

CHAPTER 6

"Bloody Harlan" Remains Bloody

Of all the many horrors that surfaced in the committee's now long-forgotten hearings, reported in the press which then also forgot, perhaps the most completely despicable, most thoroughly anti-American, was the literally murderous repression in what then was known without exaggeration as "Bloody Harlan" County Kentucky. It is Kentucky's southeastern tip.

Virtually landlocked until the railroad worked its way across the mountains in World War I when there was need for its abundant bituminous coal, when I was there in 1938 many of the people still spoke Elizabethan English.

The primitive-minded monster of the coal corporations even devised ways of stealing back from their skimpy wages much of what those who risked their lives in the mines could take home. They really organized the skims. Many men "took home" no money at all!

Harlan's miners enjoyed the lowest miner's wage scale in the nation.

They lived in company-owned shacks, on company-owned land.

They had no real choice.

Nor did they have any real choice about where they bought what groceries and the few other needs they could fill. Their only store was the company store. It charged not only exorbitant prices, it also cashed the company scrip. The scrip with which the men were paid. The scrip was discounted when the miners drew it at the pay office and it was further discounted when they gave it back to the company at the company's store.

Some miners rarely saw cash. or were ever out of debt.

If a miner was even suspected of favoring union organization of those mines his family could starve and be thrown into the cold of winter weather when thrown out of the usually wretchedly poor company shack for which excessive rent was also deducted from what was due on payday along with the cost of the scrip already drawn. It was not uncommon for miners and their families to be close to starving and having nothing but debt on payday.

Then there were the rackets, in Harlan, legal rackets. Pearl Bashman was, at the time of our investigation, the operator most imaginative and least inhibited in the "deducts" he enforced at his mine.

Deducting union dues was a mine operator's horror. But Bashman deducted a dollar per pay for a turkey shoot, whether or not the miner wanted to shoot for a turkey, and from each pay each of his miners had an additional deduct for Bashman's raffle of the worst jalopie he could find.

Because without any authorization each miner unfortunate enough to have to hope to survive in his barony, albeit in poverty and in debt to him, kicked in two dollars per pay period Bashman prospered on these deducts alone. The men soon knew better than to complain. One complaint and out!

This is neither the time nor the place for recalling all the many murders and incredible, inhuman abuses of Americans by Americans in that remote mountain fastness of the United States. The year before I was there, there were more murders by far in Harlan County, with a population then of only 50,000, than there were in all of the state of New York. (Harlan's population has, unsurprisingly, since halved.) Almost all the Harlan murders were from ambush.

of the many incredible but proven stories in the committee's published hearings (Volume 3) there is one that I do here encapsulate and tell.

There are so many Harlan abuses that are both incredible and true! It is beyond belief.

Union head John L. Lewis, in an effort to try to begin organizing Harlan's miners and those in nearby counties where the conditions were as miserable, sent an older organizer down. Lawrence Dwyer, then about 80, had been an Indiana miner. He lost his leg in a mining accident and was thereafter known as "Peggy" for his wooden leg.

Peggy Dwyer knew better than to dare sleep in Harlan County. It was dangerous anywhere else in that area but Harlan was worse. Peggy took a room in the old frame Pineville Hotel, in the city of that name in Bell county, the one to the west of Harlan.

The Harlan County Coal Operators Association decided to get rid of Peggy. It gave its chief deputized thug, Ben Unthank (his real name), \$400 and the dynamite and fuse and told him to kill Peggy.

Referring to those terrorists, torturers and murderers as "deputized gun thugs" is neither a figure of speech nor an exaggeration. "Thug" is a mild description of them and all were immunized by making them deputy sheriffs- on the coal corporation's payrolls, not the county's.

For once, a rarity, Unthank stopped to think. He and the other deputized gun thugs (called "guards") had always gotten away with whatever bestiality they perpetuated. But Unthank figured there was no need to run even a slight risk when without question he could subcontract that job. He did. Then the one to whom he subcontracted thought as Unthank had. As did all the subcontractors until Chris Patterson agreed to do the job for \$20. Then he, too, figured ten bucks clear is ten bucks clear. So, why run any risk? He got R.C. Tackett to agree to do the job for half of his twenty.

Tackett hid the explosives, surveilled the job, then returned at night to place the dynamite under Peggy's first-floor room. Tackett lit the fuse and wandered off unseen. He was safely away by the time the fuse burned down and that dynamite exploded.

Peggy was asleep in an old-fashioned metal bed. Not the rare and cherished old brass beds. A cheap iron one with a chipped coat of white paint on it.

The explosive sent the bed up into the air. It then, miracle of miracles, turned entirely over. Then, still miraculously, the upturned metal spring with the mattress between it and Peggy kept him from suffering even a real scratch!

Impossible? It happened! It really did happen!

Our investigators identified, located and subpoenaed each and every one of the chain of subcontracting assassins. Called to Washington, they testified, some reluctantly and evasively, but the record is stark, clear, public and beyond any contradiction.

"Bloody Harlan" it certainly was!

After our hearings the Department of Justice decided to prosecute the Harlan coal association and some of its members. In the indictment of more than 60, about half were deputized gun thugs with proven records of murder and other crimes.

