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A TIMELY REPORT ON MES VS. KHAY DECIDED BY THE GREAT QENBET CIRCA 1300 B. C.

A. NONYMOUS
of the Denver Bar

I have read our Secretary's call for material to fill the pages of *Dicta*, and noted his suggestion that many briefs which lawyers prepare would make excellent articles. Now I have just started to brief the matter of *Alteration of Public Land Records*. (I know the mere thought of such records being altered can cause title examiners to leap from peaceful slumber screaming with horrid nightmares. But let them scream. They've made me scream too.) Of course, a careful and thorough lawyer reads *every* case on the subject he is briefing, from earliest times through the latest advance sheets. This I propose to do, but our Secretary's need is so obviously pressing that I hasten to tender this first installment covering all the cases on this point decided from the flood thru 1300 B.C.

The most pertinent, and to be honest, the only case I have run into is *Mes v. Khay*. It is reported on a wall inside the tomb of one Mes near Sakkara, Egypt. Even a meticulous researcher might easily overlook this authority for it has been omitted from the digests. Fortunately, the report has been translated and is now accessible in *Untersuchungen Zur Geschichte und Altertumskuende Agyptens*, (J. C. Hinrichs, Leipsig 1905) and *Sources of Ancient and Primitive Law* (Kocourek and Wigmore, Little Brown & Co. 1915), both of which are out of print. If you wish to cite this authority, you had better just refer to XXX *Dicta* p. 391.

Now for the case. It seems a gentleman known as "overseer of vessels Neshi" did some favors for Amosis I, founder of the 18th dynasty, along about 1550 B.C., and, as a reward, was given a hunpet consisting of about 78 arourae of land. His heirs farmed it for several generations and then, in the 59th year of Horemheb, the land was partitioned among six heirs, one of whom was Mrs. Urnero. Her only son, the scribe Hui, married a Miss Nubnofret. They had one child who was Mes and promptly got into one.

The scribe Hui died, and in the 18th year of Rameses II, Mes and his mother Nubnofret came to till the land. They found it in the possession of the Administrator Khay. They threw him off and that's where they ran into trouble, because Khay had a pal, the priest of the litter Amenemiopet, who was a kind of investigating officer for the Great Qenbet which was the nisi prius court in those parts. Khay laid a plaint in the Great Qenbet, claiming that he and his brothers and sisters had inherited the land from their uncle, the chief of stables Hui, and that Mes' father, the scribe Hui, had grabbed the property without any title. Huis must have

been pretty common thereabouts, because one of the witnesses who appeared later was the chief of auxiliaries Hui.

Amenemiopet supplied a false register to Khay to support his claim, and apparently altered the public records back several generations to conform with Khay's yarn about the devolution of the title.

The case came on for hearing before the Vizier of the Great Qenbet at Heliopolis, and Mes and Nubnofret unrolled their "testimonies" showing a chain of title all the way down from Neshi, but the Vizier said to them: "These documents were written by one of the two parties." So this evidence was excluded on the ground that it consisted of mere self-serving documents prepared by one of the litigants.

Then Nubnofret said to the Vizier: "Let there be brought to me the two registrars from the Treasury and likewise from the Department of the Granary," And the Vizier said to her: "Very good is that which you say." And they all went down-stream to Per-Ramessu and entered the Treasury of Pharaoh, and likewise into the Department of the Granary of Pharaoh, and they brought the two registers before the Vizier in the Great Genbet. Then the Vizier said to Nubnofret: "Who is your heir among the heirs who are upon the two registers that are in our hand?" And Nubnofret said: "There is no heir in them." "Then you are in the wrong" said the Vizier to her.

So the Vizier summoned the priest of the litter Amenemiopet and sent him forth saying: "Call together the heirs, and show them the lands, and make a division for them." Amenemiopet probably got his cut at this stage of the game. It is a safe bet that he got a deeper cut later on in the region of the epiglottis.

Things looked mighty black for Mes and Nubnofret at this point, but Mes wasn't licked yet. He appealed the case by laying a plaint before the Vizier of the Great Qenbet at Memphis, and that court sent a member or commissioner to the lands of Neshi to examine the litigants and their witnesses. This testimony taken on the spot substantiated Mes' claim and was all carefully recorded by the scribe. Some of the key witnesses testified as follows:

What was said by the Priest of the Temple of Ptah: "By Amon and by the Prince, I speak in truth and I speak not falsely; and if I speak falsely, may my nose and my ears be cut off, and may I be transported to Kush. I knew the scribe Hui, the son of Urnero. He cultivated his lands from year to year and he cultivated them saying: 'I am the son of Urnero the (descendant) of Neshi.'"

What was said by the honey-maker of the Treasury of Pharaoh:

"By Amon and by the Prince, if I speak falsely, may my nose and my ears be cut off and may I be transported to Kush. The scribe Hui was the son of Urnero; and moreover Urnero was the (descendant) of Neshi."

You will have noted that the form of oath, hopefully designed to discourage perjury, refers to a place called Kush which is not listed in Rand & McNally's atlas. This area was well south in fairly dark Africa. Khartoum, where General Gordon came to serious grief some 3,185 years later, is out that way.

The dweller in the town of Peihay took a pretty namby-pamby kind of oath. He said "By Amon, and by the Prince, if I speak falsely, may I be sent to the back of the house. The scribe Hui was the son of Urnero, etc. . . ."

