OPERATORS TAKE UP MINERS' GAUNTLET

(Continued from Page 1.)

How long had the agitation been specifically proceeding up to the time of the strike? A. Well, it had been continuous as far as I know, or as far back as I know—as far back as I have known the anthracite miners. Q. There had always been that difficulty here and those claims made? A. Ever since I have known of them. Q. How long have you known of the dissatisfaction of the mine workers with reference to the method of ascertaining how much pay they should have? A. I have known of it of my own information since the fall of 1898. Q. And that has, generally speaking, crystallized itself into a demand for payment by weight, has it not? A. Yes, sir; as far as they have ever given expression to the system they wish to be put upon, it has been by weight. Q. Is that general now, in the bituminous fields? A. The system of paying by weight is general in the bituminous fields.

The Principal Reason.

Q. What were some of the reasons, briefly, advanced by the men, why the companies should pay by weight? A. The principal reason advanced by the miners is that payment by weight is the only honest method of determining the amount they earn. The miners know and believe that they are not paid for the coal they mine. Q. Has there been any claim alleged where they are paid by the car, that the size of those cars has been increased without increasing their pay? A. Yes, sir. The miners generally complain that the cars themselves have been made larger within recent years, and that there has been a constant and continuous demand by the companies that the miners shall place more coal in the cars; in other words they shall put more topping on. The question of topping in those mines where men are paid by cubical measure, or by the box, rather, has been a source of more trouble than any one thing I know of. Q. Tell us what you mean by topping? A. The companies require that the miners shall have a certain amount of topping on the car when it comes to the breaker. That is to say, the rule may require that there be six inches of coal above the water level of a car when it comes to the breaker. It it has not got six inches on top at the end of the mine? is sometimes hauled in the mine a distance of a mile. As a consequence, the coal shakes down in transit; and while the miner may have placed six inches on that car at the place he loaded it, when it reaches the breaker the coal has settled down or has been knocked off the car in transit. The consequence is that the miner is docked for failure to have six inches of coal or whatever the rule may be, on the car when it reaches the breaker. Q. In order to get six inches on the top at the breaker, the car has to travel a mile or two or three, or whatever is required, and they must place more than six inches on top at the en dof the mine? Is that what you mean? A. Yes, sir; it would be necessary, because the coal would settle or be knocked off. Q. And that exact amount could not be ascertained? A. There would be no way of determining it exactly. If they place a considerable amount, more than six inches of topping in mines where that would be required, they simply increase the danger of falling off or being knocked off on its way to the breaker. Q. Supposing that a miner had placed so much coal on a car that at the top of the breaker there were seven or eight or ten inches, would he get anything extra for that? A. No, sir. Q. He is simply docked if he has less than six? That is as you understand it? A. That is my information about the system. Q. Has that been a grievance that they have had? A. Yes, sir; a very serious grievance. Q. Well, all these grievances, real or fancied, whatever they were, were brought together at your convention, were they not? A. Yes, sir

Efforts at Agreement.

Here Mr. Mitchell told the story of the strike preliminaries and the efforts to effect an agreement on the Shamokin demands through the Civic federation. He told, among other things, that during the strike $1,500,000 was distributed in aid to the strikers.

