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SLOW WORK TO GET JURY Many Are Called But Few Are Chosen.

At the close of yesterday's proceedings in the Jones murder trial before Judge Robinson, nine jurors had been passed for cause. Six of these made up the result of the second day's examinations, the nine being as follows: H. A. Parmelee, Wm. Dunbar, E. R. Bivens, J. J. Egan, I. Bray, Jas. D. Dougherty, John Coffey, H. C. Brown and Benj. F. Vickers.

With three men yet to pass for cause there are but nine more names in the trial jury box. Out of the special venire of fifty returnable yesterday morning, thirty-six were returned by Deputy Sheriff McGurn as summoned, making a total of fifty-six from the beginning.

Following is the list of those excused yesterday for extraneous reasons and for cause relating to the case: F. E. Nichols and W. C. Peacock, doctors; certificates; C. J. Day, William Prestige and Chas. C. Eakin, British subjects; Edwin Harbottle and Philip Kaumea, unfamiliarity with the English language; Bruce Cartwright, foreign consul; J. P. Halola and John Leal, policemen; Emmett May, Frank Carvalho and Ernest Kani, business reasons; Albert Lucas and Jas. W. L. McGuire, relationship; Jos. A. Lawe-lane, on previous Jones jury; John C. Lane, Samuel Nowlin, John Isaac, Arthur L. Soule, W. O. Atwater, Edward Benner, A. C. Lovekin, Saml. E. Pierce and Oliver H. Walker, for various causes, mostly the holding of opinions. One was for conscientious scruples about the death penalty.

ALLEGED BUSINESS WRECKING. Judge Gear was engaged morning and afternoon yesterday in hearing, and still has before him, the equity suit of V. O. Teixeira against the American Dry Goods Co. and L. B. Kerr & Co., Ltd. H. E. Highton appears for plaintiff, and H. E. Cooper for defendants. The complaint involves a charge of conspiracy to wreck the American Dry Goods Co., in which plaintiff had considerable interest.

W. W. Bierce, Ltd., vs. Clinton J. Hutchins, trustee of the Kona Sugar Co., is still on before Judge De Bolt, the trial having begun on Monday.

HEAVY COSTS ADDED.

Judgment by Judge Gear has been filed in the suit of the First National Bank of Hawaii vs. Jesse M. McClesney et al. to the effect that the plaintiff recover from Jesse M. McClesney and Robert W. McClesney, surviving copartners of the firm of M. W. McClesney & Sons, the sum of \$44,537.82, with interest at the rate of 6 per cent.

DONE BY TRYING.

Nobody can tell what he can do till he tries. When a thing ought to be done the modern spirit moves us to keep working away at it until it is done. In the face of this idea the "impossible" vanishes. Where there's a will, there's a way. "If we could but rob cod liver oil of its sickening taste and smell and then combine it with two or three other ingredients we should possess the best remedy in the world for certain diseases that are now practically incurable."

So said a famous English physician twenty-five years ago. "But it will never be done," he added. "You can no more turn cod liver oil into a palatable medicine, than you can turn the Codfish itself into a Bird of Paradise." Yet he lived to admit that in WAMPOLE'S PREPARATION the "impossible" had been accomplished. It is palatable as honey and contains all the nutritive and curative properties of Pure Cod Liver Oil, extracted by us from fresh cod livers, combined with the Compound Syrup of Hypophosphites, Extracts of Malt and Wild Cherry. This remedy is freed from the bad peculiarities Dr. Frothingham so detested, and it is precisely the splendid medicine he wished for. Use it freely and confidently for Hysteria, Wasting Complaints, Anemia, Blood Impurities, Asthma, and Throat and Lung Troubles. Dr. W. H. B. Atkins, Physician to Toronto General Hospital, says: "I am much pleased to state that the results from using Wampole's Preparation of Cod Liver Oil have been uniformly satisfactory; it appealed to me as being prepared according to correct scientific principles. It increases the appetite and influences the digestion of food; it is delicious to take, will not disappoint you, and is effective from the first dose. One bottle convinces. At all chemists,

per annum until paid, together with plaintiff's costs taxed at \$1150.94.

DIVORCES GRANTED.

