

# The Story of The Potomac Refining Company



By  
Andrew Clemens

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2014

Cover photo: The Refinery building partially constructed.  
Courtesy of the National Park Service, C&O Canal National Historical Park.

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## CONTENTS

ILLUSTRATIONS	iv
PREFACE	vii
I. Introduction	1
II. The Early Days	3
III. The Potomac Mining Company Reorganizes	6
IV. The Advertising Campaign	11
V. Trouble Ahead	18
VI. The Construction Phase	23
VII. Legal Problems	26
VIII. Final Arguments and Verdict	47
IX. Personal Observations	56
X. The Remains of the Potomac Refining Company	58
APPENDIXES	
A. Inventory and Report of the Operating Department	59
B. Distribution Made at the time of Bankruptcy 1914	62
ILLUSTRATIONS	64
BIBLIOGRAPHY	105

## ILLUSTRATIONS

1 .	The foundation seen by Tom Clemens across the canal prism.	64
2.	Edward R. Cooper	64
3.	Copy of the original incorporation certificate of the Potomac Mining Company.	65
4.	Manganese washer and concentrator at the Potomac Refining Company	66
5.	Test report from the Maryland Steel Company.	66
6.	The officers of the Potomac Refining Company.	67
7.	Letterhead from the A.B Young and Company.	68
8.	One style of Potomac Refining Company letterhead.	68
9.	Most Common letterhead of the Potomac Refining Company.	68
10.	Certification of Title for the Potomac Refining Company Lands.	69
11.	Title page from <i>The Business That Makes Millionaires</i> .	70
12.	Map detail from <i>The Business That Makes Millionaires</i> .	71
13.	Financial claims in <i>The Business That Makes Millionaires</i> .	72
14.	Machette letter from <i>The Business That Makes Millionaires</i> .	73

### Illustrations 15–22 from the book *Portfolio de Luxe*.

15.	Drawing of the Potomac Refining Company	74
16.	View of a portion of the engine room	74
17.	Manganese piled up and ready to be refined at the Potomac Refining Company	75
18.	Workers from other mines posing as employees at Potomac Refining.	75
19.	Interior of one of the buildings	76
20.	Looking across the canal toward our buildings and works.	76
21.	Birds eye view of the Potomac Refining Company Works	77
22.	Mining forty feet below the surface. Manganese overhead.	78
23.	Advertisement for <i>Sixty Dollars a Second</i> .	79
24.	Map detail from <i>Sixty Dollars a Second</i> .	80
25.	Profit projection in <i>Sixty Dollars A Second</i> .	81
26.	The stock order form was included in all Potomac Refining Company mailings.	81



Illustrations 27–30 from the advertising book  
*The Business That Makes Men Millionaires.*

27.	Poreco marble pedestal.	82
28..	Sawing Potomac quarry marble into slabs.	82
29..	Poreco marble column on a lathe.	83
30..	Poreco marble being polished.	83
31.	Lime bag as pictured in the newspaper type advertisement	84
32.	Detail from the United States Tax Form for the year ending December 31, 1911.	85
33.	A check from the Potomac Refining Company to Edward R. Cooper.	85
34.	Map of the Potomac Refining Company Lands Prosecution Exhibit # 97	86
35.	Kritzer Hydrator	87
36.	Gardner A. Callanen at work on the refinery	88
37.	Drawing of the pot kilns by G. A. Callanen.	88
38.	"Pot Kilns" in 2013	89
39.	Check to G. A. Callanen for construction costs.	89
40.	Moving steel from the rail car to canal boat at Sandy Hook.	90
41.	Unloading steel at Sandy Hook.	90
42.	Refining building with openings left to position the hydrator.	91
43.	The Kritzer Hydrator being pulled into the building in December 1911.	92
44.	Using an inclined plane and winches to get the hydrator in place.	92
45.	Manpower is used to pull in the hydrator.	93
46.	Photograph of the almost completed plant from the Rock Products advertisement.	93
47.	The lime shed and "pot kilns" used by Orville Shinham to burn lime at Dargan.	94
48.	Concrete foundation of the Potomac Refining Company.	94
49.	Remains of the Potomac Refining Company.	95
50.	The lime storage building in 2013, looking rather forlorn with a fallen tree on it.	95
51.	2013 view of the "pot kilns" built by the Potomac Refining Company	96
52.	Quarry no. 2 of the Potomac Refining Company.	96
53.	The remains of the tunnel that connected quarry no. 2 and quarry no. 3.	97
54.	Quarry no. 1 located some distance from the other two quarries and the refinery.	98

## Selected Photographs from the Callanen Scrapbook.

55.	Five steel lime kilns in place.	99
56.	Small boat on the C & O Canal in front of the south end of the refinery	99
57.	Canal boat in front of the steel kilns under construction.	100
58.	Man standing at the bottom of one of the steel kilns.	100
59.	The flywheel that drove the machinery.	101
60.	Five kilns under construction.	101
61.	Canal boat being loaded with steel from railroad car at Sandy Hook.	102
62.	Steel framework around the engine and flywheel.	102
63.	View from the canal of the framing around the kilns.	103
64.	Concrete construction at the refinery.	104

## PREFACE

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Parkville, Maryland  
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It is hard to believe that just three and one half years ago I first saw the remains of the Potomac Refining Company and wondered what story lay behind the kilns, quarries and foundations along the C & O Canal at Dargan Bend. I went home that first day and began to look online for whatever information I could find.

Through the Internet and online resources I was able to see some of the information needed to tell the story but the gold mine came in the records of the two court cases housed at the National Archives. The material was packed into a storage file in 1912 and was not touched until I looked through it 100 years later. All of the materials are filthy; my hands quickly turned black for handling items. The paper is brittle and deteriorating and the archives will not allow it to be scanned. But despite all this the story of the Potomac Refining Company trial is there in great detail. And an incredible story it is!

The research and writing part of the story has taken over three years. Along the way I have met some incredible people with a passion for history that is so great it is contagious. I thank each and every one of them for they have inspired me to keep looking and working when I got lazy or discouraged. I hope I have not missed anyone.

To my wife, Linda Clemens, who assisted with copying documents and listened to seemingly endless discussions about the Potomac Refining Company.

My brother, Dr. Thomas Clemens, who asked the question "what is that?" which led to this project. Tom has accompanied me to Philadelphia to research, hiked with me around the Potomac Refining property, hiked with me to the Maryland Ore Banks, read drafts of the manuscript and has given many helpful suggestions. I could not have done this without him.

Joe Clemens, my nephew, who located Mine #1 of the Potomac Refining Company, found samples of the iron ore, and helped educate me about the geology of the area

Jill Craig from WHILBR who digitized documents and was always anxious to hear of my latest find.

Chloe Raub of the George Washington University Library who helped guide me through the Thomas Hahn Collection.

Patrick Connelly and Beth Levitt from the National Archives who located materials and assisted with me making copies.

Edward C. Fields, Supervisor of Information Services Department of Special Collections University of California Davidson, who located materials, copied them and mailed them to me.

The Interlibrary Loan Department of the Baltimore County Public Library who located an original Rock Products Magazine from 1913 and arranged its loan to me.

The Periodicals Librarians of the Enoch Pratt Free Library, Central Branch, who guided me through the use of their microfilm machines.

The librarians at the Library of Congress in Washington DC who located Portfolio De Luxe and showed me how to use their book scanner so that I could have a high quality electronic copy.

John Frye, Historian and Curator of the Western Maryland Room Washington County Public Library...when I first met John the new library was being built and the collection was housed in a bank. John was still able to locate some important sources for me. When the new library opened John was able to locate the copies of the Callanen Photographs which are an invaluable source of information about Potomac Refining. In addition, John read the manuscript and saved me from making a rather significant blunder or two.

Dennis Frye of the National Park Service. Dennis gave me a guided tour of Fort Duncan and the Maryland Ore Banks deepening my understanding about the mineral resources in the area.

Gardner Callanen and his son Oliver E. Callanen. Gardner Callanen was the Chief Engineer of the Potomac Refining Company who documented the construction through photographs. His son, Oliver, understood the importance of these images and shared them with an interested historian. It is my sincere hope that the descendants who own the scrapbook today will come to understand its importance to the history of Washington County and to the State of Maryland and allow scans of the photographs to be placed in a public library.

And last, but certainly not least, Karen Gray. Karen is the librarian of the C & O Canal Association and a Park Service volunteer. The first time I spoke to Karen I called her to set up a visit to the library. When I told Karen that I was researching the Potomac Refining Company, she said "Oh, that bunch of thieves!" and I knew I had found a true kindred spirit. On our first meeting Karen took me to her house to retrieve her personal copy of "Sixty Dollars A Second" so that I could view it and have it scanned for my use. She has located photographs, suggested sources and has been a constant source of encouragement to me. Karen took on the Herculean task of being my editor, proofreader, and photograph fixer. Karen has taken what could best be described as a rough draft of a high school term paper and turned it into a professional looking work. And she accomplished all of this with the patience of Job! THANK YOU!!!

## I. Introduction

In 2011 I began exploring the Chesapeake and Ohio Canal National Park. The towpath was an adventure of finding old locks, lock houses, and areas of the Potomac River that I had never seen before. As I worked my way westward my brother, Tom Clemens began to accompany me. Many of the miles we biked and many just hiked; always enjoying the sights and wildlife we saw.

On May 2, 2012 Tom and I only had a little time to hike and I suggested we go to the Shinham Lime Kilns at Dargan Bend. As we hiked up the towpath, Tom looked on the berm side and saw the foundation of a building.



1. Foundation seen by Tom Clemens

Photograph by Andrew Clemens

“What’s that?” he asked. As we crossed the canal prism that warm day in May, I had no idea that I was starting a journey that would last over three years and lead me from Hagerstown to Baltimore to Philadelphia to Washington DC to Chicago and to Los Angeles, always trying to answer the simple question, “What’s that”?

Along the way I found a story of men and their dream. This dream that began with a small, unproven manganese mine north of Harpers Ferry. One man leased the mine and started a small company. The dream grew until the company said the value of its minerals was over \$100 million. The downfall came with charges of postal fraud by the United States government and the bankruptcy of the company just 4 short years later.

What happened at the Potomac Refining Company? Was it “fraud, plain and simple” as a prosecutor told the court? Or was it “a case of men being carried away by their enthusiasm” as a defense attorney claimed?

This is the story of the Potomac Refining Company.

## II. The Early Days

Mr. Edward R. Cooper, who lived in Govans Maryland, owned a summer house in Harpers Ferry, West Virginia. He was the son of Edward T. Cooper, official government surveyor for Queen Victoria in South Africa. Edward R. Cooper was educated at the University of South Africa and held positions in the mines there before he came to the United States. (see illustration #2)

The area around Harper's Ferry had already proven to be valuable for both lime and iron production. The Maryland Ore banks lay just upstream and across the Potomac River, The Keep Trieste iron furnace, Antietam Ironworks, the Virginia Iron Ore Banks, Bakerton Lime Kilns, and Knopp's quarry (where limestone had been quarried for 96 years) all lay within 5 miles of the town of Harpers Ferry.

It is probable that on his trips on the C&O Canal and in the town of Harpers Ferry Mr. Cooper would have heard about the old manganese mines along the canal just north of the town.

The mines were located on a 160 acre parcel of property belonging to the Chambers family. According to Maryland Geological Survey records, manganese had been discovered in the area as early as 1876 when Wells and Davis opened a mine and shipped both hard and soft ore on the C&O Canal. As Wells and Davis worked the mine the openings went below canal level and were flooded. The mine was abandoned for some time and then reopened by a Mr. McIntosh, who sank a 23 foot deep shaft just 10 feet away from the canal in 1898. Within a month the shaft flooded and the mine was again abandoned and not reopened until Mr. Cooper leased the property.<sup>1</sup>

Manganese is a grayish black metal which is used in the production of steel. Adding manganese makes steel harder without making it more brittle. It also has the benefit of preventing rust and corrosion. Finding deposits of manganese was important since almost 80% of the manganese used in steel production in 1900–1920 was imported. In 1908 alone the United States imported 158,000 metric tons of manganese to be used in steel making. Steel makers like Carnegie were always on the lookout for manganese.<sup>2</sup>

In early 1908 Mr. Cooper inspected the manganese mine himself and then hired Wirt Tassin to give him a report on the property. Wirt Tassin was a noted metallurgist and chemist. He was educated at both Harvard and Cornell University and had served as Chief Chemist and Assistant Curator of the Division of Mineralogy of the National Museum. Mr. Tassin was an expert on meteorites and had written several books about them that are still available today. After leaving his position with the National Museum, Tassin began a mineral consulting business. Mr. Tassin lived in Washington DC. While the 1908 report did not survive, Mr. Tassin mentioned it in his 1910

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<sup>1</sup> Bullock, W. (1911). Manganese. In Maryland Geological Survey (Vol. 9, p. Na). Baltimore, Maryland: Johns Hopkins Press. This deposit is referenced in many of the Maryland Geological Survey books. None of the books gives any further information about Wells and Davis. Were these two people? Was it the name of a company? This seems to be lost to history. This source also states that both hard and soft manganese ore was shipped on the Chesapeake and Ohio Canal from this mine. Records do not exist to tell us how much was shipped and where it was shipped to.

<sup>2</sup> "The Iron Age" March 4, 1915

report and noted that the two reports were the same. After reading the February 1908 report, Mr. Cooper was impressed with the possibilities of mining minerals, especially manganese. He then signed an agreement with the Chambers family to lease mineral rights on the land. Mr. Cooper installed a power and pumping system to keep the water out and began plans to mine and produce manganese. Needing capital for a washer/concentrator and other equipment, Cooper decided to incorporate and sell stock.

1908 saw the birth of the Potomac Mining Company, the predecessor of the Potomac Refining Company. Mr. Cooper chose to incorporate his business in Wilmington, Delaware due to its ease of paperwork and tax advantages. By its own admission the company used “dummy” incorporators who were residents of Delaware. Ralph C. Lupton, George C. Marris, and George B. Lewis all duly signed the Incorporation Papers on March 5, 1908. Mr. Stagmer was the first company president and Mr. Cooper had the position of General Manager, as he would later.<sup>3</sup> (See illustration #3)

The Incorporation papers listed the principal business as “to buy sell, and deal with manganese, manganiferous ores, iron and iron ores, limestone, clay and all like or kindred products”. The amount of authorized capital stock of the corporation was \$225,000: 750 shares (at \$100 per share) of common stock and 1500 shares (at \$100 per share) of preferred stock. The preferred stock was to pay a fixed yearly dividend of 7% and had voting rights attached to it. The common stock was to pay a dividend out of any “surplus” earnings. One can only speculate as to why any-one would buy common stock given these circumstances. A note in the Incorporation papers stated that the business would be starting with \$1,500 capital, being 15 shares of preferred stock.<sup>4</sup>

Now that the company had been incorporated, the officers began to try to sell stock and interest investors while Mr. Cooper was at the mines working. Cooper cleaned the mine openings, made sure the pumps were working and began to install a washer/concentrator which was necessary to refine manganese. (see illustration #4) Mr. Cooper also took samples of the manganese and the iron ore and sent them to the Maryland Steel Company for analysis. The samples were submitted by Dr. Woodward, who was an early corporate officer and investor. Tested by J. W. Owings, assistant chemist, the manganese ore tested as: Fe-.35, SiO<sub>2</sub>-.25, P-.112, and Mn 47.76. The iron ore tested at Fe-45.59, SiO<sub>2</sub>-22.30, and P-.868. A geologist consulted for this writing stated that

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<sup>3</sup> Incorporation Papers of the Potomac Mining Company. The papers were filed and signed in Delaware on March 5, 1908. The Incorporation Certificate was issued the next day. Potomac Mining admitted that they used “dummy” original subscribers when incorporating. Ralph C. Lupton, George C. Maris, and George B. Lewis all of Wilmington were all listed as “original stockholders”. The Incorporation Papers were amended on June 13, 1910 when the name was changed to the Potomac Refining Company and the stock structure was changed. The Incorporation officially ran out on March 18, 1914 for non-payment of taxes. The Governor of Delaware issued an official proclamation to that effect on January 21, 1915 and the Potomac Mining Company/Potomac Refining Company went out of official existence. The archives of the state of Delaware do not contain copies of the Articles of Incorporation. Both documents—the Certificate of Incorporation and the Certificate of Amendment—were found in the records of the criminal case, the United States vs Michael P. Kehoe, Harry Hess, Louis F. Plack, Charles B. Sanger, A.B. Young, and Robert W. Mobray.

<sup>4</sup> See note 3.



these samples were rich in both iron and manganese and were very typical of ores that were mined during the 19th and early 20th century in the area.<sup>5</sup> (see illustration 5)

The Potomac Mining Company struggled along for 2 years not producing or selling any minerals. Mr. Cooper had been hard at work at the site erecting a building that housed the power plant and washers had been built. The wooden, tin roofed structure was typical for a small mining operation of the day. Manganese ore had piled up but none of it had been refined or sold. Sometime before the company reorganized in 1910, The Potomac Mining stockholders did vote to change the stock structure so that common stock now sold for \$1 per share and 75,000 shares were issued, while preferred stock sold for \$5 per share and 30,000 shares were issued.

Thus the capital value of the company was the same (\$225,000) but each share was worth less.

On January 21, 1910, Edward Cooper bought a 33 acre parcel of land from George Ingram. This parcel was adjacent to the 160 acre parcel that he was leasing. Mr. Cooper paid \$1,000 for the parcel and while the transaction was completed in January the deed was not recorded until April 19 of that year.<sup>6</sup> On that same date Cooper sold the 33 acre parcel to J. Byrne of Govans, Maryland for \$1. Mr. Byrne was a stockholder in the Potomac Mining Company.<sup>7</sup>

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<sup>5</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's Exhibit #100. This exhibit is a one page form from Maryland Steel Company located in Sparrows Point Maryland. It is an analysis of ores done for Dr. J. S. Woodward of the Potomac Mining Company in 1910.

<sup>6</sup> Washington County Land Records 133/680 1/21/1910 (recorded 4/19/1910)

<sup>7</sup> Washington County Land Records 133/680 4/19/1910

### III. The Potomac Mining Company Reorganizes

By May of 1910 there were new officers of the Potomac Mining Company. All were from Govans, Maryland, the area where Edward R. Cooper lived. Michael P. Kehoe was serving as president; Louis F. Plack, vice president; Dr. Harry C. Hess, treasurer; and C.B. Sanger, secretary. All of the officers were well known in the Govans area. Michael Kehoe had a law firm in Baltimore City and had represented the Govans area in the Maryland State Legislature. Dr. Harry Hess was a well-known doctor and officer of the Govanstown Bank. (see illustration #6)

May of 1910 was to be a busy month for the company and its officers. The treasury was down to \$78 and prospects for the success of the company looked bleak. Something had to be done quickly if the company was to move forward.<sup>8</sup>

In early May of 1910 the Potomac Mining Company contacted A.B. Young and Company of New York City. The A.B. Young Company was a stock sales company that was known in the Baltimore area for their work with, and on behalf of, Spar Products. A.B. Young, president of the A.B. Young Company, had once lived in and started a business in Baltimore. He had since moved to Long Island New York and had a business in New York City.

Spar Products was a Baltimore based manufacturer of soap products. Spar Bon and Chinspar were its two principal products; both were cleansing powders for home use. The product had high silica content and Spar Products owned a silica mine in Howard County. The manufacturing plant was located near the Shot Tower in Baltimore.

Spar Products had fallen on hard times, much as had the Potomac Mining Company. A.B. Young and Company had signed a contract with Spar that would give A.B. Young 50% of the revenue of all stock sales in exchange for an aggressive advertising and stock selling campaign. Some of the Spar advertising was called "A Million Dollars A Word" and "Success". Spar advertised in *Pearson's* and *Hampton's Magazines* both of which were also clients of A.B. Young and Company. The magazine articles and the books were both well written and heavily illustrated.

The Spar products advertising campaign was under way when the Potomac men contacted A.B. Young for help. The officers of the Potomac Mining Company were impressed by the advertising campaign for Spar Products but had no idea that the result of the advertising/stock selling campaign run by A.B. Young and Company would be the bankruptcy of Spar Products.

On May 13, 1910, A.B. Young signed a contract with the officers of the Potomac Mining Company. Young was to get 8,000 shares of preferred stock and 5,000 shares of common stock in the newly incorporated Potomac Refining Company. He was to pay \$10,000 for this \$50,000 in stock. Further, Young was to get 50% of the revenue from all shares of stock that the company sold, plus 5% for expenses. In return A. B. Young and Company would pay for and handle all advertising

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<sup>8</sup> *Baltimore Morning Sun*, May 10, 1912.

and all stock sales. The company would also provide an office for the company in New York and pay the salary of Secretary C.B. Sanger while he was working there.<sup>9</sup>

On May 25th the stockholders of the Potomac Mining Company met. The first order of business was to officially confirm the contract with A.B. Young and Company. Then, at the suggestion of A.B. Young, the stockholders voted to change the name of the company from the Potomac Mining Company to the Potomac Refining Company. Mr. Young explained that the emphasis on *refining* would become the centerpiece of his advertising campaigns and that it sounded better than mining. The stockholders also changed the value of the capital stock and the stock structure of the company. Capital stock was increased in value from \$225,000 to \$1,500,000. There were now 900,000 shares of common stock with a par value of \$1 per share and 120,000 shares of preferred stock with a par value of \$5 per share. Voting rights were changed so that the holders of common stock had voting rights and those who held preferred stock did not get any vote at all. This was a fundamental change in the way the company had been run and was unusual compared to most corporate structures of the time. All of this was done without the company getting any new land or anything of value to support the new capitalization.<sup>10</sup>

Common stock could not be purchased. It was given as a bonus when Preferred stock was purchased. This was done at a 50% rate so that if 20 shares of preferred stock were purchased at \$5 per share, a 40-share bonus of common stock (par value of \$1 per share) was given. The company knew that the only chance to earn money was with common stock. In a letter to Mr. S.A. Schennacher in 1911, Mr. Kehoe wrote, "I have pointed out the possibilities of profit to you of 100% and upward.....The big profits, remember, come through the Common stock Bonus."<sup>11</sup>

Another order of business taken care of at the meeting was the filling out of the Internal Revenue Service Form to Report Annual Net Income of Manufacturing Corporations. The form was for the tax year January 1, 1909–December 31, 1909 and was to have been filed by March 1, 1910. The form listed the total amount of paid up stock outstanding as \$141,760; the total amount of bonded or indebtedness as \$20,320; business expenses as \$6,000; and foreign taxes paid as \$29. (One wonders why the company paid \$29 in foreign taxes.) But the most important fact was that there was \$0 in gross income for the business. They had not sold *any* minerals whatsoever. The tax form was duly signed by Michael P. Kehoe, president and Dr. Harry C. Hess, treasurer of Potomac Refining. It was notarized and filed on May 26, 1910, two and one half months after the deadline.<sup>12</sup>

After the stockholders meeting, A.B. Young and Company began its work for the newly renamed Potomac Refining Company. A.B. Young and Company a stock selling firm, occupied offices at

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<sup>9</sup> *Baltimore Morning Sun* May 10, 1912. The contract with A. B. Young, like all financial exhibits, is missing from the archives.

<sup>10</sup> Certificate of Amendment of Certificate of Incorporation For Amending The Charter of Potomac Mining Company. June 13, 1910. Delaware.

<sup>11</sup> Letter from Michael P. Kehoe to S. A. Schennacher of Clay Center, Ohio. The letter is dated April 12, 1911, and is on Potomac Refining Company letterhead. The letter also states that the 40% bonus offer will be withdrawn as of April 25th. The letter is not part of the U.S. vs Kehoe record but was purchased by the author in 2013.

<sup>12</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's Exhibit #95. Cover letter from the Assistant Secretary of the Treasury with three tax forms attached for the Potomac Mining/Refining Company, 1909, 1910, 1911

the Marbridge Building on 34th Street at Herald Square in New York City. The company specialized in what was referred to as “stock selling” vs. being a stock broker in the way we know them today. The difference was that while stockbrokers bought and sold stocks for clients in many different firms, A. B. Young’s firm worked for a company and sold their stock for them and did their advertising in exchange for a percentage of money from the stock sold.

A.B. Young already had contracts with numerous companies, among them Spar Products, *Pearson’s Magazine* and *Hampton’s Magazine* to advertise and sell their stock, for which A.B. Young got 50% of all sales. The contracts stipulated that A.B. Young and Company would provide office space for their clients. Because the company building had addresses on both 34<sup>th</sup> and 36<sup>th</sup> streets, A.B. Young could have companies use different addresses so that they did not appear to be located in the same office. In the case of the Potomac Refining Company, the secretary, Charles B. Sanger, had an office in the Marbridge Building with an address at 66 West 35th Street in New York City. This made it appear that Potomac Refining had an office in New York from which they were selling stock. (see illustrations 7, 8, &9) The reality was that investors were sending money to A.B. Young and Company with less than 50% actually going to the Potomac Refining Company.

With a contract for advertising in hand, the A.B. Young and Company needed to launch an advertising campaign. Having done this with at least two companies previously, they stuck with a plan that they knew. First, all of the officers of the company were requested to solicit endorsement letters from friends, clergy, and business associates. Since Michael Kehoe was widely known throughout the city—having served as a Delegate to the Maryland Legislature and owning a law firm—it was easy for him to get these letters. Dr. Harry Hess was a prominent doctor in the Baltimore area and was on the board of directors of a local bank. He too found it easy to get references. The letters, most written between May 25, 1910 and June 4, 1910, did *not* endorse the Potomac Refining Company project itself but were really reference letters for Mr. Kehoe and Dr. Hess. In fact, the writers of the letters had no idea that their letters would be used in any sort of advertising.

Next the Potomac Refining Company engaged Wirt Tassin, a noted geologist, who wrote a glowing report on the geology of the property that the Potomac Refining Company was leasing. Mr. Tassin’s report reads:

Report by Wirt Tassin, PhD.  
N. 413 4th Street North West  
Washington DC  
June 6th 1910

The Potomac Refining Company

Gentleman:

I submit herewith a report on your properties lying in Washington County, Maryland, on the Chambers farms, about 5 miles above Harpers Ferry.

In February of 1908, I submitted a report on this property to your mister. E. R. Cooper, in which I expressed the opinion that the properties gave every reason for the supposition that they would afford an excellent proposition. On my visit to the property on June 10–14th 1910, I again went over the ground and will reaffirm the opinion previously expressed. Taking up the minerals and other primary products, in the order of their immediate development, you have lime stone, including dolomite and marble; manganese ore, including kidney and wash or semicolon iron ore, both lump and wash, tripoli and residual clays, and timber. All of these materials are very favorably situated with respect to water

for transportation and with reference to a railroad, and are sufficiently near to good markets to make transportation charges a minimum.

### LIMESTONES

“The canal face or barrier ledge” will afford a quarry face of about 500 feet; it is located on the banks of the C&O canal, with all of the advantages of transportation that such a situation implies. This ledge will afford a rock that will burn readily to both agriculture and building limes at a low fuel charge.

Agricultural lime has in this vicinity a market value of 9 cents per bushel building line sells for about 12 and if hydrated will bring about \$4.25 per ton. I would emphasize here the advantages of the location of the quarry with reference to water transportation both as to fuel and to the market for finished product, the quarry being less than 100 miles from coal mines. Assuming the silica content of this limestone will maintain its average low percentage value, this quarry will afford a fluxing rock admirably adapted for open hearth practise. Such a rock is worth about 50 cents per ton and as known supply is limited, its price is steadily increasing this quarry will, of course, afford crushed rock, which sells at 45 cents per ton and 90 cents per ton when pulverized.

“The Paul Jones ledge”. The development of this quarry is dependent upon progress of the work in mining of manganese. The working of the one permits the immediate development of the other. This ledge, like the canal face quarry, will look forward agricultural, building, and hydrated lime, and crushed rock. It is probable that it will also afford a cement rock and the shale necessary for the mix lies immediately at hand. The present market value of cement being \$1 per barrel, the value of this possibility is at once apparent.

### MARBLE

There is a possible development of a 53 foot face of variegated marble, having a close, fine grain structure, which is estimated to have a market value of \$3 per cubic foot, with a further increase of value depending upon its popularity.

### DOLOMITE

There are about 13 acres of this material capable of a possible development; a large part of which is directly coincident with the development of iron ore.

### MANGANESE

This ore can be worked in an open cut of about one hundred and fifteen feet face, whose extreme length has not yet been defined, and which is rich in both kidney and wash ores. Abundant water is available for washing, and log rollers with the necessary power have already been installed to concentrate the manganese materials. A portion of the manganese ore at present won will readily bring \$50 per ton and all will yield a minimum of \$15 per ton. There is also an abundant iron manganese float lying on the surface of a large part of the property which will pay for hand picking and which in part is sufficiently rich to afford a Spiegel iron.

### CLAYS AND RESIDUUM

Associated with the manganese ore and capable of being developed with it, is a deposit of residuals. This product has several possible industrial uses, among which may be mentioned its use as an abrasive and polishing material, as a detergent and filler for soaps, as an inert material in paints and other preservative coatings, as an extender for heat insulators, as a filler and weighter for linoleum, oil cloth, paper and other fabrics. It may also be used as a filtering medium, especially in this sugar industries, as a glycerin absorber in the manufacture of dynamite etc. The market value of the washed

and dried residual may vary from one tenth of one cent to 3 and one half cents per pound in barrel lots, depending upon grade, color and use. The clays may be worked as other clays are.

#### IRON ORE

Wash iron ore is found at several places on the property and there are at least 13 acres of these ores which will yield a product averaging 50% iron and whose silica and phosphorus content is low enough to afford an ore which will average at least \$6 per ton, and the majority of the produce will yield not less than \$2.50 per ton. In the development of this ore, a possibility worthy of consideration is the manufacture of Spiegel and Ferro-Manganese; a condition rendered available by the close proximity of manganese, plus the water transportation for the necessary fuel. Ferro-manganese of a certain grade readily brings \$40.50 per ton and it will be seen that the manufacture on the property of these two products will give an increased value to both the low grade manganese and to the iron ore.

#### TIMBER

There is a good growth of timber on the property suitable for mine props and lumber necessary for the furtherance of the various operations incidental to the development of the property, which is a noteworthy consideration when attention is paid to the steadily increasing costs of lumber. In conclusion, I would again emphasize the attractions of the many very possibilities on this property which only need the proper equipment for their immediate and successful marketing.

Respectfully,  
Wirt Tassin

With this information in hand, A.B. Young began to produce the first advertising book, *The Business That Makes Men Millionaires*. He also dispatched a photographer to the Potomac Refining Company property to take pictures for later advertising.

Just 4 days after the Tassin Report, Robert W. Mobray wrote a certificate that would be included in all of the company's advertising books. It also became one of the centerpieces of the forthcoming criminal trial. (See illustration #10)

Mobray later wrote a seven page letter to the District Attorney explaining his certificate. Mobray explained that he had written several deeds that put the 160 acre parcel into the hands of the Potomac Refining Company in several steps. He thought that officers of Potomac Refining had filed these deeds with Washington County, but they had not. His real purpose in certifying a clear title was that the company was shopping for a mortgage on the property and that his certificate would be used to aid that process. He had no idea it would be used in advertising and in fact, had never signed it. All protestations aside, the result of the certificate was that the lawyer was certifying that the Potomac Refining Company owned free and clear title to the property in Washington County when the reality was that they owned *no* property in Washington County whatsoever and that technically the Potomac Refining Company did not even exist yet since the new company did not file the paper work in Delaware changing their name and reorganizing until June 13.<sup>13</sup>

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<sup>13</sup> Certificate of Amendment of Certificate of Incorporation For Amending the Charter of the Potomac Refining Company. June 13, 1910

## IV. The Advertising Campaign

By June 22nd the advertising campaign was beginning to gear up. A.B. Young had dispatched a photographer to the Washington County site to get photographs of the mines, buildings, and men working. They had written a four page article that was soon to be published in *Current Literature* magazine, *Hampton's Magazine*, *Pearson's Magazine* and the *National Magazine*. These articles were titled "The Business That Makes Men Millionaires" and concentrated on the fact that the wealthiest men in America made their money in refining materials. The names Rockefeller, Guggenheim, Carnegie, and Goodyear were featured prominently in the article and readers were informed that their opportunity to make this kind of wealth was with the Potomac Refining Company. At the end of the article was a coupon that could be sent to the Executive Offices of the Potomac Refining Company, 66West 35th Street in New York City.

It was at this time that A.B. Young copyrighted the first of several advertising books for Potomac Refining Company. Entitled *The Business That Makes Men Millionaires*, the book was a 45 page paperback containing a map of the property; an inventory of equipment that had been purchased and installed; a report by Wirt Tassin on the mineral deposits; a report by Charles Weller, ME on the deposits; and letters from important men vouching for the character of the refining company officers. The title page of the book listed all of the stock information and the names of the company officers. (See illustration #11)

The map of the property that was included in the book showed where each mineral deposit was located and the location of the shafts, tunnels and railroads. The map showed 1 dock on the C&O Canal. A refinery and power house were shown as being very close to the limestone ridge. (See illustration #12)

The body of the book begins with short biographical sketches of the wealthiest men of the day: Carnegie, Rockefeller, Goodyear, Guggenheim, and Havemeyer. These men made their money in refining and if one had invested money in the early days the return on investment would be in the millions. The book goes on to list the benefits of the Potomac Refining property and the minerals they owned. According to the book Potomac Refining had verified \$9,516,500 worth of minerals by June 1, 1910 and this was just a small part of the total resources. Quoting from the Wirt Tassin report the company considered that its manganese was 62% pure, its iron as 56% pure, and the limestone as 96% Calcium Carbonate. All of this led to an "Estimated Yearly Revenue" that was included in the book. (See illustration 13)

The book emphasized the many advantages of the Potomac Refining Company property. While noting the other mineral based businesses in the area, the book also pointed out the advantages of transportation (via the C&O Canal or the B&O Railroad), fuel (timber available on the property and coal shipped down the canal at a cost of less than \$3 per ton delivered), and American labor (trained for generations in quarrying and absolutely satisfied with wages of 12.5 cents per hour).

While the 1910 Tassin report talks of "close grained variegated marble worth \$3 per cubic foot" in the area; the book embellishes that and talks of marble being the highest profit mineral owned

by the Potomac Refining Company stating: "The only marble in use in this country which compares favorably with it (Potomac Refining Marble) is the genuine Egyptian marble which importers buy in large shipments".

The book also emphasized the mineral manganese. According to the Potomac Refining Company their manganese was over 62% pure manganese had no silica or phosphorus content; two elements that would decrease the value. The text informed the reader that over \$100,000 was already stacked up and ready to be refined.

The company was so excited about their manganese that they included 2 letters. One, from Carnegie Steel Company quoted the prices that Carnegie would pay for domestic manganese ore. The Carnegie price chart did not even list ore as high as 62% pure. Potomac Refining also included a letter from E.V. Machette who was an Importer and Exporter. (See illustration #14)

And yet, while Mr. Machette guarantees to buy ore for \$50–\$60, the truth is that no one ever purchased manganese ore.

