

that in the routine one would be bent on carrying out only the regular daily duty, thinking only of finishing up the work and getting off to enjoy one's self. And this sort of selfishness, or indeed any sort, will never do for him, for he really loves other people too much to have any sympathy with that temper which turns from others into self-absorption. He likes people and so is a great believer in human nature. I suppose that is one great reason for his being a Unitarian; not because he would deny the divinity of the Lord Jesus, but because he will not countenance the denial of the divinity of man. The great thing that makes people love him is that he loves them. Men and women are often interesting, but often they are not; they are often very tedious, very exasperating, very disgusting, terri-

ble bores, terrible fools, and terrible wrecks. Still, they have not destroyed his confidence in them, and they never will. He believes in people, as in the people.

I suspect that gets to the bottom of it. He likes to be at Washington now, because he sees all sorts of people from all parts of the country and the world, because he touches life at so many sides or surfaces—a great many, of course, but still he does really touch it, and so lives freshly and genuinely. He likes to have the interests of life fresh—fresh and new and strange and unimagined before. He likes all those things. But then he is a realist; he wants things genuine. And they are genuine, as life always has been to him. That is perhaps the reason why at eighty-five he is as young as his sons or grandsons or great-grandsons.

THE IDAHO MURDER TRIAL

BY LUKE GRANT

FRANK STEUNENBERG, a respected citizen and former Governor of Idaho, was assassinated December 30, 1905. Almost at the threshold of his door he was literally blown to pieces by a bomb placed with such devilish ingenuity that a Russian Anarchist might well shudder at the thought of employing such an agent of destruction.

After more than twelve months' incarceration in an Idaho prison, the alleged murderers are about to be brought to trial. The eyes of the entire country are centered on Idaho. It is no ordinary murder trial. Important issues, some of them without a parallel in the history of the country, are involved. In a degree, the rights and liberties of American citizens are at stake, for the Supreme Court of the United States has in this case, according to the dissenting opinion of one of its own members, virtually legalized the crime of kidnapping, when committed by State officials.

Shall death on the gallows end the career of the leaders of the worst criminal conspiracy that can be conceived,

or shall the lives of innocent men be sacrificed in the furtherance of a counter-conspiracy? Is the outcome of the trial to be the dramatic climax of a series of murders planned in wholesale fashion by men of power and influence in the world of labor, or will it result in disclosing a plot on the part of men influential in the world of finance to send to the gallows the leaders of those who have thwarted them in their plans? Those are the questions to be determined by an Idaho jury, and circumstantial evidence is not wanting to show either or both conspiracies.

Will the men be accorded a fair trial? Governor Gooding, of Idaho, says they will. "There is no question about a fair trial," he says. "No higher class of citizens can be found than those who live in Canyon County. They have no prejudice against any class of citizens, be they laborers or capitalists."

"It all depends on the jury," says an attorney for the defense. The same remark might be applied to a murder trial in Boston or New York, but it would not have the same significance.

Throughout the mining districts of the West class lines have been so sharply drawn that justice seems lost sight of. "Hang them on general principles" is the epitome of the feeling on one side, and "Get them off, right or wrong," is the feeling on the other side. The question of the guilt or innocence of the men seems to be incidental. Both sides have helped to create this feeling. The mine-owners and their representatives have been pictured as vultures watching over their prey. On the other hand, the Western Federation of Miners has been pictured as a lawless, anarchistic organization whose leaders have instigated a number of crimes that have shocked civilization.

In order to make clear the situation, it is necessary to take up the story at the beginning. Frank Steunenberg had few known enemies. He was elected Governor of Idaho as a Populist in 1897, largely by the votes of the miners whose accredited leaders are now on trial charged with complicity in his murder. During a strike in the Cœur d'Alene district in 1899 a mill at Wardner was blown up by a mob of union miners. The sheriff of the county sympathized with the strikers and made no effort to bring the ringleaders to justice. Governor Steunenberg was appealed to. The State militia was serving in the Philippines, and President McKinley sent Federal troops to the district. Lawlessness was put down by the most drastic measures. Men were arrested and thrown into a "bull-pen" in hundreds. Others were driven from the district by the military forces. Governor Steunenberg, "the union printer," was held responsible by the miners. The strike was forgotten by all except those directly interested. Other industrial conflicts had arisen between the mine-owners and the miners. Other acts of violence had been committed, and order had again been restored at the point of the bayonet. Steunenberg had returned to private life, and his connection with the strike had apparently been forgotten, when the country was shocked by the news of his assassination. It was a cruel, cold-blooded murder. A bomb had been placed under the gate leading to his

residence in a little suburb of Caldwell, and so arranged that the victim in opening the gate fired the infernal machine that blew him into eternity.

