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No 3192

LAWYER ACCUSES COLBURN

SWORE TO WHAT WAS UNTRUE SAYS STANLEY

AFFIDAVITS FILED TODAY IN WHICH IT IS CLAIMED COLBURN WAS AWARE OF PENDING SUIT AGAINST KAPIOLANI ESTATE.

Ex-Judge W. L. Stanley swears that John F. Colburn, manager of the Kapiolani Estate, swore to the thing that is not in his affidavit yesterday in support of a motion to reopen the default in the case of M. S. Gribbaum & Company vs. the Kapiolani Estate. Stanley this morning filed a counter affidavit in which he declared that Colburn swore to what was untrue, knowingly, and A. Gartenberg filed another affidavit contradicting the statements made by Colburn.

The default against the Kapiolani Estate was for about \$900, in a suit brought by Holmes & Stanley, for M. S. Gribbaum & Company, the defendants failing to file an answer to the suit within the time limit provided by law. Yesterday Colburn filed a motion to reopen the case, stating that he had a defense to make, and that the only reason why he had allowed it to go by default was that he had forgotten to file an answer. In his counter affidavit Judge Stanley says:

"That the affidavit of John F. Colburn filed in this court on October 3rd, 1902, is and was to the knowledge of the said John F. Colburn at the time of depositing to the same, false and untrue in so far that it states that 'deponent entirely and absolutely forgot the subject of said paper (copy of summons and complaint) and of said action until the third day of October, 1902, and that deponent's attention was on the said third day of October first called to said papers and the subject of said suit (after the 12th day of September), and that said subject was first after such last mentioned date recalled to the memory of this deponent by one of the clerks in the office of said defendant, who then and there, to wit, on the said third day of October, 1902, reported to this deponent that defendant's default had been entered in said action, and judgment rendered against said defendant in pursuance of said default,' and also insofar as it states 'that deponent's entire forgetfulness of the fact of the bringing of said action is the sole reason for the failure of the said defendant to appear and answer the same prior to the return day hereinafter mentioned.'"

"That on or about the 15th day of September, 1902, and in the forenoon of said day, this deponent met the said John F. Colburn on Kaahumanu street in Honolulu on the sidewalk outside the office of Schaefer & Company and that a conversation in reference to the bringing of the said action took place between deponent and the said John F. Colburn."

The affidavit says that Colburn discussed with Stanley the compromise of the suit by payment of \$500, and that Stanley opposed the compromise. Stanley avers that twice during the week beginning with September 22 he discussed the matter with Colburn, and that Colburn admitted the defendant corporation's liability and never disputed it up to yesterday, when he filed the affidavit that is said to contain the false statements.

The affidavit of A. Gartenberg, of Gribbaum & Company, states that he met Colburn on Friday, September 26, and again on Tuesday, September 29, and that the suit against the Kapiolani Estate was discussed both times. The subject was brought up by Colburn, says Gartenberg, the manager of the estate, referring to the compromise offer and asking if Stanley had told him of it. Gartenberg replied that Stanley had advised him to reject it and that he had followed his attorney's advice.

TRYING CHINESE BARBERS.

Five Chinese barbers are being tried by Judge Wilcox this afternoon to answer to the charge of having violated the Sunday law by running their places of business last Sunday.



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You won't suffer so much if you have a good policy to think about while you are recovering from the accident. Helps you pay the Doctor's Bill and have necessary things too. Take out a policy in the Standard Accident Company.

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923 FORT STREET

Color Artist And His Work on Kilauea

W. A. Seville, a color artist who has been spending some months on Hawaii, is the latest artist to attempt a picture of the volcano Kilauea. Seville went to the volcano when it broke out the last time, and made several canvases, which are highly spoken of by people who have seen them. One is a small picture intended to be in a frame illuminated and it shows a most brilliant effect when lit up. Seville's pictures show nearly as much color as those of Hitchcock, made during the eruptions of years ago.

The artist has made one large painting of the last lava flow, and will send it to Honolulu for exhibition. It is 4 feet by 6 and is expected to attract much attention. These are the only paintings of the last eruption, and the only ones made of Kilauea for some time. The artist has also made a number of small paintings of scenes about the volcano.

TO SELECT FINAL STATION SITES

DICKINSON WILL SOON LEAVE FOR MIDWAY AND GUAM. SELECT CABLE LANDING.

Selections of the final station sites for the American Pacific cable will shortly be made by S. S. Dickinson, the special representative of the Mackay company, who has been in Honolulu for some months past.

