

No. 8

The
FRAME-UP
SYSTEM

by
Vern Smith

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INTERNATIONAL PAMPHLETS

799 Broadway

New York

WORKER'S BOOK STORE
2019 W. DIVISION ST.
CHICAGO, ILL.

PUBLISHERS' NOTE



THIS pamphlet is one of a series prepared under the direction of the Labor Research Association and published by International Pamphlets, 799 Broadway, New York, from whom additional copies may be obtained at 10 cents each. Special rates on quantity orders.

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Printed in the U. S. A. (1930)

COMPOSED AND PRINTED BY UNION LABOR

THE FRAME-UP SYSTEM

By VERN SMITH

THE American employers fighting their workers even over minor matters of wages or hours usually resort to violence. A little food market strike in the Bronx with four or five employees out can result in the murder of a picket, as the shooting of Steve Katovis shows.

In more important struggles, as those in which workers take a stand against the capitalist system itself, direct assassination of the workers' leaders is common, as in the cases of Frank Little and Ella May. Officers of the law (that is, of capitalist government) when not openly involved in the killing, shield the assassins.

When it is inexpedient for bosses to resort to direct action against workers' leaders, they commonly pick them off by "process of law" in the courts. Sometimes this is done by sentencing them under special criminal syndicalism or sedition laws; sometimes by wrenching ordinary criminal law to mete out a sentence for an act of self-defense, as at Centralia or Gastonia. In an extreme and typically American case, a convenient murder is pinned by perjury and forged "evidence" on the workers' leaders who are hanged or electrocuted for something with which they had no connection. This is the "frame-up."

We shall deal here only with the pure and simple frame-up, although such practices enter in some degree into many other cases such as those of Centralia and Gastonia which are not pure frame-ups. The cases reviewed here are among the most outstanding but they are by no means all of their kind. Furthermore, they show best the development of the science and art of framing. They also indicate the counterbalancing of the workers' tactics of defense against it.

THE LABOR SPY STEPS IN

The Conviction of the Molly Maguires

The conviction of the leaders of the so-called Molly Maguires in 1875 and 1876 cannot be called a pure and simple frame-up. The Ancient Order of Hibernians included in eastern Pennsylvania hundreds of militant Irish miners who had led the miners' union of the time in a desperate struggle only to see the union destroyed and the miners' low wages pushed still lower.

The Pinkerton Detective Agency, used later against the workers in many labor struggles, began its union-smashing career here. James McParlan, a Pinkerton spy, was sent into the field in 1874, before the miners' union had been destroyed. He was hired for the job by Franklin B. Gowen, President of the Philadelphia & Reading Railroad. He not only betrayed attacks on mine superintendents but as an *agent provocateur*, he organized and stimulated such attacks for the purpose of later betraying them. He accumulated false evidence against leaders who were not concerned in these attacks. The actual charges on which twenty-four Molly Maguire leaders were convicted, ten of whom were hanged, were largely framed.*

BUILDING THE FRAME-UP

The Haymarket Case

There were terrific labor struggles in 1885 and 1886. Railroad, mine and factory strikes convulsed the country. In their wake came violence, evictions and arrests. The first general strike for an eight-hour day was called May 1, 1886. The Chicago police and company guards had been killing workers on picket lines. On May 4, with 50,000 on strike in Chicago, a mass meeting was held in Haymarket Square to protest the murder of six workers before the McCormick plant by company detectives, Pinkertons.

Mayor Carter Harrison was at the meeting, and heard

* For a complete account of this case read, *The Molly Maguires*, by Anthony Gimba, International Publishers, New York.

speeches by August Spies, one of the editors of the *Arbeiter Zeitung*, Alfred R. Parsons, editor of *Alarm*, and Samuel Fielden. He admitted that the speeches were not illegal, but on leaving, he stopped to speak to the commander of 176 police in ambush nearby. Just as Fielden was finishing his remarks, and the crowd was dispersing because of rain, these police formed in four sections and attacked it. Some one (there never was any evidence to show who) threw a bomb which killed seven police and wounded about fifty persons. The bomb was not the result of organized self-defense; it may have been an individual act of self-defense, or it may have been the work of a provocateur paid by the corporations to create violence.

Many workers were arrested, and seven of them were tried for murder and conspiracy. They were: Spies, Fielden, Michael Schwab, Oscar Neebe, Louis Lingg, Adolph Fischer and George Engel. Parsons walked into the court the first day of the trial and was added to the list. All eight were recognized leaders of the rising labor movement of the time. They have been called anarchists but their program of militant mass action and strikes was unlike present-day anarchism, or that of their own time in Europe.

The Chicago prosecutors made a feeble attempt to prove that Parsons lighted and that a certain Schnaubelt (never arrested) threw the bomb. Their only witness was a stool-pigeon named Gillman who slept in the police station and received gifts of money and food from the police. The trial judge, Gary, swept all such evidence aside in disgust and instructed the jury along other lines which he afterwards defended as follows:

The conviction has not gone on the ground that they have actually any participation in the particular act which caused the death of Policeman Degan (one of seven killed) but the conviction proceeds upon the ground that they had generally by speech and print, advised large classes of people, not particular individuals, but large classes, to commit murder, and had left the commission, the time and place and when, to the individual will or whim or caprice, or whatever it may be, of each individual man who listened to their advice, and that in consequence of that advice, somebody not known did throw the bomb.

Now, if this is not a correct principle of the law, then the defendants of course are entitled to a new trial.

Certain other frame-up tactics were developed at the same time. There was, first, the packed jury. Governor Altgeld, when he pardoned Fielden and Schwab (sentenced to life imprisonment) and Neebe (sentenced to fifteen years) points out that the jury was picked by a bailiff named Henry L. Ryce who made up the whole venire except for ten men, and who were not workers, but hangers-on at police stations from non-working class districts. Most of the jury admitted before they were seated that they wanted to hang the defendants, but the judge prevented their being thrown out on that account. No matter what evidence was presented, that jury would obviously have convicted.

