

BEFORE TOWNSITE BOARD NO 2, FOR EDMOND, O. T.

WM. INNIS, Contestant.)
vs. : Involving lot 3, block 24, Edmond, OT
Newman J. Burton, Contestant

April 24, 1891.

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MATHEW ORR FOR BURTON BEING FIRST DULY SWORN TESTIFIES
AS FOLLOWS:

Q: Whereabouts do you live and what's your occupation Mr. Orr?

A: I live on section 5-13, 3, I am, occupation is a farmer

Q: Are you acquainted or were you acquainted with Wm. Innis one of the parties in this contest?

A: I was.

Q: How long have you known Mr. Innis?

A: I got acquainted with him I believe about the 25th of April, 25th or 26th of April, 1891

Q: Did he live in your neighborhood or have any interests in your neighborhood?

A: yes sir.

Q: You may state what he was doing there?

A: He took a claim there on section 8 north-east quarter, northeast quarter of section 8 ~~xxxxxxx~~

Q: In 13- 3 you say.

A: Yes sir.

Q: Is he still occupying that claim?

A: No sir.

Q: What has he done with it if you know?

A: I understood he has sold to Mr. Rollins who is now occupying it

Q: How long since Mr. Innis lived in that neighborhood?

A: I believe it was in March to the best of my recollection, March 90.

Q: Did he ever live there Mr. Orr?

A: yes sir, occasionally

Q: What do you mean, just explain what you mean?

A: He lived there a short time after this had a little house built then went off to Colorado, he came back and sold his claim, lived there sometime in this neighborhood sometime about there, sometime in town until he sold and then went off.

2.

Q: Do you know where he went?

A: No, I don't exactly know, he told me he thought of going to Ft. Worth Texas- I heard since he went over from there to-

Q: Since that time, since March, 1889 you have no information of Mr. Innis being in this country?

A: No sir.

Q: Did you ever have any conversation with him in relation, what he contemplated doing

A: Yes some.

Q: Well you may state what it was he said?

A: I have heard him say he meant to stay here and improve the claim and make a home of it, then again he told me he had abandoned that idea, that he wanted to sell out and go somewhere where there was some money to be made

Q: Then at first I understand you to say that he was going to make a homestead of that quarter

A: Yes sir

Q: Afterwards he thought of wanting to sell and go where there was some money to be made?

A: Yes sir.

Q: Do you know how much he received for that claim?

A: I don't know only by hearsay

Q: Did you ever hear him say?

A: Yes sir.

Q: You may state what he said

A: He told me he got \$530.

Q: Do you know of his having property in any other state or territory than here

A: No sir.

Q: Did you ever have any talk with him about anything of that kind

A: Yes sir.

Q: If he ever said to you that he owned property at other places you may state what he said?

A: Yes, he told me he had some property in Los Angeles California. (OBJ. as incompetent, Sust'd. Excepted to.)

Cross-ex.

Q: Do you know anything in regard to Mr. Innis' health?

A: Yes a little

Q: Was he entirely well when he was here?

A: No, sir.

Q: He was sickly was he?

A: Sickly somewhat.

3.

ROBT. GALBRAITH FOR BURTON BEING FIRST DULY SWORN TESTIFIES AS FOLLOWS :

Q: State your residence and business Mr. Galbraith?

A: My residence is here, at Edmond, and my business is real-estate.

Q: How long have you resided in Edmond?

A: Since May, 1889, first of May.

Q: Are you acquainted with the parties contestant to this lot?

A: yes sir.

Q: Are you acquainted with the location and situation of the lot?

A: yes sir.

Q: When did you first become acquainted with Mr. Innis?

A: In June, 1889, or latter part of May.

Q: You have resided right along since that time here?

A: yes sir.

Q: Are acquainted with the residents of this town?

A: yes, thoroughly.

Q: You may state if at any time Mr. Innis was a resident of this town, when it was and how long he was?

A: Not to my knowledge at any time.

Q: Do you know of any interests he had in the Territory other than the claim upon the lot?

A: yes sir.

Q: You may state what it was

A: A homestead on the north-east quarter of section 8, township 13, range 3

Q: Do you know about how long he retained his claim on the homestead, how long he had an entry upon it?

A: I can't state positively to the date

Q: Well say about how long--do you know that he sold that?

A: yes sir.

Q: When was the last time that you saw Mr. Innis as near as you can remember?

A: In the spring of '90 sometime, latter part.

Q: Sometime about March or April, 1890?

A: yes sir.

Q: Had he at that time disposed of this homestead entry?

A: To the best of my knowledge he had.

Q: What do you know about the condition of this lot, what is its present condition in ~~what~~ way of improvement?

A: It has a small building probably 8 by 10 or 10 by 12, it would exceed that

Q: What is it worth?

4.

A: Well it is -- I don't know the exact cost of it, from the way it appears on the lot it ~~xxxx~~ has probably cost \$25 or 30.

Q: Was there any other improvement connected with the lot?

A: No other except the side-walk.

Q: What is the side-walk, that kind of side-walk worth if you know across one of these lots, about how much??

A: About on the average of \$15. from \$ 13 to \$16

Q: Now you say you have been familiar with the lot all along, do you know who has occupied that lot?

