

SUPREME COURT.

OCTOBER TERM.

WEDNESDAY, Oct. 16.

Trial of Ho Fon, for conspiracy, resumed at 9:30 a. m., as follows:

David Kaapa: Left my mother's house about 8 or 9. My house is down on Merchant street, but we slept at the other house that night. Saw a hack going along Hotel street. Saw Papu in the hack. I knew it was him. Had on different clothes from those he wore at Palama. Could not tell what kind of a hat he wore. Tell him by the back of head and the back of his back. His tail was not hanging down. Did not follow up the hack. Ho Fon was inside the store. In front of the counter. Could not tell who was driving the hack whether Chinaman or not. In the store spoke to Ho Fon and he to me. He said to me "I have just sent something to eat for Wilcox." Then he named what he sent, poi, beef, salmon, bread and crackers. Don't know who else was in the store. A Chinaman behind the counter. Don't know the Chinaman who brought the stuff out. I walked out of the store right away. When I went out, I told my wife it is so, that hack we saw standing here has been carrying provisions up to Wilcox. Stuff was brought from Quoy Hip Ling's. I saw myself on the next day. I was told that Peepoo had given my name away. I came before this Court and pleaded guilty. My sentence is in suspense. Had a conversation with the Attorney-General. He advised me to plead guilty. I never told anyone what I knew about this case. I did tell the Attorney-General.

By the Court—Kahanamahi was under the influence of liquor when he fired his gun at the bridge.

By Mr. Hatch—Kahanamahi did not say anything then.

By the Court—Testa was there and heard that.

Mrs. Kaapa, sworn—The testimony of this witness was corroborative of that of her husband, the previous witness. The cross-examination failed to disprove her statements.

H. P. K. Maulani, sworn—His statements tended to prove that he was acquainted with the preliminaries connected with the insurrection of July 30th. Had attended two meetings. On July 29th was not present at meeting, but was at those of July 10th and 11th. Saw Wilcox, Ho Fon, Cummings, Kamao, Testa and others on the 10th. At the meeting of the 10th I was sent into another room after wine, and was engaged going back and forth bringing wine. Did not hear much that was said. After a while I was called in to take the oath. I took it. I asked the object, and Wilcox told me it was for a good object. Intended to raise up the King. The oath was "You will become a member of the Kamehameha Association." That was about all, then they commenced to call on me for more wine. Think it was a secret affair. Nothing said to me about secrecy. Ho Fon was sitting on a good chair. Did not hear Ho Fon say anything that night. Did not speak to him. Saw Ho Fon hold his hand up the same as the rest of us. Wilcox was talking to him then. Don't remember what it was. Don't remember whether Wilcox spoke in English or Hawaiian. Don't know how late Ho Fon stayed. There were ten or more present. Did not drink any of the wine that night. Left after the cock crew. Saw Ho Fon there on the night of the 11th. Don't know how long he stayed that night.

The Court said that the witness should be cautioned against committing himself. Am aware that he has been studying law because he has been up to be examined. The Court then spoke to the witness in Hawaiian.

Examination continued—Went there after dark on the night of the 29th. Was not at meeting out at another house on the same premises. In the house were around I was watching them. Sent there by Markham and Boyd. Did not see Ho Fon that night at all. I was one of the party that went to the palace. I was in the first four. Entered palace by mauka gate. Heard sentry ask for password. Kamao was then looked for. Judge he had the password. Could not find him. Wilcox then explained who he was and his object. Gate was not opened. I got over the gate, other men jumped over and opened the gate, column then marched in. When firing commenced I was sitting on a bread-box. I stayed there, was in charge of provisions. Was one of the thirty who surrendered.