Q. Two or three more questions and then I shall have finished. What would you say as to the ability, on account of your organization, and judged by your experience, to maintain discipline and assist in the settlement of questions and help in the harmony of the management of the coal industry? A. I should say that our experience as an organization demonstrates conclusively that discipline can be maintained where trade agreements exist. As a matter of fact, in those states where we have trade agreements, if any of our local unions were to attempt to violate the agreement: if they refused to go back to work when we instructed them to do so, we would put them out of the union. We would revoke their charters. Our agreements take precedence to our law. If our law were in conflict with the trade agreement, the trade agreement would be given precedence and we would set the law aside rather than the agreement. The agreements must be kept inviolat. Q. Mr. Mitchell, some complaint has been made, and I refer to it for that reason, in reference to the strike of pumpers. You know what I refer to, do you—pumping men? A. Yes, sir. The steam men went on strike on June 2nd. The miners' strike was on May 12th. The instruction to the steam men to ask for a reduction in the hours of labor was issued on May 21. Q. That was for a reduction to eight hours, was it? A. Yes, sir; the instruction was issued some twelve days before they were to inaugurate a strike if the companies failed to give them an eight-hour work-day. They were told in the instruction issued that they were to remain at work and protect the properties of the companies, if the companies would permit them to work eight hours a day without any reduction in their pay. Q. They were to remain at work while the others went on a strike? A. Yes sir. Q. And that was because the pump men and the engineers were necessary to keep water out of the mines? A. Yes, sir. Q. And matters of that sort? Were they refused an eight hour day? A. With few exceptions. Some few in some mines have granted the eight-hour day. Q. And did they stay at work where the eight-hour day was granted. A. Yes, sir. Q. One other matter that I overlooked, Mr. Mitchell. Do you know anything about the variety of contracts that exist in this region, specifically, and as to any cause of complaint on that account? A. Contracts? Q. That is, a variety in the payment or price for mining coal and the method in which it is mined? A. Yes, sir; only in a general way, that all the companies operating in this Lackawanna and Wyoming region pay either by the box, by the car—by what is called a ton. Q. Is it uniform among the various companies? A. No, sir; it is varied. Q. State whether or not that has been one of the causes of complaint? A. It has made it impossible for the men working to determine how much coal they were loading for the amount they were receiving. Q. In what way? A. They could not determine how much coal they would have to load, because of the topping required. Q. I refer now to the question as to whether different companies have not paid different rates of wages for substantially the same work? A. I know that in a general way, and by comparing the pay, the statements issued by the companies. Q. Mr. Mitchell, you referred to the question of a local violating any agreement, and stated in that event their charter would be revoked. A. Yes, sir. Q. What about other men who continued to work? Would other union men continue to work? A. Yes, sir. Mr. Darrow: I think that is all that occurs to me now.

CROSS-EXAMINATION.

Mr. Wilcox began the cross-examination about twenty minutes before the noon recess was taken and continued it during the two hours of the afternoon session.

By Mr. Wilcox: Q. Mr. Mitchell, how long did you act as a bituminous miner. A. Thirteen years. Q. And was it continuous? A. Yes, sir. Q. At what time, would you mind telling? A. I started when I was between 12 and 13 years of age, until I was about 26 years of age. Q. Have you done anything else except to act as an official of this organization? before that time, however, on a farm. A. I have not performed any work outside of that, since that time. I worked when I was 10 years of age. Q. I thought you had studied law? A. I did at night, when I came home from the work in the mines. Q. I thought you were a professional brother? A. I have never been admitted to the bar, however.

Q. The mine workers' union is a voluntary association, as I understand it? A. Yes, sir. Q. And it is not incorporated in any state or anywhere? A. It is not an incorporated organization, but is organized the same as all other labor unions. Q. When did these anthracite miners first come into it, did you say? A. They were formed of the members of District assembly, 135, which joined with the Miners' Progressive union in making the United Mine Workers of America. Q. How many of them were in that District 135, do you know? A. No, sir; I do not know how many were in here. Q. It was quite a small number, was it not? A. I could not say. I might say, both of these two national unions that joined together only had a total membership of twenty or thirty thousand. Q. What I mean to get at it this; so far as this organization of Knights of Labor is concerned, it had practically expired, had it not? A. I cannot answer the question accurately, but I understand that a considerable number of its total membership were anthracite mine workers. Q. Of this particular district assembly, or what? A. Yes, sir; of No. 135. Q. You do not know what the total membership was? A. I do not.

