

Anthracite Coal Strike of 1902

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Anthracite Coal

Anthracite coal is a hard, compact variety of mineral coal with the highest carbon count and the fewest impurities of any type of coal. The other major type of coal used for fuel is bituminous coal, a relatively soft coal that contains a tarlike substance called bitumen. Anthracite coal is considered superior to bituminous coal. Although it is difficult to light and needs a draft to keep burning, anthracite has fewer impurities so it burns cleaner than soft coal, making it well-suited for heating. As one source describes it, anthracite coal is “rather hard to ignite and requires a strong draft to burn it. It is quite hard and shiny; in color it is a grayish or bluish black. It burns with almost no smoke.”¹ Anthracite coal was the most popular fuel for heating homes and other buildings in the northern United States from the 1800s until the 1950s.

Anthracite coal is also unique for another reason:

There is probably no other commodity entering into human consumption which possesses so much the character of a natural monopoly as the anthracite coal of Pennsylvania. The only other known deposits of anthracite coal of economic value in the United States are in Colorado and New Mexico, but these are all comparatively insignificant, yielding less than 100,000 tons annually. Practically, therefore, the entire source of supply of this fuel is confined to an area of 496 square miles, in nine counties in the State of Pennsylvania. Of these nine counties, five, i.e., Lackawanna, Luzerne, Schuylkill, Northumberland, and Carbon, produce ninety-six per cent of the total output. The four less important producing counties are Susquehanna, Dauphin, Columbia and Sullivan.

The output of anthracite coal in 1901 amounted to 60,242,560 long tons, with a value at the mines of \$112,504,020. As an indication of the comparative importance of this industry it may be stated that the value of this product exceeded that of any other nonmetallic product of the United States in 1901, with the exception of bituminous coal, and exceeded the value of any metallic product, with the exception of pig iron.²

¹ MICHAEL H. GORNSTON, THE OPERATING ENGINEER'S CATECHISM OF STEAM ENGINEERING 40 (1922).

² REPORT TO THE PRESIDENT ON THE ANTHRACITE COAL STRIKE OF MAY-OCTOBER, 1902, 17-18 (1903) [hereinafter REPORT TO THE PRESIDENT].

Because anthracite was concentrated in such a small geographical area, “[r]ivalry for control of the industry led to over expansion, violent business fluctuations, and eventually control by a few large independent mine owners, coal railroads, and bankers.”³

Life in the Coal Mines

Working in and around anthracite coal mines was very dangerous. Statistics vary about how many men and boys were killed and injured over the years. One source states that “[f]or the years 1870-1901, the number of the killed in the anthracite industry was 10,318, while the number of those non-fatally injured during the same period was 27,311.”⁴ Another source states that “[b]etween 1870 and 2006 over 31,122 men and boys were killed in and about the anthracite coal mines of Pennsylvania. The highest number of men killed in accidents in the anthracite fields occurred in 1908 with a high of 708.”⁵

Dangers in the Coal Mines

The anthracite mines presented numerous dangers. Some could inflict immediate or nearly immediate death on many miners at once. These dangers included “[g]as explosions, mine fires, roof falls, underground flooding, breakers burning and collapsing, exploding boilers—all are part of the everyday dangers that the anthracite miner faced in the course of his dangerous work.”⁶

Miners feared several natural phenomena that came from the properties of the coal and underground atmosphere. One such danger was “marsh gas” or “fire damp,” the term miners gave to a “light carbureted hydrogen” gas given off by coal because it was formed by decomposing vegetation.⁷ It was lighter than air so it rose to the roof of mines, posing this risk:

[W]hen it mixes with from four to twelve times it[s] volume of atmospheric air it became violently explosive. A very dangerous aspect of this gas is that it sometimes did not escape the coal at a uniform rate, but will suddenly burst out in large volume. This action is called a blower. When this happens danger is imminent, and a disaster will shortly follow when a miner’s naked flame lamp comes in contact with a large quantity of fire damp that has accumulated and is in an explosive state. The explosion that follows is tremendous. Men, mules, timbers, mine cars and anything lying around are blown about in a most terrific

³ Jonathan Grossman, *The Coal Strike of 1902 – Turning Point in U.S. Policy*, 98 MONTHLY LAB. REV. 21 (1975), available at <http://www.dol.gov/oasam/programs/history/coalstrike.htm> [hereinafter *Turning Point*].

⁴ PETER ROBERTS, ANTHRACITE COAL COMMUNITIES: A STUDY OF THE DEMOGRAPHY, THE SOCIAL, EDUCATIONAL AND MORAL LIFE OF THE ANTHRACITE REGIONS 264 (1904).

⁵ J. STUART RICHARDS, DEATH IN THE MINES: DISASTERS AND RESCUES IN THE ANTHRACITE COAL FIELDS OF PENNSYLVANIA 15 (2007).

⁶ *Id.* at 16.

⁷ *Id.*

manner. Fire damp and an open flame have been the source of many mind disasters.⁸

Coal Dust

Another danger took much longer to manifest. This was the coal dust that miners breathed into their lungs. Over the years this could lead to a chronic respiratory disease called miners' asthma, which is also called black lung or coal workers' pneumoconiosis. When Lewis Hine went to the anthracite fields to take pictures for the National Child Labor Committee in 1911, he found he could not take clear photos in the breakers because the dust was so thick. Studies conducted by the Public Health Service in the 1920s and 1930s found that about 20 to 30 percent of anthracite miners had serious disabilities because of black lung.⁹

National Child Labor Committee

The National Child Labor Committee (NCLC) was organized on April 25, 1904 by concerned citizens. In 1907 the NCLC was chartered by an Act of Congress. The first industry investigated by the NCLC was the Anthracite Coal region in Pennsylvania.¹⁰ Child labor was not one of the issues leading to the strike but it became an important issue after the strike, during the Commission hearings: "The anthracite coal strike of 1902 was the major labor event in recent memory—it was arguably the most important strike in American history up to its time. Facts revealed in hearings before the Anthracite Coal Strike Commission indicated that child labor was prevalent in the anthracite coal fields."¹¹

Breaker Boys

A coal breaker processes raw coal and breaks it into various sizes for different types of furnaces. Material which cannot be burned such as slate is removed. Before mechanization was developed to remove impurities, this was usually done with child labor - young boys called "breaker boys." Breaker boys became a symbol of child labor in the coal fields for the National Child Labor Committee:

[I]n anthracite coal the NCLC found a cultural icon—the breaker boy. The breaker boys, who endured some of the most grueling conditions among child workers anywhere, came to symbolize all that was wrong with child labor. If the chimney sweep is the symbol of British child labor it was the breaker boy in America.¹²

⁸ *Id.* at 16-17.

⁹ THOMAS DUBLIN & WALTER LICHT, *THE FACE OF DECLINE: THE PENNSYLVANIA ANTHRACITE REGION IN THE TWENTIETH CENTURY* 49 (2005).

¹⁰ HUGH D. HINDMAN, *CHILD LABOR: AN AMERICAN HISTORY* 89 (2002) [hereinafter *CHILD LABOR*].

¹¹ *Id.* at 90.

¹² *Id.*

Descriptions of work in the coal breakers show that it was awful work for anyone, much less a child. Breaker boys continued to work in this dangerous job even after the Anthracite Strike in 1902 had been resolved. This account describes an accident in 1911:

The boys working in the breaker are bent double, with little chance to relax; the air at times is dense with coal-dust, which penetrates so far into the passages of the lungs that for long periods after the boy leaves the breaker, he continues to cough up the black coal dust. Fingers are calloused and cut by the coal and slate, the noise and monotony are deadening; and, worse still grave danger from machinery to those boys who persist in playing about the breaker, two breaker boys of 15 years, while at work assigned to them, fell or were carried by the coal down into the car below. One was badly burned and the other was smothered to death.¹³

In a 1906 study, Owen R. Lovejoy, then Acting Secretary of the NCLC, wrote:

The coal-breaker dominates the anthracite region. The most important object on the landscape, the largest building, with the most mysterious machinery—the coal-breaker paints the first deep picture on the mind of the miner’s son. From the dawn of his intelligence he recognizes its power, and in it his destiny. He *may* go school; he *will* go to the breaker Yonder is the miner’s ‘patch’—thirty or forty black, squatty huts, with alleys of mud and coal-dirt winding among them—birthplaces of a hundred boys. Here stands the great building with a hundred narrow boards laid across the coal-chutes—seats for a hundred boys. The plan is complete. A boy is born; let him hasten through his babyhood! Can he not see the breaker needs his labor and the hut his wages?¹⁴

The National Child Labor Committee estimated that in 1906 “[b]etween six thousand and twelve thousand little boys ranging in age from nine to fourteen years [we]re believed to be working in the coal-breakers and mines of the anthracite field.”¹⁵

For some miners their careers in the anthracite mines began and ended in the breaker:

Unless too many of the boys’ ancestry or brothers have lost their lives in the mine, or the usual course of life in the coal regions has been changed because his mother has that nameless dread of the pits that women sometimes suffer, the breaker-boy will go from the breaker into the mine in a few years. The dangers are greater, but so are the wages, and the laborer must not count his life dear unto himself. If rheumatism, asthma or old age chance to reach him before the casualties of falling rock, run-away car, broken rope, powder blast or fire-damp

¹³ *Id.* at 91.

¹⁴ OWEN R. LOVEJOY, IN THE SHADOW OF THE COAL BREAKER: NATIONAL CHILD LABOR COMMITTEE PAMPHLET NO. 61 (1906).

¹⁵ *Id.* at 6.

befall him, he comes from the mine prematurely old and enfeebled, and finds his place again in the breaker, there to end his career where he began.¹⁶

As another source described it, “[t]wice a boy’ was a common expression around the mines that spoke to the practice of experienced miners returning to the breaker in old age when they could no longer manage the physical exertion of underground work.”¹⁷

After he switched from being a corporate lawyer for the Chicago & Northwestern Railway Company to a labor lawyer, Darrow articulated his views about social problems in speeches, debates and writings. In 1902, he wrote a series of articles for Hearst's *Chicago American* newspaper called *Easy Lessons in Law*. He used this forum to illustrate shortcomings in the law that worked hardships on victims and legal areas in need of reform. In December 1902, in the aftermath of the Anthracite Strike that had captured the nation's interest, he published *The Breaker Boy* in the *Chicago American*. The short story told a tale of child labor in anthracite coal mines through the example of eleven-year-old Johnny McCaffery, who had to go work in the coal mines after his father was killed in a mine accident.

United Mine Workers of America (UMW)

The United Mine Workers of America (UMW) was formed in 1890 in Columbus, Ohio in a merger of the Knights of Labor Trade Assembly No. 135, the National Progressive Union of Miners and the Mine Laborers. In 1899, the UMW sent its representatives into the anthracite coal region of Pennsylvania to organize the miners. During the twenty-five year period prior to 1899, the miners in this area lacked a sufficiently strong labor organization to improve working conditions.¹⁸

John Mitchell

John Mitchell was born in 1870 in Braidwood, Illinois to Irish immigrants, although some sources say he was of Welsh ancestry. He was orphaned at age six and entered the mines to work at age nine to help support his many siblings and a stepmother. He joined the Knights of Labor at the age of 15, and in 1890 at the age of 19 he joined the newly-formed United Mine Workers of America. Mitchell became vice-president of the United Mine Workers in 1897, and in 1898 at the age of 28 he became president, a position he would hold until to 1908.

