## ARGUMENTS IN

Senator Borah I. les to That Made by Clarence Darrow in Behalf of Defendant.

FOLLOWED BY RICHARDSON.

Point Involved Was the Proposition to Exclude from the Jury's Consideration Certain Evidence. . .

July 18 .- A day of argument on the admissibility of points of evidence, followed the announcement from the defense that they had no further witnesses to offer in behalf of William D. Haywood. The jury was not brought into court, Judge Wood having been informed by counsel of their decision to rest without offer of sur-rebuttal. Clarence Darrow spoke for an hour and a half of the morn ing session. Senator Borah replied in

ing session. Senator Borah replied in the afternoon, and was followed by E. F. Richardson. Judge Wood will probably amnounce his decision to morrow morning.

The point argued was the proposition to exclude from consideration by the jury the evidence offered by the defense to show, by proof of deportation of miners from and the employment of detectives in the Cripple Creek district of Colorado, that a conspiracy was formed among the mine owners and the citizens of the district to prevent the employment of members of the Western Federation of Miners.

The position taken by the Haywood defense was that Harry Orchard was employed by the Mine Owners' assoemployed by the Mine Owners' asso-ciation through detectives to commi-crimes, which were then charged to the federation, and public opinion was aroused against the union workers, and it therefore followed that if Colorado evidence for the state was admitted the defense had the right to show a counter conspiracy. The reply of the state was that the de-fense had failed legally to connect their case in these particulars and therefore their evidence merely contherefore their evidence merely con-

their case in these particulars and therefore their evidence merely confused the issue.

In the absence of the jury the argument gave counsel an opportunity to take a wide range in commenting on the methods employed by both sides. Mr. Darraw was impassioned and vituperative. He bitterly assalled Orchard and the Pinkertons. He maintained that Orchard's story connecting Haywood and the Western Federation with the various crimes to which he has confessed had not been corroborated; that the Vindicator mine explosion was an accident; that the Independence depot explosion, where 14 men were killed, was planned by K. C. Sterling and D. C. Scott, railroad detectives, and that the Pinkertons sent men into the district to join the unions and incite the members to riot and disorder. Incidentally he said the Bradley incident in San Francisco was due to an explosion of gas, as shown by the evidence for the defense, and that Haywood had not been connected at any point with any of the overt acts confessed to by Orchard, except by the discredited testimony of Orchard himself.

Senator Borah confined himself to the legality of the question of admissibility. He spoke for an hour, forcefully reviewing the evidence and the claims made by the defense, which, he said, had failed to show by any member of the alleged conspiracy between the mine owners and the Pinkertons that any such conspiracy existed. He took the position, and quoted authorities to show, that a conspiracy can only be considered after the introduction of direct evidence of a conspirator.

Mr. Richardson argued that a conspiracy had been shown by the contrib-

a conspirator.

Mr. Richardson argued that a con-Mr. Richardson argued that a conspiracy had been shown by the contributory effect of all the evidence introduced by the defense, and closed with the statement that if the court saw fit to exclude the evidence bearing on the Colorado situation introduced by the state, counsel for the defense would be satisfied to see their evidence barred from consideration. Judge Wood stated that in all probability he would decide tomorrow.

Pinkerton detectives, the Mine Owners association and the Citizens' alliance to drive the Western Federation of Miners out of Colorado and that many of the

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the sores with Cuticura Gintment on soft bandages after washing with warm water and Cuticura Pills. In two weeks he was almost cured, and after the steady use of Cuticura Remedies for two or three months Leannow say that I have one of the finestcoys in town, and I tell allmy neighbors that he owes his health to Cuticura. Later my little daughter was all covered with sores on her face and body. I didn't waste much time or money with doctors, as I had done when my boy was sick, but used the Cuticura Remedies on her, and now my little girl is entirely cured. I send you her photograph to show how she looks after we used Cuticura. I know of several other cures which Cuticura Remedies have effected, including that of our domestic. Miss S.—, whose face was covered with mosquito bites which she scratched until they became a mass of sores and which she cured in not time with Cuticura Ointment. Our whole family joins in sending their thanks and praise for all that Cuticura Remedies have done for us, Mrs. Rose Floss, 1296 W. Madison St., Chicago, Ill., Nov. 3 and Dec. 3, 1906, and Jan. 24, 1907."

