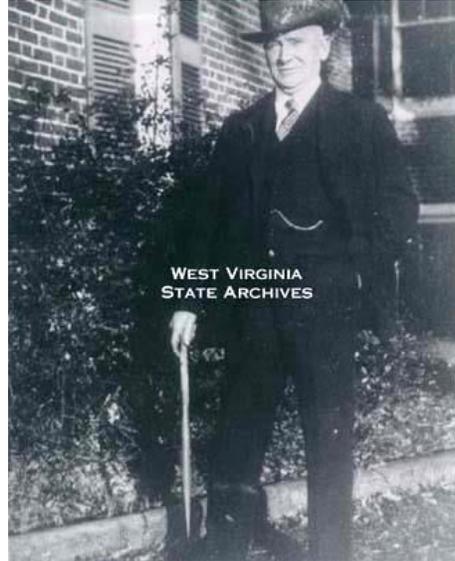


ON THIS DAY IN WEST VIRGINIA HISTORY APRIL 11



On April 11, 1908, coal operator Samuel Dixon and six other men were indicted by a federal grand jury sitting in Huntington on charges of peonage and conspiracy.

CSO: SS.8.23, ELA.8.1, ELA.8.4

Investigate the Document: (*West Virginia History*, “A Temptation to Lawlessness,” Kenneth R. Bailey, Volume 50, 1991)

1. Where did the immigration commissioner advertise to attract immigrants to West Virginia following the Civil War? In what industries did labor agents reach out to attract African Americans?
2. It is well known that African Americans following the Civil War were escaping the shackles of slavery, but less known that Europeans were fleeing feudal serfdom in their home countries. What is feudal serfdom?
3. What similarities are there between peonage and chattel slavery?
4. What prompted an investigation into peonage in West Virginia during the early-twentieth century?
5. Under what charges were employees of the Raleigh Lumber Company arrested?
6. The article cites a letter from a coal operator to the state of West Virginia. This letter suggests offering “inducements” to “suitable” immigrants from where? What is cited as the cause for this suggestion?

Think Critically: Summarize the illegalities found at the Raleigh County Lumber Company and describe the grievances that the employees had against their employer. Was the relationship between operators and employees often combative prior to the passage of many modern labor laws? Are there other instances in West Virginia history where the relationship between operator and employee has been hostile?

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A Temptation to Lawlessness: Peonage in West Virginia, 1903-1908

By Kenneth R. Bailey

In the years following the Civil War, the United States entered into a period of great expansion and development. The development of the country depended primarily on attracting sufficient workers to fill the thousands of new jobs in the West and in the East as demands were made for increased production of food, rails and engines for the railroads and a myriad of other items. To meet the increased demand for labor, the United States welcomed millions of new settlers from abroad.

Although it is an eastern state, West Virginia did not receive many of the immigrants coming to the United States prior to and immediately after the Civil War. In 1864, the West Virginia legislature authorized appointment of an immigration commissioner to attract settlers. The first immigrants sought were to be farmers in the state's eastern and central highlands, where conditions were suitable to agriculture. Later, the immigration authorities turned their attention to finding laborers for the newly developing lumber and mining industries.

In order to attract laborers to West Virginia the state government encouraged the immigration commissioner to advertise in the port cities of New York, Baltimore and Philadelphia. In addition, individual companies frequently contracted with "labor agents" who promised to deliver workers from the port cities to West Virginia for a pre-agreed price per worker. Southern blacks were also attracted to the state by labor agents employed by rail and coal companies.¹

Both the labor agents in the eastern port cities and those sent to the South painted the advantages of working and living in West Virginia in glowing terms.² Compared to other industrial areas, working and living conditions for most blacks and immigrants drawn to the state were, in fact, not bad. In the late 1800s and early 1900s, all industrial workers in the United States labored long and hard. Hours of labor and wages for coal miners and railroad workers in West Virginia were not greatly different from those of workers in other industries. A major difference in working conditions was the danger associated with coal mining and the vast number of roof falls and explosions that maimed and killed miners.³

A number of blacks, escaping the slavery and discrimination of the South, and European immigrants, fleeing feudal serfdom and political impotence, encountered similar conditions in southern West Virginia. These contract laborers were sometimes forced into "peonage."