By 1897, the United Mine Workers of America had established a powerful union presence in the bituminous coal mines. Yet for many years prior to 1899, there had been no meaningful labor organization in the anthracite coal region of Pennsylvania. John Mitchell's goal was to unionize the anthracite coalfields and achieve the same benefits for the anthracite miners that the UMW had achieved for the bituminous miners.

¹⁶ *Id.* at 9.

¹⁷ THOMAS DUBLIN & WALTER LICHT, *THE FACE OF DECLINE: THE PENNSYLVANIA ANTHRACITE REGION IN THE TWENTIETH CENTURY* 49 (2005).

¹⁸ E. Dana Durand, *The Anthracite Coal Strike and its Settlement*, 18 POL. SCI. Q. 385, 385 (1903).

Anthracite Strike of 1900

To better understand the Anthracite Coal Strike of 1902 it is necessary to know something about a previous strike that occurred in the same region in 1900. By 1898, the UMW had about 100,000 members, but this was mainly in the bituminous coal mines. Unions had largely disappeared from the anthracite region after the Molly Maguire trials. The Molly Maguires were a shadowy group of rebellious Irish coal miners that worked in Pennsylvania's anthracite coal region starting around 1865. They were accused of kidnapping and other crimes in the area. The group was infiltrated by an undercover detective, James McParland, which led to a series of sensational trials from 1876 to 1878 in which twenty members of the Molly Maguires were executed. There is still a lot of controversy about whether the Molly Maguires as an organization actually existed, but there is no doubt that many men who were accused of being part of the group were hanged. In 1907 Clarence Darrow would battle James McParland in the Haywood trial in Idaho.

Many English-speaking miners left the area and were replaced by immigrants of 18 to 20 different nationalities who were desperate enough to work for lower wages and in worse conditions than the native English-speaking workers were willing to endure. Because of language and cultural differences they were clannish and suspicious of each other, and exceedingly difficult to organize into a union. John Mitchell described the difficulties in trying to unionize such an area:

As late as 1899 the idea of organizing the anthracite miners of Pennsylvania was scouted by all but a few of the leaders of the United Mine Workers. The difficulties in the way of such organization appeared insurmountable. The difficulties in race, religion, and ideals of the twenty nationalities in the region, the variations in the standard of living, the mutual distrust among the races, and the former failures of attempts to form permanent unions, all conspired to make the men distrustful of the new movement. Among the three districts of the anthracite region, the Lackawanna, Lehigh, and Schuylkill, keen jealousy existed, and conditions varied to such an extent as to render it difficult to formulate the grievances in a series of general demands. The market was glutted with coal, and the region glutted with men. The operators were united in a bitter and uncompromising hostility towards any form of organization among the miners, and the pioneers in the movement were threatened with the possibility of a blacklist. Many miners grown old in the anthracite fields shook their heads and gloomily predicted that organization would never secure a foothold in the anthracite region.¹⁹

However, a 1961 article provides a different view of the immigrant workforce in the anthracite coal fields. The article quotes from a letter Mitchell wrote in 1900 in which he

¹⁹ JOHN MITCHELL, ORGANIZED LABOR: ITS PROBLEMS, PURPOSES, AND IDEALS AND THE PRESENT AND FUTURE OF AMERICAN WAGE EARNERS 362 (1903) [hereinafter MITCHELL, ORGANIZED LABOR].

described the foreign miners as “‘a drove of cattle, ready to stampede’ at the cries of any misleader.”²⁰ But the article states:

Contrary to the myth which Mitchell did much to establish—that the union faced a unique immigration problem in anthracite—newcomers from southern and eastern Europe had entered more rapidly and actually constituted a greater percentage of the labor force in the bituminous mines. There they had responded admirably during the desperation strike of 1897 and had since become zealous union members. Moreover, the immigrants were particularly responsive to Mitchell’s techniques and talents—his habit of dressing in priestlike garb, his commanding presence, and his apparently unshakable calm in crisis. And, an incalculable advantage, Mitchell could count as well upon the friendship of many local priests. Even after the immigrants in anthracite had demonstrated their value in a strike which began and ended in the fall of 1900, Mitchell would not discard the old stereotypes. He never felt capable of defending the immigrants against charges that they could not become dependable members of a union.²¹

Grievances

Besides the very real danger of death or serious injury and the very difficult and unpleasant work, the miners also had numerous economic grievances. One of course was low wages. Another factor that pushed the miners towards a strike was the operator-inflated size of a ton. Instead of getting paid for 2,000 pounds of coal ore, the operators who controlled the weighing might call 2,800 pounds or even as high as 3,190 pounds a ton, while the miners were only paid the same price per ton.²² If the miners were paid a set amount by the car, the operators increased the size of a car by making it three or four inches larger or requiring the miners to pile nine or ten inches more coal above the car railing. The operators also docked miner pay in arbitrary ways by claiming that a particular coal amount was underweight or had impurities in it. The miners were required by agreement to pay the operators \$2.75 per keg for the blasting powder they used when it was only worth \$1.10 per keg, and powder was absolutely essential to mine coal. This became a sore point with the miners as veins of coal got thinner and it was harder to extract coal.²³

At many mine collieries (a colliery is a coal mine plus all the buildings and equipment connected with it) the miners were not paid in real money but instead received company scrip that they had to use in company stores. Company stores greatly overcharged for inferior goods. It was not uncommon for a miner and some of his children to work for months without receiving a dollar in pay, or to find out at the end of a month that they

²⁰ Robert H. Wiebe, *The Anthracite Strike of 1902: A Record of Confusion*, 48 MISS. VALLEY HIST. REV. 229, 235 (1961) (citing Letter from John Mitchell to Ryan (Sept. 24, 1900)) [hereinafter *A Record of Confusion*] (Ryan is not identified by first name, but is most likely William D. Ryan, National Secretary-Treasurer of the United Mine Workers.).

²¹ *Id.* at 235-36.

²² MITCHELL, ORGANIZED LABOR, *supra* note 19, at 358.

²³ *Id.* at 359.

were not only getting nothing, but in fact owed the company store money.²⁴ Mitchell explained: “Many companies earned as much through their company stores as through mining coal, or, as the mineworkers themselves expressed it, many of the companies earned the money not only by mining coal but by mining miners.”²⁵

Writing in 1903, Mitchell appears to have been fairly objective given his role as the leader of the UMW:

In one respect the advent of the great railroad corporations has been of advantage to the mine workers. By means of these large organizations, controlling vast sums of money, the industry of mining coal has been systemized and some check placed upon the indiscriminate and cut-throat competition prevailing in former times. The railroad companies have, perhaps, been foremost in introducing reforms on the technical side of mining, in improving ventilation and general conditions of work. It is only fair to state that the worst abuses of company stores, company houses, company doctors and various other means and forms of extortion, were practiced to a less extent by the railroads than by some of the independent operators, although it is claimed by these latter that they were forced to such courses by the extortionate freight rates on coal to the seaboard.²⁶

But Mitchell also said these improvements meant little:

Upon the whole, however, the railroads failed to improve or ameliorate the conditions of the men under their control. Wages were not increased, hours not reduced, grievances not removed, and the unions of the workmen not recognized by or through any voluntary action of the railroad corporations. Whatever small advantage the mine workers secured from the advent of the railroad companies was purely incidental to the improved methods of mining which had come into vogue.²⁷

Mitchell was a conservative labor leader. He was careful not to alienate public opinion by appearing too radical, especially since his union worked in an industry that directly affected the welfare of so many citizens. He repeatedly announced publicly his desire to work with the railway and coal operators, offer concessions and participate in arbitration. Like many labor leaders, Mitchell used a strike as a last resort, because going on strike was fraught with trouble. He wrote, “I can conceive of few positions so unenviable, so filled with the peril of an evil choice as that of a labor leader on the eve of a great industrial conflict.”²⁸

The UMW sent representatives to the anthracite region. While they were not initially successful in organizing the miners, they did bring hope to the area where pay and

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at 361.

²⁷ *Id.*

²⁸ *Id.* 305-06.

working conditions had deteriorated considerably. Both sides underestimated the resolve of the other. Led by Mitchell, the union wrote a set of demands and approached the operators for a meeting. But the operators rejected any negotiations with the union. Mitchell suggested they submit their differences to an arbitration process, but the operators also refused this offer. Believing he had no choice, Mitchell as head of the UMW called a strike on September 17, 1900.

Mitchell was very worried that an insufficient number of miners would refuse to go into the mines. The union membership in the anthracite region at this time was less than 8,000, but participation in the strike was overwhelming:

[The union] represented so clearly and so unmistakably the attitude of the overwhelming majority of the mineworkers that from 80,000 to 100,000 men and boys quit work on the first day of the strike, and with each succeeding day the number increased until, at the close of two weeks, fully 90% of the 144,000 employees were idle. The strike, which lasted through the month of September and the greater part of October, aroused intense public interest. The sympathy of the press and the people became enlisted on the side of the mineworkers as soon as they realized under what terrible conditions they were compelled to toil.²⁹

Unwilling to meet directly with the union, the mine owners made an offer to increase wages 10 percent by posting notices around the mines. But the union rejected this offer because it met none of its settlement conditions. There was no guarantee of how long the increase would be paid, and there was no promise to reduce the cost of powder, abolish company stores, remove company doctors, and eliminate semi-monthly payment of wages. On October 20, the operators made a new offer which largely agreed to many of the miners' demands. The miners' victory included a 10 percent pay hike and the elimination of a sliding wage scale that the miners considered unfair. However, the owners still refused to recognize the union. Despite the lack of union recognition, the UMW "grew in numerical strength, and within a short time after the strike practically every man and boy in the anthracite fields was enrolled as member of the United Mine Workers of America."³⁰

Politics

The strikers and their union leadership had a very important factor working in their favor. The presidential election to be held on November 5, 1900 was looming and the Republican Party desperately wanted to avoid a strike. Republican Senator Mark Hanna from Ohio, the Chairman of the Republican National Committee, intervened to try and work out a settlement.

The version of what happened in the strike of 1900 provided by Mitchell and the UMW is disputed by a 1961 article, which gives much of the credit to the presidential politics at the time:

²⁹ *Id.* at 365-66.

³⁰ *Id.* at 367.

