

FRED. D. WARREN

In the Forefront of the American Fight

On the ninth day of May a case was argued in the U. S. Court of Appeals at St. Paul, Minn., which will go down in history as one of the great cases of the United States. If the accused is found guilty it will equal in interest and importance the famous Dred Scott decision. The case is the case of the United States of America vs. Fred D. Warren. The history of the case proves the class character of the American courts. It was a close connection with the Haywood, Moyer and Pettibone case.

It will be remembered that Haywood, Moyer and Pettibone, the U. S. officials were accused of having instigated the murder of ex-Governor Steunenberg of Idaho. These three persons were in Denver, Colorado. The Idaho officials went to Denver and kidnapped the three men and hurried them in a special train to Boise, Idaho, where they were tried and acquitted. The men would have been hung on the perjured testimony of Orchard had the corrupt courts of Idaho not trembled in fear at the indignation the farce of their trial had created.

According to American constitutional law the states are independent. It is the United States of America. The organization is federal. The constitutional is so different from that existing in Canada that the difference must be explained to understand what follows.

In Canada the criminal law is enacted at Ottawa and the same criminal law applies from Atlantic to Pacific. In the United States the criminal law is enacted by each individual state. It is as though the separate provinces of Canada had each its own criminal code and machinery of justice. Under such a system a warrant for the arrest of an accused person only extends within the limits of the state. If the accused person is in another state the state wanting him must extradite him and get the authorities of the state in which he is to arrest him and to hand him over, after due extradition proceedings, to the authorities of the state who want him.

This is exemplified at present by the case of "Baby" Hoffstott, President of the Pressed Steel Car Company, who is wanted by the Pennsylvania authorities for bribing the Pittsburgh aldermen. He is in New York and is fighting against being turned over by the New York authorities to the Pennsylvania courts.

In the case of Moyer and Haywood the prisoners were not extradited but forcibly seized and hurried without legal proceedings to Idaho. Their illegal arrest was taken to the Supreme Court and it was asked that Idaho return the bodies of the prisoners to the state of Colorado.

The United States Supreme Court held that these three men had been illegally rushed out of Colorado but that the U. S. federal courts could not interfere. The courts to appeal to were the Colorado courts. In the U. S. the separate states appoint their own judges and the U. S. government appoints other judges. It was as though the Supreme Court of Canada handed down a decision declaring that a crime had been committed by Ontario police agents in Quebec and that the only remedy lay in appealing not to the Dominion courts, but to provincial courts.

This decision was so peculiar that Fred D. Warren immediately decided to test it. The three arrested men were all workmen. The Supreme Court handed down a decision against them. Would the U. S. Courts hand down a like decision in favor of a workman against a capitalist?

When the Supreme Court decided that it was no crime against United States laws to kidnap a bunch of workmen, Warren, Editor of the Appeal to Reason, immediately issued a post card offering one thousand dollars reward to anyone who would arrest ex-Governor Taylor and return him to the Kentucky authorities. Taylor was under indictment in the Kentucky courts for murder. He was in the state of Indiana and the Indiana authorities refused to surrender him to Kentucky. Hence Taylor, although under indictment for murder, still lived in peace and safety. Workmen who were innocent could be kidnapped in a night and rushed out of the state. A capitalist politician could remain in safety because the authorities refused to surrender him. Warren's reward was simply a reward offered to the individuals to do to Taylor what had been done to Moyer, Haywood and Pettibone, and which the U. S. Supreme Court held to be no crime under federal laws.

But Warren was the editor of a workman's paper. Taylor was a capitalist politician. Warren was arrested and tried in the Federal courts for sending threatening and scurrilous matter through the mails. The Supreme Court had held it was no crime under federal laws to kidnap workmen. Warren was arrested for offering a reward to some one who would do what the Supreme Court declared to be no federal crime.

After numerous delays and postponements of the case Warren was tried and convicted and condemned to pay fifteen hundred dollars fine and to spend six months in jail. Warren had accomplished what he set out to do. He proved that the workman had not the same chance before the U. S. courts as the capitalist.

