JUDGE DELEHANTY ACCUSES SWANN OF FRAUD ON COURT

Tells Governor District Attorney Wrongly Sought to Quash Indictments.

CITES LABOR WAR ASSAULTS

Offers Evidence That Gross Misstatements Were Made to the Court.

INVOLVES DOOLING ALSO

Borrowed Detective to Get Proof There Was No Reason to Drop Gang Prosecutions.

Charges of misconduct in office, one of the accusations on which Colonel Theodore Roosevelt, then Governor, removed Colonel Asa Bird Gardiner from the District Attorneyship of New York County in 1900, were filed against District Attorney Edward Swann by Judge James A. Delehanty of General Sessions yesterday.

As one of his last official acts, Judge Delehanty, whose term of office expires at midnight tonight, forwarded his charges to Governor Whitman by registered letter, mailed in this city at 4 o'clock yesterday afternoon. The Governor received them last night.

Mr. Swann answered the charges late last night with the assertion that they had been actuated by politics and were untrue.

Judge Delehanty accuses the District Attorney of having "deliberately presented a false recommendation to a Judge of General Sessions on the strength of which he obtained the discharge of bail of more than a score of defendants indicted in March, 1914, on various charges of assault, riots, and injuries to property occurring during the course of labor disputes on the east side." He goes further and charges that Mr. Swann sought even to have the indictments against these men dismissed, although seven of them had offered to plead guilty.

Warning to Other Judges.

In a paragraph expressive of his belief that Mr. Swann tried deliberately to trick him by giving his request the appearance of a purely routine matter, Judge Delehanty discloses that it was to him that the District Attorney made his application for the wholesale dismissal of indictments, and asserts that his present publication of the charges has resulted not only from a desire that "the whole conduct of District Attorney Swann should be inquired into to determine whether a deliberate fraud has not been practiced on the court," but from an even greater eagerness to put "this statement upon the record, so that any Judge to whom the matter is presented in the future may act with full knowledge of the facts."

So much Judge Delehanty disclosed for the information of the Governor. What he found unnecessary to explain, though Mr. Swan apparently overlooked the fact when he made his application to the Judge, was that Mr. Delehanty was an Assistant District Attorney under Mr. Whitman when the Governor was District Attorney and so was thoroughly familiar with the details of the very cases on which the Judge thinks Mr. Swann expected him to pass without investigation. Nor did he find it necessary to call to the Governor's attention that Mr. Whitman himself had directed the preparation of some of these very cases. All of them originated in the unsettlement of the trade which, after three years, culminated in the clothing strike of 1914. Among the men concerned were such notorious gangsters as "Dopey Benny" Fein, Waxey Gordon, Jew Murphy, and others whose names are renowned east of the Bowery.

With all this Judge Delehanty was as familiar as he would have been had he expected to try the cases, but in his formal application to the Court, Mr. Swann said that in the investigation he had conducted scores of witnesses had been examined whose testimony had convinced him that it would be impossible to obtain convictions. Judge Delehanty concealed his surprise under a promise to take the application under consideration and, once in his chambers, got into communication with Police Commissioner Arthur Woods.

Borrows a Detective.

Contained in his formal charges to the Governor is Judge Delehanty's first disclosure of the fact that, while Mr. Swann waited impatiently for his decision, the Judge, unknown to any but the men immediately concerned, had borrowed Detective Clinton Wood from

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JUDGE DELEHANTY ACCUSES SWANN

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the Police Commissioner and had assigned him to check up the District Attorney's statements. The work of Wood enabled Judge Delehanty to include in his document to the Governor the assertion that Mr. Swann's recommendation for a dismissal of the indictments was filed "without any real investigation of the cases and without seeing the witnesses. The result is that cases passed upon by the Grand Jury and involving the most vital interests to the public have been dismissed without being submitted to a petty jury."

It enabled him also to make the direct charge to the Governor that:

"Edward Swann, in person, and his assistant, John T. Dooling, agreed to dispose of the cases so as to prevent the trial of them, or the punishment of any guilty men."

In speaking of his action last night, Judge Delehanty said:

"It was my plain duty to report a condition which, in my judgment, required that it be corrected. I am not interested in the cases in any way. My only interest is to see that no fraud is practiced on the Court of General Sessions. As far as my activities in the matter are concerned, they are at an end."

