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The Adams Meeting

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(A LONG-HAND REPORT by JOSEPH C. SAMPSON)

THE Adamses are a courageous clan and the Honorable Alva B. is no exception. Mild in appearance and manner, he warms up in action to a pitch of enthusiasm that would do credit to Billy Sunday in his palmiest days, and his theme at the luncheon meeting on April fourth—"The Sinclair Contempt Case"—afforded a particularly appropriate vent for his oratorical powers. The gentleman from Pueblo was in his best form and those who missed the meeting missed both entertainment and information.

Police Court Preliminaries

President Marsh first called upon Mr. Kavanaugh, chairman of the police court committee, to report progress in the matter of the proposed amendment to the city charter, and Mr. Kavanaugh, with a good deal of humor and no little spleen, explained that his committee had received altogether too little co-operation from the membership of the association at large and to-date had obtained but eleven hundred of the necessary forty-five hundred names on the petitions. He urged that the city council express itself as to the desirability of additional justice of the peace.

The City Hall Speaks

Hon. George Steele, replying to Mr. Kavanaugh, stated that he had already turned in two hundred names and was prepared to turn in two hundred more on the police court petition, but that he was opposed to the city council's expressing itself on the matter as Mr. Kavanaugh had suggested because of the dangerous precedent that would be established thereby.

Ornauer Urges Action

Mr. Gustave J. Ornauer stated that he had placed seventeen petitions and suggested that the president of the association "put the screws to the membership" and have them get the remaining petitions filled with names.

Remarks from the Chair

President Marsh, responding to Mr. Ornauer's appeal, said that he fully realized that the police court committee had been up against a difficult task; that the bar association measure was the result of a study which had extended over a period of more than a year; and that if the association should fail to obtain the required number of names on the petition he would feel humiliated. He, therefore, suggested that the chairman of the police court committee stand at the door at the conclusion of the meeting and put the remaining petitions in the hands of lawyers in attendance at the meeting. Mr. Henry McAllister, he said, had a matter that he wished to present to the meeting and Mr. McAllister was accordingly introduced.

A Judge Is Honored

Mr. McAllister explained that in March 1892 the Honorable Walter H. Sanborn had been appointed Judge of the United States Circuit Court and had served with distinction in that capacity since. The following Friday, he explained, the Saint Louis Bar was to tender Judge Sanborn a banquet in honor of his service and he felt that it would be appropriate for this Bar to remember Judge Sanborn on that occasion. He offered a resolution expressing

our appreciation of Judge Sanborn's service and moved its adoption, whereupon it was put by President Marsh and unanimously carried:

A Voice from the Chamber

Judge Shattuck was then recognized and explained the charter amendment proposed by the Chamber of Commerce which would vest in the Mayor and Council of the City and County power to enter into a contract with the Moffat Tunnel Commission relating to the carriage of water through the tunnel for the use of the city, explaining that the proposed amendment was not a mandate to execute such a contract but merely for the purpose of removing legal obstacles in the path of a contract if it proved desirable. He urged that the members of the association sign the petition for this amendment which would be found at the door along with the police court petitions.

President Marsh Presents the Speaker

After welcoming the state legislators, who were the guests of the day, President Marsh introduced former United States Senator Alva B. Adams, who, he explained, had represented Colorado in the Senate at the time of the Sinclair investigation and was, therefore, peculiarly well qualified to discuss the subject of the Sinclair Contempt Case.

Adams Adumbrates

When Mr. Marsh had invited him to talk, Senator Adams explained, he had frankly confessed that he had run out of worth-while speakers and had urged him to fill the place, cautioning him not to give such a talk as he had given to the Law Club, which was entirely too scholarly for a Bar Association and declaring that in this case we had to be entertained. His subject he said had not met with a very enthusiastic reception from President Marsh but was a bit broader than had been indicated in the announcement, being, "Contempt of the United States Senate." Judging from recent magazine articles, he said, if contempt of the Senate is a crime, a good many people, including the Vice President of the United States appeared to be guilty. And, digressing from his subject for a moment, he said that he was surprised at our movement for additional justices of the peace because in Pueblo they had more courts than business and he suggested that, if we found it difficult to get a hearing here, we get a change of venue to Pueblo.

