The

KENTUCKY MINERS STRUGGLE

The Record of a Year of Lawless Violence. The Only Complete Picture of Events Briefly Told.

Read the facts and urge a U. S. Senate inquiry. Write your Senators in support of the resolution (S. J. Res. 178) by Senators Costigan and Cutting

Only federal intervention will stop the reign at lawlessness by officials and gunmen

AMERICAN CIVIL LIBERTIES UNION
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15 Cents
The Miners Struggle In Harlan and Bell Counties, Ky.

The struggle of the miners to organize unions in the coal fields of southeastern Kentucky began in February, 1931, in Harlan County and has since spread to Bell and Knox Counties, and even to Tennessee. The coal operators, representing some of the largest financial interests in the country with headquarters in New York, Chicago and Detroit, have opposed all efforts to unionize, whether by the United Mine Workers, the Industrial Workers of the World or the National Miners Union. The local officials are obviously completely dominated by their anti-union policy.

Since the beginning of the struggle:

1. Eleven people have been killed (five deputies, four miners, one organizer from Connecticut, and one Harlan County storekeeper sympathetic with the miners).
2. Scores wounded.
3. Men have been taken out and flogged, and deported from the state.
4. Buildings have been dynamited.
5. Sympathizers have been arrested, beaten or deported.
6. Two union leaders have been sentenced to life imprisonment.
7. Over one hundred others have been indicted either for criminal syndicalism, banding and confederating, or conspiracy to murder. Only one man among the gunmen is held for the shooting of miners.

The Coal Fields

In 1929 Kentucky was the fourth largest bituminous coal-producing state in the country. By far the greater part of this output came from southeastern Kentucky, which is divided into three distinct coal fields, separated from one another by mountains. The Big Sandy coal field is in the extreme eastern part of the State; southwest of it is the Kentucky River or Hazard coal field; and still further to the southwest lies the Cumberland Valley field.

Harlan County, the center of the earliest struggle, is situated in the Cumberland Valley field, just across the border from Virginia. Harlan is the largest coal county in all Kentucky. Not only does it produce three times as much coal as any other county in its field—14,000,000 tons in 1929—but it accounts for one-fourth of the output of the entire State.

Bell County, which has become involved in the struggle since the begin-
ning of this year, is also in the Cumberland Valley field. It lies just southwest of Harlan, on the Tennessee border. Its coal is for the most part inferior to Harlan's, and in 1929 it produced only 3,000,000 tons.

No union has ever been able to gain a real foothold in the Cumberland Valley field. The operators have fought it bitterly at every step. The decade from 1920 to 1930 marked its total extinction in eastern Kentucky, and the rise of the Kentucky mines to a far stronger position in the coal industry. When, in the Spring of 1931, the United Mine Workers again appeared on the scene, the operators took up their arms.

Who are the Rulers?

THE Harlan County miners, fighting for the right to organize, are opposed by forces ranging from small local operators to the most powerful financial interests in America today. Even before the war, the Mellon interests and the Morgan-McCormick International Harvester Company had begun to penetrate eastern Kentucky. But since the war big business has acquired a far-reaching control over the Harlan coal-fields. The trend of the industry in recent years has been towards a reduction in the number of mines. The majority of the small mines which thrived during the war boom have been forced out by competition with the big. The big companies have increased their holdings, consolidated their interests. This process has gone on until nearly all of the large mines, the richest coal seams, in Harlan County have become the holdings of Northern capital.

Morgan's United States Steel Corporation, through its subsidiary, the United States Coal and Coke Company, has mines in the town of Lynch, and employs 6,000 men. Samuel Insull and his Peabody Coal Company own the Black Mountain Coal Corporation. Detroit Edison is the force behind the King Harlan mines. The Fordson Coal Company, with mines in Wallins Creek, is controlled by Henry Ford, the McComb Coal Company by the Bourne-Fuller Company of Cleveland, the Utilities Coal Company by the Commonwealth Power Corporation of New York. The town of Benham is owned by McCormick's International Harvester Company. The Elkhorn-Piney Coal Company and the big Kayu mine at Coxton are Mellon holdings.

Mellon, Ford, Morgan, McCormick, Peabody, Insull—their subsidiaries represented in the powerful Harlan County Coal Operators' Association— are the dominating forces in the Harlan coal fields, the masters of the greater part of Harlan's 18,000 struggling miners.

The Bell County mines, on the other hand, are small holdings, many of them owned by local capital. There is no powerful operators' association, as there is in Harlan. The miners of Bell County face a more divided enemy,
but a no less determined one. Bell County has taken its cue from its more powerful neighbor, and the history of its violence during this year parallels at every step the history of Harlan's violence in 1931.

Who are the Miners?

These people are of the earliest American stock, with their roots in the Kentucky mountains for a century and a half. Just after the Revolutionary War their ancestors came in through Cumberland Gap and settled Kentucky and the neighboring states. They came out of mountain homes down into the valley mines only in recent years.

The charge of being "Roosian Reds" has been levelled by the officials against those of them who have joined the Communist-led National Miners Union. This union was not in Kentucky in February, 1931, when the struggle started. At that time the United Mine Workers and the I. W. W. were the only unions with locals in the field. The first attempts at organization, which led directly to the present trouble, were made by the United Mine Workers, and for the first few months the miners' fight was led by that union. But its influence soon began to decline; the miners, dissatisfied with its leadership, turned elsewhere for help. Some formed an independent organization, the All Workers' Union. Others turned to the I. W. W. But the membership of both these unions was small. It was in June that the National Miners Union first appeared on the scene. Before long it had a membership of 4,000. The National Miners Union attracted the miners not because of its Communist leadership, but because, regardless of its politics, it has been militant, and aided them with food, clothing, and defense.

