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JUDGE ESTEE GIVES IMPORTANT DECISION

Monarchy Born Chinese Are Citizens of Uncle Sam.

ARE ENTITLED TO REMAIN HERE

DISTRICT ATTORNEY J. C. BAIRD WANTS A GRAND JURY TO INDICT.

Trial Jury May Be Discharged—Four Sailors' Cases To Be Heard Today—Jurymen Arrive From Hilo—Libel Cases.

Judge Estee yesterday morning rendered a decision in the United States District Court in the cases of the United States vs. Ching Tai Sai and the United States vs. Ching Tai Sun, Acting United States District Attorney Dunne appearing for the Government and Attorney Lyle A. Dickey appearing for the defendant in both cases.

Judge Estee declares in his decision that all Chinese born in Hawaii, whether under the monarchy or the Republic of Hawaii or the Territorial government, are American citizens and entitled to enter now.

The proceedings were brought for the deportation of the above named Chinese on the ground that they were Chinese laborers within the limits of the United States and also of the District of Hawaii, without the certificates of residence required by law.

Both defendants claimed to have been born in the Hawaiian Islands and each to be an American citizen. It was agreed, by stipulation between the attorneys, that both cases should be heard and tried together. It was admitted that the defendants were born in these islands of Chinese parents when the government of the islands was a constitutional monarchy, their father being a Chinese laborer.

The question was raised upon the argument that as these boys were born under the government of the Kingdom of Hawaii, and not under that of the Republic of Hawaii, which was the existing government when the islands were annexed, and had left the islands and were living in China when these islands became a Republic and afterwards a Territory of the United States, that they were not included in those who were admitted to be citizens of the United States by the Act of Congress, approved April 30, 1900.

The decision, after going on to quote the provisions of the Organic Act which make American citizens of all citizens of the Republic of Hawaii, continues:

It would however not seem necessary to go beyond the decisions of the Supreme Court of the Republic of Hawaii, as to the construction of this provision of its constitution. It has been decided by that Court in the case of a child born of British parents in the Hawaiian Islands when the government of the islands was that of a monarchy, and whose parents were British subjects, and the birth of which child had been registered at the British Consulate, that such child was subject to the jurisdiction of the country and was an Hawaiian subject and citizen. (In the matter of the Application of George Macfarlane for a Writ of Mandamus, Vol. 11, Hawaiian Rep., Page 169.)

There is no attempt in this case to show that these boys were other than sons of a Chinese laborer domiciled in the Hawaiian Islands and a subject of the Chinese Empire when they were born.

Upon an examination of the Constitutions of the Kingdom of Hawaii and the laws thereof, I find nothing at the date of the birth of either of these boys defining the status of children born of aliens which would tend to throw any light upon the status of the defendants. And the rules of international law would prevail in the absence of any special enactment in relation thereto, and the citizenship of the children follow that of the father. In this case a subject of China. If it were not for the fact that the Constitution of Hawaii has provided in terms "that all persons born or

naturalized in the islands and subject to the jurisdiction thereof are citizens of the Republic."

It seems clear to me that as to the question of citizenship both the framers of the Constitution of the Republic of Hawaii, and of the Act of Congress providing a government for the Territory of Hawaii (Section 4 thereof) intended to refer especially to the geographical limits of the Hawaiian Islands, rather than to any political conditions found here, and that Hawaiian and American citizenship was to be extended to all persons born in these islands, with the exception only of those "children born of persons engaged in the diplomatic service of foreign governments, such as ministers and ambassadors, whose residence by a fiction of public law is regarded as part of their own country."

These defendants having proven their birth in these islands and not belonging to the excepted persons above noted, under the law they are citizens of the United States and of this territory and as such entitled to remain.

Let them be discharged from custody.

The special jury term of the Federal Court is likely to terminate rather abruptly on account of the disapproval of United States District Attorney Baird of Acting District Attorney Dunne's method in bringing the various cases before the court.

In order to accommodate captains of vessels who were being very much inconvenienced by being detained in port Mr. Dunne adopted the plan of bringing charges against the men by criminal information.

Mr. Baird requires, in each case, regular indictments by a Federal grand jury. He therefore refuses to present the cases to the jury which has just been called. It is possible that a special grand jury may be called immediately, the present trial jury being discharged after the cases of the four sailors who deserted the bark C. D. Bryant when she was on fire have been heard.