Mitchell miscalculated in every major particular during his attempts in 1900 to bargain with the anthracite operators. Confident of a peaceful victory, he prepared only to negotiate, and during the spring and summer he labored against the icy opposition of the operators. By fall, pressure within the union for action became irresistible. Mitchell, his policy bankrupt, bowed to the inevitable: the strike began September 17. To his amazement the anthracite workers came out almost to a man. Mitchell held them together and at peace, but neither the workers' meager resources nor the UMW's small treasury could sustain them long in a Pennsylvania winter. Then the sudden intervention of leading Republicans saved Mitchell from disaster. The prospect of a grueling coal strike at election time threatened to stultify McKinley's slogan of a full dinner pail and Hanna's program for industrial mutualism. While Hanna talked with Morgan's men in Wall Street, McKinley sent envoys from Ohio for discussion with the operators. Management, half-inclined toward peace in order to complete the anthracite consolidation, and moved by the specter of William Jennings Bryan in the White House, relented to the extent of a qualified 10 percent raise, and the 'great coal strike of 1900' was over.³¹

Operators Refuse to Recognize Union

Although the anthracite miners had won a victory that seemed all but impossible just a few years previously, the end to the strike of 1900 did not solve some of the basic problems facing both sides. The two sides never actually met to settle any of the disputes. The operators communicated by posting notices around the mines that listed what they were willing to offer, and the miners eventually accepted an offer. The operators conceded to a large extent because of the political pressure from the Republican Party which was worried about the presidential election. If the newly-empowered miners believed their show of solidarity had cowed the operators into line, and that there would be mutual respect and cooperation in the future, they soon found out otherwise.

In a 1901 meeting attended by Senator Hanna, the president of the Erie Railroad and the presidents of the Anthracite Districts of the United Mine Workers, including John Mitchell, the parties agreed that the conditions after the strike of 1900 should be maintained. In February 1902, the UMW sent a letter to several railroad presidents asking for a joint conference, but the railroad men unanimously refused because "there cannot be two masters in the management of business" and reiterated their refusal to recognize the union. Tensions mounted when cost of living increases wiped out the miners' gains from 1900. The UMW made several demands, including a 20 percent wage increase and a reduction in hours worked, and again asked the operators to meet to discuss their demands.

National Civic Federation

³¹ *A Record of Confusion, supra* note 20, at 236.

The National Civic Federation (NCF) was a federation of American businesses and labor leaders founded in 1900. Senator Mark Hanna was its first president and Samuel Gompers, president of the American Federation of Labor (AFL), was its first vice-president. The NCF approached labor and capital issues with a moderate progressive reform agenda and tried to resolve disputes arising between industry and organized labor. It had its roots in the Chicago Civic Federation (CCF) founded in 1893.

As a strike loomed in early 1902, the UMW appealed to the National Civic Federation to help bring about a settlement. This resulted in a meeting between Mitchell, four of the leading operators and the presidents of three anthracite districts. Although it was a hopeful sign, the operators refused to make any concessions. They did agree to a 30 day truce so efforts to find a settlement could continue. The union offered a significant compromise to avert a strike. They reduced their demand for a wage increase to 10 percent instead of 20 percent and demanded a nine-hour workday instead of eight hours. But the operators viewed the concessions as a sign of weakness and refused any settlement. After 30 days the two sides could not come to an agreement. The owners continued their refusal to recognize and meet with the UMW.

Anthracite Coal Strike of 1902

On March 24, 1902 the United Mine Workers' Convention unanimously adopted a resolution declaring that a strike would take effect on a date to be fixed by the district Executive Boards if the final reconciliation efforts between the National Civic Federation and the operators failed.

The union leaders were already empowered to call a strike, but on May 8 the UMW leaders, in a last ditch attempt to avoid a strike, sent a telegram to the railroad presidents. They offered to submit their demands to an arbitration committee whose five members would be selected by the Industrial Branch of the National Civic Federation, or in the alternative, by a committee composed of Archbishop John Ireland of St. Paul, Minnesota, Bishop Henry Potter of New York and another person these two religious men would select. But the railroad men unanimously refused. George F. Baer, president of the Philadelphia and Reading Coal and Iron Company, responded that “anthracite mining is a business, and not a religious, sentimental, or academic proposition.”³² Baer also informed the UMW that he would not delegate management of the anthracite operations to the Civic Federation even though it was a highly respectable body, nor would he call on as experts the eminent religious men Mitchell named. Baer was also president of the parent company Philadelphia and Reading Railroad and because he was essentially the most prominent operator, he became their spokesman. He was also the focus of much of the miners' wrath.

On May 9, John Mitchell and his executive committee called for a temporary strike. The convention would vote soon after the strike started on whether it should continue. The executive committee transmitted an order which read in part:

³² MITCHELL, ORGANIZED LABOR, *supra* note 19, at 372.

To the United Mine Workers of the Anthracite District of Pennsylvania:

The Executive Committee of the Anthracite Mine Workers, who were delegated by the Shamokin convention to represent you in the negotiations with the mine operators and railroad presidents to obtain, if possible, higher wages, shorter hours, and better conditions of employment, after exhausting all feasible, conciliatory, and honorable means at their command, and after failing to secure any concessions of a tangible nature, and while under the resolutions adopted by the Shamokin convention, authority was vested in the executive committee, should they fail in the negotiations, to inaugurate a strike at whatever time they deemed in their judgment held out the greatest prospects of success, the committee, after three days' serious deliberations, feel that in justice to themselves and the anthracite mine workers and those dependent upon them, before a joint strike is inaugurated, the question should be further considered by a delegate convention in which representatives from the local unions shall be fully instructed by their constituents and prepared to vote either in favor of or in opposition to a complete cessation of work.

In the meantime, all persons employed in or around the collieries, strippings, washeries, and breakers are instructed to temporarily abstain from working, beginning Monday, May 12, 1902, and continuing thereafter until after a final decision is reached by a delegate convention, which will convene on Wednesday, May 14, at Hazleton, Pa.

Under this executive order, work in the mines was suspended on May 12. Mitchell himself was reluctant to go on strike and would have preferred that if necessary, a strike occur in late fall when the miners would have been more ready. Many delegates were cautious like Mitchell and agreed that they should wait. But on May 15, the convention voted to continue the strike. There were 811 votes cast with 461^{1/4} votes for a strike and 349^{3/4} against a strike, which came to 57 percent of the convention voting for a strike. With this vote, "the greatest strike in American history was declared."³³

Mitchell recalled that "[a]t a signal almost one hundred and fifty thousand men and boys dropped their tools, and during a period of over five months, despite the pangs of hunger, despite temptations to desert the cause, none but an inconsiderable minority returned to work."³⁴ Many outside observers predicted it would be a short strike because the miners were so poor they did not have the resources to hold out for a long strike. Union leaders urged their members to refrain from violence and to avoid getting drunk. Many took a pledge of total abstinence. In June the strike was strengthened when engineers, firemen and pumpmen joined the miners.

The strike was of considerable interest to the public. Numerous attempts were made to settle the strike. Senator Mark Hanna was again active in trying to get the two sides to

³³ *Id.* at 374.

³⁴ *Id.* at 355.

back down as he had during the strike in 1900. The National Civic Federation also kept working for an end to the strike, but neither Hanna nor the Federation had any success.

The anthracite miners believed that they would be supported by the union members from the bituminous coal mines. Under the UMA rules, Mitchell as president was required to call a special convention if five district organizations requested it. Mitchell received requests from five districts, so he called a national convention of all mineworkers to be held in Indianapolis on July 17, 1902. By that time, the miners were fully feeling the effects of being without the low wages they earned while working. They desperately needed support from the bituminous coal miners. The bituminous coal miners appeared to fully back their brothers in the anthracite region, but if they went on strike it would break the contract they had with the bituminous mine operators that was not set to expire until April of 1903. Some miners argued that if the anthracite miners' strike was broken, the operators would then try to break the bituminous miners and destroy the union, so the preservation of the union took precedence over the agreement with the operators. But many miners believed that the agreement should be honored. Mitchell and some other delegates argued it was important that the bituminous miners honor the agreement they had made. A vote was taken and both anthracite and bituminous union delegates unanimously decided to honor the existing agreements, even though the striking anthracite miners needed their support.

But the Indianapolis convention did provide a vital boost to the striking miners in Pennsylvania when the delegates voted to give moral and financial support to their brothers on strike. The bituminous miners agreed to contribute part of their weekly pay (either one dollar or 10 percent) into a strike assistance fund. Union officers agreed to contribute 35 percent. After 16 weeks this amounted to \$2,645,324. These two actions at the Indianapolis convention—voting to honor pre-existing agreements and volunteering to fund an assistance fund—earned the UMW a lot of good will in the press and with the public.

However, the press erroneously exaggerated how much money the striking miners would receive and when they would receive it. They reported that the strikers would receive a minimum of \$5.00 per week. This was wildly inaccurate, as it would require the union to pay \$3,500,000 per month.³⁵ Also, the bituminous miners could not contribute immediately because they were only paid semi-monthly and they would not receive money earned during the last half of July until August 15. As a result, striking miners had their hopes raised, both as to the amount of help they would receive and when. They became demoralized when the expectant money did not arrive on time.

The mine companies took advantage of the low morale to spread rumors that the money in the assistance fund was being withheld or was actually being misappropriated. Mitchell wrote of this time:

I am fully convinced that the strike would have collapsed, had the operators at this time opened their mines and invited the strikers to return to work. It was the

³⁵ *Id.* at 380.

crucial moment, the only time during the long, stubbornly fought contest in which there was any sign of wavering. The operators, evidently, did not realize the extent of the disaffection in the ranks of the strikers and failed to take advantage of the opportunity open to them.³⁶

When the funds were finally available to help the anthracite miners, benefit payments had to be means-tested to a certain extent. More frugal miners who had managed to save a little bit would have to rely on their meager savings so payments could go to those who had nothing. It is commonly believed that citizens from around the country contributed money, including some children who sent in nickels, union workers in other trades who gave several hundred thousand dollars, and even some workers from other countries. But another account states that “the claims and sufferings of the miners simply did not matter to a large majority. Only a handful of people outside of organized labor contributed to the UMW’s well-publicized strike fund, and, significantly, almost all of these outsiders were small businessmen, the group most hostile to the trusts.”³⁷

Worry over Approaching Winter

The strike resulted in nearly the complete stoppage of anthracite coal mining. With the approach of winter this caused a great deal of worry throughout the country. This was not a strike that would merely inconvenience the nation’s citizens - it was feared that it could result in thousands freezing in the winter.

As coal supplies dwindled, the price of a ton of anthracite coal went from six dollars to eight, 10, 12 and then up to 20 dollars. In some cities the price went to \$30 per ton. The price of bituminous coal also rose quickly.

By August and September there were fears of riots in the Eastern cities such as New York. But the real concern was the coming winter. As the temperature continued to fall, the union and concerned public figures continued to find common ground for a settlement, but the operators refused to recognize the union.

Darrow wrote that as the strike dragged on, “[a] coal famine was in sight, and the whole country, especially the East, was filled with fear. It seemed as if not only would people have no fuel for their homes, but, still more important, business would be seriously crippled, and, in many instances, bankruptcy would result.”³⁸

Baer’s "Divine Right" Letter

One of the more enduring episodes of the strike was a letter allegedly written by George Baer in response to a letter he received asking him as a good Christian to make concessions. In his letter Baer wrote:

³⁶ *Id.* at 380-81.