As a matter of fact very little evidence came out except that the defendants advocated revolution, and that Parsons, Spies and others had advised the workers to arm themselves with bombs against police terror. There was nothing illegal in this advice. Dynamite had just been invented. It was cheap. It was not against the law to have it. Other weapons were costly, and there was a law prohibiting workers from carrying guns, though everybody else in the community habitually went armed.

The employers' press of Chicago was a great help to the prosecution. It printed the wildest suppositions as fact and it continually demanded that the defendants be hanged. You can find the capitalist press story embalmed in the *Encyclopedia Americana*. It is a lurid tale of conspiracy and bomb making, contradicted in every detail by the evidence at the trial, the findings of Governor Altgeld, and by every investigator who ever made an honest study of the facts. Under cover of this barrage of lies, the packed jury brought in a conviction.

A workers' mass movement around the Haymarket case grew for years, until it finally culminated with the governor of the state pardoning Fielden, Schwab and Neebe in 1893. But in 1887 Lingg had been driven to suicide in his prison cell, and Spies, Parsons, Fischer and Engel had died heroically on the

scaffold, shouting with their last breath the slogans of the cause for which they fought and defiance to the capitalist rulers.

THE KIDNAPING METHOD

Moyer, Haywood and Pettibone

The *agent provocateur* of the Molly Maguire case had a worthy successor in the Moyer, Haywood and Pettibone case. All the tricks developed by the employing class and its government agents which were used in the Haymarket case were tried again, and a new tactic was invented—that of kidnaping and carrying the victims to some place where the courts are ready to convict.

In February, 1906, Moyer, Haywood and Pettibone were arrested in Denver, Colorado, and smuggled into Boise, Idaho, on a special train. They were charged with the murder, by a bomb explosion, of ex-Governor Stuenenberg of Idaho. The trip to Idaho was kidnaping, illegal and plainly criminal. No extradition papers were sought.

The Western Federation of Miners, of which Charles E. Moyer was president, William D. Haywood, secretary-treasurer, and George Pettibone, vice-president, had led a series of strikes of unprecedented militancy in that part of the world; Cripple Creek, Telluride, Cœur d'Alenes and the strikes around Butte and Denver were so hard fought that even pitched battles with guns were frequent. That was why the three leaders and especially Haywood, the most able, had to be killed, if possible. The mine leaders were kidnaped to Idaho because that was the nearest state in which a prominent man had been killed, and therefore the logical place to frame them.

The Haywood case, besides bringing the kidnaping method into the science of framing, developed the use of the stool-pigeon witness to the highest degree known at that time. The trial started in Boise before Judge Woods, in May, 1907, with the present U. S. Senator William E. Borah as chief prosecutor and Clarence Darrow as chief defense counsel.

Practically the only evidence against Moyer, Haywood and

Pettibone was that of one Harry Orchard. This Orchard was a labor spy suspected and distrusted by Haywood a couple of years before. Orchard suddenly flamed forth at the trial, with an incredible tale of burning a cheese factory in Canada, blowing up the Bunker Hill and Sullivan mill in the Cœur d'Alenes, taking a job as stool-pigeon in the Western Federation of Miners' national office in Denver, from which he reported regularly to Detective Scott and the Citizens' Alliance, trying with two other stool-pigeons to wreck a train and kill 200 men in Cripple Creek, plotting the Vindicator and Independence Depot explosions, which cost many lives, and trying to assassinate a long list of noted persons, ending with the killing of Stuenenberg.

Orchard, of course, accused the W. F. M. officials of hiring him to kill Stuenenberg, and of taking part in some of his explosions. Aside from Orchard's testimony, the prosecution attempted to show animus by quoting from the official organs of the W. F. M., in which some harsh things were said about Stuenenberg, who had called out troops and set up bull pens in the Cœur d'Alenes strike. This is the same method used by the Haymarket prosecution—and in many later cases.

A press and "public-man" campaign against the Boise defendants was resorted to, and President Roosevelt branded them as "undesirable citizens."

But the men were acquitted. Why? Haywood states, in his autobiography:

Many letters were coming to us from different organizations all over the country, with news of widespread demonstrations on our behalf. There had been a protest meeting on Boston Common, where it was estimated 200,000 people had gathered to voice their condemnation of our illegal arrest and kidnaping. Moyer-Haywood-Pettibone parades were being held everywhere. In Chicago, 50,000 union men and women marched in protest. In New York, the parade was even larger. It was not hard for me to imagine I could hear the marching millions shouting aloud: "If Moyer, Haywood and Pettibone die, millions of workers will know the reason why!" *

* For a complete account of the case read *Bill Haywood's Book*, The Autobiography of Wm. D. Haywood, International Publishers, New York.

THE BOSSES TEST A NEW WEAPON

Ettor, Caruso and Giovannitti in Lawrence

Even as the kidnaping method failed when first tried in a frame-up case, so also did the next development of frame-up technique fail when first tried out in the Lawrence strike. It was an attempt to set up a court precedent by which any employer who could hire a gunman could have any strike leader hanged or electrocuted any time he wanted to.

On January 10, 1912, in Lawrence, Mass., then as now one of the largest textile centers in the United States, 1,000 Italian and Polish weavers met and voted to strike. The movement spread within a few days throughout the mill district; thousands stayed out until March 12, when they went back with a 5 to 25 per cent increase in wages and certain other gains, instead of the wage cut which started the strike. They were fighting the great American Woolen Co., headed by President Wood, and the thousand who first voted to walk out were in the Arlington mill, owned by agents of J. P. Morgan & Co.

The chairman of the January 10 meeting called in Joe Ettor, of the General Executive Board of the I. W. W., who, with other "Wobbly" leaders including "Big Bill" Haywood, organized a strike committee with representation from all nationalities and mills, and build up relief and defense machinery. Defense committees were needed. Mass pickets were shot at, beaten up, had fire hoses turned on them and were sentenced in batches without trial by jury. One child striker, Johnny Ramie, was bayoneted to death by a militiaman.

Provocative actions by labor spies and company detectives were prominent in the strike. On January 19, the *Boston American* came out with a story that the police had found dynamite planted by the strikers under a mill bridge. This was an unusually bad break for this paper, for its story of finding the dynamite was being sold on the street before the hour set by the police for finding the dynamite.