These four sailors were arraigned yesterday. They will plead this morning at 10 o'clock, after which their trial will probably be proceeded with. The sailors are F. Hanson, C. Reed, F. Schroeder and H. Porst. They will be defended by Attorney J. A. Makoon. These are misdemeanor cases which do not require indictments.

The libel of Pearson & Potter vs. the bark C. D. Bryant has been put off until the McInerney case has been settled, the same points being involved in both cases.

The Young Ho deportation case is to be re-opened on Friday, new testimony having come to light.

Three of the five jurors who were unable to arrive last week answered the call in the Federal court yesterday morning and qualified. They were J. F. Clay, O. A. Stevens and M. S. Pacheco. Robert Andrews and C. R. Blacow were still absent and will have to explain, when they turn up, the cause of their delay.

SECOND MURPHY CLUB.

Instituted By President Franklin H. Austin Yesterday Evening.

Murphy Club No. 2 was auspiciously instituted last night at Kaumakapili chapel, Palama.

Twenty-five men of Murphy Club No. 1 escorted President Franklin H. Austin to the place, where a mass meeting was held.

The following officers were elected: Vice President—Mrs. Emma M. Nakuna. Secretary (pro tem.)—Moses K. Nakuna.

Directors—Henry K. Poepoe, Lyons K. Kakani, Job Manase, William F. Jones, Lincoln B. Kaunohelua.

Temporary quarters for the club have been secured in the Hawaiian Tramways Co.'s terminal buildings.

Disrupted Tranquillity.

The dove of peace strayed away from the abode of J. Nihilo and his wife Kaloki at Kakaako yesterday evening, and during the interim there were several startling eruptions of domestic trouble thereabouts. Later a warrant was sworn out charging Nihilo with assault and battery upon his better half. Officers descended and tranquillity was restored.

Chamber of Commerce.

A full attendance of the Chamber of Commerce is expected for the combined annual and monthly meeting of that organization. Besides elections other important business will probably come up.

PATHWAY SMOOTHED BY CRUDE PETROLEUM

Economy for Honolulu By Adoption of Oil.

SOUTHERN CALIFORNIA'S TRIAL

EXPERIMENTS IN THIS CITY WILL BE WATCHED WITH INTEREST.

Good Roads and the Public Works Department—Great Saving in Cost of Construction Over That of Macadam.

"There is no better system of thoroughfares throughout the length and breadth of the United States than the properly oiled roads now in constant use in Southern California," was the pertinent comment made by a former resident of that locality in the presence of a Republican reporter yesterday.

"Sprinkling the streets of Honolulu with crude petroleum is unquestionably the best dressing that can be laid down, but the people must not look for an immediate change for the better, in the roadway treated. It takes time to complete the regeneration of an oiled road. The first application of oil has but little effect upon the highway. The continued use together with the leveling caused by traffic will in time produce a surface likened to asphaltum.

"The first experiment in oil treated roads was made in the Southern California district. Today the highways connecting Riverside, Redlands and San Bernardino, three cities within seven miles of each other, are kept in the best of condition and at very trifling expense owing to the small cost of the crude petroleum which comes from wells within a radius of sixty miles."

Petroleum will doubtless afford a practical solution to the Public Works Department of Hawaii for surmounting the difficulties attendant on maintaining good roads. Anent the comparative cost of oil and macadam upon city streets and country thoroughfares of certain localities in the Golden State, the Record Union of Sacramento sets forth some pertinent facts:

"The promise is that the good road question may be easily and economically settled in this country. There is no county in the State needing fine roads more than this. It is held back, retarded and handicapped for want of first-class roadways throughout the county. To construct macadam it is urged costs too much, both for original laying and for maintenance. The Record-Union, however, has shown many a time in the last few years that no matter what the cost, such a road would be an economy no matter where constructed.

"However, the oiled road, it is now claimed, exactly fits local conditions, and can be constructed for \$250 a mile here, as against from \$2,000 to \$4,000 for macadam. If this is correct, and oil will give Sacramento such roads as it is claimed the application of oil residue has in the southern counties, then our Supervisors should make all haste to adopt the new system. The board is evidently similarly impressed. It viewed some oiled road stretches in St. Luis Obispo last winter, and was well pleased. It has now appointed a committee to go to south counties and freely investigate the subject.