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as incidents of the conspiracy to get rid of the union miners.

"But when we come to sift the matter out." continued Senator Forah, "what do we find? That the conspiracy had nothing to do with the Vindicator explosion where Beck and McCormick were killed. That was an accident. The conspiracy had nothing to do with the attempt on Bradley. That was a gas explosion. The conspiracy had nothing to do with the death of Steunenberg. That was the personal revenge of Harry Orchard. The conspiracy had nothing to do with the death of Lyte Gregory. That was the result of personal dificulties. The conspiracy had nothing to do with the attempts on Justice Gabbert and Gov. Peabody. They were the results of political feeling.

DENIES CONSPIRACY.

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"Suppose we admit for the sake of argument that a conspiracy existed, that fact has not been shown here by any competent evidence under any rule any competent evidence under any rule of law. I am not going to argue this case on the lines laid down by Mr. Darrow, that they have not the right to prove a counter conspiracy—I am not going to oppose the principle that they have a right to prove it—but what I contend is that they have not proved it. contend is that they have not proved it.
Let them put some member of the conspiracy on the stand and prove that the
conspiracy is responsible for the crimes
complained of. Testimony as to a conspiracy must come at first hand and
cannot be accepted from a third party
who knows only by hearsay."

After quoting at some length from authorities on conspiracy law, Senator

duced by the defense, and closed with the statement that if the court saw fit to exclude the evidence bearing on the Colorado situation introduced by the state, counsel for the defense would be satisfied to see their evidence barred from consideration. Judge Wood stated that in all probability he would decide tomorrow.

BORAH'S ADDRESS.

Senator Borah began his address in reply to Mr. Darrow at 1:40 p. m. He said that counsel for the defense in his opening address to the jury claimed that a conspiracy existed between the Plinkerton detectives, the Mine Owners' association and the Citizens' alliance to drive the Western Federation of Miners out of Colorado and that many of the

bounds called off by Sterling was on Orchard's trail, Senator Borah said that more than a thousand people had been around the depot before the dog arrived and that Orchard mounted a horse about a mile from the depot.

"The dog seemed to overlook this fact," said the senator, "for he was eight miles from the scene when called off."

"Let the jury say as to what they believe as to the dog," interrupted At-ty. Richardson.

LAUGHABLE MISTAKE.

LAUGHABLE MISTAKE.

"Oh, no," said Senator Borah, "I am going to have something to say as to that right now. There was a time when the testimony of bloodhounds was acceptable but that was before Abraham Lincoln signed the Declaration of Independence."

The senator was interrupted by a ripple of laughter in the crowded courtroom. Evidently intent upon his argument he old not see the mistake for some moments. Then he laughed too.

toe.
"I should have said the proclamation of emancipation," he explained, "but all the same it was a declaration of independence to some 4,000,000 peo-

all the same it was a declaration of independence to some 4,000,000 people."

Reading the authorities as to the admissibility of the action of bloodhounds. Senator Borah quoted from one which said that while the testimoney of such dogs had sometimes been acted upon by mobs, it had been accepted in a court of law only once—in Alabama—and then as expert testimony, the founadtion for which had been laid by a thorough qualification of the dogs as to what they had done in their way of tracking persons. The dog put on the trail after the Independence depot affair was not qualified by the defense.