The 1931 Strike

The immediate cause of the miners' resistance in Harlan County in February, 1931, was a wage cut combined with increasingly unbearable conditions of semi-starvation. The men at the Black Mountain Coal Co. walked out of the pits. Helpless, unorganized, knowing only that they would "rather strike and starve than work and starve" they called upon the United Mine Workers for aid. Meetings were held, and in a short while 3,000 men were organized. The operators began evicting union men and union sympathizers. Others walked out in protest. Sheriff Blair swore in mine-guards as special deputies, imported others from neighboring counties to tour Harlan in heavily-armed cars, bullying and terrorizing the miners. Thus did the operators hope to break the union and with it the spirit of rebellion.

But the miners continued to go to union "speakins" and they continued to march in protest from one mine to another. By April the bitterness
THE KENTUCKY MINERS STRUGGLE

between the miners and the deputies was intense. On several occasions shots were exchanged. Then, on April 17th, near the town of Evarts, came the first killing. William Burnett, a striking miner, who was fired upon and wounded by Jesse Pace, one of a group of deputies, who accosted Burnett and other strikers as they were sitting on a railroad embankment, returned the fire and killed Pace. He was acquitted on trial.

A few days later sixteen vacant houses owned by the Three Point Coal Company were burned. On April 23rd, and on the two following nights, stores were looted by hungry miners. On April 27th, the Black Mountain Coal Company, which had been discharging men since early in February for membership in the union, locked out all its employees and evicted their families to make room for strike-breakers. Additional guards were placed on duty at the camps. The tension was becoming unbearable. It broke on the morning of May 5th in a sudden flurry of pistol shots.

The Evarts Battle

This is how it happened. The miners who had been evicted from the camps met at Evarts, on "independent" ground. There they formed a picket line, turning back strike-breakers who sought to reach the Black Mountain coal mines. One day Deputy Sheriff Jim Daniels, head mine-guard at the Black Mountain Coal Company mines, and his men drove through Evarts, with rifles pointing a warning at the striking miners. Soon after he sent word that he was "coming down to clean up the whole damned town." On May 5th three carloads of deputies, armed with machine-guns, sawed-off shotguns and rifles, drove into Evarts. The miners were ready. No one knows who fired first. No one saw the armed men who shot at the invading crew from behind the bushes on the hillside. But when the battle was over, Jim Daniels and two of his aides, together with one miner, lay dead in the roadway.

Immediately Harlan County entered upon a state of siege. All the mines in the vicinity of Evarts were shut down. The schools were closed. Many families fled before the terror of the deputies, whose guns became the law in Harlan.

This battle at Evarts resulted in wholesale indictments for murder and conspiracy to murder against miners—none against deputies. They, and an earlier case, are the only cases yet tried in Kentucky as a result of the struggle.

Harlan County

Here is the record of Harlan County, the only county involved until January, 1932; the record of its violence—legal and other—since the Evarts battle on May 5th.
The Kentucky Miners Struggle

The Militia Enters

May 7—325 National Guardsmen, with machine guns and an armored tank, sent into Harlan by Governor Sampson. Presumably sent to disarm the coal guards, Lt. Col. Sidney Smith remarks upon arrival “These damned miners thought we came here to help them.” Militia immediately starts making arrests for Evarts battle, in response to indictments handed down by Special Grand Jury. The troops were not completely withdrawn from Harlan County until September.

Judge D. C. Jones of the Circuit Court dismisses an entire term of court in order to dicker with the Grand Jury. 29 men indicted and arrested for “banding and confederating” and for the killing of the three deputies; none indicted or arrested for the killing of the miner. Those held include Asa Cusick, police chief of Evarts, Joe Cawood, political rival of Sheriff Blair, William Hightower, President of the Evarts Local of the U. M. W., and Bill Jones, its Secretary.

Lawlessness Rules

May 20—Rev. Frank Martin arrested for criminal syndicalism and held on $10,000 bond for urging 1,500 men to join the union. Criminal syndicalism carries a penalty of 21 years at hard labor.

May 24—Union meeting outside Harlan Courthouse dispersed with tear gas bombs. Knoxville News-Sentinel says: “There was no disturbance to justify the breaking up of the meeting.”

Other incidents in May: Gill Green, 67-year-old colored preacher, slapped into jail soon after saying that the sheriff and his gunmen were “with the operators. The operators bought and paid for them on Election Day.” Held in jail for weeks without charges.

John Gross, local organizer for U. M. W., on pretext of being taken to see the sheriff, is led to a lonely hillside, where his captors tell him: “Damn you, we’ve got you where we want you; we’re going to kill you if you ever open your mouth about the union.”

June 11—Joe Chasteen, owner of a miners’ meeting-place, shot to death by Bill Randolph, coal guard for the Three Point Coal Co., owned and operated by Elmer Hall, brother-in-law of Judge Jones. Harlan citizens had bailed Randolph out of the Pike County Jail, where he was awaiting trial on a charge of killing one and shooting two more in a dance hall. In addition to Randolph, 14 miners are held for murder of Chasteen. Randolph is cleared soon after.

June 16—House of J. I. Lane, Secretary of Evarts Branch of the
I. W. W., searched with bogus warrant. No literature found. A few days later, while seeking to arrange bond for a friend held for criminal syndicalism, Lane himself was held by Sheriff Blair in $5,000 bond on a criminal syndicalism charge.