The charge was conspiring to violate national labor laws. (Murder was a state not a federal crime.)

This is not in any way even suggested in the title of the case in the law books. There it is *The United States v. Mary Helen et al!*

Mary Helen was the name of the first mine named in the indictment.

The Department borrowed me from the committee's staff to assist in the prosecution. I had more knowledge of the committee's evidence than anyone else having been the only one to handle all of it. I was to assist in the preparation of those duces tecum subpoenas because I knew better than anyone else what records to order be brought to the court.

Before long I was doing other things, official and unofficially.

Unofficially I was the party's rum-runner. The trial was at the seat of the federal district court for that area, in London, Laurel County. Laurel was a "dry" county. No sooner had the federal party arrived than the bootleggers doubled and tripled their prices.

We were all indignant at being ripped off, of suffering a large markup over and above the one that applied to all others.

I have no idea who got what of what I brought back. I as the rum-runner, not its distributor. Brien McMahon, the assistant attorney general in charge of the criminal division, loaned me his official car, an armored Buick. It handled like an underpowered truck until it gained momentum. Once a week I drove it, all alone, to either Lexington, Kentucky, to the north, or to Jellico, Tennessee, to the south. Whichever way I went it was a couple of hours, twice that plus shopping time for the round trip.

I never had any trouble of any kind. Nobody ever caught on.

There were three hotels in London, all along the main street. It was also the main north-south highway. They were modest, frame buildings, none new.

We moved to London from Harlan after a few unusual experiences. Like finding Bill Hickey, one of the indicted gun thugs, with his ear at my door when we conferred in my room. (He fled, his bolstered pistols sailing away, from his body as he ran.) And having to spirit the regressed reformed alcoholic who was the official chauffeur out of Harlan undetected and get him safely back to Washington and treatment. (He had heard of dynamite being wired to automobile starters.) That was not entirely uneventful.

Some of the union people were in London soon after we were. Almost immediately the oldest man among them seemed to get interested in me, the youngest in the official party. We were soon good

friends. He was the union's general counsel for that district, Thomas Charles Townsend, who, when a Teddy Roosevelt Republican had been elected lieutenant governor of West Virginia. His office was in Charleston. When I learned that he went walking in the mountains every morning, liking him as much as I did immediately, I was sitting in his hotel's coffee bar before daylight waiting for him to emerge as soon as the sky began to lighten. By then I'd had orange juice, coffee and had looked at whatever paper was there, usually the Knoxville *News-Sentinel* or the Lexington *Herald*.

Tom was a very old man to me. Whatever his age, we never walked less than three hours daily in those mountains and he never once showed signs of tiredness. For those three or more hours we chatted, mostly him telling me stories and recounting the more interesting events in his life and interpreting and commenting on them.

Between us we were armed with only his small pocket knife. As soon as we passed a piece of wood or downed branch thick enough he started whittling. He whittled as long as he had anything to whittle.

With more than 30 indicted gun thugs, our "enemies" in town, we were never bothered in any way. It was as FDR had said, don't fear fear. We didn't give it a thought.

We were always back in time to shower and change before court session began.

We became such good friends that whenever he was in Washington Tom just showed up at my office, Room 103 Senate Office Building.

I learned much from that gentle and wise man who had lived a long life in a different era and a different area, who had had a wide range of activities and responsibilities, and who shared them so a younger friend could learn from them.

Among the other friends I had among the good people of London, as far and away as most

were, save for one the clearest recollections I now have are of Mike Pennington, clerk of the federal district court, John Peters, a machinist, Peyton Lovelace, a postal clerk, and Homer Clay, a lawyer who took the cases of the poor who could not pay him. Homer also owned the local weekly newspaper.

Through one of these fine men, all good friends, as a result of our friendship and of our mutual trust, I was involved in what was a rare learning experience for a young man.

That friend and honorable man was Mike Pennington. When I met him I was surprised, expecting the clerk of a federal court to be much older.

Like Tom Townsend, whenever his duties took him to Washington, Mike also stopped off at my office. Both knew I was almost always there the long days I worked.

Unlike the members of the official party, I was not inhibited in making local friends because I was not officially part of the official party, of the prosecution. I lived with it but I was part of it only unofficially. It was probably correct, if not ordered, for the official party not to fraternize. As for the FBI agents, they registered into a different hotel, as it happened the one with the best food. They kept apart from the rest of the official party. Undoubtedly told to by FBIHQ.

In Harlan town, however, they were in the same hotel, The New Harlan Hotel, their rooms next to ours. Which was better for the rest of us, for sure.

(In Harlan one day when no other agents were in the hotel one of them came to my room to give me a warning. "We have to spy on and report on each other and on any unusual event," he told me. "If one of us does and any other does not, the one who does not report is certain to get into trouble. I'm getting out soon," he continued, in effect saying that he did not want to live and work that way. But he was pointed in warning me that I had best expect to have a report to FBIHQ if I were involved in anything it might consider wrong or questionable because all the agents would know that if

any one failed to report it he knew very well that his failure to report could have serious consequences for him.

