

Archives  
State of Id  
vs.  
Steve Adams  
1907

76

v.3  
p.1062-  
1551

Location: A

aho

I N D E X  
(To Defendant's only)

	Direct	Cross	Re-Direct	Re-Cross
Adams, Stephen W.	1573	1652		
D i t t o		1767	1858	1859
D i t t o		1872		
D i t t o		1939	1941	
Adams, Mrs. Annie	1988	1998	1998	
Besett, Edward	1930			
Brown, Harvey T. (Former Testimony)	1977	1986		
Chinn, Samuel Otis	1861	1868		
Chandler, W. R. (Defendant's motion to strike)	2001			
Dreunan, Dr. D.D.	1962	1968	1966	
Glover, Newton	1486	1512	1545	1546
Henkle, Minnie B.	1441			
D i t t o (Recd)	1447			
Kildee, Mrs. Nellie	1385			
Laird, Eli	1478	1483		
Lillard, J.W.	1997			
Mason, Alvin	1108			
D i t t o (Recd)	1933	1935		
Mason, Mrs. Alvin	1226	1240		
Mason, Lloyd	1328	1335	1365	
Mason, Myrtle	1247	1253	1276	
Mason, Orville	1280	1296	1319	
D i t t o (Recd)	1320	1323		
O'Neill, William	1763			
McFarland, James (Recd)	1448			
D i t t o (Recd)		1950		
Price, Frank	1387	1419	1435	1436
D i t t o (Recd)		1469		
D i t t o "	1510			
Russell, Joseph J.	1942			
Struthers, Charles	1969	1972	1975	
Todd, Oliver H.	1371	1375		
Thiele, S.C. (Recd)		1761		
Whitney, Eugene		1948		

*Steve Adams vs. State of Idaho  
Volume 3*

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R E B U T T A L

	Direct	Cross	Re-Direct	Re-X
Hopkins, W. B.	2063	2068		
Root, George H.	2079	2098		
Whitney, Eugene L.	2007	2008		
D i t t o (Recd)	2054	_____		
D i t t o (Recd)		_____		
Williams, G. H.	2097	2100		

MR. DARROW: Now, if the jury can be excused for a few minutes

The jury was duly admonished and excused in charge of sworn officers of the court.

MR. KNIGHT: Just a moment, before the jury retires. Counsel agrees that he can put in a calendar of 1904.

MR. DARROW: Thats all right; we will agree with that.

Thereupon the jury retires and the following proceedings were had without the presence of the jury.

MR. DARROW: I wish, your Honor, to make a motion to exclude all testimony of the confessions in this case, on the ground that it is not shown they were obtained freely or voluntarily and without threats or promises, but, on the other hand, it is shown that they were obtained through fear and by promises and inducements held out to the defendants.

THE COURT: The motion will be overruled.

MR. DARROW: We except to it.

THE COURT: Exception allowed.

MR. DARROW: I want to make that motion especially as to the confession as introduced and testified to by James McParland, that this be excluded on the ground that it is not shown that it was obtained freely or without threats or promises or other inducements, but, on the contrary,

it is shown that it was obtained upon promises and threats and inducements held out to the defendant.

THE COURT: Motion denied.

MR. DARROW: To which we except.

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THE COURT: Exception allowed.

MR. DARROW: I also want to make a motion asking the Court to advise the jury to find a verdict for the defendant.

THE COURT: Motion will be denied.

MR. DARROW: defendant excepts.

THE COURT: Exception allowed.

THE COURT: Shall we send for the jury now?

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

THE COURT: The sheriff will have the jury called.

Thereupon, the jury came into court and being duly polled, all answered to their names and the trial of this cause proceeded as follows:

Opening statement-1

Thereupon, Mr. Darrow, of counsel for defendant made his

OPENING STATEMENT

On the part of the  
defendant as follows:

If the Court please and gentlemen of the Jury:

It will now come our turn to tell you our side of the case, the case as we understand it. I may make some errors for I have been hardly able to give it the close attention that I should give it; for that reason there may be some things that will develop in the evidence that I may not give exactly in my opening statement.

Steve Adams here is about 40 or 41 years old at this time. He is a man of common, ordinary origin, and still has had rather an eventful life so far. He was born down on a farm in Missouri in 1867, I think. He was born down in Missouri a little over 40 years ago and was raised on the farm, and as a farmer. When he was a young man, don't remember just how old, I think somewhere along about 20, he went to Colorado. I think first he went up to the Cripple Creek district and bought his a horse and express wagon and went into the business of draying and moving goods around for whoever might need his services. As soon as he got up into that district he joined the Union. Unions were pretty strong in the Cripple Creek district in those days. He joined the Teamsters Union and was an active member of the Teamsters Union and had their card.

He was married a little later to his wife, who is here, and three days after he was married something happened down there in that district in those troublous days and

he was arrested and thrown into jail where he spent his honeymoon.

He was never charged with anything or tried for anything; he was there for 93 days and was turned out of jail and set to work again. And a little later he went into the business of mining, became an ordinary miner, working in the mines.

Soon after that great strike broke out in Cripple Creek. As soon as Steve became a miner or joined the Miners Union, I think he had a transfer from the Teamsters Union over to the Miners Union. Anyhow he took out his card in the Miners Union. He became quite active in the Union and advocating it and working in it, and became well known as a member of the Miners Union. A little later as the tension grew harder in that district an effort was made by citizens and others to run out all the members of the Miners Union, Steve learning and believing that his life was in danger, he was then living up on the hill at that time, higher than any other town, and I believe some 11,000 feet high; only the miners lived there, not the mine owners live up there, but the miners. He was living up there on the hill and this storm breaking out he was obliged to leave, and he finally started off down the hill. That was after the blowing up of the Independence Depot in the Cripple Creek District.

As he went down over the hill he changed his name from Adams to Dixon, which was the name of his wife's first husband, and I suppose the first name he could grab on to as he was running. He walked or ran some 75 to 100 miles over to a railroad and he got a car, freight train, I believe, and landed in Denver. At that time the miners

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were coming in from the hills and mountains and landing in Denver.

He stayed around there for a while through the excitement incident to this strike and the conditions down there; got acquainted with the officers and the leaders of the Western Federation, and the executive board was then in session as it was during most of the time of this stress and trouble, and, amongst the rest, Jack Simpkins was there. He got acquainted with Jack, I think he stopped at some rooming house with him and they talked matters over and Jack said to him "There's nothing for you down here. Why don't you come up to Idaho and take up a homestead or timber claim up in the country where I live?" He thought it over and a little later came to Idaho.

We got here in Idaho a little before the 4th of July 1904. He first went to Wallace, first went to Wardner. Jack Simpkins was not there. He went to Wallace I think to see Ed. Boyce who used to be president of the Western Federation of Miners, and who, although he got out of the mining business himself, doing better now than working in the mines, still kept some interest in the affairs of the miners whose chief he formerly was. Anyhow, he was there on the 4th day of July celebration of the Independence of the United States and celebrated and after the celebration he went down to Wardner again and met Jack Simpkins and he and Jack started up to Jack's cabin, up in the Marble Creek district, which has been described to you.

They came down to Harrison. I think took a ~~xxxxxxx~~ freight train down from Wardner to Harrison and took a boat up to St. Joe, landing at the head of navigation,



got their supper and started in a foot to Mason's place.

Now, to go back a little, this Marble Creek district up here was settled, began to be settled, four or five years ago, I think in about 1901. It was pretty well out of the world in those days and has not got clear in it yet. It was pretty far away then. I think the first man who went there was Mason. Mason came here from Kansas. His sole belongings was his wife and seven children when he got through. He took up a tree claim or a homestead up in the Marble Creek territory. Like most of those settlers he hadnt any money. He got a little grass ranch down on the river, what is called Mason's Ferry, it is about 15 miles away from the Marble Creek district; and, of course, he worked down on his ranch as much as he could during the summer, and, through the winter earned what money he could to keep up his homestead. He took up that homestead, I think the first one up there. Newt Glover was one of the first in that territory. Both of these homesteaders went miles through the forests which were then unbroken and trackless, practically. They packed their provisions in on their backs. Gradually a few other settlers came along and took up these homesteads and they cut some trails up through the forests and it began to reach that point that people could travel up the trail.

Mason had kept his little hay ranch down on the river he raised hay, ~~and~~ there. He kept such passers-by as came along, a sort of a primitive inn. His two boys, one of them fifteen the other thirteen, doing a transportation business, giving access to people up and down the river by means of boat and poling people up and down the river. They had been in that business, have been in it now for some years.

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Mason went out in the woods in the winter time and cut timber, and all together, by the boys poling the boat, his wife keeping boarders and Mason raising hay, they managed to keep the children together and take care of the homestead and keep things going, maintain the homestead; things which you people understand better than I think.

Things went along that way, one settler after another coming up to the Marble Creek district. Russell came up there, others came up there, sort of a community gathered around, perhaps within a few square miles there were some 15 or 20 people with their homesteads and their little cabins along the trail with their small clearings round the houses.

As soon as Mason and Glover went there they had built these trails so it was fairly accessible, and after the trails were built and earlier in the year than these people could go up there, in fact before the snow went off, 1904, suddenly four or five people dropped down out of the woods and upon the trails, onto Mason's homestead. Instead of taking up claims in the regular way-- you can see by the map Mason had taken up 160 acres right in here,-- (Indicating on the map)--- These four people being Bouley, Griffins, Phillips and Lindsley, instead of one of them taking up Mason's claim, they divided it up between them; each took a 40 and then three 40's from surrounding territory, so they could build their cabins close together. So they butchered up Mason's claim before he got up there in the spring and they built their four little cabins close together on Mason's quarter section, taking each three

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40's round that.

In a little while Tyler came in on the same trail and squatted on the place where Jack Simpkins had been located some time before. So, when Mason went in, according to his usual custom to do some more clearing, some more work on his homestead, he built four cabins built upon his four 40's of it, and these people had all come in together, all of them about that time after these people came in they began carrying guns.

These were called "jumpers", all of them armed to the teeth. In a little time Tyler came in. Jack Simpkins, like the rest of the early settlers, was there a little late, waiting for the snow to go off. He had some other business. He was district member of the Western Federation of Miners, member of the executive board for this district. He was also in some little business down at Wardner. He had some mining claims or mining ventures scattered here and there. When he got up there he found that Tyler had put a cabin on his claim; so Tyler and Bouley and Lindsley and Griffiths and Phillips were all living there when the real homesteaders got back in 1904.

Mr. Adams, to return to Mr. Adams again, Mr. Adams came up from the St. Joe, from the head waters, or head of navigation, and he and Simpkins walked over to Mason's house, this grass farm is what I am speaking of now. Mason and his wife were then up on Marble creek living in their little cabin. They got up to Mason's grass farm about the 6th or 7th day of July, as near as I can get at it at this time. The two boys were poling up and down the

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river---

MR. HEITMAN: The Mason boys, Mr. Darrow.

MR. DARROW: The Mason boys, they were poling up and down the river and not at home at the time. Simpkins and Adams stayed there all night, the oldest daughter and the rest of the children, plenty of them there at Mason's hay ranch. They were there and were keeping tavern in as good shape as they could and entertained Adams and Simpkins before they went out.

They started out next morning for Simpkins's cabin. This would be the 7th or 8th of July as near as we can get at it. They went along to Mica meadows, a sort of a Half-way house then kept by Frank Price; this, I think, is about half way between Mason's ferry and the Marble Creek district, where these homesteads were located. They got up there, I think they stayed there to lunch and bought some supplies; not quite certain of whether they got a horse or not, but anyhow, they got there and stayed to lunch and bought some supplies; then Steve and Jack Simpkins went on in to Jack's homestead. The country there is very rough; most of the mountains there are higher than this one near town. This is a hard day's journey from the hay ranch up to the Marble Creek district, and, as I understand it, it is much rougher and steeper and harder from Mica Meadows on to the Marble Creek district than from the hay ranch up to Mica meadows. Jack Simpkins and Steve Adams got up to the Marble Creek district along towards night. They met Russell, who is one of the old settlers, and is a well known man, he and his family were there. I think some of members of his family had taken up timber claims and homesteads too.

Then they met Mason and his family, Mason and his family were around there. Then they went on in to Jack Simpkins's cabin which was not far away. Glover had been up there a little earlier than common is year. He had done his work on his ranch and got away before the 4th day of July so they didn't see Glover at all. He was not in there when they went up, but Mason was there and Mason's wife was there. The other settlers were there and the jumpers were there when Steve Adams and Simpkin got up there. Simpkins and Adams spent a few days up there hunting and fishing. They met Tyler, saw Phillips had no trouble with them, but of course were not friendly toward them.

In the mean time the whole country was ablaze with indignation about these people. Nobody would keep them their hotels and few people would sell them anything out of their stores. Societies were organized and men held meetings to provide ways and means to get rid of the jumper and save their homes. The whole territory up and down the river around that neighborhood was ablaze with indignation towards these men that came in there who were backed up by the lumber company who had sent them there and provided their cabins.

Simpkins and Adams stayed around there until along towards the last of July. They did some hunting. They did some fishing. Adams helped Mason and a number of them while he was building his new cabin. He helped him, as I recollect it, to do some of his

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clearing and worked around these homesteads and traveled around a considerable distance in an effort to locate a timber claim or homestead for himself.

Aside from this down there at Mason's ferry was an old prospect hole which had been opened some years before and upon which Jack Simpkins had done some work, and I think there had been some 75 or 100 feet of tunneling done on it, and while they were there Adams and Jack both being miners, discussed the river and working some ore on this prospect hole and see whether they could strike any mineral, as so many others have done before and since. In the meantime Mason and his wife had gone down out of the woods, leaving some time, I think, about the middle of July, possibly a little later. He had begun or did begin a suit to clear these fellows off his land in <sup>the</sup> Shoshone court.

Suit was begun and he obtained an injunction against them and the sheriff was on his way up to serve Bouley when Bouley was served by some other summons.

In the meantime service was obtained on the rest of them. The Mason suit was pending considerable time before Bouley was killed. Mason is a quiet, inoffensive, hardworking citizen, Newt Glover the same. They were pioneers of the district. Mason and his wife went down to the place on the river; then Mason went back for some stuff that had been left behind. He came out the second time I think along about the 20th---

MR. HEITMAN: 27th or 28th.

MR. DARROW: About the 27th or 28th of July.

As he was coming out he slipped and fell. I think coming over Huckleberry Mountain, and he severely hurt and strained his leg, so that he called a physician. Needed a

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physician's care. He managed to get on down homw and was laid up for a long time afterwards, walking with a cane whatever walking he did, which was next to none. Anyhow he was in a severely crippled condition after about the 27th day of July. He did manage to get down to Wallace about the 15th day of August to look after his ejectment case which he had brought to drive these jumpers off his homestead.

Mason made his last trip out of there about the 27th or 28th of July. These statements of people coming out and going in, it was a day's journey to come out and a day's journey to go in, and it was not made any oftener than they had to make it because it was a rough and rugged road, and the trail was not good. It was difficult on account of fallen timbers and logs and difficult to travel.

Mason and his wife came down ahead of Adams and Simpkins. Mason went back and came down ahead of Adams and Simpkins.

In the meantime Adams and Simpkins had determined to go down and try their hand at prospecting which was more their trade than farming at that time; so, on or about the 30th day of July, I may be wrong in the date, I think possibly a day or two, but I think it was the 30th, Adams and Simpkins started down, came out of the Marble creek district, down to Coeur d'Alene, or this territory where they were to get some supplies; also going down to see about a ~~xxx~~ homestead which was owned by a man in Coeur d'Alene or Harrison, I am not certain which. They walked out past Russell's cabin. Russell's is one of the cabins which is marked with ink, round, up there on the map, not certain

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which, but I think the last one from the top. They came past Russell's cabin and saw young Russell and his little brother and his little sister ~~and they were getting ready to~~ go out and they stopped and talked with them and when they got ready to come young Russell came out with them--- What is young Russell's father's name?

MR. HEITMAN: James.

MR. DARROW: And the son, George, yes. The father's name is James Russell. He is a timber cruiser or timber inspector, something of that kind.

MR. HEITMAN: Inspector, he is a timber inspector.

MR. DARROW: His son Joe, each of them had taken a claim both left there, Joe, his sister and little brother were coming out the same day. Joe is a young man, I should say somewhere from 26 to 29 years old. They had a cabin there and Simpkins came along and saw Joe and his party and they came together down to Price's which they reached at noon or possibly a little before. Price was the keeper of this hotel, the little stopping place which I have told you about before. They reached Price's along about that time. And from Price's there are two trails down to the head of navigation. One trail, which is the old trail, going by way of Mason's ferry and then straight down the river, and the other, the new trail- which is somewhat shorter, runs quite a distance through there, cut through the woods. They all reached Price's together, bought their dinner there, as I recollect, and Jack Simpkins had to take some things back to his cabin, or do some work there, and so Jack went back. That would be about the 30th.



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Or, within one or two days of it; I think the 30th is the exact date and I will tell you why in a moment. Jack started back with some supplies, or after some things, and went back home to his cabin.

Joe went over the new trail down to the head waters of the St. Joe-- not the headwaters, the head of navigation of the St. Joe, dont mean the head waters. Steve got a horse, a white or gray horse and rode the horse down to Mason's, which he reached on the evening or afternoon of the 30th, or one day in one direction or the other from that.

Now, Joe Russell went straight from Price's where he left Steve and where he left Simpkins and went to the head of navigation, stopped at the St. Joe Hotel and there he registered his name upon the register, and in that way we fix that date, which I believe was the 30th; so that it was the 30th that Simpkins and Adams came out, and on that day Adams went on down to Mason's, the 30th of July, and we claim he never went in since the 30th day of July, 1904. That day, as I say, is fixed specifically and actually from the hotel register, which we will show you, upon which register appears the name of Joe Russell and I believe the name of Russell's sister or brother, and one of---

Now, I think I am mistaken about this. I think Joe Russell stopped at Price's for some horses and got the horses and went back into the Marble Creek district with Simpkins; from there took his sister and his brother out down this other trail, and they got there and registered the same as I say.

MR. HEITMAN: I think so.

MR. DAFROW: I think that is correct. It is some

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time since I went over that. And they all went out the next day and stopped at the St. Joe Hotel and they all registered at the hotel, and we will introduce this register so that you gentlemen can see that yourself.

Steve went down to Mason's. He met Mason's family and Newt Glover. Newt Glover and Mason were old friends and lived about a half a mile apart, on opposite sides of the river. Mason's house was pretty well crowded with his own family and people who came along, and Steve went over to Newt Glover's and stayed until Jack Simpkins could come on down and get his supplies and go back so they could go to work with their prospecting. He stayed there several days. In the meantime the next day or two, Jack Simpkins came out, came past Mason's and they stopped for a meal and went on down to the head of navigation and on down to his home at Wardner.

It had been arranged that later, I think some time the 12th or 13th, Steve should meet him at Coeur d'Alene in reference to this claim, timber claim or homestead. Steve put in several days with Glover. Glover was a single man looking after his own cabin in the way, I suppose, most men do housework, and they went over to Mason's daily to get butter, bread, occasionally to get a square meal. Anyhow we will prove by Mrs. Mason and family that they were there day after day, that they had these meals.

From the Marble Creek district Simpkins went on down the river and Adams stayed with Glover. I think Adams stayed in the barn; Glover stayed in the house; I don't know which was the best place to sleep, but they stayed there that way until the 7th day of August. The information in

this case charges that Fred Tyler was killed on the 10th. They stayed there until the 7th day of August. The 7th day of August was Sunday, and it was Mr. Mason's birthday as was every 7th day of August, and on the 7th day of August Glover and Steve went there and took <sup>a</sup> birthday dinner with Mason's wife and his children. Mason was then somewhat crippled, getting around with difficulty, used a cane when he walked, and so on. Along after they got down there the children tried to give him a birthday whipping but he seemed to be able to handle them and so Steve turned in and helped the little children, so in that way all together they managed to give him the birthday whipping that they thought he ought to have.

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They stayed there during the day, practically all day and that night went back to Glover's, where Steve Adams had been staying all of this time.

In the meantime, Steve got a little impatient about seeing Jack Simpkins; possibly he got a little bit thirsty up there in the woods, I don't know, and he had some friends and relatives down at Spokane, and he thought he would take a trip down there and see them for a few days, and perhaps be back in time to meet Jack down the river. So he got up on the morning of the 8th, the day after the birthday, early in the morning, and Newt Glover rowed him down in the canoe to the head of navigation. As they went past Mason's, the little boys were starting out on another expedition <sup>in a canoe</sup> to pole up the river, and they saw him, and they went on down to the head of navigation, and Frank Price, who was there on that day, saw him, and Mrs. Henkle, who had just come down out of the woods to get out of that country, and who was stopping at the St. Joe Hotel, and she saw him.

Newt Glover and Steve Adams took breakfast at the St. Joe Hotel on the morning of the 8th of August, the day after the birthday party. In the dining room they met Mr. Frank Price, and they met Mrs. Henkle and the hotel register shows that both Price and Mrs. Henkel registered there on the evening of the 7th, and were there at t night. By that we fix the date absolutely. Adams got his breakfast, and about that time the whistle on the boat was blowing for him to get aboard. Price went

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out with him. Adam's name was still Dixon in those days, and for some time thereafter until matters had cleared up in Colorado. The whistle was blowing, and Adams and Price sauntered along down toward the boat. There was some joshing back and forth between Captain Laird and somebody else, who said he was from Missouri, or Laird said he was from Missouri, and somebody else was making fun of it, as they always do, everybody that comes from Missouri, wrightfully or wrongfully. So Adams said if Laird was from Missouri, that was good enough for him, and that he was from Missouri, too, and he turned and helped him, and they had a few remarks back and forth about Missouri, and as a consequence, Laird invited Adams to ride down the river with him on the top of the boat wheel-house, which was a favorite spot, and which was occupied part of the time, at least, by some other people.

So Adams rode down on the wheel house, where he could see the scenery and converse with Laird and meet the rest of them, and he went down below at different times. I think he got off at Harrison, and got something to eat; I think he got off at St. Maries but anyhow, he and Laird were together all day, and Laird saw him aboard the train, the electric train at Coeur d'Alene.

He got to Coeur d'Alene on the evening of the 8th, and I think he left Coeur d'Alene about nine o'clock that evening and went to Spokane. He stayed at some moderate priced hotel, where miners stay--he does not go to the Spokane, where brother Knight and I go, but he stayed

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at some such place that night and then he went around town some the next day; just had a little beer, and I think the second day he went to hunt up his relations. He called on his cousin, Mr. Oliver, who is a man in business there, and he spent some time with Mr. Oliver, and then he wanted to see Mr. Oliver's wife. Mr. Oliver's wife was then in the hospital, a case of childbirth, and they went up to the hospital and saw her, and some other people; and of course they fix that date by the birth of the child. I guess we can produce the child, too.

MR. KNIGHT: We will admit that part of the statement.

MR. DARROW: All right. Then, that part is not disputed, that Adams was there at that time, which I think was the eleventh of twelfth, and he was there from the evening of the 8th until along the 11th or 12th. We are saved some work that we were not saved before, by the admission; we did not get any before. We showed this so conclusively that we convinced the other side.

Adams came back a few days later; he met Hack Simpkins, I believe, at Coeur d'Alene, and the two came up the river; getting up about the 15th or the 16th of August.

In the meantime, Jack had been up one day to a man's by the name of Jim Nevins and had taken up some supplies, and finding Adams was gone, had gone back to his home at Wardner. Jim Nevins and Jack that night had slept in Glover's barn; Adams was away at the time.

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Jack went on back, and they met again in Coeur d'Alene; came back up the river, got there about the 15th or 16th day of August. They both went to Newt Glover's house, Jack sleeping in Newt Glover's house and Steve sleeping in the barn. They stayed around there several days, prospecting, perhaps hunting some and fishing some, and on the 20th day of August while they were there Frank Price came up the river on a trip, a sort of hearlder of food news, and he shouted out to the people, "Bouley, the son of a bitch, is dead", or "has been shot," and he spread the welcome news all over the country, so that people heard that statement for half a mile up the river. Everybody knew who Bouley was. And that is the first that Adams heard of it, or that Simpkins heard of it, or that Glover heard of it, was told them by Frank Price.

MR. HEITMAN: Or that Mason heard it.

MR. DARROW: Or that Mason heard it, yes, told them by Frank Price on the 20th or 21st day of August, perhaps the 21st, I am not sure which, but it was the day after it happened. Good news travels fast, even in the woods, and that was good news to the homesteaders.

Now at that time Mason was at home and could not have made a trip; Glover was at home and ~~was~~ Adams was there, and Simpkins was there, working on a prospect. Adams stayed a few days longer, and one evening Simpkins went over to the Gordon post office and got a letter for Adams from his wife, which told him that the troubles were quieting down some in Denver, and she thought he

might come home safely, or come back there safely; and so, the next day, I think it was, I think about the 24th, he came over and got the Mason boys to ferry him down, take him down the river from Mason's ferry to the head of navigation. That was on the 24th day of August. They took him down to the head of navigation; he got his breakfast there, took the boat there and went to Spokane from there, and from Spokane he went back to Denver over the Burlington road. We claim in this case that from the time Steve Adams left the Marble Creek district, on the last day of July, or the 30th day of July, he never went back.

Now, as to Tyler, here is what we know about Tyler. He came in there, located upon the claim which Simpkins had claimed, at least, and upon which he had a cabin; it is not certain when he was last heard of, although Phillips puts it the 9th of August; nothing was said about it or thought about it until Bouley was killed on the 20th and then it was discovered that Tyler was missing. Bouley was shot on the 20th. He was going out of that country at that time, he was riding his horse and his dog was following him. Not Steve Adams, but a number of people, no man knows how many, opened fire upon Bouley, or at least we dont know how many, perhaps somebody does, and they killed Bouley and they killed his horse and they killed his dog; and they posted up on the trees that this was the fate of all jumpers; and the jumpers gathered their families together



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and they scattered out to go over the trail by the light of the moon, and they have never been heard of since.

In the meantime, nobody knew where Tyler was, but Bouley lay on the trail, his dog was there and his horse was there, and Mr. Angus Sutherland, the Sheriff of Shoshone County and the prosecutor, sent his man up and the coroner went up, and they picked up Bouley and his horse and his dog, and they buried him, and they held no inquest or made no effort to prosecute anybody for it, excepting that they did arrest one Ingstrom, who was discharged, and they did nothing further until they got after Adams. That man ~~was~~<sup>dead</sup> in the trail. No search was made for Tyler, either by his relatives or by the officers of the law; he might have been living or he might have been dead, but no officer and no friend and no lawyer cared at that time. In the meantime, a year had passed. Bouley had not been avenged; nobody had been prosecuted and no inquest held, and some men were surveying and a skeleton was found up back of Tyler's cabin in August. A year had gone by since Bouley was dead and since Tyler had disappeared.

MR. HEITMAN: He died, the 27th I think it was, of July.

MR. DARROW: July 27th, practically a year, if this is correct; if Tyler was killed on the 10th, it was not quite a year.

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Now they found this skeleton. The surveyors sent for the Coroner, they had a suspicion that it was Tyler; they sent for his brother-in-law and his step-father. they made an examination; they held an inquest; they gathered the bones together and the clothing, and some other people's clothing, and any old thing, and they buried the whole, and neither his relatives enquired, nor the officers enquired, nor the lawyers enquired, and nobody cared, and he lay for a year, where he would be lying to-day, except. They took no pains to preserve evidence, made no investigation, held no inquest, made no search and no arrest and made no effort to notify anybody, and he was buried in the ground for a year.

Now let us take another angle on this case. These roads all meet when they get around. Steve Adams is not here being tried for murder; he is being tried for--

MR. KNIGHT: (interrupting) We object to that argument at the present time.

MR. DARROW: I will leave that out.

THE COURT: Yes, sir.

MR. DARROW: We will find out what he is tried for later.

Ex-Governor Steunenberg was killed down at Caldwell, southern Idaho. Orchard was arrested and confessed. Moyer, Heywood and Pettibone, Moyer being the President, and Heywood the Secretary-Treasurer of the Western Federation of Miners, were arrested and they were

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brought to Idaho; and then they sent for Adams, McParland says on account of the Steunenberg case. Meantime, where was Adams? Adams left this country the latter part of August, 1904, he went back to Denver, still dodging, and retained the name of Dixon, looking for work. He went to Utah to find work, and he got some for a time. His wife was getting relief from the Western Federation while he was dodging, like the rest. Finally, in his precarious condition his old uncle wrote him and sent word to him he had better come to Oregon and get a piece of land and go to work on a farm, and he still had the same idea of the homestead that he had when he came up here, and he came to Oregon; I believe his old uncle sent him the money to come with, and he and his wife took up a homestead and built them a cabin; came there in the fall or summer of 1905, lived a while--

MR. HETIMAN: It was in July

MR. DARROW: July, 1905. He lived a while with the old gentleman; they got their house built, keeping house, worked the farm; left the mines and all the difficulties behind them, and were living out on the prairie, in a home of their own.

In the meantime, McParland had got down to Boise; he had got Orchard's confession, and then he started to get track of Adams. Thiele was left in Boise while he went to Denver. He finally got hold of Adams, found where he was and Thiele was informed and started down to Oregon for him. They were armed with a warrant charging him with the murder of Ex-Governor Steunenberg; that is

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what he was charged with. They telephoned to Brown, who was the Sheriff of that county and who lived at Baker City, to come to Haines and meet them at old man Lillard's ranch, being some five or six or seven miles from Haines. Brown came along with one or two assistants, he and Thiele and the assistants started to Haines in a wagon to get Adams. They went out on the ranch and found a man coming in or doing his chores, that they thought was Adams, and they asked him and he said he was Adams; looked suspiciously at them all of the time on account of that fear of Colorado he had in his head, and they asked him where he came from, I believe, and he said he came from Texas, and they asked him if he knew Orchard, and he said no; and asked him if he had been in Colorado and he said no, and then Thiele went to the house to see his wife and his wife called for the little boy, ~~Adolphus~~ Adolphus, and when she called for Adolphus, Thiele knew that was Adams and told Brown to arrest Adams and he did.

They took him back to Baker City in Oregon. Adams protested; he would not go any further without he consulted a lawyer. They did not get him any lawyer that night. The next day they had a lawyer in the jail, and when he asked for a lawyer they showed him a jack-legged pettifogger down there named Moore, and they brought Moore in just as he was starting for the train, and Moore says, "I could keep you here, but it would not be worth while; might just as well get on the train, and I will come down and see what I can do"; and Moore came

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down and went to Governor Gooding, instead of going to Adams, and he went to the attorneys against Adams, and he went to Whitney and he got one hundred dollars from the other side to go down to Colorado to see Governor McDowell, and he came back and told Adams that he guessed the best thing for him was to do what the State wanted him and they would take care of him.

In the meantime his old uncle was in Texas, and he had not any friends and he was taken to the penitentiary, and he was arrested for a crime committed in Canyon County, Idaho, the county-seat being Caldwell, and they brought him back through Caldwell, and without any authority all landed him in the Boise penitentiary and put him in the cell with Harry Orchard, a cell used for solitary confinement, some three or four feet wide and six feet long, for the two men, and they kept him in that cell for six days, in the constant presence of Harry Orchard, who day after day was urging him and did urge him to corroborate Harry Orchard's story, and told him that he had been promised that he would be saved if he made this confession and that Adams would likewise be saved if he corroborated Orchard. Every day Orchard was taken out of the cell and taken somewhere; Steve didn't know where; he suspected, but he didn't know where, and was gone an hour or more and then came back and worked on this man, who was kept there alone and no friend saw him during the whole time. His attorney had been employed by the other side to betray him.

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After six days had passed away and he was in a mental and physical condition bordering on collapse-- he had received no word from the outside world and nothing from his family and his friends, he was led out one day and taken to the back office of Mr. Whitney. One word I omitted to say. When he was arrested by Brown in Oregon Brown told him before he left that he was on the inside of this deal and that he knew what was wanted, and that if he would go down and corroborate Harry Orchard, nothing would happen to him; that he would get off free. He was brought out into McParland's presence about nine o'clock in the morning; McParland offered him a cigar, told him he knew who all his friends were and they were good people, he said; told him he had been a tool of the worst gang of cut-throats who ever lived; told him that they would all be hanged, and that he had the evidence to hang them; told him that he would be hanged himself "higher than Hayman" unless he saw fit to corroborate Orchard; told him if he would, he could have his liberty and go back to his home; promised him his freedom, if he would corroborate him; threatened him, coaxed him, cajoled him and buldozed him for the whole day. Along about noon they brought them in their dinner and then they started after him again in the afternoon; told him then of a number of men that he had saved from hanging because they had turned State's evidence, as he put it, and helped him; of a number of men who had been hanged because they had not; and Steve Adams, without any friends or anybody to talk with, his uncle was away

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he refused to talk to him, however, all day; stayed there from nine o'clock in the morning until five o'clock at night and gave no sign, and then McParland told him, in substance, that he had come there as his friend to help him, to save his liberty, and that he had stayed dull and stupid all day and not said a word; that he came once more, if he did not confess that day he would see that he was hanged, and that he had the evidence to hang him; if they could not hang him in Idaho he would have him taken back to Colorado, where they would either hang him or turn him loose to a mob. And along in the early part of the next day McParland went again.

In the meantime Steve went back to the jail after this whole days bulldozing in a state where he was scarcely himself, and Harry Orchard went at him again, begging him to corroborate his testimony. Harry Orchard told him every statement he had made.

In the meantime, Harry Orchard had been to North Idaho with Jack Simpkins the year before; he was there about the time and after the time that this skeleton was found; he was familiar with every detail of it; the papers published full accounts at the time and he knew it and McParland knew it, and the officers of the State knew every details of it; published in full for more than a year. Adams had been told all about it; he was there when Bouley was killed; he knew just how he was killed, and he had heard of Tyler's disappearance; he was familiar with Tyler's cabin; he was familiar

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with all of the ground around it, and he heard all about the rest, whatever was necessary, it was not much, from Orchard at the time; and Orchard coaxed him and begged him to corroborate his various statements on various things, and thus save his life.

McParland went back the next day and took him in the morning, the same course of treatment, that he had come there to help him and to save him, and he would save his life if he would come and corroborate Orchard, and that they did not want to hang him; they did want to hang Moyer, Heywood and Pettibone, and break up the Western Federation of Miners, that they were cut-throats and criminals; and he told him again to do it, that he would be saved; go back to his wife and little children and if he did not he would hang him or take him to Colorado and turn him loose to a mob; and after a while Steve practically said for them to write it up and he would sign whatever they wrote. They talked about it, about all of these affairs, and when I come to analyze this confession I think I can show you--

MR. KNIGHT: We object.

Mr. DARROW: Well, I will analyze it later.

THE COURT: Yes, sir.

MR. DARROW: Any way, I want to say that he did not make it; that it is McParland's statement from beginning to end and manufactured by him. Some of it was so bad that Steve did cross it out, and he finally, to save his life, and for no other purpose whatever, signed it. He was in this cell until he signed this



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statement; he was in the cell with Orchard. Orchard was brought into this cell for that purpose that day by Whitney, to put Adams and him together in the cell, and, as quick as he got it, they took them both out immediately and they put Steve in the hospital, & in nice rooms, and they put Orchard in the hospital, and that was the end of the cell; and they stayed in the hospital for some time, and they were kind to him then. McParland frequently saw him, Whitney saw him, Mr. Hawley saw him, a Senator of the United States, Mr. Borah, saw him, the Governon of Idaho came to his house and kissed his little baby, that good to him; he was whirling along in good society. Later they were so kind to him they sent up for his wife and his children, and they gave him a house inside the penitentiary, where he kept house himself; he had his parlor and kitchen and dining room and bedroom and bathroom--almost as good as you could do in Rathdrum.

MR. HEITMAN: Sitting room.

MR. DARROW: Sitting room, yes; for this "Murderer".

MR. HEITMAN: At the same time none of his friends could see him, Mr. Darrow.

MR. DARROW: But during that time no one of his family could ever get a look at him. His brother came up here to see him and they sent a guard to watch what they said, and Whitney said he could not let his brother see him alone, because he did not like the company he kept (meaning us lawyers on the other side, I take it.) In the meantime the uncle had been in Texas

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during this confession; he was an old southerner, Confederate soldier and he did not like the confession very much, but did not see any way out of it, but it was all done. They had sent up for a gun and a meal ticket and a Union card and a lot of other incriminating stuff, and the uncle had talked with the Governor and he had talked with the attorneys and he had talked with the jailer, and, of course, he was trying to defend Steve and take care of him, and he did not see any other way, and they regarded the uncle as friendly, and so the uncle one day wrote him a letter, asking whether he could not see him alone on a certain day and ~~talk~~ <sup>take dinner</sup> with him. They said "Yes", and in an evil moment they let the uncle in to take dinner with him, and they were all alone, and the first chance he had, and the first minute he repudiated his "confession" and asked his uncle to take charge of his case and get him out immediately.

MR. HEITMAN: He had been there seven months.

MR. DARROW: He had been there seven months. At that time he had been seven months in the penitentiary with no more authority than there is to take one of you now, not a particle. His letters had been opened, both going out and coming in; his wife and his children were imprisoned in the penitentiary with him, and her letters opened going out and coming in, and nobody permitted to see them. And when the uncle got in there and got the authority he immediately ~~wrote~~ started for the lawyers and got Ex-Governor Morrison and myself, and we filed a petition for a writ of habeas corpus to get him out of the

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penitentiary and served it on Whitney. He was living in his house when we served the writ, and Mr. Whitney dragged him out of his house, where he had been living and taken care of, and locked him up in a murderer's cell, that a man had just vacated for the purpose of being Hanged.

MR. HEITMAN: Stripped him and searched him.

Mr. Darrow; YES, not only that, but he stripped him he searched him, although he had been with him for months, and they told him this was a murderer's cell, where the man had just been hanged, and he locked him up, the minute the papers were served on him, and that one night. The next morning he took him to court, and the Judge discharged him immediately, and then when he was discharged an officer stepped out. Mind, up to this time he was supposed to be held in a civilized state, on the charge of murdering Steunenberg, and he had not been indicted, no charge against him, not the scratch of a pen. He was discharged by Judge Stewart, now one of the Judges of the Supreme Court of this state and then an officer sat in the court room and arrested him for killing Lite Gregory in Colorado, and he went down to have a hearing on that charge; and that was postponed from day to day for five or six days, without a hearing; he was taken to the County jail in the meantime; and then they dismissed that case; and then they arrested him again, charging him with killing Tyler--who had again come to life after the officers had buried him.

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To go back in the meantime. Steve Adams' confession was made in February. Nobody was arrested for the murder of Tyler, and Mason and Glover were left alone; no effort was made to find the third man.

MR. KNIGHT: You are mistaken about that.

MR. DARROW: I am not.

MR. HEITMAN: The confession implicates Mason and Glover.

MR. KNIGHT: The records of Shoshone County show that a man was arrested?

MR. DARROW: Who?

MR. KNIGHT: A man with red hair, tall man, and brought to Cataldo; arrested near Cataldo.

MR. DARROW: When?

MR. KNIGHT: I disremember the date.

MR. HEITMAN: Was that Ingstrom?

MR. KNIGHT: No, sir, not Ingstrom.

MR. McFARLAND: You are just stating what you expect to prove?

MR. DARROW: Yes, sir. Now, I am going to state it again; if I am wrong, we will stand corrected when we get to it. From the day these bones were discovered and this man was buried in a pauper's grave, up past the last of February, when Steve Adams' confession was made, no human being was arrested and no effort on earth was taken to get anybody, until Adams asked for a writ of habeas corpus; and he is on trial because he asked for a writ of habeas corpus--which is a capital offense with these here gentlemen who are prosecuting this case.

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When we asked for this writ, then commenced this prosecution. This mother had not even been notified between the last day of February and September that there had been any confession showing what had become of her son, and they had not even bought her mourning for almost a year later.

MR. KNIGHT: Now, if your Honor please, we object to that and ask that Counsel be cautioned not to make any such statements.

THE COURT: Please, Mr. Darrow, state what you expect to prove.

MR. DARROW: We expect to show that she had not even been notified, until after Adams sought to escape from their clutches, and nothing had been done to arrest anybody. In the early days of the Bouley matter there was an effort made, if you can call it an effort, at by arrest of one Fred Ingstrom, who was supposed to be president of the Jumpers Killers Association, but he was discharged.

MR. HEITMAN: That was for killing Bouley.

MR. DARROW: That was for killing Bouley. Then, after they brought him in, a day or two, for the killing of Lite Gregory in Colorado they discharged him, and then they arrested him for the murder of Tyler, and placed him in the hands of one Angus Sutherland--one Angus Sutherland--down in Boise, and, although he was the sheriff and an officer, this man was simply charged with a crime, he took him and locked him up in the State penitentiary and put him again in the clutches of Whitney

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MR. HEITMAN: Have you anything to say about that trip to Colorado?

MR. DARROW: That is right, too. They took him up in the State Penitentiary and denied him the right to see his lawyers.

MR. HEITMAN: Handcuffed him.

MR. DARROW: Yes, the minute Angus got hold of him he was handcuffed, although it was the first time Angus had ever heard whether Bouley was dead or Tyler was dead, or paid any attention to it.

MR. KNIGHT: We object; that is not a statement of facts that he expects to prove; it is an argument of Counsel.

THE COURT: Too much of an argument, I think.

MR. DARROW: I suppose that ought to be dropped out, but that was the first step that Angus had taken in this prosecution, although he was Sheriff of Kootenai County all the while.

MR. KNIGHT: That is an argument; that is not a statement.

THE COURT: That is argumentative, Mr. Darrow, without any question.

MR. DARROW: If I say it is the first step he had taken, I think it is all right, and that he was then Sheriff. Well, I will be careful not to get over the line again, your Honor.

But, back of that, while Steve Adams was in the penitentiary and living in the house, with the parlor, sitting room, kitchen, bath room and bedroom, the officers

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took him out to Pocatello to see if he could not find what they called "Pettibone dope", and again they took him down to Colorado and brought him back; took with him Buckley Wells and some state officers, down to Colorado. Angus Sutherland arrested him and put him in the State Penitentiary. They denied any access to him by any lawyers, or of him to his lawyers, and then McParland went again to him and told him if he followed the advice of his lawyers he would be hanged; if he would come with them, he would be saved; and he remained stubborn.

MR. HEITMAN: Moore, from Baker City, also went down.

MR. DARROW: And Moore, the attorney who had been employed to betray him, was sent for.

MR. KNIGHT: That is a mere argument.

MR. DARROW: Why, I state to this Jury he was employed by the other side to betray him, and they gave him a hundred dollars.

MR. KNIGHT: You expect to prove that? I would

MR. DARROW: I would like to have you bring Mr. Moore here.

MR. KNIGHT: You bring Moore.

MR. DARROW: We can't make him come. I would give a lot if I could. He knows he is safer in Oregon.

MR. KNIGHT: We object to that.

MR. DARROW: I cant get him; I dont know whether you can or not.

MR. HEITMAN: We offered him a thousand dollars to come.

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MR. KNIGHT: I would like to have Mr. Heitman sworn.

THE COURT: Mr. Heitman, please don't make such statements.

MR. HEITMAN: I was making some suggestions to Mr. Darrow.

MR. KNIGHT: That would be improper.

MR. HEITMAN: A witness will swear to it.

THE COURT: Your statement to the Jury should be confined to what you expect to prove, without argument, and you all understand that. These side remarks of Mr. Heitman's are irrelevant.

MR. HEITMAN: I intended to make suggestions as to what we should prove.

THE COURT: Let Mr. Darrow do that.

MR. DARROW: Moore was sent for by the other side, and he was taken back to Boise, and he came to Boise to see if he could get Steve Adams back. They did not get him; he remained stubborn. They started with him for Wallace, after keeping him for some time in the Boise penitentiary, and after a writ of habeas corpus was asked for the second time. They left the penitentiary in the night time with him; they took him across the country; I could not pretend to follow the road. Whitney came, Sutherland went, Jean Johnson, I think, another one, and they drove a long distance and kept him in the State of Idaho, and I think they were gone some five or six days; in the meantime landing him at Wallace. Whilst they were doing that for the first time, they sent out ~~were~~ for Newt Glover and Alva Mason; they brought them in and



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locked them up in the Wallace jail. Attorneys were refused permission to see him. McParland sought to see Glover and Glover would not see him. He went to see Mason, and he offered Mason three thousand dollars if he would turn in and help convict Steve Adams, telling him that they did not want him, that what they wanted was Moyer, Heywood and Pettibone, and to reach that end they wanted to convict Steve Adams; while Mason was in the building used as a city jail in the city of Wallace; and he did not do it; and they kept Mason and Glover for five or six days, and they turned them loose without a trial, and no information has been filed since, and we will produce him in this case.

They took Adams to Wallace; he was there, I think two days before he could see and locate him; his lawyers got there first, because they went there by train while he went over the mountains. As quick as he got there McParland was put into the cage with him, and again tried to induce him, by threats and promises, to corroborate Orchard and to drop the men whom he had employed to defend him. He was taken there in September more than a year ago, and he was tried in February. The Jury disagreed and then he--

MR. KNIGHT: I don't suppose that is something you expect to prove, because that is entirely incompetent.

THE COURT: It was mentioned before the Jury, and it is a fact. It was a part of your statement, Mr. Knight.

MR. KNIGHT: A part of my statement?

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THE COURT: In examining the Jury.

MR. DARROW: It has been stated to every Juror.

MR. KNIGHT: It is not a question that in any way would be proper in this inquiry.

MR. DARROW: I think the whole treatment of Adams is relevant. I am not going to enlarge on it. The Jury disagreed. The State asked for a change of venue, and after Adams has been under arrest now since February, 1906, almost two years, this case is here before you, where he is unlawfully charged with the murder of Fred Tyler. That is all I care to say about it now.

THE COURT: Do you wish to proceed tonight, Mr. Darrow?

MR. DARROW: It does not make any difference. I would a little rather adjourn, if it does not inconvenience the court or Jury, and we will try and push it along.

THE COURT: I am going to yield to you in a great measure, Mr. Darrow, because I think it is probably better that we should, in regard to the conduct of the trial.

MR. DARROW: It would be an accommodation to me if you would. I think I will be able to get through it all right after this.

MR. KNIGHT Perfectly satisfactory to us.

THE COURT: Gentlemen: Mr. Darrow is laboring under difficulty in being present, and I desire to be considerate. I know it is a great tax to his strength to be present in court under the circumstances.

At this time, the Jury was duly admonished, as required by law, the officers were duly sworn to take

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charge of the Jury, the Jury retired in their custody,  
and the Court took an adjournment till

FRIDAY, NOVEMBER 15, 1907 at 10:00 o'clock A. M.

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

THE STATE OF IDAHO,	)	
	)	
Plaintiff,	)	
	)	
vs	)	No. 194
	)	
STEVE ADAMS,	)	
	)	
Defendant.)	)	

FRIDAY, NOVEMBER 15th, A. D., 1907  
MORNING SESSION.

At this day, the Defendant being in court with his Counsel, present as before, the record of yesterday's proceedings was read and approved. The Jury came into court in charge of the officers, and being duly polled, all answered to their names, and the trial of this cause proceeded as follows:

THEREUPON, some witnesses on behalf of Defendant were sworn.

MR. HEITMAN: We will call Mr. Mason, and the other witnesses can go into the Jury Room.

MR. KNIGHT: If you have them all sworn.

MR. HEITMAN: They are not all in the courthouse.

THE COURT: All except Mr. Mason will retire to the jury room across the hall.

Mason D  
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ALVA M. MASON?

A Witness called on behalf of  
the Defendant, having been duly  
sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HEITMAN:

Q Mr. Mason, state your name, residence and occupation.

A Alva M. Mason; I reside at Remington, Idaho.

Q Reside where?

A Remington, Idaho.

Q Where is that; in what County?

A In Shoshone County.

Q How long have you been living there?

A Since May, 1901.

Q How old are you, Mr. Mason?

A Forty-five.

Q Where were you born?

A In Pennsylvania.

Q How long did you live there?

A I left there when I was nineteen.

Q And where did you go?

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

MR. HEITMAN: I want to identify the man, if your  
Honor please.

THE COURT: I think it is hardly proper in a case of  
this kind; we never would get through, if we went over the  
biography of every witness that you put on the stand? I  
think it is proper to learn how long he has been in Idaho  
and where he came from.

Mason D  
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MR. HEITMAN: The same line of questioning was followed on the former trial.

THE COURT: It was not objected to.

MR. HEITMAN: The prosecution are getting more technical.

MR. KNIGHT: I only stand upon my legal rights.

MR. HEITMAN: This witness has a peculiar relation to the case.

THE COURT: I don't know that his biography has anything to do with this case.

Defendant excepts and exception allowed.

MR. HEITMAN: Q From what place did you come to Idaho, Mr. Mason?

A Kansas.

Q Are you a man of family?

A Yes, sir.

Q Of what does your family consist?

A Wife and eight children.

Q When did you come to Idaho?

A 1901.

Q And where did you first locate?

A At Gordon, the same place as Remington; they changed the name of the office.

Q The name of the postoffice has been changed from Gordon to Remington?

A Yes, sir.

Q And what did you do when you first came to the state, with reference to establishing a home?

A I took up a homestead in Marble Creek.

Q Can you give the description of the homestead you  
filed on?

A Yes, sir.

Q What is it?

A It is the center ~~quarters~~ forties of section seven  
in township forty-four, three.

Q Just a little louder. State whether or not you have  
a patent to that homestead?

A I have.

Q Made final proof?

A Yes, sir.

Q What time in 1901 did you settle on this homestead?

A The 26th day of May.

Q State whether or not at that time it was surveyed or  
unsurveyed land.

A It was unsurveyed.

MR. KNIGHT: I did not get the date that you settled.

THE WITNESS: May 26, 1901.

Q Can you locate it by that map, Mr. Mason. Just stand  
up there, will you, and point out to the Jury where your  
homestead is situated.

A These four dots here represent my forties; this is  
my cabin here. It is not in place on this map, though;  
the map is not correct.

Q Mark the place where your cabin is located.

A This is it right here. I was looking at the wrong  
dots, only it was too far away from this one; it ought to  
be right close to this dot here. It shows it here as being  
within the eighty rod line, while it is right in near the

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center, right close to this side; it is less than a hundred yards from my cabin to the Lindsley cabin, one of the jumpers. And this cabin here is on the wrong forty.

Q Whose cabin is that?

A Mr. Russell's; they have got that on one of my forties, and it was on the north forty of that quarter.

Q You mark on there with the pencil where the proper location should be, Mr. Mason.

MR. KNIGHT: The Russell cabin you mean, don't you?

MR. HEITMAN: Mark them all; if there is any mistake in any of them, better mark them all.

A Mr. Anderson's cabin was on this forty here; my place right close to this one.

MR. KNIGHT: Better mark these "A", "B" and "C".

THE COURT: Mark your cabin "A".

MR. McBEE: We have a map on which they are located correctly, and a map about the size of that, that we will bring up later on.

MR. KNIGHT: As long as the record is being made up from this map at the present time, they better be so identified that they can be found.

THE COURT: (To the witness) Mark your cabin where it should be "A".

MR. HEITMAN: Mark it "A, somebody else's "B", and so on.

A Russell's "B", Anderson's "C". (Marking same on map.)

Q Where is Jack Simpkins' cabin on that map, if you know?

A It is in section eighteen, on the north-west quarter.



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THE COURT: Mark that "D".

MR. HEITMAN: Q Is Simpkins' cabin located properly on the map?

A No, sir; it is too near the corner of the section.

MR. HEITMAN: Well, locate it then properly.

THE COURT: That is, mark it "D".

THE WITNESS (Marking on map) That is about right.

MR. HEITMAN: Now mark Newt Glover's cabin. Which cabin is Simpkins' cabin, first.

A N. W. 1-4 of Section 18; Glover's cabin is in the wrong section; it should be in 20.

MR. HEITMAN: Well, mark it then.

MR. McBEE: How is he marking that?

THE COURT: "E".

MR. DARROW: That is Glover's?

MR. HEITMAN: That is Glover's.

THE COURT: Mark it "E".

MR. HEITMAN: Q Can you mark the other cabins that were there, that is of the original settlers, Jim Nevins and others?

A Yes, sir; Jim Nevins was in the south-west of eighteen.

MR. HEITMAN: Make a mark there; that would be "F".

THE WITNESS: His cabin is somewhere in here (Indicating.)

THE COURT: Mark that "F".

THE WITNESS: The survey changed the line there, and Simpkins got the old cabin that Nevins had, and then Nevins built a new one right south of it.

Q Now, you say you located on your homestead the 26th of May, 1901?

A Yes, sir.

Q When did your family move on?

A They did not get in there until the next summer.

Q Until the next summer?

A Yes, sir.

Q Did you have any other farm or stop any place in that country?

A Yes, sir, I rented a house down on the river that summer for my family to live in until we could get into the claim.

Q And how long did you live in that house?

A We moved in there in September of 1901 and they stayed there until the next April.

Q And how far is it from the river up to your homestead on Marble Creek?

A Sixteen miles.

Q What sort of a road is it?

A It is a very rough road, hilly.

Q Do you know who was the first settler in the Marble Creek district?

A Well, I was the first one that I have got any knowledge of; there were no marks in there when I went in.

Q No trails or roads of any kind?

A No, sir.

Q State whether or not there or not there are any trails or roads leading from the river up to your homestead at the present time?

A There is.

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Q And when were those trails dug?

A They were started in 1901.

Q Who started them?

A The first ones that ever I knew anything about was a couple of locators, Preston and Miles; I believe Mr. Donaldson was with them, and then the settlers took that up; they blazed a line out, and the settlers worked the trail out.

Q What part, if any, did you take in making these trails?

MR. KNIGHT: We object; we don't think that could be material to the enquiry here, the condition of the country at the time of the alleged homicide would be material; the condition of the country prior to that time can not be material to this inquiry.

MR. HEITMAN: We think it is material in this particular, if your Honor please. Here is an original settler in this country. It shows the conditions that existed up there at the time he settled.

THE COURT: We are not trying his title to his homestead in this case. Just bring it down to the conditions that existed at the time, in 1904, please.

MR. HEITMAN: But somebody else was trying to deprive him of the title at that time.

THE COURT: We are not trying that.

MR. KNIGHT: Mr. Heitman should not make those statements unless he wants to be sworn as a witness.

THE COURT: I have already ruled upon this evidence, and I have confined this inquiry to the existing conditions in the year 1904.

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MR. HEITMAN: Q How did you go in when you first made settlement, Mr. Mason?

MR. KNIGHT: I object. The Court has just confined the inquiry to 1904.

Objection sustained.

Defendant excepts and exception allowed.

MR. HEITMAN: I will ask one other question to save the record. Q How did you get your supplies into your homestead?

MR. KNIGHT: To that I object as immaterial.

Objection sustained.

Defendant excepts and exception allowed.

Q Where were you living in the year 1904, Mr. Mason?

A On my homestead.

Q What time of the year did you go up to your homestead that year?

A In May.

Q Did you have any other home or stopping place in 1904 than your homestead?

A I had a lease on the river.

Q And how much land or ground did you have on the river?

A One hundred sixty acres in the lease.

Q That was on the St. Joe River?

A Yes, sir.

Q And for what purpose did you use the property?

A I used it for a home for my family, so they could go to school in the winter time, and cut a hay crop on it in the summer.

Q Did you use it for any other purpose?

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A-10

A The folks had a stopping place there, and my family fed everybody that came along and lodged them on their way to their claims.

Q Fed and lodged everybody that went up into the Marble Creek country?

A Yes, sir; everybody that stopped there.

Q Now, will you describe as particularly as you can the character and condition of the trail leading from your place on the St. Joe River to your homestead in the Marble Creek country in 1904, describe it as minutely as you can, Mr. Mason.

A Well, there are two divides on the route to go over between my claim and the lease on the river; the first one is between Mica and the river; there is a divide to go over there that is about a thousand feet in elevation above the meadow, and the trail is not as rough as the one between Mica and Marble; that is very steep and we make an ascent there of about seventeen hundred feet, I believe, on Huckleberry Mountain.

Q In what distance?

A Oh, it is a little better than three miles; and from there on down to my claim we have three or four canyons to cross, which makes that part very rough and hard to get over.

Q Well, what was the condition of the trail in 1904?

A Well, it was from Mica on into the Marble it was a very rough, mean trail; there were lots of logs in it that summer.

Q How far is Mica from your river place?

A Between nine and ten miles.

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Q Mica, then, is about half the distance between your river place and your homestead?

A No, I think it is a little over half.

Q Little over half?

A Yes, sir.

Q State whether or not the trail at the present time is any different from what it was in 1904?

A Yes, sir; it is a better trail than it was in 1904.

Q In what way is it better?

A There is some of the steep places been cut off by going around the hill, and there has been a lot more logs taken out of it.

Q How long did it take in 1904 to make the trip from your homestead in that vicinity down to your place on the river over this trail?

MR. KNIGHT: I object how long it would take to make that distance, unless it appears who makes it; if he means to take the general question as to what time it would take a man of ordinary physical health, he should so state; if he wants to ask this witness how long it took him, he should so state.

THE COURT: Make it a little more definite, please, Mr. Feltman.

Q Well, a man of ordinary physical endurance, physical ability?

A Well, when I was able to travel the trail it took me from eight to ten hours; it depended on the condition of the trail; some days it was in different shape than others.

Q Well, you were a man in good health at that time?

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A Yes, sir.

Q And it would take any man of ordinary strength and physical endurance eight or ten hours, then, to come over the trail?

MR. KNIGHT: Objected to as leading.

A I could not speak for anybody except myself.

MR. HERTMAN: Q You could not speak for anybody but yourself?

A No.

Q What time did you say you went in in 1904?

A In May.

Q And state who, if any one, went in with you?

A Mr. Anderson went in with me on the first trip; Mr. Russell overtook us on the road.

Q How long did you remain on the homestead?

A We was only in there about three days, I believe, and I went out and took my family in.

Q What time did you take your family onto the homestead that year?

A I dont know the exact date; it was some time, though, about the tenth or twelfth, I think, as I can remember.

Q Of what month?

A Of May.

Q Of May?

A Yes, sir.

