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05813

THE FIGHT OF ALEXANDER HOWAT
FOR THE RIGHT TO STRIKE

A Thesis Submitted to the Graduate Division in
Partial Fulfillment of the Requirements for the Degree

Thesis Advisor of Master of Science *Seckman*

Chairman of Thesis Committee *Ernest Mahan*

Chairman of Graduate Council *Ernest Mahan*

By

Thomas L. Monninger

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Pittsburg, Kansas

August, 1946

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The United Mine Workers of District 14, under the leadership of Alex Howat, made a desperate all out attempt to discredit the Kansas Industrial Court. They attempted to prove the failure of the court by calling strikes in defiance of the law. The body of this paper consists of the court proceedings and results of the several trials caused by this disobedience of the miners. In every trial the validity of the Industrial Court Law was upheld and the union officials were obliged to pay fines and serve time in

jail as a penalty. ABSTRACT timent and United States

Supreme Court rulings later made the law ineffective and

The right to strike is a privilege held dear and guarded closely by all organized labor. This is the most effective weapon with which organized labor can deal with capital and management. Alexander Howat, as President of District 14 of the United Mine Workers of America, vigorously opposed all attempts to restrict this cherished right to strike.

A short biographical sketch of this leader of the Kansas miners is used as a background for the study of the situation that developed after the enactment of the Kansas Industrial Court Law.

Immediately following the end of World War I the industrial situation became such as to seem to warrant the enactment of industrial legislation. Kansas, acting as a pioneer in this type of legislation, introduced the Kansas Industrial Court Law which substituted compulsory adjudication for the right to strike.

The United Mine Workers of District 14, under the leadership of Alex Howat, made a desperate all out attempt to discredit the Kansas Industrial Court. They attempted to prove the failure of the court by calling strikes in defiance of the law. The body of this paper consists of the court proceedings and results of the several trials caused by this disobedience of the miners. In every trial the validity of the Industrial Court Law was upheld and the union officials were obliged to pay fines and serve time in

jail as a penalty. Public sentiment and United States Supreme Court rulings later made the law ineffective and it became largely a dead letter.

Among the many sources used in the construction of this paper, the following are considered by the author to be the most important:

1. The court documents of the Crawford County District Court at Girard, Kansas, were very helpful in furnishing definite and accurate information concerning the several trials in which the mine officials were involved. The Carnegie Public Library of Pittsburg, Kansas, has a complete file of the Pittsburg Headlight. This publication contains a complete account of the controversy over the Kansas Industrial Court as it affected the miners of District 14. This source of information served well in presenting the events that led up to the court trials and in giving the views of the miners. Personal interviews by the author with the wife of Alex Howat and his friend and comrade, August Dorchy, proved of much value in verifying the data that were available on this subject. Howat and Dorchy were always found themselves out of office at the next election.

Howat, with all the qualities of a good labor leader, was absolutely without fear, honest to the extent of being too honest, never held a hatred for any man who might oppose

CHAPTER I

BIOGRAPHICAL SKETCH OF ALEXANDER HOWAT

Alexander Howat, the energetic and fearless leader of the Kansas coal miners, was largely responsible for the organization of a powerful and aggressive union in District 14. He believed in the policy of rewarding friends and punishing enemies. A savage and relentless fighter, he was known to his associates as "the bull of the woods" and opposed all restrictions placed upon the activities of organized labor. In this respect he may be compared to Samuel Gompers, the president of the American Federation of Labor. He was no more outspoken, but his language was considerably less refined. Judge Anderson, of the Federal District Court of Indiana, called him, "contumacious and insolent".¹

Opponents in the union accused him of usurping power in order to maintain his command. It cannot be seriously questioned that he had the support of the miners to an overwhelming degree; it was demonstrated too many times. Officials who were elected and disagreed with Howat on union affairs always found themselves out of office at the next election.

Howat, with all the qualities of a good labor leader, was absolutely without fear, honest to the extent of being too honest, never held a hatred for any man who might oppose

¹ Interview with Sylvan Bruner, February 19, 1946.
Domenico Gagliardo, The Kansas Industrial Court,
(University of Kansas Publication, 1941), p. 25.

him, and was a man of strong convictions, will power and loyalty. During the Coal Strike of 1919 his mother asked him to give in just a little bit so that the strike might be settled. His reply was, "No, Mother, not one sixteenth of an inch."² Possessing a wonderful and powerful speaking voice he spoke the miners' language. It was a standing joke in the building where he had his office that in ordinary conversation he could be heard all over the building; if he were being confidential he could only be heard two floors away.³

The coal companies did not get too big or too powerful for Alexander Howat to tackle. The bigger they were the harder he fought them. He had nothing to do with the operators unless there was an issue to be settled with them. Not being the type that apologized to the operators for anything he did, and having such a reputation for getting what he went after, they would usually settle just to keep him from tying up their operations. It has been said that the operators would have paid almost any sum to be rid of him.

He was not an educated man in the sense that he knew the law, and this often gave opposing lawyers great advantages over him in cross examinations.⁴ One of his short comings was that if he believed a thing to be right he could not see it any other way. This often made it hard for his lawyers

² Interview with Mrs. Howat, February 12, 1946.

³ Interview with Sylvan Bruner, February 19, 1946.

⁴ Interview with A. J. Curran, February 19, 1946.

to control him when he got on the witness stand. Judge Curran, the judge of the Crawford County District Court, said that no one could sit in court and watch him argue the case of the miners and believe that he did not have the interests of the miners at heart.⁵ Alexander Howat, being a free spender and a free giver, was never able to amass very much money. It is said that anyone could go to his office and get five or ten dollars by telling any sort of a hard luck story.⁶

Mother Jones, the great woman labor leader and organizer of the Colorado Mining District, said that she never saw a man who, as a leader, had the complete love of his men as Howat did. She said that he was one of the greatest labor leaders of all time, and probably no union leader in America ever had more complete control over his men. His climax as a leader came in 1919 when he tied up the entire coal industry of Kansas by calling strikes.⁷

Alexander McWhirter Howat was born in Glasgow, Scotland, September 10, 1876, the son of John and Mary Howat. His father was a carpenter and for many years an elder in the Presbyterian Church. His mother was a charter member of the Womens Christian Temperance Union and until her death was active. He came with his parents in 1879 to Troy, New York, and moved

⁵Ibid. Independent News, Pittsburg, Kansas, December 21, 1945, p. 1.

⁶Interview with August Dorchy, February 15, 1946.

⁷Pittsburg Headlight, July 2, 1921.

⁷Pittsburg Headlight, December 10, 1945.

to Braidwood, Illinois, and finally to Crawford County, Kansas, where he attended the public schools.⁸ Alex Howat was married on July 5, 1916, to Miss Agnes Brayden at La Junta, Colorado. Although the Howats were very fond of children, none were born to this union, but the children of the neighborhood were very fond of Alex Howat, for he was the source of many gifts and good times for them.

He began his first work in the mines at the age of ten,⁹ and worked in the mines of Crawford County until he was twenty-two years old. Then the spirit of adventure gained the upper hand, and he worked his way on a cattle boat to Scotland where he worked in the mines for a year before returning to the United States.

Upon his return to the coal fields of Kansas, being a leader of men by nature, he became engaged in the work of the Miners' Union. In 1902, he was elected as a board member of the Miners' Union of District 14. He was elected to the vice-presidency of District 14 in 1904, and in 1906 was elected to the presidency of District 14 of the United Mine Workers of America and served until 1914, when he refused to stand for re-election because of a bribery charge. This charge was proved false and Alex Howat was re-elected in 1916 and served until he was expelled from the union in 1921 by the

⁸The Independent News, Pittsburg, Kansas, December 21, 1945, p. 1.

⁹Pittsburg Headlight, July 2, 1921.

International Executive Board of the United Mine Workers Union. John L. Lewis was largely responsible for this expulsion. Howat also served as first vice-president of the Kansas State Federation of Labor for three terms.¹⁰

At Indianapolis in 1908, Howat was elected to the International Convention of the United Mine Workers to represent the United States at the International Mining Congress at Vienna, Austria.¹¹

In 1912, he was charged with bribery by a minority group of miners. He refused to stand for re-election and went to work in the mines as a digger. Frank Walsh, noted labor relations lawyer from Kansas City, was engaged and the case was brought to trial in May, 1916, in Kansas City. By tracing the bank checks and vouchers, Walsh was able to account for all the money and Alex Howat was awarded \$7,000 damages. The miners of Kansas had not waited for the verdict of the jury before bringing in their own. Prior to the trial they re-elected him District President by an almost unanimous vote.¹²

Howat served on a labor mission to Europe in 1918 with Charles Edward Russell of Washington, D. C.; Louis Kaplin, former editor of the Girard, Appeal to Reason; A. M. Simmons,

¹⁰S. M. Baldwin and R. M. Baldwin, "Alexander McWhirter Howat," Illustriana Kansas, p. 588.

¹¹Pittsburg Headlight, December 10, 1945.

¹²J. P. Cannon, "The Story of Alex Howat," Liberator, April, 1921, p. 28.

¹⁵Pittsburg Headlight, October 7, 1918.

a newspaper man from Milwaukee; and John Spargo of Old Bennington, Vermont.¹³ They carried credentials from the Secretary of War, Newton D. Baker, and Secretary of State Lansing. The purpose of the trip was to build up the morale of the working class of Europe at that critical period of the war. While abroad he addressed meetings in Glasgow, Liverpool, London, Rome, Genoa, Milan, Venice, Bologna, Turin and Paris. They returned about a month before the Armistice and reported directly to President Wilson.

In his lifetime Alex Howat made five trips to Europe and travelled through 28 foreign countries including an 18,000 mile trip through Russia. On his trips to Europe he met such men as Ramsey McDonald, Lloyd George, Arthur Henderson, Bonar Law, Kerensky, Trotsky, Stalin, Clemenceau, and Garibaldi.¹⁴

Upon his return to the United States in 1918, he spoke to a mass meeting of miners in Lincoln Park, Pittsburg, Kansas. Mr. Clarence Darrow and Governor Arthur Capper spoke on the same program. Governor Capper said, "No man in Kansas has rendered more valuable service toward winning the war than has Alex Howat. I'm glad to be able to call him my friend."¹⁵ In 1919, during the general coal strike, Howat and his District 14 stood firm in spite of all the pressure Governor

¹³ Pittsburg Headlight, March 9, 1920.
¹³ Pittsburg Headlight, December 10, 1945.

¹⁴ Ibid.
¹⁴ Ibid.

¹⁵ Pittsburg Headlight, October 7, 1918.

Allen could bring to bear. This is probably one of the¹⁸ big reasons why Governor Allen introduced the Kansas day and Industrial Court Law. Howat was bitterly opposed to this law and immediately set out to discredit it. District 14 pledged full support to their president at any time he saw fit to call a strike.¹⁶ When he ran afoul of the law by calling a strike in defiance of the Kansas Industrial Court Law, it was the first time that he had been unable to settle things to the betterment of the miners by striking. His coming defiance of the law brought prosecutions which sent him to large jail for approximately two years at Girard, Columbus, and Ottawa, Kansas. covered the meeting said it took Howat twenty minu Mary Heaton Vorse, who visited Howat while he was in jail, remarked that there was "something in his fighting spirit that even jail could not touch."¹⁷ She also said that a person only needed to hear a miner speak the name of Howat to realize what his leadership meant to the coal diggers of his district.

His troubles multiplied when the international officers of the Miners' Union expelled him from office because he year failed to call off a strike in District 14 as ordered by the international officers. This put him in trouble with the law and the union at the same time. The international took away the autonomy of District 14 and attempted to

¹⁶Pittsburg Headlight, March 9, 1920.

¹⁷Mary Heaton Vorse, "The Story of Alex Howat's Fighting District," Survey, XLIX (December 15, 1922), 359.

¹⁸Pittsburg Headlight, February 9, 1923.

²⁰Gagliardo, The Kansas Industrial Court, p. 24.

reorganize it in such a way as to break the power of Howat.¹⁸

The followers of Howat were at work on election day and a new District Court Judge was elected. The new District Judge, Mr. Woolley, having been elected on a free Howat platform, lost no time in paroling the prisoner from the Girard jail. He was later pardoned by Governor Davis, who also owed his election in part to the stand he took on the Industrial Court Law.¹⁹

When Alex Howat was released from jail, a big home coming was held at Franklin, Kansas. The crowd of 5,000 was so large that he was forced to speak to them out in the open. A reporter that covered the meeting said it took Howat twenty minutes to reach the street through the crowd. Everyone seemed intent on shaking hands with the former chief of District 14, whose advice to the miners was to stand behind their officers, demand that the officers serve them, and help their officers get the District back to its former position.