Q. Now, I understand that under the constitution of the United Mine Workers, the convention in their body has power to order a strike in all the coal-producing regions, is not that so? A. Yes, sir. Q. Has the national executive board that power also? A. They have that authority given them by the law, but they cannot do it in violation of any existing contracts. Q. Why not? A. Because the contracts themselves are superior to our law. Q. Do you mean by virtue of any definite provision. A. No, by virtue of the policy and precedence established by the organization. Q. But so far as the constitution is concerned, the executive board has the power to order a strike? A. That is our law. Q. Now, I understand that a convention must be called on the application of five districts? A. Yes, sir. Q. And that such convention may order a general suspension of work everywhere. A. It may, except in the event of agreements existing between the operators and miners. Q. How many districts are there? A. There are eighteen districts. Q. There are eighteen districts, and oly three of them are anthracite districts. A. Yes, sir. Q. And each district elects one member of the board, does it? A. Yes, sir. Q. There is a great deal of difference as to the size of the districts, as to membership, I understand? A. Yes, a very great difference. Q. For instance, in Michigan, I believe, there are only two or three thousand. A. Yes, sir. Q. And in those three districts, you say there are one hundred and ten thousand. A. Yes, sir. Q. But the power is divided according to the number of the members; that is, the district representatives? A. No, each district is given one member on the board. Q. Yes. A. However, in our conventions their voting power is in accordance with the number of members. Q. But in the national board, for the purpose of calling a convention, for instance, the state of Michigan would have as much power as this District No. 1 here, would it not? A. That is true. Q. And the powers of the body generally between conventions are exercised by the national board? A. No, sir. Q. Is that so? A. The law provides that they shall have power between conventions, but the regulation of a district is by the district executive board, which is empowered to make laws for its own government. Q. Yes, but does not the national board have power over the district board? A. It has power to inaugurate a strike.

Q. You spoke of disciplining the miners for violating contracts? A. Yes, sir. Q. Is there anything in the constitution in regard to that? A. No, sir, except that the officers are empowered to exercise supervision over the workings of the organization everywhere. Q. Yes? A. And under that our district constitutions in some states do make provision for revoking or disciplining the members, applying penalties and fines and so forth. Q. Have you got the district constitutions of this particular region? A. I have not got them right with me. I am trying to get some which will be furnished when they arrive. Q. Do they have any such provision in them? A. I do not recall that they have. There have been no agreements in these districts. Q. And are there any provisions in the constitution regarding the enforcemkent or carrying out of the contracts? A. There are in the agreements; yes, sir. Q. I know, but are there any such provisions in the constitution of the body? A. Of the national organization? Q. Yes? A. No; there are none. It is provided by agreement with the operator. Q. The only provision there is on the subject is contained in the agreement itself? That is right? A. The provision is in the agreement itself; yes, sir.

Q. What does your constitution provide in regard to sympathetic strikes? Anything? A. There is no provision at all in it, except that in a case where a strike in one district might have the effect of lowing the wages in another district. Then the organization would have power to extend the strike so as to protect the men whose wages would be affected by a failure in the first district. Now, perhaps, I had better read the provision. Section 4 of article 10: "National officers shall, at any time they deem it to be the best interests of mine workers in a district that is idle, for just and sufficient reasons, to order a suspension in any other district or districts, that would in any way impede the settlement in the district affected; provided that such action would serve to the best interests of the United Mine workers of America." That is the provision is it not?

A. Yes, sir. That provision is to be enforced in the event of one company operating mines in one district where they might attempt to reduce wages—in which there would be no agreement always—by continuing operations in other mines in another district. That power is invested in the executive board, so that they might stop the mines of the company in both districts; always with the condition, however, there is no agreement existing in either of them.

Q. That statement of yours does not seem to be contained in this section.

A. What statement is that?

Q. That which you have just made.

Mr. Darrow: The purpose of it.

Mr. Mitchell: That is what I am trying to explain; just what our laws mean.

By Mr. Wilcox:

Q. That is not contained in the section itself, is it? This is a statement of your own as to the purpose of that section, is it not, Mr. Mitchell?

A. Yes, sir, and that is what it means, because in our organization the president of the organization determines what the law means, and a decision as to what the law means in our organization makes it the law. That is, the laws are interpreted in that way.

Q. So that as you testify, the law is being made, is it?

A. I have just given you what that law means.

Q. Yes, so that as you speak, the law is being made, as you are president of the organization? (Laughter).

A. No, not necessarily; but the construction or meaning of our own laws is determined by its chief officers.

Q. Does the constitution give them any such power as that? A. Yes, sir. Q. Where is that? A. Under "The duties of the presidents." Q. Can you point that out to me? A. See if you find this language: "He shall decide all disputes as to the meaning of this constitution."

The Chairman: Perhaps you can take the consitution, Mr. Mitchell, and point it out to the commission.

Mr. Mitchell: Yes; I have it here, I think.

Mr. Darrow: The portion of the constitution you are looking for is at the bottom of page 6, or the top of page 7, I think, Mr. Mitchell.