Judge De Bolt granted a decree of divorce to Annie P. Vida against William C. Vida for refusal and failure to provide suitable maintenance. Andrew Cox, the deputy sheriff of Waihua, was granted a divorce against Annie M. Cox by Judge Gear. C. W. Ashford for libelant; no appearance of or for libellee. The grounds are cruelty and desertion.

DEFAULT JUDGMENTS.

Judge De Bolt has ordered that the bill be taken pro confesso, giving judgment for plaintiff by default, in the two suits of Henry Smith, Holt estate trustee, against Christopher J. Holt and Emma N. Holt, and against John D. Holt, Jr., Emma Holt, Waiakua Agricultural Co. and Carlos A. Long.

COURT NOTES.

Judge Gear granted defendant in the suit of James W. W. Brewster vs. Frederic J. Church ten days more wherein to file his bill of exceptions. Plaintiff's bill of exceptions in the ejectment suit of Right Rev. Libert Hubert Boeynaems vs. Malle Kamalu Paahao has been filed. It is an appeal from the granting of a nonsuit by Judge Gear. Ernest Pardon, one of the beneficiaries, by his attorney in fact, the Hawaiian Trust Co., Ltd., has appealed from the decree of Judge De Bolt in the matter of the estate of August Kraft, deceased.

SUPREME COURT HOLDS NOTLEY WILL IS VALID

By a majority decision of the Supreme Court, written by Chief Justice Frear and signed by Justice Perry with the author, the Notley will contest falls to the ground. The last will and testament of Charles Notley was admitted to probate by Judge Little of the Fourth Circuit. An appeal was taken to the Circuit Court and a jury by the four children of decedent, his widow electing to take dower instead of further contesting the will. Judge Robinson of the First Circuit went to Hilo to preside at the trial of the appeal, and at a certain stage of the trial granted a motion to direct a verdict for the proponents of the will. An appeal from this ruling was taken to the Supreme Court, with the result already stated. The ground of contest was that of undue influence by the decedent's niece, Mrs. Emma Danford, nee Mullinger.

TERMS OF WILL.

"Mr. Notley had lived on the island of Hawaii half a century. He successively herded sheep, kept a store and tannery and cultivated sugar cane, and finally his property became of considerable value. He only took one Hawaiian wife, by whom he had a number of children, of whom four survived him. In 1855 he visited England, his native land, and brought back with him his niece, Emma Mullinger, then a child of about thirteen years, whom he brought up as a daughter. In October, 1898, Emma married and moved to Honolulu. The will was executed May 18, 1899; the first codicil, August 2, 1900, and the third codicil, April 11, 1902. Mr. Notley died May 2, 1902.

"The will gave \$1000 to a Miss Barnard, who had lived at the Notley home for a time; \$500 to the decedent's brother in England, with a gift of the same by way of substitution to the brother's wife and granddaughter successively; \$500 to Emma Mullinger's father in England; the homestead, furniture, etc., on Hawaii to decedent's son David; the proceeds of an insurance policy in equal shares to his wife, his children, William, Maria and David, and his niece Emma; the residue of the estate to the executors in trust to pay the income thereof in equal parts to the wife, the said three children and Emma respectively, for their lives, and the children of the remaining son Charles, with various provisions by way of substitution, remainder, payment to the children of Charles upon their arrival at certain ages, freedom from the control of their husbands in the cases of Maria and Emma, etc., and finally, on the termination of all the life estates, the corpus was to be divided equally among the heirs of the three children, the niece and the children of the remaining son Charles. Thos. R. Walker and Anthony Lidgate were appointed executors and trustees. The first codicil substituted Cecil Brown as executor and trustee in place of Mr. Walker, who had left the Territory, and expressly confirmed the will in all other respects. The second codicil gave the homestead, furniture, etc., to Emma in place of David, with a proviso that the wife should have the use of a cottage on the premises, with its furniture, for life, and expressly confirmed the will in other respects."

LAW EXPOUNDED.

