TELLING AN OLD STORY

A Second Trial of Pearl Harbor Case.

(From Wednesday's daily.)

The trial of the case of the Honolulu Plantation Company is taking the same long and weary course as at the first hearing, though it is not likely that the trial will be of such duration. There is the same ceaseless fighting between the attorneys and the court as characterized the first trial, but the known rulings of Judge Estee made then has shortened the arguments of counsel to an appreciable extent.

The fight between the attorneys began the first thing yesterday morning during the opening statements of counsel to the jury. Mr. Silliman objected to Mr. Dunne's remarks as argumentative and the latter objected to Judge Silliman's address on the same grounds. There is little if any difference in the evidence being offered. The witnesses yesterday were Captain C. G. White, F. J. Church and J. W. Pratt. Captain Pond, who was one of the principal witnesses at the first trial, is not in the Territory, and consequently can not be called as witness. Captain White went over the same testimony practically as that given in the former trial by the commander of the Iroquois. He gave a description of the premises at Pearl Harbor which the Government seeks to condemn, and went over in detail the various features of the property. His testimony was interrupted to allow Fred Church to identify the photographs of the land offered in evidence by Mr. Dunne. These photos showed the rough nature of the soil as well as general location of the property, with reference to the sea.

Tax Assessor Pratt was the next witness, and he identified the tax returns made by the Honolulu Plantation Co., and they were then read by the United States Attorney. Following this the leases under which the defendant holds the property were read. There were objections on the part of the defendant to the introduction of those papers in evidence but the court overruled them, although not without an interesting and lively tilt with Mr. Silliman.

The matters gone over yesterday occupied over two days in the first trial, and this hearing will probably be materially shortened. Mr. Dunne, in his statement to the jury, said that he would prove that all this land prior to the commencement of the suit, last July, was a waste and overrun with goats, and not only unproductive, but a source of expense to the owners. He said the land was not homogeneous; it was rocky, the soil thin, unavailable for the cultivation of cane, and was marshy, had no water supply, and in fact was almost valueless. Mr. Silliman replied but briefly, and said he would not have replied at all but for the misstatement of the facts. He promised to prove by reputable witnesses that the land was worth even more than the $200,000 claimed for it by the Honolulu Plantation Company; further that it was improved, the rocks had been cleared off, and that it was part of a large plantation, fully equipped for the production of cane, and had a good water supply, and was in every way suitable for the cultivation of cane.

Judge Estee asked at the opening of the case yesterday whether it was the desire of the attorneys that the jury visit the land. Mr. Silliman and Mr. Dunne asked that the trip be made, but in the present state of the weather and of the roads, it is hardly likely to be made for some days.

George Davis paid his respects to Judge Humphreys yesterday in the Supreme Court, in an argument on appeal in the case of H. R. Hitchcock vs. the Hawaiian Tramways Co. In the lower court a verdict for the defendant was rendered by a jury, after it had been considering the evidence for two days and nights. This was a suit for damages and after the jury had been out for six hours a disagreement was announced. The first day the jury stood six to six, and the second day changed to nine to three. The foreman still reported the impossibility of an agreement, and Judge Humphreys sent the jury out for the second night. Davis, in his argument to the Supreme Court, charged Judge Humphreys with "legal coercion," though in the heat of his argument he used much stronger language at times. Davis said that in England in the days of the infamous Judge Jeffries it was all right to threaten juries and force a verdict, and punish them if they did not do as they were told, but in this enlightened country such methods were totally at variance with all principles of American jurisprudence. Then he said that Humphreys should have allowed his motion for a new trial but that the First Circuit Judge was one of those men who couldn't see his own mistakes. "Some courts never can see their own errors," said Davis, "they can't look at their own acts with the same eyes that they watch for the mistakes of others. A good lawyer is not necessarily a good judge. Some of the best lawyers make judicial asses upon their elevation to the bench."

"I think Judge Humphreys is just as liable to make mistakes as is any other judge, and he has made mistakes. It's going too far, I tell you, when a court threatens to send the jury out all night if they don't bring in a verdict. The foreman stated twice that they could not agree and but for the remarks of the court, I say they would not have agreed. This was nothing more nor less than an attempt to coerce them into an agreement. It was a judicial error, I insist, and the verdict was obtained by legal coercion. Judge Humphreys lectured and talked to this jury and kept them out all night, in a little stuffy room, where a dozen men were crowded together, and then told them that they must agree. I say that this was not an unbiased opinion by twelve men but they were coerced into returning a verdict. Judge Humphreys may have done it unwittingly, but it was done just the same, and it was not the verdict of the jury, but obtained through the court's conduct, in coaxing and beeing and hawing the jury into bringing in a verdict."