An equipment inventory as of December 31, 1910 was included in the book. The equipment inventory listed the typical equipment that any mining operation would have; pipe, hoisting engines, ore cars, track, pumps, saw mill, double log washer (for manganese), and various other engines and hand tools. The report listed the following structures: one pump house, two hoisting engine houses, oil shed, mess room, a metal roofed boiler house, and a 3 deck 60x70 foot tar roofed wooden building. Details of the mine shafts were also included (See Appendix A).

The final section of the book was endorsement letters from bankers, politicians, and important business people vouching for the character of the Potomac Refining Company officers, especially Michael Kehoe and Dr. Hess. Those endorsements came from politicians, judges, bankers, and members of the clergy.

There were no photographs included in the book, nor was there any indication that the company was actually working and producing anything. All of the text emphasized the potential of the property. The claims about the minerals and value seemed almost subdued compared to the later books.

As A.B. Young and Company began to advertise the Potomac Refining Company, they also had the Potomac Refining Company secretary contact Dun's Report. One of the forerunners of Dun and Bradstreet, Dun rated companies of the day for potential investors. On June 30, 1910 R.S. Thompson, of the A.B. Young and Company, wrote to Charles B. Sanger about the initial report in Dun's. "I think it (the report) is first class. There are just two suggestions we would like to make." The report stated that Potomac Refining's Vice President Plack was an employee of Monumental Brewing Company. Thompson wanted the report rewritten to state that Vice President Plack "filled an important position or is General Manager, or whatever he is".

Also, Thompson was not happy that the Dun's report said that "capital is required to place products on the market. It would be better to get them to say that we are disposing of a large amount of stock for the purposes of *enlarging* our plants and *adding* to our equipment". And "it would be still nicer if they would leave out the reference of Dr. Hess guaranteeing Potomac accounts." Mr. Thompson then informed Sanger that he was now getting a report from Bradstreet's and that he



hoped it would be equally favorable. He closed his letter by writing, "We have received over 500 inquiries to date, but so far the darned brutes have not bought. However, they will."<sup>14</sup>

Also in the summer of 1910 the A.B. Young and Company produced a book called *Portfolio de Luxe*. This limited edition book (1,000 copies) was intended to be sent to those people who already owned stock in the company. On the inside cover of this book was a very fanciful drawing of a modern refining plant, one that bore no resemblance to the ramshackle collection of small buildings on the Potomac Refining Company's site. (See illustration #15) The remainder of the book shows various views of the mining operation including the shafts and pits. Workers appeared in most of the pictures, appearing to be hard at work. The washer/separator building (wooden tar paper roof structure) was referred to in the book as the refinery building. One photo shows the refinery building with the C&O Canal in the foreground. The caption states: The picture shows some of the buildings. The rest are hidden behind the trees.

The impression given by all of the photographs in *Portfolio de Luxe* is that the Potomac Refining Company was a busy active mining/refining operation with many workers. But impressions can be deceiving, for there were no workers at the company. All of the men in the photographs had been hired from nearby mines, posed for pictures, and left within an hour. Also at the time the photographs were taken there was only 1 building. The photographs were shot from different angles to make it appear to be different buildings and the captions mentioned more than one building. And the deception was on.<sup>15</sup> (See illustrations #16, #17, #18, #19, #20, #21 and #22)

The next phase of A.B. Young and Company's advertising campaign was called "\$60 A Second". Begun in October of 1910, advertisements began appearing in newspapers throughout the country asking people to send for the book *Sixty Dollars A Second* and giving the 35th Street address in New York. ( See illustration #23)

The book, *Sixty Dollars A Second*, was copyrighted by A.B. Young on October 3rd 1910. Subtitled *The Business That Makes Men Millionaires*, the book opens with a map of the Potomac Refining Company property in Washington County. And it is interesting to note the differences between the map in the previous book and this one. The map included in the book *Sixty Dollars A Second* shows two refinery buildings, one at the north end of the property and one at the south end. It showed a dock at each of the refineries that gave access to the C&O Canal. A tramway was shown crossing the Potomac River and giving Potomac Refining Company access to a special rail spur from the B&O Railroad as well as a dock and railroad sidings at Sandy Hook. And while the map no longer detailed the mines and shafts, it did show a large building for cement manufacturing behind the powerhouse and saw mill. A bank of lime kilns was shown adjacent to the refinery building. Also shown were the locations of all the deposits on the property. Several properties that were across the river were also shown; Knopp's Lime Quarry - in constant operation for 96 years, Bakertown Lime Industry - in operation 20 years annual earnings \$500,000 and the Virginia Ore Banks - operating over 100 years. (See illustration #24)

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<sup>14</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's exhibit 107. Letter from R.S. Thompson (of A.B. Young and Company) to Charles B. Sanger (secretary of Potomac Refining) dated June 30, 1910

<sup>15</sup> *Portfolio de Luxe* copyright 1910 by A.B. Young. A copy was with the evidence from the trial but was not numbered. An unnumbered copy is available at the National Archives. Allen County Public Library owns copy #723 of 1,000 and has put a low resolution copy up on the Internet Archive, available at <https://archive.org/details/portfoliodeluxe00poto> Also, G.A. Callanen's testimony and John Waters testimony are recounted in the *Baltimore Morning Sun*, 10/13/1912

It was beginning with this book that the Potomac Refining Company began to make the suspicious claims about the value of the minerals on the property. According to Potomac Refining, \$103,155,000 in minerals lay buried on the Washington County property. (See illustration #25)

To put this claim into perspective the steamship Titanic was completed in 1911 at a total cost of 7.5 million dollars. According to experts the Titanic would cost over 400 million dollars to build today. Applying the same proportion would make the minerals on Potomac Refining Company's property worth over 5 1/2 billion dollars in today's economy.

And according to the company they had *undervalued* the value of the marble and had not included the value of cement at all. One of the experts working for Potomac Refining told them that the cement might be the most valuable product they could produce. All of this on property that just five years earlier had been sold by Edward Chambers to Daniel Johnson for just \$1,528. When asked how such a valuable deposit could have lain undiscovered for so many years the lawyer for the Potomac Refining Company officers, Mr. Embrie, said that it was:

explained by the class of people that live in that section. There are no large towns nearby and people didn't realize what the land was worth. Even if they did, they never had the money to develop it.<sup>16</sup>

As with the earlier advertising literature, A.B. Young and Company played heavily on the refining aspect and tried to associate themselves with the wealthiest names of the day: Guggenheim, Rockefeller, Havemeyer, and Goodyear. The name *Sixty Dollars A Second* is explained very early in the book. Standard Oil, U.S. Steel, American Sugar Refining, U.S. Rubber and American Smelting and Refining *combined* paid dividends of \$1,234,045,000 over 25 years. Then the book tells us that "often....in a twelve month...they made \$540,000,000 in just one year" (already the bad math begins). Then the book informs us that this five hundred forty million dollars a year equals \$216,000 per hour, \$3,600 a minute, and Sixty Dollars A Second! Of course the book did not show the fraudulent math used to get the figures or the fact that those figures represented the income "Dollars A Second"! And of course the book did not show the fraudulent math used to get to the top 5 businesses in America combined!

The next section of the book touted the great business prospects of the Potomac Refining Company property. According to the advertising, the property held \$103,155,000 in minerals (and these were 1910 prices!) and these were conservative estimates according to the company. The manganese was worth \$25 million and the marble \$15 million.

The company also emphasized their ease of shipping, either through the C&O Canal or across the (nonexistent) tramway to the B&O Railroad upstream from Harpers Ferry. Fuel for the refining company was to come from the abundance of timber and, in the form of coal, down the canal from Cumberland. Cost of the coal delivered was \$3 per ton. The company also stressed that they had wonderful "native American workers" (not native American in the modern usage but as opposed to immigrant Irish) who were "trained for generations in quarrying and refining....and were the soberest, steadiest, and most industrious class of labor in the world." "They are perfectly happy with 12 1/2 cents per hour wage" according to one advertisement.

It is interesting to note that there was no statement in the book where the company claimed to be actually refining, mining, or selling anything. All statements emphasized potential. The advertising did say that the company was piling up manganese to be ready for the refinery. One interesting

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<sup>16</sup> *Baltimore Evening Sun*, May 10, 1912

statement in *Sixty Dollars A Second* was “Here is a unique business — one that no combination of unfavorable circumstances could cause to fail, and one of far-reaching importance in the economic world.” Yet, it ultimately did fail.<sup>17</sup>

Prospective customers who ordered *Sixty Dollars A Second* also were sent a book entitled *Confidential To Our Associate Partners and Prospective Shareholders*. The book opens with attorney Robert W. Mobray’s Certificate of free and clear title to the property and a letter from Hilgartner Marble Company about the marble sample that was sent to them by Potomac Refining. The letter read in part:

We found it (the marble) to be of a strong nature and takes a high polish very readily. It has elegant colors and would make a good material for decorative purposes for the interior of buildings. This should be quarried in large sizes, we don’t suppose you would have any trouble to get \$3 per cu. ft. (cubic foot) for it.

The testimonial letters that follow came from politicians, business owners, and clergy. All the letters were endorsements of the officers of the Potomac Refining Company: Michael Kehoe (president), Louis F. Plack (vice president), and Dr. Harry Hess (treasurer). The letters were personal endorsements, not endorsements of the Potomac Refining Company or the venture in Washington County. At the end of the book was a form to use to order stock. ( See illustration #26)

Two other advertising books were printed in 1910. One, called *The Gospel Of Sound Investment* was a pocket sized format measuring 4 inches x 9 1/2 inches when closed. With only 20 pages of text and including some photographs and the map, this book was not as detailed as *The Business That Makes Men Millionaires* or *Sixty Dollars A Second*. *The Gospel Of Sound Investment* emphasized in several places that “refining is a business that cannot fail”. It also carried a quote from Jay Gould:

When you invest in the stock of a company, don’t look for the “best”, for then you will never find it. Look for a good one, then invest and do it quickly. Don’t wait to see if it pans out all right; there is where you lose your opportunity.... You must make your money on your judgment and foresight, and not on demonstrated facts.<sup>18</sup>

“Twelve Jury Reasons” was the other book printed in 1910. At only four 8 1/2 x 11 pages long, it was the smallest of the brochures. Included in mailings with the larger books, it was a “frequently asked questions” book about investing with the company.

As the advertising blitz continued in magazines and newspapers across the country, the Potomac Refining Company began to get inquiries about their stock and their property. Edward Cooper wrote back to Richard Tatum of Philadelphia informing him of the tours he was giving of the property. James B. Black also wrote to Mr. Cooper. Cooper told Black that “only a small amount of money is needed to install the machines and our refinery will be up and running”. Mr. Sanger, who was by then in the New York office, got a letter from Charles Schaefer asking if he could

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<sup>17</sup> “Sixty Dollars A second” Copyright 1910 by A.B. Young. A copy is included in the trial materials.

<sup>18</sup> Nothing is known about who copyrighted the “Gospel Of Sound Investment” or the date it was copyrighted. The only known copy is in a library at University of California. “Twelve Jury Reasons” also has no copyright date or attribute. It too is housed in the same library in California.

represent the Potomac Company and sell stock for them. Sanger told Schaefer that he could represent them but that he could not get any stock discount except a 10% commission. In November of 1910 James Black did buy stock—\$50 worth.<sup>19</sup>

As investors requested tours of the quarries and mines a new scheme arose in the ranks of A.B. Young and Company. In October and November of 1910 potential investors from New York, Philadelphia, Baltimore, and cities as far west as Ft. Wayne Indiana were given an expenses paid tour of the Potomac Refining Company. They were brought in by train to Harpers Ferry and many were put up at the Hotel Conner. From Harpers Ferry they were taken up the canal and dropped at the company dock.

T. Edward Gresslee described the visit as follows:

Together with a number of other stockholders, nearly all strangers to me, I left New York, Sunday, October 30th, at 3:50 PM, arriving in Harpers Ferry at 10:50 the same night. We had a good night's rest and were up at 6:30 Monday morning, and after breakfast embarked on a very novel boat which took us up the canal to the refinery in one hour, and a more picturesque and finer location with all the natural facilities for shipping cannot be imagined.

Disembarking, with plenty of lunch, we were introduced to the General Manager, Mr. E.R. Cooper, who escorted us over the entire property, plant, refinery, saw mill, and through most of the underground workings, where with our own eyes were to be seen the enormous resources, only not half told in their books."<sup>20</sup>

After the tour the men were given a share or two of Potomac Refining Company stock and were asked to write a letter supporting the company. Letters contained statements like "I shall return home and put all the cash I can get into it" (Chauncey Griswold). P.G. Arnold, who ran a grocery in New York, stated that he "went to the bank and drew out \$1,000 to put into it." Even Alfred B. Young got into the act. Writing on letterhead that said A.B. Young and Company Advertising and Selling Agents, Mr. Young wrote a glowing report for the Potomac Refining Company. Of course, nowhere in the letter did he state that his company made 55% of every dollar invested in Potomac Refining.

Twenty one of these letters were collected, printed, and stapled into a book called "Special Reports and Letters From Shareholders visiting the property of the Potomac Refining Company on the Chesapeake and Ohio Canal near Harper's Ferry" This book was mailed out in the fall and winter of 1910 along with the company's other advertising books.<sup>21</sup>

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<sup>19</sup> U.S. vs. Michael P. Kehoe et al. Plaintiff's exhibit 3. This exhibit is a November 10, 1910 letter from Harry Hess to James B. Black acknowledging Mr. Black's check for \$50.00 worth of stock. The letter was written on The Suburban Trust and Building Company, Govanstown, Maryland. Dr. Hess was an officer of this bank and the Potomac Refining Company held accounts at that bank. Mr. Black was a stockholder from Philadelphia who was one of the stockholders who testified against the Potomac Refining Company.

<sup>20</sup> Letter from T. Edward Gresslee, identified as a large real estate owner and operator of Long Island and New York. The letter was written on November 5, 1910 and addressed "To Whom It May Concern" It is included in Plaintiff's Exhibit #55a. Mr. Gresslee's stock certificate numbers were #154 Preferred Stock, #148 Common. These numbers were found in United States vs Kehoe et al. Plaintiff's 90.

<sup>21</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's exhibit 55a. There were two parts to the exhibit, 55 and 55a. Exhibit #55 is a letter from E.R. Cooper to James O. Waters of Ft. Wayne, Indiana that was dated November 16, 1910. Mr. Waters had expressed an interest in the Potomac Refining Company and Mr. Cooper was

Late in November of 1910 the Potomac Refining Company finally bought a piece of property in Washington County. The certificate from Company lawyer Robert W. Mobray aside, the company leased property, bought options on property, and/or its officers owned property, but up to this point the Potomac Refining Company did not own any real estate in Washington County. In January of 1910 Mr. Cooper had purchased 33 acres that were adjacent to the leased parcel with the quarries and buildings. The parcel was purchased from George Ingram at a cost of \$1,000. In April Cooper sold the parcel to John Byrne, a stockholder, for \$1. On November 26th Potomac Refining paid Mr. Byrne \$1 for the parcel. The Potomac Refining Company still did not own the 166 acre parcel that contained all of the refining operations and quarries. That land continued to be leased.<sup>22</sup>

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urging him to invest. This letter contains the statement "We will soon begin shipping." Sent to Mr. Waters with the letter was a stapled book of letters entitled "Special Reports and Letters From Shareholders visiting the property of the Potomac Refining Company on the Chesapeake and Ohio Canal near Harpers Ferry

<sup>22</sup> Land Records of Washington County 134/634 Filed 11/26/1910

## V. Trouble Ahead

In December of 1910, incidents occurred that alarmed the officers of the Potomac Refining Company about the advertising campaign. The officers of The Chain Shoe Stores Company were indicted for mail fraud. Then, the officers of a local company, Grenagel (Grenagle) Electric Company, were indicted by federal officials for stock fraud. Michael P. Kehoe, president of the Potomac Refining Company, wrote to A.B. Young and Company;

Gentlemen,

I desire on behalf of myself and fellow Directors of the Potomac Refining Company to ask that you be careful in the statements made in advertising.

You have undoubtedly read of the Chain Shoe Stores people being indicted for using the mails to defraud in that they made mis-statements to their stockholders and to the public.

The Grenagel Electric Company people of Baltimore were indicted last week because it was claimed they could not substantiate the statements they made to the public and to their stockholders, as to the progress of their work in their Factory.

It seems to us that this is drawing a very fine line indeed when the Government takes up a matter of this Character.

Some of the Grenagel People with whom we are acquainted tell us that the stockholders are perfectly satisfied, and their factory is built and they are conducting laboratory tests.

Mind you that this is a patent in which the stockholders bought rights well knowing at the time of their doing so that it was not perfected, and the work that has been conducted, in the laboratory, was to secure this result.

Now then, it seem to me that when the Government takes upon itself to indict a corporation that has made no statements, other than what can be proven, it is time a halt should be called somewhere, for the reason that no reparation that might be made subsequently could possibly repair the damage done to a Concern's credit or reputation.

I must again urge upon you the necessity of confining your advertisements to facts that can be absolutely proven.

Sincerely,

P. Kehoe

President of the Potomac Refining Company <sup>23</sup>

Alfred B. Young wrote back to Mr. Kehoe just two days later. It is obvious from his reply that the question of exaggerated statements had been discussed before:

Dear Mr. Kehoe,

Your favor of the 19th inst at hand referring again to the matter of conservative statements in our literature.

As we wrote you a few days ago, the object of Mr. Sanger being here is to check up carefully all the statements made, and of course you understand that the literature we send

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<sup>23</sup> U.S. Vs Michael P. Kehoe et al. Defendant's exhibit 108. This letter was written on Potomac Refining letterhead

out is based on the information we receive direct from your company, and the statements are all checked by Mr. Sanger. You have all of our literature there, and why not be specific? What statements do you take objection to?

We are using greater care than ever, but at the same time our literature can only be based on the information received from your company. We will be glad to have a letter from you stating just wherein you think we have exaggerated.

Wishing you the compliments of the season, we are

Very Truly Yours,  
A.B. Young and Company <sup>24</sup>

The officers of Grenagel (or Grenagle—there were at least two alternate spellings used in literature of the day) were well known to the officers of the Potomac Refining Company. Not only did Michael P. Kehoe refer to them in his letter to A.B. Young (Defendant's 108) but there was also that reference from A.B. Young's letter about the Spar Certificates. At least two of the officers attended court when the Grenagel case was heard before Judge Rose in Baltimore District Court. During their own legal troubles two of the officers of the Potomac Refining Company sought to disqualify Judge Rose from hearing the Potomac Refining case based partially upon their observations during the Grenagel trial. In late 1912 James B. Grenagle was found guilty and sentenced to 18 months in a federal prison in Atlanta. Judge Rose had mercy because the defendant had 5 small children and a wife and that he confessed in open court. Grenagle confessed that he had defrauded people of over \$30,000 by taking an experimental light bulb from the hotel where he worked and representing that it was his own invention. He told people that he was selling stock to raise funds to perfect the bulb and take it to market. <sup>25</sup>

Whatever concerns the officers of the Potomac Refining Company had about truthful fundraising they must have been quickly forgotten. As 1911 opened, A.B. Young and Company was preparing its last large advertising book "Profits For Every Shareholder". This book, while repeating many of the previous claims and information about refining, placed a heavy emphasis on the marble that was found on the property. Included were five pages of pictures of the samples of marble products, cutting and polishing machines at the Hilgartner Works in Baltimore. These pictures were all captioned to lead the reader to believe that the marble came from the Potomac Refining Company property. Yet, as of 1911, the Potomac Refining Company filed tax papers with the U.S. Government stating that they were not a going concern, had no employees and had not sold any products. Given those circumstances, how could the marble have come from the Potomac refining Company property? (See illustrations #27, #28, #29, and # 30)

The marble was called PORECO marble, the name coming from the New York City Office cable address. The cable address came from the name Potomac Refining Company. The name seemed to stick because a later advertising paper showed the hydrated Lime as PORECO Hydrated Lime and the bags used for hydrated lime once the refinery was operational had "PORECO" emblazoned on them. (See illustration 31)

A letter was included in the book from Hilgartner Works touting the marble as "equal to, if not superior to the best grades of Egyptian Black and Gold"; and "on the polishing table the stone is

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<sup>24</sup> U.S. vs Michael P. Kehoe et al. Defendant's exhibit 109. The reply letter was not written on A.B. Young letterhead but was on plain unmarked stationery.

<sup>25</sup> Grenagle Sentenced. (1912, February 3). Electrical World, 236-236. The same article appears in Electrical Record in May 1912

of such density that it takes a high finish". Mr. Hilgartner went on to say that the marble would readily sell for \$3–\$6 a cubic foot and that he expected to use a considerable quantity at the works and that Potomac Refining could duplicate the former order.

Also included in the book were some very progressive statements about the benefits given to the labor force at the Potomac Refining Company.

Among the large industries in our neighborhood, none offers its employees the cooperative benefits given by the Potomac Refining Company. For example:

1. Each and every year all employees who have been on the payrolls for 52 consecutive weeks will receive a 5% increase on their weekly wages.
2. All employees remaining in the service of this company until they reach the age of 65 years will be retired on the basis of fifty per cent (50%) of the weekly wage paid them at the time of such retirement. Provided that those who are over forty five years at the time of entering the company's service will be retired on the same basis after twenty years of continuous employment.
3. All employees injured while in proper discharge of their duties will be paid 50% of their wages during the time of such disability, provided such disability does not extend over a period of three months."<sup>26</sup>

It is unlikely that the Potomac Refining Company had any employees to take advantage of these benefits in 1911. The tax form for that year (January 1, 1911–December 31, 1911) has a handwritten note that says "Cannot answer these questions because we are not a going concern at this time, but think we will be in operation in about 60 days". The form was signed on January 24, 1912.<sup>27</sup> 9 (See illustration 32)

Not included in the book "*Profits For Every Shareholder*" was a letter that was received by Michael P. Kehoe just before the book came out. The letter, written by Jacob Schmitt of William Bradley & Son Cut Stone and Marble Contractors of New York, was less complimentary:

The two blocks of marble you shipped to me have been sawn, and I regret to say that the material is of such unsound character that it would be very expensive to manufacture.... Unless the material you have at your quarry is a great deal sounder than the two blocks shipped to me, it would be useless for your company to spend any money in developing this property as far as the marble end is concerned, as there are so many American marbles on the market now which can be bought from 50 cents a foot up, f.o.b. quarries.

Mr. Schmitt was even more specific during the trial. According to his testimony there was no black and gold marble in the United States.<sup>28</sup>

Attached to this letter is an unsigned letter from the Potomac Refining Company to Mr. Schmitt. The letter expresses regret, but not surprise, that the sample did not come up to expectations. An offer is made to send another sample of some light gray stone that was very close grained that

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<sup>26</sup> "Profits for Every Shareholder", Copyright 1911 by H. Harris (most likely Henrietta Harris, secretary at A.B. Young Company). There were at least 2 different editions of the book. Both editions are included with the U.S. vs Kehoe material but neither one is labeled with an exhibit number. One was attached to the grand jury indictment and one was loose with trial material.

<sup>27</sup> U.S. vs Michael P. Kehoe et. al. Plaintiff's Exhibit 95. United States tax forms

<sup>28</sup> Baltimore Evening Sun October 9, 1912



Potomac Refining felt would make a very good building material. It would be sold for 50 cents a cubic foot. It is not known if this letter was ever sent to Jacob Schmitt.<sup>29</sup>

The letters provide an interesting look at the marble end of the Potomac Refining Company's business. If Hilgartner's in Baltimore was so enthusiastic, calling the marble equal to the best Egyptian and stating that they planned to use much of it themselves, why did the Potomac Company send samples elsewhere? Why did The Potomac Refining Company not express great surprise when told that their marble, which they had advertised so heavily, was worthless? The book "Profits For Every Shareholder" contained pictures of tables, wainscoting, vases and fireplaces all made from PORECO marble and sawn at Hilgartner's. If these examples were made from PORECO marble, how could it be worthless?

In February of 1911 the company finally purchased the 160 acre parcel that the quarries and buildings were located on. Daniel Johnson purchased the land for \$1,528 from Edward Chambers and his wife in 1905. The land was sold from Daniel Johnson (a large stockholder) through two other people (straw purchases at a nominal price of \$10) until it was sold by Christopher Byrne to Potomac Refining for \$5.<sup>30</sup> Just eight days earlier the company had given Edward R. Cooper a check for \$16,500.<sup>31</sup> (See Illustration #33) This amount was listed as part of the purchase price in some later paperwork. The postal investigation form had the purchase price as \$24,000 plus a large amount of stock.<sup>32</sup> (see illustration 34)

In February one of the first public warnings about the Potomac Refining Company came in the form of a financial column in Munsey's Magazine. While *Pearson's Magazine* and *Hampton's Magazine*, both of whom also had contracts with A. B. Young and Company too, sang the praises of the Potomac Refining Company, the financial writer for Munsey's disagreed. Answering a query in his column, he wrote that it was "*not* an investment to buy stock in Potomac Refining, but a highly speculative gamble". Subsequent columns in April, June, August, and December of 1911 brought forth the whole story of the A.B. Young contract, the two addresses in New York, and the associations with Spar Products. But the biggest concern was that investors had been promised 7% return and to date had not gotten any dividends. A result of these columns was that Michael P. Kehoe and the other officers were bombarded with letters and questions about the Potomac Refining investment.<sup>33</sup>

Typical of the letter writers, Professor Fernald of the University of Maine asked who really owned the property, what the financial structure was, and when were dividends going to be paid. The response was that "this is not the kind of investment to get quick returns out of." He was offered a tour of the property. A letter came from Mr. Torry, an elderly gentleman that A. B. Young thought could be "our one big man". Mr. Torry was considering pulling out. Asa Whitney wrote in asking for a financial statement. He was sent a 3 page letter of explanation as to why the company was

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<sup>29</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's exhibit #65. This exhibit is a letter dated February 6, 1911 on William Bradley and Son letterhead. The letter was signed by Jacob Schmidt. A reply, dated February 9, 1911 is attached. It is written on plain letterhead and is unsigned.

<sup>30</sup> Washington County Land records 135/222, 135/222, 135/221

<sup>31</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's Exhibit #96. Check from the Potomac Refining Company, signed by Treasurer Harry Hess to Edward R. Cooper for \$16,900.

<sup>32</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's Exhibit #63, This exhibit is the official Post Office Investigation Form dated 6/2/1911 with addendum sheets.

<sup>33</sup> Financial Column. (1911, June 1). Munsey's Magazine

pursuing the lime product. And it was natural that questions should be asked; for from the letters it is obvious that stockholders had never gotten either the 7% dividends or financial statements. All this activity led A. B. Young to write to Mr. Kehoe, "Probably it would have been better to send out a regular form calling for their proxies. I rather think they like that sort of thing." and "stockholders are waiting breathlessly for a report of the meeting and I hope you will get up a good one." Mr. Young ends his letter with this P.S. "We enclose herewith two sets of 'attack' going out. Kindly OK one set and return to us." <sup>34</sup>

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<sup>34</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's Exhibit #84. March 2, 1911 letter from A.B. Young to Michael Kehoe referring to a letter from Lewis Link of Philadelphia

## VI. The Construction Phase

Despite their advertising campaign that had gone on for over one year, the Potomac Refining Company did not generate enough investment capital to accomplish their goal to build a modern refinery and bring products to market. They had few, if any employees, sold no products, and in fact were “not a going concern” according to their own paperwork. And yet, all that was about to change.

Michael Kehoe and the officers decided to push the one product that they felt was the easiest to get to market and make a profit on: hydrated lime. Hydrated lime was used in plasters, cements, and some agricultural uses. The company started to investigate a large source of capital and to investigate building a lime plant. Once the Potomac Refining Company settled on the manufacture of hydrated lime as their initial product they turned to the Kritzer Company of Chicago. The Kritzer Company made the only continuous hydrating machines that were available at the time.

The process of making hydrated lime or slaked lime, consisted of 3 stages:

1. crushing the burned (or quick) lime
2. mixing the crushed lime and water
3. Separating the hydrated from the unhydrated lime.

And the Kritzer Company made a machine that would do those things on a continuous basis and turn out 4–5 tons per hour.

The Kritzer Company recommended that the limestone be slowly burned for the best result. The lime was removed from the hot kilns and cooled only to the point where it would not set fire to the belts. It was then transported to the crusher where it was crushed until it would pass through a one half inch screen. Then it was on to the hydrator.<sup>35</sup>

The Kritzer Hydrator consisted of six 12 foot long cylinders 20–30 inches in diameter all mounted above one another. The smaller cylinders were mounted at the top and the biggest 30 inch diameter on the bottom. The cylinders were sealed on the ends but had openings that allowed the lime to travel from the top cylinder to the bottom. Each cylinder had paddles inside that were turned by gears on the end. (see illustration 35)

Lime was fed into the top cylinder and a continuous stream and water was sprayed onto it by a needle valve that let in a measured amount of water. The moistened lime was mixed by the paddles and worked its way down to the bottom cylinder where it emerged as a dry fluffy powdered form of hydrated lime. It was noted that “considerable heat” was generated in the process, temperatures reaching between 80–90 degrees centigrade in the top cylinder. The steam that was created also helped hydrate the lime.

The Kritzer Company also noted that a large stack was needed to provide ventilation to the equipment. As this stack would allow considerable dust to escape into the air and cause considerable

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<sup>35</sup> Meade, R. (1911, May 11). The Manufacture and Properties of Hydrated Lime. Engineering News, 555-557.

nuisance in the neighborhood, a water nozzle and cones were installed in the stack to keep the dust under control. The water and dust created “milk of lime” which then ran down into the cylinders and aided in hydration.

The Kritzer Company would train a workman to run the hydrator and pointed out that there were openings in each cylinder that could be closed by a slide mechanism and served to take samples as the process worked. If too much water was added, the product would be too wet and not screen properly. If too little water was added the lime would not be fully hydrated. Company literature stated that “the operator requires some practice to properly manipulate the hydrator, but any intelligent workman can be taught in a few weeks time how to run the machine and turn out a good product.”<sup>36</sup> Potomac Refining brought Mr. Charles Kritzer of the Kritzer Hydrator Company east from Chicago to view their property and test their lime. Kritzer had installed 43 hydrators to date and every plant had been a huge success because they would not allow their equipment to be installed in plants that they did not approve. In fact, Potomac Refining bragged in their literature that Kritzer had toured the Bakerstown Lime Plants across the river but would not install their hydrator there because the lime was not pure enough. Kritzer made two visits to the property and judged the lime to be over 96% pure. He also felt that with the ease of shipping products on the canal and the railroad that the venture could not help but be a success.<sup>37</sup>

Gardener Callanen was hired by the Potomac Refining Company to be their General Engineer. (See illustration #36) He would oversee the building of the plant and the installation of the equipment. Mr. Callanen kept a photograph album of his progress on the building. The company had decided to build a large refinery with five kilns, Kritzer Hydrator, and bagging and storage areas. The plant would cost over \$40,000 to build and the company foresaw it running 24 hours a day and burning and hydrating 50,000 tons on lime per year. Potomac Refining also saw this as the first of at least 3 lime plants that they would build before developing their other products.

The first step for Mr. Callanen was to design and construct two “pot kilns” to go on the property. His drawings of them are in the scrapbook owned by his descendants. (See illustration #37) Callanen then planned the refinery building. The building was to be a large steel structure joined together with 20 gauge galvanized iron. It was built on a foundation on concrete and stone and was separated into different rooms. There were five steel lime kilns twelve feet in diameter and 45 feet tall. Also housed within the building was a Corliss engine with a fly wheel 14 feet in diameter that weighed 9 tons, two 100 horsepower Ames high pressure steam boilers, and a 240 volt Allis-Chalmers dynamo set up to light the plant. The boiler and engine room were one story, 40 x 60 feet. The hydrator room, with its very tall Kritzer Hydrator, stood 3 stories high and was 50 x 33 feet. The cooling floor, in front of the kilns, was 80 x 36 feet and one story.

The project began in April 1911 when the company built the two lime kilns that are still in existence along the C&O Canal just north of the Dargan Bend Recreational Area. (See Illustration #38) The kilns, called “pot kilns” by the company, were built of dolomite, lined with fire brick. At this

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<sup>36</sup> See note 35

<sup>37</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's Exhibit #35. The exhibit is a newspaper sized advertisement that was an open letter to all Potomac Refining shareholders from Michael Kehoe. It was printed in June of 1911.

time the land was cleared and the stone and concrete foundation of the main building was constructed.<sup>38</sup>

While Gardner Callanen was planning the new building and overseeing its construction, the company officers were getting the money to pay for it. Stock sales had been slow. Monies had been used to pay property taxes and other costs. Most officers had not taken any salary. At the beginning of June the officers took two more steps to get money for their expansion. One was to secure a mortgage from the New York Trust Company for \$90,000 on the property and improvements. This mortgage was used to back gold bearer bonds that would be sold to investors. The other step was to send out one last push to stockholders. A newspaper type ad, called "Statement To The Stockholders of the Potomac Refining Company", was an open letter from President Michael P. Kehoe. The letter was written on June 7, 1911, and made one last push to get investment money, both from current stockholders and any new investors. The open letter likened the company to a mighty steamroller that was very hard to get started. Mr. Kehoe also wrote that "nearly 500 of us stockholders have gripped the rope and done hard pulling month after month" and the profits were in sight! Stockholders were told that they would get dividends beginning January 1, 1912. Mr. Kehoe also included an update. Two of the kilns were complete and ready to burn lime. As soon as plant no. 1 was complete (September 1) plants nos. 2 & 3 would be built.

The advertisement included a letter from Charles Kritzer of the Kritzer Company. In the letter Mr. Kritzer thanks the Potomac Refining Company for their contract and for the \$6,000 initial payment. (In all of their literature the Potomac Refining Company emphasized that they paid cash for all of their expenses.) Mr. Kritzer went on to state that:

your contract calls for one of the best hydrating plants in America. With a first-class plant, the quality and quantity of stone at your quarries, and being favorably located near the large markets of the east, your proposition cannot help but prove a profitable one to you.

The open letter ended with an invitation to visit on "Inauguration Day". This day, September 1st, was to be the day that the plant was completed and began operation. All stockholders were invited to attend. He also closed by asking all stockholders to *increase* or *double* their stock holdings today. But events were happening that would have a huge impact on the company.<sup>39</sup>

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<sup>38</sup> "Potomac Refining Company Dargan Maryland Photographs of the construction of Lime Plant 1911 by G.A. Callanen". Xerox copies made June 27, 1985 by William Davies. Copied from the collection of the Washington County Public Library, John Frye Local History Collection. While this document contains 48 photographs the original scrapbook contains over 100. Decedents of G.A. Callanen still own the scrap book and while Oliver Callanen, G.A. Callanen's son, was very generous in showing it and copying it for William Davies, Oliver's sons seem determined not to allow it to even be seen by interested historians.

<sup>39</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's Exhibit #35. Newspaper type advertisement titled "Statement To The Stockholders of the Potomac Refining Company"

## VII. Legal Problems

On June 20, 1911 the Potomac Refining Company received a letter and a form from the Post Office Department notifying the company that it was suspected of mail fraud. This letter had its roots back in early 1910 when the Postmaster General of the United States, Frank H. Hitchcock, with the approval of President Taft and Attorney General Wickersham, began a campaign to wipe out swindling operations that used the mail system to defraud people. They estimated that these types of operations had cost people over one hundred million dollars during the previous five years. While previously postal officials would just shut a company down by issuing a fraud order, they had discovered that many companies just reincorporated as a different company and went on defrauding people. To prevent this, the Post Office Department launched their campaign to not only shut down fraudulent companies, but to prosecute their officers as well.