A successor to Mr. Dickinson at this place has already arrived and will take charge of the cable company's interests upon Mr. Dickinson's departure. Mr. Dickinson is now awaiting the arrival of the cable ship Colonia from laying the cable from Victoria to a point within five miles of Fanning Island.

Mr. Dickinson will take passage on the Colonia from Honolulu and go at once to Midway Island where he will select the landing site for the cable. It is more than likely that he will follow the report and suggestions of Captain Pond who surveyed the island for the government in 1900.

From Midway Island Mr. Dickinson will be taken to Guam and finally to Manila, for the purposes of selecting the landing sites at both of those places.

From Manila, the Colonia will go at once to London and receive the cable which will be laid from Manila to Guam. The S. S. Anglia which is now in this port and which is to complete the Victoria cable from Fanning Island to Fiji will go to London as soon as this work shall have been completed and there receive the cable which is to be laid from Honolulu to Guam. The Colonia is expected within a week or ten days. She is expected to sail from Honolulu for Midway Island about October 20.

GRAND CONCERT.

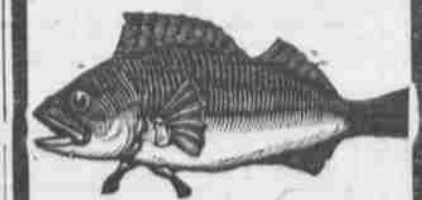
Franz Wilczek, the famous Austrian violin virtuoso, will appear in the Hawaiian Opera House, Tuesday evening, October 14, at 8:30 o'clock, in a grand concert program. He will be assisted by Mrs. G. W. Macfarlane, a local soprano, and Hugo Herzer, a prominent Baritone soloist. Mrs. Tenney-Peck will be the accompanist of the evening. Concert under the direction of W. D. Adams.

THOMAS MAY ARRIVE THURSDAY

The transport Thomas may arrive Thursday morning from San Francisco with General Miles aboard. She was to have sailed from San Francisco October 1. This will mean that she will bring four days later mail and news files. General Miles is on a tour of inspection of the American forces and military stations in the Philippines.

HYGIENIC UNDERWEAR.

L. B. Kerr & Co. have received a special purchase of Men's summer weight, natural wool underwear. All sizes, and only \$1.25 a garment.



Would do well to inspect our line of tackle. The most complete line of anglers and fishermen's supplies in the city. Surf Rods, 21 feet, etc.

PEARSON & POTTER CO., LIMITED.
UNION AND HOTEL STS.
PHONE MAIN 317.

GIVEN ONE HUNDRED ONLY AGRICULTURAL LABORERS FROM JAPAN INSTEAD OF FIVE THOUSAND

SUIT FOR FALSE IMPRISONMENT—WRITTEN EVIDENCE IN A CASE IS LOST—FISHING RIGHTS BEING ARGUED BEFORE COURT.

Judge Robinson this morning decided the case of Ah Hing vs. Ah On, a suit for \$5,000 damages for false imprisonment, awarding \$100 and costs to the plaintiff. Some time ago a default was entered against the defendant, with the result that George A. Davis and the judge had a lively discussion, and this morning Davis filed a motion to reopen the default and an appeal from the judgement of the court. Davis claims that the court denied him a jury trial when he had a right to such a trial, and excepts to the rulings of the court on other legal grounds.

A copy of the stenographers' notebook used by Miss Francis Washburn, formerly court reporter of the Fourth circuit court has been sent to Henry Smith, to be forwarded to Miss Washburn, in Tennessee, in order that she may make a new transcript of the evidence in the case of the Hawaiian Trust and Investment Company vs. Annie A. Marton et al. The evidence has been lost, and it is expected that the stenographer will be able to read her notes and write it out again. The case was heard in September, 1901.

William Hutch and Fred Harrison have filed their final accounts as executors of the will of Robert Gustav Rabe, deceased, and asked for a distribution of the estate. The fisheries rights cases were argued all this morning in the Supreme court, A. G. M. Robertson, who appears for the government, taking up most of the time. The biggest submitted will be very numerous, as most of the law firms in the city are interested and many attorneys want to file briefs. J. A. Magoon, W. L. Stanley, A. Lewis and H. A. Bigelow have already been given permission to file briefs, in support of the contentions of Hatch and Stillman, who represents the parties interested in the test cases now before the court. In his argument this morning Robertson dwelt largely on the form of the land patents on which fishery rights claims are based, and discussed titles dating back to the days of the old land commission awards. He claimed that the records showed the fishing rights titles by the plaintiffs were not vested rights at all. F. M. Hatch began the answer to Robertson. Hatch also went into old-time titles, discussing the nature of the rights held by chiefs who enjoyed the possession of lands under the Kings, before the land commission awards. He said they were vested rights, even though the monarch might at any time take them away from the chiefs. Hatch contended that the titles to the private fishing grounds were intended by Congress to be protected. "Congress regarded them as vested rights," he said, "and to declare now that they are no rights at all is to endeavoring to defeat the very object of the provision which Congress made regarding them."