In April, 1924, Alex Howat was offered the superintendency of the Sheridan Coal Company with a contract of \$6,000 a year for 10 years, but he refused the offer and remained on the side of the miners.²⁰

Howat's objective at this time was to be reinstated in the United Mine Workers of America. The International Executive Board adopted the rule that he must be accepted

¹⁸ Pittsburgh Headlight, November 19, 1921.

¹⁹ Pittsburgh Headlight, February 9, 1923.

²⁰ Gagliardo, The Kansas Industrial Court, p. 24.

back into a local union before his case could be brought before the International Convention. He was received into membership of Local 5517 of the United Mine Workers of America at Skidmore, Cherokee County, Kansas, where he began work as a digger in the mines.²¹

On October 29, 1928, Howat was made eligible for office in District 14 by being fully re-instated in the United Mine Workers of America through action of the International Executive Board of the Miners' Union. Several locals of District 14 had already nominated him for President of the District. He was unopposed and received the support of all the locals of the district. He took office for a two year term on April 1, 1929.²²

The opposition against John L. Lewis had been building up over a period of years and in 1930 the insurgent group broke with the Lewis union. Alexander Howat, named chairman of the insurgent miners, called a convention at Springfield, Illinois, where he was elected President of the Reorganized Mine Worker's Union. This set him on a par with John L. Lewis. On March 15, 1930, he set up the new union headquarters in Springfield, Illinois.²³

²¹ Pittsburg Headlight, May 10, 1924.

²² Pittsburg Headlight, December 21, 1928. The election was held in December.

²³ Baldwin and Baldwin, "Alexander McWhirter Howat," Illustriana Kansas, pp. 588-589.

The Indianapolis convention authorized John L. Lewis²⁶ and the International Executive Board to expel Alex Howat and nineteen other insurgent leaders from the old union. of As a part of this action the Charter of District 14 was revoked and a provisional government was set up. That the provisional government is still in effect and the Kansas District has never had its autonomy restored. Its officers are appointed by the International Executive Board.

A contest was held in the courts of Illinois to decide which organization would be recognized as the legal Miners' Union. The court handed down a decision that favored the old union. There was nothing the re-organized group could do but disband, and it was dissolved March 15, 1931.²⁴ With this court decision came the end of the power of Alexander Howat for he was never able to regain membership into the United Mine Worker's Union.

In 1931 he was appointed contract investigator of labor, under Secretary of Labor Doak.²⁵ He worked at this federal job until he began working for the State of Kansas as an inspector at the Port of Entry between Pittsburg, Kansas, and Joplin, Missouri.

In later years he was employed by the city of Pittsburg in the street department. In conjunction with this job he

²⁴ Ibid.

²⁵ Pittsburg Headlight, December 10, 1945.

published a small labor paper called The Independent News.²⁶

For some twelve years prior to his death he was President of the Pittsburg, Kansas, Local Union No. 312 of the Pittsburg Building and Common Laborers.²⁷ He was a loyal and energetic friend and leader of labor until the time of his death. He was a member of the Odd Fellows; the Knights of Pythias; The Eagles; and the Ancient order of United Workmen.²⁸

He was taken to the hospital for a check up and his condition became suddenly worse and death came quickly. Alexander McWhirter Howat died December 10, 1945, at 10 o'clock from a heart attack.²⁹ His death constituted the passing of one of the most loyal and faithful friends Labor ever had.

²⁶ Interview with Mrs. Howat, February 12, 1946.

²⁷ The Independent News, Pittsburg, Kansas, January 25, 1946.

²⁸ Pittsburg Headlight, December 10, 1945.

²⁹ The Independent News, Pittsburg, Kansas, December 21, 1945.

¹ Domenico Gagliardo, The Kansas Industrial Court, (University of Kansas Publication, 1941), p. 5.

law possible.² With CHAPTER II
capital voting power, it is easily understood how Kansas,
FACTORS LEADING TO AND THE ESTABLISHMENT OF
given a situation which seemed to demand it for the public
welfare, could reach its present adjudication, even
though these two minority groups were bitterly opposed to it.

The social, economic, and political situation in
which the United States found itself after World War I
prior to the coal strike of 1919 Kansas had not ex-
perienced many serious labor troubles. There had been
set the stage for industrial legislation. Hostilities
numerous small strikes in the coal fields, stoppages and
ended November 11, 1918, and the critical period of
cessations of work lasting a day or two, but none of any
transition began. Instead of a period of national unity
great importance.
and tolerance a very different sort of thing developed.
The country became a scene of intolerance and turmoil such
in organized labor in Kansas was small, we find that labor
as had never been witnessed before. There were strikes,
was strongly organized, especially in the coal fields.
lockouts, bombings, riots, mobs, raids, the Ku Klux Klan,
The United Mine Workers under the leadership of Alex Howat
Henry Ford's anti-Jewish campaign, anti-red drives, expulsion
had the coal fields almost 100 per cent organized.
of the socialist members from congress and from the New
York Assembly, prohibition bootleggers, racketeers, the
coal strike of 1919. After the fuel regulation which had
Herrin massacre, the evolution controversy, wild land and
been in force during the war was removed, the coal oper-
security speculation and the Tea-Pot Dome oil scandal.¹
ators raised the price of coal. The miners were working

Keeping this national situation in mind we can more
under this same regulation which provided that the existing
easily understand the attitude of the Kansas population
contracts should remain in force for the duration of the
toward the industrial situation that developed in the state.
war or not later than April 1, 1920. With the raise in
Kansas was definitely classified as an agricultural state.

The over-whelming proportion of the "public" to "capital"
and "labor" was the factor that made the passage of this

¹Ibid. p. 6.
²Domenico Gagliardo, The Kansas Industrial Court,
(University of Kansas Publication, 1941), p. 5.

law possible.² With a comparatively ineffective labor and capital voting power, it is easily understood how Kansas, given a situation which seemed to demand it for the public welfare, could resort to compulsory adjudication, even though these two minority groups were bitterly opposed to it.

Prior to the coal strike of 1919 Kansas had not experienced many serious labor troubles. There had been numerous small strikes in the coal fields, stoppages and cessations of work lasting a day or two, but none of any great importance.³

In spite of the fact that the total number enrolled in organized labor in Kansas was small, we find that labor was strongly organized, especially in the coal fields. The United Mine Workers under the leadership of Alex Howat had the coal fields almost 100 per cent organized.

The coal strike in Kansas was a part of the national coal strike of 1919. After the fuel regulation which had been in force during the war was removed, the coal operators raised the price of coal. The miners were working under this same regulation which provided that the existing contracts should remain in force for the duration of the war or not later than April 1, 1920.⁴ With the raise in

² Harry De Merle Wolf, "The Kansas Court of Industrial Relations," (unpublished master's thesis, University of Chicago, 1923), p. 1.

³ Ibid., p. 6.

⁴ Pittsburg Headlight, March 7, 1919.

Pittsburg Headlight, October 15, 1919.

the price of coal the miners felt justified in asking for a raise in wages and a betterment in working conditions. The conditions were getting bad in many of the coal fields and many of the miners were working only two days a week. There was a great return from the army of union miners. About 60,000 of these men returned to their jobs only to find that there was no work.⁵ With this condition prevailing the United Mine Workers of America demanded in September of 1919, a 60 per cent increase in wages, a six-hour day, and a five day week. No agreement could be reached and a nation wide coal strike was in the making. There was a feeling among the leaders of big business that cannot be overlooked. A "show down" with labor was being called for by many powerful business men. The industrial activity during and following the war had resulted in adequate surpluses of goods and had provided abundant profits with which employers could fight, and there was not a little "gloating" over the idea of "going to the mat with labor."⁶

John L. Lewis, acting president of the Miner's Union, instructed his miners to quit work at midnight October 31, 1919. In his order he urged that property be safe guarded.⁷ While the miners and the operators were in conference over the matter and with no settlement in sight, Attorney-General

⁵ Ibid.

⁶ Alvin Johnson, "Is Revolution Possible," The New Republic, XX (November 26, 1919), 368.

⁷ Pittsburg Headlight, October 15, 1919.

Palmer filed a bill with Judge Anderson of the Federal Court at Indianapolis, asking for an injunction under the Lever Act, to restrain the officials of the United Mine Workers of America from continuing the strike.⁸ The injunction was granted by Judge Anderson who "heard the case with a closed mind, declining to hear the arguments of the miners' attorney and behaving in an arbitrary and partisan manner".⁹ The judge calmly but definitely told the attorney that he was going to grant the injunction in spite of any statement the attorney could make in behalf of labor.

Under the injunction the union officials were forbidden to send out any order, written or oral, tending to promote the strike or in any way to make it effective. They were restrained from sending any messages of encouragement or exhortation or from disbursing any union funds as a strike benefit. On November 8, 1919, the court ordered the United Mine Workers of America to cancel the strike order by 6:00 P.M. of November 11, 1919.¹⁰ The strike was called off, at least in form; however, the district leaders for the most part continued the strike.

The notice of cancellation of the general strike was received and merely put on file by District 14.¹¹ In Kansas

⁸ Pittsburg Headlight, October 31, 1919.

⁹ Gagliardo, Industrial Court, p. 11.

¹⁰ J. H. Bowers, The Kansas Court of Industrial Relations, (Chicago) Pittsburg Headlight, November 8, 1919.

¹¹ Pittsburg Headlight, November 14, 1919.

the miners, under the leadership of Alexander Howat, were determined that no coal should be mined until their demands were granted, and so the strike in Kansas continued.¹¹

With the coal supply shut off at the beginning of winter, the situation took on a serious aspect. Steps were taken to conserve what fuel was on hand, but even then many schools and industries were forced to shut down. Real suffering was imminent unless something could be done to bring the mines of the state back into operation. It was impossible to import coal because the other states were in very much the same situation as Kansas.¹²

It was at this point that Governor Allen, on behalf of the people of the state, decided to take over and operate the mines. The Supreme Court was asked to turn over the mines to a receivership as an absolute necessity to prevent further suffering. The petition was granted and the property of the mines turned over to the state.¹³ On November 17, 1919, the Supreme Court appointed three receivers, one an operator, one a miner, and one a business man. The first two declined to serve, so the court, appointed another receiver at random. The two receivers were given authority to take over the mines of Crawford and Cherokee Counties for operation. To meet current expenses they were authorized to borrow, not to exceed \$100,000 and to issue

¹²J. H. Bowers, The Kansas Court of Industrial Relations, (Chicago, A. C. McClurg & Company, 1922), p. 31.

¹³J. Allen, The Story of the Third Part, (New York, Harper & Brothers, 1921), p. 51.

¹⁴Ibid., p. 52.

The Governor realized that it would be futile to attempt receivers' certificates to bear 6 per cent interest.¹³

Upon the appointment of the receivers Governor Allen he announced that the state would set and the mines would be proceeded at once to Pittsburg, the seat of the trouble. in production the following week. After being refused by the He went before the miners and made a personal appeal to them miners the Governor issued a call for volunteers to work the to return to work in the mines under the state receivership.¹⁴ mines. The following is the call issued by the Governor: His first proposal was for the miners to return to work at the wage that prevailed at the time of the strike. This proposal was refused and the second offer was in effect that the receivers would pay them the old wage until such time as the representatives of the miners and the representatives of the operators, then in session, should agree upon a new scale. The agreed scale was to become retroactive to the day the miners first returned to work, the state undertaking to see that they receive back pay before the mines were released to the operators.¹⁵ This offer was also refused and his third proposal was that in case an agreement was not reached by January 1, 1920, the receivers for the state would then take up with the representatives of the miners the question of a new wage scale, based upon the cost of mining as ascertained by the receivers during the period of state operation, and that the new wage should be retroactive to the beginning of work by the miners.¹⁶ This offer was also refused by the miners.

¹³H. M. Wolf, op. cit., p. 9.

¹⁴Pittsburg Headlight, November 18, 1919.