June 19—Frank Perkins, union miner, held for criminal syndicalism because he possessed I. W. W. literature.

June 20—Tom Connors, representative of the General Defense Committee of the I. W. W., taken to Sheriff Blair's private office, nicknamed "The Whispering Room." The story is told in an affidavit sworn to by Connors:

"Almost immediately the sheriff moved towards me, snatched my glasses off my face, threw them on the floor and jumped on them, breaking the lenses into small bits and badly damaging the frame. As I became partially seated he struck at me several times, cutting my head badly with what must have been a ring on his finger. My forehead was also bruised and the second blow caused me to fall heavily against the window frame, cutting a deep wound in my scalp.

"Becoming dazed from the loss of blood and the repeated blows, I am uncertain how many times I was struck but shortly the sheriff apparently tired and taking a position directly alongside of me drew a pearl-handled revolver from his pocket. Holding the gun in his hand and pointing in the general direction of my head, he stated: 'Say your prayers.' The sheriff remained standing in such a position for thirty minutes, and I noted that he placed the gun in his pocket several times and drew it again as though making a decision. During all this time Deputy Joe Morris sat on the desk with his hand on the butt of his gun."

Five hours later Connors was forcibly transported to the state line, where "both deputies placed their hands on their gun-butts and told me to go straight ahead along the road." It was not until many hours later that he stumbled into the little town of Appalachia, Virginia, and not until the next morning that he received medical attention for his wounds.

July 23—Allen Keedy of Ohio, Socialist and Union Theological Seminary student, and Vincent Bilotta, miner, arrested for "obstruction of justice by intimidation of witnesses." The witnesses they were supposed to be intimidating were members of a family to whom they were bringing relief. One of the officers, speaking of the relief activities, said they were "going to bust up the whole damned thing."

Car of Jessie Wakefield of New York, International Labor Defense representative, is dynamited. The car had been used to carry relief to miners.
July 27—Arnold Johnson, of New York, Union Theological Seminary student and representative of the American Civil Liberties Union, who had entered Harlan on June 17, is informed that 28 out-of-town gunmen have been imported "to shoot, kill and slay the 'reds' in Harlan County." Johnson, who had already been advised by Judge Jones to leave the county "damned quick," was one of the "reds" picked.

July 18—Bruce Crawford, editor of "Crawford's Weekly" in Norton, Va., shot in leg from ambush as he crosses a bridge in Harlan. Sheriff Blair had previously announced his intention of suing Crawford because of articles appearing in his paper.

July 30—Life of Arnold Johnson threatened in the presence of a judge. In reply to a telegram of protest, Sheriff Blair answers: "The life of Arnold Johnson nor any other person has been threatened and as Sheriff of Harlan County, Kentucky, I will protect the rights of all law-abiding citizens and do not need the help or advice of anyone in New York or New York City."

Home of Jason Alford, union sympathizer, dynamited.

Wholesale raids on homes in Wallins Creek, cars stopped, all passengers subjected to illegal searching. These raids continued four days in a new wave of terror.

August 1—Jessie Wakefield thrown into jail. Sheriff Blair announces that he will "keep her there until she rots." Mrs. Wakefield, speaking of her reception in Harlan, says: "When an investigator or reporter or organizer comes to town, he is told at once to clear out and stay out. At first you think they are just joking. Then they begin to shoot—and they shoot straight. The jailer told me 'As long as you're a member of your organization and in Kentucky, you'll be in jail. What's more, we're going to put every member of your organization we can find in jail.' I told him the I. L. D. was legal everywhere in the United States. He answered: 'Well, I'm the law here, and it ain't legal in Kentucky.'"

August 6—Jessie Wakefield, having gained her release on bond, is rearrested and jailed for criminal syndicalism. Arnold Johnson jailed on the same charge, his crime being the possession of an American Civil Liberties Union pamphlet "What Do You Mean—Free Speech?"

August 8—A party of 11 deputies, headed by Sheriff Blair, kidnap Harry Thornton, a Negro worker and union leader, slug him, and then jail him on a charge of drunkenness. He says: "I was asleep. They jerked me out of bed, took me out on the road and knocked me in the head. They knocked me unconscious. They said I had been attending the meetings of the National Miners Union."
August 9—Thornton's brother-in-law, McKinley Balden, is the next victim of the deputies. His wife testifies as follows:

"The officers came, best I can remember, fifteen minutes of twelve one night. They taken my husband McKinley, away. He was sick, but they taken him to the Virginia line and handcuffed him around a tree. Then they beat him. I saw him three weeks later. He was still stiff and sore." Asked why he hadn't identified the deputies, she answered: "He was afraid."

August 19—Jason Alford, whose home had been dynamited, is arrested for criminal syndicalism and released on $500 bond. Two hours later, while attending the hearing of a miner in the Harlan County Court, he is rearrested and held in $5,000 bail, which he is unable to raise.

August 11—A soup kitchen run by the National Miners Union, which had been feeding 400 people daily, is blown to bits.

August 14—Basil Rice, a local man active in the N. M. U., finds a note in his car saying: "This is a warning to Rice and Gibbs to stop their work and get out. We don't want any Reds around here." The next day his car is stopped by a volley of shots, two going through the windshield.

**Judge Jones Opens Court in Harlan**

August 15 and 16—A fiery cross is burned high up on the hills on the eve of the opening of court.

August 16—Commonwealth Attorney Will Brock, announcing that he will call for the death penalty in the murder cases, says: "We've got to put the cold chill of steel down the backs of the criminal element in this country."

