

# BIG WATER LITIGATION

## Commissioner J. F. Brown's Report.

Jacob F. Brown, commissioner appointed by Judge De Bolt on January 7, 1903, to take testimony in the water injunction suit of Hawaiian Commercial & Sugar Co. vs. Walluku Sugar Co., yesterday filed his report. There will be a hearing upon it today. It is presented in a bound volume of 123 typewritten pages, accompanied by 55 exhibits of deeds, surveys, reports, etc.

Findings of fact made upon requests in writing from both parties are respectively separated. Their local references and technical character generally prevent the making of any summary that would be of common public interest. However, there are a few facts presented which will bear publication.

The bed of the Walluku river is the natural channel in which all the water from the water courses in the Iao or Walluku valley and from a further considerable portion of the ahupuaa of Walluku, if not diverted, would naturally flow seaward, including all fresher, flood and other water not appurtenant to taro land or acquired by prescriptive use.

The formation of the Walluku valley has an upper stratum, varying approximately from twenty-five feet to fifty feet in depth, composed of loose boulders, sand and gravel, forming a kind of gravel reservoir, into which water flowing from the Iao gulch, if not diverted near the head of the gulch, would soak; and its seepage in time of drouth would aid in supplying water for the kalo lands below.

The diversion of water, especially of flood water, at the Maniana gulch, prevents the water so diverted from doing its share in saturating the reservoir of the valley bed, and to that extent seepage to the lower kalo lands is diminished.

The valley apparently has a substratum of hard rock, considerably impervious to water. The tendency of the water occupying the upper stratum would be to move gradually seaward, and while so going, if the reservoir were filled, water would appear on the surface in depressions and undulations.

In the early fifties Kamehameha III inaugurated the planting of sugar cane for the purpose of manufacturing the same into sugar on various lands within the water shed of Walluku river, including the land of Owa and portion of Puoahala district, aforesaid, and erected a mill to grind the cane so grown.

The arable kula lands under the Kalamo and Kama Auwal, within the crown sales made by Kamehameha IV, were sold and conveyed by Kamehameha IV as to for cane lands upon which to raise crops other than taro and with the expectation that the same would be watered from the Walluku river.

There is a further chain of this history of early cane-growing on Maui in the report.

It takes a continuous flow of at least two and three-fourths millions gallons per twenty-four hours to maintain ninety acres of land in taro in Walluku, if the taro lands are properly tamped and cultivated.

It would be wholly impracticable, even with the normal supply of water from the Walluku river, including fresher, to cultivate the whole of the taro patches in Walluku watered by the Walluku river, if the patches were not properly tamped.

A taro patch untamped in the district of Walluku will consume about double the amount of water that the same patch would consume if properly tamped.

The water rights appurtenant to a certain purchase of about forty-five acres of taro land by the Walluku Sugar Co. would properly irrigate and maintain 125 acres in cane.

The Walluku river is a perpetual stream and always has water flowing in its bed from its source to the bridge crossing it on the public road from Walluku to Wahee.

The H. C. & S. Co.'s tunnel flows about one to one and a quarter million gallons in twenty-four hours.

The W. S. Co.'s tunnel flows from three-quarters to one million gallons in twenty-four hours.

Many findings requested among hundreds altogether are denied as being on matters for the courts and not the commissioner to decide.

On the face of it this water controversy seems to be about as complicated as the proverbial Philadelphia lawyer would care to tackle.

# HEGIRA OF PORTUGUESE

## Mr. Oliveira Believes Planters Could Stop It.

J. B. Oliveira of Hilo is in town looking after a homestead interest with the Government. To an Advertiser reporter who met him in the Capitol, Mr. Oliveira deplored the hegira of Portuguese from the Territory which is taking place.

"The Portuguese are leaving the islands by hundreds, yet there is a complaint by the planters that they cannot get enough labor," the Hilo man said.

"Why don't they go to work on the plantations? Because they want better wages than the planters will give them. The Portuguese can do more work than the Japanese and the Porto Ricans. They raise families respectably and want better houses than the planters have for their labor on most plantations."

Mr. Oliveira spoke of his countrymen as having made good citizens in Hawaii, mentioning instances of their young men who had done and were doing well in business and the legal profession. When the Portuguese had been given a chance on the plantations, they had transformed the plots on which their houses stood into fruitful gardens. Evidences of this thrift were marked at Honokaa for instance.

"Outside of a few plantations in Hilo district," Mr. Oliveira said, "the condition of laborers' quarters has not improved from fifteen years ago. The Portuguese have to live in houses where you may look through cracks in the walls. There are better houses at Pepeekeo than on any other plantation in the Hilo district. Mr. Deacon treats the Portuguese better than any other manager on Hawaii. Still there are only about twelve Portuguese families at Pepeekeo where formerly there were forty."