Q That was in 1904. What time did you leave your homestead in the fall of 1903?

MR. KNIGHT: I object to it as entirely immaterial when he left his homestead in 1903; the title to the homestead is not in issue here.

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MR. HEITMAN: I want to show the condition of the homestead in that fall, if your Honor please.

Objection sustained.

Defendant excepts.

Exception allowed.

MR. HEITMAN: Q When you reached your homestead in May, 1904, will you state whether or not the condition of your homestead was just as you had left it in the fall of 1903?

A It was not.



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Q What changes, if any had occurred?

Objected to as immaterial.

THE COURT: Objection sustained.

MR. DARROW: Defendant excepts.

MR. HEITMAN: Defendant excepts.

THE COURT: Allowed.

Q What buildings did you have on your homestead in the fall of 1904?

A Well, I had a cabin---

MR. McFARLAND: 1904?

MR. HEITMAN: 1903.

MR. KNIGHT: We object; same line of questions ruled out.

THE COURT: Objection is sustained.

MR. HEITMAN: Defendant excepts.

Q When you reached your homestead in the spring of 1904, in what condition did you find it?

A I found four jumpers on it.

Q Well, what were they doing there?

A Clearing land and making improvements.

Q Who were they, if you know?

A Ed. Bouley, Mr. Griffiths and his son; Mr. Linsley and Ed. Bouley.

Q You mentioned Ed. Bouley twice?

A Well, he held one forty of my place.

Q You mean Phillips?

A Phillips didnt come in until later. Mr. Griffiths had his notice on the cabin. Phillips came in afterwards and took it, the young man, I believe, it was, that took it.

Q What had they done when you reached your homestead?

A Built cabins.

MR. KNIGHT: We object to that as immaterial.

MR. DARROW: You went over this with your witness Phillips.

MR. KNIGHT: Dont make any difference, it is immaterial on the question of who killed Fred Tyler.

MR. DARROW: The whole condition bears on who killed Fred Tyler.

THE COURT: I shall overrule the objection. I shall allow him to show the conditions in 1904.

(Question and answer read.)

A Built cabins and made some improvements.

Q How many cabins had they built?

A Four.

Q Can you point out to the jury on that map where their cabins were located, especially with reference to your cabin?

A Yes, sir. (Goes to map) These four dots show the cabins. This was Ed. Bouley's, this was Mr. Griffiths's, this was Archie Phillips's. He was first located there by Jack Griffiths. He had his notice on the door and after Phillips came Griffiths left the country and never came back in there; Phillips took the cabin. Lindsley's cabin is here between 50 and 100<sup>yards</sup> ~~yards~~ from my cabin up to Lindsley's.

Q On which subdivision was Bouley's cabin?

A He was on the S.E. of the N.W. of 7.

Q And on which subdivision of your homestead was Archie Phillips's?

A He was on the N.W. of the S.E.

THE COURT: Of 7?

A Yes, sir.

Q And on which subdivision was Mr. Griffith?

A He was on the N.E. of the S.W. of 7.

Q And on which subdivision was Mr. Lindsley?

A He was on the S.W. of N.E. of 7.

Q Your homestead then, was in the center of the section?

Yes, sir.

Q How far was Jack Simpkins's cabin from yours?

THE COURT: You can sit down.

A (Witness resumes the witness chair) It was a little over half a mile; maybe three quarters of a mile from my cabin on a straight line, but a little further than that by the trail.

Q Do you know when Jack Simpkins made settlement on his homestead?

A yes, sir.

Q When?

A In 1903.

Q Do you know where Tyler's cabin was located?

A yes, sir.

Q Can you point that out on the map?

A Yes, sir. (Goes to map)

Q A little further over please, Mr. Mason.

A Wait until I find the location first. Yes, sir; it was right on the north edge of the N.W. quarter just a little ways from the quarter post.

MR. HEITMAN: I believe Tyler's cabin was not on the map.

Q Mark that by some letter.

MR. KNIGHT: It is marked "Tyler's cabin".

Q Is the location right?

A Yes sir; it is about right.

Q How far was Tyler's cabin from your cabin?

A Oh, it was possibly a hundred rods.

Q About how far was Jack Simpkins's?

A Well, it was somewhere about 90 or 100 rods, I would think.

Q How far was Jim Nevins's cabin from yours?

A He was over three quarters of a mile, his present cabin.

Q From your place?

A Yes, sir; probably it is a mile to Jim's cabin.

Q When did you first get acquainted with Jack Simpkins?

A The spring he located there, in February.

Q That was in 1903?

A 1903, yes, sir.

Q How well acquainted with him did you become thereafter?

A We located that claim and went immediately thereon and we worked back and forth. I helped him clear some and he helped me improve my place; helped me build the cabin.

Q That was in 1903. Did you meet him in 1904?

A Yes, sir.

Q Where?

A I seen him in the woods and seen him out on the river, both.

Q What time did Jack Simpkins go in to his homestead

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in 1904, if you know?

A He came in, I am pretty sure it was about the last of May, 1904.

Q Are you acquainted with the defendant, Steve Adams?

A yes, sir.

Q When did you first meet him, Mr. Mason?

A Met him in 1904.

Q What month?

A July, right after the 4th.

Q About what day of the month, if you remember?

A Well, it was probably the 7th or 8th; somewhere along there.

Q Where did you see him?

A At my homestead on Marble creek.

Q State with whom he was, if any one it was?

A Simpkins was with him.

Q And from what direction were they coming, if you know?

A They come from towards the river.

Q St. Joe river?

A Yes, sir.

Q Where were they going?

A They went in the direction of Simpkins's cabin?

Q Did they stop at your homestead when they came in?

A Yes, sir.

Q How long did they stop?

A Long enough for lunch. They were there probably an hour; something like that.

Q Under what name was Steve going at that time?

A Steve Dixon.

Q Do you know how long he remained in Marble Creek country that summer?

A Yes, sir. He came out along the last of July or the first day of August. I would not say which it was. It was right there about that time.

Q While he was there state whether or not you saw him frequently or otherwise?

A Yes, sir. I saw him frequently; nearly every day.

Q Where did you see him?

A He worked for me on my cabin a while, and he was with Simpkins when I helped Simpkins clear some land and cut a trail.

Q How often between the 6th or 7th of July, 1904 and the latter part of July, 1904, do you think you saw Steve Adams, Steve Dixon?

A How often?

Q Yes.

A I seen Steve pretty near every day, I think every day, don't remember a day that I didnt see him.

Q About what time in July did he leave the Marble Creek country?

A The last of July or the first of August.

Q What time did you leave your homestead that summer?

A In the last days of July.

Q State whether or not you had been out from your homestead at any time during the month?

A I was out there one night.

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Q For what purpose?

A To take my family out.

MR. KNIGHT: I object to that; it dont make any difference what the purpose was that he went out for.

THE COURT: The objection is overruled. I know the purpose.

Q For what purpose did you go out?

A I took my family out.

Q Where did you take them?

A Down to the lease I had on the river.

Q And you remained down there just one night?

A Yes, sir.

Q Came back to your homestead. How long did you remain at your homestead before you went out again?

A I was there about three or four days.

Q And when you went out again where did you go?

A I went down to my home on the river.

Q State what, if anything, happened to you on your way down?

A I sprained my knee going down Huckleberry Mountain.

Q Will you fix about the date when you went out the last time?

A Well, I dont think that I could; the day of the month of that, but I know it was in July, the very last days of July.

Q Was it before or after Adams came out?

A Before.

Q How long before?

A Not more than a couple of days.

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Q How did this sprain that you received coming out down Huckleberry Mountain affect you, Mr. Mason?

A Well, it hurt my knee so it was very difficult for me to get around on it.

Q How were you traveling when you went out?

A I was afoot.

Q State whether or not you walked from there to your river home?

A I did not. I got a horse of Mr. Price to ride home on.

Q Where does Mr. Price live?

A Right at the foot of the hill where I got hurt on.

Q State whether or not this place is called Mica Meadows?

A Yes, sir.

Q Sort of a half-way house between Marble Creek country and the river?

A Yes, sir.

Q Did you see any one at Price's?

A Yes, sir.

Q Who?

A I seen Mr. Price and the boys that was running the hotel. There was two young fellows had the hotel leased there from Mr. Price that summer; and Mr. Todd;

Q Who was Mr. Todd?

A He was one of the homesteaders that lived on Mica Creek.

Q Had a homestead on Mica Creek. How long did you remain at Price's?



A I think I stopped there about two hours that day.

Q About two hours?

A Yes, sir.

Q Were you not able to walk down to your river place?

A No, sir; I would not have tried it at all.

Q You got a horse from Mr. Price and rode that down?

A Yes, sir.

Q State what effect that sprain had upon your physical condition.

A My knee has never got entirely over it.

Q How did it affect you at the time? and immediately subsequently thereto, immediately following that time?

A It swelled up and became so painful I couldn't touch it to the ground.

Q Well, did it have any other effect upon you when you went to get around, were you able to get around?

A No, sir; I was not able to get around without a cane.

Q For how long?

A Well, I used a cane for two months.

Q Where were you during those two months?

A I was on the river.

Q Stayed there all the time?

A No. I was outside one trip. I remember that was in August, the latter part of Wallace some time; I went to Wallace.

Q For what purpose did you go to Wallace?

MR. KNIGHT: I object to that; the purpose is entirely immaterial.

THE COURT: Objection is sustained.

MR. DARROW: Your Honor knows what the purpose was; and that there is a charge made in this case that Mrl. Mason was one of the murderers in this case; and I think we have a right to show this upon the question of showing whether he was one of the murderers, or whether he was trying to kill Bouley. Have a right to show what steps he was taking to get them off his land.

MR. KNIGHT: There is no such charge and there is no rule of evidence that could make this material. The title to his homestead is not in issue here and we are not trying Mr. Mason.

After argument of counsel.

THE COURT: I shall, in view of the fact, allow the question. I think it is fair to allow the defense to show the whereabouts of Mr. Mason during this month of August.

MR. KNIGHT: Does your Honor understand this is not a question of where he was, but this question is why he was there.

MR. DARROW: Do you think that is a fair statement, Mr. Knight?

MR. KNIGHT: Yes, sir; I think that is perfectly fair.

THE COURT: I shall allow the question.

(Question read)

A Why, I had a suit in the district court to get an injunction against the jumpers and put them off my claim, and that was to have a hearing on the 17th I believe. It was on that that I went there, to attend it.

THE COURT: About the 17th of August?

A yes, sir.

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Q When did you begin these legal proceedings?

MR. KNIGHT: We object, your Honor.

THE COURT: Objection is sustained.

MR. DARROW: Upon what ground?

MR. KNIGHT: Entirely immaterial.

THE COURT: I think it is immaterial. You went about the 17th of August to attend injunction proceedings about that claim?

MR. DARROW: If it was begun before the 1st of August I think we ought to show it because it is claimed this man was killed on the 10th.

THE COURT: The objection will be sustained.

MR. DARROW: We desire to save an exception.

THE COURT: Exception allowed.

Q Do you know when Steve Adams came out from the Marble creek country?

A Yes, sir about the 1st of August.

Q Where were you at that time?

A I was on the lease down on the river.

Q State whether or not your family was there with you at the time?

A They were.

Q All of them?

A Yes, sir.

Q Was your wife there the day Steve came?

A No, sir; she was not there the day Steve came but she came home the next day.

Q Where was she?

A She was visiting with her sister about threemiles

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up the river.

Q When did you first see Steve when he came out at that time, about what time in the day?

A Why it was in the latter part of the afternoon before five o'clock.

Q How did he travel to your place?

A He came on horseback.

Q Whose horse, if you know?

A Mr. Price's.

Q What kind of a horse was it?

A It was a white horse.

Q And how long did Steve stop at your house at that time?

A He was there just a very--- oh, he was not there more than an hour, I don't think.

Q Where did he go then, if you know?

A He went in the direction of Mr. Glover's place.

Q That is Newt Glover's?

A yes, sir.

Q How far is Newt Glover's place from your place?

A About half a mile.

Q In what direction?

A Up the river from my place and on the opposite side of the river.

Q Do you know how long Mr. Adams or Mr. Dixon, as he was then known remained at Newt Glover's place?

A He was there until--the last time I seen him was on the evening of the 7th of August.

Q What was he doing between the 1st of August when he came thereon the white horse and the evening of the 7th of August?

A He was prospecting some and I think he put in most of his time fishing---

MR. KNIGHT: Just wait. We object to what this man thinks.

Q Just tell what you know.

THE COURT: State what you know.

A Well, he worked on the prospect part of the time and part of the time he was fishing.

Q How far was the prospect from your place?

A Half a mile.

Q Did you see it?

A Yes, sir.

Q Saw him working on it?

A Yes, sir.

Q How often between the time he came to your house on the white horse and the evening of August 7th did you see him?

A He was at my place every day.

Q What was he doing there?

A Well, he came down for milk and bread and vegetables and some times he would come down for his dinner.

Q Mr. Glover had no family?

A No, sir.

Q Did you see Glover during that time?

A Yes, sir.

Q How often?

A He was ~~down~~ generally with Steve.

Q Saw him about as often as you did Steve?

A Yes, sir.

Q Were you away from home at any time during this

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period?

A No, sir.

Q Nursing your sprained knee?

MR. KNIGHT: Rather think that is leading.

THE COURT: It is.

MR. HEITMAN: Yes, I guess it is.

Q Then he remained around there at that time until the evening of the 7th of August. Was there any particular event which impresses that upon your memory?

A yes, sir.

Q What was it?

A I had a birthday and invited Glover and Steve down to take dinner and the little girls undertook to give me a spanking and they failed and called upon Steve to help them.

Q What did Steve do?

A He held me while they applied the spanking.

Q Then they did succeed with Steve's help in spanking you?

MR. KNIGHT: We object now.

THE COURT: Objection sustained.

MR. HEITMAN: Defendant excepts.

MR. DARTROW: The incident is competent, I suppose.

THE COURT: The incident is competent. I don't know why you should enlarge upon it; don't need to go into the details. Anything that fixes the memory is competent, but you do not need to prove all the details.

MR. HEITMAN: Show the impression upon his memory.

THE COURT: Impression was elsewhere, perhaps.

MR. HEITMAN: That would make it all the more stronger.

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Q How long did you remain at home after the 7th of August?

A I was there with the exception of the trip I told you about, to Wallace, all the rest of the time I was there. I was there all the rest of the time except the days I was gone to Wallace.

Q When was that, how long were you gone to Wallace?

A Well, I got home on the 20th, I remember that, but couldn't say the exact time I was gone. It generally takes about four or five days to get from there to Wallace and back.

Q Do you know what time Steve left that place on the evening of August 7th?

A He left there about-- well, in the evening, about five or six o'clock.

A Do you know where he went or in what direction he went?

A Yes, sir.

Q Where?

A He went up towards Glover's place.

Q Any one with him?

A Newt Glover was with him.

Q When did you see him next?

A I saw him along the latter part of August, about the middle of August, probably the 17th.

Q Did you learn when Steve left Mr. Glover's---

MR. KNIGHT: About the 17th of August, you said?

A Yes, sir; about the 17th of August.

Q Did you learn when Steve went away?

MR. KNIGHT: Object to what he learned; it is what this man knows.

THE COURT: Objection sustained.

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MR. HEITMAN: defendant excepts.

Q You next say you saw him about the 17th of August?

A yes, sir.

Q Where did you see him?

A He came to my place on the river.

Q With any one?

A Yes, sir.

Q With whom?

A Mr. Simpkins.

Q Jack Simpkins?

A yes, sir.

Q Do you know when Jack Simpkins came out from  
Marble creek to the river in 1904?

A Well, yes. He came out along the first of August.

Q Along the first of August?

A Yes, sir; just a day or two after Steve came out.

Q A day or two after?

A yes, sir.

Q Where did Jack go, if you know?

A He stayed all night with me and went up to Glover's  
the next day, the next morning early in the morning.

Q Do you know where he went from Glover's place?

A Yes, sir.

Q Where?

A He went down the river.

Q Went down the river?

A Yes, sir.

Q How long did Steve Adams or Steve Dixon remain at  
your place when they came back from down the river  
about August 17th?



A They were there until about the 24th, I think probably, possibly as late as the 25th.

Q Did you see them both when you returned from Wallace?

A Yes, sir.

Q Where were they?

A They were there at my place and at Mr. Glover's, working on the prospect.

Q How often between the 17th of August and the 24th and 25th did you see them?

A Between the 24th, did you say?

(Mr. Heitman consulting with Mr. Darrow)

MR. HEITMAN: Oh, yes, that's so.

Q How often did you see them before they left after you got back from Wallace?

A There was not a day but what I seen them until they went away.

Q What were they doing?

A They were working on the prospect.

Q Same prospect you have mentioned?

A Yes, sir.

Q Now state whether or not between the time you saw Steve on the evening of August 17th and the time he and Jack Simpkins returned to your place on the river later in the month, you saw Jack Simpkins?

A I did.

Q About how long was that after the evening of August 27th?

A About two days.

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Q And from what direction did Jack come?

A Up the river.

Q How long did he stay at your house?

MR. McBBE: I didnt understand that. He was asked from what direction he came and he said "up the river".

THE COURT: It is very indefinite.

A He came from the direction of St. Joe.

Q St. Joe is how far from your place down the river?

A About nine miles, I believe.

Q How long did Simpkins remain at your place that time?

A Over night.

Q Was any one with him?

A Yes, sir.

Q Who?

A Mr. James Nevins.

Q Man who has a homestead on Marble Creek?

A Yes, sir.

Q In what direction did he go next morning?

A He went back down the river?

Q Do you know for what purpose?

MR. KNIGHT: Objected to.

THE COURT: Objection sustained.

MR. HELTMAN: defendant excepts.

Q Where did Jim Nevins go, if you know?

A He went in the direction of his homestead.

Q Now Steve and Jack Simpkins remained at your place and at Glover's until about August 24th or 25th,

do you know where Jack-- what Steve did when he left that time?

A He told me he was going to Colorado.

MR. KNIGHT: We object; we object.

THE COURT: The objection is sustained and the answer stricken out.

MR. HEITMAN: Defendant excepts. Dont tell anything you dont know of your own knowledge.

Q State whether or not you saw him leave?

A Yes, sir.

Q What time of the day did he leave there?

A In the evening.

Q Who, if any one, was with him?

A Mr. Simpkins was with him.

Q That was the time he left your house?

A Yes, sir.

Q Do you know when he left Glover's?

A No, sir.

Q You didnt see him leave Glover's?

A I didnt see him leave Glover's.

Q State whether or not you saw him when he left the last time, the morning he left?

A Yes, sir.

Q With whom was he, if with any one?

A He was with my boy.

Q What were your boys doing ?

A They were poling on the river.

Q What are your boys' names?

A Orville and Lawrence.

Q What were they poling?

A Handling freight, carried passengers up and down the river.

Q What in?

A Canoes.

Q Did they make regular trips, make a regular business of it?

A Yes, sir.

Q And they carried Steve in what direction?

A Down the river.

Q You don't know how far they carried him?

A No, sir.

Q When did you see Steve next?

A I never seen him until I seen him there at Wallace during the preliminary.

Q When was that?

A September, 1906, I think it was.

Q September, 1906. Mr. Mason state whether or not you had anything to do with--- Strike that out, Mr: Libby--- Did you know Fred Tyler, Mr. Mason?

A Yes, sir.

Q When did you first meet him?

A It was in the spring of 1904.

Q Where did you meet him?

A On the trail between my place and his on Marble Creek.

Q Where was his place?

A We had a cabin on the N.W. quarter of 18  
right near the north line.

Q Who else if any one claimed that quarter section?

A Mr. Simpkins was the original locator of it.

MR. KNIGHT: We move that be stricken out as entirely  
immaterial.

MR. DARROW: You have already proved it.

MR. KNIGHT: We have not proved. The testimony of  
Archie Phillips <sup>was</sup> there was no cabin on there when this man  
first went on. The question is entirely immaterial.

MR. DARROW: Then we have a right to show there was.

MR. KNIGHT: It is not responsive. He was not  
asked if this man was the original locator. It is entirely  
immaterial.

THE COURT: Yes, it is entirely immaterial, the motion  
to strike out will be sustained.

MR. HEITMAN: Defendant excepts.

Q State whether or not Mr. Simpkins had any improve-  
ments on this place?

A He did.

Q What?

A He had two cabins.

Q Do you know when the cabins were built?

A Yes, sir.

MR. KNIGHT: We object; entirely immaterial.

THE COURT: Objection sustained.

MR. HEITMAN: Defendant excepts.

The Court: Exception allowed.

Q State whether or not you know when Simpkins's  
cabin was built with reference to when Tyler's cabin  
was built?

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MR. KNIGHT: We object for the same reason; entirely immaterial.

THE COURT: Objection sustained.

MR. HEITMAN: Defendant excepts.

Q Do you know where Jack Simpkins was when Tyler located on that claim?

A No, sir.

MR. KNIGHT: I object to that.

THE COURT: Objection sustained.

MR. HEITMAN: Defendant excepts.

Q What did Tyler do on this claim of Simpkins's when he came up into that country?

A He lived on it. Cleared a little bit of land around the cabin.

Q How long did Tyler remain there, if you know?

A The last time I saw him was the time I went out in July, in 1904.

Q About what time in July, if you know?

A Oh, I seen him during the last part--it was pretty near every day. I would meet him on the trail and would see him go by Mr. Weld's, when I was there; cabin was right on the trail, Mr. Tyler would pass in going down to his place.

Q What was Tyler doing?

A He was helping the jumpers improve their places.

Q Helping the jumpers, that is, the other jumpers?

A Yes, sir.

Q Name them?

A Griffiths, Lindsley and Bouley was the others.

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Q State whether or not these jumpers, as you call them, went armed?

A Yes, they did.

MR. KNIGHT: We move that be stricken out. The question is whether Mr. Tyler went armed or not.

THE COURT: The objection is sustained and answer stricken out.

Q State whether or not Tyler went armed?

A He did.

Q What arms did he carry?

A Well, he always had a revolver and usually a rifle on his shoulder with it.

Q Mr. Mason state whether or not you had anything to do with holding up Fred Tyler on the trail, disarming him or disarming him, or taking him to Jack Simpkins's cabin, keeping him there over night and taking him out the next morning and killing him?

A I did not.

Q Did you ever know of any such transaction?

A No, sir.

Q Do you know whether or not Tyler is dead?

A I do not.

Q If he is dead, do you know how he came to his death?

A No, sir.

Q You heard of the killing of Ed. Bouley? in that country?

A Yes, sir.

Q State whether or not you know anything about this killing--

A I do not.

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Q or had anything to do with it?

A No, sir; I had not.

MR. KNIGHT: The latter part of this question we move be stricken out; there is no testimony that he did have anything to do with killing Bouley.

THE COURT: We have no record to that effect yet, at all.

MR. McBEE: I think there is, your Honor; the alleged confession says that he paid certain money to have it done.

MR. HEITMAN: I think it does.

THE COURT: A question of that kind might be proper.

Q State whether or not you paid Steve Adams or any body else any money, or promised to pay any money for the killing of Tyler or Bouley or either of them?

A I did not.

Q State whether or not you <sup>had</sup> had anything to do with the disappearance of Tyler or with the killing of Bouley?

A No, sir. I know nothing at all about it.



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Q State whether or not you ever took any steps, other than legal steps, that is by resorting to the courts, to rid yourself of those jumpers who were on your claim, or who were located in and around Marble Creek.

MR. KNIGHT: We object, if your Honor pleases. It is entirely immaterial whether he took any steps to dislocate any jumpers or anybody else from those claims; it is absolutely immaterial to any inquiry here. There is only one question involved here; and that is whether or not Steve Adams is guilty of the murder of Fred Tyler.

MR. HEITMAN: It shows he had no motive.

The objection overruled.

Q (Question read)

A No, sir; I never did.

Q When did you first hear of Mr. Bouley's death, Mr. Mason?

A The 21st, I believe it was of August.

Q What year?

A 1904.

Q And where were you at that time?

A I was on the hay ranch down on the river, sitting in the yard under a cedar tree.

Q Do you know what day of the week that was, Mr. Mason?

A No, I would not be positive as to the day of the week.

Q From whom did you first hear of his death?

A Frank Price.

Q And where was Mr. Price?

A He was on the opposite side of the river.

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and a little below my place.

Q And what did he say; just tell what he said if you can.

A He said, Bouley, the son of a bitch, was shot.

Q How far away ~~fx~~ were you from him?

A It was probably fifty or seventy-five yards.

Q To whom was he talking?

A He holloaed to me, but some of the children answered him. I was out under the tree and I heard him, but I didn't go to the bank to answer him.

Q That was the first news you heard?

A Yes, sir.

Q The first information you had of Bouley's death?

A Yes, sir.

Q State whether or not you saw Newt Glover and Steve Adams that day?

A I did.

Q Where were they?

A They came down to my house.

Q How long after you heard of Bouley's death did they come?

A About an hour, I think it was.

Q Do you remember what time of day it was?

A It was in the morning between eight and nine o'clock; in the morning is my recollection of it.

Q Between eight and nine o'clock in the morning. Did you hear of a skeleton having been discovered up in the Marble Creek country later?

A Yes, sir.

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Q How much later was that; about what time was it?

A It was about a year, I think, about a year afterwards.

Q About a year afterwards. Do you know Harry Orchard?

A I have seen him, yes, sir.

Q Where did you see him?

A On Marble Creek.

Q When?

A November, 1906.

Q Aren't you mistaken in the year, Mr. Mason?

A Well, it possibly was 1905. The reason that I recollect, or I thought, I knew it was in the November previous to the assassination of Governor Steunenberg.

Q Steunenberg was killed in 1905?

MR. KNIGHT: It was in 1905.

Q Who was Orchard with?

A Simpkins.

Q And where did you see him in the Marble Creek country?

A I seen him at my cabin and at Mr. Anderson's.

Q How long did he stop at your cabin?

A He was not there over ten or fifteen minutes.

Q Do you know how long he was in the Marble Creek district?

A I seen him that day, at noon, the first day I spoke of, and early the next morning, and they was on the road out the next morning.

Q That was the only time that you saw him, twice, then?

A Yes, sir.

Q When he was coming in and then when he was going out?

A Yes, sir.

Q State whether or not you were ever arrested on the charge of having killed Fred Tyler?

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A I was.

Q When?

A In September, 1906.

Q September, 1906?

A Yes, sir.

Q Where were you at the time of your arrest?

A I was on the train between Wallace and Harrison.

Q In which direction were you going?

A I was going to Wallace.

Q You were going to Wallace?

A Yes, sir.

Q Who arrested you?

A Deputy Williams.

Q The man who has testified here for the State?

A Yes, sir.

Q C. H. Williams?

A Yes, sir.

Q And where were you taken by him?

A I was taken into the corridor;-- no, he turned me over to Angus Sutherland on the street.

Q Who was Angus Sutherland?

A He was our Sheriff.

Q The Sheriff of Shoshone County?

A Yes, sir.

Q Was any one arrested with you at the same time on the same charge?

A Mr. Glover was arrested the day before, I believe.

Q The day before?

A Yes, sir.

Q Where was he arrested?

A Some place on the river; I was not there at the time; I could not say where it was.

Q Mr. Mason, had you heard before you started to Wallace about this charge against you?

MR. KNIGHT: We object, if your Honor please.

Objection sustained.

Q State whether or not you had not heard of this charge and you were on your way to Wallace to surrender yourself to the Sheriff?

MR. KNIGHT: We object, for the same reason. Counsel knows that is exactly the same question.

Objection sustained.

Defendant excepts and exception allowed.  
delivered

MR. HEITMAN: Q You were ~~sent~~ by Deputy Sheriff to high Sheriff Sutherland?

A Yes, sir.

Q What was done with you?

A I was taken down and put in the city jail.

Q And wasn't there a county jail in Wallace at that time?

A Yes, sir.

Q Do you know where Newt Glover was; what disposition was made of him?

A He was put in the County jail.

Q How long did you remain in the city jail?

A Six days.

Q Did you have any preliminary hearing?

A No, sir.

MR. KNIGHT: We object; if your Honor please, it don't make any difference whether this man had a preliminary

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hearing or not.

THE COURT: That is objectionable, I think. Objection sustained.

Q You say you were kept there for six days?

A Yes, sir.

MR. HEITMAN: Now, we submit that a man being kept for six days--

THE COURT: Are you trying this man for anything?

MR. HEITMAN: No, sir.

THE COURT: Are you trying his credibility, then, on this question?

MR. HEITMAN: We are not trying his credibility.

THE COURT: It is all objectionable, I think.

MR. HEITMAN: But we are trying the peculiar conditions; we have a right to show the peculiar condition and manner in which this case has been prosecuted.

THE COURT: You can take your exception. I am very clear on this.

Defendant excepts and exception allowed.

Q How long was it after you were arrested before you were discharged?

MR. KNIGHT: We object as entirely immaterial.

Objection sustained.

Defendant excepts and exception allowed.

Q State whether or not you were discharged.

MR. KNIGHT: We object as entirely immaterial.

Objection sustained.

Defendant excepts and exception allowed.

MR. HEITMAN: Q State whether or not any Information

Mason D  
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or Indictment has ever been filed against you? --

MR. KNIGHT: We object, and ask the Court to instruct Counsel not to ask such questions.

THE COURT: (To defendant's Counsel) I think you have saved your record.

Q (Continued) --for the murder of Fred Tyler?

MR. KNIGHT: We object.

THE COURT: The objection is sustained. You have saved the record.

MR. HEITMAN: Defendant excepts. We have a right to make a record.

THE COURT: I think you have gone far enough on it. I want to allow you to make it.

MR. HEITMAN: Q Are you acquainted with James McParland, the Pinkerton Detective?

MR. KNIGHT: We object to that as entirely immaterial whether he knows James McParland or not; James McParland is not being tried any more than this witness.

MR. HEITMAN: This is only preliminary.

THE COURT: If it is preliminary, I will overrule the objection. I don't know what it leads to.

Q (Read by the reporter) as follows: "Are you acquainted with James McParland, the Pinkerton Detective?"

A Yes, sir.

Q When and where did you meet him?

MR. KNIGHT: We object to it as immaterial.

MR. HEITMAN: That is preliminary.

THE COURT: Well, the objection will be overruled.

A In the Judge's chambers at Wallace.

MR. HEITMAN: Q At what time?

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A During the time I was under arrest.

Q What year was that?

A In 1906.

Q Who took you to the Judge's chambers?

A The Baliff.

Q It was not Judge Woods at that time?

A No, sir.

Q What did the Baliff do with you?

MR. KNIGHT: We object, as entirely immaterial, what the Baliff did with him.

Objection sustained.

MR. DARROW: Now, if we are not permitted to show by this witness what McParland said, we will ask to have Mr. McParland recalled here and I will put the question to him.

MR. KNIGHT: We will not object to Mr. McParland re-appearing here, or we will not object to any question that might be material from this witness, on Mr. McParland's appearance, but we do object on the ground of immateriality, to all of this sort of examination.

THE COURT: I think all these preliminary questions, I don't see they have to do with the case; I may be dense.

MR. DARROW: It shows the method and the purpose of getting the statement from Steve Adams; we want to show McParland's interest in this case. Now, perhaps I should have asked that on cross examination, and still I thought we had better ask it directly of Mason; so we will simply ask you to call back Mr. McParland, as I told Mr. Hawley I would do if this question was objected to.

MR. HAWLEY: We are not basing the objection on the ground that you have not asked the preliminary question, but



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on the ground of its competency and materiality.

MR. DARROW: We say to you that we want you to produce McParland. Meanwhile we will not examine any further on that.

THE COURT: Mr. McParland may be recalled.

MR. KNIGHT: I think he went out of town to-day, but he will be here.

THE COURT: You can withdraw this witness, if you desire.

MR. DARROW: We will finish with everything but this, I take it.

THE COURT: Get through with everything but that. That will be the understanding, that Mr. McParland will be recalled for further cross examination.

MR. DARROW: Yes.

MR. KNIGHT: We reserve an exception to the materiality of the cross examination.

MR. HEITMAN: Q What was the condition of your leg at the time that you heard of the death of Bouley?

A It was in a bad condition.

Q How did it affect you?

A It bothered me about getting around; bothered for me to walk on.

Q What amount of walking were you capable of doing?

A Very little; I did not try to do any walking; I did not do any, except to walk around the place a little.

MR. HEITMAN: Take the witness.

MR. KNIGHT: That finished on everything except the McParland matter?

MR. HEITMAN: Except the McParland matter.

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MR. HAWLEY: Is Monday time enough to have McParland back?

MR. DARROW: Yes, Monday will be time enough.

CROSS EXAMINATION

BY MR. KNIGHT:

Q You say you have eight children, Mr. Mason?

A Yes, sir.

Q How many children did you have when you came to the Marble Creek district?

A Seven.

Q How old is your oldest one?

A He is nineteen.

Q And the next one?

A Probably he is about three years younger.

Q Do you know when that township, in which you say you have a homestead up there, was surveyed?

A 1902, is my recollection of it.

Q You stated that you filed on May 26th, 1901.

A I did not; I settled on it.

MR. KNIGHT: I would like to have the beginning of this testimony read by the stenographer.

THE COURT: You are mistaken, Mr. Knight, he said "settled."

MR. KNIGHT: I know the word "settlement" was used, but unless I am mistaken he used the word "filed" also.

THE COURT: Refer to Mr. Libby's notes at the recess.

MR. KNIGHT: Q What did you do in May, 1901?

A I located a homestead.

Q What do you mean by saying that you located a homestead

A I built me a cabin and put up my homestead notice on

Mason D  
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it.

Q Where did you put up your homestead notice?

A On my cabin and on my corners.

MR. HEITMAN: We object as immaterial and irrelevant.  
This man has gone on and got his patent.

MR. KNIGHT: It makes no difference whether he got his patent or not, as far as that is concerned, he says he settled there May 26, 1901. We have a right to know when on cross examination.

THE COURT: You have a right to enquire.

Q Your family did not go in there that summer?

A No, sir.

Q You say they resided on the river, on the St. Joe River?

A From September until the next summer.

Q Where were they between May and September?

A They were in Kansas.

Q They came out here in September? I think you said, did they?

A Yes, sir.

Q And they resided there until what time in 1902?

A Oh, I dont know; I couldn't say exactly; but it was after the snow had gone off the divide.

Q You said it was in the next summer, didn't you?

A Yes.

Q And during that time you were running a kind of a stopping place there, too?

A No, sir.

Q And what time did you open up the stopping place?

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A After I moved across on the other side of the river on the lease.

Q After you moved across on the lease?

A Yes, sir.

Q How did you occupy the ground that you first occupied there?

A I had that rented.

Q Had that rented?

A Just rented the house there; no farm.

Q From whom did you rent that place where you first went in there, Mr. Mason?

A Mr. Gordon.

Q From whom did you rent the place?

A I wish to correct that. My mother-in-law owned the place at the time, but Mr. Gordon bought it from her while I lived in there, and kept it until the next April.

Q From whom did you rent the place on the other side of the river?

A Mr. Brown.

Q How long did you reside on Mr. Brown's place?

A I reside there yet.

Q That is what you call the hay ranch?

A Yes, sir.

Q Mr. Darrow and myself have referred to it, a time or two, as your homestead. You did not mean it?

A No, sir; I beg your pardon; I never referred to that as my homestead.

MR. KNIGHT: Mr. Darrow referred to it in his ~~opening~~ opening statement as his homestead.

MR. DARROW: If so, I made a mistake. I called it a

Mason D  
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grass ranch, didn't I.

MR. KNIGHT: Q And you lived there during the year 1901? And until the summer of 1902?

A My children was there, yes, sir.

Q And your wife was there until the summer of 1902, wasn't she?

A She was on the Gordon place on the other side of the river.

Q She was on the Gordon place, on the other side?

A Yes, sir.

Q And how long were you away from that place during the summer of 1902?

A During the summer?

Q Yes, sir.

A We spent the summer months in on the homestead on Marble Creek.

Q How long was your wife in on Marble Creek?

A I don't know the exact time; two or three months.

Q Two or three months anyway?

A Yes, sir.

Q That is, she went there about the first of July, did she?

A I dont remember just the date she went in there, Mr. Knight.

Q And came out about the first of August?

A No, she came out later than that.

Q Came out later?

A Yes, sir.

Q Was it the last of August?

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A I would not be positive whether it was the last of August or not.

Q Then you lived on the St. Joe River until the next summer, didn't you?

A No, sir; my wife and children were there.

Q Your wife and children lived on the St. Joe river until the next summer, didnt they?

A Yes, sir.

Q Did they live there during the entire summer of 1903?

A No, sir.

Q About what date in the summer did they live on the St. Joe River?

A Until how late in the summer?

Q Yes.

A My wife went in every summer on the claim, with me, her and the small children.

Q That is not my question, Mr. Mason.

A That is the way I understood it.

Q But what date in the summer did your wife and family live on the St. Joe River, in 1903?

MR. DARROW: I object: I dont know what the purpose of this is; the only purpose I could see might be to follow up this from the beginning and make Mr. Mason some trouble in his homestead.

THE COURT: I don't see the materiality of it.

MR. KNIGHT: It is not material excepting as cross examination; it has nothing to do with the case except as cross examination.

MR. DARROW: We have been barred out of this.

MR. KNIGHT: The limits of cross examination are not

Mason X  
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confined to the limits of direct examination, necessarily.

THE COURT: I shall overrule the objection.

MR. DARROW: I don't know what is required on these homestead matters, and if the purpose is to bring out something or other which might possibly make some trouble over Mr. Mason's homestead, I want to object to it; I don't think it is cross examination or competent, and I think the Court ought to protect us in that matter as far as that goes; I don't know anything about this.

THE COURT: I think that this homestead has gone to patent, this timber claim.

MR. DARROW: Couldn't a bill be filed to set aside?

MR. McFARLAND: It could by the Attorney General.

MR. KNIGHT: We have not injected it in, we we propose to object to every effort made by the defense to inject that question into the trial of this action; it has absolutely nothing to do with the question of Steve Adams' guilt.

MR. DARROW: The question of how long he stayed on his homestead in 1904 and how long he stayed on the river has not anything to do with it.

MR. KNIGHT: Has not Counsel been trying to ask every witness who has appeared on the Stand for the State everything about their private life, everything practically; that is within the limits of cross examination; we have a right to test this man's memory, to test him in every way upon cross examination. He is fixing dates in 1904; they are important, material and relevant. Counsel in the examination of the witness Miss Shearer, who appeared here, went into extreme detail on matters of that kind; we certainly

Mason X  
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have the same privilege.

MR. DARROW: I asked her about the rest of the trip, from there down to Spokane, which took place inside of a day or two days; I don't see much in that.

MR. KNIGHT: You asked her about her life generally, and you had a perfect right to do so.

MR. DARROW: I asked her what her business was, that is all. I have stated perfectly frankly to this Court I would not care how wide this cross examination was, but I understand this land has gone to patent--

MR. KNIGHT: I don't care anything about that; and don't want that injected into this proposition.

MR. DARROW: I know how those homesteads are kept; a man lives at times more or less away, and I don't know the statements that may have been made when the patent was obtained, and if that is the purpose, I think it ought to be excluded.

THE COURT: I think <sup>if</sup> for the purpose of showing this homestead entry was invalid, it cuts no figure in testing his memory. I wish you would not enquire into anything that might affect his title, Mr. Knight.

MR. DARROW: That is all I care for, if Mr. Knight says he doesn't want it for that purpose, I'm satisfied.

MR. KNIGHT: I wanted to get the admission of Counsel in this case before the Jury that it amounts to nothing.

MR. DARROW: You have not got it, if that is it.

MR. KNIGHT: Q Now, Mr. Mason, you say that it is sixteen miles ~~xx~~ <sup>from</sup> your place <sup>on</sup> ~~xx~~ the river to your homestead?

A Yes, sir.

Q How far are you above the head of navigation?



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A Oh, it is about nine miles, I believe.

Q And how far from Newt Glover's place?

A Newt's place on the river?

Q Yes.

A Half a mile.

Q He lives above you, does he?

A He did.

Q You live on the south side of the river?

A No, sir; I live on the north side of the river.

Q And Newt on the south side of the river?

A Yes, sir.

Q Marble Creek district is on the south side of the River, is it?

A Yes, sir.

Q You did not arrive at your homestead until the Month of May, 1904?

A Yes, sir, it was in May; the fore part of May.

Q And it was the latter part of May when your family came there, in the year 1904?

A No, it was along about the Middle of May, is my recollection of it.

Q You built a cabin there during the month of July, 1904, didn't you?

A I did.

Q Did your children come in there during the year 1904?

A Yes, sir.

Q Didn't they come in in the year 1903?

A Yes, sir; not all of them; part of them.

Q You say that it is nine or ten miles from your place

Mason X  
C-18

on the river to Frank Price's place?

A Yes, sir; it is somewhere between nine and ten, I think; I never measured it.

Q And passing from the river to Price's place, you go over an elevation of about a thousand feet, do you?

A Yes, sir.

Q Describe that trail to the Jury, please, Mr. Mason.

A Well, it is a steep, abrupt trail down next to the river, until you make an ascent of about a mile.

Q Now, right there, about a mile you say?

A About a mile, yes, sir; and then it is a very good trail from there to the top of the Divide, with the exception of two little steep pitches, is my recollection of it.

Q And how was that trail in the year 1904, relative to its present condition, that part of the trail?

A Well, it is in better condition now than it was then, Mr. Knight.

Q How is that?

A It is in better condition now than it was then.

Q Now, during that first mile you say the raise is quite abrupt?

A Yes, sir.

Q About how abrupt would you say that raise is; that is, how much of an elevation do you reach in the first mile?

A I could not tell you how high it is.

Q I understood you to say that the entire elevation was about a thousand feet?

A I did.

Q Now, what part of the thousand feet have you covered in the first mile?

Mason X  
C-19

A Well, I don't know what the elevation of that first peak is.

Q Are there more than two peaks between the river and Price's?

A There is just the one main divide, and this first one is the first hill that you get on top of.

Q The first one. Can't you estimate what portion of the ascent is made by the first rise and what by the second?

A No, I don't know how far it is up there.

Q Have you ever taken the altitude?

A No, sir, I never did.

Q You say it is about a thousand feet?

A Yes, sir.

Q Can you say whether or not this first ascent reaches half way up?

A No, sir; it does not reach half way.

Q Then, is it 400 feet in that mile?

A I don't know whether it is 400 or what it is; I have never measured it.

Q You don't know whether four hundred or three hundred or two hundred, do you?

A I never measured it.

Q You would not say it was more than two hundred feet, in that first mile; would you say that was quite abrupt?

A Yes, sir, I would.

Q Well, how much would you say; is it three hundred?

A Well, I don't know how to answer the question when I don't know exactly how it is; I know it is a steep climb for a mile.

Hason X  
C-20

Q A steep climb for a mile?

A Yes, sir.

Q And how far do you go before you have reached the ascent of a thousand feet?

A It is between five and six miles, I think, Mr. Knight.

Q Between five and six miles?

A Yes, sir.

Q Then the first mile, is the most abrupt ascent, is it?

A No, sir; there is two other small ones on the shorter hills.

Q What length are those two abrupt ascensions?

A One of them is probably a quarter of a mile, and the other is a little longer; possibly three quarters.

Q What obstructions were in that trail in that ascending portion from the St. Joe River up to the summit in the year 1904 that are not there now?

A The trail has been cleaned out some; cut some logs out and some brush.

Q And I believe you stated that it had been changed somewhat too?

A Yes, sir.

Q Now, those changes were to avoid the abrupt ascensions, were they not?

A Yes, sir.

Q Necessarily, then, they were some longer, made the trail some longer than it was?

A No, sir.

Q They made it shorter?

Mason X  
C-21

A Yes, sir.

Q They made it shorter and more gradual?

A Gradual, yes, sir.

Q About how much shorter would you say it is now than it was in 1904?

A It is not much shorter.

Q It is not much shorter, is it?

A Yes, It is some shorter.

Q Materially shorter?

A I dont know how far you mean by "Matterially" shorter.

Q Well, a few hundred yards?

A Yes, sir, it would make a difference of three hundred yards.

Q About three hundred yards. Then you go down that, from that altitude, do you, towards Mica Meadows?

A Yes, sir.

Q How is the descent on Mica Meadows side?

A It is a very good trail; a very good descent, with the exception of a half a mile right at the top of the hill.

Q There are no abrupt descents except the--

A (Interrupting) Yes, there are two or three short ones in that distance too.

Q Two or three short ones?

A Yes, sir.

Q But you say it is a very good trail?

A No, sir; it is not a "very good" trail.

Q I thought you said a moment ago it was a very good trail?

son X  
32

A No, sir, it is a very fair trail.

Q You distinguish between a "very fair trail" and a "very good trail"?

A I have never seen a very good trail in that country.

Q You have seen several very fair ones? How far is it from the summit of that mountain to Frank Price's place?

A Well, it is probably five miles; I don't know the exact distance down.

Q Probably five miles down and I believe you said it was about five miles from the Marble Creek up to the summit?

A Between four and five, I said.

Q Between four and five miles up and between four and five miles down?

A Yes, sir.

Q And Frank Price's is on what you call Mica Meadows, isn't it?

A Yes, sir.

Q And that is quite an extended flat is it?

A It must be eighty or one hundred acres in the flat.

Q How much level ground is there in approaching Frank Price's cabin from your side, from the river side?

A About eighty rods, I believe; somewhere like that.

Q About eighty rods of level ground?

A Yes, sir.

Q Now, on that side of the mountain, is the trail materially different from what it was in 1904?

A There is not much change in that side, that I remember of.

Mason X  
C-23

Q There is not much change. It is about the same now as it was in 1904, is it?

A Yes, sir.

Q How long would it take you to cross the mountains from your place to Frank Proce's place?

A From four hours to four and a half.

Q Four to four and a half; nine or ten miles?

A Yes, sir.

Q Walking or riding?

A Walking.

Q How long would it take to ride over there?

A Well, we generally consider that we could beat a horse on those trails, Mr. Knight.

Q You considered that you could beat a horse? A Walk faster than a horse, that I could.

Q And you think it ought to take about four hours?

A Yes, sir.

Q You don't think you could make it in three?

A I could not.

Q Or three and a half?

A I would not want to undertake it, in that time, no, sir

Q You ordinarily, when you are not lame, walk about as other men do, do you Mr. Mason?

A Well, I generally am a pretty good walker.

Q Pretty good walker?

A Yes, sir.

Q Then you think it would take the ordinary man to make that nine or ten miles about four hours?

A Yes, sir.

Mason X  
C-24

Q The condition is nearly the same as it was in 1904?

A Practically the same; a little difference on one side of the hills.

Q And from Price's cabin in to Simpkin's cabin, or to Eagle Creek, what is that distance?

A About seventeen miles to Simpkins' place.

Q From Price's cabin?

A No; I thought you said from the river. About seven miles.

Q How far would it be from there to the south west quarter of the south east quarter of section twelve, in townshipp forty-four, range two East, near Eagle Creek, from that point?

A It is probably a mile or a mile and a quarter something like that; there is no trail there.

Q A mile or a mile and a quarter. That would be a mile or a mile and a quarter nearer to Price's stopping place, would it not?

A How are you going? Across on the trail?

Q In a direct line.

A Yes, sir; it is a little nearer the Meadows in a direct line.

Q Have you walked over the distance between Simpkin's cabin and Mica Meadows to Price's cabin?

A Yes, sir.

Q Frequently?

A Yes, sir.

Q What is the condition of that trail?

MR. DARROW: Do you mean then or now?

MR. KNIGHT: Q What is the condition at the present time?



Mason X  
C-25

A It is very good.

Q Very good?

A So far as obstructions is concerned; the hills are quite bad.

Q What hills?

A Well, there is a hill there a half a mile from the foot, the base of the mountain at Eagle Creek up to my place.

Q Up to your place?

A Up to my place. That trail goes by my place or by Mr. Russell's; he has cut a new trail now that goes up by Mr. Russell's place.

Q What do you call that hill?

A Eagle Creek hill.

Q Eagle Creek hill. And about what ascent is there between Price's place and Simpkins' place to Eagle Creek?

A You have got to go over Huckleberry Mountain, an elevation--I think the elevation of Huckleberry mountain is 1700 feet.

Q And it is a distance of about seven miles, you say?

A Yes, sir.

Q What is the condition of the trail now?-- (Interrupted)

A That is Simpkins' present cabin, Mr. Knight; if you are referring to this old cabin, it is half a mile further.

Q How about his present cabin?

A Well, that is it.

Q What is the condition of the trail now, compared with what it was in 1904, that part of the trail.

A It is a better trail than it was in 1904.

Q How much better?

Mason X  
C-26

A The grades are the same, but the logs are all cut out.

Q The logs are all cut out. There was some logs there, were there, in 1904?

A Yes, sir.

Q Very many?

A Yes, sir, lots of logs in it.

Q Quite a number. Now, this Huckleberry Mountain is quite an abrupt mountain, is it?

A Yes, sir.

Q How about traveling in that country over Huckleberry Mountain without a trail? It is really quite an open country; it is where one can travel very nicely without a trail, isn't it?

A It is the roughest, brushiest, and most wind-falls of any country I ever was in, Mr. Knight.

Q You spent some time in the mountains, have you, Mr. Mason?

A I have.

Q Were you ~~mx~~ <sup>out</sup> in the mountains before you came to this country?

A No, sir.

Q Ever since you have been here, you have been in the mountains practically all of the time?

A Been in them all of the time.

Q Does that brushy, rugged condition prevail all over that mountain or just a part of it?

A It is all over it, with the exception of where a fire went through it two years ago and cleaned the brush out.

Mason X  
C-27

Q Where did that fire go through?

A Between Mica Meadows and the top of Huckleberry Mountain.

Q Between Mica Meadows and the top of Huckleberry Mountain?

A Yes, sir.

Q Now then, at the present time that is quite open, isn't it?

A Yes, sir.

Q And easily accessible, and one can travel very nicely without a trail at all, can't they?

A Well, for a short distance they can; it is over a hill, very abrupt.

Q But the rest of it is simply the worst you ever did see?

A It is as bad as I ever did see.

Q As bad as you ever saw anyplace?

A Yes, sir; I have never struck any strip of country that was any worse to get around in.

Q Now, you spoke of the difference between Simpkin's present cabin and his old cabin. Where was his cabin in 1904?

A The one that was a half a mile south, Nevins' cabin, south of the present cabin.

Q I believe you said when the survey was made in there that it developed that that cabin was not on Simpkins' ground?

A It was on Mr. Simpkins' ground, in place of Nevins'. Mr. Nevins held the cabin, and the survey throwed it over on Simpkins' place and he gave it to Nevins.

Q Nevins had a cabin there, a homestead?

A Yes, sir.

C-28

Q And after this survey Simplins claimed that part of it didnt he?

A It was on Simpkins' side of the line.

Q Didnt know where the lines were before?

A No, sir.

Q Where was Nevins in the spring of 1904; was he in there?

A I have never seen Mr. Nevins in there; I have seen him on the road in there.

Q In 1904?

A Yes, sir.

Q What time of the year?

A It was about the 9th of August.

Q About the 9th of August 1904?

A Yes, sir.

Q That is the only time you saw him, then, that year is it?

A That is the only time I recollect seeing him, and he wasn't in there then; he was out on the river then, on the road in.

Q At your place on the river?

A Yes, sir.

Q Do you know where Miss Pardee's cabin is located up there?

A No, sir; I never was at Miss Pardee's cabin.

Q Do you know Mr. Struthers up there?

A I know him; but I dont know just where his cabin is.

Q When did Miss Pardee go in there?

A I can't tell you when she did locate in there.

Q Was she there in 1904?

Mason X  
C-29

A Well, I couldn't tell you; I seen her in there; never got acquainted with Miss Pardee till 1905; but my understanding was that she was in there before that time, possibly 1904.

Q Do you know ~~where~~<sup>when</sup> Struthers went in there?

A No, sir; I do not.

Q Do you know a man named Vettings?

A I do.

MR. McBEE: What is the name?

MR. KNIGHT: Vettings.

Q Where does he live?

A He was on Eagle Creek; I think he has got part of section one and part of section twelve; I dont know the subdivisions of them, but it is right down on Eagle Creek, probably in here some place (Indicating on map); his cabin is right on Eagle Creek.

Q In one and twelve?

A Yes, sir, in one and twelve.

Q You don't know where Struthers' claim is?

A No, sir.

Q Now how long would it take you, Mr. Mason, to make the trip from Prices' to Simpkins' cabin?

MR. DARROW: In 1904?

MR. KNIGHT: At the present time how long would it take you if your knee were just all right?

MR. DARROW: If you know?

MR. KNIGHT: Yes.

A Well, it would take me about four or five -- about five hours, Mr. Knight.

Mason X  
C-30

Q About five hours to make that trip and about four hours to make the trip from your place in to Prices'?

A Yes, sir.

Q That would be about nine hours?

A Yes, sir.

Q How quickly could you do it if your knee were all right or how quickly could an ordinary man do it?

A That is the time I did it when my knee was well. You asked me what time I could make it in if my knee was all right; it would take me longer now.

Q It would take you longer now?

A Yes, sir.

Q But if your knee was all right and you walked as an ordinary man does, you could make it in about nine hours, the entire distance?

A Yes, sir.

Q You think that is as quickly as it conveniently could be made, do you?

A As quickly as I could make it.

Q Have you ever known of anybody making it in less time?

A No, I have never known of anybody; I have heard them tell about it; but I never saw them do it.

Q Now, Mr. Mason, don't you know, as a matter of fact, a man can easily walk that entire distance from Simpkins' cabin to your place in five hours?

A I do not.

Q Don't you know, as a matter of fact, he can make it in four hours; don't you know it?

A No, sir.

Q Don't you know it?

A No, sir; I do not.

Mason X  
C-31

Q Dont you know as a matter of fact, that a man can walk it in three hours and a half?

A I could not make it in less than nine.

Q Are you willing to swear that an ordinary man can not walk the entire distance from Simpkins' cabin to your cabin in three hours and a half?

A I know that I never could do it in less than that.

Q Well, will you swear that an ordinary man can't, who walks at an ordinary gait?

A I dont think he could, Mr. Knight.

Q Are you willing to say that he could not make it in four hours?

A Yes, sir, I am.

Q You are positive that a man can't make that distance in four hours, are you, Mr. Mason?

A Yes, sir.

Q You are positive on that proposition?

MR. DARROW: I object. He has answered that four or five times.

THE COURT: He says he is positive; that is enough.

MR. KNIGHT: Q You are quite positive it could not be made in four hours and a half, are you?

A I am.

Q Nor five hours?

A I couldn't make it; I dont know what other people could do, Mr. Knight.

Q Well, could it be made, could an ordinary man walk the distance in five hours?

A No, sir.

Q Could not?

A No, sir.

Mason X  
C-32

Q You are positive about that, aren't you? You are positive about that, aren't you, that a man could not make it in five hours, ordinary man walking at the ordinary gait?

A No, sir, he could not.

Q And you say that you could not, before your knee was hurt, walking about as an ordinary man does?

A Yes, sir.

Q Positive about that?

A Yes, sir.

Q You have walked in the woods frequently with other men, haven't you?

A Yes, sir.

MR. KNIGHT: Better adjourn at this time. I have finished that part of the examination.

WHEREUPON, the Jury was duly admonished, as required by law, and retired in charge of the officers, previously sworn, and court took a

RECESS UNTIL 2:00 P. M., FRIDAY, NOVEMBER 15, 1907.



Mason-X L  
D-1

FRIDAY, NOVEMBER 16, A. D. 1907.

P. M. SESSION.

At this day defendant being in court pre his counsel present as before, the jury came into court in charge of the sworn officers, and being duly polled, all answered to their names, and the trial of this cause proceeded as follows:

ALVA MASON

On the stand for further cross-examination by Mr. Knight, testified as follows:

Q In your examination this morning the following questions were asked you and did you give the following answers? page 1104:

"Q And what did you do when you first came to this "State with reference to establishing a home?"

"A I took up a homestead in Marble creek?"

"Q Can you give the description of the homestead you "filed on?"

"A Yes, sir. "

Q What did you mean when you said "filed on"?

~~MR. KNIGHT: MR. KNIGHT:~~

A I didnt understand the question. I located a claim by 'squatter's right'

Q You didnt mark the boundaries in any way?

A Yes, sir.

Q How did you mark the boundaries?

A I run a line round 160 acres square.

Q Blazed out a line?

L-Mason X  
D-2

A Yes, sir.

Q Who helped you to blaze that out?

A L. P. Gordon, Harry Wishell and McCord Shinkle.

Q When did you file on that land?

MR. DARROW: If you remember?

A I think it was the 17th of July in 1905.

Q Then you hadn't filed on the land at the time--

A It was not surveyed Mr. Knight, at the time I located on it.

Q I understood you to say this morning it was surveyed in 1902?

A Well, I located in 1901.

Q I understood you to say this morning it was surveyed in 1902?

A Possibly it was.

Q You ~~didn't~~ <sup>hadn't</sup> filed on it in 1904, <sup>had</sup> ~~did~~ you?

A Yes, sir.

Q Had you filed on it in 1904?

A Yes, sir.

Q Hadn't filed a homestead, had you?

A Well, I ain't positive whether it was in 1904 or 1905 it was opened for settlement. Infiled as soon as it was open for settlement.

Q Is it not a matter of fact that you didn't file on it in 1904 at all?

A Well, I can't answer that question intelligently because I don't remember which summer it was.

Q You have read your testimony over you gave at the former trial since you have been here?

L-Mason X  
D-3

A Yes, sir; I have read it once.

Q Now, you stated a few minutes ago that you filed in 1905, didnt you?

A I believe thats what I said, yes, sir.

Q Then you know you didnt file in 1904?

A I dont know which it was, what year it was thrown open, what year it was, but it was on the 17th of July, I remember that.

MR. DARROW: Here's the pleadings if you want to know when it was.

MR. KNIGHT: I am examining this witness, if you will allow me, if you will give me an opportunity.

MR. DARROW: Well, I object. Will you tell the Court what this examination is for and what these questions are for?

MR. KNIGHT: If the Court asks me I will.