Warren appealed the case and the case was heard in Appeals on May the ninth. He dismissed his attorneys and argued his own case. He threw aside every technical objection and declared that he wanted a decision on the main point. Was it a crime for a workman to offer a reward for the doing of that which the Supreme Court had declared to be no crime if done to workmen?

The case has aroused great interest. It has focussed the attention of the American people upon the class character of their courts. Warren's case will have a great effect. It will reverberate from Atlantic to Pacific. He has torn the mask of respectability from the judges and has exposed the rottenness of the judiciary for all men to see. He has robbed the American courts of all respect. He has shown them to be contemptible. The same effect which followed the Dred Scott case, namely the overthrow of chattel slavery, will follow the Warren case, namely the overthrow of wage slavery.

To show with what spirit Warren spoke, the following is his speech in part.

I appear before this court in my own defense because my attorneys are unwilling to say what I think should be said. I desire to waive all that counsel for the defense has said with reference to the government's inability to prove that this envelope was mailed from the office of the Appeal to Reason, of which I am editor. I wish to waive all the objections interposed by my attorneys and the arguments advanced by them why I should be given a new trial. I do not want a new trial. This case has cost the defense \$20,000. A new trial, before a judge of my political opponents, selected by the district attorney's office from among government employees or those who hope to get a federal job, before a judge prejudiced against my cause, could result only in another miscarriage of justice.

PROTESTS AGAINST LAWYERS

In waiving the arguments of my attorneys of these points (and I wish to say here in justification of my course at this time, that the theory on which this case was conducted in the lower court was over my vigorous protest) I do so to put the issue squarely before this court: Is the mailing of this envelope with its offer of a reward, printed in red, for the capture and return to the Kentucky authorities of ex-Gov. William Taylor, under indictment at that time for murder, a violation of the federal statutes? Stripped of all legal verbiage and technicality, that is the issue here and no other.

My attorneys argue in the brief submitted that the indictment is defective. I do not pretend to know about this. I will say, however, that I have no desire to have my sentence set aside on a mere technical defect in the indictment, and I would regret to see the issue involved disposed of in this unsatisfactory manner. It would still leave the question in doubt as to whether the mailing of a reward, printed in red, for the capture of a fugitive Republican politician, is a violation of the federal statutes.

NOTHING UNMAILABLE.

I call the attention of the courts to the testimony introduced by the government, showing that I submitted a draft of the alleged defamatory envelope to the postmaster at Girard and asked his opinion as to its mailability. The postmaster, the representative of the government, informed me that in his judgement there was nothing in the postal laws that would prevent the mailing of this reward offer, as hundreds of similar cards and envelopes were mailed in the course of a year at the Girard postoffice. This certainly establishes my good faith. No man with criminal intent would voluntarily submit the evidence of his contemplated crime to the agent of the institution against which the crime was directed.

In this connection I wish to call the court's attention to the statement made from the bench by the trial judge that when this matter was first submitted to him, he himself was in doubt as to whether the mailing of this envelope was a violation of the federal statutes. If the law is so indefinite that even the trial judge is unable to determine whether a crime has been committed, until after he "had consulted higher authority," how is the layman to determine what is lawful and what is not? In the lower court's decision on our demurrer, Judge Pollock stated that the language was not scurrilous and threatening, as charged in the indictment, but that it was defamatory, inasmuch as it was calculated to impress the reader thereof with the thought that ex-Gov. W. S. Taylor was wanted in Kentucky by the authorities of that state for some alleged crime. Under this decision every offer of a reward for a man charged with crime, mailed by a private individual or a civil officer, is a violation of the federal statute under which this indictment was returned against me. In order to prevent this construction and its far-reaching consequences, Judge Pollock, in his final summing up of the case, decided that it was not defamatory nor scurrilous, but threatening.

"SUCH JUDICIAL REASONING." It is hard for the average man to follow such judicial reasoning and I sincerely trust that this court's opinion will be written in such clear and unmistakable terms that there will be no question as to this law in the future.

It will be argued by counsel for the government that kidnapping is a crime and, therefore, an offer of a reward to kidnap ex-Governor Taylor is a threat against that gentleman. I will ask the counsel for the government to cite the federal law constituting kidnapping a crime. He cannot do this. On the other hand, the United States Supreme Court, in an exhaustive opinion, handed down in the case of the three workmen who had been kidnapped in Colorado and taken to Idaho, plainly states that it is no violation of the federal statutes to forcibly abduct a man and take him from one state to another. In its opinion the Supreme court says:

CITES MINERS' CASE.