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While the term "slavery" evokes connotations familiar to practically everyone, "peonage" is more difficult to conceptualize.⁴ Federal District Judge Benjamin F. Keller, in instructing a grand jury, defined it as "a status or condition of compulsory service, based upon the indebtedness of the peon to the master. The basal face is indebtedness." The judge also informed the jury that to indict anyone on a charge of peonage, force must have been used to enter an individual into a state of peonage or to return an individual to such a state if he or she had escaped from it.⁵

The definition of peonage bedeviled judges in several states and the absence of a common meaning made it difficult to indict individuals for violating the federal anti-peonage statute. Assistant Attorney General Charles W. Russell suggested to Attorney General Charles J. Bonaparte that the term "peonage" be dropped, since some defenders believed the statute did not forbid holding an individual to work off a debt, but only forbade "technical legal slavery, chattel slavery, established by or dependent upon law . . ."⁶

Regardless of the definition and legal problems in indicting and prosecuting individuals under the anti-peonage statutes of the United States, holding an individual against his/her will until a debt could be repaid by labor was fairly widespread in West Virginia in the early 1900s. Pete Daniels in his study of peonage as it applied to blacks in the South found that "through thousands of immigrants fell prey to peonage, immigrant peonage apparently lasted only several years and was not typical of the practice." Instead, "blacks bore the major burden of Southern peonage . . ."⁷ Undoubtedly, Daniels was correct in assuming that blacks, by their sheer numbers, continued economic dependence on white planters, Jim Crow laws, and recent escape from *de jure* slavery would suffer the most from economic conditions that could thrust them into peonage. However, West Virginia's experience with peonage indicates that it was neither short-lived nor exclusive to blacks. Reports of peonage in West Virginia can be found as early as 1891 and as late as World War I. Some of the reports are difficult, if not impossible to substantiate, while others resulted in federal indictments and trials.

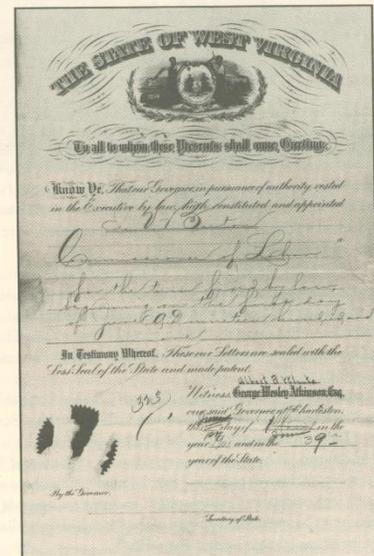
In West Virginia and many other states, the indebtedness which led to a state of peonage for immigrants and blacks began when labor contractors, acting for companies or on their own behalf, advanced transportation costs to prospective workers.⁸ This advance, known as bringing the men "on transportation," was frequently the first in a series of "advances" the men received. Food, clothing and tools were provided to the workers on their arrival at the work sites, and credits for the cost of these items were entered in books at the company store or commissary.

It is not known when peonage first occurred in West Virginia. However, on March 11, 1891, the Austro-Hungarian Consul at Richmond, Virginia, wrote to Governor A. B. Fleming that he had been sent newspaper clippings from New York papers alleging that Bohemians were being held against their will at Purcell's Camp, a railroad construction camp near Elkhorn, McDowell County, and that the story had been brought out of West Virginia by two men who had escaped. An investigation ordered by the governor failed to substantiate the charges. In 1894, Governor William A. MacCorkle was asked to investigate the living conditions of some three hundred and fifty Italians who had gone to work in Randolph County. An investigation into this incident also failed to show that the men had been held in peonage.⁹

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Although alleged to have existed prior to 1903, substantial proof of peonage was delayed until an investigation into conditions in West Virginia by the Society for the Protection of Italian Immigrants. The primary investigator for the society was Cino C. Speranza, a bilingual New York attorney. Speranza's trip to West Virginia, in April and May 1903, was prompted by a large number of complaints from Italian laborers to the society alleging "maltreatment" at the hands of companies developing the state's lumber and coal resources.¹⁰ Governor A. B. White had received similar complaints and before Speranza's visit, ordered the State Commissioner of Labor, Isaac V. Barton, to investigate charges of cruelty and unlawful detention at Kayford, Kanawha County. The latter charges were made by the Italian and German consuls at Cincinnati and the law firm of Berry and Minor of Washington, D. C., representing the Swiss legation.¹¹

