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C. S. DARROW

Volume 6.

July 1, 2, 3, 5, 1907.

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Boise, Idaho, Monday, July 1st, 1907.

10 o'clock A. M.

Parties not present to adjournment.

The clerk read the minutes of the session of Saturday, June 29th, 1907, and the same were signed by the court.

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

THE COURT: The witness will take the stand.

GIBBS MORRIS FURBERMAN on the stand.

DIRECT EXAMINATION (Continued)

By Mr. Darrow:

MR. DARROW: Mark this for identification Defendant's Exhibit 14.

THE STENOGRAPHER: There hasn't been any 13 yet. This one is already marked 12.

MR. BUSH: You want to skip 13.

MR. DARROW: I was leaving 13 for you.

THE COURT: The last one that was marked was No. 12.

MR. DARROW: Will you mark this please.

(Said paper marked by the stenographer Defendant's Exhibit 13 for identification.)

Q. I show you defendant's Exhibit 13 for identification, report of No. 125, and ask you who is No. 57 A. That is A. H. Crane, reporting from Colorado City, Wednesday, February 18th, 1903.

Q. Is that report the same, in the regular course of business, as the others? A. Yes sir.

MR. DARROW: Mark this 14, if you please.

(Said paper marked for identification Exhibit 14).

Q. I show you Exhibit 14 for identification, purporting to be No. 48; Who is No. 48? A. Joseph F. Gadden, reporting from Colorado City April 9th, 1903.

Q. That was the same as the regular course of business, was it? A. Regular course of business.

MR. DARROW: I will ask to have this marked as defendant's Exhibit 15 for identification.

Q. I show you 15, and ask -- that is an initial report -- I will ask you whose that is? A. That is a report of Mr. Londoner dated from Victor on June 2nd 9th, 1904.

Q. That was received as the others, was it? A. Yes sir.

Q. I will show you two, which are marked defendant's Exhibit 16 for identification, two letters, and ask you who signed those letters? A. Both of those letters are Mr. McFarland's.

Q. In whose handwriting? A. One of them.

Q. Which one, giving it by date? A. That one dated January 10th, 1905.

Q. What is the other dated? A. The other letter is dated April 24, 1903.

Q. And the signature is what? A. Well, one signature is his own.

THE COURT: Which one?

THE WITNESS: The one dated January 10th, 1905.

Q. And whose letter is the other one? A. The other letter is also Mr. McFarland's, but it is not signed by him. I signed his name

to it according to the usual routine.

Q. Did you sign it? A. Yes sir; that was the usual custom.

Q. That one you are now referring to is April 24, 1903, is it?

A. Yes sir.

Q. I will hand you four blanks, which I will have marked defendant's Exhibit 17 for identification, and ask you what those are, if you have seen them. A. Yes sir, these are blanks -- well, these are blank agreements and applications.

Q. Speak a little louder. A. These are blank agreements and applications used by the agency.

Q. In the regular course of business? A. Yes sir.

THE COURT: Used by whom?

THE WITNESS: By the agency.

Q. These agreements for men as to service? A. For men who have been accepted for service.

Q. I will show you No. 18, marked No. 18 for identification;

This is No. 42, will you state who that is? A. That is

A. W. Grattias reporting from Denver, Saturday, May 21st, 1904.

MR. DARRON: Mark this on e 19.

(Said paper marked for identification defendant's Exhibit 19.)

Q. This is 42, that is Grattias you say? A. Yes sir, dated September 29, 1903, from Denver.

Q. That is another one received in the regular course of business?

A. Yes sir.

MR. DARRON: I want to offer the report of No. 5, which is marked for identification -- Thursday, June 19, 1904.

THE COURT: Is that the number of the report or the

number of the identification, Mr. Darrow?

MR. DARROW: It is the number of the report.

THE COURT: I suggest you offer it by number of identification.

MR. DARROW: This is defendant's Exhibit 7 for identification, your Honor.

THE COURT: Any objections?

MR. MORAN: No sir.

THE COURT: It will be admitted.

Q. Who did you say this No. 5 was, Gratias? A. No, that is Crane.

MR. DARROW: (Reading): "Dear Sir: Denver, Colo., Thursday, June 9th, 1904. I reported in the office in the morning then went to Globeville. I talked with a number of the union men and found them very quiet on the strike situation.

THE WITNESS: That is Gratias you are reading. That is No. 42.

MR. DARROW: It is marked 5 right here.

THE WITNESS: That mark on there in ink is my mark.

MR. DARROW: Yes, this is No. 42. This is Gratias.

"Dear Sir:

Opt. No. 42 Reports:

Denver, Colo., Thursday, June 9th,  
1904

I reported in the office in the morning then went to Globeville. I talked with a number of the Union men and found them very quiet on the strike situation. The trouble in the Grapple Creek district is causing considerable comment. The militia and Citizens' Alliance were scared fiercely. Nick

Kelick said the miners ought to all get together, arm themselves and go to the Cripple Creek district and run the militia out.

I went to Joe McHeliot and told him the instructions ~~were~~ received from Haywood Monday evening. I told him that last night that the meeting. I told Kelick and Smith and Smith thought we should wait until next Wednesday before re-establishing the tickets, also that in the meantime Smith wanted to see Haywood, as he thought it unwise to do anything in Globeville on account of the trouble in Cripple Creek.

McHeliot listened attentively, then said: 'Smith is afraid of getting arrested. I am not. I know what Smith wants to see Haywood for. He wants to persuade Haywood not to have the tickets sent out. Smith is afraid of sending them out.

McHeliot was in favor of sending the tickets out and was angry at H. P. Smith, thinking that Smith did not want to send the tickets out. McHeliot later said if it had not been for H. P. Smith, this strike would have been settled long ago. He said after the strike had been declared, Smith told the men the strike would last some time, and told them not to wait around here but get out and find work elsewhere. McHeliot said the result was all the good men left, and they had no one to do the picket work.

I met Steve Stucka this evening. He asked me if I thought the strike would be settled soon. I told him I heard nothing of a settlement or anything that would indicate a settlement; that the strike would last a long time yet, also that I believe the union will have to give up by next fall

if we did not win by that time.

Now that the convention is over I will again take personal charge of the relief work and will carry out the instructions I received from Mr. Carey about a week ago in regard to cutting down the relief as much as possible, so as to cause dissatisfaction, and get the men against the union.

I will put the blame for not giving the men more relief as much as I can on W. D. Heywood, by saying I am carrying out his instructions.

I discontinued at 9.00 P. M.

Yours respectfully,

Reported Denver, 6/10/04.

F."

MR. DARRON: The next is the same operator.

"Dear Sir:

Opt. No. 43 Reports:

Denver, Colo., Thursday, June 2nd, 1904.

I went to the meeting of the V. F. of M. convention today. The Cripple Creek strike was discussed this forenoon. Sherman Parker of Cripple Creek was the principal speaker of that district. He began by relating the condition in Colorado City in regard to the mill men there in the early part of 1903. He stated that the cause of the Colorado City strike was, discrimination against the union men; that the Colorado City strike was the beginning of the present Cripple Creek strike. He said the Cripple Creek miners are not only fighting for eight hours for the mill men, but are fighting to maintain the present scale of wages. He explained that



it was the intention of the mine owners to reduce the wages, and in order to do so, they realize that they would first have to drive the W. F. of M. out of the district. In explaining the present strike conditions in the district, Parker said there were between 3000 and 3500 men that went out on strike; that at present there are from 900 to 1000 men and their families getting relief from the W. F. of M. 500 union men are working on fair properties, and 300 of the union men that went on strike have gone back to work and are 'scabbing' now.

Parker explained the conditions the miners are in at the present time. Not being familiar with mining at all, and as I could not write down anything while in the convention hall, it is impossible for me to remember enough to report on this fully. However, Parker and the other Cripple Creek delegates that followed him explained to the convention that the mine owners there are in a very bad way, and are almost whipped to a certainty. Parker and his colleagues all said in concluding their remarks that they are going to win out in Cripple Creek whether the W. F. of M. stands by them or not.

The delegates, especially those from Butte, were very much interested, and repeatedly interrupted the speakers by asking them questions, when they did not thoroughly understand.

A committee of three were appointed to go to Cripple Creek and investigate into the situation there and report back to the convention. R. E. Allen, H. G. Seaman and Malcolm Gillis composed the committee. They will leave on the 3:45

train this afternoon? Secretary Haywood asked that the executive board be given permission to select a member of the Cripple Creek delegation favorable to them to accompany this committee to Cripple Creek. The permission was given, and I learned later that Sherman Parker was selected.

A resolution was then introduced that a committee be sent to Telluride for the same purpose. It was then decided that they hear first from the Telluride delegates. They now adjourned for noon and resumed at 2.00 P. M. The principal speaker from Telluride was Stewart Forbes. He went into the details that led up to the Telluride strike. He explained how the union men were treated by the authorities. He also explained that it was the mill men there that caused the strike. He said that the mines there were not working successfully with the needs they had at present. He stated that 75% of the mill men have gone back and are scabbing. The Telluride delegates expressed themselves as the Cripple Creek delegates did, that they will win their strike, and if the W. P. of M. did not enter it, they would fight it alone, and win it alone. In the questioning following Forbes' remarks, it was brought out that a Mr. Cameron, an agent of the Smuggler-Union Mining Company, went to Michigan and hired men to work in that company's mines; that Mr. Cameron told the men he hired that his company had nothing against the unions, that the men could join the union if they wished, and that the only trouble they had there was with the Italians, and they will never hire another Italian. He told the men they would not be scabbing if they went to work for his company. A delegate from Michigan

stated he met Mr. Cameron there, that Cameron took 27 men with him from Michigan to Colorado. Among the 27 men was a man named John Junkgrist. Another delegate stated he met Junkgrist in Denver yesterday. Junkgrist just arrived from Telluride and is going to Michigan after more men. The delegates of Michigan were instructed to notify their unions to look out for this man.

Another man said he saw a man that is hiring men for Telluride. This party claimed the only trouble in Telluride is with the Italians there. He also said there is work for 500 men in the Telluride district. The delegate then said, 'This goes to show the mine owners must be in a bad way in Telluride.'

A delegate (I don't know his name nor where he is from) asked Forbes if he knew a man in Telluride by the name of Pat Harrigan. Forbes said he did. The delegate then asked if Harrigan was a Pinkerton detective. Forbes said he did not know. The delegate then said he knew Harrigan before he went to Telluride. He was then suspected of being a Pinkerton man, and since then, he, the delegate, has found out that Harrigan is a Pinkerton detective. Chairman Williams then informed the speaker that he was out of order, so this did not come up under the discussion of the Telluride strike situation. It was then decided that the Telluride matter be laid over until the committee from Cripple Creek return and make their report.

The committee on affiliation with the A. F. of L. then reported. As it was now adjournment time it was moved that discussion on affiliation with the A. F. of L. be taken

up the first thing tomorrow. The convention then adjourned at 5:30 P. M.

Joe Maheliet of Globeville told me today that quite a number of the union men in Globeville have left to look for work. I asked how many and he said he did not know; probably 50 or more.

I met Asst. Supt. Cary this evening at 9.00 o'clock and talked over my work with him and received further instructions.

I discontinued at 10.00 P. M.

Yours respectfully,

Reported Denver, 6/4/04.

F.

MR. BARRON: The next is Wednesday, June 1st, 1904, Denver, Colorado. This is No. 42.

"Dear Sir:

Opt. No. 42 Report:

Denver, Colo., Wednesday, June 1st, 1904.

I went to the W. F. of M. Convention this morning. Discussion was resumed on increasing the per capita tax to make the \$200,000.00 fund mentioned in my report a few days ago. They debated on this all forenoon, and on opening this afternoon the resolution was voted down. A majority of the delegates voted for the resolution, but it requires a two-thirds vote to change the constitution of the Federation, and as there were not two-thirds who voted for it, it was lost. There was

nothing important brought out in the discussion on this resolution. Those in favor claimed it would meet with more favor among the members to have the extra per capita tax than to have so many assessments as they have now. Those against claimed the members would complain against paying the increase and a good many would probably leave the Federation when they learned the tax is raised.

This afternoon a resolution was introduced that a committee of three be sent to Cripple Creek to investigate the strike there and report to the convention how the situation stands at present, how the strike was conducted and how it was declared in the first place and whether it was in conformity with the constitution of the W. F. of M. or not. It was then moved that before this resolution be entertained that the convention hear from the different delegates from Cripple Creek. Sherman Parker was the first man called on, but as it was 5.00 P. M. the convention adjourned and Parker will speak in the morning.

I went to Globeville and prepared the relief books for tonight's meeting, then went to the regular meeting of the Smelters' union. There were twenty-two visiting delegates from the W. F. of M. convention present, and 37 of the local members. The relief bills paid amounted to \$347.60. The following delegates spoke: W. F. Davis, A. G. Paul, W. A. Morgan and Sherman Parker of Cripple Creek, J. H. Davis and Henry Gibbon from South Dakota, Garrison and Edwards from Colorado City, Chas. E. Maloney, G. P. Maloney, F. L. Heber, W. T. Stoddard and Malcolm Gills, from Butte, Montana, J. B.

Rulber of California, T. McGruff of Wyoming, Stewart Parker of  
Talluride and Lane of Nevada.

The talk of these delegates took some time, though  
most they all spoke on about the same lines, that is, they  
all flattered the Denver Smelters' union on the record they  
have made in their strike. Some of the outside delegates  
said they were told that a less per cent. of the men of the  
D. S. U. have gone back to work than has ever been heard of  
before in any strike that has been out as long as the smelter  
men have. Each delegate before he finished his address  
promised the smelter men that the fight of the smelter men  
in this strike was also their fight and the union he repre-  
sents, and that they would stand by the Colorado mine,  
mill and smelter men in this eight hour struggle to the end.  
Some told the smelter men that whatever they do, don't give  
up the fight and in the end they will win.

The delegates from Butte, Montana, who are representing  
the unions that have given the most money toward the support  
of the Colorado strikers, expressed very forcibly that they  
believed the strike here was just, that they are heart and  
soul with the strikers and will continue to give them  
financial aid until the strike is won.

Malcolm Gillis of Butte, Montana, made a good, strong  
speech, and upheld President Meyer for the stand he has taken  
in the Colorado trouble, condemned Governor Peabody, although  
he, Gillis, is a Republican, and said, 'Butte is with you to  
a man, and I want to say you are going to win. All I ask  
you to do is, stand together in the future as you have stood

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in the past.

Most of the outside delegates said they knew nothing of the strikes in Colorado, comparatively, until they arrived in Denver, but since attending the convention, they have learned considerable.

The visiting delegates left at 11:30 P. M. and our union adjourned immediately after.

I discontinued at 12 midnight.

Yours respectfully,

Reported Denver, 6/2/04.

F.

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MR. DARROW: I will offer now defendant's exhibit No. 11 for identification in evidence.

This is No. 9. Who is No. 9?

THE WITNESS: Bailey.

Said exhibit No. 11 for identification is in the words and figures following, to-wit:

"Dear Sir:-

Opt. No. 9 reports:

Victor, Colo., Saturday, Feb. 21st, 1903.

I reported at the mine for work this morning, and at 7.00 A. M. we went below. I worked in the Underhand Steps on the 8th Level. Francis Herman, James Wasley and Tom Gagner worked in this steps today. Herman spoke (as he always does) in harsh tones about the mine owners and Superintendents. He also said there are a lot of U. O. B.-s. in this camp who are ever ready to to the mine owners' bidding. To this Wasley said, "Why in Hell can't the union drive these scabs out of the camp? If they (the so-called scabs) were in Butte City, Montana, they would have to hit the grit, and that quickly, too." Wasley came from Butte to this district. We worked until 11.00 A. M. when we went to surface for lunch. Nothing of interest occurred during lunch time, and at 11.30 A. M. we went below to work again. We worked until 3.30 P. M. when we went to surface and home, arriving in Victor at 4.00 P. M. After supper I went up town and spent the evening about the resorts of the men until 7.30 P. M. During the evening I met Arthur Evans, Jack and Fred Minister, Chauncy Williams and



Harry McFolgen. Evans is working at the Portland, the Minister boys at the Dead Wood, McFolgen at the Independences, and Williams at the Wild Horse. Hence these men think the strike at Colorado City will extend to this district. At 7.30 P. M. I went to the union meeting. The ballot was open today from 1.00 to 3.00 P.M. (at union hall) for the purpose of voting on the compulsory insurance now existing at the mines of the district, to determine whether the union submit to being compelled to pay the present rate of insurance, 3% or not. I heard several men say tonight that the Woods people are the only mine owners of the district who compel their employees to pay this insurance, and that at other mines it is optional with the men employed. This balloting will be continued next Saturday, February 29th, 1903. At 7.30 P. M. lodge opened in due form, with an attendance of about 75 members. There were three initiations. After nominating officers for the ensuing term, the lodge proceeded to the regular dispatch of business. There has been a standing committee for some time for the purpose of waiting on some of the mine Superintendents in regard to working their men overtime. During the past week the committee waited upon the management (so they said) of the Gold Coin, Independences and Portland Mines. The committee reported that the management of these properties promised them that they would not have their men work overtime except when really necessary. The committee's report was received, and the committee was discharged. After the regular business was disposed of, Mr. Mangan and John C. Sullivan, President of the State Federation of

Miners of Colorado addressed the meeting. Mangan was in Colorado City in charge of the striking mill men, I believe from Sunday last until Wednesday last, at which time he was relieved by a Leadville man named, I believe, Burr or Berg. I could not exactly understand the name, but think it is Burr. Mangan stated that since the men went on strike at the mill, there has been something like 150 men who have joined the mill men's union at Colorado City. He said that he (Mangan) and Chas. Moyer, President of the Western Federation, held a consultation with Mr. Fullerton of the Telluride Mill, and that Fullerton made more concessions to them than they thought he would make. Fullerton told them (so Mangan said) that he will not discriminate against any man, let him be union or non union, and that he (Fullerton) will not pay his men less than \$2.00 per day. Mangan said that McNeil is a S. O. B. and that he (McNeil) may wish before this trouble is settled, that he had not started anything. Mangan said that he talked with an engineer who switches the ore to the mill (where the men are on strike) and the engineer told him that the railroad men are ready to quit pulling ore to this mill at any time that their union (the R. R. men's union) says stop. Mangan said that the Federation will not call the miners of this district out except as a last resort, but if the trouble cannot be adjusted in any other way, that the men or some of the mines here will be called upon to stop work. He named as the principal contributors of ore to the United States Mill, the Strong, Independence and Hull City Mines. He also said the coal miners

d

are ready to make a stand for the mill men whenever they are called upon to do so. Sullivan made quite a lengthy speech, but confined his talk mostly to bills which are now before the legislative body, the eight hour bill being the principal one. He told the union that the only hope that he has for the men at Colorado City to win out, is, for the smelter trusts and the Mine owners' association to hitch on the treatment and handling of ore. He (Sullivan) further said that if the miners of this district should be called out, that they will stand as a unit in behalf of the strikers at Colorado City. He said, too, that the present legislature will pass no law which will better the condition of the working people, and that all trusts and combines are against organized labor, and especially the Western Federation of Miners. At 11.30 P. M. lodge adjourned to meet next Saturday evening at 7.30 P. M. Charley Stuart and I took a drink at Monarch and I discontinued.

Yours respectfully,

Reporter Denver, 2/23/03.

E."

"Dear Sir:-

Cpt. No. 9 Reportst

Victor, Colo., Friday, March 6th, 1903.

I reported at the mine for work this morning, and at 7.00 o'clock we went below. I worked in the winze on the 9th level this forenoon with Perrie, Dennis and Sherman. Jack Dennis told me that he used to work in the Gold King Mine near Cripple Creek and that he made from \$150.00 to \$200.00 per month by glomming while he worked at that mine. We worked until 11.00 A. M. when we went to surface for lunch. There was considerable talk about the strike today among the men at the mine, but all they say about it of interest is, that the miners will lose the strike. At 11.25 A. M. we went to work again. I worked in the stopes above the 9th level this afternoon. The men in the stopes worked very steady. Pete Jessen said this trouble (the strike) has been coming on for more than a year. He said the mine owners want a strike, and they intend to force the miners to do something to give them (the owners) a chance to come back at the miners. We worked until 3.25 P. M. when we knocked off and went home. After supper I went up town and spent the evening about the resorts of the men. Everybody here is talking of the strike situation, and most of the people think the miners will lose if it comes to a walk out. Supt. O'Brien of the Independence is reported as saying that he hopes the W. F. of M. will call the men out here, as it is claimed that it costs the Independence \$1100.00 per month more to have their ore treated at the Standard

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Mill than it would cost elsewhere, and it is reported that O'Brien said of the miners are stopped from breaking ore that their contract (the Independence) will be broken, and they can ship their ore elsewhere to be treated. This, of course, is rumor. I went to the union hall during the evening. At about 7.30 Mr. Findley of the Portland, accompanied by another gentleman came to the secretary's office and was in conference with John Harper and Ben Griffie until nearly 9.00 P. M. During this time Mr. Findley was called to the phone by some person, and as I was near the phone at the time, I heard Mr. Findley say to the party that he would do his very best and would try and come down tomorrow afternoon. After the conference between these parties, I heard Griffie and Harper talking together. Griffie said, "By God, everything is working all right, what do you think of that what I gave them?" Harper said it was a good one. "Well," said Griffie, "I guess they think by this time that we are no damned fools." There is a great deal of talk here against Governor Peabody and Sherman Bell. As nothing more occurred, and most of the men had gone home, at 9.30 P. M. I discontinued.

Yours respectfully,

Reported Denver, 3/7/03.\*

MR. DARROW: Defendant's Exhibit No. 10 for identification, which I will offer now in evidence.

THE COURT: That consists of two reports of Reimer?

MR. DARROW: Yes sir, two reports of Reimer. I will read this second one first as it comes first in order as to the dates.

"Dear Sir:-

Opt. C.E.H. Reports:

Cripple Creek, Colo., Wed. Sept. 9th, 1903.

Today I visited the various mines that were reported as resuming operations, but found very little activity outside of the mounted troops guarding the properties. At the Findlay Mine the new engineer lost control of the engine and almost drowned two men who were in the cage. The cage striking the water was all that saved the lives of these two men. They afterward quit and joined the strikers. At the Strong Strong and Golden Cycle Mines there was nothing doing. The miners still claim that they have the best of the situation, but from a conservative view, unless there is a break on the part of the mine owners before the end of this week, the claims of the miners are doubtful. The miners are standing out to a man and say they will sink or swim with the Federation, but the outlook today does not look as favorable to the miners as it does to the mine owners. The Mine Owners Association sent out several agents today to the non union camps for miners, and the Western Federation sent men to follow them. I talked with Mr. Hill and Hamlin today, and they admitted that they could not get men in this district to operate mines, consequently they

had to go outside for miners, and they were confident that they could get them. I afterwards spoke to Mr. Hill. He said that if he could personally deal with the miners and not the Federation, and if they could show him a fair mill that he could send the output of the Golden Cycle to where it could all be treated, he would concede to their demands, but otherwise he could not offer any concessions without permission from the Mine Owners Association. He said that the Golden Cycle People had no use for MacNeill, and they knew that MacNeill had given them too little returns for their ore while he had a contract with MacNeill, and that was the reason the Golden Cycle had sent their ore since last January to the Telluride Mill. There is a possibility of Mr. Hill meeting a committee of the local unions tomorrow, and if they do it may bring about some kind of a settlement between the Golden Cycle mine and the Miners Union regardless of the Federation. There is no radical talk or threats of any kind that I can hear, on the part of the miners, and everything is very quiet. The soldiers and miners are becoming very friendly, and I have heard expressions of sympathy from the soldiers to the miners. Mr. Findley, the manager of the Portland, is making himself very conspicuous with the managers of the different mines, and today rode horseback to the Findley, Strong and Golden Cycle Mines, and every chance he gets to talk to outsiders, he is loud in his condemnations of Mr. Burns and the course he has taken in the strike. When men come to him to apply for work he sends them to Sam McDonald of the Findley or Strong Mine with a request that they put the applicant at work. Today he

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personally took a man and introduced him to Sam Hoffmiller,  
and got him a position. This is becoming noticed by the  
employees and may cause a rupture and cause inconvenience  
to Mr. Burns.

Yours respectfully,

Reported Denver, 9/11/08.

J."

"Dear Sir:-

Opt. C. H. H. Reporter;

Cripple Creek, Colo., Saturday, Sept. 26, 1908.

Today I visited Victor, Alton and Independence, and  
talked to a great many miners and business men. There  
does not seem to be a change or chance of a settlement on  
either side. The miners are determined that the mine  
owners will not break or stamp out the union, and say that they  
are prepared to stay out on strike all winter, and from appear-  
ances, their assertions are correct. They are getting all  
they want to eat, and contributions are being received daily  
by the miners' committee. Riordan and French of Victor  
told the committee that they would use their influence in  
behalf of Hoddsworth and Lynch, also Kamison and the other  
four men now confined in the Bull Pen. This looks as though  
the mine owners and the Citizens Alliance of which Riordan  
and French are members, are trying to work some confidence act  
in the future, because of the failure of the bull dozing  
tactics used by the mine owners and militia up to date.  
Mr. Cornish is also trying to get into the good graces of

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the union men, and in all probability will try to influence them to go to work, and arbitrate afterwards, but with the present feeling of the men, Mr. Cornish will have a hard job trying to square himself. It is rumored that two or three loads of men will arrive in the district tonight or tomorrow from the Comar d'Alamos Country, but it does not seem to worry the men, as they are confident that they have the situation well in hand. This over confidence may be the cause of the miners union loss by the strike. The Golden Cycle and Piosley properties are closed down, and the prospects are that they will not try to resume operations until the strike is settled. At a conservative estimate there are about 225 non union men working in the mines instead of 900 as the mine owners report as working. The Mine Owners Association Rooms have been deserted since the decision of Judge Woods, and they are saying very little as to their future movements. The miners are very quiet and very few can be seen on the streets. They are doing their talking in the lodge rooms, and each man is a committee of one to stop all disputes and disturbances. They have committees at the depots in Denver, Colorado Springs and Pueblo, who are watching all trains for Cripple Creek District, and have succeeded in stopping quite a few men who were on their way to the mines.

Yours respectfully,

Reported Denver, 9/28/03.

F. "

MR. DAWSON: The next I will offer is Defendant's Exhibit No. 8 for identification.

Q This is by 35 ? That is a six ? A. It is 33 very likely.

Q May be that is 35, 3 but it looks like 36 to me.

A No, that is 33.

MR. DORAN: That is Exhibit 8 ?

MR. DAWSON: Yes.

Q Who is that ? A. Operative Smith.

THE COURT: What are the dates ?

MR. DAWSON: The first is September 23th, 1903.

Q This Smith is the man you spoke of who afterwards became the organizer for the United Mine Workers ?

A He was during this time there and was afterwards appointed National Organizer by John Mitchell, after the strike was over.

Q That is the Smith ? A. Yes sir.

MR. DAWSON: Very well, then I will read this Exhibit 8.

Which said Exhibit 8 is in words and figures as follows,

to wit:

"Dear Sir:-

Opt. No. 38 Reports:

Pueblo, Colo., Friday, Sept. 25th, 1903.

This morning the scale committee offered the following scale for consideration and ratification of the convention: Demand No. 1, an eight system; No. 4, better ventilation in mines; No. 5, 20 per cent advance on all contract mining; No. 6, that all company or day men receive the same pay for eight hours as is paid now for 10 hours. This caused a lengthy discussion, R. B. Kett, delegate from the Springs taking the stand that the various unions in El Paso county had already presented their yearly agreement to the operators of that place for their ratification, and that they had until October 1st to sign up, and that this scale would abrogate the El Paso miners' contract, and would place them in the position of repudiating their own contract, but he was finally convinced that the 15th district was larger than El Paso County, and that legislation at a district convention took priority over any local or sub-district contracts or legislation. Then John Gehr took a stand in opposition to the scale, saying the operators would never agree to it, as it was asking entirely too much, and would surely cause a strike if we tried to enforce it. He was opposed by all the delegates, except Jim Ritchie, with the argument that it was not too much to ask, and they did not care if it did cause a strike, as they practically had the assurance that the National Board would endorse

it and support them in case of a strike. Gehr then said he as National Board member, and the proper one to place said demand before the National Board, would not carry such a demand before said Board, as he did not consider it a fair demand, or entitled to the consideration of the National Board, and did not think we stood one chance in 100 in enforcing such a demand, even by striking, and he did not favor a strike anyway until we were more thoroughly organized. The fact was pointed out to him by Kennedy and others that we could not continue the organization under the tyrannical methods employed by the operators at all the camps in the South, and that he was a servant of district #15, and would have to carry out the demands of district #15, or cease to work for district #15, but if he would not carry out the demands of district #15 before the National, that Con Kelleher would. Kelleher had already signified his willingness to do so. Gehr was drunk all through the sessions of the convention and he left the convention in a rage and the demands were fully ratified and ordered printed, and a copy ordered sent to each of the coal companies operating in district #15. This took up the time until noon and was not finished until some time in the afternoon. Then Con Kelleher gave the convention an address, reiterating the statements made to me several days ago, and which I reported at the time, that John Mitchell had instructed him to make the fact that he had met and conferred with John Mitchell as public as possible, and that Mitchell was going to convene the National Executive Board October 5th for no other purpose than to consider

the grievances of district #15, and he had instructed him, Kelleher, to return to district #15, and have the convention draw up a scale, and come to the National Executive Board meeting and lay the scale of district #15 before that body, and John Mitchell had as good as told him he thought the fight of the district #15 would be taken up by the National. He also said that he had talked with a number of the operators of Missouri while there, and all of them begged him to send all the men to them he could in case Colorado came on strike. This news was received with applause. This and minor matters consumed the balance of the day, and at 5.30 the convention adjourned until 9.00 o'clock tomorrow. After supper I undertook to write up my report, but was interrupted several times, and when I finished yesterday's report, I gave it up, and went out with a number of the delegates and took in the town until about midnight, when we returned to the hotel, and I soon retired for the night. The sentiment of all the delegates with whom I discussed the subject was, that there never was a more opportune time than now to make such a demand as we were now making, and they all thought that with the support of the National we ought to win in a great measure, at least.

Saturday, Sept. 26th, 1903.

This morning there was a resolution introduced condemning John L. Gehr for an article which appeared in the Pueblo Chieftain this morning, which is attached. This caused quite a werry battle in the convention, as in the original resolution there was a paragraph to the effect that Gehr was continually intoxicated.

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Moran, Ritchie and Tom Hurley said that while that was the truth, it was putting it too strong to the public, and Jim Kennedy, Julian Gradel and a number of others said it was not strong enough, as he deserved greater censure for what he had done. The resolution finally passed with the clause pertaining to his intoxication stricken out. Cahr was not present, having gone home last night. This was one of the reasons given by Jim Ritchie for fighting the resolution. There were several resolutions of minor importance, also several minor amendments to the constitution submitted, and passed, which took up the time until the noon adjournment, and the first thing after reconvening in the afternoon, Chas. Moyer, President of the W. F. of M. was introduced and spoke at some length on Trade Unionism, Socialism and the Cripple Creek strike and militarism, and in conclusion said he believed the W. F. of M. would eventually win their strike, and he hoped the U. M. W. of A. would immediately demand the eight hour day, which, he believed, would strengthen the position of the W. F. of M., and he hoped the U. M. W. of A. would succeed in forcing the autocratic operators to comply with their demands, and that they had the sympathy of the W. F. of M. and the financial aid that the W. F. of M. could give them. John C. Sullivan, President of the State Federation of Labor was then introduced and talked at some length on the failure of the 14th General Assembly to pass the eight hour bill, and said he believed that the only eight hour bill which would stand, was the eight hour bill passed by organized labor, by refusing to

work longer. He also went over the Cripple Creek situation, and predicted the ultimate success of the strikers, and said he hoped the U. M. W. of A would get some concessions from the operators, but was afraid it would take a strike to bring these same operators to their senses, and that the U. M. W. of A. had the entire sympathy and moral support and whatever financial aid the State Federation could give. At the conclusion of Sullivan's remarks, a resolution was passed introduced declaring for a free interchange of transfer cards with all legal unions which after some discussion passed. The resolution condemning the governor was then taken up and unanimously passed. Then the grievance of the locked out men at Rugby was taken up, and after some discussion there was a resolution passed that the district give Rugby \$100.00 now, and that each delegate on his return home request his union to donate \$5.00 and as much more as they can spare to re-emburse the district treasury, and that if more than \$100.00 comes in from this same call, the excess is to be given to the Rugby union. The canvassing board then declared the following officers elected for the ensuing term: National Executive Board Member, James Kennedy; District President, Chas. Howells; District Vice President, James Graham; District Secretary-Treasurer, John Simpson; District Executive Board Member for sub district No. 1, Chas. Billington, Louisville, Colorado. Sub district No. 3 I did not get. Sub district No. 4, Robert Beveridge, Aguilar, Colorado; Sub district No. 6, Frank Hofferley of

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Blossburg and Mr. Haylen were nominated, and referred to a referendum vote of the sub district for a choice, this being a newly organized sub district taken from sub district No. 4. After deciding by vote to hold the next annual convention in Pueblo the 3rd Monday in September, 1904, and having a few short talks from the newly elected officers, the convention adjourned sine die, and after supper the entire crowd of delegates took in the town together until 10.00 P. M., when they began leaving for their respective homes, and at 1.30 A. M. I took the train home where I arrived at about 6.00 A. M.

Yours respectfully,

Reported Denver, 9/29/03.

P."

"Dear Sir:-

Opt. No. 38 reported:

Pueblo, Colo., Thursday, Sept. 24th, 1903.

The first thing that took place this morning was a lengthy discussion as to whether the press reporters ~~was~~ should be allowed in the convention. Howells contended that the more publicity we gave our deliberations, the better, as it was the public mind we wanted to reach, and it was finally decided to let the reporters remain as long as they reported truthfully the actions of the convention, but that on the first false report going out, the reporter giving it, and the paper he was working for, would be

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excluded from the convention. The President's report was then read, and dwelt principally upon the efforts that had been put forth within the last year toward the organization of district #15, and the almost utter failure of the efforts. It also dwelt at some length on the effort of himself and others to get meeting with the operators of district #15, to adjust an equitable wage scale, and its failure also, and he offered some recommendations as to his views with relation to precipitating a strike in district #15, which all present seemed to fully concur in. The sentiment of all delegates present except John Gehr and Jim Ritchie are enthusiastically in favor of the strike, and they are anxious to see it declared as soon as we get a substantial promise from the National that we will be supported. Jim Ritchie offered a resolution to the convention, commending the striking miners at Cripple Creek and roundly condemning the governor and Sherman Bell. The resolution was referred to the resolution committee. There was then a committee chosen consisting of Smith of Erie, Colorado, P. P. Hart of Colorado Springs, J. L. Campbell of Fremont County, James Kennedy, National Organizer, and William Price of Palisades, to draw up a wage scale to present to the operators for adoption, and if they refuse to consider it, it would be placed before the National Executive Board for their approval, and if they approved it, a strike would be called immediately after the National Executive Board meeting, October 5th. There was a telegram from an operator at Fort Smith,

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Arkansas to the effect that 500 union coal miners could get work at once in that vicinity. The dispatch was heartily applauded.

The convention then adjourned at 5.30 P. M. until 9.00 A. M. tomorrow, and after supper myself, Jim Kennedy, Wm. Price, State Labor Commissioner Montgomery, Mr. Hamilton, organizer for the American Federation of Labor, and several other delegates, started out to take in the town. Montgomery told me he was here as a personal representative of Governor Peabody, and that he could say that miners had the sympathy of the Governor, and that we had his, Montgomery's full sympathy, and he would use his full influence to keep the Governor on our side and he considered his influence with the Governor pretty strong. Hamilton substantiated his statements, and said he believed the coal miners were fully justified in their demands, and the Governor thought so too, but of course, the delegates are a little skeptical in accepting such statements in view of the prevailing conditions at Cripple Creek, and also the fact that Montgomery was somewhat intoxicated when he made the statements. He said he was going to address the convention while here, defining his position, also that of the Governor toward the coal miners of Colorado. We were out until after midnight, when we retired for the night.

Yours respectfully,

Reported Denver, 9/29/03.

H."

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"Dear Sir:-

Opt. No. 38 Reports:

Trinidad, Colo., Tuesday, Feb. 24th, 1903.

I hung around Aguilar until 6.00 P. M. without learning anything of importance, and at that time I left Aguilar en route to Trinidad. At the station I met Wm. Curtis who was also going to Trinidad to see Jim Ritchie. We landed in Trinidad at 7.30 P.M. After supper we strolled around town. I learned from John Pruitt at the Horse Shoe Club saloon that John Gehr was in town. We then started out to find him, but after making a round of his haunts without finding him, we went to the Commercial hotel and got a bed, and at 10.00 P. M. retired for the night.

Wednesday, Feb. 25th, 1903.

After having breakfast Curtis and I started out to hunt John Gehr at the Trinidad hotel where he stays. We learned that he had not gotten up yet this morning. We then sat around the bar room while, when, as he had not shown up yet, we went up to his room, and found him awake but still in bed. He however invited us in and was both surprised and glad to see us. Then, after exchanging greetings he got up and dressed, and invited us to accompany him to another room where he said he wanted to introduce us to a friend. He introduced us to a Mr. J. Frank Strong, who comes from Fremont County and from Gehr's home local, and was a candidate for District Secretary against Simpson last fall. Gehr

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introduced Strong as his best friend. We talked until Strong was dressed when we went down in the bar room where we had drinks after which Gehr and Strong went to breakfast. Curtis and I went up to the County Jail to see Jim Ritchie, promising to meet Gehr and Strong again on our return from the jail. After visiting Ritchie we returned down town, and at the Horse Shoe Club we met Gehr, Strong, Frank Hafferle and several other men from Majestic. We learned that they were to attend the trial. It appears that a fellow who is cooking at the boarding house at Majestic got a valentine recently that did not suit him, and he blamed Hafferle for sending it, and told Hafferle that if he did not get out of camp immediately, he would kill him. Hafferle had him arrested, and the trial was to take place today, and they had sought Gehr's counsel. He was trying to settle it out of court, which, I believe, he finally did with the assistance of Curtis. At the first opportunity I began to sound Gehr with regard to these two organizers mentioned in the letter to me; but if they are here, he would not let anything out to indicate that he knew anything about it. I did not, however, ask him out right if they were here, but if they are here he could gain nothing by not telling me so, as I will surely find them out. Generally Gehr is as open as a book on such matters with us, which leads me to believe if these organizers have been ordered here, they have not yet arrived, or at least have not made their presence known to Gehr. However, he did tell me that he had been informed that James Kennedy had got a companion, and was going to accuse him

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duties on the 1st of March. I can now see that there is going to be a clash of authority when Howells returns here, as he and Gehr have exactly opposite views on the system of organization. Gehr is bitterly opposed to the Group System and Howells thinks it is the only way to organize district #15. Gehr said that when he came down here, he had not intended to remain here, but had simply intended to see how things were going, and then return north and go into Wyoming, but he had found the Trinidad local in such a deplorable condition that he had decided to remain here and try to put it on its feet again. He then went on to criticize old Bill Howells for letting the local go to pieces after he (Gehr) had laid the foundation for the best local in the district. I then asked him if the National officers had promised anything for district #15 while he was back there in attendance at the convention. He said they had not promised him very much, but he felt that whenever we could convince John Mitchell that we had restored harmony in district #15 and were all working together, we could safely expect something from the National. We then all went to dinner and I saw no more of Gehr until after supper, and then the talk was almost entirely on Jim Ritchie's case and the one between Hofferle and the other fellow. At 10.30 P. M. I left Gehr and went to my room and retired for the night.

Thursday, February 26th, 1903.

After breakfast this morning Curtis and I went down to the Trinidad hotel where we met John Gehr and Frank Strong. After

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talking a while on matters relating to the Trinidad local union, I again tried to get out of Gehr any information he might have regarding the organizers who are reported to have been sent to southern Colorado, but again met with the same results as on yesterday. If they are here and he knows it, he is not telling it. He said, however, that he expected before the year was out to see the coal miners of district #15 recognized as a union of some importance, and from what little he had heard of Mitchell's case since arriving in Trinidad, he believed that Bob Ross, district attorney, had received a tip from the corporations to send Jim over the road, if possible, and thus get rid of a good union agitator for a while. He said he did not want to say anything against Bill Howells, but he had been looking over the books of this local since he came to Trinidad, and he could not see where Bill had added any names to the union while he (Howells) was here. I told him no, but I believed Howells had put the Group System into operation. He answered to hell with the Group System. Howells had tried it once before and made a failure of it, and John Mitchell was not in sympathy with the Group System, and in his (Gehr's) opinion, if Howells insisted on putting the system into district #15, we would get no help from Mitchell. As Curtis was getting burlesome and I did not want to advance him any more money, neither did I want to insult him, I told him I had just enough money with me to take him and me to Aguilar, and I was going home, and as there were no trains out of Trinidad today on the C. & S. we had dinner, and at 2.00 P. M. boarded the Rio

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Grande, and came to Aguilar, arriving there at 4.30 P. M., after walking five miles from the Apishapa station, through the snow. Curtis stopped at my house for supper, and stayed until 10.00 P. M. when he left to go to No. 4 camp. I retired for the night, but will return to Trinidad tomorrow night.

Yours respectfully,

Reported Denver, 3/2/03.

E.\*

MR. DARROW: I will next offer defendant's Exhibit No. 12.

Q. -J.H.L., who is not A. Londoner.

Q. He is now the superintendent of the office? A. Assistant superintendent.

MR. BURNETT: Exhibit what, is that, Mr. Darrow?

MR. DARROW: Exhibit 12.

THE COURT: How many are there?

MR. DARROW: I think there are two of them.

THE COURT: June 5th and 6th?

MR. DARROW: Yes, June 5th and 6th. I believe June 6th was the day of the explosion at the Independence depot, and this is from Cripple Creek.

Q. The name of Kerr appears here several times. Do you know what his real name was? A. I feel pretty certain.

Q. Do you know what his connection was with the agency?

A. He was not a regular employe of the agency; he was a military officer himself.

Q. Do you know his name? A. I believe I do, though I am not absolutely certain yet I feel morally certain that I am correct as to what was his name.

Q. Well, what was his name?

MR. BURNETT: We object unless he knows from his own knowledge.

THE WITNESS: His name was marked at the bottom of a report and that is how I learned it.

MR. BURNETT: We have no objection to that, then.

Q. What was it? A. I think it was J. C. Bloom, Colonel.



Q. Colonel J. C. Bloom? A. Yes sir, Colonel of the National Guard.

MR. MARROW: Very well, now I will proceed to read this report, Exhibit 12 for identification, which we now offer in evidence.

Which said Exhibit 12 is in words and figures as follows, to-wit:

"Dear Sir:-

Opt. J.S.L. Reports:

Victor, Colo., Sunday, June 5th, 1904.

I instructed C with regard to securing information in the matter of Agent Andy Hoyle, McColearick, Hennessy and Ed. Hooley.

I sent Curs in out to locate Deputy Mine Inspector McCarthy, and arranged for my meeting them. Curs notified me he had McCarthy in the Monarch Saloon.

I went to the Monarch and was introduced to McCarthy by Curs. After a great deal of preliminary talk, I proceeded to sound McCarthy on the desired subject. He said the mines of the district were in a very good condition. There had been some trouble with mines that had incline shafts, but these mines were straightening their shafts as rapidly as the work could be done. The timbering in the various big properties was in very good shape, as it he. The Independence had had some very faulty timbering, but now was retimbering under his orders. He said he had ordered the Blue Bird mine to straighten their shaft. The Portland mine, said he, was in a pretty good condition. The great trouble he had to deal with was the filling in with waste, the old stopes, cross-cuts

and abandoned tunnels. This was of the greatest importance, as the timbering was too insecure; and there was great danger of caving at several of the big mines. He said nowhere in the United States where mining camps existed were the dumps so large as they were in the Cripple Creek district. The mine managers claim that it would be a great expense to them to fill in with the waste, and that it would retract from their dividends if they desired to against hoist the waste.

Some of the mine managers and presidents claimed he had no right to enforce the filling in with waste. Mr. Burns, said McCarthy, was of that opinion, and Mr. Burns resented his attitude in this matter. Mr. Burns, said he, held that he had no authority to order the filling in with waste, but, said he, he had the authority of a safety officer of the state, and Mr. Burns would find that out if the Portland workings in any way endangered the lives of men at work in the mine. He said he noticed the Portland dump was not increasing in size any, but he took it they were doing some filling in. They were also filling in at the Independence mine.

In my conversation with McCarthy in reference to Mr. Burns, he showed a personal hatred toward Mr. Burns, repeatedly expressing himself in that regard in the most bitter terms. His characteristic remark was he 'had no use for Jimmy Burns.' I touched upon the condition of other properties in the district, but the only property he spoke of was the Gold Coin, in which he said, he had spent the past day and a half making an inspection. He said some of the levels in the Gold Coin were

'gouged' out to such an extent that the mine was in danger at all times of a cave-in. If McCarthy is trying to work any hardship on the Portland property, believe it is in the spirit of personal enmity, and that no one is urging him to do so, except that General Reardon adds fuel to the fire.

Monday, June 6th, 1904.

After mailing special reports to the agency and the client, I went to the F. & C. C. depot to await the arrival of the train carrying the killed miners. It was said by persons in the waiting crowd, unknown to me, that Sheriff Robertson could not be found at his home or anywhere in the district. After the train carrying the dead arrived here, Sheriff Robertson came upon the scene and took charge in a very ostentatious manner. The killed miners were blown into unrecognizable masses of flesh and bone, and when the crowd beheld this sight, it wept then to tears, and then drove them into a frenzy of indignation. I

I talked with a young miner named Miller, employed at the Shurtzoff Mine. He said he was within a short distance of the Independence depot when the explosion occurred. He claims the F. & C. C. Train was running slower than usual, and that the train actually stopped before the explosion, and within a few yards of the depot. Miller saw one man blown from the platform in front of the F. & C. C. train, and Miller states the man's head could not have been over six inches from the pilot of the engine, yet the engine did not touch him. Miller states, in his opinion, not over 25 pounds of

dynamite was used, and he feels sure it was dynamite.

At 4:15 A. M. some of the militiamen began to arrive on the scene. They were in command of Major Hagler, H. G. Moore and Cell. There were no others of prominence on the scene, excepting the civil officers, and none of any consequence had appeared up to the time I left for Colorado Springs.

Witnessing the revolting sight at the depot, the crowd started down the street where many others were encountered. Brick Johnson, or so, said to be shift boss of the Portland mine, was met by the crowd on 4th Street near Victor Avenue. Nearly everyone in the crowd was condemning the union, calling them vile names, and charging them with the commission of killing the Finley Miners. The man said to be Brick Johnson spoke up and said, 'You've got no right to charge the union with this crime; get your evidence first; you've got no proof. I am a union man working at the Portland, and I am proud of it, and I have worked as hard as any of you in carrying the injured to the hospitals; but, by God, if a union man committed this crime, I will be one of the first to help lynch him.' At first I thought Johnson would be attacked, but the crowd left him, still applying vile names to the union men. Another union man was encountered at the corner of 4th and Victor Avenue. He started to say something when one man in the crowd told him if he would open his mouth he would kill him.

Two non union miners went into the national cafe where they met a policeman, and pulling their revolvers from their pockets, they shoved them in the face of the policeman and dared him to take their guns away.

By this time the streets were thronged with non union miners and sympathizers, and the crowd were not more angered. It was then that a desperate looking man who was under the influence of drink began a tirade against the union miners employed at the Portland mine, and a number of men in the crowd took up the cry, -- they were of the lawless element and all unknown to me. There were cries of, 'Let's go to the Portland and get the g----- out. We'll get them if we have to burn the whole g----- outfit; they're the gang we want to get first; that's the dump we want to get rid of.' Someone suggested they look about for arms and then march on to the Portland. There were many such remarks made relative to the Portland, but there was not a known man in the crowd.

As I have said, the situation was growing more desperate every moment and I was satisfied serious trouble would develop in a few hours, and too, I believed the Portland Mine would be attacked and the property destroyed. I therefore boarded the 7.50 A. M. Short line for Colorado Springs to acquaint the client of the condition of affairs. Before leaving Victor I saw Curz and told him to watch the situation carefully, to enable him to put me in touch with affairs on my return.

I left Victor at 7.50 A. M., arriving in Colorado Springs at 10.30 A. M., immediately going to the client's office. I met Mr. Parkinson and Mr. Bischoff and was informed the client had just departed for Denver. I made these gentlemen acquainted with the condition of affairs at Victor,

and later consulted Asst. Supt. Cary at the Denver agency, and talked with the client by telephone, receiving instructions to watch the situation at Victor as it affected the Portland property.

I left Colorado Springs at 6:20 P. M. via the Short Line. On the train I met General Reardon, A. A. Rolleston, B. J. Cunningham and others returning from Denver. General Reardon and A. A. Rolleston talked of the situation at Victor in a jocular manner, and General Reardon said 'it was a D----- good thing to get a lot of advertising with. 'We've been too D----- quiet in the district, and now my home town's going to furnish a little music for the boys.' He said there was no truth in the reports of violence, and in the report that Sheriff Robertson had been forced to resign. He said when he got to Victor, he was going to take charge of the situation. A. A. Rolleston said simply he was sorry he had not been in Victor to take a hand in the fun.

On arrival of the train at Victor, a squad of militia met the train, examined the passengers closely, and secured two cases of ammunition consigned to them from Denver. Cary met us at the train and I accompanied him to the military

club and to the improvised bull pen in the dance hall of the armory. Cary was the executive officer in active command. There were 100 union miners and sympathizers in the bull pen, among them being Marshal Michael O'Connell of Victor, Marshal brothers of Goldfield, former president O'Wall of the miners union, Davis of the W. F. of M. executive committee and police judge Gibbons. Squads of soldiers and citizens

and soldiers were busy bringing in union men, agitators and sympathizers. Major Taylor is acting marshal, and has in his company constantly, 'Kid' Waters. Wilkes, who is claimed to have assaulted Wardjen is here tonight, and has been made deputy sheriff.

A trainload of soldiers, deputy sheriffs and citizens just left for Independence and Goldfield to bring in all union men and agitators. The city is in the hands of the militia and citizens, all of whom are armed. Every available citizen is acting as a deputy sheriff and is armed with revolver and rifle. As soon as I showed my face at the armory, I was made a deputy sheriff and told to kill any union man or sympathizer that said a word to me. All the mine owners, managers and superintendents are commissioned as deputy sheriffs. There is considerable talk of taking out the strong union leaders from the bull pen and hanging them, and at this time the streets are thronged with people from all over the district.

As soon as Curx could get away we went to my room, and he gave me a synopsis of the events of the day. At the scene of the explosion, pieces of dynamite, caps and cans were found and a wire 300 feet in length found running from the depot platform to a point near the Delmonico mine. At the end of this wire was attached a chain length, around which the wire was wound eight or ten times. A meeting of the mine owners, managers and citizens was called at the military club, at which was discussed ways and means of handling the situation, and it was decided to demand the resignation of Sheriff Robertson and other officials. It was also decided to

call a mass meeting to be held on the corner of 4th and Victor Avenue. While a committee went in search of Sheriff Robertson, Marshall O'Connell got together a number of union men and made three deputies. O'Connell said he was going to clean out the militia. Sheriff Robertson was brought to the Military Club amidst howling and jeers of the people. Sheriff Robertson was asked to resign, and he refused to do so. A number of men procured a rope, made a noose, and gave Robertson five minutes to decide. In the meantime willing hands had torn out the bill boards in the space adjoining the armory, and a space made clear to hang the sheriff, but Robertson, glancing out at the angry mob, sat down and signed his resignation, saying, "Boys, you've got the drop on me, and I know they'd hang me." O'Connell and his men came to the Armory and O'Connell came in and demanded the release of Robertson. O'Connell was kicked out of the building. Ed. Ball, interested in the El Paso Mine, was appointed sheriff, and immediately gathered about him a number of newly appointed deputies and started out to disarm O'Connell and his deputies.

The mass meeting had been called at 4th and Victor Avenue, and a great crowd was standing about, awaiting the speakers. C. C. Hoolin had spoken only five minutes, when the shooting began. The shots came from the Miners Union Hall, and a man standing in the doorway of the union store on Victor Avenue was firing into the crowd. There is no doubt the attempt was made to kill C. C. Hoolin, and a bullet grazed his hand, but caused no other injury to him. The militia, under the command of Carr, was called out and soldiers placed on the roofs of buildings opposite the Miners Union Hall, on the Gold Coin shaft house,



and on the Baltimore Hotel, in the rear of the hall. There was no request to surrender, but the soldiers were given command and began firing into the Miners Union Hall. After 20 minutes of continuous firing, the miners exhibited a white flag from the window of their hall. Forty-four men were made prisoners; four men were found wounded and one miner was in a dying condition. The militia captured a wagon load of rifles, thirty six shotguns, two barrels of ammunition, and provisions enough to last the men several days. All of the union's records, papers and paraphernalia was taken and much of it destroyed. Guards were placed at the hall.

Curn said they had been informed the man that set off the dynamite mine ran to the Portland Shaft #3 and got away through this shaft. Curn did not know where the information came from. Curn said a number of Portland miners were among those confined in the bull pen. Curn said it also was reported at the armory, a wagon load of guns had been taken to the Portland Mine during the day. Curn said the union store at Goldfield was destroyed, and all of the goods from the Victor union store thrown out. The union store at Triple Creek was also taken possession of and guards were placed in all of these stores.

Private Barn of the militia arrested a man named Miller and he, with two others are confined in the armory under a heavy guard, charged with inciting riot and committing murder.

Curn said the present plan is, to hold separate the confined miners in two or three parties and try them by vigilance committees and endeavor to hang the leaders. Curn said the plan was to go after the Portland men tomorrow. There would be no

attempt to injure the Portland property, and they will endeavor to take the men after they have left the mine. Gurs said a number of people at the Military Club during the day made remarks that Mr. Burns ought to close down or declare the mine strictly non union. Gurs said including those killed at Independence, the number killed today is 18.

Kyner, of the Victor Record was taken to the bull pen, but several shriners demanded Kyner's release and two soldiers said if Kyner, who was a Brother Shriner, was not released, they would throw down their arms, so Kyner was set free.

When General Reardon arrived tonight he went to the Military Club, and started in to raise trouble. He told the officers and the boys they were not doing right, and acted without policy in the events of the day. General Reardon went to the bull pen and ordered the release of two or three men. Someone accepted Reardon's orders and let the men go. One of the men released was a man named Logan, whose brother is a prominent Republican jurist in the East. Reardon told someone he could not afford to create the ill will of so prominent a Republican.

As soon as it was known what Reardon had done, the men were rearrested, and Reardon was informed that he would have to get out of the army and if he did not keep his nose out of their affairs, they would throw him into the bull pen. He was told he had nothing to do with the business they had in hand.

Things are quiet enough tonight. Arrests are still being made, and at this hour, 4.00 A. M., they are bringing in two and three men at a time.

Yours respectfully,

Reported Denver, 8/9/04.

F."

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MR. DARROW: Now, I have some other reports that I introduced this morning that are not very long, that I want to offer at this time.

MR. BORAH: What are the exhibits you are offering?

MR. DARROW: Exhibits 18 and 19. Are you going to object?

MR. BORAH: No, you can go ahead and read them.

MR. DARROW: I will offer exhibit 18 for identification in evidence.

THE COURT: How many pages are there of that?

MR. DARROW: Just the one.

Q This one is operator 42? A That is Graticus.

Q These are the same reports --

THE COURT: They were identified by separate numbers, were they?

MR. DARROW: Yes sir, that is right.

Q Who did you say 42 is? A A. W. Graticus.

MR. DARROW: This exhibit 18 is as follows:

Mr. Darrow then read exhibit 18, which is in words and figures as follows, to-wit:

"Dear Sir:-

Cyt. No. 42 Report:

Denver, Colo., Saturday, May 21st, 1904.

I went to Globeville this morning and spent the day at various saloons, mingling with the union men.

I overheard three men talking of the murder of private detective Gregory. They expressed great satisfaction that he was killed, and said his slayers were good union men, and will get more before they finish. One of these men was Charlie Nyburg. I did not know the names of the other two.

I met T. R. Stuart this afternoon. He is one of the prominent members of the union. He worked in the smelter as a carpenter. Of late he has not been so active in union matters. He told me he came to Globeville to see how the union men are getting along. Stuart is a great Democrat. He said, 'Well, we won the election; now, do you think the company is going to do anything?' I said, 'No, I do not. I feel sure they are not going to do anything this summer. It is doubtful in my mind whether they will ever do anything, but if they do, it will be many months hence.' Stuart said, 'Well, I guess we will have to wait until next Fall, and then we are going to win, because the State is going Democratic by 30,000.' I asked Stuart how the Globe Smelter is running, and he said he did not know, but from what he heard they are having a hard time to get and keep experienced men.

I saw Ann Grove this evening and talked with him again

3

about the leak in the union. Shreve said he did not positively know whether there was a leak or not. He said 'The men that brought this thing up, have only circumstantial evidence that some one is giving these things away. They have not said a thing that proved that we have a traitor in the union. Mr. Sheedy could very easily go to the First National Bank and there find out what our bills every week are.' Shreve said he is beginning to believe it is all a mistake, and that there is no one in the union who is betraying them. We talked for some time, and I agreed with Shreve that it probably is all a mistake.

I called on B. P. Smith this evening at his residence. He had company, and I only stayed a little while. Our conversation was general and in the presence of others.

I discontinued at 10.00 P. M.

Yours respectfully,

Reported Denver, 5/23/04.

B.\*

MR. DARROW: I will offer the one marked defendant's exhibit 19 for identification, and offer it in evidence. This is by operator 43, the same man.

Mr. Darrow then read Exhibit 19, which is in words and figures as follows, to-wit:

"Dear Sir:-

Opt. No. 43 Report:

Denver, Colo., Tuesday, Sept. 29th, 1903.

I reported at the office and received instructions to speak to the members of the millers' union in a careful way, and try to make ~~them~~ them believe they are entitled to some money or some benefit from the U. M. of M., to cause them to become dissatisfied, also to do what I can to get D. E. Smith out of the union. I went to Globeville and visited nearly all of the saloons there. I found very little doing. I met Alden at Vogt's saloon. Alden told me he met a man yesterday who wanted to go to work in the Globe miller. This party did not know Alden was a union man. Alden told him he was thinking of going to work himself. Alden said, 'He told me to meet him this morning at 5.30 and we would go together. The son of a gun did not show up this morning. If he had, I'd have fixed him so that he would be in the hospital now. I wanted to get him out alone, having had no chance at him yesterday.' At Frederick's place this evening I mixed with several of the boys. Frank Malenara was there. Policeman Malone spent an hour there drinking and talking with

the boys. Predovich called Malone out. They went out, talked for fifteen minutes, then came back. I do not know what they talked about. I walked with Alden this evening. He told me that the Allen and Stewart combination that are trying to get Smith out, are also trying to get him Allen, out. Alden said, 'I have done more for this union than any other man in it, and now this is what I get. I led that attack on the smelter July 3rd. I woke the watchman upon the gate, and told him if he dared to blow that whistle I'd kill him. You bet he did not blow it. Mike Golden was with me. We went in the engine room, and it was Golden that pulled the whistle. Mike Golden is in California. They are looking for him, but he got away from them.' Alden is dissatisfied with the way things are run. He expected to get \$2.50 a day, and as he is only getting \$1.50, he is angry. He said, 'If they try to run me out of this union, I'll make them feel sorry, if I have to kill a couple of them.' I discontinued at 9.00 P. M.

Yours respectfully,

Reported Denver, 9/30/03.

R."

MR. DARROW: I will next offer defendant's exhibit 15 for identification in evidence.

MR. DORRIS: J. N. L., that is Londoner, is it?

THE WITNESS: Yes, that is Londoner.

Mr. Darrow then read exhibit 15, which is in words and figures as follows, to-wit:

"Dear Sir:-

Opt. J. N. L. Reports:

Victor, Colo., Thursday, June 9th, 1904.

I went with Gurs to the Miners Union Hall. While searching the hall I found a photograph of two non union miners. On the face of the photograph was written the names of the men, John Shannon and Chas. Van Slack. On the back of the photograph were two crosses, which is said to be the union's manner to designate the men were to be killed. There also was written on the back of this picture, 'Loaned by and to be returned to John Gilbert.' Gurs said he knew all of the men named, and that John Gilbert claimed to be a friend of Shannon and Van Slack.

Gurs visited military headquarters, and met me later to report. He informed me the military had information to the effect that the Portland had secreted about the mine, a wagon load of guns, and in the event of the military coming to the mine, armed resistance would be made by the miners and the management. He said L. E. Hill, H. C. Moore, Austin Hollman and others were urging taking the Portland miners, if they had to destroy the



mine property, and they urged the entire workings of the mine searched, but so far no definite action had been decided on.

He told me they had discussed my position in the district, and there were doubts expressed as to my real connections and the possibility of my being a Pinkerton Detective, knowing I had nothing in common with the Mine Owners Association. Curz said I had not one defender in the outfit, and he said there was danger of their taking me.

Curz returned to headquarters, and in a short time reported to me. It had been decided to close down the Portland by force and to take what men they had decided on, out of the mine. General Bell was going to the Portland mine in command of as many soldiers and deputies as were available. Armed deputies were placed on Third Street between Victor Avenue and the P. & C. C. Depot, and were under the command of Van Rensseler, the former partner of Tom Horn.

I went to Cripple Creek and telephoned to Manager Kurie of the Portland that the militia were on the way to the mine.

I saw Curz and arranged with him to report to me at the Springs. I then quietly took the 3.45 P. M. Short Line, leaving Victor. I arrived in Colorado Springs at 6.30 P. M. and communicated by telephone with Asst. Supt. H. E. P. and received further instructions.

Yours respectfully,

Reported Denver, 6/11/04.

MR. DARROW: Defendant's exhibit 18 for identification, I will offer that in evidence. This is No. 5, who is not

THE WITNESS: That is Crane.

Mr. Darrow then read exhibit 18, which is in words and figures as follows, to-wit :

"Dear Sir:-

Opt. No. 5 reports:

Colo. City, Colo., Wednesday, Feb. 18th, 1903.

At 9.00 A. M. Sanger came and called me out and said that he heard there was a car load of Italians going to be shipped here today, and asked me what I thought best for him to do, and I said I did not just know what would be best, but he could send a few men to see them when they got off the train. He then told me he had sent two men to each depot. He then left. I went to see Meyer and Manton and there I met Mr. Burr from Leadville who has come down to take charge of the strike. We talked a few minutes. I left and went to get something to eat, and while in the restaurant two or three different union men came after me to make out applications for them. At 10.00 A. M. I left the restaurant and went with Sanger to fix out the applications. Meyer told me the electricians and blacksmiths had quit, so it would make things a little more difficult for the Standard Mill to work. He said if we continued to keep on the way we were doing, the Standard would have to go down. We then obligated four men, after which I left the room and went on the street and

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stood around with the men until about 11.30 A. M. when I went into the Alamo Club. I met Sanger and other union men, and they all seem to think that the men will win the strike. About 12.00 o'clock I left the Club and took a walk around the different places where the union pickets are stationed, and found everything very quiet indeed, and returned to town about 12.45 P. M. when I went to dinner. At 1.15 P. M. I saw Sanger. He said he had a bond for Charles Lewis, and wanted someone to sign it so as to get him out of jail, so we then hunted around and found J. Hill and Swartz, and they signed it by just writing their names on the back. When I gave it to the justice, he said it was no good signed that way, which I knew, but said nothing to Sanger. I then left the Justice's office and had a little talk with Mr. Hawkins, then went to the D. & R. G. Depot to see the union men who were watching the trains, but found none there, so stayed around a little while, when Richardson, Garrison, Howard and two other union men came. I talked a few minutes to them, and about 3.00 P. M. left them and took car for Colorado City where I met L. M. Edwards. He said he had some good news for us, and that Mr. Fullerton of the Telluride Mills wanted to have a talk with Mayer and the other officers of the union and try and fix matters up. Edwards said Mr. Fullerton said he did not want to discharge any union men, and would not, as he thought it would be best if all the men belonged to the union, and he did not want any of the union men to think that he was connected with Mr. Hawkins or any of these companies, and would not have a thing

to do with them. Edward s then left me. I met Sanger who told me I had better take a trip around and see how the boys were getting along, which I did with two other men from the Building Trades Council. We went to the big pump on G Street, and then across the company's ground past the old mill to the road which leads to the avenue. We saw no one on the way until we got to the K. T. Ry. switch which leads to the scapier. There I talked with the company's watchman. I said to them, 'You are not doing much looking around when you let men walk across the company's ground, and strikers at that.' They did not say much to me, so I went across the tracks to where the union men were sitting. I talked a few minutes with them, but learned nothing from them, and left them and went to town. There I met Downe, Sanger and several others. They asked me how things were, and I said, all right. We then all went to the Alamo Club and had the treats together. At 6.00 P. M. we all left for supper, after which at 6.45 P. M. I met Garrison, Henderson and several union men. We talked together until about 7.15 P. M. when I went to my room and got my books, and at 7.30 P. M. I went to the meeting. There were about 150 or 200 in attendance, with all the new members. 15 were taken in the first time, and 31 the next time, so it made quite a few members. After we got them fixed out all right, Mangum made a little talk to the boys, and told them to work as they had the past few days, and then he did not think we would have to call out the Cripple Creek miners, but if we could not stop the Standard Mill, they surely would call out the miners.

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Hungen said he would leave us in the morning, and would visit each union at the camp, and tell them how we are fixed, but he did not need to tell them anything, as it was all left to the District No. 1. He then sat down. Burr then made a little talk and asked the President to pick out a Strike Committee of five men. He picked out A. H. Crane, H. L. Sawyer, Tom Daniels, C. Lyons and J. H. Hill as the committee, and asked each and every member to do as the committee told them. Three men were picked out as captains to look after the different shifts of pickets. The next thing taken up was about Mr. Western, the Supt. of the Telluride Mill. The men want him removed from the works, and are going to present a bill against him at the Trades Council after the 25th, so as to have the trouble come all together, as several men consider him unfair to organized labor. About 11.45 P. M. we left the hall. I first took my books to my room, and then took a walk around, but found everything very quiet indeed. I then came back to the restaurant and had a little lunch, then went to my room, and at 2.30 A. M. discontinued for the night.

Yours respectfully,

Reported Denver, 2/20/02.

R."

MR. DARROW: The next is a letter written from San Francisco. Signed by D. F. Campbell, General Superintendent; what was he?

THE WITNESS: He was the General Superintendent of the San Francisco office.

Q That is a branch office of the Pinkerton Detective Agency, is it? A Yes sir.

MR. DARROW: This is exhibit 9 for identification which I now offer in evidence.

THE COURT: Mr. Darrow, perhaps you better suspend here now.

MR. DARROW: Very well, your Honor.

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

Boise, Idaho, Monday, July 1st, 1907.

1:30 o'clock A. M.

Parties met pursuant to adjournment.

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

THE COURT: What was the number of the exhibit you started to read last, Mr. Barrow?

MR. BARROW: Exhibit 3, your Honor, a letter from the San Francisco office.

Said Exhibit is in the words and figures following,

to-wit:

"San Francisco.  
Citizens Alliance, Ely, Nev.  
Prospective Work.

San Francisco, Cal. May 20th, 1904.

James McFarland, Esq.,  
Manager, West. Div.  
Denver, Colo.

Dear Sir:-

Today Mr. L. V. Regua, a wealthy mine owner of Reno, Nev., and also President of the Burckha & Palisades R. R. Co. in Nevada, called at the Agency, and we had quite a long talk regarding the western Federation of Miners and the disturbances about a year ago at Ely, Nev., when a dozen men tried to drive a mining engineer and superintendent out of the camp, which resulted in two of them being killed and one man badly wounded.

You will recollect that a man named Max Lambert was brought to San Francisco by some of his mining associates and taken to the German Hospital in this city. His wounds were quite

serious and blood poison set in, but he finally recovered. Mr. Regan asked me if I had ever heard of Lambert and I told him that he was working on the La Junta Basin in Colorado.

Mr. Regan stated that it was the intention of the mine owners and merchants of Hly, Hag. to form a Citizens' Alliance, and in fact he was going over to Hogshead now to take the matter up and perfect the organization. He said that probably in the course of a month or six weeks they would want an operative from this office who is a member of the W. F. of M. in good standing to proceed to Hly and go to work, as the organization they expected to combat was the W. F. of M. Mr. Regan also stated that it might possibly be a couple of months before they would be ready for the work.

In connection with this matter he asked me in case they had a strike of the members of the W. F. of M. and found it necessary to look them out, what the prospects would be in getting non union miners in Colorado or elsewhere. In talking the matter over I informed him that I would write you in Denver, as well as the Portland, Seattle, Spokane, Kansas City and St. Louis offices in order to ascertain what the prospects would be in securing a fair quality of non union miners in case it became necessary. The Portland, Spokane and Seattle offices will kindly write and inform me what the prospects would be in the North, especially at Spokane. Kansas City and St. Louis offices, who receive a copy of this letter will kindly inform me what they think the prospects would be in getting non union miners in Joplin, Missouri and Galena, Kansas. I would also like to know



if there are any prospects of getting any number of non union men in Colorado at the present time.

Mr. Rogus will be back in San Francisco in about a couple of weeks and I would like to have this information for him. Offices receiving a copy of this letter will of course understand that they are not authorized at the present time to go to any expense in obtaining this information. Superintendents of the different offices will no doubt be able to inform me on receipt of this letter just what they think the prospects would be at the different places.

-3-

Yours truly,

(Signed) B. F. Kumble,

Gen'l Supt. "

MR. DARROW: Here is one that I did not identify. I will have this marked 20.

Q. I hand you defendant's Exhibit 20 for identification, operator No. 43: State whether that was received in the due course of business? A. Yes sir, it was a report from Joseph F. Gadden, reporting from Colorado City, April 9, 1906.

MR. DARROW: I offer this in evidence.

THE COURT: Is that the same that was marked as No. 14? I have one here No. 43, from Colorado City, April 9, 1906.

MR. DARROW: It is; that is right. It is marked No. 14. I withdraw it for the present.

THE COURT: You haven't read it.

MR. DARROW: I will withdraw what purported to be defendant's Exhibit 20.

THE COURT: You will simply offer it as No. 14.

MR. DARTOW: It is offered as No. 14. It has not been read, however. I will offer it now as No. 14. It was marked on the back. That is the way I got it mixed up.

"Dear Sir:-

Opt. No. 43 reporter

Colo. City, Colo., Thursday,

April 9, 1903.

This morning I walked around town for a while and met a few of the mill men, but nothing of interest occurred. At 9:30 I helped a brother of the secretary of the union here who has a van, move a lady to Colorado Springs. He questioned me all the while regarding myself and my business, but of course, learned nothing. After dinner I met Gilbert, Nichols, Burr, Elder and Aberlone at the Hoffman Bar, where we had some drinks. Some of the men got the drinks on credit from Hanes, while others borrowed some cash of him. There was considerable talk about the club house to be built by the U.S.R. & N. Co., some claiming it would be a good thing, and others claiming it was done simply to get the good feeling of the people here. I was with these men quite a while when Nichols and Elder left us and went to the pool hall, and I went to my room until supper time. After supper I met a young man, tall, dark complexioned, who wears a stiff hat, and who told me he was one of the first three men discharged from the Standard mill. I have not yet learned his name, but they call him John. We went to the pool hall and there met Gilbert, Elder, DeLong,

King and Epperson. Epperson and DeLong wanted me to play pool and they took off their coats. I saw it was their scheme to get me to take off my coat, and I handed it to the young man John who went to the other end of the hall with the garments and went through the pockets. I played two games of pool, giving him plenty of time, knowing he would find nothing, and then the crowd broke up. I took the car to Colorado Springs and received instructions to call on Mr. Hawkins. Upon my return to Colorado City I met John and Epperson and talked awhile with them, and when Epperson left, John told me his people had gone away and he didn't have any place to sleep, so I invited him to come to my room. At my room I showed him my books and the lessons I am taking through a Correspondence School, and told him I had to get a lesson every night, and I made a pretense of studying it, and he looked through my trunk while I was writing. After we got to bed he got confidential, and told me they had had lots of trouble with detectives, had had one named Cane, or something of that sort, and four others whom he did not know, and that the union kept two men themselves to watch the newcomers. We talked until 2:30 when we went to sleep. I knew that I was watched, so must be cautious for some time to come.

Friday, April 10, 1903.

This morning I took John to breakfast, and he then asked me to lend him \$1.50. I pulled about \$3.50 which I showed him, telling him it was all I had, but he could have \$1.50 if he would pay it back Saturday, as it was his pay day, and he promised to do so. I also told him I would have to get work next week, then

I laid down and took a nap, as I wasn't feeling very well. After dinner I was out for a while and met a few of the men, but nothing of interest occurred, and I discontinued early.

Yours respectfully,

Reported Denver, 4/18/03.

P."

MR. DABROW: Now I offer defendant's Exhibit 16, two letters purporting to be signed by James McFarland.

~~"Denver-History-Executive.~~  
A. H. Cross (#5) Operative.

Denver, Colo., April 24th, 1903.

Geo. D. Bangs, Esq.,  
General Manager,  
New York City, N. Y.

Dear Sir:-

Replying to yours of the 21st relative to the above matter would say, that operative Cross was employed at the United States Reduction & Refining Company's plant at Colorado City, I think over a year, was subsequently suspected, taken prisoner by the union, fetched into the union hall, and expelled to leave the city, and was it not for the fact that several of the union men believed him innocent as charged by his enemies with whom he had some trouble, he would have been assaulted and beaten up.