Cross-examined—Am studying law. When I took the oath, Wilcox was sitting in a chair, Waiwai, the crossed-eyed man that was killed in Government yard, and myself, were sworn. We were sworn singly. Wilcox was dressed in dark pants with stripes on, and ordinary coat. Several people and Ho Fon were in the room. I think I went away with Testa early in the morning. Testa refused to take the oath. Wilcox and I then had a quarrel about it. This was before I was sworn. Wilcox explained to Ho Fon that there was nothing harmful about the organization. I saw Ho Fon holding his hand up and Wilcox was talking to him. On the night of the 11th saw other Chinese present. Saw Ho Fon and another Chinaman on the veranda. Other Chinaman was Papu. Only ceremony when I took oath I stood up and held up hand. Wilcox spoke the oath did not read it, no bayonets crossed, no guns there. I heard Wilcox tell Ho Fon there is nothing bad in this.

By a juror—I was put in charge of the provisions by Alex Smith.

By the Court—There were I think four boxes of bread.

J. M. Peepoo, sworn: My office is on King street, near Chinese newspaper office. Don't know who edits Chinese paper, know defendant. Know him as a newspaper man. I have pleaded guilty of conspiracy. Have had several conversations with defendant. Last was a few days before the insurrection. He asked me when the movement was to be made. The movement of the 30th. Said I don't know. Afterwards he told me if this goes on so slowly it would leak out. Think he referred to the insurrection, nothing else said. Was present three nights at meeting at Palama. First night Ho Fon arrived after me, saw him there the second night, am not sure about seeing him on the third night. Meeting was held on the night of July 10th, 11th, and 12th.

Cross-examined—Testa, Cummings, Crowningberg, Malulani, Waiwai, Wilcox, Boyd, Markham, was there on the 10th. Ho Fon arrived about half an hour after. Took refreshments while there. Others also. No talking during the hour, I did some talking with Testa and Cummings. Ho Fon did not talk. Defendant arrived there when I was over with my oath. Think I was

the first man to take the oath. Was sworn alone. Raised right hand up and then he read from a book. I had reasons for taking oath. Saw Boyd with pistol and Markham with rifle sitting near me so I felt compelled to take the oath. Wilcox charged me with being a spy because I had expressed one time something like that in 1887. Sam Kaine was sworn that night but he was drunk. Did not see Ho Fon sworn. On the 11th was there. Saw Ho Fon going into dining-room. He did not stay very long. He bowed to me. I was there on the 29th. Can't say I saw Ho Fon that night. I went to the palace. The Chinaman I saw there went with us to the palace. Ho Fon was not there. I never spoke to Ho Fon about the object of our association. I pleaded guilty to conspiracy. Never had any talk with the prosecuting attorney. I was in jail two months and six days.

At 12:10 recess was taken until 1:15.

WEDNESDAY, Oct. 16.

AFTERNOON SESSION.

Court resumed at 1:25 o'clock, the first witness called being

James Kahanamahi: Know defendant. Have pleaded guilty to conspiracy. Attended two meetings. Saw there Peepoo, Malulani, Markham, Boyd, Alex Smith, Kamao and others. Saw Ho Fon there, Papu, Ahlo and another Chinaman. I went with Kamao and we were sworn in. Wilcox said object was to obtain a new constitution and overthrow the present Ministry. Ho Fon was late in coming. He came with Ahlo, Papu and other Chinese. I saw them when they arrived. Ho Fon shook hands with me. Papu spoke to me. He said "this idea of a new government is a very good thing." He said "we have been sworn the same as you." Did not know where Ho Fon was then. Papu spoke in Hawaiian. Never heard defendant speak Hawaiian. Met Loomens there. Left about 3 o'clock in the morning. Left previous to taking the oath. Saw arms in a small room next to dining room. Ho Fon was there. Ho Fon left quickly. On 29th of July saw Ho Fon there. Went to Ho Fon's office and he went in there. Markham had told me previously that he was going to get a case of gin from Ho Fon. We got a hack and went along King street to near Mauna Kea street then Markham told me we were going to get guns. We got some. They were wrapped up in burlaps. Got them from a Chinese store. A wooden building. Got guns and ammunition from three different places. Some were rifles and some shot gun cartridges. Got some revolvers and pistols. We took those things to Palama. I saw Papu hand Markham something and Markham gave me \$2 and then paid the hackman. I marched to palace. I was wounded at the bungalow. Saw Papu again in palace yard. Saw Papu later, he came in a hack, with boxes of bread. Went to palace to get the new constitution and also to get the cannon and bring them out. I did not expect any fight. Thought if there was a show of force made that there would be no resistance.