The Administrator Khay testified too and gave his version of the facts, but he was careful not to stick his neck out in his oath. He just said: "And if . . . it is not the truth, then let me be put to confusion."

Khay undoubtedly was put to confusion because, in addition to this testimony, a new examining officer, the priest of the litter Iniy, was sent out who called together the heirs of Neshi with the notables of the town, and took their depositions. He apparently reported in favor of Mes, too.

It may be considered unfortunate that the strength of this decision as an authority is somewhat impaired by the fact that the only extant report of the case ends this way:

"Judgment of the Court

"Now after . . ."

Here the inscription comes to an end.

DIAMOND JUBILEE MEETING OF A.B.A.

The Boston meeting of the American Bar Association, celebrating the Association's 75th anniversary, was the biggest meeting of lawyers ever held in the U. S., and one of the best planned and organized, most eventful and spirited, in all ABA history. Even the weather was exceptional—mostly cool and clear, with only one 15-minute shower during the week.

Actual registrations were 4,532, almost four hundred above the previous high mark for ABA Annual Meeting attendance. There were big crowds at every Assembly session. Several luncheons and special events had sell-out and turn-away crowds. The scintillating annual banquet drew over 1,600 and many had to be seated in rooms off the main hall.

More than 20,000 attended the special star-light concert by members of the Boston Symphony Orchestra, Arthur Fiedler conducting, in the Charles River Esplanade. The concert was arranged and financed by the Boston and Massachusetts Bar Associations.

In addition to the symphony concert, other special events made the convention week outstanding.

The Commemorative Stamp ceremony was a smashing success, with more than a million ABA stamps sold in Boston alone

on Aug. 24 and over 100,000 "first day" cancellations at the special post office substation set up in the Statler hotel lobby.

Starting with President Storey's annual address at the opening Assembly session, and concluding with the final day disposal of resolutions, the sessions of the Assembly and House of Delegates made headline news across the country. The House, under the experienced direction of Chairman David F. Maxwell of Philadelphia, disposed of a crowded calendar of work in which the following were among the highlights:

REAFFIRMED the Association's position in support of the Constitutional Amendment (Bricker) to re-define the treaty-powers of the President. Former ABA President Frank E. Holman of Seattle was awarded the ABA Medal for "conspicuous and unselfish service to the cause of American jurisprudence" in recognition of his role in clarifying this great constitutional issue for the American people.

VOTED TO EXTEND and broaden the Association's fight against Communism, approving a report by the special committee headed by former U. S. Senator Herbert O'Connor of Maryland urging that lawyers who are members of the Communist party or espouse its doctrines be barred from practice.

APPROVED A NEW "Statement of Principles" governing disciplinary procedures, promulgated by a special committee under the chairmanship of former U. S. Senator Forrest C. Donnell of Missouri. The next step will be the formulation of a model disciplinary code for the guidance of the several states.

APPROVED A REPORT by the special Committee on Individual Rights, headed by Whitney North Seymour of New York in which ABA went on record as upholding the principle of freedom to read and against "book burning;" restated the duty of lawyers to represent accused persons in unpopular causes, providing they adhere to the canons of conduct; authorized the committee to study the protection of individual rights in Congressional inquiries, without interfering or restricting in any way the investigative process itself.

RECEIVED AN ANNOUNCEMENT by President Storey and Justice Robert H. Jackson of the U. S. Supreme Court that the Ford Foundation had made a \$50,000 planning grant to launch the ABA's long-range study of the administration of criminal justice in the United States.

NOT ONLY THE HOUSE OF DELEGATES, but the Assembly as well, produced front-page news nationally. The addresses of Secretary of State Dulles and Attorney General Brownell were broadcast coast to coast, as was Justice Jackson's address on criminal justice before the dinner for the judiciary. Secretary Dulles' address

was a major foreign policy pronouncement in which he expounded the administration's views on the Bricker amendment, and cited weaknesses which he said time has revealed in the structure of UN. Attorney General Brownell's declaration that the Department of Justice was calling upon the National Lawyers' Guild to show cause why it should not be placed on its subversive organizations list elicited applause in the Assembly, and cheers in the nation's press.

In a network television appearance, and in his acceptance address at the annual banquet, newly-elected President William J. Jameson of Billings, Mont., made one thing clear: he has "No personal program—no personal project to advocate and emphasize."

"I do promise my best efforts in cooperation with all of you in the advancement of the program of the Association as determined by the House of Delegates . . . The time has come when we should consolidate our present program and to make it more effective, and we should not undertake new projects which are not necessary."

The completion of the American Bar Center, and the implementation of the work of the Survey of the Legal Profession, should receive primary emphasis in the coming year, he added.

DENVER LAWYER RECEIVES AWARD

Thomas A. Gilliam of the Denver Bar was recently awarded the National Municipal Law Review Award for 1935 for the best article on an optional subject in the field of municipal law. The award was announced by Charles J. Rhyne at the annual meeting of the National Institute of Municipal Law Officers. The article, which won for Mr. Gilliam a prize of \$250, was entitled "Unsafe Buildings" and dealt with legal techniques in ridding a community of obsolete structures.

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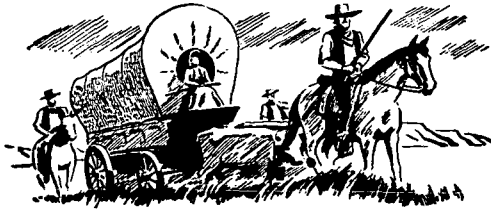
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