The little town of Caldwell was stunned. Governor Gooding and other State officials hurried to Caldwell on a special train. Every train leaving the town was watched and every avenue of escape closely guarded. Harry Orchard was arrested and charged with the crime. He was one of the few men who was not known in the town and who could not give a satisfactory account of himself. A detective named McParland was called into the case. He was known as the man who unearthed the Mollie Maguire conspiracy in Pennsylvania years ago. Orchard is said to have confessed to McParland that he placed the bomb which killed Steunenberg. He said he was assisted by J. L. Simpkins, an organizer for the Western Federation of Miners. Simpkins escaped from the State, and has never been apprehended. In his confession (the details of which have never been fully made known) Orchard implicated Charles H. Moyer, President of the Western Federation of Miners, William D. Haywood, Secretary of the same organization, and George A. Pettibone, a former member of the union, who conducted a store in Denver in which it is alleged the bomb was manufactured.

That Orchard killed Steunenberg is not denied by attorneys for the defense. That much of his confession they admit. They deny, however, that he was the agent of the Western Federation of Miners, hired by its officials. Indeed, they doubt that Orchard ever made such a statement, for no one aside from the State authorities has seen the confession. That Orchard had a personal motive in killing Steunenberg the defense will endeavor to prove to the jury. At the time of the Cœur d'Alene troubles Orchard was working in that district. He was one of the strikers driven out by the troops. He had at the time a sixth interest in the Hercules Mine, which he had to dispose of for some \$600. A few weeks previous to the assassination of Steunenberg, Orchard visited his old haunts in the Cœur d'Alene district.

He met his former associates who were interested with him in the Hercules Mine. That property had been developed, and was valued at \$6,000,000. Orchard's former companions were rich, while he was virtually a wanderer on the face of the earth. He blamed Steunenberg for his condition, and in this frame of mind he went to Caldwell, determined to wreak vengeance on the man he held responsible. The murder of Steunenberg was the result. This is the theory of the defense.

That the State authorities of Idaho and Colorado are in league with the mine-owners to railroad to the gallows the leaders of the Western Federation of Miners is believed by many persons who cannot be accused of condoning murder. It is a serious charge, but certain events which followed the arrest and alleged confession of Orchard tend to give it a semblance of truth. Neither Moyer, Haywood, nor Pettibone was in Idaho at the time the murder was committed. That fact was well known to the authorities of both Idaho and Colorado. Under the law the men were not fugitives from justice, and could not be extradited. But the Idaho authorities were determined to get them regardless of law. The prosecuting attorney of Canyon County made affidavit that the men were in Idaho at the time of the murder. He knew that in doing so he was committing perjury, declares Attorney Darrow, counsel for the defendants, and Governor Gooding knew when he signed the requisition papers that the affidavit was false. Some apologies have been offered for the commission of these acts. One says that the Idaho statutes make accessory principals in a murder charge; another, that they were done to prevent habeas corpus proceedings in Colorado. The facts remain that the papers were signed, and that twelve armed deputies were hurried to Denver to secure the accused men. The requisition papers were presented to Governor McDonald, of Colorado, on February 15, 1906. He promptly honored them, although he knew the men wanted were not fugitives from justice, as claimed by the Idaho authorities. The men could have been arrested at any time during the next two days, but they were not. The

fact that their extradition was sought was carefully kept a secret. Late Saturday night, February 17, when all courts were closed, the men were arrested and thrown into jail. They were given no opportunity of communicating with their attorneys, or even with their families. Early next morning they were placed on a special train and rushed to Boise, Idaho. The special train did not stop at stations, but changed engines at isolated points along the route. Once at their destination, the prisoners were placed in solitary confinement and treated as if they had already been convicted of, instead of being charged with, a crime. The theory of law was reversed, say friends of the accused, and the men were presumed to be guilty before they had even been indicted. It is a coincidence that Governor McDonald, who signed the warrants for the arrest of the men, and Pettibone, one of the defendants, were brought up together as boys, in the same town in Erie County, Pennsylvania.

The manner in which the accused men were taken from Colorado raised a storm of protest. It was declared that they had been kidnapped. Legal steps were at once taken to release them on habeas corpus proceedings. Suit was brought in the Supreme Court of Idaho. That tribunal decided that—

"One who commits a crime against the laws of a State, whether committed by him while in person on its soil, or absent in a foreign jurisdiction and acting through some other agency or medium, has no vested right of asylum in a sister State," and the fact "that a wrong is committed against him in the manner or method pursued in subjecting his person to the jurisdiction of the complaining State, and that such wrong is redressible either in the civil or criminal courts, can constitute no legal or just reason why he himself should not answer the charge against him when brought before the proper tribunal."

