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COL. THOMAS FITCH AND HIS FAMOUS SAKE CASES

Veteran Lawyer Returns From the Mainland After Winning a Big Claim for Honolulu Clients---History of the Sake Appeal.

(From Saturday's Advertiser) Among the passengers who reached Honolulu yesterday was Col. Thomas Fitch, fresh from his success with the sake cases. He comes to stay. "Concerning the sake cases," said Mr. Fitch, "the matter was first brought to my attention in October, 1901, by Harry J. Johnston, the Custom House broker. He stated that before annexation sake—which has never been mentioned by name in the tariff laws of the United States, was classed as a still wine under the 'similitude' clause, which provides that whenever an imported article is not enumerated in the tariff schedules, it shall pay such duty as is levied upon the article which it most nearly resembles in material, quantity, texture and in the use to which it is applied.

"Prior to 1887 sake had been classed by the United States customs officials as a brandy subject to a duty of two dollars and fifty cents per gallon. A New York importer protested, and demanded a reclassification, claiming that sake resembled a wine more than it did a brandy. The claim of the importer was allowed without a contest, the question as to whether sake was a beer or a wine not being raised. The importations of sake into the United States were then trifling. Under the Hawaiian law sake was described by name and paid a duty of sixty cents per gallon.

"After annexation it was of course imported under the United States customs laws, and the ruling of the New York Board of Appraisers made in 1887, classifying it as a wine by similitude was followed and no protest was made by any importer. "In the early nineties some parties on the mainland desired to engage in the manufacture of sake and applied to the Treasury Department for information as to the course they should pursue. The Commissioner of Internal Revenue replied that sake was a liquor brewed from a grain (rice) and that a brewer's license would be required for its manufacture. The anomaly was thus presented of sake being classed as a beer by the Internal Revenue Department, and as a wine by the Customs Department of our government. As a beer it would have been subjected to a duty of twenty cents per gallon and as a wine it was subjected to a duty of fifty cents per gallon, while as a 'non-enumerated manufactured article' not bearing a sufficient resemblance to either beer or wine so as to entitle it to be classed as either, it would have been subjected to an ad valorem duty of twenty per cent, amounting to about nine cents per gallon.

"The ruling of the Commissioner of Internal Revenue that sake is a 'rice beer' was, as I have stated, made in the early nineties, and in order to fortify our case with a later decision I addressed a letter to the commissioner asking information concerning the steps necessary to be pursued in order to engage in the manufacture of sake. The reply of the commissioner affirmed the previous ruling of his department that sake is a beer, and stated that a brewer's license was necessary. Then Mr. Johnston went to work. He obtained from about every importer of sake in Honolulu a contract to the effect that he and I would undertake all the work and cost of protesting and carrying the matter to the court of last resort, and that the importer would pay us a portion of 'sake' refunds that might be obtained from the government until a final decision should be reached. "Thus fortified we began to prepare and file protests, and this work has been continued ever since until there are now about one thousand protests on file in New York. Here is where Mr. Johnston's accurate and extensive knowledge of customs law and practice proved very valuable. The United States Government is a great and glorious government, but it is exceedingly technical in dealing with its citizens, especially when its citizens are trying to get back money that they have paid into its treasury. If you omit anything on your papers or fail to properly state anything there, no matter what may be your equities, the United States will slam the door of its Treasury in your face, and calmly kick you down the front steps into the mire of insolvency. Harry Johnston did not—in the language of the ungodly—'overlook any bets.' He claimed, in the protests we filed, that sake was not a wine, that it did not resemble a wine, that it was a beer, that it resembled a beer, that it was a malt extract, that it resembled a malt extract, and further that it was a non-enumerated manufactured article that did not resemble anything.

"It was with extreme difficulty that I prevented him from claiming that sake was a cholera specific, an embalming fluid, an illuminating oil, and a motive power for the propulsion of dirigibles. "What is sake in fact? Well that depends upon the point of view. If you take the material from which it is made, and the process of manufacture as your standpoint, it is beyond all question a beer. Wine is made by a process of natural fermentation from a fruit juice. Beer is made by a process of artificial fermentation from a malted grain. Sake is a brew from rice exactly as beer is a brew from barley. It contains no carbonic acid gas or other beer, because in the process of its manufacture the effect of internal revenue that it resembled a beer, that it was a malt extract, and further that it was a non-enumerated manufactured article that did not resemble anything.

