

JUDGE ROBERTS' DECISION IN WHICH CITY HEALTH BOARD RULES ARE COMPLETELY UPSET

Because public opinion was being widely expressed adversely to the decision rendered by Judge Roberts in Municipal court, last Friday afternoon, when the case of the city of Ogden versus John Stimson, a restaurant proprietor and others, who, as employees of the Utah Power and Light company were holding a farewell dinner party in the Stimson restaurant and who were arrested by the police for breaking the health regulations in that they had cleared the floor of the restaurant and were proceeding to hold a dance while the city was under quarantine against the epidemic of influenza, a Standard representative suggested to the judge that he ought to make his decision clear to the general public, many of whom are at a loss to understand how it came about that some were punished for disobedience to the city health regulations, while in this case the action was dismissed.

The judge's opinion of the case referred to and his strong sympathy with the city in its fight against the epidemic and his unhesitating opinion that while the defendants in this action proved their point, they were yet guilty of a moral offense in jeopardizing the health of the city, is expressed in his statement which is as follows: The complaint is based upon one of the regulations adopted November 26, 1918, by the Ogden City Board of Health which provided that "Groups of three or more persons shall not be allowed to congregate on the street, in the stores or in any public places of Ogden City." The defendants, in the complaint, are charged with having violated the provisions of the above named regulation.

To this complaint demurrer was interposed by the defendants, "Because said complaint does not state facts sufficient to constitute a public offense," and the same was argued by the respective counsel on December 29, 1918.

The constitution of the state declares in Section 7, Article 1, as follows: "No person shall be deprived of life, liberty or property, without due process of law." The sole question at issue, is whether or not the local Board of Health has the authority conferred upon it by the legislature to make rules and regulations which in their nature, are legislative and which effect the liberties and property rights of citizens. It is conceded that no such authority could be delegated by the city commission to the local Board of Health so that the provision in Section 300, Chapter 32 of the Revised Ordinances of Ogden City, 1915, granting such authority is, therefore, ineffective and void.

It is further conceded, that the legislature of the state is the only authority that can grant such a power and that the legislature must grant that power and authority directly to local health boards and if local health boards have not been granted such power and authority by the legislature, then the local health boards cannot make rules and regulations effecting the liberties and property rights of the citizens.

It is asserted that such power and authority is granted, directly, by the legislature to the local boards of health and that such authority is pledged for in chapters 3 and 5 of Title Compiled Laws of Utah, 1907, and the decision of the supreme court the state of Utah, in State of Utah rel., John E. Cox, vs. the Board of Health, Salt Lake City, Utah, and Samuel Doxy, 21-Utah, 401, particular attention being directed to the following sections of the Compiled Laws of Utah, 1907, namely: Sections 1105, 1107, 1112x, 1113x and 1113z.

Section 1105 imposes the duty upon city council of every incorporated city to establish by ordinance, the health, etc., and does not confer direct authority to make rules and regulations upon such local boards of health.

Section 1107 provides, "That every local board of health SHALL SUPERVISE all matters pertaining to the sanitary conditions of the city, etc., and shall have POWER AND AUTHORITY TO ORDER ISSUANCE OF THOSE OF ANY SPECIAL DISEASE OR MALLY TO BE ABATED AND REMOVED," TO BE DILIGENT in the discovery of contagious and infectious diseases, TO MAINTAIN STRICT QUARANTINE and to cause all infected persons premises to be disinfecting IN ACCORDANCE WITH THE RULES OF THE STATE BOARD OF HEALTH," etc. This section further describes the duties of local health officers, as does also section 1108 and aside from that above quoted do not grant the local boards of health by the slightest inference, the authority to make rules and regulations.

Section 1113z merely provides the means penalty for the violation of the rules or regulations, and does not confer authority upon local boards of health to properly effectuate such rules and regulations.