³⁷ *A Record of Confusion*, *supra* note 20, at 241.

³⁸ CLARENCE DARROW, *THE STORY OF MY LIFE* 114 (Charles Scribner’s Sons, 1932) [hereinafter *STORY OF MY LIFE*].

I see that you are a religious man; but you are evidently biased in favor of the working man to control a business in which he has no other interest than to secure fair wages for the work he does. I beg of you not to be discouraged. The rights and interests of the laboring man will be protected and cared for—not by the labor agitators, but by the Christian men to whom God in His infinite wisdom has given the control of the property interests of the country.

Labor had a field day ridiculing the “divine right” letter from “George the Last.” The letter was a public relations disaster and helped turn public opinion against the operators and in support of the striking miners. Baer later denied the letter’s authenticity.

Mitchell did not sharply denounce the operators for their actions. He vehemently disagreed with them but he did not vilify them. He thought they were naively out of touch rather than evil. Mitchell wrote that Baer’s “divine right” letter “was indicative of the uncompromising attitude of the managers of the coal properties. These men, although undoubtedly conscientious and sincere, seemed utterly unable to comprehend the progress that had been made in the requirements, thoughts, and aspirations of workingmen during the last five centuries.”³⁹

Violence

According to Mitchell, around the time when the strikers were demoralized over the strike assistance money, a riot occurred at Shenandoah after a deputy sheriff fired on a crowd of strikers. Some miners who came to the sheriff’s assistance and a merchant were seriously injured and the merchant later died. Mitchell claimed that “the hostile press” latched onto the story and “grossly and maliciously exaggerated” what happened.⁴⁰ Mitchell blamed a minority of the press for continually misrepresenting altercations, exaggerating and blaming the miners for disturbances unrelated to the strike.

Mitchell did not deny that some union members lost their cool and violence resulted, but he placed a lot of the blame on the operators and their employees. He wrote, “It cannot be denied that there was a number of clashes between the more reckless or impetuous strikers and the more irresponsible of the coal and iron police, hired by the operators for the purpose of protecting their mines.”⁴¹

Mitchell claimed that eight men were killed during the five months of the strike. He also said that if there had been no strike and the mines were in operation that given the average number of accidents, “two hundred men would have been killed and six hundred seriously maimed or injured.”⁴²

The operators claimed that agitators killed 21 men and used intimidation and violence

³⁹ MITCHELL, ORGANIZED LABOR, *supra* note 19, at 384.

⁴⁰ *Id.* at 381.

⁴¹ *Id.* at 385.

⁴² *Id.* at 322.

to deter thousands of miners from returning to the mines.

President Theodore Roosevelt

President William McKinley was assassinated in Buffalo in September of 1901. Vice President Theodore Roosevelt then became President at the age of 42. The Anthracite Coal strike was one of the most important events in the early part of his presidency.

Report of Carroll D. Wright

President Roosevelt was sufficiently concerned to become involved. On June 8, 1902, he directed his Commissioner of Labor, Carroll D. Wright, to investigate the strike and report back with his findings. Wright believed that if he went to the anthracite region his presence would be disruptive, so he instead went to New York and interviewed key figures from both sides. He interviewed railroad presidents, bankers, independent mine operators and mine management personnel such as foremen and superintendents. He called on John Mitchell to come to New York so Wright could learn about the miners' side of the issues. Working diligently, Wright compiled a comprehensive report in 12 days which he sent to the President.

Wright reported that both sides cooperated with his investigation and found that they each had very different views of the issues. Wright was centrally involved in the study of the Pullman strike and other labor conflicts but he found the anthracite strike to be the most complex he had so far encountered. His report contained an explanation of the issues and how each side viewed the conflict. Wright went beyond his original duty and gave suggestions that he deemed reasonable and just, such as reducing the workday from 10 to nine hours and utilizing collective bargaining. The miners viewed Wright's investigation as a positive development and were eager to see the report. But Roosevelt was worried that he would seem too pro-union if it was published. Newspapers accused the President of refusing to publish the report because it favored unions. Wright denied this, but the President made the report public in August of 1902.

Roosevelt Increasingly Concerned

As the strike continued and the public became more panicked about the supply and price of coal for heating, the operators appeared not to budge at all. Mitchell was mystified by this: "The serene indifference of these men to the demands of their employees and to the pressing needs of the public, is one of the most curious anomalies of this most remarkable of contests."⁴³ When it became clear that the union was strong enough to hold out on strike and the operators were not going to recognize the union or try to reach a settlement, President Roosevelt became deeply concerned about the crisis and what would happen during the coming winter. Roosevelt's Attorney General, Philander Knox, repeatedly told the president that the strike was not his concern and that he had no legal basis for intervening.

⁴³ *Id.* at 386.

Roosevelt wrote in a private letter that he feared “untold misery . . . with the certainty of riots which might develop into social war.”⁴⁴ The growing crisis prompted President Roosevelt to take extraordinary steps never before taken by an American president during a labor strike. The president sent telegrams to both sides asking them to come to Washington to meet with him at the White House on October 3, 1902, even though he had no legal authority to get involved. The telegram Roosevelt sent to the operators on October 1 stated:

I should greatly like to see you on Friday next, October 3, at eleven o'clock A.M., here in Washington, in regard to the failure of the coal supply, which has become a matter of vital concern to the whole nation. I have sent a similar dispatch to Mr. John Mitchell, President of the United Mine Workers of America.

-Theodore Roosevelt

Roosevelt acknowledged that he had no legal basis to require the meeting and he also suggested that they not discuss the merits of each side's case, but he told the parties, “I appeal to your patriotism” and said he hoped they could “meet upon the common plane of the necessities of the public.”⁴⁵

Not all historians agree that there was a threat of people freezing because of a shortage of coal:

Over the summer anthracite prices soared. By October hard coal was practically off the market. As a result almost everyone assumed that eastern cities which used anthracite for domestic heating faced a coal famine. Thus Roosevelt, conjuring visions of a freezing, rioting public, called the crisis ‘only less serious than that of the Civil War.’ Someone should have caught the irony of a famine in coal, the most notorious sufferer from overproduction in the economy. The fact that in 1902 a smaller labor force, using existing equipment and working a normal year, could produce almost three times the amount of bituminous consumed, and over one-and-a-half times the anthracite, explained most of the industry's problems. Moreover, domestic heaters normally using anthracite could operate efficiently with bituminous. Comparing the heating values of the two coals and allowing for a certain waste during the change-over, three tons of bituminous, by even the most pessimistic estimate, could replace two tons of anthracite. The bituminous industry could easily provide the difference.⁴⁶

The author of this counter version describes a self-induced panic rather than a real shortage:

[An] adequate supply of coal continued to reach the East throughout the strike. Numerous observers described the blanket of bituminous soot which, despite anti-

⁴⁴ Letter from President Theodore Roosevelt to Winthrop Murray Crane, Governor of Massachusetts (Oct. 22, 1902), in *THE LETTERS OF THEODORE ROOSEVELT*, VOL. III, AT 360 (ELTING E. MORRISON ED., 1951).

⁴⁵ MITCHELL, *ORGANIZED LABOR*, *supra* note 19, at 387.

⁴⁶ *A Record of Confusion*, *supra* note 20, at 243.

smoke ordinances, covered the eastern cities during the late summer and early fall. In mid-September an intelligent shopper in New York could find as much bituminous as he wished at five dollars a ton, approximately the cost for anthracite of comparable heating value. And, with the exception of Philadelphia, the quantity of coal received in other major cities that fall was at least as abundant as New York's supply.

A fuel crisis occurred in the East because the cities succumbed to a panic which public officials and retailers exacerbated. Anthracite was fast disappearing; mayors, congressmen, even the President, were talking about a coalless winter; the callous coal trust was said to profit from public misery. Next came more rumors, fright, scare buying. By October, with the cities in confusion, public officials were screaming for help. Meanwhile retailers remained silent, raised prices, and profited. As soon as the strike ended, and well before anthracite returned to the market, bituminous prices which had skyrocketed during the panic at once fell back to normal.⁴⁷

President Roosevelt became the first U.S. president to personally intervene in a labor dispute. Significantly, Roosevelt became involved more as a citizen of the country than as a President wielding presidential power. The meeting called by Roosevelt was historic:

This meeting marked the turn of the U.S. Government from strikebreaker to peacemaker in industrial disputes. In the 19th century, presidents, if they acted at all, tended to side with employers. Andrew Jackson became a strikebreaker in 1834 when he sent troops to the construction sites of the Chesapeake and Ohio Canal. War Department employees operated the Philadelphia and Reading Railroad during the Civil War. In the violent rail strikes of 1877, Rutherford B. Hayes sent troops to prevent obstruction of the mails. Grover Cleveland used soldiers to break the Pullman strike of 1894.⁴⁸

Interestingly, Darrow said of Roosevelt's intervention that when the miners urged arbitration and asked the President to choose the arbitration board, the "mine owners declined declaring that it was no concern of the President's, which it probably was not."⁴⁹

Both sides of the conflict met with the President in the morning, during which time John Mitchell proposed that all matters in dispute be submitted to an arbitration tribunal selected by the President. Roosevelt then suggested that further discussion be put off until they met later in the afternoon. Mitchell described this afternoon meeting:

The afternoon meeting was one of the most astounding events of the strike. The railway officials, disregarding the request of the President that the merits of the controversy be not discussed, launched forth upon a series of tirades and invectives against the union and its officers, which left no ground for discussion

⁴⁷ *A Record of Confusion*, *supra* note 20, at 244.

⁴⁸ *Turning Point*, *supra* note 3, at 21.

⁴⁹ *STORY OF MY LIFE*, *supra* note 38, at 114.

or conciliation. This abuse, so openly showered upon the organization, was not spontaneous or instinctive, not made upon the spur of the moment, but was read from carefully prepared statements, which, no doubt, had been written and re-written and should therefore have represented the cool judgment of the operators. The presence of the Chief Magistrate of the nation did not in the least restrain some of the operators from giving way to unseemly outbursts of feeling. It was intimated that the President had failed in his duty toward the public and the operators, and one of the speakers ended an impassioned, but utterly baseless invective, by a demand upon the President that he do his duty. The union was denounced as illegal, and a large number of cases were quoted in an effort to demonstrate that the union had no legal status and should be prosecuted. Some of the gentlemen representing the anthracite industry did not limit themselves to their carefully prepared statements, but injected into their reading a number of extemporaneous remarks bitterly assailing the organization of the United Mine Workers; and, instead of accepting our proposal of peace and arbitration, the railway officials concluded by urging that the Presidents station United States troops in the anthracite coal fields.⁵⁰

Mitchell refrained from verbally attacking the operators, acknowledged that there had been some violence but insisted that it had been exaggerated. He then proposed in writing that the matter be put to arbitration and pledged that the union would accept the decision of the arbitration body.

