

Since I was a school boy in 1907 my hobby has been rifle shooting and the study of ballistics as applied to high power sporting and military rifles. Up until 1920 I did most of my shooting with a 32 special Winchester rifle which I still have in perfect condition although over 40,000 recorded rounds have been fired through it.

In 1920 I purchased from J. A. Varby a model '95 Winchester rifle 30 army calibre (see receipts and correspondence with W.R.A. Co., 1919 to 1920)

The fast 10 inch twist with which the barrel was rifled was too fast to permit the economy of shooting the cast alloy bullets I was making myself, and from 1921 to 1922 I corresponded with Wm. Rep. Arms Co. with a view to having them make me a special barrel for this rifle of special 24 inch length finished without sight slots and rifled with a slow 16 inch twist.

They wrote me that some time previously they had made up a special lot of rifles with 24 inch barrels designed to military specifications exactly as I had outlined without sight or forearm slots but were rifled with standard twist. They pointed out that the slow 16 inch twist I required for alloy bullets would not handle the regular 220 gram hunting bullet. There was just one of these left in stock and they quoted me a special price on it.

Since it was now evident that I could not successfully shoot the complete range of ammunition, I was experimenting with in any one system of rifling, I decided to take advantage of their offer and purchase this rifle for hunting and long range target shooting and have my present rifle fitted with a slow twist barrel for experimental work.

I sent them an order for this rifle but before my letter reached them it had been sold. I was disappointed and some time later I wrote Mr. Jennings, the Sales Manager with whom I had been corresponding, and requested that he make a search of their stock room and see if there might not be one more of these special rifles which may have been overlooked.

Shortly after I received a letter that they had actually located two more of these special rifles and quoted me a professional price of \$49.25 on the pair of them.

As this was way below the catalogue price of the ordinary stock model which was then selling at \$78.00, I realized I could readily dispose of the extra one for at least \$50.00, so I immediately advised my shooting cronies that I was in a position to supply a new customs built model 95 Winchester for \$50.00.

My brother of course had the same chance as the others to avail himself of this opportunity, but he did not see fit to take advantage of it.

Mr. Hahndorf, who had been hunting with us the previous fall was keenly interested and immediately paid me the \$50.00 and I promptly forwarded this money to the Winchester Arms Co., with instructions to hold shipment of the rifles until I could obtain a permit from the Minister of Customs at Ottawa to import them. I obtained the necessary permit and shortly afterwards received shipment of the rifles. By this deal I obtained my own rifle without any monetary outlay on my own part, and Mr. Hahndorf obtained his rifle at a saving of nearly \$30.00 under the regular catalogue price. Everyone was satisfied with the arrangement. (See correspondence with W.R.A. Co., Customs permit, and import entry forms attached.)

As soon as I received the new rifle I immediately shipped my old one to the Niedner Rifle Corp., Dowagiac, Mich., to be fitted with a custom made barrel rifled with a 16 inch twist. At the same time I went to Dowagiac, Mich., myself and personally arranged with Mr. Niedner the particular details of how I wanted the job done. In September I received the finished job back just in time for the fall hunting season and the following month, November, 1922, Mr. Hahndorf, myself and my brother arranged to hunt together at Chudleigh, Ontario.

My brother had no rifle of his own and had used my 32 special rifle on the two previous occasions he had hunted with me. I now had two rifles, both chambered for the 30 Army cartridge, and Mr. Hahndorf's made three. The logical thing was to leave the 32 special at home now and use the three 95's for this trip as one set of loading tools could supply ammunition for all three rifles.

My new rifle had come equipped with plain military sights. My brother offered to pay the cost (about \$5.00) if I would fit it with the same Lyman sporting sight I had on my other rifles. Since he was going to hunt with it I considered this only fair and to this day it represents the sum total of any contributions he ever made toward my shooting equipment. We organized two or three hunting trips after that and used the two 95's on those occasions.