He had done excellent work for the company, and after his return to Denver he was loaned to Chicago, and detailed on a mining operation in Kentucky. Mr. MacNeill, vice-president & General Manager of the United States Reduction & Refining

Company, wrote to the Denver office requesting the address of operative Crane. Mr. MacNeill was informed that the operative had been sent to Chicago, and we were unable to give his address. Subsequently we received a letter from Mr. MacNeill with an enclosed sealed envelope addressed to the operative. The letter requested that we forward the enclosed letter to Chicago, they to forward the same to his address. We did so. It appears that the Chicago office forwarded the letter to the operative, and the letter simply contained a \$50 bill. The operative supposed that this money was sent from Chicago as expense money and charged himself with the same. For some reason the Chicago office settled up with the operative when the operation was finished, on the basis that this \$50 was expense money.

During the time that the operative was loaned to Chicago, Mr. Cary met Mr. Haskins, the Supt. of the company's plant twice, who inquired of him if the letter had been forwarded to the operative. Mr. Cary stated that he had forwarded it to Chicago, and presumed that the operative got the letter. We did not know what the letter contained, as it was sealed. After the operative's arrival here at Denver, he met Mr. Haskins on the street, and Mr. Haskins asked him if he had received a letter from Mr. MacNeill. The operative stated, no. Then Mr. Haskins stated that Mr. MacNeill had enclosed a fifty dollar bill to him in an envelope. The operative said, 'Well, I got a sealed letter with a fifty-dollar bill in it, but I supposed it was my expense money as there was no explanation.' The operative reported this to Mr. Cary, and Mr. Cary wrote Chicago. The Chicago office discovered their mistake and vouchered the \$50 back here to Denver. If

Now, in consideration of the operative's services, holding his job at the smelter for over a year, and the indignities he suffered when brought into the union hall, I consider that he should be allowed to take this \$50 which we have just received from Chicago. The operative is at present detailed on an operation in New Mexico. Mr. MacNeill has been a client of the agency from time to time since '02, and we have at present three operatives detailed on work for him.

Yours truly,

James McFarland,

Gen'l Supt."

F

MR. DARTON: The second letter reads as follows:

Executive,  
New York-Hiscol.  
Letter from I. Edwin Goldwasser.

Denver, Jan. 10th, 1905.

Geo. D. Bangs, Esq.,  
General Manager,  
New York City, N. Y.

Dear Sir:-

I herewith enclose you the original letter from Mr. Goldwasser, also copy of my reply. I don't know who Mr. Goldwasser is, nor do I know his reasons for asking for the information he now desires; but, would say, while we could give Mr. Goldwasser the information he has asked for, in my judgment it would be bad policy to do so, as I don't think the agency should get itself mixed up in this controversy. While a great deal that was done by Governor Peabody in the emergency that has existed for the

2907

past year in Colorado, is not only approved by me and every official of the Agency here in Denver, but by a large number of our prominent citizens all over the state, at the same time there are few, if any, of us, that are willing to admit that all of the acts of Governor Peabody were in accordance with the constitution of the United States or the state of Colorado; therefore, this is a matter to be thrashed out in the courts, and in my opinion this is a matter to be handled by the courts and not by the agency. Such being my opinion, I have been careful in answering Mr. Goldwasser's letter, as I expect he wants to write an article for some magazine or journal, and when doing so, no doubt would show that he has gotten his information from the Agency. Moreover, the Colorado Legislature, although Republican in both branches, has declared that ex-governor Alva Adams has been elected Governor, thereby relegating Governor Peabody to private life.

Governor Peabody was certainly a good friend of the Agency, and so was Governor Adams both times that the latter has been governor of this state, therefore, in my opinion, we are wise not to enter into any controversy on this matter whatever.

Yours truly,

James McFarland,

3

Manager.

MR. DARRON: Then there is a letter to him from Mr. Goldwasser; I don't care whether I read it or not. Shall I read that? (Hands letter to Mr. Darron).

2908

MR. DARRON: I don't think it is very material, but

perhaps it might throw some light on it.

MR. DARRIS: I will read it.

DEPARTMENT OF EDUCATION

The City of New York.

DEWITT CLINTON HIGH SCHOOL

102nd Street near Amsterdam Ave.

~~Manhattan~~

Borough of Manhattan.

John T. Buchanan, Principal.

New York, Jan. 4th, 1905.

Mr. Robert A. Pinkerton,

Denver, Colo.

Dear Sir:-

If you will remember some two years ago I called on you while passing through Denver on my way to San Francisco. I brought with me a letter of introduction from Mr. Meyers, manager of House Aims.

You were kind enough then to explain to me some of the workings of your system, and to extend your promise to help in case I needed you. At present I am very much interested in knowing what were the conditions in the Cripple Creek District at the time the miners were deported by Governor Peabody. Can you give me any information in the subject which would lead to a justification of the Governor's act? If this is impossible, can you let me know which of the newspapers published in Denver will give me the desired information, and how I may have files of these newspapers sent to me?



I hope I am not asking too much of you in this matter, and that you will find it possible to help me in some way. Thanking you in advance, I am

Very sincerely,

(Signed) I. Edwin Goldwasser.\*

Q. Mr. Friedman, in one of these letters of operator Smith is a statement that he introduced Gehr to Strong. Gehr was doing what? A. Gehr was the national organizer of the United Mine Workers.

Q. Who was this man Strong that this man Smith introduced?

A. Well, if I recollect right, Gehr introduced Strong to Smith.

Q. Well, that is right. Gehr introduced Strong to Smith. Who

was Gehr? A. Gehr was a national organizer for Colorado, district No. 15, under Mr. Mitchell. Strong was No. 28, worked in Fremont county, Rockvale and Coal Creek, he was to keep tab on Mr. Gehr; Mr. Smith kept tab on Mr. Simpson, and Mr. William B. Howell.

Q. He was operator 28, you say? A. 28.

Q. That is, Strong was No. 28, and Smith was No. what?

A. 28.

Q. Was Strong making regular reports to the agency? A. Yes sir, daily reports.

Q. Do you know whether he and Smith were acquainted?

A. They were not up to the time that Mr. Gehr introduced them.

Q. Was Strong a member of the union? A. Yes sir, Coal Creek.

Q. Mr. Friedman, while you were in the Pinkerton office, was there any conversation in the Pinkerton offices or any statement by Mr. Farland, or of the others, in reference to the "Inner

Circle" of the Western Federation of Miners? A. There were no conversations, but in the course of dictation Mr. McParland very frequently made allusions to the inner circle of the Western Federation of Miners.

Q. How often did you hear that allusion made in that office?

A. I really couldn't number them; they were very many.

MR. BARKER: That is all.

#### CROSS EXAMINATION

BY MR. BARKER:

Q. Where were you born, Mr. Friedman? A. Russia.

Q. Where? A. Russia.

Q. What is your full name? A. Morris Friedman, -- H-o-o-r-i-s.

Q. When did you come to this country? A. I don't recollect the date, but I think it was about 1888.

Q. How old were you then? A. About five years.

Q. When did you become a Pinkerton? A. I never became a Pinkerton.

Q. Oh, you didn't? A. No sir.

Q. When did you enter the employ of the Pinkertons?

A. I entered the employ of the Pinkertons in 1902, on the 9th of July.

Q. In what capacity? A. Stenographer.

Q. Ever occupy any other position in the organization or the agency? A. No sir.

Q. Stenographer? A. Yes sir.

Q. How many other stenographers were there there? A. It varied.

At the time that I was employed I believe there were five;

subsequently I believe they got another one. I don't think it ever exceeded six.

Q. How long did you remain there? A. Until May 14th, 1905.

Q. And you went in what date, you say? A. On the 9th of July, 1902.

Q. You were stenographer during all that period for the agency?

A. Yes sir.

Q. Busy all the time, I presume, that is, you didn't have any recess or lay off at any time, did you? A. Excepting occasionally I might have possibly have laid off a day or two, being sick.

Q. You were in continuous employment during that time? A. Yes.

Q. What was your salary? A. At the time I commenced or at the time I quit?

Q. At the time you commenced? A. At the time I commenced my salary was \$15 a week.

Q. What was it when you quit? A. \$16.

Q. Did you have any particular parties for whom you took dictation? A. About eight or ten weeks or possibly eleven weeks after I entered the employ of the agency, from that time forward I particularly took the dictation of Mr. McFarland.

Q. From about ten weeks after you entered? A. Eight or ten weeks. I simply approximate the date. I can't state definitely. It may vary a week or two.

Q. And from that time on you became practically his stenographer?

A. Yes sir.

Q. Took his dictation? A. Yes sir.

Q. Most of it? A. Probably ninety-five per cent. of it at least, if not more.

- Q. And when did you begin to gather up these letters which you were going to take unto yourself? A. You mean when I made those extra copies for myself?
- Q. Yes. A. Well, I can't give the date. If I were to refer to my book or those reports, why, I should be able to judge better. It was along in 1902, the end of 1902.
- Q. You began then about 1902, the latter part of it?
- A. Probably November or December.
- Q. To make copies for yourself? A. Yes sir.
- Q. With the intent of taking them from the office when you left?
- A. Well, I don't quite understand what you mean by my intending to take them from the offices.
- Q. What were you making a copy of the files for? Was that a part of your duties?
- A: It wasn't a part of my duties. I made those extra copies for my own personal purpose.
- Q. For what, intending to use them for what? A. I intended to use them at the proper time and place, as I have used them.
- Q. You began then in 1902 to make those extra copies for yourself with the intent of using them at sometime? A. Yes sir.
- Q. Against the Agency? A. Yes sir.
- Q. And after you began this work you remained then pretty near three years? A. Well, it would come at probably a little over two then, subtracting a few months.
- Q. A little over two. Now during that period you took copies of such letters as you thought you would like to have?
- A. Not as I would like to have. I had no personal likes or dislikes in the matter whatever. I took such as I thought were important.

- Q. That is what I mean. A. Yes sir.
- Q. You took such letters as you thought were important?
- A. Yes sir.
- Q. Culled out from this correspondence those letters which you thought were most important and would be best for you to use in the future against the agency? A. Well, I will qualify that "against the agency". Not particularly against the agency so much as to explain things which the agency has done.
- Q. Well, in that sense, and these letters were gathered up with that idea in mind? A. Yes sir.
- Q. From time to time for two years? A. Yes sir.
- Q. How how many more letters have you than those which were presented here? A. Well, I really don't know. I turned over what I had here to Mr. Darrow and he probably can tell you more about it than I can just now.
- Q. Well, I am interrogating you. A. Well, I really don't know. I can't remember absolutely every one. I haven't made any memorandums of them.
- Q. Have you got any letters elsewhere than those which you have here? A. Well, possibly I might have some in New York, although I hardly think I have.
- Q. You think you have got all the letters which you copied here?
- A. I think so.
- Q. And these have been turned over to the Defense? A. Yes sir.
- Q. Well, now, what letters, if you know, did you turn over to the Defense which have not been exhibited here? A. Well, I can't think of any.
- Q. You think most that you have turned over have been exhibited?

A. Yes sir.

Q. Practically all that you called out during that two years then which you thought would be of moment when you came to do what you were going to do -- A. Yes sir.

Q. -- have been presented here? A. Yes sir.

Q. Have you any other letter at all in your possession which you got while you were a member -- working for the Pinkertons other than those which have been presented which you can now recall? A. No sir.

Q. When were you brought here as a witness? A. Why, I arrived at Boise -- let me see if I can recollect the exact date; I believe it was on the 13th of this month -- or last month, I am referring to June, this is July 1st. Yes, it was the 13th of June.

Q. When were you subpoenaed? A. I was not subpoenaed.

Q. Then were you called here by telegram? A. By telegram, yes.

Q. When? A. About four or five days before I left New York.

Q. You said you were a newspaper man; what newspaper do you represent? A. The Warheit of New York.

Q. You represent Winkire? A. No sir.

Q. Now when you got these letters which you called out from the agency you got them together and put them in book form and sold them? A. No sir, I didn't put them together in book form. I wrote the book.

Q. And published the letters, at least the information contained in the letters? A. I didn't republish the letters.

Q. Well, you republished some of them in the book, didn't you?

A. No sir, I didn't quote a single letter. I did the reports.

I quoted the reports in full, but I only gave the substance of the letters.

Q. All the reports which you took out -- A. Are published absolutely, true copies.

Q. Was that what you intended to do at the time you stole them? A. I beg your pardon.

Q. Was that what you intended to do at the time you stole them? A. I never stole them.

Q. Were you permitted to take them? A. I don't suppose it was according to the rules of the agency.

Q. Were you permitted to take them? A. I didn't ask permission.

Q. Did you understand that you had a right to take them?

A. Yes sir, I understood I had a right to take things in the sense that I took them, yes sir.

Q. In what sense was that? A. Well, in this sense, that I regarded all the information obtained by the Pinkerton operatives and furnished to the agency as the property of the Western Federation of Miners and the United Mine Workers of America, the Machinists' Union and any other union that was covered, and in gathering up and in turning these matters over to the public I was simply returning stolen property to the rightful owners.

Q. And that was the reason why you took them, was it? A. Yes sir.

Q. You went there and accepted the Pinkerton's money while you were doing it? A. I didn't go there with the intention of doing this. I came there ignorant of their business.

Q. You made up your mind very soon quickly after you got there,

- didn't you? A. No sir, it was several months, as soon as I had studied their business dealing and knew what they were doing.
- Q. You continued to take their money? A. I gave them my work in return for their money.
- Q. And continued in their employ, and all the time was taking these letters: How did you sign a contract when you was there with them? A. Yes sir.
- Q. Did that contract obligate you to secrecy? A. That contract would obligate me to secrecy only to a certain extent.
- Q. Where is that contract? A. It is in Denver; I suppose Mr. MacFarland has it.
- Q. Have you a copy of it? A. I have a blank copy of the agreement.
- Q. Let me see it? A. Yes sir, Mr. Darrow has it.

(Papers handed to Mr. Borah by Mr. Darrow).

- Q. Is this a copy of your contract which you signed, or a blank copy? A. Yes sir, nearly a blank copy.
- Q. The same kind that you signed? A. Yes sir, the top one that you have there.
- Q. How how soon after you received those letters, or after you took possession of them, made copies of them, and so forth, did you make it known to anyone that you had them?
- A. I never made the fact known to anybody until about last November when my book was practically completed. I had never conveyed this information to my best friend.
- Q. You kept that information to yourself until you had practically out it in book form? A. Yes sir.
- Q. Did you have an intention of writing a book all of the time that you were there after you began to take these letters?



A. Not immediately.

Q. You expected to use them somehow and some way? A. I expected the time would come when those letters should be shown up in the interest of justice, yes sir.

Q. Now then with an idea of serving justice and of serving humanity in general, you culled out all the letters from Mr. McFarland's correspondence that you thought would have a tendency to show up the situation, didn't you?

A. No sir, I didn't take all. Had I understood what was coming, had I known what they might have done or what they intended to do, or I had known they intended to go into this case, there was much more that I could have taken that would have been much more valuable.

Q. But you didn't get it at the time because you didn't know what was coming? A. No sir, I didn't get it at that time because I didn't think it necessary.

Q. Can you refer now to any other report of any man which you would like to designate as being particularly interesting to this case which you haven't copied? A. Well, I can't think of anything on the spur of the moment. It is an important question and I wouldn't venture to answer it.

Q. Will you tell me, Mr. Friedman, the number of any operative whose report you would like to have that would throw light upon this case? A. There is no report of any operative in particular. I believe that these reports, so far as the reports go, are about a sample of the majority of reports in the possession of the Pinkerton agency's files.

Q. You said a moment ago had you known how things were going to

so you would have gotten copies of something you did not get.

- A. When I say that I refer to this fact: The Pinkerton agency has files containing tens and tens of thousands of letters — they have in fact a big store room — well, that will compare favorably with the size of this room, and I can't think on the spur of the moment of those letters; I know there are some letters.
- Q. Can you tell this court and jury any letter from any individual that would throw any light upon this case that you haven't got?
- A. On this case at bar?
- Q. Yes. A. No sir, I don't know of any letter regarding this case at bar. I quit the Pinkerton agency before the Pinkerton agency became mixed up in this case.
- Q. You said a moment ago if you had known how far things were going you would have gotten some information you didn't get; Now what I want you to do is to tell me the name of any individual who wrote a letter, which you would like to have, under that statement. A. I don't quite follow that out yet.
- Q. You said a moment ago that if you had known what was going to happen and how far they were going to carry this that there was information there which you would have gotten, that you would have made copies of things which you did not make?
- A. Yes sir.
- Q. What I want you to do is to tell this court and the jury the name of the individual who wrote that letter either going out or coming in.
- Q. Well, I can think of some letters, of course; as I say, I can't remember them all. I myself wrote hundreds of them,

-- but I can think of one letter when Mr. McFarland tells on a certain occasion how he organized the Cripple Creek district -- the Mine Owners' Association, and when he organized them he did his level best to get work from them. In fact, his scheme in organizing them was that he might get work from them.

- Q. Now what was the date of that letter? A. I can't exactly recall the date of that letter.
- Q. Who was that letter written to? A. It was written to, I believe, General Manager Bangs.
- Q. Can you give me near the date of it? A. I will now just stop a moment to think of it. Possibly I can. I think it must have been along sometime in the year 1904, possibly around anywhere between July and October -- around that time.
- Q. July and October, 1904? A. Yes. Yes, and one thing more, in order to help you along further; Every letter of the Pinkerton agency is written under certain titles. Now I don't know under exactly what title this letter was written, but it must have been under one of two or three, which I can mention, and I will give you those if you want them.
- Q. I would like to have them. A. One was "Peace and safety", the top line; the next line "San Francisco Organization." "Assistant Superintendent's suggestion." Each one of these occupies a line. That was one possible title that this letter might have been written under. Another title is this: "Denver, Criminal," -- "General" or "Special", I don't remember which, for the top line. "A.E.A." Winnemucca Nevada," on the second line; "First National Bank (member)" on the

third line; "Hold-up-Hobbery" on the fourth line, and if you want the history of that case I can give you a little of it, too.

Q. Well, now, then you have designated this particular letter?

A. Wherein he also claims in writing about that, I believe, that the Western Federation has been guilty of a number of atrocities -- murders and so on.

Q. Now then what other letter do you refer to that you would like to have aside from this letter of date June, 1904, July or--

A. When I refer to that I refer also to the fact that I would like to have all the record, that is all the weekly business letters of the Pinkerton agency between about October, 1902, and up to about the time I quit the agency, because there are comments of Mr. McFarland on everyone of the operatives that were operating against the Western Federation, the United Mine Workers and Machinists and others, wherein he accused them in his comments of every crime that has ever taken place out there, wherein he ascribes it to them and says "Positively, undoubtedly this has been committed by the Western Federation of Miners' Inner Circle." Also I wouldn't mind having, if I could get them, the letters written apparently to private individuals, such as to Hone and others wherein they tell about the strike of the Machinists which took place at Omaha and wherein the Pinkerton agency practically did their level best to continue that strike and where they maintained a big corps of officers at the Paxton hotel there, which finally resulted in the strike being settled by Mr. Harrison over the Pinkerton

protest, and subsequently Mr. Hart, the president of the Union Pacific railroad, resigned because he had mismanaged the strike, and it is a fact in these private letters they encouraged Mr. Burke to hold out and to have no conferences with the union.

- Q. Well, now, has that anything to do with this particular matter here that I was referring to? A. I don't refer to this case. I said I would like to have certain letters.
- Q. I am referring to this particular transaction here and to this case. A. No sir, I said it wasn't relating to this case, and you agreed to that, as the record will show here I think.
- Q. Now I want to know if you know of any letter or any report or anything touching the subject matter of the Independence depot except that which you have introduced here? A. No sir. The only thing I do know is this --
- Q. I am asking now if you know of any letter or any report, any other, touching this subject matter except those which you have introduced? A. On the Independence depot explosion I do not.
- Q. Do you know of any report or any letter touching the Lyte Gregory matter except those which you have introduced here? A. No sir, the agency didn't work on that case at all.
- Q. Do you know of any letter or of any report touching the matter of the Vindicator explosion except those which have been introduced here, if any? A. Yes sir, there have been a number of reports by operative Reimer on that subject.
- Q. What was his number? A. He reported by initial, "C.H.R.," although he did have a number at one time; he had No. 39.
- Q. Anyone else report on that subject? A. That I don't know.

The operatives in the district might have reported on it, but I don't know that.

Q. Now do you know of any report upon any of these matters which have been mentioned, either the Independence depot, the Vinlander explosion or the Lyte Gregory matter which those which have been introduced here? A. No sir, I do not, excepting as they may have appeared in the weekly reports, as I stated before.

Q. You left there, however, before this immediate matter came up?

A. Yes sir, I left there about six or seven months prior.

Q. Then, as I understand, Mr. Friedman, you have given here all the letters and all the reports that you know of which have any reference to these particular matters which are under investigation here to counsel for the defendants?

A. I believe that is right.

Q. And you were in the office from 1902 to 1905? A. Yes sir.

Q. And during this time was the time in which all of these things happened? A. Yes sir.

Q. Now who was the first man to your knowledge who became a member of a union down there upon the part of the Pinkertons, and where? A. The first man that attracted my attention was operative Crane at Colorado City.

Q. When was that with reference to the strike at Colorado City?

A. I began to notice his reports particularly toward the end of 1902.

Q. And when was the strike in Colorado City? A. I believe the strike started at the end of January or first of February.

Q. Of what year? A. 1903.

- Q. And in Colorado City? A. In Colorado City, yes sir.
- Q. Where was the next operative that was a member of a union?
- A. Along at the same time No. 9, Bailey, was reporting from Victor. He was working at the Wild Horse mine.
- Q. And when did he commence there? A. That I don't know -- I do believe I can't find him working there or else I never noticed his reports until some time afterwards.
- Q. Now that was at Victor, Colorado? A. Victor, Colorado.
- Q. About what time? A. He was there all along during 1908. I have all these things, you see, on memorandums, and I really never memorized them.
- Q. He was there all during 1908? A. I believe he was. I know he subsequently got miner's consumption, or whatever it is called, and he went to Denver and there he got work at the Lyster Machine Works.
- Q. What other operative was at Cripple Creek? A. At the time of the strike?
- Q. Yes. A. No. 17.
- Q. Who was that? A. Koplew. He worked at the Portland mine.
- Q. When did he go to work there? A. I really don't recollect the exact time. Some of those operatives might have been working there before even I was there, you know; but I believe he worked there during 1908.
- Q. Is that your recollection? A. That is my recollection, but if I look into my book I can give you the exact date.
- Q. Now who else was working in Cripple Creek besides these two, Reimer and No. 17? A. There was No. 21 there, Fred Joseph

Denver. I don't know whether he worked in any mine or not. If I was to look into my book I could refresh my memory. But he was there at the time of the deportations; he was deported.

MR. RICHARDSON: He can look there to refresh his recollection if he wants to.

MR. WINNERS: He was put in the bull pen for awhile and then deported to Denver. That was in 1904.

- Q. Now do I understand from you that the Mine Owners' Association was a patron or a client of the Pinkertons during the year 1903?
- A. During the year 1903 -- I can't say whether or not the Mine Owners' Association was a patron of the agency; but I do know this, that Mr. Peck received reports from the agency.
- Q. Who is Mr. Peck? A. Mr. Peck I believe was at one time the secretary of the Mine Owners' Association or at least secretary of the Portland mine, I don't remember which.
- Q. When was it he received reports? A. He received them in 1903.
- Q. Beginning at what time? A. I can't state exactly.
- Q. Well, have you got anything to refresh your recollection and tell? A. Yes sir.
- Q. Where is it? A. It is in my book.
- Q. Well, take out your book. A. No. I referred to him. That was No. 9. Well, starting along about February that or probably a little before that and running probably all the way during 1903.
- Q. Was the Mine Owners' Association a client of the Pinkertons during 1904? A. I would like to make a correction, referring to No. 9. He was working for the Woods Investment Company,



and these reports went either to Mr. <sup>Peck</sup> Buck or Mr. Woods, I don't know exactly who.

- Q. Who was the Woods Investment Company? A. They are mine owners down in the Cripple Creek district.
- Q. Do you know whether the Mine Owners' Association as an organization was a client during the year 1903 of the Pinkertons?
- A. I believe they were not. The agency tried to get them but couldn't.
- Q. And they were not a client then? A. No. It was reported in our office at that time that the Thiele agency was the one that was doing their work during that year.
- Q. Was the Mine Owners' Association a client of the Pinkertons during the year 1904? A. To my knowledge I don't believe they were.
- Q. Were the Mine Owners' Association a client of the Pinkertons during the year 1905 while you were there? A. I don't believe they were.
- Q. How do you know of your own knowledge that the Mine Owners' Association as an association were ever a client of the Pinkertons? A. I believe they were. That letter I refer to explains that thoroughly.
- Q. Do you know from any letter which you wrote or any letter which you copied or any report which you have or can produce, do you know that the Mine Owners' Association was a client of the Pinkertons during the years 1903 or 1904 or 1905? A. Not during those three years until the time I quit.
- Q. Let me ask you again, to see if I have got your statement correct, what operative was it, that operated in Cripple

Creek and was a member of the union, what operative or operatives, member of the union, in November, 1903? A. Well, what operative have you got marked down there? I would have to refer to that again, there are so many dates, as I say, but I have them on my memoranda.

- Q. Refer to anything you want to and tell me what operative was working in the Cripple Creek district as a member of the union in November, 1903 -- refer to anything you want to, refer to any memorandum you want to. A. There were some reports which are not in my book. I would like to know their dates. I haven't noticed any here in November, so I don't know whether I have stated any.
- Q. I don't know whether you did or not, but what I want to know from you, if you know or have any means of knowing after your two years experience as a Pinkerton, whether or not there was any operative in the Cripple Creek district in November, 1903, who was a member of the union. A. I can't refresh my memory because your question says whether I was a Pinkerton. I was not a Pinkerton. I was a Pinkerton stenographer.
- Q. Well, while you were a Pinkerton stenographer, is that is any better term. A. Yes sir, much better.
- Q. I am willing to give you the credit for it, -- while you were a Pinkerton stenographer, have you any information which shows that there was an operative in the Cripple Creek in November, 1903? A. Well, I thought you were going to let me see those reports.
- Q. You can see anything you want to there. A. (Humming reports)
- Q. I cannot recollect the exact dates. There are some which I

haven't got in that book and which I haven't looked at for months. Well, I don't see any right here, but I believe I can say pretty positively No. 9 was at work there.

MR. BARNOW: Are all the reports we introduced there?

THE STENOGRAPHER: No sir, they are not all there.

Q. Do you state as a matter of fact under your oath?

A. I say pretty positively. I will not say that I absolutely recollect it beyond the shadow of a doubt, but I believe he should have been there at that time.

Q. Who was No. 9? A. He was Philander P. Bailey.

Q. Where was he operating? A. He was operating -- working in the Wild Horse mine in Victor, or there at Cripple Creek -- I am not acquainted in the district. Victor is where he used to report from.

Q. And you testify, do you, that Mr. Bailey, No. 9, was working in Cripple Creek in November, 1908, and operating in Cripple Creek? A. So far as my recollection bears me out, no further.

MR. BARNOW: He says "Victor", Senator.

MR. NICHOLSON: That is in the Cripple Creek district.

MR. BARNOW: That is the Cripple Creek district, I suppose you know how close it is.

MR. MORAN: I understand it is referred to as the Cripple Creek district.

THE WITNESS: All of these towns I refer to are known as the Cripple Creek district.

Q. Then you state that that is a fact, do you? A. To the best of my knowledge.

Q. What is your knowledge based on? A. My knowledge is based on

that I have writ ten a great many reports -- although this wasn't the real work that I was doing there; the main work I did was the work of Mr. McFarland, but if Mr. McFarland was out of town or if Mr. McFarland went away from the office early and there was still work to do I would stay and write reports, and in this way I wrote many reports.

Q. From that information do you state Mr. Bailey was operating in the Cripple Creek district, in November, 1903? A. I believe he should have been there at that time. My memory may be at fault to some extent, but I believe he was there.

Q. Who was operating in the Cripple Creek district in June, 1904?

A. For one, I remember Londoner.

Q. How many reports did Londoner make from there? A. I can't say positively.

Q. It is a fact, isn't it, Mr. Friedman, that Mr. Londoner went down there and made two reports -- not reports at all, but letters? A. No sir, it is not a fact.

Q. Have you got any of his reports from there? A. Why, we have offered in evidence two reports.

Q. Well, are those reports the only reports which you have?

A. The only ones which I have.

Q. The only ones which you ever saw? A. No sir, I have seen any number of Mr. Londoner's reports.

Q. From the Cripple Creek district? A. No sir, that language don't apply to the Cripple Creek district.

Q. What I am trying to get at is to know whether or not there was any operative, member of the union, in the Cripple Creek district in 1904, during the month of June? A. Mr. Londoner

was not a member of the union.

- Q. Was there any member of the Pinkertons who was a member of any union in the Cripple Creek district in June, 1904, to your knowledge? A. Fred Joseph Besser, No. 21, was down there.
- Q. Where was he working? A. I don't know what he was doing there, whether he was working or not. He was supposed to be on strike together with the rest of the men.
- Q. Was he a member of the union? A. To the best of my knowledge he was.
- Q. And do you know what mine he was working in? A. I do not.
- Q. What was his number? A. No. 21, and he also, by the way, was an operator against the coal miners down at Trinidad, subsequently.
- Q. Was he there in the Cripple Creek district during the month of June, 1903? A. Yes sir, and he was thrown in the bull pen and subsequently deported to Denver and came into Denver with a whole lot of other deportees.
- Q. And you are satisfied you are correct as to that? A. Yes sir.
- Q. And you are not mistaken about that? A. No sir, I don't believe I am.
- Q. And you swear to that as positive knowledge, do you?
- A. That which I have stated, I do.

MR. BROWN: I think that is all.

RE-DIRECT EXAMINATION

BY MR. DARROW:

- Q. Mr. Friedman, what proportion of these reports, these general reports received on these matters, <sup>ever</sup> ~~has~~ come into your hands

- at all? A. Comparatively a small proportion.
- Q. What would you say, what per cent? A. Well, a rough guess I don't believe it would even average ten per cent.
- Q. Which you ever saw at all? A. That is, that I handled. I saw them in the work basket but I never handled them.
- Q. You never handled over that? A. No sir.
- Q. Mr. Friedman, during 1903 and 1904 and 1905 did the agency have clients among the mine owners in the Cripple Creek district? A. During 1903, 4 and 5?
- Q. Yes. A. Yes sir.
- Q. And other parts of Colorado, too? A. Yes sir.
- Q. Do you know whether they also had an operative by the name of W. F. Heins? A. I think it was J. F. Heins.
- Q. You don't know a W. F. Heins? A. Or W. F. -- I am not certain at all of Mr. Heins's initials.
- Q. Did they have a J. F.? A. He was known as No. 35 and I believe some report from him and I think from Viator. I don't remember the date.
- Q. Can you describe his appearance? A. I never saw the man.
- Q. Was he a minor making reports? A. He was.
- Q. Do you know whether they had an operator by the name of B. L. Davidson? A. No sir, I don't remember that name whatever.
- Q. Do you remember the name of Ed. Zimmer? A. No sir.
- Q. Or Zimmerman? A. No sir.
- Q. Do you remember the name of W. H. Adams? A. No sir.
- Q. Do you remember the name of Thomas Walsh of Cripple Creek?
- 2931 A. No sir.

Q. Or Idaho Springs; Do you remember the name? A. No sir.

Q. Do you remember the name of William Day at Idaho Springs?

A. No sir.

MR. DREW: That is all.

MR. BORAY: That is all.

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B. F. BETTS, a witness on behalf of the defendant,  
being first duly sworn, on oath testified as follows:

DETECT EXAMINATION

BY MR. DARNOW:

- Q. What is your name, please? A. — B. F. Betts.
- Q. Where are you from, Mr. Betts? A. I am from Goldfield,  
Nevada.
- Q. What is your business? A. Mining and prospecting.
- Q. How long have you been in that business? A. Since '79.
- Q. Did you use to work in the Cripple Creek district? A. Yes sir.
- Q. Were you thrown into the bull pen? A. Yes sir.
- Q. At what time? A. Why, about two days before Thanksgiving, 1903.
- Q. Did you get your Thanksgiving dinner there? A. No sir, I got  
out and got Thanksgiving dinner in the evening down town.
- Q. How long were you in the bull pen at that time? A. About two  
days.
- Q. Was there a man named Floyd Thompson in the bull pen with you?  
A. Yes sir.
- Q. Do you know whether he held any position with the Mine  
Owners after that? A. Why, I understood that he —
- MR. BOWEN: Wait a minute, Mr. Betts. We object to what  
he understood.
- MR. DARNOW: We will prove it some other way than.
- Q. Was Floyd Thompson in the bull pen with you? A. Yes sir.
- Q. Did you hear him say anything with reference to what should  
be done by you people who were confined in the bull pen?  
A. Why —

MR. BOWEN: Wait a moment. That answer is yes or no.



A. Yes.

Q. What did you hear him say?

MR. BURKH: I suppose you will connect him with the mine owners?

MR. DARROW: We expect to connect him with the Mine Owners' Association.

MR. BURKH: I suppose under the ruling then it will be admitted?

MR. DARROW: As secretary of the Mine Owners' Association.

MR. BURKH: Was he at this time?

MR. DARROW: No, he was not secretary then, but very soon after he was out, but we think he was connected at this time, it is a fair inference that he became connected with them right there.

MR. BURKH: I object to it unless they are going to show he was connected with the Mine Owners' Association. If they do, I suppose, under the rule announced by the court, it would be admissible.

MR. DARROW: We expect to show it fairly well. I won't say to the court that we have got a witness to swear to it positively, for we haven't. But we will show directly that he was secretary of the association very soon after, and we expect to show other circumstances from which the inference would be a fair one that he was connected with them at that time.

THE COURT: The court will admit the testimony at this time, Mr. Darrow. But unless you make the showing, make the

connection, the court will make it subject to an instruction--

MR. DANKOW: Very well, your Honor. We will try to connect it.

Q. What was that conversation? A. There wasn't very much conversation in the bull pen where I was at all on the subject. He said when we got out we ought to blow the sons of bitches up.

Q. To whom was he referring? A. Now I don't know who he was referring to.

Q. Who was he speaking of? A. Well, he was speaking of probably the people that put him in the bull pen.

MR. DANKOW: That is all.

MR. BORAH: That is all.

JAMES L. WALLACE, a witness on behalf of the defendant,  
being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

- Q. Give us your name, please. A. James L. Wallace.
- Q. Where do you live, Mr. Wallace? A. Cripple Creek.
- Q. What is your business? A. Attorney.
- Q. How long have you lived in Cripple Creek? A. Fourteen years  
in July.
- Q. How long have you been practicing law? A. Fourteen years.
- Q. Did you have anything to do with the strike in Cripple Creek  
in 1903 and 4, along there? A. I was in the military service  
during that time.
- Q. When did you join the military service? A. April 27, 1903.
- Q. What was you when you joined it? A. Private.
- Q. Did you ever get promoted? A. I was afterwards elected as  
lieutenant and then captain Company H, 2nd regiment, U.S.C.
- Q. How long were you elected as lieutenant? A. December 5th,  
1903.
- Q. How long did you serve with the military? A. Until, I think it  
was November 30th, 1904, I resigned and my resignation was  
accepted.
- Q. What was that date? A. I think it was November 30th, the date  
of the order.

MR. DARROW: 1904?

THE WITNESS: 1904, yes sir.

- Q. This was your first military service, was it? A. Yes sir, in  
actual service. I had had military training in the University

of Hebraska.

- Q. Where did you report for orders during the time? A. The orders came to us from headquarters.
- Q. Headquarters of what? A. Military headquarters.
- Q. Where were the military headquarters? A. In the early part of September, 1903, they were established at Camp Colerick near the Portland mine, between the Portland and Independence mines.
- Q. How close to the mines? A. Well, the lines extended around the Independence mine a part of the time.
- Q. And where were the headquarters after that? A. They afterwards had headquarters in Victor.
- Q. Whereabouts in Victor? A. Well, during the winter of 1903 and spring of 1904 they had headquarters on 4th Street.
- Q. Any other organizations or offices in the same place? A. Not at that time. They had headquarters established in the Armory in June and July of 1904, and there were other offices close by there.
- Q. What other offices were close by? A. The Citizens' Alliance and the Mine Owners' Association.
- Q. How close? A. I presume fifty feet.
- Q. In an adjoining building? A. There was a vacant lot or so, perhaps my recollection is only one.
- Q. Did they ever have the offices any closer together? A. Well, part of them.
- Q. What part? A. Captain Hoag of Company K, after the two companies of local militia were thrown into a provisional company, as they call it, Captain Hoag was made sergeant

major of the two companies, or battalion supposed to be, and he had his office down in the Mine Owners' Association building, where the Citizens' Alliance also there had headquarters.

Q. The Citizens' Alliance and his offices were all in the same building, were they? A. That is my recollection.

Q. Where did they hold court, the military court?

A. In a back room of the Mine Owners' Association Building.

Q. Mr. Hoag, I believe, was assistant secretary of the Mine Owners' Association at the time.

Q. Mr. Hoag was the assistant secretary of the Mine Owners' Association?

A. Yes sir.

Q. Had he any office with the Citizens' Alliance? A. My recollection is he was acting as secretary for them, that is, did work for them part of the time while he was sergeant major.

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Q Yes of the Mine Owners? A The Citizens' Alliance,-- my recollection is that Mr. Haag told me he was drawing a salary from all three.

Q Do you know any other officials that were common officers of the citizens' alliance and the mine owners' association?

A A. B. Carlton, I think, was president of the mine owners' association and also a member of the executive committee of the citizens' alliance at Cripple Creek.

Q Any others? A Edward Bell, the sheriff was a member of the executive committee of the citizens' alliance.

Q And connected with the mine owners? A He was an owner in the El Paso mine. I could not say positively whether he was on the roll of the mine owners' association.

Q Any others that you know of? A William Bainbridge.

Q What were his positions? A I think at one time he was president of the mine owners' association and he was also on the executive committee of the citizens' alliance.

Q Did he have anything to do with the military? A I don't know that he was connected with the military, but the military guarded his house and the mine. I stood guard around his house one night myself.

Q He was connected with the El Paso mine, was he? A I believe so,-- I am quite sure of it.

Q Do you remember when the strike began? A It was called the 10th of August, 1903.

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Q 1903? A Yes sir.

Q Do you remember when the militia were called out? A I remember when I went out.

Q When was that? A The night of the 4th of September, 1903.

Q Did you go out with the first call? A Yes sir, we were the first company in the field.

Q What was the condition as to peace and quietude there at that time? A There was no disturbance that I know of. I was not expecting to be called out at all. I saw no occasion for it.

Q How did it compare with other times previously in the district? A Well, I have seen other times that were just as troublesome.

Q You mean when the military were not there? A When the military were not there, yes sir.

Q Do you remember the day when they opened the El Paso mine after the strike? I remember about the time, and about the time they were getting men to go to work there.

Q Non union men? A Non union men, yes sir.

Q When was it with reference to the time the military were called in? A It was prior to the calling in of the military after the calling of the strike and prior to the militia being called out.

Q What did they have there to watch the mine by night? A They had guards.

Q What light did they have? A They had a big searchlight on top of the mine.

Q Where did you live, or where were you with reference to that mine? A At that time I lived at 111 Pikes Peak Avenue, up on the hill in the city.

Q How was it as to whether you could see the mine at that time?

A I could see the mine directly from my front door.

Q Did you observe it -- did you see it at the time they attempted to run it with non union men? A The searchlight?

Q Yes, and the mine and its surroundings? A It was probably two miles from the house, but I could see it.

Q Could you see the mine? A I could see the mine, yes sir.

Q And the surroundings of it? A Yes sir, but we could not distinguish people that far away.

Q Was there any disturbance of any sort at that time?

A Not to my knowledge.

MR. BORAH: What mine was this?

THE WITNESS: The El Paso, one of the principal mines on Beacon Hill.

Q Did you know about the inauguration of the card system there?

A I know about the operation of it.

Q When did that go into effect? A I could not say as to that; shortly after they began to open up the mines.

Q And what was that card system? A Every man who wanted to work in the mines must make application to the Mine Owners' association, and they would take his history, -- they were required, every man they were not acquainted with had to furnish



vouchers from citizens of the immediate district and they took also the names of some prominent people with whom the applicant had been acquainted in other places where they had been, and it was their custom to write to those places to get information in regard to them.

Q And what did they require in reference to the Western Federation of Miners? A No man could get a card that was faithful to the Western Federation of Miners, and they were exceedingly careful that no man who had been a member in good standing up to within a short period before the strike should have a card.

Q What did he have to do, if anything, toward renouncing his connection with it? A They would not give him a card unless he did renounce the Federation.

Q You were there at the time of the deportation of some of them? A Yes sir.

Q I will not go into that right now, but was any action taken with reference to the feeding of the families that were left behind after the deportation, by the authorities? A Yes sir, during the last military occupation there was.

Q What was it? A Notices were published throughout the district requiring any one who desired to furnish supplies for the wives and children of the deported miners to turn them in to Major McClelland; that is, any money or food or clothing must be turned over to him and by him distributed to the families of the deported miners.

2912 Q Do you know whether he distributed anything? A I don't think

anything was ever turned in to him.

Q Were other people, or the miners themselves, permitted to distribute these supplies for these people? A I think that notice contained an order to all merchants to not sell.

Q Not sell to whom? A To the families, and the Western Federation people.

Q What do you know of the authorities who had charge of that situation at that time, or any action that they took in reference to merchants for selling to Western Federation people or to the families of deported men? A Mr. Kattelson who had a large grocery on Third street, I believe it was, had been furnishing supplies to the families of Western Federation people up in Independence and Goldfield and sent his delivery wagons out with the orders, and I was sent over to notify him to report at headquarters. He was not in when I went first, and I was sent there a second time and brought him into the headquarters and he was there reprimanded for the fact that he was supplying these supplies to the Western Federation people and was instructed to discontinue.

THE COURT: What headquarters does this refer to?

THE WITNESS: Military headquarters. I was on duty as first lieutenant.

Q It was the headquarters, that is, the place as you have described it? A When I speak of headquarters it is military headquarters unless I designate otherwise.

Q Do you know of any other grocers receiving any ~~substant~~ further orders? A Mr. Ganley of Cripple Creek was brought over to Victor, but I don't remember what they said to him, I was not present.

Q Brought over there on the same charge? A Yes sir, his own son came over and notified the headquarters that he was supplying the Western Federation people through the ladies auxiliary.

Q And then they sent for him? A Yes sir.

Q But you did not hear what was said at that time? A I did not, I was not present.

Q Was that before or after the Federation stores had been demolished? A Why, that was after they had been put out of business. There was twice, I think, that they were raided or they were ~~halt~~ closed at the time or shortly after the Victor riot as I understand.

Q Was any complaint made to the authorities there of the character of the men that the Mine Owners had brought into the Cripple Creek district to take charge of the strike?

MR. BORAH: What do you mean by complaint?

Q Was there any form of complaint lodged with the authorities or anything done about it?

MR. BORAH: That calls for a conclusion.

Q Well, what was done about it? Was there anything said at the headquarters in reference to that and any action taken with reference to it by the authorities?

MR. BORAH: Well, if your Honor please, we object to

that as it necessarily calls for the conclusion of the witness and also for hearsay which does not appear to be connected up with it.

Q Was anything done--

THE COURT: Was anything done as to what?

MR. DARRON: As to any complaint made to military headquarters as to the character of men brought into the district by the Mine Owners to carry on this strike?

MR. BORAN: That calls for a conclusion of the witness as to the fact that there was men brought in by the Mine Owners and we object to it for that reason.

MR. DARRON: I will try again.

MR. BORAN: You will undoubtedly succeed.

Q Do you know of any people who were operating there or working there in the district for the mine owners or the mine owners' association?

MR. BORAN: We object to that as calling for a conclusion of the witness.

THE COURT: No, he may answer that question.

A I know several.

Q Who did you know? A Mr. Fitch, the secretary of the organization, Mr. Sterling was working around the mine owners' association and around the headquarters.

Q K. C. Sterling? A K. C. Sterling, you sir.

Q Where did you last see him? A Here in Boise.

Q When? A I think it was night before last.

- Q Who else did you know of? A Floyd Thompson.
- Q Remember when you first saw Floyd Thompson there? A I have known him a long while.
- Q I mean, around the headquarters or connected with these people? A It was after he was put in the bull pen.
- Q Put in the bull pen? A Yes sir.
- Q After he was put in the bull pen? A Yes sir.
- Q How long after? A Some little time. I don't just recollect, but he was afterwards made secretary of the association or the assistant secretary.
- Q The mine owners' association? A Yes sir, he was doing the work in there and had charge of it and had a man under him.
- Q Did you know Kid Waters? A I did.
- Q Where was he? A He was around the mine owners' association headquarters a great deal.
- Q Any others that you think of? A Jack Bowman who was afterwards killed.
- Q Any others? A Jim Harbord.
- Q Where is he now? A He is serving a life sentence and thirteen years in the penitentiary of Colorado.
- Q Do you know which he serves first? A The court did not say.
- Q That was for murder, down there, wasn't it? A That was for the murder of Mike Lobo.
- Q Anybody else there that was <sup>convicted</sup> afterwards? A Tom Brown.
- Q When was he convicted of murder? A Just before I left

- Cripple Creek and had not been sentenced when I left.
- Q That was on the election day earlier, wasn't it? A Yes, in November, 1904.
- Q 1904? A Yes sir.
- Q Did you know the McKinley kid, or what they called him?
- A Do you mean Kinnally -- Walter Kinnally?
- Q Yes. A He was one of them and there was W. H. Koffer -- Bill Koffer they called him, and another they called Shorty Williams.
- Q Did you know Harry Gayton? A Yes sir, he was a member of my company and on detached duty.
- Q Do you know where he is now? A No, he was in Cripple Creek the last I knew of him.
- Q Did you know Frank Bannock? A Yes sir, I knew Frank Bannock.
- Q Was he another one? A Yes sir, he was another one.
- Q Well, do you know when they came -- when these men came into the district, what proportion of them had been residents of the district there? A Mr. Sterling had lived in the district for a long while but he was not supposed to be one of this kind of men.
- Q What about the other men you have mentioned, whether they were old residents there? A You mean those supposed to be gun men?
- Q Yes. A I don't recollect of having met any of them until after

the trouble.

Q When did they come into the district with reference to the militia? A I could not say as to that because I had never seen them before that time, but I saw them frequently during June and July of 1904.

Q How were these men as to whether they were armed? A They were always armed when I saw them, and some of them were two six shooters occasionally.

Q What was the condition of the district as to peace and quietness before they came? A I think the district was exceptionally peaceable. I can tell you why if you want to know.

Q Well, if you will, state why? A We had been relieved from duty in the fall, or December, -- my company had, and I arranged to give a military ball for Company H on the 13th day of March and the Governor and his staff and General Hall and all the notables in the militia were to be there and the question was discussed --

MR. BORAH: We don't care anything about that. There was a ball before the Battle of Waterloo.

MR. BARROW: This was another battle of Waterloo.

MR. BORAH: There seems to have been something going on all the time.

Q Was there any complaint made as to these men at headquarters -- these and others? A Well, the matter came under my observation in which I took action, but not as to these men; it was some others.

Q Do you know who brought any of these men in? A They were supposed to come in --

MR. BOHANN Wait a minute. We object to what he supposed.

THE WITNESS: Well, they came in as additions to the military force from Denver.

Q Under whose authority? A They reported to me.

Q From Denver, you say? A Yes sir.

Q Do you know where they get their pay from? A I do not.

Q You say they reported to you? A I had the man who conducted the detail into the district put under arrest and brought into headquarters.

Q Who was that? A I could not tell you his name. There were 14 men in the detail, I think; they came up from Colorado Springs and were getting drunk and raising a disturbance around town and I had the leader put under arrest and brought into headquarters that evening.

Q Any charge made against him as to these men? A I asked him what he was doing getting drunk and running around town, and creating a disturbance, and told it had to be quit or I would put him in the guard house, and it had to be stopped.

Q What did he say about his men? A He said, "Well, Captain, he says, "I was ordered to hunt Denver over and get the worst bunch I could find and I done it and brought him up here and they ought not to complain."

Q When was that? A Well, that was -- I cannot give you the



exact date as to that. I have not the records and have not inspected them since; but it was some time during the month of June or July, 1904.

Q Were you in the district at the time of the blowing up of the Independence depot? A Yes sir.

Q Where were you at that time? A I was asleep.

Q I don't mean just when it was blown up, but afterwards?

A The next day I was in my office during the forenoon and went home to my lunch and went to Victor in the afternoon.

Q Were you at the meeting? A No sir.

Q Were you there in that vicinity about that time? A I got there --

Q At Victor? A I got there early in the afternoon, yes sir; Mr. Simpson, their boy and my boy and I went over there.

Q Where did they gather first? A Down at the military club or the armory hall as it was known.

Q And was that before or after the meeting where the lawyers did the talking? A That was before the meeting.

Q What kind of a crowd was there? A I got off the car and a newspaper reporter by the name of Anderson came running up and said --

MR. BOSMAN: To object to what the newspaper reporter said.

Q Never mind that, but what kind of a crowd was there there at that time? A I walked from the car down the corner of Third

and Victor avenue and up the west side of Victor avenue to within ~~within~~ 150 feet of military headquarters, and the crowd was out on the street around armory hall -- a large crowd of people; the sidewalks were crowded with people.

Q Did anybody fire a shot? A I was standing looking directly at the military club and Mr. Sterling --

MR. BORAH: So object to that. Answer the question.

Q Yes, answer the question. A Yes sir.

Q Who was it that fired a shot first? A Mr. Sterling.

Q K. G. Sterling? A Yes sir.

Q Do you know what that was as to being the first shot fired, or don't you know? A That is the only shot I heard fired that day.

Q Did you stay to the meeting? A No sir.

Q Where did you go? A After that shot was fired some one recognized me and said I was wanted at headquarters and I immediately went to headquarters and they sent Mr. Fitch and myself and two others to the El Paso mine for fourteen rifles over there, they were stored there, and we went and got them.

Q So you was not there? A The riot was just over when we got back.

Q Had the crowd dispersed? A The crowd from the corner of Fourth and Victor had dispersed, yes sir.

Q And where were they with reference to the Union Hall? A The miners had gone up into the hall.

- Q And where was the crowd? A Scattered. There were very few people up on that corner when I went there.
- Q Did they go there later? A How is that?
- Q Did they go there later? A That was after the meeting?
- Q After the meeting? A Yes sir, and I got instructions from General Hall to call out my company and hold them for orders, and I took the car and as I did L Company of Victor was forming around Union Hall.
- Q And what was done there? A I went to Cripple Creek immediately on getting my orders and all I saw was the militia forming.
- Q Was there any shots fired at the time you left? A No.
- Q How close to the union hall were they when you left? A One detail was coming down Diamond Avenue and Fourth Street and the other was coming up Victor Avenue. They were within a very short distance of the hall.
- Q Now, after that were there some resignations of officials?
- A I believe there was. The main resignations had been before that.
- Q Were you present at that time? A No, I was not.
- Q Any of them? A There was a resignation of an official that I was at.
- Q Who was that? A That was Justice of the Peace Harrington.
- Q What was done there to make him give his resignation?
- A I was drawing up some papers in his court when a committee of five came in and ordered him to resign. He refused and said he had done nothing to resign for and would not resign.

I said to the committee, "I am getting out some papers and I wish you would wait until I get their signal and get them in the hands of the Constable," — some attachment papers; and while I was writing they kept at the justice of the peace, but I finally got him to sign the papers and he started to leave the room and Mr. Siddler followed him.

Q Who was he? A He was a newspaper reporter for one of the Denver papers. He met him at the door and he pulled out a gun and stuck it in his stomach and told him to go back. He came back and he said, you sit down there now and write out your resignation; and he said, "I won't write my own resignation;" and none of them wrote it and he signed it.

Q There were how many of that committee? A Five.

Q Were you there when the stores were looted? A Yes sir.

Q Which place, or both of them? A Cripple Creek.

Q That was a little later, wasn't it? A I think that was along in August.

Q Were you present when the attack was made on the Victor Record, or the Victor paper, whatever it was? A I was in a detail that went down and got the office force out and took them up to the bull pen, of the military headquarters.

Q What paper was that? A That was the official paper of the Western Federation in the district.

Q That was just a labor paper, or was it a newspaper? A It was a regular newspaper.

Q What was it, a daily or a weekly? A It was a daily.

Q What orders did you get from headquarters about that? A Simply to go down and bring the office force up, to take them up to camp Goldfield.

Q What was done? A A detail from my company -- I was a private then, I was not in charge of the detail -- and a detail from some other company marched down to the office and my detail went to the rear of the office, down the alley, and the other detail went down the street in front, and we guarded the rear while the detail in front went in and took the boys out in the street, and we passed through from the rear to the front and we lined them up between us, in a square, and marched them up to the bull pen, or to Camp Goldfield.

Q In what way did they go up the street, -- with their hands up?

A No, no, not that way.

Q How many of them were there? A I think from the order, there were five or seven.

Q Where were they taken? A To Camp Goldfield. Mr. Keiner was in the bunch.

Q Who was he? A The proprietor of the paper.

Q Do you know about the Cripple Creek Club -- or what was that Cripple Creek Club? A That was the business men's club.

Q Did they have any guns? A Yes, I presume they had.

Q Do you know anything about their getting any anywhere?

A Some of the boys from there borrowed seven rifles from Company H.

Q Iron Company A? A Company II, my company.

Q Do you remember what time that was? A That was in June, 1904.

Q Were you present at the Portland mine when they relieved the Superintendent and officers there? A No sir, but I could see the Portland mine from down town and know of the occurrence.

Q Did you see it? A Yes sir.

Q When was that? A I cannot give you the date of that, but it was during the month of June I believe.

THE COURT: June of what year?

THE WITNESS: 1904.

Q The Portland was running as a union mine, was it not? A It was what was known as a fair mine. They had made terms with the strikers.

Q They had agreed with the Federation? A Yes sir.

Q What was done there at that time -- at the Portland mine?

A A detail of soldiers went up to the mine and got all the men as they came out and brought them down to the headquarters; and I was afterwards sent with a detail to pick up all the men who were off shift in Cripple Creek, who were not working at that time, and I took the list and went over there and spent the whole night getting them.

Q That is, the men who were on the payroll of the mine but were not working at that time? A The men who were not on shift.

Q Did your orders apply to any men that lived anywhere except in Cripple Creek? A My list only included the men in Cripple Creek.

- Q How was it about the men who lived in Victor? A Most of the miners lived in Cripple Creek.
- Q What was done as to the men who lived in Victor? A They were brought down from the mine; and there were several others in headquarters. I don't know who went and got them.
- Q What was done with those men? A They were brought over and taken into the mine owners' association building.
- Q Do you know where they went from there? A I guess they were turned loose after they made application for cards.
- Q Did they make application, some of them, to the mine owners' association for cards? A Yes.
- Q And they were turned loose, were they? A Yes sir.
- Q What did you say was done with those who applied for cards? A As soon as a man got a card he was no longer --
- Q Were there any that refused to make application? A I don't know, I only saw a few.
- Q Was the mine kept running during this time, or was it closed down at any time? A I presume it was closed down when they took the men out.
- Q Do you know how long it was closed down? A No, I don't.
- Q And did you know when it started again,-- in what way they started up? A I could not say, only my own opinion.
- Q Well, all right. You were sent to Bull Hill too, were you? A Yes sir.
- Q Who was sent there? A I was sent with a detail to take the men out that were on Bull Hill.

Q Yes? A This was on Raven Hill, and afterwards we were sent to Bull Hill; there were three mines there that were in the same order.

Q What mines was it? A The Xila, over on the Pique switch, and the Winchester lease; I took the men out of those two mines and sent them back to Victor and went back to Bull Hill after the others, but it was closed down.

Q What were those three mines, whether they were running with union men? A They had not signed the agreement with the mine owners' association.

Q And what did you do with the men you did capture? A I put them on the train -- on a Low Line car and sent them in to Victor.

Q And where were they taken to? A To the mine owners' association.

Q To the mine owners' association? A I say that, but I did not go with them.

Q What were your orders as to where they were to go? A They were to be returned to Victor, but I don't recollect just how the order read; and the men I took from Cripple Creek, from the Portland mine, I took direct to the Mine Owners' association.

Q Were you there at the time the store was looted at Cripple Creek? A Yes sir.

Q When was it? A It was on Saturday night, some time during the month of August. I knew I was just having my Saturday night shave.

Q Did you see the men as they went there to loot it? A I saw



then looting it.

Q How much of a body of men were there there looting it?

A The street was full of men from one side to the other,-- and women and children too.

Q Any prominent citizens in the crowd? A I could not say; it was dark, and as to that I don't know. The deportation, I think, of General Engley and some other attorneys had taken place that afternoon. I saw that crowd and some of the men who were in it.

Q Well then, we will go back to the deportations first. That was in the afternoon preceding, was it? A I think so,-- I am quite sure of it.

Q Were you an officer at that time? A Yes sir, but not on duty.

Q Who were taken up at that time? A General Engley,--

Q Who was General Engley? A He was an attorney at Cripple Creek who had been Attorney General under Waite, of the State.

Q Also had been a member of the legislature? A Yes sir, in 1899.

Q And was a practicing lawyer there at Cripple Creek? A Yes sir

Q Who else? A Frank Hange.

Q Who was he? A He had been an attorney for the Western Federation, or some of their people up there.

Q Who else? A J. C. Cole who had been deputy district attorney there, and Bill Hicks, a member of the carpenter's union.

Q How many people were deported at that time -- about how many?

A I could not say. There was quite a number in the crowd. I

did not stay to see all they took away.

Q What kind of a crowd was there there at that time? A There was several hundred people there.

Q Any prominent citizens? A I saw Mr. Carlton-- Mr. A. E. Carlton.

Q The President of the Mine Owners' association? A Yes sir, and President of the First National Bank.

Q President of the First National Bank? A Yes sir. And Cliff Hancock, his cashier was in the crowd part of the time at least.

Q Did you see his cashier again at the store? A I cannot recollect one face I saw at the store.

Q What was done at the store? A It was broken into and the goods torn down off the shelves, the eggs were strewn in the street and the foods in the boxes were scattered around and people were carrying it off in every direction. It was dark and I did not see the faces from where I was.

Q How large a store was that, and what kind of a store was it?

A A grocery store. It was a total wreck after they got through with it. That is, it appeared to be. There was lots of the goods that was not spoiled.

Q Did you see any of the merchants there taking a hand in it?

A I don't remember. As I say, it was after dark and I was not there when they commenced on it. I was getting shaved and I stepped out of the barber shop and as I stepped out I saw the crowd down the street and I stepped down and was watching them.

- Q Did you see anything at the union hall? A I saw the time they ransaged the union hall.
- Q What did they do there? A They broke out the windows and tore down the books from the library and ransaged the desks.
- Q When was that? A Now, that is a date I cannot fix. I remember the circumstance very well.
- Q What did they have by way of a library? A They had quite a large library.
- Q What was done with it? A It was destroyed and carried away. The people carried the books away. The books were strewn on the floor the next day when I went up there.
- Q What kind of a hall was this? A It was a two story building, 25 by 125 feet in length. It ran clear to the alley. The front part was a small assembly hall and library room and the back part was a large hall.
- Q Who used the halls? A The unions.
- Q Did any other organizations use it that you know? A Yes, some of the fraternal orders used it, I think.
- Q Did you see any mounted troops there? A In the early part of the strike the mounted troops were travelling over the district night and day.
- Q For what? A Looking out for disturbers.
- Q Did the Cripple Creek club furnish any -- did they take any hand in this? A Some of the boys from the Cripple Creek club borrowed the guns from Company H.

## CROSS EXAMINATION

BY MR. BORAH:

- Q Where was your office located? A In the Puller Block, rooms 7 and 8.
- Q Was this where there was afterwards military headquarters?
- A That was in Cripple Creek. The military headquarters were in Victor.
- Q The military headquarters were in Victor? A Yes sir, the military headquarters that I speak of.
- Q When did you join the militia? A My recollection is it was the 27th day of April, 1903.
- Q That was prior to the strike? A Prior to the strike, yes sir.
- Q The strike was on the 10th of August, 1903? A The 10th of August, as I recollect it.
- Q You were not in the field at the time of the strike? A No sir, there were no troops in the field.
- Q Yes, the troops were called in, I believe you say, on the day of September 4th, 1903? A That is when we got our orders.
- Q Did you have any knowledge of any others being in the field prior to that? A There were none. We were the first company in the field. The others had been called but did not reach there, and we met them the next morning when they arrived.
- Q Had any non union men come into the camp between the day of the strike and when the troops were called in? A Yes sir.

Q Where did these non union men come from? A Some from Hurke, Lingo, and some from Gen. Lingo.

Q And what other points, if you know,-- some from Missouri?

A Yes sir.

Q And Leadville, and the lead district, Joplin, down there?

A Yes sir.

Q About how many non union men had been brought into the camp, do you think? A I haven't any -- I could not give you an estimate.

Q Could you give me generally an idea of about how many?

A No, I saw one trainload that came in.

Q About when did they come in? A It was after the 10th of August and before the troops were called out.

Q Did you see more than one train load come in there? A No, but there were others came in.

Q Several train loads came in? A I believe so.

Q They were filling up the mines as fast as they could with non union men? A Yes sir.

Q And the union men were pretty generally staying with the union, that is, refusing to go to work? A Yes sir, that was the rule.

Q And of course that led to some feeling between the two factions, did it not? A I presume so. I did not belong to either faction.

Q Well you, I suppose you were there more or less? A Yes sir, I was in the city.

Q And observed these things more or less? A Yes, there were talks and discussions on the street.

Q Naturally some threats were made between the Union men and the non Union men? A I did not hear any.

Q Did you hear of any? A I heard the union men talking to the non union men and trying to get them not to go to work.

Q Now, on the 4th of September, 1903, the troops came in, and you say everything was apparently peaceful at that time?

A As far as my knowledge was concerned, we were not even expecting to be called out. We did not think we would be called out.

Q Had you given any particular attention to the matter yourself or were you pursuing the even tenor of your profession?

A I was pursuing the even tenor of my way -- I was trying to practice law.

Q And you were not about the mines a great deal? A Not much.

Q Did you know anything about old man Stewart's trouble? A Only what I read in the paper.

Q Did you know anything about Mr. Hamlin's trouble? A No sir, only what I read in the paper.

Q Did you know anything about the attempt of the non union men to go to work at the Golden Cycle mine? A I don't recall the circumstances.

Q These matters you simply read of and you had no personal knowledge of them. A I had no personal knowledge of them at all.

Q Now, how long did the troops stay in the field after they were

- called in on the 4th of September, 1903? A Well, the troops were being relieved and added you know at different times, but there was some troops left there until late in the spring of 1904.
- Q Well, what time was it about that the troops were taken out entirely, or were disbanded and called home? A I think it was about thirty days before this Independence depot was blown up.
- Q About the 6th of May, or the 1st of May some time? A I think so, -- now, I am not positive.
- Q Have you any memoranda or anything by which you could fix the date precisely? A No, I have not. My company was relieved from duty on the 10th of November, 1903, and then they were called into the field again on the 31st of November.
- Q That was the day of the Vindicator explosion? A Yes sir, and we were relieved from duty again about the 6th or 9th of December, and then we weren't called into the field again until June, 1904.
- Q What time in June, 1904? A The afternoon of the riot.
- Q And the riot was the afternoon of the explosion? A Yes sir, it was the afternoon of the explosion, but there were other troops over at Victor.
- Q Were there any troops to your knowledge in the field between the fore part of May, 1904, and up to the Independence depot explosion? A Not to my knowledge. I remember being at headquarters at the Springs there when Captain Hoag had charge.

Q The explosion occurred on June 6th, 1906? A Yes sir.

Q You weren't near there? A No, I was seven or eight miles from there.

Q You arrived at the scene of the explosion when? A I did not go to the scene of the explosion at all.

MR. RICHARDSON: That was early in the morning after the night of the 6th.

Q It was 2 o'clock the night of the morning of the 6th?

A So I understood. I did not go up.

Q You did not go at all, you say? A No, I got to Victor in the afternoon.

Q How far is Victor from the Independence depot? A I presume on an air line a mile or a mile and a half; by rail I don't know.

Q How soon were you called into the field after the explosion?

A It was after the riot had occurred at Victor and while the troops were forming there around the Union hall.

Q How many -- A Just about that time I got in communication with General Bell. He called me over the phone.

Q Where was he stationed? A He was in Denver. I presume he was in Denver.

Q What official position did you occupy then? A I was First Lieutenant, acting Captain. Our Captain was not in the country at that time.

2965 Q And how many hours would this be after the explosion, about?

A Why, as near as I can judge I presume it was about three



o'clock in the afternoon that I got my orders to assemble my company.

Q Now, when was it that these undesirable citizens began to come in? A I did not notice much of them until I got over to Victor and got into the field.

Q When? A The day of the riot.

Q Then, this was about twelve or fourteen hours after the explosion? A Yes. There was Frank Vanick, I noticed him.

Q Any of these gun men, had they been there prior to that night?

A Let me see,—

Q Well, to refresh your recollection, you said there was some one who told you he was directed to get the worst men he could in Denver and bring them down there? A Yes sir, they were to go with the militia.

Q When was that as to the explosion? A That was several days after.

Q Several days after? A Yes sir.

Q The bringing in of these gun men you speak of was some several days after the explosion at the Independence depot? A Yes, these recruits were. I believe Harry Gayton and Kid Waters were in the district prior to this time.

Q There were two or three of them that had been there prior to this time? A I did not have much acquaintance with the gun men prior to June 6th.

Q You know them I presume? A Yes. Tom Brown had been there.

- Q How many gun men were there in the Cripple Creek district that you have referred prior to the Independence depot explosion, whose names you can give? A Not very many.
- Q They were mostly brought in there afterwards, you say? A I don't know as they were brought in. They came in and they were there June 6th and I saw them all around headquarters.
- Q Had you seen any of them around there prior to that time? You have mentioned -- A You mean around headquarters?
- Q Anywhere around there? A Frank Vardak, Tom Brown and Ed Saters.
- Q What were they, gamblers? A I never saw them doing any work of any kind.
- Q Did you know anything about how they made a living?
- A I used to see them down around the dance halls. I never went down there very frequently, but they were usually around the dance halls and the saloons.
- Q When was it when the riot occurred, in reference to the explosion -- about 10 hours afterwards? A It was probably between two and three o'clock in the afternoon. I had gone after the rifles at the El Paso mine.
- Q And when were these stores looted with reference to the explosion? A The union store was closed pretty shortly after the-- I don't know whether it was the 6th or 7th of June,-- it was the 7th.
- Q You speak about the looting? A That was along in August, on Saturday evening during the latter part of the month.

Q August, 1904? A August, 1904, yes sir.

Q Several months after -- two or three months after the explosion? A Yes.

Q Now, when was this card or permit system adopted? A I could not say exactly.

Q Could you give me about the date when it was adopted?

A No.

Q When was it adopted with reference to the depot explosion?

A I could not say as to that.

Q Was it afterwards or before? A I don't know.

Q You have no means of fixing that date? A No sir, the most of my experience with that was after.

Q Did you know of its existence at all until after the explosion?

A The card system?

Q Yes, the permit system? A No, I don't think I ever did.

Q Did you ever hear this permit system discussed in connection with the name of Governor Stearnsberg? A No sir.

Q You did not hear it called the Stearnsberg permit system?

A No, I never heard that; I never heard his name connected with it. I always understood that Clarence Haulin originated it.

Q You did not know that there was such a system in the Cour d'Alence? A No sir.

Q When did you say this man, the Kinley Kid came into Cripple Creek? A I did not say.

Q Do you know? A I don't know.

Q He did not come there until 1905, did he? A I am sure I don't know. I have seen him there.

Q Did you see him there during the troubles of 1904 at all?

A I never got acquainted with him, but if I saw him I did not know him. I saw Jim Warford, his partner, there.

Q Did you know W. P. Davis? A Who?

Q Bill Davis? A No sir.

Q Did you know Sherman Parker? A No sir.

Q Or Steve Adams? A I think I have seen him once or twice on the street. I <sup>did</sup> not pay any attention to him, and I was not introduced to him.

Q Did you know Mr. Easterly? A Who is that?

Q Did you know Bill Easterly? A Yes sir, I met him in Altman one night when we instituted a lodge up there, a fraternal organization.

Q Did you know Ed Kinster? A No sir.

Q Never saw them, except Easterly or possibly Steve Adams?

A I am quite sure I have seen Steve Adams on the street.

Q Have you any of these notices which you say were published with reference to furnishing supplies to families of departed miners? A No sir. My recollection is that they were published in the local papers.

Q And you have not either the publications or the cards which were posted? A No.

Q And you cannot get possession of them? A Not here. I might

in it if I were in Cripple Creek.

Q Do you know about the time those were posted?

MR. RICHARDSON: If you want one of those, Senator, it is right in the front of that little book -- that Finkerton book, you have there, in the first part on the right hand page, you will find it.

MR. BORAH: You mean the Labor Spy?

MR. RICHARDSON: Yes, that is the one. If you want me to find you one I will do it.

MR. BORAH: You are probably more familiar with it than I am.

MR. RICHARDSON: I am familiar with the Labor Spy, but not the spy on labor.

Q Now, where was Mr. Sterling when you say he fired the shot which you have reference to on the day of the riot? A Just south of the military club, and there is a billboard there, up there between the two buildings.

Q Were you close to him? A About 150 feet, I presume, from him. He fired it into the billboard, -- he pulled his gun up and fired into the billboard.

Q Who was near him? A I don't know. There was kind of an open place where nobody was standing and he walked down toward the crowd.

Q And he fired at the billboard? A He just pulled out his gun and fired apparently into the billboard. He might have fired over it.

- Q More than one shot? A Only one shot.
- Q No return shots? A No, no return shots.
- Q When was this in reference to the firing at the hall?
- A That was several minutes -- you mean the firing at the hall?
- Q Yes, the firing at the hall? A The union hall?
- Q Yes. A That must have been some little time before.
- Q Well, an hour or so? A It was just after Mike O'Connell was kicked out of the military club.
- Q I am asking you in reference to the time of the firing at union hall? A If I know the hour of the firing at the hall?
- Q Could you give the jury an estimate of how long it was after the firing by Mr. Sterling until this firing took place at the hall? A I think I can do that. Immediately after that occurred I was called over to the military club and asked to go with Mr. Fitch to the El Paso mine. We took the train in a few minutes and went down to the mine and got the 14 rifles and took the return train back to Victor.
- Q How long did that take, do you suppose? A Probably 45 minutes.
- Q How long after the firing -- after this shooting by Mr. Sterling until any other shots were fired of which you had personal knowledge? A The riot on Victor Avenue was all over when we got back, except the military were shooting when we got back with the rifles.
- Q What I want to get at is how long it was from the time Mr. Sterling fired this single shot until other shots were fired

in that vicinity or that neighborhood? A I did not hear the other shots.

Q You heard some other shots some time during that day, didn't you? A No.

Q The others occurred while you were gone, did it? A The riot occurred while we were gone after the rifles.

Q How long did you remain there after the Starling shot was fired and until you left for the rifles? A Just a short time.

Q Ten minutes? A It was not long,-- the trains run every 30 minutes, I believe, and we caught the first train.

Q 10 or 15 minutes? A Yes, probably.

Q But there had been no firing up to the time you left? A No sir, the crowd had not gathered up on the square at that time, I think.

Q Speaking about the looting of this union store, where was this store located? A It was located on the south side of Bennett avenue between First and Second streets.

Q About what time in the afternoon or night was it? A It was after dark.

Q About what time of night? A I should judge about eight or nine o'clock.

Q And were the streets pretty well filled with people? A The street was crowded with people.

Q Was it so dark you could not ascertain who the people were?

A I could have ascertained if I had gone over there and mixed with the crowd.

- Q But there was a general crowd there? A Yes, the crowd probably was two or three hundred feet up and down the block.
- Q A large portion of the village up on the street at that time?
- A Saturday night, yes sir.
- Q You said a while ago that there was only one party you recognized? A How was that?
- Q A little while ago you said there was but one party you recognized? A At the meeting, I don't think I said I recognized anybody.
- Q You did not recognize anybody? A I don't believe I did; I don't recollect.
- Q There was undoubtedly lots of people there that I knew.
- Q You spoke of the Citizens' Alliance there; do you know the membership of that alliance, who they were composed of? A Yes sir.
- Q I wish you would give me the names of many of them as you can.
- A It would take a long while.
- Q Name them over generally? A J. M. Blucher, who was a grocer, G. C. Hamlin, the Hester Dry Goods Company, Mr. Armstrong.
- Q These were contributors to the funds? A Yes sir. A. E. Carlton of the First National Bank, Ed. Bell, a mine owner and real estate man. It would take me pretty nearly all the afternoon. I have a little book at my room with the names in it.
- Q We will spend a little time on it; I want to get who composed this citizens' alliance. A Sam Phipps.
- Q What did he do? A A real estate man. Cliff Neeseub.



- Q What did he do? A He was cashier of the First National Bank.  
Mr. Bainbridge.
- Q What was his business? A He was a mine owner. Mr. Tom  
Paulgrove; he was superintendent of the Anasconda mine, he  
had been a leaser. The O. K. Produce Company.
- Q What was that, a grocery concern? A No, a commission  
house. L. K. Hill.
- Q What was his business? A He was in the lumber business.  
H. P. Keiton, in the hardware business. L. F. Parsons was the  
secretary.
- Q What did he do? A He had been a caller on the mining ex-  
change, the stock exchange. W. W. Kirby who had acted as  
assistant secretary and was a member and had been a stock  
broker. Abe Opp, a barber.
- Q A barber? A Yes sir, a barber. The strikebreakers usually  
got shaved at his shop. When they were brought in they usually  
took them there to be shaved. Hoshier, a butcher.
- Q A butcher? A Yes sir.
- Q I suppose the strike breakers usually got their beef steak  
there? A I don't know.
- Q Go ahead. A McMalley & Fowler.
- Q What did they do? A They were butchers and grocers.  
J. H. Donnelly.
- Q What was his business? A He was a grocer. Mr. Beer.
- Q What was his business? A A clothing man.