The Judge inclosed his charges in a letter to Governor Whitman and this letter, for reasons which he did not explain, he declined to make public. The letter served, however, as an introduction to his charges which Judge Delehanty prepared in two divisions; a table of the cases involved and a memorandum of his opinions and activities in them. Here is that part of the Judge's communication — the actual charges:

The Cases In Point.

People vs. Joseph Miller, Benjamin Crean, Jacob Goldstein, Max Sigman, and Harry Goldberg, or Abraham Goldberg, assault in the first and second degrees.

People vs. Philip Gussin and Sam Glazer, extortion.

People vs. Philip Gussin, Samuel Glazer, Waxy Gordon, (alias Harry Brown, alias Benjamin Lustig,) and Louis Wechster, assault in first degree.

People vs. Samuel Shore, Abraham Mitchell, and Abraham Silver, injury to property.

People vs. Samuel Shore, Sadie Lashinsky, Jennie Miller, and Abraham Silver, assault in first degree.

People vs. Samuel Shore, Abraham Mitchell, and Abraham Silver, riot, two separate indictments.

People vs. Abraham Baroff and Abraham Silver, riot.

People vs. Max Sigman, Samuel Lefkowitz, Morris Yulman, Jacob Halpern, and Abraham Goldberg, riot.

People vs. Max Sigman, Morris Yulman, Jacob Halpern, and Solomon Metz, riot.

People vs. Max Sigman, Harris Kleinman, Louis Katz, Jacob Halpern, William Tromofsky, Samuel English, and Julius Woolf, extortion.

People vs. Isidor Doerner, Morris Stupnicker, and Morris Feldman, robbery, first degree.

The memorandum, which was signed by Judge Delehanty, follows:

"During the administration of District Attorney Whitman a number of complaints were presented to him of assaults, riots, and injuries to property, occurring during the course of labor disputes in this city. It was alleged that gangsters and thugs were used in the course of these disputes and that their illegal conduct had resulted in grave injuries to the persons and property of the complainants.

"On March 18, 1914, a gross and unprovoked assault was made upon some men whose sole offense was the doing of work without the consent of so-called leaders in their trades. An indictment promptly followed and in the course of the investigation of this case and by reason of the getting of information in gang circles in this city, Assistant District Attorney Breckinridge began an investigation which later developed into a Grand Jury inquiry.

"The Grand Jury which conducted the investigation was continued beyond the normal period in order to complete its work and finally returned all but one of the indictments referred to herein.

Penetrated Under World.

"The investigation of the District Attorney had succeeded in penetrating into underworld conditions and the Grand Jury listened to statements and confessions by men of bad repute, who had ben carried for months upon the payrolls of the defendants, or who had received specific payments for specific outrages perpetrated upon merchants, property owners, and peaceable workmen. A great number of witnesses were called. The investigation conducted by Mr. Breckinridge covered an enormous deal of information not submitted to the Grand Jury, but of the utmost importance in the preparation for and in the trial of these cases.

"There was an indictment found charging certain defendants with murder in the killing of Hyman Leibowitz in the year 1910. This homicide case was the first case to be moved and the trial of that case necessarily delayed the trial of the other cases until late in the year 1915.

"In two of the other cases an effort was made to secure a trial in the Supreme Court, Criminal Term, during December, 1915. Because of the pendency in that court of the case of People against Stapler the trial of these cases was necessarily adjourned until a date early in January, 1916.

"Meantime District Attorney Perkins left the office and Edward Swann became District Attorney. The cases were not tried upon the scheduled dates by District Attorney Swann, but were adjourned from time to time. In January District Attorney Swann retained as special counsel Lucian S. Breckinridge, who had conducted the investigation resulting in these indictments.

"Mr. Breckinridge advises me that when he returned to the District Attorney's office on Jan. 10, 1916, he found the papers covering this investigation in the property clerk's possession on Dec. 31, 1915. From Jan. 10 and down to March 23 these papers were under lock and key in Mr. Breckinridge's safe.

"Mr. Breckinridge sent to the District Attorney on March 23 to 24, a letter of resignation, of which the following is a copy:

Breckinridge's Arraignment.

