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SUPREME COURT FREES SCHMITZ

Finds Fatal Defects in Indictment.

RUEF'S PLEA ALSO NULLIFIED

Ex-Mayor Exults Openly in His "Vindication."

"RAILROADED TO PRISON"

Seven Judges Unanimous in Holding That Facts Stated Do Not Constitute Crime—Gives the Prosecution a Severe Rap.

SAN FRANCISCO, March 9.—The Supreme Court this afternoon by unanimous vote handed down a decision denying the application of the prosecution in the San Francisco bribery-graft cases for a rehearing after a decision by the District Court of Appeals in the case of ex-Mayor Eugene E. Schmitz, convicted of extortion in the French restaurant cases. Without a dissenting vote among the seven justices, the court sustained the appellate court in its decision that the indictment upon which Schmitz was convicted was defective in that it did not aver that Schmitz was Mayor; that Ruef, his co-defendant, was a political boss practically in control of the city; that as such they were in a position to exercise power and undue influence over the police commissioners, and that it did not show that Schmitz resorted to unlawful means in threatening to have liquor licenses withheld.

Schmitz Crows Over Victory.

"The decision demonstrates," said ex-Mayor Schmitz, "that the highest court in the state believes what I have always claimed, that I was removed from office and railroaded to prison."

"The contention of the respondent that the appeal was prematurely taken," says the Supreme Court, "has no merit. The court is unanimous in the opinion that the District Court of Appeal was correct in its conclusion that the indictment was insufficient in that it did not show that the injury to the property threatened by the defendant was an 'unlawful injury.'"

This decision practically nullifies Ruef's plea of guilty to the same charge, invalidates the remaining four extortion indictments against the ex-Mayor and Ruef, and will enable Schmitz to gain his liberty on bail after eight months' confinement in the county jail.

Campbell, Metson and Drew, counsel for Schmitz, announced tonight that immediate steps would be taken tomorrow morning for the ex-Mayor's release, and expressed gratification over the decision, declaring that it showed that the highest court in the state sustained the law in spite of public clamor and the denunciations and attacks of the press that followed the decision of the appellate court.

Crime Not Clearly Specified.

After dealing exhaustively with the law, and numerous citations of authorities, the Supreme Court says:

In this case the indictment charges that the defendant threatened the restaurant-keepers that, if money was not paid him, he would prevent them from obtaining or receiving a retail liquor license and thereby destroy or render unprofitable their restaurant business, of which the sale of liquor at retail formed the remunerative part. It is not stated how the defendant proposed to do this, or how it was understood by the parties that he would accomplish it, whether by fair persuasion and lawful influence over the Police Commissioners or by duress, menace, fraud or undue influence exercised upon them.

This is not a case where it is sufficient to charge an offense in the language of the statute defining it. The court cannot assume, in the absence of an averment to that effect, that Schmitz was Mayor of the city, and as such, in a position to exercise power and undue influence over the members of the Police Commission, or that Ruef, his co-defendant, was a person in practical control of the city government because of his political activity and influence over the board, nor can it be inferred or presumed, when it is not so charged, that the defendant threatened to prevent the issuance of the license by unlawful means and not solely by lawful and innocent persuasion and argument.

Prosecution Misstates Case.

It is an elementary principle of criminal law that the indictment must show that a crime has been committed. In no case can the indictment be aided by imagination and presumption. The presumptions are all in favor of innocence, and if the facts stated may or may not constitute a crime, the presumption is that no crime is charged.

The attorneys for the respondent base their application for a re-hearing in this court solely upon the alleged errors of the District Court in refusing to dismiss the appeal and in holding the grounds to be insufficient, and expressly limit such application to these two points. They introduce their application with the statement that they are convinced that upon a full discussion of the case "it will be found and decided by this court that levying blackmail upon licensed businesses by the Mayor and political boss of a metropolitan community is a crime under the law of California and should not go unwhipped of justice."

This is a gross misstatement of the case and of the question to be decided as presented by the indictment. We again emphasize the fact that the indictment does not aver that Schmitz was Mayor or that Ruef was a political boss, or that either had any power or influence or control over the Police Commissioners, or that they threatened to use any such power, influence or control in preventing the issuance of a license.

