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Wednesday, January 25th, 1906.

REPORT OF J. McP. - STATE OF IDAHO) ex-Gov. Steunenberg Murder.

Hon. Frank P. Gooding, Gov.,
Boise, Idaho.

Dear Sir:-

To-day in Boise after attending to my mail, at 1:45 P.M. I took the street car en route to the Penitentiary, and on arriving at the end of the route I was met by an employe of the Penitentiary with a rig, who drove me to that place where I met Warden Whitney, and after a brief conference he fetched the prisoner, Orchard, into his private office, where he was left alone with me. Orchard and I remained in conference from about 2:00 P.M. until 5:50 P.M.

He seemed to be very glad to meet me and said, "Well, you did come to see me as you agreed to do and I am glad of it". His manner was entirely changed from what it was on my visit to him on the 22nd. I opened the conversation by asking him if he had thoroughly studied over the conversation that we had on Monday, and more especially the points wherein I suggested regarding the matter of States witnesses. He replied that he had thought very little of anything else except this matter, and, after due deliberation, he could not see what interest I had in him that I would talk to him as I did on the 22nd. I replied that in one way I had no interest in him whatever, no more than I would have in any other wilful murderer, but as a man who advocated law and order I had an interest not only in the welfare of the State of Idaho but every State in the Union that was effected by the blight of the Western Federation of Miners. At the same time, knowing full well, as he must know, that he was simply the tool of the Inner Circle, he, to a great extent, my sympathy. A man of his intelligence and reasoning power, as his forehead would indicate, had, not only the ability of doing a large amount of good, as well as evil. As I had stated to him on Monday, if he had formed associations of law-abiding citizens when he first started out in the world instead of a crowd of socialists, anarchists and murderers, he would have become a shining light in any community instead of now occupying the cell of a condemned felon and relying on his intelligence when the right path was pointed out to him. I talked to him as I did on Monday and he certainly must be aware that while he was alive he was a menace to his former associates, or rather the whole Inner Circle of the Western Federation of Miners, and it was their duty to engage good legal talent, who, through their advice, would buoy him up and tell him he could not be convicted in this case, and after his conviction to point out to him that the verdict of the District Court would be reversed in the Supreme Court, and, while forestalling what the Supreme Court, or any other court would do, would say to him after the Supreme Court had affirmed the decision of the lower Court that his lawyers would still be at his back, telling him to "stand pat", as the Governor had political aspirations and had to have the votes of every Union man in the State, including the Western Federation of Miners, and therefore, at the last hour would commute his sentence and eventually pardon him. This would be what would be represented to him by his lawyers even up to the time when he would take his journey from the cell to the scaffold. After his lawyers had seen that he was properly executed the Inner Circle of the Western Federation would rest contented as his lips were sealed forever, and the lawyers in the case had done the duty required of them by their clients. I wanted to again remind him that he was not the client in this case, but that the clients were the Inner Circle of the Western Federation of Miners who paid the lawyers, not for the purpose of clearing him but for the purpose of keeping his mouth shut. His lawyers in advising him this course knew full well that he would be convicted and eventually executed, but in order to satisfy their clients and earn their fee they had to advise him along the lines as stated above. When his lawyer next called upon him he could notify him every word that I had spoken on this subject, and when he did so to look the lawyer in the face and I thought that he would see from his actions that the lawyer, notwithstanding whatever he said, that he knew what I had said was true. He said, "I want to say to you, Mr. Mc

Parland, that I will never mention to my lawyer one word that has passed between you and I, and if I can only depend upon you, make a thorough confidant of you I could tell you some things that would surprise you. I know more about you than you suspect. I am well aware that if you made a promise to a man, no matter what crime he had committed, if he did his part, you have always seen that your promise was carried out".

