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HOMESTEADING AND LABOR TROUBLES FIGURE IN HEARING THIS WEEK BEFORE SECRETARY FISHER

Lindsay Tells How Warrants To Arrest Witnesses Were Issued

[Below is printed some of the interesting testimony during the Fisher hearings this week.]

Fisher: Mr. Ashford, I believe we have arranged to have the Governor take up this time the more specific items in the complaint in regard to the Governor. Before doing that, perhaps we ought to dispose of any other matters which you have. Is there anything?

Ashford: There are some matters. I should like to ask you—I would like to produce now, among others, a letter from Mr. R. Lougher, who is one of the gentlemen who talked to us at Hilo and is himself a planter, a letter from myself and certain statements of argument in regard to the proportion that should be allowed between planter and mill, backed up by some tables and figures. I have shown them to the Governor and if they consent I understand that they may be placed on the record.

Fisher: What is the substance—what does Mr. Lougher think should properly be the proportion between planter and mill.

Ashford: The statement is quite short; perhaps I might read it. (Reads statement). He does not refer to his figures there, although he does in his letter to me. I notice that the item is profit on planter's sugar per ton, $50.81.

Fisher: That is per ton of sugar?

Ashford: Per ton.

Mr. Fisher: That is, upon what theory of division?

Ashford: The theory of the prices that are generally prevailing now.

Fisher: Well that is $4 a ton for cane on four cent sugar—that is the basis on which he figures his profit of $50.00.

Ashford: Well, yes, it is on four cent sugar. He also quotes here from the prospectus of the San Carlos Milling Company. That is a Philippine corporation—that is, a Hawaiian corporation operating in the Philippines, whereby he shows that their prospectus proposes to pay the planters 60 per cent. for their cane and the milling company take only 40.

Mr. Fisher: In that connection, Mr. Olson, I would like to have perhaps some further testimony from Mr. Ivers. Can we arrange that a little later?

Mr. Olson: Yes.

Mr. Fisher: I would like to get his views on the form and terms of contract and also in regard to the immigration statutes. And Mr. Starrett, the marketing superintendent, is he here?

Mr. Olson: Yes.

Mr. Fisher: Was there anything else, Mr. Ashford.

Ashford: Yes, Mr. Secretary, but with regard to this (showing letter).

Fisher: Yes, let that be; let that go in.

Ashford: I don't know whether you would care to have files—perhaps you may care to see photographs of the residences of the members of the Thompson Settlement Association, near Waiohinu.

Fisher: Very well.

Ashford: I undertook, as I remember, to produce a certain letter written by Mr. Wolters, manager of the Hutchinson plantation at Naalehu, offering to buy the lands of the homesteaders there. I have the original here, together with a certified copy of it and of the reply. If the certified copy is accepted I would like very much to withdraw the original.

Fisher: I see no reason why that should not be done.

Ashford: I have also copies of letters from two members of the association, Mr. Hayselden and Miss Taylor—written to Senator Hewitt during the last term of the Legislature while he was here in Honolulu, describing the efforts of Mr. Wolters, the plantation manager there, to secure the assent of the members to a sale of the plantation.

Fisher: That is in general corroboration of the testimony given to us on the ground?

Ashford: Yes.

Fisher: Very well.

Ashford: I am holding the original of this letter. I have here, received since returning from Hilo, a letter from a gentleman signing himself L. Malterre, whom I do not know, with reference to the Kuliamano homestead tract in the district of South Hilo, being a part of the land previously applied for by the Thompson Settlement Association, which has been recently divided up between others, and it is in that locality that this Mrs. Bradley from whom you have a letter is located. The complaint is addressed to myself under date of September 23. (Reads.)

Now, Mr. Secretary, there were some matters that I would like to inquire about from the Attorney General before the Governor takes the chair as I understand, and, if satisfactory to you, I would like to ask the Attorney General a few questions.

Fisher: I understand that on the other question of fact you intended to rely upon the statement of the Governor himself except insofar as in his statement he might raise some question of accuracy which he might wish to change. Now as to the attorney general, there was a matter that I was going to ask him about myself. Perhaps you had better cover that and then again take up the other matter which you referred to.

Mr. Lindsay, your full name is?

Lindsay: Alexander Lindsay, Jr.

Fisher: And you are the attorney general of the territory?

Lindsay: Yes.

Fisher: How long have you been Attorney General?

Lindsay: About two years and a half.

Fisher: And when you came into office, I believe there was some litigation pending with regard to the water rights or claims of one of the plantations?

Lindsay: Wailuku.

Fisher: Wailuku. That ligitation, we were told the other day, had been settled by you. Now there has also been an exchange made of certain property to the plantation located in the town for certain property of the government outside of the town. The statement was made there that the two matters had nothing to do with each other. Was that correct?

