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10 PAGES—LAST EDITION

ORCHARD AGAIN CONTRADICTED

**Max Malich Swears Proposition
Was Made to Him to Burn
Non-Union Store.**

REFUSED TO ENTERTAIN IDEA.

**He Was Introduced to Orchard.
Alias Thos. Hogan by Pinkerton
Detective Named Grattias.**

**Heard Him Call Gov. Steunenberg Vice
Names, Saying but for Him He'd
Be a Millionaire.**

Boise Ida., July 2.—Max Malich, another of the men implicated by the testimony of Harry Orchard, made his appearance today as a witness in behalf of William D. Haywood. He directly contradicted all of Orchard's story relating to him. Malich was the leader of the Austrian smelter workers at Globeville and conducted a saloon, store, and hotel there during the strike. Orchard testified that Malich proposed to him that he dynamite a hotel at Globeville filled with non-union men, and offered him \$100 to blow up the store of William McDonald, a business rival, and privately informed the prosecution that Malich had burned himself with "Petibone dope" while preparing to burn his own store, and had later burned his store with "Petibone dope," and that Malich had agreed to help him with an alibi when he killed Detective Lyte Gregory.

Malich swore that Orchard had proposed destroying the non-union hotel and the killing of McDonald, and that he had refused to have anything to do with either crime. He also denied all knowledge of "Petibone dope" of its use in his store and swore that Orchard told him that but for Gov. Steunenberg he would be a rich man, and that he would kill him.

An interesting witness called just before adjournment was Edward L. McParland, a brother of Capt. James McParland, the head of the Western Division of the Pinkerton agency. McParland gave a graphic description of his deportation from Victor where he was a shoe-maker at the time of the strike. He said that he was subjected to many indignities and sent away from the town with other men.

MAX MALICH CALLED.
Max Malich was called to the stand immediately after the opening of court today. Malich is a carpenter and miner. He was a snuffmaker at Globeville, Colo., at the time of the strike in 1902. Malich said he was an Austrian, as were most of the men in the Globeville smelters.

"Did you know a man named Harry Orchard, alias Thomas Hogan?" asked Atty. Richardson, who conducted the examination.

"I was introduced to him as Tom Hogan by a Pinkerton detective named Al Grattias," Malich said.

Malich said he did not know that Grattias was a detective at this time, for he was working secretly and was acting as a member of the non-union movement. The witness said it was in February, 1905, that he met Orchard, who was then living with Steve Adams and his wife. Malich had been a proprietor of a small hotel and bar at this time.

Orchard testified, it will be remembered, that Malich had suggested to him to blow up the non-union hotel, where 150 non-union miners were living and had helped him steal 100 pounds of dynamite from the Union Pacific powder house.

Malich declared today that this testimony was all false. He said Orchard or Hogan came to him one day and said: "What is the matter with you folks out here? The scabs are getting the best of you. Why don't you blow that damn hotel off the earth?"

He said he replied: "Tom, I wouldn't stand for it under no circumstances. If you do anything like that I am going to denounce you."

After this the witness said Orchard told him he was just joking.

Malich said he knew nothing about the taking of any power from the Union Pacific.

The witness was once a member of the city council of Globeville. He declared two attempts had been made to burn the place down in January, 1905, and the 27th of April, 1905, after Orchard had left Globeville.

There had been a card party in the hall of his hotel the night of the 27th, Malich said, given by the city auxiliary in charge of strike relief.

to find out who attempted the outrage. He saw Orchard in the month following. This time Orchard told him the smelter company's store was taking all his trade away from him.

He offered to "do up" William McDonald, the proprietor of the store for \$100. Malich said he told Orchard that he had all the trade he wanted and he wouldn't have anybody killed on his account.