As part of this campaign, the formal legal troubles of the Potomac Refining Company began in October 1910 when New York Postal Inspector Elmer Kinkaid read an article in *Pearson's Magazine* entitled "Carnegie, Rockefeller, Guggenheim, and Company". The article was written by Edward R. Cooper, General Manager of the Potomac Refining Company and was part of the advertising campaign designed by A.B. Young and Company. A.B. Young and Company had published many different articles and this was one of several that were in popular magazines of the day. "Carnegie, Rockefeller, Guggenheim and Company" concentrated on the fact that many of America's richest men of the day had made their money in refining. The article told the stories of how these men, and Havemeyer, Spreckels, Goodyear, and Frick had made their money not by mining, investing, or sales, but in refining. All one needed was a demand for the product and a heaping supply of it, and success was assured. "Take manganese for example. It is a mineral as necessary to produce steel, iron, and bronze as flour is to bread". And yet, according to the article, most people had never even heard of manganese or knew how rare it was. "The demand in this country is 99 times greater than the supply" the article continues and, because the steel produced with it is used in naval ships, "it almost becomes a patriotic duty to know something about manganese". The Potomac Refining Company has vast resources of not only manganese, but iron, marble, Tripoli ochre, fireclay, and lime, the article went on. The cost of excavating the manganese was \$2.60 per ton. Washing, screening and reducing it added another \$2.40 per ton, and then the finished manganese could be sold at \$50 a ton. Thus the company would make a profit of over 900%. The article ended with the statement that "no expensive advertising campaign is necessary, because the demand for the products we refine is already greater than the supply." A coupon was included so that the reader could send for the free book *The Business That Makes Men Millionaires*.<sup>40</sup>

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<sup>40</sup> Cooper, E. (1910, November 1). "Carnegie, Rockefeller, Guggenheim and Company". *Pearson's Magazine*. This was one of many magazine articles to come out of the A.B. Young & Company advertising push. Others were called "The Business That Makes Men Millionaires", "\$60 A Second", and "The First Opportunity Ever Offered To You To Share In Profits". These articles were not only printed in *Pearson's* but also *Hampton's* and *Current Literature*.

In May of 1911 a second article came to the attention of Inspector Kinkaid. Appearing in *Hampton's Magazine*, the article "The John Brown Millions" was written by David I. Rector. The article begins with a fanciful and racially insensitive, conversation between "country folk" commenting on why the lights were on so late at the Kennedy Farm. It informed readers that mining and manganese was the true reason that John Brown, who was using the alias Captain Isaac Smith, came to Harpers Ferry. Brown used to take long walks back into the mountains with a pick and shovel and discovered manganese and iron. He rented the Kennedy Farm and while he did have lots of arms and ammunition shipped to him, most of the crates contained mining supplies for his mining venture. According to the article, Brown's plan was to employ a thousand freed slaves in his mines. Alas John Brown was killed at Harpers Ferry and his mines were lost to memory. In fact, the article stated, if John Brown had not been killed he might well have become a captain of industry! One day Farmer Chambers (who owned the property) was having a foundation dug when the workmen noticed a denseness and heaviness to the earth. Samples were sent to Washington and Baltimore for analysis. As Farmer Chambers awaited the results, the article tells us, a conversation with a visitor ensued:

"I will give you \$1,000 an acre" he (the visitor) said."

Farmer Chambers laughed.

"\$5,000 an acre then, spot cash"

The farmer quit laughing—for land in that section seldom brought more than \$25 per acre.

According to the article Farmer Chambers kept the property and worked it for manganese until the mine shafts flooded. Then Edward R. Cooper, educated in mining at the University of South Africa, discovered the place, bought it, and formed the Potomac Mining Company. The article ended with a plea to send for the free book "Profits For Every Shareholder" at the company executive offices on Herald Square in New York. This 1911 article was the last straw for Inspector Kinkaid. He was determined to launch an investigation.<sup>41</sup>

After reviewing the two articles and presenting his findings to his superiors, Postal Inspector Elmer Kinkaid sent a letter dated June 20, 1911 to the Potomac Refining Company notifying them that they were under investigation by the Postal Service for mail fraud. Also enclosed was a form for company officials to fill out so that the investigation could proceed in "an intelligent manner". The form and letter were sent to the company address at 66 W. 34<sup>th</sup> Street, New York City. While the information on the form was not complete it does contain some interesting items. The 49-question form was completed by Potomac Refining Company President Michael P. Kehoe and notarized on June 24, 1911. The questions ranged from basic information about the company, to information about the company officers, and to financial information. Many of the questions had "see explanation" written after them because there was not enough room for every response.

The company officers were listed along with their address and salary:

President M.P. Kehoe, Govans, Md., \$75 per month

Vice President Louis Plack, Govans, Md., \$75 per month

Secretary C.B. Sanger, Govans, Md., \$25 per week (paid by A.B. Young & Co.)

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<sup>41</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's Exhibit #36 Rector, D. (1911, May 1). "The John Brown Millions". *Hampton's Magazine*, 21–23. The most creative advertising to come out of the A.B. Young campaign, this article was presented to the grand jury and to the court in the criminal trial.

Treasurer H.C. Hess, Govans, Md., \$75 per month

Manager E.R. Cooper, Baltimore, Md., \$150 per month

The nature of the business was quarrying, mining, refining and related business. The original incorporators were not listed individually but there was an explanation that “the original directors were nominal for the purposes of incorporation”. The office of the company was listed at 502–506 Law Building, Baltimore, Maryland. Edward R. Cooper was listed as the company official with immediate supervision to work on the company’s property.

The financial information listed on the form gives a clear picture of the stocks of the Potomac Refining Company. As per their charter the company issued \$1,500,000 in shares of stock, of which 120,000 was preferred stock sold at \$5 per share and 900,000 were shares of common stock sold at \$1 per share.

The form also showed that in 1910 the Potomac Refining Company purchased an option on the property from Edward R. Cooper, manager. The cost was \$24,731.71 in cash, 26,933 shares of preferred stock and 700,000 shares of common stock. The par, or paper value of the transaction to Edward R. Cooper, was \$859,396.71. In addition, because voting rights were attached to common stock, the transaction guaranteed that Edward R. Cooper would have the controlling interest in the company.

Also detailed on the postal form was that A.B Young & Company signed the sales advertising contract with the company on May 13, 1910. Mr. A.B. Young purchased 8,000 shares of preferred stock and 5,000 shares of common stock (valued at \$45,000 by the company) for just \$10,000 cash. The only other shares of stock that were sold were 21,346 preferred. Some 38,070 shares of common stock were given as a bonus to those who bought preferred.

Additional financial information was requested and given:

Total amount received from sale of stock	\$76,428.67
Gross amount from miscellaneous sources	\$35,108.64
Salaries	\$3,928.54
Cash on hand	\$24,780.36
Amount spent to improve property	\$21,857.34
(Another line on the form also asked about the total spent on improving the property. There the answer was “over \$53,000”.)	

Three figures caught the eye of Inspector Kinkaid:

Amount paid in dividends	\$0
Amount paid in advertising	\$33,210.27
Gross amount received from sale of products	\$0

Along with the financial form Postal Inspectors also requested “samples of all advertising matter and circular letters that have been sent out through the mails in the interest of the company.” With that material in hand, the investigation was begun. The investigation could hardly have come at a worse time for Potomac Refining.<sup>42</sup>

<sup>42</sup> U.S. vs Michael P. Kehoe et.al. Plaintiff’s Exhibit #63.



The Potomac Refining Company was still short of money. The new plant was under construction, materials needed to be ordered and a workforce had to be hired. All of these things took time and money. In early June Michael P. Kehoe executed the \$90,000 mortgage to the New York Trust Company and had the bonds delivered to his office. The bonds had a face value of \$1,000 each and earned interest at 6% per annum. They were payable in gold coin and came due in lots of 10 per year. Bonds 1–10 payable on June 1, 1912, bonds 11–20 payable on June 1, 1913 up to bonds 81–90 that would be redeemed on June 1, 1920. Kehoe had been trying to sell the bonds since he had obtained the mortgage but could only find two buyers; A.B. Young and W.B. Hess, treasurer Harry Hess' father. These two men bought \$45,000 each in bonds but paid only \$15,000. In other words, Potomac Refining Company took on \$90,000 worth of debt, plus interest but only got \$30,000 in cash. And yet cash was needed to build the plant.<sup>43</sup>

In late June the company wrote G. A. Callanen a check for \$23,175 for expenses related to construction. (See illustration 39) The hoped for Inauguration day, spoken of in the last stockholders advertisement, did not come to pass. On September 5th, four days after that date, the five kilns were being installed and the boilers and engine for the plant were in place. On September 19, 1911 the steel finally began to arrive at the construction site. The steel had been ordered from Dietrich Brothers of Baltimore but it was held up for several months by problems at the steel mill.<sup>44</sup>

The steel and other materials were brought to the site by railroad. The material was unloaded at Sandy Hook, then put on a canal boat and brought up the C&O Canal to the new mill. (See illustrations 40 & 41) With steel arriving, the refinery began to take shape. In November 1911 much of the exterior walls were installed and grading was done on the site to keep water out of the refinery. Roof rafters were installed on the cooling room and the hydrating room although parts of the sides of the building were left open for ease of installing machinery. (See illustration 42)

In December the large Kritzer Hydrator arrived on the site. The machine was huge and had to be winched into the building using pulleys, ropes, logs, and lots on manpower. The Kritzer Company had men on the job to oversee the assembly and hooking up of the large machine.<sup>45</sup> (See illustrations #43, #44, #45)

But the September 1st "Inauguration Day" had passed without any grand opening and stockholders again wrote to the company officers asking about dividends, when the plant was to become operational, etc., again spurred on by articles in Munsey's Magazine. Michael Kehoe answered most of these letters explaining about how they were held up by problems getting steel framing, machines and other things. "We are straining every nerve to complete our plant" he wrote to Mr. Black.<sup>46</sup>

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<sup>43</sup> Land record of Washington County, Maryland 136/492-501. This is the mortgage made between the Potomac Refining Company and the New York Trust Company. June 8, 1911

<sup>44</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's Exhibit #93 Check from Potomac Refining Company check to Gardner Callanen dated June 27, 1911

<sup>45</sup> Callanen photo book. See note #38.

<sup>46</sup> U.S. vs Michael P. Kehoe et. al. Plaintiff's Exhibit #2. Letter from Michael P. Kehoe to J.B. Black of Philadelphia dated September 29, 1911. In the letter Kehoe refers to a delay in getting steel from Dietrich Brothers. Dietrich was a Baltimore firm that manufactured steel products. Examples of their work can be seen today in steel covers of some electrical boxes around the area. One cover with the Dietrich name on it was in front of the Sherwood House in Cromwell Valley Park, Baltimore County, Maryland in 2014.

1911 came to a close with the new lime plant not complete. In early December the huge Kritzer Hydrator was moved into the building. The documentation of the new building ended when Gardner Callanen parted ways with the Potomac Refining Company in February 1911. But from the December pictures it is known that there was more machinery to be installed and more exterior steel to be added. Stockholders were impatient, *Munsey's Magazine* was writing negative articles, and the Postal Department was still investigating the Company.

Once Mr. Callanen parted with the Potomac Refining Company the responsibility for completing the plant and running it fell to Mr. Andrew N. White. Mr. White continued with the Potomac Refining Company until it finally went bankrupt and closed in 1912.

Finally, on April 16, 1912, the modern lime plant opened. Built at a cost of over \$40,000 it was constructed on a concrete foundation with an iron framework. The exterior walls were sheet steel 12mm thick. The plant housed the five modern lime kilns, a Kritzer Hydrator, and other associated machine and works. Employees were hired and the Potomac Refining Company was finally producing a product. But their success was short lived.<sup>47</sup> (See illustration #46)

Against this backdrop of successful construction, the postal investigation rolled on. In the early days of the investigation attention was focused on the materials sent to postal inspectors and on the Herald Square offices of A. B. Young and Company since that was the address used in promotional materials and stock sales. After interviewing A.B. Young and the staff, attention turned to the company offices in Baltimore. In fact A.B. Young told postal inspectors that they could view the company books there.

The postal inspectors did travel to Baltimore and arrived in the afternoon. After visiting the company offices and meeting with company officials, they were told that they could view the company books on the following day. Postal Inspectors arrived at the Potomac Refining Company offices on the following day and, upon arrival, they were met not only by the officers from the day before, but also by Elmer Kinkaid. No longer a postal inspector, Kinkaid had formed a company called the Federal Advisory Agency. In his new role Kinkaid advised the Potomac Refining Company officers to *not* let the Postal Inspectors look at anything. The officers agreed and permission was refused.<sup>48</sup>

The legal troubles moved into the next phase as prosecutors presented the results of their investigation to the Federal Grand Jury in Baltimore, Judge John C. Rose presiding. U.S. District Attorney John Phillip Hill, Assistant U.S. Attorneys J. Craig McLanahan and A. Walter Kraus, Postal Inspectors S. T. Hooten (Baltimore) and William G. Swain, and Wesley M. Bennett (a special bank accountant) guided the grand jury through the large amount of information collected from the company itself, from advertising materials, from stockholders, and from two geologists from the National Geological Society who examined the property in person to gather information about the true resources contained thereon. Several stockholders gave depositions to the Grand Jury: James B. Black, Asa W. Whitney, and Richard P. Tatum. The officers of the Potomac Refining Company were not allowed to appear because District Attorney Hill did not want to grant them immunity.

The first indictment was released on May 9, 1912. All of the officers of the Potomac Refining Company—Michael P. Kehoe, Louis F. Plack, Charles B. Sanger, Dr. Harry C. Hess, and Edward

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<sup>47</sup> *Baltimore Morning Sun*, April 16, 1912

<sup>48</sup> *Baltimore Evening Sun*, May 10, 1912

R. Cooper—were indicted for five counts of violation of section 217 of the Penal Code, using the mails in furtherance of a scheme to defraud. There was a sixth count of conspiracy to commit an offense against the United States, a violation of section 37 of the Penal Code. Attorney Robert W. Mobray and Alfred B. Young faced the same charges. Bench warrants were promptly issued for all of the defendants and the Marshall for the Maryland District was commanded “to apprehend” the defendants and have them appear before the Court.<sup>49</sup> With the bench warrant out for their arrest, all of the defendants except A.B. Young hired attorney Robert W. Imbrie and appeared before Judge Rose. The judge set bail at \$2,500 each. Kehoe, Cooper, Hess, and Mobray appeared and made bail on May 10<sup>th</sup> while Plack and Sanger appeared on May 11. Bail was paid as follows:

Michael P. Kehoe — John and Samuel Roche, Mt. Washington, Baltimore

Louis F. Plack — J. Henry Miller, 151 E. North Ave Baltimore

Dr. Harry C. Hess — Andrew Doering, W. Baltimore Street, Baltimore

Charles B. Sanger — James A. McCarthy, Hanover (Howard County) Maryland

Edward R. Cooper — Mr. William Foreman, Govans, Maryland

Robert W. Mobray — Joseph Hampson, St. Paul St, Baltimore

and James Melvin — W. North Avenue, Baltimore, Md.<sup>50</sup>

The Grand Jury continued to meet and on June 3, 1912, filed a second indictment against the same defendants. The first six counts of the second indictment were almost identical to the first except in one or in a few particulars having no bearing on the question relating to legal sufficiency. The second indictment did contain a second charge of conspiracy which was substantially identical with the conspiracy count of the first indictment except that a different overt act was alleged.

Each of the counts of mail fraud charged:

That the defendants intended to defraud persons of their money and property by making fraudulent representations about the property; that the defendants changed the name of the company and increased the total value of its stock while reducing the cost per share in order to make the stock more saleable; that the defendants took the voting rights away from preferred stockholders and put that power with common stock holders knowing that the defendants held the majority of common stock; and that the defendants told people that they were avoiding advertising costs so that every dollar went into buildings, land, etc.; that the defendants said that the company owned valuable land in Washington County with a clear title when they had merely entered into an agreement to buy those lands; that the owners of preferred stock constituted a first mortgage on the property knowing that the statement was false; and overstating the value of the minerals on the property, stating that enough manganese had been piled up to pay dividends, and stating that marble had been sold.

According to the indictments the defendants did “feloniously place and cause to be placed in mail the certain letters”.

For the first count the letter was mailed from Michael P. Kehoe to Asa Whitney on September 25, 1911. This letter was an answer to an inquiry from Mr. Whitney after he read an article in Munsey’s Magazine. That article had stated that Mr. Young was getting a 50% commission on all stock sales

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<sup>49</sup> Order to Apprehend is stored with the documents in U.S. vs Michael P. Kehoe et al.

<sup>50</sup> *Baltimore Morning Sun* May 10, 1912

plus a 5% expense account. Mr. Kehoe's reply was that "as to paying Mr. Young, or anyone else in New York 55%, that is an absolute fabrication".

For the second count the letter included was a September 29, 1911 letter from M.P. Kehoe to J. B. Black. This letter talks of the company "straining every nerve to get our hydrating plant completed". It further states that the plant will be in operation by the end of the year and adds that "officers are giving their time and attention to this without any compensation".

The third count included a letter of October 3, 1911 from Edward R. Cooper to J. B. Black giving him an update on the hydrated lime building.

The fourth count had a letter attached from H.C. Hess, treasurer of PRC, to J. B. Black. The letter acknowledged receipt of a \$50 check and noted that stock certificates were enclosed.

The fifth count had an envelope attached that had been mailed at the Baltimore Post Office. The envelope, addressed to Richard Tatum in Philadelphia, contained stock certificates from the Potomac Refining Company. Specifically there were certificate numbers;

- 725 - 60 shares of preferred stock
- 724 - 40 shares of preferred stock
- 729 - 135 shares of common stock
- 728 - 100 shares of common stock

The sixth and seventh counts of the indictment were for conspiracy to commit mail fraud, a violation of Penal Code Section 37. The counts reviewed the same information in the previous counts but then added the information about the many letters mailed by company officers.

Attached to the sixth count were two letters. One was from C.B. Sanger, company secretary, to C. Fernald on July 26, 1910. This letter included the book *The Business That Makes Men Millionaires* and also had an enclosure of a "large colored sheet giving a reproduction of our different products". Also included with count 6 was a letter from E.R. Cooper to J. B. Black of Philadelphia. The letter, dated October 28, 1910 also enclosed the book *Sixty Dollars A Second* and was a sales pitch for the company's stock.

The seventh count had three copyright notices attached. The copyright notices were for; *The Business That Makes Men Millionaires*, *Sixty Dollars A Second*, and *Profits For Every Shareholder*. All were copyrighted by A.B. Young or his secretary and all were sent through the mails. The 57-page second indictment was duly signed by United States Attorney John Phillip Hill.<sup>51</sup>

The plea hearing was then set for May 17. Meanwhile the search began for A.B. Young. He was not found either in Baltimore or in his New York office. District Attorney Hill wired New York and asked that Young be placed under arrest when located. The New York office released a statement saying that Young had not been seen in the office for 5 months and that he had mentioned going to California.<sup>52</sup>

At the plea hearing, four of the defendants—Plack, Kehoe, Hess, and Mobray—pleaded "Not Guilty" and asked for a speedy trial. But Arthur English, representing Cooper and Sanger, filed a motion to quash the indictments. English presented five pleas to Judge Rose:

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<sup>51</sup> U.S. vs Michael P. Kehoe et al. Grand Jury Indictment

<sup>52</sup> *Baltimore Evening Sun* May 10, 1912

- a. The expert witnesses gave opinions and conclusions to the Grand Jury on matters not facts and that the experts testified from interest and to support a theory that the defendants were guilty of violating federal law.
- b. The alleged experts made statements to the Grand Jury that were accepted as “expert testimony” without having been examined, tested, and qualified by the Judge.
- c. The books, letters, pamphlets, and papers that were alleged to have been written and mailed by the defendants without having proof that they were exact copies or that they had ever been mailed at the post office.
- d. That all of the papers had been obtained with a subpoena that did not include probable cause and that the subpoena did not include the place, name, and description of each.
- e. That Persons from the Justice Department, Postal Department, and Geological Survey who made known to the grand jurors that they were anxious that an indictment be found against the defendants “all of which was in violation of the law and the making of an impartial investigation and the holding of an unbiased deliberation by said Grand Jury aforesaid, and due process of law in violation of the Fifth Amendment to the Constitution.

This motion was denied.<sup>53</sup>

Finally on May 21, 1912, Young was arrested in Trenton, Ontario, Canada after United States Postal Officials held a conference with Canadian government officials. He was brought to Baltimore where he appeared before Judge Rose and paid \$5,000 bail. When interviewed later that day Young said that he was a native of Trenton, Ontario. From there he came to Baltimore and spent some time before moving to New York and opening his business. He said that he presently lived on Long Island and that he had been visiting relatives in Canada. Mr. Young went on to state that:

I read of the indictment in American papers two days after it became operative. It was the furthest thing from my thoughts to fight extradition, and that I am very glad to join in the controversy which, in my opinion, cannot help but prove the complete vindication of all parties concerned.

One might wonder why, if Mr. Young read of the indictment on May 12, it took 10 days to find him and have him arrested if he was so glad to join the controversy. It would also be interesting to hear why he had to be arrested and brought back to Baltimore and did not voluntarily turn himself in when he read of the indictments and the bench warrant that had been issued.<sup>54</sup>

With the indictments released, the prosecution went on the offensive and spoke to reporters giving their version of the case. Articles about the case appeared in newspapers in Lebanon, Pennsylvania; Washington, DC; Richmond, Va.; New York city; and in places as far west as Nevada. Newspaper accounts highlighted the fact that the Potomac Refining Company did not own the property when Robert Mobray’s certificate was issued, that the land was bought for less than \$3,000 yet supposedly held over \$100 million in minerals, and that A.B. Young had made thousands in selling stock.

District Attorney McLanahan told reporters that the company bought the land from Edward Cooper for \$16,500 cash and stock valued at \$79,000. McLanahan went on to state that:

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<sup>53</sup> Pretrial motion filed in behalf of Cooper and Sanger. Motion stored with U.S. vs Michael P. Kehoe et al. records.

<sup>54</sup> *Baltimore Morning Sun*, May 22, 1912

the pile of manganese that the company said was worth \$1.5 million could only be sold for \$1,500; [and] the company claimed rich deposits of iron. We didn't find any. The only marble they had was a stone that is not very durable. They sent a piece to Andrew Hilgartner, the marble dealer in this city. He had it polished and it looks quite pretty. But, Mr. Hilgartner didn't buy any stock.<sup>55</sup> Nor did Mr. Hilgartner buy any marble.

The attorneys for the defense got into the act too by trying to get their story out. Roland Marchant, Dr. Harry Hess' attorney, stated that:

I know the Potomac Refining Company paid \$86,000 for their property and has a clear title. The case is a clear one for the defense and there will be little difficulty in showing the charges to be unfounded.

Michael P. Kehoe stated that "the company welcomes this investigation" and "the business of shipping lime, which has now been in progress for some time, will continue". He ended his statement with a plea for more people to invest and make money at Potomac Refining.<sup>56</sup>

Robert Imbrie, attorney for four of the defendants, countered by telling reporters that he did not doubt any of the figures given by McLanahan. McLanahan just drew the wrong conclusions:

We have one of the best plants of its kind in the country. Our payroll reaches \$500 per week.... It may be true, as Mr. McLanahan says, that the company gave a \$90,000 mortgage for a loan of \$30,000. If that was done, it was because no better rate could be obtained. There is nothing wrong in that. I want to say this: The company has a complete defense to every charge made. I do not want to give away our side of the case at this time, but we will have a complete defense.

Mr. McLanahan may say that his experts valued our manganese at \$1,500. We offered, however, to have any expert that the Government would name to visit and inspect our property with one [expert] we would name. That offer was refused. I don't know whether their experts have any standing or not. We have one of the most eminent metallurgists in the country, and we know that our property, as a manganese proposition, is all that we have claimed for it and more.<sup>57</sup>

As the publicity about the Potomac Refining Company indictments became a national news story, some of the people who "vouched for the character of the company officers" began to have second thoughts. William E. Glasscock, Governor of West Virginia, had written a letter at the request of, and on behalf of Treasurer Dr. Harry Hess. His letter read:

I know Dr. Harry C. Hess as a young man and am well acquainted with his people, he having been born and raised in my native county, and I have no hesitation in saying that he belongs to a good family and I think is in every respect honorable and trustworthy—at least that was true when I knew him well. I have not known him for much of the past several years.<sup>58</sup>

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<sup>55</sup> *Baltimore Evening Sun*, May 10, 1912

<sup>56</sup> *Baltimore Evening Sun*, May 10, 1912

<sup>57</sup> *Baltimore Evening Sun*, May 10, 1912

<sup>58</sup> Letter on State of West Virginia Official Stationary dated June 1, 2010. Included in the book *Confidential To Our Associate Partners and Prospective Shareholders*.

Soon after the indictments were announced the *Cincinnati Enquirer* ran a story that was date lined Charleston, West Virginia, May 11. The article stated that the Governor was “uninterested in any way in the Potomac Refining Company”. According to the *Enquirer* story a Baltimore dispatch stated that he had given his recommendation to the proposed development and the Governor wanted to set the record straight.<sup>59</sup>

The Potomac Refining Company tried to generate positive publicity in July by having the Boy Scouts hold their first Maryland State Camp on the property. A special train left Camden Station in Baltimore on July 10th with Scouts from Troops 4, 10, 12, 18, 21, 32, 35, and 40. The train took the scouts to Harpers Ferry. The 106 scouts then crossed the Potomac (likely on the railroad bridge) and hiked up to the Potomac Refining Company property and set up camp. The camp was under the direction of Scout Commissioner H.L. Eddy, who said that the scouts would do their swimming in the canal not the Potomac River.

On June 3, A.B. Young was formally indicted for violations of section 215 and section 37 of the Federal Penal Code. His bail was set by Judge Rose at \$5,000 and was paid by the National Surety Company. His plea hearing was set for June 6, 1912. On June 6 he plead “not guilty” and he asked for an immediate jury trial. In late May 1912, there was a new development in the Potomac Refining Company case. United States Congressman, Michael Donohue of Philadelphia, introduced legislation that would have required the Committee on Roads and Port Roads to investigate the methods that were used by the Postal Inspectors and the U.S. District Attorney’s Office in bringing the indictment against the Potomac Refining officers. The refining company went so far as to state that:

Believing it is a victim of a conspiracy headed by a powerful and rich competitor, the company goes further and demands the exposure of the names of the individuals or corporations who may have shown an active part in bringing about the indictments.

The resolution was referred to the House Rules Committee, the chairman of which said that action would be taken on the resolution on June 1. There is no record of what action, if any, was taken, but it is known that the mail fraud trial continued.<sup>60</sup>

In May and June of 1912, many legal motions were filed by Arthur English on behalf of Cooper and Sanger. At least two motions were made to quash the indictments (one for each), as well as other motions. After all of the motions were denied, Cooper and Sanger also pleaded “not guilty” on June 27, 1912. At that time the prosecution projected the trial to run for 3–4 weeks.

Local custom in the Baltimore Circuit was that a trial of that length during the summer heat “would subject jurors and witnesses to serious inconvenience”. The trial was set by Judge Rose to be held in the September term of the court. That term began on September 10 and trial was to begin on October 7, 1912.<sup>61</sup>

Between September 25 and September 28, Cooper and Sanger filed affidavits concerning both indictments, which were still active. These affidavits were filed under the provisions of Section 21 of the Judicial Code. This was brand new section that had just become law in January of 1912. This section provided that any party to a proceeding who believed that a judge had a personal bias against him/her, or in favor of the opposite party, may, upon filing an affidavit, preclude that Judge

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<sup>59</sup> The *Cincinnati Enquirer* May 12, 1912

<sup>60</sup> *Baltimore Morning Sun*, July 10, 1912

<sup>61</sup> Affidavit of Judge Rose in U.S. vs Michael P. Kehoe et al.

from further proceedings. The law provided that such an affidavit shall not be filed less than 10 days before the beginning of the term of the court, or good cause must be shown for the failure to file in time. The defendants' explanation for filing late was that they did not know until September 23 that the law gave them any means of escape from trial before the Judge of the District.

The affidavits filed by Cooper and Sanger did not suggest that the Judge had ever come in contact with either of them. They did assert that the Judge had been on the bench for only two years and before that had been a U.S. Attorney for 12 years. This past experience made the Judge naturally prejudiced toward the prosecution. They also cited a case that Judge Rose had recently presided over. The case, *Grenagle vs the United States*, was a stock fraud case heard in 1910. In that case Cooper and Sanger, who were in the courtroom observing, felt that Judge Rose was very harsh toward the defendant and showed prejudice toward the prosecution. A further complaint was that Judge Rose interrupted the arguments of their counsel in earlier proceedings and had decided motions against them without calling on the US Attorney to reply to their arguments.

Cooper and Sanger also cited the refusal of Judge Rose to have a stenographer take notes at the motion to quash hearing unless the defense paid for it. The two defendants also felt that Judge Rose showed his prejudice by allowing two indictments to be active at the same time.<sup>62</sup>

John Phillip Hill, the United States District Attorney, filed a motion that the affidavit to disqualify Judge Rose not be received. The petition gave several reasons why the defense motion should be denied:

1. The motion was not in compliance because it did not charge that Judge Rose had a bias against the defendant or bias toward the prosecutor.
2. That the allegations made do not show a bias on the part of the judge.
3. The motion was *not* filed within the legal time limit.
4. The affidavit shows no reason why the motion was filed late.
5. Nowhere does the affidavit allege that Judge Rose knew the defendant personally.
6. Only 2 of the defendants were party to the affidavit. The other five wanted a speedy jury trial and to grant this affidavit would deny them that right.<sup>63</sup>

In his response Judge Rose noted that stenographers were not court employees and that a Judge had to make sure that there was an understanding so that stenographers got paid.

The judge held a hearing in open court about the affidavits. He was concerned that the trial was set to begin on October 7 and there were expenses incurred by both the defense and prosecution for witnesses etc. Also two of the defendants were lawyers whose income had stopped upon indictment. They had a right to a speedy trial. The government opposed a severance due to the great expense of paying for two trials. The government also objected to disqualifying Judge Rose because Cooper and Sanger did not file their affidavits within the required timeframe.

Judge Rose thought long and hard about the affidavit and the motions regarding his removal from the case. In his writing, Judge Rose was concerned about whether it was fair for him to rule on the

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<sup>62</sup> Affidavit of Judge Rose in *U.S. vs Michael P. Kehoe et al.*

<sup>63</sup> *Baltimore Evening Sun* October 5, 1912



affidavit. After all, if he was prejudiced or biased for the prosecution and against the defendant, how could he be sure he was being fair to all parties in any ruling he made.<sup>64</sup>

In the end, after writing about all arguments and the law in question, Judge Rose decided that to protect everyone's rights, another judge should rule on the affidavits to have him removed as judge. If the new judge decided that the affidavits were sufficient Judge Rose would no longer hear the case. It should be noted that all of the other defendants were satisfied with Judge Rose and did not want him replaced.

Just two days before the United States vs Potomac Refining Company trial was to begin, the Head Judge of the Maryland Circuit assigned a new Judge to replace Judge Rose in the case. The new judge, Henry A. Middleton Smith of South Carolina, was to sit alone at the hearing to reject or accept the affidavits and to determine if Judge Rose was fit to preside at the trial. Judge Smith would also rule on the severance petition filed by Cooper and Sanger.<sup>65</sup>

Judge Smith was a native of South Carolina. He was educated at the College of Charleston and was 69 years old at the time of the trial. He was appointed to serve as a Federal Judge in the South Carolina Circuit by President Taft in 1911. Judge Smith was known as Ham to his friends. He was rather short and thin with graying hair and steel blue eyes. While he had a great sense of humor, Judge Smith was decisive and no nonsense on the bench. A *Baltimore Sun* reporter who attempted to gather more information was rebuffed. "The man to be sketched is the last man who could give accurate facts. No man could be accurate about himself. 'Knowing thyself' is the most difficult of all human achievements", said Judge Smith, terminating the interview.

The day that the Potomac Refining Company trial was set to start, October 7, Judge Smith was presiding in court instead of Judge Rose. Seated at the prosecution table were District Attorney John Phillip Hill and District Attorney J. Craig McLanahan.

At the defense table were the attorneys and defendants as follows:

Attorney Arthur English representing Cooper and Sanger

Attorneys Roland Marchant, Alonzo Miles, and Eugene O'Dunne representing Kehoe, Mobray and Hess

Attorney Joseph Ulman representing Louis F. Plack

Attorneys William Marbury and Rawls representing A.B. Young.<sup>66</sup>

When the court was called to order, District Attorney Hill started the proceedings by calling attention to the fact that he had objected to the affidavits asking for another judge in place of Judge Rose and began arguing the question.

Judge Smith announced that he was ready to rule on the question. Attorney Arthur English (for Cooper and Sanger) asked permission to argue the question also. Judge Smith refused, told the court that Judge Rose did not wish to preside at the trial, and notified the lawyers that he (Judge Smith) was going to preside.

Attorney English then asked that the court grant severance. After District Attorney Hill objected, the request was overruled. Mr. English then requested a postponement, saying that he was not

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<sup>64</sup> U.S. vs Michael P. Kehoe et al. Judge Rose's response to motion

<sup>65</sup> *Baltimore Morning Sun* October 6, 1912

<sup>66</sup> *Baltimore Evening Sun* October 7, 1912

prepared for trial. The district attorney then pointed out that Mr. English was in court when the trial date was set and Judge Smith refused that request too and stated that the trial would begin immediately.<sup>67</sup>

The judge then began the process of *voir dire*. This process involves the judge and attorneys questioning prospective jurors to determine their qualifications and to select an impartial jury. In this case Judge Smith was the only one who questioned the men as to their qualifications to serve. Attorney English presented a list of questions that he wanted asked. Judge Smith only allowed one of the questions on the list. Attorney Marbury (for Young) rose to remark that in his four years as a U.S. Attorney he had never witnessed such a procedure. When Mr. Marbury asked about challenging jurors after a panel of 18 was selected, Judge Smith told him to give any challenge he had then. Mr. Marbury sat down without challenging and the Judge called the next juror.

By the end of the day 12 jurors had been selected. All of the jurors, as well as other court officials, were men as was the norm at the time. John N. Carroll (Jury Foreman), Samuel P. Ryland, Edward M. Molesworth, John Berger, Nicholas Aumiller, C. Henry Bischoff, Harry L. Rail, Henry P. Banks, William C. Codd, William C. Jenness, Arthur L. Amos, and W. George Hynson were all approved to serve as Jurors on Case #26 Docket E; The United States vs. Michael P. Kehoe, Harry C. Hess, Louis F. Plack, Charles B. Sanger, Edward R. Cooper, Robert W. Mobray and A.B. Young.<sup>68</sup>

In the October 7 afternoon session the government made its opening statement. District Attorney McLanahan outlined the charges and explained the prosecution's view of the law. He noted that the Potomac Mining Company was incorporated by "dummy" incorporators in Delaware in 1908. He noted that the company was on its last legs in May/June 1910 when the company hired A.B. Young and Company from New York. The company name was changed and an advertising campaign begun. Mr. McLanahan also noted that the manganese, marble, and other mine products had not been sold. Attorneys Hill and McLanahan told the jurors that they would present evidence that the literature mailed out by the company was misleading and false, that company officials knew it was false, that it was sent through the mails, and therefore constituted mail fraud.<sup>69</sup>

Attorney Rawls made the opening statement for all defendants except Cooper and Sanger. He declared that none of the officers had made any money and that none of them had sold any stock.

