

Go 14. 2: Insurrection

Case Document

REPORT
TO
The Governor of Idaho
ON THE
Insurrection
in Shoshone County,
Idaho,
COMMENCING APRIL 29th, 1899.

(The Coeur d'Alene District).

BY

SAMUEL H. HAYS,

Attorney General.

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BOISE, IDAHO, JUNE 30, 1900.

HON. FRANK STEUNENBERG,
Governor of Idaho,
Boise, Idaho.

Sir:

In response to your request for a brief preliminary report in relation to affairs in the Coeur d'Alenes, particularly in regard to the legal steps taken, I submit the following:

As you come into the Coeur d'Alene district from the west you first arrive at the town of Kellogg, which is the railway station for the town of Wardner. Wardner is three miles up the mountain from Kellogg. The Bunker Hill and Sullivan and the Last Chance mines are located here. About ten or twelve miles to the east of Kellogg is the town of Wallace, the county seat of Shoshone County. Three miles north of Wallace is the town of Gem; seven miles north is the town of Burke. These towns are on what is known as Canyon Creek. The town of Mullan is seven or eight miles easterly of Wallace. The Tiger-Poorman, Mammoth, Standard, and other large mines are situated on Canyon Creek. Other important mines are situated at Mullan.

Wardner has a population of about 1500, Wallace about 2000, Gem and Burke about 600 or 700 each, and Mullan 400 or 500. The bulk of the population of Shoshone County it will thus be seen, is within ten miles of the town of Wallace and is entirely engaged in mining and industries connected with it. There is practically no agriculture in Shoshone County. The remaining population is scattered over hundreds of miles of territory. The towns of Burke and Gem are situated on Canyon Creek in a gulch so narrow that building space is extremely limited; so much so in fact that the mines of this district must be worked largely by men without families, there being insufficient room to construct dwellings. Conditions are different at Wardner.

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The mines of the Coeur d'Alenes began to attract attention in the early 80's and the towns in this district became typical mining camps. Little was heard of the difficulties in this region prior to 1892.

In 1892 a difficulty arose between the mine owners and the Miners' Union by reason of the interference of members of the Union with the operation of the mines. This led to injunction suits on the part of the mine owners and the Unions were enjoined from interfering with the operation of the mines. On the morning of July 11th a conflict took place between armed Union men and the guards and workmen at the Frisco mine and mill. The mill was utterly destroyed by means of giant powder, at the hands of the Union men. In the fighting which followed several men were killed. Governor Willey proclaimed martial law. The troops were sent in and quiet restored. The State undertook to prosecute a number of the parties for murder but they all escaped punishment. A cry was shortly raised for the removal of the troops, it being alleged that quiet had been restored and in November, 1892, the troops were removed. It is of interest here to notice the fact that ever since 1892 the 11th day of July, the day upon which these murders were committed, has been celebrated as a holiday by the Union in Shoshone County, public addresses being made and the people of the district subscribing for the celebration. The celebration of the Fourth of July has been almost abandoned. In a letter written by County Assessor Dowd which was found among the records of the Union he said that they were going to celebrate the 11th of July that year in grand style and that the "other people" were going to celebrate the Fourth, but he didn't think they would have much of a crowd.

I will now refer briefly to some of the more noticeable outrages which have occurred in subsequent years. Even before the removal of the troops in 1892 the following notice was posted at the mouth of the tunnel of the Gem mine: "Look out scabs. One more warning and the last one. Before this month is over, 1500 pounds of giant powder will be exploded and all in this mine will be sent to hell. If we cannot work the mines, no