From the State Supreme Court the matter was carried to the United States District Court, with the same result. An appeal was taken to the Supreme Court of the United States, and it affirmed the decision of the lower court. The decision is interesting. It says:

If he [Pettibone] should be acquitted by the jury, then no question will remain as to a

violation of the Constitution and laws of the United States by the methods adopted to secure his personal presence within the State of Idaho.

In another part it says:

It is true as contended by the petitioner that if he was not a fugitive from justice within the meaning of the Constitution, no warrant for his arrest could have been properly or legally issued by the Governor of Colorado. But it was not shown by proof before the Governor of Colorado that the petitioner alleged in the requisition papers to be a fugitive from justice was not one, nor was the jurisdiction of any court sitting in that State invoked to prevent his being taken out of the State and carried to Idaho. That he had no reasonable opportunity to present these facts before being taken from Colorado constitutes no legal reason why he should be discharged from the custody of the Idaho authorities.

In a dissenting opinion Justice McKenna said:

In the case at bar, the States through their officers are the offenders. They by an illegal exertion of power deprived the accused of a constitutional right. Kidnapping is a crime, pure and simple. It is difficult to accomplish; hazardous at every step. All the officers of the law are supposed to be on guard against it. But how is it when the law becomes the kidnapper? When the officers of the law, using its forms and exerting its powers, become abductors? This is not a distinction without a difference. It is another form of the crime of kidnapping, distinguished from that committed by an individual only by circumstances. If a State may say to one within her borders, "I will not inquire how you came here; I must execute my laws and remit you to proceedings against those who have wronged you," may she so plead against her own offense? May she claim that by mere physical presence of the accused within her borders, the accused person is within her jurisdiction deprived of his constitutional rights though he has been brought there by violence? Constitutional rights the accused in this case certainly did have, and valuable ones.

In his opinion Justice McKenna says that the right to resist removal from a State is not a right of asylum, but is the right to be free from molestation. He says:

It is the right of personal liberty in its most complete sense. . . . It is to be hoped that our criminal jurisprudence will not need for its efficient administration the destruction of either the right or the means to enforce it. The decision in the case at bar, as I view it, brings us perilously near both results.

But the manner in which the accused labor leaders were taken from Colorado

is not the only evidence of a conspiracy on the part of the State authorities and mine-owners, say friends of the defendants. Confined with Orchard for a time in a prison in Boise was a man named Steve Adams. He was a member of the Western Federation, and was suspected of complicity in the Independence outrage and other murders in Colorado. He was said to have made a confession of his guilt. Adams secured his release on a writ of habeas corpus, and immediately went over to the side of the defense. He repudiated the alleged confession, declaring that it was all written out and that he was compelled to sign it on pain of death. He told some strange tales about the way in which the Orchard confession was secured. Adams was rearrested and charged with the murder of a "claim-jumper" in Shoshone County some years before. This the defense believes was done in the hope that he would be convicted and that he might be induced to testify against Moyer and Haywood on the promise of securing his own liberty. At each term of court the defense has been ready to proceed with the trial. The delays have been caused by the prosecution. If the State has proof of the guilt of the prisoners, why the delay in bringing them to trial? asks the defense. Why has it been necessary to keep the accused men confined for more than a year if the only witness against them had confessed before they were arrested?

What weight will the testimony of a confessed co-conspirator have with the jury? It has been charged by the miners that Orchard was a detective employed by the Cripple Creek Mine Owners' Association. The mine-owners deny this, and there is no proof that he was. Those who know him say that he is a desperate character, who might be hired to do murder by any one who paid him his price, whether miner or mine-owner. For years he has been known as the intimate friend of Haywood. At the time of his arrest he was wanted by the Colorado authorities on the charge of blowing up the railway station at Independence and causing the death of thirteen non-union miners. He is said to have confessed to that crime and to having committed twenty-six murders as

the agent of the "inner circle" of the Western Federation of Miners.