Mr. De Bolt replied briefly for the defendant and the Supreme Court took the matter under advisement. The decision upon the question will be awaited with interest, as the length of time a jury may be kept out has never been passed upon in the Territory before.

Crimp McCarthy was found guilty in the Circuit Court yesterday of an attempt to commit mayhem. McCarthy was just out of prison when he had another fight with his wife, Katie Akai, in which he chewed her left ear until that member was almost severed and also badly lacerated other portions of her anatomy with his teeth. So skilfully did the surgeons bind up the wound that the marks of McCarthy's teeth were hardly noticeable, and Judge Gear, ruling upon the motion of George Davis, held that in order to convict for mayhem, it was necessary to prove that the wound was noticeable and marred the beauty of the prosecuting witness. In lieu of that, which the skill of the surgeons made impossible, the jury returned a verdict of guilty of the attempt at the crime. Judge Gear will pronounce sentence this morning.

EDITOR SENTENCED TO JAIL.

Judge Gear considered newspaper editors generally, yesterday, in sentencing Wong Suey King, the Chinese convicted of criminal libel, to imprisonment for thirty days. Incidentally, he touched on the prevailing trouble between the Consul's party and the Bow Wongs.

When the defendant was called up for sentence yesterday, Attorney McClanahan made a strong plea for a money fine, but neither the court nor the prosecuting witness could see it in that light. "This is a matter within the discretion of the court, and I submit that a money fine would be sufficient," said Mr. McClanahan. "The court should consider well before imprisoning this man. This defendant is a man against whom no word touching his character has been raised. He is not versed in the English language, and is uneducated and untrained in our tongue. The evidence shows that in publishing the libellous article he thought he was doing right, and there has been no malice shown in the act. He believed in the truth of the article, and I believe it would be unjust to send him to jail, when the imposition of a money fine would meet the ends of justice, and have a salutary effect and deter him from the publication of anything further of a libellous nature. Ignorance of the facts led to the publication in the first instance, and now he is fully cognizant of the libel laws in the Territory."

Mr. Andrews replied: "I beg to differ with Mr. McClanahan in this case. The defendant took the responsibility for this libel, and now he should take the responsibility for the punishment. This article was published maliciously and willfully, and with the intent to injure Mr. Poon. This defendant is surrounded by rich Chinese who are willing to pay whatever fine should be imposed. Imprisonment is the only deterrent for acts of this kind, and an example should be made, to show the newspapers of this land that they cannot attack people without punishment. This defendant is shrewd and clever enough to attempt to escape the responsibility for his action, and has published a paper long enough to know what the laws here are. He not only published the article, but added to the libel by attempting to prove it. Imprisonment would have a salutary effect not only on this man but also upon others."

"The court realizes that the finding of the jury of a verdict for libel in the second degree was virtually a recommendation for clemency," said Judge Gear in passing sentence. "This man is the editor of a newspaper, and it is true that editors are not necessarily of the criminal class, but the Legislature in its wisdom has provided a law which imposes fine or imprisonment for persons convicted of libel. The court agrees entirely with the attorney for the prosecution, that this man should be punished by more than a money fine. The fact that this defendant is a Chinese will have something to do with the sentence to be imposed, though it appears to me that all persons are presumed to know the law. It is evident, though, that he doesn't thoroughly understand the law, as some of the editors of other papers here do. If a fine was imposed it would be paid by the Chinese friends of the defendant. It would simply be a tax upon the organization known as the Bow Wongs, and would result in the hat being carried around to its members to raise the amount. There appears to be a rivalry between the Bow Wongs and the friends of the Chinese Consul, and this has been apparent during the trial of the case. I do not believe a money fine would be sufficient punishment, but I have received Mr. McClanahan's statement in good faith, and it will be taken into consideration. It has been said that I have been too lenient in the past, and I may be too lenient now, but I will not impose the full penalty of the law, and will sentence the defendant to imprisonment for thirty days."

Exceptions were taken by the defendant, and notice of appeal given. The defendant was released upon furnishing bond in the sum of $500.

BEFORE HUMPHREYS.

Judge Humphreys was occupied yesterday in the hearing of the case of Paris vs. Magoon. All the witnesses from Hawaii were examined, but the trial will consume several more days.

THE KONA MATTER.

