

Ohio Court Upholds Fleming's Conviction

FACES PRISON

BRIBE CHARGE VERDICT GETS SECOND O. K.



THOMAS W. FLEMING

Former alderman of Cleveland, Ohio, lost a legal tilt in the Ohio court of appeals at Toledo Monday to evade entering the penitentiary for two years and nine months of hard labor, after being convicted of accepting a bribe while a member of the aldermanic board. Fleming will carry his fight to the Ohio supreme court in an effort to obtain a retrial. The convicted city official is a prominent attorney and has long been a political power.

Former Councilman to Appeal Higher

Cleveland, Ohio, July 5.—Former Councilman Thomas W. Fleming, veteran politician and attorney of this city, must serve his sentence of two years and nine months in Ohio penitentiary for accepting a \$200 bribe from Walter L. Oehme (white), crippled ex-detective.

The Sixth district court of appeals sitting in Toledo handed down this decision Monday denying Fleming's appeal for a new trial and reversal of his conviction last February in common pleas court here. The fight for liberty will be continued by Fleming, his attorney, George W. Spooner, announced after the news of the decision was received. An appeal will be carried to the Ohio supreme court. In the meantime, a stay of execution will be asked so that Fleming can remain out on bond.

The court held that claims of Fleming's attorney, that the trial was replete with error and conducted in atmosphere prejudicial to Fleming, were unfounded.

Fleming, chairman of the city council police and fire committee, was convicted of accepting a bribe on Feb. 8. The jury deliberated 13½ hours. Fleming resigned his council seat the next day.

Check Convicts

First of four councilmen to be indicted by the county grand jury Fleming was sentenced to two years and nine months in Ohio penitentiary by Judge N. Craig McBride, assigned here from Hillsboro, O.

Oehme swore in affidavits Jan. 21 that he paid Fleming \$200 after legislation had been enacted by the city council to reimburse Oehme for medical bills incurred as the result of injuries he suffered in desperate struggle with a drug addict in 1922.

The payment, Oehme and his wife charged, was by check. Fleming characterized the story of Oehmes as a "lie." He demanded that they produce the check. The following day the check was produced and presented to the grand jury. It bore Fleming's signature. Fleming was indicted Jan. 22. He pleaded not guilty.

Citizens Rally

Mass meetings were held to give Fleming a vote of confidence. He went on trial Feb. 4. He was represented by Attorneys George W. Spooner and Selmo C. Glenn. Several city and county officials testified to Fleming's good character. Mrs. Margaret Oehme testified Fleming told her husband: "Don't forget Tom."

Former Councilmen Peter Witt and A. B. Hatton recalled that Oehme told them of the alleged bribery while they were members of council.

Appeal for a new trial was filed by Spooner. He declared, among other things, that the verdict was manifestly against the weight of the evidence, that the verdict was contrary to law, that the court erred in the admission of illegal and improper testimony, that the court erred in his charge to the jury, that the verdict was rendered under influence of passion and prejudice which prevented the defendant from having a fair trial.

Spooner also held that newly discovered evidence had been found which was material to the defendant and which he could not, with reasonable diligence, have discovered and produced at the time of the trial.

On June 18 it was discovered that an attempt had been made by a downstate politician to interview

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Appellate Judge Roscoe C. Hornbeck of London, O., in behalf of Fleming.

Transfers Appeal

This attempted intervention resulted in transfer of Fleming's appeal from the court in which Judge Horbeck sits to the judges of the Toledo district. The transfer was made at the request of Judge Hornbeck and his associates, Judges Jamees Allread of Greenville and A. H. Kunkle of Springfield, O.

The judges of the Sixth district court of appeals took the case under advisement June 19 after hearing arguments.

Fleming and the defense attorneys denied all knowledge of any move in his behalf.

Unless the supreme court reverses the decisions of both lower courts, Fleming will have to serve the minimum penitentiary sentence of two years and nine months at hard labor imposed on him almost five months ago by Common Pleas Judge N. Craig McBride.

After his conviction Fleming resigned from council and his place was taken by the Rev. Ryssell M. Brown Congregational minister.