Mr. Mitchell: Yes; I find, Mr. Willcox, that you have not been reading from our constitution.

By Mr. Willcox: I have not had the pleasure of having one furnished to me. Have you it now? A. Yes. Q. The one I had is not up to date? A. No; I will furnish you with one of our constitutions as soon as I can get some copies. Q. Have you the right place? A. It reads: "He shall devote his time and attention to the affairs of the union; decide all questions in dispute concerning the meaning of the constitution, and exercise the duties of the president.

By Mr. Willcox: Q. Suppose a man violates an agreement, and the constitutions contains no provision regarding his expulsion for that reason, do you think that would constitute a dispute arising regarding the terms of the constitution, which you would have the power to decide? A. If a person had violated this law, do you mean? Q. If a person had not violated the constitution, but had violated an agreement. A. If he had violated an agreement, we would have authority to turn him out. Q. You think you would? A. Yes, sir. Q. Although there is nothing of the kind in the constitution except that you have the right to decide disputes as to the meaning of the constitution? A. Yes, sir. But he would not be turned out because the language of the constitution provides for his punishment in that way. We would do it because that is the established policy of the organization, as it is of nearly all trade unions. Q. Well, it is outside the constitution then, is it not? A. Usually the process of enforcing the agreement is a part of the agreement itself. Q. The constitution contains no provision to turn a man out because he violates an agreement, does it? A. Not specifically, but it does confer power on its officers to exercise supervision under it. Q. To decide disputes as to its meaning? A. Yes, sir.

Q. Now you remember the Indianapolis convention of July 18, 1902?

A. Yes, sir.

Q. That was called for the purpose of determining whether there should be a national suspension of coal mining, was it not?

A. Yes, sir.

Q. And it had the power to consider that?

A. It had the power to consider it; yes, sir.

Q. And the bituminous miners could at any time order a strike in the anthracite region, although none of the anthracite miners wanted it, could they not?

A. They could not do so without violating their agreements.

Q. No, but I do not think you catch my question. I say the bituminous miners could order a strike in the anthracite regions, although the anthracite people did not want it?

A. No, sir.

Q. Why not"

A. Oh, no. A convention of bituminous men could not order a strike of anthracite men.

Q. I am asking about the national convention.

A. A national convention would have authority to determine that there should be a national strike.

Q. Yes.

A. But they could not do that where they had agreements.

Q. Although the anthracite people were opposed to it, the bituminous people might enforce it?

A. They could not make a man go and strike. (Laughter.)

At this juncture recess was taken for luncheon.

The cross-examination of Mr. Mitchell was resumed at 2.10 without anything intervening.

By Mr. Wilcox:

Q. Taking up for a moment what we were at when the commission took a recess, do you remember publishing a statement of this character on or about May 16, 1902, in reference to the Indianapolis convention, referring to the proceedings of the Hazleton convention of May to which you testified at this morning's session; that the convention directed the national officers to call for a national convention of all miners employed in the United States for the purpose of considering the situation in the anthracite fields. (Reading) "If the desire of the anthracite miners is sustained a national suspension of coal miners will be inaugurated." That was signed by yourself. Do you remember that? A. I recall the statement substantially as you read it; I cannot say that is the language of my statement.

Q. That is substantially the language? A. That is a newspaper statement, I believe. Q. I read that from the Scranton Tribune. A. Yes, it may be exactly correct. I do not recall the exact language. I had a copy of it, however. Q. It purports to be signed by you? A. As I say, it may be correct; I am not sure of it. Q. As I understand it, the workers in the bituminous field are under contract? A. Yes, sir. Q. And you say those contracts are superior to the constitution? A. Yes, sir. Q. How, then, could that convention have considered the question of inaugurating a national suspension— A. It did not inaugurate a national suspension— Q. Excuse me until I finish my question. (Continuing). If the majority of the members were under contract and the contracts prevail over the constitution how could it consider the question at all? A. It did not consider it, because by a unanimous vote it decided they would not inaugurate a national suspension. Q. But your call says it is going to consider it? A. It has a right to meet under our law for the purpose of considering; but under our agreements they could not call a national suspension, and they did not do it for that reason.

