

JUDGE TROUTT RULED RIGHTLY. Opinion of Chief Justice Beatty in the Hawai- ian Case.

THE DEFENSE SET BACK.

Important Victory Gained by the Attorneys for the Plaintiff.

LOWER COURT IS SUSTAINED.

Citizens May Be Restrained From Prosecuting Iniquitous Suits in Foreign Courts.

Another and very important victory was won yesterday by the plaintiff in the case of Claus Spreckels against the Hawaiian Commercial and Sugar Company, Russell J. Wilson, Mountford S. Wilson, Charles S. Wheeler, Rudolph Spreckels and B. J. Hoffacker.

This victory was the denial by the Supreme Court of an ex-parte motion by the defendants' attorneys for a writ of prohibition to prevent Judge Troutt from proceeding further in his refusal to order the temporary injunction dissolved after having overruled the defendants' demurrer to the complaint and having decided against the contention of the defendants that Judge Troutt had no jurisdiction in the case.

All that the defendants can do now is to abandon the contest or make a direct appeal to the Supreme Court.

In denying the ex-parte motion of the defendants the following was handed down by Chief Justice Beatty:

Rule to show cause denied, upon the ground that the right of petitioner to appeal from the order granting a preliminary injunction, or from the order refusing to dissolve the same, affords a means of testing the power of the court to grant the same, and appears to be a plain, adequate and speedy remedy for any wrong or injury sustained thereby.

The opinion of Judge Troutt, which the Supreme Court has sustained, is expressed in its title: "Opinion of Hon. James M. Troutt of the Superior Court of the City and County of San Francisco, delivered March 12, 1896, maintaining the power of courts of equity to restrain citizens from prosecuting iniquitous suits against other citizens in foreign courts."

It is an opinion which will be quoted as a precedent in similar cases. In his decision Judge Troutt says:

To use the language of plaintiff's counsel, "When the Civil Code was adopted, the Legislature established the law in this state for the governance of the people of this State. It was not concerned in protecting the dignity or enlarging the jurisdiction of the courts of Hawaii, of New York or of England. It was concerned in the protection of citizens of California from wrongs threatened or carried on by other persons, whether citizens or not. The State owes this protection to its citizens in return for the support which the citizens give to it."

The concluding paragraphs of Judge Troutt's opinion, delivered on March 12, are as follows:

And now, in determining whether the defendant's demurrer should be sustained or overruled, the court must assume, in the face of the admitted facts, that the land in controversy is not held by the plaintiff in trust for the defendant corporation, and hence that there was no occasion for said corporation to commence its adversary action against plaintiff, and that in the light of all the circumstances and facts as alleged in plaintiff's complaint, the said corporation ought not in equity and good conscience to be permitted to maintain and continue its aforesaid action in the courts of the republic of Hawaii.

Hence, it is the opinion of this court that the preliminary injunction heretofore granted should be continued in force until by trial of the cause it shall have been determined whether or not the facts established by the evidence then adduced may justify the court in permanently enjoining the defendant from prosecuting the Hawaiian suit.

Accordingly, the demurrer is overruled, with leave to defendant to answer within ten days, and the motion to dissolve the temporary injunction is denied.

The setback which the counsel for the defendants received is emphasized by the fact that Delmas & Shortridge, counsel for the plaintiff, were not present when the application was made to the Supreme Court. The defendant's attorneys told their story in their own way, and were ruled against on their own presentation of the case.

FOSTER IN CONTEMPT.

Judge Seawell Gives Him Twenty-Four Hours in the County Jail—A Stay of Execution.

A. W. Foster, president of the San Francisco and North Pacific Railroad, has been adjudged guilty of contempt of court and has been sentenced to twenty-four hours in jail.

This citation of contempt is the outcome of the suit of Sidney V. Smith for the position in the directorate occupied by P. N. Lilienthal. Judge Seawell recently decided that Smith was the legally elected director, and that Lilienthal was erroneously installed in office. After the decision Smith presented himself at the next meeting and he was refused admittance. Judge Seawell had granted an injunction restraining the other directors from interfering with Smith when he came to take possession, but Foster prayed the charge of contempt when Smith presented himself, and on that point Judge Seawell passed upon him.

