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THE TRUE HISTORY OF TEAPOT DOME

SENATOR THOMAS J. WALSH OF MONTANA

WITHOUT animus the Chairman of the Senate Committee which has been investigating the oil scandals in Washington gives his own account of the incidents and clues that led him to undertake the official inquiry and exposure of corruption. In the light of all the lurid publicity recently given to the investigation, it is surprising to find how apathetic the press showed itself toward the first disclosures of patient and exhaustive research. Senator Walsh has here furnished a document of permanent historical value.

AN all too general view prevails that corruption in high places in the government service is not uncommon, but that the operators are ordinarily so clever as to defy detection, or that upon one consideration or another, perhaps in anticipation of reciprocal toleration, even political opponents in a situation to do so refrain from making public official misdeeds or delinquencies. Notwithstanding the startling revelations of the committees inquiring during the current session of Congress into the conduct of the executive departments, I believe that "crookedness" in Washington is rare, and I am convinced that the notion that it is ever condoned by those who might profit politically by the exposure of it, either through hope or fear, is wholly false. It should be added that I refer to instances in which conduct would be universally, at least generally, condemned as contrary to good morals or plainly involving turpitude. It would seem as though there could be no such thing as degrees of dishonesty, and yet of many acts of public officials varying views are held as to whether they are culpable or as to the degree of culpability which should attach to those concerned in them.

Of unequivocally corrupt conduct in office, I am sure the rarity with which the public learns of it is due to the infrequency of its

occurrence, rather than to the art with which it is concealed, or reluctance to expose it. The belief that political opponents overlook transgressions lest reprisals might follow is, in my opinion, without any foundation. That such a notion is entertained in some quarters is evidence of the view that it is a part of the duty of a political party, as it is, to reveal the errors, the shortcomings, and the misdeeds of those in official position by the grace of another party. And yet those of us who have been more or less active in connection with the investigations that have claimed so much attention during the current session of Congress have been made the subject of the most opprobrious comment, because, it is asserted, we were actuated by political motives.

Our government is operated on the party system. That system has its vices, but one of its cardinal virtues is that the one party, always standing ready to point out the objections to and the weaknesses of candidates, officials, policies, and measures of the other, better men are advanced as candidates, officials are held to a higher degree of efficiency, and a stricter responsibility and policies demanded by the public interest are pursued. So it is no discredit whatever to either me or my colleagues, if it be the fact, as has been so acrimoniously charged, that no sense of public duty, no detestation of crime, no love of country actuated us, that our activities are and have been, as charged, "pure politics."

With both friends and foes, however, there is an acute curiosity to know the sequence of events which ended in the public disgrace of Fall, by what sinuous and devious route the pursuit which led to his exposure was followed, and to learn of the intellectual processes by which that result was achieved. It is a queer trait of human character that finds gratification in the reading of detective stories. This tale reveals some queer manifestations of the operations of the mass mind.

In the spring of 1922 rumors reached parties interested that a lease had been or was about to be made of Naval Reserve No. 3 in the State of Wyoming, — popularly known, from its local designation, as the Teapot Dome. This was one of three great areas known to contain petroleum in great quantity which had been set aside for the use of the Navy, — Naval Reserves No. 1 and No. 2 in California by President Taft in 1912, and No. 3 by President Wilson in 1915. The initial steps toward the creation of

these reserves, — the land being public; that is, owned by the Government, — were taken by President Roosevelt, who caused to be instituted a study to ascertain the existence and location of eligible areas, as a result of which President Taft in 1909 withdrew the tracts in question from disposition under the public land laws. These areas were thus set apart with a view to keeping in the ground a great reserve of oil available at some time in the future, more or less remote, when an adequate supply for the Navy could not, by reason of the failure or depletion of the world store, or the exigencies possibly of war, be procured or could be procured only at excessive cost; in other words to ensure the Navy in any exigency the fuel necessary to its efficient operation.

From the time of the original withdrawal order, private interests had persistently endeavored to assert or secure some right to exploit these rich reserves, the effort giving rise to a struggle lasting throughout the Wilson administration. Some feeble attempt was made by parties having no claim to any of the territory to secure a lease of all or a portion of the reserves, but in the main the controversy was waged by claimants asserting rights either legal or equitable in portions of the reserves antedating the withdrawal orders, on the one hand, and the Navy Department on the other. In that struggle Secretary Lane was accused of being unduly friendly to the private claimants, Secretary Daniels being too rigidly insistent on keeping the areas intact. President Wilson apparently supported Daniels in the main in the controversy which became acute and Lane retired from the Cabinet, it is said, in consequence of the differences which had thus arisen.