(I remember his name, his profession- he was not a lawyer- what he said he would do on leaving the FBI- and his face is still clear in my mind's eye. He did what he intended to do very effectively: he warned me as I never forgot.

(There was confirmation of this shortly after we moved to London. One evening after supper when there was some press drinking to which I'd been invited, The New York Daily *News* reporter made a few cracks about Hoover as a homosexual. That was the last time I saw him. He was missing the next day and the day after that he was replaced by George Dixon as *the News'* reporter on the story. Dixon was later a syndicated Washington columnist. I think the message was comprehended immediately by the entire press corps because I never again heard any

FOR THE RECORD ONLY — DO NOT INCLUDE

Include in retyping with the note for the record only — not to be used — because he may still be alive and in his 90s so I do not want to use his name. He was George Stevens, he was an accountant from the midwest.

comment about Hoover or about the FBI from any of them.)

Despite the presence of those FBI agents, there was much not-to-their-faces boasting about what some of the indicted gun artists would soon do to some of us. one day when he and his partner stopped off at a small, rural roadside store to cool off with a beer, Del Bryce, detailed from the FBI's Oklahoma City Field office, finished his drink in silence. He then asked for a half dozen empty pop

bottles. In silence he took them outside and found a place where he could line them up, like the top of a wooden fence. I was not there and do not know on what he placed those empty bottles. Bryce then walked some distance away from them. He stopped, drew his revolver, and without turning around, looking straight ahead, he shot over his shoulder and hit each and every one of those bottles.

He then said nothing, got into the FBI car with his partner, and they drove off.

He said nothing, but my! did that story get around!

There never were any more reports about what the gun thugs said they would do to us.

As my absence from my Senate office neared the end of its fourth month I was getting farther and farther behind in publishing the hearings. I had proofs mailed to me, I read, corrected and mailed them back, but I could not work at the pace of my work in Washington. I began to get grumbles from Washington and stories about knives being sharpened for my back behind my back.

Then one night when taking a moonlight stroll before retiring, there was Mike Pennington beside me. He had been waiting to find me alone and outside, where there could be no eavesdropping, so he could with safety tell me a startling and deeply troubling story.

The jury had been fixed!

"But Mike," I remonstrated in disbelief, "the jury is sequestered! It is guarded by United States Marshals. How in the world could it have been reached?"

Then he told me the whole story as we strolled the moonlit side streets in that pleasant little community of 1910 people, permanent residents posted on the official state road signs, that fairly flat area in the mountain that grew into a town.

Through their lawyers the Harlan Coal Operators Association had learned by checking the records which of the men on the jury owned their own homes. They then checked further and learned

which homes were mortgaged and who held those mortgages. Their next step was to buy up all the mortgages. once they held all the mortgages they then let the wives know what they had done. This, as it should have, frightened the wives of the sequestered and guarded male jurors. All jurors were male in that area in those days.

When the wives visited their husbands, with the marshals nearby, they told them of the new dangers in their lives: their mortgages could be foreclosed- by those on whom they were sitting in judgement!

As it should have, as it was intended to, that then frightened each and every one of the jurors who owned his own home and had a mortgage on it. Each and every one them knew, as he was intended to know, that it was not impossible for him and his family to find themselves on the street, their investments in their homes gone- wasted if they voted “guilty.”

What to do? How to cope with the possibility of utter ruin?

Each of these jurors knew immediately that he would be in the deepest trouble if he did not vote to acquit those so obviously guilty of the most heinous crimes, heinous for even that so long coal-operator dominated and terrified remote area deep in the mountains of southeastern Kentucky.

Aside from their wives and each other the only contact those jurors had with anyone was with the United States Marshals. so, they told the marshals.

On their part, the marshals did not trust their fellow federal officers, the FBI.

They also did not trust the Department of Justice lawyers.

So, they told Mike.

Mike, clerk of the federal court, also trusted neither the FBI nor the federal lawyers.

So, he decided to tell me.

There was some risk in this for Mike. He lived and worked within reach of the indicted murderers and of those who paid them to murder.

And who had the capability to murder right there where they were being judged before the federal court, despite federal power with them every minute. No joke. It was very real. It happened!

While Harlan symbolized the barbarities, the indecencies, the unspeakable terror beyond belief elsewhere in the country, Harlan was not unique, except in the magnitude of the murders and other abuses and the terror. We were where murder was an every day affair.

I remembered a local rendition of this while Mike and I were walking and talking of this most brazen challenge to federal power and authority of the federal courts.

Once when Homer Clay was out of town in a lawsuit being tried elsewhere, his wife Delores, troubled about their financial plight with so many bills not paid to the paper for advertising, asked me to go with her when she drove for about a half hour, to Manchester in Clay County. she told me she was afraid for Homer to seek payment on the overdue bill because he could easily get killed just for asking that he be paid!

She thought they would not harm a woman. Hoped it, anyway!

But she also asked me not to leave the car when we got to the county seat, to that picturesque little town that looked so much like what Hollywood showed us of country towns of a century earlier.

Just imagine: it is a reasonable expectation that if a man asked to be paid what he is owed and is long overdue, he can be killed for it!