¹⁵H. J. Allen, The Party of the Third Part, (New York, Harper & Brothers, 1921), p. 51.

¹⁶Ibid., p. 52.

The Governor realized that it would be futile to attempt further persuasive methods. On Saturday, November 22, 1919, he announced that the state would act and the mines would be in production the following week. After being refused by the miners the Governor issued a call for volunteers to work the mines. The following is the call issued by the Governor:

Wanted--one thousand able bodied men to dig coal to keep the home fires burning in Kansas. Experience unnecessary. Hardy, young men, able to take care of themselves and to wield a pick and shovel preferred. Travelling expenses and at least \$5 a day guaranteed by the state of Kansas. Also 45 Engineers to run steam shovels in Kansas Strip mines, with an equal number of firemen. Can use also a limited number of men accustomed to use of dynamite. Apply in person, by telegraph, telephone or by mail to Governor Henry J. Allen, State House, Topeka.¹⁷

The call for volunteers met with ready response and within two days over 11,000 Kansans had volunteered for service in the mines. A large number from neighboring states also offered their services.¹⁸ One thousand were selected from the number volunteering and began work at once. The majority of the volunteers were ex-service men and a considerable number were college students. A regiment of the Kansas National Guard and a detachment of Federal troops were sent along with the volunteers to prevent any trouble arising.¹⁹ These men were transported to the area and were forced to

¹⁷Pittsburg Headlight, November 27, 1919.

¹⁸Allen, Party of Third Part, p. 53.

¹⁹Bowers, Kansas Industrial Court, p. 33.

²⁰Gagliardo, Industrial Court, p. 21.

stay in tents in spite of the fact that many of the citizens of this area offered to take them into their homes.

Work was begun on the first of December when the first strip pit was opened. State law requires a state examination of workers before they are permitted to work in the deep mines. Because of this requirement the state mining inspectors would not allow the volunteers to enter the deep mines.²⁰ This factor made it impossible for the deep mines to be operated and left only the strip mines at the disposal of the state.

No serious trouble developed during the entire time of state operation between the striking miners and the volunteers and soldiers. Some hidden stores of dynamite were found and some mining machinery was disabled, but there was no violence and very little damage done. A sympathetic strike threatened when a Santa Fe switching crew at Frontenac, a little mining town near Pittsburg, refused to move a crew of volunteers, giving as their excuse that they feared violence at the hands of the miners.²¹ The next day the company transferred the crew of switchmen and announced that they would handle the coal and crew trains.

The strip mines were in bad condition due to the fact that they had been idle for such a long period. In this area at that time the strip mines were not operated at full

²⁰Pittsburg Headlight, November 1, 1919.

²¹Gagliardo, Industrial Court, p. 21.

capacity in the winter months because of the weather conditions. The weather was of the cold and disagreeable blizzard type. Many miners said the volunteers would be unable to produce coal in such weather. In spite of these handicaps some coal was mined on the first day and on the second a carload of coal was sent to Coldwater, Kansas, where suffering was said to be especially great.²²

President Wilson presented a plan to the miners and operators on December 9, 1919. This plan called for a resumption of work with a 14 per cent increase in wage, and a tribunal set up to investigate and make a fair wage agreement within sixty days.²³ This plan was accepted and the strike was called off. On December 11, 1919, representatives of the United Mine Workers of District 14 met with Governor Allen and the receivers, and made an agreement whereby the union miners were to go back to work immediately. The volunteer miners began leaving on December 13, 1919, and were all gone by the afternoon of the 18th. The troops were not withdrawn immediately, in spite of strong union protest.²⁴

Much credit is due these volunteer miners for the part they played in helping avert hardship and suffering during this period. Inexperienced and working in bitterly cold

²² Pittsburg Headlight, December 3, 1919.

²³ Pittsburg Headlight, December 9, 1919.

²⁴ Gagliardo, Industrial Court, p. 23.

weather, they produced enough coal to supply the places where the shortage was most acute. During the twelve days the volunteers worked they loaded 165 cars of coal.²⁵ In addition to the coal actually mined, they did much to restore the mines to a condition where they could be worked more effectively by the regular miners when they returned.

The state receivership retained the mines after this agreement until all the orders held by them were filled. When this was accomplished, the mining property was returned to the operators December 18, 1919. The state receivers, however, were not released by the state until March 24, 1920. This brought to a close the period of state operation of the coal mines. The Governor and his associates published the fact that it had not been a costly venture by the state if the good it did was taken into consideration. Many of the miners who knew about the cost of mining estimated the cost to the state at \$50 for every ton that was mined.

On December 7, 1919, two days before a settlement was brought about by the Washington Conference, Governor Allen called a special session of the Kansas Legislature to meet January 5, 1920, for the purpose of dealing with industrial disputes.²⁶ He proposed a law which would protect the public, "The Party of the Third Part," against deprivations and hardships arising from industrial warfare. He also wished,

²⁵ Pittsburg Headlight, December 15, 1919.

²⁶ Pittsburg Headlight, December 8, 1919.

at the same time if possible, to provide a more peaceful and less costly way for management and labor to settle their disputes.

The special session called by Governor Allen to construct legislation concerning industrial disputes convened January 5, 1920.²⁷ Before the legislature met, Judge Huggins of the Public Utilities Commission had drawn up a tentative plan for an Industrial Court. Judge Huggins was a capable man, an able lawyer, and had long been interested in the settlement of industrial disputes.

The accusation that the law creating the court was a bit of hasty legislation, enacted on the spur of the moment is apparently unfounded. Seven years before its enactment the fundamental principles of the plan were expressed by the author before a Kansas civic body and on October 30, 1919, a month before the national coal strike which led to the creation of the court, the plan was set forth in detail before a Rotary Club luncheon in Topeka.²⁸

Before his ideas on the subject had been formulated into any definite plan, Judge Huggins made a study of methods of settling industrial disputes and preventing strikes and lockouts elsewhere. He found none which, in his opinion, met the situation effectively. He disapproved of the

²⁷ Kansas House of Representatives. Proceedings, 1920, p. 1.

²⁸ W. L. Huggins, Labor and Democracy, (New York, The Macmillan Company, 1922), p. 44.

Bowers, Kansas Industrial Court, p. 55.

principle of arbitration because "each party of the dispute is represented by arbiters of its choice and thus the matter starts out with a biased tribunal."²⁹ In other words, the representatives of labor and employers become merely attorneys arguing for their respective sides and the case, after all, is decided by the third party, theoretically a disinterested party. He believed such a situation could end only in a compromise with which neither party would be wholly satisfied, and the trouble would be postponed rather than settled.³⁰

Judge Huggins believed that the solution for this type of industrial disputes lay in adjudication.³¹ He believed that industrial disputes should be handled in the same manner in which criminal and civil cases were handled, by a court composed of impartial judges who had power to hold hearings, take testimony, make investigations, and then to issue orders in the light of the evidence brought forth. In his opinion, since adjudication of disputes was to be made primarily in the interest of the public, the public should bear the expense of the court and access to it by labor or capital should be free of cost.³² This idea of an Industrial Court was the basis of and was incorporated into the bill presented to the special session of the legislature by Judge Huggins upon Governor Allen's request.

²⁹ Ibid., p. 42.

³⁰ Ibid.

³¹ Ibid., p. 43.

³² Bowers, Kansas Industrial Court, p. 55.

The bill, as drawn up by Judge Huggins, was presented in both houses as companion bills.³³ It was the number one bill in each house. In the Senate the bill was referred to the Judiciary Committee and after remaining under consideration for nine days was returned to the Senate; after two days of discussion it was passed by a vote of thirty-three for and five against, with one absent or not voting.³⁴ In the House the bill was referred to the Committee of the Whole, and hearings were made open to the Senate and the public. In the House the vote was 104 in favor of and seven against the bill, with seven absent or not voting.³⁵ Employers, labor, and the public were represented and allowed to speak for or against the bill. Labor was represented by Alex Howat, president of District 14; W. J. Lanck, statistician for the Railway Brotherhoods; J. L. Shepard, special attorney for labor; Glenn Willits, Chairman of the Joint State Labor Legislative Committee; and Frank P. Walsh, formerly a member of the War Labor Board. The employers were represented by Mr. J. S. Dean, a prominent attorney of Topeka. William Allen White, well known Emporia editor, Judge Huggins, author of the bill, and Governor Allen represented the public. Each side was given ample time to present its views and the discussion lasted for several days.

³³ Huggins, Labor and Democracy, p. 45.

³⁴ Gagliardo, Industrial Court, p. 47.

³⁵ Ibid.

It is significant to note that both labor and capital opposed the enactment of the bill. Alex Howat speaking for labor said that the passage of the bill would mean slavery for all classes of labor; that it took away the right to strike, the only weapon by means of which labor could compel the employers to listen to reason.³⁶ Chairman Willits argued that the bill would destroy every vestige of collective bargaining, and that it would impose involuntary servitude upon the laboring classes in the state of Kansas. Attorney Shepard, a true friend of the Kansas coal miner, publicly approved Governor Allen's part in the Kansas coal strike, but pleaded for labor the right to strike until it could get a square deal. He said men, women and children should not freeze, "but don't forget that for years these miners have lived like dogs. You have turned your backs to them, session after session. Society put out its fangs against them, why should not they put out their fangs against the public."³⁷ He pointed out that the law makers had left no course for the miners but the course they had taken. He said that the thing that brought the legislature together was largely their own fault, stating that "You were honestly aroused over the coal strike. You were honestly aroused by Alexander Howat, but there is no more generous or bigger hearted man in Kansas than Howat."³⁸ Jake

³⁶ Pittsburg Headlight, January 8, 1920.

³⁷ Pittsburg Headlight, January 9, 1920.

³⁸ Ibid.

Shepard maintained that strikes must stop and that he approved of the bill except the penalty clauses, even though he did not think it went to the heart of the issue. His point was that threats of jail would not allay unrest as far as labor was concerned.³⁹

The main speaker for labor, however, was Frank Walsh who made a seven hour speech against the bill. He pointed out among other things, the good that had come from the strike and showed that labor's present improved conditions were due to the activities which it had taken in behalf of its own rights. He argued that the bill contained all the bad, and none of the good features of compulsory arbitration, that it was un-American and that it violated the constitutions of both the United States and the State of Kansas.⁴⁰ He opposed the appointment of the judges by the governor instead of their election by the people as being undemocratic.⁴¹ He predicted that the proposed bill would allow the employers to operate in good season and under favorable conditions and then, with a large stock of goods on hands, to shut down and throw labor out of employment.⁴² This statement in part seemed to come true. In the Howat Strike there was a large stock of coal on hands so the court did not seize the mines. The court

³⁹ Gagliardo, Industrial Court, p. 38.

⁴⁰ Pittsburg Headlight, January 8, 1920.

⁴¹ Ibid.

⁴² Gagliardo, Industrial Court, p. 39.

Ibid.

seemed to take the attitude that as long as the public was not suffering it would keep hands off. This may have been one of the factors that led to the downfall of the Court. ⁴³ Colonel John S. Dean, representing the employers, opposed the bill on the ground that in case of labor disputes it gave the state power to take over and operate private industry. This, he said, amounted to state socialism. Employers were further opposed to the provision which picked out specific industries and made them subject to state control. Finally, he declared the establishment of the court gave an unwarranted extension of the police power of the state, that it violated the right of contract, the rights of private property and that it was therefore unconstitutional. "Mr. Dean proposed that the clauses regulating the industries be eliminated, ⁴³ but he urged that the clauses penalizing strikes be retained." ⁴³ William Allen White, representing the public and speaking in favor of the proposed bill, reviewed historically the steps that have been taken in regard to matters affected with a public interest. He reminded the legislature that duelling was once a favorite method of settling private quarrels, but that too many innocent bystanders were killed and duelling was outlawed. ⁴⁴ He made this analogy fit the present situation and pointed out where, in a quarrel between capital and labor, the public becomes the innocent bystander. He even went so far as to say that in ten years the labor

⁴³ Gagliardo, Industrial Court, p. 39.