The reserves were created, in the first place, in pursuance of the policy of conservation, the advocates of which, a militant body, active in the Ballinger affair, generally supported the attitude of Secretary Daniels and President Wilson.

They too became keen on the report of the impending lease of Teapot Dome. Failing to get any definite or reliable information at the departments, upon diligent inquiry, Senator Kendrick of Wyoming introduced and had passed by the Senate on April 16, 1922, a resolution calling on the Secretary of the Interior for information as to the existence of the lease which was the subject of the rumors, in response to which a letter was transmitted by

the Acting Secretary of the Interior on April 21, disclosing that a lease of the entire Reserve No. 3 was made two weeks before to the Mammoth Oil Company organized by Harry Sinclair, a spectacular oil operator. This was followed by the adoption by the Senate on April 29, 1922 of a resolution introduced by Senator LaFollette directing the Committee on Public Lands and Surveys to investigate the entire subject of leases of the naval oil reserves and calling on the Secretary of the Interior for all documents and full information in relation to the same.

In the month of June following, a cartload of documents said to have been furnished in compliance with the resolution was dumped in the committee rooms, and a letter from Secretary Fall to the President in justification of the lease of the Teapot Dome and of leases of limited areas on the other reserves was by him sent to the Senate. I was importuned by Senators LaFollette and Kendrick to assume charge of the investigation, the chairman of the committee and other majority members being believed to be unsympathetic, and assented the more readily because the Federal Trade Commission had just reported that, owing to conditions prevailing in the oil fields of Wyoming and Montana, the people of my State were paying prices for gasoline in excess of those prevailing anywhere else in the Union.

In the letter of Secretary Fall the course taken was said to have been required by the fact that wells in the adjacent Salt Creek field were draining the oil from the Teapot Dome area. As this theory was disputed, two geologists were employed by the committee to make a study of the ground during the summer of 1923, and the committee, on the incoming of their report, entered, on October 22, 1923, upon the inquiry with which it was charged. I had meanwhile caused to be made a somewhat careful but by no means complete examination of the mass of documents furnished the committee by the Department of the Interior, and went into a laborious study of the exhaustive reports made by the experts, much of it of a highly technical character. I undertook a critical analysis of the lease itself and of the lengthy letter of Secretary Fall to the President, and prepared to interrogate him on the stand concerning features of both, with the purpose of bringing out what I conceived to be fatal vices in the one and misrepresentations and weaknesses in the other.

Incidental to this part of the preparation it was necessary to make a careful study of the acts of Congress of February 25, 1920, and June 4, 1920, of the so-called Overman act, and the statutes touching contracts by the executive departments generally and by the Navy Department specifically. A somewhat intimate familiarity with the laws in relation to the disposition of the public domain and the procedure before the Department of the Interior in connection therewith lightened the task of preparation.

Concurrently with the prosecution of the work outlined, I addressed letters to all journals which had exhibited any special interest in the subject either at the time or since publicity was given to the execution of the Teapot Dome lease, asking for such information as they might be able to give me or for the sources of the statements of facts made in articles appearing in their columns on the subject.

The reports of the experts gave not a little support to the contention that drainage to an appreciable, if not a very considerable, extent was taking place from the Teapot Dome into the Salt Creek wells, contrary to the view expressed by some, whose opinions were entitled to respect, that owing to the geological conditions such a result could not ensue. This was unfortunate because from the first it was recognized that there would be some migration of oil across the boundary line of Naval Reserve No. 3 which was purposely made to embrace an area beyond what was believed to be the separate Teapot Dome structure, that the oil in it might be safe.

The Geological Survey had reported that some drainage was taking place and had recommended that the situation be met by drilling a row of line wells along the relatively narrow common boundary. The propriety of leasing the whole nine thousand acres should have been mooted rather than the question of whether any drainage was taking place or to be apprehended. However, the reports of the experts submitted at the first day's session were decidedly favorable to the leasing so far as they went, and in the popular mind, if one may so speak, when general indifference to the whole subject was the rule, they went the whole length, it being supposed that the only question involved was geological.