"'March 23, 1916.

"'Hon. Edward Swann,
"'District Attorney, New York County,
"'New York City.

"'Sir: Herewith I tender my resignation as special counsel to take effect immediately upon receipt of this communication.

"'At your solicitation I came into the office of the District Attorney on Jan. 10, 1915, as special counsel charged with the preparation for trial of the great number of indictments pending against former and present members and officials in certain labor unions in this city. These indictments were the outgrowth of an investigation which covered a period of several months at a cost to the county of thousands of dollars.

"'The investigation was conducted during the administrations of District Attorney Whitman and District Attorney Perkins, and disclosed a tale of wrong and outrage and a use of gangsters and thugs in labor troubles unparalleled in the history of this country. It was shown by testimony believed by a Grand Jury that men, temporarily in control of labor unions in the clothing and other trades, for their own selfish purposes and for the imposition of their will upon workmen and employers of labor, directed and instigated unnumbered crimes of murder, robbery, extortion, assault, riot and injury to property. Their actual participation in these outrages was told by the evil agents of the defendants, who were on the payroll of the unions and were selected because of their absolute lawlessness. The result of this investigation and the activities of the police and the District Attorney in following up the revelations made by the gangsters resulted in a marked improvement in conditions.

"'During the administration of District Attorneys Whitman and Perkins such illegal use of gangsters was suppressed. But within the last two weeks five raids have been made unlawfuly upon the shops of employers in this city, thus indicating a recurrence of conditions such as were revealed by Dopey Benny, Jew Murphy, and others of their ilk.

"'The cases against the defendants have always been in a position to be moved for trial. They were earnestly urged for trial during the last administration, but by various excuses and by the intervention of a case which continued longer than was expected, the trials were adjourned to your administration.

Says Delay Was Sought.

"'During the latter part of the year 1915, from a number of sources, information came to the office of the District Attorney that every effort would be made to adjourn these cases to your term of office, with the expectation that they would then not be prosecuted, or that action would be taken in them which would be entirely satisfactory to the union officials.

"'Under your instructions I have been prepared to take up actively with any trial assistant the preparation of these cases and their trial. Within two weeks I attended a conference in the office of Mr. Dooling, attended by Abraham Levy, attorney for the defendants, in which I was first advised of the proposition which I now understand has been accepted by you.

"'I was advised that you had decided to accept pleas to misdemeanors from Isidor Doerner, Morris Stupnicker, Philip Gussin, Samuel English, Benjamin Brean, Jacob Goldstein, Louis Katz, and William Tromofsky, and that you had further agreed to recommend to the court that sentences be suspended on each of them. The men named, as I pointed out to Mr. Dooling, acted merely as the tools and underlings of the other defendants, and such a disposition would be an admission, contrary to fact, on the part of the authorities that the discharged defendants had done no wrong.

"'I protested at that time against such a disposition, and I now desire to repeat to you my protest and to say to you, in my judgment, it is a travesty on justice and an outrage to decency. Having the knowledge I have of the cases and the conditions under which they arose, I do not intend to acquiesce either actively or by my silence in what is proposed.

"'No knowledge of the cases would have been acquired from any other source, since the papers were placed by me with the property clerk when I left the office on Dec. 31 and were returned to me on Jan. 10 in exactly the same condition as when I deposited them, and have ever since been under lock and key in my safe.

"'If, as Mr. Dooling has stated to me, you do not like the character of the witnesses, permit me to recall to you that these are the very agents of the defendants, selected not in spite of but because of their bad character. If the evidence has seemed so strong to the counsel for the defendants as to induce him to offer a plea of guilty for Crean and Goldstein on indictment No. 98,818, then it is certainly more than sufficient against Sigman and Goldberg. The evidence against these two is explicit, and to me there seems no reason for the distinction proposed except that Sigman and Goldberg were important union officials and Crean and Goldstein are not. The men whom you now propose to discharge under circumstances which will undoubtedly be represented by them as a complete vindication are shown by all the evidence in my possession, and which has always been at your disposal, to be the most active instigators and perpetrators of these outrages.

"'Feeling as I do on the subject I can no longer remain connected with your prosecution of these cases.

"'Respectfully

"'LUCIEN R. BRECKINRIDGE.'

