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STATEMENT

made by

The Operators' Association

of the

Williamson Field

BEFORE THE SUB-COMMITTEE

OF

THE COMMITTEE

ON EDUCATION AND LABOR

OF THE

UNITED STATES SENATE

APPOINTED TO INVESTIGATE CONDITIONS
IN THE COAL FIELDS OF WEST VIRGINIA
IN THE TERRITORY ADJACENT TO KENTUCKY

JULY 14th, 1921

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APPOINTED TO INVESTIGATE CONDITIONS
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TO THE HONORABLE COMMITTEE OF THE
UNITED STATES SENATE APPOINTED
TO ASCERTAIN THE CAUSES OF THE RE-
CENT LAWLESSNESS AND VIOLENCE IN
MINGO COUNTY, WEST VIRGINIA.

This Committee is charged by the United States Senate with the duty of making a "thorough and complete investigation of the conditions existing in the coal fields of West Virginia, in the territory adjacent to the border of West Virginia and Kentucky," "the causes of the recent violence upon said border" and "generally to investigate thoroughly the causes which have led to the conditions which

have obtained in the past and do now exist in said territory." To do this, will, of necessity, involve the investigation of twenty-seven murders, at least a hundred acts of assault and other personal violence, numberless instances of insults, intimidation, threats and abuses, numerous instances of the use of explosives and incendiary fires to destroy property, as well as a thorough understanding of the policies and methods of the United Mine Workers of America. To accomplish these purposes, is a tremendous task, involving much time and the hearing of many witnesses. Any investigation other than the thorough one directed by the Senate to develop the whole truth, would not only do no good but would do positive harm.

The coal operators in these two counties, while deeply deploring the existence of a situation justifying an investigation, welcome this opportunity to place before this Committee, the United States Senate, and through them, the country at large, the true causes underlying the disturbances in a coal field where strikes have been unknown for twenty years, where contentment and industry have abounded, and where the mine owners and their employees are now only continuing in a lawful business, in which they have been engaged for years past, and exercising no rights and attempting to exercise no right, not guaranteed to them by the Constitution and laws of the United States and the State of West Virginia, and rights which have heretofore been repeatedly affirmed and permanently established by the Supreme Court of the United States and the courts of West Virginia.

This investigation is all the more welcome now because of the amazing statement made by a distin-

guished Senator on the floor of the Senate in advocating the resolution directing it, in which he said that a man was killed by a guard after he had put up his hands in surrender, and that his body was dragged by the heels into the village as an object lesson. The facts are that the man referred to had been engaged, that same morning, in shooting at the officers of the law who were passing along the public highway, and who were in no way connected with the coal companies, and when he was killed by one of these officers of the law, not after surrender, but while hiding in the woods, he had a power rifle, one hundred and sixty rounds of ammunition, a water bottle filled with water, and a bag of bread, being fully equipped for a day of shooting at the officers. His body was put on a truck and taken to the undertakers, and thence delivered to his family. He was shot by an officer who himself was shot in the back and through the lungs by one of this man's companions. When a Senator of the United States can be so deceived as to the facts that he feels justified in making a public statement so erroneous as the one above referred to, it is time that an impartial tribunal investigate and report the truth of the matter. This Committee will find that this is only one of a multitude of similar misrepresentations made to the public by the people responsible for all the violence of the past year in this county.

We emphatically assert that all of the trouble, violence and murder connected with the matter being investigated, that have occurred in Mingo and Pike Counties for the past year, have been directly caused by the activities and criminal practices of the United Mine Workers' organization which for years past has pursued a policy that is criminal in

its character, and under and in pursuance of such policy this organization is attempting, by means decidedly criminal and unlawful, to substitute, for law and orderly government, the policy and practices of said organization.

At the outset it must be clearly understood that there is no industrial controversy and no strike involved between the mine owners and their employees, for the simple reason that the mines are being operated by men enough to produce all the coal that can be sold, and are actually producing ninety-six per cent of the normal output of the field, notwithstanding depressed market conditions. These men are working of their own free will and accord, and desire to continue to work, as will be fully proven before this Committee.

The existing trouble is caused solely by members of and sympathizers with the United Mine Workers of America, not employees, who have determined that these men shall not work, and are using every form of intimidation and all sorts of violence to deter and prevent them from working. The real question at issue, then, is one of fundamental rights; shall men be forced to "join the Union," contrary to their wishes, before they are allowed to work in the mines? Shall the mine owners be denied the right to employ such men as desire to work for them, when such men are not members of this union? Shall the right of individual contract be preserved?

If it be admitted that the mine owner has the lawful right to employ whomsoever he pleases and decline to employe whomsoever he pleases, and at the same time the mine worker has the lawful right to join a labor union, and if public policy and the law

demand that the freedom of contract shall be preserved, some may inquire why the mine owner in the case, and particularly in this case, declines to employ or deal with organized labor. Feeling that this inquiry may be thought by some to be pertinent, we desire at this time to say:

FIRST: That to recognize the Union in this coal field, under the circumstances and conditions hereinafter set out, would put the coal industry in this field at the mercy of its competitive fields;

SECOND: That it has been repeatedly demonstrated that mine workers, when organized, frequently, for imaginary causes, go out on strike, thus interrupting the output of coal, and thereby increasing the cost of production;

THIRD: The interruption of the production and its increased cost, brought about by said strikes, also cause the failure of the producer to fulfill outstanding contracts, resulting in direct loss;

FOURTH: The production of coal, if all miners are organized in one Union, is put at the mercy of the officers of such Union. A striking illustration of this was shown during the late war, when there was a general coal strike in the organized fields, which resulted in higher prices for coal produced elsewhere, and forced the Government to depend on this and the few other unorganized fields for its war fuel;

FIFTH: The United Mine Workers of America is not a corporation, a partnership or a legally responsible entity, and any contract made with it, or with any sub-division thereof, could not be legally enforced, and no adequate damages for a breach thereof can be recovered;

SIXTH: The miner working under an individual contract of his own making has both the incentive to better his condition by efficient work, and the sense of responsibility under his contract, while, when he becomes a member of the United Mine Workers of America, he is absolved by it from all personal responsibility and obligation, is made to feel that he can do as he pleases, and the organization will stand behind him, all of which results in a lowering of the individual standard of honesty and efficiency;

SEVENTH: Many mine workers are definitely opposed to the United Mine Workers of America and do not desire to join it, and, likewise, there are many mine owners opposed to it, and it is clear that they should be protected in these convictions and in their right to act in accordance therewith. For the best interests of the mine owner, the mine worker and the public, it is vital that interference by either the union man or the non-union man with the rights of the other, should not be tolerated;

EIGHTH: The policies and methods of the United Mine Workers of America, being based upon force and violence, are unlawful and make dealings with that organization impossible.

Upon some of these reasons and others, the Supreme Court of the United States has based the legal principle that an employer is not required either to employ a member of the labor unions or to contract with the union as such, but may make non-membership in the union a condition precedent to employment.

Reference will be made hereinafter to some of the cases establishing these principles.

A knowledge of the physical situation is necessary in order to get a clear conception of the events to be narrated. The mines in Mingo County, West Virginia, and Pike County, Kentucky, are located for about a distance of about fifty miles upon or near Tug River, the state line, in a mountainous country. During all the time that coal mines have been operated in this section, approximately thirty years, with the exception of a few months in 1901, when the United Mine Workers sought to unionize this field, there has been no controversy whatsoever between the mine owners of these counties and their employees. It has been the settled policy of all these mine owners to operate their mines as non-union mines, and deal directly with their own employees, and this fact has been well known, not only to their employees, but to everyone else, and particularly to all the officials and representatives of the United Mine Workers of America. In fact, this field has been a refuge for coal miners from all sections of the country who are dissatisfied with the methods and policies pursued by the United Mine Workers in the organized fields, and who desired to sever their connection therewith. During all of the period of time aforesaid the mine owners have contracted directly with their employees in reference to terms and conditions of employment, and these terms and conditions have been satisfactory to all parties, and the miners have been able to make and have made for their services as much as, and usually more than, the miners working in any organized field.

The primary and real cause of the acts of violence and lawlessness that have occurred in these

counties during the past year, is that the United Mine Workers of America, in pursuance of its policy of force and intimidation to compel all persons engaged in the mining of coal on the American continent to join that organization, has continually sought by these means to organize this territory since April, 1920. Particular attention is called to the fact that no question of wages, no question of working conditions, and no question of terms or conditions of employment has ever been involved, the sole question being the demand by the organizers and agitators that the Union be recognized.

In April, 1920, it sent its emissaries into this field. It began its agitation through them by appealing to the more turbulent and less industrious individuals, by arousing class feeling, making any statements and charges they deemed necessary to cause dissatisfaction, to cause the breaking of the contracts of employment, and to lead the ordinary miner to believe that he was oppressed and enslaved, and that the Union was his salvation from innumerable wrongs.