His honor is questioned when a man is asked to pay what he has long owed!

With this kind of reasoning, this kind of public expectation, is there any murder that cannot be

justified?

Is there any crime short of murder that is not also justified with such reasoning and attitudes?

This terror, those murders, the many restraints on personal freedom in the country, even the probability of a man being killed if he asked to be paid what was owed him, was not reflected in the day-to-day activities of the good people of London. Most seemed to be oblivious of the crimes that were really being tried in the federal courthouse and what were being testified to, proven there, as they had been before the Senate.

On its steps, the steps toward the north of that side of the courthouse, every morning it did not rain, men gathered with their string instruments. I remember ukeleles, mandolins and guitars. They sang the songs of their area to each other, sometimes making a competition of it, who did it better or had the better version or arrangement. They enjoyed it, as did the few, very few, who gathered around them.

From time to time they suspended their songs for arguing their different interpretations of the fine points of the Bible. Even their music reflected the importance of the Bible to them.

Peace and harmony on the street level, on and around the steps facing north, while there was the trial of murderers in the second story courtroom. The incongruity of it struck me almost daily.

I no longer remember how long Mike and I walked those peaceful, quiet, moonlit streets, past the good houses of the good people of that pleasant little town, houses few of which showed any lights. We were both scared, very scared. And horrified. Imagine, such an outrage in the United States of America in the Twentieth Century!

It was a challenge to the entire structure of the nation! To its authority, too!

Absolutely inconceivable!

Yet real, absolutely real.

All I could think of that I could do was tell Brien McMahon. He was after all, not only the symbol of federal authority, his was a very important position. He was the Assistant Attorney General of the United States of America, the man in charge of the Criminal Division of the Department of Justice.

Mike had thought this unprecedented, terrifying, impossible situation through. He did not dare let it be known that he was involved. He had no other thoughts, had not thought of anything else he or I could do. If he had, he would have told me. We had become good friends, trusting friends, reflected by sharing with me this development so fraught with danger for all who knew, who could be killed only because they knew!

Mike reflected no optimism when we parted. I, then about 25 years old, felt confident that McMahon, who could wield great power, would take care of it.

He didn't! He refused even to believe it! No checking of records to learn if there had been this brazen if not unprecedented challenge to federal power, to the authority of the nation itself.

I was aghast! How could anything like this be entirely ignored? More, by a man with all his awesome power and his great responsibilities, nationally and before the majestic federal court whose officer he at that very moment was in remote London, Kentucky?

Awesome federal power? Not in that hinterland There was real power asserted by the coal corporations through their association and their deputized gun thugs who enforced their power for them without restraint, inhibition or conscience and when they deemed it necessary, by the murders for which all were immune.

The case of the *United States v. Mary Helen* was not a murder case.

The charge was conspiring to violate federal laws relating to labor practices.

So, even in the federal courts those many murders were then not charged, not before it as murders. Those murders were not punishable as murders under federal law.

McMahon had more than a merely competent crew of experienced FBI agents there to do all that was required. He did not even ask them to check it out!

I no longer remember which or how many of his lawyer assistants he or I spoke to. It is clear in my mind that all knew.

Of that detail of FBI agents, for each and every one of whom I had the respect each and every one had earned on that assignment, the one I liked most, the one who became and remained a friend as long as he lived, was James M. McInerney. Jim, a Fordham lawyer, was not old enough to be my father but in many ways he was fatherly. And he trusted me. I remember, again clearly after all these years, that anticipating the possibility that he might have to undertake some mission when all the other agents were away and when there could have been danger, he looked ahead and asked me to do what could have cost him his job and what grew into a fine career. Before long he was an assistant attorney general, first in charge of the Lands Division, later promoted to heading the Criminal Division, the rank McMahon then held. Jim discussed what he had in mind with me. I agreed to sort of ride shotgun with him if the need developed, as it did.

(Once when his wife Helen visited him she brought their infant son. Years later, when the son was in law school, in a moot court he was assigned to be Oswald's lawyer. That a university had used the assassination in educating lawyers made the papers. Dutifully, the FBI clipped that story, attached it to a memorandum recalling that the father had been a special agent, made critical comments about the

son having the role of defense counsel and routed it to Hoover. Those who kept the aging Hoover preoccupied knew he would be offended. Hoover was offended by the mere existence of what he imagined was critical of the FBI. He was more offended that it was the son of a former FBI agent who did what he was told to do by his professors- as part of his training as a lawyer! Hoover would not accept that even as a university training exercise, as the bureaucrats cloned on him knew. They also knew that the more time he spent reading about the JFK assassination the less time he would have for criticizing them!)

Jim preferred the pistol. He was officially armed with a pistol and an automatic. He told me that before he would trust me to hold the automatic I had to be familiar with it. For him that meant being able to take it apart and put it together again blindfolded.

My mind still returns to the picture of the time I spent practicing at the old-fashioned library-type table in my room in Charlie Rodgers old-fashioned hotel on the west side of the narrow main north-south highway and was London's main street. Hours of trying and failing until at last I could do it. When Jim saw me do it he was satisfied.