I. V. Barton was appointed Commissioner of Labor by Gov. Albert White in June 1901. [West Virginia State Archives, Charleston, WV, hereafter WVSA]



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On February 26 Commissioner Barton went to Kayford to conduct the investigation. Barton reported to the governor that the "responsibility for the misunderstanding" lay with the labor agent, J. Herz, who had recruited the laborers. According to Barton, the B. V. Boxley Company had contracted with Herz to provide laborers at two dollars each upon arrival at the camp. In his zeal, Herz misrepresented conditions in West Virginia and failed to inform the men of the hard labor they would have to perform. Upon arrival some men were ill and unprepared for work, and wanted to leave. However, the company had already provided for their transportation and advanced them bedding and food on credit. According to Barton, the trouble began when some men wanted to leave "and giving notice of this fact they were told they could not go until they had worked out their indebtedness to the company." When the men tried to leave with their possessions, the Boxley Company used force to detain them until they worked off their debt. "In this they found they had made a mistake and afterward released them."¹²

Barton, after ascertaining what he believed to be the facts in the forced detention of the workers, continued to examine the camp. His investigation revealed the charges of cruelty and neglect were unwarranted. The men's quarters were warm and dry and no one forced to work when ill. When any of the men became ill, they were cared for by Dr. C. L. Hopkins of Kayford. Barton concluded that the Boxleys were unjustly accused of ill-treating the men. Although they claimed Virginia as home, the Boxleys had worked in West Virginia for twenty-three years and this was the first complaint against them. He concluded they should be exonerated of the charges.¹³

Barton's report is somewhat questionable when compared to Speranza's later report and when one considers the governor's decision to send Barton to investigate may have been partly stimulated by reports that Italian immigrants had been held in peonage at another camp run by the Boxleys. In early February, the *Charleston Daily Mail* reported the Italian consul in New York had written to Governor White that immigrants were being held at Acme on Cabin Creek, not far from Kayford.¹⁴

After a few weeks at work, some men wished to return to New York and asked that the promised transportation be provided. The contractors, it was alleged, ignored their requests and used armed guards to force the men, both sick and well, to work. The men smuggled a letter out of camp to the Italian consul in New York. The consul wrote to Governor White, who asked Kanawha County Prosecuting Attorney Samuel B. Avis to investigate the conditions at the camp.¹⁵

Avis sent County Detective Howard C. Smith, Constable George T. Grass and an interpreter to investigate the charges. According to the newspaper, Boxley told Smith that conditions were not bad at the camp, but he did admit to "bluffing" the Italians by putting guards over them. He claimed he had paid their way from New York and "wanted them to work sufficient to reciprocate this indebtedness." Smith found conditions as alleged by the Italians. He discovered sufficient evidence of mistreatment to arrest four guards for assault and ordered the Boxley brothers to appear before Justice of the Peace Joel Cottrell on February 18 to answer to a charge of detaining laborers against their will.¹⁶

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Carpenter and Boxley Brothers steam shovel and construction crew near Kayford, Kanawha County, circa 1905. [Dan Green Collection, WVSA]

Compared to the conditions reported by Smith and Grass, Barton's report appears to gloss over the facts. When brought into comparison with the later report compiled by Speranza and his assistant, it becomes even more suspect.

Speranza took affidavits from Italian workers at Kayford who claimed mistreatment at the hands of guards hired by the Boxleys. He went to Charleston to see Governor White. On May 7, 1903, White acknowledged Speranza's request for an appointment, and saw him the next day.¹⁷

Speranza related to White all that he and his assistant had found at Kayford. According to Speranza, White stated "that the conviction of those responsible for such unlawful acts is practically impossible by the local authorities."¹⁸ While Labor Commissioner Barton was willing to lay the blame for the incidents at Kayford on the labor contractor, White placed equal blame on the local authorities for not prosecuting those who committed acts of violence against the laborers. In a later letter to Speranza, White lamented the inability of state authorities to force county and local officials to perform their duties.¹⁹

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Boxley Brothers construction crew near Kayford, circa 1905. [Dan Green Collection, WVSA]