In its syllabus, the decision holds that, "in deciding the question whether there is sufficient evidence of undue influence in the making of a will to go to the jury, the evidence must be considered in the light most favorable to the contestants." Also, there must be both insufficiency of evidence and absence of material evidence to justify the direction of a verdict for the proponents. In the body of the decision the Supreme Court indicates its satisfaction that the court below was so justified. It is held that, in order to set aside a will for undue influence, it must be proved that such influence operated at the very time of making the will, but the evidence must be of a very clear and convincing character. Also, that a subsequent codicil confirming the will, if not made under undue influence, makes it immaterial that the will itself was procured by undue influence, if such were the fact. Undue influence, further, must amount to fraud or coercion, or the substitution of another's will for that of the testator. Premitting the circum-

stances shown by the evidence, the decision holds that it was not error to direct a verdict for the proponents. The will itself was not unnatural and its provisions were fully accounted for on other grounds than the undue influence of the niece. At the same time, "no testator may make even what is sometimes called an unnatural will if he does so freely and with a sound mind. Mere suspicion or conjecture of undue influence is insufficient to justify nullifying an exercise of one's right to dispose of his property by will."

DISSENTING OPINION.

Justice Galbraith dissents. He agrees in the main with the rules of law cited, but disagrees with their application by the majority. Quoting the principles they lay down he says: "These principles applied to this case do not justify shading the evidence in favor of the proponents or taking that view of it most favorable to them. For instance, these principles do not warrant the deduction that the son, Charles, was disinherited on account of the Hilo Custom House episode—whatever that was—in 1895, since it is clear that there was a reconciliation between him and his father after that, for the latter invited Charles and his family to return to the homestead to reside and they did return there and remained during the greater part of the years 1896, 1897 and 1898. Again in 1897 when the decedent gave each of his children and Miss Mullinger five thousand dollars, Charles was included and treated the same as the others. Is it not more reasonable to infer that the cause of Charles' disfavor with the decedent arose subsequent to 1897? Was it caused by Emma Danford's dislike for Charles and by undue influence exerted by her over decedent or by some other influence? Whatever the cause may have been I am not able to say under the evidence that reasonable men would agree in their conclusion or attribute it to the same cause."

The dissenting Justice quotes at length from the will and reviews the testimony to show color of a case for contestants to go to the jury. This is what he says of the niece's conduct: "Notwithstanding the fact that the testimony relating to the exact time of the execution of the will and codicils fails to show any immediate present influence being exerted to control the mind and will of the decedent, I cannot overlook the fact that Emma Mullinger, when a girl of thirteen, after a few weeks' acquaintance with her uncle, the decedent, voluntarily left her home, father and mother, and came to this far away land to live with him and from that time until his death was apparently very much attached to him and lost no opportunity to make a show of her affection for him, but as soon as he was dead permitted his body to be taken from her home, where he died, and the funeral services to be conducted from an undertaker's parlors; that she had an aversion for Charles Notley and his mother and that every prediction or threat made by her relative to the disposition of decedent's property was verified by the terms of the will when published and that she had ample opportunity to exert undue influence over the decedent. These with other incidents showing a disposition on the part of the decedent to yield to the wish of Emma Danford in many matters certainly tend to support the theory of the contestants."

In conclusion Justice Galbraith argues that, "while the trial judge has the undoubted right to take a case from the jury and to direct a verdict in certain cases, this power should be exercised with great care and caution. Under our system of laws the jury are the constituted triers of the facts. When a party elects a trial by jury he has the right to demand the judgment of the jury on the facts. The trial judge is frequently called upon to act upon the spur of the moment, without sufficient opportunity to analyze or consider the testimony."

Kumalae Contradicted.

Edgar L. Lewis, foreman of the grand jury, was put on the witness stand by Deputy Attorney General Peters, before Judge Robinson yesterday morning, to disprove the affidavit of Representative Jonah Kumalae alleging that deponent was intimidated in the grand jury room. The witness emphatically testified that the statements were false which represented Mr. Peters as threatening Mr. Kumalae with prosecution for perjury. Once, Mr. Lewis admitted, Kumalae refused to answer questions and Mr. Peters told him he would have to answer. The hearing was continued, as Attorney Ashford was leaving for Maui. Judge Robinson though allowing the examination, intimated that he considered the matter immaterial as attacking the indictment.