- Q What per cent. of the business men of that town would you say were members of that Citizens' alliance, including all the different businesses, occupations, etc? A I could not say; quite a number of them. As I say, I have a little book at my room that gives the names of all of them.
- Q I would like to get that book, but can you give now the per cent.,-- say ninety or ninety-five per cent. of the business men. A Quite a large proportion of them.
- Q Would you say that high? A Hardly. There was most half of them.
- Q Of the business men of the town? A Yes, and some lawyers were members.
- Q Were you a member of it? A No sir.
- Q What proportion of the citizens' alliance would you say were men also interested in mines directly? A Well, I should say that the mine owners were all in the citizens alliance.
- Q That don't answer the question. What per cent. would that make of the alliance being miners? A All that lived there.
- Q Well, were half of the citizens' alliance the mine owners?
- A Oh, you mean half of the members of the alliance?
- Q Yes. A Oh no, because there were not that number of mine owners there.
- Q There were not half of the members of the alliance that were mine owners, were there? A I cannot recollect how many of them. There was another alliance in Victor.

Q There was Mr. Carlton? A Yes.

Q And who else? A His brother, Ed Carlton.

Q Two. A Bainbridge, Erhart, Seil, Paulingrove, Tillery, Colonel Barbridge, Henry Dahl, Sam Phipps, he was not a very heavy mine owner; he was interested mostly in stocks; Billy Kilpatrick and he was a leaser, and owned the Altman water works.

Q Well, can you give an estimate of about what per cent. of the alliance were mine owners? A No, I could not.

Q Was there a fourth of them that were mine owners, do you think? A I don't think there was.

Q The rest of the alliance was composed of the businessmen in different vocations about the city? A And the non union men who worked in the mines. A large percentage, -- the largest percentage of the members were non union miners.

Q The non union miners then joined this alliance, did they?

A Yes.

Q And composed very largely the membership, you say? A The membership was the majority of them -- the majority of the membership were non union workmen.

Q Now, there is one thing more: Yes, these deportations you speak of, about what was the date of this General Riegley and the rest of those? A I think it was about August 20th.

Q There were no deportations until after the Independence depot explosion? A Well, not wholesale deportations.

Q Well, the only ones prior to this was those three or four men in December, 1903, was it not? A There were none that came to my actual knowledge.

Q Well, the deportees you speak of, from the Cripple Creek district, were after the Independence depot explosion on the 6th of June, 1904? A A large number.

MR. BORAH: I think that is all.

RE-DIRECT EXAMINATION

BY MR. DARROW:

Q Mr. Carlton, you say, was a mine owner as well as a banker?

A Yes sir.

Q As a matter of fact was there any other general business that that district was dependent on except the mines? A None.

Q No agriculture or anything else? A No.

Q And the most of the owners of the mines, did they live there or live away from there? A The most of the owners of the pay mines lived away from there.

Q There don't anybody live in Cripple Creek if they can help it? A Not after they got a strike.

MR. DARROW: That is all.

RE-CROSS EXAMINATION

BY MR. BORAH:

Q This newspaper you say you took possession of, have you any

copies of that? A No sir, I have not.

Q Did you say that that was the official organ of the Western Federation? A I said that, but the reports of the secretary were published in that and it always favored the union, and it was generally known as that.

Q Who was the newspaper reporter from Denver who participated in the resignation of the justice of the peace? A He was not from Denver.

Q Was not of Denver? A He reported for a Denver paper.

Q What was his name? A Sam Viddler. He is there yet.

MR. BORAH: That is all.

THE COURT: Have you a short witness that you can get through with in ten minutes?

MR. BARROW: I will see, your Honor.

H. B. WHITE, being call as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q Give us your name in full. A H. B. White.

Q And where do you live? A Trinidad, Colorado.

Q What is your business? A I am an organizer at present.

Q Of what? A The coal miners.

Q The Western Federation of Miners or the United Mine Workers?

A The Western Federation of Miners.

Q Where were you in 1903? A I was in Denver, Colorado.

Q What was your -- what were you doing there? A I was a member of the executive board and the general organizer of the American Labor unions.

Q Was that in any way connected with the Western Federation?

A I was not a member of the Western Federation, no sir.

Q Did you have occasion to go Cripple Creek in December, 1903?

A Yes sir.

Q At what time? A December the 23rd.

Q And for what purpose? A To look after the interests of the American Labor Union in the way of relief. A lot of our members were thrown out of work on account of the strike and a

good many complaints came to the office.

MR. BROWN: We object to that.

Q You went to look after the interests of your organization?

A Yes sir.

Q What happened to you in December of 1903? A Arriving at Victor about 6 o'clock in the evening the train was surrounded by militia. They gathered the passengers together and one of the captains or guards pointed to me and says, "Is your name White?" And I says, "Yes sir;" and he said, "You are the man we want;" and I said, "There must be some mistake here." He said, "No sir, you are the man we are looking for." I started to walk off toward the town, down to Victor, and they pointed their rifles at me and called off, "Halt;" I stopped and they formed a square around me and marched me up a steep hill and threw me into the bull pen, a pen about eight or ten feet, built out of boards; and there must have been ten or fifteen soldiers in there, in that bull pen.

Q Soldiers in the bull pen? A Yes sir, they were men who were fined for being drunk and all the guns and trumps they could pick up.

Q Was there anybody else? A There was one union miner in there, Victor Peale.

Q How long did you stay? A I stayed there -- I was taken out again at five o'clock in the morning.

Q How did you get along during the night? A The place was overrun with varmin. I was about as lousy as a man could get;

and the soldiers in the morning, they took off their shirts and picked the lice off and put them on the stove; there was a round stove in the center of the place; and during the night we laid on the floor. They told us if a man stood up you was liable to get shot. The boys -- the kids used to fool with the rifles and shoot through the bull pen once in a while.

Q Was there any shooting that night? A About half past one there was several went through the top of the bull pen. In the morning I was taken out and introduced to the day shift, and they were giving orders back and forwards-- order No. 135,-- just as if war was going on.

Q What was the character of the orders? A Take the prisoner out for breakfast. They were on tissue paper, and there was so many of them they must have had a pile of clarks there; and I was taken out and the soldiers were lined up around the cooks place where they were cooking the grub; they had a nigger cook there, a great big, stout, fat fellow, and they handed me breakfast. Then I was taken back to the guard house.

Q After getting an order there for everything? A Yes sir, there was an order read there for everything. About ten o'clock the guard read another order and commanded me to come out of that bull pen and then read the order that the prisoner should be produced at military headquarters. They formed in a square, had their ammunition belts, and sabers on top of their guns, regular war fashion. They marched me through the streets of Victor and up to military headquarters and produced



me before Major Verdeckberg.

- Q How many men were there? A About twelve or fourteen.
- Q And you were the only prisoner? A Yes, and I was a cripple at that.
- Q You were not armed? A I never carry no arms.
- Q What was done with you after that? A I tried to find out what I was in there for, and after I explained my mission to Major Verdeckberg he said he was very sorry this thing had happened because I belonged to the same order he did, and he was very nice to me.
- Q What order? A The Woodmen of the World, and no man can be admitted to that order unless he is a desirable good citizen. The Major said, however, it was not very safe for me to stay around Victor and he would not advise me to look after anything, and the best thing for me to do was to leave on the four o'clock Short Line train.
- Q What did you do? A I told the Major about the condition I was in, that I was as lousy as a cuckoo, and he called in the army doctor and he says, "Mr. White complains of the filthy condition of that pen," and he said, I told somebody else to clean that up; and the Major said "you clean that up or fix up another place and take these boys and bail them up and clean them up," and I was released and got out and shook the dust off my feet.
- Q And you have not been back? A No sir, and I don't propose to go back.

MR. DARROW: That is all.

CROSS EXAMINATION

BY MR. BORAH:

Q I would like to inquire whether or not they did clean up that bull pen? A I did not stay long enough to find out. He gave the orders to the doctor.

Q To build another bull pen? A That is, to fix up another place and clean up the business. He was a very nice man.

Q When you got in there you found some soldiers in there?

A Yes sir.

Q For getting drunk and one thing and another? A Yes, petty larceny and one thing and another, and they held court over me to, and fined me \$5.00.

Q They did not seem to be any respecter of persons? A No, all they said was that if I did not dig up I would be hung in the morning or something, -- a pretty rough crowd.

MR. BORAH: I guess that is all.

THE COURT: If you have another short witness on this same subject, Mr. Darrow, you better call him tonight.

MR. DARROW: I think that is the only short one I have to-night, your Honor.

And thereupon the gave the jury the statutory admonition, the bailiffs were sworn, the jury retired in charge of the bailiffs, the defendant was remanded to custody and court was adjourned until 9:30 o'clock, Tuesday morning, July 2nd, 1907.

ADJOURNED.

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Boise, Idaho, Tuesday, July 2nd, 1907.

9:30 o'clock A. M.

Parties met pursuant to adjournment.

The minutes of the session of July 1st, 1907, were read and the same were signed by the court.

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

THE COURT: Mr. Darrow, are you ready to proceed?

MR. DARROW: We are ready your Honor.

MAX MALICH, being called as a witness on behalf of the defendants and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDSON:

- Q Give us your full name please? A Max Malich.
- Q And what is your age, Mr. Malich? A 45 past.
- Q And where do you reside? A At the present time in Montrose county, Colorado.
- Q And what is your occupation now? A At the present time, mining and farming.

Q Where did you live in the year of 1904 and the year of 1905?

A I lived in a town by the name of Globeville which is now a portion of the city of Denver.

Q How long did you live there? A First I came there in 1887 but I have been living there from the 20th day of November, 1891 until the 13th day of December last.

Q What did you do when you were in Globeville at first?

A When I came into Globeville first I worked in the Globe smelter.

Q How long had you been working in and around and about smelters?

A Well, I worked in the Globe smelter; I worked there from the 13th day of December, 1887, until some time in June, 1888. ?

Q Had you had any other experience in smelters? A Not in the smelter, except that.

Q Or had you done any work around smelters? A Well, during the time I was in business since 1892. ? Ind. business of Mrs. Brown.

Q What business did you follow outside of smelting when you went to Globeville the next time? A When I came the next time into Globeville, I went into business on the 9th day of March, 1892.

Q What kind of business? A Saloon,— that is, a hotel connected with the bar, meat and groceries, and I was also in the city council for eight years and a member of the school board for four years.

Q In the city of Denver or the city of Globeville? A The city of Globeville.

- Q What was there that occurred with regard to the smeltersmen at Globeville in the year 1903? A On the 3rd day of July, 1903, the men went out on a strike that night.
- Q When was that? A The 3rd day of July.
- Q Of what country are you a native? A An Austrian.
- Q Of what country are the larger proportion of the people who worked in the smelter native? A Well, they are almost all foreigners, that is, Austrians, and that country has a number of states and part of them are called Polanders, part Hungarians, part Slovenians, and others, but they all talk almost the same language, what we call the Slavonic language.
- Q They all talk the Slavonic language? A Yes sir.
- Q That is, most of these people there in the smelter? A Yes sir.
- Q Did that cover these people who went out on a strike in regard to their language? A Yes sir.
- Q What was the name of the union they belonged to, if there was a union there? A The smeltersmen's union No. 93 of the Western Federation of Miners.
- Q Were you a member of that union? A Yes sir.
- Q How did you become a member of it, being a merchant and hotel keeper? A Well, the way I became a member of the union, the first man that asked me to go into it was the Honorable Dennis Sheedy of Denver, and I did not care much about it.
- Q Who is Dennis Sheedy? A He was the principal owner of the Globe plant before it went into the trust, and then in 1900

*How did he come to join the Union*

these men, these foreigners, my race of people, asked me to join for the purpose of interpreting the American language into the Slavonic.

Q How was it with these people -- could they talk the English language? A Very few of them.

Q And that was how you came to join the smeltermen's union?

A For that very purpose absolutely, or I would not have tried to be a member.

Q Who were your customers largely there in Globeville? A Those foreigners, -- I had that class of people to trade with, and all kinds of people.

Q When did you say this strike commenced? A The night of the 3rd and 4th day of July, 1903.

Q Were you ever acquainted with a man by the name of Harry Orchard, alias Tom Hogan? A I was acquainted with him -- I was introduced to him as Tom Hogan.

Q When were you introduced to him? A I was introduced to him if I remember, I believe it was the first part of February.

Q Of what year? A 1905.

Q Was that the first time you ever saw him to know him?

A That was the first time I ever saw him, to know him, yes sir.

Q Who introduced you to him, if you know? A A man named A. W. Gratian, a Pinkerton detective.

Q A. W. Gratian? A Yes sir.

*He brought him down & steered him to Max*

Q What relation did he hold to the smeltermen's union at that

time? A He was president of the organization at the time.

Q Of what organization? A Local No. 93 of the Western Federation of Miners.

Q Did you then know he was a Pinkerton detective? A I did not at the time.

Q Where were you when he introduced you to Thomas Hogan? A I

was in my bar room.

*He was intimate with Hogan - they were in frequently conference*

Q What were you doing there? A Looking after my business.

Q What conversation, if any, did you have with Mr. Hogan at that time? A Well, that very evening I did not have much of a conversation, except we had a couple drinks together.

Q You had a couple drinks together and that is all? A That is all.

*saw McCate as & Hogan together after that.*

Q Where was Mr. Orchard, or Mr. Hogan, living at that time if you know? A He was living right close to the boundary line, he lived in the city limits of the city of Denver.

Q When did you learn that he was living there at that place?

A Well, I believe it was a few days after when he bought a half a pig in my store and I sent it over to him at the house.

Q Did he become a customer of your store? A Yes sir.

Q Who was he living with if you know? A Steve Adams, and Steve Adams wife.

Q When did you find that out? A Well, Adams, he came there probably during the time he was living there, after provisions himself into the store.

Q So you found out where he was living and who he was living



with, did you? A Yes sir.

Q Did you run an account with these people, or did they pay cash?

A They generally paid cash, but once in a while they did not have the money and I stood them off for a day or two and then they would have the cash and pay me and would have cash for a week or ten days and then they would want me to stand them off for a day or two again.

Q Who usually did the trading with you -- usually did the trading at the store? A In this family, do you mean?

Q Yes. A Usually Orchard came there for the provisions himself.

Q How much of Orchard's time did he spend about your saloon?

A Well, the first part when he came there, in February, he spent most of his time there with me in the saloon through the overings. } 1905

Q What was he doing? A Playing cards. *showing tricks*

Q Did you have a card room? A I had, yes. *connected with bar room*

Q Was there any regular game played there? A No, it was not a regular game house, but they played for the drinks, and then he got the boys into a game of poker for a couple of nights and then I stopped it, I would not allow it. I did not since 1893 allow anybody to play for money in my house, I would not allow it.

Q Was there a dealer there? A No, there was no dealer there.

Q No regular game run there? A No, no regular game.

Q Did you ever have any talk with Harry Orchard at any time about anything other than the usual bar room conversation?

A Yes sir.

Q When was that and how did it come about? A About a week after he got well acquainted with me he called me outside one evening --

*27/12*

Q Was Mr. Gratias present at that time? A No, he was not. He called me outside in the vacant lot between my saloon --

*Where  
Mr. Gratias*

MR. BORAH: Is this the impeaching matter?

MR. RICHARDSON: No.

THE WITNESS: -- between my butcher shop and the store--

MR. RICHARDSON: This is contradictory testimony, Mr.

Borah.

THE WITNESS: -- and he asked me, he says, "What is the matter with you fellows out here?" I said, "Why;" he said to me, "It seems to me the smabs are getting the best of it;" I said, "It looks that way, but the smelter is pretty near running in a full blast now, but I think the legislature is going to pass an eight hour law this session," I said; "Well," he says, "what is the matter -- blow that damned hotel off of the earth," he says.

*Gratias*

Q What hotel was he speaking of, if you know? A The Globe hotel.

Q Was there more than one hotel aside from yours? A There was one, the Globe, near the smelter. There were several hotels there but he meant the Globe hotel.

Q Who owned that? A It is owned by the American Smelting and Refining Company.

- Q Who was running that hotel at that time? A I could not tell.
- Q Give his exact language as nearly as you can in regard to that? A When he called me outside, the very language he used, he told me that as I stated; he said, "It seems to me, what is the matter with you people out here? It seems to me the scabs are getting the best of us;" and I told him, "It seems that way, the smelter is running high onto full blast, but I believe we are going to have an eight hour law;" and he says, "What is the matter, blow that God damned hotel off the earth," he says, "and get rid of those scabs;" and I says, "You, I would not stand for that under no circumstances, and if you do anything I am going to denounce you." And I went back into the saloon and he followed me into the saloon and he called me on the side and says, "I want you to keep quiet about it; I have been joshing with you."
- Q Did you express anything to him other than you have stated? Did you go off and leave him? A I went off and left him and went in the barroom.
- Q And he followed you in and told you that he was joshing about it? A Yes sir, he said he was joshing with me.
- Q And did you have a drink together? A Yes sir, I believe we took two or three drinks together again.
- Q Was there ever anything more said by him in regard to blowing up that hotel? A No.
- Q What did you know, if anything, about any powder having been

2992  
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gotten for that purpose out of the powder houses out on the Union Pacific track? A I did not know anything about any powder.

Q Did you ever hear about that? A No sir, except what I heard in the testimony through the Denver press.

Q What you read in the Denver press? A Yes sir.

Q As being given here by Orchard on the stand? A Yes sir.

Q Did you ever have anything to do with him in the getting of any powder or putting any powder anywhere? A No sir, I have not had a piece of powder in my hand since I quit mining on the 15th day of November, 1891, until some time last November when I had a contract in the Gunnison Canal on Tunnel No. 4.

Q Did you know anything about Orchard or anybody else getting any powder from the Union Pacific powder houses out on the Union Pacific track? A I never knew anything about it.

Q Did Orchard continue to remain around your place? A Yes sir, he did stay around there -- he was around my place there for -- until some time in April, I should judge, about the middle of April.

Q Was there any other store there besides yours of any kind?

A Yes, there was several stores there.

Q Did the company have any store there? A Yes sir.

Q Under what name? A It was the Globe American Company -- it was known as the smelter store, but I am not saying positive or absolutely that it is their store.

Q Who was the manager of that store? A Marion McDonald.

Q Was that store running in opposition to your store? A Yes sir, absolutely so.

Q Was there any trouble or ill feeling that arose on account of this strike between you and the union men on the one side and the men who were trying to break the strike and the smelter-men on the other side? A Yes sir.

Q Did you ever have any talk with Mr. Orchard about Mr. McDonald? A Yes sir.

Q What trouble was there that arose between you -- what was the evidence of it? A After the strike was called off and several of those men that were out on the strike for 21 months or more and they went back in the smelter, they were told by the smelter people, that is, by the bosses --

MR. HAWLEY: How do you know they were told by the bosses?

THE WITNESS: Mr. Hawley, give me time and you will know all about it.

MR. HAWLEY: We don't propose to give you any time to tell about it.

THE COURT: If you have any objection, Mr. Hawley, make it to the court.

MR. HAWLEY: We object to it as hearsay, without telling.

Q Go ahead and tell what was told you, unless you know of your own knowledge. A I know of my own knowledge. The bill my customer

A. They give my driver the order to bring the meat there tomorrow and the groceries, and the Globe people they sent the meat to my customers without having any order or anything, and the customers sent my meats and groceries back to me and they have got to accept the groceries from the smelter people.

Q. Did you ever have any talk with Mr. Sheedy of the American Smelting and Refining Company about that? A. Yes sir, once I had a talk with him over the telephone.

Q. What did he say about it? A. Well, I didn't tell him who I was, I told him that my name was Frank Cobby and I told him I couldn't hold a job in the smelter on account of being boarded by Max Malich and then Sheedy told me over the telephone, he says, Frank, he says, couldn't you go and board somewhere and keep away from that damned Max Malich's gang, and I told him that I didn't like to go and board in the company house. Well, he says, "you can go and board with John Smith or anybody else, but keep away from Max Malich"; he says, "you know he isn't a friend of ours."

Q. So you got that from Mr. Sheedy himself, did you?

A. Absolutely from Mr. Sheedy.

Q. Now did you ever go to the company's office in the Boston Building and have a talk face to face with Mr. Sheedy about your trade out there? A. No, I didn't go up there for that purpose.

Q. What is that? A. I didn't go up there for that purpose.

Q. Well, did you go up there for any purpose? A. Yes, I did.

Q. What was the purpose that you went up for? A. I settled the strike in 1899 with Mr. Sheedy and I thought I was going to

settle the 1903 strike. So I went to Mr. Sheedy -- that is, he left word in City Hall, in Denver, for me to come up there. I went up there and had a talk with him, and he told me, he says, "What", he says, "the money you are getting out of the Western Federation of Miners", he says, "it don't amount to anything;" he says, "if you want to pull the strike off and have these men go back to work" -- "I had been always a good friend of yours and," he says, "I am going to take care of you." I told him, I says, "Mr. Sheedy, if you give those men eight hours I am willing to notify the local and have them to call the strike off."

Q. What did he say about your trade out there? What would be done to you if the strike was called off?

A. Well, I can have all the trade I wanted to.

Q. How did it come that Mr. Sheedy left word down at the City Hall, if you know? A. I was called before the Fire and Police Board that morning.

Q. You said you were a city officer; When was that?

A. I was in the city council from 1896 -- from 1895 until 1903, when they took us into Denver.

Q. 1903? A. Yes sir.

Q. So you was a member of the city council of Silverville?

A. Yes sir.

Q. And did you hold any other office in that city?

A. A member of the school board.

Q. Were you ever mayor of Silverville? A. No, I never was the mayor. I was in the city council, I was a councilman.

Q. Was anything attempted to be done to your property after Mr. Orchard or Hagan came out there and was introduced to you,

*Attorney  
2896  
to  
Pursued him out*

- any attempt made on your property in any way? A. Yes, it was.
- Q. What was it? A. Well, two years ago on the 11th day of last month, when I was out with my family on a ranch --
- Q. Now before that, Mr. Malich, I mean the first attempt.
- A. The first time?
- Q. Yes. A. Well, the first attempt was made on me, it was on the 18th day of July in 1903. That was before Orchard came there.
- Q. But it was after the strike was called? A. After the strike was called.
- Q. What attempt was made on your property at that time?
- A. Well, somebody set it on fire or tried to do it but we got onto the job, it was early in the morning, and we put it out before it had any start to amount to anything.
- Q. There was no great amount of damage done? A. No, there was no great amount of damage done.
- Q. Was there any other attempt ever made upon you or your property? A. Yes sir.
- Q. When was that? A. That was on or about the 27th day of April, 1903.
- Q. Was Mr. Orchard there at that time? A. No sir.
- Q. When had he left there? A. Well, he left there, if I remember right, some time in the middle of April; after Adams -- Steve Adams went to, -- I believe he went to Park City, Utah.
- Q. Where did Mr. Orchard go, if you know? A. He went into Denver and he lived in Denver at the time some place.
- Q. How far was that from Globeville? A. Well, it connects, everything together, and I don't know only he was living in Denver.



- Q. Did you see Mr. Orchard after he left Globeville and went to Denver to live? A. Yes sir.
- Q. How often? A. Well, he come down to my place probably maybe twice or three times a week for awhile.
- Q. Until when? A. Until some time in May, I should judge about the middle of May when he was there last.
- Q. Tell the jury what it was that occurred to you on the 27th of April, and the circumstances. A. On the 27th day of April?
- Q. Yes sir, of 1908, is it? A. 1908. The ladies' auxiliary --
- Q. Who was the Ladies' Auxiliary? A. It was a ladies' organization in Denver --
- Q. What for? A. Well, for the purpose of getting some relief for those people that was out on a strike.
- Q. Well, they were auxiliary then to the people that were out on strike? A. Yes sir.
- Q. All right. A. They held a card party in my hall that evening --
- Q. Where is your hall? A. It is right alongside of the saloon on the ground floor.
- Q. What other rooms are there in the same building besides this hall? A. Well, back of the bar room it is where I was sleeping with my family.
- Q. You had a sleeping room there? A. Yes sir.
- Q. There was that with reference to this hall? A. Well, the saloon was -- the hall was right south next to the saloon, the hall was, and my sleeping room was right back of the saloon.
- Q. Well, go on and tell about this meeting of the Ladies' Auxiliary? A. Well, they had a card party there and about

- fifteen minutes to eleven or probably eleven o'clock, when I went to bed, there was probably twenty-five ladies there yet.
- Q. How many people had there been there in the course of the evening? A. Well, the hall was full. I don't know how many there was there. There must have been seventy or eighty of them all told.
- Q. Ladies? A. Ladies and some gentlemen, been playing cards there and passing the time.
- Q. More ladies than gentlemen or more gentlemen than ladies? A. More ladies than gentlemen.
- Q. By what proportion? A. At least two-thirds.
- Q. Well, go ahead and tell what occurred. A. I told my wife that I was going to bed, and when I went to bed I just got my coat off and tried to unbutton my vest somebody threwed a bottle of some kind of acid in through the window into my room.
- Q. Where was your bedroom with reference to the ground floor? A. It was right back of the bar room.
- Q. Was it up on the second story or on the ground floor? A. On the ground floor.
- Q. How many windows did the room have? A. One double window.
- Q. How was the window arranged that night? A. The top window was open.
- Q. Was there anybody in the room besides yourself? A. My boy, who was about three years old at the time, was sleeping in my bed.
- Q. Sleeping in the bed? A. Yes sir.
- Q. Did you see who this person was? A. No, I didn't.

Q. What happened when this bottle was thrown into the room?

A. Well, the bottle broke.

Q. Well, did the bottle reach you? A. What?

Q. Did it reach as far as you were, did it come up to you?

A. No, the bottle didn't strike me; it broke about three feet in front of me and some of that stuff --

Q. What happened when it struck the floor? A. Busted.

Q. And what happened when it busted? A. Well, it scattered all over me right there close in the room there, around the place and some of it got on me there, I have got some marks on my wrist right here yet.

Q. Did it strike any other part of you besides your wrist?

A. A little on my pants.

Q. Struck on your pants? A. Yes, but it didn't burn, that is, to amount to anything, just little holes.

Q. It struck on your wrist? A. Yes sir; my wrist burned from there to there. There is a mark right there, right into the bone, a man could lay a pencil about that size right in between the flesh.

Q. That was burned by this acid or whatever it was? A. That is what the doctor called it was acid; I didn't know what it was.

Q. What did you do when this bottle burst there and some of it splattered on your wrist, as you have stated, and on your clothes? A. Well, I picked up the boy and ran out with him right into the cabin and from the cabin into the hall.

Q. Picked up the boy? A. Yes, I told the people that somebody threw something at me in the room, and all these ladies and everybody rushed around there and the room was full of

smoke, couldn't get in.

Q. Any fire there? A. No, no fire, nothing but smoke.

Q. What did you do then? A. Well, then, we smashed the window.

Q. To let the smoke out? A. Yes, the bottom part. The top part was open, and the bottom part we smashed that to let the smoke get out; and then I seen on the carpet there was something smoking and I went into another bedroom and got hold of a blanket and wet it and throwed it right over on that spot where the bottle broke.

Q. How had you paid any attention to this spatter of stuff on your wrist up to that time? A. I did, when I saw it first I tried to get it off with my fingers and I got these fingers pretty bad burned up to a little.

Q. They were burned too, were they? A. Yes, on the end, right around my nails.

Q. Did you make any effort to find out who it was that threw this bottle in through the window? A. I did, but I couldn't find out anything.

Q. You went out around and examined the place on the outside?

A. Yes sir.

Q. Did you find anybody out there? A. No sir.

Q. Did you find any marks or anything? A. I didn't find anything except the spot where we expected the man was standing, on the outside of the fence where the vacant lot is there, right by where that window is.

Q. What kind of ground is it out there, what kind of earth?

A. Right alongside of the window it is a loam, but outside of the fence, well, it is soft ground, a kind of a clay.

- Q. Did you see Harry Orchard after that? A. I did, sir.
- Q. When? A. I believe it was some time in May, about the middle part of May or probably the 12th or 13th.
- Q. Now you say this date that this assault occurred was April what? A. April 27th, to the best of my knowledge.
- Q. Where did you see Mr. Orchard in May? A. In May Orchard he came down to my place again.
- Q. What were you doing at that time? A. Well, I was looking after my business -- I wasn't doing any business yet, I had my hand strapped up, but I was looking after my business.
- Q. What did he say to you? A. Well, we were in the saloon talking about the matter that evening, and we were talking about the treatment I had been getting from the auditor people, and he called me into the hall --
- Q. He called you into the hall? A. Yes sir.
- Q. That is this same hall that you have referred to?
- A. Yes sir, called me into the hall and says, "According to the story I am hearing from these people talking in there this Globe outfit is doing a whole lot of harm to you."
- Q. What Globe outfit did he refer to? A. The store people.
- Q. Was that the outfit you had been talking about in the other room? A. Yes sir.
- Q. What did you say to that? A. I told him they was, but, I wasn't said, I have got plenty of trade, I can stand it yet for a while, I says I have got all the trade I want.
- Q. What did he say then? A. He says, "If you want to get even with them and get them out of your way", he says, "why", he says, "I will fix it for you". I says, "I don't need to

fix anything," I says. Well, he says, "I can do it for almost nothing."

- Q. Who was he talking about? A. Billy McDonald.
- Q. How McDonald's name been mentioned? A. Then he asked me where he was living.
- Q. Had his name been mentioned in this conversation that you have had with these other people? A. Yes sir, he asked me who was the man.
- Q. Who did you tell him? A. I told him it was Bill McDonald -- that is, he heard McDonald, but he asked me what was his first name.
- Q. And what he was doing? A. Yes sir.
- Q. Who was Billy McDonald? A. He was the manager of the Globe Mercantile Company.
- Q. Now go ahead and tell what Mr. Crawford said to you about him.
- A. Then he asked me where he was living. I told him he was living somewhere in Denver. Whereabouts? Well, I said, "I couldn't tell you, but I know that he is living in Denver; he goes into the store every morning and goes back to Denver every evening." Well, he says, "it don't take you much to get him out of your way." He says, "it will take about a hundred dollars to get something to do the job with it and then have enough left to get out of town."
- Q. What did you say to that? A. I told him, "Yes, I wouldn't stand under no circumstances for it;" I said, "I have got all the trade I want, I have got the business of the Union Pacific railway company, almost two thousand dollars a month, and I don't want to see anybody to be killed on account of

my loss in business." This is the very words I used. Then he wants to talk something else again and I says, "There is no use to talk to me anything about that", I said, and I walked into the saloon and I was going right into the back part of the house but he called me back and said, "Come, let's have a drink anyway." That was all that was said that night.

Q. Did you see Mr. Orchard after that? A. I seen Orchard again, I believe it was on the 28th or 29th day of June, the same year.

Q. Of June? A. No, excuse me; I seen Orchard within two or three days after it again. He come down as a hail insurance agent.

Q. As a hail insurance agent? A. Yes sir.

Q. What did he say to you about that? A. He come to me and asked me if I wouldn't insure my crops on the western slope. I told him that I had my farm leased, that I didn't care to have it insured; and he asked me if I -- that he was going out and he was short of money and asked me if I wouldn't lend him \$25 or \$30 for a couple of weeks, and I did, I gave him \$30. He went out and he sent me the \$30, there was one twenty-dollar bill and one ten-dollar bill by mail, about a week or ten days after he left.

Q. Where from? A. From Rocky Ford.

Q. What do you know about Orchard's financial condition during the time he was living with Steve Adams during that winter, February, March and April? A. Well, his financial business -- I know they were living very cheap, in the first place; I

*Financial Interview*

know that he didn't have any money, because he borrowed money of me every once in a while, five or ten dollars. He told me that he made a raise at the Arcade gambling house, and paid it back to me.

Q. How many different times did you lend him money during that winter? A. Well, I should judge probably five times, four or five times.

Q. Four or five times? A. Yes.

Q. And he had always paid it back, did he? A. Yes sir, he paid me every cent back.

Q. What kind of stuff was purchased for the house? A. Well, they bought about our cheapest kind of goods that they could get in the store; sometimes they bought a pig liver and kidneys; and at one time, as I stated before, they bought a half a pig and then they were going to pickle it themselves. They claimed it was cheaper to pickle it themselves than buying it in the store right along.

Q. And how about groceries? A. Groceries, they used the cheapest, that is not practically the cheapest as far as the coffee was concerned; they used twenty-five cent coffee; I believe it was, and outside of that they bought most everything the cheapest they could get.

*John* Q. On this 27th of June, or whenever it was, how did you come to have any conversation with Graham? A. Well, he came down there, he came into Globeville and we were talking there --

MR. RICHARDSON: Mr. Berah, I can either ask the impeaching question or let him go on and tell it, just as you prefer.



MR. TAKAKI: Use your own pleasure.

- Q. Go ahead then. A. He says, "Well," he says, "I see they have fixed you again." I told him, "Yes" I says, "they did." Well, we were talking there together for probably five or ten minutes on that; I didn't have much time, that is all that was said that day.
- Q. You were going somewhere then, were you? A. Yes, I was always busy, I had plenty to do.
- Q. Well, when did you next see him and have any conversation with him, any extended conversation -- I refer to the Windsor bath time; what about that? A. That was on the 30th day of June.
- Q. Of what year? A. 1905.
- Q. How did you come to have a conversation with him on that day? A. I just had my horse hitched up into the buggy and was going to Denver, and Tom he happened to come there, or Orchard what you call him now, he happened to come there and asked me where I was going to. I told him I was going into Denver. "Anybody with you?" I said, "No." "Can I have a ride?" I said, "Yes sir, get in the buggy." We went in the buggy, drove up 38th Street. He asked me what I was going down town for. I told him I was going into the bank and then after I got through in the bank I was going into the Turkish bath, going to take a bath.
- Q. What was the matter with you, if anything? A. Rheumatism; I took baths always on account of rheumatism many some; I remember one time that I took thirty-five baths one after the other on account of rheumatism.
- Q. You had rheumatism at that time, did you? A. I didn't have it

had but I had a touch of it. And he says, "Well" he says, "I don't care if I have a good bath myself." We went in -- I told him, I said, "You can come along with me." After I got through in the bank we went into the Turkish bath.

Q. Whereabouts was that? A. On the corner of 13th and Larimer.

Q. What is the name of the bath? A. Windsor Turkish baths.

Q. Did you have any conversation with Orchard while you was in these baths? A. When we got in there we went into the hot room, laid there for probably thirty-five or forty minutes and then we went into the electric room, which is a good deal cooler than the hot room was. I laid there on a cot and he was setting in a chair.

Q. Anybody else there at that time? A. No sir, nobody -- wasn't more room than for one or two men, practically it is a room only for one man, that is, there is only one cot in the room, and he was sitting there on a chair.

Q. That is off of this big room that you speak of? A. Off from the big room, yes sir.

Q. Of the hot room? A. Yes sir.

Q. Go ahead. A. And he got into talking about the Globe Mercantile Company and Billy McDonald. He told me, he says, "Well", he says, "you are easy," easy, he says; "if that fellow was doing that harm to me," he says, "I would snap him off quick", he says, "and you wouldn't have to do anything else", he says, "but just take a walk on 38th Street and meet me there and all you have to do is to point him out to me which one it is in the buggy." I says, "I wouldn't do it under no circumstances", I says, "Tom"; as I told you, I said, that

day, I have got the business of the Union Pacific railway company and I have got all the business I can attend to, and under no circumstances I wouldn't like to see anybody get killed on account of my business;" I says, "In case that the Globe Mercantile Company here my business busted up I have got a home to go to with my family, six hundred and forty acres of land in Montrose county." He says, "You are easy; I will get that old -- (mentioning the name) -- Governor Staunenberg.

Q. Well, go ahead and say what he said. A. He called him a vile name, and he says, "He is easy", he says, "that I am going to get if I don't live twenty-four hours afterwards." I said, "What in the hell do you want to kill him for, Tom?" These are the very words I used. He laughed at me a little, he smiled on me, he says, "Max, I could be a millionaire today if it wasn't for that Dutch dirty s.b. Staunenberg." Well, I said, "what has he done to you?" He says, "At the time that the people was run out of Idaho he run me out with them," and he used the same name again, he repeated it again, and he says, "I could be a millionaire today if it wasn't for that." He says, "I sold my interest in the Hercules mine, one-sixteenth interest, for \$800; my income today wouldn't be less than \$20 and as high as a hundred dollars a day." I told him, I said, "Probably somebody got the benefit out of it" -- that is, I was joking with him, I said, "Probably somebody got the benefit of it; you would have lent it on the fare anyhow".

Q. Lent it at fare anyway? A. Yes, that is what I told him.

Q. What is fare? A. Gambling.

Q. What did he say to that? A. Well, he didn't say very much about that any more, about that matter.

Q. Was that the last time that you ever saw Orchard?

A. No, he come down to me again two or three days after and he wanted to go into the saloon business on 15th Street some place, wanted me to stand good for him, to take him to some of the breweries and stand good for him so they will buy that saloon for him. He told me that he made four or five hundred dollars in the hail insurance business and it will take some more to get into business. Well, I told him, if he wouldn't need more than two or three hundred dollars that I would tell the brewery to put it up for him, to buy the place for him. He says, "it will take three or four thousand dollars." Then I told him, "Tom," I says, "I am not in it, I wouldn't go in it that deep." That is the last I ever spoke to him and the last I saw him until I heard about what he done down in Idaho.

*Ranch.*  
Q. When did you go to your ranch? A. I moved my family on the 15th day of December, last year.

Q. Or 1906? A. 1906, yes sir.

Q. Did anything happen to your place of business at any time?

A. Two years ago on the 21st day of last month.

Q. On the 21st day of June of 1908? A. Yes sir.

Q. Something happened to your business? A. Yes sir, it burned up.

Q. It burned up? A. That is the business.

Q. That is the business in Globeville? A. That is the business, and part of the building; yes sir, the business in Globeville.

Q. And you have not been in business there since? A. Oh, yes, I repaired the place of business after the fire there, and

going business to hold my trade with the Union Pacific, with the Hammond Packing Company in the line of meat, packed the meat there to supply the contract with the Union Pacific railroad people, and the other groceries I have been packing them at the Brown Brothers, J. S. Brown Brothers, packing them to go and supply the railroad people with it; the other trade, I gave some people cash money to hold my trade together until I repaired the building and went back into business again.

- Q. Where were you when this fire occurred? A. I was out at my ranch.
- Q. And where is your ranch? A. It is in the southwestern part of Montrose county.
- Q. How far from Denver? A. Four hundred and thirty-four miles.
- Q. When did you go to your ranch? A. On the 15th day of June, 1900. That was the first time that I took my family out there.
- Q. You had your family out living on the ranch at that time?
- A. Everyone of them except the oldest boy. He was taking care of the business.
- Q. Who did you have assisting him? A. Well, I had a bartender in the saloon, and then I had a man -- three clerks in the store and a man attending to outside work, horses and barn and one thing another.
- Q. You and your wife and how many children were ever on the ranch four hundred odd miles from Denver? A. Eight children, that is, seven of my own, and I adopted a girl that her father and mother died when she was seventeen months old.
- Q. So you had eight of them out there on the ranch with you?

A. Yes sir, of children.

Q. And one boy there in Denver helping these men? A. Yes sir.

Q. You say you went out to the ranch when? A. On the 18th day of June.

Q. And the fire occurred when? A. On the 21st day of June at 11:47 P. M.

Q. You had already gotten on the ranch before that time?

A. Yes sir.

Q. When did you come back to Denver after the fire? A. I believe it was on the 23rd I left. I got the telegram message on the 22nd from my boy.

Q. How far is your ranch off the railroad? A. Thirty-two miles.

Q. How far away from any telegraph office? A. Thirty-two miles.

Q. So the telegram had to be sent out to you thirty-two miles?

A. Yes sir. I got the message on the 22nd and I started out, hitched up the team, the horses, and started out that evening to Placerville, took the train the next morning and got into Denver the 24th.

Q. What was the contention over which the strike took place, what was the quarrel, what was the trouble? A. Well, the men had been asking for eight hours from the American Smelting & Refining Company.

Q. It was the eight hour question, was it? A. Yes sir.

Q. How do you know when Steve Adams went away from Chebeville?

A. Steve Adams went away some time in April. (1905)

Q. Do you know whether his wife went away at that time or not?

A. No, she didn't.

Q. Do you know when she did go away? A. She went away some time

in May.

- Q. Do you have anything to do with her going away? A. I did, sir.
- Q. Tell the jury what it was. A. Mrs. Mahalich and Mrs. Adams they went to Park City together, and Mrs. Mahalich came to me and asked me for that transportation, to give her money enough to go to Park City, Utah. I told her I was going to give her the ticket -- I told her I was going to see J. B. Andrews, the vice-president of the Denver and Rio Grande railway company and see if I couldn't get probably a pass for her. Mrs. Adams, when Mrs. Mahalich went home and she told Mrs. Adams about it, and then Mrs. Adams came there with Mrs. Mahalich, and they have got the both of them after me then to get two of them. Well, I went to J. B. Andrews and I couldn't get the pass but I got the half rate for both ladies.
- Q. J. B. Andrews was who? A. He is vice-president of the Denver and Rio Grande railroad company.
- Q. And he gave you a half rate for both ladies? A. He gave me a half rate for both ladies.
- Q. In what form did he give you that half rate?

MR. HAWLEY: We object to this as incompetent, immaterial, irrelevant, not pertinent to the issues.

THE COURT: The objection is sustained.

MR. RICHARDSON: Well, if your Honor please, I would like to be heard on that. There has been some question in regard to the manner in which Annie Adams left Denver and some question in regard to the time in which Steve Adams left Denver and Mr. Orchard gave some testimony with respect to it. Now, if your Honor please, it seems to us we have a right to show

the circumstances and conditions under which these women left Denver. Of course it isn't very material as to Mrs. Mahalik but we think it is as to Mrs. Adams.

MR. HANLEY: I don't know of any testimony in this evidence in regard to that point. This hasn't gotten to be a material point. It looks to me as if this whole matter was brought in in order to obtain conversations between these different parties upon immaterial subjects, subjects that could not be material. I submit, if your Honor please, that all of this kind of evidence is immaterial and simply occupying the time of the court unnecessarily.

THE COURT: The court will permit this ruling to stand.

MR. RICHARDSON: Note our exception.

Q. About what time was it that you went to get these tickets?

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

MR. RICHARDSON: He went to fix that date.

THE COURT: You may answer.

A. I don't remember exactly, but as near as I can remember it was the middle of May.

Q. About the middle of May is as near as you can remember?

A. As near as I can remember.

Q. Did you ever have anything to do with the manufacture of any bomb or have any knowledge of the manufacture of any bomb which was to be used to blow up Luther K. Goddard or James H. Peabody or William H. Gabbart or anybody else? A. No sir, I never did; I never saw a bomb in my life yet.

Q. And know nothing about Harry Orchard attempting to do any



such thing? A. No sir, I never knew anything about it.

Q. Or rendered him any aid or any assistance in any way?

A. I never did because I didn't know anything about it.

MR. RICHARDSON: Take the witness.

#### CROSS EXAMINATION

BY MR. DOWNE:

Q. When did you come to this country, Mr. Malich?

A. On the 19th day of November in 1883.

Q. Where did you locate? A. The first I located in Cleveland, Ohio.

Q. Where did you go from there? A. From there, in 1884, I went to Clinton, Iowa, and worked in the Youngs saw mill.

Q. How long did you remain there? A. I remained there I believe until the 14th of October the same year.

Q. Then where did you go? A. I went clear down to New Orleans, Louisiana.

Q. How long did you remain in New Orleans? A. I didn't stay there more than two or three days; it was too hot for me.

Q. Where did you go? A. I went back to Vicksburg, Mississippi.

Q. You found it cooler there, did you? A. Yes, a little cooler, yes sir.

Q. How long did you stay there? A. I stayed there until the 6th day of January, '85.

Q. 1885? A. Yes sir.

Q. And where did you go from Vicksburg? A. From there I started back to Clinton again.

Q. To where? A. Back to Clinton, Iowa.

Q. How long did you remain? A. There in Clinton?

A. Yes. A. In Clinton I remained there at the time probably for one or two weeks. Then I went out on a farm looking for a place to work. It was a little too lonesome for me to lay around.

Q. How long did you remain there? A. I remained there working on the farm until the 15th of April, the same year.

Q. Where did you go from there? A. I went back to the saw mill again.

Q. How long did you remain there? A. I remained there until the 22nd day of September the same year, '85.

Q. Where did you go from that point? A. To the state of Colorado.

Q. Where did you locate? A. Pueblo.

Q. Pueblo? A. Pueblo, Colorado, yes sir.

Q. What business did you engage in there? A. I went to shovelling coal, the first thing I got there.

Q. How long did you work in Pueblo? A. I worked in Pueblo until some time in June, '87.

Q. Where did you locate after that? A. I went to Rockvale.

Q. Rockvale, Colorado? A. Yes sir.

Q. What did you do there? A. Tended bar for Bill Braden.

Q. How long did you tend bar? A. I tended bar there only a couple of months.

Q. Was it a saloon and gambling house? A. It was a saloon and gambling house; that was the reason I quit -- gambling all night, I couldn't stand it.

Q. You couldn't stand it to stay up all night, hey? A. No.

Q. Then after you got through with that job where did you go?

A. I went to Crested Butte, Gunnison county, coal mines.

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- Q. What did you do there? A. I worked there on the cokeovens for a month or so.
- Q. Then where did you go from that point? A. Went back to Denver.
- Q. Where did you locate in Denver? A. I boarded -- the first man I boarded with was John F. Smith on 24th and Blake, Denver, Colorado.
- Q. What were you doing while you were there? A. Went to work in the Globe smelter.
- Q. Was that your first location in or first connection with Globeville? A. It was my first connection with Globeville, yes sir.
- Q. How long did you remain there? A. I remained there until the 14th day of May, '88.
- Q. And during that time you were working in the smelter?
- A. '88 -- excuse me, I remained there until the 14th day of May, '89.
- Q. And during that time you were working in the smelter?
- A. Well, the first part of the time I worked in the smelter, but the last part I didn't work very much, I was lame. *(Lame)*
- Q. Did you go away from Globeville then in 1889? A. Yes sir, in 1889, on the 14th day of May I went to Georgetown, Colorado -- that is, not in Georgetown but close to it, in the mining camp named Silver Creek.
- Q. What did you go to doing there? A. I went to work in a mine.
- Q. How long did you remain? A. I remained up there until I believe it was either the 21st or 22nd day of November, '91, when I sold the prospect to the Bay View and Hudson Mining Company.

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- Q. Sold a prospect? A. Yes.
- Q. Where did you go from there? A. I went back to Globeville.
- Q. Did you permanently locate at Globeville at this time?
- A. I bought me a property, yes sir, in Globeville at that time, and went into business there ~~with~~ and was in business there until --
- Q. What kind of business did you go into? A. Saloon and a hotel--  
boarding house.
- Q. Did you have a hotel attached to the saloon? A. Yes sir.
- Q. How long did you conduct that business? A. I conducted that business there for about eight months and then I went to Pueblo. I thought I can do still better in Pueblo than I did in Globeville.
- Q. Did you sell out your hotel and saloon? A. Just the business.
- Q. That is what the business was? A. Yes. I didn't sell the building.
- Q. Did you own any real estate at that time? A. I did none, owned the building that I was running the business in.
- Q. You retained the building? A. I retained the building.
- Q. And sold out the business? A. Sold out the business, yes sir, but I retained at the time the building where the store is now.
- Q. Then went back to Pueblo? A. Went to Pueblo, yes sir.
- Q. What did you do in Pueblo? A. Went into the same business, hotel connected with a bar, also bottling works.
- Q. Had a hotel attached to the bar again? A. Yes sir.
- Q. How long did you continue that business? A. Well, I got away with \$2200 in seven months, and my labor, and then I went back to Denver.

- Q. Went back to Globeville? A. Yes sir, I went back to Globeville.
- Q. And you opened up your hotel and saloon again? A. I bought the party out that was in the place there.
- Q. Did you continue to run your saloon and hotel? A. I did up until the 5th day of August last year when I was sold out the saloon business.
- Q. During all of this time then you were running this saloon and hotel? A. Yes sir.
- Q. Had a butcher shop? A. I had a butcher shop and grocery also.
- Q. When did you first meet Mr. Pettibone to get acquainted with him? A. I met Pettibone, if I remember right, in 1897. (1897)
- Q. Where did you meet him? A. In Globeville.
- Q. Was he living at Globeville at that time? A. In, he wasn't; he had the agency for some eastern houses -- for some eastern house for -- oh, what do you call it?

MR. RICHARDSON: Bible?

THE WITNESS: Ho, wringers, clocks and carpets and rugs and such stuff as that. He had two men down there peddling through the town there, and I ordered the city marshal, if those men were peddling without a license, to put them in jail and make them pay a license. He came out there and he released his men and showed that he had a license from the state. for

- Q. That was your first acquaintance with Pettibone? A. That was my first acquaintance with George Pettibone, yes sir.
- Q. Did you afterwards become pretty well acquainted with him? A. Yes, I did, because I bought several of those wringers and those rugs and such things as that for my customers, sometime

I made possibly twenty-five and sometimes possibly fifty per cent. on them. Cento

- Q. Did you go to his place of business at any time about that period? A. I was going several times to his place of business to get this stuff.
- Q. Did he come to your place of business? A. Sometimes I telephoned to him, if I didn't have the time or I didn't want to go into Denver for that very purpose I telephoned him to send the stuff out, if I had orders to send it out.
- Q. Did this business relationship continue from 1887 I believe you said -- A. Yes sir.
- Q. -- until you went out of business in Globeville? A. Yes sir.
- Q. You had a warm personal acquaintance with him then?
- A. Yes sir, I have a pretty good acquaintance with George.
- Q. Visited his place a good deal? A. Well, just when I went there on a business purpose.
- Q. Were you ever at his place on Stout Street? A. Yes sir.
- Q. And he had a place, another place of business there in Denver -- where was it? A. Court Place.
- Q. Were you there? A. Yes sir.
- Q. Have you been in his place of business a number of times?
- A. Yes sir.
- Q. Had money transactions with him, did you, besides buying these goods? A. No, I didn't have no money business transactions except buying his goods.
- Q. Did you ever borrow any money of the Western Federation through him? A. No sir, I never borrowed a five cent piece of the Western Federation yet.

Q. And did you see him quite often during the years 1904 and 1907?

A. Yes sir.

Q. Did you visit with him any during those years aside from business transactions? A. No, I didn't except when I went into his store to do some business.

Q. When did you first meet Mr. Hoyer? A. I met Hoyer I believe in 1900, when I joined the Western Federation of Miners.

Q. And have you known him ever since? A. Yes sir.

Q. Did you ever have any business association with him aside from the Western Federation of Miners matters? A. Not other-  
wise.

Q. Nothing else? A. Nothing else.

Q. Did you become pretty well acquainted with him? A. Yes sir.

Q. You became pretty well acquainted with the organization as an organization, I presume? A. Yes sir, I did.

Q. And know considerable about its business and about its interests and so forth? A. No, I didn't. I had enough of my own to attend to.

Q. I presume you know something about its troubles in Colorado?

A. I know all about the trouble that was in Denver, but the other trouble I don't know anything more than what I read in the paper and what I heard from other people telling me.

Q. Well, you did talk with other people about it and read about it in the newspapers? A. Yes sir.

Q. And you know the things which purported to be going on in different parts of the state? A. Yes, what I saw in the paper.

Q. And what people told you? A. And what people told me.

- Q. And I presume you talked with Western Federation men whom you did know about these matters? A. Well, I have been talking about it a good deal, several times in Globeville, you.
- Q. Then you were pretty well acquainted with what was going on either from newspaper reports or from talking with members of the Federation, were you not? A. With the members of the local.
- Q. Whoever they were or however you got it you were pretty well informed as to what was going on? A. Yes, right in Denver.
- Q. And when did you first meet Mr. Haywood? A. I believe I got acquainted with Mr. Haywood in 1900 also.
- Q. And you were acquainted with him from that time on, had an acquaintance which was kept up? A. Yes, I have been acquainted with him ever since.
- Q. Did you ever have any conversation with him about the interests of the Western Federation? A. No, nothing except the local U. M. W.
- Q. In 1888 or 1908? A. I mean I didn't have no conversation or anything else about the Western Federation of Miners except the local No. 93, the Smeltermen's Union.
- Q. You did talk with him about these matters? A. Yes.
- Q. You continued to be a member of the Western Federation of Miners right along, did you, or did you resign? A. No, I resigned, I quit practically -- I didn't pay my dues since 1905.
- Q. Well, did you continue to be a member from the time you joined up until 1905? A. I did, s'r.
- Q. And did you attend their meetings? A. Well, not very often.
- Q. Who did you give the proxies to for your union to go to Salt



In 1904  
your last  
proxy to  
Joe [unclear]

Lake to the general convention, Pettibone, Mayer or Heywood,  
which one? A. Well, now, I don't remember if I give it to the  
Pinkerton, my proxy, or who I did give it to.

He  
means  
a  
[unclear]

Q. Do you recall? A. I know Mayer and Heywood didn't travel on my  
proxy.

Q. Didn't Mr. Pettibone have your proxy when he went to Salt Lake  
in 1908? A. I don't believe he did.

Q. Do you swear that he didn't? A. Well, I am not positively  
sure now, I am not sure.

Looked  
it up  
since

Q. Now refresh your recollection and be quite positive about this  
matter and see whether Pinkerton had it or not. A. I believe  
that Gratias, that is, if I remember right I believe Gratias,  
this man that was a Pinkerton detective, I believe had my  
proxy if I remember right; but I am not positive also.

Looked  
up  
since

Q. Do you swear that he had it? A. I am not positively sure.

Q. Do you say that Mr. George A. Pettibone didn't have it?

A. I am not positively sure, as I said before.

Q. Have you any way of refreshing your recollection? A. I  
couldn't remember it now. I don't remember if he had it or not.  
I am not positive, sir, but I know I gave the proxy one time  
to this Pinkerton detective, A. W. Gratias.

1904

Q. And you are certain of that but you cannot remember that you  
gave it to your friend Pettibone? A. What?

Q. You remember giving it to Gratias, the Pinkerton, once --

A. But I don't know whether it was 1908 or 1904.

Q. -- but you can't remember of having ever given it to Pettibone?

A. No, I don't.

Q. That has slipped your memory? A. Well, I don't remember it.

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- Q. Did you know at the time that you was giving it to the Pickerton that he was a Pickerton? A. No, I didn't; if I had known it he would never have got it.
- Q. Was there anything about the matter then which impressed it upon your mind at the time? A. About this Pickerton?
- Q. Yes. A. No, it wasn't at the time.
- Q. Well, now, is there anything that would refresh your recollection to Gratias that doesn't refresh your recollection with reference to Pettibone? A. Well, nothing else except I didn't have faith from the beginning in Gratias -- when he came in I didn't have much faith in him.
- Q. You gave him your proxy but you can't remember anything about what you had to do with Pettibone? A. I am not positively sure, Senator, if I give my proxy to Gratias in 1904 or 1905.
- Q. Are you positive that you did not give your proxy to Pettibone in 1904 or 1905? A. I don't believe I gave Pettibone any.
- Q. Now, to refresh your recollection, Mr. Malich, do you remember of having a conversation with Orchard about Pettibone's having your proxy for the Salt Lake convention? A. No sir.
- Q. You didn't have any such conversation? A. No sir, I never had such a conversation.
- Q. Now is your memory sufficient to know that you didn't have?
- A. I am positively sure that I didn't never have a conversation with Orchard about the proxies.
- Q. Does that refresh your recollection any as to whether you had any conversation with Pettibone himself in the presence of Orchard in regard to it? A. In the presence of Orchard?
- Q. Yes. A. No, I never did.

- Q. You are sure of that, are you? A. I am sure I never had any conversation in the presence of Orchard, but I did see Pettibone I believe the day before he went to Salt Lake.
- Q. Now then we are getting down to the fact; Didn't you see Mr. Pettibone the day before he started to Salt Lake and didn't you give him your proxy or the proxies of your union?
- A. I didn't see Pettibone on that business at all.
- Q. Didn't you see him before he started? A. I said I did. I did.
- Q. And didn't you give him your proxy? A. I don't believe I did.
- Q. Didn't he carry your proxy to that convention? A. I don't believe that he did.
- Q. And wasn't Orchard present the day before? A. Now, Senator, if I remember right, I don't believe I ever had my proxy with me because I didn't have the idea to go there and I didn't ask for the secretary, Smith, of the organization for it.
- Q. Now, Mr. Mallon, do you now recall the fact so that you can say that Pettibone didn't have your proxy since you didn't have it with you? A. I don't believe that he ever had my proxy with him, and I don't believe that I had the proxy with me that year at all in 1904.
- Q. Who had the proxies of No. 88? A. I don't believe I ever got it from the secretary.
- Q. Wasn't sent at all? A. Wasn't sent at all.
- Q. That is your recollection now? A. That is as far as I can remember.
- Q. Well, you say that you had your saloon burned down at one time?
- A. Yes sir.
- Q. And your place of business? A. Yes sir.

- Q. How long prior to the time that your saloon burned down was it that you and your family went out to your ranch? A. I left three days.
- Q. Three days before? A. Yes, I left on the 18th and my place of business burned up on the 21st.
- Q. Did you have a talk with Orchard before you left? A. No sir.
- Q. About anything at all? A. Nothing at all.
- Q. No conversation with him? A. Orchard, if I remember right -- that is at least he sent me either two or three days before I left, he sent me the thirty dollars from Rocky Ford which I loaned to him when he went out as a bail insurance agent.
- Q. Did you have any talk with Orchard before you went out on your ranch and took your family, about three days before the burning of this saloon? A. No sir.
- Q. You are sure of that? A. I am absolutely sure.
- Q. How how much insurance did you have upon your place of business at that time? A. To the best of my knowledge I believe I had \$5,000 I think it was.
- Q. How long had this insurance been to that amount, been up to that amount before the burning? A. From the first time that I insured my place of business.
- Q. Had you taken out any insurance lately? A. I did up to the time as long as I was in the business I have got my building insured, of course.
- Q. Have you been insured for that amount? A. No, I couldn't insure the building for that amount. At that time it was the building, business, saloon and everything was insured for \$5,000 I think.

- Q. Did you know that some of your goods were taken out of your store and your place of business and taken over to Pettibone's place before the fire took place? A. No sir.
- Q. Never heard of that? A. I never heard of that. That is a new one on me yet.
- Q. You never heard anything about that? A. No sir.
- Q. Did you have any talk with Pettibone and Orchard about it after you got back? A. No sir.
- Q. Did you have any talk with him about the time of night in which it happened? A. I am telling you I wasn't there. I was four hundred and thirty-four miles away from it.
- Q. You said a little while ago that it happened at eleven o'clock and forty-seven minutes? A. Yes sir.
- Q. Did you have any talk with anybody, either Orchard or Pettibone, after you got back as to the time it happened? A. No sir, not with Orchard.
- Q. Well, did you with Pettibone? A. No sir.
- Q. Neither one of them? A. No sir, but I examined --
- Q. Where was Orchard stopping at this time? Did you know of his stopping with Pettibone during the summer of 1905 at any time? A. As far as I remember Orchard was at the time -- that is, at least he wrote to me three or four days before I left from Rocky Ford and he sent me the thirty dollars from Rocky Ford what he owed me.
- Q. Did you know of his stopping with Pettibone during that season at any time? A. I don't know anything about it.
- Q. Never heard that? A. Never heard that. It wasn't my business

to know it either.

Q. Well, you didn't seek to not know it? A. What?

Q. You didn't keep from knowing it by refusing to listen to them or anything of that kind? A. I didn't care to know it.

Q. You didn't care to know it? A. No, because I had enough to attend to without that.

Q. After the fire happened in the night there was a fire broke out again the next day, wasn't there? A. Well, I heard it did, yes.

Q. When did you hear that from? A. I believe my -- well, several people was telling me that, yes.

Q. You heard it from Joe Mahlich, didn't you? A. No sir, Joe Mahlich wasn't in Denver at that time.

Q. Who was your bartender? A. Joe Vlodewitch.

Q. Did you hear from your bartender the next day after you got back that the fire broke out the next day also? A. I heard it from several people. No, my bartender -- my bartender was sick when I got home. Somebody else was telling me about it.

Q. You had a fire about eleven o'clock and forty-seven minutes at night? A. Yes sir.

Q. And then the fire department came out and put it out, didn't they? A. Yes sir, they put it out that night.

Q. And the next day you had another fire? A. That is what they told me. I didn't see it.

Q. The fire department came out and put that out? A. I don't know if the fire department came out and put it out or not, but they told me there was a fire there again the second day.

Q. And you didn't know anything about any of your goods, liquors,

or anything being taken out and taken away before the fire?

A. No, not that I know of, because I know I left five barrels of Paul Jones whiskey there and neither one of them was ever opened at all and they were there all in the cellar when I got back there, and there was several barrels of wine; and there was some bottled goods missing maybe, if there was I don't know anything about it.

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Q. Did you have any talk with Orchard or Pettibone or your bar tender after you got back about your goods? A. No sir, I didn't have any talk with anybody except I kicked on the cigars because the cigars were short in the case when I took them out of the show case, and I kicked on my cigars and I tried to hold the insurance company for it, but they said they wasn't responsible for anything that was stolen out of the case.

Q. How you said you had an experience when some said was thrown through the window? A. That was previous to this.

Q. And you got your hands pretty badly burned? A. Yes sir, this was worst right here.

Q. Both were burned some? A. These fingers that I tried to put it out with, those fingers got burned right out on the end.

Q. It wouldn't go out when you tried to put it out? A. No, that is right. If I had known what it was I wouldn't have touched it.

Q. How far was this window through which they threw this bottle from the street? A. The bottle wasn't thrown from the street, they couldn't throw it in from the street.

Q. I am asking how far the window through which they threw the bottle was from the street. I didn't ask you whether they

Q. Was it in from the street or not? A. It must have been I judge thirty or thirty-five feet.

Q. About thirty-five feet? A. Yes.

Q. Did this bottle come in through the window open or did it break in through the window? A. Open, through the top.

Q. The window was up, was it? A. The window was down, the bottle was thrown in over the top.

Q. The window was down from the top? A. Yes sir.

Q. It didn't break the window then, it came in through?

A. It came in through.

Q. And when it fell in front of you it fell about three feet from you? A. About three feet in front of me, yes sir.

Q. And it splattered on your hand? A. Yes sir.

Q. It began to smoke around there? A. Yes sir.

Q. And you went to rub it out and it burned your other fingers, the fingers you were rubbing it out with? A. Yes sir.

Q. And you couldn't rub it out? A. No, I didn't.

Q. And it burned your hand until it got down to the bone?

A. Until it got to the bone, yes sir.

Q. And you went around for a few days with your hand crapped up, didn't you? A. I went that same day just as quick as I could, hitched the horse up and went to the doctor myself.

Q. And you went around for several days with your hands bandaged?

A. Yes sir.

Q. And you went down to Pettibone's store with your hands bandaged, didn't you? A. I don't know. I don't believe I went to Pettibone's then, because I didn't go into business for quite a few days at that time when my hand was burned up. I don't



know whether I went up to Pettibone's right away.

Q. Do you remember of going down to Pettibone's store and saying to Pettibone, when he was laughing at you about your hand,

"It isn't so damned funny, you needn't laugh about it?"

A. I never had a conversation with Pettibone about my hand.

Q. And didn't he say to you that you "don't want to monkey with my dope?" A. No sir, never was said anything of the kind,

never spoke to Pettibone about my hand.

Q. Do you know Steve Adams? A. I do, sir.

Q. How long have you known him? A. I know him, I know Steve Adams probably three or four days after I got acquainted with Orchard. He came out into the saloon.

Q. Did you know Steve Adams at the time that this bottle was thrown in through the window? A. Yes, I did know him.

Q. How long had you known him at that time? A. Well, I knew him for about sixty days previous to that.

Q. Where had he been living during that sixty days? A. He was living with Harry Orchard.

Q. And where was Harry Orchard living? A. Well, they were living forty-three something Lincoln Avenue.

Q. And was Mrs. Adams living there? A. Yes, I suppose she was.

Q. Did you see her? A. I seen her when she came into the store.

Q. You know then that she was living there at the time?

A. She told me that she was.

Q. Did Steve Adams move from that particular place to your knowledge? A. When he went to Salt Lake City, or wherever he went, -- yes, I think it was either Salt Lake or Park City.

Q. When did he go to Salt Lake City? A. If I remember right, I

believe it was the middle of April.

Q. Middle of February? A. The middle of April.

Q. How long was it after the affair in which the stuff was thrown in through the window that he went to Salt Lake City?

A. I should judge about a week or ten days.

Q. They were moving then about this time, were they not?

WASN'T Mrs. Adams move from there after he left? A. When Steve went to Salt Lake or Park City, wherever he did go to and Joe Mahalich went with him, and Mrs. Adams moved to 257 Logan Avenue and lived with Mrs. Mahalich, Mrs. Mahalich and Mrs. Adams been living there together up to the time they left.

Q. Did Mr. Adams or Mrs. Adams bring anything over to your house?

A. They never bring anything to my house that I know of.

Q. Did they bring some bottles or something over to your house about the time they were moving and leave them in your bedroom?

A. No sir.

Q. And that wasn't the stuff that you got hold of afterwards?

A. Well, Senator, do you honestly believe that I would allow anything of that kind after the doctor told me what it was, that I was crazy enough to keep anything of that kind in my bedroom? What do you take me for?

Q. I know that you wouldn't allow it after you got hold of it?

A. I never had it, I never saw it. I never seen a bomb in my life.

Q. I am not talking about a bomb now; we haven't got to that subject either. A. All right, go ahead, keep on.

Q. Isn't it a fact, Mr. Mahlich, that they brought something in

bottles over to your house and put them in your bedroom at the time that they were moving, about the time that Steve left for Salt Lake and about the time that Mrs. Adams was moving over to this other point which you have designated?

A. They never left anything with me that I know of, never did, anything.

Q. And you are quite certain that they didn't leave it in your bedroom and that that was not the material which you got hold of which you think came in through the window? A. No sir.

Q. You are sure of that? A. I am positive of that.

Q. And you didn't have any talk with Mr. Pettibone about it afterwards? A. No sir, not that I know of.

Q. Now you say that Mr. Orchard proposed to you at one time to blow that hotel up? A. He did, sir.

Q. Where was that? A. That was, about blowing the hotel up, was right at the fence where the vacant lot is between my bar room and the store.

Q. And when was it? A. I should judge it was probably from the 10th to the 15th in February. 1905

Q. February, 1905? A. 1905, yes sir.

Q. About how long was this after you had gotten acquainted with him? A. About four or five days.

Q. About four or five days after you got acquainted with him he proposed with you to blow up the hotel, and I suppose the people who were in it? A. Yes sir.

Q. Did you think he was in earnest about that matter?

3032 A. Well, he told me he was joking after I told him that --

Q. What did you think at the time he made the proposition to you?

- A. I was thinking he was a pretty rough citizen.
- Q. You thought he was a pretty bad citizen? A. Yes sir.
- Q. And you thought he meant it? A. I thought he meant it until he told me he was joking.
- Q. That disabused your mind? A. Changed my mind, yes sir; then he come around there often and I got acquainted with him, and my family, and everybody.
- Q. And it was by reason of the fact that he told you he was joking that you came to the conclusion he was a pretty good citizen? A. I did, sir, at the time.
- Q. How how long was it after this until he proposed with you to blow up this man McDonald? A. I should judge it is about a month or probably a day or two after -- more.
- Q. You told him that you couldn't afford to have a man blown up just simply for the sake of your business? A. That is right. I told him I had all the business I wanted; I didn't believe in killing the people.
- Q. Therefore, it wasn't necessary to go into that kind of business as you had all the business you needed? A. Yes sir.
- Q. How did you think that he intended to blow up McDonald?
- A. Well, he told me so; of course I probably -- I was thinking at that time that he was probably trying to get a hundred dollars out of me, and at one time I thought probably he was just joking with me, as he did about blowing up the hotel.
- Q. You thought those were all jokes, did you? A. Well, I thought probably it was, but once I thought that he was probably trying to get a hundred dollars out of me and get away with it.
- Q. Well, he had got thirty dollars out of you? A. Yes, he did.

Q. And paid to broker A. Yes, he did. He got the thirty dollars out of me a few days afterwards.

Q. After he prepared to blow up the hotel and prepared to blow up McDonald, did he make any other propositions of murder? A. Yes, he did.

Q. What? A. Governor Stannenberg.

Q. Anybody else besides those three? A. No sir.

Q. Those are the only three times that he made the proposition? A. That is the only three times that he talked to me about killing anybody.

Q. The relationship between Crawford and yourself continued the same whether he had made those propositions to you or before, didn't they? You didn't break off friendship with him?

A. I didn't see him -- that broke the friendship off after I refused to stand good for him to put him in the salmon business four or five thousand dollars that he was figuring on.

Q. It was the business matter that broke up the friendship, it wasn't by reason of the fact that he had made a proposition to kill this man for a hundred dollars? A. Well, as I told you, I didn't believe that he intended to kill anybody.

Q. You didn't think he meant to? A. No sir, I didn't.

Q. He didn't say it in that way? A. Well, he talked pretty sharp about this man McDonald and the hotel both, he talked pretty sharp too when he told me the first that he meant to a jolly well, I thought probably he did joke.

Q. Did he tell you that he meant McDonald's proposition was a joke also? A. No sir, he didn't. He didn't go into it that deep.

Q. You understood, or, I think, didn't you, at the time that he

made that McDonald proposition if you would give him a hundred dollars he would go and do the business, didn't you?

A. He told me that he was going to do the business, yes sir, he did.

Q. Did you believe at that time that he intended to do it?

A. I think I did.

Q. And you think if you had given him the hundred dollars he would have gone and done it? A. I was thinking he will probably do it or else probably he will beat me out of the hundred dollars and go out and get away with it.

Q. And you thought at the time that he would probably do it or probably steal the hundred dollars? A. Yes sir.

Q. And not do it? A. And not do it.

Q. It was after this that he made the saloon proposition to you-- after he had made the proposition to kill McDonald and blow up the hotel that he made the proposition to go into the saloon business? A. That was just about two years ago; the saloon proposition I think was the last proposition he made to me.

Q. And you offered to back him at that time up to \$200?

A. For a couple of hundred dollars.

Q. It was not because you thought he was a bad man but because he wanted more money than you wanted to give him? A. Yes, I didn't have faith in him.

Q. Was the proposition that he was going to kill Governor Stearnsberg prior to the time that he made the proposition to go into the saloon business? A. Yes sir, it was prior to the time a day or two.

Q. Then after all these matters had been submitted to you Mr.

Orchard made a proposition to go into the saloon business and you accepted it on the condition that a limited amount of money be used, is that right? A. I did, sir. I told him I would stand good for him probably two or three hundred dollars, I would stand good for him; but he told me it takes two or three thousand, then I told him I wouldn't go into it.

Q. Did you see Orchard and Adams together a good deal during the time they were living there? A. No, not very often.

Q. How many times would you say? A. I should judge, to the best of my knowledge -- I know that they were probably around there half a dozen or a dozen times together in the store and saloon.

Q. Did they play cards together? A. Yes, they did.

Q. And were associating together generally while they were around your store? A. They played a couple of games of cluff together.

Q. And you had known Adams before you knew Orchard?

A. No, I knew Orchard first.

Q. You say you don't know anything about this matter of stealing the powder? A. No sir, I do not.

Q. Never heard anything about that? A. Never heard a thing about it.

Q. That you didn't have any powder hidden around your place at all? A. No sir.

Q. Did you hear of the fact that powder was stolen? A. No sir, I didn't until I seen it in the paper.

Q. Didn't see anything in the papers about it? A. I see if I never heard of it before I seen it in the Denver press.

Q. Did you see it in the Denver press at the time? A. No, I didn't.

- Q. You didn't see it in the Denver press until after this trial began you mean? A. After this trial began, you sir, that is the time I first heard about it.
- Q. Who was working for you, what bartender about the time that this powder is alleged to have been stolen? A. Joe Vlastovitch.
- Q. The same party whom you have just mentioned? A. Yes sir, that I gave his name before.
- Q. Did you ever have any talk with him about this matter?
- A. No sir.
- Q. Did you have knowledge of the fact that he took a horse and buggy and drove out toward the Powder house one night?
- A. No sir, he never did.
- Q. You know that he didn't? A. What?
- Q. You mean that you know he didn't go or that he didn't say anything to you about it? A. He never told anything to me about it and I don't believe he ever went.
- Q. Did you know that he was in company with Orchard and Adams at different times on different evenings? A. He never was.
- Q. You never saw them together at all? A. I never saw them together at all except in the saloon there when he was tending the bar for me and handing the beer or cigars over the bar is the only times I ever saw them together.
- Q. Did you ever have any business transactions with Steve Adams?
- A. Not more than they bought goods in the store.
- Q. They bought their groceries, and so forth, at your place over there? A. Yes sir.
- Q. Did you know Billy Allison? A. No sir.
- 3037 Q. Never know him at all? A. No, I never know Bill Allison until



I saw him here. I was introduced to him here two or three days ago.