MR. DARROW: Well, I object to the question. You objected to this class of evidence from us and it comes with a very poor grace from you to object to our questions, to every question we ask and then try to lug in something---

MR. KNIGHT: It is not reputation or grace from you that I ask, Mr. Darrow.---

THE COURT: Whats the object, to impeach him?

MR. KNIGHT: I intend to show him the testimony given at the former trial, page 828, Mr. Mason, those marked parts there. (Shown the witness)

Q I will ask you if, at the former trial of this

L-Mason X  
D-4

case in Wallace, in February and March, were these questions asked you and these answers given:

"Q As a matter of fact this ground is valuable in the main for the timber it contains, is it not?"

"A Some parts of it is and some is valuable for agriculture."

MR. DARROW: I object to this as not being in contradiction of any testimony that he has given here.

MR. KNIGHT: (Continuing to read)

"Q Had you filed a homestead claim in the Land Office---

MR. DARROW: Wait a minute, I have an objection.

MR. KNIGHT: Dont object until I get the question read.

MR. DARROW: Yes, yes, I object to it. If it is for the purpose of contradicting his testimony, I object, because there is nothing there to contradict his testimony that is now given by him. I ask the Court to read it and see whether it is competent.

THE COURT: Let me read it.

(The Court examines the document)

THE COURT: I shall overrule the objection, Mr. Darrow.

MR. DARROW: I will take an exception.

THE COURT: Exception allowed.  
at this time

"Q Was this land open for settlement, do you know, in 1904"

"A 1904, yes, sir.

"Q Had you filed a homestead claim in the land office

"A No, sir; I hadnt filed a claim on it yet."

Q Were those questions and your answers?

A Yes, I think thats right, too.

Q You think thats right?

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L-Mason X  
D-4

A Yes, sir.

Q Where does Mr. Hugus live?

A He lives out near Coeur d' Alene City, I believe.

Q Did he have a claim near you on the St. Joe?

A yes, sir; he had a claim near me on the  
St. Joe River, just across the river.

Q On the side towards the Marble Creek country?

A He was on the side nearest Marble Creek, on the  
south side of the river. I am on the north.

Q Just opposite Mr. Hugus's?

A yes, sir. The houses are a little apart, just one  
above the other.

Q Was Hugus there in 1904?

A yes, sir.

Q About what distance are you from Mr. Hugus's house?

A Oh, it must be two hundred yards.

Q About two hundred yards?

A Yes, sir.

MR. DARROW: Is this the homestead or down on the  
river?

MR. KNIGHT: No, down on the river.

MR. DARROW: That's what I supposed.

Q Could you fix the time, Mr. Mason, when you  
first met Steve Adams, more definitely than you have  
this morning?

A It was a day or two after the 4th of July,  
Mr. Knight, I couldn't tell you exactly the day; it was not  
over two days, though, I don't think.

Q You testified it was right after the 4th of July,  
didn't you?

I.-Mason X  
D-5

A Yes, sir, a day or two, I believe was my answer to that; that's my recollection of it.

Q You first saw him at your place on the river?

A No, sir; on the homestead.

Q At the homestead?

A yes, sir.

Q He was with Jack Simpkins at that time?

A yes, sir.

Q You say you saw him almost every day from that time until about August 1st?

A Until the last days of July.

Q Can you fix more definitely than you have the date you left the homestead for your place on the river?

A No, sir; I could not, only I know it was the very last days of July that I went down.

Q You could not fix the day of the week you went down there, could you, Mr. Mason?

A No, sir.

Q Was there anything particular by which you can fix the date as the last days of July?

A I know I got home the first of August.

Q What did you do on the first day of August?

A Nothing. The second day of August I commenced cutting my hay.

Q The second day of August you commenced cutting your hay?

A yes, sir.

Q You know you were there on the first of August?

A yes, sir.

L-Mason X  
D-6

Q Can you say how long you were there before that time?

A I was not home more than a couple of days before I started in cutting my hay.

Q Then it must have been the 28th or 29th of July that you came?

A No, I think it was the 29th or 30th of July.

Q How long were you cutting hay?

A I had my hay all cut inside of a week and put in the barn.

Q Who was assisting you in cutting hay?

A My boys, Virgil and I think Mr. Glover helped me haul a half a day.

Q Now, after that time, did you return to your homestead during the month of August?

A No, sir.

Q Did not return?

A No, sir.

Q How many tons of hay did you put up?

A About thirty tons, I think, that year.

Q What part of the work did you handle?

A I run the mowing machine and rake, and the boys and the rest of them done the rest of the work.

Q You say you were about a week putting it up?

A yes, sir.

Q And about what time did you start for Wallace, the first time?

A Well, it was--- it must have been the 16th, because I am pretty sure I was in Wallace on the 17th. I am not positive as to the date of that trial, but my recollection

L-Mason, X  
D-7

117a

117p

is it was on the 17th. I started---

Q You got back to your place on the river on the 20th, you say?

A I got home on the day of the 20th.

Q That was Sunday or Saturday?

A I dont know the day of the week.

Q As a matter of fact, it was Saturday, was it not?

A I dont know.

Q Then you went out about the 16th and returned the 20th, is that it?

A Yes, that must be what I did. I was there---  
I know I got back the 20th, and could not have made the trip in more than three or four days.

Q Then, as a matter of fact, you were not at home on the 17th, were you?

A No, sir; I dont think I was at home on the 17th?

Q Did you see Jack Simpkins on your trip to Wallace?

A Not after I left home.

Q Did you see Steve Adams on your trip to Wallace?

A No, sir.

Q You say you saw Steve on the evening of the 7th of August?

A Yes, sir.

Q Sunday evening, the 7th of August?

A yes, sir.

Q I believe you also stated you saw him the next morning?

A I didnt say that.

Q You did state you saw him the next morning after



L-Mason, X  
D-8

he left your house on the 25th, didnt you?

A The next morning? after he left my house on the 25th?Q

Q yes.

MR. DARROW: The last time he went out.

A Oh, yes, I seen him the last time he went out.

Q He left your house, at the time he was going out, he left your house in the evening, didnt he?

A No, sir. He left my house in the morning the last time he went out.

Q Stayed all night there?

A yes, sir. Slept in the hay mow.

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

~~XXXXXXXXXX~~ir.

Q You saw him the next morning?

A No, sir; I didnt see him the next morning; didnt seehim after he went to bed, in the evening. He went from my place that evening up to Newt Glover,s and came back and stayed all night in the barn and went down and caught the early boat to the head.

Q And you didnt see him the next morning?

A No, sir.

Q You didnt see him in any boat with your boys on the morning he left?

A No, sir.

Q You dont remember of seeing him in the boat, do you?

A I have seen him in a boat a good many times.

Q But not on either one of those dates?

A No, sir; I did not.

T-Mason X  
D-9

Q Did you see Steve Adams before that time, or from the time he left your place on the 7th of August, to the time you returned from Wallace?

A I did.

Q Where did you see him?

A I saw him at my place the evening before I started for Wallace.

Q The evening before you started for Wallace?

A Yes, sir.

Q That was as early as the 16th?

A Yes, sir; it must have been that early for they went down and was gone a week or ten days and came back the same day that I started for Wallace.

Q They, you say. Whom do you mean?

A Steve Adams and Simpkins. I went down the same day they got there; went down to the Head and took the boat; stayed at the Head all night.

Q You didn't see Steve Adams while you were gone to Wallace?

A No, sir.

Q You say you were gone about four days?

A About, yes, sir.

Q You don't know what he was doing during that time, of your own knowledge?

A Yes, sir, I know. He was working on the prospect.

Q Well, how do you say you know it, you know what he was doing while you were gone?

A Yes, sir; I know he was working on that prospect.

Q How do you know?

L-Mason X  
D-10

You dont know what he was doing only from what somebody told you?

A No, sir; but I seen the work he done there and I know---

Q You dont know he did it, do you?

A I know he done his part of the work that was done thereon that prospect.

Q How do you know he worked there while you were in Wallace?

A Because the work was done while I was gone.

Q You didnt see him do it, did you?

A Not, while I was gone.

Q You dont know anything about it only what somebody told you, do you?

MR. DARROW: He has answered that.

Q What do you mean by coming here and telling this jury you know that he did work on that prospect when you didnt see him do any work at all?

A I know he did half of that work that was done there, him and Simpkins done it together.

Q You didnt see him do any work at that time?

A I was not there at that time.

Q You dont know he done the work, do you?

MR. DARROW: I object; he has said what he knows.

THE COURT: He has a right to cross-examine him. He cant be any more severe than you are.

MR. DARROW: well, I dont object, except that he has asked it all before.

(Question read)

A I dont know what he done while I was gone

L-Mason X  
D-11

to Wallace.

Q You dont know whether he was up to your place, your homestead or not, do you?

A I dont know who went up there, or what he done while I was gone to Wallace, how could I?

Q You dont know where he was on the 20th of August, 1904, do you?

A Yes, sir.

Q How do you know?

A I seen him.

Q On the 20th?

A yes, sir.

Q You have testified in your direct examination that you returned on the 21st---

MR. DARROW: I object.

A I returned on the 20th, Mr. Knight.

Q At what time on the 20th did you return?

A It must have been in the afternoon some time. I came up from the Head that day and would naturally get home in the afternoon.

Q You would naturally get home in the afternoon, some time. As a matter of fact what time did you get home?

A I dont know what time I did get home.

Q Did you get home at two o'clock?

A Thats generally about the time it takes to get from the Head up to my place.

Q Thast about the time?

A yes, sir.

Q You think you got home at that time?

L-Mason X  
D-12

Q Steve was there?

A No, sir.

Q When did he get there?

A He came to my home that evening.

Q What time that evening?

A Just before supper time.

Q Did you see Simpkins that evening?

A Yes, sir; he and Steve came together.

Q Did you see Frank Price that evening?

A yes, sir.

Q And he came with Simpkins and Steve?

A No, sir; Frank Price got in later with his  
pack train.

Q What time did he get there?

A It was almost dark when Frank got there, just about  
dusk.

Q Almost dark?

A Yes, sir; it was dusk, yes, sir.

Q You stated in your evidence this morning that you saw  
him, saw Adams, practically every day between the  
time that you returned and the day that he went away, you  
said he went away?

A Which time do you mean?

Q Thesecond time he went away, the last time he went  
away?

A Except the time I was at Wallace.

Q Was he boarding at your house then?

A He took dinner there occasionally, the other time  
he was---

Q Did he take dinner there every day?

U-10

A No, sir, he did not.

Q Did he take one meal there every day?

A No, sir.

Q What were you doing?

A I was not doing much after the hay was up.

Q You helped to put <sup>up</sup> thirty tons of hay, beginning the next day after you came down the mountain where you hurt your knee and then went to Wallace, you were well enough for that; is that right?

A I cut the hay and raked it.

Q You went to Wallace as soon as you finished cutting the hay?

A No, sir I didnt I went to Wallace about the 17th; the 16th it was.

Q It was not later than the 16th, was it?

A No, sir.

Q Was it earlier?

A No, sir; it was not any earlier.

Q Then it was the 16th of August that you started for Wallace?

A Thats my recollection.

Q You got back the 20th?

A yes, sir.

Q What time did you leave your place on the 16th?

A Which place?

Q The place on the river, where you were, were you not?

A I left there in the afternoon.

Q Where did you go that night?

A I went down--- I dont remember which hotel

I stopped at.

Q Stopped all night at the head of navigation?

A yes, sir.

Q What did you do next day?

A Went down on the boat.

Q Where did you go?

A Went to Harrison.

Q Stopped there?

A Went to Wallace, took the train there and went to Wallace.

Q What time did you get to Wallace, then?

A I dont know. I guessthe train gets in there about two o'clock, I guess, dont it? I dont know what time the train is due there.

Q You got there on the regular train on the 17th, did you?

A yes, sir.

Q And remained there during the afternoon?

A yes, sir.

Q Started back the next day?

A yes, sir.

Q Just spent one day in Wallace?

A Thats my recollection. I know I got home on the 20th.

Q You know you got home on the 20th?

A yes, sir.

Q What is there fixes that in your mind?

A Getting home?

Q Yes.

L-Mason X  
D-15

A I heard of Bouley being killed next day. I heard that on the 21st.

Q You heard that on the 21st?

A yes, sir.

Q When did you last see Adams in the Marble creek district before you started up to your ranch on the river in July?

A I seen him the day before I started.

Q Who was with him?

A Simpkins, and I think Ray Wells was with him too.

Q How long after that did you see Adams?

A Oh, it was two or three days, I guess about two days then Steve came out.

Q About two days?

A Yes. It was not over two days.

Q Well, you mean he reached your place within two days after you saw him in the Marble creek country?

A yes, sir

Q You are positive of that, are you?

A yes, sir.

Q So, he could not have remained in there more than two days after you started out?

A No, I dont think he stayed in there over a day, allowing time for him to come out, I think about two days.

Q Would not take him any longer to come out than I would you, would it?

A I dont suppose it did, No.

Q Did you attend the meeting <sup>held</sup> on Buzzle Creek, or Buffalo Creek?



I-Mason X  
D-16

A No, sir.

Q You was not there?

A No, sir; never heard of it.

Q You never had any difficulty, personal difficulty, with Archie Phillips about your homestead, did you Mr. Mason?

A No, sir.

Q Never had any trouble at all?

A I did.

Q With Archie Phillips, I mean, no personal trouble?

A No, sir.

MR. DARROW: I dont know what you mean by personal trouble. I object to it.

Q No latercation between you and Mr: Phillips at any time?

A Well, he whirled an axe, aimed for Mr. Russell's head, and I was standing pretty close to Russell. I was in about as much danger as Russell was. He swore he would kill him if he ever came back on his place.

Q You never had a quarrel with him yourself?

A No, sir.

Q None at all?

A No, sir.

XX

XX

Q Do you know remember what day of the week August first occurred in 1904?

A No.

Q What did you do the first day after you reached your place on the river, on that trip out?

I-Mason X  
D-17

A Well, I couldnt tell. I was getting ready for to put up my hay; dont remember just what I did.

Q Whom did you see on that day, the first day you got out there?

A I dont think I seen anybody outside of my own family; possibly Mr. Price was there that night; dont remember whether he had come down with his pack train or not.

Q Whom did you see next day?

A I dont remember who I did see that next day.

Q Donyou remember whether you saw anybody or not?

A yes, I think Inseen somebody there, but---

Q Now, just tell us who you saw there?

A I think Mr. Glover was therethat da.

Q You think Mr. Glover was therethat day?

A yes, sir.

Q Any one else ?

A I dont remember whether anybody else or not.

Q What time of day did Mr. Glover come?

A He came down in the morning.

Q How did he come down?

A He came down over the trail.

Q Afoot or horseback?

A Came afoot.

Q Are you sure you saw him the next day after you got there?

A I think it was the second day.

Q You think it was the second day?

A I think it was the second day afterI get there, yes, sir.

Q You dont remember of having seen anyone else on

that day at all, then?

A No, sir.

MR. DARROW: Second day after you came out of the woods.

MR. KNIGHT: He saw Mr. Glover, he says, the second day after he came out, he saw Mr. Glover.

Q Now, whom did you see the next day after that?

A That was the day that Steve came there.

Q You are positive of that are, you Mr. Mason?

A Well, I am not sure whether it was the second or the third; it was either the second or the third day after I got out that Steve came out. It could not have been longer than the second when he came there.

Q Do you know whether that was the first or second day of August?

A No, I am not positive about its being the first or second, because I dont know which day of July I came out.

Q You dont know whether it was the 29th, 30th or 31st that you came out?

A I do not.

Q You would not be positive but that it was the 31st that you came out?

A Not positive as to those last three days. I know I got home on August first.

Q Then, if you didnt come out there until the 31st of July, you didnt see Steve Adams on the first day of August, did you?

A Not if I ~~didnt~~ wasnt there I could not see him.

D-19

Q I believe you testified this morning that you did see him about four o'clock on the first of August, 1904, didnt you?

A Well, I--

Q That was just to the best of your recollection?

A Well, as I say, I cant tell which day of July I came out. If I came out on the 28th I saw Steve on the first---

Q If you came out on the 28th you saw Steve on the first?

A yes, sir; it would be about the first.

Q Then if you came out on the 31st you saw him on the third?

A I didnt come out on the first.

Q I say if you came out on the 31st, it was the third of August you saw him about four o'clock in the afternoon?

A Yes, it was about two days after I came out ,  
Mr. Knight.

Q You dont know whether you got out there the 31st of August or the 28th of August?

A No, sir; not positive.

MR. DARROW: You mean July, of course.

MR. KNIGHT: Yes, sir.

Q I will ask the last question son you can understand it and answer it. If you came out on the 28th of July you saw Steve on the first of August?

A yes, sir.

Q That would leave July 29th, 30th and 31st intervening, would it not?

A That---

Q Then if you came out --

MR. DARROW: Wait. Let him answer.

A That would be three days.

Q Then if you came out the 31st there would intervene the first, second and third, would there not?

A Yes, sir.

Q So, it might have been the third of August that you saw him?

A No, it was not that late. I didn't come out as late as the 31st of July.

Q Oh, then, it does not suit your particular purpose at this time to have it appear that you came out at that time, does it?

MR. HEITMAN: I object to that.

THE COURT: The objection is sustained.

MR. DARROW: I take exception to that. Not to the ruling of the Court but to the question.

THE COURT: Well, I didn't know.

Q Mr. Mason, you say the first you heard of the killing of Bouley was when Frank Price from the other side of the river that "Bouley the son of a bitch was shot"?

A Yes, sir.

Q I noticed, Mr. Mason, that you smiled quite vividly at that time?

MR. DARROW: Now, I object to that statement.

THE COURT: Objection sustained.

MR. DARROW: I was looking at him and I didn't see it.

MR. KNIGHT: No question about its being true, as far as that's concerned.

MR. DARROW: I don't think there is, for I know it is not true.

MR. KNIGHT: Well, it is true and I think you know it.

THE COURT: well, gentlemen, proceed with your cross examination.

Q Your children were there at that time, were they not?

A No, sir.

Q Why, I thought you said they were?

A I did not.

Q You say your children were not there?

A They werenot with me. They were on the place.

Q In the immediate vicinity, were they not?

A No, sir; they were not close to me.

Q Were they not on the bank of the river at that time?

A They were on the bank of the river?

Q How far from you?

A Oh, about thirty or forty steps.

Q Fully as near to Mr. Price as you were?

A No, sir.

Q Were you nearer to the bank of the river than they?

A No, sir.

Q How far were you from the bank of the river?

A I was about the same distance that I was from the children.

Q They were right on the bank of the river, were they?

A yes, sir; part of them was.

Q How many of your children were there?

A I dont remember how many there were there.

Q How far from Mr. Price at that time?

A Well, there was just the width of the river,

Mr. Knight.

L-Mason X  
D-22

Q He was just the width of the river from your children?

A No, he was down a little below where they stood and I was above the children; that would make it a little more distance between Price and I than he was from the children.

Q They were a little nearer to Price than you were?

A Yes, sir.

Q They were in plain sight of Mr. Price, were they not?

A Yes, sir.

Q Dont you remember how many of the children were there?

A No, sir.

Q Which particular ones were they?

A The boys, the older boys, Orville and Clarence.

Q How many of them?

A Two.

Q Any other children there?

A Not on the bank.

Q Any others in the immediate vicinity?

A They were at the house.

Q What do you mean by saying you didnt know which of your children were there?

A On the bank?

Q Yes?

A I didnt know whether you meant on the bank or in the vicinity.

Q You say the other children were at the house?

A They were on the bank.

Q What do you mean by saying the children were on the bank, you didnt know they were there?

A You were talking about their being

in my immediate vicinity with me. They was not there with me.

Q You say you began cutting hay on the 2nd of August?

A Yes, sir. Got my tools ready; started in about the 2nd of August.

Q Began the next day after you got out there, didnt you?

A No, sir.

Q The second day after you got out there?

A About the second day after I got out, I believe, not sure of it.

Q Are you not quite sure of it, Mr. Mason?

A No, I am not.

Q Well, there was not more than one day intervned between the time you started in to cut hay and the time you got out there, was there?

A yes, I did not get ready the first day; dont think I started in for a couple of days; about the second day after I got home, I believe it was.

Q Then, if you started on the second, you spent the first getting ready and part of the day you arrived, that is, the 31st, is that it?

A Well, it would be the day I arrived, but I am not sure about the day I arrived there, whether it was the 31st or the 29th.

Q Now, how long had you been cutting hay when Steve came?

A I hadnt started cutting my hay when Steve came.

Q You hadnt started to cut your hay at that time at all?



D-24

A No, sir.

Q You say it was two or three days after you got out there when Steve came?

A It could not have been more than two days.

Q Could not have been more than two days?

A No, sir.

Q You dont know whether it was the 28th or 31st when you got out there?

A I am not positive what day I got there, no, sir.

Q What time of day did you get there?

A From my claim?

Q Yes.

A When I came out?

Q Yes?

A I would not get out there until along towards evening.

Q The question is when did you, not when you would?

A Well, I cant tell exactly whether it was the late part of the afternoon.

Q Can you tell what time you got to Price's that day?

A Yes, sir; got there <sup>before</sup> ~~at~~ dinner.

Q What time before dinner?

A Between eleven and twelve o'clock.

Q What time did you leave your place that morning?

A My claim?

Q Yes?

A About seven o'clock.

D-25

Q You walked out that far, did you?

A Yes, sir.

Q Now this next day after you got out there, you were prepared to cut hay, were you?

A Yes, sir.

Q What did you do preparing to cut hay?

A Ground the sickle and got the mowing machine in shape.

Q Got the horses ready?

A The horses were all ready.

Q What physician did you call to attend your knee?

A I never had it examined until the latter part of August.

Q Oh, I see. Didn't have it examined until after you heard of the death of Bouley, did you?

A It was during my trip to Wallace, I believe, I had it examined, Mr. Knight.

Q Who examined it?

A Dr. Busby.

Q Dr. Busby at Harrison?

A Yes, sir.

Q You are quite positive of that?

A Yes, sir.

Q That was after you had cut your hay?

A Yes, sir.

Q You remember on what day you finished cutting hay?

A No, sir.

Q What day of the month?

A No, sir. We cleaned it up in about a week.

Q What did you do between the time you finished cutting hay and the time you started to Wallace?

A Didnt do anything in particular.

Q Didnt do anything during that time at all?

A No, sir.

Q What time in the morning did you start in cutting hay?

A As soon as the dew was off; dont know what time it was.

Q Quit at noon?

A Yes, sir.

Q Took an hour's rest?

A Yes, sir.

Q And want to work at one o'clock or about one?

A About, I dont know what time it was.

Q What time did you quit in the afternoon?

A About six o'clock.

Q Did you say your boys were helping you?

A They was not helping me about the cutting, no, sir.

Q Helping you cut the hay?

A Not at that time.

Q Part of the time?

A No, sir.

Q Didnt help you at all?

A Not the first day.

Q Or during the time?

A They helped me put it in the barn, and shock it.

Q How many days did the boys work?

A Wel, sir; we was between possibly about four days handling the hay, shocking and putting it in the barn.

L-Mason X  
D-27

Q About four days?

A Yes, sir.

Q About four days cutting it, shocking and putting the hay in the barn?

A No, I commenced cutting the hay before that.

Q How many days?

A About a day and a half.

Q You spent four days then, shocking and putting the hay in the barn?

A Yes, sir.

Q All together, you were about five and a half days cutting and putting the hay in the barn?

A That ought to cover the time.

Q How long did the hay cure?

A Didnt commence shocking for a day and a half.

We commenced at noon the second day after I commenced to cut; the next day after I commenced to cut.

Q How long did you cut?

A About a day and a half.

Q Did the boys work all the time?

A Only while we was handling it. They didnt at first.

Q They didnt run a boat up and down the river, then?

A It seems to me they made a trip. I am not positive, but think they made one trip to the falls.

Q Do you think you made a trip while you were handling the hay?

A I dont think they did while I was handling the hay but while I was cutting it I think they made a trip to the falls with freight.

Q Did they go to work the same time you did?

1199  
~~1220~~

L) Mason X  
D-28

A No, they probably didnt until I commenced to handle the hay, but I dont remember just exactly how these things was; dont think they did.

Q You remember whether they went to work in the morning?

A When we was hauling they went to work as early as eight o'clock.

Q And worked until how late in the evening?

A Six o'clock.

Q Did Newt Glover help you?

A One half a day.

Q Did Steve Adams help?

A No, sir.

Q Not a single day?

A No, sir.

Q Didnt handle a shock?

A Not that I know of.

Q Where was Simpkins then?

A Simpkins was down below somewheres.

Q What time did he go down below?

A The fore part of August.

Q After you came out?

A Yes, sir.

Q How long after you came out?

A He came out three or four days after I came out.

Q How long after Adams came out before he came out?

A About two days I think it was.

Q About two days you think?

A Yes, sir.

L-Mason X  
D-29

1200

Q How long did he stay there?

A Stayed over night.

Q Then went down the river?

A Yes, sir.

Q How long did he stay down the river?

A A week or ten days.

Q Then when did he come back?

A I dont know exactly the date. It was the night before I started to Wallace.

Q You said you started for there on the 16th?

A yss, sir.

Q Then he came back on the 15th?

A On the 16th.

Q Then he came back on the 16th, the same day?

A No, sir; it was the night before.

Q You dont know whether he was gone a week or ten days?

A He was gone a week or ten days. He was gone down the river.

Q It was a week or ten days he was gone, you could not be sure which?

A No, sir; I could not be sure of the number of days.

Q Is there nothing to fix in your mind whether it was seven, eight, nine or ten days?

A I know the day he went down.

Q When did he go?

A He went down a couple of days after Steve went up.

Q What day of the month was that?

A I dont know the exact day of the month. It was

L-Mason X  
D-30

1201

a couple of days after Steve came out.

Q You dont know whether that was the first or the third?

A Yes, sir; it was later than the first or second, must have been the third or fourth.

Q It was later than the first or second, must have been the third or fourth that Steve came out?

A No, that Simpkins came out; talking about Simpkins now.

Q You think that was later than the fourth?

A No, I dont think it was.

Q He went down the morning of the fifth?

A He stayed all night ~~and went down~~ at my place the night of the 4th, if that is the day he came out, went up to Newt's and the next morning then went down the river.

Q Do you know what day of the month Simpkins went down the river, now?

A No, sir, I dont.

Q How long was it after you came out?

A I dont know the exact number of days; probably four days.

Q Probably four days?

A yes, sir.

Q Then you are certain you didnt come out as early as the 28th of July, are you not?

A I dont think I did, Mr. Knight.

Q You think Simpkins was gone down the river longer than ten days?

A bit was a week or ten days, Mr. Knight.

L-Mason X  
D-31

Q Then ten days would be the limit, would it not?

A yes, sir.

Q Do you say he came back on the 16th, that would make it the 6th that he started out, would it not?

A Yes, he was gone for ten days.

Q You said a week or ten days?

A I said a week or ten days, I don't know the exact number of days.

Q When you say a week or ten days, do you mean a week or twelve days?

A No, a week or ten days.

Q Then you can say he was not down the river more than ten days?

A I don't think he was.

Q He came back on the 16th, the day you started to Wallace?

A Yes, sir; but he was <sup>there</sup> before that.

MR. DARROW: Yes.

Q He was <sup>there</sup> before that?

A Yes, sir.

Q What time did he come back before that?

A About the 9th.

Q How long did he remain there the 9th?

A Stayed there over night.

Q Then went down the river on the 10th?

A yes, sir.

Q How long was he gone that time?

A That's the time he was gone.-----

Q The time he was gone ten days?

A I believe that's what it was.



L-Mason X  
D-32

Q You say you believe that is what it was?

A I dont just remember what my answer was to that.

Q Well, was it ten days----

A I dont know just what my answer was to that.

MR. DARROW: He is asking you whether it was ten days or what it was.

A What is that?

MR. DARROW: He is asking you whether it was ten days or what it was.

THE COURT: Was he gone ten days?

Q Is that the time he was gone ten days?

A You have got it mixed up so I dont know how I can answer; I dont know.

THE COURT: You have a perfect right to understand the question and get it straight before you are required to answer.

Q Do you know, Mr. Mason, whether he went down the river at that time on the 8th or 9th or 10th?

A He started down the river on the 9th.

Q You are sure of it?

A Yes, sir.

Q Do you know what day of the week that was?

A No, sir.

Q What is there that fixes the 9th in your mind as being the day he started down? In other words, what did you do on the 9th.

MR. DARROW: Thats not in other words.

A Do you mean the 9th of August?

Q The 9th of August I believe you said he started

L-Mason X  
D-33

A I dont remember what I was doing on that date in particular.

Q Do you remember whether it was the 9th or 10th he started down?

A It was the next day or two, the next day I believe it was after Steve went down.

MR. DARROW: Yes.

Q Thats the way you fixed that?

A yes, sir.

Q The next day after Steve went down?

A Yes, sir.

Q Steve left your place the evening of the 7th?

A Yes, sir.

Q Thats the last you ever saw Steve until he came back there on the 18th, was it?

MR. DARROW: I object to that.

MR. KNIGHT: I asked him if he saw Steve from the evening of the 7th, when he left his place, until he came back on the 18th. Thats my question. I am not saying anything about Steve's going down.

THE COURT: He said Steve left his place on the 7th and left to go down the river on the morning of the 8th.

At this time the jury was admonished and court took a recess of ten minutes.

After recess the jury was duly polled, all answered to their names and the trial of this cause continued, as follows.

Mr. Knight continued the cross examination of Alva Mason.

I-Mason X  
D-34

Q How long since you threw away the cane you used when you cut your hay?

A I used one several times, Mr. Knight.

Q That's not the question; the question is how long since you threw away the one you used when you cut your hay?

MR. DARROW: Object to that because he has not said he used a cane when he was cutting hay.

MR. KNIGHT: He said he used one constantly for several months.

MR. HEITMAN: I think it was supposed he was riding when he was using the mower.

MR. KNIGHT: I again suggest that if counsel is going to testify, he be sworn.

THE COURT: Get down to your cross-examination.

Q You say Simpkins and Adams came to your place the day you started for Wallace on the 16th of August?

A Yes, sir.

Q And Simpkins left your place and went down the river about the 9th or 10th of August.

A He left before that, Mr. Knight, and then came back about the 9th.

Q Well, now what did you mean, that was the time he went and was gone ten days, or that it was the 16th that he went and was gone ten days---

MR. DARROW: He didn't say ten days.

MR. KNIGHT: A week or ten days.

Q Did you say it was a week or ten days from the time he first left, after he came from the Marble Creek country until he came there, or a week or ten days from the first

L-Mason X  
D-35

time he went out until he came back?

A It was the second time I believe, Mr. Knight, if I have got it clear in my head, he came out from Marble Creek, if I can just understand it, if I can just state it.

MR. DARROW: Then state it yourself.

A I know it without getting mixed up.

MR. KNIGHT: There is no doubt you know it, Mr. Mason. I want you to state it, is all.

THE COURT: You can answer his question if you understand it. You are not required to answer any question you do not understand.

Q Did you say it was a week or ten days from the time Simpkins left your place and went down the river after coming out from Marble Creek first, until the time he first returned?

A It was from the time when he came up and stayed over night.

Q That is from the time he came up and stayed all night on the 16th?

A No on the 9th.

Q On the 9th he came up and stayed all night?

A Yes.

Q Then he went down the river and was gone a week or ten days?

A Well, it was somewhere in the neighborhood of that time. He got back on the 19th--- on the 16th he got back, the day before I went to Wallace, on the 16th.

Q How could he leave on the morning of the 9th, <sup>or</sup> about that time and get back on the 16th and be gone ten days?

MR. DARROW: He didnt say that. He said a week or ten days.

I-Mason X  
D-36

A He could be gone a week and get back then.

Q He went away on the 9th and came back on the 16th?

MR. DARROW: I object to that.

Q About that, then?

A Yes, sir. That's about the length of time.

Q That was the second time he went away?

A Yes, sir.

Q How long was he gone the first time he went out?

A He must have been gone--- he came out somewhere around the 3rd or 4th of August and he came back the night of the 8th.

Q Then he was gone four or five days that time, was he?

A That's what it would make, yes, sir.

Q He was not gone more than about eleven or twelve days on the two trips, was he then, Mr. Mason, at the most?

A Yes, that would make a little more, I think.

Q You say he went out on the 4th or 5th?

MR. DARROW: He said 3rd or 4th this time, didn't he?

MR. KNIGHT: Well, he has said so many things that I don't know. He has said the 4th or 5th.

Q You say he came out from Marble Creek about the 4th or 5th?

A Day after I came out, the 4th or 5th day after I came out,

Q And how long after Adams came out?

A The second day after Adams came out.

Q You mean to say the fourth or fifth day after you came out?

A No, not certain whether it was the fourth or fifth

L-Mason X  
D-37

day after I came out.

Q Then you are not certain whether Adams came out the second or third day after you came out?

A I would not be positive whether it was the second or third, but I rather think it was just two days.

Q And you are not certain that Simpkins came four or five days after you came out?

A About four days after I came out Simpkins came out.

Q Are you willing to say it was just four days?

A I can not swear to that.

Q Now, Mr. Mason, you think Adams---that Simpkins started down the river about what date the first time?

A I could not give you the exact date, the day he went down the first time, Mr. Knight.

Q However, it was four or five days after you came out from the Marble creek country?

A Yes, it was somewhere about that after I came out.

Q You state that he stayed all night at your place the night before?

A Yes, sir.

Q And the next you saw him was the day you started to Wallace on the 16th?

A No, sir; he came back to my place on the 8th, stayed all night and went back down the 9th.

Q What did you do on the day of the 8th?

A I don't know as I was doing anything in particular.

Q Who else did you see on the 8th?

A I seen Mr. Nevins, the evening of the 8th.

Q Whom else?

A I don't remember who else, whether I seen anybody

else.

L-Mason X  
D-38

Q Whom else did you see on the day of the 9th?

A I dont remember, Mr. Knight.

Q Did Mr. Simpkins go down the river on the morning of the 8th?

A He went down the river on the morning of the 9th.

Q Morning of the 9th?

A Yes sir.

Q And he came to your house on the 8th?

A Yes, sir.

Q On the day of the 8th did he come there?

A Yes, in the evening of the 8th.

Q In the evening of the 8th?

A Yes, sir.

Q Do you know where he came from?

A He came up the river.

Q Anyone come with him?

A Yes, sir.

Q Who?

A Mr. James Nevins.

Q Where is Mr. Nevins now?

A I believe in St. Maries if he is not in on his homestead?

Q When Mr. Simpkins came to your place he immediately returned down the river ?

A That next morning, yes, sir.

Q Where did Mr. Nevins go?

A He went towards his claim.

Q On the Marble Creek?

A Yes, sir.

L-Mason X  
D-39

Q What time in the evening did Simpkins and Nevins come to your place?

A It was quite late. They said they came up on the boat that evening and it was pretty late in the evening.

Q And he went out on the boat next morning?

A Yes, sir.

Q You think you were five and a half days cutting hay, do you?

MR. DARROW: I object to that.

MR. KNIGHT: He said the boys worked four and a half and he was cutting a day and a half.

THE COURT: He said about five and a half days in cutting and getting the hay into the barn, I think.

MR. DARROW: He said about a week getting in the hay.

THE COURT: I think he subsequently answered about five and a half days.

Q Were you about five and a half days securing your hay

A yes, sir; that's my recollection of it.

Q Did you have the hay all secured and put in the barn at the time of your birthday?

A yes, sir.

Q It had all been taken care of?

A yes, sir. I had just finished it up the evening before.

Q Just finished it up the evening before?

A yes, sir.

Q And had your birthday party the next day?

A yes, sir.



Q What time of day did you have dinner that day?

A Well, I couldn't tell you the exact hour; it was after noon though, Mr. Knight .

Q When did you invite Newt and Steve down?

A The evening before.

Q What time the evening before?

A It was about four or five o'clock.

Q About four or five o'clock?

A yes.

Q What time did you finish cutting the hay that day?

A I had my hay cut we was hauling that day.

Q What time did you finish hauling hay?

A Got through in good time in the evening.

Q About what time?

A Early in the evening; don't remember the exact time now.

Q Now, they hadn't been taking dinner with you right along?

A No, sir.

Q Had they had dinner with you several times during that week?

A yes, sir.

Q What day?

A Don't remember what day it was.

Q Both Glover and Steve?

A yes, sir.

Q Was that the time Glover helped you with the hay?

A No, it was not the day we finished that he helped me.

Q No. I say the day that both had dinner with you, was

that the day that Glover helped you with the hay?

A I dont remember about that.

Q Did Glover have dinner with you more than once that week?

A Yes, sir.

Q How many times?

A Two or three different times.

Q Both of them?

A Yes, sir.

Q Every time one was there, both were?

A No, didnt always come together.

Q I mean during that particular week that you cut hay?

A No, dont think they did; sometimes both, sometimes just one of them.

Q How many times was Steve there during that week?

A For dinner?

Q Yes.

A He must have been there as much as three times that week.

Q How many times was Newt there?

A He was there three or four times.

Q Then you had one of them there nearly every day?

A No, sometimes they were both there.

Q How many times do you know of their being there?

A I suppose three or four times.

Q Of course you saw them both every day during that week?

A Yes, sir.

XX  
 Q What did you do on the next day after Adams came out,

XX  
 that you saw him?

~~xxxxxxx~~  
~~xxxx~~  
L Mason X  
D-42

Q What time of day on the next day after Adams came out, did you see him?

A I dont remember whether it was in the evening or morning.

Q What was he doing?

A Came there for some bread and milk.

Q Did he get it?

A Yes, sir.

Q Who did he get it from?

A Got it from the women, I dont know which one of them it was.

Q What women were there?

A My wife and daughter.

Q Just one daughter?

A The younger children were there, the younger ones.

Q It was not the younger children who gave him the milk, was it?

A No, sir.

Q What time of day did you see him the next day?

A Well, I dont know, Mr. Knight, what tie of day it was.

Q What time of day was it the next day you saw him?

A I cant tell you just exactly the days he was there for dinner and the days he was not there for dinner. I didnt keep any memorandum of the days he took dinner with me.

Mason X  
E-1

Q Possibly three or four days he was not there at dinner?

A For dinner, yes, sir.

Q What hour on Sunday did you have the--

A My birthday?

Q Yes.

A It was afternoon; possibly about two o'clock.

Q Possibly about two o'clock that day?

A Yes, sir.

Q What time did Steve Adams come there on that day?

A He came along about probably, about eight or nine o'clock in the morning.

Q Eight or nine o'clock in the morning?

A Yes, sir.

Q What time did Newt come there that morning?

A About an hour later.

Q In which direction did Steve come?

A From towards Glover's.

Q In which direction did Glover come?

A Came in the same direction.

Q You say that it was about eight or nine o'clock in the morning that Steve came?

A Yes, sir.

Q You know it was not later than that, don't you, Mason?

A No, sir, I don't believe it was.

Q How long did he remain there that day?

A Until after dinner; along toward evening.

Q About what time in the evening?

A Oh, they stayed there until pretty late in the evening.

Mason X  
E-2

Q Did you see him any more after he went away that evening?

A No, not after he went away that evening.

Q When did you next see him after he went away that evening?

A Well, it was when he came back ~~up~~<sup>up</sup> with Simpkins.

Q When he came back up with Simpkins on the 16th?

MR. DARROW: I think this is all repetition; I don't care about it; except it has been all gone over.

THE COURT: That is what I think. I would like if you would cut it as short as you can.

MR. KNIGHT: I want to cut it as short as I can.

MR. DARROW: I object to it on the ground it has all been enquired about.

MR. KNIGHT: Object to what?

THE COURT: There is no question before the Court.

MR. DARROW: You have been giving him a string of examination on this.

MR. KNIGHT: Q Simpkins and Adams were both at your place, when you returned on the 20th, were they?

MR. DARROW: I object to that, on the ground that has been fully examined upon.

MR. KNIGHT: It has not been fully gone over, even if it has, Counsel has been permitted to go over ground twice.

THE COURT: Objection overruled.

MR. DARROW: I ~~am~~ am willing to give him all of the limits necessary, but there ought to be some end.

Q They were there when you returned from Wallace, were they?

A No, sir; I think they came down in the evening after I got home, Mr. Knight.

Q They came down on the evening of the 20th, then?

A Yes sir.

Q Did Simpkins come too?

A Yes, sir.

Q And how long did they remain there?

A Why they was not there but probably an hour.

Q Where did they go then?

A They went back up towards Glover's place.

Q Came back the next day?

A Yes, sir.

Q See them every day after that?

A A day or two; about three days.

Q About three days after that?

A Yes, sir.

Q Can you fix the date you last saw Adams?

A I think it was a couple of days after I heard of the killing of Bouley?

Q I believe you testified this morning it was the 24th or 25th, did you not?

A Well, it was the 21st that I heard of the killing of Bouley.

Q You did testify this morning it was either the 24th or 25th, didnt you?

MR. DARROW: I object to that. AI dont know whether ~~the~~ I did or not.

MR. DARROW: I think he ised the word "about".

Mason X  
B-4

THE COURT: Yes, he used that word.

MR. KNIGHT: Q You are not able to fix the exact date that you last saw Simpkins or Adams?

A I can fix it as two or three days after I heard of the killing of Bouley; no nearer.

Q Can you fix it as two or three?

A No, I would not be positive as to the number, Mr. Knight; it was not longer than that I don't think.

Q Mr. Mason, didn't you testify this morning that you saw the boys have Steve Adams in the boat on the morning after he left your place, about the 24th or 25th?

A No, sir; I don't think I did.

Q You did not so testify. I think you testified you saw Harry Orchard in there in November, 1905?

A Yes, sir.

Q Come to your place?

A Yes, sir.

Q How long did he remain there?

A Oh, just ten or fifteen minutes..

Q Where did he go from there?

A He went up to Mr. Anderson's.

Q He went up with Mr. Anderson?

A He went up to Mr. Anderson's.

Q Who came with him?

A Jack Simpkins.

Q Jack Simpkins?

A Yes, sir.

Q Where is Billy Theriault's place?

A I don't know the subdivision, but ~~where~~ it is ~~in~~ I think in twenty-eight and nine.

Mason X  
E-5

Q How far is it from your place?

A It must be about three or four miles; something like that.

Q Is it as far from Price's place as yours?

A No, sir.

Q Is it as far on the trail as your place is?

A It is different; it is south-east of me.

Q Do you go on the same trail ~~from~~ <sup>to</sup> Price's place, from Theriault's and your place?

A You can go around that way, it is a way to go that way. ~~way;~~ Q it is nearer to go by Theriault's is it?

A No, sir, to go to Theriault's place on the trail that I use it is about three or four miles further than it would be to go on the trail that Theriault uses, the south St. Joe trail.

Q What are the relative distances between Price's and your place and Price's and Theriault's?

A Well, it is further; it is two or three miles nearer to Theriault's than to Price's place from my place.

Q Is Theriault nearer to Price's than you are?

A No; he is further.

Q He is further away from Price's than you?

A Yes, sir.

Q About how much further?

A It depends on which trail you want to go.

Q Taking the best trail, the nearest trail?

A He is located so far in there on the trail.

Q You know the trails, don't you, pretty well, Mr.

Mason?

A Yes, sir.



Mason X  
3-6

Q Now, taking the best one of those trails--

MR. DARROW: I object. This is not cross examination and what has it got to do with this case?

MR. KNIGHT: A great deal to do with it.

MR. DARROW: I object as not proper cross examination.

MR. KNIGHT: Certainly it is proper cross examination.

Objection overruled.

Defendant excepts and exception allowed.

MR. KNIGHT: Q Taking the best trail?

A I could not tell you anything about any of the trails, the distance, except the one that I have traveled over, Mr. Knight.

Q How much further is it from Price's to Theriault's over that trail than from Price's to your place?

A It is about five miles the way that trail runs.

Q How much further is it from Price's to your place than from Price's to Hughus' place on the river?

MR. DARROW: To that I object: I can't see the materiality of it.

Objection overruled.

Defendant excepts and exception allowed.

A My place from Prices is about two miles I think nearer than it is from Price's to Hughus'.

Q It is about two miles nearer from Price's to your place on the river?

A My place on Marble Crkke?

Q No, the question is: How much nearer is it from Price's to your place on the river than from Price's to Hughus' place on the river?

A Both places on the river?

Mason X  
E-7

Q Yes.

A Oh, there is just about a couple of hundred yards difference.

Q About the same distance, are they?

A No, Hughus' place is a little nearer Prices' than mine.

Q A couple of hundred yards nearer?

A Yes, about that.

Q How long would it take to make the trip from Price's place to Hughus' place on the river?

MR. DARROW: To that I object.

Objection sustained.

MR. KNIGHT: Q Do you know where Steve Iggan's place is?

A No, sir.

Q Never been there?

A No, sir.

RE-DIRECT EXAMINATION

BY MR. HEITMAN:

Q Mr. Mason, are you sure of that date when you came down from your homestead?

A The latter part of July?

Q Yes.

A No, sir, I am not.

Q Are you sure of the exact date when you commenced haying?

A No, I could not say the exact day of the month it was.

Q Can you recall whether or not Mrs. Mason was at home

E-8 Mason RD

when Steve came out of the woods?

A She was not at home .

Q Do you know where she was?

A Yes, sir.

A She was up at Mr. Dowell's

Q And can you recall the exact date? when she was there?

A When she was at Dowell's?

Q Yes.

A Yes, sir; she was there on the 29th of July.

Q What fixes that date in your memory?

A That was my wife's birthday.

Q That was her birthday?

A Yes, sir.

Q You said that you had never had any personal difficulty with Archie Phillips. He was one of the defendants in this lawsuit that you brought at Wallace against the jumpers?

A Yes, sir.

Q What physician lived nearest to your place in 1904, that is your river place?

A I think that there was one at St. Maries, Dt. Thompson, if I am not mistaken.

Q How far is that from your river place?

A Oh, it is twenty-eight or thirty miles.

Q Further than it is down to Harrison?

A No, sir.

Mason Rd  
E-9

Q Harrison is the nearer place?

A It is nearer my place.

MR. KNIGHT: No, Harrison is nearer.

MR. DARROW: Further.

MR. HEBITMAN: Harrison is further away?

A Yes, sir.

Q You stopped and consulted Dr. Busby on your way to Wallace?

A I did.

MR. KNIGHT: I object to the question as leading.

Objection overruled.

RE-CROSS EXAMINATION

BY MR. KNIGHT:

Q One more question, Mr. Mason. I believe you stated that during all the time that you knew Steve Adams in there you knew him as Steve Dixon?

A Yes, sir.

Q You say Mrs. Mason was at Dowell's?

A Yes, sir.

Q On the 29th?

A Yes, sir.

Q How long did she remain there?

A I think she was there two days after her birthday.

Q Where were you on her birthday?

A I was at home.

Mason RK  
E-10

Q You were at home on her birthday?

A Yes, sir.

Q Then you say, do you, that you came on the 29th?

MR. DARROW: That does not follow?

A How is that?

MR. DARROW: I object to your question because it would not follow.

MR. KNIGHT: Q You say you were at home on the 29th?

A Yes, sir.

Q Then you are sure that you came out of the Marble Creek country before the 29th, are you not?

A Yes, sir.

MR. DARROW: That would not follow either.

MR. KNIGHT: Q You say, do you, that you came out on the 29th?

A Might have come out on the 29th.

Q What is that?

A I think I came out on the 29th.

Q You think you came out on the 29th?

A Yes, sir.

Q Now You know it was not later than the 29th that you come out, do you?

A No.

THE COURT: You mean 1904?

MR. KNIGHT: 1904, yes, sir.

A Yes, I am pretty sure it was not before that.

Q Well, did you say you were at home on that day.

Now you are sure, are you not?

A Yes, sir, I am sure.

Q You positive of that. What did you do on her birthday?

Mason X  
E-11

A Well, I didnt do anything that day; that was the day I came out.

Q How long after you came out before Mrs Mason came home?

A About two days before she came home.

Q You were there about two days before she came home?

A Yes, sir.

Q And then you are quite confident you came out on the 29th, are you?

A Yes, sir; I think that I came on her birthday; I am pretty sure it was her birthday that I got home on, and she came home and I <sup>said</sup> ~~think~~ she went up to spend her birthday with her sister.

Q You have discussed all of this with Mr. Darrow since you have been down here, I suppose?

A No, sir.

Q You have not said a word to him about it?

A I have, but I did not discuss it at all.

Q You have discussed it quite frequently with him, havent you?

A No, sir.

Q Been in his office at all?

MR. McBEE: Where is his office?

MR. KNIGHT: Either at Mr. McBee's or Mr. Heitman's office or Mr. Darrow's office?

A Yes, sir; I was.

Q When Mr. Darrow was there?

A I seen Mr. Darrow on two different occasions in his office.

Mason X  
E-12

Q You have seen him on two different occasions since you have been down here?

A Yes, sir.

Q Talked with him about the case, I suppose?

A Not very much.

Q Very little?

A Yes, sir, talked with him some about it.

Q He didnt tell you what to say to that question, if asked you?

A No, sir; he did not.

Q You did talk to Mr. Darrow, didnt you?

A Yes, sir.

Q Talked a good deal, didnt you?

A Not a great deal, no sir.

Q Talked to Mr. McBee?

A I dont believe I talked to McBee about this case any.

Q You fee some little interest in the case, dont you Mr. Mason?

A No, nothing in particular.

Q Nothing in particular at all?

A No, sir.

MR. KNIGHT: That is quite natural.

WITNESS EXCUSED.

Mrs. Mason D  
E-13

MRS. ALVA MASON,

Called as a witness on behalf  
of the Defendant, having been  
heretofore first duly sworn,  
testified as follows:

DIRECT EXAMINATION

BY MR. HEITMAN:

Q You are the wife of the Mr. Mason who has just been  
examined?

A Yes, sir.

Q Where do you live, Mrs. Mason?

A I live on the St. Joe River, at Gordon.

Q How long have you been living in Idaho?

A Six years.

Q Where were you in the summer of 1904, in July and  
August?

A I was---in July I was on Marble Creek, in August---

Q What were you doing on Marble Creek?

A I was on a homestead, living on a homestead.

Q On your husband's homestead?

A Yes, sir.

Q And how long were you on the homestead the summer of  
that year, about how long?

A About two months.

Q Do you know about what time you went up there?

A It was in May--sometime along in May--

Q (Interrupting) Do you recall about what time in  
May?

A I think it was along the latter part of May.



Mrs. Mason D  
E-14

Q And then when did you leave there?

A I left in July.

Q Do you know about what time in July you left?

A About the 20th.

Q About the 20th. How did you come out?

A I came out on horseback.

Q With whom?

A With my husband.

Q And state whether or not your husband returned to the homestead after he came out?

A Yes, sir; he returned.

Q Are you acquainted with Steve Adams, the defendant in this case?

A Yes, sir.

Q When did you first see him?

A I first saw him in July, along a day or two after the 4th.

Q What year was that?

A 1904.

Q And where did you see him?

A He came past our house.

Q Past your homestead?

A Yes, and stopped and had lunch with us.

Q Was anyone with him?

A Yes, sir.

Q Who?

A Mr. Simpkins.

Q Jack Simpkins?

A Yes, sir.

Q How long had you known Jack Simpkins at that time?

Mrs. Thomas D  
E-15

A Since 1903.

Q Do you know under what name Steve Adams was going then?

A Yes, sir.

Q What?

A Steve Dixon.

Q Steve Dixon. Do you know about when was the last time you saw Steve Adams or Dixon in the Marble Creek country that summer?

A Just before I came out; I think the day before I came out.

Q The day before?

A Yes, sir.

Q About how many times did you see him in the Marble Creek country between the time you first saw him and the time you last saw him there?

A Most every day.

Q What was he doing?

A He was helping on Mr. <sup>Mason's</sup> ~~Kingman's~~ cabin; they were building a new cabin.

Q That was on your homestead?

A Yes, sir.

Q Do you recall about how many days Steve helped your husband work on the cabin?

A Six or seven days, I think.

Q Six or seven days?

A Yes, sir.

Q Did you know Fred Tyler?

A Yes, sir.

Mrs. Mason D  
E-16

Q You saw him in the Marble Creek country, also, I suppose?

A Yes, sir.

Q Now, when you came out, about the 20th of July, you came down to the river ranch?

A Yes, sir.

Q After your husband brought you out, about July 20th, do you know where he went, Mr. Mason--

A He went back to his homestead.

Q He went back to the Marble Creek Homestead?

A Yes, sir.

Q And do you know how long it was after that before he came up to the hay ranch again?

A He came out then about the 26th or 27th, I think.

Q You think it was about the 26th or seventh?

A Yes, sir.

Q Do you know the exact date?

A No, sir; I do not.

Q There is nothing by which you can fix the exact date when he came out. Now, when did you next see Steve Adams, if at all, after you left the Marble Creek country?

A Along the latter part of July or the first of August.

Q Where was he?

A He was at our hay ranch on the river.

Q Now, can you recall whether you were at home the day Steve Adams came to your place at that time?

A No, sir; I was not at home.

Q Where was you?

A I was at my sister's about three miles above Mr. Dowell's place.

Mrs. Mason D  
E-17

Q And do you recall any date that you were visiting at your sister's?

A Yes, sir.

Q What date was that?

A The 29th of July, my birthday.

Q You recall that date from the fact that it was your birthday?

A Yes, sir.

Q Do you know what day you went to your sister's?

A I think I went the day before.

Q Day before?

A Yes, sir.

Q And when did you return?

A In three or four days; I don't remember exactly how long I was gone.

Q Three or four days?

A Yes, sir.

Q You don't remember. You say you saw Steve Adams then at your husband's house after you returned?

A Yes, sir.

Q That was the latter part of July or the first of August?

A Yes, sir.

Q Do you know how long Steve stayed around in that vicinity?

A Yes, sir.

Q How long?

A He stayed there until the morning of the 8th.

Q Where was he stopping, if you know?

Mrs. Mason D  
E-18

A He was stopping at Mr. Glover's mostly.

Q Newt Glover's?

A Yes, sir.

Q How often did you see Steve after you saw him at your husband's place, or at your place, we will say about the latter part of July or the first of August, and the 8th of August?

A I saw him every day.

Q Where did you see him?

A At home.

Q What was he doing there?

A He came after milk and butter and vegetables.

Q Did any one come with him?

A Yes, sir.

Q Who?

A Newt Glover.

Q Mr. Glover lived just across the river from your husband's place?

A Yes, sir; about a half a mile across the river.

Q And he and Steve were batching over there?

A Yes, sir.

Q How do you fix in your memory that the 8th of August was the last day you saw Steve at that time?

A I saw Steve at our place on the 7th, Mr. Mason's birthday, 7th of August.

Q And you recall the exact date by reason of its being your husband's birthday?

A Yes, sir.

Q What was Steve doing at your place on the 7th?

A He came down there to the birthday dinner.

Mason-D  
H-19

Q What?

A He came down to the birthday dinner.

Q You had a birthday dinner then?

A Yes, sir.

Q Now, who came with him, if any one?

A Newt Glover.

Q You know about what time of day they reached your place?

A About ten o'clock, I think; somewhere along between nine and ten.

Q Somewhere along there?

A Yes, sir.

Q And about what time in the day did you have the birthday dinner?

A Well, between one and two o'clock.

Q Between one and two o'clock. Was there any other circumstance connected with the day's festivities that caused you to remember Steve's presence?

A Yes, sir.

MR. KNIGHT: I object; no question but what Steve was there; the question of this birthday whipping is all thrown in.

MR. DARROW: There was a lot of questions about it before at the last trial.

MR. KNIGHT: No there was not.

MR. DARROW: You know there was, and the festivity on the 10th.

MR. KNIGHT: We did not fix the date at all except in the information.

Mason D  
E-20

MR. DARROW: It was fixed on the 10th, and there was no admission until we got through.

Objection overruled.

MR. DARROW: Then you asked to have the date changed.

MR. KNIGHT: We did not.

MR. DARROW: You asked to have a witness put on the stand to change the day, fix the day of the week.

MR. KNIGHT: No, I did not ask Mrs. Archie Phillips to get on there--

MR. DARROW: So you could change it about four days.

MR. KNIGHT: No, sir, I did not.

THE COURT: I don't know what it called for; you asked to put her on in rebuttal.

MR. DARROW: Will Counsel now state what they claim?

MR. KNIGHT: We don't claim any date. We claim he murdered him before the filing of this information, what we are bound to claim under the law; only that.

MR. DARROW: That makes it easier.

MR. KNIGHT: Yes, sir.

Objection overruled.

Q (Question read.)

A Yes, sir.

Q What was it?

A The whipping of Mr. Mason.

Q By whom?

A By the little children and Steve Adams.

Q It took them all to whip him?

THE COURT: I think that is enough on that. It is a circumstance.

Mrs. Mason D  
E-21

MR. HEITMAN: Yes, that is enough I guess. Q Mrs. Mason, when did you next see Steve after the 7th of August?

A It was about a week, I guess, or a little better; I don't know exactly how long.

Q You did not see him the next morning?

A No, sir; I did not see him the morning of the 8th.

Q You saw him about a week later, where?

A At our place on the river.

Q And from what direction did he come, if you know?

A He came up the river.

Q With whom, if anyone?

A Mr. Simpkins.

Q What Simpkins?

A Jack Simpkins.

Q Had you in the meantime, between the 7th of August and the date Simpkins and Adams, or Dixon, returned to your home, seen Jack Simpkins?

A Yes, sir.

Q Where?

A He came up to our place on the river.

Q And about when was that, with reference to the 7th of August?

A It is about three days, I think.

Q About three days?

A Yes, sir.

Q Did anyone come with him?

A Yes, sir.

Q Who?

A Mr. Jim Nevins.

Q You were acquainted with Jim Nevins?



Mrs. Mason D  
E-22

A Yes, sir.

Q Where did they stop?

A At our place.

Q How long?

A Just one night.

Q And do you know where they went the next morning?

A Mr. Simpkins went down the river and Mr. Nevins went to his homestead on Marble Creek.

Q His homestead was up in the Marble Creek country?

A Yes, sir.

Q State, Mrs. Mason, whether or not you saw Jack Simpkins after you returned from your visit to your sister's along between the time when you returned from your visit to your sister's and the 7th of August?

A Yes, sir.