"When I was a school teacher at Honouliuli sixteen years ago there were eighty-seven Portuguese families on the plantation. Now there are about six or seven. Hakalau had forty families of Portuguese, where today there are only six or seven individuals and but two of them married men. Formerly, there were three families to twenty acres, while the Portuguese at Papaaloua had decreased from 200 families to four or five."

"Portuguese have been given canceling contracts at Pepeekeo, Papakou and Waialae, and have done well with them, but the planters on Hawaii as a rule would rather give contracts to the Japanese."

Mr. Oliveira being asked what terms would suit the Portuguese and induce them to give their labor to the planters. He answered:

"Teamsters at Honouliuli get \$1 a day. If the planters give the Portuguese \$24 a month they can have all the labor they want, and they can afford to do it. The Portuguese would want better houses than the common run of laborers' quarters, also a fair supply of firewood. In some places now a family is allowed only a few sticks of wood to do for a week."

# COMMON PROPERTY

## Public Praise is Public Property — Honolulu People May Profit by Local Experience.

Grateful people will talk. Tell their experience for the public good.

Honolulu citizens praise Doan's Backache Kidney Pills.

Kidney sufferers appreciate this. They find relief for every kidney ailment. Read what this citizen says:

The Rev. J. Nua of Kawaiahae informs us:

"I suffered from kidney trouble, which was, I believe, caused by my lifting heavy weights whilst young. Pains in the small of my back were one of the symptoms of my complaint. My trouble extends back to the time when I was 28 years of age, and as I am now 49, that is a considerable period. During all this time I was subject to pains in the back. They continued despite the fact that I consulted several physicians and took numerous remedies. No relief thus gained can be compared to the benefit obtained from using Doan's Backache Kidney Pills. I have got on wonderfully well since taking them. I am quite satisfied with the result, and shall always have some of the pills by me, even when going from Honolulu to other missionary fields in the South Pacific. There is no other remedy like Doan's Backache Kidney Pills for kidney complaints, including backache."

Doan's Backache Kidney Pills are sold by all druggists and storekeepers at 50 cents per box (six boxes for \$2.50), or will be mailed on receipt of price by the Hollister Drug Co., Honolulu, wholesale agents for the Hawaiian Islands.

25c per Month

**Sunday Advertiser**

# KAMALO HAD A HOT TALKFEST LAST EVENING

## Larry Dee Charged the Treasurer With Being \$400 Short in His Accounts.

Accusation and recrimination, charges that Treasurer H. R. Hitchcock is short \$400, threats against Judge Davis and Judge Humphreys, insinuations against the officers of the company, and a vote of confidence in L. H. Dee, these were but a few of the incidents in a lively meeting of the Kamalo Sugar Co. which was finally declared illegal last evening.

Elk's Hall was surcharged with electricity long before the meeting was called to order—every stockholder knew that something was going to drop, and there was no disappointment for those that were looking for a lively meeting. Out of it all though comes the prospect of a reorganized company, which failing the estate will be sold, Mr. Dee making the announcement that there the stockholders would receive fifty cents on the dollar, if not dollar for dollar.

This was the first meeting of the company for two years or more and were four purchasers waiting, and that the stockholders were anxious to find out what had become of their money. They didn't succeed, though a report is promised for the special meeting which was called for the evening of August 1st.

THE CALL TO ORDER.

The meeting was called to order by David Dayton, the president. There were present thirty or more stockholders in person and they represented altogether 12,867 shares of the total holding of 18,320. This is virtually the entire stock as the difference is represented by the stock repaid into the company by the promoters upon the order of the court. The larger stockholders represented were Dr. Mouritz who said he had a third of the stock, and L. H. Dee who had a half. The Meyer family 2400 shares, H. R. Hitchcock 250, L. H. Dee 450, J. Lucas 520, C. Brown 500, F. Hustace 1700, W. M. Cunningham 200, Jas. Steiner 300, D. McCriston 1025, McLain 450, were also represented.

After the showing of stock had been made President Dayton announced that each stockholder was entitled to examine the books.

"Where are the books?" came the voice of a stockholder with the first hint of trouble.

Mr. Dayton continued by stating the object of the meeting, which he said was the first since May, 1901. The questions to be considered he announced were:

1. Shall the company close up its business?
  2. If the company is reorganized shall all expenses be cut down?
  3. If the Kamalo Co. continue shall the stock be reduced from one million dollars to five hundred thousand and shall enough money be borrowed to pay the debts?
- Mr. Dayton announced further that

# WHERE ARE THE VOUCHERS OF THE ADJOURNED HOUSE?

Have the vouchers of the expenses of the House of Representatives been destroyed?

Appearances would indicate that the answer to this question must be a humiliating affirmative.

George R. Carter, Secretary of the Territory, was asked yesterday if he had received the vouchers.

"I have not," was the reply.

