

ATTORNEY WRITES UPON PEONAGE; TELLS OF COURT INTERPRETATIONS

L. L. Burr Discusses History of This Form of Servitude in United States

By L. L. BURR

Judge Stuart in his decision in the O. A. Steven case, and again in his recent letter to the President of the United States, proclaimed, in effect, that peonage existed in the Territory of Hawaii, United States of America, and also intimated that the present governor and chief justice of the supreme court were in a measure responsible.

Just what peonage is and a brief history of its existence in the United States is here given:

Origin of the Terms Peon and Peonage

The word "peon" is Spanish. In Spanish American countries it is the common term applied to common laborers, especially common laborers who work for the government, road laborers, for instance, and to those working on large estates or plantations. The mere fact that a laborer is called or designated as a peon does not imply that the laborer is under any condition of involuntary servitude. Mexican law, also the laws of New Mexico, ignored the word "peon" and always used the term "servant" when dealing with labor.

The English meaning of the word is not the same as in Spanish, for in English it is used to imply a condition of bondage or serfage. A condition of servitude whereby the peon is bound to labor for his employer. In the case of Alonzo Bailey vs. Alabama, Justice Hughes defined peonage as: "Peonage is a term descriptive of a condition that existed in Spanish America and especially in Mexico. The essence of the thing is compulsory service in payment of debt. A peon is one who is compelled to work for his creditor until the debt is paid."

Peonage in New Mexico

When the Territory of New Mexico was acquired from Mexico as a result of the Mexican war, peonage existed there in the same form as in Mexico. That is, it arose from contract whereby the peon became bound to his master for an indebtedness founded upon an advancement made in consideration of personal services that the peon was to perform. As peonage existed at first the peon could buy his freedom by repaying the master what was due the master under the contract, also the master could sell the peon to any person who cared to purchase and would assume the duties and obligations of the master. Later, however, the law was altered so that the contract could not be abandoned except by mutual consent. While the peon was bound to involuntary servitude, that is unless he were able to buy his freedom, yet he was not a slave, as slavery existed in the South, for he was a freeman with political as well as civil rights, and his children were not peons.

Following the passage of the thirteenth amendment to the constitution of the United States, the courts of the Territory of New Mexico released peons from bondage on writs of habeas corpus. But it was not all peons that cared to take advantage of the law. They had become so degraded that they did not care to be free, and besides their masters resented the new order of things. Such was the condition in New Mexico until Congress determined to destroy the system, not only as it existed in New Mexico, but to make the system impossible in other territories or states of the Union. So in 1867 Congress enacted laws to the effect that "the holding of any person to service or labor under the system known as peonage is abolished," and provided severe penalties for the violation of the same. These acts put an end to peonage in New Mexico.

Peonage in the South

Peonage, so called, next made its appearance in the southern states. But there it had little in common with the peonage of New Mexico, other than that it was a form of involuntary servitude, and that it was under color of law. The laws of Alabama give a good example of the way it was done. There the legislature passed laws providing that any person who with intent to injure or defraud his employer entered into a written contract for services, and thereby obtained from his employer money or other personal property and with like intent and without just cause, refused to perform the services, should be punished as though he had stolen the money or goods. On conviction for such offense the defendant was punished by a double fine. The law also provided that the refusal to perform the services or to refund the money was prima facie evidence of the intent to injure or defraud. There was also a rule of evidence enforced by the courts, to the effect that the accused, for the purpose of refuting the statutory presumption, could not testify as to his uncommunicated motive, purpose, or intent.

Under such laws the average negro had no chance. He is almost always without money; and even should he have money, would never pay cash for anything if it could be secured on credit. A negro having once purchased something on credit all that was necessary was to swear out a warrant under the law and the negro convicted. The fine would be double the amount due, together with costs and an attorney's fee. After the defendant's conviction the person who desired his services paid the amount of the fine and the negro became virtually his property until the fine had been worked out. There was also a lot of laws for the breaking of which negroes were arrested. Offenses though were really of no moment. The laws having been passed for the benefit of those who desired labor, the question was not whether the negro had committed some offense

for which he really should be punished, but whether some man wanted the negro's labor; and when his labor was wanted they got him.

Well Known People of the South Convicted of Peonage

Among those convicted of peonage was John W. Pace of Alabama, known as the father of peonage, friend of Roosevelt and pardoned by Roosevelt in 1904; Edward McCree, a member of the Georgia legislature and owner of 37,000 acres of land. He pleaded guilty to thirteen charges, and while he was only fined a thousand dollars on the first charge, yet it might be noted that had McCree been given the limit of the law, five years' imprisonment and \$5000 fine, his sentence would have totaled sixty-five years and his fines aggregated \$65,000. In 1906 a United States Judge at Pensacola, Florida, sentenced five officers of the Jackson Lumber Co., one of the largest concerns of its kind in the country, to seven years in the penitentiary.