Q. Where were you living in May, 1903, this same place?

A. At this same place.

Q. Where were you living in May, 1904? A. The same place.

Q. Did you see in the newspapers about the time that Lyte Gregory was killed? A. I did.

Q. Did you have any talk with Pettibone about that matter about that time? A. No sir.

Q. Did you have any talk with Orchard about that time? A. No sir.

Q. Did you ever know Orchard as Orchard at all? A. No, I didn't. I know him as Tom Hogan. That is the only way, that is the only name I know him by.

Q. I will ask you, Mr. Malick, if Tom Hogan came to you about two or three days after the killing of Lyte Gregory and said to you, "Now, if I am arrested for the killing of Lyte Gregory you must understand that I was out at your place playing sluff that night", and you said to him, "Tom, do you pay sluff?" And he says, "Yes". You said to him "All right, then, you were out here playing sluff." A. I never had a conversation of the kind with Orchard until in February, 1905.

A. When Lyte Gregory was killed was in 1904, if I remember right.

Q. And this conversation took place in your saloon or in your place of business? A. No sir, never did.

Q. Nothing of that kind? A. Nothing of the kind.

Q. And not in substance nor effect either? A. Neither in substance of effect. Before the night when Gregory was killed I stopped over night with a man by the name of Anor -- a fellow by the

name of Amer Zies, was out at his place the same evening; I killed at his place six calves, and the next morning, that same morning when Gregory -- that is, the next morning after Gregory was killed on the night, I came to a party by the name of Amer Zies and the first I saw it was in his house that Gregory was killed, I saw it in the Rocky Mountain News.

Q. That is the first you knew of it? A. That is the first I know of it.

Q. But you had no such conversation with Orchard or Tom Hogan, or in substance or effect at your place of business?

A. No sir, I never did.

MR. BORAH: That is all.

MR. RICHARDSON: That is all.

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RE-DIRECT EXAMINATION

BY MR. RICHARDSON:

Q In answer to one of the Senator's questions you said you became acquainted with Pettibone in 1887? Did you mean that?

A 1887.

Q You answered that way one time and another you said 1887?

A I meant 1887.

Q Wait a minute, now, you mean 1887? A Yes sir, 1887, that's right.

MR. RICHARDSON: That is all.

RE-CROSS EXAMINATION

BY MR. BORAH:

Q Did you know who Governor Stannenberg was during the year 1888 -- did you hear? A What Orford told me, he was the Governor here.

Q Well, at the time he was Governor and while these troubles were on in the Coeur d'Alene did you read of these matters in the newspapers? A No, I did not pay much attention to it.

Q Did you have any knowledge of such troubles at all during the time they were going on? A I knew the trouble was going on in the Coeur d'Alene and in Denver also the same year.

Q And did you know that Governor Stannenberg was Governor of this State at that time? A I probably did, -- read it in the

3040

paper but the matter of fact is I did not pay any attention to it, and then I was not a member of the Western Federation of Miners at that time, so --

Q That did not keep you from having knowledge of what you read in the papers? A No, it did not.

Q I want to know if you know who Governor Steunenberg was at the time these troubles were going on. Did you ascertain it from the newspapers or otherwise? A From the newspapers, that is all I know about it.

Q You know there was trouble? A Yes.

Q And that Governor Steunenberg was governor at that time?

A Yes.

Q And you knew of the conflict that was going on? A Yes, between labor and the others, I did, sir.

MR. MORAN: That is all.

3

JOE HAHALICH, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARRON:

- Q Give us your full name please? A Joe Hahalich.
- Q Where were you born? A In Austria.
- Q How old are you? A 27.
- Q 27? A Yes sir.
- Q When did you come to America? A In 1897.
- Q Could you speak English when you came here? A No sir.
- Q In 1897? A Yes sir.
- Q And what time in 1897? A The 25th day of June I landed in Butte, Montana.
- Q Where do you live now? A In Butte, Montana.
- Q Have you a family? A Yes sir.
- Q What family have you? A Three.
- Q What? A Three children and a wife; I have five in the family.
- Q When you came to this country what did you go to work at?
- A I went to work on a ranch.
- Q Whereabouts? A 40 miles from Butte.
- Q How long have you worked at that? A About a year and a half.

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Q And what did you go to work at after that? A In a smelter in East Helena.

Q Whereabouts? A At East Helena.

Q How old were you when you went to work in the smelter?

A I was going on 19.

Q And how long did you work in the smelter? A I worked about six or seven months.

Q And where did you go after that? A I went back on the ranch again.

Q And how long did you stay on the ranch? A I worked on the ranch when I come back in June, 1899, I worked that year until the 6th day of December.

Q You finally got to Denver? A No sir, I went to Utah.

Q Utah? A Yes sir.

Q Where were you in Utah? A I got there the 12th day of December of 1899.

Q And you worked down there? A Yes sir.

Q Whereabouts? A At Mercur, Utah.

Q What was you working at there? A In the mines.

Q And where did you go from Utah? A I went to Park City from Mercur; I lived there in 1900 and the 12th day of June I went to Park City.

Q Park City, Utah? A Yes sir.

Q How long did you stay in Park City? A I stayed in Park City from June the 14th until the next year, 1901, the 8th day of January.

Q Mining? A Yes sir.

Q Then where did you go? A To Leadville, Colorado.

Q When did you go to Leadville? A 1901.

Q What did you work at in Leadville? A I worked most of the time while I was there, worked in the smelter.

Q How long did you work in the smelter in Leadville?

A About nine months all together in Leadville.

Q Then where did you go? A Went to Pueblo.

Q And worked in the smelter in Pueblo? A Yes sir.

Q Afterwards go to Denver? A Yes sir.

Q And worked in the smelter there? A Yes sir.

Q About how long are you working in the smelter now? A No sir.

Q About how much time did you work in the smelters since you came to this country? A About two years all together.

Q What are you doing now? A Mining.

Q Mining? A Yes sir.

Q And most of the rest of the time you have been mining, have you? A Yes sir.

Q Do you belong to the union? A Yes sir.

Q When did you join? A I joined in 1903.

Q Have you ever had any offices in the union? A Yes sir.

Q What? A As Vice-President of the local union.

Q Vice-President of the local union,-- that is the smeltermen's union? A Smeltermen's union No. 95, in Denver, Colorado.

Q How long did you hold that office? A I held it two terms, one year.

- Q A good many of your countrymen are members of the smelters' union? A Yes sir.
- Q Mostly speak english? A No, there are not many that could speak english.
- Q When did you begin to talk any english? A Oh, I don't know; it was about a year and a half after I came to this country, or a year, probably.
- Q Do you read the english papers? A Yes .
- Q Did you ever know Harry Orchard? A Yes sir.
- Q Do you remember when you first met him? A I met him in 1903, in the latter part of January.
- Q Whereabouts? A I met him in Globeville, Colorado.
- Q Did you get much acquainted with him at that time? A Well, I have got almost personally acquainted with him.
- Q Where was he living then? A He was living in -- I have forgotten the number of the street, but I believe it was on First street.
- Q Who was he living with? A With Steve Adams.
- Q And Mrs. Adams? A Yes sir.
- Q Was you ever in their house? A Yes sir.
- Q What kind of a house did they have? A They had a three room house, a brick building.
- Q Do you know anything about the furniture they had? A Why yes, they had a little furniture; they did not have much.
- Q You know Steve Adams? A Yes sir.
- Q When did you get acquainted with him? A I don't remember the

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date but I got acquainted with him right after he moved down to Globeville.

Q Did you know him again in Park City, Utah? A Yes sir, we left Denver together to go Park City.

Q You went together there? A Yes sir.

*when leave Apr 17<sup>th</sup> '05*

Q What were you doing in Park City? A Mining.

Q How long were you living together? A If I remember right three months.

Q Did you ever steal any powder with Harry Orchard? A No sir.

Q Or with Steve Adams? A No sir.

Q Or anybody else? A No sir.

Q Did you ever go and get any powder for either one of them at the Union Pacific powder house or anywhere else?

A No sir.

Q Or at Lake Springs? A No sir.

Q Or any powder house along the Union Pacific tracks? A No sir.

Q Or anywhere else? A Nowhere else.

Q Did you ever have any discussion with Harry Orchard or Steve Adams or anybody else? A I had a little conversation with Harry Orchard.

Q Did you ever have any talk with him about blowing up the boarding house at Globeville? A Yes sir.

Q You did? A Yes sir.

Q What was it? A He asked me if I knew that hotel, that Globe hotel, and I told him yes, I knew where it was, and he wanted

*Blowing  
up  
Boarding  
House*

to know how I knew about it and I told him that I boarded there once for two months, and he asked me if I knew that they had got a concrete basement and I told him that I ain't positive sure that they have, and I never took particular notice, but I think there is; so he asked me if there was many non union men there was boarding there, and I told him I did not think I know how many it is but I believed there was all they could handle there, and he says if I wanted to go with him to blow that hotel up, and he says, if we don't do it you can't never get rid of the scabs; and I told him I would not go, that I did not intend to kill anybody that I never intended to fight a thousand men myself and I would not stick my fingers in it.

SEE if Q  
Test. to this for

- Q Did you ever promise to blow up the hotel or to have anything to do with it? A No sir.
- Q Did he ever mention the matter again to you? A No sir.
- Q Did you ever know anything about any purpose of killing Governor Peabody? A No sir.
- Q Did Harry Orchard ever talk with you about any such thing? A No sir.
- Q Did you ever have anything to do with going with him on any such matter? A No sir.
- Q Or ever hire a livery rig or go in a livery rig with him? A No sir.
- Q In reference to any such thing? A No sir, I never hired a livery rig in Denver City.
- Q Or ever hear about any such thing until this trial came on?

Q

A No sir.

Q Did you know anything about whether he was in ~~it~~ earnest in this boarding house matter or not? A No sir.

Q Did you ever have anything to do with or any connection with the making of any promises to him in connection with any offense or crime of any sort? A No sir, I never did.

Q Did you ever have anything to do with stealing a sheep with him? A No sir, I had enough to eat without stealing.

Q You were a member of the union during the strike, were you not? A Yes sir.

Q And you were taking such part as you could during the strike?

A Yes.

Q To have them win? A Yes.

Q Did you ever know a fellow named Gratian? A Yes sir.

Q What was he? A He was the President of the Smeltermen's union.

Q The president of the union? A Yes sir.

Q And he introduced you to Graham? A Him, yes sir.

Q Do you know where? A Yes sir.

Q Where? A Right down by Max Mallich's saloon.

Q Were you much acquainted with Gratian? A Yes, I was.

Q He was president of your union, was he? A Yes sir, and he was beating with me.

Q And you was vice-president? A Yes sir.

Q He was beating with you? A Yes sir.

Q How long did he board with you? A About nineteen or twenty months.

Q And was he president while you were vice-president? A Yes sir.

Q Did you used to discuss union matters together? A Yes.

Q Were you on the strike committee with him? A Yes sir.

Q Were you on the relief committee? A Yes sir.

Q What had he to do with the relief committee? A He was almost the secretary of the relief committee.

Q Did he have anything to do with giving out the relief?

A Well, we both done that.

Q And how long were you serving on that relief committee with Gratian? A If I remember right it was seventeen months; I am not possibly sure, I did not take notice how long it was.

Q Do you know where Gratian is now? A No sir.

Q How long since you have seen him? A I believe the last I seen of him was some time in March.

Q When? A It was some time in March, 1905.

Q Where was he then? A Well the last I saw him, he come down to my house in Globeville.

Q Was he an Austrian? A No sir.

Q You don't claim him as of your nationality? A No sir.

Q What was he, do you know? A I believe he is of German descent; he was born in South Dakota.

3049 Q What? A He told me he was born in South Dakota.

Q Did he speak German? A No, a very few words; that is, just

what he would catch from his parents.

Q Your native tongue was German, I suppose? A What?

Q Yourself? A No.

Q Isn't that what is used by Austrians? A No, I believe they call it low dutch, from Hasburg.

MR. DARROW: You may cross examine.

#### CROSS EXAMINATION

BY MR. DARROW:

Q When did you first locate in Globeville, Mr. Mahalich?

A In 1902.

Q And when did you become a member of the union? A In 1903.

Q And you have been a member ever since? A Yes sir.

Q When did you first meet Orchard? What was the date of it?

A I don't remember the date, but it was the last part of ~~June~~ *Jan.*  
of 1903.

Q Where was it? A In Globeville.

Q Whereabouts in Globeville? A Right there by Max Mallich's saloon.

Q Who was present? A There was I and him and A. W. Gratias.

Q Anybody else? A No sir, I don't remember anybody else.

Q Nobody else in sight? A No sir.

Q No one there but yourselves? A No sir, us three.

Q Under what name was he introduced to you? A Tom Hogan.

Q That is your first meeting? A Yes sir, that was our first

meeting.

Q When did you first meet Steve Adams? A I don't remember whether it was the day after or two days after.

Q Who was present? A I don't know who was present, but I know --

Q Who introduced you to him? A Tom Hogan.

Q Hogan introduced you to Steve Adams? A Tom Hogan introduced me to Steve Adams.

Q And was anybody present except Hogan, Adams and yourself?

A I don't remember that there was.

Q Do you remember where it took place? A Yes sir.

Q Where? A At the end of the saloon bar.

Q Were you tending bar then? A No sir.

Q But was you was there in the saloon? A Yes, I was there in the saloon.

Q There was no one else present that you can recall in the saloon but you three? A And the bartender.

Q Who was the bartender? A Joe Vojelich.

Q And Orchard and Adams was around there together? A Yes sir.

Q They were around there considerable? A Yes sir.

Q Did you see them there quite a bit? A Quite a bit.

Q Did you see them together a number of times? A Oh, half a dozen times.

Q And for what period of time? A Oh, some times in the evenings and some time in the day time.

Q No, during what period of time did they continue to come about that neighborhood? A It was some time in January, the last part of it.

Q You saw them in the fore part of January, as I understand?

A The last part of January.

Q When did you see them last? A I seen them the last time the 17th day of April.

Q The 17th day of April? A Yes sir.

Q That was the last time you saw them? A Yes sir.

Q Were they together at that time? A Yes sir, that was when I left Denver.

Q Adams and you left together? A Yes sir.

Q Did Adams give you a six shooter at one time? A No sir.

Q Or any other kind of firearm? A No sir.

Q None at all? A Nothing at all.

Q Did you have a six shooter when you left Denver? A No sir.

Q Was the 17th day of April the day that Steve Adams and you went to Salt Lake City? A Yes sir.

Q Did you go from there to Park City? A Yes sir.

Q How long did you remain there together? A Something like three months; I ain't just positive sure when he left there, but I believe it was not more than three months.

Q And did he leave before you did? A Yes sir.

Q Did he get in trouble down there? A No sir.

Q Was he arrested there at all? A He was. I understood you

ask if I was in trouble.

Q No, Steve? A Yes.

Q Do you know who wanted his bond there? A No sir.

Q Did you know of his sending for Pettibone? A No sir.

Q Do you know he did not? A If I remember right he telegraphed to his uncle somewhere in Texas for some money.

Q Did you know of his telegraphing to Pettibone? A No sir.

Q Did you know of Pettibone furnishing the bond for him?

A No sir.

Q Did you know of his telegraphing to any one in Denver?

A No sir.

Q Do you know he did not? A His wife told me that she telegraphed to his uncle.

*not of  
his own  
knowledge*

Q Did she tell you about telegraphing to anybody else? A No sir.

Q When did you last see Steve Adams? A I saw him a few days ago walking out here on the lawn.

Q And when did you last see him prior to that time? When did you last see him prior to the time you saw him out here on the lawn, here in Boise City? A I did not see him after that time until I saw him out here.

Q About what time did he leave Park City? A If I remember right he left there in the first part of July I think, or the last part of June — I don't remember right.

Q Did he work in the mines all the time while he was there?



A Yes sir.

Q Did you work together? A We worked in the same mine, but did not work as partners.

Q And you never wrote to him after that? A No sir.

Q After he left there? A No sir.

Q And you never heard from him? A No sir.

Q Did you know where he was going when he left there? A I know where his wife went to.

Q Orchard and Steve Adams were together on the 17th day of April when you left Denver? A Yes sir, we were all three together in my house when I left.

Q Steve and Orchard and yourself? A Yes, and our wives, -- mine and Steve's.

Q Where were you living at that time? A At 247 -- if I remember right -- on Logan Avenue.

Q Did you know that Orchard's name was Orchard at that time?

A No sir.

Q You never knew it except as you know -- A I know him as Tom Hogan.

Q What name was Steve Adams going under? A Under the name, under his own name, the only one I know of, Steve Adams.

Q Did you know him as Steve Dixon? A I don't remember that I ever got acquainted with him as Steve Dixon.

Q Did you know of his passing by the name of Steve Dixon while he was out there in that vicinity? A I don't remember that

he ever passed as Steve Dixon.

Q Did you ever hear of his name being Steve Dixon? A Yes sir.

Q What did you hear that? A In the papers after he was arrested in Oregon.

Q Did you know he was going under the name of Steve Dixon out there in Globeville? A No sir, I don't remember of ever hearing that he was going by the name of Steve Dixon.

Q Do you remember that he passed under the name of Adams all the time? A Yes sir.

Q Who else was out there with Orenhart, Adams and yourself besides those you have mentioned? Was Billy Alman there?

A No sir.

Q You never saw him there visiting? A No sir.

Q There was nobody else out there at all? A No sir.

Q Seemed to be going alone, were they? A Yes sir.

Q Were you at their place where they lived more than once?

A I was there a few times.

Q How many times were you there? A I don't remember; probably I was in there four or five times.

Q Did you visit with them or did you come to be there on business, or how? A I visited with them.

Q Did your folks visit them? A No sir.

Q But you were in the habit of going out there? A Yes sir.

Q What did you do, sit around and talk, or did you play cards?

A We mostly played cards.

- Q Was Orchard there generally when you were? A I believe there was a couple times when I was there that he was not home.
- Q How many times were you there when Orchard was there? A A couple or three times.
- Q That was during the month of February? A Lets see, I believe I had called in once or twice in the month of February.
- Q You knew that Orchard and Adams were living together out there during the latter part of January, February, March and up to the 17th of April? A Yes.
- Q Now, did Adams move about the time he was living there?
- A Move where, what do you mean?
- Q From this particular point where you visited them? A No sir, they never changed until I and him left for Utah together, and his wife, she lived in the house where I was living, and she lived there with my wife.
- Q Then, after you left, or about the time you were leaving, there was an arrangement made by which Mrs. Adams was to move in with your folks? A Yes sir.
- Q Do you know how long she lived there? A Well, she lived just about a month in the house where my wife was.
- Q And how long did you stay in Park City? A I was in Park City-- I got in there on the 22nd day of April, 1905, and I left there the 15th day of August, 1906.
- Q Did your wife come to Park City? A Yes sir.
- Q Did she come at the same time that Mrs. Adams did? A Yes sir.

Q They came together? A Yes sir.

Q And did you live together in Park City? A Yes sir, we lived together I believe it was 17 or 18 days.

Q And then did Adams go away? A No sir, I moved out. I had my furniture shipped in and when I got in there I rented a house of my own.

Q Did you see Orchard at any time after you left Denver on the 17th of April? A No sir.

Q You never have seen Orchard then between the time you saw him in the latter part of April -- A No sir.

Q You got pretty well acquainted with him? A Yes sir.

Q Orchard you say, said something about blowing up the hotel?

A Yes sir.

Q When was this? A When I met him, and about two days after, he asked me if I knew how that hotel was situated and I told him I knew it, and he says how do you come to know where that hotel is, and I said that I boarded there two months, and he said, do you know that that has a concrete cellar-- that is, a basement; I said that I did not know exactly if there is, I never took any notice of it but I believe there is, and he says, if you want to go with me we will blow that hotel up because you can never win the strike until you get rid of these scabs, and I said I would not do that because I did not mean to kill anybody and I would not stick my finger in.

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Q And who was present when you had this talk with him?

A Nobody.

- Q And where were you? A Right there by Max Mallich's place.
- Q Was there anybody near about? A No sir.
- Q Did you say anything to him about the matter other than you have stated? A No, I refused to have anything to do with it; I would not do it, so he cut it out.
- Q You refused and he cut it out? A Yes.
- Q Did you say anything to him about his going ahead with it or not going ahead with it? A He sir, I never said a word.
- Q You went and had a talk with Max Mallich about it, didn't you?
- A I told him what he said, and that is about all that I --
- Q What did Max Mallich say? A He said, if I was you I would not go near anything like that. You can live without a killing.
- Q And when did you tell Max Mallich in reference to the time that Orchard told you about it? A I believe it was the same day.
- Q And you told him the same day? A If I remember right I did.
- Q That was a day or two after Orchard came there? A Yes sir.
- Q And long prior to these visits which you made to Orchard's and Adams' residence, was it? A No, I had no conversation when I was there visiting.
- Q This conversation was before you went to see them at their house? A Yes sir.
- Q You had not been at their house at all at that time? A No sir.
- Q Did you have more than one talk with Max Mallich about this?
- A That is all I talked with him.

Q Did you ever mention it to anyone else? A No sir.

Q So you had nothing to do with this matter of the powder?

A No sir.

Q Did you know where the powder houses were? A I don't think I did; I was never out that way where they were speaking, out where the powder houses are.

Q How far away are they from Globeville? A I don't know how far it would be, only from the testimony here, and that was that it was about five miles.

Q You was not out there at all? A No sir.

Q And did not know they had any powder? A No sir.

Q Were you there at the time that Max Malich caught fire in his room? A No sir, I was in Utah at that time.

Q That was after you left? A Yes sir.

Q Were you there when his hotel burned down? A No sir.

Q Where were you then? A I was in Utah.

Q In Utah? A Yes sir.

Q That was all happened after you left? A Yes sir.

Q Were you ever out with Orchard? A No sir,

Q Were you ever over at Pettibone's place with Orchard?

A No sir, I don't remember that I ever saw Orchard and Pettibone.

Q Did you go to Pettibone's store yourself at times? A I believe I was there three times. *(Burying something)*

Q And how long had you been acquainted with Pettibone? A I have been acquainted with him,-- I believe the latter part of 1904, the latter part of that year.

- Q Had you had any business transactions with him? A I bought a carpet there and I think I got a clock of him.
- Q Did you ever see Mattibone over at Max Mallich's? A I don't think I did.
- Q Never did? A Never.
- Q Never saw him over there at all? A No sir.
- Q At any time? A No sir.
- Q Never had any conversation with him over there? A No sir.
- Q Did you ever see Mr. Moyer over at Max Mallich's? A I don't remember that I did.
- Q You have no recollection about it? A No sir.
- Q If you had seen him there you would recollect it? A Yes sir, I think so.
- Q But you think you never did? A No sir.
- Q Did you ever see Mr. Haywood over there? A No, I don't think I did.
- Q If you had seen him you would recollect that? A Yes sir.
- Q And you feel quite certain you never saw him over there?
- A Yes, I feel quite certain I never seen him there.
- Q When did Gratias leave that territory there? A I don't know. I did not see him for about a month before I left.
- Q Did Gratias ever introduce you to anybody else besides Orchard? A Maybe some of his friends.
- Q Do you recall any other individuals, whom you can name, to whom you were introduced by Gratias? A No, I know a man

who he introduced to me, but I have forgotten his name at all, but he was a man doing the silver-plating.

Q And you never saw Orchard prior to the time Gratias introduced you? A No sir.

Q The time that Orchard was introduced to you by Gratias?

A No sir.

Q Never had even seen him, whether you met him or not? A No sir.

Q And you never saw Adams before Hagan introduced you to him?

A No sir, I never did.

Q Was Adams present at the time when Orchard talked about blowing up the hotel? A No sir.

Q And the subject was never mentioned after, when you went over to his place? A No sir.

Q Was Adams ever present when any talk was had on matters of that kind? A No sir.

Q Orchard always talked to you alone? A There was only one conversation I had about blowing that hotel, that is to amount to anything.

Q Did you have any conversation with him about any other criminal act at all? A No.

MR. BORAH That is all.

RE-DIRECT EXAMINATION

BY MR. JARVIS:

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Q Did Gratias have, or pretend to have, some silver plating



business there? A He was rooming with a man that he was a member of the trade of silver-plating.

Q That was during the strike? A Yes sir.

MR. BARNOW: I guess that is all.

RE-CROSS EXAMINATION

BY MR. DONAH:

Q Were you ever present at a time when Crawford and Adams had a falling out? A No sir.

Q You did not participate in separating them when they had a quarrel? A No sir, they were living together until the day when we left Denver.

Q I know, but were you present when they had a quarrel, or a falling out between them? A No sir, I know what you mean, I was never present when they had any quarrel.

MR. DONAH: That is all.

MR. BARNOW: Shall we proceed with another short witness?

THE COURT: If you have another short witness, you had better call him.

EDWARD L. McFARLAND, being called as a witness on behalf of the defendant, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DABROW:

- Q What is your name, please? A Edward L. McFarland.
- Q Are you a brother of James McFarland, the detective? A Yes sir.
- Q Where do you live? A Manitou, Colorado.
- Q Are you a member of the Western Federation of Miners?
- A No sir.
- Q What is your business? A Boot and shoemaker.
- Q A shoemaker? A Yes sir.
- Q How long have you been a shoemaker? A I went to serve my time at thirteen years of age.
- Q Where were you born? A Ireland.
- Q When did you come to America? A In 1876.
- Q Do you know Mr. Haywood? A I never got acquainted with him and never saw him until I saw him in this court room.
- Q Or Mr. Meyer or Mr. Pettibone? A I know Mr. Meyer.
- Q Were you in Griggle Creek during the strike? A No sir, I was at Victor.
- Q Or Victor? A Yes sir, Victor.
- Q That is close to Griggle Creek? A Six or seven miles.

- Q What were you doing in those days? A Shoemaking.
- Q Were you there the day of the riot? A Yes sir.
- Q What were you doing that day? A Shoemaking.
- Q Did you stick to your last or did you go out to see what was doing? A I went out in the afternoon and went up to the meeting that was to be held by the citizens about 2:30.
- Q Did you dress up? A No sir, I locked the shop door and went out with my apron on.
- Q Did you have a coat on? A No sir.
- Q What was going up there? A Mr. Harkin was up on a truck speaking.
- Q Did you hear him say anything? A As I arrived there I heard him express the words, "It is up to you men to drive them over the hills and I will lead you."

THE COURT: What is that last answer?

THE WITNESS: And I will lead you. A voice from the crowd says, "Who do you mean," and then the shooting commenced.

- Q How much shooting was there? A Well, I suppose there was 30 or 40 shots fired while I was there.
- Q He quit talking when the shooting began? A He did.
- Q Where did you get? A I returned to the shop as fast as I could get there.
- Q You went to your shop? A Yes.
- Q How long did you stay in your shop? A I stayed in my shop until about seven o'clock.

- Q Until twelve o'clock? A Seven o'clock.
- Q And then what happened to you? A Gene Scott, Harry Pring, and a militiaman in uniform and two others who I did not recognize came into the shop.
- Q What did they do? A I says, good evening gentlemen; some of them had been customers of mine. Gene Scott and Pring walked each side of my bench and Gene says, "This is the son of a bitch you want," and both caught hold of me and dragged me out. I asked them to let me take off my apron and put on my coat, but they said, no. They marched me up the street and about every five steps I got a blow from a gun across the kidneys until I reached the bull pen.
- Q Where did they take you? A Brought me upstairs into the bull pen and searched me, and they took a knife and an Elk's visiting card which I produced and which I protested for over their taking from me, and said it was no good to them, and one of them said, "We will see that it will be no good to you," and they kept it.
- Q Then what did they do? A They kept me there from seven o'clock on Monday evening until the following Friday at 3:30.
- Q How many other people were there? A There was about 200.
- Q What kind of people were they? A Miners.
- Q Any besides miners? A There was a newspaper editor there for a little while, but he was taken out again.
- 3065 Q I am glad of that. Then what happened? A They came up and called the roll and we were marched out, 73 of us, between

deputy sheriffs and the militia and you had to keep your hands pretty close or you would be cut with bayonets and we were put on the Short Line train.

Q Then where did you go? A I was about the last one getting onto the rear car and the salute was from the militia and the crowd standing by, "You can take your damned shearer along with you;" and I turned around and said, "They are taking a man that you could not say —" and I was knocked down with a gun into the car. The train pulled out and stopped at Cameron where we all had to get out of the car to be photographed.

Q Were you photographed? A We were photographed.

Q You were not measured were you? A No, we were not measured, but we were brought to Colorado Springs and kept there for some time, and then they transferred us on to the Santa Fe road and at five o'clock on Sunday morning we were dumped off in a swamp at the Kansas line and three volleys were fired over our heads with the instructions, "don't come back under the penalty of death."

Q Well, what happened in Kansas? Did you stay there? A No, we did not get to Kansas; the engineer refused to take us across the line.

Q He left you in Colorado, did he? A He left us in Colorado, but we were at the line. So then took a walk, all hands, in a large tank there was there, I suppose for cattle.

3066 Q That is what you thought it was for? A That is what we thought it was for, and some of the men declared it was the

largest wash basin they had ever washed in, and we returned to the railroad track and a work train came down with ties on it and the engineer slowed up and asked if we were the deported men, and we told him yes, and he told us all to get on, and we all got on and he brought us into Holly.

Q Holly, Colorado? A Yes sir, Holly, Colorado, where we were met by the Mayor and the Marshal and were marched into the town, and we were told that the town was ours as long as we conducted ourselves as gentlemen, and from our appearance, he said he thought we were nothing else.

Q Did you send for assistance? A Yes sir, we sent for assistance.

Q Where to? A To Denver.

Q To the Federation? A Yes sir.

Q Did you find a shoemaker in the town? A No, there was a harness maker there that done some shoemaking for the town, and after breakfast I went over to his shop and did some cobbling, helped to repair in the boys shoes.

Q Have you ever been back to Victor since? A No sir.

MR. BARNOW: That is all.

#### CROSS EXAMINATION

BY MR. BARNOW:

Q What was the date that you were taken out of Victor?

A Just the 10th.

Q June the 10th? A Yes sir.

Q Where were you the night of the explosion? A I was in bed.

Q And where was your bed? A In my shop on Victor Avenue.

Q You slept in your shop? A I slept in a rear room.

Q And this time when you speak of Hulin being in the street, was on the 10th, was it? A It was on the 6th.

Q It was on the evening of the 6th? A The evening of the 6th, yes sir.

Q About two or three o'clock? A I should judge about 2:30 I suppose, or something like that.

Q And some eight or ten hours after the explosion? A I don't know what time the explosion was.

Q You know approximately what time it was. You lived right in the town. A Well, Victor and Independence are not in one town.

Q How far apart are they? A They might be five or six miles, or seven miles.

Q You don't know what time it took place? A No sir.

Q I suppose you did hear from the newspapers or somewhere else that the depot was blown up? A I heard of it in the morning.

Q And this was you say, ten hours afterwards? A Yes sir, it was in the afternoon.

Q Now, these people in the street, were they the people of the town generally? A No, there was quite a number of strangers there that I did not know.

- Q Were the town people out in the street too? A Yes sir, the town people, men, women and children.
- Q Men, women and children? A Yes sir.
- Q Of all occasions and walks in life? A Yes sir.
- Q And do you know who this was that said, "Who do you mean," when Harkin said, "What are you going to do?" A No sir.
- Q Where were the first shots you heard? A It was right from the man right there within two feet of him.
- Q From the man? A From a man right within two feet of him.
- Q Who was he? A He was a stranger to me.
- Q Where did the general shouting come from that you first heard?
- A It was this man right side of the wagon. He shot in the direction of union hall.
- Q Do you know who this man was? A No sir, he was a stranger to me.
- Q You did not identify any one who did the shooting, to know who they were? A No sir, I didn't take no time.

MR. BOWEN: I believe that is all.

MR. DAWSON: That is all, -- or, one question: Did you ever get your shoemaker's tools?

THE WITNESS: Part of them.

MR. DAWSON: What became of the rest?

THE WITNESS: I could not tell you.

MR. DAWSON: That is all.

MR. BOWEN: No further questions.



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

R E C E S S.

3070

Boise, Idaho, July 2nd, 1907.

1-30 o'clock P.M.

Parties not pursuant to adjournment.

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

THE COURT: Call your next witness.

MR. DAWSON: Mr. Almon.

WILLIAM H. ALTMAN, being called as a witness on behalf of the defendant, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARRONT:

- Q What is your name? A William Altman.
- Q Where do you live? A I live in Winder, Nevada.
- Q Winder? A Winder, Nevada.
- Q How long have you lived in Winder, Nevada? A Well, I have lived in Winder, Nevada, it will be about a year the 12th day of January.
- Q What is your business? A Prospector and mining.
- Q How long have you been mining? A I went to mining I believe in 1892, either 1892 or '93, -- '93 I believe.
- Q Where were you born? A I was born in Tennessee.
- Q Did you ever live in the Cripple Creek District? A Yes sir.
- Q Do you belong to the Western Federation of Miners? A Yes sir.
- Q When did you join? A I think it was in the fall of 1893 or the spring of '95 I am not sure.
- Q You lived in Cripple Creek district during the strike, didn't you? A Yes sir.
- Q And whereabouts? A Well, I -- do you mean the last strike?

Q I mean the strike of 1903 and '04. A I lived in Independence.

Q At Independence? A Yes sir.

Q That is up on the hill? A No, that is down at the foot of Bull Hill.

Q What union do you belong to? A How is that?

Q What local union do you belong to? A I belonged to #19.

Q No. 19? A Yes sir, Bull Hill union.

Q That has been abandoned, hasn't it, since? A I believe it has, yes sir.

Q You have not attended any meetings since the 6th day of June, 1904? A No sir.

Q Did you know Harry Orchard? A Yes sir.

Q When did you get acquainted with him? A I don't just remember when I got acquainted with him; some time though in the summer or fall of 1903 or 1904, -- 1903, I believe.

Q Where did you first meet him? A Well, I don't just remember where I first met him.

Q Did you ever work with him in any mine? A I believe I worked two shifts with him at one time, a couple of shifts.

Q Then one of you quit? A How is that?

Q Did one of you quit then? A Yes sir, we both quit.

Q What was the matter? A Well, the rock was pretty hard.

Q Hard digging, was it? A Yes, and the ore was not very good grade.

Q Well, how often did you see him while he was there? A I don't understand your question.

- Q How often did you see him while you was up there? A Well, I could not recollect; not a great many times though.
- Q Did you ever work in the Vindicator? A Yes sir.
- Q When? A Well, now I am not positive; I could not be positive as to the month or exactly the year, but I think it was along in 1894— I believe it was, or five.
- Q 1904 or 05? A Yes sir, I believe it was, or 1905.
- Q How long did you work there? A I think I worked there about two months the first time.
- How many times work in mine— three*
- Q Did you ever go back there since? A Yes sir, I went back there and worked, I think about four or five months later, a month or two months I worked there.
- Q When was that,— oh, four or five months later? A Yes, four or five months later; I am not sure whether it was four or five or six.
- (It was before the troubles)*
- Q Did you ever go back to the Vindicator after that? A No sir, not to my recollection.
- Q Was you ever in the mine after that? A No sir.
- Q Did you ever go there in the mine in November, 1903, with Harry Croward and place a bomb, or what Senator Borah would call an infernal machine? A No sir, I did not.
- Q Did you know anything about any such thing? A No sir, I did not.
- Q Did you ever have any conversation with Harry Croward about any such thing? A No sir, I never did.
- Q Were you there when the explosion occurred on the Vindicator,—

warehouses were you? A Well, I was eating my dinner; I think at that time I was at my dinner, about the time the thing occurred.

Q Warehouses were you eating it? A I was boarding with a lady named Hodgson, and was working and had come down home to my meals, and it happened some time about noon, I don't know the exact time, but I had come down to get my dinner.

Q Did you ever hear of it until after it happened? A No sir, I never did.

Q Where were you at the time of the explosion at the depot?

A The Independence depot?

Q Yes. A I was in bed.

Q When did you hear of that? A I heard the explosion.

Q How close did you sleep to it? A I judge it was something like a quarter of a mile, might have been a little over that or a little less, I could not say.

Q Well, did you live up the hill or down the hill from there?

A Well, it was pretty nearly on a level on the side of the hill-- on the hillside there, or perhaps it would be a little uphill from where I lived to the depot.

Q Do you remember the time that the Vindicator mine explosion occurred? A Yes sir, I do.

Q Were you arrested after that, or was it after the depot explosion, or after both of them? A I was arrested after the depot explosion.

Q Had you been arrested before? A No sir.

Q What was done with you? A I did not catch your question.

Q What happened to you when you was arrested? A Well, they took me down to a drug store there that was kind of a headquarters where the men that arrested me -- the deputy sheriffs and officials there and citizens, whoever it was, kept me in there for a while, well, I judge until about eight or nine o'clock, or from eight or nine o'clock until eleven o'clock and then they took me on the electric car to the armory hall in Victor and put me in the bull pen.

Q How long were you in the bull pen? A I think it was some where near, if I remember right, about ten days or two weeks.

Q How many others were in there at that time? A How many were?

Q Yes. A Well, sir, it would be a hard matter for me to say. They were so thick that there was hardly sleeping room in the hall laying down.

Q Miners mostly, Western Federation men? A I suppose they were all miners, yes sir, -- most of them.

Q Well, were you released then after ten days? A No sir.

Q What happened then? A They took me to the county jail.

Q How long did you stay there? A Well, I stayed there until I believe it was in September, -- I am not sure of the exact date.

Q From June to September? A Yes sir, I think so, somewhere near the latter part of August or September.

Q Were you tried then? A No sir.

- Q Haven't had a trial yet then? A No sir.
- Q How did you get out? A I don't know really how I did get out. They told me to follow them and I did, and they took me over to the sheriff's office and charged me six bits and turned me loose.
- Q You paid the six bits? A I borrowed the money, yes, and paid it.
- Q Do you know who got that? A No sir, I don't. It was a charge, they said, for fixing up some papers; I don't remember what they did say, or what it amounted to.
- Q Then, what did you do after that? A How is that?
- Q What did you do after that, after you spent your six bits?
- A Well, I went down to the street car and was going over home -- I took a street car and went home.
- Q How long did you stay in the district? A I stayed there one night and one day. I got over there in the afternoon and stayed there over night in the district and left the next evening about dark.
- Q Anything done to persuade you to leave? A Yes sir.
- Q What did they do? A Well, there was the citizens and the miners there in the country asked me to leave; they came after me and told me to get out of the camp, or wanted to take me out with them.
- Q Speak to you politely, did they? A Well, a fellow named Robinson asked me what my name was, and I said, "You know what my name is, what do you ask for;" and he said, "We want you."



and I asked him if he was an officer, and he said, no, and I said, "Have you got any papers;" and he said, "It don't make any difference what we have," he says, "whether we have or not." I said, "Well, it makes a difference to me;" and he said, "We ain't consulting you."

MR. HAWLEY: We object to this.

Q Did they drive you out? A How is that?

Q Were you driven out? A Yes sir, I was.

Q Did you go away on the train? A I went away on a freight train.

Q On a freight? A Yes sir.

THE COURT: I will state that if very much of this detail is objected to the Court will sustain the objection.

MR. BARKER: We will try not to put in very much of this detail from this time on.

Q Where did you go to there? A I went to Colorado Springs from there.

Q And then where? A To Denver.

Q When did you get to Denver? A I got to Denver the following morning after I left Independence, or the following day rather.

Q About what date was that? A It was somewhere between the 1st of September and Labor Day -- I believe it was between that and Labor Day; I don't remember just what day that was.

Q Labor Day is in the first week in September? A Some first day, I forget what day it is.

Q The first Monday in September? A The first Monday in

September, yes sir.

Q And that was the year 1904? A Yes sir.

Q Now, well, you left. Up at Independence, did you know Steve Adams? A Yes sir, I did.

Q Did he belong to the same union that you did, or don't you know? A Well, I am not positive whether he did or not.

Q Where did you live in Denver? A Well, I lived at two or three different places -- I stopped at two or three different places during my stay there.

Q What places do you recall? A I don't remember. --

Q Did you live at Globeville at any time? A No sir, I never did.

Q Did you at any time live at Steve Adams house? A How is that?

Q Did you at any time live at Steve Adams house? A Yes sir, I did, I lived with Steve Adams.

Q How long? A I presume it was somewhere between about three weeks and a month probably; I don't think it would exceed a month.

Q How did that happen? A Well, at the time that I lived with Adams I was sick there in Denver, -- had an abscess in my head and was being treated there, and, well, I was not at that time -- I was not being treated at that time, but Steve Adams came across me on the street and he said, come on and go up home with me, so he and his wife together took care of me and I went up with him.

Q Did they take care of you? A Yes sir, they did.

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Q And you stayed there a month or three weeks? A I did, yes sir.

Q How were you living in those days — on what money?

A On what money?

Q From what source did you get the money yes? A The Maternity allowed us a certain amount of money.

Q You were getting strike benefits, were you? A Yes sir, we were getting strike benefits.

Q Do you remember how much you were getting? A I don't remember whether it was \$3.50 or \$4.50 a week.

Q You mean a week? A A week, yes sir.

Q Did Mrs. Adams draw this for you while you were living there? A Yes sir.

Q Did you see Harry Graham there? A Yes sir, I did.

Q Was he living there at the time? A Not when I first went there.

Q How long was he there when you were there? A I should judge about three weeks — probably two or three weeks.

Q You mean he was there two or three weeks? A Yes, while I was there.

Q How long after you got there before he came? A I should think I was there four or five days or a week; I would not be positive.

Q Did you and he occupy the same <sup>(Room)</sup> place? A Yes sir, we did at one place. *(Had moved.)*

3080 Q How long? A I should judge about two weeks.

Q Was that at this place you speak of? A Ten days or two weeks, - that was not the first place, no sir.

Q Where was it? A It was on Walton street. I forgot the number.

*How was Adams & Co. living poor - very poor - Poor furniture*

Q Did you ever go up to Idaho City to get any powder -- to Idaho Springs to get any powder for any exploit that Harry Orchard was connected with? A No sir, I never did.

Q Did you ever get any powder there? A No sir, I never did.

Q Did you ever know anything about any attempt to assassinate ex-governor Peabody? A No sir, I did not.

Q Did you ever go out on any expedition with Harry Orchard or any one else for that purpose? A No sir, I did not.

Q Or Joe Mahalich? A No sir, I did not know Joe Mahalich.

Q Were you acquainted with Joe Mahalich in those days? A No sir.

Q When did you first see him? A Here in Boise.

Q Did you ever see him before? A If I ever did I don't remember it.

Q Did you ever go out with a livery rig with Joe Mahalich and Harry Orchard in the early morning hours to kill Governor Peabody? A No sir, I was never out with any livery rig while I was in Denver, at no time.

Q Did you ever get any powder of Joe Craig? A No sir, I did not.

Q Did you ever know anybody by the name of Joe Craig? A Yes sir.

*Powder  
+  
Peabody  
assassination*

*Livery*

*Joe  
Craig*

- Q You never got any powder from him? A No sir, I did not.
- Q Did you ever at any place have anything to do with "rehard" or Adams or anyone else in connection with any act of violence or murder? A No sir, I never did.
- Q Or any crime? A No sir.
- Q How long did you stay around Denver? A Well, I was in Denver, -- I went to Denver in September, and I was there for -- I don't know how long, I was there probably about three weeks I guess and then I went from there to Pueblo.
- Q What did you do in Pueblo? A I stopped <sup>there</sup> with a brother in law of mine in Pueblo.
- Q How long? A Probably two or three weeks; I could not be positive, -- two weeks I think.
- Q Where did you go after that? A I came back to Denver.
- Q When did you go to work again? A Well, I went to work --
- Q Where did you get your first job after that? A It was in Idaho Springs, -- no, I worked on the streets in Denver.
- Q On the streets in Denver? A Yes sir, that was the first job I had.
- Q As a street laborer? A Yes sir, driving a team there where they were grading the streets out in east Denver close to the Jewish Synagogue.
- Q How long did you work there? A I worked there during the -- about three days.
- Q Was that for the city or -- A I think it was for the contractors, if I remember right.

Q When did you go to Nevada? A I went to Nevada in February of '95. *05*

Q Been working there ever since? A I have been prospecting. I have not worked for wages a great deal since I have been there.

Q You mean 1905? A Yes sir.

Q You have gone under your own name all the time? A Yes sir.

MR. BARNOW: I guess you may inquire now.

CROSS EXAMINATION

BY MR. BORNH:

Q When did you go to Independence, Mr. Altman, to locate there and become a resident of that country? A Well, I think it was in— along in 1896, I believe, when I went there. I had been there before that, but I moved there into the town there in 1895 there, I think it was.

Q You have been acquainted from 1895 on, in and around Independence have you? A Yes sir.

Q How long did you work there in 1895, and in what mine?

A I worked there part of the time, and was leasing part of the time.

Q Were you a member of the union there? A Yes sir, part of the time.

Q Altman? A Altman, yes sir, 19, Free Coinage.

Q And did you continue to remain in Independence from 1895 on, or did you go away for a time, do I understand? A I was

away from there,-- I was in New Mexico for a while.

Q What years were you in New Mexico? A I think I left there  
in January either of '94 or '95 -- no, in 1895 I left in  
January, and went to New Mexico and was down there something  
like six or seven months.

Q Were you working in the mines down there? A I was prospecting.

Q And did you go back to Independence? A Yes sir.

Q And remained there from that time on? A Yes sir.

Q Working in the mines? A Part of the time, yes sir.

Q What else did you do? A I averted ore there.

Q In what mines did you work principally? A Well, I worked  
in the Mill City quite a long time and I worked on the  
Trachyte.

Q Were you working in the Trachyte at the time Orchard was work-  
ing there? A No sir, I did not know him.

Q What time was it you worked in the Trachyte,-- what year?

A Well, I think it was in 1902 or '03, but I am not positive;  
it was going under a lease at that time.

Q When did you first meet Orchard? A I cannot remember when  
I first met him.

Q Do you remember how or under what circumstances you met him?

A No sir, I don't.

Q What? A No sir, I don't.

Q Do you remember what mine it was? A No sir, I don't.

Q Do you remember whether you met him in a saloon, a mine, or  
where? A No sir, I cannot.

Q Do you remember about the time you met him? A No, I did not know him at all. I don't think I knew him before 1903, but I am not sure of that day.

Q Do you remember who introduced you? No sir.

Q Or how you came to meet him? A No sir, I don't.

Q Well, what incident is the first you remember in connection with your acquaintance with Harry Graham? A The first

acquaintance I remember he came to me and asked me if I wanted to go to work, and I told him I did.

How, where was that? A That was, I am not sure whether it was on the Trachyte or the Deadwood; it was a lease run for a fellow named Perkins, Charlie Perkins.

Q Charlie Perkins? A Yes sir.

Q Was he working there? A He was not working there days, he was running the property and was on the night shift.

Q Did he go to work with you? A Yes sir.

Q And Graham and yourself went to work together? A Yes sir.

Q That is the first recollection you have of Graham? A No, I had seen him prior to that, but that is the first time I became acquainted with him to know the man.

Q How long did you work together there? A We worked two shifts,-- I think it was two shifts.

Q Then where did you go to work? A We quit that job and later on I went to work on the Trachyte.

Q Where did Graham go to work? A I don't know.



- Q Did you know him as Graham? A That was his name, yes sir.
- Q Did you continue to keep up your acquaintance with him and know where he was? A No sir.
- Q Did you see him occasionally? A I might have, but I have no recollection of seeing him.
- Q When was the next time you saw him and what was the incident?
- A The next time I remember of seeing him, I went into the saloon business, and Graham was in the saloon.
- Q Where was your saloon? A The saloon was in Independence.
- Q Whereabouts in the city, near what other places of business, so we can locate it? A Well, it was just below the next door to the Diamond saloon.

MR. BARROW: Can you locate it from that?

- Q And just above another saloon, I suppose? A I don't believe there was another there, no.
- Q Was there any other place of business there? A A man by the name of Wittenberger had a store across the street -- not right across but up the street a little ways and across from that.
- Q How long did you run that saloon? A Well, I went into that saloon about -- I think it was in January some time.
- Q What year? A 1903.
- Q 1903, or 1904? A 1903.
- Q And how long did you run it? A I was there, -- I ran it until June, 1904.
- Q What time in June? A The 6th.

Q June 6th? A Yes sir.

Q You were in a saloon -- were you the owner of the saloon or a lessee? A I owned a half interest in the business.

Q And were you tending bar yourself? A I did, yes sir.

Q What hours of the day did you tend bar? A I tended bar in the daytime and at night time; we changed shifts.

Q Did Orchard come about your saloon a good deal? A Not a great many times, no sir.

Q In whose company did he come?

MR. DARROW: Senator, I think he has got the year wrong, of the time he went there.

Q Are there any corrections in reference to the date, the time he went there?

MR. DARROW: When he went into the saloon, I refer to.

Q When did you go into the saloon, Mr. Alkman? A Into the saloon business?

Q Yes, what year? A I think it was in 1903.

Q In January? A I believe it was in January, -- no, in December.

Q December, 1903? A Yes.

Q Then you continued to run the saloon until June 6th, 1904?

A Yes sir.

Q And you were a part owner? A Yes, I owned a half interest, yes sir.

Q And who was your partner? A I owned a third interest, I should say; Henry Drach and Jule Drach.

- Q Did Crawford come there occasionally? A Yes sir, once in a while.
- Q And in whose company did he come generally? A I cannot remember whether -- I can't recollect that I ever saw him come in with anybody.
- Q And do you remember about how often he came? A No, I don't remember ever seeing him in the saloon more than three or four times.
- Q And about what time was it that you saw him in the saloon those three or four times? A I remember him there in the evening, about eight or nine o'clock, I judge, and probably ten o'clock.
- Q And what time of year, along in May or June, 1904, or earlier? A No, it was along about, as near as I can remember, in the winter time some time.
- Q And you don't remember who came with him? A No sir.
- Q Did he play cards in your saloon? A Yes sir, he did.
- Q And who did he play with? A Well, I don't remember who were playing there; there were quite a number of fellows that played quite often.
- Q You don't remember any of his associates at all? A No sir.
- Q Do you remember what he was doing about that time? A No sir.
- Q Did you know Bill Basterly about that time? A Yes sir.
- Q How long had you known Basterly? A Well, I had known him I believe about -- the time I don't remember, the time he came in there; I knew him when he was secretary there, but I don't

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know just when that was.

Q He was secretary of your union? A I think he was, at Albion.

Q And W. P. Davis was President? A Yes sir.

Q And Sherman Parker was Secretary? A Yes sir.

Q And was Orchard a member of this union? A Well, sir, I could not say whether he was or not.

Q Was Steve Adams a member of this union? A I could not say.

Q You don't remember? A No sir, I don't.

Q Well, were you tending bar on the 6th of June-- on the 5th of June, 1904? A Yes sir, I think I was.

Q Did you tend bar during the day at that time or during the night? A I tended during the day.

Q You were running a saloon at that time? A Yes sir.

Q You did not see Orchard there, did you? A I don't remember that I did.

Q Could you say you did not? A I don't know --

Q Could you say he was not around that saloon? A No, I could not say that he was not, there were so many fellows around there, of the boys.

Q Did you know where Bill Easterly lived at this particular time, where his residence was? A No, I do not.

Q Did you know where Steve Adams lived? A I don't believe I did.

Q And were you never at his house? A I don't believe I ever was; I don't remember it. I cannot recollect any time I ever was in his house.

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Q Do you know how far he lived from the Independence depot?

A No sir, I don't.

Q How far was your saloon from the Independence depot? A Well, it is somewhere between a quarter and half a mile I should judge.

Q Did you go to the depot the next morning? A Yes sir.

Q What time did you get there? A I should judge it would be about nine or ten o'clock.

Q Were there a great many people there at the time? A Quite a good many, yes.

Q How many would you say? A I would not know; I would judge there was a hundred people.

Q It was about -- immediately about the depot? A Well, around the track there, around the depot.

Q Did you see any signs of the explosion other than the dead?

A I saw the depot.

Q And did you see any wire there? A No sir.

Q Nor no round of a chair? A No sir.

Q Did not hear anything about it? A No sir, not at that time.

Q Didn't hear anything said about it? A I heard them talk about it, yes sir.

Q Were the people crowding about the depot, going here and there? A Yes sir, they were.

Q All over the ground there? A Yes sir.

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Q Crowding about? A Yes sir.

- Q And that was about what time in the morning? A I judge somewhere between eight and ten o'clock.
- Q Did you make any investigation yourself as to how the depot was probably blown up? A No sir.
- Q Who was there with you? A I don't remember who I went up there with.
- Q Did you see Steve Adams that day? A No sir.
- Q Did you see him again soon? A No sir.
- Q Did you hear any inquiries for him about there? A I don't remember now that I did.
- Q Did you hear any inquiries for Orchard? A No sir.
- Q You don't remember anything of it? A No sir, I don't.
- Q Now, some time after the Independence depot explosion you went to Denver to live? A Yes sir.
- Q And when you arrived in Denver you came in contact again with Steve Adams and Orchard? A Well, I met Steve Adams, though quite a long time after I had been in Denver quite a while.
- Q You did finally go to live with Steve Adams after you got to Denver? A Yes sir.
- Q And you met Orchard there? A Yes sir.
- Q And Adams and Orchard and yourself were all living there together in Denver? A Yes sir.
- Q At what time? A Well, I think this was-- I would not be positive about the date of that, but it seems to me it was along in December.
- Q Or 1904? A I believe it was, yes sir.

Q And where were you living at the time you first lived together in Denver? A I believe it was on Clarkson street, I am not positive.

Q Were you all living there together? A Not at first.

Q But you all finally got together? A Yes sir.

Q And lived together? A Yes sir.

Q For how long? A I should judge about three weeks probably.

Q How did you put in your time about the city at that time?

A Well, at that time I was doctoring at -- down on 14th street at a dental college.

Q Did you go down town at all with Harry Crawford and Steve Adams?

A I can't remember that I ever went down town with Crawford.

Q That name was Adams passing under at that time? A Well, I don't know, but I believe it was Adams.

Q Don't you believe it was Steve Dixon? A I don't remember. I think I called him Adams all the time.

Q Did you know he was passing under the name of Steve Dixon?

A He told me he had went by the name of Dixon.

Q What name was Crawford passing under at that time?

A Dixon.

Q Tom Houser? A Yes sir.

Q Did you find out why he had changed his name to Houser? A He said he had been away and he thought that they was looking for him.

*Adams  
changed  
of  
Name.*

Q Looking for him for what? A I don't know. I supposed just

bounded-- that was just the same as with the rest of the union men.

Q You did not change your mind? A No sir.

Q He told you he thought they were looking for him? A No sir.

Q He told you he thought they were looking for him and he had changed his name because the rest of the union men had?

A No sir, he did not tell me that, that is just a supposition of mine.

Q Did you talk with him about why he changed his name? A I don't remember that I did.

Q You and Harry Orchard lived there together for several weeks and he was passing under the name of Hagen and you did not make any inquiries as to why it was? A We didn't have talked about it, but I have no recollection of it at all.

Q Do you remember why it was he was passing under an assumed name? A No, I don't know.

Q You cannot recollect any conversation you had about it? A No sir.

Q You say you think you called Adam Adams while he was there? A I think I did, yes sir; I think I called him Steve. I don't know as I had any occasion to call him Adams.

Q Don't you remember that Orchard was passing under the name of Hagen? A Yes sir.

Q And Adams was passing under the name of Dixon at that time?

A I don't know that he was, no sir. I could not swear to that positively that he was.



- Q If he had been you would likely have known it, wouldn't you?
- A No, I would not if he had passed under the name of Dixon before that. I know him in Independence.
- Q Did you ever know him when he was passing under the name of Dixon? A I don't remember that I did.
- Q Did you ever hear of that fact before I suggested it to you here on the witness stand? A If I ever did I don't remember it.
- Q Never heard that before? A I don't remember that I did, lived
- Q You said in the first place -- you said at your first place of residence about two or three weeks, and then where did you move to -- what is the number? A It was on Welton street.
- Q Do you remember the number? A No sir, I don't.
- Q Did you have room a of a boarding house or did you have rooms alone? A We had three rooms.
- Q Did you rent rooms? A They rented three rooms.
- Q Did you know who owned the building? A No sir, I don't.
- Q Who rented the rooms for you? A I think either Steve Adams or Mrs. Adams got them.
- Q Did Orchard and yourself continue to room together? A Yes sir.
- Q He as Tom Hagan? A Yes sir.
- Q And you as Bill Adams? A Yes sir.
- Q And how long did you stay there? A About two weeks.
- Q Did you get arrested there? A Yes sir.
- Q How soon did Adams and Orchard move after you got arrested?

A I don't know.

Q Pretty soon afterwards, wasn't it? A I don't know.

Q Did you continue to live with them any more? A I left there.

Q You did not go back to live at the same place that they did any more, did you? A I think I did for a couple or three days.

Q Did you continue to live --- or, did they continue to live at the same place? A They were when I saw them.

Q How soon was it after you were arrested before they left there? A I don't remember, but it was a very short time.

Q Now, don't you know they moved very shortly after that?

A No sir, I don't.

Q Did you know that they went to Globeville to live? A No sir.

Q You left them at the place where you had been residing with them? A I left them at Walton street.

Q Did you know anything about --- did you have a talk with Adams after you were arrested about their moving? A About their moving?

Q Did you have a talk with Adams about their moving after your arrest? A I don't remember that I did, no sir.

Q Didn't you have a talk with Orchard and Adams and tell them that it would be better to get out of there? A No sir.

Q You were arrested for vagrancy, wasn't you? A I don't know what they arrested me for. I was arrested--- I know they arrested-

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- Q Yes, and they questioned you? A Yes, they questioned me and I told them where I was living and offered to go and show them.
- Q You told them where you was living and offered to go with the officials and go and show them? A Yes sir.
- Q And when you got back out there you told Oswald and Adams that you had told them that, didn't you? A I don't remember what I told them; I suppose I told them what they had asked me.
- Q And didn't they say, it is time for us to get out of here then? A No sir.
- Q And that they would locate us now, they will relocate us now? A They did not, no sir.
- Q But you did tell them that you had been arrested for vagrancy and had told the officers where you had lived? A I went back there as soon as I got out of jail.
- Q And you told Adams and Oswald that you had told the officers where you were living and offered to go and show the authorities where you lived? A I don't remember that I did, but I suppose I did.
- Q How soon after that did you leave Detroit? A It was very shortly after that.
- Q Two or three days? A I think so.
- Q Where did you go? A I went to Independence.
- Q How long did you remain at Independence? A I don't remember just how long, but I think it was two or three weeks.

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Q Were you at headquarters at any time while you were in

Denver? A Yes sir.

Q How often were you at headquarters? A Well, I suppose I was there quite often,-- not every other day I guess anyway.

Q And who went with you when you went to headquarters generally? A Well, I would usually go down town and headquarters was kind of a hold out for all the boys from Independence at that time and I would go there as a natural resort.

Q Did anybody go with you to headquarters? A There probably was.

Q Adams never went down with you, did he? A I don't remember he might have, but I don't remember.

Q Orchard never went to headquarters with you did he? A No sir, I don't think he ever did.

Q Neither Orchard nor Adams ever went to headquarters with you? A I would not say in regard to Adams, but I don't think Orchard ever did.

Q Do you remember that Adams ever did? A No sir, I don't remember any time that he was with me, although he might have went.

Q Did Adams ever go down town with you? A Yes sir.

Q Did Orchard ever go down town with you? A I don't remember that he ever did.

Q You remember that he did not, don't you? A No, I don't.

3097 Q You do remember that Adams went down with you? A Yes, I remember of being with Adams. I don't know whether he went

town with me, but I remember being down there with Adams.

Q And you feel quite certain that Graham did not get A I don't think he ever did.

Q How long did you say you remained in Independence when you went back? A I should think it was two or three weeks.

Q And then where did you go? A I went to Tonopah, Nevada.

Q Directly from Independence? A I went to Denver first.

Q And from Denver to Tonopah? A Yes sir.

Q And you have resided there ever since? A No, I have not lived in Tonopah all the time, but I have been in Nevada ever since.

Q Were you better acquainted with Adams than with Graham?

A Yes sir.

Q And was about with him a great deal more? A I was with him more, yes.

Q Were you on more intimate terms,-- more friendly terms with

Adams than with Graham? A I believe I was, yes.

Q Adams and you were pretty good friends? A I considered myself a friend of Adams after his taking care of me the way he did. I would not consider myself more if I did not.

Q And you had known such other sinners as were members of Adams No. 127? A I could not say he was a member of that union.

Q You had known him since that time in 1857? A It was about that time I think.

Q And you have known Graham about the same length of time?

A I have known Adams quite a while longer than I have Graham.

Q You had known Graham about the same length of time -- you got acquainted with both of them in 1903 didn't you? A I have known Adams better.

Q Did you know Adams in 1902? A I don't remember; I might have.

Q You cannot tell me when you first got acquainted with Adams?

A No sir, I cannot.

Q Did you know Gray Barnes? A Yes sir.

Q When did you first get acquainted with Gray Barnes? A I

cannot tell you the year it was, but it was -- it seems to me it was in -- I got acquainted with Gray Barnes about the time that the Hull City company took charge of that property from the lawyers.

Q About what year was that? A I cannot tell you -- I cannot give you any dates about that at all.

Q Did you introduce Barnes to Graham? A I don't remember that I did.

Q Or Graham to Barnes? A I don't remember that I did.

Q Were you with them when they were together? A They might have been together there in the saloon, I would not be positive.

Q Have you any recollection of seeing them together at all?

A No sir, I have not.

Q Did Barnes frequent your saloon? A Occasionally he would come in there, yes sir.

- Q Did you ever see Barnes and Cochran there together? A I cannot remember that I saw them together, no sir; I would not be positive on that.
- Q You were not running that saloon at the time of the Vandenberg explosion? A No sir.
- Q Where were you working at that time? A On the Breakwater.
- Q How far is the Breakwater from the Vandenberg? A I judge it is probably half a mile.
- Q How long had you been working at the Breakwater? A Well, I had not been working there very long -- probably 3 or 4 days, because I did not work there but a very short time anyway.
- Q Do you know where Cochran was at that time? A No sir.
- Q Don't have any recollection of seeing him there at all about that time? A No sir, I do not.
- Q Who is Joe Craig? A Joe Craig was a miner.
- Q Where did he work? A Well sir, I could not say.
- Q Did you see him in the Cripple Creek district at all? A Yes sir.
- Q Do you know at what mines he worked at? A No sir, I don't.
- Q What years did Craig work in that Cripple Creek district? A Well, he was -- I don't remember what year I first met Joe Craig; I don't remember exactly the first year.
- Q When was it you became well acquainted with him? A Well, it was after, I think, I went into the saloon that I became very well acquainted with him.

Q Was Steve Adams in the habit of visiting your saloon too?

A Yes sir.

Q Did you know where Kennedy lived in Denver? A No sir, I do not, I never was out there at all, no sir.

Q Did you know where Thomas Bell lived? A No sir.

Q Never was out in that neighborhood? A Well, I was out in there; I don't know whether I was in his neighborhood or not, but I was over in Denver.

Q You was out there, were you going to see? A I was out in the east part of Denver there working.

Q Was there where Bell lived? A I don't know, I am sure; but I was over the town considerable.

Q Was you ever over where Pambly lived? A I don't know where he lived.

Q Do you know where Goddard lived? A No sir.

Q Or where Gilbert lived? A No sir.

Q Know nothing about their residence? A I know nothing about their residence whatsoever.

Q Who was the distributing officer when those benefits were being paid out at the time you were in Denver? A I cannot just remember who I got my relief from.

Q Did you ever get any relief from Mr. Pattison, or through him? A I can't remember that I did, no sir.

Q Don't you remember that Mr. Pattison was the distributing agent -- the distributing officer? A No sir, I got mine from headquarters.



*Admits  
he is  
acquainted  
with  
Peterson*

Q Was you ever over at his store? A Yes sir.

Q Been there often? A Quite a good many times.

Q Pretty well acquainted with him? A Fairly well acquainted with him, yes sir.

Q Was you ever there with Adams? A I cannot remember now that I was.

Q Was you ever there with Crockett? A No sir, I never was.

Q You remember that, do you? A Yes sir.

MR. BORAH: That is all.

RE-DIRECT EXAMINATION

BY MR. BARNETT

Q Mr. Allison, after you came down to Denver, after the Independence explosion, was there a good many of the boys crowded headquarters from day to day? A Yes sir.

Q Did they have a room there for them? A I believe there was a place where they would meet there, they had a room set apart for them, if I remember right.

Q Do you remember what part of the town were the best houses and what part the poorest? A In Denver?

Q What part of the city of Denver? A Yes.

Q Well, which side? A I think it is on the east side, the best houses that I saw.

Q The east side was where the bankers and lawyers and those people lived?

Q MR. DORR: That must be where Mr. Richardson lived?

A I think so, yes.

Q And the west side was where the fellows that worked on the street and the others lived? A I suppose so.

Q It was on the east side where you were working on the street? A Yes sir.

Q And you slept on the west side? A No, when I was working there I was sleeping there --- well, I was sleeping in a tent there.

Q Where you worked? A Yes, where I was working. I remember I slept with a friend of mine there one night when I got some mail.

Q Now, you told the Senator that you were arrested once in Denver? A Yes sir.

Q What did they arrest you for in Denver? A I don't know.

Q Don't know? A No sir.

Q Ever have a trial? A Why, they took me before the police judge and asked me some questions.

Q Well, what did they do to you that time? A He turned me loose.

Q Didn't even pay six bits that time? A No sir, they didn't charge me anything for that.

MR. DORR: That is all.

## RE-CROSS EXAMINATION

BY MR. HOWARD

Q You say the boys generally gathered around headquarters during this time? A They used to meet there, yes sir.

Q All of them that were in Denver? A I don't know that all of them did, no sir. I used to go there myself.

Q Did you see Alvin there very much? A I cannot say that I did.

Q He was not there very much? A I would not be positive about that.

Q You did not see Ordway there at all, did you? A I don't remember that I did, no sir.

MR. HOWARD: That is all.

MR. DANNON: Do you know the names of a portion of those you saw around there?

THE WITNESS: I could mention some of them, yes sir.

MR. DANNON: That is all.

THOMAS SCOTTS, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDSON:

- Q What is your name? A Thomas C. Foster.
- Q What is your age? A I will be 49 years old the 19th of July.
- Q You reside where? A Bisbee, Arizona.
- Q How long have you resided there? A Since the 20th of June, 1904, the last time.
- Q What is your occupation? A I am a bartender at the present time.
- Q When had you resided in Bisbee before the 20th of June, 1904? A I left Bisbee, Arizona on the 18th of June, 1901.
- Q To go where? A To Colorado.
- Q What part of Colorado? A I went to the Cripple Creek district.
- Q What business were you then engaged in? A Mining.
- Q What business did you engage in in Cripple Creek? A I was a miner.
- Q To what part of Cripple Creek did you go? A I went to Independence.
- 3105 Q Are you a member of the Western Federation of Miners? A No sir, not now.

- Q Were you at that time? A Yes sir, I was at that time.
- Q What local? A Free Coinage 19 at Altamont.
- Q When did you join Free Coinage 19 or Altamont? A I put in my card from the Butte City local in '95.
- Q To what local did you put it in? A I joined the western Federation of Miners. I belonged to Butte City local until I joined the Federation -- the Western Federation of Miners in 1898 and I put my card in and became a Federation member in 1895.
- Q And you belonged to the Federation until 1899? A No sir, I belonged to the Western Federation of Miners after that.
- Q When did you go to Cripple Creek to reside? A On November 26th, 1894.
- Q 1894? A Yes sir.
- Q In November? A Yes sir.
- Q So you resided there about ten years? A I resided there until July, '99, and I then went to Bisbee, Arizona.
- Q How long did you remain there? A I was in Bisbee, Arizona, until June 18, 1901.
- Q Then you were there ten years, with the exception of the two years that you were in Arizona -- in Bisbee? A Yes sir.
- Q Were you engaged in mining all that time? A No sir, in 1899 before I went to Bisbee I worked in Cripple Creek for ten days, tending bar.
- Q Were you arrested for any offense, or anything during the time you lived in the Cripple Creek District? A They took

no out of the Union hall with a lot of others -- the military.

Q When was that? A In October, 1908.

Q October, 1908? A Yes sir.

Q What event had occurred which caused you to be so taken?

A Well, that was at a regular meeting.

Q Had there been any event in the district up to that time?

A Not that I know of.

Q What was done with you when you were taken out of the Union

Hall in October, 1908? A The cavalry and infantry took us to what was known as military headquarters at Goldfield and put us in the bull pen there.

Q How many of you were so taken? A Well, there was -- I would not be positive; perhaps six or eight of us were taken that night out of the hall. I don't know the exact number.

Q That was you charged with? A They did not make no charge against us.

Q No charge against you? A No sir, none whatever that I know of.

Q What was done with you? A We were kept there 18 days and then myself and Patrick Millaney were told to get our effects and go to the guard line.

Q You were told to get your effects and go to the guard line?

A Yes sir.

Q You were told to go to the guard line, and where was that?

A Yes sir, that is outside of where they had the guard.

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Q How large a place was enclosed by the guard lines? A Well, I don't --

MR. BORAH: We object to this as immaterial.

MR. RICHARDSON: It is a part of the Cripple Creek situation and part of this man's experience.

THE COURT: Do you expect to show that this man was departed?

MR. RICHARDSON: Yes sir, I do, and that he had some other experiences besides being deported.

MR. BORAH: We object to that.

THE COURT: I will permit him to answer the question.

Q How large an area was enclosed in that guard line? A I suppose it was a quarter of a mile to the outside guard line from where we were there in the ball pen.

Q Were you driven out of the district at that time? A No sir.

Q What did you do after you got outside the guard line? A The first thing I did was to go home.

Q Did anything happen to you after that? A There did later on, that evening.

Q What? A Well, I think I know what you refer to.

Q When was it? A In November.

Q What part of November? A I don't know the exact date, but I think it was -- I think I gave myself up to the authorities about the 16th of November.

8108 Q What event had occurred that attracted some attention at that

that? A I was told that I was wanted for wrecking a train on the Florence and Cripple Creek railroad.

Q Who told you that? A Well, I was sent word by a man named O'Connell.

Q Had you wrecked any trains on the Florence & Cripple Creek railroad? A No sir.

Q Had you attempted to wreck any trains? A No sir.

Q Had you anything to do with anything that looked toward train wrecking with any one? A No sir.

Q When you found out that you were wanted for attempting to wreck a train or at least this word was sent to you, what was the alternative that was given you, if there was an alternative? A Do you want me to state what occurred?

Q Yes sir. A The military came to my house. I was working for Wilhelm and Calaverly on the Wilson lease on Bull Hill, and I ate dinner there at home, and my wife and Mrs. W. P. Davis was at the house, and about five minutes after I left home the cavalry surrounded my house, -- about twenty or three I should judge.



Q. And where had you gone to? A. I had went back to work.

Q. Up to the place where you were working? A. Yes sir.

Q. Now for every was that? A. I should judge it was perhaps three hundred yards from where I lived.

Q. Was it at that time that you got the word that you were wanted?

A. Yes sir, The Wilhelm told me that the cavalry had my house surrounded and I went out -- I hadn't went down underground and I went out and looked, and he told me, he says, "Go underground, Foster, and stay there and we will let you know if we can find out what they want you for."

Q. Well, was any word brought to you as to what you was wanted for? A. Yes sir.

Q. What did you find out that it was that you were wanted for?

A. For an ~~underground~~ attempted wreck on the Florence and Cripple Creek railroad.

Q. Was there any alternative given you, when that statement was made to you, as to what you could do? A. Yes sir.

Q. What was it? A. To leave the country.

MR. HANLEY: We object to this as hearsay, and if it is conceded --

MR. HICKMANSON: It is incidental to what he did, that is all.

THE COURT: The objection is overruled.

A. I was told that I could either leave the country or give myself up to either the civil or the military authorities, whichever I saw fit.

Q. What did you do, sir? A. I gave myself up to the civil

3110 authorities.

- Q. Where did you go to do that? A. To Crimble Creek.
- Q. What was done with you when you gave yourself up? A. I went to the sheriff's office and I didn't find anybody there, and I went to the jail.
- Q. When you got to the jail what happened to you? A. Well, I told the jailer -- he didn't know me -- and I told him that I saw they wanted me or next week that they wanted me and I told him he would look me up if he wanted to do so, and he did so.
- Q. Put you in jail? A. Yes sir.
- Q. How long did you stay in that jail, Mr. Porter? A. I was there from I think -- I am not positive as to the date now, but I think it was the 18th of November, and I believe that they gave us bonds on the 3rd or 4th of February.
- Q. Did you become acquainted with anybody during the time that you were in that jail? A. Yes sir, I had several acquaintances in there.
- Q. Well, do you know a man named Sterling? A. Yes sir.
- Q. Do you know another one named Best? A. Yes sir.
- Q. Who are they? A. Well, the acquaintance that I had with those men -- Tom Underwood came to the jail and ordered me out between nine and ten o'clock.
- Q. At what time of day? A. At night, we had been locked up, and he told the night jailer that he wanted Porter out of there.
- Q. How long had you been locked up when this occurred?
- A. Well, I think they locked us up at 8:30 in the evening.
- Q. I know, but how long had you been in that jail when that

occurred? A. I had been there -- I think that this was about the middle of December, I should judge, I don't remember the exact date, ~~but~~ I think it was between the 10th and 15th of December.

Q. You had been there somewhere in the neighborhood of twenty-

five or thirty days? A. Yes sir, about that.

Q. Had you had any trial or any preliminary? A. No sir.

Q. Or anything of that kind? A. No sir.

Q. Been brought before any court? A. No sir.

Q. When Tom Underwood came and told you this what did they do with you? A. John Baker told me to get up and dress, that I was wanted on the outside, the deputy sheriff wanted me.