"Do you know where they are?"

"I have no idea."

"Have you made a demand for them?"

"No; I have not," the Secretary said, adding that he was not certain that it was in his province to make such a demand if the officers of the House did not see their duty in the matter.

Mr. Carter, answering a further question, said he presumed the House vouchers of expenses were part of the House records that by law should come into his custody.

"Have the vouchers of House expenses been burned?" was asked of Solomon Meheula, clerk of the House, when seen in the hall where the House held its sessions.

"I don't know," the answer came hesitatingly.

"Should you not be in a position to know?"

"No; I have nothing to do with the vouchers now. The last thing I know about them is that Jesse Makainai, the assistant clerk, took them home. He was told to do so by Speaker Beckley.

"No; they don't belong to the records. They belong to the committee on accounts."

Mr. Meheula ventured to justify the theory of destruction from the precedent made by the Home Rule Legislature of 1901. He stated that on that occasion the vouchers were destroyed.

At Martin's Gossip Exchange, Birbe, Vida's man, is quoted as saying that the vouchers were burned.

# HAWAIIAN TOBACCO

## Federal Director Jared Smith Shows Samples.

An exhibit of Sumatra leaf tobacco grown at the Federal Experiment Station was brought by Director Jared G. Smith to the appointed meeting of the Board of Agriculture yesterday afternoon. Only W. M. Giffard and Jacob F. Brown, with Superintendent of Public Works H. E. Cooper, were present and no formal proceedings were undertaken. Yet an interesting discussion on the possibilities of a profitable tobacco-raising industry for Hawaii took place.

The exhibit consisted of two bundles of leaves intended as cigar wrapper material. One had leaves about 18 inches long by 12 inches at the widest and the other about 13 by 7 inches in corresponding dimensions. Mr. Smith also showed a piece of textile fabric such as is used in screening tobacco while growing.

The tobacco was uncured and air-dried. The leaves were not tobacco until proved by the curing process. However, in their existing stage he considered the leaves of favorable appearance. He intended sending the samples to an expert in Connecticut for a report thereon. It would take fully three months for the report to come back.

Mr. Smith made a proposition of decisive experimentation on this class of tobacco. The land he had selected was on Louissou's place in Hamakua, samples of soil from thence being of a promising sort. The soil at the station was not of the best for the purpose. It was too heavy and produced a leaf excessive in size.

The intention was to plant an acre with Sumatra seed. Shelter construction included, the cost of the experiment would be about \$1200. There is an appropriation at the disposal of the Board, for assistance to the Federal station, of \$2500 for each six months till the end of the biennial period. The members present seemed disposed to devote the necessary amount for testing the tobacco problem out of this allowance.

Mr. Smith spoke of a yield of 1400 pounds to the acre, which fermentation in curing would reduce to 1000 pounds. He told of the success of a company that started operations lately in Porto Rico and said:

"If I have had assurances that if the experiment here prove successful, San Francisco people would come here and put a good deal of money into it."

Mr. Smith stated, in answer to a question by Mr. Giffard, that he had some cotton on hand grown at the station and that he had no doubt cotton might be made a regular staple in Hawaiian products.

Mr. Dee announced that lawyers had a report to make of the litigation and J. Lightfoot read that document. He reported on all the litigation of the company concluding with a judgment for \$35,000 in cash and 6000 shares of paid up stock and an award of \$20,000 to the lawyers by Judge Humphreys, which was reduced to \$7500 by the Supreme Court.

"That was quite a difference," remarked Lucas.

Then was detailed the payment of the judgment in part and the steps taken to collect the balance.

All but \$31,825 had been collected by the lawyers on the judgment and it was charged that Hustace had fraudulently converted his property to escape judgment. Some of this property had been purchased by L. H. Dee for the company and the attorneys recommended that other suits be begun to cover the judgment against Hustace, Egan and Foster.

Dr. Mouritz in response to a request from L. H. Dee announced that he wanted to find out about a certain piece of property purchased by the company, the Foster home, and upon which an unsecured note had been taken.

"That is perfectly satisfactory to me?" replied Dr. Mouritz.

Then it was proposed to adopt the attorney's report, but Dr. Mouritz objected to the portion advising further litigation, saying he had been opposed to lawsuits all his life. Mr. Dee said that more litigation was necessary to protect the interests of the company, which had purchased the property of the defendants. He moved that the report be filed.

J. H. Craig said he wanted a report of the trustees before that of the lawyers.

Mr. Dayton said there wasn't a report ready, and Dee stated that there had been an inventory showing the estate to be worth \$110,000. This included 7000 acres of land, material and a railroad.

"Where's the railroad?" asked Lucas.

"Down at the wharf," was the reply.

"I'd like to know what we have been doing; what we have got," insisted Craig.

"I am the only one of the trustees who has been here four years."

DEE AND LUCAS.

