

JURY WORK AT AN END

Liquor Conviction Concludes the Term.

(From Saturday's daily.)

The criminal business of the November term was concluded yesterday afternoon in the Circuit Court and the petit jury was finally discharged after having been thanked by Judge Humphreys for their long and untiring labor. The extended term closes next Monday and the finishing touches to the court work will be given today. The criminal part of the calendar was unusually heavy, but that part of the docket is practically cleared of all except the transition period cases.

LIQUOR SELLER CONVICTED.

Richard Kunst was found guilty of liquor selling by a jury yesterday afternoon in spite of the instruction of Judge Humphreys ordering the jury to disregard the testimony of the government as to people coming from the defendant's place with liquor.

In his ruling the court declared unconstitutional Section 457 of the Penal Laws of 1897. The decision, upon a motion by Deputy Attorney-General Cathcart for an instruction in compliance with this statute which reads, "The delivery of any spirituous liquor either by the owner or occupier or by his or her servant or other person in the house or place, shall be deemed to be sufficient prima facie evidence of money or other consideration being given for such spirituous liquor, so as to support a conviction unless proof to the contrary be given to the satisfaction of the jury."

The court held in a written opinion that no statute makes it illegal to give away spirituous liquor in one's own house, and the enforcement of this statute would mean that a man could be convicted for giving liquor to a sick neighbor. The court then goes into a historical review of the enforcement of laws on the plea of necessity, referring to the reign of Sturges and Tindals and recited a story of Virgil, "when he makes the common Sybil lead his hero through his fabled hell."

In conclusion the court says, "Under the statute we are considering the defendant is practically required to prove his innocence. The fact of a person's going into a house is a perfectly innocent act, but if he is found with spirituous liquor upon coming out, a crime is to be presumed, and the owner of the house, who may have been miles away beyond seas, is presumed to be guilty of selling."

"The innocent act is established; the consequences of guilt are not found by the jury on the evidence, but are fastened upon him by the law upon the simple proof of an innocent act. I cannot bring myself to a subscription of this doctrine, and believing the statute unconstitutional, I decline to instruct under it."

The jury was instructed and retired shortly before three o'clock and it required over two hours to reach an agreement of guilty. Mr. Strauss immediately moved for a new trial, which is to be heard this morning, at which time the defendant will be sentenced.

The jury was composed as follows: James Kahalepua, H. C. Bickerton, Alex. K. Aona, Alex. G. Nicholas, Guy Livingston, George W. Harrison, Jos. Richards, Harry S. Swinton, Isiah Bray, Edwin K. Blake, John L. Hansmann, James K. Mersereau.

SEVERELY PUNISHED.

Severe sentences were imposed by Judge Humphreys upon Wm. Savidge, Harry Juen and J. H. Schnack, found guilty of assault upon an old native woman, while attempting to evict her. Savidge was fined \$100, while each of the other two were sentenced to jail for terms of twenty days each without hard labor. Notice of appeal was given in each case, and the defendants were released under bail, Savidge \$100 and the remaining two each \$50 each.

"The testimony in this case," said the court, in passing sentence, "tended to show to the satisfaction of the jury that you are guilty of the crime charged. Kamakea was in possession of these premises under a claim of title which she thought was good. The defendant Schnack was out of possession, though he claimed title also, and went with Juen and Savidge to evict the aged occupant. The woman failed to leave at their request, and they forcibly seized her and removed her from the premises. The complaining witness in this case is old and feeble, about ninety years of age it seems, and the defendants going on the premises and finding this woman alone and unprotected, proceeded to dispossess her. The case is a peculiarly hard one. Here was an old Hawaiian woman, ignorant of the law, but believing she was in rightful possession, and here were three intelligent men, at least knowing your rights by law, going to the place; not taking into consideration her sex, years and gray hairs; seized her, which you would have been, by your own admissions, too cowardly to do had a man been about the place. Such action calls for severe condemnation, something more than a money penalty. The law allows a maximum fine of \$100, while the prison sentence may be six months. The money penalty seems wholly disproportionate to the term of imprisonment, and were I even to inflict the full penalty of \$100 fine, men of wealth might think that by simply paying a fee of \$100, which the fine amounts to, they could dispossess a person of property coveted by them. The evidence does not show that Savidge laid a hand on the woman, though he was found guilty with the rest by a jury. It is the order of the court that William Savidge pay a fine of \$100, and J. H. Schnack and Harry Juen are sentenced to prison for a term of twenty days each, without hard labor."

