

POWELL AGAIN FAILS TO FIRE JUDGE - COUNCIL AWAITS GRAND JURY REPORT

(Continued from Page 1-A) treasurer" and to file a detailed statement of funds with the city treasurer each month. He continued by reading that "any officer or employee of a city shall immediately deposit his funds into the treasury as prescribed by ordinance and shall report to the city clerk the first Monday of each month or oftener.

"It is my intention to bring to the people's attention irregularities in the police and judge's accounts," Powell said. "I don't intend to be intimidated by opposition or unfair newspaper attacks. Over a year ago a paper committee was advised by my auditor, C. J. Rambo, of existing shortages in the city judge's accounts and the committee failed to call this to the attention of other members of the council. The committee permitted the shortages to be restituted.

Reads Auditor's Letters
"Recently I found this out and upon my demand, Mr. Rambo repeated his information... that over \$400 was found in an envelope in the police department... since then he's made other statements. I believe an investigation is necessary and I have two letters from Mr. Rambo that there were shortages exposed April 26, 1939, and restitution made later."

Powell then read extracts from what he said were Rambo's letters, one stating that "during the course of the quarterly audit April 26, 1939, funds collected by the city judge had not been deposited with the city treasurer." Another, dated May 23, 1940, reported the "audit of the accounts of the city judge was completed May 9, 1939" and a "total deposit of \$1,239 was made with the city treasurer, including the amount of \$400 from the police department."

"I move again that Lessing be dismissed as city judge," Powell concluded and Murray seconded the motion.

Await Grand Jury Report
"Don't you believe that it's up to the grand jury now to complete its investigation first and then we'll take action on the result?" Councilman Hitchcock queried Powell.

"In my opinion it was the duty of the finance committee to act on the report of the auditor..." Powell began.

"That's not my question," countered Hitchcock. "In view of your presenting the matter to the grand jury, I believe action should await that body's report."

"You fellows have taken an oath of office and the responsibility rests on you," Powell said.

"Well, let's let the grand jury investigate and then take their word for it," Hitchcock replied.

Stands By Statement
"These are appointive officers," Powell continued, referring to Judge Lessing and Police Chief Stroth, "and not elective. We have the right to dismiss them."

The three-to-two vote against Powell's dismissal motion followed as did Murray's sarcastic speech quoted earlier. William T. Klusman, former mayor, de-

manded that each councilman explain his "no" vote on the Lessing matter and they replied:

Hitchcock: "That explanation was given on my first vote." On May 14 he said: "I have felt that the judge and police chief are absolutely innocent of any charge or any wrong doing. According to our auditor and his reports there is absolutely nothing wrong with our city finances or funds. I voted 'no' for the council to require a grand jury investigation because I think the charges should be brought by Powell and Murray alone. They threatened that if Lessing was not dismissed they would start the grand jury investigation. It is a matter for them alone and not the council as a whole."

System Changed; McGuire
Babcock: "I voted 'no' for the same reason. I believe action now would only hamper the grand jury—it would be like asking them to stop any investigation they may have started."

Mayor McGuire: "I talked with Mr. Rambo, our auditor. He said it was very difficult to place responsibility for any alleged 'shortage' because four police officers were handling bail and fine money at the time. The bails were returnable and so the funds had to be kept on hand under the system we were following at that time."

"I asked Mr. Rambo to suggest a change to make it unnecessary for the police department to handle funds because the police and city judge's departments are not covered by bonds. Now all funds, bails, and fines, are sent to the city clerk's office immediately and city checks are issued when bails are returned. Mr. Rambo said that 90 percent or better of California cities were using our old system but some were changing over to the better method," McGuire concluded.

Finds Another Discrepancy
"In view of the fact that he's a judge, he should know something of the state law," Powell said, referring to Lessing. He then quoted from Police Chief Stroth's statement, published in The Herald of May 16, in which Stroth said: "My books are cleared every day by me. My books are 100 percent okay. I've got a receipt, signed by the late Deputy City Clerk L. O. Stevenson for \$550 which I kept on his instructions when this asserted discrepancy in public funds was discovered. I turned it in to Stevens later and have his receipt dated April 28, 1939, for \$550."