Lindsay: I have never heard tell of that exchange until yesterday.

Fisher: It had nothing to do with the other?

Lindsay: Absolutely nothing.

Fisher: I wish you would tell us what the situation was with regard to this litigation there— why you settled it and——

Lindsay: When I came into office, I found that there had been an injunction—a bill for injunction—brought by the Wailuku Sugar Company against the Territory and the County of Maui, in which it was complained that we were diverting a great deal more water than our share from the Wailuku stream. The facts were that some years ago, the Territory had bought a small piece of land, I think it was about an acre and a quarter, up in Iao Valley. Of this acre and a quarter there was only three-quarters of an acre entitled to water. When the Territory bought this they also bought another little piece of land from the Wailuku Plantation and built a reservoir and laid a pipe line and started to take water and laid pipes, made a little water works system for the town of Wailuku. The complaint went on to state that we took a little more and a little more until, as a matter of fact, we were taking a great deal more than we were entitled to. About eight years before that, that would be about 10 years now, the pipe line had burst at the intake and without leave of anyone we simply shifted our pipe line over to the plantation land, a place where we had no right. Before I came into office, there had been a great many preliminaries, and just the week I came into office, Mr. Pogue, who is chairman of the Board of Supervisors, and Mr. Bal, Superintendent of Wailuku Water Works, they came down and together with Mr. Kinney, who was representing the Wailuku Sugar Company and Mr. Coke, James L., an attorney—he at that thime was County Attorney for Maui—and by the way the County was really the party interested in this whole case; it was not so much the Territory as the County of Maui—they came down and after a lot of talks suggested that we compromise. They went back to Maui and figured up how much we really were entitled to. In fact, all we were entitled to was the water from that three-quarters of an acre and water to two or three lots, like the court house lot and the old church lot, but there were a great many natives and kuleana holders that were entitled to water and our claim was that we were taking their water but delivering it to them through our pipes in lieu of delivering it to them in the open auwais. Anyway, with the plantation and Mr. Pogue, who knows the situation from the ground up, it was finally agreed——I should say before this that after the suit, (the injunction bill) had been commenced, the county people, Bal and Mr. Pogue, commenced buying or leasing from the kuleana holders their water rights. Well, it was agreed that the county should turn over all these leases and these water rights to the Wailuku Sugar Company. We would give the Winluku Sugar Company a lease of that little kuleana in Iao Valley and that thereafter for 25 years we were to be allowed to take 510,000 gallons of water every 24 hours, which as Mr. Pogue informed me would be more than wanted for a long time. He considered it a very splendid compromise—and Mr. Kinney, he didn't mind our getting a good, generous share of the water; his fear was that if he did not bring that suit, that by adverse possession we would have gained that water. Besides that 510,000 gallons of water, we also made a list of all those who were entitled to water and who had previously been taking it through open ditches, and the Wailuku Sugar Company agreed to give us all of their water, which we would deliver to them through pipes. Then, if it should be necessary any time within the next twenty-five years, if more water should be necessary, the agreement allows us to buy all the water we want up to 2,000,000 gallons a day, at the rate of ten dollars a million gallons. Considering that we sell water at seven dollars a thousand gallons, that would be a pretty good bargain, and the case was settled.

Fisher: Now, Governor, there was some land up there that was exchanged for this land in the town—what land was that, with reference to this three-quarters of an acre — the kuleana which the attorney general has referred to?

Governor: I have no recollection whatever of it.

Fisher: I understand the statement is now made that they had no connection—how are they situated physically?

Governor: I think they are two or three miles apart.

Fisher: So that it is perfectly clear that the only land that the government owned was this acre and a quarter, of which three-quarters of an acre was entitled to water.

Mr. Lindsay: That and a little courthouse lot about which there was a question as to whether it owned any water.

Fisher: Now, Mr. Ashford, do you want to ask Mr. Lindsay any questions?

Ashford: You were attorney general during the Japanese strike, Mr. Lindsay?

Lindsay: No, not during the Japanese strike.

Ashford: You were here?

Lindsay: Yes.

Ashford: Who was your predecessor in office, Mr. Lindsay?

Lindsay: Mr. Hemenway.

Ashford: I would like to ask Mr. Hemenway—— Mr. Hemenway, will you state whether, during the Japanese strike either you or the governor commissioned Mr. Kinney and Mr. Prosser or either of them as deputies of the attorney general?

Hemenway: I did.

Ashford: Was that with or without the sanction of the Governor?

Hemenway: Without it.

Ashford: Where was he?

Hemenway: I think he was on Hawaii or Maui.