HENEY CALLS MURPHY'S BLUFF

Ruef's Lawyer, Enraged, Calls the Prosecutor a Liar.

SAN FRANCISCO, March 9.—The hostility and bitter feeling between the prosecution and the defense in the case of Abraham Ruef, who has kept up a running fire of affidavits for the past month, to which no reply has so far been made by the prosecution, broke out in court this morning when the lie was passed between Frank J. Murphy, associate counsel for Ruef, and Assistant District Attorney Francis J. Heney.

The trouble arose out of Murphy's attempt to extricate himself from the predicament in which he had placed himself and Ruef by objecting to the continuing of the United Railroad trolley cases until March 18, which was immediately taken up by Mr. Heney.

"All right, then, we will go to trial immediately," said the Assistant District Attorney.

"We are ready; call the jury," replied Mr. Murphy.

"Your honor, we ask that the defendant Ruef immediately be placed on trial on the indictment charging him with bribing former Supervisor Daniel G. Coleman," said Mr. Heney, addressing the court.

Judge Lawlor immediately set the case for Wednesday morning at 10 o'clock.

Seeing that the Assistant District Attorney was in earnest, Mr. Murphy then endeavored to extricate himself, and explained that he did not really mean that he was ready to proceed with the actual trial, and that he evidently had been misunderstood, and asked the court if it would not first dispose of the showing on the motion for a vacation of the arraignment, to which the prosecution had taken a month to answer and had not yet filed its counter-affidavits.

Mr. Heney said: "It is apparent that counsel is juggling with the court and is endeavoring to deceive Your Honor. He said 'we are ready, call the jury.'"

"We are not as adept in deceiving the public and the court as Mr. Heney when he stood before a jury and lied about the immunity," retorted Mr. Murphy hotly.

This brought the Assistant District Attorney to his feet in an instant, his face flushed with anger. "I ask that counsel be punished for contempt for calling me a liar, and demand that the court order him to retract," said Mr. Heney, his voice vibrating with intensity.

Judge Lawlor himself was disturbed by the threatened clash between the two belligerent lawyers, and quickly let Mr. Murphy feel his displeasure.

"These remarks of yours which tend to disturb order here must be stopped, Mr. Murphy. The court orders you to make a retraction at once."

"I retract so far as the court is concerned," answered Ruef's attorney, "but I demand that Mr. Heney also be made to retract that I am juggling with the court."

Judge Lawlor paid no attention to this request and refused to change his order setting the trial of Ruef on another indictment for Wednesday morning.

Mr. Heney informed the court that he would be prepared to file all affidavits in the prosecution's counter showing by tomorrow morning.

Representative H. S. Boutell, of Illinois, Chairman of the Committee of Inquiry Into Representative Lilley's Charges of Corruption.

ALLOWS NO TIPS ON RACES

Drastic Measure Against Betting Is Passed in Los Angeles.

LOS ANGELES, March 9.—The anti-tip ordinance was passed by the Council Monday afternoon over Mayor Harper's veto. Three Councilmen voted against the ordinance.

The law is drastic, preventing the publication of any information about races that has anything to do with betting. Not only does the ordinance prevent the local newspapers from printing the betting features of a race, but it prohibits the selling of New York, San Francisco and other newspapers that contain results of a race with the betting attached.

The measure was not vetoed by the Mayor, but by his secretary, while the Mayor was absent from the city. Upon his return the Mayor agreed to let the veto stand.

CASTRO MUCH AGITATED

Fearful of Attitude of United States Over Claims.

NEW YORK, March 9.—President Castro, of Venezuela, is showing much anxiety over the attitude taken by the United States in regard to the status of claims of Americans against that country, according to advices received by local Venezuelans. This was shown, it was stated today, by his recall to Caracas, of Augusto F. Pulido, until recently Secretary of the Venezuelan Legation in Washington. Pulido, in the absence of a Venezuelan Minister at Washington, was the Charge d'Affaires, and President Castro wants him to make a personal report on the situation.

Senator Pulido sailed for Venezuela Saturday.

