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CLASS ENMITY ON TRIAL

AN ACCOUNT OF THE WAR BETWEEN THE MINERS AND THE CORPORATIONS OF COLORADO THAT CULMINATED IN THE TRIAL AND ACQUITTAL OF W. D. HAYWOOD

BY

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IN the verdict of not guilty returned by the Idaho jury in favor of William D. Haywood, charged with the murder of Frank Steunenberg, former governor of the state, there is

contained a lesson for all who were parties to that great legal conflict.

The finding of the twelve Idaho farmers carries a much wider significance than merely registering the fact that the man accused was innocent of the charge. The trial of Haywood marked an epoch in the turbulent history of industrial conflict in the western states, and the leaders of both sides will do well to take counsel of moderation in all their future relations.

For more than a generation the workers and the employers of the mining west have been locked in deadly embrace. The battles have waged with more or less fierceness, and outlawry has been the resort of each when ends were to be gained and opportunity offered. The civil government of the several districts has been dominated at one time or another by either side and the power of entrenched authority rather than justice has rendered decisions in the causes submitted for determination.

With the evolution in mining the large properties became concentrated in the hands of the few. Miners from the very character of their labor are not the class upon whom can be practiced these economies for the increase of dividends without a protest. A score of years ago the miners were mostly hardy prospectors who consented for the time being only to work for wages. With the accumulation of a little stake they would again start for the hills in their search for gold. With the hope always alive in their breasts of developing into the millionaire class it was

only natural that the spirit of independence was strong within them. These men were not the kind to submit to wage-reductions or burdensome conditions of employment.

Attention was first drawn to mining troubles in the deeds of violence committed in the Cœur D'Alene mining district of northern Idaho. The Western Federation of Miners was strongly entrenched in the Cœur D'Alenes, the mines and mills of the district, with the exception of the Bunker Hill & Sullivan corporation, according them the full-wage scale, hours of employment and recognition as a union. The Bunker Hill & Sullivan management steadfastly refused to recognize the union, and, while some union men were employed by this corporation, their places were being taken by non-union workmen.

On April 29, 1899, a force of union miners numbering about eight hundred took possession of a train of the Oregon Railroad & Navigation Company at Burke and proceeded down the cañon to Wardner, where the concentrating mill of the Bunker Hill & Sullivan Company was located. With military precision they advanced on the mill, laid a huge charge of dynamite under it and blew it up. The loss sustained was about \$100,000 and two men were killed, one a non-union miner named James Cheyne and a union miner named Smith. Following the destruction of the mill the men returned as they had come, by train, and prepared to go about their business as if nothing had happened.

Frank Steunenberg, the man who was murdered by Orchard's bomb, was governor at the time, and appeal was made to him for troops and a declaration of martial law. The miners counted upon Steunenberg's denying the request, for had they not contributed largely to his nomination and election? Their confi-

dence in Steunenberg's inaction was misplaced and the next day the governor issued a call for troops, the request being sent to the federal government because the Idaho National Guard was at that time in the Philippines. General Merriam and a regiment of negro soldiers were sent to the district and, before martial law was declared, wholesale arrests were made of the union miners. A huge stockade was constructed and into this enclosure the prisoners were thrown indiscriminately.

This institution was the infamous bull pen which will always be regarded as a blot upon the fame of every person connected with it. Cruelties unspeakable were practiced by the negro troops and the bitterness engendered between the two forces at that time survives to this day. Besides imprisoning without warrant of law all workmen known to be members of the union, the officers in command deposed the civil authorities and installed creatures of their own selection who administered the laws in accordance with instructions issued by the Mine Owners' Association.

For more than six months the distemper ran its course and when the troops were finally withdrawn the district was declared safe. The Federation was thoroughly shattered, the union miners spread all over the western country, finding refuge in camps from Mexico to Alaska. A great many of the men went to Colorado, numbers of them finding employment in Cripple Creek.

Prior to the election of James H. Peabody as governor of Colorado in 1902 the Western Federation was strong in numbers and influence in the state. The Democratic party, with which they were most affiliated, nominated for governor that year Edward C. Stimson, who as judge of the district court of which Teller County, the Cripple Creek district, was a part, had given offense to the miners. As a rebuke to the Democrats the miners cast their votes for Frank W. Owers, the Populist candidate, and Stimson was defeated. Peabody had received the solid support of the mine-owners.

