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STANDARD OIL IS CONDEMNED

ATCHERLEY HAD FULL AND FAIR HEARING

DECISION OF SUPREME COURT MEANS HE IS BY RIGHT IN THE INSANE ASYLUM AND MUST THERE REMAIN UNTIL HE IS FOUND TO HAVE BECOME SANE—HIS UNCALLED WITNESSES WERE IMMATERIAL—PLENTY OF ARGUMENT.

Dr. John Atcherley, for whose release from the asylum for the insane, as a paranoeac declared dangerous to be at large, his accomplished and persistent wife has devotedly endeavored to secure an order of court, through all the possible various means known to law, must still abide in the house reserved for those whose minds are afflicted and for those subject to delusions, at least until such time as he is declared sane.

Such is the burden of a decision rendered by the Territorial Supreme Court this morning, Justice Perry writing the opinion.

The decision is on appeal from circuit order dissolving writ of certiorari which had been issued to the insanity commissioners commanding a certified copy of the proceedings before such commissioners to the end that the validity of such proceedings might be ascertained.

The Supreme Court recites the facts of the district court finding Dr. Atcherley insane, unsafe to be allowed at large, and the judgment of the insanity commissioners.

The opinion goes on to say that questions decided in certain previous cases in re Atcherley will not be reexamined at this time, the acts under which Atcherley's examination and commitment were had having been held to be constitutional.

All requirements were duly complied with at the trial of the doctor.

Atcherley cannot complain, says the opinion, that more time was not allowed him for argument; he argued for two and a half hours; also witnesses which he claims he was unable to get the commissioners to produce were admitted to be ready to testify to the effect claimed by the petitioner.

Also the admitted testimony was immaterial. The refusal of the commissioners to produce an alleged real paranoeac from the asylum and an inmate of the leper receiving station, was not even erroneous.

It is shown that the defendant had a full and fair trial and the order appealed from is affirmed.

DEPUTY CARL SMITH JUDICIALLY RECOGNIZED

Judge Matthewman, at the present Third Circuit Court term at Kailua, brushed aside a technical objection to the appearance of Carl S. Smith as deputy county attorney. He sustained the objection to Attorney C. W. Ashford's motion to disclose authority. This was made in the defense of Chong Sing, charged with burglary in the second degree. The trial went on, but resulted in disagreement of the jury—reported as ten for conviction and two contrary.

As the ruling of the court is important, the following extracts from it are given:

"There is a presumption of law that a person who is in undisturbed possession of an office, and is exercising its functions and performing its duties, has come into office lawfully, and has a right to continue therein. Except in a proceeding of quo warranto brought by an officer de jure, this presumption is conclusive. It attaches to a person who may have been illegally appointed to an office, if he is a de facto officer, and, likewise, it attaches to a deputy who continues to act as such without reappointment, after his principal has gone out of office or entered on a second term.

"While there is no evidence before the court to show whether or not Carl S. Smith was acting as deputy county attorney in the short interim between the death of Charles Williams and the appointment of W. H. Beers, it has been made sufficiently evident that Carl S. Smith has been acting at this term of court as deputy county attorney, that is, deputy of W. H. Beers, county attorney.

"It should suffice now to state that, at this stage of the proceedings, the court knows, both from the admission of the defendant and from public matters judicially noted, that the Carl S. Smith who appeared before the grand jury and is now on the witness stand, has been a de facto officer of a de jure office. Laws of 1905, Act 39, Sec. 90. Hind et al. vs. Wilder's Steamship Co., 14 Hawaii, 215, at 222.

"It is unnecessary to pass on the evidence tending to show that Carl S. Smith is also the de jure county attorney.

"In this collateral proceeding, no further attack should be made on his status and no further inquiry along these lines is desirable. The objection is sustained."

PARK THEATER

Don't miss this excellent show, Melnotte sisters singing Sonny Cunha's latest hit "My Honolulu Hula Girl," Vierra's orchestra and the following new films: Lonely Villa, Making Diamonds, Curing a Jealous husband, For His Daughter's Sake.

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LYMAN'S ASSAULT ON EDITOR KINNEY

This week's Hilo Tribune contains the following account of the assault upon its editor by Supervisor Lyman, which was briefly reported to The Star by wireless the day it happened:

"Supervisor Norman K. Lyman last week started a police court record for himself, being booked on the police court blotter on a charge of assault and battery on Editor Kinney of the Tribune. Lyman forefited his bail.

"The assault took place at noon last Wednesday on the veranda of the postoffice, where Kinney was awaiting the distribution of the Mauna Kea mail. Lyman stepped up to Kinney and asked him to step aside as he wished to talk with him privately. This Kinney did, and Lyman began a long tirade of objections to the editorial, contained in the issue of the Trbune of the previous day, asking the Supervisors to strive for harmony. These objections were couched in the language of the toughest parts of the tenderloin.

"'It is none of your d—— business, anyhow,' Lyman concluded, referring to the doings of the Botrd of Supervisors.

"Kinney answered that the actions of the Board were his business as well as that of the entire community, and requested Lyman to conduct himself more quietly, as his conduct was beginning to attract the attention of others who were waiting for their mail.

"For answer Lyman, without the slightest provocation or warning struck Kinney on the jaw, without even giving him a chance to remove his glasses.

"Lyman was immediately seized by Captain of Police Silva, who was standing close. The supervisor still added an abusive epithet, the worst known in the English language, but this was, however, quite in line with the rest of the vocabulary which he had been employing. He then tried to overawe the officer into sparing him from being conducted to the police staton, but Silva was firm, and the Supervisor had to follow him."

