



Cornelius Francis Kelley : the rise of an industrial statesman
by Thomas Charles Satterthwaite

A thesis submitted to the Graduate Faculty in partial fulfillment of the requirements for the degree of
MASTER OF ARTS in History
Montana State University
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Abstract:

"Look out for the boy . . . who begins by sweeping out the office. He is the probable dark horse you had better watch." With these words Andrew Carnegie ended an address to the class of 1885 of the Curry Commercial College in Pittsburg. Two thousand miles away in Butte, Montana, a ten-year-old boy, Cornelius Francis Kelley, began in that summer by carrying water for thirsty construction crews. "Con" Kelley, as he was popularly known, would in the next half century become the living embodiment of Carnegie's prophecy and the American Gospel of Success.

Kelley's career took him from water-boy to Chairman of the Board of Directors of the Anaconda Copper Mining Company. The development of that career, the people, the events, and the ideas that shaped it, are the subjects of this work.

No two men exerted greater influence on Kelley than did Marcus Daly and John D. Ryan. Daly and Ryan occupy opposite ends of the business spectrum. In Daly one sees the embodiment of 19th century "rugged individualism." Characterized by a sense of "noblesse oblige," Daly endeared himself to his workers and commanded loyalty and devotion from them. Ryan was the typical standard bearer of 20th century corporate management, with its absentee ownership, interlocking directorates and financial manipulations.

Each of these men imparted the best qualities of his world to Kelley, until at the height of his career, he stood as a rare blend of both. Daly and Ryan contributed to Kelley's development, but in the final analysis the qualities of greatness were within the man himself. Others showed the way, but Kelley provided the impetus.

Kelley demonstrated his natural abilities in three major areas. First, as a lawyer in Anaconda's complex legal involvements. Second, as an astute and capable labor negotiator for the "Company." And third, as an executive on the board of directors.

Kelley's passing marked the end of an era. When he departed, so too did the last tenuous ties with the old "Daly regime." He symbolized continuity in Anaconda and transition from old to new in the copper industry.

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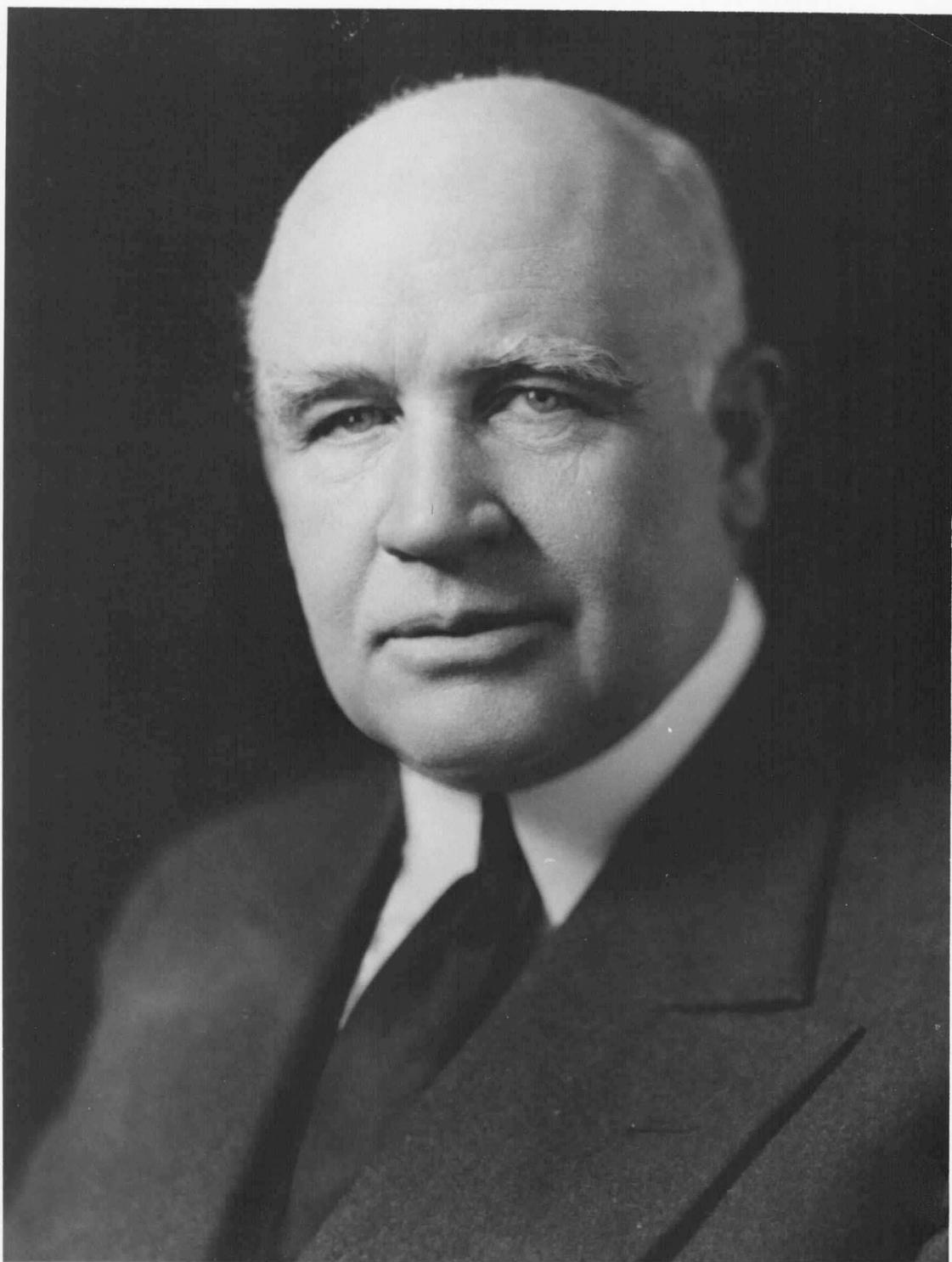
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CORNELIUS F. KELLEY
(1875-1957)