"The appeal having been properly lodged we went to work gathering additional evidence. We secured the aid of Messrs. Comstock & Crane who are the leading custom house lawyers in New York City. Mr. Johnston obtained further depositions from Japan showing the process of manufacture of sake. He also visited San Francisco and procured three samples of sake made by a manufacturer of it recently established there. I procured in the east the expert testimony of brewers, maltsters and chemists, and at the trial we had as a witness the most distinguished analyst and expert in the country. It all cost a lot of money of course, but the Government could not shake or answer our testimony, and in court we simply obliterated the contention that sake bears a substantial similitude to any wine ever made.

is that Uncle Sam will refund forty-one cents instead of thirty cents per gallon to Honolulu importers on over one million gallons of sake imported during the last two years and three months, and on probably three hundred thousand more that will be imported before the case shall be finally decided. From this decision the government has taken an appeal to the U. S. Court of Appeals in New York, for it naturally desires the decision of the higher tribunal as a warrant for refunding upwards of six hundred thousand dollars, but, for the reasons I have already stated, there is but small chance of the decision of the U. S. Circuit Court of New York being reversed. It is not probable that pending an appeal the importations of sake will be substantially reduced. It is sold to consumers about as fast as it comes in, and a thirsty Jap, however thirsty, will not refrain from drinking his sake today, because it will be cheaper next month or next year. "What will be done with the money when received? I presume that it will remain in Honolulu. The share coming to the importers will remain here of course. Harry Johnston will probably be busy loaning a large portion of his share in small and large sums to a torchlight procession of glad handed and impetuous friends, and my share?—oh, I don't know. I have given up the habit of counting chickens before the process of incubation is completed. I expect to remain here. No place has a greater charm for me than Honolulu. I have no ties calling me elsewhere, for I am now alone in the world. I shall resume the practice of law here, for I cannot bear idleness and its sorrowful reflections, and work will bring distraction if not peace."

A MINER'S TROUBLE

REACHES A CLIMAX AFTER YEARS OF SLOW DEVELOPMENT.

A Settlement Happily Effected in the Case of Henry Story in Time to Avert a Serious Misfortune.

If all the troubles of the coal miners could be adjusted as satisfactorily as that which for many months disturbed the happiness of Mr. Henry Story, of 532 Muskingum avenue, Zanesville, Ohio, it would be a most welcome relief for both the men and their families.

The facts in the case were related by Mrs. Story, who is a very happy woman today because her husband has had such a fortunate escape from the calamity that threatened him.

"My husband," says Mrs. Story, "is a very hard working man and has always been very healthy, but some months ago rheumatism got hold of him, and made him suffer terribly. It would soon have used him up if it had not been for Dr. Williams' Pink Pills for Pale People, which, we think, are the best medicine in the world.

"He suffered so much in his legs that he could hardly stand; his back hurt, and he had such pain in his left arm that he could not rest night or day. His arm would turn numb and I would have to rub and bathe it in hot water. I tried everything I could think of to give him relief. At last he went to a doctor, who told him that his trouble had come from hard work. The doctor gave him some medicine, but it did not do any good.

"In the meantime I picked up a paper and read about Dr. Williams' Pink Pills for Pale People and thought my husband's trouble might be with his nerves. I got two boxes of the pills for him and persuaded him to take them.

"After he had taken the first box he felt much better, and when he had finished the second box he was better still. So I bought six boxes the next time and he took four of them, that is six boxes in all. That is three months ago and he has never had an ache or pain since and can do a hard day's work with any young man. We praise Dr. Williams' Pink Pills to all our friends."

These famous pills effect radical cures of all diseases of the blood such as rheumatism, and of the nerves such as neuralgia and partial paralysis. They repair waste and give fresh vitality. They are sold by all druggists.

MACFARLANE GIVES UP THE EXHIBIT

(From Saturday's Advertiser)

F. W. Macfarlane, who returned yesterday from a trip to California, has abandoned the idea of an exhibit to the St. Louis Exposition from a Hawaiian standpoint. "It is too bad," said Mr. Macfarlane yesterday afternoon; "but it is too late now and cannot be helped. I still think we should have made a showing and believe that a house planned with wide verandas as we first arranged would have proved a very popular resort at the exposition and a means of advertising Hawaii.

"As you know, I was unable to visit the exposition though the authorities were very kind with their offers of privilege and seemed to want me to come and talk over getting Hawaii to come in after all, but I was unable to go and of course, while there is yet time for Hawaii to exhibit, there is no chance of anything being arranged. The fair will not be completed for two months.

"Judging from talks in California and the general outlook, things seem brighter for Hawaii and I think we may get over the worst of our over-land transportation difficulties."

FOR BABY'S SKIN SCALP AND HAIR

Something for Mothers to Think About

EVERY CHILD born into the world with an inherited or early developed tendency to distressing, disfiguring humours of the skin, scalp, and blood, becomes an object of the most tender solicitude, not only because of its suffering but because of the dreadful fear that the disfiguration is to be lifelong and mar its future happiness and prosperity. Hence it becomes the duty of mothers of such afflicted children to acquaint themselves with the best, the purest, and most effective treatment available.