Among these irresponsible and false representations so made, were: that unless the field was thoroughly organized and all workmen joined the Union, the railroads would quit furnishing cars to the mines and the side tracks would be removed; that the Government would take over the operation of the mines; that no one would be permitted to work unless he was a member of the Union, and would have to give up his employment; and that unless the mine owners recognized the Union and the workers joined the Union, the organized miners from Cabin Creek and Paint Creek, in the Kanawha field, would arm themselves and invade the field, and destroy the

property of the mine owners and drive the miners out. These organizers and agitators were plausible and shrewd, and by such representations as these succeeded in getting a certain number of the reckless, the inefficient and the credulous to "join the Union," and thus formed the nucleus for their organization. The organization then demanded recognition of this Union. When recognition was refused, it called a strike to enforce recognition. After the strike was called, any man continuing to work was designated a "scab" or "yellow dog." As a "scab" and "yellow dog," he was subjected to any and all forms of abuse, insults, threats and intimidation. In this way and by these means many of the men employed in and about the mines were induced and compelled to join the Union, although a large majority of them so joining failed to see any good in the Union and were entirely satisfied to continue to work as they had been working. As a matter of fact, the majority of those so joining the Union did so after the Matewan massacre, under the feeling of terror and fear created by it, because it is well known that the Matewan massacre was but a part of the policy of violence and murder outlined by these agitators and organizers, and which they had represented would ensue.

Notwithstanding the foregoing facts, many of the miners still refused to join the Union and elected to continue to work under their own contracts, as they had been accustomed to do. Many of the men who actually joined the Union, after becoming informed as to its policies and methods, repudiated it, and applied for work with the mine owners as non-Union men, stipulating only that they should be protected from violence at the hands of the United Mine Workers. The mine owners sought to provide this

protection through the regularly constituted civil authorities, and did not employ and never have employed "thugs", "gunmen" and "guards", as publicly and repeatedly charged by the officials of the United Mine Workers. In proportion to the protection that was afforded, the men returned to work, so that the mines continued to produce coal, and the production was steadily increased until now it is ninety-six per cent of the average normal production before this reign of terror was inaugurated, which is believed to be by far the highest percentage of normal production of any coal field in America today. This result has been accomplished notwithstanding the well-known failure of the civil authorities to function properly prior to January 1st, 1921, which failure was due, in part, at least, to the fact that many of the county and local officials charged with the enforcement of law and order were members of, or employed by, the United Mine Workers, and actually took part in the threats, intimidations, assaults and murders committed, and which will be hereinafter more specifically mentioned.

The United Mine Workers, failing to secure, as members, all of the miners, and losing many of those who had joined, as above stated, and in order to extend its influence and support in the community at large, resorted to the policy of admitting to its membership hundreds of men who never worked a day in or about a coal mine, and further brought into these counties lawless and dangerous men from other sections of the country, who had never worked or lived in these counties. The result has been that the tent colonies established by the United Mine Workers are largely populated by men who have never been coal miners, certainly not in the William-

son field, and many of them remain in these tent colonies on account of the strike benefits received, the consideration for the carrying out of the lawlessness and violence which is the adopted policy of the said organization.

Attention is called to the fact that a part of the policy of the United Mine Workers to make effective its strike orders, and to destroy the business of those who do not deal with it, both the mine owners and the miners who refused to join it, is to advise their members to retain possession of the company houses in which they live, and to refuse to the fullest extent to vacate them upon the termination of their employment, thus preventing the mine owners from being able to provide for their necessary employes proper housing facilities. Mine houses are as much incident to the business of mining coal as are tipples, or as are desks in an office. The courts have so held, and this advice, given by this organization is in itself a direct challenge to establish law, which is that the relation of landlord and tenant does not exist, but that the relation is that of employer and employee, and the occupancy of the house by the miner is a mere incident to his employment, and his right to such occupancy ends when his employment ceases. Under this law, the mine owner has the right to evict any miner wrongfully retaining the occupancy of his house after his employment has ceased, provided such eviction can be made without a breach of the peace. As a matter of fact, however, only a few evictions (not to exceed a score), were made during the period above mentioned without first obtaining judgment of a court of competent jurisdiction, which is unnecessary, and the few that were made without such judgment were made with-

out any resistance or remonstrance on the part of those evicted, and without any breach of the peace.

With the local situation and the issues in mind, a short statement is here made of some of the acts done by the United Mine Workers of America in furtherance of its clearly conceived and announced policy (hereinafter fully stated), to organize and Unionize the Williamson coal field. These acts include murder, arson, dynamiting, gunshot wounds, vicious assaults, threats, including threats of death, intimidation, insults, abuse, shooting from ambush into defenseless mining camps occupied by women and children, and at passersby on public highways, and at the officers of the law, including the United States troops in uniform, West Virginia State Police, and members of the Kentucky militia, as well as workers at the mines. All but five of the victims of all of these acts were men either endeavoring to work, or officials seeking to protect them in their right to work, and none of them were at the time members of the United Mine Workers of America.

We charge the United Mine Workers of America with responsibility for the death of twenty-seven persons in Mingo County. Many of these deaths were cold-blooded murder, the victims in several instances being shot in the back by men concealed in the woods or hiding in ambush. Two of the victims were important witnesses in the trial of men responsible for murders for which the organization was responsible. Three of the victims were members of the West Virginia State Police, all of whom were shot in the back by members of this organization. One of the victims was a Kentucky militiaman, who was likewise shot in the back by a member of the miners' organization. One of the victims

was himself a member of the organization, who met his death by the premature explosion of dynamite in his possession, with which he, at the time, was seeking to blow up a boarding house occupied by thirty non-Union workers. Two of the victims were non-Union workers killed by hidden gunmen firing at them in what was known as the Three Days' Fight, in which 50,000 shots or more were fired at, into and upon mining camps occupied by non-Union workers. One of the victims was Alex Breedlove, who, while resisting arrest, with a high power rifle in his hands, was killed in the mountains where he was concealed, by a member of the West Virginia State Police seeking to arrest him and prevent him from continuing to fire at persons, including officers of the law, on the public highway of Mingo County, the member of which said West Virginia State Police was at the time himself shot in the back by a companion of Breedlove, as hereinabove stated.

Ten of the deaths occurred in what is commonly termed the Matewan massacre, wherein seven men were massacred in cold blood, and three by-standers were killed, perhaps unintentionally, when the United Mine Workers of America inaugurated its reign of terror in this coal field, taking as an excuse the fact of peaceful evictions of six former employees of one of the coal companies, made in accordance with the law of West Virginia, and without any protest or resistance on the part of those evicted.

We charge the United Mine Workers of America with a dozen or more instances of the use of explosives and incendiary fires, employed to destroy and demolish tipples, head houses, bridges and other

property of the mine owners, for the purpose of enforcing the demands of the organization for recognition. In at least two of these instances those guilty of the crimes made confessions.

We charge the United Mine Workers of America with responsibility for scores of vicious and cowardly assaults committed by members of the organization upon workers, the sole reason for these assaults being to intimidate, terrorize and punish men for working and not obeying the commands of that organization.

We charge the United Mine Workers of America with otherwise interfering with workers in scores of cases in order to prevent these workers from continuing in their employment, or going to or from their place of employment, in two instances the interference becoming so serious and threatening that the workers were rescued from their danger only by the timely presence of Federal troops, who rescued them from mob violence, which was imminent.

We charge the United Mine Workers of America with responsibility for firing at and into troops of the United States army in uniform in at least five separate instances, and with having fired into, at and upon members of the West Virginia State Police in a dozen or more instances, in three of which instances members of the force were killed, as above set out, and with having fired into and upon members of the Kentucky militia in at least four instances, in one of which instances a member of that force was killed.

We charge the United Mine Workers of America with responsibility for numberless threats and insults made against and hurled at workers whose

sole offense consisted in continuing at work and refusing to desist therefrom at the behest of, and under compulsion by that organization.

We charge the United Mine Workers of America with responsibility for perhaps one hundred thousand rifle shots fired into, at and upon the mining camps of this field, in which camps lived the workers, their wives and children, whose sole offense consisted in continuing to live there and to work at and about the mines, under conditions satisfactory to them; in one of which instances, as the result of this firing upon a coal camp, thirteen women and children for refuge took hiding in a cellar only a few feet square, and were forced to remain there for seventy-two hours, enduring many hardships and privations, and in other instances small children and women were intentionally and knowingly fired at and upon, with the apparent intention of killing them.

We charge the United Mine Workers of America with responsibility for intimidating, insulting and annoying, on the public roads and streets, and on passenger trains, many persons in no wise connected with this controversy, whose sole offense consisted in being found on the highways and trains in this field, and in being suspected by the miners' organization of desiring to work at the mines or of being in sympathy with those there working.

With full knowledge that the examination of the many witnesses to prove these charges will require much time of this Committee, we stand ready and anxious to adduce proof of all of them, and urge that the proof be heard, to the end and for the purpose that the Committee and the world may know the truth, and that responsibility for this reign

of terrorism and lawlessness may be fixed; and we are convinced that this can be done in no other way. We feel all the more strongly that we are entitled to this showing and to the introduction of this evidence because the mine owners of these two counties, and the workers in their mines, have been made the victims of such a widespread campaign of misrepresentation, villification and abuse by the United Mine Workers organization, through the public prints of this country, that they are entitled to have the facts established and given the greatest publicity possible. The unwarranted success of this campaign of misrepresentation, villification and abuse is demonstrated by the character of the remarks hereinbefore mentioned, made on the floor of the United States Senate in offering the resolution under which this Committee is now acting.

The mine owners contend that all the lawlessness, violence and murder and the shootings from ambush by the members of this organization in Mingo County since the beginning of the agitation on its part, are but repetitions of its acts and activities wherever it has sought to Unionize and organize new fields, and more especially are but repetitions of the acts of lawlessness that have been carried on by it since the year 1898 in West Virginia, in carrying out its policy of force to Unionize and organize the mines of West Virginia, as will clearly appear from what follows touching its history and activities.