I told him that I was very much pleased that he knew my real character, and told him that that ought to induce him to make a confidant of me, but I would not insist upon it. He said, "Now, I know you would not go into Court and testify to something I did not say, or in fact, go into Court and reveal this conversation, which would be immaterial." I told him that he was right in his surmises and that I was not there for that purpose, and he said, "That being the case let us suppose a case for the sake of argument. I will now say to you I am guilty of the crime as charged. I have committed the crime." He then paused: "Now you understand this is not a confession, but for the purpose of getting information that I want, or rather for argument's sake." I told him that I thoroughly understood that and that I hoped that he did not think that I would go into Court and testify that the words he had now spoken were given as a confession. He said, "Now, you are the detective; you come to me for a confession; you have already stated to me that you have absolute proof of my guilt. Such being the case, why do you come to me and talk with me as you have done? What benefit would it be to me to make a confession? I committed the crime, you know it and claim to have proof of the facts." To this I replied that he must remember at the very outset of our talk on Monday that I did not come there to find out whether he was guilty of the murder of ex-Governor Steunenberg or not, as we had positive proof of his guilt and would hang him upon the proof in our possession, but as he was but the tool of the power behind the throne, the Inner Circle, the hanging of him would be very little satisfaction. It would not break up the organization, or rather the Inner Circle, as there was probably 85% of the members of the Western Federation of Miners who were entirely innocent of the outrages and murders that had been committed and perpetrated through the Inner Circle, and if he would come up and make a full confession of all that he knew in this case the State no doubt would take care of him. To substantiate this fact I recited a number of instances which he knew of himself wherein men had become States witnesses in murder cases and not only saved their necks but also eventually got their liberty. On that ground he would be benefited by making a full confession, but in making a confession he must have all of the truth. He must not attempt to cover one of these conspirators through friendship, neither must he attempt to accuse somebody of a crime of which he was innocent for the purpose of rectifying some real or imaginary grudge that he had against him, and if he concluded to make a confession I asked him to for God's sake tell the truth, and not to cover any of the conspirators through friendship, and not to try to convict or implicate some person who was really innocent.

He said, "Well, supposing that I told you that John Smith told me that had had killed Jim Brown, would that be evidence against John Smith? I did not see him kill John Smith." I informed him that if there was corroborative evidence leading up to the murder of Brown by Smith that a confession that Smith had made to him was the most damaging of all evidence, in fact under certain circumstances it was stronger than if he testified that he saw Smith kill Brown, because the defendants might prove that he, Orchard, had a motive in removing Brown and was simply swearing away the life of Smith in order to cover himself.

He said, "Well, that is one point made clear by you. But supposing several parties had guilty knowledge of a murder that was committed and were not present at the murder, what good would it be for the murderer to make a confession so long as the State had enough evidence to convict? Can you explain that Mr. McParland?"

I told him that I would explain it in this way. You will be one of the conspirators. He said "All right." Now, Smith, Brown, Jones and yourself conspire to murder Johnson. Johnson lives away at a distance. Smith, Brown and Jones being men in authority, detail you to go and commit the murder, advise you how to do it, furnish you with the means to travel and support yourself while engaged in this matter, and when you arrive at the place where Johnson resides, you discover that you will have to have help. Therefore you take into your confidence Bob White and Bill ~~James~~ Black. After making proper arrangements Johnson is murdered. Bob White and Bill Black make their escape and you are arrested and sufficient evidence has been gotten to convict you and hang you according to law, although you might not have wielded the dagger, pulled the trigger, or exploded the bomb that killed Johnson. Bob White and Bill Black had not seen Jones, Brown and Smith upon the subject of this murder at all. You were the only person that they saw. Nevertheless, every act of Bob White and Bill Black, if explained in Court, would be evidence against Jones, Brown and Smith, who were hundreds of miles away from the scene of the murder. The conspiracy ended when Johnson was killed. As possibly pre-arranged with Jones, Brown and Smith, or even if not arranged, after your arrest it was their duty, just as they have done, to procure legal talent, not, as stated before, for the purpose of acquitting you, as they knew that was impossible, but for the purpose of keeping your mouth shut until you were legally hung.

Would say in connection with the above hypothecated case, I was simply explaining to Orchard how ~~he~~ I think in my own mind how this murder was committed. He said, "Well, if Bob White and Bill Black were arrested and they turned States evidence, how would that be?" I said their evidence would only affect you as they had never seen or talked with Jones, Brown or Smith at the inception of this conspiracy. You kept your mouth closed, which was the key to the situation. Therefore, you would suffer the penalty, but if the State had Bob White and Bill Black and had the same evidence against them that they have against you, they would not accept them as State witnesses because the evidence would only result in the hanging of you as the State had sufficient evidence to hang you and they would simply try all three of you, convict you and hang you together, but if you confessed it would be quite different as your testimony would reach the very foundation and the head of these cut-throats known as the ~~Western~~ Inner Circle of the Western Federation of miners. This being the case the State would gladly accept your assistance as a State witness. ~~This being the case the State~~ and see that you are properly taken care of afterwards.