Judge Humphreys made the following order yesterday in the matter of the Kona Sugar Company:

"It appearing to my satisfaction by the record herein and by representations made to me by the receiver that it is impossible for said receiver to negotiate funds with which to operate the plantation of the Kona Sugar Co., Ltd., and to harvest the crop thereupon growing, it is hereby ordered that said receiver do employ such agents as may be sufficient to care for and protect the live stock and other personal property in and upon and about said plantation, and except for the employment of such servants, the receiver is not required to incur any personal financial responsibility in and about the conduct of said plantation.

"Done at chambers this fourth day of March, A. D. 1902.

"A. S. HUMPHREYS."

COURT NOTES.

J. Alfred Magoon has filed his accounts as guardian of Rebecca Panee, spendthrift, showing receipts for the year 1900 of $9,140.62, and expenditures of $8,982.69. In 1901 receipts were given $3,545.09(and expenditures of $2,853.97, showing a balance of $69.12. The value of the estate is given as follows: Notes secured by mortgage, $9,343.54; real estate, $6,370.

J. A. Magoon has also filed his accounts as trustee of the estate of J. F. O. Banning. The receipts are given as $7,805, and the expenditures were $7,375. The value of the estate is placed at $74,055.

Judgment by default has been entered in the case of Yee Wo Chan Co. vs. Chong Soi Pow.

Captain Fitzgerald, the Hilo harbor master, has notified Superintendent of Public Works Boyd that five piles of the Hilo wharf have been carried away, and that other damage has been sustained. A wharf builder will be dispatched on the Kinau.

HAWAII'S INTERESTS AT THE NATIONAL CAPITAL

(Special to the Advertiser.)

WASHINGTON, D. C., Feb. 26.—Delegate Wilcox two days ago introduced a bill for the apportionment of the terms of office of seven Senators elected at the first general election of the Territory. He specified that the bill was introduced by request, the method members of Congress take to designate that they are in no wise responsible for the provisions in the measure, and that the introduction is made largely as a matter of courtesy.

This bill followed the presentation to Congress by Secretary of the Interior Hitchcock of correspondence from Secretary Henry E. Cooper and Governor Dole, asking that Congress afford relief, and suggesting that the Territorial Senators who received the smallest vote be designated as two-year Senators. Delegate Wilcox's bill is understood to carry out that request. It reads as follows:

An act to apportion the term of office of seven Senators elected at the first general election of the Territory of Hawaii.

Be it enacted by the Senate and the House of the United States of America in Congress assembled:

Section 1—The several Senators elected in the First, Second, Third and Fourth Senatorial Districts, at the first general election held in the Territory of Hawaii, who received the lowest number of votes, shall each hold office for the term of two years from the date of such election.

Section 2—That for the First Senatorial District J. D. Paris and N. Russel, having received the lowest number of ballots cast, shall each hold office as a Senator for such district, for the term of two years.

That for the Second Senatorial District, William White having received the lowest number of ballots cast, shall hold office as such Senator for such District for the term of two years.

That for Third Senatorial District, D. Kanuha, George R. Carter and D. Kalauokalani, having respectively received the lowest number of ballots cast, shall each hold office as a Senator for such district for the term of two years.

That for the Fourth Senatorial District, I. H. Kahilina having received the lowest number of ballots cast, shall hold office as a Senator for such district for the term of two years.

Delegate Wilcox has received the following petition from the Home Rule party of Hawaii, copies of which he has sent to President Roosevelt, the Secretary of War and the Secretary of the Navy:

Whereas, the United States government has been and is now carrying on and prosecuting extensive public improvements in the Territory of Hawaii, which do and will afford employment to a large number of skilled and unskilled laborers, and

Whereas, it is the policy of the government, as declared by the President of the United States in his recent message, to make it possible for American citizens to build up homes here; and

Whereas, this policy is not followed at this time by representatives of the United States government, now in this Territory in charge of national improvements, in that they have awarded several contracts to a contractor employing exclusively Asiatic laborers and mechanics; and

Whereas, a committee from the Master Builders' Association of Hawaii called upon Commandant Merry and protested against the employment of Asiatics, but were treated with scant courtesy, and were told distinctly that if the man who employed Asiatic mechanics could do the government work cheaper than the whites and the natives could, he would receive the contracts from his department in the future as in the past, and

Whereas, such action is in conflict with the President's message and with well established American principles throughout the United States and Territories, therefore

Resolved by the executive committee of the Home Rule Republican party, that our Delegate in Congress be and is hereby earnestly urged to call the attention of the President, the Secretary of War, and the Secretary of the Navy to this matter, and request them to give such directions to the representatives of the government here as to put an end to this un-American condition now and hereafter, and thereby aid in developing this Territory on "Traditional American Lines."

