

## Andrew Toth

PENNSYLVANIA

IN 1885, Andrew Toth, aged thirty-six, came from his home in a small Hungarian village to make his fortune in this land of liberty and promise. He went to Braddock, Pennsylvania, along with many of his countrymen, to work in the Carnegie steel mills. He was a pious man, of cheerful disposition and considerable intelligence, but he found difficulty in learning to speak English. In Hungary, he had left a wife and daughter, both of whom he expected to bring over after he had saved sufficient money; but his four sons came to the United States with him.

In the fall of 1890, there was a great deal of unrest among the laborers of the industrial and mining regions of western Pennsylvania. Large numbers of aliens who were working in steel mills twelve and thirteen hours a day, seven days a week, for very low wages, desired to better their working conditions and were experimenting with the strike as a method of obtaining their demands.

This was the spirit prevailing among the numerous Hungarian workmen in Braddock on New Year's Eve, 1890. The Hungarians celebrated the coming of the New Year with quantities of *polinky*, a favorite Hungarian beverage. A considerable number were already on strike. As New Year's Day dawned, the Hungarian celebration continued, and it was not long before many of the men were in impassioned moods. They were especially angry because their mill, The Edgar Thompson Steel Works, was operating on New Year's, although it was a holiday, and because a large number of men were working willingly. The indignation around Dugan's Hollow, where most of the Hungarians lived, was seething.

At about two o'clock that afternoon, the working force at the furnaces of the Works was surprised by the sudden assault of a mob of two hundred infuriated Hungarians, armed with clubs, ax handles, shovels, and the like. There were about four hundred men at work, many of them Irish, some Hungarian, and some of other nationalities; but they

were scattered about the yard, and were so taken by surprise that many of them were badly beaten before the mob could be stopped. There was fierce, savage fighting for a short time. The working men gradually closed their ranks, and, reinforced from other parts of the plant, soon drove the rioting Hungarians out of the yard on the run. These drifted back to Dugan's Hollow in small groups.

Quite a number of workmen were injured in the pitched battle. Patrick Nyland, the yard boss, was caught between the two fighting crowds and was mercilessly beaten about the head and shoulders. He was taken from the yard on a stretcher, and placed in a quiet place, and forgotten. A couple of hours later he was discovered, where he had been left, unconscious. The physicians despaired of his life. Michael Quinn, a furnace boss, was brutally beaten, and it was necessary to take him to the Mercy Hospital, where he told about his experience. He said:

I was at work at my furnace when these Hungarians rushed into the mill like a lot of wild animals. Everything had been reasonably quiet all the forenoon, and we were not expecting their visit. I tried to defend myself but it was no use. Four of the Hungarians knocked me down and beat me with clubs. One of them had a shovel with which he struck me three times on the head and twice on the side. They all acted like a lot of brutes. There was no occasion for the trouble except that the Hungarians thought they could force us to support their strike.

The county sheriff arrived in Braddock. Feeling was running high against the Hungarians. He deputized two hundred men, and immediately started making arrests of the leaders of the riot, upon warrants sworn out by Charles M. Schwab, manager of the plant.

In several days fifty-four men had been arrested, and the county officers started their investigations. One paper reported:

The work of arresting the rioters is still going on with persistent regularity. The apparent object of it is to thoroughly terrorize the semicivilized Slavs about Braddock, and to impress them distinctly with the fact that we have both law and government in America.

When Michael Quinn died five days later as the result of

a fractured skull and a broken rib driven into his lung, public opinion became enraged. On January 7, 1891, the *Pittsburgh Press*, in an editorial on the responsibility for Quinn's death, said:

Had the Hungarian laborers not raised the disturbance Quinn would most likely be alive today. This surely establishes the responsibility for his death, no matter who may have been the individual that struck the fatal blow.

Who had beaten Michael Quinn? The officers discovered several witnesses who said that they had seen it happen. They were given the opportunity to examine the arrested Hungarians as they were marched through a room for identification. Peter Mullen indicated Andy Toth, calling him Steve Toth, and stated that Toth was the man he had seen hitting Quinn over the head with a shovel at Furnace C. Mullen said that Toth had tried to strike him also, but that he had escaped. Two other men said that they had seen Michael Sabol and George Rusnok attack Quinn at Furnace A, Sabol beating him to the ground with a shovel, while Rusnok held him down. Other witnesses were found who said they had seen these three men with shovels or clubs among the rioting Hungarians. The three Hungarians were indicted without delay, and brought to trial in the Court of Oyer and Terminer of Allegheny County before Judge Edwin H. Stowe on February 4, 1891.