The Mine Workers' Organization having, years ago, failed, by the use of peaceable and lawful suasion, to cause the mine workers of the State of West Virginia to join the Union, and persisting in its desire to create a monopoly of mine labor, and to further the conspiracy to destroy the coal business

of West Virginia, as will be hereinafter shown, entered upon a campaign of lawlessness, violence and murder that is perhaps without a parallel in the history of the country. It is the desire of these mine owners to have the Committee review the history of the Mine Workers' organization, believing that, if such review is made, based upon its own records and documentary evidence, this Committee will be impelled to recommend some action by the Congress of the United States that will stop the activities of a pernicious movement which has become so powerful as to threaten the very existence of a basic industry and also the fundamental rights of citizens of the United States or, if it believes that there is existing law to correct such evils, will call upon the Attorney General of the United States to take such action as may be found proper or necessary, so that law and order, to which every law abiding citizen is entitled, may be guaranteed.

HISTORY OF THE ORGANIZATION

On the 25th day of January, 1890, the United Mine Workers' Organization was formed, then being merely a voluntary association. This voluntary association declared its objects in Section 2 of its Constitution, as follows:

"Sec. 2. The objects of this Union are to unite mine employees and ameliorate their condition by methods of conciliation, arbitration or strikes."

The jurisdiction of the association was declared in Section 3, of its Constitution, as follows:

"Sec. 3. This Union shall have jurisdiction over all its affiliated bodies, which shall be governed in all trade matters by this Constitution."

After providing for President, Vice-President and Secretary-Treasurer, it created what was known and designated as an "Executive Board", of which the President, Vice-President and Secretary-Treasurer were to be members, the powers of which "Executive Board" were enumerated as follows:

"Sec. 5. The Executive Board shall constitute a National Board of Arbitration and Conciliation; shall execute the orders of the National Conventions, and between conventions shall have full power to direct the workings of the Union. The Board shall be convened by the President or Master Workman or by the Secretary-Treasurer, at the request of three members of said Board."

See constitution and laws of United Mine Workers of America, as revised in 1897.

From the date of the formation of this voluntary association until the year 1898, it had secured a considerable number of persons, engaged in the mining of coal in the States of Ohio, Indiana, Illinois and Western Pennsylvania, to become members. Up to the year 1898, it had not compelled persons to become members by any policy or practice deemed or considered unlawful, but had exercised only such rights as voluntary associations had the right to exercise under and in pursuance of law. Prior to its organization on January 25th, 1890, the production of coal in the State of West Virginia had not become such as to seriously interfere with the marketing of coal by what is known as the Central Competitive Field, composed of the States of Ohio, Indiana, Illinois and Western Pennsylvania; but from the year 1890 the production of West Virginia coal steadily increased and the coal so produced in West Virginia, being of superior quality, being produced at less cost, by reason of unusual favorable natural mining

conditions, than the coal of the Central Competitive Fields, and being sold in the markets theretofore supplied by coal produced in the Central Competitive Field, supplanted in those markets, to some extent, the coal so produced in the Central Competitive Field.

Prior to the year 1898, the operators of the Central Competitive Field had steadily refused to permit the Mine Workers Organization to establish what is now known as the "closed shop" in said field, but realizing that, because of the natural conditions existing in favor of the West Virginia operators and their employees, which permitted the mining of the West Virginia coal at less cost than they could mine their coal, and knowing the superior grade and quality of the West Virginia coal, and desiring and intending, to shut out West Virginia coal from said markets and to wrongfully and unlawfully control the bituminous coal industry in the United States, did, wantonly, wrongfully, maliciously, unlawfully and in violation of the Act of Congress approved July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," enter into, at Chicago, Illinois, in the year 1898, with the United Mine Workers' Organization, an unlawful combination and conspiracy for the unlawful purposes following: To prevent the production, transporting and marketing, in inter-state trade and commerce, of West Virginia coal, and to destroy the lawful competition of such coal in the markets of states other than West Virginia theretofore supplied by them, said operators of the Central Competitive Field, to create unfair and inequitable labor conditions in West Virginia; to arbitrarily control the mine labor in said state and to prevent

the operators therein from voluntarily contracting and dealing directly with their employees, and to prevent their employees from voluntarily contracting and dealing directly with their employers, as to the terms and conditions of employment; to unionize and organize the mines of the State of West Virginia; to disrupt the coal industry and hinder and delay the production of coal in said State; to prevent the operators of said state from carrying out and performing their contracts for the sale of coal to their customers in states other than West Virginia theretofore made; to create and establish in all the mining fields of West Virginia what is known and designated as "the closed shop" to prevent all persons not members of the United Mine Workers of America from working in and about the coal mines of said State; to prevent and destroy the voluntary right of contract between the operators and miners, in West Virginia; to declare strikes, boycotts, etc., and to use such force and other means necessary or required to bring about the success of said conspiracy; to promote their own interests and the business and interests of the operators of the said Central Competitive Field by unlawfully injuring the West Virginia coal industry. In order to carry out the purposes and objects of this conspiracy and to make the same effective in West Virginia, and in order to secure the funds necessary to do so, the operators of said Central Competitive Field entered into contracts with said Mine Workers' Organization providing for the collection, over the pay rolls of said operators, of all dues and assessments levied by the Mine Workers' officials upon the miners of said field. Under and by virtue of said contracts, which these mine owners declare are illegal, and of the policies

and practices of the Mine Workers' Organizations adopted and pursued thereunder, all the miners working in said Central Competitive Field were compelled to join said organization and said organization was enabled to, and did, establish the "closed shop" in said Central Competitive Field. Immediately upon the execution of the contracts between the operators of the Central Competitive Field and the Mine Workers' officials, above referred to, the United Mine Workers adopted the policy and practice of having its members refuse to work at any mine where non-union men were employed, and to go on strike to compel the discharge of any non-union workers, and to strike should the coal companies employ non-union men to work in and about the mines. By virtue of this policy and practice and the intimidation, force and abuse used by the members of said organization against non-union laborers, and the designation by the members of said union of all non-union laborers as "scabs", all mine laborers in the said Central Competitive Field were, with or without their consent, forced and compelled, in order to follow their vocation, to join this organization, and the said Central Competitive Field, became solidly organized as hereinbefore mentioned; and said organization was enabled, by the forced collection of dues and assessments from its members under said contracts providing for the "check off" as aforesaid, to collect vast sums of money to be used, and which have been used by it, in furthering the conspiracy hereinbefore mentioned.

These mine owners contend that the contracts entered into between the operators of the organized fields, and the United Mine Workers' Organization

which provides for the "check off" of dues and assessments levied against the members of said organization, are unlawful and against public policy.

For the purpose of showing the existence of this conspiracy entered into in the year 1898, at Chicago, Illinois, we here quote certain statements made by the operators and the Mine Workers' officials, parties to said conspiracy, at the Second Annual Joint Conference of Coal Miners and Operators held in Pittsburg, Pa., from January 17th to 24th, 1899. Mr. H. L. Chapman, an operator from Ohio, in the course of a statement to the joint conference, said:

"What were the new conditions last year when we entered into the agreement at Chicago, and what were the inducements that led the operators of the four competitive states to enter into that agreement? What promises and pledges were made on behalf of you gentlemen who are on my right and your representatives? It was as much a part of that agreement that was made at Chicago, although not incorporated in the written instrument that was signed, as was any part of the agreement that was signed, that during the year covered by that agreement the competitive field of West Virginia was to be brought up in price and down in hours of labor, or that, at the expiration of that agreement, the competitive fields of those four states were to be put upon a competitive basis with that field. When it was suggested in the convention and in the committee that that should be incorporated into the agreement, the representatives of the miners said that it would hamper them and would prevent their accomplishing the purposes which they desired to accomplish. For that reason it was left out, as I understand and understood the matter at that time."

"In confirmation of what I have stated, and what Mr. Robbins stated yesterday, I hold a clipping here, which I will not read, made from the re-

port of the miners' organization. I also hold in my hand the report of the secretary of the miners' organization. My friends, from the pledges and promises that were made to the four competitive states in the city of Chicago last year, I look over this report of the expenditures of the miners' organization, and I find that the representatives in the West Virginia field, who did the work there, out of a total expenditure by the miners' organization of over \$33,000, that Mr. Stevenson who is the representative of the miners there, only received \$562.75. With the results that I have given, we claim that the miners have not carried out that part of the agreement made last year."

"That, gentlemen, is what we ask you here. In the scale that we have presented to you, which has been read here today, we simply ask you to fulfill your pledges and promises; that you will work in the competitive field which has been your friend in times past, and hopes to be your friend in the future, until your organization shall cover every coal-producing State in the Republic."

"Fellow miners of the four States, West Virginia is taking the labor today that you are entitled to, or a portion of it; they are working ten to twelve hours per day, and they are getting all they can do, and they have been; while the mines in my state (Ohio) during a large part of the summer have worked only one day or one and a half days per week."

"I hold in my hands a statement, and it is only for coal going to the lakes. What does it show? It shows that Pennsylvania and Ohio have both lost in their shipments to the lakes during the period of 1898, and that West Virginia—this is only the coal to the Lake Erie ports, my friends, mind you—West Virginia increased from 448,365 tons in the year 1897 to 843,380 tons in 1898."