At the end of opening arguments Judge Smith announced that the court would start on October 8 at 10 AM and that after the morning session there would be a recess of 1 hour. He went on that there must be no delays and that the afternoon sessions would extend until a late hour.

On the second day of the trial it became evident that Judge Smith was far different from the Judges that normally served on the Baltimore Circuit. Objections were ruled upon immediately and decisively. Some objections were ruled upon even before the attorney finished objecting. Most of the day was spent introducing government exhibits, and there would eventually be over 100 of them. Defendants objected that some letters were copies—overruled. Attorney English objected to a minor correction in the court record—overruled. The District Attorney wanted to show that a letter was mailed; the Court said "they do not admit this, you have to prove it". The quick rulings and

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<sup>67</sup> *Ibid.*

<sup>68</sup> Jury Selection List U.S. vs Michael P. Kehoe et al.

<sup>69</sup> *Baltimore Morning Sun*, October 8, 1912

the little tolerance for delay led one courtroom observer to remark that “the defense in this case got rid of a Rose (Judge Rose) because of its thorns and picked up a porcupine instead.”<sup>70</sup>

There were 107 exhibits entered on behalf of the prosecution in the early days of the trial. Three of the advertising books; *Sixty Dollars a Second*, *The Business That Makes Men Millionaires*, and *Profits For Every Shareholder* were entered. They were authenticated by having an original copy brought over from the Library of Congress along with the copyright applications (which were also entered into the record). Many letters that the company sent out, including those used in the Grand Jury proceedings were entered. In fact, at one point the defense attorneys stated “Your Honor, the Government has put in 30 letters, 16 of the additional to those mentioned in the indictments, and many of them covering the same ground, and I just wanted to let the court know the situation.” Judge Smith interrupted saying “The responsibility for that is upon the Court, sir, and I shall let it go as far as I think necessary, and then I shall stop it.”

The highlight of the third day’s testimony concerned PRC’s claim about marble on the property. The Potomac Refining Company claimed its marble was

declared by recognized authorities to be equal in quality to the best Egyptian black and gold marble. It is even declared to be grading into onyx as we go deeper into the mountain.

Yet Jacob Schmidt, a New York marble expert from William Bradley & Son Marble contractors, testified that the two blocks of “black and gold marble” that the refining company sent to him were “no good for commercial purposes”. He testified that there was no black and gold marble in this country and that all of the yellow in the sample was clay.<sup>71</sup>

Plaintiff’s Exhibit #65 was introduced and accepted into evidence. It was a letter from Jacob Schmidt on company letterhead to Michael Kehoe. Dated February 6, 1911, the letter said the same thing as Mr. Schmidt’s testimony. Despite this, the company copyrighted the book “Profits For Every Shareholder” on February 9 knowing that the information in the book was incorrect. Plaintiff’s exhibit #44 was a letter from Michael P. Kehoe to Richard Tatum of Philadelphia. This letter, written four months after Mr. Kehoe was notified that the marble was worthless, was urging Mr. Tatum to invest in the company. Quoting from the letter:

We are bound for a tremendous and immediate success. Net profits grading up to \$150,000 a year are now assured from the first lime plant alone. Not only have we every assurance of paying good January dividends from Hydrating Plant #1, but Plant #2, going in as soon as the first unit is working to capacity, will boost our net revenue to \$250,000 or \$300,000 a year — and Plant #3 should raise them to \$450,000 per year. This is on hydrated lime alone, *without adding the profits from manganese, marble and our other products.*

This quote from that letter shows that the company was still advertising the marble on the property despite knowing that their marble deposits had been deemed worthless.<sup>72</sup>

Anthony Comstock also testified on October 9. Comstock was a very visible and important leader of crusades against vice both in New York and throughout the country. Comstock traveled down from New York to appear on the stand for two or three minutes. Beyond identification he was asked and answered one question: “Did you, or did you not, receive this letter through the mail?”

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<sup>70</sup> *Baltimore Evening Sun*, October 8, 1912

<sup>71</sup> *Baltimore Evening Sun*, October 9, 1912

<sup>72</sup> U.S. vs Michael P. Kehoe et al. Plaintiff’s Exhibit #44. Letter from Michael P. Kehoe to Mr. Tatum.

“I did” was his reply, and the witness was excused. When the district attorney went to introduce the letter as evidence Attorney English objected but was overruled.<sup>73</sup>

In addition to Comstock’s testimony several postal workers testified that they had delivered promotional materials that the company sent through the mail. There was more testimony about the marble on the property and the company books were identified and entered into evidence.

On October 10 the article “The John Brown Millions” took center stage at the trial. District Attorney McLanahan took the floor and began to introduce the article from the May 1911 issue of *Hampton’s Magazine*. While the defense attorneys looked surprised and pained the District Attorney read the entire section of the story about Farmer Chambers digging the foundation for his house and discovering more than \$103,000,000 in minerals. “I’m going to show”, said Mr. McLanahan, “that the story about what Farmer Chambers did is a falsehood. We’ve got Farmer Chambers here present and we’re going to put him on as a government witness.” And, “Farmer” Edward B. Chambers did testify. He said that four or five firms had worked the land for manganese, but without profitable result so far as he knew, but that he had not examined the property since 1905. “My father spent all he had on it,” said Chambers.<sup>74</sup>

The contract between the Potomac Refining Company and A.B. Young and Company was entered into evidence and read into the record. The contract gave A.B. Young & Company 50% of all stock sales plus 5% for expenses. At the same time a letter from Michael P. Kehoe to Asa Whitney was entered into the record. This letter denied that any such commission was being paid and said that not one cent was being wasted.<sup>75</sup>

The afternoon session of the 10<sup>th</sup> concentrated on the fantastic claims made in the promotional literature concerning the minerals on the property. Also District Attorney Hill began to call witnesses to testify about stock sales.

On the morning session of October 11 the prosecution began to introduce evidence to support one of their bases of the fraud charge, namely that while the Potomac Refining Company did not own any property in Washington County, their literature included a certificate from the company lawyer saying that:

This is to certify that I have examined the Deeds, Records, and the Title to the property owned and controlled by The Potomac Refining Company, situated in Washington County, Md., and beg to report that I find the same free and clear of all encumbrances, the title being perfectly good and merchantable in every respect.

The certificate was dated June 10, 1910 and was signed “Robert W. Mobray”.

A simple title search on the property by the prosecution demonstrated that the company did not buy the small (33 acre) parcel until November 26, 1910 and did not purchase the large (160 acres) parcel (where the mines, ore washers, and new lime plant were located) until February 1911. To prosecutor Hill’s eyes this was fraud plain and simple.<sup>76</sup>

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<sup>73</sup> *Baltimore Evening Sun*, October 9, 1912

<sup>74</sup> *Baltimore Evening Sun*, October 10, 1912

<sup>75</sup> U.S. vs Michael P. Kehoe et al. Plaintiff’s Exhibit #52. Letter from Michael P. Kehoe to Asa Whitney dated June 15, 1911.

<sup>76</sup> Assorted land records of Washington County, Maryland.

On the eve of the indictments being released Hill had called Robert W. Mobray to a meeting at his office. Present were several postal inspectors and Mobray. Hill had explained to Mobray that he was likely to be indicted by the Grand Jury and that as District Attorney Hill wanted to give him a chance to explain about the certificate. When questioned about the certificate, Mr. Mobray told Prosecutor Hill that he would consult his files and write down all pertinent information about the certificate and the transactions.

Robert W. Mobray sent a letter, dated May 8, 1912, to the Honorable John Phillip Hill. This letter was written on the letterhead of Merchants' Protection and Credit Bureau. The letterhead also listed the firm of Kehoe and Mobray, Attorneys At Law. Marked plaintiff's exhibit #82, the seven page letter details Mr. Mobray's recollections of the real estate transactions. As a preface he stated that he had searched his papers and could find nothing so he was convinced that he had given all documents to the officers of the Potomac Refining Company. Mr. Mobray's recollection was that he had done a title search and that the property was free and clear. He had prepared deeds transferring all of the properties in question to the Potomac Refining Company between January and April 1910 and given them to the company. The company, according to Mobray, neglected to file them with Washington County in a timely manner.

Attorney Mobray went on to state that the certificate that he made out was never intended (by him) to be included in the advertising and that he, in fact, had never signed it. His reason for writing the certificate was that the company had asked him to write a mortgage on the property. PRC was looking for a bank or someone who would give them a mortgage on the property to raise capital. Mobray did not remember who the mortgagee was and neither did company officials. The certificate that Morbray wrote was "not given for the purpose of publication or intended as a part of the literature of the company; but was intended as an assistance in negotiation of the mortgage just referred to."

While the certificate (as part of the company literature) and the title search were duly admitted as evidence, the defense attorney's raised many objections to the introduction of Robert W. Mobray's letter to John Phillip Hill. While Judge Smith had disposed of all objections thus far in a matter of a minute or two, this series of objections held up the trial for 25 minutes! In the end the defense was successful at keeping out most of the letter. Only the first 2½ pages, containing the explanation of the deed transactions but not the blank mortgage were allowed in.<sup>77</sup>

The prosecution called Miss Henrietta Harris as their next witness. She was A. B. Young's secretary and was on the stand to identify his signature on various promotional letters. After she identified his signature on a letter demanding a business statement from the company, Judge Smith had seen enough. "This is positively the last letter of this kind. It is redundant and I will have to stop it," said Judge Smith. At this point there were over 100 prosecution exhibits on record.

The government then brought a series of witnesses over two days to testify about the Potomac Refining Company property, minerals, and newly constructed lime plant. All of the experts testified that the manganese was not of the purest kind and was not worth the value that the Potomac Refining Company had put on it. Mr. Donnell Hewett, an assistant geologist with the United States Geological Survey, testified that all of the manganese on the property was worth about \$1,400. While there was limestone on the property, the new lime plant could not produce 120 tons of lime a day as the company claimed but could only produce 80 tons working night and day. Since there

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<sup>77</sup> U.S. vs Michael P. Kehoe et al. Plaintiff's Exhibit #82

was no provision for artificial light, the real capacity would be about 45 tons per day according to W.E. Emory of the National Bureau of Standards. This testimony seemed to ignore the dynamo that was capable of lighting the entire plant.

On October 12, the government announced that they would conclude their case in another day. "I am certainly glad to know that" said Judge Smith, who had been trying to move the case along from the beginning. The government then called John M. Waters, a 20 year resident of Washington County and a neighbor of the Potomac Refining Company property. Mr. Waters testified that some manganese had been piled up but that none of it had been sold, contrary to what was said in the literature. He also told the court that the men who appeared in the photographs in the literature had been borrowed from nearby quarries and were posed for the photographs.<sup>78</sup>

Gardner Callanen, a former Chief Engineer of the Potomac Refining Company, testified that he had told the officers of the company that the advertising literature contained many misstatements. He also said that photographs reported to be of different buildings on the property were all of the same building from different angles. Mr. Callanen admitted, under cross examination, that he was on bad terms with the company since he had been discharged the previous February. He told the court that he had sued the company for money owed to him.<sup>79</sup>

Mr. W.B.D. Penniman, Ph.D., M.D., and Professor of Chemistry at Baltimore Medical College, testified that he had not done any work for or on behalf of the Potomac Refining Company and neither had his firm, Penniman and Browne. Mr. Penniman said that he had no idea why he was listed in the book *The Business That Makes Men Millionaires*.<sup>80</sup>

The prosecution then introduced Plaintiff's Exhibit #9. The exhibit was the true notarized copies of United States Internal Revenue Service Tax Forms for Manufacturing Corporations. The form that was filed in May 1910, listed \$141,760 of paid up stock, \$20,320 of indebtedness, and \$0 gross income. The form that was filed in February 1911, which reflected the tax year ending December 31, 1910, had a hand written note in the margin: "Cannot answer these questions because we are not a going concern at the time." The form also listed the paid up capital stock as \$874,489. The form filed on January 12, 1912 and reflective of the tax year ending December 31, 1911 also had a hand written note in the margin: Cannot answer these questions because we are not a going concern at the time, but think we will be in operation in about 60 days." This form also listed the amount of paid up capital stock as \$1,044,857. The prosecution felt that this document was the final nail in the coffin and rested.<sup>81</sup>

After a noon time recess, defense counsel immediately put in a motion asking the Judge to instruct the jury to bring in a verdict of not guilty for all defendants. Attorney William Rawls argued first and Judge Smith overruled the motion and stated that if the evidence heard thus far had been insufficient he (the Judge) would not have waited for a defense motion but would have made that ruling on his own. Judge Smith then ordered the defense to proceed.

The strategy for the defense seemed to be two-fold: rebut the testimony about the value of the land and emphasize that no one made any money from any fraud or conspiracy. Several of the defendants also emphasized that they had continued to invest money in the company and that some had

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<sup>78</sup> *Baltimore Morning Sun*, October 13, 1912

<sup>79</sup> *Ibid.*

<sup>80</sup> *Ibid.*

<sup>81</sup> U.S. vs Michael P. Kehoe Plaintiff's Exhibit #95. United States Tax Forms

even mortgaged their houses to do so. Defendants Kehoe, Mobray, Plack, and Hess also stressed that the day to day details of the company were the responsibility of Cooper, Sanger and Young. Young's testimony indicated that he got all of his information from Cooper, Sanger and, to a lesser degree, Kehoe and Plack. Sanger testified that he had not seen most of the promotional materials; a classic case of "if we blame everybody then maybe nobody will get the blame".

The first defense witness was Eugene R. Stagmer of Govans, Maryland. He was the first president of the Potomac Mining Company and testified about the company's origins. Charles E. Teale, former bookkeeper of the company and stockholder, was called next. He testified that from the company's books, which he kept, that nearly all of the defendants had invested in the company's stock. Under cross examination he said that he could not find any record of any loans to the company by the accused men prior to June 20, 1911 when they were told they were being investigated by Postal Officials. Also this cross examination revealed that Robert W. Mobray never owned any shares of stock and never was a director. Sales of stock to the public were stopped seven days after Postal officials began their examination.<sup>82</sup>

The greater part of the October 15 afternoon session was taken up by the testimony of Edward R. Cooper, General Manager of the Potomac Refining Company. Cooper repeated the statements about the value of the company's land. He also explained his plans for the development of the property and told the court that company officials had not only invested in the company but had invested their salaries also. Cooper did not appear to have made loans to the company or waived his salary as other company officials did.

David C. Chesterman, of the National Mortar Company, was up next for the defense. He testified that he had bought lime from the Potomac Refining Company and had used it in the erection of the new building of the Bureau of Engraving and Printing in Washington DC.

He was followed by Louis F. Plack, vice president of the Potomac Refining Company. Mr. Plack told the court that he had mortgaged his house to invest in the company and that his investments totaled more than \$12,800. He said that he had never intended to deceive anyone in connection with the company. He also testified that concerning the book *Sixty Dollars A Second* he had told Mr. Kehoe, president of the company, that the statements in it were "too rosy".<sup>83</sup>

Potomac Refining Company President Michael P. Kehoe testified on the morning of October 17. He declared that he had never entered into a scheme to defraud anyone and that he had never personally profited in connection with the company. He had even increased the mortgage on his own home to invest in the company. Kehoe told the court he had written a letter to A.B. Young in New York in December of 1910, warning him to be careful about the statements he made in the company's advertising and other literature. But he also said that he never entered a protest about the books that had been entered into evidence and that all information on the company was obtained from Mr. Edward Cooper and sent to Mr. Young. Mr. Young then prepared the literature and sent it out.

The parade of Potomac Refining Company officials continued as A. B. Young took the stand for the defense. Mr. Young testified that all of the information for the advertising came from E.R. Cooper. The assertion that the marble was worth \$15,000,000 was based on Mr. Cooper's state-

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<sup>82</sup> *Baltimore Morning Sun*, October 15, 1912

<sup>83</sup> *Baltimore Morning Sun*, October 17, 1912

ment and an estimate made by the Hilgartner Marble Company. He also added that *all of the directors* had given him information for the promotional materials. When Young was questioned about the statement in one of the books that there was enough manganese to pay 100% on the capital stock, Mr. Young said he saw lots of manganese and assumed it was ready for the refinery.<sup>84</sup>

On October 18 the Potomac Refining Company's treasurer took the stand. Dr. Harry C. Hess testified that he had invested \$17,300 of his money and his father invested \$15,000. On cross examination Dr. Hess stated that as treasurer he kept no books, no memoranda, and that he could not give exact figures about anything. He said that he had invested \$7,500 prior to 1912 but could only account for \$640.25 in checks. The rest he said was by cash or the checks had been lost.

Company Attorney Robert W. Mobray took the stand and said he had no connection with the company other than being its attorney. He said he had never seen any of the literature. Charles B. Sanger, company secretary, also testified that he knew nothing about the company literature and that it was all sent out by A.B. Young from New York. Yet Mr. Sanger's office was in New York and he was the one company officer in direct contact with the A.B. Young firm.<sup>85</sup>

After all of the company officers testified there were several character witnesses all vouching for the character of the officers. One witness of note was Charles Herzog, attorney and father of "Whitey Herzog" the New York Yankee baseball player. After the character witnesses, the defense rested its case.

The prosecution then presented several rebuttal witnesses. The one of note was Richard C. Williams, a geologist with degrees from Princeton and Johns Hopkins University. Mr. Williams was rebutting testimony about the value of the manganese deposits. Mr. Williams testified that there was no body of manganese in the mines that was 14 feet thick. He also said that the manganese that had been dug out was worth far less than \$600,000.<sup>86</sup>

After rebuttal Judge Smith told the court that "then the order of procedure is that I will first settle your legal proposition and then I will define the issues upon which you will go to the jury. At the close of argument I shall simply charge the jury."

Mr. Marbury (attorney for Mobray) broke in saying: "The practice in this district has been, your honor, for the court to pass on the propositions of law and then give the jury the charge before the argument is made by counsel."

Judge Smith replied: "The summing up of the testimony and the final charge will be made at the end of the argument."

Mr. Marbury: "That is unprecedented in this circuit."

Judge Smith: "Then the record will be broken on this occasion."<sup>87</sup>

After the discussion on procedure Judge Smith asked District Attorney Hill if he had any objection to a directed verdict of "not guilty" for Robert W. Mobray. Judge Smith pointed out that the only evidence against Mr. Mobray was that he signed the certificate for the property. Mr. Hill reviewed

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<sup>84</sup> *Baltimore Evening Sun*, October 18, 1912

<sup>85</sup> *Baltimore Evening Sun*, October 18, 1912

<sup>86</sup> U.S. vs Michael P. Kehoe et al. Partial transcript labeled 2:30PM after recess. Believed to be from October 19, 1912

<sup>87</sup> *Ibid.*



the many reasons that he felt pointed to the guilt of Mr. Mobray, however Judge Smith was adamant. As much as Robert Mobray knowingly signed a false certificate and as much as he deserved to be punished for that incident, there was no evidence that he had any role in the dealings of the Potomac Refining Company. Thus, Judge Smith ruled, the jury would be instructed that they had to find Robert W. Mobray “not guilty” on all counts in the indictment.<sup>88</sup>

At the end of that discussion Judge Smith entertained prayers from both the prosecution and the defense. Prayers were a request for a judicial instruction to be given to the jury that could be accepted, modified, or denied.

The prosecution submitted its prayers first, and, while all were accepted, most were modified. The prosecution was well aware that the defense attorneys had scored points with the jury when they introduced testimony that none of the officers had made any money from the company and that many of them had mortgaged their homes and invested even more money into the business. The prosecution was also concerned that the jury might not want to punish men who did not make any money from the scheme. The Government's sixth prayer, and the last unnumbered prayer, reflected that concern.

The prosecution submitted prayers as follows:

Government's 1st Prayer

The United States prays the Court to instruct the Jury that the term “scheme to defraud” as set forth in the indictment not only includes false representations as to actual facts, but also includes every expression of opinion, and every assurance of past, present, or future conditions, as to the company and its property whenever such false representations as to actual facts, or such expressions of opinion, or such assurances are made with the intent to deceive and defraud within the period and as charged in the Indictment.

Government's 2nd Prayer

The United States prays the Court to instruct the jury that under the law of the State of Maryland preferred shares are not an absolute first mortgage on the assets of any company located within the state and that, therefore, the statement contained on page 33 of the book entitled *Profits for Every Shareholder*, plaintiff's exhibit number 6, “preferred shares in the Potomac Refining Company are an absolute first mortgage on both our assets and profits” is false, but not necessarily fraudulent.

Government's 3rd Prayer.

The United States prays the Court to instruct the Jury that under the uncontradicted evidence in this case the Potomac Refining Company did not have a perfectly good and merchantable title to any real property in Washington County, Maryland, on Jun 10, 1910, and that the statements contained on page 33 of the book *The Business That Makes Men Millionaires*, Plaintiff's exhibit number 4, under the title “Certificate from the General Counsel of the Potomac Refining Company” is false, but not necessarily fraudulent.

Government's 4th Prayer.

The United States prays the Court to instruct the Jury that concerning the written contract made between the Potomac Refining Company or the Potomac Mining Company and A. B.

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<sup>88</sup> Ibid.

Young and Company dated May 14, 1910, which has been put in evidence in this case, providing that \$0.50 out of every dollar derived from the sale of the first 80,000 shares of preferred stock in the Potomac Refining Company after said date should go to A. B. Young and Company for acting as advertising agent, if the Jury find from the evidence in this case that over \$39,000 was paid to the said A. B. Young and Company under said contract, then the Jury are authorized to find that the statement on page 13 of the book *Profits for Every Shareholder*, Plaintiff's Exhibit number 6, taken in connection with the diagram on said page, "where every dollar from the sale of stock goes into labor, refineries, buildings, machinery, railroads, cars, tables, trams, docks, and equipment" is false but not necessarily fraudulent.

Three of the first four prosecution prayers were modified by Judge Smith who added the words "but not necessarily fraudulent" to the end of each.

Government's 5th Prayer.

The United States prays the Court to instruct the Jury that it is fraud for a person to make exaggerated representations as to the value or extent of his property in order to obtain a pecuniary benefit when he, in the opinion of the Jury, knows that said representations are not true.

Government's 6th Prayer,

The United States prays to the Court to instruct the Jury that if the Jury find that the defendants or any of them devised a scheme to defraud, it makes no difference whether the scheme was successful or not or whether the defendants profited by the scheme.

Government Prayer

The United States prays the court to instruct the Jury that the jury has nothing to do with a penalty, that the Court is the sole judge of the penalty to be imposed if the Jury should find the defendants or any of them guilty; and that if the Court deem best it could impose not a day of imprisonment and only one cent fine up on any of the defendants if any of them should be convicted.

The defense also submitted prayers. Some prayers were for all defendants and some only applied to specific defendants. The first two prayers were denied. One applied to defendants Young, Plack, Hess, Sanger, Cooper, and Kehoe and asked for a directed verdict of "not guilty" due to lack of evidence. The second asked for a directed verdict of "not guilty" for A.B. Young only. All of the other defense prayers were attempts to make it more difficult to prove the conspiracy charges.<sup>89</sup>

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<sup>89</sup> Ibid.

## VIII. Final Arguments and a Verdict

At the Saturday October 19 court session, Judge Smith announced that he wanted the jury to get the case on Monday. Therefore he was limiting closing arguments to a total of five hours which came to 40 minutes per attorney.

Deputy District Attorney J. Craig McLanahan walked the jurors through the testimony and constructed what he thought was an airtight case of fraudulent intent from the start. He cited the fake certificate of title by lawyer Mobray, fake or posed photographs of workmen at the quarry, and letters from “fake” stockholders praising the property and business for which each letter writer got two or three shares of stock as a souvenir of the trip. He was followed by Attorneys English, O’Dunne, and Ulman who expressed pity for the Government’s inability to see what a straightforward business it really was. After three hours of argument the court was adjourned.<sup>90</sup>

On Monday October 21st Judge Smith was allowing the final 2 hours of argument and lunch recess after which Judge Smith would charge the jury and give them the case. United States District Attorney Hill said that to protect “dear old ladies from hearing the ticking of ‘Sixty Dollars A Second’ and similar swindling literature delivered by U.S. mail” he was asking for a verdict of “guilty” for all except Robert W. Mobray who had already been judged immune due to insufficient evidence. He asserted that:

It was purely a stock selling scheme, this Potomac Refining Company, and it was never anything else from the time the company’s name was changed from the Potomac Mining Company, at the behest of A.B. Young, the man who undertook to exploit it by means of highly colored literature.

He also pointed out the fake certificate of title, the fake statements about the value of the property, the fake pictures, the fake activity in the mines, which according to him lasted only 10 minutes—the time it took to take the pictures. Hill also pointed out that A.B. Young had gotten \$39,436 in commission for the sale of stock and had only paid \$26,000 for \$95,000 worth of stock. Young’s statement that he lost money was an admission that the stock was worthless.<sup>91</sup>

Attorney Marbury closed for the defense. While technically defending only A.B. Young, he wove a theme of men who had an exaggerated opinion about the value of their business. “Men have had an exaggerated opinion of what belongs to them ever since the devil was a little boy.” He said that he was leaving it up to the jury’s conscience whether it was fair to convict men who had been “carried away by their enthusiasm”.

After closing argument ended and a lunch recess, Judge Smith began his charge to the jury at 1:00 PM. He began by stating that, “the mails reach all classes, the intelligent man and woman and the poor weak woman, the seamstress, the poor of all sorts, and the callow youth, who are easily lured by the hope of great gains from the investment of a few dollars.” Such persons, Judge Smith went on, should be protected from swindlers who, by using the great and potent agency of the mails,

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<sup>90</sup> *Baltimore Evening Sun* October 21, 1912

<sup>91</sup> *Ibid.*

can reach practically everyone in the United States. The Judge then reiterated that Robert W. Mobray must be found “not guilty” of all charges. He then reviewed all charges and gave the Jury the following questions:

Questions For The Jury

1. Whether the evidence in this case establishes that the defendants or any one or more of them devised or intended to devise the scheme or artifice charged in the indictment to defraud persons by inducing them by false or fraudulent statements, representations or promises, to part with money or property in the purchase of shares of the preferred stock of the Potomac Refining Company.
2. Whether the evidence in this case establishes that the defendants or any one or more of them made the pretenses, representations, or promises charged in the indictment.
3. Whether the evidence in this case establishes that the pretenses, representations, or promises charged in the indictment were false or fraudulent.
4. Whether the evidence in this cause establishes that the defendants or any one or more of them for the purpose of executing any such fraudulent scheme or artifice placed or caused to be placed any of the exhibits to the indictment or any letter, writing, circular, book, or advertisement produced in evidence and containing any of such false and fraudulent pretenses, representations, or promises addressed to any person residing within or without the United States in any authorized depository for mail matter of the United States to be sent or delivered by the Post Office establishment of the United States.
5. Whether the evidence in this cause establishes that the defendants or any two or more of them conspired together to devise the scheme or artifice charged in the indictment to defraud persons by inducing them by false or fraudulent pretenses, representations or promises to part with money or property in the purchase of shares of preferred stock of the Potomac Refining Company.<sup>92</sup>

The jury was then dismissed to deliberate. Observers felt that the prosecution had proved its case and were feeling confident of the outcome. Defense attorneys seemed unsure and nervous. And Juries, as so often has been proven, have a mind of their own when it comes to verdicts.

There were over 110 exhibits in the trial including 3 of the books, samples from the quarries and mines, letters, financial records, and thousands of pages of testimony. Yet, in just 5 3/4 hours, the jury sent word to the Judge that they had reached a verdict.

Judge Smith reconvened his court on Monday, October 21, 1912 at 9:00 PM. The defendants and their attorneys seated at one table, prosecutors at another. When the jury was brought in, Judge Smith called the court to order. Then, “Gentlemen of the jury, have you reached a verdict?”

Jury Foreman Mr. Carroll answered “We have your honor” handing the form to the bailiff.

After reading the slip the Judge asked the defendants to rise. Carroll read the verdicts:

On all seven counts under the indictment we find:

Michael P. Kehoe, not guilty

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<sup>92</sup> U.S. vs Michael P. Kehoe et al. Partial transcript

Louis F. Plack, not guilty

Dr. Harry Hess, not guilty

Charles B. Sanger, not guilty

Edward R. Cooper, not guilty

Robert W. Mobray, not guilty (directed verdict by Judge Smith)

As each verdict was read more and more smiles broke out at the defense table. Surely this meant that the jury had found nothing wrong with their business—until the verdict for A.B. Young:

A.B. Young, guilty of the first five counts of the indictment, not guilty of the conspiracy charges. Mercy is requested by the jury for defendant Young.”

After the verdict was read, Judge Smith discharged the jury with a few kind words:

I think I may say, on behalf of all court officers, I thank you for your attendance upon this case. If I have worked you too hard, I can only say that I am sorry for it, and that it was due to the exigencies of the trial.

All of the defendants, except for A.B. Young were discharged and the sentencing hearing was set for 10:00 AM on October 22.<sup>93</sup>

And the Judge *had* worked the jury hard. Court was held from 10:00 AM until 5:30 PM daily, an extension of two hours more than normal. Court had been held on Saturdays too for three hours. The trial that was projected to take three to four weeks had been concluded in two weeks. The government had spent \$1,500 in fees and mileage for witnesses and had spent over \$1,000 on a stenographic report.

The next morning A.B. Young headed toward the Post Office Building where the trial was being held with one of his attorneys. A photographer from the *Baltimore Sun*, Huston Henderson, took a picture as the two men entered the Post Office Building. When Young stepped out of the building to get some air, the same photographer attempted to take his picture again. Young, who was about 20 feet away from the cameraman had enough. He was tired of whole trial and being away from his business in New York, he was angry about being the only one found guilty, and he was very tired of *Sun* reporters and photographers following him. He began a headlong rush at the photographer, his hands raised to cover his face. As the shutter on the camera clicked, Young’s arm went around the photographer’s neck in a “clothesline” tackle. The heavy New Yorker threw his whole weight into the photographer who fell to the pavement, dropping his camera. Young then set his sights on the camera. As Young started to move in to demolish the camera, Sidney Willis, a *Sun* Reporter, intercepted him and the two began to wrestle on the pavement.

At this point Baltimore Police Officer George LeBrun intervened. As the Officer took Young by the arm, Young protested. “But Officer, I have to appear in United States Court at 10:00 AM.”

“And I have to be there too” said Willis.

“You have to come here and tell it to the Judge” answered the officer.

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<sup>93</sup> *Baltimore Evening Sun* October 21, 1912

While the group was waiting for transport to the Central Police Station, William Marbury, Young's attorney, appeared and tried to persuade the officer to let his client go to Judge Smith's Court. He was refused.

At the Central Police Station there was a delay in getting a preliminary hearing. Finally after four other defense lawyers arrived, the disturbing the peace hearing was delayed until 3 PM.<sup>94</sup>

The parties finally made it to court by 10:15 where Judge Smith was waiting, aware of the reason for Young and his attorney's late arrival. He called the court to order and asked A.B. Young to state his first name. There was too much noise in the room and the bailiffs called for quiet. "Alfred" came the reply. Judge Smith asked if there was any reason why he should not pass sentence. Some reporters heard the reply as "No", others heard it as "Not guilty".<sup>95</sup>

The Judge then asked if the prosecution had a recommendation about the sentence. U.S. District Attorney replied that he did not feel justified in making suggestions but that he did not feel that a fine alone would be enough. Mr. Marbury, for the defense, said that since everyone else was found "not guilty" he thought the sentence should be a fine only.

"Alfred B. Young," began the Judge in a gruff, curt voice, "the jury has found you guilty on the first 5 counts of the indictment against you. While I am not sure that others should not have been found guilty also, or you acquitted, I am not permitted to question the verdict of the jury." Judge Smith went on to state that a fine without imprisonment would not be sufficient punishment within his interpretation of the act, and Young winced perceptibly. Judge Smith continued:

I do not think from the spirit of this statute and its intention, it would be proper not to impose some confinement. The act is intended to prevent the perpetration of the offense and I think people of means should be informed that if they choose to contravene the law in that respect, mere payment of money will not atone for the offense, therefore I sentence you to 30 days in the Baltimore City Jail and impose a fine of \$1,000.<sup>96</sup>

A conference between Young and his attorneys led to them notifying Judge Smith that an appeal would be filed. The Judge said he would remain in Baltimore until 8:00 PM to receive the necessary paperwork and fixed a bond of \$7,000. Young was taken into custody by U.S. Marshalls until the arrangement of bond had been completed.

By 4:00 PM Attorney Marbury and his client Young met with Judge Smith and withdrew their appeal. Young paid his fine and was escorted to the Baltimore City Jail. It was noted that his wife would be staying at the home of other Potomac Refining Company officers while her husband was incarcerated.

The verdict was put out on the news wire and articles appeared in the *Cincinnati Inquirer*, The *Inter Ocean* (Chicago), and the *Washington Post* among others. *The Printers Ink*, which was a journal for advertisers, carried a story about the case and the conviction of A.B. Young.<sup>97</sup>

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<sup>94</sup> *Baltimore Evening Sun* October 22, 1912. The story is also recounted in the *Baltimore Morning Sun* October 23, 1912, The *Evening Times* (Cumberland) October 22, 1912, *Cincinnati Inquirer* October 23, 1912, The *InterOcean* (Chicago), October 23, 1912, and the *Washington Post*, October 23, 1912

<sup>95</sup> *Baltimore Morning Sun*, October 23, 1912

<sup>96</sup> *Ibid.*

<sup>97</sup> *The Printers' Ink*, A Journal For Advertisers, October 31, 1912

The verdict may come as a surprise to many readers. But it is important that this case be looked at in the context of the times and not judged by 21st century ethics and standards. In 1910 there was no Securities and Exchange Commission and attendant rules and regulations for stock trading. A magazine that Potomac Refining Company advertised in contained the following “articles” that were really advertisements; “Join The Millionaire Colony” (advertisement for California oil), “\$30 A Minute From Oil” (California Oil), “California Oil, The Billion Dollar Industry”, “California Oil The Greatest Money Making Industry In The World”, and “How Millionaires Make Money”. The stock market resembled the wild west and would crash just twenty-some years later. It would be 1933 before Congress passed the Security Act of 1933, and 1934 before the Securities and Exchange Act passed to help restore confidence in the financial markets.

Another factor having impact on the jury was that these were local men being tried (with the exception of A.B. Young). The men were well known in Baltimore: Michael P. Kehoe served in the Maryland legislature and Dr. Harry Hess was a well-respected doctor and banker.

A.B. Young, the only person found guilty, was not local—he was a New Yorker. He was also Canadian by birth. Most of the local news reports of the trial referred to Young as “the New Yorker” or the “New York man”. Still, while the jury did find Alfred Young guilty, they asked for leniency from the judge.

