

FLEMING GOES TO PRISON: CLEVELAND ATTORNEY LOSES IN APPEAL

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FLEMING GOES TO PRISON

Cleveland Attorney Loses in Appeal

CLEVELAND, Oct. 31.—After an 18-month fight unprecedented in the history of Cleveland courts, Thomas W. Fleming, former city councilman and powerful Republican leader in the 11th ward, entered the iron gates of the Ohio state penitentiary last Friday, having made the trip to Columbus in a deputy sheriff's auto in company with four other prisoners. Fleming's departure for the pen was unexpected and sudden.

Presiding Criminal Judge Silbert had granted Fleming's motion through his counsel, Alexander H. Martin, to postpone until Monday his motion for a new trial. Judge Silbert at first instructed Sheriff Henratty to withhold execution of the writ ordering Fleming to the penitentiary, but later reconsidered, deciding that the presence of the defendant was unnecessary during the argument Monday. Then came the execution of the order to commit Mr. Fleming to the penitentiary.

Fleming was taken from his cell in the county jail. Attorney Martin, his counsel, and his wife, Mrs. Lethia Fleming, and his two sons greeted him and stood by his side. Fleming was then escorted, without handcuffs, to the courtyard, where the sheriff's auto was awaiting him and other prisoners. All entered, and as the auto left for the journey to Columbus Fleming was seen to wave goodbye to his family and hosts of friends from the rear window.

On the trip to Columbus and on entering the prison Fleming is reported to have been very cheerful. In a typewritten letter Fleming still insists on his innocence and believes

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he will be vindicated. The letter, which he left for the reporters, follows:

"I am a victim of a political conspiracy entered into by a newspaper and its poor, sick, crippled subject, Walter Oehme, now deceased, to bring false and unjust charges against me for the purpose, I believe, of wrecking the Republican party of the city and county and to ruin my reputation for honesty and integrity covering a period of 37 years in the city. The verdict in my case was false and unjust. The jury chose to believe the lies and falsehoods of Oehme told from the stand and not to believe the witnesses who testified in my behalf, all of whom were reputable citizens of this county.

Protests His Innocence

"I feel some day the truth concerning this matter will come out. All who know me will testify that I have always conducted myself in my political and personal life in this city in such a way as to merit the respect of all.

"I sincerely feel, had Walter Oehme told from the stand and not lying in Charity hospital the day he died, that he would have confessed to the wrong he did me.

"I still feel that others who know the truth about my case will tell it to the public of this city. I go, if necessary, as an innocent man to serve the severe sentence imposed by a prejudiced judge and jury, feeling that the truth will be exposed to this community as to the foul methods employed to bring about my accusation and conviction. I wish to assure all my friends that the faith they have had in me and the faith which they now have in me has not been misplaced.

"THOMAS W. FLEMING."

The motion for a new trial for Fleming was denied by Presiding Criminal Judge Silbert late Monday. Immediately following Judge Silbert's decision Alexander H. Martin, Fleming's counsel, announced petitions in appeal will be filed in both the action for a new trial and the habeas corpus application which was rejected Saturday by Common Pleas Judge Baer.

In granting the motion argued by Assistant County Prosecutor Hoppe to strike out Fleming's petition for a review Judge Silbert declared his determination not to overrule the decisions of the state and United States supreme courts and further declared

that "Fleming must play the game according to the rules."

The judge made it clear that no new testimony had been introduced, and further asserted that "punishment in the penitentiary is not usually cruel or inhuman" in referring to the 33-month sentence that had been imposed upon him for conviction for accepting a bribe of \$200 from the late Walter Oehme, crippled detective (white). "The court is not timid. It has known the defendant for some time and viewed him innocent until his conviction by his peers. The defendant has availed himself of every possible remedy," Judge Silbert asserted.

Martin argued that the state bill of rights permitted the review of the case, declaring evidence of conspiracy and fraud to convict his client had been discovered after the trial. The prosecution urged that it was up to Governor Cooper to rectify the mistake, if there was any, rather than the criminal court. Fleming became No. 6221 Monday at the penitentiary. It is rumored that he will be given a clerical position the first of the year.