A: Yes sir.

Q: You may just go on and state who has been the occupant there?

A: Mr. Butron moved from my place, at this place spoken of, he now occupies, in October I believe '89, or in the fall any how of '89, somewhere, I could not say positively

Q: And has been his place of business ever since?

A: Ever since October '89 Mr. Burton occupied it, yes sir.

Q: How occupied it before him?

A: There was a harness maker I believe that was the first occupant of the lot, they were in jointly afterwards. I believe.

Q: You mean the harness maker and the Mr. Burton were in afterwards?

A: Yes sir.

Q: Did Mr. Innis ever occupy the lot at any time?

A: Not to my knowledge

Q: Well I ask you if you were so situated so as to know this or not?

A: I never seen him there, if he had been there, I would more than likely have seen him, I generally took notice to such--

Q: Do you know who that harness maker was who occupied that place?

A: Yes I know him but I can't speak his name, I am familiar with the name, I can't just think of it.

Q: I want to ask you when he left there, about when he left there?

A: Well I could not say positively whether he left in 1889 or early in '90, but near that time.

Q: After that after he left you have seen Mr. Burton in continuous occupancy and possession of the lot?

(Unanswered.)

Cross-ex.

Q: Mr. Galbraith you say you are familiar with the people who lived in this town at that time, do you remember Innis whether he has a residence here or not?

A: I never knew of Mr. Innis being a resident of this town.

Q: Do you remember who built the Grand Central Hotel, put up the foundation?

A: I knew the contractor.

Q: You don't know whether Innis worked there or not, you can't jog your memory?

A: Yes I believe too, Mr. Innis worked on the foundation of that hotel.

Q: What interest have you in that lot Mr. Galbraith?

A: I have none whatever.

Q: Was you attorney for Mr. --- the defendant here in making the out his application, did you say to him that you were a partner of Johnson's you were working up the case for him.

A: I placed the power of attorney "Johnson, Galbraith and Eads" yes sir..

Q: How did Burton get possession of that lot.

A: From what I know concerning that he moved from my place to this place in dispute.

Q: Do you know whether he contracted with Mr. Innis, whether he ~~con~~ purchased the lot or had a contract for the purchase of the lot or an thing of that kind?

A: No sir.

Q: Do you know whether Innis slept in that house or not?

A: No not to my knowledge.

Q: You don't know of him sleeping in there, don't know this, you could not swear that he did not sleep in there could you?

A: No sir.

Q: Who built the house do you know?

A: I know the party that was working on it.

JOHN DAVIS FOR BURTON BEING FIRST DULY SWORN TESTIFIES
AS FOLLOWS:

Q: Whereabouts do you live Mr. Davis?

A: Here in Edmond.

Q: How long have you lived here?

A: I came here the 2nd day of last May, 1890.

Q: Do you know the lot in controversy?

A: Yes sir. The lot occupied by Mr. Burton.

Q: How long have you known it?

A: Ever since I came to town, Mr. Burton was one among the first men I got acquainted with, he was there at that time.

Q: Did you ever know Mr. Innis the other contestant claimant for this lot?

A: I did not.

Q: Are you familiar with the resident citizens of Edmond?

A: Yes sir.

Pretty well acquainted with the town.

Q: Could Mr. Innis have been a resident for any considerable period since you came here without your knowing it?

A: No sir, I think not.

Q: What do you know about the occupation of that lot since you have been here?

A: I know Mr. Burton has occupied it ever since I came here.
Crosby.

Q: Do you know how he got possession of the lot?

A: No sir, I do not.

Q: Do you know whether he paid rent or not, did you ever hear him say?

A: No sir.

N. J. BURTON FOR HIMSELF BEING FIRST DULY SWORN TESTIFIES
AS FOLLOWS:

Q: You may state your age, residence and occupation?

A: 30 years old, residence 5th ward, Edmond, Oklahoma Territory, occupation shoe-maker.

Q: Where did you come from to Oklahoma?

A: I came from Tennessee, near the line of Kentucky.

Q: When did you come into the territory?

A: I came here on the 22nd of September last, 12 months ago.

Q: September, 1889?

A: Yes sir.

Q: Are you a citizen of the United States?

A: I am.

Q: You are one of the claimants for the lot in dispute?

A: Yes sir.

Q: When did you first go in possession of that lot?

A: I went took possession of that lot, I went into the house about the last--rather the first part of October, 1889.; I came here 1889 on the 22nd day of September, the first about of October I went in possession of that building that I have occupied.

Q: How did you occupy that house at first, who was there if anybody?

A: Do you mean how I came in possession of it?

A:

Q: Yes sir.

A: There was a man by the name of Granyum had some harness in the for sale, and I called on him as I was passing by his harness shop one day, he wanted me to sell harness for him on commission, offered me 10 cents on the dollar to sell harness on commission, I accepted his offer and went in there to do business for him in that way, in that way.

Q: How long did you maintain your relation with Mrs. Grantham?
A: I think it was, to the best of my knowledge 2 and 1/2 months, may be 3.

Q: Now after that how does it come that you remained in possession of this property?

A: Well Mr. Grantham he sold his harness out and he just abandoned the property and left me in possession of it without any instructive instructions whatever of any kind, he sold his harness with the exceptions of a few things which he asked permission to let lay along in the shop.