As the Grand Jury and trial progressed, most of the documents and records of the Potomac Refining Company had been subpoenaed and were held by the court. This caused huge problems for the company now that it was actually in operation and producing lime. Without their financial books, the treasurer and other officers had no idea to whom money was owed, how much they were owed, etc. They also had no idea who owed them money. In November 1912, Michael P. Kehoe petitioned the court for the release of the financial records.<sup>98</sup> The court ordered their release and the records were delivered to Michael P. Kehoe and signed for on November 18. But the trial, and all the surrounding publicity had a devastating effect on the Potomac Refining Company. Despite producing hydrated lime, they were unable to interest new investors, the old investors wanted out, and they were unable to get credit from anyone. The company became like a skyscraper built on a sand foundation—it was ready to crumble.

Several parties to whom the Potomac Refining Company owed money, obtained a lawyer and filed suit in the Court Of Common Pleas in Baltimore City seeking payment. Notable among these were Gardner Callanen, who was owed back wages, and the Victor Cushwa and Sons company of Williamsport, Md., who had outfitted the entire boiler room part of the plant.<sup>99</sup>

On January 8, 1913, several companies filed a petition with the Circuit Court in Baltimore to have the Potomac Refining Company declared bankrupt. The Crane Company (of Illinois), Henry H. Meyer Company (of Maryland), and James Scott and James Francis (trading as the James F. Hughes Company) filed a creditors petition. The case came before Judge Rose. While he had not heard the criminal case, Judge Rose presided over the bankruptcy case. The petition said that the

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<sup>98</sup> Petition by Michael P. Kehoe to Judge Rose to turn over all financial papers that were evidence in U.S. vs Michael P. Kehoe et al., November 14, 1912

<sup>99</sup> Creditor’s Petition on behalf of the Crane Company (Illinois), Henry H. Myer Co, and James Ayers Company, filed January 8, 1913. Bankruptcy of Potomac Refining Company.

Potomac Refining Company owed the Crane Company \$613.11 for goods and merchandise delivered. They owed the Henry H. Meyer Company \$263.10 for goods and services delivered and they owed \$29.60 to the James F. Hughes Company.

The petition went on to state that the Potomac Refining Company had “allowed itself to be sued” by several creditors including Samuel Morgan (\$37.88), Harvey Hauser (\$25.68), Jack Boyer (\$49), Thomas Jackson (\$36), Lawrence Ingram (\$24.12), and Barton Haynes (\$27.80). These lawsuits all were filed in Washington County and were adjudicated by O.M.C. Younkins. To settle these suits Judge Younkins had set a sale for January 10, 1913 of all of the bagged lime at the refinery. The Crane Company and other petitioners felt that this sale would give others an unfair advantage in getting claims against the Potomac Refining Company.<sup>100</sup>

The response of the Potomac Refining Company to the January 8 petition was to deny that the James F. Hughes Company was a creditor, and Potomac Refining asserted that they did not owe them anything. Their response went on to state that it [Potomac Refining]

denies that it is insolvent and alleges that it has more than sufficient assets to pay all of its debts; and it further denies that it has committed the acts of bankruptcy as set forth in said petition and alleges that all of the creditors named in paragraph 3 of the said petition, were workmen employed by the said corporation and that all of the said claims are for less than \$300 and accrued within 3 months of the date of filing of the said petition.”

It is not known if the sale of the lime went on as scheduled or if any steps were taken by the court to stop it.<sup>101</sup>

What is known is that the bankruptcy case continued before Judge Rose. The trustees in the bankruptcy case were Morris A. Soper, Charles E. Cockey, and J. Craig McLanahan. On March 10, 1913, Michael Kehoe submitted a form, Oath To Schedule A and Oath To Schedule B to the court. Schedule A listed over 50 workmen who were due wages. With two exceptions all of the workers were from Harpers Ferry. They were owed amounts ranging from \$6.25 up to \$468; although most wages owed were around \$15–\$20. The company owed Washington County \$180 in property taxes and had the outstanding “gold note” debt to A.B. Young and William B. Hess. These men were owed \$45,000 each, plus \$12,825 interest each.

There were 39 creditors whose claims were unsecured. Their claims totaled \$19,963.37. This included loans from Michael Kehoe (\$3,300), Dr. H. C. Hess (\$4090.37), Louis Plack (\$6,162), and ten others. The Kritzer Company was still owed \$26 and Herschel Baker Company was owed \$1,487.48 for bagging machines and bags. V. Cushwa and Sons were owed \$1,560 from a judgment in the Common Pleas Court.

In Schedule B (assets) Potomac Refining Company listed the property (with the ninety \$1,000 notes) as valued at \$250,000. That price included all buildings and machinery. Note that just 1 year earlier the company boasted of having over \$100 million in minerals on the property and had built a large, modern lime processing plant! The company also listed the furniture and cooking utensils in the bungalow as a \$250 asset.

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<sup>100</sup> Ibid.

<sup>101</sup> Response to the Petition of the Crane Company by the Potomac Refining Company, January 10, 1913, Signed by Michael P. Kehoe and James J. Lindsay Attorney For the Defendant.



On the summary page the company claimed a total indebtedness of \$145,669.54 and total assets of \$250,250. And the bankruptcy moved forward.<sup>102</sup>

On April 26, 1913, the court had the property of the Potomac Refining Company appraised by three uninterested parties. These men were Samuel S. Sopher, Abner B. Bingham, and Jacob E. Fisher. The men valued the 197 acres of property at \$2,561 or \$13 per acre. The improvements (lime producing plant, manganese washers, pot kilns, bungalow, etc.) were worth \$15,565. The rest of the materials were valued at \$3,452 for a total value of \$21,578.<sup>103</sup>

The bankruptcy filings of the trustees show that they were very concerned that any sale of the property would have a clear title. The New York Trust Company still had an interest since they backed the gold bonds. A.B. Young held \$45,000 worth of gold bonds plus interest, as did Dr. Hess' father. Additionally, many of the officers filed claims for loans or notes to the company. But the trustees had discovered that all of the officers and A.B. Young had gotten many shares of stock for free. A negotiation was held among all the parties so that the property could be sold with a clear title.

The settlement with V. Cushwa and Sons was a good example of the agreements that were reached. The company had won a large settlement in the Court of Common Pleas in Baltimore City. Cushwa's position was that their installation of equipment had come after the mortgage was signed with the New York Trust Company and therefore the mortgage did *not* pertain to their equipment. The New York Trust Company filed motions stating that all assets of the Potomac Refining Company were included. The solution, agreed upon by all parties at a conference with the Trustee of the bankruptcy provided that the Cushwa Company would be entitled to make a claim against the refining company in bankruptcy and receive a dividend from the sale like everyone also. It also provided that if the property were sold in bulk, the Cushwa Company would get shares as follows, minus costs of sale, Trustees Commissions, and counsel fees:

- 2 steam drills, 1/223 share
- 1 upright boiler, 1/335 share
- 6 Stone trucks, 1/796 of net proceeds
- 1 Lot of wire cable, 1/223 share
- 1 Boiler and hoister combined, 1/335 share
- 1 steam packet (boat), 1/268 share
- 1 scow, 1/335 share
- 1 Kiln building and equipment including Corliss engine, 2 boilers, 1 hydrator, and one dynamo, 38% share.<sup>104</sup>

The court then ordered the trustees to sell the assets at public auction in Hagerstown, Maryland. Advertisements appeared in the *Baltimore Sun*, the *Morning Herald* of Hagerstown, *Rock Products* magazine, and *Manufacturers Weekly*. The sale was to be held on August 16, 1913. The property was to be sold two ways: The first was in 2 parcels of real estate and then all of the other items separately; the second was a purchase of the total property. The highest amount total would be accepted. The total property sale raised the most money and the purchaser was Louis F. Plack, vice

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<sup>102</sup> Oath To Schedule A and B, filed March 10, 1913, Bankruptcy Potomac Refining Company.

<sup>103</sup> Petition of Morris Soper, J. Craig McLanahan and Charles Cockey to the Bankruptcy Court Filed June 4, 1913

<sup>104</sup> Ibid.

president of the bankrupt Potomac Refining Company. His bid of \$36,000 was accepted by the trustees and ratified by the court.

The trustees then began to disburse money to all of those who had claims in the bankruptcy case. Washington County got all of its property tax charges. The lawyers, referee, and administrators were all paid their fees as approved by the court. Remaining claimants got 12% of their claim and the shareholders got nothing for their investments.

Shortly after Louis Plack bought the property he incorporated a company in Baltimore called the Canal Lime and Stone Company. Louis Plack was president and Hugh Gallagher (a stockholder from the bankrupt Potomac Refining Company) was the secretary. Shortly thereafter the company took out a \$20,000 mortgage on the property.<sup>105</sup> The Canal Lime and Stone Company went bankrupt too, and the property was sold on November 14, 1917 at an auction in Hagerstown, Maryland. Advertisements at the time of the sale still listed all of the equipment that the Potomac Refining Company installed. Prospective buyers were told that the plant was in full operation and could be inspected at any time. The company was purchased at the auction by Robert L. James and his wife for \$28,000. Mr. James took out mortgages when he purchased the property and the sale was not ratified by the Washington County Court until July 6, 1921.<sup>106</sup>

The 1921 deed to Robert L. James contains the following information about the hydrating plant:

Five patented lime kilns, 12 feet in diameter, 45 feet high, all ready for operation; one Raymond mill, complete Kritzer hydrator and crusher; one Corliss engine, 150 h.p. in first class condition; two 100 h.p. high pressure boilers, Ames make, self protection; one 20 h.p. 240 volt Allis-Chalmers dynamo, set up able to light the entire plant; one main kiln building, 2 stories, 50 x 60 feet; one boiler and engine room, 1 story, 60 x 40 feet; one hydrating room, 3 stories 50 x 33 feet, and extension thereto, 26 x 40 feet; one cooling floor, 1 story, 80 x 26 feet; one tool house 15 x 10 feet. The above are all under 1 roof, the building being a steel structure joined with 20 gauge galvanized iron. 1200 feet of trackage between mill and quarry; 10 stone cars; wire cable and fixtures; one upright engine 10 h.p. for loading coal; one 30 h.p. engine and 50 h.p. boiler and saw mill; carpenter and blacksmith shop; two hoisting engines; two steam drills; quarry tools; two McGowan high pressure automatic pumps; one high pressure fire pump, 1400 pounds pressure; inclined railway for coal; one scow; one water heater; two large half ton coal buckets; two patent pot kilns; one blacksmith shop; one bungalow, furnished, 50 x 50 feet with large porch, eight rooms, and bath, steam heat, porch 9 feet wide; five room frame dwelling; and small stable.”<sup>107</sup>

It is likely that Mr. James removed the plant, kilns and equipment during his ownership leaving some ruins of the plant and the firebrick behind. Subsequent deeds do not mention the building or improvements.<sup>108</sup>

Just a short time later Mr. James defaulted on his loan. The mortgage was held by J. Campbell Brandon of Butler Pennsylvania. On July 1, 1926, Mr. Brandon sold the property to G. W. Ingram,

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<sup>105</sup> Washington County Land Records 142/414 Deed filed September 25, 1913

<sup>106</sup> Washington County Land Records 160/506

<sup>107</sup> Ibid.

<sup>108</sup> While land records do not always mention improvements, the deeds for this property had since the building was erected. Also the price difference in transactions is a clue. Mr. James bought the property for \$28,000. He sold it 9 years later for \$4,200.

the original owner of the 33 acre parcel. The property bought by Ingram now included not only the 33 acre parcel but another 164 acres. The property cost Mr. Ingram \$4,200. Mr. Ingram never did any quarrying or burning lime. According to an old oral history, he sold off the fire brick from the old plant.

The Ingram family kept the property until August 1937 when it was sold to Orville Shinham and his wife Elenora. The property cost \$2,000 and included most of the original Potomac Refining property. Mr. Ingram kept 1 small parcel and a right of way into it. By the time the Shinhams bought the property the only remnants of the hydrating plant were the concrete foundation and a few sheets of metal. When interviewed for an oral history, Mr. Shinham said he had never heard the name Potomac Refining Company and had never seen the plant. His only information was gotten from “some of the old men who worked for me told me all these things about it and said they sat up on the hill as just boys” and watched investors who were brought in. Mr. Shinham did hear from these men that the plant produced lots of lime which was shipped down the canal to Weverton where it was put on the railroad and sent to Montgomery County.<sup>109</sup>

Orville Shinham cleaned out the two “pot kilns” and began his lime operation when he bought the property in 1937. His lime business picked up during WWII when there was a demand for farmers to use lime to increase their crop yield. Mr. Shinham had 12–15 men working for him from the early 1940s until his business closed. Six men worked in the quarry, one man hauled coal, three men ran the kilns and the grinder, and three to four men delivered the final product to the farms.

The two kilns were 25 feet deep. To burn lime alternate layers of wood and limestone were loaded into the kiln from a hole in the top of the kiln. The kiln was lit and the natural draft would “burn” the limestone. The heat burned off the carbon dioxide. Once burned and cooled, the lime was unloaded from the bottom of the kilns. The burned limestone was then pulverized using a hammer mill that was powered by a 40 h.p. International motor. From 10 tons of raw limestone, Mr. Shinham produced five tons of lime from each kiln every day. With two kilns working, Mr. Shinham’s operation was producing 10 tons of agricultural lime a day. Mr. Shinham sold and spread most of his lime in Frederick County. One of the stores he sold lime to was in Jefferson, Maryland and was run by Harry Summers. That store alone sold over \$10,000 of lime every year. (See illustration #47)

Mr. Shinham was always on guard for floods. If water got to the lime it would heat and potentially cause a fire. He described almost losing a truck to fire when it was left, loaded with lime, out in a rainstorm. His vigilance paid off, because Mr. Shinham never had any major fires during his tenure.<sup>110</sup>

Mr. Shinham sold some of the property to Dargan Riverside Estates. That 1961 deed mentions Shinham reserving a right of way into the lands. It also mentions reserving mineral and timber rights.

Today the majority of the property is owned by the National Park Service, being part of the Chesapeake and Ohio Canal National Park.

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<sup>109</sup> Interview with O.J. Shinham by Mike Thompson, Chesapeake and Ohio Canal National Historic Park, Oral History Tape #14, July 17, 1977.

<sup>110</sup> Ibid.

## IX. Personal Observations

*Were there ever any minerals (limestone, iron, manganese) on the Potomac Refining Company property?* The property had, and to this day has, minerals on it. Edward Cooper was attracted to the site because of the manganese. While the quantity and quality of the manganese seems to be in dispute, there was a deposit there. From the available evidence the vein ran below the canal level making it hard, if not impossible to access. There is still iron ore on the property and in 2013, I found much ore on the surface of the property and some near old test pits that had been dug. Again, the quantity and the quality is where the dispute lies. Limestone there is in no doubt. The Potomac Refining Company was burning and hydrating lime before they went bankrupt, shipping most of it to Montgomery County by rail car. Orville Shinham bought the property in 1937 and burned lime (not hydrated) for 30 years or more. He had several employees and ran a successful business. The Potomac Refining Company's literature stated that "there is enough limestone in the Great Barrier Ledge and Paul Jones Ledge that 1,000 men digging for 100 years would not excavate it all." That statement was and is highly suspect!

*Was the Potomac Refining Company's refinery a new modern plant or "an old lime plant" as stated by the prosecution?* There is no doubt that the Potomac Refining Company built a new modern, state of the art, lime refinery. There were five large modern steel kilns and a Kritzer Hydrator. If the company had not taken on such a crushing debt they may have been successful.

*What happened to the money from stock sales?* One of the most frustrating aspects of this research is the almost total lack of financial information. Certain information was included in the Post Office investigation forms, but the majority of the ledgers and information can't be found. Michael P. Kehoe prevailed upon the court to turn all financial information over to him so that the company could conduct business once the refinery was built. Because of that it is not part of either the bankruptcy proceeding or the criminal trial. It is not known how many shares were sold to the public.

*What happened in the trial and why weren't any officers found guilty?* The United States was a far different place in 1908–1912 than it is today. Patent medicines containing opiates were sold over the counter to people. Crude oil injections were thought to help with some conditions and the notion of the Federal Government having a role in keeping citizens safe from even these practices as well as questionable food processing procedures, was just becoming popular. The Potomac Refining case was one of the earliest prosecutions that sought to hold company officers liable for the misdeeds and misstatements of the company. Most of the population looked up to wealthy industrialists and were interested in their daily lives. When the Titanic sank in 1912, most newspaper stories were about the plight of the wealthy passengers, not the steerage ones. A much different attitude prevails today. Another factor that influenced the jury was that the officers were local Baltimore men, most of whom were giving up their salary for the good of the company. Once the lime refinery building started construction, some even mortgaged their homes or made outright loans to the company to keep it afloat. While some of this was done in the hopes of keeping a value to their stock, some truly believed that they had a potential "gold mine" in minerals. Louis F. Plack bought the property at the bankruptcy sale because he believed it could make a profit.

A.B. Young was found guilty primarily because he actually *made* money on the scheme. The one other person who profited was overlooked by the jury—Edward R. Cooper. Mr. Cooper was a miner who had experience working in mines in South Africa. He founded the company. Mr. Cooper was the company officer who was “on site” at the refinery all of the time. His \$150 salary per month was double that of the other officers and about double the average annual salary in the country. He maintained a controlling interest in the stock of the company from its inception. Mr. Cooper never gave up his salary the way the other officers did, nor did he loan the company any money when it got in financial trouble. While he never owned the 160 acre parcel that had the quarries, mines, and refinery, Mr. Cooper did lease it and had an option to buy it. When the land was sold to the Potomac Refining Company in a complicated real estate transaction, Mr. Cooper got a \$16,000 check for land. It was Mr. Cooper who was giving the information to the other company officers and to A.B. Young and Company about the value of the property and minerals. Mr. Cooper also traveled to Cuba using company funds. My personal opinion is the Edward R. Cooper was the most guilty of all, even more than A.B. Young.

## X. Remains of the Potomac Refining Company

To find the remains of the Potomac Refining Company one needs to park at the C&O Canal National Historical Park's Dargan Bend Recreation Area off Back Road. This road used to be called Shinham Road but the name was changed because there were other Shinham Roads in Washington County, Maryland. Hiking up river along the canal, keep a sharp eye on the berm side of the old C&O Canal. The first thing that comes into view is the remains of the old refinery building. (See illustrations # 47 and 48)

Hiking a little farther up the canal, one comes upon the two most obvious remains of the lime processing operation, the pot kilns and the lime storage building. (See illustrations 49 and 50) The pot kilns were built by the Potomac Refining Company in April 1911. They were constructed of dolomite and lined with fire brick, and were used by the Potomac Refining Company and its successor, The Canal Lime and Stone Company. After lying unused for 15 years Mr. Shinham cleaned them out and ran a successful lime burning operation using these kilns until 1956.

The lime storage shed is a bit of a puzzle. Most published accounts give credit to the Potomac Refining Company for building the shed and call it the last remnant of the refining operation. However, not one of the sale advertisements for the Potomac Refining Company or the Canal Lime and Stone Company mentions a lime storage shed. In addition it is less than 50 yards away from where the hydrating plant was located. Lime would have been transported from the kilns to the hydrating plant and refined and stored there. It is far more likely that Orville Shinham built the shed to store his ground lime.

The next remains of the mining and refining operations in the area are the quarries and the tunnel that connected them. (See illustrations 51 and 52) Labeled on a map made at the time of the trial, the two quarries by the canal were quarry no. 2 and quarry no. 3. These two quarries were referred to in Potomac Refining literature as the "Paul Jones Limestone ledge" and the "Canal Face or Barrier ledge". A tunnel ran out of the back of the Paul Jones quarry to facilitate ore cars moving limestone down to the refinery. The tunnel collapsed but the opening is still there today.

The remains of quarry #1 lie uphill in the woods above the canal. (See illustration 53)

## Appendix A

### Inventory and Report of the Operating Department by E. R. Cooper, Gen Mgr. To date of June 1, 1910

There has been installed and is now on the property the following machinery and equipment:

One 8 -horsepower hoisting engine with drum attached and 200 feet 3/4 inch hoisting cable.  
One 16 - horsepower hoisting engine with drum attached and 300 feet 3/4 inch hoisting cable.  
One 1-cubic yard car with swivel bed.  
One 3/4-cubic yard car with swivel bed.  
One 1/2- cubic yard car with swivel bed.  
Four hundred feet 16-pound railroad track.  
Eight hundred feet 8-pound railroad track.  
Ten switches.  
One shaft derrick complete with 20-foot swing.  
Two hoisting dump tubs.  
One "Fairbanks" 2-horsepower gasoline engine with pump, pulleys, belting and storage battery.  
One "Fairbanks" 2 1/2 - horsepower gasoline engine with pulleys, belting, magneto, and storage battery.  
Two "Gould" plunger pumps with suction chamber, suction rods, suction and discharge pipes.  
One "Emerson" Junior A Steam pump.  
Two "Emerson" Junior B Steam pumps.  
Two hundred and eighty feet of connected 2 inch steam pipe with valves, cut-offs, blow-offs, expansion joints to operate steam pumps and 8-horse hoisting engines.  
Two hundred and eighty feet of 2 1/2 flue return water discharge pipe.  
One hundred feet of loose 3-inch black iron pipe.  
One hundred feet of loose 2-inch galvanized iron pipe.  
Two hundred feet of loose 3/4-inch black iron pipe.  
Two hundred feet of loose 1/2-inch black iron pipe.  
Two hundred feet of loose 1-inch black iron pipe.  
One pump house, 10x16 feet, with metal roof.  
One hoisting engine house, 8x10 feet.  
One hoisting engine house, 10x12 feet.  
One mess room, 6x10 feet.  
One oil shed.  
One coal derrick, mast and boom.  
One eighty horsepower, brickcased, horizontal, flue boiler, equipped with water feed, ejector, overhead water supply discharge pipes, blow-offs, clean-outs, gauges, cocks, valves, and all necessary fittings.  
One fifty -horsepower "Atlas" engine (steam) complete with concrete foundation bed, oil cups, lubricator, governor, and direct steam feed from boiler.

Seventy-five feet line shaft with boxing and pulleys operated by single leather belt from engine and double leather belt on friction pulley to washer.

One Saw Mill, complete, operated with rubber belt on counter shaft from engine fly wheel.

One double log washer, 26 feet long, complete, with right and left chilled steel paddles, boxing countershaft, pulley, grizzly, waterspray, discharge apron, two settling tanks and 600 feet of trough for tailings from overflow.

One Turbine blower-forge with tongs, sledges and tools.

One pair steel rolls with pinions and boxing.

Thirty "foot-length" elevator buckets.

One oak water tank, two hundred cubic feet capacity, with supply water pipe and outlet connections to washer.

One storage chamber, containing extra picks, nails and trackage supplies.

One storage chamber, containing extra spikes, shovels, pick-handles and operating supplies.

One locker containing one set pipe dies and stocks, belt lacings, gauges, glasses etc.

One supply box containing bolts, bolt heads, bolt head blanks, Babbitt metal, washers etc.

One supply rack containing bolt iron, bar steel.

One supply rack containing pipe fittings, consisting of nipples, unions, couplings, bushings, tees, elbows, etc., in sizes ½ inch to 3 inches.

Mining tools in use on the work consist of a five-man equipment of picks, shovels, drills, sledges, striking hammers, etc.

One metal roofed 15x20 foot boiler house, for eighty-horsepower boiler, brick set.

One tar-roofed, 60x70 feet, three decked wooden building, housing the following:

Deck 1- Double log ore washer with equipment and one hundred tons of washed manganese now on hand ready for the refining process.

Deck 2 – "Atlas" steam engine, carpenter repair shop, line shafting and supplies.

Deck 3 – Knocked down barrels and miscellaneous materials.

Following is a report of The Underground Workings and all the excavations, such as tunnels, drifts, cross-cuts, inclines, shafts, etc up to the 1st day of June, 1910.

The Underground Excavations at present consist of one main 30 per cent. Incline running Northwest 300 feet to the "Paul Jones Ledge" and cross-cut by an 80 foot drift at 35-foot level, this cross-cut in turn connects with the surface track from the open cut. There is also a cross-cut 107 feet long at the 23-foot level.

One main vertical shaft, 63 feet deep, with one main heading at the 53-foot level, running 75 feet East, one cross-cut at the 53-foot level, running 40 feet Northwest to the "Paul Jones Ledge", one intersecting drift at the 53-foot level, running due West to the base of "barrier Ledge" fifty feet, one cross-cut drift at 48-foot level running 23 feet Northwest.

The Open Cut Work: Now being pushed forward, starts at a point 100 feet South of "Paul Jones Ledge" and 20 feet East of the C. & O. Canal, and extends downward 23 feet to the "Paul Jones Ledge" on the Northwest, and 21 feet downward to the incline on the East, and is 115 feet wide.

The "face" of "Paul Jones Ledge" has been stripped of all loose material and cleaned for a vertical distance of 23 feet, removing over 15,000 feet (cubic), of shattered limestone and over 50,000 feet (cubic) of slip material. E. R. Cooper



## Appendix B

## Distribution Made at the Time of Bankruptcy in 1914

The distribution is made at the rate of 12%.

Creditor	Claim	Dividend
Product Sales Co.	\$2,942.97	\$353.15
<i>Andrew N. White</i>	\$1,488.67	\$178.64
Frank Huff Harpers Ferry Rte. 4	\$12.50	\$1.50
James A. Pierce Sharpsburg	\$1.25	\$.15
Earl M. Gardner Sharpsburg	\$6.25	\$.75
John W. Gardner Sharpsburg	\$9.00	\$1.08
Frank Hutson Sharpsburg	\$16.75	\$2.01
Roy A. Gray Sharpsburg	\$1.00	\$.12
M.L. Gray Sharpsburg	\$3.10	\$.37
S.B. Morgan Harpers Ferry Rte. 1	\$22.28	\$2.67
Will Johnson Harpers Ferry Rte. 1	\$5.00	\$.60
Thomas McGowan Harpers Ferry Rte. 1	\$1.25	\$.15
Barton H. Haines Harpers Ferry Rte. 1	\$15.00	\$1.80
George McGowan Harpers Ferry	\$5.00	\$.60
James E. Waters Harpers Ferry Rte. 1	\$16.50	\$1.98
Link Jamison Harpers Ferry Rte. 1	\$51.15	\$6.13
Frank Grim Harpers Ferry Rte. 1	\$5.00	\$.60
Samuel E. Griffin Harpers Ferry Rte. 1	\$15.00	\$1.80
Russell Johnson Harpers Ferry Rte. 1	\$20.00	\$2.40

Thomas Holtz Harpers Ferry Rte. 1	\$13.28	\$1.59
Charles Smith Harpers Ferry R.F.D.	\$6.00	\$.72
Charles Smith Harpers Ferry R.F.D.	\$6.00	\$.72
T.D. Grim Harpers Ferry Route 1	\$3.75	\$.45
John Taylor Harpers Ferry Rte. 1	\$17.85	\$2.15
William McElroy Harpers Ferry Rte. 1	\$15.50	\$1.86
George Huff Harpers Ferry Rte. 1	\$20.00	\$2.40
Asa Ingram Harpers Ferry Rte. 1	\$2.50	\$.30
Jack Boyer Dargan, Md.	\$15.20	\$1.82
<b><i>Victor Cushwa &amp; Sons</i></b>	\$1,158.90	\$139.06
<b><i>William B. Hess</i></b>	\$1,673.87	\$200.86
Nathan Lisberger Baltimore, Md.	\$51.80	\$6.21
Samuel E. Collmus Govanstown, Md	\$3,500.00	\$420.00
Louis C. Reyton	\$30.75	\$3.69
The Kelly Stationery Company	\$10.35	\$1.24
Peter G. Arnold Woodberry, Md	\$51.78	\$6.21
Charles E. Reale	\$250.00	\$30.00
John Farley	\$27.08	\$3.25
H.J. Gallagher	\$51.72	\$6.20
<b><i>Detrich Brothers Baltimore, Md.</i></b>	\$219.67	\$26.36
<b><i>Mrs. Ella B. Hess</i></b>	\$1,050.00	\$126.00
Daniel J. Donohue	\$51.72	\$6.20
<b><i>Govans Mutual Building and Loan Association</i></b>	\$500.00	\$60
Ruben Rosenstein	\$67.65	\$8.11
Commercial Printing and Stationery Co.	\$1.30	\$.15
Lyon Conklin and Co. Inc.	\$16.11	\$1.93
<b><i>Gardner H. Callanen</i></b>	\$472.33	\$56.88
Henry H. Meyer Co.	\$236.10	\$31.87
<b><i>The Kritzer Company</i></b>	\$26.00	\$3.12

The Law Construction Co.	\$275.36	\$33.04
The B&O Railway Co.	\$250.02	\$30.00
Standard Oil Company	\$46.52	\$5.58
C & P Telephone Company Baltimore	\$54.30	\$6.52
John J. Greer Baltimore, Md.	\$45.19	\$5.42
National Supply Co. Baltimore, Md.	\$9.55	\$1.14
Laura T. Griswold New York	\$500.00	\$60.00
The Tiona Oil Company	\$50.58	\$6.06
James F. Hughes	\$26.90	\$3.55
Harry E. Garner	\$19.55	\$2.34
Giddings and Rogers	\$5.25	\$.63
The Urschel-Bates Valve Bag Co.	\$1,487.48	\$178.49
Edward Mullen	\$58.50	\$7.02
The Crane Company	\$613.11	\$73.57
	TOTAL CLAIMS: \$17,650.89	TOTAL DIVIDENDS: \$2,117.99

## Illustrations



1. The foundation seen by Tom Clemens across the canal prism.



2. Edward R Cooper

# State of Delaware.



## Office of Secretary of State.

*I, Charles S. Richards, Secretary of State of the State of Delaware, do hereby certify that the above and foregoing is a true and correct copy of*  
Certificate of Incorporation of the "POTOMAC MINING COMPANY," as received  
and filed in this office the sixth day of March, A. D. 1908, at 9 o'clock  
A. M.

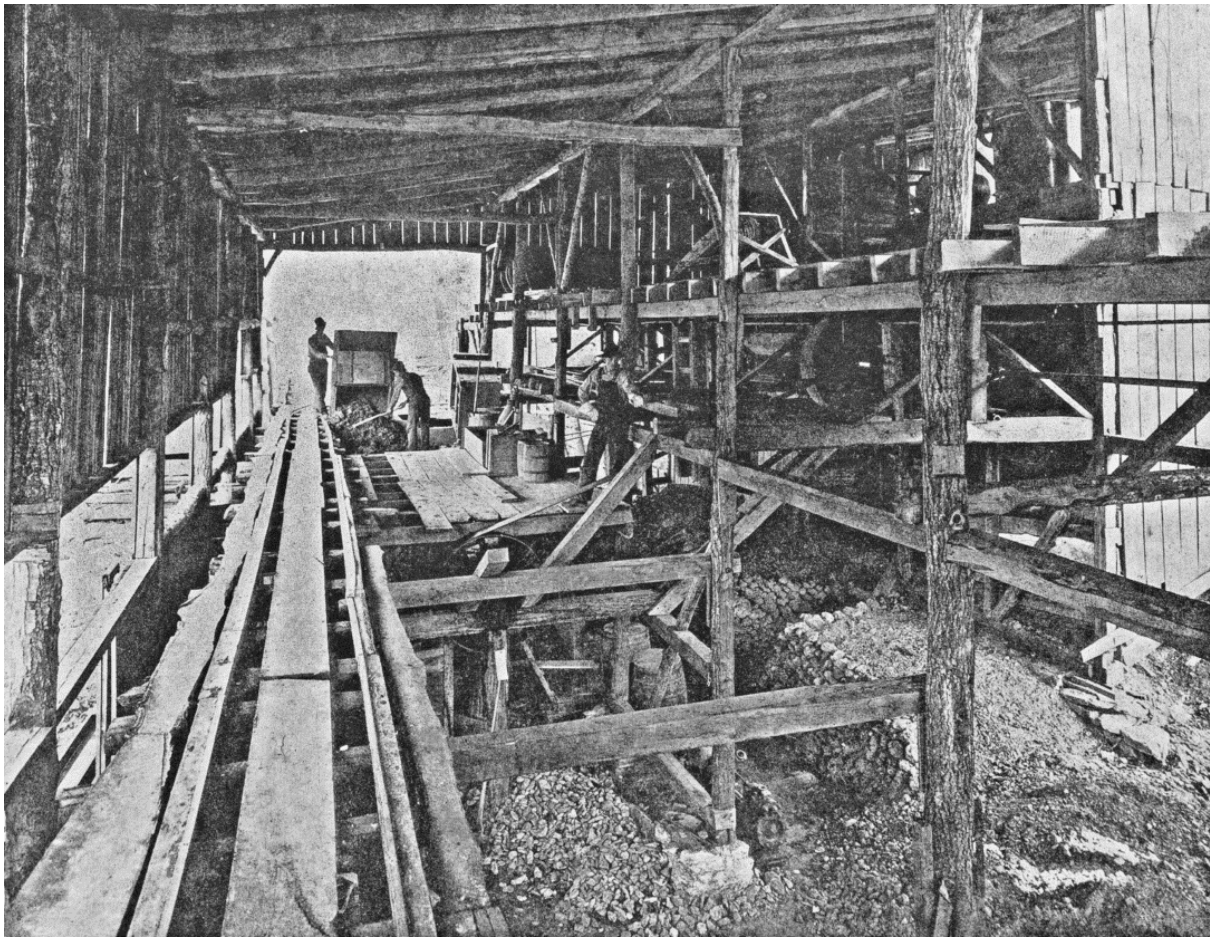


*In Testimony Whereof, I have hereunto set my hand  
and official seal, at Dover, this*

*eighth day of October,  
in the year of our Lord one thousand nine hun-  
dred and twelve.*

*Charles S. Richards*  
Secretary of State.

3. Copy of the original Incorporation Certificate of the Potomac Mining Company  
Courtesy National Archives



4. Manganese washer and concentrator at the Potomac Refining Company  
illustration from *Sixty Dollars A Second*

Form 235, 1-14-08, 5000. C. H. M. 10110.

**MARYLAND STEEL COMPANY.**

LABORATORY REPORT, No. ....  
Ores. .... Oct., 2, 1908. ....