one else shall." This was followed, immediately after the removal of the troops by a number of citizens who had been identified with the state in the prosecutions being forced to leave the country. They were treated in the most brutal manner, one man being tied on a hand car which was turned loose upon a steep incline. Others were hauled out of their beds at midnight and forced to leave without being permitted to take their personal property. On April 24th, 1893, managers of the Gem and Frisco mines were presented with a list of 25 names of men employed in those mines whom it was demanded by the Union, should be discharged. On July 11th, 1893, Peter Breen, now one of the attorneys for the dynamiters, said in a public speech: "We have given the mine owners a fight to the finish and if they are not satisfied we can give them some more." This speech it will be noticed was delivered on their celebration day, of the murders committed the previous year. On July 3rd, 1894, John Kneebone who had been the principal witness for the prosecution against the Union in 1892, and who had been many times threatened, having been in 1892 driven out of the country and almost fatally wounded, was murdered in cold blood, and in broad day light, by forty masked men, who came from the town of Burke. At the same time Superintendent R. K. Neil, Foreman Crumer, Frank Higgins and Charles West were taken captives and marched up the railroad track and notified to leave the country, which they did in order to avoid being killed. On July 14th, 1894, an attempt was made to blow up the electric power house of the Bunker Hill mine at Wardner. On July 16th, 1894, a grand jury was called for the purpose of investigating the death of Kneebone but they were unable to obtain testimony, such was the terrorized condition of the community. It must be remembered that Kneebone was murdered in broad daylight by masked men who marched nearly the entire length of Canyon Creek. The grand jury in its report said: "And yet though the grand jury has been in session for over a week, and though it is widely known throughout the country that we are sitting mainly for the investigation of this affair, and though liberal rewards

have been offered by the State and by the county for the apprehension of the murderers of Kneebone, not a resident of Canyon Creek has come forward to testify to the identity of those men; and, though rumor has it that many of these men were recognized by their prisoners, the exiled men have departed from the State of Idaho and evidently are afraid to return for the purpose of giving evidence before the grand jury." They found no indictment.

I quote further from their report as follows:

"It would be trifling with the subject not to recognize in our report that the outrage at Gem is but one feature, perhaps the ugliest one, of the unfortunate agitation which has been going on now for over two years in the ranks of labor in this country, embittering the hearts of men and paralyzing the industries of our country."

On December 22, 1894, a large number of non-union men were called from their beds and were allowed until daylight to pack their personal effects and leave, which they did.

On April 5th, 1895, J. J. Mills, of Wallace, was driven from his work at the Gem mine by a band of armed and masked men, and forced to leave the country.

On June 1, 1895, several other men were driven from the camp by armed and masked men.

On October 27, 1895, John Eckland was assailed, beaten, and driven out of the camp, and at the same time \$23.00 was taken from his person.

On May 10, 1896, another effort was made to destroy the Bunker Hill concentrator. The explosion of dynamite shook all the buildings within a radius of a mile. The machinery at the mill was stopped and electric lights went out almost instantly. Fortunately serious damage was not incurred, and the fire which broke out was extinguished by the employees of the Company.

On February 7, 1897, three men broke into the bedroom of one John Kopp, covered him with guns, and threatened to kill him if he did not leave the camp instantly. He made complaint against three parties, but

was driven from the camp before being permitted to testify and the parties were turned loose.

On May 10, 1897, Ed. Boyce, now the President of the Western Federation of Miners, and then a resident of Shoshone County, in an address at Salt Lake City, Utah, used the following language:

"I deem it important to direct your attention to article 2 of the constitutional amendments of the United States: 'The right of the people to keep and bear arms shall not be infringed.' This you should comply with immediately. Every union should have a rifle club. I strongly advise you to provide every member with the latest improved rifle, which can be obtained from the factory at a nominal price. I entreat you to take action on this important question, so that in two years we can hear the inspiring music of the martial tread of 25,000 armed men in the ranks of labor. I would recommend the adoption of a new ritual. The Constitution (of the Western Federation of Miners) should also be amended so as to declare all members of the National Guard ineligible to membership, and withhold our patronage and assistance from all companies and individuals or organizations where any member of the National Guard is employed or admitted to membership."

We should add here that no man is permitted to join the Union in the Coeur d'Alenes at least, who has ever been a member of the National Guard.