"Recently the Redlands Citrograph published an illustrated and very exhaustive paper on the subject of oiled roads by Mr. Reed, who has had large experience with them. If one-half the claims made by Mr. Reed are sound, then the oiled road is a success, and with plenitude of asphalt base oil in the State, the good road question is solved.

"Briefly, it may be said that in treating roads with oil, sandy sections are excluded. Or, if they are to be treated the roadway must be covered with loam or clay also. Sand, for obvious reasons will not pack under oil treatment. The process is to first grade the roadway, of course. No road is easier than its steepest grade; no road is better for the hauling of heavy loads than its worst portion. When the grade is made the road is well smooth-

ed, thoroughly well puddled with water and rolled with the heaviest roller obtainable. It is not only rolled, but regrolled, and then rolled again.

"Next a light harrow is run over the surface to make it take the oil readily and with greatest economy. The residuum of the oil, heated in wayside tanks, or in some cases upon the distributing vehicle, is then sprinkled on the roadway at a temperature just short of the boiling point. The semi-liquid is not doused on, but slowly distributed by sprinklers specially prepared for that purpose. It is always advisable to close the sprinkled stretch for twenty-four hours after treatment. A second sprinkling is very desirable, and if made gives greatly better results. At first if the roadway is used too soon there is complaint about the oil adhering and soiling wheels, dresses, etc. But if the liquid is permitted to thoroughly sink in and compact the earth particles there is little to complain of and in a week's time nothing at all to bother any one.

"The road is not as good the first season as the second. Retreated at the opening of the second season, the roadway becomes practically an asphaltum highway, smooth, firm, not cutting under narrow tire wheel, bearing heaviest burdens, never accumulating mud, for it sheds water; is dustless, needs no water sprinkling and with a very little care becomes a good approach to the ideal road.

"The success of these roads, their great economy, their endurance, their not needing treatment after the second season oftener than once in three or four years, we believe, greatly commend them. They save great damage to produce hauled over them because they are dustless. They save in time, because firm and smooth, and swift; they save the entire cost of water sprinkling always a heavy charge here. We repeat that if one-half that is claimed for oiled roads is true, they should be adopted in Sacramento County at once, the sooner the better for comfort, business and economy."

HURT HIS HAND.

Accident to Samuel Lyle of the Marine Railway.

Samuel Lyle received a painful injury in the hand while working on a vessel being repaired by Sorenson & Lyle, lessees of the marine railway. The ends of his fingers caught the blow of a mallet, breaking the tip bone and tearing off the nail of one finger. Dr. Wayson dressed the injuries.

A Sham Battle.

Two Japanese men, stripped to the buff, furnished a large crowd much amusement and excitement yesterday afternoon in Kakaako by an exhibition of their skill in dodging the knife. It was thought at first that they were engaged in mortal combat, and, indeed, there were those who spread the story that a couple of Japs were killing each other with ferce knives. Inasmuch as the police department knows nothing of any dead Japanese, or even wounded ones, however, the duel could not have been very serious in its results.

BULLET NEARLY FINDS BILLET IN WILL E. FISHER'S HEAD

Will E. Fisher, real estate agent and auctioneer, had a close call from a bullet while strolling in his grounds late yesterday afternoon. He lives at 902 Green, corner of Kaplan street. Happily, it does not appear that an attempt was made to assassinate the popular expert on land valuations. Henry Busnell, a young lad whose parents live in Spencer street, was out gunning in the public streets with a parlor rifle. Either he was fooling with the piece or trying a shot at a bird, at all events the gun went off. The bullet whistled past Mr. Fisher's head. Evidently he gave some utterance that apprised the youthful sportsman of what he had nearly done, for Mr. Fisher only gained an interview with him by pursuing him to his parental abode. There he talked to the juvenile Nimrod and his folks in words of earnest warning, which may be hoped to result in a close season for bird-shooting in that neighborhood for a good while.

YOUNG SLEUTH BITS ON A BOGUS SCENT

Runs Afoul of the Law While Trailing a "Murderer."

TAYLOR CAUGHT PLAYING THE SPY

ACTING QUEERLY AT MIDNIGHT, REFUSING TO LEAVE THE PLACE.

Claimed To Be Attending To "Business"—Captain Oponui Led the Youth to Jail and then Generously Forgave.