"Looking first at what was alleged to have occurred in Colorado touching the arrest of the petitioner and his deportation from that state, we do not perceive that anything done there, however hastily or inconsiderately done, can be adjudged to be a violation of the constitution or laws of the United States. Even if it be true that the arrest and deportation of Pettibone, Moyer and Haywood from Colorado was by fraud and connivance, to which the governor of Colorado was a party, this does not make out a case of violation of the rights at the appellants under the constitution and laws of the United States."

Under this decision I do not see what weight this court can give to the argument of the government's counsel, that to offer a reward to do what the supreme court has explicitly declared is not a crime, is in violation of the law.

What I did, in fact, was to offer a reward to any one who would capture, forcibly abduct, if you please, a man under indictment for murder and return him to the Kentucky authorities. To kidnap means not only forcible abduction, but hiding from friends and the proper authorities. Under this view how can it be maintained that it is unlawful to offer a reward for the capture of ex-Gov. William S. Taylor and his return to the authorities of Kentucky?

JUST SUPPOSE THIS

Let me state a hypothetical case. Suppose the Socialists capture the political powers of Kansas—as we shall. We find that Mr. Armour is violating the anti-trust laws of our state. He lives in Illinois. The governor of Illinois, being a Republican, refused to grant a requisition. Suppose our Socialist state officials, who would be private citizens in Illinois, should quietly go at midnight, surround Mr. Armour's house in Chicago, capture him, carry him into Kansas, and there place him on trial before a Socialist judge and a Socialist jury. Would the men that kidnaped Armour violate any federal statute? Would they not be immune from prosecution under the supreme court's ruling?

The government's attorney emphasizes the fact that this reward offer was printed in red. Out of curiosity, I asked a number of the leading ink manufacturers in the United States for what color of printing ink they had the greatest demand, and they replied, without a single exception, that they sold more red ink than all others combined, save one—black! Black is the emblem of piracy and has been since long before the days of Captain Kidd. Under its sable folds march the land thief, the predatory rich, the employer of little children, those who barter justice, the Wall street speculator, the petty gambler and grafter, and all those who plunder labor and oppress the poor. Red

on the other hand, is the color of life; it glows with vitality; it is the badge of universal kinship.

SINCE SLAVES' REVOLT

It has been from the days of Spartacus, down through the ages, the emblem of revolt against tyranny. Under the crimson banner the revolutionary patriots of 1776 fought and won their battles against the English king. Longfellow's inspiring poem to Pulaski, the Polish patriot who gave his life for American independence, immortalizes the red banner:

"Where, before the altar, hung
The blood-red banner, that with prayer
Had been consecrated there—

"Take thy banner—and if e'er
Thou shouldst press the soldier's bier,
And the muffled drum should beat
To the tread of mournful feet,
Then this crimson flag shall be
Martial cloak and shroud for thee.

"The warrior took that banner proud,
And it was his martial cloak and
shroud!"

AMERICAN RED FLAG

The original flag of the American revolution was red. The stars and stripes were added later by our rebel forefathers to distinguish it from the national emblems of other countries. It is a significant historical fact that red predominates in the flags of all countries with one exception—Russia. It is not surprising, therefore, that the government's attorney who sails under the black flag, should seek to cast aspersions on the red banner. If the liberties bought with the blood of our forefathers, who fought under the red flag, are to be preserved it will be by the men who today march under the crimson banner.

The theory of law that a man is presumed to be innocent until proven guilty was wholly overlooked in my trial at Fort Scott. I was convicted and sentenced before I entered the court room. I was not prosecuted as a presumably innocent man charged with an alleged violation of the law. I was prosecuted by partisan politicians, before a partisan judge, three of whom it was proved later had declared they were prejudiced against me, and before a partisan judge and on perjured testimony. But this is not the first time in the history of the world that this same farce has been enacted. When the ruling class of any epoch is forced to use such means to bring about the imprisonment of a man advocating revolutionary doctrines, it has always foreshadowed the dawn of a new era.