Commenting editorially on the episode the Tribune says:

"Supervisor Norman Lyman is an anachronism. The day for hoodlum politics in Hawaii was ended when Birbe and his disreputable crew were driven out. Lyman's talent might be appreciated South of Market in San Francisco, in the tenderloin of New York or by Bathhouse John or Hinkidink of Chicago, but if he in his infantile alleged mind believes for an instant that such methods will protect him from deserved criticism of his official actions, he is sadly and badly mistaken."

BACK FROM MOLOKAI RETURNING TO HOMES

Twenty-six former denizens of the Molokai leper settlement, men and women, this morning presented themselves at the offices of the Board of Health. President of the Board Mott-Smith, who is also Acting-Governor in the absence of Governor Frear, was there to meet them and to see that their immediate wants were properly attended to.

They represent a portion of the fifty-six recently found not to be lepers and consequently discharged from the settlement to go to their homes or where they will. Some have been in the settlement for years.

All were decked with wreaths of flowers, leis covering their hats and shoulders.

Others of those released have not yet left the settlement, or have not yet called at the Board of Health offices,or have gone directly home. Those who came in today from Molokai arrived in the S. S. Mikahala.

Those who visited the Board of Health building were in need of temporary assistance, and two dollars each were handed out to them to provide for their meals and lodgings until Monday, when whatever is necessary to be done for their further relief will be done. Some are to remain on Oahu while others go to homes on other islands.

CROWD REJOICES OVER RESCUED

(Special Cable to The Star by the United Press).

CHERRY, Ill., November 20.—One hundred and forty-two survivors have been rescued from the St. Paul mine, in which fire broke out last Saturday.

They presented a pathetic spectacle when they were brought to the surface, to the thouasnds who crowded around

For nearly a week they had been practically buried alive with barely a hope of rescue.

When they appeared there was great rejoicing, the crowd going wild with enthusiasm.

Fifty dead bodies have so far been recovered.

PEACOCK PROPERTY IS SOLD

Property belonging to the estate of the late Walter C. Peacock was sold at the front entrance to the Judiciary building at noon today and brought fairly satisfactory prices. The total sum realized from the sale was $62,800. Quite a crowd attended the sale, those taking part in the bidding being. R. J. Buchly, A. W. T. Bottomley, C. H. Olson, W. H. Babbitt, E. F. Bishop, Cecil Brown, L. T. Peck, Hong Quon, C. S. Desky, C. T. Wilder, W. H. Bradley J. L. Fleming, F. E. Steere, D. H. Lewis and others.

The property put up first was the lot on Bishop street between the Way block and the Mutual Telephone Co's lot at Bishop and Merchant, containing 6,715 square feet. Bidding started at $10,000, from which the figures were advanced slowly to $22,100 at which the property was sold to the First National Bank.

The second sale was of 475 shares of the capital stock of W. C. Peacock & Company. This was offered in a lump and was therefore too big for easy handling by ordinary investors. R. J. Buchly was the buyer, the selling total being $20,400.

Next came the lot and warehouse on Queen street opposite the office of the Board of Health. This was sold to the First American Savings & Trust Co., for the rather low price of $2,500.

The last sale was of the lot and buildings at the corner of Nuuanu and Merchant streets, the lot containing 4,728 square feet. As before the First American Savings & Trust Co., proved the highest bidder, their offer being $17,800, at which the property was knocked down.

The sales in all cases were cash, subject to the approval of the court.

DECLARED TO BE TRADE RESTRAINT AND MUST GO

(Associated Press Cable to The Star.)

ST. PAUL, November 20.—The Minnesota Federal Circuit Court in a decision rendered today declares unanimously that the Standard Oil Company is an illegal combination and a monopoly whose operations are in restraint of trade, and has ordered the dissolution of the company. The Standard Oil Company has noted an appeal to the United States Supreme Court.

YALE DEFEATS HARVARD, 8-0

(Associated Press Cable to The Star.)

CAMBRIDGE, Mass., November 20—Scores in the football game here today were. Yale, 8; Harvard, 0.

SAVED FROM FIRE PERHAPS TO DIE

(Associated Press Cable to The Star.)

CHERRY, Ill., November 20.—Seventy-one coal miners have been rescued alive from the mines in which fire broke out last Saturday, and this after the shafts had been sealed for the purpose of choking the fire, after vain attempts to reach the imprisoned men. Sixty-seven of those taken out are in a critical condition and it is not known if they will survive the terrible ordeal through which they have gone.

WASHINGTON, D. C., November 20.—The execution by order of President Zelaya of Nicaragua of the two Americans, Grace and Cannon, as being suspected of joining with the revolutionists, has been officially confirmed. The Nicaraguan Government now puts forward the claim that these Americans, during court martial, confessed to placing dynamite mines in a position to destroy the army transports of the Nicaraguan forces.

SAN FRANCISCO, November 20.—The auditorium of the great Coliseum, in this city, was today destroyed by fire. The loss is estimated at $100,000.

TORONTO, Canada, November 20.—The International Federation of Labor has re-elected Samuel Gompers as president.

DUMMY FALLS; GIRL FAINTS!

While the Shriner procession was crossing Bishop street along King, about 2:15 this afternoon, a dummy in the figure of a man was precipitated from an upper story of the Young Hotel, by way of adding to the joy of the parade.

Gasps of fright mingled with shrieks of delight, but one young woman, a Portuguese, fainted with terror, believing it to be a man who was about to be dashed to death. Her girl friends secured water and sprinkled her face and carried her away to restore her.

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