Ashford: Did he return to town during the time that those gentlemen were acting in that capacity?

Hemenway: I believe he did.

Ashford: Did you acquaint him with the fact?

Hemenway: I may have mentioned it incidentally.

Governor: I learned it before I returned to town.

Ashford: During that time can you say whether those deputies of yours were instrumental in procuring the raiding of private premises and the looking over of private safes and other depositories of papers for the purpose of securing evidence for the prosecution?

Hemenway: They were instrumental in breaking open the safe, but that was before they held the commission from me as deputies attorney general.

Ashford: After they held that commission they were still engaged in that general enterprise.

Hemenway: They were prosecuting and were looking naturally for evidence. I have good reason to believe that they did not break open any more safes.

Ashford: How many did they break open?

Hemenway: So far as I know, one.

Ashford: Isn't it a fact that they actually broke open one with dynamite or other agency of that kind, whereas another one they found the lock was not shut, and they opened that without the necessity of violent measures?

Hemenway: That may be.

Ashford: What police officer, if any was along, if you know, at the time, and conducted the proceedings?

Hemenway: I think the High Sheriff.

Ashford: That is, Mr. Wm. Henry?

Hemenway: Mr. Henry.

Ashford: You understand that he was acting under the instructions of those gentlemen?

Hemenway: I believe he was.

Ashford: During how long a period did that series of acts occur?

Hemenway: About a day and a right.

Ashford: Did the administration, either through yourself or through the Governor, do anyting to discountenance those acts and restore the property and papers to te parties?

Hemenway: I might say that the administration strongly disapproved of the methods which were followed, but they did not return many of the papers

Ashford: And the administration, of which you were at the head, namely the legal administration, went ahead and used that evidence for the prosecution?

Hemenway: We did.

Ashford: There was no search warrant or anything of the kind?

Hemenway: Not during this period.

Ashford: Do you know if there were any considerable number of arrests made without warrants about that same time and of that same class?

Hemenway: There were some, Mr. Ashford, I do not know how many?

Ashford: Do you know of a system that was in vogute at that time of taking a number of men into custody, looking them in the station house, holdingt them for forty-eight hours under the pretext that the law allows a man to be held for that long, and then at the end of that time release him and then rearrest him?

Hemenway: I do not know that any such system as that was followed.

Ashford: Well, you practically gave them full swing?

Hemenway: Yes, I left matters very largely to the care of Mr. Kinney and Mr. Cathcart, Mr. Cathcart being directly in charge of the general prosecution.

Ashford: I think that is all I want to ask of Mr. Hemenway.

Fisher: The Mr. Kinney you mentioned, was that Mr. W. A. Kinney?

Ashford: Yes.

Governor: In the testimony—in the matter of the second safe, the owner accompanied the officer and it was opened with his acquiesence. I learned of those facts when I was on Hawaii and was very much put out. As soon as I returned I ordered an investigation. I disapproved very strongly and gave orders that nothing—that the High Sheriff should not obey any instructions of the attorneys without first consulting either the Attorney General or myself. Mr. Kinney took the entire responsibility of that matter, and I think he is perfectly ready to take the entire responsibility in the matter.

Ashford: For whom was Mr. Kinney and Mr. Prosser acting at the time?

Governor: They were acting—I do not know—

Ashford: Wasn't it generally understood that they were acting for the so-called planters' association?

Governor: I presume so.

Olson: Mr. Hemenway, isn't it a fact that the evidence was objected to on the ground of the manner in which it was procured?

Hemenway: Yes, I believe so.

Fisher: Well, suppose the government was in possession of evidence showing that a crime had been committed. Do you think the government would be permitted to surrender that evidence?

Hemenway: The Governor strongly disapproved. He expressed his opinion in no uncertain terms.

Ashford: Mr. Lindsay, at the time of the so-called labor strike, in the spring of 1911, were you then Attorney General?

Lindsay: Yes.

Ashford: And you personally, in your capacity as Attorney General, made application to the Circuit judge for the arrest of a large number of persons, upon the allegation that they were required as witnesses?

Lindsay: I did.

Ashford: Do you remember the number of prisoners who were required?

Lindsay: As I recollect, I think there were over forty.

Olson: 78.

Ashford: At whose instigation did you make that requisition on the Circuit judge?

Lindsay: The way that came about was: Mr. Prosser and Mr. Ballou came to me and told me that they had for nearly a week been trying to get a lot of witnesses to testify before the grand jury against Craig and another man for violating our immigrant statutes, and that they had had subpoenas issued but the Federal authorities would not allow them to be served over on Quarantine Island, where these men were stationed. They told me that these men whom they wanted were going away that day, I think, on the steamer Korea.

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