It will be seen that the suggestions of Boyce were soon taken advantage of. During the year 1895 several companies of Idaho National Guard were organized in the Coeur d'Alenes, and on May 13, 1897, five days after the above suggestions of Boyce, six masked men entered the hotel at Mullan, in Shoshone County, about eleven o'clock at night. The parties in the hotel were ordered to turn their faces to the wall, and the bartender was ordered to deliver possession of the arms belonging to the State. Forty-six Springfield rifles and about 10,000 cartridges were taken. The stolen property was never found, but the evidence disclosed in the late prosecutions is to the effect that these same

guns were used by the Union in part upon April 29, 1899.

Men were driven out of camp from day to day, scarcely a week passing without some outrage being committed upon law abiding citizens by the dynamiters.

On April 17th, 1897, the Board of County Commissioners of Shoshone County in sympathy with the dynamiters petitioned the Governor of Idaho to disband the militia in that county. They gave as a reason for their request that "the said military organization is a source of discord and uneasiness to all citizens of the locality referred to who do not belong to the organization." On December 23rd, 1897, Frederick D. Whitney, foreman at the Helena and Frisco concentrator, was brutally murdered by masked men who took him out of bed at 11 o'clock at night. Although a reward of \$17,000.00 has been offered for the parties guilty of this crime, no indictment has ever been found, and no effort made by the county authorities to discover the murderers.

In January, 1898, a number of parties were driven from the camp, some being badly injured. In October, 1898, Dan Conner, shift boss at the Standard mine was ordered to get out of the country, by masked men armed with revolvers, which he did. These are but a few of the numerous outrages which have occurred from 1892 down to the difficulties of April 29th, 1899. There were numerous other cases. To illustrate, Judge Heyburn told me that a man mysteriously disappeared on Canyon Creek. He was requested to hunt him up if possible. Shortly afterwards two persons from Canyon Creek pawned a watch belonging to the missing man at Missoula, Montana. No other trace of him has ever been found.

It only remains to say that these various outrages remained wholly unpunished and such a "reign of terror" existed that nothing could be done in the way of prosecuting the offenders.

In the early part of April, 1899, difficulties in regard to wages arose at Wardner. The Bunker Hill and Sullivan mine was paying \$2.50 and \$3.00 per day, wages. It should here be stated that the conditions for labor

were more favorable at Wardner than on Canyon Creek. At Wardner the mines are dry. On Canyon Creek they are deep and very wet necessitating an added expenditure of probably \$10.00 per month per man, for necessary rubber clothing. On the 13th of April the following notice was posted: "At a regular meeting of the Wardner Miners' Union, No. 18, W. F. M., held on the above date, it was decided to request all men employed in and about the Bunker Hill and Sullivan mines to make application for admission into the Wardner Miners' Union at once.

"M. A. FLYNN,
"Committeeman."

It will be observed that the miners in the Bunker Hill and Sullivan were not members of the Union and this notice was intended to coerce them into becoming members.

About this time, Edward Boyce, well known in the State of Idaho, and president of the Western Federation of Miners, visited Wardner and met with the Union. A few days afterwards the Union made a demand for an increase of wages. This was not conceded at once, and the employees of the Bunker Hill and Sullivan mine were met and threatened by armed men and required to join the Union. On the 26th day of April the Bunker Hill and Sullivan mine notified its employees of a raise in wages agreeing thereafter to pay them \$3.00 and \$3.50 per day according to the character of the work performed.

Not satisfied with the raise in wages, the Union next demanded that the Bunker Hill and Sullivan mine "should recognize the Union." This they declined to do.

It has been the policy of the Cœur d'Alene Miners' Union for many years past to prevent the employment of any persons other than members of the Miners' Union, in these mines. In this they have been successful at all mines except the Bunker Hill and Sullivan.

The demand for recognition of the Miners' Union having been refused, the Miners' Unions of Wardner, Burke, Gem, and Mullan were, on the morning of April 29th, called together by the union officers meet-

ing in the Union halls and discussing the question as an organization. At these meetings it was decided to go to Wardner. Some of them voted to mask, others did not.