Captain Charles Oponui, of the Honolulu Police Department, arrested A. P. Taylor, of the staff of the Advertiser, a little before 1 o'clock yesterday morning, while he was in the act of trespassing on his premises in Palama, taking him to the police station, where he was later released after Walter G. Smith, editor of the Advertiser, and Deputy High Sheriff Chillingworth had talked the matter over with Captain Oponui.

Taylor has evidently been ambitious to qualify as an all round sleuth. So, looking for news of some mysterious and exclusive sort, he started out on a hunt on Monday night. He afterwards gave it out that he was looking for a murderer.

Just how he came to prow around the home of Captain Oponui is not known, Mr. Taylor being very reticent in the matter.

The facts of the case, as gathered from Captain Oponui and others of the police department, are, in substance, as follows:

Captain Oponui was awakened not long after midnight by the sound of someone moving on the veranda. Hastily donning the more necessary portions of his clothing, the captain opened his front door.

He saw a man moving on the veranda in a very suspicious manner, feeling around as if looking for something. He called to him and demanded to know who he was.

The nocturnal visitor was somewhat startled. He had evidently not expected to be thus challenged.

"Who are you?" asked Oponui.

"I am an Advertiser reporter," replied Mr. Taylor.

"What are you doing here?" "I am attending to certain business."

"Well, I think you had better leave the place. You are in the wrong place, I think."

"Oh, no, I'm not. I know what I'm doing."

"Aren't you going to get out?" Taylor seemed more inclined to dispute Oponui's right to be on the premises than to get out himself. He was much offended that Oponui should contest his right to be prowling around whenever and wherever he liked.

"Suppose I don't get out?" inquired Taylor.

"Well, then I will help you," said Oponui.

"Oh, I don't know about that," replied the Advertiser's news gatherer.

"I'll show you pretty quick," said the captain, who before this had been half inclined to make allowances for the young man who was thus caught wandering around in such a strange manner apparently not fully clothed in his right mind, but now, becoming angry at the sheer impudence of the intruder, determined to deal with him as the law allowed.

Taylor drew himself up and wanted to know what Oponui would do to him in the event of his refusing to leave the premises.

Realizing that the young man needed caring for, the captain invited Taylor to go along with him.

Then did the eyes of the ambitious youth open very wide. Little had he suspected that the man about whose house he had been spying was an officer of the law. He wilted there and then, and great was the wilt thereof. As he foresaw the dungeon's gloom and the stern hand of the law rested heavy on his shoulder he wished with all his heart that he had never attempted to play at detective, or that at least he had adopted gentlemanly

methods without sneaking around the residence of an honest man's family.

Oponui, as much as he hated to do it, took the would-be sleuth along with him to the police station.

In the first place he very much doubted if the young man had anything to do with a newspaper—his actions were certainly not those of a legitimate newspaperman—and, in the second place, even if he were a reporter, what right had he any more than any other man to pry around his house in the middle of the night while he and his family were asleep and, further, what right had he to refuse, above all things, to vacate the premises when so ordered by the master of the house. For these reasons Oponui took Taylor along to the police station.

Arrived at the police station the Advertiser office was communicated with and informed that a man who said he was a reporter on the paper was under arrest.

The editor immediately went to the police station to ascertain the facts. After the editor's arrival on the scene Deputy High Sheriff Chillingworth was sent for and came immediately down to the jail.

Chillingworth listened to Oponui's story and told him that he had acted in a perfectly proper manner in placing Taylor under arrest.

Oponui at first insisted that the man be locked up but, after considerable influence in the way of argument had been brought to bear in the case by the editor and Chillingworth, he agreed not to press the charge against the young man.

The case, therefore, did not come up in the police court yesterday morning.

The young Nick Carter must have discovered a trail which he could not very well abandon without losing the thread of a terrible mystery when he entered upon the grounds around the home of Oponui. It is a well-known fact that when a great Sherlock Holmes is hot on the scent of a murderer or a bank robbery, or the case of a kidnapped heiress, he is dead to the rest of the world, following close on the trail without noticing where he is going. This was probably the case with the young gentleman above referred to. He doubtless got on a scent which led over Oponui's fence, right up to his very door.