Offered to Plead Guilty.

"Mr. Breckinridge, prior to his resignation, prepared for the Acting District Attorney, under date of March 21, 1916, a memorandum of pleas offered by seven of the defendants on four of the indictments. This memorandum is as follows:

"March 21, 1916.

"Re Union Troubles, Memo. for Mr. Dooling, regarding pleas.

"Isidor Doerner and Morris Stupnicker offer plea in simple assault on indictment No. 105,837.

"Louis Katz, Samuel English, and William Tromofsky offer plea to attempted extortion, as a misdemeanor, on indictment No. 105,836.

"Philip Gussin offers plea to attempted extortion, as a misdemeanor, on indictment No. 105,904.

"Benjamin Crean and Jacob Goldstein offer plea to simple assault on indictment No. 98,810.

"No disposition is offered on indictments Nos. 105,835 and 105,838.

"Indictment No. 105,811—assault is charged against seven men on account of troubles growing out of internal dissensions in the Bakers' Union. No disposition has as yet been offered on this indictment.

"These two papers indicate clearly that without any examination of the papers and without consultation with the assistant specially retained—but against his vigorous protest when he was advised of the plan that had been agreed upon—the District Attorney, Edward Swann, in person, and his assistant, John T. Dooling, agreed to so dispose of the cases as to prevent a trial of them or the punishment of any guilty man.

"At the time Mr. Breckinridge resigned the cases were pending in the Supreme Court. I am advised that they appeared upon the calendar of that court, before Judge Shearn, on March 24 and were then adjourned to March 30. I am advised that between March 24 and March 30 some application was made to Judge Shearn to discharge the bail of the defendants, or to dispose of the cases other than by trial. It is evident that such an attempt was not successful, as on March 30 the cases were marked off the calendar without date.

"The April term of the Supreme Court, Criminal Term, was held by Judge Benton and was actually in session on June 1, June 2, and June 3. The June term of the Supreme Court was held by Judge Weeks and was actually in session on June 5. Notwithstanding the fact that the Supreme Court was open and that the cases were pending therein, the District Attorney, on June 2, applied for and secured an order transferring the cases from the Supreme Court to the Court of General Sessions.

"The cases were put upon the calendar in Part I. of the Court of General Sessions on June 9, 1916, and there the bail was discharged.

"The distinguished and high-minded Judge who acted upon these cases in the Court of General Sessions no doubt relied implicitly upon the good faith of the recommendation presented to him by the District Attorney, dated June 6, and signed by a Deputy Assistant District Attorney and by John T. Dooling as Acting District Attorney.

"Though the cases differ widely in their charges and though the indictments are drawn with precision, the recommendation in each case is substantially the same. The important part of it is as follows:

"'This is one of the numerous indictments arising out of labor disputes, which were the subject of a general Grand Jury investigation in the early part of 1915, conducted under the title of "The People of the State of New York versus John Doe." The object of this investigation was to discover, if possible, who were responsible for the employment of gangsters in connection with the labor disputes, which involved a number of riots, assaults, and attempts at extortion. The investigation lasted several months and scores of witnesses were examined in an effort to get at the true facts.

"'In view of the involved circumstances in this case, the character and type of the witnesses for the people, the vague and indefinite nature of the complaint in this case, and the lack of corroboration, and upon the facts determinable by me after a most rigid and thorough investigation, I am of the opinion that a conviction could not be had.'

"This form of statement is applied to the assault charges, to the riot charges, to the attempted extortion charges, to the robbery charge, and to the charge of injuring property.

"The recommendation in each instance is signed by a deputy assistant, who at the time of the resignation of Mr. Breckinridge had been only three months in the District Attorney's office. It was an impossibility for any man, even of wide experience, to learn between the end of March and the 6th of June all that should be known of these cases. It is of extreme significance that there was prepared and presented to a Judge of this court a recommendation which appeared to be a matter of routine, and which purported to represent the result of an investigation concluding in June. The fact is, as is shown in the letter of Mr. Breckinridge, that the disposition made in June was actually planned in March by District Attorney Swann in person, and there seems to be no honest explanation for this proceeding, nor does there seem to be any reason why the District Attorney, who had in person made this agreement to dispose of the cases, should not have assumed the responsibility for the agreement. There seems especially to be no reason why he should put upon the shoulders of his deputy the apparent responsibility for a disposition of these cases, which he himself had agreed to before his deputy had anything to do with the papers.