August 17—Court opens. The docket is crowded with 335 criminal cases. Everyone entering the courthouse is searched for weapons. More than 100 guards are stationed at the doors and windows, armed with revolvers, sawed-off shotguns, and high-power rifles and machine guns. On the street in front are guards with machine guns in an armored car borrowed from the R. C. Tway Coal Co. Judge Jones, whose wife is a member of the Coal Operators Association, addresses the Grand Jury, calling for new indictments.

"There has never been Communism in the mountains," he says, "until these snake doctors from New York came in here. I told one of these men here to go back to New York. There is more hell in New York in half a block than in all our county. Children shot down on the sidewalks. No man can go around here shooting others down and remain free. I'm anxious to protect the miners and prevent the preaching in these mountains of the Soviet doctrine that seeks to destroy the Government and the Church." No one, he said, belonging to a "Red" organization had "any right to look to this court or to any other court in the country for justice."
August 19—Defense Attorney B. B. Golden of Pineville presents an affidavit in the trial of William Burnett, setting forth Judge Jones' connections with the coal interests in an effort to have him disqualified. Judge Jones fines him $30 for contempt of court and threatens to jail him if the offense is repeated.

Boris Israel, reporting the trials for Federated Press, is stopped in front of the courthouse by Marion Allen, who is now Judge Jones' personal bodyguard, and another deputy, who invite him to come along and "get some mountain air." Israel is driven up to a high mountainside, where Allen tells him not to worry; "we ain't going to kill you for five minutes yet." He is then told to run, and is shot in the leg as he does so.

August 20—Judge Jones and Commonwealth Attorney Brock address the jury panel selected to try William Burnett for murder.

Jones tells them that "Communism and law and order cannot sleep in the same bed. . . . We don't need anyone from Russia or any warped, twisted individuals from New York to tell us how to run our government. . . . If you haven't enough backbone to enforce the law, I'll get someone who will."

As Brock sees it, the question to be decided by the jury is whether "we will surrender the country that our fathers founded here in the mountains to a lot of imported destroyers of faith in God; destroyers of trust in all government except Russia."

Suddenly the trial is halted. Over the protests of the defense 12 murder cases are transferred to Mt. Sterling, in Montgomery County, and 10 to Winchester, in Clark County, over 100 miles away. The purpose is firstly, to have the cases heard in the Blue Grass section of Kentucky, before a jury of farmers, hostile to the mountaineer people and unfamiliar with their struggle, and secondly, to make it impossible for the defense, with their limited funds, to transport their witnesses to the new scene of trial.

The criminal syndicalism cases are postponed to the term of court opening in Harlan in November, 1931.

August 25—Two of Burnett's chief witnesses, Hager Lane and Woody Emery, are indicted for the same murder for which Burnett is standing trial, although up to the last few days nobody had claimed they were suspects.

The reign of legal terror continues with 27 new indictments of all kinds—most of them for looting of stores, criminal syndicalism, banding and confederating, and possessing prohibited literature.

August 26—Mrs. Harvey O'Connor, who has replaced Boris Israel as Federated Press representative, having been assured by Governor Sampson that he would do "all possible" to protect her, receives a note soon after her arrival, signed by "Hundred per cent Americans," which reads:
"Madam: You have been here too long already and remember to other red neck reporters got what was coming to them so don't let the sun go down on you here. If you do it will be just to bad. We got your number. And we don't mean maybe."

August 30—Deputy Sheriff Lee Fleenor drives up to soup kitchen, turns headlights on men standing in doorway, opens fire, killing Joe Moore and Julius Baldwin, striking miners, and seriously wounding Baldwin's brother. Mrs. Moore describes the affair as follows:

"The Baldwins was outside. I and my husband was standin' in the doorway, I standin' lookin' out and he squattin' there on the doorstep, when the law said 'Stick up your hands.' Seems like there wasn't hardly time for them to do it when Fleenor began to shoot. After the first shot I got out of the way and went into the other room. I didn't even know he was hit then. I went out to see about the children and never saw him again until I found him lyin' dead with the moon shinin' on him."

Fleenor claimed that he fired in self-defense; Baldwin had been shot through the back of the head. Two eye-witnesses of the killing testified before the coroner's jury, which rendered the verdict that Baldwin and Moore had met their death at the hands of Fleenor. But the hearing before the Grand Jury which was then in session was held on the day that Baldwin was buried, the witnesses were attending the funeral, and because of their absence the Grand Jury failed to hand down an indictment. The county officers made no investigation. Months later, after an official body appointed by the governor had demanded action, the case was submitted to a new grand jury, which indicted Fleenor.

On the same night Deputy Sheriff Ed Rose kills Carlo Hyatt, 19-year-old miner, and wounds Hyatt's father. Rose says he shot because Hyatt resisted arrest on a drunkenness charge.

Sept. 3—Jones and Hightower charged with perjury in connection with their murder trials.

Sept. 12—Arnold Johnson and Jessie Wakefield released after 37 days in jail, simply on their promise to leave the county. This despite the fact that they were being held in $10,000 bail each for their "crimes." Threatened with prosecution only in the event that they return to Harlan.

Sept. 26—Jim Grace, N. M. U. organizer from Wallins Creek, beaten mercilessly by group of deputies. His wife tells the story.
"He was taken out of the jail at Neon, turned over to the Jenkins bunch, who turned him over to the Harlan bunch. They took him to Lynch, took him up the mountain on the Virginia side, and beat him over the head with a pistol till his head was as black as your suit. His cheekbones were busted, both his eyes were bruised up where they hit him with a blackjack or something. They kicked him across the back, over the kidneys until he spit blood three days. He finally got away and fifty shots were fired at him as he ran."