That is one learning experience on which I never again drew!

It was not long before, when no other agent was around, there was the report that one of the gun thug defendants, Allen Bowlin, had skipped town. He had not been seen for some time, the federal party learned. Only McInerny was there to go looking for him. And he had only me for what little protection I could give him. It was scant protection indeed!

Perhaps he thought that the mere presence of another man in an FBI car would be some protection because he would be assumed to be another FBI agent.

We took a long drive deep into the sparsely populated mountain, down near the Cumberland

River. I remember, again clearly because what I saw was so very unusual for me. We came to a small group of men gathered in a clearing around several old-fashioned galvanized steel washtubs. For those not familiar with them, they were about two and a half feet wide, about a foot deep, and women scrubbed the clothes soaking in sudsy water in them on corrugated washboards. The clothes were then rinsed in a similar tub.

But that bright, sunny day in a clearing in the woods near a small frame house those men had catfish the likes of which I'd never imagined. Nothing like them in the catfish of the east I'd fished. They were so very big that a single one in a tub circled the outer wall of the tubs in much more than a circle. The head circled well past the tail. They must have weighed 50 or more pounds each, it then seemed.

They were Mississippi channel cats, of which I'd never heard. I asked and was told they are indigenous to the Mississippi River area.

With what he learned from those men McNerny drove us a short distance to another clearing and another small frame house. When we neared it on the narrow dirt road he told me to cover him. I scrunched down alongside the door, the automatic off "safe" and in my hand with that window rolled down.

There was no need to use it, fortunately. McNerny learned what he had set out to learn and we returned to London. Bowlin had not skipped even if he had not been seen.

I had come to know Mike Pennington pretty well, I believe. He was a good person, a solid, dependable man whose word I had no reason to question. More, he was, in addition, the clerk of the federal court. He was in a position of responsibility. I had no doubt at all that Mike was convinced the jury had been fixed. He also knew the area in which he had been born and raised and lived all his life.

He knew and understood its people. If Mike believed it, as with obvious concern and real worry he did, I believed it without any question at all.

But who could dream of fixing a sequestered jury guarded by United States marshals?

The coal operators association was at the least capable of conceiving that based on the record of all it had done and gotten away with. Almost 400 unsolved murders a year. Countless maimings. The crippling and most painful whippings of those not intended to die but to live as a living warning to those who might try to organize a union. They wanted to be paid a little more and to work under conditions a little less dangerous, not to work for so much less than the average pay for coal miners elsewhere.

But by their fixing of local elections the operators asserted absolute control over all life in the county. Their influence extended into the state government.

How could this and more happen in the United States of America? One means was being able to deliver the county's vote in state elections. There was no guile about how. As one illustration there is what happened when the first voter sought to place his ballot in the Wallins Creek ballot box in one of the sparsely-settled places in that sparsely settled county: the ballot box was so stuffed he could not get his ballot in. He complained. His complaint got to the local prosecutor, a man also named Middleton. He was a blood relative of "High Sheriff" as they then were referred to. The sheriff was charged with stuffing the box. The judge who was to try the case resigned. Sheriff Middleton's lawyer was appointed to replace him. The resigned judge then became Sheriff Middleton's lawyer. One of these switches I remember was named Saylor. When the case came to trial, to nobody's surprise Sheriff Middleton was acquitted. However, before the case came to trial there was a new prosecutor. I remember nothing about him. I do, however, remember Prosecutor Middleton's car exploded. He was killed.

Dynamite had been wired to his starter so that the spark that would have started the car

detonated the bomb.

Car bombs did not originate abroad with foreign terrorists decades later.

They were a Harlan County standby beginning not later than 1930.

If the reader should perhaps be less willing to believe that in that area a sequestered and well-guarded jury can be fixed, that one was. It is the other extreme, the opposite of such crude and awful violence. Nothing physical to it. No blood at all.

Defendants' counsels included some of the most respected lawyers in the state, several from Louisville, the capital, and some perhaps from Lexington. There also were some locals. One of them I remember well reputedly never entered a courtroom without his trusty handgun. Cleon K. Calvert had the reputation of being one of the toughest if not the very toughest of Harlan County lawyers who, if they took a criminal case, had to be tough.

Not that some civil cases did not also require them to be pretty tough. It varied from case to case, from defendant to defendant, from plaintiff to plaintiff.

Of the big-city respected and respectable lawyers hired by the coal association, men of prestige who, if they did not themselves fix the jury, could not have failed to know about it, one had a son who was later elected governor, a man who became famous in his own right.

These names I do remember, but the sins of the fathers ought not be visited upon the sons.

With the jury fixed, I knew I wasted my time by remaining there.

I also knew that my job was in danger from those anxious to replace me. My source was unimpeachable: it was the woman who became my wife and who later made all I was later able to do possible. Without her what I have done would have been impossible for me.

So, with no further reference to the fixing of the jury that McMahon refused to believe- what was so far outside anything he had experienced- I told him I was getting so far behind in my Senate work I'd like to return to it. He agreed. He even gave me a letter of recommendation to the Justice Department for me to use after my Senate job ended. (I did not use it.)