Mr. F. L. Robbins, operator of Pennsylvania, in course of his statements said:

“There is no market in the West, there is no market in the Northwest, by cars or by lake, and there is no market in the East, where we do not meet West Virginia coal both for gas and steam purposes. It is there where the railroads are eager for business, they are forcing this coal into the markets. You speak about the price? Why, gentlemen, West Virginia has risen, by reason of your inaction and by reason of the fetters you have placed upon us, until it has increased its output of the various mines which they have been enabled to run steadily, it has been enabled to put in machinery, to put in everything that the brain of man can suggest to produce a large amount of coal at a minimum cost. The State of West Virginia stands today in that position, and I tell you, gentlemen, that the longer you turn your backs upon it, the longer you fail to face the situation, the worse it becomes for you. If you allow your enemy to become strong, what is the inevitable result? The battle is always the harder.”

Mr. J. B. Zerbe, Ohio operator, in course of his statement to the Joint Conference, said:

“Mr. Chairman, I will state my question of privilege. In reply to Mr. Chapman, Mr. Ratchford made a statement that the miners were under no obligation other than that expressed in the agreement. And, therefore, as a question of privilege, I desire to quote from the original report from the Scale Committee in the City of Chicago, on the 18th day of January, 1898:

By Mr. Ratchford: “I am in favor of an eight hour day, as a means of restricting production, rather than a suspension of work. We can not allow Pittsburg, Ohio, Indiana and Illinois mines to be idle and allow West Virginia miners to supply your trade during the periods of depression. A recognition of the eight hour day by the operators would bring a guarantee on the part of the miners to bring the same conditions to the mines of West Virginia. And this we would agree to do.”

“This is the proposition, in just as clear language as I can put it, accepting that responsibility, and I say to you, officials, and I say to you, gentlemen, that we hold you to that responsibility. And failing in having delivered to us that guarantee, I say it doesn't sound well for you to come and ask for additional conditions from us in any direction whatever. Don't attempt to foist upon us any further conditions than those that now exist in West Virginia. I say to you, gentlemen, without wishing to criticize any officer in your order, or any one of you, that you have put yourselves under obligations to prove to us what are the conditions of West Virginia, and by that agreement of 1898, and that guarantee, we submit that we are entitled to the same. And you must not come here, gentlemen, either yourselves directly or through your officials, and demand of us a run-of-mine basis, and you will not get it. No; you will not get it. You will do just what you agreed to do in your contract with us before you impose any new conditions upon us. It is not that we will not be willing to grant to you many things to better your condition; but it is simply because we are not going to be put under any more duress, under any circumstances whatever, unless you redeem your pledges and bring those people up to us.”

Mr. G. W. Traer, operator of Illinois, in course of his statement said:

“The West Virginia coal, gentlemen, is really the whole question, and is the key to everything that must be considered by this Convention. It affects the states equally, it is true, but it affects them all. The West Virginia coal goes by lake to the Northwest and meets us there; and it is increasing in the markets into which we go, and have gone, every day in the week, every week in the month, and every month in the year. The next President of the miners' organization has asked us to accept this statement that, though a boycott of the West Virginia coal, they

have made, or are making, some progress toward the correction of that condition. Gentlemen, I live in Chicago, where the West Virginia coal reaches us by lake and by rail. It has not been more than one or two years since we were accustomed to seeing long lines of loaded wagons with 'Indiana Block Coal,' 'Hocking,' or 'Jackson' coal, or 'Southern Illinois' coal passing through our streets of the dwellings which use coal for fuel. Within the last year these wagons are carrying signs of the West Virginia coal—'Pocahontas', 'New River Smokeless', and all other smokeless coals that are mined in the mountains of West Virginia; and today you will see three or four, or more than four, wagons of West Virginia coal to every one of Ohio, Indiana and Illinois put together, on the streets of Chicago."

To these statements so made by the operators above mentioned in said Joint Conference, Mr. Ratchford, who was President of the United Mine Workers' organization at the time the conspiracy was formed in 1898, replied:

"Mr. Chairman. In our agreement of one year ago we promised to the operators who met with us that we would afford them all possible protection against the competition of unorganized fields. From the remarks of some of the delegates today and yesterday, I take it that the operators are of the opinion that such protection was not given, and, in fact, that no effort was made to give it. To disprove those assertions, I can give you no better illustration than this: That when we met you one year ago we had five states represented; when we meet you today we have thirteen states represented,"

"Furthermore, a great deal of importance has been attached to the condition of West Virginia. I want to make a proposition here—that the interests of the West Virginia miners, by reason of the efforts of our organization, have been hampered and injured more within the past year than in any year since they have been operating in the state of West

Virginia. It is true, gentlemen, that we did not follow the old line of trying to organize the miners during the summer, for the reason that we saw it was a useless expenditure, and, in fact, a waste of money."

John Mitchell, who was President of the miners' organization at the time of the Second Annual Joint Conference, in reference to the same matter, stated:

"I know of no breach of faith on the part of the miners since the last convention adjourned. In West Virginia, it is true that our organization has not made as much progress as we might desire. But I want to say to you operators that an effort has been made during the past year to curtail the production of West Virginia coal by attempting to prevent its sale on the market. The organization was spoken of by Mr. Robbins yesterday, and he pointed out the fact that there are something like 350 members in West Virginia, and he thinks that the results show that our organization has made no progress there. Now I want to say that 350 members do not represent the strength of our organization in West Virginia. Our organization is much stronger there; and the fact of its not being mentioned in our Journal is because only paid up members are recorded in the statement read by Mr. Robbins."

To the above statement of Mr. Chapman, Mr. Ratchford replied:

"Another statement that Mr. Chapman made, he says:

"That of the vast amount of money spent by the miners' organization last year, but \$500.00 of it, or a little more, was spent in West Virginia."

"Gentlemen, this is not correct. The money referred to by our friend, I believe, has been given to the President of that State, but it shows nothing of the money that Mr. Mitchell received for working in that State, Mr. Pilcher and other men."

Again Mr. Robbins of Pennsylvania, in the course of his remarks, said:

“Are we going to permit to be lost to us that market and that business that is ours? I say ours. It belongs to the Miners and their families of the four States, and it belongs to the operators also, of the four States; and I tell you that that is the only way that this thing of a joint agreement is going to be maintained. We have got to mine upon that basis, and work together upon that basis, if we ever expect to continue the making of agreement for wage scales for these four states.”

It will be well to note at this point that neither the operators of West Virginia nor the miners of said State had anything whatsoever to do with the formation of the conspiracy hereinbefore mentioned and referred to. It was not contended by the officials and members of the Mine Workers' Organization that there existed any desire on the part of the miners of West Virginia to become organized.

Prior to this conspiracy of 1898, the operators of West Virginia had been, and were at the time of the formation of such conspiracy, dealing directly with their employees, and general contentment in the mining industry prevailed; but as shown by the foregoing statements of the mine workers' officials, immediately after the formation of said conspiracy and without any desire on the part of West Virginia miners or operators, the mine workers organization commenced to send into West Virginia its agitators, and by the year 1902 had induced some of the miners of West Virginia to join this organization. In the said year of 1902, the said organization, through its officers, called a state wide strike, which said strike was called in pursuance of, and because of, the unlawful agree-

ment or conspiracy hereinbefore mentioned, and during said strike said organization spent vast sums of money that had been obtained by it under the illegal contracts made between the officials of the miners organization and the operators of the said Central Competitive Field providing for the collection of dues and assessments over the pay rolls of said operators. As an inducement to the miners of West Virginia to come out on strike in said year of 1902, the said organization agreed to, and did, pay to the miners so striking, vast sums of money designated by the said organization as "relief". During said strike the mining and marketing of coal in West Virginia was hindered, obstructed and delayed, and in all those sections of West Virginia where the strike became effective, the coal industry became paralyzed. The miners organization, in order to carry out its unlawful and illegal purposes, in furtherance of said conspiracy, and in behalf of the operators of said Central Competitive field, and in order to win, or to make effective, said strike in said State, and to limit, restrict and obstruct the production of coal therefrom and to prevent the same being sold in Interstate commerce resorted to violence, intimidation and coercion, and other unlawful and wrongful practices to force and compel the mine workers of said State to become members of said organization. As a result of the unlawful and wrongful policies, tactics and practices of said organization in said State, and for the purpose aforesaid, the said organization was enabled to, and did, unionize certain sections of West Virginia and was enabled to, and did, make contracts with the operators in said fields, that became so unionized, that resulted, to a

large extent, in destroying the competition of the coal so produced in said unionized sections with the coals produced in said Central Competitive Field, and said organization was enabled, by virtue of the unionization and organization of the mines in certain sections of West Virginia, known particularly and designated as the Kanawha Field, to arbitrarily and artificially fix a price for the mining and production of coal, much to the disadvantage of the coal operators engaged in the mining industry in said unionized section, and to the advantage of the operators of the said Central Competitive Field.