The evidence, with a great deal concerning the riot, was submitted to the jury by the District Attorney, D. A. Johnston. Through the testimony of the defendants and other Hungarians, Colonel Blakely and H. L. Goehring, the counsel for the defendants, endeavored to establish an alibi for each of the defendants, especially for Rusnok, who denied being at the works at all on New Year's Day. This left an issue for the jury as to whose testimony was to be believed. A strong plea was made on behalf of the defendants that they should not be made the victims of race prejudice. The District Attorney, on the other hand, demanded a verdict of first-degree murder. With Judge Stowe's instructions indicating clearly the difference between first- and second-degree murder, the case went to the jury. It took the jury a

full day and a night to reach its conclusion, which indicated the serious differences later disclosed. Great was the surprise of all concerned, including the District Attorney, when the jury returned a verdict of first-degree murder against all three defendants, a second-degree verdict having been the strongest expected. On February 11, 1891, the defense counsel filed a motion for a new trial, which was denied. On April 8, 1891, the three men were individually sentenced to

be taken hence to the Jail of Allegheny County whence you came and thence at such time as the Governor of this Commonwealth may by his warrant appoint to the place of Execution, and that you be then and there hanged by the neck until you be dead. And May God in his Infinite Goodness have Mercy on your Soul.

The Supreme Court of Pennsylvania reviewed the case on certiorari and on June 5, 1891, affirmed the judgment of the trial court.

There was a great deal of dissatisfaction with the outcome of this prosecution among the better class of citizens in Braddock. It was felt that the Hungarians, who were able to speak very little English, had not received as impartial a trial as three Americans would have received. Andrew Carnegie and Charles M. Schwab, together with other citizens, took an interest in the case, and the Governor was requested to grant a commutation to life imprisonment. The request was granted on February 25, 1892.

In 1895, applications for the pardons of these men were filed. In March, 1895, Sabol was pardoned, and in September, 1897, Rusnok received his pardon. The Board of Pardons indicated their belief that Rusnok was not in the mills at all on the fatal day, but that he had been mistaken for Martin Pekar, whom he resembled. However, in view of the direct testimony of Peter Mullen against Toth, the Governor of Pennsylvania refused to grant any further clemency to Toth.

By this time Toth's oldest son had become well established in Braddock, and he took up the fight for his father's freedom. A second application for a pardon was filed in 1902, but it was again denied. The years in prison grew to ten and to fifteen, and it began to appear, as Toth passed beyond his

threescore years in 1910, that he would serve out his full life term. He had been a model prisoner, and by reason of his piety, had earned the sobriquet of "Praying Andy." He was taciturn, but on the few occasions when he talked, he affirmed his complete faith in his vindication in God's good time.

In 1911 news came from Hungary that one Steve Toth, on his supposed deathbed, had made a confession before a judicial authority that he had been the one to attack Quinn, and that Andy Toth was entirely innocent of the crime. Steve Toth had lived in the same boarding house as Andy, and had left Braddock on the afternoon of the riot, leaving behind his belongings, as well as some money. He was no relative of Andy, but bore some resemblance to him.

So the tide began to turn in Toth's favor, and the fight to prove his innocence was again taken up. Mr. Edward B. Goehring, brother of Toth's first lawyer, succeeded in obtaining from the Pardon Board at Harrisburg a new hearing on the matter. He presented a remarkably clear analysis of the testimony given at the trial, in which he showed that, while Peter Mullen had testified that he had seen Toth beating Quinn at Furnace C, two other witnesses had seen Quinn beaten to the ground at Furnace A, and that when Quinn came to Furnace A, he was uninjured. Mr. Goehring pointed out for the first time in all of the hearings of this case, that Furnace A was over five hundred feet away from Furnace C, and that, therefore, if the testimony of the two witnesses about the severe beating of Quinn at Furnace A, and his sound condition upon arrival there, was true, then Witness Mullen must have been completely mistaken about Toth's beating Quinn at Furnace C. Dr. Stewart, who was in 1891 a timekeeper and one of the witnesses of the brawl at Furnace A, and in 1911 the sole surviving witness, appeared before the Board and repeated in very positive terms his testimony about the events at Furnace A. It was a physical impossibility for Quinn to have been mortally injured at Furnace C, yet to have come five hundred feet to Furnace A, and to have been there attacked as had been described. Presented in this light, Toth's innocence was sufficiently established so that Steve Toth's confession from Hungary was not filed

with the Pardon Board. Governor Tener, on the strong recommendation of the Board, granted Toth a full pardon on March 17, 1911. Among the reasons given was that "the trial occurred within about six weeks after the riot and at a time when the public mind was under the influence of the excitement naturally arising from the tumultuous events of the day."

