITNESS: I have seen him here a number of times.

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Q. Is that the man sitting there by the door? A. Yes sir.

Q. Was he an operator of the Pinkerton detective agency?

A. Yes sir.

Q. Was he an officer of the Telluride union? A. I don't think so.

Q. Was he connected with any of the unions? A. He was a member of the union at Telluride.

Q. Do you know whether he was elected delegate to the union?

A. It is my knowledge that he was elected this year, officially elected.

Q. Did you handle his reports regularly? A. Never; I never handled a one.

Q. Never handled his reports? A. No sir.

Q. Do you know what his number was? A. I do.

Q. What was it? A. 36.

Q. He became "28" later, didn't he, with the union?

A. It seems that way.

Q. Did you know Mr. Cummings? A. Not personally, no sir.

Q. Was he an operator? A. Yes sir.

Q. Was he connected with the union? A. I don't remember exactly.

Q. Do you know what other men there were connected with the union that were operators? A. Well, at what point?

Q. In Colorado? A. Well, at Florence there was T. J. Conibear.

Q. Was he connected with the union? A. Yes sir.

Q. Were you handling his reports? A. I handled quite a few.

Q. How often did his reports reach the Pinkerton headquarters?

A. They were supposed to reach there every day, but they didn't come regularly.

2786 Q. Do you know when he went down there to Florence? A. To the

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best of my recollection he was an operative at the time I came to the agency; subsequently he met with an accident and was off of operation for some months, then he came back and succeeded Cummings.

Q. Do you know whether he got any prominence in the union after he became an operator? A. I believe he was elected president.

Q. President of the union? A. Yes sir.

Q. Were you handling his reports while he was reporting?

A. I believe I have written quite a few.

Q. Do you know whether he held any other office in the union?

A. I don't think so.

Q. Now I just want to call your attention to the ones that were connected with the union: Did you know Bob Bailey?

A. Yes sir.

Q. Was he a member of the union? A. A member of Victor Union No. 32.

Q. What was his full name? A. Philander P. Bailey.

Q. Did you handle his reports? A. A great many of them.

Q. How long did you handle them that you know of? A. Oh, a number of months, probably over a year or a year and a half.

Q. And what union did he belong to? A. Victor Union No. 32.

Q. Do you remember his number? A. He was No. 9.

Q. No. 9? A. Yes sir.

Q. Do you know a man named Lupton? A. Yes sir.

Q. Was he connected with any union? A. To the best of my recollection he was also connected with the same union as No. 9 — 32.

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Q. And was he in the regular employ of the Pinkerton agency?

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A. Yes sir.

THE COURT: What was that name?

THE WITNESS: Lupiow.

Q. Do you know his first name? A. I do not. I never paid much attention to it.

Q. Do you know a man named Benzer? A. Yes sir.

Q. Was he connected with the union? A. He was a member of the Western Federation of Miners down at Cripple Creek. I can't say the exact union he belonged to. There were several there but that is my recollection, and I am also quite certain he was a member of the United Mine Workers, or at least if he was not he did his level best down at Trinidad.

Q. Was he connected with the strike down at Trinidad, making reports? A. Yes sir, he was making reports, first against the Western Federation of Miners and then against the United Mine Workers.

Q. And was the Pinkerton agency operating against both of them?

A. Yes sir, very strenuously.

Q. What connection did this man Benzer have with the union?

A. Nothing more than an ordinary member, as I remember it.

Q. Do you know whether Benzer was deported? A. Yes sir.

Q. With the rest of the Western Federation men? A. Yes sir.

Q. Was Riddell deported too, if you know? A. I believe he was deported from Telluride to Ouray.

Q. Do you know any other Pinkertons that were deported at that time? A. No sir.

Q. Do you know where Benzer was deported to? A. That I don't know, but I know he came into Denver subsequently together with

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the others.

Q. Do you know a man named Cummings? A. Who?

Q. Cummings, J. H. Cummings? A. Why, yes. You asked me about him before.

Q. I thought I asked you about Conibear. A. You asked me about Cummings and that drifted on to Conibear. I remember Cummings, though; he was at Florence.

Q. ~~Whatever~~ Which one was it that became president of the union? A. Conibear.

Q. I thought that was the one I asked you about all the while. Was Cummings connected with the union? A. That I don't remember.

Q. Don't remember that, whether he was.

Q. Do you know a man named Londoner? A. Yes sir.

Q. I don't mean now the Londoner who was assistant superintendent of the Pinkerton agency, but there was another man in the Cripple Creek district by that name. A. That is the same one.

Q. Is that the same one? A. The same one.

Q. Where was he operating first? A. Well, he was a general operative and has operated indifferent places. At one time he operated in Butte.

Q. Was he connected with the union at that time? A. No, at that time he was supposed to be a capitalist and trying to find out the secrets of Mr. Heinze.

Q. Was he at any time a member of the union? A. I don't believe he was.

Q. And he is now the assistant superintendent at Denver, is he? A. Denver; that is, he was at the time I left.

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Q. Do you know a man by the name of Frank E. Cochran, do you know who he is? A. I know who he is.

Q. Is he connected with the union? A. He was.

Q. Whereabouts? A. Down at Keswick, California.

Q. Is that Emmett Cochran? A. That I don't know. He was known as Frank E.

Q. Was he a Pinkerton operator? A. Yes sir, making regular reports to the San Francisco office.

Q. In reference to the members of the Federation? A. In reference to the union down at Keswick. They had a strike on down there.

Q. Do you know x A. W. Gratins? A. I know who he is, yes sir.

Q. Was he connected with the union? A. Yes sir.

Q. Whereabouts? A. Globeville.

Q. Globeville? A. That is a suburb of Denver. It is included now in the county of Denver.

Q. Do you know what part he took in that union? A. He was vice-president, president, chairman of the relief committee and delegate to the convention.

Q. That is all the offices he held in the union that you know of?

A. That is all he held, he got them all in about ten months, or nine months after he joined.

Q. Was he a Pinkerton when he went in? A. Yes sir, he was an operative at the time that he was detailed on this operation.

Q. Was this man distributing relief funds to the strikers down there? A. I don't know whether he distributed them personally, but he had directions of it.

2790 Q. Under whom? A. I don't know the rules of the organization or how he was limited, but he was chairman of the committee that

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had charge of that.

Q. Was he also distributing that under the direction of the Pinkerton agency? A. Well, he received his instructions from Mr. Carey or whatever assistant superintendent handled him, and Mr. Carey was once or twice instructed, or that is the superintendent of the office was once or twice instructed by Mr. McParland.

Q. Was he told how to distribute the funds? A. Yes sir.

Q. In what way? A. Well, at first the instructions were to make the relief bills as large as he possibly could in order to try and drain the Western Federation treasury, that is, if possible. Then when these tactics didn't work, just before the convention in 1904, possibly a week or two before that, the operatives were instructed to cut the relief bills down to the very minimum, in fact as low as they possibly could, in order to make the members dissatisfied with the union and then possibly they might go back to work, if they didn't get sufficient relief.

