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STEWART AND DAVIS

Are Given Gentle Call Down by the Judge.

KAMALO CASE SET FOR TRIAL

Rathburn Perjury Case Occupied Circuit Court Yesterday—New Suits Are Filed.

Attorneys T. McCants Stewart and George Davis were the objects of rather caustic remarks on the part of Judge Humphreys in Circuit Court yesterday morning. The famous Kamalo sugar case, in which Humphreys was recently reversed by the Supreme Court, was called up by F. W. Hankey, who stated that he understood the matter was to be heard at this time, upon the order of the Supreme Court remanding the case for further proceedings. Mr. Hankey said he was willing to have the matter go over until the jury business had been concluded.

T. McCants Stewart asked that the case go over for a longer period; until the return of George Davis. He said he had not been consulted by Davis prior to his departure from the Territory, and that he would much prefer to have the hearing postponed until after the return of Mr. Davis, who was associated with him in the case. J. A. Magoon protested against any delay. He said he had been recently called into the case by the Kamalo Sugar Company, and that they were suffering every day by this delay. He protested against a continuance, stating that the Bishop Estate was getting ready to forfeit the lease of the land, unless something definite was done immediately. He stated that the stockholders had already lost considerable money by reason of this action, and were likely to lose everything else unless the case was heard at once. He understood that the matter had been set down peremptorily, and believed an immediate trial was of more pressing importance than any jury business.

"I was under the impression that this case was set provisionally, and was not to be taken up until the conclusion of the jury business," said Judge Humphreys. "The jury work is hardly likely to be completed before Thursday of this week, and it may take longer. I will set the case down peremptorily for next Tuesday morning. If Mr. Stewart intended to ask for a continuance because of the absence of Mr. Davis, the motion will be denied."

"I didn't intend to ask for a continuance," replied Stewart.

"You surely meant something; you can't have been talking here for five minutes for nothing," returned the court.

"I didn't ask for a continuance; I simply felt that some explanation was necessary because of my objection to having the matter taken up immediately," retorted Stewart.

"I assume that when Mr. Davis thought of leaving he knew that this case was to be taken up on the 9th. I assume then that he settled with his clients before departing, and if not, he can settle with them upon his return. The wheels of justice in this court will not be stopped because of the absence of Mr. Davis, or any other member of the bar."

RATHBURN PERJURY CASE.

The Circuit Court was occupied for the entire day yesterday with the case of Wm. K. Rathburn, charged with perjury in his testimony before the grand jury in the investigation of the case of Dr. A. B. Carter, who, it was alleged, shot Judge Rathburn on the night of July 14th. Dr. Carter is alleged to have committed the deed, and the matter was presented to the grand jury at its last session. At that time Rathburn testified that he did not enter the premises of Dr. Carter, but was out in the road when the shooting occurred, and he did not discover that he had been wounded until after his return home. This statement was contradicted by Dr. Carter and other witnesses before the grand jury, who alleged that Rathburn was near the fatal of the Carter house when he was shot. The grand jury, instead of indicting Carter for the assault, returned a true bill against Rathburn for perjury.

The evidence before the jury yesterday consisted principally of the statements of members of the grand jury as to what Rathburn's evidence had been, and also the testimony of Dr. Carter, Fredenberg, H. W. Kinney and others as to what really transpired on the eventful night. The latter named witness testified that Carter had threatened to shoot Rathburn on sight, for entering his wife. At the close of the Territory's case Mr. Robertson moved the court to direct a verdict for acquittal on the ground that no proof had been made of the falsity of the statements of Rathburn to the grand jury. He also contended that there was no proof that the grand jury which passed upon the case was properly constituted or drawn, and this

last point is to be further argued this morning. The court did not pass upon the question yesterday, and the hearing of argument will be resumed at this morning's session. The following jury is hearing the case: J. K. Merseberg, G. K. Kala, J. Kahalepua, J. K. Nakila, Edward Woodward, David Nottley, John L. Hansman, Herman Levy, Edwin K. Blake, George W. Macy, H. C. Bickerton, Alexander G. Nicholas.

NEW SUITS.

A new fishing rights suit has been instituted by the John H. Estate, Ltd., against the Territory of Hawaii. The properties in question are known as Waipio, Miki, Homakala, Aulole, Hanapuili, Ulemoku, and Mokuumeume Fishery, all located in Pearl Harbor lochs. The action is brought under section 96 of the Organic Act, and plaintiff asks that its fishing rights in the said fisheries be established.

Kalulo Kahulo has instituted suit against Julia Lee, Mary Lee and Clara Lee, her granddaughters, for partition of property jointly owned by them in Pauo. Petitioner prays for the appointment of a guardian for the minors to appear and defend the suit.

COURT NOTES.

A counsel fee of \$50 is allowed in the divorce decree of Ah Young vs. Wong Wah Yee.

Notice of appeal is given from the decision of Judge Gear in the matter of the estate of R. W. Holt, deceased.

A material man's lien has been filed by Oscar Sellers against Lee Tong for \$131, due for plumbing work.

A plea in bar has been filed by Geo. R. Carter to the petition of William A. Hall, a spendthrift, for his removal as guardian. The ruling of Judge Humphreys in the case presented to him, is set up as a reason for dismissal of the new suit.

An amended petition has been filed in the divorce libel of Margaret Wong vs. Sam Wong, alleging defendant's adulterous relations with one Mrs. Wahinamaka, and charging cruel and inhuman treatment.

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