EXAMINE M'BRIDE PLANTATION.

Judge Humphreys yesterday ordered an examination into the affairs of the McBryde Plantation by F. J. Russell, who is master reporting on the guardianship of Annie Parker, whose estate holds bonds of that plantation.

COMMERCIAL NEWS

The financial barometer, the stock market, has shown no signs of disturbance over the President's message, the fact being that the week's business was indicative of strength, rather than weakness. There was not a single instance of a great slump, as seemed to be indicated by the first discussions of the Hawaiian paragraph of the message; but, instead, there has been a stiffening of prices and a general feeling of confidence. While the sales have not been large, there has been developed no inclination to sell above the usual realizations, but the brokers find rather a more confident tone imparted to the market.

Holders of stocks have had much to give them confidence in the better conditions reported from many places on the group. There is a feeling that there will be no change in the situation but for the better, as there will be inaugurated managerial reforms which will be of value to the stockholders. The Chinese recommendations have been discounted to such an extent that there was no great amount of surprise. The references to Cuba were expected, so the investing public had all the facts at hand with which to form opinion as to the future, and the fact that there has been little done in the way of realizing indicates that there will be no sort of a panic or slump, whatever may be the result of the deliberations of Congress.

The feature of this week's business was the advance shown in Oahu, which stock was sold at 13 for the paid-up, and 3 for the assessable. This, too, in the face of an assessment. But the fact that Oahu is in such good shape has had all to do with the present status of the stock. The paid-up is in greater demand, and these seem to be little on the market. The assessable was sold in a lot of 150 shares at 2. There can be no doubt but all this strength is due to the fact that next year's crop of cane on this plantation is all in, and the present crop will be out at once. The mill will begin its work next week, and there will be no stop until the entire output has been put through.

The same amount of Oahu was sold, and there again the price was stepped, the sales being between bonds, and at 100 even. This is a clear advance of five points. This was the rate at which there were several private sales recorded. Wahiwa is strong at 55, with 50 asked, and there seems to be none of the shares in the market at this figure. There will be a higher before a lower rate for this stock as looking at the general opinion of the brokers. Kihohi was sold with some facilities at 19, but the purchasers were greater in number than the sellers, and the stock seemed to have the same amount of strength that is evident in the rest of the list.

There has been some trading in Rapid Transit, the prices having been about the same as those of last week. There were sales at 90, and then the prices followed the trend of the previous movements, and went back to \$4.50, but the holders are willing to sell only at 35. There is a fair demand in the market for the stock, but as looking at the general opinion of the purchasers, on wants the control of the stock. For the past week the Kalaui extension has been in running order, and the carrying capacity of the line has been greatly increased by it. The receipts of the line have been swelled by this extension about \$200 a week. There was a sale of First National Bank stock registered at 110.

REAL ESTATE AND BUILDING.

The market for real estate has been as quiet as usual, though there have been the customary number of small sales. There were two of the Campbell houses in Wilder avenue transferred, but the prices have been withheld, as they are said to have been made more on a basis of cost than worth. There have been some sales and there is reported a fair inquiry for lots in Manoa, in the subdivisions there. The usual number of persons looking over property is reported from the agents of the properties which are being brought into closer contact with the center of the city through rapid transit extensions, but the sales are still light.