With regard to the Pinkertons' connection with the case, Senator Borah said there was absolutely nothing in the testimony of the witness Friedman or in the documents he stole from the archives of the Pinkerton office anything to connect the detectives with any of the crimes under investigation. Friedman admitted that the Mine Owners' association was not a client of the Pinkertons. Some individual mine owners were clients, but that was all.

"The defense makes much of the fact that Pinkerton Operative Riddell went down to Telluride and Joined the union and talked anarch— He did not go there until after Arthur Collins had been killed and two men had disappeared and the more he talked anarchy the higher he climbed in the union. Riddell talked because he believed in doine what the Romans did. But where is there one bit of evidence to show that Riddell was connected in any way with any crime hereunder given or any crime whatsovers."

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sever?"

Senutor Borah said the state did not wish to strike out any of the evidence introduced by the defense as to Bradley or the Vindicator incidents, as he believed it legal, but he said there was nothing in support of the contention that the Mine Owners' association had been responsible for any of the crimes alleged.

Upon Senator Borah's conclusion Atty. Richardson arose to make the closing argument for the defense.

RICHARDSON REPLIES.

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He said that very little had been heard in the case of the actual issue involved—the assassination of Gov. Steunenberg. If there had been evidence to directly connect with this offense the Colorado troubles would never have been heard of. But the state was reduced to the claim that the killing of Steunenberg was but a mere incident of the glant conspiracy and in an effort to prove a conspiracy had to go to Colorado to get hold of widely separated circumstances.

Orchard was not a member of the

Orchard was not a member of the conspiracy set up by the state, Richardson declared, but all he claimed was that he was the instrument selected from time to time to carry out some individually given instruction.

individually given instruction.

"Orchard said Haywood employed him to do certain things and the state attempts to connect him by a set of circumstances. Haywood comes in and says I will show a set of stronger circumstances against someone else. I claim and urge it upon your honor that all of this evidence should go to the jury or none of it. You cannot convict these men of the killing of Steunenberg for what happened in Colorado."

Colorado."

Coming at the time it did, Richardson said, the Independence explosion meant suicide to the Western Federation of Miners in the Crippie Creek district—it meant suicide to the Mine Owners' association in their fight against the federation, was what they desired and all they could wish for—but it was the most unvise, the most foolish thing that anybody connected with the federation could devise.

Leaving Orchard's uncorroborated testimony out of the proposition, he said the circumstances indicated a far stronger motive on the part of the Mine Owners' association than the Western Federation of Miners.

Mr. Richardson concluded at 3:35. Judge Wood announced that he might be prepared to decide the matter in the morning. Court then adjourned until tomorrow morning at 9:30.

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TOBACCO TRUST SUIT.

Service Has Been Had on All the Defendants.

New York, July 19 .-- In the suit reently instituted by the United States against the American Tobacco company and a large number of co-defendants United States Marshal Henkel has completed his service. The marshal served 21 corporations and the following individual defend-

ants:

James B, Duke, Caleb C. Dula, Percival Hill, Thomas J. Maloney, William K. Harris, William H. McAllister, Benjamin N. Duke, Herbert D, Kingsbury, William W. Fuller, Robert B. Duke, George C. Alllen, Rufus L. Patterson, and George A. Heime.

No service could be made upon Thomas F. Ryan, Anthony N. Brady, H. M. Hanna, Pierre Torilord, Grant B. Spray, or Peter A. B. Widener, all being absent on their vacations, Seven corporations located out of the Southern district of New York, will be served by other marshals.

"APOSTOLIC LIGHT" MISSION.

Spokane, Wash., July 18.—Leaders in the "Apostolic Light" mission in this city have announced the names of nearly 30 residents of Spokane and vicinity who have declared their intention to go as missionaries to China, India, Africa and other lands. No provision is to be made for their support and they are expected to take little or no money except that required to pay their passage on the ships. Neither are they to study the languages of the countries to which languages of the countries to which they go. The claim is that they have received the miraculous gift of ton-gores and will be enabled to speak without study. One missionary has already started to South America.

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