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—BY—

JAS. W. McEWEN

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SPEECH

OF

HON. D. W. VOORHEES,

OF INDIANA,

In the Senate of the United States, Wednesday, January 8, 1890.

[Continued from last week.]

Sir, this charge, carefully made by Judge Woods upon the first assembling of the grand jury, so fully and completely covered the case of Dudley and his allies, whoever they might be, that a feeling of satisfaction spread throughout the state, and even those who had been declared defeated at the polls took some consolation in the prospect that the conspirators who had won a corrupt victory in Indiana by the power of money would be speedily exposed, and one or more of them brought to justice. Dudley, in the name and by the authority of his committee, had committed the precise offense so clearly defined by the judge—he had counseled and advised the persons to whom his letter was addressed to have a certain class of people entitled to vote segregated from their fellow-citizens on election day, put into little flocks or blocks of five to themselves, in charge of a trusted man with the necessary funds to enable him to see to it that none got away, and that all voted the Republican ticket.

He had advised an extensive attempt to bribe voters, and Judge Woods declared that to be an offense under the statute, for which a penalty of $500 and three years' imprisonment could be inflicted on the convicted offender. At this point, however, the leaders of the Republican party, not only Indiana but throughout the entire country, were seized with alarm at the idea of a trial in court wherein committee consultations, plans, assessments, and expenditures with which to debauch the ballot would be all dragged ruthlessly to the light, and paraded before an indignant and disgusted public.—They awakened to their danger and found an abyss of ruin yawning at their feet.

From this time forward, for the next sixty days at least, dates are of great importance in connection with events which marked a reaction in Judge Woods' court against the policy with which he had started out, of an honest, impartial administration of the law. The grand jury being in session only two days after receiving the charge of the judge, adjourned on the 16th of November, not to meet again until December the 4th.—Here was a delay of nearly three weeks on the side of justice, but as the sequel showed there was no delay or lack of vigilance on the side of conscious or terrified guilt.

On or about the 28th of November, while the grand jury was yet in recess, Dudley told prominent men of both political parties whom he met in New York that his pockets were full of dynamite, and if he was indicted and prosecuted a very loud explosion would occur. He did not intend that his associates and co-workers in the campaign, while enriched by the spoils of victory and glittering with official honers and istinction, should look on his arraignment, trial, and inevitable conviction with a complacent sense of security to themselves. His threats of dynamite were well understood in certain quarters which had power to protect him. He had carried and disbursed the corruption fund of his party for eight years in Indiana, and was in possession of political secrets of a character to humble and bring low many a proud head if he was abandoned to his fate.

Dudley is a staunch and extreme party man; nor do I think him wanting in personal fidelity to those with whom he breaks bread and eats salt; but to go to the penitentiary not merely for his own sins, but also as a scape-goat for the sins of others, who from high places were intending to let him make the journey alone, was more than even his patriotic devotion to the Republican party and his personal adhesion to Harrison could stand. He pointed to the well-known dynamite in his pockets, and the menacing gesture and hint were heeded with startling promptitude. The grand jury reassembled December 4, pursuant to adjournment, and within the next four days it was known from the witnesses who had been called and testified that an overwhelming case had been made against Dudley, and that his indictment was an assured fact under the rulings of the court as they then stood.

Suddenly, December 9, Judge Woods adjourned court at Indianapolis to hold a week's term at Fort Wayne, which term at Fort Wayne, I have been informed, lasted one hour and forty minutes, and involved the trial of one very unimportant and trivial case. But time had been gained, and the grand jury did not reassemble until December 17. In the meantime the district attorney in charge of the case resigned, and Mr. Bailey, an able and very competent man was appointed in his place. Thereupon a most singular coincidence took place between the views of Republicans at Washington and at Indianapolis. Republican Senators, with singular unanimity and promptness, declared for the ear of the public, that they would under no circumstances allow Bailey to be confirmed, while Judge Woods, with equal promptness and publcity, declared that he would under no circumstances receive an indictment from the grand jury signed by Mr. Bailey until he had been confirmed as United States district attorney by the Senate. Pending these queer complications the Hon. Mr. Quay, chairman of the Republican national committee and Senator from Pennsylvania, arrived at Indianapolis, December 18, and held repeated and protracted conferences with those who held the fate of Dudley and the interests of the Republican party in the hollow of their hands. It is not for me to assume to determine the precise character of the Senator's mission or the subjects he discussed, but inasmuch as his name was at the head of the Dudley letter, giving it the official weight of the committee—

Mr. Quay Will the Senator allow me?