Q. And was anything said as to who should be charged with having cut down the relief fund? A. That I don't know, but the operatives once reported that he intended to throw the blame on Mr. Haywood for it because Mr. Haywood was objecting to the large relief bills.

Q. And did he make a report as to whether he had done this?

A. Yes sir.

Q. In a general way what was the character of the reports made from time to time by these operatives in the union, covering what subject? A. Covering the work of the men, how they worked,

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what they said during the work, what the talk was during the meals, how they spent their evenings, also the reports of the union meetings.

Q. What took place in the union meetings? A. What took place, everything said.

Q. Have you any copies of those reports? A. Yes sir.

Q. How many have you got? A. I haven't counted them -- quite a number of them.

Q. Have you got copies of these reports from these different men whose names I have given you? A. Yes sir.

Q. What was done by Mr. McParland and his assistants by way of sending these reports to their subscribers? A. I don't quite understand that.

Q. What was done by way of sending these reports after they were made, or copies of them, to their clients? A. Well, after they were typewritten they would simply be put into an envelope and addressed to their clients and mailed to them provided the client was out of the city; if he was in Denver it would be delivered personally.

Q. Regularly as quick as they were received, or when?

A. Well, as quick as they could be written up. It all depended on how the work in the office was.

Q. To whom did Mr. McParland report? A. Mr. McParland reported only to those above him, that is to the general management in New York.

Q. What was his name? A. Mr. Bangs.

Q. Did Mr. McParland and the agency take a hand in the political campaign down there in connection with the strike?

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A. I don't believe they had anything to do with any political campaigns.

Q. You don't? A. That is, not to my knowledge.

Q. How long, so far as you know, did their work continue in connection with this strike? A. Well, they had operatives in the Cripple Creek district and Colorado City and in Telluride throughout the entire time the strike was in progress.

Q. How about Trinidad and Globeville? A. All the time of their strikes.

Q. Any at Leadville? A. I don't know.

Q. Do you know a man named Smith? A. I know who he is.

Q. Who is he? A. He is No. 38.

Q. No. 38? A. Yes sir.

Q. Did he obtain a position in any union? A. Well, he was one of the most prominent members of the United Mine Workers down at Trinidad or Aguilar, where he was mainly.

Q. An official? A. I don't believe he held any official position. He used to assist Mr. Simpson, the district secretary, and after the strike, why, he was appointed as a national organizer under Mr. Mitchell.

Q. A national organizer for the United Mine Workers? A. Yes sir.

Q. Do you know where he is now? A. I don't know. It seems that after this book was published and he was exposed that he disappeared.

Q. Do youknow a man named A. C. Cole in Victor? A. No sir.

Q. Did you know of his reports being received? A. I don't recollect the name.

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Q. You don't remember that name? A. No sir.

Q. Couldn't swear to that? A. No.

Q. Have you copies of the reports here? A. Yes sir.

Q. Did you bring them with you this morning? A. Not with me. There are two duplicate copies. I believe you ought to have some of them.

MR. DARROW: Your Honor, I don't know how long you intend to hold.

THE COURT: Until twelve, and from half past one to three.

MR. DARROW: Your Honor told me, I think you will bear me out, that you would probably adjourn at half past eleven, and I haven't got the copies of these reports and I am not absolutely sure as to what ones I wish to offer. But I have got other witnesses here, if the court will let me withdraw this witness, and put others on.

THE COURT: Is there any objection to withdrawing this witness?

MR. HARLEY: No, go ahead.

THE COURT: Withdraw this witness and put on another, Mr. Darrow.

MR. DARROW: Very well, they can cross examine up to this point, but I suppose they would rather have it all in first.

(Witness Morris Friedman withdrawn).

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JOHN MONEY, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. NEWBY:

Q. Will you give us your name, please. A. Jesse Money.

Q. Mr. Money, what is your business? A. I am a farmer, operating a small coal mine.

Q. A farmer operating a coal mine? A. Well, we call it a jim Crow farmer and a one-horse coal operator in Missouri.

Q. You live in Missouri, then, do you? A. Yes sir. Pardon me, I would like to have a drink of water, if you please.

MR. NEWBY: I don't believe he is from Missouri.

Q. Mr. Money, have you ever been a member of any organization? A. I am a member of the United Mine Workers of America and National Executive Board member of the organization.

Q. That is the one Mr. Mitchell is at the head of? A. Yes sir.

Q. And you are a National Boardmember? A. Yes sir.

Q. How many of those members are there in the organization? A. I was a member from district No. 25. I think that is the last number -- whether they all exist between 1 and 25 I am not positive, but I think there was about twenty-three members when I was a member of the board.

Q. Your territory includes Missouri? A. The state of Missouri and part of Kansas, Bates and Barton counties included.

Q. Any of Colorado? A. No.

Q. Were you sent or called to Colorado during 1903 or 4?

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A. Yes, I went to Colorado as a National Executive Board member prior to the strike in 1903.

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Q. You had a strike there in 1903, did you? A. Yes sir.

Q. About how long, to what time did it extend? A. Well, I am not positive as to when the strike was declared off.

MR. KEEP: A United Mine Worker strike?

MR. DARROW: Yes. All I am going to show or attempt to show is simply that there was trouble there, that Gregory was connected with that trouble. I am not going to try to go into it fully, but just to show that the United Mine Workers had trouble with him, just as you tried to show the Western Federation had trouble with him. That is all. You know how we will argue that, the same as you will argue the other question.

Q. How long did that strike last? A. Well, I couldn't say, Mr. Darrow, how long it lasted. It commenced on November 9th, I believe; I am not positive as to the date, but about that. I would think that is the date, November 9th, 1903.

Q. And do you know about when it ended? A. No. I got put out of business on February 14th, 1904, and the result was I had to go back to Missouri and stay there six months under a doctor's care.

Q. Whereabouts were you at that time? A. Between Trinidad and Boone, that's where they put me out.

Q. How were you in Denver a little time previous to that?

A. Yes sir, I was on my way from Indianapolis, where I had attended our national convention or an executive board meeting, I am not positive as to which, but one of the two, just a short while before that.

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Q. What was done that you know about was being taken from Denver

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at that time down to the Trinidad coal field?

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

MR. BELOW: I have told the court just exactly what I expected to show.

THE COURT: Are you going to show that Gregory had to do with this?

MR. BELOW: Yes sir, that is what we expect to do, that they were men in his charge.

MR. HALEY: Well, we will withdraw our objection, under that statement.

THE COURT: It will be permitted to be shown to that extent only.

MR. BELOW: That is as far as I am going to try to show it.