Sept. 29—John Kimbler, miner, released after being held three months on a criminal syndicalism charge, rearrested because he failed to leave the county in time.

Oct. 15—Debs Moreland, N. M. U. member, who had just been released from jail after being held for over a month on a charge of criminal syndicalism, is kidnapped by four deputy sheriffs, who take him from his home and drive him to an uninhabited section of Virginia, about a half mile from the top of Big Black Mountain.

"I asked what they intended to do, beat me up? One answered: 'No, you son-of-a-bitch, we are not going to beat you up. We are going to kill you. We are damned tired of being bothered with you Reds.' At that time I was given a terrific blow from behind on the back of my neck which felled me. When I arose, another one hit me on the cheek and knocked me down again. They pulled me to my feet, tearing at my clothes. I saw that my only hope was to make a dash, so I tore loose and made a lunge over the embankment. I slid and rolled down the embankment about thirty feet, tearing my clothes more and being bruised by the stones and shrubs until I was stopped by a large rock. I lay there half stunned, just conscious of their flashlights playing about and the whiz of bullets flying all around me. About 25 shots were fired. Then I heard them say: 'That's one red son-of-a-bitch we are rid of.'"

Afraid to return, Moreland made his way to Tennessee, Lexington, Ky., and then to New York. It was a week before he could communicate with his wife. Sheriff Blair denied that any of his men had warrants for Moreland.

_Theodore Dreiser vs. Kentucky_

On Nov. 6, a committee of authors led by Theodore Dreiser arrived in Harlan to investigate and "to break down the wall of silence and gunman terror thrown around the Kentucky coal strike." They questioned many miners, Sheriff Blair and Commonwealth Attorney Brock. Judge Jones refused to testify.

Nov. 10—In an attempt to discredit the Dreiser investigation, the Bell
County Grand Jury indicts Dreiser on a framed-up charge of adultery after he has left the state. Judge Jones says that the committee is “not entitled to the protection of the Constitution they seek to destroy. If the coal miners knew the real truth, they would be the first to form a mob and deliver these radicals to the state line and tell them to keep out of the county.” He orders an investigation by the Grand Jury to determine whether the committee has violated the criminal syndicalism law of Kentucky.

Nov. 17—It develops that they have. Dreiser and 9 others, after leaving the state, are indicted on charge that they unlawfully banded and confederated together “to commit criminal syndicalism, to promulgate a reign of terror, and to overthrow the United States of America and the State of Kentucky.” The indictments have never been followed up by the Kentucky officials.

The Murder Trials

Nov. 18—Twelve murder trials open at Mt. Sterling, in Montgomery County. The temper of the community is reflected in an editorial appearing some time before in the Mt. Sterling Gazette.

“This paper has repeatedly warned against Communistic and Red teaching in this country and we admire the courage of Judge Jones in fighting both. There has been altogether too much leniency shown agitators of the type of the man and woman in jail in Harlan and the sooner such culprits are shot at sunrise the better off the United States will be. Most of the distributors of Communistic literature and the teachers of the doctrines of the Reds come from foreign elements and should be made to face the firing squad for the protection of humanity. All honor to Judge Jones and Sheriff Blair in their efforts to drive enemies of the country and its flag out of Harlan County. It is useless to send men and women of the stripe of the Harlan agitators to the penitentiary. They would be safer in a pine box six feet under ground.”

In the trial of William Burnett, Commonwealth Attorney W. C. Hamilton tells the jury that “instead of the red flag of murder, tyranny and crime, the Stars and Stripes of America must remain.” He speaks of a “slimy serpent” which encircles the flagpole, seeking to pull it down with a “consummation of anarchy.”

Nov. 21—Burnett acquitted on the ground that he shot Deputy Sheriff Pace in self-defence.

Nov. 24—Trial of 37 Harlan miners charged with banding and confederating, criminal syndicalism, etc., postponed to March term of court.

Dec. 9—The case of Bill Jones, Secretary of the U. M. W. local, on trial for the Evarts killing, goes to the jury in Mt. Sterling.
"In Russia they will read the fate of this man," Commonwealth Attorney Hamilton tells the jurors, "and if you turn him loose there will be celebrations in thousands of places and in Moscow the red flag will be raised higher. Don't let the American flag surrender to the Red flag. Before Saturday night you will know what I am saying will materialize. In Pineville or Harlan there will be a celebration of Reds and property will have no more value than human life is regarded there now."

Condemning Jones for using an American flag in a parade of miners, he said: "He carried an American flag in his hand, but the red flag of the I. W. W. was in his heart."

The Knoxville News-Sentinel report that "Hamilton devoted more than a third of his hour and a half speech to a denunciation of the I. W. W. and the Communists. There was no proof in the trial that Jones belonged to either organization."

The prosecution rests its case on the charge that Jones and Hightower were the leaders of a gigantic conspiracy to murder Deputy Jim Daniels, even though they may have been far from the scene of the killing. They bring over 100 witnesses to testify to this. One of these witnesses, Sol Smith, testifies that he saw Jones furnish guns to two men and witnessed part of the shooting. Joe Cawood, witness for the defense, swears that Smith was dead drunk at his home at the time. For this Cawood is indicted for perjury. Later other witnesses confirm this statement and Smith, the prosecution witness, is also indicted for perjury.

Dec. 10—Jones convicted and sentenced to life imprisonment. Commenting on the trial, the Knoxville News-Sentinel correspondent wires to his paper: "It seemed like the old feudal system argument that the slave can have nothing to say as to his master's treatment of him."