CORNELIUS FRANCIS KELLEY: THE RISE OF
AN INDUSTRIAL STATESMAN

by

THOMAS CHARLES SATTERTHWAITE

A thesis submitted to the Graduate Faculty in partial
fulfillment of the requirements for the degree

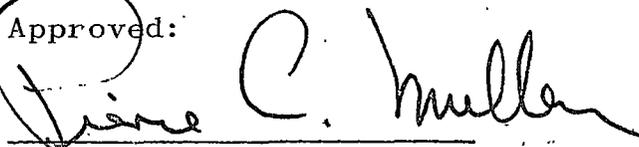
of

MASTER OF ARTS

in

History

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Bozeman, Montana

August, 1971

ACKNOWLEDGMENT

The author would like to extend his appreciation to those who by their timely suggestions and help made this thesis possible. A special debt is owed to Dr. Michael Malone whose patient efforts in guiding the work contributed largely to its final outcome. A sincere thank you is also offered to Dr. J.J. Safford and Dr. R. D. Roeder for their helpful suggestions concerning specific phases of the work. And lastly to my wife, Linda, who typed the final draft.

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ABSTRACT

"Look out for the boy . . . who begins by sweeping out the office. He is the probable dark horse you had better watch." With these words Andrew Carnegie ended an address to the class of 1885 of the Curry Commercial College in Pittsburg. Two thousand miles away in Butte, Montana, a ten-year-old boy, Cornelius Francis Kelley, began in that summer by carrying water for thirsty construction crews. "Con" Kelley, as he was popularly known, would in the next half century become the living embodiment of Carnegie's prophecy and the American Gospel of Success.

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CHAPTER I

THE FOUNDATIONS OF A CAREER

1883 marked the nineteenth year of production in the western Montana mining camp of Butte. The camp had undergone a successful transition from placer gold to quartz silver, and in doing so had avoided becoming a "ghost town," at least for a few years. The discovery of silver in W. L. Farlin's Travonia claim in 1874 launched a new era of prosperity in Butte, and by 1880 the booming silver camp boasted 4,000 residents, a strongly organized working man's union, a millionaires' club (Silver Bow Club), and a daily newspaper (The Daily News).¹

Butte's position among the leaders of the mining world was secured in 1883 with the occurrence of two completely separate events. First, while engaged in development work on the 300 foot level of the Anaconda mine, workers encountered a five foot vein of extremely rich copper ore.² Copper had been encountered in numerous cases

¹Federal Writers Project of Works Project Administration in the State of Montana, Copper Camp (New York: Hastings House, 1943), pp. 285-287.

²Federal Writers Project, Copper Camp, p. 287.

previous to this; however, silver "was the major metal in the camp. Copper was still a sort of stepchild, tolerated, and generally regarded as having only nuisance value."³

This "strike," however, proved to be of such magnitude that it prompted the manager of the Anaconda Mine, Marcus Daly, to begin work on his own smelter, located 26 miles to the west on the banks of Warm Springs Creek. The site was chosen because of the availability of water, which was lacking in the Butte area.⁴

³Issac Marcossou, Anaconda (New York: Dodd, Mead and Company, 1957), p. 26. Marcossou's work, which is the official history of the Anaconda Company, must be used with caution. It is undocumented and in some cases extremely biased. Marcossou received much of his material concerning Kelley from a personal interview with Mr. Kelley. Thomas Wigal, Public Relations director, Anaconda Company, private interview held with author, Butte, Montana, April 30, 1971.

⁴Federal Writers Project, Copper Camp, p. 287. Marcossou, Anaconda, pp. 21-22. Up until this time, copper bearing ore had to be transported great distances. There was a small smelter located at Baltimore, Maryland, but the world's largest copper refining plants were in Swansea, Wales. To mine copper in Butte, then ship it to Wales to be refined was an expensive process and left precious little profit margin; K. Ross Toole, "A History of the Anaconda Copper Mining Company, 1880-1950" (Unpublished Ph.D. Dissertation, University of California at Los Angeles, 1954), pp. 24,25.