MUTINY IN CARACAS FAILS

Castro's Soldiers Kill Commander, but Bullets Force Submission.

CARACAS, March 4, via Port of Spain, March 9.—An uprising occurred here last night in a barracks, the soldiers killing their commander, General Mesa. The mutiny was quelled only after a number of soldiers had been shot.

SAY ARMOR BELT PLACED TOO LOW

Testimony Before Senate Committee.

METCALF UPHOLDS THE NAVY

Says Ships Are Superior to Any Other Country.

CHARGES ARE MADE BEFORE

Admiral Goodrich Says He Called Attention to Defects Pointed Out by Reuterdahl — Department Is Averse to Suggestions.

WASHINGTON, March 9.—Testimony was adduced today before the Senate committee on naval affairs which is investigating the criticisms of battleship construction showing that the location of the armor belt of American battleships was too low. On the other hand, a letter from Secretary Metcalf was read, declaring it to be the opinion of the Board of Construction and of Rear-Admirals Evans and Brownson that the armor belt lines of the battleships Delaware and North Dakota were right. The Secretary in his communication took occasion to declare that American battleships were superior to those of any other navy. The witnesses today were Lieutenant-Commander Richard Waite, associate inspector of target practice, and Rear-Admirals George C. Remey and C. E. Goodrich.

Goodrich Mentions Defects.

Interest attached to Admiral Goodrich's testimony because after the publication of the Reuterdahl article he said in an interview that he had called attention years ago to such defects as were alleged by Reuterdahl. He asserted he believed the American ships are good and that they are made better. He was asked by Mr. Hale if he would subscribe to Reuterdahl's statement that if our ships went into action they would be no better off than the Russian ships when they went into battle with the Japanese.

"Oh, no sir," he replied, his positive manner indicating that he thought that there could be no comparison. It was evident that Admiral Goodrich was seeking not to precipitate a controversy. He was asked about the German navy "sticking" to the 11-inch gun. The Admiral said the 12-inch gun was better than the 11-inch and the 13-inch better than the 12-inch. He was about to leave the stand when Senator Tillman called attention to the fact that Commander Sims a few days ago gave the name of Admiral Goodrich as one of the men who would corroborate him in the declaration that the department would not accept officers' criticisms. The Admiral looked annoyed.

Location of Armor Belt.

"Have you made reports to the Department criticising any matter of construction?" asked Mr. Tillman.

"I have," replied the admiral, and answering other questions, said he had criticised the location of the armor belt.

"What do you think about it?" asked Mr. Tillman.

"I think just as Admiral Remey does. I have adopted his expression," said the witness cautiously.

Pressed for more definite replies the witness said he thought the armor belt too low.

It was suggested by Chairman Hale that a chance would have to be taken as to the condition of the sea at the time the ship went into action.

"The whole naval life, Mr. Senator, is a chance," the witness remarked.

Suggestions to Department.

Mr. Tillman returned to the charge that officers had been discouraged from making suggestions or criticisms, and demanded Admiral Goodrich's experiences.

"I have made several suggestions which have not borne fruit. Do you want a specific instance?"

"I want something tangible," replied Mr. Tillman.

Admiral Goodrich said that in 1902 he had recommended abolition of the military masts with their fighting tops. The ships now being designed, the admiral said, do not have these fighting tops.

"Then this recommendation did not fall on barren ground?" said Mr. Tillman.

"I cannot flatter myself that my letter had anything to do with the decision to do away with this feature," said the admiral.

The hearing will be resumed tomorrow at 10:30 A. M.

CHINESE HOLD MEETING

RESOLVE TO RESIST RELEASE OF TATSU MARU.

If Ship and Cargo Cannot Be Confiscated, Boycott Against Japan May Be Started.

CANTON, China, March 9.—A monster meeting was held here tonight to resist the demand of the Japanese government for the release of the Tatsu Maru. The meeting was attended by a great number of prominent personages, who vigorously asserted China's sovereign rights.

A resolution was adopted to the effect that, failing the confiscation of the ship and her cargo, a boycott would be inaugurated against Japanese manufacturers.

CHINA MAY BUILD WARSHIPS

Also Borrows Large Sums for Railroad Construction.