In rendering his decision Judge Seawell said: "The primary purpose in this case was to declare who was elected a director—Smith or Lilienthal. It was not a proceeding to oust anybody, and my idea in granting an order of injunction was that without such the court's judgment could be disregarded. The judgment of the court was not that Mr. Smith is entitled to anything but that he is a director. Now the effect of an appeal is always limited to the force of a judgment, but does not impair its character. Now, the character of this judgment was the determination that Smith

Highest of all in Leavening Power.—Latest U. S. Gov't Report

Royal Baking Powder

ABSOLUTELY PURE

was actually elected and is now a director. Therefore, there could be no proceeding by or against such a director. A judgment of Lilienthal never was a director, the court finds; Smith was, even before the decision in his favor, and so he had a right to take his seat as a matter of course.

Mr. Foster refused to let him take his seat. Now, if I find Mr. Foster guilty of contempt, what remedy has the petitioner, Smith, got? Whereas, if I adjudge Mr. Foster guilty of contempt, my decision is subject to review in the Supreme Court. Mr. Foster acted in no contumacious spirit, but in good faith and under the advice of counsel. But I find that he was guilty of contempt of court, and the judgment of the court will be that he be imprisoned in the County Jail for a term of twenty-four hours. Counsel for Mr. Foster will, of course, be granted a stay of execution to enable them to prepare papers on appeal.

Mr. Foster said that I have my doubts as to the correctness of my reasoning in arriving at this conclusion. I regard it as a highly debatable question, but I feel it my duty to decide as I do in the interests of simple justice.

The case will be taken before the Supreme Court at once and a stay of execution until to-morrow was granted to allow the appeal.

TOUR ENDED IN LOSS.

Stanford Glee and Mandolin Clubs Return from Southern California \$300 Behind, After Eleven Concerts.

The Stanford glee and mandolin clubs, on their way back to college after a ten days' concert tour of Southern California, passed through town yesterday evening and took the 5:15 o'clock train for Palo Alto.

After appearing in San Jose, San Francisco and Oakland the boys gave concerts in Pasadena, Riverside, Santa Ana, Redlands, Los Angeles and Fresno, the last two towns being visited twice.

The twenty-five musicians were unanimous in their praise of the hospitality of the people of the southern part of the State. Everywhere they were received and entertained royally, their advent in a town being made the occasion of a society event.

But financially the trip was not a success. The expenses of the entire tour exceeded the receipts by \$300. A large part of the loss was caused by the very outset through the small audiences in this city and in Oakland, due partly to late advertising.

The Stanford manager said that the traveling expenses amounted to over \$900. Living expenses were nearly \$400. Then advertising and rents formed another large item.

He took consolation in the fact that the Berkeley Glee Club lost \$200 on its Southern California tour last made year.

OFFICIALS ENTERTAINED.

Minneapolis Delegates the Guests of A. B. Spreckels on the Active.

Went for a Trip Around the Bay and Also Inspected the Seal Rocks.

The Mayor and city officials of Minneapolis were the guests of Supervisor A. B. Spreckels yesterday. At 10:30 a. m. the fine tug Active was in readiness and a trip around the bay was begun. Among the delegation present were: Mayor Robert Platt, City Clerk Charles F. Haney, Aldermen Perry A. Long, Burke P. O'Brien, George A. Durnam, Hugh Jennings, B. Loy, Sam E. Dams, Andrew Anderson, Erick Rhode, Fred A. Schwartz, P. W. McAllister, Jay W. Phillips, Francis G. Drew, Charles E. Dickinson and G. L. Fort; F. W. Cappelen, City Engineer; Frank L. Stetson, Chief Engineer of the Fire Department; Dr. H. A. Avery, Commissioner of Health; L. A. Dunn, Assistant City Attorney; H. A. Luxton, Registrar of the Water Works; A. G. Mosher, Sealer of Weights and Measures; E. T. Gaylord, Sergeant-at-Arms; L. J. Hillhouse of the Tribune, Adolph Edisten of the Journal, H. A. Luxton of the Penny Press, and Dr. A. H. Helderly.