These mine owners further contend that the activities of the said United Mine Workers' Organization, for the purpose of furthering the conspiracy hereinbefore stated, have not at any time ceased in the State of West Virginia, since the year 1898, but that during all the time aforesaid there has been a persistent and continued effort on the part of said organization to unionize and organize the State of West Virginia, so that the said mine workers organization could absolutely control the conditions of employment of miners in West Virginia, and could impose such terms and conditions as would benefit the said operators of the said Central Competitive Field, parties to the said conspiracy. Notwithstanding the activities of the United Mine Workers' Organization through its officials and hired agitators in their efforts to compel the miners of West Virginia to join the union and thus become solidly organized, the miners of said State of West Virginia, or a great number of them, have refused to join said union, and the officials of the said Mine Workers' Organization, realizing that the said miners of West Virginia could not be in-

duced to join such organization by the use of lawful means, entered upon a campaign of lawlessness and violence to terrorize and intimidate the miners of said State and to compel them, by force, to join said union. Notwithstanding all the activities of said organization, acting under and in pursuance of the conspiracy of 1898, the operators of the said Central Competitive Field were not, and are not yet, satisfied with the efforts made by said organization to solidly unionize the miners of West Virginia, and during all the time since the said year 1898, the said operators of said Central Competitive Field have been protesting to, and criticising, the officials of said organization because of the ineffectual efforts to solidly unionize and organize the miners of said State so that the mining industry of said State would come under the arbitrary control and direction of the said Mine Workers' Organization. As evidence of this fact, we here quote from statements made by operators and officials of the Mine Workers' Organization at a joint conference held by them in Cincinnati in the year 1910:

Mr. Maurer, operator from the State of Ohio, in the course of his remarks before said joint conference stated:

"The chief evil was the fact that districts which did not recognize United Mine Workers and had no agreement with them, produced coal much more cheaply than those districts which sustained contractual relations with that organization."

"In order to correct these most harmful conditions, a joint convention of operators and miners of Western Pennsylvania, Ohio, Indiana and Illinois, at the solicitation of the miners' officials, was called to meet at Chicago, 1898. At this convention an interstate joint agreement was established - - - -

(18). The granting of the eight hour day by the operators, after making these numerous other important concessions, was with the distinct understanding and explicit promise of the miners to give to the operators of the four contracting states adequate protection against the competition of the unorganized fields. From year to year they have been called upon to fulfill that promise. The operators, parties to that agreement, at the time of its execution, felt that it was absolutely necessary to the safety of their investments that they be protected from the encroachments upon them by the competitors of the unorganized fields."

"Finally we ask for the fulfillment of the pledge of 1898, upon which we made to the miners so many important and costly concessions. Though that promise has not been kept, we have continued for twelve years to make additional concessions by increasing the mining price from sixty-six cents agreed upon that time to ninety cents, and in other respects conceding demands without any compensating concession upon the part of the miners, until now we find ourselves at the limit of financial safety. The operators can make no further concessions. It is now, in our view, not only to the interest of the miners, but their duty as well, to do their share to meet these conditions."

"We believe this to be a true statement of facts, and therefore call upon you to relieve us, as well as yourselves, from the unfortunate situation in which we now find ourselves, due to the failure of the miners' organization to keep the faith pledged at Chicago in 1898."

Mr. Green, an official of the United Mine Workers' Organization, being Secretary-Treasurer, replied thereto as follows:

"Our friend, Mr. Maurer, in the well prepared statement he has submitted to this convention, referred to an obligation he claims was assumed by

the United Mine Workers of America in the meeting at Chicago in 1898: 'Mr. Chairman and gentlemen, we agreed that to a certain extent that was right; but I do not believe it was ever understood that one party to this contract was obligated exclusively to carry out that promise. I believe it was intended to be a mutual understanding that both sides would co-operate in trying to organize West Virginia and other non-union districts in order to extend this businesslike basis of adjusting our differences to those fields.'

"Let me point to the fact that the United Mine Workers of America have diligently and aggressively attempted to carry out the promise made in Chicago in 1898; that they have done everything in their power to redeem any promise they may have made to organize West Virginia. Since 1898 our organization has at various times spent hundreds of thousands of dollars trying to unionize West Virginia. We have also sacrificed human life in the attempt to redeem that promise. In view of the fact that we have spent hundreds of thousands of dollars and that our organizers, our members who have gone there as missionaries in an attempt to redeem that promise, have sacrificed their lives and their liberties, we should be given credit for what we have done.

"I want to ask the operators how much money they have spent and what they have done to aid us to organize West Virginia."

At the Joint Conference held between the officials of the Mine Workers' Organization and the Operators of the Central Competitive Field, at Cleveland, Ohio, for the year 1912, we quote the following statements made by a number of the Operators representing the Central Competitive Field, and a number of the officials of the United Mine Workers' Organization of and concerning such conspiracy.

Mr. Chapman, Ohio operator, stated:

“When we met in Chicago in 1898 and re-established the interstate movement the competition from non-union fields was the element, gentlemen, that entered into negotiations in the adoption of the scale that was made there. It was agreed to by both sides, and the question also of the ability of the miner to earn a fair day’s wage for the labor he performed entered into it. At that time the miners were receiving 56 cents per ton for producing coal. I made motions in that convention that increased the day wage scale.”

“It was understood in that convention, although it was not placed in the agreement, *that the miners of the competitive field of the four states were to bring the non-union fields up to the price paid for mining in those states, and unless they secured the adoption of an eight hour day at the next convention the competitive field was to be relieved of these burdens.* That was not the agreement. Unfortunately, gentlemen, the proceedings of that convention were not published. If they were published it would be found that the President of the United Mine Workers and the gentlemen who aided and assisted him in bringing about the results there agreed that they should be relieved.”

“And the question of the prices of coal and the competition that existed were the sole questions that entered into the discussion there. The state from which the keenest competition comes has increased its production 350 per cent, or 25 per cent annually for the fourteen years; and Ohio, the state that is the mother of the organization, the state whose operators have ever been loyal to the organization, has increased barely ten per cent a year. That is the record of our state, while this one state (West Virginia) has increased annually for the fourteen years, taking the average of 25 per cent, and more than double the output of Ohio coal, * * * * and if the non-union fields continue to increase as they have been doing, there will be no coal

interests remaining in Ohio. In some districts of Ohio, half the miners have left and gone to the non-union fields, and more are going."

Mr. Maurer, said at this conference, speaking of the miners of Ohio: (231)

"They are the people who have to meet with us the brunt of the competition from the non-union states. They know it is there, and I feel that they are willing, or should be willing, to give it every consideration. (233) West Virginia competition is here. I want to repeat what I said some time ago in this meeting—when West Virginia gets a foothold, she never lets go. Last year Ohio dropped back between four and five million tons in her production. Western Pennsylvania dropped back to her production. Did West Virginia drop back in her production? Did she meet this falling off in demand? If she did, gentlemen, she did it in the East; and the reports show that while she increased from four to five million tons in her production, her shipments east decreased two per cent and her shipments were increased seventeen per cent, showing conclusively that not the four or five million tons Ohio lost only, not what Pennsylvania lost only, but added to that the whole increase went into our markets. * * * The four millions of coal that West Virginia took from Ohio last year means a loss of \$2,000,000 to the miners * * * I say again the increase you got in Cincinnati benefitted you none. Here is the record. West Virginia increased her tonnage ten million tons in 1910. In 1911 Ohio lost four million tons, and West Virginia's tonnage went up five millions. Nineteen per cent of that increase went into your markets and into ours. Now it has been charged by the other side of the house that we are responsible for the conditions in West Virginia today. * * * In 1898, when we started this movement, the competition from West Virginia was 600,000 tons * * * .

(235)

“Let organized labor announce to capital, to Wall Street, if you please, to the great railroad corporations, the operators of Ohio and Pennsylvania have commenced to fight—that they are independent, that they are not controlled by the railroads or anybody else—‘We are going to stand with them shoulder to shoulder, and every time you invest a dollar in non-union states we are going to help wrest it away from you.

“We will help through the government, we will help our operators through our votes.’ When you commence that policy, you will commence to make that long productive line in West Virginia that has been growing, crumble and shrivel away.

“I don’t like to hear men on that side of the house say ‘We are ready to strike for our rights.’ I want you to say ‘We are ready to strike for our rights,’ and include this side of the house. We are doing our duty, we are fighting to prevent West Virginia increasing her tonnage; and if you treat some of your operators in this field with the consideration they are entitled to, you might get those same operators to treat you with the same consideration when you come over to West Virginia.”

Mr. Penna, an operator, at that meeting said (215):

“It does not matter how much we want to reach the time when this vicious competition can be regulated, if not destroyed; that time is not yet here and we are up today against unbridled competition as far as that is concerned. * * * We are up against this competition, there is no use trying to get away from it. In your non-union fields your men work ten hours a day as a minimum, and the maximum is unmentioned—anywhere from that to twenty-five. For ten hours the day men get about \$1.50, and if they work twelve or fourteen hours a day they may get a little more. I don’t know whether they do or not. The coal is weighed or measured, and our experience has usually been

that when coal is measured in coal cars those cars seldom get any smaller. And you say you cannot organize these people and their product goes in direct competition with ours. One reason you cannot organize them is because they have certain methods to which they resort to prevent organization. * *

“And I wish to say that were I an operator and had it in my power, I would resort to any method to keep any trades union out of mines, rather than submit to the galling meddlesomeness such as we have had displayed here on the floor today on the part of Illinois. * * *

“It is a fear on the part of those people of the effects of trades unionism as seen in places in this Central Competitive Field that prevents your union getting a foothold in those non-union districts. * * They are afraid of it, and properly so. * * *

“Organize those Virginians and organize the Kentuckians, organize Central Pennsylvania and then move up together. Level up and then move, but don't keep moving the highest.”

Mr. McDonald, official of the Mine Workers' organization, said, (217):

“We have had thousands of men go to the penitentiary for trying to establish our organization in West Virginia and other non-union fields and not only have they gone to the penitentiary but they have been beaten up and slaughtered. * * * We have had men go to jail. The penitentiary doors have no terrors for us as far as that is concerned. And if putting two or three hundred of our men in jail will organize West Virginia, we will send two or three hundred down. *The chances are we will have to get busy with that situation shortly.*”

Mr. Field, an operator, speaking of West Virginia, (page 42), said:

“We have lost business last year because we could not meet competitive conditions.”