The best way to get to Washington from there was to drive about 120 miles south to the Knoxville, Tennessee airport. I'd used it several times, going and coming. There were two planes a day to and from Washington. Oddly, both were at 1:13, a.m. and p.m. The planes were DC2s. They were early planes, among the sturdiest. They had two rows of single seats, one on each side of the aisle. I remember one of their conveniences, an unprinted empty quart-sized hard cylindrical container then used for ice cream when packed by hand, as much if not most ice cream then still was. They looked like plain, unprinted oatmeal containers. They were to provide an alternative to emptying a queasy stomach onto the floor. Flying in those much smaller propeller-driven planes was not nearly as smooth as in the larger much later jets.

The Knoxville terminal then was a plain cinderblock building perhaps twenty feet wide and twice as long. Washington's was similar but a little larger.

I asked Homer Clay if he would drive me to the plane. The bus trip took three hours to Knoxville. There then was a trip by cab to the airport some distance from the city. Taking the bus also meant just hanging around in that airport terminal building for hours. Homer said he would and he did.

He drove me around London for some goodbyes. When I stopped off at Dan Brown's print shop to see him and say goodbye, one of the indicted gun thugs was nearby. We had a few words, I shook hands with Dan, and we left for the airport.

What was not so unusual in those days is the story of Dan's father. He started and owned London's small rural bank. It prospered. He then cleaned it out. Stole just about all the deposits. He was tried, convicted, sentenced to three years, and he emerged one of the richest men in the area.

Justice, huh?

It had been only a few years since the papers where I lived carried reports of men being sentenced to 20 years for stealing a single loaf of bread or a quart of milk to feed their children. Bread was then seven cents a loaf.

But for ripping off about a quarter of a million dollars, a large sum in those Great Depression days, Banker Brown's father got three year and kept his loot that nobody was ever able to find!

I was anxious to get on the plane, very anxious.

That made it even more frightening when Homer's Chevy suddenly lost its lights as we were turning away from a sheer drop hundreds of feet over the side of one of the mountains.

He was able to stop in time. He kept working the dimmer switch, then operated by foot, and finally got the lights again.

We got to the airport with no additional surprises. Homer and Delores awaited the plane with me. It was a clear night, we saw it approach and land, we said our goodbyes, and I got on the plane and sat on the side toward them. they waited for it to take off.

Takeoff was two hours later!

Carburetor trouble!

After my brief conversation with that indicted gun thug I was really anxious to get as far away as I could.

Finally, after two hours, anxious hours for me, we did take off.

The next scheduled stop was at the airport for a city that is in two states, with the main street the dividing state line. Bristol is in both Virginia and Tennessee. On earlier flights previous early mornings the small plane had run off the runway past the end of the paving before it stopped.

That time it didn't. Instead of getting to Washington at about five a.m., it was after seven.

The then Washington National Airport was where the Pentagon now stands. There was a barbecue takeout restaurant nearby. It was not uncommon in taking off from that Washington airport for the plane's wheels, which then did not retract, to scrape a few treetops. It had happened when I was on those tough and dependable DC2s, and I'd seen those empty ice cream containers used.

Within a week of my return to Washington the papers reported that what I remember as seven of the indicted gun thug defendants had been shot dead, allegedly by other gun thug defendants. If anyone was ever arrested for any one of those murders I did not hear of it.

There was a rumor that one was suspected of preparing to turn state's evidence and cop a plea in a deal for leniency. Whatever the truth or explanation, if anyone was suspected it had to have been one of the most experienced in the nefarious business, Lee Fleenor, because he was the first killed of them.

The newspaper accounts were that one of Fleenor's friends shot the man he believed had shot Fleenor. Then friends of the second murdered gun thug also killed in retaliation. In all, there were seven who did not live to be acquitted.

Getting away with entering a no-contest plea, formally of nolo contendere, had already been proven to be too dangerous to warrant the risk, as to its regret one of the largest of the nation's coal companies, Peabody, learned breathtakingly fast. I was in on it.

Peabody's Harlan County mine is one of those known as "captive " mines because they are owned by very large absentee corporations. Peabody sent one of its staff lawyers, a bright and pleasant man without a right arm named Appleby to make a deal. When he started to negotiate the plea that is less than admission of guilt, that legally means only the charge is not contested, in the hope of favorable consideration in the agree-to sentence or penalty, which has to be approved by the court, McMahon had me join them because I could- and did- think of more offenses that could be attributed to Peabody than anybody else.

When agreement was reached, Appleby turned to me with a wan smile and said, "son, you are one hell of a devil's advocate." Until then I had not heard of "devil's advocate," one who seeks to break down a defense or argue an opposite point of view.

As I remember it the deal was agreed to after the close of court for that day. It was to be filed with Pennington in the morning, seeking Judge H. Church Ford's approval.

Before dawn, long before the deal could be filed, we were informed that the tipple of the Peabody Harlan mine was afire.

That fast, that very fast! All the other defendants were warned. certainly Fleenor knew. Everybody for miles around knew.

Yet supposedly under the protection of the federal court first Fleenor and then six others were the victims of unpunished murders.