Q. Were any number of men taken at that time? A. I came to Denver over the Burlington and it was necessary to change cars so I had to go down on the Colorado Southern --

MR. HALEY: We object to that. That can be answered by yes or no.

THE COURT: Answer the question asked.

Q. We don't care about the details. You were in Denver. Now was a number of men taken from any agencies or anywhere from Denver to the Trinidad coal field at that time? A. There was a number of men went down on the train, the same train that I did.

Q. Was it reported who had recruited those men? A. Yes sir.

2797 Q. Who was it?

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MR. HAWLEY: We object. It is hearsay.

MR. DARROW: It is hearsay, but it is just the same, it is just exactly the same as you have proved it, absolutely, because the question in this case, so far as it could have any bearing, would not be whether Mr. Gregory absolutely did it but whether it was generally given out, amongst the Western Federation of Miners and amongst the United Mine Workers and organized labor, if it was generally understood and given out that Mr. Gregory and his agency had been the ones who furnished these men down there and who had done what was reported by this witness and which we will show by one other witness — the only purpose that this could have is the same purpose that they —

MR. BORAH: If your Honor please, we will withdraw the objection if that is the purpose.

MR. DARROW: That is the only purpose.

THE COURT: The objection is withdrawn.

Q. What was reported as to who had charge of them?

A. This car load of men that were going down to the coal fields, as I supposed, I asked the question, I says, "Who is doing this, who is taking them down", and was told Mr. Gregory was taking them down —

MR. HAWLEY: We don't want specific conversations. He m asked the general information.

Q. Who was reported as being the one who took them down?

A. Gregory was reported as being in charge.

Q. Any detective agency connected with him?

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A. They mentioned some Reno or some office or outfit, I don't know

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-- Pinkertons or otherwise.

Q. Do you know whether Gregory was a large man or a small man or a tall man or a short man? A. I don't know. I didn't know who was in charge, that is, I didn't know who was and I asked the question who it was.

Q. Was it reported whether he was a large man or not?

A. Yes, it was reported he was a large man.

Q. Did you get on the same train with these men? A. Yes sir.

Q. And in the same car? A. Oh, no, they wouldn't let me in. I tried to get in.

Q. Were you beaten up down there?

MR. HALL: We object to that as incompetent, immaterial, irrelevant, not pertinant to the issues.

THE WITNESS: Yes, I was beaten up.

MR. HALL: Hold on. When there is an objection don't answer.

MR. DARROW: It is exactly the same thing, that this thing occurred, it was given out commonly throughout that country and generally amongst the union sympathizers. Now that is all we wish to prove by him, that this man was beaten up and it was generally given out that Gregory was one of the crowd and his people were the ones who did it, simply as showing a motive, that is all.

MR. HALL: A motive for that?

THE COURT: A motive on the part of this witness to kill Gregory?

MR. DARROW: Yes, on the part of anybody who might have believed that Gregory himself was a thug or a murderer

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or hostile to the union, — just exact as competent as for them to show that Gregory had been operating against the Western Federation of Miners in Idaho Springs to furnish a motive for some friend of the Western Federation of Miners to kill him. Now Gregory was killed. That is perfectly plain. He was killed just about that time when he had trouble with this organization, and whether he was killed because of trouble with this organization or because of some feeling that union men commonly had against him, or whether the Western Federation of Miners did, that is a question that is for this jury to determine so as far as it affects this case.

THE COURT: I will let him answer the question, Mr. Hawley.

THE WITNESS: What was the question, please.

Q. Whether you were beaten up at that time.

A. At which time, Mr. Darrow?

Q. When you went down there or very soon after you went down there with this carload of people? A. Yes, shortly afterwards.

Q. How long after? A. I should judge — now I am not positive as to the dates — but I should judge it was within a week afterwards.

Q. In the crowd that beat you up state whether there was one tall man? A. Yes sir, one very large man. I had an interview with the Press to that effect.

Q. Was that spoken of and his name used in connection with it generally by the newspapers or to any extent? A. Well, as to that I don't know. I was beat up and wasn't able to get out of bed for about ten days or such a matter, and then I went home.

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Q. Then you went home? A. Yes sir.

Q. And you have never been connected with the organization since?

A. Not in Colorado.

MR. DARROW: You may cross examine.

CROSS EXAMINATION

BY MR. BORAH:

Q. Mr. Mooney, did you know Gregory yourself? A. No sir.

Q. You never after getting this beating made any plans to have him assassinated, did you? A. I hope not.

Q. Didn't have any intention of that kind? A. No sir.

Q. Didn't encourage any of your friends to do it? A. No sir.

Q. And didn't take this matter up at all in any way after that so far as Gregory was concerned? A. We took the matter up to find out who it was.

Q. Did you take it up for the purpose of seeking revenge on Gregory in any way? A. Took it up for the purpose of prosecuting him according to the laws of the land.

Q. I am asking you if you took it up for the purpose of seeking revenge on him by violating the law, in attacking him or anything of the kind? A. No sir, if that is the way you define your question, no, we didn't take it up to violate any law.

Q. And you never heard of anyone connected with your people who discussed that feature of the punishment of him, did you?

A. Which feature?

Q. Of punishing him by assassinating him or attacking him in that way? A. No sir, never at no time.

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Q. Had no such thought of any such thing? A. No sir.

Q. How what relationship does your organization bear to the Western Federation? A. None.

Q. Did Mr. Mitchell come out to Colorado during the strike at one time? A. Yes sir.

Q. Are had a discussion with Mr. Haywood and the leaders of the Western Federation with reference to the policy of the strike?

A. I believe not. If he did I never knew it. I rather think that he did not.

Q. Did he meet with them and talk about the matter? A. I don't think he did.

Q. You didn't hear anything about that? A. No sir. On the contrary, I heard that he didn't meet them.

Q. You didn't see anything in the press reports in regard to his having a meeting with Mr. Haywood and the leaders of the Western Federation? A. No sir; the impression was that he did not meet them.

Q. Did you ever read the Miners' Magazine and his comments upon Mr. Mitchell in regard to this matter? A. Not that I remember of ,no sir.

Q. Do you read that book? A. No sir, I am not a subscriber to it, but when I see it I read it, just pick it up occasionally.

Q. You didn't read anything in regard to that matter?

A. Not that I remember of.

Q. How were you familiar with the strike down at Idaho Springs?

A. Idaho Springs?

Q. Colorado. A. No sir.

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Q. You know nothing about that? A. No sir.

Q. But you looked -- your people looked upon Mr. Gregory as an enemy of organized labor, did you? A. After we found out that Mr. Gregory was in the employ of the operators for the purpose of busting up our organizers and running them out of the country, why, we couldn't look upon him in any other way.

