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## THE LUMBER TRUST CASE ARGUED AGAIN

After gathering midweek for many years in the archives of the federal court, the so-called Lumber Trust case was brought forth this morning and stood up before Judge Dole. The contemplated early departure of the judge from the Territory made occasion for something being done about the matter.

Argument on behalf of the government was presented by William T. Rawlins, Assistant District Attorney, Judge W. L. Stanley and Hon. W. R. Castle appeared for the defendants. Mr. Rawlins submitted that when the late District Attorney Baird brought the suit, about ten years ago, and for some time prior thereto, the defendant lumber corporations of Allen & Robinson, Lewers & Cooke and Wilder & Co. were engaged in an unlawful combination in restraint of trade. Upon being warned by the United States attorney, Wilder & Co. cancelled the subsisting agreement between itself and the other firms, issuing an independent price list of its own.

Allen & Robinson and Lewers & Cooke then issued a new list, but the prices thereon corresponded almost exactly with the Wilder list. There was evidence to show that when Mr. Cathcart, the Wilder manager, would propose a raise in price on a certain article Mr. Lowrey of Lewers & Cooke and Mr. Muhlendorf of Allen & Robinson would agree, and forthwith it would go the price. It was the same way when the initiative would come from Mr. Lowrey or Mr. Muhlendorf. There was one exception shown in the testimony which was to the credit of Mr. Lowrey, when that gentleman said Lewers & Cooke had a considerable stock of the article in hand, imported before the advance in price advised by cable, and he considered it would be unjustifiable to raise the price in such case.

Judge Stanley interrupted with a remark that the defendants would welcome interruptions when it came their turn, when made for the purpose of clearing up the facts as conveyed in the testimony. His purpose now was to ask if the government counsel was not arguing on a state of things that existed prior to the bringing of the suit by Mr. Baird.

Mr. Rawlins answered that while there was an apparent end to the combination following the correspondence of District Attorney Baird, the defendant firms continued to act together for preventing competition right up to 1905 or 1906. He went to the extent of characterizing their conduct as a subterfuge. Instances to show a continuance of unlawful combination, as derived from the testimony, were related.

While the three firms might have engaged in some competition for large contracts, they almost invariably quoted identical prices for small contracts.

There was testimony of division of business in supplying lumber to the board of health. The three firms would bid on different articles, avoid-

ing competition on any particular article.

The American-Hawaiian Steamship Company was brought in as having aided the unlawful combination. It was charging \$11 and \$12 a thousand feet to other lumber firms, while an arrangement was made whereby the defendant firms had their lumber carried for \$7 a thousand.

In answer to opposite counsel Mr. Rawlins said that this freight arrangement went to prove the existence of the combination. H. Hackfeld & Co. were agents for both the American-Hawaiian Steamship Company and the Pope-Talbot Lumber Company of Puget Sound. It had been shown that Mr. Morse, manager for the agents made the proposal of a \$7 rate exclusively to the defendants. It was on condition that not less than 150,000 feet of lumber should be given the A-H-S. Co. to carry each month. As the arrangement worked out these firms combined their orders so as to bring the quantity up to that condition. There was no chance given for the Oahu Lumber Co., C. B. Reynolds, Peter High or any small importer to take advantage of this arrangement. They all had to pay \$11 or \$12 freight against the \$7 paid by the combine.

Judge Dole requested the views of counsel on the question of whether it was necessary to show an absence of rivalry to the bitter end as proof that there was not an unlawful combination. In other words, was a friendly understanding to secure mutual benefits, such as reduced freight rates, contrary to the intent of the law.

Mr. Rawlins replied that he would not regard arrangement of comity between firms in a particular line of business, such as keeping each other posted on matters of their common welfare, but the testimony in this case showed a combination between the defendants which excluded other firms in the same business from certain advantages and tended to destroy freedom of competition in this particular trade.

## APPROVE HILO ELECTRIC ROAD

The Hilo electric railway franchise, Senate bill 39, passed the upper house this morning on third reading, without a dissenting vote. The bill was read throughout without any further amendments, the committee having amended by including the provision that the promoters of the railway put up five thousand dollars bond to go ahead with the work.

House bill 32, the proposed new registration law, giving better opportunities for registrations generally, went through the Senate on final hearing, unanimously.

Committee report on Senate bill 55 is favorable to the proposition of giving to irrigation companies those rights of eminent domain and rights of way enjoyed by railroads through the form of the bill is changed without injuring the spirit of its intent.

Senate bill 81 came from committee practically rewritten, because it needed it but not lost as to motive. This has to do with gambling, and authorizes the seizure of property involved in gambling, and the use thereof as evidence in court. Committee reported that the city and county attorney's department had been consulted in the revision.

Committee report on Senate bill 54, recommended turning public parks over to the counties and the report was adopted.

House bill 116 created a little amusement. This looks for the protection of certain personal property essential to the making of a living, allowing, for example, laborers and doctors to be exempt from seizure of their vehicles and the animals necessary to the drawing thereof. Makekani wanted an amendment to allow doctors in Hawaii county to be protected as to two horses, instead of one, including harness for two. This carried on second reading.

## SENATOR BROWN CALLS A HALT

Senator Cecil Brown this forenoon registered a strenuous objection, in the Senate, to educational matters being made a first charge on the territory's exchequer to the extent, as seemed to be allowed in the bill, of the limit of educational appropriations not being defined.

"I am not against education receiving all the money the government can afford to give for that cause," said the Senator, "but I do object to the board of education being, as it were, the preferred creditor of the Territory to the possible exclusion of other important matters."