Mr. Maurer, an operator of Ohio, said (43) :

“By accepting your proposition we should still give them, (W. Va.) more opportunities and more inspiration, if you please, to go out and take the little bit of trade that some of us now have left.

“If you get them (the miners’ demands) you will give the West Virginia miners and operators a chance to still further develop West Virginia. * *

* (44)

“When you go back over ten years and see the vast inroads of West Virginia coal in the market belonging to you and to us, because of our geographical position, can you tell us how we are going to prevent it on this side? We cannot say to the operators of West Virginia, ‘Get more for your coal’, because they are forcing their coal into our markets, and every ton of our coal that is displaced is displaced by a ton of West Virginia coal. West Virginia is growing, and in order to grow she must drive you and me out of business or she can grow no more. And the same is true of Kentucky. There is only so much demand for coal; and while year after year the great demand is increasing and the product is increasing, yet West Virginia and Kentucky are growing and growing, and doubling their output, while we are barely crawling along, and we are getting no benefit from that increase, and never can get any benefit from it until we stop this competition.

“There may be competition among ourselves, and there is bound to be competition as long as our markets are being taken from us day after day and day after day by the product of these non-union states and the operators are absolutely and unconditionally helpless. If we get any relief it must be the relief that we can work out between us. And you will unionize West Virginia when you put them down to the point where they will have to become union men. You will never unionize them as long as you increase your wages and as long as you are willing to work one hundred days a year and let them work three hundred days a year,***

(45) No, you can never unionize West Virginia on that basis, because they don't want to be unionized. You have got to meet that situation, you cannot get away from it. The markets on the Great Lakes are being taken day after day by the product of West Virginia. Why, men in Eastern Ohio owning docks on Lake Michigan have not been able to put a pound of coal on them this year. Why? Because West Virginia coal has been put on the docks on Lake Michigan at \$1.70 and \$1.80 f. o. b. You cannot meet that condition. The operators cannot meet that condition. The only way it can be met is the joint action between the employer and employee to protect their industry. It is your business and our business. * * *

(46) "If there is any virtue in the joint movement at all it should be, 'This is our business and we are going to work together trying to benefit and help both sides.' This should be a partnership, if you please, a little co-partnership."

Mr. Penna (page 49) says:

"The arguments indulged in here with reference to West Virginia-- and I have heard that ever since I have known anything about mining coal in the United States. It has been the same old song always, the same old continuous cry that the miners cannot advance farther in this competitive district with West Virginia where it is. It has lost none of its force by age. It is as forcible, or more so, today than it ever was, and the Mine Workers' Union has always recognized that force. No matter what may be said here in this meeting, the history of the past, the work that has been put in West Virginia, the money that has been spent there and the continuous attempts on the part of the Mine Workers' Union--with more or less zeal--is evidence of the fact that the Mine Workers' Union recognizes that West Virginia is a drag on this competitive district.

"I can understand why the employers in West Virginia do not want their men organized; and one of the chief reasons is because they see and know

from public and private sources how the employers are treated in localities where the union is strong. And they properly conclude that it is cheaper by any methods which they see fit to adopt, it is cheaper to adopt these methods and pay the bill than it is to submit to the unionizing of their properties. They are properly afraid of what might be the consequences. They will read the reports of this meeting. They have other meetings just like it. They see where we have talked of a desire to unionize West Virginia, for only one purpose, namely, to exclude them from the markets in order that we may replace their product with ours. And hence they lay back and conclude, 'We are going to take no chances. We have those markets and we are going to maintain them as long as we can, and encroach as much farther as we may.'

Mr. McDonald of the Mine Workers' organization, said (page 67) :

"There is only one way I see-- and I don't know that it is possible to bring it about-- and that is to in some way eliminate the cut-throat competition between the operators in the different states and sections of states. If that were done you could afford to grant the miners a good substantial increase.

Mr. T. L. Lewis of the Mine Workers' organization (page 73) said:

"The argument made against the advance (in wages) on account of the competition from West Virginia is not a new one. The burden of the responsibility for failure to organize West Virginia and Kentucky is placed upon us by the Operators. I made the broad statement that the operators are just as much responsible for the condition that exists in West Virginia and Kentucky as the miners are * *

"The operators of West Virginia are impressed with the idea that the purpose of this movement is to organize the miners of West Virginia to keep the operators out of the market, or to readjust the freight rate differential in order to make it impos-

sible for them to get into the market. That is one side. The other side of the proposition is that our own people--and when I say our own people, I mean the miners--insist that we must organize West Virginia in order to protect the Central Competitive Field. * * * And you fix in the minds of the non-union operators that the entire purpose of this interstate movement is to monopolize the business north of the Ohio River and keep the fellows on the south side down there where they belong.

"I am not one of the representatives of the miners who has denounced West Virginia operators because I believe that miners can be organized quicker by going to the operators and convincing them that they are entitled to their share of the great Northwestern trade. I believe they are. I don't believe they have any right to put any coal down at my home; I don't believe they have any right to put any coal in Columbus in competition with Hocking, but they do it. I don't believe they have a right, except for special purpose, to put any coal into Cleveland against Massillon, especially as a domestic proposition. * * *

(75) "I believe if the operators of West Virginia were convinced that the movement meant equity for everybody and didn't mean shutting out of the markets the mine owners of the non-union districts, they would be willing to get into the joint movement."

These mine owners further say that it will be seen from the statements above quoted, made by the Operators of the said Central Competitive Field and the officials of the United Mine Workers' organization, that it was the purpose and agreement of the said Operators and the officials of the said Mine Workers' organization, and deemed by them to be absolutely necessary, to unionize the mines in West Virginia, in order that these Operators and Union officials of said Central Competitive Field could have

a monopoly of mine labor, and thus destroy the competition of West Virginia coal in interstate and foreign commerce with that of their own, and thereby carry out the purposes of the conspiracy created and formed as hereinbefore mentioned, and that they would be in a position to demand an arbitrary price for coal and control the market thereof, by reason of the fact that the wages could be fixed arbitrarily and artificially by the officials of said Mine Workers' organization. Within a week after this conference adjourned, the Union Miners in the unionized mines on the north side of Kanawha River and opposite Paint and Cabin Creeks, following out the policy and methods of the Mine Workers' Organization, began to purchase long range, highpower army rifles, with the knowledge, approval and consent of the officials of the International organization and District 17, U. M. W. of A., and within a short time had accumulated more than one thousand guns. Those guns were secured before a strike of the Cabin Creek and Paint Creek fields was ordered by the Mine Workers' organization. After the purchase of said guns and the arming of the miners as above mentioned, a strike was declared in said fields by the said Miners' Organization, and soon after said strike so ordered became effective, the members of said organization residing on the north side of Kanawha River and opposite to said Paint and Cabin Creeks, invaded the said Paint Creek and Cabin Creek territory on numerous occasions, and during said invasions killed a number of people residing in said territory, and terrorized the entire strike district. At the time of said invasion the said officials of the Mine Workers' Organization, and the members participating therein, gave as an excuse for said armed invasions that

their action was prompted by reason of the Coal Operators in said Cabin Creek and Paint Creek Districts having in their employ for the purpose of keeping out Union Officials, organizers and agitators, coal company or mine guards, and that these guards so employed by the said Coal Companies were preventing by force, violence and intimidation, the unionization of said coal districts, while as a matter of fact, at the time of such invasions, there was not a mine guard at any of the mines on Paint Creek, and only four mine guards for the whole of Cabin Creek, which four mine guards were commissioned and acting as deputy sheriffs, and were engaged only as officers of the law in endeavoring to maintain peace and order in said Cabin Creek District. These Mine owners say that the real purpose of the Mine Workers' organization in arming, or permitting its members to so arm themselves outside of said Cabin Creek and Paint Creek Districts, was to terrorize and intimidate the employees of the Coal Operators of said districts, and to prevent, by the use of unlawful means, the miners from working in and about the mines in said districts; to force and coerce the miners of said districts to become members of said Mine Workers' Organization; to prevent the said Operators from carrying on their lawful and legitimate business; to prevent them, the said Operators, from continuing to employ and to have in their employ non-union miners; and to compel by force and violence the employment of none other than Union men in and about their mines in said districts. In addition to the arming of the members of said Union for the wrongful and illegal purposes aforesaid, the said Mine Workers' organization published as a strike weapon, in the city of Charleston, and within a few miles from the strike zone, in a newspaper known as

the "Labor Argus", or caused the same to be published, by paying for such publication, all manner of false and misleading statements concerning the conditions prevailing in said strike district, and secured the services of the editor of another newspaper published in said city, known as the "Kanawha Citizen," in which last named newspaper were daily published false statements of the Mine Workers' officials, and others in sympathy with said Mine Workers' organization, and various other false and misleading articles as to the conditions prevailing in said field, which statements so published greatly inflamed the minds of all persons working in the coal industry, or tended to inflame or create bitterness in the minds of the former employees of the coal companies in said strike districts. By the publication of, and the exaggeration of, imaginary ills and grievances, not in fact existing, or that had not existed in said strike districts, the former employees of said Coal Companies were induced to, and did, cease their employment, and, by virtue of the continued wrongful and illegal acts of the officials of the said Mine Workers' organization, the said strike district developed into a state of insurrection, and violence; and murder and the destruction of coal companies' properties, such as tipples, etc., became almost of daily occurrence, and in view of, and because of this reign of terror, promulgated, fostered and directly brought about by the unlawful activities, acts, policies and practices of the said Mine Workers' organization, and the inability of the civil authorities to cope with the situation, the Governor of the State of West Virginia declared martial law and placed said strike zone or districts under martial law, and created what is known as military court, for the trial of offenders, or those who were charged with viola-