Q. It was called, then, merely for the purpose of considering that it could not call a national suspension? A. The miner's laborer would necessarily stop at eight hours if the breaker stopped and the mine stopped. Q. That is the way you reach it? A. That is what we think will be the result of it. We have not said how long the miner or his laborer shall work, however, except that if an eight-hour agreement were made, then they would each have to work eight hours.

Q. Of the present enrollment have you stated how many are anthracite and how many bituminous, or can you state? A. I say that the paid-up membership of the organization is approximately 250,000, on the only record which we have, of which number 110,000 or 120,000 would now be anthracite mine workers. Q. But at the Wilkes-Barre convention, the last convention, you voted on a basis of 86,500 members in good standing, did you not? A. I do not know that we had any way of determining what the membership in good standing was. The vote was taken on the membership as shown by our books prior to the strike. Owing to the fact that there was a strike, due were not paid to thracite men while they were on the strike.

Q. But that purpose is not stated in the call at all? A. The purpose of the convention was to consider the advisability of the strike of the anthracite miners, among other things, the wish of the anthracite men to have it extended into other fields, and that was not its only purpose.

Q. When you spoke at the opening of the Indianapolis convention, did you not speak of it as a convention called for the purpose of considering the suspension of work?

A. Yes, sir.

Q. The anthracite districts, as I understand, have only three representatives, out of a total of fourteen, on the national board?

A. They have only three representatives on the national executive board.

Q. And how many are there on the board?

A. Twenty-one altogether, including the national officers themselves.

Q. Let me call your attention again to this provision of the constitution, Article 10, section 4, which was read before the recess: "The national officers shall at any time they deem it to the best interests of mine workers in a district that is idle for just and sufficient reasons, order a suspension in other districts, or districts that would in any way impede the interests of the district affected." Now, suppose that there was a strike in the Western Pennsylvania bituminous district, and it should turn out to be the fact that the anthracite coal was going there, could not the national officers order a strike in the anthracite districts.

A. No, they could not. The purpose of that law con only be understood by explaining what it was intended to do. I might more clearly illustrate what would be done under those circumstances by reading from our agreements. For instance, this is in substance the same agreement that we have in every district; it is the Illinois agreement. I will read from this: "This contract is in no case to be set aside because of any rules of the United Mine Workers of America now in force, or which shall hereafter be adopted; nor is this contract to be set aside by reason of any provision of their national, state or local constitutions." The provision you have reference to, Mr. Willcox, is intended to apply only to an emergency of this character—that if one company operated mines in different districts and they were to attempt to depress wages in one district while supplying their own contracts and trade from another, then the organization claims the right, in the absence of contracts, to extend the strike into the mines operated by that company, regardless of what district those mines are located in.

Q. That does not seem to be the language of the section. A. It may appear not; but I am explaining what the purpose of the section is. Q. The constitution requires a good deal of construction, does it not? A. That is true of every constitution. Even the constitution of the United States. Q. Were there any contracts in existence at the time this constitution was adopted. A. Yes, sir. Q. Which ones? A. This constitution that you have reference to now was revised in the year 1902—last January. There have been some changes made in our law at each annual convention. At the time the organization was originally formed, there were no contracts that I know of. Q. That is, when the constitution was first adopted, of course? A. Yes, sir; but I am not sure that the constitution is at all similar now to what it was then. I do not know about that. Q. Do you know whether there has been any change in that particular section. A I do not. Q. There has not been any that you recall? A. I don't know anything of it, because I was not a delegate at the early conventions.

At this point Mr. Wilcox read the excerpts from Mr. Mitchell's testimony before the industrial commission, referred to above.

Following this, Mr. Mitchell was asked if he had figured out how much the granting of the demands of the Hazleton convention in 1900 would increase the cost of mining. He replied that he understood it would be about 20 per cent.

"Would it surprise you, if you were told the increase in cost of labor alone would be 70 per cent?" Mr. Wilcox asked.

Mr. Mitchell said he had not done the figuring. That work was done by a committee of the anthracite miners. He admitted the strike was settled upon the granting of a horizontal increase of 10 per cent. in wages.

Then the examination proceeded, as follows:

Q. Now, what methods were adopted for the purpose of getting the men out in that strike, as you had only eight thousand when it began?