Calls Plea a Sham.

"The sham character of the recommendations is evidenced by an examination of the recommendation attached to indictment No. 9,818 against Benjamin Cream, Jacob Goldstein, Max Sigman, and Harry Goldberg. Though this indictment was found in 1914, a year before the general investigation, the recommendation says:

"'This is one of the numerous indictments arising out of labor disputes which were the subject of a general investigation by the Grand Jury in the early part of 1915, conducted under the title, "The People of the State of New York vs. John Doe," the object of which was to discoverd, if possible, who were responsible for the use of gangsters in labor disputes, which involved riots and numerous petty assaults. The investigation lasted several months and scores of witnesses were examined in an effort to get at the true fact.'

"This particular case is deserving of particular comment. The complaining witness, David Manusevitz, was assaulted and brutally beaten on March 18, 1914, while boarding a street car at Rivington and Clinton Streets. The defendants, Sigman and Goldberg, were actually present and in charge of the gang which committed the assaurt. The complainant received a broken nose, his teeth were knocked out, he was kicked and trampled upon. A witness, Ehrenberg, was likewise assaulted. The assault was due to the fact that this man continued to work in a shop in which a strike had been called. The men who committed the assault at the instigation of Sigman are available as witnesses.

"The case is one which can readily be tried. The witnesses are and always have been in the City of New York. The complaining witness came to my chambers on Friday, Dec. 29, 1916, and stated to me that he had not been in nor asked to go to the office of the District Attorney, had not seen the Deputy who signed the recommendation, and had not been visited by any representative of the District Attorney. The witness Ehrenberg likewise came to my chambers and made the same statement.

"Officer Clinton Wood reports to me that he made an investigation and was told by each of the other witnesses in this case that they in turn had not been examined by the Deputy who signed the recommendation, or by the District Attorney or by his assistant. Dooling, and had not been visted by any representative of the District Attorney's office nor requested to go there.

"The recommendation says that it is based on the 'character and type of the witnesses for the people.' Some of these witnesses are gangsters, selected by the defendants, who now confess their guilt. Some, also, are citizens of the city, who were brutally assaulted and who felt—at least under former administrations of the District Attorney's office—that they had a right to make complaint and to be heard.

"The recommendation says that 'a most rigid and thorough investigation' was made. What kind of investigation that is I cannot understand, since in this case not a single witness was seen by any representative of the District Attorney.

"Reference is made in the recommendation to 'the lack of corroboration.' Until this administration of the District Attorney's office it has not been deemed necessary that a statement of a citizen who was brutally beaten and who identifies his assailants need be corroborated.

"Reference is made to 'the involved circumstances of this case' and to 'the vague and indefinite nature of the complaint.' There is nothing involved or vague or indefinite about the brutal attack upon the public street in which a peaceable citizen is the victim.

"Respecting other cases than the Manusevitz case, the report of Officer Wood, hereto annexed, shows that within the time given him he has interviewed the witnesses named, and all of those who have been interviewed have made the same statement—that they did not receive any subpoena in the case, did not go to the District Attorney's office, did not see any of the District Attorney's representatives.

"The situation may be summarized in this way: Edward Swann, the District Attorney, and John T. Dooling, Acting District Attorney, made an agreement with counsel for the defendants for the taking of pleas of some of the less important defendants. This agreement was upset by the vigorous protest of Mr. Beckinridge, who resigned in order to emphasize his protest. Thereafter some arrangement was made to dismiss all of the cases.

"A recommendation was presented to a Judge of the Court of General Sessions, on the credit of which he discharged the bail of the defendants. They are now at large, though their counsel offered to the District Attorney pleas of guilty as to seven of them.

"This recommendation was filed without any real investigation of the cases and without seeing the witnesses. The result is that cases passed upon by a Grand Jury and involving the most vital interests of the community have been dismissed without being submitted to a petit jury.

"The whole conduct of District Attorney Swann in these cases should be inquired into to determine whether a deliberate fraud has not been practiced on the court. I am forwarding to the Governor of the State a copy of this memoranda for such action as he may deem necessary.