LOANED ORCHARD MONEY.
The next time he saw Orchard was when the man was writing out his insurance. He lent Orchard \$30 which was sent back to him from Rocky Ford. Asked as to Orchard's financial condition the witness he lived with Steve Adams, Malich said he had to let Orchard have money five or six times, being paid back when the latter "made a raise" at gambling.

He never saw a "hoon" in his life yet.

CROSS-EXAMINED BY BORAH.
The witness was cross-examined by Senator Borah. He was required to trace his movements from the time of his arrival in this country in the early 80's down to the present time. He first met George A. Pettibone, when Pettibone was selling clothes wigwags and rugs. He denied ever having given Pettibone his proxy to the 1903 convention of the Western Federation of Miners.

"How long was it after you went out to your ranch before you saw Pettibone?" asked Senator Borah.

"Three days," Malich replied.

"Did you have a talk with Orchard just before leaving?"

"No, sir," Malich replied.

"How much insurance did you have on the place?"

"About \$5,000," Malich replied.

"You taken out some insurance recently?"

"No," Malich replied.

"Hadn't some goods been taken from your place before the fire and taken to Pettibone's store?"

"No, sir," Malich replied.

"You never heard of that?"

"No, sir," Malich replied.

"There was a fire in your place the day after the saloon and business part was burned?"

"Yes, sir, they told me so," Malich replied.

Malich next was questioned as to the acid which he had used in the strike.

"Didn't you go to Pettibone's store with your burned hand bandaged up and didn't he laugh at you and didn't you reply: 'It's not so bad'?"

"I don't remember any conversation with Pettibone about my hand," Malich replied.

"Didn't Pettibone say to you, 'You don't want to monkey with my dope'?"

"No, sir," Malich replied.

"When Steve Adams and wife moved away from Globeville didn't they bring some bottles over to your place and leave them in your bedroom, and wasn't it one of these bottles you got through the window?"

"Say, do you honestly think I would leave anything like that in my room after doing what I did?" Malich replied.

"No, not after you once got hold of it," said Senator Borah.

Malich again laughed. He declared that Adams had never left anything at his place so far as he knew.

MURRAY LUMBER YARD DESTROYED

**Mill Company's Planing Plant and
Stock Consumed by Fire
This Morning.**

LOSS \$20,000. NO INSURANCE.

Theory That Some Tramps Sleeping On Premises Were Responsible For the Blaze.

The planing mill, machinery and stock of lumber owned by the Mill company, situated at Murray, was consumed this morning by fire. The entire plant was utterly destroyed, including a modern surfacing machine that cost \$1,000. There was no insurance carried on the plant, which will therefore be at total loss.

The flames were discovered between 4 and 5 o'clock this morning, and heretofore attempts were made to save the mill and lumber, but the fire had too much start and all efforts were unavailing.

The local fire department responded promptly to the call turned in, and was able to confine the damage to one yard, though they could not stop the progress of the conflagration.

A. Jones, manager of the lumber yard, said he could not account for the origin of the fire other than the theory that some tramps had been sleeping in the yard and had started the fire by dropping a match or lighter on a pile of lumber. The stock was dry and burned like tinder. The loss will reach at least \$20,000. Building operations at Murray and in the southern end of the county will be seriously retarded by the destruction of the lumber yard.

The Mill company was composed of Murray and Salt Lake individuals. Besides the lumber and machinery, a large stock of builders' hardware was also carried, and this is also a loss.

INSPECTORS WATCHING JAPANESE IMMIGRATION.

Washington, July 1.—For many months the bureau of immigration has had inspectors in Mexico watching the trend of Japanese immigration. According to reports received at the department of commerce and labor, it is perfectly evident that the Japanese laborers who arrive in Mexico have no intention of remaining in that country, but regard it merely as a stopping place on their way to the United States. It is not believed by the immigration authorities that the Japanese government is a party to such an arrangement as this, as it has discouraged immigration to the United States in every possible way. Thousands of Japanese laborers are known to be in Mexico, merely awaiting an opportunity to cross the border into the United States. The border is about 2,000 miles long, and as it cannot adequately be covered by the immigration inspectors, the smuggling of Japanese into this country is a constant menace.