By the Court—"How long did you expect to stay there?"

Answer—"Had not thought about the length of time."

Court—Did you not think authorities would not allow armed men to have possession of those premises?"

Answer—"Thought that probably authorities would not consent."

Court—Did you go in a way so as to get there without the knowledge of the authorities?"

Answer—"We wanted to get there without the knowledge of the authorities; that was the reason we went in the night time."

Witness was cross examined, but nothing important was elicited.

Alex. Smith (sworn).

Court, asked if it was the intent of prosecution to produce Papu.

Attorney-General said they could not produce him, would show why by next witness, after Smith.

Alex. Smith: Knows defendant. Wilcox invited me to be present at Palama July 11th. He took a book from his pocket said he had society to help the King. There was an oath. It bound us to secrecy. Death was the penalty of divulging. Wilcox had citizen's clothes on. Saw Ho Fon there. Saw Chinese come and go in the room. This was after we had taken the oath. Had no conversation with any of those Chinese.

Saw Papu later. Went home together. About 3 o'clock in the morning. Saw Ho Fon there on the 28th. I was officer on guard. He came in the back way. He was stopped by a guard. I was called. Recognized Ho Fon and allowed him. I took him over to Princess' residence and he went into dining room. Lots of natives were there taking the oath. Several men had arms in their hands. Saw Palau there. The man who was being sworn stood under crossed bayonets. Don't know that Ho Fon stood there. Ho Fon did not go to palace, did not see him. Went armed to get the cannons. Wilcox had said about 500 Chinamen ready to help. Ho Fon had gone home then.

Thomas Hines, sworn: Was at Palama on July 30th, at Chinese theatre was met by a body of armed soldiers and Alex. Smith came up to me and made me fall into line; Wilcox seemed to be leading them; went along and picked up other police, column went into Palace yard and then police were let out.

No cross examination by counsel for defense.

Attorney-General now stated, at 3 o'clock, that the Crown rested the case for the prosecution.

THE DEFENSE.

F. J. Testa, sworn: Know defendant for some years, he is a newspaper reporter. Know R. W. Wilcox. Know of one meeting held at Palama, think on July 10th, was asked to attend socially by Mr. Wilcox. Went about 8 p. m. went into dining-room on arrival, think Wilcox was in dining-room, went in company thither, sat about half an hour in dining-room, wine and crackers were offered, got to business between 9 and 10 o'clock. Saw Ho Fon there, he took no part in discussions.

Cross-examined—Ho Fon spoke to Wilcox and others while there, there was talk of turning ministers out, it was common street talk. I decline to state why I did not take the oath, every one was asked to take the oath.

By the Court—If you think it might incriminate you to answer, it is your right to decline.

Testa I do think so.

Hatch: Would ask if such an answer could incriminate him, if he stated only reason why he declined.

Court—Don't know why he should wish to decline to answer that fair question.

Mr. Hatch—Because you did not approve of the methods proposed, is that

the reason you declined to take the oath.

Testa—That is one reason.

Mr. Hatch—Name some of those methods? Was the employment of force one of the reasons objected to.

Testa—Yes sir.

R. W. Wilcox, sworn: Am acquainted with Ho Fon, have known him two years. Know of a meeting at Palama on July 10th. Ho Fon was present. I know him as the editor of the Chinese News, no secrecy imposed on him regarding what he saw there. On the 11th Ho Fon came again, stayed about half an hour. Ho Fon did not take part in any of the business of either meeting, he came with other Chinese on the second night. Never borrowed money from Ho Fon, never went with Ho Fon to get money.