Just as in Harlan County!

It was not long after I wa back at my Room 103 desk before the case of the *United States v. Mary Helen et al* ended.

All remaining defendants were found not guilty!

Despite overwhelming evidence of guilt, all were forever freed.

As did Tom Townsend, whenever Mike's business took him to Washington, he visited me.

We must have discussed that jury fixing but I have no recollection of it.

That it could and did happen was something I would never forget.

What a terrible thing to learn and to learn the way I did!

Among the multitude of Harlan County's everyday horrors that before 1936, when I went to work for that committee, I would not have believed, perhaps more than all the blood shed, the bodies maimed, the children orphaned and their mothers widowed what then may have been most difficult for me to abide is the corruption of our system of justice.

That and the unwillingness of those well-educated, sophisticated and widely experienced Department of Justice lawyers to believe that anything like that could be perpetrated, the belief that was so wrong so strongly held the marshals were not even asked if the jurors had told them what I reported to McMahan, without identifying my source.

McMahan, later a United States Senator from Connecticut and then "father of the atomic energy act" had earlier actually tried an Arkansas peonage case himself.

He was not unwilling to investigate, charge and himself try unusual even unprecedented cases. That may have been the first peonage case since the Civil War era.

He was not in any sense timid or cowardly.

Could it be believed that in the United States in the 1930s there could be peonage?

Of course not!

But there was and he got convictions.

Yet experienced as he was he just refused to believe that his sequestered jury could be fixed.

Perhaps if despite all his many responsibilities, all of the great demands on his time, McMahon had learned other details of life in Harlan County, he might have directed the investigation be made. It would not have taken long or cost much. All he had to do was ask Jim McInerney to check.

There is no doubt in my mind that McInerney would have done it himself and done it expeditiously.

Court and property-transfer records are public records.

The jurors' wives were all accessible.

But then who could believe that there were private jails in the United States and that they were actually sanctioned? That men could be and were thrown into private jails without any charges filed, without trial, without any defense? They were, that did happen. One private jail I remember was a mere dugout place under the steps of the office building of the mine that if my recollection is correct was that of the Lawson Coal Company. Its owner was known as "Uncle Bob" Lawson- because he had none of the attributes of an uncle.

No, of course no such thing could happen in the United States of America. Never!

Only in truth it was not at all uncommon in that remote part of the land of the free and for so many so entombed, often the home of the brave.

What grim and unexpected learning for a 25-year-old with his belief that our founding fathers were the best and wisest political thinkers the world had produced and that they had seen to it that no such things could happen here.

Private jails?

Immune murders?

Juries fixed when sequestered and guarded with the might and majesty of the United States of America?

Impossible?

Not in "Bloody Harlan!"

There also were wonderful people in that area who somehow escaped what could not possibly happen and so often did.

Many of these fine people had never lived elsewhere and in those days so long before televised pictures told them about what lay outside the wall of mountains that still confined them sought to tell us that they were not all that backward, their world was like our world.

One attempt to tell us that they, too, were in the modern world.

When we got our laundry back in those days so long before wash-and-wear we found that even our socks and underwear were starched! Along with our shirts.

Good, kind and thoughtful people like Peyton Lovelace who wanted me to have something by which to remember him. He took an ancient Stevens single-shot dueling pistol and sub-calibered it into a pistol that would fire standard .22 ammunition. Peyton was a postal clerk. He was a machinist by hobby. He shimmed it with a piece of a Chevrolet steering column into which he inserted a section of the lands and grooves of a .22 rifle. He did that in John Peters machine shop. The John Peters who had fenced his fairly large property on the southern edge of town so he could save fawns who had lost their mothers. He raised them until he could turn them loose to live their natural lives. Those infant deer were bottle-fed, by hand, until they no longer required milk. John and his friends took that time. They cared.

I do not require that pistol I still have to remember Peyton, father of five girls and no son.

He also put rifle sights on that former dueling pistol. It is quite accurate. When I farmed and inspected the henhouses at night I used it to shoot rats.

There, were midst all the villains, some of the finest people I've ever met.

The year after that trial, beginning two days before Hitler invaded Poland. I took my wife on a trip during which we met some of them.

Our last stop on the way back was a visit with George Titler. After the trial the United Mine Workers believed they could safely keep a representative in Harlan. I phoned from London. By the time we reached his home on Harlan's town's main street George's Pennsylvania Dutch style ribs and sauerkraut were ready for us. He also baked us a grape pie, first time I'd even heard of grapes making pies.

It is incongruous that years later my friend George was among the Mine Workers Union officials of various ranks who were charged, with some convicted, of plotting to Harlanize-assassinate- their internal union opposition. I'd never have believed that the Bill Turnblazer I'd known from near the Tennessee border was capable of anything like that either.

There is so much we simply cannot believe until there is no choice for us!

So much that is so very awful!

So much that is so genuinely subversive!

So much that was so unwelcome to a 25-year-old so anxious not to believe it but, having lived so much of it, he found it as remarkable as it was a disagreeable a learning experience. In this country? Simply impossible yet also the stark and terrible truth.