"The motions pending before me are returned to the files of the court without action, because, having once been counsel in the cases, I may not act as a judge of them. However, I am placing this statement upon the record so that any Judge to whom the matter is presented in the future may act with full knowledge of the facts.

"JAMES A. DELEHANTY,
"J. C. G. S."

Detective Wood's Statement.

Detective Wood's statement regarding the investigation follows:

"Dec. 30, 1916.

"In compliance with orders received from Fifth Deputy Commissioner Scull I reported to Judge James A. Delehanty, who instructed me to make an investigation for the purpose of learning whether any of the witnesses named on the back of the indictments against Max Sigman et al. had been interviewed by District Attorney Swann, Assistant District Attorney Dooling, or Edward Weil, Deputy Assistant District Attorney.

"I beg to report as follows: I personally interviewed Jacob Brama, Barnet Engel, Rose Engel, David Manushevitz, Gershon Davis, Solomon Moskowitz, Wolf Ehrenberg, William Levine, Sam Kushin, Abraham I. Tamor, Benjamin Pollar, Louis Mitchell, Francesco de Stefano, and Barnet Okun.

"Each of these persons stated to me that he had not been interviewed since December, 1915, by any person representing himself to be from the District Attorney's office, had not been subpoenaed or requested to call at the District Attorney's office, and had not been interviewed by Edward Swann, District Attorney, or by Mr. Dooling or Mr. Weil of the District Attorney's office.

"Respectfully submitted,

"CLINTON W. WOOD,
"A. D. S., No. 92, 1st Branch, D. B."

The statements of witnesses submitted by Judge Delehanty follow:

"Dec. 27, 1916.

"To whom it may concern:

"I have not been subpoenaed to the District Attorney's office of the County of New York this year, 1916, nor have I been interviewed by any person representing either District Attorney Swann, Mr. Dooling, or Mr. Weil on any matter, particularly the assaulting of myself and others at the corner of Clinton and Rivington Streets about 7 A. M., March 18, 1914.

"I am willing to appear in court at any time.

"DAVID MANUSHEVITZ."

"Dec. 30, 1916.

"I hereby declare that since March, 1916, I have not received any request to attend at the office of the District Attorney of New York County, nor was I subpoenaed to attend any court, nor asked about the case in which I was a witness, nor visited by any representative of the District Attorney, nor did I have any talk with District Attorney Swann, or Assistant District Attorney Dooling, or Edward Weil, Deputy Assistant District Attorney.

"ISIDOR ALEXANDER.
"BENNY POLLAR.
"W. LEVINE.
"JACOB D. BRAMA."

Former District Attorney Charles Albert Perkins, Mr. Swann's immediate predecessor in office, said of the charges last night:

"Some of the cases to which the memorandum refers were at my request set for trial at the December, 1915, Criminal Term of the Supreme Court. The preparation for their trial was complete, and I was anxious to have them tried before the expiration of my term of office.

"I was urged by counsel for the defendants to adjourn their trial until 1916, but I refused to do so. The trial of a case which preceded these cases on the calendar unexpectedly consumed so long a time that it became impossible to try them in December, and in consequence their trial was adjourned to this year.

"The evidence in the possession of the prosecution at the time my term of office expired was such as, in my opinion, to establish the guilt of the accused beyond a reasonable doubt. I have no knowledge as to the subsequent disposition of the cases."

The case that delayed the trial of the gangsters was the long drawn out prosecution of Dr. Andre L. Stapler mentioned by Judge Delehanty in his charges. Stapler confessed at last and was sentenced.

It has commonly been reported in the Criminal Courts Building that Mr. Swann has been making overtures to labor interests for a considerable time in the hope of gaining their support should he be nominated for Mayor in the next campaign. He has held frequent conferences with the attorneys of one labor organization. One high official expressed the opinion last night that the District Attorney was trying to win political favor when he made his now famous indictment-dismissal recommendations.