tions of law. A large number of persons were tried by such military court and sentenced to the penitentiary. By reason of such wrongful and unlawful acts on the part of said organization through, by and on the part of its members, the mines, or the greater number of them, in said strike districts were closed for a long period of time, to-wit,—————months, and the operators were unable to operate their mines, resulting in the loss to said Operators of vast sums of money, and preventing such Operators from producing coal and preventing the marketing of same in interstate commerce, and preventing them from carrying out and performing the contracts which they had theretofore made with their customers throughout the United States for the sale and delivery of coal to them. Finally, because of the wrongful and unlawful acts and policies of said organization in the use of force, violence and intimidation, which prevented the said Coal Operators in said districts from employing non-union miners, or other persons not members of such organization and which wrongful and unlawful acts of said organization prevented the voluntary action on the part of such Operators in employing and dealing with their employees, the said operators in said districts were compelled to deal with the officials of said Mine Workers' organization and contract with it before they resumed, or could resume, operation of their properties; and these mine owners say that all of the wrongful acts, policies and practises of said organization and its members, as above set out, were done in pursuance of and in furtherance of the conspiracy between said Operators of the said Central Competitive Field and the officials of the International Mine Workers' organization, and its members, as hereinbefore averred.

It will be recalled that the outrages on Paint Creek and Cabin Creek became so notorious that a Senatorial Investigation was directed, in the conduct of which a large amount of evidence was submitted to the sub-committee of the Senate. During that investigation the coal operators charged the existence of the unlawful conspiracy above mentioned between the United Mine Workers of America and the coal operators of the Central Competitive Field, and that the force, violence and outrages being investigated were the direct result of the promise on the part of the United Mine Workers of America to carry out said unlawful conspiracy. Much evidence in support of these charges was submitted to the committee. At that time it so happened that there were pending in the United States courts certain suits in which the existence and unlawful nature of said conspiracy were charged and were in issue. In said suits it was also charged that the United Mine Workers of America was itself an unlawful organization per se. Among these suits was the case of Hitchman Coal Company against John Mitchell et al. Because of the pendency of these suits the sub-committee of the Senate felt that it should not pass upon these questions, which were then the subject of litigation, and so the report of that committee contains no finding as to these charges. In that report Senator Shields, a member of said sub-committee, said:

“While we have herein reported the material evidence submitted to the sub-committee upon this subject of the investigation and the authorities relied upon by the parties to sustain and refute these contentions, we express no opinion as to whether the charge made by the coal operators of West Virginia is sustained by the facts, or the law applicable to those facts, because we found there was lately pending in the District Court of the United States for the

Northern District of West Virginia a case under the style of Hitchman Coal & Coke Co. vs. John Mitchell et al., and now pending in the District Court of the United States for the Southern District of West Virginia, another case under the style of the United States vs. John P. White et al., the former being a bill in equity and the latter a criminal prosecution, both of which involve the alleged conspiracy and combination to restrain and monopolize interstate and foreign commerce in coal, which the coal operators of West Virginia charge was made by the coal operators of Ohio, Indiana, Illinois and Western Pennsylvania, and B. F. Chapman and others, members of the United Mine Workers of America, the subject of this organization.

“The case in equity has been determined in the district court; and a copy of the opinion of Judge Dayton, who presided on the hearing, has been submitted to us, from which it appears that upon a record of some 8,000 pages, he found the charges of the complainant in the case to be sustained by the facts, and granted an injunction against the defendants perpetually enjoining them from further acts in the execution of the conspiracy and combination found to exist. But it is stated by one of the counsel for the United Mine Workers of America that an appeal has been taken in the case, and therefore the questions involved are yet pending and undetermined in the courts. The criminal case is also pending and undetermined.

“We think it would be improper for a committee of a legislative body to undertake to determine in advance questions of which courts of competent jurisdiction have under consideration in cases pending in them. In other words, we are of opinion that the Senate should not and has no power to prejudge questions of either law or fact involving the property and liberty of citizens, of which the courts of the country have lawfully assumed jurisdiction. It

would, we think, be an unwarranted invasion of the judiciary by the legislative branch of the government."

These mine owners further say that, by the same unlawful means, acts and activities on the part of the said Mine Workers' organization, as committed by it and its members in the Paint and Cabin Creek fields, and for the same purposes hereinbefore mentioned, the New River District of West Virginia was later organized, after a serious strike had been ordered and declared by said organization, which strike continued for a period of _____ months and resulted also in the serious stoppage of the production of coal in said district and the transporting, shipping and marketing of same in interstate commerce. The said organization by violence, murder, intimidation and coercion by its members, caused the miners employed in said district to cease their employment, break their contracts of service, and compelled said miners, by reason of said unlawful acts and practices, to remain idle during the course of said strike and prevented the employment, by the operators, of non-union miners.

Finally, as was the case with the Cabin Creek and Paint Creek Operators, the Operators of the New River field were compelled, in order to prevent further and irreparable injury to themselves, and to preserve their business from total destruction, to recognize the Miners' Union by making contracts with the Mine Workers' organization. Pursuing the same policies and activities, and acting for the same purposes, as hereinbefore set out, the said Miners' organization caused the organization of the Miners in what is known as the Fairmont District of West Virginia, and compelled the Operators of said last named district to enter into contractual relations with it.

After the said organization had caused the employees of the Kanawha, New River and Fairmont Districts of West Virginia, by virtue of unlawful acts, policies and activities as hereinbefore described and set forth, and, in furtherance of such conspiracy, to join said Union, and after said organization had, by virtue of such unlawful acts, policies and activities as hereinbefore mentioned, organized the mines in said districts, it compelled, through and by its officials, both International and State (District No. 17) by virtue of such unionization and organization of such mines, the Operators to enter into, a "closed shop" contract, which contract provided for the collection over the payrolls of all the Coal Companies in said Districts, of all dues and assessments levied and charged to or against the members of said union. By virtue of said last named contracts and because of the policies of the organization pursued thereunder, none others than members of the United Mine Workers of America have been permitted to work in and about the mines of said Districts, and the Operators have been denied the right to enter into voluntary contracts with their employees for service, and the non-union miners or other persons engaged in working in and about the mines have been denied employment, and have been prevented from exercising the rights of liberty of action as American citizens guaranteed by the Constitution of the United States and by the laws made in pursuance thereof, with reference to the right or liberty of contract, and to voluntarily contract for themselves. By virtue of the means employed, the unlawful acts and activities of the United Mine Workers as more fully hereinbefore set forth, the membership of said Union in said organized districts now number about fifty-three

thousand, or about sixty per cent of all the miners engaged in mine work or employed in and about the mines of the State of West Virginia. By virtue of such membership, and the organization of the mines in said State as above referred to, the said Mine Workers' Organization arbitrarily controls the said mining industry in said union fields, as to wages paid, and the conditions of employment of the mine labor in said districts, and by virtue of such control has been, for a number of years, arbitrarily fixing the price of all labor and the conditions of employment in said organized districts, and by virtue of such control and such price fixing, the competition of this West Virginia coal with the coals produced in the Central Competitive Field has been virtually destroyed.

Since the organization of said districts in West Virginia the operators in these districts have been allowed to have no part in negotiating contracts for wages, because the mine workers' officials first enter into wage contracts with the operators of the Central Competitive Field and then compel the West Virginia operators to enter into like contracts. In fact, the contract entered into between the Mine Workers' officials and the operators in said Central Competitive Field is made a part of, and controls, the contract imposed upon the West Virginia operators, in that it is provided that any advance in wages in said Central Competitive Field must be followed by a similar advance in West Virginia. Their competitors make wage contracts for West Virginia operators.

These mine owners further say that after the said organization, by the means aforesaid, and for the purposes aforesaid, organized the districts in West Virginia hereinbefore mentioned, it sought to

organize the mines located in the Winding Gulf District. During the attempt to organize said last named district, the Mine Workers organization pursued the same policy of force and violence that characterized its efforts in bringing about the Unionization and organization of the mines in said organized districts. Shootings from ambush at miners going to and from their work were of frequent occurrence. Considerable property was destroyed and a reign of terror inaugurated. Union officials furnished guns and ammunition to its hired gunmen, who were members of said organization, for the purpose of shooting at inoffensive persons who desired to and were working, and who were satisfied with the conditions and terms of their employment. A number of the Mine Workers' officials, actively engaged in violence and attempted murder, have since been tried and convicted in the courts of Raleigh County, West Virginia, and sentenced to the penitentiary for actually participating in said shootings.

Another instance of the unlawful methods and policies of this organization is to be found at Willis Branch in Fayette County. Willis Branch is one of the large coal operations in Fayette County and is owned and controlled by one William McKell. This coal company paid the same rate of wages as those paid by the other mines in Fayette, the terms and conditions of employment being exactly the same as those that prevailed at such other mines in said county. This coal company, however, refused to enter into a "closed shop" contract with the Mine Workers' officials, and merely because of this refusal to enter into such "closed shop" contract, the members of the United Mine Workers of America have virtually destroyed the property of said coal company. Its tipples and sub-stations have been burned and totally

destroyed. The employees of the company, who desired to continue to work, have been prevented from so doing, because the members of this organization have continuously and repeatedly during the past two years shot from ambush into the homes of such workers, and have made it impossible for such workers to remain in their homes and all such workers so desiring to work for said company have been driven, not only from their homes, but from the community. by the members of this organization, and the whole mining town is now, and has been for several months completely deserted, and the business of the mine owners has been effectively destroyed at said place. A number of the members of the United Mine Workers Union have been tried, convicted and sent to the penitentiary for these outrages.