Q Where did you see him?

A At our place on the river.

Q And about what time was that?

A About the first of August, I think.

Q About the first of August, you think?

A Yes, sir.

Q You cant fix the exact date?

A No, sir.

Q And from what direction did Jack Simpkins come at that time?

A He came from Marble Creek, from his homestead.

Q After Jack Simpkins and Steve Adams came up the river again to your husband's place, how long did they stop there?

A He was there four or five days; maybe a week.

Mrs. Mason D

-23

Q Where were they stopping?

A They were stopping at Newt Glover's most of the time.

Q How often did you see them during that time?

A Every day.

Q Every day?

A Yes, sir.

Q Where did you see them?

A At our place.

Q What were they doing there?

A They came down after provisions, milk.

Q Did you know of your own knowledge what Steve and Jack were doing there during those four or five days?

A They were prospecting.

Q Prospecting?

A Yes, sir.

Q At the expiration of those four or five days, do you know what became of Steve Dixor, or Steve Adams, do you know where he went or in what direction he went?

A He went down the river.

Q He went down the river?

A Yes, sir.

Q With whom?

A I think he went with the boys, my boys.

Q Your boys?

A Yes, sir.

Q What are your boys' names?

A Orville and Lloyd.

Q Do you know how Steve and your boys went down the river?

Mrs. Mason D  
E-24

A Went down in a canoe.

Q Whose canoe was that?

A It belongs to the boys.

Q The boys were engaged in carrying freight and passengers?

A Yes, sir.

Q In a canoe?

A Yes, sir.

Q Mrs. Mason, did I ask you about Fred Tyler?

A Yes, sir.

Q How often did you see Fred Tyler up in the Marble Creek district in the summer of 1904?

A I saw him several times, I dont know exactly how many.

Q Where did you see him?

A I saw him pass my cousin's house.

Q And what was your cousin's name?

A Wells.

Q Rae Wells?

A Yes, sir.

Q Can you recall how Fred Tyler was dressed?

A Yes, sir.

Q How?

A He wore a black hat and a blue flannel shirt and blue overalls.

Q Blue flanner shirt and blue overalls. Anything else in his dress that you recall?

A No, sir.

Q Mrs. Mason, when Mr. Mason returned from the homestead the latter part of July, state whether or not you

Mrs. Mason D  
E-25

know of your own knowledge of anything having happened to him on his trip down?

A Yes, sir.

Q What was it?

A He hurt his knee, sprained his knee.

Q And how did that affect him?

A It made him very lame.

Q Can you state whether or not Mr. Mason was away from home at any time between the time he came down from the homestead, the latter part of July, and the time he started to Wallace, about the middle of August?

A He was at Wallace, was the only time I remember of his being gone.

Q He was at home during all of the intervening time?

A Yes, sir.

MR. KNIGHT: We object to the question as leading.

Objection overruled.

MR. HEITMAN: Q State whether or not he was away from home any night during that time.

Q State whether or not he was absent from home at any time after he returned from Wallace, or between the time he returned from Wallace and the 23d or 24th of August, three or four days after he returned from Wallace.

A No, sir; I think not.

Q You think he was at home all of the time?

A Yes, sir.

Q At home every night?

A Yes, sir.

Q Did you know Ed Bouley?

A Yes, sir.

Mrs. Mason D  
E-26

Q Where did you see him?

A I saw him on Marble Creek.

Q During what summer?

A 1904.

Q 1904. Do you remember having heard of the death of Bouley?

A Yes, sir.

Q And where were you at the time?

A I was at the ranch on the river.

Q Do you know who brought the first information?

A Md. Price, Mr. Frank Price.

Q Do you recall what day that was?

A The 21st of August.

Q The 21st of August?

A Yes, sir.

Q State whether or not you saw Steve Dixon, or Steve Adams, and Newt Glover the day before that?

A Yes, sir.

Q Where did you see them?

A At our place on the river.

Q Do you recall what time of day it was you saw them?

A I saw them in the morning of the 20th.

Q What did you say?

A In the morning of the 20th.

Q Did you see Jack Simpkins that day?

A Yes, sir.

Q And what time did you see him?

A I saw him in the evening.

Q In the evening?

Mrs. Mason D  
E-27

A Yes, sir.

Q At your house?

A Yes, sir.

Q State whether or not you saw Dixon, or Adams, and  
Simpkins and Newt Glover, or any of them, on August 21st?

A Yes, sir.

Q Where did you see them?

A They came to our house.

Q About what time of day?

A It was sometime in the forenoon.

Q Sometime in the forenoon?

A Yes, sir.

Q Can you recall whether or not on the 21st the Bouley  
murder was talked about?

A Yes, sir.

Q By all the men at your place?

A Yes, sir.

#### CROSS EXAMINATION

BY MR. KNIGHT:

Q You never saw Fred Tyler after the birthday dinner  
of Subday, August 7th, Mrs. Mason, did you?

A Never.

Q Never saw him alive after that date, did you?

A No, sir.

Q You say that Jack Simpkins came up there about three  
days after that?

A After the 7th?

Q Yes.

A Yes, sir.

Mrs. Mason X  
E-26

Q It was not earlier than three days after that, was it?

A I think not.

Q You think it was about three days after that that he came up there?

A Yes, sir.

Q Who was present at the place when he came?

A My husband was there, and the family.

Q Any one else?

A Jim Nevins.

Q Jim Nevins came with him, didn't he?

A Yes, sir.

Q What time did they get in there?

A They came in along in the evening, late in the evening.

Q About the evening of the 10th?

A I don't remember the exact date.

Q Well, it was about three days after the 7th?

A Yes, sir; two or three; I don't know the exact date.

Q Two or three you said, didn't you?

A Yes, sir.

MR. DARROW: She said "about" two or three..

MR. KNIGHT: Well, was it about two or three or four?

A I don't think it was four days.

Q Two or three; it was two days?

A I don't know. Two or three days.

Q Was it either two or three?

A I don't know; I won't say what day it was, for I don't know.

Q Was it the next day after that?

Mrs. Mason X  
E-29

A I dont think it was.

Q Are you quite sure it was not?

A Yes, I am pretty sure.

Q Could you be certain about that, Mrs. Mason?

A The next day after the 7th?

Q Yes.

A No, sir; it was not the next day after the 7th.

Q Sure of that?

A Yes, sir.

Q And it was in the evening that he got there?

A Yes, sir.

Q Then it was not earlier than the evening of the 9th, was it?

A No, sir.

Q It may have been the evening of the 9th, or the evening of the 10th?

A It might have been.

Q You say that you remained at your sister's three or four days?

A Yes, sir; three or four days.

Q What day did you go up there, the day before your birthday?

A I think it was; yes, sir.

Q Do you know what day of the week that was?

MR. DARROW: What was?

MR. KNIGHT: Q The birthday.

A What day of the week?

Q Yes.

A I am not positive, but I think it was on Friday.

Q You think it was on a Friday. Then it must have



Mrs. Mason X  
E-30

been either Monday or Tuesday that you returned?

A Yes, sir; I think so; I don't know the exact date.

Q You could not be positive as to the day of the week that you returned, either?

A No.

Q You never have birthdays on the 12th, do you, Mrs. Mason?

A On the 12th?

Q Yes.

A Of what month?

Q August?

A No, sir.

Q Or of any other month?

A No, sir.

Q And you say that after Steve came there to your place, it was some time in the latter part of July, do you?

A Yes, sir.

Q And he was at your house every day after that until the 7th?

A Yes, sir.

Q Including the 7th?

A Yes, sir.

Q What time did you have dinner on the 7th?

A Between one and two o'clock.

Q I believe you said Steve Adams and Newt Glover were there?

A Yes, sir.

Q They came together, did they?

A I think they did; I am not positive.

Q You are not sure about that?

A No, sir.

Q Do you know about what time they came?

A They came in the morning.

Q About what time in the morning?

A Between nine and ten o'clock, I think.

Q Who prepared the dinner that day?

A Myself and daughter.

Q What did you have for dinner?

A We had something good to eat, I guess.

Q Something good to eat. Always do on birthdays, dont you?

A Yes, sir.

Q You try to have something good every day, dont you?

A Well, we usually have a little extra on birthdays.

Q And you dont know what particular dishes you had on that day, do you?

A I think we had chicken.

Q Chicken?

A Yes, sir.

Q What else?

A We had cake.

Q What else?

A Oh, I dont remember.

Q You dont remember what else. Had the dinner between one ~~am~~ and two o'clock?

A Yes, sir.

Q Do you know how many days after your husband came home before you came?

MR. DARNOW: I object to the question; she has not said it was after.

Q Were you home when your husband came home?

Mrs. Mason X  
E-32

Q I mean from Marble Creek; came down from Marble Creek to your place?

A Yes, sir.

Q You were there on that day, were you?

A Yes, sir.

Q And you were there that day and the next day also?

A No, sir; I dont remember it.

Q Did you go away the day you came down?

A I dont remember whether I went that day or the next.

Q Now, you are positive that you were there when he came down, are you?

A Yes, sir.

Q And you think he came down about the 26th or 27th of August?

A 26th, 27th or 28th, I dont remember just when it was.

Q And then that day, or the next day, you went away and stayed three or four days?

A Yes, sir.

Q And when you came back Steve Dixon was there?

A Yes, sir.

Q You don't know what day Steve came, do you?

A No, sir.

Q You didnt see him come?

A No, sir.

Q Were you there when Jack Simpkins came?

A Yes, sir.

Q How long had you been home when Jack Simpkins came?

A I think I had been home, I think he came the next day after I came home.

Q The next day after you returned from your sister's?

A Yes, sir.

Q And who else was at your place when Mr. Mason came out from the Marble Creek ranch?

A Who else was at our place on the river?

Q Yes.

A Well, I dont remember any one, only just the family.

Q Now, the accident which occurred on his way out there made him quite lame, didnt it?

A Yes, sir.

Q But you went away the next day, that day or the next day?

A Yes, sir.

Q He came prepared to cut that hay, didnt he?

A Yes, sir.

Q Was making preparations before you went away?

A Yes, sir.

Q Did he cut any hay before you went away?

A No, sir.

WITNESS EXCUSED.

MR. DARROW: Mrs. Mason, you can stay in the court room if you want to.

THE WITNESS: I want to go to my baby.

MR. DARROW: All right.

MR. HEITMAN: Call Miss Myrtle Mason.

Miss Mason D  
E-34

MYRTLE MASON,

A witness called on behalf of the  
Defendant, having been heretofore  
first duly sworn, testified as  
follows:

DIRECT EXAMINATION

BY MR. HEBITMAN:

Q You were sworn this morning, were you?

A Yes, sir.

Q Please state your name.

A Myrtle Mason.

Q You are the daughter of Mr. and Mrs. Alva Mason?

A Yes, sir.

Q Where do you live Miss Myrtle?

A St. Joe River.

Q You live with your father and mother?

A Yes, sir.

Q How long have you been living there?

A About six years.

Q Where were you living in the summer of 1904?

A On the river.

Q Are you acquainted with Jack Simpkins?

A Yes, sir.

Q How long have you known him?

A About four years.

Q About four years?

A Yes, sir.

Q Are you acquainted with Steve Adams, the Defendant

Miss Mason D  
E-35

in this case?

A Yes, sir.

Q When did you first see him, Miss Myrtle?

A In 1904.

Q About what time?

A The fore part of July.

Q The fore part of July; and where did you see him  
at that time?

A At home.

Q From what direction did he come?

A He came up the river.

Q In what direction did he come?

A He came up the river.

Q He came up the St. Joe River?

A Yes, sir.

Q Now, which home was that?

A Well, the one on the river.

Q The hay ranch?

A Yes, sir.

Q Was any one with him?

A Mr. Simpkins came with him.

Q And how long did they stop at your place?

A One night.

Q Do you know where they went the next day?

A They went to Marble Creek the next morning.

Q Do you know what time your mother came out from the  
Marble Creek homestead that summer, about what time?

A Well, the latter part of July, she came out for haying.

Q She came out for haying?

A Yes, sir.

Miss Maso D  
E-36

Q Did you ever see Steve Adams after you first saw him the fore part of July?

A Yes, sir.

Q What name was Steve wearing at that time?

A Mr. Dixon.

Q Steve Dixon?

A Yes, sir.

Q Now, when did you see him again?

A Along the latter part of July or the first of August.

Q Along the latter part of July or the first of August.

Where did you see him at that time?

A Saw him on the river.

Q Were you at your home when he came that time?

A Yes, sir.

Q Do you know how he was traveling?

A No, I dont.

Q State whether walking or riding horseback?

A I dont remember how he came.

Q You dont remember. And how long did he stop at your father's house at that time? Well, about how long?

A About three or four days, I guess.

Q Three or four days; where did he stay?

A He stayed at Mr. Glovers part of the time and part of the time at Papa's.

Q What did you say?

A He stayed part of the time at our place and part of the time at Mr. Glover's.

Q That was Newt Glover?

A Yes, sir.

Q Do you know how long he stayed around in that

Miss Mason D  
E-37

immediate vicinity before he went away; do you recall his having been there at any certain date?

A He was there on Papa's birthday, the 7th.

Q Now, what day of the month was that?

A The 7th of August.

Q The 7th of August?

A Yes, sir.

Q Who was there with him?

A Mr. Glover.

Q Was he there at your father's house and at Glover's from the time he came out from Marble Creek until the 7th of August?

MR. KNIGHT: I object to that kind of a question.

A Yes, sir.

THE COURT: Objection sustained.

MR. KNIGHT: I move that that answer be stricken out.

THE COURT: Yes, the answer will be stricken out.

MR. HEITMNA: Q State, if you know, how long Steve Adams, or Steve Dixon, remained in that vicinity at your father's house and Glover's together at that particular time.

A Well, about three or four days, I think; I dont remember how long.

Q When did he go away?

A He went away the 8th.

Q He went away the 8th?

A Yes, sir.

Q When did he come?

A After that?

Q No, when he did come, he came when he came out from Marble Creek?

A He came out along the latter part of July or just



Q Then, about how long did he remain there at that time?

A Well, until the 8th.

Q Until the 8th. You saw him on the 7th, you say?

A Yes, sir.

Q And where?

A At home.

Q What was he doing there?

A He came down for dinner.

Q And who came with him?

A Mr. Glover.

Q State whether or not they came on invitation?

A Yes, sir.

Q Who invited them?

A I did.

Q When?

A On the Saturday before.

Q On the Saturday before, the 6th.

A The 6th.

Q And what day was the 7th.

A On Sunday.

Q You invited them the day before?

A Yes.

Q Why did you invite them?

A Why, I went up to Mr. Glover's, and Mr. Price, he went up there, and I went up with him, and I asked them down for dinner the next day.

Q Do you know what time they came down on the morning of the 7th; that is Steve Adams, or Dixon, and Mr. Glover?

A About nine or ten o'clock somewhere.

Q About nine or ten o'clock. How long did they remain that day?

A Until afternoon or evening sometime.

Q And where did they go when ~~you~~<sup>they</sup> left, if you know?

A They went up to Mr. Glover's.

Q You say Mr. Adams left that neighborhood on the 8th?

A Yes, sir.

Q State whether or not you saw him on the 8th?

A I did not.

Q You did not see him on the 8th?

A No, sir.

Q Did you see him again shortly thereafter?

A Yes, sir.

Q Where did you see him?

A At home.

Q About how long after the 7th of August?

A It was about a week or ten days.

Q About a week or ten days?

A Yes, sir.

Q Where did he come from?

A He came up the river.

Q He came up the river?

A Yes, sir.

Q Any one with him?

A Mr. Simpkins.

Q And where did they stop?

A They went up to Mr. Glover's.

Q Do you know how long they remained there?

A No, sir; I dont.

Q Do you know about how many days they were around there after that?

Miss Mason D  
E-40

A Three or four days.

Q Three or four days. How often did you see them during that time?

A I saw them every day, nearly every day.

Q Where did you see them?

A At the house; at home.

Q What were they doing there?

A They came after bread, butter, milk, vegetables and such things.

Q They were stoping over at Newt Glover's?

A Yes. sir.

#### CROSS EXAMINATION

BY MR. KNIGHT:

Q You invited Mr. Glover and Mr. Adams--who were the name of Dixon then--down to the birthday dinner?

A Yes, sir.

Q And you and Mr. Price went up to Mr. Glover's place to do that, didnt you?

A Yes, sir.

Q Mr. Glover had not been down to your place the day you went up to notify him, had he?

A Yes, sir; I think he had.

Q What time of day?

A I dont remember.

Q What time did you go up to notify him?

A It was after supper; was about six o'clock.

Q Was Glover down there that evening?

A No, sir.

Q He had not been there since noon, had he?

Miss Mason X  
E-41

A No, sir.

Q Did he have dinner with you on the 6th?

A On the 7th?

Q Well, on the 6th, did he have dinner with you?

A No, sir.

Q Did he have dinner with you on the 5th?

A No, sir.

Q Did he have dinner with you on the 4th?

A I dont remember.

Q You say he was around there for three or four days?

MR. DARROW To whom do you refer now?

MR. KNIGHT: Steve Adams, Steve Dixon--the gentleman who wore the name of Dixon at that time.

A He was around there three or four days before the 7th

Q How is that?

A Yes, sir.

Q Anout the 7th?

A Yes, sir.

THE COURT: Before the 7th, she said.

Q Do you think t hat it was before the 7th he was there?

A Yes, sir.

Q You couldnt be sure whether it was three or four?

A No, sir.

Q Did he have supper with you on the 6th?

A No, sir.

Q Did he have supper with you on the 5th?

A No, sir.

Miss Mason X  
E-42

Q Did he have supper with you on the 4th?

A I dont remember.

Q Now, did he have breakfast with you on the 6th?

A I dont remember that.

Q Did he have breakfast with you on the 5th?

A I dont remember.

Q Did he have breakfast with you on the 4th?

A I dont remember.

Q Did you see him on the 3d?

A I dont remember that.

Q Did you see him on the 6th?

A Yes, sir.

Q Where?

A At Mr. Glover's.

Q That was when you went up to invite him?

A Yes, sir.

Q Did you see him at any other time on the 6th?

A No, sir.

Q Did you see him on the 5th?

A I dont remember

Q Did you see him on the 4th?

A I dont remember that.

Q Sure he didnt have dinner with you on either one  
of these days?

A I am not sure, but I dont remember it.

Q You dont think he did?

A I dont remember.

Q What did Steve say when you invited him?

A He said he would come down.

Miss Mason X  
E-43

Q What did Glover say?

A He said he would come.

Q He did not say they had been invited before, did they?

A No sir.

Q As a matter of fact, they had, hadnt they?

A I dont know.

Q You didnt hear of any invitation?

A No, sir.

Q You are not sure whether you saw him ~~xxxx~~ <sup>at all</sup> on the  
6th, or not?

A Yes, sir, I did.

Q What time of day?

A About six o'clock.

Q Well, on the 6th, that is the evening you invited  
him?

A Yes, sir.

Q But you are sure you did not see him at any other  
time that day?

A I am not sure.

Q You dont think that you did?

A I dont remember seeing him.

Q And you dont think you saw him on the 5th?

A I dont remember.

Q You were at home ever day, werent you?

A Yes, sir.

Q What time did you have dinner on the 7th?

A About two o'clock.

Q And Newt and Steve came donw together, did they?

A Yes, sir.

Miss Mason X  
E-44

Q Came down about what time?

A About nine or ten o'clock.

Q You say you had dinner about two?

A Yes, sir.

Q What time do you usually have dinner?

A Oh, about twelve o'clock usually.

Q Are you sure it was not later than two on the 7th that you had dinner?

A Yes, sir.

Q Sure it was not later?

A Well, I am not sure but then--

Q It might not have been two, might it not?

A I dont think so.

Q You would not swear, however, tha it was not?

A No, sir; I would not swear that it was not, no.

Q Do you know whether or not you testified that it was about half past two before?

A Yes, sir.

Q What?

A I testified it was about half past two.

Q You testified before that it was about half past two?

A Yes, sir.

Q And you have read your testimony since you have been down here?

A I looked over it, yes, sir.

Q What?

A Oh, well, I looked over it.

Q Talked with Mr. Darrow about the testimony, have you?

A No, sir.

Miss Mason X  
E-45

Q How long before dinner was it that Glover and Steve came down?

A It was about nine or ten o'clock.

Q About nine or ten o'clock in the morning?

A Yes, sir.

Q Do you remember what time you testified that he came down before, Miss Mason?

A How is that?

Q On the former trial of this case, do you remember what you testified as to the time that he came there?

A What do you mean?

Q The time Steve Adams or who wore the name of Dixon, came there on that date?

A You mean on the birthday?

Q On the 7th, the day that you had the birthday dinner.

A Do I remember what time he came?

Q Do you remember what time you testified, when you was sworn and gave your testimony on the former trial, do you remember what time you testified then that he came there?

A Well, about nine or ten o'clock, I think.

Q As a matter of fact, he came there about an hour before dinner, didn't he, Miss Mason?

A No, sir; he came before eleven.

Q (Handing witness record) I will ask you to read this testimony.

MR. DARROW: What page.

Mr. Knight; 1118. Q I will ask you to read this testimony right here (Indicating.)

THE COURT: Read all that you desire to read, Miss Mason.



Miss Mason X  
E-46

MR. DARROW: 1118, you say?

MR. KNIGHT: Yes, sir, cross examination.

THE COURT: (To the witness) Read all you desire to read.

MR. KNIGHT: Q Now, Miss Mason, I will ~~you~~ ask you whether or not at the former trial of this case at Wallace these questions were asked you and you made these answers:

"Q And you had dinner about half past two on the 7th of August, did you

"A Yes, sir.

"Q And what time did you have dinner that day?

"A I dont remember; we had a number of things.

"Q Well, Steve had been there about one hour before you had dinner?

"A Well, yes, sir, about, I guess.

"Q You were not quite sure whether it was an hour or not?

"A No, sir.

"Q You saw him when he came?

"A Yes, sir." Did you so testify?

A What did you say?

Q Did you answer the questions in that way?

A I certainly did.

Q And now you say it was about nine or twn o'clock in the morning?

A Yes, sir.

Q Of course, you have talked this over some with your father and mother, havent you, Miss Mason?

A No, not much; a little.

Q You have talked it a little?

Miss Mason X  
E-47

A Yes, sir.

Q Talked it some with Mr. Heitman?

A yes, sir.

Q Talked it some with Mr. McBee?

A No, sir.

Q Some with Mr. John H. Wourms, about this testimony?

A No, sir.

Q You have not. You have talked to Mr. Darrow about it?

A No, sir.

Q Never said a word to Mr. Darrow?

A No, sir.

Q Did Mr. Price come down to dinner on that day?

A On what day?

Q The 7th of August?

A "o, sir.

Q But you are willing to swear at this time that Steve Adams, who wore the name of Dixon, came to your place as early as nine or ten o'clock that morning, are you?

A Yes, sir.

Q Have you any explanation to offer of your testimony at Wallace?

MR. DARROW: I object to that.

MR. KNIGHT: Q Have you any explanation to offer of your testimony at Wallace; was your testimony at Wallace true?

MR. DARROW: I object to that.

A Yes, sir.

MR. KNIGHT: Q What is that?

THE COURT: I think it is objectionable

MR. DARROW: I object to that question.

Miss Mason X  
E-48

MR. KNIGHT: As to whether her testimony is true or not?

MR. DARROW: I object; there is no discrepancy in the testimony at all.

MR. HEITMAN: She used the word "about", where you tried to have her say it was an hour before dinner, and she said "about", I guess", and she would not be positive.

MR. KNIGHT: Yes, I guess that is the testimony. ~~XX~~

~~XXXX~~ MR. DARROW: Read the next one.

MR. KNIGHT: Q You are not quite sure whether it was an hour or not?

A No, sir.

Q You saw him when he came?

A Yes, sir.

MR. DARROW: If there is any discrepancy there, it is of no consequence.

MR. KNIGHT: I am asking her. If there is not a discrepancy, she can certainly say whether it is true or not. It is for the Jury to say whether there is a discrepancy or not.

THE COURT: We will leave that with the Jury just as it has been, Mr. Knight.

MR. KNIGHT: All right. Q Where were you on the first day of August. Miss Mason?

A I was at home.

Q Where was your mother that day?

A She was at home.

Q Where were you when your father came out from Marble Creek?

A I was at home.

Miss Mason X  
E-49

Q Where was your mother that day?

A What day was it?

Q The day that your father came out from the Marble Creek country?

MR. DARROW: If she remembers?

MR. KNIGHT: Yes.

A Along about the last of July she was up to Aunt Bertha's, her sister.

Q That is not the question.

THE COURT: (To the witness) If you remember, state where she was; if you dont remember where she was you can say no.

MR. KNIGHT: Q Where was your mother at the time that your father came out from Marble Creek?

A I dont remember.

Q You dont remember that? You remember your father coming home, do you?

A Yes, sir.

Q Could you say about what day that was?

A No, sir, I could not.

Q What is that?

A I dont remember.

Q You couldnt say whether it was the last of July or first of August?

A Somewhere about that time, I guess.

Q Could you say whether it was before or after your mother went to a birthday party?

A No, I couldnt say.

Q You couldnt say as to that. Do you remember your

Miss Mason X  
E-5c

father cutting some hay that--

A(Interrupting) Yes, sir.

Q How long after he came out before he started in to cut hay?

MR. DARROW: I object to that: The question is first, whether she remembers.

THE COURT: If she knows.

MR. KNIGHT: If you know?

A I dont remember how long it was.

Q What is that?

A I dont remember how long it was.

Q Whether it was one or two days?

A No, sir, I dont remember.

Q Nor three days?

A I dont remember.

Q How long after your father started to cut hay before Adams came?

MR. DARROW: I object to that question.

MR. KNIGHT: Now, your Honor, Counsel should not instruct his witness on every question I cross examine upon.

MR. DARROW: Let us see whether I am right or not. He says 'How long after your father commenced cutting hay was it Adams came?' Now, that assumes it was after he commenced cutting hay, which is entirely incompetent. The testimony must be based on if she knows.

THE COURT: If she knows.

MR. DARROW: You have no right to make an assumption.

THE COURT: You have no right to make an assumption.

Miss Mason X  
E-51

MR. KNIGHT: I am not. Mason has testified as to the time he started in to cut hay; I am not assuming any other.

MR. DARROW: Mason testified to such?

MR. KNIGHT: He testified when he finished, he came out, he started to cut hay.

THE COURT: Yes, sir.

DARROW:

MR. KNIGHT: That is not the question. The question is: "How long after your father commenced cutting hay did Steve Adams come out?" The purpose is plain. I say you have no right to assume with this witness.

THE COURT: You will pardon me, Mr. Darrow; I have held with you.

MR. KNIGHT: Q Do you know when Steve Adams came out?

A Along the latter part of July or first of August.

Q I understood you to say he was there three or four days is that right? Is that right? Kindly answer the question.

THE COURT: Yes.

MR. DARROW: She has not declined to answer it.

MR. KNIGHT: I say, kindly answer the question. The Court instructed her to answer it.

MR. DARROW: I object to the question because it dont state the time, and it may be she dont understand.

THE COURT: After Adams came out the first time?

MR. DARROW: Yes, sir.

MR. KNIGHT: Counsel is assuming that she is a very ignorant witness, I think she is very able.

MR. DARROW: Oh, no.

MR. KNIGHT: She understands the English language as well as anybody else.

Miss Mason X  
E-52

MR. DARROW: She has a right to understand the question.

MR. KNIGHT: The question is, has she any right to instruction from her Counsel upon every question upon which I cross examine her?

THE COURT: She has not.

MR. DARROW: I dont think I have made an objection that the Court did not sustain.

MR. KNIGHT: You did make one that the Court did not sustain. The Court instructed the witness to answer this question.

THE COURT: Answer that question. I still instruct her so.

Q (Question read) as follows: "How long after after your father started to cut hay before Adams came?"

THE COURT: ~~(That is in reference to~~ That is in reference to the time after her father's return, Adams came out, and you are referring to that time?

MR. KNIGHT: That is it.

THE COURT: Answer the question, if you can.

A Well, I dont remember how many days he was there.

Q You could not remember whether it was three or four or five?

A No, sir.

Q Or six?

A No, sir.

Q Did you see him the next day after he came out?

A I dont remember.

Q Did he have dinner with you the day he came out?

A No, sir.

Miss Mason X  
E-53

Q Did he have dinner with you the next day?

A I dont remember.

Q The next day following that, did he have dinner with you?

A I dont remember.

Q How long after he came out before he had dinner with you, if he had dinner at all?

A on the 7th is the only day I can rememebr.

Q That is the only day that you can remember of him having dinner there?

A Yes, sir.

Q And it is the only day you can remember of his having any meal there, isnt it, Miss Mason?

A He has eat there before, but I dont remember what days it was.

Q Did he eat there during that time too?

A I dont remember.

Q You are not sure whether he did or not?

A No, sir.

Q Now, in your duties in the house, you wait upon the table, dont you?

A Yes, sir.

Q And you do that every day, dont you, when you have guests?

A Most every day?

Q What is that?

A Most every day.

Q When you have guests, then ~~xxx~~ that is your duty, isnt it?

A Yes, sir.



Miss Mason X  
E-54

Q Your mother does the cooking and you help wait upon the table?

A I help do the cooking.

Q You help do the cooking and also wait upon the table; is that it?

A Yes, sir.

Q You know Newt Glover, I guess, quite well?

A Yes, sir.

Q Did he have dinner with you on the 6th?

A No, sir.

Q O r the 5th?

A I dont remember.

Q Or the 4th?

A I dont remember.

Q Do you remember his having dinner with you at all any day in August before the 7th?

A I dont remember.

Q Do you remember Glover having any meal with you at all during that week prior to the 7th?

A No, I dont remember.

Q You could not say as to whether he did or did not?

A No, sir.

Q These young men were up there, and you and Mr. Price invited them down to dinner upon your father's birthday?

A Yes, sir; we went up in the evening.

Q You had charge of the house until your mother returned, did you?

A Yes, sir.

Q Do you remember what day Steve Adams came out--Steve

Miss Mason X  
E-55

A No, sir.

MR. MCBEE: Came out where, Mr. Knight.

MR. KNIGHT: Q To your place. Did you see him the day he came out?

A I dont remember.

Q Do you remember seeing him at all before the 5th, the evening of the 5th?

A The 5th, I believe.

Q Do you remember seeing him at all before you went up with Mr. Price to invite him down to dinner after he came out?

A I dont remember.

Q You dont remember seeing him at all. Now you say that about a week or ten days after he had this dinner that you saw him again?

A Yes, sir.

Q And did he remain at your place then for three or four days?

A No, sir.

Q Who was at your place when he and Mr. Simpkins came?

A I dont remember whther there was any one there.

Q Was your father there?

A No, isr; I dont believe he was; I dont remember.

Q You dont think he was. Do you know where he was?

A He went down to Wallace, I believe.

Q How long before that had he gone down to Wallace?

A I dont remember.

MR. DARROW: I object to that question because it assumes it was before that.

MR. KNIGHT: She says it was before he had gone to Wallace

Archives

University of Colorado  
at Boulder Libraries

Miss Mason X  
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THE COURT: That he had gone to Wallace.

MR. HEITMAN: She is not positive about it.

MR. DARROW: She said she thought so.

THE COURT: Your objection will be overruled. She said she thought he had gone to Wallace.

MR. KNIGHT: Q When did you see your father again, how soon after you saw Simpkins and Adams?

A He came home about the 20th.

Q About the 20th?

A Yes, sir.

Q And who was there when he returned, if any one?

A I dont remember.

Q Did you see Simpkins and Adams the day he returned?

A I dont remember whether I did or not.

Q Did you see Glover the day he returned?

A I dont remember.

Q Did you see Glover the day before your father returned?

A I dont remember whether I did or not.

Q Mr. Glover did not have dinner with you the day that your father returned, did he?

A I dont remember.

Q Did Adams have dinner with you?

A No, sir; I dont remember.

Q Then you dont remember seeing either Glover or Adams on the day that your father returned or the day before that, do you?

A I dont remember.

Q Do you remember seeing them within three days prior to the time that your father returned from Wallace?

Miss Mason X  
E-57

A I think so; I think I did.

Q You think you did?

A Yes, sir.

Q What day was it you think you saw them?

MR. DARROW: If you know.

A I dont remember what day it was.

Q What is that?

A I dont remember what day it was.

Q Do you know whether you think you saw them there or not

MR. DARROW: I object; she has answered that she thought she did.

MR. KNIGHT: and you put into her mouth "if you know".

MR. DARROW: No, I did not. You asked on what day it was and I said "If you know", which is correct.

THE COURT: Yes, that is correct.

MR. KNIGHT: Q You were at your place there right along werent you?

A Yes, sir.

Q During the time that your father was away to Wallace?

A Yes, sir.

Q How old are you now?

A I am twenty-one.

Q Then you were about eighteen then, were you?

A Yes, sir, I guess I was.

Q And your duties then were the same as they are now; you wait upon the table?

A Yes, sir.

Q Took care of the place in your mother's absence?

A Yes, sir.

Q Do you remember what your mother was doing the day that your father went to Wallace?

Miss Mason X  
E-58

A No, I dont remember.

Q Do you remember anything she did during the time intervening between the time your father went to Wallace and the time he returned?

A No, sir; I dont remember.

Q You say you saw Adams about a week or ten days after the 7th of August?

A Yes, sir.

Q He was at your place?

A Yes, sir.

Q How long did he remain there?

A He went up to Mr. Glover's place when he came .

Q When did you see him again?

A I dont remember.

Q How long after that before you did see him again, if you do remember?

A After what day?

Q After the day he went up to Newt Glover's place; you say he went up there before he came to your place about a week or ten days after the 7th of August. Now, how long after he went up to Glover's place before you saw him again, if you remember?

A I dont remember.

Q You dont remember whether you remember seeing him or not, do you. Have you been instructed that it is a very good thing not to remember, Miss Mason?

MR. DARROW: It would be a very good thing if she did.

MR. KNIGHT: Have you? Will you kindly answer me, Miss Mason?

Miss Mason X  
E-59

A I dont understand what you said.

Q I say, have you been instructed it is a very good thing not to remember?

A I dont remember of anything but the truth.

Q Did Mr. Darrow tell you that?

A No, sir.

Q Did anybody tell you that?

A Nobody.

Q Nobody told you that. Then you have not been instructed that it is a very good thing not to remember anything but the truth?

A No, sir.

Q Have not said anything to Mr. Darrow?

A No, sir.

Q Or Mr. Heitman?

A No, sir.

Q Or Mr. McBee?

A No, sir.

Q Or Mr. John H. Wourms?

A No, sir.

Q You did read your testimony?

A Yes, sir.

Q Mr. Darrow, then, didnt say anything about the truth to you, did he?

A No, sir.

Q Now, between the 7th of August and the time that Steve Adams returned there, which you say was a week or ten days afterwards, you were at home all of the time, were you not?

A Yes, sir.

Miss Mason X  
E-60

Q Didnt see Jack Simpkins in that time, did you?

A I dont remember.

Q You know Jack quite well, dont you?

A Yes, sir.

Q Do you remember a report of the killing of Bouley?

A Yes, sir.

Q Did you see Jack before that time?

A Yes, sir.

Q When?

A He came there with Mr. Adams.

Q Where did he go?

A He went up to Glover's.

Q How soon after that did you see Jack?

A I dont remember.

Q What kind of a looking man was Jack?

A He was heavy set, dark complected.

Q How tall?

A I dont know how tall he is.

Q About five feet eleven inches?

A I dont think he is quite that tall.

Q About five feet ten?

A About five feet seven.

Q About five feet seven. About how much does he weigh?

MR. DARROW: I object unless she knows.

MR. KNIGHT: Q Can you tell about how much he weighs?

A I dont remember; I dont know how much he weighs.

Q Any peculiarity about his eyes?

A I dont remember how his eyes looked.

Miss Mason X  
R-61

Q Were they dark or light?

A Dark.

Q Are they straight or slightly slanted, oblique?

A They are a little slanting, I guess.

Q They are a little oblique, are they not?

A Yes, sir.

Q There is a little defect in his eyes, or natural defect perhaps?

A Yes, sir.

Q How about his teeth; what kind of teeth has he?

A I never examined or looked at his teeth.

Q Dont you know that he has a couple of large teeth in front, they are quite prominent?

A I never looked at his teeth.

Q They are quite prominent; show when you look at him?

A I suppose they do.

Q You know they do, dont you?

A Of course they do.

Q What kind of a nose has he?

A I dont know what kind of a nose he has got.

Q Who got the dinner, the day you had the birthday dinner?

A Mama and I.

Q What did you have for dinner?

A We had cake and chicken and different things.

Q Did you think of the chicken when you were in Wallace?

A Yes.

Q You did?

A Yes, sir.



Miss Mason X  
E-62

Q Whom did you tell about it?

A I didnt tell anybody about it .

Q You didnt say a word about the chicken up there?

A No, sir.

Q I asked you about it, didn't I?

A You asked what we had for dinner.

Q You didnt say a word about shicken?

A I dont remember; I dont think I did.

Q Your father, during the week that intervned between the time that he came up there and the birthday, was engaged in cutting hay, was he?

A Yes sir.

Q And he went to work preparing to vut hay the next day after he came out, didnt he?

A I dont remember; he did, though.

Q Did he wear a cane?

A Yes, sir.

Q How long did he continue using that?

A About a month.

Q About a month. That did not interfere with his duties?

A Well, it bothered him.

Q He still continued doing business just the same, didnt he?

A Yes, sir.

Q Went about his business?

A He didnt do much hard work; he cut the hay; rode on the machine.

Q You dont call cutting hay hard work?

A I dont suppose it is very easy.

Q About how long did Steve and Glover stay at your place on the 7th?

A They went away in the evening.

Q About how long were they there?

A I dont remember how long they were there.

Q Were they there three hours?

A Yes, they were there three hours.

Q Four hours?

A I dont remember.

Q You don't remember?

(No answer.)

RE-DIRECT EXAMINATION

BY MR. HEITMAN:

Q Miss Mason, while Steve Adams was stopping at Glover's between the latter part of July and the 7th of August, did he and Newt Glover come to your father's house?

MR. KNIGHT: In object. She was thoroughly examined on that proposition and answered that she does not remember whether she saw him upon that day.

MR. DARROW: She dont say that. She says she dont remember ~~many~~ special day; we are going to ask when he came and when he went away.

MR. KNIGHT: That does not give a man a right to lead his witness.

MR. HEITMAN: It is re-direct.

THE COURT: You had not finished your question.

MR. HEITMAN: I dont think I had.

THE COURT: Finish your question and I will rule on it.

Miss Mason X  
E-64

The question was read by the reporter.

MR. KNIGHT: We object because it is leading.

Objection overruled.

A Why, they were in there nearly every day while they were on the river.

Q For what purpose, if you know?

A For vegetables, bread, butter and milk and such things.

Q And <sup>who</sup> did they get these articles from generally?

A They got them from me.

MR. KNIGHT: Wait. We object to that; as to when they were there generally does not make any difference at all. The question is, were they there at that time. It is not material what they did generally, their custom there before has nothing to do with it.

MR. HEITMAN: You misconstrue the question.

THE COURT: From whom did they generally procure them is what you mean, I suppose.

MR. KNIGHT: We object because the general custom has nothing to do with it whatever.

MR. HEITMAN: I was not referring to that at all, general custom.

Objection overruled.

A They got them from me when I was there, and when mama was there she got them; whatever one happened not to be busy.

Q How often did you see them there between the latter part of July or the first of August and the 7th of August?

MR. KNIGHT: I object to that because Counsel on the direct examination went into that thoroughly.

Miss Mason RX  
E-65

THE COURT: Objection sustained. You have been over that ground.

MR. HEITMAN: That is all.

WITNESS EXCUSED.

THEREUPON the Jury was duly admonished, as required by law, the officers were duly sworn to take charge of the Jury, and the Jury retired in their custody, and court

ADJOURNED TO SATURDAY, NOVEMBER 16, 1907, 10:00 o'clock  
A. M.

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

THE STATE OF IDAHO, )  
 )  
 Plaintiff, )  
 )  
 vs )  
 )  
 STEVE ADAMS, )  
 )  
 Defendant. )

No. 194.

SATURDAY, NOVEMBER 16th, A. D., 1907  
 MORNING SESSION.

At this day, the Defendant being in court with his Counsel, present as before, the record of yesterday's proceedings was read and approved. The Jury came into court in charge of the officers, and being duly polled, all answered to their names, and the trial of this cause proceeded as follows:

MR. HEITMAN: We will call Mr. Orville Mason.

Orville Mason D  
A-2

ORVILLE MASON,

A witness called on behalf of  
Defendant, having been hereto-  
fore duly sworn, testified as  
follows:

DIRECT EXAMINATION

BY MR. HEITMAN:

THE COURT: You were sworn yesterday?

A Yes, sir.

MR. HEITMAN: Q State your name.

A Orville Mason is my name.

Q Where do you live?

A St. Joe River.

Q You are the son of Alva Mason?

A Yes.

Q What is your occupation?

A Why, surveying just at the present.

Q What was your occupation in 1904?

A Poleing and freighting on the St. Joe River.

Q For whom are you surveying?

A For the Milwaukee railroad.

Q Milwaukee what?

A Milwaukee Railroad Company.

Q What were you doing in 1904?

A I was poleing and freighting on the St. Joe River.

Q By yourself or did you have a partner?

A My brother and I?

Q What is your brother's name?

A Lloyd.

Q How long had you been at that business?

A Three or four years.

Q How old are you, Orville?

A Twenty years old.

Q What were you carrying, in the freighting and pole-  
ing business?

A Passengers and freight.

Q From where to where?

A From the head of navigation to our place and above.

Q About what distance did your route cover?

A About nine miles.

Q Where do you live?

A Nine miles above the head of navigation.

Q With whom were you living in 1904?

A My folks.

Q Who are your folks?

A My father and mother and sisters and brothers.

Q And where were you living at that time?

A In our home on the St. Joe River.

Q Your father's river place?

A Yes, sir.

Q And hay ranch. Where were you during the months of  
July and August, 1904?

A We were on the river freighting.

Q Do you know Steve Adams, the defendant in this case?

A Yes, sir.

Q When did you first see him?

A Along the latter part of July, or first of August,  
1904.

Q Where did you see him at that time?

Orville Mason D  
A-4

A At our place on the river.

Q Do you know how he came there?

A He came there on a horse.

Q What sort of a horse?

A A white horse, I think it was.

Q Do you know whose horse it was?

A Yes, sir.

Q Whose?

A Frank Price's.

Q Had you seen the horse before?

A Yes, sir.

Q Have you seen it since?

A Yes, sir.

Q Now, you say Steve came there about the latter part of July or the first of August. Do you know what time of day it was when he reached your father's place?

A Along in the afternoon or evening somewheres.

Q From what direction did he come?

A He came from the direction of Marble Creek.

Q Was there any one with him?

A No, sir; he came alone.

Q Had you seen him before that?

A No, sir.

Q You did not see him, then, when he went into the Marble Creek country?

A No, sir.

Q How long did he stop at your father's house that day?

A Just a little while.



Q And do you know where he went from there?

A To Glover's; Mr. Glover's place.

Q Newt Glover's?

A Yes, sir.

Q Just across the river?

A Yes, sir.

Q How long, if you know, did he remain around that neighborhood?

A About a week.

Q Well, when was the last time that you saw him, if you can give the date?

A The morning of the 8th of August.

Q The morning of the 8th of August. How often between the time he came to your father's place, the latter part of July or the first of August, and the 8th of August, did you see Steve?

A Seen him every day; sometimes twice.

Q What name was he going under at that time?

A Steve Dixon.

Q Where did you see him daily during this time?

A Seen him at our home and at Glover's and along the river.

Q You and your brother were poleing up and down the river?

A Yes, sir.

Q And what was he doing at your father's place?

A He was prospecting and working in the hills.

Q You say you saw him daily; what was he doing at your father's place?

Orville Mason D  
A-6

A He came over after milk and butter and stuff.

Q Did he come alone or with any one?

A He came alone sometimes; and sometimes Glover was with him.

Q Glover was a bachelor?

A Yes, sir.

Q You say you saw him last at that time on the morning of the 5th of August?

A Yes, sir.

Q Did anything occur on any of these days that fixed the date in your mind?

A I remember my father's birthday, the 7th.

Q The 7th of August?

A Yes, sir.

Q And what was done on your father's birthday?

A We gave a dinner that day.

Q Who was present at that dinner?

A Mr. Glover and Mr. Adams.

Q He was Mr. Dixon then?

A Yes, sir.

Q Do you know what time on the 7th Steve came to your father's house?

A Sometime in the forenoon.

Q How did he come, ride or walk?

A He came a foot.

Q Did he have any horse with him?

A Yes, sir.

Q And what was he doing with the horse?

A He was leading the horse; brought it down that day.

Q Whose horse was it?

Orville Mason D  
A-7

A Frank Price's.

Q Do you recall what kind of a horse it was?

A Sorrel horse; pack horse.

Q Had you seen that horse before?

A Yes, sir.

Q Seen it since?

A Yes, sir.

Q You knew it belonged to Frank Price?

A Yes, sir.

Q Do you remember the name of that horse?

MR. KNIGHT: We object.

MR. HEIGHTMAN: Testing his recollection.

Objection overruled.

A It was "Mike", they called him.

Q Mike?

A Yes, sir.

Q Did Steve come alone that morning?

A Yes, sir.

Q What time did Newt Glover come?

A He came an hour or so later.

Q And how did he come?

A He came a foot.

Q Did he have any horse?

A Yes, sir.

Q What sort of a horse?

A It was a pinto horse.

Q And whose horse was the pinto?

A Frank Price's.

Q Had you seen that horse before?

A Yes, sir.

Orville Mason D  
A-8

Q You knew it was Frank Price's?

A Yes, sir.

Q Do you recall the name of that horse?

MR. KNIGHT: Now, if your Honor please, I dont understand that Counsel on direct examination have a right to test the memory of the witness in that sort of manner; that is a part of cross examination.

THE COURT: It is a part of the identification of the horse; it is perfectly proper; horses are very frequently named.

MR. HEITMAN: Every boy in the neighborhood knows the names of the horses and dogs.

Q What did you way was the hame of the horse?

A Pinto, they called him.

Q How long did Adams or Dixon and Newt Glover remain at your father's house on August 7th?

A Left there the evening of the 7th.

Q Do you remember about what time you had dinner that day?

A About two o'clock, I think it was.

Q Was there any other incident occurring that day which made any impression upon your memory, besides the birthday dinner?

A I remember the whipping of father.

Q By whom?

A By my ~~brothers and~~ sisters and Mr. Dixon.

Q Steve Took a hand in that?

A Yes, sir.

Q Under what circumstances did he help?

MR. KNIGHT: We object to that.

Orville Mason  
A-9

Objection sustained.

Defendant excepts and exception allowed.

Q Do you remember about what time your mother came down to the hay ranch from the Marble Creek homestead?

MR. KNIGHT: We object. It does not appear from this witness' testimony that she came down at all. Counsel is assuming a great deal in this direct examination. It is as plain a case of leading the witness as I have ever seen exhibited in the court room.

MR. DARROW: Any doubt but what she came down?

MR. KNIGHT: It makes no difference whether she came down or not; you have no right to suggest to your witness and lead your witness in that sort of manner. The questions should be developed by the witness.

MR. HEITMAN: I can lead him up to it by half a dozen questions.

THE COURT: It is rather leading, but if you are going to change the question, all right.

A It was along about the 18th or 20th of July.

THE COURT: Wait a minute; he is going to change the question.

MR. HEITMAN: Strike that out. Q Wait a minute. Do you know whether or not your mother was on the Marble Creek homestead in the summer of 1904?

A Yes; she was.

Q Do you know whether or not she came down to the hay ranch from the homestead that summer?

A Yes, sir.

Q Do you know what month she came down?

A Along in July, I think it was.

Orville Mason D  
A-10

Q And about what time in July did she come out?

A About the 18th or 20th; along there somewheres.

Q Do you know who came with her?

A Father came with her.

Q And how long did your father remain on the hay ranch at that time, if he remained?

A He went right back, I think.

Q State whether or not he came out to the hay ranch from the homestead again?

A Yes, sir; he did.

Q About how long after he brought your mother out?

A Oh, about a week or such a matter.

MR. HAWLEY: What was his answer?

THE WITNESS: About a week after that.

MR. HEITMAN: Q State whether or not you know of anything having happened to your father in coming out the second time?

A He sprained his knee in coming out on the trail.

Q And how did that affect his movements, if at all?

A He was very lame after that.

Q For how long was he lame?

A For a long time; it has bothered him ever since.

Q You say your father came out a week or so after your mother came out, about the 18th or 20th; what if, anything was your father doing on the hay ranch between the time he came out from the homestead the last time and the 7th of August?

A He was haying.

Q Who assisted him in harvesting the hay?

Orville Mason D  
A-11

MR. KNIGHT: We object to that, if your Honor please. It does not appear that anybody assisted him, and Counsel is leading his witness right along.

Objection overruled.

MR. HEITMAN: I should have asked a half a dozen preliminary questions, I guess about this, Mr. Knight.

MR. KNIGHT: No, you continue to lead your witness right along, and see that he agrees with the rest of them.

MR. HEITMAN: I don't think I am leading the witnesses any more than you have yours, Mr. Knight.

THE COURT: No matter; I have ruled that you can ask the question.

A My brother and I and Mr. Glover and another man by the name of Minor assisted him.

Q By the name of Minor?

A Yes, sir.

Q Do you know how long it took you to finish harvesting the hay?

A We were four or five days at it.

Q Can you give the date when you finished the work?

A The 6th of August, I think it was.

Q That was the day before his birthday?

A Yes, sir.

Q What work, if any, did your father do in this hay harvest?

A He done the mowing and raking.

Q He was able to do that?

A Yes, sir.

Q Rode on the machines?

A Yes, sir.

Orville Mason D  
A-12

Q State whether or not you and your brother, during the hay harvest, made any freighting or poleing trips on the river?

A Yes.

MR. KNIGHT: I should think that was leading, if your Honor please.

THE COURT: It is very leading; Counsel has been asking leading questions since you quit objecting, Mr. Knight.

MR. KNIGHT: I think so myself; he had been doing it before.

MR. HEITMAN: Q Well, state what you and your brother were doing; what, if anything, you and your brother were doing during the four or five days that the harvest was in progress?

A We freighted some.

Q Do you know how many trips you made?

A No, sir.

Q Do you know what time of the day or night you made those trips during the hay harvest?

MR. KNIGHT: We object; the time of the day or night is suggesting to the witness as palpably as anything that could be presented; why don't he ask him what he did and what he was doing at this time, or that time; that is the fair way to ask the witness and not dictate to the witness.

MR. HEITMAN: I will not be dictated to by you. I am subject to the ruling of the Court.

THE COURT: I believe it is leading, but I will allow it to be asked, because I dont see that it is very material.



Orville Mason E D  
A-13

Q You left some time early in the morning and got back about noon?

A One trip I remember we left in the afternoon and got back that night.

MR. KNIGHT: Very plain just what he wanted to get at.

MR. HEITMAN: Sure.

THE COURT: It could have been developed some other way, but then I think it would have been developed anyway.

MR. HEITMAN: Q Now, you say you saw Steve on the 8th of August?

A Yes, sir.

Q Where did you see him at that time?

A Going down the river.

Q State whether or not he was alone or with some one?

A He was with Mr. Glover.

Q How were they going down the river?

A In a canoe.

Q In what?

A In a canoe.

Q In a canoe. In what direction were they going?

A Going down the river.

Q Where were you at the time you saw them?

A I was on the bank of the river.

Q And state whether or not you saw him again later.

A I saw him a week or ten days after that, I guess.

Q And where did you see him at that time?

A He came back to our place.

Q Any one with him?

A Jack Simpkins was with him.

Orville Mason D  
A-14

Q From what direction did Simpkins and Steve come at that time?

A They came up the river.

Q And where did they go, if you know?

A Stayed around there four or five days.

Q Stayed around where?

A To our place and Mr. Glover's.

Q How often during those four or five days did you see Steve and Jack?

A Seen them every day or so.

Q Where did you see them?

A At Mr. Glover's and our place.

Q What were they doing at your place?

A They came over after milk and butter.

Q Do you know what they were doing?

MR. KNIGHT: Of your own knowledge.

MR. HEITMAN: Yes, sir; of his own knowledge?

A Prospecting and working for Mr. Glover.

Q How far was the prosepcting from your father's place?

A About a half a mile.

Q Did you see it from your father's place?

A No, sir.

Q Could you see it from the river?

A Yes, sir.

Q Did you see it from the river?

A Sir?

Q Did you see the prospect from the river?

A Yes, sir.

Q Did you see Jack and Steve working there?

A Yes, sir.

Orville Mason D  
A-15

Q From the river?

A Yes, sir.

Q Do you know when Steve left, after hanging around there four or five days; about when?

A He left about the 22d or 23d of August.  
out

Q Did he go ~~up~~ alone or in company with some one?

A My brother and I took him out.

Q How did you take him out?

A In a canoe.

Q Where did you take him to?

A Took him to Little Falls.

Q Where is Little Falls, with reference to your Father's place on the river?

A About four miles below our place.

Q Do you know in what direction Steve went after he left Little Falls?

A He went towards the Head of Navigation.

Q Did you see him going?

A Yes, sir.

Q For what purpose would a person going out go to the head of navigation?

MR. KNIGHT: I object.

A How is that?

MR. HEITMAN: Q For what purpose would a person going out go to the head of navigation.

THE COURT: Objection sustained.

Q Do you know where the boats plying on Lake Coeur d'Alene and the St. Joe River, go to on the river?

A Go to the head of navigation at St. Joe.

Q How far is the head of navigation from your father's place?

A Nine miles.

Q How far is the head of navigation from Little Falls?

A It is about between four and five miles by the river.

Q State whether or not there is any other means of reaching the head of navigation from Little Falls than by the river?

A Yes, sir; there is a road.

Q How far is the head of navigation by this road from Little Falls?

A Between three and four miles by the road.

Q Do you know what the road leading from Little Falls to the head of navigation is used for?

MR. KNIGHT: We object; it dont make any difference what it is used for.

THE COURT: The objection is sustained.

MR. DARROW: Want to show where Adams was going, of course, is that objectionable?

MR. KNIGHT: yes, sir, because this witness could know nothing about that except by hearsay.

MR. HEITMAN: He may have gone over it; may have seen the general public traveling over it.

MR. KNIGHT: He has testified there is a road

leading from Little Falls to the head of navigation,  
three or four miles--

THE COURT: I dont need to hear argument on that.  
The objection is already sustained.

Q State whether or not you saw Steve Adams or  
Steve Dixon again?

(No answer)

Q When did you next see him, if you saw yo at all?

A Saw him at Wallace last spring.

Q At the time of the trial?

A yes, sir.

Q Did you know Ed. Bouley?

A Yes, sir.

Q State whether or not you ever heard of his death?

A I did.

Q About when did you hear it?

A About the 21st of August.

Q From what source did you hear it?

A I heard it from Frank Price.

Q Where were you at the time you got this informa-  
tion from Price?

A I was at home.

Q Where?

A On the bank of the river.

Q Any one with you?

A My brother was with me.

Q State whether or not you saw Steve Adams or Dixon,  
and Jack Simpkins and Newt Glover, or either or any of

them after that, after that date?

Yes, sir; I did.

Q Did you see them that day?

A Yes, sir.

Q Where did you see them?

A At Glover's place.

CROSS-EXAMINATION

Orville Mason

BY MR. KNIGHT:

Q You say you are about twenty years old?

A Yes, sir.

Q When did you have a birthday in 1904?

A On the 16th of September.

Q Yes. You testified before in this case at Wallace, didnt you, Mr. Mason?

A yes, sir.

Q You said you saw Steve Adams about the 23rd or 24th of August at your place, the last time, did you?

A yes, sir.

Q Did you say what day it was?

A yes, sir.

Q Say whether it was the 23rd or 24th or 25th?

A 23rd or 22nd, along there some time.

Q Did you say whether it was the 23rd or the 24th?

A No, sir.

Q Then ~~was~~<sup>why</sup> do you place it now as the 22nd or 23rd?

MR. DARROW: He does not do it.

A It was two or three days after Bouley's death.that he left.

Q It was two or three days after Bouley's death that he left?

A Yes, sir.

Q Do you mean two or three days after Bouley's death, or two or three days after you heard of Bouley's death

A Yes, sir; after I heard of it.

Q You heard of that on the 21st?

A Yes, sir.

Q You dont know whether it was two or three?

A No, sir; I dont

Q Are you positive it was not four?

A No.

Q Are you positive it was not five?

A Yes.

Q You are positive of that?

A Yes, sir.

Q If it was four days, that would be the 25th, would be the last time you saw him. You think it could not be more than two or three days after that the last time you saw him?

A I dont think it was.

Q You are not positive of that, however, are you?

A No.

Q No. You say you are surveying for the Milwaukee?

A Yes, sir.

Q Where did you take a course in surveying?

A I never have.

Q Never have?

A No, sir.

Q Who is your helper?

A The engineers up there on the river.

Q The engineers are assisting you, are they?

A Yes, sir.

Q What is the name of the engineer?

A Mr. Cumley is one and Mr. Watson and Mr. Clark,  
several of them up there.

Q What particular part do you do in the surveying?

A Rod, flag and run instruments some.

Q What is that?

A I have rodded, flagged and run instruments some.

Q What part of the time did you run instrument?

A Oh, just a short time, once or twice.

Q How long have you been connected with the  
Milwaukee?

A Been with them off and on for about a year.

Q How much of that time off and how much on?

A Most of the time I was working for them.

Q Whats that?

A Working for them most of the time.

Q How long have you been poling up and down the  
St. Joe River?

A Three or four years.

Q You were doing that during the entire year of 1904?

A Yes, sir.

Q What are your busy months up there?

A July, August and September, usually.

Q During the months of July and August, 1904, you  
were quite busy at that occupation, were you?

A Yes, sir.



Q Went up and down the river practically every day, didnt you?

A Yes, sir, usually every day.

Q Yes. you testified in this case at Wallace, you say

A Yes, sir.

Q You say you saw Steve, the defendant up there?

