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FRANK L. HOOGS, MANAGER

TUESDAY, MAY 22, 1906

Carl Smith And His Clients

It seems only fair, after all, to credit Carl Smith with having saved the necks of two of his five Korean clients. It seems hardly likely that the influential interest which was aroused in their behalf, could have been aroused, had it not been for the letter he wrote to the Acting Governor in response to one to him inquiring if he had anything to urge why the sentence of the court should not be carried out.

Up to this time the only voice raised in their behalf was that of Rev. J. W. Wadman, who was only able to urge in their behalf those general sentiments of humanity which shrink from the execution of five for the murder of one, the ignorance of these men of our laws and customs, the great store they placed by their passports which had been stolen, the argument that their action, extra-legal as it was, and criminal under our laws, appeared to them not at all so, and the feeling among the five, and among other Koreans, expressed to him, that the five were not all equally guilty. Rev. Wadman could make no showing, at that time, of unconvincing evidence or that whether or not all were equally guilty, that any of them were not deservedly guilty of the sentence. There was nothing in any plea that Mr. Wadman could make at that time that challenged examination of the verdict or the evidence on which it was based.

But when it was announced that Carl Smith, the attorney appointed to defend these Koreans had in response to a request from the Governor or Attorney General, as to whether he had anything to urge in favor of his clients, replied, declining to say or do anything to interfere with the execution of the death penalty, it jarred on sensibilities accustomed to feel that the relation of attorney and client was too close, too intimate, too sacred, to be viewed in any such cold blooded or dispassionate light as this; that an attorney owed something more than mere perfunctory services to clients, and especially when those clients were, aliens, ignorant, helpless, without knowledge of their rights or influence to secure or protect them. There was something that struck the community as strange in this attitude of an attorney. It had never seen such an attitude in an attorney for clients able to pay for services—and the feeling was strong that every consideration, and more, which would bind a paid attorney to the interests of his clients, ought because of their very helplessness, to bind him to the interests of clients unable to pay.

As strong an effect as these considerations had on the general public they would naturally have a stronger effect on lawyers, tenacious of their duties and privileges. It touched their professional pride, and there is every reason to believe that it was because of this that so many and such influential men were moved to take an interest in the matter, and to ask themselves the question, Have these men had a fair trial? and to examine the evidence carefully, to see whether they have or not.

If this is so, then it is quite possible that Attorney Carl Smith, either by subtle indirection, or by the unexpected turn of affairs, has probably done more for at least two of his clients, than the most insistent and obstinate fight in their behalf could have done. In any event, it seems certain that he has saved the necks of three of his original six clients.

Atkinson And The Precincts

The Advertiser this morning has the following: "It all grew out of a misunderstanding. It seems that both afternoon papers have lately had a good deal to say about what was doing and what was proposed to be done in the matter of changing precinct boundaries, and conveyed the impression while not saying so that all this was the work of the Acting Governor, as a matter of fact the Acting Governor has done nothing."

Last Friday the following appeared in the Advertiser and its correctness could have been verified by anyone who wanted to go to the Executive Chambers to do so:

"A radical rearrangement of precincts, agreeing substantially with the plan prepared by Chairman Robertson of the Republican Territorial Committee, will be given effect in Acting Governor Atkinson's election proclamation."

The fact is that the election proclamation was nearly finished with the precinct changes in it when the County Committee complained. Several days' work have been done in Atkinson's office on new maps and the Department of Survey has been called upon for new maps on which to show the new precinct lines. How easy it always seems to be for a public man to "sidestep" criticism by saying the newspapers report his doings wrongly!

Stoessel And Port Arthur

If it should prove true that General Stoessel has been condemned to death by a military court for his surrender of Port Arthur to the Japanese, this severity is probably the work of reactionaries who are ready to visit on any convenient victim their anger and bitterness at the course of events which seem likely to relegate them to obscurity in the march of progress. If it were any other country than Russia, this might not be a fair inference, for in any other country than Russia, the verdict of the court would carry with it the probability that it was based on evidence and law.