Q: What did you first if at all assert any title to this lot?
A: When did I first lay claim to the title?

Q: Yes sir.

A: I didn't go out openly and lay claim to the title until after the officers of the Territorial Government was appointed, then I went and spoke to those who was not friends of the opposite party of course

Q: What was the relation as to Mr. Innis during that time, did you have any conversation with him.

A: My relation with Mr. Innis?

Q: Yes sir. Did you meet Mr. Innis

A: Oh yes, during the time I was in there I met Mr. Innis.

Q: Did you have any conversation with him about it

A: Yes I had a short conversation with him about it.

Q: When did you last see Mr. Innis

A: I last seen Mr. Innis to the best of my knowledge in--during the last of December 1889 or the first of January 1890, or sometime in January 1890 right up there and along, that is to the best of my knowledge, it is the last time I seen him.

Q: Has he ever been here since that time

A: Not to my knowledge he has not

Q: If he had been here so as to been a resident here you would have know it?

A: Certainly I would, undoubtedly I would as I worked right in the middle of the place.

Q: Was there ever been any demand made by Mr. Innis on you for the possession of the property?

A: No sir.

Q: You are in possession now and have been since that time.

A: Yes sir.

Q: What was you using the building for?

A: I am using it as a shoe-shop at the present time.

Q: What improvements are there on the lot other than the building?

A: There is a side-walk on the lot, it is in front of the door.

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Q: When was that built?

A: Along to the best of my knowledge, about the middle of last summer.

Q: You had that built Mr. Burton, you had to pay for it I mean?

A: It was paid for through me.

Q: What does it cost to build a side-walk in front of one of these lots?

A: Well from what I understand about it they run from 14 and 1/2 to 16 dollars.

Q: Have you a family?

A: Yes sir.

Q: Where do your family reside?

A: They reside in Edmond, 5th ward.

Q: And you have a residence in the 5th ward?

A: Yes sir.

Q: And use this as your place of business?

A: Yes sir.

Cross ex.

Q: How did you get possession of that lot?

A: I got possession of that lot through Mr. Grantham.

Q: What was your contract with Mr. Grantham when you took possession?

A: I was to sell harness on 10 cents on the dollar.

Q: Was he paying rent for that lot?

A: No sir he told me he never paid any rent from--(OBJ.)

Q: Did you ever pay any rent for the lot?

A: I paid a demand that the people made.

Q: Did you ever pay Mr. McFadyen?

A: I paid that demand to Mr. McFadyen.

Q: Did you ever pay Mr. Innis any rent?

A: I am not sure whether I paid Mr. Innis any rent or not.

Q: You don't remember then?

A: If I ever did pay Mr. Innis any rent it was at the time Mr. McFadyen was with him, I don't remember whether I paid him or Mr. McFadyen, it was very little I paid either one of them very little.

Q: Did you ever complain to Mr. McFadyen about the rent being too high?

A: Yes, I complained about the unjust charge of the house, that it was not worth anything, it was not worth any rent at all, that it was on a government lot, and that I thought I had the best right to it.

9.
Q: Did you assert at that time your right to the lot. Did you ever pay Mr. Wallace any rent and did he then give you a receipt?
A: yes I paid him rent

Q: Agreeing to the demand called rent?
A: I was so ~~pleased~~ ^{bull dozed} by you fellows that was the only way out of it. There was a marshal here by the name of Overton who was throwing men off of lots here---

Q: Did you ever pay rent to Classen?
A: Why of course I paid rent to any and everybody that come to me for it before the territorial law passed, because I was positively afraid not to pay it, because I had been told by the parties demanding rent, that you would throw me and have me put off by the marshal if I did not pay it.

Q: What was the amount you paid a month?
A: The amount you demanded was \$3.

Q: Didn't you complain to Wallace about the rent being high at one time saying that the season was dry, and that Innis ought to do a little better, and whether you didn't pay one months, and due one.
A: I don't know what kind of a statement I made, I know there was several months I didn't pay any rent, I know I kept back from it until you told me ~~you would~~, you would put me off if I didn't do it or have Mr. Overton do it.

Q: Did I ever make the statement that you should be put out of the house previous to January or since you filed your application to the lot?
A: I positively think you did.

Q: You think so?
A: I am very well sure of the fact.

Q: Mr. Butron who did you pay for putting down the side-walk?
A: Why I never paid anybody to put down the side-walk, you come to me

Q: Who did you buy the lumber of that was in that side-walk?
A: Well now you come to me and collected money for the purpose--

Q: For the purpose of laying side-walk?
A: of course I didn't care who you hired, what carpenter done it-- they had been laying side-walk,---

Q: Did Mr. Grantham leave you in possession of the lot when he went out?
A: Why certainly he did.

Q: No state again was you to pay rent to any of these parties to Mr. McAdyn or Mr. Innis or to Mr. Wallace or Mr. Classen, any or all of them, did you pay them any money for the use of that building?
A: I paid the demand that they called rent, that they simply bull dozed me out of, I didn't call it rent at all.

10.

Q: I understood you to say Mr. Burton from the time you ascertained that Mr. Innis had left the territory you refused to pay any rent?