Toth was immediately released from the Western Penitentiary, after having served nearly twenty years for a crime he did not commit. He was met at the prison gate by his four sons and Mr. Goehring. He expressed no hostility toward those who had falsely testified against him and had ruined his life. Toth admitted that he was present at the riot, but that he had gone there only upon the threats of the riot leaders and to save himself from being "licked." On all occasions, he had asserted his innocence and denied having been near Quinn at the time of the riot. The newspapers over the whole country expressed their sympathy for Toth, editorially and otherwise. His case has since become a modern *cause célèbre* of the erroneous punishment of an innocent person.

A movement was immediately started to have the commonwealth of Pennsylvania grant some compensation to Toth for the twenty years of his life which it had taken from him (from the age of forty-three to sixty-two). Delegate A. C. Stein, from Allegheny County, introduced a bill in the House of Delegates providing for the payment of \$10,000 "to Andrew Toth as compensation for his detention in the Western Penitentiary of Pennsylvania, through a miscarriage of justice." Clergymen and editors joined in urging this reparation, but it was not voted by the Legislature because it was felt that such a law would be unconstitutional in Pennsylvania. It was said that the commonwealth could pay nothing. Andrew Carnegie, for whom Toth had worked in the steel mills, learned of the situation and arranged for the payment to Toth of \$40 a month for the rest of his life. He returned to his wife in his native village in Hungary, now Czechoslovakia, to spend his declining years.

Although considerably broken in health by his long con-

finement, Toth seems to have come of sound stock. At the present writing (1930) Toth is still living.

THE Toth case illustrates the dangers of inadequate investigation by prosecuting authorities and of response to popular demands for vengeance. Mob attacks in addition always carry an opportunity for grave mistakes in identity. It would seem that a little care could have established the fact that Furnace A and Furnace C were over five hundred feet apart and not close together, as the state seemed to assume. It is often hard to tell why such obvious facts are overlooked, even by the defense. The distance between the two furnaces was not established for twenty years, and was overlooked on the occasion of two prior pardon hearings. The disclosure of this important fact would alone have punctured the case against Andy Toth—even against Steve Toth, who apparently did strike a blow at Furnace C. In the pardons of Sabol, Rusnok, and Toth, the Board of Pardons calls attention to the fact that the public excitement incidental to the riots and popular prejudice against Hungarians at the time had much influence upon their convictions. Fortunately, the sentence of hanging was commuted to life imprisonment, when the establishment of the truth could still serve a useful purpose. One explanation of why Andy Toth was identified by Mullen is to the effect that during the "line-up," Mullen stumbled awkwardly and nearly fell, which elicited a laugh from cheerful Andy, whereupon Mullen, vexed, pointed his finger at Toth as the attacker of Quinn—"the laugh which cost twenty years," as one writer puts it. Why a bill to indemnify a person whom the state had unjustly convicted and imprisoned should be held unconstitutional, it will be difficult for the layman to understand. Narrowness of outlook occasionally results in attributing peculiar powers to a constitution. When statutes for indemnification become more familiar, as they are throughout Europe, it will perhaps be admitted that the state is but doing simple justice in righting its wrong, and that even an unintentional miscarriage of justice is a public injury which warrants in-

demnification to the victim. Andrew Carnegie did, as a matter of philanthropy, what the people of Pennsylvania should have done as a matter of duty.

#### BIBLIOGRAPHY

1. Photostatic copy of the docket record, Case No. 18, December Session, 1890, *Commonwealth v. Andrew Toth et al.*, Allegheny County Court House, Pittsburgh, Pennsylvania.
2. Photostatic copy of the pardon record, from the files of the Pennsylvania Board of Pardons.
3. *Pennsylvania Legislative Journal* (1911), I, 885.
4. *Virginia Law Register*, XVII (September, 1911), 406-407.
5. Newspaper articles and editorials in the *Pittsburgh Commercial Gazette*, *Pittsburgh Dispatch*, *Pittsburgh Post*, *Pittsburgh Press*, *Philadelphia Record*, and the *Boston Sunday Post*.
6. Pardon of Michael Sabol, March 28, 1895.
7. Pardon of George Rusnok, September 30, 1897.
8. Acknowledgments: Edward B. Goehring, attorney at law, Pittsburgh; Francis H. Hoy, Jr., Secretary of the Board of Pardons; William S. Herbster, attorney at law, Pittsburgh.