The most noted peonage case, and the one that determined the constitutionality of the laws of Alabama that made peonage possible, was the case of Alonzo Bailey vs. Alabama.

Peonage Decision of Justice Hughes

This was the case in which Justice Hughes, now candidate for president of the United States, wrote the decision. The facts of this case were briefly as follows: Alonzo Bailey was arrested in April, 1908, for breaking a labor contract. Habeas corpus proceedings were instituted, but the trial court refused the writ. The matter was carried to the supreme court of the state of Alabama, and the writ was again refused; from there the matter was taken to the supreme court of the United States, and the writ was denied on an error. The case was then tried, and Bailey was convicted. The conviction was affirmed by the supreme court of Alabama, and from there carried to the supreme court of the United States, and was there decided in 1911, and in favor of Bailey, and declared the laws under which he was convicted unconstitutional.

Justice Hughes in his decision in referring to the thirteenth amendment to the constitution of the United States said, "While the immediate concern was African slavery the amendment was not limited to that. It was a badge of universal freedom for all persons of whatever race, color or estate, under the flag. . . . The plain intention was to abolish slavery of whatever name and form and all its badges and incidents; to render impossible any state of bondage; to make labor free by prohibiting that control by which the personal service of one man is disposed of or coerced for another's benefit which is the essence of involuntary servitude."

When prosecutions were first started by federal officials in the South, the term "peonage" was a stranger to the people there. They did not know what the term meant, they had never heard it before, and it was not until Judge Jones gave his famous charge to the federal grand jury at Montgomery, Alabama, in 1903, known in history as the "peonage charge," that the people really knew what the term "peonage" meant and awoke to the fact that the thirteenth amendment of the constitution of the United States was being violated.

As to laws under which peonage exists and their application, the report of U. S. Ass. Atty-Gen. on Peonage (New Ed.) p. 3, describes them as follows: "Some of them are vagrancy laws, some contract labor laws, some fraudulent pretense or false promise laws and divers others. Some few of these in question, such as absconding debtor laws, labor enticing and board bill laws, were not originally passed to enslave workmen. . . . They (the laws) are used before juries and the local public to hold the peons as law-breakers and dishonest persons seeking to avoid their just obligations, convince patriotic juries that the defendants accused of peonage should not be convicted for enforcing, still less for threatening to enforce, the laws of their state."

Attention is also called to the fact that the peonage decision of Justice Hughes was not the unanimous decision of the supreme court of the United States, as a dissenting opinion was handed down by Justice Holmes, who by the way at the time of his appointment was supposed to be rather radical and a friend of labor.

IN WAR ARENA

EMPEROR FRANZ JOSEF CELEBRATES BIRTHDAY

BERLIN, Germany, Aug. 19.—The 86th anniversary of the birth of Francis Joseph I, emperor of Austria and king of Hungary, was celebrated here yesterday, impressive services being held in St. Hedwig's church, the ceremonies being attended by many diplomats and military and naval officers of numerous nations.

Dr. von Bethmann-Hollweg was in attendance, as were also Dr. Helfferich, American Ambassador Gerard, with naval and military attaches, and Swedish and Chinese diplomats.

The Austrian emperor's birthday was observed with much demonstration both in this city and Vienna.

ASQUITH HINTS AT RIGHTS FOR WOMEN AFTER WAR

LONDON, England, Aug. 19.—Premier Asquith declared in the house of commons yesterday that it would be impossible during the period of the war to consider any undertaking involving a new franchise or registration reform.

He implied by his statements that any new franchise bill brought up in

TERRIFIC WIND STORM RAGES ON MEXICAN BORDER

Troops Driven From Tents, Take Shelter in City Hall at Brownsville

(Associated Press by Federal Wireles) SAN ANTONIO, Aug. 19.—Despatches from Corpus Christi yesterday announced the raging of a seven-to-eight-hour gale, causing for three hours more incursive and believed to be the forerunner of a great tropical storm in the Gulf of Mexico.

So far no fatalities have been reported, though a great deal of damage to property has been sustained. Ray front property has suffered to a large extent and much damage has been done to buildings at numerous summer resorts along the coast, many private homes also feeling the force of the storm. It is expected that the height of the gale has not been reached.