Section 1110 provides, "that any local board of health MAY DECLARE QUARANTINE, etc. AGAINST CONTAGIOUS AND INFECTIOUS DISEASES, and against PERSONS AND THINGS LIKELY SPREAD CONTAGION AND INFECTION. Each of the said boards of health shall HAVE POWER AND AUTHORITY TO ENFORCE SUCH QUARANTINE until the same is raised, etc." This last section together with Section 1107, above referred to seem to confer, not directly, but in inference merely, the power and authority upon local boards of health to do some more than to be executive and administrative officers, but when these functions are considered in connection with other provisions of the statute relating to these matters, it appears that this inference may be reasonably drawn and doubted, and that authority to make rules and regulations of a legislative nature effecting the liberties and property rights of citizens was not intended to be conferred by the state legislature to local boards of health, as will appear from the following citations:

Section 1113 provides, "That THE NECESSARY RULES AND REGULATIONS concerning" etc., "contagious and infectious diseases, SHALL BE ENFORCED by local boards of health, under the supervision of the health officer, and the public officers of the city," etc., "are commanded and enjoined to assist the said board of health in the enforcement of the said rules and regulations." This section authorizes merely the enforcement of making of these rules and regulations, further than enacting the provisions of the statute.

The Board of Health was the epitome of the best thought and best information obtainable and while they had no legal binding effect, they certainly did have a moral binding effect. At the time that the persons charged were committed, friends and neighbors all around us, were dying from the effects of the dreaded influenza, a disease conceded to be highly contagious and very deadly, and the local Board of Health made its best efforts as did many worthy citizens, to minimize the effects of the disease and to stamp it out, and it certainly is a pity that any citizen or group of citizens should, under such conditions, violate their moral obligations, the obligations which they owe to themselves and to their fellowmen, regardless of the written law.

JAP CHAUFFEUR HAS SERVICES UPSET

S. Kurosumi, a Japanese chauffeur, driving a car for Tamaki and company of 2456 Wall avenue, received a sprained back and various cuts and bruises when his car was turned over by the high wind storm last evening. Kurosumi was driving south on Adams avenue and turned at the bottom of the grade up Twenty-sixth street just as a heavy gust of wind came along. The car, a Ford, was turned over twice, breaking the wind shield and badly damaging the top. Neighbors who heard the crash carried the driver into a corner apartment and notified the police. The car was answered by Chief Browning, Sergeant Jensen and Dr. R. E. Morrell. Aside from the few cuts and bruises the driver was not bodily injured and was able to be taken to his home at 2240 Quincy avenue.

Neutrality Not Observed Is Late Charge

LONDON, Nov. 20.—Charges of flagrant abuse of neutrality by a Swedish army official have been made in the prize court here by Sir Frederick Smith, attorney general. He asked for condemnation as a prize of \$2,500,000 worth of wool, seized in seven vessels and claimed by the Royal Swedish army administration. The wool, the attorney general alleges, was bought with German money for use in Germany.

This was one of a series of cases, Sir Frederick Smith asserted, in which the late Swedish government, or Lieutenant Colonel Wikland, head of the equipment section of the Swedish army, lent its name improperly as consignees. Wikland, who had not been repudiated by the Swedish government, Sir Frederick said, had bought goods with funds supplied by Germany.

CATHEDRAL TO BE FOR VICTORY

St. Mark's Episcopal Church in Seattle Is to Erect \$500,000 Memorial.

SEATTLE, Wash., Dec. 31.—A \$500,000 Victory Memorial cathedral is to be built in Seattle by St. Mark's Episcopal church in memory of the American men who served and died in France, according to an announcement made by Rev. Ernest Vincent Shayer, rector of St. Mark's parish. Architects are working on the plans, the announcement asserted.

Twelve windows in the cathedral, according to preliminary plans will be named in honor of twelve of the nations allied in the war with the United States. Bronze tablets bearing the names of Seattle men who fell in battle are to be placed in the building. A victory tower with chimera has been proposed.

Steps being taken for the construction of the cathedral are believed the first definite plans made in the state for a memorial. The state moves are being made to erect memorials but most of the plans are still in a tentative state.

In Spokane the women's clubs may plant trees on school lawns in memory of the soldiers and sailors. Bellingham's Father's club is leading a movement for the erection of a memorial clubhouse; Grays Harbor residents are talking of purchasing a bronze tablet bearing the names of all men from the harbor county who died in the service, the Chehalis Citizens club is planning a \$200,000 community center building and the Olympia Young Men's Christian association has named a committee to plan a memorial.

HAL FARR WITH THE AMERICAN ARMY IN LUXEMBURG

Mrs. M. H. Farr has received a letter from her son, W. Hal Farr, now located at Hesperingen, Luxemburg.

"My Dear Mother: I have been going to write to you for the last week or so but we have been moving around so fast that I did not get a chance. When we did stop at a place, it was just long enough to get things set up and the work caught up and then we were gone again. We have been here two days now but do not know just when we leave, but I expect it will be most any day for we have not yet reached our destination.