In the fall of 1925 we moved into our new factory building. I had planned to set aside one small section of this building to provide permanent bench space for all my shooting equipment and moved all my rifles, loading tools and hunting equipment over to the new shop. The following December the place was burglarized and my new Winchester rifle was stolen. Throughout that winter I conducted a constant pilgrimage of every licenced pawn broker and sporting goods shops in the city. The following spring the thief attempted to dispose of it but thanks to my constant

enquiries the dealer spotted it at once. I was notified and the rifle recovered. Thereafter the guns were locked in a heavy fibre theatrical trunk with yale locks. This was placed in the bottom row of 8 similar trunks piled two deep all loaded with heavy motion picture machines. As a further precaution I wired the doors and windows with burglar alarm switches and connected the whole system to a bell in my house on the adjoining street. I lost no more guns.

In June, 1926, I received a phone call from Mr. Hahndorf who had recently returned from a year at the Gravenhurst tubercular sanatorium. He was still unable to work, had been forced to sell his car and that day had just sold his rifle for a paltry \$35.00 to meet expenses.

I should have shown him some sympathy, but actually I was furious. I reminded him of a promise I had exacted when I gave him the special price on that rifle that if he ever disposed of it I was to have first chance to redeem it. Mr. Hahndorf was terribly sorry. However, since he had made the deal with Mr. Stevens of the Leon Sporting Goods Co. with whom we were both well acquainted, he felt there was a good chance he could still redeem it. I told him to offer any additional price within reason but get it. Shortly afterwards he called me again to say he had explained the whole unfortunate situation to Mr. Stevens and he had assured him he would positively guarantee to hold the rifle until I came in to redeem it. I called Mr. Stevens on the phone right away to tell him I was coming down to get it and offered to pay him a reasonable profit on the deal. He said forget it, I'm not treating the matter as a business transaction at all, just bring me the \$35.00 I advanced Mr. Hahndorf and take the gun away with you. I went down right away and obtained the rifle and placed it safely in the trunk with the others.

For the next several years times were hard and no one of us had any time for hunting or shooting. I had no occasion to use or even think about guns until the fall of 1932 when Mr. Smith and Mr. Rynex, two of our old gang, organized a hunting party at Camp Champleau and invited my brother and I to join them.

We had the usual get together confabs on the proposition and the prospects looked very favourable. My brother was only luke warm on the subject however and finally decided he was not interested. It was not an expensive trip and having had no vacation in nearly ten years I decided to accompany the party alone.

The evening before we left Mr. Smith met me at the shop to load up some ammunition and help get the equipment assembled. When we opened the trunk the Hahndorf rifle was missing. I phoned the police and two men came over but we could find no sign of a break-in and nothing else seemed to be missing. There was a possibility my brother might have taken it out since we had been discussing hunting the previous week or so and I contacted him

immediately he got home from his job at Sheas Theatre. He told me the rifle was safe, he had it over at his house.

The following summer I moved from my house on Dufferin St. to a larger house on Rusholme Road. This meant the end of the burglar alarm I had wired up so I moved all my rifles and loading equipment to my new home. Not long afterwards my brother also moved into a house on Rusholme Road just 5 doors away from me.

About this time the man who worked with my brother at Sheas died and I accepted the vacancy. We were now working together and generally went to and from work together and were in each other's company a great deal of the time.

In the winter of 1935 I was having difficulty making ends meet. With the heavy domestic expense of a large house and a family of nine children all going to school, I got behind in my rent. One night when I got home, I learned that a bailiff had been there that afternoon with some sort of warrant. My wife was uncertain whether it was a foreclosure or an order of eviction.

I didn't know what might happen, so I gathered up the possessions I valued most, my rifles and took them over to my brother's house and asked him to keep them safe until I got my financial trouble straightened out. He was willing to help and put them upstairs in his house.

I soon got my trouble adjusted and some time later remarked to Sam that I would come over and get those rifles out of his way. He assured me they were not in the way. His son Douglas was furnishing one of the rooms into a sportsman's den and was making good use of the rifles for decorating it. Some time later I saw how he had it furnished with his father's western saddle and the rifles all polished and prominently displayed with other odds and ends of outdoor equipment. I had no immediate need of the rifles, and since they were serving a good purpose I agreed to let him keep them there and also let him have my western riding set, a rare Mexican hand made riding bit and spurs, silver inlaid to match, my hand carved leather bridle, carved spur leathers platted rawhide quirt and lariat to add still more color to his display.