PEKIN, March 9.—Financial representatives of no less than ten of the most important shipbuilding and armor manufacturing concerns of Great Britain, Germany and France are in Pekin looking for contracts, believing that China is about to expend $60,000,000 in naval equipment. Whether this is so or not is not definitely known, but the war department will probably build training ships and river boats, various docks and wharves.

Since the beginning of the year China has concluded railroad loans for a total of $32,500,000. Of this amount $17,500,000 has been apportioned for redemption of concessions held by foreigners.

The throne has announced its approval of the proposal to dredge the Grand Canal.

JAPAN AND CHINA NOT AGREED

Incident of Seizure of Tatsu Maru Not Yet Settled.

PEKIN, March 9.—The incident of the Tatsu Maru, the Japanese steamer that was held up by the Chinese authorities on February 7, off Macao, in the belief that the cargo of arms and ammunition

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STERN REBUKE TO KAISER-BAITERS

Tweedmouth Will Not Publish Letter.

ROSEBERY SCORES YELLOWS

Calls Them Insane for Attacks on Germany.

ENDANGER EUROPE'S PEACE

Ex-Premier Reminds Britons That Enemies of Today May Be Friends Tomorrow—Prince to Visit the Kaiser.

LONDON, March 9.—The King has decided to keep private the personal letter written by Emperor Willian to Lord Tweedmouth, First Lord of the Admiralty, in which it was charged by the London Times that His Majesty attempted to influence legislation in the matter of the naval estimates of Great Britain. How this decision, which was announced in both Houses of Parliament this evening, will please the country, remains to be seen. Since A. J. Balfour, speaking for the opposition, indorsed the policy of the Cabinet, it may be predicted that the public may consider the incident closed.

The character of Emperor William's letter is now generally understood. The specific passage is believed to be the reference to Lord Esher, that he had better occupy himself with drain pipes and keep his hands off the navy. Lord Esher was engaged in improving the dainage system of Windsor Castle, when Emperor William was there recently.

An amusing feature of the affair is that all the sensational newspapers of London are lecturing the Times for its sensationalism in exploiting the story.

Instead of making public the letter, the leaders of the government forces in both Houses of Parliament expressed astonishment at the demand for the publication of a letter which they described as private and personal. The statement of Lord Tweedmouth was followed by a severe lecture from Lord Rosebery to the British yellow press for exposing the country to danger of war by continual provocation. In the House of Commons an attempt to stir up debate on the subject was sternly frowned down. On the heels of this rebuke to the anti-German element came the announcement that the Prince and Princess of Wales will soon visit the German sovereign.

Purely Private and Personal.

When questions on the subject of the letter were asked in the House of Commons by A. J. Balfour and other Conservatives, H. H. Asquith, Chancellor of the Exchequer, answered that he had nothing to add to his statement of Friday, and that so far as he knew, Lord Tweedmouth had nothing to add to his declaration beyond the fact that immediately upon the receipt of Emperor William's letter, the First Lord of the Admiralty showed it to Sir Edward Grey, the Foreign Secretary, who agreed with the recipient that the letter had no official character and should be treated as a private communication.

"It is clearly out of the question," continued Mr. Asquith, "to lay private and personal correspondence on the table."

A question from Amelius R. M. Lockwoek, Conservative, as to whether it was possible for a communication on such an important question to be regarded in any way as private, drew a still more curt "yes" from Mr. Asquith and, when he was asked to give the House an opportunity to discuss Lord Tweedmouth's conduct, the acting head of the government maintained a chilly silence.

Tweedmouth Gives No Light.

Later, in the House of Lords, the First Lord of the Admiralty was somewhat more comprehensive, but he threw no light upon the real contents of the correspondence. He did, however, describe the letter from Emperor William as "quite informal and very friendly."

Lord Tweedmouth expressed some surprise at what he called "the extraordinary outburst of the press" during the last few days in connection with this matter. Continuing, he vouchsafed the information that he had on several occasions received letters from the German Emperor, which had come in the ordinary way through the post-office. The letter now under discussion was a private and personal one, Lord Tweedmouth declared; very friendly in tone and quite informal. When it reached him, he showed it to Sir Edward Grey, who agreed with him that it should be treated as private and not official. Accordingly, on February 20 he replied to the Emperor in the same friendly and informal manner.