JUDGES NOT FREE

By environment, training and economic interests, the judges who compose this court are opposed to me. (You can no more impartially consider the questions involved in this case than could the judges appointed by the English king consider impartially the questions which arose between that monarch and his American subjects.)

In all controversies that arose between the master and his slave prior to the revolution of 1860, the federal courts made their decisions conform to the interests of the masters. It was from the slave owners that they derived their powers and held their positions. No man openly antagonistic to the slave power could hold a position on the federal bench.

An examination of the decisions of this court—and your decisions are similar to those of all other federal courts—wherein the interests of the workingman conflict with the interests of the employer, is ample proof of the class character of the federal judiciary. Dissenting from the opinion of this very court, in a case wherein a working girl was pitted against a great corporation, Judge Thayer said: "I dissent from these doctrines which seem to have been formulated with an eye mainly to the protection of the employers and with too little regard for the situation and rights of the employees."

EXPECTS NOTHING

As a militant member of the working class I frankly confess that I expect nothing from this court. A court of justice, so-called, which turns away a mangled working child emphysematic, in defense of capitalist class property against working class life and limb, is not apt to look with favor upon one in revolt against such shocking inhumanity and the system responsible for it.

We know that this is the settled policy of this court. We understand why its decisions are in the interest of the employer and against the working man and working woman. You are serving those to whom you are indebted for your position and are responsible for your power. I am simply trying to show to the working class world, which embraces a great majority of the population, the character of the federal court, to which must be submitted their liberties and their lives. The federal court under capitalist misrule is essentially capitalistic in its sympathies, its interests and its decisions.

GIVING REAL AID

In this important work of educating the working class as to the true character of the courts, you are helping me. It was the Dred Scott decision that hastened the overthrow of chattel slavery, and as history repeats itself, we may confidently expect that the decision of the Supreme court in the now famous kidnapping conspiracy, backed by the federal court's decisions in all other labor cases, will precipitate the downfall of wage slavery. When the toilers of the mill, factory, mine and farm once understand the true situation, they will realize that there can be no relief from judicial despotism until they use the power latent in themselves to abolish the present iniquitous system, based upon the legalized robbery of the nation's toilers and producers in which the courts are mere creatures of capitalist class rule, and instruments of working class subjection. These workmen will one day learn to choose their own judges and while these judges may know little of the intricacies of law and the chicanery of technicality they have an inherent sense of justice and they may be depended upon to serve their brothers.

MATTER OF SMALL CONCERN

Personally, it is a matter of no consequence to me what this court may decide in this case. If this court concludes to sanction the scandalous methods employed to secure my conviction and the outrageous sentence imposed upon me for the commission of what Judge Pollock termed "a mere misdemeanor," I shall consider it the proudest day of my life when I enter the jail at Fort Scott, because of my defense of the poor and oppressed. You will by that act increase my power a thousandfold and carry my message to the toiling millions from sea to sea. Gladly will I make this small sacrifice in a cause to which I would willingly give my life.

Paid in Advance

Every copy of Cotton's Weekly is paid for before it leaves this office. If you get Cotton's through the mail with a red printed and numbered address label on the wrapper, your subscription has been paid by some friend who wishes you to look into the truths of Socialism. You need not hesitate to take Cotton's from the post office as no bill will be rendered, and the paper will be promptly discontinued when the subscription expires.