REPORT OF ANALYSIS OF ..... Sparrow's Point, ..... 190

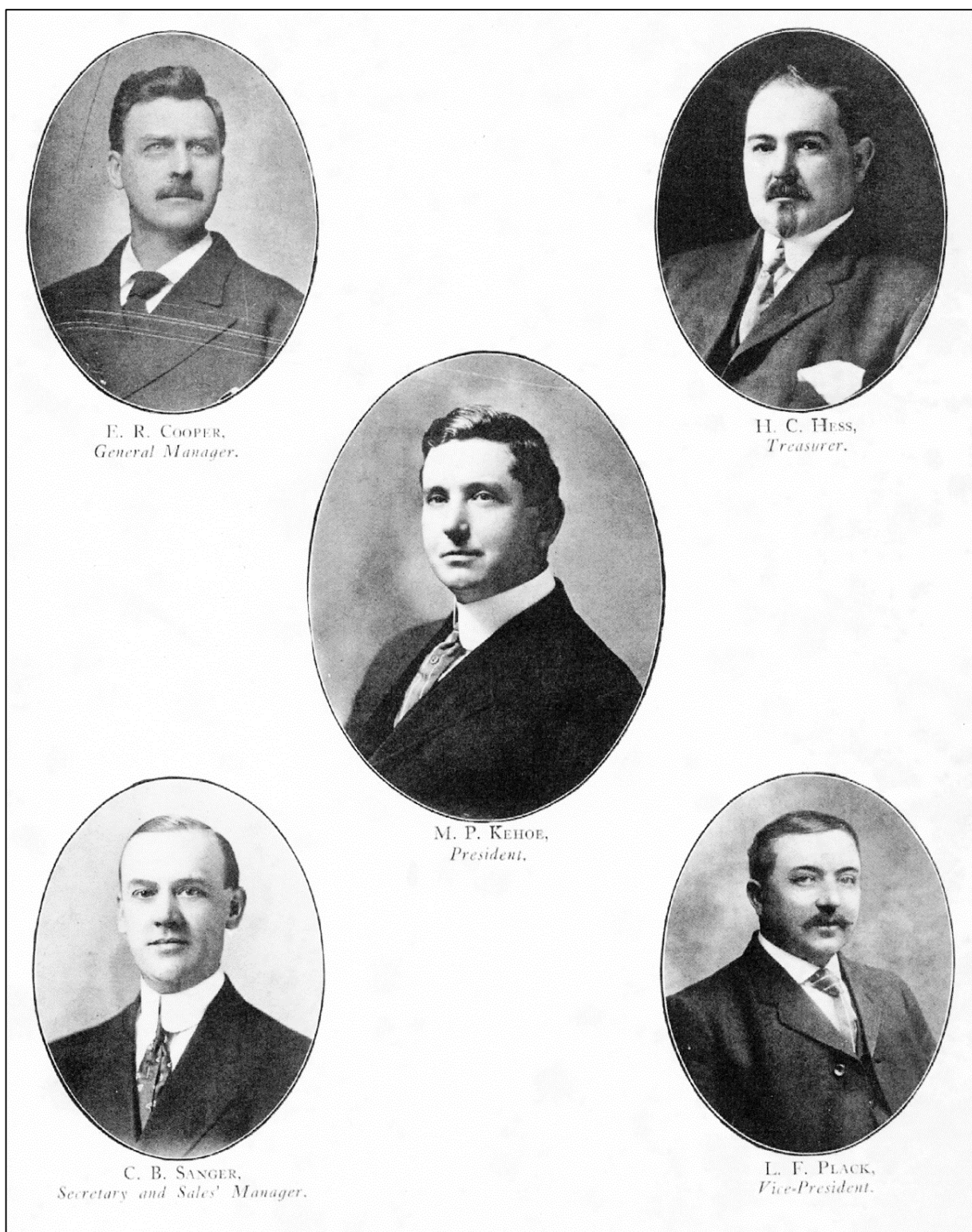
NAME.	Fe	SiO <sub>2</sub>	P	Mn				
Samples of ore from Dr. J. S. Woodward.								
Manganese Ore.....	.35	.25	.112	47.76				
Iron Ore.....	45.59	22.30	.868					

*J. H. Owings* ..... Chemist,  
Maryland Steel Co.

*Plamtidis Exhibit*  
*No. 100*

5. Test report from the Maryland Steel Company  
Courtesy National Archives

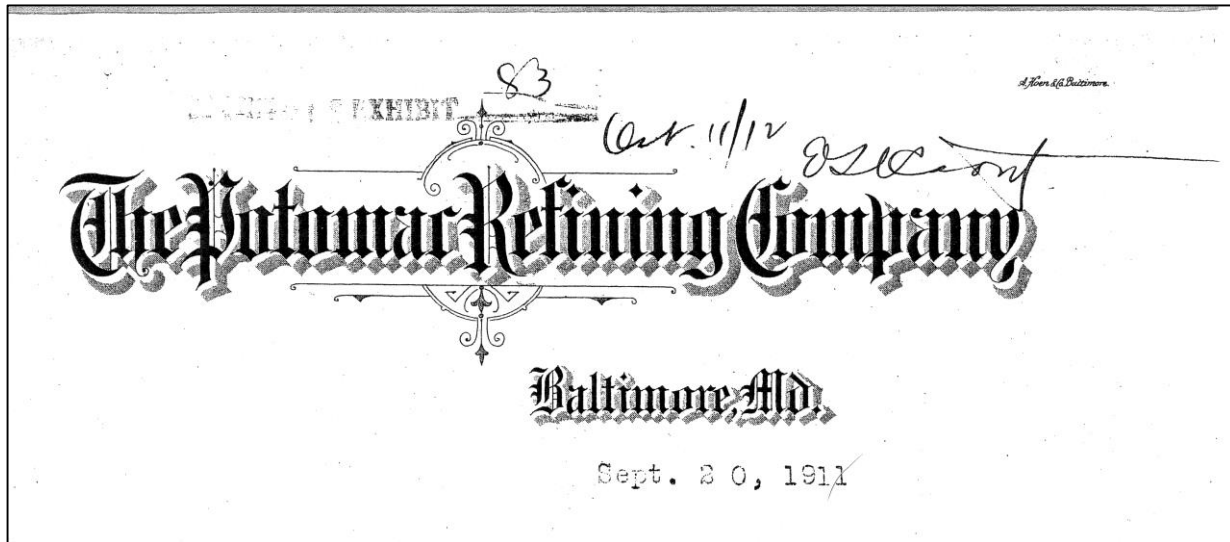




6. The officers of the Potomac Refining Company  
Illustration from *Sixty Dollars A Second*



7. Letterhead of the A.B. Young and Company  
Courtesy National Archives



8. One style of Potomac Refining Company Letterhead  
Courtesy National Archives



9. Most Common letterhead of the Potomac Refining Company. Note that the Executive Offices had a New York address. Courtesy National Archives



## Certificate from the General Counsel of the Potomac Refining Company

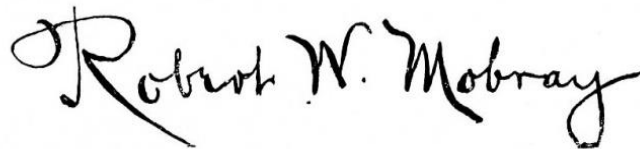
U. S. P. ST. PAUL 2328

ROBERT W. MOBRAY,  
ATTORNEY AT LAW.

ROOMS 502-508 LAW BUILDING.  
BALTIMORE, MD.

June 10th, 1910.

This is to certify that I have examined the Deeds, Records and the Title to the property owned and controlled by The Potomac Refining Company, situated in Washington County, Md., and beg to report that I find the same free and clear of all incumbrances, the title being perfectly good and merchantable in every respect.



10. Certification of Title for the Potomac Refining Company Lands.  
From *Sixty Dollars A Second* Courtesy National Archives

# Potomac Refining Company

(Incorporated under the laws of Delaware)

## CAPITALIZATION :

\$600,000 preferred 7% cumulative stock, Par value \$5.00

\$900,000 common, profit participating stock, Par value \$1.00

<i>President</i> . . . . .	M. P. KEHOE	<i>Treasurer</i> . . . . .	H. C. HESS
<i>Vice-President</i> . . . . .	L. F. PLACK	<i>Secretary</i> . . . . .	C. B. SANGER
<i>General Manager</i> . . . . .	E. R. COOPER		

## *General Counsel*

ROBERT W. MOBRAY, Atty-at-Law, Baltimore, Md.

## *Resident Directors*

Delaware Charter Guarantee and Trust Company, Wilmington, Del.

## GEOLOGICAL FORMATION, PHYSICAL CHARACTERISTICS, RAW MATERIAL, ETC.

DR. WIRT TASSIN, Ph. D.

Formerly Chemist and assistant curator in charge of Division of Mineralogy, United States National Museum. Special Agent United States Geological Survey at World's Columbian Exposition; Member American Chemical Association; Washington Academy of Sciences; Geological Society, American Association for Testing Minerals, etc.

CHARLES A. WELLER, M. E., Vice-Pres. Commercial Mining and Milling Company, Knoxville, Tenn.

## ANALYSES AND CHEMICAL AND PHYSICAL TESTS

PENNIMAN & BROWNE, Analytical and Consulting Chemists, Baltimore, Md.

W. B. D. Penniman, Ph. D., M. D., Professor of Chemistry at Baltimore Medical College, State Board of Health.

Arthur Lee Browne, A. B., M. D.

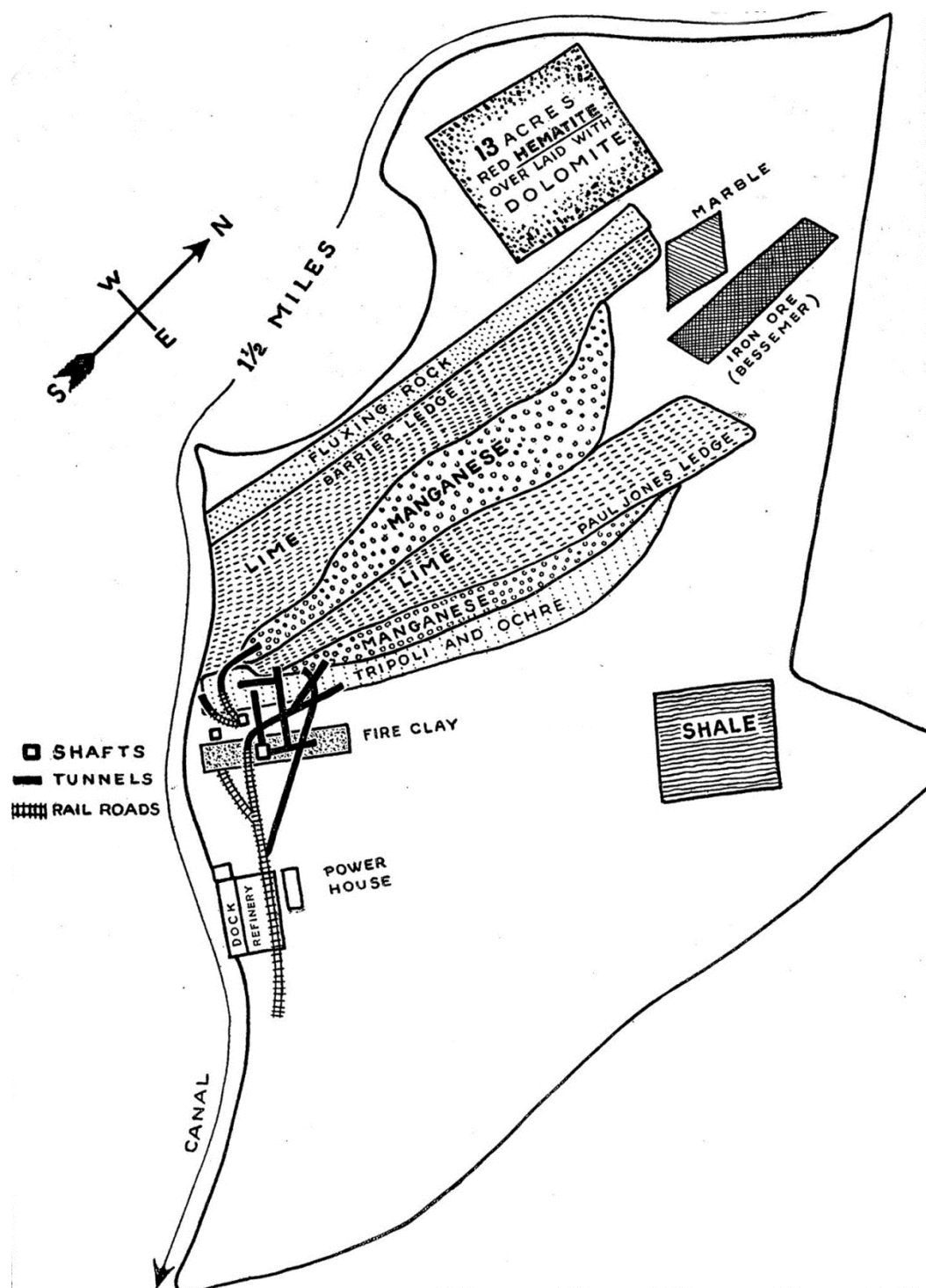
L. H. WILLIAMS, Metallurgist and Chemist, Washington, D. C.

J. W. OWINGS, Assistant Chemist, Maryland Steel Company.

## *Endorsements as to the integrity and ability of the officers from*

The Mayor of the City of Baltimore, Md.  
The President of the First National Bank, Parkton, Md.  
The Treasurer of the Merchants' and Miners' Transportation Co., Baltimore, Md.  
The Governor of the State of West Virginia  
The Directors of the Suburban Trust and Building Co., Govanstown, Md.  
The President of the Bank of the Monongahela Valley  
The Dean of the Maryland Medical College  
The President of the Second National Bank of Morgantown, W. Va.  
An Associate Judge of the Court of Appeals of the State of Maryland  
The Clerk of the Circuit Court of Baltimore, Md.

The President of the Duke-Peterson Hardware Co., Baltimore, Md.  
The General Manager of the Consolidated Gas, Electric Light and Power Co., Baltimore, Md.  
The Assistant Treasurer of the Federal Savings & Trust Co.  
The Treasurer of the Fort Avenue Savings Bank, Baltimore  
The Treasurer and Collector of Taxes of Baltimore County  
The President of the German Bank of Baltimore  
The President of the German-American Fire Insurance Co.  
The Member of Congress from the Third District of Maryland  
The Councilman from the Fourth District of Baltimore  
The President of the Girard Trust Company, Philadelphia  
The Rev. Joshua E. Wills, D. D., Baltimore  
An Associate Judge of the Circuit Court of Maryland



12. Map detail from *The Business that Makes Men Millionaires*.  
Courtesy National Archives

### Estimated Yearly Revenue From Products That Are Immediately Available



important

*This estimate represents only the early profits, those that should be realized from refining and shipping a very small quantity of each of our main products. Yet even this preliminary revenue will be sufficient to pay dividends of 15 per cent. to immediate investors. For full details of probable future profits see Page 24. Profits should ultimately amount to \$4,000 a day.*

Manganese .....	\$63,750.00
Lime .....	32,250.00
Marble .....	26,000.00
Iron .....	18,750.00
By-products.....	43,875.00
	<b>\$184,625.00</b>

#### ITEMIZED STATEMENT

<u>Manganese</u>	Cost	Sells	Annual Output	Working 250 days Annual Profit
Wash Ore.....	\$2.50	\$15.00	1500 tons	\$18,750.00
Kidney Ore.....	5.00	50.00	1000 tons	45,000.00
				<b>\$63,750.00</b>

The value of the wash ore can be increased by conversion into Ferro-Manganese.

During the process of concentrating manganese, the residuum, ochre-tripoli, can be saved at the same time.

<u>Lime</u>	Cost	Sells	Yearly Output	Working 250 days Annual Profit
Stone (crushed) per ton....	\$0.30	\$0.45	25,000 tons	\$3,750.00
Stone (pulverized) per ton..	0.70	0.90	10,000 tons	2,000.00
Agricultural per ton .....	1.50	2.25	10,000 tons	7,500.00
Building Lime per ton .....	2.00	3.00	12,000 tons	12,000.00
Hydrated Lime per ton ....	3.90	4.25	20,000 tons	7,000.00
				<b>\$32,250.00</b>

<u>Marble</u>	Cost	Sells	Annual Output	Working 250 days Annual Profit
Per Cubic Foot.....	\$0.40	\$3.00	10,000 Cubic Feet	\$26,000.00

<u>Iron</u>	Cost	Sells	Annual Output	Working 250 days Annual Profit
Iron Ore (Bessemer) .....	1.00	6.00	3,750 tons	\$18,750.00

No estimate has been made on Ferro-Manganese which if above annual output alone was converted would give each ton a value approximating \$40.00.

<u>By-Products</u>	Costs	Sells	Annual Output	Working 250 days Annual Profits
Ochre } Mean average	\$0.50	5.00	5,000 tons	\$22,500.00
Tripoli }				
Fire Clay }				
Fluxing Rock, per ton .....	0.30	0.50	50,000 tons	10,000.00
Red Hematite .....	0.80	2.50	3,750 tons	6,375.00
Dolomite .....	0.30	\$0.50	25,000 tons	5,000.00
				<b>\$43,875.00</b>

[21]

Courtesy National Archives

*We reprint herewith a letter from Mr. E. V. Machette to **prove** still further that our estimate of the value of our manganese is conservative.*

*You will note that Mr. Machette guarantees from \$50.00 to \$60.00 per ton for our high grade manganese.*

**E. V. MACHETTE**  
**Exporter and Importer**  
OFFICE: 120 LIBERTY ST. NEW YORK

MINERALS  
S, FERROS, METALS  
ALLOYS, ORES AND CLAYS

CABLE ADDRESS: "ORETANUS"  
A-B-C CODE, 5TH EDITION  
AND WESTERN UNION  
TELEPHONE 2721 CORTLANDT

Potomac Refining Co.,

Harpers Ferry, West Virginia

Gentlemen:-

In pursuance of conversation held yesterday with your Mr. E. R. Cooper, re your Manganese, especially the high grade 88 per cent. Mn. 203, I would say I am prepared to market same at the highest possible price for special purpose and can guarantee \$50 to \$60 a ton as a minimum according to quantity taken. I can sell of this grade, in America, a minimum quantity of 50 tons per month, and abroad, a like amount at possibly a higher price. If you will give me the sole selling agency on a 10 per cent. commission, I will undertake to handle this output to your satisfaction, provided you will give me a bankers guarantee of delivery and I will have a credit opened with our bankers here, Knauth, Nachod & Kuhne, or G. Amsinck & Co., to pay you 80 per cent. on Bill of Lading & Analysis, and the balance on arrival at destination and confirmation of analysis.

Please advise me also what quantity you can ship of a lower grade and at what price you will sell same f.o.b. cars and vessel; also send me 10 lb. sample of each, together with complete analysis of quantities which you will ship, advising me when shipments can commence.

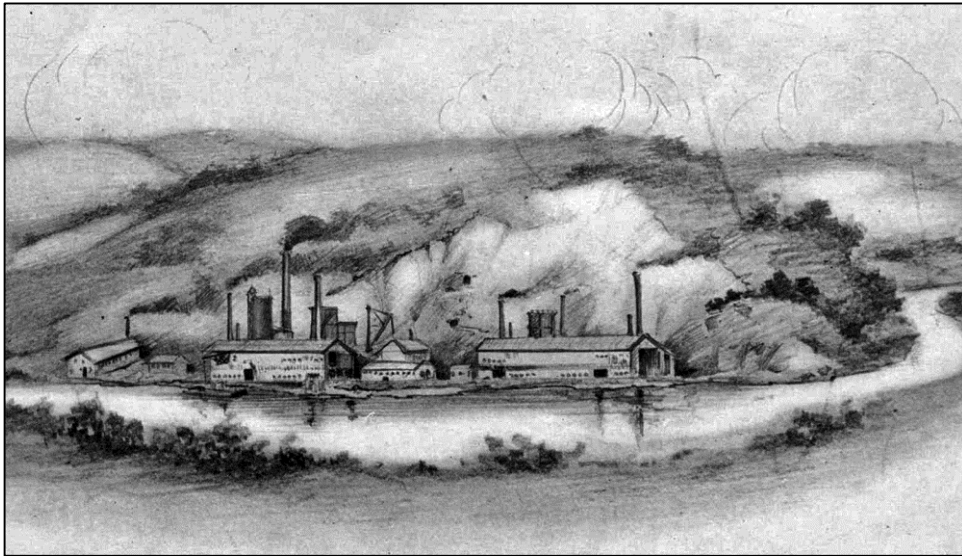
Awaiting an early reply, I am,

Yours truly,

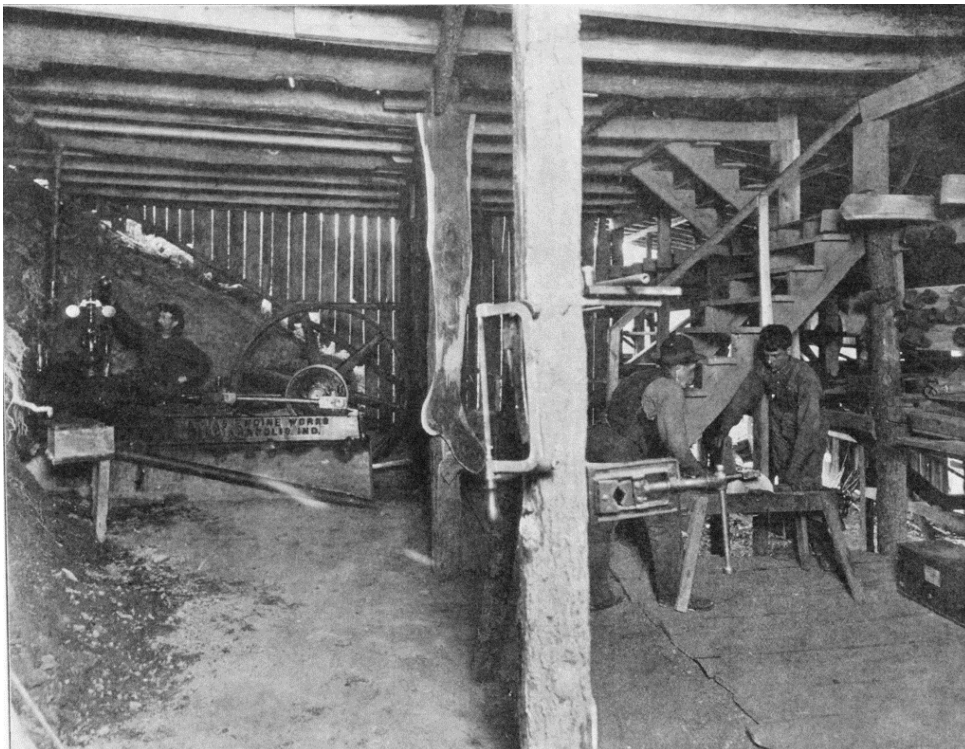


14. Machette Letter from *The Business That Make Men Millionaiers*  
Courtesy National Archives

Illustrations 15-22 all come from the book *Portfolio de Luxe*. The book was intended to be distributed to stockholders and was limited to a printing of 1,000. While this was the only time the drawing was used in a book, most of the photographs appeared in other advertising publications. Testimony at the trial would reveal that all of the "workers" were brought in from a nearby mine and posed for the photographs. The entire photo shoot took about 10 minutes according to witnesses.

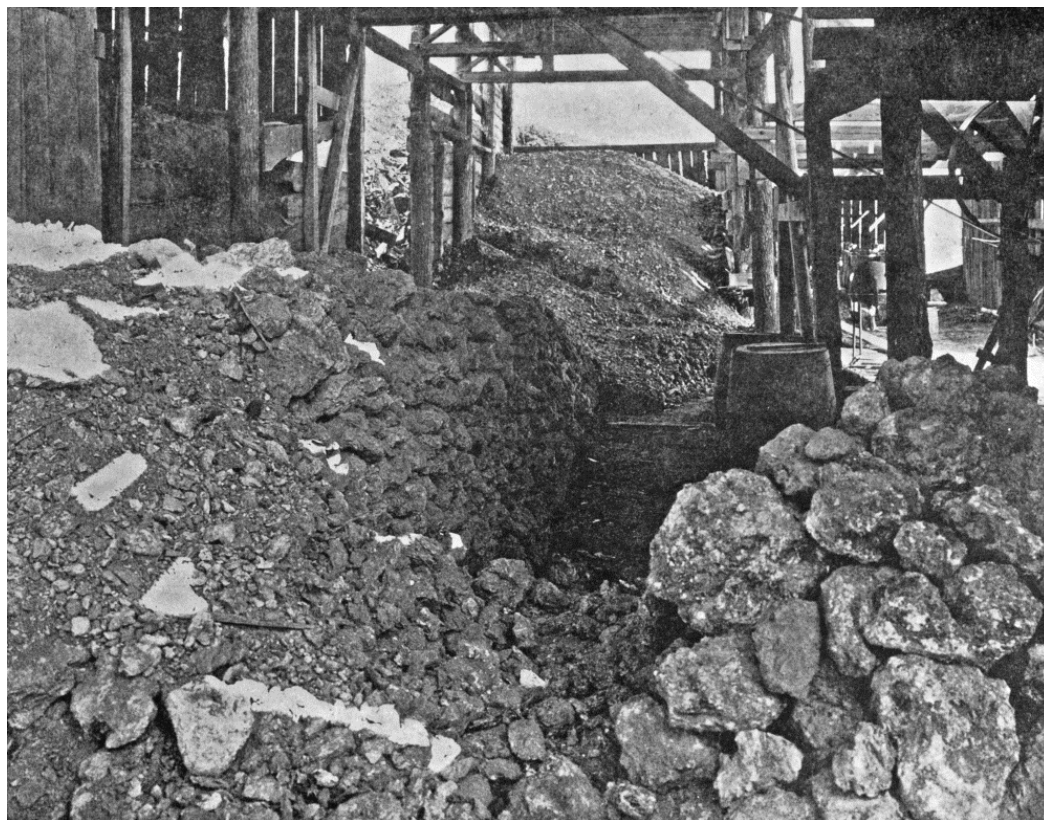


15. Drawing of the Potomac Refining Company

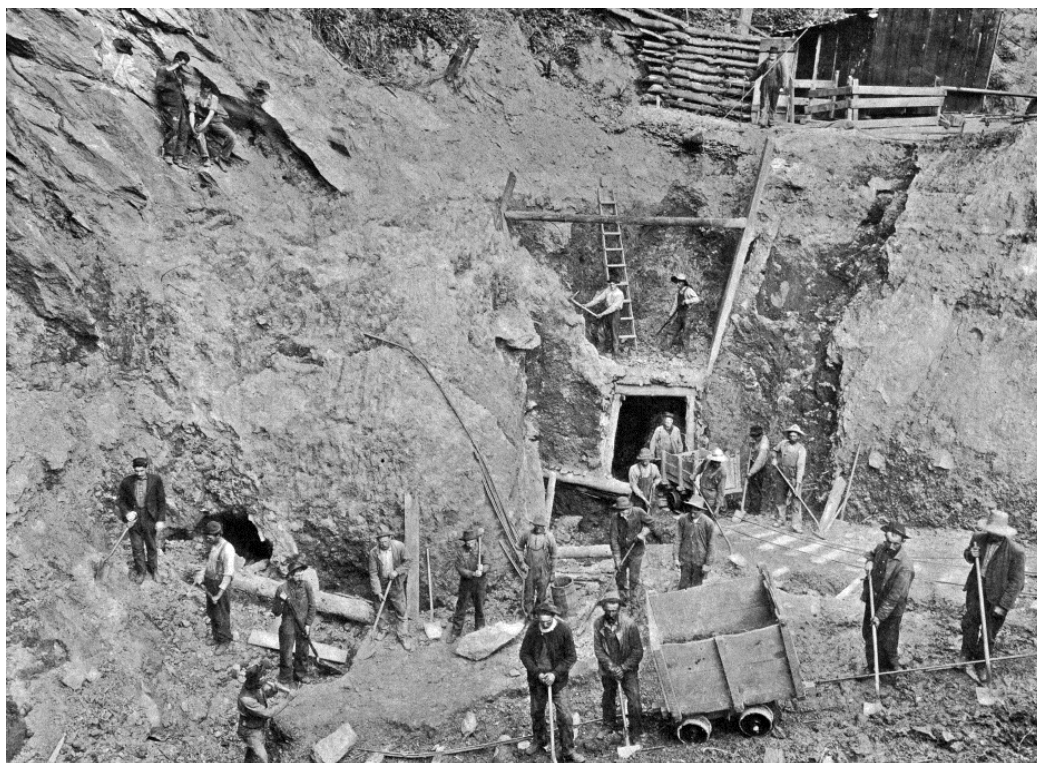


16. View of a portion of the engine room.

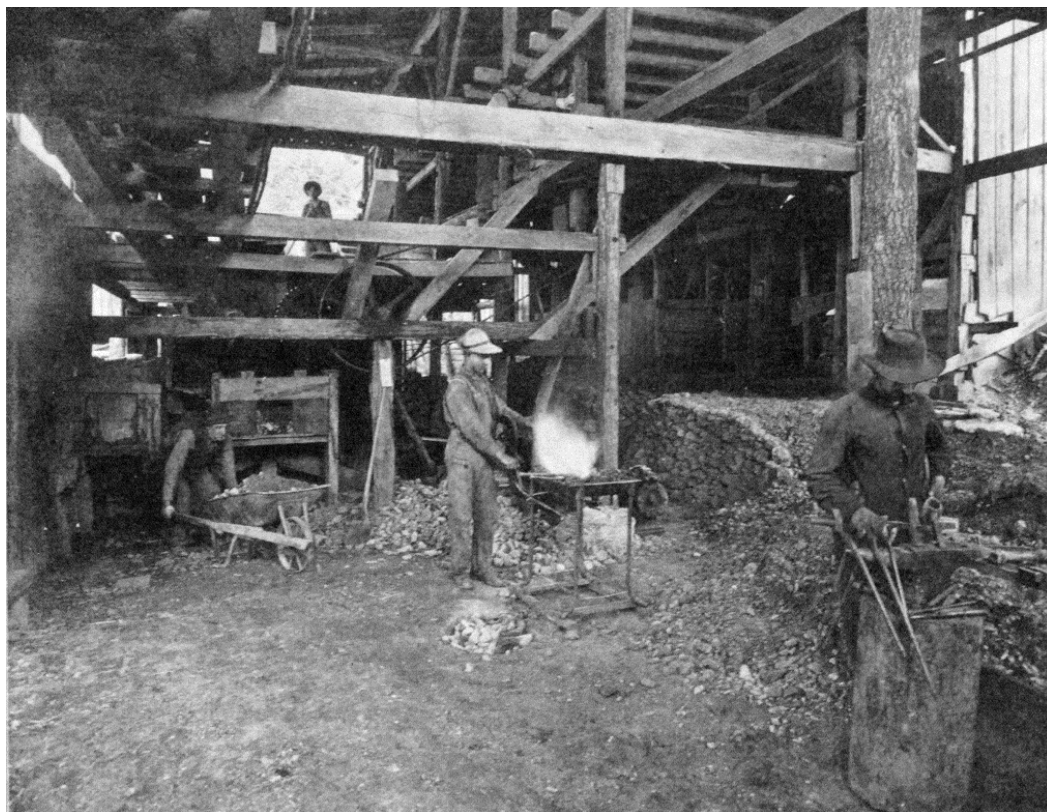




17. Manganese piled up and ready to be refined at the Potomac Refining Company



18. Workers from other mines posing as employees at Potomac Refining Company.



19. Interior of one of the buildings.



20. Looking across the canal toward our buildings and works.





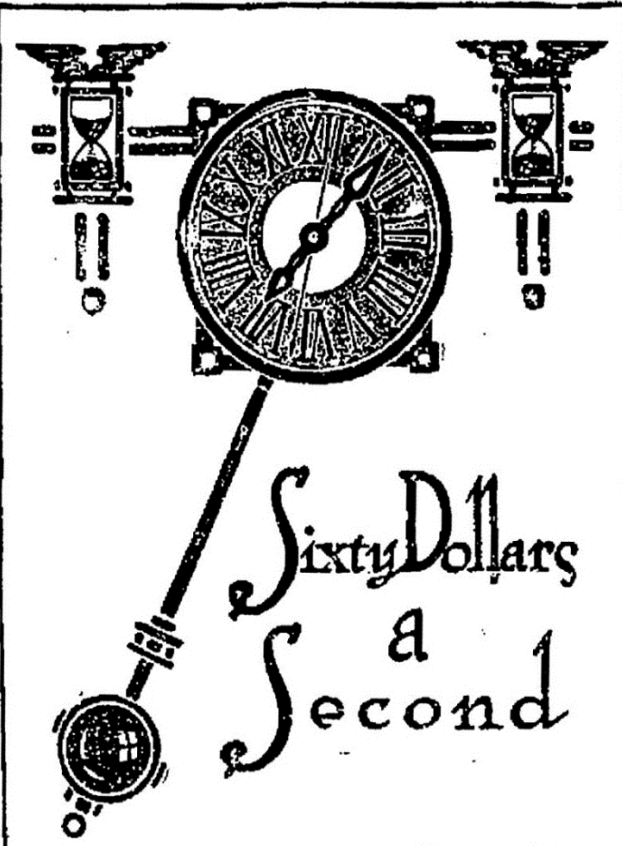
21. Birds eye view of the Potomac Refining Company Works.



22. Mining forty feet below the surface. Manganese overhead.

TUESDAY, DECEMBER 6, 1910

## A MONEY TALK



**The Business That  
Makes Men Millionaires**

SEND FOR THIS BOOK TODAY

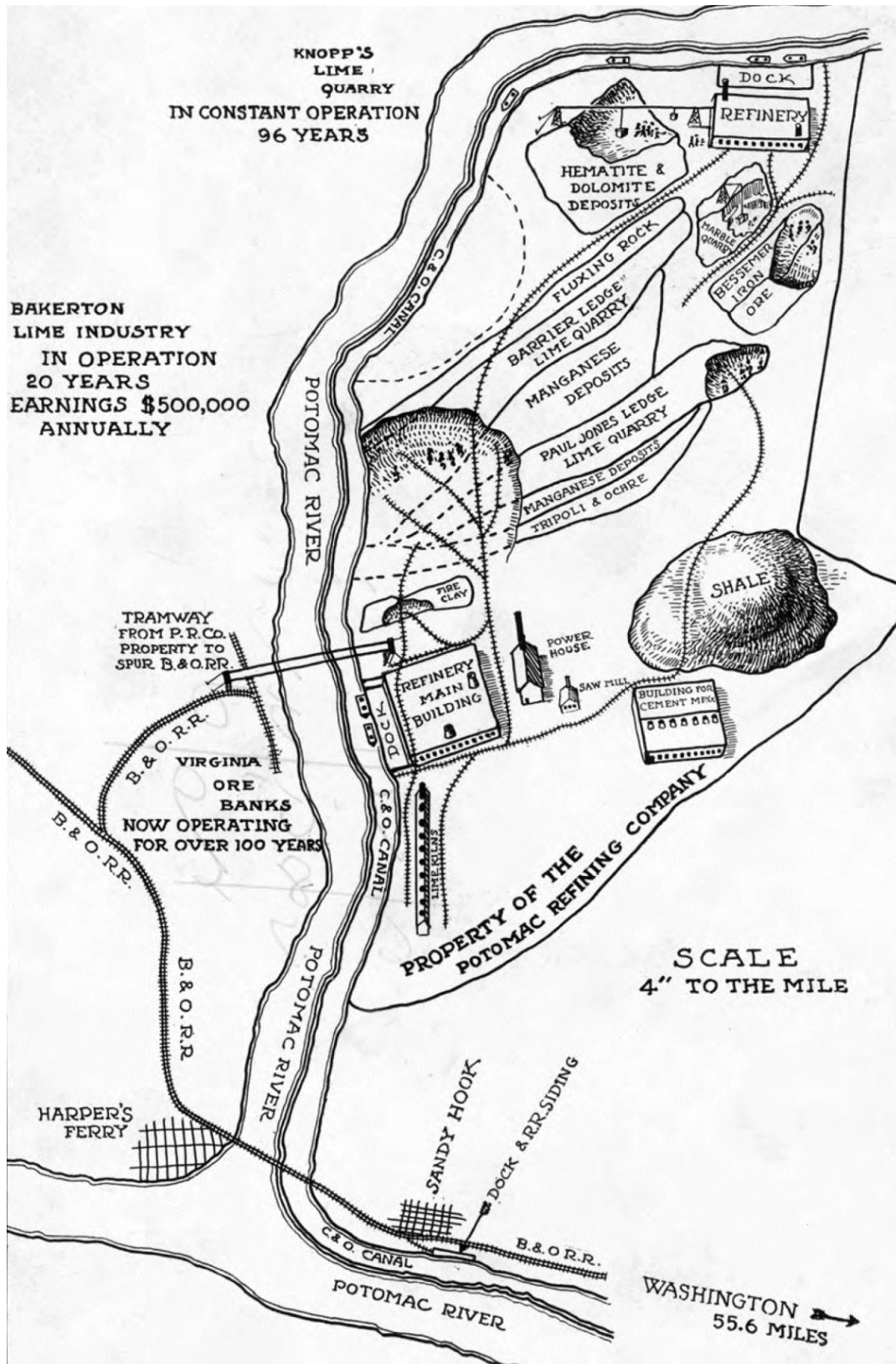
If you are interested in hearing something new about money-mastery in America and about a business in which some of the richest men in this country are interested. Among them are the great refining and iron masters of the world.