Bids are being received by Architect O. G. Traphagen, for the remodeling of the store building of T. H. Davies & Co., and some additions to the building. The old office will be torn down, and the plan is to have a building in its place of unpretentious style, but of the same solid appearance which marks the other buildings of the firm in Kakaehonu street. The work on the basement for the new Levees & Cooke building is being pushed on day and day, as by the installation of a new electric pump the excavation can be kept clear of water, and the work kept going on, so that there will be little delay in the event of stormy weather.

The Court ordered that the value of the bonds be looked into, the number of bonds issued, and whether the minority bond holders were properly secured, and also as to the general state of the plantation. The Court called the attention of the master also to the fact that the stock of the company was selling at considerably less than fifty per cent below par, which he said must necessarily affect the value of the bonds. The master is also required to report as to whether the plantation is newly developed or has been paying dividends.

SCHLIEF ESTATE.

J. A. Thompson, commissioner in the matter of the Schlieff minors, asked the court for instructions as to the disposition of the rent which has been paid since the sale of the property. The commissioner and auctioneer were ordered to pay into court, before Monday at noon, all moneys received.

REFUSED INJUNCTION.

Judge Humphreys yesterday refused to grant the injunction prayed for by M. G. Silva, as against John M. Vivas. Silva is the defendant in an action started by Vivas for a partnership accounting. Henry Davis was appointed receiver, and found that the plaintiff owed to Silva \$1,524.67. Defendant alleges that plaintiff Vivas is attempting to sell his property in this Territory, and so "that defendant, if decreed a recovery from him, would be totally unable to realize on such judgment and decree, and be without adequate remedy."

The Court endorsed the application, and declined to issue an injunction upon this bill of complaint. The facts do not warrant the issuance of that extraordinary writ.

COURT NOTES.

Briefs were filed in the Supreme Court yesterday by Cecil Brown and F. W. Hankey in the case of Henry Smith vs. Hamakua Mill Company, which was argued last week. Motion to set aside for trial was filed yesterday in the case of Margaret vs. Samuel Wong. Hatch & Stillman entered an appearance yesterday in the case of Wm. A. Hall, spendthrift, Davis was the attorney.

ROAD TO SUGAR LOAF

Bids were opened yesterday for the new road to Tantalus which J. T. Alexander has offered to build at his own expense, the work to be done under the supervision of the Department of Public Works. Eight bids were received altogether, the lowest being that of J. J. Belsler, who offered to do the entire job for \$25,311.79. The highest bid was by Jas. Makee, who wanted more than double the amount of Belsler's bid, or a total of \$55,711.28. Separate bids were called for by Supt. Boyd for the building of the road and also for the culvert work. The road is to be built in three sections and tenders were received for each separate section and then for the contract as a whole. Contractor Belsler's bid is the lowest but there are two other tenders very near his, W. E. Rowell and J. E. Higby each bidding a little more than 27,000. The contract will not be signed until the return of Mr. Alexander, which is expected within ten days. It was generally understood that he has agreed to give \$15,000 for the construction of the road, but Mr. Boyd stated yesterday that he had no understanding as to any specific amount, but was simply to go ahead and advertise for tenders. An estimate was made some time ago by engineers other than the Department of

Independents Plan to Force Extra Session.

HOME RULERS, who are not content with their petitions to President Roosevelt to remove Governor Dole, are planning a great mass meeting to demand an extra session of the Governor, with the alternative that his failure to call such a session shall be the ground for a vehement appeal for the vacation of the office of Governor. The matter was sprung at the Thursday night meeting of Home Rulers by John Emmeluth, and will be considered at the special meeting to be held Tuesday night.

The interpretation put upon the Hawaiian paragraph in the message of President Roosevelt by the Home Rulers has been the cause of a decided change in the front presented by the party members. Whereas prior to the publication of the message there was a desire on the part of the Home Rule members of the Legislature to have an extra session, even if there should be necessary an agreement to pass none but fiscal measures, now the Independents believe they can force the session solely upon the grounds that development along American lines means the inauguration of city and county governments. Emmeluth is said to make this interpretation of the message of the President, and to have spoken at length upon that phase of the situation.