Early in 1903, a few months after Peabody entered the office, the mill operators of Colorado City, with Charles M. McNeil at their head, began discharging

the members of the union employed at the several reduction works. A strike was called in March, but this was settled by a commission appointed by Governor Peabody, to which body miners and mill-owners agreed to submit their differences. Hardly had the commission filed its report with the governor before the workmen charged McNeil and his fellow employers with bad faith. Several ineffectual attempts were made to settle the troubles, but they failed and another strike was called in July. A few weeks later, on August 10, a general strike was called in the Cripple Creek district, the cause being that the mines of the district were shipping ore to the unfair mills. It was the hope of the Federation leaders to cripple the reduction mills by shutting off their supply of ore.

On September 4, 1903, Governor Peabody sent in the troops in response to requests made by the Mine Owners' Association, and the Citizens' Alliance, an organization of business men dominated by the mine-owners. A number of arrests were made by the military officers, who were under orders from the mine-owners.

While the strike was on — from August 10, 1903, until June 6, 1904—deeds of violence were committed, both sides being charged with responsibility. On November 14 an attempt was made to wreck the Florence & Cripple Creek train and the miners were accused of the job. A week later an explosion occurred in the Vindicator mine, in which Superintendent Charles McCormick and Shift Boss Melvin Beck were killed. Not until June 6, 1904, did the next act of violence occur. At 2 o'clock in the morning of this date the platform at the Independence station was blown up and fourteen non-union miners who were waiting to take the train to Cripple Creek were killed. This act, immediately charged to the miners, marked the end of the strike. Law was taken into the hands of the mine-owners and every known union man or sympathizer was run out of the district, a whole trainload being deposited upon the barren prairies at the Kansas and Colorado state line.

For a full year the situation in the mining districts wore a peaceful aspect. The Federation was doing as well as it

might to repair its shattered fortunes. It had been all but broken by the costly Colorado strikes. The bulk of its membership was found in the camps of Colorado and with but few exceptions these camps were being run on the open-shop principle, or, as in Cripple Creek, Leadville and Telluride, with a strict embargo against all union men.

After this period of quietude the country was startled by news of the assassination of Frank Steunenberg, who, more than six years before, had issued orders for troops to take possession of the Cœur D'Alenes. The Steunenberg murder was committed at 6 o'clock on the evening of December 30, 1905. A bomb was attached to the gate-post of his house and as he opened the gate to enter the yard his body received the full force of the discharge.

Among the suspects who were immediately arrested was a man giving his name as Thomas Hogan. He was later identified as Harry Orchard and a member of the Western Federation of Miners. Newspaper reports for the next few days intimated that the Federation was concerned in the taking off of Steunenberg, but these rumors were giving way to more up-to-date news when fresh interest in the case was taken by the action of the state authorities of Idaho and Colorado in forcibly taking William D. Haywood, secretary; Charles H. Moyer, president, and George A. Pettibone, former member of the executive board of the Western Federation of Miners, from their homes and rushing them on a special train to Boise, Idaho.

All the motions known to the law were attempted by the prisoners' counsel to secure their freedom, but the court of last resort, the United States Supreme Court, held that the question of illegal extradition was not involved and the application for a writ of *habeas corpus* was denied by that tribunal.

The state elected to try William D. Haywood first, and the date was set for May 9, 1907. Three weeks were consumed in the selection of a jury, and on June 4 Harry Orchard was called to the stand. It is doubtful if such a tale as was told by Orchard ever fell from human lips.

He gave his true name, Albert E. Horseley; was born in Canada and was

forty-two years old. His first offenses were committed at Wooler, Canada, where he ran a cheese factory. He gave short weight in the cheese and finally burned his factory and pocketed the insurance. His next move was to run away with another man's wife, their destination being Detroit. From Detroit the pair went to Vancouver, where they separated, the woman going back to Canada and Orchard drifting to this country, finally landing in the Cœur D'Alenes. After a more or less precarious existence, during which he tried his hand at several occupations, he started mining, being in this employment and a member of the miners' union for several months before the raid was made on the Bunker Hill & Sullivan mill. His was the hand which touched one of the fuses which resulted in the explosion of the mill.

Orchard escaped the country before the troops entered, taking his way to Montana. In 1902 he arrived at Cripple Creek and secured employment at one of the mines, again joining the union. He was an indifferent union man, he testified, and took no part in union deliberations until the strike was called the following year.