The second significant occurrence for the future of the mining camp occurred on the 16th day of April, 1883. It was on this day that, along with his mother, brother, and two sisters, Cornelius F. Kelley first set eyes on the city of Butte. The boy probably had little idea of the tremendous part the dingy camp would play in his life. Nor did the city take any special notice of the boy's arrival. People were coming and going with increasing frequency now that Butte had railroad links with both the east, by way of the Northern Pacific, and the south, by way of the Utah and Northern.⁵

The father, Jeremiah Kelley, had preceded his family to Butte two years previously and had worked as manager of the Lexington Silver Mine before launching into his own work developing the Bell Mine. Jerry Kelley had immigrated to this country at the age of four years with his parents. The first stop was in Fall River, Massachusetts, where his mother's grandfather had established a boarding school. Jeremiah then attended Georgetown High School in the Shenandoah Valley of Virginia. Excited by the news of gold in California, he signed as a cabin boy

⁵Federal Writers Project, Copper Camp, p. 287.

on a vessel bound for San Francisco via Cape Horn. California launched Kelley on his career in mining. While working in the Grass Valley region of that state, Kelley met John W. Mackay and James G. Fair, both of whom were heavy investors in the Comstock Lode. Men such as these were no doubt influential in Kelley's decision to move into Nevada, site of the fabulous Comstock.⁶

While in San Francisco, Kelley met young Hannah Murphy who, after immigrating from Ireland herself, crossed the Isthmus of Panama by rail to visit her brother Dennis in San Francisco. Dennis Murphy and Jerry Kelley were close friends at the time, and it was through Dennis that Kelley met his future bride. After the wedding Kelley and his wife journeyed to Mineral Hill, Nevada, in 1873. Mineral Hill existed as a small mining community in Eureka county. Kelley soon received word from his old acquaintance, John MacKay, of the newly discovered wealth in and around Virginia City. He went to Virginia City and made a fortune in mining stocks, which he subsequently lost. The

⁶Marcosson, Anaconda, p. 29; Montana Standard, May 12, 1957, p. 1.

significance of the trip to Virginia City lies in the fact that it was here that Kelley met and became fast friends with Marcus Daly, who was at that time employed in the Comstock Lode.⁷ On February 10, 1875, while the Kelleys were still living at Mineral Hill, young Cornelius was born.⁸ Shortly thereafter, Jeremiah moved with his family back to San Francisco, where they remained until their arrival in Butte.

Immediately after meeting the train bearing his family to Butte, Jeremiah took them to the Superintendent's home at the Bell Mine, where they remained for a number of years. "Kelley . . . had organized a company which did the first important development work at the Bell Mine and constructed the Bell Smelter, one of the earliest in the Butte camp." Two years after the family's arrival, in June of 1885, Jeremiah singlehandedly quelled a riot at the Bell. He faced down an angry mob at pistol point.⁹

⁷Marcosson, Anaconda, p. 28; Montana Standard, May 12, 1957, p. 1.

⁸Montana Standard, May 12, 1957, p. 1.

⁹Marcosson, Anaconda, pp. 29, 67; Montana Standard, May 12, 1957, p. 1.

The next move took the Kelleys to a small house located about a mile east of Daly and Main streets in Corra Terrace, Walkerville.¹⁰ This would be the home of Kelley's boyhood. He attended grade school there and developed many fond memories which in later years he recalled with obvious delight. The high point of Kelley's week occurred every Saturday, for on that day Mrs. Kelley went down into Walkerville to shop and visit her friends. "Con" always insisted upon being her chauffeur, whereupon he would hitch up the family horse "Centennial" and eagerly drive his mother to Dennis Driscoll's grocery store, where he enjoyed the aroma of the wares. However, as much as he enjoyed visiting Mr. Driscoll's store, it could not compare with a visit to his mother's friend, Mrs. Margaret Sullivan, who ran a boarding house in the hilltop community. Mrs. Sullivan happened to be the acknowledged "pastry queen" of the community, and she always seemed to have just baked

¹⁰Walkerville is a small community located two miles north of Butte. It derived its name from the Walker brothers who in 1876 sent Marcus Daly to Butte to survey the Alice Mine situated in that area. Marcossou, Anaconda, p. 67; Toole, "History of Anaconda," p. 1-16.

something fresh when Mrs. Kelley and young "Con" stopped in to visit. It developed in the boy a sweet tooth that never left him.

The most exciting occurrences for young Cornelius were undoubtedly the frequent visits made by Marcus Daly to the Kelley home. Daly and the elder Kelley had known each other since their days in Virginia City, Nevada.¹¹ By this time the elder Kelley was a superintendent at Daly's Anaconda Mine, and the conversations revolved around its development, with numerous digressions back to the good old days on the Comstock, Ophir, and Ontario.¹² These discussions exposed the young boy to the intricacies of the mining world, and what started as childhood fascination developed into lifelong love.

Kelley's academic career, as stated previously, began in a small school in Walkerville. By 1888, "Con" was ready to go down the "hill" to Butte High School, from

¹¹Marcosson, Anaconda, pp. 28, 67; Montana Standard, June 5, 1936; May 12, 1957, p. 1.