Husband's Fists Out Her Lips.

Mary D. Bertelman has filed suit for divorce against Frank C. Bertelman. She alleges they were married on May 18, 1895, and that for several years he has failed to provide her with the necessities of life, although of sufficient ability to do so. She alleges extreme cruelty and cites as an instance that on June 15, 1903, her husband struck her with his fist, cutting her lips, which had to be sewed up again, and she was obliged to go to the hospital. On March 1, 1904, she alleges that he was again guilty of extreme cruelty, striking and throwing her to the ground, and kicking her on several parts of her body. She then left him. She alleges he is worth \$75,000 and asks to be awarded alimony and a portion of the property.

Church Refused Charter.

Governor Carter has disapproved the petition for a charter of incorporation of the Church of Christian Science at Paoua. The applicants are J. P. Kapile and several others.

BAD COMPLEXIONS Dry Thin and Falling Hair and Red Rough Hands Prevented by CUTICURA SOAP.

MILLIONS use CUTICURA SOAP exclusively for preserving, purifying, and beautifying the skin, for cleansing the scalp of crusts, scales, and dandruff, and the stopping of falling hair, for softening, whitening, and soothing red, rough, and sore hands, in the form of baths for annoying irritations, inflammations, and chafings, or too free or offensive perspiration, in the form of washes, for ulcerative weaknesses, and for many sanative antiseptic purposes which readily suggest themselves to women, and especially to mothers, and for all the purposes of the toilet, bath, and nursery. No amount of persuasion can induce those who have once used it to use any other, especially for preserving and purifying the skin, scalp, and hair of infants and children. CUTICURA SOAP combines delicate emollient properties derived from CUTICURA, the great skin cure, with the purest of cleansing ingredients and the most refreshing of flower odours. No other medicated soap ever compounded is to be compared with it for preserving, purifying, and beautifying the skin, scalp, hair, and hands. No other foreign or domestic toilet soap, however expensive, is to be compared with it for all the purposes of the toilet, bath, and nursery. Thus it combines in ONE SOAP AT ONE PRICE, the best skin and complexion soap, the best toilet and best baby soap in the world.

Complete External and Internal Treatment for Every Humour, Consisting of CUTICURA SOAP, to cleanse the skin and scalp of crusts and scales and soften the thickened cuticle, CUTICURA Ointment, to instantly allay itching and irritation, and soothe and heal, and CUTICURA RESOLVENT, to cool and cleanse the blood. Sold throughout the world. Australian Depot: R. TOWNS & CO., Sydney, N.S.W. So. African Depot: LEENON LTD., Cape Town. How to have Beautiful Skin, Hair, and Hands. Free. POTTER CORP., Boston, U. S. A., Sole Props., CUTICURA REMEDIES.

ARCHDEACON WEBBER TO HOLD EPISCOPAL MISSION

Bishop Restarick expects Archdeacon Percy C. Webber to arrive on the Alameda on March 18th. The Bishop and clergy are happy in having secured Archdeacon Webber who is so well known all over the United States as a Missioner of great earnestness and spiritual power. Last October Bishop Restarick saw the Archdeacon in Washington, D. C., and asked him to come to Honolulu and conduct a mission. The latter said that he would be glad to come, if, in the judgment of the Bishop, he could be the means of doing good.

WHAT IS A MISSION?

Bishop Restarick being seen on the matter has supplied the Advertiser with some account of the purpose of a Mission and of the Missioner who is coming. A Parochial Mission is a special effort made in a parish, the object of which is to deepen the spiritual life of the people, reaching, if possible, those who have been baptized or confirmed, but who are negligent of their religious duties and privileges, and indifferent to the claims of Jesus Christ and His Kingdom upon their hearts and minds.

It is also intended as far as possible to reach others, the careless and those who sin without thought of repentance, and to arouse them to a sense of the blessings of a life lived in the knowledge and love of God. A Parochial Mission is a time of refreshing and reviving, a time when men are called to repent and forsake their sins, and no time could be more appropriate for this than the last weeks of Lent including Holy Week.

A Parochial Mission is not a time for noise and excitement. Its purpose is by direct and plain preaching to bring God and His Truth home to the hearts and minds of men.