Even though he had received little help from Governor White, Speranza decided to investigate additional allegations of peonage in Raleigh County. The conditions there were worse than those he found at Kayford. A group of Italian laborers brought to Raleigh County in March 1903 to work on a railroad project had become dissatisfied with their work and pay and attempted to leave. They made their way to Beckley, where their employer, a man named Harmon, charged them with violation of the "Boarding House Law." Twenty-three of the men were arrested for violating the law and locked overnight in the Grand Jury room at the Raleigh County Courthouse. The next morning, Harmon appeared at the courthouse and, when the men refused to return voluntarily to his camp, proceeded to tie six together with ropes. He marched them out into the street and upon their refusal to go willingly, he tied them to his mule to pull them out of town. Even though policemen were present, no one helped the men until the justice of the peace appeared and cut them loose.²⁰

The justice of the peace attempted to convince the men to return with Harmon to his camp to work out the cost of their board and transportation. He took no action against the contractor. The prosecuting attorney, whose office, according to Speranza, was only fifty feet from the spot where this incident took place, failed to place charges against the contractor. He promised to "submit this small matter to the next Grand Jury," only after evidence was submitted by Speranza and the society several months later, and then failed to do so.²¹

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Following his return to Charleston, Speranza once again wrote Governor White asking for assistance in rectifying the crimes committed against the Italians in Kanawha and Raleigh counties. He also wrote to the state Attorney General for information on the "Boarding House Law." Governor White, responding to Speranza on May 18, reiterated his earlier contention that the state was helpless in forcing the local authorities to perform their duty and indicting those accused of wrongdoing. He also pointed out that he was unaware of any law under which Harmon could be arrested and prosecuted, as Speranza requested.²²

West Virginia Attorney General Romeo H. Freer, replying to Speranza on the same date, supported Governor White's contention that he was powerless to intervene in the peonage charges. He explained the "Boarding House Law" as found in Chapter 145, Section 32 of the 1899 *Code of West Virginia*. The law permitted the owner or keeper of a boarding house to obtain a criminal warrant for the arrest of a person who

... shall at any hotel, inn, eating, lodging or boarding house or restaurant, receive, or cause to be furnished, any food or accommodation, with intent to defraud the owner, or keeper of such place, or any person who shall obtain credit at any of these places by the use of any false pretences, or device, ... shall be deemed guilty of a misdemeanor and fined not less than twenty-five dollars nor more than one hundred dollars, and at the discretion of the Court or Justice trying the case, be confined in the county jail not less than ten nor more than thirty days.²³

Freer explained that original jurisdiction for the crimes alleged to have been committed against the Italian immigrants rested with the justices of the peace and the circuit courts. If local officers failed to perform their duties, then the appropriate agencies would have to impeach and remove them from office. The county court had jurisdiction over the actions of each justice, and the circuit court had authority to remove prosecuting attorneys from office. To bolster his opinion, Freer cited Article 9, Section 4 of the *Constitution of West Virginia* and Article 4, Section 6 and Chapter 7, Section 7 of the *Code of West Virginia*.²⁴

Speranza accepted the rebuffs from Governor White and Attorney General Freer, and did not castigate the West Virginia state officials or the state in general. Instead, his report on his visit to the state tended to exonerate the state officials for their inability to resolve legally the situation and justified some of the actions against the immigrants.

It is a reasonable presumption that no employer of labor seeks to make his men dissatisfied. Irrespective of sentimental considerations, but as a purely business proposition, a malcontent makes a poor worker. It is a fair presumption, therefore, that contractors in West Virginia do not wish to make a specialty of abusing their men; but the scarce supply and the necessity of finishing time work, as also the quality of some of the men dumped into the State, have driven some of them to methods which, if known, could not have the support of public sentiment.²⁵

Speranza attributed the "temptation to lawlessness" to the physical terrain of the state. The remote location of many of the camps tempted operators to disregard any law but their own. Speranza was most critical of the labor contractors who preyed on their fellow countrymen by misrepresenting the facts about laboring in West Virginia.²⁶

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Speranza also whitewashed the report submitted by Labor Commissioner Barton to the governor. He wrote that while Governor White was trying to help matters by sending Barton to investigate conditions at Kayford and Acme, the investigation was not valid because Barton took no interpreters with him. Barton's findings, according to Speranza, were inaccurate because he was in the hands of an incompetent interpreter.²⁷

It is difficult to determine White's true feelings about the crimes which he admitted were being committed in Raleigh and Kanawha counties. He convinced Speranza that he was powerless to do more. He compared his efforts to prevent peonage to similar actions against lynching. He had asked the state legislature to grant him extraordinary powers to deal with lynchings, since local authorities seemed unable to prevent them. His efforts were ignored by the 1901 and 1903 legislatures. In nearly all his correspondence relating to the peonage cases, White lamented his inability to take control of the local situations. He wrote to all county prosecuting attorneys in August 1903, urging them to take steps to prevent abuses of labor. His letter, however, was extremely mild, expressing regret that persons from outside the state were required to urge prosecution of lawbreakers. He justified his request on the diminishing labor supply, which he blamed on reports of bad conditions in the state.²⁸

The official state position on peonage cannot be determined from White's statements, Freer's lack of assistance, and Speranza's positive attitude toward the governor. A review of later incidents of peonage and the court cases they generated is more revealing.