Q. I say that is a fact, that you did look upon him in that light? A. As an enemy to our cause?

Q. Yes. A. Yes sir.

Q. And of union labor generally? A. We didn't know anything only as an enemy to our cause the Miss Workers.

Q. Did you afterwards have any talk with Gregory? A. Not that I know of. I may have talked with him a dozen times and didn't know who he was. There was a whole lot I talked with down there at Trinidad that I didn't know.

Q. You couldn't identify Gregory then? A. No sir.

Q. Couldn't identify Gregory in any of these matters that you speak of, could you? A. No sir, I didn't know the man.

Q. All you say is there was a x tall man there? A. Yes, there was a tall man there.

MR. NEWMI: That is all.

RE-DIRECT EXAMINATION

BY MR. LAWSON:

Q. Who was your trouble down there with, the Colorado Fuel & Iron Company? A. Yes sir, principally, and the Colorado & Victor-- the Victor rather. The Victor Coal Company I believe it was termed.

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But principally with the Colorado Fuel and Iron Company.

Q. Do you know whether there were any other corporations interested -- connected with it? A. They were the principal ones. There may have been others, but they are the principal ones.

Q. Who owns that? A. Who owns the Colorado Fuel & Iron Company?

Q. Yes. A. I am not positive, but I was under the impression it was Rockefeller and Gould.

MR. MARX: Hold on. We object to the answer when he does know not know.

THE COURT: The objection will be sustained. The witness will testify to what he knows.

Q. Where did you get your information?

A. I got it from the Press.

MR. MARX: Hold on, you mustn't answer to what you got from the Press.

Q. Have you any information other than newspaper reports?

A. Yes sir.

Q. In connection with your business have you information on it?

A. Yes, in connection with who owned the Colorado Fuel & Iron Company rehad, yes sir.

Q. Did you have to meet the men and do business with them?

A. The information as to who owns them -- we tried to prevent the strike, you understand, and Mr. Mitchell was instructed by the National Executive Board to have Mr. Hark Hanna take it up with the Gould's and the Rockefellers and see if we couldn't get a settlement through the Civic Federation, and that is where I got my information.

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MR. [illegible]: That is all.

MR. [illegible]: That is all.

Hereupon the court gave to the jury the statutory admonition, the bailiffs were sworn and the [illegible] jury retired in charge of the bailiffs, the defendant was remanded, and a recess was taken until 1:30 o'clock P.M.

R E C E S S.

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Boise, Idaho, Saturday, June 29th, 1907.

1:30 o'clock P. M.

Parties met pursuant to adjournment.

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

THE COURT: You may proceed, Mr. Darrow.

MR. DARROW: I want to recall Mr. Heeney for one question.

THE COURT: Very well, call him now.

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JAMES MOONEY, being recalled as a witness on behalf of the defendants, for further examination, and having been heretofore duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q Mr. Mooney, do you know a man by the name of Smith connected with the United Mine Workers who was working in the Trinidad territory? A Yes sir.

Q And what connection had he with the United Mine Workers?

A Why, he was an assistant of Mr. Simpson, our district secretary of Colorado.

Q And did he afterwards have some further position? A He became an organizer afterwards.

MR. DARROW: That is all. There is one or two others just on this same point and it won't take over five minutes, and they want to get away.

THE COURT: Very well, call your witnesses.

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

DIRECT EXAMINATION

BY MR. MARROW:

Q What is your name, please? A Chris Evans.

Q Where do you live? A In Nelsonville, Ohio.

Q Have you any connection with the United Mine Workers?

A I am the National Statistician of the United Mine Workers of America.

Q Do you know a man by the name of Warjon? A Yes sir.

Q What position has he in that organization? A He hasn't any at the present that I know of.

Q Did he have in May, 1904? A Yes sir.

Q What was he? A He was a national organizer.

Q Do you know whether he was in Denver or other parts of Colorado at the time? A He was there, I believe, at different times.

Q Do you know where he stopped in Denver? A I don't.

MR. DORAN: Wait just a moment. He could only know by hearsay.

MR. MARROW: I thought he was there with him.

Q Were you called into the Trinidad district during the strike of 1903 or 1904? A Yes sir.

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Q Were you there about the time related by Mr. Mooney, when something happened to him? A I was in Pueblo, Colorado, at that time.

Q Were you in the Trinidad district after that time? A Yes sir.

Q Did anything happen to you? A Yes sir.

Q Just briefly, what was it? I don't care for the details.

MR. HORAN: Wait a moment. This is not a man who was connected with the Western Federation, is it?

MR. DARROW: It is just the same as Mr. Mooney testified to.

THE COURT: What is the object of this testimony, Mr. Darrow?

MR. DARROW: The same as Mr. Mooney testified to, to show that the officers of the United Mine Workers were beaten up at that time, and it was given out publicly to the press that it was done by Gregory and his people; exactly as the same as we show by Mr. Mooney.

MR. RICHARDSON: And this is the man who was mentioned in Mr. Orchard's testimony.

MR. DARROW: I think Mr. Orchard mentioned this man's testimony as the cause of his trip to Telluride right after.

MR. HAWLEY: Are you going to confirm his testimony?

MR. DARROW: I don't think it would hurt it any, to confirm it, no.

THE COURT: What is the question?

2809 The question was then read to the court.

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MR. HANLY: We object to it as incompetent, immaterial and irrelevant and not pertinent to this case.

THE COURT: The question is very indefinite, Mr. Darrow.

MR. DARROW: I don't want to make it leading.

Q Were you beaten up at that time? A Yes sir.

MR. HANLY: I object to it as incompetent, immaterial and irrelevant, and not pertinent to the issues or in any way connected with the issues in this case.

THE COURT: The objection will be sustained unless it can be shown that Gregory was connected with it.

MR. DARROW: We expect to show, your Honor, that Mr. Gregory was in Trinidad at that time, and that he was directly charged with it at that time and that it was published in the newspapers at that time that he was the man who was responsible for it, and it was generally circulated throughout the State of Colorado and that Gregory himself called the attention of the papers to it. We will show that far, together with what we have already shown by Mr. Keeney who has already identified him to a certain extent.

MR. HANLY: We submit that the offer in the statement of counsel would exclude the testimony.

THE COURT: I very much doubt the materiality of it, but I will permit the question to be answered.

Q You may state? A I would say that I was at Trinidad --

MR. HANLY: We object to that.

2810 Q Just answer yes or no. A Yes sir.

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Q Do you know who was president of the Colorado Fuel & Iron Company at that time? A I do not.

Q Do you know whether Mr. Rockefeller connected with it? A I understood through the press that he was.

MR. HAYES: We object to that.

Q James F. Kerney? A Yes sir.

MR. HAYES: I move that that be stricken out as hearsay.

THE COURT: It may be stricken out.

Q Did you ever have any dealings with him? A No sir.

MR. DARROW: That is all. There is one more witness on that point, Mr. Kerney.

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JOHN I. TIERNEY, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. MARROW:

MR. DARROW: This witness I expect to use on another matter entirely independent later.