A Yes, sir.

Q The next time after you saw him---

A Yes, sir.

Q He had changedhis name?

A Yes.

MR. DARROW: Object to that, whether he had changed it or not.

Q At any rate he was wearing a different name at that time?

A On the river, you mean?

Q When you met him at Wallace---

A Yes, sir, he was.

Q --he was wearing a different name from what he wore up in the Marble Creek?

A (No answer)

Q Do you know what you were doing on the 10th of August, 1904?

A We were freighting, poling, I think, not sure.

Q Did you go up and down the river that day?

A I think we did.

Q And on the 11th?

A I think we did.

Q Did you go up and down the riveron the 11th?

A I dont remember that, maybe we did.

B-7 L

Q How about the 9th, did you go up and down the river that day?

A I dont know, couldnt say.

Q Were you boating on the 8th?

A Yes, sir.

Q You are positive of that?

A Yes, sir.

Q Did you go down to the head of navigation?

A Yes, sir.

Q And come back up?

A Yes, sir.

Q Did you do any freighting on the seventh?

A No, sir.

Q How about the 6th, boating on the 6th?

A Dont think we made a trip. We had finished haying on the 6th.

Q Do you recollect what you did after you finished haying on the sixth?

A How is that?

Q What did you do, did you go on the river after you finished haying on the sixth?

A I believe not.

Q You didnt do anything but haying at all, did you, that day?

A No, sir.

Q What were you doing on the fifth of August?

A Freighting, I think.

Q You were freighting on the fifth?

A I think we were.

O Mason X  
B-8 L

Q What did you do on the fourth of August?

A I couldnt say.

Q Are you not positive what you were doing on the fourth?

A We were hauling freight along there, I dont know--

Q Handling freight along there?

A Yes, sir. Generally make a trip in the forenoon to the head and in the afternoon--

Q You say you were doing that?

A yes, sir.

Q Who put in the greater part of that hay into the barn?

A Why, I and my brother, my father and another man.

Q Did your father help about putting that in?

A Not much.

Q Did he help at all?

A Yes, sir.

Q What did he do?

A Run the derrick, I think, unloaded.

Q Run the derrick up into the barn?

A Yes, sir.

Q How many days were you putting it in?

A I dont know how long we were in putting it in, four or five days all together putting it up.

Q Four or five days putting it in?

A Yes, sir.

Q You made a trip up and down the river every day?

A I think we d id.

Q Positive about that?

Q Positive about it?

A I am not sure whether we made a trip every day or not.

Q You are not sure whether you made a trip every day or not?

A No, sir.

Q How long did it take you to make a trip?

A When we went to the Head it took about two hours to go down and four or five hours to come back.

Q You did go to the head of navigation?

A Not all the time.

Q Where did you go?

A Some times to Little Falls.

Q During that week now, of the sixth of August, did you go to the head of navigation?

A I dont remember whether we made all of our trips to the head or not. We made one trip to the Head.

Q What time did you make that trip to the Head?

A Dont remember what time it was.

Q You dont know whether it was the sixth, the fifth, or fourth or the first, do you?

A I dont know what day it was.

Q Did you make it that week?

A yes, sir.

Q You dont know it was that week?

A I remember making a trip along there, clear to the Head.

Q Well, along there---

A I remember making one trip to the head of navigation.

O Mason X  
B-10 L

Q Did you make two trips to the head of navigation?

A Dont remember of making more than one.

Q You have talked to Mr. Darrow some about this testimony, have you?

A Yes, sir.

Q You have talked about it some to Mr. Heitman?

A Yes, sir.

Q You have talked to Mr. McFee some about it?

A Yes, sir.

Q Mr. Heitman told you to answer these questions in that way, did not he?

MR. HEITMAN: I protest against this, Mr. Knight---

THE COURT: Yes, that is very improper, Mr. Knight.

MR. KNIGHT: He has been asking the same questions about me.

MR. HEITMAN: I shall not submit to it.

MR. KNIGHT: You will if the Court so rules.

MR. HEITMAN: I shall <sup>not</sup> submit if the Court sustains me.

THE COURT: Now, gentlemen, dont---

MR. KNIGHT: I know you---

THE COURT: Now, quit that. The Court has ruled upon this proposition and that is enough.

Q When did you last consult with Mr. Darrow about this testimony, Mr. Mason?

A Yesterday evening, I think it was.

Q Yesterday evening?

A Yes, sir.

Q What time?

A I dont remember what time it was, not positive,

O Mason X  
B-11 L

seven or eight o'clock.

Q Was Mr. Heitman present?

A Yes, sir.

Q Mr. McBee present?

A No, sir.

Q Where did it occur?

A At Mr. Heitman's office.

Q Was your father present?

A Part of the time he was.

Q Your mother there?

A No, sir.

Q Sister there?

A No, sir.

Q Do you know what time you went to Little Falls during that week?

A I couldn't say. We made several trips to Little Falls.

Q What did you take down?

A Don't remember of taking anything down.

Q What did you bring back?

A Brought back freight.

Q Bring any passengers that week?

A Not that I remember of.

Q The day you went to the head of navigation what did you bring up?

A A load of freight.

Q Who for?

A Leland and Laundry, of Mica Meadows.

Q Who are they?

A The fellows running the hotel and store there.

Q At Price's place?

A Yes, sir.

Q You dont know what day of the week that was?

A No, sir.

Q But you are quite positive you went down the river every day?

A I think we did, nearly every day.

Q Well, are you sure it was every day?

A Not sure, no.

Q Glover lives above your place, or below?

A Lives above.

Q How far above?

A Between a quarter and a half a mile.

Q You went above your place, did you?

A Once in a while.

Q That week, did you?

A Yes, sir.

Q Every day?

A Not every day.

Q Which days of that week did you go above?

A I dont remember.

Q Did you go Saturday?

A Dont remember what day it was.

Q Do you remember whether you went up Friday or not?

A No, sir.

Q You could not place the day at all that you went above that week?

A No, sir.

Q Did you see Adams and Simpkins working on the prospect that week?

U. MASON R  
B-13 L

A No, sir.

Q Where did you see them?

A I dont remember seeing them. Dont remember whether I saw them that week or not.

Q You dont know whether they were working at that prospect that week or not, do you?

A No, sir.

Q Of your own knowledge?

A No, sir.

Q Whats that?

A No, sir.

Q When did you see them working there?

A It was after that.

Q It was after that. What day?

A I dont know what day it was.

Q The fifteenth?

A I dont remember. It was along about the 20th or 17th, along theresomewhere.

Q Along about the 17th or 20th?

A Along there.

Q When did you first see Steve Adams?

A Along about the latter part of July or first of August, 1904.

Q 1904?

A 1904.

Q Thats the first time you ever saw him?

A Yes, sir.

Q You never saw him in the Marble creek country?

A No, sir.

Q Were you ever in the Marble creek country, if so,



O Mason X  
B-14 L

when were you there?

A Early in the spring of 1904.

Q What month?

A I think along in May.

Q The first time you saw Steve, he came riding Price's white horse?

A Yes, sir.

Q Next time you saw him he came leading a sorrel horse

A Yes, sir.

Q That was the second time you saw him?

A No, sir.

Q When did you see him?

A I seen him every day.

Q Do you know where you saw him the next time after he came out from Marble creek?

A No, sir; I dont remember whether he was at our place or where he was.

Q Or whether you were up there?

A No, sir.

Q Do you know whether you saw him once or twice on that day?

A No, sir.

Q Is there anything to indicate to you particularly whether you saw him once or twice?

A No, sir.

Q Do you know where you saw him that day?

A No, sir.

Q Whether at Glover's place or your place?

No, he came from Glover's every day.

Q How many times did you see him at Glover's

place during that week.

A I dont know how often I did.

Q Were you up there at all during that week?

A Yes, sir.

Q What were you up there for?

A After a pitchfork and one thing and another  
to hay with.

Q You dont remember what day that was?

A No, sir.

Q Was that before or after you started hauling hay?

A Yes, sir; about the time we started in hauling.

Q Went up to get Newt to help you?

A Yes, sir.

Q Did he come down the day you went up?

A I dont think so.

Q The next day?

A I think it was.

Q What was he doing?

A Clearing land.

Q What was Steve doing?

A Helping him clear land.

Q What time did you go up there?

A I think some time in the forenoon.

Q That the only time you went up there that week?

A I think so; dont remember.

Q Anyway, you didnt see any operations on the  
prospect during that week?

A No, sir.

Q Where were you during the last week of July,

Q Mason K  
E-16

A Where was I?

Q yes.

A I was at home most of the time doing freighting.

Q At home, freighting?

A Yes, sir.

Q Do you know where you were on the 31st day of July?

A I dont know-- I dont remember whether we was at home or not.

Q Do you know whether you saw Steve Adams that day or not?

A Dont remember

Q Do you know where you were on the 30th?

A No, sir.

Q Did you see Steve on that day?

A Dont remember whether I did or not.

Q Do you remember where you were on the first day of August?

A We were at home, I think.

Q Did you see Steve that day?

A I think I did, yes.

Q Are you positive of that?

A No, sir.

~~Q Did you see Steve on the 31st day of July?~~

Q Do you know what day he came out?

A I do not; the last of August or the first of July, I dont know which.

Q The last of August or the first of July, you dont know which?

O Mason X  
B-17 L

A Last of July or first of August.

Q Do you know where you were on the 29th of July?

A I do not.

Q You dont know where you were?

A On the river or at my home, I dont know which.

Q You dont know whether you had a birthday dinner with your mother, that day, or not?

A No, sir.

Q You dont know whether you were freighting or whether you were at home?

A I do not.

Q Didnt you go freighting that day?

A I dont remember; we might have made a trip; that I dont know.

Q That you dont remember?

A No, sir.

Q You do remember you made one on the sixth day of August, do you?

A No, sir; I dont; dont know whether I did or not.

Q Well, dont you remember whether you made one on the fifth or not?

A No I dont.

Q Dont you remember whether you made one on the fourth or not?

A No, sir; we were making trips along there nearly every day.

Q Very nearly every day?

A About every day.

o Mason X  
B-18

Q yes. You werenot making trips every day?

A very nearly every day, yes.

Q But you dont knowwhether you went on the fourth or fifth or sixth?

A I think we did. I aint sure.

Q Not sure about that. You dont remember, do you?

A Not positive that I did.

Q You tes tified at wallace that you did, didnt you?

MR. DARROW: Now, wait a minute. Show him what you want.

THE COURT: Dont answer until you see.

(Manuscript handed witness)

MR. DARROW: What page?

MR. KNIGHT: 947.

THE COURT: Read all you want to, Mr. Mason.

(Witness examines the document)

THE COURT: read before and read after, if you desire.

(Witness examines it and hands it back to counsel)

Q Now, in you r examination at the former trial at wallace were these questions asked you and did you make these answers?

"Q But you and your bñtoher were kept constantly "employed during those months of the year? "

MR. KNIGHT: Referring to July and August.

"A yes, sir.

"Q Right along every day?

"A yes, sir.

"Q You always made a round trip every day?

"A Yes, sir."

Q Did you make those answers to those questions at that time?

A Did I?

Q Yes?

A I believe I did.

MR. DARROW: There is a little more I want to call his attention to here.

Q You say you were at home when Steve Adams came out from the Marble Creek country?

A I was.

Q What were you doing that day?

A I dont remember what we were doing that day.

Q What was your father doing that day?

A He was there at the time; dont knowwhat he was doing.

Q Dont you know what he was fdoing?

A No, sir.

Q What was he doing the next day?

A Oh, he was starting in haying about that time. I dont know what he was doing.

Q What did you r mother do that day, if you know?

A I dont know what she did.

Q Do you knowwhether she was there or not?

A Yes, sir, she was there.

Q She was there all right.

A I think she was; not sure.

Q You are not sure whether she was there or not?

A No, sir.

Q Do you know what day of the month you started to haying?

A Nok sir.

Q Do you know how long after your father started before you started?

U. S. DEPARTMENT OF AGRICULTURE  
B-20 I

A A day or so after.

Q A day or so afterwards?

A Yes, sir.

Q You and your brother drove team and hauled the hay in, did you?

A We did not.

Q What did you do?

A We done the pitching.

Q Who drove the team?

A Father drove the team.

Q All the time?

A Yes, sir.

Q Then after you and your brother started in to haying, the hay had all been cut, had it?

A Yes, sir.

Q How much hay ground did you have there?

A About twelve acres.

Q How was it cut?

A Cut with a mowing machine.

Q Do you know about how much a mowing machine like that can cut in a day?

A Nine or ten acres; somewheres along in there.

Q Nine or ten acres you think in a day?

A Yes, sir.

Q And then when the hay had been cut your father drove team and you and your brother pitched the hay on to the wagon and hauled it in?

A Pitched most of it, yes, sir.

Q During your examination in Wallace there wasn't a single thing said about hay, was there?

Q Mason X  
B-21 L

A No, sir.

Q Didnt say a word about it in any way?

A No, sir.

Q Nor heard anything about it, did you?

A I did not.

Q Didnt think anything about it, did you?

A Not that I remember of, no.

Q You have thought about this since that time?

A yes, sir.

Q Then I suppose you have been thinking about this testimony some since your examination at Wallace?

A I have.

Q Feel some interest in the case?

A Yes, sir.

Q Know whether your father has felt an interest in it or not?

A I dont know whether he has or not.

Q You know you have?

A Yes, sir.

Q Discussed it with your brother?

A I believe I have.

Q Now, on the seventh of August, you had a birthday dinner?

A Yes, sir.

Q Who was there at that birthday dinner?

A Mr. Glover and Mr. Dixon.

Q How long prior to that time had you seen Glover and Dixon?

A Had seen them the day before I think.

Q Where had you seen them the day before?



O Mason  
B-22 L

A I dont know whether at our place or where they were

Q You dont know whether they were there or not?

A I think they were.

Q Do you know who invited them to dinner?

A My father, sister- some of them, I dont know who  
it was.

Q You are not sure about that, are you?

A No, sir.

Q You think they came there some time in the  
forenoon?

A Yes, sir; I think they did.

Q You saw them come, did you not?

A I did.

Q I will ask you to read your testimony at the  
bottom of page 959, as marked there. (Handed the  
witness)

THE COURT: Read all you desire of it, Mr. Mason.

(Witness examines it)

MR. McBEE: 959?

MR. KNIGHT: Yes, at the bottom of the page.

(Handed back to counsel)

Q At your examination on that trial were these  
questions asked you and these answers made?

"Q Making these daily trips up and down the river?

"A Yes, sir.

"Q Did the trips include Sunday?

"A Yes, sir.

"Q And you were doing it right along, were you?

"A Yes, sir; I was.

"Q Right along during the months of July and August?

"A Yes, sir.

Q You are absolutely certain about that?

A I know it."

Q Were those answers made?

Yes, sir.

Q You dont know where your mother was on the 29th of July, do you?

A Why, I think she was at her sisters I aint sure.

Q You are not sure about that?

A No, sir; I think she was.

Q Do you know how long she stayed up there?

A No.

Q You have taken other people up and down the river, besides Steve Adams and Hewt Glover?

A yes, sir; I have.

Q Whom else have you taken up and down the river?

A I have taken Leland and Laundry, I have taken Russell and Mr. Todd---

Q When did you take Leland and Laundry up in your boat?

A I dont remember what day it was. They have went up and down quite frequent all summer.

Q Do you know what month it was?

A No, sir.

Q Do you remember whether they made it in July?

A I dont know the month.

Q You know whether it was in August?

A I think so; not sure.

Q Not sure?

A No, sir.

O Mason X  
B-23 I.

Q Do you know whether you had them in September?

A Dont remember.

Q Dont remember about that, do you? When did you have Russell in your boat, do you know?

A No, sir.

Q Do you remember what month you had him?

A Why, I dont remember exactly. I think he came out about the last of July.

Q Are you sure about that at all?

A No, sir; I aint sure.

Q Do you know whether it was in the month of July?

A I think it was; aint sure:

Q Not quite positive about that?

A No, sir.

Q Who else have you had?

A Have taken Mr. Todd.

Q How often did you take Mr. Toddup?

A Dont remember.

Q Do you remember what month it was?

A No, sir.

Q Dont you know the month?

A No, sir; I dont remember.

Q Did you take Price up and down?

A Yes, sir.

Q Do you know what month you took Price?

A No, sir.

Q Cant you be certain of any month you had him?

A No, sir.

Q Was Mr. Price there at the time you went at your haying?

A Dont remember whether he was or not.

Q You dont remember whether he was there that week or not?

A I dont know; think he was. He was packing there right along.

Q You dont know whether he was or not?

A Not positive, no.

Q You dont know whether he was there the day before the birthday party?

A No, sir.

Q Dont you know who visited your place on the sixth?

A Dont remember of anybody except ourselves. We finished off harvesting the hay.

Q Dont you remember of Price being there?

A I dont.

Q What did your sister do that day, do you know?

A What day do you mean?

Q On the sixth?

A I dont know.

Q Dont know whether she was there that day or not?

A I think she was.

Q Are you sure about that?

A No, sir.

Q What was you doing on the sixth, now?

A Well, we finished haying all right.

Q What time did you get through?

A Dont know what time it was.

Q When did you have dinner that day?

A Dont remember.

Q When did you have supper?

A Six---I dont remember what time we had it.

Q Who was there at supper, if anyone besides your family?

A Mr. Miner was there, I remember that.

Q Any one else?

A Dont remember whether anybody else or not.

Q You dont knowwhether Mr. Price was there?

A Dont think he was.

Q Not positive he was not?

A I am not sure.

Q Not sure about that. Do you knowwhether you had supper by daylight or dark that night?

A I dont remember.

Q You dont remember?

A No, I dont.

Q Do you knowwhat time it got dark?

A It didnt get dark for a good while.

Q Dont remember whether you had supper before dark or after?

A I dont remember when it was.

Q No. Thats all.

THE COURT: Re-examine.

MR. KNIGHT: Just one question.

Q You are the elderone of the brothers, are you not?

A I am, yes, sir.

MR. KNIGHT: Thats all.

O Mason Recalled-Direct  
P-26 L

MR. HEITMAN: If your Honor please, there was one question I forgot to ask him on direct.

THE COURT: Recall him for that purpose.

MR. HEITMAN: very well.

ORVILLE MASON

recalled as a witness on  
the part of the defendant,  
testified as follows:

BY MR. HEITMAN: Q Mr. Mason, state, if you know,  
where your father was between the time he came out from  
Marble Creek, up to the time he went to Wallace later in  
the month of August?

A He was at home.

Q How often did you see him?

A My father?

Q Yes.

A Seen him every day.

Q Was he away at any time, either day or night,  
during that time?

A Up to the time he went to Wallace?

Q All that time, up to the time he went to Wallace,  
between those dates?

A Not that I remember of, no.

Q How far is Newt Glover's place from the river,  
that is, his house?

A Probably a couple of rods.

Q You can see it plainly from the river?

A Yes, sir.

Q Can you see it from your landing?

U MASON-RECALLED

B-27 L

A Yes, sir.

Q Mr. Knight has asked you about your evidence at Wallace. Will you state whether or not anything was asked you by either side with reference to the harvest of the hay?

MR. KNIGHT: I object to that. The witness has already testified that he didn't hear a word about it at Wallace.

THE COURT: I think he has made that claim, that he didn't say a word and nothing was heard about it.

MR. KNIGHT: Nothing was heard about it.

Q Mr. Mason, will you read over page 945 (Handed to witness) Just read on that page, 945, that is your evidence at Wallace.

MR. KNIGHT: Before you ask any questions on that I would like to see just what you are asking about.

MR. HEITMAN: yes, the whole page, 945, I will ask him some questions about it.

(The witness examines the testimony)

MR. KNIGHT: We object to any question being asked by counsel of this witness concerning that testimony for the reason that they cannot impeach their own witness and cannot introduce the testimony except to show that he has made statements at other times different from his present testimony.

MR. HEITMAN: Wait until I ask my question, Mr. Knight.

THE COURT: Propound your questions and I will rule upon them.

Q With reference to these trips on the river,

O Mason -Recalled

B-28 L

which you testified about at Wallace, can you state whether these trips had reference to passengers or freight?

A I dont understand you.

Q Can you state whether or not these trips were made for carrying passengers or freight?

A Both, usually both.

Q State whether or not on the former trial at Wallace, the following question was asked you and the following answer given thereto, on the cross-examination?

MR. KNIGHT: We object to asking the question and request the Court to examine the testimony before it is permitted.

MR. DARROW: We show it to him as part of the examination Mr. Knight showed him in his cross-examination.

(Testimony shown to the court)

MR. DARROW: Just two pages in front of the one Knight showed him.

THE COURT: I shall allow it. This is on cross-examination and explains it.

(Question read)

"Q How often did you make a trip there, or how often in 1904 were you making those trips?

"A Every day or so."

A yes, sir.



Orville Mason RD  
C-1

Q Page 949, four or five lines from the top, Mr. Mason, read there. (Handing witness record.)

MR. KNIGHT: Now, I object to the asking of any question from page 949 because--

THE COURT: Let me see it, Mr. Heitman. (Court examines the record.)

MR. HEITMAN: The two questions and the two answers.

THE COURT: (After examination) I think it is not proper to examine him about that.

#### RE-CROSS EXAMINATION

BY MR. KNIGHT:

Q I refer you to page 946, ending the fifth line from the top, the question asked and answered.

MR. DARROW: 946, second line from the top?

MR. KNIGHT: 946, fifth line from the top. Q Again I will ask you, referring to page 946, whether, at your examination at Wallace, this question was asked you and this answer made:

"Q So you were up and down the river every day?

"A Yes, sir." Is that correct?

THE WITNESS: Yes, sir; I think it was.

Q Do you know when your father went to Wallace in August?

A I dont know exactly, no. Along about the 15th or 16th.

Q Do you know whether you saw him the day before that?

A I do not; he was at home, I think.

Q What is that?

A He was at home, I think.

Orville Mason RM  
C-2

Q At home you think?

A I know he was at home.

Q And on the 14th?

A I think he was, yes.

Q Do you know what he was doing on the 14th?

A I dont.

Q You think he went away the 15th or 16th?

A Along there sometime; I dont know exactly when.

Q When did Jack Simpkins and Adams come in there?

MR. DARROW: To that I object; that has all been gone over; it is not re-examination certainly.

MR. KNIGHT: It has not been over with this witness; I dont think I have been over it at all with this witness.

MR. DARROW: You turned him over and got through with it.

MR. KNIGHT: I have a right to examine this witness further.

MR. DARROW: You have a right to ask the Court, and the Court can grant you the privilege, if there is any reason for it.

THE COURT: Very well; permission ~~has~~ will be granted.

MR. DARROW: You havent a right, though.

Question read by the reporter as follows: "Q When did Jack Simpkins and Adams come in there?"

MR. DARROW: I object. From where do you mean? It is indefinite.

THE COURT: Make it definite, Mr. Knight.

MR. KNIGHT: Q Did Jack Simpkins and Glover come in there about that time?

A Came back while he was gone to Wallace, I think.

Orville Mason RX  
C-3

Q Came back while he was gone to Wallace?

A Yes, sir.

Q How long after he had gone to Wallace?

A I dont remember; a day or so.

Q A day or two afterwards?

A Yes, sir.

Q You are quite positive or fhtt, are you not?

A I am.

Q You are sure about it?

A I am quite sure, yes, sir.

WITNESS EXCUSED.

Lloyd Mason D  
C-4

LLOYD MASON,

A witness called on behalf of  
the defendant, having been here-  
tofore duly sworn, testified as  
follows;

DIRECT EXAMINATION

BY MR. HEITMAN:

Q State your name.

A Lloyd Mason.

Q Where do you live?

A On the St. Joe River.

Q How old are you?

A Seventeen years old.

Q You are the son of Alva Mason?

A Yes, sir.

Q What is your occupation at the present time?

A Well, I work with the survey now.

Q With whom are you working in surveying?

A I am working for the Milwaukee.

Q Milwaukee what?

A Railroad.

Q Where?

A Up on the St. Joe River.

Q How long have you been working for the Milwaukee  
Railroad, in surveying?

A Well, the last time, about two months.

Q What, if anything, were you doing in the summer of  
1904, July and August?

A I was freighting on the St. Joe River.

Lloyd Mason D  
C-5

Q Alone or with some one?

A With my brother.

Q What is your brother's name?

A Orville.

Q Where were you freighting?

A Between the head of Navigation and the north fork of the river?

Q What sort of a boat did you use for your freighting operations?

A Canoe.

Q State whether or not you carried anything besides freight?

A Carried some passengers.

Q Where were you between the latter part of July and the 25th of August, 1904?

A Well, freighting on the river most of the time.

Q And where were you and your brother living at that time?

A With our father on the river.

Q On the river at your father's place?

A Yes, sir.

Q On the river. You are acquainted with your father's homestead in the Marble Creek country?

A Yes, sir.

Q Do you know whether or not your mother was on the Marble Creek homestead in the summer of 1904?

A She was.

Q Do you know whether or not she came out to the hay ranch during that summer?

Orville Mason D  
C-6

A Yes, sir.

Q Do you know about when she came out?

A She came out along in the middle part of July; somewhere along there.

Q Along when?

A Along in the middle part of July; sometime along there.

Q Did any one come with her?

A Yes, sir.

Q Who?

A My father.

Q Do you know how long your father remained on the hay ranch after ~~you~~ <sup>he</sup> came down with your mother from the homestead?

A He went right back then.

Q Did he come out again?

A Yes, sir.

Q About when, if you know?

A Well, about the 27th or 28th; somewhere along there.

Q What month?

A In July.

Q How long did your father remain at home after he came u out?

A Well, he was there, I dont know exactly how long; he was there, I think all through August.

Q Now, state whether or not you know of anything having happened to your father when he came out from the Marble Creek homestead?

A Why, he sprained his knee as he was coming out.

Q And how did that affect him?

Lloyd  
~~Marble~~ Mason D  
C-7

A It made him lame for quite a while.

Q State whether or not you know anything about your father having gone to Wallace in the month of August.

MR. KNIGHT: We object to that, leading the witness.

THE COURT: It is leading, but I am going to allow it, because I want to get through.

MR. HEITMAN: I dont know how to get at it any other way.

Q Answer the question Lloyd.

A Yes, sir; he went to Wallace in that month.

Q Do you know Steve Adams, the defendant in this case?

A Yes, sir.

Q When did you first see him, if you remember?

A About the last of July or the first of August, 1904.

Q Where did you see him?

A Saw him on the river.

Q How did he come there, if you know?

A He came there on horseback.

Q Whose horse was it, if you know?

A Frank Price's.

Q What kind of a horse?

A White horse.

Q Had you seen that horse before?

A Yes, sir.

Q Have you seen him since?

A Yes, sir.

Q Did Mr. Adams come down alone or with some one at that time?

A He came alone, I think.

Q Do you know by what name he was called at that time?

Lloyd Mason D  
C- 8

Q How long did he remain at your father's house the day he came?

A Seven or eight days.

Q Did he remain at your father's house?

A No he remained at Glover's; he was staying at Glover's.

Q What time of the day did he come to your father's house?

A He came along in the evening.

Q That was the first time?

A Yes, sir.

Q And how long did he remain in that neighborhood?

A About seven or eight days

Q Do you know where he stayed?

A He stayed at Glovers.

Q What Glovers?

A Hewt.

Q Where does Glover live, with reference to your father's house?

A About a mile above our place and abross the river.

Q How often, if at all, did you see Steve Adams, or Steve Dixon, during the seven or eight days he remained in the neighborhood at that time?

A I seen him about ever day; sometimes twice.

Q Where did you see him?

A At Glover's and at our place.

Q What was he doing at your place?

A He came down there for milk and butter and vegetables.

MR. KNIGHT: I dindt understand that.



THE WITNESS: He came down there for butter and milk and vegetables.

Q Do you know when Steve left that neighborhood at that time?

A At that time?

Q Yes, sir.

A He went down the river the morning of the 8th.

Q State whether or not you saw him on the morning of the 8th.

A Yes, sir.

Q Where did you see him?

A Saw him going down the river.

Q Alone or with some one?

A Mr. Glover was with him.

Q What was he in?

A A canoe.

Q Canoe?

A Yes, sir.

Q What direction were they going?

A Going down the river.

Q Do you remember any particular day during the seven or eight days that Steve was in that community at that date when you saw him?

A I saw him on my father's birthday.

Q And what day of the month was that?

A Seventh.

Q Where did you see Steve that day?

A Seen him at our place.

Q What was he doing there?

Lloyd Mason D  
C-10

A He was down there at the birthday party.

Q Your father had a birthday party?

A Yes, sir.

Q Well, what did you have; what was done at the birthday party?

A Well, we had dinner.

Q What time of day did you have dinner; about what time?

A About two o'clock.

Q Can you recall about what time Steve came to your father's house that morning or that day?

A Some time in the morning; I dont know the exact time.

Q Do you know how he came?

A He came afoot.

Q Do you know whether he had a horse or not?

A Yes, sir.

Q Whose horse was it?

A It belonged to Frank Price.

Q Do you remember what kind of a horse it was?

A Yes, sir.

Q What kind?

A It was a sorrel horse, a pack horse.

Q A pack horse?

A Yes, sir.

Q Did you know the name of that horse?

A Yes.

Q What was it?

A They called him "Mike".

Q State whether or not you saw Steve at any time after

Lloyd Mason D  
C-11

the morning of August 8th, 1904.

A Yes, I seen him in a week or ten days from that

Q And where did you see him at that time?

A He came back to our place on the river.

Q From what direction did he come?

A From whay direction?

Q Yes, sir.

A He came up the river from the Head.

Q Up the river from the Head?

A Yes, sir.

Q Was he alone or in company with some one?

A Jack Simpkins was with him.

Q Do you know Jack Simpkins?

A Yes, sir.

Q How long have you known him?

A I have known him a little over three years.

Q And where did they stop,--Simpson and Steve Adams,  
or Dixon?

A They stopped in Glover's.

Q How long did they stay around there at that time,  
if you know?

A Five or six days; something like that.

Q Do you know what they were doing?

A Yes, sir.

Q What?

A Prospecting.

Q Where?

A Right across from Mr. Glover's place on the hill.

Q How often did you see Steve Dixon, or Adams, during the  
five or six days that he and Simpkins remained at Glover's?

Lloyd Mason D  
C-12

A About every day.

Q Where did you see them?

A Well, they were down to our place about every day, and I see them up to Glover's and when we passed in the boat.

Q What were they doing down at your place?

A They came down to spend the evening, sometimes, and they came down after milk; they were getting milk there right along.

Q Do you know where Steve went to, or in what direction he went, after the lapse of those five or six days?

A He went down the river.

Q Do you know about when he went down?

A Well, the 23d or 24th; something like that.

Q Do you know whether he went alone or in company with some one?

A I and my brother took him down to the Falls.

Q You and your brother Orville?

A Yes, sir.

Q How did you take him down?

A In a canoe.

Q When did you see him next?

A I seen him in Wallace last.

Q At the trial?

A Yes, sir.

Q State whether or not you know where your father was from the time he came down from the homestead, the latter part of July, until he went to Wallace.

A He was at home.

Q How often did you see him during that time?

A I seen him every day.

Q State whether or not you knew Ed. Bouley?

A Yes, sir.

Q State whether or not you heard of his death?

A Yes, sir.

Q From what source did you hear it?

A Well, I heard it from Frank Price.

Q Can you tell about what time you heard it?

A Well, along in the morning some time.

Q Can you recall the day of the month?

A It was the day after Bouley was killed.

Q If Bouley was killed on the 20th of August, when did you hear it?

A On the 21st.

Q Where were you when you first heard of Bouley's death?

A I was on the river bank.

Q Where?

A On the river bank, in front of our house.

Q In front of your house?

A Yes, sir.

CROSS EXAMINATION

BY MR. KNIGHT:

Q So, Steve lead "Mike" up to the picnic dinner, did he, on that date?

A He brought him with him; yes, sir.

MR. DARROW: I object to that.

Q And Newt lead Pinto?

A Yes, sir.

Q Sure about that, are you?

A Yes, sir.

Q What kind of a horse was Pinto?

Lloyd Mason X  
C-14

A He was a white and bay.

Q A white and bay?

A Yes, sir.

Q He was called Pinto because that is the color?

A Yes, sir.

Q What time did Newt come?

A Well, he come about an hour after Steve; I dont know what time; some time in the morning.

Q Do you know what time Steve came?

A No, sir; I dont know the exact time.

Q How was Mike harnessed, if harnessed at all, or saddled?

A He was not harnessed at all; he had a rope on him.

Q Bare back, was he?

A Yes, sir.

Q How was Pinto fixed?

A I think he was bare back, too.

Q Aren't you sure about that?

A No, I am not sure about it.

Q You are not sure whether he had a saddle on or not?

A Yes, sir.

Q Now, do you know what was the name of the white horse that Steve rode out?

A They called him Rob.

Q That was Rob?

A Yes, sir.

Q What kind of a saddle, if any, did Rob have on when Steve rode him out?

A A riding saddle.

Q A riding saddle; and Steve was on the saddle?

Lloyd Mason X  
C-15

A Yes, sir.

Q You say Steve was known at that time as Steve Dixon?

A Yes, sir.

Q Did you know any other name for him?

No

A ~~Yes~~, sir.

Q You didn't know whether he was Steve Adams or not at that time?

A No, sir.

Q What time was your father's birthday?

A On the 7th of August.

Q Who was at that birthday dinner?

A Mr. Dixon and Mr. Glover.

Q Who else?

A That is all I remember of but the family.

Q And after the dinner was over, Steve and your sisters spanked your father, or something of that kind?

A Yes, sir.

Q Your sisters were not able to do it, and Steve pitched in and helped them?

A Yes, sir.

Q About what time did that occur?

A Well, some time after dinner.

Q And what was Newt doing at that time?

A He was sitting there in the house.

Q Who was he talking to, if any one?

A Well, I dont know.

Q Did you say anything to him that day yourself?

A Well, I suppose I did.

MR. HEITMAN: Objected to as not cross examination.

Objection overruled.

Defendant excepts and exception allowed.

MR. KNIGHT: Q You are not sure whether you did or not?

A Well, I suppose I did, yes.

Q But you are not sure whether he said a single word or not?

MR. DARROW: He said he supposed he did.

THE COURT: (To the witness) Speak up so we can hear.

MR. KNIGHT: Q You are positive that Newt was there?

A Yes, sir.

Q And you saw Pinto also on that day there?

A Yes, sir.

Q What did they do with Pinto when they got him there?

A Had him at the house.

Q In your house?

A Well, <sup>tied him</sup> ~~right~~ there by the fence.

Q What did they do with Mike?

A They <sup>tied</sup> ~~had~~ him there, too.

Q Side of Pinto?

A Yes.

Q Which was tied first?

A Well, I dont know.

Q You dont know which was tied first?

A Mike was tied first; he was brought there first.

Q Sure about that, are you not?

A Yes, sir.

Q You testified in this case at Wallace, didnt you?

A I did.

MR. DARROW: What page?

MR. KNIGHT: Page 1009 and top of page 1010. Q I will ask you to read those questions, beginning there and ending at the top of 1010 (Handing record to witness).



Lloyd Mason X  
C-17

1330

THE COURT: And read all that you desire to read of the typewriting, read enough to satisfy yourself.

A (Reading) "Q By Mr. Hawley"--

THE COURT: (To the witness) Read it to yourself; read it over for your own information, and read all you want to of it.

MR. KNIGHT: Q Mr. Mason, at that examination, were these questions asked you by Mr. Hawley and did you make these answers?

A I did.

Q Just wait: (Reading) "Q What time do you say your father's birthday was?

"A On the 7th of August.

"Q Glover wasnt there that day you say?

"A No, sir; not that I remember of.

"Q You remember all that were there, do you not?

"A Yes, sir.

"Q You remember Adams being there?

"A Yes, sir.

"Q And all of the family were there?

"A Yes, sir.

"Q Was there any outsider there at all?

"A Why, Mr. Dixon.

"Q Outside of Adams, or Dixon, as you call him?

"A No, sir." Did you make those answers?

A I did.

Q I will ask you to read at the bottom of page 1010. (Handing witness record) At that time in answer to the questions which I am about to read, did you make the answers which I am about to read: "Q Nobody came with him?

"A No, sir.

Lloyd Mason X  
C-18

"Q How did he come?

"A Afoot.

"Q How did he get across the river?

"A Why, I dont know that; ~~xxxxxx~~ <sup>crossed</sup> there at Mr. Glover's  
"place.

"Q Do you know whether he crossed the river or not?

"A I think he must have; he came from Glover's."

Did you make those answers?

A Yes, sir.

Q You didnt say anything about a horse then, did you?

A No, sir.

Q This is the first time that you have ever had any-  
thing to say about the horse, isn't it?

A Yes, sir.

Q The first time you have ever said anything about Mr.  
Glover being there, isn't it?

A Yes, sir.

Q Now, I will ask you again to read at the top of page  
1011, the last question on page 1010 and top of page 1011  
(Handing record to witness, who examines same) Now, I will  
ask you, Mr. Mason, whether at Wallace these questions were  
asked you and these answers were made: "Q You say you  
"think he came alone?

"A Yes, sir.

"Q You dont remember of Glover coming with him?

"A No, sir.

"Q Or of Glover being there?

"A No.

"Q Have no recollection of that at all?

"A I do not"

Did you make those answers?

A I did.

Q And how long did they remain there?

THE COURT: To whom did you refer?

MR. KNIGHT: Mr. Glover and Mr. Dixon.

A They remained there until that evening.

Q About what time that evening?

A Some time along in the evening; I dont know exactly what time.

Q Some time after dinner, was it?

A Yes, sir.

Q What time did you have dinner?

A Two o'clock, about there.

Q How long had Steve been there at dinner time?

A Well, he had been there about four hours, I should think.

Q About four hours?

A Yes, sir.

Q Do you know whether it was three or four hours?

A It is somewhere along there; I dont know the exact time.

Q How long did the horses remain tied at the fence there?

A I dont know; I didnt see them when they took them away.

Q I call your attention again to the middle of page 1007 (Handing witness record, who examines the same.)

Q I will ask you, Mr. Mason, whether at that time, in answer to the questions I am about to read, you gave the answers which I am about to read: "Q Do you know what time you

Lloyd Mason X  
C-20

"had dinner that day?

"A About two o'clock.

"Q Do you know where Glover was that day?

"A No, I don't.

"Q Do you know whether he was there at dinner?

"A I dont remember of him being there." Did you make those answers?

A I did.

Q How old are you?

A Seventeen years old.

Q Seventeen?

A Yes, sir.

Q And you were assisting your brother in 1904?

A Yes, sir.

Q Up and down the river?

A Yes, sir.

Q What was your business?

A Freighting on the river.

Q Poleing up and down the river were you?

A Yes, sir.

Q Do you know what you were doing on the first of August of that year?

A Freighting.

Q Do you know what you were doing on the 2d?

A Well, probably freighting.

Q Well, do you know?

A Not going all of the time.

Q Do you know what you were doing on the 2d?

A No, I dont know whether I made a trip on that day or not.

Lloyd Mason X  
C-20

Q Do you know what you were doing on the 3d?

A Probably working.

Q Probably working?

A Yes, sir.

Q What kind of work?

A Poling on the river.

Q What were you doing on the 4th?

A Probably the same thing.

Q And what doing on the 5th?

Q Well, I dont know; sometimes we did not go down;  
we down most every day, though.

Q Do you know what you were doing on the 5th?

A Well, I aint certain, no.

Q What do you think you were doing that day?

A Well, working, poling.

Q What kind of work, poling?

A Poling.

Q What were you doing on the 6th?

A On the 6th, the same thing.

Q On the 7th you did not work?

A No, sir.

Q On the 8th what were you doing?

A I went down the river that day.

Q On the 9th what did you do?

A I Dont know; probably went up the river with the load  
we had.

Q You know Simpkins right well, dont you?

A Yes, sir.

Q Did you see Simpkins on the 8th?

Lloyd Mason X  
C-22

A No, sir.

Q Did you see him on the 9th?

A No, I dont think I did.

Q Did you see him on the 10th?

A Well, I seen him sometime along there.

Q About when, do you know?

A Well, tenth, ninth or tenth; somewhere along there.

Q How long was that after the birthday party?

A Well, two or three days.

Q Two or three days after that?

A Yes, sir.

Q How long after Steve went down the river?

A A couple of days.

Q About a couple of days after that, you think?

A Yes, sir.

Q How long did you see Jack at that time?

MR. HERTMAN: Objected to as not cross examination; not proper cross examination.

Objection overruled.

Defendant excepts and exception allowed.

A What was the question again, please?

Q How long did you see Jack at that time?

A He stayed there over night.

Q What did he do the next morning?

A Went down the river.

Q When did you see him again?

A In five or six days after that.

Q In five or six days after that. Where did you see him then?

A He came back to our place.

Lloyd Mason X  
C-23

Q Who was he with?

A Steve Dixon.

Q How long did he remain there at that time?

A Four or five days.

Q Who was with him along about the 9th or 10th--you say you saw him--if any one?

A Jim Nevins.

Q Jim Nevins came up with him?

A Yes, sir.

Q What did Jim Nevins do?

A He went back right down, I think.

Q With Jack?

A Yes, sir; he started out with him.

Q What?

A He started out with him anyway.

Q You are sure about that, are you not?

A Yes, sir.

Q Then he went down the river?

MR. DARROW: He did not say that.

A Jack went on down.

Q What did Nevins do?

A He started out with him; I don't know where he went with ~~with~~ him.

Q Do you have any more reason for saying Jack went down than Nevins went down?

A He said he was going down.

Q Who said he was going down?

A Jack.

Q What did Nevins say?

Lloyd Mason X  
C-24

A Didnt say.

Q He didnt say, but he started out with Jack, did he?

A Yes, sir.

Q Where were you during the latter part of July?

A I was home on the river.

Q How long have you been there?

A How long had I lived there, you mean?

Q Yes.

A Since 1901.

Q You live there yet?

A Yes, sir.

Q Have continued to live there ever since, have you?

A I have.

Q The family continue to live there?

A Yes, sir.

MR. DARROW: I object to that. I dont know what the purpose is.

MR. KNIGHT: The witness has already answered.

MR. DARROW: I dont know what inference you wish to be drawn from that, unless you want to show they have not been living on the homestead.

MR. KNIGHT: It is to show this man has not any memory at all.

MR. DARROW: I object to that statement.

Q When did you first see Steve Adams or Steve Dixon?

A About the last of July or the first of August, 1904.

Q That was the first time you ever saw him, was it?

A Yes, sir.

Q Do you know whether it was the last of July or first of August?



Lloyd Mason X  
C-25

A Well, sometime along about there.

Q You dont know whether it was the first or the second of August?

A No, sir.

Q Or when?

A It must have been the second or so; it was along the last of July.

Q How did he come there?

A He came there horseback.

Q Riding Rob?

A Yes, sir.

Q You know the horse's name, dont you?

A Yes, sir.

Q Came alone.

A Yes, sir.

Q How long did he remain there?

A Oh, he remained there seven or eight days.

Q Right at your place?

A No, at Glovers; staying there.

Q Hoe far is that away?

A That is about a half a mile above.

Q What did he do with the horse?

A He left him there at our place.

Q Left the horse there all of that time?

A No, he left him there for two or three days, and I think Price took him away.

Q It was Price's horse, was it?

A Yes, sir.

Q Who, besides yourself, were at your place when Steve came out?

Lloyd Mason X  
C-26

A All of the family was there; my brother.

Q All of the family?

A Yes, sir.

Q Your father there?

A My father was there, yes, sir.

Q Mother?

A No, I dont think my mother was there.

Q Sister?

A Yes, sir.

Q Where was your mother?

A She was up to her sisters.

Q Quite sure about that, are you not?

A Yes, sir.

Q When did your father come out?

A Father came out about the 28th, I think, 27th or 28th.

Q Did he come alone?

A He came alone that time, yes.

Q Where was your mother then?

A She was at home on the river.

Q Positive about that, are you not?

A Yes, sir.

Q Who else was there when your father came?

A Well, all of the family.

Q What?

A All of the family were there.

Q All of the family were there?

A Yes, sir.

Q What did your father do the next day after he got there?

A I dont know what he did do; probably stayed around the ranch.

Lloyd Mason X  
C-27

Q What did you do?

A I was workinf, poling.

Q You polled right along, every day, during the week, didnt you?

A Well, about every day; yes.

Q You are quite sure it was every day, are you not?

A No, I am not sure it was; I know it was not.

Q Not sure whether it was every day or not, but it was about every day?

A Yes, sir.

Q What was your brother doing?

A He was working with me.

Q Working with you right along?

A No; once in a while he would go down by himself.

Q But every time that you went down, your brother went down?

A Yes, sir.

Q You never went alone?

A No, sir.

Q Do you know whether he went alone any time that week or not?

A Well no, I dont.

Q To the best of your recollection, I will ask you whether or not you went together every day that week?

A Well, I dont know; probably we did; it is not very often that he went down alone.

Q And you say you saw Steve and Newt come down the river on the morning of the 8th?

A Yes, sir.

Q Then you did not see Steve again until about what date?

Lloyd Mason A  
C-28

A Well, some time along about the seventeenth.

Q About the seventeenth?

A Sixteenth or seventeenth; somewhere along there.

Q What time did he come to your place?

A Came down along in the afternoon.

Q With whom did he come, if any one?

A Jack Simpkins.

Q Who was there at your place at that time?

A I dont know.

Q What is that?

A I dont know.

THE COURT: Speak louder.

THE WITNESS: The family.

Q Were you there?

A I was.

Q Your brother there?

A Yes, sir.

Q Your father there?

A No, I dont think he was.

Q Your mother there?

A Yes, sir.

Q Quite sure your father was not there?

A Well, I am not sure of it, no.

Q You are not sure about that?

A No, sir.

Q Where was your father?

A I dont know.

Q You dont know where he was?

A He was going to Wallace about that time; I dont know whether he had gone or not.

Lloyd Mason-X  
G -29

Q You dont know whether he had gone at that time or not?

A No, sir.

Q Now, how long did Steve remain there?

A Five or six days.

Q Remained at your place or at Glover's

A At Glover's; stopping at Glover's; he was down to our place.

Q How long did Simpkins remain there?

A He was there a little longer than that.

Q He stayed after that time?

A Yes, sir.

Q Do you know what time Dixon went out?

A He went down five or six days later than that.

Q Five or six days later?

A Yes, sir.

Q You could not be positive whether it was the 23rd 4th or 5th?

A Some time about the 22nd or 23rd.

Q You say it was not the 24th?

A I am not sure of it, no.

Q Would you say it was earlier than the 25th?

A It must have been, yes.

Q Are you sure of that?

A I am pretty positive of it, yes, sir.

Q What is that?

A I am pretty positive of it, yes, sir.

Q Now, after Steve came out, you say you saw him every day after he came out from Marble Creek?

A Yes, sir.

Q What was he doing the second day after he came out?

A He was down at our place.

Q The third day?

A I dont know; he was probably at Glover's or our place; he was down there about every day after milk.

Q And when he was not down there you were up there; is that it?

A No, I wasnt up there; I was passing up and down by there.

Q What were you doing; passing up and down by there?

A Freighting, poling.

Q For whom were you freighting?

A Different people; Mr. Pyle, and all of the people along the river there.

Q Did you take freight from the head of navigation from Pyle's place during that week?

A I think I did, yes, sir.

Q How often?

A I dont know.

Q Are you sure you took it up there that week?

A I think we took a load up there, yes, sir.

Q Took it from the head of navigation?

A Yes, sir.

Q Do you remember what day that was, now?

A No, I dont.

Q How long before your father's birthday?

A Two or three days.

Q Two or three days before that you took a load up to-  
-How long did that take you?

Lloyd Mason -X  
C-31

A It took about-- we took about a day and a half or two days to get down from the place and back.

Q Took about a day and a half or two days to get down and back?

A yes, sir.

Q How far is it from the head of navigation to Pyle's place?

A They call it about between sixteen and eighteen miles.

Q How far is it from your place?

A To Pyle's?

Q Yes, sir.

A About seven; between six and seven miles.

Q Your brother was with you when you made that trip?

A He was.

Q And it took you between a day and a half and two days to make it, you say?

A yes, sir.

Q Do you know aht part of the week you made that trip?

A What part of the week?

Q Yes?

A No, I dont.

Q You say it was two or three days after your father's birthday?

A Something like that, yes, sir.

Q You are sure you made it that week, are you not?

A I think I am, yes sir.

Q And was that the only trip that you made above your father's place that week?

A No, I dont knowthat it was; we were poling up and down there, off and on, though, right along.

Q Were you poling up and down there more than that one day during that week?

A I dont know whether I was.

Q You dont know whether you were or not?

A No.

Q Then how often up above your father's place did you see Glover or Adams that week?

A I dont know that; probably only once.

Q You know you saw them on that trip?

A Yes, sir.

Q What were they doing on that trip?

A They were at Mr. Glover's place.

Q What were they doing?

A They were standing on the bank.

Q They were not prospecting?

A No, sir.

Q Neither as you went up nor as you went down?

A No, sir.

Q Did you see them prospecting at all that week?

A I think I and my brother were up there one day.

Q You think you were. I want to know first what you know.

MR. DARROW: That is the answer. I object. The first question is whether you know.

THE COURT: Yes, state whether you know.



Lloyd-Mason X  
C-33

MR. KNIGHT: Q If you dont know, I dont care anything about what you think; it is a question of whether you know where did you see them.

MR. DARROW: No, the first question is, do you know whether you saw them or not; do you remember whether you saw them.

MR. KNIGHT: I dont have to ask the question in that way.

MR. DARROW: I say you do.

THE COURT: Objection overruled. (To the witness) State what you know about it.

A I dont remember, but I think we did.

MR. KNIGHT: You think you did?

A I do.

Q Now, under what circumstances do you think you saw them. What were you doing when you think you saw them?

A I think we were up the river hunting, I and my brother.

Q What is that?

A I think we were hunting.

Q When did you start hunting?

A Along in the afternoon.

Q How long did you hunt?

A Two or three hours.

Q Who was with you?

A My brother.

Q Any one else?

A No, sir.

Lloyd Mason-X  
C-34

Q How long was that before your father's birthday?

A Well, I dont know.

Q A day or two?

A I dont know exactly.

Q Well, was it a week before?

A Some time about there; some time before my father's birthday.

Q His birthday occur red on Sunday, didnt it?

A Sir?

Q His birthday occurred on Sunday, didnt it?

A It was on the seventh?

Q Do you know whether it was Sunday or not?

A No, sir.

Q You are not sure about that. If it did occur on Sunday, did you make the hunting trip within a week prior to that?

A Must have.

Q Must have done it?

A Yes, sir; some time before.

Q And your brother went with you?

A Yes, sir.

Q You were gone three or four hours?

A Yes, sir.

Q In the afternoon?

A Yes sir.

Q Was it before or after you made the trip to Pyle's place?

A I dont know.

Q You dont know whether it was before or after?

A No, sir.

Q What other freight did you haul that week?

MR. DARROW: If you know.

A Well, I dont know; we was freighting to our place there; to people in on Marble Creek.

Q For whom did you haul freight to people in Marble Creek?

A Well, the people who ran the store at Mica Meadows, Leland and Laundry.

Q How many trips did you make for Leland and Laundry that week?

A Two or three trips.

Q It takes about a day to make a trip, does it not?

A yes, it takes about a day.

Q Just about a day; and you brought up two or three loads to Leland and Laundry during that week?

A yes, sir.

Q Sure about that?

A yes, sir; pretty sure about it.

Q And you made a trip that took about two days up to Pyle's?

A A day and a half or two days.

Q What else did you do that week, Mr. Mason?

A Well, I dont know.

Q Did you do anything else that week?

A Not that I remember of, no.

Q Do any work around the farm?

A Probably doing the chores around there at night.

Q Anything else besides the chores?

A No, sir.

Q That is all you did?

A I think so, yes, sir.

Q Quite sure about that, are you not?

A No, I am not sure about it; I might have worked around there some.

Q What is that?

A Might have worked around the farm some.

Q These trips that you made for Leland and Laundry, your brother was with you during all of those trips, wasn't he?

A I think he was.

Q Quite sure of that?

A Yes, sir.

Q You never made any trips alone, did you?

A I never did.

Q Did you do any work on your father's birthday?

A No, sir.

Q That was a holiday for you, wasn't it?

A Yes, sir.

Q Didn't go up or down the river?

A No, sir.

Q Did you see Steve Adams the day before that?

A No, sir; I never.

Q Sure about that, are you not?

A Well, no, I am not sure about it, no.

Q But you don't think you saw him the day before?

A I don't think I did.

Q You are quite positive that you did not see him before that, are you not?

A No, I am not.

Q But, to the best of your memory, you don't think

A I dont think I did, no.

Q Do you know what you did that day?

A No, I dont.

Q Do you know whether you took a trip up or down  
the river?

A I dont think I did.

Q What do you think you did that day?

A I dont know.

Q You dont know what you think you did?

A I dont remember.

Q You dont know what day of the month your father  
started to Wallace, do you?

A No, sir; I dont.

Q Do you know about what date?

A well , it must have been the 16th or 17th; somewhere  
along there.

Q How long after you heard of the killing of  
Bonley did Steve Adams remain at your place?

A Two or three days.

Q Two or three days after?

A Yes, sir.

Q You dont know whether it was two or three?

A Something like that.

Q Sure it was not four?

A Yes, sir.

Q Quite sure it was not four?

A I dont think it was four.

Q Did you see him every day after that?

A After that?

Q Yes, sir.

A After Bouley was killed?

Q What did you do on the 21st, the day after you heard of the killing of Bouley?

A I think I went down the river.

Q You and your brother?

A Yes, sir.

Q What did you do the next day after that?

A I dont know.

Q Dont you remember what you did?

A No, sir; I dont remember.

Q Did you go to the head of navigation the 21st, the day you heard of the killing of Bouley?

MR. DARROW: If you remember.

A I dont remember, no, whether we went down that far or not, we went down the river, though, I think.

Q Do you remember how long you stayed there?

A We came back the same day.

Q Came back the same day. What time did you get back?

A Along in the evening some time.

Q It takes about seven or eight hours to make the trip, does it?

A Yes, sir.

Q And you dont know what you did the next day?

A Well, it was about that time we took Mr. Adams down the river.

Q About the next day you took Adams down the river?

A Sometime along there, yes.

Q Took him to the Little Falls?

A yes, sir.

Lloy a-on-X  
C-39

Q Did you not know what Steve was doing between that time and the time you took him away, do you; that is, between the time that you heard from Frank Price that Bouley had been killed, and the time that you took him away?

A Well, he was working there; I seen him at our place in the evening.

Q How many evenings?

A I don't know; once or twice.

Q Was he prospecting?

A He was not in the evening; he was at our place.

Q Did you see him prospecting?

A No, sir.

Q Did you go up and down by there?

A I went up and down by there.

Q What is that?

A Yes, sir.

Q How often?

A Once, I think.

Q Now was that on the 21st or 22nd that you went up?

MR. D. OW: I object; he did not say either one.

MR. K. HT: He said it was after that and before Steve went away, and he says he thinks he took him down the next morning.

MR. D. OW: From what?

MR. K. HT: From the 21st.

MR. D. OW: He has not told you the exact date.

THE C. T: He said "about".

MR. K. HT: I said he said about that date he took him down.

MR. DARROW: Yes, sir; he said "about"

THE COURT: Findout what this witness means.

MR. KNIGHT: Q Did you go up past Glover's place  
or prospect the 21st or 22nd?

MR. DARROW: The witness has not said he went  
on either day.

Objection overruled. Defendant excepts and exception  
allowed.

I dont know; along there.

MR. KNIGHT: Q You know you went by there between the  
time that you heard from Frank Price that Bouley had  
been killed, and the time you took Steve away, dont you?

A Yes, sir.

Q How many times, do you know?

A No, I dont.

Q Do you know whether you went more than once?

A I know I was up by there once.

Q What were you doing up there?

A Well, just going up there by it.

Q Going up there by it?

A Yes, sir.

Q With whom?

A With my brother.

Q What did you go up there for?

A I dont know; just going up by there.

Q Were you hunting?

A No, sir; fishing, I think.

Q You were fishing that day; what time did you start  
fishing?



A I dont know.

Q What is it?

A Some time in the morning.

Q Some time in the morning. How long did you remain fishing?

A An hour and a half or two hours.

Q About an hour and a half?

A Yes, sir.

Q And while you were out fishing you saw these fellows, did you?

A I did.

Q Working on the prospect?

A Yes, sir.

Q Was it that same day that you took them down the river?

A No, sir.

Q What day was it after that that you took them down the river?

A The next day or the day after.

Q The next day or the day after?

A Yes, sir.

Q Then the 21st you went down the river in the morning to the head of navigation, or some where down there?

A Yes, sir.

Q Got back in the evening?

A Yes, sir.

Q And the next day you went fishing, did you?

A Yes, sir.

Q You saw Newt Glover?

A Yes, sir.

Q And Steve Dixon?

A yes, sir.

Q And the next day or two after that you took him down the river?

A Yes, sir.

Q Now, what did you do the day that intervened, if there was a day that intervened?

A Well, I dont know; I think we took him down the river the next day.

Q You think you took him down the river the next day?

A Yes, sir.

Q What did you do the afternoon of the day you went fishing?

A Didnt do anything.

Q Didnt do anything that day?

A No, sir.

Q How many fish did you catch that day?

A I dont know.

Q You dont know. Do you know whether you caught any or not?

A Yes; we caught a few.

Q What kind?

A Trout.

MR. DARROW: I object to that; that is about far enough.

THE COURT: I think it is very immaterial.

MR. KNIGHT: We will release the witness.

RE-DIRECT EXAMINATION.

BY MR. HEITMAN:

Q State whether or not you did any haying on your hay ranch in the summer of 1904.

MR. KNIGHT: I object as not proper re-direct examination and the question is leading.

Objection is overruled.

A Well, I dont know; I think I did, yes.

MR. DARROW: What is your answer?

THE COURT: He dont know.

The Witness: I think I did.

Q You think you did?

A Yes, sir.

Q Do you know about what time, with reference to your father's birthday, the haying was done?