Five defense witnesses are suddenly indicted for the Evarts murder. Among them is William Turnblazer, President of the U. M. W. District which comprises eastern Kentucky and Tennessee.

Another is John Gross, who in May had been kidnapped and threatened with death "if he ever opened his mouth about the union."

Dec. 25—Deputy Sheriffs James Dixon and Owen Sizemore—the latter Commonwealth Attorney Brock's brother-in-law—try to prevent Virgil Hutton and Kyle Hall, striking miners, from distributing leaflets at Chevrolet, near the Blue Diamond Coal Company's camp. Sizemore beats Hutton over the head with the butt of his gun. Hutton fires, killing Sizemore. Hutton, Hall, and another miner, Leonard Farmer, held for the killing.

Dec. 30—During the next murder trial John Moutoux, reporter for the Knoxville News-Sentinel, is cited for contempt of court because of an editorial appearing in his paper. The editorial said:
"There is no fair-minded man who has followed the Jones trial who can help wondering in his own mind whether the Harlan County labor leader was convicted and sentenced to life imprisonment for murder or for being a labor leader. So long as our courts permit themselves to be a stage for the tirades of political and social prejudice, they will not obtain the full confidence of those who believe in even-minded justice."

The contempt charge is later dismissed, but Judge Prewitt rules that "there is no chance that he or any other representative of that paper will ever sit in any court of mine so long as they take the attitude they do." The News-Sentinel refuses to apologize and hires Newton Baker to fight the exclusion of its reporters from the courtroom. The Kentucky Court of Appeals unanimously decides that Judge Prewitt has a right to bar any reporter he chooses. It is planned to take the case to a federal court.

Jan. 11 - Judge Prewitt amends his order, barring News-Sentinel reporters only until the end of the Evarts murder trials.

Jan. 14 — Commonwealth Attorney J. B. Snyder tells the jury in the case of William Hightower, 77-year-old president of the U. M. W. local, that "we don't know who killed Daniels. We don't have to show this. It is only necessary to show that it was done as part of the conspiracy." Hightower is convicted and sentenced to life imprisonment.

On the same day Judge Prewitt remands the remaining murder cases to Harlan County. Thus, according to his revised order, the News-Sentinel reporters are no longer barred, and the fight against the exclusion dies for lack of an issue.

The Report of the Governor's Commission

On Nov. 7, Governor Flem D. Sampson of Kentucky, in response to hundreds of requests, appointed a commission consisting of Judge J. Smith Hays and A. A. Bablitz, Lexington attorney, to investigate conditions in Harlan. The report of this commission was filed with the governor in December, one day before he turned over his office to the new governor, Ruby Laffoon. The report, filling nine volumes, substantiates every charge brought against Harlan officials, and demands that those who "outraged common decency" be prosecuted. The killing of the two men in the soup kitchen on August 30th by Deputy Lee Fleenor is denounced as "unjustifiable homicide."

"Conditions Almost Too Horrible for Belief"

Referring to the testimony of George V. Middleton, who told how he had been prosecuted because he put up bond for Jessie Wakefield, the commissioners write:
"This man's testimony (he appears a fine type of Kentucky mountain man), discloses conditions almost too horrible for belief; yet the facts he testifies to are borne out and substantiated by other apparently creditable witnesses who testified before this commission. Here is work for a grand jury not afraid of coal operators, miners, or 'the law' that is now in power in Harlan.

One 52-year-old miner described to the commission a raid made upon his home at 11 o'clock one night.

"There were eleven in the raiding party, including the city judge. They took me out in the yard. They had a searchlight. The policeman said: 'We have to search him; he might have a gun.' He searched me. There was a fellow behind me. He snatched at my left-hand coat pocket. He missed the pocket and dropped two $1 bills at my feet. He claimed it was marked money and that he got it off of me. I didn't have a penny in my pocket. They took me in a room and chained me by both legs to a radiator. The next day they took me to Harlan. A justice of the peace bound me over for trial before U. S. Commissioner Rollins at Pineville. Mr. Rollins threw the case out of court."

Commenting on this case, the commission said:

"This is a bad case of official misconduct and should be brought to the attention of a federal grand jury and the officers indicted for perjury, etc. If this man's statements are true, the law acts rather unlawfully in Harlan County. The witness impressed us as truthful."

"The Law Acts Rather Unlawfully in Harlan County"

Mrs. Harry Appleman, who together with her husband had been operating a little merchandise store at Evarts, told how she had fed as many as 50 starving children a day, and how, during the Jewish Passover season, she had distributed a carload of flour which she had paid for with money she had been saving to buy a car. "The people were suffering, so I thought I would do without the car and give the people the flour." For this her husband was indicted for criminal syndicalism. The prosecutor told her: "You gave away flour. You are feeding the children, and we don't like that."

The commission said: "Here, it seems, the finest trait and virtue, charity, was illy rewarded by the authorities. Mrs. Appleman's testimony should be read in full, for its probative value lies in the detail of circumstances she relates. The commissioners taking her testimony were greatly impressed by her sincerity. It is the testimony of a good and truthful woman."
Elijah Fields, a 66-year-old farmer, told the commission this story:

"John Middleton (a deputy) came to my house one evening. He was in a drunken condition. He got into my bed with his shoes on. He got out his pistol. He was a bad man when drunk. He has killed two or three fellows. I went to town to tell Murl Middleton (Evarts policeman) to come down and get him out. Instead he cursed me, kicked me, broke several of my ribs with a pistol, and put me in jail. Dillard Middleton (another policeman) said 'You go in jail or I will shoot your God-damned brains out.' He and Murl Middleton put me in by taking my legs and jerking me around inside the jail. He said: 'God damn you, I will kill you,' and they jabbed in my ribs with a pistol and broke my ribs."

