

BURNS BRINGS UP A NEW COMPLICATION

(Continued from Page 1.)

large as on any of the preceding days and the proportion of ladies in attendance larger. The day opened with Mr. Mitchell on the stand, under cross-examination by Mr. Ross, general counsel of the Delaware, Lackawanna and Western company. Simon P. Wolverson, counsel for the Philadelphia and Reading Coal and Iron company, and James H. Torrey, counsel for the Delaware and Hudson company, and I. H. Burns, for the independent operators, followed Mr. Ross as cross-examiners, and when Mr. Mitchell was turned over for re-direct examination by Mr. Darrow. The morning session was concluded when Rev. Dr. Roberts took the stand.

Recognition Incident.

The "recognition" incident was injected by Mr. Burns just before Mr. Mitchell was turned over to Mr. Darrow for re-direct examination. The discussion was as follows:

Mr. Burns: If the court please, I do not desire to interrogate the witness to any extent, but I should like to know from the commission as to whether they intend in their finding to make a general sweeping finding in regard to all classes of operators, or whether they take notice of the distinctions between the individual operators and what we call the big companies.

Of course, I think the commission understand, in a general way, that the individual operators are under somewhat different conditions from the railroad companies. The cream of the coal lands of the whole valley and the whole anthracite region were long ago absorbed by the large corporations. The individual operators that are left are mining poor territory, and, in some cases, are taking mines that have been virtually mined out by the large companies and are stripping them. Of course, they have a certain line of fixed charges, and they have no means to reimburse themselves by profits or otherwise, or other prices. They depend solely and entirely on what they get from their particular mines, and, of course, as a general thing, they do not get a large amount of royalty for the coal that they get out. Now, suppose an individual operator has a hundred acres of land where the veins are thin, because the thick veins were long ago absorbed, and the thin veins are more difficult to mine. He has really to pay more for getting out a ton of coal than the other companies. Now, he has certain fixed charges. He has his royalties; he has the interest on his capital invested, which amounts to a large sum, and he has to build a breaker before he can do anything at all. Then the pumping and ventilation of the mines, the feeding of the mules, the runners of machinery, the cost of the breaker—all these are fixed charges which run along continuously, whether he works or not. Therefore, it can be easily seen that the individual operator could completely do up an individual operator. He has no railroad by which he can pay his running expenses. Also, I would say, that they employ a greater or less number of non-union miners.

About Non-union Men.

Now, I do not understand, and I have not been informed from any of the questions that have been asked the witness before the court, as to whether, if any contract is made, or if this commission should find it proper to suggest or recommend or find that the contract should be made with the United Mine Workers of America, whether they would insist, as it seems they do in Illinois, that no non-union men should be employed, or whether they propose to make contracts with us simply for the union men that we employ, and leave us free as heretofore to employ non-union men.

I do not know whether the commission understand these questions or not, and we certainly are not informed as to the extent that the commission would have the power. It seems to us that in this hearing there really ought to be some rule in regard to this. Here the big corporations have had four or five days, and the commission is tired. We can see at once that his members have been wearied, and I think it is very peculiar that Mr. Mitchell should have questions peculiarly pertaining to our workings, we do not care to keep the commission sitting here when they evidently do not want to. They want to go on to other witnesses; but it does seem to us that as to any future witnesses that are called we ought to have some privilege, some designated time or opportunity afforded us to examine them when questions are arising which are different with us than they are with the other witnesses. It may be that the counsel representing the corporations will draw out the very things that we would like to have asked, but we would like to have it understood, and would like to have the commission make some sort of arrangement whereby we can be heard, to some slight extent, in the examination of the future witnesses. We will be very brief; but it seems to us that there are some things that ought to be said in response to other witnesses, and other gentlemen will probably not draw out. Of course, we leave it entirely to the commission. Those are suggestions that we make at the present time.

The Chairman: I think I can say to the commission will hear you as to the

Does Not Surrender Claim.

Q. What I want to get at particularly is, what is his title to it? Is there any vested right? For instance, a few weeks before this strike, a miner was employed who went to work in a couple of weeks the strike occurred, and he left. He was paid in full by the company for his services and all relations with them appearing terminated. At a later time the company put a non-union miner in the chamber where he had been. When he comes back, he complains and says: "There is another man who has got my job, and I want the union to take some steps in regard to it, and I want to get my job back." Why does he say his job, when he had been employed and paid, and received his pay and the accounts are all squared between him and the company?