Magoon claimed in his argument that the territorial government ought to be willing to pay for the fishing rights, and that this was what Congress contemplated. He said that the title to the rights was very clear, and that he was surprised that the government opposed the suits brought to establish the rights.

A NEW SEWER.

At the Frequently Flooded Pikoil and King Street Crossing.

A sewer is being laid across Pikoil street and down the extension of that street to carry away the floods that with every rain sweep down that street and make a mill pond at the Pikoil and King street crossing. More than once during the past year following a heavy rain the street at this point has been so deeply flooded that it was impossible to cross Pikoil street on King street afoot, and not altogether pleasant in a vehicle. The tramways system has been deranged by the great quantities of mud and gravel brought down by these floods and deposited on the track at this point. Efforts have been made by means of open ditches to do away with these floods, but without avail, and now a storm sewer about two feet and a half in diameter is being put in.

TENNIS.

The Beretania Tennis Club's invitation tournament will begin at 4 o'clock tomorrow afternoon. The entries close at 5 o'clock this afternoon at Pearson & Potter's. The tournament is open to members of any club and a cordial invitation is extended by the Beretania Tennis club to all such to enter.

MRS. JOHN BAKER DEAD.

A report brought from Hawaii this morning by the steamer Mauna Loa states that Mrs. John Baker of Hilo died at Honokaa yesterday. No details of her last sickness were learned.

THE ENGINEERS.
The Honolulu Engineers Society at its meeting last evening heard papers and indulged in discussion on the following topics: "Steam Turbines," W. E. Skinner; "Consumption of Bagasse," A. Connon. C. A. Musgrave, C. K. Simpson and S. J. Carter were elected to membership.

TOMORROW.

The Miller Candy Company will open tomorrow. Drop in and have a free Lem-o. Opposite the Metropolitan Meat Company.

MILLINERY.
In our millinery department we have a choice assortment of the newest novelties. An up-to-date hat trimmed to order costs just half of what it would elsewhere. L. B. Kerr & Co., Queen street.

JAPANESE GOVERNMENT SEES TO IT THAT NO UNSUITABLE MATERIAL FROM THE TOWNS IS ALLOWED TO EMIGRATE.

A. K. Ozawa, who has charge of the Planters' Labor Bureau, returned yesterday by the Coptic from a pleasure trip to Japan. This was the first vacation he has had for nine years, and he expresses himself as having thoroughly enjoyed his trip. "I paid very little attention to business," said Mr. Ozawa, "but some things I learned that are of interest here. The emigration of Japanese laborers from the agricultural regions to Hawaii is likely to continue. I suppose there is hardly a prefecture in the agricultural regions of the Empire that has not some few representatives among the laborers who have come here. Some of these have returned, all have written. So that wherever you go in the rural districts in Japan the people know more or less about the Hawaiian Islands, and the work that goes on here. In fact they are pretty accurately informed on the subject. They know that if they come here they can get work on the plantations. So they do not hesitate to dispose of all the property they have there if necessary to make up a sum sufficient to get them here. Some of them have little farms. These they dispose of if necessary to get here. In a good many instances individuals who have been here before return again to Hawaii. Thus while the Japanese knows that if he comes here he can get employment, the plantations are not so sure that whatever laborers come are from agricultural districts and are agricultural laborers, for the Japanese government keeps a strict control of emigration and does not permit the laborers from towns and cities to emigrate. Japanese from cities and towns may be allowed to emigrate, but not to emigrate to Hawaii, for it is known by the Japanese government that what are wanted here are essentially agricultural laborers.

"It does not appear exactly how many emigrants per steamer the Japanese government are willing to allow to come here, but it seems about 300 men, women and children per steamer as a maximum, and whatever the limit fixed, no more passports are issued. Every steamer returning takes on an average of 150 Japanese back to the empire so that there is a constant current of outgoing and returning laborers. So long as this continues, pretty exact information as to conditions here will be held both by the people at large and by the government.