"That indicated that a discrepancy of about \$150 between the statements of Rambo and Stroth because the auditor told me the shortage was only \$400," Powell said. "There's been so many confusing statements made about the matter that the only sensible thing to do is to eliminate the cause."

There was no further comment.

FARM THEFT
Farm implements, valued at \$35, were reported stolen late last week from his Lomita ranch by Kenyoshi Nishi to local police.

Council Rescinds Stroth Ouster As Police Chief Indicates He'll Resign

(Continued from Page 1-A) sel, Murray withdrew his motion. City Attorney John E. McCall, who said, "I'd be glad to represent Mr. Powell if I can do so legally," was authorized to prepare a brief on his availability for such defensive counsel for submission at the next regular council session.

The adjourned session last Thursday afternoon began with the reading by the city clerk of Attorney McCall's opinion on the dismissal of Stroth by the council as police chief. The substance of the city council's opinion of the provisions of the civil service ordinance was that the council does not have the power to remove the police chief without public hearing of the case by a civil service trial board. McCall outlined the procedure to be followed in such a hearing, ruling that the police chief is disqualified from sitting with a trial board when his own position is at stake.

'Police' Interests Isen
At the conclusion of the attorney's brief, Powell stated: "I have no doubt but what he has rendered an honest opinion. But this is a complicated ordinance and I have spent considerable time myself to get the proper interpretation of it. I have asked Albert Isen to check on it, too. I still contend the council has authority to reduce from a chief to captain or a sergeant without trial by the civil service commission. I may be wrong. If it would be in order I would like to have Albert Isen give me a statement on it."

Assured by Mayor Tom F. McGuire that his remarks would be in order, Attorney Isen, Powell's chief supporter during the recent municipal election campaign, declared he was "interested in this matter as a citizen and taxpayer" and that "this problem was particularly interesting to me."

"I feel this will be in nature of privileged communication," he began, "and I hope I won't be charged with slander..." "I object to that remark," interrupted Attorney Sheedy.

"I'd like to say something about that slander suit," Isen continued but he was advised by Mayor McGuire to keep to the subject directly under consideration. Although Isen said he would bring the slander suit up later in the session, he did not. His opinion of the civil service law was at variance with that of City Attorney McCall. Isen contended that the Stroth case must be considered "only as a demotion" and not a dismissal and that a reduction in rank is permitted by the council.

Mayor McGuire pointed out, however, that the statute specifically mentions "or reduced in rank." Several times during his exposition of the law Isen was interrupted by Attorney Sheedy

who advised him to "read the next line" or "read the preceding sentence to that, Mr. Isen," but the local attorney contended that the content was the same regardless of such qualifying statements.

"The people in approving this ordinance meant that the chief of police should be controlled by somebody," Isen continued. "The chief may demand a public trial if he desires. I ask the city attorney who would have the authority to prefer charges against the chief?"

"The city council," McCall replied.

Advises Stout Hearts
"There is nothing in the ordinance to provide for that and I challenge anybody to show me different," Isen declared. "There is nothing illegal in your action demoting Chief Stroth on May 14. The ordinance is bad but it may be improved some day. If you follow that law to the letter then the Gerald M. Calder (whose resignation from the department after 14 years' of service takes effect tomorrow, June 1) is still chief of police and A. B. Stevenson is still chief of the fire department with the right to claim back pay from the time he was dismissed.

"Don't be scared by threats of lawsuits," Isen counseled. "You may have them the other way 'round if you could demote Calder and fire Stevenson by vote of the council you can demote Stroth."

City Attorney McCall pointed out in this connection that neither Calder nor Stevenson were under the validated civil service ordinance at the time action was taken on their cases.