Cross-examined by Mr. Hatch—Ho Fon often came to see me. He came before the political discussion on the second evening, I do not think he was stopped by the guard, there was a guard when he went out, the guards allowed him to pass without orders from me.

A recess of seven minutes was now allowed by request of counsel for defense.

S. K. Kaue, sworn, states—Know R. W. Wilcox.

The Court cautions witness, as it is understood he is under charge of conspiracy, same as Ho Fon. He may say something here that may be used in his own case. Mr. Wilcox, the Court interpreter, was instructed to so inform witness, and he did so.

S. K. Kaue (continuing)—Was at the house on the 11th. Saw Ho Fon there. Drank a little that night. Other Chinese came with him. Know some of those by sight. Saw them speak to Wilcox. Think it was in the dining-room. Saw no ceremony performed while they were there. Saw defendant there on the 29th of July. He did not stay long.

Cross-examined—There were others with Ho Fon that night he came.

Tin Sang, sworn—Reside in Quoy Hip Lung's store. Remember seeing Ho Fon that morning. He came into my store. It was between 7 and 8 o'clock. He only stayed a short time. Simply said "good morning." Took a cup of tea and left the store. Ho Fon did not buy or order anything that day at my store.

Court, at 4:55, adjourned until 9:30 o'clock.

THURSDAY, Oct. 17.

FORENOON SESSION.

Continuation of evidence for the defence in the case of the King vs. Ho Fon for conspiracy.

Tin Sang cross-examined—Nothing of any consequence was elicited from him, further than that Ho Fon came into Quoy Hip Lung's store and got a cup of tea.

Chin Qui See—Am a hack driver: remember July 30th, was plying for hire that day; a Chinaman engaged my hack, his name is Chung Sing; engaged my hack on Hotel street, between 7 and 8 o'clock, went to Wing On Wo's store, my passenger went in there, he bought two boxes of crackers and a keg of salmon, these were taken into the hack, we then drove along to the Palace, took the provisions to the Palace, then drove to Hip King's on Hotel street, Ah Sing then jumped down from hack and went in; he bought two boxes of crackers there, bought another box of something, boxes were put in hack and again drove to the Palace, then I returned to my hack stand. I know defendant, did not see him that morning, don't know Ah Sing, he may have another name, have not seen him since the revolution; did not know what was going on in Palace.

Mr. Neumann, re-direct—Were you arrested last night.

Witness—I was arrested last night at my stable, taken to the Police station, was not shown a warrant of arrest, was asked there if I took Ho Fon with provisions to the Palace, then drove to further questions about what I did on July 30th, I told same story that I tell here, was examined there by Charlie Hopkins, was not told at first that I was arrested, they said there was a warrant against me, while in the station they did not tell me what the charge was, after questioning me they let me go.

By the Court—I own the hack that I drive.

Yim Quoc—Could not remember anything.

Chan Min—Live in Hop King's, it is a Chinese grocery store, was there on July 30th; remember hack driver, did not see him on that morning; sold goods that morning, don't know Papu; one of customers that morning bought two boxes of crackers, don't know his name, he paid cash.

Witness was not cross-examined.

Loe Chin—Live in the newspaper office, am editor and publisher; Ho Fon is one of my partners, he is a reporter; paper is issued once a week, had an issue after 10th of July, it is dated the 13th, this is a copy with supplement.

Mr. Neumann—I wish to show that this paper has an account of the meeting held at Palama on July 10th and at which Ho Fon was present.

The Interpreter reads—"On the evening of the 10th of July, certain natives and white men met at Palama at the residence of the King's sister for the purpose of preparing for the coming elections."

Witness resuming—Ho Fon reported this item for the paper.

Argument was then had relative to the introduction of the newspaper article in evidence. The Court considers paper not admissible.

Mr. Neumann filed an objection.