"I have enjoyed my trip immensely over this country. I came over in a motor truck and of course that gave me a good chance to see the country. We cross over all the country that the Germans had evacuated and were not very far behind them. In one place in Luxemburg the Germans had just left the day before. The people here are very hospitable and treat us fine, but things are very high. For instance, I had to pay \$1.50 for a dozen of eggs. They are rather hard to get as all the troops are buying them up as they go through.

"I was stationed at Toul, but left there October 9, and we have been following up the troops ever since. Toul is a fair sized city and is quite picturesque. It is a walled city and very old. I also visited Nancy, the place where David said he had his picture taken. That is quite a city and a live place. They say it is a small Paris. I have covered quite a bit of France and may see quite a bit of Germany before I get back. I think that the chances for getting home now are very good. We are among those picked by the army of occupation and I think that we are very fortunate, for this is quite an honor.

"Well, mother, it will soon be Thanksgiving day and I suppose that you will go out to Lettie's as you usually do. I would like so much to be with you all but it cannot be done this time but for sure next.

"I don't know where we will be but I am going to try to have chicken dinner at the mess. I am doing the buying for the mess now, so I am going to try and have something good for the boys. We have twenty-eight of them.

"How are the things going at home? I have heard nothing from you for some time and I wonder if things are all right. I have often wondered if Dave got over here all right or if they stopped him again at Washington.

"I received a note from Johnson not so very long ago and he was still in the same place. He said that he did not know when he would get home. This letter should reach you by Christmas and I hope it does, but if the mails are delayed very much I hope you get it all right. I have no idea where we will be for Christmas, but will make the best of it wherever I am. I want you all to have a merry Christmas and happy New Year, and if everything goes all right we may be home after that. I should like to send you all something but under the circumstances it will be next to impossible to get into a place where you can get things and if you get them you cannot send anything you would like to. If I have a chance I will send the kiddies some little thing, but tell them not to be disappointed if I do not. We are moving all the time and it takes most of my time keeping up with the work and making up for the time that we lost on the road.

"There is not much else to tell you, I am all right and feeling fine. The weather here is quite cold but we have no snow as yet. Do not worry and take good care of yourself. I wish you all a merry Christmas and a happy New Year and hope to be with you all soon.

"My very best love to you and all.
Your loving son,
"HAL."

SALT LAKE DID HEROIC WAR WORK

James F. Kelly, of Salt Lake City, formerly of Brooklyn, who went overseas in August as a Knight of Columbus secretary, arrived in New York Tuesday from France with his head still bandaged to protect a wound he received from German shrapnel while, as a Knight of Columbus secretary, he performed a deed that won for him the legion of honor medal in making his final report to William P. Larkin, director of Knights of Columbus overseas activities. Mr. Kelly said:

"It was on October 22 that word came from an advanced line in the forest that a battalion of marines were trapped and in need of food and ammunition. They had been cut off, but had managed to send through a carrier pigeon.

"Several attempts had been made to locate the battalion, but the work was unsuccessful because of the trees. With a French pilot I went over the lines in an airplane with food and supplies and succeeded in locating the battalion, which was fighting off the Germans.

"Twice again we returned with food and supplies and dropped enough food and kept the battalion going until the flank advanced and relieved the tired fighters. It was my first flight in an airplane. You cannot imagine just what the sensation is, but those thoughts were forgotten in the all-important job of keeping these men supplied with the food they needed so badly.

LEGISLATURE TO MEET JANUARY 13

SALT LAKE, Dec. 31.—It is a peculiar coincidence that the thirteenth session of the Utah legislature will convene on the thirteenth day of January, but members of the body are not superstitious and do not anticipate any "bad luck" from this unusual combination of numerals.

No date for a pre-session caucus of the members of the legislature on the matter of organization has been set, but it is anticipated that this important caucus will be held about the middle or latter part of next week. Members of the legislature may be expected to be drifting into the city as early as the first of next week to prepare for the session and by the middle or latter part it is safe to figure upon the presence of practically all members so that a caucus may be held. At this caucus the matter of organization will be attended to and other preliminary details will be worked out, such as tentative assignments to committees, selection of employees and various other details that are always attended to before the two houses are called to order.