Q. Tell the jury what happened to you when you got up and dressed?

A. I got up and went out and I had an overcoat in the jailer's office and I asked them if I could wear my overcoat out.

Q. You told me I could and I put my overcoat on and I went with him, he walked down from the corner of A Avenue and Bennett,

that is the corner the county jail is on, to the corner of

First and Bennett Avenue and he met D. C. Scott, that is, he

and I met D. C. Scott on the corner, and they passed the time of the evening, and D. C. Scott turned around and walked on

one side of me and Tom Underwood on the other and they took

me down as far as the Brunswick saloon, and Scott asked Underwood

he said, "It is pretty cold tonight", he said, "Have you got

the prison?" Underwood said that he had, and they stopped

outside and I went with them and they wanted me to take a drink

and I told them I didn't want anything to drink, so they took

me from there to the district attorney's office, Bradford,

and Mr. Cole was the resident district attorney, and he was there. There was no lights in the building when we got there, they were mainly candles --

8. For what reason, if you know? A. I don't know. Mr. Scott stopped to the office, and this was in the rear of the Fairplay-Lamson Building.

9. State whether the rest of the building and the outside of it was lighted up. A. The outside was all lighted up, but the hallway as we went up all was dark, I couldn't see nothing after I got to the top of the stairs, and it was in the rear of the building and we went back there and they were burning candles, and Mr. Scott called Sterling -- called up the National Hotel and Sterling appeared in a few moments.

10. Now what occurred when Sterling and Scott got together with you in that room? A. Well, they told me that McKinney had confessed to the wrecking or the attempting to wreck the Terence & Orypple Creek railroad and implicated me, and told me I might as well confess, that they had positive proof against me, and that any evidence I might have to give before the court that they would tear up like common paper when it came to trial.

11. Which one told you that? A. Mr. Sterling. Then Mr. Scott told me, he said "We had intended to go pretty hard with you, Porter, but we went up on the hill and saw that a nice little family you had" -- and I stopped him and told him that my family wasn't in need of any sympathy from him or anybody else, and he told me, he says, "they will be before you are through

with it, before we are through with you." I told him to follow it up, that the burden of the proof rested with them, if they could find no guilty of a crime that I would stand for it but my family was absolutely innocent and I didn't want them connected with it.

Q What did they say then? A. Mr. Underwood -- or Scott and Sterling took a candle and stepped outside of the door and they came back in after a few moments and they told me to get ready and go, and I got up, and one of 'em step in front and the other behind me and we walked until I could see the light at the head of the stairs, and we walked down, and when we got to the corner -- this building is on the corner -- and we started to go across the street and Underwood said to me, he said, "Well, Foster, you don't need to be afraid to take a drink now, it is all over with," and I believe I said "Whenever I feel like taking a drink I will take one, but when I don't," I said, "Where ain't no lover purchased that will make me take one" --

A. No what will make you take one? A. I said that the lover purchased would make me", -- "they couldn't bring no lover to make me," and they went to Colonel Morris's and took a drink and I took a cigar and they took me so far as far as Bennett, and Scott told Underwood, he said, "I guess, Tom, you can handle him now," and I said, I told him, "I come here around the first place and I know where the place is, I can go back now without either one of you." So Underwood took me to the jail and he told John Baker, he said, "You put him in solitary confinement", he said, "we will try to refresh him

memory," and they put me in solitary confinement for seventeen days.

Q. Describe that solitary confinement. A. Well, they put me in a cell by myself with a blind door on it.

Q. And blind sides and top and bottom? A. No sir, the back side, there was an alley way or a hall going back or out, but every- thing in front was dark, they I reckon it with a --

Q. And you remained there how long? A. Seventeen days.

Q. You were subsequently tried on that charge, were you?

A. Yes sir.

Q. What was the result of the trial? A. We were acquitted, I was.

Q. Did Scott and Sterling both appear at that trial? A. Yes sir, I believe that they did.

Q. As witnesses at the trial? A. Yes sir, I believe they both testified.

Q. Do you know a man named Bedeman? A. Yes sir.

Q. Was he a witness in that trial? A. Yes sir.

Q. Who was he? A. The first time I ever seen him was the night they took us out of the Alhambra Union Hall. He was with us that night.

Q. He testified in that trial, did he? A. Yes sir.

Q. What did he testify to being, if you know? A. A detective.

Q. A detective? A. Yes sir.

Q. And he was on trial with you, was he? A. No sir, he was turned out of the bull pen.

Q. Was there any other charge against Bedeman? A. Not that I know of.

2. When was it that you were discharged from the prison?

A. You mean by the jury?

Q. No, when was you first discharged on bail? A. I wouldn't be positive, but it was the first part of February.

Q. How long was it before you were placed on trial after you got bail? A. Perhaps ten or fifteen days. I think we were placed on trial about the middle of February.

Q. Did you remain in the district after you were discharged by the jury? A. Yes sir.

Q. How long did you remain there? A. Until the 5th of June.

Q. Where were you on the 5th of June? A. On the 5th of June I was working in the cooperative store in Goldfield, Colorado.

Q. That is the Miners' Union store? A. Yes sir.

Q. How long had you been working in that store, Mr. Postery?

A. I went to work on the 5th of April.

Q. And had been working continually, had you? A. Yes sir, two months.

Q. Were you or had you been near Victor at all that day or the day before? A. I went to Victor that afternoon, yes sir.

Q. Of the 5th of June? A. Yes sir.

Q. Had you been there on the 5th of June? A. No sir.

Q. Or the 4th of June? A. No sir.

Q. Both days you were working in the cooperative store at Goldfield? A. Well, the 5th of June was on Monday, and Sunday I was at home. There was no work. Monday morning I went to work.

I quit work at nine o'clock Saturday night.

Q. Tell us about that store at Goldfield, what kind of a store

it was and what it was doing. A. Well, it was a general store,

that is, make and production and some supplies, that is, for immediate use, from my mostly military didn't handle any clothing of any kind.

Q. Who were its customers? A. Everybody, we sold to everybody.

Q. How large a store was it? A. Well, I don't know as to the dimensions of the store. I should judge it was perhaps fifty or sixty feet deep.

Q. How large a stock did you carry? A. Well, a pretty fair stock.

I wouldn't be able to estimate it.

Q. Could you give the value of it in dollars? A. No sir.

Q. Or approximate the value in dollars? A. No sir, I couldn't.

Q. It carried a large stock? A. Yes sir.

Q. How many clerks were there in the store? A. I believe there were four.

Q. How many delivery wagons? A. Three, I think that is, two and a small single wagon.

Q. All of you busy? A. Yes sir, we were busy.

Q. How did you come to leave that store on the 6th of June?

A. Well, the military took possession.

Q. What time in the day did they take possession?

A. I should judge they came there about -- in the first place, they came in and ordered us to close the place about noon, perhaps a few minutes before noon.

Q. Did you close it? A. No sir, not at that time.

Q. How soon was it before it was closed? A. Well, I think it was closed between that time and about four o'clock in the afternoon.

Q. Who by? A. The military.

Q. What was done at the time it was closed? A. Well, there



wouldn't anything come except they just took possession, that is all.

Q. They took possession? A. We looked the place and that is all.

What I know about it.

Q. Where did you go first? A. Well, I had been in Victor and some body I went to Victor about two o'clock I should judge.

Q. What happened in Victor, do you know? A. There was quite a large meeting. There wasn't anything that happened while I was there.

Q. That was after the riot that you got there? A. No sir,

it was before; I came back to Goldfield before the riot.

Q. Before there was any proceeding there? A. Yes sir.

Q. Did you go back to Victor that night, did you not?

A. No sir, I did not.

Q. Where did you go? A. I left the district.

Q. Why? A. Well, because they were talking in all the union men that were there.

Q. And you were a union man, were you? A. Yes sir.

Q. And that was the reason you left the district? A. Yes sir.

Q. How did you get away from the district? A. I walked out.

Q. Where? A. To Canon City, where my wife was sick.

Q. How long had she been down there? A. I think my wife left there the latter part of April; the climate -- the altitude was too high for her.

Q. What time of day was it that you left the Gripple Creek district? A. I should judge it was between twelve and one o'clock when I left there.

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Q. What time was it when you reached Canon City? A. I walked

- all that night and the next day, and I didn't care to get into Canon City -- I got into Canon City the <sup>night</sup> next ~~morning~~, I didn't care to get in there in daylight --
- Q. You got down somewhere near Canon City and waited until night time? A. Yes sir, I stopped at a ranch house and got something to eat. I hadn't had anything to eat since the day before at six o'clock.
- Q. How long had you been without food? A. Since Monday morning at six o'clock when I started to work, I had breakfast, a man by the name of Keating and I were traveling and we had breakfast about six o'clock, and I worked, and I didn't have anything to eat until the next day about two o'clock when I stopped at a ranch house to get something to eat.
- Q. How many miles had you been walking? A. That would be hard to say, Mr. Richardson. I had been on my feet constantly.
- Q. Do you know how far it is? A. Thirty miles over the toll road to Canon City, but I had been around the district considerable that day.
- Q. And you didn't follow the toll road going out?
- A. No sir, I didn't.
- Q. Have you ever been back to the district since that time?
- A. No sir.

MR. RICHARDSON: You may continue.

CROSS EXAMINATION

BY MR. MORAN:

- Q. When did you join the union, Mr. Postoff? A. Well, I joined --
- I was a charter member in the Burke miners' union in 1891.
- Q. Burke, Idaho? A. Burke, Idaho, you sir. That is the first place I ever joined a union.
- Q. In 1891? A. Yes sir.
- Q. Were you there in 1892? A. No sir.
- Q. How long did you live in Barker? A. I went to Burke in April and I left there, I think it was between the 10th and 15th of August, that is, left the Coeur d'Alene.
- Q. Where did you go from there? A. I went back to Butte City.
- Q. Did you continue to reside in Butte for some time?
- A. I stayed in Butte city until the spring of -- the winter of 1892, and I went to Barker, Montana, outside of Great Falls.
- Q. Did you work in the mines in Butte? A. Yes sir.
- Q. When was it you joined Altonen No. 187? A. In the spring, my card was put in there from Butte City local union in the spring of 1895.
- Q. And did you continue to be a member of that union up until the time you left Triple Creek? A. Well, I was -- no sir, I can't say that I would be considered a member. I was in arrears and was all the time that I was in the South. Understand, there was a part of the time I tented bar, so I stated, and I went to Arizona, and while I was in Arizona, why, I didn't pay any dues because there was no union among camp where I was at.
- Q. Was Mr. Davis president of this union, is this the local union that he was president of? A. Yes sir, he was president of the

union when I came back and was reinstated.

Q. And was Sherman Parker secretary? A. No sir, W. D. Zastrowly was secretary at the time.

Q. Sherman Parker was secretary at one time, wasn't he?

A. Yes sir, afterwards.

Q. And was this the union that Orchard belonged to at one time? A. I believe so, yes sir.

Q. And was this the union that Steve Adams belonged to at one time?

A. I never saw Steve Adams there, no sir.

Q. Do you know whether he was a member or not? A. No sir, I do not.

Q. And did you know a fellow by the name of El. Minster?

A. Yes sir, I know El. Minster.

Q. Was he a member of this No. 19? A. I think he was, but I am not positive that I ever saw Minster at a meeting.

Q. Did you know Jim Lafferty? A. Yes sir.

Q. Was he a member of No. 19? A. Yes sir, I believe he was.

Q. Did you know Charley Campbell? A. Yes sir, I know Charley Campbell.

Q. Was he a member of No. 19? A. I wouldn't say that he was. I don't know. I never seen him there.

Q. Did you know Art Dutton? A. No sir, I did not.

Q. Didn't know him? A. No sir.

Q. Now up until what time did you continue to work in the mine as a miner? A. Until the 10th of August, 1903, we went out on strike.

Q. That was the date of the strike? A. Yes sir.

Q. And you had been working in the mine up until that time

continuously, had you? A. Understand, from 1901, when I came back from the South, I worked there from that time, I worked in the mines until we went out on a strike.

Q. August 10th, 1903? A. Yes sir.

Q. And then you went to work in the union store, did you, after the strike? A. No sir.

Q. What did you go to doing? A. We were out on strike for a while and most of the time I was either in jail or in the bull pen, but when time I was out I worked in fair properties like for these men Wilhelm and Goldsworthy, that was a fair lease and I worked there some.

Q. You were not in jail from August 10th until after the military came in there, were you? A. No sir, but they ordered me to take my house off from their property and it took me considerable time for to move it and fix it up. I was working around that.

Q. Well, when did you go to work in the union store? A. I went to work in the union store, if I remember rightly, it was on April 6th, 1904.

Q. Now I believe you were arrested or, rather, gave yourself up on this train wrecking matter about the 18th of November you say? A. Yes sir, about that; I wouldn't swear positively as to the date, but it was about that time I should judge.

Q. There were you upon the night that they claimed the train was wrecked? A. I was at home, that is, I was on the hill the night that they claimed that the train was wrecked, I was drunk in Alton.

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Q. And your defense in that case was that of an alibi, that you

were down there drunk? A. No sir, they changed the date that.

Q. Was Mr. Beatorly one of your witnesses? A. No sir, Bill Johnson and Mr. Murphy were the men that were with me at that time.

Q. Didn't Mr. Beatorly testify in that case? A. I believe perhaps he did, you sir. He went over to Cripple Creek when I gave myself up.

Q. Didn't he testify that he helped to take you home, that you were drunk? A. I don't know that he did; he might have.

Q. You don't remember that? A. No sir. He might have testified to that effect, and he might have done so.

Q. Who were the witnesses that testified that they were with you and took you home drunk that night? A. Bill Johnson and George Murphy.

Q. Anybody else? A. Not that I know of.

Q. Don't you remember Bill Beatorly's testimony? A. I don't remember that he testified that he took me home; he might have.

Q. Were you so drunk that you didn't know who took you home?

A. No, I don't know that either.

Q. Well, did he take you home? A. Not that I remember of.

Q. You don't remember anything about his being there? A. He might have been there but I don't remember it.

Q. If he had been there you would have remembered it, wouldn't you? A. I might and I might not.

Q. You knew Bill Beatorly well? A. I know him, you sir, not very well; I know him.

Q. He was secretary of your union, had been, hadn't he?

A. Had been, you sir, but I didn't attend very many meetings

while he was secretary of the union.

Q. You never him well enough to know him when you saw him?

A. I knew him to see him.

Q. Do you say he was not with you on that night? A. He might have been. Well, I wouldn't say that he was not. I know

George Murphy and Bill Johnson was with me.

Q. And you don't remember about Mastery testifying in that case?

A. He might have testified in it.

Q. Have you any recollection about it? A. No sir, I haven't.

Q. You don't recollect then that he was one that testified that you were down at the saloon drunk and that he took you home? A. No, I can't say that I do.

Q. Are those the only two witnesses, Johnson and the other party, the only ones that you can remember having testified?

A. I don't know. There might have been more. I don't know that there was. I know that they testified. I know that they were with me at the time. There were several people on the hill at the time.

MR. PROSECUTOR: A little louder.

THE WITNESS: There were several people there on the

hill at the time. I don't know how many people were there.

I think that there was two that walked home with me.

Q. Whose saloon were you in? A. We were in two or three saloons.

Q. The time they started to take you home? A. Tom Cole's saloon.

Q. And you don't remember of Mastery being there at all?

A. No. There was three saloons on the hill, Gougen and Bennett

and Mr. Cole and Mr. McGrawley.

- Q. Do you remember of seeing Bill Hesterly that night at all?  
A. Ma sir, I don't remember of seeing him.  
Q. Have no recollection of it? A. Not think know of, no sir.  
Q. Is it your best recollection that he was not there?  
A. That is the best recollection I have ~~now~~ got.  
Q. That he was not there at all with you? A. He might have been.  
He might have been in the saloon. I don't say he wasn't  
in the saloon.  
Q. I say with you. A. Well, he might have been in the saloon  
with me and I wouldn't know anything about it. There was  
plenty of people there. I don't know all the people that was  
in the saloon. I know that George Murphy and Bill Johnson  
went home with me because Mr. Murphy lived in the same yard  
that I did and Bill Johnson lived just beyond about a hundred  
yards in the same direction.  
Q. I want to get at what you know about Hesterly being there.  
A. I don't know that he was; he might have been.  
Q. Is it your best recollection that he was not there?  
A. I don't know anything about it. He might have been and I not  
know it.  
Q. Do you recollect his going home with you? A. No sir.  
Q. Do you say that he didn't? A. I don't know. I don't think  
that he did.  
Q. When you went to the district attorney's office who was there  
besides Sterling, Scott and yourself? A. Tom Underwood and  
the assistant district attorney, Cole. I don't know what his  
initials are.

- Q. Did the conversation of which you spoke all take place in the



presence of the district attorney A. Yes sir, it did --  
the assistant district attorney. Mr. Crowbridge was the  
district attorney, Galle was the assistant district attorney.

Q. And it was all there in the presence of the district attorney?

A. Yes sir.

Q. What was the date of the <sup>trial</sup> Mr. Foster A. Well, I wouldn't  
be positive as to the date the trial started. I think it  
was about the middle of February that the trial started.  
I don't know the exact date.

Q. Who defended you? A. Harold H. Hawkins of Denver and P. J.  
Hauge of Cripple Creek.

Q. Western Federation attorney? A. Well, now, I couldn't state  
as to that. The Western Federation employed them to defend  
us.

Q. Does Hauge live in Cripple Creek now? A. I don't know, I  
haven't been back there.

Q. You didn't employ him? A. Sir?

Q. You didn't employ him at that time? A. I didn't have no  
choice to employ anybody.

Q. Well, you didn't employ him? A. No sir.

MR. PERINI: That is all.

RE-DIRECT EXAMINATION

BY MR. REICHENBACH:

Q. To one of the member's questions you said that when they  
found out about your witnesses they changed sides on you?  
That do you mean by that, Mr. Foster A. Well, I told the  
detectives that night before the assistant district attorney

that I was drunk on the hill on the night that they accused me of attempting to wreck this train and then they retaken the date.

Q. And changed the date? A. Of the wrecking of the train.

Q. Of the wrecking of the train to some other day? A. Yes sir.

MR. RICHMOND: That is all.

RE-CROSS EXAMINATION

BY MR. RICHMOND:

Q. Well, you mentioned drunk? A. What?

Q. Your defense continued to be that you were drunk down at the wagon, didn't it? A. I was drunk on that night but not after that night; I was home.

Q. Well, but you told them there at the district attorney's office that the night that they said the train was wrecked you were down there drunk? A. Yes sir.

Q. And noted that during the fact they changed the date you were still depending upon your proof that you were down there drunk, and proved that fact, didn't you, that night? A. No sir, I was on the hill drunk on the night ~~before~~ that they accused me of doing this, and when they found out that I had proof that I was there, they changed the date of the train wrecking.

Q. But nevertheless you proved in this trial that you were drunk on the night that they were trying you for, having participated at the wrecking of the train? A. I certainly did because I was drunk.

Q. Well, they couldn't change the date for the wrecking any other than you could change the date you were drunk, could

they? A. I didn't try to change it. As soon as they asked me what I was doing on that night I told them I was drinking and that they changed the wording of the train.

Q. Nevertheless, your defense was you was drunk the night of the train wrecking? A. I didn't know what they were going to ask me about until they took me up there. They kidnaped me out of the jail between 12 o'clock and 1 o'clock at night without my attorney knowing about them taking me out of there.

Q. But nevertheless when you came to your proof you proved you

were drunk? A. I certainly was drunk on the bill that night.

Q. And you proved it by Bill Hartley and other? A. No sir, I didn't say I proved it by Hartley. I proved it by Bill Johnson and George Murphy, the men that went home with me that night.

Q. Don't you know that you proved it also by Bill Hartley?

A. He might have been with me. I don't know whether he was or not. I wouldn't swear positive whether he was there or not.

Q. If Bill Hartley did swear you was down there drunk you don't know anything about it? A. There was lots of people that was there, as I told you before. I don't know how many people was in there unless while I was around there that evening.

Q. And you don't know whether Bill Hartley was there with you and you don't know whether he was a witness, do you?

A. I know that Bill Hartley was a witness in the case, but I don't know he was a witness that was around and saw me drunk on that night, while he might have done so, because everybody on the bill knew I was drunk that night in all those places

that I visited that night.

Q. When the case came on for trial where was the change placed, on what date? A. It was placed I believe on Friday night.

Q. And do you remember the date? A. I can't say as to that.

Q. Had the district attorney changed the date back to the time that you said you were drunk? A. Yes sir, they wanted to change it and said that they -- when Mr. McKinney got on the stand to swear against me he said he wouldn't swear positive whether it was Thursday night, Friday or Saturday night, but the information, as near as I can remember, was that we reached the train on Friday night, and I was drunk on the hill on that night.

Q. The change that was made in the date then was made by the doctor's report of the time when you was put on trial on the charge? A. Well, I don't know who changed the date. Somebody did. But I know that I was drunk on that night.

MR. JONES: That is all.

RICHARD HENKLEY, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. RICHMOND:

- Q. What is your name? A. Eugene Hoyley.
- Q. What is your age? A. Fifty-four.
- Q. What is your occupation? A. I have been mining during the last two years mostly.
- Q. What were you doing prior to that time? A. Practicing law.
- Q. How many years have you practiced law, generally? A. Between thirty and thirty-five.
- Q. What official position, if any, have you ever occupied? A. Mayor, superintendent of schools, county attorney, city attorney, attorney general, member of the legislature several times, and some others.
- Q. Member of the legislature and some others you say? A. Some other positions.
- Q. Of what state were you attorney general? A. Colorado.
- Q. And were there other positions all positions which you have held in the state of Colorado? A. Yes sir.
- Q. How long have you been a resident, General, of the state of Colorado? A. Between thirty-five and forty years.
- Q. Are you acquainted with the Cripple Creek district? A. Yes.
- Q. Do you reside there? A. Yes sir.
- Q. How long have you resided there? A. Eight years.
- Q. What have you been doing up to within the last two years in the Cripple Creek district? A. Practicing law.
- Q. Were you pretty generally acquainted with the situation as it

erected there on the 10th day of August of 1903?

A. In a general way.

Q. Now certainly had you been there before that time?

A. Why, I had been there most of the time.

Q. For some years? A. Yes sir.

Q. When did you move into the Cripple Creek district?

A. In July, 1901.

Q. What was the situation in Cripple Creek on the 10th day of August of 1903 as to the operation of the mine and the disposition of the people as to peace, quietude and so forth? A. Everything was quiet and peaceful so far as I know.

Q. What event occurred on that day? A. The 10th of August?

Q. Yes. A. 1903?

Q. Yes sir. A. I think that was the time that the strike --

Q. The time that the strike was called? A. Was called.

Q. Now was there any change in the Cripple Creek district, for peace, quiet and kindness after the 10th day of August, 1903, down to the 4th day of September of the same year?

A. More quiet than it had been previous to the strike.

Q. What was the general condition there at that time with respect to the strike, the general condition, if you know?

A. Well, to understand intelligently the situation during the strike I would have to advert to some antecedent conditions.

Q. You may do that. A. The Cripple Creek strike in 1903 was the second strike that occurred on the part of the mine in that district. There was a strike there in 1894 --

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

Q. You wouldn't go into that strike extensively but just give us the general situation as contained on you own.

MR. BURKE: We object to the matter of 1874. What bearing has that?

MR. RICHARDSON: I don't suppose there is in an extended statement in regard to that, but simply to show the general situation.

THE COURT: That is nearly nine years before.

Q. Cross it out, General, and go on with the rest of it.

A. That is called the mining boom in the Cripple Creek district broke about the year 1900. Prior to that time the Cripple Creek district contained a population variously estimated from fifty to seventy-five thousand.

MR. BURKE: We object to all of this as too important, irrelevant and immaterial.

MR. RICHARDSON: I think you will find, if your Honor please, it is not irrelevant and immaterial. We will show this general situation, it is related immediately to the situation in the Cripple Creek district in 1900, established the reasons why the conditions existed there that did exist in 1900 which made it necessary to call in the military in the opinion of the governor.

MR. BURKE: It couldn't cut any figure, if your Honor please, what the condition was at that time. It is simply a question of whether or not there was any necessity for calling them in at a specific time, and whether it was well or good or bad or indifferent with reference to another time would be

wholly immaterial as to whether there was any necessity for calling them in on September 4th, 1900. It is apparent here this is being brought in here --

THE COURT: What is the objection?

MR. BURKE: That it is immaterial, irrelevant and immaterial, not pertinent to the issue --

THE COURT: No, I want to know what the record shows that you are objecting to.

MR. BURKE: Excuse me, I thought you asked me. (Objection read).

MR. BURKE: What I was objecting to was the statement of the attorney general as to the condition of affairs in 1900.

THE COURT: That statement is already in. I understand you are not objecting to the question that was propounded to this witness. You are objecting to the testimony that is already in?

MR. BURKE: No, I am objecting to his continuing his speech.

MR. BURKE: If your Honor please, we will see whether it is a speech or testimony.

THE COURT: Ask your question, Mr. Alderton.

Q. What gave rise to the conditions which resulted in the calling in of the military on September 4th, 1900?

MR. BURKE: We object to that, if your Honor please, as a conclusion of the witness. How the most that the witness can do is to state a condition which existed. How it is impossible for him to state, other than as a conclusion, as to



what gave rise to this thing. He can state a condition, and does the troops come in. But as to his judgment, as to what gave rise to it, is not material here at all. He can state a condition.

MR. RICHARDSON: All I am asking him for, if your Honor please, is the condition.

THE COURT: The Court will permit the witness to testify to the condition that existed at the time the troops were brought in in September, 1904, and immediately prior thereto. Q. Well, proceed, General. A. I was stating those matters so as to show the impelling cause.

THE COURT: The court has ruled upon that question, General. You answer the question.

MR. RICHARDSON: Note our exception.

A. Read the question.

(Question read).

A. Well, there was an exact organization of the Citizens' Alliance there --

Q. When had that been organized? A. I think it was organized shortly after the strike had been declared.

Q. What caused the organization of the Citizens' Alliance, if you know?

MR. BURDET: We object to that as a conclusion.

MR. RICHARDSON: I am asking for a fact. I am not asking for his opinion about it -- but if he knows.

MR. BURDET: He could not state, if your Honor please, what caused the organization of an organization of which he was not a member. He can only state that it was organized, that

it existed.

MR. RICHMONSON: The logic of that is not easy to be seen, that a man could not state the cause of an organization unless he was a member of the organization. It wouldn't make any difference whether he was a member of the organization or not if he knows the cause which resulted in the organization. Now, if your Honor please, the situation is simply this: ~~These~~ <sup>They have</sup> thought to convey the impression here that because of the acts of the Western Federation of Miners in calling a strike that a condition resulted because of that strike that involved the Western Federation of Miners and those who were members of that organization; that they were the ones who were responsible for the condition which made it necessary in the opinion of the governor to call in the troops and put that district under military control. Now as an answer to that, if your Honor please, we want to show and we can show by this witness and by others that the conditions which resulted in the calling in of the military was entirely another and a different thing outside of the strike and that the strike was simply used as the excuse for it and was not the real cause of it at all.

MR. BOWMAN: Well, if your Honor please, we haven't any objection to their showing a condition of affairs which existed at a certain time ---

MRS. COUNZ: Showing the effect.

MR. BOWMAN: Yes, of showing the fact; but we have had conclusion after conclusion here, and man's idea of this organization or that organization; and we insist that from

this time on and especially with a witness of this kind who knows the difference between a conclusion and a fact, that he state the fact and nothing more, and let the jury form the conclusion as to whether or not it was by reason of the fact that they were brought in.

THE COURT: I understand you are asking for the reasons why this Citizens' Alliance was formed?

MR. RICHARDSON: Yes sir, that is not a conclusion. I am not asking him to reason about it, but I am asking him to state the fact which constituted the reason.

THE COURT: The court will permit you, Mr. Richardson, to show the organization of the Citizens' Alliance, and when it was organized, and the purpose of it so far as this witness knows, and what they did in these matters either as an organization or in connection with other organizations.

As limited by the court, General Bayley, proceed with your answer.

A. Read the question again, please.

(Question read).

A. It was organized for the purpose ---

MR. BURMAN: Now we object to that, if your Honor please.

THE COURT: If he knows the purpose of the organization he can state it.

A. May I go ahead?

MR. RICHARDSON: The court has said so, I don't know whether the counsel will let you or not. But the court has said you may.

A. For the purpose of causing the strike an organization consisting of a large majority of the mine owners and a great many of the business men --

MR. ROBERT: If your Honor please, we move to strike out that portion of the witness testimony which says it was organized for the purpose of causing the strike. That is a mere conclusion upon his part. It does not state a fact nor anything that is known to evidence as a fact.

MR. RICHMOND: I think that is a matter for the jury, if your Honor please, under all the evidence.

MR. ROBERT: It is a matter for the court and not for the jury.

MR. RICHMOND: That is where we differ.

MR. ROBERT: The jury will take the fact and draw their own conclusion.

THE COURT: The Court will sustain the motion. It will be stricken out.

MR. RICHMOND: Note our exception.

Q. Well, General Magley, a Citizens' Alliance was organized, was it? A. Yes sir.

Q. When was that? A. Shortly after the strike was instituted.

Q. Was there any other organization there, in the shape of a Mine Owners' Association? A. There was.

Q. When was it organized? A. I don't know.

Q. Was it in existence at this time, September 4th, 1903? A. I think it was.

MR. ROBERT: We object to what he thinks. We move that that be stricken out. He has already stated that he didn't

know.

- Q. Well, when did you first know of the Mine Owners' Association being in existence? A. During the strike.
- Q. And how shortly after the strike commenced?
- A. Well, about the time that it commenced.
- Q. Now was there any change in the condition of the Cripple Creek district as to peace and quietude after the 4th day of September, 1903, if --

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

Q. Wait a minute. If so, state what that change was.

A. Shall I answer that?

Q. I take it there is no objection to it in its present form.

It is, the Senator is on his feet, he has the floor.

A. There was a lot of gun men brought into the district.

Q. How many? A. I should say between fifty and a hundred.

Q. Do you know who they were brought by? A. The Mine Owners' Association and the Citizens' Alliance.

Q. Do you know where they were brought from? A. From the Coeur d'Alene, Joplin, Missouri, and other places throughout the country, according to their statements to me.

Q. What change took place shortly after these gun men and the militia got there? A. Well, there was more or less trouble started by these gun men.

Q. What was the character of the trouble that was started by them? Describe the trouble that was started by them.

MR. BOHANN: We ask him to state what was done and not done.

3128 has addition, as to who was a gun man and who wasn't.

MR. BOHANN: I think "describe the trouble" would

satisfy that objection, if your Honor please, wouldn't it?

MR. GIBBIS: Go on.

A. Well, I don't know what else to call those people than just men.  
MR. GIBBIS: That is not an answer to the question, if your Honor please.

Q. Now, the whole their appearance was, how they went about among the citizens of the Circle Creek district? A. Well, they frequented the saloons a great deal and the red light district.  
MR. GIBBIS: Now, if your Honor please, it is apparent that this attorney general don't know whether they were about the red light district except by hearsay.

THE COURT: The witness has been instructed to testify only to what he knows.

MR. WICKLIFFSON: How does the Senator know what he is referring to?

MR. GIBBIS: I am assuming he was an attorney general and I don't know anything about such districts.

MR. GIBBIS: I have met United States senators in such districts.

MR. DEWITT: The United States Senator will tell what he knows about it when the time comes. But we insist, if your Honor please, that the witness is drawing his conclusions from these things; he should state a fact.

Q. Describe how these gun men appeared on the streets so far as their clothing and their equipment and arms were concerned. A. Well, they generally had shot-guns in their belts, at least I saw some so equipped.

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Q. How long did you remain in the district, General, after these

can you name there, before going away? A. They remained there until the following December, I think; shortly after the militia case I initiated habeas corpus proceedings there to release some people from the bull pen.

Q. Was there a bull pen established by A. At Victor.

A. How many men were in it, if you know? A. I never was inside of it and I don't know.

Q. How many writs of habeas corpus did you obtain for those who were in there? A. Three or four.

Q. Were you working on these that fall for some length of time? A. No, not over a week.

Q. Did you have any hearings before the court? A. Yes sir.

Q. Before whom? A. Before Judge Seeds.

Q. Was there any attendance before Judge Seeds upon the part of the military and of those men upon the hearing of the habeas corpus? A. Very much so.

Q. Describe that to the court. A. Well, on the day of the hearing the militia came down with the prisoner from Victor and placed a Gatling gun in front of the main entrance to the court house and put sharpshooters on the top of the National Hotel, which was just across the street, also a line of infantrymen around the building on the sides of the street. The petitioners were brought into court by quite a body of soldiers, I think they had bayonets on their guns, that is my recollection, and they leaned their guns over the railing in front of the judge's desk, the spaces wasn't more than half as large as this or two-thirds of it, and I refused to proceed to discuss the constitutional questions involved on account

of being surrounded by bayonets, and I walked out of the court room, followed by Mr. Murphy, the general counsel of the Western Federation, who was there to assist me. The decision was rendered, I think, the next day.

Q. What was done when the decision was rendered? A. The court ordered the release of the petitioners.

Q. What happened? A. General Crane ordered the militia to break up, or something of the kind, and took the prisoners back to the bull pen.

Q. Refused to obey the order of the court with respect to the writ? A. Yes sir.

Q. Did you hear anything further to do with my wife or her sons or sons there that fall? A. I think not.

Q. What were the next called upon to do, General, if anything, in regard to the troubles in Colorado? A. The next thing that I remember of was an audience with a detective in my room.

Q. Who was that? A. His name was Beckman, connected with the train wrecking affair.

Q. When was that? A. It was some time in December, 1903.

Q. Go on and tell us about that, General. A. Well, there wasn't much to it. He came in there with a red button on the lapel of his coat, announced that he was a Socialist and wanted me to call meetings of the Germans -- he was a German, this man Beckman, so that he could address them on Socialism, and I told him it might irritate the people and I refused to do it. That was about the substance of the affair.

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Q. Were you called upon to perform any service for the members of



the Western Federation of Miners in my office during or the  
 state about that time? A. I think it was the day before when  
 the Western Federation came into my office Mr. Raymond called me up  
 on the toll free number and requested me to go to Salt Lake  
 to defend some of their men there, then the men over there  
 had requested me to meet in <sup>the</sup> office.  
 Q. Did you proceed to Salt Lake? A. I called Mr. Frank J. Thomas  
 into the office and requested him to take charge of the  
 litigation for the Western Federation during my absence, which  
 he did, and I left on the next train for Salt Lake.  
 Q. Tell us what occurred in Salt Lake when you got there,  
 General. A. Well, the first thing that occurred, I came in  
 contact with a <sup>man</sup> ~~man~~ called by the name of Dave  
 H. HARRIS, now would you in the next room or was it the  
 next to me. I was going through the door of a man named  
 Henry that runs the dining room of the saloon, and he asked  
 me to step up to the bar and take a drink with him, which I  
 did.  
 Q. Did you learn what position he occupied in the saloon, or what?  
 A. Not at that time.  
 Q. Did you afterwards? A. Oh, yes.  
 Q. What position did he occupy? A. Well, he was a member of the  
 CIO.  
 Q. What is the position with? A. The CIO.  
 A. Proceed, General.  
 A. And HARRIS says, "Are you a Socialist?" I answered that I  
 was. He says, "Socialism is no good, no one understands here,"  
 and he called up in English by the name of Langford, I think

his name was, and he says to him "Now, we are anarchists, aren't we?" Well, I answered, he turned to me and said in Italian, "I am not an anarchist, I am a Socialist." What is that you say", said Riddell? Then he said in broken English "We be anarchists." "That is the situation" says Riddell, and I fired two or three questions to him and I discovered that he knew no more about the philosophical anarchy than he did about scientific socialism, and I called the attention of Mr. Miller, the president of the union, to this conversation, and I discovered that Riddell was already a suspect on account of his lavish expenditure of money and his statement that he had derived part of it as income from the rental of some property at Salt Lake City. That was the first occurrence. Within a few days the union miners there were arrested on the charge of being vagrants, brought into the police court and most of them were fined, fined very heavily, with a suspension of sentence if they would return to work or leave town within three days, that is my recollection of it.

- Q. What did you do, General, when you found that condition existing there? A. Well, with reference to the police court cases I did nothing. I investigated the matter, found out that those miners had money and lodging house accommodations, boarding houses and all that and were not vagrants, and I advised them not to pay their fines, that I would take the cases on appeal to the county court.
- Q. Did you do that? A. I didn't have time.
- A. Why not? A. I was deported.

- Q. Describe to the jury your deportation.

1. It occurred one Sunday night, I think it was the end of January, 1904; on the preceding -- let me see -- on that evening the miners, their wives and children were holding a literary entertainment in their hall in the hospital building.
2. Who owned that hospital building, if you know? A. No. 68, of the Western Federation of Miners.
3. The locality? A. Yes sir.
4. At that point? A. A building that cost forty or fifty thousand dollars.
5. How does it compare with the other buildings in the town of Telluride? A. The best building there, probably better than any in Boise for its size.
6. Well, proceed. A. I had agreed to go to this meeting and take part in the entertainment. The entertainment was to consist of recitations, singing, music, and a debate on some question. But I was ill that evening and I went to bed about eight o'clock at a house occupied by Mr. Brackett, I think her name was, in the better part of town. My room was the parlor and front room.
- THE COURT: Is this a part of the deposition?
- MR. RICHARDSON: Yes sir, if your Honor please. The deposition is about to occur.
- THE WITNESS: And about half past nine a member of the family, a girl, came back from church with her escort.
- MR. RICHARDSON: What was the question, Mr. Richardson, back there while you were giving the circumstances.
- MR. RICHARDSON: I see you are.

MR. RICHARDSON: We are going to show the condition the general was in when he was ordered out of bed by the militia and what they did to him. I don't suppose it is very material whether the girl came home with her fellow or not.

THE COURT: I understood it was to give the circumstances of his departure of his deportation.

MR. RICHARDSON: It is to give the circumstances of his deportation, which he is now doing.

THE WITNESS: And I understood that --

MR. HOLME: No object to this. It is not an answer to the question.

Q. Told what was done, General, and what was said to you.

A. I understood that a proclamation of martial law had been declared from the steps of the First National Bank, I heard that from the next room, the dining room -- there were a couple of drop curtains between the two rooms, and I spoke up familiarly and I said I supposed they would be after me before morning. In about three or four minutes there was a knock at the door and I asked who was there. A man replied "Mr. Proctor, and *John* <sup>Sam</sup> <sup>Ir.</sup>". He was the proprietor of the largest store in Telluride and had been at this meeting. He told me what happened and I stated to him that I could do nothing that night, I was sick and that I would see him in the morning. He went off. About five minutes after that I heard a tramping around the house and onto the veranda and on to my room and someone knocked at the door. I asked who was there and the answer came back, "Sergeant Cole." I asked him what he wanted. He says, "The military commander of this

military district wants you to come down to military headquarters at once." I replied, "You go back to the military headquarters of this military district and inform the military commander that I am sick in bed and if he desires to see me to come here." He says, "You will have to go." I told him to leave the premises and not molest the family or myself. He is stilling about the door and finally I heard him leave the veranda, and several others, and I advised what was coming so I got up and dressed and went into the dining room. The lady was there and the other members of the family had retired to a bedroom in the rear of the dining room, and I turned out the electric lights. In a few moments there was another tramp and a knock on the door and practically the same conversation occurred as happened during the time the party was there before, and then he said if the door wasn't opened that they would break it in. The lady said, "Let them break it in, if they dare." But they went around and tried keys to the kitchen door and some other doors first. In a few moments the screen door in front of my room was smashed and the main door was opened. The main door was unlocked, the key had been lost some time before I went there. I got up then and turned on the electric lights. A soldier came to the drop on the line, pushed them aside, he says, "Are you Mr. Bagley?" I answered that that was left of me was sitting there. He says, "I want you to go to military headquarters." I answered that I had told him several times to leave the premises and not molest the family or disturb me. He then called in some soldiers with fixed bayonets. They ran their bayonets between

the curtains, and I got up, walked out, and when I got out on the veranda I discovered that the house was surrounded by the militia, the sheriff of the county and his deputies, men men, the night marshal and the police, and they escorted me down to military headquarters over the First National Bank, and I was ushered in before Major Hill, the military commander. He stated to me, "Mr. Langley, I have sent for you to inform you that you must leave San Miguel county on the next train." I asked him on what account, and he said, "On my account." I replied "Your account don't go with me." Well, he says, "I will read to you the proclamation of Governor Peabody, which I received a short time ago by wire, placing this county under martial law." He read it. When he got through I said "I don't recognize the proclamation declaring martial law, for the reason that when I was attorney general I advised the Governor of the state during another strike that he did not possess the constitutional power to declare martial law in any part of the state of Colorado, and I am still of that opinion." Well, Major Hill said, "We desire to make an exception in your case, and if you will promise me to be at the train in the morning and leave the district you may go back to your room." I told him that he needn't make any exception in my case, that I was standing upon my constitutional rights and was there in that district to attend the district court. Thus he said, "Mr. Sheriff, put him in jail with the others." The militia fell in again and I was escorted to the jail. They opened the cell doors and I was received with vociferous applause by a crowded assembly. The jail was

intended for about eight and they had about forty in there, packed like sardines, of all nationalities apparently. We stayed there until morning and they brought in some eating sandwiches and rotten coffee and some of the men partook of the banquet, but I did not. Then they told us to file out in two, which we did, and we were lined up on the street in front of the court house, a large body of the Citizens' Alliance being there also with the militia on adjoining corners of the block. Dudley Wale seemed to be in charge of the transport in department of the Citizens' Alliance there at the time, and we were taken down to the railroad station, put on board cars and taken to Ridgway in Ouray county, where we disembarked, and the weapons taken from the miners were handed to me for distribution to them, which consisted of revolvers and jack knives. Then we boarded another train and went down to Montrose, where I remained about ten days. The miners bought out a restaurant there. I waited there because I thought that martial law might be declared and I would go back and institute some injunction proceedings in which I had a treaty prepared the papers the night previous to my deportation.

Q. What were those injunction papers about -- I don't want the contents of them, but what injunction suits were you sent to bring? A. Well, there in charge of the Citizens' Alliance there had put pickets or deputies on the roads leading from Telluride up to the mountains so that the miners couldn't go up there to work their claims. Quite a number of them had prospects and claims that they were working and the injunction

papers were intended for that purpose, to prevent those deputies from interfering with the miners in going to their several claims.

Q. Then did you come back to the Orizaba Creek district?

A. I went back to the Orizaba Creek district, you sir.

Q. That closed your connection with the Colorado district?

A. Yes sir.

Q. How long did you remain in the Orizaba Creek district?

A. Why, I have been there ever since with the exception of coming here and going to Denver occasionally.

Q. Well, you were away a little while there at one time, weren't you, General? A. Why, I was on a pilgrimage for a short time once.

Q. How did you come to go on that pilgrimage, and what was the length of the pilgrimage, and when did the pilgrimage occur?

A. I think it was the 20th of August or the 20th of September following.

Q. That is of the year 1904? A. Yes. I left my office to go down to the Delmonico restaurant to eat, and when I got out on Bennett Avenue, which is the main street there in Orizaba Creek, I noticed a large body of men going down the main street, and I went down there to see what was going on. I didn't stop at the restaurant on the way. This body of men--

MR. BURRIS: Is this an other deportation?

MR. RICHARDS: Yes sir.

A. Stopped in front of the Union store --

MR. BURRIS: With a warrant, General. I suggest that he state the general facts with reference to the deportation.



Nobody cares anything about all of these little details.

THE COURT: If this witness was deported again, the court will permit you to show that, Mr. Richardson.

MR. RICHARDSON: Yes sir, that is what I am trying to show.

THE COURT: There is no necessity for this court and jury to sit here and listen to all the details of the deportations, everything occurring from the beginning to the end. The fact of the deportation the court will permit you to show.

MR. RICHARDSON: If I asked him if he was deported that would be objected to because that is a conclusion. Q. State what occurred so briefly as you can and at the same time cover the description of your deportation.

A. Well, I stopped down where this crowd was and saw them march in the store about five o'clock in the afternoon.

Q. What store was it that was marched in by the crowd?

A. The union store on Bennett Avenue.

Q. Did you identify any of the men that were engaged in that marching? A. Quite a number of them.

Q. Give the names of some of them? A. The number of the First National Bank of Cripple Creek.

Q. What is his name? A. Raymond and Harry Shepherd, a brother there.

Q. Who is the president of that First National Bank?

A. -- A. B. Gaulton.

Q. Was he there? A. I didn't see him there at the time that the store was raided at that time. I saw him come down the street afterwards and mingle with that crowd and make some inquiry.

- Q. All right, go ahead with some of the others.
- A. I saw a man there by the name of A. F. Holman.
- Q. Who is he? A. He is a mine manager there. Nelson Franklin, mayor of Victor.
- Q. What is his business? A. He is general manager of the People's Company, quite a number of others.
- Q. Go ahead and tell about what occurred to you there, General.
- A. I started to leave the mob there. I got to the outer edge of the mob and three young fellows stuck their shot-guns against my belly and I objected to that.
- Q. You were on the wrong end of the guns to object, wasn't you, General?
- A. My arms were locked then from behind, and I was escorted up the avenue for about a block, and within a few minutes they brought up Mr. Cole, the assistant district attorney, attorney Hagen, another attorney from Butte, I don't recollect his name, a miner by the name of Pierce, the president of the carpenters' union, Mr. Higgins, and several others, and they held us there for awhile and then they started us over toward Box Canyon -- wasn't have been about 300 in the mob that escorted us along the road. We got out there about a mile when they commenced to beat Mr. Higgins over the head with their revolvers and kicking him to make him move faster.
- Q. What was the matter with Higgins? A. He wasn't moving fast enough.
- Q. Was there any reason why he couldn't move as fast as the rest of you? A. Not that I noticed. He was about ten feet behind me.

3151 Q. Was there any man in the crowd who was a cripple?

A. Al. Pierce.

Q. Al. Pierce. All right, I got him mixed up with Higgins.

A. In about two miles and a half from there they stopped and someone was called upon for a speech. I didn't offer my services, and that party didn't appear, and they called for a Mr. Johnson, who was one of the horses on the El Paso trail. He rode out on his horse to within about fifteen feet of where I was standing, and he said, "Well, this is the last warning; you must leave Cripple Creek and never return. If you do, it will be a bullet or a rope." I laughed in his face and rather disconcerted him, and he swung his horse around and rode back into the mob, and they ordered us to move on, which we did. Owing to this crippled man we didn't get into Silverton until about three o'clock the next morning, when we went down to Colorado Springs. I had a case pending in that court there and got off at the Springs. The others went on to Denver. When I was through with my business at the Springs I borrowed a Winchester bought a six-shooter, from fifty to a hundred rounds of ammunition, took the train and went back into the district. I carried the gun to and from the court and the restaurant for two or three days, and then some members of the Citizens' Alliance came to me and said that my deportation was a mischievous thing and that I could stay; also an article was published in the daily newspaper that I had returned and that I could stay but the others couldn't come back. That is about all that.

Q. I will ask you if you know Harry Orchard? A. I am not familiar with the name but I have seen him around the Cripple Creek

district.

Q. You identified that man since you have been here in this town?

A. I did.

Q. I will ask you if he came to your office some time between the 15th and 20th days of January of 1904, your office being on Bennett Avenue in the city of Orinda Creek, in the state of Colorado, had some talk with you and picked up a pamphlet which was lying on the table or desk at which you were sitting which pamphlet related to the strike in the Coour d'Alone district, and after looking at said pamphlet a minute or two he stated, in substance and effect, that by means of that strike he had lost an interest in a mine; that Stuenenberg was a v.o.b., using the words, and I am going to fix him before I get through. That was the substance of what he stated at that time and shortly after I got back from Kelorido --

MR. DONAH: Wait a minute, General. That answers the question, I believe. If you want another question, ask it.

Q. Mr. Riddell -- is that the Mr. Riddell you refer to? (Indicating a person in the court room). A. That is the man.

Q. The man that told you he was an anarchist? A. Yes sir.

MR. RICHMOND: You may inquire.

#### CROSS EXAMINATION

BY MR. DONAH:

Q. You were attorney general under Governor Walter A. I was attorney general at the time Mr. Walter was Governor, you sir.

Q. Were you attorney general more than once? A. No sir.

Q. Only once? A. Only once. That was enough.

Q. For the people of A. And for myself.

Q. How long have you been attorney for the Western Federation?

A. I never was attorney for the Western Federation except on the occasion that I have referred to when I went to Tallahassee.

I have represented different labor unions in the Cripple Creek district.

Q. When did you first become the attorney of the Western Federation?

A. Only on that occasion when I went to Tallahassee.

Q. When was that? A. December.

Q. What year? A. 1903.

Q. How many times were you employed by them? A. Only on that occasion.

Q. Never acted as their attorney except in those instances which you have narrated? A. Yes sir.

Q. You did some work for them at Cripple Creek? A. There were for independent labor unions.

Q. Were they members of the Western Federation? A. Some of them were.

Q. And then you were employed by the Western Federation to go to Tallahassee? A. Yes sir.

Q. What was the date that you went to Tallahassee? A. I don't remember.

Q. Can you fix about the time? A. Well, I should say it was about the middle of the month, but that is only approximately the time.

Q. About the middle of November? A. December.

Q. Didn't you go to Tallahassee before December? A. Yes sir, I was there, but not for the Western Federation.

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Q. Were you in Telluride in November, 1908? A. I am not certain whether it was in November or September that I went there.

Q. Was the occasion of your being there professional business?

A. Yes sir.

Q. Well, is there anything connected with that professional matter by which you can fix the date when you went there in November, 1908? A. No sir.

Q. Haven't you any means of fixing it? A. No sir.

Q. Haven't you any recollection by which you can fix it any closer than you have? A. No sir.

Q. Do you know what business you were on there? A. Yes sir.

Q. What was the business? A. I went there to defend some man who had been arrested for speaking on the streets of Telluride.

Q. Well, now, can you fix it from that about the time that you went? A. It was in September or November -- I think it was September, I am not certain.

Q. You have no means of coming any closer to it than September or November? A. No sir.

Q. Were you there on the 22nd of November, 1908? A. I can't

say. I don't think so. I think that was later.

Q. Where were you on the 22nd of November, 1908? A. I can't say.

Q. No means of fixing your whereabouts at that time?

A. No sir, I was either in Orville Greck or attending court in Colorado Springs or in Denver, or possibly I might have been in Telluride; but I think that it was in September when I was in Telluride on the other occasion.

Q. What was the date that you saw Beckman? A. I think it was

3155 either the day or the day prior to the time that I started for

Tolluri.

Q. What day of the month was that? A. I don't remember, would  
time in December, 1908.

Q. Wasn't that in December, 1908, that you saw Redburn?

A. That is what I say, a day or two -- the same day or the day  
before I started for Tolluri, in December, 1908.

Q. Well, then about what date was that day in December?

A. I can't recollect the date.

Q. He came to you as a Socialist to call a meeting?

A. That is what he requested himself to be.

Q. You were a Socialist at that time? A. That depends upon what  
is meant by the term or designation "Socialist".

Q. Well, just use your own idea of Socialist Socialism, were you  
a Socialist at that time? A. If it is meant by the  
designation "Socialist" one who advocates the suppression or  
regulation of trusts, the government ownership or regulation  
of railroads, the enactment into law of the initiative-  
referendum and the imperative mandate and other remedial

measures constituting a middle class movement, then I am not  
a Socialist. On the other hand, if it is meant one who ad-  
vocates the restoration to the human family of a planet now  
quite largely controlled by a few, and that labor, both manual  
and mental, shall receive its full product, then you may write  
me down a Socialist. One thing you can rest assured of, I am  
not riding in the golden chariot of the Republican party nor  
am I bumping around in the garbage cart of the Democratic  
party. You have my answer.

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Q. Well, are you on the band wagon with Eugene V. Debs? A. Am I on

the band wagon with him?

- Q. Yes. A. Well, I would have to answer that in the affirmative. I was on the band wagon in the time of the old abolition society in New England when I was a boy, I was an abolitionist then and I am one now.
- Q. In other words, you are a Dime Socialist? A. Well, that is a qualitative term. I can hardly answer that because I don't know his views today.
- Q. You never read his work? A. I have read some of his speeches.
- Q. You don't know whether you believe in his doctrine or not? A. Well, Mr. Dobb, so far as I know, however stated any of the fundamental tenets of Socialism. He is a sort of a Wendell Phillips orator --- has a great flow of language, and I have listened to his speeches and all that, but I am not in harmony with the program and tactics of the Socialist party. Mr. Dobb belongs to that party. I am more in harmony with the doctrines and tactics of the Socialist Labor party.
- Q. And as I understand then the Socialists have some factions of their own? A. Well, I think that that is quite possible. I have never seen a political party yet but that had a great many factions ---
- Q. Well, now, Mr. Bagley --- A. --- some are more progressive and others more conservative.
- Q. --- do you know the date that the Citizens' Alliance was organized at Cripple Creek? A. It was organized about the time that the strike was instituted. Mr. Grady came down from Denver and organized it.

3157 Q. Do you know what the date of it was? A. No sir.



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- Q. Do you know about the date that it was organized?
- A. I can tell about the time that the strike started; might have been a few days afterwards.
- Q. Was it organized prior to October, 1903? A. I am uncertain.
- Q. You would not be able to testify, would you, that it was organized prior to October that, 1903? A. Not to a certainty. I was there when it was organized and I know how it was organized and why people joined it.
- Q. Do you have any means of fixing the date, that is what I am after now, Mr. Magle? A. No sir, I didn't put down any dates at all.
- Q. And you have no means of fixing the date when it was organized?
- A. No sir.
- Q. Well, do you undertake to say that it was organized prior to September 4th, 1903? A. I don't think it was; I won't be certain.
- Q. Well, now, as a matter of fact, wasn't it organized about the middle of October, 1903? A. It is possible; I won't be certain as to the date.
- Q. Were you present at the organization of it? A. I was in town, talked with people who joined it.
- Q. Well, is there anything connected with your affairs by which you could fix the date on which it was organized? A. No.
- Q. By reason of your being there? A. No sir.
- Q. You are not very good on dates that? A. Well, not unless they are important to myself; neither am I on names either.
- Q. You say everything was possible in September, 1903, in the

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district? A. Yes sir.

- Q. You hadn't heard of any difficulty at all or any trouble?  
A. Well, there were less violations of law at that time than there had been prior to that time.
- Q. I am not speaking about that. I am asking if you had heard of any troubles at all just immediately prior to September 4th, 1903? A. Nothing more than one or two assaults and battery cases, but there had happened frequently before that time.
- Q. Did you hear about old man Stewart's trouble? A. I did.
- Q. Did you hear about Mr. Harkin? A. I did and partially investigated both.
- Q. Did you hear about the man attempting to go to work at the Golden Cycle mine? A. Oh, I probably heard of it; I didn't --
- Q. Do you remember it now? A. Not clearly.
- Q. Don't remember any of the details of that? A. No sir.
- Q. Didn't investigate that? A. No.
- Q. What else was there that occurred there in the district which was in the nature of an assault or a disturbance other than the two which I have mentioned, just immediately prior to the calling in of the troops? A. Immediately prior to the calling in
- Q. Yes. A. Those are the only two that I recollect of.
- Q. Well, now, will you give me the names of the business men who were members of the Citizens' Alliance, the principal ones.
- A. It is easier to give the names of those that didn't belong. Nearly every merchant there in town and most of the professional men, all men, doctors and lawyers, joined.
- Q. Well, what per cent. of the business men and professional men joined the Citizens' Alliance in the town? A. Well, I should

say that at least five-fifths of the business men joined the Citizens' Alliance and probably one-half of the professional men.

Q. And what proportion of the Citizens' Alliance were also mine owners? A. Most of those that lived in the district.

Q. About what proportion would that be? A. Well, I should say that mine out of every ten that lived in the district were owners, and some that did not live in the district.

Q. What proportion of the membership of the Alliance would that make it as being members of the Mine Owners' Ten per cent. of the Citizens' Alliance were mine owners? A. I don't think so. Possibly.

Q. Five per cent. would you say? A. Oh, I have no means of estimating that.

Q. What I want to get at, is you know the proportion of the Citizens' Alliance who were also mine owners? A. It is impossible for me to so state except in a general way, because

I was not a member of the organization myself.

Q. Give me a general estimate of what you think, what proportion you think were mine owners? A. That would be impossible.

Q. Can you give me the number of mine owners who lived in the

A. Well, it is a large district. There are three incorporated

cities of the second class and five incorporated towns. But

a very few of the mine owners lived in Oriskany Creek. As a

great many lived in Victor, which was nearer the mines.

Q. Then as I understand, this Citizens' Alliance was composed almost

entirely of the people in the different sections of life and professions, and so forth, in the immediate vicinity

A. To a large extent, yes.

Q. Now what day was martial law declared in the Orizaba Creek

district? A. I think it was shortly after the troops arrived.

Q. Do you know about the date with reference to the troops coming in? A. I think the troops came there in the early part of

September, 1900.

Q. September 4th. Now how soon thereafter was it declared at that time, before they were brought in or immediately in effect? A. It couldn't have been declared before they came in, and how soon thereafter I cannot say definitely.

Q. Wasn't the troops brought in at the same time that martial

law was declared? A. Might have been, I am not certain.

Q. Have you any means of informing us as to the date of martial

law? A. No sir. I didn't put down any dates at all.

Q. Do you know how long martial law continued to prevail in that district? A. I don't remember.

Q. Do you remember when it was declared off? A. No sir, not as to a specific date.

Q. Well, about what time was it? A. Well, I can't say that. It was just over there for several days, but I can't say. I don't remember whether it was in force when I left for Toluca or not.

Q. When was the date on which martial law was declared at Toluca? A. It was about half past nine -- about nine o'clock, as I understand, on the evening of the end of January, 1901. I think they departed us on the morning of the 3rd.

Q. Now was martial law in vigor or did it prevail at the time that you were departed from Toluca? A. Yes sir.

Q. Did it prevail at the time you were departed the second time?

A. From Orville Crowl?

Q. Yes. A. No, no.

Q. Who were you departed by the second time? A. By the husband men, that is to say, some mine owners and their superintendants, bank people, who brought the non-union miners down from their work at five o'clock from the hills.

Q. And were there members of the Citizens' Alliance mixed up in this second deportation? A. Oh, yes.

Q. Then as I understand, you were departed the first time by the militia, and the second time by the Citizens' Alliance of the city there where you lived? A. Yes sir.

MR. BOYAH: That is all this evening.

THE COURT: Any other questions of this witness?

MR. RICHARDSON: No, that is all.

THE WITNESS: Do I understand I can go now?

MR. BOYAH: Do you want to go home?

MR. RICHARDSON: Do you want to ask him any more questions? He may want to go home tomorrow afternoon.

MR. BOYAH: If we do, we will ask them in the morning so that he can get away.

When upon the court gave to the jury the statutory admonition, the balliffs were sworn, the jury retired in charge of the balliffs, the defendant was remanded, and this cause was hereupon continued until 9:30 A. M., Wednesday, July 3rd, 1907.

Boise, Idaho, Wednesday, July 27th, 1907.

9:20 o'clock A. M.

Parlor not pursuant to adjournment.

Minutes of the session of the court, July 26th, 1907, were read by the clerk and the case signed by the court.

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

MR. BAKER: If your Honor please, in accordance with the direction of the court we desire that W. F. Davis be retained here as a witness.

THE COURT: Mr. Davis is here, is he?

MR. BAKER: He is here at present, yes, but we were to give notice if we desired any witness to remain.

THE COURT: Mr. Davis will be retained, his per diem to be paid by the state.

MR. BAKER: Yes sir.

MR. ALEXANDER: Mr. Clifford may be sworn.

FRANKIE G. CLIFFORD, a witness on behalf of the defendant, being first duly sworn, as oath testified as follows:

DIRECT EXAMINATION

BY MR. ALEXANDER:

Q. What is your full name? A. Frankie G. Clifford.

Q. What is your age? A. Thirty-two.

Q. You reside where? A. In Sterling, Colorado.

- Q. And you are occupied now? A. As a life insurance collector.
- Q. Where did you reside prior to the 15th day of April?
- A. Why, for two weeks prior to that time I resided at Denver, previous to that I resided in Scranton, Pennsylvania.
- Q. You came from Scranton, Pennsylvania, to Denver then about the first of April, 1907? A. I arrived in Denver April 6th, 1907.
- Q. How long did you remain in the city of Denver? A. Until about October.
- Q. Did you become acquainted with one George A. Pettibone? A. I did.
- Q. Where did you become acquainted with Miss A. At his store at 1024 Court Place, Denver, Colorado.
- Q. When did you become acquainted with Miss A. About the middle of April, 1906.
- Q. What business relation, if any, existed between you and Mr. George A. Pettibone, and for how long a time? A. Why, I had a desk room in Mr. Pettibone's store from the middle of April, 1906, until about November 1st, 1907.
- Q. What business were you engaged in while you were renting desk room in Mr. Pettibone's store? A. As a life insurance collector, first for the Penn Mutual of Philadelphia, afterwards for the Capital Life of Denver, Colorado.
- Q. How voluminously were you in Mr. Pettibone's store during that period? A. Almost daily during the entire period.
- Q. Describe what business was carried on there? A. Mr. Pettibone's store is known as an investment house for such articles as wine, etc., machine needles, tape curtains, Bibles, maps, and so forth.

- Q. How were the goods that you have mentioned handled in that store? A. Why, they are handled by agents who take the goods out in wagons and sell them on the installment plan along the road.
- Q. How many employees were there in that store during the period that you were there? A. I believe that there were two regular agents employing three men each. Sometimes he would have two or three other agents on foot handling those articles.
- Q. Of how many rooms did the store consist? A. One, and the basement, also one room.
- Q. How is access obtained to the basement from the store room, if at all? A. By a flight of stairs leading from the store room to the basement.
- Q. Have you ever been in that basement? A. I have.
- Q. How many times? A. Probably once a day for every day I would be there.
- Q. Describe what you saw there? A. I saw in the front part of the basement, directly under a trussman from which the basement was ventilated and lighted, a work bench upon which Mr. Pettibone used to make repairs. The rest of the cellar was occupied by boxes in which his goods would arrive; by some old lumber; some old furniture; and different things such as are generally found around in a basement of that kind.
- Q. Was there ever any time that you saw anything going on there outside of the business which was being carried on in the store and the basement as you have described it? A. No sir.
- Q. Do you know one Harry Greberd? A. I do.
- Q. When did you become acquainted with him and under what name?



A. I became acquainted with Tom Hogan the latter part of April, 1900.

Q. How did you become acquainted with what A. Mr. Pettibone introduced me to him.

Q. Anything take place at the time of the introduction?

A. Nothing beyond the ordinary formal remarks that any two men might make when they meet.

Q. What did Mr. Hogan appear to be doing there, if anything?

A. Why, he didn't appear to be doing anything that I knew. He was such like myself there at that time, just happened to drop in I presume.

Q. How many times did you see Mr. Hogan in Mr. Pettibone's store

in all during the period of time that you were there?

A. Why, to the best of my knowledge and belief, I saw the man there some four or five times.

Q. Did you ever see any other men there like Mr. Hogan?

A. Yes sir.

Q. Describe these men? A. Why, they were apparently men like

Hogan, who would come in from the mountains and drop in there to see Mr. Pettibone. I have also seen, of course, the ordinary run of his customers who would come in there to make their payments.

Q. Did you have any further visits with Hogan upon the occasion of his coming to that store? A. Why, every time I saw him there I had more or less conversation with him.

Q. Do you remember of any conversation that you had with him upon the subject of insurance? A. I do.

Q. About when was that? A. I could imagine that was some time

in the month of June, 1908.

Q. Is that as near as you can fix the date? A. Might possibly have been the latter part of June.

Q. Relate to this jury the substance of that conversation and the form of the conversation, the words which were used, as nearly as you can.

MR. HAWLEY: We object to that. There is no foundation laid.

MR. RICHARDSON: This is not for the purpose of impeachment at all.

MR. BOGAN: On what theory could it be introduced except upon that?

MR. RICHARDSON: Well, if your Honor please, I do not understand that in order to testify upon any given subject that has been testified to by the State we have to lay an impeaching question where a conversation occurs; it is sufficient if it is contradictory. If you want to impeach a witness who is testifying with respect to a conversation, of course you have to give the time and place and the persons who were present. But if you want simply to contradict the witness or to give a version of a story which he has already given, I do not understand you have to do anything of that kind.

THE COURT: What do you expect to show by this witness?

MR. RICHARDSON: We expect to show that he had a conversation with his relative to insurance, and he saw him do a certain thing, as soon as he had had that conversation, with

Mr. Robinson, a certain transaction took place between those

town, Orchard and Mr. Pettibone, following the short conversation that he had with him.

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

MR. NICHANSON: It is explanatory of the matter that I want to adduce from him as to the relations with Mr. Pettibone.

THE COURT: Is this conversation one had with Mr.

Orchard?

MR. NICHANSON: Yes sir.

THE COURT: I think before you can offer a conversation of that kind you must lay the foundation for it by calling the witness's attention to it when he was on the stand --

MR. NICHANSON: That would be proper if it was impeachment, but it is not impeachment.

THE COURT: -- but if you simply propose to show a different state of fact than what was testified to by Orchard --

MR. NICHANSON: You sir, an explanatory circumstance, that is all.

THE COURT: -- then it would be admissible.

MR. NICHANSON: That is my idea of it. That is what it is for. The conversation in and of itself amounts to nothing, except where that was done.

THE COURT: The witness may answer the question and if it is not proper the court will strike it out.

MR. NICHANSON: Proceed, Mr. Clifford.

THE WITNESS: I would like to hear the question

(Question read as follows: "Relate to this jury the substance of that conversation and the form of the conversation, the words which were used, as nearly as you can.")

A. After the usual good morning, or some such thing as that, Mr. Orchard asked me how my business was getting along. I told him I wasn't doing much business. He said, "Well, you ought to come out with me, I am doing a great business." I asked him how much money he made. "Oh," he said, "I make three or four hundred dollars." I said, "In what kind of business?" He said, "Principally hail insurance business." I said, "Do that so, do you make that much money?" He says, "Yes, you better get into it, it is easy money." I said, "I don't know as I would want to go into that business." He then showed me how he made the easy money. He also showed me a check or what he said was a check he received from the insurance company, and he turned around and he says, "By the way, Mr. Pettibone, can you cash a check for me?" Mr. Pettibone at this time was about fifty feet from the office down the store. He walked up and looked at the check. He says, "I haven't got enough money to cash that check entirely just now because it would leave us short; but if you want some money just now I can give you some money on this check."

Q. What did Mr. Orchard say to that? A. Mr. Orchard says, "All right, I will take whatever you can give me now, I can get the balance some other time."

Q. Was that the substance of that conversation? A. That is the substance of that conversation, yes sir.

Q. Did you ever see Mr. Orchard in the store after that conversation?

about A. I did once.

Q. When was that? A. It was some time in the latter part of July I think.

Q. Did you have any conversation with Mr. Orchard at that time? A. No, nothing much. I asked him where he was going and he said going up to the northwest. I said, "Where, British Columbia?" He says, "No, I think I may go to Alaska."

Q. What time was that, you say? A. The latter part of July, as far as I can remember.

Q. You there anybody in the store at that time? A. Why, Mr. Pettibone was there and Mr. Black was there.

Q. Mr. What? A. Mr. Black.

Q. What were they doing at the time, if you know?

A. Mr. Pettibone I think was fixing a wringer; Mr. Black was working on the books.

Q. Mr. Black, what position did he occupy there? A. Why, he was confidential clerk of Mr. Pettibone, his bookkeeper.

Q. Where did this conversation occur? A. Right at the office railing, inside of the doorway, 1034 Court Place.

Q. Is that near where your desk was situated? A. My desk was right outside of the railing.

Q. Did you ever see Mr. Orchard in the store after that time?

A. No sir.

Q. What time of day did that store close? A. At six o'clock sharp every evening.

Q. Where did you live with reference to going by the store at any

time after its closing at six o'clock? A. I lived at 508

20th Street; usually came down Walton Street as far as 10th

Street and turned up Broadway to Court Place, the next direct route to and from my home.

Q. About how frequently did you go by that store in the evening after six o'clock during the time that you had desk room there? A. That was the usual route I followed, and possibly went down town two or three evenings out of every week.

Q. Did you ever see that store open or any light in it or anybody in it after six o'clock at night during the time that you had desk room there? A. On one occasion.

Q. When was that? A. It was some time in the month of October just previous to my leaving Pettibone's store, one Saturday evening.

Q. Tell us about that occasion? A. Myself and my brother were on our way home from down town. We walked up 16th Street, over Court Place to 15th; passing there I saw the light. We went in and saw and talked with Mr. Pettibone, Mrs. Pettibone and Mrs. Meyer. Mr. Pettibone was at his wife's, as he said, getting some money to go -- or take the ladies to the opera house.

MR. MEYER: We object to that as immaterial.

MR. HICKLINSON: That doesn't matter. That is of no particular importance.

Q. How long were they there? A. About five minutes I should judge from the time I got there.

Q. Was there anybody else there except those whom you have stated?

A. None.

Q. Where did they go after they left the store? A. They immediately left and turned west on Court Place or through they intended going down town by way of 17th Street -- or 16th Street.

## CROSS EXAMINATION

BY MR. BORAH

- Q As I understand you, you first went to Pettibone's store in April of 1908? A Yes sir.
- Q About what part of April? A About the middle of April,— probably the 18th as far as I can recollect.
- Q Was that your first acquaintance with him? A Yes sir.
- Q You had lately come to Denver? A Yes sir.
- Q You had not been living in any part of Denver previous to that? A No sir.
- Q You came to Denver April 4th, 1908? A April 4th, 1908.
- Q And all these matters transpired after the 18th of April, 1908? A Yes sir.
- Q Now, you say that Pettibone introduced you to Tom Hogan? A Tom Hogan.
- Q About what date? A The latter part of April, 1908.
- Q Did you know at that time that his name was Orchard? A No sir.
- Q You were introduced to him then by Mr. Pettibone under this assumed name of Hogan? A Yes sir.
- Q You knew him only as Hogan at that time? A At that time, yes sir.
- Q Did you afterwards know him as Orchard? A Yes sir.
- Q When did you learn his real name was Orchard? A A Mr.

Mullivan told me his name was Orchard.

Q When was this? A Some time in June, 1908.

Q This man had been introduced to you under an assumed name and passed under that name until you learned his name from some one else? A Yes sir.

Q And Pettibone did not tell you about it? A He told me he believed his right name was Orchard. As a matter of fact Mr. Pettibone heard Mr. Mullivan tell me that his real name was Orchard.

Q And you learned that from Mr. Mullivan? A Yes sir.

Q Was Hagan about the store considerable between April 15th and the time you learned his real name was Orchard? A No, I think I saw him two or three times during those two months.

Q Did you see him about the store doing anything there? A Up to about the second week in May I did not know what his business was, and at that time I told him I was going into the life insurance business, and he asked me if it was a good business and I said that I had followed it some back in Pennsylvania.

Q Was he doing anything about the store apparently -- was he engaged in any work about the store, or was he just loafing around there? A Evidently loafing there.

Q Was there any one in company with him? A Later on, there did come one come with him.

Q Who was that? A A Mr. Vaughn.

3173 Q And any one else? A Not that I knew of.



- Q And any one else? A Not that I know of.
- Q Now, will you give me the date when you had your last talk with him in July, the last time you ever saw him? A I really could not give you the exact date, but I think it was the latter end of July.
- Q Along about the 20th of July? A Possibly a little bit later than that.
- Q Between the 20th and 25th of July? A I would imagine it would be around there some time.
- Q Have you got a memorandum or any means by which you could fix the date? A I really have not.
- Q Have you tried to fix the date in any way? A Simply memory.
- Q And your best recollection is that it was the latter part of July? A It was between the 20th and 25th, as near as I can figure it.
- Q Who was present when you saw him that last time? A Mr. Pettibone.
- Q Anybody else? A I think Mr. Black was in the store, but if he was he was in the back part of the store.
- Q Did you see this check at the time he presented it, yourself? A He took the check out of the envelope and says, "There is the kind of money I make."
- Q Did you see it to read it, to see who it was from? A No, I did not.
- Q Or the amount? A Not the amount.

MR. BORAH: That is all.

RE-DIRECT EXAMINATION

BY MR. RICHARDSON:

- Q Who was Jack Sullivan? A He was a man employed, I believe, by the Gas Company as a collector then when I knew him, and afterwards he was running an employment office down on Larimer or Lawrence Street.
- Q You did not know anything about the relations between him and Hogan or Orchard? A No, I did not, except that he apparently knew Orchard.

MR. RICHARDSON: All right, that is all.

MR. BORAH: That is all.

JOSEPH C. BARNES, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

- Q What is your name please? A Joseph C. Barnes.
- Q Where do you live Mr. Barnes? A Near Montrose.
- Q Colorado? A Colorado.
- Q How long have you lived in Colorado? A 11 years.
- Q Is that in the Telluride district? A It is 65 miles from Telluride to Montrose. I have prospected around Telluride and Silverton.
- Q Where were you born? A In Kentucky.
- Q How old are you? A 30 years old.
- Q How long did you mine? A I started to prospecting about 1898.
- Q That is your business, is it, mining? A My business is farming.
- Q Farming? A Yes sir.
- Q Are you farming now? A Yes sir; that is, I have a sage brush patch that I am clearing up and getting ready to farm.
- Q When you get some water on it? A Yes sir.
- Q You have mined? A Yes sir.
- Q How long? A Well -- that is, I have prospected since 1898.

I went to Telluride in 1896 but, I did not go to mining; I went to working as a common laborer.