⁴⁴ Allen, Party of Third Part, p. 90.

unions would look back to this step of the Kansas Legislature as the day that heralded the emancipation of American labor.⁴⁵

Judge Huggins, in championing the bill, emphasized the point that the rights and interests of the public are paramount to the rights and interests of individuals and private concerns. He stated that we must have a government, not by a class or small group, but a government of all the people by all the people, and that the will of the majority must be expressed in a legal way. Judge Huggins reaffirmed his faith in organized labor. His advice to organized labor was to "throw out the radicals or to come out from among them."⁴⁶

He was very firm in his argument that labor should not be deprived of the right to strike unless it was given a better weapon with which to deal with capital. Judge Huggins pointed out that the Industrial Court Law was just such a weapon, for it would guarantee fair wages, decent working and living conditions. All of these advantages would be labor's for the asking and at no cost to themselves. He said there would be no loss of wages due to strikes and the condition of labor would be far better off. He concluded his address by explaining certain sections of the proposed act, showing how it would deprive no one of his rights, but would be a benefit to all. If the law had been interpreted and enforced along the lines which Judge Huggins proposed it would have come closer to doing the job cut out for it to do.

⁴⁵ Pittsburg Headlight, January 12, 1920.

⁴⁶ Gagliardo, Industrial Court, p. 41.

The final speaker for the bill was Governor Allen. He made his speech along the lines of what was expected to be accomplished by the enactment of such a law. He also outlined the motive which prompted the bill. His comments were:⁴⁷

To make strikes, lockouts, boycotts and black-lists unnecessary and impossible by giving labor as well as capital an able and just tribunal in which to litigate all controversies.

To insure to the people of this state at all times, an adequate supply of those products which are absolutely necessary to the sustaining of the life of civilized people.

That by stabilizing production of these necessities we will also, to a great extent stabilize the price to the producer as well as the consumer.

That we will insure to labor steadier employment, at a fairer wage, under better working conditions.

That we will prevent the colossal economic waste which always attends industrial disturbances.

That we will make the law respected, and discourage and ultimately abolish intimidation and violence as a means for the settlement of industrial disputes.

The speeches did not impress the legislators. It seemed that most of them had already made up their minds even before the legislature was called into special session. After a few minor amendments the bill was passed and became law January 24, 1920.⁴⁸ The judges appointed to the court were; W. L. Huggins of Emporia, appointed for a three year term and as presiding judge, C. M. Reed of Parsons, former campaign

⁴⁷Kansas House of Representatives. Proceedings, 1920, p. 11.

⁴⁸Pittsburg Headlight, January 24, 1920. Sec. 1, p. 37.

Language of law is closely followed but is not an exact quotation except where indicated.

manager for the governor, appointed for a two year term, and G. W. Wark, appointed for the one year term. The law provided for one judge to be appointed each year. This was to make it impossible for any governor to appoint all the judges in a single term.⁴⁹

In the following discussion an attempt will be made to point out the main features of the law as it was passed.

The law contained thirty sections, each one independent of the other. It is stated in the law that if one section of the law is declared unconstitutional it will have no effect upon the remainder of the law.

The act created a tribunal of three judges to be appointed by the governor, by and with the consent of the senate. The judges hold office for a term of three years and receive a salary of \$5,000 per year. The act does not require any special qualifications for the position of judgeship but designates the presiding judge.⁵⁰

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Section three of the act declares certain industries to be affected with a public interest. Any act which might hinder the reasonable continuity and efficiency of these industries, meaning the strike and lockout in particular, was forbidden. The industries so designated are: (1) The manufacturing of food products. (2) The manufacture of clothing and wearing apparel. (3) The mining or production

⁴⁹Ibid.

⁵⁰Laws of Kansas Special Session, 1920, Sec. 1, p. 37. Language of law is closely followed but is not an exact quotation except where indicated.

of fuel. (4) The transportation of food products. (5) The Public Utilities and Common Carriers. It states that persons, firms, or corporations are subject to the provisions of this act.⁵¹ It was declared unlawful to hinder or delay reasonable and continuous operation of industries, employments, utilities, and common carriers.⁵²

The court was given full power to investigate controversies between employers and workers or between groups or crafts of workers and make temporary findings and orders. The investigations were to be made at the request of either party at interest or by any ten citizen tax payers or by the attorney-general.⁵³ It had power to order changes as to hours of labor, rules and practices, and wages of labor. It might set up standards and dictate terms and conditions that seemed to be just and reasonable. Industry or labor might apply for a modification of such rules or regulations after sixty days.⁵⁴

The act declared that labor was entitled to a "fair wage" and capital to a "reasonable profit". At the beginning of a hearing or investigation a temporary award might be made pending a permanent award after the hearing. No limit was placed upon the extent of time which an award covered except that imposed by the statement, "any reasonable time fixed by

⁵¹Ibid., Sec. 3, p. 38.

⁵²Ibid., Sec. 6, p. 39.

⁵³Ibid., Sec. 7, p. 39.

⁵⁴Ibid., Sec. 8, p. 40.

the court, or until changed by agreement of the parties with the approval of the court."⁵⁵

In case of failure or refusal of either party to obey and be governed by the orders of the Court of Industrial Relations, said court was authorized to bring proper proceedings in the Supreme Court of Kansas to compel compliance. Aggrieved parties might also bring proceedings in the Supreme Court.⁵⁶ The right of collective bargaining was recognized. Incorporated unions, or any association of workers which might incorporate under the laws of the state were considered as legal entity and could be represented by officers of their own choosing. Where the union or association was not incorporated in order to bargain collectively the representatives were to be appointed in writing and given authority to enter into such collective bargaining. Any such agreements made were to be in accord with the general principles set forth in section nine of the act.⁵⁷

Discrimination against any employer or employee for testimony given to the Industrial Court was declared unlawful. Conspiracy against any person or corporation for actions taken under orders from the court was declared unlawful.⁵⁸ There was nothing in the act that restricted the right of any

⁵⁵Ibid., Sec. 9, p. 41.

⁵⁶Ibid., Sec. 12, p. 42.

⁵⁷Ibid., Sec. 14, p. 43.

⁵⁸Ibid., Sec. 15, p. 44.

employee to quit his employment at any time, but he could not conspire with other persons to quit the same employment. Neither could he engage in picketing, intimidation by threats, or in any way prevent others from accepting employment for the purpose of limiting, delaying or suspending the operation of any of the industries mentioned in the law.⁵⁹ Any person wilfully violating any provision of the law or order of the court was subject to a fine not to exceed \$1,000 or confinement in the county jail not to exceed one year or both.⁶⁰ Any officer of any corporation, any official of a labor union, or any employer of labor who used his influence to compel or persuade any person to violate the act or any order might be fined not to exceed \$5,000 or imprisoned in the state penitentiary at hard labor for a term not to exceed two years, or both.⁶¹ The act made it unlawful for any person, firm, corporation, or association of persons to commit any act with the intent to hinder, suspend, or limit the operation of any of the controlled industries. Any firm or person engaged in the specified industries, however, might apply to the court for permission to cease or suspend operation, and if such application was in good faith and the circumstances warranted

⁵⁸Ibid., Sec. 17, p. 44.

⁵⁹Ibid., Sec. 18, p. 45.

⁶¹Ibid., Sec. 19, p. 45.

⁶⁰Ibid., Sec. 23, p. 46.

it such, permission might be granted.⁶² In case such cessation or suspension was not authorized by order of the court it was authorized to take proper proceedings in any court of competent jurisdiction of this state to take over, control, direct, and operate said industry or public utility during such emergency.⁶³

Provisions were made in the act whereby a controversy arising in any industry not designated as being vested with a public interest might, by mutual consent of the two parties, be submitted to the court for settlement. In that case, any findings or orders that the court might make would have the same effect as in one of the essential industries.⁶⁴

Any order made by the court of industrial relations fixing a minimum wage or standard of wages, if the minimum was in excess of the wages paid theretofore in the industry, the workers affected were entitled to that wage from the date of the investigation. Pending an investigation employers were required to keep an accurate record of wages paid to all workers. Similarly, where the minimum wage or standard of wages fixed was lower than wages theretofore paid in the industry, the employer had the right to recover the difference which, as in the case of the workers, might be done in any court of competent jurisdiction.⁶⁵

⁶²Ibid., Sec. 16, p. 44.

⁶³Ibid., Sec. 20, p. 45.

⁶⁴Ibid., Sec. 21, p. 45.

⁶⁵Ibid., Sec. 23, p. 46.

Interview with August Dorchy, February 15, 1946.

Strictly speaking, the Court of Industrial Relations was not a court in the true sense of the word, but a public service commission. The industries declared under the act creating the Court to be affected with a public interest was subject to the supervision and regulations of the Court in the same manner in which public utilities were subject to the supervision and regulation of a public utilities commission. The Constitution of the State of Kansas forbids the combining of legislative and judicial powers in one tribunal, and since the Court of Industrial Relations had extensive legislative powers, it could not also be clothed with judicial powers. Therefore, it had to go into the law courts of general jurisdiction for the enforcement of its orders. Nor had it power to punish for contempt.⁶⁶ Charges for contempt to appear before the court might be brought in any court of competent jurisdiction to compel presence. In case either party failed or refused to obey an order, proceedings were brought in the Supreme Court to compel obedience. in the sum of \$5,000, said fine to be paid into the district treasury of the United Mine Workers.

The reaction to the court was exactly that which one would expect to find. Labor and the employers set out to discredit the law and to find some way to secure its repeal.⁶⁷

The public for the most part felt more secure and quite satisfied with the law. The law enjoyed popularity and its backers received overwhelming approval at the on-coming

⁶⁶Gagliardo, Industrial Court, p. 45.

⁶⁷Interview with August Dorchy, February 15, 1946.

elections. This popularity was of short duration, however, and the results will be related later in this paper.

The first act of organized labor to discredit the court was a strike of the miners of District 14 in defiance of the new law.⁶⁸ This was just a protest strike and only of a day or two in length. The state failed to find grounds for filing a violation against the union. Alex Howat made public the statement that the miners believed Governor Allen introduced the law because of personal prejudice against them for refusing to work under the state receivership of 1919.⁶⁹

The next step of the United Mine Workers of District 14 was to hold a convention and repeal the Industrial Court Law, so to speak. A resolution was passed which stated as follows:

Any member, pit committee or local officer being a party to referring cases to the Industrial Court, over the heads of the district official, shall be fined in the sum of \$50 for each offense, said fine to be paid to the district secretary-treasurer, to be placed in the general fund of the district.⁷⁰

That any district officer of the Mine Workers of District No. 14 who is a party to referring any grievance to the industrial court of Kansas will be fined in the sum of \$5,000, said fine to be paid into the district treasury of the United Mine Workers.⁷¹

At this same convention a resolution was passed pledging to Alex Howat, president of District 14, their support at

⁶⁸Pittsburg Headlight, January 26, 1920.

⁶⁹Pittsburg Headlight, January 27, 1920.

⁷⁰First Annual Report of Court of Industrial Relations, (February 1-November 30, 1920), p. 75.

⁷¹Ibid. (Ibid., 1920), 602.

⁷²J. P. Cannon, "The Story of Alex Howat," Liberator, April, 1921, p. 27.

any time he saw fit to call a strike. It was adopted without a dissenting vote.⁷² Shortly before this meeting of the Kansas miners Alex Howat had attended the convention of the Illinois miners. This convention, representing 90,000 miners, voted to stand squarely behind District 14. It was at the Illinois Convention that President Howat threatened to call a strike in the very near future to test the Kansas Law.

During the period between the passing of the Industrial Court Law and the first test case there was much publicity given to the law. Governor Allen wrote many articles and gave many speeches in behalf of the law. In one of his articles he accused Alex Howat of threatening to withdraw all union labor from Kansas.⁷³ This was true only in part, actually President Howat just advised union men not to move to Kansas. An article written in a labor paper stated that when the union ordered a strike and the court ordered no strike, the miners would not be troubled by a divided loyalty. They would lay down their picks and go home until further orders from the union.⁷⁴

The bankers, business men, and most of the professional men of the Pittsburg area were on the side of the state. These men, however, rarely spoke their mind in public. Several indiscreet merchants had felt the hand of the union boycott,

⁷² Pittsburg Headlight, March 29, 1920.

⁷³ H. J. Allen, "Liberty and Law in Kansas," Review of Reviews, LXI (June, 1920), 602.