To this Orchard replied, "I think, Mr. McParland, I now understand the position that you take. You have made it very clear to me. But supposing that I turned States evidence, that my evidence convicts the leaders, as you have explained, the State takes care of me by eventually giving me my liberty, (I reminded him at this point that I had not guaranteed anything of the kind. He remarked that he knew that but was making this statement for the sake of argument) then I would be taken back to Colorado and tried for some of the crimes they claim I have committed there and it would be out of the power of the State of Idaho to resist."

I told him that if he acted properly in this case we would get the leaders and that was all that the State of Colorado and the State of Idaho wished, and that I thought I could assure him that he would not be prosecuted for any crime that he committed in Colorado. To this he replied, "If I become a States witness in giving my evidence I would probably have to admit some crimes that I committed in the State of Colorado, as the parties who would be on trial knew of this and no doubt it would be brought out in the evidence. Then what would be the result?" I said that in that matter he would have to act under the advice of the lawyers for the State. He could refuse to answer such questions on the ground of incriminating himself, or he could state the truth and by doing so he would show that in committing the crimes in question he acted under the advice of the Inner Circle of the Western Federation that was then on trial just as he had done in this case. However, that would be a matter for the lawyers for the prosecution to advise him on.

He said, "Now, there is another objection to my becoming a State

witness. The people of the State would never be satisfied to allow me to go unpunished. The Governor has got to hearken to public sentiment, and I know full well that that sentiment means that I be executed." I told him that if he acted in good faith with the State that the sentiment that now existed would be reversed, that instead of looking upon him as a notorious murderer they would look upon him as a savior, not only of the State of Idaho, but of all States where the blight of the Inner Circle of the Western Federation had struck, and assured him that he need have no fear on that score.

I then cited to him the case of Kelly the Bum, who, in the case of the People versus Hester, Talley, McHugh & Kelly, were the murderers of Alexander W. Ray. The murder was committed in 1877 and the case was tried in 1877. Kelly the Bum became States witness and in the course of his testimony he made the following statement, that when they had taken Ray's watch and \$25.00, all the money in his possession, Ray got down on his knees and begged for his life and offered to give them a check for \$40,000 and, while they were deliberating as to what they would do with Ray because he was personally acquainted with all of them, the Bum fired a shot into Ray's forehead, exclaiming that "Dead dogs can tell no tales". Kelly was truthful. He might have testified that either of the other three had fired the shot, or he might have testified that Bill McHidouney, one of the murderers, who was dead, at the time the case came to trial, had fired this shot. When the men were convicted and subsequently hung Kelly the Bum was brought into Court, the indictment was dismissed and the good citizens of Columbia County, Pa., recognizing that Kelly had rendered a great service to the State, gave him about \$1000 in order that he might leave the country.

This, I think, covered about the last of the objections of this man. I took up the moral side of this question, asked him if he believed in an Allseeing and Divine Providence. He replied "Yes". I asked him if he believed in a hereafter. He replied "Yes". I said, now, that being the case, why is it that on Monday you said you would rather be hung than remain in the penitentiary for a year. Are you still of that opinion? He replied very frankly that since he had talked with me he did not want to be hung. To this I replied, while I am not making you any promises, if you take my advice you will not be hung. If you do not you will be hung in very quick order as the State is ready to prosecute as soon as Court convenes. After your conviction, when you see the noose dangling from the gallows you will then want to confess but you will be too late, as your testimony under those conditions would be of no importance. Although he had gotten up from his chair several times when I made a point wherein he thought that he could avoid the gallows, in this case he walked over to me and said, "My God, if I could only place confidence in you. I want to talk. I ought to place confidence in you. Your talk is right. I know every word you have said is true. You cannot live one hundred years longer. You certainly have not got to build a reputation as a detective and I am satisfied that all you have said is for my good."

I suggested that I call in Mr. Hawley, the leading counsel for the State and let him talk with him and that I would not be present. He said "No", "The time for calling Mr. Hawley has not yet arrived, and if it does come I want you to be present as I look up to you for some little protection. I don't now look upon you as a snide detective, the same as the damned sons-of-bitches that they threw into the cell with me at Caldwell. If it were not that their actions were so contemptible I would have pitied them. They are the kind of men that swear men's lives away. I know that you would not take the witness stand and testify as to one word that has passed between you and I here, nor would you add a word to what I have said. I have that much confidence in you."