Great interest centers in the governor's message to be sent to the legislature after it convenes. The governor has given no intimations as yet as to the things he will recommend, but it is unofficially understood that the message will be rather brief and strictly to the point. It is known that several things urged by the governor in his message to the twelfth legislature were "overlooked" by that session, and it is presumed that he will reincorporate some of these in his address this year. Among the important recommendations "passed over" rather expected to be reiterated this session, are a law providing for a nonpartisan judiciary throughout the state, and a redistricting of the state on a basis of population for the election of representatives to the lower house of the legislature. A redistricting of the state on this basis would give the Salt Lake county district a larger representation in the lower house by about six to eight members. At the last session this matter was discussed, but it went no further. There was strenuous opposition by the outside counties.

Governor Bamberger admonished the legislature strongly against freak and radical legislation and it is presumed that he will this point strong in his message this session, particularly in view of post-war conditions and the necessity for most careful and constructive legislation. Members of the coming legislature rather look for the chief executive to advocate strengthening of existing laws, where they may need it, rather than the enactment of new laws not essential to the welfare of the state.

It is considered certain that one of the main things before the coming session will be taxation, especially as applied to mines. The tax amendment to the constitution voted upon by the people at the last session renders this an important matter to be dealt with at the present session.

AMERICAN WAY OF RAILROADING IN SIBERIA

VLADIVOSTOK, Nov. 29. (Correspondence of the Associated Press)—The American method of "applying the boot" by a muscular attack of the Stevens railway company recently put an end to Bolshevik agitation among Red Cross charges of the American Red Cross in Vladivostok, as related by Lieutenant M. E. Hall, chief of the local relief organization.

Among the five hundred men, women and children who are being cared for in a remodeled soldiers' barracks in the outskirts of Vladivostok, there were fifteen who would not work.

The physician in control of the barracks, a Russian, complained to Lieutenant Hall that this coterie of young fellows was preaching Bolshevism to the others and urging them to defy the authority of those upon whom they were dependent on the grounds that the business of the Red Cross was to look after them and that there was no need for them to work. The doctor was threatened with death if he interfered with their program.

Things came to such a pass that Lieutenant Hall asked for assistance and Lieutenant Brunner volunteered to take on the business of disciplining the disturbers. After dinner one evening Lieutenants Hall and Brunner and an interpreter, George Fainstone, made an unexpected visit to the barracks. The inmates were all lined up and the doctor designated as ring-leaders of the Bolshevik element a half dozen young and middle aged men. Lieutenant Brunner, who is a big man with a business-like air, threw off his coat and invited the Bolsheviks to take a good look at him and to listen carefully to what he had to say.

Most of the "slackers" after hearing Brunner's harangue which dealt with the general proposition of "no work no keep" and with details of certain physical discomforts to be expected by any obstreperous ones, elected to become industrious. Two young fire-eaters attempted to parley. Brunner seized one of them by the coat tails and shook him until his teeth chattered, stopping at intervals long enough for the interpreter to translate as near as possible into Russian some forcible English.

ORPHEUM TONIGHT AND ALL NEW YEAR'S DAY

"NINE-TENTHS OF THE LAW"

With MITCHEL LEWIS AND AN ALL STAR CAST

MATINEE TOMORROW

Continuous From 2 P. M. On.
Admission 6c and 20c.

FEES REFUNDED TO TROOPS IN NORTH CLOSED PLACES RUSSIA ARE SAFE

At the meeting of the city committee last night a number of matters were disposed of, among them the refunding license fees to the owners of billiard and pool halls that were required to remain closed during the influenza epidemic.

Thirteen places of this character were among those recommended by city recorder Willard Critchlow Sr., to be refunded during the closed period. The amounts ranged from \$1.42 to \$3.48, figured pro rata by the day for the period of closing at the rate paid. All three commissioners were unanimous in the opinion that the fees should be refunded.

Knitters of the Red Cross are asked to get in all work before January 1st, when the final shipments from Weber county are to be made. It is stated that when the work is completed the needles may be laid aside as it is not thought necessary at the present time that more knitted articles will be needed for the army. The work on this department will be discontinued until further call is made, and the workers will be urged to turn their attention to the garment department to aid with the making of refugee garments which are greatly needed over seas at this time.

PLAIN CITY BOYS BACK FROM COAST

Ralph Robson, son of J. L. Robson, together with three other Plain City boys, Wilford Skeen, Enoch Kennedy and George Cottle have returned home, having received an indefinite furlough from the navy. The boys are enlisted in the naval reserve and are subject to call during the next four years.

The four men enlisted and were sent to the coast a few months ago. Though transferred from San Diego to San Francisco, they succeeded in remaining together.