Efforts now are being made by the immigration authorities to establish a system of inspection by which it will be made difficult for Japanese into this country is to comparatively easy task.

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TERRIBLE WRECK ON BINGHAM ROAD

**Runaway Train Collides With
Light Engine Killing Two
And Injuring Others.**

AIR BRAKES WOULD NOT WORK

**Pat Cahill, a Miner of Park City,
Is Dying as a Result of
Accident.**

Was Caught With Another Victim Beneath Cars as They Piled in a Heap
—Information is Meager.

(Special to the "News.")

Bingham, July 2.—A runaway train of 15 loaded cars of ore was responsible for two deaths and four men injured on the main line of the Denver & Rio Grande between Bingham and Bingham Junction at an early hour this morning.

An unknown man was killed instantly and Pat Cahill of Park City, is dying slowly, while Engineer Irvine is badly hurt.

Just how the accident occurred has not been satisfactorily explained yet, but the opinion of the train crew is that the air had been tampered with and when it became necessary to set the brakes the shoes failed to grip the wheels.

With increasing momentum the big train plunged down the canyon while the crew vainly raced along the top of the cars and did their best to screw down the hand brakes. As soon as it was evident that the train was out of control and could not be checked the crew started to jump and as each man struck the grade he was more or less injured. The engineer, fireman, conductor and brakemen left the bouncing train at intervals.

Owing to the fact that there is no telephone within two miles of the scene of the wreck details received here so far are meager and until the wrecking crew returns no definite information will be forthcoming.

At the reverse switch, a point about five miles from Bingham, a runaway smashed into a light engine that was coming up the grade. With terrific impact all the cars left the tracks and piled up in a heap.

CAHILL'S INJURIES.

Cahill was one of the men in search of work. He, with others, had been applied at the mines for employment and upon being told the various forces were complete the men jumped on the train, intending to ride down to town. Cahill has a wife and two children living in Park City. That death in his case was not instantaneous is a surprise to those on the scene of the wreck.

One of his arms was broken, his ribs were crushed in and he sustained exceedingly severe internal injuries. He was under the pile of cars when found and some difficulty was encountered in rescuing him. The second man was still under the wreckage when the last message was received from the scene and the rescuers were having no end of trouble in digging the mass of twisted iron, steel and splintered wood from the lifeless body to permit it being brought out. The dead man beneath the train was unidentified up until a late hour this afternoon.

ONE DIES ON THE WAY.

Two of the injured were taken to the Murray general hospital in surreys reaching there shortly before 2 o'clock. This pair was less severely injured than the others, but they thought the more unfortunate victims of the wreck would be brought to the St. Mark's hospital in Salt Lake during the afternoon. One of the latter died while being taken to Bingham.

LET US HAVE PEACE.

Citizen Makes a Plea for a Genuine Independence Day. Salt Lake City, July 1, 1907. Editor Deseret Evening News: Dear Sir—Can we not have peace? Every man, woman and child is tired of the constant, ceaseless row being carried on by a foolish few.

Let the Real Estate association and all other business, commercial and social leagues get together and by boosting for Salt Lake contract the influence of the knackers. How the town would boom! Let us start in right, right away, by having a genuine Fourth of July. Independence day—let us make it such, let us shake ourselves free of the growlers and scare-howlers!

Very truly yours,

A PEACE MAKER.

WEDNESDAY, JULY 24th, 1907.

**Will be the Sixtieth Anniversary of the Entrance of the
Pioneers Into the Salt Lake Valley.**

In commemoration of the event, The Deseret News will that day issue a

SPECIAL PIONEER EDITION

Families or friends of pioneers possessing photographs or any other kind of pictures of those who entered the valley with Prest. Brigham Young July 24, 1847, are requested to lend them to the Deseret News, in order that they may be copied and given a place in "THE PIONEERS' GALLERY," which it is designed to make a feature of the edition. All will be carefully preserved and returned to the owners.