In 1907 the issue of peonage resurfaced in West Virginia. Governor William M. O. Dawson was informed by Secretary of State Elihu Root that reports of peonage had been received by the Italian ambassador in Washington, D. C. Dawson immediately employed Kanawha County Detective Howard Smith to investigate. Smith, accompanied by Deputy United States Marshal Dan Cunningham and an interpreter, went to Raleigh County, investigated the charges, and made a full report to the governor.²⁹

According to the investigation, the Raleigh Lumber Company employed twenty-six men and a boy from Sparte, Frank and Company, New York City labor contractors, to work on a railroad project. The company's contract showed the men had agreed to work at one rate of pay, while the men claimed they had been promised another. According to Smith, the men may have been misled by the labor contractor, since many of them did not speak English and all were illiterate. When the workers became dissatisfied with their pay and tried to leave, they were arrested on a warrant issued by a justice of the peace in Raleigh County. The warrant charged them with intent to defraud the lumber company for the amount of their transportation. Five men were able to pay the twelve dollar transportation cost claimed by the company, and they and the boy were released. The others were returned to the lumber camp and given funds by the company to send messages to friends and relatives for money to return to New York. They failed to obtain the money and went back to work voluntarily.³⁰

When Smith and Cunningham arrived in Raleigh County on January 3, 1907, the Italians learned the purpose of their investigation. They immediately quit work and announced their intent to leave. After consulting with the governor, Smith took the laborers to Charleston where

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they were examined by a physician, and given minor treatment. The Italian embassy sent a representative who arranged the men's return to New York and New Jersey on January 7.³¹

In his investigation Smith concluded that the lumber company acted in good faith to obtain the money it had advanced to the workers. He noted the facilities for housing the men were reasonable and adequate and the commissary was "stocked with provisions suitable for Italian laborers and the same that is usually furnished." He further concluded the lumber company informed the laborers they had to repay the cost of transportation by working off the debt.³²

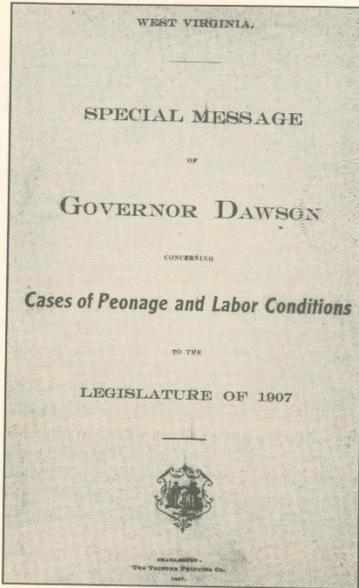
Meanwhile, Governor Dawson received a complaint of alleged peonage in Wyoming County. Dan Cunningham was detached from the investigation in Raleigh County to look into the matter. Cunningham found the William Ritter Lumber Company imported workers to build an extensive lumber yard in Wyoming County. The men, secured from Bureau Number 7 of the Southern Immigration Labor Company of New York City, had arrived in Wyoming County on December 1, 1906. The laborers consisted of a mix of nationalities and races and were known only by numbers, not by names.³³

Cunningham thoroughly investigated the charges against the company. He learned one of the workers tried to escape, was captured, beaten, and returned to the camp at Estell, Wyoming County, by railroad detective Elias Hatfield. He concluded the company had forcibly detained and "compelled" the men to work until they repaid the cost of their transportation.³⁴

Governor Dawson summarized the findings of the investigations in Raleigh and Wyoming counties in a special report to the 1907 legislature. He first lamented the state of lawlessness in West Virginia, noting he had previously decried it and asserted "one of the most dangerous evils of the day is the non-enforcement of the laws, and the consequent disregard of and contempt for law." He failed, however, to make serious suggestions for improving the situation and, instead, made known his ethnocentric and nativist sentiments. He examined the state's great need for labor but criticized the labor agencies that provided workers. He thought this recruitment system produced "an undesirable class of labor."