The effect of the reports was heightened by the grossest mis-

representation concerning their import, put out by one of the great news agencies, subsequently asserted by it and probably truly, through the error of a careless reporter. A member of the committee gave out the statement that the inquiry would terminate within a day or two. Apathetically a few reporters listened in the succeeding sessions to the tedious presentation of extracts from official documents and publications setting out the need of an oil reserve, of the wisdom of maintaining a great supply in the ground, and reciting the story of the efforts of private interests to secure a foothold within the reserves. Secretary Fall being called to the stand, it was disclosed that hardly had the new administration been installed when the determination was arrived at to transfer the administration of the reserves from the Navy Department to which it had been confided by Congress, because it was believed that department was friendly to their preservation, to the Interior Department, suspected of being disposed to tolerate their exploitation, and an order making the transfer bearing date May 30, 1921, over the signature of President Harding, was brought to light. No one now seriously contends that the President had any authority to issue such an order, which, however, at the time of its promulgation, notwithstanding that fact and its evil augury, evoked little attention, though the significance of it was not lost on the watchful leaders of the conservation movement, particularly as Secretary Fall was known from his record in the Senate to be far from friendly to the conservation policy.

No one seemed willing to assume any wrong in or even to criticise the acts of the new administration, buttressed by that seven million majority and guided by the "best minds." Some little dent in the complacent confidence of the public was made at the time the lease was made through the speeches of Senators Kendrick and LaFollette, who called attention to the significant fact that its execution indicated a departure from the settled policy of the Government; that it reversed the result of the struggle that had been carried on throughout the preceding administration; that it was made pursuant to negotiations prosecuted in secret and without competitive biddings. But the listlessness of the public was but little disturbed.

Interest flared fitfully later on when Sinclair declared before a

Senate Committee that he expected to make \$100,000,000 out of the lease, but it was at a low ebb when the hearings began and the reports of the experts chilled whatever there remained. Nevertheless the reversal of the policy to which general adherence had been given, the secrecy which attended the negotiations, the effort to keep from the public information that the lease had been executed, cast about the transaction a suspicion which my study of the facts had heightened until it had passed to conviction. This was strengthened by the examination of Fall and the disclosures made in connection with his testimony. It might be entertaining did time or space permit to specify these in detail. Misstatements of fact in the letter to the President were not infrequent, but more persuasive with me was the total disregard of the plain provisions of the law, and the utterly untenable arguments made to sustain the action that was taken.

To illustrate: twice in letters to the President upon inquiry from Senators, Fall justified the executive order upon the Overman act and the acts of February 25 and June 4, 1920. Confronted with the Overman act he was compelled to admit that by its plain language it had no application. He could find nothing in either of the other acts to justify his reference to them and then fell back on some vague authority arising from the general scheme of our government. He made a futile effort to find some ground for the provision in the contract authorizing the use of the oil to pay the cost of constructing great storage tanks, pursuant to a program of the navy, which contemplated the construction of public works without authorization by Congress, involving an expenditure mounting up to \$102,000,000. He took great credit to himself for sagaciously inserting in the lease that the pipe line to be constructed by Sinclair should be a common carrier, which the interstate commerce law made it without any stipulation to that effect. He reiterated the assertion made in his letter to the President that he considered himself the guardian of important military secrets of the Government in connection with the leases which he would, under no circumstances, reveal, plainly intimating that those who were trying to pry into the affair were lacking in loyalty and wanting in that fine sense of duty to country by which he was actuated, recalling, to me at least, that cynical saying of Dr. Johnson that

patriotism is the last refuge of a scoundrel. He was voluble to a degree.

There followed other witnesses, mainly attachés of the department, who testified about drainage and kindred matters when the committee suspended on November 2 to resume on November 30, the case being made as to the legality of the leases, which no one in either house of Congress rose to defend on the resolution to begin suit to annul them, and as to the policy of abandoning the purpose to keep the oil in the ground which has, except for a feeble voice lately raised in the House, had no defender in either body. The public, however, so far as the press indicated, remained apathetic.

In the interim stories had reached me, rumors rather, about some significant land deal in New Mexico, — sometimes it was Fall who purchased for Sinclair, again Sinclair who purchased for Fall. They were vague in character, and diligent inquiry revealed no details. The statement above as to the press is too general. A few newspapers early sensed the importance of the revelations, notably the St. Louis "Post-Despatch," the Omaha "World Herald," the Raleigh "News and Observer," and the Washington "Daily News," a Scripps publication. From the Honorable W. B. Colver, editor of the last named, I learned that the Denver "Post," which virulently denounced the lease at the outset and then strangely and suddenly quit, had in the summer of 1922 sent a man to New Mexico to investigate the land deal and that he had made a report which, for some reason, the "Post" had omitted to publish. Rumors of why the "Post" had changed its policy fed the suspicion with which I viewed the transaction.