A: Yes sir.

Q: To pay any rent?

A: No sir, from the time of the territorial law the appointment of the Territorial officers from that on.

Q: How many of these fellows were trying to get rent out of you for that lot any way?

A: Why it seems to me like there was a good many.

Q: Were there any other fellows that tried to get rent?

A: There was Mr. Classen and Mr. Wallace and Mr. McEady, and the man came one time, I believe it was that owned the building, he was there one time with Mr. McEady and urged upon me to pay rent, they brought in some work and they laid it down, wanted for me to do it and I done it, and when they came they picked it up and told me to charge it on the rent, I could not help myself.

Q: Have you any other interests here? Any other besides this lot?

A: I have a resident lot up here but it is on a disputed quarter, it is not on this here, my wife has one lot over here beyond the depot that is all except these 2 lots, is all on this quarter; these lots up there is disputed lots; one I claim that the shop is on, and one on the other side of the rail-road.

Re-cross-ex.

Q: What time did you refuse to pay this rent at what date?

Q: What rent.

Q: That you have been paying this demand for the use of the house?

A: All the money that I have paid---

Q: I asked you for the date?

A: About the 24th of June, I think.

Q: When did you refuse to pay rent for the house, when did you pay the last money to Mr. Wallace or myself for rent.

A: I never paid any money since the appointment of the territorial officers for rent, all the money I paid since that was for the improvement of the shop and I paid it for my own individual benefit.

Q: What time did the Territorial officers take possession of the territory, what date was that?

A: They was appointed about to the best of my knowledge about the last of June or first of July sometime

Q: You spoke of the interests that you had here, have you got any other interests in the Territory?

A: I have no interest that I could call interest yet, I made a contest on a claim, ~~xxxxxxx~~

Q: Simply a contestant on a homestead?

A: Yes sir.

11.

Judge Sweet--Q: In what way did these parties who went to you and made the demand for rent, in what manner did the bull-doze you
A: They accused me for getting in possession of the house illegally I told them I did not, I, I happened in there on certain conditions, I didn't know who the house belonged to Mr. Granthum when I went in there, they said Mr. Granthum didn't pay his rent, and they didn't propose for me not to pay mine, I just simply had it to pay.

Re-direct-ex.

Q: What threats of any kind was made in relation to it?
(UNanswered.)

R E S T S.

JOHN A. MCFADYN FOR INNIS BEING FIRST DULY SWORN TESTI-
FIES AS FOLLOWS:

Q: State your age and residence Mr. McFadyn?

A: 32, residence, Edmond, post office address is.

Q: do you know Mr. Innis?

A: I do.

Q: How did you come to know Mr. Innis, how was it that you become acquainted with him?

A: I met him in May 1889 in Edmond, I believe made his first acquaintance, that was made on account of his being sick, attracted my attention and I became acquainted with him, made it that way.

Q: Did he ever board with you while he was here at Edmond?

A: When I first become acquainted with him I don't know where he was boarding, he was lodging at McGee's when he was sick, and afterward becoming acquainted got his meals at our house.

Q: He paid board at certain times did he?

A: Yes sir. He paid me at one time \$14 that I recollect, I think it was 4 weeks board.

Q: Are you acquainted with Mr. Burton?

A: I am sir.

Q: What do you know about Mr. Burton paying rent to yourself and Mr. Innis?

A: In answering that question I believe it would be necessary to state the manner in which I became placed in the position to obtain rent. Mr. Innis had got a certificate on the lot, lot 3 in block 24 in this city, and immediately sometime in July or August, 1889, he went--his health failing him, he went to Denver to recover his health and make some money so he told me, and having then a building before he left, he left me the key and charge of the building.

Q: Did you ever see Mr. Burton pay Mr. Innis any money for the use of that building?

A: I did but let me state: Mr. Innis left me the key to the door and instructions to use the building myself or rent it as I desired

that I had charge of the building during his absence; I myself became sick and found it necessary to leave the Territory and return to--- before I returned, I rented the building to Mr. Granthum for a rental of \$3. a month he paid me a month's rent in advance.

and I gave him the key and possession of that building on the 5th day of September ~~ix~~ about the 10th day of October I went away stayed there-- and returned on the 5th of December, on the 5th day of December, and among the first things--

Q: What year was that?

A: 1889-- One of the first things I done on my return when I got time was to call around and attend to the building of Mr. Innis' that I had rented to Mr. Granthum, I found that Mr. Granthum had gone and in this building I found this man Burton, I introduced myself told him what my business was; and Mr. Burton told me--(OBJ. to introduction of testimony unless language is used. Over-ruled. Ex-cepted to. Mr. Innis left me charge of the building, told me to use it or rent it as I saw fit.. I introduced myself to Mr. Burton and when I told him who I was, and when I inquired as to how he entered, Mr. Granthum was in possession of the building, he replied that Mr. Granthum had left the building in his care until I returned. During my absence there had some rent become due, I told Mr. Burton the mission of my visit, Mr. Burton said he was informed by Mr. Granthum to tell me that he had sent and returned his harness to Wichita and when he got his return the rent due was forth coming or words to that effect. He also told me that as he was a shoe-maker he was very desirous of renting the building and if I would let him have it on terms similar to those on which Granthum had, that he would use the building and pay me rent therefor. He told that Granthum had left the building on the 10th day of November and on the 10th day of December one month's rent would be due, I was to call around and obtain the same. I went around he paid me the rent.