Some time later Sam asked me if I would consider selling one of these rifles as Douglas had taken a great shine to them and wanted to have one. I reminded him that all my rifles were special jobs I couldn't replace and I wouldn't consider selling any of them. Later on Douglas came to me personally and asked me if I wouldn't sell him one of them. I explained to him that none of my rifles were for sale but if he ever had a chance to go on a hunting trip he was just as welcome as his dad to use any of my guns or equipment. Some time later Sam broached the subject again and expressed the opinion that since I had so many rifles, and in view of the close family relations and all that, he couldn't see why I couldn't spare one rifle for his son. I reminded him that

I had sons of my own who would soon be old enough to take up shooting and I had just enough rifles to take care of my own family. I suggested he buy Douglas one of the more modern bolt action rifles which would probably suit him just as well or better. Neither of them ever broached the subject again.

About two years later we received notice Sheas were closing in November. We decided to organize a hunt. Several camps were advertised and we chose one at South River. We missed the first week, but Sunday we left for the second week. When we arrived the party had only one more buck to get in order to fill their count. This was shot on Tuesday and Wednesday morning they broke camp and we had to pull out. Sam was fed up. I decided to hunt out the rest of the week if possible so I took my pack sack and one of the rifles home with me and wired the camp at Gravenhurst for accommodation but they were filled up.

We had no chance to hunt the next year but about the fall of 1939 the public was notified that all fire arms must be registered. I told my brother I would like to get all the guns together and take them down to the police headquarters and have this attended to. He agreed to give me a lift down with the load in his car at the first convenient opportunity.

As no definite time limit had been specified in the notice I did not get around to it right away but on several subsequent occasions when I would think of it I made appointments to meet him and get this matter attended to, but somehow something always seemed to crop up at the last minute and the matter would be put off.

Time passed and nothing was done until August, 1940, when I saw a notice in the paper that this was the last day to register firearms and an officer would be on duty at all local police stations till 9 o'clock that night to accommodate late comers.

I phoned my brother right away and told him to get the rifles cased up as we had only a couple of hours left. He told me it was impossible for him to meet me that night but not to worry about the two rifles at his house, he had already taken them down and had them registered.

I couldn't understand why he would do this without giving me a chance to bring the rest of them. He explained that on the last occasion I was supposed to meet him and attend to this he waited for me as long as he could but I failed to show up. Since he had to go down town anyhow and had the guns ready in the car he took them along and registered them that afternoon. He said he thought he had told me about it.

I knew nothing at all about it, but I was not the least bit surprised. I was thoroughly accustomed to his impatient attitude when he was going anywhere. Since he had moved to Rusholme

Road it had been my practice to walk down to his house and ride to work with him in the car. On two or three occasions I had been late getting down to meet him and he raised such a fuss about my keeping him waiting that we had an understanding that if I was there when he was ready to leave I was welcome to ride, but otherwise he was not to wait one minute for me, and he never did. However, I gathered the remaining weapons; 2 rifles, one shotgun and two heavy colt Frontier pistols and took them in a taxi to the Markham police station and got them registered in time.

That fall, 1940, my two oldest sons were through school and I made arrangements to take them on their first big game hunt. I had just two of my own rifles at home and we needed one more so one of the boys went over to pick up one of the two rifles still at my brother's house. Sam went upstairs and brought down one of the rifles, which in this case happened to be the Hahndorf rifle. Neither Sam nor Douglas were interested in coming with us so Sam loaned Gordon a heavy bush jacket for the trip.

When we returned, Gordon took some venison over to Sam and told him he would return his jacket as soon as he could have it cleaned. Sam said not to bother, just bring it as it was and also would he mind bringing the rifle back too. Gordon had done some good shooting with that rifle on the trip and I had told him when he was 21 it would be his. He came home and asked me what he should do about it. The thing did look a bit childish but Sam had been pretty decent about lending Gordon his hunting coat. I couldn't think of any good reason for refusing so I told Gordon it would be all right to let Douglas have it until we needed it, so he took it back with the coat.

In the twenty-odd years since I had started shooting the 30 army calibre, a lot of changes had taken place in this cartridge. The old 220 gram bullet was now superceded by a lighter 170 gram bullet at much higher velocity and longer range. I had taken a stock of these new bullets up with us on this trip and their performance was much superior to the old 220 gram slug we used to think necessary.