SOLDIER'S WIFE TAKEN TO HOSPITAL

Mrs. Charles W. Strause, who came to this city to meet her husband coming back from France, was taken ill last Sunday while employed in work which she has been doing while awaiting his arrival. She was removed to the Des Hospital last evening from the home of Mrs. Emma Montgomery, 247 Grant avenue, suffering of a severe sore throat.

Strause enlisted at Cheyenne, Wyo., last spring and was later sent to France with the Eighty-third field artillery. No word has been received from him since he went overseas, but Mrs. Strause learned that the regiment was expected to return to America in December so she came to Ogden to meet him.

Vice Admiral Sims to Head Naval War College

WASHINGTON, Dec. 31.—Vice Admiral Sims will be assigned to duty as president of the naval war college at Newport, R. I., on completion of his present duty as commander of American naval forces in European waters. Secretary Daniels made this announcement today, adding that the assignment was at the request of Admiral Sims and that the navy department had asked for double the current appropriation for the war college in order to expand the work there.

WASHINGTON, Dec. 31.—The railroad administration's contract with the Norfolk & Western, signed today by Director General McAdoo, provides for payment of \$20,640,000 in annual rental.

WARSHIPS TAKE ON AMERICANS. COPENHAGEN, Dec. 31.—The American cruiser Chester, which arrived here yesterday with the American destroyers Wickes and Albion, left here today for Danzig, the port of German Poland. The destroyers have gone to Luback, also a German Baltic port. The warships will take on board sick Americans.

TROOPS IN NORTH RUSSIA ARE SAFE

Have Situation Well in Hand and Outlook Good Is Latest Report.

WASHINGTON, Dec. 31.—Favorable reports on the situation in the Archangel region of Russia, where some unofficial accounts have pictured the north Russian, allied and American forces as facing destruction at the hands of Bolsheviks in overwhelming numbers, have been given to the state department by G. A. Martizine, representative here of the Archangel government.

It was officially stated today that Mr. Martizine had conferred with Acting Secretary Polk and that his information showed the situation well in hand from the viewpoint of the allies.

According to these reports, the Bolshevik soldiers are offered by Germans and consequently are able to make good use of their artillery and rapid fire guns, but they have no stomachs for fighting that does not keep them at a distance from their opponents.

Mr. Polk said the department had no information to bear out the report referred to in the senate yesterday that American soldiers in the Archangel region were sleeping in swamps and were without proper clothing for the Arctic climate. He intimated that reports of unusual hardships sustained by American troops in the Archangel region probably were greatly exaggerated.

More Units Are Assigned for an Early Convoy Home

WASHINGTON, Dec. 31.—General Pershing notified the war department that additional units with a total strength of approximately 15,000 men had been assigned for early convoy home. They include the 329th and 330th infantry of the 83rd division with more than 50 officers and 3400 men each and the 49th regiment, air service, including about 16 aero squadrons.

The 54th field artillery with 105 officers and 2429 men and the 116th engineers and train, 26 officers and 1600 men, also were among the units designated for early return.

Aero squadrons included are the 21st, 30th, 31st, 32nd, 33rd, 37th, 43rd, 162nd, 191st, 257th, 184th, 483rd, 489th, 490th, 469th and 649th, and air service mechanics include the 17th, 18th and 19th companies. The organizations of the 4th and 55th and 57th pioneer infantry represented by one officer and one man each and 16th field hospital, two officers and 55 men also are designated as a casual company from the air service and one from the chemical warfare service.

MIRACLE OF THE AIR.

War is the apotheosis of the unexpected.

The first, and as it seemed likely to be, the great surprise of this war, was the terrific power of modern artillery, and the fact that no fortresses could withstand it. But we were partially prepared for this.

But artillery has not ruled unchallenged. Steadily the power of the airplane increased throughout the war, toward the end, the air forces were making a strong bid for position as a ruling factor.

Air power is the pre-eminent discovery of this war, and that air power could ever exert a really decisive influence on the fortunes of any war was from the general 1914 point of view, unlikely.

Because air power had to grow up with the war and because we have watched its growth, the fact of its importance falls to come home to us with the staggering surprise it would have effected at the beginning of the war.

Attention, Brotherhood of Railway Carmen

Next meeting Jan. 2nd, 7:30 p. m. Be prepared to pay up dues and other important business. All are requested to be present.

BOARD OF TRUSTEES.