Q: Did he at any time refuse to pay you rent?

A: He never did, except paying in advance.

Q: Did he lay any claim to the property?

A: He never did.

Q: When Innis was last here and left do you know anything in regard to the state of his health at the time.

A: His health was poor, he was sick, so sick that he could not go about for several days before he left the last time.

Q: Did he make any statement to you as to his future abode or not what he intended to do?(OBJ. as statements in his behalf. Sust'd.)

Q: Do you know who built that side-walk?

A: I saw Mr. Davis build the side-walk.

Q: Do you know who built the house on the lot?

A: I saw Mr. Davis and Mr. Innis build the house.

Q: Do you know anything about the cost of the house?

A: I saw the bill of lumber and was present when it was presented at Browns lumber yard, it was something between 30 and 35 dollars, without the nails and hardware.

Q: Do you know what Mr. Innis wanted to use this lot for?
 A: He told me he wanted to use the lot---(OBJ.) I might tell why he didn't put up a large building on the lot, the reason he told me he did not

Q: Do you know why Innis left here?
 A: He left here on account of his health was one reason.

Q: Do you know whether he intended to return?
 A: He said to me--(OBJ.

Cross-ex.

Q: What did Mr. Innis ever use that lot for Mr. McFadyn?
 A: He occupied it himself I believe as a place to sleep in previous to the time he went to Denver, became so sick that he could not--

Q: Now then in your direct examination you testified that he slept at the McGee house didn't you?
 A: Only my first acquaintance with him, not afterwards.

Q: You say he slept down there, how long of your own knowledge know of his having slept in that building on the lot in controversy, how many nights can you name of your own knowledge that he slept there?
 A: Why I never saw him sleep there .

Q: Then as a matter of fact you don't know that he did sleep there
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~
 A: Not any more than he told me.

Q: Then you don't swear to that very authoritively, . . what Mr. Innis told you?
 A: No sir, I know he slept in the McGee house.

Q: As a matter of fact you don't know of his having occupied it for eating or sleeping, you never saw him do any business there?
 A: I did.

Q: What was it?
 A: I saw him do carpenter work there.

Q: He was working on the house?
 A: Yes sir. I don't know as he ever done business in the town as a merchant.

Q: As a matter of fact he was in the town very much?
 A: yes sir he was in the town a good deal in the first year that is '89 and beginning of '90.

Q: He never established any residence out on this homestead that you have talked about at all?
 A: He did.

Q: He had a residence out there?
 A: He had established it.

Q: When was it that you saw this bill of lumber that you saw pre-

14. sented that you say amounted to \$30 ?

A: In July or August 1889

Q: Do you know where that lumber was used?

A: Used in building that house that is on the lot now

Q: How do you know that?

A: I was present when the house was built., present when he presented the bill of lumber, present when he was making an agreement with a carpenter to build the house

Q: You know that the bill that was presented was the exact bill for the exact lumber that was used on that lot ?

A: Not exactly

Q: How do you know that was not the lumber that was not used in building the shack out on the home stead?

A Well I am positive it was not

Q: I am asking you how you know?

A: Well Mr. Innis, one reason was, Mr. Innis was in the town here at the time and stayed here, while he was figuring, while he was building, and boarding at my house and slept in the same bed with me at this time, and I think I ought to be almost positive, I don't know when he built his shack on his claim, I don't recollect.

Q: When was it Mr. Innis left here the first time? Mr. McFadyn?

A: It was on or about the first of September, 1889.

Q: Wasn't he comparatively well at that time when he went away?

A: I don't remember whether he was then, just then or not.

Q: Didn't he tell you that he was going out in Colorado to make some money?

A: yes sir and recover his health

Q: He was then in condition to work?

A: He was not

Q: He was not and yet going to work?

A: Yes, sir.

Q: When did he come back?

A: I don't remember

Q: About when?

A: Along in the winter or spring.

Q: Well about what time was it he went away in September, did he come back in January?

A: I could not say, I would not swear to the month, certain dates I am positive and certain dates I am not

Q: Wasn't it in March that he came back?

A: I wouldn't state.

Q: Do you know how long he remained that time?

15.

A: I could not say.

Q: Did he stay 2 weeks?

A: I could not swear to what time he stayed, how long he stayed.

Q: Will you swear to t he stayed 2 weeks?

A: I wouldn't still he might have stayed 2 months

Q: You know better than that?

A: I do not.

Q: Do you know when he went away?

A: I do not.

Q: Has he ever been back since?

A: I could not say

Q: Do you know whether you have ever seen him since that time.

A: I have not seen him since the last time.

Q: Did he state the last time he went away, the spring of 1890 where he was going then?

A: He did not state positively where he was going

Q: What was his condition at that time when he was back the last time?

A: He was in good health when he got back his health got poor, it become necessary to leave again, he was going to hunt a health resort, he was trying to make a living.

Q: Do you know where he is now?

A: I do not, I believe he is in the city of Denver.

Q: Have you c rresponded with him since that time?