I still had the famous Niedner barrel which was literally made to order for this type of bullet and I decided to replace it in my old Winchester which was still at Sam's place. Before I got around to starting the job, however, I ran across a model 95 rifle which was in perfect condition except for an accident which had ruined the barrel. I bought the rifle at a knock-down price and removed the ruined barrel and fitted my Niedner barrel to it.

That fall, 1941, we planned to go hunting again. Sam was no longer interested in hunting so the two boys and I went up together. There was now a rifle for each of us so I had no need to disturb either of the two which Douglas had.

The next year all the boys got their military service

call. Howard was classed 4A and rejected. Gordon was O.K. and joined the Air Force. Douglas claimed American citizenship and went over to Buffalo for the duration. During the next three years Howard and myself and my daughter Marion hunted together.

In 1947 we organized a big party. Gordon was now home and we all planned to go together. We needed one more rifle to complete the party. Sam was now living on Walmer Road, but Douglas, who had returned home after the war ended, had started a fishing tackle business in a garage just two doors north of me, so I told Sam to have Douglas bring one of the rifles down with him when he came to work.

Days went by, but Douglas seemed very forgetful, for he never could remember to bring it with him. The day before we left, it was obvious neither he nor Sam was going to do anything about it, and my son went to his house and got it.

When we reached camp and started unpacking the equipment, I saw that on this occasion, Sam had given Howard my original Winchester and not the Hahndorf rifle we had used the previous year. Whether this was by accident or design I don't know, but it was a cause of acute annoyance to the party. The previous year we had targeted all the rifles for the new high speed ammunition. This rifle was still sighted for the old 220 Gram ammunition. We had to forego the chance of getting into the bush on the first morning of the season and spent it rigging up a range and getting this rifle properly sighted in. When we returned home, I was still annoyed over the whole experience and told Sam I was tired of having to chase up to his house every time I needed my rifles and from now on I meant to get them all at home and keep them there.

He made no comment to this but a week or so later I was upstairs in the bathroom shaving and getting ready to leave for work; my wife was in the living room, and my son David was in the kitchen having his lunch, when Sam and Douglas came in the front door.

They stopped in the hallway and Sam asked my wife if I was around. She told him I was upstairs dressing. Meanwhile Douglas stepped across to the front clothes closet where I had the rifles stored. My wife and son heard him say "Never mind Dad, here are the rifles right here." Sam stepped over to the closet and joined him. Douglas had one of the rifles in his hand and was starting to open the case when David, who could see the whole proceeding from his position at the kitchen table, got up and came over to see what was going on. At this point Douglas said "O.K. Dad, let's go", and they headed out the door with Douglas carrying the rifle.

David didn't know what to make of it and came upstairs and said "Uncle and Dinty are taking out one of your rifles, is it all right?" I was not dressed, but I ran to the front window

just in time to see them reach the sidewalk. I threw up the window and called to them "Where are you going with that rifle," but they kept right on going and Douglas called back over his shoulder "We're just taking it over to the shop to show it to a man." I shouted to them to bring it right back at once, but they kept right on going at a brisk walk and turned in toward the shop. (The shop in question is a double garage at the rear of the house two doors north of my place where Douglas was carrying on business.)

I finished dressing as fast as I could and ran around to the shop after them. There was no sign of them and no man.

When I got to work I demanded an explanation from Sam. He appeared completely nonplussed that I should be upset about the matter and explained that the man they referred to was the representative of the company in the U. S. with whom Douglas had been negotiating to develop a metal blueing process. Douglas merely wanted to show him an actual sample of the type of finish he was trying to duplicate.

Now as a matter of fact, I knew that Douglas really was working on some kind of blueing process. He had a couple of old military rifles over at his shop he had been trying various chemicals on, and I had cautioned him never to try any experiments on my guns. I asked Sam why he didn't show the man the other rifle he still had at his house. He pointed out there just wasn't time to go way up to Walmer Road and St. Clair to get it. This man just happened to stop off in Toronto on other business and had just time to look Douglas up before leaving town. He had less than half an hour to catch his train then, so the only chance they had was to pick up one of the rifles at my house and discuss the details while they drove him down to the Union Station. He was so thoroughly conscientious about the whole thing that I concluded probably I had been a little hasty in getting excited about it, however I told him he had better get them back right away, this rifle business was becoming a pain in the neck.