Reports from Brownsville, at the Mexican border, while meager, tell of great havoc wrought in the soldiers' camps by the fury of the wind. Troops of the regular army and national guardmen stationed to guard the border from marauding Mexicans, have been driven from their quarters at Fort Brown and are taking refuge in the Brownsville city hall and other public buildings of that town.

For the greater part of yesterday a terrific wind prevailed, relenting somewhat toward evening. Last night it was reported that it was believed the worst of the big blow was over as far as that section was concerned.

the future must include women.

MARGUIS CREWE GETS IRISH PORTFOLIO

LONDON, England, Aug. 19.—Robert Offley Aschburton Crewe-Milnes, Marquis Crewe, former secretary of state for India, and who was secretary of state for the colonies, 1908-16, author of stray verses and articles on Ireland, 58 years of age, has been appointed president of the board of education.

BELGIANS IN AFRICA TAKE TEBUTON TERRITORY

HAIRE, South Africa, Aug. 19.—Official despatches report the capture and occupation of Port Karema, in German East Africa, by a brigade of Belgian troops.

Smith Taylor was arrested at Rockland, Me., charged with the murder of Judge Hollis of Centreville, Ala.

HUGHES TALKS ON SUFFRAGE AND TARIFF ISSUES

Republican Candidate Gets Cordial Reception at San Francisco

(Associated Press by Federal Wireles) SAN FRANCISCO, August 19.—The train which brought Charles Evans Hughes to this city at 1 o'clock yesterday afternoon was met by thousands at the depot. He was cheered when he appeared and at once became the center of a curious and enthusiastic crowd.

In a conference with Progressive and Republican leaders of this state, Mr. Hughes limited his suggestions as to the content of the campaign to an earnest plea for hearty cooperation in the matter of the national issue, emphasizing his determination not to attempt in any way to influence the local situation.

Protective Tariff Needed

Addressing a distinguished gathering at the Union League Club, Mr. Hughes confined his remarks chiefly to the urgent need of a protective tariff. The attendance was such as strained the capacity of the club and the candidate was accorded the most attentive interest, being frequently interrupted by applause and ejaculations of approval.

Following the address at the Union League Club, the head of the Republican ticket appeared before a great meeting of women in the Palace hotel. His speech on this occasion dealt with equal suffrage and Americanism. Reiterating his stand on the suffrage question, he elicited the sincere applause of his many hearers.

Strong Policy Needed

Mr. Hughes gave it as his conviction that, under proper leadership, it would be possible for the United States to attain those ideals for which the women were striving, but that a policy of vacillation would never accomplish anything permanent in the way of progress. Never at any time in the history of the United States was it more necessary to have a definite policy and unwavering administration.

The candidate addressed an immense crowd at the great civic auditorium last night. He received a tremendous ovation.

A white shark, one of the most vicious of the shark family, was caught in Jamaica Bay.

Walter J. Hayes, Col. Roosevelt's military secretary, was seized with cramps while swimming at Oyster Bay and had a narrow escape from drowning.

VILLA BANDIT GANG HOLDS UP TRAIN; TAKE GUARD OF CARRANZISTAS PRISONERS

(Associated Press by Federal Wireles) EL PASO, Texas, Aug. 19.—A band of sixty Mexican revolutionists, according to despatches received here yesterday, held up a passenger train on the Mexican National Railway, near the city of Aguas Calientes, in the state of that name. Twenty-five Carranzistas, who were escorting the train, were taken prisoners.

SENATE PASSES SHIPPING BILL BUT ELIMINATES IMMIGRATION RIDER

WASHINGTON, D. C., Aug. 19.—The administration's shipping bill yesterday passed the senate on a strictly party vote of thirty-eight to twenty-one. An attempt made by Senator Borah to attach the immigration bill as a rider to the shipping measure, was defeated by a vote of thirty-seven to twenty-two.

PARALYSIS EPIDEMIC POSTPONING OPENING OF HARVARD UNIVERSITY

PRINCETON, N. J., Aug. 19.—The opening of Princeton University has been postponed from September 26 to October 10 as a precautionary measure due to the prevalence of infantile paralysis.

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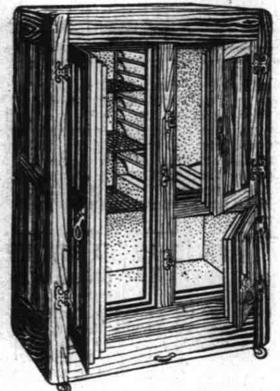
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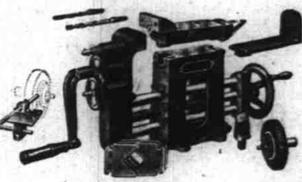

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