Q What is your full name? A John I. Tierney.

Q And what is your business? A Newspaper reporter.

Q For what paper? A For the Rocky Mountain News and Denver Times.

Q Published where? A Denver.

Q How long have you been connected with these papers?

A About five years, I guess.

Q Were you in Trinidad at the time of the strike? A Yes sir.

Q At the time of the trouble between the Colorado Fuel and Iron Company and the United Mine Workers? A Yes sir, I was.

Q When was that, or about when? A It was — I will have to think; it was in 1904 when I was there, in the spring.

Q In the spring of 1904? A Yes sir.

Q Did you know Lyte Gregory? A Yes.

Q What kind of a man was he as to size? A He was a very tall man, about six feet two, I should think, weighed about 200,

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muscular, broad shouldered.

Q Were you down there in the newspaper -- as a reporter for your xx paper when some trouble occurred there? A I was sent as a correspondent down to the southern fields.

Q In which Mr. Lyons and Mr. Feeney were concerned? A Yes.

Q Was Lyte Gregory there about that time? A Yes.

Q Did you see him? A I did.

Q State whether you wrote a story which was printed in the Denver papers in reference to Gregory's connection with that matter? A I did.

Q Do you know how long a story it was? A It was not very long; it was included in the general report for that day, and there was a feature made of his presence there.

Q Was that in connection with the beating up of those men?

A Yes.

Q Do you know who was president of the Colorado Fuel & Iron Company at that time? A Mr. Kearns.

MR. DARROW: That is all.

CROSS EXAMINATION

BY MR. BORAH:

Q There is Trinidad with reference to Cripple Creek -- how far is it from Cripple Creek? A Well, Trinidad is south, very near the New Mexico line I think.

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Q How far from Cripple Creek, in a general estimate? A Perhaps 300 miles, and perhaps not so much.

Q And how far from what is called Idaho Springs, Colorado?

A Well, it is about 200 miles, or a hundred and eighty-five.

MR. BORAH: That is all.

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THERON STEVENS, being called as a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. NICHOLSON:

Q What is your name? A Theron Stevens.

Q And what is your age? A 64.

Q Where do you reside? A I am living at present at Goldfield, Nevada.

Q What is your occupation? A Lawyer.

Q Where did you reside in the years 1903, 1904, and 1905?

A At Ouray, Colorado.

Q What was your occupation at that time? A I was Judge of the district court.

Q What court is that with reference, in that state, with reference to the Supreme Court? A That is the highest nisi prius court, next in grade, below the supreme court.

Q What counties did your district embrace? A San Miguel, Ouray, Hinsdale, Gunnison, Montrose, Delta and Mesa.

Q What is the county seat and what was the county seat of San Miguel county? A Telluride.

Q What is the principal industry of Telluride? A Mining, it is a mining town strictly, Telluride is.

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Q Did any trouble occur in that district with respect to San Miguel county in the year — in the latter part of the year 1903, or the spring of 1904? A Yes.

Q What was that trouble? A Well, there was a strike there. The mine workers belonging to the Western Federation went on a strike, I believe, some time in May, if my recollection is right, and that strike continued,— well, it was not — well, they were still out in December, 1903, and they were having some little differences, and, well, in fact the strike was not declared off until the next year.

Q How was it with respect to the court over which you presided and its processes during that time? A The processes of the court were always observed strictly. I never knew any violations of the law, and especially no violations of the orders of the court during that time. There was something of a boycott on the part of the union upon some of the business interests there, and during my absence the county judge, acting in the place of the district judge, as he may do in the absence of the district judge from the county, under the laws of that State, issued out of the district court an injunction restraining the boycott.

Q As against whom? A As against the several individuals in the miners' union there, naming each and numbering each generally.

Q What became of that injunction?

MR. NASH: I object to that as not the best evidence.

2816 Q What was done under that injunction? A An application was

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made --

E. BORAH: Wait a moment. We object to that as not the best evidence.

MR. NICHOLSON: This is the best evidence of that. This is not asking anything in regard to the record.

THE COURT: I will permit this question to be answered.

THE WITNESS: An application was made to me to dissolve the injunction when the court met in that county. I considered--

MR. BORAH: Just a moment. That answers the question, and we don't want any consideration.

Q Did that matter come on for hearing? A It did.

Q Was the injunction dissolved?

MR. BORAH: We object to that as not the best evidence.

Q What was done with the injunction?

MR. BORAH: We object to that as not the best evidence and as the conclusion of the witness.

THE COURT: What is the purpose of this testimony?

MR. NICHOLSON: To show the conditions that prevailed at Telluride and who first interfered with the court at Telluride.

THE COURT: Is the copy of the record here?

MR. NICHOLSON: No sir, but we don't care to go into the record at all, but only as to what was done under it.

THE COURT: The question may be answered.

Q Proceed, Judge. A There was an application made to dissolve the injunction. The conditions were such that I thought it

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would not be wise to dissolve the injunction, and I let it remain in force; and I heard of no infractions of the orders of the court after that time.

Q There was nothing done further with respect to that matter?

A Nothing whatever.

Q What do you know, Judge Stevens, of any deportations taking place from Telluride while you were judge of that district in the fall of 1903, or the spring of 1904? A There were a great many deportations.

Q How did they arise? A The militia was called in there, or went in there; Martial law was declared and the militia was sent into the county in December or the early part of January,— December of 1903, or the early part of January, 1904, I don't just remember the date.

Q What was the general condition of that county at that time in reference to peace and quietude? A Perfectly quiet. No infraction of the law of any kind.

Q Was there any interference with the processes of the court at that time? A None whatever.

Q Do you know how it came about that the militia came in there at that time? Did you have any talk or anything of that kind with the Governor of the State? A I had no talk with the Governor nor with any of the military officers. I was at Telluride. I think I opened court there on the 4th day of December. On the train going in with me was the assistant Attorney General of the State, Mr. Melville. He was going in

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there to see if the matter could not be adjusted between the mine owners and the Western Federation with reference to there going on to work. An application had already been made to the Governor to send troops in there, and he was going in for the double purpose to see first, if he could not adjust the difficulty, and second, if the necessity of sending troops in there existed for the purpose of quieting the conditions. He was invited to attend a meeting of the Citizens' organization there and mine owners organizations, and he invited me to go with him. The discussion became considerably heated and I gathered from the remarks that were made by the mine operators that so far as the men were concerned --

MR. HAYWOOD: We object to the conclusions. Let him give the language.

Q State the substance of it; we don't care for the whole detail of it. A Well, the same conclusion was reached by the assistant Attorney General, that there would be no difficulty between -- on the part of the mine owners and the Western Federation to adjust their differences, but that the citizens there demanded that the troops should come in; they claimed -- I hearing the remarks myself -- that they had stood by the mine owners and that the mine owners now had got to stand by them; that there had been this boycott which had worked up a great deal of feeling on the part of the citizens who I am largely inclined to think --

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Q When you say citizens, to whom do you refer? A The business men.