Please forward the pictures at once. Any received after July 12, can not secure a place in the Gallery.

Are you reading the pilgrimage of the pioneers being published daily in the "News"? Their approach to the valley is full of interest.

STATE RESTS IN DONALDSON CASE

**Attorney for Defense Seeks for
Court Instructions to Jury
Of Not Guilty.**

HIS CLAIMS ON CARD GAME.

**Contention that No Evidence Has Been
Introduced to Show Fraud Dur-
ing the Famous "Deal."**

The state rested in the Donaldson trial this morning and Attorney King for the defense asked the court to instruct the jury to bring in a verdict of not guilty. Two witnesses, W. H. Parent and W. T. Casey were recalled by the defense for cross-examination and two points brought out. Parent said the money returned to the McWhirters was a part of Donaldson's poker winnings and Casey said Donaldson told him that the \$1,000 bill Casey changed was a part of a winning made in a poker game.

When the second and last witness was excused, Attorney King opened his argument, the court first excusing the jury, until 2 o'clock this afternoon.

Attorney King argued that nothing has been laid before the court to show the poker game fraudulent and that his client took but little part in it and no part in getting Alexander McWhirter into it. These points were made the backbone of the argument for dismissal.

With the jury out and a dozen or so auditors in the spectators' chairs, the courtroom seemed large and empty. An unusual quiet gave the lawyers an excellent opportunity to fill the room with voice and argument.

KING JUGGLES BOOKS.

Attorney King quoted profusely from authorities. One entire side of the table was covered with imposing rows of encyclopedias of law, etc. Attorney King handled these much as a juggler, turning them over and over, first at this one and then at another. The lawyer's skill in grabbing the right book with one hand while juggling with the other was more interesting to some auditors than his debating ability.

The defendant himself sat twirling his thumbs, gazing out through the windows into the hot world outside. Corner King and his instruments, the press table showed what animation could be noticed in the room. An old man in one corner of the room strove to sit erect, but fatigue conquered and the gray head finally bobbed its last bob and then, laid over on one shoulder. When Attorney King would make a sudden declaration, the gray head would leave the shoulder—just for a second, only, returning to enjoy a series of "forty winks" and a blissful escape from argument.

ARGUMENT OF DEFENSE.

The defense will argue that the taking of the entire \$100,000 was one transaction. This announcement was made in answer to a question from the defense. Evidently it will be argued that the poker game, itself, was but one portion of the program mapped out to entrap the Scotchman.

The state will argue that Donaldson played an actively "passive" part throughout.

When the forenoon session was departed in recess until 2 o'clock Attorney King was still talking. He is not near the end of his address yet, to all evidences, and as the prosecution has an extended answer to make, the forenoon for decision is "not yet, nor soon."

PARRENT RECALLED.

W. H. Parent was recalled to the stand this morning for cross-examination by Atty. King. It was brought out that the \$1,000 returned to the McWhirters was a part of the money, Donaldson got from the store. At least Parent said he was so told by Bell.

W. S. Casey was also recalled for cross-examination by Atty. King. Casey was asked if Donaldson didn't tell him that the \$1,000 bill Casey changed for the defendant was a part of winnings in a poker game. Casey explained that Donaldson told him he had come by the \$1,000 bill in a poker game, but the witness did not know the defendant had one. The state announced it would rest upon the evidence submitted.

GRAND LARCENY CHARGE.

Attorney King immediately asked the prosecutor to elect upon which charge it desired a verdict rendered against the defendant. The court asked the state to do so and after a second's whispered conference with Major Breeden, District Attorney Loofbourou then announced that the first crime charged, that of grand larceny, would be pressed. Atty. King then began an argument, touching upon the principal points of the case. The jury was excused before this argument opened.