After that, there was nothing left to do but to hunt up a "goat." A school committee-man named Breen, who was also

an undertaker and church member under Father Reilly, the mill owners' Catholic priest, pleaded guilty and was fined \$500. But then, a division developed between District Attorney Pelletier and some political rivals under the thumb of President Wood of the American Woolen Co., and Pelletier arrested Wood, Wood's close friend, Atteaux, who was president of the Atteaux Mill Supply Co., and one D. J. Collins, for planting the dynamite. He had as evidence the statement made by Ernest Pittman, president of the Pittman (mill) Construction Co., who boasted in public one day that the mill owners plotted this dynamite plant in a private office. Pittman was drunk at the time, and when he became sober he killed himself. Nothing of a legal nature ever happened to Wood.

On January 29, a young girl striker, Annie Lo Pizzo, was shot and killed. Provocateurs were shooting at the strikers, near the police. Lo Pizzo was with a few of the strikers, and a group of police and detectives were standing by. The shot came from the direction of one police officer, Oscar Benoit, but he claimed that it was fired from behind him, by an enemy of his, and at him.

No arrest was made at the time, but immediately afterwards, Ettor and Arturo Giovannitti were jailed and charged with complicity in the murder. Giovannitti had arrived in Lawrence on January 20. He was the editor of *Il Proletario*, official organ of the Italian Socialist Federation, he was turning the I. S. F. into one great relief society, and was an eloquent speaker at strike meetings. Ettor and Giovannitti were not at the scene of the shooting but they were the recognized leaders of the strike.

The prosecution at first proceeded on the same theory as in the Haymarket case, that the defendants had by speech and writing incited their followers to violence, in the course of which some striker had killed Annie Lo Pizzo while shooting at Benoit.

For this purpose, during the period from March 12 to April 17, the head of the Callahan Detective Agency of Boston, in American Woolen Co. pay, hounded Joseph Caruso

from job to job, getting him fired as fast as he got work. The intention was plainly to make him leave town, and "by flight give evidence of a sense of guilt." However, Caruso stayed in Lawrence, and was arrested there, April 17, for firing the shot.

The trial started September 29 in Salem before Judge Quinn. There had been a change of venue. The jury had a good many workers on it. The evidence was a joke. Even prosecution witnesses testified to the provocation and to the violence of the police. The testimony showed Caruso could have had nothing to do with the shooting, and it pointed to Policeman Benoit himself as the shooter.

Whereupon the prosecution evolved the theory, an advance on the Haymarket precedent, that the strike led to a condition during which violence and murder could take place, therefore the death of any person in the strike, by whoever killed, is correctly charged against the strike leaders: a viciously useful interpretation of law for any boss in any strike, since he would merely have to hire some detective to kill some striker, and then arrest all the strike leaders and hang them. It was, moreover, no more essentially illogical a theory than the original Haymarket precedent.

The prosecution understood fully the necessity of rousing the community to a point of hysteria against the strikers, by which the jury would be intimidated, and during which the rotten evidence of the prosecution would look reasonable and sufficient to it. Father Reilly led a well-financed campaign "for God and country" against "all anarchists, I. W. W.'s and foreign agitators."

The textile workers of Lawrence were so far from being taken in by this trick, that 20,000 of them went out on a great demonstration general strike during the days just before and during the trial. Workers donated over \$60,000 to the defense committee which spent most of the money to expose the frame-up, and to rouse mass opposition to the execution of Ettor, Caruso and Giovannitti. The defense toured many speakers, distributed tons of leaflets and pamphlets, and supplied news service to about 1,000 newspapers and magazines. A

worldwide protest movement was built up. The frame-up collapsed through a verdict of "not guilty" by the jury. The new weapon, the prosecution's argument that strike leaders are guilty of every killing in the strike no matter who does the killing, failed in this case, but it may be tried again.

WHEN THE DEFENSE IS TOO SLOW

Joe Hill

In the Joe Hill case the labor spy did not appear prominently and there was no kidnaping but all the other methods developed up to that time were used. The case has two very important features. This is the first time the employers used a private crime, a plain murder for profit, to get rid of a social rebel. They did it again, later, in the Sacco-Vanzetti case. And the Joe Hill case illustrates most glaringly the disastrous effect of not rallying the masses to the support of the defendant at the very beginning of the frame-up.

Joe Hill woke up in the prison at Salt Lake City, Utah, at four o'clock in the morning, November 19, 1915, and remembered he was to be shot at 7:30. He looked for the blue suit he had asked for. The warden had laid it away nearly two years earlier when Joe Hill had been arrested. It was his only good suit, and he had a fancy to die in it. But the suit they gave him had something wrong with it. It was some inches too big, and inside on the pocket was a strip of cloth, nicely lettered, "J. S. Morrison."

The frame-up, pure and simple, was reaching out after Joe Hill, to shroud his body and smirch his reputation even after his death. His suit had been changed for another by those who had arranged that Joe Hill should be shot for a crime he never committed. His body was to be exhibited with a suit tagged as Morrison's. Morrison was the grocer who had been killed in a neighborhood feud, January 10, 1914, and for whose death Joe Hill was to be executed. It would make a nice little story for the press, when some reporter, properly tipped off, "discovered" that "Joseph Hillstrom went to his death brazenly

wearing clothing he had stolen from his victim, after shooting him.”

Hill was shot in his prison clothes, and they had to say that a guard found the name in the suit and wouldn't let Joe Hill wear it. They showed it to Morrison's widow, and asked her to identify it as one of her husband's, but she was tired of the dirty game, and refused. She did say it was something like the suits her husband wore, but it wasn't his. Everybody knew there was no evidence that any clothing robbery accompanied the shooting of Morrison.

Still, the murderers of Joe Hill were fairly well satisfied. Even if the last act of the clumsy farce had been hissed, there was one indecent epilogue still to be played. They could say that Joe Hill, “bawling out” the guards who tried to play this little second-hand clothing trick on him, and clouting one of them over the head with a broom handle for it, was “losing his nerve”, that he had a “hysterical fit.” And they said it.