Through Colver and his Denver connections I learned that the reporter was friendly but fearful and that his report, still available, was interesting. I had no funds at my command to bring him to Washington. I had no investigator at my service to interview him or any one. I went before the Committee and asked for a subpoena to require his attendance. Grudgingly authority for its issuance was awarded. He came with his report and gave the names and addresses of witnesses in New Mexico who could tell of Fall's sudden rise from financial embarrassment, if not impecuniosity, to comparative affluence. He brought certified copies of the records showing the acquisition by Fall of the Harris

ranch, of his delinquencies in the matter of his local taxes extending over a period of ten years, and of his liquidation of them in the summer of 1922, and of the shipment of blooded stock from Sinclair's farm in New Jersey to Fall's ranch in New Mexico.

I then dismissed him and secured subpoenas for the New Mexico witnesses, who told the story of Fall's having paid \$91,500 for the ranch mentioned, — the initial payment of \$10,000 having been made in bills taken from a black tin box, — of his subsequent purchase of other lands costing \$33,000 more, of the installation of a hydro-electric plant at a cost of from \$40,000 to \$50,000, and of other expenditures in the aggregate approximating \$200,000. I did not enter into that field of inquiry without misgivings. Seeking advice from a friendly associate on the Committee, I was assured that some plausible story would be told and the effort come to naught. I determined, however, that the duty of the Committee being to investigate, the witnesses should be called, whatever might be the outcome. The significance of their testimony, synchronizing in its details so strangely with Sinclair's visit in his private car to Fall's ranch in the latter part of 1921, an added circumstance of a suspicious character, could not be overlooked and gave rise to obvious consternation among the friends of Fall on the Committee who were, however, reassured by a message from him to the effect that his son-in-law, who was entirely conversant with his business affairs, would come on to explain all.

By this time there was attracted to the committee room an increasing number of representatives of the press, but though the daily reports of the proceedings were reasonably complete, the editorial force seemed oblivious of what was going on. It was at about that stage of the inquiry that I sought through influential friends to arouse the interest of some of the metropolitan papers which, for one reason or another, might be expected to aid, for I realized that many might be prompted to help should the issue be agitated who would otherwise remain silent. If they made any effort it was fruitless. Doheny coming upon the stand about that time denounced as an "outrage" the bringing of witnesses from New Mexico to besmirch the character of so upright a public official as Albert B. Fall. More recent denunciatory comment on the investigators does not specify Fall or any other particular

individual, for that matter. But at that time I was a muckraker, vilifying worthy public servants.

Still it was up to Fall to tell where the money came from. His son-in-law did not appear according to promise. Fall did not. A statement made by him to the press gave the assurance that a full explanation would be made. Later it was reported in a vague way that he was ill, — now in Chicago, now in New York. Reporters were unable to locate him, for they were now on the job. In fact he came to Chicago, went from there to New York, thence to Atlantic City, and to Washington where he had an interview with Senators Smoot and Lenroot, members of the Committee, and with Will Hayes, late Chairman of the Republican National Committee, to whom he told, as he did in a letter to the Committee on December 27, 1923, that he had borrowed \$100,000 with which to purchase the Harris Ranch, from Edward B. McLean, owner and editor of the Washington "Post," then at Palm Beach, Florida, whither Fall speedily betook himself as McLean's guest.

The same volubility which characterized his testimony was in evidence in his written communication to the Committee. It bore intrinsic evidence of being of doubtful veracity. A month had gone by since the damaging evidence had been heard. An honest man would have hastened to take the stand to refute the inferences to which it naturally gave rise and the doubts that it must inevitably have raised. Had such a man been desperately ill he would have told the story on the stand and not sought refuge from cross-examination by sending a letter from his hotel in the city in which the committee was sitting. Moreover, the knowing ones smiled incredulously at the idea of Ned McLean's having such a sum of money at hand to loan, though rich in property, or of his loaning it if he had it.

Forthwith that gentleman began to exhibit a feverish anxiety lest he be called as a witness, singularly divining what was coming. He communicated by wire with the Committee; he sent lawyers to represent to it and to me that he was ill, that his wife was ill; that it would be dangerous for him to tempt the rigorous climate of Washington at that season of the year; that he had loaned \$100,000 to Fall in November or December, 1922; that he knew nothing about the facts otherwise; that he would make a

written statement under oath if the Committee desired him to attest to the truth of a statement he would send. He begged not to be called to Washington. I was insistent that he appear; other members of the Committee were disposed to be accommodating, and on a record vote on which I and my supporters were outnumbered, it was agreed to take from him a statement and hold in abeyance until it was received his plea to be excused.