Three decades later these learning experiences were of considerable value when what also was

"impossible," a President was assassinated and consigned to history with the dubious epitaph on an unacceptable "investigation."

There were a number of learning experiences in an event the committee did not investigate and the Department of Justice ignored because it was not relevant in the *Mary Helen* case. I do not know it of personal knowledge. I was told by those who did know about and it was, contemporaneously, widely reported and then forgotten.

Although the Harlan Horrors were not reported in the major media, they were not entirely unknown. To be able to write about them Sinclair Lewis, one of the greatest of American writers, a man who lived what in some ways then was an unconventional, free-style life, went to Pineville, like Peggy Dwyer, thinking that was close enough. He had a secretary with him. They took separate rooms in a Pineville hotel the name of which I do not remember now. Lewis spent his days interviewing so his mission was not at all secret.

It also was not at all to the liking of the Harlan and to the Harlan-minded local authorities.

But what to do?

Even they knew he was truly a famous man. Any violence was much too risky. It would get much too much attention. So, there was deep thought about what could safely be done about this intruding outsider who was certain to write what would not be liked and could be harmful, at least so regarded by the area "establishment." An idea brilliant in its simplicity was implemented by the local sheriff.

Lewis' room was surveilled without detection. The secretary remained there long into the night and sometimes all night. So, one night the sheriff, waiting until it was late for that area, crept up to the

door of Lewis' room when he knew the secretary was still there. He stood some toothpicks against the door. If they were upright early in the morning, earlier than he believed anyone in the room roused, he had, he believed an open and shut Mann Act case.

Many years earlier the national legislature enacted a law proposed by a Congressman or a Senator named Mann making it a federal offense to transport a woman across a state line for immoral purposes.

That is what Lewis was charged with in Bell County court.

Came the trial and Lewis had an airtight defense: he had worked with his secretary and all immoral purposes were impossible because he was impotent.

Ray Daniell, sent by the New York *Times* to cover the *Mary Helen* trial, added to this story when I told it one night at a party in the home he had rented for the duration of that trial. Most of the others there were other big city reporters.

"When that story appeared in the *Times*," Daniell told us, having to repeat himself for time to time because his laughter made his words incompletely comprehensible, "the *Times* switchboard was virtually swamped.

"Many indignant women none of whom identified herself made angry protests over what all one way or another alleged libelled Lewis.

"All claimed to have personal knowledge that he was not impotent at all!"

Similar but far from identical stories could have been written in 1938. I was involved in improvising care when all in the official party and others fled or refused to get involved when a secretary had a leg broken while resisting an attempted rape. Not another woman there or any of the men- most were gone before I was called away from my galley proofs- would even try to get her a doctor.

After all these years I no longer remember whether there was more than a single doctor in London or whether none would come at 2 a.m. or so on such a case.

In those days there were local telephone switchboards with local operators. The operator tried to help. In the end the only man I could get to come was a veterinarian!

He did a good job, too, as was learned within a day or so when that woman was seen by a doctor where she lived.

I had only a two block walk. When I got there, this woman of the official party, was lying on the floor at the base of the winding stairs to the second floor in the living room of the fine home- the New York *Times*- has rented!

If the reader stops to think about it a number of useful if not important learning experiences should be perceived in this experience that scared the hell out of me.

There are a few other stories also of similar but not identical nature that perhaps, for all I learned from them, had best be forgotten, even one that required resisting a not inconsiderable temptation, because I have no way of knowing who may still be alive.

Much as I learned from them!

STOP HERE: *This is just for the record. I do recall the names but they are not important. (Or should I use it?)*

Among the official party was a fine woman with a few problems. Until she was away from Washington and away from the office nobody had learned that she was also a nymphomaniac with a weakness for whiskey. Otherwise she would not have been there. It was inevitable that she had to go back to Washington- with escort.

Not one of the FBI agents (and it would have been embarrassing for one) or any of the lawyers would do it. McMahon asked me to and I did.

Nobody would drive us to Knoxville, of all the FBI agents with cars, or in the one Justice Department car in which I was the party's rumrunner, and McMahon did not want me to leave that car at the airport. Too much of an embarrassing incident if the car was stolen or burglarized.

The woman, whose name I do remember, agreed to take the Greyhound with me although that meant seven hours on it, in a taxi and just hanging around at the airport.

When we got to the airport for that 1:13 a.m. DC2 for Washington, almost nobody was there. We killed time until we saw the running lights of the incoming plane. But instead of landing it circled. That surprised us because we could see it clearly enough. After circling for a while it turned and flew west in the direction from which it had come, to Nashville.

I asked the man in charge at the airport what had happened, why the plane had not landed. He then explained to me that clearly as we could see upward and see the plane there was a thin layer of ground fog. That made it dangerous for the plane to land. We would be taken to a Knoxville hotel, provided with breakfast and a cab back, all paid for by the airline, and we would be awakened in time not to rush and still make the plane.

We were given connecting rooms. We were awakened in time for breakfast, a cab waited to take us to the airport, and the trip to Washington was uneventful.

When we parted at old National Airport, then where the Pentagon now stands, was the last time I saw her.

For all I know she may now be a great-great-grandmother