Attention is here called to the general coal situation in 1919 and the part played by this organization therein. Without going into detail, it will be recalled that, under what is known as the "Washington Agreement" the United Mine Workers, in 1917, entered into a wage contract with the organized fields of the United States, with the approval of the President of the United States and the Fuel Administration. By its very terms this contract was to continue to the end of the war, with the provision, however, that it should not extend beyond two years from April 1st, 1918. In 1919, the United Mine Workers of America, at their convention held at Cleveland, on September 22nd, while said contract was in full force and effect, and in absolute disregard thereof, made upon the operators with whom that contract was made, certain demands, and among others that the wages prescribed in said contract (already the highest ever known) should be advanced sixty per cent,

that the workday should be reduced to six hours, and the work week to five days, and that the miners should be paid time and a half for over time, and double time for Sundays and holidays. These demands were accompanied with the statement that, if they were not acceded to, a nation-wide strike would be called. These demands were refused because they were not only contrary to the existing contract but were of themselves unreasonable and impossible. Accordingly, a nation-wide strike was called, effective November 1st, 1919, by John L. Lewis, President of the United Mine Workers of America. It is unnecessary to go into the history of that strike; but it is sufficient to say that the strike failed because the non-union fields of the country, particularly the West Virginia Fields, were able to supply the country with enough coal to prevent a nation-wide calamity.

We cannot too solemnly affirm and impress upon this Committee the fact that the whole object and aim of the United Mine Workers of America today is to so Unionize and organize the remaining free coal fields of the country that it will have absolute control of the production of all coal in the United States, for the purpose of being able to dictate absolutely to the whole people of this country the price of coal, the output of coal, and incidentally to control all the basic industries of this country depending upon fuel, to say nothing of the domestic needs and comfort of the people.

In view of these facts and the history of this organization, which cannot be successfully contradicted, it is respectfully submitted that the objects, aims, policies and practices of this organization are in themselves contrary to the fundamental principles of American freedom and the American Government; are unlawful and contrary to public policy. The

mere fact, however, if standing alone, that this organization forbids any man not a member of it, to work in any coal mine, and that it imposes a contract to that effect upon all operators with whom it contracts, is violative of the individual rights of citizens who do not desire to belong to that organization and yet claim their right to pursue a lawful vocation, under terms and conditions agreeable to them, and free from the dictates of any one. Not only that, it is further shown that at its convention in Cleveland in 1919, above referred to, a resolution was adopted which has since been approved time and again by its officials and official publications, demanding the nationalization of the coal mines of the United States, and that, in effect, any governmental commission appointed to operate the mines should be controlled by members of the United Mine Workers of America. The ultimate aim of the organization is to deprive every mine owner of his property, and to vest it in that organization.

These mine owners contend that, as a matter of law and right, they have the right to engage in a lawful business and to exercise the right to contract directly with their employees. These rights are directly challenged by the United Mine Workers' Organization, which is, by means of funds collected as dues and assessments, from its members in other States, waging a warfare by those in their employ and pay against the mine owners and their employees in Mingo and Pike Counties to destroy these rights which the mine owners regard as fundamental, not only in relation to their own interest in carrying on a legitimate business, but in the interest also of their employees who desire to work and exercise their rights guaranteed to them by law without, as a condition precedent to their working, being compelled to

join an organization that has become, as these mine owners contend, unlawful per se and destructive of fundamental rights having their basis in law and sound public policy.

That the principles herein contended for are sound has been established by every court of last resort in the United States which has been called upon to pass upon them. While the courts do not deny, but recognize, the right of any man to join a lawful organization, operating for lawful purposes, they also recognize and affirm the right of any man to decline to join any such organization or to deal with it in any way. These courts recognize the right of any man to engage in any lawful occupation under such terms, conditions and agreements as may be to him satisfactory, free from any interference of any kind by any one else. They further recognize the right of any employer to employ any man he sees fit, upon such terms, conditions and agreements as may be to him satisfactory, free from the dictation of any one else. They recognize the right of any employer to decline to employ any man for any reason to him satisfactory. They further recognize the untrammelled right of employer and employee to enter into such mutual contract, touching any lawful matter, and for any lawful purposes, upon such terms and conditions as may be mutually agreed upon by them. In this connection, we desire to call attention to the following quotations from the opinion of the Supreme Court of the United States in the case of *Hitchman Coal Company*, against *John Mitchell et al*: 224 U. S., page 250, 251 & 253.

“That the plaintiff was acting within its lawful rights in employing its men only upon terms of continuing non-membership in the *United Mine Work-*

ers of America is not open to question. Plaintiff's repeated costly experiences of strikes and other interferences while attempting to "run union" were a sufficient explanation of its resolve to run "non-union," if they were needed. Whatever may be the advantages of "collective bargaining," it is not bargaining at all, in any just sense, unless it is voluntary on both sides. The same liberty which enables men to form unions, and through the union to enter into agreements with employers willing to agree, entitles other men to remain independent of the union and other employers to agree with them to employ no man who owes any allegiance or obligation to the union. In the latter case, as in the former, the parties are entitled to be protected by the law in the enjoyment of the benefits of any lawful agreement they may make. This court repeatedly has held that the employer is as free to make non-membership in a union a condition of employment, as the working man is free to join the union, and that this is a part of the constitutional rights of personal liberty and private property, not to be taken away even by legislation, unless through some proper exercise of the paramount police power.

"Adair v. United States, 208 U. S. 161, 174;

"Cooper v. Kansas, 236 U. S. 1, 14.

"In the present case, needless to say, there is no act of legislation to which defendants may resort for justification. * * * *

"It is suggested as a ground of criticism that plaintiff endeavored to secure a closed non-union mine through individual agreements with its employees, as if this furnished some sort of excuse for the employment of coercive measures to secure a closed union shop through a collective agreement with the Union. It is a sufficient answer, in law, to repeat that plaintiff had a legal and constitutional right to exclude union men from its employ. But it may be worth while to say, in addition: first, that there was no middle ground open to plaintiff; no option to have an "open shop" employing union men

and non-union men indifferently; it was the Union that insisted upon closed-shop agreements, requiring even carpenters employed about a mine to be members of the Union, and making the employment of any non-union men a ground for a strike; and secondly, plaintiff was in the reasonable exercise of its rights in excluding all union men from its employ, having learned, from a previous experience, that unless this were done union organizers might gain access to its mine in the guise of laborers."

Referring now particularly to the situation in which these mine owners have found themselves, it is proper to say that, in the light of the history of the United Mine Workers of America, its policies, practices and methods, they have become absolutely convinced that it is to their interest, to the best interests of their employees, and to the best interest of the public, which buys and consumes their products, that they have nothing to do with this organization. At times an effort has been made to cloud the issue by the injection of the suggestion of the "open shop," but that is not the issue that confronted and confronts these mine owners, because the United Mine Workers will have none of it, as is fully shown by what has been heretofore stated. This organization throws down the gauntlet and makes the issue, and that issue is, that it must be a closed Union shop or a closed non-Union shop. As between these two, these mine owners have chosen the closed non-Union shop, which recognizes individual rights, the rights of property, and the right of individual contract, and they propose to stand by it.

We feel that it is due to your Committee to emphasize the statement that this investigation will be fruitless, so far as any practical good to be accomplished is concerned, unless your Committee will ascertain and report the underlying causes of this

trouble and place the blame upon those who are responsible for the reign of riot and bloodshed that has continued in this district for more than a year. To temporize with the guilty, without condemning their crimes, will only encourage them to continue their lawlessness and depredations.

We believe that the greatest possible good that this Committee can do toward establishing permanent peace in all the mining districts of the country is to proclaim, in no uncertain terms, the lawful rights of coal operators in dealing with their employees, so that both employees and employer will know their legal rights and can act accordingly. It is only necessary, however, to restate these rights, as they have been announced many times by the courts of last resort.

“No person * * * shall be deprived of life, liberty or property without due process of law.”

U. S. Const. 5th Amendment; W. Va. Const. Art. 3, Sec. 10.

W. Va. Code, Chapter 15H, Sec. 28.

“Nor shall any person or persons or *combination of persons*, by force, threats, menaces or intimidation of any kind prevent, or attempt to prevent from working in or about any mine, any person or persons who have the lawful right to work in or about the same and who desire so to work * * *

Punishment is, if guilty, a fine of from \$50.00 to \$500.00, or imprisonment not less than ten nor more than ninety days.”

When your Committee tells the United Mine Workers of America that the mine owner has the legal right to employ men of his own choosing and discharge them for belonging to any organization, or for any other cause, or without cause, other than his

own will; and this liberty of contract is given him by the supreme law of the land, and that any agreement or arrangement between two or more persons to interfere with this right by menaces, threats, force or violence, is a crime against the United States punishable by heavy fines and imprisonment, then and not until then, can there be any hope of industrial peace.

The fact that this organization of workers is an unlawful conspiracy, subjecting the members thereof to criminal prosecutions, must be so impressed upon them that they will abandon their policy of murder and assassination.

OPERATORS' ASSOCIATION OF THE WIL-
LIAMSON FIELD.