MR. KNIGHT: We object to that because it implies it was done, the witness has not said it.

Objection sustained.

Q You dont know, then, whether you did any haying or not?

A I am not sure of it, no.

Q In making these trips on the river, do you know about how long it took you to make them?

A Well, it depends on how we was going.

MR. KNIGHT: We object to that question, because the witness has answered it took seven or eight hours to go out from his place to the head of navigation, and that it took between a day and a half and two days to make it to Pyle's place.

MR. DARROW: It would depend on the time of day he

would go, whether in the night or morning.

THE COURT: Yes, I think he has the right to re-examine.

A It always depends on where we was going.

Q About what time would you start in the day?

A At all times.

Q At all times?

A Yes, sir.

Q Well, you say at all times; cant you fix some time

A Well, sometimes we started early in the morning and caught the boat.

Q How early in the morning?

A Got down in time to catch the boat?

Q Well, how early?

MR. KNIGHT: I object to this question, because the time is not fixed and the question implies what their practice generally was.

THE COURT: He is asking about thisweek, if I understand him.

MR. HEITMAN: Yes, sir.

MR. KNIGHT: All right, if the question is confined to this week.

MR. HEITMAN: Q About how early did you start?

MR. KNIGHT: That week.

THE COURT: That week, the first of August.

MR. DARROW: I think the witness has a right to inquire his time of starting. There are two periods here inquired about.

MR. KNIGHT: It is entirely immaterial.

MR. DARROW: It is not immaterial

THE COURT: Go on.

A Three or half past some time.

Q When you would start at three or half past three in the morning, when would you get back home?

A Eleven or twelve o'clock.

Q Well, eleven or twelve o'clock, noon or night?

A In the forenoon.

Q In the forenoon. When you started evening what time would you get back?

A Left our place in the evening?

Q Yes, sir.

A Get back the next morning sometime.

Q About what time the next morning?

A Nine or ten o'clock.

Q Nine or ten o'clock. In making this trip to Pyle's, how was it made?

MR. KNIGHT: Not the question how they would make it, but how they did.

THE COURT: How you did.

MR. HEITMAN: Q When did you get up; about what time did you start?

A Well, we left there--

Q Left where?

A Left home along about noon, I think, and went down to the Head and back that evening, and then we went to Pyle's and back the next day.

Q You stopped at home over night?

A Yes, sir.

Q When you testified at Wallace about who was present at the birthday dinner, state whether or not you, at that time, had any recollection about Glover being there?

MR. KNIGHT: We object; the testimony is there for itself.

THE COURT: The objection is sustained. It is very evident that he did not have any recollection of it.

MR. HEITMAN: When did you think of it since?

MR. KNIGHT: We object; it does not appear that he ever thought of it since.

THE COURT: Yes, it does appear.

MR. DARROW: He testified to it.

THE COURT: He testified to it.

Objection overruled.

MR. KNIGHT: After reading the testimony of the other witnesses.

MR. HEITMAN: We object to those remarks. That can be argued to the jury.

THE COURT: Your remarks are objectionable. Go on and answer the question please.

MR. HEITMAN: Q Answer the question.

A What was the question?

(Question read)

A Well, I should think when I came up here, heard Mr. Price speak about it.

MR. KNIGHT: Heard Mr. Price speak of it?

A Yes, sir; about bringing the horse there.

Lloyd Mason RD  
C-47

MR. HEITMAN: Q     you remember about Glover's  
having brought the h     there?

MR. KNIGHT: We     ect, if your Honor please.

THE COURT: Obj     on sustained. He evidently  
remembers it.

WITNESS EXCUSED.

Thereupon, at re     at of counsel for defendant, the  
Court granted an adjo     nent until Monday, November  
18th, at ten o'clock.

At thistime the     y was duly admonished, as re-  
quired by law, offic     ere sworn to take charge of  
the jury, and the ju     etired in their custody, and the  
Court

ADJOURNED to Mor     November 18th, 1907, at ten o'clock,  
A. M.

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

STATE OF IDAHO,	)	
	)	
Plaintiff	)	
	)	
vs	)	No. 194
	)	
TSEVE ADAMS,	)	
	)	
Defendant.)	)	

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

THE COURT: Call the Jury.

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



Todd D  
A-2

OLIVER H. TODD,

A witness called on behalf of the  
defendant, being first duly  
sworn, testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q What is your full name?

A Oliver H. Todd.

Q Where do you live?

A I am living in Coeur d'Alene.

Q What is your business?

A Civil Engineer.

Q In what way; are you working for yourself or  
somebody else?

A I work for other parties.

Q Ever have any position over there in Coeur d'Alene?

A Yes, sir; I was city engineer there at one time.

Q Have you got a homestead up in Marble Creek?

A I had, in Marble Creek.

Q How long ago?

A I took that claim on, I think it was the 5th day of  
July, 1902.

Q Do you know Price's place at Mica Meadows?

A Yes, sir; adjoins mine.

Q Were you up there in the summer of 1904?

A Yes, sir.

Q Do you remember what time?

A I went there in 1904, May first.

Todd D  
A-3

Q When were you there again, if at all?

A I was there again twice in July and the latter part of June and July.

Q What time in July, if you know?

A I was there in the fore part of July and in the latter part of July.

Q I call your attention to the latter part; ~~max~~ where were you going?

A I was going, when I left there; the latter part of July, I was going back to St. Maries, and from there to work up near Tyson, Fernwood.

Q Could you fix it any more definitely than the latter part of July?

A I cant state the exact day.

Q Did you see Mr. Mason there?

A Yes, sir.

Q Anybody with him?

A I dont remember of seeing anybody with him.

Q What was his condition there at that time?

A He was lame, from an injury to his leg, as I understood.

Q Where was he?

A He was at Price's place.

Q What place was he at Mr. Price's?

A He was in the kitchen part of the house; where they eat; where the dinner table was.

Q Was he sitting down or standing up or what?

A He was sitting down in the rocking chair.

Q Do you know what was done toward getting him home that day, if anything?

Todd D  
A-4

1904  
1878

A Mr. Price agreed to let him have a horse to ride out.

Q Did you see him after that that day?

A No, sir, I dont remember of seeing him until it was a way late in the fall.

MR. DARROW: That is all. Oh, yes, there was one other matter I wanted to ask about: Q Were you familiar with the trails through that country at that time?

A Yes, sir.

Q How was the trail from Mason's ferry up to Mica Meadows?

A Well, it was hilly.

Q Describe it a little more particularly.

A In going over the trail from Mica Meadows, after about half a mile, to Mr. Price's house, you will strike into the hills and it is up and down hill for a mile and a half or more, and then you make a very steep assent of at least a thousand feet, get up on what we call Green Hill, and that is about the highest point. Then from there you can continue to go over the ridges and winding around through the bushes where the trail leads.

Q What kind of a trail was it in 1904?

A It was what we called a slow trail.

Q For what reason?

A Because it was hilly and difficult to make very good time over it.

Q How far do you call it from the river up to Mica Meadows?

A I believe it to be fully ten miles.

Q How long would it take an ordinary traveler to make that?

~~1874~~  
1874

Todd D  
A-5

A Well, an ordinary traveler, would take then four hours.

Q How many times have you gone over it?

A I guess twenty-five times.

Q Do you know the trail from here on to Marble Creek; Mica Meadows to Marble Creek; I mean up to the place where Mason and Simpkins' cabins are?

A Well, I know the trail to within about a half a mile; I know it as far as Mr. Russell's place; about a half a mile from there.

Q What sort of a trail is that

A Very difficult trail; very rough of it.

Q In what way?

A It was the steepest trail in all that country for a portion of the way.

Q Did you ever know or estimate how high it was at that point there? If you know; if you don't, no matter.

A I don't know of my own positive knowledge how far it is.

Q Which is the hardest trail, from Mica Meadows toward Marble Creek, or from Marble Creek toward Mica Meadows, the river?

A It was worse from Mica Meadows over to Marble Creek, over that old trail.

Q Do you know how long it would take for an ordinary man to walk from Mica Meadows to Marble Creek?

A I know how long it took me; I was over it a year ago this summer and we left Mr. Rice's place about half past seven, and it was a little after noon when we arrived

Todd D  
A-6

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1375

at Mr. Russell's place, about a half a mile from Mason's place.

Q walking or riding?

A We had horses, all of us; but we had to walk a good share of the way, on account of the steepness of the grade.

Q Who all were in your party?

A There were two cruisers; I dont know their names now; I cant recall their names; they were strangers to me.

CROSS-EXAMINATION

BY MR. KNIGHT: Q You say it was about ten miles from Mason's place on the river to Mica Meadows?

A Yes, sir; I believe it is ten miles.

Q Do you mean by the windings of the trail?

A Yes, sir.

Q Do you know about how far it is in a direct line?

A I dont know, no, sir.

Q You are a surveyor, are you not?

A Yes, sir.

Q Do you know those sections in there?

A yes, sir; I know the sections.

Q Can you estimate the distance in a direct line, from your knowledge of the sections?

A It could be estimated.

Q Well, could you do it conveniently now; tell about how far; not exactly, but about how far, Mr. Todd?

A I could if I had a map of it.

Q That map there does not cover it all, I presume; does it or does it not? It does not show the St. Joe. In your judgment could you tell about how far it is from Mr. Price's up to Mason's, in a direct line?

Todd D  
A-7

A From Price's to Mason's?

Q Yes, sir; in a direct line.

A To Mason's on the river?

Q Yes, sir; to Mason's on the meadow.

A I should think in a direct line it is not far from seven miles and a half.

Q Seven miles and a half?

A In a direct line, yes, sir.

Q Then the trail does not wind around perceptibly, does it?

A Yes, sir; indeed it does.

Q A good many windings could be gotten in with two miles and a half extra?

A Yes, sir.

Q Now, you say that the elevation there is about a thousand feet; do you mean above Marble Creek or above the St. Joe?

A Above Mica Creek.

Q What is the elevation of Mica Creek as compared to Marble Creek?

A I should think that there would be--well, I am not familiar with the fall in Marble Creek, as I never saw Marble Creek.

Q Mica Creek; I say, what is the elevation of Mica Creek? Is there a Mica Creek?

A Yes, sir; there is a Mica Creek.

Q What is the elevation of Marble Creek as compared to Mica Creek, on the Mason place?

A I dont know, I say; I am not familiar, with it.

Todd D  
A-8

~~1877~~  
1877

Q There is a Mica Creek over near St. Joe?

A Both; both Marble and Mica.

Q The question I meant to ask was, what is the relative altitude of Mica and St. Joe where Mason lives?

A Oh, I think there is a hundred feet difference between them.

Q Then the elevation or the ascent to this thousand feet is about the same on both sides of Green Hill, isn't it?

A Yes, sir; nearly the same.

Q Is it more precipitous on one side than the other?

A Yes, sir; it is more precipitous on the side next to St. Joe.

Q Next to the St. Joe?

A Yes, sir.

Q The other ascent is more gradual?

A The distance to the ascent is much more gradual.

Q And you think it would take about five hours to make that trip, four hours?

A It would take all of four hours.

Q It would take all of four hours? You say you have traveled in there with horses?

A Yes, sir.

Q Over those trails you can travel with about the same rapidity with horses or by walking, can't you? I mean to say, a horse does not increase your speed, ordinarily?

A It does in places, if a person understands how to get along.

Q How is the average; you have got to wait for your horse in going up the hill?

A Yes, I don't think there is much difference in traveling

Todd D  
A-9

~~1378~~  
1378

with a horse, with an ordinary person, and going a foot.

Q Just about the same. And the elevation between Mica Meadows and Russell's cabin; did you estimate that? Can you state what the elevation is between Mica Meadows and Russell's cabin?

A Between Mica Meadows and <sup>Russell's</sup> ~~Russell's~~ cabin, there is more elevation than there is, in my opinion, at Russell's cabin; we go down after we strike the Eagle Creek country.

Q Is it easier to make a trip from Mica Meadows to Russell's cabin or from Russell's cabin to Mica Meadows?

A I would think that it would be a little easier to go from Russell's cabin to Mica Meadows.

Q Have you made that trip?

A Yes, sir; I have made it.

Q How often have you made that trip?

A I never made the entire trip but once.

Q How is that?

A I never made the entire trip but once, the whole of the way.

Q You don't know, then, how long it would take to make that trip out from Russell's cabin to Price's cabin from the Meadows?

A Well, I was not far from the same time when I made the trip.

Q You think about five hours?

A I was a little less than five hours, I think, in coming out, and about five hours coming in.

Q You did not have any luncheon along the road or anything of that kind?

A No, sir; took breakfast.



Todd D  
a-10

~~1000~~  
1000

Q How far do you think that is?

A Well, I would think that was close in the neighborhood of eight miles.

Q Then you make less than two miles an hour there, do you?

A Yes, sir.

Q And you think that is about as rapidly as it conveniently could be traveled?

A I think it is as rapidly as it could be conveniently traveled over; that kind of a road.

Q I mean that road that is there?

A Yes, sir.

Q You were there last summer?

A Yes, sir.

Q What was the condition of that trail then, as compared with 1904?

A Well, in 1904--

Q Were you there in 1904?

A No, it was earlier than 1904; it was 1903 when I went part way.

Q Were you over that part of the trail in 1904?

A No, sir.

Q What was the condition of the trail from Mica Meadows out to the St. Joe River last year, as compared with its condition in 1904?

A Last year?

Q Yes, sir.

A It was much better last year than it was in 1904.

Q It was much better last year than it was in 1904?

A Yes, sir.

Q Straightened out some?

Tood D  
A-11

~~1380~~  
1380

A Yes , it has been cut out; the logs cut out of it.

Q The logs had been cut out of it?

A Yes, sir; this is last year.

Q You think it would be possible to make that trip in about two hours?

A Is it possible?

Q Yes, sir.

A No, sir; I dont think it is possible for any ordinary man to do it?

Q Would you swear that it is not?

A I dont know what it is possible for some men to do; I will swear it is not possible for me to do it.

Q You swear it is not possible to make the trip from Russell's cabin out to Mica Meadows, to Price's cabin ther e, in an hour and a half?

A From where?

Q From Russell's cabin to Mica Meadows, Price's stopping place?

A I dont believe it to be possible.

Q You dont believe it to be possible?

A No, sir; I dont believe it to be possible.

Q You have never lived in there very much?

A No, sir.

Q You would not be able to say whether these people who live in there do ordinarily make it out in that time or not, do you?

A From what I have known of the people, of their conversation--

Q (Interrupting) Well, I dont want to know of their conversation.

A That is the only manner I could say; I dont know, then.

Q You would not be able to say whether they do or not?

A I would not be able to say.

Q And you would not be able to say whether or not the people who live in there do usually make it out from Russell's cabin to Price's cabin, to Mica Meadows, to Mason's place, in less than two hours and a half, would you?

A People living in the Marble Creek district?

Q Yes.

A As far as my knowledge is concerned, they dont make it in any such time.

Q Would you be able to swear that people do not make it in that time and cant make it in that time?

A I am willing to swear I never went through with any person that made it in that time.

Q Then, you have been through on the Marble Creek trail, to Mica Meadows, from St. Joe, about twenty-five miles?

A Yes, sir; in various trails.

Q And the other way you have been through just once?

A Yes, sir; just once; well, twice, part of it.

Q Now, there are a number of trails running through there, are there not, from Marble Creek to St. Joe; some trails that do not touch--

A (Interrupting) There are two main trails--

Q (Continued)--there are some trails that do not touch at Mica Meadows, are there not?

A The main trails, as we go now, dont touch Mica Meadows.

Q Is that more direct?

A Yes, sir.

Todd X  
A-13

~~1043~~  
1383

Q What is the distance from Marble Creek to St. Joe over this more direct trail; approximately, as nearly as you can give it?

A I think that is called about twenty-five miles.

Q About twenty-five miles?

A Yes, sir; I think they say that way; that is it from St. Joe.

Q I mean to Mason's cabin, not to the head of navigation.

A It dont touch Mason's cabin.

Q It dont touch Mason's place?

A No, sir.

Q There are toher trails running through from Marble Creek to Mason's place, are there not, or near there, above there?

A There are branches-- Well, I dont know about that.

Q You dont know these other trails?

A I dont know the branches; I am not personally acquainted with them.

Q What would be the distance, approximately, on a direct line, from Mason's place on the river to Mason's place on Marble Creek?

A Well, I could not tell you.

Q You say it is about seven miles and a half from Mica Meadows on a direct line?

A Straight line, yes, sir.

Q Now, what would it be from Mica Meadows on to Russell's cabin, to Mason's, on a direct line?

A I am not able to tell, because I dont know just where Russell's cabin is in regard to the sections.

Q You go over Huckleberry Mountain, dont you?

A Yes, sir.

Q And the ascent is chiefly on the side from Mica Meadows going up?

A That is the first one, yes, sir.

Q How long would it take to come down that mountain?

A Well, you can come down that steep part pretty quick.

Q In about ten minutes?

A No, no, sir, unless you want to die.

Q Twelve?

A You can come down in about twenty-five minutes, or twenty minutes; about twenty-five minutes; I have tried it fifty times.

Q Tried it fifty times?

A Yes, sir.

Q Tried to make time?

A Yes, sir.

Q I understood that you had not been in there but once?

A Well, about a year ago this last summer I was on the fire patrol, and stationed on my own place, and my duties called me every morning to go to the top of Huckleberry hill, Huckleberry Mountain, up the first ascent, about perhaps a thousand feet high, and that is why every morning all summer I had to climb that.

Q You think about twenty-five minutes is about as rapidly as one can come down that mountain, do you?

A Yes, sir; my time in coming down that mountain by my watch was from twenty-three to twenty-five minutes, with the aid of my horse to get down. I have tried it a great many times.

Todd X  
B-1

~~1904~~  
1884

Q How old are you, Mr. Todd?

A I am sixty.

Q Didnt want to take any chances, then?

A No, sir; no chances.

Q You say you saw Mr. Mason at Price's cabin the latter part of July, 1904?

A Yes, sir.

Q Can you fix the date more definitely?

A It was near the last of July, cant positively state what date.

Q Do you know whether it was July or August?

A Yes, sir; I know it was July, because I went from there back to St. Maries and back to Tyson and was at Tyson to commence my work there the last day of July or the first of August, I have forgotten which.

Q You are sure then, it was July you saw Mason?

A yes, sir; it was July.

Q Anybody else there?

A Phill Laundry, Andrew Leland and Mr. Price was there with them.

Q Have you been on Marble creek this year?

A No, sir.

Q Dont know what the condition of the trails are now?

A No, sir, I dont.

WITNESS EXCUSED.

Mrs Nellie Kildee-D  
B-2

~~3~~  
1885

M NELLIE KILDEE,

Being called and duly  
sworn as a witness on the  
part of the defendant, testi-  
fied as follows:

BY MR. DARROW

Q What is your name?

A Mrs. Nellie Kildee.

Q Where do you reside?

A Walla.

Q Did you have a homestead up Marble Creek?

A I have.

Q Were you up there in 1904?

A Yes, I was.

Q In 1905 were you there?

A Yes, I was.

Q What did you go up in 1905?

A I went up in June, and I went up again in October.

Q What were you doing in October?

A I went up there the last of October.

MR. KNIGHT That was 1905?

A Yes, I was.

Q Did you see Harry Orchard on that trip?

A Yes, I did.

Q Where was he going?

A Why, the last I saw of him he was at the hotel.

Q Where was that?

A At the Joe Hotel.

Q Who was with him?

A Jack Perkins.

B-2 I

Q Where did they come from?

A They were on the boat when I got on at Harrison.

Q Going up?

A Going up.

Q Do you know what time of day you saw them at the hotel?

A I saw them at breakfast time.

Q Do you know where they went?

A They stayed---

MR. KNIGHT: Object to that.

THE COURT: Can state in what direction.

Q Do you know what direction they went?

A We were starting for our homesteads, or I did, and they did, too.

Q Which way was the homestead?

A It was in Marble Creek.

CROSS-EXAMINATION WAIVED.

WITNESS EXCUSED.



~~1917~~  
1917

Frank Price-D  
B-~~8~~ I

FRANK PRICE,

Being called and duly sworn as  
a witness on the part of the  
defendant, testified as follows:

by mr. mCbee;

Q What is your name?

A Frank Price.

Q Where do you reside?

A Spokane.

Q Did you ever live in Marble Creek?

A No, sir.

Q Did you ever live up in the St. Joe country  
at all?

A Yes, sir. Lived at Mica Creek.

Q Where is that?

A Fifteen miles from the head of navigation on  
the St. Joe River.

Q What were you doing up there?

A Homesteading.

Q When did you move up there?

A 1901.

Q Settled on the homestead in 1901?

A Yes, sir.

Q Where was that homestead?

A Section 33-45-2, E.

Q How long did you live there?

A Four years.

Archives  
University of Colorado  
at Boulder Libraries

Price-D  
B-5 L

Q Did you obtain title to your land?

A I have.

Q Under the homestead laws?

A I commuted.

MR. KNIGHT: I object to that.

THE COURT: Objection sustained. It doesn't make any difference.

MR. DARROW: Not very dangerous, is it?

MR. KNIGHT: I don't think it's, but don't want to investigate the entire world here.

MR. DARROW: It is not worth an objection, either.

Q Where did you live before going to that country?

A I lived at St. Marie's about four or five months.

Q Where did you live prior to that?

A Michigan.

MR. KNIGHT: I object.

THE COURT: Objection sustained.

Q Now, what were you doing, what did you do up there?

A Well, I had a hotel and a livery, pack train and livery rigs.

Q What were your duties with reference to running a pack train and livery? What did you do?

A I looked after the horses.

Q Where did you run this pack train, where from and where to?

A From the Meadows to St. George through to Gordon, Mason's place, and from the Meadows to a great many camps, packing in supplies into the woods.

price-D  
B-6 L

~~1889~~  
1889

Q Your place is what is known as "Mica Meadows"?

A Yes.

Q Where was that with reference to what is known as "The Marble Creek Country"?

A It is about ten miles south of Marble Creek.

Q In going from Marble Creek to the St. Joe River, how did the settlers travel, with reference to your homestead?

A Wait just a minute. I didnt get the first of that

Q In going from the Marble creek country to the St. Joe river, how did the settlers travel with reference to your homestead?

A The first three years they all passed right by my place. The only trail for the first three years was right through my place.

Q Do you know who built that trail?

MR. KNIGHT: We object---

A I do not---

MR. KNIGHT: Wait, we object.

THE COURT: Objection is sustained.

Q When was that trail constructed, if you know?

MR. KNIGHT: Object to that as entirely immaterial---

A In 19-----

MR. KNIGHT: Wait, we object.

THE COURT: The objection is sustained: can show it was in use in 1904.

Q Do you know Alva Mason?

A Yes, sir.

Q When did you know him?

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A I met him first in 1902.

Q Where?

A At the meadows.

Q Where was he living at that time, if you know?

A He was living near to Gordon---

MR. KNIGHT: We object.

THE COURT: Objection overruled.

Q What is your answer, Mr. Price?

A Near Gordon.

Q What was he doing?

A Packing from there up through to Marble Creek.

MR. KNIGHT: Mr. Price, dont answer until the Court rules, when I object.

THE COURT: No, dont answer so quickly. I overrule the objection.

A He was working back and forth on the trail, taking supplies to his homestead on Marble Creek.

Q He had a homestead on Marble creek?

A He said he had.

MR. KNIGHT: I object to that.

THE COURT: Objection sustained and the answer stricken out. Do not answer when he objects until the Court rules on it.

MR. DARROW: He is sure to object every time.

Q Where was his home at that time, if you know?

A Mr. Mason's?

MR. KNIGHT: We object.

THE COURT: Objection is overruled.

A Near Mason's--- near Gordon's, what is called

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Gordon post office, and it is right on the river near Gordon's.

Q Do you know Newt Glover?

A I do.

Q How long have you known him?

A Since the spring of 19-- May or June, 1901.

Q Where did you know him?

A I first met him at St. Maries.

Q Where was he living when you knew him?

A I dont know he was living any place, but he did have a home up the river. He was driving stage. There was a stage line from St. Maries at that time.

Q Were you familiar with the country in 1904?

A I was very familiar with any parts that I traveled.

Q Where was Mason at that time, in 1904?

A Well, he used to go frequently up past my place, up to his homestead on Marble Creek.

Q Did you see Newt Glover in that country in 1904?

A yes, sir.

Q Where was he?

A First time I seen him in 1904, was at the time he and Tom Gleason came down and told me the jumpers had taken---

MR. HAWLEY: Wait. We object to conversation.

THE COURT: Yes.

MR. McBEE: yes.

Q When was that?

A That was April, 1904.

Q Where was it?

A At my place.

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Q Where did he come from, if you know?

A He said he came from his place---

MR. KNIGHT: Wait, we object.

Q What direction did he come from?

A Marble Creek direction.

Q Do you know what business he had up in the Marble Creek country?

A Holding down a homestead, he claimed.

Q Did you know Jack Simpkins in 1904?

A I did.

Q Where?

A I met him at the Meadows in 1904.

Q What business was he engaged in, if any, if you know?

A Holding down a homestead.

Q Do you know where these homesteads were, held by Mason and Simpkins?

A Only from description.

Q Where were they, with reference to your place?

A Let me see. Seven-- oh about eight or nine miles northeast of my place, near Marble Creek. I think it was about northeast.

Q Describe Jack Simpkins, as to his personal appearance

A Jack was a man about 180 or 90 pounds, should think about 190, heavy shoulders, stoop shoulders; perhaps five feet six inches tall; black mustache, kind of a prominent nose.

Q Eyes?

A His eyes, I think, were dark, had very prominent teeth.

Q Did you know Fred Tyler?

A No, sir.

Q Did you see him, know him by sight?

A Never seen him to my recollection.

Q Did you know Bouley?

A I did.

Q And Archie Phillips?

A I saw Archie Phillips once, ~~xxxx~~ before I saw him in March last winter.

Q Did you see him in the Marble Creek country?

A No. I saw Archie Phillips when he and another man came into my place, disguised themselves and came in to buy some sandwiches. I didnt know it was them of course, they were jumpers, or I wouldnt have let them have them.--

MR. KNIGHT: We object.

MR. HAWLEY: We object.

THE COURT: Objection is sustained.

Q Do you remember when the alleged jumpers came into that country?

A I dont.

MR. KNIGHT: I object.

MR. McBEE: I am not calling them jumpers. The testimony of the prosecution all the way through shows they were jumpers--

MR. KNIGHT: I am objecting, Mr. McBee. I would like a chance to argue this.

THE COURT: Wait, Mr. McBee, I will give you plenty of opportunity. What is your objection?

MR. KNIGHT: That it calls for hearsay testimony

THE COURT: Objection is overruled. There has been a

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good deal about alleged jumpers; been got in one way or the other.

A Yes, sir; I saw them on their first trip in there. They camped on the edge of the woods on my daughter's claim.

Q Mention their names?

A Why, there was two Chambers's, Clarence and Jack Chambers, Ed. Bouley, a man by the name of Conley, and one named Powell, and the others I dont know their names if I did I have forgotten now.

Q Did you mention Griffiths?

A Griffiths was not with them then.

Q Do you know Griffiths?

A Yes.

Q Was he up in that country that year?

A Yes, later.

Q Is he one of the alleged jumpers?

A Yes, sir.

Q You mentioned Phillips?

A He stayed at my place, he and his father, when I went in.

Q Who are you speaking of now?

A Griffiths. But I hadnt learned yet they were jumpers, going to jump claims---

MR. KNIGHT: Now wait, I object.

THE COURT: Just wait, Mr. Price. It is objectionable. You are not allowed to talk about it.

Q When did you see Phillips, if you know?

A I never saw Phillips except the day he came in there



to buy the sandwich.

Q Were they accustomed to stop at your place after you learned they were jumpers?

A I should say not.

Q Why?

MR. KNIGHT: We object to---

A Why----

MR. KNIGHT: We object.

THE COURT: Objection is sustained.

Q State whether or not these men you are speaking of went armed when you saw them?

A All the time.

MR. KNIGHT: We object to the question as to whether a all these men went armed or not as entirely immaterial and irrelevant, whether that crowd went armed or not has simply nothing to do with this inquiry. Powell, Chambers, all that crowd, are not connected in any way with this controversy.

MR. DARROW: Might throw some light on how this all happened.

THE COURT: The objection will be sustained.

Q Well, cut out of that question the Chambers boys and I will ask you in regard to Bauley, Phillips, Griffiths and Tyler, whether they or any of them went armed in that country?

THE COURT: Objection---

MR. KNIGHT: We object.

THE COURT: Objection will be sustained because he says he never saw Tyler.

Q Well, cut Tyler out. Did the others go armed?

MR. KNIGHT: I object to that.

Q State whether or not Phillip and Bouley went armed in there at the time you say, at all?

A They were.

Q How were they armed?

A They-- They took pains to display their arms; they packed a big revolver on the side, a belt of cartridges and generally carried a rifle besides; took much pains to display their arms---

MR. HAWLEY: We ask that that part be stricken and the witness instructed not to volunteer any statements.

THE COURT: It is stricken out. and you are warned and requested not to volunteer any statements, and more especially your own actions and your motives. You have been warned before and you will be guilty of contempt pretty soon if you do not follow the directions of the Court.

Q Do you know the defendant, Steve Adams?

A I do.

Q Where did you first see him if you know?

A Why, it was just after the 4<sup>th</sup> of July, 1904.

Q Where?

A At the Meadows.

Q Do you remember the time of day you saw him?

A No, I can't remember whether.

Q Where did he come from?

A Came from St. Joe country; that is, from the river.

Q From that direction?

A Yes, sir; from outside.

A Anybody with him?

A Yes, sir.

Q Who?

A Jack Simpkins.

Q Do you know what he was doing up in that country?

A No.

Q What did he do when he came up there that particular day?

A Well, they got some supplies and said they were going---

MR. KNIGHT: Now, we object to that.

THE COURT: Dont state, Mr. Price. You know what they said is objectionable. I do not think it is wilful on your part. You can state what direction they went.

A Well, they went towards Marble Creek.

Q Who?

A Adams and Simpkins.

Q Did you see them after that in that country?

A Yes.

Q When?

A Oh, perhaps about the middle of the month of July.

Q About the middle of July?

A I think so.

Q Where?

A At the Meadows.

Q Where did they come from?

A Marble Creek.

Q Did you see anybody with ~~them~~ him?

A I said Simpkins was with him.

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Q Where did they go from there?

A Went round by the new 'jumper' trail, back to Marble Creek.

Q Went back to Marble Creek?

A Yes, sir; by the 'jumper's' trail.

Q State when you next saw them?

A I dont think I saw them any more that month.

Q Not in July. Did you see him in August?

A Yes, I saw him around the fore part of August.

Q Do you know the Russell family?

A Yes.

Q About that time did you see Joe Russell or any other members of the family?

A Yes.

Q Where?

A I saw Joe and his brother and sister at the Meadows.

Q What were they doing there?

A They came over to get some horses---Joe came to get some horses and went up to his homestead and took his brother and sister out.

Q Who was with Joe Russell at that time, if you know, when he got these horses to take them---

A Well, when he got the horses-- I didnt see him when he came there for the horses.

Q Did you see him before he left?

A I saw him in the morning. He had to wait. I was out at the camps delivering supplies, round all the camps. He had to wait for the horses until I came. He got the horses next morning.

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Q He got the horses next morning?

A Yes, sir.

Q Was there anybody there at that time?

A Yes, sir; Jack Simpkins was there.

Q What did Joe Russell do after he got the horses?

A Went towards Marble creek.

Q Did anybody else go towards Marble Creek at that time?

A Jack Simpkins went with him.

Q Jack Simpkins went with him?

A Yes, sir.

Q Do you know when you saw Russell after that time?

A I saw him the same day when he came back with his brother and sister to The Meadows.

Q Did Simpkins come back with him?

A I dont think he did.

Q What did Joe Russell and his brother and sister do after they came back?

A I took them to Mason's that afternoon, to Mason's place on the river. They--

THE COURT: Dont volunteer anything.

Q Do you know where they went from Mason's place?

A They went down the river.

Q Did you take them down?

A No, sir.

Q Do you know who did?

A Yes, Orville Mason.

Q Do you know what date that was?

A No, I dont know that.

Q What--- Give your best recollection.

A Well, it was there round the last of July, or the first of August. I dont remember exactly. I didnt have any record of it.

THE COURT: Speak loud, if you please, so the reporter can get it.

A All right.

Q On that day that you spoke of that Joe Russell got the horses at your place, do you knowwhether any of your horses were taken away in your absence?

MR. KNIGHT: Objected to as leading.

THE COURT: I shall overrule the objection.

MR. McBER: Simply to fix a date.

(Question read)

A I know there was not.

Q On the day before?

A The day before there was one taken.

Q What kind of a horse was it?

A White horse.

Q What was his name, if you know?

A Why, I think we called him Bert.

Q Where did you find that horse afterwards?

A At Mason's.

Q Do you know of your own knowledge who took him from your place to Mason's?

A Oh no, only from what I heard.

Q Who took him back?

A I did.

Q When?

A When I went out with the Russell family and

stayed over night.

Q Now,--oh by the way what name was defendant going by in that country, what name was he known by?

A Who is that?

Q The defendant?

A Oh, why, either Dixon or Dickison, I dont remember now whether Dixon or Dickison.

Q When did you first see him in the month of August, about when?

MR. KNIGHT: I dont believe it has appeared he saw him in August.

MR. McBEE: Oh, yes, it does. I will ask him, though, to comply with your objection.

Q Did you see Steve Adams, known as Steve Dixon there, in the month of August, 1904?

A Yes, sir.

Q When and where?

A Most every evening I saw him at Mason's; him and Newt Glover at Mason's.

Q During that time how often were you at Mason's?

A I think I was there every evening along there for quite awhile, nearly every night the last of July and first of August.

Q How were you conducting your business at that time so that you--- explain how you happened to be there at Mason's?

A The feed was better at Mason's than at The Meadows, and I went there to let my horses have the benefit of the good feed.

Q How did you come to be there?

A I would load up in the morning and go on to Mason's for dinner and come back to Mason's, except days I went out, had to go out in the woods to deliver supplies to the camps. They would come in and leave orders and I had to deliver them supplies.

Q Now, with reference to Alva Mason, do you know where he was that summer?

MR. KNIGHT: Alva Mason is the old gentleman?

MR. McBEE: The old gentleman.

A Well, up until about this time he traveled back and forth to the Marble Creek country a good deal.

Q Did you see him at your place during that summer?

A Yes, he always stopped the

Q Can you mention any particular time you saw him in July?

A Well, I don't know as I do-- I don't know as I remember any particular date.

MR. McBEE: I would like to suggest about as to his physical condition during the month of July or August.

MR. KNIGHT: What is your suggestion.

Q Do you know whether he was fit?

A I am waiting for that question to be asked. I have been objected to everything I have been asked and I am waiting.

MR. KNIGHT: And I object to that.

THE COURT: Objection overruled.

MR. KNIGHT: I don't object to that question. I object to the witness volunteering these remarks.

A I have not answered anything that has not been objected to.



MR. McBEE: He has been cautioned repeatedly and wants to be cautious.

MR. KNIGHT: We have no objection to this question at all.

MR. McBEE: As to Mason's getting hurt.

THE COURT: That is all right.

A Yes, sir.

Q What do you remember about it?

A I remember he came there, crippling up to my place, came and sat down in the kitchen and said--

MR. KNIGHT: Now, wait. I object to that.

MR. McBEE: What he said is not competent.

Q Where did he come from?

A Down the Marble hill.

Q How did he come?

A Afoot.

Q Now, about his condition?

A He came along leaning on a stick as big as my arm, poking along up to the house.

Q Do you know Mr. Todd?

A I do.

Q Do you know whether he was there at that time?

A Why, I don't think he was there when Mason came

Q Do you know whether he was there while Mason was there?

A Yes, sir; he was.

Q Was he there with Todd?

A Todd was there while Mason was there.

Q How did Mason leave your place?

A I sent him out on a horse.

Q Whose horse?

A My horse.

Q About what time was that, with reference to the day Joe Russell and his sister went out with your horses?

A Why, I think it was before--- a few days before.

Q Well, now, you said that during the first part of August you frequently saw the defendant, Steve Adams?

A I did.

Q Known as Steve Dixon?

A I did.

Q Where?

A Some times at Mason's.

Q Did you see Newt Glover after that time?

A I did.

Q Where?

A Saw him at Mason's and at his home.

Q Did you have any business transactions with Newt Glover at that time?

MR. KNIGHT: We object to that.

THE COURT: Objection is sustained.

MR. DARROW: It is just for the purpose of fixing a date.

MR. McBEE: It is just for the purpose of fixing a date- I dont want to ask---

THE COURT: Go ahead then.

MR. KNIGHT: I dont care about that.

A I did, I--

MR. KNIGHT: Dont say any more. That is an answer to his question.

Q Where did you transact business with him?

A At his house.

Q When?

A On the sixth of August.

Q How do you fix that date?

A Because it was the day before the seventh.

MR. KNIGHT: Now, that---

MR. MOBERG: Wait a minute. The gentleman was objecting again.

THE COURT: The objection will be overruled.

A Because it was the day before the seventh.

Q How do you fix the date of the seventh?

A Because I registered at O'Neill's hotel on the seventh, at the hotel.

Q Who was at Glover's place when you were there?

A There was Myrtle Mason, Steve Adams and Glover.

Q How did you go to Newt Glover's place that day?

A Went horseback.

Q What time of day?

A About six or half past six or seven o'clock.

Q Anybody go with you?

A Myrtle Mason went with me.

Q Did you know anything at that time, or do you remember anything as to the condition of Mason's hay harvest at that time?

A Well, I don't remember just how it was. I know that the meadow had been cut where we rode through. I don't remember whether there was any hay out yet or not.

Q Was there anything said at that time, if you recollect, in the presence of the defendant, Adams, in

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regard to Mason's birthday?

MR. KNIGHT: We object to that as entirely incompetent as to what was said at that time.

MR. DARROW: That's not the question. The question is, was there anything said.

MR. KNIGHT: Well, the question is leading, I object for that reason.

THE COURT: Objection overruled.

Q Answer.

A Yes, sir. Myrtle asked---

MR. KNIGHT: Wait, I object.

Q What was said?

MR. KNIGHT: I object to that.

THE COURT: Objection sustained. What was referred to.

Q Was the day of his birthday referred to in that conversation?

A Only "tomorrow"; referred to in that way.

Q Where were you when you saw them at Glover's place? I am referring to Newt Glover and Steve Adams, where they were and what they were doing?

A They were right across the river. Newt walked down to the bank, stopped and talked to us, Myrtle and I awhile. I bought a pair of horses from him. Then I rode back and talked to Adams a little where he was splitting wood right in front of the house. Myrtle talked---

Q About how long did you stay there?

A Perhaps twenty or thirty minutes.

Q What day was that exactly?

A The sixth of August.

Q What year?

A 1904.

Q Where did you stay that night?

A Stayed at Mason's.

Q What did you do next day?

A I went to The Meadows.

Q Do you know Mrs. Henkle?

A I do.

Q Did you see her the next day?

A I did.

MR. KNIGHT: We object to that as entirely immaterial, whether he saw Mrs. Henkle or not; we are not inquiring whether this man was at the head of navigation on the seventh or not.

MR. McBEE: We are.

MR. KNIGHT: We dont care whether he was or not.

MR. DARROW: Is it not material if he went to the head of navigation on the sixth of August?

MR. KNIGHT: He has already testified he went there and registered on the seventh of August. We dont question it.

THE COURT: I overrule the objection, I dont know whether it is material or not; it may be and may ~~be~~ not.

Q Well, where did you go?

THE COURT: He can answer that question about seeing Mrs. Henkle.

A I did see Mrs. Henkle.

Q Where did you go that day after you got to the Meadows?

A I went back to Mason's.

Q State what day it was?

A Sunday, the seventh of August.

Q Where did you go now after you---

A I went with Mrs. Henkle from The Meadows to  
Mason's.

Q About what time did you get to Mason's, do you  
know?

A About six thirty or seven in the evening.

Q What time did you leave The Meadows?

A About three o'clock.

Q Then where did you go from Mason's place?

A I changed horses at Mason's and went to St. Joe.

Q What time did you get there?

A Ten o'clock.

Q What did you do when you got there?

A Ate supper and went to bed.

Q Where did you go to bed?

A At O'Neill's.

Q What is the name of his hotel?

A St. Joe.

Q Did you register at that hotel?

A I did.

Q State, if you know, whether Mrs. Henkle registered?

A I saw her name on the book when I registered.

MR. McBEE: You have seen this before, Mr. Knight.

(Referring to book in his hand)

MR. KNIGHT: Yes.

MR. McBEE: Do you want to examine it now?

MR. KNIGHT: No.

THE COURT: It will be admitted.

Q Do you know what book this is? Look at it and see.

(Book handed witness)

A I know I registered at that time without glasses. I guess I couldn't see what--- (Witness examines the book)

A Yes, I know the book, and I know that's my handwriting.

Q Do you know whether that's your signature?

A I didn't have any glasses. I says "I don't see this." He says: "It don't make any difference as long as you get your name down."

THE COURT: I suppose ~~all~~ you want to put in evidence these two entries.

MR. KNIGHT: What two entries?

Q You know the signature of Mrs. Henkle?

A Yes, sir; I do.

MR. KNIGHT: There is no date of the year on this.

MR. McBEE: Mr. O'Neill will be here.

THE COURT: You better let the reporter take it after you get through and make such entries as you desire.

MR. KNIGHT: Yes. We shall not object to it.

MR. DARROW: We will have Mr. O'Neill here---

MR. KNIGHT: Mr. O'Neill don't need to be here. We admit that this is his register now.

THE COURT: The State says you don't need to have Mr. O'Neill here, Mr. Darrow.

MR. KNIGHT: No, we admit this is his register all right.

Q Well, what did you do the next morning?

THE REPORTER: Do I understand that this is offered now?

THE COURT: It is admitted and you will make the entries when they get through.

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MR. McBEE: I think we will identify it as the signature of F. Price at the St. Joe Hotel under date of Sunday, the seventh; also the signature of Mrs. E. K. Henkle, of Moscow, Idaho, the same date.

Q Where did you have breakfast that morning?

A At the St. Joe Hotel.

Q Anybody eat breakfast with you?

A Mrs. Henkle.

Q Did you see the defendant that morning?

A I did.

Q Where?

A At another table right at my left hand.

Q What was he doing?

A Eating breakfast.

Q Anybody with him?

A Yes, sir.

Q Who?

A Newt Glover.

Q Newt Glover?

A Yes, sir.

Q What was he doing?

A Eating breakfast.

Q Have any conversation with him at the breakfast table?

A I did.

Q Where did you go after finishing breakfast?

A Went down to the boat.

Q What boat?

A The Spokane.



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Q How do you know it was the Spokane?

A I learned since that Captain Laird was on the boat; I didnt know at the time which boat he ran.

Q You mean Eli Laird?

A Eli Laird.

Q Did you see him that morning?

A I did.

Q You say he was Captain of this boat?

A Yes, sir.

Q Do you know if the defendant, Adams, saw Captain Laird on the dock with you that morning?

A He did.

Q How do you know?

A I called Eli Laird and told him there was a brother Missourian of his going down on the boat with him.

MR. KNIGHT: I ask that "brother Missourian" be stricken out. It was done to influence the jury, if there is a Missourian on this jury--- I think that ought to be stricken out.

THE COURT: It is, stricken out.

Q Where did Steve go, if you know, that morning? What was the last you saw? ---

A Whats that?

Q What was the last you saw of Steve that morning, where was the last you saw of him?

A On the dock.

Q State whether or not you remained on the dock until the boat left?

A Yes, sir.

Q What became of Mrs. Henkle, if you know?

A She returned on the boat.

Q Where did you go?

A I went back to Mason's.

Q Did you see Steve Adams after that?

A I don't remember if I did.

Q What did you do during the remainder of the month of August?

A Why, as usual, I carried-- conveyed people ~~from~~ over the trail ~~thexkxax~~ back there to The Meadows, and from The Meadows to the cabins.

Q Do you remember of hearing of the death of Bouley?

A I do.

Q When did you hear of it?

A At Hugus's--- right opposite Hugus's house, in the trail.

Q Where is Hugus's?

A Opposite Mason's house.

Q Be exact about where you heard it.

A Where the two trails come together, one from Mason's and one from St. Joe, at the junction of these two trails I met Andrew Blume.

Q Who did you hear it from?

A Andrew Blume.

Q What did you do when you heard it?

A I left the pack horses to go up the trail and I got back to the river.

Q Who did you see there?

A I saw Mason and some of his family I don't know

whh ones, across the river at his house.

Q What did you do?

A I holloed to them that Bouley was dead.

Q Did you see Newt Glover in Marble Creek country  
aer that, or--- well, was he in and out there during  
t month of August, 1904?

A No, I dont think I did.

Q When did you see him, if at all?

A Well, I saw him later in the fall. He come there  
wh a pack horse and stuff, going to his cabin, and I saw  
h ~~nearby~~ once later than that in the season.

Q When?

A I dont remember just when, I had seen him with  
e horses.

Q What time was it, with reference to August and  
ptember?

A I think it was late in September.

MR. KNIGHT: Late in September?

A I think so.

Q Did you see him up in the Marble Creek country, or at your place at any time between the time that he came out and the time that you heard of the killing of Bouley?

A No, sir.

Q Mr. Price, were you ever arrested for the killing of Bouley?

A I was; held in jail seven days.

MR. KNIGHT: I wish you would answer the question.

THE COURT: (To the witness) Don't volunteer anything.

Q When and where?

A I was arrested at Coeur d'Alene City, at the Sheriff's office in Wallace, on the alleged confession of Harry Orchard.

MR. HAWLEY: We object to that remark and move to strike it out.

THE COURT: The objection is sustained and motion to strike out granted.

MR. HAWLEY: I would like to have this witness cautioned to only answer the questions.

THE WITNESS: I thought you said "Go on."

MR. HAWLEY: He is persisting in going on.

THE WITNESS: I am a little bit hard of hearing.

MR. HAWLEY: I object again.

MR. DARROW: I object to the statement that he is persistently trying to say something not asked.

MR. HAWLEY: That is what he is trying to do.

THE COURT: I think he misunderstood the Court.

MR. McBEE: Q When were you arrested?

A First day of March, 1906.

Q It was after the killing of Governor Steunenberg?

A Yes, sir.

Price D  
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Q Where were you taken?

A Taken to Wallace.

Q What was done with you?

MR. KNIGHT: We object to that.

A Threwed in jail,--

MR. KNIGHT: Just wait.

THE COURT: Objection sustained. It already appears that he was imprisoned.

MR. McBEE: Q Were you held after being arrested?

MR. KNIGHT: We object.

MR. McBEE: Q By any committing magistrate, or were you discharged?

MR. KNIGHT: Objected to as entirely immaterial.  
Objection sustained.

MR. McBEE: Q Were you ever tried for that murder?

MR. KNIGHT: We object; that is immaterial.

Objection sustained.

Defendant excepts and exception allowed.

Q Are you familiar with the trails in that country, in the year 1904?

A Yes, sir; naturally so.

Q Describe those trails, as to the conditions at that time for traveling over, and as to the elevation.

MR. KNIGHT: We object until it appears what trail Counsel in enquiring about.

MR. McBEE: We will fix that.

THE COURT: Fix it.

MR. McBEE: Q I refer to the trail from your place to Mason's on the river.

A Well, it is a very untainous trail.

Q Describe it as to evation and assent and descent.

A I can only do that to the surveyor's elevation figures.

Q They are marked on the ground?

A Yes, sir.

Q All right; you may state.

A The elevation at the meadows is 4140 feet; at the top of the green hill it is sixty one hundred and some feet, but I dont remember just what. We have to cross that hill.

Q Where is the Green Hill, with reference to your place?

A Three miles west on the trail between my place and Mason's.

Q On the trail towards Mason's? That is the Ferry, Mason's on the river?

A Yes.

Q Do you know the elevation of any other points?

A Not exactly; I did know--well, on that trail?

Q Yes, sir.

A No, I dont.

Q What is the character of the country after you got to the top of green hill, from at on down to the river?

A Of, course, they pick out the best ground they could

MR. KNIGHT: I didn't understand that.

A They picked out the best ground they could when they made the trail; and it is not level or smooth. You go down some very deep gulches and up again; it is very uneven ground; deep gulches in some places, but not so much so in others.

Price D  
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Q How was that trail at that time as to obstructions?

A There were a great many logs cut out that time, but there were some in it.

Q What kind of country did you go through with reference to timber?

A It was timbered, I should say, about two thirds of the way.

Q What kind of timber?

A Green timber, tamarack, cedar, white fir.

Q I ask you as to whether it was sparse or thick timber?

A Quite thinck timber.

Q About how long would it take a man on foot to travel that distance, ordinary man at ordinary speed of travel?

A I can only tell from hearsay.

Q How long would it take a man and horse to make it, if you know?

A Yes, about three hours, it would take me to go from my place to Mason's with the horse light, going up for a load; rushing them out, I would make it in three hours and a half and it would take just about an hour and a half longer to get back.

Q The difference in time between going in and coming out was on account of the load or on account of the difference in the assent?

A No, you go with a load slower.

Q Now, describe the trail the other way, leading from your place in to the Marble Creek country, if you know.

Let me ask you first, were you ever at Glover's ranch?

A No, sir.

Q Or Mason's ranch?

A No, sir.

Q How close to it have you been?

MR. KNIGHT: Which one do you mean?

MR. McBEE: Either one of them.

A From the section he is located on, was perhaps a half a mile from his ranch.

Q Whose claim have you been on in there?

A I have been on Jim Russell's and Albert Anderson's.

Q And they are near Mason's?

A From the description on the map, they are about a half or three quarters of a mile.

Q Then describe that trail as you know it from your place in to Russell's.

A It is pretty hard to describe it; it is a pretty mountainous trail and a pretty bad one.

Q How does it compare with the other trail that you have just described?

A Well, I should think about three times worse as for mountains and gulches.

Q What is the distance in there?

A I think from my place to Russell's, I think about eight miles.

Q How long does it take to travel over that with a horse?

A Four hours and a half is the best I ever made over that trail.

Q You say that is about four times worse than the other?

A About three times worse, I said.



Q How is it as to obstructions and elevations, if you know?

A I should think the top of Huckleberry would be about eight hundred feet higher than green hill; eight hundred to one thousand higher than Green Hill. That would be three thousand feet higher than the Meadows.

Q Did you state how long it would take to make that?

A I did.

Q What did you say?

A Four hours and a half was the best time I ever made over it.

Q In traveling with a load, how long does it take?

A About the same.

Q Now, traveling with a horse or traveling light, as you say, do you go as fast or faster than a man would on foot?

A Yes, saddle horse going after a party, or going and taking them out, especially the Russell's, I would take it pretty slow, because they always wanted to ride as fast as a horse could go, riding in and fatigued them a little going up--

MR. KNIGHT: That is not material.

MR. McBEE: That will be stricken out.

#### CROSS EXAMINATION

BY MR. KNIGHT:

Q So you can make that eight miles in four hours and a half with a horse, can you?

A That is what I have done.

Q How in coming out, do you make it from Russell's cabin, say to your place with a horse just about as quickly?

A I should think just about the same.

Q Dont you think you could make it more quickly. Mr. Price?

A I think that is the time that I made my best time, was coming out.

Q Coming out, you think that is the time that you made, four hours and a half?

A I think that is the time I made my best time.

Q You think that you were going pretty good that trip?

A I was going some.

Q And made eight miles in four hours and a half. Now about how quickly do you think the Russells could make it out, they way they ride?

A The way they ride?

Q Yes, sir.

A Oh, I rode my horse the best gait that time; they could not improve that any.

Q The Russells couldnt make it any quicker than four hours and a half?

A I dont think they could, no.

Q They are pretty swift riders, too?

A They ride their best gait, generally.

Q You say it was Jim Russell's place you were stopping at?

A I did.

Q Located here on the south east of the north-east of section seven?

A I dont know what quarter he is on; never followed the lines or anything at all.

Q James a Russell?

Price X  
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1421

A Yes, James A. Russell.

Q Was that on the same quarter on which Ed. Bouley had a cabin?

A Couldnt tell anything about it; never seen Bouley's cabin.

Q About how far do you say that was from Mason's place?

A I dont know. I said I thought from what they told me about a half or three quarters of a mile; that is to go straight across. I dont know how their trails ran because I never was on that trail.

Q Now, did you want us to understand that the mountain, this Green Hill, between your place and the river is as precipitous as you indicated there with your motion before the Jury?

A The Surveyor's figures I told you I went by.

Q No, but you made a motion before the jury with your hand, up and down.

A I told you there was some deep gulches between the top of the Green Hill and Mason's.

Q Do you want the jury to understand that they were as steep as you motioned with your hand?

A Well, I did not take particular notice how I did wave my hand, whether it was perpendicular, at an angle of 45 or what; I simply made a motion that there were gulches.

Q You think they were more than an angle of 45 degrees?

A I cant tell you from here; I never took the elevation of those gulches; I never took any measurements.

Q Never took ~~an~~ the angle of those gulch

A Never paid any attention to the I know it is a pretty good climb some times .

Q Who went out with you when you t out on the seventh of August?

A Mrs. Henkle.

Q Anybody else?

A Nobody.

Q What time did you leave your place?

A Three o'clock.

Q And what time did you arrive at Mr 's place?

A Six thirty or seven, somewhere ab

Q How many horses did you have?

A Two horses.

Q She rode one and you the other?

A Yes, sir.

Q That was about as rapidly as you d make that trip, was it Mr. Price?

A I think that was ass good time a ever made, that trip.

Q That was as good time as ou ever d make?

A It was in a hurry.

Q How quickly do you think a man ld make that trip afoot?

A I dont know; I never tried it.

Q How quickly could he make it on eback?

A Three hous and a half.

Q You think that is as quickly as could do it?

A I made it in three hours and a h

Q You made that then, as quickly as a man could make that trip conveniently?

A Well, I dont know; you might get a man that could fly. I couldnt make it any quicker with any horse I ever had, and I had lots of good ones.

Q Do you think the Russells could make it any quicker?

A I generally went with them when I found out the way they rode.

Q And you arrived at Mason's about six thirty?

A From six thirty to seven; somewhere around there.

Q Took your dinner there?

A No, sir.

Q Now, you went immediately down to the head of navigation, did you?

A I changed horses first.

Q Did you ride down to the head of navigation?

A We certainly did.

Q You and Mrs. Henkle?

A Yes, sir.

Q You didnt take a boat down that day?

A No, we didnt take a boat horseback by any means.

Q You did not take a horse in the boat?

A No, did not take the horse in the boat.

Q Do you remember what you were doing on the first day of August?

A What day of the week was it?

Q I dont ~~xxx~~ remember, Mr. Price.

A Well, your memory ought to be as good as mine.

Q Do you remember what you were doing on the seventh of August?

A Unless I made a trip over the trail.

Q Did you make a trip over the trail?

A I say unless I did.

Q Do you know whether you did or not?

A Let me see. I asked you what the first day of August was.

Q Well, never mind asking me a question. Did you make a trip over that, or do you remember whether you made a trip over thereon the first of August?

A Give me time to think.

MR. DARROW: Sunday is the seventh.

A Now, let me see. I went from Mason's the first day of August-- no; I went to Mason's on the first day of August and stayed there over night.

Q Stayed there over night, the night of the first day of August?

A yes, sir.

Q Who was there?

A Well, I took a party there.

Q What party did you take there?

A Joe Russell and his sister and little brother.

Q That was the first of August, was it?

A That was the first of August.

Q What did you do the next day?

A I went back home, took a load of freight.

Q What time did you start out in the morning?

A Perhaps about half past eight; generally about that

time; it depended upon how many horses I had to load.

Q What time did you get home?

A Perhaps about one o'clock.

Q What did you do the rest of the day?

A I think more than likely I went out to Mason's.

Q Are you sure whether you did or not?

A I think I did.

Q Quite positive of that, are you not?

A Yes, sir.

Q What did you take out with you that time?

A Took my horses.

Q Anything else?

A No.

Q Take any load?

A No, I never take a load out there except human freight.

Q You didnt take any human freight that day?

A No, sir.

Q What did you do the next day, Mr. Price?

A Went back to the Meadows?

Q What did you take up that day?

A That was the third, was it? What date was that, next day?

Q Well, say the third, what did you take in there the third?

A Well, I took ~~xxxx~~ freight.

Q For whom did you take freight?

A For the store.

Q What store?

A Our store.

Q Your own place?

A My own place.

Q What were you doing on the twenty-seventh day of July 1904?

A Twenty-seventh, I dont remember dates. Now that is a good while to remember, that is. Twenty-seventh of July, I think more than likely I was on the trail to Mason's and back.

Q You dont remember whom you saw that day, do you?

A Well, I dont just now; I might have saw Mason.

Q Did you see him?

A Well, I saw him about that time. I dont just know whether it was that day or not.

Q Were you on the trail the day that he came to your place?

A Was I?

Q Yes.

A I might have been.

Q Well, but were you?

A I always touched home twice a day.

Q Touched home twice a day. Do you know whether you were on the trail that day or not?

A No, I dont know as I was that day; I was not on the trail; I was not at hisplace the night that he came there lame.

Q You were not at home when Steve Adams came out; at any rate, you did not see Steve Adams when he came to your home that time?

A I was not at home when he came and got a horse



and I was not at the river that day.

Q You were not at the river that day?

A No, I was taking freight to the settlers.

Q I believe you said Mr. Mason went in there quite frequently that summer?

A The jumpers kept him pretty busy there for a while.

MR. KNIGHT: I move that that be stricken out.

THE COURT: Motion granted. (To the witness) Answer the question and don't volunteer anything.

MR. KNIGHT: Q You said Mr. Mason went in there quite frequently, didn't you?

A He did for a little while there.

Q When did that start in, that he was going in there frequently?

A While he was trying to get the jumpers out--

MR. KNIGHT: Just wait.

THE COURT: It is so close to contempt that I may have to commit you. He asked you how frequently he went in.

MR. KNIGHT: Q When did that begin?

A He would go to Wallace and back.--

MR. KNIGHT: (Interrupting) Now, the question is, Mr. Price, what time of the year did he begin to make these frequent trips into the Marble creek country?