Mitchell stated that while it seemed that Roosevelt's initiative had failed, the operators' obstinacy caused the public to become indignant and they expressed their desire for the President to peacefully settle the dispute. Roosevelt, acting through Carroll D. Wright, contacted Mitchell on October 6 to ask the miners to return to work. Roosevelt promised that after coal mining resumed, he would appoint an arbitration committee to investigate the working and living conditions in the anthracite region and when the committee reported findings to the President, he would do all he could to influence the operators to accept the findings. Mitchell conferred with other union leaders but decided that because the operators had not agreed to be bound by arbitration and the President had no legal power to enforce an arbitration decision, the union could not agree to the President's request without surrendering their cause.

Conventional wisdom given by Mitchell and others describes the operators as stubborn and unreasonable, yet "no one paid attention to Baer's offer of arbitration by federal judges, a procedure which the Anthracite Coal Strike Commission later made, in modified form, a central part of its award."⁵¹

Punctuating the seriousness of the situation, a few days after the meeting with the President, the Governor of Pennsylvania ordered the state's entire National Guard to be mobilized and sent to the anthracite region. The operators continued to claim that many miners were not returning to work because of violent intimidations by the strikers.

⁵⁰ MITCHELL, ORGANIZED LABOR, *supra* note 19, at 387-88.

⁵¹ *A Record of Confusion*, *supra* note 20, at 246.

Mitchell ordered that all miners on strike, including non-union miners, assemble in meetings and vote up or down on whether they desired to return to work. Mitchell recalled:

On the very day on which 10,000 members of the Pennsylvania National Guard were being stationed in various parts of the coal fields, and when every man who desired to work was guaranteed military protection, 150,000 mine workers, without one dissenting voice, voted to continue the strike until victory was achieved or until they were ordered by the union to reenter the mines.⁵²

It appears that in early October the operators realized that the union would not collapse and that they would have to engage in some type of negotiations. On October 13, J. Pierpont Morgan, acting on behalf of the operators, called on President Roosevelt and offered to submit the dispute to a commission of five men chosen by the President. Mitchell claimed that by this point, the union had practically won the strike because the union had more money than at any time in its history. But Mitchell believed that since the union had insisted on arbitration throughout the strike they should accept the offer even though victory was in sight. However, Mitchell objected to the restrictions that the operators put on who the President could choose to be on the arbitration commission. The operators wanted to restrict the pool of potential members to those of certain businesses or classes of people. Mitchell insisted that the President be free to choose the members, but that if the operators could require certain types of members, then a representative of trade unions must be included. This was agreed to and Morgan's proposal was modified. Importantly, both sides agreed to abide by the commission's findings.

Roosevelt and Mark Hanna were political adversaries trying to gain power within the Republican Party. Roosevelt did not want Hanna to have a decisive role in ending the anthracite crisis. So, he had his Secretary of War Elihu Root meet with Morgan. Root and Morgan met on Morgan's yacht and worked out an arbitration deal. Significantly, Morgan excluded recognition of the union in the final agreement. This meant that "[o]nce Roosevelt incorporated Morgan's preamble in his instructions to the Anthracite Coal Strike Commission, the arbiters were forced to treat Mitchell as the miners' spokesman, not the UMW's president, and in spite of their predilections could not award the union recognition."⁵³

The plan made by Root and Morgan did not include a representative from organized labor in the categories of members the President could select from. Mitchell objected that this was unfair and Roosevelt agreed. Roosevelt chose Edgar E. Clark, Chief Conductor of the Order of Railway Conductors, to be on the board because of his knowledge as a "sociologist."

Strike Ends

⁵² MITCHELL, ORGANIZED LABOR, *supra* note 19, at 389.

⁵³ *A Record of Confusion*, *supra* note 20, at 248.

When the UMW learned that President Roosevelt would have autonomy in choosing members of the soon-to-be-created arbitration commission, a convention of union delegates was called for October 20. After deliberating for a full day, the delegates unanimously voted to call an end to the strike. Thus, the Anthracite Coal Strike of 1902, one of the most significant labor struggles in the history of labor relations in the United States, ended on October 23, 1902 after 163 days.

Mitchell would later write:

At the time the offer of arbitration was made the mine workers had practically won the strike. The funds of the union were increasing at a rapid rate, and the amount of money on hand was greater than at any time in the previous history of the organization. The men had demonstrated conclusively that the presence of troops had no effect and that they were in a position to continue the contest indefinitely. At the same time I felt that, as we had struggled for the principle of arbitration, we would not be justified in refusing to accept it because victory was within our hands.⁵⁴

The union had dispersed \$1,880,000 in strike relief money to the anthracite miners and up to 20 percent of the strikers had left the area or found part-time work, and some had private savings, local credit and summer was much easier to endure than winter. However, contrary to what Mitchell wrote about the strike:

on the other side of the ledger stood a loss of from \$25,000,000 to \$35,000,000 in wages; the obvious limits to credit and savings among workers, many of whom lived close to subsistence level; and the end of the normally slack summer season and the beginning of the true test, a payless Pennsylvania winter. Already in October the relief funds were “barely sufficient.” Simple arithmetic and the balance of probabilities support the operators’ conviction that, unrestrained, they would soon have broken the strike.⁵⁵

The list of commissioners chosen by Roosevelt was accepted by the operators and the UMA. The commissioners were Brigadier General John M. Wilson, E.W. Parker, Judge George Gray, E.E. Clark, Thomas H. Watkins and Bishop John L. Spalding. Carroll D. Wright was chosen to be the recorder.

Henry Demarest Lloyd

The UMW called on Henry Demarest Lloyd, one of the most well-known “muckrakers” in the United States, to represent their side before the Strike Commission. Lloyd was a graduate of Columbia College and Columbia Law School and was admitted to the New York Bar in 1869. In the 1870s Lloyd became a writer at the *Chicago Tribune* and left the paper in 1885. Lloyd married the only daughter of one of the *Tribune*’s major

⁵⁴ MITCHELL, ORGANIZED LABOR, *supra* note 19, at 390.

⁵⁵ *A Record of Confusion*, *supra* note 20, at 248-49.

shareholders and his wife's wealth allowed Lloyd to become a "millionaire socialist" who had time to write and speak on social issues.

Lloyd was a logical choice to represent the UMW. He became famous in labor and socialist circles with an article very critical of John D. Rockefeller and Standard Oil titled *Story of a Great Monopoly* that was published in the *Atlantic Monthly* in 1881. Lloyd called Standard Oil the "greatest, wisest, and meanest monopoly known to history." The article was so popular it was published in seven editions and launched Lloyd's career as an anti-trust writer. William Dean Howells, assistant editor at the *Atlantic Monthly*, showed courage in publishing the article. In 1894, Lloyd wrote *Wealth Against Commonwealth* - a book-length study of Standard Oil. Lloyd's attack on Rockefeller and Standard Oil ignored or glossed over the fact that Rockefeller created the world's biggest oil company through voluntary agreements with railroad companies. To Lloyd, any business practice done in private and thus not open to public scrutiny could amount to a conspiracy and result in a monopoly of power.⁵⁶ Lloyd's writing was very persuasive and prompted numerous muckraking investigations, such that:

By 1890, the idea of odious monopoly—previously restricted to those enforced by coercion and created by political whims—had effectively shifted to encompass any business with a large market-share even if it had achieved that status through free enterprise and voluntary means. Private businesses no longer enjoyed the protection of their rights.⁵⁷

Before the anthracite strike, Lloyd had also written about labor struggles in the coal mining industry. In 1888, John Mitchell was a nineteen-year-old itinerant coal miner. Although born in Illinois, Mitchell had traveled and worked out West before moving to Spring Valley, Illinois where he got a job in one of the coal mines. Spring Valley, founded in 1884 as an immigrant coal town, is located in Northern Illinois on the Illinois River in the center of a coal field region in Bureau County. In late 1888 and during 1889, many miners including Mitchell lost their jobs when the Spring Valley Coal Company locked the miners out in an effort to reduce wages. At the time, Lloyd was a forty-two year-old journalist and reformer who wrote about the Spring Valley labor trouble in his book *A Strike of Millionaires Against Miners or The Story of Spring Valley*. Mitchell and Lloyd did not know each other during this 1889 labor struggle but they would both work together 14 years later in the aftermath of the Anthracite Strike of 1902.

Apparently it was Lloyd who suggested to John Mitchell that Clarence Darrow, who had established a reputation as a labor lawyer, would be a good choice to represent the miners. Mitchell agreed and contacted Darrow who was then campaigning for a seat in the Illinois legislature. Darrow accepted the request.

Clarence Darrow

⁵⁶ GARY HULL, *THE ABOLITION OF ANTITRUST* 88 (2005).

⁵⁷ *Id.* at 88-89.

Prior to the anthracite strike, Clarence Darrow had already begun to make a name for himself as a zealous advocate of a labor. This reputation was earned largely through his work in two cases. In the first, he left a job in the corporate legal department of a large Chicago-based railroad to defend Eugene Debs after the Pullman strike in 1894. Darrow and his co-counsel were successful in getting the criminal charges dropped, although Debs was sentenced to six months in jail on civil contempt charges for violating a circuit court's injunction. In a less known case, but one that was followed by many labor leaders as well as rank and file union members, Darrow successfully defended Thomas I. Kidd, General Secretary of the Amalgamated Wood Workers' International Union, and two other defendants after a prolonged strike in the wood and sash mills of Oshkosh, Wisconsin in 1898. Darrow also spoke out about the rights of labor in speeches and in his writings. Thus, Darrow was an obvious choice when Lloyd suggested his name to Mitchell as a labor lawyer who would work to help protect the miners' interests before the Anthracite Coal Strike Commission.

Darrow recalled when he was asked to be on the arbitration commission:

I had never in any way been connected with the United Mine Workers, but after the board was appointed Mr. Mitchell asked me to undertake the case, and I was very glad to be in this conflict. I had been in various arbitrations before; I had found arbitration more satisfactory than courts; there are seldom the same feelings of hatred that accompany a court proceeding at law. An arbitration is flexible and informal. Assuming that the board is fair, it is seeking to do justice and not looking to find violations of statutes. Then there are always some members on the board who know something about the matters involved, while a court is supposed not to know. In fact, a judge must not know, even if he does know. And then, in court every important issue may be thrown to the wind on account of the most senseless law or a crotchet of a judge.⁵⁸

Anthracite Coal Strike Commission

The Anthracite Coal Strike Commission held preliminary meetings on October 24 and October 27, 1902. Then it met in Scranton and Philadelphia from November 14, 1902 to February 5, 1903 with a few intermission breaks. The vast majority of this time was devoted to taking testimony from witnesses. This was followed by five days of closing arguments from February 9 - 13. The Commission's sessions were closely followed by the public through news reports, and thousands attended the sessions.

The commission needed information about the operation of the coal fields so Wright sent numerous agents to gather facts. The arbitration commissioners spent a week touring the coal regions to gain a sense of what coal mining was like. The commissioners then met for nearly three months. They would hear from 558 witnesses, which included 241 witnesses testifying for the striking miners, 153 witnesses for the nonunion mineworkers and 154 witnesses for the operators. The extraordinary number of witnesses produced over 10,000 pages of information in 50 volumes.