Q Was there a citizens' alliance there? A Yes sir.

Q That is what you mean, is it? A Yes, there was a citizens' alliance there.

Q All right, proceed. A And I am very much inclined to think that the matters could have been adjusted between the operators and the miners if it had not been for this feeling on the part of the citizens there who were demanding that the troops be sent in.

Q Well, what was the result of that matter? A The result was that troops were sent in there -- the militia was sent in.

Q Were there any deportations at that time? A There had been none until the militia was sent in.

Q How long did the militia stay there? A Why, they must have been there, I should say two or three months; I don't just mind the time.

Q Describe the deportations that occurred during that period?

A There were a great many. Of course I could not tell how many but they were constantly sending them out.

Q Where did the deportees go to, if you know? A Some went to Ouray, and a good many stopped at Montrose and had quarters there,-- I think there was something like sixty or seventy of them stopped at Montrose and hired a place and boarded themselves -- supported themselves.

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MR. HANLY: Are you speaking of your own knowledge now or something you heard?

THE WITNESS: Well, largely because I knew a good many of the deportees.

MR. HANLY: I mean in regard to their having a boarding house started and those things.

THE WITNESS: Only what they told me.

MR. HANLY: That we object to then.

THE WITNESS: Very well.

THE COURT: You can testify only to what you know yourself.

THE WITNESS: I don't know as an absolute fact that I was ever in the boarding house.

MR. HANLY: We ask that that be stricken out then.

Q Go ahead and testify then. I suppose a matter of general and common knowledge is proper? A It was a matter of common knowledge, certainly.

Q Proceed. A During the time that these deportations were going on some of the deportees applied to me for an injunction restraining the militia and the Citizens' Alliance from interfering with their returning to their homes in Telluride. This application I refused. I said that the militia was there in charge and I would not attempt to interfere with their jurisdiction; the Governor had declared martial law and had said that a state of insurrection existed and I would not attempt to interfere. Afterwards it was claimed that everything was

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quieted down and the troops were withdrawn; the order for martial law was rescinded -- recalled, and [illegible] the troops left there. There was still deportations going on by the Citizens' Alliance. Then the deportees applied to the Governor for protection against the acts of the Citizens' alliance and he notified them that the place was no longer under martial law, that he had withdrawn the troops from there and that he had nothing further to do with it. They then applied to me for an injunction,-- something like forty or fifty, I think, were in the case,-- they applied to me in chambers at Montrose for an injunction restraining the parties from deportation and restraining them from interfering with those who had been deported from returning to their homes, etc. I issued that injunction.

Q And what occurred after the issuance of that injunction?

A The governor immediately declared it again in a state of insurrection and called out the troops again and sent the militia in.

Q And what was done with reference to the deportees being allowed to return? A They were not allowed to return.

Q Was there any interference with the process of your courts other than that which you have described,-- any other interference? A Well --

Q The writ of habeas corpus, I refer to. A I issued a writ of habeas corpus.

Q When was that? A That was in the spring of 1904.

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Q Who was the subject of that writ of habeas corpus? A Mr. Moyer, Mr. Moyer, he was president of the Western Federation of Miners.

Q Was that writ obeyed? A It was not.

Q What was done with reference to its obedience or disobedience?

A Well, I issued the writ from Ouray.

Q Was that your home -- that where you had your headquarters?

A Yes, that was my home, and I had the writ served upon Bulkley Wells, who was Captain, I believe, in charge over there, captain of the militia, or possibly higher in command of the militia,-- second in command, I believe, to Sherman Bell. I issued that writ directed to Sherman Bell, Bulkley Wells, and I think the sheriff of the county to produce the body of Mr. Moyer before me in Ouray.

Q What occurred upon the return of that writ? A They refused to produce him.

Q Did they come themselves? A Mr. Bulkley Wells I think was there,-- no, he was not; no, he was not there -- none of them came, that is right. The Attorney General of the State, Mr. Miller appeared for them.

Q And tendered an answer? A Yes sir.

Q And neither Sherman Bell nor Bulkley Wells appeared themselves?

A No.

MR. RAWLS: I object to that as leading.

THE COURT: The objection is sustained.

2823 Q What did Bulkley Wells and Sherman Bell do with reference to the writ of habeas corpus? A They absolutely refused to

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recognize it.

Q Did they personally come? A They did not.

Q I suppose the first writ was the alternative writ? A Yes.

Q Was there any other writ issued? A Yes, there was.

Q What writ was that? A That was a writ for the arrest of Bulkley Wells and Sherman Bell.

Q What happened when you issued that process? A The officer went over there and executed the process, but they absolutely refused to recognize it.

Q Who was Bulkley Wells with reference to his civilian capacity? A He was the president or vice president and General Manager of the Smuggler Union Mining Company.

Q What relation did he sustain to the mine owners association of Telluride? A He was very prominently connected with it. I don't know whether he had any official position connected with it or not.

Q What relation did he sustain to the citizens' alliance of Telluride, if any? A Well, he seemed to be a prominent member of that alliance.

Q How long did the troops remain there at Telluride on that second occasion? A Well, now I don't remember clearly; it has been some time. I could not say how long they did remain,— perhaps a month.

Q What was the condition of the county of San Miguel as to turbulence and disorder at the time you issued the injunction writ which resulted in the military coming in there — the declaration

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tion of martial law? A There was no disorder. It was perfectly quiet there. The only difficulty was that those who had been deported, many of them insisted on being allowed to return to their homes. Many of them had homes and owned property there, and they wanted to go home, and the citizens' alliance did not want them to come home. That was about all there was of it. There was no violations of law that I knew of or anything of that kind.

Q Did Ashley Wells speak at that meeting you have spoken of that occurred in Telluride when you were in company with attorney Melville? A My recollection is that he did.

Q Do you recall what he said? A No, I don't remember any of the language. I could not repeat any of the language said by anybody.

Q Do you remember that he said anything about having had a conversation with Moyer, Haywood and Murphy while in Denver?

A No.

Q You don't remember that? A No. I know his utterances there — I thought at the time —

MR. HOAH: Wait a moment. We ask that he state what Mr. Wells said.

THE WITNESS: I cannot do that. I can only say what my impression was.

MR. HOAH: We object to his impressions and conclusions.

THE COURT: What you know?

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THE WITNESS: I can only state the impression that I received.

Q He did speak any way? A Yes.

Q Aside from that speaking you got some impression? A Yes sir.

MR. RICHARDSON: You may take the witness.

CROSS EXAMINATION

BY MR. DORAN:

Q You say that Mr. Falk was connected with the Smuggler Union mine? A Yes sir, he was largely interested in the mine.

Q Where was that mine located? A At Telluride.

Q How far from Telluride? A Perhaps two miles.