According to his testimony he set the bomb which resulted in the death of McCormick and Beck in the Vindicator. He set bombs for Governor James H. Peabody, Chief Justice William H. Gabbert, Justice Luther M. Goddard, and investigated conditions with a view to assassinating Frank J. Hearne, president of the Colorado Fuel & Iron Company, David H. Moffat, president of the First National Bank, and Sherman Bell, adjutant-general of Colorado. One Denver man, Merrit E. Walley, met death in a vacant lot by the explosion of a bomb which Orchard testified he set for Judge Gabbert.

Lyte Gregory, a detective employed by the mine-owners, was shot to death while leaving a saloon in West Denver, and Orchard testified he committed the murder. The explosion at the Independence depot, Orchard testified, was done by him and Steve Adams. Several months later he exploded a bomb at the San Francisco residence of Fred Bradley, former manager of the Bunker Hill & Sullivan Company. Bradley was thrown to the street

by the force of this explosion, but escaped serious injury. The owner of the Bradley house secured a judgment of \$10,000 from the San Francisco Gas Company, charging the explosion to defective piping.

The assassination of Steunenberg completed the recital of Orchard's tale of crime.

For five days Attorney E. F. Richardson cross-examined Orchard, but without making any dent in his story. The man stuck to his facts, maintaining throughout that after every job he conferred with the Federation leaders, received his pay and was given instructions to go after the next victim.

The requirements of the law in conspiracy cases demand that corroborative proof be presented to connect the defendant Haywood with the conspiracy charged by the state and to which Orchard testified. It was not sufficient that the proof be of such character as to corroborate Orchard's statements as to the manner in which the numerous deeds were committed. It must show beyond a reasonable doubt that Haywood, in fact, was a party to all of the homicides. In this requirement it is admitted the state was deficient.

From the nature of the case it was inevitable that the entire trail of the mining states should be traversed. The state, undertaking the herculean task of imposing responsibility upon the defendant for more than a score of murders, threw wide open the gates for the introduction of reams of testimony that seemed strangely out of place in a trial to determine the murderer of Frank Steunenberg. That attempt of the state constituted its weakness, for Haywood's attorneys well argued that the state's case was no stronger than its weakest link, and where one link was missing the entire chain was discredited.

Under the leadership of Attorney Clarence S. Darrow the theory of the defense early developed into a presentation of conditions in the mining camps that would excite the sympathy of the jury and arouse their prejudices against the mine-owners and allied forces who were responsible for such exceeding brutality. Darrow injected into the trial the elements of industrial struggle and he was

successful in keeping this phase of the situation constantly before the jury.

As Orchard was the chief prop of the case for the state so he became the chief point of attack for the defense. Indisputable evidence was presented to show his connection and constant association with the detectives of the Mine Owners' Association. It was brought out that the first time he went to see Haywood and Moyer he traveled from Cripple Creek to Denver on a pass and money given him by Detective D. C. Scott, an employee of the Florence & Cripple Creek Railroad. It was testified on behalf of the defense that the day of the Independence depot explosion Detective K. C. Sterling admitted knowledge of the perpetrators and called off the man who was following bloodhounds tracking the scent left by Orchard. The failure of the state to place Sterling on the witness stand, although he was in the court-room, was a damaging admission of the man's guilty knowledge.

The exposure of the methods of the Pinkerton detectives as furnished by the witness Morris Friedman, former stenographer to James McParland, was another blow to the state. It was shown by documentary evidence that the Pinkertons had their spies in all of the active labor unions, that they frequently were officers of these unions and they made regular reports to the agency, which in turn were forwarded to the mine-owners. In one case it was shown that the man who was chairman of a strike committee, entrusted with the distribution of the strike funds, was an operator for the Pinkertons.

The result of the Haywood trial is of far-reaching importance. The radical element on both sides has been taught a lesson. Mine-owners will not again brave the force of public opinion by the institution of the infamous bull pen and resort to indiscriminate deportations. The miners are men and they will receive treatment as such. It is worthy of comment that men bearing the American names of Haywood, Moyer, Pettibone, Davis, Easterly, Aikman, Parker, Foster, Houghton, Harper and scores of others were lined up on one side. These men are Americans and when bull pens are erected for incarceration of such blood it is unfortunate to the last degree.