⁵⁸ STORY OF MY LIFE, *supra* note 38, at 114-15.

On the first day, the names of all the parties present were called so their attorneys could announce their presence. The attorneys for the miners were identified as Clarence S. Darrow of Chicago, Henry Demarest Lloyd of New York, John J. Murphy of Scranton, and James Lenahan, John F. Shea, and James H. Shea of Wilkes-Barre. Darrow also announced that John Mitchell would appear for the miners. Darrow was the lead attorney for the union. Numerous attorneys for the various railroads were announced. The operators and non-union miners were represented by about 24 lawyers. Mitchell gave a 6,000 word opening statement on behalf of the miners.

Witnesses for the Miners

Darrow introduced and questioned witnesses for the miners to ensure the commission understood the hardships miners faced. He would eventually introduce 241 witnesses. One witness, a real life “Johnny McCaffery,” was a 12-year-old boy named Andy Chippie who testified that he worked in the mines before he was of legal age after his father had been killed in the mines. Chippie told the commissioners that when he began working in the mine, instead of earning 40 cents a day in wages, he was given a rent due statement holding him liable to repay \$88.17 of back rent his father owed.

One of the saddest witnesses was 50-year-old Henry Coll who worked for Markle & Company for 19 years. On the witness stand Coll, who was “aged and bent,” said his family consisted of his wife, a son, two children he adopted, one of whom he took in after the child’s father died in a mine, and his blind mother-in-law who was about 102 years old. Darrow asked Coll if he had been injured in the mines. Coll replied, “I haven’t a whole bone in my body. My skull was fractured, an eye put out, and one leg is as bad as a wooden one.”

When it seemed that Coll’s testimony could not reveal worse conditions faced by the poor miner, he related under Darrow’s questioning that he had received 6 days notice that his family was being evicted because he fell behind on rent during the strike. The sheriff came and Coll asked for another day because his wife had tonsillitis and it would be dangerous to move her. But Mr. Markle refused and told the sheriff that Coll could not stay another five minutes. So the family was evicted with deputies carrying the blind mother-in-law to a house down the block where Coll had found temporary shelter. His wife had to go out into the rain which worsened her condition. Coll did not have money to pay for a doctor. He finally found a doctor who tried to help and refused Coll’s offer of a dollar. But it was too late, and Coll’s wife died. A visibly shaken Judge Gray asked Coll to clarify that she had died. Yes, Coll confirmed, and he had just buried her the day before.

John Mitchell on the Stand

John Mitchell played a prominent role during the hearings and was a very effective witness in presenting the case for the miners. He clearly justified in a formal statement the miners’ demands for a 20 percent reduction in hours worked without a reduction in

earnings. This included “contract miners” and laborers hired to load coal. For other workers, the miners demanded an eight hour day, reduced from ten hours, without a wage reduction, a just system of weighing coal and paying by weight when practical, and union recognition. Wayne MacVeagh, an attorney for the operators, repeatedly tried to get Mitchell to either condone the violence and boycotting that had occurred or in the alternative to condemn the local labor leaders and the union. But Mitchell would do neither and as he had throughout the strike said that he did not believe violence helped any union cause. Mitchell’s performance on the stand elicited grudging admiration from MacVeagh who told Mitchell, “You are the best witness for yourself that I ever confronted.”

On November 22, Darrow asked if the commission could adjourn until December 3 so the two sides could explore the possibility of an out-of-court settlement. The commission granted this request. The operators did make a proposal for a 10 percent wage increase instead of 20 percent, a nine hour work day instead of eight hours, and indirect recognition of the union. J.P. Morgan endorsed the proposal but some independent operators refused and demanded that the hearings continue.

Louis D. Brandeis

At one point during the hearings, Henry D. Lloyd suggested that Darrow contact Louis D. Brandeis, a then prominent attorney in Boston, to argue before the commission. On November 28, 1902 Darrow wrote to Brandeis:

Mr. Lloyd has told me of your interest in our case and your willingness to help. We have decided to make an aggressive move along the lines discussed by you and Mr. Lloyd—the extortionate charges for anthracite freight rates as compared with bituminous; the legal and economic wrong in the union of mining and transportation; the relation of over-capitalization to low wages., &c. Mr. Lloyd understood that you would be ready to make an argument before the Commission on this part of our case. Could you do so, and also spend a few days here with us before the Commission in the presentation of the evidence on this subject? We should be glad to have you do so. Kindly let me know what compensation would be expected.

Brandeis wrote back to Darrow that he would gladly help without pay, but he was tied up with another case. However, Brandeis gave Darrow and Lloyd a “law memorandum” setting forth information they could use during the hearings. About fourteen years later, on June 4, 1916, Louis Dembitz Brandeis would become an Associate Justice on the United States Supreme Court.

Violence

Allegations that striking miners perpetrated acts of violence constituted an important issue. The operators wanted to emphasize any violence that took place and blame it on the union leaders and miners. The operators presented numerous witnesses who testified

to being assaulted because they were non-union miners who replaced striking miners. Mitchell blamed at least some of the violence on the unsavory characteristics of “police” hired by the operators to protect their property:

[The testimony showed] the caliber of many of these defenders of the sacred right of property. Some of them were men of good character, but many of them were thugs, recruited from the lowest slums of the great cities, uniformed, armed, and invested with police authority. Some were, indeed, the most desperate characters, and in the case of one man the Commission absolutely refused to allow him to be cross-examined, because of his own shameless acknowledgment that he was a crook, a thief, and a confirmed criminal. There were several cases of wanton assault and unprovoked murder by these coal and iron police; and, on the other hand, there were instances in which violence was done and murder committed by strikers, or by men who claimed to be in sympathy with them. It is utterly impossible to control the act and deed of every single individual in a population of 150,000 men and boys, who have been idle for months and many of whom are on the verge of despair, if not of actual starvation. But the claim that the majority of the men were prevented from working in the mines by the force and intimidation of a minority was utterly misleading, utterly false, and, as was subsequently shown, easily and completely disproved.⁵⁹

Darrow Demolishes Operators’ Wage Evidence

The operators’ case rested to a considerable extent on wage tables showing the averages over several years. Darrow tore these wage statistics apart. When the paymaster for George Baer’s company tried to explain the wage tables, Darrow cut the witness short and forced him to admit that the wages represented in the nine wage models the operators had submitted as evidence were handpicked. Darrow also showed that five of the models were of the highest wages and seven of the nine were above average. He demonstrated that in reality 96 percent of the wages actually paid to miners were less than the wage tables submitted. The operators’ wage evidence lost any credibility after this.

Closing Arguments

Closing arguments before the commission took place during the week of February 9, 1903. In a biography about John Mitchell, the author wrote:

[T]he final summations presented such radically contrasting social philosophies that Mitchell’s belief in class harmony appeared naïve. George Baer delivered the operators’ summary. He spoke the language of social Darwinism, the unrestricted rights of capital, the evil of unionism, and the rights of individual workers to contract their labor. Darrow, on the other hand, argued for the social need of

⁵⁹ MITCHELL, ORGANIZED LABOR, *supra* note 19, at 385.

unions to organize so that the ‘downcast’ might protect themselves against ‘cruel’ capitalists.⁶⁰

George Baer’s Closing Argument

George Baer made the closing arguments for the coal operators. As the face of the operators, Baer’s closing drew a large crowd who wanted to see him speak. A large part of Baer’s argument involved an explanation of the economics of the anthracite coal business. Baer began by focusing on the benefits of the industrial revolution:

I think it is generally conceded that the marvelous progress of the past century is due to the general acceptance of the theory that under the action of individual liberty maximum efficiency and justice have been secured.

Political and industrial freedom have marched side by side. The individual was given free scope within the sound rules of law to exercise all the powers he possessed to improve his condition and advance himself in life. He is a pessimist who will not say that the masses of men have advanced and are continuing to advance under the powerful stimulus which individual liberty gives to individual initiative.⁶¹

Union Legal and Morally Responsible for Violence

Baer was not apologetic and spoke as if he sincerely believed he was in the right. Baer had previously described union violence to President Roosevelt and he emphasized it again to the commission:

The lawlessness in the coal regions was the direct result of mistaken theories of the rights of the Mine Workers. It will not do to say that the leaders have not encouraged violence and crime. It is true, no doubt, that they did not directly advise it. They at times counseled against it and issued paper proclamations calling for peace; and at other times, as they did on the witness stand, they have expressed regrets for it. Nevertheless, they are legally and morally responsible for the situation they have created, and from which this violence and crime resulted.⁶²

Baer read from union resolutions that clearly directed that miners be forced to join the union, such as a resolution from the Shamokin convention that approved a district’s efforts “‘to insist upon forcing all who work in and around the mines to become members of the Union, and that they be authorized to refuse to work with non-union men.’”

Baer criticized Mitchell for his testimony in which he called strike breakers “scabs” and said such a man was a “Benedict Arnold.”

⁶⁰ CRAIG PHELAN, *DIVIDED LOYALTIES: THE PUBLIC AND PRIVATE LIFE OF LABOR LEADER JOHN MITCHELL* 197 (1994).

⁶¹ ARGUMENT OF GEORGE F. BAER, ESQ., ON BEHALF OF THE OPERATORS 1 (1903).

⁶² *Id.* at 3.

United Mine Workers Monopoly

Baer accused the United Mine Workers of being a monopoly:

The United Mine Workers have created a monster monopoly. They did shut up the anthracite mines for more than five months. They taxed bituminous laborers and all laborers over whom organized labor had control to support the strike. . . . More than three million dollars were raised to carry on what they called the industrial war. With what result? The price of both anthracite and bituminous coal more than doubled. The supply was inadequate. The public was suffering, not only from the high price but from the scarcity of coal. Industrial operations closed down and men were thrown out of employment. All over the land, except in the districts that could be supplied by the great anthracite coal companies, the poor, the honest workman and the well-to-do, suffered for want of fuel. In the middle of winter, in a land of plenty, this gigantic monopoly had the power to create a scarcity of fuel and bring distress upon a whole nation.⁶³

Baer used humor on occasion during his argument to make a point:

Mr. Brumm, in his argument, asked me, why I waited until the eleventh hour to deny something that had been said at Washington. My whole summer's work would have been taken up in denying reports if I had started on that line. I am responsible for the things that I have said under my name, or said publicly; but I protest against the vile stuff that has been injected into interviews purporting to come from me, some of which were quoted here by one of the speakers, saying "There is nothing to arbitrate," and all that sort of thing. I do not blame him for it; because the average man has a right, if he is simple-minded to believe the newspapers.⁶⁴

This prompted an applause and laughter from those listening. Darrow even remarked, "I agree with you about that."