¹²"Anaconda Copper," Fortune Magazine (December, 1936), p. 91; Marcosson, Anaconda, p. 68; Montana Standard, May 12, 1957, p. 1.

which he graduated in 1892.¹³ The years spent at Butte High School loom large in the maturing of "Con" Kelley. Not only did he develop physically into a commanding figure of a man, six feet tall and over 200 pounds, but more importantly the young man's natural talents began to surface and take shape. One natural talent that became a characteristic of the man in later years found its genesis at the Butte High School; that was his eloquent speaking ability. The gift of fluent speech first became manifest during the High School debates in which Kelley participated avidly.¹⁴ In adult life, Kelley used his eloquence as a tool to give expression to his forceful and dynamic personality, making him a capable, and popular social and business speaker.

Well before his high school years, Kelley had worked for wages. As he recalls, he was ten years old when he began to carry water for the men on the hill.¹⁵ He earned \$1.50 a day while carrying water to thirsty

¹³Marcosson, Anaconda, p. 68; Montana Standard, May 12, 1957, p. 1.

¹⁴Marcosson, Anaconda, p. 69.

¹⁵Kelley in Montana Standard, June 5, 1936, p. 3.

construction crews engaged in laying track for the Butte, Anaconda, and Pacific Railroad.¹⁶ For a ten-year-old boy, \$1.50 per day represented an enormous sum. In 1936, while president of Anaconda, Kelley recounted:

I carried water on this hill for a dollar and a half a day, and God knows I thought it was big pay, and I guess it was . . . I never apologized for the fact that Johnny O'Farrell gave me a dollar and a half a day and I never apologized for what anybody paid me, because I felt that I had and can earn it.¹⁷

Kelley began his first actual mining work while still in high school. During summer vacations he worked with the surface gangs at the Diamond Mine. Here he performed a multitude of odd jobs, such as carrying ore samples from the mine to the assayer's office, cleaning and

¹⁶This railroad was then and is today owned by the Anaconda Company. Its primary task is to transport raw ore from the mines in Butte to the smelter in Anaconda, some twenty-six miles to the west. It also hauls lumber from the central lumber yards at Ricker. Originally steam powered, the line was electrified in 1913 with the acquisition of abundant electrical power in the state stemming from the incorporation of the Montana Power Company. Marcossou, Anaconda, p. 69.

¹⁷Kelley in Montana Standard, June 5, 1936, p. 3.

refitting the old carbide lamps used by the miners, and various other odd jobs connected with the work on the surface.¹⁸

By the spring of 1892, young Kelley faced a crucial decision. Born and raised in the atmosphere of mining, he naturally turned to it for a livelihood. His father, who had by this time become Marcus Daly's superintendent at the Anaconda Mine, protested his son's decision but eventually gave in to the strong willed young man. Kelley's first experience underground came as a "nipper" in the huge Anaconda Mine.¹⁹ He soon approached Daly with a request for a job in the engineering department of Anaconda. In July of 1893, Kelley was accordingly placed on the payroll of the Engineering Department with the position of assistant

¹⁸Montana Standard, May 12, 1957, p. 1; Marcossou, Anaconda, p. 69.

¹⁹"Anaconda Copper," Fortune, p. 91; Marcossou, Anaconda, p. 69. "Nipper" is a term used to designate someone whose job it is to see that the men underground are supplied with tools that are in good condition. The job necessitates extensive travel from one working level to another and accordingly exposes the nipper to all phases of the mining experience. For this reason the job of nipper is usually given to young or inexperienced personnel in order to familiarize them with the workings. No doubt Kelley developed the foundation of his tremendous knowledge of mining from this experience.

instrument man at a monthly salary of \$60.00. Kelley continued in this capacity for several years, rising to the rank of instrument man at \$100.00 per month. This was only summer employment. In September of 1894, Kelley enrolled at the University of Michigan.²⁰

Marcus Daly's friendship with Jeremiah Kelley extended to his son "Con." Evidence indicates that Daly had taken the young boy under his wing early. Young "Con" worked as Daly's personal office boy and there is no reason to doubt that Daly was influential in urging the boy on to school, especially in view of the warm, personal and business relations between Daly and Cornelius' father. Marcus Daly helped finance Kelley's education, if not directly, at least by continuous summer employment.²¹

²⁰Letter, Edward S. McGlone to Mr. Kelley, February 23, 1952, Kelley File, Montana State Historical Library, Helena, Montana; Marcossou, Anaconda, p. 70; Official Records of Anaconda Engineering Department, "Letter Press Book," pp. 140, 184, Kelley File.

²¹Marcossou makes an unique distinction in this regard, emphasizing the fact that Daly was willing to finance an education in mining engineering for Kelley but not one in law. In light of other evidence, this appears inaccurate. Toole, "History of Anaconda," p. 238; "Anaconda Copper," Fortune, p. 91.