He assured me he would certainly attend to this without fail, but Christmas was only a couple of weeks away and the matter was sidetracked somehow. During the following cold months I was particularly busy, spending every spare hour installing the electric wiring and interior work on the new shop I was building at the rear of my property and it was well into June before I had occasion to even think about rifles again.

- I received a letter from my son-in-law in New Jersey that he and his brother were planning to take their vacation in the fall and come up for one of those real Canadian big game hunts we had talked about. They have deer hunting in a small way in New Jersey but rifles are against the law to hunt them. Shot guns only are permitted. The boys had no rifles and enquired in their letter if their shot guns would be suitable for this trip. I wrote back and advised them that high power rifles were the correct weapons for this country but not to worry on this account. Just buy the necessary

warm clothing and come ahead as I had enough spare rifles to take bare of them.

I advised Sam of the plan. Two of my own boys were coming and I would need every one of the rifles. I asked him to get the two he still had at his house back to me so we could get out to Long Branch the first suitable occasion and target them all in together. I wanted no slip up on this expedition. He assured me quite gladly he would attend to it at once.

Between working my job at the theatre and using every spare hour trying to complete my building project I had little time to devote to organizing the hunt. I had written all my northern contacts but none of the settlers we had previously hunted with could accommodate such a large party. Mr. Gosnell, my manager at the theatre, the treasurer, and Mr. Gosnell's son had agreed to join us and we now numbered eight. By mid-October I still had no accommodation arranged so Mr. Pringle and I took a week-end trip up through north Halliburton prospecting for a suitable layout. We located a guide who had a large camp way back at King's Cote Lake and he agreed to take us in and cook for the party.

Several times during this interval I reminded Sam while we would be at work that he had not yet got around to getting those rifles back to me. He always seemed to have a ready explanation of something which would crop up to prevent his getting this little thing attended to. Usually it was to the effect that since Douglas was using the car all the time now he did not seem to be able to connect, but he'd certainly get those guns down to me, he certainly would.

Meanwhile the boys in New Jersey had been going all out in their preparations for the trip. They had bought complete outfits of winter hunting clothes, heavy hunting boots and the various odds and ends of special equipment they needed, then toward the last they became worried that their 1938 Chevrolet might not make the long 600-mile journey and had traded it in on a new Ford to make sure they wouldn't break down and spoil the party.

Hunting season was to open Monday Nov. 8th. Wednesday Nov. 3rd when I got home at supper time a letter was waiting advising us they would leave South Bound Brook Friday morning Nov. 5th, and arrive in Toronto some time Saturday afternoon. I called my brother on the phone right away and asked him if he could bring the rifles down tonight. He said possibly he might but give him a chance to get his supper. About 8 o'clock he hadn't showed up so I phoned him again. He said Douglas had gone out with the car, he wasn't sure how long he would be gone, but I would have to wait till he got back.

About 10.30 I called again. He said Douglas had come back but it was pouring rain and he was tired and I would have to wait till tomorrow. I reminded him I had already waited several months, the boys would be here in three days and I wanted those guns

tonight. He said I was most unreasonable, Douglas had put the car in the garage and if he went out there he would get soaking wet.

I said O.K. never mind, stay where you are, I'll call a taxi and be there in ten minutes and get them myself.

At that he finally came out with it. He said you can save yourself the taxi fare, I may as well tell you you're not going to get them back.

I couldn't believe he was serious and asked him what he was trying to say. He said he had given one of them to his son and was not going to take it away from him. I asked him what did he mean he was giving one of my rifles to his son. Oh he said I offered you a fair price for it, don't worry, I'll give you what the damn thing is worth and as far as the other is concerned I have just as good a claim on it as you have and I'm going to keep it.

By this time I was really furious. I told him he was not only a liar but a thief and if he didn't give those rifles up I'd have him into court.

He replied you can damn well go to court and keep right on going till you reach hell but remember this smart boy, possession is nine points of the law and you're never going to see these rifles again. With that he hung up the receiver. I called his number right back but he wouldn't answer.

I was horribly upset. I spent the night walking around the house, I couldn't sleep. In the morning I called his number again and he happened to answer himself. I asked him if he was really serious about this matter or were we both crazy. He said he wasn't crazy but if I thought I was going to get those rifles back I was. I told him I wasn't fooling. Either he gave those rifles back or I was going right down to lay a charge. He said go ahead and see how far you get. I said O.K. you asked for it.