The Mullan Union marched from Mullan to the town of Wallace when between the two towns the leaders procured a large number of guns at a farm where they were hidden. The unions of Gem and Burke armed themselves and masked. They seized a train on the Northern Pacific Railroad, about 800 of them got on board, taking a large quantity of dynamite, ran the train to the town of Wallace where they were joined by the Mullan Union; then ran the train across to the tracks of the O. R. & N. Co., thence to a point within about a mile of the town of Wardner, or Kellogg, where they met the Wardner Union by appointment. This Union then boarded the train and the train proceeded to Kellogg. The train stopped at the station, the rioters unloaded the dynamite, the men were lined up, the orders being given "Wardner Union to the front;" "Burke Union to the front," etc.

They then marched to the mill, placed the dynamite in the mill, and exploded it, completely destroying the mill.

On their return they fell in with some of the employees of the Bunker Hill and Sullivan Company, among others, James Cheyne. He was taken prisoner and held for some time. Afterwards members of the Company who had him in charge, told him to run, others told him to halt, and when he started to run he was fired on by several of them. One shot took effect and he died two or three days afterwards. Another person named Rogers was slightly wounded.

One of the rioters named Smith was also killed. The rioters boarded the train again and returned home. It should here be stated that the Bunker Hill and Sullivan Company had previously notified the county commissioners of the dangerous condition of affairs and on the morning of April 29th, the sheriff had been requested to permit the appointment of deputies to protect the property. The commissioners ignored the matter and the sheriff denied the request, claiming

that he had a deputy in Wardner who was competent to handle the affair. It would appear that this deputy purposely refrained from doing anything to prevent the difficulty. James D. Young, the sheriff of the county, rode down on the train with the rioters from Wallace to Wardner and according to his own testimony, made no bona fide effort whatever to preserve the peace. One of the rioters was asked by the correspondent of a Spokane paper, who that was, pointing to the sheriff, and was told "that's Jim Young and he is all right."

This same sheriff some days before on being asked for information notified the State authorities that all was quiet and that he could handle the situation.

On April 29th a request was made by the State authorities to the President for troops to suppress the difficulty. This request was granted, the troops going into the county about the third of May. At the same time, the county was, by proclamation, declared by the Governor to be in a state of insurrection.

I accompanied General Merriam to Shoshone County, arriving on the third or fourth of May. I had previously directed that the meeting of the coroner's jury about to be held, should be conducted with closed doors after the manner of a grand jury.

I had never been in Shoshone County before and was entirely unacquainted with the people and the country. I found Ex-District Attorney C. W. Beale at Wardner, also Judge Lindley of San Francisco. Mr. Beale kindly offered to assist me in the work before the coroner's jury. Judge Lindley did the same. I accepted their offer because I found it necessary to acquaint myself with the conditions existing before I could take up work with the coroner's jury. Mr. Beale aided me for several days and Judge Lindley continued to aid me until Mr. Forney was employed. I encountered this difficulty. The State had wholly failed in previous difficulties of this kind, the community was completely terrorized, and those who knew the facts were afraid to testify. I assured them that the State would protect them, but they cited the Kneebone case and pointed out that this was impossible. That the State had utterly failed to prevent the crimes of the last seven or eight years and that as soon

as the soldiers were withdrawn from the county that the old order of things would be restored.

Witnesses appearing before the coroner's jury were threatened and the Idaho State Tribune published at Wallace intimated that the Bunker Hill Company unless it changed its policy would "need military protection continuously for forty years after their new mill is completed."

In the condition of things that existed the State was helpless and if the criminal element was continued in employment in the mines it was only a question of time until the same kind of difficulty would arise again.

The price of lead was good, competent miners were hard to find, and the mine owners did not wish to delay the operation of their mines.

It was obvious that the situation was in the hands of the mine owners of Shoshone County. By employing criminals in their mines they had in a way permitted these outrages, but by the employment of law abiding citizens, they could prevent them.

Seeing this difficulty, I asked Mr. Bradley, the president of the Bunker Hill and Sullivan Company, to get a meeting of the mine owners of the district for the purpose of discussing the situation. This was done and a meeting had in Spokane, on May 7th, 1899. At that meeting there were present the representatives of all the mines of the Cœur d'Alene district, Mr. C. W. Beale, an attorney of Wallace, Idaho, and myself.