Foster Good Feeling.

Lord Tweedmouth concluded by assuring the House of his firm belief that the course adopted was a good one and calculated to do what everybody so earnestly desired, namely, fostering a good understanding between the German Empire and Great Britain.

Lord Lansdown, leader of the opposition in the House of Lords, twitted Lord Tweedmouth with not being able to keep his own secrets.

The feature of the session in the House of Lords was a speech by Lord Rosebery, who had the Prince of Wales in a seat beside him. The ex-Premier

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Earl of Rosebery, Who Denounced British Yellow Journals for Agitation Against Germany.

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GREAT LIGHT ON OREGON HISTORY

Shafer Gets Aberdeen Dispatches.

WHY COMPROMISE WAS MADE

Private Letters Explain Boundary Settlement.

AMERICANS HAD CONTROL

Rush of Settlers Caused Britain to Concede Territory Between Columbia and Vancouver Island to the United States.

LONDON, March 9.—The inner history of what is known as the Oregon question, which brought America and England to the verge of war in the forties of the last century, is about to be given to the public. Professor Joseph Shafer, of the University of Oregon, who has contributed several books to the history of the Northwest, is now in London gathering the material. He has already had access to the correspondence on the subject in the archives of the State Department at Washington and the American Embassy in London, and is now going over the papers in the Colonial and Foreign offices.

Secures Private Dispatches.

What will, however, probably furnish the most interesting data is the private correspondence of Lord Aberdeen, at the time Secretary for Foreign Affairs for Great Britain, and this has been placed at the disposal of Professor Shafer by Baron Stanmore, fourth son of that statesman.

The question that has always puzzled the students of the history of the Northwest is why Lord Aberdeen, after instructing the British Minister that England would insist upon the Columbia River as the boundary, finally drafted a treaty admitting the contention of the Americans that the forty-ninth parallel was the proper line. There have been many answers to this question, but not satisfactory to the historians. The Hudson Bay Company, then a political power, was fighting to retain its posts on the Columbia River and Willamette River, and urged the British government not to give up a foot of land. The Aberdeen treaty gave up all the country south of the forty-ninth parallel, with the exception of the southern portion of Vancouver Island where a certain company had an important post and large landed interests.

Why Aberdeen Gave In.

Professor Shafer is inclined to believe that the letters of Lord Aberdeen will disclose that private advices from the country pointing out the difficulty of governing the country and the influx of Americans, who outnumbered the English, influenced the Foreign Minister in conceding the American claim in opposition to the company.

STRING OF HALF TRUTHS

WILFLEY SAYS CHARGES BASED ON PERSONAL SPITE.

House Committee on Impeachment Hears Argument on Attack by Andrews.

WASHINGTON, March 9.—The special committee appointed by Speaker Cannon to determine whether there is sufficient ground for the impeachment of L. R. Wilfley, Judge of the United States Court for China at Shanghai, who stands accused of misconduct in office by Lorin S. Andrews and other American lawyers resident in Shanghai, today heard arguments and took the case under advisement.

Representative Waldo, of New York, upon whose resolution the investigation committee was appointed and who has appeared throughout the taking of testimony as Mr. Andrews' counsel, made the opening argument against Judge Wilfley, whose impeachment he strongly urged.

Judge Wilfley followed in his own behalf. He entered general and specific denials of wrongdoing of whatever sort and denounced his accuser as one who had strung together a long list of half-truths and on their strength was trying to satisfy a personal spite. Representative Denby of Michigan, Judge Wilfley's counsel, closed for the defense.

The committee has not announced the probable date of its report or the nature of its findings and recommendation.

Letter Request Illegal.

WASHINGTON, March 9.—That a request for a campaign contribution made by letter is equivalent to a request made in person, where the letter is received and read, was held by the Supreme Court of the United States in the case of the United States against Edward Thayer, of Dallas, Tex., which in an opinion by Justice Holmes, handed down today, was decided in favor of the Government.

VOTER IN TRAINING FOR THE COMING CAMPAIGN