A. Well I have sometime ago.

Q: How many letters have you had from him since he went out there the last time?

A: May be 2 may be 3.

Q: Have you these letters yet?

A: I have not.

Q: Have you destroyed them?

A: I have

Q: In connection with that correes pondance was there something about this lot?

A: One letter there was.

Q: Do you know when you got that letter?

A: Could not state.

Q: What kind of authority that you had just verbal authority from MR. Innis in relation to this lot?

A: When he left he gave me---

Q: Was it verbal or was it written?

16.

Q: At what time?

Q: At the time that you have sworn to when you say he made you his agent?

A: Verbal.

Q: Did you ever have any written authority in relation to it?

A: Yes sir.

Q: Where is that authority?

A: I don't know whether it is destroyed or lost.

Q: You can't produce it?

A: I don't know whether I can produce it or not.

Q: When did you receive it?

A: When he went away the first time.

Q: When was it he gave you the verbal authority?

A: Before he went away. Next when he was gone the first time he sent me written authority for to collect his rent and eject the occupant.

Q: That was the authority under which you was acting when you went to see Mr. Burton, did you get that authority when you was gone that time??

A: No sir.

Q: Did you get it immediately when you came back?

A: Yes sir.

Q: Was it here?

A: Yes sir.

Q: That was the authority you was acting on in the second instance when you had this talk with Burton?

A: Yes sir.

Q: You exhibited that authority to Mr. Burton?

A: I did not, it was not called for.

Q: Did you tell him you had it?

A: I didn't any more than I was Mr. ~~Mr~~ Innis' agent.

Q: Did you ever tell him that you had any written authority.

A: I did not.

Re-direct-ex.

Q: What is Mr. Innis' business do you know.

A: Mr. Innis is a stone mason, stone dresser.

Q: In your cross examination you was asked about Innis sleeping in the McGee house as you had testified in your direct examination at that time did Innis have his house built?

A: He did not.

17.

Q: What reasons do you have for thinking that Innis slept in his house?

A: Only from what he said. He ate his meals at my house, he slept elsewhere, and said he was holding down---

(OBJ.)

GEO. W. WALLACE FOR INNIS BEING FIRST DULY SWORN TESTIFIES AS FOLLOWS:

Q: Where do you reside Mr. Wallace?

A: On my claim at the edge of Edmond.

Q: What is your age?

A: 28.

Q: Are you acquainted with the defendant in this case Mr. Burton?

A: I am.

Q: Are you also acquainted with lot 3, block 24 in the town of Edmond?

A: I do.

Q: State the business transactions you have had with Mr. Burton in regard to that lot?(OBJ. ask not connecting himself in any way with these parties. Sust'd.)

Q: If you have had any business relation with Mr. Burton in regard to this lot how did you come to have them??

A: I went in with you(C'assen) in the real-estate business and collecting rent, I collected rent from him from last April up until this last fall, about October or November

Q: How do you remember that that rent was collected from that up to this, or until the laws was made?

A: I went into the office and put it down each month into a book on the date that it was paid to me and gave him a receipt for the same, receiving \$3. rent for one month's rent to the Innis house on Broadway, issuing my receipts

Q: Would you remember the book if you saw it?

A: I could.

Q: Is this the book here?

A: It is.

Q: Up to what date did Mr. Burton pay rent to you

A: The last I collected rent was about October, up until October 10.

Q: At what time did this rent become due?

A: On the 10th of each month.

Q: Did he at any time refuse to pay rent to you for any reason, if so state the reason?

A: He never did.

Q: During this time that you had these business transactions with Mr. Burton did he at any time lay claim to the property?

18.

A: He did not. (OBJ. as leading. Sust'd.)

Q: Well Mr. Wallace give in a definite form here when you collected rent here of Mr. ~~KARLSEN~~ Burton.

A: About sometime in last April I collected \$3. rent of Mr. Burton for that house, after that he generally came to me and paid the rent.

Q: After when?

A: After the first month which was about last April, I think, once he paid \$2.50 rent and said the would have the 50 cents shortly

Q: He paid the 50 cents to afterwards?

A: Once I went in there he fixed my buggytop, sewed it up, said let that go on the rent and pay me the difference, about last July he came up here and said the times is hard, it is dru, not much going on, you write to Mr. Innis and see if he would not throw off a month or 2 rent, or make it a little a dollar or 2 less. I didn't know where his address was; you (Classen) told me, it was at some hotel, I wrote him and posted a card to Mr. Innis, and addressed it Denver, Colorado, he didn't receive it or didn't answer it, Mr. Burton asked me once or twice if I heard from ~~him~~ it, I said No. he says you are not trying to get it back or something ~~xxxxxxx~~ ~~kind~~ to that effect. I told him I had written. He spoke to me one day about 2 months rent, I claimed it was 3, he says I had the receipt out in the house that you gave me but he thought that the rats had eaten it up, he couldn't find it, so he showed me the next to the last receipt as he claimed, then he came and paid one month's rent, he had been paying in advance before now he paid one month and said I owe you for the last months yet and have the one coming. Then I don't know whether he paid me or Mr Classen for the next month, but I was speaking of that I says I will have to make that up out of my own pocket that one one months. I went right to the book and receipted, collected until November, 10, 1890, about 2 months after or a little over a month I says has Mr. Burton paid his rent, Mr. Classen says he came in here and paid me, I have been collecting rent since, since lasy until about-- until October 10.