Atty. King contended that the taking of the \$2,000 was not from the person of Mr. McWhirter, nor the taking of the \$3,833 either, began the attorney, "should this not be granted, however, we contend that the defendant is in no wise responsible. It has been proved that any money obtained from the McWhirters by Donaldson was won in a poker game. There has been nothing to show the game was a fraud or the winning crooked. A mere suspicion is not enough! Absolute proof of the

fraudulency of the game has not been laid before the court."

ON O'BRIEN'S SHOULDERS.

The lawyer for the defense went on for some time to show that the O'Briens did all the talking.

"Did not McWhirter say on the stand that he saw nothing wrong in the game—that he noticed no suspicious actions on the part of those in the room, and especially not on the part of the defendant?"

"Was there anything wrong in the defendant announcing he had won and drawing the money and chips? What if he didn't show his hand? It was there for anyone to turn over and examine."

"Because a man takes part in a card game there is no right to adjudge him guilty of fraud. Under the law governing larceny fraud must be shown absolutely. There must be evidence to show that the victim of fraud charged was misled completely by the person charged with fraud. McWhirter said 'I think I have been cheated.' That was all. Did not the state show that Bell examined the hands on the table and saw that Donaldson's cards were the best?"

ASKS FOR DISMISSAL.

Continuing, Atty. King went over the testimony of the various witnesses for the state and to the police and spoke for the dismissal of the case.

"The testimony of the state's witnesses shows conclusively that Mr. Donaldson took no part in getting Alexander McWhirter into the game. He made no representations; offered no invitation and in no way induced the stranger to enter the game. It was McWhirter who said, 'I have been cheated.' That was all. Did not the state show that Bell examined the hands on the table and saw that Donaldson's cards were the best?"

IDENTIFY McWHIRTERS AND BELL.

Alexander McWhirter and W. W. Bell were used as exhibits during the afternoon session yesterday and were brought before several witnesses for the state and identified as the men seen together on the afternoon of the robbery during their round-about trip to the police station.

The state told of seeing the men on that memorable occasion while Bell was trying to get away from McWhirter and to get going to the police station. William J. Casey, of the Salt Lake Turf Exchange, testified that he changed a \$1,000 bill for Donaldson about a year ago, but would not fix the date definitely.

SAW DONALDSON IN DENVER.

W. F. Rodgelek, a waiter in the Victoria hotel, told of seeing Donaldson in the restaurant between 2 and 3 o'clock in the morning after the robbery. Donaldson had a \$1,000 bill which he told witness he had won. He told him that he had been out to his sister's celebrating. Witness saw Donaldson in Denver about 10 days after the robbery and had a talk with him, owing to objections made by the attorney for the defense, he was not allowed to tell what the conversation was.

CARDWELL TESTIFIES.

W. J. Cardwell, clerk in a cigar store at 23 west Second South, testified that Alexander McWhirter and a man he thought was Bell, were in his store on Sept. 19, the date of the robbery, and that Bell bought a cigar. He said that McWhirter asked him a question, but Atty. King objected.

Atty. King asked the question, and the court sustained the objection. Alexander McWhirter and Bell were brought into the court room and the witness was asked to identify the men who were in his store on the afternoon of the robbery.

SCENE IN DRUG STORE.

Fred Anstee, clerk in the Sun drug store, testified that McWhirter and Bell came rushing into the store and the latter asked to use the telephone. He did use it and called up No. 75 and then called up Police Station No. 75 and then asked for Detective Raleigh. McWhirter, he said, then asked him if Bell was an officer and said that he had \$10,000 of his money. McWhirter then began to rave and the witness saw him measure of bad luck. During the conversation he over-pressed his receptacle and lost quite a quantity of the precious petrol.

CAME TO HER HOUSE.