Baer surprised those in attendance by offering some concessions. He offered to pay miners on a sliding scale based on the price of coal. He also offered an immediate five percent wage increase that would be retroactive from November 1, 1902 to April 1, 1903, after which the new sliding wage scale would be in effect. Baer also promised that wages would not fall below the present standard.

To show that he was truly interested in harmony between labor and the operators, at the conclusion of Baer's two and a half hour argument, Mitchell walked across the meeting room and shook Baer's hand.

Clarence Darrow's Closing Argument

⁶³ *Id.* at 17-18.

⁶⁴ *Id.* at 24.

An even larger crowd gathered to hear Clarence Darrow give his closing on behalf of the miners. Hundreds had to be turned away. Darrow began by telling the commission that since he was only allotted a day and a half for his closing, he did not have time to give “any extensive eulogiums” and so he was “obliged in the Western slang to ‘saw wood’ and cannot waste very much time”

Numerous times Darrow was interrupted with laughter and applause. At one point early in his closing he said, “I would suggest to the Chairman that he do me the favor to request that there be no applause.” Clearly Darrow had a lot of supporters listening. The Chairman told those gathered, “Gentlemen, the Chair must request that you refrain from applause. The speaker has just told me that it interrupts and annoys him. It is not because I do not want you to applaud what you believe in, because it interrupts the proceeding.”

But Darrow then caused more laughter by saying:

I have made up my mind to be very dull this afternoon and save my really interesting remarks until tomorrow. For that reason it will be a little more difficult to give attention this afternoon, and a little easier tomorrow. Of course it follows from that that what I shall say this afternoon is important and what I shall say tomorrow will not be so important.

Union is Reality

Darrow told the commission that the operators were blind to reality:

As reasonable human beings should we recognize the Union or should we run against it like a stone wall and still swear that we do not know it is there?
Gentlemen, I can dispose of that very easily. You can do just as you please about recognizing the Union. If you do not recognize it, it is because you are blind and you want to bump up against it some more; that is all. It is here. It is here to stay, and the burden is on you and not upon us. There is neither the power nor the disposition in this court, I take it, to destroy the Union. It would not accomplish it if it could, and it certainly could not if it would. And if these wise business men, with the combined wisdom of business gentlemen and the agents of the Almighty can not see the Union, they had better blunder along still a few more years, and possibly after while they will know it is here and recognize it themselves.

Sarcasm and Scorn on George Baer

Throughout his career, one of Darrow’s trademark strategies during a trial or adversarial hearing was to choose one or more adversaries on the other side to be the target of criticism, scorn and biting sarcasm. This was usually an important witness against his client and often times a member of the prosecution. Darrow targeted George Baer during the anthracite strike hearings.

At one point, Darrow mentioned that Baer and his chief lieutenant, Mr. Veith, differed on some work and wage statistics. Darrow said he was going to use Mr. Veith's testimony on the matter because Baer had talked highly of his employee:

I have a very high opinion of Mr. Veith and that opinion, taken in connection with Mr. Baer's eulogium upon his chief lieutenant, leads me to think that Mr. Veith is right, and Mr. Baer is wrong, so he will pardon me if I take Mr. Veith instead of himself in these matters to ascertain how much Mr. Baer is paying and how much work he is getting. I am going to be governed by him and by their books and not by the eminent gentleman whom they put on the stand and who caused me for the first, and I trust the only time, to lose my temper in this case, who fixed up the diet of pig iron and raw jute and carbolic acid for the miners to live on, which is a very good diet for his composite man. But it is no good for mining coal. A composite man has got to dig coal or he cannot even stay on the pay rolls of an expert accountant. 98

Darrow interwove statistics about wage scales and other numbers into his testimony. He would then intersperse his numerical figures with either sarcastic humor or downright condemnation. When speaking of the workers who loaded coal into cars and who made even less than contract miners, he said:

Most of the people we have had on the stand were contract miners, the poor devil that loads the coal, we do not want to forget him. What has he been getting? He works in the ground. The falling rock, or a stray car, or a belated blast, will catch him the same as the experienced miner. His business is almost as dangerous as the contract miner. More than five out of every thousand of his craft are killed every year, to say nothing of the maimed, and the crippled and the blind who are turned out under the beneficent laws of the State of Pennsylvania to the almshouses and highways and byways, because no man can recover in this State, and I say it advisedly, that I believe there is not another state in the union where it is as difficult to recover as in this Commonwealth of Pennsylvania. When I think of the cripples, of the orphans, of the widows, of the maimed who are dragging their lives out on account of this business, who if they were mules or horses would be cared for, but who are left and neglected, it seems to me this is the greatest indictment of this business that can possibly be made, there are thousands of them and many of them have come before this Commission to tell their story and to exhibit their misfortune under our advice.

Breaker Boys

Darrow was direct with his condemnation of child labor in the anthracite mines. He brought George Baer into this part of his argument with biting sarcasm:

The slate pickers are a very large class. Of course they are children. Mr. Baer told the Commissioner of Labor and he told the United States Senate and he told the people of the United States that the lowest rate that he paid to slate pickers was 85

cents. Of course Mr. Baer is a busy man. He is a practical man. He is not a dreamer or a theorist. He got the figures transposed. The books that he has filed show that the rate is 58 cents instead of 85 cents. But like his other mistakes, he has not found it out yet, at least not until now. He informed the country that the lowest rate to these boys was 85 cents. It is 58 cents. Now, I do not know what you will do, but if I was the Commission I would raise these boys' wages to \$2.50 a day. So that would get rid of all of them, every one of them. If the work of this Commission does not result in getting rid of this abominably, disgraceful evil of child-labor in Pennsylvania, then I think the people may well say that it has been a failure.

You may not get rid of it at once, but no man ever lived that could make an excuse for it. I do not think any man ever lived that would not blush because of the money he gets from it. I was surprised that my friend Reynolds in his zeal should defend it,—defend the taking of a boy 12 years old, and setting him down to labor in this everlasting cloud, for 10 hours, or 8 hours, or any hours—for what? That you may get gold. That is all. Can any man frame an honest defense for it? Where are your sons and your daughters? Let me say this, that until you, Mr. Railroad President, or you Mr. Lawyer, will take your child by the hand and lead him up the breaker stairs and sit him down to pick at that trough of moving coal, until you will take your pale girl to the silk mills, let me speak for the children of the poor. Is there any one who can defend it? This custom has grown up in the State of Pennsylvania because there is money in it, and the industries of Pennsylvania are dependent upon it. Shame upon the industries of Pennsylvania if this is true! If it is so, of little avail have we protected this great State for half a century, if the result of all of it is that men shall grow rich from the labor of these small children.

Darrow tried to demonstrate how much the miners and their families looked up to Mitchell:

These babes know their friend. There is not one of these children so ignorant, not one of them so lost to natural instincts that he does not know who loves him. There is not one who would not run from a railroad president to the open arms of John Mitchell; and they are right.

A short discussion between the chairman and Darrow followed in which it was stated that some of the girls only earned three cents an hour. Darrow said the boys were better off than the girls and that “[b]oys generally have the best of it in this world.”

Darrow was very witty and even in the most serious hearing he would use humor, but usually to prove a point. Speaking about how much the firemen who joined the strike made, he said, “[T]hese firemen, by the way, got about \$1.75 a day for twelve hours. Why, I would not want to listen to this argument for twelve hours for that kind of wages, to say nothing of shoveling forty tons of coal.”

Commenting on the misleading wage scales the operators tried to introduce into evidence, Darrow told those listening:

I am willing to take even the false, misleading figures that this so-called expert gave here upon the witness stand. And the reason I was angry with him was not because I thought he sold his soul cheaply, but because, forsooth, I thought he believed I was such a fool that I would not see through it.

Darrow periodically poked fun at Baer as he went along:

I believe Mr. Baer has the distinguished honor of being the lowest in the whole region. Whether this is due to the fact that he has so many enterprises and so many people that he cannot look after them all, or the fact that he does not recognize any moral code outside of the dead letter of the law, as he told us, I will have to leave to him. But anyhow, it is a fact from these records. He is the Abou Ben Adhem of whom my learned friend Dickson referred to, who led all the rest—going the other way.

Abou Ben Adhem, also known as Ibrahim Bin Adham, was an Arab Muslim saint and Sufi mystic. He became known in the West through a poem written in 1838 by James Henry Leigh Hunt (1784 - 1859).

Silk Mills

Boys made up the child labor force in the mines. But an industry grew up in the region to take advantage of young girls from desperately poor families. Silk mills were built near mining communities and many young girls experienced tough working conditions in these mills. During the hearings, Darrow called several young girls to testify to what they experienced in the silk mills:

Members of the strike commission reacted with anger and horror as the girls told of working twelve-hour shifts in the silk mills, walking to work in the evening and returning home in the morning tired and spent. Some of the commissioners vented their wrath on the parents. Darrow placed the blame squarely on the mine owners. The girls themselves simply described their lives, placing blame on no one.⁶⁵

Several times in his closing Darrow exposed the shame of child labor, not just in the mines but also in the silk mills:

I have sought to the best of my ability I have to study some of these important problems. I have studied them wisely, I may have studied them foolishly, but at least I have sought to find out. The evidence in this case shows that every single of these industries is run by the labor of these children. It shows more than this. It

⁶⁵ BONNIE STEPENOFF, *THEIR FATHERS' DAUGHTERS: SILK MILL WORKERS IN NORTHEASTERN PENNSYLVANIA, 1880-1960*, 61 (1999).

shows that in the vicinity of Scranton are at least 20 mills—silk mills, knitting mills, thread mills—where little girls from 12 to 13 or 14 years of age are working 10 hours a day, 12 hours a day, and 12 hours at night as well. Do not tell me that this is due to the inhumanity of the father or mother. It is contrary to the natural law. The wolf suckles her young. The wild animal cares for its off-spring, and the human being is not less kind than the wolf or the beast.

The instinct of life planted deep in all living things provides that the old must care for the young. It provides that the parent, whether man or beast, must care for its off-spring. It needs no human law to enforce it. It needs nothing but a chance for those common, eternal instincts which have kept the human race alive. Is there any man so blind that he does not know why that anthracite region is dotted with silk mills? Why are they not on the prairies of the west? Why are they not somewhere else? Why is it that men who make money that is spun from the lives of these little babes, men who use these children to deck their daughters and their wives—why is it that they went to Scranton and to all those towns? They went there because the miners were there. They went there just as naturally as a wild beast goes to find its prey. They went there as the hunter goes where he can find game. Every mill in that region is a testimony to the fact that the wages that you pay are so low that you sell your boys to be slaves of the breaker and your girls to be slaves in the mills.

Darrow said the long strike “was the result of a long and bitter strife,” one “in which men on both sides were turned into wild beasts and forgot that common sympathy and common humanity which, after all, is common to all men when they are approached from the human standpoint and the human side.”

Darrow spoke for more than eight hours. When he concluded, there was so much applause that the commission temporarily suspended the hearing.