Fortunately there were those in prison who knew what happened, and there were Joe Hill's last words, and his telegrams. The reporter allowed to see Hill shot says he spoke as he was seated in the chair in the prison yard, across from a curtained doorway which masked the faces of the firing squad.

Gentlemen, I die with a clear conscience. I never did anything wrong in my life. I die fighting—not like a coward. Good-by. Fire! Let 'er go.

The day before he was shot he sent a telegram to Bill Haywood:

Good-by, Bill. I will die like a true-blue rebel. Don't waste any time in mourning. Organize.

And then, as an afterthought, another wire:

It is a hundred miles from here to Wyoming. Could you arrange to have my body hauled to the state line to be buried? Don't want to be found dead in Utah.

This is not the language of a coward.

The cowards were rather the members of the board of pardons of Utah. Two hours before Joe Hill was shot, a telegram,

giving an affidavit made in Seattle by William Busky, a migratory laborer, stating that he was with Hill on the night Morrison was shot, and providing an alibi, had caused the members of the board of pardons to assemble, of their own accord. They began to wonder if it were best to go ahead with the execution. The whole world was crying out against the manifestly unjust verdict and unfair trial at which Hill was framed. The Swedish ambassador (Joseph Hillstrom was a Swedish subject, though long in America) had protested. Under pressure President Wilson had wired Governor Spry of Utah asking a respite. Labor everywhere had at last awakened to what was going on in the Mormon capital.

But the forces crystallized in the Utah Construction Co. and the Utah Copper Co., had dictated through Governor Spry a contemptuous refusal to Wilson. It said in almost so many words that Wilson might be worried about the effect on U. S. world politics, but the employers of Utah had had enough of these agitators, and had this one where they wanted him.

Nobody in the world at large paid any attention to the shooting of the grocer Morrison in Salt Lake City. Two masked men had entered his store, where he sat at 10 P.M. with a revolver laid in an open ice box, counting sales slips, with his two sons watching him. He was a quarrelsome man, and he had his enemies. The taller masked man said, "We've got you now," and both opened fire. Morrison and his elder son were killed.

Joe Hill was the rebel songbird. His jeering verse had girdled the world, and it is immortal as long as capitalism lasts. It has burst the bounds of I. W. W. sectarianism, and the rollicking tunes and words of "Long Haired Preachers Come Out Every Night," "Tramp, Tramp, Keep on A-Tramping," "There is Power, There is Power in a Band of Workingmen," and many others are heard from Seattle to Gastonia, from San Diego to Boston.

Joe Hill had been a fighter. He was with Jack Mosby in the attempt to set up a workers' republic in America, the Republic

of Lower California, and the first Red Army since the days of the Paris Commune. The chorus of one of his songs begins:

Should I ever be a soldier,
'Neath the Red Flag I would fight;
Should a gun I ever shoulder,
It's to crush the tyrant's might.

The best interpretation of Joe Hill's refusal to explain a wound on his hand when he was arrested four days after the shooting of Morrison is that there was an abundance of fighting in the mining regions of the Rockies that year, plenty of strikes, small and large, and fierce little battles in lonely mountain canyons in Idaho, Utah, Arizona, Colorado, in which mine gunmen and miners "shot it out" in the night. And Hill was a rebel and a fighter. The employers had plenty of reasons to get him; they couldn't pin any of these fights on him, so they used the shooting of Morrison.

Joe Hill had practically no counsel at his trial, in June, 1914. He had no defense fund to speak of, and, worst of all, no adequate publicity. The I. W. W. press was weak. The trial was not even reported in the *Appeal to Reason*, in *The Masses*, or in most of the liberal bourgeois papers. *The International Socialist Review* carried one stingy little letter, hidden away in the back, asking for funds for the defense.

The jury was packed; the foreman and over half of the jurors were never subpoenaed for jury duty. They were Utah Construction and Copper Co. men, simply placed in the box by the sheriff. The Mormon Church hierarchy owned mines and did general construction contracting—and this was a Mormon town.

The younger son of Morrison, even under the most outrageous prompting, couldn't identify Joe Hill as one of the assassins. But Phœbe Seeley, dragged up from somewhere by the prosecution, said she saw two men near the grocery store, and one of them "looked about the size of the defendant."

The district attorney questioned:

"How does the nose of Mr. Hillstrom compare with the nose of the man that looked at you there?"

And Phœbe, of course, said: "Very much the same."

The district attorney asked: "How do the marks on the left side of the face and neck correspond with the marks you saw on the man?"

And Phœbe said, as was expected: "They look a good deal like those on the man I saw."

That was the "evidence." There was practically nothing else on which the conviction was made and the death sentence passed.

After the Joe Hill trial was over, and the damage done, the working class suddenly realized what had occurred. Seven thousand workers were out Thanksgiving day in Chicago at Joe Hill's funeral. His songs are sung in every part of the globe. Everybody knows that he was innocent. But he was killed, just the same, because these very workers, convinced of his innocence, did not get into action soon enough to save him.

INNOCENCE IS NOT ENOUGH

Mooney and Billings

Every witness used against Mooney and Billings had been discredited. Most of them have confessed their perjury, and told who suborned them to perjure themselves. The trial judge (still on the bench) has denounced the conviction to three successive governors of California, and appealed for a pardon or a new trial. All ten surviving jurors have stated formally that they are sure they were tricked and that Mooney and Billings did not have a fair trial. But at the time this is written, Mooney and Billings remain in prison where they have been for over thirteen years.

The facts of the case are these. In 1916, an Open Shop drive, led by the power and utility interests, was going on in the Pacific coast cities. The "Preparedness Movement" was being inspired throughout the country by big business, already determined on entering the World War on the Allied side. As a preliminary it was necessary to crush militant labor.

Tom and Rena Mooney were particularly active among the

streetcar men. They had built up a card catalog of all streetcar workers, and were conducting systematic, personal agitation. They led a streetcar strike just before the preparedness parade in San Francisco, July 22, 1916. Labor opposition, fighting the employers' orders to their workers to parade or be fired, had cut the numbers predicted for the parade to one-fifth. The employers, and especially the power interests, were furious.