⁷⁴ J. P. Cannon, "The Story of Alex Howat," Liberator, April, 1921, p. 27.

and their experiences made the others cautious.⁷⁵ In an editorial written in New York it was stated that on the question of whether the unions should be under the law or above the law, there could be no hesitation in saying that the unions must learn their responsibility under the law by whatever severity they made necessary.⁷⁶

This type of publicity continued until the court actually began its first investigation of the coal situation. This investigation was undertaken by the court on its own initiative. This investigation of the coal industry and all the cases of the court dealing with the mining situation will be taken up in detail in the following chapter.

⁷⁵ Ibid.

⁷⁶ Editorial in New York Times, July 4, 1921. March 28, 1920, and served March 30, 1920, ordering Alex Howat and other officials of the union to report at ten o'clock April 6, 1920, before the court to testify.³ Not only did Howat refuse to appear but he published a statement denouncing the court for attempting to interfere with the affairs of the miners' union and to "chain men to their jobs like slaves".⁴ The Court then appealed to the District Court of

¹ New York Times, April 7, 1920.

² Pittsburg Headlight, April 6, 1920.

³ State v. Howat et al. Docket X, Case 6173.

⁴ J. P. Cannon, "The Story of Alex Howat," Liberator, April, 1921, p. 25.

CHAPTER III

THE INDUSTRIAL COURT IN OPERATION

The investigation into the coal mining industry of Kansas was the first and probably the most important investigation made by the Kansas Court of Industrial Relations. On April 5, 1920, the Court, at the request of some of the more conservative members of the miners' union, began an investigation of the coal mining industry of the state.¹

Judge Huggins pointed out that this was only an investigation and no fines or punishment would be imposed. He remarked that the purpose of the investigation was to find out the true facts of the mining dispute by hearing the opinions of both sides.²

Subpoenas were issued by the Court of Industrial Relations March 28, 1920, and served March 30, 1920, ordering Alex Howat and other officials of the union to report at ten o'clock the April 6, 1920, before the court to testify.³ Not only did Howat refuse to appear but he published a statement denouncing the court for attempting to interfere with the affairs of the miners' union and to "chain men to their jobs like slaves".⁴ The Court then appealed to the District Court of

¹ New York Times, April 7, 1920.

² Pittsburg Headlight, April 6, 1920.

³ State v. Howat et al, Docket X, Case 6173.

⁴ J. P. Cannon, "The Story of Alex Howat," Liberator, April, 1921, p. 25.

Crawford County to issue an order forcing them to appear before the Industrial Court. Curran pronounced the following

Judge Curran issued an order for Alex Howat, August Dorchy, Thomas Harvey, Robert Foster, and Thomas Cunningham to appear before the Industrial Court and give testimony in the mining inquiry, April 6, 1920.⁵ The union officials again refused to comply with the court order. Howat made the following statement, "We may be dragged into court, but we absolutely refuse to answer any questions as we do not recognize the Industrial Court's authority or existence."⁶ This

was Richard J. Hopkins, Attorney-General of Kansas, and A. B. Kellar, County Attorney of Crawford County, filed an accusation charging contempt of the order of Judge Curran's court.⁷ On April 7, 1920, an order of attachment was issued by Judge Curran directing the sheriff of Crawford County to arrest the union officials and bring them into court.⁸ They were brought into court and bail was fixed at \$500 each, the trial being set for April 9, 1920, in District Court.⁹

At first the union officials said that they had no defense and were ready for sentence. Then on advice of their attorney they filed a plea of not guilty because they wanted to

⁵ State v. Howat et al, Docket X, Case 6173.

⁶ New York Times, April 7, 1920.

⁷ State v. Howat et al, Docket X, Case 6173.

⁸ Ibid.

⁹ Ibid.

reserve the right of appeal. However, they were found guilty of contempt and Judge Curran pronounced the following sentence:

It is considered, ordered, adjudged, and decreed that the said defendants be confined in the jail of Crawford County, Kansas, and there remain until they shall submit to be sworn and testify, as witnesses before the Court of Industrial Relations.¹⁰

The union officials were prepared to go to jail; each carried a valise. They were taken to the Crawford County jail at Girard, Kansas. On April 9, 1920, Phil H. Callery, the attorney for the union, filed a motion for a new trial. This was refused by Judge Curran and they remained in jail.¹¹ With the confinement of their officials, 12,000 miners refused to work. Instead of working they journeyed to the jail at Girard.

Alexander Howat, head of the miners, speaking with the permission of Sheriff G. C. Webb, denounced Governor Henry J. Allen as a "skunk of a governor" before a crowd of several thousand miners gathered at the jail.¹² He made his speech from a balcony on the front of the jail. One of the high lights of his speech was when he referred to Governor Allen as, "that brute, that tyrant, that would be oppressor of the working man, has no authority to compel us to tell his corporation lawyers anything".¹³ When Howat had finished his

¹⁰ State v. Howat et al, Docket X, Case 6173.

¹¹ Ibid. Pittsburg Headlight, April 13, 1920.

¹² State v. Howat et al, Docket X, Case 6173. Pittsburg Headlight, April 12, 1920.

¹³ Ibid. New York Times, April 17, 1920.

speech, the crowd voted thanks to Sheriff Webb for the courtesy shown in allowing Howat permission to deliver his address. Howat then retired to the front porch of the jail where he held a reception, shaking hands with a large number of the crowd.¹⁴

Governor Allen was expected to take drastic action against Howat but he was content with saying that no class had ever been able to live above the laws of Kansas, and no class would ever secure for itself that improper privilege. He said that the radical leaders of labor had issued the challenge and the state would meet it with all the power at its command.¹⁵

The sheriff felt that the jail at Girard was not safe if it were attacked from the outside. He asked the court for an order to remove the prisoners to a safer jail. The court ordered some to be moved to the Allen County jail and others to the Franklin County jail. Howat was taken to the Franklin County jail at Ottawa, Kansas, April 14, 1920. After one day at Ottawa, Howat appealed his case to a higher court and was released on \$2,000 bond. It seems the hero and martyr business was not as good in the Franklin County jail as it was in Girard.¹⁷

¹⁴ New York Times, April 13, 1920.

¹⁵ Pittsburg Headlight, April 13, 1920.

¹⁶ State v. Howat et al, Docket X, Case 6173.

¹⁷ New York Times, April 17, 1920.

Attorney-General Hopkins filed ouster proceedings against Sheriff G. C. Webb because he permitted Howat to make the balcony speech. He gave as a reason the fact that an officer of the state should not have permitted such a thing to happen. Sheriff Webb resigned his office rather than face the court proceedings asked by the state.¹⁸

In an opinion handed down by the State Supreme Court, the judgement of Judge Curran was upheld. The order gave Howat ten days to appeal to higher court or be sent to jail.¹⁹ He appealed to the Federal Supreme Court where the case was joined with another and dismissed because it presented no issue of Federal jurisdiction.²⁰

Howat assumed a hostile attitude toward the court from the beginning and declared his intention to fight the law regardless of the consequences. In connection with his program of defiance he announced that he would call a strike early in April, 1920, to test the law. At the direction of Governor Allen and Attorney-General Hopkins the Industrial Court sent its attorney to the District Court of Crawford County to file a request for a restraining order against Howat and the other members of the local board, seeking to

¹⁸ Pittsburg Headlight, April 16, 1920.

¹⁹ Topeka Daily Capital, July 20, 1920.

²⁰ R. J. Hopkins, Report of the Attorney-General to the Governor, May 1, 1922, p. 15.

²³ Pittsburg Headlight, April 27, 1920.

²⁴ New York Times, April 28, 1920.

prevent the calling of a strike which might constitute a violation of the Industrial Court Law.²¹ Judge Curran granted a temporary restraining order March 30, 1920. The injunction case came up for trial April 12, 1920, and the injunction was extended. In extending the injunction Judge Curran included an order that instructed the union officials to order all members of the union back to work or to show cause to the court on or before April 27, 1920, why this mandatory part of the restraining order should not be obeyed.²² The miners chose to show cause for not obeying the injunction and were represented by Frank P. Walsh, Phil H. Callery, John T. Clarkson, and Byron Coon. The state was represented by Attorney-General Hopkins, and F. S. Jackson, attorney for the Industrial Court. The discussion was of the round table type and each side presented its case before Judge Curran.²³ During the discussion Judge Curran expressed his attitude toward the Industrial Court Law. He said, "The Industrial Court is the most forward looking piece of legislation that has been enacted in the history of the state."²⁴ He even went so far as to say that he believed that within five years the coal miners would be the strongest friends of the new law.

²¹ Pittsburg Headlight, April 16, 1920. 6166.

²² Ibid.

²³ Pittsburg Headlight, April 27, 1920.

²⁴ New York Times, April 28, 1920.

This This expression of opinion brought a protest from Frank P. Walsh. He said it was deplorable from his standpoint; that indication had been given that the court's mind was already made up. He suggested that Judge Curran reserve his opinion until he had heard the case.²⁵ In his discussion of the law Walsh said that he believed it to be the most odious, the most subversive of human rights that had blotted the pages of the statute books since the fugitive slave law. The spokesmen for the miners tried to bring out the idea that the big objection the miners had to the law was the possibilities that could result from it. It was the principle of the law that they feared.²⁶

Judge Curran emphatically sustained the constitutionality of the Kansas Industrial Court Law and granted an injunction against the mine workers striking in protest against the law.²⁷ The petition was amended and supplemented, answers were filed, and upon final hearing the court found all the issues joined in favor of the state and entered a decree in favor of the state, making the temporary injunction permanent September 14, 1920.²⁸ A motion was put forth asking for a re-hearing by the miners' attorney.³²

²⁵ Ibid. Pittsburg Headlight, February 5, 1921.

²⁶ Pittsburg Headlight, April 28, 1920. Book, CXXIX

(Dec. 28, 1921), 589.
²⁷ State v. Howat et al, Docket X, Case 6166.

²⁸ Ibid. Pittsburg Headlight, February 5, 1921.

³² Kansas Reports, CIX, 380.

This was a mere formality being necessary before an appeal Executive Board of District 14, declared himself not in could be filed with the Supreme Court of Kansas.

On February 4, 1921, District 14 of the United Mine Workers, under the leadership of Alex Howat, called the first trial was set for February 13, 1921. Shortly after being strike of any consequence since the enactment of the In- freed on bond Alex Howat made a statement charging that the dustrial Court Law.²⁹ It was called at the Mackie Fuel operators had willfully refused adjustment of the wage Company Mines. For a period of three years Howat had been in a controversy with the mine owners over \$200 back wages owed to a miner, Karl Mishmash.³⁰ The purpose of the strike was to compel the operators to pay the back wage, the order being signed and delivered to George Young, the head of the local union, by Howat in person.

It seemed to be the opinion of most of the people of the district that Governor Allen was out to get Howat out of the way so other states would enact similar industrial legislation.³¹ This may or may not be true, but the state wasted little time in filing an affidavit against Howat and the other mine officials for contempt of the permanent injunction issued by Judge Curran's court. On February 7, 1921, the affidavit was filed whereupon Howat and his associates were arrested and charged with contempt.³²

²⁹ Pittsburg Headlight, February 5, 1921.

³⁰ "The Law and the Kansas Miner," Outlook, CXXIX (December 28, 1921), 680.

³¹ Pittsburg Headlight, February 5, 1921., "Liberator," April 1921, p. 25.

³² Kansas Reports, CIX, 380.

Thomas Harvey, the Secretary and Treasurer of the Executive Board of District 14, declared himself not in favor of the strike and was released by the court. The other mine officials were freed on bond and the contempt trial was set for February 15, 1921. Shortly after being freed on bond Alex Howat made a statement charging that the operators had willfully refused adjustment of the wage controversy and had confederated to exasperate the union into striking for the purpose of claiming that such a strike was called to violate the court injunction.³³

The mine officials were represented by Phil Callery and Redmond Brennan. A trial by jury was requested but Judge Curran refused to grant such a trial.³⁴ The miners began to fill the court room at six o'clock in the morning. The court room held only a fraction of the miners who wanted to hear "The Miner's King" talk to the judge. They packed the hallways and stood in clusters around on the sidewalk and the street corners. They were all talking about the case and the possibilities it offered the miners. One young Italian boy was heard to say, "I hope Alex tells them to go to hell." This seemed to be the attitude of most of the miners.³⁵

³³ New York Times, February 11, 1921.

³⁴ State v. Howat et al, Docket X, Case 6166.