Report and Award

After closing arguments, the commission went into executive session to study the enormous amount of material it had gathered. The commission then reported its findings to the President and published its award on March 18, 1903. The award was a set of specific injunctions and recommendations generated by the intensive investigation into the anthracite coal region and the realities of life in the coal mines. The award, which was to remain in effect from April 1, 1903 until April 1, 1906, stated:

[A]ll contract miners were to receive an advance of 10% in their rates of pay for cutting coal, for yardage, and for other work, for which standard rates or allowances previously existed. The engineers engaged in hoisting water were to have a reduction of hours from 12 to 8, with no reduction in pay, or, in other words, an increase of 50% per hour, while the engineers who were already working eight-hour shifts were to have not further reduction in hours, but a 10% increase in wages. Hoisting engineers and other engineers and pumpmen, except

those before mentioned, were awarded an increase of 5% in their wages and relieved from duty on Sunday, with full pay, or, in other words, an hourly increase of 22%. The firemen were also awarded an eight-hour day instead of a twelve-hour day, this being an increase of 50% in the hourly rate of remuneration. The company men or men who were paid by the day—representing about one-half of the employees in and about the mines—were awarded a nine-hour instead of a ten-hour day, and as these men are practically paid by the hour, this award amounted to an increase of 11 1/9 % in their wage rate.⁶⁶

Mitchell expressed the union's reaction to the report, saying it was "a document prepared by fair-minded and intelligent men, but showing, upon the whole, a lack of appreciation of some of the fundamental principles of unionism and based upon premises which cannot be maintained."⁶⁷

Significantly, the Commission did not "consider that the question of the recognition of the United Mine Workers of America, is within the scope of the jurisdiction conferred upon it by the submission."⁶⁸ But the Commission felt compelled to "give some expression to its views on the general question. . . . the Commission is led to the conviction, that the question of the recognition of the union and of dealing with the mine workers through their union, was considered by both operators and miners to be one of the most important involved in the controversy which culminated in the strike."⁶⁹

Mitchell thought more highly of the award than the commission's report. He viewed the award as an implicit recognition of the UMW. To Mitchell:

[The award] displays great practical wisdom and illustrates the tendency of wise men to surrender theoretical prejudices when they come into contact with a real and pressing problem. While it did not give the men all that they had demanded or were entitled to, still the award of the Commission secured to them substantial advances in wages and material improvement in conditions. What was perhaps even more important, it recognized the United Mine Workers of America as one of the contracting parties, thus fixing the status of that organization.⁷⁰

Anthracite Board of Conciliation

According to the Mitchell, despite the importance of the wage increases, "[t]he most important feature of the award was the provision for a board of conciliation."⁷¹ Realizing that it was a temporary arbitration committee, the commission provided the framework for a permanent board to hear and settle disputes that could not otherwise be settled.

⁶⁶ MITCHELL, ORGANIZED LABOR, *supra* note 19, at 393.

⁶⁷ *Id.* at 392.

⁶⁸ REPORT TO THE PRESIDENT, *supra* note 2, at 61.

⁶⁹ *Id.*

⁷⁰ MITCHELL, ORGANIZED LABOR, *supra* note 19, at 392-93.

⁷¹ *Id.* at 394.

The Anthracite Coal Strike Commission established the Board of Conciliation with its fourth award on March 18, 1903. The award called for a “permanent joint committee, to be called a Board of Conciliation” that would mediate grievances or disputes “arising under this award, either as to its interpretation or application.” During and after the strike, the miners had demanded “satisfactory methods for the adjustment of grievances which may arise from time to time, to the end that strikes and lockouts may be unnecessary.”⁷²

The Board of Conciliation was to be comprised of three members representing a majority of mine workers and three members representing the operators from each district in the anthracite industry. Disputes that the Board could not satisfactorily resolve would be transferred to an umpire appointed by a circuit judge from the United States Third Circuit Court of Appeals. Significantly, any decision made by an umpire or the Board was final and the parties were bound by it. Strikes by miners or lockouts by mine operators were not permitted while a grievance was being heard. Decisions made by the Board or an umpire were treated like common law that could be applied, so future disputes were settled under precedent of past decisions.

The Board of Conciliation held its first meeting on June 25, 1903 in Wilkes-Barre, Pennsylvania. The Board chose a representative of the operators to be chairman and a representative of the miners to be secretary. In July the Board heard its first grievance in Pottersville, Pennsylvania.

Aftermath

The Anthracite Coal Strike Commission estimated that during the Anthracite strike the coal and railroad companies lost about \$74,000,000 and the miners lost about \$25,000,000 for a combined loss of \$99,000,000.

According to some accounts, the United Mine Workers came out of the strike and the resulting settlement a stronger organization:

Following the strike, the United Mine Workers became for a time the largest and most powerful labor union in the United States. When a Cabinet-level Department of Labor was created a decade later, President Woodrow Wilson wanted to appoint Mitchell as the first Secretary of Labor. Mitchell did not push his candidacy, but another top official of the Mine Workers during the great strike of 1902, William B. Wilson, became the first Secretary to represent labor's voice in the Cabinet.⁷³

Most accounts claim that the UMW's victories in 1902 and 1903 were tremendously important for the AFL because it was the first victory by an affiliate organization, it created a very strong union of about 200,000 workers and “more than any other single event they were responsible for a six-fold increase in A.F.L. membership, which by 1904

⁷² T.D. Nicholls, *The Anthracite Board of Conciliation*, 36 ANNALS AM. ACAD. POL. & SOC. SCI. 366 (1910).

⁷³ *Turning Point*, *supra* note 3, at 28 n.55.

reached 1,67,000.⁷⁴ Samuel Gompers, the longtime leader of the American Federation of Labor and a man who was involved in some of the most important labor disputes in the nation's history, wrote in his autobiography:

Several times I have been asked what in my opinion was the most important single incident in the labor movement in the United States and I have invariably replied: the strike of the anthracite miners in Pennsylvania ... from then on the miners became not merely human machines to produce coal but men and citizens.... The strike was evidence of the effectiveness of trade unions⁷⁵

In a broad study of labor history in the United States, the author wrote:

The anthracite coal strike of 1902 was doubtless the most important single event in the history of American trade unionism until that time and has since scarcely been surpassed. To be sure, events like the great railway strike of 1877 and the Chicago Anarchist bomb and trial in 1886-1887 had equally forced the labor question into public attention. What distinguished the anthracite coal strike, however, was that for the first time a labor organization tied up for months a strategic industry and caused wide suffering and discomfort to the public without being condemned as a revolutionary menace to the existing social order calling for suppression by the government; it was, on the contrary, adjudged a force within the preserves of orderly society and entitled to public sympathy. The public identified the anthracite employers with the trust movement, which was then new and seemingly bent upon uprooting the traditional free American social order; by contrast, the striking miners appeared almost as champions of Old America. A strong contributory factor was the clumsy tactics of the employers who played into the hands of the leaders of the miners. The latter, especially John Mitchell, conducted their case with great skill.⁷⁶

But another version of the strike of 1902 and its aftermath stated that the results of the strike for Mitchell and the UMW were far from a resounding victory. Mitchell and the UMW claimed that the Anthracite Commission had given the union more than it asked for:

Yet the Commission compromised on hours and wages, forced no changes in work rules, and decided that the UMW's most important demand, recognition, was beyond its jurisdiction. The labor-management boards which the Commission established in the anthracite fields approximated collective bargaining; but ultimate power rested with federal judges, as Baer had wanted, and the union had to fight thirteen more years for actual recognition. Although the Commission had friendly words for the propriety of organized labor, it also condemned harshly the union shop and a number of customary union bargaining techniques. Moreover, it

⁷⁴ JOSEPH G. RAYBACK, *A HISTORY OF AMERICAN LABOR* 231 (FREE PRESS 1966).

⁷⁵ SAMUEL GOMPERS, *SEVENTY YEARS OF LIFE AND LABOR: AN AUTOBIOGRAPHY* 126 (1925).

⁷⁶ SELIG PERLMAN, *A HISTORY OF TRADE UNIONISM IN THE UNITED STATES* 177 (1922).

recommended separate unions in bituminous and anthracite, an anathema to the UMW.

As a result of the settlement, the UMW did become permanently established in the anthracite fields; but for this Mitchell and the union paid a high price. The UMW had lost the best opportunity it would have in more than thirty years to organize West Virginia. By 1904 West Virginia competition forced Mitchell to accept a two-year wage reduction in bituminous in order to save the joint conferences. In 1906 defections further weakened the conferences. Although still lionized by many outside organized labor, Mitchell could no longer produce for the bulk of the UMW's members, who worked in bituminous. In 1908 they voted Mitchell out of office. Then came his tragic search for security through a makeshift job in the National Civic Federation, a minor political appointment, speculation, and liquor, which ended in death at the age of forty-nine.⁷⁷

Child Labor Victory

The National Child Labor Committee work in bringing awareness to the problem of child labor in coal mines proved successful:

The elimination of child labor in mining was an important early win for the NCLC. While every industry stubbornly resisted giving up its child workers, mining and extraction yielded relatively early. It was just such a horrendous occupation for children that, in most states, mining came under more stringent regulation than other employment.⁷⁸

The NCLC conducted its last investigation into child labor in the Anthracite region in 1916.

Clarence Darrow and John Mitchell

Darrow wrote in his autobiography that "John Mitchell was then the president of the United Miners. He was a man of strong will, fine judgment, and great energy."⁷⁹ Mitchell did not mention Darrow by name in his book *Organized Labor: Its Problems, Purposes, and Ideals and the Present and Future of American Wage Earners* that was written in 1903. However, Mitchell did write a letter to Darrow on May 5, 1905 on the letterhead of the Office of President, United Mine Workers Of America:

My dear Mr. Darrow:

While in Chicago a few days ago, I heard that you were being criticised by some labor men, one statement made being that your interest in organized labor was a purely selfish one. In justification of this allegation it was said that you had

⁷⁷ A Record of Confusion, *supra* note 20, at 249-50.

⁷⁸ CHILD LABOR, *supra* note 10, at 120.

⁷⁹ STORY OF MY LIFE, *supra* note 38, at 113.

charged our organization ten thousand dollars for services rendered as chief counsel before the Anthracite Coal Strike Commission.

I feel it my duty to write you saying that these criticisms did not emanate from members of our organization. We were entirely satisfied with the services you rendered and the fee paid you was not commensurate with the work performed. As a matter of fact, each of the coal companies employed several lawyers and I understand that none of them received less than twenty-five thousand dollars as compensation.

I understand that it is customary for lawyers to charge in proportion to the result secured. Now, the miners of the anthracite districts have gained about six or seven million dollars a year in wages, as well as other improvements in the condition of their employment. Of course it would not be fair to say that all this gain was due to the presentation of their case before the Commission, but I have always felt that the best possible presentation was made and that your argument at the close of the hearing contributed in no small degree to the advantages gained by our people. It gives me pleasure to offer this voluntary statement of our feeling, in order that you may know that we have neither sympathy for nor participation in the unjust criticisms that have been made by a few persons that are undoubtedly inspired by malice.

I am,

Yours truly,
John Mitchell
President U.M.W. of A.