While at the University of Michigan, Kelley earned his first degree in mining engineering; later in 1898, he received a second degree in law.²² He put many of the theories learned at Michigan into practical use during the summers of the years 1893 and 1895.²³

During the summer of 1896, Kelley sustained severe injuries while working in the Diamond Mine. As the story is told, Kelley was employed as an assistant to Sam Barker, who on this particular day had charge of surveying a particular section of workings in the Diamond Mine. Kelley did not like the looks of the ground and instructed one of the miners in the vicinity to take a sounding of the rock with his hammer. The miner did and declared the ground safe, whereupon Kelley began to set up his surveying instruments. He never finished. The entire ceiling of the

²²Kelley's career at the University of Michigan remains clouded. University policy refuses information concerning its alumni. Hence the degree in mining engineering referred to by Toole and Fortune does not appear anywhere else and cannot be authenticated; however, there is little reason to doubt its existence when one views Kelley's aptitude in handling mining litigations in the courtroom. Toole, "History of Anaconda," p. 238; "Anaconda Copper," Fortune, p. 91.

²³Official Records of Anaconda Engineering Department, "Letter Press Book"; Letter, Edward S. McGlone to Mr. Kelley, February 23, 1952, Kelley File.

tunnel caved in, burying Kelley under tons of debris. Instinctively, the young engineer threw himself forward into an opening and saved his life. His partner and two miners who were missed by the fall of ground began to dig him out immediately; they took him to the surface, and then to the hospital, where it was discovered he had a broken shoulder, a broken leg, and three cracked ribs. Upon release from the hospital, Kelley went to work at a desk job in the Anaconda drafting department because of his inability to return underground.²⁴

His job in the drafting lab consisted mainly of drawing charts to determine the connections of Anaconda properties with those of other companies on the hill. The result of this work was severe eye strain resulting in retinitis, which constantly plagued Kelley in later life.²⁵

All of Kelley's work experience during this period served him well in later years. Whether or not this followed some plan is impossible to determine. Several facts point in this direction, however, and suggest that Daly was more than casually interested in the boy's progress.

²⁴Marcosson, Anaconda, pp. 70-71.

²⁵Ibid.

The most notable of these is the fierce loyalty Kelley demonstrated to the Anaconda throughout his life.²⁶

One other bit of evidence indicates that Kelley's job, at least by 1897, encompassed more than surveying copper deposits. The chief of the Anaconda Engineering Department at the time was Mr. August Christian, who was a charter member of the Anaconda organization, a share holder, and a warm personal friend of Marcus Daly.²⁷ Christian became almost a second father to Kelley. As late as 1952, Kelley still remembered his first letter of recommendation written by Christian, a testament to the older man's strong influence on his life.²⁸

²⁶The Reveille, September 23, 1902, p. 5; October 31, 1904, p. 1; November 4, 1904, p. 8.

²⁷The relationship between Christian and Daly is demonstrated in a series of handwritten letters from Christian to Daly giving progress reports on development work in Butte. The letters are dated December 23, 30, 1898, and February 1, 1899, and can be found on pages 407, 415, 420, and 428 of Anaconda Engineering Department, "Letter Press Book," Kelley File; Marcossou, Anaconda, pp. 61 70, 90.

²⁸McGlone's letter to Kelley dated February 23, 1952, was in reply to the latter's request for Christian's letter of recommendation; Letter, McGlone to Kelley, February 23, 1952, Kelley File; Letter, C. F. Kelley to August Christian, September 24, 1897, "Letter Press Book," pp. 178-183, Kelley File.

Even by 1897, therefore, Kelley's position in the Anaconda was special, and Daly and Christian exhibited more than casual interest in the young man's progress. In 1898, he graduated from the University of Michigan Law School. A promising future now lay before him.

CHAPTER II

KELLEY AS A CIVIL SERVANT

"Con" Kelley returned to Butte with his newly acquired law degree in June, 1898. The family had moved from the small frame house on Corra Terrace to a large brick home located at 800 North Main Street.¹ The young barrister was fortunate in obtaining a position with the firm of McHattan and Cotter, then one of the leading law firms in Butte, with offices in the Silver Bow Block in the heart of the city.²

Kelley realized the importance of receiving the position with the McHattan firm. Many years later he recalled: "When I was a kid out of law school and did not have enough money to rent an office, he [McHattan] gave me a chair in his library and started me in the practice of law."³

A position with the leading law firm in the city, however prestigious, was not the rainbow's end for "Con"

¹Issac Marcossón, Anaconda (New York: Dodd, Mead and Company, 1957), p. 74; Butte City Directory, 1898.

²Marcossón, Anaconda, p. 74.

³Kelley in Montana Standard, June 5, 1936, p. 3.

Kelley. The extreme depth being reached in the mines by that time caused many old timers to question the extent of the ore bodies in Butte and to express a genuine fear concerning the future of the city. To a bright young lawyer, it hardly seemed the place to set up a practice. This lack of confidence in Butte keenly affected Kelley and caused him to remark: "When I left law school, if I had the price to go to a first-class city instead of to a borrowed chair in Judge McHattan's library, my uncertainty of Butte was such that I think I would have gone."⁴

Despite the uncertainty of his situation, Kelley did remain in Butte and soon engaged in the practical aspects of law. As might be expected, his first case involved mining litigation. Kelley represented a local claim holder of French descent by the name of Poulon. It appears that certain individuals were encroaching upon Poulon's claim and illegally mining his ore. The crux of the case was the determination of the apex of the vein in