These laborers are of different nationalities; unable to speak our language and unable to protect themselves; many are brutal and vicious; and, their manhood and spirit crushed by centuries of oppression in the foreign lands, they confuse liberty with license. But they are human beings. Our duty, the instincts of humanity, justice, our own safety as a people, and our good name, all demand they be treated justly, and that if the law has been violated that the offenders be adequately punished, and if there be need of further legislation it be promptly furnished.³⁵

Dawson quoted a coal operator's letter suggesting the state of West Virginia should offer "inducements" to "suitable" immigrants from the British Isles, Sweden, Norway, and Poland to counterbalance the number of Italian immigrants. Dawson told the legislature that the man's letter deserved consideration. He pointed out that the state had no immigration bureau and hence no means to "bring about the betterment desired." Dawson's message concluded with a request for general improvements in the mines, better safety, wages, control of mine guards, and other matters, none of which addressed the issue of peonage.³⁶



Dawson's special message in 1907 prompted the legislature to recreate the Bureau of Immigration to attract "suitable" immigrants to West Virginia. [WVSA]

The legislature ignored Dawson's recommendations with the exception of recreating the Bureau of Immigration.³⁷ However, the publicity about the allegations of peonage caught the attention of federal authorities who had recently begun prosecuting peonage cases in the South. Presumably, the federal government, during the latter part of the nineteenth century, had by indifference, permitted peonage to develop. State laws had the effect of encouraging the evil practice and in some cases official connivance effected a condition of peonage.³⁸ The federal government's interest in prosecuting companies and individuals for violating the federal statutes on peonage evolved slowly. The first prosecutions were geared primarily toward those who held blacks in peonage in the South. Cases involving immigrants occurred more frequently after 1906.³⁹

Allegations of peonage in West Virginia, on the other hand, had almost always involved immigrants. Allegations made in 1891 and 1894 claimed that Bohemians in the first instance, and Italians in the second, were being held against their will. The 1903 incident involving Italians was investigated more thoroughly than these, but still failed to result in state or federal indictments or prosecution of any peonage cases. State and local authorities did not take positive action against peonage again until 1907.

The written statements of Governor Dawson, coal operators, and editorials in the local papers shed some light on the continued failure to protect workers brought into the state. The writings show a definite ethnic bias against immigrants from eastern and southern Europe. Writers frequently lamented the "poor class" of workers recruited from the "slums and dives" of New York and blamed them for the labor problems encountered by railroad, lumber, and coal companies.⁴⁰ An article in the *Raleigh Herald* on August 1, 1907 stated:

By substituting Welsh, German or Scotch for the Italians in the mines and forests of West Virginia, Mr. Paul [the West Virginia Chief Mine Inspector] thinks that the final solving of the impending problem will be effected through the fact that these people will locate in West Virginia, and by spending the money they earn here add to the development of the State and make the future of its citizenship secure.⁴¹

Unlike the situation in 1903 when Speranza visited West Virginia, the United States Attorney General's Office in 1907 was better prepared to handle peonage cases. In January, Secretary of State Elihu Root sent Attorney General Philander Knox copies of correspondence on alleged incidents of peonage against Italians in West Virginia. Knox immediately forwarded the correspondence to Elliott Northcott, Assistant District Attorney for the Southern District of West Virginia. Northcott asked that Dan Cunningham and one other detective be assigned to investigate the allegations. The attorney general agreed and permission was given for Cunningham and a treasury agent to join the case.⁴²

The fact that Northcott asked for another investigation is interesting and his reasons are not revealed in his letters to the attorney general. The documents that Cunningham and Smith provided to Governor Dawson were available by January 9, 1907. Northcott had to have been aware of the earlier investigation, even though it was instigated by the state. It is possible he believed the facts, as unearthed by the initial investigation, were insufficient to obtain a conviction.⁴³

Following the second investigation, Elliott Northcott began preparation of his case for presentation to the grand jury. In May 1907, Northcott requested that Deputy Attorney General Charles W. Russell be present when allegations that the peonage statutes had been violated were brought before the grand jury and at the trial, if indictments were returned. Northcott informed Russell of his difficulty in returning witnesses to West Virginia from New