

BEFORE THE COURT

Judge Perry Listens to Arguments on China Case.

Witness Examined in During Forenoon—Legal Points to be in the Briefs.

The regular hearing on the case of the China was begun before Judge Perry yesterday at 10 o'clock. The case was hurried along as expeditiously as possible, and all the witnesses were examined in the forenoon. In the afternoon Minister Cooper and General Hartwell made brief arguments. The first witness called was P. C. Jones. From the questions asked by General Hartwell it was judged that the purpose of introducing Mr. Jones as a witness was to show that the application of Colonel Macfarlane, as nominal owner of the China, for a register was not an unusual proceeding; that the registered owner was a familiar term used in speaking of many Hawaiian-registered vessels.

Mr. Jones testified that he had on a number of occasions taken bills of sale of vessels and secured Hawaiian registry, both in his own name and in the name of C. Brewer & Co. when he was manager. A list of vessels was read to him, and he specified several for which registry was secured during his active association with the firm. Among them was the Fooing Suey, in which he had invested no money, but for which he secured a Hawaiian registry. The usual method of securing the control to the real owners was by giving a charter for 99 years. In securing registry for these vessels, so far as he knew, the usual form of application was made and the usual oath taken. All the requirements of law had presumably been complied with. He said the usual name applied to such ownership was "registered" owners. He was not familiar with the term "flag owner."

To Minister Cooper's questions he replied that he could not remember whether or not he stated at the Custom House that he was more than nominal owner of the vessels.

Mr. T. Rain Walker, British Vice-Consul, testified that on August 13th he received a letter from Hackfeld & Co., asking if there were any legal impediments preventing the granting of a register to the China. Mr. Walker had replied to this letter that there were no such impediments to his knowledge. The objection of Minister Cooper to the introduction of these letters as evidence, on the ground that they were not official, as it was the duty of the Foreign Office to make such inquiries, was overruled. Mr. Walker said that at the meeting of the Cabinet, at which he was present, he was not asked if there were legal impediments to registry. He heard the question of accepting the extension of the provisional register raised, but did not hear it accepted or refused. He was of the impression that Minister Cooper had stated that distinct instructions had been sent to the representatives of the Government abroad to issue no more provisional registers. He had heard him state no reason why the register was refused.

Minister Cooper raised the question of the nationality of Colonel Macfarlane. Mr. Walker stated that as British representative he had charge of the British papers. At the request of the Foreign Office he had made search to find the register of the birth of Colonel Macfarlane. He had found the register. It was the custom to send it to London each year. It was supposed to be an evidence of British birth, as it was given only to those born of British parents. According to the laws of Great Britain in a foreign country all persons whose fathers or grandfathers were British subjects, could claim British nationality, unless he has renounced the oath of allegiance. On reaching the age of majority, such men could obtain the full rights of citizenship, unless an oath of allegiance to some foreign power had been taken. John Ena testified that his name had been used to secure the register of four vessels. He had a small interest in two of them. On making application for register he had taken oath that he was the sole owner as he had been told that was customary. He took the bill of sale, but put no money in the boat. He made no further explanation. So far as he knew, the Customs authorities thought he was the sole owner. The proceedings were the usual ones.

Mr. W. F. Allen, for 20 years Collector-General to 1884, explained the custom in vogue during his tenure of office of securing "flag ownership." It was his custom to make a fair valuation for the purpose of taxation. The practice of making long charter to owners was common. He looked to the owner to make the correct oath, and did not take it upon himself to inquire behind the bill of sale. He said he had no right to inquire if the one who secured the register had made any charter to the original owners.

When shown the bill of sale of the China Mr. Allen said that it seemed correct in form, but the details were meager and not at all like the bill of sale of an American vessel, for instance. When asked what he would have done had application been made to him for the registration of the China, knowing all the circumstances, he replied that he would have communicated with the Government for instructions.

Deputy-Collector F. B. McStocker described all the proceedings relating to the application for registry of the China as they had transpired in the Collector-General's office. He said the office had received a communication from Minister Cooper that it was the policy of the Government to issue no more

registers. He related the circumstances of securing registry of the Aztec. Personally he had not been satisfied with the proceedings. He stated that Colonel Macfarlane had brought his bond of \$2,000 to him for acceptance. It had not been received, but had been left at the office for safe-keeping. The Custom House had refused to grant the registry when it was requested by Colonel Macfarlane.

At 1:30 o'clock General Hartwell introduced as evidence his own chronological statement of events connected with the attempt to secure a registry for the China. All the correspondence relating to the subject was also introduced. Minister Cooper made a motion to quash the writ and dismiss the case. Both General Hartwell and Minister Cooper made short arguments on the merits of the case. The understanding was that General Hartwell is to file his brief today. Minister Cooper will file his return brief tomorrow and the answer will be filed on Thursday.

Think it a Small Matter.
Regarding the Hawaiian Immigration question, the Japan Mail says: Whether application shall be made to Belgium or to Italy to lend its good offices as arbitrator in the Hawaiian complication, is now the question of the moment, say the Tokyo newspapers. We trust that there is still a hope of settling the matter without recourse to arbitration. It is, after all, such a paltry business. Hawaii can not possibly hold to the manifestly untenable contention that by making a contract with a steamship company for a return passage in case of failure to find employment, an immigrant ceases to be a free laborer. The notion is almost laughable in its extravagance. That point conceded, nothing remains but the question of compensation, a paltry payment of something like a quarter of a million of dollars. Were there any principle involved, the case would be different, but the Hawaiian Cabinet, being composed of clear-headed men, must be thoroughly sensible that the position taken by them is impossible, and that to insist on carrying it to arbitration would be to incur ridicule as well as additional expense.

Germany Protests.
WASHINGTON, August 6.—The German Government has again entered a formal protest against the application to German sugar of section 5 of the new tariff act, by which German sugar would be taxed with a higher duty than other countries. It is not denied, however, that the German sugar clearly comes within the provisions of section 5 by reason of the payment of an export duty.

Secretary Wilson's Geography.
CHICAGO, Ill., August 4.—Mr. Wilson, United States Secretary of Agriculture, who has been visiting here, says he has sent a number of experts to the Klondyke to look after the agricultural interests of the United States there.

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