⁴Kelley, Montana Standard, June 5, 1936, p. 3.

question.⁵ Kelley's involvement here began his experiences in some of the most colorful and bitterly fought courtroom litigation in the history of mining. He worked for months on the case and finally in order to prove his client's point, he produced a boxlike device which he had built himself. In it, he had constructed his client's claim in miniature. Using blue and red paint, he described the course of the vein in question and did so with such skill that the Judge handed down a verdict favorable to the young attorney's client. Winning his first case, "Con's" confidence in his ability soared. However, the case left much to be desired financially. The court awarded Poulon exactly one dollar in damages. Poulon, in turn, failed to reimburse his counsel and handily left

⁵The apex of an ore vein is that position where the vein breaks the surface of the ground. The "Apex Law" was based on the idea that the owner of the property upon which the vein apexed was sole owner of the vein and was allowed to follow the vein in any direction underground, even though the vein extended beyond the vertical end lines of the claim. Sara McNelis, Copper Kings at War (Missoula, Montana: University of Montana Press, 1968), Appendix III, pp. 214-215.

town. The case left Kelley broke financially but established his reputation as an expert on the intricacies of mining law.⁶

The building of model diagrams became extremely popular and effective in later litigation involving apex controversies. Kelley learned the procedure from a revolutionary method of determining the ownership of veins in the Butte area. A free lance geologist, Horace V. Winchel, first developed the procedure and subsequently shared his discovery with the Anaconda Geological Department.⁷ Kelley continued his legal practice in the firm of John McHattan. His courtroom triumphs included such cases

⁶"Anaconda Copper," Fortune Magazine, December, 1936, p. 91.

⁷Mr. F. A. Linforth, private interview held at his home with the author, 1140 West Platinum, Butte, Montana, June 14, 1971. Mr. Linforth's career as a geologist and mining engineer began with the Anaconda Company in 1907. He and "Con" Kelley were personal friends, and he knew many important persons in Butte at that time, including F. A. Heinze; Reno Sales, who was his immediate superior in the Anaconda Geological Department; and Judges Clancy and Harney, both of whom played large roles in the affairs of Butte.

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When Kelley returned to Butte from law school his first impulse was to go in for a political career for which he had a natural aptitude. He was tall, handsome, endowed with Irish charm, quick-witted with a retentive memory for names and faces,¹¹ always an invaluable asset in politics.

Regardless of the ticket one campaigned on or the political philosophy one professed, in Silver Bow County in 1898 a candidate for office had to be either a Daly man or a Clark man. The antagonism between these two mining giants had been smouldering for years in such episodes as the capital fight of 1894. The Clark-Daly feud climaxed with W. A. Clark's bid for a U.S. Senate seat in 1898-1899.¹²

"Con" Kelley was hardly immune to the polarizing affects of this feud, nor did his experiences in Michigan dim his loyalty to his friend and benefactor Marcus Daly.

¹¹Marcosson, Anaconda, p. 72.

¹²The Clark-Daly feud has been the subject of numerous works. Foremost among them are C. B. Glasscock, War of the Copper Kings (New York: Bobbs-Merrill Company, 1935); C. P. Connally, The Devil Learns to Vote (New York: Covici Friede Publisher, 1938); Jerre C. Murphy, A Comical History of Montana (San Diego: Scofield Press, 1912); K. Ross Toole, "History of the Anaconda Copper Mining Company, 1880-1950" (Unpublished Ph.D. Dissertation, University of California at Los Angeles, 1954) is among the most objective studies available concerning the activities of the Anaconda. Caution must be used in dealing with most accounts of the Clark-Daly feud, since most have a tendency toward bias.

The twenty-three-year-old candidate openly proclaimed his loyalty to Daly. Although Kelley spoke continually about the silver issue and the pride he held in being a supporter of W. J. Bryan, he did not avoid the local issues, the mere mention of which would place a candidate in one camp or the other.¹³

Finally, after constantly alluding to his loyalty to Marcus Daly, Kelley declared himself. In a speech delivered at a South Butte Democratic Rally on the evening of November 1, 1898, Kelley scored his opponents and expressed his own sentiments and ideas:

The other ticket [Clark's] has no excuse whatever for its existence. It has no platform and goes before the people on a lot of issues which have no place in politics, heaping abuse upon a corporation and indulging in personalities as reasons why they should receive support. I believe a campaign should be conducted by a discussion of issues and not personalities.