This was only the culmination of a long period of strikes, many of them resulting in clashes of more or less violence, during which the Chamber of Commerce had raised a fund of a million dollars to bring about the Open Shop.

Both Mooney and Billings had been indicted for blowing up an electric power transmission tower ten miles from San Francisco. At that time, Martin Swanson, ex-Pinkerton man, and chief detective for the United Railroads of San Francisco, offered Billings immunity and \$5,000 to help frame Mooney in this case. He made an offer of \$5,000 to Israel Weinberg to testify that he had driven Mooney to the scene of an explosion in his taxicab. The refusal of these two insured that they would be included in the next frame-up against Mooney.

During the preparedness parade, a bomb at Stuart and Market Streets, probably placed by a provocateur, killed ten persons and wounded forty more. The district attorney, Charles M. Fickert, himself a United Railroad man, elected to dismiss graft indictments against Pat Calhoun and other heads of the company, turned the whole case over to Swanson, placing Captain Duncan Matheson, chief of the city detectives, and his entire department at Swanson's disposal.

No attempt was made to find out who committed the crime. All clues at the scene were destroyed by the police, and Tom and Rena Mooney, Israel Weinberg, Warren K. Billings and Edward Nolan were arrested and charged with murder.

The trial of Billings came first. The only "evidence" against him was given by Jack McDonald, a dope fiend; Estelle Smith, another morphine addict and a former prostitute whom the police had told they would send to prison if she did not identify

Mooney and Billings; and Mollie and Sadie Edeau, against whom the police had records.

The Edeaus testified that Billings stood on a roof above a dentist's office at 721 Market Street, a mile from the scene of the explosion, preparing to throw the bomb from it at the parade, with the two Mooneys standing on the sidewalk below, in the area of explosion, to direct the act. They also said the Mooneys and Billings had gone down towards Stuart and Market Streets where the explosion really took place.

Billings got life imprisonment. Evidence wouldn't have mattered. The jury was made up of police stool-pigeons selected by tampering with the wheel of chance by which prospective jurors were drawn from the venire.

Before Mooney's trial, which came next, it was discovered that the original negatives of a picture taken during the parade, showing Tom and Rena Mooney on the roof above Rena's music studio, were in the prosecution files. These originals showed a street clock with the time 1:58 to 2:04. In the Billings case McDonald's testimony had placed Mooney at the scene of the explosion from 1:42 to 2:04.

But this didn't matter. The useful McDonald testified against Mooney in the Mooney trial and put the time of Mooney's presence at Stuart and Market Streets at much earlier—earlier than Mooney could have arrived if the Edeaus saw him at 721 Market Street when they first said they did.

Then a new witness appeared. The "honest cattleman," Oxman, from Oregon came on the scene and became the star witness. He testified he saw Weinberg drive Mooney, Billings and Nolan to the scene of the explosion, and saw them place a suitcase there and drive away, the suitcase of course being the deadly bomb. This testimony dovetailed with the Edeaus, after they changed the time of seeing Mooney and Billings, but contradicted McDonald's in the Billings case, for he said nothing about a car, and reported the two victims as walking up the street with the suitcase.

Mooney was convicted February 9, 1917, and sentenced to be hanged May 17. Rena Mooney was acquitted July 26, Israel

Weinberg on October 27, and indictments against Nolan, held nine months in jail, were dropped over two years after his arrest. The evidence against Mooney and Billings was evidence against all of these or none; if one was guilty all were guilty; if one was innocent all were. But logic means little in a frame-up; the United Railroads wanted to hang Tom Mooney.

Exposures of the perjury committed by the witnesses began before the Mooney trial and caused some of the Billings case witnesses to be dropped. McDonald made a voluntary affidavit stating that his entire testimony was false and that he committed perjury out of fear of the police.

When the United States entered the war, Wilson and the State Department were very anxious to have Russia keep up the fight. A giant demonstration of workers in Petrograd (now Leningrad) besieged the American ambassador in his palace, demanding the release of Mooney; and the provisional government ruling Russia in the spring of 1917 before the Soviets took power, also anxious to make Russian workers fight the Germans, appealed to Wilson to remove this irritation. Mooney owes his life, if not his freedom, to the Petrograd demonstration, which was organized by the Bolsheviki under the leadership of Lenin. It was this demonstration that aroused a world-wide interest in this frame-up case. Labor all over the world was joining the Russian workers in the demand for Mooney's release. Wilson sent a commission to investigate. They reported that Mooney, Billings and the others were undoubtedly innocent. The execution was postponed until August 23, then to December 13, and eventually commuted to life imprisonment.

The Department of Labor investigator, Densmore, planted a dictaphone in Fickert's office, and, besides a considerable amount of juicy graft evidence and humorous scandal surrounding Fickert and his aides, it recorded his fixing the prosecution witnesses in the cases to follow Mooney's.

Chief of Police Peterson of Oakland (then a captain in the army) testified after the trial of Mooney that the Edeaus' first story to him was of seeing men with the bomb at Stuart

and Market Streets instead of at 721 Market Street. He also said they were shown Mooney and Billings and failed to recognize them. That, they said, was before they were properly coached. Peterson swore that when he accused Mrs. Edeau of making conflicting statements, she said that while she was at Stuart and Market Streets, her astral body had been present at 721 Market Street!

Letters written from Oxman to a friend of his, Ed. Rigall of Grayville, Ill., were turned over to the defense by Rigall after he got scared. They made a proposition that Rigall come out to San Francisco, be coached by the police and Oxman, and testify against the rest of the defendants. Rigall swore that Oxman confessed to him that the latter was not in San Francisco at the time of the parade. He was not useful against the other defendants.

Oxman's history, probed into, was found to be one of crime. Estelle Smith, the principal witness against Billings, made an affidavit in 1929 that she falsely identified the defendants out of fear of the police who had her recorded as a woman of the underworld. Since then the history of the Mooney-Billings case has been one of sporadic attempts to release them.

