

MARCK *v.* SUPREME LODGE KNIGHTS OF HONOR.*(Circuit Court, S. D. New York. February 14, 1887.)*

BENEFIT ASSOCIATION—KNIGHTS OF HONOR—EXPULSION—DEATH PENDING APPEAL—REVERSAL.

A member of a lodge of the Knights of Honor was expelled by his lodge, and appealed to the grand dictator. Pending the appeal he died. Subsequently the judgment of expulsion was reversed by the grand dictator, he was reinstated by vote of the lodge, and his assessments due up to the time of his death were received. *Held*, following the analogy of the common law and of the law of the order, as held by its supreme dictator, that the appeal did not abate by the death of the member, and his benefit should be paid.

At Law.

Charles Steckler, for plaintiff.

Morris Goodhart, for defendant.

SHIPMAN, J. Gisbert W. Marck, a member of German Oak Lodge Knights of Honor, was expelled from the lodge on April 8, 1884, appealed to the grand dictator from said sentence, of which appeal said lodge had notice, and died on April 25, 1884, pending said appeal. Subsequently the grand dictator set aside the judgment of expulsion. Marck was reinstated by vote of the lodge, and the dues and assessments which were due up to the date of his death were received. No appeal was ever taken from the vote of reinstatement.

If the analogies of the common law are to be regarded, the appeal did not abate by the death of Marck. *Green v. Watkins*, 6 Wheat. 260. By the reversal of the sentence of expulsion, and by the action of the lodge, he was reinstated as at the date of his expulsion, and was entitled to his benefit. It may be added that such was, at the time, the law of the order, which had held, by its supreme dictator, that if a decision of expulsion was reversed on final appeal, the appellant stands a member as if there had been no such judgment, and he must pay all back dues and assessments; and if, pending the appeal, he dies, has regularly tendered his dues and assessments, and, after death, the appeal is decided in his favor, his benefit will be paid as one who died in good standing, less the amount of his tendered and unpaid dues and assessments.

The motion for a new trial is denied.

UNITED STATES v. M^BBOSLEY. SAME v. MOORE. SAME v. PIERCE, (Two Cases.) SAME v. RITTER. SAME v. STOUT. SAME v. STOUT and another.

(District Court, D. Indiana. December 28, 1886.)

ELECTIONS—ILLEGAL VOTING—STATE AND NATIONAL ELECTIONS—INDICTMENT—REV. ST. U. S. § 5511.

An indictment under Rev. St. U. S. § 5511, for illegal voting or for bribery at an election for representative in congress, voted for at same time and places and upon same tickets with candidates for local or state officers, need not charge that the ballot cast contained the name of a person voted for for representative in congress, nor that the bribe was given with intent to influence the voter in respect to the congressional election.

Indictments under Rev. St. U. S. § 5511; on Motion to Quash.

David Turpie and *Jas. G. McNutt*, for the United States.

Charles L. Holstein, for defendant.

WOODS, J. The venue in each case is laid in Orange county, in the second congressional district of Indiana, and the several charges are predicated upon section 5511 of the Federal Revised Statutes; the section, so far as relevant, reading as follows:

"If, at any election for representative or delegate in congress, any person knowingly personates and votes, or attempts to vote, in the name of any other person, whether living, dead, or fictitious, or votes at a place where he may not be lawfully entitled to vote, or votes without having a lawful right to vote, or does any unlawful act to secure an opportunity to vote for himself, or any other person, or by force, threat, intimidation, bribery, reward, or offer thereof, unlawfully prevents any qualified voter of any state, or of any territory, from freely exercising the right of suffrage, or by any such means induces any voter to refuse to exercise such right, * * * he shall be punished by a fine of not more than five hundred dollars, or by imprisonment not more than three years, or by both, and shall pay the costs of the prosecution."

The substance of the charge against McBosley is that at the election for representative in congress held on the second day of November, 1886, he voted unlawfully in a township and precinct in which he had not resided long enough to be entitled to vote. Moore is charged with having unlawfully procured and advised McBosley to vote illegally. It is charged against Pierce that he prevented a voter from voting freely, in one case by paying him five dollars, and in the other case by giving him a quart of whisky, "to vote a ballot at said precinct at said election aforesaid, then and there containing the names of certain candidates for certain offices therein named, among which was the name of said Pierce, as a candidate for the office of sheriff of said county, the description of said ballot, and the names thereon, except the name of Pierce as aforesaid, being unknown to the grand jury." Ritter is charged with counseling and assisting Pierce to bribe a witness with money, as charged in the first indictment against Pierce. John Stout is charged with bribing a