The representatives of the San Francisco board present were Supervisors A. B. Spreckels, Morgenstern, Hughes, Dunker and Wagner.

At the Union Iron Works the party landed and inspected the yards and the battle-ship Oregon. They were all loud in their praise of the man-of-war, and considered her the equal of anything afloat. From the iron works they went to Hunter's Point Drydock, and then skirted the easterly shore to give the visitors a glimpse of Alameda, Alameda and Berkeley. The tug was then headed for the Golden Gate, and passing well inshore a fine view of Fort Mason, the Presidio and Fort Point was obtained. Once outside the vessel pitched a little in the gentle swell, but no one was seasick, and Mr. Spreckels directed that the course be laid for the Seal Rocks.

It was a perfect day, and when the rocks came into view covered with seals everybody was delighted. Messrs. Hillhouse, Edsten and Luxton got out their cameras, and made a number of pictures from different points of view. On their way back they also took a number of other views of the bay.

Line Point was next visited and then Sausalito, Belvedere and Tiburon was spread out like a panorama before them. Passing through Raccoon Straits the tug steamed up into the quiet waters of Suisun Bay, and there luncheon was spread. Everybody's appetite had been whetted by the keen sea breeze, and the viands were accorded ample justice. It was late in the afternoon before the party disembarked, and all voted it one of the most pleasant days they had spent in San Francisco.

REAL ESTATE AUCTION.

Large Sale of Property by Easton, Eldridge & Co.

There was a large attendance at the auction sale of real estate held yesterday by Easton, Eldridge & Co. The bidding was rather spirited in some instances and the prices realized were fair in most cases. The aggregate amount of the sales was nearly \$150,000.

A part of the original Horace Hawes estate was first put up. That portion at the corner of Ninth and Howard streets, consisting of a lot 100 feet on Ninth street by 58.6 feet on Howard street, covered with five stores and five French flats, sold for \$90,750. An eight-room house at 2023 22d street, 137.6 feet east of Buchanan, with lot 27.6x137.6, sold for \$6,000. Two flats on the north line of Washington street, 106.3 feet west of Baker, with lot 50x127.8, sold for \$15,500.

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AN ANGRY WIFE WIELDS THE WHIP.

Mrs. Edward Homan Cowhides a Pretty Strawberry Blonde.

A TELLTALE TELEPHONE.

An Angry Wife Hears Her Husband Make an Appointment With Another Girl.

DETERMINES TO BE PRESENT.

She Meets the Fair Unknown Stranger and Administers a Severe Flogging.

INTRODUCTORY.

Ed Homan—Hello Central, give me Main—Telephone girl—Yes, certainly; here she is now.

Homan—Hello Lili—on the corner of Geary and Jones streets at 6:30 this evening, sure.

Lili, otherwise the mysterious blonde—All right, Ed. You may count on me. But say, Ed, how about your wife?

Homan—Oh, she is at home, safe enough.

Mrs. Homan on the telephone girl—For heaven's sake don't tell 'em the wires were crossed—I want to be there.

From the after results it is plainly evident that the telephone girl maintained a discreet silence.

Shortly after 6 o'clock Monday afternoon people who noticed other people would have observed a tall, slender young woman of the blonde and demi-monde type slowly pacing up and down Jones street, from the corner of O'Farrell. Occasionally the young woman cast an anxious, expectant look around her, but not observing the object of her quest continued to thread the half-deserted thoroughfare.

Shortly after the tall blonde put in an appearance, a little black-eyed, black-haired woman, heavily veiled, came around the southwest corner of Geary and Jones streets and taking her stand in the shadows watched the trim figure across the way. The latter came over a half-skin cloak, and without waiting to meet her right hand, as though she desired to conceal something within its grasp.