The prisoners will have the advantage of the best legal talent that can be procured. E. F. Richardson, of Denver, known throughout the West as a lawyer of great ability, has associated with him in the case Clarence S. Darrow, of Chicago, whose famous argument to a jury in another conspiracy case in Oshkosh, Wisconsin, a few years ago resulted in an acquittal. That the men on trial in Idaho will require all the ability of their counsel to secure their liberty seems certain. Even should they be acquitted of the charge of planning the murder of Steunenberg, numerous murders committed in Colorado within the past few years are charged against them. There is strong circumstantial evidence that a conspiracy to commit wholesale murder actually existed as charged by the prosecution in this case. In addition to being implicated in the murder of Steunenberg, the leaders now in jail are accused, according to the alleged Orchard confession, of planning the murders of Lyte Gregory, a detective mysteriously killed in West Denver three years ago; Arthur Collins, superintendent of a mine at Telluride, shot through a window in his own home; Martin Gleason, superintendent of a mine in Cripple Creek, thrown down a shaft; Martin B. Walley, killed by the explosion of a bomb placed in a vacant lot through which Chief Justice Gabbert, of the Supreme Court, was accustomed to walk; the blowing up of the Independence railway platform, and a list of other crimes of the most revolting nature.

To comprehend the extent of this conspiracy it is necessary to know something of the history of the Western Federation of Miners. That history is a record of strikes, bloodshed, and lawlessness. It is true the lawlessness has not always been on the side of the miners, but they or their leaders have been responsible for much of it. Armed force has been advocated by its leaders since President Boyce in 1897 urged every union to organize a rifle club. In a speech in a convention of the Industrial Workers of the World in Chicago in July, 1905, Haywood said that the American Federation

of Labor had some 2,000,000 members, while the Western Federation of Miners had 28,000, "but," he said, "with that small membership we can strike more terror to the hearts of the capitalists than can the American Federation of Labor." Terror they have struck, not only to the hearts of the capitalists, but to all who have in any way incurred their displeasure. A large majority of the men who compose the membership of the Western Federation differ but little from the men in other labor organizations. They are honest, hard-working miners, with as much respect for law and order as other citizens in the communities where they live. It should be understood that the Western Federation is not on trial, although some of its friends are anxious to have it appear that it is. It is the leaders who are accused of the crimes and atrocities which have made the organization a byword among labor unions. It may be said that the members are responsible for the leaders, but this is, perhaps, less true of the Western Federation than of any other labor organization in the country. The Western Federation is pledged to Socialism through its convention. Socialism is supposed to be the essence of democracy. The rank and file in the Socialist party are supposed to govern. But the Western Federation is a bureaucracy. It is ruled by a few individuals who have assumed absolute power. When the convention declared for Socialism in 1903, the question was never submitted to the membership for a vote. Privately the officials admit that it is doubtful if the membership as a whole would vote favorably on such a policy. So the visionaries who rule the organization did not give the membership a chance to defeat the revolutionary policy adopted by the convention. When the strike was ordered which led to the reign of lawlessness in 1903 and 1904, the members did not get a chance to vote on it. If they had, in all probability it would not have taken place. When the Western Federation withdrew from the American Federation of Labor some ten years ago, the step was taken by the officers. The membership had nothing to say about it. It is an open question to-day whether the

membership, if given the opportunity, would not repudiate the whole policy and seek affiliation with the family of trade unions under the banner of the American Federation of Labor.

The abolition of the wage system and class hatred are constantly preached to the membership through the weekly publication of the union. "Labor produces all wealth; wealth belongs to the producer thereof," is the motto emblazoned on the official paper and the working cards of the members. This saying may be interpreted in different ways. How far it is responsible for the pilfering of ore in high-grade mines is problematic, but the mine-owners assert that since the Federation rule was broken in the Cripple Creek district they have saved \$3,000,000 a year from that source alone. The truth of the statement may be questioned, however, since the mine-owners recently abolished the card system enforced for two years in the hope that the old miners who were deported might return.

The deportation by the State militia in 1903 of union miners from the Cripple Creek and Telluride districts has often been pictured as the most outrageous proceeding ever perpetrated by public officials under the guise of law. That innocent men were made to suffer there is no doubt. If it can be justified at all, it can be justified only on the ground of necessity which knows no law. But if that deportation, harsh as it may have been, is weighed against a former deportation of non-union men by a mob of union miners, armed with rifles ordered by union officials and paid for with union funds, it was humane in comparison. It was an application of the doctrine of force so consistently advocated by the leaders of the miners themselves, say the mine-owners. They were beaten at their own game, and their plaint was heard all over the country. Only two years previously an armed mob of miners, led by the president of the union, drove some one hundred non-union men over a rough mountain trail after having compelled them to throw away their shoes and march barefooted. Stragglers who fell behind were brutally beaten, and a few were shot and maimed for life.