The Vice President. Does the Senator from Indiana yield to the Senator from Pennsylvania?

Mr. Voorhees. Certainly, sir.

Mr. Quay. I will state to the Senator from Indiana that it is not true that in Indianapolis I conferred with those who held the Republican party in the hollow of their hands or consulted with any one in relation to the case of Mr. Dudley.

Mr. Voorhees. The hands of those with whom he consulted were rather small, it is true, but to the extent of their palms they held the destiny of the Republican party in their hands. Does the Senator deny that he called on President-elect Harrison?

Mr. Quay. I called on President-elect Harrison.

Mr. Voorhees. Certainly the Senator did. Now, I repeat again (and I will ask the attention of the Senator, for I do not intend to do him a mite of injustice), it is not for me to assume to determine the precise character of the Senator's mission or the subjects he discussed, but inasmuch as his name is at the head of the Dudley letter, giving it the official weight of the committee, and inasmuch as he has never denied or disclaimed Dudley's authority to put it there, I am sure he will not blame me if I draw a big inference that he wanted the prosecution of Dudley stopped, and that he went to Indianapolis to say so, and that he did say so in quarters where it would "do the most good," and with an emphasis which was not forgotten.

It is not only the tree that is known by its fruits; men are known and their motives and conversations often clearly understood by the results which follow their presence and conduct. Another adjournment of the court and the grand jury followed the advent of the chairman of the National Republican Committee, this time suspending all action and going over from December 23 to January 14, a period of full three weeks. And then, when the court and grand jury came together again, the object for which justice had been delayed, and jockeyed, and juggled so long in the interest of partisan crime, was speedily made manifest.

On the 15th day of January, 1889, a day long to be remembered in the history of the judiciary with shame, Judge Woods delivered what is known as his supplemental charge to the grand jury, in which he explicitly overruled his charge of November 14, and held—

"That the mere sending by one to another of a letter or document containing advice to bribe a voter, or setting forth a scheme for such bribery, however bold and reprehensible, is not indictable; that there must be shown in addition an attempt by the receiver of the letter, or of some other instigated by him, to execute the scheme by bribing, or attempting to bribe, some voter in respect to the election of Congressmen, or in such way as to affect such election."

This is the gist of the famous or rather the infamous second charge to the Federal grand jury at Indianapolis, whereby Dudley and his confederates were enabled to escape, at least for the time being, from the lashes of the law. In his first charge Judge Woods, in the plain simple words of section 5511, had told the jury that to counsel or advise any one to attempt to bribe a voter was an indictable offense. In his second charge he says that such counsel or advice, whether in a letter or otherwise, setting forth a scheme of bribery, however bold or reprehensible, is not indictable in his court. To make it so he declares there must be shown, in addition, that the person receiving the letter, who may be unknown to the grand jury, and legally described as unknown in the indictment, has himself made an attempt to bribe somebody, or has instigated some other rogue to make the attempt.

The impossibility of making this kind of additional proof in the grand jury room or before a traverse jury had been very carefully weigh'd and considered in the close and high counsels of the party before the second charge was given but, as if fearing that the grand jury might adhere to sound principles, although he himself had betrayed and abandoned them, Judge Woods went further, and gave notice in substance, if not in terms, that if an indictment under his first charge should be returned he would allow no conviction on a trial of the same. As a warning on this point he said:

"If the view be adopted that advice not acted upon may constitute a crime, then the exact words used in giving the advice, whether oral or written, must be ascertained, and every possible intendment in favor of innocence must be allowed and all doubts resolved in favor of the accused. If the use of money be advised, but the particular manner or purpose of its use be not clearly, and, indeed, conclusively indicated, a possible innocent use will be presumed; and even if the purpose to bribe be unquestionable, and yet it appears that the design was to purchase votes for other officers than a Representative in Congress, it would be no crime under the statute which is designed to protect the election for that officer alone."

[Contnued on 4th page.]