Almost simultaneously with the appearance of the black-haired woman a man came up Geary street from the direction of Powell. Just as he reached the bakery, some three or four doors from Jones, he caught sight of the woman in the seal-skin cloak, and without waiting to ask any questions fled precipitously in the direction from which he had come.

This performance was not observed by the woman of raven locks nor she of golden tresses, but as the hour of 6:30 was at hand the former determined to make a break—and she did.

Hastily crossing the street, she made directly for the woman of serpentine figure and flaxen hair. But the latter was not to be caught napping. She saw an angry woman coming, and with the utmost discretion beat a hasty retreat as her skirts would allow, and nearing the Signal Express Company's office she made a flank movement by fleeing directly to the middle of the street.

If the blonde hoped by this to throw her pursuer off the track, the next moment dispelled such a delusion.

The two women—the pursuer and the pursued—met face to face in the middle of the street.

"How dare you," screamed the little woman, "make an appointment to meet my husband?"

"I didn't, I vow I didn't," tremulously replied the other.

"You lie, you know you lie," shrieked the first. "Take that, and that and that."

And with this last, the brunette drew from beneath her seal-skin coat a horse-whip of no mean proportions and plied it lustily on the back of her supposed rival. Down Jones street toward O'Farrell the bright-eyed beauty fled, but she was not

alone, for the woman with the cowhide was with her. The shrieks of the creature of the half world drew a great crowd, and at the corner kindly hands arrested the stinging blows of her pursuer.

Down O'Farrell she sped as fast as her quivering limbs could carry her, the wondering crowd only losing sight of her when a convenient car hid her form from view.

So far as known the mysterious blonde cuts no further figure in the case. When the gaping people—those in the street and those from the windows above—had looked upon the horsewhipping as long as she cared to have them, she proceeded to the butcher's and the baker's and the corner grocery-store, and at each of these places related the story of her wrongs.

It seems that she is the wife of Ed Homan, a familiar figure at the Midwinter Fair, but more recently acting as manager of the Midway Pleasure. For some weeks past, according to her story, she has had occasion to doubt the marital honesty of her husband, but try as she would, could never catch him in any direct violation of these obligations.

Monday afternoon the telephone, that wonderful little instrument with the nickel-in-the-slot attachment, got in its deadly work and Mrs. Homan found it necessary to call up some friend over the telephone, and to that may be traced directly the severe horsewhipping of the blonde-haired woman.

Mr. Homan was holding a conversation with the tall trim girl, and in some thoroughly inexplicable manner the wires became crossed. Mrs. Homan overheard all that was said, and she forthwith made a solemn promise to be present at the meeting. How faithfully she kept her word has already been told.

The belligerent wife said her fanciful husband lives at 8 Geary court, within half a block of where the horsewhipping took place.

THE FLAG AFFAIR.

General Warfield Explains the Alleged Insult to "Old Glory" in Honolulu Recently.

Regarding the report from Honolulu that during a carnival of several young men the American flag was trampled upon, General Warfield, who has just returned from the islands, says:

"I heard of the occurrence while I was in Honolulu, and from inquiry I believe

BELVEDERE WILL FIGHT SMITH.

People There Refuse to Be Discarded by Railway Consolidation.

WANT A NEW FERRY.

Contract and Bond Arranged for a Service to the Island Suburb.

ELECTRIC LINE TO SAN RAFAEL.

The Belvedere Company Supports the Enterprise in an Encouraging Manner.

The people of Belvedere, having become alarmed at the possibilities of consolidation of the Donahue and the North Pacific Coast railways, have taken a decided stand for self-protection in the matter of transportation accommodations.

They have pursued no half-way policy. After mature deliberation it was determined to establish an independent ferry service between San Francisco and Belvedere, and this enterprise is to be backed up by the Belvedere Land and Water Company to the extent of an electric street railroad line to San Rafael from the

same time assure the permanency of the Belvedere ferry.