³⁵ J. P. Cannon, "The Story of Alex Howat," Liberator, April, 1921, p. 25.

³⁷ House Reports, SIX, 401.

The trial began with the charges of contempt of court and the injunction of September 14, 1920, being cited by the state's attorney. Alexander Howat was called as a witness by the defendants and, on examination, gave a detailed account of the calling of the strike.³⁶ The Attorney-General wanted Howat to make "damaging admissions" and he made plenty of them without concern. He asked Howat the following questions:

Q. Well, don't you know that if this boy had a claim for wages under a contract that you could recover it in court?

A. No; I didn't know it. We never have settled any cases that way.

Q. You think the boy couldn't collect the money in the courts?

A. I couldn't say whether he could or not. I never tried it, and anyway, we have a contract which provides for it and we wasn't obliged to go to court.

Q. You don't go into court?

A. No, Sir; neither here nor in the other districts.

Q. You didn't read the injunction?

A. No; never did.

Q. You don't recognize courts in the matter of settlement for wages?

A. No, Sir; we have a contract that covers that.

Q. You don't recognize that contracts are made to be enforced in courts, then?

A. No, Sir.³⁷

³⁶ State v. Howat et al, Docket X, Case 6166.

³⁷ State v. Howat et al, Docket X, Case 6166.

³⁸ Pittsburg Herald, June 11, 1921.

³⁹ Kansas Reports, CIX, 401.

By these unconcerned admissions Howat sealed the fate of the case. It was only a matter of a day of argument by the attorneys of both sides and the case was finished. Alexander Howat and the other members of the Executive Board were judged guilty of contempt and sentenced by Judge Curran to one year in jail and fined the costs of the trial.³⁸

The court room was very quiet for a moment following the sentence. Then a miner stood up and cried out, "jail one year, no work one year." This expression in various forms was repeated throughout the room. Most of the miners waited in the court room until the appeal bonds were signed and the men were released.³⁹ A motion for a new trial was asked by the mine officials but the request was over-ruled by Judge Curran. Thereupon, notice for appeal was filed. On February 17, 1921, each defendant filed appeal to the State Supreme Court and was released on \$2,000 bond.⁴⁰ The case was heard in due time by the State Supreme Court and the decision of the District Court of Crawford County was affirmed. This decision was then appealed to the Federal Supreme Court.⁴¹

Soon after the completion of the trial the Industrial Court took up the Mishmash Case and brought it to a successful

³⁸ State v. Howat et al, Docket X, Case 6166.

³⁹ Cannon, "Story of Howat," loc. cit., p. 25.

⁴⁰ State v. Howat et al, Docket X, Case 6166.

⁴¹ Pittsburg Headlight, June 11, 1921.

climax in a three hour investigation. The court, by interviewing witnesses and using facts found in the city library, came to a decision as to the correct age of Mishmash and awarded him the back wages. On February 22, 1921, Karl Mishmash received \$187.64 and signed a company receipt for it.⁴² It would seem that the effects of the strike were in reverse to those hoped for by the union. Instead of weakening the position of the court in the eyes of the public, the strike had distinctly the contrary effect.⁴³

Despite the ruling of the court concerning the strike at the Mackie Coal Company, the officials of the union called another small strike at the Patton Coal and Mining Company. This strike was called March 22, 1921, the dispute being over the laying off of the night shovel crew. The union said the men were layed off as a reprisal by the company because the union had forced the discharge of the mine superintendent.⁴⁴ The operators gave the reason as a lack of demand for coal.

The Governor again came out with the statement that the union officials would be charged with contempt of court under the blanket injunction. The Governor believed that the strike was a direct challenge to the court.⁴⁵ On March 25, 1921,

⁴²Original receipt, Docket X, Case 6166.

⁴³H. Feis, "The Kansas Industrial Court," Quarterly Journal of Economics, XXXVII (August 1923), 718.

⁴⁴New York Times, March 23, 1921.

⁴⁵Pittsburg Headlight, March 22, 1921.

the Attorney-General filed an affidavit charging Howat with contempt. Judge Curran ordered the union officials before him for trial which was set for April 6, 1921, and the men were released on \$500. bond.⁴⁶

The strike was settled between the union and the operators on April 4, 1921, and the shovel crew were paid back wages to the amount of \$1200. Governor Allen declared that the settlement of the strike would in no way effect the prosecution of the union leaders under the anti-strike injunction.⁴⁷

The case came up for trial April 6, 1921, and the defendants were found guilty of contempt of the anti-strike injunction. This time the court inflicted a fine of \$200 on each defendant and required each man to post a \$5,000 peace bond. The case was appealed to the State Supreme Court April 8, 1921.⁴⁸

In a surprise move the state filed a criminal complaint in the District Court of Cherokee County against Howat and Dorchy, charging them criminally with violation of the Industrial Court Law in connection with the Mackie strike.⁴⁹ Howat and Dorchy were arrested and brought into court at Columbus, Kansas, February 17, 1921. They gave bond and their

⁴⁶State v. Howat et al, Docket X, Case 6166.

⁴⁷Pittsburg Headlight, April 4, 1921.

⁴⁸State v. Howat et al, Docket X, Case 6166.

⁴⁹R. J. Hopkins, Report to the Governor, May 1, 1922, p. 15.

case was posted for March 1, 1921. At this date the trial was bound over until the July session of the District Court of Cherokee County.

During the period between their arrest and the trial in July there was much ill feeling stirred up among organized labor in Kansas. The Kansas Federation of Labor sent out a call for all its members to quit work and travel to Columbus for the trial. There was a resolution passed by the Trades Council which declared the week of the trial at Columbus to be an industrial holiday for all who wanted to attend.⁵⁰ This labor rally did not materialize to the extent hoped for by organized labor. There were a great number of miners, however, who attended the trial.

The trial was conducted before Judge Boss and the verdict was issued by a jury. Judge Boss instructed the jury to bring their verdict solely on whether the men had violated the Industrial Court Law. He asked them to charge Howat and Dorchy with a felony or a misdemeanor.⁵¹ They were convicted by the jury of a misdemeanor. Judge Boss sentenced them to six months in jail and fined them \$500 each. Then the judge did a thing which the other courts had failed to do. He made it compulsory to file a \$2,000 bond not to call any more strikes before they could appeal to higher court.⁵²

⁵⁰Pittsburg Headlight, June 18, 1921.

⁵¹Pittsburg Headlight, July 1, 1921.

⁵²New York Times, July 9, 1921.

If the union officers had submitted such a bond the operators could have done most anything and the miners could not go on strike without giving up the \$2,000 bond.⁵³ last two weeks in 3 A motion for a new trial was filed but Judge Boss ruled that the trial had been conducted fairly and refused the request.⁵⁷ In his refusal Judge Boss attacked Howat's attitude of attempting to nullify the law and criticized the attempt of organized labor to surround the trial with a throng of court miners.⁵⁴ of the convention will be related in connection with Howat denounced the trial as unfair, saying that his position was unchanged and that he would go to jail before he would surrender his principles.⁵⁵ This was the first time that the mine officials had been judged guilty by a jury. Prior to this trial they had faced only the judge. One of the features of the case was an affidavit signed by all but one of the members of the jury immediately after the completion of the trial. The affidavit stated that they did not think Alex Howat and August Dorchy were guilty of any wrong. They remarked that the verdict of guilty was reached simply because there had been a violation of the Industrial Court Law.⁵⁶ also aware of the disagreement of

⁵³The Oklahoma Leader, Oklahoma City, Oklahoma, September 30, 1921.

⁵⁴Pittsburg Headlight, July 8, 1921.

⁵⁵The Topeka Daily Capital, July 20, 1921.

⁵⁶New York Times, July 20, 1921.

Judge Boss set the time for appeal as not later than September 8, 1921. Alex Howat wished to attend the national miners' convention which was to be held the last two weeks in September. He made his wishes known in the form of a petition for an extension until September 30, 1921.⁵⁷ Howat announced before he left for the convention that he would go to jail upon his return and not give the anti-strike bond which had to accompany the appeal to higher court. The results of the convention will be related in connection with the next part of this chapter.

Upon their return from the miners' convention Howat and Dorchy began serving their six month sentence at Columbus, Kansas, September 30, 1921.⁵⁸ The miners immediately pulled their tools from the mines when their leaders were put in jail. The strike, on the nature of a general strike, was called the "Howat Strike". The strike was a distinct violation of the contract between the miners' union and the operators. There was no pressing need for coal at the time so the Industrial Court decided to follow the policy of hands off and let the national officers of the union settle the strike.⁵⁹ The court was also aware of the disagreement of Howat and John L. Lewis at the recent convention. The miners

⁵⁷Pittsburg Headlight, September 3, 1921.

⁵⁸Pittsburg Headlight, September 30, 1921.

⁵⁹H. Feis, "Kansas Miners and Kansas Courts," Survey, XLVII (February 25, 1922), 825.

New York Times, July 4, 1921.

met in mass meeting at Franklin, Kansas, and passed a resolution not to mine a ton of coal until Howat and Dorchy were released from jail. sent a committee to investigate

the Visitors flocked to the Columbus jail to see them on the first visitors day. They took flowers, food, and much bedding.⁶⁰ Mrs. Howat went every Sunday and Wednesday to see her husband. She said it was very hard to take some of the things that people said to her but after each visit she had renewed courage because of her husband's spirit and his belief that he was right.⁶¹ Four Illinois union leaders visited Howat and assured him of their moral and financial support of the Kansas cause.⁶² Howat argued his case

before In an editorial, the attitude of the public as a whole was brought out concerning the jailing of the union leaders. It stated that there might be a difference of opinion as to how good or how bad the Kansas Industrial Court Law was, but since it was law, no man or union could be allowed to defy it. The fact that the court had leaned over backward in favor of the miners in all its decisions was also brought out.⁶³ ordered by the convention.⁶⁰ He stated that the Wilson

Comm The issue that really caused the show down between Alex Howat and John L. Lewis was the Dean Strike. This

⁶⁰Pittsburg Headlight, October 5, 1921.

⁶¹Interview with Mrs. Howat, February 12, 1946.

⁶²Pittsburg Headlight, October 12, 1921.

⁶³New York Times, July 4, 1921.

strike was a result of a controversy between the union and the company over the method of removing the excess dirt from the mine.⁶⁴ Lewis sent a committee to investigate the strike and used their report as a basis for ordering Howat to return the miners to the mines. Howat refused to do this until the old rules and customs were put back into effect. This was the issue taken up at the national convention in September of 1921.

John L. Lewis, in his report to the convention, said that Howat's conduct was reprehensible in the Dean Strike. He asked the convention to back up the international board in their decision against Howat. Howat argued his case before the convention until he had to leave in order to make his September 30 deadline at the Columbus jail. The convention voted to follow Lewis and upheld his decision.⁶⁵

The convention ordered Howat to send the men back to work, but he declared he would not send the men back until the old conditions had been restored. He asserted that he would be expelled from the union before he would do as he was ordered by the convention.⁶⁶ He stated that the Wilson Committee had awarded the customs and conditions and he wanted them honored.

⁶⁴New York Times, April 29, 1921.

⁶⁵New York Times, September 29, 1921.

⁶⁶Ibid.

and There had been repeated rumors at intervals, that Lewis was out to "get" Howat. He had become too powerful and was a constant threat to Lewis.⁶⁷ With Howat and Dorchy in jail, Lewis had a perfect opportunity to take care of his Howat. This he proceeded to do by suspending him and operators District 14 because of the Dean Strike. He said that the laws of the United Mine Workers of America were being flagrantly disregarded and that the joint agreement between miners and operators had been trampled upon by the officials of District 14. The following was the formal statement of suspension: *His and record books greatly strengthened the*

Therefore in view of these facts, and *The Howat* with a desire to protect the future of our organization and promote the welfare of its membership, I am here-by officially advising you that the autonomy of District 14 stands suspended, effective this date.⁶⁸

through the new provisional officer, John L. Lewis Alex Howat, from his jail cell at Columbus, charged *ordered all the locals to return to work by November 10, 1921, or have their charters revoked. This would auto-* that it was a plot by Lewis, Allen, the Coal Operators, and the Industrial Court to wreck the organization in *notice to suspend all their members from the union. Many* Kansas.⁶⁹ He contended that when the convention voted *of the miners moved back into the mines with this order,* to send the men back to work it was with the idea that *but about 3,000 remained loyal to Howat and were suspended* the men would not be subject to new conditions. He said *with him. The order of suspension read that any miner* this was the reason that he refused to comply with the *back to work by November 25, 1921, would be re-admitted to* order. He remarked that the Industrial Court was doomed

⁶⁷Interview with August Dorchy, February 15, 1946.