"Where's Hitchcock?" asked Lucas.

"Don't know," replied Dee, "he would do no good here."

"Where are the books?"

"In the safe."

"Why don't you bring them here?"

"Why should I?"

"You say you are the whole thing."

"I haven't said anything of the kind."

"Yes, you did."

"I didn't and I object to having slurs cast upon me."

Lucas and Dee were starting towards each other, when the chair called them to order.

Then Lucas said: "There is no use telling me that stuff is worth \$110,000; he is not telling the truth; it's a falsehood."

"You didn't come here for business," replied Dee.

ABOUT HITCHCOCK.

"How did it come that Mr. Hitchcock drew out this \$400 without the order of the President?" inquired W. M. Cunningham.

"It was put in the bank as treasurer of the company, and he drew it out. Then he went to M. Lokai," replied Dayton.

"It was about time for him to go. I should think, when there was only ten

# COOPER TO ARRANGE EXHIBIT

## Will Have Charge St. Louis Fair Display.

At a meeting of the Exposition Association of Hawaii, Supt. Cooper in whose charge is placed the \$30,000 appropriation for the St. Louis Exposition was delegated to arrange the exhibit and appoint a commissioner to the fair.

Mr. Cooper who was present at the meeting outlined in brief what his plans for the exhibit were. He said that work should begin immediately in arranging a display, and that a man should be appointed to get together articles to be exhibited and also to carry on the work to the end, including the representation of the Territory at St. Louis.

"I think we should lose no time" said Mr. Cooper, "the exhibit should be prepared immediately. In some ways perhaps a building would be better to show off our exhibit but it was evidently not the intention of the legislature to have a building."

Mr. Cooper inquired the cost of the projected building and Mr. Spencer stated that the estimates were slightly over \$21,000. The sentiment was expressed that this would leave too small an amount for the actual preparation of the exhibit.

"My idea," continued Supt. Cooper, "is to arrange a transportation exhibit for one thing—a display of the models of all the steamers running into Hawaii, and also of the transportation facilities here. Then also there should be photographs of our hotels, something to show that we are prepared to accommodate whatever visitors come to the islands."

Mr. Cooper suggested also that there should be information at the disposal of the commissioner showing just how much it would cost to visit the islands. He also favored a display of the products of Hawaii, including curios showing the progress since early times. "The school exhibit has already been arranged for," said Mr. Cooper.

Mr. Allan Herbert who was present suggested that there should be an agricultural display and this sentiment met with hearty approval. There will be besides an exhibition by the United States Agricultural Department, but this will be in the general building in which all the products of the United States are to be displayed.

WHO SPENDS THE MONEY?

The legislature did some queer things in its provision for the governmental departments, and the St. Louis Exposition fund suffered along with the rest. There is an appropriation of \$20,000 for this purpose to be expended under the direction of the Superintendent of Public Works. The item is in the six months bill and in the eighteen months bill it appears again, but this time under the office of the Secretary of the Territory. This amount is to be "only such portion of same to be used as amounts to the unexpended balance of appropriation for this purpose for the period ending January 1st, 1904."

This makes another division of authority. Cooper will have to oversee the work of preparing the exhibit while Carter will take charge of the work on the first of the year.

Before an adjournment was taken yesterday afternoon a motion by Mr. Spencer was carried to the effect that Supt. Cooper should be authorized to appoint an exposition commissioner to work under his supervision. This was carried unanimously. Mr. Cooper stated afterwards that he had no one in mind for the position.

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dollars in the bank," said Cunningham. "It was something like the Chinese fund. It seems to me he deserves a letter from Mr. Brown of Merchant street."

"Mr. Dee and others have written him," said Dayton. "I'll bet a letter from High Sheriff Brown would fetch him."

Mr. Cunningham suggested there ought to be a vote of censure for every officer besides Mr. Dee.

DEE REPORTS ON DAVIS. Mr. Dee made another effort to report. He said when the directors took hold there were \$35,000 owing, which had been reduced to \$17,000. Further that Paul Neuman had been engaged to watch the company's interests and afterwards Geo. Davis. Then Davis had run away to Washington and new lawyers had to be employed, but Davis crept into court when the decision came awarding the lawyers \$20,000. Mr. Dee said he had asked Judge Humphreys about the fee, and had been told that it was payable only upon the recovery of the judgment awarded, but in spite of that Humphreys directly issued an order for the payment of \$7500 though the money had not been all recovered. "If that isn't against the law I don't know what is," said Dee. "There have been some nasty remarks made about me, but I will say right now that no one can put a finger on a point and show where I haven't done right. I am out of pocket, but I'm not squealing. As far as the directors are concerned I am ready to step down and out, and let some of the rest of you try it awhile."

METTING ILLEGAL. J. H. Craig said he hadn't got the information he was after yet and wanted

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