Q You first worked around there as a common laborer? A Yes sir.

Q What kind of work did you do there? A The first job I got after I left home in Kansas was cleaning up around the Columbia boarding house, cleaning the tin cans and things out of the yard.

Q Did you ever join the union? A Yes sir, after it was organized -- after the federal labor union was organized in 1901.

Q That was the Western Federation of Miners that you joined?

A Not the Western Federation of Miners; it was a local of the American Labor Union that was organized by the Western Federation of miners.

Q Where were you when you joined it? A I was working in Telluride, in a restaurant.

Q Afterwards did you join the Miner's union? A I never did join the miners union.

Q Were you affiliated with them? A Yes sir.

Q And you went to mining, did you? A Yes sir.

Q Do you remember the time of the strike down in Telluride?

A I do.

Q When did that come off? A The mill men came out for eight hours on September the 1st.

Q What year? A 1903.

Q Do you know a man by the name of Riddell that stays around the door here more or less? A Yes, I do.

Q How long have you known him? A I have known him since January 8th, 1903.

Q When did you last see him before you came to Boise? A I saw him in Silverton in 1905, I guess -- I am not sure about that; he was there during 1904 and 1905; I think it was the fall of 1905 when he left Silverton to go to Curay and afterwards to get out of the country.

Q 1905? A Yes sir.

MR. BOBBI: What time in 1905?

THE WITNESS: He left in the fall. I would have to study a minute to say whether it was 1904 or 1905, but I think it was the fall of 1905. I knew it was in the fall of the year.

Q Have you and he been in jail together? A Yes, we have been in jail together and in other places.

Q How much have you been with him? A Ever since he declared himself in in 1902, until he left we were continuously together when we were not separated on account of military necessities.

Q You mean the military necessity of your organization?

A We were sometimes shipped one of us one way and the other the other.

Q You mean in the military necessities of the other fellow?

A Yes sir.

Q You and he were clams, were you? A Yes sir, we were were

than that; we were just the same as one; they called us the

three brothers, my brother, myself and him.

Q Did you live together in the same house except when you were in the bull pen? A We did and were some times together then.

Q Was that about the time of the beginning of the strike that you got acquainted with him? A Before the strike, the first year I remember-- the first specific action I remember of him doing anything that I considered a brotherly act was about March the 18th, 1908, when I think at least he saved me from getting into a whole lot of trouble -- that is, getting killed.

Q Getting killed. Well, that is considerable trouble. He came to you and told you something at that time, did he?

A He told me there was a plot on foot to knock off some of the --

MR. HAWLEY: We object to that, what he was told.

Q He made some report to you? A Yes.

Q And then you became friendly? A Yes, we were already friendly but I felt under obligations to him after that.

Q Did he hold any office in the union? A He was at the head of the minority faction there, and I think he was appointed on the executive committee and probably was a trustee. I would have to look up the books to be certain of that as I did not belong to the miners union.

Q Do you remember when the militia was called in? A The militia got there about the 22nd. The Citizens' Alliance made the call about the time that -- about November the 10th.

Q Of what? A Well, that --

Q The 1<sup>st</sup> of what? A November.

Q 1903, or 1902? A 1903, they sent --

MR. BORAH: 23rd of November?

THE WITNESS: When they got there, yes sir.

Q Anything doing there to call for the troops at that time?

MR. BORAH: I object to that as calling for a conclusion of the witness.

Q What was doing there? A We had practically in no --

MR. HAWLEY: Wait a moment.

Q Was there any disturbance there at that time? A There had been one disturbance. Meldrum and another bad man had beaten up Billy Drummond at the Tomboy mine; he was a cripple, and another fellow --

Q Were Meldrum and this other bad man of your fellows? A No, they were not.

Q You have seen Meldrum around here to? A Yes.

Q I guess we know who is now. Were there some pickets up at the Tomboy mine at that time? A October, or November the 1st the pickets were sent to the Tomboy mine.

Q Was Biddell one of them? A That was one measure that he got through. He was the one that headed the bunch that went up there.

Q Went on a picket? A Yes, he took them up there.

Q And the troops were called on account of whatever happened at the Tomboy mine?

MR. HAWLEY: We object to that on the ground that it is calling for a conclusion.

THE COURT: The objection is sustained.

Q When were the troops called with reference to the time the pickets went up to the Tomboy mine? A The troops were called about -- well, do you mean when were they sent there by the Governor, or when did this committee meet --

Q Well, when did the committee go to Denver? A About the 10th of November.

Q And when do you say the pickets went up to the Tomboy?

A The 1st of November.

Q Well, we will leave that now. Did Riddell come back down town? A Yes, he could not stay away.

Q He stayed up there three days and came back.

Q How far is the Tomboy from town? A The Tomboy is -- well, it is according to which train you take; it is about four miles.

Q Is that the longest or shortest trail? A Yes, that is the longest one.

Q And did anything happen to you after the troops got there?

A That is when things did begin to happen. I think it was about -- well, I got away from the first; I was sent to Montrose. Riddell was to go down there but they put him in jail to keep him from going to Montrose, and I went in his place, and the Kinley Kid hit me in the head with a six shooter and I had to



go to the sanitarium and did not get back for two weeks, and when I got back I was thrown in jail for making signs and gestures to intimidate the men at the Tomboy mine, they said, and after I was put in jail that night, there was twenty-five of us in jail, December the 21st or 22nd, and we tried to get out on bonds, and the judge said that it was too late to make out bonds that night and that he would do it tomorrow morning; and at four o'clock that night they had a special train ready there and they took eleven of us out and handcuffed several of the boys together,-- they did not handcuff me because I was not dangerous,-- and they said we were going to get ours; and it was snowing a little and they told us how we would look with snow all over us hanging from the trees in the morning; and I concluded to holler for the troops that had been moved there for the purpose of giving --

MR. HAWLEY: Wait a minute. We object to that and move to strike that out.

THE COURT: The motion will be allowed.

MR. HAWLEY: We ask that the witness be warned.

THE COURT: Witness, you answer the questions asked you and no others.

THE WITNESS: He asked me what took place.

THE COURT: That part will be stricken out as to the purpose. You answer the question that you were asked.

THE WITNESS: What was the question.

Q Were the troops moved? A The troops had been patrolling

or assisting the civil authorities in patrolling the town; I knew this, and when they started us down to the depot in charge of the civil authorities -- that is, the deputy sheriffs, why I looked around expecting -- I expected to meet some of the troops and I intended to call on them.

MR. HAWLEY: We object to that as immaterial.

THE WITNESS: Well, I began to keep my eyes open but I could not see one of those militiamen all the way down.

MR. HAWLEY: We object to his intentions.

THE WITNESS: Well, the militiamen was not on their regular patrol that night between the court house and the depot, and not seeing the militiamen I went along with the civil authorities and they put us on the train and put ten or eleven guards on with us and took us down to Montrose and put us in jail there.

Q How long were you there? A Four or five days. We spent Christmas there.

Q How many of you there? A Eleven of us.

Q Was Kiddell there? A No, he was not; I don't know how he did not come.

MR. HAWLEY: We object to that and ask to have that stricken out. It is evident that this witness is all coerced and primed --

MR. DARROW: Oh no.

MR. HAWLEY: I say yes.

MR. BARNOW: He has not been cocked and primed or led at all, although he was around your militia a good while.

THE COURT: What was that answer?

The last answer was then read.

THE WITNESS: Well, Riddell was not there.

THE COURT: That answers it.

Q You say he was not there? A No, but he was thrown in with the rest of us.

Q You don't know how long he stayed in? A I think he was let out the next morning.

Q After you had your Christmas there were you arrested again?

A I went to Telluride in a barrel.

Q In a barrel? A Yes, and after I got back into Telluride --

MR. BORAN: Now, you were asked a simple question whether you were arrested or not, and you can answer that without going into --

MR. RICHARDSON: We have no objection to their saying anything to the court, but we do object to their instructing and broasting the witness on the stand.

THE COURT: He was asked if he was arrested again, and he said he went back in a barrel. The court has instructed him to answer the questions and the statement that he went back to Telluride in a barrel is not responsive to the question that was asked.

Q How did you get back to Telluride? A Well, I don't know hardly how to answer that.

Q How did you get back? A I got back to Telluride in a barrel; that is I got through the lines.

Q Through the lines? A Yes sir.

Q And were you arrested again after that? A I was arrested by this militia when I was endeavoring to get back; that is, they throwed their guns down on me and I stopped for a few minutes and then I escaped.

Q How did you escape? A Well, I climbed a tree.

Q With the barrel, or had you got out of the barrel? A That was before I got into this barrel.

Q You finally got back? A Yes, but I was not arrested again until I had been to Kansas and had gone back under the orders of Governor Peabody that no one would be molestad returning to Telluride unarmad.

Q Were you arrested again? A I was arrested then and thrown into the hi bull pen.

Q For what this time? Do you know what you were charged with?

A Well, Riddell told me afterwards what we were charged with.

Q What did you find out?

MR. HAWLEY: We object to that as hearsay.

Q Did you ever find out what you were charged with? A No, they just throwed us in the bull pen.

Q Did you have any trial? A No, no trial at all.

Q How long did you stay there? A I stayed there five days.

Q Was Riddell with you? A Riddell slept with me except the night I was in solitary confinement.

- Q Riddell was in the bull pen with you, was he? A Yes.
- Q And then you were turned loose in five days? A Five days, yes sir.
- Q Were you arrested again? A Not exactly.
- Q Pretty near arrested, were you? A I was given 30 minutes to get out of Telluride in by the marshal.
- Q Did you get out? A No, I told him that that was too long to give me to get out of my place in.
- Q Did anything more happen to you in the way of arrests or getting out of town? A At that time?
- Q Yes. A Why --
- Q Or later than that? A No, it was the last time I was in Telluride.
- Q Well, now what did Riddell have to do specifically with the strike? Was he on any committee or anything of that sort?
- A He was working with me -- under my committee to take care of the men. He had the lodging house department under his supervision while I was managing the rest of the departments.
- Q Did you ever <sup>hear</sup> him make any statement either in the bull pen or out as to what ought to be done? A Every day that I was with him.
- Q What did he say? A Why, he objected to Guy Miller's policy and the policy of the headquarters of the Western Federation of Miners at that time; he said we ought to get busy. Do you want the specific things?

Q Exactly what he said. A Well, he said that if we hadn't been a lot of school boys we would have run them had men out of town as soon as they landed and we ought to do it yet and whenever one of them looked -- took a cross look at us we ought to give him a punch and we ought not to stand it to be run over by them, especially after Drummond was beaten up.

Q What else did he say about what should be used? A Why, the latter part of October he come to me with a proposition after some such talk of this kind, to blow up the --

MR. HANLEY: We object to the conclusion.

Q What did he say? A I says, "I don't know what we can do more than what we are doing;" and he said, "I can tell you what, we can go to using some dynamite; we can blow hell out of the Liberty Bell mill or the Scuggler mill and it is up to you and I to do it, and you can get some powder of Houston, he knows that you are prospecting and you can get all you want, and if he suspects anything after the calibration is over he won't say anything about it because he is a good friend of yours," and he says, "If you don't want to do that we can go up to the powder house between the Liberty Mill and the Tomboy mill and we can take an ax and break the lock off and get powder out of that;" and I says, "You mean to blow up one of these mills?" And he says, "Sure; we can take a couple of bear hogs and plant them above the Liberty Bell mill and take this powder up there afterwards and fill those bear hogs with the powder and put fuses in it -- into the bear hogs and touch

them off and roll them down on the Liberty Bell mill;" and I told him, I says, "Wouldn't you be liable to kill somebody?" He says, "It would not make a damned bit of difference if we did kill a scab or two, it would be so much the better." And I told him I was not going to do any killing to win that strike, that I was not going to murder anybody and he would have to declare me out; that I would not do it. And I told him besides that the troops would be in there within two hours if anything of that kind did take place and I would not stand for anything of the kind, and if he did not cut it out I was going to notify Guy Miller; and he says, "you are just like the rest; you fellows have lost your nerve and you have lost your nerve too, and I will get somebody else that will do it." But I says, "You won't do anything of the kind and if I hear of your making any endeavor to do it I will tell Guy Miller."

Q Did you ever talk with Guy Miller about it at any time?

A Yes sir.

Q What did you and Guy Miller do? A Immediately after that I walked down to the -- down towards San Miguel one afternoon and we spent the afternoon probably and he told me I ought to cut Ricelli out, that he suspected Ricelli and I told him that he was suspicious of everybody and that Ricelli was just hot-headed and we could keep him in line all right, and that he probably would not do anything that would injure our cause.

Q Was anything said in reference as to a train at one time?

A That was after I came back from Kansas.

Q What was that? A He said that we ought to take-- go back to Telluride -- well, the truth of the matter was I came back to go back to Telluride, and that is how it came up and we was talking about ways and means of going back to Telluride, all of us, and he said that we should get the engineer that runs that train in there in the evening, into Cury, and compel him to back the engine out of the roundhouse back it onto this train and we should get the boys together -- not say anything about it only to a few until the last moment, and get them all together and put them on the train and cut the telegraph and telephone wires and get all the guns we could and go back to Telluride and stay there.

Q How many of you were there? A Of our departed men? I don't suppose there was over 65 -- yes, there was over a hundred.

Q You had been sent from Telluride to Cury? A He had been sent from Telluride to Montross, and afterwards went to Cury.

Q Was anything said by him in reference to doing anything to the town down there? A Well, that was in 1904, in the fall of the year; we were over at Silverton rooming together in the Knowles cottage, and we were sitting on the porch eating turnips, and he said we ought to do something to cause or create a little excitement and he made the proposition that we could go over to Telluride and put some dynamite under the pipe-line up to the Tenby mine, and blow that up and burn the town down.

Q That was in 1904? A That was in 1904, yes.

Q What did you tell him about that? A I told him I did not



believe in a program of retaliation. I told him at a whole lot right then. Do you want all I said?

Q No, we will let Mr. Hawley bring that out. A That was the substance of it.

Q Were you down there when Moyer came down? A Moyer came a few days after I got back to Duray.

Q Where did he come to? A He came to Duray from Denver.

Q Yes, and were you in the bull pen with him? A A few days after that I was in the bull pen with him.

Q Did you see who came with Moyer to Duray? A Yes, that is, I was to the train when the train came in; there was quite a crowd there and I saw them at a distance. I did not see --

Q Who was with him? A I found out afterwards that Harry Orchard was with him.

Q Did you see Harry Orchard in town that day or the day after? A Yes.

Q Where did you see him? A In Kitty Hite's rooming house.

Q Whereabouts in the rooming house? A Downstairs, in next to the front room.

Q A rooming house, you say? A Well, it is a hotel, where we were stopping.

Q What time of day did you see him there? A In the evening.

Q Anybody with him? A Riddell was with him in the room.

Q How long did you see them together that you know of? A When I went down to supper they were in the room and they were having some kind of conversation and I stepped in and he asked

me if I knew Orchard and I told him that I had seen him with Mr. Mayer, and he said, "This is one of the boys." And they had a little more conversation and I went on out and went to supper. I saw they were interested and I asked them to go to supper with me, and they said no, that they would see me after a while, and when I came out the door was shut -- when I came out from supper, the door was still shut and I knocked at the door and Orchard and Hiddell was still in the room and I asked them if they were going down town to see if we would get the mail, and they said that they would be along in a few minutes, and I went on down town.

Q Did you ever see Orchard again? A I don't believe I did. I don't know whether I seen them around the town together after that or not. There is one correction I would like to make.

Q What is that? A In the bull pen -- when I was in the bull pen on bread and water I don't remember whether they kept him in that night or not.

Q All right, you mean you don't know whether you spent the night in the bull pen that night.

THE COURT: What correction is that, Mr. Darrow, what does it correct?

MR. DARROW: I don't know.

MR. BORAH: I suppose it is something in the witness' mind.

Q Do you mean you don't know whether you stayed there that night?

A I don't know whether we were together that night or not.

Q Oh, you and Riddell? A Yes sir.

MR. DARROW: That is all.

CROSS EXAMINATION

BY MR. BORAH:

Q Q That you mean was that you did not remember whether you was really on bread and water then? A Yes, that is it maybe.

Q When did you first get acquainted with Riddell? A I must have got acquainted with him January 5th. I noticed in looking over the lodging house books --

Q Of what year? A 1902.

Q And you continued to be acquaintances and friends until what date? A Well, you see he worked a month --

Q Answer my question. A Outside of that month he went to work we were continuously together.

Q I said that you continued to be friends and acquaintances until what date? A I cannot answer that question, because we did not continue from that time to be acquaintances and friends. I don't know as I even noticed him when he first came there.

Q When did you come to be acquaintances and friends? A With this 15th of March we became intimate.

Q Of what year? A 1902.

Q And when did you first meet him? A January 5th.

Q And after the 15th of March, 1903, you continued to be acquaintances and friends until what date? A Until I met him here in Boise.

Q And had there been anything to disturb your friendship between this time, on the 15th of March and the time you met him here in Boise? A There had been things, but he always explained them.

Q Had your friendship in any way been broken off or had he made his explanations satisfactory to you until you got here to Boise? A He always had.

Q Now, about what date was it that he proposed to blow up this town? A He proposed to burn it up.

Q Burn it up? A That was -- well it was in the fall, because we were eating turnips out on the porch.

Q In what year? A 1904.

Q And you fix the time because there was turnips in the market?

A That is exactly the way I fix it.

Q There could not have been turnips in the fall of 1903?

A I know it was not 1903, because the strike was settled then.

Q Then you have it settled that after you met him in March it was that fall that he proposed to you to burn up the town?

A I met him in March 1903.

Q And it was in the fall of 1904 that he made this proposition to you? A Yes sir.

- Q Now, when was it he made the proposition to you to plant some dynamite about one or two of the mines? A Hills, not mines.
- Q When was that? A That was the latter part of October, 1903.
- Q 1903? A Yes sir.
- Q What town was it he was going to burn up? A Telluride.
- Q Did any union men live in the town? A The union men had property there, there houses and homes, but not many of them lived there then.
- Q And the proposition to blow up the mill was before the proposition to burn up the town? A Yes, a year before.
- Q A year before? A Yes sir.
- Q Now, what other proposition did he make to you in the way of the commission of crime except the burning of the mill and burning up of the town -- the blowing up of the mill, I should say, and when was it? A Oh, well, in September there was one occasion I remember about -- no, in March.
- Q What year? A That was the same year that this was.
- Q 1904? A Yes, -- 1903, that was the occasion I spoke about when we got acquainted.
- Q And was there any other suggestions of violence aside from these three incidents during the period of your friendship?
- A There was a general -- his general policy was to tell us that.
- Q I am asking now for any specific instances? A Specific instances?
- Q Yes, when he suggested a specific time? A Specific crime?

Q Yes. A Well, I would have to think about that a while.

Now, if you call it a specific crime to suggest that we run these gun men out of town and things like that?

Q Yes, when did he make that suggestion to you? A Those suggestions began about right after Billy Drummond was beat up, especially.

Q That was in 1903? A Yes.

Q And these suggestions were made upon different times? A Yes, and they continued every day.

Q Now, was there any other specific incident or instance with reference to blowing up mills or anything of that kind? A He thought we ought to take possession of these mines themselves and send guards up to all of them and just compel -- or rather make it impossible for any man to go to work; if he wanted to go to work, why beat him up. This was his program.

Q This was between March 1904 and the time you finally separated with him and met him up here? A Yes.

Q Were you ever with him on any expedition of crime? Did you ever go with him to do anything wrong? A Well, I was with him the night of September -- or March 18th, all that night.

Q Well, were you engaged in any violation of law yourself at that time? A No sir.

Q What I asked you was if you ever went with Hiddell yourself to participate in any wrongdoing that you know of? A Do you want me to tell this occasion -- I am not clear whether it would be considered --

- Q You know whether you joined with him? A With that intention?
- Q Yes. A No, I did not.
- Q Did you ever join with him with the intention of committing any crime -- did you ever in your own mind make up your mind to commit any crime? A Yes, I guess I did.
- Q And when was that? A Well, when I went back to Telluride I concluded I would kill anybody that kept me from going back.
- Q Was that in conjunction with Riddell? A I told him I was going to do it.
- Q And did he encourage you to do it? A He said he was going to do the same and he went up by way of the train and I took over the trail by horseback, and I told him he was foolish to go that way.
- Q Did he meet you after you got there? A Well, the militia did.
- Q Did Riddell meet you? A Riddell got there ahead of me at Placerville, and told this militia--I don't know about that of course.
- Q Did you and Riddell go out to kill anybody together? A No, I don't think we did.
- Q You never got that far along did you? A No, we went back to Telluride when Meyer came back there, when 67 of us went back there under the orders of Governor Peabody.
- Q Who were these people that went back at that time? Give me the names of some of them? A There was Riddell, and there was Gus Mahart.

- Q Who was Gus Mohart? A He was a brother in law of Adams there in Telluride.
- Q Was he a Pinkerton or a miner? A We did not have but one Pinkerton I guess.
- Q That is, you did not have but one that you knew of? A That is all I know about and he kept us busy.
- Q And Gus Mohart was a miner, was he? A Yes, he was a miner.
- Q Who else was with you? A John Mackey.
- Q Was he a miner? A Yes sir.
- Q And who else? A He and his -- there was a lot of Finlanders with him that went back at that time, and I don't know the names of those Finlanders.
- Q Were those sixty-seven men all miners except Riddell so far as you know? A I believe they were, -- let me see; I believe they were, and Riddell was a miner too. They were all miners.
- Q Yes, so far as you know, except Riddell, -- we will pass him for a miner for the time being? A I will wait a minute before I answer that because I don't expect there were -- I expect there was some few maybe that belonged to the Federal Labor Union that worked in other crafts.
- Q They were union men, were they? A The 67?
- Q Yes. A I think probably every one of them belonged to a union.
- Q And was this the time that Meyer came down there? A This was after they had captured Meyer and taken him to Telluride.
- Q This was after you had met Orshani? A This was after I had met Orshani, yes.



- Q Did you see Orchard get off the train with Moyer? A I saw them directly after they were off the train.
- Q Did you notice whether they were armed or not? A Why I— they were not armed as far as anybody could see.
- Q You could not see their arms? A Not their firearms.
- Q Whereabouts was Orchard talking at the time he was talking to Riddell when you saw them talking together? A They were in the next to the front room on the lower floor of this Kitty Ritz's hotel.
- Q Was this after the arrest of Moyer? A I think they were there two evenings, and I don't know whether it was the first or second evening that this thing came up. I have been trying to figure it out.
- Q Do you know whether it was before or after the arrest of Moyer? A I think Mr. Moyer was arrested the first evening he was in there; I am not certain.
- Q And was this conversation with Riddell before or after his arrest? A It was probably after; I am not certain about that.
- Q You cannot say as to that? A No, I cannot say as to that.
- Q Was Orchard going by the name of Orchard? A Harry Orchard, yes.
- Q He was known there as Harry Orchard? A That is what Riddell told me; he says, "This is Harry Orchard."
- Q You did not hear of his going by any other name at that place? A No, I never heard much about him.

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Q You did not hear him called Dempsey or Hogan? A No sir.

Q When you were first put in charge of the civil authorities, what was the date of that? A Well --

Q The first time you were taken in charge by the civil authorities? A That was the time we were arrested for blockading the sidewalks; that was in September.

Q I don't know what you were arrested for? A The time I spoke about being taken in charge by the civil authorities, when we were all arrested for making signs and gestures with the intention of intimidating--

Q When was that? A That was the 31st day of December.

Q 31st of December? A The 31st or 22nd.

Q 1903? A 1903.

Q Were the military authorities there at that time?

A Yes, the militia was there but there was no martial law.

Q When was martial law declared in that district? A It was after we got back.

Q What was the date of it? A I think that it was January the 3rd, at least that was the night that they went down to the union hall and arrested those men.

Q Was that the night martial law was declared, do you think?

A Yes, I think it was.

Q What was the date of that? A That was January the 3rd. I was behind the scenes then. I did not hear this proclamation read.

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Q January 3rd of what? A 1904.

Q Then, at the time you were arrested by the civil authorities was some time before martial law was declared? A Yes sir.

Q Who else was arrested with you at that time? A All the office boys of the union that they could find.

Q Were you an officer of the union at this time? A I was on the strike committee.

Q Who were the other members of the strike committee?

A Tom Corey, Guy Miller, Forbes, H. C. Voss, and I don't know whether Middell was a member of the strike committee or not, but I know he acted with us.

Q And it was at the time you were on the strike committee that you were arrested by the civil authorities? Not the first time, no.

Q When was this strike committee formed? A I think we had a joint meeting at Dehman's Hall of both unions about September the 3rd.

Q If you will give me the dates which I call for, in what I am getting at. A I have not given you the date when I was arrested first by the civil authorities.

Q I thought you said it was in December? A I was arrested in December, but I was arrested before that and that has not been mentioned in my direct or cross examination.

Q Well, this time you spoke of to Mr. Barrow was on December 23rd, 1903? A Yes sir.

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- Q And that was before martial law was declared? A It was after the soldiers come in there.
- Q And the soldiers got in there on what date? A The soldiers got in there in November, I think about the 23rd. I think they started from Denver the 20th.
- Q What was the date of the organization of your strike committee? A September the 2nd, 3rd or 4th possibly.
- Q And what was the date of the calling of the strike? A September 21st.
- Q Now, at the time the strike was called what was the cause of the strike there? A The millmen were all called out on account of this eight hour proposition in the mills. They voted to ask for eight hours and if it was not given on September 1st they was going to walk out.
- Q How long did the strike continue there in Telluride? A How long did the strike continue?
- Q Yes. A Until December of 1904, I think.
- Q December what? A December the -- well, I think it is the 1st of December that that was -- that they posted notices that they would give eight hours.
- Q December 1st? A Well, yes, I think it was December the 1st, 1904, or '05, -- now I think it was 1904, but possibly 1903 that they called it off.

MR. HOWARD: I believe that is all.

## RE-DIRECT EXAMINATION

BY MR. BARNES:

- Q Mr. Barnes, I omitted one question: Was there some conference or meeting of the unions to take action about calling the strike off? A Yes sir.
- Q When was that? A That was after I got back from Montreal. Let me see,-- it was about December the 12th or 15th; it was a special meeting.
- Q Of what year? A 1903.
- Q Did you take part in it? A Yes sir.
- Q And Miller? A Yes sir.
- Q Which side were you on? A We were all together at that time excepting Riddell.
- Q All together for what? A All together to call the strike off.
- Q What did Riddell do? A Riddell said he would not stand for it.
- Q Did he make a speech against it? A Yes sir, he did. We all made speeches.
- Q Did he make a speech against calling it off? A Yes sir.
- Q Anybody else make a speech against it but him? A I think there was one fellow, I forget his name; he was a Finlander or a Norwegian, or a Swede that made this talk and maybe another talk.

Q Was it Luptow? A I would not be certain about that State that supported Siddell in his argument.

Q You don't know whether that is the name or not? A No, he was a tall fellow; I was not very well acquainted with him.

MR. BARNOW: That is all.

RE-CROSS EXAMINATION

BY MR. BARNOW:

Q When was this occasion? A That was December -- well, I think it was between the 1<sup>st</sup> and 15<sup>th</sup> of December.

Q Of 1903 or 1904? A Yes, 1903.

Q Who was it that was going to call of this strike -- the strike committee? A We always had to petition the president for calling a special meeting and give our reasons for calling it, and this strike committee met and agreed to have Guy Miller to call this special meeting.

Q How many were there of you on the strike committee? A There I have mentioned before.

Q There were four then all together as I have understood from your statement? A Well, I think possibly I mentioned five, didn't I?

Q Perhaps it was; there was five on the strike committee?

A At different times they varied.

Q How many were there on the strike committee at the time you

caused the meeting to be held to call off the strike? A Well, those that discussed it were -- I can name those; there was Riddell and Guy Miller, and Carpenter -- I never mentioned Carpenter before on this committee.

Q He was one of the members of this strike committee? A Yes sir, Frank Carpenter, and Tom Corey was in jail. We did not talk to him about it, but I talked to each one of these about it after I got back from Montrose, the same night I got back from Montrose.

Q You were all in favor of it except Riddell? A He said he would not stand for it.

Q But you were all in favor of it except him? A Yes sir, we were all in favor of calling off the strike.

MR. BORAH: That is all.

MR. BARROW: You mean all the leaders, I suppose?

MR. RICHARDSON: The committee.

THE WITNESS: Yes, the strike committee.

MR. BARROW: That is all.

PAT MORAN, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DANNOW:

- Q. What is your name, please. A. Pat Moran, sir.
- Q. Now, Mr. Moran, speak up so all the jury can hear you. Pat Moran, is it? A. Yes.
- Q. Where do you live? A. Cheyenne, sir.
- Q. Oh, you can speak louder than that. A. Cheyenne.
- Q. That is better. Speak in like a cowboy. I suppose they talk loud. How long have you lived in Cheyenne? A. Four years.
- Q. What do you do there? A. I am working for Lileman Brothers there, wholesale liquor house.
- Q. In what way are you working for them? A. Well, I am taking care of the bar in the back and helping in the store and one thing another.
- Q. You haven't got a place of your own now? A. No sir, I sold out last January.
- Q. What was your business before? A. Well, I used to be in the installment business when I come to Cheyenne first, and I run a saloon for two years and ten months afterwards.
- Q. You wasn't in the installment business when you was running a saloon? A. No, I had to finish up my collections, though; that is the reason I settled there in the saloon business.
- Q. You were in the saloon business in Cheyenne, were you? A. Yes sir.
- Q. How long? A. Two years and ten months.
- Q. What was the name of your saloon? A. Denver Exchange.



- Q. Where was it with reference to the depot? A. The second door from it.
- Q. That is the Union Pacific depot, was it? A. Yes sir.
- Q. Took the train there to go to Denver, anybody that went I mean?
- A. That is the only place you could get it, or else walk.
- Q. And your place was the second door from it? A. Yes sir.
- Q. Before you went to Cheyenne did you live in Denver?
- A. Yes sir. I lived in southern Colorado, I lived down near Trinidad in a coal camp.
- Q. What was you doing down there? A. Well, I was selling goods down there. I sold watches to the miners for about two years, I guess, and run a saloon for a year and ten months down there, at Rugby, Colorado.
- Q. Did you ever work for Pettibone? A. Yes sir.
- Q. How long? A. Well, I went to work for him in 1895 and I worked for him until eight years ago.
- Q. 1895 -- worked for him about three years then, did you?
- A. Well, I was off and on with him for about five years I believe.
- Q. Ever mined, have you? A. No sir.
- Q. Never did that. What was you doing when you was working for Pettibone? A. I sold clocks for him. I was called the clock peddler when I was with him.
- Q. You were peddling clocks? A. Yes sir.
- Q. Where did you sell them? A. Well, I sold office clocks, around stores and offices and cigar stores, saloons and pool halls and places of that kind in Denver. I sold about eight hundred for him there.
- Q. Did you sell anything else but clocks? A. Well, once in a

while when I would get an order for something else I would take it out and sell it.

Q. What else did he sell at that time? A. Bays and mirrors and portieres, lace curtains, lamps -- I sold quite a number of lamps for him there, too.

Q. Was your business mainly around Denver? A. Sir?

Q. Was your business mainly around Denver? A. Well, I used to go out and open up territory for him once in a while. I was up at Black Hawk and Central City up there, I worked for him up there and I opened a place for him down in Pueblo, one in Trinidad, and I used to go over to Anton and around Blackburg, around the coal camps there.

Q. How was Pettibone as to his acquaintance with miners?

A. I used to see an odd one drop in there once in a while.

Q. What? A. Once in a while I would see one around there.

Q. Speak louder, Mr. Moran. You can speak so we can all hear you if you try. Did you get acquainted with any of the miners by being out there, do you know? A. Yes, I knew three or four of them.

Q. When you went to Cheyenne how was it as to people from Denver coming to your mission at different times? A. Well, that was the reason I put that sign on it "Denver Exchange". That brought a whole lot of them in there when they come up from Denver or Colorado.

Q. That was for the benefit of Denver people, was it, that sign?

A. Well, there is a whole lot of them come up there to Cheyenne.

Q. How far is Denver from Cheyenne? A. One hundred and six miles.

Q. How long does it take to run it on the ordinary passenger train?

A. Well, I think it takes then three hours and a half to go down and four hours to get back.

Q. Do you remember two men and a boy coming there in 1904, in the summer? A. Yes sir.

Q. Did they drive or did they come on the train? A. I believe they drove there. I found out afterwards they did.

Q. Do you know the names of any of those? A. I know Neville and his --

Q. Where was Neville? A. And his boy.

Q. Do you know the other one? A. No sir.

Q. What did they call him? A. Shorty.

Q. Who did you hear call him Shorty? A. Mr. Neville, the old gentleman.

Q. Did they drop into the Denver Exchange? A. Yes sir; I had a lunch counter in there -- a jack of all trades, I had an employment office there too; there was people in and out of there all the time. I didn't pay much attention to them -- a crowd of sheep herders would be in there, and some cowboys sometimes, sometimes ranchers looking for help.

Q. You had a saloon and a lunch counter and an employment agency attached, did you? A. Yes sir.

Q. And you remember of these men coming there? A. Yes sir.

Q. Do you know at all how long they stayed around there?

A. I believe they stayed there at all three days or two days and a half.

Q. Do you know where they were going? A. Well, they said they was going out fishing, I heard them make the remark that they

was going out fishing.

Q. Did you do any business with them? A. Quite a little bit.

Q. What was the nature of your business with them? A. Well, they bought quite a lot of bottled beer and they bought I guess, two boxes of cigars and a couple of jugs of liquor.

Q. You mean that they took away with them when they left?

A. Yes sir.

Q. Did you see any other Denver people there at that time that you recall? A. The only one I saw was that Davis who was on the stand here yesterday, big Davis.

Q. Bill Davis? A. Bill Davis.

Q. He was on the stand several days ago. A. Yes sir.

Q. Do you know how long he was around there? A. He stayed there four days I guess. He was there the day after they came, and they went out fishing, after the other parties had gone away I went out after a dog to the dam that I gave John Gaff, the fellow that put in the dam out there, to keep the cattle away from his feed out there, and I went out after the dog, they were about to break up camp. When we got out there we found out that these fellows was up there.

Q. Well, we will go back a minute. Do you know what name Davis was going by there? A. Jones.

Q. Had you ever met Davis before, do you know? A. I saw him once in Denver, but I don't know whether I was made acquainted with him or not. I don't believe I was. There was a whole big bunch around there during the Federation doings down there.

Q. Where were they? A. I believe down on Curtis Street I saw him.

Q. At Pettibone's store? A. No, no.

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- Q. Well, while Neville and his son and Shorty were there, did Shorty, or whoever it was, ask you to go down to Denver to get a package of money or anything else from Pettibone?
- A. No sir, that is another of his pipe dreams. No sir, he never did.
- Q. Did you go down to Denver at that time? A. No sir.
- Q. For him? A. I never did.
- Q. Or for any of these three men? A. No sir, never even asked me.
- Q. Or anyone else that you recall? A. No sir.
- Q. Did you get acquainted with them to any extent? A. Well, when I went out fishing I did. I didn't much around the saloon. I didn't pay much attention to them. I didn't talk to them. I don't believe I talked two words to them.
- Q. Well, now, after they drove away did you see them again?
- A. I saw Neville.
- Q. After they drove away from Cheyenne? A. I saw Neville after he came back -- he was arrested --
- Q. No, but they left your saloon, didn't they? A. Yes sir.
- Q. And left Cheyenne? A. Yes sir.
- Q. Do you know how they went away? A. Yes, they drove out in a wagon I guess.
- Q. Did you see them after they drove away? A. Yes sir.
- Q. Where? A. Up at the dam twenty-eight miles from Cheyenne.
- Q. How did you go up there? A. I went up with my buggy, my team. I went after the dog.
- Q. And Bill Davis went with you, did he? A. Yes sir.
- Q. And whereabouts did you see them there? A. I saw them above the dam about a mile.
- Q. What were you doing, -- what were they doing? A. They was

fishing.

- Q. For how long did you see them there? A. Well, we got there in the evening, it was pretty near dark, and we stayed until about two o'clock the next afternoon, we started back for Cheyenne.
- Q. Who came back? A. Davis and myself and I brought the dog back with me.
- Q. What became of Neville and Shorty? A. They stayed out there.
- Q. What? A. They stayed there, still camping there when we left.
- Q. Did you see any of them again? A. I never saw Orchard again until I saw sitting over here in the lawyers' office.
- Q. You have seen him since you came to town? A. Yes, I saw him at the window, looking out of the window.
- Q. Whose office was he in? A. It was Mr. Borah's, I guess.
- Q. Did you see Neville again? A. Yes sir.
- Q. Where did you see him? A. After he came back from Cody here -- came back from Colorado; he was arrested at Cody, taken down to Victor, I guess he came back through Cheyenne going to Goldfield.
- Q. Was his boy with him? A. I don't think he was.
- Q. That was the last you saw of him, was it? A. Yes sir.

MR. DAWSON: That is all.

#### CROSS EXAMINATION

BY MR. BOWEN:

- Q. When did you say you first became acquainted with Mr. Pettibone, Mr. Moran? A. 1895.
- Q. And did you go into his employment at that time? A. Yes sir.

Q. Selling clocks and other things which he was selling?

A. Yes sir.

Q. And you continued in his employment until -- off and on for about five years you say? A. Yes, just about, I believe it was

Q. And of course thereafter you were well acquainted with him?

A. Pretty well.

THE COURT: Mr. Witness, you must speak louder.

THE WITNESS: All right, sir. I was well acquainted with him.

Q. And had you during that time met Mr. Haywood? A. I seen Mr. Haywood once I believe.

Q. Had you formed a personal acquaintance with him?

A. Well, I was made acquainted with him.

Q. Where did you meet him? A. I met him down on 15th Street.

Q. Who introduced you? A. Mr. Pettibone.

Q. And did you get acquainted with Mr. Moyer? A. I couldn't tell you when I got acquainted with Mr. Moyer. I am not very long acquainted with Mr. Moyer, I guess about two years I should judge.

Q. After you left Pettibone's employment did you continue to work in Denver or did you go to Cheyenne? A. I went to Halesburg, Colorado.

Q. And opened up a business there for yourself? A. Yes sir.

Q. Saloon business? A. No, I was in with a jeweller down there by the name of Johnson, J. P. Johnson.

Q. What time did you go to Cheyenne to locate, what year?

A. After that?

Q. Yes. A. I come from there right to Cheyenne.

- Q. What year was that? A. That was four years ago.
- Q. Four years ago? A. It was four years ago the 7th of last June, last month.
- Q. 1903? A. Yes sir, I should judge it was.
- Q. And had you ever been to headquarters in Denver of the Western Federation? A. No sir.
- Q. Never was there in your life? A. No sir. I was in to see O'Neill in his office once.
- Q. When was that, Mr. Moran? A. That was after them people was arrested here or brought up here. I was down to Denver and I stopped in to see him.
- Q. You never had been in the headquarters at any time while you were in Pettibone's employment? A. No.
- Q. Or any other time? A. No.
- Q. Except this one time when you went to see O'Neill? A. No sir.
- Q. Did you know Mr. Copley? A. Never until I saw him here.
- Q. Hadn't met him around headquarters? A. No sir.
- Q. Had you ever met Mr. Haywood except this one time? A. Oh, yes, I saw him I guess about three or four times.
- Q. Where did you see him? A. I saw him in the Albany hotel during the Stock Growers' Convention down there in Denver -- Stock Raisers' Convention.
- Q. Did you know Jack Simpkins? A. No sir.
- Q. Never met him? A. No sir.
- Q. Didn't know who he was? A. No sir.
- Q. Did you know any of the other leading men of the Western Federation except Mr. Haywood and Mr. Pettibone? A. Well, Haywood, Moyer, Pettibone and O'Neill is about the only ones



I knew.

- Q. You never stopped around their headquarters at all? A. No sir.
- Q. Now when you went to Cheyenne you opened up a saloon I believe?
- A. I started an installment business there, selling goods on monthly payments.
- Q. When did you open your saloon? A. I opened it on the 13th of March three years ago.
- Q. And you called it the Denver Exchange? A. Yes sir.
- Q. And in June, 1904, Mr. Neville and his boy and somebody else came there to your saloon? A. Yes sir.
- Q. Did you know Neville before he came there? A. No sir, I never saw him.
- Q. Did he make himself known? A. Yes, he told me that he used to run a saloon. He didn't say where. He wanted to buy me out there.
- Q. Did you learn that he was from Denver? A. He kind of mentioned that he come from a coal camp or a mining camp, and I didn't ask him where.
- Q. Did he say anything about his knowing Pettibone in Denver?
- A. No sir.
- Q. Did he ask you if you knew anybody in Denver? A. No.
- Q. Nothing was said about your acquaintances in Denver in any way at all? A. Not a single word. He asked me if I run a saloon in Denver and I told him no.
- Q. He did ask you if you run a saloon in Denver? A. Yes sir.
- Q. Then did you tell him that you had lived in Denver? A. Yes sir.
- Q. And didn't he ask you then about any acquaintances you had in

Denver? A. No; I told him that I came from the coal camps down in Colorado.

Q. But you told him, didn't you, that you had lived in Denver?

A. I don't know whether I did or not.

Q. I thought you said just now that you told him you lived in Denver? A. Well, I did, I told him I lived in Denver.

Q. Did he ask you then about your acquaintances in Denver?

A. No sir, not that I remember of.

Q. Didn't ask you anything about your knowing Mr. Pettibone?

A. No sir.

Q. You didn't ask him anything about whom he knew? A. Not a word.

Q. And the suggestion of the fact that you lived in Denver didn't bring up any conversation with reference to your acquaintances of anything of that kind? A. No sir.

Q. Did he introduce this man who was with him besides his boy?

A. No, only when he was talking about buying this saloon, Shorty, as he called him, when he come up --- he was eating at the lunch counter, and he come over and started to talk about that.

Q. Didn't he introduce you to him? A. No.

Q. How long were they about there? A. They must have been two days and a half.

Q. And you never learned Shorty's name during the time he was there? A. Well, I didn't see them nights around there. I was working nights most.

Q. You didn't learn his name while he was around there at all?

A. No sir.

Q. Didn't hear them call him either by his first name or last name?

A. I only heard them call him Shorty; then when they was out fishing they called him Shorty.

- Q. And you didn't learn he was Harry Orchard at all? A. No sir.
- Q. Then or afterwards? A. No sir.
- Q. Never knew that until you came here? A. I never knew that until Mr. Cary, the assistant superintendent of the Pinkertons, was up to my place looking for information and wanted to know if I knew him, and he showed me his picture but I didn't recognize it even.
- Q. Did you remember Neville? A. Yes sir.
- Q. Well, didn't you remember this man whose picture you saw as Harry? A. No sir.
- Q. Couldn't identify him? A. No sir, Mr. Cary said he might have had a mustache on when I saw him.
- Q. So that doesn't identify him so that you would know him?
- A. I don't think I would have known him.
- Q. You say, do you, Mr. Moran, that you know Mr. Neville and recognized him? A. He was there the second time, you know.
- Q. Well, exactly, but Mr. Orchard was around there two or three days with Neville? A. I was working nights and they never was around my place nights at all.
- Q. And still when you saw his picture you did not recognize him?
- A. No sir.
- Q. As ever having seen him before? A. No sir.
- Q. Where did you next see Orchard? A. Over in that office here.
- Q. Who told you it was Orchard? A. Warner.
- Q. Did you recognize him then as the man whom you saw at your saloon? A. No sir.
- Q. You don't know yet that he was the man? A. No sir; Warner said, "That is him sitting there," he said, "do you want to

see Orchard?" I said, "Yes".

- Q. Well, did the man whom they called Shorty have a mustache at the time he was there? A. I don't remember, sir.
- Q. Well, did the man whom you saw in my office have a mustache? A. It looked to me like he had. He was up in this office looking out of the window.
- Q. That day he had a mustache? A. I believe he had.
- Q. Did you look at him for the purpose of satisfying your mind as to whether he was the party whom you saw there? A. Yes sir. I went right in the middle of the street and looked up at him in the window.
- Q. Could you tell whether the man sitting there was the man you had known as Shorty? A. No sir.
- Q. Couldn't identify him? A. No sir.
- Q. Did you see Mr. Neville's boy? A. Yes sir.
- Q. Did you know whether he was the boy you saw there? A. Yes sir.
- Q. You identified him? A. Yes sir.
- Q. You would be able to identify Mr. Neville if you saw him, wouldn't you? A. I believe I would. I didn't know Neville's boy until he was pointed out to me.
- Q. You would be able to identify Mr. Neville, wouldn't you, if you would see him? A. I believe I would, sir.
- Q. How was the man Shorty dressed at the time? A. I don't believe I could tell you that. I believe he had corduroy pants on and high boots laced outside of them when I saw him first.
- Q. Any other article of dress that you can identify? A. I believe

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He was in his shirt sleeves and a white hat on.

Q. How was Neville dressed? A. Neville had a brown suit on him when he was there.

Q. How was the boy dressed? A. I couldn't tell you. I didn't pay much attention to them.

Q. Do you think if you should see Orchard's picture with a surname that you would recognize him? A. I don't know that I would.

Q. Do you think if you should see it with a mistake that you would recognize him? A. I might. He showed me both of them and I couldn't remember. I have seen lots of them up here in these windows around town and in the papers and I don't remember of seeing him.

Q. Do you know what kind of a hat he had on? A. He had a soft white hat on when I saw him. I believe that is what he had on or wore.

Q. (Showing witness photograph). Could you say that that was the man whom you saw there as Shorty?

THE COURT: That is what number, Mr. Borah?

MR. BORAH: Exhibit 1 for identification on the part of the Defense.

THE WITNESS: I have seen so many of his pictures, you know, that I know him now.

Q. Do you think that was the man whom you saw there as Shorty?

A. I give you my word of honor I don't remember that I ever saw him.

Q. Well, you did see a man there whom they called Shorty?

3218 A. Yes sir.

- Q. How do you see any resemblance between this picture and the man whom you saw there as Shorty? A. I couldn't tell you, sir. I see so many of them that I believe I would know him now if I saw him.
- Q. (Showing witness another photograph). Do you see any resemblance between that and the man whom you saw there as Shorty?
- A. No sir.
- Q. Did Neville wear a mustache? A. I believe he did.
- Q. Did he wear a beard? A. I couldn't say.
- Q. Couldn't tell? A. No sir.
- Q. Couldn't remember? A. No sir.
- Q. Can't remember? A. Not very well.
- Q. What kind of a hat did he have on? A. He had a black hat on. I remember him better when he came back the second time after he came from Vloter; he stayed there two days at the saloon.
- Q. What kind of a hat did he have on when he went up? A. Sir?
- Q. What kind of a hat did he wear? A. A black hat I believe it was.
- Q. A soft hat? A. A black soft hat.
- Q. Then you never heard this man's name at any time while he was about there, either when you were at the dam or when he was at your saloon? A. No sir.
- Q. How did they tell you how they came to come into your saloon, was there anything said about that? A. Not a word that I know.
- Q. Not a word? A. No.
- Q. They just dropped in there, didn't tell you it was because they saw "Denver" on your sign? A. Well, I don't know. That might have been what brought them in. I don't know. There was a lunch counter; I guess they come in to eat.

- Q. When did Davis get there with reference to the time Neville got there? A. He was there the next day I believe.
- Q. What name was he going under there? A. Jones.
- Q. Going under Jones? A. I took more of a liking to him than I did to the others. I didn't kind of like the other ones' appearance. Davis was pretty well dressed and I walked with him quite a bit around town.
- Q. And you got acquainted with him and learned his name? A. Yes.
- Q. Who introduced you to him? A. He told me himself.
- Q. And you have no trouble identifying Davis? A. Well, I know him in Denver before that.
- Q. Did he say anything about Neville and the boy? A. Well, he kind of said they was on a little harum-scarum chase and he never told me what it was.
- Q. He said they were on a harum-scarum -- A. Yes.
- Q. What did you understand by that? A. I didn't know. There was some horses stole up in the northern part of the state and I thought they were horse thieves. I didn't know.
- Q. And you thought Davis was familiar with the fact that they were horse thieves? A. I thought they come down from Jackson Hole up there with some horses stolen.
- Q. Did you think if they come down from Jackson Hole as horse thieves Mr. Davis knew something about it? A. Yes sir.
- Q. You mean to state that as a fact before the jury that you understood that Davis was referring to the fact that they had been stealing horses up there? A. I didn't know. I thought they might have been.
- 3220 Q. Was that what you understood from his language? A. I kind of

thought that way.

Q. How you knew Mr. Davis came to Cheyenne from Denver, didn't you? A. Yes sir.

Q. And you knew he was speaking to Neville with reference to other matters, didn't you? A. Yes sir -- you mean to other matters?

Q. Yes. A. No, I didn't. I didn't know anything about the man.

Q. Did Davis talk to you anything about any troubles down in Colorado at that time? A. No.

Q. Don't you know there was trouble in the mining camps in Colorado and in the coal camps? A. There was.

Q. Did you read the newspapers at that time? A. Yes sir.

Q. With reference to the Independence depot explosion? A. Yes.

Q. Had you read of it? A. Yes sir.

Q. Did you read of it during the time they were there? A. No, I didn't.

Q. Was there anything about it in the newspapers at that time?

A. Sure, they was full of it.

Q. What is the daily paper that is published in Cheyenne or was at that time? A. The Leader.

Q. It was publishing something in regard to this matter every day, wasn't it? A. And the Tribune. I used to get both of them and I used to get the Denver News.

Q. Did you read the newspapers right along at that time?

A. Yes sir.

Q. Didn't you read about the Independence depot explosion?

A. Yes sir.



- Q. But there was nothing said there by Davis about any of those troubles? A. Not a word.
- Q. Nothing said? A. I wasn't much acquainted with him and I guess the man didn't want to make much freedom with me and I didn't make any with them.
- Q. Nothing was said about any of these things which were appearing in the newspaper? A. Not a word, but we mentioned it several times around the saloon to parties that came in and out.
- Q. You had met Davis you say before? A. Yes sir.
- Q. Where did you meet? A. Down in Denver on 30th Street.
- Q. Who introduced you? A. I can't remember, sir.
- Q. Did you know him down there as Davis? A. I believe I did; it was Daving but his name was Jones then.
- Q. When he got up to your house his name was Jones? A. Yes sir.
- Q. Did that cause you to make any inquiry? A. No, he said he was down in Colorado and couldn't get any work, when I asked him about his work; he said he was afraid he couldn't get work if he give the right name.
- Q. Was he hunting work around your saloon? A. He said he was going out to Grand Encampment.
- Q. Did you understand he was hunting work in Cheyenne?  
A. No, there was no work for him in Cheyenne in his line.
- Q. You didn't understand he was hunting work in Cheyenne?  
A. No, he was going out to Grand Encampment.
- Q. And you didn't make any inquiries as to why he had changed his name other than the fact that he told you he was hunting work? A. I know there was a whole lot of them used to change

their names from one mining camp to another and down in the coal mining camps they used to do it.

Q. And you didn't make any inquiry from Davis as to why he had changed his name? A. Not a bit, sir.

Q. Was he there at any time while Orchard was there?

A. I saw the other ones in the saloon while Orchard was there.

Q. Did you see Orchard and Davis in the saloon at the same time?

A. Yes sir.

Q. Were they talking together? A. Yes sir, and Neville, all three of them.

Q. All three of them were talking there together? A. Yes sir.

Q. Did you hear their conversation? A. No sir.

Q. Didn't hear a thing they said? A. Not a word.

Q. When did Davis leave there in reference to the time that Orchard and Neville left? A. He left I think it was the day afterwards.

Q. Did you go to Denver at all in June, 1904? A. No sir.

Q. At no time? A. At no time. I don't believe I went in six months during that time.

Q. You were not in Denver at any time in June, 1904? A. No sir.

Q. You are just as positive as that as you are that you saw those people there, are you? A. I am certain of it.

Q. Now what date were those people at your saloon? A. It must have been about the middle of June; I don't remember the date.

Q. About the 15th or 16th of June? A. Well, about the middle of June some time.

Q. How do you fix the date? A. Well, I know it was about the middle of the month, that is about all I remember about it.

Q. How do you fix it was the middle of the month? A. By seeing them around there, that is all.

Q. Is there anything by which you identify the time? A. Not a thing.

Q. It might have been the first of the month, mightn't it?

A. Yes, might, or the last; because I didn't pay much attention to them.

Q. How do you fix it at about the middle of the month?

A. Fix it by what Davis told when he was on the stand, that he was there about the 10th or 12th of June.

Q. And that is the way you fix it, is it? A. That is the only way, because I didn't pay no more attention than if they wasn't there at all.

Q. Now after Mr. Orchard and Neville and his son went out to the dam Davis and yourself went out? A. Yes, went out after a dog. I didn't know they was out there.

Q. You saw them after you got there? A. Yes sir.

Q. They was around and you met up with them again?

A. They told us down at the camp, mentioned something about falling from Cheyenne being up there in a wagon.

Q. Were you about together during the day that you were at this dam? A. Well, Neville's boy and me was together more than the rest of them. One of them had a line and a hook, you know, an old string and a hook, and we was down stream and Neville and Davis and Shorty was up the creek.

Q. You were all there together? A. Yes, we slept together that night.

Q. You slept together? A. Yes sir.

- Q. Two nights? A. One night.
- Q. Did you eat together? A. Yes sir.
- Q. Camped together? A. Yes sir.
- Q. And you still didn't learn Orchard's name? A. No sir.
- Q. Still called him Shorty? A. Shorty.
- Q. Did you see Davis and Orchard talking together any out there?
- A. Not as much as Neville and Orchard.
- Q. Did you see Neville and Orchard talking together?
- A. No, not out there very much. They was up the creek together.
- Q. Not very much; Did you see them talking together at all?
- A. Yes.
- Q. You say Orchard and Davis were up the creek together?
- A. Yes, and Neville.
- Q. Then when you left up there you saw Orchard no more?
- A. I was a kind of a stranger to them and they kept me with the boy, if they had anything to talk about private.
- Q. Did you understand that at the time that they sent you off with the boy? A. No, I thought of it afterwards.
- Q. Now after you left Orchard and the crowd, Davis and yourself went back to Cheyenne? A. Yes sir.
- Q. Got pretty well acquainted with Davis? A. Yes sir. We brought a dog back.
- Q. Rode together all the way back? A. Yes sir.
- Q. How far was it? A. Twenty-eight miles.
- Q. Did you talk any about Denver? A. Quite a bit.
- Q. Did you talk any about the troubles down there? A. Yes sir.
- Q. Did he say anything ah at the Independence depot explosion?
- A. He never said a word about it.

8. What troubles did he talk about? A. Just one thing and another, and the trouble they was having down there and the trouble they was having down at Cripple Creek.
9. Did he tell you where he was going? A. Yes, he said he was going to Encampment.
10. How long did he remain with you at Cheyenne? A. He left the next day, and I didn't see him the next day at all. I seen him after I got in and put the rig away.
11. When did you next see Herville? A. Oh, it must have been about a month afterwards I think.
12. He was brought back there as a prisoner? A. Well, he come back after he got through, after he was tried down in Colorado.
13. You didn't see him when he was going back to Colorado?
- A. No sir.
14. Did you know how he come back up to Colorado? A. Yes, I seen that in the papers.
15. Did you see it in the newspapers? A. Yes sir.
16. When did you first notice in the newspaper the fact of the Independence depot explosion? A. I believe it was the day afterwards.
17. Had you ever been down in Cripple Creek at all? A. No sir.
18. Did you see in the newspaper that anyone was charged with it?
- A. Well, I was told about it after I had got back from the dam. You see I worked nights, you know; I had worked the night before and then went out the next day with Davis out to the dam and stayed out there and I didn't see any paper, you know.
19. When you saw the newspaper in reference to the situation did you see that anyone's name was connected with it as being

charged? A. No sir, I did not.

Q. As being guilty of the offense? A. No sir, I never noticed it.

Q. Up to the time that you met Davis and Orchard and Neville at your saloon had you ever read in the newspaper that Neville or any of those parties had been charged with this crime? A. I didn't know anything about it until I come back from the car. The bartender told me about it.

Q. The bartender told you? A. Yes.

Q. When did he tell you in reference to the time you come back?

A. He told me that night when I come back in the saloon.

Q. Did he tell you that Neville was charged with it? A. He said that he thought it was these fellows that was on the wagon.

Q. That would include Neville and his boy and Shorty?

A. Yes.

Q. Didn't that impress upon your mind the kind of a looking fellow that Orchard was? A. Well, I tried to think of it; I would have known him if I saw him a little afterward. I might know him if I saw him right now, but I don't remember him, I couldn't place him only through the picture and I saw so many of them that I guess I could tell him now if I seen him.

Q. You knew within a day or two after they left that their names were connected with this affair? A. Yes sir.

Q. You got that from the bartender? A. Yes sir.

Q. Was that before Davis left that you knew that? A. No, it was after.

Q. It was after he left? A. Yes. You see I was tired out for I had been out all day and worked the night before and I put a man in my place that night; on the next day when I got down

about noon or afternoon Davis was gone. I hadn't seen him that morning.

- Q. How do I understand you to say you were not in Denver at any time during the month of June? A. No sir. That is one thing he told wrong.

MR. MORAN: That is all.

RE-DIRECT EXAMINATION

BY MR. DARROW:

- Q. Mr. Moran, did a good many people come to your saloon in those days? A. I had quite a trade there, sir, doing pretty well there.
- Q. How many people did you employ around your place? A. Well, sometimes I had four. I had a bartender and a porter and a man working at the lunch counter, and then I had an employment agency in there besides.
- Q. How big is your saloon, or was it? A. It is about twenty by sixty feet.
- Q. All one room? A. Yes sir.
- Q. Do you know whether you saw Copley there or not? A. I never saw him until I saw him here, sir.
- Q. Do you know he was not in the saloon? A. Well, I don't know. He might have been but I didn't notice him. There was a lot of railroad men, conductors and engineers and brakemen and people of that kind come in there and I never paid any attention to them.

MR. DARROW: That is all.

JOHN DENNIS, a witness on behalf of the defendant,  
being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

- Q. What is your first name, Mr. Dennis? A. John.
- Q. Where do you live? A. I live in Gardnerville, Nevada.
- Q. How long have you been down there? A. I have been there about two years and a half.
- Q. Did you use to live in the Cripple Creek district? A. Yes sir.
- Q. You are a miner? A. Yes sir.
- Q. How long have you been? A. Since 1896.
- Q. Were you there during the strike? A. Yes sir.
- Q. Did you know a man named Backus? A. I did.
- Q. Did he belong to the union? A. Yes sir.
- Q. Where was he? A. He was in Cripple Creek.
- Q. Which union did he belong to? A. I am not sure which union he did belong to.
- Q. Did you know where he lived? A. No sir, I didn't know where he lived.
- Q. Did you ever hear him do any talking during the strike?  
A. Yes sir.
- Q. What did you hear him say? A. I heard him -- there was four, three or four of us in the office of 40, local 40 in Cripple Creek, and we were talking over -- I think the next day of the explosion at the Vindicator, we were talking over whether -- discussing whether it was an accident or not; and he said that he believed that it was an accident, and we all came to the conclusion that it was an accident; and he said he believed



that they had started it now we hadought to go up and blow up the whole works.

Q. What did you say to that? A. I didn't say anything. Vergil King told him, he says, "That wouldn't do any good for the union;" he said, "that would be a detriment to the union," and he says, "We can't think of doing anything like that.

Q. Who was King? A. He was a member of the union at Cripple Creek.

Q. On the strike committee? A. I believe he was.

Q. Did you hear Beckman make any other speech or talk there?

A. I heard him in the meeting, once in a meeting.

Q. A little louder please. I heard him in a meeting. The president was cautioning the men not to do any acts of violence --

Q. Who was the president? A. Charles Kennelton; and Beckman got up and he said that he was getting tired of peace, peace, all the time, he thought it was time we were doing something, and the president called him out of order.

MR. DAWSON: That is all.

#### CROSS EXAMINATION

BY MR. HOBART:

Q. That was in a public meeting? A. No sir, that was in the meeting of the union.

Q. I mean a public meeting of the union? A. We didn't have any public meetings in the unions.

Q. It was where the union men were all gathered that wanted to gather? A. Yes, it was in Union hall.

Q. How many people were there? A. Well, I couldn't tell how many.

- Q. About how many? A. I have no idea. The hall was about half full, I guess; probably half full.
- Q. And the president told him he was out of order? A. Yes sir.
- Q. Did Beckman hold any position in the organization, was he secretary or president or anything? A. No sir.
- Q. Just a member of the union? A. He was a member of the union.

MR. BORAH: That is all.

MR. DANROW: That is all.

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GEORGE BUSHBY, being recalled on behalf of the defendant, having been heretofore duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARROW:

Q. MR. DARROW: I will say to the court and the other side we think we will surely be through with this this week with the possible exception of Mr. Haywood and Mr. Moyer, and perhaps with all of them. Our depositions haven't gotten here yet, but I believe you have got a copy, haven't you?

MR. VAN DUSEN: A copy at Mr. Hawley's office.

MR. DARROW: I presume we could read from the copy.

MR. VAN DUSEN: No, there were corrections to be made after they read them over before they signed them.

MR. DARROW: I understand they are having some trouble to get the men together to sign them, is that it?

MR. VAN DUSEN: Yes. I don't think the depositions will be here before Thursday.

MR. DARROW: Or next week or this week?

MR. VAN DUSEN: Of this week.

MR. DARROW: They will be here this week then?

MR. VAN DUSEN: Yes.

THE COURT: I assume that the State will be ready as soon as the Defense wants?

MR. BURAK: So far as we know, your Honor.

MR. DARROW: We will probably take the rest of the week, and so far as Mr. Haywood and Mr. Moyer are concerned, we may

not get to them this week but we think we shall. We may have to ask a little indulgence at the time to straighten out some of these matters, especially where we have got duplicate witnesses, and I would rather not do it, I would rather not take the time for it.

THE COURT: The court will accommodate you, Mr. Barrow.

Q. Give us your name in full, please. A. George Breen.

Q. Where do you live, Mr. Breen? A. White, Colorado.

Q. What is your business? A. Farming now, ranching.

Q. Let's see, you testified here the other day, didn't you?

A. Yes sir.

Q. I want to call your attention to another matter now. You used to be a railroad man? A. Yes sir.

Q. Did you run in and out of the Cripple Creek district?

A. Yes sir.

Q. During the strike time? A. Yes sir.

Q. Were you in any way connected with the Western Federation?

A. No sir.

Q. Have you been a member of your railroad organization?

A. Yes sir.

Q. What one? A. Order of railway conductors.

Q. How long were you a conductor? A. For six years.

Q. What road? A. Florence & Cripple Creek.

Q. Where were you running during the strike time? A. When the strike was first begun I was running out of Canon City, between Canon City and Victor and Cripple Creek. After the strike had been on a month or six weeks business fell off on the road and I was assigned to a switch engine in the Cripple

Creek district working out of Victor, Colorado.

Q. Do you remember the date -- the event of the explosion at the Independence depot? A. Yes sir.

Q. Where were you at that time? A. I was working out of Victor. I went to Victor on the 10th day of November and took charge of a switch engine, and this was either the same week or the following week after when the explosion was at the Vindicator mine.

Q. Yes, I was asking you -- I might have made a mistake myself -- I meant to call your attention to the explosion of the Independence depot? A. Yes sir, I was there then.

Q. You were there then? A. Yes sir.

Q. What did you do the day after? A. The morning after the explosion I took my engine and two coal cars and went up to the Independence depot to clean up the wreckage around there.

Q. Well, what did you do the day after that? A. On the 7th I was around working on the hill.

Q. When did you go to Dunville? A. That was on June 8th.

Q. Two days after? A. The second day after the explosion at the Independence depot.

Q. Where is Dunville? A. It is about twelve miles below Victor.

Q. What is that place? A. It was a new mining camp just started up.

Q. In the same county as Cripple Creek? A. No sir, it is in Fremont county.

Q. Did you have any orders with respect to taking anybody to Dunville on the 8th? A. Yes sir.

Q. What was it you took?

MR. HORAN: Just a moment. I do not understand the object of this testimony, if your Honor please. I think I am entitled to know, else it leaves me in the dark.

THE COURT: What is the purpose of it?

MR. DARROW: We want to prove that Sherman Bell, who was in charge of the militia at this time, the Citizens' Alliance, the soldiers, went to Dunville on that day, which was the second day after the blowing up of the depot, and that they drove out of the camp the miners, killing one at the time, went out with a train of militiamen and was there for that purpose, and brought them all in and killed one of them -- just in the same line as the rest. We haven't yet called any witness to that event. I don't think it will be necessary to call anybody but this one on that event, it was a part of the driving of the people out.

THE COURT: What do you intend to show by that?

MR. DARROW: To show a part of the action of the Citizens' Alliance and the military in their efforts to break up the organization and drive the people out of the district, just the same as the deportations. It is a part of the general conspiracy against the Western Federation of Miners.

THE COURT: Do you intend to show that has any relevancy with reference to the matters that have been testified to here by the prosecution?

MR. DARROW: We of course have contended that all of the matters that are charged on the part of the State as a part of the conspiracy against the Western Federation of Miners were not committed by the Western Federation; that all of it was done for the purpose of driving the Western Federation of

Miners out of the Cripple Creek district; that the blowing up of the Independence depot was a part of that conspiracy to get rid of this organization, whether it was intended to kill anybody or not.

THE COURT: If there is no objection you may go on.

Q. Mr. Breen, you just say what happened that day.

A. I was informed to go to dinner at eleven o'clock that day so as to be ready to leave Cripple Creek at one o'clock sharp with a train load of militia to go to Durville. I left Victor at twelve o'clock and went to Cripple Creek and picked up three coaches and a box car there; the first orders I got after I got there; (I got my train in shape to go, headed east) to allow nobody to get on that train only a man with a good big gun. That wasn't my business, they could look after that part of it, but there was nothing unusual occurred until we got to Durville.

Q. Who was on the train? A. Sherman Bell and his bodyguard, a corporal and five soldiers, 140 old deputy sheriffs.

Q. What was his bodyguard, do you know? A. They consisted of five men dressed in uniform, carried sawed-off shot guns and six-shooters.

Q. How many men about were on the train? A. 157 all told.

Q. Had you ever seen sawed-off shot guns before? A. Yes sir; they were pump guns, they were called a pump gun.

Q. And, generally speaking, what were the rest of the men?

A. They had arms of all kinds. Some had good rifles and some had poor ones, and some had large ones and some small ones, just as it came. Only five militiamen that carried the

regulation Berg-Sjorgensen rifle.

- Q. Were they all soldiers? A. No sir, there was only Sherman Bell's body guard and the five soldiers; the rest were deputy sheriffs.
- Q. Did you know any of the names of the rest? A. Why, there was a few.
- Q. Who? A. This man Dittmore. He was a deputy sheriff, I saw that I had him. I seen around there another man there by the name of Patterson, who was going that day with a rifle. I don't know whether he was a deputy sheriff or not, but he was there with a six-shooter and a rifle.
- Q. What county were they deputies in? A. They were deputies in Teller county.
- Q. And this happened, what happened happened in the next county, did it? A. Yes sir, in Fremont county.
- Q. What did they do when they got there? A. Why, just as quick as I got down or got within about a hundred yards of Durville I stopped the train, unloaded about twenty or twenty-five men, went over a little point of rock overlooking the side of the hill where Durville was located.
- Q. What was Durville, what kind of a place? A. It had a half a dozen tents, one or two small log cabins, was all there was in the town.
- Q. Did you blow your whistle before you got in? A. No sir, I had orders when I started not to use the whistle under no consideration.
- Q. Well, you stopped down there and then what? A. After we unloaded these men we pulled down about a hundred yards, probably



within fifty or sixty yards of the south of the canon, that is, where the canon spread out and Durvillowsa located on our right. They commenced filing off of the benches there. After we set up the hand brakes on the train I says to the boys, "Let's go down and see what is going on." Myself and the engineer and the brakeman walked down. There was probably seventy-five or eighty men ahead of us and fifteen or twenty behind us walking down. Well, I hadn't got within forty feet of the end of the cut until I heard them commence to shoot. The fellows behind us was loading their rifles. I kind of stepped to one side. I made the remark to the engineer, "You better let these fellows by or some of them are liable to take a shot at you." When we walked to the end of the cut a fellow was standing there and had his rifle down over the edge of the cut taking a rest over the edge of a boulder there. I glanced up and I saw what he was doing. I just reached out and took him by the shoulder and I says, "What do you want to shoot that man fer? He never done nothing to you." He stopped and turned around and looked at us, says "We have got orders to kill everyone here." I says, "That man never done nothing to you, what do you want to shoot him fer." So then we walked out to the end of the cut to where we could see the whole performance. Some was down on their knees and taking a rest; others was standing up behind the railroad track -- there was a salvert there, -- taking a rest over the rail with a rifle. I could see the three men up on the side of the hill. Pretty soon I saw one of them fall. So I says, "I guess they got one of them." The other two fellows got in

behind a point of rock and disappeared. Well, there was a rush made up on that hillside to go and get them. When they brought them down I found it was this man Carlo who was killed.

Q. How many shots were fired up there, about? A. Well, I saw these fellows empty their rifles all the way from one to three times. Some of them had magazine rifles and they just took and shot in the hillside as fast as they could, clanged away in the brush. The hillside was covered with brush, and undoubtedly there was three or four hundred shots fired there in three minutes.

Q. Where were the winners, generally speaking, that had been the crew?  
A. I didn't see only those three men up on the hillside.

Q. These are the only ones you saw? A. These are the only ones I saw, on the hillside.

Q. Then what was done with these? A. They brought them down. The crowd scattered all over the hill, found a few more men that were working down underground somewhere up on the hillside and brought them in.

Q. Where did they bring this man? A. They carried him down the hill, laid him out within about fifty or sixty feet of the track out on a little open spot there.

Q. Dead? A. Yes sir.

Q. Do you know who he was, did you know what his business was?

A. I recognized the man, yes sir.

Q. Had you ever seen him before? A. Yes sir, I had seen him at Breckenridge, Colorado.

Q. What was he the crew? A. A miner.

Q. Did he have any arms himself on him? A. No sir.

- Q. What did he have on him? A. He was dressed in a blue cotton shirt, had a vest on, which was open, and a pair of overalls, was all the clothes the man had on when I seen him unless it was his underclothes.
- Q. Where was he hit? A. Either on this side or that side, right under his shoulder. I think he was shot right under the shoulder and it came out right here.
- Q. Shot in the back? A. I think he was, yes sir.
- Q. What did they do then toward capturing whatever booty there was around there? A. Why, they sacked the whole place. There was nothing left in the camp that they didn't go through.
- Q. Do you know what they got? A. Yes, they captured two broken down shot guns, the stocks was wired onto them with wire, had one rifle, a six-shooter, a can of sardines, a couple of knives and forks, that is table knives and forks, a pair of colicars, I believe that was about all.
- Q. What did they do with them? A. Loaded them into the cars along with their prisoners.
- Q. How many prisoners did they have? A. They had fifteen or sixteen white men and one nigger and this corpse.
- Q. Put them all in one car together? A. Yes sir.
- Q. Then you rode back, did you? A. Yes sir, went back to Cripple Creek.
- Q. Where did they put the corpse? A. I am not certain, but I think he was taken off at Victor by the undertaker there.
- Q. Did you see any little boys there? A. At Dunville?
- Q. Yes. A. Yes sir, there was a couple of boys there from Florence, come up there.

Q. How big? A. They were boys sixteen or eighteen years old, had a tent there, were selling sandwiches, had some cots to accommodate the prospectors coming in there.

Q. What did they do with them -- while the soldiers was there?

A. Oh, they took them and threwed them in a car just as quick as we got there along with everybody else that was staying around there. The soldiers went in and cut up everything they had, cleaned the place out completely. So the boys, after they come to me I think they says, "What do you think they are going to do with us?" And I says you --

MR. BORAH: Which was that, the small boys?

THE WITNESS: Yes sir.

MR. BORAH: I don't suppose that conversation is necessary here. We object to it as immaterial.

MR. BARNOW: I don't know as it is.

Q. After you got the train loaded with the prisoners and spoils and the corpses what did you do? A. Went back to Victor and the Creek.

Q. Was Sherman Bell present all the time? A. Yes sir.

Q. Did you hear him make any remarks about it? A. Why, I heard him make some remarks but I couldn't repeat what they were.

Q. You unloaded your train and went home? A. Yes sir, unloaded some at Victor, the majority of them I took them to Cripple Creek.

MR. BARNOW: That is all.

## CROSS EXAMINATION

BY MR. BOWEN:

Q. What was the date of this, Mr. Breen? A. 6th day of June, 1904.

Q. That was two days after the Independence depot explosion?

A. Yes sir.

Q. Where did these people take your train, that is, where did they get on the train? A. The biggest part of them got on at Cripple Creek.

Q. How far is that from Independence? A. About nine miles.

Q. Did you know any of them aside from Bell and his bodyguard?

A. A few of them, yes.

Q. Where did they live, those that you know? A. They were living in the Creek principally.

Q. Were they business men or strangers? A. No sir, one of them formerly had been a locomotive engineer. He was then employed running a pump at the Strong mine.

Q. And were there any of the business men of Cripple Creek on the train at all that you know of? A. No, not that I know of.

Q. Were there any of the Citizens' Alliance on the train there that you know? A. No, not the Citizens' Alliance.

Q. Were there any mining men on the train that you know, that is, mine owners? A. Well, now, Mr. J. Q. McDonald was on there and he was supposed to be a mine owner and a mill owner.

Q. Where was his mill situated and his mine? A. At that time he was connected with the Standard mill at Florence, or the union mill as it was called.