Parochial Missions as we have them now originated in France. In England in the past forty years they have been held all over the country. In 1874 three hundred parishes in London held Missions at one time. In New York in 1882 and again in 1892 some forty parishes held Missions during the season of advent.

THE MISSIONER.

Archdeacon Percy Clinton Webber is a native of Boston, Mass., and is a graduate of the Boston University and of the Cambridge Divinity School. He served as Archdeacon in two Western Dioceses, but has for some years given himself wholly to the work of a Missioner. There are many people in Honolulu who have attended Missions conducted by him in California and elsewhere. Some years ago Archdeacon Webber held a mission in St. Paul's Church, San Diego, Cal., of which Bishop Restarick was then Rector, resulting in much good, and the Bishop hopes that the Mission here will be a blessing to the whole community.

The services which will be announced later will be held daily. The only preparations being made are the practice of suitable hymns and the appointment of ushers and the offering of prayer for God's blessing. When asked about expenses Bishop Restarick stated that no Missioner ever made any charge, that it was customary to take up an offering at the closing service for the expenses of the Mission. The Archdeacon has had to decline many pressing calls in order to fulfill his promise to Bishop Restarick made at the time of the latter's consecration that when he was wanted he would come to hold a Mission.

EWA PLANTATION LEAP YEAR DANCE

A pleasant "leap year" dance took place at the Ewa Plantation pavilion on the evening of Saturday, March 5th. Notwithstanding the inclement weather, the affair was well attended—a number of Honolulu folk being present. The gentlemen were highly adorned with favors donated by their lady escorts—large bows, lace collars and vari-colored aprons being very conspicuous.

Being strictly a "leap year" affair, a number of rules were enforced, under heavy penalties, by the fair sex, which tended to cause a great deal of amusement. Smoking was not allowed on the "lanai" without permission. No gentleman was allowed to cross the floor without a lady escort. Each gentleman was requested to act in a lady-like manner, and to assume an unconcerned expression when asked to dance. One dance was granted as a "gentleman's choice," and was, needless to say, taken advantage of in every instance. Refreshments were served by the ladies in the pavilion, which was handsomely decorated with ferns and flowers, and brilliantly lit by electricity. Dance music was well rendered by a quintette club from town.

THERE IS NO DANGER whatever from lockjaw or blood poison resulting from a wound when Chamberlain's Pain Balm is promptly applied. It is an antiseptic and destroys the germs which cause these diseases. It also causes wounds to heal without maturation and in one-third the time required by the usual treatment. Sold by all Dealers and Druggists. Benson, Smith & Co., Ltd., Agents for Hawaii.

WHAT THIS MAN SAYS

Only Recchoes the Sentiment of Thousands In Our Republic. The Honolulu reader is asked to thoroughly investigate the following. This can readily be done as the gentleman whose statement is published below will be only too pleased to give minute particulars to anyone enquiring not out of idle curiosity but if the enquirer really suffers from any of the consequences which always attend weakened or inactive kidneys. Read carefully what this gentleman has to say: Mr. J. D. Conn, of this city, is a carpenter by trade, and is employed at the Oahu railroad. "I was troubled," says Mr. Conn, "with an aching back. The attacks occurred periodically for years, and especially if I happened to catch cold. There were also other symptoms which plainly showed that my kidneys were out of order. A short time ago, I heard about Doan's Backache Kidney Pills and the wonderful things they were doing. Proceeding, then, to Hollister & Co.'s drug store, I obtained some of these. Since taking these pills there is a great improvement in me. I always keep some of the pills on hand now so as to be provided for any contingency. I feel sure if anyone troubled as I was should give Doan's Backache Kidney Pills a fair trial they will not fail to be benefited by them." Doan's Backache Kidney Pills are sold by all druggists and storekeepers at 50 cents per box (six boxes \$2.50) or will be mailed on receipt of price by the Hollister Drug Co., Honolulu, wholesale agents for the Hawaiian Islands. Remember the name, Doan's, and take no substitute. Notwithstanding the wet weather, Ewa plantation has close on 8000 tons of sugar off. F. W. Milverton, the attorney, returned from the Bonoma yesterday from a trip around the world.