Q: State what you know as to improvements on the lot, what the improvements--what they consist of?

A: The consist of one house and one side walk in front and grading of the street out in front, I don't know whether they belong to the lot or not, I had to pay ~~xxxxxxx~~ them however on mine.

Q: What is the size of the house about?

A: About 10 by 12 I think.

Q: What about is the cost of the house if you are able to say or give some estimate?

A: One that I own not as good cost \$33.25.

Q: About what is the cost of the side-walk?

A: One just like that I built cost \$14.90 work and all.

Q: Did Burton ever say anything to you about putting down the side-walk in front of the lot?

A: He never did.

Q: Who put down the ~~side-walk~~ if you know?
A: You said you was going to use--(OBJ.) I don't know who built it

Q: Do you know of any time ~~xxxx~~ that anybody besides Mr. Innis claimed that lot, laid any claim to it?(OBJ.)

Q: Did Burton ever claim the lot?
A: He did not.

Cross-ex.

A: You mean to say Mr. Wallace that he never claimed the lot to you
A: Never to any one that I heard of.

Q: I am talking now about your conversation with Mr. Burton, & any conversation that you know, didn't claim the lot?
A: Or any one else that I ever heard

Q: You knew he was in the occupation of the lot?
A: I knew he was paying me rent.

Q: When was it that you and Mr. Classen became the agents of Mr. Innis?
A: About April when I began to collect, 1890, I didn't come here until November, 1890.

Q: You and Mr. Classen was partners?
A: I was in his office, getting him orders for printing etc.

Q: What was the character of authority that you and Mr. Classen had?
A: My authority was just the same as all the rest of the houses

Q: I am not asking about any other of these others, I am asking of this?
A: Well the character, every time a man come in and put a house up to rent he wrote it down in a book, or told me; he says this is Innis' house you collect rent.

Q: Who says that?
A: Mr. Classen

Q: That is all the authority you had?
A: That is all.

Q: You don't know as a matter of fact that there was any authority to collect
A: I know it in my mind there was.

Q: How do you know it.
A Because he told me so.

Q Who?
A: Classen.

Q: I asked if this was not all the authority you had at any time?
A: That is all.

20.

Q: How many others were exercising authority

A: Nobody that I heard.

Q: You don't know of anybody?

A: I know there was not because they had no right to.

Q: How do you know that?

A: Well Mr. Burten would have told me very likely.

Q: You are just swearing to the conclusion?

A: B I aint I would bet on it.

Q: Did you have any correspondence with Mr. Innis

A: Only one postal card.

Q: You mean that postal card you referred to a little while ago.

Q: What is the one.

Q: That is you wrote to him?

A: Yes sir.

Q: You never received any from Mr. Innis?

A: Never did.

Q: Do you know anything about the present relation--and who is agent for this property?

A: I don't know from my own knowledge.

Q: you never did have any word from Mr. Innis at all in relation to it?

A: I never did.

A: nor never seen a letter written by Mr. Innis or purporting to be written from him or authority of any kind purporting to be executed by him?

A: I never seen any agent, do you think--

Q: I ask you if you did?

A: No.

Q: Your inquiry from Mr. Innis is only from hear-say?

A: Only from hear-say.

Q: When did you see Mr. Innis?

A: I never saw him.

Q: And has never been a resident when you have been here?

A: Not that I know of, I didn't get acquainted with any one for 2 or 3 months after I came here

W. P. DAVIS FOR INNIS BEING FIRST DULY SWORN TESTIFIES AS FOLLOWS:

Q: State your age and residence Mr. Davis?

A: My age is 30 I am living on section 31, township 13, range 4

21.

Q: What's your occupation?

A: Framing and carpentering.

Q: Are you acquainted with Mr. Innis?

A: Yes sir.

Q: Are you also acquainted with the location of lot 3 in block 24 in the city of Edmond,?

A: I am.

Q: State as to improvements what improvements there are on that lot state what you know about it?

A: The house was bought-the bill of lumber was bought of the Carry Lombard lumber company it cost \$33. the bill was presented by Mr. Brown, and Mr. Brown's figures were \$33.50, I made out the bill of lumber selected the lumber that was put in that building and ~~xxxx~~ was there at the time that the lumber was delivered at the lot.

Q: Did that include the hardware?

A: No sir. The windows and hardware was in another bill.

Q: Did that include the paint?

A: It did not include the paint that was the lumber bill, the house complete cost Mr. Innis in the neighborhood of \$55. work and material besides his own labor.

Q: What do you know about the side-walk that is in front of this house?

A: I received a notice a letter from Mr. Innis to ~~xxx myxx~~ exercise my best judgment, ~~xxxxxxx~~ in the sidewalk, and lay one as soon as-- , and lay down a side-walk as soon as possible.

Q: Who paid for building that side-walk?

A: I received \$9. 25 from Mr. Classen, and \$6.50 from Mr. Innis by express order.

Q: How did it come that Classen paid you \$9. 25?