Q. Any other mine owner on there, Mr. Breen, that you know of?

A. Not that I recall, no sir.

Q. There were about 150 people on all together? A. Yes sir, 157. My instructions was to count them, not to try to collect no fees, just count them and turn the number in to the company.

Q. There was 157 you say? A. 157 in all.

MR. BOSCH: That is all.

MR. DANDOW: That is all.

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Thereupon the court gave to the jury the statutory admonition, the bailiffs were sworn, the jury retired in charge of the bailiffs, the defendant was remanded and a recess was hereupon taken until two o'clock P. M.

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R E C E S S.

Boise, Idaho, Wednesday, July 3rd, 1907.

2 o'clock P. M.

Parties not pursuant to adjournment.

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

THE COURT: I would like to have one of the counsel on each side in this case, after we get through this afternoon's session, visit the jury quarters with me. It may be possible to make some changes there with reference to the sleeping quarters of the jurors. It is getting very hot weather. But before making any order there I want to consult with the attorneys for both sides.

MR. DASHOW: Very well.

THE COURT: I have had an intimation that some of the jurors have an idea that they are being kept rather closely confined, and if any of them have any complaints to make or any suggestions of that kind, they may be made to the court at any time. I simply say to them that the court has done everything that has been possible to do to provide the best plan possible for the jurors in this case, knowing that they would be required to remain here for a long time. And so far as keeping them confined is concerned, an agreement has been made here in open court that made it possible for the court to permit interviews with the jurors here under such circumstances as the rule has been laid down by the Supreme Court of the State. Under the statute of the state it would be necessary that all

interviews with jurors should be in court and in the presence of court and counsel. But the court has thought perhaps on account of the length of this case that would be inconvenient, and counsel for both sides have willingly agreed that if interviews of this kind might be had in the presence of two of the bailiffs, and unless there is some objection, that rule will obtain throughout the case. But I make the suggestion at this time so the jurors will understand the situation and the bailiffs will understand, too, that they are acting in this matter under the direction of the court; and the court in this particular case has, with the consent of counsel, relaxed the rule in relation to jurors as provided by the statute and has relaxed the rule that has been established by the Supreme Court of this state. I was under the impression that perhaps more comfortable arrangements could be made for the jurors in reference to their sleeping apartment during the rest of this case, and I will make suggestions to counsel after we go to their quarters.

MR. HAWLEY: We will appoint one to represent our side, your Honor.

MR. RICHARDSON: We will do the same.

THE COURT: Gentlemen, we will conclude this session at half past three or as near that time as the condition of the witness on the stand will permit. In other words, within a few minutes of half past three we will adjourn.

MR. HAWLEY: Be very careful what kind of a witness you get on, Mr. Darrow.

MR. DARROW: I will.



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

DIRECT EXAMINATION

BY MR. DAWSON:

- Q. Mr. Coates, what is your full name? A. David C. Coates.
- Q. Where do you live? A. I live in Wallace, Idaho.
- Q. How long have you lived in Wallace, Idaho? A. About three years and seven months.
- Q. Where did you live before that? A. Denver, Colorado.
- Q. What is your business? A. I am a newspaper man.
- Q. How long have you been a newspaper man? A. Practically all my life.
- Q. In what way have you been a newspaper man? A. Why, I have worked in newspaper offices. For the last number of years I have been ~~publishing~~ publishing my own publications.
- Q. You have been running your own newspaper, have you?
- A. Yes sir.
- Q. Ever work at it any other way? A. Yes sir.
- Q. What else? A. Oh, I have set type and reported. I am a practical printer.
- Q. You have been a reporter too, have you? A. Yes sir.
- Q. Well, what newspapers have you been connected with?
- A. Why, I learned my trade largely in the Chieftain office at Pueblo, Colorado. I served in the Rocky Mountain News in Denver and other newspapers.
- Q. In the newspaper business now? A. Yes sir.
- 3246 Q. What paper do you publish? A. I am interested in some publica-

tions in the Coeur d'Alene and a printing office at Spokane, Washington.

Q. Were you publishing a newspaper a year ago -- a year and a half ago? A. Yes sir.

Q. You have been interested some in politics too, haven't you? A. To some extent.

Q. And in labor matters? A. Yes sir.

Q. I don't mean working, I mean labor organizations. A. I have done both.

Q. Well, what labor organizations did you belong to?

A. Typographical union, the national typographical union and belonged to the American Labor Union at one time.

Q. Ever belong to the Western Federation of Miners? A. No sir.

Q. Ever held any political positions? A. Yes sir.

Q. What? A. I was lieutenant governor of Colorado.

Q. When was that? A. I was elected in 1900 and served from 1901 to 1903.

Q. Who was governor at that time? A. James B. Grann.

Q. Do you know Harry Orchard? A. Yes sir.

Q. When did you first meet him? A. Either the 15th or 16th of July, 1906.

Q. Whereabouts? A. In Denver.

Q. And whereabouts in Denver? A. I went up to see Mr. Pettibone, I met him in his store.

Q. How long were you in Denver at that time? A. I was in Denver two days.

THE COURT: What was this date?

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A. It was either the 15th or the 16th of July, 1906.

- Q. How long have you known Mr. Pettibone? A. Why, for several years.
- Q. Interested with him in politics at all? A. Yes, he used to take quite a hand in politics there in Denver.
- Q. You also know Mr. Haywood and Mr. Moyer? A. Yes sir.
- Q. How long have you known them? A. Why, I have known them ever since they became connected officially with the Western Federation of Miners.
- Q. You know Mr. Boyce too, I suppose? A. Yes sir.
- Q. He lives in Wallace where you do? A. Yes sir.
- Q. Well, how much did you see of Orchard that day? A. I was in Denver for the purpose of packing my furniture and household goods to move them to Wallace. I had been doing that for the two days that I was there, and about four o'clock in the afternoon they were on the way to ship them and I ran up to Pettibone's store to just simply say that I was there and glad to see him and good-bye, because I was going to leave the next morning. I think I was in the store about five minutes.
- Q. And Orchard was there, was he? A. Yes sir.
- Q. Was there anything said about where you were from and where he was from in the introduction? A. Just shortly after I had greeted Mr. Pettibone he called Mr. Orchard from perhaps eight or ten feet back in the store and he says, "I want to introduce you to a fellow that belongs up in your country." I said, "Is that so?" And he said, "Yes". He introduced me to a gentleman by the name of Thomas Hogan.
- Q. Did you afterwards find out that Thomas Hogan and Harry Orchard were the same citizens? A. Yes sir. For a few moments there

Orchard explained to me who he was, or he may have already explained to me who he was, that he had at one time owned the Cortonia interest in the Hercules mine and said that he had taken the first ore car up to the mine and had worked up there with Mr. Paulson. He said if he --

Q. Did he say what his name was then? A. No sir.

Q. No explanation of it? A. No sir, he didn't. I think the content of the conversation was at that time that if he had been able to stay there he would still have retained his interest and become rich, but he had gone out or had to go out at the time of the '09 troubles and he mentioned Stamenberg.

Q. Did he say any more to you? A. We walked down the street -- I was in a hurry, I couldn't stay there only for a moment, I had to go down to the Burlington freight office to ship my freight and they walked down the street about five or six blocks with me; and just as I was to leave then Mr. Hogan said to me, he says, "By the way," he says, "I am not known as Thomas Hogan there;" He says, "My name is August Harry Orchard and when you go back, if you see my old partner, August Paulson," he says, "give him my regards and tell him I am coming up there some time."

Q. Did you deliver his regards later? A. Yes sir.

Q. To August Paulson? A. Yes sir; about perhaps ten or twelve days later, after I arrived at Millers -- we had gone to the Portland Fair and were gone ten or twelve days after leaving Denver, and it was either the afternoon of the day that I arrived home or the next day I met Mr. Paulson on the street -- we lived within a block of each other --

- Q. You delivered the message to him? A. Yes sir, I stopped him on the street.
- Q. Paulson is a man of considerable wealth and made it out of the Hercules mine? A. Yes sir.
- Q. And living there in Wallace? A. Yes sir.
- Q. How did you see Harry Orchard again? A. Yes sir.
- Q. When? A. I saw him about six weeks later than that, six weeks after I arrived home -- perhaps two months later than I had met him in Denver, about the 15th or 16th of September, 1908.
- Q. Whereabouts? A. He came into my office.
- Q. Whereabouts in town is your office? A. My office is between 7th and 8th Streets on East in Wallace.
- Q. What did he say to you? A. Why, he just simply said, "How do you do", came in there, and I says, "Hello", and I asked him what he was doing. "Oh", he said, "he just came up to see some of his old friends and visit around there a little while.
- Q. Do you remember how long he stayed? A. Why -- in my office?
- Q. Yes. A. I don't think he was in there over five or ten minutes at the time.
- Q. Do you remember any other conversation, anything else he said to you? A. I asked him I think what he was doing and he just simply said he was up there visiting and looking around, everybody seemed to be prosperous up there, and if there was any money to be got, or any easy money, or anything of that kind, he was there to get it, and in that conversation he said it would be a good thing to steal one of Mr. Paulson's children, thought it would be a good thing.

- Q. What did you say to that? A. I don't think I made any reply to him. I paid no real attention to him, the way he said it.
- Q. Did you think he was in earnest about it? A. I didn't think so, he said it in such a way, had a grin on him. I thought he was just joking with me.
- Q. Did he come in again? A. Yes sir, either the 3rd or the 4th day after that.
- Q. Have any business when he came in this time? A. No sir, he just came in there and spoke to me and I asked him if he had seen a number of his old friends and he said yes, he had, and it was simply a general conversation; but he said that he had been down to dinner the night before at Mr. Paulson's house and he said he was playing with the children and not Mrs. Paulson and the family, and he says, "I think it would be easy to steal one of Mr. Paulson's children."
- Q. What did you say? A. I asked him what he was telling me for, and he says, "Well, when I steal the child I am going to write Mr. Paulson a letter telling him to leave \$60,000 with you."
- Q. What did you say? Just go on and repeat it?
- A. At once I resented it and said "Why, Orinard, you are a fool and I would be a bigger fool if I would go into such a crime as that with you;" and I said, "if you ever do anything of that kind I will denounce you;" I says, "You will never do that here".
- Q. Was there any further remarks made? A. Why, he simply says, "Oh, well, you needn't get excited as at it, that is all right."
- Q. What did you think as to what he was intending to do at that time?

8. I really thought at first that the man really intended to do it, but the way he laughed at me and went out of the office when he said, "Oh, you needn't get excited about it", that the fellow didn't really intend to do it.
9. Mr. Coates, did you ever suggest to him anything about stealing August Peuleon's child or anybody else's? A. Never. There couldn't be anything more repulsive to me than that.
10. Have you got any children of your own? A. Yes sir, I have got a young daughter of my own.
11. Did you see him again? A. Yes sir, he came into my office there perhaps a week later than that, and he wanted to know if -- he told me he was broke, didn't have any money and he wanted to know if I would buy his return trip, round trip ticket back to Denver. I told him no, I wouldn't have any use for it; and he asked me then if I would loan him either five or ten dollars, I am not quite certain now but I think it was \$10, and I told him yes, and I gave it to him. And in the conversation he said that the more he saw of his old time friends and partners the more bitter he became. He said "They are nearly all rich and I am the wretched pauper." He says, "It makes me feel hard the way I was run out of this country in '99 and I would like to get even with Stannenberg." I think those are his exact words.
12. What did you say to that? A. I told him that the old feeling of 1899 had largely died out in my judgment and he ought not to worry about these things, that there were plenty of opportunities up there for men to make money.
13. How long did he stay there? A. I don't think he stayed any

longer than for that conversation and giving him the money.

Q. You gave him five, did you? A. Yes sir -- I think it was ten.

Q. Ten? A. Yes sir.

Q. And he went away, did he? A. Yes sir.

Q. Did you see him again? A. Yes sir, I saw him the last day he was in Wallace to my knowledge.

Q. Gave you back the ten, did he? A. He came down there and gave me ten dollars and he told me he was going away, and he says, "Mr. Paulson feels quite friendly to me," he says, "he is sympathetic with me, we have talked over old times and", he says, "I haven't got anything and I want to go down and ask him for \$500; and", he says, "I am going to tell him that I am going down to Los Angeles, California, to open a brokerage office; I am going to tell him that you are going to organize a mining company and you will send me some stock to sell." I said, "All right." He says, "I am telling you this because if Paulson ever asks you about it you can tell him the same thing." I said, "Very well".

Q. Did you see him again? A. He then left my office, I should judge that was about 11:30 in the morning. Shortly after twelve o'clock I was on my way home to lunch, living in the same block with Mr. Paulson or practically in the same block, I lived in the next block but less than a block away from him, I had gone three or four blocks from my office and got onto Cedar Street when I saw Orchard coming toward me, and just as I got to him he grinned and he took out of his pocket a check and I says, "Oh, you got it, did you?" "Well," he says, "I only asked him for \$500"; he says, "I am kicking myself now



because I didn't ask him for \$500, I could have gotten it just as easily." I said, "Well, that is what you told me you were going to ask him for." He said, "Yes, but I didn't have the nerve to ask him for \$500 when I got in there and I only asked him for \$300 and he sat down and wrote me the check," and he says, "Come back to the bank and identify me," and just as he said that I noticed Mr. Paulson coming down the street and I said, "That is not necessary, for me to go back, I am on my way home, and here comes Mr. Paulson, he will go to the bank with you and identify you." And so I went on and simply passed the time of day with Mr. Paulson and went home.

Q. So you didn't identify him after all? A. No sir, I didn't.

Q. Did you see him again? A. Why, perhaps about ten minutes before the train went he came around there and shook hands with me and bid me good-bye.

Q. How near is your place to the train, to the depot?

A. Why, it is directly -- the river runs between the depot and my office, but you have to go around. It is about a block around.

Q. Do you know where he was stopping? A. No sir, I didn't even know that.

Q. Did you hear from him after he went away? A. Yes sir, I heard from him somewhere I think -- I don't know the exact date, but somewhere early in November he wrote me a letter.

Q. From where? A. From Salt Lake City.

Q. Have you got it now? A. No sir.

Q. You couldn't lay your hand on it handily, could you?

A. No sir. I am satisfied I simply threw it in the waste basket

in the office.

Q. What was in the letter? A. He wrote to tell me that he had been sick in Salt Lake City and delayed on his trip down to California. He said that he wanted to know if I had organized the mining company yet and was ready to do business. And I wrote him a reply at once, that very day, and told him that I was sorry to know that he was sick but that I hadn't organized the mining company yet, but just as soon as he got to Los Angeles, to let me hear from him.

Q. That is the last you heard of him until he became famous, wasn't it? A. Yes sir, I never heard of him further.

MR. DAWSON: You may cross examine.

#### CROSS EXAMINATION

BY MR. DORRIS:

Q. When did you go to reside in Colorado, Mr. Coster?

A. With my father and family in 1881.

Q. And you resided in Colorado then until you moved to the Comor d'Alonca? A. Practically my home was there; I made several trips East.

Q. When did you first get acquainted with Mr. Pettibone?

A. I really couldn't say exactly. I knew him around there. I remember quite well when I was nominated Mr. Pettibone was one of the first boys that came to me and insisted on my accepting the nomination.

Q. Well, you had known him some time prior to that, had you?

A. Yes sir.

Q. Had you known Mr. Heywood prior to that also? A. Yes sir,

I knew Mr. Heywood. I said that I knew him since he became officially connected with the Western Federation of Miners.

Q. And Mr. Meyer for about the same length of time? A. Yes sir.

Q. Then your acquaintance had become a friendly acquaintance, that is, that you were close friends I presume? A. Yes sir.

Q. And had been for a number of years? A. Yes sir. Our business at the time threw us into contact more or less.

Q. How when did you become identified with any labor organization or labor movement, Mr. Coster? A. I think I was initiated into the typographical union somewhere I think it was in 1887 at Pueblo, Colorado.

Q. And you had been somewhat active in labor matters, labor organization matters, since that time? A. Yes sir.

Q. Were you a member of another labor organization other than the typographical union? A. Yes sir, I was in a local organization, belonging to the western labor union, the American labor union.

Q. Was that affiliated in any way with the Western Federation?

A. The Western Federation of Miners affiliated with that organization.

Q. And that threw you in pretty close touch with these men as leaders of the Western Federation? A. Not so much the fact as the fact that I was president of the Colorado State Federation of Labor and secretary for several years.

Q. And that put you in touch with these people? A. Yes sir.

Q. Now you had some strike or something there in Denver with which you were connected at one time, did you not, in some labor organization with which you were connected? A. Well, there were several strikes during my connection with the State

Federation.

- Q. And were you an active participant, that is, had to do with the settlement of the strike, and so forth? A. Yes sir.
- Q. What was the first strike you were interested in? A. There were several small strikes during my connection with the Colorado State Federation of Labor.
- Q. There was one strike which took place there in the city of Denver? A. Yes sir.
- Q. The waiters and employes of some kind? A. Yes sir.
- Q. What was that strike? A. Why, that strike came up in this way -- of course at that time I was not connected officially with organized labor except a member of the typographical union and a delegate to the Denver Trades Assembly, but that came up in this way: The bakers, the journeymen bakers' organization of Denver had for a number of years been making contracts with their employers as to the hours of labor and wages and conditions in the bake shops and so on, and we had rumors for a long time that they were organizing a Citizens' Alliance for the purpose of disrupting the organized labor movement of Denver, and we didn't realize that that was true until the journeymen bakers had gone to their houses the first day of May to renew their contract for a year, and they at once said that that was a matter that was out of their power, and we would have -- this bakers' committee would have to call on the executive committee of the Citizens' Alliance of Denver.
- Q. Then you became not only connected with this strike matter but you became acquainted with the Citizens' Alliance also?
- A. Yes sir.

Q. And had to deal with them I presume in the settlement of these matters sooner later? A. Yes sir.

Q. And that was how early, what year was that? A. I am not quite so certain, I think it was in 1903 -- yes, the spring of 1903.

Q. That was the same or time that the strike was going on in Cripple Creek, about? A. No sir, the strike wasn't on then.

Q. It was the same year? A. Yes sir.

Q. But earlier in the year? A. Yes sir.

Q. The strike in Cripple Creek followed that? A. In the fall, yes sir.

Q. Now you didn't have anything to do with the Cripple Creek matter, did you? A. No sir.

Q. And was there another strike in Denver with which you had to do in any way after that? A. Not that I know of, no sir.

Q. But in these matters you were brought in touch more or less with the Western Federation officials? A. Not with the strike. The Western Federation of Miners had nothing to do with the strike in Denver.

Q. Now, exactly not, but I presume as a member of the organization, they being affiliated with you to a certain extent, that you had something to do with them, getting acquainted, and so forth, and such things as that? A. Yes sir, when I was president of the Colorado State Federation.

Q. Now you have been at headquarters a good deal, have you, the Western Federation headquarters? A. A number of times.

- Q. And you first met Orchard at Pettibone's store at the time you were introduced by Mr. Pettibone? A. Yes sir.
- Q. That was when you came back from Chicago? A. Yes sir.
- Q. You were on your way back from a meeting of some labor organization there? A. Yes sir.
- Q. What was that? A. It was a convention for the purpose of forming the Industrial Workers of the World. I was there as a representative of the American Labor Union.
- Q. When was that held in Chicago? A. That was held in Chicago -- they began their sessions somewhere in the latter part of June.
- Q. And it was on your return from that that you met Mr. Orchard? A. Yes sir.
- Q. Mr. Heywood was at that meeting in Chicago, was he? A. Yes.
- Q. And Mr. Meyer? A. Yes sir.
- Q. Did you return to Denver together? A. No sir.
- Q. When you were introduced to Mr. Orchard at Pettibone's store he was introduced as Thomas Heywood? A. Yes sir.
- Q. He afterwards told you, before you left there however, that his real name was Harry Orchard? A. Yes sir, just as I was leaving him.
- Q. And you learned at that time, however, that he was going under an assumed name? A. I know him by both names, yes sir.
- Q. And Mr. Pettibone ~~himself~~ introduced you to him as Thomas Heywood? A. Yes sir.
- Q. Did Mr. Pettibone tell you that his name was Orchard or did Orchard tell you that? A. Orchard told me himself.
- Q. Now ~~you~~ can you give me about the date that you was introduced to him there?

A. I rather think, Mr. Hersh, it was either on the 15th or 16th of July.

Q. 15th or 16th of July, 1905? A. 1906, you sir.

Q. I understood you to say that you had some talk with Orchard there in which he told you that he had formerly lived in the Cour d'Alence? A. Yes sir.

Q. Was that in the store? A. Yes sir.

Q. In the presence of Mr. Pettibone? A. Yes sir.

Q. Was it in this conversation that he made some reference to his ownership in the Hercules mine? A. Yes sir.

Q. And in which he said something about his having to part with it on account of his leaving there? A. Yes sir.

Q. And in which he referred to the name of Stammenberg?

A. Yes, he said he had to leave there during the -- when Governor Stammenberg sent the troops into the Cour d'Alence.

Q. And this was all in the conversation in Pettibone's store?

A. Well, we were only in there -- not over five minutes, and some of that conversation occurred perhaps as we were going down the street.

Q. And what is your recollection as to where it did occur?

A. Why, it began in the store and perhaps carried on out on the street.

Q. Did Orchard go down the street with you? A. Yes sir.

Q. And Mr. Pettibone remained in the store or did he go down?

A. He sir, he went with us, the three of us, together.

Q. Then you were all three talking together as to this matter?

A. Yes sir.

Q. And whatever was said was a conversation carried on between you

three? A. Well, I hardly think that Mr. Pettibone entered into the conversation about these matters.

Q. Well, he was in company with you? A. Yes sir.

Q. And was in hearing of you? A. Yes sir, he was walking right with us.

Q. Did he say anything about Stamenberg there except the fact that he had to leave the country on account of Stamenberg's notion? A. No, I don't think he did.

Q. Now you all three went down to the train together, did you?

A. No sir. I was going to the Burlington Freight office to ship my freight.

Q. He asked you to give a message to Mr. Paulson? A. Just as I was leaving him he did, just as I stated -- told me his name and asked me to give Mr. Paulson his regards on my return to Wallace.

Q. You did that, did you? A. Yes sir.

Q. About what date was it you got to Wallace and gave Mr. Paulson this message? A. I think it was the first day of August.

Q. Do you know where you were when you talked to Mr. Paulson about it? A. Yes sir.

Q. Where was it? A. Right about two or three doors this side of his house on the sidewalk.

Q. About the first day of August? A. Yes sir.

Q. 1907? A. Yes sir.

Q. Then how long was it until Orchard arrived in Wallace?

A. It was about the 15th or 16th of September.

Q. 1907? A. Yes sir, about six weeks later than that.



- Q. Was anybody with him? A. No.
- Q. Nobody. Did you see Jack Simpkins about there at that time?
- A. He was in Wallace at that time, yes sir.
- Q. Was he in Wallace at the same time that Orchard was, do you know? A. I rather think he was in Wallace during the time Orchard was there.
- Q. You know Jack Simpkins, do you? A. Yes sir, quite well.
- Q. Have known him for some time? A. Yes sir.
- Q. Knew him as one of the leaders of the Western Federation?
- A. Yes sir.
- Q. Had met him in Denver, had you? A. I think I had met him at the convention, yes sir.
- Q. And you saw him there at the same time Orchard was there, about that time? A. I am pretty sure he was in Wallace at that time.
- Q. Did you see him there more than once during the time that Orchard was about there? A. Well, I couldn't say how many times I saw Simpkins there during the six weeks that Orchard was there.
- Q. Was Simpkins in your place of business? A. He frequently came in there.
- Q. Was he in there any of the time when Orchard was?
- A. I don't think so. I don't believe he ever came in the office with Orchard.
- Q. Never saw Orchard and Simpkins together there? A. I don't think so.
- Q. How Simpkins lived at Gardner just below that? A. Yes sir.
- Q. About how far is it from Wallace? A. Let's see -- they call it something like thirteen miles.

Q. Simpkins has lived there for a number of years?

A. As far as I know, yes sir.

Q. Well, you had a talk with Orchard when he first came up there and he made some suggestions about it would be an easy matter to steal Mr. Paulson's child? A. Something like that, yes sir.

Q. When was that first conversation, Mr. Content? A. I think it was the day or the next day following Orchard's arrival in Wallace.

Q. I wish you would recall that conversation as near as you can, just what he said and what you said. A. Why, he came into the office and shook hands with me and I asked him what he was doing there, what he was going to do, and he said, well, he just come up on a trip to see his old friends, or something of that kind; and said that everybody seemed to be prosperous up there and he was looking for anything, any easy money there was there, in a sort of a joking way said "I think it would be a good thing to steal Mr. Paulson's child."

Q. Was that the first time that he saw you after he came to Wallace? A. Yes sir.

Q. The first meeting? A. Yes sir.

Q. And it was in his first conversation with you? A. It was during that conversation, yes sir.

Q. How long did he stop there during that conversation?

A. Why, he was in there some little time, perhaps ten or fifteen minutes, something like that. I remember he walked back into the office. I was busy there.

Q. Anybody else present while this conversation was going on?

A. Not close to him and I.

Q. This is the second time that you had ever met him? A. Yes sir.

Q. Have you given about all the conversation that you recall that took place at that time? A. I think so.

Q. You knew Mr. Paulson at this time of course? A. Yes sir.

Q. Had known him for some time? A. Yes, ever since I was in Wallace.

Q. He lives close to you as I understand? A. The same side of the street within a block.

Q. Now you had a second talk with him in which he referred to this matter? A. Three or four days after that another conversation.

Q. And was this in your place of business also? A. Yes sir, in my office.

Q. Anybody else present except you and Orchard? A. No, except in the other part of the office.

Q. What did he say on this occasion with reference to stealing the child? A. Why, he came up and said that he had been and seen a number of his old time friends, renewing old acquaintances and so on, and he said last night that Paulson had him down for dinner down to his house; that he was there introduced to all the family, saw the children, played with them, and he said "I think it would be an easy matter to steal one of those children."

Q. What did you say, Mr. Contes? A. I asked him what he was telling me that for. I says, "What are you telling me that for?" He said, "Well, if I steal one of them I am going to write a letter to Mr. Paulson telling him to give you \$50,000

or leave with you \$50,000." I said, "You are a fool."

Q. How is that the substance of the conversation, Mr. Gostag?

A. Yes sir. I said he was a fool to talk about any such thing as that, and that I would denounce him if he ever attempted any such crime as that.

Q. Did you tell him how you would denounce him? A. I told him I would denounce him, I am satisfied, even if it had to go to the extent of issuing an extra edition of the Tribune that I was running at that time.

Q. That if he stole the child you would issue an extra edition to denounce him? A. I said if it was necessary to that extent, yes sir.

Q. And of course you became satisfied at that time that he was going to do something of that kind? A. When he first spoke to me I thought the man was in earnest, but the way he laughed the thing off afterwards I didn't think that he was.

Q. Do I understand that at this particular time in this particular conversation that he acted so as to cause you to conclude that he was not in earnest? A. At the latter part, yes sir. He said "Oh, you needn't get excited about the matter," and he just laughed at me, and he always had a peculiar grin to my notion, and he went out.

Q. When did he next call on you? A. I don't think he was in my office again until about a week.

Q. Did you have any further talk with him about this matter of that child? A. No sir, he never mentioned it to me again.

Q. Did you talk with him about other matters? A. He asked me to purchase his railroad ticket back to Denver.

or leave with you \$60,000." I said, "You are a fool."

Q. How is that the substance of the conversation, Mr. Contest?

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Q. When did he next call on you? A. I don't think he was in my office again until about a week.

Q. Did you have any further talk with him about this matter of that child? A. No sir, he never mentioned it to me again.

Q. Did you talk with him about other matters? A. He asked me to purchase his railroad ticket back to Denver.

Q. And you declined to do that? A. Yes sir.

Q. Did you talk with him about anything else? A. He asked me if I would loan him \$10, \$5 or \$10, I am not quite certain which.

Q. And you loaned him \$10? A. Yes sir.

Q. And did he say anything to you about any mine matters, promoting any mining proposition, or anything of that kind?

A. Not at that time.

Q. Did he later? A. Why, yes, in his other conversation.

Q. What was the matter that he talked with you in regard to that?

A. Why, the last day he was there he came down and told me about this matter of getting money from Mr. Paulson, and he said he was going to tell Mr. Paulson -- he wanted some excuse to Mr. Paulson -- that he was going down to Los Angeles to open a brokerage office and that I was going to send him some stock.

Q. Did you have that arrangement with him to send him some stock?

A. No sir, not just then. He asked me if I would. I told him I had in process of organization a company, and if he did open a brokerage office in Los Angeles, and would write to me, the chances were I would send him some stock.

Q. And that was about what date? A. I rather think that was about the 20th day of October, I think it was the last day he was there.

Q. And that was long after these conversations that you have narrated with reference to the Paulson child? A. Yes sir.

Q. And you practically made arrangements with him then that if you secured your mining proposition or got it in such condition that you could operate, that you would send him some stock? A. I told him if he opened up a brokerage office and

would let me know I would send him some stock.

Q. That was a day or two before he left? A. I think it was the very day.

Q. And was this the same time that he told you he was going to borrow some money of Mr. Paulson? A. Yes sir, he said to me, to use that with Mr. Paulson as an excuse for borrowing the money.

Q. And it didn't become necessary for you to say it?

A. No sir, Mr. Paulson never asked me about it.

Q. And loaned him the \$300? A. Yes, so far as I know.

He had a check for \$300.

Q. Now after he had gotten this \$300 from Paulson did you have a talk with Paulson about any of these matters? A. No sir.

Q. Did you ever talk to Paulson about this matter of the stealing of the child at all? A. No sir.

Q. Never mentioned it to him? A. No sir.

Q. And never mentioned to Paulson as to the manner in which Orchard was going to get the money from him, by this representation as to the stock business? A. No sir. He asked me if Mr. Paulson ever spoke to me about it to tell him just exactly as he told me.

Q. And if Paulson didn't say anything to you about it you were not mention it? A. He didn't say so.

Q. What was your understanding? A. Surely.

Q. So none of these matters were ever talked over between Mr. Paulson and yourself either at the time or since? A. No sir.

Q. How long did Mr. Orchard stay about there in Wallace after the last time that he talked to you about stealing this child?

A. Why, I couldn't say -- perhaps four or five weeks.

Q. And about what date was it that you had the conversation in which he said that he felt very bitter owing to his poverty stricken condition and the success of his former associates?

A. Why, that was within two weeks after he came up there.

It was the time he came to borrow \$10 of me.

Q. Was it before or after he talked about stealing the child?

A. It was afterwards.

Q. And where were you when you had that talk? A. Right in my office.

Q. And this talk took place prior to the time that he suggested that he was going to borrow the money from Paulson? A. Yes.

Q. And did he speak of Steinerberg in such a way as to lead you to believe that he was in earnest about it or was he joking about that? A. No, I rather think the man just simply said it in an ordinary way. I paid no attention to it.

Q. You were not impressed with the fact that he intended to do it? A. Not a bit.

Q. And didn't receive that impression from any of his remarks made with reference to Steinerberg at any time? A. No sir, I did not.

Q. After he got this money from Paulson he came back on the street and showed you that he had received it? A. He was coming down from Mr. Paulson's house and I was going to my home and I met him.

Q. And he said he didn't have the heart to ask for \$500?

A. Yes sir, he said he didn't have the nerve to ask him for \$500 and "I only got \$250".

Q. You understood from that that he didn't intend to pay it back, didn't you? A. I don't know. I don't think I understood



anything from it.

- Q. When he said he d'kn't have the nerve to ask for \$500 what did you understand by that? A. I only took it this way, that he was afraid if he would ask for the \$500 he wouldn't have gotten it.
- Q. Wouldn't have gotten anything? A. It was the way I took it.
- Q. You didn't understand from that he was trying to get \$500 out of him which he never intended to pay back? A. No sir.
- A. No sir.
- Q. He had paid you back? A. Yes sir.
- Q. Now after he got to Salt Lake you corresponded with him, or rather, he wrote you? A. Yes sir.
- Q. And you answered him? A. Yes sir.
- Q. Did he pass under the name of Hogan up at Wallace? A. No sir, he was known there as Harry Orchard.
- Q. How did he write to you from Salt Lake, as Thomas Hogan? A. No, Harry Orchard.
- Q. And you wrote to him as Harry Orchard? A. Yes sir, I addressed him as Harry Orchard.
- Q. And you never knew him as Thomas Hogan except down in Denver? A. That is all, when he was introduced to your no.
- Q. When he was introduced to you by Mr. Pettibone? A. Yes sir.
- Q. He passed under his own name when he was at Wallace and at any time when you had anything to do with him? A. Yes sir.
- Q. What was it you told him in your letter? A. I simply told him I was sorry to hear, to know that he was ill or sick, and that I hadn't got the company organized yet, but when he got down to Los Angeles to let me hear from him and if I was in

steps to send him any stock I would do so.

Q. How long have you been in attendance here, Mr. Costas, on this trial?

A. I came here during the time that Mr. Orchard was on his cross examination.

Q. You heard his testimony in regard to the Paulsen child?

A. I think so, yes sir.

Q. Did you have a talk with Mr. Boser, Ros Boser, about Orchard's testimony in regard to this child? A. I think not.

Q. On the day that he testified? A. I think not.

Q. Did you have a talk with him on the day that he was cross examined in regard to this matter?

A. I don't think I ever had a talk with Mr. Boser of any kind.

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Q Do you know Mr. Bower? A If you mean the --

Q One of the officers? A The deputy sheriff.

Q Yes? A Yes sir, I only know him by visiting around here.

Q Did you tell Mr. Bower on the corner of Eighth and Main Street in this city on the day that Orchard was cross examined that if he had said anything about kidnapping Paulson's children he would never have murdered Stamenberg? A No sir, perhaps I said that if he had done anything of that kind he would not have got away from there.

Q You did not say to him that if he had said anything to you up there about kidnapping Paulson's children he would never have killed Stamenberg? A I don't think so, in that way.

Q Did you have a conversation with him? A I think we did. There were two or three of us there, and I think Mr. Darrow was there at the time, I think.

Q What was the conversation which you had? A I don't remember just how it came up.

Q Do you remember what you said? A I do not.

Q But you did not have such a conversation as I have suggested to you hear? A I said if I thought Orchard was in earnest at the time he did that he would never have killed Stamenberg or anybody else; he would never have gotten away from there; I think that is the substance of the conversation as I recall it.

MR. BROWN: That is all.

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RE-DIRECT EXAMINATION

BY MR. BARRON:

Q How many times have you told this story to different people, that Orchard did state what you have stated on the witness stand? A Why, I have told several people.

Q And for how long a time? A Oh, for the past year or more.

Q Have you ever denied it to anybody? A No sir.

Q You say that if you said anything to Bower it was if you had thought that Orchard was going to steal the children?—

A No sir, I think the conversation was that if he had done that while he was up there he would never have got into any other trouble if I could help it.

Q You did not tell him, if he had mentioned it to you? A No sir, I did not.

MR. BARRON: That is all.

MR. BORAH: You never have told Mr. Paulson about this matter at all? A No sir.

MR. BORAH: You have not talked with him about it?

THE WITNESS: Never.

MR. BORAH: That is all.

MRS. NELLIE E. JOYCE, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. DARRON:

- Q Give us your name please? A Nellie E. Joyce.
- Q Where do you live? A Denver, Colorado.
- Q Did you used to live down in the Cripple Creek country?
- A I lived eight years in Victor.
- Q What was your business down there? A Housekeeper.
- Q A housekeeper, were you? A Yes sir.
- Q Was your husband an miner? A Yes sir.
- Q Did you ever know Harry Orchard or Tom Hogan, whatever he goes by? A I met him in November, 1903.
- Q Whereabouts? A In the boarding house of the section hands of the Midland and Florence and Cripple Creek railroad.
- Q Do you remember what time in November? A On the night of the 13th.
- Q Do you remember when that was in reference to the story of the attempt to derail the train? A It was the night of the second attempt of the strike pulling.
- Q Who was with him? A Detectives Scott and Sterling, the head roadmaster, Steve Stoker, the section foreman, Pat Moore, and was at that time eight of the section hands.

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Q Ever see him any other time? A Yes sir, I saw him the Wednesday following.

Q Who was he with then? A With detective Sterling at the Florence and Cripple Creek depot.

Q Did you ever see them together at any other time? A No sir.

MR. DARROW: That is all.

MR. DONAH: That is all, Mrs. Joyce.

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

## DIRECT EXAMINATION

BY MR. BARROW:

- Q Give us your name please, in full? A Margaret H/ Houghton.
- Q Where do you live? A At present we live in Canon City, Colorado.
- Q How long have you lived there? A Since the 1<sup>st</sup> day of December, 1904.
- Q Did you used to live in the Cripple Creek district? A Yes sir, we lived in Anasconda, Colorado, in the Cripple Creek district.
- Q Was your husband connected with the Western Federation of Miners there? A Yes sir, he was a member of Anasconda Union No. 21.
- Q Did you keep the Anasconda store for the union? A My husband was the manager of the union store there.
- Q How far is that from Cripple Creek? A Between a mile and a mile and a half.
- Q Was that ever broken into and looted there? I don't care about the details? A Yes sir, on the evening of the 6th of June, 1904, the Anasconda store was looted.

- Q Anything left after they got through? A Scarcely.
- Q How about the safe, do you remember that? A Yes sir.
- Q The safe? A The safe was drilled open and things taken out of the safe, -- everything that was in it.
- Q Where was your husband then? A Really I don't know. The next day I discovered him in armory hall in Victor.
- Q He was under arrest I suppose? A Yes sir.
- Q Were you connected with any of the relief committees there?
- A Yes sir, I represented Assenda Miners Union on the relief committee.
- Q What were your duties? A My duties were to distribute relief to the families of the departed miners.
- Q Did you engage in that work? A Yes sir, I did.
- Q Anything happen to you while you were engaged in it? A Yes sir, I was arrested on two different occasions.
- Q Where were you taken to? A On the first occasion I was taken to the head quarters of the Mine Owners Association in Victor, and on the second occasion I was taken to the lower iron & room of armory hall in Victor.
- Q Any court there of any sort? A In the first instance there was a number of men, among them being McGarry, Frank Woods and Nelson Franklin.
- Q Any of these men mine operators or owners? A I don't know what McGarry was -- Judge McGarry he was called. Nelson Franklin was connected with the mine in some way and Frank Woods was connected with the Gold Coin Mining Company and



the Woods Investment Company. On the second occasion I was interviewed by the same committee but when they had finished playing their hand of poker which they were engaged in when I was ushered into the room.

- Q What did they say or do in reference to your distributing relief?  
A They told me that if I persisted in distributing relief to the members of deported families they would send me from the district. On the second occasion they told me that they would-- that they had about decided to deport me, but would have to wait the orders of the Adjutant General and they would communicate them to me later.
- Q Did you get yourself deported later or did you stay? A I stayed.
- Q Did you stop distributing relief? A No sir.
- Q Were you arrested again? A No sir, I was arrested but the twice.

MR. DARRON: That is all.

MR. BOYER: I guess that is all, Mrs. Houghton.

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

DIRECT EXAMINATION

BY MR. RICHARDSON:

- Q Miss Sanders, state your name please? A Anna H. Sanders.
- Q You are above the age of 21 I presume? A Yes sir, and a little more.
- Q You reside where? A Cripple Creek, Colorado.
- Q And your occupation is what? A Just now I am trying to rent furnished rooms.
- Q What business were you engaged in in the Cripple Creek district in the year 1903? A In 1903 and 1904 I was renting furnished rooms.
- Q You were renting furnished rooms? A Yes sir.
- Q Where was your place of business? A It was in the Texas Block on Second street in Cripple Creek.
- Q Who was the owner of that block? A Mr. Erhart; I have forgotten his initials, A. T., I think.
- Q What relation did Mr. Erhart sustain to the organization commonly called the citizens' alliance? A He was organizing the citizens' alliance at that time and was president of it then.
- 3278 Q Did he have any conversation with you with reference to what

you should do in running your rooming house? A Yes sir, he brought a paper there for me to sign.

Q What kind of a paper was it that he brought to you? A I did not get a chance to read it that day but he said everybody was going to sign it, that they were just starting out.

Q Starting what out? A He said they were starting an organization to make good times in the Cripple Creek district.

Q Did you afterwards learn what the organization was that he was starting? A Yes sir, I asked him for a copy of the constitution and he gave me that constitution-- he brought it to me.

Q What was it of? A The citizens' alliance.

Q What did he say your duty would be in regard to that? A He said we would get a house full of roomers --

Q What did he say as to the object and purpose of it in respect to the Miners Union? A Well, he got angry and referred me to a doctor there.

Q What did you say to him in the first place? A I told him after reading it that I could not join.

Q You told him that you could not join? A Yes sir.

Q Then what did he say? A Well, he says, "You will have to join or get out or starve; we are going to organize this all over the Cripple Creek district, and we are going to have no more unions in the Cripple Creek district; we shall kill outunionism from the dishwasher up."

3279 Q What did you say to that? A I said that I would starve.

- Q To whom did he direct you? A To Dr. Funk. He was the secretary of the citizens' alliance.
- Q What about any conversation that you had with the owner of the building in which you were running your business, after that?
- A He came back and said that he understood I would not join and he said, "I cannot have anybody in my buildings that won't join and you will have to get out," but he said, "You stay to-night and let the men who are coming on the train have rooms, and we will protect you to-night if you will take them in; we will put soldiers around the house." And I said, "Well, I don't want any soldiers around my house; any gentlemen can come and stay here." But when they brought the men in that night they seemed to be a lot of Hungarians and they could not talk english very good and they got frightened about it and ran them out the back yard and I did not get any of them.
- Q Do you know who these Hungarians were, what their purpose was there? A They were strike-breakers.
- Q How long were you allowed to remain in that house? A I got out in a week.
- Q Did you have a lease on it at the time? A Yes sir.
- Q How long was your lease to run? A About a year and a half I think.
- Q Where did you go? A I went into the Atlas, a building that was right by the union store, a two story building.
- 3280 Q Where was your place of business with reference to the union

store? A Next door.

Q That is, after you moved into the Atlas? A Yes sir.

Q Did anything happen to that building while you were there?

A My building?

Q The building in which you had your rooming house? A The union store was next door.

Q No, no, did anything happen to that store? A Yes.

Q Tell the jury about that, when it occurred and what occurred? A Well, I was — things seemed to be very quiet in the district and I was sitting in my room that evening talking to a fire insurance agent.

Q Tell us the time it occurred? A This was some time in August, 1904, and I was talking to a fire insurance agent, Mr. Woodman, and he said, "I believe everything is going to all right and quiet" —

MR. HANLEY: We object to that conversation.

Q Yes, you cannot give that conversation.

THE COURT: Just give the occurrences.

Q Go ahead and tell what was done? A We heard a terrible scream and noise and we looked out of the window and it seemed like there was ten thousand men; all Bennett avenue was covered with men screaming and running at our building.

Q Where did they go to? A They rushed into the union store and up my stairs.

Q Did you recognize any of these men? A Only one or two because they were so crowded and we were rather frightened of

course.

- Q What did they do? A They called for the landlady.
- Q What happened? A They were swinging revolvers around my head and said, "Don't let anybody get away!" and there was one big honest man with big dark eyes and I looked around at him, he stood there with a revolver right near my head, and he said, "Not on your life let them get away." I said, "Gentlemen, you are bigger than I am"---

MR. HAWLEY: We object to this conversation.

- Q What did they do there? A They rushed through all the rooms.
- Q In this piece of yours? A Yes sir.
- Q What did they do with the union store? A They smashed it up and took the boys out of my house.
- Q What did they do with the boys when they took? A They ran them out over the hills.
- Q What did they do with the stuff in the store? A Took it away,— took it out and gave it away to the crowd.
- Q What was left in the store when they got through? A I am sure there was some soap.
- Q Some soap? A Yes sir.
- Q What was on the floor of the store? A Flour and tobacco, all and everything/smashed and scattered around.
- Q You thought there were a large number of people there, did you? A Well, they looked big.
- Q What is your estimate of the number of people that came down there at that time? A I think there was about five thousand

and a great many of them were swinging buckets.

Q Where is Bennett Avenue in Cripple Creek? A It is the main street of the city.

MR. RICHARDSON: You may inquire.

CROSS EXAMINATION

BY MR. BORAH:

Q What was the date that Mr. Erhart brought the paper to you?

A It was about the first week in September, 1903.

Q About the first week in September? A Yes sir, in that month some time.

Q What would make it between the 1st and the 5th or 6th, do you mean? A It was some time in that month, the early part of the month.

Q And what was the date that you speak of the 5,000 men coming down the street? A That was after I got in the Atlas; that was in August, 1904.

Q August, 1904? A Yes sir.

MR. BORAH: That is all.

MR. RICHARDSON: That is all, thank you.

HENRY MAKI, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDSON:

- Q What is your name? A Henry Maki.
- Q How old are you? A 36 years old.
- Q Where do you reside — where do you live? A Silver City, Idaho.
- Q How long have you lived in Silver City? A About three years.
- Q You have lived there about three years? A Yes sir.
- Q Where were you living in the year 1903, and the early part of 1904? A Telluride, Colorado.
- Q How long had you lived in Telluride? A I had gone to Telluride in June, 1903.
- Q You went to Telluride in 1903? A Yes sir.
- Q How long did you live there? A I left in 1904, in February.
- Q February of 1904? A Yes sir.
- Q What was your business in Telluride? A Mining.
- Q What mine did you work in? A The Tenby and the Nellie.
- Q Was there a strike there, called in 1903? A Yes sir.
- Q When was it called? A I don't remember.
- Q About the 1st of — A September.



- Q September 1st the millison went out? A Yes sir.
- Q In 1903, about that time? A Yes sir.
- Q And after that the rest of you went out, some time later on in the year? A Yes sir.
- Q Were you a member of the miners' union? A Yes sir.
- Q Your local union there at Telluride? A Yes sir.
- Q How long had you been a member of that union? A I joined in Silver City in 1899.
- Q You joined in Silver City in 1899? A Yes sir.
- Q Here in Idaho? A Yes sir.
- Q And then you had gone down to Colorado after that? A Yes sir.
- Q Had you been a member of the union all of the time since 1899?
- A No, I took a trip to the old country.
- Q And while you were gone to the old country you were not a member? A Yes sir.
- Q When you came back did you go to Silver City, Idaho? A No, I went to Telluride.
- Q And then you took your card out to that union, did you?
- A Yes sir.
- Q After the strike was called did you work in Telluride? A No sir, I did not go to work after that.
- Q When did you stop work? A I was stopped work the end of December, I think.
- Q The end of September? A Yes sir.

Q Or 1903? A Yes sir.

Q Now, did you continue to stay in Telluride -- did you continue to stay at Telluride after that? A Yes sir.

Q And did anything happen to you? A Yes sir.

Q What was it? A They arrested me in February, 1904.

Q They arrested you in February, 1904? A Yes sir.

Q What were you charged with? A Nothing.

Q Charged with nothing? A No sir.

Q How much money did you have in your clothes when you were arrested? A \$304.00.

Q You had \$304. ? A Yes sir.

Q Did you owe anybody anything in the town -- owe any debts?

You know what debts are -- did you owe anybody? A Yes, I know lots.

Q You know lots? A Yes.

Q But were you out of debt and didn't owe anybody anything -- you had paid all your bills? A Yes sir.

Q And had \$304. in your clothes? A Yes sir.

Q Where were you living? A In a family's house named -- it is the house that belongs to Jacob Greider.

Q Were you boarding with him? A No sir.

Q You just had a room there? A Yes sir.

Q Where did you board? A Any place, the restaurant, hotel or any place, and at last I boarded at the union restaurant.

Q Did you pay for everything you had when you got it, your food and the place where you roomed, did you pay for it?

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A Yes sir.

Q Out of your own money? A Yes sir.

Q When you were arrested what was done with you? A They put me -- they bring me to the court house first.

Q What did they do with you at the court house? A They bring 48.

Q 48 of you? A 47 other men and 48 altogether.

Q 47 besides you? A Yes sir.

Q What did they do with you? A We got fifteen days in jail.

Q Fifteen days in jail apiece? A Yes sir.

Q Did they give you the privilege, the right to leave town?

A Yes sir, they give us three hours, we could leave town, or start to work and if we no like to go to work in the mine we could stay in jail 15 days.

Q You had three hours to get out of town or three days to get to work? A No, just one day. Go to work the next morning or leave the town next morning.

Q And if you did not do that you would get 15 days in jail?

A Yes sir.

Q Did you ever heard the word vagrant? A No sir.

Q You did not know whether you was charged with being a vagrant or not? A No, I asked him -- a young man, a deputy sheriff.

Q You asked a deputy sheriff? A I asked him, I don't know what is the reason I am arrested, and he says, "I don't know."

Q Was that Mr. Maldrun, the man you have seen around here?

A No, I don't see him.

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Q Did you show your money in the court room to the judge?

A Yes sir.

Q Show him how much you had? A Yes sir.

Q What did you say to him and what did he say to you about going to work? A I showed my money and the county lawyer says, "Put the money in your pocket." I asked him how much do you want, right there.

Q Did you say it to the judge who told you to get out of town or go to work? A Yes, I showed it to everybody.

Q Well, what was done with you, Mr. Waki? Did they make you go to work or put you in jail? A Yes, I go in jail.

Q After you had been <sup>in</sup> jail a while what did they do to you?

A They bring me to work.

Q Who was it that brought you to work? A Willard Reynolds.

Q Was he a partner of Mr. Waldron? A I don't know.

Q What kind of a man was he? A He was deputy sheriff.

Q He took you out and set you to work, did he? A Yes sir.

Q Where did he set you to work? A It was the 27th of January.

Q Where did he set you to work? A Yes sir, cleaning an old water closet.

Q Cleaning an old water closet? A Yes sir.

Q Did you work at that? A No.

Q Why not? A He bring me to the same place and says, "You have to shovel that stuff back in the same hole."

Q The same hole that you shovelled out the day before? A No,

another month altogether.

Q Well, go on and tell us about that? A I says I cannot shovel that, that stink too bad and I ain't used to this kind of work at all and I dropped my shovel down on the ground and Reynolds says, "Give him his shovel;" there were some soldiers there.

Q He said that to a soldier? A Yes sir.

Q Soldiers there in a uniform? A Yes sir. He said give him the shovel back and I throwed the shovels far as I can, about 25 feet anyway, and I says, that I don't shovel this stuff, I ain't used to this kind of work.

Q What did he say then? A And I says, yesterday I got money enough and I got it yet and for a long time and I don't have to work. He took his handcuffs and put on my left wrist.

Q Put the handcuffs on your left arm? A Yes.

Q When what did he do? A Bring us close to the railroad and tied us around a telegraph pole.

Q That is, with the handcuffs? A Yes sir.

Q Put the handcuffs on this arm and the telegraph pole in here (indicating) and attached it to the other arm? A Yes sir, like that (indicating).

Q What kind of a day was this? A Very cold -- a cold wind.

Q A day in January? A In February.

Q How long did he keep you strapped up to that telegraph pole?

A Two hours and fifteen minutes.

Q What was you doing while you were standing there? A I could

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not do very much.

Q A big telegraph pole? A A big telegraph pole. I could not move my hands and I closed my hands and they skinned in a few days.

Q Did you freeze anything else but your hands? A No sir.

Q At the end of two hours and fifteen minutes what was done to you? A He let me loose.

Q Who was the soldier that gave the command for you to be fastened up to that telegraph pole? A I don't know. Two soldiers were watching me.

Q Who put you up there? A Reynolds.

Q The deputy sheriff? A Yes sir.

Q And the two soldiers did the work? A No, they watched me.

Q The two soldiers stood there and watched you? A Yes sir.

Q Who was in command down there at that time? Do you know what command means? Who was the boss soldier? A I don't remember -- Bulkeley Wells anyway.

Q Bulkeley Wells? A Yes sir.

Q After you had stood there two hours and fifteen minutes what was done with you? A Reynolds come back. He was walking around the town and he come back and took a key and opened it and says to the two soldiers if I moved my hands a little take off the handcuffs and shoot through.

Q That is, they shot through your hands? A No, he took the two soldiers acquainted the rifles at me like that.

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Q Where did they shoot? A They didn't shoot.

- Q Oh, they pointed their rifles at you? A Yes sir.
- Q Then what did you do? A He says, take a walk to the jail.
- Q Did you go to the jail? A Yes sir.
- Q How long did you stay there that time? A They put me in a cell right away and took all the blankets away and everything.
- Q Any fire in the jail? A Yes.
- Q Where? A There is another side.
- Q Any fire on the side where you were? A No sir.
- Q What did you say they did to the blankets? A I don't know what place he bring them. He pushed me in and took the blankets out first.
- Q Took everything away? A Yes sir.
- Q How long did they keep you there? A They put in the same cell about twelve o'clock in the daytime and he was going until another day about one o'clock.
- Q That is, until one o'clock of the next day? A Yes sir.
- Q Did you have anything to eat during that time? A No sir.
- Q Anything to drink? A No sir, nothing.
- Q What happened at one o'clock the next day? A He come and asked me if I like to go to work.
- Q What did you say to him? A I asked him, you give me the same kind of work, and he said, no I will give you some good work.
- Q He was going to give you some good work that day? A Yes sir; and I said, what kind of work will you give me; and he says oh, you will see. I says, all right, I like to see.

- Q You wanted to see some good work, did you? A Yes sir.
- Q What happened? A He bring me with two soldiers on a side hill at some prospect or mine, I don't know what.
- Q He brought you to some mine? A Yes sir.
- Q Did you work there? A Yes, I worked about four hours.
- Q Then what happened? A He come in -- the two soldiers come in and says bring these four men back.
- Q There were others with you? A Yes sir.
- Q Did you have anything to eat? A No sir.
- Q They made you work four hours after you had starved twelve? A Yes sir, and 36 hours I didn't get to eat.
- Q 36 hours in all before you get anything to eat? A Yes sir.
- Q What happened after you worked the four hours? A They get the two soldiers and says to another two to watch them and then bring this man to jail; I come in the jail and I come to the office.
- Q You go in the office of the jail that time? A Yes sir.
- Q What happened? A I see you and you put up a thousand dollar bond and I was let loose to come to court to-morrow.
- Q You mean that you saw me there? A Yes sir.
- Q Well, did you get loose the next day? A Yes sir.
- Q Then what happened to you? You had a trial the next day before the county court? A Yes sir.
- Q And that night the county court released you? A Yes sir.
- Q Let you go? A Yes sir.



Q And give you back the money the sheriff had taken off of you?

A Yes sir.

Q Go ahead. A I will -- it was the 7th, a year ago last --

Q That is the 7th of February or March -- the 7th of March, wasn't it? A February.

Q All right. A I walked around the town the 8th and I took a walk the 9th, took a walk on the railroad about 900 yards and I got a partner named Andrew Corlis and I saw him come, Reynolds.

Q That is, this man Reynolds? A Yes sir; I stopped; I saw he was coming and he is asking my partner he says what he is doing and my partner says he is keeping the milk business, he has a house and property and a couple cows and Reynolds says to my partner, he says, Andrew--

MR. BORAH: I suppose what they want to get at is the ultimate fact that he was taken in possession again?

MR. RICHARDSON: That is it.

THE COURT: How long is this going to take, Mr. Richardson? A

MR. RICHARDSON: About five minutes, I guess. We have still five minutes more.

THE WITNESS: He don't understand very much and I says, yes, I understand what you say; and he says, you have to leave this town.

Q That is what Reynolds told you? A Yes sir. To-morrow morning take out the train and then another train comes you go to

Mentrose. I said, no, I don't think I have to leave it. He says, yes, you have to go. My partner says, it is very bad a man has to leave town. I says, pretty good, it must be all done then and soldiers go to -- you think you going to put me on the same train. He says, no, the citizens' alliance and mine owners are not going to ship any more miners out. I says, no, I stay here. He says again, you have to -- you have to go to-morrow morning and you can be gone to-morrow morning or the soldiers will come any time horseback and put a rope around your neck and another on the saddle.

Q They put a rope around your neck and around the saddle?

A Yes, and I have to run like a wild dog. And I says, I have got money enough yet, and he says, yes, I know you got money.

Q Is that all? A Yes, that is all. I left him and I go back to town.

Q Now that is what is going to happen to you if you stayed there after the next train went out the next morning? A Yes sir.

Q They would put a rope around your neck and tie it to the saddle and make you run like a wild dog? A Yes sir.

Q All right? A I go back down to my partner.

Q YOU went back to your partner? A Yes sir, I walked round the town and go into the secretary, Forbes, and he says, I am looking for you.

Q What did you do, did you go out the next morning on that train?

A Bulkeley Wells got another horse and bring his sergeant and

told me I had to leave the town.

- Q Bulkeley Wells told you that, or Forbes told you that Bulkeley Wells said so? A Yes, Bulkeley Wells was talking to Forbes that he had to tell me that I had to leave the town.
- Q Did you go to see Bulkeley Wells? A No sir.
- Q Did you leave the town next morning? A Yes sir.
- Q On that train? A Yes sir.
- Q You did not care to run that race with the horse? A No sir.

MR. HAWLEY: We object to that.

THE COURT: He has answered it.

MR. RICHARDSON: It don't amount to anything.

- Q Have you been back to Telluride since? A Yes sir.
- Q When did you go back? A I go back, I am in Ouray about two weeks.
- Q Went over to Ouray and stayed about two weeks, did you?
- A Oh, it is more, it is about the 15th of March.
- Q Anybody else sent over to Ouray about the same time you were sent over there? A Yes sir, about 75- -maybe a hundred.
- Q When did you get back to Telluride, and what happened to you then? A They put us and all the boys in Reiman's Hall.
- Q They put you all in Reiman's Hall? A Yes sir.
- Q Then what did they do to you? A We had to go back that same night.
- Q They sent you back out of town the same night after you got in?
- A Yes sir.

MR. HAWLEY: We object to that as stating things that he had not said.

MR. RICHARDSON: No sir, I have stated nothing which he did not state.

THE COURT: He answered the question.

MR. HAWLEY: These questions are all leading.

MR. RICHARDSON: I think with a witness of this kind that any court would permit leading questions to be asked.

THE COURT: The question is very leading, and the court realizes the fact that it is pretty difficult for this witness to understand the language and the rule may be modified to some extent.

MR. RICHARDSON: I do not lead him and I have not put any leading questions or anything of that character until after he answers and then I have repeated his answers in order that the jury may understand what he says and that is the only reason that I did it and I don't believe it is a proper criticism on me to say that I have been leading him as to these answers in this question.

THE COURT: What was that last question and answer?

The last question and answer were then read.

THE COURT: That may stand. Proceed.

Q Did you ever go back to Telluride again after that? A No sir.

Q You never have been back there from that day to this? A No sir.

Q And you live now in Silver City, Idaho? A Yes sir.

Q How steadily have you worked since you came to Silver City, Idaho?

MR. HAWLEY: I object to that as incompetent, immaterial and irrelevant.

MR. RICHARDSON: Very well.

THE COURT: The objection is sustained.

MR. RICHARDSON: All right, take the witness.

THE COURT: I think you can cross examine this witness on Friday morning.

MR. BORAH: I only want to fix a date or two and it will take only a minute.

THE COURT: Very well, then proceed.

CROSS EXAMINATION

BY MR. BORAH:

Q Can you give me the date when you were first arrested or taken in charge by any one -- what month and year it was?

A The first time I was arrested?

Q Yes, the first time you were arrested? A The end of February, if I remember.

Q Of what year? A 1904.

Q And how long was this after the strike had been declared?

A If I remember, I was in Silver City since that.

Q How long after the strike in Telluride was it that you were

arrested? How long after you quit work was it that you were arrested, and after the strike had been declared? A I don't remember that.

MR. BORAH: Mr. Richardson, what time was that?

MR. RICHARDSON: The millmen went out on September 1st, and he has testified that he went out on the 2nd of September.

MR. BORAH: What was the date of the arrest, that he has testified to?

THE SHERIFF: He testified that it is the 2nd of February of 1904.

MR. BORAH: That is all for the present.

Thereupon the court gave the jury the statutory admonition, the bailiffs were sworn, the jury retired in charge of the bailiffs, the defendant was remanded to custody, and an adjournment was taken until Friday, July 5th, 1907, at 10:00 o'clock

A. M.

ADJOURNED.

Boise, Idaho, Friday, July 5th, 1907.

10:00 o'clock A. M.

Articles not pursuant to adjournment.

Minutes of the session of Wednesday, July 3rd, 1907, were read and by the clerk and the same signed by the court.

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

THE COURT: Are you ready to proceed, gentlemen?

MR. D ARROW: Yes, your Honor, we are ready, but before we proceed, your Honor, we have a witness who was a member of the executive board and who started for here night before last and was killed on the train as he was leaving the depot.

MR. HAWLEY: How was he killed -- run over?

MR. D ARROW: Another train came along --

MR. RICHARDSON: He got on the wrong train and undertook to get off the train while it was moving and was killed either by the other train or falling against the rails; I don't know the details of it.

MR. D ARROW: It may necessitate us getting another man for one fact that we have another one, a witness, that knows about it as this witness did; and that may necessitate possibly a day, -- we hope it won't, but if it does we will have to ask for it, that is all.

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THE COURT: You have already sent for your witness?

MR. DARRON: We have, your Honor, but we won't need him today, now, we won't need him before Monday anyhow, and we trust that we won't at that time want any continuance.

THE COURT: Very well you may proceed.

MR. DARRON: I will call Marion Moore.

3300



MARION W. MOORE, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. BARRON:

Q Give us your name, please? A Marion W. Moore.

Q Mr. Moore, where do you live? A Arizona -- McCabe, Arizona.

Q What is your business? A Well, for the last three years I have been a member of the executive board of the Western Federation.

Q You are a miner, are you, too? A Yes sir.

Q How long have you been a miner? A About 25 years.

Q And how long have you been connected with the organization?

A I have been connected with it ever since its inception in 1893.

Q You used to live in the Coeur d'Alenes? A Yes sir.

Q When were you there? A I went to the Coeur d'Alenes in October, 1896, and left there in the spring of 1898.

Q Did you know Harry Crehard? A Slightly.

Q When did you see him the first time that you now recall?

A The first time that I remember meeting Harry Crehard was in May of 1904, in Denver, Colorado.

Q And where were you at the time? A I was sitting on a bench

in the court house square in Denver, reading a paper when he came up to me.

Q How did he approach you -- who introduced him? A No one introduced him, he introduced himself.

Q Purported to know you? A He came up and says, "Hello Moore," and I says, "Hello;" and I says, "You have got the best of me;" he says, "No, I have not;" I says, "Where did you know me?" He says, "I seen you in the Cour d'Alence."

Q Did he then call your attention to any matters in the Cour d'Alence? A He called my attention to a little matter in the Cour d'Alence that he must have seen me there, I think.

Q So you thought he must have seen you there? A Yes sir.

Q Did you see him again? A I seen him possibly three or four times.

Q Did you see him in 1905? A Yes sir.

Q Did you take a letter for him to Alaska? A Yes sir.

Q Where did you see him in 1905? A It was on -- I think it was on 17th street that I met him; I was going to my breakfast.

Q Did you have any conversation with him, Mr. Moore? A A very short conversation.

Q Just state the substance of it without going into details too much? A He bid me the time of day and asked me where I was coming from; I told him that I had come down from Leadville and that I was going to Alaska and we had a few minutes con-

versation there,-- just general conversation.

MR. BORAH: May I have the date of this conversation?

Q What was that date, Mr. Moore? A It was, I think, about the 21st or 22nd of July in 1905.

Q It must have been very close to that date, must it not?

A Yes sir, somewhere near that date.

Q Do you know how many days you were in Denver at that time?

A Two,-- I was there two days.

Q And you know when you arrived in Alaska so it could not have been very far from that date? A Yes sir.

Q Where were you stopping in Denver? A At the Belmont rooming house on Stout street.

Q Are you sure about the place? A Yes sir.

Q Did you ever stop any other place there? A I stopped at the Belmont rooming house on and off for a few years while Guerrin was there.

Q Well, do you know whether he found out from you where you was stopping or not, or don't you recall that? A He asked me where I was rooming, and I told him, at the Belmont.

Q Did you see him again? A I seen him that evening.

Q Whereabouts? A In my room in the Belmont.

Q Do you know how he happened to come there? A No sir.

Q Did he bring anything with him? A Yes sir.

Q Did he make any request to you? A Yes sir.

Q What was it? A When he came into the room he asked me if I

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would take a letter for him to Alaska.

Q What did you say? A I told him I would.

Q Did he hand you a letter? A Yes sir.

Q Did you say anything else to him? A Yes sir, when he handed me the letter I told him he was sending his letters a long way from home to be mailed.

Q Did he make any reply to that? A He said he wanted to get rid of that woman.

Q And do you know whether there was any further conversation as to his intentions? A We talked there a few minutes and he said that he might come up to Alaska in a short time himself.

Q How soon after this did you go to Alaska? A The next day; I left on the evening train at 8:30, I believe it was at that time.

Q Do you remember what time you got to Alaska? A I am quite certain it was on the 2nd day of August.

Q 1905? A Yes sir.

Q And did you mail the letter? A A couple days after I got there I remembered about the letter -- found it in my pocket and I mailed it.

MR. DANBOW: That is all.

#### CROSS EXAMINATION

BY MR. DORAN:

Q Have you any other business, Mr. Moore, other than acting as a member of the executive board the last three years? A No,

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nothing else.

Q You devoted your time exclusively to that? A Yes sir.

Q And you have been a member of the Federation how many years?

A I joined Gen Miners' Union on the night of the 1st of May, 1893, and on the 15th of May, 1893 the Western Federation was organized and Gen Miners' Union went in as a member -- Local No. 11 of the Western Federation of Miners.

Q You have, of course, been very familiar with the organization and its work since that time? A Quite so.

Q And I believe you have a publication run by the organization known as The Miners Magazine? A Yes sir.

Q And have you any other official organs or have you had, other than the Miners Magazine? A Not that I ever heard of.

Q How long did you live in the Coeur d'Alenes, Mr. Moore?

Q Why, I lived in the Coeur d'Alenes, that is, in Kootenai County, and Shoshone county; I prospected and mined there from the fall of 1886 until the spring of 1893, with the exception of the summer -- four months in the summer of 1897 that I was in British Columbia.

Q What did you do while you were living there -- what was your general occupation? A For the first seven years I was in that county my home was supposed to be in Kootenai county and I prospected and contracted there.

Q Did you know J. R. Sovereign? A I have seen him twice, I was not what you would call acquainted with him.

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Q Did you know his paper, the Idaho State Tribune? A Yes sir.

Q Was that an official organ of the organization at that time?

A That was the official organ of the four local unions of the Coeur d'Alenes.

Q For what time? A I think the paper was started in the fall of 1893, or the spring of 1894.

Q And it continued to be the official organ for what length of time? A Well, I ain't quite certain, but I think it is 1902; you see I was not there for the last three or four years.

Q It continued up until about 1902? A I think so, but I would not be certain in regard to that.

Q It was published at Wallace? A Yes sir.

Q By J. K. Sovereign? A Yes sir, he was the last one.

Q Now, you first met Orchard, you say, in Denver? A Yes sir, in Denver.

Q Whereabouts? A I met him on 17th street as I was going to breakfast.

Q He introduced himself to you? A No, I want to correct that; the first time I met him I was at the court house square in Denver there sitting on one of these benches there reading the morning paper.

Q You were alone? A Yes sir.

Q And he introduced himself to you? A Yes sir.

Q Under the name of Orchard? A Yes sir, that is the only name I ever knew for Orchard.

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Q And he called your attention to some matter in the Coeur d'Alenes

which caused you to believe that he had known you there or seen you there? A Yes sir.

Q Did you have any extended conversation there? A No sir, I think we were there about five minutes.

Q Did you learn he was a member of the organization at that time?

A Yes sir.

Q Did you learn where he had been working prior to the time he met you? A No sir, I did not.

Q Did you learn he had been in the Cripple Creek district?

A No sir, he did not tell me that.

Q You did not know whereabouts in Colorado he had been working, if at all? A No sir.

Q But you learned that he was member of the organization?

A Yes sir.

Q And did you have any other extended conversation with him at all then? A No sir, I don't think it exceeded five minutes.

Q That was about what date? A It was in the latter part of May in 1904. I remember it because I came there as a delegate to the Western Federation convention.

Q May, 1904? A Yes.

Q And when was the next time you met him -- the second time?

A Oh, I had seen him two or three times around town there.

Q Did you have any conversation with him? A No sir.

Q When was the next time you met him to have any talk with him?

A In July, 1902.

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Q About the 22nd, you say? A Yes.

Q And where was that you met him? A I am quite certain that I met him on 17th Street as I was going to breakfast.

Q Was this the second conversation you had with him? A Yes sir.

Q These other times that you saw him you did not have any conversation with him, you just saw him? A Not to speak of; I passed the time of day with him.

Q But no further acquaintance than that would signify? A No sir.

Q And on the 22nd of July what conversation did you have with him? A I met him on the street and he bid me the time of day and he asked me where I had been; I told him I had been up to Leadville since the adjournment of the Salt Lake convention and that I had come down, having received a telegram from Charlie Moyer, and I was going to Alaska to organize a union at Nome.

Q And was anything further said at that time? A I don't remember of anything in particular that was said at that time, only that I told him where I was rooming. He asked me and I told him I was stopping at the Belmont.

Q And did he say anything about where he was stopping or what he was doing? A No sir, he did not.

Q Or what his business was? A No sir.

Q And where did you next see him? A He came to my room that evening.

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Q At the Belmont hotel? A Yes sir.

Q And you there had another conversation? A Yes, a short conversation.

Q And this would make the third conversation you had with him?

A Yes sir.

Q But you had seen him at other times? A Yes, two or three times.

Q Do you remember where you had seen him there at other times?

A On the street and possibly at the convention there.

Q You had not seen him at headquarters? A No sir, I had not seen him at headquarters.

Q And what was said? A He came in and asked me if I would mail a letter for him at home. I told him I would, and he handed me the letter and I made the remark that he was sending his mail a long ways from home to mail, and he says, "I want to get rid of that woman."

Q Did you observe to whom the letter was addressed? A I seen it was to Mrs. Harry Orchard.

Q You had observed that before you took the letter to mail?

A Before I mailed it, yes.

Q Before you took possession of it to mail? A I seen it when it was handed to me in my hand.

Q And you afterwards accepted it and took it and mailed it?

A Yes sir.

Q And the only thing he said was that he wanted to get rid of that woman? A Yes sir.

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Q And did that lead to any conversation? A We talked a few minutes.

Q Did it lead to any conversation as to why he wanted to get rid of her? A No sir.

Q Or what the situation was with him? A No sir.

Q He says to you that that would help him to get rid of her?

A Yes sir.

Q But he did not say as to how that would help him get rid of her? A No sir. I did not pay any attention to it.

Q You simply took the letter to mail it? A Yes sir.

Q Knowing it was to his wife? A I did not know it was his wife or not. There are so many people in this western country that they let a woman carry their name for a little while that I did not pay any attention to it.

Q You did not know it was his wife? A No sir, I had never seen her.

Q Did you inquire whether it was his wife or not? A No sir, I did not bother myself with that.

Q And you wished to be understood as not knowing what relation she bore to him? A Most assuredly I did not.

Q And you did not ask any questions about it? A No sir, I did not.

Q You did not know but it was his wife? A No sir.

Q You did not know at that time it was not his wife? A No sir.

Q You had no information from any one else that it was not his

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- wife? A No sir, I don't bother about such things at all.
- Q But you carried the letter to Home and mailed it? A Yes sir.
- Q Did you have anything to do with the letter except mailing it? A I don't know whether I did or not.
- Q Did you insert any date in the letter? A I might have, if he asked me, and very likely I did.
- Q What is your recollection about that? A Now, I don't remember.
- Q Do you remember whether you mailed the letter as soon as you arrived at Home or not? A I don't think I did; I think I ran across it in my pocket a couple days afterwards.
- Q Do you remember whether the letter was sealed or not?
- A I don't remember whether it was or not. I may have sealed it, but I don't know.
- Q You did not read the letter? A No sir, I did not.
- Q How often was this State Tribune published? A Once a week at the time that I was there.

MR. BORAH: That is all.

MR. DARNOW: That is all, Mr. Moore.

*Mypa*

MRS. ~~WIFE~~ FALLON, a witness on behalf of the defendant,  
being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. BANKOW:

- Mypa*
- Q. Give us your name in full, please. A. Mrs. ~~Wife~~ Fallon.
- Q. Where do you live, Mrs. Fallon? A. I live at Butte at present.
- Q. How long have you lived at Butte? A. Since February the first.
- Q. Is your husband a miner? A. Yes sir.
- Q. Were you ever married before? A. Yes sir.
- Q. Who was your first husband? A. Harry Waters.
- Q. What was the name he went by? A. They usually called him  
"Eld" Waters.
- Q. What was his business? A. Well, he did a little bit of  
everything.
- Q. Well, in the main what was it? A. What is it?
- Q. What was his business chiefly? A. He was a detective chiefly.
- Q. Did you live with him in Cripple Creek? A. Yes sir.
- Q. When did you marry him? A. I married him in 1900, in July.
- Q. When did you leave him -- A. He died in November.
- Q. -- or he leave you, whichever it was? A. He died in November.
- Q. What year? A. 1905.
- Q. Had there ever been any divorce proceedings begun between  
you before that time? A. Yes sir.
- Q. By you? A. Yes sir.
- Q. Where did you live with him when you first married him in 1900?
- A. Where did I live, you say? A.
- Q. Yes. A. We first lived on First Street, South First Street,  
105.