Ah Fon—Live in Honolulu. Was in store July 30th. War was going on that day, I opened store and remained the whole morning. Some merchandise was sold. No meat, no boxes of bread or crackers sold. Know Ho Fon, he took a cup of tea with me that morning. There were no goods delivered to a wagon that day.

Cross-examined by Mr. Hatch—Am a helper in the store. There are three or four others. Sometimes employed in the yard. There are men under me.

Loe—Live in Honolulu. Salesman at Wing On Wo. Remember July 30th. Was in store then. Goods were sold that morning. Remember a barrel of salmon was sold. Don't know buyer. It was sent away in hack. Don't know whether man in hack was a native, foreigner or Chinese. Saw driver sitting on front seat. No one else.

Witness was not cross-examined.

At 11:15 o'clock a recess of a few minutes was allowed by the Court.

Sam Lung—Was salesman on July 30th. Was in store between 7 and 9 o'clock. Merchandise was sold that morning. Goods were sold by Tin Sang. Delivered some goods to a hack. Chinese man driving. Put crackers and beef in hack. Don't remember how many packages. No other hack that morning.

Know Ho Fon. He was not there that morning. Did not notice which way hack drove away. Don't know how purchaser was dressed.

Cross-examined—Don't remember whether any hack came the day before. None the day after. Heard only this morning that I was to testify.

Ah Ping—Knew nothing important.

At 11:45 the defendant himself was placed on the stand and being sworn, stated—Am the defendant in this case. Lived here twelve years. Am reporter of Chinese News Company. Am 24 years of age. Have a share in the newspaper. I find out things and give them to my editor. I know R. W. Wilcox. Have had business dealings with him with regard to surveying. I know Markham about five years. I know Boyd about six years. Boyd and I went to first street school together. Know of row on July 30th. Don't know how people got into Government house or palace. Knew nothing in advance of the movement. Live at Palama, Dowd street lane. I know of meetings held out that way. First on July 10th. Knew nothing before. I heard something in town about a meeting, went and saw a light. Heard that the object was political. Went in and saw Boyd on the veranda. Boyd saw me and he took me in. He asked Wilcox to open the door.

At 12 noon recess was had until 1:30.

AFTERNOON SESSION.

Court resumed at 1:30 p. m. and the direct examination of the defendant was continued.

Ho Fon, continuing states: Boyd invited me in. Mr. Wilcox opened the door. To the dining room. Had a conversation with Mr. Wilcox. Told him I wished to see him relative to surveying some land. I asked him why so many people there. He said they were there on politics. Staid about half an hour. Heard no politics discussed. Table was in the room. There was wine there. Natives were in the room eating and drinking. No ceremony of oath-taking while I was there that evening. Went next night between 8 and 9 o'clock. Saw a few natives there and three Chinese. The Chinese were there before me. Staid then only about ten minutes. No oath administered to me that evening. Have not been asked and did not take any oath. Markham, Peepoo, Kaue, Malulani were there. Went in through King street gate. Went into dining room. Met three Chinese in there, in the room. Peepoo and Wilcox were in the room. I asked Wilcox about the meeting last night. He spoke about preparations for next election. Afterwards L. Ahlo went home. Other Chinese staid there. C. Monting and Papu were the ones. Ahlo went out by himself. C. Monting and I went out soon after. Papu staid there. I did not see oath administered to anyone while I was there. I made report to my paper of what I had seen. Think report was made by me next day.

Court ruled that question as to who wrote the article was inadmissible and Mr. Neumann excepted.