The capitalist system steals the life from the victim. Van Dyke, who is a religious moralist much praised by the wives and daughters of the labor skimmers, says that we only pass through this life once and can never pass again; therefore let us do what kindness we can as we pass through. Good. But how does the wage system act? What effect has it on the workers? Can they do kindnesses? They are chained to the machine ten hours a day. Sometimes they are chained twelve hours a day seven days a week. The bright sun and the joyous sunlit hills are not for the wage slave. The wage slave must toil and sweat that the wives and daughters of the plunderers may read Van Dyke and be sentimentally affected with words about kindness. In the days of chattel slavery wives and daughters of the planters would weep over the death or sickness of a pet dog. Would read their bibles religiously. Would listen to exhortations of piety and loving kindness. While off in the cotton fields the lash would be descending on the backs of the slaves that these fair ladies could have the wherewithal to purchase their bibles and dresses fit for ladies to attend divine service in. In Canada the class war is on. The kindness of the women of the master class is narrow, selfish, bigoted. They sympathize with their own class. They may weep over the death of a household slave who has been more than usually sycophantic. But of the brotherhood of man, of justice and equality and freedom, they know nothing. They are ignorant. They take the vaporing of such men as Van Dyke as true literature. Of revolutionists they are frightened. The literature of discontent they hate. They will not read it. But the revolution is growing. The slaves of Canada are becoming awakened to their slavish conditions. And the class antagonisms are showing in spite of Lemieux acts, arbitration boards, and the other patchings made to conceal the cracks of the tottering edifice of the capitalist system. Mute labor is mute no more. Its voice is heard in the land. And the power of the toiling millions will break the bonds of wage slavery which now fetters the only people in Canada who produce the wealth of the country.

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POLITICAL DEMOCRACY

The term industrial democracy is frequently used. This term is almost self explanatory. Yet there may be some to whom the words convey little meaning.

We all know what political democracy is. It is exemplified wherever a nation is given self government. The citizens of the state elect their representatives to a legislative body where laws are passed to govern the people.

Those who know little about Socialism consider that Socialists want the state to interfere, take over the industries and to run them as part of the government. This is what is known as State Socialism. There are many Socialists who look upon the state as outworn and who do not consider that the state can bring about Socialism.

The state is one body and the industrial corporation is another. Both make laws and both back them up with severe punishments. An example from the liquor traffic will illustrate this phase.

A legislative body enacts that no liquor shall be sold. This is called a prohibitory law. If anyone sells liquor within the prohibited territory and the law is enforced, the seller is fined or jailed. He is punished. That is the result of political action. The law was made by electing members to the legislative body who would vote for the prohibitory law.

But prohibitory laws can be made without the state directly intervening. A railroad company issues an order that none of its employees shall drink on or off duty. The penalty is dismissal from the railroad's employ. If an employee drinks then he is sacked. The penalty is as much to be dreaded by the offender as the penalty of the state against selling. Here is a case of industrial law and industrial punishment. It is a case of an industrial organization enforcing an industrial law and backing it up with an industrial punishment. The state has nothing to do with the anti-drinking railroad order.

The United States Steel Corporation is building the city of Gary. It will own the steel works there. It will own the stores. It will own the homes. It will own the jobs. It can do what it likes with the city. The employees will be compelled to do the bidding of the Corporation and the city will be held in the power of the steel trust.

The political actionists would say that this is too much power to give corporations and would propose the remedy that the state expropriate the steel trust and let the politicians and grafters run the steel industry. But such a remedy is considered by many to be as bad as the disease. The steel industry, under unskilful and dishonest management might go to pieces. They consider that the political state, by its very constitution, is unfitted to handle industrial concerns.

The idea of the industrial democrat is to conquer the machinery of the corporation itself from within, not from without.

The steel corporation is highly organized. It is a tyranny now because the workers do not control. But the time is coming when the workers will control.

Let the steel corporation go on. But let the workers conquer the steel corporation. Let the workers expropriate the city of Gary and the steel mills and let the steel industry be run by the workers for the workers.

The political state must be conquered before industrial democracy is introduced. The political state controls the police and the troops and machine guns and the law courts and the laws. So just as the bourgeoisie had to conquer the powers of the feudal state before political democracy was instituted, so the industrial democrats will have to conquer the political state before industrial democracy can be introduced.

Under the shadow of the political state the industrial organizations are growing. These are the trusts and giant business concerns. The state is becoming more and more outworn. The struggle is taking place on the industrial field. The new form of business enterprise will be democratized. That is to say, the management of the department stores, mines, etc., will be decided by the popular vote of the workers who will get all their revenues. The old political state will be abolished as having outworn its usefulness and industrial democracy will have replaced political democracy.

And another king arose and the same legend of special wisdom was weaved about the new king. And the new king waxed old and full of years and died and there was great mourning. And another king arose and the same legend of special wisdom was weaved about the new king. And does it not remind you of the endless tale, "And another ant entered and carried off another grain of corn?"

Agitate, educate, organize.