

TELL TALES

(Continued from Page 4)

umn, but let us analyze the inflammatory statements thus far quoted from the editorial.

To begin with, we will digress from the stated facts and comment on what apparently took place, according to news reports.

Judge Sexton, a dear friend of this writer and one of the most able jurists in this state, by his own admission was "had" by the defense attorney. But so was the un-named prosecutor.

Sexton maintains all parties had agreed, in his chambers, to the re-seating of the 12th juror, who had not missed any of the testimony. However, it was apparently not so stipulated in the official trial minutes when the case was resumed in court. This was unquestionably an oversight, by not only the judge and the prosecutor, but could have been honestly forgotten also by the defense attorney, who is considered an officer of the court. It definitely was overlooked by two and may have been overlooked by all three--but it was OVERLOOKED.

For the benefit of the Review's editorial writer, the entire field of jurisprudence is broken down into two main classifications, substantive and adjective law. Substantive (essential) law deals with the merits of the case as prescribed by statute and precedent. Adjective (procedure) law is the proper process in bringing a case to a final conclusion. Without strict adherence to adjective law, the chaos would create an abyss of confusion. A writer, who does not fully understand this basic concept, should not dare to put his views on paper for public consumption.

Right now, sitting on a high bench, is a man who had been accused of a major crime. The charge against him was dismissed, not on a defense that attacked the accusation, but on the grounds of improper jurisdiction. Today he presides as Chief Magistrate of New York City.

The state Supreme Court's main function is to render decisive interpretation of state law. In an appeal of a case to the Supreme Court the minutes of the trial is submitted, along with briefs to support contentions. Supreme Court justices often disagree on interpretations. The high court may over-throw a jury's decision as against the weight of evidence, a right which any trial judge may exercise.

In the case cited by the editorial, the Supreme Court was apprised of the facts of record, and ruled accordingly.

About habeus corpus (Latin for produce the body), commanding a person being detained to be brought before the judge, the writ is the most respected of all court orders, going all the way back to the 14th century. It is the ultimate safeguard against illegal imprisonment. Wrongful refusals to issue the writ were substantial grievances before the American Revolution. THE U.S. Constitution states the privilege of habeus corpus shall not be suspended unless public safety may require it during rebellion or invasion.

This writer believe any judge, not only may, but is duty bound to issue the writ if there is reason to believe a person is being detained illegally in the court's jurisdiction. The captain of a vessel, the engineer of a train and certainly the warden of any prison, respect this court order above all others anytime of the day or night it is served, and regardless of holidays or business hours. It is that important.

Now for the clincher, which probably caused even good Judge Sexton to cringe.

The editorial states: "Had Justices Thompson and Badt questioned the extra juror in the box, a telephone call to the clerk in Las Vegas would have cleared up the mystery."

That's when we fell out of bed.

Imagine a newspaper suggesting a judge make a phone call to determine a fact in a courtroom! If the circumstances were not so serious, we would consider this the most ludicrous proposal of the century.

This column should end right here, but a word about and to the Hon. Judge Sexton is in order.

Sexton, from Battle Mountain, who has been sitting as "visiting" judge the past eight years to relieve the overcrowded Clark County calendar, upon hearing of the Supreme Court's reversal, went "on strike." He's human and his reaction was normal. A sharp lawyer, who felt his obligations towards his client superceded those as an officer of the court, spotted a fine point of omission in the transcript of the minutes. In fairness to defense attorney Root, it was a court-appointed case and therefore did not involve an exhorbitant fee.

But it's Sexton with whom we're concerned. A drive to provide relief funds for the judge during his "strike" has been commenced. We heartily endorse it. If you agree, please send a check to Judge Sexton, care of County Treasurer William Galloway, County Court House, Las Vegas, Nev., 98101.

To the good judge: "Come on back to work, John, the courthouse is inconspicuous by your absence."

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Jewish Arbor Day

by Sidney Peilte

Chamishah Asar B'Shevat, now call Tu B'Shevat, is a festival, which is observed more in Israel than anywhere else in the Diaspora. Its name means the 15th day of the Jewish month of Shevat, corresponding, this year, to the 5th day of February in the secular calendar. In Israel it is considered a national holiday and its celebration is marked by the planting of trees by all the school-children of Israel in every city, village and kibbutz.

It is a very ancient festival, originating in very early - and perhaps, pre-historic - times, long before the events leading to the Revelation at Mt. Sinai. Proof of this fact is that the festival is nowhere mentioned

in the Bible. Jewish scholars conclude from the earliest Jewish writings that Chamishah Asar B'Shevat was another of the festivals associated with an agricultural episode in the lives of the people of early times.

The first mention of the festival is found in the Mishnah, but in acknowledging its existence, no particular historical or religious significance was attributed to it. It so happens that way back then, the fifteenth day of Shevat was the day on which the Jewish farmer computed how much in taxes he owed to the Temple, coincidental with the approximate time when Mother Nature started new life stirring in the earth, as a sign of approaching spring. In the Mishnah, this period is

referred to as the New Year of the Trees, hence the observance of the festival by the large-scale planting of trees as above noted.

Tu B'Shevat, to use its modern name, is not generally observed outside of Israel, although its advent is duly noted. A custom did arise among certain portions of the scattered Jews, whereby, in observance of the festival, the celebrants partook of all fruits and nuts

from Palestine, for in this fashion they associated themselves in a physical sense with the Jewish homeland. Other sects introduced elaborate rituals for their form of celebration, which included the reading of excerpts from the Bible and other writings touching on the subject of trees and their fruits. Others, again, followed the practice of eating fifteen varieties of fruit courses.

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