⁶⁸New York Times, October 13, 1921.

⁶⁹Pittsburg Headlight, October 15, 1921.

and standing on its last leg, and not even the shameful move perfidy of Lewis could save it.⁷⁰ Howat's final remark was that when he got out of jail he was coming back once more and J. L. Lewis, and his friend Governor Allen and his Industrial Court, and last but not least, the coal operators' association, would hear from him again.

The district offices were declared vacant and George L. Peck was appointed president with Thomas Harvey as secretary and treasurer. The fact that Thomas Harvey had been on the old executive board and already had in his possession the check books and record books greatly strengthened the position of the provisional government. The Howat group tried to tie up the funds of the organization but were unsuccessful.⁷¹

Through the new provisional officer, John L. Lewis ordered all the locals to return to work by November 16, 1921, or have their charters revoked. This would automatically suspend all their members from the union. Many of the miners moved back into the mines with this order but about 3,000 remained loyal to Howat and were suspended with him.⁷² The order of suspension read that any miner back to work by November 25, 1921, would be re-admitted to

⁷⁰Ibid.

⁷¹Pittsburg Headlight, October 14, 1921.

⁷²Pittsburg Headlight, November 19, 1921.

the union and not charged a penalty. This was another move by the Lewis faction to break the power of Howat.

The Howat faction was being supported by the Illinois miners to the extent of \$100,000 in cash and \$60,000 worth of provisions.⁷³ The Illinois miners were asked by their president to stand an assessment of \$1.00 per month to provide funds for the Kansas miners. This would amount to \$90,000 a month. The position of the Howat faction was so favorable that Lewis ordered the Illinois district to quit sending supplies and money to Kansas.⁷⁴ This action was described by the president of the Kansas Federation of Labor, as a "treacherous desertion to the ranks of the back Industrial Court supporters".⁷⁵

The situation was beginning to take on a pretty serious aspect as far as the Howat men were concerned. Men were going back to work because of need. The strike benefits and provisions were not enough to sustain a family for any length of time. The more radical elements began to try to devise a scheme to keep miners from returning to the mines. One of the most colorful phases of this movement was organized by the wives of the loyal Howat men. They met at Franklin on December 12, 1921, and decided to form

⁷³ New York Times, November 18, 1921.

⁷⁴ Pittsburg Headlight, December 8, 1921.

⁷⁵ Pittsburg Headlight, October 14, 1921.

J. Hopkins, Report to the Governor, May 1, 1922, p. 18.

a woman's army to keep men from going into the mines.⁷⁶ The following morning about 3,000 women assembled and marched from mine to mine taking out the so-called "scabs". They threatened the union miners and threw stones and vegetables. They were a source of much trouble. They said and did things men would not have dared do or say. They knew that the sheriff would hesitate to attack them.⁷⁷

The situation became such that the sheriff felt obliged to call upon the governor for aid. The governor hastened to send three companies of National Guardsmen to the area to help preserve order.⁷⁸ In a matter of hours the soldiers had the situation in hand and the miners began to move back into the mines. As a result of the marching of the so called "Amazon Army" a large number of the women were arrested and brought into court. Judge Curran, in pronouncing sentence, took into consideration their financial condition and the fact that many had families and fined them accordingly. Most of them received fines of one dollar and were paroled for two years. A few of the leaders, however, received fines as high as \$200 and one school teacher from Arma, Kansas, was asked to turn in her teaching certificate.⁷⁹ One author

⁷⁶ Joseph Skubitz, Jr., "A History of the Development of Deep Mine Production in Crawford County and the Factors that have Influenced it," (unpublished master's thesis, Kansas State Teachers College, Pittsburg, 1934), p. 39.

⁷⁷ Interview with A. J. Curran, February 19, 1946.

⁷⁸ "The Law and the Kansas Miner," Outlook, CXXIX (December 28, 1921), 681.

⁷⁹ R. J. Hopkins, Report to the Governor, May 1, 1922, p. 18.

described the "women's march" as "one of the most romantic pages in the history of American labor."⁸⁰

Howat expressed anger and disgust over this mob violence and rioting. He said that it should be stopped immediately. His idea was that the men who wanted to work and could not be stopped from doing so by mere argument should not be forced to stop work.⁸¹ The situation of the Howat sympathizers became so desperate that on January 13, 1922, Howat ordered his followers to return to the mines. He said that the shortcomings of the law had been sufficiently demonstrated. He made it plain that he was ordering the men back to avoid further hardship and suffering and not because of any order from the international union. Most of the Howat men found that it was impossible to find work. The operators refused to hire them because they had been expelled from the union.⁸² Governor Allen commented that the present jail status did not seem to bear out Howat's statement that the court had been a failure. This statement was attacked in an editorial and the Governor was asked if the law was passed only to put Alex Howat in jail.⁸³

The time for the next national convention of the United Mine Workers had been set. This was the signal for the Howat

⁸⁰M. H. Vorse, "The Story of Alex Howat's Fighting District," Survey, XLIX (December 15, 1922), 360.

⁸¹New York Times, December 15, 1921.

⁸²Pittsburg Headlight, January 14, 1922.

⁸³"A Reply to Governor Allen," The Nation, CXIV (February 22, 1922), 212.

supporters to put forth a special effort to bring about his release from jail. They wanted him out of jail so he could head their movement for re-instatement at the convention. The famous labor leader, Mother Jones, told the miners to get Howat out of jail so he could do them some good.⁸⁴ She compared Howat with John Brown saying that his services to the cause of the Kansas miners was indispensable. With their supporters clamoring for them to give bond, Howat and Dorchy appealed to the court to accept their bond so that they could attend the coming convention. They served 130 days of the six month sentence before giving bond.⁸⁵ The Howat delegation had no trouble getting seats at the convention but the credentials committee ruled that they could not vote in the convention. John L. Lewis asked that the Kansas situation not be brought before the convention. Alex Howat was not to be beaten by this suggestion from the international president. He stood in front of the speakers platform and literally compelled the convention to hear his case. He related the condition of the Kansas District and asked that the convention see that justice was given the Kansas miners.⁸⁶ John L. Lewis finally consented that a vote be taken of the convention to decide the issue. In the roll call vote Lewis received 2,057 votes and Howat received 1964.

⁸⁴Pittsburg Headlight, January 23, 1922.

⁸⁵Pittsburg Headlight, February 6, 1922.

⁸⁶The Indianapolis Star. February 16, 1922.

This was a difference of only 93 votes but it eliminated all chance of a hearing before the convention. Nevertheless, it caused a general alarm among the Lewis faction, for Howat had come dangerously near carrying the convention. The administration called squads of trained men to the colors to cope with the dangerous Howat shadow that had cast itself upon the convention.⁸⁷ The only avenue left open to the Kansas miners was an appeal to the International Executive Board of the Union which was dominated by Lewis. This left little chance of re-instatement for Howat and his followers. It was believed, however, that many delegates voted to hear Howat present his case who would have sided with the administration in the final vote. It was the belief of these men that it was only fair that the Kansas case be given a fair trial before the convention.⁸⁸

Howat came home from the convention only to face more trouble. The court decision of the Mackie case, which had been submitted to the United States Supreme Court, was dismissed for lack of jurisdiction April 20, 1922.⁸⁹ Howat was warned of the fact and he attempted to return to jail at Columbus, thus avoiding the Crawford County Sheriff. He was arrested, however, as he got off the train at Columbus by the Crawford County Sheriff. If he could have given himself

⁸⁷Indiana Daily Times, Indianapolis, Indiana, February 16, 1922.

⁸⁸New York Times, February 20, 1922.

⁸⁹State v. Howat et al, Docket X, Case 6166.

up to the Cherokee County authorities first, his attorney would have had time to start Habeas Corpus proceedings to keep him out of jail in Crawford County. The plan did not work and he and his five associates were jailed at Girard to serve their sentence of one year.⁹⁰ All six men lived in a large room that took up the whole top floor of the jail.

On September 8, 1922, an application for parole was filed with Judge Curran. He promptly refused to consider the application.⁹¹ A short time later the Kansas Federation of Labor petitioned Governor Allen to parole the Howat men. They pointed out that the election had been a repudiation of the Industrial Court Law and indicated a parole was in order. Governor Allen replied that Howat and the others were judged guilty and as far as he was concerned would stay in jail.⁹²

In the November election of 1922, Kansas elected a Democratic Governor and a new District Judge for Crawford County. Both of these men had come out openly against the Industrial Court Law. As soon as the new district judge took office a new appeal for parole was asked by the attorney for the miners.⁹³ On January 20, 1923, a formal application

⁹⁰R. J. Hopkins, Report to the Governor, May 1, 1922, p. 15.

⁹¹State v. Howat et al, Docket X, Case 6166.

⁹²Pittsburg Headlight, November 15, 1922.

⁹³Interview with August Dorchy, February 15, 1946.

for parole upon the unexpired and unexecuted part of the sentence was presented to Judge Woolley.⁹⁴ On the same day the court paroled Howat and the others from the court judgment of February 17, 1921. They were ordered to pay the costs of the prosecution within six months. They were paroled after serving 266 days of the one year sentence.⁹⁵ Howat had gained weight and weighed 215 pounds when he left jail, but he carried it well and appeared to be in the "pink" of condition.

Two days after the parole a great home coming was held for the deposed executive board at their old strong hold, Franklin, Kansas. The crowd was estimated at 5,000. Howat began his speech by thanking the people for defeating Judge Curran at the polls and making the meeting possible.⁹⁶ He said that he hoped to see the day when John L. Lewis was repudiated as Governor Allen and the Industrial Court had been. He was given a thunderous ovation when he declared that Lewis was a man without principle and that the members of the International Executive Board would sell their souls for a smile from him.⁹⁷

When advised that he still had a jail sentence to finish at Columbus, Kansas, he said he would be in Pittsburg and

⁹⁴State v. Howat et al, Docket X, Case 6166.

⁹⁵Ibid.

⁹⁶Pittsburg Headlight, January 22, 1923.

⁹⁷Pittsburg Headlight, January 23, 1923.

when they wanted him they could let him know. The Attorney-General immediately asked Judge Boss to issue a bench warrant for his arrest. On January 30, 1923, Howat gave himself up and returned to Columbus to serve the remaining fifty-two days of his sentence. A petition was filed with Governor Davis to give Howat his freedom. It was pointed out that he had served 405 days for calling the Mackie Strike. It was also requested that the \$500 fine be remitted.⁹⁸ The Governor pardoned Howat and reduced the fine to \$1.00. Judge Boss refused to free Howat until the \$500 court costs had been paid. The miners took up a collection and paid the court costs whereupon he was released from jail February 12, 1923.⁹⁹

On February 7, 1923, a few days before Howat was released from the Cherokee County jail, the United States Supreme Court ordered that the court order of April 8, 1921, concerning the Patton Strike be executed.¹⁰⁰ Thus, he was immediately arrested and confined in the Crawford County jail once more. The original sentence called for a \$200 fine and the execution of a \$5,000 anti-strike bond. A petition was filed with Judge Woolley and a discharge was granted February 17, 1923.¹⁰¹ He was required to pay the fine but the \$5,000

⁹⁸ Pittsburg Headlight, February 6, 1923.

⁹⁹ Pittsburg Headlight, February 13, 1923.

¹⁰⁰ State v. Howat et al, Docket X, Case 6166.

¹⁰¹ Ibid.
Pittsburg Headlight, August 6, 1923.

bond was cancelled because he was no longer in a position to call a strike. This proved to be Alex Howat's last jail experience. After a period of three years he was again free of the law.

After their freedom was granted Howat and Dorchy began the long task of getting re-instated in the United Mine Workers of America. They made speeches and travelled all over the country for the next four years before their aim was accomplished.¹⁰² Immediately upon being released from jail they again pledged themselves to fight the Industrial Court Law until it was repealed from the statutes of Kansas.