A possible explanation of the mystery of the scent which was so carefully followed by the young man may be found in the fact that Oponui had purchased some fish at the fishmarket the evening before and had taken it home for supper. The passage of the mullets or whatever the fish were, through the streets of the city, had probably been the cause of leading Taylor astray.

A CHINAMAN AND A JAP FIND IN THE SOUP A SCRAP

Two Orientals Engage in a Bloody Affray Over a Second Helping of Consomme.

Waipahu, down the railroad line, was the scene last night, near the hour of nine, of a fight between Chinese and Jap, which proved to be a bloody scrap.

The Jap went to the Chinaman's store and called for soup, and he called for more. The soup was good and the Japanese pleaded that a second helping was what he needed.

The Chinaman said he could have no more, he wiggled his queue as he cursed and swore, but the Jap declared he would have the dish or throw the Chinaman to feed the fish.

The little Jap's head was too small to contain the feverish anger that tortured his brain. He hurled his plate at the Chinaman's head—'Twould be wrong to record what the Chinese said.

The Chinaman then seized the Jap by the neck and started to make him a physical wreck, but the Jap drew out from his bosom a knife and started to take the Chinaman's life.

He cut at his left arm, he cut at his right, till the Chinaman had to get out of the fight. The Chinaman said as he heard the police were coming to act as the bearers of peace.

Deputy Sheriff Fernandez arrested the furious Jap who'd so hotly contested, but the runaway Chinaman couldn't be found, although he's supposed to be somewhere around.

By telephone message last night this came, neither contestant is known by name. The moral is this, when to fighting we stoop, we can always find a "scrap" in the "soup."

GARBAGE REMOVAL SERVICE CHANGES

A System of Charging Householders May Be Revived.

THE APPROPRIATION IS SCANTY

PUBLIC WORKS HAS MUCH LESS MONEY THAN HAD BOARD OF HEALTH.

Superintendent Boyd Has No Complaint Against Rapid Transit Company—Not Obligated to Sprinkle the Streets It Occupies.

Recently the garbage removal service has passed from the Board of Health to the Department of Public Works. It has been observed that the collectors on their rounds were taking the names of people from door to door. This fact has given rise to a surmise that the system in vogue some years ago of charging householders for the removal of garbage was about being revived.

Jas. H. Boyd, Superintendent of Public Works, was seen regarding the matter. He said:

"We are taking the names for the purpose of keeping a record of the work done in the different sections of the city. Such a record will enable us to answer questions as to how many tons of garbage are removed from Makiki for instance, or any particular subdivision of the city area covered."

Being asked if there was intention of reverting to a system of collecting the expense from householders, Mr. Boyd replied:

"It may come to that. We are greatly in need of more carts now, but there is a lack of money for the Board of Health to make the service free. The Board of Health had \$12,000 more of an appropriation than has been given this department for the service.

"There are about forty men and a dozen carts now employed. We need several more carts."

Mr. Boyd also referred to the need of a proper crematory for the disposal of garbage.

Regarding the query of a correspondent of The Republican, whether it was not the duty of the Rapid Transit Company to sprinkle the streets occupied by its tracks, Mr. Boyd said:

"No. There is no such duty devolving on the company. The Hawaiian Tramways Company does not sprinkle its tracks because of an obligation of its charter. It does it because the cars would not run on the grooved rails without wetting, the friction would be so great."

Mr. Boyd thought people were mistaken who found fault with the Rapid Transit Company, as a correspondent of this paper did, for leaving the streets in bad condition.

"The grade was changed for the company in several streets, under direction of my predecessor," he went on to explain. "The company has graded its tracks in the middle and a foot and a half on each side according to the grade furnished it. As it has been impossible for the government as yet to repair the remainder of such streets, the track in places is higher than the rest of the roadway."

Custom House Accepts.

Now comes the Custom House baseball team with an acceptance to the challenge submitted by the Police team for an exhibition game to be played at a time and place not yet determined. Again the Custom House aggregation have grave trouble on their staff. They will soon try conclusions with a picked nine from the employes of E. O. Hall & Sons. Saturday afternoon will probably be selected as the time for the try out.

Honolulu Athletic Dance.

A concert followed by a ball will be given under the auspices of the Honolulu Athletic Club. The date for the event has been set for Saturday evening, August 31. A decision will be made within a few days whether the drilled or Progress hall will be available for the affair.