Fields was charged with being drunk, but the city judge dismissed the case. No action was ever brought against his attackers. The commission said: "This case should be submitted to the Grand Jury."

Sheriff Blair admitted to the commission that Bill Randolph, deputy who had murdered Joe Chasteen on June 11th, had had a criminal record when appointed. When asked, "Isn't it your duty to see that the men you appoint have no criminal record of any kind?" he answered, "No, indeed. You don't find many men in this county that don't have a criminal record."

Speaking of Sheriff Blair, whom Governor Sampson had called "as fine and fearless a man as ever lived," the commission wrote: "This man is a smart witness who know how to parry questions with answers that, while not exactly evasive, are none the less not as candid as a fair answer should be."

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**Bell County, 1932**

With the beginning of 1932, the center of actual violence shifted from Harlan County to Bell County. In December, 1931, the National Miners Union, which had entered the scene last June and had soon become the most active union in the field, began to hold meetings in Pineville, Bell County. The terrorism in Harlan had made it impossible to establish headquarters there. In addition, Pineville, because of its convenient location, was expected to serve as a center of relief and organization for the Tennessee mines as well as for the Kentucky mines.

On Dec. 13, 1931, a District Convention of the National Miners Union was held in Pineville, which called a strike for January 1, embracing all southeastern Kentucky and Tennessee. On January 1, the day the strike
began, National Miners Union headquarters were officially opened in Pineville. Three days later the headquarters were raided under orders of County Judge George Van Beber and County Attorney Walter Smith, who told the raiders to seize any seditious literature found. Smith said he would "investigate every headquarters or room occupied by the National Miners Union or other Communist organization" and bring their representatives into court.

Nine were arrested in the raid of January 4—five of them women—and held for criminal syndicalism. On January 6, Allan Taub of New York, attorney for the International Labor Defense, arrived to defend the prisoners, and was immediately jailed for criminal syndicalism. A few hours later a warrant was drawn charging Taub, W. J. Stone, International Labor Defense attorney of Pineville, and Joe Weber, National Miners Union organizer from Pennsylvania, with conspiracy "to overthrow the Government of the United States of America and the State of Kentucky." Several local attorneys protested the threatened arrest of Stone to the county authorities, and the warrant for him was dropped.

Jan. 14—After many delays, hearing is held for the ten arrested. Taub is dismissed, but eight of the nine strike leaders are ordered held over to the Grand Jury which meets at the end of February.

Jan. 17—The N. Y. Herald-Tribune reports that "sheriffs and their deputies, armed with rifles and sub-machine guns, patrolled Harlan and Bell Counties today and averted the scheduled meeting of the N. M. U. Sheriff Blair had ordered women and children to stay off the streets of Harlan today. He had warned that miners heading for Harlan to attend the meeting would never reach the town 'without a fight.'"

Joe Weber and Bill Duncan, N. M. U. organizers, are arrested in Tennessee by a Tennessee sheriff who turns them over to the Harlan deputies. They are driven out to a lonely spot, and beaten into insensibility. Missing for three days.

**Waldo Frank Beaten and Ejected**

Feb. 8—Committee of writers from New York, led by Waldo Frank, arrives to distribute relief in Pineville. Their reception is described by Frank:

"We set out for Knoxville with three trucks loaded with food for the miners. Three of us, Dr. Elsie Read Mitchell, Malcolm Cowley, editor of the New Republic, and I, went ahead to arrange with Mayor Brooks for peaceable distribution of the supplies in Pineville, the center of the Bell County strike area. We were forbidden to enter Pineville with trucks, but even before we left the Mayor's office armed deputies had met the caravan and forced the trucks into country roads deep with mud. We accom-
panied them, and with the miners, who gradually learned of the location of the food trucks, we unloaded about half their loads and gave the food to these people who had been living on beans and potatoes contributed by farmers. At nightfall we returned to the town, and immediately the deputies rushed the trucks, drove away the famished men and women and stole the provisions.

"We had dinner at the hotel. At 10:30, after most of the members of the party had retired, deputies entered and told us we were all arrested for disorderly conduct. They took us to the courthouse, to which only deputies, hired thugs from outside the district, were admitted during the hearing. The prosecutor admitted there was no basis for the charge, and it was quashed. Allan Taub, who was not a member of the committee, had joined us at the hotel.

"When we returned to the hotel we found the lobby filled with armed men who ordered us to leave town. We did not go 'willingly,' as the local newspaper editor, who is the sole press correspondent in Pineville (he has since been dismissed by the A. P. because of his series of biased articles) sent out over the wires. Each of us was hustled to his or her own room and ordered to pack. Then we were loaded into automobiles. Taub and I were placed in the same car, as they had picked us for special punishment. They drove us toward the Tennessee line, over a road which follows the trail Daniel Boone took when he went to Kentucky seeking freedom. Down the same road a couple of days later they carried Clarina Michelson, a descendant of that greatest Kentuckian, Abraham Lincoln. She had contracted pneumonia in the vile Pineville jail and they allowed her to be carried to the Knoxville Hospital.

"When we reached the state line they forced us out of the cars and turned off the lights. Somebody struck me on the head with a heavy instrument. They flashed the lights on and I could see Taub's face was covered with blood. They all laughed and said: 'Well, you two fellows have been fighting.' Then Herndon Evans, the newspaper man, said: 'Now, Taub, you can give them a talk on constitutional law. It's the last they'll hear in Kentucky.'"