The mass meeting planned is intended as a citizens' demand for multitudinous officials, and there was a great fight over the proposition that no party lines be drawn. The proposers of the plan advanced the argument that there were men of all parties who wanted an extra session of the Legislature, and that to attempt to make the meeting a partisan affair would mean that the support of a vast number of influential citizens would be lost. The opponents of the non-partisan plan insisted that as the majority party, the Home Rulers, should make the fight to a finish and pointed out that the Republican party undoubtedly would be represented in the meeting, through Paul Ney, balliff of the courts, and that thus they would control action while remaining in command of the situation. The matter thus was left in abeyance as the stress of argument left it impossible of decision at the meeting.

It was outlined in the speeches of the advocates of the meeting that the plan would be to pass resolutions calling upon Governor Dole to issue a proclamation for an extra session of the Legislature, failing which he was to be assailed at Washington as the only enemy of the President's plan for the Americanization of the Territory of Hawaii, with the expectation that upon this indictment the President would find him guilty and send him to dismissal from office. It was intended by the advocates of the non-partisan meeting to issue the call for a date so far ahead that the advocates of special session on the other island would have an opportunity to send delegates to enter their plea for an extra session. The deferring of action is expected to give time for the committee which is to confer with labor organizations, (Prince Cupid, Emmeluth and Quinn) time to arrange for unity of action. Many members of the committee believe the petitions sent forward should be given a chance to work against Governor Dole, but they seem to be in the minority.

HAD A GOOD TIME.

A. J. Shell wanted to attend a party, but was afraid to do so on account of pains in his stomach, which he feared would grow worse. He says: "I was telling my troubles to a lady friend, who said: 'Chamberlain's Colic, Cholera and Diarrhoea Remedy will put you in condition for the party.' I bought a bottle and take pleasure in stating that two doses cured me and enabled me to have a good time at the party." Mr. Shell is a resident of Summer Hill, N. Y., U. S. A. This remedy is for sale by all druggists and dealers. Benson, Smith & Co., Ltd., agents for Hawaii.

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WILDER BROS. BUY SAWMILL

W. C. Wilder and Gardner E. Wilder returned yesterday from a business and pleasure trip lasting three months spent in the mainland. During their absence they perfected arrangements for supplying lumber from the Oregon forests for the lumber company to be established in Honolulu by a local syndicate of which they are members. W. C. Wilder said last evening that an option had been secured on a mill at Rainier, Oregon, which will be the basis of the supplies to be forwarded here.

The establishment of the supply mill also lays the foundation for the establishment of a line of schooners to operate between the Oregon coast and Honolulu. Just when the new company will enter the field here is uncertain, according to Mr. Wilder, depending largely on the shipment and arrival of the lumber. The following dispatch, dated Astoria, Or., Nov. 21, relates to the securing of the saw mill plant: "An option has been given on the Smith mill, at Rainier, to a firm of lumber dealers of Honolulu, H. I. If the sale is consummated, the mill will be used to cut lumber for the Honolulu trade exclusively, and a fleet of schooners will be put on between Rainier and Honolulu. This mill is at present leased to the Clatsop Mill Company until February 1."

RAWLINS, Wyo., Dec. 6.—The sheep men in this section are in a fair way to realize their hopes in the matter of leasing a large tract of railroad land in the Red desert country. Additional details relative to the proposed combination have been given out by those interested. It is proposed to lease 40,000 acres at an annual rental of one cent per acre, and it is understood that the railroad company will accept this proposition. Each sheep man will be assessed at the rate of \$50 per year for each 3,000 head of sheep ranged on the tract. While nothing has been said about the government land, still it is understood that by leasing every alternate section of railroad land the sheep men will also control the government land, thereby giving them a million acres of fine range. It is expected that the deal will be closed up in a few days. The land will be divided then among the several members of the combination.

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