It is yours for the asking, if you have \$25 to \$1000 or more to invest, or can lay aside a small sum monthly. Only a few copies of the book remain for special distribution. Write today.

POTOMAC REFINING COMPANY, 66 West 35th Street, New York.

23. Advertisement for *Sixty Dollars A Second*  
Courtesy of Newspapers Online





24. Map detail from *Sixty Dollars A Second*  
Courtesy Karen Gray

## \$65,941,500.00 in Profits

		Gross Resources (Estimated)	Net Profits (Estimated)
Manganese (1,000,000 tons)	- -	\$25,000,000	\$20,000,000
Limestone (37,500,000 tons)	- -	37,500,000	18,105,000
Marble (5,000,000 cubic feet)	- -	15,000,000	13,000,000
Iron Ore (7,500,000 tons)	- -	18,750,000	11,250,000
Fluxing Rock (10,000,000 tons)	-	5,000,000	2,000,000
Ochre (100,000 tons)	- - -	500,000	450,000
Tripoli (75,000 tons)	- - -	375,000	337,500
Fireclay (110,000 tons)	- - -	550,000	495,000
Hematite (160,000 tons)	- - -	400,000	272,000
Dolomite (160,000 tons)	- - -	80,000	32,000
		<u>\$103,155,000</u>	<u>\$65,941,500</u>

25. Profit projection in *Sixty Dollars A Second*  
Courtesy Karen Gray

**Bonus of Common Stock**

A bonus of 5 shares of Common will be given with each 2 shares of preferred.

EXAMPLES:  
 \$50 will buy 10 shares of Preferred and 25 shares of Common  
 \$100 will buy 20 shares of Preferred and 50 shares of Common  
 \$200 will buy 40 shares of Preferred and 100 shares of Common  
 \$500 will buy 100 shares of Preferred and 250 shares of Common

*CASH APPLICATION FOR STOCK*

**Potomac Refining Company,**  
**66 West 35th Street**  
**New York.**

Par value Preferred stock \$5.00 a share, common \$1.00 a share.

Gentlemen: Date.....191.....

I hereby subscribe for..... shares of Preferred stock, full paid and non-assessable of the POTOMAC REFINING COMPANY at \$5.00 per share.

I inclose herewith \$..... in full payment thereof.

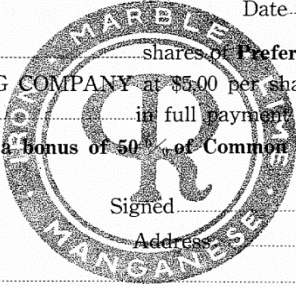
I am also to receive a bonus of 50% of Common stock the par value of which is \$1.00 per share.

Signed.....

Address.....

Issue Certificate to.....

All remittances should be made payable to POTOMAC REFINING COMPANY. Payments may be made in draft, cheque, money or express order, or currency. All letters containing currency should be registered.

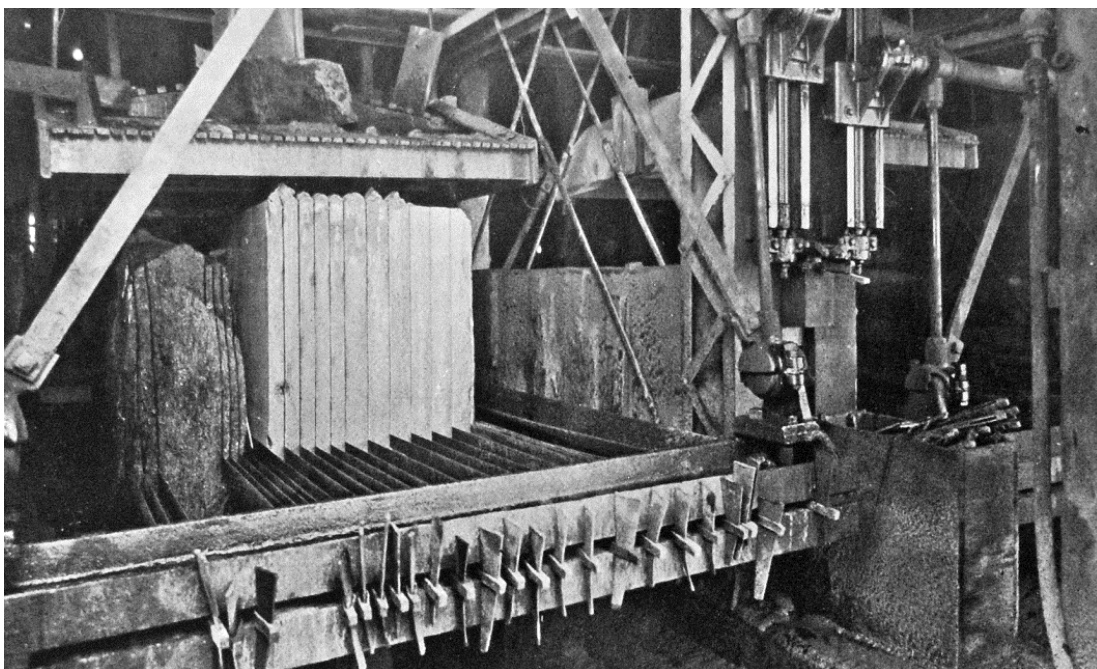


26. The stock order form was included in all Potomac Refining Company mailings.  
Courtesy National Archives

Illustrations 27–30 are from the advertising book *The Business That Makes Men Millionaires*. Courtesy of National Archives.

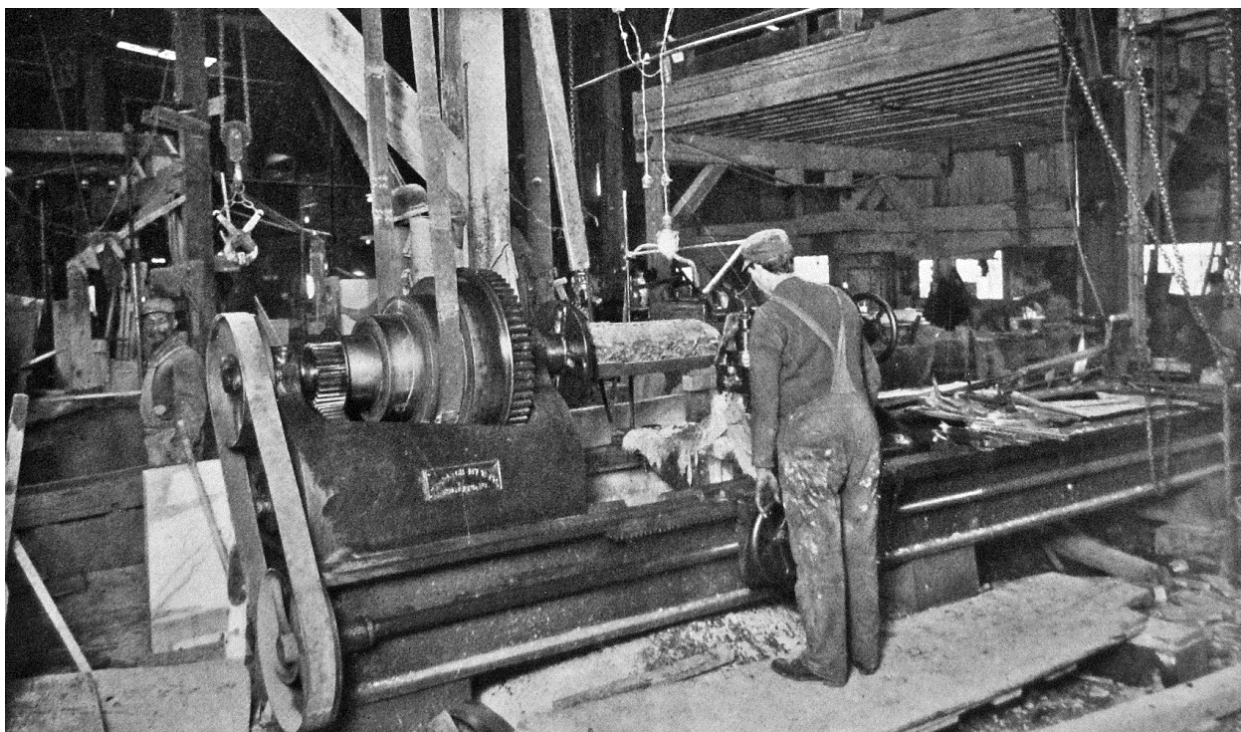


27. PORECO marble pedestal

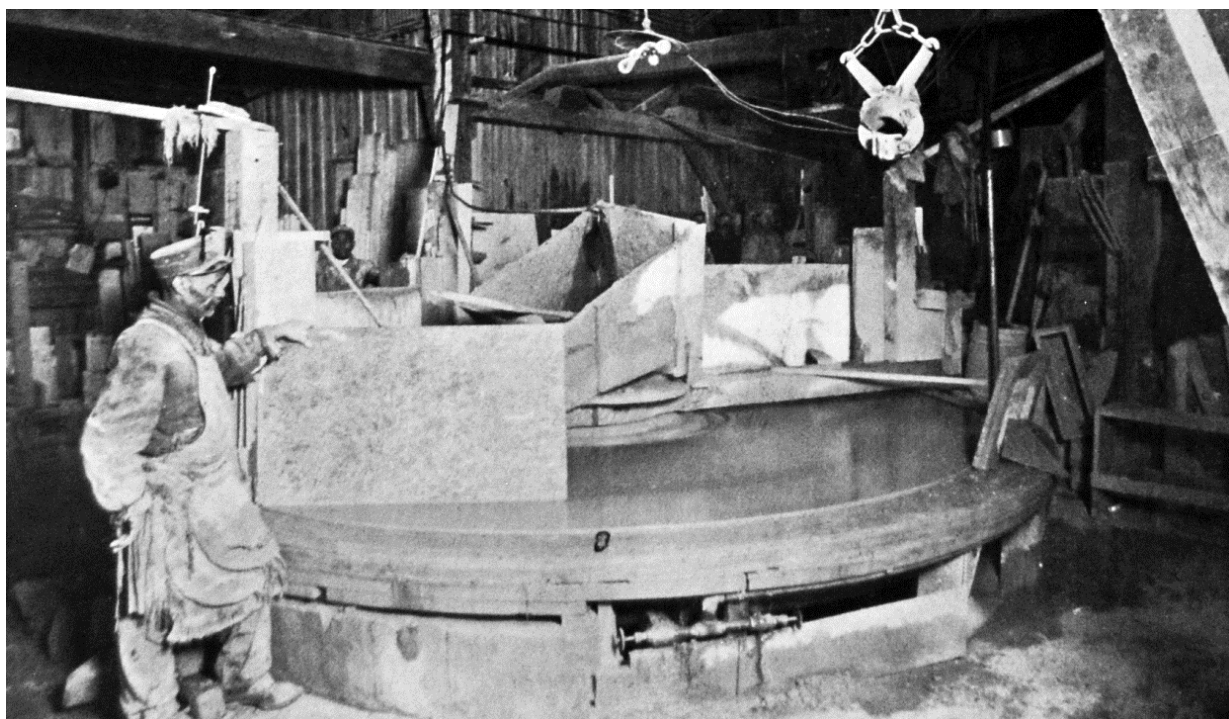


28 Sawing Potomac quarry marble into slabs.

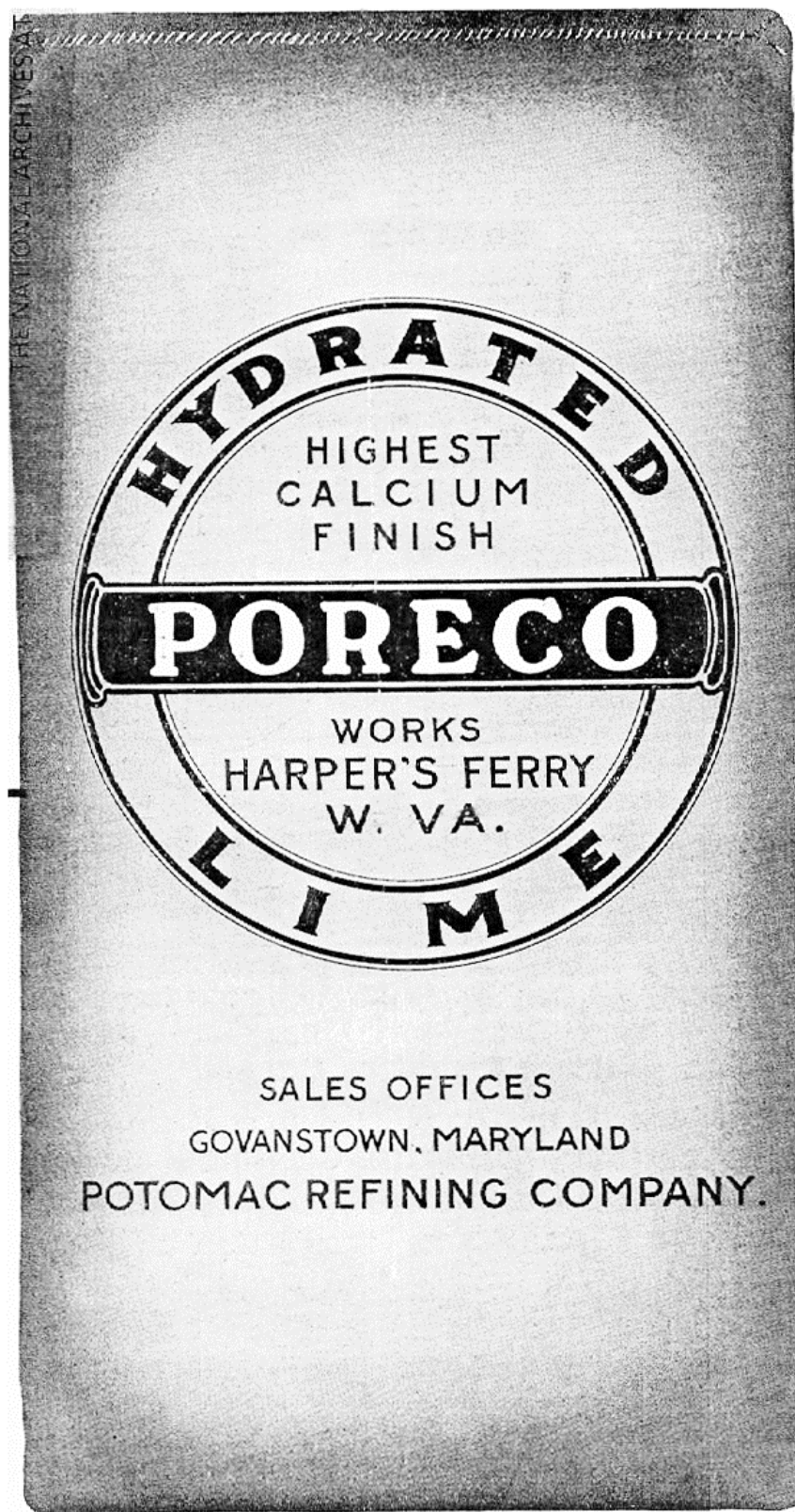




29. PORECO marble column on a lathe



30. PORECO marble being polished.



31. Lime bag pictured in an advertisement  
Courtesy National Archives



Received  
Director  
Annual Revenue  
Received  
Feb 8-1912  
Dist of Maryland

REVENUE ON OR BEFORE MARCH 1 IS \$10,000  
TO \$10,000.

Page Feb. 1912 Line         

UNITED STATES INTERNAL REVENUE.  
RETURN OF ANNUAL NET INCOME.  
(Section 38, Act of Congress approved August 5, 1909.)  
MANUFACTURING CORPORATIONS.

RETURN OF NET INCOME RECEIVED DURING THE YEAR ENDING DECEMBER 31, 1911  
by The Potomac Refining Company  
a corporation, the principal place of business of which is located at 502-506 Lam Building  
City or Town of Baltimore, in the State of Maryland

1. Total amount of paid-up capital stock outstanding at close of year Dec 31, 1911 \$ 1,044,857.00  
2. Total amount of bonded and other indebtedness outstanding at close of year Dec 31, 1911 \$ 124,484.37  
3. GROSS INCOME (see Note A)..... \$ None  
DEDUCTIONS.  
4. Total amount of all the ordinary and necessary expenses of maintenance and operation of the business and properties of the corporation EXCLUSIVE OF INTEREST PAYMENTS. (See Note B)..... \$           
5. (a) Total amount of losses sustained January 1 to December 31 not compensated by insurance or otherwise..... \$           
(b) Total amount of depreciation January 1 to December 31..... \$           
6. Total amount of interest paid January 1 to December 31 on an amount of bonded and other indebtedness not exceeding the amount of paid-up capital stock outstanding at the close of the year..... \$           
7. (a) Total taxes paid January 1 to December 31 imposed under authority of the United States or any State or Territory thereof..... \$           
(b) Foreign taxes paid..... \$           
8. Amount received by way of dividends upon stock of other corporations, joint-stock companies, associations, and insurance companies subject to this tax..... \$           
TOTAL DEDUCTIONS (see Note B)..... \$           
9. NET INCOME..... \$ None  
10. Specific deduction from net income allowed by law..... \$ 5,000.00

*Cannot answer these questions because we are not a going concern at the time, but think we will be in operation in about 60 days.*  
W.H.B.  
W.A.M.

32. Detail from the United States Tax Form for the year ending December 31, 1911  
Courtesy National Archives.

The Potomac Refining Co.

264

GOVANSTOWN, MD. Jan. 25 1911 No. 275

THE SUBURBAN TRUST & BUILDING CO.

PAY TO THE ORDER OF E. R. Cooper \$16,500.00

Sixteen thousand five hundred & no/100 DOLLARS.

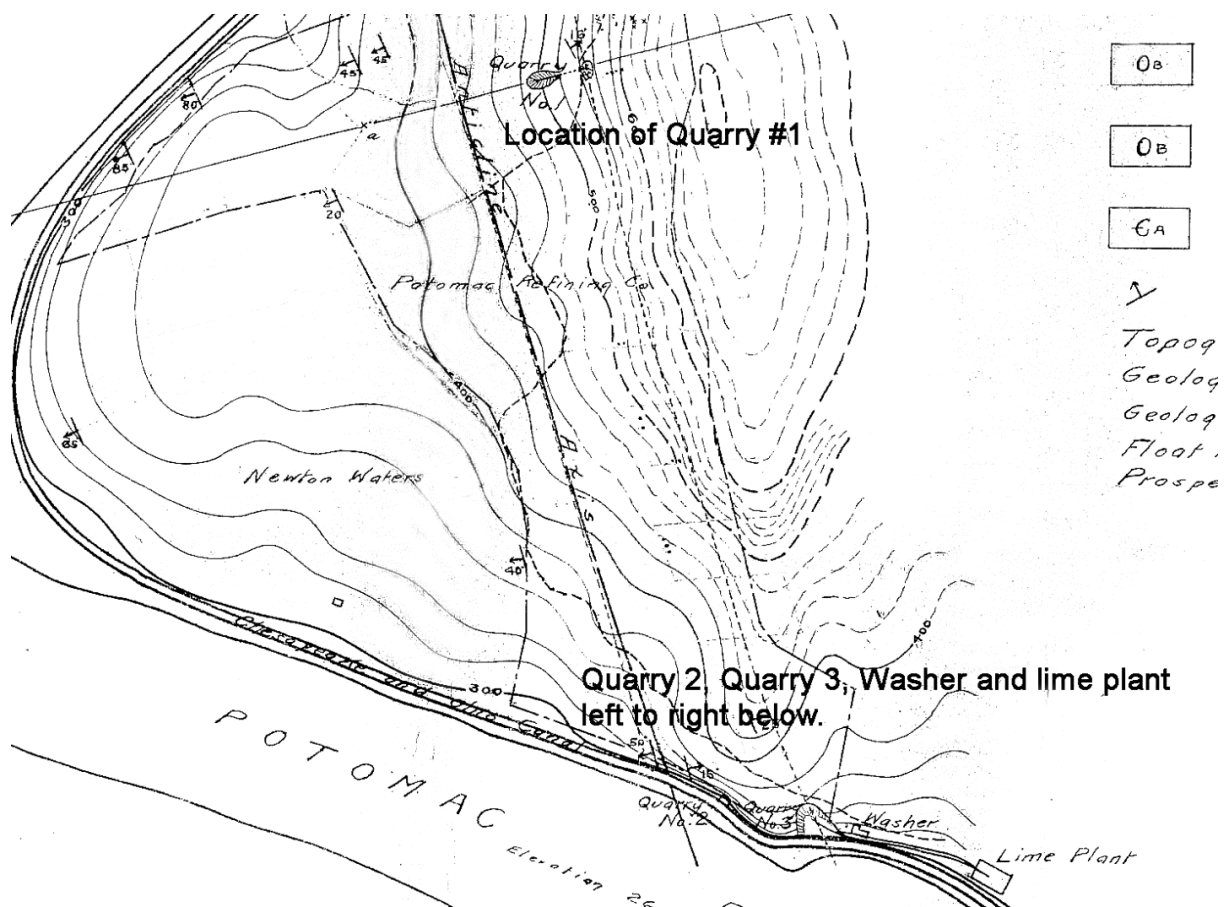
THE SUBURBAN TRUST & BUILDING CO.,  
GOVANSTOWN, MD.  
Cashier.

THE POTOMAC REFINING CO.

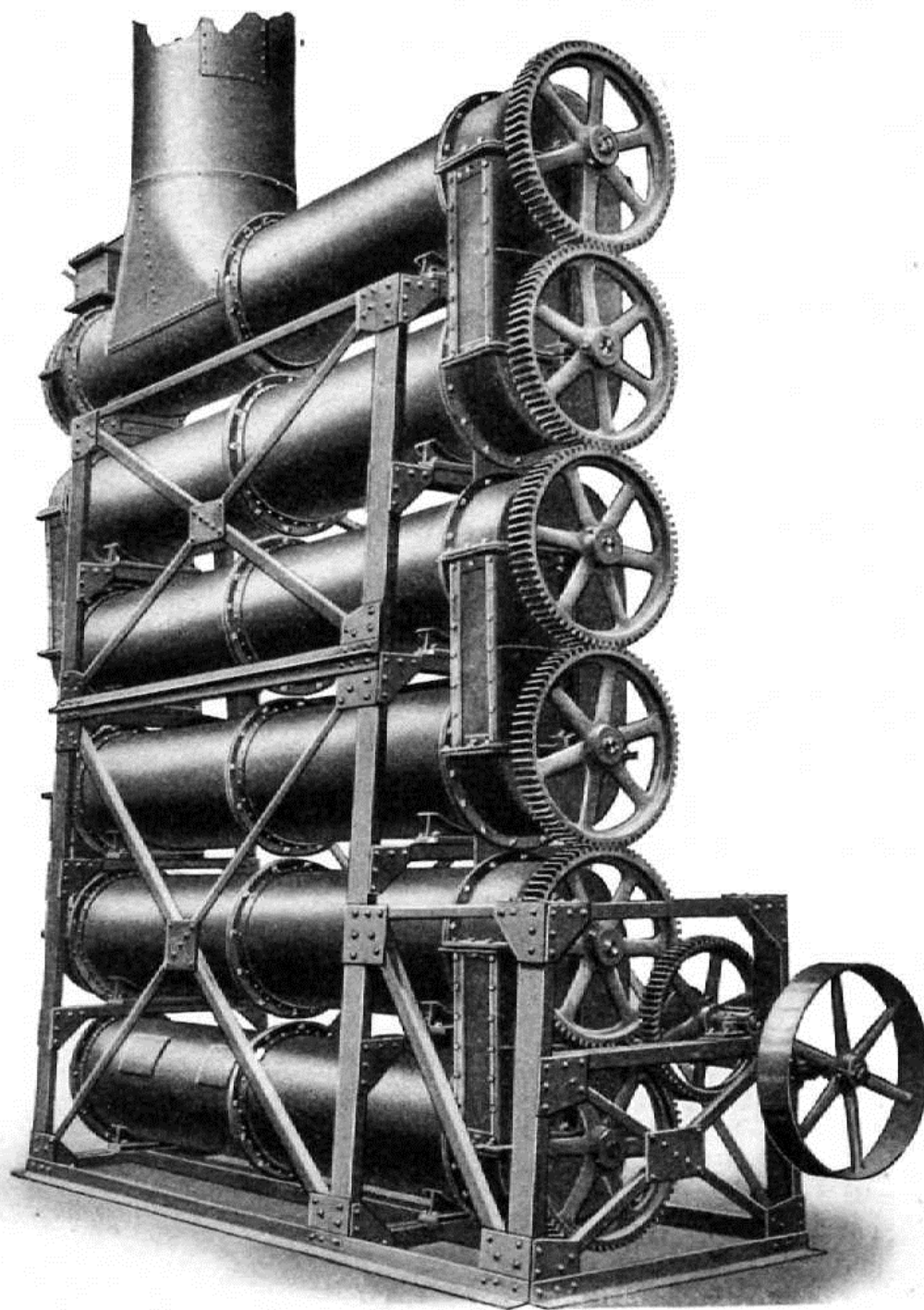
W. C. H. Bess  
TREASURER.

\$16,500.00

33. A check from the Potomac Refining Company to Edward R. Cooper.  
Courtesy National Archives



34. Detail of Plaintiff's Exhibit # 97 United States vs Michael P. Kehoe et.al.  
 Courtesy National Archives

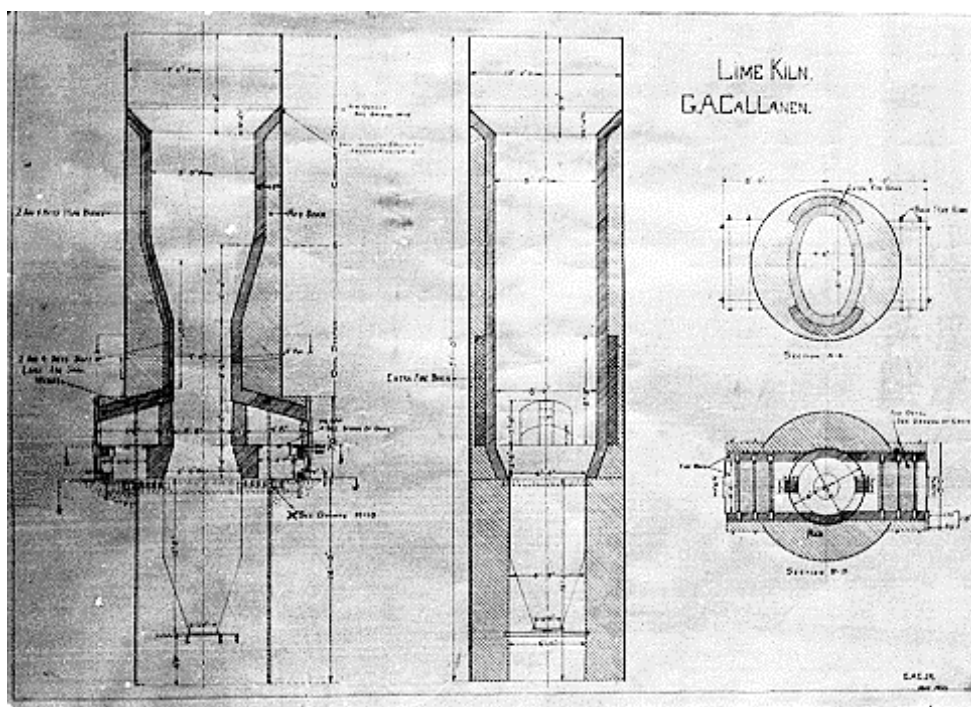


**KRITZER HYDRATOR**

35. Kritzer Hydrator  
Courtesy Hathi Trust Digital Library



36. Gardner A. Callanen at work on the refinery.  
Photo Courtesy of Callanen Family



37. Drawing of the pot kilns by G. A. Callanen.  
Photo courtesy of the Callanen Family



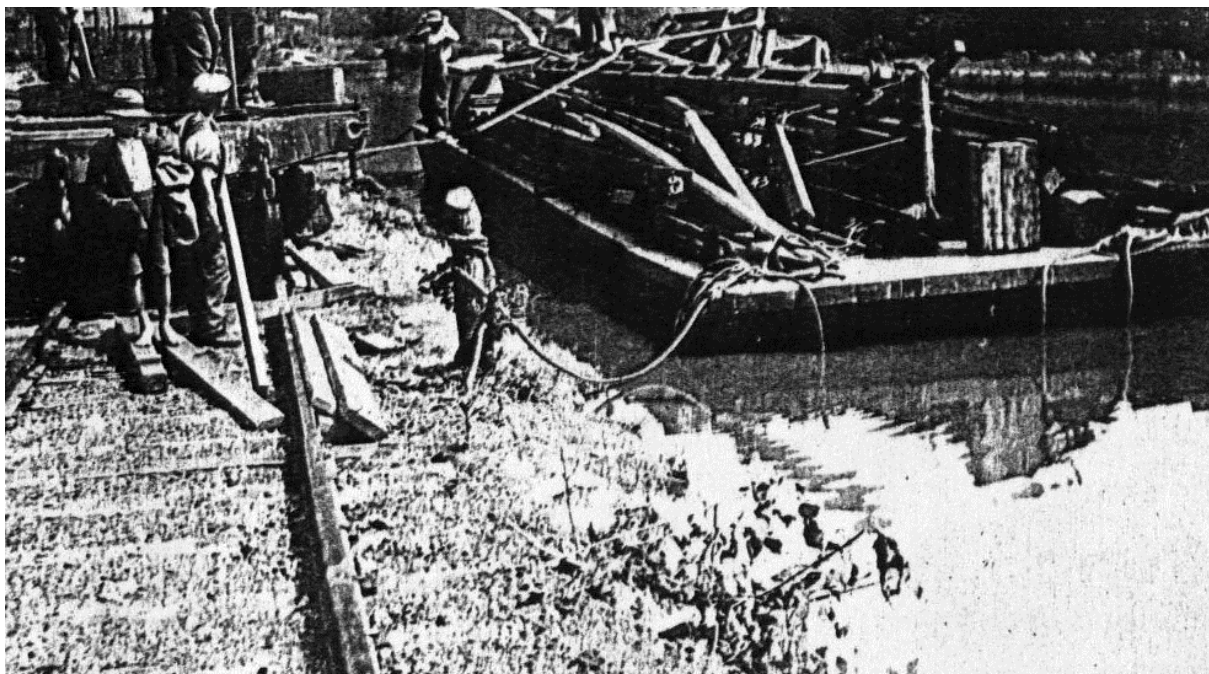
38. "Pot Kilns" in 2013.  
Courtesy Andrew Clemens

<b>THE POTOMAC REFINING COMPANY</b>		No. 577
FILE No. 555	GOVANSTOWN, MD.	June 27 1911
PAY TO THE ORDER OF	G. A. Callanen	\$23,175 <sup>00</sup>
Twenty three thousand one hundred seventy five <sup>00</sup> / <sub>100</sub> DOLLARS,		
TO THE SUBURBAN TRUST AND BUILDING CO. GOVANSTOWN, MD.		JUN 27 1911 The Suburban Trust & Building Co. GOVANSTOWN, MD. H. C. Hesse TREASURER