That warm baths with CUTICURA SOAP to cleanse the skin and scalp of crusts and scales and gentle applications of CUTICURA Ointment to instantly allay itching, irritation, and inflammation, and soothe and heal, to be followed in the severest cases by mild doses of CUTICURA RESOLVENT are all that can be desired for the alleviation of the suffering of skin-tormented infants and children and the comfort of worn-out worried mothers has been demonstrated in countless homes in every land. Their absolute safety, purity, and sweetness, instantaneous and grateful relief, speedy cure, and great economy leave nothing more to be desired by anxious parents.

Complete External and Internal Treatment for Every Humour, consisting of CUTICURA SOAP, to cleanse the skin and scalp of crusts and scales, and soothe 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. Aust. Depot: R. TOWN & CO., Sydney, N. S. W. So. African Depot: LINDSAY LTD., Cape Town. "How to Cure Baby Humours," free. POTTER DRUG AND CHEM. CO., Boston, U. S. A. Sole Props., CUTICURA REMEDIES.

DR. J. COLLIS BROWNE'S CHLORODYNE. ORIGINAL AND ONLY GENUINE.

Each Bottle of this well-known Remedy for Coughs, Colds, Asthma, Bronchitis, Neuralgia, Toothache, Diarrhoea, Spasms, etc., bears on the Government Stamp the name of the Inventor DR. J. COLLIS BROWNE. Numerous Testimonials from Eminent Physicians accompany each bottle. Sold in Bottles, 1/1 1/2, 2/9, 4/6, by all Chemists. Sole Manufacturers, T. DAVENPORT, Limited, London.

COMMERCIAL NEWS BY DANIEL LOGAN.

No material change, one way or the other, is to be noted since last week's report. Olan has shaded up 50 cents to \$3.50 as if responding to the impulse of the 1000-share deal then announced and later reported on the Stock Exchange. On the other hand Kahuku is quoted an equal point lower after the sale of a block of 2675 shares on a Coast order. An explanation of the recently noted Coast demand for large blocks of some of our most depressed stocks is that they are wanted by present holders of considerable amounts acquired at much higher figures to average up results when the expected turn in the tide will take place. One of the causes for the continued depression of Hawaiian securities, according to excellent authority, is that Coast banks having loans thereon outstanding are making demands for settlements or, where that is impossible, for at least a reduction of the indebtedness.

LOCAL INFLUENCES.

As to local causes for the exceeding tightness of money, of which the fact is declared by everybody questioned who ought to know the situation, they are various but distinct and not contradictory. Some directly affecting the sugar industry have previously been discussed in this column. An influence just now being canvassed is the reduction of incomes of salary and wage earners, whereby these have much less money to spend above their living expenses than formerly. In the case of many the necessity even of reducing living expenses has become pressing. Not only have Government beneficiaries been more or less heavily cut down in pay under the retrenchment policy, but the working staffs of business houses have had to bear reductions of salary and wages in some instances more severe than those to which the former class has been subjected. The effect of this contraction of resources of a large proportion of the people is being felt in every department of trade, industry and finance. Not to mention the difficulty of keeping ordinary store accounts under safe control, it is like drawing eye teeth to collect notes, insurance premiums, etc.

One most formidable handicap upon the Territory's money circulation, about which loud murmuring is heard, is the drain of wealth to Japan from the Japanese in these islands. Since this has been swelled by a liberal flow of patriotic funds to aid the war with Russia, even the Japanese merchants here are feeling the contraction caused by the remittances home made by their countrymen. A student of the situation, who claims to have statistics to back his views, estimates that at least one million dollars a month is remitted to Japan. If such is not the fact, he would like to know where the surplus, over their cheap living expenses, of the fifteen million dollars a year paid to Japanese laborers in this Territory is locally deposited or invested. From such estimates, together with the fact that the Japanese here are not consumers of American products, the authority now quoted is a strong advocate of Portuguese labor for the plantations. There would be compensation for the higher wages required to secure Portuguese in place of Asiatics, in a labor supply both more efficient and more steadfast. Even the wages proposition would be modified by the fact that boys from 14 to 18 years of age in Portuguese households are quite capable of performing a very large proportion of the labor in the cane fields. Then the Portuguese are home buyers and builders, they are thrifty and their wage-earners soon enter the class of small investors. As a matter of course a certain proportion of them, as true clapped, would forsake common plantation labor and engage in independent industry. They would take up homesteads, grazing lands, etc., and generally form a valuable accretion to the body of tax-paying and self-governing citizens.

PASSING EVENTS.

Business men heartily acknowledge the impulse that the visit of the North Pacific squadron gave to all lines of trade. Though the comparative dullness following its departure seems by contrast like a reaction, the benefit of the visit of so many ships of the navy can be anything but transitory in reality. It certainly boosted up business in general and imparted a cheerful tone that was long needed. No doubt the flushing of circulation channels the money from the best produced had a good deal to do with what Henry's Beam-Moulding Circular notes as follows: "The June 15th holiday was extremely observed helping out the receipts of many of the shops on the 16th inst. Attendance on the races at Kapiolani Park did not look like hard times, for there were great crowds in the grand stand and all about the grounds.

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