A Well, it was along about the last of July or first of August; he got hurt that time.

Q And about how long before that?

A I don't know when they did start in, but to get those jumpers out; I don't know just when it was.

MR. KNIGHT: I wish that you would quit that. The Court has warned you two or three times on that proposition.

THE WITNESS: Well, I dont know how to answer it.

THE COURT: You can say that you don't remember what date.

THE WITNESS: I dont remember the date.

Q Why dont you say so and stop?

THE COURT: Why don't you say so?

MR. DARROW: I don't think Counsel has got a right to lecture this witness that way.

MR. KNIGHT: Q How long before Mason came out lame to your place did he begin to make these frequent trips?

A I dont remember the date that he commenced to make these trips.

Q Do you remember about how long before that time it was?

A No, I dont exactly remember when he started in.

Q How many trips did he make in and up there that you remember?

A He made a good deal; once he stayed out and let the Sheriff go in; he didnt go in with them at that time.

Q He made a couple of trips in there?

A Yes, sir.

Q That was in the latter part of July?

MR. DARROW: He didn't say that?

THE WITNESS: It was in July, I think.

MR. KNIGHT: Q HOW is that?

A I think it was in July.

Q Well, do you know whether it was in July or not?

A I said I thought it was.

Q Do you know whether it was or not?

A No, I dont but I think it was.

Q You think it was in July?

A Yes, sir.

Q Do you think he made more tin one in July?

A He might have made more than one and <sup>me not see him.</sup> ~~it might be that way~~

Q Do you remember his making mre than two trips in there in July?

A No, I dont remember that he id.

Q How many did he make in Augit, if you remember?

A I couldn't state as to that; I dont think he made any; I didn't see him.

Q You dont think he made any i August?

A He might have made them withit my seeing him.

Q And you dont think he made mre than one in July?

A I dont remember seeing him nke more than one in July that I remember of now.

Q Do you remember how many he ade in June?

A No.

Q Would you say he made any atall in June?

A Not if he was living on his lace in June.

Q The question is, do you knowwhether he made any trips?

A Back and forth?

Q From his Marble Creek place o his place on the St. Joe River, during the month of June

A No, I dont remember.

Q You dont remember whether heid or not?

A I dont remember his being ou for a month or six weeks after he went in.

Q Then two trips is all you reamber his making in and out there, is it?

A Just twice I can remember.

Q Do you remember what you were doing on the 10th of August, 1904?

A The morning of the 8th I left St. Joe; -- No, I dont.

Q Can you say what you were doing on the 12th?

A I couldnt tell you now; I presume packing back every day.

Q Did you see Jack Simpkins on the 11th or 12th?

A I saw him some time along there, July, but I dont remember what date.

Q Who was with him when you saw him?

A Jim Nevins.

Q Jim Nevins. That was at Mason's place, was it?

A Yes, sir; we slept in the barn together, us three.

Q You and Jim Nevins?

A And Jack Simpkins.

Q Could you be certain as to that?

A No.

Q Whether it was the 9th, 10th or 11th?

A No, I could not.

Q Somewhere along there, was it?

A I presume somewhere along there: I dont remember exactly.

Q When did you see Jack again, if you did see him again?

A Why, the 12th of August I saw him, perhaps a couple of weeks after; I dont know as it was; I dont think it was under a couple of weeks, although it might have been.

Q You dont think it was under a couple of weeks that you saw him?

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ink it was about a couple of weeks.

When did you next see him?

When did you see him at the St. Joe Hotel.

Who was with him?

He was alone; he took one of my horses in from the

Mead

Do you know where you were on the 23d of August?

I was on the trail; stayed at Mason's and went home.

What is that?

I stayed at Mason's over night; went home and came

back

Do you know where you were on the 24th?

It was my trip to Mason's.

Did you make a trip to Mason's?

Yes, sir.

At what time did you leave your place on the 24th?

I left Mason's on the morning of the 24th; went home

and

back.

At what time did you arrive at your place that day?

I started early in the morning, which I did in

warm

the morning, I would probably make home by twelve o'clock.

Did you probably get back to Mason's?

Probably get to the Meadows by twelve.

The question is, if you remember when you did get there

I don't remember; it might have been a minute or

two

more or after; I could not state exactly.

Could it be ten minutes before or after?

It might have been.

Was he there that day?

A Leland and Launder and the cooks.

Q Any one else?

A George Lock.

Q Any one else?

A Elma Garrell.

Q Any one else?

A John Eaton.

Q Any one else?

A I dont remember of any one else now.

Q How long did you remain at home that day?

A Long enough to unload and get dinner.

Q Do you know how long that took you?

A Perhaps two hours.

Q Then you started back to Mason's?

A Got back to Mason's; I generally leave home about three o'clock to half past three and go to Mason's.

Q Which side of the river is Mica Meadows on?

A South side.

Q And which side does Mason live on?

A North side.

Q How do you cross the river at Mason's?

A Ford the river at certain times; other times have to row across in boats.

Q How do you mean "ford", take the horses, you mean?

A Yes, the horses.

Q How did you go when you took Mrs. Henkle there?

A The same as any other time.

Q You and Mrs. Henkle rowed across the river and rowed back again?

A Rowed across the river and rowed back again.

Q That was on the 7th of August?

A Yes, sir; 7th of August.

Q Then on the 21st of August you came to Mason's, did you, that being the next day after you heard of Bouley's death?

A Yes, sir.

MR. DARROW: He did not say that.

THE WITNESS: I dont know what date. Sunday was the day I heard of Bouley's death, Sunday morning.

Q It was Sunday that you rode up there?

A Sunday morning, I dont remember what date it was, but it was Sunday morning I heard Bouley was ~~that~~ dead.

Q Sunday Morning you rode to Mason's didnt you?

A Sunday morning, the ame day I rode back to the river; it is only about twenty or thirty rods.

Q Now, when you rode up there, whom did you see on Mason's side?

A I saw Mason.

Q Do you remember who else?

A Saw some women; saw some other men, I dont know whether it was Mason's boys or who they were; there was some bushes in one place between me and the house; I couldnt see distinctly all that was there.

Q What women did you see?

A Perhaps Mrs. Mason and daughter, the other young girls.

Q The other Mason girl, you mean?

A There are others, yes, sir.

Q And where were they?

A At their house out in the yard.

Q How far from the river?

A About three rods.

Q Where was Mr. Mason?

A He was sitting out in front of the house.

Q How far from the ladies?

A Two rods; perhaps two and a half.

Q And where were the children you said you saw?

A They were around the house there, right in front of the house; when I holloaed they all rushed out, because people generally holloaed when the boat came there.

MR. KNIGHT: Never mind. Q Where did you say the children were?

A In front of the house.

Q Where were they boys?

A They were close by the girls, if it was the boys; I didnt say it was the boys.

Q Close by the girls, you say?

A Near the girls, yes, sir, not very far.

Q They were all right there together, were they?

A Yes, sir.

Q Did you see any one else?

A Not that I remember. I was not looking for anybody; I just simply wanted--

Q (Interrupting) Answer my question and we will get along just as well, Mr. Price. Q Did you ever see the defendant here after the 8th of August, the morning of the 8th?

A I dont think I did.



Q Until the trial in Wallace?

A Until the trial in Wallace; I dont think I did.

RE-DIRECT EXAMINATION

BY MR. McBEE:

Q During the latter part of August, was there anybody at your place who resembled Jack Simpkins?

MR. KNIGHT: We object, as being immaterial.

MR. DARROW: We can state to the Court what materiality it has, as you know probably now.

MR. KNIGHT: It appears from this witness' own testimony that he was over there, went over every day. If you want to ask him whether he saw anybody that resembled Jack Simpkins, I will not object to it.

MR. McBEE: Q Did you see any one at your place about that time, the last of August, about the 24th, that had any resemblance to Jack Simpkins?

A Well, take it in their rough way, the way they live up in the woods, there was a man there worked for me quite a long time that resembled him very much except in heighth.

Q What was his name?

A Elmer Garrell was his name.

Q Now, give some description as to his heighth.

A He was a man, heavy, shoulders stooped a little bit; prominent nose, dark eyes; dark mustache.

Q What was his heighth?

A Heighth about six feet, or a little over.

Q How long was he there?

A Oh, he was perhaps with me four weeks in all; he worked for me two different times.

Q Do you know what period, covering what period,

A He worked for me in the early part of the summer clearing ~~acres~~ land, and then later worked for me building a barn, along the last of July or the first of August.

MR. DARROW: What was that last answer?

THE WITNESS: I said he worked for me in the early part of the summer clearing land, and he worked for me the latter part of July and the first of August building a barn.

Q Do you remember when the Perkins family came out of that country?

A I remember of it.

Q Was he there then?

A He was working for me at that time.

#### RE-CROSS EXAMINATION

BY MR. KNIGHT:

Q Mr. Price, what color do you say Simpkins' eyes are?

A Kind of dark brown.

Q Are you sure about that?

A No, sir, I am not; sure they are not white.

Q He has some white in his eyes, hasn't he?

A I think there is a little.

Q Don't you know that he has either gray or blue eyes?

A They were-- well, I don't think they were blue; they might have been dark gray; dark eyes. I am a little near sighted. I haven't got as good eyes as some people have; I thank God for what I have got. I know that Simpkins' eyes were not light.

Q Well, they are neither black nor brown, are they?

A They are dark.

Q They are either gray or blue, are they not?

A As near as I can remember, he has dark eyes.

Q Would you say he has neither gray or blue eyes?

A I dont think they are gray eyes.

Q Will you swear he has not?

A I told you as good as I can see; my eyes are not as good as some.

MR. KNIGHT: They certainly are not.

MR. McBEE: We take exception to the remark of Counsel.

THE COURT: You may have your exception.

MR. DARROW: If I were as sassy as you are, I would have something to say about it.

MR. KNIGHT: Q And you think Jack is about five feet six inches tall?

A Not to exceed that.

Q Quite positive about that?

A Very.

Q Ever measure him?

A I have stood beside him and I know my height.

Q How tall are you?

A Five feet nine and a half.

Q You think he weighs about one hundred and eighty pounds?

A About that.

Q And about five foot six?

A Just about.

Q And what kind of a nose did you say his was?

A Well, quite a prominent nose; I cant explain the shape of it exactly.

Q Is prominent, you say; is it as prominent as mine?

A No, sir; I dont think I ever saw one to compare with yours.

THE COURT: Keep quiet.

Q Well, it is not prominent in the same way that mine is?

A No; no; no, no;.

Q He has more of an arched nose than I have?

A Little more so; yes.

Q And as to his teeth?

A Very prominent teeth.

Q Very prominent front teeth?

A Yes sir.

Q Did you ever notice any peculiarity about Jack's eyes?

A I dont think I did; but I heard it discussed in court in March last year, and that ~~existed~~ was the first time I ever thought of it.

Q You say your eyesight is not very good?

A Not so good as it was once; no, sir.

Q You dont know whether Jack's eyes are entirely straight or not, do you?

A No, I never ~~in~~ made any examination or took any pains to see.

Q How did he wear his beard, if he wore a beard; did he wear a beard?

A He wore a mustache.

Q At that time?

A Most all wear considerable beard when they are up there in the woods some times.

Q He had a full mustache?

A I dont know what you would call a "full mustache".

Q Well, it was not a mustache that was shaven?

A Oh, no.

Q Full growth, as it grows?

A Yes, sir.

Q This man who worked for you in July and August, ~~is~~ a homesteader or settler up there?

A Yes, sir.

Q Where does he have a homestead?

A Section 35.

Q What township?

A ~~34-2~~ 45-2 East.

Q How far is that from Simpkins's?

A Well, let me see-- I was in 33 and he was in 35; that is where Simpkins's claim was; he was two and a half miles, I think, from that.

Q What is his name?

A Elmer Gerald.

Q Where is he?

A He is in a hotel on "Black Joe's" claim, up in the Swift Water.

Q He was about how tall?

A Six feet or a little more.

Q About six inches taller than Jack?

A yes, all of that I should say. a little more.

Q Stand erect?

A How?

Q Stand erect or stooped?

A Well, no, not exactly; he was bent over just a little mite.

MR. KNIGHT: Thats all.

MR. McBEE: One thing I forgot to ask you about, Mr. Price; Referring to the morning of the seventh of August, 1904, did you see Steve Adams or Newt Glover that morning, the morning after you bought the horses from Newt?

A Sunday morning-- Sarurday night-- yes, I saw them.

Q Where?

A I saw them on the side-hill north of Mason's.

Q Do you know what they were doing?

A No, I holloed and asked them.

Q What did they say?

MR. KNIGHT: We object.

THE COURT: Obje ction sustained.

MR. McBEE: In reference to the horses I wanted to ask, your Honor.

THE COURT: Yes.

MR. McBEE: Thats all.

MR. KNIGHT: Thats all, Mr. Price.

WITNESS EXCUSED.

MRS. MINNIE B. HENKLE, Called as a witness on behalf of the defendant, having been previously sworn, testified as follows:

DIRECT EXAMINATION

BY MR. McBEE:

Q What is your name?

A Mrs. Minnie B. Henkle.

Q Are you familiar with the Marble Creek country in the southern portion of Sherman County?

A Yes, sir.

THE COURT: Speak louder, please, Mrs. Henkle.

MR. McBEE: Q Did you ever live up there?

A Yes, sir.

Q What were you doing up there?

A Homesteading.

Q Were you there in the year 1904?

A Yes, sir.

Q How did you go there?

A Went by the way.

MR. KNIGHT: I object to how she went in, Mr. McBee; I don't know how it can be material.

THE COURT: I don't see the materiality.

MR. McBEE: Q When did you go in there, Mrs. Henkle, that year?

A The latter part of July.

Q When did you come out?

A About the last of August.

Q What was-- Oh, do you know Frank Price?

A Yes, sir.

Q Where was your homestead with reference to Frank Price's place, Mica Meadows?

A It was about a half a dozen rods.

Q When did you leave your homestead on the way out?

A About seven o'clock.

Q Morning or evening?

A Morning.

Q Where did you go?

A To Frank Price's.

Q How did you go?

A Horseback.

Q Who went with you?

A Mr. Lyons, Ollie Lyons.

Q Whose horses were they?

A I believe they were Mr. Price's horses.

Q Well, what did you do after you got to Mr. Price's place?

A We had dinner.

Q Where did you go from there?

A Went to Mr. Mason's place.

Q How did you go?

A Horseback.

Q Who went with you, if any one?

A Mr. Price.

Q Whose horses did you use?

A Mr. Price's.

Q About what time of day did you leave Price's place?

A About three o'clock.



Q About what time did you arrive at Mason's place on the river?

A About seven or half past.

Q Where did you go from Mason's place?

A To St. Joe.

Q What did you do when you arrived there?

A Went into the hotel.

Q What hotel?

A O'Neill's.

Q Register there?

A Yes, sir.

Q What else did you do that night?

A We had lunch.

Q And how long did you stay there?

A We stayed there that night.

Q Where did you have breakfast in the morning?

A At O'Neill's.

Q Who, if any one, had breakfast with you?

A Mr. Price.

Q Do you know the defendant, Steve Adams?

A Yes, sir.

Q Did you see him there that morning?

A Yes, sir.

Q Where?

A He ate at the table right by the side of us.

Q Anybody with him?

A Yes, sir.

Q Who, if you know?

A Mr. Glover.

Q Newt Glover?

A Yes, sir.

Q Did you hear any conversation the defendant, Steve Adams, had that morning in the dining room?

A Yes, sir.

MR. KNIGHT: I object to the conversation; it would be immaterial.

THE COURT: He is only asking her if she heard any.

MR. McBEE: Q Did you hear any?

A Yes, sir.

Q With whom?

A Mr. Price

Q Did you know Newt Glover?

A Yes, sir.

Q Well, what did you do after breakfast?

A I got my wraps on and went down to the boat.

Q What boat, if you know?

A The "Spokane", I believe.

Q Where did you go from there?

A Down to Harrison.

Q What did you do at Harrison?

A We ate lunch.

Q Where did you go from Harrison?

A Down to Coeur d'Alene City.

Q And from Coeur d'Alene City?

A Yes, sir.

Q Where did you go from Coeur d'Alene City?

A To Spokane.

Q Where did you go from Spokane?

A Moscow, Idaho.

Q Who was there at Mason's?

MR. KNIGHT: We object to that.

MR. McBEE: Withdraw that question.

Q What was your object in going to Moscow?

MR. KNIGHT: I object to that; it don't make any difference.

MR. DARROW: To fix the date.

MR. KNIGHT: We have not mentioned the date.

THE COURT: Objection sustained.

MR. DARROW: How do we know you haven't?

MR. KNIGHT: You can take my word for that.

MR. DARROW: You told us "some time before the information was filed."

MR. KNIGHT: Yes, sir; that is what I said.

MR. DARROW: So we will have to cover everything.

MR. McBEE: Q I hand you this book (Register of O'Neill's Hotel) and ask you if that is your signature?

A It is.

Q Is that the place you registered that evening?

A Yes, sir.

MR. McBEE: That will be offered later; the signature above Mr. Price's.

THE COURT: The O'Neill register?

MR. McBEE: Yes, sir.

Q Do you know anything about the feeling that existed between some of the settlers and others known as "Jumpers" up in that country?

MR. KNIGHT: We object.

THE COURT: Objection sustained.

Defendant excepts and exception allowed.

MR. McBEE: Do you know Jack Simpkins?

A No, sir.

MR. McBEE: That is all.

MR. KNIGHT: No questions.

WITNESS EXCUSED

WHEREUPON, the Jury was duly admonished, as required by law, and retired in charge of officers previously sworn in and court took a recess until 2:00 P. M.

Price Minnie B. Henkle-BC  
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MONDAY, NOVEMBER 18th, 1907.  
P. M. SESSION.

At this day defendant being in court with his counsel, present as before, the jury came into court in charge of the officers, and being duly polled, all answered to this names and the trial of this cause proceeded as follows:

MRS. MINNIE B. HENKLE,

A witnesson the part of  
the defendant, was<sup>re</sup>called  
and testified as follows:

BY MR. McBEE:

Q Mrs. Henkle, on the evening of the seventh of August, 1904, the time you testified you came out with Mr. Price, stopped at Mason's place and changed horses, state whether or not you saw Mr. Mason?

A I did.

Q Where?

A He was at the barn; came out to the barn while we changed horses.

Q How did he come out to the barn?

A He walked quite lame, with a cane.

MR. McBEE: Thats all.

MR. KNIGHT: No questions.

WITNESS EXCUSED.

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at Boulder Libraries

JAMES McPARLAND,

A witness on the part of  
the State, was recalled for  
further cross-examination  
by Mr. Darrow, and testi-  
fied as follows:

BY MR. DARROW: Have you got Exhibit No. 19 handy?

MR. KNIGHT: What was that?

MR. DARROW: That is the Confession.

(Paper handed to counsel by Mr. Knight.)

Q Mr. McParland, you stated that you knew at the time  
Steve Adams was arrested, he was arrested for complicity in  
the Steunenberg murder?

A Yes.

Q Did you know at the time he had any connection  
with the Steunenberg murder?

A I did not.

Q You did not learn it until afterwards?

A Well, in a way I did, and in a way I didn't;  
because he admitted that he had been-- that he came up  
there for the purpose of assassinating Steunenberg. I  
still think he was in the conspiracy.

Q In that case, you thought perhaps he was in it?

A Yes, I think so.

Q He was there at the time he came there in 1904 up to  
the Marble Creek district?

A Yes.

Q That's where he told you in the Tyler confession?

A Yes.

Q Yes. The Tyler confession you headed "In re, murder of Ex-Governor Steunenberg of Idaho.", didnt you?

A Yes.

Q That heading is yours, I suppose.

A (No answer)

Q Steve didnt say "In re Murder of --

A He did not. That is just the title of it.

Q I say it was yours, was it?

A Yes.

MR. HAWLEY: Where is that, Mr. Darrow?

MR. DARROW: It is the head line, Mr. Hawley, "In re. Murder of Ex-Governor Steunenberg", the head line.

Q Did Orchard tell you anything about Simpkins having been up there that summer?

A 1904?

Q Yes.

A No, not that I remember.

Q Not that you remember?

A Oh, he didnt.

Q Are you sure about that?

A Yes.

Q Did you ask Steve anything about whether he had told Harry Orchard about this?

A I did.

Q Do you remember your language?

A I dont remember the exact language I used.

Q Did you use this language:

"Q Did you ever tell Harry Orchard about it?"

McParland recalled

D-4 I

A Possibly I did say that.

Q That was at the time you were getting this statement, was it not?

A Yes, sir.

Q You have taken a good deal of interest in this case, of course?

A I have.

Q Did you ever see Alva Mason before you saw him in court?

MR. HAWLEY: Is this simply preliminary?

MR. DARROW: Yes, it is preliminary.

Q Did you ever see Alva Mason before you saw him in court?

A I have.

Q Did you see him in Wallace?

A I did.

Q Whereabouts?

MR. HAWLEY: I object to that as incompetent, irrelevant and immaterial; not pertinent to the issues; not proper cross-examination.

MR. DARROW: I will ask another question first.

Q Did you have a conversation with Mr. Mason after he was arrested in Wallace and before his hearing?

MR. HAWLEY: I object to it as incompetent, irrelevant and immaterial; not pertinent to the issues and not proper cross-examination.

MR. DARROW: Have not I a right to show the interest of this witness?

MR. HAWLEY: There is no dispute of his interest;



McParland recalled  
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1451

he says he has a deep interest in it.

MR. DARROW: I have a right to show the extent of it.

MR. HAWLEY: Not by that method; it is simply offered to ring in extraneous matters and divert the attention of the jury. I can't understand how it could be asked or rung in on cross-examination on the subject of matters occurring after the confession. If it was any matter prior to this confession it would be a different matter probably, and be under a different rule, but this is a matter that occurred long after the confession.

MR. DARROW: I ask it for the purpose of showing all his operations in this case.

THE COURT: The objection will be sustained.

MR. DARROW: Defendant excepts. Will you please read just how I put that question.

(Question read)

MR. DARROW: That is objected to and sustained, and an exception taken.

Q. Did you ask the sheriff or deputy to take Mr. Mason to a certain room in Wallace that you might interview him just after he was arrested and before any hearing?

MR. HAWLEY: I object to that as incompetent, irrelevant and immaterial; not pertinent to the issues; not proper cross-examination.

THE COURT: Objection sustained.

MR. DARROW: Defendant excepts.

THE COURT: I will allow it.

McParland Recalled  
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MR. DARROW: I want to ask the question now.

THE COURT: Proceed.

Q At that time, Mr. McParland, did you say to him that some of his friends had requested you to go and see Mr. Mason and give him some advice? Did he reply that he was a stranger to you and did not know who you were and ask who you were? Did you then tell him you was McParland, the detective, and mention the Molly Maguires, that Pennsylvania case, whatever it is, is that the Molly Maguires?

MR. HAWLEY: Molly Maguires.

Q (Continuing) Molly Maguires; did you then say that you were not there to ask him any questions and did not want him to answer any questions, but that you had a bunch of murderers and dynamiters rounded up at Boise and there was one of them, Jack Simpkins, for whom it was generally understood that there was a three thousand dollar reward offered, but as a matter of fact, it was four thousand dollars and that ~~Mason~~ if he, Mason, would give any information regarding Simpkins he would get three-fourths of the reward, and if it resulted in hanging the bunch up the State would furnish him money to move his family out of the country until the trouble was all over and protect him afterwards.

MR. HAWLEY: Objected to as incompetent, irrelevant and immaterial; not pertinent to the issues; not proper cross-examination.

THE COURT: The objection is sustained.

MR. DARROW: I desire the same exception.

THE COURT: Allowed.

McParland recalled-  
D-7 L

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1453

Q During that time before the Adams preliminary hearing, and after he was talked to Wallace, did you also seek to get a conference with Newt Glover?

MR. HAWLEY:

Objected to, as incompetent, irrelevant and immaterial; not pertinent to the issues; subsequent to the confession.

THE COURT: Objection sustained.

MR. DARROW: I desire an exception. That is all.

MR. HAWLEY: That is all, Mr. McParland.

WITNESS EXCUSED.

Alva Mason recalled  
D-8 I

~~1454~~  
1454

ALVA MASON

A witness on the part of the  
~~Sister~~ defendant was recalled  
for further cross-examination.

BY MR. KNIGHT:

Q I believe you stated you left your place for Wallace  
about the sixteenth of August, 1904?

A It was some time about that date, Mr. Knight;  
I wouldn't be positive it was the sixteenth.

Q You said it was not later than the seventeenth, did  
you?

MR. DARROW: I object to that. Don't think he said that.  
The question is, did you say it was not later than the  
seventeenth?

THE COURT: Yes. The objection is overruled.

MR. DARROW: I take an exception. I object on  
another ground, He has got to put the exact statement  
to him or let him see it.

MR. KNIGHT: I don't think that is the rule; I  
was at this trial.

THE COURT: If it is reduced to writing.

MR. KNIGHT: The reporter has the testimony.

MR. DARROW: I will waive that, Mr. Knight.

Q You did say the hearing was on the seventeenth,  
and you went to Wallace on the seventeenth?

A I don't remember the date of the hearing,  
Mr. Knight; I could not say as to the date. It was

Mason recalled  
D-9 L

~~1455~~  
1455

before the twentieth, because I had made my trip to Wallace and got back home on the twentieth.

Q Got back home on the twentieth?

A Yes, sir.

Q Now, are you sure that you returned home, that you got home on the twentieth?

A I couldn't be real positive, but my recollection is it was the day before I heard of Bouley's death.

Q When you went down where did you stop at the head of navigation?

A Well, I wouldn't be certain which place I stopped at that time. I usually stop at O'Neill's.

Q Where did you stop when you returned?

A I couldn't say which place it was, Mr. Knight, for sure. Once in awhile I would stop at the Riverside, but as a general thing I stopped at O'Neill's at that time.

Q Did you go down the river again that next week after that?

A Well, I don't remember of going down again; would not be sure whether I did or did not.

Q You stated I believe you knew that Steve Adams remained at your place for two or three days after the report of Bouley's death?

A Yes, sir.

Q Of course you were there or you would not know he remained there, were you not?

A Yes. I don't remember of being away after that.

Q (Book shown witness) I will ask you to examine that register and state whether or not this is your

A Mason recalled  
D-10 L

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1456

signature.

THE COURT: The O'Neill register, do you mean?

MR. KNIGHT: Yes, sir, the same one offered in evidence

A Yes, sir; that's my signature all right.

MR. DARROW: What is that date?

MR. KNIGHT: We offer that in evidence. It appears on Thursday the 18th.

MR. DARROW: 18th of August?

MR. KNIGHT: 18th of August.

(The same was received in evidence and is designated in this record as State's Exhibit No. 21, but it was so marked on the register.)

Q I will ask you to examine this signature and ask you whether or not that is yours? (Book again handed to the witness.)

A Yes, sir. I remember when I went down that trip, too. That recalls my mind to it.

Q When did you go?

A I went to the head of navigation.

Q How long was that after you returned?

A That was after I returned from Wallace? That the was a trip I took the sheriff down. I remember of taking them down.

Q You took the sheriff down?

A Yes, sir; Sheriff Manley and Deputy Elliott. Elliott came over and got me to take them down the river.

Q Where did he come to?

A He came to my house on the river.

Q How long had you been back to the St. Joe River?

A Mason recalled  
D-11 L

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1457

A A couple of days would make it from the twentieth, the twenty-second.

Q You got back thereon the twentieth and went out with the sheriff on the twenty-second?

A Thats my recollection of the time; the only time I remember of being down there about that time. I remember very well of taking him down.

Q What time of day did you go down with him?

A It was in the afternoon or evening.

Q Who else went down with you, if anyone?

A No one.

Q Did you see jack Simpkins that day?

A I did.

Q Where was he?

A He was stopping with Mr. Manley at Hugus's Landing when I went back across the river with Elliott. Elliott came over alone after me and left Manley at Hugus's Landing. When we got back across the river Manley and Simpkins was at the Landing talking together.

Q Did Elliott go down the river that same day?

A Yes, sir.

Q Did Jack go down the river with you?

A No, sir.

Q Jack didnt go down?

A No, sir; Jack was there when we left.

Q Did you see Newt Glover that day?

MR. DARROW: If you remember.

Q Yes, if you remember.

A (Witness waits some time) Well, I couldnt say

A Mason recalled  
D-12 L

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1458

whether I seen him that day or not.

Q Did you see Steve Dixon that day?

A I couldnt be positive about seeing them that day, no.

Q Did you see him the day before?

A Yes, sir.

Q Did you see him the day after?

A Yes, sir; the day after-- that was the day I came back from the head.

Q You saw Steve the next day after you returned from the head of navigation, after taking Elliott down?

A Yes, sir.

Q Where was he that day?

A At my place.

Q What time did you get back?

A I dont know just what time of day, any place from noon till two or three o'clock.

Q From noon till two or three o'clock?

A Yes, sir.

Q Did anyone come back with you?

A No, I dont believe there was.

Q Do you remember who else was at your place when you returned, if any one?

A I dont know whether anybody was right there when I returned. I seen them, I believe, when I got back.

Q Seen who?

A Newt and Simpkins and Dixon.

Q Saw Newt and Simpkins and Steve?

A yes, sir. I seen them in the evening.

Q In the evening after you got back?

A Yes, sir.

Q What time in the evening did you see them?



A Mason recalled  
D-13 L

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1459

A Couldn't say, couldn't give you the time. It was between the time towards evening some time.

Q Along towards five o'clock?

A I couldn't pretend to say the time, along towards evening some time.

Q What time did you start down the river that morning?

A When I took Elliott down? started in the evening I told you.

Q Started in the evening?

A That's what I told you.

Q And started in the morning to come back up?

A Got back home after dinner some time.

Q Did Charles Manley go down with you that day?

A Yes, sir.

Q Did you take them down in the boat?

A I did.

Q Who else--- did any one else go down with him?

A I told you there was just three of them went with me.

Q You poled the boat down?

A No, sir.

Q Who did?

A I paddled it.

Q How did you get it back up?

A I poled it.

Q Poled it?

A Yes, sir.

Q And that was---

A Mason recalled  
D-14 L

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1460

MR. DARROW: What was that, the twenty-second?  
(Counsel for both sides together examine the register)

Q Now, did you see Steve the next day after that?

A Next day after I came home?

Q Did you see Steve the next day after you came home from the trip when you took Manley and Elliott down to the head of navigation?

A No, I dont remember of seeing them when I came home, I seen them the next day after I came; thats my recollection that I seen Steve the next day after I came up.

Q When did you see him that day?

A In the afternoon some time.

Q On the afternoon of the next day after you got home?

A Yes, sir.

Q Who was with him at that time?

A Simpkins was with him.

Q You are positive you saw him that next day, are you Mr. Mason?

A Not positive whether it was the next day, but it was not more than one or two or possibly three days, not positive as to the very day.

Q Oh, you are not positive it was the next day, but it was not more than two or three days after you went down the river?

A It was just shortly after I got back. He got a letter and told me---

Q Never mind what he told you. The next day or two or three after you got back from down the river, when you took Sheriff Manley and deputy Elliott, down, you

A Mason recalled  
D-15 L

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1461

saw Newt Glover and Dixon and Simpkins?

A Yes, sir; it was.

Q You are positive of that?

A Yes, sir.

Q You cant be sure whether it was the next day after that?

A No, I cant be positive it was the very day I did see him.

Q Yes.

MR. KNIGHT: We offer that in evidence, the register of his name which appears as of date of August twenty-third, the register and these names. These three names that appear on this register as of date of August twenty-third. J. M. Elliott, Charles Manley, A. M. Mason.

The same was received in evidence and is identified in this record as STATE'S EXHIBIT NO. 22, but was not so marked on the register.

Q You registered when you went down, did you, Mr. Mason?

A Well, I must have registered when I went there, because these men were all with me and their names appear there.

MR. McBEE: You mean when he went down with Sheriff Manley and Deputy Elliott?

MR. KNIGHT: Yes, sir.

A Yes, sir.

Q If that was the twenty-third, you returned the twenty-fourth?

A I dont remember of staying over a day; I sometimes did that, but dont think I did then.

A Mason recalled  
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Q It would be the twenty-fourth that you returned if that was the twenty-third?

A If I stayed over a day, it would be one day later.

Q You did stay over one night?

A Yes, sir.

Q You remember that positively?

A Yes, sir.

Q Now, I dont exactly understand. Your name appears there registered on the eighteenth?

A yes, sir.

Q Now, did you remain there the night of the eighteenth, at the head of navigation, the night you registered there?

A It is very likely I did; dont think I would register if I didnt.

Q How long does it take you to reach Wallace from the head of navigation? Can you leave there one morning and get to Wallace the same day?

A yes, sir.

Q And you remained in Wallace one day?

A I dont remember whether I was there just one night or whether I was there two nights. I cant tell.

Q Can you leave Wallace one day and arrive at your home on the same day?

A Yes, it could be done all right.

Q Have you ever done it? That is, leaving on the regular passenger train?

A I couldnt say whether I did from Wallace, but have gone up on the same boat I would go from Wallace and get

A Mason recalled  
D-17 L

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1463

home the same day.

Q The regular passenger train leaves Wallace about noon; didnt it at that time?

A I dont remember what time the trains did leave; I couldnt tell.

Q Dont know whether it was any earlier than noon or two o'clock in the afternoon?

A No, I dont.

Q Did you travel on the regular passenger train there?

A Not all the time, neither.

Q I mean on that trip, did you travel on a freight or the regular passenger train?

A I dont know which one I did go on at that time. I have rode on both of them, made different trips, and I cant just say which time I went on the passenger train.

Q Do you remember leaving Wallace on that trip?

A No, I dont remember just when I left.

Q Well, do you remember how you left?

A No, I dont.

Q Dont you remember how you traveled?

A I was either on the passenger or freight, I couldnt say which one.

Q What boat did you go up on from Harrison?

A Well, my recollection is that it was the "Schley" that was in service then; not sure that it was the "Schley".

Q How long does it take to go from Harrison to your place on the St. Joe River?

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A Mason recalled  
D-18 L

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1164

A I dont know how that boat run there. I could tell how long it would take me to go from the Head up home, but the boat is never on time hardly. Sometimes the boat is earlier and some times later.

Q What time does the boat arrive at St. Joe?

A All the way from four to seven o'clock.

Q Do you know whether you registered at the head of St. Joe at the time you went up?

A No, sir; I dont know.

Q You dont know whether you did or not?

A No, sir. I didnt always register when I was there.

Q You dont know how long you were in making the trip from Wallace to your place?

A No, I dont know. I might have laid over a day, as far as I know. Sometimes I would stop over a trip at the Head. One trip I recall I was over night at Harrison but I dont remember which trip it was.

Q Now, if you left the head of navigation for Wallace on the morning of the nineteenth it would not be possible for you to get back to your home on the twentieth, would it, Mr. Mason?

A No, sir.

Q Then after refreshing your memory from this register, where you registered hereon the eighteenth, you see, are you positive you arrived home on the twentieth? You say you would naturally leave on the morning of the nineteenth, you registered here on the eighteenth, now you remained there all night didnt you?

A I remained there all night.

A Mason recalled  
D-19 L

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1465

Q Then you would leave the head of navigation on the nineteenth for Wallace, would you not?

(Witness waits some time)

Q Would you not?

A I am not sure about that. That register might have been as I come from home from Wallace.

Q As you came home?

A Yes, might be as I came home: I stayed over night at the Head one trip.

Q May have been that way?

A Yes, it may have been that way.

Q You dont remember whether you registered as you went up or as you came down, or both times?

A I dont remember when it was that I registered; dont remember of registering every time.

Q You recognize your signature all right?

A Yes, sir.

Q Who is J. E. Mason, do you know?

A No.

MR. McBEE: Of Latah.

MR. KNIGHT: Of Latah.

Q Did you see Mr. Elliott up there before you started for Wallace.

MR. McBEE: Up where?

Q Anywhere, head of navigation, your place or on the creek?

A He was in there but I dont know how soon it was before I started for Wallace. Mr. Elliott started back up, about the time I did, about the time I left Wallace; he started in there to serve papers on these jumpers.

He went right ahead of me, because when he came back from there I was at home and when he got back he told me he couldn't find Bouley, and the papers---

Q I don't care what he told you. Well, do you remember seeing Elliott in there before you started to Wallace, or on that trip to Wallace?

A Yes, sir.

Q Where did you see him?

A I seen him in Wallace.

Q Oh, yes, but I mean did you see him in the Marble Creek country or in the St. Joe country?

MR. DARROW: Do you remember?

Q Do you remember of seeing Elliott in there before you started to Wallace?

A No, not right at that time; I seen him after I got back there.

Q After you got back from Wallace?

A Yes, sir.

Q You took him down the river, then, didn't you?

A I don't remember whether I did or not, Mr. Knight. I remember of taking him and Manley, but don't remember of taking Elliott alone.

Q Did you attend court while you were in Wallace at all?

A Yes, I was--

Q Do you remember whether you attended the forenoon or afternoon session?

A I would not say particular which session it was.

Q What hotel did you stop at in Wallace?

A I stopped at a rooming house.



A Mason recalled  
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Q Do you remember which one?

A There was two, I believe. One time I stopped at one and one at another. There was one on Cedar Street.

Q Sixth Street?

A The one that runs up from the Northern Pacific depot right along there, just south of Cedar street, on the right hand side, west side of the street, there is a rooming house there. I stayed there one night.

Q After refreshing your memory from that register, could you fix any more definitely the date you saw Steve Adams and Simpkins in there after their return from their trip down the river? I believe you stated before it was about the sixteenth, about the date you went out.

A Well, it was just the day I went out, but I dont know for sure whether I went out the sixteenth or not.

Q Now, if you registered there on the eighteenth, you couldnt have started out <sup>on</sup> the sixteenth, could you? You must have started earlier than that?

A Possibly it was a little earlier. I might have started out the day before.

Q You could not have made a trip to Wallace by starting from your place on the sixteenth and gotten back to St. Joe on the evening of the eighteenth, could you?

A No, that would have been a little too short a time.

Q After refreshing your memory from this, you are sure that Adams was in there at least as late as the twenty-fifth of August, at your place, are you not?

A Well, he was there two or three times after

A Mason recalled  
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1468

I came back from Wallace.

Q I understood you to say a little while ago that he was there for a day or two after your return from the head of navigation, where you took Manley and Elliott?

A The next day after I came back, I believe.

Q You said you saw him one, two, or three days after you came back. The register shows you were there the 23rd, you returned home the 24th, saw him that day, or one day later, so it could not have been earlier than the 25th of August before he left there, could it?

A No, I am not sure I seen him after I came home from down there.

Q You say you saw him at least the next day or at least as late as the next after that?

A After I came home, yes sir.

MR. KNIGHT: Thats all.

MR. DARROW: I prefer not to re-examine him until I can have some chance to think about this and have time to examine into the running of these boats. I confess I dont know anything about the running of those boats.

THE COURT: Very well, Mr. Mason will be here.

WITNESS EXCUSED.

FRANK PRICE

A witness on the part of the defendant, was recalled for further cross-examination and testified as follows:

BY MR. KNIGHT:

Q You feel considerable interest in this trial, dont you?

A Yes, some.

Q And you have been quite active in it, actively associated with the defense in this action, with the attorneys for the defendant?

A I dont think I have seen them very much.

Q What is that?

A I have not seen them very often.

Q I say the attorneys?

A I know the attorneys.

Q You have counseled with them some, have you not?

A Very little.

Q Made some trips up and down the river with them? With some of the attorneys for the defendant, have you not?

A Yes, happened to be on the boat with some of them.

Q I believe you testified this morning, Mr. Price, didnt you, that on the 24th of August, 1904, you made a trip from Mason's in to your cabin and back from your cabin to Mason's?

MR. McBEE: What do you mean, Mason's place on the river or his homestead?

Q I mean Mason's cabin on the river and your cabin at the Meadows?

A On the 24th.

Q Of August?

A Was that Sunday?

Q The question is, didnt you so testify this morning?

A I asked you then if it was Sunday after you asked me the question.

Q Thats not for me to answer. The question was did you testify so this morning?

A I testified this morning that I went from Mason's to Mica Meadows that day.

Q And back to your place?

A I dont think I testified to that.

Q You did testify you went---

A I went upon the 24th from Mason's place to The Meadows.

Q Have you any correction to offer in regard to that at the present time?

A Let me see that was the 24th?

A Yes, the 24th of August.

MR. DARROW: If it would help him to know it was Sunday, he has a right to know.

THE COURT: The 21st was Sunday.

A The 21st was Sunday. Well, if the 21st was Sunday, I would not say positively whether I made the trip on the 24th or not.

Q You did so testify this morning?

A I may have made a mistake this morning. I asked you this morning if it was Sunday and you wouldnt tell me.

Q Now, I will ask you where you were on that day, on the 24th of August, 1904?

A Well, it may take me a little time to think it up.

Q Well, I will ask you to examine page 889 of your testimony given at the former trial and state whether or not you made those statements at that time. Just read from there down to the bottom of the page.

(Testimony handed witness who examines the same)

MR. McBEE: Have you Volume IX of the testimony, Mr. Knight.

MR. KNIGHT: I have Volume IX, yes, sir.

MR. McBEE: Will you let me take it.

(Handed to counsel for defendant)

A Oh, I know now. Of course that was the morning--

Q Just wait, Mr. Price, now. That's your testimony at that trial. In answer to the following questions did you make these answers:

"Q Did you take them out?

"A I did the next morning.

" Did they stay at your house that night?

"A They did.

"Q Now, who all stayed there, I mean this party.  
"I don't care for anybody else.

"A There was a Mr. Hooper or Cooper, I think Cooper, Mrs. Perkins's son-in-law, and these ladies.

"Q The ladies you refer to were Mrs. Perkins, her daughter, and Miss. Shearer.

"Q Do you know whether or not Mr. Chinn was there?

"A I didn't see him there."

Price recalled  
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~~1471~~  
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Q Did you make those answers?

A Yes, sir; and I corrected them. That was a mistake and I corrected it before I went off the witness stand.

Q You made those answers to those questions?

A Yes, sir and I corrected them.

Q When?

A Before I went off the witness stand. I made a mistake in the party and I went back on the witness stand and corrected it. It was the Hooper party I took out instead of the Perkins party. We all got to St. Joe on the same night and I got two parties mixed. I corrected it before I got off the witness stand.

Q Before you got off the witness stand?

A Yes, sir; I corrected it before I got off the witness stand.

Q Was it then or the next morning, Mr. Price, that you corrected it?

A I had got off the witness stand and found out my mistake and went back and corrected it.

Q You had left the witness stand?

A Yes, sir. If you want me I can explain to you very proper how I came to make that mistake, too.

THE COURT: Just wait. You can explain afterwards.

MR. DARROW: You will have a chance to explain.

MR. KNIGHT: Yes, he will have all kinds of chances to explain.

Q I ask you, refer you to page 890. The next page, and ask you whether you made those statements?

(Testimony handed with who examines the same)

Price recalled  
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1473

A That meant at my place--

MR. KNIGHT: Never mind. Just read these questions, and I will have a question for you.

THE COURT: read all you desire, Mr. Price. Read that too, below, and as much of the text as you desire.

THE WITNESS: All right.

A Thats all that page, is it?

Q No, theres another page I want to refer you to, the next page, 891 .

(Witness examines the testimony and hands it back to counsel)

Q Now, at that trial were these questions asked you and did you make these answers :

"Q Do you know W. B. Chandler?

"A Hold on, what was that question you asked me before

"Q I asked you if Mr Chinn stayed there that night-- if you remember of him being there?

"A yes, sir. I remember now. He is a little bit of a fellow.

Q Do you know what the fact is as to whether or not he stayed there that night?

"A No? I dont think he was there that night; if he was there, I didnt take him out. He went out afoot, but I dont think he was there, but it seems I met him on the trail the day before; but I cant remember about that.

"Q Do you know how it was about Mr. Chandler?

"A I know Chandler was not there with those people?

"Q Did you take Chandler out?

"A Never.

"Q How did you take the women out?

"A I took them out on horseback.

"Q How many horses?

"A I dont remember. I generally take my  
"hunch of horses along, even if I have more than I have  
"people to ride, and I take back a load."

Q Did you make those answers to those questions?

A I did.

Q And the next morning you went on the stand and  
corrected that testimony.

A Yes, sir.

Q Stated you didnt take them out?

A I stated I didnt take them, because I got the  
parties confused.

Q Now, referring to that testimony, I will ask you  
whether you made a trip from Mason's to your place on the  
24th of August?

A I made a trip from Mason's to my place on the 23rd  
and took this party out the morning of the 24th to the  
St. Joe, not the Perkins party, but the Hooper party.

Q You was mistaken then, about the trip from Mason's  
place to your place, the Mica Meadows, on the 24th ?

A No, sir; I went to <sup>the</sup> St. Joe on the 24th.

Q You were not at your place on the 24th?

A Not after the morning. I left there in the  
morning---

Q You left the morning of the 24th?

A Yes, sir. I left The Meadows on the morning  
of the 24th.

Q You are sure about that?



Price recalled  
D-29 L

~~1493~~  
1475

A I am.

Q What time did you arrive at St. Joe?

A About three o'clock, some time in the afternoon.

Q You stayed at St. Joe that night?

A I did.

Q What time did you leave your place that morning?

A I left early in the morning. I left about six o'clock

Q You dont know who was there at your place at The Meadows, on the 24th?

A Do I know?

Q Do you know who was there that afternoon? You dont know who was there?

A Know who was there, I dont know who came there only from hearsay.

Q You dont know who came there, of your own knowledge?

A No.

Q You felt pretty good whe you heard of Bouley's death, didnt you?

A You bet I did.

Q You feel that way yet, dont you?

A Well, I certainly dont grieve over it any.

Q You testified this morning that during--- that you took this ride from Mason's place on the river to your place at Mica Meadows, without knowing as a matter of fact whether you did or not?

A I told you I made a trip each day unless I had to go some place else.

Q You testified that you did go on the 24th, didnt you?

A Yes, unless I made a trip some place else.

Q And you testified in your former testimony at wallace that you took the Perkins party out simply because you had examined this register and found your name was on the register with Mrs. Perkins on the same day, and Miss Perkins

A Because, we all met at St. Joe that night. I had forgotten whether I took the party out, whether it was the Hooper party that stayed at St. Joe the same night my party did, and I had forgotten that I took them out, and knew that Chandler was not in the party that I took out.

Q You testified as you did because of the reason that you saw your names on that register?

A No, sir.

Q Didnt you testify to that in Wallace, that it was because you saw your names on the register?

A No, sir. I never testified to any such thing as that in Wallace.

Q Didnt you to that effect, that it was all you had to go by?

A No, sir; I did not to that effect, that it was all I had to go by.

Q Didnt you?

A I never did.

MR. KNIGHT: Where is Volume IX. (Handed to counsel)

Q I will ask you to examine this testimony, page 1043, Mr. Price. (Handed to witness who examines the same)

A Yes. Well, what of that?

Price recalled  
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~~1177~~  
1177

Q Just wait. At the former trial at Wallace were the following questions asked you and did you make the following answers:

"Q This party you took out on the 23rd composed of any women at all?

"A Yes, sir.

"Q You stated all these occurrences of these women riding and all these occurrences in regard to this trip simply because you found all these parties on this register?

"A No, but I saw my name was registered there with them and I knew I had taken a party out and I had forgotten that it was not the Perkins's I took out, that it was another party I took over the trail that morning.

"Q Then all the description you gave of that trip with Mrs. Perkins, Miss Shearer and those others, was not correct?

"A I didnt give any description.

"Q All your statements in regard to the matter of taking them out, what route you went, and all that?

"A There was only one route to go.

"Q Did you ever take out Mrs. Perkins at any time?

"A I dont think I did that summer.

"Q Did you ever take out Miss Shearer?

"A I dont remember.

"Q You have seen Chinn since then, have you?

"A I have."

Q Did you make those answers to those questions?

A I certainly did.

MR. KNIGHT: Thats all.

WITNESS EXCUSED.

ELI LAIRD,

Was called and being duly  
sworn and examined as a  
witness on the part of the  
defendant, testified as follows:

BY MR. McBEE:

Q State your name?

A Eli Laird.

Q Where do you reside?

A St. Maries.

Q What is your business?

A Steamboating.

Q Where?

A Coeur d'Alene Lake and St. Joe River.

Q How long have you been engaged in that business?

A Since the fall of '97.

Q And at this same place?

A Yes, sir, the tributaries of Coeur d'Alene Lake.

Q Did you have a homestead in---

MR. KNIGHT: We object.---

Q the upper St. Joe country?

A I did.

MR. KNIGHT: Just wait. I object to this. It is  
immaterial whether he did or not.

THE COURT: I shall sustain the objection.

Q Where were you in July, 1904?

A I was on the homestead.

Q Where?

Laird D  
D-33 I

~~1121~~  
1479

A Mica Creek.

Q Where is Mica Creek?

A Well, Mica Creek is one of the tributaries of the St. Joe River.

Q Where were you in the early part of August, 1904?

A I came out from my homestead in the fore part of August and took my position on the Steamer Spokane.

Q Where did you come to?

A I came to the head of navigation, on the St. Joe.

Q Do you remember just when you assumed your position?

A Well, not exactly the date, the first week in August I came out.

Q Referring you to the first trip that you made on the boat after coming out from your homestead, what time in August can you say that was? Can you fix it at all?

A Well, it was somewhere --- between the sixth and the ninth of August.

Q Do you know Frank Price who just testified here?

A Yes, sir.

Q Did you see him on the morning you made the first trip?

A Yes, sir.

Q Where?

A At the docks at the head of navigation.

Q At St. Joe?

A Yes, sir.

Q What was he doing?

A Well, he was there arranging some stuff to pack out, or something, as near as I can remember.

aird D  
-34L

~~1180~~  
1180

Q Do you know Steve Adams, the defendant here?

A Yes, sir.

Q Did you see him that morning?

A Yes, sir.

Q What was he doing?

A Well, he seemed to be---

MR. KNIGHT: I object to what he seemed to be.

Q What was he doing?

A He came down on the boat.

Q Before that?

A Leavin', as near as I know.

Q Did you have any conversation with Frank Price that morning, with reference to the defendant, Steve Adams?

A Only joshing, that's all; I never carried on any business transactions with him.

Q Did you have any conversation with Steve Adams that morning before the boat left?

A Yes, sir.

Q Do you know who else was present?

A Mr. O'Neill, the hotel keeper.

Q Anybody else?

A Jap Lasage, a timber jack there.

Q Was there anything particular occurred that directed your attention to Steve Adams at that time?

A Yes, sir.

Q What was it?

MR. KNIGHT: We object to it.

THE COURT: Objection sustained.

Q Did you see Steve Adams that day after the boat started on this trip?

A I did.

Laird D  
D-35 L

~~1480~~  
1481

Q Where?

A He was in the wheel house.

Q Just to what extent you saw him and what connection you had with him, if any, on that trip?

A Well, I met Mr. Adams and he was visiting with me in the wheel house. I got acquainted with him and found out he was a countryman of mine. ---

MR. KNIGHT: Just wait.

THE COURT: You can say you had conversation but dont state what conversation was. You can state you visited together, if you desire, but what you said is not competent.

A I visited with him in the wheel house.

Q Where did you have your dinner that day?

A My wife brought my dinner down to the boat at Harrison.

Q Do you know where Steve Adams had his dinner?

A No, sir; I dont.

Q How long does the boat stop at Harrison?

A The boat stopped at Harrison in the neighborhood of an hour or an hour and a half.

Q Where did you go after the boat left Harrison?

A To Coeur D'Alene City.

Q Did you see Steve Adams on the boat between Harrison and Coeur d'Alene City?

A Once.

Q Did you see him after you got to Coeur d'Alene City?

A yes, sir.

Q Where?

A I seen him board a train for Spokane.

Archives  
University of Colorado  
at Boulder Libraries

Q What kind of a train?

A Passenger train.

Q On what railroad?

A The electric line.

Q Do you know what was--- do you have anything to say with reference to his transportation? From seeing it do you know where his destination was?

MR. KNIGHT: I object to that.

Q Who takes the fares on that boat, or did at that time?

A The purser, Joe Cole.

Q Did you see the purser take Mr. Adams's fare?

A Yes, sir.

Q What was the transaction?

A He bought a trip down through to Spokane.

Q You say you saw him get on the electric car?

A Yes, sir.

Q Headed for Spokane?

A Yes, sir.

Q Where was this transportation purchased, on what part of the boat?

A It was in the wheel house.

MR. KNIGHT: " Well--

MR. MOBEE: I dont think thats very material; you can strike it out if you want.

THE COURT: No.

Q Was there anybody else in the wheel house then besides Steve?

A Yes, sir.

Q Who?

A I cant call the man's name just at present, but am



Laird

I L

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well acquainted with the fellow; he lives in St. Maries.

Q before you say this was ~~about~~ the 9th of August?

A Yes, sir.

Q Do you know how long before?

A Well, a couple of days before, a day anyway.

I was home the ninth of August.

Q Are you positive that this occurred on the first trip you made after your vacation?

A Yes, sir.

Q Where was your home then?

A Home--- my wife was under the doctor's care in Harrison.

MR. TIGHT: I object to that, where his wife was.

Q Do you mean you were home on the ninth?

A Where I ate my meals was at Harrison.

Q Did your family?

A Yes, sir.

Q On the ninth of August, 1904, you were there?

A Yes, sir.

CROSS-EXAMINATION

LAIRD.

BY MR. K T:

Q I don't know whether it was the seventh or eighth you went on the river?

A If it was the seventh or eighth, would not be sure when.

Q Do you make any more trips between that one and the time you had dinner on the ninth with your wife?

A No, sir. I made the trip until the ninth.

Laird-X  
D-38 I

~~1484~~  
1484

Q Did you make any trip in addition between the one you took Adams down the river and the <sup>one</sup> ~~day~~ you had dinner with your wife?

A Not positive.

Q You are not positive about that?

A No, sir. Not positive.

Q It might have been Sunday you took him down the river?

A The boat dont run Sunday.

Q Then it might have been saturday, the sixth?

A I am pretty sure I came out Saturday, the sixth, or Sunday, the seventh.

Q Is that the time Steve came <sup>with</sup> ~~in~~ you ?

A Steve never came with me. He came down the river with me.

Q He came down the river with you?

A Yes, sir.

Q Is that the sixth, you mean?

A I came out from my homestead on Mica Creek.

Q On what day?

A Saturday, the sixth, or Sunday, the seventh.

Q To where?

A To the hmd of navigation.

Q Where did you take your boat for your first trip?

A Took it at the head of navigation.

Q That first trip Steve came down with you?

A Yes, sir.

Q Was that Sunday or Monday?

A That was Monday.

Laird X  
D-39 L

~~1485~~  
1485

Q Then you know it was not Sunday the seventh,  
or Saturday, the sixth?

A Yes, sir.

MR. KNIGHT: Thats all.

WITNESS EXCUSED.

NEWTON GLOVER

was called and being duly sworn  
as a witness on the part of  
the defendant, testified as follows:

BY M. McBEE:

State your name?

Newton Glover.

Where do you reside?

Marble Creek.

How long have you lived in Idaho?

Since 1891.

Since what year?

1891.

1891?

Yes, sir.

Where did you live first in Idaho?

On the St. Joe River.

Where?

About ten miles up above the head of navigation.

What did you do up there?

THE KNIGHT: I object to going into all the biography  
of the witness.

THE COURT: Objection overruled.

What did you do up there?

Worked round on the river. During the summer  
would go out to the Palouse country and work in harvest.

Well, with reference to establishing a home.

THE KNIGHT: Now, we object to that.

THE COURT: The objection is sustained.

McBEE: I don't want to argue after the Court has  
ruled but he is on the place where he lived in 1904.

THE COURT: Well, direct his attention to 1904.

We do really need the whole history of this man. I am  
sustaining the objection in order to shorten the trial.

Glover D  
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1487

Q Did you take up any homestead in that country?

A I did .

MR. KNIGHT: I think that is objectionable, for the same reason.

Objection overruled.

Q When and where?

A In 1891 I taken up a homestead on the river ten miles above the head of navigation.

Q How many acres?

A Forty acres.

MR. KNIGHT: We object.

THE COURT: I sustain the objection. Strike it out. 1891 is entirely immaterial to this question.

Q Did you take up any other homestead after that?

A I did.

Q What was the nature of this second homestead that you took up?

~~MR~~ MR. KNIGHT: We object to the nature of the homestead.

THE COURT: The nature has nothing to do with it.

MR. McBEE: Counsel knows just what the record is; that it would not be fair to this witness to leave the impression that he takes one homestead at one time and another, he does not mean that literally, and it requires an explanation.

MR. KNIGHT: I am not questioning his homestead at all, one way or the other.

THE COURT: It is immaterial; objection sustained.

MR. McBEE: Q How many acres in this second homestead?

A One hundred twenty acres.

Q Why didnt you take up 160 acres?

MR. KNIGHT: We object.

Objection sustained.

Q When did you take this second homestead?

A In 1901.

Q Who else at that time had taken up a homestead in the Marble Creek country?

MR. KNIGHT: Objected to as immaterial and irrelevant.

Objection sustained.

Q Did Alvin Mason have a homestead up there at that time?

A He did.

MR. KNIGHT: We object as immaterial and irrelevant, and move to strike out the answer.

Objection sustained; motion granted.

Defendant excepts and exception allowed.

Q State whether or not, if you know, Alvin Mason had a homestead in the Marble Creek country in 1901?

A He had a homestead there.

Q Do you know Jack Simpkins?

A Yes, sir.

Q State whether or not he had a homestead at any time before 1904 in the Marble Creek country?

MR. KNIGHT: We object. It is only a persistent effort to introduce another question into this trial. The only time I have asked about is 1904. The dates of those locations of the homesteads is entirely immaterial and can not be pursued for any other purpose.

THE COURT: I think I shall limit the inquiry as to whether or not he had a homestead there in 1904.

Defendant excepts; and exception allowed.

Q State whether or not in 1904, if you know, Simpkins had a homestead in Marble Creek country?

A He ~~did~~ did

Q Where was it with reference to yours?

A About a mile and a half from me.