"The steamer in question makes better time than the boats on the Tiburon route. We have the choice of two landing places in San Francisco—one near Market street, the other at the foot of Powell street, where the Kearny street electric cars stop. The time from Market street to Belvedere is twenty minutes, and from Powell street fifteen minutes, whereas the other route is thirty minutes. The steamer's name is not to be made public at this time for good reasons, but it is about the size of the General Melowell.

"Sidney Smith has stated in his scheme for consolidation of the two railroads that he would take off the ferry-boats on the Tiburon route with the exception of those connecting with through trains of the Donahue road. He would have everybody travel to and from San Rafael via Sausalito. That plan would utterly ruin Belvedere, for we should then have to move our houses and come to San Francisco and go to Sausalito. We have spent considerable money in Belvedere and consequently we do not propose to be set aside by Mr. Smith's plan of economy. We propose to run the Belvedere ferry at times through the day when the Tiburon boat is not running, and by that means have a service which cannot be taken away by rival railroads."

An exciting election was held at Court Independence No. 104, A. O. F. of A., for delegates to the Grand Court on Monday evening. The contesting delegates were William A. Deane, R. J. O'Reilly, James Grady and Charles Spader. The first ballot stood: William A. Deane 49, R. J. O'Reilly 46, James Grady 46 and Charles Spader 29. A second ballot was called for in the case of O'Reilly and Grady, Spader dropping out. O'Reilly won by two votes, the ballots cast being 45 to 41. The convention will be held in Watsonville, Santa Cruz County, in May.

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"None of us wish to appear as in opposition to Mr. Foster of the Donahue road," he said yesterday. "Mr. Foster has done a great deal for us, and we in Belvedere are well pleased with his attention to our interests. It seems, however, that Mr. Smith may play a winning card. Some of the more timid people fear he may win, in which case we of Belvedere would be left out in the cold. We all saw that something had to be done in the matter to protect ourselves, and so we canvassed and discussed the condition that faced us and is still before us. It did not take long to find what we wanted.

"We, that is the Belvedere Improvement Club, made arrangements with the owners of a steamer to give us a service that would meet all requirements for the same rate as we are paying on the Tiburon ferry. The steamer people have agreed to give us a bond of \$20,000 that the service will be maintained according to contract, so that we have a guarantee already of everything we need for transportation.

"There was a stipulation in the contract that we build a wharf or landing at Belvedere. This was submitted to the Belvedere Land and Water Company, and they agreed to construct a commodious landing and extend the road down to it. The company was so pleased with the idea that it could be constructed at small cost and operated economically and at a profit, while the motors could be utilized for supplying Belvedere avenues and our houses with electric light. Such is the plan of the company. I have no doubt the electric road would pay a nice dividend and at the

wharf on its property. The matter has gone even farther, for conditional arrangements have been made with the owner of a steamer on the bay to carry on a ferry service between the City and Belvedere. And that this accommodation might be assured a large bond was exacted, and the steambot owner declared he was ready to give the security demanded.

J. D. Maxwell, one of the first men to make his home in the attractive seaside suburb near Tiburon, has been an active participant with the other residents of Belvedere in this movement for an independent means of transportation across the bay. He says that all his neighbors are fully determined on what they shall do in this regard, for it is either a clear case of success in the venture or ruin of their homes, which now faces them through Sidney V. Smith's scheme of consolidation.

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SCHEYER'S HEAVY FINE.

Inspector Rivers' Latest Capture Is Given an Alleviating Dose of Justice.

Judge Campbell gave Morris Scheyer, a South San Francisco butcher, a severe dose of justice, which the latter apparently expected, yesterday.

Scheyer was arrested by Market Inspector Rivers near the Four-mile House several days ago as he was coming into town with a load of immature calves. Scheyer's attorney made a hard fight in the Police Court to clear him, but the evidence was conclusive and instead of the light fine that the defendant, from his smiling countenance, ardently expected, he was ordered to pay a penitentiary fine of \$50. This is the eighth arrest that Inspector Rivers has made within the past few weeks.

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Novelties in Black Etamine.
Novelties in Black Grenadine Effects.

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25 pieces BLACK NOVELTY CREPONS,
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