It has been said that there is nothing involved in this campaign but local issues. This I deny, there is something more far reaching than the personal triumph of one man.[Clark] It has been asserted that the Democratic ticket is a corporation ticket

¹³Anaconda Standard, October-November, 1898; For an indepth study of bimetalism and Montana politics see Thomas A. Clinch, Urban Populism and Free Silver in Montana (Missoula: University of Montana Press, 1970):

the candidates on which all wear the collar of a corporation. You know that to be false

From this county will go to the legislature the largest delegation sent by any other county [sic] in the election of a United States Senator The Senator to be elected will represent the greatest mining state in the union. There should be no question about his being a strong silver man.¹⁴

Continuing, Kelley defended his running mates and openly commended the Anaconda:

In all the campaign I have yet to hear from any man or read in any opposition journal anything against the individual character of any man on the Democratic ticket The only argument used [against the Democratic candidates] is that they wear a corporation collar, and in this connection I want to stand aside from the position of a candidate long enough to express admiration for a candidate long enough to express admiration for a company that has done more to make Silver Bow County what it is than all other agencies combined, and when I say this I don't admit that I wear a collar, but I merely pay just tribute to the good this corporation, that is so abused, has done. . . . The fact that I earned my living working for the Anaconda Company four years and when I resigned my position carried away the good will of the company's officers, I do not regard

¹⁴In the popular jargon of Butte, this is the so-called "Copper collar" allegation. It is interesting to note that Kelley does not use the term, which to the average miner had an extremely derogatory connotation. Anaconda Standard, November 2, 1898, p. 10.

as anything against me. I have no mud to throw, nothing to say against any candidate on any other ticket or his principles, if he is sincere in advocating them.¹⁵

If Kelley was sincere in his statements about having no mud to throw and concentrating on issues rather than personalities in the campaign, he failed to prove it. For in closing, he delivered a vindictive attack on W. A. Clark.

If the Democratic ticket represents a corporation, the citizens ticket represents the ambition of one man [Clark] who never did anything for this county he did not have to but who has devoted himself to money getting, and now that he has grown enormously rich wants a term in the United States Senate as a crowning glory to his life.¹⁶

This speech in Frost's Hall was significant for several reasons. Kelley left no doubt as to his loyalties. His scathing attack on W. A. Clark only confirmed the rumors hinted at in Clark's Butte Miner that Kelley was a Daly man.¹⁷ Kelley was elected to the Montana legislature as a member of the solidly Democratic Silver Bow dele-

¹⁵Anaconda Standard, November 2, 1898, p. 10.

¹⁶Ibid.

¹⁷Butte Miner, October-November, 1898.

gation.¹⁸ His vote totaled 5,837 and roughly matched that of the other local delegates. At least at this time, other than loyalty there is little to indicate that Kelley possessed any exceptional attributes which would endear him to the Anaconda, rather, he appears to have been simply a solid organization man and part of a solid block of votes to be used against Clark.

Montana's Sixth Legislative Assembly convened on the second of January, 1899.¹⁹ This particular session would go down in history as one of the state's most infamous. W. A. Clark, his mind fixed on a seat in the U.S. Senate, set out to capture his dream by fair means or foul. His temporary retirement from state politics in 1896 had allowed Marcus Daly to gain control of the Silver Bow County Democratic delegation, the largest in the state. Out of desperation, Clark aligned himself with the Repub-

¹⁸Anaconda Standard, November 10, 1898, p. 7.

¹⁹Montana House Journal of the Sixth Legislative Assembly of the State of Montana, January 2, 1899-March 2, 1899 (Helena, 1899). Hereafter referred to as House Journal.

licans and set out to buy a Senate seat by massive bribery of the Montana legislature.²⁰

Kelley's actions during the legislative assembly reveal his emerging political character. As was to be expected, he voted consistently against Clark and for the Daly backed candidate, W. G. Conrad, in the Senate race.²¹ At 23 years one of the youngest members in the assembly, Kelley found new avenues of release for his dynamic energy and forceful personality. He immediately secured a seat on two prestigious committees, the Committee on Appointments of State Boards and Offices and the Committee on Affairs of Cities.²²

Kelley's legislative efforts were diverse. As early as the 11th of January, he introduced a bill to amend

²⁰Until 1913, U.S. Senators were elected by state legislatures. For indepth studies of the bribery attempts, see Glasscock, War of the Copper Kings; Connally, The Devil Learns to Vote; Murphy, A Comical History of Montana; Toole, "History of Anaconda"; Merrill G. Burlingame and K. Ross Toole, A History of Montana (New York: Lewis Historical Publishing Company, Inc., 1957), 3 Vols.; K. Ross Toole, Montana: An Uncommon Land (Norman, Oklahoma: University of Oklahoma Press, 1959).

²¹House Journal, Sixth Assembly, pp. 42, 47, 52, 64, 70, 78, 83, 93, 101, 107, 114, 120, 127, 139, 146, 147.

²²Ibid, pp. 12-13, 44, 92, 201, 273-316.

the Code of Civil procedures. On January 20, he directed his efforts toward amending the procedures used to appoint special constables in the State. On the 9th of February, he campaigned for the defeat of a bill he felt to be harmful to the Silver Bow Trades and Labor Council. He was appointed Chairman of Committee of the Whole on February 17 and in that capacity spoke eloquently on the inadequacy of the pay then given to Supreme Court Justices.²³

As a whole, Kelley's tenure in Helena considerably advanced his career. He proved his loyalty to the Daly interests by his votes on Senate appointment and HB132.²⁴ House Bill 132, more commonly known as the Two-thirds Act, provided a corporation with the power to sell, lease, mortgage or exchange for the part, or whole, capital stock of any other corporation, its ground smelter, and all assets, if two-thirds of the stockholders favored the move. In short it permitted the transfer of stock without the consent of the minority stockholders. He provided his con-

²³House Journal, Sixth Assembly, pp. 273-316.