Q Were you there in 1901? A Yes.

Q Was that the time an attack was made on the Smuggler Union mine and some five men were killed? A Not as many as that, no.

Q How many? A I think there was one, possibly two.

Q Who were these men that were killed? A They were connected with the mine.

Q In what capacity? A One of them was a foreman or shift boss, I think.

Q And what was his name? A I could not give his name.

Q How? A I could not give his name. If you can refresh my memory --

Q Was it Barney? A No.

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ago?

Q Quite? A No.

Q How many were killed there at that time, do you say? A My recollection is -- I have a very faint impression about the number -- there was one I believe that was killed outright and one or two that were wounded; but I don't think there was but one killed.

Q Now, St. John and some other leaders of the Federation were arrested for that, were they not, and it came beforeyour court?

A Yes.

Q And you released them? A I did.

Q And afterwards a Grand Jury was called? A No, the grand jury was called and they were arrestedupon indictment.

Q By the grand jury? A By the grand jury.

Q Now, Bulkley Wells succeeded Arthur Collins, didn't he?

A Yes.

Q And Arthur Collins was manager of the mine, wasn't he, or superintendent? A Yes.

Q And he was shot through his window one night? A Yes.

Q When he was in company with his guests at the table?

A I don't remember that, no.

Q You know he was assassinated? A He was shot through the window, I know that; that is,the same as we all know, by hearsay.

Q And Bulkley Wells succeeded Mr. Collins who was killed?

A Yes, Wells was vice-president and really the head manager of it and Mr. Collins -- or during the time Mr. Collins was there

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same

he was really the general manager of it.

Q You know what date the Collins' killing took place? A Indeed I don't.

Q Can you fix about the date? A I cannot.

Q Now, the principal mine at that place was the Smuggler union mine? A That was the principal mine. There are one or two other very prominent mines, for instance, the Vanderbilt.

Q There have been at one time there, before this trouble, considerable difficulty at the Smuggler Union mine? A Yes.

Q In which three or four parties had been killed, Collins?

A No.

Q The Smith boss, and Smith? A No, Collins was killed long after the difficulty was adjusted between them.

Q In the first place the strike occurred? A Yes.

Q In which one man was killed? A Yes.

Q And then about a year after that Collins was shot through the window? A If it was a year.

Q Well, the strike occurred in the fall of 1901? A No, on the 4th of July, 1903.

Q And Mr. Collins was killed in November, 1903? A Was it so long as that? It was after, I know.

Q And this was about a year then prior to the time the troops were called in? A Yes.

Q Now, at the time the troops were called in you say the citizens there demanded they should be brought in? A Yes.

2828 Q When you say "citizens" you mean the people in business

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generally? A No, I don't mean that. I mean there was probably three or four or half a dozen leaders of the citizens' alliance there demanded that they should come in.

Q In what business were they engaged? A Well, one was a banker.

Q What was his name? A Wrench, the vice-president of the First National Bank there, and another was the editor of a paper, the Telluride Journal.

Q What is his name? A Painter; another was Venatta, a merchant.

Q What kind of a merchant? A Clothing and furnishings.

Q General merchant? A No, just clothing and furnishing goods.

Q Very well, go ahead. A Now there was one or two others that spoke that night rather violently and demanded that the troops should be sent in. I don't remember all of them.

Q The Attorney General had come down there for the purpose of investigating the situation? A Yes.

Q Or the assistant Attorney General? A Yes, the assistant Attorney General, Mr. Melville.

Q And after this meeting was held and the people discussed the matter there as you stated, they called in the troops? A Yes.

Q Now, after the troops were called in I understood you to say in the first instance that you had no difficulty with the processes of your court? A Therefore no processes issued after the troops came in there.

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Q But you afterwards issued a process after the troops had been called away? A Yes.

Q And then they were called back? A Yes.

Q Now, Mr. Moyer came down there to Ouray in March, 1904?

A I think it was March 6th.

Q Did you know who accompanied him on that trip? A I did not.

Q Did you know Moyer? A I did not; I never met him.

Q Was this the same case which was afterwards heard in the supreme court of Colorado? A No, this matter of mind never has been heard yet; it is standing in the supreme court yet.

Q He presented a writ to the supreme court? A He presented a petition to the supreme court and they issued a writ.

Q And he was under arrest? A For the same thing, upon the same matter, at the same time and upon the same charge.

MR. NICHOLSON: No, there was not any charge; that is the trouble.

Q It was the same arrest you were seeking to investigate?

A Yes.

Q And that is the case that is entitled In re Moyer, in the supreme court of Colorado? A I think so.

Q You reside now at Goldfield? A Yes sir.

Q How long have you resided there? A I reached there on the first day of January of this year.

Q Is that your home now? A That is my home now, yes sir.

MR. MORAN: That is all.

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RE-DIRECT EXAMINATION

BY MR. RICHARDSON:

Q That was the same detention or imprisonment that the federal court afterwards issued a writ of habeas corpus in? A Yes sir.

Q And Mayer was discharged? A Yes sir.

Q Did you have any personal acquaintance with Haywood? A I have none.

Q Never saw either of them? A No sir.

Q You never saw Mr. Haywood? A No sir.

Q Until you saw this man here in court today? A No sir.

Q Were you there in Telluride at the time that nineteen union men were killed, smothered in the Smuggler Union mine?

A No sir, I was not.

Q That was one of the things that happened down there? A Yes.

Q And you knew about that in the same general way? A Yes.

Q But you were not there at the time it happened? A No sir.

Q You spoke about some other man that had been killed there on that 4th of July when there was a riot or something? A No, I was not there.

Q You was not there at that time? A No sir.

Q Do you know anything about that? A There was -- you mean in respect to --

Q Senator Borah's question? A Yes.

Q That is what I want to get at? A My recollection is that

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there was one man killed.

Q He was a union man too? A I don't know.

Q You don't know whether he was a union man or a non-union man?

A I don't know anything about that.

MR. KINNAMON: Just is all.

MR. DUNN: No further questions.

THE COURT: Call your next witness.

MR. BARROW: We will now recall Mr. Friedman.

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MORRIS FRIEDMAN, being recalled for further examination, testified as follows:

DIRECT EXAMINATION CONTINUED

BY MR. DARROW:

Q Mr. Friedman, did all of the reports of these various men you have mentioned come under your observation? A Yes sir,—well, no, I did not quite follow the question. Not all the reports I have mentioned, but all those I have talked about.

Q All those you referred to? A Yes sir.

Q And how was it about all the reports you received that came under your observation? A I only saw and observed those reports which I have.

Q What I mean, if all the reports of the office had to come to you? A No sir.

Q What proportion of them, about? A Whenever I would not be handling correspondence, I would as a rule write reports and they was as a rule not limited or defined.

Q Who was operator No. 5? A That is A. E. Crane.

