Democratic Sentinel

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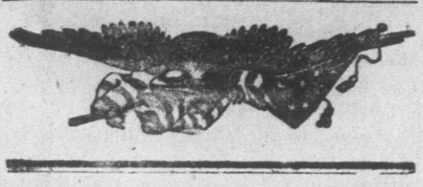

Halstead excoriates the republican senators who refused to confirm his appointment to Berlin.—"When rogues fall out," etc.

Mr. Cleveland denounced 'trusts' as 'conspiracies' no matter by what name they may be called. Just now the twine 'conspiracy' is irritating the farmers.

Just now the farmers are worrying over the twine trust. The adoption of the Mills bill and the re election of Mr. Cleveland wo'd have prevented the worry.

The Clay county coal operators have just notified their miners that they must submit to a reduction of over 15 per cent. in their wages, beginning May 1st. Before the election they were told the success of Harrison would result in an increase of wages.

We understand the first vote of the jury in charge of the Girard case, resulted in 5 for acquittal to 7 for conviction. The political complexion of the jury was, we believe: Republicans 10; Democrats, 2. The Republican is not satisfied with the verdict. It seems Girard voted the Democratic ticket.

In response to the request of a number of our readers for the entire 'interview' with Judge Claypool in reference to the wholesale quashing of indictments against violators of the election laws, we yield most of our space to-day to that paper. It is a readable document. Of course the party that stole the presidency in 1877 will not punish those who placed them in power, by criminal methods, in 1889.

A Great Quasher Quashed.

[From 8th page—concluded.]

"Now, as to what Judge Woods says about 'having several conversations' with me before his first instructions: Preceding the election an affidavit was prepared against Dudley, charging the crime of advising bribery of voters. On the day of the election some charges were made for the 'attempt to bribe.' Early in the day I heard that in the opinion of Judge Woods this was no offense.—I went to him and found this true. At the outset of his conversation with me on this subject, he remarked: 'You are all right against Dudley.' I responded: Judge, you make me happy. He is the fellow I am after' but proceeded, saying further: 'Judge, do you mean that to advise bribery is a crime, and to attempt bribery is not a crime?' and asked if such condition of the law would not be 'curious.' He answered. 'It might seem so at first view,' or in substance this saying further, 'But there was some wisdom' in it, being a phrase like that used in this connection in his first instruction. He then proceeded to explain the use of the word 'attempt' in the last clause of sec. 5,511 in a manner similar to the manner in which he did the same thing in his first instruction, to show how 'advising bribery' might be and was a crime, without the 'attempt to bribe, being a crime. At that time I had not gone into the analysis of the statute and studied it as closely as the judge seemed to have done, and I remarked to him: 'You may be right about "attempting to bribe" not being an offense. He thinks I expressed myself more strongly. It is not unlikely that I did, but whatever impression the judge made upon my mind did not abide with me long, for the judge knows that during the course of the investigation of the jury, I, at the request of the jury, called his attention to this subject again, more particularly to the specific subject of an attempt to vote illegally, I was so gratified at finding that he agreed with me on the law applying to Dudley's case, that I did not care to continue the debate on the other point. This was the first time that the name of Dudley passed between Judge Woods and myself, and the first mention was by him. A few days later, during the week of the election, I heard that the mind of the judge was in doubt on the subject of 'advising bribery.' I sought and had a conversation with him and found that my information was correct. In this conversation he said: 'If I advise you to commit murder and you do not do it, am I guilty?' 'No; but suppose the statute said "whoever advises another shall be punished by fine and imprisonment" then what say you judge?' Understanding the judge to assent to the proposition that under such a statute, advising murder would be a crime, I then added further this in form is what sec. 5,511 does—quotin from the section to illustrate. But few words passed between us—After a little talk the judge said he had asked or would ask the opinion of Senator McDonald. Soon after I heard this had been done and that Mr McDonald's views accorded with my own. I had no other conversation with Judge Woods on the subject of the election cases until after the judge's first instructions, and was not present when these instructions were delivered. During the first part of the jury's investigation I was out of this city. The jury came together first and were first instructed on the 13th or 14th of November, 1888.—Having an appointment from the department of justice I gave some attention to matters before the jury, more especially to Dudley's case during the last week of the jury's sitting, preceding their adjournment the Saturday evening before Christmas. Late in the evening of this day the jury asked instructions on this proposition: 'Whether the jury could indict for advising a person, to the jury unknown, to bribe voters'—When the inquiry was submitted through the attorneys for the government, the judge responded: 'The jury want me to do what it is their business or duty to do; indict Dudley if he is to be indicted. Their shoulders are broader than mine.' This may not be the precise words but it is the substance, and, as I recall the language used. I remarked: 'No, judge, the jury ask a simple legal question.' The judge declined to answer the question, saying this brought up a question farther back about which he was not satisfied, and being asked what, he responded: 'Whether simply advising bribery was an offense.' This was the first intimation, since the first instructions were given, that the judge's views were not settled, and as expressed in those first instructions. If at the time of the first instructions his mind was not so settled, why so much labor and elaboration to show how the attempt to bribe might not be an offense, and 'advising bribery' be an offense and why such repeated and emphatic declaration that the first was a crime and the latter not a crime? Again, why was this question said to have been reserved for further investigation and instructions touching a point in which most public interest centered, suffered to run along from Nov. 13 to Dec, 25 without further investigation and instructions, and all this too in the face of the fact, which must have been known to the judge, that the grand jury and the public press understood the first instructions to be as interpreted by me and as only they can be fairly interpreted? In the light of these facts can it be supposed that for six week and more the attorneys of the Government were moving along in darkness as to the law? The fact is, as I am convinced, the judge did not begin further investigation until after that question came from the jury. I submit that in the light of the foregoing facts, the question of advising bribery' had not been reserved for further investigation as to law, but further investigation was instigated by that 'question of questions' from the grand jury.