"The effect of this returning stream on Japan and the Japanese themselves is very evident. You cannot go into any little country village but you will find some evidence of the influence this emigration and return has had. It is shown too in the more venturesome spirit shown by the Japanese, of which the Marcus Island incident is but an illustration.

"I had a very enjoyable trip; a very enjoyable stay in Japan; and I am very glad to get back to Hawaii."

LEM-O.
Lem-o given free tomorrow at Miller's Candy Company.

LUNCH ON ANGLIA.
Cable Company Entertains Guests on Board Ship.

A number of guests were entertained at luncheon aboard the cable ship Anglia last Tuesday. The guests were the guests of the Telegraph Construction and Maintenance Company, Captain Leach the commander of the vessel, acting as host.

Luncheon was served in the dining saloon. The tables were decorated with plants and flowers. Chief Steward G. Caddy had remarkable success in preparing every thing being from the well stored larder of the vessel. Captain Leach is well known in Honolulu as a graceful host. He presided today and made some very appropriate remarks on behalf of the cable company. Remarks were made by various persons present. After luncheon, the guests were shown about the vessel and the numerous interesting features of the cable ship explained to them by Captain Leach and his officers.

The list of guests present was Governor Dole, Captain Whiting, Captain White, British Consul W. F. Hoar, Miss Einar, F. M. Swanny, Mr. and Mrs. T. Olive Davies, Commander Von Barak and Lieutenant Von Diepen of the German cruiser Cormoran, S. S. Dickinson, Judge and Mrs. Estee, E. R. Stackable, Mr. and Mrs. L. A. Thurston, Dr. Bobby Mr. Harrington and Major and Mrs. Davis.

STRICKEN WITH PARALYSIS.

Henderson Grimett, of this place, was stricken with partial paralysis and completely lost the use of one arm and side. After being treated by an eminent physician for quite a while without relief, my wife recommended Chamberlain's Pain Balm, and after using two bottles of it he is almost entirely cured.—Geo. R. McDonald, Man. Logan Co., W. Va., U. S. A. Several other very remarkable cures of partial paralysis have been effected by the use of this liniment. It is most widely known however, as a cure for rheumatism, sprains and bruises. Sold by all druggists. Benson Smith & Co., general agents.

FRUITS AND VEGETABLES.
Don't forget Camarinos of the California Fruit Market when you want fruit and vegetables. He always has on hand a fresh supply of both California and Island fruits. Telephone Main 378.
Star Want ads pay at once.

EVANS LOOKING FOR BOXERS

Frawley is Successful in Yokohama

The Nell-Frawley company which went to the Orient on the Korea met with an enthusiastic reception and a crowded house in Yokohama where they presented "Secret Service" on the night of their arrival there. The Japan Daily Advertiser devotes two columns and a half to review and criticism of the play and company, beginning thus: "It is perhaps the highest praise to say of the Nell-Frawley Company, which produced 'Secret Service' at the Public Hall last Saturday evening, that they converted, for the time being at least, many an avowed foe of melodrama. 'Secret Service' certainly is a melodrama, though it contains several agreeable departures from the cut and dried Adelphi pattern, beloved of the Olympians. Saturday's audience—one of the largest that has ever assembled in the Public Hall, was quite prepared to be amused by what might be intended to impress, but all were satisfied with the show."

NEW CITIZENS ADDED TO ROLLS

PORTUGUESE ARE BEING MADE AMERICANS—TWENTY APPLICATIONS MADE THIS MORNING.

The heavy naturalization business keeps up in the United States District Court, a large majority of the applicants being Portuguese. There were about twenty applications for citizenship this morning, making the number of new citizens added to the rolls of voters in Honolulu during the past six weeks between 160 and 170.

Nearly all of the applicants are Portuguese, and with the 100 who voted last time, the number promises to bring the total Portuguese vote in Honolulu up to about 300. The Portuguese who voted last time, however, appear to have gone away, or to be very backward about registering, and those who are watching the prospects for the Portuguese vote, are wondering what has become of the voters who registered two years ago.

The new voters are believed to be almost wholly Republican. Most of them are Portuguese who might have voted last time, if they had become citizens.

There are three more days for registration, and it is expected that the naturalization business will keep up to the last. The leaders in the Portuguese Political Club show much interest in the work, and are daily bringing countrymen into court, where they pass very satisfactory examinations.