I stated to the meeting that it was the desire of the State administration to put an end to the troubles in this district. That this was the third time that troops had been called in and that we wished it to be the last. That these difficulties had arisen owing to the class of persons employed in the mines. That if law abiding citizens only were employed, the difficulty would be at an end. I asked their cooperation to the end that none but persons of good character should be in the future employed by them. After stating the case to them I was very much surprised to find that no concert of action could be secured. They believed that the State would fail in this emergency as it had always failed before and that there was no remedy for the existing

conditions. For various reasons which they stated and some which they did not state, they declined to do anything. The situation was desperate. If nothing could be done, failure was certain.

The State was confronted with this situation: Witnesses were terrorized to such an extent that they were unwilling to testify; the principal county officers with the exception of the clerk of the court and coroner were the friends and sympathizers of the dynamiters; the jury panel was made up of the same class, and the State had to its credit an unbroken list of failures covering a period of nearly seven years.

I then stated to the mine owners that if they would not do anything to prevent these difficulties, that during the existence of martial law, the State would see to it that they did not employ criminals in their mines.

It had already been shown in the evidence before the coroner's jury that in the outrages of April 29th the Union had acted as an organization, had met at the call of the officers of the Union in the Union halls, had voted on the question as to whether or not they should go masked and armed, and had gone in a body to the scene of difficulty. These facts were also subsequently proven to the satisfaction of the jury in the Corcoran case.

Shoshone County had been the home of Edward Boyce and the local Unions were particularly dominated by his criminal leadership. The legitimate purposes of a trade-union had been lost sight of and Boyce had declared himself not a trade-unionist. In a letter written to Samuel Gompers March 16th, 1897, published by order of the Executive Council of the American Federation of Labor, (see Senate Document 42 1st Sess. 56th Congress) he says as follows:

"BUTTE, MONT., March 16, 1897.

"SAMUEL GOMPERS,

"President American Federation of Labor,

"Washington, D. C.

"Dear Sir and Brother:

" * * * * * With reference to us making application to the A. F. of L. for financial assistance to carry on the Leadville strike, I wrote you to that effect

on the 16th of February but received no reply. I presume you did not receive my letter or I would have received an answer. However, I will say that is of little consequence; *there is an easier way of winning the battles of labor; much easier than sitting down in idleness until the capitalists starve us to death in idleness and hunger.* * * * * * You will remember that I told you in Cincinnati that I had not been east in fifteen years, and I never was so much surprised in my life as I was at that convention, when I sat and listened to the delegates from the east talking about conservative action when 4,000,000 idle men and women are tramps upon the highways, made so by a vicious system of government that will continue to grind them further into the dust unless they have the *manhood to get out and fight with the sword* or use the ballot with intelligence.

"You know that *I am not a trades unionist; I am fully convinced that their day of usefulness is past;* and, furthermore, since last election there is little sympathy existing between the labor men of the west and their eastern brothers.

"I leave for the Black Hills in a few moments, so you will please excuse the brevity of this letter. I will be in Butte about the first of April, and will be delighted to hear from you, when I will have an opportunity of writing you more fully.

"Fraternally yours,

"ED. BOYCE."

This same Edward Boyce, while President of the Western Federation of Miners, at Salt Lake City, May 10, 1897, delivered an address, a part of which has been already quoted, in which he said:

"The army of tramps and criminals is daily increasing, and yet over four million human beings are denied the right of employment. Corporations are constantly reducing the wages of their employees, fastening upon them a bondage from which there is no escape; if the latter object they are easily suppressed by the courts of our country; these august tribunals that stand ever ready to execute the will of their corporate masters, before whom labor has no rights that capital is bound to re-

spect; *they are shot down by those thirteen-dollar-a-month murderers that compose the National Guard.* Such is the condition of the American in a land capable of supporting five times its present population. * * * * *

"Third. I deem it important to direct your attention to article 2 of the constitutional amendments of the United States: 'The right of the people to keep and bear arms shall not be infringed.' This you should comply with immediately; every union should have a rifle club. I strongly advise you to devise ways and means *to provide every member with the latest improved rifle,* which can be obtained from the factory at a nominal price; *I entreat you to take action on this important question,* so that in two years we can hear the inspiring music of the martial tread of twenty-five thousand armed men in the ranks of labor. * * * * *

"Sixth. I would recommend the adoption of a new ritual. The constitution should also be amended so as to declare all members of the National Guard ineligible to membership, and withhold our patronage and assistance from all companies and individuals or organizations where any member of the National Guard is employed or admitted to membership."