Q Where was Mason's homestead with reference to your and Simpkins'?

A Well, it was about the same distance; probably a little further; he was on section 7 and I was on section 20.

Q Who was on 7?

A Mason.

Q Where were you in March, 1904?

A Well, I was in the Marble Creek part of the time.

Q When did you get in there?

A I went in there early in March; some time about the first of March.

Q Did you know Muley?

A Yes, sir.

Q And Phillips?

A I was not very well acquainted with Phillips.

Q Did you know Ed Tyler?

A I knew him well. I seen him. I met him once to get acquainted with him, and that is all.

Q Do you know where he was in the spring of 1904?

A He was in there, on Jack Simpkins' claim.

Q Where was Beatty, if you know?

A He was on Mason's claim.

Q When you went in there, in March, 1904, were any of these persons in there?

A No, not the first trip in they were not.

Q Well, did you see them in there at all, and if so, when?

A I dont remember whether it was in March or in April, but it was the first of March or the first of April that I ~~went~~ went in there, and they were in there.

Q You saw them on your second trip in Mr. Glover?

A Yes.

Q How long did you remain in the Marble Creek country on your homestead in 1904?

A I was in there all the time, pretty near, until about the first of July.

Q Then what did you do?

A I went out and put up my hay on the river.

Q Went out where?

MR. KNIGHT: He said he put up his hay on the river.

MR. MCBEE: Q I am asking him where he went. Q Where did you go?

A Out to the St. Joe River, on my little homestead, to the 40 acres, ~~and~~ put up my hay and prove up on it.

Q This forty acres, wasn't it?

MR. KNIGHT: He has already answered this.

THE COURT: Objection sustained; he said he went to his homestead, his forty acres, his river place.

MR. MCBEE: Q Well, when did you go out to this place?

A Went out on the 3d day of July.



Q Do you know Steve Adams, the defendant?

A Yes, sir.

Q When and where did you first know him?

A I met him at Mason's place, is where I got the introduction to him.

Q When?

A It was right after the 4th of July; I could not tell you the date.

Q Where is Mason's place, with reference to your forty acre homestead that you speak of?

A His place on the river is a half a mile below me.

Q Was it Mason's place on the river or Mason's place on Marble Creek that you saw Steve Adams?

A It was the one he had there down on the river.

Q Who, if any one, was with Steve Adams at that time?

A Jack Simpkins.

Q Do you know where they came from?

A No, I dont.

Q What were they doing up there?

A They were going in to locate a timber claim.

MR. KNIGHT: We object, unless you know what they were going in for.

THE COURT: Objection sustained, unless he knows.

MR. McBEE: Q Do you know?

A They told me--

MR. KNIGHT We object and move to strike that out.

THE COURT: That will be stricken out.

Q Did you have any conversation with Simpkins and Adams at that time, with reference to the object of their business, of going in?

MR. McBEE: I am not asking him to state, Mr. Knight.

MR. KNIGHT: You are asking him to a particular conversation. The main object of asking him whether he had a particular conversation with him is to identify it. The question is objectionable because leading and irrelevant and immaterial, ~~and~~ whether he had a conversation in that regard or not.

THE COURT: Objection sustained.

Q Do you know of your own knowledge where they came from?

A No, I do not.

Q Do you know of your own knowledge--and I don't want you to testify as to anything else--where they went, or what direction they went when leaving the country?

A I met them there that night.

Q You did not see them come and did not see them go away, did you?

A Did not see them come and did not see them go away.

Q Did you see them the next day?

A No, sir; I did not.

Q When did you next see Steve Adams?

A Well, it was two or three weeks. I don't know just how long; it was a week or ten days or something like that; it was pretty close to the last of July, though, or the first of August.

Q Where did you see him?

A I saw him at Mason's.

Q Was Simpkins with him?

A No, Simpkins was not with him.

Q You saw him at <sup>Mason's</sup> ~~Simpkins'~~ on the river or on Marble Creek or on the river?

A On the river.

Q When you saw Steve Adams and Simpkins at Mason's place near the 5th of July, state whether or not Mr. Mason was there?

A Yes, he was there.

Q Was he at his place on the river?

A He was at the river; yes.

Q Do you know what portion of July Mr. Mason spent on his homestead on Marble Creek?

A I think he was in there--

MR. KNIGHT (Interrupting) We object; we dont want to know what you think; we want to know what you know.

THE COURT: What you know.

A He was there on the river in July, a part of July anyway.

Q Do you know what Steve did after he came to Mason's place the last of July or the first of August?

A He came up to my place.

Q What did he do?

A Well, he came up there in the evening and Jack came up in the morning, as well as I can remember; in there any way a day or two, and they came up there and got some rock across there in a little prospect that there had been a little work done on it, and they was going to do--

MR. KNIGHT: (Interrupting) We object to what they were going to do; what they said they were going to do.

~~1904~~  
1904

MR. McBEE: Q What did they do?

A They went across this river and got some rock out of this prospect.

Q What did they do with it?

A Jack taken it down and had it tested.

MR. KNIGHT: We object to that.

Objection overruled.

MR. McBEE: Q What became of Simpkins?

A He went down to have this rock tested; he was coming back; he was going to go down to see if he could get some money to work his prospect.

MR. KNIGHT: We object to that and move to strike it out.

THE COURT: Objection sustained and motion granted.

MR. McBEE: Q What became of Steve?

A Steve was at my place waiting for Jack to come back.

Q Where did he sleep?

A He slept in the barn on the hay.

Q Where did you sleep?

A I slept in the house.

Q You are not a married man?

A No sir.

Q Where did he eat?

A He ate at my place a part of the time and part of the time at Mason's place; most generally at my place.

Q How frequently during that time were you or Adams, or noth of you, at Mason's place?

A We were there every day.

Q State how long, if you know, Adams remained in that vicinity at that time?

A He was there until after Mason's birthday, and I don't remember about the 7th, I believe his birthday was on--

Q When was his birthday?

A The 7th is the best I can get it.

Q The 7th of what month?

A Of August.

Q Do you remember on the 6th of August of seeing Steve on the 6th of August?

A I do.

MR. KNIGHT: I think it is objectionable as leading. We object to it.

MR. McBEE: Q Where?

A He was at my place.

Q Who else was there at that time, if you recollect, or came there?

A Frank Price was up there at my place, I believe.

Q What time of day?

A It was late in the evening.

Q Anybody come with him?

A Miss Myrtle was with him.

Q Have any business transaction with Frank Price?

A I sold him two cayuses.

Q State whether or not anything at that time was said with regard to the birthday of Mr. Mason?

A Myrtle asked us to come down to the birthday dinner the next day.

Q Where did Steve Adams stay that night?

A He stayed with me.

Q What did you do the next morning?

A We went after the cayuses; they was on the hills; we went out after them.

Q Did you see Frank Price the next morning?

A Yes.

Q When?

A It was early in the morning some time.

Q What were you doing?

A We was going up after the horses on the hills.

Q Did you have any conervation with Frank Price that morning?

A Nothing, only--

MR. KNIGHT: We object.

THE COURT: Dont give the conversatinn.

MR. McBEE: Q You did have some conversation?

A Yes, sir.

MR. KNIGHT: Wait; dont state it.

THE COURT: Dont state it; the fact that you had a conversation you can testify to, but what you said you cant state.

A Yes, we did.

MR. McBEE: Q ~~Where~~ Who did the talking?

A Price and I.

Q Where was Price at the time?

A He was down on the flat, on Mason's hay ranch.

Q Where were you?

A I was just up on the hillside.

Q What were you doing up there?

A We was up after the horses.

Q Which horses do you refer to?

A The two horses I sold Price.

Q What did you do then with reference to the horses?

A We went up and got the horses and brought them down.

Q Down to where?

A Down to Mason's or down to the bottom.

Q Tell just what Steve did and then what you did.

A Steve taken one of the horses and I taken one of them.

Q Let us see about Steve's horse; what did he do with the one he had?

A Steve taken his horse over to Mason's and tied him by the barn.

Q What did you do with the horse that you took?

A I taken him and rode him across the river to my place.

Q Then where?

A I dont remember, went over for some purpose or other, and afterwards I came on back and went on down to Mason's and tied this horse up to where the other one was.

Q You might describe those horses.

A One of them was a pinto, and the other was, I dont know sorrel or something of that kind, dapple.

Q What did you do after you took the horses down to Mason's?

A We tied them up to the hay barn there and went in.

Q Then what did you do?

A Went in and jollied around there, I guess, until dinner.

Q Where did you have dinner?

A At Mason's place.

Q This was the birthday dinner that you spoke of?

A Yes, sir.

Q What did you do after dinner?

A We was around there until in the evening.

Q Where did you go from there?

A I went back home.

Q Who went with you?

A Steve.

Q What did you do the next morning?

A Went down the river.

Q Where to?

A Head of navigation.

Q How did you go?

A We went in a boat to Little Falls.

Q Who went with you?

A SteveAdmas.

Q Went in a boat to the Little Falls; and from there?

A We went down the road.

Q What time did you start from home that morning?

A I dont remember; it must have been about five  
o'clock.

Q And what did you do when you got to St. Joe?

A We had breakfast there.

Q Where?

A At St Joe.

Q Where at St. Joe?

A At O'Neill's place.

Q Whom did you see while eating breakfast?

A Saw Frank Price for one.

Q Anybod y with him?

A Mrs. Henkel, I believe was with him.



Q Did you have any conversation between you and Mr. Adams and Mr. Price, that morning at the breakfast table?

A Well, yes.

Q What did you do after breakfast?

A I went back home.

Q How did you go?

A I went to ~~rickrockbox~~ w Little Falls, where I left my boat, and I had some oats there, and I taken up a load of oats in the boat.

Q Do you know where Steve went?

A I dont know.

Q Where did you leave him?

A I left him at the breakfast table.

Q When did you next see him, if you know?

A Ir was seven or eight days, I suppose.

Q Where?

A At Mason's place.

Q Do you know where he came from?

A He came up the river.

Q Anybody with him?

A Yes, sir; Simpkins.

Q Who?

A Jack Simpkins.

Q What did he and Jack Simpkins do then; where did they stay?

A They came up to my place and stayed there and worked on a prospect across the river, worked some prospect.

Q This same prospect that you have referred to?

A Yes.

Q Do you remember of any incident that happened while you were there that caused you to remember Simpkins and Adams were there?

A Yes, I do.

Q What was it?

A Bouley was killed.

Q How did you hear about it?

A Frank Price came to the river bank and holloed across to Mason.

Q Do you remember when that was?

A I dont remember any date.

Q With reference to the time that Bouley was killed?

A Well, it was the day after Bouley was killed.

Q Where were you when you heard this?

A I was standing on the river bank.

Q How far from where Mr. Price was?

A Well, it is a half a mile.

Q And you heard what he said?

A Yes, sir.

Q Where was Simpkins at that time?

A Simpkins and Adams was out back of the house cutting wood.

Q What did you do after hearing of this; that is after hearing Price hallo across the river?

A We went down to Mason's to hear what had happened.

Q Who went down?

A The three of us, I think, Steve and Jack and myself.

Q About how long did Steve Adams stay up there after that time, if you know?

A He stayed around there for three or four days.

Q Do you remember the circumstances of his leaving, anything about it, or did you hear of the causes why he left?

MR. KNIGHT: We object to that.

MR. McBEE: I am not asking him to tell.

MR. KNIGHT: We object to whether he left, of the causes why he left.

MR. McBEE: Just to refresh him memory.

THE COURT: I think it is proper enough to state, without stating any conversation.

MR. KNIGHT: If he said he heard he left, it would be proper, but if he said why he heard he left, it would not be.

THE COURT: I suppose he is trying to develop, without a leading question, that he received a letter and left in a day or so.

MR. KNIGHT: I prefer that he state direct.

MR. McBEE: Q Do you remember of Steve Adams receiving a letter?

A Yes, sir; I do.

Q What did he say after receiving the letter?

A He said, "I have got"--

MR. KNIGHT: Just wait.

THE COURT: Dont say what he said; state what he did.

THE WITNESS: He went down the river.

MR. McBEE: Q Bid you see him after he went down the river?

A No, sir.

Q Until when?

A I never saw him until I met him at Wallace.

Q Not until you met him at court. Where did he get this letter, do you know?

A Jack Simpkins had been to the postoffice and brought it up to him.

Q When was that with reference to the time that you heard of the killing of Bouley?

A Well, I could not say; it was two or three days after.

Q Mr. Glover, I will ask you when you next went into the Marble Creek country after you came out the first part of July?

A When did I go back?

Q Yes, sir.

A It was in September some time.

Q Were you ever at any time, between the 4th of July and the time that you heard Bouley was killed, in the Marble Creek country?

A No, I was not.

Q Were you ever during that time on your homestead of 120 acres in the Marble Creek country?

A No.

Q Did you ever have any trouble with "jumpers" on your homestead?

MR. KNIGHT: I think it is immaterial whether he did or not.

Objection overruled.

A I never did.

Q Did anybody besides you ever build any cabin on your homestead?

A No, sir.

Q Did you ever belong to any "Jumper Killers Association"

in that country?

A I never heard of such a thing.

Q Did you ever belong to such a thing?

A No, sir.

Q Did you ever attend any meeting in July or August of that year, or at any time, when settlers of that vicinity met for the purpose of discussing ways and means of protecting themselves against "jumpers"?

A Never did. The only thing I know of in there was the polling precinct in there election time.

MR. KNIGHT: I cant hear you.

THE WITNESS: I was in the precinct in there election day is the only meeting I was ever in there to.

MR. MCBEE: Q Did you ever attend any meeting in there of the settlers to discuss the question of Northern Pacific Scrip?

A I never was there to any meeting.

Q Were you at Price's place on Mica Meadows at any time in July or August?

A No, I was not.

Q Were you there on or about the 20th day of August, in company with Jack Simpkins and Steve Adams?

A I was not in there in August at all.

Q Did you pay Steve Adams, or promise to pay him any money for the killing of either Bouley or Tyler?

MR. KNIGHT: Objected to as immaterial; no evidence that he ever did.

MR. MCBEE: There is.

MR. DARROW: There is a claim that they were to raise some money for him, the settlers, and that Newt promised to

Glover d  
E-18

~~1501~~  
1504

aid.

THE COURT: I will overrule the objection. Let him answer.

A I never raised no money for anybody in there; it kept me hustling for myself.

Q State whether or not on about the 10th of August, 1904, or at any other time, or at all, you and the defendant Steve Adams and Alvin Mason, or anybody else, killed Tyler, shot Tyler?

A No, sir, I never, that is a cinch.

Q Were you present when Tyler was killed?

A I was not.

Q Do you know whether or not he ever was killed?

A I dont know; he may be alive yet.

MR. DARROW: Speak louder.

A I dont know anything about him being killed; I dont know whether he is dead or not.

Q Did you and the defendant, Steve Adams, and Alvin Mason, or you in connection with any other, take Fred Tyler to Jack Simpkins' cabin and keep him there over night?

A I know nothing about it at all.

Q Well, did you do that?

A I did not.

Q State whether or not about the 20th of August, 1904, or at any other time, you and Steve Adams, the defendant here, and Jack Simpkins, or any other person met Bouley on the trail and shot him, either him or his dog or his horse.

A No, sir, I did not.

Q Were you present in that country when Bouley was killed, in the Marble Creek country?

A No, sir; I was not.

Q Did you ever blow up any cabins of jumpers up there, or any cabins at all, with dynamite?

A I never blew up no cabins at any time.

Q Do you know E. E. Pyles?

A I do.

Q Do you know where he lives?

A Yes, sir.

Q Did you ever go in the night time from the vicinity of Jack Simpkins' homestead, or from the vicinity of the place where Bouley was shot, across the St. Joe River above Pyles' place?

A Was ever I in there, you say?

Q (Question read.)

A No, nor nobody else ever made it in the night time.

Q Why?

MR. KNIGHT: We object.

MR. McBEE: Q Why do you say that nobody else did?

A Because you cant make it in a night.

Q Do you know anything about the character of that country?

A I do.

Q How do you know?

A I have been all over that country.

Q Did you ever go from Pyles' place through to the Marble Creek country?

A The first trip I ever went in to Marble Creek, I went through there.

Q Did you ever come up that way?

A No, I never came up that way.

Q Describe the character of that country as you know it.

A It is all full of down timber and brush and it is a pretty hard country to get through at any time.

Q How long does it take you to make the trip?

A Well, I don't remember, but we did not make it through the first day; we camped on the road going in.

Q Who was with you?

A Alvin Mason and Fred Ingstrom and two other fellows from Kansas; I don't remember their names.

Q Was there any trail through there?

A No trail through.

Q Was there in 1904 any trail from Pyles' place to the Marble Creek settlement, where your homestead was?

A No.

Q Or to anywhere near the homestead?

A No place; never been a trail through there at all.

Q State whether or not it would be possible to go through in the night time?

A We object. No evidence to show that anybody ever went through there in the night time; Bouley was killed in the morning.

Objection overruled.

MR. DARROW: We say he came out of the woods the next morning.

MR. KNIGHT: Yes, that does not mean that he made the trip in the night time, however.



THE COURT: Answer the question.

A No, I dont think it is possible for a man to go through there in the night time.

Q Now, dod you know where Van Dorn's landing is?

A Yes, sir, I do.

Q Near and opposite ~~Van Dorn's~~ Pyles' residence on the St. Joe River?

A Yes, sir.

Q State whether or not you and Steve Adams and Jack Simpkins, early on the morning of the 20th of August, 1904, or at any other time, passed along the trail near Pyles' place just as it was coming daylight?

A No, I never did.

Q Were you ever along that trail with Simpkins or Adams, the defendant here?

A I never was along that trail with anybody at that time of day.

Q Well, were you ever with these two men along that trail?

A No, I was not.

Q At any time?

A No.

Q State whether or not you and these two men that I have mentioned, about that time, took Pyles' boat from where it was tied up near his house, rowed across the river to Van Dorn's landing and there took Van Dorn's boat and went down the river?

A We did not.

Q Did you at any time?

A No, sir.

Q In company with any person, do such a thing?

A Never did.

Q Or take anybody else's boat up the river?

A Never took anybody's boat.

Q Do you know when wason came out from Marble Creek, the summer of 1904?

A No, I dont know the date, but he came out in July.

Q Do you know about when it was?

A I dont know the date; but he came out ~~six~~ in July some time.

Q About what time in July?

A Well, along late in July.

Q When?

A It was late in July or the first of August; some time along there.

Q Where was he, if you know, when you came out about the second of July?

A He was in to Marble Creek.

Q What do you know, if anything about Mason being lame at any time that summer?

A Yes, I do.

Q Well, when was he lame?

A He was lame through haying there; he was pretty lame there all through haying; I dont know just what date it was, but it was after the first of August some time when he was haying, or the last of July, or August.

Q Do you know whether or not he was lame at the date of his birthday?

A Yes, sir, he was.

Glover D-

E-23

~~1509~~  
1509

Q And prior to that time. Did you help Mason any in the haying?

A Yes, I helped him finish that haying up there.

MR. McBEE: That is all.

THEREUPON the Court admonished the Jury, as required by law; officers were sworn to take charge of the Jury and the Jury retired in charge of the sworn officers of the Court, and the Court took a recess for ten minutes; at which time the Jury were returned into court, and being polled all answered to their names; present the defendant and the same counsel as before. Thereupon the following proceedings were had, to-wit:

MR. DARROW: Mr. Price wanted to correct a statement he made on the witness stand.

THE COURT: Let him come forward.

Price (Recalled) D  
E-24

~~440~~  
1510

FRANK PRICE,

Resumed the stand and was  
examined as follows:

MR. DARROW:

Q Mr. Price, was there a statement you made which you wish to correct?

A Yes, sir.

Q What was it in regard to?

A Elmer Gerrell working for me in 1904; it was in 1905 he worked for me, instead of 1904.

BY MR. KNIGHT:

Q Gerrell?

A Elmer Gerrell.

Q How tall is he?

A Six feet or a little more.

Q Dark complexion?

A Dark complected.

Q He did not work for you in 1904?

A Did not work for me in 1904. Mr. Mason corrected me; after I made the statement he told me I had made a mistake, that it was in 1905 that Gerrell worked for me.

Q Who told you made a mistake?

A Alva Mason.

Q Alva Mason told you?

A Yes, sir; I had found that out; I had from the other things, that I had made a mistake.

Q Did he have big front teeth?

A Well, he has front teeth; I guess they are pretty good size.

Q Had the same kind of teeth in 1905, did he?

Archives  
University of Colorado  
at Boulder Libraries

Price (Rec) X  
E-25

~~144~~  
1511

A Well, I dont know; he might have changed them;  
I didnt see him.

Q Might have changed them when?

A I didnt see him in 1904; I dont know what he had  
then.

Q Is he the only man that was there that looked like  
Jack Simpkins?

A He looked the nearest like him of any man that I  
see, except the size, except the height.

WITNESS EXCUSED.

Glover X  
E-26

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1512

NEWTON GLOVER,

CROSS EXAMINATION

BY MR. KNIGHT:

Q Where were you born, Mr. Glover?

A Born in Missouri.

Q How long did you live there?

A Lived there for twenty-one years.

Q What county were you born in?

A Polk County.

Q Polk County?

A Yes, sir.

Q How far is that from Jackson County?

A Pretty close to Jackson County.

Q Pretty close up to Jackson County, isn't it?

A Yes, sir.

Q What part of the state?

A Well, sir, it was in the South.

MR. DARROW: Speak up.

A (Continued) About the central part, a little south-west or something like that.

Q And you know every foot of the country between Pyles' place and the Marble Creek district, dont you?

A No, I dont know every foot of it but I have been over the country a good deal.

Q I understood you to say you knew every foot of it?

A I have been through that country a good deal; I dont know every foot of it.

Q You know it pretty thoroughly, dont you, Mr. Glover?

A Yes, sir.

Q And how far do you say it <sup>is</sup> ~~was~~ from Mr. Pyles' place to Mason's place?  
^

MR. DARROW: You mean Mason's place on Marble Creek?

A On Marble Creek?

Q Yes, sir, to Simpkins' place, rather?

A Well, to Simpkins' place, I would judge it was about thirteen or fourteen miles.

Q In a direct line?

A Yes, sir;-- well, not in a direct line, but the way you would have to go.

Q The way you have to go, it would be thirteen or fourteen miles?

A Yes, sir.

Q And how would you go?

A Well, it is a wind-about; you take the mountain range there, and of course you will by following a ridge--

Q You can follow the ridge down to St. Joe?

A Yes, sir.

Q You can follow most any one of those ridges down to the river can't you?

A If you happen to strike them right.

Q If you strike the mountain ridge at the top you can follow any mountain ridge down to the river generally, can't you?

A Not in a direct line.

Q But you will come to the river some place?

A Yes, you will get to the river.

Q In following one of those ridges, it will be about thirteen miles?

A I would think so.

Glover X  
B-28

~~1514~~  
1514

Q About how far would it be in a direct line?

A Well, you could figure it out on the map; I dont know; I never figures it up; I dont know.

Q You could not tell about how far it is?

A It is about seven or eight miles.

Q When did you familiarize yourself with that country?

A I have been all over that country for the last twelve or fifteen years.

Q Hunted over it?

A Yes, sir; all over it.

Q Examined timebr on it?

A Cruised all over it.

Q Cruised all over it? Crusied perhaps every section in there, havent you?

A No, sir, not every section.

Q But you have cruised it quite thoroughly?

A I have cruised some of it.

Q When did you cruise in there?

A For the last twelve years.

Q Every year?

A Not every year; no sir; probably I would be out in there every year, pretty near.

Q What is that?

A Probably I would be in there, that section of the country, pretty near every year.

Q Other people were through there, were they not?

A Yes, sir.

Q It has been cruised by a great many people hasnt it?

A Not a great many people, no.

Q Many people been up there hunting?

A Yes, part of the way; there is a woody country there



Glover X  
E-29

~~1515~~  
1515

or windfalls there, and brush; nothing but brush for five or six miles, that people hardly ever get into at all; it has been an old burn.

Q What is that?

A It is an old burnt country, and it is all grown up with underbrush and down timber, and in that part of the country there is nobody goes in there much.

Q You have been all through it, though?

A I have been through it.

Q At different times?

A Not very often.

Q You have been there more than once, have you?

A Not clear through there, but I have been through a part of the country; I have been on it hunting several times; every year pretty near.

Q You have been on different parts of it different times, <sup>that</sup> ~~some~~ you have been on all of it different times, havent you, <sup>^</sup> practically all of it?

A No, not all of it; there have been places I have not been on at all.

Q When did you last go hunting in there?

A I have been hunting in there I guess about <sup>thirteen</sup> ~~three~~ years now .

Q When were you last cruising in there?

A Well, I have not been in there; I was in there last summer, that is on Mica Creek; that is right below Pyles' place, where we first went in, the first rrip we ever went in there.

Q Now, there is a trail that leads up by Pyles' place

Glover X  
E-30

~~148~~  
1516

up the river that is used in going into the Marble Creek country, isnt there?

A No, sir.

Q There is not?

A Not that I know of.

Q Well, do you know there is not?

A I dont know anything about it. If there ever was, I have never seen it.

Q Dont people go in there quite frequently to Marble Creek?

A They go to the mouth of the creek; they never go up the creek.

Q Dont they go into the Marble Creek settlement that way some times?

A Very seldom.

Q Well, they do go in there, dont they?

A They do go in there once in a while.

Q They cut out a better trail down below, and they used that trail that is cut out; <sup>but</sup> when you went in there you went that way?

A It is the first time I ever went through, was up that creek or that ridge.

Q And you went up to the Marble Creek settlement on it first, didnt you?

A Yes, sir.

Q And some one with you?

A Mason went with me.

Q And you came out that same way, didnt you?

A I dont remember; I think that we came up that way.

Glover X  
D-31

~~1443~~  
1517

Q Afterward, you came out that way, did you not?

A I know we came out over a part of it, and whether we came up the same way that we went in, I dont know, because there is no trail; there was no sign of anything in there, no trails at all.

Q Other people have been in there havent they, Glover?

A Well, there have been people in there, certainly.

Q Now, how long do you think it would take to make that trap, a man who is as familiar with the country as you are?

A Well, sir, it would take him, I should judge, about nine or ten hours to go through there.

Q Nine or ten hours?

A Yes, sir.

Q He could make it out to the St. Joe river esay enough in nine or ten hours, couldn't he?

A I would think so.

Q You say you went out of the Marble Creek country about the first of July or fourth of July?

A I went out the third.

Q 1904?

A Yes, sir.

Q Went down to your place on the river?

A Yes, sir.

Q Cut your hay?

A Yes, sir.

Q What time did you cut your hay?

A Cut it some time in July.

Q Do you know what time?

A Along towards the last of July.

Q Well, do you know about what time?

A I dont know any dates at all.

Q How much hat did you cut?

A I dont know any of those dates; I had about twenty tons of hay.

Q You say you dont know any of those dates?

A I only know one date, that Mason's birthday is; the only date I know anything about.

Q Dont you know Mrs. Mason's birthday?

A No, sir, I do not.

Q How about your own; didnt you have a birthday then?

A I did.

Q When?

A In February.

Q Didnt have one that summer at all?

A I had one in February; it most generally comes in February.

Q Mason's birthday is the only date that you can fix during those months, July and August, is it?

A Yes, sir.

Q Who helped you cut your hay?

A Fellow by the name of Miner.

Q It was not George Miner?

A Virgil Miner.

Q Virgil Miner.

Q Who else?

MR. DARROW: If anybody, you mean.

A I think one of the Mason boys, helped me a few days; probably a day or two.

Q Do you remember about how long that was before you hepped Mason cut his hay?

A Well, it was just a few days.

Q It was <sup>just</sup> a few days before that?

A Yes, sir.

Q When did you see Mason in the month of July?

A I could not tell you what date.

Q Where was he?

A It was at his place on the river.

Q His place on the river?

A Yes, sir.

Q About what time was it?

A It was the last days of July some time.

Q Last days of July?

A I dont know just what time; it was after the month of July.

Q Who else was there the day you saw him?

A There was a fellow, this same boy that helped me hay there was Virgil Miner and I say a fellow by the name of Bazette.

Q Where was Mason?

A Mason was at his place there on the river.

Q What was he doing?

A He was hobbling around there, putting up a little hay the best he could.

Q Putting up a little hay?

A Yes, sir.

Q You testified you saw him in July; he was putting up hay was he?

A I dont remember what he was doing the first time I seen him.

Q I thought you said he was putting up hay?

A He was there haying.

Q He was haying?

A Yes, sir.

Q But you dont know whether he was puting up hay or not?

MR. DARROW: He dont know whether it was the first time he saw him, is what he said.

A I dont know whether it was the first time I saw him; I saw him most every day.

Q Most every day in July?

A After he came out from his homestead.

Q Well then, the first time you saw him after he came out, he was putting up hay was he?

A I could not swear to that.

Q You couldnt swear to that?

A No sir.

Q Couldnt you swear to what he was doing the first time you saw him after he came out?

A I dont remember that far back.

Q You dont remember that far back?

A No, my memory is pretty short.

Q You do remember the second time all right, do you?

MR. DARROW: He has not said so.

MR. KNIGHT: I asked him whether he does or not.

A I do not.

Q What is that?

A I dont know anything about it, only he was out there haying.

Q Out there haying?

A Yes, sir.

Q You dont know when that was, or whether it was--

A (Interrupting) It was some time around the last of July.

Q You dont know whether it was the first or second time that you saw him?

A I know it was after the middle of July, that he came out for haying.

Q Of July, but you dont know whether it was the second or the third time that you saw him after you came out?

A He went to haying as soon as he came out; he came out and cut his hay, and he certainly went to work, for he came out to put his hay up.

Q And he did go to work, didn't he?

A I suppose so.

Q Dont you know? Dont you know?

MR. McBEE: Dont he know what?

MR. KNIGHT: The record is quite clear, Mr. McBee.

MR. McBEE: I dont think so.

Q Do you know whether he went to haying as soon as he got out there or not?

A He might have went to haying and he might not; he was there anyway about his place when I saw him.

Q You did see him about his place about the first of July?

A I did not.

Q Didnt you see him about his place about the first of July?

--third

A No-- Well, the first ~~part~~ of July I saw him on his home at Marble Creek; I came out on the third, then I came by his place.

Q And he was there?

A He was at his place on Marble Creek.

Q When you came out?

A When I came out.

Q You didnt see him any more until you saw him haying,  
is that it?

A That is it; I never saw him until I saw him haying .

Q Who was with him when you saw him the third of  
July?

A His family was in there and wife, with the girls.

Q When did you see Dixon, or Adams?

A Steve Dixon?

Q When did you see Steve Dixon and Simpkins?

A Right after the 4th.

Q Where were they?

A It was at Mason's place.

Q Was Mason there?

A No, Mason ~~xxx~~ was not there.

Q How long did they remain there at that time, if you  
know?

A I say them there in the evening; that is all I saw  
them.

Q Did they come up to your place?

A No.

Q They did not come up there?

A No.

Q When did you next see Steve Dixon?

A I never saw Steve for, it was pretty near a month,  
three or four weeks, two or three weeks; something like  
that; last of July though or first of August.



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Q You cant say whether it was the last of July, or first of August, could you?

MR. DARROW: After the first what?

MR. KNIGHT: After he last saw him. Could you say whether it was the first of August or last of July?

A I could not say; sometime along the ~~first~~<sup>last</sup> of July or first of August.

Q Do you know what day of the week it was you saw him?

A I dont.

Q Did you see him in the morning or evening?

A I saw him in the evening.

Q Where did you see him?

A He came up to my place.

Q Did he come up to your place in the evening?

A Yes, sir.

Q What is that?

A Yes, sir.

Q And where did he come from to your place, if you know?

A He told me he came from Marble Creek.

Q He came from Marble Creek. Did you first see him at your place; did he come to your place?

A I think he was at Mason's place and he came up home with me that night.

Q You think he came up home with you, do you?

A Yes, sir.

Q Do you know whether that is right or not?

A I am pretty sure that is right.

Q You are pretty sure that is right?

A yes, sir.

Q What time was it in the evening?

A It was late in the evening.

Q Who was at Masons at that time besides Steve?

A I dont remember of anybody there, I dont remember  
or anybody being there.

Q You dont remember whether Mrs. Mason was there or not?

A I dont remember.

Q Was Myrtle there?

A Yes, sir.

Q Was Mr. Mason there?

A No, Mr. Mason was not there.

Q You dont know whether Mr. Mason was there or not?

A Not that I remember of.

Q Was Orville there?

A Yes, sir.

Q Lloyd there?

A Orville and Lloyd were there at night generally.

Q Were they there that night?

A That I could not tell you; I didnt keep no dates;  
I dont know whether they were there that night or not.

Q What did you do next day?

MR. DARROW: The next day after what?

MR. KNIGHT: Q After you saw Steve, if you remember?

A I dont remember, but the next day--I would not say  
whether one day or two days, Jack came up to my place.

Q Jack who?

A Jack Simpkins, to my place, and went across the  
river and got some rock.

Q Who did Jack come with?

A I think he came alone.

Q You dont know whether that was the next day or the next day after that?

A It was the next day that Adams came up or the next day after that; not later than two days.

Q Not later than two days after he came?

A Yes, sir.

Q Now, you are sure that was Jack, are you not?

A It was the man I have always known by Jack Simpkins.

Q How big a man is Jack?

A Well, he is a good sized man; he is a man I guess about five feet six or seven inches, maybe eight inches.

Q Maybe nine inches?

A No, I dont think he is. He is not as tall as that; he is not as tall as I am.

Q How tall are you?

A I am five feet nine and a half; and he is rather a heavy man with stooped shoulders.

Q About how heavy?

A He is a man that will weigh 190 pounds, I think.

Q What complexion?

A He is dark.

Q Was he squint eyed?

A He has got one of his eyes affected somewhere.

Q Wears a mustach?

A Yes, sir.

Q Shaves his chin, does he?

A Yes, sir.

Q How was Steve dressed when you saw him?

A As to that I couldnt tell you; I dont pay much attention to a man's dress in the woods.

Q Now, you had all finished your haying when Steve came, had you?

A No.

Q Well, how long after that had you finished your haying?

A I finished I think a day or two, the day he came out or the next day after he came up.

Q The next day or two after Steve came up, you finished haying?

A The next day, I think maybe two days.

Q Did Steve help you with the haying?

A He helped me part of the day there; I think he helped me finish up.

Q And then what did you do after you finished the haying?

A Jack came up.

Q Do you know how many days you were haying after Steve came?

A Only one day, I think.

Q And then Jack came up.

A Yes, sir.

Q What did you and Jack do?

A Jack and Steve and me went across the river and got some of this rock.

Q Was that the morning that Jack came up?

A Yes, the morning that Jack came up.

Q Did you spend all of the day with them?

A Pretty near all of the day there.

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Q What did you do the next day?

A Steve and I went fishing, I think.

Q Where did you go fishing?

A On the river there.

Q How long were you gone there?

A I guess we fished until we got ready to quit; pretty near sundown, I know.

Q Pretty sure of that, are you not?

A Pretty near sure.

Q Then what did you do?

A We stayed around there; we didn't do very much; I guess we went down, probably, and helped Mason.

Q I dont want guesses; just what did you do, if you know?

A I dont know.

Q You dont know what you did do?

A Just around; stayed around; not doing much of anything.

Q What did you do the next day?

A I guess it was the same old thing.

Q The same old thing. Anything the next day?

A I think the next day we went down to Mason's

Q Are you sure you went down to Mason's?

A I know we helped Mason about a half a day on his hay.

Q You and Steve both helped him?

A Yes, sir; I dont know as we were both working; but I know I went out and helped him; I know we was both helping; I dont know what he worked on, what he done.

Q Now, you testified before in the case at Wallace,

didn't you, Mr. Glover?

A I did.

Q You didn't say anything about the haying there, did you?

A Probably they didn't ask me.

Q My question is, did you say anything there--

MR. DARROW: Let him read the testimony.

MR. KNIGHT: Q Have you read your testimony since you have been down here?

A Yes, sir, I have.

Q Read it carefully?

A I read it over a time or two.

Q A time or two. Did you say anything about haying in that testimony?

A I don't remember anything about haying.

Q There is not anything about haying in there, is there?

A I don't believe there is.

MR. McBEE: If it will help your case any, we will agree that there is not.

Q You didn't think anything about the haying at that time, did you?

A The hay was there to show for itself; anybody along the river could see the hay, that I had put up the hay.

Q But you didn't think anything about the haying at that time, did you, Glover, the time that you testified in Wallace?

A Probably it didn't come so that I needed to think about it; I don't know anything about that.

Q And you didn't think anything about seeing ~~Archives~~

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the morning of Mason's birthday, did you, in your testimony in Wallace?

A I dont remember of it.

Q You didnt say anything about it, did you?

A I dont believe that there was anything said about it; I dont remember now.

Q You have read your testimony over two or three times?

A I have read the testimony, yes.

Q And you know that there was nothing said about it dont, you, Glover?

A I dont remember now whether there was or not.

Q Not a word about Pinto or the sorrel was there?

A I think there was something about I sold him some horses.

Q In your testimony at Wallace?

A I think so.

Q Are you sure of that. You didnt say anythint there as to the names, did you?

A Not that I remember of.

Q Colors?

A No, sir.

Q Dont you know that you didnt say anything about seeing price at all on this Sunday morning?

A I dont remember that.

Q Well, you have read your testimony over?

MR. DARROW: He says he does not remember.

MR. KNIGHT: Q You dont remember finding anything in your testimony of that kind, do you?

A I dont remember.

Q You have discussed this matter with Mr. Price some since you have been down here, havent you, Mr. Glover?

A Yes, he named to me about buying the horses there that morning or that afternoon.

Q You and Price talked it over, did you?

A In a way, yes, sir.

Q Now, what time on Sunday morning did you arrive at Mason's place?

A Was that on the birthday?

Q Yes, sir.

A Well, I judge it was about between nine o'clock and noon some time.

Q Some time between nine and noon. You could not fix it more definitely than that, could you?

A No, sir.

Q What time did you have dinner, do you know?

A One or two o'clock.

Q You could not fix that more definitely could you?

A No.

Q As a matter of fact, it was about two or half past two, wasnt it?

A Well, it might have been that.

Q And you ~~wasnt~~ came there an hour or two before dinner?

A Yes.

Q And you rode Pinto or sorrel?

A I rode Pinto across the river and Steve brought the sorrel down.

Q Did Steve ride the sorrel?

A No, I dont think he rode him; I think he lead him.



Q You think he led him all the way, do you?

A He was leading him when I seen him last.

Q You stayed around there until late in the evening that Sunday evening, did you?

A Yes, sometime in the afternoon.

Q Then went over to your cabin, you say, sometime in the evening?

A Late in the afternoon some time.

Q Late in the afternoon. Now about what time, can you fix it?

A Probably four or five o'clock.

Q Then you went over to your cabin?

A Yes, sir.

Q Stayed there all night?

A Yes, sir.

Q What time did you ~~get~~<sup>go</sup> up the next morning?

A That is pretty hard to tell; sometimes went up pretty early and sometimes it was pretty late.

Q About what time did you get up that morning--as Mr. Darrow says, if you remember?

A We got up early that morning.

Q About how early?

A Well, we got up early enough to catch the boat to go to the head of navigation and catch the boat on the 8th; that was the day after the birthday.

Q And that leaves about what time in the morning?

A The boat left at 7:30 then.

Q How far is it down to the head of navigation from your place?

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A Nine miles, ten miles.

Q Nine or twm miles. You didnt see anything more of Steve until about the 18th or 19th?

A I dont remember what date it was; anyway it was a week or ten days.

Q A week or ten days?

A Yes; six or seven days.

Q You could not say whether it was a week or ten days could you?

A No, sir.

Q Or more than ten days?

A I cant tell you.

Q Or less than seven days, could you?

A No, it was seven or eight or ten days, something like that.

Q Do you know where Buzzle Creek is?

A I do.

Q Where is it; how far from your place?

MR. DARROW: You mean the river place?

MR. KNIGHT: No, I mean the Marble Creek place.

A From my homestead on Marble Creek it is about a half a mile from my corner on Marble Creek.

Q Do you know anything of a meeting occurring in there the latter part of July?

A I never heard of a meeting in there.

Q Do you know George Root?

A I do;

Q He lives up in that country, dont he?

A Yes, sir.

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Q Did you see him in there in 1904?

A I seen him in there every summer since he has been in there.

Q Did you see him in 1904?

A I certainly did.

Q Do you remember what time?

A No, I couldnt tell.

Q Did you see him in July or August?

A No, I did not.

Q You did not?

A No, I did not.

Q What time did you see him?

A He never came in there until pretty late in the fall; that is I never seen him in there until pretty late in the fall.

Q Do you mean to tell the Jury that he did not come in there in July?

A I do not.

Q You dont know anything about it?

A I dont know whether he was in there or not.

Q Do you know Steve Logan?

A Yes, sir.

Q Did you see Steve Logan in there that year?

A I saw Steve and the Dewey boys in there cutting trail in September.

Q Did you see them there in July?

A No.

Q And you did not attend a meeting on Buzzle Creek along the latter part of July?

A I never attended no meeting in there at all.

Q At which some people just happened to be there; some fishing and some hunting and things of that kind, happened to meet each other there on Buzzle Creek?

A No, I did not.

Q If anybody says you were there, they are mistaken are they?

A I think they must be.

Q Now, you say you next saw Steve after seeing him birthday time, about a week or ten days after that?

A Yes, sir; something like that.

Q Where was he; at Mason's?

A Yes.

Q Who else was there?

A Steve was there; Jack and Steve I believe came up together.

Q Were you there when they came?

A No, I came just a while after they came in.

Q The same day?

A Yes, the same day.

Q Was Mason there?

A Yes, Mason was there.

Q Mason was there when they came, was he?

A Yes, sir.

Q You could not fix the date as to the 15th, 16th, 17th or 18th?

A No, I could not fix the date.

Q Is there anything by which you can fix the date at all; any event which happened before Bouley's death?

A Him and Jack came up there and worked along; working there I guess a week or ten days.

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Q Before Bouley's death?

A No; they were there about three or four, or ~~five~~ days before Bouley's death?

A Maybe six days; I could not say just exactly how long.

Q And they worked about a week or ten days?

A Yes; they was working there a week or ten days; something like that; I could not tell you how long.

Q And you dont know how long they came before you heard Price come down the river and call out Bouley was dead?

A I dont remember.

Q Do you know what Price said when he came down there; what did you hear him say?

A He came down there and said Bouley was dead.

Q Now, that is not what he said, is it?

A No.

Q What did he say?

A He said, "Bouley, the son of a bitch, was dead".

Q And you were a half a mile away?

A Yes, sir.

Q You heard it, didnt you?

A I did.

Q You heard it easily, didnt you?

A I heard it plain.

Q Do you know who was with Price, if any one?

A I dont know.

Q What were you doing the day before that?

A I was monkeying around there; cutting brush on the ranch.

Q What was Simpkins doing and Adams?

A Him and Adams was working on the prospect.

Q That would be on Sunday, would it?

A I dont know whether it was Sunday or Monday.

Q Dont you know what day it was that you heard Price make that statement?

A Well, up in that country we did not--

Q (Interrupting) Didnt you know it was Sunday?

A We didnt pay much attention to Sunday; there was nobody around there and we were doing nothing much, probably; if we had anything, we would do it whether it was Sunday or Monday.

Q And what were you doing two days before that; what was you doing yourself?

A Well, I was working there on the ranch somewhere.

Q What were you doing the day previous to the time you saw Simpkins and Adams?

A I couldnt tell you.

Q You couldnt tell. What were you doing the next day afterwards?

A I was working around there on the ranch; I dont know what I was doing.

Q You remember better what you were doing afterwards than what you were doing before, do you?

A I dont remember what I was doing, only they was working there on the prospect and I went out to get a pail of water; I was getting breakfast or dinner or something, I guess it was breakfast.

Q Was that the day before or day after?

A That was the day that we heard Bouley was killed.

Q Oh, the day that you heard Bouley was killed?

A And I heard Price holloa this news across to Mason, and I goes back to the house, and I think I was washing dishes.

Q I was not asking you about that at all; I was asking you about some other dates.

A That is the only date I have got.

Q Do you know how many days Adams and Simpkins worked there before you heard this news?

A They worked four or five or six days; something like that.

Q You are sure it was not less than four?

A I am not sure of it at all.

Q Are you sure it was not less than three?

A Yes, sir.

Q It was four or five or six days?

A Yes, sir.

Q And are you sure it was at least four?

A I am pretty sure it was at least four days afterwards.

Q At least four days, and you think it might have been five or six?

A Yes, it might have been five or six.

Q How long was it you say after Adams went down on the 8th before you saw him again?

A I could not tell you; it was six or seven days; probably a week.

Q I thought you said a week or ten days?

A Probably ten days; I dont know how long it was.

Q What is that?

A I cant tell you exactly how long it was.

Q What is that?

A I cant tell you exactly how long it was, but they was gone down a week or six or seven days or eight days, something like that, and came back up and they was working on the prospect.

Q That is Simpkins and Adams you mean?

A Yes, sir.

Q Went out together, did they?

A No, they didnt go out together.

Q What did you mean when you said "they was gone"?

A They was gone, both of them gone right along.

Q Both of them gone that long were they?

A Yes, sir; Jack probably was gone--I dont know how long Jack was gone.

Q What is that?

A Jack went quite a while before Steve went.

Q Jack went out some time before Steve?

A Yes.

Q How long had he been gone when Steve went?

A Well, I think he had been gone five or six days.

Q Or ten days?

A Three or four days; something like that.

Q It was a week or ten days after Adams went ~~that~~ they came back up?

A Yes, something like that; five or six days, something like that; I kept no account of anything; I dont know those dates.

Q You are positive Mason was there when ~~they~~ they came back, are you?



A Yes, I am pretty sure of it.

Q Then, on the day that you heard Price say that "Bouley, the son of a bitch was shot" what did you do?

A I kept working there, the same as always.

Q You kept working the same as always. How long did you stay down to Mason's?

A I stayed down a little while.

Q What did you do the next day?

A The same old thing, I guess.

Q What did Simpkins and Adams do?

A They were still working on the prospect.

Q What did they do the next day after that?

A They was there two or three days after Bouley was killed, after they got the news.

Q Two or three days?

A Yes, sir.

Q Were they not there four or five days?

A No, they were not.

Q Sure of that?

A I am pretty sure.

Q Sure they were not there four days?

A They were there two or three days.

Q Two or three; you think three would be the limit, do you?

A I think three would be the limit.

Q Do you know when they went out after that?

A They went from my place two or three days after that.

Q When did they leave, what time of day?

A They left in the evening.

Q What time in the evening?

A It was getting late.

Q That was the last you saw of them, was it?

A That was the last I saw of them.

Q You were down to Mason's the next day?

A Yes sir; to Mason's the next day.

Q What time did you go down to Mason's the next day?

A I was down there, I dont remember now, I think it was along, it was late in the afternoon.

Q They were not there?

A No, isr.

Q Did you see John Elliott?

A Yes, sir.

Q You saw him when you went down, did you, to Mason's?

A I dont remember whether it was that day; I saw him anyway before, I think I saw him before Adams and Jack went away.

Q You saw Elliott before Adams and Jack left your place?

A Yes, sir.

Q What were they doing?

A They were seated in a buggy across the river from Mason's on Hughes' side.

Q Where was Mason then?

A Mason was at home, I think.

Q Did you see Jack Elliott and Manley more than once?

A That is the only time I remember of them, yes.

Q Do you know how long they stayed?

A No, I dont.

Q Where did they go when you saw them; where were they going?

A They said they was going in to--

THE COURT:

~~XXXXXXXXXX~~: Dont say what they said.

MR. KNIGHT: I have no objection.

A (Continued) They told me about Bouley being dead and they was going in to look after him.

Q How long was that after you heard Price say, "Bouley, the son of a bitch, was shot"?

A I couldnt tell you; I dont know whether it was the next day; it might have been two days.

Q It might have been two days after that?

A Yes, sir.

Q You are sure it was after that, are you not?

A It was after I heard he was dead.

Q Do you know whether Mason was there or not at that time?

A Yes, he was at home.

Q Mason was at home, was he. He was at home the morning you heard it, was he?

A Yes, sir; he was there the morning I heard it.

MR. DARROW: Speak louder.

A He was there the morning I heard it.

MR. KNIGHT: Q Now, after that time you say that you did see Steve and Simpkins both after that date?

A Yes, sir; after we heard Bouley was shot.

Q No, but after you saw Elliott and Manley?

A I think it was after that.

Q Dont you know it was after that?

A Yes.

Q How long after that did you see them last?

A I could not tell you that.

Q Did they stay at your house the night that you saw Manley and Elliott?

A Jack and Steve--I think I went over across for some tobacco or something; Hughes had a little store over there, and I went across after something--and Jack and Steve came down with me; we came down in the boat.

Q Came down from your place?

A Yes, sir.

Q The time that you saw Manley and Elliott?

A Yes, sir.

Q Did they return, ~~fix~~ with you?

A They did not?

Q Where did they go?

MR. DARROW: Whom do you mean?

MR. KNIGHT: I mean Steve and Jack.

A Steve and Jack went back with me.

Q Went back with you?

A Yes, sir.

Q Stayed with you that night?

A Yes, sir.

Q What did you do the next morning?

A I dont know what I done the next morning?

Q Do you know what they did?

A I dont remember anything about it.

Q You dont remember what either one of them did, do you?

A No, I dont remember whether they went away the next morning or the morning after that.

Q Dont you know they did not get away for about three days after that?

A After Manley was there?

Q Yes, sir.

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A I could not tell you that.

Q Do you know how long after--

A (Interrupting) I know they went away two or three days after Bouley was shot.

Q (Continued) How long was it after Bouley was shot before you saw Manley and Elliott?

A I told you I couldnt tell; it might have been the next day or it might have been the day after the next.

Q You cant remember at all how long Steve and Simpkins stayed with you after they returned from buying the tobacco there, when you saw Elliott and Manley?

A No, sir, I could not tell you the exact date.

Q Dont you remember whether they were working on the prospect that day or not?

A I paid no attention to it only just--

Q (Interrupting) You did not pay any attention to the prospect that day?

A I heard that Bouley was killed and that was all there was to it.

Q And you bought the tobacco the other day, and that was all there was to it?

A I dont know whether we went down the next day or some other day.

Q Dont you know whether they were working on the prospect the day you bought the tobacco?

A I dont know.

Q Or the next day?

A They might have went down that day.

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Q They might have?

A I dont remember.

Q You say they did return with you?

A They might have went down that afternoon.

Q It was in the morning you bought the tobacco, was it?

A I dont remember; I think it was in the morning.

Q They might have gone down that day?

A They might have gone down that day and might the next day; I kept no dates of it.

Q It might have been that day?

A I couldn't say.

Q You know Lindsley, dont you?

A Lindsay?

Q Yes, sir.

A I met the man in there once or twice on those flats.

Q And you met Fred Tyler?

A Yes, sir.

Q Was Steve Adams with you when you met Fred?

A No.

Q When did you meet Fred?

MR. DARROW: You mean Fred Tyler?

MR. KNIGHT: Yes, sir, Fred Tyler.

A I met Fred Tyler in there in April or May some time.

Q That was the only time you saw him?

A No, I saw him going in there later on than that.

Q About what time?

A Well, it was some time in June, I think; I think I saw him at the Meadows getting some groceries there somewhere.

Q You say you were not with Steve Adams when Steve met him?

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1545

A I never seen Steve Adams in that country.

Q Never saw Steve up there at all?

A No.

MR. KNIGHT: That is all. We may want to recall this witness. I dont hardly think so.

MR. DARROW: How long do you want us to hold him?

MR. KNIGHT: In the morning, if we recall him at all. Did you expect to release him tonight?

MR. DARROW: No, I guess not.

MR. KNIGHT: I dont think we will want to recall him at all.

RE-DIRECT EXAMINATION

BY MR. DARROW:

Q When you speak of a day or two, or three, after Bouley was killed, do you mean after you heard of it; you mean after you heard of it?

A After I heard of it.

MR. DARROW: That is all.

MR. McBEE: Q You dont know personally, when he was killed?

A No, I dont.

MR. DARROW: Q You understood that you heard about it the day after that?

A I understood that it was done the day before we heard it.

RE-CROSS-EXAMINATION

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BY MR. KNIGHT:

Q You understood that was done how long before you heard it?

A That was done the day before; that was the news we got from Price.

MR. DARROW: He didn't understand you. You don't claim he did, do you?

MR. KNIGHT: I think he did, yes, sir.

MR. DARROW: Then we will find out.

MR. KNIGHT: Did you hear Price say anything else about it than what you have related?

A I didn't hear Price at all, only just heard him holla this across the river.

Q Then what do you mean by saying that you understood from Price that it was the day before?

MR. DARROW: I object to that; he didn't say Price said so.

A I didn't say Price; if I did, I didn't mean to.

MR. KNIGHT: Q What do you mean by saying that you understood it was the day before when all you had heard Price say you have related here to the jury already?

A We went to Mason's to hear what the story was, and Mason told us that Price came down to the river bank and hollaed this across the river; and he told him---

MR. DARROW: Go on.

(Answer continued) that Bouley was shot, and they understood he was shot the day before he came down there.

Q They had understood it?

A Yes, sir; that is the way I got the story.

Q They didn't say that Price said anything else than what you have stated, did they?

A Who was that?

Q Mason didn't tell you that Price said anything else than what you have already stated that you heard,



did he?

A Mason told us what I told you.

Q Do you know whether Price went over there or not?

A He did not go over there, no.

Q And you heard what he said as well as Mason, didnt you?

A I heard just this-- no, just what he holloaed across there, and what I heard was Mason talking across there, but I couldnt understand what they were saying.

Q You did hear s ome conversation, did you?

A I heard him holloa this across to Mason.

Q Is that all you heard?

A I heard some kind of a talk; they were talking between themselves there; Mason came out to the river bank, and they was talking a little lower, of course, Mason was back to the house, and he holloaed this across.

Q And he talked some lower after that?

A Yes, sir.

Q You couldnt distinguish anything that was said?

A No.

RE-RE-DIRECT EXAMINATION

BY MR. McBEE:

Q You never intended to have Mr. Knight or the jury understand that you got any further information or knew any thing more about the killing at that time than what you heard from Price, through the Masons, did you?

A That is all.

MR. KNIGHT: I object to what he intended. The record is already made up as to that.

THE COURT: Objection overruled. We want to treat

the witness fairly.

MR. MCBEE: Do you wish to be understood now by this jury as saying that the only conversation that there was between Price and Mason was that one statement that you heard?

A I understood nothing about it, only just I heard this was through Price, or by him hollering across there to Mason.

Q And then you heard other conversation, which you could not distinguish?

A I heard other conversation; I could not tell what it was; I could hear them talking, but you couldn't understand what they were talking about.

Q And you went down thereto get further particulars?

A I went down there to hear what the story was.

Q And you did hear these further details, as you have testified, from Mason?

A Yes, sir.

Q Did Mason tell you at that time who Price purported to get his information from?

MR. KNIGHT: I object.

Objection sustained.

Defendant excepts and exception allowed.

MR. MCBEE: Q Did Mason at that time state that this was originally or hearsay information on the part of Price?

A It is what Price told him, as to---

MR. KNIGHT: (Interrupting) I object to the question because it is leading.

Objection sustained.

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MR. McBEE: I have not asked the question yet.

Q I meant whether Price had personal knowledge of the killing, or---

MR. KNIGHT: (Interrupting) We object to that.

MR. McBEE: Let me ask it, please.

MR. KNIGHT: It is suggestive. I dont think you ought to be permitted to ask it?

THE COURT: He will be permitted to ask it and you will be permitted to object to it.

MR. McBEE: Dont answer until he gets his objection in, if he wishes to object when the question is completed.

Q Did this information which Price gave as to the killing of Bouley, purport to be, or was it represented by Mason to be of Price's own personal knowledge or what some one else had told Price?

MR. KNIGHT: Objected to as leading; it calls for hearsay.

A Well, Mr. Blume---

THE COURT: No, that is to be stricken out. He did not ask you that.

MR. DARROW: What some one else had told Price?

A What somebody else told Price; that is the way I understood it.

MR. DARROW: Ask now as to who you understood had told Price.

MR. KNIGHT: We object; here is about a thirdhand hear say.

THE COURT: That objection is sustained.

MR. McBEE: I should not have asked any of it if he had not tried to make the jury believe--

MR. KNIGHT: I object to that kind of a statement

by counsel.

THE COURT: It is very objectionable. You will have an opportunity of arguing this case, perhaps.

MR. MCBEE: That is all.

RE-RE-CROSS EXAMINATION

BY MR. KNIGHT:

Q How long after you heard the conversation with Price, that is, the statement of Price about Bouley being shot, before you went down there?

A Well, it was not very long; I could not tell you; I don't think it was more than half an hour.

Q What did you do when you first heard Price call out "Bouley was shot"?

A Went out and got a pail of water; I had started out to get a pail of water; I went back and finished up washing the dishes.

Q Did you go immediately after you heard him make that statement?

A I suppose I naturally would. I was not interested very much in it.

Q How long did you stay at Mason's place?

MR. DARROW: You mean that day, I suppose?

MR. KNIGHT: Yes.

A Well, we were not there very long; I couldn't tell you exactly how long.

Q About how long?

A Probably an hour.

Q Did you have any further conversation with Mason than the one you have detailed?

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A Not any.

Q You did not meet Mr. Mason again that day, did you

A I dont remember whether I did or not.

Q Now, do you say that you understood from Price, or from what you heard Price say, that the killing had been the day before, or did you not understand it when you got down there?

A I didnt understand it until I got down there.

Q You didnt know anything about it until you got down there?

A No; I didnt know when it was done until I got down there.

Q Then you knew it was done, did you?

A He holloaed across; he holloaed; ~~that~~ that is what I heard him holloa, and that is all I could understand.

MR. KNIGHT: That is all.

THEREUPON, the jury was duly admonished by the Court, as required by law, officers were sworn to take charge of the jury, and the jury ret red in their custody, and THE COURT ADJOURNED till Tuesda, November 19th, 1907, at ten o'clock, A. M.