A. Well, when a man goes on strike he does not surrender his claim for re-employment the same as he would if he absolutely quit work when there was no strike and left the employ of the company. A man is on strike for better wages, or to get some improvement in the conditions of his employment, better wages, or to get some improvement in the conditions of the employment he was doing. He never surrenders absolutely his right to that employment, because he is striking for it back. He is striking to get back to work at a higher rate of wages or under improved conditions of employment.

Legal Rights.

A. Legally, he has no claim on the company. Morally, I think he has. Of course, it is true that the union, under the usual conditions, have no claim, no rights in employment. That right the employer reserves. A man has the right to employment, as things have been, if the operators wanted to give him employment; but we believe that when the strike ended, ending practically by both sides stopping fighting—a cessation of hostilities, that the conditions should have been restored to the conditions that prevailed prior to the instigation of the strike; that is to say, the men should be permitted to return to their old jobs. As for the non-union men who had taken their places, we do not ask for their discharge, but there was any amount of room for them.

I dare say that the anthracite mines in this country employ ten thousand or fifteen thousand men. There are that many that have not come back to them who went away. If non-union men had taken their old jobs, they might have been moved into the positions that were vacant—that is to say, jobs that the men did not return to take.

The Absolute Rights.

Q. I am not asking you as to the relations between the company and the union miners. I am asking you as to the absolute rights you seem to infer, in some of the answers you have made to the questions—you seem to have inferred that there was some mysterious, undefined absolute right which the miner had to come back to work for the company again. Now, I would suppose a little further. Suppose when your union men left the employ of the D. and H. or the D. L. and W., those companies had been engaged in filling their mines with their own men. Would you still consider that you had a right to come back, and to keep this strike going as to the whole region until the employ of the D. and W. was ousted their non-union miners and put your men back in their places?

A. That would depend absolutely on the condition under which the strike ended. If the strike were defeated, if the men were defeated, of course they would go back, just as they usually do. They would go back, but in hand, and ask for their job.

Q. Do you understand that under this commission the commission has the right to reserve on the part of the employer to retain the non-union men that they already have, or is it your contention that when the strike ends, the employer is made—that all the miners or men employed shall be members of your union?

A. Of course, I should not presume to intimate to the commission what the provisions of the contract they shall recommend will be. If they recommended a contract or award a contract; but I understand the companies have said that they would not discharge non-union men. That is to say, they would not submit the right of discharging their men. We have not asked that. We have not asked that the commission restore our people to their positions. We have not asked that the non-union men be discharged from the employ of the company. There will be any amount of work for them in the mines.

Q. That does not exactly answer my question. What we want to know now is, suppose that one of the individual operators has half of his chambers filled now with non-union men, and the commission should award a contract or should say that he ought to make a contract with you. What does that contract mean? Does it mean that you shall govern all the men in the mine with your rules and regulations, or does it mean that the contract only applies to those union men represented by you, and their relations with the operators?

Would Be Presumption.

A. I feel it would be presumption on my part to say to the commission—and I cannot say to you without saying it to the commission—just exactly what the commission should do. Their decision should be, I hope that whatever it is, it will do justice to everybody—that is all.

The Chairman: Mr. Burns, pardon me a moment. Of course, the commission will necessarily be governed by the terms of the submission.

Mr. Burns: It seems to me a little vague in that respect.

The Chairman: Of course, if it is vague it will be unfortunate, and we will have to make the best we can of it, but the submission is not a very long one, and we have considered that matter very carefully. It is contained in the letter of the operators, on the one side, to the president of the public, and the acceptance of the mine workers, on the other. That is the submission, and that, as we understand, defines our authority, and also defines the obligations of the two sides. I find, in the letter of the operators, at the close of it, after consenting that a commission be appointed by the president of the United States, if he is willing to perform that public service, to whom shall be referred all questions at issue between the respective sides, and their own employees, whether they belong to a union or not, and the decision of that commission shall be accepted by us, the commission, as follows: "That immediately upon the constitution of such commission, in order that illness and non-production may be avoided, the operators will return to work and cease all interference with or persecution of any non-union men who are working or who shall hereafter work in the mines, and will, upon which the operators offered a submission, which was afterward accepted, that the miners shall instantly return to work, necessarily implies that they shall have work to which they can return."

The Witness: That is the position we take in the matter absolutely, Mr. Burns. We take the position that we have been denied the right to return to work. Mr. Burns: That applies to the operators who signed that letter, but our people, whom I have referred to, are not the operators. They are here, why they become practically parties to this agreement. A bill in equity, you know, may be filed on behalf of the individual parties and all of those who shall thereafter come in and make themselves parties.

Mr. Burns: The section that you honor just read provides as to what shall be done immediately, and is identically for a temporary purpose; that is, that they shall return to work, but that, if it seems to me, does not furnish a permanent rule. It is very important for us to understand as to whether we are to be allowed to employ non-union men, and to retain those who have.