Nevertheless, there is a great deal in what is known of the circumstances to justify such a verdict and sentence. Neither the world at large, nor military men were unanimous in approving Stoessel's surrender of Port Arthur. It is true that General Nogi to whom he surrendered; heaped all kinds of compliments on him for his brave, vigorous, and able defense of Port Arthur, and in Japan he was the recipient of similar compliments and all the courtesies it was possible for the Japanese to shower on him. In America and Europe there was a good deal to the same effect. But from the beginning there was an undercurrent of feeling and expression that he had neither made the vigorous or able defense that he might have made, nor that he had held out nearly as long as he might have done, even in the face of final inevitable destruction and capture of Port Arthur. This undercurrent of feeling became stronger and stronger as more of the circumstances became known, though of course, the Japanese closed every avenue of information on the subject which it was possible for them to close. It was not their interest to let it be known that the capture of Port Arthur, so vital to them, was hastened by a less stubborn or less long drawn-out defense than the principles of warfare demanded of Stoessel. Not that such knowledge would reflect either on the ability or courage of the siege and assaults, but it would give courage to further resistance in other directions. Nor were they anxious, if they had profited by Stoessel's surrender before he was really compelled to, that he should suffer in reputation by any infor-

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information they might give to the world. So far as Japan was concerned, it was to her interests both in her belligerent and her chivalric aspect that the opinion should prevail that Stoessel was a brave and able officer who had held out long as there was ammunition left or yielded only when overwhelmed.

But war is a grim business, and the conduct of commanders can only be judged by the grim principles on which it is based. Under the conditions that existed, it was Stoessel's duty to defend as vigorously and as obstinately as it was possible. Neither humanity to his troops or his wounded had any legitimate consideration. Though the eventual capture of the place may have been inevitable, it was his duty to compel the Japanese to take it by assault and siege that should last as long as there was ammunition left for a man to use it.

It was the almost universal complaint of Russian officers passing through here after the surrender, and of Russian officers, correspondents and others elsewhere, that Stoessel had neither defended as vigorously nor as obstinately as he should; that there were both ammunition, and men to use it, left in the beleaguered fortress, when it was surrendered. There was at the time considerable expression of opinion that if the Court Martial which was inevitable to inquire into the circumstances of the surrender, was guided by probity and the principles of military duty and action, Stoessel would not come out of the ordeal laurel crowned.

Acting Governor Atkinson says he has not changed the precincts and further that he has "done nothing" in the matter at all and has not even had the matter before him. The new precinct boundaries as published in The Star are those which were, and still are, on maps printed in his office, by his subordinates. If he has "done nothing" it is time he did something, even if it is only to find out what his own office force is engaged in doing.

A leaflet to be circulated broadcast by the Evangelical Association is headed: "For God, Home and Hawaii! Not Local Option and High License." That ought to be a strong combination.

The Acting Governor says the Republican Committee ought not to have

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called him down for rearranging the precincts, when, he says, he hasn't rearranged the precincts. He ought to do just what the Committee called him down for doing; in fact he has already gone far with the work of doing it, and he ought to stand by it.

Three men whom the Social Science Club says did not have a fair trial, are to be hanged tomorrow. Another one whom it says is shown by the evidence to be perfectly innocent, has started in on a fifteen-year sentence of imprisonment at hard labor. None of the four will need the passports, now, the theft of which was the original cause of the crime.

The improvement club enthusiasm seems to be at ebb tide now.

In the Kansas representation in the Senate, there will be one vacant chair. Senator Burton ought to be very careful about having any dentistry done. He knows what happened to Senator Mitchell who did, when he was in much the same predicament that the Kansas Senator is now.

Korean Number 6 according to the unanimous vote of the Social Science Club, is by the record "clearly shown to be innocent," but he gets fifteen years. He might devote them all to trying to understand his own case and never reach a conclusion, for there isn't any that is not involved in absurdity.

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