I went right down town and consulted the attorney who was handling my affairs. He suggested I enter suit for recovery. I explained the jam I was in, I had to recover those rifles right away we were due to leave in three days. He told me the best way to get immediate action was to go and take my case up in the police court. I went to the City Hall then and explained the case to Mr. McFaden, the Crown Attorney. He issued a summons charging both my brother, S. I. Wells and his son Douglas Wells with theft. It was impossible to get the case tried before I had to leave Saturday so he set the hearing for the day after I would return, Nov. 24th.

My holidays did not commence until the following Monday but I called the union to put a man in my place right away, I knew I would need every minute now to try and locate a pair of rifles. Throughout that day and all the next I contacted every sporting goods outlet in town but all the decent rentals had been picked up and what remained was utter junk. My boys and I went into a huddle at

home. Both boys volunteered to slip out of the hunt and leave their rifles for the visitors. I just couldn't see that. Howard had sacrificed his holidays in the summer and had laid great plans to go. As for David, the younger boy, this was to be his first hunt. Throughout the last year he had gone through school dreaming of this event, and I couldn't disappoint him now. During my scouting around I located a very fine 7 mm. Mauser Rifle which the dealer offered to sell me at a very close price but he would not rent it out.

We were still struggling with the problem when Friday night I got a phone call from the police inspector who had served the summons on my brother. He said he had had a talk with my brother, and he felt it was a great mistake for two brothers our age to be fighting in court and if I would care to come over and have a chat with him he thought there was a possibility we might be able to get this affair straightened out peaceably.

The suggestion was more than welcome and we went over to No. 7 station right away. His name was McKay, he was a very conscientious man and willing to do anything he could.

However, after he heard my side of the case and read through the Winchester correspondence I have submitted here he remarked the situation was considerably different than he had first believed. He said he would have another talk with my brother anyhow, but warned me that he felt that whether my title to the weapons was valid or not I had forfeited it by allowing my brother to retain possession of them for a period of seven years. He read us some quotations from a law book to this effect. If this is true, then damn fate may have been on my side, for on checking up I notice, that, although these rifles were in his house over a period of eleven years, my occasional need to use them during this period would seem to upset such a claim.

We thanked him and started to leave when he casually asked me if I knew my brother had registered these rifles in his own name. The possibility of this happening had not occurred to me at the time, as shortly afterwards the police Dept. discontinued the registration of rifles and the matter ceased to have any particular significance.

I recalled however this was the same tactics he had employed with my mother's new car. As soon as her health failed to the point where she became a semi-invalid he registered the car in his own name. I doubt that she ever found out about it.

These circumstances made it quite apparent now that as far back as 1940 and probably earlier, my brother had been conniving to appropriate a pair of these rifles for himself and his son. His strategy evidently was to manipulate a situation which would permit him to maintain possession of a pair of them for a sufficient length of time that he could gradually build up a chain of circumstances which would eventually permit him to assert some form of "Squatter's

Right" claim on them.

He played his cards very shrewdly. Whenever I had notified him I was short on my party and would need them he was always so profoundly effusive, always so glad to get them down to me right away, but always forgetting to do so until I would have to send for them, and then doleing out just the one which was needed, always keeping the spare one back and then coming around with that room decoration story which I thought a bit childish but now recognize was the base of a well-organized plan. This situation might have continued indefinitely had I not stated I was now going to gather up all my rifles and distribute them among my boys. Now, however, his hand was called and he was forced to come out into the open and declare himself. On Saturday morning the boys arrived and with no alternative I had to go down and purchase the Mauser rifle to equip my party. I fulfilled my obligations, the boys were thrilled with the experience but the needless expense I had incurred and the miserable atmosphere which had been created completely spiled the enterprise for me and my family.

When the case came to court I was there, accompanied by my council, Mr. Cochrane. My brother and his son were accompanied by their council, Mr. Newman. I gave a brief outline of the rifle snatching incident and my brother's refusal to give up either of the rifles now illegally in his possession, and submitted the correspondence and invoices attached herewith to show they were legally my property.

My brother's council, Mr. Newman, then started questioning me. His questions were about as follows:

Ques: Is it not true, Mr. Wells, that you and the defendant are partners in business?

Ans.: Yes.

Ques: Is it not true that you maintained a joint bank account in which either of you could issue cheques?