A. The officers of the organization and the mine workers who were employed held meetings and asked the men to come out. They were notified through the newspapers that a certain day was set for the strike, as decided by their convention, and they came out on strike in accordance with that notice.

Q. Were there not various marches around? A. Yes, in some parts, the men were out marching, and held meetings with men at other places. Q. And you went around and made speeches yourself? A. I held three or four meetings during the entire strike. Q. I believe it is a matter of history that you held two of them at the Markle operation, is it not? A. Yes, sir; I held two metings in that part of the region, one I believe at the Markle property.

Q. You made a statement in regard to the number of men now enrolled. I do not know whether I caught that correctly. Will you just repeat it? A. I said that there were approximately 110,000 or 120,000 of the anthracite men in the organization. Q. Can you state how many of them are under age, minors, minor children? A. I understaind that there are employed in the anthracite mines about 21,000 persons under 21 years of age. Q. Do they belong to unions? A. Yes, sir; most of them do. We have a seperate branch for boys under 16 to belong to, so that they will not have control of our meetings, a juvenile branch. Q. Over 16 years of age, they have a right to vote, have they not? A. Yes, sir. Q. And under 16, a half a vote? A. Yes, sir.

Q. Can you state how many of the members are miners and how many laborers? A. There are some 37,000 miners and 26,000 miners' laborers.

Q. How are votes ordinarily taken in the locals? A. Ordinarily by a show of hands or a yea and nay vote. Q. Sometimes by tellers, I suppose? A. They may be. That I do not know. We have no established rule. They are permitted to vote as they decide themselves.

Q. Do these demands that you are making now contemplate any increase to the miners' laborers? A. Yes, an increase of 20 per cent. Q. In their pay, or a reduction in their hours? A. In their pay. Q. And a reduction of their hours, too? A. The demand for a 20 per cent. increase of wages is applicable to the miner and his laborer. Q. The question of hours for the miners' laborers then does not enter into this controversy? A. The miner's laborer would necessarily stop at eight hours if the breaker stopped and the mine stopped. Q. That is the way you reach it? A. That is what we think will be the result of it. We have not said how long the miner or his laborer shall work, however, except that if an eight-hour agreement were made, then they would each have to work eight hours.

Q. Of the present enrollment have you stated how many are anthracite and how many bituminous, or can you state? A. I say that the paid-up membership of the organization is approximately 250,000, on the only record which we have, of which number 110,000 or 120,000 would now be anthracite mine workers. Q. But at the Wilkes-Barre convention, the last convention, you voted on a basis of 86,500 members in good standing, did you not? A. I do not know that we had any way of determining what the membership in good standing was. The vote was taken on the membership as shown by our books prior to the strike. Owing to the fact that there was a strike, due were not paid to the district organizations, or to the local union, and consequently there was no record in the district of the increase in membership.

Q. Yes. What methods do you adopt to prevent interference of non-union men where union and non-union me are working in the same operation? A. Well, ordinarily, in the bituminous fields all the mine workers in the states where they have contracts are members of the organization. In parts of Central Pennsylvania, Western Pennsylvania, they are not. They work together in harmony. There is no difficulty between them. The organization tries by persuasion to have the non-unionists come into the organization. In the anthracite fields they work the same way. Q. There is no definite method of preventing interference? A. Nothing has been done on that subject particularly. A. There is generally no interference and consequently no necessity of having laws to prevent it. Q. Now, you know there have been a good many resolutions on that subject in the anthracite region, do you not. A. Yes, I know there have been resolutions adopted in the anthracite field. Q. Let me read you a few. I read what purports to be an extract from the proceedings of a convention of District No. 1, United Mine Workers of America, January 14th, 15th and 16th, 1901, at Edwardsville, Luzerne county, Pennsylvania. It reads as follows: "Regularly moved and seconded, that it becomes compulsory on the men of any mine employed in and around the mines, to become a member of the United Mine Workers of America. Carried."

Q. Have you any knowledge about that. A. I have no knowledge of it; I was not at the convention. Q. You have heard of it, have you not? A. I have not heard specially of that resolution. I have heard of various resolutions of that character.