Feb. 11—The trouble spreads to Knox County, just north of Bell County. Harry Simms of Connecticut, 19-year-old organizer for the N. M. U., is murdered as he goes to a union meeting by Deputy Sheriff Arlie Miller of Knox County. At Miller's hearing, Simm's companion swears that Simms didn't pull a gun at any time. Judge Baker says: "Miller shot either in defense of himself or the other guard. So it didn't matter." Miller is freed.
Feb. 14—Fifty special policemen are sworn in and a company of National Guardsmen are ordered from Harlan to Barbourville in Knox County because of a scheduled N.M.U. demonstration. Two men distributing circulars announcing the meeting are held for criminal syndicalism. The ban is the first ever placed on union activities in Knox County.

Harold Hickerson, New York playwright, and Doris Parks, secretary of the W.I.R., jailed on criminal syndicalism charges for speaking at a Pineville meeting. Miss Park is told she will remain in jail "until the law gets ready to let her go."

Feb. 28—More than 200 ministers, educators and citizens of Knox and other southern Kentucky counties gird themselves for a "battle to the death" with Communism at a mass meeting in Barbourville. They form an organization called the "Christian Patriotic League," with former Governor Flem D. Sampson as President. The goal is "death to Communism; more respect for law and order."

March 1—the strike leaders arrested in the Jan. 4 raid are indicted for criminal syndicalism.

March 4—Resolution urging investigation by Senate Judiciary Committee is submitted by Senators Edward P. Costigan and Bronson Cutting.

Students Ejected

March 12—National Student League announces that 30 colleges and universities will send delegations to Kentucky to protest against "increased terror."

In a letter to the authorities, they say: "We wish to state that a delegation of peaceful, totally unarmed students will visit Kentucky for the purpose of investigating conditions and distributing relief. We wish to ask first, will you assure us our lawful right to cross the Kentucky border, as guaranteed by the Constitution of the United States and the State of Kentucky, without encountering hindrance or violence? Second, will you explain clearly what is meant by the statement in the United Press dispatch of March 17 that the announced purpose brought an immediate warning from Kentucky officials that the students had better watch their step or they will be shot full of holes?"

Walter Smith, prosecutor of Bell County, answers as follows:

"We are through with visiting radicals and do not intend to let them into our community to stir up trouble as they did in Detroit and then go away and publish a lot of miserable lies about conditions in the coal fields. My advice to these rattle-brained college students is to stay out of Kentucky. I cannot afford them police
protection, and I would not advise any protection. They will be accorded the freedom of the county but the moment they identify themselves with the Red movement they will be filed with the other exhibits we have in jail here. We will not tolerate any Communistic activities in Bell County.”

Mayor J. M. Brooks of Pineville says: “If they conduct themselves as law-abiding citizens, well and good, but if they are of the Waldo Frank type, they are entering enemy territory.”

March 25—The first bus load of students arrives. They are stopped at Cumberland Gap and their bus forced over to the side of the road. An angry mob, including Prosecutor Smith, mills around the bus, threatening the students. Smith fires questions at them—“Who are you? Do you believe in God? Have you anything to do with the Communist Party?” They are taken to the courtroom, where Smith questions them at great length. He wants each to post a bond for good behavior. Finally he tells them to leave the state “for their own safety.” They are forced into the buses and driven out of Kentucky. Just over the state line, Sheriff Frank Riley of Claiborne County, Tennessee, tells them to keep moving, and asks the Kentucky convoy to help him.

March 26—A second bus load of students receives the same treatment. Col. Reed Patterson, in helping to eject them, says “The streams of these mountains will run red with blood before we will surrender our country.”

April 10—Delegation consisting of Lucien Koch, director of Commonwealth College, a labor school in Mena, Ark., an instructor, and three students, arrive in Pineville to assert their rights to distribute relief. They are stopped by Police Chief Osborne of Pineville, who orders them to leave town despite their statement of peaceful intentions, and informs them that in order to stay in Pineville peace bonds are necessary. Osborne enters their car, forcibly ejects Koch, and orders one of his men to drive the car. At Harlan County line, the visitors are turned over to a new driver, taken to within 50 feet of Virginia line, led out of the car, and flogged. Warned not to return on pain of death. The students identify Lee Fleenor, the deputy who killed two in the soup kitchen on Aug. 30, as one of the men who flogged them.

Immediately following this, James Price, special representative of the General Defense Committee of the I. W. W., is kidnapped by three men on the main street of Pineville, about a hundred feet from the police station, and driven to Log Mountain, two miles away, where several other cars join the kidnappers. Enroute to Harlan, Price is dragged into the woods and severely beaten by a mob of eight or ten men. He identifies two of them as Ed Asher and Henry Jackson, mine-guards.
April, 1932—An American Civil Liberties Union delegation, headed by Arthur Garfield Hays, applies for an injunction in the federal court in eastern Kentucky to prevent interference with its party and to restrain local officials from denying civil rights in Bell and Harlan County.

May 12—Party appears before Judge A. M. J. Cochran at London, Ky., in a hearing which lasts two days, with the leading officials of Bell and Harlan Counties on the stand, practically admitting all the charges made against them. Judge Cochran denies the injunction, holding that these counties should be “protected from free speech.”

May 14—Despite the denial of the injunction, the party decides to go into Bell County anyhow, and leaves by automobile. They are met at the border by forty or fifty men in automobiles blocking the road, and are forcibly prevented from entering. Mr. Hays and Dudley Field Malone file damage suits in the federal court for $100,000 against the officials.