In the course of their fight for re-instatement to the union they were forced to go into camps where it was dangerous to make speeches against John L. Lewis. Howat never showed fear or concern over situations such as this. It is said that he never went armed but his friend August Dorchy was quick to say that he always tried to carry protection when he felt that the situation warranted it.¹⁰³ In his speeches Howat declared that he did not wish to create a dual union, but he was trying to incite rebellion against the Lewis policies. He declared that Lewis demanded humble submission of everyone in the union and he for one refused to submit.¹⁰⁴

¹⁰²

Interview with August Dorchy, February 15, 1946.

¹⁰³

Ibid.

¹⁰⁴

Pittsburg Headlight, August 6, 1923.

January, 1924, marked another international miners' convention. Howat was again attempting to get his case before the convention. Lewis ruled that he was not a delegate to the convention and therefore did not have the right to a hearing. However, he was permitted a hearing before the committee of appeals and grievances. Alex Howat, fighter that he was, could not be satisfied with this sort of justice. He made his way to the platform, got up beside Lewis and took a drink from the president's glass.¹⁰⁵ He began an appeal to the convention but Lewis had him dragged from the platform by two sergeants at arms.¹⁰⁶ In the face of loud protest Lewis adjourned the meeting. After the meeting was adjourned about half of the delegates remained to hear Howat give a lengthy speech on the treatment he was receiving at the hands of Lewis.

Shortly after this defeat at the hands of Lewis he was offered the Superintendency of the Sheridan Mines. Many believed that he would desert the cause of the miners and take this job which would pay him about \$6,000 a year. On April 28, 1924, he refused the offer and said that as long as he was connected with the mining business he would be on the side of labor.¹⁰⁷

¹⁰⁵ Pittsburgh Headlight, February 2, 1924.

¹⁰⁶ Ibid. Pittsburgh Headlight, November 10, 1924.

¹⁰⁷ Pittsburgh Headlight, April 28, 1924. National Strikes, Survey, XLIX (December 15, 1922), 374.

The deposed officials were told that they must be accepted back into a local union before they would be considered for re-instatement. Howat was received into membership of Local 5517 of the United Mine Workers of America at Skidmore, Cherokee County, Kansas.¹⁰⁸ He began work as a digger in the mines.

Howat was immediately nominated for the presidency of District 14, but John L. Lewis ruled that he was not eligible for office because he had not been re-instated by the international board. Many resolutions were made by the locals but the district officers were forced to strike his name from the ballot because of pressure from the international officers.¹⁰⁹

During this period, Governor Davis, the new Democratic governor, had made a gallant attempt to fulfill his campaign pledge to repeal the Industrial Court Law. He found himself confronted with a Republican legislature and little chance of success.¹¹⁰ In various messages he recommended first total repeal, then a one man court with two members of the Public Utilities Commission to sit with him at hearings. Neither of the plans set forth by the governor met with the approval of the legislature.

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Pittsburg Headlight, May 10, 1924.

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Pittsburg Headlight, November 10, 1924.

¹¹⁰

H. Feis, "The Kansas Court and the National Strikes," Survey, XLIX (December 15, 1922), 374.

Realizing that it would be impossible to change the law with such strong opposition in the legislature, Governor Davis set out to appoint men to the court that would be more favorable to labor. Judge Huggins, whose term had expired, was replaced by a Democrat, Judge H. S. Martin, an able and thoughtful man.¹¹¹

The court had become an institution without a duty to perform. Thus, while its political future was being decided it was idle. The Supreme Court of the United States had declared the compulsory arbitration clause unconstitutional. Judge Crawford stated that with this ruling the effectiveness of the court ended because it functioned on the idea of compulsory arbitration.¹¹²

The court was doomed with the election of Governor Paulen, the new Republican Governor, because he, too, favored abolition of the court. The court was consolidated with the Public Utilities Commission and the State Tax Commission. This body was to consist of five members and to be called the Public Service Commission.¹¹³ The consolidation took place and the Industrial Court became history, its remaining powers being placed in the newly created Public Service Commission.

¹¹¹H. Feis, "Kansas Clings to her Court," Survey, L (May 15, 1923), 242.

¹¹²E. Berman, "The Supreme Court and Compulsory Arbitration," American Economic Review, XVIII (March, 1928), 23.

¹¹³Gagliardo, Kansas Industrial Court, p. 227.

This consolidation proved the fact that the life had been taken from the court. It had failed to function as its author had planned. The rulings of the Supreme Court had in effect made a dead letter of the law. It has never been replaced and the remaining sections are still in force, but it is not likely it will ever be revived and put to use.

Alexander Howat, "The Miners' King" had won his fight with the Kansas Industrial Court. His right to strike had been upheld by the highest court of the land. He was still, however, on the outside looking in as far as being re-instated into the United Mine Workers of America was concerned.

After seven years of waiting he was re-instated in the union by action of the International Executive Board on October 29, 1928. This made him eligible for office in District 14 and he was immediately nominated as candidate for the presidency of District 14. He was unopposed but received a large complimentary vote of 3,207. August Dorchy was also elected to his old post of vice-president.

April 1, 1929, found the Howat forces back in power at the head of District 14. A campaign of re-organization was put into effect and the forces of District 14 again became a power to be recognized.

¹¹⁴Pittsburg Headlight, December 21, 1928.

¹¹⁵Interview with August Dorchy, February 15, 1946.

In the spring of 1930, the Illinois district finally broke away from the Lewis union. The executive board of District 14, being hearty supporters of any plan to unseat John L. Lewis, voted to recognize the re-organized program of the Illinois district.¹¹⁶

The re-organized faction decided to have its convention at Springfield, Illinois. Alex Howat and his District 14 attended this so called "Rump Convention". Howat was named chairman in spite of the fact that the break had been initiated by the Illinois leaders.¹¹⁷ He was later elected president of the re-organized faction. This made him on even terms with his rival, John L. Lewis. It is said that the rebel faction actually represented a majority of the dues paying members of the United Mine Workers of America.¹¹⁸

The convention at Springfield hurriedly passed a new constitution and called themselves the United Mine Workers of America. They believed that this would bind the operators to continue the contracts still in force.

The convention at Indianapolis voted to summon Howat and the other leaders of the re-organized faction asking them to show cause why they should not be expelled from the union. They passed a resolution giving Lewis power to revoke the

¹¹⁶Ibid.

¹¹⁷Pittsburg Headlight, March 10, 1930.

¹¹⁸"Disunified Union," Outlook, CLIV (March 26, 1930), 495.

Kansas Charter and set up a provisional government.¹¹⁹ The officials of the Kansas district voted to ignore the summons from Lewis. They felt that he no longer had jurisdiction over District 14.¹²⁰

The entire district voted to stand beside Howat and to pay their dues to the Springfield office. On March 26, 1930, Lewis named Henry Allai as provisional president of District 14 and Joseph Hromek as Secretary.¹²¹ Hromek was against the course pursued by Howat and made public his stand. This was the reason for his selection by Lewis.¹²²

The operators chose to pay the "check off" to the Lewis Union and this cut off the dues to the Springfield faction. Howat threatened a strike to force the operators to turn the money over to the Springfield office. While this controversy was in progress a contest was held in the courts of the state of Illinois to decide which organization was to be recognized as the legal Miners' Union. A decision was handed down against the re-organized movement. The movement was dissolved March 15, 1931.¹²³ With this decision

¹¹⁹Pittsburg Headlight, March 19, 1930.

¹²⁰New York Times, March 23, 1930.

¹²¹New York Times, March 27, 1930.

¹²²Interview with J. E. Hromek, March 29, 1946.

¹²³Baldwin and Baldwin, "Alexander McWhirter Howat," Illustriana Kansas, p. 589.

Alex Howat became a power of the past as far as the United Mine Workers of America was concerned. He never tried to regain admittance to the union.

It is necessary to proceed with the utmost caution in drawing conclusions from the Kansas experiment on compulsory adjudication. The five years during which the court operated did not afford a sufficient length of time for the experiment to demonstrate conclusively whether compulsory adjudication would succeed or fail. The reason was that only a small number of disputes were settled, most of these in the first two years of its existence.

In the opinion of the author a fair trial was not given to the Industrial Court Law. The attitude of those connected with the administration of the law caused both labor and capital to be unduly antagonized. It would seem that too much time was given to taunting and ruffling labor and not enough to quieting and re-assuring labor regarding the good things the law could provide.

Organized labor had only their experiences of the past from which to draw their conclusions. They saw only the dire possibilities that could come from such legislation. They had long been opposed to compulsory arbitration and the somewhat arbitrary and self-assured attitude of Governor Allen did little to change that attitude. Quite the contrary, his methods of dealing with Howat tended to make the court even more unpopular with labor and to make Alex Howat a

CHAPTER IV

CONCLUSION

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martyr in the eyes of his sympathizers. One thing the law did demonstrate quite clearly was that no plan which aims to secure industrial peace can succeed if it fails to gain the confidence and cooperation of both sides of the dispute.

In the opinion of Judge Huggins, author of the law, its effectiveness was so affected by constant political meddling as to make a fair trial of the law impossible. Patronage appointments did much to cause the court to lose prestige. One of the judges appointed was Governor Allen's political manager. The subordinate workers connected with the court also received their appointments through patronage.

The attitude taken by Governor Allen in the disputes confronting the court did much to discredit the court. It seemed to the public that the Governor was completely dictating the procedures and policies of the court. He made announcements as to what action the court would take even before the matter was before the court. It is true that the Governor was the first man in the state as far as law enforcement is concerned but he should have been more in the background as to the workings of the court. Judge Huggins never ceased to claim that Governor Allen constantly tried to run the court. ~~destruction of the power and prestige of Alex~~

Even more serious than the Governor's interference was the lack of agreement among the judges of the court. This difference of opinion led to a minimum of action in a number of important disputes. The critics of the court pointed to

this lack of action as portraying an inherent weakness. Much emphasis was laid on the fact that for calling two small strikes involving about two hundred men each, Alex Howat was fined and imprisoned, while in a general strike, involving some ten or twelve thousand miners, resulting from the arrest of their leaders, the court stood by practically idle. In the opinion of the author of the law and the first presiding judge of the court, the court utterly broke down and failed to function in this strike. The other two judges believed that as long as Kansas had an adequate supply of coal the court should not interfere.

The question of state boundaries was another factor faced by the court. It was handicapped by its uncertain jurisdiction over controversies which extended beyond the state lines as do many of our present day industrial disputes. Such situations are often of too great magnitude and too far reaching in their effects to be handled satisfactorily by any single state. This would seem to be a problem which must be worked out by the Federal government on a national scale.

One of the indirect results of the Industrial Court Law was the destruction of the power and prestige of Alex Howat, President of District 14 of the United Mine Workers of America. The Industrial Court was to Alex Howat an instrument designed to destroy the union to which he had devoted his best years. The sense of power which came from

long years of successful struggle, undisputed leadership, and a loyal devoted following made for a boldness which to the public appeared dictatorial and brazen. He fought the law with every power he possessed, being so sure of his right to strike that he ran afoul of the law defending his ideas.

He was forced to serve almost three years in jail for his belief in the right to strike. He served his sentence with only one thought in mind, to continue his fight against the law as soon as he was free. During these three years, however, he lost much of his power and influence in his beloved miners' union. With the termination of the power of Alex Howat went the prestige of District 14. It is now reduced to minor importance being directly controlled by John L. Lewis through provisional officers. The officers are appointed by Lewis and do his bidding without question.

In conclusion, while it must be remembered that the Industrial Court labored under handicaps which tended to prevent it from operating as successfully as it might otherwise have done, the results attained leave much to be desired. Petty strikes continued unchecked and more important ones were not prevented in either the coal industry or the railroads. The services rendered by the court in preventing violence and destruction of property during strikes could have been performed equally well by other and less costly methods. The court did not succeed in gaining the confidence

and support of capital and labor, and without the cooperation of these two groups it could not be expected to function satisfactorily.

Even granting that the Supreme Court decision in the Wolff Packing Company case had not eliminated compulsory arbitration as a possible means of settling industrial disputes in the United States, in the opinion of the author, the experience in Kansas with this type of remedy would not warrant other states to follow her example. If compulsory arbitration could not accomplish its purpose in Kansas where labor is in the minority and comparatively weak, it is not to be expected that it could succeed in our essentially industrial states where labor constitutes a majority of the population and where it is strongly organized.

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