Q. What action have you taken about them: anything? A. They were never enforced that I ever know of. They were passed for the purpose of preventing the companies from discharging men because they belonged to the union. The companies had at various places adopted a policy of opposition to the organization, and the members of the organization, fearing that they would all be discharged or driven from the union, adopted resolutions of that character to protect themselves.

Q. With the idea that if they adopted a resolution of that kind the companies—A. That the companies would cease their hostility to the men that belonged to the union for belonging to it. Q. For the reason that they would think that if they discharged any union men there would be a strike? Or how was it to work? A. It was simply intended to give the men the right to protect themselves against discharge on account of membership in the union. At least, that is my information from those who are more familiar with it than I am. Q. That is, by making everybody join the union? A. I do not think they ever did do that. Q. That was the purpose of their resolution, was it not? A. It was the hope that it would induce everybody to come into it, but primarily for the purpose of protecting the men who were in it. Q. Insisting upon everybody else joining it; that was it, was it not? A. The resolution, of course, speaks for itself. As for its purpose, I have tried to explain that as I understand it.

Q. Now, let me call you attention to the proceedings of the Shamokin convention, March 18 to 24, 1902: "Proceedings of the joint convention of Districts No. 1, 7 and 9, of the United Mine Workers of America, March 18 to 24, 1902, Shamokin, Pennsylvania." You were at that convention, were you not, and presided? Q. (Reading). "Resolution No. 7. To the officers and delegates of the convention, assembled: Brothers—Having from past experience proved that the notices posted by the operators at the different collieries are only a bluff, and that the operators have not lived up to the spirit of such notices in settling local differences with the committees chosen to settle such differences; therefore, be it resolved, that we demand recognition of the union as the only means of adjusting such grievances. The committee (on resolutions) concurs in the above resolution. Moved we concur in the report of the committee. Motion carried. Resolution signed by James Walters, President; William Cook, secretary, Local No. 898." Was that passed by the Shamokin convention. A. I do not remember. If it was, the minutes will show it, if you are reading the minutes. I do not know whether it was or not.

Q. Let me ask you about this resolution: "Resolution No. 9. To officers and delegates in convention assembled. Brothers—Whereas, we, the miners in the vicinity of Nanticoke, having by past experience proven that the working card or button is very little benefit to us in its present mode of working, there be it resolved, that the U. M. W. of A. at any colliery where employes refuse to become members of our organization and wear the working button, the local governing such colliery, after using all such persuasive measures to get such employes to join, and failing in such, have full power to suspend operations at such colliery until such employes become members of our organization." Do you recall that resolution?

A. I recall that resolution, and my recollection is that such resolution was adopted, but I would not be sure without referring to the minutes of the convention.

Q. Will you produce those minutes? A. I shall look them up, sir; certainly. Q. Can you produce the original constitution of the United Mine Workers, and any changes which have been made? A. I shall try to secure it. I have not got it here. If I have it, it is at Indianapolis.

Q. Mr. Mitchell, during the last strike, there was considerable violence in the region, was there not?

A. There was some violence. To what extent, I am not fully informed.

Here Mr. Willcox read the proclamation of Governor Stone, of October 6, when the whole division of the National guard was called out, in which it is declared that mob law reigned; that trains were being held up, men killed and assaulted, etc.

Mr. Mitchell was asked if he had read that proclamation. He answered in the affirmative.

Q. In your letter to the president, of October 16th last, you stated that there have been a few crimes and a number if misdemeanors chargeable to those on strike. You recall that, do you not? A. Yes, sir. Q. Has anything ever been done to discipline these people? A. I understand that where the miners were guilty of lawlessness, they have been arrested and are under indictment. Q. I mean, of course, has anything been done by your organization? A. We have no means of punishing a man who has committed a crime, except by expulsion from the union. We have no record that any man that has been arrested is a member of the United Mine Workers of America. Q. What did you mean, then, by saying that there had been crimes and misdemeanors chargeable to those on strike? A. Because any amount of non-union men were on strike. Q. You think it was the non-union men who got up this state of affairs? A. I do not know. I think my information is that it was not members of our union. Q. What methods have you taken to inquire into the subject? A. The examination of our books, as to any serious crimes that have been committed, fails to show that they were committed by members of the union. Q. You have not found a single one who was a member of the union? A. I have not investigated all those charged with crimes. There have been very few strikers arrested for serious offenses. A large number of them have been arrested for minor offenses, such as picketing, or alleged boycotting but none of them have been convicted of lawlessness. Q. You have not done anything about that, then? A. We take the position that the courts are the proper persons to determine the innocence or guilt of a person arrested, and that until the courts have determined that, we have no right to proceed against them. We have in every way possible endeavored to restrain our men from committing acts of violence. Q. But there are no rules of the association on the subject, you say? A. Our organization has no rules governing it, because few of our members ever commit crime.