Q I will pas you a few papers more and ask you whose reports these are? A Well, these are the reports of A. W. Gratias, No. 42.

Q Do you remember when you got those? A Well, I can tell when I look at the dates, because I made no mental memorandums of these things.

Q The reports I hand you I will ask to have marked for identification as defendant's exhibit 7. They better be marked separately.

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MR. DARROW: Now there is a part of this I am going to offer and you may want to read them first, and I will say to the court if you think it will expedite it any I will show them to these gentlemen after court adjourns or Sunday, and I will put another witness on.

MR. BORAH: I think you can go ahead, Mr. Darrow.

Q. Between what dates are those that you have referred to?

A. I don't remember the exact dates of those that are marked there.

Q. Will you look at them (hands papers to witness).

A. They are between June 1st and June 9th, 1904.

Q. Where did you say Mr. Gratias was located? A. He was operating in Globeville.

THE COURT: Where?

THE WITNESS: Globeville. That is a suburb of Denver.

Q. And he was the one who had charge of relief, amongst other things, you said? A. Yes sir.

MR. DARROW: I want to offer these reports marked defendant's Exhibit 7.

MR. BORAH: Let me see them. (Papers handed to Mr. Borah). You just proceed and identify them all and then we will perhaps take a little time to look them over.

MR. DARROW: I haven't quite determined all that I will introduce here.

MR. HAGAN: It won't do any hurt to identify them anyhow. You don't have to introduce them if you don't want to.

MR. DARROW: Very well, I will identify them. Then I will give you the ones I am going to introduce.

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Mark this package defendant's Exhibit 8 for identification.

Q. What operator is this (hands Exhibit 8 for identification, to witness). A. That is No. 38, Robert M. Smith.

THE COURT: What is the date of that.

Q. And the date, between what times? A. That is between February 24th, 1903, and September 25th, 1903.

THE COURT: Where was he?

THE WITNESS: Down at Trinidad.

Q. At Trinidad? A. Trinidad, Colorado.

MR. HADLEY: Let us see that.

MR. DARROW: I am not sure I will introduce all of this or not, but I will give you a copy of those I do introduce.

Q. I show you report which we will mark defendant's Exhibit 9 for identification, all of these. Will you look at this.

A. Why, this is a copy of a letter from General Superintendent Kimball of the San Francisco and Los Angeles offices to Manager McFarland.

Q. I show you two letters which we will mark for identification as defendant's Exhibit 10.

MR. BORAH: Will you let me have Exhibit 9, if you have identified it.

MR. DARROW: Yes, I have identified it. (Hands Exhibit 9 to Mr. Borah.

THE COURT: What is the date of that?

MR. BORAH: The date of this letter is May 20th, 1904.

Q. Will you state what is this one, defendant's Exhibit 10?

A. Why, these are two reports of operative Charles H. Reimer.

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Q. What is the date of that? A. The date is September 9th, 1903, and September the 26th, 1903, from Cripple Creek.

THE COURT: What is that name?

THE WITNESS: Charles H. Reiner, R-e-i-n-e-r.

MR. DORAN: The dates, Mr. Darrow.

MR. DARROW: The dates are September 26th, 1903 --

THE COURT: Where are they from?

THE WITNESS: From Cripple Creek, dated from Cripple Creek.

MR. DARROW: -- and September 9th, 1903.

Mark this as defendant's Exhibit 11.

MR. DORAN: Is that No. 38 a Cripple Creek man?

THE WITNESS: No sir, Trinidad. He was probably reporting through from some other place.

MR. DORAN: Exhibit No. 11 is the Cripple Creek man, isn't he? What was the number of the operative at Cripple Creek?

THE WITNESS: It is Charles H. Reiner.

Q. Do you remember his number? A. He has no number. He goes by initial. He was a general operative and didn't have to have a number.

Q. What was his initial? A. -- "C.H."

Q. I will show you Exhibit 11: Whose is that? A. That is No. 11, Philander F. Bailey, reporting from Victor, Colorado; dated February 21st, 1903, and March 6th, 1903.

Q. Where did you say this one is? A. It is dated from Victor, Colorado.

Q. I show you another package which I will ask to have marked

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Exhibit 12 for identification: Tell us who that is.

A. Why, these are two reports of operative Londoner from Victor dated June 5th, 1904, and June 6th, 1904.

MR. DARROW: That is all I will ask at this time. We have a few more that I haven't examined very carefully.

THE COURT: Can't you get through with these so the court can have tomorrow to examine them?

MR. DARROW: We have these, your Honor.

MR. BORAH: I would like to ask a question or two so that we can examine them.

MR. DARROW: Certainly.

QUESTIONS BY MR. BORAH:

Q. Are these all of the reports that you have from the respective operatives whom you have designated? A. Well, I don't quite understand.

Q. Well, have you presented all the reports which you have of any operative whose reports you have at all? A. Well, no, these are not all the reports that I have.

Q. Where are the rest of them? A. We have them.

Q. Where are they? A. They are here in Boise.

MR. BORAH: We will want them at the proper time, Mr. Darrow.

MR. DARROW: Very well.

MR. HAWLEY: We would like to have a chance to look over them tomorrow, it might save a day's time.

MR. DARROW: I want to look over these a little more carefully, those I haven't offered yet. Those I am going to

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offer, I will give them to you.

MR. RICHARDSON: We will make copies of them so that we can give the court a copy and the other side a copy.

MR. DARROW: I am willing to furnish copies. We may have them copied right away and give a copy to your Honor and to counsel, and perhaps we better withdraw this witness.

THE COURT: If there is not going to be any objections to them --

MR. HAMLIN: We don't know whether there is going to be an objection to these. We haven't had time to examine these.

MR. DARROW: I don't suppose we are bound to offer any more than we wish to offer, and I wouldn't say to counsel right now that I will offer everyone we have got.

MR. HAMLIN: We have a right to have an inspection and offer those that we desire.

MR. DARROW: I should doubt that. I think we have got a right to introduce any report we have got.

THE COURT: We will meet that when we get to it.

MR. DARROW: Your Honor, at this time shall we withdraw this witness?

THE COURT: I guess you better, and call another witness. It will probably save time. Have you another short witness, Mr. Darrow?

MR. BORAH: Make him very short.

MR. DARROW: I don't know, your Honor, I have got several long ones.

THE COURT: We don't want one of them.

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MR. DARROW: Your Honor, I don't believe we have got short one here at this time. Counsel thredoesn't want us to have a long one either.

MR. BORAH: That is the most pleasant thing counsel has said today.

MR. DARROW: I presume we might as well adjourn.

Hereuponthe court gave to the jury the statutory admonition, the bailiffs were sworn, the jury retired in the custody of the bailiffs, the defendant was remanded, and the court adjourned until Monday, July 1st, 1907, at ten o'clock A. M.

A D J O U R N E D.

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