²⁴House Journal, Sixth Assembly, pp. 380-384; Sarah McNelis, Copper King at War (Missoula, Montana: University of Montana Press, 1968), pp. 32-33, 63, 68, 204. Governor Robert B. Smith vetoed the Bill which was then passed over his veto.

stituents in Silver Bow County with effective representation. The bright young mining lawyer returned home more widely known than ever.²⁵ He did not, however, return to the borrowed chair in McHattan's office, but rather to the Silver Bow County Court House. On March 1, 1899, before the close of the legislature, Kelley was appointed assistant county attorney under C. P. Connally.²⁶ This constituted a step upward for "Con" Kelley. At age 24, he occupied an enviable position, and for a year and one-half he gained court room experience in criminal law. Kelley represented the County in such notable cases as the famous Daniel Lucy murder trial, in which Lucy was found guilty and sentenced

²⁵Anaconda Standard, March 4, 1899, p. 7; March 5, 1899, p. 7.

²⁶Permanent File, Records of County Clerk, Silver Bow County, Volume I, Entry March 1, 1899. Connally deserves special mention. As a pro-Daly contemporary of Kelley, he served in various capacities in Butte. From his position as county attorney he went to a district judgeship, presumably upon the request of the Amalgamated management. His greatest claim to fame lies in a series of articles published in McClures Magazine in the summer (May-July) of 1907. These articles described in depth the controversies existing in Butte between Daly and Clark and the apex litigation over the "Minnie Healy Mine." Connally subsequently published the articles in book form under the title The Devil Learns to Vote. By virtue of these articles, Connally became a nationally recognized critic of the "copper wars."

to be hanged. Lucy appealed, and the case reached the State Supreme Court. Based on the evidence compiled by Kelley, the Supreme Court upheld the decision of the lower court, and Lucy was hanged.²⁷

The time spent as assistant county attorney exposed Kelley to the intricacies of court room procedure. "He became a master of jury address, eloquently playing on the emotions of jurors in effective fashion. His demeanor, however, always comported with the dignity so essential in a court of law."²⁸ Many of Kelley's cases were argued before the chair of William Clancy, the Populist judge who later became notorious in his rulings involving F. A. Heinze and the Amalgamated.

However beneficial Kelley's career under Connally may have been, it was only a stop along the way to higher achievements. By mid-1900, the political urge again struck the young barrister, and at age 25 he tossed his hat in the political arena once again. This time, Kelley set his aim

²⁷State of Montana v Daniel Lucy, 24 Montana 295, June, 1899.

²⁸Marcosson, Anaconda, p. 74. In dealing with this phase of Kelley's career, Marcosson becomes extremely distorted and unreliable and should be used with caution.

on the U.S. House of Representatives. 1900 saw the Montana political picture polarized as never before. His heart still burning for a seat in the U.S. Senate, W. C. Clark began to arrange his forces again. F. A. Heinze, the genial pirate of Amalgamated ore, had his own interests in the election. Realizing the courtroom battles his ore piracy would generate, the far-sighted Heinze set out to guarantee that the judicial powers in Silver Bow County would consistently favor his cause. "Each in the interest of his own objectives Heinze and Clark joined forces. Both agreed on their prime opponent: Marcus Daly and the Amalgamated Copper Mining Company."²⁹

The Amalgamated Copper Company had been created in 1899 as a holding company through which the great Standard Oil Company sought to gain control of U.S. copper production. It purchased control of the Anaconda Copper Mining Company, which became its major holding; and thus control of the Butte hill now passed to Wall Street and the Rockefeller-Standard Oil interests.³⁰ Although Daly served as

²⁹McNelis, Copper King at War, p. 94.

³⁰Marcosson, Anaconda, p. 95; Toole, "History of Anaconda," p. 116; Thomas W. Lawson, Frenzied Finance (New York: Ridgeway Thayer, 1905), pp. 237-252.

president of Amalgamated, the real power in the corporation rested with Henry Rogers and William G. Rockefeller, the directors of Standard Oil. The formation of the Amalgamated had a profound affect upon Montana politics.

Thus the political battle lines were drawn upon economic grounds. The Clark-Daly feud once again surfaced, and the personal hatred these men held for one another split the state Democratic party in half. Into the Clark-Heinze camp drifted all sorts of diverse elements: anti-trust Republicans, anti-Daly Democrats, and Populists made up the bulk of Clark's Fusionist ticket.³¹ In this unstable political atmosphere, Kelley's political ambitions found fertile soil. Democrats loyal to Daly, like Kelley, organized the Independent Democratic Party. Loyal to the national Democratic Party, the Independent Democrats were determined to block Clark's Senate bid.

As Heinze's newspaper, The Reveille remarked:

"Con" Kelley had personal reasons for his fierce hatred of Clark. Con was picked up and educated by Daly, to whom he [Kelley] swore eternal loyalty, and Daly hated Clark with an intensity that knew no bounds. . . . Daly resolved that Clark should never have a seat in the U.S. Senate. Con Kelley nursed

³¹McNelis, Copper King at War, p. 94.