As has been before mentioned this speech was followed by the stealing at the town of Mullan of the arms belonging to the State. It will also be noticed that less than a month prior to that time the county commissioners of Shoshone County had petitioned the Governor to disband the militia in that county.

Having these matters in view and knowing that unless an unusual effort was made the State would again be disgraced by a failure to enforce the law, I drew up the following notice which I read to the mine owners:

"Whereas, the Miners' Unions of the Coeur d'Alene country have shown themselves to be criminal organizations, inciting men to commit murder and destroy property, and whereas by reason of their acts it has been twice necessary to declare martial law in Shoshone County, and whereas the said Miners' Unions of Shoshone County have, as organizations, incited and procured said crimes to be committed.

"It is therefore directed that during the continuance

of martial law, no persons belonging to said criminal organizations be permitted to be employed in said county, and that any mine in said county employing members of said criminal organizations, be closed."

I mailed a copy of this notice to Bartlett Sinclair and requested him to put it into operation and effect. The next day the following proclamation was issued:

"PROCLAMATION.

"Whereas the following notice has been served upon the mine owners of Shoshone County by the duly constituted State authorities, by whom martial law has been declared, to-wit:

" 'To the mine owners of Shoshone County:

" 'Certain organizations or combinations existing in Shoshone County have shown themselves to be criminal in purpose, inciting and, as organizations, procuring property to be destroyed and murders to be committed, by reason whereof it has been twice necessary to declare martial law in Shoshone County.

" 'You are therefore notified that the employment of men belonging to said or other criminal organizations during the continuance of martial law must cease. In case this direction is not observed your mines will be closed.'

"Therefore in order to carry into effect the spirit of the foregoing notice and restore the industries of the district as far as possible, it becomes necessary to establish a system by which miners who have not participated in the recent acts of violence, and who are law abiding people, may obtain work, and that order and peace may be established, the following is promulgated for the guidance of all mine owners and employees in the affected district:

"All parties applying for underground work in any of the following mines will be required to obtain from Dr. Hugh France, the duly appointed and authorized agent for the State of Idaho for this purpose, or his deputy, at Wardner, or at Wallace, a permit authorizing said person to seek employment in any of the following mines: Bunker Hill and Sullivan, Last Chance, Empire State, Idaho, Consolidated Tiger, Poorman, Hecla, Mammoth, Standard, Helena-Frisco, Gem,

Morning, Hunter and such others as may be hereafter included in the above list. Parties applying for such permits must be prepared: First, to deny all participation in the riots of April 29th, 1899, in Shoshone County, and, second, to deny or renounce membership in any society which has incited, encouraged, or approved of said riots or other violation of public law.

"Mine owners must refuse employment to all applicants for underground work who do not present a duly signed permit authorizing the same. Such permit will be deposited in the mine owner's office subject to periodical inspection.

"All parties now under employment by any of the mines above named will be required to procure, within ten days from this date, the permits above referred to, as a condition to their remaining in the service of their respective companies.

"By order of the Governor and commander-in-chief.

"BARTLETT SINCLAIR,

"State Auditor.

"Examined and approved:

"H. C. MERRIAM,

"Brigadier-General United States Army.

"Dated May 8, 1899.

"The application for permits to seek employment which union men must sign is as follows:

"APPLICATION FOR LEAVE TO SEEK EMPLOYMENT IN THE MINES OF SHOSHONE COUNTY.

"To Dr. Hugh France,

"State Representative.

"Sir:

"I hereby make application for issuance to me of a permit allowing me to seek employment in the mines of Shoshone County.