Mr. Swann is a Democrat and was a Judge of General Sessions before his election as District Attorney. Judge Delehanty is an independent Democrat and was an Assistant District Attorney under Mr. Whitman during the years 1910-1916. He was appointed to the bench one year ago by Governor Whitman to fill the vacancy caused when Mr. Swann resigned to run for his present office. Judge Delehanty was nominated in the Republican and Progressive primaries this year when he came up for re-election, but Tammany refused to indorse him, giving its support to John F. McIntyre. Mr. McIntyre won by a close margin, but the election is being contested by Judge Delehanty.

Swann Says It's "Politics."

Mr. Swann's reply that the Delehanty charges had been actuated by "politics" was made in a statement dictated over the telephone to his secretary, Horace W. Foster. Mr. Swann, who left the city on Friday night to spend New Year's with friends in Rockland County, received his first intimation of the disclosures by telephone from his secretary, and dictated this:

"It is well known that Judge Delehanty is a candidate for the Republican nomination for District Attorney next year, and it would be well to remember that Mr. Breckenridge managed the Republican campaign of Charles A. Perkins last year. This is part of a concerted political drive against the present administration of the District Attorney's office.

"I was astonished to learn that Judge Delehanty, waiting until the last day of his term and until every member of the District Attorney's staff was known to be away for the holiday, had made his request to the Governor. Naturally, I can not make a detailed reply until I have seen a copy of the papers. This office, however, would have given him every assistance in his investigation had he requested it. He never did.

"I found these cases in the office when I began my term," Mr. Swann continued, "and I especially retained Mr. Breckenridge, a deputy assistant under Mr. Perkins, at a salary of a full assistant, because Mr. Perkins had assigned him to the case. Mr. Breckenridge for three months frittered away his time, degenerated into a mere theater-and suddenly, without notice, resigned. Mr. Dooling, who had already become thoroughly familiar with the case, took the matter in hand.

"We had already discovered the necessity of indicting some of the main witnesses for murder and others had recanted former statements. A conviction seemed impossible, and an attempt to try the case under those conditions would have meant a tremendous waste of the taxpayers' money and the consequent clogging of an already overloaded calendar. I have seen Judge Delehanty almost daily, and he never has referred to the case."

Assistant District Attorney John T. Dooling was informed of the charges and immediately went to his office, where he issued this statement:

"Judge Swann and I had many conferences with Mr. Breckenridge between Jan. 10 and March 23, when he resigned. The facts were fully discussed and credible evidence weighed and considered. We also consulted with counsel for the accused men, but Mr. Breckinridge did not, as it is claimed, protest against the acceptance of the offer of minor pleas from eight of the defendants.

"Bail was discharged, but the indictments have not been dismissed, and if evidence is now available or can be obtained upon which a conviction may be reasonably expected, the defendants can be tried. The witnesses in these cases came from two sources, one supplied by 'Dopey' Benny's gang and the others by a detective agency working under a so-called union. One indictment had been found in March, 1914, under Judge Whitman and this was superseded and an indictment of murder found against eight in May, 1915.

"This case was tried before Judge Tompkins and Mr. Delehanty tried it for the people. The result was that one of the eight was acquitted on motion of Mr. Delehanty and five were acquitted by the jury, which was out only thirty minutes. The remaining indictments were for assault, riot, and extortion."

The indictments were returned against officials of the consolidated clothing makers' unions and gangsters, said to have been employed by them, and at the time of the legal processes the accused men were represented by the unions' chief counsel, Morris Hillquit.

"When the John Doe investigation resulted in the indictment," said Mr. Hillquit last night, "I stated then and I state now that the whole matter was a public scandal. The indictments were based on evidence furnished by a combination of notorious lawbreakers, who were known as such to the prosecuting officials. Their story was a most clumsy concoction, bearing evidence of deliberate fabrication on the face of it.

"The crime charged was alleged to have been committed five years before the indictments were found, and yet on the strength of it about twenty-five men of good reputation, some of them high union officers, were confined in jail for months. Judge Delehanty himself tried the murder indictments, and he himself moved a dismissal of two of the defendants before the case went to the jury.

"I always thought the indictments and the trial of the so-called 'labor cases' were staged for political effect. In consenting to the dismissal of bail on the remaining indictments, Judge Swann saved the county from an unnecessary and heavy expenditure and rendered a measure of justice to innocent victims of a dastardly plot."

Assistant District Attorney Weil, whose name Judge Delehanty also used, could not be reach last night.

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