- Q. At Cripple Creek? A. In Victor.
- Q. In Victor? A. Yes sir, we lived in Victor nearly all our married life.
- Q. How long was Victor your home? A. Five years.
- Q. Were you living there during the strike? A. I was there during part of the troubles. I wasn't there during the strike.
- Q. Do you remember what part of this time you were there?
- A. Yes sir.
- Q. What part? A. I left there in March; the closest I can make it is between the 15th and the 16th.
- Q. That would be what year, Mrs. Fallon? A. 1904.
- Q. You left there in March, 1904? A. Yes sir.
- Q. And you had been there from the time you went in 1900 up to that time? A. Yes sir.
- Q. Now what was he doing up to that time?

MR. BURKH: We object to this, as if your Honor please, as to what Ed Waters was doing, unless there is some relevancy shown to it. It is immaterial.

MR. DARRON: We have already connected him up with various acts there in the Cripple Creek district. We want to show he was working for the Mine Owners' Association. We have connected him up with these deportations, <sup>assaults</sup> and with all sorts of things at that time. We have connected him up with Sterling and Scott in getting rid of the Western Federation of Miners and we want to show directly whom he was working for.

MR. BURKH: That would be a conclusion of this witness the way the question is asked.

MR. DARRON: If it is on the ground of conclusion

there might be something in it, but a man's wife usually ought to know what his business was.

MR. BOSCH: She might be the last person.

MR. DARROW: She might.

MR. RICHARDSON: It depends on whose wife it is.

MR. DARROW: I will ask you what you saw him doing there at different times.

A. I don't know how to answer that.

Q. Who was he associating with?

MR. BOSCH: We object to that as irrelevant and immaterial.

MR. DARROW: Well, I think we have got a perfect right to show who he was and what he was doing at Cripple Creek.

THE COURT: What is the question?

MR. DARROW: Who was connected with there?

MR. BOSCH: We object to that as a conclusion of the witness, and irrelevant and immaterial.

MR. DARROW: I should think the wife would be the one to know who he was connected with and what he was doing.

THE COURT: Not necessarily, Mr. Darrow.

MR. DARROW: Perhaps not unless she knows.

THE COURT: Unless as a matter of fact she does know.

MR. DARROW: I think we will show by her that she knows.

THE COURT: If she knows of her own knowledge the court will permit her to state.

Q. Do you know, Mrs. Mallon? A. He was connected with the Mine Owners' Association.

THE COURT: The question was, do you know.

THE WITNESS: I did know positively.

- Q. What people did you see him with? A. Well, he didn't bring company very much to the house, but he frequently brought Nelson Franklin, Mr. Copeland, Major Haylor and several others that I don't just remember because I didn't take much interest in his company.
- Q. Ever see him with Sterling? A. No sir.
- Q. K. C. Sterling? A. No, I never did.
- Q. Do you know K. C. Sterling? A. Yes sir, personally.
- Q. When had you seen Sterling? A. I met him after Mr. Waters died.
- Q. Did you ever see him with Scott? A. No sir, I heard him talk of both of them, but I don't know them at all -- I don't know Scott at all.
- Q. Did you know Lyte Gregory? A. Yes sir.
- Q. Did you ever see him with Lyte Gregory? A. Yes sir.
- Q. Whereabouts? A. I rode on the train with him from Victor to Colorado Springs.
- Q. When? A. In March, 1904.
- Q. March, 1904? A. Yes sir.
- Q. Do you know where he was going from there? A. Yes sir.
- Q. Where? A. He was going to Trinidad.
- Q. Was Kild Waters with him? A. Yes sir.
- Q. Where was he going? A. He was going to Trinidad also.
- Q. Did he come back? A. Yes sir, he came back. He didn't come -- I went to Salt Lake City at that time and he came out there and met me.
- Q. When? A. He came out there I think the 8th of May.
- Q. You left him in March on his way to Trinidad and he came back

THE WITNESS: I did know positively.

- Q. What people did you see him with? A. Well, he didn't bring company very much to the house, but he frequently brought Nelson Franklin, Mr. Conland, Major Haylor and several others that I don't just remember because I didn't take much interest in his company.
- Q. Ever see him with Sterling? A. No sir.
- Q. K. C. Sterling? A. No, I never did.
- Q. Do you know K. C. Sterling? A. Yes sir, personally.
- Q. When had you seen Sterling? A. I met him after Mr. Waters died.
- Q. Did you ever see him with Scott? A. No sir, I heard him talk of both of them, but I don't know them at all -- I don't know Scott at all.
- Q. Did you know Lyte Gregory? A. Yes sir.
- Q. Did you ever see him with Lyte Gregory? A. Yes sir.
- Q. Whereabouts? A. I rode on the train with him from Victor to Colorado Springs.
- Q. When? A. In March, 1904.
- Q. March, 1904? A. Yes sir.
- Q. Do you know where he was going from there? A. Yes sir.
- Q. Where? A. He was going to Trinidad.
- Q. Was Ed Waters with him? A. Yes sir.
- Q. Where was he going? A. He was going to Trinidad also.
- Q. Did he come back? A. Yes sir, he came back. He didn't come -- I went to Salt Lake City at that time and he came out there and met me.
- Q. When? A. He came out there I think the 26th of May.
- Q. You left him in March on his way to Trinidad and he came back



- there the 8th of May, is that right? A. Yes sir.
- Q. And he was in company with him when you left him?
- A. Yes sir, Gregory came after him.
- Q. Where did he come to? A. He was going to work that morning, he was working at the Independence mine, and he came back with his lunch pail and said that he was going with Gregory; so he met Gregory at the train and he had his transportation.
- Q. You mean Gregory came to Victor? A. Yes sir.
- Q. What kind of a looking man was Gregory? A. He was a very tall man, heavy set, light, light build.
- Q. What was his habit about carrying guns, Eld Waters?
- A. He always carried about three.
- Q. About three? A. Yes.
- Q. What kind? A. All kinds.
- Q. Have guns in his house? A. Yes sir.
- Q. Did you ever see Harry Orchard? A. Yes sir.
- Q. Whereabouts? A. In my house.
- Q. When? A. The nearest I can recollect was in March, 1904, between the first and the tenth.
- Q. How many times did you see him there? A. I saw him twice.
- Q. Did he see anybody else there? A. No sir, at the time he was there there was no one else there but Mr. Waters.
- Q. Did he see Mr. Waters? A. Yes sir.
- Q. How long was he with him? A. Oh, the first occasion he came in and they went out together, Mr. Waters was out all night; and the second occasion he talked to him three-quarters of an hour and then left.
- Q. Do you know what name was used at that time, whether it was

Orchard or not? A. It was Orchard, yes sir.

Q. After he went away in March when did KIA Waters come back to Victor, if at all? A. We were in Salt Lake, and I think it was the 26th or the 27th, I know it was close to the last of the month, he received a letter and he told me that he would have to leave that evening.

MR. BOWEN: Wait a moment now. We object to any conversation --

Q. When did he receive the letter -- strike out the conversation, I will consent to have that stricken out.

A. The 27th.

MR. BOWEN: Of what?

THE WITNESS: Of May.

Q. What month? A. May.

MR. BOWEN: 1904?

THE WITNESS: Yes.

Q. That is 1904? A. Yes.

Q. Where did he go after he got the letter? A. He said he was going --

MR. BOWEN: Wait a moment. We object to that if your Honor please.

THE WITNESS: He went directly to Cripple Creek.

MR. BOWEN: Wait a moment.

MR. BARNOW: Did you go with him?

A. No sir.

Q. Where were you? A. I was in Salt Lake.

Q. How long did you stay in Salt Lake? A. I stayed there until July the first.

Q. Did he leave Salt Lake at that time? A. Yes sir.

- Q. Did you hear of him afterwards? A. No sir, not for three weeks.  
Q. And from where did you hear of him? A. From Victor, Colorado.  
Q. Do you know where he was going when he left the 27th of May?

MR. BORAH: We object to that as calling for hearsay evidence.

MR. DANDROW: The witness says he got a letter and he went away that day.

MR. BORAH: The letter is hearsay and her knowledge would be hearsay. It is twice removed hearsay evidence. She remained in Salt Lake and he went away somewhere. Now I submit there is no basis here for her to know where except by hearsay.

THE COURT: You can cross examine her as to how she knows.

MR. BORAH: Well, did you go along?

A. No sir.

MR. BORAH: We submit that she can't know.

MR. DANDROW: Your Honor, I don't believe that is the only way she can know.

MR. BORAH: It is not all hearsay.

MR. DANDROW: Your examination isn't very searching.

MR. BORAH: It is satisfactory to me.

MR. ~~SENATOR~~ DANDROW: You have got the least curiosity of anybody in the world.

MR. BORAH: I have tried to restrain that since I have been associating with you.

THE COURT: State your objection.

MR. BORAH: I object to it as hearsay on the part of the

witness.

THE COURT: The question doesn't call for hearsay. It calls for her own knowledge, Mr. Borah.

MR. BORAH: But she has stated that she didn't go along.

THE COURT: It is a question whether your cross examination has gone far enough to determine the fact that she doesn't know absolutely.

MR. BORAH: She says she remained in Salt Lake and she says he went away and she didn't go along. Now they are offering the testimony, they should lay the foundation so it wouldn't be hearsay.

THE COURT: Do you know where he went of your own knowledge?

THE WITNESS: Yes sir.

Q. Independent of any statement that he made to you?

A. Yes sir, I know where he was going when he left, positively.

Q. How did you know that? A. I know it by a telegram that he received.

MR. BORAH: That is the same thing.

MR. DARROW: We have had proof of telegrams in this case, your Honor, where they were just seen by a third party.

THE COURT: She may answer the question.

Q. Whereabouts? A. He was going right to Oripine Creek directly.

Q. Where was the telegram from? A. It was from Leadville, Colorado, from the sheriff there. I don't remember his name.

MR. DARROW: You may cross examine.

## CROSS EXAMINATION

BY MR. DORRAN:

- Q. You reside at the present time in Butte? A. Yes sir.
- Q. What does your husband do? A. He is a miner.
- Q. What mine does he work in? A. He works in the Hardean mine.
- Q. How long have you been married to your husband, last husband?
- A. Since February this year.
- Q. Did he use to live in Graple Creek? A. No sir.
- Q. Where did you meet him? A. I met him in Park City, Utah.
- Q. Was he working in a mine at Park City? A. Yes sir.
- Q. Is he a member of the union? A. Yes sir.
- Q. When did you first meet Lyte Gregory? A. I met him in the spring of -- in March, 1904.
- Q. Whereabouts did you meet him? A. I met him in Victor, Colorado.
- Q. In whose company? A. He came to my house with my husband.
- Q. Did your husband introduce him? A. Yes sir.
- Q. He was a detective of the Mine Owners, wasn't he?
- A. I think so.
- Q. You understood so? A. Yes sir.
- Q. You understood that Gregory was there working for the Mine Owners' Association? A. Yes sir.
- Q. Did you see him again? A. I rode from Victor, Colorado, to Colorado Springs with him on the train.
- Q. And about what date was that? A. Well, it was in March, the middle of March; I cannot recollect the date exactly.
- Q. 1904? A. Yes sir.
- Q. And the date when you first met him was how long prior to this? A. It was the same day.

- Q. Did you ever see him afterwards? A. No sir.
- Q. Never saw him afterwards? A. No sir.
- Q. But you understood he was one of the parties who was working for the Mine Owners' Association? A. Yes sir.
- Q. Do you know when Gregory was killed? A. Yes sir.
- Q. About how long was it after you saw him until he was killed?
- A. It was the latter part of May, I think, towards the 26th or something like that.
- Q. It would be some thirty or forty days then after you saw him?
- A. Yes sir.
- Q. You say you saw Orchard twice at your place? A. Yes sir.
- Q. Was there anyone else there except your husband and yourself?
- A. No sir.
- Q. Your husband left Salt Lake -- or Park City, was it?
- A. Salt Lake.
- Q. Salt Lake about what time? A. About the 26th, I think, of May.
- Q. You remained in Salt Lake? A. Yes sir.

THE COURT: The 26th?

THE WITNESS: I am not sure of the date, but I think it was close to that time.

- Q. Whereabouts did you live when you first went to Victor to live? A. I lived at 207 South First Street.
- Q. Did you continue to reside at that particular street number --
- A. No sir.
- Q. -- during all the time you were there? A. No sir.
- Q. Where else did you reside? A. 303 South Third.
- Q. Did you reside there during the rest of the time? A. Yes sir.

- Q. These two places are the places where you resided all of the time while you were there? A. Yes sir.
- Q. Which one of these places was it that Orchard came to visit to you? A. 207 South First.
- Q. Which one of these places was it that Lyda Gregory came? A. The same place, 207.
- Q. The same place that Franklin and those other people come that you speak of? A. Well, they come all of the time; they come constantly.
- Q. Did they come to both places? A. Yes sir.
- Q. They were there at different times? A. Yes sir.
- Q. At both places? A. Yes sir.

MR. BEAN: I believe that is all.

MR. DARROW: That is all.

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WILL BARNES, a witness on behalf of the defendant,  
being first duly sworn on oath testified as follows:

DIRECT EXAMINATION

BY MR. DAWSON:

- Q. What is your name, please? A. Oran Barnes.
- Q. Where do you live? A. Denver, Colorado.
- Q. What is your business, Mr. Barnes? A. I follow mining.
- Q. How long have you followed mining? A. About thirty years --  
thirty-five years; since '70.
- Q. Since 1870? A. Yes sir.
- Q. How old are you? A. I am fifty-three years old.
- Q. Where were you born? A. I was born in Iowa, *Ireland*.
- Q. Are you a member of the union? A. Yes sir.
- Q. How long have you been a member of the union? A. Since 1864 --  
or 1874 I mean; '74.
- Q. Since 1874? A. Let's see -- '84, I mean, 1884. *84*.
- Q. You are a member of the Western Federation of Miners, are you,  
now? A. Yes sir.
- Q. And have been for a good many years, haven't you? A. Yes sir.
- Q. Whereabouts have you mined? A. I done my first mining in 1870  
in Central City, Colorado.
- Q. What part of the time have you lived and mined in Colorado?  
A. Ever since.
- Q. Been in Colorado all of the time, have you? A. Yes sir.
- Q. Worked at all kinds of mining? A. I have worked at all kinds  
of mining and prospecting.
- Q. Where were you during the strike at Cripple Creek?  
A. I was in Independence.



- Q. How long were you in Independence? A. I lived in Independence since -- about nine years.
- Q. Did you ever have any official positions with the union?
- A. Not at that time.
- Q. Have you ever? A. Yes, afterwards I held a position.
- Q. What was it? A. President of 234, secretary of 234 and treasurer of 234.
- Q. Where is 234 located? A. Victor.
- Q. Had you charge of the hall and other property there in Victor too? A. Yes sir, I had charge of all the union property.
- Q. How long did you have charge of the union property?
- A. Two years.
- Q. Is that vacant property or occupied? A. Sometimes vacant and sometimes occupied.
- Q. Now in 1903 and 4 you were living at Independence, were you?
- A. Yes sir.
- Q. Were you working before the strike? A. I worked until the 10th of August, 1903. I worked up until the day the strike was called.
- Q. Then you stopped, did you? A. Yes, I did.
- Q. What were you doing up to that time? A. I worked the last eight years on the Hull City mine sorting ore.
- Q. Were you able to mine? A. No sir, I never went underground since I lost my feet. I worked around the mines all the time sorting.
- Q. You lost both of your feet, did you? A. Yes, I did.
- Q. After that you were sorting ore? A. Yes.
- Q. And you worked these eight years at one place, did you?

A. Yes, about eight years and two months.

Q. At the Hill City mine? A. Yes sir.

Q. Who was connected with that mine, what man?

A. Colonel Montgomery owned it first; I believe they transferred the property over to Eben Smith and his company.

Q. Did you live there? A. Yes sir, while I worked there.

Q. Did you know a man who went by the name of Harry Orchard when you lived up there? A. Yes sir.

Q. How close to him did you live? A. About a thousand yards.

Q. How long did he live that close? A. I only knew him about three months and a half.

Q. Was that before he married up there on the hill or afterwards?

A. After he married.

Q. Did you know the woman he married? A. Yes, I knew she was Mrs. Toney before he got her.

Q. And she had a couple of children, didn't she? A. She had three little boys.

Q. Were you living alone or somebody living with you?

A. Well, mostly alone; sometimes I would have company.

Q. Were you living alone in 1903 and the first of 1904?

A. Yes, I was alone then.

Q. What? A. Yes sir.

Q. That is, in a cabin? A. Yes sir; some of the time James Kelly was rooming there with me.

Q. Do you remember what part of the time? A. I think it was in January, 1904.

Q. Was Orchard ever down to your cabin? A. Once.

Q. Do you remember when that was? A. The early part of February.

1904.

- Q. Do you know what he came for? A. No sir, I don't -- he come just to have about two hours' talk with me and went away again.
- Q. Were you well acquainted with him? A. No sir, I wasn't. That was the first time -- well, two days before I met him at the Silver Bell saloon, and that was the first time I ever met him to know him.
- Q. Did you take an active interest in the union up there? A. Not
- Q. Did you, yes. A. No, not in the Altman union. I belonged to 40 then.
- Q. That was at Victor? A. Yes No sir, in Cripple Creek.
- Q. Well, did Harry Orchard ever have a conversation with you in your cabin or anywhere else, in 1904, or any other time?
- A. Yes, on the one occasion.
- Q. Did he have any conversation in reference to your making some dynamite bombs? A. No sir.
- Q. Did you ever make any dynamite bombs in connection with Harry Orchard? A. No sir, I have not.
- Q. Made out of giant powder, and pitch and burlap and perhaps a few nails and things like that? A. No sir, I did not.
- Q. Did you ever make a bomb? A. No sir, I never made a bomb. I don't know what they are.
- Q. Did you ever talk with him about any murderous scheme or infernal machine or act of violence in your life, with Harry Orchard? A. In that district?
- Q. Yes. A. No sir, I never did.
- Q. Did you ever enter into any agreement with him, or arrangement, or plan, to commit any act of violence anywhere in the world?
- A. No sir, I did not. That was the only time I ever seen him,

that night.

Q. What date was it you went to Pueblo? A. I went to Pueblo on the 6th day of June, 1904.

Q. You were not in Independence on the 6th day of June, 1904?

A. No sir, I wasn't. I went away on Sunday, the 4th -- the 5th.

Q. What were you doing down there? A. I was a delegate -- I was elected delegate from the county convention to the state convention held in Pueblo that year to elect delegates to the national convention in St. Louis.

Q. You mean the Democratic convention? A. Yes sir.

Q. That is what you were doing on the 6th day of June, was it?

A. Yes sir.

MR. DARNOW: You were riding in the garbage wagon of the Democratic party. You may cross examine.

#### CROSS EXAMINATION

BY MR. DARNOW:

Q. Mr. Barnes, when did you go to Independence to live?

A. I went there I think it was in January, 1904.

Q. How? A. In January, 1904.

Q. Whereabouts was your cabin with reference to the Independence depot? A. About 500 yards south of it.

Q. Did you know where Masterly lived in that vicinity?

A. No sir, I didn't. He lived in Altman.

Q. Didn't he live afterwards again that vicinity somewhere?

A. Not that I know.

Q. Never did? A. No sir, I never was in his cabin.

Q. Did you know Steve Adams? A. Yes sir.

- Q. He lived up there, didn't he? A. No, he lived farther south still, I understood, although I never was in his cabin.
- Q. Farther south than what? A. In Independence.
- Q. He lived in Independence, didn't he? A. Yes, he lived in Independence.
- Q. What direction was your cabin from the depot? A. South.
- Q. South about 500 yards did you say? A. About 500 yards, near.
- Q. And where was Orchard's residence from the Independence depot, in what direction? A. North.
- Q. About how far? A. Well, four or five hundred yards.
- Q. Then you were about a thousand yards apart? A. About a thousand.
- Q. Living on opposite sides of the depot? A. Yes; I could see the place where they lived up the hill from where I lived.
- Q. Was your cabin there all the time you were in Independence, that is, did you live in this particular cabin all the time you were there? A. No sir.
- Q. Where else did you live in Independence? A. I lived about 300 feet further, in another cabin, about four or five weeks.
- Q. But these two places were the two places you lived all the time you were there? A. That is all.
- Q. And you don't know where Steve Adams lived? A. No, I didn't know Steve's house. I never was in it.
- Q. Did you know where he lived, could you see where he lived?
- A. I used to see him going down that way towards his home pretty close to the Midland depot, somewhere in there is where he lived but I never saw his house.
- Q. Did you ever see his house to know it that he lived in?

- A. No sir, not to know it.
- Q. How far was down there? A. I was down there very often but never inquired for Steve Adams' house.
- Q. Could you tell me how far he lived from the Independence depot, generally speaking? A. I don't know, for I didn't know where his house was.
- Q. Did you know about where it was, the neighborhood in which it was? A. Why, he lived — I think he lived in there between the Midland track and the Rio Grande on the hillside right opposite.
- Q. How far would that be from the depot? A. Well, it was pretty near a quarter of a mile.
- Q. Pretty near a quarter of a mile? A. Pretty near a quarter.
- Q. And in what direction? A. Well, it was south from the depot, a little west of south.
- Q. Did you meet Adams in that vicinity and have talks with him at different times? A. No sir, very seldom.
- Q. How? A. I met him at the saloon a couple of times.
- Q. Whose saloon? A. At the Silver Ball.
- Q. Is that the same place you met Orchard? A. Yes, the very same place.
- Q. Who ran that saloon? A. Henry Drach and Billy Adams.
- Q. That was Bill Adams's saloon? A. Yes.
- Q. And you saw Adams there sometimes and you saw Orchard there once? A. Yes, I saw Orchard there three or four times.
- THE COURT: A little louder, witness, we can't hear you.
- THE WITNESS: I saw Orchard there three or four times.
- Q. Did you see Adams there three or four times? A. Yes, about that.

- Q. Did you ever see them there together? A. Not in particular that I know of.
- Q. Did you in general? A. No sir.
- Q. You have no recollection of seeing them there together or talking with them when they were there together?
- A. No sir, I didn't; I didn't see them.
- Q. How how far was Aikman's saloon from the depot? A. Well, it was over a thousand yards, I think.
- Q. Did you know John Neville? A. No -- Well, I knew him by sight but I wasn't acquainted with him.
- Q. Did you know where he was living in that vicinity? A. Yes sir, I did.
- Q. About how far was he living from the depot? A. Right close to the depot on the other side of the track.
- Q. About how far, how many yards? A. Well, the saloon wasn't over twenty or thirty yards.
- Q. Well, there was Steve Adams and Harry Orchard and yourself and Bill Aikman living around in that general neighborhood of the Independence depot? A. Well, yes, within a quarter of a mile or so of each other all around.
- Q. Where had you first known Steve Adams? A. In Independence.
- Q. About what year and about what month did you get acquainted with him? A. Well, I knew Steve in 1903.
- Q. Down at No. 19? A. I never attended a meeting at 19 in my life. I met him in town.
- Q. Met him where? A. In Independence.
- Q. And what time in the year 1903 did you first get acquainted with him? A. Well, that I couldn't say.

Q. What? A. I couldn't tell that.

Q. Did you work with him or about the mines where he worked?

A. No sir, I never worked with Stowe.

Q. Well, did you become pretty well acquainted with him?

A. Well, just the same as I would with anyone else that I met around town.

Q. Did you know a fellow by the name of Ed. Minstert?

A. No sir, I did not.

Q. Or Art Barton? A. No sir.

Q. Did you know W. F. Davis? A. I met William F. Davis a couple of times.

Q. Did you know Sherman Parker? A. Yes sir, I knew him well.

Q. What union did he belong to? A. He belonged to I.O.

Q. Is that the same one that Adams belonged to? A. I don't know where Adams did belong. I know he was a union man.

Q. What position did Parker have in that union? A. He was secretary at the time I knew him.

Q. That was the same one that Davis belonged to and was president of? A. I think so.

Q. Did you know whether Orchard was a member of the union?

A. I don't know.

Q. Did you know Easterly? A. Yes, I know Billy Easterly.

Q. What union did he belong to? A. I think he belonged to I.O.

Q. The same one that Parker did? A. Yes.

Q. How long had you known Easterly, when did you first get acquainted with him? A. I know Billy Easterly three or four years before that.

Q. And you had known Parker three or four years? A. No, I didn't.



- Q. How long had you known Parker? A. I met Parker I think it was in 1903 or 4.
- Q. 1903 or 4? A. Yes, well, I did, I think I knew Parker in 1903. He used to come around -- the way I got acquainted with him, he used to come around to the ore house to fix up cards, and whichever secretary come first he fixed the cards of all belonging to all the local unions and turned the money over to them.
- Q. Can you draw me a rough sketch of the Independence depot, its location, where you lived, where Alkman's saloon was, where Orchard was and where Adams -- the neighborhood in which Adams lived? A. I don't know where Adams' house was.
- Q. We will leave out Adams' house for the present. (Hands paper and pencil to the witness).
- Q. To get your location of your cabin, better put this north, south, east and west. Now where would Orchard's residence be?
- A. Here is Orchard. (Indicates on plat).
- Q. Now where was Alkman's saloon? A. Right about here. (Indicates on plat).

MR. RICHARDSON:

Perhaps you are drawing to one scale and the witness to another. Perhaps you better get together and use the same scale.

MR. BORAH: We are right on one thing. We have got the saloon the biggest thing on the outfit.

MR. DARROW: Bigger than the hall?

MR. BORAH: We haven't located that yet.

- Q. Now, if Adams lived in the vicinity in which you think he lived, what direction would that be from this depot?

MR. GIBBY: Have you got the points of the compass on

there?

MR. HOGAN: Yes sir, permanently.

MR. RICHARDSON: I think the record ought to show that the Senator is now putting the finishing touches on the plat.

- Q. How does this show in a rough way the localities of these different places to which you refer in your evidence, your cabin, the depot, Orchard's residence and the saloon and the place where you think Adams probably lived? A. A little lower down here Adams was. (Witness crosses one mark and indicates another point on plat).
- Q. Down here? A. Yes. That is a pretty hard map to understand.
- Q. That I want is a rough sketch of the situation. How does that satisfy you? A. Yes, that is about it. Any man that was over in that country and knows the situation of the town and the country would understand it. That is about as near as I can get it.
- Q. Where was Neville's residence here, Johnny Neville.
- A. About here. (Indicates on plat).
- Q. What day was it that Orchard came down to see you at your cabin? A. It was early in February. I couldn't tell the date.
- Q. What year? A. 1904.
- Q. And he stayed there about an hour? A. About an hour.
- Q. Talked over matters there in the district, did he?
- A. Well, yes, a little.
- Q. Do you recollect what you talked about generally? A. Well, no, not particularly -- said something about the strike in the district.

- Q. Did he visit you but once? A. That was all.
- Q. Did anybody come with him? A. No sir.
- Q. When he went away did you go with him? A. No sir.
- Q. Did you see him afterwards in the saloon? A. I met him at the saloon.
- Q. Did you play cards with him over there? A. No sir.
- Q. Did you see who was in the saloon with him? A. Well, the house was full all of the time until the 5th of June. That day there wasn't many in there.
- Q. Did you have many conversations with Grubard after the day that he was in your cabin either at the saloon or elsewhere?
- A. No sir, not very many.

MR. BORAH: I want to have this mark of and exhibited to the jury for the purpose of getting these localities, if your Honor please.

MR. DAWSON: Well, I object to its going in unless you get a fuller plat. I suppose there were other "undesirable citizens" around there.

MR. BORAH: Well, you can show all of them you want to, but we are entitled to show the localities of these particular places.

MR. DAWSON: For identification at this time?

MR. BORAH: For identification.

(Said plat was marked by the stenographer State's Exhibit 242 for identification.)

- Q. What time did you go to Pueblo? A. On June 5th.
- Q. Did you leave Independence on the 5th? A. I left on the 5th.
- Q. On the 5th what time? A. About eleven o'clock in the day.
- Q. Had you been over to the saloon that day before you went?
- A. I went to the saloon and went from there to the Miami depot

and took the train for Victor and got off and took the low line car to Cripple Creek.

Q. Did you see anybody at the saloon, whose name you now remember, at that time? A. Well, yes, there was four or five boys there that I knew.

Q. Was Billy Altman there? A. Yes sir.

MR. BORAH: We offer this in evidence now simply for the purpose of showing the general locality with reference to the residences.

THE COURT: With reference to Max what, the Independence depot?

MR. BORAH: Yes, the Independence depot to the residences.

MR. DARRON: I object to it.

THE COURT: It will be admitted.

MR. DARRON: Save an exception.

MR. BORAH: You may cross examine.

#### RE-DIRECT EXAMINATION

BY MR. DARRON:

Q. Mr. Barnes, were there any other citizens living up there on the hill? A. Yes, hundreds of them.

Q. You didn't put them all in here on the plat? A. No.

Q. How Orchard lives about as far away as anybody there from the depot, doesn't he -- did he at that time? A. Yes, he did.

Q. He lived up at the top, at Altman, did he not? A. Very close to the top of Altman.

Q. And pretty near the whole mining camp was nearer than he was?

A. Yes.

MR. BURRILL: I suggest you not lead unless you are going to cross examine.

MR. HARBOW: You said "cross examine".

Q. How many people lived, about as near as you can get at it, as close as Orchard to this place? A. Close to Orchard's place?

Q. As close as Orchard to this depot? A. Well, I should think there was a hundred people.

Q. Do you know who lived closer to the depot? A. Than Orchard?

Q. What is that? A. Than Harry Orchard?

Q. Yes, what houses were closer to it, do you know?

A. Neville's house was closer.

Q. How was the Collins house? A. The Collins house was closer.

Q. Well, that whole mining camp lived right in around that depot, did it not? A. Yes, it was all a town.

Q. And where was the big mines with reference to it, how close?

A. The Bull City was a little south of the depot; the Vindicator was southeast of the depot, a little <sup>east and</sup> south, pretty near south; the Cycle was south.

Q. About how near was the nearest mine? A. Well, some of those are a quarter and some a half a mile.

Q. The road was put in there since the camp was established, was it? A. Yes sir.

Q. Running to the thickest part of that district? A. Yes.

Q. And the depot was on the main street, was it not?

A. The depot was on the main road.

MR. HARBOW: That is all.

JACOB WOLFF, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. BROWN:

- Q. Your name is Jacob Wolff? A. Yes sir.
- Q. Where do you live, Mr. Wolff? A. Denver.
- Q. What is your business? A. I am working for the Silver State Installment Company now.
- Q. In Denver? A. Yes sir.
- Q. How long have you been working for the Silver State Installment Company? A. Since the first of November of last year.
- Q. Where is your place of business? A. 1380 Stout.
- Q. Did you use to work for George Pettibone? A. I did.
- Q. How long? A. I first went to work for George Pettibone June 1st of '96, and I worked for him until July 25th of '96. July 25th I quit Mr. Pettibone and I went to work for Julius Diegel, and I worked for Mr. Diegel until the first of '98, the first of the year 1898. The first of the year '98 I went back to work for Mr. Pettibone.
- Q. Then how long did you stay with him? A. Well, I stayed with him -- that is, I wound his business the first of May, last year.
- Q. You wound up his business after he came to Idaho? A. Yes sir.
- Q. That is, you helped wind it up? A. Yes sir, I did all I could.
- Q. Well, what were you doing while you were working there?
- A. Well, when I went to work the second time, in '96, I took charge of the accounts, the outstanding accounts.
- Q. Collecting? A. Yes sir, had charge of all the collections.
- Q. What were you doing the first time? A. At first I was salesman,

selling goods.

- Q. Out of the store a good share of the time? A. Yes sir.
- Q. How about the collection of accounts, whether that took you out of the store a good share of the day? A. That took me out a good deal -- would always leave in the morning about nine o'clock and would get in about half past eleven, and then I would leave again, the store, about half past one, I generally came in about three o'clock, sometimes a little later.
- Q. How many places of business, different ones, was Pettibone in during that time? A. Three.
- Q. Whereabouts? A. When I first went to work for Mr. Pettibone he was at 1613 Court place; then we moved to 1735 Stout; from 1735 Stout we moved to 1634 Court Place.
- Q. On Court Place and Stout Street? A. Yes sir.
- Q. What did these stores consist of? A. Well, which one?
- Q. Well, we will take Stout Street first. A. Well, there was three stores, <sup>one</sup> right after another, upstairs were rooming houses.
- Q. What time was he on Stout Street? A. Why, he moved on Stout, it was in 1902, now I believe in February or March.
- Q. When did you move away from Stout? A. In 1906.
- Q. And when was he on Court Street? A. He moved there on 1634 Court Place.
- Q. He went from Stout Street to Court Street? A. Yes sir.
- Q. Court Street was the last place? A. Court Place was the last street, you sir.
- Q. In the Stout Street store did you have a basement?
- A. We had a basement but we didn't have the use of that. It was rented.

- Q. It was rented? A. Yes sir.
- Q. You didn't use any basement? A. No sir, we didn't.
- Q. Who had it, who rented it? A. A man by the name of Kelly.  
He used to be next door, had furnaces in there.
- Q. Furnaces? A. Yes sir.
- Q. And was there more than one floor there at Stout Street that you used? A. No, that is all we used, just one floor.
- Q. One room or more? A. Well, there was one room; there was a partition in the back, we found it that way.
- Q. A safe in there? A. Yes sir, we had a safe.
- Q. How big? A. Why, probably about four feet in height, maybe a little higher but not much, about two feet in width, the same in depth.
- Q. The Court Street store, did you have a basement? A. Yes sir.
- Q. What did you use the basement for on Court Street?
- A. Well, in the front part, ~~where~~ right where the show case was our work bench where we used to do all of the repairing, whatever we had of the repairing there of clocks, clothes wringers, and so forth; and the rear end we used to keep empty boxes. The middle of the basement we kept new goods, boxed, that we didn't use. If a shipment came in we generally took it down to the basement.
- Q. Was the basement open? A. Yes sir.
- Q. How was it as to miners and others frequenting Pettibone's store? A. Why, it seemed to be their headquarters there whenever they would come to town, in and out.
- Q. Traded a good deal with him, such as were in Denver? A. Yes.
- Q. Did he do any accommodations for miners? A. Yes.



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- Q. Keeping packages and so on? A. Yes sir, if they would buy things up town and wasn't ready to go home they would leave their packages there frequently, and they would often give Mr. Pettibone some money to put in the safe for them.
- Q. A general headquarters for miners around there? A. Yes sir, always came there whenever they came to town.
- Q. You knew Pettibone used to be a miner, didn't you?
- A. Yes sir, that is he told me.
- Q. In 1903 and 1904 or 1905 a part of the time you were on Skuit and part of the time on Court Street? A. Yes sir.
- Q. Do you remember ever seeing Harry Orchard there? A. I do.
- Q. Do you remember which store or whether both of them?
- A. Well, I don't remember of ever seeing him on Skuit Street. I don't remember it. If I did, it is something I don't recollect of. But I did see him on Court Place.
- Q. Did you ever get much acquainted with him? A. No, not much.
- Q. Do you know whether you ever ~~heard~~ saw Steve Adams at the store or not? A. I did not. I don't believe I ever saw him.
- Q. Did you know all the people that you saw there?
- A. Well, a good many of them I did.
- Q. Did they come from different parts of the state and country?
- A. Yes sir.
- Q. Did he have any show case there in the store? A. Yes sir.
- Q. What was it? A. Mostly specimens. The top was all specimens and the lower part he used to keep silverware.
- Q. Specimens of minerals? A. Minerals, yes sir.
- Q. Where was that? A. Well, he first made that case I believe

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when he was on 1613 Court Place, and it was right in the center of the store he used to keep it.

Q. Do you remember of sending something to San Francisco --

A. I do.

Q. -- at one time? A. I do.

Q. In the summer of 1904, about that time? A. Well, the latter part of the summer of 1904, that is, if I recollect right.

Q. Did you mail it? A. Yes sir.

Q. Register it, do you know? A. I did, I registered it.

Q. Do you know how you happened to do that and what it was?

A. I was sitting in the store and Mr. Pettibone was opening his mail, and after he got through reading the letters he asked me if I had time --

MR. BORAH: Now, if your Honor please, we object to the declarations of Mr. Pettibone.

Q. Well, did you see him writing a letter? A. I did.

Q. And what did he do? A. He wanted to know --

MR. BORAH: Wait a minute. We object.

Q. Did he make any request of you?

THE COURT: You needn't state what Pettibone said to you.

MR. DANKOW: Not just yet.

THE WITNESS: He did.

Q. Well, I will ask you directly what Mr. Pettibone said first.

MR. DANKOW: We object to that, if your Honor please, as hearsay and a self-serving declaration.

THE COURT: The objection is sustained.

MR. DANKOW: We want to save an exception.

- Q. Well, now, Mr. Wolff, you will have to leave out what Mr. Pettibone said. What did you do? A. I went and registered the letter for him. He asked me to do it and I registered it.
- Q. Did you see anything out in the letter? A. I did.
- Q. What? A. It was a union card and a charm, an emblem of the Masonic order.
- Q. Do you know what metal it was made of? A. I couldn't say if it was solid gold or gilt or filled. I don't know, but it looked to me like gold. I wouldn't buy it for gold, though.
- Q. You went to the postoffice and registered it, did you?
- A. I did.
- Q. And that is the last you saw of it? A. It is the last I saw.

MR. DARROW: That is all.

MR. BONAH: We don't desire to ask any questions at this time.

MR. DARROW: That is all, Mr. Wolff.

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ARCHIE LESLIE HARPER, a witness on behalf of the defendant, being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDSON:

- Q. What is your full name? A. Archie Leslie Harper.
- Q. How old are you? A. Twenty-six.
- Q. Where do you live? A. I live at Boulder, Colorado.
- Q. What is your business? A. I have just taken the bar examination for admittance to Colorado as an attorney.
- Q. Where did you live during the year 1903 and the early part of the year 1904? A. I lived at Boulder. I was going to school there.
- Q. Where did your people live? A. They lived at Victor.
- Q. Did you spend any part of that year or those years in Victor?
- A. I was home during the Christmas vacation two weeks.
- Q. Where were you during the month of June of 1904, July and August? A. I was in Victor at that time.
- Q. Do you know Major H. A. Haylor? A. Yes sir, I do.
- Q. How long have you known him? A. I have known Captain Haylor since almost the first time I came to Victor, about eight years I should judge.
- Q. Were you ever arrested or detained by some anybody while you were in Victor? A. Yes sir, I was arrested by a mob in Victor on the 8th of June.
- Q. State the circumstance of your arrest and detention?
- A. Well, I had gotten home from school on the afternoon of the 3rd of June and was at home until the morning of the 5th, when I heard from my father that there was trouble up town,

and in the afternoon, after dinner, I went up town and was walking along the streets, and also at the union store, and I saw the riot, or the latter part of it -- I didn't see Mr. Hendin, but I saw the shooting, and I was arrested by several men and taken to the bull pen.

- Q. How long were you detained at that bull pen? A. I was detained in Victor at the Victor bull pen for a day and a night.
- Q. What was the reason assigned for your detention? A. The reason that several of them gave me was that I talked too much in Boulder.
- Q. What had you done in Boulder? A. We had a debate at the University of Colorado and sides were picked to discuss the question of the calling out of the troops in the Cripple Creek district.
- Q. Give the question that was discussed? A. There were two on the affirmative and two on the negative, I was on the affirmative and the question was "Resolved, that the calling out of the troops in the Cripple Creek district was unwarranted and uncalled for", and we won the debate.
- Q. That was the only reason assigned for your arrest and detention by anybody? A. Yes sir, that is what they told me.
- Q. Did you have any trial? A. No sir.
- Q. Were you discharged? A. I was in about a week, yes sir.
- Q. What happened to you after your discharge? A. Well, I was discharged I think on the 12th of June and I was told to go home and stay at home, keep off the streets, and I went home and stayed there until the 2nd night of the 9th of August.
- 3344 Q. What happened to you on the night of the 9th of August?

A. I was at home about -- well, I was home all that day; in the evening I had gone over to Mr. Leland's house, the minister, across the street from us, and on my way back under the electric light was a couple of masked men came down and asked me if I knew where John Harper lived --

Q. What were those men commonly called in the district there at that time? A. They were white coppers. And they ask of me where John Harper lived and I told them I wouldn't tell them, that I didn't know who they were, they were masked, and I wouldn't tell them where John Harper lived. And they said, "Well, you don't need to get funny about it, we know where he lives;" and one of the fellows whistled and there was about ten others came from between houses up along the street.

Q. How were they dressed? A. They were all masked, all of them.

Q. And they belonged to the same class that you have called white coppers? A. Yes sir, they were the same crowd.

Q. What experience did you have? Relate it. A. Well, the leader of the gang, I don't know who he was, told a couple of the fellows to hold me, and the rest of them he directed them to surround the house and a couple of them to go to the door and get my father, and they did so; and they knocked at the door and the door was opened and they took my father. I didn't have a coat on at the time, and they said they would take us both and I asked them if they would wait until I got my coat, and they said they would; and while I was waiting for my coat, why, the fellows that had my father started off with him and we started after them, but I never -- we never caught up with them. We went down towards the little town of Lawrence,

about a mile south of Victor, and sat down on the hillside for awhile. The men said they would wait for the other crowd to come to us, and we waited for about ten minutes and we didn't see anybody so some of the boys suggested we walk up the road to see if we could meet them. When we had gone about, I should judge about six hundred feet when over in a ditch somebody hollered at us and the boys that had me stopped and waited until the two men came over toward us, and it proved to be Captain Haylor and Kid Waters.

- Q. Men whom you knew? A. Yes sir, I knew both of them.
- Q. Who was Captain Haylor? A. Captain Haylor was marshal of Victor at that time.
- Q. Who was Kid Waters? A. Kid Waters was a gun man, and I had heard that he was a deputy sheriff, although I don't know whether he was or not.
- Q. But you did know him to be a gun man? A. Yes sir, he was a gun man.
- Q. And you say Captain Haylor held an official position in Victor?
- A. He was ~~marshal~~ marshal.
- Q. Marshal of the town of Victor? A. Yes sir.
- Q. What took place between you and Captain Haylor when he came there? A. I said, "Cap, these fellows have got me," I said, "I want you to arrest them."
- Q. Who was you referring to when you said "these fellows"?
- A. These whiteappers that had me, the men with masks on, and I said "Cap, I want you to arrest these fellows, they have got me here, I can't do anything." And he walked up to a couple of them, raised their masks and looked at them. He said, "Arch,

you don't need to worry, they won't hurt you," he says,

"You go with them." He says, "I am going down the road to see if I can find your father." I told him I didn't want to go with them. I said to him to arrest them, "it is your duty to do it". He says, "You don't need to worry, they won't hurt you." I says, "All right, I guess I will have to." So he walked on down the road with Kid Waters.

Q. What because of you? A. The men that had me, the white cappers, they told me after we had walked a little ways that I could go home but I would have to get out in the morning, they didn't want to make me walk --

Q. Get out of what? A. Get out of Victor.

Q. What did you do? A. I went home and I saw my folks there and I told them I was going to find my father. I got a gun, and a boy by the name of George McDevitt and I started down the road to see if I could find my father.

Q. Did you find your father? A. I found him the next morning in Canon City, yes sir.

Q. How far was it to Canon City? A. We got in there about six o'clock, I left Victor about half past ten. It is about thirty-three miles.

Q. You walked that, did you, that night? A. Yes sir, I did.

Q. Was that boy with you? A. Yes sir.

Q. Describe the condition of your father when you saw him.

A. When we got into Canon City it was about six o'clock in the morning, and we walked up the main street, and I wasn't sure whether my father was there or not, I didn't know where he was, and we walked up the main street and finally I saw him sitting in front of a hotel there without a hat on and his head was bleeding, blood all over his collar. He could hardly walk.



## CROSS EXAMINATION

BY MR. BORAH:

- Q What was your father's business? A He had been manager of the Federation union store there at Victor.
- Q What was his business at the time of this trouble that you narrated? A He had gone up to Denver to settle up the affairs of the store.
- Q How long had he been manager of the union store? A Ever since it started. I was not in Victor when it started.
- Q Did you know any of these parties you speak of as whitecaps? A No sir, I could not tell, they were all covered up,-- their faces were covered.
- Q I didn't know but that you could still by their voice or in some way could identify them? A No, I could not.
- Q Give me the date of this occurrence? A The 9th of August, 1904.
- Q 9th of August? A Yes sir, between 9 and 10 o'clock.
- Q 1904? A Yes sir.
- Q Was this the date of the first trouble with them? A No sir, the first was the day of the riot, after I came back from the State University.
- Q That would be about the 2nd of June? A No sir, I came back from Golden University on the afternoon of June the 4th,-- the 3rd or 4th.

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Q And this day was the time of the riot? A Yes sir, that was the time I was taken to the bull pen.

Q And this was -- this other affair was in August? A Yes sir.

Q And the strike was still on, was it? A Yes sir, the strike was still on.

MR. BORAH: That is all.

JOHN HARPER, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. RICHARDSON:

- Q State your full name? A John Harper.
- Q And what is your age, residence and occupation? A 50 years of age; at present residing in Arizona; mining is my occupation.
- Q Where were you residing in the years 1903 and 1904? A Victor, Colorado.
- Q What were you engaged in doing at that time? A I had charge of the Victor union store.
- Q When did you take charge of that store, A In September of 1903, I think.
- Q What relation did you sustain to the Western Federation of Miners? A I was a member of that organization and at that time was their president, I think, of local union No. 33.
- Q Which union is that? A Victor union.
- Q What kind of a business was this store doing? A A Grocery and meat business.
- Q How extensive a business was it doing? A We were averaging

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about three hundred and seventy five dollars per day --  
meat and groceries.

- Q How did it compare with the business being done by other stores of a similar character in Victor? A I think we had a liberal share of the patronage of that community.
- Q How large a patronage did it cater to -- how many people were there around there? A We were furnishing the relief to the relief committee in that end of the district, and in addition to that we had a cash trade of about \$125.00 a day.
- Q Did anything happen to you about that time? A Yes sir.
- Q When? A The afternoon of the 6th of June.
- Q What was it? A Immediately after the riot.
- Q State briefly your moments at about the time your store was interfered with; you need not go into any detail about it.
- A Immediately after the riot -- a short time after the riot, Vanick and a man by the name of Huff --
- Q Who was Vanick? A A paroled convict as I understood it.
- Q What was his business there? A He was a gun man, as I understand.
- Q What do you mean by a paroled convict? A A man who was on parole out of the penitentiary.
- Q A man who was out on a parole, -- not one who is on the payroll? A Yes sir, paroled out of the penitentiary -- p a r o l e is the way I spell it.
- 8351 Q What about this man Huff, -- who was he? A He was incivilian

clothes that day.

Q What was his business, if you know? A I think he was a militiaman, but I am not sure as to that. He was afterwards a policeman in Victor.

Q Go ahead and tell the jury what you did and what happened to you? A They came across the street from the opposite side of the street where C. C. Hamlin had made his address and where the meeting had been held, and Vanick had a six shooter in his hand and this man Huff had a rifle. Vanick went to the rear end of the store and ran out the butcher and his assistant --

Q He did what? A He ran out the butcher and his assistant at the rear end of the store, while Huff told us in the front part of the store to get out, calling us S. C. B's., and we obeyed his orders, and he took us out in the middle of the street. They lined us up there and marched us up the street with our hands over our heads, up to where the men were standing who had been taken out of Victor union hall. I did not seem to go fast enough to suit him and he punched me in the back with his rifle, the effects of which I carried for several days afterwards. They marched us up to armory hall and after that crowd got in and several others who they were rounding up, they lined us up and searched us and took all our trinkets that we had on us and left us there until about ten o'clock that evening. I was called out and directed to go

down and lock up the store.

Q Did you go? A I went in company with two militiamen, I believe.

Q Describe the condition of the store? A It was in a generally demolished condition. The show cases were broken, the coffee mill was smashed, a large glass case which we had in the center of the store to hold dried fruits was all smashed, and the other articles on the shelves had been thrown down, and we had difficulty in getting through there.

Q What had been done to the cash register? A The cash register had been looted.

Q What do you mean by it had been looted? A The contents of the cash register had been taken.

Q What had been done with the register itself? A It was also broken, I believe.

Q Do you know about what the contents of the register were when you left there in the afternoon? A No, I am not positive of that. I learned afterwards that the butcher had secured about \$20.00 of what was in the butcher's till, and also that one of the ladies, a member of the Ladies Auxiliary, had attempted to secure what was in the till in the front part of the store, but had been stopped by some of those that came in afterwards.

Q You don't know what amount of money was taken out of the store?

A No sir, I could not be sure of that.

Q Did you lock up the store? A Yes sir.

3858 Q What was done with you then? A I was taken back to the jail

pen at armory hall and spent the night there.

Q What was done with the goods which were in the store? A Well, quite a good deal of it was carried away-- carted away. The next morning when those who had us in charge, the members of the militia, brought in our breakfast, we were told to eat heartily, that it was our own stuff they were serving to us.

Q Did you obey that command? A We done the best we could under the circumstances, out of necessity.

Q How long did you remain in that bull pen? A During that forenoon I was taken down before a military examining board.

Q What do you mean by a military examining board? A Well, a board that is appointed, as I understand it, by orders of the military.

Q Whom did the board consist of? A Nelson Franklin, I believe was on it, and General Beardon.

Q Was he connected with the military in any way? A No, I think not.

Q All right, who else? A Frank H. Woods, Mayor French, J. B. Cunningham, and one or two others whom I don't know.

Q Frank Beardon? A Yes sir.

Q Dalzell? A Yes,-- I did not know Dalzell, but I remember that I heard he was a member of it.

Q A man named McGarry? A I am not sure.

Q That is the seven in all? A Yes sir.

Q Were any of these men connected with the military in the sense that they belonged to the military organization? A No sir.

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Q None of them? A None that I know of.

Q What was done to you there by that commission or tribunal?

A I was questioned first on my position, and second as to my opinion as to who blew up the Independence depot, also my knowledge as to who had killed a man Rexy McGee who had been killed in the riot.

Q What did they say to you when you gave your answers?

A They told me I was lying.

Q They did? A Yes sir, especially about my knowledge of who killed Rexy McGee. They claimed that he had been killed by a shot fired from behind a telegraph pole in front of the union store and that I knew about it, but I denied my knowledge of it.

Q That was the fact of it? A I don't know. Ek

Q It was a fact that you had no knowledge of who had killed Rexy McGee? A No sir, I had no knowledge of it

Q Was there anybody there besides this tribunal -- this commission? A Not at that time.

Q What happened to you after they got through questioning you?

A They took me back to the armory hall and I remained there for an hour or so longer.

Q You have said this commission were not connected with the military; who were they connected with if you know -- the men you have mentioned?

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MR. BOBBI: We object to that. Let him state who the



men were and what their business was, and not state his conclusions.

Q Very well, state who they were, what their business was and what organization they belonged to, if you know? A Well now, I don't know what organization they belonged to of my own personal knowledge. Nelson Franklin was the manager of the Eagle sampler.

Q Was he a member of any society or organization there known as the Citizens' alliance or miners' association? A I have no definite knowledge of that because I was not a member of either of those organizations.

Q Do you know by general reputation throughout the community?

A Yes sir.

Q What was his general reputation as to being a member of the citizens' alliance or the mine owners association?

MR. BORAH: No object to that as incompetent and immaterial and he cannot know what his general reputation was in that matter.

MR. RICHARDSON: I understand that for the purposes of identification you may do that.

THE COURT: Several witnesses have testified to this same matter, haven't they, Mr. Borah?

MR. BORAH: They may have as to Franklin, but not as to the members of this committee.

MR. RICHARDSON: They have as to this one.

THE COURT: He may answer the question.

Q The court says you may answer the question, proceed.

A They were understood to have belonged to both the mine owners' association and the citizens' alliance.

Q Take the next man, and tell us about him? A J. D. Cunningham was generally understood to be a member of the citizens' alliance. I don't know whether he was a member of the mine owners' association or not. I don't know as I ever heard his name connected with that organization. J. H. Woods was a member of the mine owners' association and was manager of the Gold Coin mine. Mayor French I think was manager of the Rio Grande sampler and also a member of the citizens' alliance -- was so understood. Daisell, I have no knowledge of him; I did not know him. There was two men there I did not know, and another who I learned was on the board by the name of Copeland. I was not acquainted with him.

Q What did you know about him -- nothing? A Nothing in particular in reference to him.

Q Have you mentioned all of them now? A All that I remember. H. H. Reardon.

Q What about him? A He was supposed to be a member of the citizens' alliance.

Q What political office did he hold, if any? A He was Postmaster of Victor at the time.

Q What did this commission do with you? A They did not pronounce sentence at that time. I was taken back to the hall

again, and an hour or two later was taken down in company with two militiamen and E. C. Sterling and taken over to the union store and was told to open it, which I did. They entered and on going into the rear end Sterling said there was some guns hid back here which they wanted to get, and he said, "the gun that killed McGee is in this store."

Q Who said that? A E. C. Sterling.

Q State what they did with you there? A I said that perhaps it was, but if it was it was not to my knowledge.

Q How long was it that the store had been out of your possession at that time? A Almost 24 hours.

Q All right, go ahead. A We went back to the rear end of the store and looked around, making as it were, a search for the gun that he said was there.

Q Who did that? A E. C. Sterling.

Q Yes, go ahead. A And finally he went to the rendering kettle, where we rendered our own lard, in the rear end of the store, and he lifted the stove pipe up off of the kettle, and reached his hand up into the pipe and pulled a rifle out of it.

Q He did that without any search? A No sir, there was no search, and he said, "This is the gun that done the work, and some of you E. C. B's., will hang for it." I said, "Perhaps so, but it is new to me that that thing was there."

Q Had there been any guns concealed in that place when you left

the store? A No sir, none that I knew of. There were two guns standing there when I came back from dinner, but they were not concealed in any way.

Q Where were they? A In the front part of the store.

Q What was done with you after this discovery was made by E. C. Sterling, and after his announcement? A I was taken on the way back to armory hall, and when we got near the postoffice Sterling changed his mind and told those who had me in charge to take me to the jail, and I was taken to jail and placed in charge of the jailer there.

Q How long did you remain in jail? A 25 days.

Q What was done in that time with reference to being taken before any commission or commissioner? A About the 1st, I think, of July, I was taken before this same commission; I don't remember that they were all present though at the second time.

Q They weren't all present? A I don't think so.

Q Which ones were present? A J. B. Cunningham, Mayor French, Nelson Franklin.

Q Well, there were four others? A Yes sir.

Q Reardon, was he there? A No.

Q McGarry? A Reardon was not present at the first interview -- either Reardon or Frank Woods.

Q Was McGarry there? A No sir.

Q Was Copeland there? A No sir, I don't think Copeland was there.

Q Was Dalzell there? A Yes, Dalzell, or the man I was told Dalzell, was there.

Q This time it was French, Franklin, Cunningham and Dalzell?

A Yes sir, and H. G. Moore, I think was present at the time — Captain Moore.

Q Was he a member of the commission, if you know? A I don't know.

Q Tell us what happened there briefly? A I was questioned along the same lines that I was on the previous interview which I had with them, and gave about the same answers which were the only answers I could give. They did not announce their decision at that time whether it was satisfactory or not and I was taken back to the jail again and kept there until about the afternoon of the Saturday, the next day, or perhaps the same day; I am not positive about that, but I was taken down before a photographer at that time and photographed, and afterwards taken back to the jail again.

Q Was the object and purpose of your being photographed stated to you? A No sir, it was not. About eight o'clock in the evening Captain Moore and his orderly called at the jail and told me to get ready and come with them. I did, and they escorted me down the street, and when we were a short distance from the jail I met my wife and daughter on their way up to the jail to visit me, and my wife asked Captain Moore where he was taking me to; — I will say that we were well acquainted.

with Captain Moore previous to the trouble,-- and he said he was going to take me to the train.

Q Did you belong to any organization that Captain Moore belonged to? A No sir, I do not.

Q Are you a member of a church? A Yes sir.

Q What church? A The Presbyterian church.

Q Were you at that time? A Yes sir.

Q And in good standing? A Yes sir, I believe so.

Q Are you a member of any secret organization? A The Ancient Order of United Workmen.

Q Go ahead. A He told my wife that he was taking me to the train, that I had to leave the district that night. She asked what the charges were against me, and he replied that they had no criminal charges against Mr. Harper, but that he is too strong a union man to remain in this district any longer; and she said, "If that is the only charges you have against him, that he is a union man, I am just as good a union woman as he is a union man and you might just as well send me out too." He finally agreed to release me on my own recognizance that night, and let me go home, with instructions to appear at military headquarters at 7:30 the next morning.

Q What did you do? A I went home with my wife and daughter, and the next morning my wife and I appeared at the headquarters and were furnished with tickets to Colorado Springs.

Q Did you return to the district after that? A Yes sir.

- Q When was that? A I returned the latter part of July to take an inventory of what was in the store.
- Q Did you have an experience with whitecappers? A Not at that time.
- Q When was it you had the experience with the whitecappers?
- A On the night of the 9th of August.
- Q How long had you been in the district at that time? A Four or five hours.
- Q Were you there under permission? A Yes sir.
- Q Well, state to the jury what happened to you? A I arrived in Cripple Creek about 1:40 I believe in the afternoon and proceeded to the office of the sheriff, but found him absent; but the office was represented by the under sheriff.
- Q Never mind that, we won't bother going into that that happened in the afternoon; tell us about the whitecappers and let the rest of it go. A After making arrangements to meet the representatives of our creditors the next morning, I left for my home about seven o'clock in the evening, and after supper I came upstairs to the sitting room and was sitting there talking with my family and a lady friend of ours who was there, and my wife looked out the window, and said "Here they are;" and I said, who, and she said, "The whitecappers;" and I looked out and saw several of them out there near the arc light.
- Q What do you mean by whitecappers? A Men who had been in the habit of visiting the people and departing them.
- Q Were they called by any other name? A They were called by

the name of gun men.

Q Any other name? A Drugs and gun men.

Q What did they call themselves -- did you ever hear the title of walking parties? A No, I don't believe I ever did.

Q Very well, go ahead? A Two of them started down to the door and wrapped on the door and my wife asked them who they wanted, and they said they wanted me. She asked what they wanted me for and they replied that they would let me know when they got me outside, and while they were parleying there they threatened to break the door in, and I told her to open the door and that I would go with them. I did not have my hat on and I asked one of the children to go downstairs and get my hat, but they seemed to be a little slow about it to suit them, and they told me that I did not need no hat, and they escorted me out and down over the hill, and about a mile from the town of Florence, and we stopped there and I was told to take off my coat and I think they went through my pockets and they took what change I had.

Q What did you happen to have? A About \$10. left, in change. I had had about \$3,000. when I arrived there that afternoon, and when they came to the house, while they were parleying there I got rid of that -- gave it to my wife, and after that one of them held me and another broke a switch off of a tree and beat me over the back with it until they thought I had had enough and then they told me to put my coat on again and ordered me to get out of the district as quick as I could, and

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one of them struck me over the head with his gun as I was leaving and I got away from them as quick as I possibly could.

Q Where did you go to? A Canon City.

Q How did you go? A I walked.

Q What distance was it? A 30 to 35 miles. I was on the go all night.

Q What relation did you sustain to the last witness who was on the stand? A He is my son.

Q Were you in Cripple Creek on Decoration Day seven days before the Independence depot explosion? A Yes sir.

Q In 1904? A Yes sir.

Q Were there any parades held in the district on that day?

A Yes sir.

Q Who were they held by? A Well, the first parade was -- I don't know who were the originators of it -- who got it up, but the militia participated in it and part of the old soldiers of the G. A. R., and some school children; and a small representation of one or two civil organizations.

Q About how many people were in that parade -- a fair estimate, as near as you can give it? A 250, or 200, perhaps.

Q Was there any parade held later in the day? A Yes sir.

Q Under whose auspices was that held? A I believe it was suggested by the members of the miners' union and some of the members of the G. A. R. who had refused to follow the militia in the first parade.

Q What time of day did that parade occur? A About three o'clock

in the afternoon, I believe.

Q How many men were there in that parade, a fair estimate?

A Well, I should judge between three and four thousand.

Q Do you know whether the Portland was working its men on that day? A No, I don't.

Q You don't know about that? A No; I could not say.

Q You may state whether or not that fairly represented the condition of the district as to the sentiment and feeling at that time?

MR. BORAH: We object to that as a mere conclusion of the witness.

MR. RICHARDSON: Some times conclusions are proper.

THE COURT: You may show the court the materiality of that after we come in this afternoon. We will take a recess now.

Thereupon the Court gave the jury the statutory admonition, the bailiffs were sworn, the jury retired in charge of the bailiffs, the defendant was remanded to custody, and a recess was taken until 2:00 o'clock P. M.

RECESS.

Boise, Idaho, Friday, July 5th, 1907.

2:00 o'clock P. M.

The court convened pursuant to adjournment.

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

THE COURT: How were these depositions, forwarded, by registered mail?

MR. DARROW: Yes sir, they were forwarded by registered mail, as I understand it. We got word that they were sent Monday wasn't it?

MR. RICHARDSON: We are advised that they left San Francisco on Monday.

MR. DARROW: We have what purports to be a copy of the depositions, but Mr. Van Dorn says there are some corrections in it, as is usually the case.

MR. HARLEY: He brought two copies and that is one that we gave to you.

MR. RICHARDSON: You can readily see that there are some typographical errors there, but those can be corrected in reading.

MR. DARROW: We might finish with this witness and then consider what to do about it.

THE COURT: Is this the last witness you will have this afternoon?

MR. RICHARDSON: I think there is one other.

MR. DARRON: There is one point, your Honor, that will take about five or ten minutes, and one outside witness to testify and that is all we have here, and there won't be more than two or three short witnesses on Monday -- possibly outside of two -- outside of Mr. Meyer and Haywood.

MR. RICHARDSON: Does your Honor desire to have the question read that was objected to, or do you recall it?

THE COURT: Let the reporter read the question.

The question was then read to the Court.

MR. RICHARDSON: The question which is asked seeks to explain the apparent condition which was made manifest by the parade of the 30th day of May, 1904, throughout the entire district. There was a parade at Victor on that day, wherein the people who represented the opposition to the Western Federation of Miners had some 300 people in line in the forenoon; and the miners and those with them had a parade with some 3,000 people in line in the afternoon. It has been sought to establish the inference that the conditions which prevailed there were such that the community was desirous of getting rid of the Western Federation of Miners, and that the Western Federation of Miners as an organization was responsible for the thing which took place there -- the act which took place there on June 6th, 1904 -- that they were responsible for the blowing up of the Independence depot. Now, we want

to show that the real condition which existed there was in every way favorable to the Western Federation of Miners shortly prior to the 6th day of June. That on the 30th day of May the sentiment was practically ten to one in favor of the Western Federation of Miners, and that they had everything to loose and nothing to gain by the happening of this event which did occur on the 6th of June; that no one who was their friend, and no one but their enemy would have thought of doing the deed which was done; or that the idea could have existed that it was going to break the strike in that district. The only possible result it could have would be to engender a feeling of hatred and illwill for those who were responsible for it, if it could be circulated throughout the district that they were responsible for it. Now, I seek to explain by this question the apparent condition as it existed at Victor and over the entire district. Your Honor has permitted us to show what was done there at Victor upon that day, and the question asked is as to whether or not that was fairly representative of the condition which prevailed in the entire district at that time.

THE COURT: The objection will be sustained.

MR. RICHARDSON: Note our exception. You may inquire.

## GROSS DEAMINATION

BY MR. MORAN:

- Q Mr. Harper, what was the date of your first difficulty -- the first time you was taken in charge, or arrested, or interfered with in any way? A June 6th, 1904.
- Q That was in the afternoon of June 6th? A That was the afternoon of June 6th, yes sir.
- Q After the riot? A Yes sir, after the riot.
- Q And the riot was in Victor? A Yes sir.
- Q And there is where your store was located? A Yes sir.
- Q How far was your store from the riot -- from where the riot was held? A Across the street, -- not quite opposite.
- Q And where was the Miners' union hall from your store? A Across the street, in the other direction, a little further up the street.
- Q Now, did you see any firearms at all in your store that day prior to the riot? A I saw two pieces of firearms, two guns after I came back from lunch.
- Q After the incident of the riot when was the next time you were interfered with or had any trouble -- what was the date?
- Q August the 7th.
- Q August the 9th, 1904? A 1904, yes sir.
- Q That was just about two months after this first incident?
- A Yes sir.
- Q I believe you say Nelson Franklin was one of the committee

before when you was taken and that he was a mine owner?

A He was the mayor of the Eagle Sampling works; whether he was a mine owner or not I could not say.

Q And what was the Mayor's name? A French.

Q Was he at that time mayor of Victor? A Yes sir.

Q And what was Wood's business, Frank M. Woods? A He was the general manager of the Gold Coin mine and connected with other properties belonging to the Woods Investment Company.

Q J. B. Cunningham, who was he,-- what business did he have, I mean? A He was engaged in the lumber business, also coal, hay and grain.

Q And Frank Bearien, what business was he engaged in? A He was the Postmaster of Victor.

Q Was there a McFerrry? A Yes sir; I cannot say from my own personal knowledge, but I understand he was connected with the Golden Cycle Mining Company.

Q Are there any other members of the committee besides those whose names I have mentioned? A There was Daisell.

Q What was Daisell's business? A I don't know what his business was at that time.

Q Any other member of the committee whose business you know?

A There was Copeland.

Q And what was his business? A I believed he was manager of the Taylor and Brunton stamp mill.

Q What was the date of this first hearing you had? A The morning of June the 7th.

Q And how long were you held in custody at that time? A I was taken to the city jail on that afternoon.

Q How long were you in custody -- up to what time? A Up to the 2nd or 3rd of July, -- I think the 2nd of July, -- Saturday the 2nd of July.

Q You say the committee asked you with reference to some firing from your store? A Yes sir.

Q And with reference to what you knew about the Independence depot explosion? A Yes sir.

Q When was the second hearing? A The first or second of July.

Q And I believe you said the questions were largely the same and the answers practically the same? A Yes sir.

Q Were the parties before when you were examined the same?

A No, -- well, some of them were present on both occasions, but not all of them.

Q Yes, or was there a man in your employ at that time in the store, the day of the riot, by the name of Fridley? A No sir.

Q You don't know such a man? A I know a Fridley, yes sir.

Q Was he about the store that day? A I say -- there are two brothers of them, I believe -- two or three brothers.

Q But he was not employed in the store? A No sir.

MR. BORAH: That is all.



## RE-DIRECT EXAMINATION

BY MR. RICHARDSON:

Q What is this man Dalsell doing now, if you know?

MR. DONAH: We object to that. At the present time, that is immaterial.

MR. RICHARDSON: He asked him what he was doing at that time, and he said he did not know, and I ask what he is doing now.

THE COURT: The objection is sustained.

MR. RICHARDSON: All right, note our exception.

MR. DABROW: I think I omitted to ask one question of Mr. Wolff. My associate counsel do apprise me.

THE COURT: Recall him, if you desire.

JACOB WULFE, being recalled as a witness on behalf of the defendants, and having been heretofore duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. BARNOW:

Q I am not certain whether I asked you where that registered letter was addressed to? A I don't remember if you did or not.

Q Where was it? A It was addressed to John Dempsey, San Francisco.

Q I asked you what was in it, and I will ask you the direct question, whether there was any money in it? A I did not see any money in it.

MR. BARNOW: That is all.

MR. BARNOW: That is all.

G. M. HOOTEN, being called as a witness on behalf of the defendants, and being first duly sworn, on oath testified as follows:

DIRECT EXAMINATION

BY MR. BARNOW:

- Q What is your name in full? A G. M. Hooten.
- Q Where do you live? A I live at Canon City, Colorado.
- Q Now, I am going to skip a lot of this and will ask a leading question or two and it will make no difference. You were in the Cripple Creek district and running a union store over there at the time of the trouble? A Yes sir.
- Q And you were arrested at that time? A Yes sir.
- Q I don't care to go over that, but were you taken before some commission? A I was.
- Q Did you know who constituted that commission? A I never know any of the parties; I had not known them before.
- Q And by whom were you taken there? A By the -- before the commission?
- Q Yes. A By the guards. I was taken out of the bull pen, -- what was called the bull pen, which was the Citizens' Alliance hall in Cripple Creek and taken before the military commission or board.
- Q What was asked you? A They asked me the first question was, are you a member of the Western Federation of Miners.

I answered, yes. What local? I answered, No. 21, at Anacosta. They then asked me if I thought that the Western Federation of Miners had a right to an existence in the Cripple Creek district; and I answered that I certainly thought they did. Then they wanted to know -- then they said, if you were at liberty you would do all you could do to further the interests of the Western Federation of Miners in the district. I said, I certainly would. Then some fellow behind me said, "That is enough, that is enough; take him out." They took me out into the hall and lined me up where they were lining up a lot of the boys -- a carload for shipment, and then they took me back and said they wanted to ask me one more question and they wanted to know where I was captured, and I told them that I was captured in the Union Hall at Victor, and they said, then you will go to the county jail.

- Q You were there in the hall at that time? A Yes sir.
- Q Were any shots fired from the hall? A No sir.
- Q You did not see any? A No sir.

MR. DARROW: That is all.

#### CROSS-EXAMINATION

BY MR. ROYAL:

- Q Were you in the hall? A Yes sir.
- Q You did not know of any shots being fired from the hall?
- A No sir.

Q You did not hear any? A No sir,-- well, you could not tell. When the first shot was fired, or started -- the first shooting started,-- the first shot I know of being fired was off of a building where a soldier was. Well, I did not see him fire it, but I saw where the bullet came through the casing and into the library.

Q Did you see any one in the hall with firearms? A Yes sir.

Q Did you see anybody shoot? A No sir.

Q Were you in a position to see it if it had occurred? A Well, I saw some fellow --

Q No, were you in a position to see it if it had occurred?

A Not while the main firing was going on. I was in the main part of the hall.

MR. BORAH: That is all.

MR. DABROW: That is all. Now, your Honor, with the exception of two or three witnesses whom I think will not be long and who are not here, possibly there is one here that I am not going to use if another one comes,-- and with that exception we are through with the evidence remaining excepting Mr. Moyer and Mr. Haywood and we have a deposition from San Francisco and we have what purports to be a copy of it here, but the original of the deposition has not arrived. Now, if counsel are willing, I will proceed to read from this deposition at this time, and if there are any corrections in it we will make them afterwards.

could be re-read at that time.

THE COURT: If there are any corrections you can make the corrections from the original copy after it gets here. What are these corrections?

MR. DARROW: I suppose that Mr. Van Duyn would know better about it than any one.

MR. VAN DUYN: The Bradley deposition had been compared and there are some material alterations to be made in the copy. I understand the stenographer went over them and made the corrections in the original. They were all taken to the different parties in San Francisco and given to them to read and correct, and as I only saw a couple of them I don't know how these copies would differ from the originals.

MR. DARROW: I think it is doubtful if we can gain any time by it. I would like to say to the court that we have made every effort to expedite the putting in of this testimony.

THE COURT: The court appreciates that.

MR. DARROW: I hope so, and I suppose the jury would naturally be in a hurry to get through as quickly as we could, but your Honor knows that we have got to prepare instructions and you have indicated that you would like to have those instructions before the argument, and there is at least a day's work on that, and I believe it would expedite matters now to adjourn until Monday. I would not ask for it if I did not think it was reasonable under the circumstances and by that time we will have our instructions ready for the court and

will have anything else we want to put in ready. There is a lot of work in a case like this that is not in the court room.

THE COURT: The court realizes that, gentlemen, and I think the jury will understand it too, that there is a large amount of work to be done outside of the court room. What do you say gentlemen?

MR. BORAH: We are satisfied, if your Honor please, that the counsel for the defense should have this time, and I don't think it will be much time lost, and we have got to take some time to prepare instructions.

THE COURT: The Court has already indicated that it desires to settle the substance of the instructions before the arguments. I have examined the statute enacted by the last legislature, at the last session, and it requires that the instructions be ready before the argument. There is no change in the method, as I understand it, of presenting the instructions of the court after the arguments, the same as in civil cases.

MR. DARROW: I think it would help both sides if they were presented before the argument.

THE COURT: I am satisfied that it would save time to settle the instructions before the arguments so that you may know what the instructions of the court will be before the argument.

MR. DABROW: We will have them all ready by Monday morning.

MR. HAWLEY: So will we.

THE COURT: You must be prepared and not lose any time.

MR. DABROW: We will be ready, and try not to lose any time.

THE COURT: Now, in adjourning over probably some of the jurors will want to be permitted to talk, between now and Monday with some of their families, and cannot the matter be arranged so that arrangements can be made permitting interviews under the same regulations?

MR. DABROW: If any juror desires to have any conversation with any member of his family under the same regulations as heretofore, let the court make the order.

THE COURT: The clerk also notifies me that he wants to pay the jurors all off to-morrow night, so that the certificates will be ready for them to-morrow. He desires to have it done to-morrow night so that the commissioners can make their settlement with Canyon County.

MR. DABROW: We are willing that that should be done.

THE COURT: The bailiffs will understand the instructions, of course.

MR. DABROW: If there is anything else needed we can be found.

THE COURT: I don't know whether the court can be found



~~if not I think by giving you this time we can shorten the arguments correspondingly.~~

MR. DABROW: I suppose Mr. Hawley's argument will be shortened by it, but we have got to follow him.

MR. HAWLEY: We are perfectly willing to have a time limit put on the arguments.

THE COURT: I am not going to limit you unless it becomes necessary during the arguments.

MR. HAWLEY: I have got the first say.

MR. DABROW: We hate to have anything lost here now that it is getting so near the end.

Thereupon the bailiffs were sworn, the court gave the jury the statutory admonition, the jury retired in charge of the bailiffs, and an infernal recess was taken, the court announcing that when an adjournment was taken it would be taken until Monday morning, July 8th, 1907, at 10:00 o'clock A. M.