BIRTHDAY LUAU.
WAIMEA, Hawaii, October 4.—Mr. and Mrs. E. Mahuka-Spencer gave a luau last Tuesday in celebration of their daughter Jeanette's seventh birthday. Among the guests were Princess Kalaianaloa, Mrs. Cockett, Miss Jones and Sheriff Andrews.

THE WEATHER.
Weather Bureau, Punahou, 1 p. m. Wind, light south; weather, clear. Morning minimum temperature, 67; midday maximum temperature, 82; barometer, 30.1, 29.94, steady, (corrected for gravity); rainfall, 24 hours ending 9 a. m., .03; dew point, 9 a. m., 70; humidity, 9 a. m., 78 per cent.
CURTIS J. LYONS, Observer.

INSURANCE AGAINST ACCIDENT.
The Standard Accident Insurance of Detroit Michigan, is represented in Honolulu by the Hawaiian Trust Company. The Standard writes personal accident and sickness insurance for men in all lines of business, as well as employers' liability insurance for all employers of labor. The Standard is one of the leading companies with assets of nearly a million and a half.

Keep your insurance money at home and buy a policy in the Oriental Life Insurance Company.
Star Want ads pay at once.

ROYAL Baking Powder
Made from pure cream of tartar.
Safeguards the food against alum.
Alum baking powders are the "real" menaces to health of the present day.
ROYAL BAKING POWDER CO., NEW YORK.

FIGHTING BOB SAILS UP RIVER AFTER THE PAKES

CRUISER NEW YORK ON HER WAY TO HONOLULU—VESSEL WILL REMAIN A FEW DAYS—BATTLE OF SANTIAGO.

The cruiser New York will call at this port next month. Captain Whiting received word by the Coptic yesterday from Admiral Rodgers the commander in chief of the American Naval forces in the Asiatic station, that the New York which is the Admiral's flag ship, would arrive at Honolulu on or about November 12. A request was made for reservation at one of the Naval wharves where the New York could be coaled.

Admiral Rodgers will leave the Asiatic station shortly and go home. His place as commander will be taken by Admiral Robley D. Evans, "Fighting Bob" who is now in the Orient. In fact Admiral Evans was reported to have started up one of the Chinese rivers for the purpose of investigating an uprising of Boxers.

He had gone on the gunboat Helena having transferred his flag from the battleship Kentucky to the smaller vessel as the battleship could not go up the river.

Admiral Rodgers of the cruiser New York will stop at Honolulu a few days, coaling his ship and from this port will go to San Francisco. The New York is to go out of commission soon after she reaches the Coast. She may be sent to Mare Island but local naval people think it more probable that she will go to the Bremerton Navy yard.

The advent of the cruiser New York will cause much interest. Next to the battleship Oregon and cruiser Brooklyn, she is one of the best known vessels in the American navy. She was Admiral Sampson's flag ship during the battle of Santiago. She was like Job's warehouse on that memorable day. She scented the battle from afar as it were, and managed to come up in time to be in after the death of the Spaniard.

The cruiser will be the first large war ship to enter this harbor. A reception will probably be given aboard during her visit in Honolulu.

LOST HIS LIFE.
Peculiar Drowning of Japanese Fisherman at Punahou.

News of a very peculiar drowning at Punahou was brought this morning by the steamer Mauna Loa which arrived from Hawaii ports. On last Sunday, three Japanese were fishing along the shore at Punahou. They waded out a short distance. A big wave came in and broke over them before they realized its presence. Two of the Japanese had no trouble in getting ashore. They were greatly astonished and alarmed when they saw nothing of their companion. They waded out and tried to find him but no trace was secured.

A native was sent to search for the missing man. Diving, the native discovered the body of the missing Japanese on the bottom, about five feet below the surface. The left foot of the Japanese was firmly wedged between some rocks, thus preventing his escape. The unfortunate man had been helpless in this position. Just how his foot came to be wedged between the rocks is not certain. It is thought probable that the wave threw the Japanese to the bottom and the force of incoming waters wedged the man's foot in the rocks. The native dived and recovered the body of the Japanese.

HELD TO ANSWER.
Akoni Au, a Chinese, was committed to the Circuit Court this morning by Judge Wilcox to answer to the charge of arson. The Chinese was accused of setting fire to the Manoa cottage of Mrs. Kuamoo.

READY FOR FOOT-BALL SEASON
We've got a swell shoe for foot-ball players. Better come and see it, made of heavy tan leather, solid toe and strongly reinforced. It is the regulation foot ball shoe.
The price is \$3.50
Gymnasium Shoe too come and see them.
MANUFACTURERS' SHOE COMPANY, LIMITED
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