A: Mr. Innis told me to present my bill to Mr. Classen and if he had not money enough to pay for the laying of the side-walk he would remit the same by the next mail.

Q: Who did you state built the sidewalk?

A: I built the side-walk myself.

Q: How did Innis come to leave here?

A: On account of his health.

Q: Do you know anything about his returning?

A: Yes sir

A: Yes sir he returned somewhere in ~~xxxxxxx~~ February calculating to---(OBJ.

Q: February last?

A: In February 1890.

Q: Are you acquainted with the defendant in this case, Mr. Burton?

22.

A: I have met the gentleman but I am not personally acquainted with him.

Q: Do you know anything about anybody laying claim to this lot outside of Mr. Innis or did it ever come to your ears in any way.

A: Not until I was notified by Mr. Innis asking me to appear as a witness in his case.

Q: What is Mr. Innis' business?

A: Mr. Innis is a stone cutter, stone mason.

Cross-ex.

Q: You say you have had some correspondence with Mr. Innis, Mr. Davis?

A: I have sir.

Q: How recently?

A: Last Saturday I received a letter from Mr. Innis.

Q: Where was he?

A: In Denver, Colorado.

Q: Denver Colorado?

A: Yes sir.

Q: When did he leave here, when he was here last?

A: Sometime in March as near as I can recollect.

Q: Came here in the latter part of February and went away in March?

A: Yes sir. Well somewhere in February, I don't know as it was the first or later part.

Q: During that time he disposed of his claim?

A: Yes sir.

Q: Do you live out there near the claim?

A: Mile and a half from the claim.

A: Never have heard, Mr. Innis didn't tell me.

Q: When you went away did you have any conversation with him before he went away about where he was going and what he was going to do?

A: Yes sir.

Q: About how long was that before he went away?

A: About 3 days or 4.

Q: Where did he say he was going to go?

Q: Going to Denver.

Q: What did he say about what he was going to follow?

A: He said as quick as he was well he thought he would go back at his trade.

Q: He did say that, he had been out working there before did he?

A: Yes sir.

23.

Q: How long had he been gone from here when he returned in February?

A: He had been gone about, close on to 6 months, I think he had about 2 weeks to expire on his claim.

Redirect-ex.

Q: Mr. Davis on cross-examination the question was asked you where he was going and what he intended to do, now after that did he make any statements to you?

A: He said he--(OBJ.)--he said he was going to Denver, as soon as he could he would return and improve his lot.

Q: What did he intend to do with his lot?(OBJ.)

B. WHITNEY FOR INNIS BEING FIRST DULY SWORN TESTIFIES AS FOLLOWS:

Q: State your age, residence and occupation Mr. Whitney?

A: My age is 32, I am a farmer I live on a claim 6 miles west, section 24, -14-4.

Q: Are you acquainted with Mr. Innis?

A: I am.

Q: How did Mr. Innis come to leave here?

A: On account of his health

Q: What do you know of Mr. Innis residence?

A: I know that he lived here in town and lived on his claim

Q: How long?

A: I don't know I can't say.

Q: At what time did he live here in town before or after he lived on his claim?

A: He was here before he took the claim, and at the same time he had the claim he was ~~xxxxxxx~~ was working here in town and living here

Q: When did you first get acquainted with Mr. Innis.

A: I got acquainted with Mr. Innis on the 18th of April, 1899.

Q: Under what circumstances?

A: When we were on the train coming here at the final opening of this country.

Q: What is his business?

A: He is a stone-cutter, stone mason.

Q: You don't know of any residence he has outside of Edmond then do you?

A: I do not.

Cross-ex.

Q: Where were you when you first met Mr. Innis?

24.

A: On the Junction on the south end of California, Barstore Junction?

Q: Which way did you come?

A: I came over the Santa Fe.

Q: Did he come with you?

A: He came from Los Angeles, he came from San Francisco.

Q: You say that was on the 18th?

A: 18th yes sir, it was either the 18th or 19th, I would not say positively.

JUDGE SWEET--Q : When did you arrive here in Oklahoma Territory?

A: Arrived here on the 24th.

Q: Was that the first time you entered the territory?

A: yes sir.

Q: Was Mr. Innis with you the first time?

A: No,--seems to me it was on the ~~xxxx~~ 8th that we started instead of the 18th, and we got here about the 18th at Purcell I think I could not swear to the dates exactly it was about that time.

Q: You passed through the territory then?

A: Yes sir.

Q: Did you get off of the train, either of you?

A: No sir.

#

Q: Do you know whether Mr. Innis was a married man or a single man?

A: A Single man to my knowledge.

Q: ~~Talking about the evidence that~~ That is you know that just what Mr. Innis said?

A: Well I think that is pretty good proof

Q: Just answer the question if you don't know but what he said?

A: That is all I know.

Q: And you think if a man is around saying he hadn't a wife, he hasn't a wife then?

A: Some men; and other men I wouldn't believe them at all.

R E S T S.

To hereby certify that the above is a copy of my notes of the testimony taken in the above case. Chas. S. Tucker, Clerk, etc.

To hereby certify that the above and foregoing is a true and correct copy of the testimony of the several witnesses given in the trial of the above entitled case.

*Edgar W. Smith
David H. [unclear]*