

HOLDS TRUST INQUIRY AN ATTACK ON PRIVACY

Judge Wallace Sharply Defines Federal Grand Jury's Powers.

NO RIGHT TO HALE'S PAPERS

Subpoena for Witness in the Tobacco Case, Says the Opinion, Invaded His Constitutional Privileges.

Judge Wallace, in the United States Circuit Court, yesterday, dismissed a writ of habeas corpus, recently obtained by Edward F. Hale, Secretary of the McAndrews & Forbes Licorice Company, who refused to answer questions put to him by the Federal Grand Jury on the relations of his company with the American Tobacco Company. Mr. Hale also declined, on the advice of counsel, to produce books and papers of his company for the Grand Jury's inspection. He was adjudged in contempt by Judge Lacombe.

Although Judge Wallace sustains the argument of Special United States District Attorney Henry W. Taft, and refuses to discharge the witness, the decision defines sharply a Grand Jury's inquisitorial rights and the extent to which private papers can lawfully be called for.

A subpoena such as was issued to Hale is characterized in the opinion as "a wanton assault upon the right of privacy." Relative to the contention by the defense that the Grand Jury could only proceed where a specific charge against specific persons was pending, Judge Wallace sums up the authorities in these words:

"It [the Grand Jury] has no power of its own motion to institute proceedings by summoning and examining witnesses for the purpose of obtaining information upon which to base a presentment of a supposed offender."

Judge Wallace holds, however, that the court has a perfect right to instruct a Grand Jury to proceed, and that in this case, when Judge Lacombe directed the witness to answer, it was equivalent to his instructing the Grand Jury to proceed in the present investigation.

"Without this intervention by Judge Lacombe," says Judge Wallace, "the investigation would have been one on the border line between the legitimate exercise and the abuse of the inquisitorial powers of the Grand Jury, but not one that can safely be held to have been an ultra judicial proceeding."

Judge Wallace holds that the contention that Hale had been compelled to testify against himself in violation of the Fifth Amendment, is defeated by the immunity clause in the Sherman anti-trust law. The opinion takes up at length the question of the Grand Jury's right to demand that Hale produce the papers of the McAndrews & Forbes cases.

"The question arises," says the Judge, "whether such a general inquisition into the witness's private papers was not such an abuse of judicial process as to amount to an unreasonable search and seizure in violation of the Fourth Amendment."

Quoting a decision, the opinion declares: "It [the process] was unconstitutional and void as being repugnant to the amendment."

Of the subpoena duces tecum issued to Hale, Judge Wallace says:

"It is not too much to say that it resembles a general warrant to search all the private papers of a witness, and falls but little short of a roving commission delivered by the Government to compel a witness to bring before the Grand Jury a general mass of private papers of his principal in order that the prosecuting officer may discover whether at any time during the corporate life the principal had been a party to any act which could afford the basis of a criminal prosecution."

"This was a wanton assault upon the right of privacy, and in my judgment the process, in view of the circumstances under which, and the purposes for which it was issued, authorized unreasonable search and seizure of papers within the Fourth Amendment."

Judge Wallace added that as the case is to go to the United States Supreme Court, he would not discharge Hale, but ordered that he be not confined in the meantime.

FIVE FIREMEN HURT.

Caught by a Falling Roof in Brooklyn
—One Severely Injured.

Five firemen were caught under a falling roof and injured in a blaze which destroyed a warehouse of the New York Dock Company, at Reid and Conover Streets, Brooklyn, yesterday morning and caused a property loss of about \$75,000. One of the men was badly hurt.

The warehouse, a one-story brick structure, was filled with bales of cotton. Spontaneous combustion is supposed to have caused the blaze, which was a fierce one.

Capt. James Gatton and Lieut. Richard Trapp of Engine Company 102 and Capt. William H. Holmes and Firemen John Carbush and Thomas Ryan of Engine Company 124 were inside the warehouse when a portion of the roof caved in. Their comrades plunged immediately into the smoke-filled building and dragged them out. Carbush was cut and bruised and his spine was injured. Ryan's left ankle was hurt and he and Carbush were taken to St. Peter's Hospital.

LATEST CUSTOMS RULINGS.

Lower Duty for Magnesite Bricks—
Other Decisions.

In a decision written by General Appraiser McClelland, the Board of United States General Appraisers yesterday sustained a protest filed by O. G. Hempstead & Son of Philadelphia, it being held that so-called magnesite bricks are dutiable at the rate of \$1.25 per ton under the provision in the Dingley tariff law for "firebrick." When the importation reached this country the customs officials exacted duty at the rate of 25 per cent. ad valorem under the provision in the law for "magnesite bricks other than firebricks."

The case has attracted considerable attention in importing circles and among domestic manufacturers of magnesite bricks. The latter are desirous of having the foreign bricks barred out of the country by means of the high duty assessed by the customs officials. The board denies the contention of the Government and the domestic manufacturers, and holds that magnesite bricks are "firebricks" within the meaning of the Tariff act, and as such entitled to the low duty claimed by the importers.

The board overruled importers' claims yesterday as follows: Eastman Kodak Company, Rochester, N. Y.; M. B. Kingsbury, Galveston; W. W. Thomas & Co., A. D'Auria, Pasquale Parlato, Franklin Walden, G. Rossano & Brother, E. J. Stehle, Morgenstern & Goldsmith, New York.

Claims sustained were by M. Hoser, the Frank Macmonnies Company, and Moffet & Co., New York.

A protest by Louis Dejonge & Co. of New York was partially sustained.

SECRETLY WED A YEAR.

Marriage of a Law Student and an
Astoria Girl Just Announced.

Notice of the marriage of John E. Palmer and Miss Kate Ellsworth was published yesterday, just a year after the event.

The bridegroom, who is a son of the late John C. Palmer of Pittsburg, came to New York to study law. He had been here but a short time when he met Miss Ellsworth at a social affair in Astoria. After a brief courtship they were married last June in the Church of the Transfiguration by the Rev. Dr. Houghton. They decided to keep their secret. Unobserved, they went to Washington last March, where they attended the inaugural ball. The bride is twenty-two and the bridegroom three years her senior.