I told him that he was right; that I certainly would not add anything to what he said nor take the witness stand at all, except that after he had made a confession that his testimony might require some corroboration on my part. He said, "I want to know if you would grant me a favor. Would you send for a certain man in Caldwell to come here to talk with me in your presence". I told him it all depended upon whom the man was that he wanted to see, and after a little hesitation he said it was Judge Smith, before whom he would be tried. I asked him if he would explain

to me what he wanted to say to Judge Smith, provided I fetched him here. He said, "I do not know where to begin at". I explained to him that it was my opinion that if he made a confession to Judge Smith it would disqualify the judge from trying the case and that I did not believe the Judge would listen to anything he, except in Court, and anyhow, until he had made up his mind as to what he was going to say to Judge Smith there was no use in sending for the Judge. He said, "Well, we will let that matter rest and you come and see me tomorrow afternoon." He went on to say "I expect my lawyer will be here any day and I want to assure you that not one word that has passed between us here will ever be revealed to him, and I want you to see to it that the Warden does not tell my lawyer of your visits here. If you think you cannot control the Warden see the Governor about this matter." I said to him that I thought the Warden could be depended upon and I would talk with him but that I was fully satisfied that the Warden was all right and that I would not like to go over his head and go to the Governor. He said, "Yes, the Warden is all right, and is the only man in this damned institution that has got any heart in him, and I may see that he is treating me all right as far as he can go, and I would like to have him know that I doubted his ability to keep his mouth shut, but you know he is an officer and all officers at times like to talk." However, I assured him that the Warden could be depended upon and say nothing upon this matter. He said, "Will he let my lawyer in to see me if he comes". I said, "Yes, but he will have to be present, not within earshot, but so he can see what transpires." He said, "I want the Warden present". I said, the lawyer might kick about that, but don't you kick, providing you are going to serve the State. He said, "You can depend upon it; I am not going to kick about anything. I have changed my mind entirely." He then went on to say that he had met our Superintendent Carey once in Hollands Cafe & Restaurant, next door to the Curtis Street entrance to the Taber Opera House. He said he supposed Carey would not remember him. Somebody was treating and when Carey went out he learned who he was. He said he knew all about me and where I lived up on Capitol Hill. He kind of drew back a little and said, "You live on Lincoln Street". I said "No, I live about two miles further East than Lincoln St". He said he had made a mistake as to the street but asked me if I still kept them savage bulldogs. I said "Yes".

By this conversation the indications are that the Inner Circle was keeping tabs on me, although in this I may be mistaken. It being now nearly six o'clock he got up and said, "I again want to say that if I could make up my mind to implicitly trust you I think we could get this matter adjusted and you will now promise that you will come here tomorrow afternoon." Stepping short he said, "I want to ask you why it was that you never arrested Thomas Hurley, one of the Holly Maaguirens who committed suicide in the Gurnisson jail. You certainly knew where he was and it has been a mystery to me and several others why you did not take him back to Pennsylvania and try him". I replied to this that it is easily explained. Hurley was simply the tool of Jack Kehoe, the head of the Inner Circle of the Holly Maaguirens, just as you are the tool of Moyer, Haywood, Simpkins and others. While I might have known where Hurley was located, as we had convicted all of the inner Circle, including the leader of the gang, what did I want with convicting and hanging a poor tool like Hurley. In this case you stand just as Hurley did, a poor, unfortunate tool, and that being the case, to tell you the truth, I hate to see you hung and those that are more guilty escape, and that is why I have taken such pains to get you around to the proper way of thinking whereby you can serve the State and possibly save your own life. He said, Well, I am now satisfied why you did not get Hurley, because it has often been discussed that you could have put your finger on him and did not do it and nobody knew the reason why."

He went on to tell me that the Warden had been very kind to him since my last visit on Monday. He got a chance to exercise himself in the corridor and had gotten a bath and a clean shave, and felt very much refreshed. I told him to think the matter over and I would surely come back tomorrow, but before parting he said, "I would much rather they had left me in the jail at Caldwell, as I could have gotten out of there. It is true I might have gotten killed in making my escape", but I told him that as I did

xxxx on Monday, that he was not transferred on that account but that he was transferred to protect him from what he then thought were his friends. I found that he prides himself on being very intellectual and I catered to his vanity in that respect all through this conversation.

Before I called in the Warden he came up again, grabbed my hand and said, "I think you are honest, and if I was only with you a while I know I would have confidence in you." When I called in the Warden ~~xxxxxxx~~ to take him to his cell he again said, "Now don't forget to come here tomorrow".

Jmcp