It was not open lawlessness such as that described, however, that made the miners feared by those who opposed them. The open outbreaks were infrequent, and it was only during strikes that the atmosphere was charged with the spirit which makes mob violence possible. It was the secret murders that were a common occurrence that kept the whole community in dread. It is true that few, if any, of those murders have been brought home to men in a position of power in the union. Such men have on a few occasions been indicted and acquitted when brought to trial. This, perhaps, need not be wondered at when it is understood that juries were afraid to return a verdict of guilt. As an illustration, a watchman caught two union miners in the act of stealing ore. They were tried and acquitted. A short time afterward the watchman's house was blown up with dynamite.

When Sherman Bell filled the courtroom and surrounded the building with soldiers when some union miners were to be tried, it did not look like, according to men a fair trial by a jury of their peers; but it can be shown that on other occasions an attorney defending union miners simply showed the affiliations of his clients and a union jury did the rest.

That an "inner circle" existed in the Western Federation of Miners is a matter of common belief. That the men in this "inner circle" are responsible for the crimes that have been committed against those who had incurred the displeasure of the union is also believed by many. Men prominent in organized labor circles in Denver and other cities privately shake their heads and say that "it looks bad," while they publicly denounce the manner in which Moyer and Haywood were taken from Colorado. Whether an "inner circle" exists, and whether Moyer and Haywood are members of it, are questions for an Idaho jury to determine when it has heard all the evidence. To the impartial observer it appears more than a coincidence that dozens of individuals who had troubles with the union met violent deaths. The mine-owners have resorted to many unscrupulous methods to discredit the miners' organization, but it is hardly

conceivable that they would wantonly murder non-union men in their employ. It is hardly conceivable that they could have planned to blow up the station platform at Independence and kill the men who were helping them to operate their mines. Haywood pretends to believe that they did, but few will agree with him. The miners assert that when General Reardon, President of the Mine Owners' Association, learned of the result of the explosion he was heard to exclaim: "My God! we did not intend to kill anybody!"

When the militia raided the union headquarters in Victor, they found a number of group photographs of miners. Certain men in the groups were marked with a cross in lead pencil. Their names were written on the backs of the photographs. On one photograph were the names of five men. One was Charles McCormick, superintendent of the Vindicator mine. Another was Mel Beck. Both men were killed by a dynamite explosion when the fatal "accident" took place in the mine. A line was drawn through their names on the back of the photograph, which might indicate that the score had been settled. It is true that an official investigation showed that the machinery which operated the elevator in the shaft was in a defective condition. The elevator might have fallen, as was claimed by the union men and their friends, but the markings on the photographs looked suspicious. The miners say that the names were written on the photographs by detectives in the employ of the mine-owners, and left in convenient places for the militia to find them. As proof that the mine-owners have resorted to such tactics the miners cite the case against Sherman Parker, President of the miners' union of Cripple Creek. Parker was being tried for an attempt to wreck a train loaded with non-union miners, when a detective named McKinney, a witness for the mine-owners, admitted under cross-examination that he himself attempted to wreck the train, and was hired to do it by the Mine Owners' Association. He first tried to induce some of the miners to commit the crime, and, failing in that, he attempted it himself

with a view to shifting the blame on the union.

These things make it difficult to get at the truth in the whole affair. Whether the men about to be tried are convicted or acquitted of the crime with which they are charged, the more one studies the workings of the Western Federation of Miners, the more irresistibly is the impression borne home that the teachings of its officers are dangerous to the forces which make for law and order. Incendiary utterances against the Government and its constituted authorities are not likely to increase respect for the law. If the officers of the Western Federation are guiltless of all the crimes laid at their doors, they are at least guilty of teaching a doctrine that might easily incite weaker men to commit such crimes.

Important as are some of the issues in this trial, there is no occasion for the hysteria that is being manifested in certain quarters. Socialist papers and other radical publications are trying to make it appear that this is a death-struggle between organized labor and organized capital. It is nothing of the kind. It is a trial of men charged with one of the blackest murders ever committed in this country. If they are given a fair trial by a jury of their peers and found guilty, to say that their conviction means a deathblow to organized labor is worse than an insult to the organized wage-workers of the country. The labor movement rests on no such unsafe foundation. When Debs was sent to jail during the American Railway Union strike in 1894, the same hysterical writers and speakers declared it meant the death of organized labor. Debs served his sentence, and the American Railway Union was disrupted. The railway brotherhoods are to-day stronger than at any time in their history. The mere possibility of innocent men being hanged is serious to contemplate. It is also a serious matter that murders such as have been committed in the West can happen and the perpetrators escape unwhipped of justice. But the future of organized labor, even in the mining camps of the West, is not dependent on the result of the Moyer-Haywood trial.