Mattie Ventress, who lives in a rooming house at 164 south Second West street, told of Donaldson and Bell coming to her house on the night of September and asking to use the telephone. She identified Bell and Donaldson as the men who called at her place. She said she did not see them since last September when she was introduced to Bell by Deputy Sheriff Sperry and saw Donaldson in the courtroom.

ALEX. RECALLED.

Alexander McWhirter was recalled by the state and retold the story of the robbery of the trip to the police station. Mr. King also attempted to have his testimony stricken out, but was unsuccessful in that.

"JIM'S" SISTER TESTIFIES.

Mrs. Mary King, sister of Donaldson, testified about Jim and three men coming to her house for dinner on the evening of Sept. 19, and that the last man came later. She did not know who they were and has never seen them since. She said that Donaldson brought the food for dinner and that they left about 8 o'clock. Her daughter, Grace King, also told about Donaldson and the four men coming out to her house for dinner on the evening of the robbery. She did not know who the men were and has never seen them since.

WILLIAM RETELLS STORY.

William McWhirter was also recalled and retold his story of the trip to the police station hunting for Bell and his brother. Mr. King also attempted to have his testimony stricken out, but was unsuccessful in that.

E. P. SEARS IN TROUBLE.

Complaint Charging Him With Obtaining Money Under False Pretenses.

J. Johnson today swore to a complaint against E. P. Sears, a local real estate man, charging him with obtaining money and goods by false pretenses. On Oct. 4, 1906, it is alleged that Sears undertook to trade a piece of land to Johnson southwest of the city and took him out and showed him what was supposed to be the land. The trade was made but when the deed was delivered it was found that the land was not what had been shown Johnson but was a piece of low marshy really unfit for cultivation. Johnson traded a tract in Murray valued at \$500 and \$700 in notes and securities for the land. A suit is now pending in the district court in which Johnson asks that the deed be annulled and the money and notes returned. The complaint in the criminal action was filed in Justice Dana T. Smith's court.

MAZZARO WINS THE GRAND PRIX

**Italian Automobile Champion
Covers 477 Miles in 6 Hours,
46 Mins., 33 Secs.**

SZISZ CAME IN SECOND.

**First Round of Course of About
47.7 Miles Was Made in 37
Minutes, 33 Seconds.**

Thirty-eight Contestants Entered, but Only Nine Finished—Race Marked By No Serious Accidents.

Dieppe, July 2.—Nazzaro, the Italian champion, today won the automobile grand prix, covering about 477 miles in 6 hours, 46 minutes, 33 seconds.

The race was run over a heavy track in the presence of a vast concourse, with 33 participants, chiefly French, Christie, the only American participant driving an American machine, had trouble early in the race and did not figure among the leaders. Szisz was second in 6 hours, 53 minutes, 10 seconds; Lancila third.

The race was marked by no serious accidents, although a minor collision occurred between two of the cars.

Only nine of the contestants finished, Shepard doggedly persevered to the end, finishing last in 7 hours, 39 minutes, 35 seconds. The English, Belgian and German racers made almost as poor a showing as Christie.

Contrary to expectations, President Fallieres was not present. The cabinet was represented by Minister of Public works Barthou.

Glorious sunshine favored the start of the grand prix automobile race today. Fifty thousand persons marched in and around the tribune and saw the machines start. The race was a tourney, while 150,000 others were concentrated in other villages along the route to view the race.

The roadway dried up nicely during the night, and as the start was made it was very fast. Going to the post, the pilots of several of the most powerful machines were doubtful as to whether they would be able to complete the course with the amount of gasoline allowed them. The betting odds on the Fiat cars lengthened on the second round, but the odds were even went so far as to predict that one-third of the cars would be stranded upon the roadside before the race was finished.

HIGH PACE SET.

Lancila set a very high pace in the first round, but Duray nevertheless overpassed him. Wagner, however, passed both Duray and Lancila and was completed. He eventually completed the first round of about 47.7 miles