Q. On this question of violence, generally, I would like to ask whether you approved of the methods pursued at the St. Bernard colliery, at Irvington, Kentucky, as reported in the Wood case, 113 Federal Reporter?

Mr. Darrow: Tell him what it is that you are asking him about. He may not be familiar with that case.

Mr. Wilcox: He can say so if he is not.

Mr. Mitchell: I do not recall the conditions prevailing in Hopkins county, Kentucky, any more than that I know some of our people were arrested there and some were killed by the employes of the company. I do not know of any lawlessness committed by strikers or union men.

By Mr. Wilcox:

Q. The report of the case states that there were camps maintained down there for some little time? A. The strikers who were thrown out of the company's houses because they were on strike, were maintained by the union. We hired grounds and bought them some tents and kept them that way until the coal companies, through process of law, had our tents taken from us and our people thrown into jail.

Q. Do you know the case of the United States vs. Weber, in 114 Federal Reporter? A. Yes, sir; I know something of it.

Q. The case which was decided by Judges Simonton and McDowell? A. I know in a general way of the case.

Q. Did you approve of what was done in that case?

Mr. Darrow: I object to that question.

Mr. Mitchell: Of what was done by Judge McDowell?

Mr. Wilcox: No.

Mr. Mitchell: I certainly did not.

Mr. Wilcox: I understand that, but I mean what was done and laid before Judge McDowell for his action.

Mr. Mitchell: I understand.

Mr. Darrow: Just a minute. If counsel wants to ask him whether he would approve of such and such a fact, that would be all right, but what is printed in a book the witness may not know. I do not know. The commission may not know. It does not seem to me fair to the witness or to throw any light on the controversy.

The Chairman: Mr. Mitchell seems to be very competent to take care of himself. I take it for granted that when he says he is familiar with the case he means that he understands something of the facts upon which the case is founded. If that is not so, Mr. Mitchell, of course, you need not answer or (I will put it this way) we will not exject you to answer the question.

Mr. Darrow: If you will indulge me for a moment, to be familiar with a case from a lawyer's standpoint and from a layman's standpoint, are very different propositions. If the witness understands, it is all right.

The Chairman: He can state, if he is familiar with the facts out of which that case came, and if he is, he will be willing fo answer the question, no doubt. If he is not, we will not expect him to do so.

Mr. Darrow: The report of the case in the books, as you and I read it, might not be as the witness understands it, that is all.

The Chairman: Certainly.

Mr. Wilcox: You can examine the witness again when the time comes.

The Chairman: Of course, gentlemen, you will understand that we are supposed to extend the greatest liberality in the presentation of testimony and in the cross-examination of witnesses. Counsel themselves will have to prescribe largely the limitations to both, because we must trust to their good faith and to their knowledge of these questions in the presentation of their cases. The witness now on the stand does not require any special protection, and if you will make plain to him exactly what you mean, I have no doubt you will get an answer. I am not familiar with that case, but Mr. Mitchell probably is, and if he is familiar with the facts, he will give you an answer. I think the question is a proper one.

Mr. Darrow: I would not object to it; the only thing is to have it understood.

The Chairman: I thought we might save time; we are traveling a good ways outside of the record.

Mr. Wilcox: Where do you stand on that?

The Witness: I might say that I have a record of a brief of that case, although I have not had opportunity to read it. I understand that Mr. Weber and Mr. Paddle were sent to prison for violating the restraining order issued by Judge McDowell. At any rate, they were sent to jail. I appealed the case to the president of the United States, who directed the attorney general to make an investigation. Just as soon as the investigation could be made, the president pardoned those who were convicted.

Mr. Darrow: I withdraw my objection.

By Mr. Willcox: Q. That does not state whether you approve of what happened in that case. A. I understand that they were restrained from holding public

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