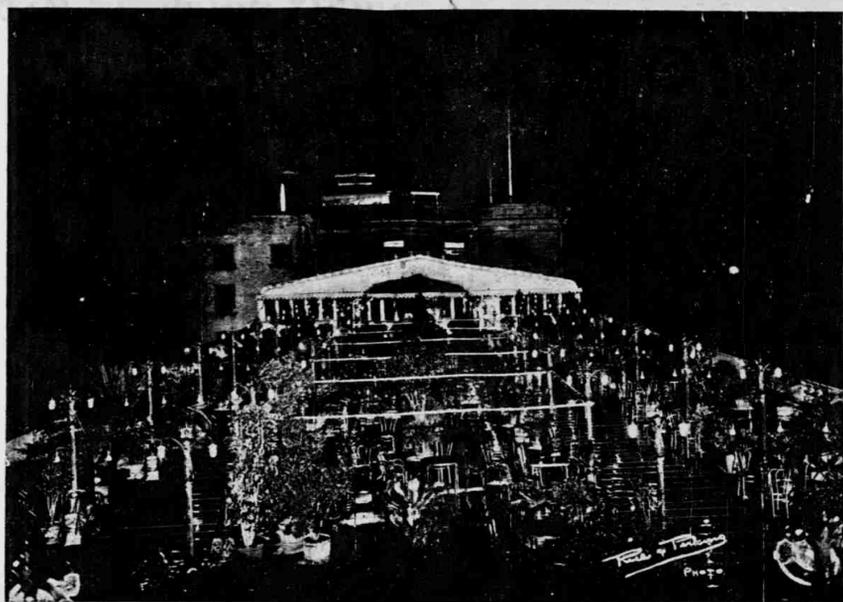


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SUPREME COURT OPINIONS CONFIRMING JURY PANELS

Following are the deliverances of the Supreme Court justices on the jury law question, spoken on Thursday and filed in writing yesterday:

Opinions Delivered Orally.

Frear, C. J.: The court does not deem it necessary to reserve its opinion on this question. It is of the opinion that the jurors for the present term of the circuit court of the first circuit were properly selected under the provisions relating to the selection of jurors set forth in the Revised Laws; that is, under the law as it stood prior to the amendment made by Act 74 of the Laws of 1905.

I do not think a great deal need be said upon this subject. The question seems to be whether the provisions of the new law operated as a repeal of the provisions of the old law from the time of the enactment of the new law. As stated yesterday, the court is of the opinion that the provisions of the new law would not under all the circumstances operate as such a repeal until they should become applicable.

Without speaking for the other members of the court, it occurred to me that possibly there might be a material distinction between a law which was in form an amendment of a previously existing law, as, for instance, in the present case, where the new law provides that the old law shall be amended to read so and so—thus changing the very language of the old law at once, and, on the other hand, an act, which was in form an independent act, simply providing that hereafter such and such acts should be performed, for instance, by the jury commissioners, but not to be performed until sometime in the future. In the latter case it would be very clear, I think, that the provisions of the new law would not repeal the provisions of the old law until they should become applicable, for the repeal, in so far as there was a repeal, would be solely by implication, and there would be no inconsistency until the provisions of the new law became applicable. I have myself greater doubt in a case like the present, where the new law expressly states that the old law should be amended so as to read so and so, that is, where in form the old law itself is changed and there is a substitution of the new for the old, but I am inclined to think on the whole that the distinction can not be carried so far as to control in the present case. It seems to me that notwithstanding that distinction the provisions of the new law were not intended, as shown by the act itself, to repeal the provisions of the old law until they should become applicable. Much of the old law is left untouched by the new and certain portions of the new are identical or nearly so with corresponding portions of the old law—for instance, the provision as to the appointment of the jury commissioners, which is substantially the same, and as to their duty to prepare jury lists, which has not been changed; it could hardly be intended that the lists chosen by the jury commissioners last December should be continued and yet be useless; that is, the jury lists under the old law, as unchanged by the new law, would be in existence and yet could not be utilized. That is simply one illustration.

I do not commit my associates to these views. The court, however, is unanimously of the opinion—that the same opinion as it was yesterday—that the new act does not repeal the old except in so far as it is inconsistent with it and in so far as such inconsistent provisions are applicable and when they become applicable.

Hartwell, J.: When a statute amends a prior statute "so as to read as follows," transactions under the earlier statute are not thereby invalidated, as it seems to me, and could not be invalidated without infringing upon the rule against retrospective legislation, which is prohibited by a general and very early statute which was adopted by the Organic Act.

As to the jury list, drawn under the former act providing that it remain the jury list for the year ensuing after December the 15th, to hold that it is not a legal list ought not to be done by any uncertain inference. I do not think this result is necessarily implied by the subsequent act. Take appointments of jury commissioners, if they were invalid new appointments would have to be made, if the earlier statute was no longer in force as to past transactions and they could do nothing un-

less reapportioned. To my mind the construction contended for would be repugnant to the general provision against retrospective legislation.

I concur in the decision and practically in the reasoning of the chief justice.

Wildner, J.: I concur in the conclusion reached on the reasoning of the chief justice, which I understand to be this—that these two sections of the Revised Laws, 1777 and 1779, as amended, not going into operation until after the opening of the September term, Act 74 of the 1905 laws, construed together with chapter 119 of the Revised Laws shows that the sections as amended should be in force until the amendments went into operation, namely, after the September term. Consequently, the present jury panel was properly drawn.

Thompson & Clemons and F. W. Milverton for plaintiff.

Holmes & Stanley and A. Perry for defendant.

REALTY TRANSACTIONS.

Entered for Record September 29, 1905.

From 9 a. m. to 4 p. m.
Lau Len to Wong Kim... B S
Kanehoe Ranch Co Ltd to C Bolte D
Kanehoe Ranch Co Ltd to C Bolte D
Harriet G Beckwith to Joao Costa R
Loo Hong et al to Adv Wong Who Chen J
Maria Carreiro and hsb to Manuel Carreiro D
Maria Carreiro and hsb to Francisco Carreiro D
Young Koon Sing to Lau Shun... P A
W C Peacock & Co to W C Peacock & Co Ltd... B S
Alice M Way et al to John G Rothwell... P A
E H F Wolter Tr to Oahu Railway & Land Co... D

Recorded September 21, 1905.

E A Douthitt and wf to William O Smith, M.; lot 3 blk 61, Waialae tract, Honolulu, Oahu. \$900. B 271, p 280. Dated Sept 20, 1905.
Rosalee G Phillips by Regr. Notice; of decree of title in Land Reg Court case No 40. B 274, p 271. Dated Sept 21, 1905.
Isaac S Kahu to Chow Yuen, L; pe

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