In July, 1930, the California Supreme Court ruled on the application for pardon by Billings that because McDonald had not appeared before it or before a grand jury with his repudiation of his testimony in the trial, and because Mooney and Billings were in other ways bad characters, had associated with those who believed in violating the law in labor struggles, and because in the opinion of the court they must have known who did commit the Preparedness Day crime, Billings must stay in prison until death. Governor Young, who had previously stated that the findings in the Billings case would apply in Mooney's case, thereupon announced there would be no pardon or parole for either. The "bad character" and "probable guilty knowledge" arguments are a real addition to the science of frame-up.

But when McDonald was found in Baltimore, and later went before the State supreme court and formally repeated his

confession that Fickert and his aides persuaded him to lie about Billings and Mooney in the trial, and repudiated his entire testimony, the court refused to abide by the test it had set itself. After vainly attempting by a most unfair and brutal cross-examination to break down McDonald's repudiation, the court summoned all prosecution witnesses it could reach and practically retried the case under circumstances unfavorable to the defense.

If the court and governor do finally have to release Mooney and Billings, this can be taken as a real victory for the masses.

THE FAILURE OF LIBERALISM

Sacco and Vanzetti

In the Sacco and Vanzetti case, the technique of the prosecution was that of the Mooney and Billings case, plus new tactics—the seduction of a defense attorney and the trick of a “first conviction” on a lesser charge. There was the same failure of the defense to get sufficiently powerful forces into action soon enough, plus an additional mistake. The working class at various critical moments allowed itself to be led into wrong methods by the liberals who attached themselves to the movement in behalf of Sacco and Vanzetti.

On May 5, 1920, the Palmer “Red Raids” had been going on for a year. A gigantic Open Shop drive was coming, and the United States government and all the state governments, even those of cities and towns, were clearing the way for it.

Nicola Sacco, a shoemaker and strike leader, and Bartolomeo Vanzetti, active in a minor strike in a Plymouth, Mass., cordage factory in 1916, were both members of the Galleani group of anarchists. Both were on a defense committee formed to help two other agitators, Salsedo and Elia. Salsedo had either committed suicide under torture while in the hands of the Department of Justice, or had been directly murdered by “D. of J.” agents. Elia had been deported. Sacco and Vanzetti were on a streetcar entering Brockton, May 5, 1920, when they were arrested.

When Sacco and Vanzetti were arrested they were trying to hide some radical literature. Both were afraid of Salsedo's fate, and told false stories to the arresting officers.

But Michael Stewart, Chief of Police in Bridgewater, Mass., was afraid conviction of anarchism meant merely deportation to Italy, not a serious punishment before the days of Mussolini. He thought of trying them for a series of payroll robberies. These crimes, it was later proved, had been committed by a gang of professionals led by one Joe Morelli, having among its members a certain Celestino Madeiros, who later confessed participation in robbery, and denied that either Sacco or Vanzetti had anything to do with the gang or its crimes.

They framed Vanzetti for an attempt by four bandits to rob a truck of the L. Q. White Shoe Co., in Bridgewater, on December 24, 1919. There was no evidence outside of a few very shadowy "identifications," but Vanzetti had no defense. Nobody was interested in the case, and the defense attorney, John Vahey, made a bargain with the prosecution not to put Vanzetti on the stand, in return for which District Attorney Katzman of Norfolk County agreed not to tell the jury that Vanzetti was a "dangerous anarchist." The jury of patriotic New Englanders was informed, nevertheless, and convicted him for his anti-capitalist opinions, in spite of the lack of evidence of guilt in the crime for which he was prosecuted. Vanzetti later accused Vahey of betraying him and there is evidence to show that the lawyer was far more concerned about retaining friendly relations with the prosecution than about winning the case. This conviction brought Vanzetti, officially and irrevocably branded as a hold-up man, into his second trial on May 31, 1921, in Dedham, Mass. There, with Sacco, he was accused of murdering Paymaster Parmentier and his guard in South Braintree in 1920.

Katzman was prosecutor. The judge was Webster Thayer, who during the trial boasted to his friends that he "would get those two anarchist bastards", and said, while playing golf with his cronies, "Wait 'till I give my charge to the jury; I'll

show 'em." This was proved after the trial by affidavits of those who heard him.

The jury venire was picked by the sheriff from the ultra-conservative Masonic lodges and other business men's clubs. The foreman of the jury was Walter Ripley, former chief of police. It was afterwards proved he said before any evidence was in, "Sacco and Vanzetti should be hung."

As in the Mooney case the most important witnesses "identifying" the defendants were underworld characters, afraid of the police. The best of them, from the prosecution's point of view, "Fainting" Lola Andrews, confessed perjury afterwards, then retracted her confession on pressure from the prosecutor. Another, Louis Pelzer, did the same. Another, Carlos Goodrich, it was proved by four witnesses, could not have seen what he said he saw, and admitted to them he didn't see it.

There was conflicting testimony on whether the cap found at the scene of the crime was Sacco's. It had a tear in it which Sacco's boss said might have been made by a nail on which Sacco used to hang it. Later, the police admitted they made the tear after they got it, but by that time the verdict was in.

Vanzetti's alibi, supported by "damned foreigners" in considerable number, was that he was peddling fish on April 15. Sacco's was that he was visiting the Italian consul and conversing with numerous persons in Boston in order to get a passport to Italy, his mother having died. The consulate clerk and the others testified for him—but they were foreigners too.

Thayer and Katzman got their conviction, and then labor began to take a real interest. The agitation that followed, surged and ebbed. It saved these two for seven years. On December 24, 1921, Thayer rejected the first appeal made in the case. Next year an appeal was made to the Supreme Court of the state. It was rejected on May 12, 1925.

Meanwhile, one by one, a series of motions based on new evidence discovered by the defense was presented to Judge Thayer. He treated each in the same way. He put on a great show of formality and impartial justice and went about his business or on a vacation, promising to "take the matter under

advisement." Then filled with hope, the liberals slackened their agitation. And months after the motion had been made, when the working class, busy with other matters as well, had ceased to concentrate on the Sacco-Vanzetti case, Thayer would formally deny it.