Resolved, that a copy of this resolution in triplicate, be sent by the secretary to our Delegate in Congress, to be filed by him with the President, and with the War and Navy Departments.

JAS. K. KAULIA,
Chairman Home Rule Republican Party.
JNO. K. NAKOOKOO,
Secretary.

The petitions were placed in the files of the various officials to which they were sent without comment as to what course the government would pursue regarding future contracts.

ERNEST G. WALKER.

WINDS AND RAINSTORM

Elements Combine and the Trees Suffer.

(From Wednesday's Daily.)

The fifth day of the storm gave a variation of it in that there was, in addition to the high wind, a heavy rainfall. The wind blew all over the upper part of the island, while the rainfall is reported to have been heaviest right in the city.

Reports of the condition of the Nuuanu valley indicate that there was little rain there, while the wind was so high that at the Government electric station there were a number of lights of glass blown out in the windows of the power house. There was also some damage done at Luakaha, but this was not serious in any event. Several trees were blown down and there was some loss to the nursery, the young trees suffering. When the valley folk came down to the city yesterday morning they were astonished to find that a large amount of rain had fell, as their gates had been dry ones.

The continuation of the winds, and the presence of rain had had effect upon trees in Kapiolani Park. The soaking of the ground gave the trees which have no tap root, like the algaroba, a less tenacious grip on the soil, and the result was the dropping of a number of the biggest trees there. The telephone system has been demoralized by the breaking of the poles and wires. Every pole along the main road through Waikiki from the bridge to the Campbell place has suffered. The reports of the linemen show that there are down thirty-five of the large trees in that district, and there will be more today, if the forecasts of the men in the business of keeping the wires up are to be taken, for they see danger in the high winds. According to reports yesterday there are 700 phones out of commission in the city.

The electric light system suffered little since Saturday, as the only lights out have been a few on long private lines. The government lights have been able to get through the blow without any loss of time, and there is little chance that there will be any serious damage to the lines unless it comes through some large tree cutting the wires.

The winds were so strong yesterday that the small island boats were unable to leave the harbor, but they hope to get away this morning.

HAVING A RUN ON CHAMBERLAIN'S COUGH REMEDY.

Between the hours of 11 o'clock a. m., and closing time at night on January 25, 1901, A. F. Clark, druggist, Glade Springs, Va., U. S. A., sold twelve bottles of Chamberlain's Cough Remedy. He says, "I never handled a medicine that sold better or gave better satisfaction to my customers." This remedy has been in general use in Virginia for many years, and the people there are well acquainted with its excellent qualities. Many of them have testified to the remarkable cures which it has effected. When you need a good, reliable medicine for a cough or cold, or attack of grip, use Chamberlain's Cough Remedy, and you are certain to be more than pleased with the quick cure which it affords. For sale by all druggists and dealers. Benson, Smith & Co., Ltd., agents for H. I.

SAN FRANCISCO, Feb. 22.—On February 12, John Kanaka, a seaman on the bark Amy Turner, which arrived here yesterday from Hilo, fell to the deck from the main upper topsail yard. He struck on the main hatch and was instantly killed. He was buried at sea. Kanaka was twenty-two years of age, and a native of Honolulu. The Turner was nineteen days making the trip, and encountered a very heavy southerly gale on February 11, which wrought her much damage. One big sea came aboard and carried away fifteen feet of the starboard bulwark.

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Special dispatches received from Brussels declare Germany to be willing to abolish bounties on sugar, and state that the international sugar conference will adopt the British proposals concerning the import duties on sugar.

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Cures Old Sores.
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It is a real specific for Gout and Rheumatic pains.

It removes the cause from the Blood and bones.

As this Mixture is pleasant to the taste, and warranted free from anything injurious to the most delicate constitution of either sex, the Proprietors solicit sufferers to give it a trial to test its value.

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CAUTION.—Purchasers of Clarke's Clarke's Blood Mixture should see that they get the genuine article. Worthless imitations and substitutes are sometimes palmed off by unprincipled vendors. The words, "Lincoln and Midland Counties Drug Company, Lincoln, England," are engraved on the Government stamp, and "Clarke's World Famed Blood Mixture" blown in the bottle, WITHOUT WHICH NONE ARE GENUINE.

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