Finding of Commission.

The Chairman: That is a matter that will be involved in the finding of the commission, I take it. I think the understanding, so far as the commission can interpret it, is that pending the hearing, pending the consideration of the questions by this commission—that the strikers should return immediately to work; and I think it is further understood that we do not let us be misunderstood—had by the commission, is that non-union men should not be interfered with nor displaced from employment generally by the return of the striking miners.

Mr. Burns: And that the commission will take all these things into consideration in their final finding in regard to it. The Chairman: Well, I think we will have to.

By Mr. Burns: Q. One more question, Mr. Mitchell, perhaps I should ask you very heavily upon this. I understand the Eleventh Commandment is, "Thou shalt not take thy neighbor's job." Does that rule apply to the union people, and between union people? For instance, during the strike, a considerable number of your men went up and worked on farms, evidently supplying labor there that might have been done by the farm laborers themselves, and at a reduced price; and you are now offering for fifty cents a day and their board. Would you consider that as taking another man's job?

A. I do not understand that the strikers took other men's jobs. There is always, in the summer-time, temporary labor to perform on farms, and our people displaced no one, and did no work that had formerly been held by anyone. Q. Perhaps you are not as well informed about farming as I am, because I have been a farmer. It has been an opportunity for work is only in the summer, and some of them only for the hay and harvesting, as we call it. Now, if you and the union men took those jobs at the commencement of hay, they necessarily took the work away from those men who had been accustomed to do that amount of labor, and I was only asking you if you considered that as taking another man's job.

A. I cannot say it was taking another man's job unless it was a position formerly held by some other man.

Necessary Consequence.

Q. Then perhaps as a necessary consequence of that, some farmers' boys came down to work in the valley, and one of them, at least, I remember, went to work at a washery at Maryland, a few days afterward he was filled full of buck-shot and made a cripple for life. Do you consider that as taking one of your jobs? Was he coming down to take a job that belonged to you? He worked in a washery, where none of your men were employed before; certainly where none of your men were ready to take employment.

A. Well, I think it is rather an abstract proposition all the way through, and I should simply say that it was our contention that when a strike ends, the conditions of employment are stipulated—specieally, in this termination, we were to return to work, and the operators may have concluded themselves that we immediately return to work. The president of the United States says to us and to the miners: "I request you to go back to work." We do go back to work. Every man returns to work, and we say to the president, "We are going to work. We are going to our old jobs, and immediately we go there and are refused them. We have hundreds of men idle now—refused the right to go back to work."

Q. But in this particular case I am asking about, the strike had not ended, and there was no immediate prospect of ending it. Why not have let that man work peaceably until the strike was ended, and then raise the question?

A. I repeat that if anybody filled him full of buck-shot, it did wrong. It was a wrong act. And if it was our people, they certainly would be condemned for it and ought to be condemned for it. I do not know who did it; probably someone else.

Q. No one else apparently had a reason for doing it. The companies would not. The citizens would not. It was our people who had an enemy in the world. Now, in relation to a washery that was started entirely after your strike was commenced, did your men have any interest there, or any vested right or moral or legal right to interfere with the workmen who were employed at that washery, while they built and commenced to operate after your strike commenced, so that certainly they were taking none of your places?

They Had the Right.

A. Well, they had this right. They had the right to ask the men not to start to work at that washery until the strike was ended, and the operation of the new washery was going to contribute to the defeat of the general cause for which the miners were striking. They had no right to prevent them.

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"I had Catarth for 4350 years." "I had Catarth for 4360 years." "I had Catarth for 4370 years." "I had Catarth for 4380 years." "I had Catarth for 4390 years." "I had Catarth for 4400 years." "I had Catarth for 4410 years." "I had Catarth for 4420 years." "I had Catarth for 4430 years." "I had Catarth for 4440 years." "I had Catarth for 4450 years." "I had Catarth for 4460 years." "I had Catarth for 4470 years." "I had Catarth for 4480 years." "I had Catarth for 4490 years." "I had Catarth for 4500 years." "I had Catarth for 4510 years." "I had Catarth for 4520 years." "I had Catarth for 4530 years." "I had Catarth for 4540 years." "I had Catarth for 4550 years." "I had Catarth for 4560 years." "I had Catarth for 4570 years." "I had Catarth for 4580 years." "I had Catarth for 4590 years." "I had Catarth for 4600 years." "I had Catarth for 4610 years." "I had Catarth for 4620 years." "I had Catarth for 4630 years." "I had Catarth for 4640 years." "I had Catarth for 4650 years." 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