The motions so treated were:

One based on the confession of the foreman of the jury that he persuaded jurors by himself presenting evidence against Sacco, evidence that never went through the court.

One based on the confession of the prosecution witness Pelzer that he committed perjury against the defendants, because of pressure from the district attorney.

One based on an eye witness's account of the crime, which said that neither Sacco nor Vanzetti were at the scene. The prosecution had spirited this witness away before the trial started.

One based on proof that prosecution witness Goodridge was a notorious crook and a pathological liar, released from a larceny charge by the district attorney on condition that he "identify" the defendants.

One based on prosecution witness Lola Andrews' confession of perjury in the trial.

One based on an affidavit of the prosecutions' bullet expert, Captain Proctor, that he could not identify the mortal bullet as Sacco's, but had conspired with the district attorney for a series of questions which would make it seem to the jury that he did.

One based on evidence of a much more famous expert that the bullet could not have come from Sacco's pistol.

One (May 26, 1926) based on the confession of Celestino Madeiros, and the affidavit of Department of Justice agent, Lawrence Letherman, that the federal detectives, including himself, had been watching Sacco and Vanzetti for a long time, that they never caught them in any crime, but "It was the opinion of the Department of Justice agents here that a conviction of Sacco and Vanzetti for murder would be one way of disposing of these two men."

After this last motion was denied by Thayer, an appeal from his decision on it was made to the State Supreme Court, which ruled on April 5, 1927, that Thayer might be wrong or right, but anyway, he had the right to decide.

On April 9, 1927, Thayer sentenced Sacco and Vanzetti each to "suffer the punishment of death by the passage of a current of electricity through your body."

Both denounced the verdict and the sentence, and the capitalist justice back of it. Vanzetti ended a magnificent speech: "I am suffering because I am a radical, and indeed I am a radical . . . but I am so convinced to be right that . . . if you could kill me two times, and I could be reborn two other times, I would live again to do what I have done already."

Labor and the liberals mobilized for a thousand demonstrations. But the liberals soon saw another mirage in the appeal to Governor Fuller for a pardon. Fuller was shrewd enough to hold out hope. He appointed an advisory committee consisting of President Lowell of Harvard University, President Samuel Stratton of Massachusetts Institute of Technology, and Robert Grant, a 75-year-old ex-judge. All three were incensed high priests of capital.

Fuller sat with the advisory commission and announced their decision together with his on August 3. He said the trial had been fair, the men were guilty.

Labor answered this announcement of Fuller's and Lowell's with a week of unsurpassed protest. A mass meeting of 25,000 in Union Square, New York, mass meetings and demonstrations in every capital in the world, general strikes in many cities; 30,000 workers of Paris following Vanzetti's sister to the American embassy; official protests by the Argentine and Uruguayan national legislatures.

On August 10, thirty-six minutes before the switch was to be thrown on the death chair, Fuller reprieved both men, until August 22. This was the old tactic, used many times in the case, to mollify labor, to fool the liberals, and to wear out the demonstrators.

The new will-o'-the-wisp seen by the liberal optimists was appeal to the U. S. Supreme Court judges for writs of "certiorari" (order to review the case). First an argument by defense attorneys was made to four justices of the Massachusetts supreme court on August 15. On August 18, they rejected a motion for a review of the past decisions.

Every available U. S. Supreme Court justice was approached,

the last two being the reputed liberals, Stone and Brandeis. All refused to intervene.

The international protest movement gained force. Strikes in South America, new demonstrations, picketing in front of the state house, almost continuous mass meetings in Union Square and Boston Common. Not enough at this time; sufficient if it had come before the trial. Sacco and Vanzetti were electrocuted just after midnight, August 22, 1927.*

IMPERIALISM USES THE FRAME-UP

Greco and Carillo

The Greco and Carillo case did not add much to the actual technique of the frame-up, but is noteworthy for the broadening of the field to include attempts of one imperialist power to murder labor enemies of another, temporarily allied, imperialist power. It also gives a very good example of efficient defense strategy.

United States imperialism, directed by J. P. Morgan & Co. which according to the confessions of the then U. S. ambassador in Italy had much to do with putting Mussolini in power, was Mussolini's boss in 1927. For Mussolini, it resorted to the frame-up to kill two anti-fascist workers in New York. It failed; and for that failure the American working class can take the credit. This was one labor case that was handled well by the workers.

Two "squadristi" (shock troopers of fascism, professional murderers) named Joseph Carisi and D'Ambrisoli were killed when they attacked some other Italians during a parade of the Fascist League of America in the Bronx, May 30, 1927. Those who were involved escaped and have never been identified or arrested.

D'Ambrisoli was a spy of Mussolini's in America, using here the name of Nicholas Amoroso. His death created a sen-

* For a full account of the Sacco and Vanzetti case, read the *Life and Death of Sacco and Vanzetti*, by Eugene Lyons, International Publishers, New York.

sation in Italy. His body was buried with royal honors in Rome, and in a silver coffin. United States Ambassador Fletcher hastened to assure Dr. Di Marzio, secretary of fascist branches in foreign countries, that "every attempt will be made to secure the guilty to justice."

Fletcher meant that some prominent anti-fascists would be railroaded to the electric chair. Police raided all anti-fascist headquarters, and found that most of the more prominent leaders had ironclad alibis. They finally centered on Greco and Carillo, less known than the others and with only a few witnesses to prove they were not in the Bronx when the black-shirts were killed.

Before deciding finally on these two, the police and fascist spies had arrested Mario Buzzi in the office of *Il Martello*.

The fascist perjurers who had been cheerfully indentifying Greco and Carillo as the "two assassins" promptly identified Buzzi also. But the fascist detective, who knew Buzzi was in jail in Hoboken on Memorial Day, because of his part in an anti-fascist demonstration there, stopped them, saying, "No, no, don't say that. We want this man for something else."

They wanted him, they explained to him in the cell in Port Chester jail, to which he had been secretly taken and where he was held incommunicado, to swear that he heard prominent anti-fascists, plotting to slay Carisi and D'Ambrisoli. They told him they would frame him for knifing Ado Testa, a fascist, in Port Chester on March 20, unless he was a witness against these anti-fascists. When he steadily refused, they beat him with rubber hose, clubs, blackjacks, and chairs until he vomited blood from internal injuries. They left him unconscious all night, and in the morning, police and fascist detectives beat him up again.