"Coming again to the subject of quashing indictments, it is hard to avoid the belief that 'caution' had something to do with quashing the indictments - the same 'caution' that lodged the judicial mind on the side of offenders against the election laws on three disputed points, in two of which he was certainly wrong, and in the third scarcely less clearly wrong. That cautin' which made him decide that to attempt to vote illegally,' 'to attempt to bribe' and 'to advise bribery' were neither crimes; in every instance narrowing the field for the investigation of such political offenses. As in the matter of quashing indictments, the door was opened for the escape of numereus offenders. It is said the most of the persons indicted were republicans. If they had been democrats, and if, as a matter of fact, a fatal formal defect had been discovered in the indictments, is it likely, after the discovery of the fact, the work of quashing indictments and discharging the indicted parties would have gone on to the number of near 150, in some cases allowing offenders who live out of the state to depart? Is it not more likely that the work of quashing would have stopped and the indicted parties been permitted or required to stand on their recognizances until after the grand jury might be call'd back to correct the indictments? This is proper practice and is often done. In state courts it has not been usual, when indictments are quashed for formal defects, to discharge the accused. Am I wrong in this? Criminal prosecutors answer. In Coy's case the grand jury was called back But it is said that in this case the indictment had not been quashed. The mistake in the indictment was in describing a 'tally sheet'—a mistake in a 'matter of fact.' In the election cases the mistake, if a mistake, was a mistake in a matter of form. Therefore, the better reason for recalling the grand jury to correct the formal mistakes. If the grand jury is not recalled in these election cases it will be hard to relieve the parties having the power and right to recall the grand jury from an imputation that some political bias has been and is yet controlling and shaping 'action' in the cases. To say this is no reflection on the integrity of any one, and is not so intended. But the effect of such bias is known to all. The presidential commission was composed of great and honorable men, yet every one in his decision fell on the side of his party, and now, and all along, with rare exceptions, courts have divided and do divide on questions of law involving politics; each judge according to his politics. And I am sorry to say it, the judge who does not so decide is denounced by his party.

"If the district attorney does not ask that the jury be recalled, the court may do so of its own motion. During my short connection with the grand jury it came and went under the direction of the court, without regard to my wishes, except at one time when the jury were permitted to go, on my suggestion, but were immediately ordered back by the court, without any suggestion from me and against my wish. There can be no excuse for not recalling the jury. It cannot be supposed that all those indictments were found by a mixed jury without evidence to support them. There were not democrats sufficient to find any indictment without the votes of some republican members. Let the jury be recalled and the indictments corrected, as can be done in a few days, at little expense. Let some good republican lawyer be appointed to assist in the prosecution, like William P. Fishback, Maj. Calkins, A. C. Harris, or others who might be mentioned, for the purpose of giving the sanction of the present administration to the prosecution, as the sanction of Cleveland's administration was given to the prosecution of the tally sheet cases; and I promise that the result will reveal to the public vision a shocking amount of crime against the election laws which ought to and which will, under such prosecution, be punished. There is as much call for such action now as there was in the tally sheet cases After making all due allowance for political prejudices, he who will not lend his support to punish such crimes against the election franchise is a moral coward, and he who would, directly or indirectly, purposely assist such offenders in escaping punishment deserves only the scorn and indignation of honorable men of all parties"

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