An Old Question

The power of Congress to compel the attendance of witnesses and to make them testify before its committees, he declared, had been the subject of discussion since the very beginnings of our government. Every session had been confronted with the problem. Usually witnesses acquiesced in attending and testifying but on one or two occasions the power of Congress had been challenged.

Daugherty and Sinclair

The Sixty-seventh Congress, he said, had appointed two investigating committees—one to inquire into the conduct of the then attorney general and the other to investigate the naval reserve oil matter. Attorney General Daugherty's brother and Harry Sinclair's counsel had challenged the power of Congress in each instance. The basis of the Sinclair challenge, he explained, was that coercion of testimony was not a legislative but a judicial function, and that was the primary objection offered by Mr. Littleton, counsel for Sinclair, although other grounds of objection were also assigned. Sin-

clair thereafter declined to answer questions propounded to him by the Congressional committee, specifying that it was upon this ground and not upon the ground of self-incrimination that he refused. Littleton also alleged, the speaker declared, that Congress had waived whatever rights it might have had to inquire into the matter.

Two Methods of Procedure Followed

In the Daugherty case, Senator Adams said, an attachment had been issued by the Congress for Mr. Daugherty's person and the sergeant-at-arms had taken him into custody. The attorney general then took his case into the United States District Court and it was there held that Congress had no right to issue the attachment. In the Sinclair case, however, the statute of 1857, which provides that the fact of refusal to testify could be certified to the District Attorney of the District of Columbia and prosecuted as a misdemeanor, was followed. Sinclair was subsequently indicted on this criminal charge.

Two Precedents for Sinclair Case

There were two precedents for the procedure followed in the Sinclair case, Senator Adams declared, the Guilford and Chaplin cases. In the Guilford case, the Supreme Court held that Congress had no authority to compel testimony as to merely private matters in aid of a judicial proceeding and this was the case used as the basis of the Sinclair contention. The Chaplin case involved charges that certain senators had been speculating in sugar in anticipation of changes in the tariff and the Supreme Court held that coercing testimony was proper because it was necessary to purge the senate of unscrupulous members. The law in the Sinclair case was, however, largely unsettled.

Daugherty Case Reversed

The Supreme Court reversed the holding of the District Court in the Daugherty case, Senator Adams explained, and held that the attachment proceeding was proper, saying inter alia, that "the power of inquiry is an appropriate auxiliary to the legislative function" and in effect that there was the same reason for a legislative body to obtain facts as for a judicial body. The fundamental question in the Sinclair case was thus met and answered. The Supreme Court had also declared in this case that "the only legitimate object of a Congressional investigation is to aid Congress in its legislation. Witnesses were justified in refusing to testify if the information was sought for other purposes than to elicit facts to be used as the basis for passing laws. Congress was not, however, to be presumed to go outside of its proper scope.

Quotes Supreme Court Further

To the objection that both houses must act together the Supreme Court had replied that all legislative action was had by one house acting independently and each house of Congress must, therefore, have the power to investigate to get information for its own use. It was held that investigating the Attorney General's office to see that it is functioning properly was a proper exercise of the power to investigate to develop facts on which to found legislation. In the Chaplin case it was argued that there could not be two processes for contempt, one criminal and the other before the legislative body. But the Supreme Court had held that this was not inconsistent and was entirely proper for otherwise Congress could not protect its own authority.

Some Facts About the Sinclair Case

In the Sinclair case, Senator Adams said sardonically, the expedition of the criminal process was evident for the contempt case came on for trial three years after the hearing and, he ventured to predict, in future Congress will rely upon its own power to proceed against recalcitrant witnesses instead of on criminal process.

Paints Sinclair as Mediaeval Lord

Senator Adams then painted a most amusing picture of the scene at the hearing before the Congressional investigating committee in the Sinclair case, describing Sinclair as resembling a mediaeval lord surrounded by hosts of retainers and monopolizing all of the available space in the committee room. When he (Senator Adams) and others who had been subpoenaed to testify before the committee sought to take some of the few vacant seats in the room, he said they were told that those seats were also reserved for Mr. Sinclair's people, and extra tables had to be brought in for the government counsel. He referred to the argument that was had over the question of whether or not King Charles the First, at his trial, could be compelled to remove his hat and said that it had then been decided that while Parliament had the power to take off his head it had no right to make him take off his hat.