"I am a.....by occupation.

"I am a native of.....and am a..... citizen of the United States.

"I last worked at the mine in.....

"My shift boss was.....

"Heretofore I have been a member of..... Miners' Union.

"I did not participate actively or otherwise in the

and those that were not at work. The number engaged in the difficulty was so large as practically to cover the entire mining population. It was almost impossible therefore to make a mistake in the arrests. A very large number of arrests were made and the prisoners were gathered together in what was popularly known as the "bull pen." Some persons were arrested by mistake and these were released in a few days. A very large number of persons, who, although technically guilty of crime, were not morally guilty, were discharged as soon as the situation was discovered. Earnest efforts were made to ascertain the facts. Hearings were conducted nearly all day for a month by Bartlett Sinclair and also before the coroner's jury and men were released as fast as it was found proper. The men thus released were minor offenders who had taken little active part in the crimes of April 29th. It is sometimes stated by men who have no knowledge of the facts that a large number of innocent persons were arrested and detained without warrant, and were held in custody an unreasonable length of time. These are not the facts. As I have before stated a thousand men, practically the entire male population, engaged in these riots and the men who remained at work were well known. Very few mistakes were made in the arrests. To have proceeded by complaint before a magistrate would, owing to the nature of the crimes, the large number of witnesses to be examined, and the large number of persons involved, have taken a much longer time, and thereby occasioned a longer imprisonment for the defendants, and added greatly to the public expense.

These examinations conducted in the usual way and utilizing every working day would have taken at least two years to complete. The fact that a large number of the men were released without being brought to trial is sometimes cited as proving that many innocent persons were arrested. Such is not the case. The item of expense in boarding prisoners was necessarily so large that it was the desire of the State to hold as few prisoners as possible. In this mob of a thousand persons were many who were present because they dared not offend the leaders by staying away, many others were present who took

only a minor part. Under our Statutes persons guilty of a felony are entitled to a separate trial, and this of course each defendant would demand. It will therefore be seen that in addition to the enormous expense, that it would take several years to try these cases. The State cannot ask for a change of venue. The defendant can, but the attorneys for the defense declined to do this and insisted on a trial in Shoshone County, where fear of death was likely to retard the witnesses from testifying. The facts were so well known and so large a proportion of the population were in the mob that there were only six or seven qualified jury panels in the county.

The State therefore adopted the policy of trying the principal offenders and releasing the minor offenders. All of the principal and most of the minor offenders were indicted either in the State or United States Court.

Paul Corcoran was tried and convicted of the crime of murder in the second degree. He was sentenced to imprisonment for the term of seventeen years.

Eight other leaders escaped from custody a few days before the time set for trial. This disarranged the plans of the State and left in custody only those against whom minor offences could be proven. Shortly afterwards thirteen of the prisoners were tried in the United States Court at Moscow and ten of them, to-wit: Dennis O'Rourke, G. R. Burris, Edward Albinola, Louis Salla, Henry Maroni, John Luchinette, Arthur Wallace, P. O'Donnell, Mike Maloey and Francis Butler were found guilty.

The legal proceedings taken in connection with these difficulties were as follows:

Petition of Wm. Boyle for writ of habeas corpus in District Court. Writ denied.

Petition of Wm. Boyle for writ of habeas corpus in Supreme Court. Writ denied.

Writ of error to Supreme Court of the United States in Boyle case. Writ dismissed.

Petition of Paul Corcoran for writ of habeas corpus in Supreme Court. Writ denied.

State vs. Paul Corcoran, trial in District Court. Verdict of guilty.

State vs. Paul Corcoran, on appeal to Supreme Court.
Judgment affirmed.

S. H. Hays vs. Jas. D. Young, sheriff; removal from office; removal ordered and affirmed on appeal.

S. H. Hays vs. Moses Simmons et al. county commissioners, removal from office; removal ordered and affirmed on appeal.

It will be observed that the State has been successful in all of these cases.

Respectfully submitted,

SAMUEL H. HAYS,
Attorney General.