"Education should take its proportion. It appears that this bill provides, practically, for the taking of unlimited amounts from the treasury. If such is the case, why the legislature might as well shut up and let the board of education take its place. The treasury might as well be moved alongside the education offices."

This followed the report of the education committee on Senator Chillingworth's bill, Senate bill 18, to provide for the maintenance of the public schools, the report which had been delayed owing to the absence of a member of the committee.

Senator Fairchild of the ways and means committee, took up the cause

## POI ACT DISCUSSED, AND PAUOA SPRINGS PLAN REVIVED

"If bread had been stopped as the poi was stopped, there would have been riots in this town."

This remark by Sheldon in declamatory key is a fair specimen of the oratory that surged around the poi bill in the House this morning.

Tavares thought the requirement of cement floors in poi factories amounted to an edict devoting the poor to starvation.

Amendments came flying across the floor to the clerk's desk, only to be permanently laid thereon when they were voted on.

There was clamor for committee of the whole, for a public hearing, for postponement to a future day, but ultimately further consideration of the bill on third reading was deferred till this afternoon.

Paoua Water. Paoua water purchase for the Honolulu water supply is again made a

## DEFENDANT OBJECTS TO NOLLE PROS

There was quite a little argument in the police court this morning as to the right of a defendant to object to a nolle prosequi being entered by the prosecuting attorneys. Nathan Charlis was charged with having sold opium without a license, to which he pleaded not guilty. Then Deputy City and County Attorney A. M. Brown asked that a nolle prosequi be entered and to his application Attorney Douthitt added a request that the defendant's objection to the nolle prosequi be also put on record.

But Brown objected, contending that no such objection could be raised, arguing that it had been held by the court times out of number that right up to the swearing of a witness the prosecution had a right to ask for a nolle prosequi.

Judge Wm. B. Lymer thought there was no question as to that, but he desired to know the reason for a nolle prosequi.

Brown then stated that he made the application for the reason that the prosecution did not wish to expose its hand. The matter was not dropped for good and all.

Douthitt contended that the defendant also had the right to make an objection. He was brought to court on a criminal charge and was entitled to an acquittal or a conviction. While Douthitt had no doubt that the prosecuting officers had a right to ask for a nolle prosequi at certain stages in the case, he argued that after issue had been joined by the defendant pleading not guilty a certain situation in law arose and defendant had the right to note an objection. His reasons for asking that the objection be

## TAFT CALLS FOR RECRUITS TO FILL ARMY

(Associated Press Cable to Star.)

WASHINGTON, March 23.—A call has been issued for recruits for the regular army to bring up the infantry regiments to full strength.

### ADDRESS BY ROOSEVELT.

BERKELEY, Cal., March 23.—Former President Roosevelt made the charter address today at the State University.

### AN ASCENT WITH PASSENGERS.

DOUAL, France, March 23.—Grecuet the aviator took eleven passengers in a monoplane to a height of two miles.

### NAVAL PAYMASTER SHORT.

VALLEJO, March 23.—There is said to be a shortage of \$5000 in the accounts of the paymaster of the receiving ship Independence.

### KING AND SOCIALIST.

ROME, March 23.—The King has conferred with socialist deputy Bisso-lati, with a view of his possible participation in the government to succeed Luzzati. The cabinet has resigned.

### DEWEY CAN'T GO.

WASHINGTON, March 23.—Rear Admiral Vreeland will represent the navy at the coronation of King George, Admiral Dewey declining on account of the length of the journey.

### AMERICAN REBELS EXECUTED.

SAN ANTONIO, Texas, March 23.—It is reported here that four Americans have been court-martialed and shot for taking part in the insurrection in the state of Chihuahua.

### MORNING CABLE REPORT.

CITY OF MEXICO, March 23.—Minister Limantour says that Mexico is facing a greater crisis than he had believed existed. Not only is the revolution in the north more extended than the reports sent him had led him to believe, but he had found that discontent, rebellion and sedition prevail to a very alarming degree throughout the southern States of the Republic.

He declares that the government would make numerous reforms, among the first to be a revision of the election laws.

On the other hand, the government was determined to offer no concessions to the revolutionists in the field.

PRESIDIO, Texas, March 23.—During the fighting at Ojinaga, missiles from the garrison fell in the American camp and town. A Mexican boy was wounded. The rebels are pressing the Federals hard.

ATLANTA, Ga., March 23.—Benjamin Greene, who went to prison with Gaynor for complicity in the Captain Oberlin M. Carter frauds, has been released, his sentence having expired.

## UNIFORMS IN THE THEATERS

The local naval authorities have just received a copy of a resolution passed by Congress in which proprietors of theaters and public places of amusement are ordered to treat all boys wearing Uncle Sam's uniforms with respect. It is entitled "an act to protect the dignity of the uniform of the United States," and reads: "Hereafter any proprietor, manager or employee of a theater or other public place of entertainment or amusement within the United States, who shall make, or cause to be made any discrimination against any person lawfully wearing the uniform of the army, navy, revenue cutter, service or marine corps of the United States, because of that uniform, and any person

making or causing to be made such discrimination, shall be guilty of a misdemeanor, punishable by a fine not exceeding \$500."

## MAY BE MURDER

As the result of a row which took place last night in Auld's Lane a woman named Annie Hall was so severely injured that she died at ten minutes to three this afternoon. George Myhre was arrested in connection with the assault on the woman and he is being held by the police until the matter is investigated.

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