Putting the Sin in Sinclair

In the Sinclair case, Senator Adams said, the District Attorney of the District of Columbia had laid a very elaborate foundation for the trial, introducing some five hundred pages of documentary evidence before putting on any witnesses. One witness from Colorado was then put on the stand and asked a question as to the procedure before the oil investigation committee, which question was objected to and the objection sustained on the ground that the stenographer's notes were the best evidence. Objections were also sustained to a question put to the next witness as to a letter written by Senator Fall and to one as to whether or not the investigating committee had been sitting in the District of Columbia. Senator Walsh had been given the same short shrift as a witness and Senator Smoot had merely been permitted to testify that he had administered an oath in the course of the committee's proceedings.

The "Huddle" Formation

Whenever a question was asked in the course of the trial, Senator Adams said, the whole array of counsel would go up to the front of the court room and huddle like a lot of football players. Then there would be long speeches to the jury supposedly addressed to the court and, after viewing the comedy of that trial, Senator Adams declared that no Western lawyer need fear a contest with Washington talent, for he had concluded that lawyers there were just about the same as lawyers out here. It seemed to him that the Sinclair case was tried almost entirely in chambers and in huddles.

Adams Upon Littleton

Mr. Littleton, Sinclair's counsel, said Senator Adams, went on the stand and testified that he had advised his client during the testimony given at the Congressional investigation, and the Littleton testimony was admitted when the jury was out of the court-room but excluded when they returned to the box.

Pertinent or Impertinent?

The statute declared, according to Senator Adams, that contempt con-

sisted in the refusal to answer a question which was pertinent to the investigation under way and Sinclair's counsel attacked the counts of the indictment on this ground, eliminating thus all but four of the ten counts. The court finally said, after three days of argument and evidence, that the question of pertinency is a question of law for the court and that the only questions for the jury to consider are: Were the questions asked in the course of the investigation and did the witness charged with contempt refuse to answer them? The contest then was as to whether an admitted fact was true or not, and that accounts in part, according to Senator Adams, for the fact that a man of Sinclair's vast resources was convicted. The jury, he said, was out three or four hours on this question.

Fine and Imprisonment

It was interesting, Senator Adams said, to note that the penalty for contempt of the Senate was not fine or imprisonment but fine *and* imprisonment and the question now was whether Sinclair should have the penalty applied on every one of the four counts on which he was convicted.

A Wholesome Result

It was a wholesome proceeding, Senator Adams said, because it had vindicated the power of Congress to make an investigation. He recognized the abuses on the part of many Congressional investigating committees but thought much good had been accomplished by them nevertheless, and he suggested reading the opinion in the Doheny case.

A Fearful Ordeal

There was nothing in the land, said Senator Adams, which a wrongdoer feared so much as a Congressional investigation because it is open to the public and not limited in its scope to the same extent as a judicial one. And it was a comfort to reflect that the Supreme Court of the United States, "which had been the subject of so much criticism," had convicted Doheny and Fall despite the lower courts' decision. He thought this had established public confidence in the Supreme Court and in the two branches of Congress, though he would have to admit that "since Ben (Hilliard) and I left, they are not what they used to be."

New Supreme Court Rule on Admissions

RULE 67a—Every applicant in class "C" or "D", whose application is filed after January 1, 1930, must furnish proof that at the beginning of his law studies, or within six months thereafter, he was eighteen years of age and had completed two years work of an ordinary undergraduate course (not professional) in an approved college or university.

RULE 68a—Every applicant in class "C" or "D", whose application is filed after January 1, 1928, must have studied law at least one of the required three years in an approved law school. If his application be filed after January 1, 1929, he must have studied law for at least two of the required three years in such school.

Adopted by the Supreme Court of Colorado, en Banc, April 14, 1927.

Absence makes the heart grow fonder and we have our moments of depression, as we study certain of the laws and certain of the court decisions, when we feel that perhaps that's why we Americans love liberty and justice so. —*Ohio State Journal.*