Ho Fon continuing: Never loaned any money to Mr. Wilcox. He never asked me for any. Never furnished him with any ammunition to forward his cause. Mr. Markham borrowed \$1 25 from me to buy cigars. That on the 28th. At about 9 o'clock in evening at Liulokalani's house. He asked me for \$2 to buy cigars. Opened purse only had \$1 25, loaned him that. He has never repaid me. The very last night Mr. Wilcox asked me if I could help him or not. I told him I could not. He asked about me in English. He said "can't you help me in the morning time when I get in the palace I want some food." I told him that "I was too young to go in that business." I asked him what they were doing that night. He said he was preparing a constitution to get the King to sign and then to discharge the Ministers. This was on the 29th. I staid there about half an hour. On the 29th Markham wanted me go security for him for a case of gin. I refused. On the 29th after leaving Palama I went to my house and staid there. Went out next morning about 6:30 o'clock. Went to office first. Heard then that natives were at palace. Chinese hack driver told me. Don't know his name, know him by sight. Saw natives in the palace yard and Government yards, then went back to my office. Went that morning into Quoy Hip Loong's store, between 8 and 9. Bought no provisions. Stayed there only a few minutes. Went into no other store on Hotel street that morning as I remember. Saw Papu about 9 o'clock that morning outside Hop King's store. Know David Kaapa, had no conversation with him that morning. Said good morning to one another. Never said to him that I sent provisions to the palace. Did not say on evening of the 29th to Wilcox: "You want a good government, don't you." Only what I have stated passed between Wilcox and I. I saw some men hold up their hands on the 29th, swearing suppose. Don't know. Never agreed to join or help in the movement.

Cross-examined by Mr. Hatch—I was surprised to see people in palace on 30th. Thought that they were there to get a new constitution and oust the Ministers. I was not surprised. Did not see cannon placed. Saw arms with some, saw some with red shirts on. Saw rifles on the night of the 29th. Think about ten to fifteen, saw some rice bird guns. My opinion they were going to march to the palace, and ask the King to sign a new constitution. Thought that maybe members of association drill, and then march to the palace. Did not think they were going to target-practice. Asked some of the natives on the 29th about arms, and was told they were going to drill. Spoke to Peepoo, Boyd, Markham, only those. Spoke in Hawaiian. Markham told project. Saw lights there, torches. Saw guards. No trouble to pass, they recognized me. My house is near there, and went to hear or find out something for my paper. Some men there with guns, drilling. I am not a lawyer, did not know whether right or wrong. Thought it all right, so many native lawyers there. Did not help Wilcox because I did not wish to be concerned in it. Was afraid of arrest. Saw Cummings the first evening, also Testa and others. Did not speak to Cummings. I heard Peepoo speak on veranda. He was speaking to a white man. No trouble getting in on July 11th. Went early. No meeting I supposed that night. Saw Ahlo only a few minutes. Don't know what Papu there for. He and Wilcox ask me to take sodawater. I wanted to find out what it was about. Heard outside that there was to be a meeting at Palama on the 10th. Heard it from a native. Don't know him. Saw David Kaapa on the 30th in street. Was standing at corner of Quoy Hip Ling's store. David Dayton, W. E. Castle and Antone Rosa, all testified to the bad character of the witness Kaapa for truth

and veracity, opposing arguments by counsel in the meantime compelling the Court to rule and allow introduction of the testimony. At 3:05 o'clock the defense rested and a short recess was again allowed by His Honor, after which Mr. Neumann, at 3:15 commenced his argument for the defense, occupying twenty-five minutes in the delivery thereof. The Attorney-General followed for the Crown, and he closed at 4:20 o'clock, after thirty minutes of argument. His Honor then delivered his charge to the jury. At 4:55 the jury retired, and returned at 5:10, bringing in a unanimous verdict of guilty. Counsel for defendant noted an exception. (Additional Court news on page 10).

SPECIAL BUSINESS ITEMS. M. Thompson, Counselor, etc., (author of forthcoming alphabetical Index-Digest of the Hawaiian Supreme Court decisions,) gives written opinions upon questions of law and facts, supporting his opinions by written statements of law and judicial decisions, so that the party receiving the opinion may fully understand the case. And prepares legal documents. Office, corner Fort and Merchant streets, Honolulu. 34* Advertise your wants in the DAILY PACIFIC COMMERCIAL ADVERTISER.

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