In the discussion Senator Smoot suggested that I go to Palm Beach and take his testimony. That seemed to me impracticable in view of the demands upon my time, but leave was given me to submit interrogatories to be answered in connection with his statement. But on attempting to draft such I became convinced that the effort to get the truth by that method would be unavailing and I signified to the Committee my willingness to go to Palm Beach. The proper authority to take his testimony was given and on the 11th of January he confronted me at "The Breakers."

I made the trip in the expectation that he would say that he had made the loan, intending to interrogate him as to the source from which the money was derived. I proposed to trace it to its source, either to his own private funds, kept in his own private account, or to some account earmarked in a manner that would permit following it to some other origin. I suspected that in some way it came from Sinclair and that I could follow it through various banking transactions to that source. It had not occurred to me that it might have come from Doheny, though it had been disclosed, — a fact of which Fall omitted to make any mention when on the stand, — that the whole of Naval Reserve No. 1 in California, 32,000 acres in area, estimated to contain 250,000,000 barrels of oil, had been on December 11, 1922, leased to Doheny, who afterwards told us that he too expected to make \$100,000,000 out of his lease secured from Fall in the same secret manner as had characterized the Sinclair deal.

I was dumbfounded when McLean, evidently appreciating that he would be required to tell the bank upon which he drew to make the loan to Fall, should he adhere to his earlier story, frankly admitted that he never did loan the money to Fall, adding that he gave Fall his checks for that sum which were returned a few days later and destroyed without being cashed, the recipient

asserting that he had arranged to secure the necessary elsewhere.

Now the affair could no longer be kept off the front page. Leading news gatherers sent representatives to Palm Beach to report the proceedings there; but the country was not fully aroused until on January 21 the Roosevelts went on the stand to relate their lurid story, and the climax was reached when on January 24 Doheny voluntarily appeared to tell that on November 30, 1921, he had loaned \$100,000 to Fall without security, moved by old friendship and commiseration for his business misfortunes, negotiations between them then pending eventuating in the contract awarded to Doheny on April 25, following, through which he secured, without competition, a contract giving him a preference right to a lease of a large part of Naval Reserve No. 1, to be followed by the lease of the whole of it, as above recited.

Followed the appearance of Fall, forced by the Committee to come before it, after pleading inability on account of illness, to take refuge under his constitutional immunity, a broken man, the cynosure of the morbidly curious that crowded all approaches to the committee room and packed it to suffocation, vindicating the wisdom of the patriarch who proclaimed centuries ago that the way of the transgressor is hard.

IS EINSTEIN WRONG?—A DEBATE

II — THE TRIUMPHS OF RELATIVITY

ARCHIBALD HENDERSON

IN the June issue of THE FORUM Professor Charles Lane Poor of Columbia University sought to prove that phenomena observed during recent solar eclipses have failed to justify the claims of Einstein's theory of relativity. In this second article of the debate Professor Henderson reaches the conclusion that the results of various expeditions, while not tallying in every particular with the predictions, are more favorable to Einstein than to Newton. He asserts that the Einstein theory rests upon solid foundations.

ONE of the greatest triumphs which relativity has won is the purity and unimpeachableness of the mathematical framework upon which it rests. *There are no errors of Einstein.* Relativity rests upon certain assumptions which are ultimate: they cannot be proved or disproved. They can only be "checked up" by resort to physical experiments in verification of their logical consequences. To doubt relativity is simply to deny, — a perfectly legitimate procedure, if you please, the premises upon which the theory rests. But to deny the validity of those premises without supplying others which explain all the physical phenomena explained by relativity, is to hold the wheels of the car of progress. It is to leave matters *in statu quo*, — in the disagreeable uncertainty and painful unsatisfactoriness in which they are now left (without relativity) by the classic or Newtonian mechanics. We must accept the theory of relativity, — if only provisionally, — since it offers us so much more than the older theories.

Nothing could be more appropriate in this connection than the words of Copernicus: "*Neque enim necesse est, eas hypotheses esse veras, imo ne verosimiles quidem, sed sufficit hoc unum, si calculum observationibus congruentem exhibeant.*" It is not necessary for the hypotheses upon which relativity rests to be universally and absolutely true, or even in accord with "common sense" so-called, but simply that they fit the facts, — that the relativistic calculations accord with observation and experiment. New triumphs in this respect are constantly being won by the theory of relativity. Scarcely a month passes which does not record some new verifica-