Ans.: Yes.

Ques: Is it not true that as partners you and the defendant would jointly own anything purchased by cheques issued against this account?

Ans.: That would depend upon what the cheque was issued for.

Ques: How do you explain that?

Ans.: I explained the accounting system in which all withdrawals were divided into ten different accounts. Items having nothing to do with the business were charged to each partner's personal account while General business expense items were jointly shared.

At this point the magistrate interrupted to say in his opinion this case could not be decided in his court and would have to go before a civil court.

Mr. Newman then requested that the charge be dismissed.

The magistrate refused to grant this request and motioned me up to his desk. He wrote a notation on a slip of paper and told me to give it to my council, then advised me to withdraw my charge. I didn't understand the situation but the magistrate was evidently sympathetic to my cause so I acted on his advice and said I would withdraw the charge.

As I slipped down from the stand my council, Mr. Cochrane was gathering up the papers when my brother stepped over and snatched one of the receipt out of his hand. Mr. Cochrane tried to retain it and it was torn in half. I called out sharply to "drop that receipt." Everyone looked in our direction. Sam evidently realized where he was and threw the torn half down on the table and headed out the door. The magistrate witnessed this episode and I thought he was going to say something but Mr. Newman came over and made some remark to Mr. Cochrane and the incident was passed over. Mr. Cochrane's secretary later pasted the two torn pieces together. He still has it.

When Mr. Cochrane and I got together later to determine the next course of action he thought that since it was now apparent they were going to try and use a lot of partnership technicalities in their defence and inasmuch as I had already started proceedings for dissolution of partnership the practical thing to do was to hold off this issue and bring it in with the partnership action. In this way the court would have a clear understanding of just what the partnership limitations were and also have an understanding of the character of the defendant. This we agreed to do.

Now to sum up here is about how we stand: With respect to rifle #93481, the "original Winchester" I have the receipt where I bought it in 1920 from J. A. Varley who then owned the Lion Sporting Goods Co. There can be no dispute about that. This rifle my brother has now in his possession and has it registered in his name.

With respect to rifle #410681; this is one of the two I imported from Winchester Arms Co. I still have it and all the correspondence pertaining to how and why I purchased it, together with the invoices and receipts where I imported it. I still have this one so there will not likely be any dispute about that.

With respect to rifle #410676, the "Hahndorf rifle" I have no documentary proof that I bought this rifle from the Lion Sporting Goods Co. Owing to the nature of the transaction, when Mr. Hahndorf called Mr. Stevens and explained the details of his agreement with me. Mr. Stevens undertook to treat the matter on a personal basis between ourselves and consequently no record of purchase or sale through the store would be made. I simply returned

him the \$35.00 he had advanced Mr. Hahndorf and took the rifle away with me.

I dropped in to see Mr. Stevens to see how much light he could throw on the matter. He remembers the incident happening all right, but so many years have elapsed that the particulars are rather dim. He could not positively state now whether it was I who came in and got the rifle or Hahndorf himself, but he does remember that whatever way it was adjusted, every one was satisfied. This I think is understandable. Mr. Varley had retired and Mr. Stevens had not taken over the business very long when this happened, and we were all somewhat new acquaintances.

When I interviewed Mr. Hahndorf there was no doubt in his mind whatever. He states quite positively that from the time I agreed to import it for him until the day he finally helped me recover it my brother was never involved in any of the transactions in any way. And also if there is any doubt in Mr. Stevens' mind as to who he delivered the rifle to, he will gladly go down and refresh his memory on the manner in which he stressed the importance of delivering that rifle to me and no one else. In view of these circumstances I don't think my title to ownership can be challenged.

Nevertheless, my brother now claims it as his own. Let's examine his claim. Here is a man who down through the years refused to invest in a rifle for himself. Way back in 1922 when the hunting parties were annual affairs and shooting was in full swing he had first option on this particular rifle before I offered it to my friends. He could have bought it for a mere \$24.95 but he was not interested enough to buy it and allowed Mr. Hahndorf to buy it. As long as I had a spare rifle he could borrow he was not going to invest any of his money in one. But now nearly thirty years later he decides he would like to have one for himself and one for his boy so he connives to get possession of a pair and then try and exercise some quirk in the partnership agreement to claim them. This is the point the court will have to decide.