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SEWER CASE IS FINALLY ARGUED

Supreme Court Is Now Deciding on Law's Validity—Verdict May Be Far Reaching.

The case of Territory against Bishop, which was argued yesterday in the Supreme Court and [illegible] under advisement by R. W. Breckons for the Territory and R. W. Ballard, Deputy Attorney General, appearing for the plaintiff.

The points involved are far reaching in their effect [illegible] of the many contracts which the superintendent of public works has made for the laying of sewer pipes in sign before he will allow them to connect with the sewer. The defendant in this suit refused to agree to pay sewer rates for the use of the sewer he had laid. He paid the rates [illegible] for a year and a half and after that refused to pay anything further on the ground that the entire charge was illegal and void, and that the agreement which he signed, was made under compulsion of the criminal statutes, which provide penalties for not connecting with the sewer.

If the Territory succeeds in maintaining the validity of the sewer law, allowing the superintendent of public works to charge a sewer rate for the use of the sewer will be almost.

The defendant, who is one of many such in the district courts, has made the point that the application which he made to the superintendent to connect with the sewer was made under threats from the board of health that if he did not so do, he could not maintain his lodging house on Maunakea and Hotel streets in Honolulu. He claims that he wanted to make a cesspool and that he knew he would be arrested if he did not connect with the sewer. He claims that the board of health regulations compelled him to connect under heavy fines, and that therefore the agreement to pay the sewer rate is void as against him.

He claims also that he is a taxpayer and as such has paid for the construction of the sewer with others and that therefore there is no consideration for his agreement to pay a new rate. He claims that he has already paid sufficient unless the legislature hereafter enacts a law compelling him to pay a special assessment.

The Territory claims that he made a good contract and is bound by his application.

Another point made by the defendant is that he is not liable to pay anyway because no law made no agreement to pay any rate, and that there is no valid statute which requires him to pay any rate.

The Territory claims that an act passed in 1909 gave the superintendent the power to fix the rate for using sewers, and makes the rate a lien on the premises connected with the sewer. The defendant denies the point that the legislature can not delegate the power to make the rate of the assessment and that the rate established by the superintendent is not valid. Therefore, the sewer rates are not a valid charge against him, outside of the claim made by the Territory on the written application which he made in 1901.

The defendant also says that the rate attempted to be charged is in the nature of a special assessment, because it attempts to make the sewer user connect with the sewer whether he wish to or not, and makes the rate charged a lien on the land. He says the rate so charged can be legally charged only after it is properly set by the legislature itself, and enforced by the superintendent of public works and an opportunity given to the rate payer for a hearing after notice. The statute, as now enacted, provides no means for the rate payer to object to the rate, as unjust and disproportionate. The defendant contends that under the present law the superintendent exercises an illegal power and that he could set the rate at two and one half dollars and charge it without the taxpayer being able to object in a procedure provided in the sewer rate law itself. The case is one of some importance, and the law relating to sewer rates is pending in many courts for a hearing before the supreme court. [illegible] the defendant [illegible] the sewer and that he [illegible] the sewer [illegible] the rate [illegible]

REAL ESTATE TRANSACTIONS.

[illegible] Bishop to Jennie Kaiwi, Lot [illegible] Kaimuki, Honolulu, Oahu; [illegible] Dated Oct 24, 1910.

Bishop Trust Co. Ltd.