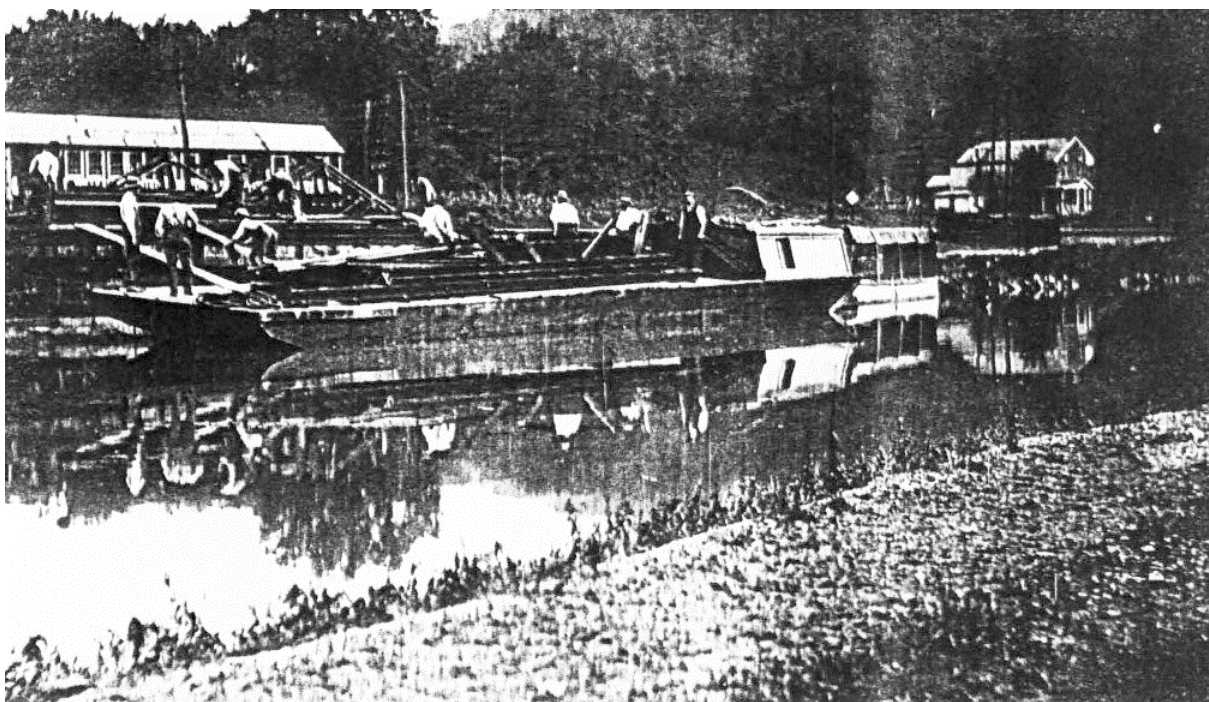
A. HICKS & CO. BALTIMORE

39. The check written to G. A. Callanen for construction costs.

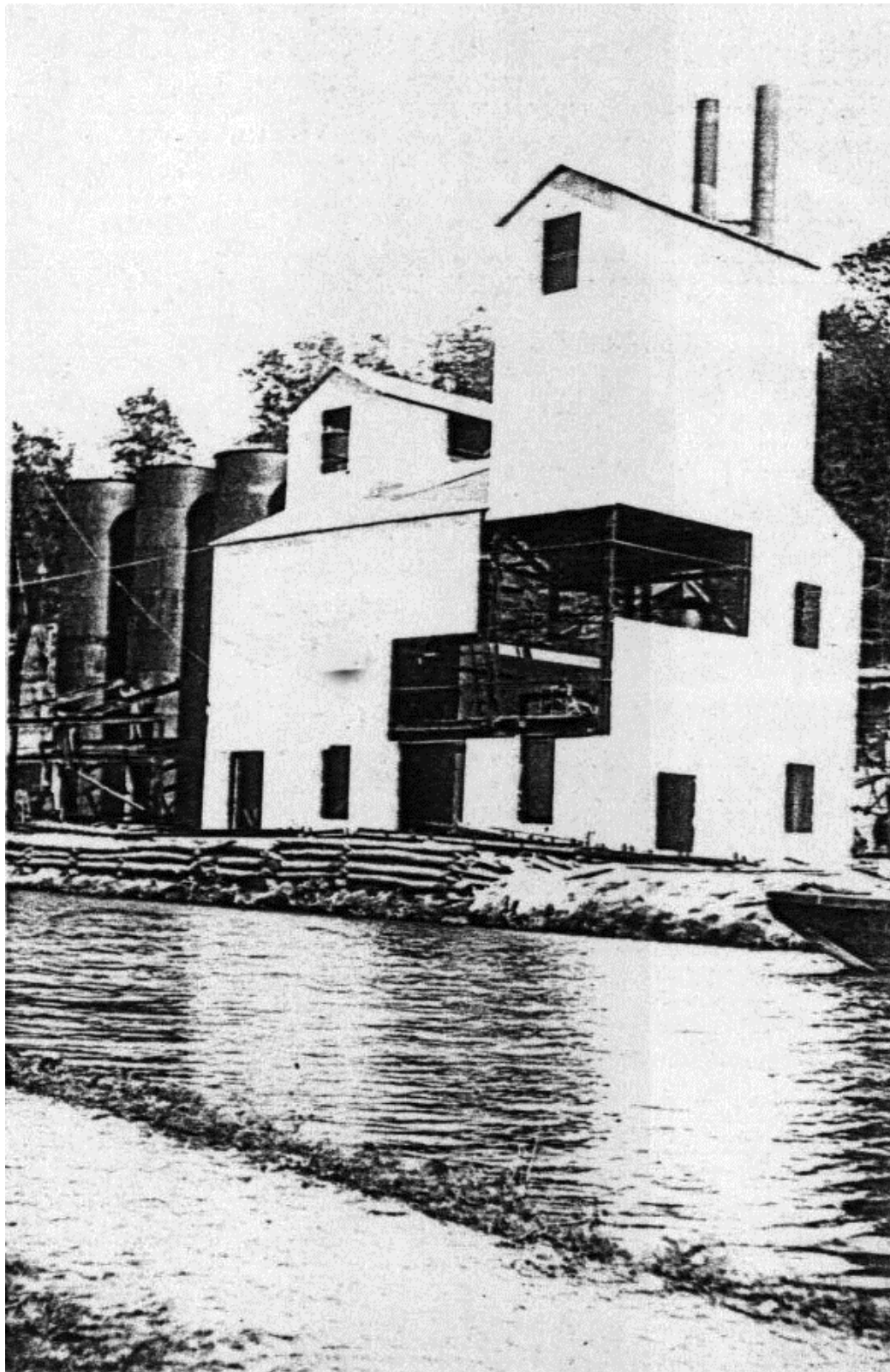




40. Moving steel from the rail car to canal boat in Sandy Hook.  
Courtesy of Washington County Public Library



41. Unloading steel at Sandy Hook  
Photo Courtesy of Washington County Public Library



42. Refining building with openings left to position the hydrator.  
Photo courtesy of Washington County Public Library

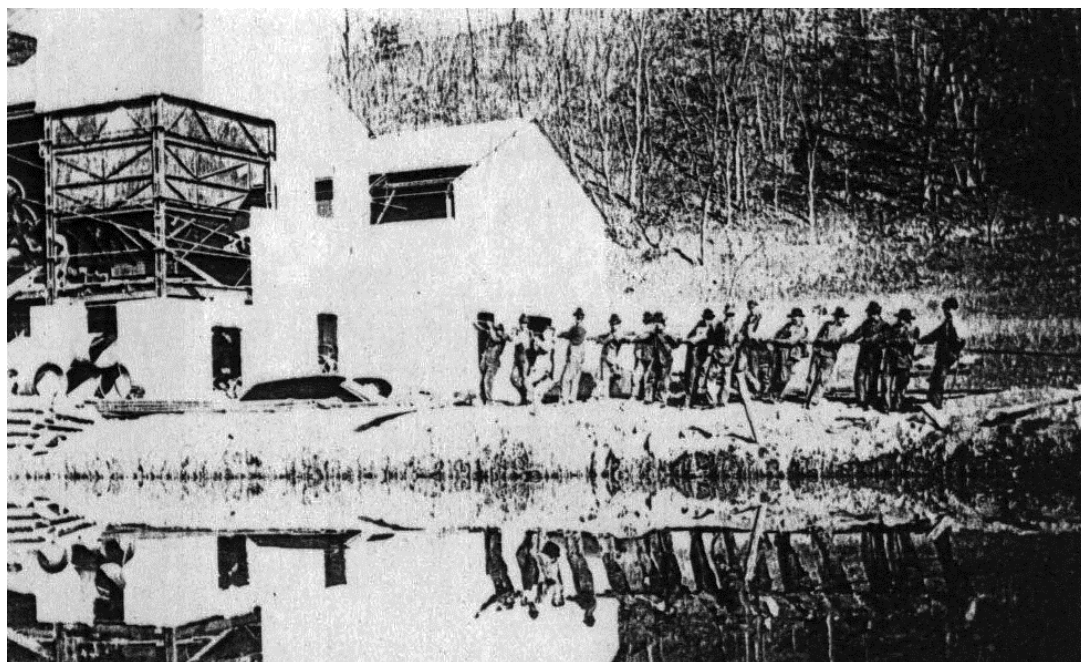


43. The Kritzer Hydrator being pulled into the building in December 1911.  
Courtesy Washington County Public Library

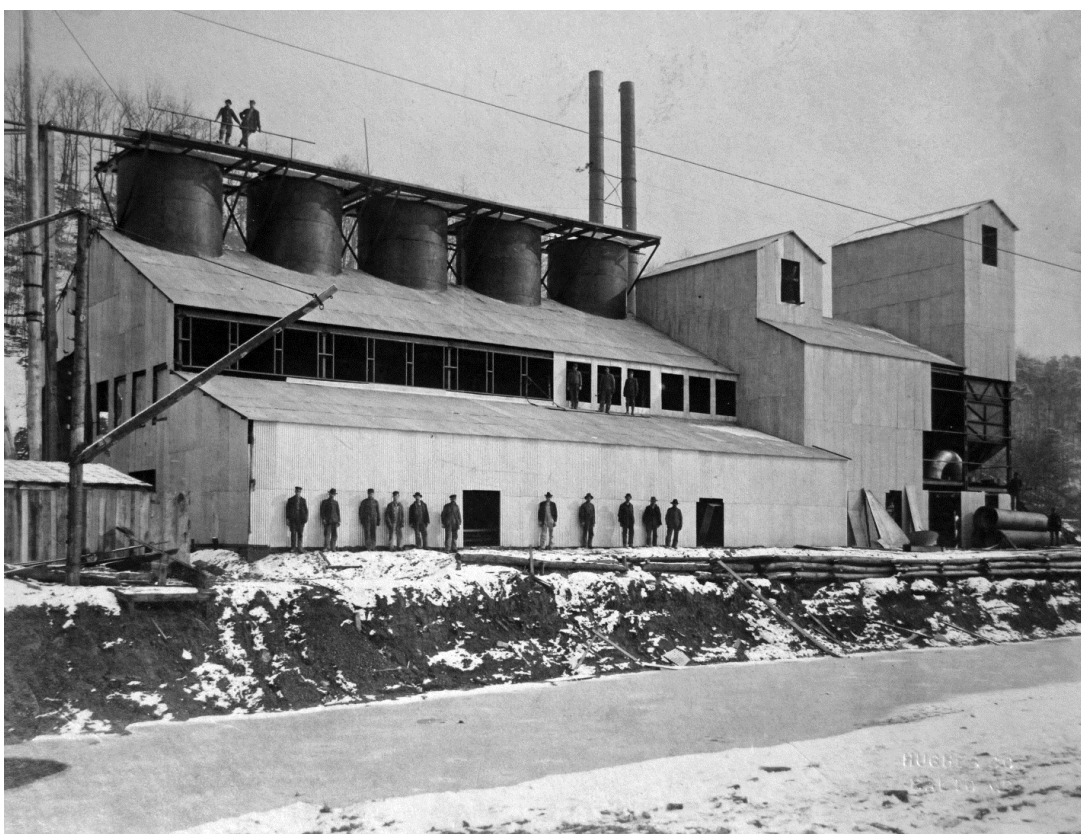


44. Using an inclined plane and winches to get the hydrator in place  
Courtesy Washington County Public Library





45. Manpower is used to pull in the hydrator.  
Courtesy Washington County Public Library



46. Photograph of the nearly completed plant from the Rock Products advertisement.  
Courtesy National Archives



47. Lime shed and "pot kilns" used by Orville Shinham to burn lime at Dargan.  
Photo courtesy of NPS



48. Concrete Foundation of the Potomac Refining Company.



49. Remains of the Potomac Refining Company



50. The lime storage building in 2013, looking rather forlorn with a fallen tree on it.





51. 2013 view of the "pot kilns" built by the Potomac Refining Company.



52. Quarry number 2 of the Potomac Refining Company.



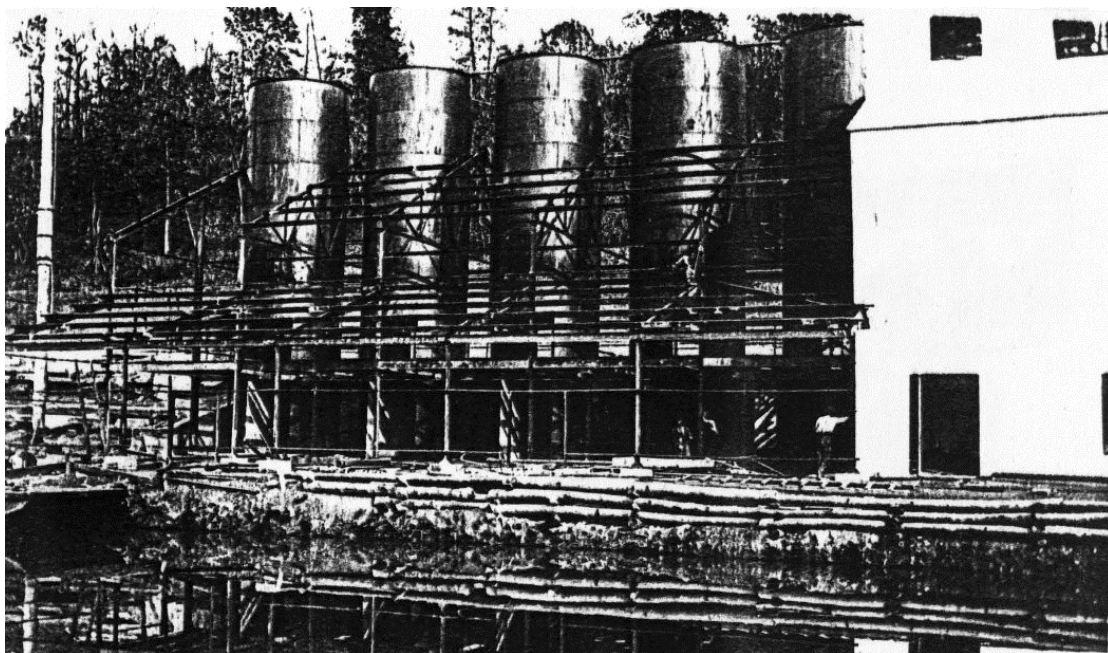
53. The remains of the tunnel that connected quarry #2 and quarry #3.



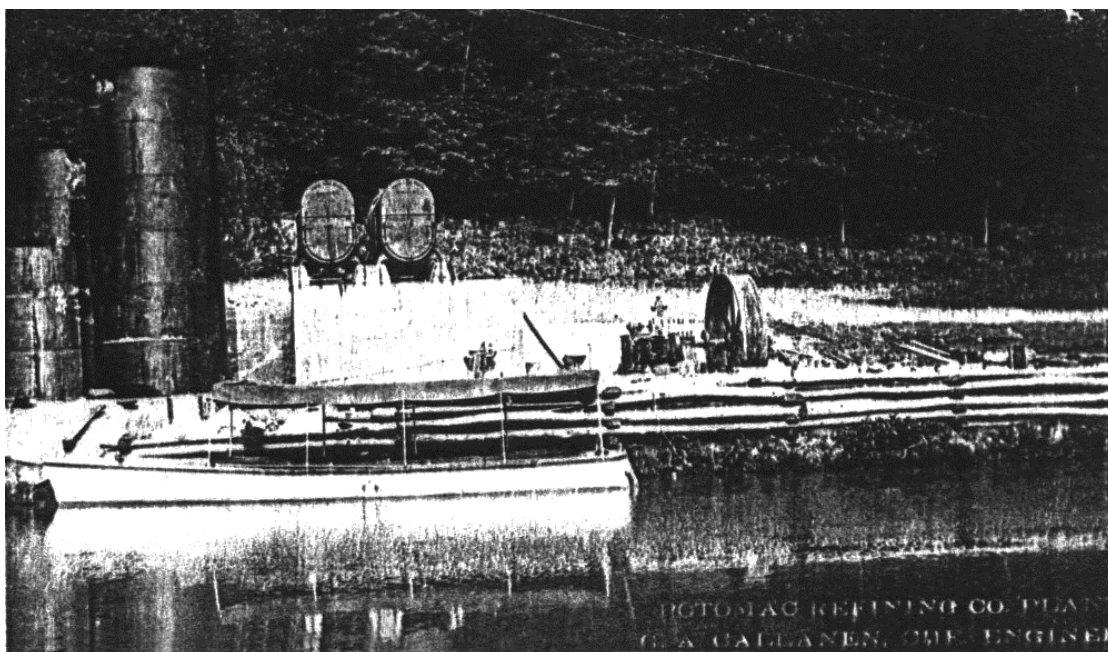
54. Quarry number 1 located some distance from the other two quarries and refinery.



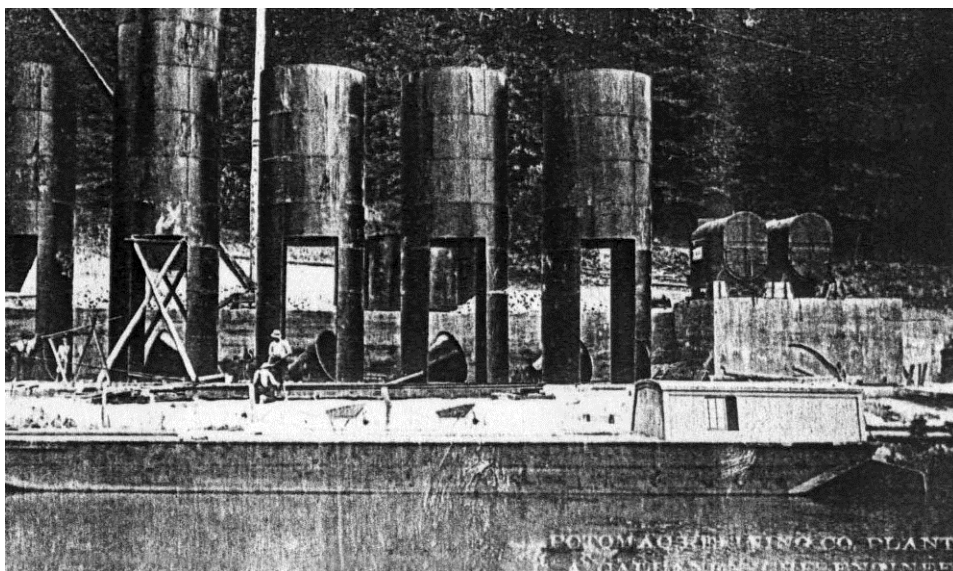
Selected Photographs from the Callanen Scrapbook.  
The scrapbook is housed in the John Clinton Frye Western Maryland Room  
of the Washington County Public Library



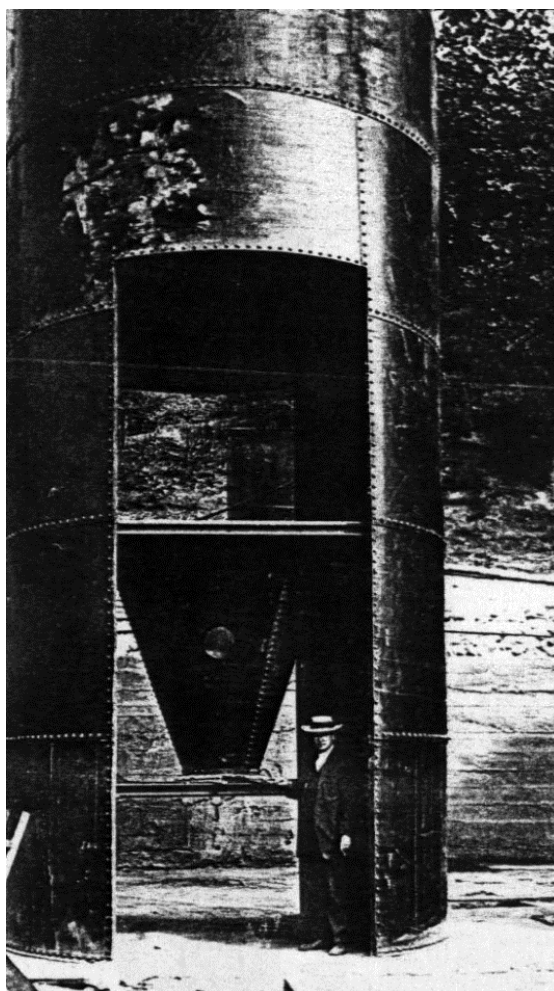
55. Five steel lime kilns in place.



56. Small boat on the C & O Canal in front of the south end of the refinery. The boat was the one used to transport potential investors up the canal from Harpers Ferry.

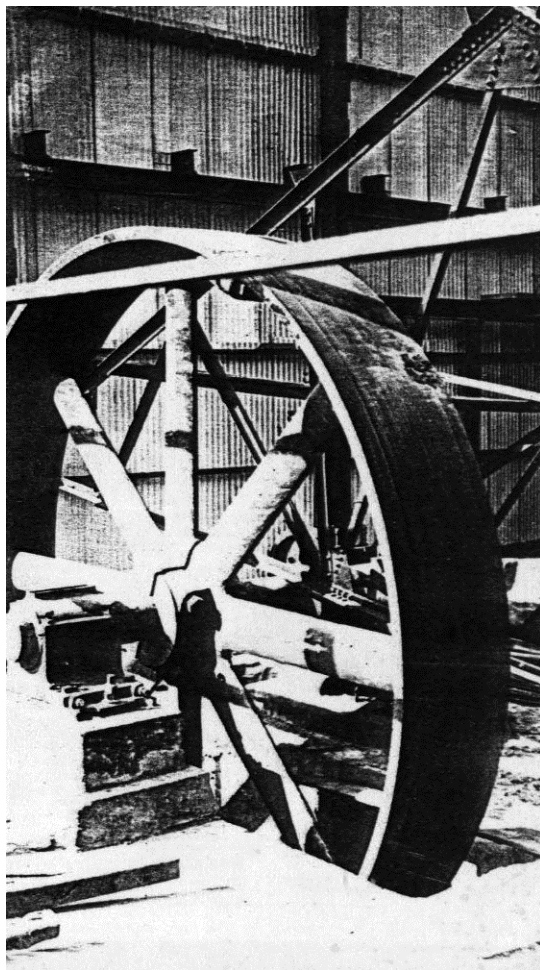


57. Canal boat in front of the steel kilns under construction.

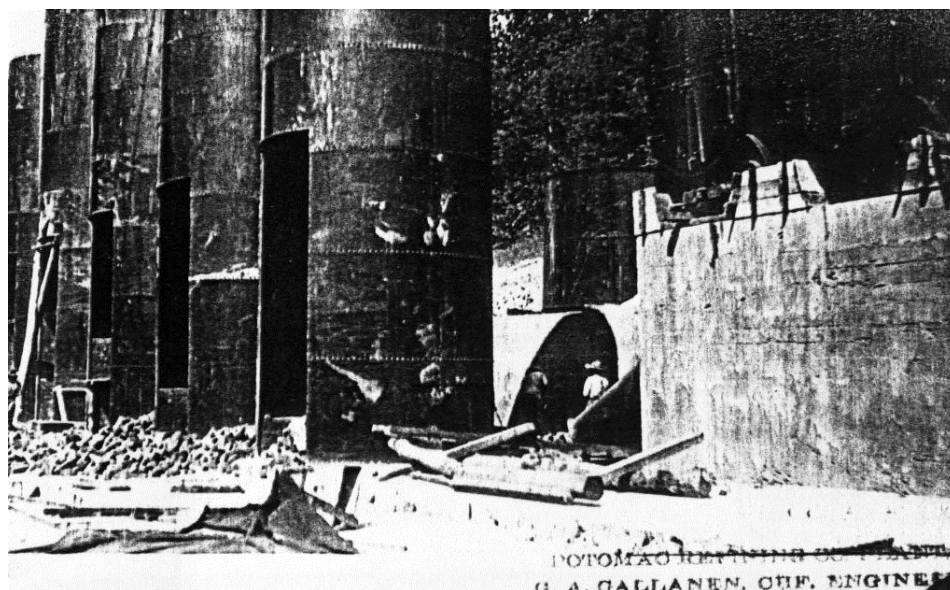


58. Man standing at the bottom of one of the steel kilns.

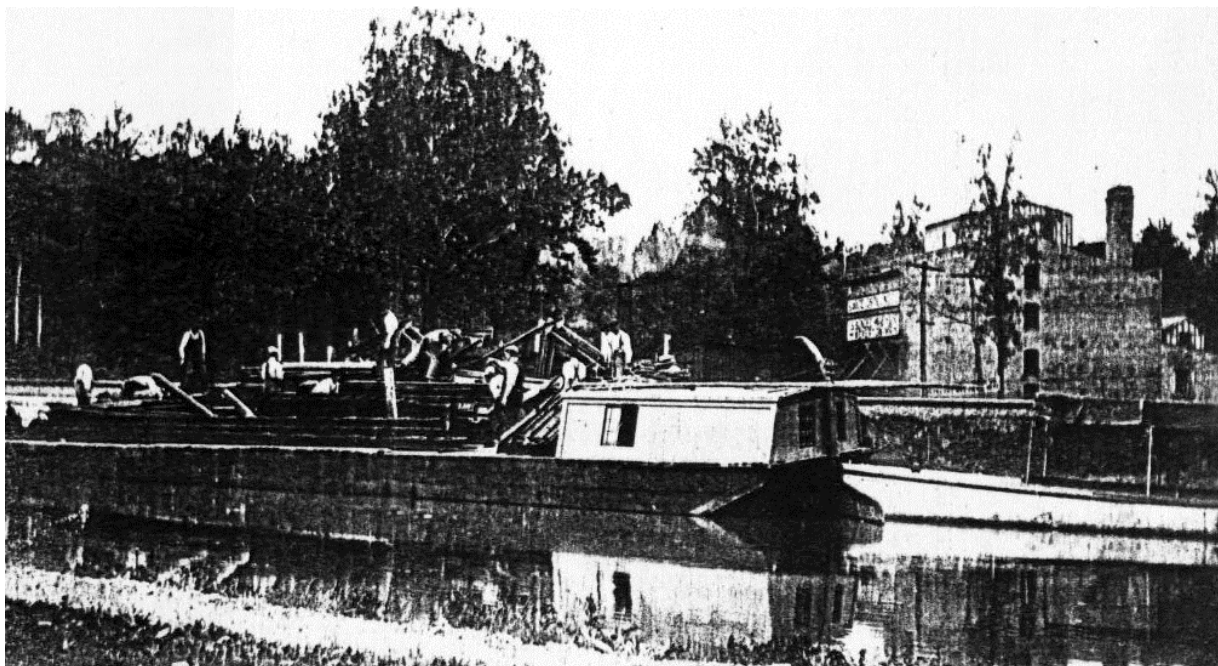




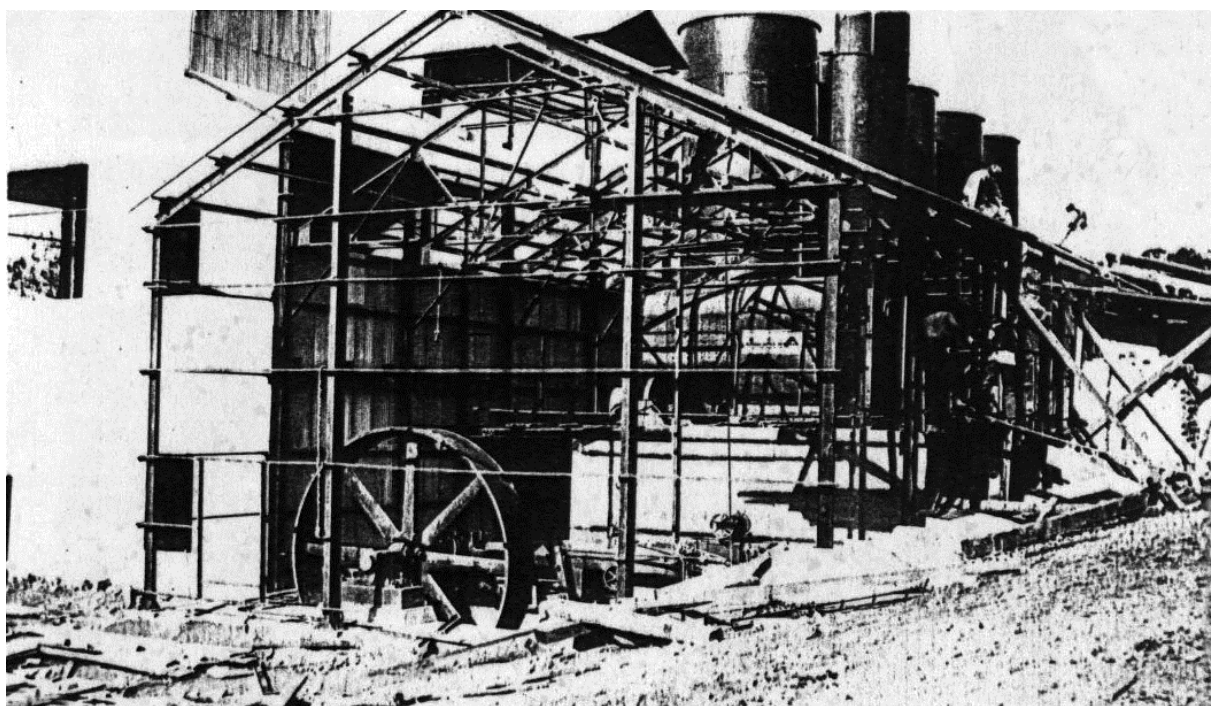
59. The flywheel that drove the machinery.



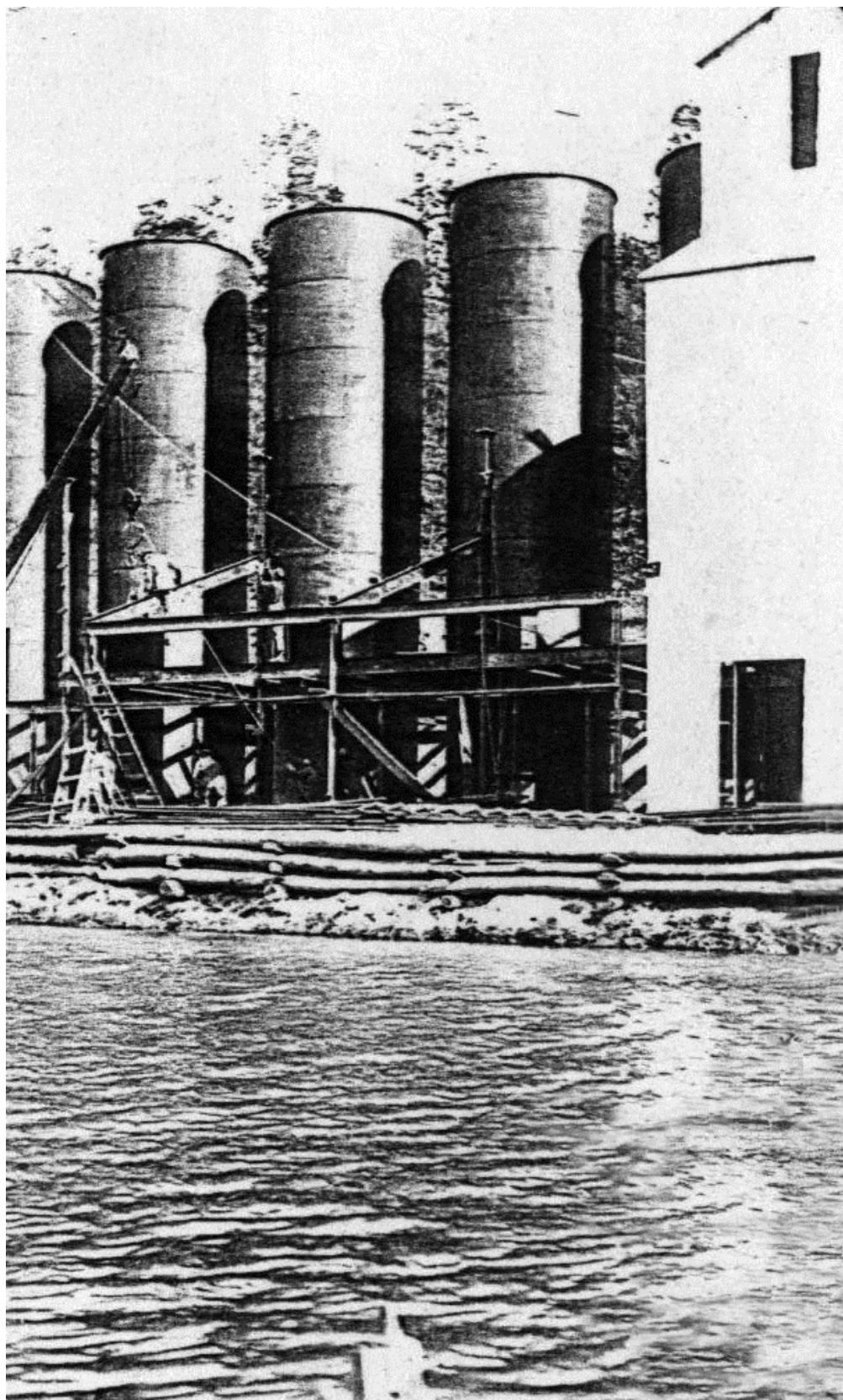
60. Five kilns under construction.



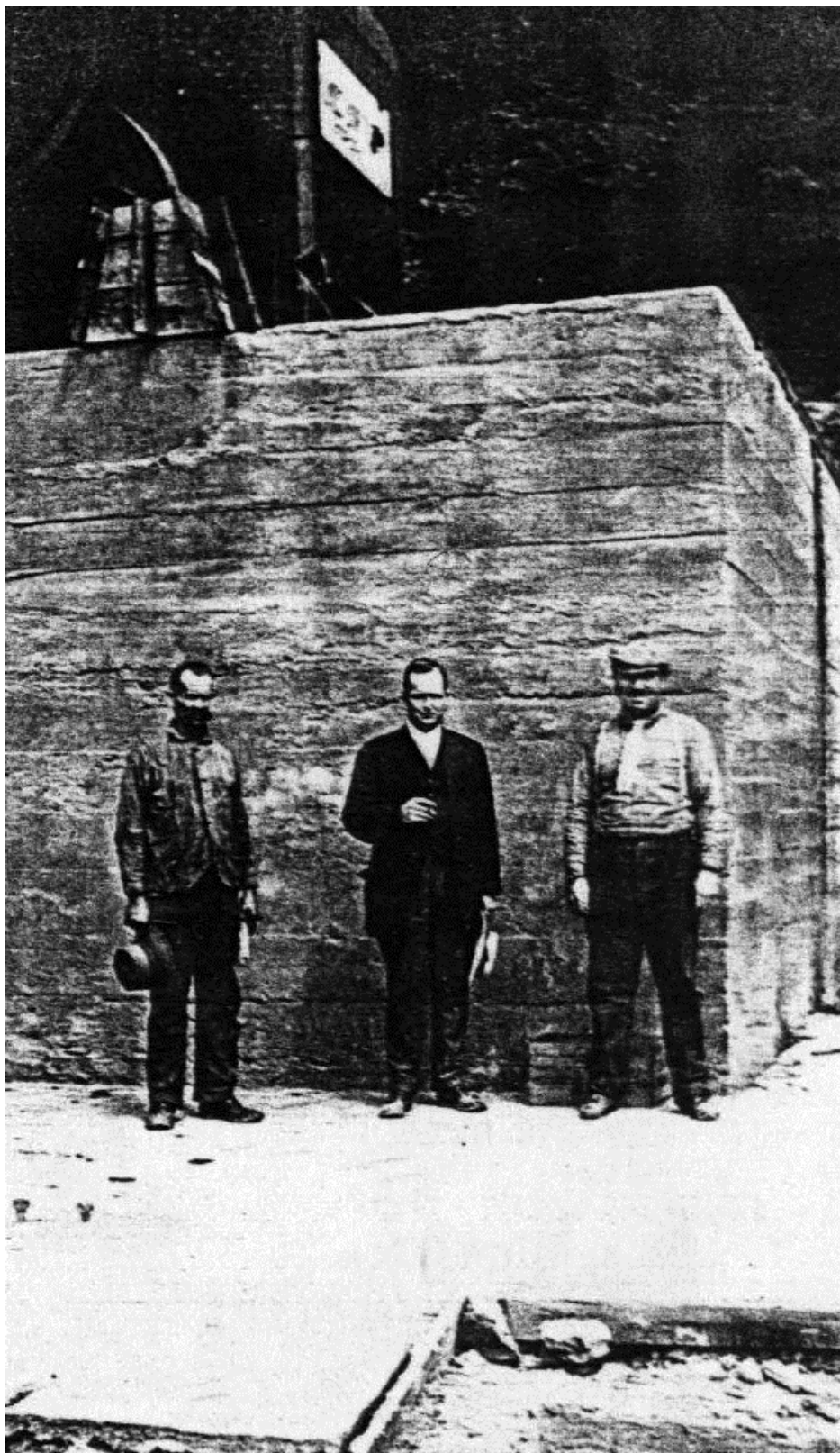
61. Canal boat being loaded with steel from railroad car at Sandy Hook.



62. Steel framework around the engine and flywheel.



63. View from the canal of the framing around the kilns.



64. Concrete construction at the refinery.

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