He still refused, and would probably have been tortured to death, if the International Labor Defense had not located him and bailed him out. Lying in the hospital after his terrible ordeal, he told of similar tortures in Italy, by the fascists there, who killed his aged father before his eyes, and made a hopeless invalid of his sister.

So they finally had to come back to Greco and Carillo, after all. District Attorney McGeehan boasted that he "would have them in the death house by Christmas." All the usual tricks of the frame-up were tried: "damn foreigners", "alien agitators", a cloud of poison gas from the capitalist press, hired perjurers on hand, preparations to pack the jury.

But this time there was not just a group of liberals and anarchists at the beginning. The International Labor Defense was active. It also formed an integral part and the driving force in the "Greco-Carillo Defense Committee." Within a few hours this committee was hunting defense witnesses, piling up unshakable mountains of testimony for the two men, tying down the police witnesses by publishing their first, unfinished lies, impeaching prosecution witnesses, securing the best legal counsel at the very beginning, looking up records, making perjury difficult. It turned a fierce glare of publicity on the case, and the prosecution was not able to get the usual number of "witnesses" from the underworld of drugs and police records. These creatures of the night shrink from the light into which this case had been forced.

As a result, the trial brought no evidence for the prosecution of any importance except that given by four hard-boiled "squadristi", and they had not been able, with every one watching, to make those little changes in their first stories needed to complete a well-rounded frame-up case. Their testimony even contradicted that of the first policeman on the scene, Patrolman Gleason. The defense was very well able to prove that at the hour of the killing Greco was in his brother's music store in Brooklyn, and Carillo was playing with his children at home. The verdict was "not guilty."

SOME LESSONS

Some lessons to be drawn from a glance over the frame-up system as illustrated in these cases have been pointed out in the course of describing them. Here we may merely note that in each case the capitalists use all of the tricks learned in the preceding case, and invariably spring something new.

The Haymarket trial outlined the principles: stop all search for the actual perpetrator of the crime; arrest prominent labor leaders; deluge the community with false stories through the press, and with appeals to the most reactionary feelings, hatred of foreigners, patriotism, and private property; talk a lot about the sacredness of the home. Then pack the jury, rely on Gary's precedent to convict leaders who cannot otherwise be involved, but use plenty of perjurers obtained by bribery or threats in the underworld; rush the case and get a conviction quickly. After this the defendant has no rights and only such privileges as a prejudiced appellate court chooses to allow.

Once a conviction has been secured, the Sacco-Vanzetti case shows that you can hang onto your victims by legal chicanery no matter how much evidence is brought forward to prove their innocence.

The successive cases show a development of strategy by which the conviction can be secured, or the mass protest hindered after conviction: kidnaping and the labor spy in the Moyer-Haywood-Pettibone case; development of new precedents (or the attempt to do so which fortunately failed) in the Lawrence case; outrageous prompting of witnesses and malicious attack on personal character in the Joe Hill case; discarding of a whole set of perjurers and bringing forward of a new set in each successive trial in the Mooney and Billings cases; a first conviction for a lesser offense, the "cat and mouse game," the easy tricking of liberals and compounding of swindling bargains with defense attorneys in the Sacco and Vanzetti case; and finally the use of organized reactionaries on an international scale such as the Fascisti in the Greco and Carillo case.

The defense tactics have developed too, though usually the defense has not had the initiative that the prosecution naturally possesses. The defense has sought to delay each trial until the workers can mobilize; it has tried to beat lawyers with lawyers, and legal tricks with other legal tricks. It breaks down the perjurers by cross examination, tries to prevent the packing of the jury, and tries to get as many workers as

possible on the jury. Of course, it hunts up defense witnesses.

All this is useful, but it alone will save no one. The legal game, with the capitalists making the rules, is naturally one in which they have an enormous advantage. The workers' chief advantage is in widespread publicity, which frightens away the perjurers, and prevents labor members on the jury being easily beaten into line. It is in widespread mass protest movements for the same purpose, and it is in the raising of large war chests, without which even the more legalistic defense tactics are impossible. And above all, it is through instant reaction to danger, so that the workers are mobilized before the first trial starts. Winning the first trial is the most decisive thing. It may make all the difference between going free like Greco and Carillo, or dying even after seven years of struggle, like Sacco and Vanzetti.

The class struggle has been so sharpened lately that we see now a tendency on the part of the capitalist rulers to more direct methods, a tendency to relegate the frame-up to the background and to rely on new or resurrected criminal syndicalism and sedition laws. Recent events in New Jersey, Ohio, Pennsylvania, California and Georgia illustrate this tendency. But the frame-up is still an ever-present possibility. And, of course, the general principles of defense against frame-up are the same for other types of labor cases.

Defense in labor cases, whether frame-up or not, has taken on an international aspect, even as the origin of the individual frame-up is sometimes a product of international politics. The complete abolition of the use of the courts to kill or imprison class conscious workers can only be gained through revolution. But meanwhile, and in spite of all odds, the workers must fight each case in a more determined and effective manner. Each case is a sector of the class-war firing line.

While the best defense against all attacks of the employers whether through their courts, police or hired thugs is an aroused working class led by a militant union organization—the Trade Union Unity League and a mass Communist Party—a certain specialized service in the workers' army is needed

for these particular skirmishes, the labor cases, frame-up or otherwise. In this branch of the service, active participants in the revolutionary movement, as well as its sympathizers, can be mobilized. A powerful, mass International Labor Defense, organized internationally, with a wide network of branches, with large treasuries for defense purposes, with a trained personnel capable of going into action within hours or even minutes of the time a case starts, ready and able to stick to that case for years if necessary, so well established in the confidence of the workers and with such broad avenues of approach to the workers and such an ability to get general publicity for the facts, that enormous masses can be mobilized to demand the release of those arrested—this is what is needed for the fight against the frame-up system and all other methods of persecution of workers under capitalism.

THE END.

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