Murray Reports Parley
Attorney Sheedy, counsel for the Peace Officers' Civil Service Association of California as well as for Stroth, told the council that "we"—referring to the P.O.C.S.A.—"have no difference to find with Mr. McCall's opinion of the city ordinance. All we are asking is that Chief Stroth be given a square deal and we feel you gentlemen are going to give it to him."

A. Belden Gilbert, secretary of the P.O.C.S.A., again asked the council to rescind its ouster action and "restore Stroth as police chief of Torrance." Asked by Babcock to "throw a little light on this subject," Councilman Murray reported:

"I had a conference with John Stroth with Mr. Babcock this (Thursday) afternoon and we agreed on several things. John said if the action of the council is rescinded he will cooperate in every way possible to get this thing ironed out to the best wishes of the council. He has been very broadminded about it and there are no personal differences between John and myself.

Mayor In Statement
"There was an understanding

that he would resign and with that in mind I'll second the motion," Murray said after Babcock moved that "the action of the council on May 14 in regard to the dismissal of the chief of police be rescinded at this time." The vote was unanimous. Murray then offered "some word of explanation of this action" and said that Stroth "if given the opportunity to demote himself and resign as chief of police would do so the first of the month."

Mayor McGuire made the following statement: "As far as I've been concerned I was not consulted as to the dismissal of Chief Stroth at any time. There was some talk as to a change and a few words were passed between the council and the chief's job but I did not know until May 14 of the action that was taken and I voted against it because I felt that Stroth was not being given the consideration he deserved, that he had not been asked to resign."

No More Abrupt Actions
"As to what Stroth decides to do in the future it is up to him,"

the mayor continued. "He will be given all the consideration possible in view of his record of service to the city. If he still decides to resign, I'm sure his resignation will be accepted. I have a great regard for Mr. Stroth—he has been a next-door neighbor of mine for 10 or 12 years—and has always been a gentleman and a good officer."

"I am determined that any man who may be considered for dismissal in the future will not receive the abrupt treatment we gave Stroth May 14," McGuire concluded.

Attorney Sheedy, after expressing his appreciation over "this solution of a difficult and serious problem" declared that "this is the proper solution because it preserves the spirit and purpose of your merit (civil service) system."

Rescind Chief Appointment
"Mr. Murray, I call to your attention that Chief Stroth in no sense will accept as true the charges of an alleged 'shortage' in his city accounts which Powell said 'had been made up' made against him on May 14. I

want this fully understood," the attorney said.

"I asked Stroth if he was going ahead with his suit against Mr. Powell," Murray said, "and he said he was."

City Attorney McCall suggested that the council rescind its action (also taken May 14) making Sergeant Frank Schumacher chief of police effective June 1. He pointed out the city would have two chiefs on that date if Stroth did not resign. Babcock's motion purging the city records of Schumacher's elevation was unanimously adopted.

Cites Arcadia Difficulties
"In view of the fact that Mr. Powell is being sued by an outside party as an official of the city I move that he be furnished with legal counsel by the city of Torrance," Murray then proposed, and the motion was seconded by Powell. Questioned by Babcock as to "who will be his attorney?" Mayor McGuire said he presumed it would be McCall if this were legal but McCall said "I'm not sure I can serve—I'd like time to brief the matter."

"The city of Arcadia got itself into serious difficulties over just such a similar case," Sheedy pointed out and stated that the suit against Powell was not brought against him in his official capacity but Murray contended: "We have had as a city official Mr. Powell is entitled to protection. Who would you suggest we have for a lawyer, Mr. Sheedy?"

"I'd be very glad to have Mr. McCall as opposing counsel—if he can serve in that capacity," Stroth's attorney replied and he said he would be glad to extend to Powell's counsel—whoever he was—"all the time necessary in preparing his case. We're not going to rush this thing thru but we are going to see it thru."

Murray withdrew his motion with Powell's consent pending an opinion from the city attorney on his status in the slander action.

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